

Exhibit 1

Deposition of Destiny Clark

In The Matter Of:

*Darcy Corbitt, Destiny Clark, and Jane Doe v.
Hal Taylor, etc., et al.*

*Destiny Clark
November 8, 2018*

*Baker Realtime Worldwide Court Reporting & Video
250 Commerce Street
Third Floor, Suite One
Montgomery, Alabama 36104
www.BakerRealtime.com*

Original File 11-8-18 Destiny Clark.txt

Min-U-Script® with Word Index

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT OF ALABAMA
3 NORTHERN DIVISION
4
5 CIVIL ACTION NO.: 2:18-CV-00091-MHT-GMB
6
7 DARCY CORBITT, DESTINY CLARK, and JANE DOE,
8 Plaintiffs,
9 V.
10 HAL TAYLOR, in his official capacity as
11 Secretary of the Alabama Law Enforcement
12 Agency, et al.,
13 Defendants.
14
15 DEPOSITION OF DESTINY CLARK
16 November 8, 2018
17
18 Taken before Elaine Scott, CCR,
19 Commissioner for the State of Alabama at
20 Large, in the Law Offices of the Alabama
21 Attorney General, 501 Washington Avenue,
22 Montgomery, Alabama, on Thursday, November 8,
23 2018, commencing at approximately 9:00 a.m.

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1 A P P E A R A N C E S (continued)
2
3 ALSO PRESENT:
4 Meredith Barnes
5
6 COURT REPORTER:
7 BAKER REALTIME WORLDWIDE REPORTING & VIDEO
8 Elaine Scott
9 250 Commerce Street
10 Third Floor, Suite One
11 Montgomery, Alabama 36104
12
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1 A P P E A R A N C E S
2
3 FOR THE PLAINTIFFS:
4 AMERICAN CIVIL LIBERTIES UNION FOUNDATION
5 Gabriel Arkles
6 125 Broad Street
7 18th Floor
8 New York, New York 10004
9
10 ALABAMA CIVIL LIBERTIES UNION FOUNDATION
11 Brock Boone
12 Randall C. Marshall
13 P.O. Box 6179
14 Montgomery, Alabama 36106
15
16 FOR THE DEFENDANTS:
17 OFFICE OF THE ATTORNEY GENERAL, STATE OF
18 ALABAMA
19 Brad A. Chynoweth
20 501 Washington Avenue
21 Montgomery, Alabama 36130
22
23

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1 S T I P U L A T I O N S
2 It is hereby stipulated and agreed by
3 and between counsel representing the parties
4 that the deposition of DESTINY CLARK is taken
5 pursuant to stipulation and agreement; that
6 all formalities with respect to procedural
7 requirements are waived; that said deposition
8 may be taken before Elaine Scott, Certified
9 Court Reporter and Commissioner for the State
10 of Alabama at Large, without the formality of
11 a commission; that objections to questions
12 other than objections as to the form of the
13 questions need not be made at this time but
14 may be reserved for a ruling at such time as
15 the deposition may be offered in evidence or
16 used for any other purpose as provided for by
17 the Alabama Rules of Civil Procedure.
18 It is further stipulated and agreed
19 by and between counsel representing the
20 parties that the filing of the deposition may
21 be introduced at the trial of this case or
22 used in any manner by either party hereto
23 provided for by the Statute.

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1 Alabama. I represent those officials in this
2 lawsuit.
3 I'm going to be asking you some
4 questions this morning, and I just want to go
5 over some general ground rules with you.
6 First of all, have you ever had a deposition
7 taken?
8 A. I have not.
9 Q. I'm going to ask you some
10 questions, and you will need to give a verbal
11 response, yes or no, so that the court
12 reporter can take down your testimony. If I
13 ask you a question and you don't understand,
14 please feel free to tell me that you don't
15 understand. Otherwise, I will assume that you
16 understood my question.
17 If you need a break at any time,
18 just let me know. But if I have asked you a
19 question, I would ask that you answer the
20 question before we take a break.
21 A. Sure.
22 Q. And with that, we'll proceed. Can
23 you state your name?

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1 It is further stipulated and agreed
2 by and between the parties hereto and the
3 witness that the signature of the witness to
4 this deposition is NOT hereby waived.
5
6 DESTINY CLARK,
7 The witness, having first been duly
8 sworn or affirmed to speak the truth, the
9 whole truth and nothing but the truth,
10 testified as follows:
11
12 THE COURT REPORTER: Usual
13 stipulations?
14 (Affirmed by counsel.)
15
16 EXAMINATION
17 BY MR. CHYNOWETH:
18 Q. Good morning. My name is Brad
19 Chynoweth. I'm an attorney with the Alabama
20 Attorney General's Office. I'm here to take
21 your deposition this morning in the matter of
22 Corbitt v. Taylor, a lawsuit that was filed
23 against certain officials at the State of

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1 A. Destiny Clark.
2 Q. When were you born?
3 A. [REDACTED], 1984.
4 Q. And that would make you how old?
5 A. Thirty-four. But a lady never
6 tells her age.
7 Q. Well -- I'm going to submit
8 Defendant's Exhibit 1.
9 (Defendant's Exhibit Number 1 was
10 marked for identification. A copy
11 is attached.)
12 Q. Is this an accurate copy of your
13 birth certificate?
14 A. Yes, it is.
15 Q. And what is the name on the birth
16 certificate?
17 A. The name on the birth certificate
18 is my given name at birth. It's [REDACTED].
19 [REDACTED].
20 Q. And what is the sex on the birth
21 certificate?
22 A. The sex I was assigned at birth is
23 male.

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1 Q. So where did you grow up?
2 A. I grew up in Odenville, Alabama.
3 Q. That's in St. Clair County?
4 A. It is.
5 Q. Did you go to high school there?
6 A. I did.
7 Q. Where did you go to high school?
8 A. St. Clair County High School.
9 Q. What did you do after you graduated
10 high school?
11 A. I volunteered with a fire
12 department and so I worked with an ambulance
13 and the sheriff's office for a little bit.
14 And then I moved to Birmingham.
15 Q. Approximately when did you move to
16 Birmingham?
17 A. Oh, goodness. I graduated in -- so
18 '04, late '04.
19 Q. And what did you in Birmingham
20 around 2004?
21 A. I had a list of jobs from
22 servers -- mainly food industry.
23 Q. And what did you do after that?

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1 A. Can you explain? What do you mean
2 what did I do after that?
3 Q. How long were you in Birmingham
4 beginning in 2004?
5 A. Goodness. I was there for maybe
6 five years.
7 Q. And where did you go then from
8 approximately 2009 when you left Birmingham?
9 A. North Carolina.
10 Q. And where did you move to in North
11 Carolina?
12 A. Asheville or Boone.
13 Q. Do you recall when that was?
14 A. It was eight years ago, eight, nine
15 years ago.
16 Q. So around 2010?
17 A. Yeah, somewhere in that area.
18 Q. And what did you do in Asheville,
19 North Carolina?
20 A. I was in the food industry again.
21 Q. And how long were you in Asheville,
22 North Carolina?
23 A. Less than a year.

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1 Q. And where did you move to?
2 A. I moved back home, back to
3 St. Clair County.
4 Q. So you moved to St. Clair County in
5 approximately 2011?
6 A. Sounds right, yes.
7 Q. And when did you move to the
8 address that is on your current driver's
9 license?
10 A. That was five years ago. We're
11 going into our sixth year at our -- at the
12 current house.
13 Q. What did you do in 2011 when you
14 returned to St. Clair County?
15 A. So I immediately started working
16 for Cracker Barrel Old Country Store.
17 Q. Okay. And how long did you work at
18 that job?
19 A. I'm currently still employed there.
20 Q. So you've worked continuously at a
21 Cracker Barrel in St. Clair County from 2011
22 to the present?
23 A. Yes. I have two jobs currently.

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1 Q. What is your second job?
2 A. I am a project recruiter and case
3 manager for Birmingham AIDS Outreach as well.
4 Q. You said project recruiter --
5 A. Uh-huh.
6 Q. -- and case manager?
7 A. And a case manager.
8 Q. For -- what was the organization?
9 A. Birmingham AIDS Outreach.
10 Q. Is that paid or volunteered?
11 A. It is paid.
12 Q. How many times a week do you work
13 for that organization?
14 A. I work there five days a week,
15 full-time, forty hours.
16 Q. So your position at Cracker Barrel
17 is a part-time position?
18 A. It is part-time now.
19 Q. And so you work primarily on
20 weekends at Cracker Barrel?
21 A. Weekends. Some days I go in after
22 I leave my other job.
23 Q. Do you have any plans on leaving

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1 the state any time in the future?
2 A. I do not.
3 Q. So your current intent is to remain
4 in the state for the foreseeable future?
5 A. This is my home, yes.
6 Q. I'm going to introduce Defendant's
7 Exhibit 2.
8 (Defendant's Exhibit Number 2 was
9 marked for identification. A copy
10 is attached.)
11 Q. Can you tell me what Exhibit 2 is?
12 A. It is my state driver's license.
13 Q. And what is the sex designation on
14 the driver's license?
15 A. It is the sex that I was assigned
16 at birth, male.
17 Q. And just for purposes of this
18 deposition, when I use the word sex
19 designation I'm just referring to the field on
20 your driver's license that says sex and
21 whether it says M or F. That's what I mean by
22 sex designation. Is that fair?
23 A. That's fair.

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1 Q. I'm going to introduce Defendant's
2 Exhibit 3.
3 (Defendant's Exhibit Number 3 was
4 marked for identification. A copy
5 is attached.)
6 Q. Can you tell me what this document
7 is?
8 A. This is the order from Judge Mike
9 Bowling when I legally changed my name.
10 Q. And when is the date of this
11 document?
12 A. April 17th, 2015.
13 Q. What is your current gender
14 identity?
15 A. I am a female.
16 Q. When did you first become aware
17 that you were a female?
18 A. I have known from an early age that
19 I've been female. I think maybe five is when
20 I really realized I was female.
21 Q. Is there an age where one can say
22 that your awareness of your identity was
23 complete?

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1 A. Can you -- what do you mean by your
2 question?
3 Q. Thank you for asking that. When
4 were you first fully aware that you were
5 female?
6 A. Safely I would say I was fully
7 aware that I was not like my brother and my
8 cousins when I was about six. I was never the
9 type to go and do boy things. I would stay
10 inside with my grandmother and cook, make
11 quilts. When we did play, we would play super
12 heroes. I would always be the female
13 character. My favorite character was Zena.
14 So I would pretend to be Zena. So at an early
15 age. I would safely say about six.
16 Q. Do you identify yourself as
17 transgender?
18 A. I identify myself as a transgender
19 female. However, I am a female.
20 Q. Can you explain, in your own words,
21 what it means when you say you are a
22 transgender female?
23 A. So in -- what I am, my gender

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1 identity, is a female, a trans female, meaning
2 that I was assigned male at birth, but I have
3 since transitioned to female.
4 Q. Can you explain the significance of
5 legally changing your name in that process?
6 A. The significance, I present as
7 female. People in my everyday life respect me
8 as a female. Strangers look at me, they see
9 female. [REDACTED] is not a male name -- or is not
10 a female name, so I wanted a name that matched
11 who I was. And so -- and I also still wanted
12 to honor my mom and my dad, so that is where I
13 left my middle name and my last name. But
14 Destiny is the name that I chose.
15 Q. When did you first obtain an
16 Alabama driver's license?
17 A. Oh, goodness. When I was sixteen.
18 It's been a few years ago.
19 Q. So when you were sixteen. And how
20 old were you when this name change was
21 completed?
22 A. That was in 2015. Thirty -- I
23 just -- twenty-nine, thirty.

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1 Q. When you first obtained your
 2 driver's license at sixteen, what was the sex
 3 designation on your driver's license?
 4 A. The sex that I was assigned at
 5 birth was male.
 6 Q. Did you identify with the sex on
 7 your license at that time?
 8 A. I presented as male at that time.
 9 Q. Did you consider yourself to be a
 10 male at that time?
 11 A. I have never considered myself to
 12 be a male. I have always considered myself to
 13 be a female. However, at the time of my
 14 sixteenth birthday when I obtained my driver's
 15 license I had to identify as male.
 16 Q. What do you mean when you say you
 17 had to identify as male?
 18 A. My parents and family would not
 19 accept me transitioning.
 20 Q. I see. When did you move out from
 21 living with your parents?
 22 A. When I was eighteen years old.
 23 Q. Was there a time when you were able

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1 to establish your identity independently as
 2 fully female?
 3 A. So in a transgender person's life
 4 they have many stages of coming out. I
 5 originally came out as gay to hide the stigma
 6 that was related to transpeople. Transpeople
 7 have never been openly accepted in the world,
 8 and this is Alabama. So I originally came out
 9 as male. I started to secretly take hormones
 10 and dress privately as female -- in my own
 11 home as female. Several of my close friends
 12 knew, but outwardly I still presented as a
 13 male.
 14 Q. And you referred to stages of
 15 coming out.
 16 A. Uh-huh.
 17 Q. Can you just take me through the
 18 stages of your becoming or recognizing
 19 yourself as female?
 20 A. Can you elaborate on your
 21 question?
 22 Q. So you said that there were certain
 23 stages.

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1 A. Yes.
 2 Q. And I believe you said that the
 3 first stage was identifying as a gay male?
 4 A. Yes. At first I identified as a
 5 gay male.
 6 Q. And can you recall approximately
 7 what age you were when you reached that first
 8 stage?
 9 A. Eighteen. That was right after I
 10 moved out of my parents' house.
 11 Q. And what would have been the next
 12 stage after that?
 13 A. The next stage as far as when did I
 14 publicly or --
 15 Q. I think the next stage -- in
 16 whatever order. The next stage in your
 17 awareness as you said that -- as I understand
 18 it you said it's a process.
 19 A. Uh-huh.
 20 Q. And I'm just asking you
 21 chronologically to take me through this
 22 process.
 23 A. Sure. So, like I said, I've always

Page 20

1 known I was female. I did not know another
 2 transgender individual until I moved to
 3 Birmingham, and then I could actually put
 4 something on there. I was about twenty-one
 5 when I met another trans individual and could
 6 sit down and talk with her, and we connected.
 7 It was just like the light bulb came on.
 8 Q. And what do you mean by that when
 9 you say the light bulb came on?
 10 A. So I didn't feel like I was
 11 mentally ill. I felt like I knew what I was.
 12 I knew it felt like I knew who I was. It was
 13 just getting to the point where I could be who
 14 I am.
 15 Q. Would it be accurate to say that
 16 when you were twenty-one and you met this
 17 individual and had these conversations you
 18 became aware of what you had always been?
 19 A. So are you asking if when I met
 20 this person is that when I started to identify
 21 or what is your question?
 22 Q. When you understood what it meant
 23 to be a transgendered individual.

Page 21

1 A. Yeah, I would safely say that was
2 when I --
3 Q. When you understood what it was to
4 be a transgender individual?
5 A. Yes.
6 Q. And that you were such an
7 individual?
8 A. Yes.
9 Q. And that you were a female?
10 A. Yes.
11 Q. So that was approximately when you
12 were twenty-one?
13 A. Uh-huh.
14 Q. And you had an Alabama driver's
15 license at that time?
16 A. I did.
17 Q. And the sex on that license was
18 male?
19 A. It was male, the --
20 Q. The sex -- I'm sorry. The sex
21 designation on your license at that time was
22 male?
23 A. Correct. It was my assigned birth.

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1 Q. What was the next stage as you put
2 it after the occasion when you were twenty-one
3 and met this individual and had an
4 understanding of what it meant to be
5 transgender? Would there be another stage or
6 development after that?
7 A. For me personally -- each
8 individual has different stories. For me
9 personally, I started to transition and then
10 stopped for one reason or the other, whether
11 it be fear of rejection from society, fear of
12 rejection from family, fear of rejection from
13 friends. So I kept my trans identity very
14 private until I was about twenty-six, twenty-
15 seven.
16 Q. And when you say you started your
17 transition and stopped it, are you referring
18 to publicly identifying yourself as --
19 A. No. I have always dressed
20 privately and with friends -- one of the ways
21 that I made cash at that point in time was I
22 would perform at local drag shows. So I've
23 always been known as Destiny, but when I

Page 23

1 say -- when I started and stopped my
2 transition, there were times when I would
3 start hormones and then for one reason or the
4 other I would stop, whether it be financial
5 because medical insurance wasn't steadily
6 available or I just could not get the hormones
7 at the time for one reason or the other.
8 Q. And so this was around the time
9 when you were living in Birmingham in 2004?
10 A. Uh-huh.
11 Q. And you would dress as a woman in
12 drag shows?
13 A. Yes.
14 Q. Would you dress as a woman in your
15 everyday life?
16 A. Not at work, but if I was at home,
17 privately I identified as female.
18 Q. And what would be the next stage in
19 your transition then from this time period?
20 A. After I moved to North Carolina and
21 then back, I found my current doctor,
22 Dr. Weisberg. I started to see him for
23 hormone therapy. I then went to Dr. Keith

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1 Abrams for my letter to start hormones. You
2 have to legally see a psychiatrist in the
3 State of Alabama before you are able to start
4 hormones. That's when I was diagnosed with
5 gender dysphoria and I legally started my
6 hormones, and I have been on hormones ever
7 since and I will be on hormones every day for
8 the rest of my life.
9 Q. Are you aware that your attorneys
10 have objected to you revealing any of these
11 medical conditions about yourself?
12 A. Can you -- what do you mean by
13 that?
14 Q. Are you aware that the state
15 requested the plaintiffs identify medical
16 conditions about themselves, such as whether
17 the plaintiffs had been diagnosed with gender
18 dysphoria and that your attorneys declined to
19 answer those questions?
20 A. Uh-huh.
21 MR. ARKLES: Can we take a break?
22 MR. CHYNOWETH: Yes.
23 (Break taken.)

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1 MR. ARKLES: So just to state, we
2 don't have any objections to the questions
3 that you've been asking today. They are
4 different than the questions in the
5 interrogatories and we feel -- we have no
6 objections to the questions you've been asking
7 thus far.
8 MR. CHYNOWETH: Okay.
9
10 BY MR. CHYNOWETH:
11 Q. I believe where we left off you
12 were discussing when you had returned to
13 St. Clair County from Asheville, North
14 Carolina; is that correct?
15 A. We were talking about my medical
16 history and Dr. Abrams and Dr. Weisberg.
17 Q. I'm going to ask you some questions
18 and your attorneys might make an objection.
19 Can you state whether you have been diagnosed
20 with gender dysphoria disorder?
21 A. From Dr. Keith Abrams.
22 Q. When was that?
23 A. Oh, goodness. I do not recall the

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1 exact -- it was right when I began legally my
2 legal/medical transition.
3 Q. That would have been sometime after
4 2010 or 2011 when you returned to the state?
5 A. I think so, yes, correct. But,
6 again, I don't know the exact date. So I --
7 if I -- yeah. I can get the information. I
8 just don't know it right off the top of my
9 head.
10 Q. Where is Dr. Abrams located?
11 A. He is located in Birmingham.
12 Q. When you returned -- did you obtain
13 a North Carolina license when you were living
14 in North Carolina?
15 A. I did not have -- I kept my Alabama
16 state license.
17 Q. So you -- have you had an Alabama
18 driver's license continuously since the age of
19 sixteen?
20 A. Yes, I have.
21 Q. And at all times the sex
22 designation on that license was M?
23 A. Yes, it was.

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1 Q. When you were diagnosed with gender
2 dysphoria, what was the next stage in your
3 transition after that point?
4 A. To start hormones legally and
5 medically.
6 Q. And what was the next stage after
7 that?
8 A. So there's not a road map to be
9 transgender and to be trans and to
10 transition. My next stage was to change my
11 name legally.
12 Q. And so we know that occurred on
13 April 17th, 2015, correct?
14 A. Correct.
15 Q. Was your transition complete at
16 that time?
17 A. No, it was not.
18 Q. When was your transition complete?
19 A. So for my -- there are different --
20 transpeople transition differently, and
21 different transpeople are different. So my
22 transition was complete for me after I had
23 breast augmentation.

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1 Q. And when was that?
2 A. Three years ago.
3 Q. Can you identify as specifically as
4 possible when that was?
5 A. It was in March three years ago.
6 Q. Was that before you completed your
7 name change --
8 A. No.
9 Q. -- which was in April of 2015?
10 A. That was after.
11 Q. After you completed your name
12 change?
13 A. Right. I had my breasts done after
14 I was legally my true name.
15 Q. Would you say that was within a
16 matter of two or three months of having your
17 name changed?
18 A. No.
19 Q. But it was in 2015?
20 A. I honestly do not remember the
21 year. I want to say it was about three years
22 ago because I tell them happy birthday every
23 March. I know it's odd to tell your breasts

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1 happy birthday, but --
2 Q. When did you first begin publicly
3 dressing as a woman?
4 A. Twenty-six or so.
5 Q. And so that's when you were
6 living -- where were you living?
7 A. I had just moved back to Alabama
8 when I publicly started to -- excuse me --
9 when I publicly started to. It was after I
10 moved back.
11 Q. So when you returned to Alabama
12 around 2011, this is the time when you began
13 to see Dr. Weisberg and Dr. Abrams?
14 A. Correct.
15 Q. And it was around this time that
16 you begin publicly dressing as a woman?
17 A. Correct. Again, there are
18 different stages, so --
19 Q. Would it be -- I'm trying to tie
20 all this together, this conversation about
21 stages and transitioning. So would you say
22 that your physical transition was complete
23 with the breast augmentation?

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1 A. For myself my transition became
2 complete when I had my breasts done, correct.
3 Q. What about your mental transition
4 if it's different from the physical
5 transition?
6 A. There's not a mental transition.
7 I'm not crazy.
8 Q. I'm just trying to understand.
9 A. Okay.
10 Q. But you said that -- we can
11 understand gender to have a physical component
12 and a mental component. Is that -- do you
13 agree with that statement?
14 A. Can you elaborate that?
15 Q. Can gender have a mental and a
16 physical component?
17 A. It can in my opinion. In my
18 opinion it can.
19 Q. I'm asking you about you. I'm not
20 asking you about what other people might
21 believe.
22 A. Okay.
23 Q. So your understanding of your

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1 physical transition from male to female was
2 that that was completed with breast
3 augmentation?
4 A. That wasn't my understanding. That
5 was the choice I choose to make.
6 Q. So -- and turning to the mental
7 component of gender, would you agree that your
8 mental or psychological gender would depend on
9 the gender that you identified with?
10 A. So mentally -- and I have always
11 identified as female. I have always been
12 female mentally. There is nothing that
13 changed with that. However, outwardly
14 appearance and physical appearance then
15 changed when I -- as I could change who I am,
16 to start to transition.
17 Q. So I think I understand. So I --
18 you have always been mentally female?
19 A. Correct.
20 Q. There was a transition process of
21 physically conforming to your mental gender?
22 A. Correct.
23 Q. Have you ever had any other

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1 government identification document besides
2 your Alabama driver's license?
3 A. My Alabama driver's license, my
4 birth certificate, my Social Security card.
5 Q. But you have always been aware that
6 your Alabama license had M as the sex
7 designation on it?
8 A. Yes. It's never changed.
9 Q. Was there a time where it first
10 bothered you that your sex on your license was
11 M?
12 A. Yes, when I was sixteen when I got
13 the driver's license.
14 Q. It has bothered you ever since that
15 time?
16 A. Very much so.
17 Q. Can you state your understanding of
18 the state's policy for when you can change
19 your sex on a driver's license?
20 A. So the policy states, when I was
21 finally able to read the policy -- and I do
22 not know this word-by-word -- once a person
23 has gender-confirming surgery. It does not

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1 state what gender-confirming surgery you have
2 to have, so --
3 Q. Can you explain to me in your own
4 words how your inability to change the sex on
5 your driver's license has harmed you?
6 A. Sure. I try not to show my ID at
7 all. It's a pain in the butt to show my ID.
8 People look at it differently. There was a
9 time I was pulled over by a police officer as
10 we were leaving for vacation. We left late at
11 night so we can get there early in the
12 morning. The demeanor of the officer changed
13 when the officer realized that I identified as
14 female but my driver's license says male.
15 If we go out to a restaurant and I
16 order drinks, I try to avoid showing my ID at
17 all costs. So I try not to drink socially
18 unless I know the bartender or the person
19 knows me and knows that I'm a legal adult.
20 This recent instance is this past
21 Tuesday during voting. I presented as
22 female. I am a female. The clerk at the
23 polling place referred to me with male

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1 pronouns and called me a sir in front of fifty
2 or so people.
3 So it's very dangerous for a
4 transperson to have that identification
5 because of the way people treat you and the
6 way -- the officer easily could have been
7 worse than what he was. If someone would have
8 heard the polling person call me sir and refer
9 to me with male pronouns and they wanted to
10 cause a ruckus outside of the polling place,
11 it's a danger to myself.
12 Q. I'm going to ask you some questions
13 about some of the allegations in the
14 complaint, and I'm going to give you a copy
15 for your reference. I'm not going to put it
16 in as an exhibit, if that's okay with you.
17 MR. ARKLES: That's fine.
18 A. What page are you starting from?
19 Q. Can you turn to paragraph four?
20 And I believe we just covered some of this,
21 but do you see in paragraph four where it says
22 Ms. Clark avoids lawful activities that could
23 lead her to have to show her license?

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1 A. Uh-huh.
2 Q. Can you tell me what that
3 allegation is based on?
4 A. Well, the -- it's not an
5 allegation. It's those events that I just
6 previously described to you: Being pulled
7 over by a police officer; I don't show my ID
8 at grocery stores to buy alcohol; I don't go
9 to places where I would be required to show my
10 ID; just this past week with voting. So those
11 are some of the things.
12 Q. So when you voted on Tuesday you
13 used your Alabama driver's license as your
14 photo ID?
15 A. I do. It was this photo -- this
16 driver's license right here.
17 Q. And you're pointing to Defendant's
18 Exhibit 2?
19 A. My -- Exhibit Number 2.
20 Q. Can you turn to page 15? Does it
21 say in paragraph 77 that you have corrected
22 your gender with the Social Security
23 Administration?

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1 A. Yes, it does.
2 Q. What did that process involve?
3 A. The process involved I took the
4 probate order from Judge Bowling to the Social
5 Security office in Trussville. The nice lady
6 behind the desk said I assume you would like
7 me to change this from male to female, and I
8 said yes, please. She changed it right then
9 and there.
10 Q. So the only thing that was required
11 was the proof of your change of name?
12 A. Correct.
13 Q. Do you see paragraph 78 where it
14 says Ms. Clark has tried to change the gender
15 listed on her Alabama license multiple times?
16 A. I do.
17 Q. Do you recall how many times you
18 have tried to change the gender on your
19 license?
20 A. Three. And then I stopped.
21 Q. Can you tell me when you recall the
22 first time was?
23 A. The first time was shortly after I

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1 changed my name legally.
2 Q. So that would have been in
3 approximately April of 2015?
4 A. Correct.
5 Q. Where was that?
6 A. That was in Pell City.
7 Q. Can you tell me what happened when
8 that happened?
9 A. Sure. I went to the driver's
10 license office, and they sent me downstairs to
11 the state examiner. The state examiner then
12 told me I had to contact the Montgomery
13 office. I contacted the Montgomery office,
14 and that was when I first spoke with
15 Ms. Eastman. That was when she said it's a
16 simple process. All I have to do is backspace
17 the M and put an F and the next day you're
18 ready to get your driver's license changed. I
19 just need the documents from your doctor.
20 That is when I sent all of the information I
21 had, plus my letter from my doctor. And
22 that's when it was denied the first time.
23 Q. Can you tell me any other details

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1 you recall about your conversation with
2 Ms. Eastman?
3 A. It was very -- at first she was
4 really friendly, and then when she saw the
5 letter she was really, really hateful.
6 Q. I am going to give you Defendant's
7 Exhibit 4.
8 (Defendant's Exhibit Number 4 was
9 marked for identification. A copy
10 is attached.)
11 A. Sure.
12 Q. And you'll notice at the bottom
13 right that these documents are numbered P1 and
14 P2.
15 A. Okay.
16 Q. And I would like to ask you about
17 P2, which is dated the earliest of these two
18 documents.
19 A. Sure.
20 Q. Can you tell me what this document
21 is?
22 A. This is a letter from my general
23 practitioner, Dr. Weisberg, stating that I had

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1 transitioned medically with his -- with his
2 consent.
3 Q. Was this letter obtained as a
4 result of your conversation with Ms. Eastman
5 that first time you tried to change your sex
6 on your license?
7 A. No. This was -- I had this -- I'm
8 not sure -- well, maybe. I'm not -- I can't
9 be one hundred percent correct.
10 Q. Sure. How -- so this first time
11 you attempted to change your license, which to
12 the best of your recollection was around April
13 2015, how was that situation resolved? How
14 did it end?
15 A. It ended with me being very angry
16 and very upset because of my treatment from
17 Ms. Eastman, and I just left it alone for just
18 a little bit until I get my breast
19 augmentation.
20 Q. So did you send medical
21 documentation to Ms. Eastman at that time?
22 A. I can't recall. I -- if I did
23 anything, I'm not one hundred percent sure.

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1 Q. So it's possible you just had a
2 telephone conversation about what was required
3 to change your sex on your license at that
4 time?
5 A. Yeah, correct.
6 Q. And it would be fair to say that
7 this resulted in denial of your request to
8 change your sex at that time?
9 A. Yes, correct.
10 Q. And was there another time in which
11 you attempted to change the sex on your
12 license?
13 A. Sure. It was right after I got my
14 breast augmentation and --
15 Q. Okay. So that would have been --
16 well, we haven't quite pinned that down, have
17 we?
18 A. Well, the date on this says 2017,
19 but it was not in 2017. So my breast
20 augmentation had to be in 2016. This letter
21 was -- yeah, March 2nd, 2016, was the date of
22 my breast augmentation.
23 Q. So -- and you are referring to P1?

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1 A. Yes, P1. I apologize.
2 Q. The letter in P1. So Dr. Bowling
3 in that letter refers to a surgical procedure
4 related to gender transformation on March 2nd,
5 2016. Is that referring to breast
6 augmentation surgery?
7 A. That is correct.
8 Q. Do you recall -- so you recall a
9 second time in which you attempted to have
10 your sex changed on your driver's license?
11 A. Yes.
12 Q. And P1 was submitted in connection
13 with that second request?
14 A. Correct.
15 Q. Do you -- can you tell me the
16 details of that process?
17 A. So I sent this -- this to
18 Ms. Eastman. I did not give her any further
19 information other than this, and that is when
20 she says, well, if you have it, we can do it.
21 And I sent it to her and I did not hear
22 anything from her. That was the second time I
23 called. Two days later without hearing

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1 anything from anyone from earlier I called and
2 spoke with someone who was under Ms. Eastman.
3 And then she said Ms. Eastman called the
4 doctor's office without my permission to
5 receive information about my medical care, and
6 that was when Ms. Eastman then denied the
7 change again.
8 Q. Do you recall any discussions with
9 Ms. Eastman about what kind of medical
10 documentation would be sufficient to have your
11 sex changed on your license?
12 A. She said the full surgery. So the
13 full surgery for me is breast augmentation.
14 Q. What did you understand her to mean
15 by full surgery?
16 A. My understanding was that she
17 wanted the full surgery. So for my full
18 surgery, my full surgery was breast
19 augmentation. The only thing I can assume
20 that she was thinking was she wanted that I
21 have the full sexual reassignment surgery.
22 Q. And do you understand what full
23 sexual reassignment surgery means?

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1 A. So, again, sexual reassignment, the
2 full surgery is different for different
3 individuals. For myself the full surgery
4 was -- ended at my breast augmentation.
5 Q. Do you understand what Ms. Eastman
6 meant by full sex reassignment surgery?
7 A. I can only assume she meant that
8 she wanted me to have the full sexual
9 reassignment surgery.
10 Q. Which would be what?
11 A. It would mean that I would have to
12 go through a full sex change.
13 Q. And do you understand what that
14 process entails?
15 A. I do.
16 Q. So we've talked about two attempts
17 to change your driver's license in which you
18 had conversations with Ms. Eastman. Has there
19 been any other attempt to change your license?
20 A. There has not.
21 Q. So can you tell me whether the
22 allegations in paragraphs 79 through 85 refer
23 to the first or the second of those

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1 interactions?
2 A. This would look like it would mean
3 about the second interaction with her.
4 Q. And just to summarize, so there was
5 a first attempt to change the sex on your
6 license in approximately April of 2015 around
7 the time of your name change, correct?
8 A. Correct.
9 Q. And you recall having telephone
10 conversations with Ms. Eastman as part of that
11 process, correct?
12 A. Correct.
13 Q. And you don't recall whether you
14 provided any medical documentation at that
15 time?
16 A. I want to say I did. I want to say
17 I provided this same letter, P2 --
18 Q. Okay.
19 A. -- that I provided the second time
20 verbatim because it was in my file.
21 Dr. Weisberg just changed the date. So I want
22 to say that it was the same letter that I sent
23 her both times.

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1 Q. So there are two letters here, P1
2 and P2. Can you take me through the process
3 of -- one of these is dated January 15th,
4 2016; is that right?
5 A. Correct.
6 Q. The other is dated January 18th,
7 2017, a full year later, correct?
8 A. Correct.
9 Q. Can you explain to me the time line
10 for when you had these letters sent to ALEA?
11 A. Sure. So this one had -- I'm
12 sorry. P2 had to have been the first time
13 that I had contact with Ms. Eastman, but I
14 sent the same exact letter the second time,
15 and this time it was attached to P1, so --
16 Q. I see.
17 A. It's the same letter word-for-
18 word. Dr. Weisberg didn't change anything.
19 Q. So just to wrap this up, P2 was
20 sent in connection with your first request to
21 change your sex on your license?
22 A. Correct.
23 Q. And in connection with your second

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1 attempt to change the sex on your license you
2 sent P1 as well as P2 again?
3 A. Correct.
4 Q. In paragraph 87 does the complaint
5 refer to a traffic stop by a police officer in
6 Odenville?
7 A. It does.
8 Q. Do you recall what year that was?
9 A. I do not. It was two or three
10 years ago. We were -- myself, my sister, my
11 niece, and my boyfriend were going down to see
12 my mother who lives in south Alabama.
13 Q. And were you required to show your
14 driver's license in connection with that
15 traffic stop?
16 A. I was. This is the traffic stop
17 that I previously told you about earlier.
18 Q. Correct. Can you just take me
19 through the details of that incident?
20 A. Sure. So we left late at night
21 because we wanted to drive all night to be
22 there all day to get on the beach. Pulled out
23 of the street we live on. My sister and I

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1 live in the same subdivision. We pulled out.
2 And I noticed a car behind me. It was late at
3 night. The officer waited until right before
4 his jurisdiction ended. Here's the parking
5 lot. Here's the sign that said his
6 jurisdiction ended in a different city. And
7 they pulled me over. And the demeanor of the
8 officer was really nice, where are you headed
9 to, just checking things, it's kind of out
10 late for somebody to be leaving, I just want
11 to be sure everything is okay, can I see your
12 driver's license. I said sure. I gave him my
13 driver's license. He came back. His demeanor
14 was completely changed. At one point in time
15 he told me to slow down, shouldn't be out this
16 late. I'm like okay. So the demeanor of the
17 officer quickly changed when he saw the
18 driver's license.
19 Q. And you believe that this was the
20 result of seeing the sex designation on your
21 driver's license?
22 A. I'm one hundred percent positive.
23 Odenville is a very small town and it's very

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1 country, so I would definitely say that it was
2 because of the -- my driver's -- the sex
3 designation on my driver's license.
4 Q. Have you ever had other traffic
5 stops with Alabama law enforcement?
6 A. Several years ago.
7 Q. Do you recall where and when that
8 was?
9 A. It was in Odenville again, but it
10 was pretransition, so --
11 Q. Meaning -- when you say you were
12 pretransitioned at the time of that traffic
13 stop, what do you mean?
14 A. I had not physically identified as
15 female. I was still identified as male.
16 Q. Were you dressed as a man or woman
17 at the time of that traffic stop?
18 A. I identified as man at the time of
19 that stop.
20 Q. I asked how you were dressed.
21 A. I was -- had male clothing on.
22 Q. Have you ever on any other occasion
23 shown your Alabama driver's license to an

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1 Alabama law enforcement officer?
2 A. No, because I try to do the right
3 thing.
4 Q. Have you ever showed your Alabama
5 driver's license in connection with any
6 Alabama court proceeding?
7 A. No, I would safely say not.
8 Q. Did you --
9 A. Well, I mean --
10 Q. In connection with your name
11 change?
12 A. With the name change, of course. I
13 apologize. With name change that was when I
14 showed my ID.
15 Q. Have you ever gone to court in
16 Alabama at any other time that you can recall
17 and shown your Alabama license?
18 A. No, I don't think I've ever had to
19 go to court.
20 Q. Can you explain in connection with
21 this traffic stop that is discussed in the
22 complaint how the officer's demeanor changed?
23 A. Typically -- this is the south --

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1 men are much more politer to women than they
2 are to regular men. He was very, very, very
3 nice at first. His demeanor changed after he
4 saw my ID. He treated me like I was less of a
5 person.
6 Q. Do you think he treated you the way
7 that he would have treated another motorist
8 had that motorist been male?
9 A. That is kind of an odd question
10 because that is only me thinking one thing. I
11 would safely say he treated me differently
12 because you're a male, you live in the south,
13 you have southern manners. He went from
14 having southern manners to being a complete
15 and total douche bag after he saw my ID. So
16 that's --
17 Q. Did the officer issue you a traffic
18 ticket?
19 A. He did not.
20 Q. So he let you go with a warning?
21 A. Right. I mean, there was no law
22 broken.
23 Q. Why did he pull you over?

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1 A. It was late at night. We were
2 leaving. He was just checking he says.
3 Q. The officer didn't explain the
4 basis for his traffic stop, for instance, you
5 had a taillight out or you ran through a stop
6 sign or anything like that?
7 A. It was late at night and he saw a
8 car leaving and he -- they do that often in
9 Odenville, so it wasn't a shocker. Excuse me.
10 I'm so sorry. It wasn't a shocker that he
11 pulled me over.
12 Q. Do you have a Facebook page?
13 A. I do.
14 Q. Is it a public Facebook page?
15 A. My Facebook page is private.
16 Q. And what does that mean?
17 A. It means unless you are my friend
18 you cannot see -- you can't see anything on my
19 Facebook.
20 Q. And what do you mean by unless
21 someone is your friend on Facebook they cannot
22 see anything on your Facebook page?
23 A. So I have it so if you're not my

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1 friend you can't see what I post or anything.
2 Q. If you post something on your time
3 line on Facebook and someone is not friends
4 with you on Facebook can the nonfriend see
5 what is posted on your time line?
6 A. No. I have my profile set to
7 private.
8 Q. Are you sure about that?
9 A. It was.
10 Q. To your knowledge, we are not
11 friends on Facebook, are we?
12 A. No, I don't -- this is the first
13 time I've met you.
14 Q. I'm going to submit Defendant's
15 Exhibit 5.
16 (Defendant's Exhibit Number 5 was
17 marked for identification. A copy
18 is attached.)
19 A. Okay. So there are certain --
20 Q. I'm sorry. Let me just -- what
21 does Defendant's Exhibit 5 appear to be to
22 you?
23 A. Several -- it is my Facebook posts,

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1 but these are my Facebook posts relating to
2 community events that I'm a participant of.
3 MR. ARKLES: Brad, do you have a
4 copy of that?
5 MR. CHYNOWETH: I can get another
6 copy at a break. This is the only copy I
7 have.
8 MR. ARKLES: Great.
9 Q. Perhaps we can get -- clear up some
10 confusion on this.
11 A. So these posts that I'm looking at
12 are posts that are typically only related to
13 the organization I'm a part of that are made
14 public.
15 Q. So let me ask a simpler question.
16 Do you maintain a Facebook page?
17 A. I do.
18 Q. Are you aware that in response to
19 interrogatory -- are you aware in response to
20 an interrogatory you identified this Facebook
21 page as your Facebook page?
22 A. Correct. I was requested and I
23 gave it to you.

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1 Q. And are those documents posts that
2 were made on that Facebook page?
3 A. So these documents are correct,
4 however these particular -- everything that
5 I'm seeing here is Facebook -- my profile
6 picture updated -- are pictures that I have
7 made -- or posts that I have made public for
8 one reason or the other.
9 Q. So these are posts from your
10 Facebook account that is the documents in
11 Defendant's Exhibit 5?
12 A. These are posts from my Facebook
13 account.
14 Q. And what I think I understand you
15 to be saying is that some things that you post
16 on your Facebook appear publicly and some
17 things that you post appear privately to only
18 your Facebook friends; is that accurate?
19 A. I would safely say that's accurate,
20 yes.
21 Q. So what are the things that you
22 post publicly on your Facebook that can be
23 seen by people -- anyone who can view

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1 Facebook, not just your Facebook friends?
2 A. So it only -- my Facebook is only
3 supposed to be set up that I -- unless I make
4 it public it's not public.
5 Q. If I were to represent to you that
6 Defendant's Exhibit 5 were downloaded by
7 publicly accessing Facebook, would you have
8 any reason to contradict that?
9 A. I would think not. But, then
10 again, I'm not one hundred percent sure
11 because this has got stuff that should not
12 have -- nobody should --
13 Q. Is it your intent that the
14 documents contained in Defendant's Exhibit 5
15 be viewed by the public?
16 A. I'm sorry. Can you re --
17 Q. Do you intend for members of the
18 public to be able to view the posts that are
19 contained in Defendant's Exhibit 5?
20 A. These posts are supposed to only be
21 posts that my friends could see unless I've
22 made them public.
23 MR. ARKLES: I'm going to object.

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1 I don't think that it's -- I think you might
2 want to specify which material. It's a large
3 stack she's trying to look through.
4 Q. I think --
5 A. I mean, I'm not ashamed of anything
6 I've posted. I don't think nothing -- nothing
7 is out of line.
8 Q. Do you understand the difference
9 between a public Facebook profile and a
10 private?
11 A. I do. And it seems like I need to
12 check my privacy settings.
13 Q. So earlier I asked you whether you
14 intended for these to be posted in a way
15 that's viewable by the public. Is that your
16 intent?
17 A. Some of these posts were intended
18 for public view. Some of these posts were
19 supposed to be private.
20 Q. Do you publicly discuss the fact
21 that you are a transgender on your Facebook
22 page?
23 A. I'm a trans activist so I do post

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1 several things about trans, and those who know
2 me know that I'm trans.
3 Q. And so some of the things that you
4 post that are in connection with your work as
5 a trans activist are publicly viewable?
6 A. It would seem so, yes.
7 Q. And that would be part of the point
8 of Facebook would be to publicize your
9 activities as a trans activist?
10 A. Yes. On that note can we take a
11 break?
12 Q. Absolutely.
13 (Break taken.)
14
15 MR. ARKLES: So I'm not asking for
16 a formal stipulation right now, but just to
17 set my client's mind at ease, she's concerned
18 about some of the information about pets or
19 family weddings going into a record in our
20 motion for summary judgment. Is that
21 something that you anticipate being interested
22 in doing at this stage?
23 MR. CHYNOWETH: No. Excuse me. I

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1 don't mind stipulating that I will not submit
2 those types of records.
3 MR. ARKLES: Great.
4 MR. CHYNOWETH: I think you
5 understand where I'm going with this line of
6 questioning.
7 MR. ARKLES: You're interested in
8 the posts that are related to transgender
9 issues, right?
10 MR. CHYNOWETH: Yes, and whether
11 they're public or private. That's all I'm
12 going at here. I'm not -- I don't care about
13 social media that's not in your name. I don't
14 care about private communications. I think
15 you understand where I'm going with this line
16 of questioning. So with that being said, I
17 think we can clear the Facebook issue up
18 pretty quickly here.
19 MR. ARKLES: Thank you.
20
21 BY MR. CHYNOWETH:
22 Q. Are there some things that you post
23 on your Facebook page that are publicly

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1 viewable?
2 A. Yes, there are.
3 Q. And those are things related to
4 your activity as a transgender activist?
5 A. Yes.
6 Q. That's all. I'm done with that
7 line of questioning.
8 Can you explain what you mean by
9 being a transgender activist?
10 A. And I shouldn't say transgender
11 activist because I'm not an activist just for
12 transpeople. I'm an activist for the LGBTQ
13 people and the LGBTQ community.
14 Q. And does that involve your
15 membership in certain organizations?
16 A. It does.
17 Q. And what are some of those
18 organizations?
19 A. I am currently the president of
20 Central Alabama Pride, the largest and oldest
21 LGBTQ Pride organization in Alabama. I'm also
22 queen for the Magic City Sisters of Perpetual
23 Indulgence.

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1 Q. I am going to give you Defendant's
2 Exhibit 6.
3 (Defendant's Exhibit Number 6 was
4 marked for identification. A copy
5 is attached.)
6 Q. Can you identify what page this
7 is?
8 A. Sure. This is from my Pride web
9 site centralalabamapride.org.
10 Q. And it states here that you are the
11 president of Central Alabama Pride; is that
12 correct?
13 A. Yes, it's correct.
14 Q. What are some of the activities
15 that you engage in as president of Central
16 Alabama Pride?
17 A. We host events throughout the year
18 to raise money for Pride and other
19 organizations throughout the south, other
20 LGBTQ or HIV-AIDS related organizations within
21 the south.
22 Q. Does your activity as president of
23 Central Alabama Pride involve you publicly

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1 disclosing your identify as a transgender
2 individual?
3 A. It does.
4 Q. Would it be fair to say that you're
5 open about being transgender?
6 A. That would be perfectly fair to
7 say, yes.
8 Q. Does your family know that you're
9 transgender?
10 A. Yes.
11 Q. Do your friends know?
12 A. Yes.
13 Q. Does your employer know?
14 A. Yes.
15 Q. Do your coworkers know?
16 A. My coworkers at one job. At
17 Cracker Barrel most of them do not know.
18 Q. They just think -- they think
19 you're a woman?
20 A. Uh-huh.
21 Q. And so when we say --
22 A. They know I'm a woman --
23 Q. Understood. What do you do with

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1 the Sisters of Perpetual Indulgence?
2 A. I'm just a queen.
3 Q. And what does that entail?
4 A. I'm just there to look pretty and
5 be a representative for their organization.
6 Q. And so the purpose of that is to --
7 A. Bring awareness to HIV and AIDS.
8 Q. And to encourage public acceptance
9 of, among other things, transgender
10 individuals?
11 A. It does, yes. But the purpose of
12 the Magic City Sisters is to raise money for
13 HIV and AIDS awareness.
14 Q. That's the primary purpose?
15 A. That is the purpose, yes.
16 Q. And I guess we could say that the
17 means of achieving that purpose would be
18 through public gatherings?
19 A. It does, uh-huh.
20 Q. Do you consider your transgender
21 status to be a private thing?
22 A. If you do not know me, then yes, it
23 is private. However, if you know me, then

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1 it's not very private. But it's not like I go
2 around and yell, hey, I'm transgender like to
3 people who don't know me.
4 Q. But I believe you just described
5 yourself as a transgender activist?
6 A. Yes, that's correct. But I'm
7 talking in everyday life. I just don't go up
8 to somebody and say hi, Brad, my name is
9 Destiny and I'm a tranny. Hi, my name is
10 Destiny. It doesn't come up in everyday life.
11 Q. Can you turn to paragraph 108 in
12 the amended complaint?
13 A. Okay.
14 Q. Is it one of your claims in this
15 lawsuit that your Alabama driver's license
16 forces you to disclose your transgender
17 status?
18 A. To people who see my driver's
19 license, yes.
20 Q. And one of your claims is that
21 being forced to disclose your transgender
22 status subjects you to risk of violence?
23 A. Uh-huh.

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1 Q. Can you answer yes or no for the
2 court reporter?
3 A. Oh, yes. Sorry. Yes. I'm so
4 sorry.
5 Q. But isn't it true that you just
6 told me you are very public about your
7 transgender status?
8 A. If -- yes.
9 Q. Isn't it true that you're
10 voluntarily subjecting yourself to that same
11 risk of violence through publicly disclosing
12 your status as transgender?
13 A. There's a risk of violence walking
14 down the street every day. There was a
15 shooting last night in California. So I don't
16 think that --
17 Q. Well, my question was don't you
18 voluntarily accept the risk to you based on
19 your transgender status when you publicly
20 disclose your status as transgender?
21 A. Yes.
22 Q. Has anyone with the State of
23 Alabama ever forced you to have medical

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1 treatment you don't want?
2 A. Can you elaborate?
3 Q. You have held an Alabama driver's
4 license continuously since you were sixteen,
5 correct?
6 A. Correct.
7 Q. Have you ever been required to
8 undergo medical treatment you did not want in
9 order to have an Alabama driver's license?
10 A. No.
11 Q. How do you typically carry your
12 driver's license with you?
13 A. It's in my pocketbook in my purse.
14 Q. Do you typically publicly wave your
15 driver's license about?
16 A. No. I purposely try not to ever
17 bring out my driver's license.
18 Q. So you attempt to limit the
19 disclosure of your driver's license?
20 A. Yes.
21 Q. Have you ever attempted to obtain
22 any other form of government identification?
23 A. The only thing -- the only other

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1 government identification that I've tried to
2 obtain is my Social Security card and birth
3 certificate and driver's license.
4 Q. Are you aware that you can obtain a
5 passport that would designate you as female?
6 A. No, I was not aware.
7 Q. Are you aware of the identity of
8 the other two plaintiffs in this lawsuit?
9 A. I know them, yes.
10 Q. And I'm not going to ask you about
11 gender. Do you know Plaintiff Darcy Corbitt?
12 A. I do.
13 Q. Are you aware that Darcy Corbitt
14 has a United States passport that designates
15 her as a female?
16 A. I don't know Darcy personally --
17 like I don't know her --
18 Q. You know that she is a plaintiff in
19 this lawsuit, but you don't know her
20 personally?
21 A. Right. We --
22 Q. I am going to hand you Defendant's
23 Exhibit 7.

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1 (Defendant's Exhibit Number 7 was
2 marked for identification. A copy
3 is attached.)
4 Q. If I were to represent to you that
5 this is the United States passport
6 application, would you have any reason to deny
7 that?
8 A. I would have no reason.
9 Q. Can you look at the top of the
10 first page where -- do you see where it says
11 what to submit with this form?
12 A. I do.
13 Q. And it says, number one, proof of
14 U.S. citizenship. Does it say that?
15 A. It does.
16 Q. And does it say, number two, proof
17 of identity?
18 A. It does.
19 Q. Can you turn to the second page of
20 this document?
21 A. (Witness complies.)
22 Q. Does it say at the very top of this
23 document proof of U.S. citizenship?

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1 A. Yes.
2 Q. Do you see where it says that you
3 can prove your U.S. citizenship by a certified
4 birth certificate?
5 A. I do.
6 Q. And do you see below that a box
7 with proof of identity above it?
8 A. Okay.
9 Q. Do you see where in the first
10 paragraph of that box it says you can prove
11 your identity by a driver's license?
12 A. I do.
13 Q. So if you were to apply for a U.S.
14 passport, could you prove your citizenship
15 with the birth certificate and your identity
16 with your Alabama driver's license?
17 A. Yes.
18 Q. I'm going to hand you Defendant's
19 Exhibit 8.
20 (Defendant's Exhibit Number 8 was
21 marked for identification. A copy
22 is attached.)
23 Q. If I were to represent to you that

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1 this is a list of how much it costs to get a
2 U.S. passport, would you have any reason to
3 deny that?
4 A. I would not.
5 Q. Do you see at the top where it
6 discusses adult applicants sixteen years or
7 older?
8 A. Okay.
9 Q. And if you were to apply for a U.S.
10 passport, you would be an adult applicant,
11 correct?
12 A. Correct.
13 Q. And do you see where it says that
14 the application fee for a first time adult
15 passport book is one hundred and ten dollars?
16 A. I do.
17 Q. And that the execution fee is
18 thirty-five dollars?
19 A. I do.
20 Q. Would that mean that in order to
21 obtain a U.S. passport book it would cost one
22 hundred and forty-five dollars?
23 A. According to this paper, yes.

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1 Q. Could you afford to purchase a U.S.
2 passport book for one hundred and forty-five
3 dollars?
4 A. It would take some maneuvering of
5 bills and saving but, yes, I could probably
6 obtain it.
7 Q. And do you see below that where it
8 says first time adult passport card?
9 A. I do.
10 Q. And it says application fee thirty
11 dollars?
12 A. I do.
13 Q. And it says execution fee thirty-
14 five dollars?
15 A. I do.
16 Q. And does that mean that you can
17 purchase a passport card for sixty-five
18 dollars?
19 A. Correct.
20 Q. If you wanted to obtain a passport
21 card, could you afford the sixty-five dollar
22 fee?
23 A. Yes, I could.

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1 Q. Do you understand that you could
2 obtain a U.S. passport that would designate
3 your sex as female?
4 A. According to this? I've not ever
5 known it to be, so this is a first time seeing
6 this. I've never had the need for a passport.
7 Q. Would you like to have a passport
8 that designated your sex as female?
9 A. I would like to have a driver's
10 license that designate it. I mean, I have no
11 plans to travel so I wouldn't see the need for
12 a passport.
13 Q. Well, my question was would you
14 like to have a passport that said that your
15 sex was female on it?
16 A. I don't see a need for it because I
17 have no plans to travel, and I don't leave the
18 country.
19 Q. Can you use a passport for things
20 other than travel?
21 A. Well, I assume you can. It is a
22 United States document.
23 Q. If you wanted to obtain a passport,

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1 could you obtain a passport?
2 A. If I wanted to, yes.
3 Q. If you could obtain a passport with
4 a female sex designation on it, is that
5 something you would like to do?
6 A. Sure.
7 Q. And there's nothing preventing you
8 from doing that, is there?
9 A. I mean, I would have to read it
10 further.
11 Q. Based on the questions that I've
12 asked you about these documents, which I
13 understand I've just put in front of you for
14 the first time, is there anything that would
15 prevent you from getting a U.S. passport based
16 on what we've covered from these document?
17 A. It says you would have to have your
18 driver's license so according to this, proof
19 of identity, driver's license, my driver's
20 license is marked as male, so they would still
21 classify me as male.
22 Q. So you're saying your understanding
23 is that your federal passport has to have the

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1 same sex designation as your state driver's
2 license?
3 A. From my understanding of just the
4 short period of time that I've just had the
5 opportunity to read this, yes.
6 Q. Okay. Where on that document does
7 it say that your sex must be the same as your
8 Alabama driver's license?
9 A. Well, I've not read it further,
10 so --
11 Q. So that was just an assumption that
12 you made?
13 A. That was just an assumption.
14 Again, I just got these in front of me, so --
15 Q. If you had a passport or a passport
16 card that designated you as a female, could
17 you use that to establish your identity?
18 A. My identity is already established.
19 Q. Suppose you want to buy alcohol and
20 you were required to prove that you were
21 legally of age to purchase the alcohol, could
22 you use a passport to do that?
23 A. Yes.

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1 Q. So you could choose to use a
2 passport instead of your Alabama license for
3 that activity?
4 A. Correct.
5 Q. If you had to prove that you were
6 eligible to work with a potential employer,
7 could you use your passport for that?
8 A. As long as it's a form of legal ID,
9 yes.
10 Q. If you had to present photo ID to
11 vote, could you present a passport for that?
12 A. That I'm not sure. I'm not sure of
13 how the passports and voting works, so I'm
14 unsure of that answer.
15 Q. Fair enough. If you had to
16 establish your residential address, could you
17 use a passport for that?
18 A. I would assume, yes.
19 Q. So I believe earlier you told me
20 that you avoided doing things in public that
21 would require you to show your Alabama
22 license?
23 A. Correct.

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1 Q. Would you not avoid doing those
2 things if you could show a passport instead?
3 A. I can't answer that at this time
4 because there's trauma that's related to
5 having to show it. So I can't say that just
6 would -- it's going to be fixed with that
7 issue of having a passport.
8 Q. Did you say that one of the things
9 that you avoided doing in public was ordering
10 alcoholic beverages?
11 A. Yes, I did.
12 Q. Could you not use a U.S. passport
13 to establish a proof of age to purchase an
14 alcoholic beverage?
15 A. I could.
16 Q. So in many situations you have a
17 choice about what government identification
18 you can display, correct?
19 A. Correct.
20 Q. Earlier when I asked you about your
21 conversation with Ms. Eastman when you were
22 attempting to have the sex changed on your
23 driver's license, do you recall us talking

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1 about what kinds of reassignment procedures
2 would have been sufficient for you to get your
3 sex changed on your license?
4 A. Are you asking if you and I had
5 that conversation or --
6 Q. Yes. I'm just asking if you recall
7 those questions from earlier.
8 A. I do, yes.
9 Q. And I believe you said I have had
10 all of the sex reassignment procedures that I
11 required or something to that effect.
12 A. Gender-affirming procedures, yes.
13 Q. Could another transgender
14 individual answer the question differently as
15 to what reassignment procedures that person
16 required?
17 A. I'm sure they could. Each person
18 is different, just like you and I are
19 different. Everyone in this room is
20 different. So, yes, every trans -- another
21 transperson could answer it differently.
22 Q. Is it your claim that that person
23 should be allowed to change the sex on that

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1 person's license?
2 A. Can you clarify?
3 Q. Is it your claim that any
4 transgender individual who claims that they
5 have received whatever gender-confirming
6 procedures they believe are sufficient should
7 be able to change their license?
8 A. Yes.
9 Q. But what those procedures are would
10 be different for different people, correct?
11 A. Correct.
12 Q. Would you be willing to sign a
13 HIPAA release form to allow me to obtain
14 medical records that have been referred to in
15 this deposition?
16 A. No. Other than what you already
17 have, I think that's all that --
18 MR. ARKLES: I would object to
19 that. I don't think it's necessary to get
20 past medical records.
21 MR. CHYNOWETH: Okay. We're
22 getting to the end here. Can you let me take
23 a quick break to speak with Meredith and

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1 then --
2 MR. ARKLES: Okay.
3 (Break taken.)
4
5 MR. CHYNOWETH: I have no more
6 questions for you at this time. Your lawyers
7 might ask you some questions and I may have
8 some follow-ups for you.
9 THE WITNESS: Okay.
10 EXAMINATION
11 BY MR. ARKLES:
12 Q. All right. I would like to ask
13 some questions. So, first, how many times did
14 you try to change the sex designation on your
15 license?
16 A. Three.
17 Q. And could you briefly describe the
18 first time?
19 A. The first time was in Pell City.
20 They told me no, I had to go to Montgomery.
21 The second time was in -- well, contacting --
22 I've never been down to Montgomery, but I
23 was -- it was a phone call with Ms. Eastman.

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1 And then the third time was after the breast
2 augmentation.
3 Q. Okay. Thank you. And how many
4 years have you worked in the food industry?
5 A. Since I was eighteen. So it's been
6 a good many years, thirteen plus.
7 Q. And in the course of your work in
8 the food industry, do you need to verify
9 people's age before serving them alcohol?
10 A. Yes.
11 Q. And how many times has somebody
12 presented a passport to you to verify their
13 age in those years?
14 A. I have never had anyone to present
15 a passport for age verification.
16 Q. If somebody did show you a passport
17 to verify their age, how would you react to
18 that?
19 A. It would kind of shock me because
20 it's never been done, but -- it would take me
21 a little bit longer to find where the birth
22 date is because I have never looked at the
23 passport.

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1 Q. Thank you. And could you describe
2 how you understand the risk to yourself when
3 you post on Facebook about a transgender
4 event?
5 A. So the risk to myself on Facebook,
6 there are keyboard warriors, and I can take
7 keyboard warriors. Those don't necessarily
8 mean that I'm going to be physically harmed.
9 They can't come through the computer and punch
10 me in the face.
11 Q. Could you describe what you mean by
12 keyboard --
13 A. Keyboard warriors are those who
14 post awful things about transpeople, trans
15 violence, who -- I think one of my emails I've
16 gotten is freak, I'm going to kill you, I'm
17 going to hang you. Those are just some of the
18 messages.
19 Q. Okay. And how is that different
20 from the risk that you anticipate when you
21 share your license with somebody who is right
22 in front of you?
23 A. If I show them right in front of

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1 me, it's a great risk because they see it.
2 We're feet from each other. The harm is right
3 there.
4 Q. What do you mean by right there?
5 A. It's in the two feet vicinity
6 from -- if someone wants to see that and wants
7 to commit a violent crime, they can do so.
8 Q. Okay. And what is the risk that
9 you perceive to yourself when you are
10 participating in -- well, I'm sorry. Withdraw
11 that.
12 When you serve as queen with the
13 Sisters of Perpetual Indulgence what sort of
14 events do you appear at?
15 A. The only events that we've ever
16 really appeared at that -- when I have been
17 queen has been LGBTQ events to raise funds for
18 HIV awareness.
19 Q. Okay. And is it fair to say they
20 are a lot of LGBTQ people at those events?
21 A. It's predominantly LGBTQ people and
22 their allies.
23 Q. And so what's the risk that you

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1 perceive to yourself when you appear publicly
2 at those events?
3 A. At those events I don't -- I don't
4 feel like I'm at harm because I do have enough
5 people that if something were to happen I
6 would be quickly defended.
7 Q. And how is that different from the
8 risk that you perceive when showing your
9 driver's license to a stranger?
10 A. A stranger, I don't know how
11 they're going to react with that. There's
12 always the risk of violence. So if they see
13 that and they choose to be -- I'm here in the
14 south -- there are really -- there's a lot of
15 hate groups. So if one of them particularly
16 wants -- is a hate -- part of that hate group
17 and I don't know it and they ask for the ID
18 it's very simple that they could commit
19 violence right there, beat me up, shoot me, do
20 something.
21 MR. ARKLES: Thank you. Those are
22 all of my questions. Do you have any follow-
23 ups?

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1 MR. CHYNOWETH: I don't have any
2 further questions. I believe we're done.
3 MR. ARKLES: Thank you. I would
4 like to revise my earlier agreement to the
5 usual stipulations. We would like to reserve
6 the right to review a copy of the transcript
7 and make any corrections before it is
8 finalized.
9
10 (The deposition of DESTINY CLARK,
11 concluded on November 8, 2018, at
12 11:00 a.m.)
13
14 FURTHER DEPONENT SAITH NOT
15
16
17
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1 REPORTER'S CERTIFICATE
2 STATE OF ALABAMA)
3 JEFFERSON COUNTY)
4 I, Elaine Scott, Licensed Court
5 Reporter and Commissioner for the State of
6 Alabama at Large, hereby certify that on
7 November 8, 2018, I reported the deposition of
8 DESTINY CLARK, who was first duly sworn or
9 affirmed to speak the truth in the matter of
10 the foregoing cause, and that pages 1 through
11 84 contain a true and accurate transcription
12 of the examination of said witness by counsel
13 for the parties set out herein.
14 I further certify that I am neither
15 of kin nor of counsel to any of the parties to
16 said cause nor in any manner interested in the
17 results thereof.
18
19 ELAINE SCOTT, Court Reporter
20 and Commissioner for the State
21 of Alabama at Large,
22 CCR License No. 354, Expires 9/30/19
23 MY COMMISSION EXPIRES NOVEMBER 16, 2019

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Exhibit 2

Deposition of Darcy Corbitt

In The Matter Of:

*Darcy Corbitt, Destiny Clark, and Jane Doe v.
Hal Taylor, etc., et al.*

*Darcy Corbitt
November 21, 2018*

*Baker Realtime Worldwide Court Reporting & Video
250 Commerce Street
Third Floor, Suite One
Montgomery, Alabama 36104
www.BakerRealtime.com*

Original File 11-9-18 Darcy Corbitt.txt

Min-U-Script® with Word Index

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT OF ALABAMA
3 NORTHERN DIVISION
4
5 CIVIL ACTION NO.: 2:18-CV-00091-MHT-GMB
6
7 DARCY CORBITT, DESTINY CLARK, and JANE DOE,
8 Plaintiffs,
9 v.
10 HAL TAYLOR, in his official capacity as
11 Secretary of the Alabama Law Enforcement
12 Agency, et al.
13 Defendants.
14
15 DEPOSITION OF DARCY CORBITT
16 November 9, 2018
17
18 Taken before Elaine Scott, CCR,
19 Commissioner for the State of Alabama at
20 Large, in the Law Offices of the Alabama
21 Attorney General, 501 Washington Avenue,
22 Montgomery, Alabama, on Thursday, November 9,
23 2018, commencing at approximately 8:57 a.m.

Page 2

1 A P P E A R A N C E S
2
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4 AMERICAN CIVIL LIBERTIES UNION FOUNDATION
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6 125 Broad Street
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16 FOR THE DEFENDANTS:
17 OFFICE OF THE ATTORNEY GENERAL, STATE OF
18 ALABAMA
19 Brad A. Chynoweth
20 501 Washington Avenue
21 Montgomery, Alabama 36130
22
23

Page 3

1 A P P E A R A N C E S (continued)
2
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4 Meredith Barnes
5
6 COURT REPORTER:
7 BAKER REALTIME WORLDWIDE REPORTING & VIDEO
8 Elaine Scott
9 250 Commerce Street
10 Third Floor, Suite One
11 Montgomery, Alabama 36104
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15
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23

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1 S T I P U L A T I O N S
2 It is hereby stipulated and agreed by
3 and between counsel representing the parties
4 that the deposition of DARCY CORBITT is taken
5 pursuant to stipulation and agreement; that
6 all formalities with respect to procedural
7 requirements are waived; that said deposition
8 may be taken before Elaine Scott, Certified
9 Court Reporter and Commissioner for the State
10 of Alabama at Large, without the formality of
11 a commission; that objections to questions
12 other than objections as to the form of the
13 questions need not be made at this time but
14 may be reserved for a ruling at such time as
15 the deposition may be offered in evidence or
16 used for any other purpose as provided for by
17 the Alabama Rules of Civil Procedure.
18 It is further stipulated and agreed
19 by and between counsel representing the
20 parties that the filing of the deposition may
21 be introduced at the trial of this case or
22 used in any manner by either party hereto
23 provided for by the Statute.

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1 And at the beginning I would like
2 to just lay down a few ground rules so that
3 our deposition goes smoothly. Have you ever
4 given a deposition before?
5 A. I have not.
6 Q. Okay. I'm going to be asking you
7 questions, and because the court reporter is
8 taking down your testimony you will need to
9 respond verbally with a yes or no instead of
10 shaking or nodding your head.
11 A. I understand.
12 Q. If I ask a question that you don't
13 understand, please tell me that you don't
14 understand and I will try to ask it better.
15 A. Okay.
16 Q. If at any time you need to take a
17 break, just let me know. The only thing I
18 would ask is that if I've asked you a
19 question, please answer it before you take a
20 break.
21 A. Okay.
22 Q. Can you state your name for the
23 record?

Page 6

1 It is further stipulated and agreed
2 by and between the parties hereto and the
3 witness that the signature of the witness to
4 this deposition is NOT hereby waived.
5
6 DARCY CORBITT,
7 The witness, having first been duly
8 sworn or affirmed to speak the truth, the
9 whole truth and nothing but the truth,
10 testified as follows:
11
12 THE COURT REPORTER: Usual
13 stipulations?
14 (Affirmed by counsel.)
15
16 EXAMINATION
17 BY MR. CHYNOWETH:
18 Q. Good morning. My name is Brad
19 Chynoweth with the Attorney General's Office.
20 I'm here to ask you some questions in a
21 deposition about a lawsuit you've filed
22 against officials with the Alabama Law
23 Enforcement Agency that I represent.

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1 A. My name is Darcy Jeda Corbitt Hall.
2 Q. And when -- what's your birthday?
3 A. [REDACTED] 1992.
4 Q. Okay. And that makes you how old
5 now?
6 A. 26.
7 Q. Where were you born?
8 A. Baton Rouge, Louisiana.
9 (Defendant's Exhibit Number 9 was
10 marked for identification. A copy
11 is attached.)
12 Q. I'm presenting to you Defendant's
13 Exhibit 9. Can you state what this is?
14 A. This is my birth certificate.
15 Q. And what is the name on your birth
16 certificate?
17 A. [REDACTED].
18 Q. And what is the sex on this birth
19 certificate?
20 A. Male.
21 Q. So you were assigned male sex at
22 birth?
23 A. That is correct.

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1 Q. Where did you grow up?
2 A. I grew up primarily in Auburn,
3 Alabama.
4 Q. How old were you when you moved
5 from Louisiana to Auburn?
6 A. I was thirty days old when my
7 family moved to Gainesville, Georgia, where we
8 lived until I think 1993 or 1994 at which
9 point I moved to Auburn and resided there
10 until I was twenty-three years old, I
11 believe. 2015 was the date that I moved.
12 Q. Where did you go to high school in
13 Auburn?
14 A. Trinity Christian School in
15 Opelika.
16 Q. What year did you graduate Trinity
17 Christian High School?
18 A. 2010.
19 Q. And what did you do after you
20 graduated high school?
21 A. I enrolled at Faulkner University
22 here in Montgomery where I was a student until
23 March 21st, 2011.

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1 Q. What did you study at Faulkner?
2 A. Biblical studies.
3 Q. And what did you do after you --
4 did you -- did that result in a completed
5 degree?
6 A. It did not.
7 Q. What did you do after March 21st,
8 2011, when you were finished at Faulkner
9 University?
10 A. I moved back to Auburn, Alabama.
11 And I lived there and went to school at
12 Southern Union State Community College in
13 Opelika.
14 Q. So you started in fall of 2011 at
15 Southern Union?
16 A. Summer of 2011.
17 Q. Summer 2011. And how long did you
18 stay in Auburn at Southern Union?
19 A. I was at Southern Union for one
20 year.
21 Q. And what did you do after that?
22 A. I graduated in August 2012 from
23 Southern Union and enrolled at Auburn

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1 University where I continued my bachelor's
2 work.
3 Q. So you got an associate's degree at
4 Southern Union?
5 A. I did.
6 Q. And in August of 2012 you started
7 at Auburn University?
8 A. That is correct.
9 Q. What were you studying?
10 A. I was studying a double major in
11 English literature and psychology.
12 Q. How long did those studies
13 continue?
14 A. Until 2015.
15 Q. And did you complete your
16 bachelor's at that time?
17 A. I did.
18 Q. In spring of 2015?
19 A. May of 2015.
20 Q. And what did you do after you
21 graduated in May of 2015?
22 A. I moved to Fargo, North Dakota,
23 where I started doctoral work in clinical

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1 psychology.
2 Q. And that would have been in the
3 fall of 2015?
4 A. That is correct.
5 Q. Where were you in school?
6 A. North Dakota State University.
7 Q. How long -- I'm sorry. What were
8 you studying there?
9 A. Clinical psychology.
10 Q. And was that a master's or a Ph.D.
11 program?
12 A. It was a nonterminal master's
13 transitioning to Ph.D.
14 Q. And how long did you study at North
15 Dakota State?
16 A. I studied until August 2017, I
17 believe.
18 Q. And you said that was a nonterminal
19 degree, so what was the completion of that
20 course of studies?
21 A. I did not complete those studies.
22 Q. And what did you do after August of
23 2017?

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1 A. My doctoral advisor got a job at
2 Auburn and invited me to join her at Auburn to
3 work as her project student there and to
4 manage a grant-funded project that we had --
5 would be starting in August. And so I
6 accepted her offer and moved back to Auburn.
7 Q. So you relocated to Auburn. Would
8 that have been August or maybe a little later?
9 A. It was August.
10 Q. August of 2017. And were you
11 enrolled in Auburn at that time or you were
12 just working for this professor?
13 A. I was enrolled at Auburn.
14 Q. And what was your degree?
15 A. My current degree is doctoral
16 program in human development and family
17 studies also known as developmental
18 psychology.
19 Q. And are you currently enrolled in
20 pursuing the same degree at Auburn?
21 A. I am.
22 Q. Have you completed all of your
23 course work?

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1 A. I have not.
2 Q. How many semesters of course work
3 do you have left?
4 A. This will be my final semester of
5 master's course work at which point I will
6 transition to doctoral work.
7 Q. And what will your doctoral work
8 consist of?
9 A. I will be taking some more classes
10 mostly in statistical methodology and will
11 work on a dissertation after I am successful
12 at defending a qualifying exam.
13 Q. How long do you anticipate it will
14 take before you have completed the
15 dissertation process?
16 A. At this time I'm unable to provide
17 an answer to that question.
18 Q. One year?
19 A. I am unable to provide an answer to
20 that question at this time.
21 Q. When you have completed your --
22 what did you say that it was, your advanced
23 statistical studies?

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1 A. Statistical methodology.
2 Q. When will you be enrolled in that?
3 A. I don't know.
4 Q. When you have completed that course
5 work would you be ABD at that point, all but
6 dissertation?
7 A. I assume so, yes.
8 Q. When do you anticipate -- do you
9 anticipate seeking employment as an academic?
10 A. I do.
11 Q. When do you anticipate that you
12 will begin applying for jobs?
13 A. I do not know at this time.
14 Q. Do you anticipate that you will
15 apply while you're ABD?
16 A. No, I will not.
17 Q. For people who want to get an
18 academic position in developmental psychology,
19 is it customary to apply for tenure tract
20 positions when you're ABD?
21 A. It is not.
22 Q. When is it customary to go on the
23 job market?

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1 A. When you are close to defending
2 your dissertation.
3 Q. So when you are ABD but
4 substantially finished with your dissertation?
5 A. Well, I can be ABD and still have
6 three or four years left on the dissertation,
7 so I can't really estimate when I will be
8 looking for a job because at this time point I
9 don't know how long that process will take.
10 Q. When you've completed your Ph.D.
11 and you're applying for academic jobs, is this
12 something where you will be applying based on
13 a research specialty?
14 A. I will.
15 Q. And is there a list of job openings
16 that's created for that sort of job
17 application?
18 A. I assume so.
19 Q. And it lists job openings based on
20 the area of research?
21 A. Not necessarily. You can apply to
22 work at a university where people are doing
23 similar work that you are. Sometimes you

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1 don't have that luxury. You apply where there
 2 is an open position.
 3 Q. And so when you have completed your
 4 Ph.D., do you anticipate applying to a variety
 5 of universities that have open positions?
 6 A. I do.
 7 Q. And those will be tailored somewhat
 8 to what your specialty is in developmental
 9 psychology?
 10 A. As far as I can.
 11 Q. And do you anticipate a significant
 12 number of those job openings being out of
 13 state?
 14 A. I'm unable to speculate about the
 15 nature of the academic job market in five or
 16 six years, but I can say that Auburn
 17 University is the third highest ranked program
 18 in the country and has the research interest
 19 that I am involved in.
 20 Q. But you would apply based on any
 21 acceptable position regardless of geographical
 22 location of the university?
 23 A. That is true.

Page 18

1 Q. But until the time that you
 2 complete your Ph.D. you do not anticipate
 3 leaving the state?
 4 A. I do not.
 5 Q. What are your areas of research
 6 that you are interested in in your graduate
 7 studies?
 8 A. Bullying and aggression.
 9 Q. If I am putting this together
 10 correctly, were you living in Alabama when you
 11 turned sixteen?
 12 A. I was.
 13 Q. Did you obtain an Alabama license
 14 at that time?
 15 A. I did.
 16 Q. What -- and I'm not good at math.
 17 What year would that have been?
 18 A. Either 2007 or 2008.
 19 Q. And your -- just for the sake of
 20 making sure we're speaking the same language,
 21 I'm going to refer to the sex on a driver's
 22 license that is M or F as a sex designation.
 23 Is that fair?

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1 A. That's fine.
 2 Q. Your sex designation on your
 3 license that you obtained when you were
 4 sixteen was M?
 5 A. That is correct.
 6 Q. And you possessed an Alabama
 7 driver's license from the time you were
 8 sixteen until when?
 9 A. Sometime in 2015 in the fall.
 10 Q. And that would have been when you
 11 moved to North Dakota?
 12 A. That is correct.
 13 Q. And you obtained a North Dakota
 14 driver's license at that time?
 15 A. I did.
 16 Q. And what was the sex designation on
 17 that driver's license?
 18 A. Male.
 19 Q. Did you ever have the sex on your
 20 North Dakota license changed?
 21 A. I did.
 22 Q. When was that?
 23 A. I'm not sure of the date. It was

Page 20

1 about a year after I moved to North Dakota.
 2 (Defendant's Exhibit Number 10 was
 3 marked for identification. A copy
 4 is attached.)
 5 Q. This is Defendant's Exhibit 11.
 6 A. Should be 10.
 7 Q. Did we skip 10?
 8 A. Yeah.
 9 (Brief pause.)
 10 Q. This is Defendant's Exhibit 10.
 11 Can you tell me what this document is?
 12 A. This is my North Dakota driver's
 13 license.
 14 Q. Do you see where it says issuance
 15 date November 2nd, 2016?
 16 A. Yes.
 17 Q. Would that be the time that you had
 18 your sex on your license changed?
 19 A. It must have been.
 20 Q. To the best of your knowledge?
 21 A. To the best of my knowledge. I
 22 don't know -- I don't remember. I did not
 23 make a note of it.

Page 21

1 Q. Do you have a United States
2 passport?
3 A. I do.
4 Q. When did you obtain that?
5 A. In January of 2017.
6 Q. And you were living in North Dakota
7 at that time?
8 A. I was.
9 Q. What is the sex designation on your
10 U.S. passport?
11 A. Female.
12 Q. And when you returned to Alabama in
13 August 2017, did you obtain an Auburn
14 University student ID?
15 A. I did.
16 (Defendant's Exhibit Number 11 was
17 marked for identification. A copy
18 is attached.)
19 Q. This is Defendant's Exhibit 11.
20 Can you tell me what that is?
21 A. This is my Auburn University ID.
22 Q. So do you currently still hold your
23 North Dakota driver's license that is Exhibit

Page 23

1 year that would have been?
2 A. I don't know the year. I believe I
3 was between the ages of three or four.
4 Q. And what is your current gender
5 identity?
6 A. I am a woman.
7 Q. Would it be fair to say that --
8 strike that. Do you identify yourself as a
9 transgender woman?
10 A. Yes.
11 Q. Can you explain what transgender
12 means to you?
13 A. It means that the way that I
14 understand my gender and my sex is different
15 than that which is listed on my birth
16 certificate.
17 Q. Would it be fair to say that the
18 process of you understanding yourself to be a
19 transgender woman was a transition or involved
20 a transition?
21 A. I would say that it is fair that
22 all human beings undergo some form of
23 transition in their life where they understand

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1 10?
2 A. I do hold that.
3 Q. You still hold a current valid
4 United States passport?
5 A. I do.
6 Q. And is Exhibit 11 a student ID that
7 you currently hold?
8 A. I do not hold this specific ID any
9 longer. I have a new version of it, same
10 information, different picture, issued a month
11 ago.
12 Q. So your 2018 Auburn University
13 student ID is substantially the same in that
14 it has your name and photograph and it
15 identifies you as a student?
16 A. That is correct.
17 Q. Can you tell me when you first
18 identified as a woman?
19 A. My earliest memory is of me
20 identifying as a woman and finding out that
21 that identification was not consistent with
22 how other people saw me.
23 Q. Do you recall approximately what

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1 who they are.
2 Q. And in your case one aspect of that
3 transition was becoming aware of your identity
4 as a transgender woman?
5 A. I wouldn't say that I became aware
6 that I was a transgender woman. I would say
7 that I became aware that there was a term that
8 existed to explain how I felt and that there
9 was a future for me and the life I thought was
10 best for me.
11 Q. Do you recall around what age that
12 was when you had that awareness?
13 A. Twenty.
14 (Defendant's Exhibit Number 12 was
15 marked for identification. A copy
16 is attached.)
17 Q. I am going to place into the record
18 Defendant's Exhibit 12. What is this
19 document?
20 A. This is my legal name change
21 document.
22 Q. And is the date on that July 22nd,
23 2013?

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1 A. That is correct.
2 Q. Can you explain to me the
3 significance of legally changing your name in
4 this process of transition that we've been
5 talking about?
6 A. Of course. I had started living as
7 Darcy full-time on May 11th, 2013, and part of
8 the process for me was making sure that my
9 identification correctly reflected who I was
10 and who I knew myself to be and who my friends
11 knew me to be. And so I went and changed my
12 name at the courthouse, and it was a very
13 scary experience. I did not think that it
14 would be easy. I felt that they would
15 discriminate against me when I told them the
16 reason. They did look at me funny, but they
17 did issue the name change. And it made me
18 feel -- it made me feel -- it made me feel
19 somewhat normal for the first time in my life
20 to have, you know, a legal identity that was
21 closer to who I was as a person.
22 Q. Can you explain what you mean when
23 you said it was a scary experience to go to

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1 congratulated me on my new name.
2 Q. And I believe you said you went to
3 the title office?
4 A. I did.
5 Q. How was your experience there?
6 A. It was fine.
7 Q. And at the Social Security
8 Administration, how was your experience there?
9 A. It was fine.
10 Q. So I take it the significance of --
11 you said that on May 11th, 2013 --
12 A. Yes.
13 Q. -- you began living as Darcy. That
14 would be your birthday?
15 A. That is correct.
16 Q. Would it be accurate to say that
17 your transition to your current identity was
18 complete as of that date?
19 MR. BOONE: Form of the question.
20 Could you --
21 MR. CHYNOWETH: I'll try to do
22 better.
23 Q. We've been -- I've been asking you

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1 the courthouse and have your name changed?
2 Who did you go to see?
3 A. I went to the probate court or the
4 probate judge at Lee County Courthouse in
5 Opelika.
6 Q. Did you visit any other offices in
7 connection with your name change?
8 A. I went to the driver's license
9 office in the courthouse, and I also went to
10 the revenue commissioner's office to update
11 the title of my car and vehicle registration.
12 And then I went to the voter registration
13 office to update my voter registration. And
14 then I went to the Social Security office and
15 updated my Social Security card.
16 Q. How was your experience at the
17 probate office at that time?
18 A. It was not as bad as I expected,
19 but it could have been better.
20 Q. How was your experience at the
21 driver's license office at that time?
22 A. The clerk at that driver's license
23 office was very -- very nice and he

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1 questions about a transitional process,
2 correct?
3 A. That is correct.
4 Q. Would it be accurate to say that
5 that transitional process was complete on May
6 11th, 2013?
7 A. I would say that that process had
8 begun on May 11th, 2013.
9 Q. On May 11th, 2013, I believe the
10 way you put it was you began living as Darcy?
11 A. Full-time.
12 Q. And prior to that, how had you been
13 living that was different?
14 A. My name was different. I didn't
15 expect people to use Darcy as my name. I
16 didn't expect people to use my gender
17 pronouns. I had been dressing as a woman
18 since approximately June or July 2011, but I
19 had not been consistently asking people to
20 treat me as a woman because at the time I
21 still was uncertain about what gender identity
22 was. I didn't really have a concept of it.
23 Once I did have a concept of it, the process

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1 involved really coming to terms with how
2 people would treat me and the things that I
3 would lose and the people who I would lose
4 from my life when I came out as transgender.
5 Q. So May 11th, 2013, describes the
6 point at which you came out as transgender
7 publicly?
8 A. I had come out prior to that in
9 April -- I believe it was April or March, and
10 it did not go over well, and I needed to
11 finish the semester. And so I set my birthday
12 as the day that I would start from that point
13 forward not compromising my authenticity to
14 make other people comfortable.
15 Q. And you held an Alabama driver's
16 license on May 11, 2013?
17 A. I did.
18 Q. And what was the sex designation on
19 your Alabama driver's license on that date?
20 A. Male.
21 Q. I'm going to ask you some questions
22 now, and I'm going to pause because your
23 lawyers may or may not have some objections.

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1 Can you state whether you have been diagnosed
2 with gender dysphoria disorder?
3 A. I have.
4 Q. Can you tell me when that was?
5 A. I'm unable to provide you with the
6 date of that.
7 Q. Do you know a year?
8 A. Possibly in 2013.
9 Q. Do you recall the name of the
10 doctor or the psychologist that made the
11 diagnosis?
12 A. Ann Marie Delsignore.
13 Q. So was that here in Alabama?
14 A. Yes.
15 Q. Can you spell the name for me?
16 A. Ann Marie, A-N-N M-A-R-I-E
17 D-E-L-S-I-G-N-O-R-E.
18 Q. And what is her -- what is the
19 nature of her medical training?
20 A. She is a -- I think she's finished
21 with her Ph.D. in counseling psychology. She
22 was working at the counseling center at Auburn
23 University.

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1 Q. And at that time you held an
2 Alabama driver's license with the male sex
3 designation on it?
4 A. That is correct.
5 Q. Have you received treatment for
6 gender dysphoria from any other medical
7 professionals?
8 A. I have.
9 Q. Can you tell me who the next would
10 have been after Ann Marie Delsignore in 2013?
11 A. Yes. Allen Irish.
12 Q. Irish as in the country?
13 A. Irish, yes.
14 Q. And what does he do?
15 A. He is a licensed counselor in the
16 State of North Dakota. He works at the NDFC
17 Counseling Center.
18 Q. And do you recall what year that
19 would have been within your fall 2015-2016
20 time period in North Dakota?
21 A. I believe it was 2016. I think it
22 was the spring semester of my first year of
23 graduate school, but it may have been the

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1 fall. I cannot be entirely sure of the time
2 line.
3 Q. Have you continued to receive any
4 treatment since that time for gender
5 dysphoria?
6 A. I have.
7 Q. And when was that and with who?
8 A. I started hormone replacement
9 therapy in 2016, I think, maybe 2017. I'm not
10 sure. I can't tell you the exact -- I can
11 tell you the day I started. I can't tell you
12 the year.
13 Q. Was that in North Dakota?
14 A. It was in North Dakota, but the
15 provider was in Minnesota.
16 (Defendant's Exhibit Number 13 was
17 marked for identification. A copy
18 is attached.)
19 Q. I'm going to give you Defendant's
20 Exhibit 13. This is a letter that your
21 attorneys produced in response to a request
22 from defendants. Can you identify who this
23 letter is from?

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1 A. Jennifer Demma, certified nurse
2 midwife in the State of Minnesota. And it is
3 cosigned by Maria Kaefer M.D., her supervisor
4 at Family Tree Clinic.
5 Q. And is this where you received
6 treatment for gender dysphoria at in
7 Minnesota?
8 A. I did.
9 Q. Let's see. I don't see a date on
10 this letter, but do you see in the second
11 sentence it says I have a provider/patient
12 relationship with Darcy and have treated this
13 patient since April 2016?
14 A. That would have been when I
15 started.
16 Q. And did you continue to receive
17 treatment for gender dysphoria after that
18 point?
19 A. I did.
20 Q. And when was that?
21 A. Well, it's been continuous since
22 that time point. I will say before -- I don't
23 know if this person qualifies as a medical

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1 provider -- I was also undergoing voice
2 therapy in Minnesota, which was part of the
3 process of transitioning.
4 Q. Can you explain what voice therapy
5 is?
6 A. Yes. It's a series of different
7 techniques aimed to increase the pitch and
8 resonance of the person's voice so that it
9 sounds more feminine.
10 Q. And that was in North Dakota?
11 A. It was in Minnesota.
12 Q. At the Family Tree Clinic?
13 A. No. At Minnesota State University-
14 Morehead.
15 Q. Was there any other treatment you
16 received during your time in North Dakota?
17 A. I also had permanent hair removal
18 on my face, upper torso, arms and back.
19 Q. And have you continued to receive
20 treatment on your return to Alabama in August
21 of 2017?
22 A. I have.
23 Q. What is the nature of that

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1 treatment?
2 A. I'm still receiving therapy at
3 Student Counseling Services at Auburn
4 University. My provider is Dr. Dustin Elliot
5 who is a licensed psychologist in the State of
6 Alabama. I'm also continuing hormone therapy
7 with Dr. Weisberg in Birmingham.
8 Q. Are there any other treatments you
9 are getting aside from those?
10 A. Not at this time.
11 Q. Can you explain in your own words
12 what the state's policy is on when you can
13 change the sex on your Alabama driver's
14 license?
15 A. As I understand it, the state
16 desires that I have a vagina before they will
17 change my driver's license sex designation.
18 Q. For reference I'm providing you
19 with a copy of the amended complaint in this
20 case. Can you please turn to paragraph four
21 of the amended complaint?
22 A. That -- this page? I don't read
23 legal documents.

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1 Q. Okay.
2 A. Okay.
3 Q. Fair enough. I will be referring
4 to the paragraphs, the numbered paragraphs, as
5 opposed to the numbers at the bottom.
6 A. Okay.
7 Q. And do you see in paragraph four
8 where it says the plaintiffs Ms. Darcy
9 Corbitt, Ms. Destiny Clark, and Ms. Jane Doe
10 have all been personally harmed by this
11 policy? Do you see where it says that in
12 paragraph four?
13 A. I do see that.
14 Q. And do you understand that this
15 policy refers to the policy for when you can
16 change the sex on your driver's license in
17 Alabama?
18 A. I do.
19 Q. Can you explain to me in your own
20 words how this policy has harmed you?
21 A. Of course. From an emotional
22 standpoint it has caused very deep emotional
23 harm. Being publicly humiliated by ALEA

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1 officials in the driver's license office in a
2 very public way when there were other people
3 present was very, very emotionally disturbing
4 to me. The subsequent stress over this
5 lawsuit and what the outcome will be and what
6 that means for my future as both a person
7 living in Alabama as well as a person just
8 living in general has caused me loss of hours
9 at work, loss of sleep, increased visits to
10 the doctor's office, and the need to resume
11 therapy.
12 From a practical standpoint it is
13 very difficult for me to navigate the world
14 not having a driver's license in the state
15 where I live. I work in public elementary
16 schools, and I have to produce a driver's
17 license in order to access those schools, and
18 I'm currently having to use a North Dakota
19 license. And at the time in which I will have
20 to have an Alabama license if it does not
21 accurately define my status it will out me to
22 my employers and it will out me to the schools
23 where I work. And the schools are mostly in

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1 Q. And I believe you described these
2 as rural schools?
3 A. That is correct.
4 Q. So county school system?
5 A. I can't answer that question.
6 Q. Fair enough. And you have to show
7 a form of photo identification to have access
8 to the schools?
9 A. I have to show driver's license.
10 Q. You can't show any other form of
11 ID?
12 A. They scan the license. It's the
13 same statewide. They scan the license, and it
14 takes the picture from your license and places
15 it on a name badge which they have you wear in
16 the school, and it is formatted for driver's
17 licenses which all have a uniform format
18 across the country, to my knowledge. They
19 can't use any other form of ID because the
20 picture is not formatted to align with their
21 scanner. So the alternative is that they have
22 to make me one by hand which takes longer, and
23 they can't keep me in their system. So for

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1 rural areas and will not take kindly to a
2 transperson working with their students.
3 It also from a philosophical
4 perspective is incredibly insulting to be
5 treated differently than other people in my
6 state, and it is also insulting that had I
7 gone to any other state and applied for a
8 driver's license with the documentation that I
9 have I would have been given a driver's
10 license that said female, and the only reason
11 I have a driver's license that says male in
12 this state is because I was previously
13 licensed here.
14 Q. With what schools do you work?
15 A. I'm not able to provide an answer
16 to that question.
17 Q. Do you work in schools in
18 connection with your graduate studies?
19 A. I do.
20 Q. And this is as a student teacher or
21 intern or in what capacity?
22 A. I'm the program manager for a
23 federally funded antibullying program.

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1 schools I've been to before they just look at
2 my name and print out the badge, and I don't
3 have to use this process again. But if I were
4 to have to use my student ID or a federal
5 passport, I would have to have them handwrite
6 me a pass every time, and it would delay the
7 start of my appointments and would require me
8 to leave earlier in the morning.
9 Q. Do you have a passport book or a
10 passport card?
11 A. I have a passport book.
12 Q. And do you understand the
13 difference? Have you ever seen a passport
14 card?
15 A. I've had both, but I do not have a
16 card at this time.
17 Q. If you had a passport card, do you
18 think they could scan that in?
19 A. I don't know.
20 Q. Have you ever asked?
21 A. I haven't been interested in
22 getting a passport card, so I have not asked.
23 Q. Can you please turn to paragraph 69

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1 of the amended complaint?
2 A. (Witness complies.)
3 Q. Can you tell me what you recall
4 about the basis of the allegations in
5 paragraph 69? That would be your August 2017
6 visit to Lee County driver's license to obtain
7 an Alabama license. Can you tell me what you
8 recall about that event?
9 A. Are you asking for a narrative of
10 what happened at that -- on that occasion?
11 Q. Yes. I'm -- did you attempt -- did
12 you visit a Lee County Driver's License Office
13 in August 2017?
14 A. I did.
15 Q. Did you do so in order to transfer
16 your North Dakota driver's license to an
17 Alabama driver's license?
18 A. I did do so.
19 Q. Can you tell me what you recall
20 about your interaction there?
21 A. Yes. I entered the office. I was
22 seen almost immediately, which was a
23 relatively normal experience for me at that

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1 office. And the clerk was very friendly. We
2 chatted. She said, oh, you lived in North
3 Dakota. I said yeah. We did the normal
4 banter about it being really cold there. She
5 asked me why I moved back to Alabama. I told
6 her. Or why I had moved to Alabama, and I
7 told her because I hadn't told her I had lived
8 in Alabama before.
9 She asked if I had ever been
10 licensed in Alabama before. I said yes,
11 provided her with my Social Security number.
12 To this point she was very friendly and
13 courteous to me. It was normal interaction.
14 And she got really quiet after she looked me
15 up. She didn't look at me. She didn't talk
16 to me. I tried to make conversation and she
17 was very brisk with me.
18 She took my picture. And then
19 she -- I think she asked me if my weight had
20 changed, and it had. Nothing else -- well, my
21 address had changed. I updated that. And
22 then she printed out a little receipt that
23 said all the information on it and was like

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1 can you verify that all this is accurate. And
2 I noticed the sex designation was M, and I
3 said -- I circled it and said this is not
4 accurate.
5 And she said I know, and I never
6 would have known if I hadn't seen your
7 driver's license. And I said, well, that's
8 not accurate. It needs to be updated. She
9 said I am not able to update that for you.
10 And I said, well, I need you to find out how
11 you can update it because it is inconsistent
12 with the other documentation that I have and
13 the other forms of identification that I have
14 and I don't need an inconsistency in
15 identifying documents.
16 And so she called her supervisor
17 over. And her supervisor would not look at me
18 either and was very disinterested and said you
19 just need to call Montgomery and find out. So
20 she called Montgomery. And when she was on
21 the phone with the person in Montgomery --
22 Q. I'm sorry. Let me stop you there.
23 When you said she called Montgomery, are you

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1 referring to the supervisor or the clerk?
2 A. The clerk. The supervisor walked
3 away.
4 Q. And so the examiner called and
5 spoke to someone in Montgomery?
6 A. Yes. And I do not know who that
7 person is.
8 Q. And then what happened?
9 A. She was explaining the situation,
10 and she said he is sitting here, he has a
11 North Dakota license that says female, but his
12 Alabama license says male and he wants to
13 change it and, no, he does not have a note
14 from a doctor.
15 And all this -- before all of this
16 had happened she was referring to me as she.
17 She was treating me like a woman, but when she
18 saw my driver's license from Alabama she
19 started treating me like I was a man. She did
20 so very loudly.
21 It is an open room like this one.
22 There was someone to the right of me and to
23 the left of me. The person to the right of me

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1 was a woman and she looked at me very
2 pityingly. The people on the left were two
3 men, and they looked at me with disgust.
4 There was also a state trooper present who
5 looked at me and I was afraid of the way that
6 she was looking at me. I didn't know what it
7 meant.
8 I felt very afraid. I did not know
9 if I was going to be safe. I was also in a
10 situation where I didn't know how much the
11 person in front of me could help me and so I
12 wasn't able to advocate for myself or defend
13 myself or correct her. And I had to endure
14 her insulting and detrimental behavior because
15 I didn't know if she would help me or not.
16 And this went on for about ten
17 minutes. At one point she said it is sitting
18 here or something like that. She referred to
19 me as it, as an object. And then while she
20 was on hold she looked at me, and she said I
21 guess I should be saying she, huh. And to
22 this point I was being really magnanimous. I
23 felt like, well, she just doesn't know, but

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1 the fact that she was self-aware to realize
2 that what she was doing was offensive and then
3 proceeded to continue to call me he was -- and
4 naturally that's when she said it was after
5 she acknowledged she should say she. Then she
6 said it and then she went back to he. Never
7 once apologized for any of that behavior.
8 And she told me that I would need
9 to either get an amended birth certificate
10 from the state where I was born or a doctor's
11 note indicating that I had had surgery before
12 the license could be updated. And I told her
13 I refused to surrender my North Dakota
14 license; I do not want an Alabama license
15 today; and I will see you in court. And I
16 left. And I literally ran to my car because
17 the men on the other side of me were leaving
18 at the same time and I thought they were going
19 to beat me up in the parking lot.
20 Q. Was it your understanding that you
21 could have obtained an Alabama license at that
22 time except it would have had an M sex
23 designation on it?

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1 A. I was unable to obtain an Alabama
2 license because I wasn't able to verify that
3 the information provided was accurate.
4 Q. But you could have obtained a
5 driver's license with that sex designation on
6 there at that time, correct?
7 A. I could have obtained an Alabama
8 driver's license if I lied and misrepresented
9 who I was as a person.
10 Q. Were there any other statements
11 made to you about why you didn't satisfy the
12 policy for changing sex other than what you've
13 stated?
14 A. There are -- no other statements
15 were made.
16 Q. So did you, in fact, threaten to
17 file a lawsuit at that time?
18 A. I didn't threaten. I stated that I
19 would see her in court.
20 Q. And what do you mean by that?
21 A. That I would file a lawsuit.
22 Q. Did you, in fact, file a lawsuit?
23 A. I did, in fact, call the ACLU as

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1 soon as I got to my car.
2 Q. Do you remember the name of either
3 the supervisor or the examiner that you
4 interacted with?
5 A. I do not.
6 Q. Were they both women?
7 A. They were.
8 Q. Are you sure that you couldn't have
9 overheard other people referring to you in the
10 way that you stated? Could it have been
11 bystanders -- could it have been bystanders
12 that made those statements that is referring
13 to you as it and he?
14 A. Are you asking me am I sure that
15 the woman sitting in front of me was saying
16 that to me?
17 Q. Rather than a bystander?
18 A. I'm pretty sure that she was the
19 one saying it.
20 Q. Can you turn to paragraph 72?
21 A. (Witness complies.)
22 Q. Does paragraph 72 state that
23 Ms. Corbitt has completed all necessary

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1 medical treatment for her gender dysphoria at
 2 this time?
 3 A. It does.
 4 Q. Is that an accurate statement?
 5 A. At this time, yes.
 6 MR. CHYNOWETH: I need to take a
 7 break.
 8 (Break taken.)
 9
 10 Q. Are you public about your
 11 transgender status?
 12 A. I am.
 13 Q. Do your friends now?
 14 A. Yes.
 15 Q. Your family members know?
 16 A. Majority of my family does.
 17 Q. Other people you interact with at
 18 graduate school?
 19 A. I would say they would if we were
 20 close.
 21 Q. Do you have a Facebook page?
 22 A. Define what you mean by a Facebook
 23 page.

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1 (Defendant's Exhibit Number 14 was
 2 marked for identification. A copy
 3 is attached.)
 4 Q. I am placing Defendant's Exhibit 14
 5 in front of you. Is that an accurate picture
 6 of your Facebook page?
 7 A. That is an accurate picture of my
 8 public Facebook page, yes.
 9 Q. And you said that that Facebook
 10 page is public?
 11 A. All Facebook pages are public.
 12 Q. Can somebody who is not friends
 13 with you on Facebook view things posted to the
 14 time line of that Facebook profile?
 15 A. This is not a Facebook profile. It
 16 is a page. There are a difference between the
 17 two. This is not something where you friend
 18 people. This is something that you like or
 19 follow.
 20 Q. So that is a Facebook page?
 21 A. It is a Facebook page.
 22 Q. Maintained by you?
 23 A. Maintained by my organization.

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1 Q. And what is your organization?
 2 A. Darcy Jeda Corbitt Foundation.
 3 Q. And what is the nature of that
 4 organization?
 5 A. It is a 501(c)3 community
 6 foundation that was established to promote the
 7 health and global well-being of transgender
 8 individuals through free online education,
 9 support, and financial assistance.
 10 Q. And is that 501(c)3 nonprofit?
 11 A. It is a 501(c)3.
 12 Q. What state is that incorporated in?
 13 A. It is incorporated in North Dakota.
 14 Q. When did you incorporate the Darcy
 15 Jeda Corbitt Foundation?
 16 A. The foundation was incorporated in
 17 December of 2016.
 18 Q. At the top of the Facebook page
 19 maintained by you it references a website,
 20 mytransitionpartner.com.
 21 A. Yes.
 22 Q. Is that website related to the
 23 Darcy Jeda Corbitt Foundation?

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1 A. It is their main program.
 2 Q. And that is a website that's
 3 publicly viewable on the internet?
 4 A. That is correct.
 5 Q. And what are the activities that
 6 are promoted on the website? Let me word that
 7 better. What is the purpose of that website?
 8 A. To educate people about what it
 9 means to be transgender and to help them find
 10 their resources and answers they need to
 11 facilitate their transition.
 12 Q. And are you associated on that
 13 website with the foundation? Are there
 14 pictures of you on that website?
 15 A. There are, yes.
 16 Q. And so your identity in connection
 17 with the website is on the internet?
 18 A. That is correct.
 19 Q. Do you post on that Facebook page?
 20 Do you make posts that are relevant to your
 21 status as a transgender individual?
 22 A. Yes.
 23 Q. Are those posts publicly viewable?

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1 A. Yes. Everything on that page is
2 publicly viewable.
3 Q. Do you solicit donations for your
4 foundation on that Facebook page?
5 A. I do.
6 Q. Would it be accurate to say that
7 you are a transgender rights activist?
8 A. Define what you mean by transgender
9 rights activist.
10 Q. Do you advocate for the rights of
11 transgender individuals?
12 A. I do.
13 Q. Do you publicly advocate for the
14 rights of transgender individuals?
15 A. I do.
16 Q. And you do so through your Facebook
17 page that is publicly viewable?
18 A. I do.
19 Q. Do you ever engage in public
20 speaking?
21 A. I do.
22 Q. Can you give me some examples in
23 which you addressed a public gathering in your

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1 capacity as an advocate for transgender
2 individuals?
3 A. Of course. The majority of my
4 speaking has been at colleges and universities
5 in classrooms or in auditoriums where I tell
6 my story and talk about the struggles faced by
7 transgender individuals. I also facilitate
8 workshops to help people be more culturally
9 sensitive to transgender people. And I have
10 done some guest lecturing where transgender
11 identity was part of it but not the entire
12 focus.
13 Q. Can you identify approximately when
14 you began these public activities advocating
15 for transgender rights?
16 A. December 2015. Well I
17 professionally began doing it in December of
18 2015, though as a member of the Gay Straight
19 Alliance at Auburn University I did -- I was
20 involved in public panels, and I also did some
21 advocacy at the university.
22 Q. What did you mean when you say you
23 began professionally doing it in 2015?

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1 A. People started paying me to do it.
2 Q. What would be an example of an
3 organization that would pay you?
4 A. The State of North Dakota.
5 Q. What would be -- can you recall an
6 occasion when you received payment from the
7 State of North Dakota to engage in public
8 advocacy for transgender rights?
9 A. Yes.
10 Q. What would an example be?
11 A. I was contracted by the North
12 Dakota Department of Health to review their
13 suicide prevention protocol as it related to
14 LGBTQ people and to author the corresponding
15 sections of their upcoming master plan for
16 reducing suicide in their state.
17 Q. Do you maintain a Twitter account?
18 A. I do.
19 Q. And what is your Twitter
20 identification?
21 A. My handle is @darcycorbitt.
22 Q. Handle. Sorry. And so your handle
23 is your real name?

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1 A. Yes.
2 Q. So you are publicly identifiable
3 through your Twitter account, correct?
4 A. I am.
5 Q. And anyone can view your tweets
6 even if they don't have a Twitter account; is
7 that correct?
8 A. I assume so, yes.
9 Q. Do you have an Instagram?
10 A. I do.
11 Q. What is your handle for your
12 Instagram account?
13 A. @darcycorbitt.
14 Q. Again in your real name?
15 A. Yes.
16 Q. Do you identify -- do you post
17 things on your Twitter account related to your
18 status as a transgender individual?
19 A. My Twitter or my Instagram
20 account?
21 Q. Your Twitter?
22 A. I do.
23 Q. Do you post things on your

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1 Instagram that would identify you as a
2 transgender individual?
3 A. I do.
4 Q. Do you have a YouTube channel?
5 A. I do.
6 Q. And what is the name of the YouTube
7 channel?
8 A. I think it's darcycorbitt or
9 darcyjedacorbitt.
10 Q. So your YouTube channel is in your
11 name as well?
12 A. Yes.
13 Q. Do you make public statements on
14 your YouTube channel about transgender
15 activism?
16 A. I do.
17 Q. Do you have a statement on your
18 YouTube channel about this lawsuit?
19 A. I think so, yes.
20 Q. Is your transgender status private
21 information?
22 A. What do you mean by private?
23 Q. Is the fact that you are -- given

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1 the questions that I just asked you, is your
2 status as a transgender individual something
3 that is not publicly known?
4 A. No, it is not a secret.
5 Q. Is your status as a transgender
6 individual something that is confidential?
7 A. Depends on the circumstances.
8 Q. What would be some circumstances in
9 which it would be?
10 A. On a dark country road with a
11 police officer who pulls me over it would be a
12 confidential thing. When I'm getting carded
13 for an alcoholic beverage it would be a
14 confidential thing. And in any other
15 situation where I deem myself to be at
16 significant risk if that information was
17 disclosed it is a confidential thing.
18 Q. Are you not -- are you maintaining
19 that such a disclosure would place you at
20 risk?
21 A. I am indicating that.
22 Q. Do you not publicly across all of
23 the internet floor that we have identified

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1 disclose your status as a transgender
2 individual?
3 A. Can you repeat the question?
4 Q. Do you not already publicly
5 disclose your status as a transgender
6 individual through various social media?
7 A. I do. But the likelihood of a
8 random police officer or a random bartender
9 knowing that information when they interact
10 with me is very low.
11 Q. Aren't you disclosing your
12 transgender status to a much larger volume of
13 people by means of social media than by means
14 of any government identification documents?
15 A. In the forms in which I disclose
16 that information I control the narrative. And
17 if I ever felt unsafe, I could pull the
18 Facebook, I could pull the website, I could
19 pull the Twitter, I could pull the Instagram.
20 In the situation of a driver's license I
21 cannot control that narrative.
22 Q. But, of course, you don't have an
23 Alabama driver's license?

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1 A. I do not.
2 Q. And your driver's license
3 identifies you as a female, does it not?
4 A. It does.
5 Q. So you are not disclosing any
6 transgender status by means of any driver's
7 license you currently possess, do you?
8 A. Not at this time.
9 Q. Don't you voluntarily accept any
10 risk created by disclosing your transgender
11 status when you disclose it through social
12 media?
13 A. Yes.
14 Q. Can you get an Alabama driver's
15 license without having to get medical
16 treatment you don't want?
17 A. Not at this time, no.
18 Q. Why not?
19 A. Because at this time I have not
20 made the determination that I want to have the
21 procedures the state requires of me.
22 Q. Will the State of Alabama
23 physically issue you an Alabama driver's

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1 license without you getting any medical
2 procedures done?
3 A. I don't see how they could.
4 Q. When you visited the Opelika
5 driver's license office in August of 2017, was
6 that clerk ready to issue you an Alabama
7 license with an M sex designation on it?
8 A. In order to issue it I would have
9 to verify that the information is accurate,
10 and I could not verify the information to be
11 accurate without misrepresenting who I was.
12 Q. You have a United States passport
13 that designates you as female, correct?
14 A. I have answered that, yes.
15 Q. And you have a student ID
16 substantially similar to the one we've put in
17 the record here?
18 A. Yes.
19 Q. If you were to purchase alcohol --
20 strike that. Suppose you had an Alabama
21 license that designated your sex as M, just
22 suppose hypothetically. If you had an Alabama
23 license that designated your sex as M, could

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1 you not use your passport to, for instance,
2 purchase alcohol?
3 A. To have to go to the bank and get
4 my passport out of my safe deposit box every
5 time I want a drink isn't convenient.
6 Q. Is there any requirement that you
7 keep your passport in a safe deposit box at a
8 bank?
9 A. I don't particularly want a very
10 expensive piece of paper that identifies me to
11 the world just sitting around where anybody
12 could take it.
13 Q. That is a precaution you undertake
14 voluntarily though, right?
15 A. I would say it's a smart precaution
16 that most people take.
17 Q. You have a passport that is
18 available that you can use to prove your age
19 in a variety of contexts, correct?
20 A. That is correct.
21 Q. You have a passport that is
22 available to prove your eligibility to work to
23 obtain employment; is that correct?

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1 A. That is correct.
2 Q. You have a passport that is
3 available to establish your residence, is that
4 correct, your street address?
5 A. The passport?
6 Q. Does it not have your address on
7 it?
8 A. They don't have addresses on it, so
9 no.
10 Q. Did you vote this Tuesday? I'm not
11 asking you who you voted for. I'm asking you
12 if you voted on Tuesday.
13 A. With pleasure.
14 Q. Did you show photo ID?
15 A. I did.
16 Q. What photo ID did you show?
17 A. I actually used my North Dakota
18 license.
19 Q. Are you aware that you could have
20 used your student ID to vote?
21 A. I am aware that I could have,
22 but --
23 Q. Are you aware that you could have

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1 used your passport as your ID to vote?
2 A. I typically use my passport, yes.
3 Q. If you were to have an Alabama
4 license that designated your sex as male, how
5 would you typically carry that license with
6 you?
7 A. Well, I wouldn't carry it because I
8 wouldn't accept it. But if I had to, if I was
9 compelled to, then I would carry it in my
10 wallet and use it with hesitation.
11 Q. Let's turn to your North Dakota
12 license. How do you carry your North Dakota
13 license?
14 A. With pride.
15 Q. Okay. Where physically do you
16 carry your North Dakota license?
17 A. In my wallet.
18 Q. And where do you keep your wallet?
19 A. In my bag or at my side. My wallet
20 is the kind that can be carried as a purse.
21 Q. So you typically carry your North
22 Dakota license concealed within your wallet?
23 A. As do pretty much everybody.

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1 Q. Do you typically waive your North
2 Dakota license around publicly?
3 A. I don't know of any context where
4 anyone would do that, so --
5 Q. I'm asking if you do that.
6 A. Well, I'm not that different from
7 the average person, so no, I don't.
8 Q. Would it be fair to say that you
9 show your driver's license when you have to?
10 A. Definitely.
11 Q. And in any circumstances there are
12 alternative government identification
13 documents that you can use, is that correct,
14 such as your passport?
15 A. Unless I wasn't trying to identify
16 that I could drive I could use any of my other
17 identifying documents.
18 Q. Have you ever at any point had
19 contact with an Alabama law enforcement
20 officer?
21 A. I have had that misfortune, yes.
22 Q. On how many occasions would you say
23 that occurred?

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1 A. Most recently was at my house on
2 the 17th of October. Previous to that --
3 Q. Of this year?
4 A. Of this year, yes. Previous to
5 that I would say I interacted with someone in
6 June at Pride. Just like a hello.
7 Q. June of this year?
8 A. Yes. I thanked them for coming to
9 Pride. Previous to that would have been, to
10 my knowledge -- I don't make a note -- would
11 have been when I got pulled over for allegedly
12 running a stop sign in Auburn.
13 Q. And rough idea of when that
14 occurred, year?
15 A. It was right before a snow, so that
16 should narrow it down.
17 Q. Of last year then?
18 A. No, no. This was a long time ago,
19 like 2014 maybe. It would have been -- it
20 would have been February or March of 2014
21 because it was right before I got into a
22 relationship.
23 Q. Do you recall any other encounters

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1 with Alabama law enforcement officers aside
2 from those three?
3 A. No.
4 Q. And at the time of your traffic
5 stop in 2014 what kind of license did you
6 have? What state license did you have?
7 A. Alabama.
8 Q. So you had an Alabama license that
9 designated your sex as male?
10 A. That is correct.
11 Q. Did the officer ask you to present
12 that license in the course of that traffic
13 stop?
14 A. He did.
15 Q. What was the result of that?
16 A. I got a ticket.
17 Q. Did anything occur during the
18 course of that traffic stop involving your
19 transgender status?
20 A. We didn't discuss it, no.
21 Q. And I believe you said the next one
22 was in June of 2018?
23 A. Yes.

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1 Q. You said you interacted with an
2 officer at what kind of event?
3 A. LGBT Pride.
4 Q. And you said that this was just a
5 conversation you had?
6 A. Yeah.
7 Q. So this was not a traffic stop or
8 an investigation?
9 A. I wasn't in trouble. I sought him
10 out.
11 Q. So you -- this was an Opelika
12 Police Department officer?
13 A. Auburn.
14 Q. Auburn Police Department officer?
15 A. I may have done it in Opelika as
16 well. I can't remember. There were two
17 events, one in Opelika and one in Auburn
18 Opelika. I believe I thanked the officers at
19 both.
20 Q. Just briefly what was the nature of
21 your conversation in June of 2018 with the
22 Auburn Police Department officer?
23 A. They were both awkward, both

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1 experiences, mostly because they didn't
2 understand why some LGBT person was talking to
3 them I'm assuming. They definitely didn't act
4 weird around other people, so I just said
5 thank you for coming today, we really
6 appreciate your show of support and for
7 keeping us safe.
8 Q. So they were there to provide
9 security?
10 A. That is correct.
11 Q. So you thanked them for allowing
12 you to --
13 A. Be safe.
14 Q. And you said on October 17th of
15 2018 you had an officer come to your
16 residence?
17 A. Yes.
18 Q. And why was that?
19 A. Because someone has been stalking
20 me.
21 Q. Did you call 911 in connection with
22 that incident?
23 A. I called dispatch directly and had

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1 them send an officer to file a report.
2 Q. You weren't being investigated or
3 pulled over for any crime intentionally?
4 A. I was not.
5 Q. Were you required to show your
6 identification in the course of that
7 investigation?
8 A. I was.
9 Q. Do you think it was important for
10 the officer to verify your identification to
11 be able to investigate that complaint?
12 A. Definitely.
13 Q. Do you think it would be important
14 for the officer to have accurate information
15 about you to investigate that complaint?
16 A. Definitely.
17 Q. Have you ever gone to court
18 proceedings in Alabama?
19 A. To my knowledge, no.
20 Q. You've never presented your Alabama
21 license in connection with any court
22 proceeding in Alabama?
23 A. Define a court proceeding.

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1 Q. Have you ever been into a
2 courthouse in Alabama and had to show your
3 driver's license?
4 A. To who?
5 Q. Any state employee in the
6 courthouse.
7 A. I'm not trying to be difficult.
8 I'm trying to understand what you mean by a
9 court proceeding. Is that like with a judge
10 or --
11 Q. Yes.
12 A. -- any kind of interaction with a
13 government official?
14 Q. I mean, you got a ticket, right?
15 A. I just paid it with the clerk.
16 Q. You paid your ticket online?
17 A. Yeah.
18 Q. Have you ever gone to court to see
19 a judge in Alabama?
20 A. No.
21 Q. Obviously you went in to probate to
22 change your name?
23 A. Well, yeah, that, but I didn't

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1 interact with the judge. I interacted with
2 the clerk.
3 (Defendant's Exhibit Number 15 was
4 marked for identification. A copy
5 is attached.)
6 Q. I'm going to place into the record
7 Defendant's Exhibit 15. Can you tell me what
8 this is?
9 A. This is an article written about me
10 in 2014.
11 Q. And can you read the headline of
12 this article?
13 A. Of course. I have always been
14 Darcy. Transgender Auburn University student
15 to be honored at Montgomery LGBT vigil.
16 Q. And what's the date of the article?
17 A. February 7, 2014.
18 Q. And what's the name of the reporter
19 who wrote the article?
20 A. Jeremy Gray.
21 Q. And is there a photograph
22 underneath the headline of the article?
23 A. There is.

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1 Q. It looks like four photographs more
2 accurately?
3 A. More like a single image, yes.
4 Q. Are those photographs of you?
5 A. They are.
6 Q. Do you recall talking to Mr. Gray
7 in connection with this article?
8 A. I do, and I can tell you where I
9 talked to him.
10 Q. Where?
11 A. Auburn University Student Center
12 right outside Room 2222.
13 Q. You have a good memory.
14 A. Thanks.
15 Q. In the second paragraph does it say
16 "born biologically male, Corbitt on her 21st
17 birthday in May stopped using the boy's name
18 her parents gave her and asked that others do
19 the same"?
20 A. It does.
21 Q. That seems to be consistent with
22 your testimony today, does it not?
23 A. It does.

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1 Q. Can you turn to page two of this
2 article?
3 A. (Witness complies.)
4 Q. Do you see four sentences up from
5 the bottom where it says "she," referring to
6 you, "was treated with kindness she said when
7 she went to the Lee County Courthouse to
8 change her name"?
9 A. Yes.
10 Q. Is that consistent with your memory
11 of that experience?
12 A. In the driver's license office,
13 yes.
14 Q. Do you see in the next sentence
15 where it says "the clerk in the driver's
16 license office said to me it's hard to be
17 yourself but you sure look happy"?
18 A. Yes.
19 Q. Do you recall -- with this a male
20 employee?
21 A. It was. And I have previously
22 testified to this today.
23 Q. So you've had two experiences in

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1 Alabama driver's licenses involving your
2 transgender status, correct?
3 A. I don't know. I don't know if he
4 perceived me to be a trans or not. I don't --
5 I was just changing my name. I don't know
6 what he meant by what he said.
7 Q. You were changing your name from a
8 male name to a female name, were you not?
9 A. Well, Darcy is gender neutral and
10 Jeda is made up, so I don't know that you
11 could infer that I was a woman from my name.
12 Q. Would you say that that first
13 experience was a good experience?
14 A. It was.
15 Q. And it was in contrast to the
16 experience you had in August of 2017?
17 A. Stark.
18 MR. CHYNOWETH: I don't have any
19 further questions.
20 MR. BOONE: We're going to want to
21 clarify something.
22
23 EXAMINATION

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1 BY MR. BOONE:
2 Q. I can just ask you. This goes back
3 to at the driver's license office in August of
4 2017.
5 A. Yes.
6 Q. At that encounter, how sure were
7 you that the driver's license examiner
8 misgendered you?
9 A. Completely sure.
10 Q. Did anyone else standing by
11 misgender you?
12 A. Not that I am aware.
13 Q. So no one to your -- you said there
14 was a -- I'm trying to remember now. There
15 was a woman to your right?
16 A. Uh-huh.
17 Q. You don't -- as far as you know she
18 didn't misgender you?
19 A. No. She was having her own
20 problems that day.
21 Q. And as far as you know, the men to
22 your left, you didn't hear them misgender you?
23 A. No. I was focused on what the

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1 woman in front of me was saying.
2 Q. But you were sure that she
3 misgendered you, the examiner?
4 A. I am absolutely positive.
5 MR. BOONE: Nothing further.
6 MR. CHYNOWETH: No further
7 questions for me.
8 MR. MARSHALL: Just one second.
9 (Break taken.)
10
11 BY MR. BOONE:
12 Q. Okay. I'm just going to further
13 clarify that incident in August 2017.
14 A. Okay.
15 Q. Earlier you testified to
16 defendant's counsel that -- you stated you
17 were pretty sure it was the driver's license
18 examiner. Can you explain what you meant when
19 you said pretty sure?
20 A. I thought it was a stupid question,
21 and I was being a smart ass.
22 Q. Would you say that you were being
23 sarcastic when you said I'm pretty sure as

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1 in --
2 A. I was being sarcastic.
3 Q. In other words, it was so obvious
4 that, of course, it was her?
5 A. Yes. I was being sarcastic, and I
6 apologize to the court reporter for that.
7
8 EXAMINATION
9 BY MR. CHYNOWETH:
10 Q. Your attorney has just asked you
11 some questions about your interaction in the
12 Opelika driver's license office in August
13 2017. Did you make an audio or video that you
14 posted to your Facebook account after that
15 interaction?
16 A. I did.
17 Q. Can I -- I'm going to play for you
18 a recording of this. Can you verify that this
19 is the video that you put on your Facebook?
20 And I would like the court reporter to take
21 down the statements in the video.
22 (Beginning of video recording.)
23 MS. CORBITT: So I just tried to

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1 get a driver's license in Alabama and because
2 I've lived here before and had a license I
3 already had a number and I was already in the
4 system. And my old license had M on it
5 obviously and they said that because of that
6 they couldn't update it, even though my
7 passport has an F on it, even though with the
8 Social Security Administration I have an F on
9 their records, even though my North Dakota
10 license has an F on it. I can't -- according
11 to the State of Alabama, I'm a man.
12 And let me just tell you how this
13 went down. I went in. She was using the
14 right pronouns of me, and then she saw it and
15 then she started using the wrong ones. And
16 then she corrected herself and then proceeded
17 to keep using the wrong ones. And it was just
18 totally offensive.
19 They called Montgomery and they
20 tried to like figure out what to do.
21 Basically I have to have surgery. Well, I
22 can't afford that. In fact, I told them if I
23 had sixty thousand dollars I would go get it

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1 done tomorrow, so if you want to give me sixty
2 thousand dollars I can be in compliance with
3 this fucking law.
4 So now I am stuck without a
5 driver's license in this state which
6 basically -- I mean, we're one of those ID
7 states where you have to have an ID to vote.
8 So guess what? I may not be able to vote
9 now. I may not be able to do anything. I
10 know I can renew my car -- or get a new car
11 tag for this year, but next year I have to
12 have an Alabama driver's license. So I'm kind
13 of screwed.
14 So this is what it looks like to
15 be transgender in America. And when you --
16 like when people ask me like why do you do the
17 work that you do or why should I donate to
18 you, this is why because this is what it's
19 like every fucking day where you can't have
20 the basic dignities afforded other people. I
21 can't have a stupid little piece of paper with
22 my picture and name on it and accurately
23 describe who I am.

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1 And so now I'm probably going to
 2 have to put my life on hold because I'm not
 3 taking this sitting down. I've already
 4 contacted different organizations. I'm going
 5 to try to sue the State of Alabama to get my
 6 driver's license. It's ridiculous. Like I
 7 shouldn't have to put up with this. I
 8 shouldn't have to pay for this. I shouldn't
 9 have to deal with this, but I'm going to have
 10 to. I'm going to have to -- I don't know what
 11 I'm going to have to do. I'm going to pay for
 12 it, but it's going to happen because I'm not
 13 going to go back. I'm not going to be told by
 14 some stupid person who can barely -- who can
 15 barely like do their job that I can't -- that
 16 I can't be the person that I am and I can't be
 17 treated with respect.
 18 I mean, the fact that she said,
 19 oh, I'm sorry, it should be she but then
 20 continued to misgender me, I'm like what the
 21 fuck. Like the whole -- and then she said I
 22 would never have known if I hadn't seen your
 23 driver's license. That's not a compliment by

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1 the way.
 2 So anyway, I'm just really -- I'm
 3 just very upset. I'm sitting in Opelika,
 4 fucking, Alabama, like the worse place on
 5 earth and I'm just like reeling from this. It
 6 just -- I can't. I just can't.
 7 So anyway that's where I am. I'm
 8 really pissed off. If anyone knows any civil
 9 rights attorneys in the State of Alabama and
 10 you can recommend them, let me know because I
 11 am going to do something about this. I'm not
 12 going to just take it sitting down because
 13 this is stupid. I shouldn't have to show a
 14 doctor my genitalia to prove who I am. That's
 15 ridiculous.
 16 So anyway that's where I am today
 17 and I'm really upset and it's not -- it's not
 18 okay, and I'm just going to have to deal with
 19 this like I deal with it every day. But this
 20 is what it's like to be transgendered, so if
 21 you wondered, this is it. Okay? Like I
 22 have -- I don't get embarrassed.
 23 That's the other thing. I don't

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1 get embarrassed very easily. I was
 2 humiliated. Like -- and I was blindsided. I
 3 mean, you know I'm not really shocked by
 4 anything. I was shocked like I was -- I felt
 5 like -- I felt like there was nothing -- I
 6 mean, in reality there isn't anything I can do
 7 for now, but -- I don't know, it's just
 8 really -- it's just really awful.
 9 Well, I wanted you to know where I
 10 am on this. I just wanted to come and get a
 11 Ph.D. and now I'm going to have to deal with
 12 this bullshit too not because it's some like
 13 pipe dream because this is my fucking life.
 14 North Dakota had a lot of really
 15 terrible things, but one of the things that
 16 North Dakota had was a way for me to be me
 17 without having to go through surgery that I
 18 don't necessary want, that I can't afford in
 19 order to be treated with respect. And I can't
 20 even come home and be treated with respect, so
 21 I wonder if this was a mistake.
 22 Anyway I've got to go so I can deal
 23 with the things that I have to do because I'm

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1 an adult and I have a job. So anyway I'll
 2 talk to you later.
 3 (End of video recording.)
 4 Q. Was that a video that you made and
 5 uploaded to your Facebook page shortly after
 6 the incident in Opelika in August 2017?
 7 A. Yes.
 8 MR. CHYNOWETH: No further
 9 questions.
 10 MR. BOONE: I don't think we have
 11 anything else.
 12 (The deposition of DARCY CORBITT,
 13 concluded on November 9, 2018, at
 14 10:33 a.m.)
 15
 16 FURTHER DEPONENT SAITH NOT
 17
 18
 19
 20
 21
 22
 23

1 REPORTER'S CERTIFICATE
2 STATE OF ALABAMA)
3 JEFFERSON COUNTY)
4 I, Elaine Scott, Licensed Court
5 Reporter and Commissioner for the State of
6 Alabama at Large, hereby certify that on
7 November 9, 2018, I reported the deposition of
8 DARCY CORBITT, who was first duly sworn or
9 affirmed to speak the truth in the matter of
10 the foregoing cause, and that pages 1 through
11 85 contain a true and accurate transcription
12 of the examination of said witness by counsel
13 for the parties set out herein.
14 I further certify that I am neither
15 of kin nor of counsel to any of the parties to
16 said cause nor in any manner interested in the
17 results thereof.
18 _____
19 ELAINE SCOTT, Court Reporter
20 and Commissioner for the State
21 of Alabama at Large,
22 CCR License No. 354, Expires 9/30/19
23 MY COMMISSION EXPIRES NOVEMBER 16, 2019

	14:22	31:11	ass (1)	bachelor's (2)
@	advisor (1)	Alliance (1)	77:21	11:1,16
@darcycorbitt (2)	13:1	54:19	assigned (1)	back (7)
55:21;56:13	advocacy (2)	allowing (1)	8:21	10:10;13:6;34:18;
A	54:21;55:8	69:11	assistance (1)	42:5;46:6;76:2;81:13
	advocate (4)	almost (1)	51:9	bad (1)
	45:12;53:10,13;54:1	41:22	associated (1)	26:18
ABD (5)	advocating (1)	alternative (2)	52:12	badge (2)
15:5,15,20;16:3,5	54:14	39:21;65:12	associate's (1)	39:15;40:2
able (7)	affirmed (2)	always (1)	11:3	bag (1)
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	1			
	10 (6)			

Exhibit 3

Deposition of Jane Doe

FILED UNDER SEAL

Exhibit 4

Deposition of Jeannie Eastman

In The Matter Of:

*Darcy Corbitt, Destiny Clark, and Jane Doe v.
Hal Taylor, etc., et al.*

*Jeannie Eastman
November 13, 2018*

*Baker Realtime Worldwide Court Reporting & Video
250 Commerce Street
Third Floor, Suite One
Montgomery, Alabama 36104
www.BakerRealtime.com*

Original File 11-13-18 Jeannie Eastman.txt

Min-U-Script® with Word Index

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1 IN THE UNITED STATES DISTRICT COURT
 2 FOR THE MIDDLE DISTRICT OF ALABAMA
 3 NORTHERN DIVISION
 4
 5 CIVIL ACTION NO.: 2:18-CV-00091-MHT-GMB
 6
 7 DARCY CORBITT, DESTINY CLARK, and JANE DOE,
 8 Plaintiffs,
 9 v.
 10 HAL TAYLOR, in his official capacity as
 11 Secretary of the Alabama Law Enforcement
 12 Agency, et al.
 13 Defendants.
 14
 15 DEPOSITION OF JEANNIE EASTMAN
 16 November 13, 2018
 17
 18 Taken before Elaine Scott, CCR,
 19 Commissioner for the State of Alabama at
 20 Large, in the Law Offices of the Alabama
 21 Attorney General, 501 Washington Avenue,
 22 Montgomery, Alabama, on Thursday, November 13,
 23 2018, commencing at approximately 12:59 p.m.

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1 A P P E A R A N C E S (continued)
 2
 3 ALSO PRESENT:
 4 Meredith Barnes
 5
 6 COURT REPORTER:
 7 BAKER REALTIME WORLDWIDE REPORTING & VIDEO
 8 Elaine Scott
 9 250 Commerce Street
 10 Third Floor, Suite One
 11 Montgomery, Alabama 36104
 12
 13
 14
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 17
 18
 19
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 21
 22
 23

Page 2

1 A P P E A R A N C E S
 2
 3 FOR THE PLAINTIFFS:
 4 AMERICAN CIVIL LIBERTIES UNION FOUNDATION
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 6 125 Broad Street
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 14 Montgomery, Alabama 36106
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 16 FOR THE DEFENDANTS:
 17 OFFICE OF THE ATTORNEY GENERAL, STATE OF
 18 ALABAMA
 19 Brad A. Chynoweth
 20 501 Washington Avenue
 21 Montgomery, Alabama 36130
 22
 23

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1 S T I P U L A T I O N S
2 It is hereby stipulated and agreed by
3 and between counsel representing the parties
4 that the deposition of JEANNIE EASTMAN is
5 taken pursuant to stipulation and agreement;
6 that all formalities with respect to
7 procedural requirements are waived; that said
8 deposition may be taken before Elaine Scott,
9 Certified Court Reporter and Commissioner for
10 the State of Alabama at Large, without the
11 formality of a commission; that objections to
12 questions other than objections as to the form
13 of the questions need not be made at this time
14 but may be reserved for a ruling at such time
15 as the deposition may be offered in evidence
16 or used for any other purpose as provided for
17 by the Alabama Rules of Civil Procedure.
18 It is further stipulated and agreed
19 by and between counsel representing the
20 parties that the filing of the deposition may
21 be introduced at the trial of this case or
22 used in any manner by either party hereto
23 provided for by the Statute.

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1 their gender marker changed on their driver's
2 license.
3 Could you please say your full
4 name?
5 A. Jeannie Thomas Eastman.
6 Q. And before we begin, I'd like to
7 give you a few instructions. If you could,
8 just say yes if you understand the
9 instructions. Can you please answer
10 everything verbally? So try not to say
11 anything like uh-huh or nodding your head or
12 shaking your head so that way the court
13 reporter can understand what you're saying?
14 A. Yes.
15 Q. And please let me know if you don't
16 understand my questions. Is that okay?
17 A. Yes.
18 Q. And you can ask for a break, but
19 please wait until after the question and
20 answer and then we can take a break.
21 A. Okay.
22 Q. Try to wait until I finish asking a
23 question before you answer, and I'll also try

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1 It is further stipulated and agreed
2 by and between the parties hereto and the
3 witness that the signature of the witness to
4 this deposition is hereby waived.
5
6 JEANNIE EASTMAN,
7 The witness, having first been duly
8 sworn or affirmed to speak the truth, the
9 whole truth and nothing but the truth,
10 testified as follows:
11
12 THE COURT REPORTER: Usual
13 stipulations?
14 (Affirmed by counsel.)
15
16 EXAMINATION
17 BY MR. BOONE:
18 Q. Hi. My name is Brock Boone. I'm
19 an attorney for the ACLU of Alabama. I'm here
20 to represent the plaintiffs in Corbitt v.
21 Taylor. It's a lawsuit concerning policy
22 order 63 by the Alabama Law Enforcement
23 Agency, and the plaintiffs are trying to get

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1 to wait for you to finish your answer before I
2 begin another question so that way the court
3 reporter can hear everything and get
4 everything down clearly. Is that
5 understandable?
6 A. Yes.
7 Q. And just please let me know if you
8 need to supplement or clarify an earlier
9 answer. Okay?
10 A. Okay.
11 Q. Have you ever been deposed before?
12 A. No.
13 Q. What did you do to prepare for the
14 deposition today?
15 A. Well, I looked at documents that we
16 had presented to y'all, I guess.
17 Q. And do you know which documents
18 those were?
19 A. Documents that were pulled from our
20 system, Paper Vision System.
21 Q. Did you look over them to prepare
22 for the deposition?
23 A. Yes.

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1 Q. Did you talk to anyone in your
2 office about this deposition?
3 A. Some of them -- the ones in my
4 office helped pull the documents.
5 Q. Did you all -- did anyone comment
6 on the lawsuit?
7 A. No.
8 Q. Do you know what type of documents
9 they were that were pulled?
10 A. Letters that we had received from
11 doctors.
12 Q. What about any emails?
13 A. Yes, there were some emails.
14 Q. Did you look over anything else?
15 A. No.
16 Q. Like the -- did you -- did you pull
17 the AAMVA manual or guidelines on transgender
18 driver's license?
19 A. No.
20 Q. Did you bring any documents with
21 you today?
22 A. No.
23 Q. Who all did you speak with in

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1 preparation for the deposition?
2 A. I spoke to the attorneys.
3 Q. Did you speak to anyone else who
4 wasn't an attorney about the deposition?
5 A. Well, Chief Pregno was in one of
6 the meetings. We had a meeting last week
7 about some documents.
8 Q. And what was -- if something is
9 privileged, just let me know. But was
10 anything said in the meeting? What was said
11 in that meeting with Chief Pregno?
12 A. It was just how we came about the
13 documents.
14 Q. Like what was -- like what about
15 the documents?
16 A. We -- that she ran a query on
17 driver's license where the sex had been
18 changed on them so we could get -- pull the
19 documents of the ones that had sexual
20 reassignment surgery.
21 Q. What about documents that were
22 denied?
23 A. There's really no way to pull those

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1 without driver's license numbers.
2 Q. So we, as in the opposing side, I
3 guess, aren't able to see who's denied; is
4 that right?
5 A. No. Like I said, there's no way to
6 pull those documents without driver's license
7 numbers.
8 Q. Who else was present at the time of
9 the meeting with Chief Pregno?
10 A. Meredith and Jennifer Colquitt.
11 She's one of the IT people.
12 Q. Why was she there, Jennifer
13 Colquitt?
14 A. Because she's the one that ran the
15 query.
16 Q. In your opinion do you think
17 anything might be missing from the discovery?
18 A. No, sir.
19 Q. Is there any reason why you
20 wouldn't be able to answer my questions fully
21 and accurately today?
22 A. No, sir.
23 Q. Is it your understanding that

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1 you're testifying on behalf of the Alabama Law
2 Enforcement Agency?
3 A. Yes.
4 Q. And when I refer to policy order 63
5 or if I ever say the policy, you know that I'm
6 referring to ALEA's policy for changing the
7 sex on driver's licenses, correct?
8 A. Yes.
9 Q. Are you prepared to testify
10 regarding the interpretation of policy order
11 63?
12 A. Yes.
13 Q. Are you prepared to testify
14 regarding the implementation of policy order
15 63?
16 A. Yes.
17 Q. Are you prepared to testify
18 regarding the responses to requests for
19 production concerning ALEA's interest in
20 policy order 63?
21 A. Yes.
22 Q. Are you prepared to testify
23 regarding the responses to interrogatories

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1 regarding policy order 63?
2 A. Yes.
3 Q. Can you describe your educational
4 background after high school?
5 A. Well, I had like two years of
6 college.
7 Q. Did you get a degree?
8 A. No.
9 Q. Where was that at?
10 A. AUM.
11 Q. And what did you do after that?
12 A. I worked for a realty company. And
13 then I went to work in -- I worked for the
14 revenue department with the state for eight
15 and a half years.
16 Q. What years were you at the realty
17 company?
18 A. Gosh. I started when I was in high
19 school until -- I'm trying to get -- I'm not
20 good with dates. I can't think of the dates.
21 I mean, I graduated in '76. So I worked for
22 the realty company like a year after that
23 probably, then started working with the

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1 state. So what would that be?
2 Q. So around --
3 A. '79.
4 Q. So you started working with the
5 revenue department around '78, '79.
6 A. Yeah, '79, I believe. I got
7 married in '80, yeah.
8 Q. Okay. And you worked at the
9 revenue department until '87?
10 A. Eight and a half years.
11 Q. Where did you go after the revenue
12 department?
13 A. I stayed with my children for
14 eleven and a half years.
15 Q. And after that eleven and a half
16 years, that puts us in the late '90s about,
17 right?
18 A. Uh-huh. It was 2000 I came to work
19 for -- it was Department of Public Safety at
20 the time.
21 Q. And you've stayed working with them
22 consistently throughout this time period?
23 A. Yes.

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1 Q. Even though, as we know, it's now
2 ALEA is the --
3 A. Yes, it changed, yes.
4 Q. But you are still working with the
5 Department of Public Safety under ALEA -- the
6 ALEA umbrella, correct?
7 A. Yes. I've been with driver's
8 license the whole time.
9 Q. Yeah. That's what I was going to
10 ask you. What division did you start off with
11 in 2000?
12 A. Accident records.
13 Q. What was your title?
14 A. I was an ASA-1.
15 Q. Can you explain what that is?
16 A. Administrative support assistant.
17 Q. And that was accident records?
18 A. Yes.
19 Q. How long were you an ASA-1 with
20 accident records?
21 A. Like I said, I'm not real good with
22 time lines. I mean, I was an ASA-1. Then I
23 was promoted to an account clerk while I was

Page 16

1 still in accident records.
2 Q. Do you have an estimate?
3 A. Maybe a couple years. I don't
4 know.
5 Q. How long were you an account clerk?
6 A. Until I was promoted to a
7 specialist.
8 Q. Is that a driver's license
9 specialist?
10 A. Uh-huh.
11 Q. Do you have an idea what year you
12 were promoted to a driver's license
13 specialist?
14 A. I should have gone through my time
15 line, and I didn't. I'm sorry.
16 Q. That's okay. If you were to guess
17 was it around 2010?
18 A. I've been with -- I'm trying to
19 work backwards. It may have been. I really
20 can't say for sure.
21 Q. What's your current position?
22 A. My current position is driver's
23 license examiner 3 is the title.

Page 17

1 Q. What are your duties as driver's
2 license examiner 3?
3 A. I'm the -- actually the supervisor
4 over CDL medical.
5 Q. You are the supervisor over both
6 CDL and medical?
7 A. Yes.
8 Q. I'm just kind of curious. Why
9 driver's license examiner number 3? That
10 doesn't sound like the correct title for
11 your -- considering --
12 A. Well, I was a supervisor until
13 July, and they're trying to -- the
14 examiners -- they're trying to do a career
15 path for examiners, so for some reason all the
16 supervisors they changed the title to an
17 examiner 3 so that we can go back and get
18 promoted to supervisor. I don't know. It's
19 kind of odd but --
20 Q. Were you demoted in July?
21 A. No. No.
22 Q. It's just simply a title change?
23 A. Right.

Page 19

1 A. In medical I have five people.
2 Q. Currently?
3 A. Uh-huh.
4 MR. CHYNOWETH: Remember to say yes
5 or no.
6 A. Oh, yes. I'm sorry.
7 Q. Thank you. What are your
8 responsibilities?
9 A. Well, I supervise people that --
10 well, we -- they answer the phones, they
11 review medical forms. I review medical
12 forms. I suspend people when doctors feel
13 that they should not be driving any longer.
14 Q. What are your responsibilities in
15 regard to policy order 63?
16 A. I review the form -- I mean, the
17 letters that come in from doctors.
18 Q. Are you the only one that reviews
19 the letters?
20 A. No. J.J. or Jerrolynn Spencer
21 does.
22 Q. So right now it's only Jerrolynn
23 Spencer and yourself reviewing letters?

Page 18

1 Q. But nothing else has changed in
2 your --
3 A. Duties, no.
4 Q. When did you become a driver's
5 license supervisor?
6 A. I'm trying to think how long I've
7 been with -- I've been with medical like five
8 years, so I was a supervisor in the -- we
9 combined accident records with the records
10 unit when somebody retired, so I was put
11 over -- I took my girls with me from accident
12 records and we combined them with the records
13 unit. And I would say I was probably in there
14 about a year when they combined us, and I've
15 been with medical for about five years.
16 Q. And you were -- since you've been
17 with medical you've been a DL supervisor
18 basically that whole time?
19 A. Yes, until they changed us.
20 Q. This past July your title changed
21 but responsibilities are the same?
22 A. Right.
23 Q. How many people work under you?

Page 20

1 A. Yes.
2 Q. What happens if both of you happen
3 to be out of the office?
4 A. They can go to Diane Woodruff
5 because she's the manager and she was in
6 medical before and she knows what the policy
7 is.
8 Q. How does Diane Woodruff's position
9 relate to yours?
10 A. She's not in my chain of command.
11 She's the driver's license manager, but she's
12 not in my chain.
13 Q. So she's not your supervisor?
14 A. No.
15 Q. But she's up -- she is at a higher
16 level would you say?
17 A. Yes.
18 Q. Who does she supervise then?
19 A. She supervises the first floor,
20 reinstatement, the supervisors over
21 reinstatement and driver services, safety
22 responsibility.
23 Q. Does she also supervise the

Page 21

1 individuals under you who you supervise?
2 A. No.
3 Q. So currently her relation to
4 medical and CDL is irregular?
5 A. I don't know what you mean by that.
6 Q. Well, does she work with the
7 medical unit and CDL in what capacity?
8 A. I mean, at the time she doesn't
9 really have a lot to do with CDL or medical.
10 I mean, she -- like I said, she's been in
11 there so she knows the process and everything.
12 Q. So people can go to her for advice?
13 A. Yes.
14 Q. Do you ever go to her for advice?
15 A. Yes.
16 Q. Did she used to have the position
17 that you currently have?
18 A. Yes.
19 Q. Who are the individuals that report
20 to you?
21 A. Okay. We have Jaquese Jackson (
22). Do you want the full name or just --
23 Q. That would be great.

Page 22

1 A. Jean Head, Emily Baggett. Well,
2 they're under me, but I have them under other
3 supervisors too. Do you still want
4 everything?
5 Q. That would be good.
6 A. Okay. Jerrolynn Spencer, Jackie
7 Cutter. They're the ones in the medical
8 unit. I have people in the CDL unit also, but
9 they don't do medical.
10 Q. You don't have to name them, but
11 how many people in CDL are under you?
12 A. Eight.
13 Q. Eight.
14 A. Well, nine. I have one retiree.
15 She doesn't work full-time.
16 Q. Okay. Other than Jerrolynn, have
17 any of those other four individuals in the
18 medical unit ever reviewed any letters under
19 policy order 63?
20 A. No.
21 Q. Do they know anything about policy
22 order 63?
23 A. I mean, they know the policy, but

Page 23

1 they refer everything to us. If there's any
2 questions on what an individual needs to do,
3 it's all referred to myself or J.J. -- or
4 Jerrolynn. I'm sorry.
5 Q. Do the other four outside of
6 Jerrolynn, do they ever take phone calls from
7 driver's license offices out in the field when
8 it comes to questions about policy order 63?
9 A. They may get phone calls, but they
10 refer them to us. I mean, if they answer the
11 phone, if they call their number and they
12 answer the phone, then they would refer them
13 to us.
14 Q. Do they ever answer any questions
15 of substance, those four, outside of Jerrolynn
16 in regards to policy order 63?
17 A. No.
18 Q. So if someone has a question about
19 policy order 63, it's only going to go to
20 either Jerrolynn or yourself; is that correct?
21 A. Yes.
22 Q. And that includes any questions
23 about what's required under the policy?

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1 A. Yes.
2 Q. Who do you report to?
3 A. Sergeant Brian Duke.
4 Q. Is that also who Diane Woodruff
5 reports to?
6 A. Yes, I believe so.
7 Q. And who does Sergeant Duke report
8 to?
9 A. He reports to Lieutenant Hubbard.
10 Q. And does Lieutenant Hubbard report
11 to Archer?
12 A. Right.
13 Q. And then Archer reports to --
14 A. Pregno.
15 Q. -- Deena Pregno?
16 A. Uh-huh.
17 Q. Could you describe your
18 understanding of Jerrolynn Spencer's
19 responsibilities?
20 A. She reviews medical records. She
21 answers the phone.
22 Q. And what are her responsibilities
23 in regards to policy order 63?

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1 A. She will -- can review the letters
2 we get from the doctors and make a decision
3 whether the criteria that we need in the
4 letter is what we need to change the sex.
5 Q. Would you say that both Jerrolynn
6 Spencer and yourself have the same
7 responsibilities in regards to policy order
8 63?
9 A. Yes.
10 Q. And the way -- depending on who the
11 applicant goes to, it's just a matter of who's
12 in the office that day or how does that
13 happen?
14 A. Most letters come to me, but if I'm
15 not there then Jerrolynn would --
16 Q. Is that the only time Jerrolynn
17 would see a letter is if you're not in the
18 office?
19 A. She may see it and then refer --
20 you know, she may talk with me about it and
21 then we, you know, make a decision.
22 Q. So who makes most of the decisions
23 when it comes to interpreting the policy for

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1 the paper or something.
2 Q. And that's it?
3 A. That's it. I mean, through this
4 lawsuit I guess, but I have not seen any
5 documents.
6 Q. Other than what's in this lawsuit
7 in the media or in the filings, are you aware
8 of anything Darcy has turned in?
9 A. (Witness shakes head.)
10 THE COURT REPORTER: No?
11 THE WITNESS: No. I'm sorry.
12 Q. Are you familiar -- strike that.
13 Could you describe policy order 63?
14 A. It states to change the sex on a
15 driver's license you have to have a letter
16 from the doctor that completed the surgery on
17 letterhead or an amended birth certificate.
18 Q. Does it say letterhead in the
19 policy?
20 A. I believe so.
21 Q. I'll pull it out now just to check.
22 A. Okay.
23 Q. I'm pulling out Plaintiff's Exhibit

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1 individual applicants?
2 A. I would think that I do mostly.
3 Q. Could you -- if you could put a
4 percentage on it, what would you say?
5 A. Maybe 70/30. I don't know.
6 Q. And do you know Deena Pregno?
7 A. Yes.
8 Q. Could you describe her
9 responsibilities?
10 A. She's over the driver's license
11 division.
12 Q. What does she do on a daily basis?
13 A. I really couldn't tell you.
14 Q. Do you know Destiny Clark?
15 A. I don't know her, no.
16 Q. Is that name familiar to you?
17 A. Yes.
18 Q. Do you remember seeing Destiny
19 Clark's letters coming through?
20 A. Yes.
21 Q. Are you aware of the name Darcy
22 Corbitt?
23 A. Just from an article that was in

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1 7. On page 1 of Plaintiff's Exhibit 7 this
2 was -- as we've been told, this was the
3 original policy that was written down. Does
4 that look correct to you?
5 A. Is this one 2012?
6 Q. Could you describe it while you're
7 looking at it, Ms. Eastman?
8 A. The policy states that to change
9 driver's license -- is that what you mean?
10 Q. Sure.
11 A. To change the sex on the driver's
12 license that you would -- due for gender
13 reassignment surgery, you're required to
14 submit to the medical unit an amended birth
15 certificate along with the documentation on
16 letterhead from the physician that performed
17 the sexual reassignment surgery stating the
18 surgery had been completed.
19 Q. That's fine. We don't have to read
20 it. But as far as you know, this is the
21 original policy written down?
22 A. Yes.
23 Q. On the second page of Plaintiff's

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1 Exhibit 7, is this the most updated policy?
2 A. Yes.
3 Q. And I'm -- for the record, I'm
4 going to review this as Plaintiff's Exhibit
5 7. The first page is Bates number 1 and the
6 second page is the second page of discovery.
7 A. Okay.
8 Q. Do you see -- do you see where it
9 says letterhead in the policy?
10 A. On physician's letterhead.
11 Q. And that's under number 1?
12 A. Number 1, uh-huh.
13 Q. When you get an application, what
14 do you usually do?
15 A. You mean when I get a letter from
16 the doctor?
17 Q. Let's do the -- yeah. If you get a
18 letter from a doctor's office, what would you
19 do once you get that letter?
20 A. I would read it to see if it had
21 the -- what we need to change it, the sex on
22 the license.
23 Q. And if by that determination it

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1 qualifies, what would you do at that point?
2 A. If it qualifies, then I would go
3 into the central admin and change the sex on
4 the license.
5 Q. Do you make a notation on the piece
6 of paper?
7 A. Yes.
8 Q. Do you make a notation anywhere
9 else what you did?
10 A. I might comment in the system.
11 Q. And where would that be?
12 A. It's in our database. I mean, it's
13 called DB2. It has a place where you put
14 comments. It's just an internal thing where
15 people in driver's license can look at it.
16 Q. Is that the software or is that --
17 A. It's the database. It's not really
18 software I don't guess.
19 Q. What happens if you feel like the
20 application doesn't qualify under the policy?
21 A. Then I would not change the sex on
22 the license.
23 Q. Is there anything else that you

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1 would do?
2 A. I would probably comment in the
3 system.
4 Q. Where?
5 A. In the DB2.
6 Q. Is there a section for comments
7 under that individual person?
8 A. It's under their driver's license.
9 Q. What do you do with the doctor's
10 letter?
11 A. We would scan that into our Paper
12 Vision System.
13 Q. Would you write anything on there
14 like denied or anything like that?
15 A. Yes, usually. And probably just
16 put -- like if they -- like if it didn't say
17 that they had the surgery, then I would write
18 that on there, that that's what we needed, a
19 doctor's letter stating that they had the
20 complete surgery.
21 Q. Do you ever make any phone calls?
22 A. I have called the doctor's office.
23 Q. How come?

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1 A. Because the letter did not say that
2 the surgery was complete.
3 Q. Where do you get that guidance
4 from?
5 A. What do you mean?
6 Q. Who told you to call the doctors'
7 offices?
8 A. I don't recall anybody telling me
9 to.
10 Q. So you came up with that on your
11 own?
12 A. I mean, we call about other things
13 in the medical unit, so -- I mean, I don't
14 know that that's said anywhere, that we call
15 or not call.
16 Q. Does it say in the policy to call
17 if you don't think the surgery was complete?
18 A. No.
19 Q. Does it say under number 2 in that
20 middle section on Plaintiff's Exhibit 7 -- on
21 page two of Plaintiff's Exhibit 7, what does
22 it say if a physician -- can you read that
23 line?

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1 A. If a physician letter is presented
 2 there is no need to contact the physician
 3 unless there is some doubt as to the
 4 authenticity of the letter unless the
 5 surgeries have been performed in other
 6 countries.
 7 Q. So it doesn't say anything about
 8 calling if the surgery is complete, right?
 9 A. No. It just says if we have a
 10 doubt of the authenticity.
 11 Q. But you have --
 12 A. Which that says under the exam
 13 office part.
 14 Q. So you have no idea where you heard
 15 about calling individuals' doctors' offices?
 16 A. No.
 17 Q. Roughly how many applications have
 18 you received from people seeking to change the
 19 sex designation on their driver's license?
 20 A. I can't really give you a number of
 21 how many we've received, by how many we have
 22 done is like maybe ninety something.
 23 Q. What do you mean done?

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1 A. Changed. I'm sorry.
 2 Q. Okay. So you're saying you've
 3 approved about ninety since you've been at the
 4 medical unit?
 5 A. No. That's overall.
 6 Q. Oh, overall --
 7 A. From the dates that y'all had -- or
 8 we have pulled the documents on.
 9 MR. BOONE: Can we take a quick
 10 break?
 11 (Break taken.)
 12
 13 Q. I want to go back a little bit.
 14 Roughly how many applications has the medical
 15 unit received in 2017?
 16 A. I don't really keep a list of them,
 17 so I can't really say.
 18 Q. If you were to estimate, is it
 19 about twenty?
 20 A. I don't believe it was that many.
 21 Q. Closer to ten?
 22 A. Maybe. Fifteen. I don't know. I
 23 can't really say.

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1 Q. Maybe ten to fifteen?
 2 A. Yeah.
 3 Q. How many of those were approved
 4 would you estimate?
 5 A. Most of them I would think. I
 6 mean, I'm not -- like I said, I don't know how
 7 many, so I really can't say.
 8 Q. But some were denied probably,
 9 right?
 10 A. More than likely.
 11 Q. But it's a small minority that were
 12 denied?
 13 A. Yes, I believe so.
 14 Q. Roughly how many applications has
 15 the medical unit received in the past five
 16 years?
 17 A. I really can't answer that.
 18 Q. Do you have an estimate?
 19 A. I really don't.
 20 Q. You did just pull a lot of the
 21 discovery I know. Would you say like about a
 22 hundred?
 23 A. In the last five years?

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1 Q. Yes. Remember to answer out loud.
 2 MR. CHYNOWETH: Can you ask the
 3 question again?
 4 Q. Yeah. About how many applications
 5 have been received by the medical unit in the
 6 past five years, this includes approvals and
 7 denials, just how many total applications have
 8 come in?
 9 A. I'm just going to guess maybe
 10 around fifty.
 11 Q. Around fifty in the last five
 12 years?
 13 A. I'm not sure.
 14 Q. How many do you think were approved
 15 out of those fifty?
 16 A. I'd say at least half of them, if
 17 not more.
 18 Q. If a member of the public were to
 19 ask about how you changed the sex designation,
 20 what would you tell them?
 21 A. I would tell them they would need a
 22 letter from the doctor that performed the
 23 surgery on letterhead stating that they had

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1 had the complete surgery or an amended birth
 2 certificate.
 3 Q. And you do have the power to
 4 approve or deny an application yourself?
 5 A. Yes.
 6 Q. Do you ever have to talk to someone
 7 above you in a supervisory role about the
 8 application if you approve or deny it?
 9 A. No, I don't have to talk to someone
 10 else.
 11 Q. Do you ever share those approvals
 12 or denials with anyone else?
 13 A. No.
 14 Q. Do you ever share approvals or
 15 denials with the legal department?
 16 A. No.
 17 Q. How often do you call the
 18 physician's office when you receive an
 19 application?
 20 A. I really don't recall but calling
 21 one time.
 22 Q. What about Jerrolynn Spencer? Do
 23 you know of instances where she's called the

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1 protect the privacy of applicants that are
 2 trying to change the sex on their driver's
 3 licenses?
 4 A. I just call the doctor's office and
 5 what that person -- if they had completed the
 6 surgery. It's, you know, to see if they met
 7 with our policy.
 8 Q. And the doctor's offices give out
 9 that information?
 10 A. They just said yes or no, you
 11 know. They said no on this case.
 12 Q. Did they have any concerns about
 13 giving out private medical information to you?
 14 A. No, because it was a letter that
 15 was sent by them. So I was just asking on the
 16 letter. Most of the time they'll put on there
 17 if you have any questions call.
 18 Q. And you know for sure in this
 19 instance that the letter came from the
 20 office? Did you know in this instance that
 21 the letter came directly from the physician's
 22 office to ALEA?
 23 A. I'm not sure if it came from the

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1 physician's office?
 2 A. I'm sure she has.
 3 Q. For the instance of -- that you
 4 recall about calling the physician's office,
 5 why did you call?
 6 A. Because the letter did not say they
 7 had had the completed surgery.
 8 Q. Who did you talk to at that
 9 physician's office?
 10 A. It would have been the nurse that
 11 answered the phone or a nurse.
 12 Q. What did you ask the nurse?
 13 A. If the subject had had the
 14 completed surgery.
 15 Q. What did the nurse say?
 16 A. They said no in this case.
 17 Q. Before you called the physician's
 18 office, did you first contact the applicant
 19 for permission?
 20 A. No.
 21 Q. Did you get a warrant?
 22 A. No.
 23 Q. What measures do you take to

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1 physician's office or from the applicant.
 2 Q. So if it came from the applicant,
 3 it didn't come directly from the physician's
 4 office, correct?
 5 A. I mean, if the applicant sent it
 6 in, no, it didn't come directly from --
 7 Q. Does that applicant know that you
 8 might call their physician?
 9 A. No.
 10 Q. Would you say that your medical
 11 record is private?
 12 A. The medical record is.
 13 Q. Does that include surgeries on
 14 someone's body? Are surgeries on someone's
 15 body a part of the medical record?
 16 A. Yes.
 17 Q. And that would be private, right?
 18 A. Yes.
 19 Q. Did you ever hesitate about calling
 20 a physician's office?
 21 A. I mean, I don't like calling the
 22 physician's office, but if there's a question
 23 about the documentation that was sent in to

Page 41

1 us, then I would call.
 2 Q. But no one told you to call the
 3 physician's office about whether or not the
 4 surgery was complete or not, right?
 5 A. No.
 6 Q. And you have no idea where that
 7 idea came from, right?
 8 A. I just -- as far as I know, you
 9 know, we've always called about different
 10 things, so --
 11 Q. So you call physicians' offices on
 12 other issues in the medical unit?
 13 A. Yes.
 14 Q. Can you look back at Exhibit 7,
 15 which again is discovery number 1 and number
 16 2? And you've already stated you recognize
 17 this document, right?
 18 A. Yes.
 19 Q. How did you first learn about the
 20 policies in Plaintiff's Exhibit 7?
 21 A. What do you mean how did I learn?
 22 Q. When did you first hear about
 23 policy order 63?

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1 A. When I became supervisor over the
 2 medical unit, I believe.
 3 Q. So you think day one you learned
 4 about it?
 5 A. Well, I can't say it's day one. I
 6 am sure it's when someone had called in
 7 questioning it.
 8 Q. Do you remember who you asked a
 9 question of since you probably didn't know
 10 what to do, right?
 11 A. I can't say for sure.
 12 Q. Has anyone told you why this policy
 13 is in place?
 14 A. Well, it's in place to -- so, you
 15 know, not just everybody can come in and
 16 change the sex on the license.
 17 Q. Does that happen frequently?
 18 A. What? Somebody coming in wanting
 19 the sex changed? No. I mean --
 20 Q. Do you suspect that there's people
 21 that come in to change the sex and they're
 22 fraudulent, they're not actually transgender?
 23 A. I'm sure there could be.

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1 Q. Do you know of any instances of
 2 that happening?
 3 A. No.
 4 Q. So as far as you know that's never
 5 happened?
 6 A. As far as I know.
 7 Q. So then do you know why the policy
 8 is in place if it's not really a fear?
 9 MR. CHYNOWETH: Object to the form.
 10 Q. Is that the only reason that the
 11 policy is in place?
 12 A. (No response.)
 13 Q. I'll restate. Is the only reason
 14 the policy is in place is to stop people from
 15 come in and changing the sex fraudulently?
 16 A. It may not be the only reason, but
 17 I'm not sure.
 18 Q. Is that the only reason you know
 19 of?
 20 A. I don't know.
 21 Q. You don't know if that's the only
 22 reason you know of?
 23 A. I don't know where you're going.

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1 Q. Well, you can just try to answer
 2 the question to the best of your ability.
 3 A. I didn't --
 4 Q. You didn't create the policy,
 5 right?
 6 A. Right.
 7 Q. Someone else created it?
 8 A. Right.
 9 Q. Do you know who created it?
 10 A. No, I really don't. It was already
 11 in place.
 12 Q. You've never asked any questions
 13 about the policy, it's creation of the policy?
 14 A. No. It's a policy we go by. So,
 15 you know.
 16 Q. Have you ever received any verbal
 17 guidance on what the policy means?
 18 A. I'm sure I probably asked to begin
 19 with, you know, exactly what it meant.
 20 Q. But you're not sure?
 21 A. I mean, when I came into the
 22 medical unit, Diane was upstairs. And so if I
 23 had gotten -- I didn't start -- I don't know

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1 where to go with this. Okay. I didn't start
 2 taking all the responsibilities right off when
 3 I was supervisor because I had another unit
 4 also. So I'm sure if I got a letter I went to
 5 her and asked her about it.
 6 Q. So as best as you can recall Diane
 7 might explain what the letter means?
 8 A. That would have been who I would
 9 have gone to if I --
 10 Q. Did you ever receive any written
 11 guidance outside of what's in the policy?
 12 A. No.
 13 Q. Have you ever given any verbal
 14 guidance about the policy?
 15 A. Yes.
 16 Q. What was it?
 17 A. Well, applicants take letters into
 18 the driver's license offices, and then they'll
 19 call me. And they'll usually fax the letter
 20 over to me so I can read it to guide them if
 21 it has the correct information on it to change
 22 the sex on the license.
 23 Q. But do you give any verbal guidance

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1 on what the policy means to coworkers or
 2 individuals below you?
 3 A. Well, Jerrolynn was in there before
 4 I got in there, so she already knew. And,
 5 like I said, the others do not --
 6 Q. Did Jerrolynn give you -- did
 7 Jerrolynn give you any verbal guidance on the
 8 policy?
 9 A. No.
 10 Q. Did she give you any written
 11 guidance on the policy?
 12 A. No.
 13 Q. So you've never been given any
 14 written guidance on this policy?
 15 A. No.
 16 Q. Not even in an email?
 17 A. Not that I can recall.
 18 Q. Have you and Jerrolynn ever
 19 discussed how you feel about the policy?
 20 A. No. The policy is there for us to
 21 uphold, so that's what we do.
 22 Q. So you never discuss your feelings
 23 about the policy?

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1 A. (Witness shakes head.) Not that I
 2 recall.
 3 Q. Do you agree with the policy?
 4 A. I agree that there has to be
 5 guidelines to change the sex on the license.
 6 I agree with what the documentation -- that we
 7 need for it.
 8 Q. Because you're worried about people
 9 fraudulently trying to change their sex?
 10 A. Well, that could happen, yes.
 11 Q. Any other reason?
 12 A. You don't need to make it where
 13 people can just go back and forth.
 14 Q. Does that happen?
 15 A. I don't know.
 16 Q. You're just making that up?
 17 A. It could.
 18 MR. CHYNOWETH: Object to the form.
 19 Q. It could. So that could happen?
 20 A. It could.
 21 Q. You've never heard of that
 22 happening though, right?
 23 A. No.

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1 Q. You said that you've given verbal
 2 guidance. You give verbal guidance to
 3 people -- individual driver's license
 4 examiners in the field?
 5 A. Yes, when they get a letter in the
 6 field.
 7 Q. So when they call about the policy,
 8 what do you tell them?
 9 A. I tell them exactly what it says
 10 and that's what we need.
 11 Q. Do you ever say anything outside of
 12 what's in this policy?
 13 A. No.
 14 Q. Have you ever been told that you
 15 applied the policy incorrectly?
 16 A. No.
 17 Q. Do you ever think you might have
 18 applied the policy incorrectly?
 19 A. No.
 20 Q. Have you ever told someone else
 21 that they've applied the policy incorrectly?
 22 A. No.
 23 Q. Do you think the policy has ever

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1 been applied incorrectly?
 2 A. Not to my knowledge.
 3 Q. Other than what's in the policy,
 4 you've never heard anyone at ALEA discussing
 5 the policy?
 6 A. I mean, we may have discussed what
 7 is in -- you know, does this apply, does this
 8 letter meet the policy.
 9 Q. But no comments on what maybe
 10 reassignment procedure means, right?
 11 A. I mean, we say complete surgery.
 12 Q. And where do you get that from?
 13 A. I guess that carries over from the
 14 old policy, this policy here.
 15 Q. So it doesn't say complete in the
 16 current policy?
 17 A. No.
 18 Q. And why are you calling doctors'
 19 offices about complete reassignment
 20 procedures?
 21 A. Because that has been our policy, I
 22 mean, how we interpret the policy.
 23 Q. And why do you interpret it that

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1 current policy?
 2 MR. CHYNOWETH: Object to the form.
 3 A. Well, this policy was never -- it
 4 was more of a procedure here. The policy
 5 never had the policy number on it.
 6 Q. Can you explain that a little?
 7 A. This was changed but it was -- as
 8 far as I know, never had the policy number on
 9 it.
 10 Q. So this isn't good anymore?
 11 A. It's kind of a procedure -- this
 12 part is the procedural.
 13 Q. So you're saying that this is still
 14 in effect, policy order number 63, which is
 15 dated 9-1-2012?
 16 A. I'm just saying that the -- we've
 17 always asked for the complete surgery, the
 18 letter to state that.
 19 Q. So, to your knowledge, page 1 of
 20 discovery, Plaintiff's Exhibit 7, is not still
 21 in effect, correct?
 22 A. Well, this is the last policy that
 23 they gave us.

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1 way?
 2 A. Because that's the way it was in
 3 the old one I guess.
 4 Q. Do you think that might be a
 5 mistake?
 6 A. What might be a mistake? That they
 7 did not put it in the new policy or --
 8 Q. Do you think maybe it was
 9 intentional that it's not in the new policy?
 10 A. I don't believe so.
 11 Q. So you choose to add complete even
 12 though it's not in the new policy?
 13 MR. CHYNOWETH: Object to the form.
 14 A. (No response.)
 15 Q. You're not going to answer that
 16 question?
 17 A. He objected to the form. I thought
 18 you were supposed to say something else.
 19 MR. CHYNOWETH: I'm sorry. You may
 20 answer.
 21 A. Okay. What was the question?
 22 Q. So you choose not to -- you choose
 23 to add complete even though it's not in the

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1 Q. So the policy that states 9-1-2012
 2 at the top, that's no longer in effect, right?
 3 A. No, I guess not.
 4 Q. Have you ever made any
 5 recommendations for changing the policy?
 6 A. I thought that it should be clear.
 7 Q. What do you mean by that?
 8 A. Laid out more where it would be
 9 clear on -- like most doctor's letters they
 10 send in they put under perjury of law -- by
 11 law, whatever. I think all the doctor's
 12 letters should say that.
 13 Q. How come?
 14 A. Just so we can make sure that it is
 15 an authentic letter.
 16 Q. Are you worried there's some
 17 doctors out there that are lying?
 18 A. Well, we've gotten letters from
 19 doctors stating that they have examined the
 20 patient, they had all the surgery, and it did
 21 not say that they did the surgery.
 22 Q. How does that mean that -- how does
 23 that imply that the doctor's lying?

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1 A. And then got a letter from another
 2 doctor for the same person stating that the --
 3 they had a surgical procedure.
 4 Q. What's wrong with that?
 5 A. It did not say they had the
 6 complete surgery, which the doctor stated in
 7 the other letter that they had, that he had
 8 just examined them.
 9 Q. It sounds like you know what
 10 complete surgery is, right?
 11 A. Well, the complete surgery would
 12 have to be having all your -- the top part,
 13 bottom part done surgical to make you a female
 14 or a male.
 15 Q. Who told you that?
 16 A. I mean, nobody told me that.
 17 Q. So you came up with that?
 18 MR. CHYNOWETH: Object to the form.
 19 A. Well, I don't see how a person
 20 could be a -- I mean -- let me think which
 21 way -- I mean, if you -- how can you change
 22 your sex if you don't have the top and bottom
 23 done? That's what we mean by completed

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1 surgery.
 2 Q. But you're not a physician, right?
 3 A. No, I'm not.
 4 Q. So where are you getting this
 5 from? Correct me if I'm wrong. It sounds
 6 like it's coming from you, right?
 7 A. Yes, I said that.
 8 Q. So you think the policy should be a
 9 little bit more rigorous and doctors should --
 10 it should require that doctors' notes have
 11 under penalty of perjury, right?
 12 A. Well, to make sure it that is from
 13 a doctor, yes, what is in it is true.
 14 Q. And you think that some physicians
 15 are not telling the truth; is that right?
 16 A. I think there could be some that
 17 don't.
 18 Q. Do you have --
 19 A. Or we could get forged letters.
 20 Q. Couldn't someone forge a letter and
 21 still put penalty of perjury on there?
 22 A. It would be notarized and
 23 everything.

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1 Q. It's still possible that a notary
 2 could be false as well?
 3 A. I guess anything's possible.
 4 Q. Have you ever made any
 5 recommendations for keeping the policy the
 6 same?
 7 A. No.
 8 Q. Has anyone said maybe this is too
 9 much work or something?
 10 A. No.
 11 Q. No one's ever said we should do
 12 what most of the other states are doing and
 13 not require surgery?
 14 A. No.
 15 Q. You've never heard anyone suggest
 16 to possibly follow the guidelines from the
 17 AAMVA?
 18 A. I don't know what that is or what
 19 the guidelines are.
 20 Q. Do you know what the American
 21 Association of Motor Vehicles Associates -- I
 22 forgot the last A.
 23 MR. ARKLES: Administrators.

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1 Q. Administrators. American
 2 Association of Motor Vehicle Administrators,
 3 have you ever heard about going by their
 4 suggestions before?
 5 A. No.
 6 Q. Have you ever seen an email from
 7 the AAMVA?
 8 A. I may have. I'm not sure.
 9 Q. So other than requiring doctors to
 10 possibly have the penalty of perjury on the
 11 letters, is there anything else you think
 12 should be changed in the policy?
 13 A. No. Like I said, I think the
 14 documentation -- that we need that.
 15 Q. Who do you understand to have the
 16 power to change this policy? And when I say
 17 this policy, I mean Exhibit 7 on the second
 18 page which is the most recent policy.
 19 A. Who has the authority to change it?
 20 Q. Yes.
 21 A. I would think our legal division.
 22 Q. Could Chief Deena Pregno change it?
 23 A. She could make changes and then it

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1 would have to be approved by legal, I would
 2 think.
 3 Q. How come?
 4 A. To make sure it's legal.
 5 Q. Does everything that -- do all of
 6 Chief Deena Pregno's decisions go through
 7 legal?
 8 A. I have no idea.
 9 Q. What makes you think that if she
 10 were to make a change to the policy that it
 11 would go through legal?
 12 A. Because when policies are changed
 13 they usually go through legal, any policy.
 14 Q. Have you or, to your knowledge,
 15 Ms. Spencer ever called a physician's office
 16 to find out what types of surgeries have been
 17 done?
 18 A. No.
 19 Q. So as far as you know the only
 20 question is has surgery been completed?
 21 A. Correct.
 22 Q. And do you say sex reassignment
 23 surgery, or what words do you use exactly?

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1 A. No.
 2 Q. Does it matter what that state's
 3 policy for changing the sex designation on the
 4 birth certificate is?
 5 A. Not as long as we have an amended
 6 birth certificate.
 7 Q. So even if another state does not
 8 force its citizens to have genital surgery
 9 you'll still accept that amended birth
 10 certificate; is that right?
 11 MR. CHYNOWETH: Object to the form.
 12 A. Yes.
 13 Q. I'll repeat it in another way
 14 also. If another state does not require
 15 surgery, then you'll still accept that birth
 16 certificate, right?
 17 A. If it's an amended birth
 18 certificate, yes.
 19 Q. Then do you know why Alabama
 20 insists that genitals match the license for
 21 the driver?
 22 MR. CHYNOWETH: Object to form.
 23 A. I mean, that's our policy.

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1 A. I would say -- ask them if the
 2 sexual -- sex reassignment surgery had been
 3 completed.
 4 Q. Under policy order 63 a person may
 5 have the sex designation changed on their
 6 license with an amended state certified birth
 7 certificate even without a letter from a
 8 physician; is that right?
 9 A. Right.
 10 Q. And under policy order 63, the
 11 amended state certified birth certificate must
 12 have been updated to show a different sex
 13 designation than the one on the original birth
 14 certificate; is that right?
 15 A. Yes.
 16 Q. Could someone who was born in one
 17 state and later moves to Alabama satisfy
 18 policy order 63's requirement by showing the
 19 amended state certified birth certificate from
 20 the state in which they were born?
 21 A. Yes.
 22 Q. Does it matter which state they
 23 move from?

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1 Q. So no reason?
 2 MR. CHYNOWETH: Object to form.
 3 A. I mean, I don't know why.
 4 Q. Do genitals have anything to do
 5 with driving?
 6 A. No. It has to do with
 7 identification.
 8 Q. When do you show your genitals for
 9 identification?
 10 A. I'm thinking sex on the license.
 11 I'm sorry.
 12 Q. Genitals -- so you're saying that
 13 genitals have to do with sex? I can ask the
 14 first question again which was what do
 15 genitals have to do with driving?
 16 A. Nothing.
 17 Q. Could someone who was born in
 18 another country and later move to Alabama
 19 satisfy policy order 63's requirement by
 20 showing the amended state certified birth
 21 certificate from the country in which they
 22 were born?
 23 A. Yes, if it was amended.

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1 Q. Does it matter what country they
2 were born in?
3 A. No.
4 Q. Does it matter what the country's
5 policy for changing the sex designation on the
6 birth certificate is?
7 A. No.
8 Q. And under policy order 63 a person
9 may have the sex designation changed on their
10 license with a letter from a physician who
11 performed gender reassignment surgery; is that
12 correct?
13 A. Yes.
14 Q. What happens if the physician has
15 retired, died, or otherwise becomes
16 unavailable?
17 A. I've never had that happen, so --
18 Q. What would you do if that were to
19 occur?
20 A. I would probably ask for guidance.
21 Q. From whom would you ask guidance
22 from?
23 A. I would probably have to go up my

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1 chain, but I would start with my sergeant.
2 Q. Sergeant Duke is who you would go
3 to first?
4 A. Yes.
5 Q. Do the terms gender reassignment
6 surgery and reassignment procedure in policy
7 order 63 refer to the same thing?
8 A. Yes.
9 Q. Do the terms sex reassignment
10 surgery and sexual reassignment mean the same
11 thing as gender reassignment surgery for
12 purposes of policy order 63?
13 A. Yes.
14 Q. Okay. I'm now getting out
15 defendant's answers to plaintiff's first set
16 of interrogatories. I'm going to mark this as
17 Plaintiff's Exhibit 23.
18 (Plaintiff's Exhibit Number 23 was
19 marked for identification. A copy
20 is attached.)
21 Q. Could you turn to page 6, please?
22 A. (Witness complies.)
23 Q. Could you read number 9? That's

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1 the question from the plaintiffs.
2 MR. CHYNOWETH: You're referring to
3 your interrogatories that you directed at us?
4 MR. BOONE: That's correct, yes,
5 our interrogatory question directed towards
6 the defendant's, number 9.
7 A. You want me to read it out loud?
8 Q. Could you? Yeah, identify any --
9 I'm sorry.
10 A. Identify any and all procedures
11 that constitute gender reassignment surgery,
12 sexual reassignment surgery, and the
13 assignment procedure for purposes of changing
14 the sex designation on an Alabama driver's
15 license.
16 Q. And now -- the first paragraph
17 below that you don't have to read that.
18 That's where it says response. Could you read
19 the second paragraph that's the defendant's
20 response?
21 A. Without waiving these objections?
22 Q. Yes, please start with, without
23 waiving these objections.

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1 A. Okay. Without waiving these
2 objections, defendants state that to change
3 the sex designation on an Alabama driver's
4 license policy order 63 requires proof of
5 sexual reassignment surgery that includes an
6 irreversible surgical change of sex
7 characteristics including genital
8 reassignment.
9 Q. Can you explain what that means?
10 A. Means that we require a letter from
11 the doctor stating that they have -- the
12 applicant has had reassignment surgery that's
13 irreversible.
14 Q. What does irreversible mean?
15 A. It cannot be changed back.
16 Q. What does including genital
17 reassignment mean there?
18 A. Say the question again.
19 Q. I want to say this is how I
20 understand this. Policy order 63 requires
21 proof of sexual reassignment surgery that
22 includes an irreversible surgical change of
23 sex characteristics including genital

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1 reassignment, meaning that it's not just
2 genital reassignment. My understanding of
3 this is it doesn't -- this means it doesn't
4 have to be genitals; is that -- is my
5 understanding correct?
6 A. It says including.
7 Q. So -- well, including to me, and
8 the way I read including, means that's, you
9 know, under an umbrella of reassignment
10 surgery, including genital reassignment. It
11 doesn't say only genital reassignment or this
12 means general reassignment. It says including
13 genital reassignment. Does that mean there's
14 more -- there's more forms of surgery that
15 don't have anything to do with genitals that
16 can satisfy policy order 63?
17 A. I'm not a doctor, so I can just go
18 by what our policy says.
19 Q. I mean, this is more about the
20 wording, not really whether you're a doctor or
21 not. Is it only genitals or is it more than
22 genitals?
23 A. I would think it would be more

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1 because you would have to have the top done.
2 Q. So are you saying that if you were
3 to have what some -- some are all bottom
4 surgery, but if you don't have top then it
5 doesn't work under the policy, they would be
6 denied?
7 A. It says complete surgery. So it
8 has to be irreversible completed surgery.
9 Q. I still don't know what that means,
10 what complete surgery means.
11 MR. CHYNOWETH: Object to the form.
12 Q. You don't have a definition of
13 complete surgery, do you? Let me retract
14 that. Do you have a definition of complete
15 surgery?
16 A. Do I have anything written out that
17 states what complete surgery is; is that what
18 you're asking? No, I don't.
19 Q. Yes. Do you have any verbal
20 guidance as to what complete surgery is?
21 A. Complete surgery would be having,
22 like I said, top and bottom both done.
23 MR. BOONE: Okay. If we could take

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1 a short break.
2 (Break taken.)
3
4 Q. Someone could be assigned male at
5 birth but she is a transgender woman and
6 begins taking hormones and develops breasts.
7 She then has bottom surgery. Would she be
8 able to have the sex changed on her license?
9 A. If we get a letter from the doctor
10 stating she's had the complete irreversible
11 surgery, yes.
12 Q. But what if it just states the
13 bottom surgery procedures and not anything
14 about top surgery because it wasn't necessary,
15 would she be approved?
16 A. No. Our policy says completed
17 surgery. So if the doctor would state that it
18 was irreversible surgery, then it would be.
19 Q. So would top surgery not be
20 necessary for that woman?
21 A. I mean, I'm not a doctor, so --
22 Q. But you are --
23 A. What we require is a letter from

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1 the doctor saying they had completed
2 irreversible surgery.
3 Q. What if the doctor said that and
4 then specifies it's only bottom surgery
5 procedures and doesn't mention anything about
6 top surgery, then would you accept or deny
7 that application?
8 A. If the letter states they have the
9 completed irreversible surgery, then we would.
10 Q. So top surgery isn't necessary?
11 A. I'm not a doctor, like I said. We
12 would need the letter stating that.
13 Q. If the letter just says -- I'll ask
14 it again. If the letter just says bottom
15 surgery completed, irreversible, doesn't
16 mention anything about top surgery, would that
17 person be approved or denied?
18 A. I've never had one that I know of
19 that just said that. If it said completed
20 irreversible surgery, then we would approve
21 it.
22 Q. Okay. You are representing ALEA
23 today and you stated earlier that complete

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1 means top and bottom, right?
 2 A. Yes.
 3 Q. So it's ALEA's policy that this
 4 letter refers to top and bottom, right?
 5 A. Yes.
 6 Q. And even though it doesn't say
 7 complete, ALEA is saying that that means
 8 complete?
 9 A. Yes.
 10 Q. But you have no recollection of
 11 where that came from?
 12 A. Where what came from?
 13 Q. The top plus bottom requirement.
 14 A. Just my understanding that a
 15 complete surgery -- and, like I said, we go by
 16 what the letter of the doctor says and if it
 17 says completed irreversible surgery.
 18 Q. Is it the same for trans men and
 19 trans women when it comes to top and bottom
 20 requirements?
 21 A. It's the same, what we require in
 22 the letter stating that it had been completed
 23 surgery.

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1 Q. Did you ever rely on the advice
 2 from a medical expert for your understanding
 3 of these terms?
 4 A. No.
 5 Q. What's your understanding of the
 6 term reassignment procedure in policy order
 7 63?
 8 A. That they had had the complete
 9 irreversible surgery.
 10 Q. Can you point to me where it says
 11 irreversible in Plaintiff's Exhibit 7, on the
 12 second page of Plaintiff's Exhibit 7, which is
 13 the most updated policy?
 14 A. No.
 15 Q. If the language complete
 16 irreversible surgery is in the letter, is
 17 there any other language that could be there
 18 that could prevent a change of the sex
 19 designation?
 20 A. Like I said, if it said completed
 21 irreversible surgery, then you would approve
 22 it.
 23 Q. For purposes of policy order 63, is

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1 Q. So in my hypothetical, as long as
 2 the doctor said complete irreversible surgery,
 3 even though it's only referring to bottom and
 4 it says only bottom, not top, would you then
 5 accept it or deny it? I can rephrase if you
 6 would like if that's easier.
 7 So if a -- hypothetically, if a
 8 doctor were to say we have done complete
 9 irreversible surgery bottom, but we have not
 10 done any for the top, what would you do at
 11 that point? Would you change the gender or
 12 would you keep it the same in the system?
 13 A. I would probably get some advice
 14 on --
 15 Q. From Brian Duke?
 16 A. Well, it would have to go up the
 17 chain.
 18 Q. You think it would -- how high up
 19 the chain do you think it would go?
 20 A. It may go to Pregno. I don't
 21 know. But as long as the letter says
 22 completed irreversible surgery, then we would
 23 approve it.

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1 testosterone subcutaneous implants a
 2 reassignment procedure?
 3 A. I don't know what that is, so.
 4 Q. Testosterone subcutaneous implants
 5 is a procedure to insert pellets beneath the
 6 skin where they remain and release long-acting
 7 testosterone. Is that a reassignment
 8 procedure under policy order 63?
 9 A. Like I said, the policy is
 10 completed irreversible surgery. And if the
 11 doctor gives us a letter stating that, then
 12 that's when we approve it.
 13 Q. So if it said completed
 14 irreversible surgery, which was testosterone
 15 subcutaneous implants, would you accept that
 16 under policy order 63?
 17 A. If the doctor says it's completed
 18 irreversible surgery, then I believe we would
 19 accept it.
 20 Q. Even if it was just testosterone
 21 subcutaneous implants, right?
 22 A. Normally -- like I said, I've never
 23 seen a letter written like that.

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1 Q. So if you did see that, you would
2 make the change in the system?
3 MR. CHYNOWETH: Objection. Asked
4 and answered.
5 MR. BOONE: I never -- I don't
6 remember hearing an answer.
7 Q. So if you saw irreversible complete
8 surgical procedure, which was only
9 testosterone subcutaneous implant, you would
10 make that change in the system?
11 A. If the letter said completed
12 irreversible surgery.
13 MR. ARKLES: Can we have just a
14 very quick break? Sorry.
15 (Break taken.)
16
17 Q. So ALEA requires top and bottom
18 surgery for -- to be considered sex
19 reassignment surgery under policy order 63,
20 right?
21 A. Yes.
22 Q. And you just stated that as long as
23 the doctor says complete irreversible surgery,

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1 even if it's only testosterone subcutaneous
2 implants, that still satisfies the policy,
3 right?
4 MR. CHYNOWETH: Object to the
5 form. Even if the doctor's note only said
6 that or even --
7 MR. BOONE: The doctor's.
8 MR. CHYNOWETH: -- if the doctor's
9 notes says complete surgery but only that
10 procedure was performed?
11 MR. BOONE: Yes, the latter.
12 MR. CHYNOWETH: Can you clarify --
13 can you ask the question again, please?
14 Q. The doctor's note says complete
15 irreversible surgery and the only procedure
16 performed was testosterone subcutaneous
17 implant. Would that satisfy policy order 63?
18 A. I might want to find some guidance
19 on that one.
20 Q. So does the actual procedure
21 matter?
22 A. As long as we get a letter from the
23 doctor saying that it's completed irreversible

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1 surgery.
2 Q. But if they --
3 A. That's what we look for in the
4 letter.
5 Q. But if the doctor puts in what
6 procedure it was, then the person -- and the
7 procedure was only implants, for example, then
8 they're good under the policy?
9 A. I might need to find some guidance
10 on it.
11 Q. For the purposes of policy order 63
12 is contra laryngoplasty a sexual reassignment
13 procedure?
14 A. I don't know what that is.
15 Q. That is a tracheal shave to reduce
16 the Adam's apple. Is that a sexual
17 reassignment procedure?
18 A. It may be part of it but -- like I
19 said, if the letter states it's completed
20 irreversible.
21 Q. So the procedure doesn't matter?
22 A. I'm just saying what we get from
23 the doctor, if it states that, then that's

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1 when we would change the sex on the license.
2 Q. We are just -- you are the 30(b)(6)
3 representative. You have to -- you're ALEA's
4 representative for the implementation of the
5 policy. We wouldn't want to have to call
6 anybody else. So we're trying to understand
7 what the policy is. So far you have said top
8 and bottom is required, right?
9 A. Yes.
10 Q. And you have also said that as long
11 as it says complete irreversible surgery then
12 that is fine, even if top and bottom hasn't
13 been done, right?
14 A. Well, I mean, we don't know for
15 sure. We're going by what the doctor letter
16 states, and that's -- if it says completed
17 irreversible surgery, then we -- like I said,
18 I've never had anything come across my desk
19 like that before like you're saying.
20 Q. So why is complete necessary if you
21 don't know the procedures?
22 A. I'm sure there's probably lots of
23 procedures I don't know about, but I'm not a

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1 doctor. So that's why we rely on what the
2 doctor puts in the letter.
3 Q. If a doctor were to say complete
4 irreversible sex reassignment surgery, which
5 was chest masculinization, would that be an
6 approval under policy order 63?
7 A. If he put that it was completed
8 irreversible surgery.
9 Q. So remind me again --
10 A. Like I said, I've never had any
11 letters that stated that.
12 Q. But you have called and so has
13 Jerrolynn -- have made calls to the
14 physicians' offices before, right?
15 A. Yes.
16 Q. So why were you calling in those
17 instances?
18 A. The one I called about because he
19 put that he had performed a procedure, a
20 procedure. I had already gotten two letters
21 previously from doctors stating that he had
22 examined, I guess, and they had had all the
23 surgeries, but then I get the one from the

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1 surgeon saying he had performed a procedure.
2 That's why I called.
3 Q. But you don't know all the
4 procedures, right?
5 A. No, but it did not say that he had
6 performed the completed irreversible surgery.
7 Q. So even if it was just one
8 procedure and he just happened to have put
9 complete, you would not have made the phone
10 call, right?
11 A. If the letter had stated that he
12 had performed the completed irreversible
13 surgery, no, I would not have.
14 Q. Would you agree that not every
15 person physically present in Alabama has an
16 Alabama driver's license?
17 A. Say that again, please.
18 Q. Would you agree that not every
19 person physically present in Alabama has an
20 Alabama driver's license?
21 A. I'm sure not everybody in Alabama
22 has an Alabama license.
23 Q. Would you agree that not every

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1 person physically present in Alabama has an
2 ID?
3 A. I'm sure that's possible.
4 Q. Would you agree some people carry
5 ID that is not their own?
6 A. I'm sure that could happen.
7 Q. Would you agree that not every
8 person physically present in Alabama was born
9 in Alabama?
10 A. Yes, I'm sure there's people that
11 weren't born here that's in Alabama.
12 Q. Would you agree that not every
13 person physically present in Alabama was born
14 in the United States?
15 A. Yes.
16 Q. Would you agree that it's possible
17 some transgender people have changed the sex
18 designation on their Alabama driver's license
19 without having surgery?
20 A. Not without a letter or amended
21 birth certificate.
22 Q. I'll ask again. Would you agree
23 that it is possible some transgender people

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1 have changed the sex designation on their
2 Alabama driver's license without having
3 surgery if, for example, they were born in a
4 state that permitted amendments to the birth
5 certificates without proof of surgery?
6 A. Yes, if they --
7 Q. Can you say that again?
8 A. Yes, if they gave us an amended
9 birth certificate.
10 Q. I'm going to show you some
11 documents.
12 (Plaintiff's Exhibit Number 24 was
13 marked for identification. A copy
14 is attached.)
15 Q. This is marked as Plaintiff's
16 Exhibit 24. The discovery number is 208.
17 Could you please describe this document?
18 A. It's a letter stating that this
19 doctor had performed reassignment surgery,
20 successfully completed and in is compliance
21 with the World Professional Association for
22 Transgender Health.
23 Q. Do you recognize this document?

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1 A. It's got my initials up there.
2 Q. And you said those are your
3 initials at the top?
4 A. Yes.
5 Q. What does the notation mean that
6 you wrote next to your initials?
7 A. I changed the -- it says I changed
8 the gender to female.
9 Q. Why did you approve it?
10 A. Because it said it was performed
11 and successfully completed.
12 Q. Does it say irreversible?
13 A. No, it does not.
14 Q. I'm going to hand you another
15 document marked as Plaintiff's Exhibit 25.
16 The discovery number is 232.
17 (Plaintiff's Exhibit Number 25 was
18 marked for identification. A copy
19 is attached.)
20 Q. Can you please describe this
21 document?
22 A. It's a letter from the doctor
23 saying that they had -- the individual has

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1 undergone gender confirmation surgery and that
2 this irreversible surgery was performed by me,
3 and it gives the doctor's name.
4 Q. Do you recognize this document?
5 A. Well, it has my comment at the top.
6 Q. You said that's your comment at the
7 top. And are those your initials?
8 A. Yes.
9 Q. And what did you do on this
10 document?
11 A. I changed the sex on the license
12 from male to female.
13 Q. Does it say complete on this
14 document?
15 A. It says irreversible.
16 Q. So it doesn't say the word
17 complete?
18 A. No.
19 Q. If, for example, the doctor said
20 this irreversible surgery of removal of testes
21 was performed by me, how would that change
22 your interpretation of this document?
23 A. I might question it.

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1 Q. And what would you do at that
2 point?
3 A. I may call the doctor. I'm not
4 sure.
5 Q. What would you ask the doctor?
6 A. If the surgery had been complete.
7 Q. If the doctor responds yes, it's
8 completed, we removed the testes, then what
9 would you do?
10 A. Might ask for a letter stating that
11 the surgery had been completed.
12 Q. And if you get another letter that
13 said it's been completed, we removed the
14 testes, what would you do then?
15 A. If it says irreversible, completed
16 surgery, it would probably be approved. This
17 one was approved.
18 Q. So if it said complete,
19 irreversible surgery, we removed the testes,
20 it would be approved, yes or no?
21 A. It said completed -- I can't talk
22 now -- irreversible surgery, yes, more than
23 likely it would be approved.

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1 (Plaintiff's Exhibit Number 26 was
2 marked for identification. A copy
3 is attached.)
4 Q. I'm now handing you Plaintiff's
5 Exhibit 26, which is marked in the discovery
6 as 233. Can you please describe this
7 document?
8 A. It's a letter stating that the --
9 from a doctor that says the individual
10 underwent irreversible genital reassignment
11 surgery performed by the doctor. The surgery
12 was performed at Pensacola Hospital. Surgery
13 was completed in accordance with standards
14 established with the World Professional
15 Association of Transgender Health.
16 Q. Are those your initials at the
17 top?
18 A. Yes.
19 Q. And did you make the change -- the
20 gender change on this one?
21 A. Yes.
22 Q. Why did you approve this one?
23 A. Because it says individual

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1 underwent irreversible genital reassignment
2 surgery and that the surgery was completed.
3 Q. If the letter had stated that the
4 surgeon anticipated that the person would need
5 to return for follow-up surgery, would that
6 have made a difference to your decision?
7 A. Not since the letter stated that he
8 had had irreversible gender reassignment
9 surgery and it was completed, no. I don't
10 know what kind of follow-up surgery that could
11 have been.
12 Q. So the note about follow-up surgery
13 wouldn't change the outcome of you changing
14 the gender, correct?
15 A. Because I'm not a doctor and I
16 don't know what the follow-up surgery would
17 have been.
18 (Plaintiff's Exhibit Number 27 was
19 marked for identification. A copy
20 is attached.)
21 Q. This next document is marked as
22 Plaintiff's Exhibit 27. It is discovery
23 number 236. Could you please describe this

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1 document?
2 A. It's a letter from the doctor
3 stating that they had performed a procedure of
4 chest -- I don't know how you say that.
5 Q. Is it chest masculinization?
6 A. Okay. Performed by me to
7 irreversibly -- irreversibly correct his
8 anatomy and appearance. And it goes on to say
9 that -- has completed sexual reassignment in
10 accordance with the appropriate medical
11 procedures. It says on 10-21-14 I performed
12 and completed sexual reassignment surgery.
13 Q. Is that your initials at the top?
14 A. Yes.
15 Q. And you changed the gender on this
16 person from female to male?
17 A. Yes.
18 Q. The only surgical procedure listed
19 is chest masculinization; is that correct?
20 A. Yes.
21 Q. Would you consider that a top or
22 bottom surgery?
23 A. The chest I would think would be

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1 top.
2 Q. So this person was changed in the
3 system even though bottom surgery wasn't
4 performed; is that correct?
5 A. Well, it says performed by me to
6 irreversibly correct his anatomy. Then down
7 here it says has completed sexual reassignment
8 in accordance with appropriate medical
9 procedures.
10 Q. Okay. So you're --
11 A. Performed and completed the sexual
12 reassignment surgery.
13 Q. You are reading that as chest
14 masculinization plus more procedures?
15 A. It's stating that they have
16 completed the sexual reassignment surgery.
17 Q. Which was chest masculinization,
18 right?
19 A. Well, it says they did that. Now
20 that -- if that's all they did I'm not sure
21 because it says it's completed the sexual
22 reassignment according with the appropriate
23 medical procedures.

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1 Q. Doesn't the doctor only mean chest
2 masculinization surgery here?
3 MR. CHYNOWETH: Object to the form.
4 A. I'm not a doctor. I don't know
5 what the doctor means. I'm just reading what
6 I'm reading.
7 Q. Do you know what other procedures
8 outside of chest masculinization that would
9 be?
10 A. No, because it just says completed
11 sexual reassignment.
12 Q. So the only procedure listed here
13 is chest masculinization, right?
14 A. Yes, that's the only thing listed
15 on that one.
16 (Plaintiff's Exhibit Number 28 was
17 marked for identification. A copy
18 is attached.)
19 Q. This is marked as Plaintiff's
20 Exhibit 28. In discovery it is listed as
21 238. Would you please describe this document?
22 A. It's a letter from the doctor
23 stating that this person had undergone gender

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1 altering surgical procedures. And then it
 2 states that -- has had appropriate clinical
 3 treatment including gender reassignment
 4 surgery.
 5 Q. Are those your initials at the top?
 6 A. Yes.
 7 Q. Did you change the gender on the
 8 record for this person?
 9 A. I did.
 10 Q. Do you see the word complete in the
 11 letter?
 12 A. I do not.
 13 Q. Do you see the word irreversible in
 14 the letter?
 15 A. No, I do not.
 16 (Plaintiff's Exhibit Number 29 was
 17 marked for identification. A copy
 18 is attached.)
 19 Q. This next exhibit will be marked as
 20 Plaintiff's Exhibit 29. It is marked in
 21 discovery as 167. Could you please describe
 22 this document?
 23 A. It's a letter from a doctor stating

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1 that he examined the subject and that all the
 2 surgeries had been completed, but it was not a
 3 letter from the doctor that completed the
 4 surgery.
 5 Q. First, are those your initials at
 6 the top?
 7 A. Yes.
 8 Q. And what did you write as a
 9 notation above your initials?
 10 A. Must present letter from doctor
 11 that performed surgery or amended birth
 12 certificate.
 13 Q. And do you see where it's -- does
 14 it state in the letter she has completed all
 15 surgeries necessary?
 16 A. It does.
 17 Q. Does it state including genital
 18 reconstruction?
 19 A. Yes.
 20 Q. And then after including genital
 21 reconstruction it states to bring her body
 22 into alignment with her gender, correct?
 23 A. Yes.

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1 Q. And why didn't you approve this?
 2 A. Because the doctor did not perform
 3 the surgery. He just examined.
 4 Q. So once you saw -- tell me when you
 5 knew that this wasn't the surgeon from your
 6 perspective.
 7 A. I have completed a physical
 8 examination of her subsequent to these
 9 procedures.
 10 Q. Did you think the letter was
 11 fraudulent?
 12 A. I didn't know if it was or not, but
 13 it did not meet our policy. It was not from
 14 the surgeon.
 15 Q. Do you see where it says in the
 16 third paragraph Destiny Clark has undergone
 17 medical and psychological testing, receiving
 18 ongoing hormone replacement therapy, and was
 19 referred for and received surgical procedures
 20 to irreversibly correct her anatomy to match
 21 her gender?
 22 A. Yes.
 23 Q. That isn't enough for there to be a

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1 change in the system under policy order 63?
 2 A. No, because it was not from the
 3 surgeon that performed the surgery.
 4 Q. The next exhibit is Plaintiff's
 5 Exhibit 30 marked in discovery as 169.
 6 (Plaintiff's Exhibit Number 30 was
 7 marked for identification. A copy
 8 is attached.)
 9 Q. Could you please describe this
 10 document?
 11 A. A letter from the doctor stating
 12 that he performed a surgical procedure related
 13 to gender transformation.
 14 Q. Okay. Are those your initials at
 15 the top?
 16 A. Yes.
 17 Q. And is that your note above your
 18 initials?
 19 A. Yes.
 20 Q. Can you please read that note for
 21 us?
 22 A. Per PX with doctor office, doctor
 23 did not --

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1 Q. Let me stop you. Can you -- if you
 2 have any acronyms, can you explain what that
 3 means for the record?
 4 A. Okay. Per phone call with the
 5 doctor's office doctor did not perform
 6 complete gender reassignment surgery. Must
 7 have letter stating complete surgery has been
 8 performed or an amended birth certificate.
 9 Q. So you didn't accept this letter,
 10 correct?
 11 A. Right.
 12 Q. What made you not accept it?
 13 A. Because it said I performed a
 14 surgical procedure, and it's on the same
 15 person that previous one was when they
 16 submitted something from the doctor that had
 17 just examined them.
 18 Q. What does the previous letter from
 19 that doctor have anything to do with this
 20 letter?
 21 A. It's for the same person.
 22 Q. But how does that change your
 23 analysis when you see this letter from a

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1 surgeon?
 2 A. Because this letter states all
 3 these procedures have been done, and he just
 4 put I performed a surgical procedure. He did
 5 not say he did a complete surgery or a
 6 complete irreversible surgery. It just said a
 7 surgical procedure.
 8 Q. What if a wasn't there?
 9 A. It still doesn't say that he did
 10 the complete surgery or it was irreversible.
 11 Q. We have previous documents that
 12 don't state the word complete and
 13 irreversible, correct?
 14 A. Correct.
 15 Q. And they were approved, right?
 16 A. They stated irreversible or
 17 complete, I think. There may have been one
 18 that didn't. I don't remember.
 19 Q. Let's look on this one. So on
 20 Plaintiff's Exhibit 28 does it say the word
 21 complete or irreversible on that document?
 22 A. No.
 23 Q. So why --

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1 A. This one doesn't.
 2 Q. So why wasn't this document
 3 approved, which is Plaintiff's Exhibit 30?
 4 A. Because it says has been living as
 5 a transgender female -- having been living as
 6 a transgender female has previously been to my
 7 practice for evaluation prior to gender
 8 transformation surgery. Then it says I
 9 performed a surgical procedure related to
 10 gender transformation.
 11 Q. So is one surgical procedure never
 12 enough according to ALEA's policy 63?
 13 A. It should be completed surgery.
 14 Q. Although that didn't matter before,
 15 right?
 16 A. Well, this doesn't say they did the
 17 surgery for gender reassignment surgery. It
 18 just says he performed a surgical procedure
 19 related to.
 20 Q. Do you remember your phone call
 21 with the doctor's office concerning
 22 Plaintiff's Exhibit 30?
 23 A. That's what I've got in my hand. I

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1 mean, I don't remember the whole conversation.
 2 Q. Does your writing --
 3 A. I called and asked if they had
 4 completed the surgery or had the complete
 5 surgery, and they said no.
 6 Q. What did they tell you exactly?
 7 A. That they had not completed the
 8 surgery.
 9 Q. Did you ask the applicant's
 10 permission to make that phone call?
 11 A. No.
 12 Q. Did you have a warrant?
 13 A. No.
 14 Q. Do you remember speaking with the
 15 applicant Ms. Destiny Clark on the phone?
 16 A. No.
 17 Q. Did you ever speak with Ms. Destiny
 18 Clark on the phone?
 19 A. I'm not sure.
 20 Q. I'm going to mark this next exhibit
 21 as Plaintiff's Exhibit 31.
 22 (Plaintiff's Exhibit Number 31 was
 23 marked for identification. A copy

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1 is attached.)
 2 Q. It is document 131 in the
 3 discovery. Could you please describe this
 4 document?
 5 A. It's an email from Diane Woodruff.
 6 Q. And what does that -- and who is
 7 the email to?
 8 A. To me.
 9 Q. What's the subject of the email?
 10 A. Well, it's from me also. I sent it
 11 to J.J. The subject it says Iowa now changes
 12 the gender for transgender individuals the
 13 same way we do. I just thought you might want
 14 to see that for argument sake. I figure
 15 eventually legal and DL will want to take a
 16 look at the whole process again.
 17 Q. Why did Ms. Woodruff send that to
 18 you?
 19 A. I guess because I was supervisor
 20 over the medical unit.
 21 Q. Were there ever -- the way this is
 22 written, Iowa now changes the gender for
 23 transgender individuals the same way we do,

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1 Q. Do you know why she would say that
 2 legal and DL will want to look at the whole
 3 process again?
 4 A. You would have to ask her.
 5 Q. So you have -- you have no idea why
 6 she sent you this?
 7 A. I guess just an informative email
 8 stating that Iowa does it the same way we do.
 9 Q. You forwarded it to Jerrolynn
 10 Spencer; is that correct?
 11 A. Yes.
 12 Q. Why would you forward it to
 13 Jerrolynn Spencer?
 14 A. Just to let her know Iowa does it
 15 the same way we do.
 16 Q. Why does that matter though?
 17 A. It doesn't really. We just go by
 18 our policy.
 19 Q. If you just go by the policy, then
 20 why is there any questioning of the policy?
 21 A. I don't see that as a question of
 22 the policy.
 23 Q. Maybe this is support of the

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1 that infers that -- you are -- you are aware
 2 that there's other states that do it
 3 differently, right?
 4 A. Yes, that's what I've heard.
 5 Q. Why does it matter that other
 6 driver's license offices might do it the same
 7 way you all do it?
 8 A. I don't know that it does matter.
 9 Q. Why would she send it to you then?
 10 A. You would have to ask her.
 11 Q. Do you know what she meant by I
 12 just thought you may want to see that for
 13 argument sake?
 14 A. No. You would have to ask her.
 15 Q. It seems as if it refers to a
 16 previous conversation. Am I wrong in that
 17 assumption?
 18 A. I don't remember a previous
 19 conversation about Iowa.
 20 Q. That's not what I'm asking. Have
 21 there been any previous conversations about
 22 the policy?
 23 A. Not that I recall.

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1 policy. Why is that -- the support of the
 2 policy in question?
 3 A. I don't see it as that. I just see
 4 it as an email. She's just saying that Iowa
 5 does it the same as we do.
 6 Q. Would she ever send you an email of
 7 another state which does it a different way?
 8 A. She might.
 9 Q. I guess my thought is if it's -- if
 10 you're just enforcing policy and not thinking
 11 about whether or not it's adequate or not I
 12 don't know why an email like this would be
 13 sent. You don't know either?
 14 A. Huh-uh.
 15 Q. I'm going to mark this next exhibit
 16 as Plaintiff's Exhibit 32.
 17 (Plaintiff's Exhibit Number 32 was
 18 marked for identification. A copy
 19 is attached.
 20 Q. In discovery it's listed as 165.
 21 Could you please describe this document?
 22 A. It's an email I sent to Maryland.
 23 It says the State of Alabama has an applicant

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1 that states she had a sex change and has
 2 presented a Maryland birth certificate. The
 3 name on the certificate is what we have in our
 4 system, but the sex in our system is male and
 5 on the certificate it's female. What is the
 6 process for Maryland to amend a birth
 7 certificate for sex changes? Does the birth
 8 certificate not indicate that it was amended
 9 when the change has been made?
 10 Q. Why did you send that email to
 11 Maryland?
 12 A. Because we had a birth certificate
 13 from Maryland. Alabama birth certificates
 14 show the change at the bottom if it has been
 15 amended. And I was trying to see if
 16 Maryland -- if it would be on the birth
 17 certificate that it had been amended or not.
 18 Q. So you weren't sure if the Maryland
 19 birth certificate had been amended or if it
 20 was the original birth certificate?
 21 A. It looks like the sex we had in our
 22 system was different from the sex on the birth
 23 certificate.

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1 Q. Do you know why?
 2 A. That's what I was trying to find
 3 out why, if Maryland does not put that it has
 4 been amended. Some of them say amended on
 5 them. Some of them don't I've come to find
 6 out.
 7 Q. Was that what you found out here?
 8 A. I don't think I ever got an answer
 9 from her.
 10 Q. So in this situation the applicant
 11 had a birth certificate from Maryland that
 12 stated female, right?
 13 A. Right.
 14 Q. But in the Alabama database you all
 15 had the applicant down as male; is that right?
 16 A. Yes.
 17 Q. And was the individual trying to
 18 get a change in your Alabama system to female,
 19 from male to female?
 20 A. Yes.
 21 Q. Did you make that change in the
 22 system?
 23 A. I'm really not sure because I don't

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1 know who this was. It was just a question I
 2 sent an email on. So I don't have a license
 3 number or anything to check it.
 4 Q. You don't recall whether or not you
 5 made the change or not?
 6 A. Huh-uh. It may have been somebody
 7 that was in one of the driver's license
 8 offices and they called me. I'm not sure.
 9 Q. So the Maryland birth certificate
 10 with female wasn't enough for you to make the
 11 change, right?
 12 A. Well, we were -- I was asking them
 13 if it was amended or not.
 14 Q. What did the individual say about
 15 her birth certificate?
 16 A. I'm really not sure. Like I said,
 17 I sent this just to ask, and I'm not sure who
 18 it was on.
 19 Q. Did you ask the individual if the
 20 birth certificate was amended?
 21 A. I don't know if I even talked to
 22 the individual.
 23 Q. What if the individual from

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1 Maryland -- from the Maryland -- what if the
 2 individual from the Maryland government told
 3 you that this wasn't an amended birth
 4 certificate? What would you do at that point?
 5 A. If I knew who the person was, then
 6 I would I guess contact my chain of command
 7 and tell them they were trying to give a
 8 fraudulent birth certificate.
 9 Q. How do you know it's fraudulent?
 10 A. Well, we would check it out if
 11 Maryland says that they write amended on it
 12 and it didn't have amended.
 13 Q. What if that was the original birth
 14 certificate?
 15 A. I mean, I can't do anything but
 16 speculate because I'm not sure if I even saw
 17 the birth certificate or if this was from a
 18 call that I had received from a driver's
 19 license office.
 20 Q. Okay. I'm going to show you
 21 Plaintiff's Exhibit 33.
 22 (Plaintiff's Exhibit Number 33 was
 23 marked for identification. A copy

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1 is attached.)
2 Q. What is this exhibit? What does
3 this document state? Oh, and it's discovery
4 number 256, Plaintiff's Exhibit 33.
5 A. It looks like it's a State of
6 Maryland birth certificate.
7 Q. What did you -- and are those your
8 initials at the bottom?
9 A. Yes.
10 Q. And what's the date say by your
11 initials?
12 A. The date?
13 Q. Yeah, next to your initials.
14 A. 9-19 of '17.
15 Q. Can you look back onto Plaintiff's
16 Exhibit 32?
17 A. Yeah, it says 9-19-17.
18 Q. And the date on Plaintiff's Exhibit
19 32 is 9-19-2017?
20 A. Uh-huh.
21 Q. Would you say that this is the
22 birth certificate in question --
23 A. It could be.

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1 Q. -- concerning the email?
2 A. I mean, there's no name, so I
3 don't --
4 Q. So you don't know if this is the
5 birth certificate that's --
6 A. I mean, with the dates you would
7 assume it is, but I can't say for sure.
8 Q. What does your note say on --
9 A. It says amended birth
10 certificate -- oh, I'm sorry.
11 Q. Yeah. Let me finish the question,
12 thank you, because it makes it easier. What
13 does your note say on Plaintiff's Exhibit 33
14 above your initials?
15 A. Amended birth certificate, subject
16 instructed to take original to driver's
17 license office and DO office, to call medical.
18 Q. Can you explain what that note
19 means?
20 A. Yes, because if it was the
21 original -- I mean, if it was an amended birth
22 certificate more than likely it would have a
23 raised seal on it. So I instructed them to

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1 take the birth certificate to the driver's
2 license office and then for them to call me
3 because apparently this must be all I had was
4 a copy of it like this.
5 Q. When you say them you're referring
6 to the applicant?
7 A. Yes.
8 Q. So when the applicant sent in this
9 birth certificate, that wasn't enough for you,
10 right?
11 A. Right.
12 Q. How come?
13 A. Because it doesn't say amended on
14 it. That's why they were instructed to take
15 the one that would have had a raised seal to
16 the driver's license office.
17 Q. So you didn't want to make the
18 change in the system, right?
19 A. Right.
20 (Plaintiff's Exhibit Number 34 was
21 marked for identification. A copy
22 is attached.)
23 Q. The next exhibit is Plaintiff's

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1 Exhibit 34. It's document 129 in the
2 discovery. Can you please explain what this
3 document is?
4 A. It's an email from Barbara Tony to
5 me.
6 Q. Who is Barbara Tony?
7 A. She works on the sixth floor. She
8 kind of screens calls for the -- well,
9 actually the whole headquarters as far as
10 driver's license.
11 Q. So --
12 A. She takes calls and tries to help,
13 you know, people on the phone.
14 Q. Would you say she's a receptionist
15 in the driver's license division?
16 A. She's an administrative support
17 assistant 2.
18 Q. To whom? She's an administrative
19 to whom?
20 A. Well, she takes phone calls for
21 driver's license.
22 Q. Is that the help desk? Is she
23 working the help desk?

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1 A. No.
2 MS. BARNES: It's ASA-2.
3 MR. ARKLES: Numeral.
4 MR. BOONE: Oh, oh, oh.
5 Q. And this is -- you stated this is
6 an email from Barbara Tony?
7 A. Uh-huh.
8 Q. To --
9 A. To me.
10 Q. What is the subject?
11 A. It says gender change.
12 Q. Can you read the email? And I
13 guess just say redacted where there's a
14 redacted portion?
15 A. It says contact information. I
16 assume there was a phone number to contact the
17 person. Want to know what has to be done to
18 change the sex on his DL. No bottom surgery
19 has been done.
20 Q. Do you know why Ms. Tony said no
21 bottom surgery has been done?
22 A. I would assume that whoever she was
23 talking to stated that.

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1 Q. Does Ms. Tony know about policy
2 order 63?
3 A. She used to work in the medical
4 unit, so I'm sure she probably does.
5 Q. If not for her working in the
6 medical unit would she have known about policy
7 order 63?
8 A. Probably not.
9 Q. I thought that only you,
10 Ms. Eastman, and Jerrolynn Spencer had
11 conversations with individuals about this
12 policy?
13 A. I mean, I don't know what the
14 conversation was. It's just they called and
15 wanted to know what the sex on the -- how to
16 change the sex on the license, and apparently
17 they gave her that information. I don't know
18 what she told him on the phone. I was not in
19 on that conversation.
20 Q. You don't know if the policy was
21 explained to that individual on the phone?
22 A. No. I mean, when I called them I'm
23 sure I explained it, but I don't know what

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1 Barbara explained to them.
2 Q. So this -- the language bottom
3 surgery, that's -- you don't know if that's
4 been used within ALEA?
5 A. What do you mean?
6 Q. Have you ever heard individuals use
7 the term bottom surgery since you've been
8 working at ALEA?
9 A. No, not really.
10 Q. Other than in this email?
11 A. I mean, we don't go around talking
12 about bottom surgeries or anything.
13 Q. And like you've said, there's no
14 guidance that says bottom surgery anywhere?
15 A. Huh-uh.
16 Q. Either verbal or written?
17 MR. CHYNOWETH: Answer yes or no.
18 Q. Yeah. Say yes or no for the
19 record.
20 A. No.
21 Q. Who can make the change in the
22 system from M to F or F to M?
23 A. I mean, I can change it. Jerrolynn

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1 Spencer can. I'm sure Diane still has the --
2 they can change it out in the driver's license
3 offices.
4 Q. Every driver's license office can
5 make the change?
6 A. Uh-huh.
7 Q. When was that --
8 MR. CHYNOWETH: Yes or no.
9 A. Oh, yes. I'm sorry.
10 Q. When was that implemented where all
11 the driver's license offices can make the
12 change?
13 A. I think it's only been maybe last
14 year.
15 Q. Is it possible that some people
16 could have their gender marker changed without
17 the medical unit ever knowing about it?
18 A. Yes.
19 Q. Does every -- does every letter
20 from a physician's office have to go through
21 the medical unit?
22 A. They can take the letter to the
23 driver's license office, but usually they'll

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1 call us after they -- you know, for us to
2 review it. They'll fax us a copy of it.
3 Q. But it's possible they could look
4 over the letter and make the change in the
5 system at the individual driver's license
6 office? Let me finish the question. So it's
7 possible they can make the change from male or
8 female or female to male in the individual
9 driver's license offices out in the field
10 without the physician's letter ever going to
11 the medical unit; is that correct?
12 A. Yes. They're supposed to fax it to
13 us.
14 Q. How do they know to fax -- how do
15 they know to fax it to you?
16 A. It's just kind of a procedure that
17 they should fax the letters to us so we could
18 have it on file.
19 Q. How would somebody know that -- how
20 would someone know to fax the physician's
21 letters out in the field?
22 A. Like I said, normally if they get a
23 letter they will call us about it and they'll

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1 fax us a copy so we can review it and tell
2 them if it's okay, that it meets policy.
3 Q. There's no written guidance for
4 individuals out in the field to fax these
5 physician letters into the medical unit, is
6 there?
7 A. No.
8 Q. Has there been any verbal guidance
9 or training for individuals out in the field
10 that would instruct them to fax these letters
11 into the medical unit?
12 A. I think it's been verbally told to
13 them to fax it in to us.
14 Q. When?
15 A. I can't say for sure.
16 Q. So just over time --
17 A. Yes.
18 Q. -- it's been told to them --
19 A. In the policy it says for them to
20 scan it.
21 Q. And they have this policy in
22 their -- all their offices?
23 A. They have a copy of that policy.

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1 Q. Where is it located in the driver's
2 license offices?
3 A. I'm not sure. I'm not an examiner,
4 so I don't go to the exam office.
5 Q. But you know about the exam
6 offices, right?
7 A. Some, not everything they do.
8 Q. Do you know if this policy is
9 posted in any of the exam offices?
10 A. I don't know.
11 Q. I'm going to mark this as
12 Plaintiff's Exhibit 35.
13 (Plaintiff's Exhibit Number 35 was
14 marked for identification. A copy
15 is attached.)
16 Q. And it is going to be pages in the
17 discovery 135, 136, and 137 all for
18 Plaintiff's Exhibit 35. Could you look over
19 these three pages and explain what these three
20 pages are?
21 A. Okay. It's an email from me to
22 Chief Pregno.
23 Q. What month and year is this email?

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1 A. October 31st of 2016.
2 Q. And what does this email -- it
3 looks like you wrote a message and you
4 forwarded an email from down below, right?
5 A. Yes.
6 Q. What does the original email
7 concern?
8 A. The one at the bottom?
9 Q. Yes.
10 A. It says, Hello, I'm researching
11 driver's license laws in respect to
12 transgender people. From what I've found
13 online it looks like Alabama requires proof of
14 sex reassignment surgery, court order, and/or
15 amended birth certificate in order to change
16 the person's gender marker on the birth
17 certificate. However, I'm having trouble
18 finding the relevant statute. Could you point
19 me to the policy statute that covers gender
20 sex marker changes?
21 Q. And you know the answer to that
22 question, right?
23 A. I know where the policy is.

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1 Q. And this email went originally to
2 driver's license info?
3 A. Uh-huh. Yes. I'm sorry.
4 Q. Yeah, thank you. And someone from
5 driver's license info, I'm assuming Barbara
6 from up top, right?
7 A. I'm not sure who it came from.
8 Q. Well, it came from driver's license
9 info to you; is that correct?
10 A. Yes.
11 Q. And why didn't you answer the email
12 since you know the answer?
13 A. Because I'm not supposed to be -- I
14 mean, I just felt this was something that
15 should come from higher up to see if it was --
16 that we should answer it.
17 Q. How come?
18 A. Because I didn't know who this
19 person was --
20 Q. Did you know who --
21 A. -- actually asking the question.
22 Q. Do you know everybody who contacts
23 the driver's license division?

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1 A. No.
2 Q. So why didn't you answer this
3 question since you know the answer?
4 A. Like I said, I know what the policy
5 is, but I wasn't sure really if there was a
6 statute that we have on that subject.
7 Q. It doesn't ask for -- it says
8 policy or statute, right?
9 A. Uh-huh.
10 Q. And you do know the policy.
11 A. Yes.
12 Q. So is it because you saw the word
13 statute that's the reason why you didn't
14 answer it?
15 A. Yes.
16 (Plaintiff's Exhibit Number 36 was
17 marked for identification. A copy
18 is attached.)
19 Q. I now have Plaintiff's Exhibit 36,
20 which is also marked as 138, 139, 140, 141,
21 and 142 in the discovery. Could you please
22 describe this email chain?
23 A. It looks like it's an email from me

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1 to Sergeant Duke.
2 Q. It looks to me as if this
3 originally starts --
4 A. That's what I was trying to figure
5 out.
6 Q. Yeah. So the first page has emails
7 from 2018, correct?
8 A. Yes.
9 Q. And it refers back to emails from
10 September of 2017 on the rest of the pages,
11 right?
12 A. Yes.
13 Q. The bulk of these emails from page
14 2 to page -- or I should say from discovery
15 139 to discovery 142 looks like a back and
16 forth between yourself and Ms. Alice Harrison,
17 correct?
18 A. Yes.
19 Q. What is Ms. Alice Harrison trying
20 to find out here?
21 A. I believe she was trying to see
22 what our policy was to change the sex on the
23 driver's license.

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1 Q. And on page 140 it looks like you
2 stated our division chief -- can you read what
3 you wrote in that email to Ms. -- to Alice
4 Harrison?
5 A. Our division chief and legal
6 division is responsible for setting
7 departmental policies. I will pass your
8 questions and email address up the chain of
9 command.
10 Q. And did you do that?
11 A. Yes. I sent it to Sergeant Duke.
12 He's my next in the chain.
13 Q. It says on -- at the bottom where
14 it says doc 141 in the discovery, do you see
15 that? You stated that you sent her the
16 policy. It seemed as if she doesn't know if
17 this is the current policy; is that right?
18 A. I believe what I did was I copied
19 this part of the policy because really this is
20 just procedures.
21 Q. So the only thing you would share
22 with the public is the top part of the
23 policy? And we are referring back to

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1 discovery number 2. The first two paragraphs
 2 are the only paragraphs you would share with
 3 the public?
 4 A. That's all I shared with her.
 5 Q. Is --
 6 A. Because that's what's needed to
 7 change the sex on the license.
 8 Q. So if you look at the last page,
 9 discovery number 142, which is part of
 10 Plaintiff's Exhibit 36, she didn't think --
 11 she thought -- it looks like she didn't think
 12 that that was -- that you just created the
 13 policy that day?
 14 A. Right.
 15 Q. The reason you are saying is that
 16 you copied and pasted from the policy --
 17 A. Yes.
 18 Q. -- and put it into an email
 19 document?
 20 A. Uh-huh.
 21 MR. CHYNOWETH: You need to say yes
 22 or no.
 23 A. Yes.

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1 MR. BOONE: Okay. I'm going to --
 2 I think we need to take a break.
 3 (Break taken.)
 4
 5 Q. Okay. I'm going to look back at
 6 Plaintiff's Exhibit 35 and Plaintiff's
 7 Exhibit -- it should be 34. No.
 8 MR. ARKLES: Are you looking for 33
 9 and 32?
 10 Q. Oh, yes. I'm looking back at
 11 Plaintiff's Exhibit 32 and 33. This was the
 12 situation with the Maryland birth certificate,
 13 right?
 14 A. Yes.
 15 Q. If you never hear back from the
 16 individual from Maryland's government, what
 17 would you do?
 18 A. I told them to take the original to
 19 the driver's license office.
 20 Q. You told the applicant to take the
 21 original?
 22 A. Apparently so. That's what I wrote
 23 on there.

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1 Q. Did you write anything about the
 2 raised seal in your note?
 3 A. No.
 4 Q. Why did you bring up the raised
 5 seal?
 6 A. Because I've had others that will
 7 have a birth certificate, and I'll tell them
 8 to take it to the driver's license office so
 9 they can see the raised seal on it.
 10 Q. Do you have a history of receiving
 11 fraudulent birth certificates?
 12 A. Not that I'm aware of.
 13 Q. So why are you so adamant about
 14 raised seals?
 15 A. Because from that I can't tell
 16 anything. I mean, it's a copy. It's not
 17 coming from Maryland.
 18 Q. Even if there was a raised seal,
 19 would -- suppose there was a raised seal.
 20 Would you have made the change in the system?
 21 A. If I had the original birth
 22 certificate with the raised seal, yes.
 23 Q. Even if it didn't say amended?

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1 A. Yes. Some states --
 2 Q. So you --
 3 A. Sorry. Some states do not write
 4 amended on there I have found out.
 5 Q. So if you had a raised seal but it
 6 doesn't say amended, that's good enough for
 7 you to make the change in the system?
 8 A. Yes.
 9 Q. So you thought this birth
 10 certificate, Plaintiff's Exhibit 33, was
 11 fraudulent; is that correct?
 12 A. No, I didn't say I thought it was
 13 fraudulent.
 14 Q. Well, what are you saying then?
 15 A. I'm saying that is a copy, came
 16 through the fax, and they need to take it to
 17 the driver's license and show them the
 18 original that they got from Maryland.
 19 Q. What happens if the driver's
 20 license office sees that there's an original
 21 one from Maryland?
 22 A. They should change the sex or call
 23 me and say it has a raised seal and I would

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1 change it.
 2 Q. And you would change the sex,
 3 right?
 4 A. Yes.
 5 Q. Do you know -- I don't remember
 6 exactly. Do you know what happened here?
 7 A. If it was changed or not?
 8 Q. Yeah. Do you know if this was
 9 changed or -- or anything? Do you know what
 10 happened after 9-19 concerning the Maryland
 11 birth certificate situation?
 12 A. No.
 13 Q. Is it possible that the applicant
 14 never heard back from the driver's license
 15 office or ALEA?
 16 A. If they took it into the office,
 17 there wouldn't be anything for them to hear
 18 back from.
 19 Q. Who contacted that individual?
 20 A. I don't know if -- like I said, I
 21 don't know if that came from the driver's
 22 license office, they took it into the driver's
 23 license office, or they called me. I'm not

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1 sure.
 2 Q. So you're not sure --
 3 A. Because I don't know who that
 4 individual is, so I can't look at the driver's
 5 license to see what happened.
 6 Q. From what you can see today though,
 7 you're not sure if this applicant was ever
 8 contacted again, right?
 9 A. No. I couldn't say for sure.
 10 Q. It's possible this applicant was
 11 never heard from again?
 12 A. It's possible.
 13 Q. If you're coming from another
 14 state, what do you need to get an Alabama
 15 driver's license?
 16 A. If you're coming from another
 17 state?
 18 Q. Correct.
 19 A. Well, if you're transferring in
 20 from another state, you would transfer your
 21 other license. You would hand that over to
 22 Alabama. And you would show -- I believe you
 23 would show your Social Security card and your

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1 driver's license -- I mean, your birth
 2 certificate.
 3 Q. Do you have to have a birth
 4 certificate to get an Alabama driver's
 5 license?
 6 A. Yes, I believe so. I don't work in
 7 the exam office. But, yes, I believe you do
 8 have to.
 9 Q. Now, I know from personal
 10 experience that a passport can be also
 11 considered a primary document like a birth
 12 certificate. Does that sound right to you?
 13 A. Yes.
 14 Q. So you could use a passport in lieu
 15 of a birth certificate, correct?
 16 A. I believe so.
 17 Q. What do you know about the medical
 18 advisory board?
 19 A. It's a group of doctors that we
 20 have on a board that we contact if we need
 21 assistance or guidance.
 22 Q. Have you ever contacted any of the
 23 doctors?

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1 A. Yes.
 2 Q. How many times do you think?
 3 A. Not very often. Maybe three times
 4 a year.
 5 Q. Have you ever contacted any of the
 6 doctors on the medical advisory board about
 7 the policy order 63?
 8 A. No.
 9 Q. Why not?
 10 A. Because it's set out in the policy
 11 there. We don't -- there wasn't any need to.
 12 Q. I know earlier you said that you're
 13 not a doctor, but you would just make a
 14 decision based off your knowledge, right?
 15 A. Right.
 16 Q. You've never felt compelled to call
 17 a doctor regarding policy order 63?
 18 A. To call on the medical advisory
 19 board?
 20 Q. That's correct. You've never felt
 21 compelled to call on the medical advisory
 22 board --
 23 A. No.

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1 Q. -- regarding any of the
2 applications under policy order 63?
3 A. No.
4 Q. You said no, right?
5 A. Yes.
6 Q. I just wanted to -- has anyone in
7 the medical unit ever called the medical
8 advisory board to consult about policy order
9 63?
10 A. No.
11 Q. Do you know if the medical advisory
12 board was involved with crafting policy order
13 63?
14 A. I don't believe so.
15 Q. Do you know why not?
16 A. They're mostly for driver's
17 license, for the medical standards for
18 driver's licensing. It's more of the medical
19 of like endo, cardio, things we follow people
20 for that have conditions that might be
21 dangerous when they're driving.
22 Q. So you wouldn't contact them about
23 any of the different types of operations --

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1 A. No.
2 Q. -- that individuals have regarding
3 their sex and gender, right?
4 A. I've never contacted them.
5 Q. But you're not aware of those
6 procedures, right?
7 A. No.
8 Q. To your knowledge, how many
9 transgender people work at ALEA?
10 A. To my knowledge?
11 Q. To your knowledge.
12 A. One.
13 Q. Are you friendly with this person?
14 A. Yes.
15 Q. Does their transgender status have
16 any -- you know, does that change anything
17 about how you interact with them?
18 A. No.
19 Q. Have you heard -- ever heard anyone
20 at ALEA express their personal opinions about
21 transgender people?
22 A. I mean, there's been a conversation
23 before.

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1 Q. Can you give a little bit more
2 detail?
3 A. I mean, I was not in on the
4 conversation. I don't know. But I got an
5 email stating that it made somebody
6 uncomfortable, so I addressed it.
7 Q. What did the email state?
8 A. That they had -- this person had
9 friends that were transgender and that they
10 were uncomfortable at some of the
11 conversations I guess that was back there.
12 Q. Were the conversations -- would you
13 say that the conversations were anti-
14 transgender then?
15 A. I don't know. I wasn't there in on
16 them.
17 Q. What do you think would make
18 someone uncomfortable if they were transgender
19 about conversations at work?
20 A. I guess you would have to talk to
21 that person.
22 Q. You have no idea?
23 A. Well, different things make

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1 different people uncomfortable, so I couldn't
2 say. I can't speak for somebody else.
3 Q. Do you think that that person -- do
4 you doubt -- I'll retract.
5 Do you know who was a part of that
6 conversation?
7 A. No.
8 Q. Do you know what that conversation
9 was about?
10 A. Not really. Like I said, I just
11 got an email saying it was something that made
12 them feel uncomfortable.
13 Q. But it was relating to transgender
14 individuals?
15 A. I would assume since that's what it
16 said in the email, that they had friends that
17 were transgender.
18 Q. So it sounds like the person was
19 uncomfortable, but you're not sure if the
20 substance of the conversation was something to
21 make someone uncomfortable; is that right?
22 A. I don't know what the conversation
23 was, so I cannot answer that.

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1 Q. Would you be surprised to hear that
2 somebody was uncomfortable by a conversation
3 at ALEA?
4 A. I mean, anybody could be
5 uncomfortable about conversations, you know.
6 It could --
7 Q. And I know that you had to address
8 this email in your role as a supervisor; is
9 that right?
10 A. Yes.
11 Q. What did you tell the people who
12 work under you regarding this email that went
13 out?
14 A. I did not tell them I got an email
15 because the person wanted to stay anonymous,
16 so I did not state that I got an email. I
17 just addressed that they needed to be aware of
18 people around them and, you know, be -- I
19 can't think of the word I'm trying to say --
20 considerate to other people's feelings and not
21 to -- they don't need to discuss sex,
22 politics, religion in the workplace, that they
23 need to, you know, be considerate that they

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1 might hurt somebody's feelings or they may
2 make somebody uncomfortable.
3 Q. Was the person who was
4 uncomfortable someone who worked in your unit?
5 A. Yes.
6 Q. So the individuals in question that
7 were having the conversation that was arguably
8 causing discomfort, they work in your unit; is
9 that correct?
10 A. Yes.
11 Q. Who were those individuals?
12 A. Like I said, I was not there. I do
13 not know who was talking, so I cannot answer
14 that.
15 Q. You don't know who was having the
16 conversation?
17 A. No. They did not in -- the email
18 did not specify certain people.
19 Q. Did the email specify the person
20 who felt uncomfortable?
21 A. Well, it was an email from them,
22 yes.
23 Q. Who was that person?

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1 MR. CHYNOWETH: Answer the
2 question.
3 A. At the time -- do you want the name
4 at the time or the name now?
5 Q. Both.
6 A. Okay. The email was from Barry
7 Navarre.
8 Q. I'm sorry. What was the name?
9 A. Barry Navarre.
10 Q. Okay. Yeah, can you spell that?
11 A. Let me think. I always have to
12 write. N-A-V-A-R-R-E, I believe.
13 Q. N-A-V --
14 A. -- A-R-R-E.
15 Q. And the first name Barry, is it
16 spelled B-A-R-R-Y?
17 A. Yes.
18 Q. Is that the name that this
19 individual goes by now or is that the --
20 A. No. It's Layla. Same last name.
21 Q. So Barry Navarre goes by --
22 A. Layla.
23 Q. How do you spell that?

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1 A. L-Y -- L-A-Y-L-A, I think.
2 Q. L-A-Y-L-A?
3 A. Uh-huh.
4 Q. And Navarre is still the same?
5 A. Uh-huh.
6 Q. Does Layla still work in the
7 medical unit?
8 A. Well, CDL unit or the CDL part.
9 Q. Under your supervision though,
10 correct?
11 A. Yes.
12 Q. How did Layla feel about your
13 explanation to the group?
14 MR. CHYNOWETH: Object to the form.
15 A. I never heard anything else.
16 Q. Layla never said thank you?
17 A. Huh-uh.
18 MR. CHYNOWETH: Answer yes or no.
19 A. No.
20 Q. No, Layla never said thank you,
21 correct?
22 A. No.
23 Q. And Layla still works there --

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1 A. Yes.
 2 Q. -- right now in the CDL unit?
 3 A. Right.
 4 Q. Not the medical unit that does
 5 policy order 63 or anything?
 6 A. No.
 7 Q. How long has Layla worked with
 8 ALEA?
 9 A. I believe it may be -- I think
 10 maybe July will be two years, next July.
 11 Q. So about a year and a half you
 12 would say?
 13 A. Yeah, somewhere around there.
 14 Q. What do you think about transgender
 15 people?
 16 MR. CHYNOWETH: Can I object? Is
 17 this directed at her as 30(b)6 or as an
 18 individual?
 19 Q. As an individual.
 20 A. I mean, it's not for me to judge
 21 what people do. So, I mean, I have no
 22 problem.
 23 Q. You're saying you have no problem

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1 just -- I don't see how this is relevant to
 2 any claim or defense in this lawsuit.
 3 MR. BOONE: I'm trying to get at
 4 bias.
 5 MR. CHYNOWETH: You can ask your
 6 question.
 7 A. Okay. What was the question
 8 again?
 9 Q. Sure. You said -- first I said do
 10 you believe that someone who was assigned male
 11 at birth who identifies as female, who has had
 12 sex reassignment surgery is a woman? You've
 13 said yes to that, right?
 14 A. Yes.
 15 Q. And then I said why? I'll ask it
 16 now. Why?
 17 MR. CHYNOWETH: Object to the
 18 form. You may answer.
 19 A. Because they've had the surgery to
 20 change them.
 21 Q. Which surgery?
 22 MR. CHYNOWETH: Object to the form.
 23 A. I mean, all I can see is the

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1 with transgender people?
 2 A. Right.
 3 Q. Have your opinions about
 4 transgender people changed over time?
 5 A. I guess I never really thought
 6 about it a whole lot. I mean, they're
 7 individuals. I just try to be, you know, kind
 8 or whatever.
 9 Q. Do you believe that someone who was
 10 assigned male at birth who identifies as
 11 female and who has had sex reassignment
 12 surgery is a woman?
 13 A. Well, yeah, if they've had the
 14 surgery.
 15 Q. So if they've had the surgery they
 16 are a woman to you?
 17 A. Yes.
 18 Q. And what surgery would that be?
 19 MR. CHYNOWETH: Are you just asking
 20 her in her individual --
 21 MR. BOONE: That's right.
 22 MR. CHYNOWETH: I mean, I'm going
 23 to object to this line of questioning. I

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1 outside if I see somebody, what they dress
 2 like. I mean, I don't know what they've done,
 3 if I just run into somebody on the street, so
 4 I don't know how to answer.
 5 Q. But it does matter to you what
 6 they've had done, right, as you've just
 7 testified?
 8 MR. CHYNOWETH: Object to the form.
 9 Q. You said surgery matters to you
 10 whether or not they are a woman, right?
 11 MR. CHYNOWETH: Object to the form.
 12 A. But there could be somebody that
 13 hasn't had surgery that looks like a woman
 14 that I wouldn't know the difference, you
 15 know. I don't know what you're trying to get
 16 at.
 17 Q. I'll ask this. Do you believe that
 18 someone who was assigned female at birth who
 19 identifies as male and who has not had sex
 20 reassignment surgery, would you say that
 21 person is a man?
 22 MR. CHYNOWETH: Object to the form.
 23 A. If they haven't had the surgery?

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1 Q. This is someone who identifies as a
2 man but this man has not had surgery?
3 A. So it's a female that identifies as
4 a man?
5 Q. It's someone who was assigned --
6 I'll say it again. I'll go slowly.
7 Do you believe that someone who was
8 assigned female at birth, identifies as a man,
9 has not had sex reassignment surgery, do you
10 believe that person is a man?
11 MR. CHYNOWETH: Object to the form.
12 A. Not if they haven't had any
13 surgery.
14 Q. Do you have any concerns about
15 people transitioning gender?
16 MR. CHYNOWETH: Object to the form.
17 A. Like I said, it's not my place to
18 judge anybody.
19 Q. Do you have any concerns --
20 MR. CHYNOWETH: Object to the form.
21 Q. -- about people transitioning
22 gender?
23 A. No.

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1 Q. Do you know any transgender people
2 personally outside of work?
3 A. No.
4 Q. Do you have any religious beliefs
5 about people transitioning gender?
6 MR. CHYNOWETH: Object to the form.
7 A. I don't think my religious beliefs
8 are --
9 Q. Do you have any religious beliefs
10 about people transitioning gender?
11 MR. CHYNOWETH: Object to the form.
12 A. Well, if you're born a male, I
13 mean, your DNA never changes. You're still
14 going to be a male as far as that.
15 Q. Is that -- is that your religious
16 beliefs or is that your personal beliefs?
17 MR. CHYNOWETH: Object to the form.
18 A. I don't -- I don't think God makes
19 mistakes, but I don't know what a person has
20 been through or their mind-set or anything, so
21 --
22 Q. Would you say that someone
23 transitioning goes against God's creation?

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1 MR. CHYNOWETH: Object to the form.
2 A. It goes against what the Bible
3 says, I believe.
4 Q. If you knew someone that was
5 assigned male at birth but identifies as a
6 woman, would you be comfortable referring to
7 that person as miss, ma'am, and she?
8 MR. CHYNOWETH: Object to the form.
9 A. Okay. Man to a woman?
10 Q. That's right.
11 A. No, I have no problem with that.
12 Q. Do you refer to Layla -- what
13 pronouns do you use for Layla?
14 A. She.
15 Q. How did Layla identify, to your
16 knowledge, when she started working at ALEA?
17 A. As a male.
18 Q. Did she tell you at some point that
19 she would like to be -- tell me how -- how did
20 she come out to you?
21 A. She sent me an email.
22 Q. And what did that email say?
23 A. That she was I guess coming out.

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1 She was transgender. And she wanted to be
2 called Layla and referred to as, you know,
3 she, her.
4 Q. How did you let everyone know that
5 under you?
6 A. Well, first I went -- because I had
7 never dealt with anything like that before, so
8 I went and -- down to Diane's office. And
9 then I -- we called Pregno and I went up to
10 her office and told her. And apparently she
11 had already talked with Stan Goolsby, Layla
12 had, so Layla -- I mean, Pregno called Stan.
13 And so he handled letting everybody know
14 that's in the office, you know.
15 Q. Who is Stan Goolsby?
16 A. He's our -- what is his title --
17 MS. BARNES: Personnel director.
18 A. Personnel director.
19 Q. I think you said Layla contacted
20 Stan already?
21 A. Yes.
22 Q. How come you went straight to Deena
23 Pregno at the top skipping Duke and --

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1 A. Because I don't think he was there
2 that day.
3 Q. And what about Archer and the
4 other --
5 A. I don't think Archer was here then.
6 Q. Was there a reason you went to
7 Deena after Diane?
8 A. Well, I didn't tell Diane what -- I
9 just said we need -- I think we need to talk
10 to Deena -- I mean, Pregno about -- Chief
11 Pregno. Like I said, I had never --
12 Q. What did Stan Goolsby, the
13 personnel director, tell everyone that works
14 under you and works with Layla?
15 A. I can't remember the whole
16 conversation -- I mean, the whole meeting, but
17 that we had a transgender in the office or in
18 driver's license and, you know, just --
19 Q. Just to be aware of it?
20 A. Yeah, because they were changing
21 the bathrooms I think to -- what's it called?
22 I can't think of words right now. Unisex
23 bathrooms I guess.

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1 Q. What do you think about them
2 changing the bathrooms?
3 MR. CHYNOWETH: Object to the form.
4 A. I didn't have any problem with it.
5 Q. So the employees working under you
6 knew about the transition obviously from Barry
7 to Layla, right?
8 A. Yeah, after we had the meeting and
9 everything.
10 Q. And when did the uncomfortable
11 conversation occur?
12 A. That was before then.
13 Q. That uncomfortable conversation
14 happened before Layla ever told you about --
15 A. Uh-huh.
16 Q. And the uncomfortable conversation
17 happened before Layla spoke with Stan Goolsby?
18 A. Yes.
19 Q. Would you have any concerns if you
20 heard that a transgender person was a teacher
21 in the elementary school in the school
22 district where you live?
23 MR. CHYNOWETH: Object to the form.

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1 A. No, I don't think so.
2 Q. You don't think so?
3 A. Huh-uh.
4 Q. Are you --
5 MR. CHYNOWETH: Answer yes or no.
6 A. No.
7 Q. Are you aware of any problems that
8 may arise with transgender people who have a
9 sex listed on their driver's license that's
10 different than the sex they identify with?
11 A. I mean, I can see where it might
12 cause some problems.
13 Q. Like?
14 A. But it's not every day that you're
15 showing your driver's license to people. I
16 mean, I don't just get my driver's license out
17 and show it, you know, everywhere I go, so --
18 Q. You do show your driver's license
19 sometimes, right?
20 A. Yeah, but not --
21 Q. You would show it if you got pulled
22 over by a police officer, for example?
23 A. Oh, yeah.

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1 Q. And you think that would cause some
2 problems, right?
3 A. Well, this day and time I think
4 officers are aware of different situations,
5 and as long as the picture and the -- you
6 know, what they're dressed like matches I
7 don't see where it would -- they should have a
8 problem.
9 Q. So you think sex might not be
10 necessary on driver's licenses?
11 MR. CHYNOWETH: Object to the form.
12 A. I didn't say that.
13 Q. Do you think that sex might not be
14 necessary then on driver's licenses?
15 MR. CHYNOWETH: Object to the form.
16 A. I think it's an identifying thing
17 that needs to be on there.
18 Q. How so?
19 A. Well, I guess on the side of law
20 enforcement not just getting pulled over but
21 if somebody was killed or something.
22 MR. CHYNOWETH: I'm sorry. This is
23 outside of the scope of this witness' 30(b)(6)

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1 topics.

2 Q. Have you heard Deena Pregno express

3 any opinions about transgender people?

4 A. No.

5 Q. Have you heard Diane Woodruff

6 express any opinions about transgender

7 people?

8 A. No.

9 Q. Have you heard Jerrolynn Spencer

10 express any opinions about transgender people?

11 A. No.

12 Q. What training do driver's license

13 examiners and specialists receive on

14 interacting with transgender members of the

15 public?

16 A. I don't know if there's any special

17 training. They are just supposed to treat

18 them like -- accept for documents.

19 Q. Can you say that again or be a

20 little bit more specific? So there's no

21 training for transgender members to how to

22 interact with transgender members of the

23 public?

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1 A. Not that I'm aware of.

2 Q. To your knowledge, has anyone

3 within the agency ever been reprimanded for

4 interacting disrespectfully with a transgender

5 person?

6 A. Not to my knowledge.

7 Q. Was anyone -- no one was

8 reprimanded whenever Layla expressed concerns

9 about being uncomfortable at work?

10 A. No.

11 Q. Why not?

12 A. There was no specific person

13 identified in the email.

14 MR. BOONE: Okay. One last break.

15 (Break taken.)

16 MR. BOONE: We have nothing

17 further.

18 (Defendant's Exhibit Number 27 was

19 marked for identification. A copy

20 is attached.)

21

22 EXAMINATION

23 BY MR. CHYNOWETH:

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1 Q. I have just a few questions for

2 you, Jeannie.

3 A. Okay.

4 Q. Did you or have you or anyone else

5 in the medical unit ever called a doctor's

6 office to follow up on a letter requesting a

7 sex change on a driver's license?

8 A. Yes.

9 Q. Have you or anyone else in the

10 medical unit ever asked someone at a doctor's

11 office whether a sex reassignment procedure

12 has been performed?

13 A. Yes.

14 Q. Did anyone at the doctor's office

15 on any occasion that you are aware of ever say

16 what do you mean by sex reassignment

17 procedure?

18 A. No.

19 Q. Did anyone at a doctor's office

20 ever say what procedures do you mean by sex

21 reassignment surgery?

22 A. No.

23 Q. Did you gather together some

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1 medical documentation of other people in

2 response to discovery requests directed by

3 plaintiffs to you in this lawsuit?

4 A. Yes.

5 Q. Were these medical records of

6 people who had requested a sex change on their

7 Alabama driver's license?

8 A. Yes.

9 Q. Would the best evidence of what

10 documentation we considered sufficient to

11 change the sex on your license be contained in

12 the medical records we've produced?

13 A. Yes.

14 Q. Are there other medical conditions

15 unrelated to sex changes in which you have

16 contacted a doctor's office to ask questions

17 about documentation?

18 A. Yes.

19 Q. Can you give some examples?

20 A. Yes. Like if we get one report one

21 year saying that they had had a seizure or

22 passed out, loss of consciousness, and then

23 the next paper did not say that, then we might

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1 contact them to see what the last date of
2 episode was. Or if they mark the form saying
3 yes, they've had one, then we might call to
4 see when the last episode was.
5 Q. And in a situation like that if you
6 were to ask the doctor's office when the last
7 episode was, would they ever say what do you
8 mean by episode?
9 A. No.
10 Q. Is it possible that different
11 doctors might mean different things by
12 episode?
13 A. No, I don't believe so.
14 Q. When you use these medical terms in
15 speaking with the doctor's office do they
16 indicate to you whether they understand what
17 you're asking for?
18 A. Yes. They don't ask what I'm
19 asking for.
20 Q. Were you asked about letters from
21 doctors regarding the plaintiff in this
22 lawsuit named Destiny Clark?
23 A. Yes.

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1 Q. Do you recall the number of pages
2 of documents you were asked about by the
3 plaintiff's lawyer when you were asked about
4 those documents?
5 A. Two.
6 Q. I'm going to put Defendant's
7 Exhibit 27 into the record. Can you state the
8 number of documents I've given to you and
9 please read the Bates label in the bottom
10 right corner?
11 A. This?
12 Q. Yes. Can you read those?
13 A. It's 283, 284, and 285.
14 Q. Can you tell me the date at the top
15 of document 283?
16 A. January 15th of 2016.
17 Q. Now, do you recall any conversation
18 with Destiny Clark prior to receiving this
19 letter, or do you only remember receiving this
20 letter?
21 A. I just remember the letter. I
22 don't remember.
23 Q. Do you see a number written on this

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1 document --
2 A. Yes.
3 Q. -- at the top? What would that
4 number be?
5 A. Driver's license number.
6 Q. What would that indicate to you in
7 connection with this doctor's letter?
8 A. I don't know what you mean.
9 Q. Does that give you any indication
10 as to the purpose of this doctor's letter?
11 A. We put the license number up there
12 to identify whose file it needs to go under
13 when we scanned it into the Paper Vision
14 System.
15 Q. Would that be because this letter
16 was provided in connection with a request to
17 change sex on a license?
18 A. Yes.
19 Q. Can you tell me why -- did you find
20 this January 15th, 2016, letter to meet the
21 criteria for a sex change set out in policy
22 order 63?
23 A. No.

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1 Q. Can you explain why not?
2 A. Because it states that they
3 performed a thorough physical examination and
4 did not say that they performed the surgery.
5 Q. Can you turn to the next page?
6 A. (Witness complies.)
7 Q. What is the date on this document?
8 A. March 31st of '16.
9 Q. So this is approximately two months
10 after first doctor's letter?
11 A. Yes.
12 Q. And is it from the same doctor or a
13 different doctor as contained in the first
14 letter?
15 A. The same doctor.
16 Q. Now, did the first letter state
17 that the doctor was the doctor that performed
18 the procedure?
19 A. No.
20 Q. Why -- we've been over this, so
21 just briefly why did you find this second
22 letter to be insufficient, based on your
23 handwritten note at the top?

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1 A. Because he did not perform -- state
2 that he performed the surgery, that he just
3 examined her.
4 Q. And can you turn to the third
5 document? And is this document D2 --
6 A. 285.
7 Q. -- 85?
8 A. Uh-huh.
9 Q. And is this from the same doctor or
10 a different doctor as in the first two
11 documents?
12 A. This is from a different doctor.
13 Q. Do you have any recollection as to
14 why you would have obtained a third letter
15 from a second doctor in connection with this
16 sex change request?
17 A. Because they wanted to have the sex
18 changed on the license.
19 Q. Do you recall anything about the --
20 do you remember any of the conversations with
21 Destiny Clark that would have led you to
22 obtaining this third --
23 A. No.

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1
2 (The deposition of JEANNIE EASTMAN,
3 concluded on November 13, 2018, at
4 4:34 p.m.)
5
6 FURTHER DEPONENT SAITH NOT
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1 Q. -- letter? And, again, briefly
2 based on your written -- handwritten notes
3 there at the top, why was this document
4 insufficient under our policy for changing
5 Destiny Clark's sex?
6 A. Because it did not state that they
7 performed the irreversible complete surgery.
8 It just said a surgical procedure was done.
9 Q. And I know you were asked this
10 earlier, but again do you recall the
11 conversation you had with the doctor's office
12 after you received the letter?
13 A. I really don't recall the whole
14 conversation. In my notes I asked them if
15 they had completed the surgery, and they said
16 no.
17 Q. And, again, you don't recall anyone
18 at the doctor's office saying what do you mean
19 by gender reassignment surgery?
20 A. No.
21 MR. CHYNOWETH: No further
22 questions.
23 MR. BOONE: No further questions.

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1 REPORTER'S CERTIFICATE
2 STATE OF ALABAMA)
3 JEFFERSON COUNTY)
4 I, Elaine Scott, Licensed Court
5 Reporter and Commissioner for the State of
6 Alabama at Large, hereby certify that on
7 November 13, 2018, I reported the deposition
8 of JEANNIE EASTMAN, who was first duly sworn
9 to speak the truth in the matter of the
10 foregoing cause, and that pages 1 through 160
11 contain a true and accurate transcription of
12 the examination of said witness by counsel for
13 the parties set out herein.
14 I further certify that I am neither
15 of kin nor of counsel to any of the parties to
16 said cause nor in any manner interested in the
17 results thereof.
18 _____
19 ELAINE SCOTT, Court Reporter
20 and Commissioner for the State
21 of Alabama at Large,
22 CCR License No. 354, Expires 9/30/18
23 MY COMMISSION EXPIRES NOVEMBER 16, 2019

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Exhibit 5

Deposition of Deena Pregno

In The Matter Of:

*Darcy Corbitt, Destiny Clark, and Jane Doe v.
Hal Taylor, etc., et al.*

*Deena Pregno
November 14, 2018*

*Baker Realtime Worldwide Court Reporting & Video
250 Commerce Street
Third Floor, Suite One
Montgomery, Alabama 36104
www.BakerRealtime.com*

Page 1

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT OF ALABAMA
3 NORTHERN DIVISION
4
5 CIVIL ACTION NO.: 2:18-CV-00091-MHT-GMB
6
7 DARCY CORBITT, DESTINY CLARK, and JANE DOE,
8 Plaintiffs,
9 v.
10 HAL TAYLOR, in his official capacity as
11 Secretary of the Alabama Law Enforcement
12 Agency, et al.
13 Defendants.
14
15 DEPOSITION OF DEENA PREGNO
16 November 14, 2018
17
18 Taken before Elaine Scott, CCR,
19 Commissioner for the State of Alabama at
20 Large, in the Law Offices of the Alabama
21 Attorney General, 501 Washington Avenue,
22 Montgomery, Alabama, on Thursday, November 14,
23 2018, commencing at approximately 9:00 a.m.

Page 3

1 A P P E A R A N C E S (continued)
2
3 ALSO PRESENT:
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5
6 COURT REPORTER:
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10 Third Floor, Suite One
11 Montgomery, Alabama 36104
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16
17
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22
23

Page 2

1 A P P E A R A N C E S
2
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18 ALABAMA
19 Brad A. Chynoweth
20 501 Washington Avenue
21 Montgomery, Alabama 36130
22
23

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<p style="text-align: right;">Page 5</p> <p>1 S T I P U L A T I O N S</p> <p>2 It is hereby stipulated and agreed by</p> <p>3 and between counsel representing the parties</p> <p>4 that the deposition of DEENA PREGNO is taken</p> <p>5 pursuant to stipulation and agreement; that</p> <p>6 all formalities with respect to procedural</p> <p>7 requirements are waived; that said deposition</p> <p>8 may be taken before Elaine Scott, Certified</p> <p>9 Court Reporter and Commissioner for the State</p> <p>10 of Alabama at Large, without the formality of</p> <p>11 a commission; that objections to questions</p> <p>12 other than objections as to the form of the</p> <p>13 questions need not be made at this time but</p> <p>14 may be reserved for a ruling at such time as</p> <p>15 the deposition may be offered in evidence or</p> <p>16 used for any other purpose as provided for by</p> <p>17 the Alabama Rules of Civil Procedure.</p> <p>18 It is further stipulated and agreed</p> <p>19 by and between counsel representing the</p> <p>20 parties that the filing of the deposition may</p> <p>21 be introduced at the trial of this case or</p> <p>22 used in any manner by either party hereto</p> <p>23 provided for by the Statute.</p>	<p style="text-align: right;">Page 7</p> <p>1 please state your full name and title for the</p> <p>2 record?</p> <p>3 A. Deena Lee Pregno, ALEA chief,</p> <p>4 driver's license division.</p> <p>5 Q. Could you just spell out ALEA for</p> <p>6 the first time?</p> <p>7 A. A-L-E-A, Alabama Law Enforcement</p> <p>8 Agency.</p> <p>9 Q. Thank you. Have you been deposed</p> <p>10 before?</p> <p>11 A. Yes.</p> <p>12 Q. Around how many times have you been</p> <p>13 deposed?</p> <p>14 A. Five maybe.</p> <p>15 Q. And could you tell me just a little</p> <p>16 bit about what those cases were about?</p> <p>17 A. Criminal cases, DUIs, and then the</p> <p>18 motor voter case. Those were the -- that was</p> <p>19 the big one, motor voter.</p> <p>20 Q. No cases about transgender</p> <p>21 issues --</p> <p>22 A. No.</p> <p>23 Q. -- right?</p>
<p style="text-align: right;">Page 6</p> <p>1 It is further stipulated and agreed</p> <p>2 by and between the parties hereto and the</p> <p>3 witness that the signature of the witness to</p> <p>4 this deposition is hereby waived.</p> <p>5</p> <p>6 DEENA PREGNO,</p> <p>7 The witness, having first been duly</p> <p>8 sworn or affirmed to speak the truth, the</p> <p>9 whole truth and nothing but the truth,</p> <p>10 testified as follows:</p> <p>11</p> <p>12 THE COURT REPORTER: Usual</p> <p>13 stipulations?</p> <p>14 (Affirmed by counsel.)</p> <p>15</p> <p>16 EXAMINATION</p> <p>17 BY MR. ARKLES:</p> <p>18 Q. Good morning.</p> <p>19 A. Good morning.</p> <p>20 Q. I'm Gabriel Arkles. I'm one of the</p> <p>21 attorneys for the plaintiffs in the lawsuit</p> <p>22 Corbitt v. Taylor, which is a lawsuit in which</p> <p>23 you are one of the defendants. Could you</p>	<p style="text-align: right;">Page 8</p> <p>1 A. No.</p> <p>2 Q. Okay. So you probably already know</p> <p>3 some of how this goes, but I'm going to give</p> <p>4 you a few instructions at the beginning just</p> <p>5 so we're clear. So, first of all, just to</p> <p>6 make sure that everything is clear on the</p> <p>7 transcript, please answer everything verbally</p> <p>8 rather than nodding or shaking your head or</p> <p>9 saying uh-huh or huh-uh. Is that okay?</p> <p>10 A. Okay.</p> <p>11 Q. And please let me know if you don't</p> <p>12 understand anything about my questions.</p> <p>13 A. Okay.</p> <p>14 Q. You can always ask for a break. I</p> <p>15 just ask that if I have asked you a question</p> <p>16 you answer the question first before we take a</p> <p>17 break.</p> <p>18 A. Okay.</p> <p>19 Q. And please wait until I finish</p> <p>20 asking a question before you answer, even if</p> <p>21 you think you know what I'm about to say, just</p> <p>22 again so it's clear for the record.</p> <p>23 A. Okay.</p>

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1 Q. And feel free to let me know at any
2 time if you need to supplement or clarify an
3 earlier answer.
4 A. Okay.
5 Q. Is there any reason why you would
6 not be able to answer questions fully and
7 accurately today?
8 A. No.
9 Q. Is it your understanding that
10 you're testifying on behalf of the Alabama Law
11 Enforcement Agency today?
12 A. Yes.
13 Q. Are you prepared to testify
14 regarding ALEA's interest in policy order 63?
15 A. Yes.
16 Q. Are you prepared to testify
17 regarding the process of creating policy order
18 63 today?
19 A. Yes.
20 Q. Are you prepared to testify
21 regarding the government interest in policy
22 order 63?
23 A. Yes.

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1 Q. Are you prepared to testify
2 regarding the responses to interrogatories
3 produced by defendants in this case?
4 A. Yes.
5 Q. And are you prepared to testify
6 about responses to requests for production
7 made in this case?
8 A. Yes.
9 Q. What did you do to prepare for the
10 deposition today?
11 A. I met with counsel. I met with
12 Jeannie Eastman and talked with a group --
13 some individuals in our information technology
14 group to produce the documents requested. And
15 I've talked with some other -- some of my
16 coworkers, other law enforcement officers.
17 Q. And what did you talk to your
18 colleagues about?
19 A. Just to ask them how they felt
20 about interactions with subjects on the
21 roadway and how important they felt like the
22 sex designation should or should not be on the
23 license.

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1 Q. Okay. And was there anything else
2 that you talked about with them?
3 A. No.
4 Q. Did you review any documents or
5 records in preparation for today?
6 A. The policy and statute and emails
7 that were provided by counsel.
8 Q. Do you know if those emails were
9 emails that were produced in response to the
10 request for production?
11 A. Yes, they were.
12 Q. Okay. Were there any documents
13 that you reviewed that have not already been
14 produced to us, to your knowledge?
15 A. No.
16 Q. Okay. And when you say you
17 reviewed the statute, could you tell me which
18 statute you mean?
19 A. Alabama statute which talks about
20 what we require, excuse me, on a driver's
21 license.
22 Q. Okay. And so the Alabama statute
23 about the information that is required to be

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1 shown on a driver's license?
2 A. Correct.
3 Q. Okay. And so one last
4 instruction. Unless I say otherwise, when I
5 ask you a question I'm asking for your
6 testimony on behalf of ALEA. So I'll tell you
7 if I want your testimony as yourself
8 personally, but if you're ever not sure, then
9 please just let me know.
10 A. Okay.
11 Q. So now I'm going to ask you a few
12 questions about your background and these are
13 questions about you personally.
14 A. Okay.
15 Q. Could you tell me about your
16 educational background after high school?
17 A. I have a bachelor's degree in
18 business administration and a minor in
19 computer information technology.
20 Q. And where did you receive that?
21 A. Troy University. I'm sorry. I'm
22 fighting a cold. Pass me a bottle of water.
23 Thank you.

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1 Q. No worries. And is that the
2 highest degree you've received?
3 A. Yes. I started graduate, but I
4 didn't finish.
5 Q. What were your graduate studies in?
6 A. MBA.
7 Q. And do you have any certifications?
8 A. What kind of certifications would
9 you be --
10 Q. Any sort of professional
11 certifications.
12 A. I used to hold a manicurist
13 license, but it has expired since.
14 Q. Thank you. And what was your first
15 job after high school?
16 A. After high school, I was a waitress
17 at Country's Barbecue. I was a day care
18 worker. I painted buildings. And then I
19 started my state career at the Department of
20 Forensic Sciences in 1987, I believe.
21 Q. Okay. So you began your state
22 career in 1987 in the Department of Forensic
23 Sciences. Did I hear that right?

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1 A. That's correct.
2 Q. And what was your position at that
3 time?
4 A. I was administrative personnel. I
5 would receive and log physical evidence for
6 criminal cases.
7 Q. And how long were you in that
8 position?
9 A. Ten years.
10 Q. Did you receive promotions during
11 those ten years?
12 A. I did receive a reclassification
13 from an administrative assistant to like an
14 office manager type position.
15 Q. Do you remember around when that
16 was?
17 A. I do not.
18 Q. Do you think it was maybe -- do you
19 think it was more than five years into your
20 time there?
21 A. Yes.
22 Q. More than eight years into your
23 time there roughly?

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1 A. I couldn't say.
2 Q. Fair enough.
3 A. Sorry.
4 Q. And did your responsibilities
5 change over the course of those ten years?
6 A. Yes. I had more responsibility.
7 Q. What were the additional
8 responsibilities?
9 A. I was in charge of payroll,
10 processing of assistants' pay, ordering of
11 supplies, and other things needed by the lab.
12 Q. And could you tell me what the
13 Department of Forensic Sciences does?
14 A. They process evidence in criminal
15 cases.
16 Q. Thank you. And after those ten
17 years what was your next position?
18 A. State trooper training.
19 Q. So that would have been in 1997
20 that you started state trooper training?
21 A. It was November of 1996. I just
22 had my twenty-two year anniversary.
23 Q. All right. And how long were you

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1 in state trooper training?
2 A. Approximately four months.
3 Q. What was your position after that?
4 A. State trooper.
5 Q. And what were your responsibilities
6 as a state trooper?
7 A. Highway patrol, traffic control,
8 crashes, investigating incident or offenses
9 and filing reports for those.
10 Q. And where were you located at that
11 time?
12 A. My first assignment was Chilton
13 County.
14 Q. How long did that assignment last?
15 A. Two years, I believe.
16 Q. And where were you assigned after
17 Chilton County?
18 A. Montgomery County.
19 Q. And how long did you serve as a
20 state trooper in Montgomery County?
21 A. I believe it was an additional
22 year.
23 Q. And did you responsibilities

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1 change significantly over those three years?
2 A. No.
3 Q. And what was your next position
4 after --
5 A. Corporal. State trooper corporal.
6 Q. Okay. Just a reminder to let me
7 finish.
8 A. I'm sorry.
9 Q. So you were a state trooper
10 corporal, and was that still in Montgomery
11 County?
12 A. Yes.
13 Q. And that would have been in 1999?
14 A. No. I graduated the academy in
15 1990 -- I started in '96 and graduated in '97.
16 Q. So then you would have become state
17 trooper corporal in the year 2000?
18 A. That sounds about right.
19 Q. And what were your responsibilities
20 at that time?
21 A. First line supervisor of the
22 highway patrol, troopers.
23 Q. And so during that time were you

Page 18

1 still carrying out the responsibilities that
2 you did as a state trooper in addition to your
3 supervisory role?
4 A. Not full-time but, yes, we still
5 worked traffic and crashes.
6 Q. Okay. Great. And how long were
7 you a state trooper corporal?
8 A. Two to three years.
9 Q. And what was your next position
10 after that?
11 A. I went to the protective services
12 division on the lieutenant governor's detail.
13 Q. And what was your rank at that
14 time?
15 A. Corporal.
16 Q. And what were your duties as
17 corporal in the protective services division?
18 A. Provide the personal protection for
19 the lieutenant governor and did advanced work
20 for events that she would be attending.
21 Q. Okay. And how long was that your
22 role?
23 A. Two years.

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1 Q. What was your next position after
2 that?
3 A. Sergeant, protective services
4 division.
5 Q. And would that have been around
6 2005?
7 A. I believe so. I'm sorry. It's
8 hard for me to keep up with it.
9 Q. It's all right for you to give an
10 estimate. So you think around 2005 you became
11 a sergeant in the protective services
12 division?
13 A. Yes.
14 Q. And how did your responsibilities
15 change, if at all?
16 A. I was the unit commander over the
17 protective services.
18 Q. And what was your next assignment
19 or rank after that?
20 A. It would have been lieutenant as a
21 special projects coordinator.
22 Q. What does special projects
23 coordinator mean?

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1 A. I was charged with building our new
2 academy in Selma, the training facility. We
3 built a new training facility.
4 Q. And were you in charge of
5 overseeing the -- I'll retract that. What
6 aspects of building a new facility did you
7 have responsibility for?
8 A. Working with the contractors,
9 making sure the bids were submitted, working
10 with the Alabama Building Commission to make
11 sure we were meeting all their standards, and
12 just overseeing the project itself.
13 Q. And do you remember around what
14 year you became lieutenant in the special
15 projects?
16 A. '09 maybe, 2009. I'm not
17 completely sure. Sorry.
18 Q. Around 2009. And then what was
19 your next assignment?
20 A. Captain.
21 Q. And were you still --
22 A. Actually -- go ahead. I'm sorry.
23 Q. Were you still in special projects

Page 21

1 when you became a captain?
2 A. No. I was transferred from special
3 projects back to Montgomery Highway Patrol,
4 and I was there maybe a year. Then I made
5 captain in 2010 I believe.
6 Q. So you were transferred from
7 special projects back to Montgomery Highway
8 Patrol when you were still a lieutenant; is
9 that right?
10 A. Correct, uh-huh.
11 Q. Okay. And then you made captain in
12 around 2010 when you were at Montgomery
13 Highway Patrol?
14 A. I was promoted in the services
15 division.
16 Q. And can you tell me what the
17 services division is?
18 A. I refer it to planes, trains, and
19 automobiles. It's over aviation, inventory,
20 fleet maintenance, the academy and training,
21 supplies, uniforms, things like that.
22 Q. So what were your responsibilities
23 with regard to all of those things?

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1 A. Overseeing the operations of the
2 subdivision itself.
3 Q. Okay. And what was the next step
4 in your career after that?
5 A. It would have been ALEA chief.
6 Q. Okay. And when did you become the
7 ALEA chief?
8 A. January of 2015.
9 Q. And what subdivision of ALEA are
10 you over?
11 A. Driver's license division.
12 Q. And you stayed in -- and is your
13 current role chief of the driver's license
14 division in ALEA?
15 A. Yes.
16 Q. And what are your responsibilities
17 in that role?
18 A. Oversee the operations of the
19 driver's license division.
20 Q. And who do you report to?
21 A. Colonel Charles Ward.
22 Q. How many people report directly to
23 you?

Page 23

1 A. Two.
2 Q. And who are those people?
3 A. An ASA and Captain John Archer.
4 Q. And what does ASA stand for?
5 A. Oh, I'm sorry. Administrative
6 assistant.
7 Q. And what's the name of the ASA
8 who's assigned to you?
9 A. Mona Lisa Hall.
10 Q. And who held that position of chief
11 of the driver's license division before you
12 did?
13 A. Major Terry Chapman.
14 Q. And do you know how long Major
15 Chapman was in that role?
16 A. I couldn't say.
17 Q. Do you know who was in the role
18 before Major Chapman?
19 A. Not definitively I can't say. It
20 could have been Major Roscoe Howell. I'm
21 not -- not completely sure who it was.
22 Q. Okay. Thank you. And in your
23 position now as chief, do you have the

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1 authority to make policy?
2 A. Yes. As long as it's vetted
3 through legal, but --
4 Q. So you have the authority to make
5 policy, but any policy that you make would be
6 vetted by the legal department --
7 A. Yes.
8 Q. -- before it goes into effect?
9 A. Yes.
10 Q. Okay. I'm going to show you the
11 document marked Plaintiff's Exhibit 7. This
12 is D1 and 2. And do you recognize what's on
13 the first page of this?
14 A. Yes.
15 Q. Could you tell us what it is?
16 A. It's Department of Public Safety
17 policy order number 63.
18 Q. And what's the issue date on that
19 policy?
20 A. 9 --- it says revised date 9-1 of
21 2012.
22 Q. Okay. And so this policy would
23 have been revised before you came on as chief,

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1 correct?
2 A. Yes.
3 Q. Okay. So I'm now going to shift to
4 asking you questions in your capacity as
5 ALEA. So let's look at the second page now.
6 This is D2. Do you recognize this document?
7 A. Yes.
8 Q. Can you tell us what this is?
9 A. It is the same policy, revised and
10 changed. This is policy 63.
11 Q. Is this the policy that's currently
12 in effect?
13 A. Yes.
14 Q. And on what date was this policy
15 issued?
16 A. I'm not completely sure.
17 Q. Do you have an approximate date
18 when you think that it was most recently
19 revised?
20 A. Late 2015, 2016.
21 Q. Okay. I'm just going to ask that
22 again because I think we talked over each
23 other a little bit. Do you have an

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1 approximate date of when you think this policy
2 was most recently reviewed?
3 A. Late 2015 or early 2016.
4 Q. Okay. Are there any other written
5 or unwritten policies currently in effect
6 regarding sex designations on Alabama driver's
7 licenses?
8 A. No.
9 Q. And was this policy, the most
10 recent policy, issued under your authority?
11 A. Yes.
12 Q. Did you personally approve this
13 policy before it went into effect?
14 A. Yes.
15 Q. I'm now going to show you what's
16 marked as Plaintiff's Exhibit 4. Can you tell
17 us what this policy is?
18 A. It's policy order 63, revised date
19 July 1, 2015.
20 Q. So is this the policy that was in
21 effect most recently before the one that you
22 just reviewed that was D2?
23 A. Yes.

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1 Q. Okay. And was the policy at D1
2 with revised date 2012 the most recent version
3 of the policy before Plaintiff's Exhibit 4?
4 A. Yes.
5 Q. Okay. And did the policy with
6 revised date July 1st, 2015, Plaintiff's
7 Exhibit 4, did that -- I'm sorry. Was this
8 policy issued under your authority?
9 A. Yes.
10 Q. Did you personally review it before
11 it went into effect?
12 A. Yes.
13 Q. What was the policy for changing
14 the sex designation on a driver's license
15 prior to September 1st, 2012?
16 A. There was no policy per se. There
17 was an unwritten procedure that was basically
18 the same as this policy. But prior to that we
19 did not have a lot of requests, so when we
20 started receiving more requests then that was
21 how the policy came into being.
22 Q. So on D1 in Plaintiff's Exhibit 7,
23 when it says revised date, is it referring to

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1 revising the unwritten procedure?
2 A. I'm not sure if it's the revised
3 date or the actual date it was established.
4 Q. So it says revised date, right?
5 A. Correct.
6 Q. But you think that it might have
7 actually meant the effective date?
8 A. Yes.
9 Q. Could you describe what the
10 unwritten procedure was prior to the 2012
11 policy?
12 A. Basically anyone seeking to change
13 their sex on their driver's license would have
14 to show either an amended birth certificate
15 and a proof of gender reassignment surgery
16 from the doctor who performed the surgery
17 saying it had been completed on their
18 letterhead.
19 Q. And when was that unwritten
20 procedure first developed?
21 A. I can't say.
22 Q. Was there any written or unwritten
23 policy or procedure prior to the unwritten

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1 procedure you just described to me?
2 A. Not to my knowledge.
3 Q. In the unwritten procedure that you
4 just described was an amended birth
5 certificate and a letter from a doctor who
6 performed gender reassignment surgery
7 required?
8 A. Correct.
9 Q. So under the unwritten procedure
10 one could not change the sex designation on
11 one's driver's license with only a letter from
12 a physician stating that one had gender
13 reassignment surgery; is that right?
14 A. According to policy. I've been
15 told that they did make concessions, if they
16 were unable to get an amended birth
17 certificate, that they would go ahead and
18 change the designation if they provided proof
19 of surgery. That's how the new policy came
20 into being was to allow more latitude.
21 Q. So prior to policy order 63,
22 generally people had to produce both an
23 amended birth certificate and a letter from a

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1 physician, but sometimes exceptions were made;
2 is that fair?
3 A. That's fair.
4 Q. And one change in the creation of
5 policy order 63 was to make it possible for
6 people to change the sex designation on their
7 license with either of those documents and not
8 both; is that right?
9 A. Correct.
10 Q. Were there any other changes
11 between the unwritten policy or -- I'm sorry.
12 Were there any other changes between the
13 unwritten procedure and the first version of
14 policy order 63?
15 A. No.
16 Q. I am going to show you a document
17 that is marked Plaintiff's Exhibit 37.
18 (Plaintiff's Exhibit Number 37 was
19 marked for identification. A copy
20 is attached.)
21 Q. This is a letter to Lisa Mottet,
22 last name spelled M-O-T-T-E-T, from Michael W.
23 Robinson, spelled R-O-B-I-N-S-O-N. And could

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1 you describe this document?
2 A. It's a letter from our legal unit.
3 Q. Have you ever seen this letter
4 before?
5 A. No, I have not.
6 Q. Could you please read the date on
7 this document?
8 A. September 9, 2004.
9 Q. Could you read this letter starting
10 from our policy is as follows at the end of
11 the first paragraph out loud, please?
12 A. Names on drivers' licenses can be
13 changed upon receipt of court-ordered name
14 change affidavits. However, the sex on a
15 driver's license is not changed prior to the
16 completion of a successful surgery and then
17 the attending physician or a physician who has
18 knowledge of your medical condition and has
19 examined you must submit acceptable
20 documentation attesting to the success of the
21 surgery, medical advisory board opinion. In
22 essence the sex on the driver's license will
23 only be changed upon successful completion of

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1 surgery and with corresponding documentation
2 from the attending physician who has knowledge
3 of the success of the surgery.
4 Q. Thank you. Is that, in fact, a
5 policy that was in effect in 2004?
6 A. Yes.
7 Q. Who created that policy?
8 A. I'm not aware.
9 Q. Could you tell me what the medical
10 advisory board is?
11 A. It's a medical advisory board
12 established through statute.
13 Q. And what is a medical advisory
14 board opinion?
15 A. They get opinions based on
16 conditions we follow, such as people who
17 suffer seizures or unconsciousness to say
18 whether or not they are able to drive or how
19 long they should be under the physician's care
20 before they are given the responsibility to
21 drive.
22 Q. Is the medical advisory board
23 opinion policy?

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1 A. I'm not sure what you mean by the
2 question.
3 Q. So once ALEA receives a medical
4 advisory board opinion, do any further steps
5 need to be taken before it comes into effect
6 as a policy?
7 A. The policy would have to be
8 created.
9 Q. So a medical advisory board opinion
10 in and of itself wouldn't automatically become
11 the policy of the agency; is that right?
12 A. Correct.
13 Q. Okay. How does the policy
14 described in this letter differ from the
15 unwritten procedure that you described to me a
16 moment ago?
17 A. It allows another doctor to
18 examine.
19 Q. Okay. So this means a letter from
20 a doctor who has examined somebody who has had
21 surgery could provide a letter that would be
22 adequate for purposes of changing the sex
23 designation on their license?

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1 A. That's the way I understand it.
2 Q. Okay. And is there any mention of
3 a birth certificate here?
4 A. No.
5 Q. Do you know whether this medical
6 advisory board -- strike that.
7 And does this policy from the 2004
8 letter refer to sex reassignment?
9 A. Yes, in my interpretation it does.
10 Q. How so?
11 A. Completion of successful surgery.
12 Q. Okay. The word sex reassignment
13 doesn't appear, right?
14 A. No, it does not.
15 Q. Okay. But you would interpret a
16 reference to surgery to mean sex reassignment
17 surgery?
18 A. Right, because it will only be
19 changed upon successful completion of surgery.
20 Q. Okay. Does it say that the surgery
21 must be irreversible?
22 A. No.
23 Q. Who is Diana Brazzell?

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1 A. I don't know.
2 Q. Did the policy from 2004 at some
3 point change into the unwritten procedure that
4 you described to me?
5 A. Yes.
6 Q. When did that change happen?
7 A. I don't know.
8 Q. How did that change happen?
9 A. I don't know.
10 Q. Why did that change happen?
11 A. Which change?
12 Q. The change from the policy in 2004
13 to the unwritten procedure?
14 A. I guess to allow more latitude for
15 people requesting.
16 Q. In what way does the unwritten
17 procedure -- sorry. I should say in what way
18 did the unwritten procedure provide more
19 latitude than the policy from 2004?
20 A. Well, I'm not sure what the policy
21 was in 2004. I'm going off of the 2012
22 policy.
23 Q. Was the policy in -- I'm sorry.

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1 Does Plaintiff's Exhibit 37 state the policy
2 for changing sex designations as it was in
3 2004?
4 A. Yes.
5 Q. And was the policy in 2004 changed
6 to the unwritten procedure in order to provide
7 greater latitude?
8 A. I don't have a copy of the policy
9 of 2004, so it would be speculation.
10 Q. Is there a copy of the policy from
11 2004 other than what is stated in the letter
12 in Plaintiff's Exhibit 37?
13 A. Not to my knowledge.
14 Q. Isn't Plaintiff's Exhibit 37
15 actually a statement of the policy from 2004?
16 A. It's a letter from our legal unit.
17 Q. Why did the policy stated in this
18 letter from 2004 change to the unwritten
19 procedure?
20 A. I can't -- I don't know. I would
21 have to try to go back and ask some people
22 that knew about the policy in 2004.
23 Q. Do you have any reason to doubt

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1 that Plaintiff's Exhibit 37 reflects the
 2 policy as it was in 2004?
 3 A. No.
 4 Q. Who is Michael Robinson?
 5 A. He is an attorney with our agency.
 6 Q. Is he still with the agency?
 7 A. Yes.
 8 THE WITNESS: Can we take a break?
 9 MR. ARKLES: We can take a break if
 10 you would like.
 11 (Break taken.)
 12
 13 Q. What's the first policy or
 14 procedure for changing sex designation on a
 15 license that you are prepared to testify about
 16 today?
 17 A. This policy, DPS policy 63,
 18 September 1, 2012.
 19 MR. ARKLES: Okay. I'd like to
 20 leave open an opportunity to supplement the
 21 30(b)(6) if the state is able to provide a
 22 witness who would be able to testify about the
 23 earlier policy.

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1 Q. Was anyone involved other than the
 2 legal unit?
 3 A. I would have to say someone from
 4 the medical unit.
 5 Q. And would anyone aside from the
 6 legal unit and someone from the medical unit
 7 have been involved?
 8 A. Probably the driver's license
 9 division chief and at the time director of
 10 public safety.
 11 Q. Under whose authority was it
 12 issued?
 13 A. The director of public safety and
 14 the driver's license division.
 15 Q. Do you know who the director of
 16 public safety was at that time?
 17 A. No.
 18 Q. Who was consulted in the process of
 19 developing this policy?
 20 A. I can't be completely sure because
 21 I was not there, but I would say medical unit
 22 personnel and legal.
 23 Q. And were there particular

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1 MR. CHYNOWETH: We can consult. I
 2 don't think we're going to be able to identify
 3 anybody who has any knowledge earlier. And I
 4 spoke with everyone at the beginning of this
 5 lawsuit, with people that are retired, and I
 6 don't believe we will be able to identify
 7 anyone. This letter obviously as you can tell
 8 was new to us. And I spoke with Michael
 9 Robinson, and he doesn't have any memory of
 10 this. So I don't know that we can produce
 11 anyone with any more knowledge than Chief
 12 Pregno.
 13 MR. ARKLES: All right. Thank you.
 14 Q. So I would like to ask you a series
 15 of questions about creating the policy order
 16 63 dated 2012. And then I'll ask you some of
 17 those questions again about the most recent
 18 revision.
 19 A. Okay.
 20 Q. So when policy order 63 was
 21 initially created, who was responsible for its
 22 creation?
 23 A. The legal unit.

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1 individuals or positions within the medical
 2 unit who would have been consulted?
 3 A. Just those people that handled the
 4 request.
 5 Q. Okay. So the people in the medical
 6 unit who responded to individual requests --
 7 A. Correct.
 8 Q. -- to change sex designation --
 9 A. Correct.
 10 Q. -- would have been consulted in the
 11 process?
 12 A. Correct.
 13 Q. Do you know if the medical advisory
 14 board was involved?
 15 A. I do not know.
 16 Q. Do you have any reason to think
 17 that the medical advisory board was involved?
 18 A. I do not.
 19 Q. Who would have had the final say in
 20 what the policy was?
 21 A. I would think the director and the
 22 legal unit would be collaborative.
 23 Q. Okay. So ultimately the director

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1 of public -- of the Department of Public
2 Safety and the legal department would have to
3 come to an agreement?
4 A. Correct.
5 Q. Okay. What problems did the policy
6 seek to address?
7 A. A formal procedure for handling
8 those requests.
9 Q. Okay. So one goal of creating the
10 policy was to have a formal procedure; is that
11 correct?
12 A. And consistency.
13 Q. Okay. So another goal was to
14 create more consistency in how ALEA responded
15 to these requests; is that right?
16 A. Right.
17 Q. Were there any other goals in
18 creating this policy?
19 A. Not to my knowledge.
20 Q. Were there meetings about
21 developing the policy?
22 A. I don't know.
23 Q. Are you aware of any notes or

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1 records taken from meetings about the
2 development of the policy?
3 A. No.
4 Q. Were any constraints taken into
5 account in creating the policy?
6 A. Can you be more specific? What do
7 you mean by constraints?
8 Q. When ALEA was developing its
9 policy, did they consider any limitations on
10 resources or programmatic needs that would
11 limit what they could do with the policy?
12 A. I'm not sure. It was -- the policy
13 was established based on the state statute for
14 changing the gender on a birth certificate.
15 That's what it was modeled after.
16 Q. Okay. Before settling on modeling
17 the state statute for birth certificates, did
18 ALEA consider any other options for the
19 policy?
20 A. Not that I'm aware of.
21 Q. Why not?
22 A. I don't know.
23 Q. Why did ALEA choose to model the

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1 policy after the state birth certificate
2 statute?
3 A. We wanted to be consistent in how
4 we operated as a state.
5 Q. And why was consistency with how
6 the state operated for birth certificates
7 important?
8 A. Because if we were going to require
9 an amended birth certificate, we wanted to
10 make sure we were handling it in the right
11 manner.
12 Q. What does the right manner mean?
13 A. We want an amended birth
14 certificate which follows Alabama statutes, so
15 we wanted to be in line with what their
16 requirements were.
17 Q. Was the understanding of ALEA at
18 the time that it was bound to follow the
19 statute regarding birth certificates?
20 A. No.
21 Q. Was it the understanding of ALEA at
22 the time that it would be desirable to follow
23 the statute as far as birth certificates?

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1 A. Well, basically -- let me clarify.
2 ALEA is a law enforcement agency. Although we
3 submit -- we produce a driver's license, it's
4 also an official identity document. And as
5 law enforcement we want to ensure the
6 information that is on the card is correct,
7 and so we want to make sure the information
8 we're providing to law enforcement officers,
9 correctional agencies, emergency responders,
10 when you question someone -- when a male
11 officer questions a female subject normally
12 they have more than themselves in a room so
13 they can't allege that there's no impropriety
14 going on. So that's why we wanted to make
15 sure we were in line on the handling of the
16 subject as a law enforcement professional. If
17 you detain someone or arrest them as far as
18 booking procedures and things like that, it's
19 upon us to let them know the right procedures.
20 Q. So at the time that this policy was
21 created in 2012, did ALEA consider the impact
22 of this policy on arrest and booking
23 procedures?

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1 A. I don't -- I'm not sure if they did
2 or not.
3 Q. So just sticking again just to the
4 time before the creation of this policy, in
5 the course of creating this policy, what
6 considerations went into ALEA's decision to
7 adopt this policy as opposed to some other?
8 A. What the state requires for amended
9 birth certificates.
10 Q. Okay. Were there any other
11 considerations that ALEA took into account at
12 that time?
13 A. Not that I'm aware of.
14 Q. Are you aware of any debate that
15 concerned -- that concerned the development of
16 the policy prior to 2012?
17 A. No.
18 Q. Were there any conflicting views
19 that had to be resolved at that time?
20 A. Not to my knowledge.
21 Q. When the policy was most recently
22 revised in 2016, what was that process?
23 A. We had it vetted through legal.

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1 And we changed it to an and/or instead of
2 requiring both documents.
3 Q. Just to clarify, so in 2012 did it
4 require -- did the policy require both
5 documents?
6 A. Amended birth certificate along
7 with documentation on letterhead from the
8 physician.
9 Q. And so then in the 2016 version it
10 says and/or to indicate that either one of
11 those documents is sufficient?
12 A. Correct.
13 Q. Okay. Who was involved in making
14 that decision?
15 A. It would be me, the legal unit, and
16 the medical unit personnel.
17 Q. Who in the medical unit was
18 involved?
19 A. Jeannie Eastman.
20 Q. Who were the people from the legal
21 unit?
22 A. I'm not -- I would -- I think
23 Jessica Sanders was involved.

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1 Q. And you think there may have been
2 other people who were involved from legal?
3 A. I don't know who else.
4 Q. Okay. And what was your goal in
5 revising policy order 63?
6 A. Giving them more latitude.
7 Q. And why was it important to give
8 more latitude?
9 A. To be more -- you know, give them
10 the ability to get what they want.
11 Q. And were there any reasons why you
12 wanted to make it easier for people to get
13 what they wanted?
14 A. To be reasonable. And as long as
15 they're following procedure.
16 Q. And was anyone aside from you,
17 Jeannie Eastman, and maybe Jessica Sanders or
18 someone else from the legal unit involved in
19 the most recent revision?
20 A. No.
21 Q. Were there any other goals that you
22 had in mind in creating this policy?
23 A. No.

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1 Q. Did you consider other options
2 aside from the current policy before
3 implementing it?
4 A. No.
5 Q. Did you consider any other states'
6 procedures for changing the sex designation on
7 a license before revising the policy?
8 A. No.
9 Q. Why not?
10 A. We wanted to stay consistent with
11 Alabama -- the State of Alabama's birth
12 certificate procedure.
13 Q. Did you consider federal government
14 policy for changing designations on passports
15 when you were creating this policy?
16 A. No.
17 Q. Why not?
18 A. We just didn't.
19 Q. I'm going to show you a document
20 that is labeled Plaintiff's Exhibit 8. This
21 is Bates number D338 through -- it's actually
22 D at 337 through D at 380. And could you --
23 first, could you read the cover email?

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1 A. Linda sent this resource guide.
 2 Q. And who is the email from?
 3 A. Nona Short.
 4 Q. And who is it to?
 5 A. Chief, me.
 6 Q. And what was the date?
 7 A. September 26th of 2016.
 8 Q. Was that email sent before or after
 9 the most recent revision of the policy?
 10 A. After.
 11 Q. Oh, right. And could you turn to
 12 the next page and tell me what the title of
 13 that document is?
 14 A. Resource guide on gender
 15 designation on drivers' licenses and
 16 identification cards.
 17 Q. All right. And this is from the
 18 American Association of Motor Vehicle
 19 Administrators; is that right?
 20 A. Yes.
 21 Q. Are you familiar with this resource
 22 guide?
 23 A. Yes.

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1 Q. Were you --
 2 A. Not this -- I'm familiar that they
 3 have several different types of resource
 4 guides.
 5 Q. Have you ever seen the resource
 6 guide on gender designation on driver's
 7 licenses before?
 8 A. If she sent it to me, I've seen it,
 9 but I haven't read it page-for-page if that's
 10 what you're asking.
 11 Q. Okay. Do you remember seeing it?
 12 A. No, I don't.
 13 Q. All right. And could you please
 14 read page 3 of the guide?
 15 A. The general trend in recent years
 16 in jurisdictions replacing requirements to
 17 submit proof of surgical treatment with
 18 standards that focus on gender in which
 19 individuals live in their daily lives as
 20 affirmed by medical provider, mental health
 21 provider, or social worker. A second
 22 modernization trend in simplified form,
 23 applicants must complete in lieu of a letter

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1 from a provider. The form approach
 2 streamlines the process for both applicants
 3 and state driver's license agency staff saving
 4 time, money, and reduces the jurisdiction's
 5 liability in holding customer's private
 6 medical information.
 7 Q. Were you aware of the information
 8 that you just read at the time that you made
 9 the decision to revise policy order 63?
 10 A. No.
 11 Q. Did you consider having a
 12 simplified form at the time?
 13 A. No, not at the time.
 14 Q. Since the time that you revised
 15 policy order 63, have you considered revising
 16 it again?
 17 A. No.
 18 Q. Why not?
 19 A. Well, we still want to be
 20 consistent with state law. And we are Real ID
 21 compliant, which requires us to place that
 22 designation on the license.
 23 Q. Is it your understanding that the

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1 Real ID Act -- strike that.
 2 Is it your understanding that
 3 compliance with the Real ID Act requires you
 4 to use any particular policy or procedure to
 5 determine the sex designation placed on the
 6 license?
 7 A. I'm not aware if there is.
 8 Q. Okay. So one of the reasons why
 9 you're keeping the policy the way it is is to
 10 continue to have a sex designation on the
 11 driver's license to comply with the Real ID
 12 Act; is that right?
 13 A. True.
 14 Q. Okay. Have you received any
 15 feedback or comments about policy order 63?
 16 A. No.
 17 Q. Would you agree that not everyone
 18 here in Alabama has an Alabama driver's
 19 license?
 20 A. Yes.
 21 Q. And would you agree that not
 22 everyone who is in Alabama has any ID at all?
 23 A. It's possible.

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1 Q. Would you agree that some people
2 carry a Fake ID?
3 A. Yes.
4 Q. Would you agree that not every
5 person who is in Alabama was born in Alabama?
6 A. Yes.
7 Q. And would you agree that not every
8 person who is in Alabama was not born in the
9 United States?
10 A. Yes.
11 Q. Under the current policy, if
12 somebody had changed the sex designation on
13 their birth certificate in another state
14 without having had sex reassignment surgery,
15 could they then change the sex designation on
16 their driver's license in Alabama?
17 A. Yes.
18 Q. So just in general, not specific to
19 the sex designation, what is the purpose of a
20 driver's license?
21 A. To obtain physical characteristics
22 of the person because it is an identification
23 document. It proves that you are who you say

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1 circumstances that you can think of where a
2 legitimate Alabama license could prove that
3 you are who you say you are and a legitimate
4 U.S. passport could not?
5 A. Correct.
6 Q. Okay. And do driver's licenses for
7 other states serve for identification as well?
8 A. Yes.
9 Q. Could you please list for me the
10 interest that it is ALEA's position that
11 policy order 63 serves?
12 A. As I stated earlier, we are a law
13 enforcement agency, and we are preparing and
14 issuing an identification document. This
15 document is used by law enforcement officers
16 to identify the subject that they're dealing
17 with. It also identifies possible criminal
18 activity or the identification of a possible
19 criminal activity. It gives them a
20 description so they can confirm the person
21 that they -- the person in the license is
22 actually the person that they are dealing
23 with. It gives them the information they need

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1 you are.
2 Q. Any other primary purposes of the
3 driver's license in general?
4 A. By statute it says that you're only
5 required to provide an Alabama driver's
6 license if you are -- have interaction with a
7 law enforcement officer or with a court
8 official.
9 Q. Okay. So one purpose of a driver's
10 license is to produce it upon request of a law
11 enforcement official --
12 A. Correct.
13 Q. -- or a court official?
14 A. Yes.
15 Q. Okay. Does a U.S. passport also
16 serve to prove that you are who you say you
17 are?
18 A. It can, yes.
19 Q. Are there circumstances where it
20 wouldn't prove that you are who you say you
21 are?
22 A. If it's a fraudulent document.
23 Q. Okay. But there are no

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1 to make decisions on how to handle this person
2 for arrest procedures, medical, emergency
3 procedures, booking and retaining procedures,
4 interviewing and questioning procedures, and
5 as well as maintaining the actual physical
6 identifiers of that person.
7 Q. Okay. I'm going to try to say that
8 back to you to make sure I didn't miss
9 anything. You let me know whatever it is I'm
10 missing. So I heard that the government's
11 interest in policy order 63 are to assist
12 officers in identifying the people who they're
13 dealing with, to identify possible criminal
14 activity, to provide information to make
15 decisions for arrests and booking procedures,
16 for interviewing and questioning procedures,
17 for emergency medical procedures, and that the
18 government also has an interest from policy 63
19 in maintaining physical identifiers of license
20 holders. Is that all accurate?
21 A. Yes.
22 Q. And what did I miss?
23 A. I'm not sure. Hopefully nothing.

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1 Q. Okay. I'm going to show you what's
2 been marked as Plaintiff's Exhibit 23. These
3 are the defendant's answers to plaintiff's
4 interrogatories. Could you please turn to
5 interrogatory number 6, which begins on the
6 bottom of page 4? And could you read the
7 sentence immediately after the numeral 6?
8 A. Defendant's object to this
9 interrogatory --
10 Q. Okay. I'm sorry. Where it says
11 describe any and all government interests.
12 A. Oh, okay. Describe any and all
13 government interests defendants attest policy
14 order 63 serves as well as known government
15 interests as furthered by policy order 63.
16 Q. Okay. And then if you could turn
17 the page, I'm directing your attention to the
18 first full paragraph on the top of page five.
19 And so this states that an interest -- a
20 government interest in policy order 63 is
21 providing an accurate description of the
22 bearer of an Alabama driver's license; is that
23 right?

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1 A. Correct.
2 Q. And you would agree with that?
3 A. Yes.
4 Q. And -- I'm trying to make sure I
5 have a thorough list. So would this be the
6 same as the assisting officers in identifying
7 the subjects they're dealing with and
8 maintaining physical identifiers?
9 A. Yes, sir.
10 Q. Okay. It also says that an Alabama
11 driver's license provides identification for
12 law enforcement and administrative purposes,
13 including but not limited to purposes related
14 to arrests, detention, identification of
15 missing persons or crime suspects, and the
16 provision of medical treatment; is that right?
17 A. Yes.
18 Q. And you would agree with those
19 interests?
20 A. Yes.
21 Q. It says here including but not
22 limited to. Are there any other law
23 enforcement or administrative purposes you can

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1 think of that policy order 63 serves?
2 A. I don't know if it -- I guess it
3 would fall in there, but as far as identity
4 fraud or identity theft as far as tracking
5 someone that comes in and has -- comes in with
6 an identity as say male and then they go
7 through the process and they change their name
8 and then they change their sex and basically
9 have a whole new identity. It's a way for us
10 to link those identities. We actually had a
11 call from the district attorney's office a
12 couple of weeks -- a couple of week's ago and
13 they inquired -- as far as the subject's
14 identity, they kept running the subject and
15 said it came back as a Charles, and the
16 subject was Jasmine and was female, and the
17 autopsy report said a fully genital --
18 genitals of a female. And so they were
19 questioning the processes, how they were
20 getting this information, and if it was
21 correct. We went back to the original record
22 and the subject did come in as a male, changed
23 their name to a different name, and then not

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1 too much longer after that, I think it was a
2 year or so, changed their sex. And so we were
3 able to confirm with the DA's office that this
4 was the person that they had who was
5 previously this name but now died under this
6 name.
7 Q. When you say that they ran the
8 person, what does that mean?
9 A. When you say the -- are you
10 referencing the district attorney's office
11 or --
12 Q. Yes. When you say the district
13 attorney's office was running this person and
14 the person came back as Charles, what would
15 running the person mean?
16 A. I can't testify what they did. I'm
17 assuming they ran them through a criminal
18 database.
19 Q. I see. So the criminal database
20 had the person's previous name --
21 A. Just had them as a -- yes, had them
22 as Charles.
23 Q. Had the previous name as male sex.

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1 And your records had her current name and the
2 sex designation as female?
3 A. Correct. And we had the
4 documentation of where they came in and made
5 the changes, so we could link those two
6 identities together.
7 Q. Okay. So you could explain that
8 for the DA?
9 A. Yes.
10 Q. Okay. So that seems related to
11 identifying people and -- or identifying human
12 remains in this context; is that right?
13 A. Yes.
14 Q. And you also mentioned purposes
15 detecting identity theft; is that right?
16 A. Yes.
17 Q. Okay.
18 A. And fraud. Not necessarily where
19 they take somebody else. They could create a
20 whole new identity.
21 Q. Okay. So policy order 63 assists
22 with detecting fraud and identity theft,
23 right?

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1 A. Yes.
2 Q. And then it also says here, looking
3 at the same paragraph in interrogatory 6, that
4 policy order 63 serves the state's interest in
5 maintaining consistency between the
6 information contained on the driver's license
7 and that contained on a birth certificate; is
8 that right?
9 A. Correct.
10 Q. Okay. And do you agree with that?
11 A. Yes.
12 Q. And aside from what is listed here
13 and what you've just described to me, are
14 there any additional interests that the
15 government has in policy order 63?
16 A. No.
17 Q. Okay. So I'm going to ask you some
18 questions about each of those interests to
19 make sure I understand them. So one purpose
20 of policy order 63 is to help officers
21 identify a person who they're interacting
22 with, right?
23 A. Yes.

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1 Q. Could you explain to me why
2 that's -- why that interest is important to
3 the government? Why is it important for
4 officers to be able to identify who they are
5 interacting with?
6 A. To confirm that they are -- the
7 person is who they are either looking for or
8 who -- to confirm the information is correct
9 and it's not fraudulent.
10 Q. I know this may seem obvious to
11 you, but I just want to make sure we have
12 everything explained explicitly. So why is it
13 important for them to be able to confirm who
14 the person is?
15 A. Because you don't want to detain or
16 arrest someone that's not the real person.
17 Q. Okay. So part of the purpose is to
18 avoid mistakenly arresting somebody who you
19 don't intend to arrest, correct?
20 A. Yes.
21 Q. Okay. And are there any other
22 reasons why it's important for officers to be
23 able to confirm that the person they're

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1 interacting with is who they think they are?
2 A. Can you rephrase what you're
3 asking?
4 Q. In addition to what you just told
5 me about detecting fraud and making sure that
6 you're not mistakenly arresting the wrong
7 person, are there any other reasons why it's
8 important for officers to be able to confirm
9 that the person they're interacting with is
10 who they think they are?
11 A. Well, if they're male or female
12 it's going to have a bearing on how they
13 handle them. If there's a search involved,
14 males search females differently because of
15 complaints.
16 Q. Okay. So leaving searches aside
17 from a moment, we'll get to that, how does
18 policy order 63 help officers confirm that the
19 person who they're interacting with is the
20 person who they think they are?
21 A. It has their physical identifiers.
22 Q. And speaking specifically about
23 policy order 63, how does that policy help

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1 them know who they're talking with?
2 A. It gives them their physical
3 description.
4 Q. Would it be possible to provide a
5 physical description without requiring a
6 letter from a surgeon who had performed sex
7 reassignment surgery or an amended birth
8 certificate to change the sex designation?
9 A. For the State of Alabama's policy?
10 Q. For the purposes of -- okay. Yes.
11 Would it be possible to describe someone's
12 physical appearance in the context of an
13 officer interacting with someone without
14 requiring that people produce a letter from a
15 surgeon confirming sex reassignment surgery or
16 an amended birth certificate?
17 A. You're asking me -- I need you to
18 rephrase or maybe shorten the question.
19 Q. Okay. So an Alabama driver's
20 license provides information about a person's
21 physical description, right?
22 A. Correct.
23 Q. And one of the ways it does that is

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1 through having a photograph of the person,
2 right?
3 A. Correct.
4 Q. And another way that it does that
5 is to listing the person's height, correct?
6 A. Correct.
7 Q. And the person's weight, right?
8 A. Correct.
9 Q. And the person's hair color,
10 correct?
11 A. Yes.
12 Q. And the person's eye color,
13 correct?
14 A. Yes.
15 Q. And by listing a person's sex,
16 correct?
17 A. Yes.
18 Q. And in policy order 63 one can
19 change the sex designation only if one
20 provides a copy of a letter from a surgeon who
21 has performed sex reassignment surgery or an
22 amended birth certificate, correct?
23 A. Correct.

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1 Q. How does that policy for what one
2 must do to change the sex designation on a
3 driver's license assist in providing a
4 physical description?
5 A. It ensures that the physical
6 features of that person are what's displayed
7 on the license.
8 Q. And what physical features do you
9 mean by that?
10 A. Well, if they are a male, they'll
11 have male genitalia. And if they're a female,
12 they'll have female genitalia.
13 Q. When an officer is seeking to
14 confirm that they are arresting the right
15 person, do they typically look at that
16 person's genitalia?
17 A. No. But it will tell them and the
18 booking personnel how they should separate
19 them in the population.
20 Q. But at the moment of seeking to
21 confirm the person's identity, typically a
22 police officer wouldn't see the person's
23 genitals, right?

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1 A. No.
2 Q. If someone -- if an officer
3 perceived somebody as male because that person
4 had male pattern baldness and a beard and was
5 wearing masculine clothing, would that person
6 having a female sex designation on their
7 license assist the officer in confirming a
8 person's identity?
9 A. I don't know if it would assist,
10 but if they were to be arrested it would
11 definitely need to be known.
12 Q. So it might assist with the
13 procedures after the arrest, but it wouldn't
14 necessarily assist with confirming the
15 identity at the time of the arrest?
16 A. The photo would.
17 Q. The photo would, but the female sex
18 designation might not?
19 A. It should if it's -- could you ask
20 the question one more time?
21 Q. So if there were a transgender man
22 who has not gotten a male sex designation on
23 his license but has transitioned from female

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1 to male and that he wears masculine clothing
2 and has masculine physical characteristics,
3 such as male pattern baldness and a beard and
4 is typically perceived by others as male, then
5 would it help an officer to confirm that
6 person's identity that his sex designation on
7 his license would still be female?
8 A. It may not help in that situation,
9 but that is still the physical characteristics
10 of that person.
11 Q. In fact, wouldn't a female sex
12 designation on the ID of somebody who the
13 officer perceived as male raise suspicion in
14 the officer that the person might not be who
15 he thought he was?
16 A. That's speculation. It's possible.
17 Q. Do Alabama law enforcement officers
18 receive training on policy order 63?
19 A. No.
20 Q. Do Alabama law enforcement officers
21 receive training on interacting with
22 transgender members of the public?
23 A. I would have to speak to someone in

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1 highway patrol. When you say -- can you drill
2 down Alabama law enforcement agency? Are you
3 talking about law enforcement personnel or are
4 you talking about civilian personnel?
5 Q. I mean law enforcement personnel.
6 A. Okay. No, they don't receive
7 training on the policy.
8 Q. And are you aware of any training
9 that they receive -- that law enforcement
10 personnel receive regarding interacting with
11 transgender people?
12 A. I'm not aware.
13 Q. Are you aware of any reasons why
14 Alabama's interest in officers being able to
15 confirm the identity of somebody they're
16 interacting with are different than other
17 states' interests?
18 A. I need you to rephrase it, please.
19 Q. Would you expect most states have
20 an interest in their law enforcement officers
21 being able to identify the people who they're
22 interacting with?
23 A. I would expect so, yes.

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1 Q. Do you have reason to think that
2 Alabama's interest in law enforcement officers
3 being able to identify people they're
4 interacting with is different from the
5 interests in those other states?
6 A. I'm not -- I don't know what other
7 states require.
8 Q. Do you have any reason to think
9 that Alabama has different needs than other
10 states do in identifying people?
11 A. No.
12 Q. And Alabama doesn't consistently
13 measure or require medical documentation of
14 height before listing that attribute on a
15 license, correct?
16 A. Correct.
17 Q. And it doesn't consistently measure
18 or require medical documentation of weight
19 before listing that attribute, right?
20 A. Correct.
21 Q. Does Alabama law require
22 individuals to update the photos on their
23 license when their appearance changes?

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1 A. No. They're required to update
2 their photo every eight years.
3 Q. Does Alabama require people to
4 update their height, weight, or hair color on
5 their license if it changes?
6 A. No.
7 Q. And does Alabama require
8 individuals to update the sex designation on
9 their license if their genitals change?
10 A. If they wish to.
11 Q. Okay. So it's permitted but it's
12 not required?
13 A. Well, we don't know. Once you come
14 in and you're issued a license, we don't know
15 unless you tell us.
16 Q. Right. And people aren't required
17 to tell you, correct?
18 A. No.
19 Q. And there's no way to indicate on
20 an Alabama driver's license if somebody has
21 genitals that aren't typical for male or
22 female, right?
23 A. No, we do not have that.

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1 Q. Okay. So let's turn to arrest
2 procedures. In what way is policy order 63
3 relevant to arrest procedures?
4 A. It lets the arresting officer know
5 in particular if it's a female subject that
6 they -- they can -- they have to search or
7 have -- normal procedure is you call another
8 female officer or they -- different agencies
9 have different policies. They search with the
10 back of their hands. Interview and
11 interrogation normally they pull another
12 witness in with them.
13 Q. Okay. So arrest procedures in some
14 ways are different based on the sex of the
15 arrestee, right?
16 A. Yes.
17 Q. And those ways include the sex of
18 the officer who performs the search?
19 A. (Witness nods.)
20 Q. The manner in which the search --
21 well, let me start over. So the ways in which
22 arrest procedures vary by the sex of the
23 arrestee include the sex of the officer who

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1 conducts a search, the manner --
2 MR. CHYNOWETH: Make sure to say
3 yes or no.
4 THE WITNESS: I was waiting for him
5 to finish his question.
6 Q. I probably should do one at a
7 time. So one of the ways in which arrest
8 procedure vary by sex is the sex of the
9 officer who will conduct a search, correct?
10 A. Yes.
11 Q. And it also varies in the manner in
12 which the search is conducted, correct?
13 A. Yes.
14 Q. And it also varies in who would be
15 present during an interrogation, correct?
16 A. Yes.
17 Q. Are there any other ways in which
18 arrest procedures vary by the sex of the
19 arrestee?
20 A. Not that I can think of right this
21 minute. There may be, but those are the main
22 ones.
23 Q. And can you tell me why it's

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1 important -- well, actually let me back up.
2 Do male officers ever do a pat down search of
3 a female suspect or arrestee?
4 A. Yes, I'm sure they do.
5 Q. Do male officers ever conduct a
6 strip search of a female arrestee?
7 A. A strip search?
8 Q. Yeah.
9 A. I don't know.
10 Q. Do female officers ever conduct pat
11 down searches of male suspects or arrestees?
12 A. Yes.
13 Q. Do female officers ever conduct
14 strip searches of male arrestees?
15 A. Strip searches, I don't know. This
16 would -- some of this would, I would say,
17 extend to the correctional officers, so I
18 don't know what they do. I can't speak -- I
19 can't speak to what the detention facilities
20 do.
21 Q. Do Alabama law enforcement officers
22 ever conduct strip searches, to your
23 knowledge?

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1 A. Not to my knowledge.
2 Q. Are there any types of searches
3 other than pat down searches that Alabama law
4 enforcement officers conduct of the person?
5 A. No.
6 Q. Okay. What are the policies or
7 procedures regarding the sex of officers who
8 conduct pat down searches?
9 A. I don't -- I don't have a set
10 policy. I just know when I worked the road as
11 a road trooper if a male officer had another
12 female they would call me and I would go
13 assist. And if they were going to take them
14 to jail, I would search them. Each officer is
15 different as far as if they, you know, try to
16 pull somebody in. Circumstances are so vast
17 it's hard to say what each one would do on
18 their -- in their circumstances. But I would
19 assist others with searches if they knew they
20 had a female that they needed to be searched
21 and I was available. I would go search.
22 Q. So is it fair to say that the
23 practice among at least some officers,

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1 circumstances permitting, would be to have
2 female officers search male suspect or
3 arrestees?
4 A. Female officers?
5 Q. Sorry. I said that wrong. Would
6 it be fair to say that the practice of at
7 least some officers, circumstances permitting,
8 would be to have female officers search female
9 suspects or arrestees?
10 A. Yes.
11 Q. And, to your knowledge, there's no
12 requirement that female officers always search
13 female arrestees, right?
14 A. Correct.
15 Q. And why is that a practice?
16 A. To avoid complaints of impropriety
17 or someone making accusations that they did
18 something inappropriate.
19 Q. And I think you mentioned earlier
20 that if the suspect or arrestee is female the
21 officers might search using the back of their
22 hands rather than the front of their hands; is
23 that correct?

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1 MR. CHYNOWETH: I just want to
2 object here to seek a little clarification
3 when you are asking about the officers and law
4 enforcement officers. Can you clarify what
5 agency, for instance, you might be referring
6 to because I think there's maybe a little bit
7 of a confusion here.
8 MR. ARKLES: Okay.
9 MR. CHYNOWETH: What do you mean by
10 law enforcement officers?
11 Q. So when you said that one of the
12 interests of policy order 63 is to assist law
13 enforcement in arrest procedures, what type of
14 law enforcement officers were you referring to
15 then?
16 A. The officers that encounter the
17 individual on the road in traffic violations
18 and things like that.
19 Q. Okay. Are there other types of
20 Alabama law enforcement officers for whom this
21 interest would not -- this interest would not
22 be relevant?
23 A. No. It would be all county, city,

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1 municipal arresting officers.
2 Q. Okay. And do the arrest -- I'm
3 sorry. Do the search procedures vary based on
4 whether it's a state, county, or city law
5 enforcement officer?
6 A. Yes. It varies from agency to
7 agency.
8 Q. And could you name -- which
9 agency's search procedures or practices are
10 you able to testify about today?
11 A. None.
12 Q. How do you know that policy order
13 63 is, in fact, serving search procedures?
14 A. Well, it just -- it does.
15 Q. Explain to me how it does.
16 A. I mean, it tells you physically
17 what -- who that person is and how that
18 officer should handle them, if they have
19 procedures in place to handle female subjects
20 differently than male. It also identifies
21 that person for different detention
22 facilities. When they are booked into a
23 facility as an officer you want to know that

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1 the information that you're giving to them is
2 correct.
3 Q. Is it your understanding that when
4 agencies have policies that differ for
5 searches based on whether the arrestee is
6 female or male those policies refer
7 exclusively to the person's genitals?
8 A. Yes.
9 Q. And what is the basis for that
10 knowledge?
11 A. For the officer?
12 Q. How do you know that all of these
13 different policies when they refer to female
14 or male are referring to genitals?
15 A. I'm going off the information that
16 we use based on the identifiers on the
17 license.
18 Q. And I'm trying to figure out why
19 it's important that the identifier on the
20 license relates to genitals. So how do you
21 know that people's genitals are what matter
22 for purposes of search procedures?
23 A. I'm not sure I understand your

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1 question. When you refer -- go ahead.
2 Q. No, please.
3 A. It just -- I don't know any other
4 way to say -- if you're a female the search
5 procedure is normally different than from a
6 male.
7 Q. Do you think -- do you think that a
8 person who is assigned male at birth and who
9 identifies as a woman and who does not have
10 genitals that are typical for female might
11 complain about impropriety if a male officer
12 searched them?
13 A. I don't know if they would or not.
14 MR. ARKLES: Let's take a short
15 break.
16 (Break taken.)
17
18 Q. So if a law enforcement officer had
19 to search a suspect who had long hair, gave a
20 feminine name, had breasts, wore a dress, and
21 a sex designation on her license read male,
22 would that officer apply the policy for men?
23 MR. CHYNOWETH: Object to the form.

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1 A. Well, it would be based on whatever
2 their policy is. We provide the information.
3 It's up to each individual agency how they
4 create or enforce policy.
5 Q. How would policy order 63 assist an
6 officer in deciding whether to treat an
7 arrestee in that situation as a man or a
8 woman?
9 A. It just gives them the correct
10 identifying information for them to act on
11 their policy.
12 Q. When you worked in highway patrol,
13 if you were confronted with somebody who had
14 long hair and breasts and wore a dress and had
15 a feminine name and a male designation on
16 their driver's license, would you have applied
17 the practices for dealing with male arrestees?
18 A. I would -- being a female, I
19 searched everybody pretty much the same.
20 Q. So nothing would vary in how you
21 conducted a search regardless of the sex of
22 the arrestee?
23 A. Correct.

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1 Q. Would anything about the arrest
2 procedures that you applied vary based on the
3 sex of the arrestee?
4 A. In what manner?
5 Q. In any manner other than searches.
6 A. No. Typically it's the same with
7 me being female.
8 Q. Did you ever have to place
9 arrestees in holding cells?
10 A. No. That was the detention
11 facility personnel.
12 Q. Okay. So the police precincts
13 wouldn't detain people for any period of time
14 under the authority of ALEA?
15 A. We would -- when we placed somebody
16 under arrest, we put them in the patrol
17 vehicle or the vehicle and then transport them
18 to the facility to be booked.
19 Q. Would you during the booking
20 procedure have to record the sex of the person
21 who was arrested?
22 A. That would be up to the procedures
23 of the facility how they enter that

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1 information.
2 Q. If you were a male and working
3 highway patrol, would you call over a female
4 officer if you had an arrestee who had breasts
5 and wore a dress and had a feminine name and
6 had a male sex designation on the license?
7 A. If after questioning I wasn't sure,
8 yes.
9 Q. What type of questions do you think
10 you would ask?
11 A. You know, just depending on the
12 investigation what -- how they answered the
13 questions.
14 Q. So you also testified that policy
15 order 63 serves interest in the context of
16 detention, right?
17 A. Yes.
18 Q. How does policy order 63 serve the
19 state's interest in detention?
20 A. We provide them with accurate
21 information, and what they do with it is up to
22 them.
23 Q. Do you have any reason to believe

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1 that genitals are the most useful piece of
2 information about sex for purposes of
3 detention?
4 A. It is for our purposes for the
5 driver's license. I need you to define
6 genitals to make sure my definition matches
7 yours.
8 Q. So you testified that one interest
9 the policy order 63 serves is to provide
10 information to detention agencies, right?
11 A. Correct.
12 Q. What information is it that you
13 intend to provide through policy order 63?
14 A. The physical characteristics of
15 their sex.
16 Q. And which physical characteristics
17 do you mean?
18 A. If they're a male, they have a
19 penis. And if they're a female, they have a
20 vagina.
21 Q. And do you know of any reason why
22 detention agencies would be more interested in
23 whether someone has a penis or a vagina than

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1 any other sort of information related to sex?
2 A. I don't know if they would be more
3 interested, but I would say if they're putting
4 them into a holding cell that they would want
5 to know that information is accurate.
6 Q. So is it your understanding that
7 detention agencies will place people into a
8 holding cell based on whether they have a
9 penis or a vagina?
10 A. No. I'm saying I provide that
11 information so they can make that decision on
12 whether or not they want to put that
13 individual in a different holding cell.
14 Q. Is there any reason that you know
15 why it is more helpful to provide information
16 about whether somebody has a penis or a vagina
17 rather than any other type of information
18 about their sex?
19 A. That's who they are physically.
20 It's -- I mean, if that's who they are, then
21 that's their physical characteristic, that
22 they have those physical attributes.
23 Q. Do you know if any Alabama agencies

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1 that comply -- that -- withdrawn.
2 Do you know if any Alabama agencies
3 that detain people seek to comply with the
4 Prison Rape Elimination Act?
5 A. I don't know.
6 Q. Not everyone who would be detained
7 in Alabama would have an Alabama driver's
8 license, right?
9 A. Correct.
10 Q. Would your consider breasts to be
11 physical characteristics?
12 A. Yes.
13 Q. Would you consider facial hair to
14 be a physical characteristic?
15 A. Not necessarily.
16 Q. Would you consider hormones to be a
17 physical characteristic?
18 A. (Witness shakes head.)
19 Q. Outward.
20 A. No. I'm sorry.
21 Q. Would you consider facial structure
22 to be a physical characteristic?
23 A. No. Like what are you referring

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1 to?
2 Q. So you earlier mentioned providing
3 information about people's physical
4 characteristics. I'm just trying to
5 understand what some physical characteristics
6 might be.
7 A. Height, weight, eye color, hair
8 color, and whether you're male or female.
9 Q. So let's consider somebody who is
10 87 pounds, is arrested wearing makeup and a
11 dress, has long hair and breasts, has a
12 typically feminine voice and a typically
13 feminine name and who has a penis. Do you
14 have any reason to think that the
15 characteristic of having a penis would be more
16 important for purposes of detention than those
17 other features?
18 A. I don't know for detention
19 purposes, but for our purposes of issuing an
20 identification document we would classify them
21 as a male.
22 Q. There's no reason you know of for
23 purposes of detention though, right?

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1 A. No.
2 Q. In interrogatory number 6, which is
3 still in front of you, one of the interests
4 expressed was identifying missing persons; is
5 that right?
6 A. Yes.
7 Q. In what context would information
8 from driver's licenses be used to identify a
9 missing person?
10 A. To confirm that that is the person.
11 Q. When you say to confirm that that
12 is the person, do you mean in a circumstance
13 where a dead body has been discovered?
14 A. We have juveniles that come into
15 our office for a learner's permit or a license
16 who are missing and we identify them.
17 Q. So identification of a missing
18 person -- withdrawn.
19 So could you give me an example of
20 how the information on a driver's license
21 would identify somebody as a missing person
22 when they came into the driver's license
23 office for a learner's permit?

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1 A. Well, it's matching the physical
2 characteristics to the person who has been
3 entered as missing.
4 Q. When someone is reported as a
5 missing person, what information is collected?
6 A. Height, weight, clothing, eye
7 color, hair color, male, female, race.
8 Q. Anything else?
9 A. Where they were last seen, who they
10 were with.
11 Q. Is information about tattoos also
12 recorded?
13 A. If they have them and depending on
14 if the family reported it, provided it.
15 Q. And where does that information get
16 recorded?
17 A. The -- which information?
18 Q. The information about the
19 description of a missing person.
20 A. The officer would put it on the
21 report.
22 Q. Does the information from the
23 report go into a searchable database of some

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1 kind?
2 A. Normally it's entered into NCIC.
3 Q. Could you spell out NCIC, please?
4 A. I'm sorry?
5 Q. Could you just spell out NCIC,
6 please?
7 A. National Crime Information Center.
8 Q. Is that a federal database?
9 A. Yes.
10 Q. When someone comes in to apply for
11 a learner's permit, what information about
12 them is gathered?
13 A. Their name, full name, date of
14 birth, Social Security number, eye color, hair
15 color, sex, height, weight. Did I say race?
16 Q. I don't think so.
17 A. Okay.
18 Q. Race is also recorded?
19 A. Uh-huh.
20 Q. At that point is there automatic
21 matching between the information in the NCIS
22 database and -- oh, NCIC database and the
23 information collected by the DMV?

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1 A. It depends on if they're in there.
2 Q. How would someone discover whether
3 they were in there?
4 A. Oh, if it's a missing person, yes.
5 Is that what you're asking? I'm not sure
6 about the question.
7 Q. So if somebody arrives at a
8 driver's license office to apply for a
9 driver's license for the first time and
10 there's no special reason to know that that
11 person is a missing person, would it be
12 possible for ALEA to identify that person as a
13 missing person?
14 A. Yes.
15 Q. How would that happen?
16 A. Through the information they
17 provide.
18 Q. So is the information that everyone
19 provides at that time compared with
20 information in NCIC?
21 A. Yes.
22 Q. Okay. And when information about
23 missing persons is collected, who does that

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1 information usually come from? So when you
2 take down a description of a missing person,
3 is the person who is giving you that
4 description whoever reported the person
5 missing?
6 A. Correct.
7 Q. Typically would that person be a
8 friend or family member?
9 A. I guess. Probably.
10 Q. And would the officer collecting
11 the information ask specifically about
12 genitals at that time?
13 A. They would ask the sex of the
14 individual.
15 Q. So likely they would ask the sex of
16 the individual without any additional
17 explanation of what they mean by sex, right?
18 A. Yes.
19 Q. Okay. In what other circumstances
20 does information from driver's license assist
21 with the identification of missing persons?
22 A. It just provides the information to
23 the officer so they can -- the basic

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1 identification -- identifying information so
2 the officer can make a decision if that is the
3 person that they are looking for.
4 Q. When missing persons are found,
5 sometimes they can identify themselves, right?
6 A. Uh-huh.
7 Q. Say that out loud.
8 A. Yes.
9 Q. And do officers when they --
10 withdrawn.
11 During a traffic stop when an
12 officer views the driver's license of the
13 person who is stopped, would the officer then
14 routinely compare the information from that
15 license with information in NCIC?
16 A. It depends on if they -- if they
17 ran them through NCIC or not. If they have
18 the capability to, they probably would, yes.
19 Q. Okay. Is that another way that
20 missing persons are sometimes identified?
21 A. Yes.
22 Q. If there were a mismatch between
23 the sex designation on the driver's license

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1 and the sex designation in NCIC, would that
2 result not be reported?
3 A. Are you asking if the sex
4 designation on the license and the reported
5 sex is different?
6 Q. Uh-huh.
7 A. I'm not exactly sure, but it'll --
8 it'll -- based on the information provided,
9 it'll give you a list of possible identity,
10 and so, no, it should be in there but then all
11 the information is not matching. It shows you
12 all the information that you can compare that
13 may or may not match that individual.
14 Q. So when the information from
15 driver's license records and information from
16 NCIC is compared, there will usually be a list
17 of various possibilities, none of whom are an
18 exact match?
19 A. Some could be an exact match, yes.
20 Q. Okay. So the list will sometimes
21 contain some people who are exact matches and
22 some people who are not exact matches?
23 A. Correct.

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1 Q. And does that list ever contain
2 some people who are listed as male and some
3 people who are listed as female?
4 A. I don't know.
5 Q. In your experience, can you recall
6 ever seeing a list that had some people who
7 are male and some people who are female?
8 A. I don't recall.
9 Q. Do you think it's possible that if
10 someone were known to be a woman by her
11 friends and family and was typically perceived
12 to be a woman by strangers, that person might
13 be reported as female if she went missing,
14 even if she had a male sex designation on her
15 license?
16 A. Yes, I guess it could be possible.
17 Q. Does policy order 63 also serve the
18 interest of identifying human remains?
19 A. Yes.
20 Q. Could you explain how it assists
21 with that?
22 A. It provides the basic description
23 of information, basic information on that

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1 individual.
2 Q. Could you describe the process of
3 what happens when an officer discovers human
4 remains?
5 A. Are you speaking of like a fatality
6 accident?
7 Q. Sure, yes. If there's a fatality
8 accident and the officer does not immediately --
9 does not immediately know who the person who
10 died is, what steps would be taken?
11 A. They would try to make
12 identification on the subject.
13 Q. And how would they go about doing
14 that?
15 A. Search the car for information,
16 search their belongings to see if they had
17 identification on them, run the vehicle
18 information to see if it came back to an
19 individual, and then search -- you know, if it
20 comes back then link the driver's license.
21 They would look at the driver's license.
22 Q. And if the person had a driver's
23 license, then the officer would look at the

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1 driver's license and see if the description
2 matched the decedent?
3 A. Correct.
4 Q. And what would happen if no
5 driver's license was found to try to identify
6 the person?
7 A. They would go through the process
8 of looking through the vehicle and either, you
9 know, making contact with family or, you know,
10 the owner of the vehicle to try to obtain
11 information.
12 Q. And then if for some reason that
13 was unsuccessful, would there be other steps
14 that they would take to try to identify the
15 person?
16 A. Fingerprints is one way.
17 Q. Are there any other ways in
18 addition to fingerprints?
19 A. Dental records. There's a lot of
20 different ways you can identify someone, DNA.
21 Q. Other than if a driver's license is
22 found at the scene, when would the information
23 contained in driver's license records assist

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1 in the process of identifying human remains?
2 A. I mean, just as the case with the
3 district attorney's office I spoke of, they
4 were, you know, trying to confirm that who
5 they had identified was the person that they
6 thought they had.
7 Q. So in that situation the DA was
8 able to make a possible identification of the
9 person, and they were able to contact ALEA to
10 confirm the identity based on the driver's
11 license records; is that right?
12 A. Yes, based on the transition.
13 Q. Uh-huh. If human remains were
14 found in a river, how would -- if human
15 remains were found in a river and various
16 identification -- identifying information was
17 collected about the decedent including
18 physical characteristics like sex, height,
19 weight, hair color, and eye color, would that
20 information ever be compared with information
21 in driver's license records?
22 A. It could be, sure. We -- if they
23 request it, we can provide photos and

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1 identifying information.
2 Q. Would they have to request photos
3 of a specific person or could they give you
4 parameters?
5 A. Oh, no, no. It has to be the
6 person they believed it to be.
7 Q. Okay. They would have to narrow it
8 down first before you could assist in that
9 way?
10 A. (Witness nods head.)
11 Q. Is there ever a time when ALEA gets
12 contacted to share information from driver's
13 license records to identify human remains
14 without first having a possible specific
15 person to it that they think the person might
16 be?
17 A. Not -- not that I can recall.
18 Q. And when reviewing records in
19 response to these requests, you can see if the
20 sex designation on the person's license has
21 been changed at any point, right?
22 A. Yes.
23 Q. Okay. You also mentioned that

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1 provision of emergency medical care was an
2 interest that policy order 63 serves, right?
3 A. Yes.
4 Q. And can you tell me how policy
5 order 63 serves that interest?
6 A. Emergency personnel, you know, when
7 you provide them the driver's license they see
8 whether they're dealing with a male or a
9 female.
10 Q. And how does that assist them with
11 providing medical care?
12 A. It gives them the information that
13 they know who they're dealing with.
14 Q. Under what circumstances would
15 emergency medical personnel rely on the sex on
16 a driver's license rather than physical
17 examination?
18 A. I'm not sure that they would. It's
19 just -- you know, it's a basic identifier for
20 those personnel that are responding.
21 Q. In what circumstances would the
22 health care that the person would receive vary
23 based on the sex designation on their license?

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1 A. That would be up to the emergency
2 personnel, the responders.
3 Q. Are you aware of any circumstances
4 where the sex designation on the license would
5 change the medical treatment that someone
6 might receive?
7 A. No.
8 Q. You mentioned earlier that it was
9 important to have policy order 63 be
10 consistent with the state policy for birth
11 certificates; is that right?
12 A. Yes.
13 Q. Could you remind me of why having
14 that consistency is important to the
15 government?
16 A. We want to be consistent in
17 providing -- with requiring the same types of
18 documents when we're dealing with the same
19 type of situation.
20 Q. Is consistency with Social Security
21 records also important?
22 A. I'm not sure what information is in
23 Social Security records.

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1 Q. What problems could arise when
2 information on an Alabama birth certificate is
3 different from information on an Alabama
4 driver's license?
5 A. What problems?
6 Q. Yes.
7 A. In what context?
8 Q. Are you aware of any problems in
9 any context that could arise from having
10 different information on a driver's license
11 than is on a birth certificate?
12 A. Well, you're born -- I was born as
13 a female, and so that's my identifying -- what
14 we call a breeder document when I go to get a
15 license. And so if I come in and my birth
16 certificate says I'm female, then that is an
17 identifier for me as a person in my identity.
18 And so if the birth document doesn't match
19 what we have, we need to either find a
20 document that links the change or find out why
21 there is a discrepancy.
22 Q. Okay. So is it fair to say that
23 you want to have a paper trail that indicates

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1 a link between a breeder document like a birth
2 certificate and any different information on
3 the driver's license?
4 A. We want to know why it was
5 different. I mean, the birth certificate is
6 your identity document. And if I'm Deena
7 Pregno and I'm -- I have somehow changed my
8 sex from female to male, and then I could
9 possibly change my name to something else just
10 by going to a probate office, I could feasibly
11 have a totally different identity.
12 Q. If someone changes the name on
13 their birth certificate, do they also have to
14 change the name on their driver's license?
15 A. Yes.
16 Q. Are individuals required to change
17 the name on their driver's license if they
18 have changed it on their birth certificate?
19 A. Yes. The name on the license is to
20 match the name on the birth certificate. Now
21 it can be changed due to marriage or divorce
22 as long as they provide those documents. Is
23 that --

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1 I'm sorry. Let me clarify. We
2 start out with the name that's on the birth
3 certificate. If they're married or divorced
4 they bring in documentation of the marriage or
5 the divorce and that's how we change the name
6 on the license.
7 Q. Other than when one is applying for
8 a drivers' license, when would the information
9 in driver's license records be compared
10 against information in birth records?
11 A. There's no other time --
12 Q. Okay.
13 A. -- that I'm aware of.
14 Q. Okay. And when people change their
15 name on a birth certificate, is there any
16 coordination among agencies to then inform
17 ALEA that that name has been changed?
18 A. No.
19 Q. If somebody changes their name on a
20 driver's license, is there any coordination
21 such that the Department of Vital Statistics
22 would be informed of the name change?
23 A. No.

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1 Q. Okay.
2 A. Well, I don't know. I don't know
3 what probates do when they make -- I don't
4 know if they notify the Bureau of Live
5 Statistics. You would have to talk to them.
6 I don't know what their process is.
7 Q. So probate might. You don't know.
8 But as far as you know, ALEA doesn't inform
9 them?
10 A. Correct.
11 Q. Thank you. Is it fair to say that
12 ALEA is more concerned about making sure that
13 it's asking for the same types of documents to
14 change sex designation as Alabama does for
15 birth certificates than it is concerned by
16 doing the same thing as federal agencies?
17 A. No, I wouldn't say that.
18 Q. Is policy order 63 serving the
19 interest of maintaining consistency with
20 federal identity documents?
21 A. No.
22 Q. And policy order 63 does serve the
23 interest of maintaining consistency with

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1 requirements for Alabama birth certificates,
2 right?
3 A. Yes. Maybe I -- did I answer
4 that -- I may have missed -- did I answer
5 incorrectly? Yes, we are consistent with the
6 State of Alabama's requirements to change the
7 sex designation with our policy.
8 Q. Okay. And why is it more important
9 to ALEA to match the requirements for birth
10 certificates than for say U.S. passports?
11 A. Well, we want to maintain
12 consistency, but we want what is displayed on
13 the document to be true.
14 Q. So is it ALEA's position that the
15 information on U.S. passports is less likely
16 to be true than the information on birth
17 certificates?
18 A. I don't know.
19 Q. Could documentation from a doctor
20 stating that someone had had clinical, but not
21 necessarily surgical, treatment to change
22 their sex provide a paper trail for purposes
23 of driver's licenses?

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1 MR. CHYNOWETH: Object to the form.
2 A. I'm not sure of your question.
3 Q. So you stated earlier that if
4 there's some information that is different
5 than the information on the birth certificate
6 you want some sort of documentation of why
7 it's different; is that right?
8 A. Yes.
9 Q. And that documentation for purposes
10 of sex designation can come in the form of an
11 amended birth certificate or a letter stating
12 that someone has received sex reassignment
13 surgery, correct?
14 A. Correct.
15 Q. Could a letter from a doctor
16 stating that someone has had clinical
17 treatment for sex reassignment, not
18 necessarily surgical treatment, also serve as
19 documentation for that purpose?
20 A. For changing the sex designation?
21 Q. Yes.
22 A. No.
23 Q. Okay. And other than simply that

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1 it's the policy, why would that documentation
2 not be adequate to show the connection between
3 the breeder document and the current
4 information?
5 A. Because the letter from the doctor
6 saying that they performed the sex
7 reassignment surgery is stating that they
8 performed the procedure, and we're counting on
9 the doctors to provide that information.
10 Q. So aside from making the same
11 requests as the state makes for changing birth
12 certificates and for maintaining documentation
13 of any differences between birth certificates
14 and information on driver's licenses, are
15 there any other reasons why it's important to
16 have consistency between the policy for birth
17 certificates and the policy for driver's
18 licenses?
19 A. It's just we're keeping
20 documentation the same as in changing a name.
21 We're tracking changes to that person's
22 identifying information. Just as I would come
23 in as Deena Pregno, if I changed my name to

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1 something else, I would have to provide
2 documentation as to what I changed it to. And
3 it's tracking that person's identity
4 information.
5 Q. And aside from wanting to make the
6 same request for birth certificates as for
7 driver's licenses, is there any other reason
8 why it's important to the government that
9 policy order 63 is similar to the Alabama
10 state statute for changing sex on birth
11 certificates?
12 A. It's just to maintain consistency
13 with our state policy.
14 Q. Thank you.
15 MR. ARKLES: I don't have a huge
16 number of new questions, but I think we might
17 want to break for lunch anyway because I have
18 some questions.
19 (A discussion was held off the
20 record.)
21 Q. If someone moves to Alabama from
22 out of state and shows a driver's license from
23 the other state, their Social Security card,

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1 and a U.S. passport, would that be sufficient
2 to get an Alabama driver's license?
3 A. Yes.
4 Q. And if the sex designation on all
5 of those documents were consistent, would that
6 be the sex designation that would be reflected
7 on the Alabama driver's license?
8 A. Yes.
9 Q. Would you consider race an
10 important characteristic for identifying
11 people?
12 A. One of them, yes.
13 Q. Why isn't race on the driver's
14 license?
15 A. I don't know.
16 Q. So you testified that the
17 information that the driver's license provides
18 in terms of sex designation is whether
19 somebody has a penis or a vagina, right?
20 A. Yes.
21 Q. And how did ALEA determine that a
22 penis and a vagina were the most important
23 pieces of information to share about sex?

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1 A. I don't know if it's -- it goes
2 back to the birth certificate. You're born
3 with a sex designation, and until that has
4 changed on the birth certificate that's what
5 we go by.
6 Q. So ALEA will not recognize
7 transgender people unless their genitals have
8 been changed from a penis to a vagina or a
9 vagina to a penis; is that correct?
10 A. Well, no. We have to get a letter
11 from the doctor stating he has performed
12 sexual reassignment surgery.
13 Q. And does the letter from the doctor
14 about sexual reassignment surgery serve to
15 show what genitals the person has?
16 A. No. We rely on the doctor's
17 office.
18 Q. And so a transgender person who has
19 transitioned to a different gender and who
20 identifies with that gender and lives as that
21 gender cannot have that gender recognized on
22 their driver's license without documentation
23 of having had sex reassignment surgery or an

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1 amended birth certificate, right?
2 A. Correct.
3 Q. And if you first get a license at
4 the age of sixteen and you show a Social
5 Security card, a U.S. passport, and secondary
6 identification, not including a birth
7 certificate, would that be sufficient to
8 obtain an Alabama driver's license?
9 A. Yes.
10 Q. And if the sex designation on all
11 of those documents were consistent, that would
12 be the sex designation reflected on the
13 driver's license, correct?
14 A. Yes.
15 Q. To your knowledge, how many
16 transgender people work at ALEA?
17 A. One to my knowledge.
18 Q. How many people work at ALEA
19 overall?
20 A. Twelve to fourteen hundred maybe.
21 Q. Okay. I'm going to ask you some
22 questions now that are about you personally
23 rather than about ALEA.

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1 Have you ever heard anyone at ALEA
2 express their personal opinions about
3 transgender people?
4 A. No.
5 Q. What are your thought about
6 transgender people?
7 A. Live and let live.
8 Q. Have your opinions about
9 transgender people changed over time?
10 A. Probably.
11 Q. Can you say how?
12 A. I just didn't understand. I just
13 don't understand the process of somebody
14 wanting to change.
15 Q. And how did you come to understand
16 that more?
17 A. I have some friends who are
18 lesbian. They are not transgender, but I have
19 friends.
20 Q. And your friends have talked to you
21 about transgender issues?
22 A. No, not necessarily transgender
23 issues but same sex relationships.

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1 Q. Okay. And do you personally
2 believe that somebody who was assigned male at
3 birth and who identifies as female and who has
4 had sex reassignment surgery is a woman?
5 MR. CHYNOWETH: Object to form.
6 A. Repeat the question, please.
7 Q. Do you personally believe that
8 somebody who was assigned male at birth, who
9 identifies as female, and who has had sex
10 reassignment surgery is a woman?
11 MR. CHYNOWETH: Object to the form.
12 A. Genetically they're a male.
13 Physically they're a female.
14 Q. Okay. And personally do you
15 believe that somebody who was assigned male at
16 birth and who identifies as female and who has
17 not had sex reassignment surgery is a woman?
18 MR. CHYNOWETH: Object to the form.
19 A. They are physically a male.
20 Q. So you don't believe that somebody
21 is a woman in that circumstance?
22 A. Correct.
23 Q. And why is that?

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1 A. Because they still have the
2 physical attributes of a male.
3 Q. And why is it that you believe that
4 physical attributes determine whether somebody
5 is a man or a woman?
6 MR. CHYNOWETH: Object to the form.
7 A. I guess it goes back to birth.
8 Q. What do you mean by that?
9 A. It goes back to how -- when you
10 were born you were -- you had -- you were
11 either a male or a female.
12 Q. And do you have any concerns about
13 people transitioning gender?
14 MR. CHYNOWETH: Object to the form.
15 A. What concerns would I have?
16 Q. Do you have any concerns about it?
17 A. No.
18 Q. Do you have any moral or religious
19 beliefs about transitioning gender?
20 A. No.
21 MR. CHYNOWETH: Object to the form.
22 A. No.
23 Q. If you knew that someone was

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1 assigned male at birth, identified as a woman,
2 would you feel comfortable referring to that
3 person as she or ma'am?
4 MR. CHYNOWETH: Object to the form.
5 A. Would I feel comfortable? If
6 that's the way they wanted to be addressed,
7 no.
8 Q. So just to be clear, you wouldn't
9 feel comfortable referring to someone as she
10 or ma'am if they identified as a woman and
11 wanted to be referred to as she or ma'am but
12 was assigned male at birth?
13 MR. CHYNOWETH: Object to the form.
14 A. No, I would not be uncomfortable.
15 Q. Okay. You would not be
16 uncomfortable doing that?
17 A. The question is getting a little
18 confusing.
19 Q. Somebody who has transitioned from
20 male to female --
21 A. Male to female, right.
22 Q. -- and wants to be referred to as
23 she --

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1 A. I have no problem with that.
2 Q. Okay. And do you have any concerns
3 personally about policy order 63?
4 MR. CHYNOWETH: Object to the form.
5 A. No.
6 Q. And, to your knowledge, has anyone
7 within ALEA ever been reprimanded for
8 interacting disrespectfully with a transgender
9 person?
10 A. No.
11 MR. ARKLES: All right. Let's do
12 one last short break.
13 (Break taken.)
14
15 Q. Are there any government interests
16 in policy order 63 that we have not already
17 discussed today?
18 A. No.
19 Q. Do you have any reason to believe
20 that any of the government interests that
21 you've described today are significantly
22 different in Alabama than in other states?
23 A. Not to my knowledge. I haven't

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1 looked at any other states.
2 MR. ARKLES: Okay. Thank you.
3 That's all I have. Would you like to ask any
4 questions?
5 MR. CHYNOWETH: Yes.
6
7 EXAMINATION
8 BY MR. CHYNOWETH:
9 Q. I have just a few questions for
10 you, Chief Pregno. You were asked earlier by
11 Mr. Arkles if you had any certifications and I
12 believe -- did you testify that you had had a
13 cosmetology certification at some point?
14 A. I did.
15 Q. Have you had any other
16 certifications that you can recall at this
17 time?
18 A. I currently hold an APOSTC
19 certification to be an arresting officer as
20 well as firearms certification, tazer
21 certification, OC, and other various training
22 I have received with the agency.
23 Q. Do law enforcement agencies in this

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1 state consist in part of county sheriff's
2 departments?
3 A. Yes.
4 Q. Do county -- does each county have
5 a county sheriff?
6 A. Yes.
7 Q. Do the county sheriffs provide
8 patrol officers that provide law enforcement
9 on a countywide basis?
10 A. Yes.
11 Q. Do county sheriff's maintain county
12 jails?
13 A. Yes.
14 Q. Does ALEA formulate arrest
15 procedures for county sheriffs?
16 A. No.
17 Q. Does ALEA formulate jail procedures
18 for county jails?
19 A. No.
20 Q. Are there municipal police
21 departments in this state?
22 A. Yes.
23 Q. And does ALEA formulate arrest or

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1 search procedures for municipal police
 2 departments?
 3 A. No.
 4 Q. Do some municipalities maintain
 5 municipal or city jails?
 6 A. Yes.
 7 Q. Does ALEA formulate policies for
 8 those municipalities on how to run their
 9 jails?
 10 A. No.
 11 Q. So in your capacity as a 30(b)6
 12 witness for ALEA, are you able to testify
 13 about arrests, search, or booking procedures
 14 that might be used by a county sheriff
 15 department?
 16 A. No.
 17 Q. Are you able to testify as to all
 18 of the same procedures that might be used by
 19 every municipal police department?
 20 A. No.
 21 Q. Does the information contained on a
 22 driver's license provide information to county
 23 sheriff's departments?

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1 A. Yes.
 2 Q. Does the information contained on a
 3 driver's license provide information to
 4 municipal police departments?
 5 A. Yes.
 6 Q. Is it part of ALEA's purpose to
 7 provide information by means of a driver's
 8 license to these law enforcement agencies?
 9 A. Yes.
 10 Q. Does the information contained on a
 11 driver's license allow these law enforcement
 12 agencies to develop their own arrest, search,
 13 and booking procedures?
 14 A. Yes.
 15 Q. Does ALEA control what information
 16 goes onto a driver's license?
 17 A. Yes.
 18 Q. Does ALEA control what information
 19 goes onto a United States passport?
 20 A. No.
 21 Q. What are some circumstances in
 22 which you are required to show an Alabama
 23 driver's license as opposed to a passport or

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1 another form of government identification?
 2 A. In the presence of court officials
 3 or a judge or at the request of an Alabama law
 4 enforcement officer.
 5 Q. Is ALEA primarily a law enforcement
 6 organization?
 7 A. Yes.
 8 Q. So in controlling the information
 9 that goes onto an Alabama driver's license, is
 10 it fair to say that ALEA has in mind the law
 11 enforcement officers that a citizen is
 12 required to display the driver's license to?
 13 A. Yes.
 14 Q. To your knowledge, is the sex that
 15 goes on an Alabama birth certificate based on
 16 the genitals a baby has at birth?
 17 A. Yes.
 18 Q. So if someone were to initially
 19 obtain an Alabama driver's license with an
 20 Alabama birth certificate, what sex would go
 21 onto the driver's license?
 22 MR. ARKLES: Objection to form.
 23 A. Whatever is on the birth

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1 certificate.
 2 Q. If someone were to obtain an
 3 Alabama driver's license with an Alabama birth
 4 certificate, what sex designation would go on
 5 to the Alabama license?
 6 A. The sex designation that's on the
 7 birth certificate.
 8 Q. And then that would be based on the
 9 genitals that the baby had at birth which
 10 resulted in the sex designation on the birth
 11 certificate?
 12 A. Yes.
 13 Q. How do you obtain an amended birth
 14 certificate with a changed sex?
 15 A. They have to provide documentation
 16 to the Bureau of Vital Statistics and they
 17 issue an amended birth certificate.
 18 Q. Documentation of what?
 19 A. Of sexual reassignment.
 20 Q. So the procedure for changing -- so
 21 the procedure for amending the birth
 22 certificate to change the sex is to provide
 23 proof of sex reassignment surgery?

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1 A. Yes.
2 Q. And so the procedure under policy
3 order 63 for changing the sex on a driver's
4 license is one of two things: First, is it --
5 you can provide an amended birth certificate?
6 A. Yes.
7 Q. With respect to Alabama birth
8 certificates, an amended birth certificate to
9 change your sex requires proof of sex
10 reassignment surgery, correct?
11 A. Correct.
12 Q. The second means is -- for changing
13 the sex on an Alabama license is to provide a
14 doctor's note from the doctor who performed
15 the procedure stating that sexual reassignment
16 surgery had been completed, correct?
17 A. Correct.
18 Q. Do you know whether race is
19 contained on birth certificates?
20 A. I do not know.
21 MR. CHYNOWETH: No further
22 questions.
23

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1 A. No.
2 Q. Why isn't a letter from an
3 examining physician sufficient under policy
4 63?
5 A. Because we have stuck with
6 requiring the doctor who performed the
7 surgery. In past we've always gone back to
8 the Code of Alabama, and that's -- that's what
9 the policy has always been. I'm not sure why.
10 MR. ARKLES: Thank you. That's all
11 I have.
12 (The deposition of DEENA PREGNO,
13 concluded on November 14, 2018, at
14 12:35 p.m.)
15 FURTHER DEPONENT SAITH NOT
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1 EXAMINATION
2 BY MR. ARKLES:
3 Q. Just a couple of questions to
4 follow up. One, would you mind explaining the
5 acronyms and certifications you mentioned?
6 A. APOSTC is Alabama Peace Officer
7 Standards Training Commission. Every law
8 enforcement officer in the State of Alabama
9 has to meet APOSTC standards to be a law
10 enforcement officer. Tazer -- we have tazer
11 certification where you are tazed with a
12 tazer. OC is paper spray certification where
13 you're sprayed with paper spray. Firearms you
14 qualify every year to minimum standards,
15 firearms qualifications.
16 Q. To change the sex designation on an
17 Alabama birth certificate one needs to supply
18 a court order to the Department of Vital
19 Statistics, right?
20 A. If that's what's in the statute.
21 Q. Is the ALEA policy of providing
22 information to counties and municipalities
23 based on any statute or written policy?

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1 REPORTER'S CERTIFICATE
2 STATE OF ALABAMA)
3 JEFFERSON COUNTY)
4 I, Elaine Scott, Licensed Court
5 Reporter and Commissioner for the State of
6 Alabama at Large, hereby certify that on
7 November 14, 2018, I reported the deposition
8 of DEENA PREGNO, who was first duly sworn or
9 affirmed to speak the truth in the matter of
10 the foregoing cause, and that pages 1 through
11 128 contain a true and accurate transcription
12 of the examination of said witness by counsel
13 for the parties set out herein.
14 I further certify that I am neither
15 of kin nor of counsel to any of the parties to
16 said cause nor in any manner interested in the
17 results thereof.
18 _____
19 ELAINE SCOTT, Court Reporter
20 and Commissioner for the State
21 of Alabama at Large,
22 CCR License No. 354, Expires 9/30/19
23 MY COMMISSION EXPIRES NOVEMBER 16, 2019

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Exhibit 6

Deposition of Jerrolynn Spencer

In The Matter Of:

*Darcy Corbitt, Destiny Clark, and Jane Doe v.
Hal Taylor, etc., et al.*

*Jerrolynn Spencer
November 9, 2018*

*Baker Realtime Worldwide Court Reporting & Video
250 Commerce Street
Third Floor, Suite One
Montgomery, Alabama 36104
www.BakerRealtime.com*

Original File 11-9-18 Jerrolynn Spencer.txt

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 2 FOR THE MIDDLE DISTRICT OF ALABAMA
 3 NORTHERN DIVISION
 4
 5 CIVIL ACTION NO.: 2:18-CV-00091-MHT-GMB
 6
 7 DARCY CORBITT, DESTINY CLARK, and JANE DOE,
 8 Plaintiffs,
 9 v.
 10 HAL TAYLOR, in his official capacity as
 11 Secretary of the Alabama Law Enforcement
 12 Agency, et al.
 13 Defendants.
 14
 15 DEPOSITION OF JERROLYNN SPENCER
 16 November 9, 2018
 17
 18 Taken before Elaine Scott, CCR,
 19 Commissioner for the State of Alabama at
 20 Large, in the Law Offices of the Alabama
 21 Attorney General, 501 Washington Avenue,
 22 Montgomery, Alabama, on Thursday, November 9,
 23 2018, commencing at approximately 12:56 p.m.

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1 S T I P U L A T I O N S
2 It is hereby stipulated and agreed by
3 and between counsel representing the parties
4 that the deposition of JERROLYNN SPENCER is
5 taken pursuant to stipulation and agreement;
6 that all formalities with respect to
7 procedural requirements are waived; that said
8 deposition may be taken before Elaine Scott,
9 Certified Court Reporter and Commissioner for
10 the State of Alabama at Large, without the
11 formality of a commission; that objections to
12 questions other than objections as to the form
13 of the questions need not be made at this time
14 but may be reserved for a ruling at such time
15 as the deposition may be offered in evidence
16 or used for any other purpose as provided for
17 by the Alabama Rules of Civil Procedure.
18 It is further stipulated and agreed
19 by and between counsel representing the
20 parties that the filing of the deposition may
21 be introduced at the trial of this case or
22 used in any manner by either party hereto
23 provided for by the Statute.

Page 6

1 It is further stipulated and agreed
2 by and between the parties hereto and the
3 witness that the signature of the witness to
4 this deposition IS hereby waived.
5
6 JERROLYNN SPENCER,
7 The witness, having first been duly
8 sworn or affirmed to speak the truth, the
9 whole truth and nothing but the truth,
10 testified as follows:
11
12 THE COURT REPORTER: Usual
13 stipulations?
14 (Affirmed by counsel.)
15
16 EXAMINATION
17 BY MR. ARKLES:
18 Q. Good afternoon.
19 A. Good afternoon.
20 Q. Could you please state your name
21 for the record?
22 A. My name is Jerrolynn Elaine Johnson
23 Webb Spencer.

Page 7

1 Q. Thank you. Before we begin I just
2 want to give you a few instructions about how
3 we're going to do the deposition.
4 A. Okay.
5 Q. And I'll ask you if you understand
6 each time.
7 A. Okay.
8 Q. So, first of all, please answer
9 every question verbally. That can be easy to
10 forget, but if you just shake your head or nod
11 or say uh-huh or huh-uh, that's going to be
12 very difficult for the court reporter to take
13 down. Do you understand?
14 A. I do.
15 Q. And let me know if you don't
16 understand any of my questions. If you don't
17 say anything, I'll just assume that you
18 understand me.
19 A. Okay.
20 Q. And you can ask for a break at any
21 time. I just ask that you finish answering
22 whatever question I just asked before we take
23 a break.

Page 8

1 A. Okay.
2 Q. And also just wait until I finish
3 asking a question, even if you know where I'm
4 going with it. It's also very helpful for the
5 court reporter if we don't talk over each
6 other at all.
7 A. Okay.
8 Q. And also feel free to let me know
9 at any time if you think you might have
10 misstated something and you just want to
11 clarify or add to an earlier answer. Just let
12 me know.
13 A. Okay.
14 Q. Have you ever been deposed before?
15 A. No.
16 Q. My name is Gabriel Arkles. I'm
17 counsel for the plaintiffs in the case Corbitt
18 v. Taylor, which is a case in which our
19 clients are bringing a case against certain
20 Alabama officials, not including you, with
21 regards to the policy about changing sex
22 designation on drivers' licenses.
23 A. Okay.

Page 9

1 Q. What did you do to prepare for the
 2 deposition today?
 3 A. I had a meeting with Brad and
 4 Meredith, and that's basically what I did to
 5 prepare. I had to pull some paperwork for
 6 some other people, but that's what I did
 7 today.
 8 Q. But you were looking for paperwork
 9 in response to our discovery requests?
 10 A. I pulled paperwork based on my
 11 supervisors' instructions that they needed
 12 paperwork.
 13 Q. Okay. Did you review any paperwork
 14 when you were preparing for the deposition
 15 today?
 16 A. No.
 17 Q. Okay. And did you have any
 18 conversations with anyone other than the
 19 attorneys here?
 20 A. My boss, Jeannie Eastman. Diane
 21 and I, you know, rode together over here last
 22 week, so we discussed that we were both coming
 23 at the same time. That's it.

Page 11

1 have attended some college classes, various
 2 community college classes, just generic.
 3 Q. Okay.
 4 A. Probably not quite two years of
 5 credits overall.
 6 Q. What was the college that you had
 7 most recently attended?
 8 A. Probably be El Camino Community
 9 College in California.
 10 Q. Okay. And could you describe your
 11 employment history after high school?
 12 A. After high school my first job was
 13 in a Krystal working as a cashier and order
 14 filler, you know, for the hamburger place.
 15 Let's see. My next job was I worked for a
 16 company called Harrison Conductor. They're in
 17 Florida. I was a quality assurance person. I
 18 dealt with the customers, the government,
 19 military standards, different things like
 20 that.
 21 And let's see. After that I went
 22 to California. I worked for a consulting firm
 23 for a while in Culver City, California, and

Page 10

1 Q. And what did you say when you were
 2 talking to Ms. Eastman about the deposition?
 3 A. We just talked about when mine
 4 was. I'm her employer so I need to tell her
 5 when it was.
 6 Q. Okay. Anything other than the
 7 scheduling?
 8 A. No.
 9 Q. Okay. Thank you. And, let's see.
 10 Is there any reason why you would not be able
 11 to answer my questions accurately and fully
 12 today?
 13 A. No.
 14 Q. Okay. And did you bring any notes
 15 or other papers relevant to the lawsuit with
 16 you today?
 17 A. No.
 18 Q. Okay. I'm going to ask you a few
 19 questions just about your background.
 20 A. Okay.
 21 Q. Could you please describe your
 22 educational background after high school?
 23 A. After high school? I went -- I

Page 12

1 then after -- for a year. The company
 2 closed. And then I went to a company called
 3 Denso. They used to be called Nippon Denso.
 4 They're a big automotive distributor. I
 5 worked there for twenty years. I moved back
 6 here to Alabama. I worked a UPS store for a
 7 little while while I was looking for a job,
 8 and then I started working with the state. I
 9 started with the health department in 2006,
 10 and then in 2007 I came to the medical unit.
 11 Q. Okay. So when you worked for the
 12 health department, was the health department a
 13 separate agency from the Alabama Law
 14 Enforcement Agency?
 15 A. It is.
 16 Q. Okay. Thank you. And in 2007 you
 17 came to the medical unit within what is now
 18 the Alabama Law Enforcement Agency?
 19 A. Correct.
 20 Q. Okay. And when -- and what was
 21 your title when you first started in the
 22 medical unit?
 23 A. It's driver's license specialist.

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1 Q. And is that still your title now?
 2 A. It is.
 3 Q. Okay. And what are your
 4 responsibilities in that role?
 5 A. I have some employees that work for
 6 me. We take phone calls from people that call
 7 in with medical questions or people that we
 8 have sent paperwork to that have to take it to
 9 their doctors. We talk to some of the other
 10 units. People call in a lot for the wrong
 11 units. I receive a lot of phone calls. And I
 12 basically make sure that my people, you know,
 13 know what they're supposed to do with their
 14 jobs.
 15 Q. Okay. Great. How many people
 16 report to you?
 17 A. Right now I have two. Right now
 18 two. Right now I have two that work for me.
 19 Q. Okay. And what are their
 20 positions?
 21 A. They are -- they are ASA 1s, and I
 22 think one of them is still a clerk.
 23 Q. Can you tell me what an ASA 1 is?

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1 A. Oh, administrative support
 2 assistant.
 3 Q. Great. Thank you. And who do you
 4 report to?
 5 A. I report to Jeannie Eastman?
 6 Q. Okay. And over the past -- since
 7 2007. So I guess you've worked at ALEA for
 8 around nine years; is that right? No. Eleven
 9 years.
 10 A. Eleven.
 11 Q. I just did that wrong. All right.
 12 So you worked there for around eleven years?
 13 A. Yes.
 14 Q. And have your job responsibilities
 15 stayed pretty much the same throughout that
 16 time?
 17 A. I've gotten more responsibility
 18 since I've gotten people that work for me.
 19 Q. So when did you first begin
 20 supervising other people?
 21 A. Probably within about the last two
 22 years, last year and a half to two.
 23 Q. Okay. And at that time how did

Page 15

1 your responsibilities change?
 2 A. I just had to make sure that they
 3 were trained and they knew what they were
 4 doing and they could help people when they
 5 called and didn't have to refer all the calls
 6 to me.
 7 Q. Great. So before that time you
 8 were still responding to medical questions and
 9 helping people with medical paperwork and
 10 dealing with other inquiries that came into
 11 the unit?
 12 A. Correct. And I still do that.
 13 Q. Okay. Thank you. Oh, and what
 14 office do you work in?
 15 A. I work for headquarters downtown.
 16 Q. Okay. Could you tell me just the
 17 address of that?
 18 A. 301 South Ripley Street.
 19 Q. Thank you.
 20 A. Montgomery.
 21 Q. And what are the names of the
 22 people who report to you?
 23 A. Jean Head. I think her name is

Page 16

1 actually Shirley Jean Head. And then Emily
 2 Baggett.
 3 Q. Thank you. And so Jeannie Eastman
 4 is your supervisor, right?
 5 A. Yes.
 6 Q. And can you describe your
 7 understanding of her responsibilities?
 8 A. She's in charge of the medical
 9 unit, whatever -- you know, whatever has to do
 10 with the medical unit she's in charge of and
 11 also --
 12 Q. Okay. Do you know Diane Woodruff?
 13 A. I do.
 14 Q. And what is her role?
 15 A. She is the manager basically of the
 16 driver's license office.
 17 Q. And what's your understanding of
 18 her responsibilities?
 19 A. She's just over the whole driver's
 20 license group.
 21 Q. Okay. And the medical unit is
 22 within the driver's license office, right?
 23 A. Correct.

Page 17

1 Q. And do you know Deena Pregno?
 2 A. I do.
 3 Q. And how do you know her?
 4 A. She's the chief.
 5 Q. Okay.
 6 A. She's over everybody.
 7 Q. She's over everybody. And do you
 8 have a sense of her responsibilities being
 9 over everybody?
 10 A. She's just in charge of it all.
 11 Q. Okay. And do you know Destiny
 12 Clark?
 13 A. I do not.
 14 Q. Do you know Darcy Corbitt?
 15 A. I do not.
 16 Q. Okay. Are you familiar with the
 17 ALEA policy on when to change the sex
 18 designation on drivers' licenses?
 19 A. I am.
 20 Q. So could you tell me in your own
 21 words what the policy requires someone to do
 22 to be able to change the sex designation on
 23 their license?

Page 18

1 A. The policy requires either an
 2 amended birth certificate -- certified birth
 3 certificate. I'm sorry. Amended certified
 4 birth certificate or a letter from the doctor
 5 that performed the surgery that says the
 6 surgery has been completed.
 7 Q. Okay. And just focusing on the
 8 birth certificate for a moment, can the birth
 9 certificate come from any state in the
 10 country?
 11 A. Yes.
 12 Q. And will it also work if that birth
 13 certificate comes from another country in the
 14 world?
 15 A. I don't know that.
 16 Q. Okay. That hasn't come up so far
 17 in your work there?
 18 A. Not that I am aware of it.
 19 Possibly with someone else, not with me.
 20 Q. Okay. And when you receive an
 21 amended birth certificate from another state,
 22 do you do any inquiry with the state that
 23 issued the birth certificate?

Page 19

1 A. I have not.
 2 Q. Okay. And -- okay. I think I
 3 already asked that. And so what is your role
 4 in responding to applications to change the
 5 sex designation on a license?
 6 A. Most of the contact that I have
 7 with them is either the person calls in and
 8 asks what we need -- you know, what do I need
 9 to do to change the sex or the examiner calls
 10 because the person is in the office and they
 11 want to make sure that they have everything
 12 they need.
 13 Q. Okay. And can -- do the examiners
 14 have to call you before they approve, to your
 15 knowledge?
 16 A. Not if they have what they need.
 17 Q. Okay. And I guess in the last year
 18 can you estimate around how many applications
 19 you've seen from people who are trying to
 20 change the sex designation on their license?
 21 A. I don't -- I don't see a lot of
 22 them. I mean, I just see -- my guess is about
 23 twenty, twenty-five max. Probably twenty.

Page 20

1 Q. Okay.
 2 A. That's probably -- possibly a
 3 little bit high because I don't see a lot of
 4 them.
 5 Q. Okay. And is there any policy or
 6 procedure to check another state's birth
 7 certificate?
 8 A. Not that I'm aware of.
 9 Q. Okay. So of those, you know,
 10 roughly twenty or twenty-five applications
 11 from the last year can you estimate around how
 12 many of them are approved?
 13 A. Most of them are approved because
 14 most of them will eventually get us the
 15 paperwork that we need. Once they understand
 16 what we need, most of them will get it. So
 17 most of them.
 18 Q. Okay. So by most would you say
 19 like all but one or two or --
 20 A. I would say probably over
 21 two-thirds. Maybe seventy-five percent I
 22 would think.
 23 Q. Okay. Great.

Page 21

1 A. In my experience with it.
 2 Q. And roughly how many inquiries
 3 would you estimate you received in the -- say
 4 in the last year, again, about changing sex
 5 designation on a license?
 6 A. I would guess maybe forty, forty-
 7 five, something like that maybe.
 8 Q. Okay. And I probably should have
 9 specified. When you're estimating maybe forty
 10 or forty-five, is that people calling directly
 11 because they are interested in changing the
 12 sex designation on their own license?
 13 A. Yes. For the most part, yes.
 14 Q. Would it also be included in that
 15 forty to forty-five calls from drivers'
 16 licenses examiners?
 17 A. Yes. That have the people standing
 18 there with them asking the questions.
 19 Q. Okay. So it's forty to forty-five
 20 all together with all those combined roughly?
 21 A. Maybe -- maybe a little bit higher.
 22 Q. Okay.
 23 A. If you include the driver's license

Page 22

1 people in there, so maybe a little bit higher.
 2 Q. Okay. Like maybe fifty, fifty-
 3 five.
 4 A. Fifty, sixty.
 5 Q. Fifty, sixty.
 6 A. And that's talk to me, not -- you
 7 know, they're the ones I'm aware of.
 8 Q. Right. Do you have a sense of
 9 roughly how many of those inquiries come to
 10 you as opposed to other people in your office?
 11 A. I do not.
 12 Q. Okay. Would the inquiries go to
 13 either you or one of the two people who you
 14 supervise?
 15 A. There are -- let's see. There was
 16 one other person in the department that's --
 17 does not work for me that takes phone calls
 18 also for the medical unit. And some of them
 19 would go to her.
 20 Q. Okay. And who is that person?
 21 A. Her name is Jackie Cutter.
 22 Q. Jackie Cutter. Okay. Thank you.
 23 Would Jeannie Eastman handle those inquiries

Page 23

1 directly?
 2 A. If I wasn't available then she
 3 would.
 4 Q. Okay. And so could you explain to
 5 me the process for changing the sex
 6 designation on a driver's license in the same
 7 way you would to somebody who called you
 8 seeking that information for themselves?
 9 A. I would basically just tell them
 10 what our policy is that you would need an
 11 amended birth certificate -- a notarized -- a
 12 certified -- I'm sorry, certified amended
 13 birth certificate. Or you need a letter from
 14 the doctor that performed the surgery on the
 15 doctor's letterhead that says the surgery has
 16 been completed.
 17 Q. And has anyone ever asked you for
 18 more information about what sort of surgery
 19 was required?
 20 A. No.
 21 Q. Okay. Is there a help desk within
 22 ALEA as well?
 23 A. Our help desk is -- helps with

Page 24

1 computer issues like --
 2 Q. Okay.
 3 A. -- if you -- you know, if the
 4 computer doesn't work or something like that,
 5 you call them. There's not a help desk that
 6 helps you with questions. The help desk is
 7 there for us or for the examiners if I'm
 8 trying to -- let's see. I'm trying to think.
 9 Different computer issues, not questions for
 10 the public to call in and ask the help desk.
 11 Q. Okay. Is there any sort of
 12 customer service bureau that would also take
 13 questions from the public?
 14 A. Not that I'm aware of.
 15 Q. Okay. Thank you. Is there any
 16 other entity within ALEA you can think of
 17 would receive calls about the sex designation
 18 on drivers' licenses?
 19 A. No.
 20 Q. Okay. Thank you. So it's my
 21 understanding that applications to change the
 22 sex designation on a driver's license can
 23 either go to one of the field offices or can

Page 25

1 come to the headquarters in Montgomery; is
2 that right?
3 A. Yes.
4 Q. Okay. If an application comes to
5 the headquarters in Montgomery, what's the
6 process for addressing that?
7 A. Once we get it, it gets date
8 stamped so that, you know, that we know that
9 we got it. Myself or Jeannie will look at it
10 to make sure that it meets our -- you know,
11 our policy criteria. And if it does we will
12 change the sex in the system and we will send
13 the person -- the person should be sent a
14 letter that says you can go to the driver's
15 license office and change it.
16 Q. Okay. So the first thing that
17 happens when the application comes in is
18 somebody type stamps it or date stamps it.
19 A. Date stamps it.
20 Q. Thank you. Then -- and who is the
21 person who would date stamp it?
22 A. Whoever either pulls it off the fax
23 machine or whoever gets it out of the mail.

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1 Q. Okay. And so the applications come
2 by fax or by regular mail?
3 A. Generally.
4 Q. Do they sometimes also come by
5 email with scanned documents?
6 A. The driver's license people may
7 send it like that, yes.
8 Q. Okay. So an examiner might send
9 it?
10 A. Right, from the field.
11 Q. Right. But individuals wouldn't
12 necessarily have the email address?
13 A. I don't -- I don't know if they
14 would have it or not. I don't know that. I
15 don't remember seeing that.
16 Q. Okay. But you have never received
17 an email from some -- directly from an
18 individual seeking a change --
19 A. Not that I remember.
20 Q. And just a reminder to let me
21 finish even if I'm stumbling a little.
22 A. Sorry.
23 Q. So first it gets date stamped. And

Page 27

1 then whoever picks it up will then pass it to
2 either you or Ms. Eastman?
3 A. Correct.
4 Q. And how would they decide whether
5 it goes to you or Ms. Eastman?
6 A. If I'm there, they would --
7 actually if Jeannie is there, they will give
8 it to Jeannie first. If Jeannie is out and
9 not going to be back like that day or
10 something, then they would give it to me.
11 Q. Okay. And if it comes to you,
12 what's the first thing that you would do with
13 it?
14 A. I would look at it, see that they
15 have a driver's license number, you know, and
16 then pull up the license number, make sure
17 that the letter -- well, actually I would make
18 sure that the letter meets the criteria, then
19 pull up the diver's license number.
20 Q. By pull it up, you mean in a
21 database?
22 A. Yes, correct.
23 Q. Okay. What's the name of your

Page 28

1 database that you use?
2 A. It is -- we call it DB2. I
3 don't -- I don't know what the long name is.
4 Q. That's fine. And so what would you
5 do next after you've read the letter and
6 you've pulled up the record?
7 A. If it meets the criteria, then I
8 would go to central admin and change the sex.
9 Q. And go to central admin, does that
10 mean a place within the database or in a
11 different software program or somewhere
12 physical?
13 A. I'm not sure.
14 Q. Okay. What does it look like to
15 you when you go to central admin?
16 A. It has the information on the
17 driver, their license number, birthday,
18 social. It also has their test information if
19 they had to take a road test or written test
20 or whatever and then like their eye reports --
21 not the reports; I'm sorry -- the vision
22 readings when they went to the driver's
23 license office and then any restrictions that

Page 29

1 are on there.
2 Q. So is it the same thing that you
3 would see when you pull up the record?
4 A. No.
5 Q. Okay. So you do something else on
6 the computer to get to this different thing?
7 A. Yes.
8 Q. Okay. And what would happen next
9 once you've gone there?
10 A. Then we would send them a letter to
11 change their gender.
12 Q. Who sends the letter?
13 A. I would or Jean would.
14 Q. Okay. And would they also receive
15 a new license at that time?
16 A. They would take the letter with
17 them to the driver's license office to get a
18 duplicate license with the sex change.
19 Q. Okay. So they get the letter and
20 then they bring the letter to the field office
21 that will issue them an updated license?
22 A. Correct.
23 Q. Okay. Thank you. And as a part of

Page 30

1 this process do you ever recall the doctor who
2 wrote the letter?
3 A. I have called a doctor previously
4 because there wasn't enough information on the
5 letter. It didn't say the surgery had been
6 completed, so I called the doctor's office.
7 Q. Okay. So if the letter itself
8 doesn't say the words "the surgery has been
9 completed," then you call the doctor's office?
10 A. I would, yes.
11 Q. Okay. And you would call the
12 doctor's office to get more information about
13 the procedure that was done?
14 A. I would call the doctor's office to
15 find out if the surgery had been completed.
16 If it had, then that's what I need in writing
17 from them.
18 Q. Okay. And when you call the
19 doctor's office do you usually speak to the
20 doctor themselves?
21 A. Usually I speak to a nurse.
22 Q. Okay. And could you maybe think of
23 just the most recent time that you called a

Page 31

1 doctor's office and tell me what was said in
2 that conversation?
3 A. I haven't called any recently. I
4 haven't had to because the letters have been
5 okay. The ones that I have called before
6 though I would say this is what your letter
7 says, we need something -- has your doctor
8 performed the surgery and is it completed. If
9 so, that's what we need.
10 Q. Okay. And how do you identify
11 yourself when you make those calls?
12 A. My name -- this is -- actually J.J.
13 is my nickname. So I would say my name is
14 J.J. Spencer. I'm calling from the medical
15 unit for the driver's license. I need to
16 discuss a letter that we've received with, you
17 know, someone that's aware -- someone that can
18 talk with me about it because usually your
19 receptionist people -- you know, once they
20 find out you have a patient, they'll switch
21 you to somebody else.
22 Q. Okay. And is it a part of the
23 typical process to go back to the individual

Page 32

1 applicant to ask for permission before calling
2 the doctor's office?
3 A. No, because we have -- we have the
4 letter from them already.
5 Q. Okay. Are there any times that you
6 can think of where something about that
7 process was significantly different from what
8 you just described?
9 A. No.
10 Q. Okay. And what measures do you
11 take to protect the privacy of applicants who
12 are seeking to change the sex on their
13 driver's license?
14 A. I don't understand your question.
15 Q. Is there anything in the procedures
16 or policies that you follow that is designed
17 to make sure that information about the
18 applicants isn't shared more widely than it
19 should be?
20 A. We don't share the information on
21 any of our people, the medical people that
22 call in, whatever condition that they have.
23 It's in a database. Our people are all aware

Page 33

1 that you're not -- you know, that's privacy.
 2 We work in a medical unit. You don't share
 3 information, period. That's it.
 4 Q. Okay. Thank you. I am going to
 5 show you a document now. This is already
 6 marked as Plaintiff's Exhibit 7. So could you
 7 describe the first page of this document?
 8 A. This is the policy order
 9 originally, I think it was, because I think
 10 it's from -- it says it's from 2012 --
 11 regarding changing sex on a driver's license,
 12 a gender reassignment.
 13 Q. And this is consistent with your
 14 memory of what the policy was around that
 15 time?
 16 A. Yes, it is.
 17 Q. Okay. And then the next page,
 18 could you describe this document?
 19 A. This is a current policy in
 20 changing the gender reassignment.
 21 Q. Okay. And so the second page of
 22 Plaintiff's Exhibit 7 is the current policy?
 23 A. Yes.

Page 34

1 Q. Do you recall when you first
 2 learned about the policy for changing sex
 3 designation on drivers' licenses?
 4 A. I don't remember like what year it
 5 was or when, no.
 6 Q. When you first started in the
 7 medical unit, were you dealing with inquiries
 8 about changing sex designation on drivers'
 9 licenses?
 10 A. Never. I actually never got one of
 11 those calls.
 12 Q. Okay.
 13 A. Not for years.
 14 Q. So I know this might not be exact,
 15 but do you have an estimate of around how many
 16 years in you first had to address a question
 17 about changing sex designation on a driver's
 18 license?
 19 A. I think I probably saw something
 20 maybe 2012, '13 somewhere, maybe around then.
 21 Q. Okay. And do you remember how you
 22 learned how to respond to that request or
 23 inquiry?

Page 35

1 A. Jeannie Eastman would have
 2 showed -- would have taught us.
 3 Q. Okay. Actually I should have
 4 asked. How long has Jeannie Eastman been your
 5 supervisor?
 6 A. Let's see. Let me think. I don't
 7 remember exactly what year. She's probably
 8 been there for at least -- or she's probably
 9 been my supervisor probably at least six,
 10 seven years maybe.
 11 Q. Okay. And do you remember back in
 12 2012 or 2013 when you would have asked Jeannie
 13 about how to respond to requests about sex
 14 designation changes, did you see this policy
 15 at that time? And by this I'm referring to
 16 the 2012 policy on the first page of
 17 Plaintiff's Exhibit 7.
 18 A. She would have shown me the policy.
 19 Q. Okay. So you don't remember her
 20 showing it to you, but you think that's what
 21 likely happened?
 22 A. Yes. Yes.
 23 Q. Okay. And do you remember ever

Page 36

1 receiving any additional guidance, whether
 2 verbal or written, about the policy?
 3 A. No.
 4 Q. Okay. And when -- I believe this
 5 policy was revised in 2015; is that right? Do
 6 you know?
 7 A. I don't know that.
 8 Q. Okay. Do you remember at any point
 9 being told that the policy had been revised?
 10 A. I know we got a copy of the new
 11 policy.
 12 Q. Okay.
 13 A. Or the revised policy.
 14 Q. And how would you have received
 15 that new policy?
 16 A. Jeannie probably would have given
 17 it to us.
 18 Q. Okay. So you don't remember, but
 19 you think it's likely that she handed you a
 20 hard copy of it?
 21 A. Yes.
 22 Q. Okay. Do you remember any time
 23 when Jeannie or someone else told you that you

Page 37

1 had applied the policy incorrectly?
 2 A. No.
 3 Q. Do you remember any time when you
 4 asked a question about whether something was
 5 compliant with the policy or not?
 6 A. No. Because if it said complete,
 7 then it was changed.
 8 Q. Okay. But you were looking for
 9 surgery complete, correct?
 10 A. Correct.
 11 Q. And what's your own understanding
 12 of the purpose of the surgery requirement?
 13 A. It's just the policy, and we have
 14 to adhere to our policies.
 15 Q. Okay. And so you don't have any
 16 thoughts on why they may have created the
 17 policy like this?
 18 A. No.
 19 Q. Okay. Has anyone, Jeannie Eastman
 20 or anyone else at ALEA, ever talked to you
 21 about the purpose behind the policy?
 22 A. No.
 23 Q. And have you ever talked to any of

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1 your colleagues about times when you or one of
 2 them had to deny an application to change a
 3 sex designation on a driver's license?
 4 A. No. I've possibly talked to the
 5 driver's license people in the field that
 6 called in and explained to them that we needed
 7 the letter to say completed or the amended
 8 birth certificate, explain the requirements to
 9 them because they would generally have the
 10 person standing there with them and sometimes
 11 they would let me talk to that person.
 12 Q. Okay. And what would you say if
 13 you talked to a person in that situation?
 14 A. I would just tell them that either
 15 we needed the amended birth certificate or we
 16 need the letter from the doctor saying the
 17 surgery had been completed.
 18 Q. Has anyone ever expressed concern
 19 about not being able to change sex designation
 20 on a driver's license to you?
 21 A. They have.
 22 Q. What have they said?
 23 A. They just said that they thought

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1 they should be able to change it anyway.
 2 Q. Okay. Do you remember anything
 3 else the people have said to you in those
 4 circumstances?
 5 A. No.
 6 Q. Have you or any of your colleagues
 7 or the driver's license examiners ever
 8 expressed concern about not being able to
 9 change someone's sex designation?
 10 A. No.
 11 Q. Okay. And have you ever heard
 12 anyone, an examiner or someone at ALEA -- I'm
 13 sorry. Strike that.
 14 Have you ever heard any of the
 15 examiners or any of your colleagues at ALEA
 16 express concern about transgender women having
 17 to show a driver's license that had a male sex
 18 designation on it?
 19 A. No.
 20 Q. Have you heard anyone express
 21 concern about transgender men having to show a
 22 driver's license with the female sex
 23 designation on it?

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1 A. No.
 2 Q. Other than just to state the
 3 requirements, have you ever heard anyone who
 4 works at ALEA discussing anything about the
 5 policy for changing sex designation?
 6 A. No.
 7 Q. Do you have any personal concerns
 8 about the policy yourself?
 9 A. No.
 10 Q. Do you agree that it's a good
 11 policy?
 12 A. Yes, I agree that it's a good
 13 policy.
 14 Q. Okay. And why is that?
 15 A. Because if you're going to change
 16 the sex on a license, you need some proof or
 17 something. You shouldn't just be able to just
 18 change it.
 19 Q. And why is that? Why should you
 20 have some proof?
 21 A. Well, I mean, because you could go
 22 in there today and say today I want my license
 23 to be male, and tomorrow you want to go

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1 somewhere where women are going, and so
2 tomorrow you decide you should be a woman
3 tomorrow. So there's need to be something
4 that's a little more permanent than just I
5 feel like this today and tomorrow I feel like
6 that.
7 Q. And just to be explicit, what would
8 your concern about somebody being able to
9 change their sex on their driver's license
10 multiple times be?
11 A. Well, I just -- I think it's -- you
12 know, I mean -- I don't know. That's just
13 me. I just feel like, you know, if you're
14 supposed to be -- if you are a man, if you're
15 born a man, then that's what you are. Nothing
16 that you do will change that. Our policy
17 states differently and I work, you know, where
18 I work. Then I go with my policy.
19 Q. Okay. So personally you believe
20 that if you are born a man you stay a man, but
21 you don't have a problem with following the
22 policy that says if somebody has completed
23 surgery their sex designation should be

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1 changed to female?
2 A. Correct.
3 Q. Okay. Thank you. And who do you
4 understand would have the power to change this
5 policy if it were to be changed?
6 A. I'm not sure of that. Whoever
7 writes the policies.
8 Q. Okay.
9 A. I don't write them so --
10 Q. Right. Do you know who created
11 this policy?
12 A. I do not.
13 Q. That's fine. Are you aware that
14 different states have different policies
15 around changing sex on drivers' licenses?
16 A. Yes.
17 Q. Have you ever discussed those
18 different policies with anyone at ALEA?
19 A. No.
20 Q. How have you become aware of those
21 different policies?
22 A. Because when the people call in
23 they'll say I didn't -- I don't have to do

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1 that in Georgia or whatever state it was that
2 they stated. You know, they'll say such and
3 such state does not require this. And I'll
4 say, well, this is an Alabama requirement to
5 hold the Alabama license to change it.
6 Q. Okay. Thank you. Have you ever
7 heard any recommendations that anyone made to
8 change anything about the policy?
9 A. No.
10 Q. Have you ever made any of those
11 recommendations yourself?
12 A. No.
13 Q. Okay. Just to go back to who has
14 the power to change the policy, do you think
15 that Jeannie Eastman would be able to change
16 it?
17 A. Not by herself.
18 Q. Okay. Who else do you think --
19 A. It would have to be someone higher
20 than her that could change the policy.
21 Q. Okay. Do you think Deena Pregno
22 would have the power to change the policy?
23 A. I don't know.

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1 Q. Okay.
2 (Plaintiff's Exhibit Number 14 was
3 marked for identification. A copy
4 is attached.)
5 Q. I'm going to show you what's been
6 marked as Plaintiff's Exhibit 14. Could you
7 describe that document, please?
8 A. It is a -- it is something that
9 says that -- how Iowa changes the gender.
10 Q. So it's an email --
11 A. It is. I'm sorry.
12 Q. That's fine. So it's an email from
13 Ms. Eastman to you, right?
14 A. Correct.
15 Q. And it's forwarding information
16 about how they change drivers' licenses in
17 Iowa?
18 A. It is.
19 Q. Okay. Do you remember this
20 document?
21 A. No, I don't.
22 Q. Okay.
23 A. I do not.

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1 Q. Do you have any thought on why
 2 Ms. Eastman might have sent it to you?
 3 A. She wanted me to be aware of it I
 4 guess.
 5 Q. Can you think of any reason why she
 6 might have wanted you to be aware of it?
 7 A. Because I guess she wanted to see
 8 that somebody -- another state does the same
 9 thing that we do.
 10 Q. And why do you think it would
 11 matter that another state does things the same
 12 way that you do?
 13 A. I have no idea.
 14 Q. Okay. And did you ever discuss
 15 policies for sex designation changes on
 16 drivers' licenses in other states with
 17 Ms. Eastman that you recall?
 18 A. Not that I recall.
 19 Q. Okay. And do you recall if you did
 20 anything with this information about Iowa?
 21 A. I do not remember seeing it so, no,
 22 I do not.
 23 Q. Okay. So I understand that sex

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1 designations on drivers' licenses can be
 2 changed if somebody has had surgery that has
 3 been completed. Are people also able to
 4 change the sex designation on their licenses
 5 if the original designation was a
 6 typographical error?
 7 A. Yes.
 8 Q. What's the procedure or process for
 9 making those changes?
 10 A. I do not know that. I don't do it.
 11 Q. So it has never come up for you in
 12 your time working there?
 13 A. I've gotten a phone call from a
 14 driver's license office saying that they
 15 accidentally typed the wrong one and I
 16 referred them up to the help desk.
 17 Q. Oh, so you refer them to the IT
 18 help desk to help with computer issues?
 19 A. It's not the IT. It's the regular
 20 help desk that we have that can -- that can
 21 change the sex on the license. They can
 22 change the address. They are with the issuing
 23 unit.

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1 Q. Okay. Okay. I think I might have
 2 misunderstood earlier. So the help desk is
 3 inside the issuing unit and they can help with
 4 the various problems about the information in
 5 driver's license holders' records?
 6 A. Yes.
 7 Q. Okay. But they don't communicate
 8 directly with driver's license holders or
 9 applicants for driver's license?
 10 A. Correct, they do not.
 11 Q. Okay. Are you aware of anyone who
 12 has said that the sex designation on their
 13 birth certificate was a typographical error?
 14 A. Not that I remember.
 15 Q. Okay. Can you recall any other
 16 typographical errors with regard to sex on any
 17 other documents that people brought to the DMV
 18 with them?
 19 A. No. And I don't see those
 20 documents because I'm not at an office where
 21 we issue.
 22 Q. Okay. So nobody has called to ask
 23 you about it?

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1 A. No.
 2 Q. Okay. All right. So I'm going to
 3 show you some documents now that I believe are
 4 all from applications from individuals to
 5 change the sex designation on their driver's
 6 license. You can certainly tell me if I'm
 7 wrong.
 8 (Plaintiff's Exhibit Number 15 was
 9 marked for identification. A copy
 10 is attached.)
 11 Q. And so this document which I'm
 12 marking Plaintiff's Exhibit 15, could you
 13 describe that document to me?
 14 A. This is a letter from a doctor
 15 saying that they have completed sex
 16 reassignment surgery, and it was sent to our
 17 unit.
 18 Q. How can you tell it was sent to
 19 your unit?
 20 A. This -- this right here is my
 21 signature.
 22 Q. Okay. Great. So this notation
 23 status back to valid, 5-29-14, JJS, did you

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1 write that?
 2 A. I did.
 3 Q. And JJS are your initials, right?
 4 A. Yes, correct.
 5 Q. And can you tell me what status
 6 back to valid means?
 7 A. In this particular case I can't a
 8 hundred percent tell you. A status may be
 9 invalid or on hold or suspended or whatever.
 10 It means -- or they were possibly in a zero
 11 status which means basically they can't go in
 12 to get a license. It basically means they
 13 were in a status besides valid so we
 14 switched -- they went back to valid. Once we
 15 got the letter we switched them back to valid
 16 status so they could get the license issued.
 17 Q. So valid means that the person is
 18 able to get a driver's license?
 19 A. Yes.
 20 Q. And could you just explain to me --
 21 so what does zero status mean again?
 22 A. Zero status keeps you from going
 23 back in and getting a license. If you have

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1 zero status, your license can't be issued.
 2 Q. Would that be for somebody who
 3 hasn't yet passed a driver's license exam or
 4 would it be for somebody who had had their
 5 driver's license revoked?
 6 A. Could be -- it would be for
 7 somebody that's had their license -- generally
 8 it's revoked or it's holding -- like if you
 9 leave Alabama -- you owe us a medical form,
 10 you leave Alabama, and then we make you a zero
 11 status so that when you come back you have to
 12 give us those forms before you get your
 13 license.
 14 Q. I see. So would it be if somebody,
 15 for example, had a seizure disorder and hadn't
 16 supplied you with information necessary to
 17 know that they were safe to drive, then you
 18 would place them in zero status?
 19 A. Possibly.
 20 Q. What else might you do with
 21 somebody in that circumstance?
 22 A. We could possibly just suspend them
 23 depending on what information that we had.

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1 Q. And the status suspended is
 2 different than the zero status?
 3 A. Yes.
 4 Q. And what's the status on hold?
 5 A. The zero is kind of the holding
 6 status. Okay?
 7 Q. Okay.
 8 A. You can't go in and renew a zero
 9 status license until the status is changed.
 10 Q. So the possible status is zero,
 11 suspended, and valid?
 12 A. There's -- hang on. There's some
 13 more. There's left state and there's about
 14 two or three more I think.
 15 Q. Okay. So left state, zero,
 16 suspended, valid, and then two or three others
 17 that you can't recall at the moment?
 18 A. Unlicensed.
 19 Q. Unlicensed. Okay. So is there any
 20 situation where because of information about a
 21 sex designation on a license that person's
 22 status would be changed from valid to a
 23 different status?

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1 A. Generally not. This one, without
 2 seeing the background on it, I don't know why
 3 it was -- I don't know why the status was not
 4 valid. They might have been suspended for
 5 something else. I don't know.
 6 Q. Okay. Can you tell from this
 7 whether this person's request to change the
 8 sex designation on their license was granted?
 9 A. I cannot a hundred percent tell you
 10 that, no.
 11 Q. If you saw this letter today, would
 12 it meet the requirements of the policy?
 13 A. It would.
 14 Q. Okay. And why would it meet the
 15 requirements of the policy?
 16 A. Second paragraph.
 17 Q. And the second paragraph reads sex
 18 reassignment surgery has been completed on
 19 December 30th, 2011, and blank, redacted, is
 20 not of the sex recorded in the original
 21 records?
 22 A. Right.
 23 Q. Okay. And is the critical language

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1 there the sex reassignment surgery has been
 2 completed?
 3 A. Correct.
 4 Q. And it is in the policy. It refers
 5 to gender reassignment surgery. Is it your
 6 understanding that sex reassignment surgery
 7 and gender reassignment surgery mean the same
 8 thing?
 9 A. Pretty much so, yes.
 10 Q. Yeah. Is there any way in which
 11 you think they're different?
 12 A. I know there's a difference. I
 13 don't know how to explain it.
 14 Q. But for purposes of the policy, do
 15 you treat the language sex reassignment
 16 surgery the same way you treat the language
 17 gender reassignment surgery?
 18 A. Yes.
 19 Q. Okay. I'm now going to show you
 20 what I'm marking as Plaintiff's Exhibit 16.
 21 (Plaintiff's Exhibit Number 16 was
 22 marked for identification. A copy
 23 is attached.)

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1 Q. Could you describe that document?
 2 A. It's another letter from a doctor.
 3 Let's see. It's a letter from the doctor
 4 saying they have had the surgery and it has
 5 been completed.
 6 Q. Okay. And it looks like at the
 7 bottom there are initials from DCW and JJS?
 8 A. Right.
 9 Q. JJS probably refers to you, right?
 10 A. Yes.
 11 Q. And DCW, would that be Diane
 12 Woodruff?
 13 A. It would.
 14 Q. Okay. And it looks like your
 15 initials are maybe scratched out; is that
 16 right?
 17 A. No, sir. That's my S.
 18 Q. Oh, that's your S. Great. Thank
 19 you.
 20 A. It's being fancy.
 21 Q. So is it likely that both you and
 22 Diane Woodruff reviewed this document?
 23 A. Yes, sir.

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1 Q. Okay. And from this notation it
 2 looks like the person's application to change
 3 the sex designation from male to female is
 4 granted; is that right?
 5 A. Yes.
 6 Q. Okay. And could you tell me why
 7 this one was granted?
 8 A. Because the letter says that they
 9 have had -- that the surgery has been
 10 completed.
 11 Q. Could you show me the exact
 12 language?
 13 A. In paragraph three, referred for
 14 and undergone the surgical procedure I need to
 15 irreversibly correct -- in there. So that --
 16 basically that paragraph.
 17 Q. Okay. So hypothetically instead of
 18 sex reassignment if this letter had said
 19 surgery has been performed to create a vagina,
 20 clitoris, and labia and to remove the testes,
 21 would that still be compliant with the policy?
 22 A. Well, the letter itself has got to
 23 say complete, the surgery has been complete.

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1 Q. Okay. So let's say that it said
 2 the surgery has been completed, this surgery
 3 was to create a vagina, labia, and clitoris
 4 and to remove the testes.
 5 A. Then that should be accepted.
 6 Q. Okay. So is it fair to say then
 7 that surgery to -- that particular form of
 8 genital surgery is sex reassignment surgery or
 9 gender reassignment surgery for purposes of
 10 the policy?
 11 A. Yes.
 12 Q. Thank you.
 13 MR. MARSHALL: Gabriel, could we
 14 take a short break?
 15 MR. ARKLES: Oh, absolutely.
 16 (Break taken.)
 17
 18 Q. All right. So I'm going to move
 19 on. This is Plaintiff's Exhibit 17.
 20 (Plaintiff's Exhibit Number 17 was
 21 marked for identification. A copy
 22 is attached.)
 23 Q. Could you please describe that one

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1 as well?
2 A. It's a letter from a doctor
3 regarding completing the surgery.
4 Q. Okay. And those are your initials
5 again at the bottom, right?
6 A. They are.
7 Q. And it looks like from your
8 notation this application to change the sex
9 designation on the license was also granted,
10 right?
11 A. Yes.
12 Q. And I see that this letter in
13 addition to saying that the surgeon completed
14 sexual reassignment surgery the surgeon also
15 specifies that this was surgical procedures of
16 chest masculinization; is that right?
17 A. That's part of it.
18 Q. What else does it say was
19 performed?
20 A. Well, then at the -- in the middle
21 of the -- of it it says has completed sexual
22 reassignment.
23 Q. Okay. So is it your understanding

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1 that sexual reassignment is different from and
2 in addition to chest masculinization?
3 A. I don't know that. I'm not a
4 doctor, so I don't know that.
5 Q. Okay. So if this letter stated
6 clearly that the only sexual reassignment
7 surgery that was completed was chest
8 masculinization, would you still have approved
9 this request to change the sex designation?
10 A. No.
11 Q. And why not?
12 A. It does not -- it has to say the
13 surgery has been completed.
14 Q. What if it did say -- I'm sorry.
15 Let me try again. So if it said sexual
16 reassignment surgery in the form of chest
17 masculinization has been completed, then would
18 that satisfy the policy?
19 A. I'm not sure how to answer that. I
20 don't -- that doesn't mean completed to me,
21 according to the policy.
22 Q. Okay. So even if it says the word
23 completed -- let me try this. Strike that.

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1 What does the word completed mean
2 to you?
3 A. Totally finished, everything is
4 done.
5 Q. And what does everything mean to
6 you?
7 A. If something is complete, it's
8 finished, I mean, there's nothing else left to
9 do.
10 Q. So by nothing else left to do, do
11 you mean that the individual does not require
12 any further surgical procedures for a sex
13 reassignment?
14 A. I'm trying -- I'm sorry. I'm
15 trying to understand what you're saying.
16 Q. Okay. So in one sense anytime a
17 particular operation is over it's complete,
18 right?
19 A. Correct.
20 Q. Does your policy simply mean that
21 an operation is not still actively ongoing?
22 A. Well, it means it's completed.
23 It's finished. There's nothing else you can

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1 do with it.
2 Q. What does there's nothing else you
3 can do with it mean?
4 A. There's no further procedure to
5 do. It's done.
6 Q. Do you mean that an individual has
7 had every possible surgical procedure having
8 to do with sex reassignment?
9 A. If the policy says completed, yes,
10 that's what it is.
11 Q. Okay. So let's, for example, say
12 that transgender women, which is people who
13 are assigned male at birth and who identify as
14 female -- that transgender woman can get
15 numerous forms of surgery, some on their face,
16 some on vocal cords, some on breasts, some on
17 genitals. Is it your understanding that the
18 policy requires that surgery on all of those
19 different parts of the body have been
20 completed?
21 A. The only thing we look for on the
22 letter is the doctor to say the surgery has
23 been completed. If he says that, then we have

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1 to go with it.
2 Q. So I thought a moment ago you said
3 that even if the doctor said that sexual
4 reassignment surgery in the form of chest
5 masculinization has been completed you would
6 not accept.
7 A. No, because it's the rest of the
8 surgery, surgery completed, on -- totally
9 completed.
10 Q. What if the letter did say that
11 surgery was totally completed and that the
12 surgery was sexual reassignment surgery in the
13 form of chest masculinization?
14 A. It's got to be -- it's got to be
15 totally completed. It can't just be a
16 partial.
17 Q. How would you know that that's not
18 totally completed?
19 A. If they only listed the chest, then
20 that's only partial.
21 Q. Why is that partial?
22 A. Because they didn't list the whole
23 surgery. They just said the one part of the

Page 62

1 surgery has been completed.
2 Q. Is it your understanding that
3 everyone who receives chest masculinization
4 also receive other surgeries?
5 A. I have no idea.
6 Q. I'm just struggling to understand
7 why that would not be complete if the letter
8 says complete.
9 MR. CHYNOWETH: Object to the form.
10 MR. ARKLES: Fair.
11 Q. So is it your understanding that
12 somebody must have genital sex reassignment
13 surgery in order for sexual reassignment to be
14 complete, according to the policy?
15 A. Yes.
16 Q. Okay. And how did you come to that
17 understanding, that it must be genital sex
18 reassignment surgery?
19 A. When we were -- hang on. I'm
20 trying to think how to answer that. Let's
21 see. Can I look at this? Is that --
22 Q. Absolutely. The witness is looking
23 at Exhibit 7, the second page, which is the

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1 current policy.
2 A. Because when the policy is talking
3 about the gender reassignment surgery that has
4 to be completed, then that's -- then that's
5 what makes the surgery complete on the gender
6 reassignment surgery.
7 Q. Is it your understanding that
8 gender reassignment surgery means genital
9 surgery?
10 A. Partially. I mean, I'm not a
11 doctor so, I mean, it can mean different
12 things, but yes.
13 Q. Okay. So your understanding is
14 that gender reassignment surgery, for purposes
15 of the policy, must at least include surgery
16 on the genitals?
17 A. Yes.
18 Q. Okay. And did anyone tell you that
19 that was the meaning of gender reassignment
20 surgery?
21 A. I don't remember.
22 Q. Do you believe that Ms. Eastman
23 shares your understanding of the meaning of

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1 gender reassignment surgery?
2 A. You would probably need to ask her
3 that.
4 Q. Fair enough. Do you have any
5 reason to believe that she has a different
6 understanding --
7 A. No.
8 Q. Do you have any reason to believe
9 she has a different understanding of the word
10 gender reassignment surgery for the purpose of
11 the policy than you?
12 A. No, I do not.
13 Q. Okay. Do you have any reason to
14 believe that she has the same interpretation
15 of it as you do?
16 A. I believe that she does.
17 Q. And what's the basis of your belief
18 that she does?
19 A. Just the letters that we have from
20 the doctors that -- you know, you look at the
21 letters from the doctors and change the sex
22 based on those.
23 Q. Okay. So based on your experience

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1 of working together to respond to applications
 2 you believe you have the same understanding of
 3 what gender reassignment surgery means?
 4 A. Yes.
 5 Q. Okay. Thank you. And let me also
 6 just further clarify. So if you received a
 7 letter from a physician that said that genital
 8 sex reassignment surgery is complete, however
 9 I expect the patient will need to return for a
 10 revision surgery in the future, would you
 11 understand that to be consistent with the
 12 policy?
 13 A. If it says the surgery has been
 14 completed, then yes.
 15 Q. Okay. So complete doesn't mean
 16 that the person won't need a minor follow-up
 17 procedure at some point?
 18 A. Possibly. I'm not a doctor. I
 19 don't know that.
 20 Q. So long as the doctor says
 21 complete --
 22 A. Complete.
 23 Q. -- and so long as it is about

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1 genital sex reassignment surgery, your
 2 understanding is that it's complete?
 3 A. Yes.
 4 Q. Okay. Let's see. So this one is
 5 going to be Plaintiff's Exhibit 18.
 6 (Plaintiff's Exhibit Number 18 was
 7 marked for identification. A copy
 8 is attached.)
 9 Q. So could you describe this document
 10 for me?
 11 A. It's a letter from the doctor
 12 saying that he has treated this person.
 13 Q. Okay. And those are your initials
 14 at the bottom again?
 15 A. They are.
 16 Q. And the notation says no surgery
 17 performed per PX with doctor office; is that
 18 right?
 19 A. Yes.
 20 Q. What does PX mean?
 21 A. Phone call.
 22 Q. Okay. Thank you. And so this
 23 person's application to change the sex on

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1 their -- the sex designation on their license
 2 was denied; is that correct?
 3 A. It would be denied based on this
 4 letter. I don't know if there's a follow-up
 5 letter or anything else. Based on this letter
 6 alone, yes, it would have been denied.
 7 Q. Okay. So at this point it would
 8 have been denied, but if there was a different
 9 letter it could have been granted in the
 10 future?
 11 A. Correct.
 12 Q. Okay. And so -- and let's see.
 13 And so this is dated -- your notation is dated
 14 March 17th, 2017, right?
 15 A. Correct.
 16 Q. Do you recall this particular
 17 application by any chance?
 18 A. I don't. I don't know who it is,
 19 so I have no idea.
 20 Q. Right. So this was an occasion
 21 where you did call the doctor's office, right?
 22 A. I did.
 23 Q. I suppose you don't remember, but

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1 can you tell us why you think you would have
 2 called the doctor's office?
 3 A. Because it does not say the surgery
 4 had been completed.
 5 Q. Okay. And did you doubt the
 6 authenticity of this letter?
 7 A. No, I just doubted the surgery had
 8 been completed.
 9 Q. Okay. And so you likely called the
 10 doctor's office, as we discussed before, and
 11 asked if the surgery had been completed once
 12 you got ahold of somebody who could answer
 13 your questions?
 14 A. Correct.
 15 Q. Okay. Would you have asked any
 16 other questions?
 17 A. No.
 18 Q. Okay.
 19 A. Because that's all I need to know.
 20 Q. Okay. And is it your understanding
 21 that according to the current policy it's the
 22 appropriate procedure to call the doctor's
 23 office when they haven't provided enough

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1 information to be able to grant the request?
 2 A. Yes, it is.
 3 Q. Okay. And this, again, would have
 4 been a situation where you wouldn't have gone
 5 back to the original applicant because you
 6 already have the letter, right?
 7 A. Correct.
 8 Q. So you would have first spoken to
 9 the doctor and then gotten back to the
 10 applicant to say that this wasn't adequate at
 11 this time, right?
 12 A. Correct.
 13 Q. Okay. Oh, would you have made the
 14 decision to call the doctor's office on your
 15 own?
 16 A. Yes, based on the letter.
 17 Q. Okay. Was there ever a situation
 18 where Ms. Eastman or somebody else would ask
 19 you to call the doctor's office to follow up?
 20 A. They might have. I don't remember
 21 right now. They may have.
 22 Q. Okay. And was this practice of
 23 calling the doctor's office just to -- when it

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1 seems like there's not enough information be
 2 consistent as far as you know with the
 3 practice of other people who are responding to
 4 these requests?
 5 A. It is, correct.
 6 Q. Okay. Have you ever had a doctor's
 7 office as far as you recall refuse to give
 8 additional information when you called up to
 9 ask for it?
 10 A. No.
 11 Q. Okay. Have you ever had a doctor's
 12 office when you called not verify that they
 13 had actually written the letter?
 14 A. I have not, no.
 15 Q. Okay. And it's your understanding
 16 that Jeannie Eastman follows the same process
 17 of calling doctors' offices when there isn't
 18 enough information in the letter?
 19 A. Yes.
 20 Q. Okay. Thank you.
 21 (Plaintiff's Exhibit Number 19 was
 22 marked for identification. A copy
 23 is attached.)

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1 Q. I'm also going to give you what I'm
 2 marking as Plaintiff's Exhibit 19. And
 3 this -- I'm mostly just trying to figure out
 4 what it goes to. So can you tell me what you
 5 see there?
 6 A. It's a copy of a driver's license.
 7 Q. With some information redacted,
 8 right?
 9 A. It is, uh-huh.
 10 Q. And these are your initials again,
 11 right?
 12 A. They are.
 13 Q. And the date on this notation is
 14 the same as the date on the notation from
 15 Plaintiff's Exhibit 18, right?
 16 A. It is.
 17 Q. Do you think that this driver's
 18 license was probably associated with this
 19 letter?
 20 A. I don't know.
 21 Q. You don't know?
 22 A. There's no way to tell.
 23 Q. All right. I suppose just from

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1 looking -- is there any situation where you
 2 would have made the notation legal department
 3 reviewing these docs -- sorry. Strike that.
 4 So your notation here says legal
 5 department reviewing these docs, right?
 6 A. (Witness nods.)
 7 Q. When would you send documents to
 8 the legal department for review?
 9 A. Only if -- if Jeannie had -- one of
 10 my higher ups had told me to do it.
 11 Q. Okay. Can you think of a
 12 circumstance when Jeannie has asked you to
 13 send documents to legal for review?
 14 A. Not -- not a specific incident, no.
 15 Q. So in the normal process of
 16 reviewing applications for sex designation
 17 change you don't send those to legal --
 18 A. No.
 19 Q. And do you ever send applications
 20 for sex designation changes to the medical
 21 advisory board for review?
 22 A. Not that I'm aware of.
 23 Q. Do you ever send it to a subset of

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1 the medical advisory board for review?
 2 A. Not that I'm aware of it. I know I
 3 don't. I don't know about anybody else.
 4 Q. Okay. Have you ever heard of
 5 anybody else doing that?
 6 A. No.
 7 Q. Okay. And forgive me if I've
 8 already asked this, but when you have a letter
 9 like this you don't need anyone else to sign
 10 off on your decision to approve or deny,
 11 right?
 12 A. No.
 13 Q. Okay. But if you had a question
 14 would you go to Jeannie Eastman?
 15 A. Yes, I would.
 16 Q. Okay. Let's see. Let's do this
 17 one. This is Plaintiff's Exhibit 20. I don't
 18 have a copy of this because he just gave it to
 19 me.
 20 (Plaintiff's Exhibit Number 20 was
 21 marked for identification. A copy
 22 is attached.)
 23 Q. Can you describe this document?

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1 A. It's another letter from a doctor.
 2 It is a letter apparently from a doctor, but
 3 it's not on letterhead. It's not on doctor's
 4 letterhead, so we would have required
 5 letterhead to be on it. It also says partial
 6 sex reassignment. It does not say it's been
 7 completed, so this letter would not have been
 8 accepted.
 9 Q. Okay. And those are your initials
 10 at the bottom again?
 11 A. They are.
 12 Q. And your notation reflects what you
 13 just told me, right, that both it was not on
 14 letterhead and surgery must be completed?
 15 A. Correct.
 16 Q. Okay. And it was the word partial
 17 here that indicated to you that it was not
 18 completed?
 19 A. Correct.
 20 Q. Okay. And would this have been a
 21 situation where you would have called the
 22 doctor to verify the authenticity of the
 23 letter?

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1 A. Possibly. In this case it doesn't
 2 look like it because normally I would have
 3 typed in per PX with doctor.
 4 Q. Okay.
 5 A. If I call them, generally I'll do
 6 that. So this one -- possibly they faxed it
 7 or whatever, but I did not call the doctor's
 8 office on that one that I recollect or that I
 9 wrote down.
 10 Q. Okay. So this one you might have
 11 just gotten back to whoever had asked, whether
 12 that was an examiner or the individual
 13 themselves --
 14 A. Correct.
 15 Q. -- and said this is not adequate,
 16 you have to do these things?
 17 A. Correct.
 18 Q. Okay. Is there a reason why you
 19 would sometimes decide to call the doctor
 20 directly and sometimes just tell the applicant
 21 what they submitted so far isn't enough?
 22 A. If the letter came in -- first, if
 23 the applicant took it in to the driver's

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1 license office and they called us, then I
 2 would talk to the applicant and say it needs
 3 to say this, it needs to say that. And then
 4 it's up to them to get it from the doctor.
 5 Okay?
 6 But if the letter comes into the
 7 office from the person, from the driver, then
 8 I would call the doctor and say has the
 9 surgery been completed, if the letter
 10 didn't -- you know, it didn't say that, if the
 11 letter was just kind of generic (sic).
 12 Q. Okay. I understand you don't
 13 actually recall this one, right?
 14 A. No.
 15 Q. It was 2013 so -- but it would be
 16 consistent with your general practice not to
 17 have called the doctor here if there was an
 18 individual who was waiting in the office to
 19 hear back --
 20 A. Correct.
 21 Q. -- in person? Okay. And then I
 22 think this is the last one of these. This
 23 will be Plaintiff Exhibit 21.

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1 (Plaintiff's Exhibit Number 21 was
2 marked for identification. A copy
3 is attached.)
4 Q. This is another one that I just
5 received. So, once again, can you tell me
6 what that document is?
7 A. This is a letter from a doctor for
8 the reassignment surgery. And the doctor's
9 office -- we did call the doctor's office on
10 this one. It says surgery completed per Angie
11 at the doctor's office. So we talked to the
12 doctor's office.
13 Q. Okay. And, again, that's your
14 initials at the bottom?
15 A. It is, correct.
16 Q. And your notation?
17 A. Yes.
18 Q. And do you know why you would have
19 called the doctor's office for that letter?
20 Well, first, I should say do you recall
21 this --
22 A. No.
23 Q. -- at all? Okay. So then just

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1 from looking at the letter, can you think of
2 why you would have called the doctor's office
3 here?
4 A. Because it doesn't say completed on
5 it. It just said that they had surgical
6 procedures performed and clinical treatment
7 including gender reassignment surgery, but it
8 does not say it had been completed.
9 Q. So it says that -- I'm sorry. Let
10 me look with you. So it says that gender
11 reassignment surgery -- that the person has
12 had gender reassignment surgery, but saying
13 that someone has had gender reassignment
14 surgery is not the same as saying that gender
15 reassignment surgery is complete?
16 A. Correct.
17 Q. Okay. And do you know who Angie
18 is?
19 A. Angie is at the doctor's office.
20 She would have been a nurse possibly.
21 Q. Okay. And were there any other --
22 were there any other problems with this letter
23 that you would have inquired about?

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1 A. No. No.
2 Q. So just to follow up, could you
3 explain to me why saying that sex reassignment
4 surgery has been done is not the same as
5 completed?
6 A. Done doesn't necessarily mean it's
7 completed or it's finished.
8 Q. Could you tell me why it doesn't
9 necessarily mean that it's completed?
10 A. Well, like, I could say I've done
11 my homework. That doesn't mean it's completed
12 and I did all of it. I may have done some of
13 it, but in my mind I did it.
14 Q. Okay. So here you would be
15 concerned that even though gender reassignment
16 surgery had been done there might be
17 additional gender reassignment surgery that a
18 person planned to do?
19 A. There's no way to tell. It just
20 says they've had appropriate clinical
21 treatment including gender reassignment
22 surgery, but that doesn't say that the surgery
23 is complete.

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1 Q. Can you describe a surgery for me
2 where a certain surgery could be done but
3 there would still be more of the surgery to
4 do?
5 A. I'm not a doctor but, I mean,
6 like -- let me see. Like heart surgery or
7 something. Sometimes you might go in for a
8 bypass, but you might have to come back and
9 have something else -- a stint put in.
10 Q. Okay.
11 A. So it's not completed. It may be
12 completed right there at that second, but you
13 may still need more to be done.
14 Q. Okay. Is your understanding that
15 the common use of the word done is different
16 from the common use of the word complete?
17 A. Yes.
18 Q. Okay. All right. I think this is
19 my last exhibit to show you, unless I lost my
20 exhibit tabs again. So this is Plaintiff's
21 Exhibit 22.
22 (Plaintiff's Exhibit Number 22 was
23 marked for identification. A copy

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1 is attached.)
 2 Q. This is an email, right?
 3 A. It is.
 4 Q. Can you tell me who the email is
 5 from and to?
 6 A. The email is to me and it's from
 7 Patricia South who is one of our driver's
 8 license office -- I don't remember if she's an
 9 examiner or if she's higher up, a supervisor
 10 or something. I don't remember.
 11 Q. Okay. So does that mean Patricia
 12 South is in one of the regional offices?
 13 A. Not necessarily.
 14 Q. Okay. She could be in headquarters
 15 or she could be in a regional office?
 16 A. She could be. Some of them go to
 17 different offices, so I don't know.
 18 Q. Okay. And you forwarded this email
 19 on to Jeannie Eastman, right?
 20 A. I did, yes, sir.
 21 Q. And so Patricia South is an
 22 examiner or someone a bit higher up, right?
 23 A. Correct.

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1 Q. Do you know who Rhonda Harris is?
 2 A. Rhonda Harris was also in the
 3 driver's license office. She was in medical.
 4 She is now in CDL unit.
 5 Q. Do you know what her position was
 6 at the time?
 7 A. She's also a specialist, driver's
 8 license specialist.
 9 Q. Okay. And do you know who
 10 Charlotte Kimbrough is?
 11 A. She used to be in our office also
 12 kind of like a -- Charlotte was more like a
 13 clerk, but she wasn't -- she didn't do a lot
 14 with the driver's license things.
 15 Q. Okay. So is Rhonda also someone
 16 who like you could review and approve or deny
 17 applications to change a sex designation on a
 18 driver's license?
 19 A. When she was in the driver's
 20 license unit, yes -- or when she was in the
 21 medical unit, yes.
 22 Q. Great. Okay. And could Charlotte
 23 Kimbrough also review and approve or deny

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1 applications to change a sex designation on a
 2 driver's license?
 3 A. No. I think that was sent to
 4 Charlotte -- let's see. Sent from me to
 5 Charlotte to Jeannie. Okay. When Patricia
 6 South sent it, she possibly just sent it to
 7 somebody in the office and she probably had
 8 those contacts. She had me -- myself and
 9 Rhonda, and then if we weren't in, then she
 10 knew that Charlotte could get ahold of Jeannie
 11 or whoever else could do it.
 12 Q. And do you know who Rodney is?
 13 A. He's an examiner.
 14 Q. Okay. Do you know if Rodney is an
 15 examiner -- I'm sorry. Do you know if at the
 16 time this email was sent Rodney was working in
 17 the central office?
 18 A. I don't -- I don't know. I don't
 19 think so, but I don't know.
 20 Q. Okay. Do you think he was probably
 21 working -- I don't know the gender. Do you
 22 know if Rodney was working -- was likely
 23 working in a regional office?

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1 A. He was working in a driver's
 2 license office, but there's no way --
 3 Q. And it looks like this is a request
 4 to change the sex for an applicant from male
 5 to female; is that right?
 6 A. It is.
 7 Q. And it looks like Rodney had faxed
 8 an Alabama birth certificate and a temporary
 9 Alabama driver's license; is that right?
 10 A. Yes.
 11 Q. So is this -- would it be typical
 12 for somebody who may be at a regional office
 13 to send a request to change the sex to the
 14 medical unit with this sort of information?
 15 A. No.
 16 Q. Okay.
 17 A. Generally it would just go
 18 straight -- it would go straight to the help
 19 desk.
 20 Q. Okay. So normally they wouldn't go
 21 to you.
 22 A. If they made a mistake, they would
 23 go to the help desk, not to us. That's

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1 correct.

2 Q. Okay. So is it your understanding

3 that this is a situation where the examiner

4 likely made a keystroke error?

5 A. This is what it looks like to me.

6 Q. How can you tell?

7 A. Because if they've got the fax, the

8 birth certificate and the temporary Alabama

9 driver's license, when you get your driver's

10 license you originally get a temporary

11 license. Okay. So the guy -- person,

12 whoever, possibly looked at it and it was

13 wrong and handed -- because they give you a

14 chance to look at it when they print it and --

15 you get the temporary paper copy, and you say,

16 hey, wait a minute, this isn't right or my

17 street address is wrong or whatever, then they

18 can fix it while you're still in the office.

19 So he probably looked at it or she, whoever,

20 looked at it said this is not -- you know,

21 this is not right, this is wrong. So they

22 realized it, sent it back -- just from -- just

23 going on this, okay, I've got nothing else to

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1 look at. Just going from this to me it looks

2 like the examiner made a mistake and this is

3 just correcting it.

4 Q. And so if it was an examiner who

5 thought that the sex should be changed because

6 the person had had sex reassignment surgery,

7 how would the email have looked different?

8 A. They would have had to send us --

9 in 2016 they would have had to -- is that '16?

10 Q. Uh-huh.

11 A. They would have had to send it to

12 us. At that time they did not have the

13 capabilities to do it in the field.

14 Q. Okay. So in 2016 they wouldn't

15 have been able to just do it. You would have

16 had to actually make the change, but aren't

17 they asking you to make the change here?

18 A. Well, they are in here because --

19 because in the -- because in the field they

20 couldn't do it if it was a mistake like that.

21 Q. I'm sorry. I'm just trying to get

22 this straight. So is it that if it's where a

23 request to change the sex because of sex

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1 reassignment surgery they would have sent you

2 the letter from the surgeon?

3 A. Correct.

4 Q. Okay. So the fact that they only

5 sent to you the birth certificate and the

6 temporary Alabama driver's license is what

7 indicates to you it was likely a typographical

8 error?

9 A. Yes.

10 Q. Okay. Thank you. And I don't

11 suppose you know when you -- you wrote to

12 Jeannie Eastman in the driver's license

13 office. Do you know what you would have meant

14 by that?

15 A. At that time I didn't have the

16 capability to change that either, so I would

17 have sent it to -- it came to me from the

18 driver's license office. Okay?

19 Q. Right.

20 A. So I sent it to Jeannie so that she

21 could fix it.

22 Q. Okay. Thank you.

23 A. At that time I couldn't do it.

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1 Q. Thank you. That's helpful. Here's

2 just a background question that I don't mean

3 any offense by, but have you ever been

4 convicted of any crime related to fraud or

5 dishonesty?

6 A. No.

7 Q. Okay. Thank you.

8 MR. ARKLES: I'm going to need just

9 one last break.

10 THE WITNESS: Okay.

11 (Break taken.)

12

13 Q. Just a couple of last questions.

14 So, one, you mentioned that it used to be that

15 the driver's license examiners in the field

16 didn't have the ability to change the sex

17 designation in somebody's record; is that

18 right?

19 A. Correct.

20 Q. So now they do have the ability to

21 change the sex designation in someone's

22 record, right?

23 A. Yes.

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1 Q. And do you know around when what
 2 change happened?
 3 A. I think within the last year, year
 4 and a half, somewhere in that time frame.
 5 Q. And since that change has happened,
 6 they don't need to contact the medical unit
 7 anymore, right?
 8 A. As long as the -- as long as they
 9 have the two things -- either of the two
 10 things for the policy they do not need to
 11 contact us.
 12 Q. Okay. Thank you. And then also I
 13 asked you earlier if you were aware of any
 14 steps that you were taking to protect people's
 15 privacy and you told me that in the medical
 16 unit you're aware that there's a lot of
 17 sensitive information and that you don't share
 18 it with anyone. I just wanted to find out if
 19 there is anything else that you can recall
 20 that you do to protect people's privacy?
 21 A. We -- if you call in about your
 22 license, you have to basically identify
 23 yourself and give us some more information.

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1 So if you call and say I'm John Smith, I want
 2 to know about my license, you're going to have
 3 to prove to me that you're John Smith before I
 4 will give you the information.
 5 Q. Okay. So you would verify people's
 6 identity --
 7 A. Correct.
 8 Q. -- before you give information that
 9 otherwise they shouldn't have?
 10 A. Correct. And I -- I can't -- like,
 11 for instance, if you call and say my wife and
 12 I, Mary, have moved to such and such I cannot
 13 change Mary's address without talking to Mary.
 14 Q. Okay. Thank you. And is there
 15 anything else that you can think of that you
 16 do to protect people's privacy?
 17 A. Not right offhand, no.
 18 Q. Okay. And are there any of your
 19 answers from today that you would like to
 20 clarify or supplement?
 21 A. I would like to just clarify one.
 22 I think you had asked me something about if I
 23 had talked to anybody about the policy thing

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1 or whatever. And I just -- I think I said I,
 2 you know, talked to Jeannie or Diane or
 3 whatever. I also -- my employees, you know,
 4 had a copy of the policy, and I just made sure
 5 that, you know, they understood if they got
 6 calls on that they were to refer them to
 7 myself or to Jeannie. So I did, you know,
 8 talk to them about it and say if you get these
 9 calls, you know, switch them to one of us.
 10 Q. Okay. So would it be fair to say
 11 that you trained the people who report to you
 12 to refer calls about changes in sex
 13 designation on drivers' licenses to you or
 14 Ms. Eastman?
 15 A. Yes.
 16 Q. Okay. Did you give them any
 17 further training about the policy?
 18 A. No.
 19 MR. ARKLES: Okay. Thank you. So
 20 just to clarify the record, I would like to go
 21 back and read the Bates-stamps for the
 22 exhibits that I put in. I'll do that now
 23 unless you want to ask any questions first.

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1 MR. CHYNOWETH: I have no
 2 questions.
 3 MR. ARKLES: Okay. Thank you. So
 4 I have Plaintiff's Exhibit 7, which is D1 and
 5 D2. Plaintiff's Exhibit 14 is D1103.
 6 Plaintiff's Exhibit 15 is D1140. Plaintiff's
 7 Exhibit 16 is D1145. Plaintiff's Exhibit 17
 8 is D1174. Plaintiff's Exhibit 18 is D1151.
 9 Plaintiff's Exhibit 19 is D1150. Plaintiff's
 10 Exhibit 20 is D1226. Plaintiff's Exhibit 21
 11 is D1234. And Plaintiff's Exhibit 22 is
 12 D1102. Anything else? Okay. I think we're
 13 done.
 14 (The deposition of JERROLYNN
 15 SPENCER, concluded on November 9,
 16 2018, at 2:45 p.m.)
 17 FURTHER DEPONENT SAITH NOT
 18
 19
 20
 21
 22
 23

1 REPORTER'S CERTIFICATE

2 STATE OF ALABAMA)

3 JEFFERSON COUNTY)

4 I, Elaine Scott, Licensed Court

5 Reporter and Commissioner for the State of

6 Alabama at Large, hereby certify that on

7 November 9, 2018, I reported the deposition of

8 JERROLYNN SPENCER, who was first duly sworn or

9 affirmed to speak the truth in the matter of

10 the foregoing cause, and that pages 1 through

11 93 contain a true and accurate transcription

12 of the examination of said witness by counsel

13 for the parties set out herein.

14 I further certify that I am neither

15 of kin nor of counsel to any of the parties to

16 said cause nor in any manner interested in the

17 results thereof.

18 _____

19 ELAINE SCOTT, Court Reporter

20 and Commissioner for the State

21 of Alabama at Large,

22 CCR License No. 354, Expires 9/30/19

23 MY COMMISSION EXPIRES NOVEMBER 16, 2019

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3				

Exhibit 7

Deposition of Diane Woodruff

In The Matter Of:

*Darcy Corbitt, Destiny Clark, and Jane Doe v.
Hal Taylor, etc., et al.*

*Diane Woodruff
November 8, 2018*

*Baker Realtime Worldwide Court Reporting & Video
250 Commerce Street
Third Floor, Suite One
Montgomery, Alabama 36104
www.BakerRealtime.com*

Original File 11-8-18 Diane Woodruff.txt

Min-U-Script® with Word Index

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1 IN THE UNITED STATES DISTRICT COURT
 2 FOR THE MIDDLE DISTRICT OF ALABAMA
 3 NORTHERN DIVISION
 4
 5 CIVIL ACTION NO.: 2:18-CV-00091-MHT-GMB
 6
 7 DARCY CORBITT, DESTINY CLARK, and JANE DOE,
 8 Plaintiffs,
 9 v.
 10 HAL TAYLOR, in his official capacity as
 11 Secretary of the Alabama Law Enforcement
 12 Agency, et al.
 13 Defendants.
 14
 15 DEPOSITION OF DIANE WOODRUFF
 16 November 8, 2018
 17
 18 Taken before Elaine Scott, CCR,
 19 Commissioner for the State of Alabama at
 20 Large, in the Law Offices of the Alabama
 21 Attorney General, 501 Washington Avenue,
 22 Montgomery, Alabama, on Thursday, November 8,
 23 2018, commencing at approximately 12:55 p.m.

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1 A P P E A R A N C E S (continued)
 2
 3 ALSO PRESENT:
 4 Meredith Barnes
 5
 6 COURT REPORTER:
 7 BAKER REALTIME WORLDWIDE REPORTING & VIDEO
 8 250 Commerce Street
 9 Third Floor, Suite One
 10 Montgomery, Alabama 36104
 11
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23

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1 A P P E A R A N C E S
 2
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 8 New York, New York 10004
 9
 10 ALABAMA CIVIL LIBERTIES UNION FOUNDATION
 11 Brock Boone
 12 Randall C. Marshall
 13 P.O. Box 6179
 14 Montgomery, Alabama 36106
 15
 16 FOR THE DEFENDANTS:
 17 OFFICE OF THE ATTORNEY GENERAL, STATE OF
 18 ALABAMA
 19 Brad A. Chynoweth
 20 501 Washington Avenue
 21 Montgomery, Alabama 36130
 22
 23

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 23 12 Doctor's Letter 124

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1 13 Doctor's Letter 125
 2 STIPULATIONS
 3 It is hereby stipulated and agreed by
 4 and between counsel representing the parties
 5 that the deposition of DIANE WOODRUFF is taken
 6 pursuant to stipulation and agreement; that
 7 all formalities with respect to procedural
 8 requirements are waived; that said deposition
 9 may be taken before Elaine Scott, Certified
 10 Court Reporter and Commissioner for the State
 11 of Alabama at Large, without the formality of
 12 a commission; that objections to questions
 13 other than objections as to the form of the
 14 questions need not be made at this time but
 15 may be reserved for a ruling at such time as
 16 the deposition may be offered in evidence or
 17 used for any other purpose as provided for by
 18 the Alabama Rules of Civil Procedure.
 19 It is further stipulated and agreed
 20 by and between counsel representing the
 21 parties that the filing of the deposition may
 22 be introduced at the trial of this case or
 23 used in any manner by either party hereto

Page 6

1 provided for by the Statute.
 2 It is further stipulated and agreed
 3 by and between the parties hereto and the
 4 witness that the signature of the witness to
 5 this deposition IS hereby waived.
 6
 7 DIANE WOODRUFF,
 8 The witness, having first been duly
 9 sworn or affirmed to speak the truth, the
 10 whole truth and nothing but the truth,
 11 testified as follows:
 12
 13 THE COURT REPORTER: Usual
 14 stipulations?
 15 (Affirmed by counsel.)
 16
 17 EXAMINATION
 18 BY MR. BOONE:
 19 Q. My name is Brock Boone, and I'm an
 20 attorney for the ACLU of Alabama. We're here
 21 today to discuss -- we represent the
 22 plaintiffs in Corbitt v. Taylor. So I'm just
 23 going to ask you some questions about the

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1 Alabama Law Enforcement Agency and in
 2 particular the creation, implementation, how
 3 the medical unit works, questions in that area
 4 mostly all related to or quickly related to
 5 policy order 63, the order that lays out the
 6 requirements for a person to change sex on a
 7 driver's license.
 8 So before we begin I would like to
 9 give you just a few instructions. Try to
 10 answer everything verbally so that way we make
 11 sure the court reporter hears. And I'm going
 12 to try to do this as well, try not to talk
 13 over each other. So if I'm asking a question,
 14 just let me finish and I'm going to try to let
 15 you finish the answer because it's hard to,
 16 you know, write it down when we're all
 17 speaking. And try to answer everything
 18 verbally so that way the court reporter can
 19 get it. So nods and head shakes, you know,
 20 can't hardly -- doesn't translate well. And
 21 you can ask for a break, but just not while
 22 I'm in the middle of a question or when you're
 23 answering. We'll try to finish the answer and

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1 then we can take a break at that point.
 2 A. Yes, sir.
 3 Q. Okay. And just let me know if you
 4 need to supplement or clarify something from
 5 earlier and we can try to do that.
 6 Have you ever been deposed before?
 7 A. No, sir.
 8 Q. Okay. Are you taking any
 9 medication that would make you unable to
 10 testify today?
 11 A. No, sir.
 12 Q. Okay. Did you prepare -- or what
 13 did you do to prepare for the deposition
 14 today?
 15 A. I came over and spoke with
 16 Mr. Chynoweth along with Meredith Monday of
 17 this week. I actually didn't even know I was
 18 going to be involved until possibly -- I
 19 believe it was last week sometime or the week
 20 before.
 21 Q. Okay. So about three weeks ago --
 22 A. Roughly.
 23 Q. -- you didn't know for sure if you

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1 were going to be deposed?
2 A. Right.
3 Q. Okay. But on Monday you just had
4 conversations with Brad and Meredith?
5 A. Uh-huh.
6 Q. Okay. Did you bring any documents
7 with you today?
8 A. No, sir.
9 Q. Okay. Have you -- there's no one
10 else you've spoken to about this deposition?
11 A. Yes. I did speak with Jeannie
12 Eastman who's involved in this also.
13 Q. Okay.
14 A. Just to tell her the day I was
15 coming over here.
16 Q. That's -- there's nothing else that
17 was said?
18 A. (Witness shakes head.) No, sir.
19 Sorry.
20 Q. So it was just about the date,
21 nothing substantive about the case or what
22 you're going to say or anything like that?
23 A. No, sir.

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1 Q. Was there anyone else present at
2 that time?
3 A. No, sir. I think she just came
4 into my office that day and asked what day I
5 was going.
6 Q. Okay. Is there any reason that you
7 wouldn't be able to answer the questions fully
8 and accurately today?
9 A. No, I can't think of any unless I
10 just didn't remember.
11 Q. Yeah, I was going to get there.
12 And so now I'm going to go into a little bit
13 of your background. And as they prompted me,
14 maybe I should have done it from the get-go.
15 Could you state your full name?
16 A. My name is Diane Woodruff, Diane
17 Crew Woodruff.
18 Q. Okay. And can you talk a little
19 bit about your educational background?
20 A. I have a bachelor's degree from
21 Faulkner University in criminal justice.
22 Q. When about was that?
23 A. Actually I just got it in 2015.

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1 Q. Okay. So were you -- did you work
2 right after high school, and could you explain
3 a little bit about that?
4 A. Yes. I worked -- that's a long
5 time ago. Let me see if I can remember.
6 Right out of high school I went to work for a
7 forklift company, and then I worked at a hotel
8 as the front desk clerk, and then I got the
9 state job pretty much.
10 Q. Okay. Could you give some years as
11 to graduating high school and then, you
12 know --
13 A. I graduated high school in 1981.
14 Right out of high school -- let me retract
15 what I said. I worked at a day care center on
16 base while I was attending AUM. And then I
17 went to Troy State University for a while and
18 was working at the forklift company. That was
19 approximately probably '86, '87. And then
20 worked at the Ramada Inn as a front desk clerk
21 about '88, '89. And then in 1991 I got the
22 job with the -- then the Department of Public
23 Safety.

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1 Q. So how many years have you been
2 with the Department of Public Safety or ALEA?
3 A. Twenty-seven -- almost twenty-
4 eight. In February it will be twenty-eight
5 years.
6 Q. Okay. Could you just for the
7 record explain a little bit about the
8 Department of Public Safety and how -- you
9 know, I understand how it's a body under
10 ALEA. Could you explain a little bit about
11 that transition because that's pretty recent
12 within the last five years.
13 A. It was. Well, I'm not sure I
14 understand explaining it, but we're currently
15 the Department of Public Safety underneath the
16 umbrella of the Alabama Law Enforcement
17 Agency. Driver's license is one facet
18 underneath the Department of Public Safety, in
19 addition to Highway Patrol and -- to be honest
20 I'm not even sure, we've had so many changes,
21 what other -- where they all fall. I know
22 where we fall and I know where highway patrol
23 falls under the umbrella.

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1 Q. Was the Department of Public Safety
2 at one point it was not under the Alabama Law
3 Enforcement Agency?
4 A. No. It was a state agency alone by
5 itself.
6 Q. When did it become under the
7 umbrella of the Alabama Law Enforcement
8 Agency?
9 A. I want to say it was around 2014,
10 2015.
11 Q. Did anything change for you at that
12 time with your employment?
13 A. No, sir.
14 Q. You kept your same position?
15 A. Everything.
16 Q. Okay. Your check still came from
17 the same --
18 A. Yes.
19 Q. Okay. Well, I guess the name --
20 A. Well, the name did change to the
21 Alabama Law Enforcement Agency.
22 Q. Okay.
23 A. For a while -- in the very

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1 beginning of the transition we got away
2 from -- driver's license really wasn't under
3 the Alabama Department of Public Safety. It
4 was under ALEA and it was under the Citizens
5 Services Bureau. And then we had some more
6 changes as the governor changed and they kind
7 of did a restructuring again and brought back
8 the Alabama Department of Public Safety and
9 then put us underneath that and we kind of did
10 away with the Citizen Services Bureau.
11 Q. You have always been with the
12 driver's license division?
13 A. I have, uh-huh.
14 Q. Okay. What was your title when you
15 began in 1991?
16 A. Driver's license examiner one.
17 Q. Where was that at?
18 A. 1040 Coliseum Boulevard here in
19 Montgomery.
20 Q. Okay. And could you give a time
21 line as best you can of your employment
22 history from 1991 when you're starting off as
23 an examiner all the way up until today?

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1 A. Okay. I was hired in 1991 as a
2 driver's license examiner one. I worked as an
3 examiner one for ten years. So in 2001 I was
4 promoted to driver's license examiner two.
5 And then in 2005 I was promoted to the
6 driver's license supervisor and transferred
7 from the exam office to the headquarters
8 office at 301 South Ripley Street. And then
9 from 2005 to 2012 I was a driver's license
10 supervisor. And then in 2012 I became the
11 driver's license manager.
12 Q. Okay. I'm sorry.
13 A. I'm sorry.
14 Q. You're talking kind of quicker than
15 I expected.
16 A. Okay.
17 Q. And the titles too are just like --
18 they're all new to me a little bit.
19 A. Sure.
20 Q. So driver's license examiner two in
21 2001?
22 A. Correct.
23 Q. And then your next position was

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1 supervisor?
2 A. Right, in 2005.
3 Q. And was that -- when you were 2005
4 supervisor, was that still on Coliseum
5 Boulevard?
6 A. No. That's when I transferred to
7 our headquarters.
8 Q. Okay. But when you were driver's
9 license examiner two, that was on Coliseum
10 Boulevard?
11 A. Still on Coliseum, yes, sir.
12 Q. Okay. So 2005 supervisor in the
13 main office I'll call it?
14 A. Right. Right.
15 Q. And that lasted for two years you
16 were a supervisor?
17 A. No. I was a supervisor from '05 to
18 2012.
19 Q. Okay. So seven years --
20 A. Seven years.
21 Q. -- as a supervisor?
22 A. Uh-huh.
23 Q. And then from 2012 until --

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1 A. Now.
2 Q. -- now you were a manager?
3 A. Driver's license manager. Same
4 location.
5 Q. At the same location, which is
6 obviously -- sounds like a promotion from
7 supervisor?
8 A. Right, uh-huh.
9 Q. Can you explain your duties as a
10 driver's license examiner one?
11 A. I administered driving tests,
12 knowledge and road tests, for regular
13 operator, you know, regular cars and
14 commercial vehicles, trucks and things like
15 that.
16 Q. Okay. And did -- and driver's
17 license supervisor -- or examiner two, that's
18 a promotion. Does that change your job
19 responsibilities?
20 A. I still administered examinations,
21 but then I had -- took on a first line
22 supervisory role. So then I was supervisor to
23 the examiner ones which meant conducting their

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1 performance appraisals and, you know, guidance
2 and that type thing.
3 Q. Okay. Do people come to you
4 regularly for questions?
5 A. Uh-huh, they do.
6 Q. Probably on a daily basis when you
7 were examiner two?
8 A. Yes.
9 Q. Okay. So you did that for around
10 four years it sounds like?
11 A. Uh-huh.
12 Q. And then you moved to the main
13 office as a supervisor?
14 A. Yes.
15 Q. What were you -- tell me how your
16 duties -- it seems like that's a drastic -- a
17 big change from what you were doing before.
18 Can you explain a little bit about what
19 happens now when you became a supervisor?
20 A. When I was promoted to supervisor I
21 went to headquarters in the reinstatement
22 unit, and so I was the supervisor over seven
23 employees that handled walk-ins when people

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1 would come in to pay their reinstatement
2 fees. Any mail we would get with
3 reinstatement fees, inquiries as to driver's
4 license eligibility, and reinstatement
5 requirements, we answered all that, making
6 bank deposits, that type thing. But I just
7 supervised them.
8 Q. What's a reinstatement? I think I
9 know but --
10 A. If you're suspended and you want to
11 get your privilege to drive back, then you
12 have to pay -- you know, have to meet certain
13 requirements. If you have outstanding
14 tickets, we have to get proof from the courts
15 that you paid the tickets and then you'll owe
16 us a reinstatement fee because when you go
17 into suspension there's a fee to get it
18 reinstated.
19 Q. Okay. Did you ever -- were you
20 making any -- when you were a supervisor, were
21 you ever making any judgment calls in certain
22 areas, or did you have protocol that you were
23 following?

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1 A. We had outlined protocol. Now,
2 with that there may be some judgment made as
3 to if we say this is the particular document
4 that we have to have from the court that says
5 that they've satisfied this ticket that they
6 had, for instance, well, because we deal with
7 every court, municipality, and district court,
8 you might get different paperwork sometimes
9 that's not the standard form. So you might
10 say okay, well, as long as it has these
11 documents on it, you know, like the citation
12 number, the date it was paid, you know, the
13 person's name, all that, then we could take
14 it. But it's not -- every once in a while you
15 would just get one that was out of the
16 ordinary.
17 Q. What would you do when you got
18 something that was out of the ordinary?
19 A. We would make sure that it had the
20 same -- basically the same information that
21 the required document had. It just may not
22 have been in that same format.
23 Q. Did you ever have to make phone

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1 calls back to maybe the court system in a
2 particular county?
3 A. Sure, uh-huh, and other states too.
4 Q. Other states?
5 A. Uh-huh, yeah.
6 Q. Okay.
7 A. That's where the biggest
8 discrepancies came in with the paperwork that
9 we get -- paperwork we received from other
10 states because they didn't use our state forms
11 or anything, so --
12 Q. Got you. Would you call other
13 similar driver's license offices maybe in
14 Georgia or Mississippi?
15 A. Occasionally.
16 Q. Do you ever --
17 A. Occasionally.
18 Q. Okay. Now, when your position went
19 from supervisor to manager, was that one step
20 up the chain basically?
21 A. Pretty much, uh-huh.
22 Q. Tell me how your job differed as
23 manager.

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1 A. Well, when I became manager,
2 instead of being over one unit, then I became
3 over several units, three units, the
4 reinstatement unit, the driver improvement
5 unit, and the driver services unit.
6 Q. Reinstatement, driver
7 improvement --
8 A. Driver improvement, uh-huh.
9 Q. -- and --
10 A. Driver's license services.
11 Q. Can you -- I get reinstatement.
12 That sounded like what you -- a lot like what
13 you were doing before. Could you explain the
14 other two units for me?
15 A. Right. The driver improvement unit
16 works in conjunction with the driver's license
17 reinstatement unit, but they handle more
18 speaking with courts, attorneys, and
19 rectifying these problems so people can get
20 their licenses back. Interlocking, problems
21 with DUI people, things like that.
22 And then the driver services unit
23 handle -- we answer a lot of the department --

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1 I mean, division emails. And then if you
2 don't get your driver's license in the mail,
3 you'll call that unit. We'll try to find out
4 where it is. If it's returned in the mail, we
5 file it, hold it, you can come -- we'll mail
6 it back out to you. We update driver records
7 as far as addresses, anything like that, out
8 of state, military, renewals by mail, things
9 like that.
10 Q. Explain a little bit about the
11 emails. I'll wait for Brad to get back.
12 A. Okay.
13 Q. I know you said earlier that part
14 of your -- in one of the units you look over
15 the division emails. Could you explain a
16 little bit about the emails and what you mean
17 by that?
18 A. We just have an email that the
19 public -- you have a link to it on our web
20 site if they have driver's license related
21 questions, so somebody has to field those
22 questions. We might answer the question or
23 send it to another division for them to answer

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1 the questions. But I do need to clarify
2 something as far as -- as far as when I came
3 over as a driver's license supervisor, I was
4 over the reinstatement unit first. Then about
5 nine months later I was -- I moved and was
6 over the medical unit, the medical and the CDL
7 unit. I didn't mention it before because it
8 was still the same title, but I moved offices
9 and responsibilities.
10 Q. Thank you for mentioning that. So
11 that was when you were a supervisor?
12 A. Yes, sir.
13 Q. So you did nine months
14 reinstatement and then you were over
15 medical/CDL?
16 A. Yes, sir.
17 Q. Tell me a little bit about medical
18 and CDL then.
19 A. Okay. The CDL part is just the
20 commercial driver's license unit. And we have
21 to ensure that the agency stays within
22 compliance of federal regulations with --
23 pertaining to commercial driver's license and

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1 their hours of operation, how we give the
2 test, training, anything that pertains to a
3 commercial driver's license. And then the
4 medical unit, we have specific conditions that
5 are followed -- I mean, that we have listed on
6 the driver's license application, as a matter
7 of fact, you know, do you have epilepsy,
8 seizures, anything like that, when you go in
9 get your license. If you check yes to one of
10 those questions, well, we'll send -- the
11 examiner fills out a form, sends it in to the
12 medical unit. The medical unit then in turn
13 gets that form and sends another form to the
14 licensee and says, hey, this is a condition
15 that our medical advisory board has said that
16 needs to be followed to make sure that you're
17 taking care of yourself. And so we might
18 periodically get medical forms from them just
19 to ensure that they are taking care of
20 themselves and not a danger to the roadways.
21 Q. So if someone checks a box or says
22 yes on some possible impairment, you need
23 proof from them at that point. Is that for

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1 everything that's on that list?
2 A. Everything that on the driver's
3 license application.
4 Q. Even if it's -- I don't even know.
5 Is there something like asthma or is there
6 something that --
7 A. Yeah. Seizures, diabetes, I think
8 actually the way the questions reads,
9 seizures, diabetes, muscle or nerve problems,
10 and some of it is -- it doesn't even need to
11 be followed. I think one of the question is
12 have you lost consciousness or loss of bodily
13 control. Well, if you did it because you got
14 too hot at football practice, then that
15 might -- we'll just get one thing from your
16 doctor that says, hey, he just had one little
17 thing that he lost consciousness at football
18 practice, never happened before, hasn't
19 happened since, and he still has to wait six
20 months before he gets his license if you lose
21 consciousness or loss of bodily control. But
22 then after that point we might get one follow-
23 up from a doctor and not need another one.

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1 Q. How do you know to do that at that
2 point? How do you know six months -- how do
3 you know, well, let's call the doctor, let's
4 call the football coach or --
5 A. Well, we send it to the person, but
6 we have medical standards, and those are set
7 forth by our medical advisory board. We have
8 a board that consists of eighteen physicians,
9 and they provide guidance on what we should do
10 for certain -- those certain conditions.
11 Q. Do all of your guidelines in the
12 medical unit come from the medical advisory
13 board?
14 A. Yes.
15 Q. Is the board -- you said it's
16 eighteen members on the board?
17 A. Uh-huh, eighteen physicians.
18 Q. All eighteen physicians?
19 A. Uh-huh.
20 Q. All Alabama physicians?
21 A. Yes.
22 Q. How are they selected?
23 A. They're -- we contact -- or

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1 actually I think it says our director will
2 contact the Alabama Medical Association -- I
3 believe that's the correct terminology -- and
4 they will in turn send us names. We may say
5 we need a vision specialist because we try to
6 keep a variety of different physicians on the
7 board and so then they'll send us a name.
8 Q. So when they're creating, for
9 example, vision -- vision standards, the whole
10 board is going to vote on something -- well,
11 let's start at the beginning, I guess. Who
12 crafts the initial guidelines, do you know?
13 A. I don't know.
14 Q. Would you see -- okay. Also all
15 you know is that you see the finalized, what's
16 been approved by the advisory board?
17 A. Right. Now, I think the medical
18 unit -- I believe they still do -- has a
19 meeting with the board I think maybe once
20 every two years, and they go over any changes
21 that may be needed. For instance, they do a
22 lot more with your vision now than they --
23 than previously due to different surgeries and

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1 things like that. So they may discuss
2 something like that, you know, or they may
3 not -- they meet -- they have to have six to
4 have a quorum and they do it teleconference,
5 and so -- I haven't been privy to those in
6 quite some time, but I did attend two.
7 Q. Are you allowed to attend as many
8 as you want?
9 A. Uh-huh.
10 Q. Can the public attend?
11 A. No.
12 Q. Okay. How come you have that
13 privilege I guess?
14 A. Well, I did as the supervisor. And
15 then I could still as the manager if they
16 needed -- like if their supervisor couldn't be
17 there, they might say, you know, we want a
18 supervisor there in addition to the unit
19 commander, which is a sergeant, a state
20 trooper sergeant, and he's always there.
21 Q. On the guidelines, if there's a
22 gray area with the guidelines, what do you do
23 as the supervisor or even as the manager

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1 possibly?
2 A. If we get -- on the guidelines or
3 on paperwork that we receive that maybe
4 doesn't fit into the guidelines?
5 Q. Let's do paperwork that doesn't --
6 A. I'm sorry.
7 Q. No, that's okay. That's a good
8 question. Yeah, paperwork that's received and
9 you don't -- you know, it doesn't comply
10 necessarily?
11 A. Right. We would actually send it
12 to an odd number of doctors on the board and
13 let them all read over the documentation and
14 advise us on what they feel like would be the
15 appropriate further response from us.
16 Q. Do you come up with suggestions and
17 send them the suggestions --
18 A. Huh-uh.
19 Q. -- or do you just say we have a
20 problem here?
21 A. We have -- they have the
22 standards. They look at the standards that
23 they were involved in and then look at the

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1 particular condition and then advise them on
2 which way they might need to continue.
3 Q. So the only thing you would be
4 sending is the facts of what's happening?
5 A. Uh-huh. When it comes to the
6 medical information that we receive, because
7 we're not physicians we can just take it at
8 face value as to what it says, you know.
9 Q. And when you say odd number, I
10 guess you mean three or more?
11 A. Right, right.
12 Q. Okay. So not one?
13 A. No.
14 Q. Okay.
15 A. And the majority rules.
16 Q. Okay. Who do you report to?
17 A. I report to Sergeant Brian Duke.
18 Q. Who does Brian Duke report to?
19 A. Lieutenant Melissa Hubbard.
20 Q. And then -- I'm going to go up the
21 chain.
22 A. That's fine. That's fine. And
23 then Lieutenant Hubbard reports to Captain

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1 John Archer. And then Captain Archer reports
2 to Chief Deena Pregno. And then Chief Pregno
3 reports to Colonel Charles Ward. And then
4 Colonel Ward reports to Secretary Hal Taylor.
5 Q. Okay. I'm going to read it back
6 from the top down to make sure I have it. So
7 Secretary Hal Taylor, Ward, Pregno, Archer --
8 A. Uh-huh.
9 Q. I might have missed Lieutenant --
10 A. Hubbard.
11 Q. -- Hubbard. And then we have Duke?
12 A. Uh-huh.
13 Q. And then you?
14 A. Uh-huh.
15 Q. How often do you interact with
16 Chief Deena Pregno?
17 A. Daily.
18 Q. Okay. What about Brian Duke?
19 A. Daily.
20 Q. Daily. And Archer?
21 A. Daily.
22 Q. And Hubbard?
23 A. Daily.

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1 Q. Okay. It sounds like you don't
2 have any authority to make any policy?
3 A. No. We just follow policy.
4 Q. Would you ever be a part of any
5 meetings? Do they ever have brainstorming
6 meetings or --
7 A. Sure. Yes.
8 Q. Could you give an example or two of
9 what those might look like or --
10 A. Well, for instance, now we're
11 developing a new license, which is the
12 hardship license, for individuals to get a
13 license so they can work, pay their tickets
14 off, and straighten out what problems they
15 have. It's a limited license. And I've been
16 involved in meetings to help in the
17 development of that. The same thing with the
18 interlock requirement for those individuals
19 that receive a DUI.
20 Q. Who is -- who are in those
21 meetings?
22 A. Usually Chief Pregno, somebody from
23 our legal unit, IT personnel, and then usually

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1 we'll get the people that are going to be
2 involved in actually working those documents
3 when they come in. Sometimes those senior
4 people will be in there just so we can try to
5 develop the process.
6 Q. The senior people who work on the
7 documents, can you explain that a little?
8 A. Like the unit -- the people in the
9 unit that are going to be receiving that mail,
10 opening it up, and processing it in the
11 computer.
12 Q. So, for example, some of those
13 people are people that work under you?
14 A. Right, right.
15 Q. How many people are under you at
16 this time?
17 A. Let's see. I have -- hold on just
18 a minute. Directly under me or indirectly?
19 Directly under me I supervise six. And then
20 they each have a unit under them. Well, most
21 of them do. Some don't.
22 Q. So directly six. Maybe give me an
23 estimate of indirectly. So if you were to go

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1 all the way down the tree.
2 A. I would say probably twenty.
3 Q. Twenty total including the six
4 or --
5 A. No.
6 Q. -- twenty plus the six?
7 A. No. In addition to.
8 Q. Okay. And that's all people in the
9 main office?
10 A. That's the people that I supervise
11 in the main office.
12 Q. You supervise?
13 A. Right.
14 Q. You don't have any supervisory duty
15 over anyone in the field offices, right?
16 A. No, huh-uh.
17 Q. Okay. Do you know Jeannie Eastman?
18 A. I do.
19 Q. How do you know her?
20 A. I supervised her. When I came on
21 in the reinstatement unit in '07 she was a
22 driver's license specialist and worked for me.
23 Q. What's her current position?

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1 A. Driver's license supervisor.
2 Q. Is that -- that's similar to the
3 role you had previously?
4 A. Uh-huh.
5 Q. Okay. So she's one level down I
6 guess?
7 A. Exactly.
8 Q. Sorry if these terms are --
9 A. That is exactly right.
10 Q. Okay.
11 A. That's right.
12 Q. But she didn't take your previous
13 job? She didn't take your actual --
14 A. She did take my position, yes.
15 Q. Okay. Is she directly --
16 A. But I don't supervise her.
17 Q. Got you. Who is her supervisor?
18 A. Brian Duke, Sergeant Brian Duke.
19 Q. So you have the same direct
20 supervisor, although you're one level higher?
21 A. Right. We're on different floors
22 is really pretty much the only reason it's
23 like that. It's just more convenient.

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1 Q. Okay. Could you describe your
2 understanding of her responsibilities?
3 A. Well, she -- you know, she's the
4 supervisor of the commercial driver's license
5 unit, as I was. And so she would oversee that
6 they process medical cards accurately because
7 drivers are required to send those in.
8 They're time sensitive so they have to go on
9 the record, you know, pretty quick. She
10 supervises the medical -- the people that
11 generate the paperwork and review the
12 paperwork in the medical unit.
13 Q. Now, is it best to call it -- would
14 you want me to call it policy order 63 or what
15 would be best?
16 A. That's fine.
17 Q. Is it okay if I call it that?
18 A. Sure.
19 Q. And you know what I'm talking
20 about --
21 A. Sure.
22 Q. I'm talking about the sex -- yeah.
23 Tell me how the medical unit relates to the

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1 policy order 63.
2 A. I'm not sure I understand the
3 question.
4 Q. That's fine. So policy order 63,
5 someone is making decisions about whether or
6 not -- checking it off -- whether to make the
7 actual change from M to F, right?
8 A. Right, right.
9 Q. Because all it really gives is
10 someone changing an M to F in a computer
11 database, right?
12 A. Correct.
13 Q. Who are making -- who's making
14 those decisions?
15 A. The way I understand it now -- now
16 I'm not in that unit any longer. But the way
17 I understand it now, the paperwork comes in --
18 I'm not sure who -- if Jeannie works it
19 directly or if she has a specialist or
20 somebody that works for her that reviews them
21 directly. But if there's any question, then
22 they would take it to Jeannie if there was a
23 question. But they would just -- they would

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1 read that form or read the letter that we get
2 in from the physician or look at the birth
3 certificate to see, you know, that it does say
4 it's amended or whatever and then apply that
5 policy and review the form.
6 Q. Okay. I'm going to get to that a
7 little bit later.
8 A. Okay.
9 Q. I'm going to ask you if you could
10 describe the responsibilities of Deena
11 Pregno.
12 A. She is over the entire driver's
13 license division, which includes examining in
14 the field, everybody at headquarters. Her
15 responsibility -- she works closely with IT
16 and developing new like licenses or new
17 restrictions, depending on what the
18 legislature passes, what laws they pass that
19 affects driver licensing. She makes a lot of
20 big decisions, meets with vendors.
21 Q. Vendors. Can you explain?
22 A. As far as if we need -- if we're in
23 the market for any new equipment, you know,

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1 testing tablets or anything like that.
2 Q. Is there anything else?
3 A. No. That's kind of a nutshell
4 definition.
5 Q. Look at these charts right here.
6 You've somewhat explained -- could you
7 explain -- this is Plaintiff's Exhibit 1.
8 (Plaintiff's Exhibit Number 1 was
9 marked for identification. A copy
10 is attached.)
11 Q. I'm going to hand you this.
12 A. Okay.
13 Q. And just read the title at the top
14 right here.
15 A. Customer records?
16 Q. Yes.
17 A. Driver's license manager.
18 Q. Yes. That's good. So your current
19 position is at the top of customer records
20 right now. This might be -- is this outdated?
21 A. Yes. Yes. This one is actually a
22 vacant position for a manager. They want to
23 make another manager and this is the manager

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1 that they want to make. I'm more in customer
2 service as opposed to customer records.
3 Q. Okay. It has here -- your name is
4 one down from driver's license manager here,
5 correct?
6 A. Right, yes. So this is old, yeah.
7 Q. Okay. What year do you think this
8 is from?
9 A. It's --
10 Q. You might have to look at some
11 other names.
12 A. Yeah, let me look. It could be
13 anywhere from '07 to 2012.
14 Q. And you see that Jeannie Eastman is
15 kind of on the same level below driver's
16 license manager there?
17 A. Correct.
18 Q. So this is your old position of
19 driver's license supervisor?
20 A. Correct.
21 Q. And this is outside of the nine
22 months that you were in reinstatement?
23 A. Yes, sir.

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1 Q. So other than the nine months you
2 were in reinstatement, were you in the medical
3 unit/CDL for the rest of that time?
4 A. Until I was promoted, yes, sir.
5 Q. To manager. And you see Jerrolynn
6 Spencer is below you there as driver's license
7 specialist?
8 A. Yes, sir.
9 Q. Do you know Jerrolynn Spencer?
10 A. I do.
11 Q. How do you know her?
12 A. She worked for me.
13 Q. Okay. Could you describe a little
14 bit about her position there and how maybe it
15 evolved over time?
16 A. Well, when she worked for me, what
17 she did was she processed medical forms that
18 we got back in. Like I said, when the
19 examiner -- when the person comes in and gets
20 their license, you know, checks on the form
21 that, yes, I have diabetes, they send the form
22 into the medical unit. The medical unit,
23 which would be, for instance, Jerrolynn, she

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1 gets that form, sends it back -- sends another
2 form to the licensee that has a little bit
3 more information on it telling the licensee
4 you need to take this to your physician and
5 get it completed and have it back in here to
6 us within thirty days or however long they --
7 fourteen days, thirty days. I don't remember.
8 Q. And she's just simply going off the
9 guidelines as she's been given --
10 A. Uh-huh.
11 Q. -- that has come from the medical
12 advisory board at some point?
13 A. Right.
14 Q. So you don't currently work in
15 customer records?
16 A. No, I do not.
17 Q. But you did at some point?
18 A. Yeah. Well, no. It wasn't called
19 customer records -- I never heard that, but I
20 guess that's how they had it on the chart.
21 Q. Okay. Now I'm going to show you
22 Plaintiff's Exhibit 2.
23 (Plaintiff's Exhibit Number 2 was

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1 marked for identification. A copy
2 is attached.)
3 Q. This one says customer services.
4 A. Uh-huh.
5 Q. And your name is here at the top,
6 correct?
7 A. Right.
8 Q. Explain a little bit about customer
9 services and -- yeah.
10 A. Okay. Well, it's like I said
11 before, it's the units that I supervise. We
12 deal with a lot more people that come in --
13 walk-ins as far as paying reinstatement fees,
14 trying to solve their problems like they
15 didn't get their driver's license, renewing by
16 mail. If they have a problem renewing online
17 they get in touch with us. It's just more of
18 the customer service oriented part.
19 Q. And that's what you currently do?
20 A. Yes.
21 Q. And I'm seeing here -- I'm mostly
22 connecting here how we have driver improvement
23 down below, which is driver's license

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1 supervisor Walt Foster?
2 A. Yeah, he's retired now.
3 Q. Okay. Do you have an idea from
4 some of these names that are on here what --
5 what would you estimate the year to be for
6 this table?
7 A. It has to be at least eighteen
8 months old, I mean, you know, eighteen months
9 ago because, like I said, Mr. Foster is not
10 here anymore. Let's see. That person is
11 gone. Yeah, it's probably older than that.
12 But that would be at least eighteen months
13 ago.
14 Q. It's correct in as much as that --
15 that's -- you are still currently the manager
16 of customer services?
17 A. Correct. Yes, sir.
18 Q. Now here is the -- this one there
19 is a date on it. And if it's wrong, just
20 please let me know. This is Plaintiff's
21 Exhibit 3.
22 (Plaintiff's Exhibit Number 3 was
23 marked for identification. A copy

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1 is attached.)
2 Q. It says driver's license division
3 command staff.
4 A. Uh-huh.
5 Q. So the division chief now would be
6 Deena Pregno, correct?
7 A. Correct.
8 Q. And I believe you are on here.
9 A. At the very bottom.
10 Q. At the very bottom.
11 A. Yeah.
12 Q. Yeah. And that is -- what I was
13 going to ask you was that's -- as in where you
14 are on the chart here, this hasn't changed
15 where you're currently on Plaintiff's Exhibit
16 3. You're still in that position today?
17 A. Sure, uh-huh.
18 Q. The same as you were April 1st of
19 2013?
20 A. Yes, sir.
21 Q. Okay. And I see that Deena Pregno
22 was -- can you tell me where she is at on here
23 and then how she's moved up since 2013?

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1 A. She -- let me see if I can -- let
2 me find her name. Okay. So she is -- she was
3 a commander over driver's license division --
4 examining division in the field. She worked
5 out on Coliseum Boulevard.
6 Q. Is that one location or is that --
7 A. Well, she had a region which
8 included Opelika -- I believe Selma was in the
9 region. I'm not a hundred percent sure
10 because they change those around sometimes.
11 But, yeah, she was a region commander.
12 Q. And she moved up at some point.
13 You might not know the year. When do you
14 think she was promoted to a higher position?
15 Did she go -- do you know -- happen to know
16 did she go straight to division chief or was
17 she --
18 A. She did. She went straight to
19 division chief. It was after the
20 consolidation, so just a guess, '15 maybe,
21 '16. Probably '15, if I had to guess.
22 Q. I'm about to wrap this stuff up
23 about this part. Who held the position before

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1 you did?
2 A. Pat Bryant.
3 Q. Do you happen to know how long Pat
4 Bryant was in that position?
5 A. No, I don't.
6 Q. Can you explain about policy order
7 63 and its creation or when you first became
8 aware of it?
9 A. Well, as I understand it, when I
10 went into the medical unit in '07 there wasn't
11 a policy 63. We had a procedure on how we
12 handled sex changes, but we didn't really have
13 a policy. And by procedure I mean just --
14 this is just what our -- because we didn't get
15 that many at that time this is just what we
16 do. And so then -- I don't know -- I can't
17 say who. Somebody said, well, we need a
18 policy because more people were inquiring and
19 then they would want to see, where is that in
20 writing or do you have a policy on that or
21 whatever. And so the legal unit got involved
22 at that point and developed the policy. Now,
23 the first time I saw it, I couldn't tell you.

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1 Probably around 2000 and -- they probably
2 started working on it sometime in 2011 maybe,
3 2012. I'm not sure.
4 Q. So they probably started working on
5 the actual policy in 2011, around that time?
6 A. That's a guess, yes.
7 Q. Okay. What was the procedure then
8 in 2007?
9 A. That we would change the sex in the
10 record with a doctor's letter that the doctor
11 had to have performed the surgery, and it
12 needed to say it was completed.
13 Q. What surgery?
14 A. The sex reassignment surgery.
15 Q. Which one?
16 A. I don't know. I don't know.
17 That's just what the policy was that the
18 doctor that performed the sex reassignment
19 surgery would write in the letter that this
20 person has undergone sexual -- I performed the
21 surgery, the procedure, on this individual and
22 it's been completed.
23 Q. Okay. Were there any words -- as

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1 long as the words surgery was on there, then
2 they would make the change?
3 A. Yes. And it might say sex
4 reassignment surgery. That's what we're --
5 that's kind of what we were looking for it to
6 say, they had completed the sex reassignment
7 surgery.
8 Q. Who told you that -- what to look
9 for?
10 A. I think the commander of the
11 medical unit prior to me going in there.
12 That's the way they had always handled it.
13 And his name was Terry Chapman.
14 Q. So Terry Chapman, commander of the
15 medical unit, told you that's what we're
16 doing?
17 A. Well, I don't know if he told me
18 directly. When I went into the unit then
19 this -- you know, when a situation comes up,
20 if you don't know, well, how do we handle this
21 situation or whatever, then you may ask
22 somebody. But I think -- just a guess --
23 ultimately my guess would be that it came from

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1 him since he was the commander for several
2 years prior to that.
3 Q. Was this procedure ever written
4 down?
5 A. Huh-uh, not that I'm aware of.
6 Q. Someone -- you just heard it in the
7 hallway or --
8 A. In the office.
9 Q. You probably don't remember the day
10 that you asked I guess?
11 A. Oh, no.
12 Q. Did someone tell you in a training?
13 A. No. It was probably when we
14 received either a telephone call or a
15 letter --
16 Q. And so --
17 A. -- as to inquiring as to what they
18 needed to do. And at that particular time
19 changing the sex -- physically going in and
20 changing it in the system there were only --
21 you know, the medical unit was about the only
22 unit that could do that is why it filtered
23 through that unit.

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1 Q. How many people were in the medical
2 unit at that time?
3 A. Probably between six and ten.
4 Q. Could all of those individuals make
5 the change?
6 A. No. Just the supervisor and maybe
7 one other designee.
8 Q. Did the other -- did the -- not the
9 supervisor, not the designee. Did the
10 other -- were the other people in the medical
11 unit aware of this procedure?
12 A. Yes. Well, and I can only speak
13 for the -- when I was in there. Now, when I
14 didn't work in there I don't know what they
15 were aware of. But when I worked in there,
16 even the people that didn't, you know, process
17 that or whatever, they would know of the
18 procedure.
19 Q. But they just couldn't -- and when
20 you say make the change, you mean change the M
21 to an F or vice versa?
22 A. Right, in the system
23 programmically.

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1 Q. How long does that take?
2 A. It's quick.
3 Q. Like under thirty seconds to make
4 the change?
5 A. Oh, yeah.
6 Q. Do you know Destiny Clark?
7 A. No.
8 Q. Do you know Darcy Corbitt?
9 A. No, I don't.
10 Q. Have you ever seen their names on
11 anything?
12 A. Not that I recall.
13 Q. So you remember that there was talk
14 around -- well, I'm not going to put words in
15 your mouth. You heard rumors or something.
16 Explain a little bit about when you knew that
17 they were going to make the unwritten
18 procedure something a little bit more
19 official?
20 A. Explain.
21 Q. Did you -- well, you heard -- you
22 said that you heard at some point around 2011,
23 you're not sure on the year, that they were

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1 going to go from -- someone said -- you
2 couldn't recall. Someone said we should write
3 this down or something like that.
4 A. Right.
5 Q. Could you go into a little bit more
6 detail about that?
7 A. I'm still not quite clear but --
8 probably because we were getting inquiries as
9 to do you have this written down, what's your
10 policy on this. And we didn't have a set
11 policy. And so someone -- probably the
12 medical unit commander -- again, just an
13 assumption -- contacted the legal unit and
14 said we need to get this in policy
15 somewhere --
16 Q. And --
17 A. -- this is our procedure now and
18 went from there.
19 Q. You don't know of a meeting that
20 took place?
21 A. No, not that I'm aware of.
22 Q. You weren't a part of any emails
23 that might have been circulated about making

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1 this more official, right?
2 A. I may have been consulted as far as
3 do you know what the policy that we have or
4 what is our procedure now when they started
5 working on it. I don't know for sure. I
6 don't remember if I got an email on it or not.
7 Q. And what did you say when they
8 asked you?
9 A. That I'm not aware of one. We had
10 a procedure but we didn't have a policy.
11 Q. Okay. When they asked you about
12 the procedure, what did you tell them?
13 A. This is what we do, yes.
14 Q. Did you ever give your opinion on
15 it?
16 A. As far as --
17 Q. What did you think about the
18 procedure? I'll ask that first. What did you
19 think about the procedure?
20 MR. CHYNOWETH: Object to the form.
21 A. I felt like it was -- you know,
22 because I'm not a physician, I can't determine
23 anything. But I felt like it was okay if they

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1 had -- if they had surgery then they would be
2 able to get a letter from the physician.
3 Q. What about people who don't have
4 surgery?
5 A. Actually at that time when I was
6 working in the medical unit I didn't have that
7 many that didn't -- there were some I guess
8 that came up. Basically if you didn't have
9 the surgery we couldn't change the sex.
10 Q. What did you think about that?
11 MR. CHYNOWETH: Object to the form.
12 A. Well, following guidelines, you
13 know, which is what we have to do, I can't
14 really have an opinion. You know, this is
15 just what we have to do, you know, you don't
16 need the guidelines or what we've set forth,
17 so --
18 Q. You're still human, I guess. Okay.
19 A. Well, you would know. Yeah. And
20 I'm very compassionate to people.
21 Q. Did anyone ever complain?
22 A. Yeah, I'm sure they did. I can't
23 list -- I can't name anybody in particular,

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1 but I'm sure they did.
2 Q. Do you remember anyone being upset
3 or were they sad?
4 A. Uh-huh, I remember talking to some
5 sad people.
6 Q. How did that make you feel?
7 MR. CHYNOWETH: Object to the form.
8 A. Obviously compassion for them.
9 Q. You felt bad?
10 A. Right. Just like anybody we
11 can't -- we can't help, you know.
12 Q. I understand. Do you know what --
13 what problem were they trying to address with
14 the procedure?
15 A. As far as -- most of the time
16 they -- if I'm answering -- if I'm
17 understanding the question correctly, they
18 just had -- maybe they would say they had gone
19 through part of the whole procedure, like
20 maybe they had lived as a different sex, you
21 know, for a certain amount of time or whatever
22 but they just hadn't gone to the surgery part,
23 and so -- and I've been living like this for,

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1 you know, five years or whatever and -- that's
2 probably the biggest that I can remember.
3 Q. Why did the medical unit require
4 surgery --
5 A. I don't know.
6 Q. -- as a requirement? Did you ever
7 ask?
8 A. No, I didn't.
9 Q. So you were never a part of any
10 meetings about the creation of the policy
11 order 63, right?
12 A. Huh-uh, I don't -- I don't recall
13 going into any meetings about it.
14 Q. No one ever asked your opinion
15 about -- because, I mean, I feel like you are
16 pretty high up. I'm almost surprised they
17 didn't ask you, you know, what do you think we
18 should do?
19 A. The only thing they ever asked me
20 is what do we do, what have we done to this
21 point, and we've done this.
22 Q. And it's your testimony today that
23 they were the ones who kind of were going to

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1 create it?
2 A. Right.
3 Q. Do you know who those people were
4 that were creating the policy?
5 A. I spoke with an attorney by the
6 name of Karen Lowe. That's the only person I
7 contact -- that I had talked to about it.
8 Q. Is that an attorney for ALEA?
9 A. ALEA, uh-huh.
10 Q. You don't know of any meetings
11 taking place?
12 A. No, sir, I don't.
13 Q. What's your involvement with the
14 medical unit once you became driver's license
15 manager?
16 A. Very little, very little. The only
17 way I would get involved in anything with the
18 medical unit at that point is if their
19 supervisors, which means Sergeant Duke or
20 Ms. Eastman were gone and they needed
21 something right then.
22 Q. Who's currently running the medical
23 unit.

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1 A. Sergeant Brian Duke is the
2 commander, and then Supervisor Eastman is
3 right under him as the supervisor.
4 Q. And about how many people are under
5 Ms. Eastman?
6 A. Well, let's see. She probably has
7 at least ten, including the CDL unit, because
8 they're kind of -- they're in the same office,
9 but I think they've kind of separated their
10 duties. Used to both the units were so small
11 that everybody kind of did a little bit of
12 everything. But now I think they've branched
13 off, but they are still in the same location.
14 Q. Do their duties -- do people hop
15 back and forth when it comes to their duties?
16 A. I don't think they do that. Like I
17 said, I don't have a lot of dealings with
18 them, but I think she's pretty much got it
19 outlined that these people do this and these
20 people do this. Now, in the event -- they're
21 cross-trained, I'm sure, that somebody could
22 fill in for somebody else.
23 Q. Was that Ms. Eastman's idea?

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1 A. Well, just because the unit grew so
2 much, and so they -- and CDL took on a whole
3 lot more responsibility than they had at one
4 time due to some federal regulations that we
5 had to implement. And so they had to -- it
6 couldn't be like it was. They had to strictly
7 define what needed to be done by whom so they
8 can -- there could be some accountability.
9 Q. Do you know whose decision that
10 was?
11 A. To do that?
12 Q. Yes.
13 A. Probably Sergeant Duke I would
14 imagine -- and Jeannie. They probably met
15 together and decided.
16 Q. And they could do that without
17 going any farther up the chain?
18 A. Right. They're still considered
19 the same unit. It's just how they assign
20 work.
21 Q. How many people would you say are
22 primarily medical unit, although they may be
23 cross-trained?

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1 A. Now, I don't know the exact number
2 cause I -- they all sit in there together,
3 so -- I would say approximately maybe five,
4 six at the most maybe.
5 Q. Do you know who those individuals
6 are?
7 A. There's a new girl in there I don't
8 know her name. But I know there's a Jean
9 Head, Emily Baggett, Jackie Cutter, Jerrolynn
10 Spencer, and like I said the new girl. And
11 they may have one other one that answers --
12 one other administrative assistant one that
13 answers the phone. I'm not sure. She may
14 answer the phone for both units.
15 Q. Now, I'm a little confused on the
16 policies and I was hoping you could help me
17 out a little bit. I -- this will be -- what
18 are we on -- 4. This will be Plaintiff's
19 Exhibit 4.
20 (Plaintiff's Exhibit Number 4 was
21 marked for identification. A copy
22 is attached.)
23 Q. Now I know the date on this one.

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1 Could you read the date on this one?
2 A. 7-1-2015.
3 Q. Okay. Now, this is going to be
4 Plaintiff's Exhibit 5. There is no date here.
5 (Plaintiff's Exhibit Number 5 was
6 marked for identification. A copy
7 is attached.)
8 Q. Do you know when this policy was?
9 A. I believe it was around 2011 or
10 '12. I think around '12, 2012.
11 Q. Okay. And this one is kind of like
12 the shorter one. I can tell you where it is
13 in the discovery if that will be helpful for
14 the record. It's discovery number 160.
15 A. Now, this one -- oh, I'm not sure
16 because that -- that one may even be more
17 recent than that. These two probably came
18 along not far from each other. I think this
19 one just goes into detail more at the bottom.
20 Q. Okay. I don't know if this will
21 help. I think in the responses there was --
22 policy order 63 was issued in 2012 and was
23 revised on July 1st, which would be here,

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1 2015, which is Plaintiff's Exhibit 4. And
2 then policy order 63 was revised again in
3 April of 2016. Now, this one -- there's a
4 date on an email here. This will be
5 Plaintiff's Exhibit 6, and it's two pages. In
6 the discovery it's 491 and 492. I'm going to
7 hand this to you.
8 (Plaintiff's Exhibit Number 6 was
9 marked for identification. A copy
10 is attached.)
11 Q. Now, this is dated September 7th,
12 2017.
13 A. Uh-huh.
14 Q. Could you say who it's from and who
15 it's to on the email?
16 A. It's from Jeannie Eastman and to
17 Brian Duke.
18 Q. And what does the subject say?
19 A. Gender change policy 3 -- or gender
20 change. Excuse me.
21 Q. And then the attachment says?
22 A. Gender change policy 3.
23 Q. Okay. Now, does this look like the

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1 revised policy to you?
2 A. The one -- this one right here?
3 Q. Yes. Is this the 2016 revised
4 policy?
5 A. I don't know.
6 MR. BOONE: Is it okay if we take a
7 break?
8 (Break taken.)
9 BY MR. BOONE:
10 Q. I'm going to enter this as
11 Plaintiff's Exhibit 7. It's the original
12 policy from 9-1-2012, driver's license policy
13 order number 63, and this is D1. The second
14 page of Plaintiff's Exhibit Number 7 is D2
15 from discovery. And it's the current most
16 up-to-date policy of policy order 63.
17 (Plaintiff's Exhibit Number 7 was
18 marked for identification. A copy
19 is attached.)
20 Q. And I'm going to get you to look at
21 this. Could you turn to the second page,
22 which is the most updated policy?
23 A. Uh-huh.

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1 Q. I'm going to read the first
2 paragraph, and if you could just explain what
3 that means to you. It is the policy of the
4 chief of the driver's license division that an
5 individual wishing to have the sex changed on
6 their Alabama driver's license due to gender
7 reassignment surgery are required to submit to
8 an examining office or the medical unit the
9 following. Just stopping there, what does
10 that -- how would you interpret that?
11 A. That if they needed a sex change on
12 their driver's license and it wasn't due to a
13 typographical error that they would have to
14 present the next statement.
15 Q. So either to -- what about the
16 examining office or the medical unit?
17 A. Oh, that they could -- that was
18 just to be more convenient for them where they
19 didn't have to send it in to the medical
20 unit. They could go in to an examiner. Prior
21 to this they had to send everything through
22 the medical unit.
23 Q. Like the person wanting the change

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1 would have to send it in the mail themselves?
2 A. They would have to submit it to the
3 medical unit, yes.
4 Q. But now the examining office will
5 put on the stamps and everything like that?
6 A. Right, right.
7 Q. Or is it faxed or --
8 A. Well, they would -- they would take
9 the documentation in, and at this point they
10 would call the medical unit to make the change
11 and then based on -- they would show them or
12 fax them or scan and email the documents they
13 had so they could all review it.
14 Q. So an examiner could make a
15 decision in the field office about whether or
16 not the change should take place?
17 A. If they had that letter from the
18 physician.
19 MR. CHYNOWETH: Can you let him
20 finish his question?
21 THE WITNESS: Oh, I'm sorry. I
22 thought you were finished.
23 MR. CHYNOWETH: That's okay.

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1 MR. BOONE: Yeah. Thanks for
2 saying that, Brad.
3 Q. And another thing they told me -- I
4 didn't notice it -- make sure to say yes or
5 no, not just uh-huh or -- just to make it
6 easier. I didn't notice it but I think a
7 couple times.
8 Okay. I'm going to go back to
9 that. So someone in the examining office they
10 get -- they get a document that says surgery
11 on it, right?
12 A. Yes.
13 Q. What would they do next?
14 A. They would review the document.
15 That's what it tells them down here in the
16 document, you know, that it looked okay. If
17 they had any doubts about the document, they
18 would contact the medical unit. If the -- you
19 know, it pretty much outlines it there, but
20 they would look over it to see that it says
21 that the person -- what they are looking for
22 is to see that the physician said that they
23 had had the surgery, it was completed, and

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1 that that doctor performed the surgery.
2 Q. And what does completed -- you
3 don't know what completed means?
4 A. That I guess that they were
5 finished with whatever they needed to do for
6 the sex reassignment.
7 Q. Does it matter what the -- what
8 type of surgery it was?
9 A. Not that I'm aware of. That's not
10 listed.
11 Q. In number one here it stays -- I'm
12 going to read it -- an amended state certified
13 birth certificate and/or a letter from the
14 physician that performed the reassignment
15 procedure. The letter must be on a
16 physician's letterhead. Could you explain how
17 you would understand that?
18 A. The letter needed -- it couldn't be
19 just be on a piece of plain paper. It would
20 need to have a phone number where we could
21 call and verify the letter and the physician's
22 information.
23 Q. How many times have you made a

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1 decision on a letter's authenticity?
2 A. Oh, I couldn't guess how many.
3 Numerous.
4 Q. Over a hundred?
5 A. No, I wouldn't think over a
6 hundred, no.
7 Q. Closer to fifty?
8 A. Probably. Between fifty and a
9 hundred maybe. That's just a guess.
10 Q. How many times did you call a
11 physician's office?
12 A. I didn't call a physician's
13 office. I would ask -- usually ask someone
14 that works for me to call a physician's
15 office.
16 Q. Does that include when you were a
17 supervisor?
18 A. Yes.
19 Q. Okay. So when you were driver's
20 license supervisor you would never make that
21 phone call?
22 A. Not usually, no.
23 Q. But you have made the phone call?

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1 A. I can't recall any phone calls I
2 made.
3 Q. It's possible you called a
4 physician's office.
5 A. It's possible. I just can't
6 recall.
7 Q. Who would you instruct to make the
8 phone call to a physician's office?
9 A. At that time I had a young lady
10 that worked for me named Katie Pouncey and she
11 would usually do that for me.
12 Q. How come you would delegate that to
13 her?
14 A. Because I had to review a lot of
15 different documents for a lot of different
16 conditions, not just sex reassignment, but a
17 lot of different conditions that would come
18 in. And so I would go through them and write
19 what needed to be done on them, and then hand
20 it to her for her to follow up for me.
21 Q. For example, you would write male
22 to female or female to male --
23 A. Right.

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1 Q. -- at the top?
2 A. Right. Or anything that I wanted
3 to remember on there. I would also make notes
4 on there.
5 Q. On the actual document that they
6 submitted?
7 A. Right.
8 Q. Would you ever write something like
9 we need to call the doctor, for example?
10 A. Sometimes. I usually had stacked
11 that I -- she had -- she had bins on her desk,
12 this could be completed and this needed
13 follow-up.
14 Q. Okay. So what would your
15 instructions be if it needed to -- if a phone
16 call needed to be made to a physician?
17 A. Check on this one to make sure it's
18 good, something to that effect.
19 Q. And she would understand that to
20 mean that means I need to call the doctor's
21 office?
22 A. Uh-huh.
23 Q. And what would she do --

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1 A. Yes, I mean. Yes. I'm sorry. I'm
2 sorry. I'm sorry.
3 Q. To me I get used to it. But what
4 would she do at that point?
5 A. Contact the physician's office when
6 she worked those, you know, when she got to
7 that point.
8 Q. What would she ask?
9 A. Well, I don't know. I was in my
10 office. I couldn't -- I'm assuming she would
11 call and just say I want to verify -- we
12 received a letter from you regarding this
13 patient, can you tell me what the letter said.
14 Q. But you are her supervisor, right?
15 A. Uh-huh.
16 Q. And you have no idea what she said?
17 A. I don't know the exact verbiage
18 that she used, but that's -- that's pretty
19 much how we would do it.
20 Q. As far as you know the only thing
21 she's asking is just connecting the name to
22 the physician's office, right?
23 A. And making sure that the letter

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1 said what it said, what -- because we -- we
2 have -- I know of one instance that we got --
3 well, I don't know if it was on a sex
4 reassignment, but we have gotten documents
5 that contained -- that said that it was, you
6 know, from the doctor, it looked like it was
7 on the doctor's letterhead, but there was
8 something suspect about it. And it didn't
9 really -- it was reproduced. The doctor
10 didn't really say that. It was a forgery.
11 Q. What part of it was forged?
12 A. The paragraph in it.
13 Q. So someone had actually --
14 A. Not for this -- not for these
15 particular situations. Excuse me.
16 Q. Oh, so this -- it has nothing to do
17 with sex change?
18 A. Not necessarily, no.
19 Q. Okay.
20 A. We've just gotten documents that
21 were.
22 Q. So you've never gotten a forgery
23 related to changing the sex?

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1 A. I think we have had one that I can
2 think of off the top of my head, one.
3 Q. Do you know what the forgery was?
4 A. It was a long time ago. I just
5 remember -- I didn't -- I didn't deal with it
6 in the beginning. I can -- no, I don't -- I
7 know what the forgery was.
8 Q. So you don't know if someone forged
9 a signature. You don't remember?
10 A. (Witness shakes head.)
11 Q. You don't remember if they changed
12 the words in the letter, but maybe --
13 A. That's what I'm thinking it was,
14 was that the information in the paragraph was
15 incorrect.
16 Q. But you're not sure?
17 A. (Witness shakes head.) No.
18 Sorry. I need to realize I need to talk.
19 Q. Can you give me an example or tell
20 me when you would ever say no to someone
21 asking for a sex change in the system?
22 A. If they presented documentation
23 that said -- that didn't say what we needed it

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1 to say, which is right here, that the sex
2 reassignment surgery has been completed and
3 that I'm the physician that completed the
4 surgery.
5 Q. What if it just said surgery? What
6 if they -- what if they forgot or -- I don't
7 want to assume, but what if it just said
8 surgery and it didn't say gender reassignment
9 or sex reassignment on there?
10 A. Then we would probably say we need
11 to -- the doctor needs to be more specific.
12 Q. So that would be an instance
13 where --
14 A. We would contact the license -- the
15 person that submitted it, the licensee and
16 just say we need your doctor to be a little
17 bit more specific on this.
18 Q. What if they said, I mean, some
19 people get surgeries done in other countries.
20 What if they're unable to get another letter?
21 A. Well, then they can get -- if they
22 can get an amended birth certificate we would
23 take that.

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1 Q. So something as small as missing a
2 word could keep somebody from getting the
3 change in the system?
4 A. It could, yes.
5 Q. What if someone has a letter that
6 it says hormone treatments? What happens
7 then?
8 A. We would more than likely tell them
9 that we had to have more information.
10 Q. And do some letters -- they don't
11 specify what type of surgery, right?
12 A. Right. It just needs to say sex
13 assignment -- reassignment surgery.
14 Q. So if someone were to get breast
15 augmentation and the doctor wrote sex
16 reassignment surgery they would be approved,
17 right?
18 A. Yes, if -- if it said sex
19 reassignment surgery, yes.
20 Q. It says here that -- in number two
21 down in the middle of this which is -- it's
22 the policy order 63, the most updated
23 version. On number two it says if a physician

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1 letter is presented there is no need to
2 contact the physician unless there's some
3 doubt as to the authenticity of the letter.
4 Many of the surgeries are performed in other
5 countries. It sounds like you all went
6 outside of that. There were times where
7 you're not doubting the authenticity of the
8 letter. You just wanted something more
9 specific, right?
10 A. Right.
11 Q. You didn't think the letter was a
12 forgery. You just thought, well, maybe it's
13 missing sexual reassignment. It just says
14 surgery or --
15 A. Right, it didn't meet what we
16 needed it to meet according to the policy.
17 Q. Were you ever notified whenever
18 policy order 63 came out?
19 A. I don't know. I'm sure I was.
20 Q. You don't remember an email or
21 anything?
22 A. No. I believe I was just notified
23 just verbally. I believe, if I remember

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1 correctly, Ms. Eastman just said we got -- you
2 know, legal signed off on the policy order.
3 Q. Were you working the medical unit
4 at that time?
5 A. Now, are you talking about the '16
6 one or the initial one?
7 Q. The initial one.
8 A. Oh, yes, I was in the medical unit
9 then.
10 Q. And you don't remember seeing an
11 email or anything?
12 A. No, not -- no. I believe they just
13 came down and handed it to us and said that
14 they got it finished. I don't remember. I
15 don't recall an email.
16 Q. Okay. But you remember seeing a
17 document and looking over a document --
18 A. Yes.
19 Q. -- that looks like the ones we're
20 looking at today?
21 A. Yes.
22 Q. Is there anything different about
23 the documents we're looking over today?

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1 A. Well, the initial, what, from '12
2 to '16? I mean, these are the documents that
3 I saw.
4 Q. Yes. Plaintiff's Exhibit 7, which
5 is number one in the discovery, is this what
6 you first saw?
7 A. Yes. Wait. Let me make sure.
8 Yes.
9 Q. Now, when you were talking about
10 the procedure, that was unwritten, right?
11 A. Right.
12 Q. Could you have changed it? Could
13 you have changed the unwritten procedure?
14 A. Could I have made a different
15 decision if I was reviewing a document? Yes.
16 Q. And did you ever?
17 A. I may have.
18 Q. How come?
19 A. Just -- I don't -- maybe getting in
20 a hurry or maybe it didn't say the exact
21 wording of our procedure, but we didn't have
22 it in writing to go back and refer to it this
23 is just the way we do it. I can't remember a

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1 time, but I may have.
2 Q. Do you think you ever did it in the
3 favor of the person that's asking for the
4 change --
5 A. Yes.
6 Q. -- when maybe you weren't supposed
7 to?
8 A. Probably.
9 Q. What about the other way around?
10 Did you basically rule in the individual's
11 disfavor even though probably they should have
12 had the change?
13 A. No.
14 Q. So it was only in favor of the
15 person asking for the sex change?
16 A. Probably, yes.
17 Q. What were you told about the policy
18 whenever it was the official policy order 63
19 in 2012?
20 A. I'm not sure I understand the
21 question.
22 Q. Did they just hand you the document
23 or did they say we decided to write it down

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1 for these reasons, this is why?
2 A. Well, I knew they were working on
3 it because we didn't have one. And so when it
4 was completed they just said, okay, we've got
5 the policy completed.
6 Q. To your knowledge, the only reason
7 they wrote it down was because they -- there
8 was -- these cases were coming up more often
9 or -- I was a little confused on your
10 testimony earlier. Explain why -- from what
11 you remember, why did they write it down?
12 A. We didn't have anything written
13 down and you like to have standards to go by
14 and we had more cases that -- people that were
15 inquiring. And so we just felt like it -- you
16 know, we had so many different scenarios come
17 up in the driver's license division. Some
18 come up once every five years. Some come up
19 more often. And so this was coming up more
20 often and we just needed to have some
21 guidelines.
22 Q. And what were they going off of?
23 What were the guidelines based off of?

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1 A. They were based on our procedure
2 that we did prior to.
3 Q. The unwritten procedure?
4 A. Yes, sir.
5 Q. But you don't know who came up with
6 the unwritten procedure?
7 A. Oh, no, sir, unless -- unless it
8 was -- no, I don't know. I don't know.
9 Q. You don't know where they got that
10 from, if they got it from another state or if
11 they got it -- you have no idea where the
12 unwritten --
13 A. No, sir.
14 Q. You just said, okay, that's the
15 rule.
16 A. They said this is what we do and
17 that's what we did.
18 Q. And you never questioned it?
19 A. It was the procedure.
20 Q. How did ALEA inform the public
21 about the policy orders whenever it came out
22 in 2012?
23 A. And by public just meaning people

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1 that called in inquiring about it?
2 Q. No. I mean, how did they inform
3 the community that's not asking about it
4 necessarily?
5 A. I don't know.
6 Q. Did they put out a press release?
7 A. I don't know.
8 Q. From your knowledge, there was no
9 press release?
10 A. I don't -- I don't know.
11 Q. There was no announcements?
12 A. I don't know.
13 Q. Was it posted in any DMV offices?
14 A. I don't know.
15 Q. You don't know if it was posted on
16 the wall of any DMV offices?
17 A. No, sir.
18 Q. And you never asked?
19 A. No, sir.
20 Q. But if someone were to call in once
21 you have the paper policy would you tell them
22 what the policy was?
23 A. Yes, sir. Yes, sir.

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1 Q. What if they asked what surgeries
2 were necessary?
3 A. We would just tell them what our
4 policy was. They needed to say complete --
5 complete sexual reassignment surgery. I mean,
6 the sexual reassignment surgery has been
7 completed and that was it.
8 Q. What would you say to someone, for
9 example, if they were to say I can afford to
10 get my testicles removed but not my penis,
11 will that be enough for me to get the change
12 on my license?
13 A. What we would say, because I'm not
14 a physician, is if your physician writes in
15 and says this, then that's what we'll take.
16 Q. And you would say as long as
17 there -- as long as they -- it says sex
18 reassignment surgery is complete, then you're
19 good to go, right?
20 A. Yes, sir. Yes, sir. I'm sorry.
21 Yes, sir.
22 Q. It's okay. When someone applies
23 for a driver's license for the first time,

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1 what documentation must they present?
2 A. A state certified birth certificate
3 and a Social Security card and proof of
4 address. And then if any name change they
5 would need to have a name change document.
6 Q. And that's when they apply for the
7 first time?
8 A. Yes, sir.
9 Q. Is there anything else?
10 A. Well, if they're fifteen to
11 eighteen years of age they'll need to provide
12 school proof. Now, if they're not a U.S.
13 citizen then they would need their immigration
14 documents. They can also present a valid U.S.
15 passport.
16 Q. If someone wants to trade in an
17 out-of-state license for an Alabama license,
18 what documentation must they present?
19 A. Their out-of-state driver's license
20 and their state certified birth certificate
21 and then any name change document and proof of
22 address or the -- anything on our authorized
23 presence list but, yes, that's the meat and

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1 the potatoes.
2 Q. When people first apply for a
3 driver's license in Alabama, does anyone ever
4 ask them from ALEA down if they are
5 transgender?
6 A. No, sir.
7 Q. Would you agree that if a
8 transgender person applying for an Alabama
9 license for the first time presented
10 documentation only reflecting the sex with
11 which they identify and not the sex they were
12 assigned at birth they would receive an
13 Alabama license with a sex designation that
14 matched the sex designation on their other
15 documents?
16 MR. CHYNOWETH: Object to the
17 form.
18 MR. BOONE: How come? I just want
19 to make sure I'm -- can you answer the
20 question?
21 A. Can you repeat it cause it's kind
22 of long?
23 Q. It's long. If someone -- if

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1 someone is -- if the only documents that the
2 DMV sees are documents of the sex that they
3 identify with, would they receive an Alabama
4 license with that sex designation?
5 A. Are we talking about a birth
6 certificate?
7 Q. Yes.
8 A. If they had a birth certificate --
9 Q. Or --
10 A. -- then that's the sex that we're
11 going to use on the birth certificate.
12 Q. Are birth certificates always
13 required to get an Alabama license?
14 A. You could bring your passport or
15 your immigration documents.
16 Q. So if someone brings in a
17 passport --
18 A. Uh-huh.
19 Q. -- and it states female, what's the
20 designation that's going to be put on their
21 license?
22 A. It would be female if we don't have
23 anything to the -- you know, if you present

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1 two documents that are different, you know,
2 just like if you came in and your name was
3 John Smith on one document and John Jones on
4 the other document, we operate on a paper
5 trail documentation. So what brought it from
6 John Smith to John Jones, the document that
7 changed it? But if you brought in a passport
8 that said female, your Social Security card,
9 and your proof of address, then that's what
10 would be put on your driver's license.
11 Q. Okay. What if there is a
12 contradiction? What if, for example, someone
13 has one sex on their passport, one sex on
14 their Social Security card? What would you do
15 in that situation?
16 A. Well the Social Security doesn't
17 have a sex on it, so --
18 Q. Okay.
19 A. But if they --
20 Q. Is there another -- can you give me
21 an example of a contradictory situation?
22 A. Let's say that they had a birth
23 certificate and their out-of-state driver's

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1 license.
2 Q. And they're different. Okay.
3 A. Had two different sexes on it. We
4 would want to see what -- why is there -- why
5 is this not the same? Was it a typographical
6 error with the state? What -- what -- what is
7 this?
8 Q. If the person responded it's a
9 typographical error on my birth certificate,
10 this is my sex though from my out-of-state
11 license, is that what would be put into the
12 license?
13 A. On the birth certificate? We're
14 going to go by what the birth document has.
15 That's what we use on everything. Now, if
16 it's different on the driver's license, we
17 just have to see that trail that got us to
18 where we are.
19 Q. If you don't see the trail, then
20 the birth certificate --
21 A. Would be the default probably,
22 yes. Yes, it would be the default.
23 Q. Is that written somewhere?

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1 A. Or either -- no. Or either we
2 would tell them we're going to have to find --
3 we're going to have to delve into this a
4 little deeper. We might have to contact that
5 other state. We have to see -- we have to
6 determine why it went from one to the other.
7 Q. Where are you getting that from?
8 Are there guidelines for that? You said that
9 the birth certificate is the default. Is that
10 an Alabama code?
11 A. No. No. That's just the
12 document -- that's their birth document --
13 that's the document that -- that's their --
14 like the first document that they use. That's
15 what we go by.
16 Q. How come?
17 A. Now, that's in our -- that's in our
18 training. That's in their examiner's manual
19 that they bring in their birth certificate.
20 That's what it is. We don't even -- that's
21 why we don't take a state certified birth -- I
22 mean, an out-of-state license by itself. You
23 have to have a state certified birth

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1 certificate to accompany that. And that is in
2 our procedures for examining.
3 Q. If someone -- for example, if a
4 transgender man were to come in with a birth
5 certificate that said male and a driver's
6 license that said male, you all would put male
7 into the system, right?
8 A. Yes.
9 Q. And I think we already know this.
10 I'm just clarifying. There's no form that
11 someone has to turn in to get the sex change
12 on the license, right?
13 A. No, sir.
14 Q. Is the policy with the out-of-state
15 driver's license that you referred to where
16 they have to have a birth certificate, is that
17 a new policy?
18 A. No.
19 Q. How old is that policy?
20 A. Well, it's probably in the past ten
21 years maybe. I don't know. I don't know
22 exactly.
23 Q. If you were to -- within the past

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1 five years do you think?
2 A. Yes, sir. Yes, sir.
3 Q. But maybe within the past ten
4 years. So it's somewhat of a new policy?
5 A. That wouldn't be new to me, but
6 right.
7 Q. Yeah, I got you. And do you know
8 where that policy came from?
9 A. No, I don't.
10 Q. Did it come from the legislature?
11 You're unaware if it came from the
12 legislature?
13 A. I'm -- I don't know.
14 Q. Okay. Do you -- when individuals
15 are making the change in the system from male
16 to female, female to male, does it ever have
17 to go through a supervisor?
18 A. No.
19 Q. Is that the way it currently works
20 in the medical unit?
21 A. Yes. At one time it came from the
22 supervisor's office, but not any longer.
23 Q. Okay. Does Jeannie Eastman see

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1 every change in the system?
2 A. Not that I'm aware of, no.
3 Q. It's possible that people could
4 change it on their own without Jeannie Eastman
5 ever knowing it, right?
6 A. It's possible. I don't know how
7 they operate up there now because I don't work
8 in the medical unit any longer.
9 Q. Remind me, at the time when you
10 were there is it possible that the supervisor
11 doesn't see every change in the system?
12 A. Not for the sex change at that time
13 because I was only one of the few that could
14 change it.
15 Q. Could you name the people that can
16 concurrently change it?
17 A. I don't know everybody that can
18 change it. I know that I can change it and
19 the help desk can change it and then the
20 medical unit can change it. That's all I'm
21 aware of at headquarters that can change it.
22 And they may be able to change it in the
23 field.

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1 Q. When was the last time you made a
2 change in the system or denied a change in the
3 system?
4 A. Me personally?
5 Q. You personally.
6 A. Oh, goodness. I don't know an
7 exact time. It's been a long time.
8 Q. Since 2015 have you?
9 A. I just don't -- I can't say for
10 sure. If I did any, it wasn't very -- it
11 hasn't been very many. One, two possibly.
12 Q. I remember you said you've had
13 around maybe fifty opportunities to make
14 changes or it's come before you, right?
15 A. (Witness nods.)
16 Q. Be sure to say yes.
17 A. Yes. Yes.
18 Q. What percentage of those times do
19 you estimate a physician's office needed to be
20 called out of those, around fifty?
21 A. That I handled? I don't know. Not
22 very many.
23 Q. Is there any way you could give a

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1 percentage?
2 A. No.
3 Q. Like five percent?
4 A. Maybe two to five percent.
5 Q. Do you know about other people who
6 have the ability to make changes? Do you know
7 the percentage they might call a physician?
8 A. I do not.
9 Q. That's never come up in any type of
10 conversation?
11 A. No, sir.
12 Q. What measures does the medical unit
13 or -- anyone who has the ability to call a
14 physician, what measures do they take to
15 protect the privacy of the applicants?
16 A. That's why they don't discuss
17 what's in the letter. They ask the doctor to
18 say what kind of letter did you -- what was
19 contained in the letter that you sent me
20 because we just say the name, we got a letter,
21 can you verify that it's dated this date. And
22 then if the doctor elaborates, then that's
23 fine, but we don't -- we don't -- and we only

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1 discuss anything with just the person or the
2 physician's office, not anybody that calls in
3 and asks any question or anything.
4 Q. When there's a call to a
5 physician's office, could it be to anyone in
6 the office?
7 A. We usually -- I'm assuming -- I
8 didn't call a lot of physician's offices. I
9 would always ask for the office manager and
10 then say that I -- you know, explain to them
11 that I received a letter.
12 Q. So it wasn't always the actual
13 doctor?
14 A. No. It's hard to reach the doctor.
15 Q. Did you ask permission of the
16 applicants before you made a call to the
17 physician's office?
18 A. No.
19 Q. Does anybody ever ask the
20 applicants beforehand?
21 A. No. I don't know that answer.
22 Q. As far as you know, no one calls
23 the applicants to ask permission to look up

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1 Q. What was all said when you make
2 those -- those conversations?
3 A. It's usually this just doesn't have
4 all the information we need, can you get some
5 clarification on it.
6 Q. Have you ever heard anyone in the
7 office ever say something or be upset about
8 not being able to change the sex designation
9 for somebody?
10 A. I'm sure there's been some people
11 that were upset. I'm sorry. Excuse me.
12 Rephrase that.
13 Q. Sure. I'll rephrase it.
14 A. Okay.
15 Q. Have any of your colleagues --
16 A. Oh, no, no, no.
17 Q. -- ever been upset that they
18 couldn't change because the policy restricted
19 them from changing?
20 A. Oh, no, sir. I'm sorry. I thought
21 you meant people that called in.
22 Q. Has anyone -- any of your
23 colleagues ever expressed an opinions about

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1 their medical record?
2 A. I don't know.
3 Q. Has anyone at ALEA ever explained
4 the purpose of the policy to you?
5 A. Other than just to say we need
6 documentation, no. I mean, no.
7 Q. They never said why they need
8 documentation?
9 A. We need documentation on a lot of
10 different things, name changes, all that type
11 thing.
12 Q. Have you ever talked to colleagues
13 about applications to change sex designations
14 that were denied?
15 A. Have I ever talked to my colleagues
16 about it? No, sir.
17 Q. But you have shared at least to
18 call a physician, you've talked -- you've
19 delegated the responsibility?
20 A. Sure.
21 Q. So you've talked to them in some
22 way, right?
23 A. Yes.

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1 the policy, either positively or negatively?
2 A. No, sir, not that I recall, other
3 than the fact that we needed one.
4 Q. Other than the fact that they just
5 need the policy, that you need to enforce it,
6 have you heard anyone else at ALEA discussing
7 anything else about the policy?
8 A. No. No, sir.
9 Q. Do you agree with the policy?
10 MR. CHYNOWETH: Object to the form.
11 A. Yes, sir, I agree with the policy.
12 Q. Why?
13 A. From a standpoint of documentation
14 it -- I just -- we operate as an identity
15 document and everything that we do has to have
16 a paper trail. And so that falls in line with
17 the paper trail.
18 Q. So if someone is seeing a doctor
19 but hasn't had surgery, you still have a paper
20 trail, correct?
21 A. Yes, sir.
22 Q. It's still a document. How come
23 that's not good enough?

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1 A. I don't know.
2 Q. In your personal opinion do you
3 think that's good enough?
4 A. If it just said what?
5 Q. If it says that I'm receiving
6 clinical treatment from a doctor, for example,
7 is that good enough?
8 A. No. I don't feel it's good enough,
9 only from an -- I think about individuals that
10 possibly are found unconscious or dead on the
11 road and they're trying to make an identity of
12 that person and that might hinder that if they
13 couldn't make a good, you know, identification
14 of that person based on that.
15 Q. Are you saying that police officers
16 can't identify a body if there's no license
17 close by?
18 A. I'm not a police officer so I don't
19 know. This is just me thinking. We've always
20 just gone by documentation and so -- I just
21 think that they need documentation supporting
22 that.
23 Q. So you would agree that clinical

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1 treatment documentation is enough?
2 A. I have to go by what the policy --
3 MR. CHYNOWETH: Enough for what?
4 Q. Enough to make the sex change in
5 the system.
6 A. It doesn't really matter what I
7 think. I have to go by the policy.
8 Q. You are the -- you're the driver's
9 license manager, right?
10 A. But I have policy I have to follow
11 or I won't be the driver's license manager.
12 Q. That's fair. So you don't know why
13 Alabama doesn't just require clinical
14 treatment?
15 A. No, sir, I don't.
16 Q. What do other states require?
17 MR. CHYNOWETH: Object to the form.
18 A. It varies.
19 Q. Do they all require surgery?
20 A. It varies. Some do. Some don't.
21 Q. What do -- do more states require
22 surgery -- I'm not wording this correctly.
23 Do you know if the majority

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1 requires surgery?
2 A. I can't recall. We -- we -- I
3 don't know. I was thinking it came up at a
4 conference I was at one time, but I don't
5 remember.
6 Q. So it wouldn't surprise you if you
7 found out that the majority do not require
8 surgery?
9 A. It wouldn't surprise me, no, I
10 don't guess.
11 Q. Do you think identifying bodies in
12 other states is different than identifying
13 bodies in Alabama?
14 A. No, sir.
15 Q. Since you've the driver's license
16 manager and you've worked at ALEA since 1991,
17 do you think that genitals have anything to do
18 with driving?
19 MR. CHYNOWETH: Object to the form.
20 A. No, sir.
21 Q. Does genitals really have anything
22 to do with everyday life when it comes to
23 identification in your opinion?

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1 MR. CHYNOWETH: Object to the form.
2 A. Everyday life? No, but it can
3 have -- it can be another identifier.
4 Q. In what circumstance?
5 A. As far as -- if it's -- I don't --
6 the way I look at it -- or the way we run into
7 it at work, a lot of times another state will
8 call us and say I've got a John Smith here in
9 Alabama that has a bad record there. He's
10 saying he's never been there. Well, what we
11 do is we look at, you know, all the
12 identifiers and see if that is that person,
13 and that's just another one that helps
14 identify.
15 Q. So that's one of the only reasons?
16 MR. CHYNOWETH: Object to form.
17 A. That's all I can think of.
18 Q. Some states don't require any type
19 of documentation from doctors, correct?
20 A. I guess. I'm not a hundred percent
21 sure.
22 Q. I don't know if I -- I don't think
23 I'll submit this into evidence. I'm sure

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1 Gabriel will or we'll do it on another day.
2 Are you aware of the resource guide from the
3 AANBA? Have you ever seen this before, the
4 resource guide on gender designation on
5 driver's licenses and identification cards?
6 A. I've never seen -- sorry. I've
7 never seen that, no.
8 MR. CHYNOWETH: Might as well put
9 that into evidence.
10 Q. Okay. I'll enter this into
11 evidence as Number 8. This is the resource
12 guide on gender designation on driver's
13 licenses and identification cards. It is also
14 marked in the discovery from pages 338 through
15 380.
16 (Plaintiff's Exhibit Number 8 was
17 marked for identification. A copy
18 is attached.)
19 Q. I can hold off on that. Sorry. I
20 was just going to show you -- it's just going
21 to take too much time and I don't have the
22 page -- actually I just pulled to it. Wow.
23 That was fortunate.

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1 Does it look like -- from your
2 experience -- how many states on there require
3 surgery? And we're looking at page -- let me
4 mark it. It's page 364 in the discovery. And
5 the title of this page is U.S. Jurisdiction
6 Driver's License and ID Card Policies. And it
7 has a breakdown of different policies in
8 different states. Now, this is from 2016, so
9 I know there have been changes in some states.
10 A. Okay.
11 Q. How many states require surgery?
12 A. Let's see. There's nine -- it
13 looks like nine roughly.
14 Q. And it looks like some states -- it
15 looks like eight, nine, ten states don't
16 require a form; is that correct?
17 A. Yes.
18 Q. So they would have no need for a
19 paper trail; is that right?
20 A. Well, it says certification
21 accepted from medical or mental health
22 providers. That would be documentation.
23 Certification there would be documentation.

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1 And certification only accepted from limited
2 range of health care providers, so there
3 are -- there is a paper trail.
4 Q. Okay. Is the -- I'm trying to see
5 if the District of Columbia is on there.
6 A. Yeah.
7 Q. I don't know if a simplified form
8 is required. My understanding is that it is
9 only affirmation, but I don't have it right
10 here in front of me. So I won't ask you about
11 that --
12 A. Okay.
13 Q. -- since I don't have it in front
14 of me, and it's not fair for you to answer on
15 that. So I'm not going to do that.
16 Do the terms gender reassignment
17 surgery and reassignment procedure in the
18 policy refer to the same thing?
19 A. Yes.
20 Q. What's your understanding of the
21 term reassignment procedure in the policy?
22 A. That they had surgery to
23 irreversibly -- had irreversible surgery to

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1 change their sex.
2 Q. But the word irreversible doesn't
3 have to be there, correct?
4 A. No, no.
5 Q. What's the difference between sex
6 and gender?
7 A. I don't know.
8 Q. On a driver's license can
9 individuals change their height?
10 A. They can.
11 Q. What's required for that?
12 A. They can tell us or either we have
13 measurements in most of the offices on the
14 wall they can see.
15 Q. But you don't measure everybody,
16 right?
17 A. No.
18 Q. There's no paper trail, right?
19 A. No.
20 Q. What about when individuals change
21 their weight?
22 A. No.
23 Q. There's no paper trail?

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<p>1 A. Right, because we don't start with 2 anything. 3 Q. You don't weigh them though? 4 A. No. 5 Q. Do you think everyone's weights are 6 close to what they actually weigh? 7 A. Oh, no. 8 Q. So you would say that the weights 9 are markedly different from actuality? 10 A. Yes, I would. 11 Q. Could that have a difference in 12 identifying a body? 13 A. It could. 14 Q. Or could that make a difference in 15 any type of identification? 16 A. Possibly, yes. 17 Q. Could individuals change their hair 18 color on their license? 19 A. Usually we put natural hair color, 20 but it doesn't say natural hair color. 21 Q. If someone has been, you know, 22 dying their hair blonde for thirty years even 23 though they're a brunette and they say can you</p>	<p>1 person states she's a woman but her Alabama 2 license says M, would that be confusing for 3 the officer? 4 A. Probably. 5 Q. Not yes? Probably? 6 A. Yes. 7 Q. Yes, it would be confusing? 8 A. It would be confusing. 9 Q. Do you think the officer -- would 10 the officer think there might be something 11 wrong with the license? 12 MR. CHYNOWETH: Object to the form. 13 A. He could, yes. 14 Q. Why is there a gender marker on our 15 driver's license? 16 MR. CHYNOWETH: Object to the form. 17 A. I don't know that answer. 18 Q. You've been working at the driver's 19 license office since 1991. You've never 20 thought about it before? 21 A. It's just -- it's been on there 22 since long before I got my driver's license. 23 It's just -- no, I've never thought about it.</p>
Page 110	Page 112
<p>1 put blonde on my license, would you make that 2 change? 3 A. Possibly, yes, sir. 4 Q. You wouldn't do any type of 5 testing? 6 A. No. 7 Q. There would be no paper trail, 8 right? 9 A. No. 10 Q. I'm skipping some of these 11 questions because we've been going for a 12 little bit. If someone appears outwardly 13 female but their license says male, do you 14 think that would confuse a police officer when 15 it comes to identification? 16 MR. CHYNOWETH: Object to the form. 17 A. Yeah, I don't know. I guess it 18 would depend on the police officer. I don't 19 know. 20 Q. Hypothetically, would a police 21 officer be confused if there was a woman 22 wearing a dress, makeup, long hair, breasts, a 23 feminine name, a feminine voice, and the woman</p>	<p>1 Q. Do you see a problem if there were 2 to not be a gender marker? 3 A. Not that I can -- not off the top 4 of my head, no. Other than it could cause 5 people problems if they were going in 6 somewhere. I don't know. 7 Q. What do you mean? 8 A. It could just -- it might cause 9 them issues just because people are used to 10 seeing that kind of thing on a driver's 11 license. 12 Q. Oh. Are you saying that because 13 there's no sex designation they might -- I'm 14 confused. Can you -- 15 A. Well, I just think people are used 16 to seeing that on there, so it -- you know, it 17 would just -- it could cause a problem I 18 guess. I don't know. 19 Q. Do you think that -- you have 20 worked under the Department of Public Safety 21 for a while. Do you think that the Department 22 of Public Safety in Alabama should be 23 concerned about the safety of all of its</p>

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1 citizens and residents?
2 A. Yes.
3 Q. Are transgender people still
4 citizens and residents of the State of
5 Alabama?
6 A. Yes.
7 Q. Do you think that the Department of
8 Public Safety should care about their safety?
9 A. Yes.
10 Q. Have you ever liked Laura Ingram on
11 Facebook?
12 A. Have I ever liked her?
13 Q. Liked her.
14 A. No.
15 Q. You know what a -- you know, a like
16 on Facebook is when you like someone's page?
17 A. (Witness nods.)
18 Q. Right? Yes?
19 A. Yes, yes, yes. But I've never
20 liked Laura Ingram on Facebook.
21 Q. I have here Plaintiff's Exhibit --
22 (Plaintiff's Exhibit Number 9 was
23 marked for identification. A copy

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1 is attached.)
2 Q. Okay. I have here Plaintiff's
3 Exhibit 9 which is taken from -- I'm assuming
4 this is your Facebook page. This is your name
5 Diane Crew Woodruff, right?
6 A. Uh-huh.
7 Q. These looks like things you have
8 liked before on Facebook.
9 A. Uh-huh. Well, evidently I did.
10 There's probably a whole lot more.
11 Q. Liked Laura Ingram?
12 A. Yes. Sorry.
13 Q. Do you know why you liked Laura
14 Ingram?
15 A. No, I don't.
16 Q. Do you agree with Laura Ingram when
17 she says that parents should be embarrassed
18 when they have a transgender child?
19 MR. CHYNOWETH: Object to the form.
20 A. I've never heard her say that.
21 Q. Okay. So do you agree with Laura
22 Ingram when she says hormone therapy for
23 transgender people is child abuse?

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1 MR. CHYNOWETH: Object to the form.
2 A. I have never heard her say that.
3 Q. There's more, but -- but -- so you
4 didn't answer the question. I mean, do you
5 agree with her? I mean, do you -- well, I'll
6 just ask you.
7 A. Okay. Go ahead.
8 Q. Do you think that parents should be
9 embarrassed that they have a transgender
10 child?
11 MR. CHYNOWETH: Object to the form.
12 A. No.
13 Q. Do you think that hormone therapy
14 for a transgender child is child abuse?
15 MR. CHYNOWETH: Object to the
16 form.
17 A. No. But now my knowledge of that
18 is very limited, so I don't know what any of
19 that would mean.
20 Q. Okay. Have you ever liked -- I'm
21 skipping some of this. Have you ever liked
22 Billy Graham on Facebook?
23 A. Yes.

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1 Q. Okay. Do you agree with Billy
2 Graham when he says God gave LGBT people AIDS?
3 MR. CHYNOWETH: Object to the form.
4 A. No.
5 Q. Would you agree with Billy Graham
6 when he says the LGBT people and LGBT
7 lifestyles contribute to the decay of
8 civilization?
9 MR. CHYNOWETH: Object to the form.
10 A. No.
11 Q. I won't keep going. On October
12 10th -- let me get this email prepared for
13 you.
14 (Plaintiff's Exhibit Number 10 was
15 marked for identification. A copy
16 is attached.)
17 Q. Okay. Here we go. This email will
18 be marked as Plaintiff's Exhibit 10. It's an
19 email from -- yeah, here we go. At the
20 bottom -- there's two emails on Plaintiff's
21 Exhibit 10, which is also in the discovery as
22 1103. It's from Diane Woodruff to Jeannie
23 Eastman. It's on October 10th, 2017, at

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1 2:51 p.m. It says here -- here. I'll let you
2 read it while I read it. It says here Iowa
3 now changes the gender for transgender
4 individuals the same way we do. I just
5 thought you may want to see that for argument
6 sake. I figure eventually legal in DL will
7 want to look at the whole process again.
8 Diane. Did you write that?
9 A. I did.
10 Q. What is DL?
11 A. Driver's license.
12 Q. What does that mean?
13 A. The unit, the decision-makers.
14 Q. Okay. The whole division or just
15 do you mean like Deena Pregno? Does that
16 mean -- what people does DL mean?
17 A. The decision-makers, whoever
18 makes -- the decision-makers in driver's
19 license. So I guess that would be Chief
20 Pregno.
21 Q. And others?
22 A. Yes.
23 Q. At the top?

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1 A. Her command staff.
2 Q. Her command staff. Who's all in
3 her command staff? I don't think I ever got
4 that.
5 A. We went over it. Captain Archer.
6 Q. Oh, okay. Those are all the
7 command staff.
8 A. Uh-huh.
9 Q. So is it the line from you up?
10 A. I'm not always included in it, but
11 yes.
12 Q. Are you part of the command staff?
13 A. Not necessarily, no. I'm the
14 driver's license manager, but there's a lot of
15 decisions that they make that I'm not involved
16 in.
17 Q. But are you part of the command
18 staff?
19 A. Not officially. There's not an
20 official command staff. That's just what we
21 say, that's her command staff. And it's
22 usually the trooper ranks.
23 Q. So when you say command staff, who

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1 are you referring to?
2 A. I'm referring from Sergeant Duke up
3 above me.
4 Q. Okay. So I'm sorry to make you do
5 this again.
6 A. That's okay.
7 Q. Just so it's clean on the record,
8 it's Duke --
9 A. Hubbard, Archer, Pregno.
10 Q. Okay. Looking back at this email,
11 what did you mean by legal in DL will want to
12 look at the whole process again?
13 A. What we require.
14 Q. And you're talking about the policy
15 order 63?
16 A. Yes.
17 Q. Why?
18 A. Just to see if there was some other
19 options that might be out there.
20 Q. How come?
21 A. Because other states were doing
22 things differently.
23 Q. Is that --

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1 A. Based on this article evidently.
2 Q. Is that -- I mean, the inference
3 from that is that you thought we might -- that
4 Alabama might not be doing it the right way;
5 is that correct?
6 MR. CHYNOWETH: Object to the form.
7 A. No. It was just for informational
8 purposes. Honestly I don't remember
9 everything about this.
10 Q. What did you mean when you said I
11 just thought you may want to look to see that
12 for argument sake?
13 A. I don't know.
14 Q. Was there -- this is in October
15 10th of 2017.
16 A. Uh-huh.
17 Q. That's referring to some other type
18 of conversation about the policy, right?
19 A. I don't -- I can't answer that. I
20 don't know.
21 Q. It would be odd to send this email
22 out of the blue. I just thought you might
23 want to see that for argument sake.

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1 A. That's just an expression. I just
2 say the article and thought that it might be
3 interesting for her because she deals in this
4 all the time and talks to individuals all the
5 time.
6 Q. Is there an ongoing argument that
7 Ms. Eastman has about the policy?
8 A. No.
9 Q. Were there ever questions about the
10 policy at any point?
11 A. No. It's probably just not a very
12 good choice of words on my part.
13 Q. So at this time when you sent this
14 you didn't have any doubts about the policy?
15 A. No.
16 Q. Or any -- you didn't have any
17 doubts about its effectiveness?
18 A. No.
19 Q. Okay. The next -- does someone --
20 I just want to make sure I put the right
21 number. That was 10. Okay. I'm marking this
22 as Plaintiff's Exhibit 11.
23 (Plaintiff's Exhibit Number 11 was

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1 marked for identification. A copy
2 is attached.)
3 Q. This is a doctor's letter that
4 Mrs. Woodruff signed off on. It's from the
5 Reid Center.
6 A. Uh-huh.
7 Q. That is your initials, correct,
8 DCW?
9 A. Correct.
10 Q. And it says here you changed the
11 sex to female, right?
12 A. Yes.
13 Q. So that -- understanding that to
14 mean you changed the sex in the database from
15 male to female, right?
16 A. Correct.
17 Q. Why did you change it?
18 A. I guess because she -- they
19 produced a letter. Now, this was back in
20 '09. I didn't have -- we didn't have a lot
21 of -- we didn't have any -- we just had that
22 procedure. We didn't have a policy.
23 Q. The unwritten procedure?

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1 A. Right, right.
2 Q. You don't see the word complete on
3 the document, do you?
4 A. Huh-uh. No, sir.
5 Q. And you don't see the word
6 irreversible on the document, do you?
7 A. No, sir.
8 Q. Do you know what kind of surgery it
9 was?
10 A. No, sir.
11 Q. Could it possibly be breast
12 augmentation?
13 A. I don't know.
14 Q. So it's possible that it could have
15 been breast augmentation?
16 A. I assume that's possible.
17 Q. Okay. I'm marking another document
18 Plaintiff's Exhibit 11. This is another --
19 MR. BOONE: Should be 12.
20 Q. Oh, 12. Thank you. I'm marking
21 this Plaintiff's Exhibit 12. This is another
22 doctor's letter that Mrs. Woodruff signed off
23 on.

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1 (Plaintiff's Exhibit Number 12 was
2 marked for identification. A copy
3 is attached.)
4 Q. Is that your initials at the top,
5 DCW?
6 A. Yes, sir.
7 Q. And did you write that you changed
8 the sex?
9 A. Yes, sir.
10 Q. Meaning you changed it from one to
11 the other in the system?
12 A. Yes, sir.
13 Q. Why did you change it on this
14 particular person, for this particular person?
15 A. I guess because it says I performed
16 an irreversible surgical procedure for the
17 purpose for altering sex characteristics from
18 female to male.
19 Q. Okay. And that was good enough
20 according to the unwritten policy at that
21 time?
22 A. The procedure, yes, sir. I
23 completed his gender reassignment surgery.

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1 Q. This next one is Plaintiff's
2 Exhibit 13 that I'll be sharing with you.
3 It's another doctor's note with
4 Mrs. Woodruff's initials at the top.
5 A. Uh-huh.
6 (Plaintiff's Exhibit Number 13 was
7 marked for identification. A copy
8 is attached.)
9 Q. Is that your initials at the top,
10 DCW?
11 A. Yes, sir.
12 Q. And why did -- and it says at the
13 top that you changed the gender; is that
14 correct?
15 A. Yes, sir.
16 Q. Meaning in the system you changed
17 it from one sex to the other?
18 A. Yes, sir.
19 Q. And you kind of used gender and
20 sex -- sometimes you say gender; sometimes you
21 say sex, right?
22 A. Yes, sir.
23 Q. Why did you change it on this

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1 person?
2 A. The surgical procedure was
3 performed by me to irreversibly correct his
4 anatomy and appearance and completed sex
5 reassignment.
6 Q. But you don't know what specific
7 procedure was performed, right?
8 A. No, sir.
9 Q. You don't remember -- for any of
10 these three documents that you just saw, you
11 don't remember if you needed to call a doctor
12 for any of those, right?
13 A. No, sir, I don't.
14 Q. And, like you said earlier, you
15 probably wouldn't have cause there would have
16 been a note on there, correct?
17 A. Sometimes.
18 Q. Were there times that you left
19 documents blank?
20 A. Uh-huh, possibly.
21 Q. What does that mean for the person
22 if the document was left blank?
23 A. Just an oversight on my part.

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1 Q. Is it possible that people were
2 changed in the system without any notation
3 anywhere?
4 A. By me or by someone else?
5 Q. I can rephrase that. When you make
6 a change or anyone else makes a change --
7 let's just stay with you. When you make a
8 change in the system, where do you record it?
9 Other than just, you know, backspace, you
10 know, F, adding an M or vice versa, where do
11 you record that you did that?
12 A. When you do that in the system on
13 our activity page it should come up with a
14 programmatic -- like when you change your name
15 even it will say name change -- or it will say
16 change. And it will say name, no; whatever,
17 no; and then whatever you changed you'll have
18 a yes by it.
19 Q. So you could find all of the
20 changes that you've made over time, right?
21 A. I could?
22 Q. Somebody could.
23 A. Yes, I guess. I don't know for

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1 sure.
2 Q. Because every time there's a change
3 in the system it's marked in some way?
4 A. Right, right. But I don't know why
5 it -- I mean, it could have been changed from
6 a typo or whatever, but yes. Yes.
7 Q. Is there any way to distinguish sex
8 versus name change? Could you pull out all
9 the sex changes in the past year, for example?
10 A. For -- due to surgery or due to
11 anything, we just changed the sex because
12 it -- I mean, it -- that's all we could get is
13 just the sex was changed that I'm aware of.
14 I'm not an IT person, so --
15 Q. You're saying -- are you saying --
16 A. What determines -- why did we
17 change it? There's no way of knowing why it
18 was -- I mean, we can't differentiate to pull
19 those, just the ones that were changed due to
20 this.
21 Q. If someone were to -- for example,
22 if you were to change twenty-five people's sex
23 in the last year, and they said, well, can we

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1 pull and see who those twenty-five people
2 were, would you be able to -- would someone be
3 able to see those twenty-five people?
4 A. I guess, yes. But, again, I'm not
5 an IT person, but I'm assuming they could.
6 Q. But other than just the backspace
7 and adding -- changing the sex in the system,
8 you're not recording it somewhere else? You
9 don't keep notes?
10 A. There is a comments page, and we'll
11 go in there and add it in comments.
12 Q. In that person's particular file?
13 A. Yes.
14 Q. And is that the end right there?
15 A. Uh-huh.
16 Q. So there's no other type of
17 document that you would mark it in like we've
18 changed this many people this year, for
19 example?
20 A. Not that I'm aware of. They may do
21 something different now.
22 Q. So there was not much of a record
23 of you -- when you were doing this and making

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1 the changes in the system, there wasn't
2 much -- there wasn't a paper trail?
3 A. Well, we scanned these documents.
4 That was our paper trail.
5 Q. Okay. So just scanning these
6 documents --
7 A. And then doc -- and then putting it
8 in comments.
9 Q. Putting it in the comments in the
10 individual file. And then, of course, the
11 change is somewhat marked in the software
12 program I guess that there was some -- someone
13 went in there and made a change. There's got
14 to be time stamps, right?
15 A. Yes. Well, I don't know about time
16 stamps, but there is a change.
17 Q. Understood. Are you aware in the
18 state code that sex is required for a driver's
19 license?
20 A. No.
21 Q. Would it surprise you if I were to
22 tell you that there's no sex requirement in
23 the state code?

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1 A. Would it surprise me? Probably a
2 little bit.
3 Q. Well, I'm not going to do that now,
4 but it's not in the state code, at least I
5 can't find it.
6 MR. BOONE: Is it okay if we take a
7 short break? But I'm getting close.
8 (Break taken.)
9 EXAMINATION
10 BY MR. CHYNOWETH:
11 Q. I have just a few questions for
12 you. Diane, do you know how driver's license
13 examiners are trained?
14 A. Yes, because I -- go ahead.
15 Q. Have you done -- do you train
16 driver's license examiners?
17 A. Yes, sir, I do.
18 Q. Do you train them on proper
19 procedure for allowing people to update
20 information on their driver's licenses?
21 A. Yes, sir.
22 Q. Are driver's license examiners
23 trained to allow people to change their height

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1 and weight to anything whatsoever?
2 A. Not anything. It has to be
3 something observable that's reasonable.
4 Q. So if a person who is five feet
5 tall wants to change the height on their
6 license to eight feet tall, is the driver's
7 license examiner trained to allow a person to
8 make that change?
9 A. No. The way that they are trained
10 is that if someone comes in with something
11 that's like that, a situation like that, then
12 they'll discreetly tell them we have to have
13 something that's a little bit more true to
14 what you are, reasonable or observable.
15 Q. And would that be the same with
16 respect to someone's weight?
17 A. Yes. That's delicate, but yes.
18 Q. I understand. Would that be the
19 same with respect to someone's eye color?
20 A. Yes.
21 Q. So driver's license examiners are
22 not trained to allow people to change the
23 other physical characteristics on their

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1 license aside from sex to anything whatsoever?
2 A. Not anything whatsoever, no.
3 MR. CHYNOWETH: Okay. I don't have
4 any further questions.
5 MR. BOONE: I don't either.
6
7 (The deposition of DIANE WOODRUFF,
8 concluded on November 8, 2018, at
9 3:23 p.m.)

10
11 FURTHER DEPONENT SAITH NOT
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1 REPORTER'S CERTIFICATE
2 STATE OF ALABAMA)
3 JEFFERSON COUNTY)
4 I, Elaine Scott, Licensed Court
5 Reporter and Commissioner for the State of
6 Alabama at Large, hereby certify that on
7 November 8, 2018, I reported the deposition of
8 DIANE WOODRUFF, who was first duly sworn or
9 affirmed to speak the truth in the matter of
10 the foregoing cause, and that pages 1 through
11 134 contain a true and accurate transcription
12 of the examination of said witness by counsel
13 for the parties set out herein.

14 I further certify that I am neither
15 of kin nor of counsel to any of the parties to
16 said cause nor in any manner interested in the
17 results thereof.

18 _____
19 ELAINE SCOTT, Court Reporter
20 and Commissioner for the State
21 of Alabama at Large,
22 CCR License No. 354, Expires 9/30/19
23 MY COMMISSION EXPIRES NOVEMBER 16, 2019

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<p style="text-align: center;">6</p>				
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Exhibit 8

Deposition of Ryan Nicholas Gorton M.D.

In The Matter Of:

*Darcy Corbitt, Destiny Clark, and John Doe v.
Hal Taylor, et al.*

*Ryan Nicholas Gorton, M.D.
December 19, 2018*

*Baker Realtime Worldwide
250 Commerce St
Third Floor, Suite One
Montgomery, AL 36104*

Original File Ryan Gorton_M.D..txt

Min-U-Script® with Word Index

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1 IN THE UNITED STATES DISTRICT COURT
 2 FOR THE MIDDLE DISTRICT OF ALABAMA
 3 NORTHERN DIVISION
 4 ---oOo---

6 DARCY CORBITT, DESTINY CLARK, Civil Action No.
 and JOHN DOE, 2:18-cv 00091
 MHT-GMB
 7 Plaintiffs, Volume I
 8 vs.
 9 HAL TAYLOR, in his official
 10 capacity as Secretary of the
 Alabama Law Enforcement Agency,
 11 Colonel CHARLES WARD, in his
 official capacity as Director
 12 of the Department of Public
 Safety; DEENA PREGNO, in her
 13 official capacity as Chief of
 the Driver License Division,
 14 and JEANNIE EASTMAN, in her
 official capacity as Driver
 15 License Supervisor in the
 Driver License Division,
 16 Defendants.
 17 _____/

20 Deposition of RYAN NICHOLAS GORTON, M.D.,
 21 at Regus, 500 Capitol Mall, Suite 2350,
 22 Sacramento, California 95814 commencing at
 23 8:22 a.m., Wednesday, December 19, 2018,
 24 before Glinda Banks, CSR No. 11984.
 25

Page 2

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 2
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1 I N D E X
 2
 3 EXAMINATION BY PAGE
 4 Mr. Sincliar 4
 5
 6
 7
 8
 9
 10 E X H I B I T S
 11 ID DESCRIPTION PAGE
 12 1 Expert Report dtd 11/26/18 4
 13 2 Expert Report dtd 10/3/18 4
 14 3 ACLU Email dtd 11/26/18 4
 15 4 Depo Notice 4
 16 ---oOo---

Page 4

1 RYAN NICHOLAS GORTON, M.D.,
 2 having been first duly sworn, testified as follows:
 3 ---oOo---

4 (Defendant's Exhibits 1 through 4 were
 5 marked for identification.)
 6 EXAMINATION
 7 BY MR. SINCLAIR:
 8 Q. Sir, would you please state your name for
 9 the record.
 10 A. Ryan Nicholas Gorton.
 11 Q. My name is Winfield Sinclair, and I'm an
 12 assistant attorney general. I'm one of the
 13 attorneys representing the defendants in a case
 14 entitled Darcy Corbitt, et al., vs. Hal Taylor, et
 15 al., pending in the United States District Court
 16 for the Middle District of Alabama.
 17 Although I don't think you have it before
 18 you, Defendant's Exhibit 4 was the notice to take
 19 the video deposition of Ryan Nicholas Gorton, M.D.
 20 Are you Dr. Gorton?
 21 A. I am.
 22 Q. Have you seen the notice of deposition?
 23 A. I have.
 24 MR. ARKLES: Mr. Sinclair, just so you
 25 know, I do have that document which is in front of

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1 the witness right now.
 2 MR. SINCLAIR: Okay. Very good.
 3 Q. Do you have any objection to having a
 4 video deposition taken this morning?
 5 A. No, I do not.
 6 Q. You have been deposed a number of times in
 7 federal court; correct?
 8 A. I have been deposed a number of times. I
 9 don't know whether it was federal court or not.
 10 Q. Now, since you have been deposed before, I
 11 I'll try to go through this quickly.
 12 Do we agree that you will answer my
 13 questions truthfully? That is to say, you
 14 understand that you are under oath?
 15 A. I do.
 16 Q. Do you agree that if you don't understand
 17 my question, you will tell me, and I will try to
 18 rephrase the question?
 19 A. I do.
 20 Q. Do you agree that if later on you realize
 21 in the deposition you gave me an incorrect or
 22 incomplete answer, you agree to tell me or opposing
 23 counsel so that we can correct the record to
 24 reflect the complete and correct answer?
 25 A. Yes, I will.

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1 Q. Are you taking any medications or have you
 2 taken any substances in the last 48 hours that
 3 would impede or prevent you from giving me
 4 complete, accurate, and truthful testimony today?
 5 A. No, I haven't.
 6 Q. Is there any medical or other reason that
 7 would impede or prevent you from giving me
 8 complete, accurate, and truthful testimony today?
 9 A. No, there is not.
 10 Q. Finally, please let me know when you want
 11 to take a break, and I'll try to accommodate you.
 12 You may confer with counsel during breaks. The
 13 only limitation is we will not take a break while a
 14 question is pending. Is that all right with you?
 15 A. That's sounds fair.
 16 Q. Do you have any questions about the
 17 deposition protocol before we go any further?
 18 A. No, I don't.
 19 Q. Now, you have the right to review your
 20 testimony after the deposition is complete through
 21 the transcript and sign the deposition. You also
 22 have the right to waive signing of the deposition.
 23 Do you wish to waive the signing of the
 24 deposition transcript?
 25 A. No.

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1 Q. Fair enough.
 2 Dr. Gorton, would you please state your
 3 educational background briefly?
 4 A. Sure. I received a Bachelor of Science in
 5 biochemistry at North Carolina State University in
 6 1988. And I received my M.D. at the University of
 7 North Carolina, Chapel Hill, in 1998. I then did
 8 residency and chief residency in emergency medicine
 9 at Kings County Hospital/SUNY Downstate in
 10 Brooklyn, New York. And I completed that in 2002.
 11 Q. You attached a CV to your expert report in
 12 this case, which your most recent is Defendant's
 13 Exhibit 1. Do you have that in front of you?
 14 MR. ARKLES: Yes.
 15 THE WITNESS: Yes.
 16 BY MR. SINCLAIR:
 17 Q. All right. And is your CV current and
 18 correct?
 19 A. Yes.
 20 Q. Now, let me draw your attention to
 21 Defendant's Exhibit 1. This is the second report
 22 you wrote in this case, which is identical in title
 23 to the first report. This is the report that you
 24 signed on, if you look at page 9, November 26,
 25 2018.

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1 A. Yes, I have that in front of me.
 2 Q. Okay. Would you please look at page 8 of
 3 that report.
 4 MR. ARKLES: Mr. Sinclair, we don't appear
 5 to have page numbers on our copy.
 6 MR. SINCLAIR: Really? I'm not sure if
 7 we -- you should have. Well, take a moment and
 8 paginate them then.
 9 THE WITNESS: Okay. Is your title page
 10 page 1? Or does it start --
 11 BY MR. SINCLAIR:
 12 Q. Yeah. "Sex, Gender Dysphoria, and Alabama
 13 Driver's License Policy" is page 1 on Defendant's
 14 Exhibit 1.
 15 A. Gotcha.
 16 Q. It's the page immediately before your
 17 conclusion page.
 18 A. I'm just trying to paginate all of them so
 19 that --
 20 Q. Yeah. Take your time.
 21 A. We're getting close. Okay. What page are
 22 we going to?
 23 Q. Page 8.
 24 A. The page immediately before the page that
 25 starts with "Conclusion"?

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1 Q. Correct.

2 A. Okay.

3 Q. Now, that page is blank; correct?

4 A. It is.

5 Q. Okay. Which explains why I have Exhibit

6 No. 3, which is the email from Mr. Arkles.

7 Can you confirm that page 7 -- the next

8 page you intend in your report to be page 9, that

9 is to say there is no page 8 that contains

10 information that inadvertently got not disclosed to

11 us?

12 A. Correct. That is correct. There is no

13 stuff that wasn't concluded.

14 Q. All right. Now, look at page 12. Is that

15 true also for page 12? It's a space page, and it

16 has no information on it?

17 A. That is correct.

18 MR. SINCLAIR: Okay. Gabriel, if you

19 wondered why Exhibit 3 existed, that's why. The

20 email came through and had blank pages, and I

21 wanted to confirm there was no issue there.

22 MR. ARKLES: All right. Thank you.

23 BY MR. SINCLAIR:

24 Q. All right. Now, you originally wrote a

25 previous report, which is Defendant's Exhibit 2,

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1 which you signed on or about October 3rd. Is that

2 right?

3 A. That exists, but I don't have that here.

4 I just have the most recent one.

5 Q. Okay. Based on your memory, can you tell

6 me what differences there were between the two

7 reports you wrote?

8 A. I think we added more citations to the

9 bibliography. But to be completely honest, I'm not

10 entirely sure. I know that was the case. And

11 there may have been some other additions, but

12 nothing stands out in my mind.

13 Q. Basically though the reports are -- the

14 differences are fairly minor; correct?

15 A. I can't tell you for certain because I

16 don't have the other one in front of me. But

17 that's all I recall.

18 Q. All right. Very good. Thank you, Doctor.

19 Where are you licensed to practice

20 medicine?

21 A. California.

22 Q. And regarding your educational background,

23 do you have any educational background in

24 conducting searches of people being arrested?

25 A. No, I don't.

Page 11

1 Q. Do you have any education or practical

2 experience regarding physical searches of people

3 being arrested or detained?

4 A. No, I don't.

5 Q. Do you have any experience regarding

6 booking procedures by correctional facilities

7 whether city, county, jails, or state prisons?

8 A. No, I don't. Though it occurs to me I do

9 have experience with patients of mine who have

10 experienced those. But not -- I don't know how to

11 arrest someone or book someone. But I have had

12 patients who have experienced that and their

13 description of that to me.

14 MR. ARKLES: Mr. Sinclair, It appears --

15 I'm sorry to interrupt. It looks like the person

16 is here with printouts. Can we hold on for just a

17 minute?

18 MR. ARKLES: Certainly.

19 (Brief recess taken.)

20 THE WITNESS: I have Exhibit 1 in front of

21 me.

22 BY MR. SINCLAIR:

23 Q. Okay. Now, do we agree that Exhibit 1,

24 your second report, supersedes your first report?

25 A. Yes.

Page 12

1 Q. Now, do you have any experience or formal

2 training concerning classification policies of

3 correctional facilities?

4 A. No formal experience. But again I have

5 clinical experience with my patients who have been

6 classified who have been arrested. And then I have

7 subsequently seen them.

8 Q. Okay. Do you have any opinion in the four

9 corners of your expert report concerning search

10 policies, booking policies, or classification

11 policies or procedures?

12 A. I don't believe so. But I may have

13 mentioned something about transgender people's

14 placement in sex-segregated facilities, but I don't

15 think so.

16 Q. I gather as a medical professional you

17 have treated transgender individuals?

18 A. Yes.

19 Q. Is that correct?

20 A. That is correct.

21 Q. When did you start?

22 A. 2005 as a primary care provider. I had

23 seen some transgender people in the emergency

24 department before that. But as a primary care

25 provider, 2005.

Page 13

1 Q. Do you specialize, if that's the correct
 2 word, in the treatment of transgender individuals
 3 and/or gender dysphoria?
 4 A. There is no board certification for that.
 5 But I do as a matter of practice in that that's the
 6 majority of patients that I treat in my primary
 7 care practice.
 8 Q. Okay. So it's not a "specialty" as that
 9 term is used in the medical community, but that the
 10 focus of your practice. Is that fair?
 11 A. It's -- the term "specialty" is used a
 12 little loosely. For example, you might have a
 13 pediatrician who treats a lot of children with
 14 asthma whose -- you know, just because of their
 15 practice that's the case. Actually that's probably
 16 a bad example because that would be a pulmonology
 17 specialty.
 18 But there are primary care providers, for
 19 example, who treat a great deal of people with
 20 attention deficit disorder, for example. And there
 21 is no specialty certification in that particular
 22 diagnosis. But there are people who through their
 23 practice develop essentially a specialized practice
 24 in that.
 25 Q. Why did you choose that specialty,

Page 14

1 speaking broadly and not in a specific medical
 2 field sense? Is my question clear?
 3 A. Yes, it is. And I am transgender myself.
 4 And when I transitioned, I experienced the health
 5 care system as a transgender patient. And through
 6 that experience I realized that this is one of the
 7 most profoundly medically disenfranchised
 8 subpopulations. And so that's really what drove me
 9 to doing this, not particularly being trans myself
 10 but that's certainly how I encountered this.
 11 It's sort of like if you were a physician
 12 and realized that nobody was aware of or treating
 13 asthma and people were dying from asthma left and
 14 right, you would open a clinic that treats
 15 asthmatics. So it was realizing that that's a very
 16 underserved population that pushed me to do that.
 17 Q. I understand. One of your specialties, if
 18 I can call it that, is emergency room physician;
 19 correct?
 20 A. Correct.
 21 Q. You have had experience as the emergency
 22 room physician; correct?
 23 A. Correct.
 24 Q. Now, as an emergency room physician have
 25 you encountered any situations where determining

Page 15

1 the sex of a patient was a critical part of
 2 determining the emergency medical treatment to be
 3 performed?
 4 A. There have certainly been cases where it
 5 was essential that I know somebody has the
 6 diagnosis gender dysphoria and what treatments they
 7 have received. Though coming up with a
 8 classification, saying your sex is this or your sex
 9 is that, isn't something that's necessary in the
 10 emergency department.
 11 For example, if a transgender man comes in
 12 with a sprained ankle and I need to do an X-ray,
 13 well, it's important that I know he's transgender
 14 so then I can say, gee, is there any chance that
 15 you can be pregnant, have you had a hysterectomy,
 16 because if there is a chance of pregnancy, then I
 17 need to do a urine pregnancy test before I do an
 18 X-ray, which is radiation exposure.
 19 Q. You have listed on publications on page 14
 20 "Improving the Quality of Emergency Care for
 21 Transgender Patients" in the Annals of emergency
 22 medicine. And on page 16 and 17 you have
 23 "Transgender Patient Care in the Emergency
 24 Department," American Academy of Emergency Medicine
 25 Scientific Assembly. And you have transgender

Page 16

1 patients -- on page 17 "Transgender Patients in the
 2 Emergency Department," Stanford University
 3 Department of Emergency Medicine.
 4 A. That's correct.
 5 Q. So as an author of those particular
 6 articles, what was the focus of those articles
 7 concerning emergency treatment of transgender
 8 patients as opposed to -- can I use the term --
 9 trying to think of a term here that's not going to
 10 cause anyone any problems -- the vast majority of
 11 patients who present in an emergency room?
 12 MR. ARKLES: Objection to form.
 13 MR. SINCLAIR: What is the basis of the
 14 objection?
 15 MR. ARKLES: Compound question.
 16 THE WITNESS: I can answer if you like.
 17 BY MR. SINCLAIR:
 18 Q. Yes, please. Go ahead.
 19 A. So there is one thing I want to clarify
 20 first. Those aren't all papers. Some of what you
 21 cited were papers, and others were presentations,
 22 talks that I gave.
 23 Q. Okay.
 24 A. And just so you know, the term that I use
 25 is cisgender. So transgender people are

Page 17

1 transgender people, and sort of everyone else is
 2 cisgender. It's like homosexual versus
 3 heterosexual.
 4 Q. So cisgender would describe the majority
 5 of people in the population. Is that fair?
 6 A. That's correct.
 7 Q. Okay. Go ahead.
 8 A. And can you restate your question for me
 9 too?
 10 Q. The question I had was this. You have
 11 written or done presentations on emergency care for
 12 transgender patients. And that suggests that
 13 transgender patients present different issues to
 14 the emergency room than cisgender personnel and
 15 that you were trying to address the concerns for
 16 treatment of transgender patients in that context.
 17 Is that fair?
 18 A. That's -- yeah, that's fair. So the
 19 answer then is that there is a lot of
 20 subpopulations that come into emergency
 21 departments -- so transgender patients, patients
 22 who have limited English proficiency, other sexual
 23 minorities, racial minorities. So there is a lot
 24 of subpopulations that present in the emergency
 25 department. And each one of those has some special

Page 18

1 things about how -- or that influence their care in
 2 the emergency department. And largely most of
 3 that, with regards to a transgender patient, isn't
 4 so much technical medical things.
 5 I mean, the example that I gave, for
 6 example, a transgender man who could possibly be
 7 pregnant, that's a technical thing. But a lot of
 8 the -- the lion's share of what I end up talking
 9 about or what I write about is ensuring that
 10 patients get both clinically competent and
 11 culturally competent care. And that's important
 12 with my subpopulation. If you do not provide
 13 culturally competent care, the patients won't come
 14 in.
 15 Q. Okay. Doctor, when someone comes into the
 16 emergency room, do all the patients come in -- are
 17 they all conscious, or do you have patients come in
 18 that are unconscious?
 19 A. Absolutely there are patients that come in
 20 that are unconscious and varying stages between
 21 those two.
 22 Q. Okay. Does that make a difference in
 23 diagnosing the sex or treatment of the individual
 24 that comes in? Is there a -- is there occasions
 25 when you need to determine the sex of an

Page 19

1 unconscious person who comes into the emergency
 2 room?
 3 A. Again it's not so much determining sex.
 4 It's determining physical aspects of the body that
 5 might be pertinent to their care. You know, if a
 6 drunk college student comes in altered, I don't
 7 really need to know whether or not they're
 8 transgender. That's not really going to affect
 9 their care. If say, for example, somebody was in a
 10 motor vehicle crash who is trans -- again, for
 11 example, a transgender man who is in a motor
 12 vehicle crash, it might be pertinent for me to know
 13 whether or not he was capable of getting pregnant,
 14 whether there's a chance of pregnancy.
 15 So there are certain aspects of that that
 16 are important. But it's the particular
 17 characteristics. It's not sort of a global
 18 determination of sex. And with somebody who was
 19 unconscious I couldn't globally determine their
 20 sex.
 21 Q. Okay. And as an emergency room physician
 22 have you encountered any situations where
 23 determining the sex of a patient would be important
 24 for first responders such as EMTs, paramedics, and
 25 police as part of the initial treatment to be

Page 20

1 performed before the patient is received in a
 2 hospital?
 3 A. I think that would actually be less
 4 important for them because a paramedic is not
 5 ordering an X-ray. And I mean, I used to do EMS
 6 when I was in medical school, and I really can't
 7 think of any circumstances where that would be
 8 pertinent.
 9 Q. I'm going to change gears here for a
 10 moment, Doctor.
 11 In your report you have a definition of
 12 sex here. And you define sex as "the sum of the
 13 anatomical, physiological, and biologically
 14 functional characteristics of an individual that
 15 places them in the categories male, female, or
 16 along a spectrum between the two. In the majority
 17 of instances, these characteristics are congruent
 18 allowing individuals to be easily described as male
 19 or female. However, in some cases such as intersex
 20 and transgender people, individuals reside along a
 21 spectrum between the two." That's in your report,
 22 page 3.
 23 Are you -- by saying that are you saying
 24 you think there is a -- basically you have what
 25 I'll call standard male at one end of the spectrum,

Page 21

1 standard female at the other end of the spectrum,
 2 and that you have essentially a pendulum in between
 3 those two and that's where the transgender and
 4 other sexual variations occur? Am I understanding
 5 that right?
 6 A. That's kind of a simplified answer, but
 7 yeah.
 8 Q. I'm kind of a simplified person.
 9 Now, is your definition of sex the only
 10 definition of sex in English usage?
 11 A. I would imagine not.
 12 Q. All right. Is this a permissible
 13 definition of sex: "Sex includes a multitude of
 14 factors including one's chromosomal make up,
 15 hormonal variations, anatomy, and gender identity"?
 16 MR. ARKLES: Objection to form.
 17 THE WITNESS: I think that's a fairly good
 18 definition.
 19 BY MR. SINCLAIR:
 20 Q. In your view is this a permissible
 21 definition of sex: "Sex as assigned at birth
 22 refers to one's biological status as either male or
 23 female and is associated primarily with physical
 24 attributes such as chromosome, hormone prevalence,
 25 and external and internal anatomy"?

Page 22

1 MR. ARKLES: Objection to form.
 2 THE WITNESS: I don't think that's what
 3 sex assigned at birth is. Sex assigned at birth is
 4 basically the midwife or the obstetrician who
 5 delivers the baby does a brief, cursory look at the
 6 genitalia and fills out the birth certificate with
 7 male or female, or sometimes they don't fill it out
 8 if the child has ambiguous genitalia. You don't
 9 determine the sex assigned at birth based on doing
 10 tests of hormones or chromosomal testing. So I
 11 don't think that's a good definition for sex
 12 assigned at birth.
 13 BY MR. SINCLAIR:
 14 Q. Are you generally familiar with
 15 transgender statistics?
 16 A. Generally as regards to health care, not
 17 every aspect of transgender statistics.
 18 Q. What percent of the populous is
 19 transgender do you think?
 20 A. There is -- if you look at the multiple
 21 different data sources that are out there, there is
 22 a broad range of what the prevalence of gender
 23 dysphoria is. And part of that is influenced by
 24 time. That is the prevalence that we had ten years
 25 ago is probably quite different from the prevalence

Page 23

1 today. And part of it's driven by sampling error
 2 and even how do you define. Are we talking about
 3 people who self-identify as transgender? People
 4 who have been diagnosed with gender dysphoria?
 5 But if the question is what percentage of
 6 the population do I think could be diagnosed with
 7 gender dysphoria, I would say it's probably in the
 8 1 to 500 range -- or 1 in 500 range.
 9 Q. Now, we were talking in terms of gender
 10 dysphoria. Is it correct you can be transgender
 11 and not suffer from gender dysphoria?
 12 A. Yes.
 13 Q. But not everyone who views themselves as
 14 transgender suffers from gender dysphoria.
 15 A. That is correct.
 16 Q. Correct?
 17 Is it true that 99-plus percent of the
 18 population, the identifiers M and F adequately
 19 describe that individual's sex for identification
 20 purposes?
 21 A. Are you talking about on identity
 22 documents?
 23 Q. Yes, sir.
 24 A. Okay. I would say 99 percent is probably
 25 accurate.

Page 24

1 Q. What materials did you review before
 2 writing your expert report?
 3 A. I reviewed some of the research articles
 4 that I have collected over the years. I --
 5 Q. Which ones?
 6 A. Definitely the ones that I cited in the
 7 bibliography and in line in the reports that I did.
 8 It's possible I looked at other articles and didn't
 9 decide to cite them. In fact, I would say that's
 10 definite that I looked at other articles and didn't
 11 decide to cite them. I also looked at the
 12 complaint. I think that's the way you say that. I
 13 also added to that and some of what underlies my
 14 report is sort of my clinical expertise too, not
 15 just papers that I cited.
 16 Q. Well, you also reviewed the ALEA Policy
 17 63; right?
 18 A. Yes, I did. That's what I was talking
 19 about that the attorneys gave to me.
 20 Q. Did the attorneys give you anything other
 21 than the complaint and Policy 63 to review?
 22 A. Before I wrote that, I believe that was
 23 it.
 24 Q. Have you reviewed any deposition of any of
 25 the plaintiffs in this case?

Page 25

1 A. Deposition, no.
 2 Q. Have you ever examined any plaintiff in
 3 this litigation?
 4 A. I don't believe so, no.
 5 Q. Have you ever reviewed any plaintiff's
 6 medical records?
 7 A. No. For in this case, no.
 8 Q. You have not physically examined or
 9 reviewed the medical records of Darcy Corbitt,
 10 Disney Clark, or for the plaintiff identified by
 11 the plaintiffs as Jane Doe; correct?
 12 A. For this case I was not provided anything
 13 like that. I mean, I used to practice in
 14 Louisiana, and Alabama is sort of relatively close.
 15 I mean, there is a tiny chance I saw them as an ER
 16 patient. But not that I recall.
 17 Q. Okay. Before you wrote your expert
 18 witness report, did you actually look at an Alabama
 19 driver license?
 20 A. In relation to this, no. I may have seen
 21 an Alabama driver's license before. Again, I used
 22 to live in Louisiana.
 23 Q. But you didn't review one specifically
 24 before you wrote your report; correct?
 25 A. No.

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1 Q. Have you ever looked at a sample Alabama
 2 driver's license -- a driver license?
 3 A. Have I ever? Possibly. But not recently
 4 I can say.
 5 Q. And not in preparation for writing your
 6 expert report --
 7 A. Correct.
 8 Q. -- correct?
 9 A. Right.
 10 Q. Can you tell me where sex is located on
 11 the Alabama driver's license?
 12 A. I can't.
 13 Q. Can you tell me the relative size of the
 14 data responding to sex -- that is the M or F -- as
 15 compared with issue date or expiration date or date
 16 of birth?
 17 A. You mean like font size? No. I have no
 18 idea.
 19 Q. So aside from the articles referenced in
 20 your report, the complaint, was the only other
 21 document you reviewed ALEA Policy 63?
 22 A. I believe so. Before I wrote the report.
 23 Q. Have you reviewed anything since you wrote
 24 the report?
 25 A. Yes. There was the report of -- and I

Page 27

1 can't remember the gentleman's name -- the report
 2 of the expert for your side that they sent me. I
 3 can't remember his name. I'm sorry.
 4 Q. So you read the report of the other expert
 5 in this case, the expert for the defense?
 6 A. Correct. I don't know if there is
 7 more than one. If there is one report, I
 8 definitely read that.
 9 Q. All right. And this report has to do with
 10 corrections and confinement of individuals and
 11 searches; right?
 12 A. It talked about a lot more than that. But
 13 I think that was his area of expertise, yeah.
 14 Q. And that's an area in which you do not
 15 have expertise; correct?
 16 A. In the things he wrote about in his
 17 report, yes, I do have expertise. In the
 18 particulars of conducting searches, again I don't
 19 have any correctional experience. I certainly have
 20 had patients who had traumatic experiences because
 21 of that. And so I have a sort of clinical
 22 knowledge of the consequences of that.
 23 Q. You stated in your -- is your opinion as
 24 set out on page 2 under Purpose, "Policy Order 63
 25 is not consistent with medical understandings of

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1 sex or gender identity and compromises the mental
 2 health and physical safety of people with gender
 3 dysphoria"? Is that your opinion?
 4 A. Yes.
 5 Q. And that's basically the opinion of your
 6 report; correct?
 7 A. I talk about a lot of other things, but I
 8 would say that's the crux of it.
 9 Q. Are you aware of any legal or other
 10 requirement that Policy 63 explain its basis for
 11 its requirement?
 12 A. I'm sorry. I don't understand the
 13 question.
 14 Q. All right. Well, let me ask you this
 15 then.
 16 If you will turn to page 9 of your report.
 17 A. Okay.
 18 Q. Do you see that, "Conclusion," the first
 19 sentence?
 20 A. Yes.
 21 Q. It reads -- does it read, "Policy Order 63
 22 provides no medical or scientific justification for
 23 that decision"? And by "that decision" do you mean
 24 the M, F sole policy as a requirement for sexual --
 25 completion of sexual reassignment surgery before

Page 29

1 ALEA will change the sex designation on a driver
2 license?
3 A. So are you asking is that what -- I
4 believe that it doesn't reflect appropriate medical
5 care. I don't think it's scientifically sound. So
6 I don't think it justifies that decision.
7 Q. Now, in the issuance of driver's license
8 is ALEA responsible or practicing medicine?
9 A. I'm not sure what you're asking.
10 Q. Well, you are talking about medical
11 justification; correct? That's the phrase you used
12 in your sentence.
13 A. Correct.
14 Q. But ALEA does not practice medicine, does
15 it?
16 A. I think I understand what you're asking.
17 There is a lot of places where as a medical
18 provider you're expected to offer a diagnosis or
19 information that influences things outside of
20 medicine. So for example -- an example different
21 from this -- I might as an emergency physician be
22 asked is a patient that the police brought in, is
23 he medically cleared enough to go to jail for
24 incarceration. I can say that that's appropriate,
25 that he is safe to be discharged and go to a jail,

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1 or I can say I don't think that's safe right now
2 and try to stabilize him for other treatment that
3 he needs.
4 So I think it's the case that a lot of
5 administrative things depend on medical
6 justification. And that's often a question that's
7 asked of one as a physician. And sometimes those
8 justifications and questions are appropriate as far
9 as our understanding of medicine and science, and
10 sometimes those aren't. And in this case I think
11 they aren't. I'm not asking -- I don't think the
12 ALEA should have to practice medicine. But I think
13 the policy as it stands is in contradiction to what
14 is appropriate medicine.
15 Q. Now, we agree that ALEA does not practice
16 medicine. Is that fair?
17 A. Yes.
18 Q. And we agree that driver's license -- or a
19 driver license serves two purposes. One of those
20 purposes is to demonstrate that the individual who
21 possesses it may operate a motor vehicle on the
22 State's highway; correct?
23 MR. ARKLES: Objection to form.
24 MR. SINCLAIR: What is the objection?
25 MR. ARKLES: Calls for a legal conclusion.

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1 THE WITNESS: In general you will have to
2 have a driver's license to legally operate a
3 vehicle on the road. So yes, that's correct.
4 BY MR. SINCLAIR:
5 Q. In your conclusion you also say, "Were
6 Alabama to decide to choose the route that is most
7 clinically appropriate, they would adopt policies
8 such as those in Oregon, DC, and California:
9 transgender individuals submit a form where they
10 certify their gender, the genders allowed are
11 three: male, female, and none or non-binary, and
12 their identity document is changed based on the
13 patient's affirmation."
14 Did you write that sentence?
15 A. Yes, I wrote that sentence.
16 But I actually want to go back to the last
17 question to clarify my answer.
18 Q. Okay.
19 A. When I said yes, I was saying yes to the
20 question of does the driver's license serve that
21 one purpose. You also said that it served a second
22 purpose, which we didn't go into. And I think
23 there are other purposes that a driver's license
24 serves. So I wasn't saying yes that being able to
25 operate a vehicle on a road, whatever your second

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1 intended purpose was, were the only things that a
2 driver's license does.
3 Q. Now, is the second -- well, I'll leave
4 that be for the time being.
5 All right. Let's go back to the second
6 sentence you wrote. That's the sentence you wrote:
7 Were Alabama to decide to choose the route that is
8 most clinically appropriate, they would adopt
9 policies, et cetera, et cetera.
10 A. Correct.
11 Q. And under -- this is your recommendation
12 of what you think Alabama should do for its drivers
13 licenses; correct?
14 A. This is what I think is most clinically
15 appropriate.
16 Q. And clinically appropriate, you mean in
17 your opinion as a medical doctor you think this is
18 what should be on a driver's license?
19 A. Correct.
20 Q. And you leave that -- on your first
21 sentence you leave that entirely to the discretion
22 of the person who is applying for the driver's
23 license; correct?
24 A. I think it's the case that the most
25 accurate determination of sex, as far as sex for

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1 identification purposes, is an individual's gender
 2 identity. And I can certainly say -- if I ask you
 3 what your gender identity is, I can write a piece
 4 of paper that says, yes, Mr. Sinclair's gender
 5 identity is male. But really that information
 6 comes from your internal sense of yourself as male,
 7 female, or somewhere in between. So I can talk
 8 about that as a physician, but ultimately the data
 9 that you use is what the patient gives you. If you
 10 want to take the physician out of the equation,
 11 then yes, self-certification is appropriate.
 12 Q. You then say, "Failing self-affirmation,
 13 the next best option is to rely on certification by
 14 any of a range of medical or mental health
 15 providers who are treating patients with GD."
 16 And by GD I assume you mean gender
 17 dysphoria.
 18 A. Correct.
 19 Q. Is that correct?
 20 Do you know as a fact whether any of the
 21 individual plaintiffs have a medical diagnosis of
 22 gender dysphoria?
 23 A. I don't know that, no.
 24 Q. Do you know as a fact the severity of
 25 gender dysphoria in any medical diagnosis of a

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1 person that you have not examined or whose medical
 2 records you have not reviewed?
 3 A. Can you repeat that question?
 4 Q. Certainly. Do you know as a fact the
 5 severity of gender dysphoria in any medical
 6 diagnosis of a person that you have not examined or
 7 whose medical records you have not reviewed?
 8 A. General, no, I can't think of a situation
 9 where that would be the case.
 10 Q. So if you have not examined the plaintiffs
 11 and you have not reviewed their medical records,
 12 you cannot testify that Policy Order 63
 13 "compromises the mental health and physical safety"
 14 of any of the plaintiffs, can you?
 15 A. I can say that it compromises the mental
 16 health and physical safety of transgender people in
 17 general, which I'm assuming they're part of that
 18 group since they're the plaintiffs.
 19 Q. But you don't know as a matter of fact
 20 whether any of the individual plaintiffs have their
 21 health -- mental health or physical safety
 22 compromised by Policy 63, do you?
 23 A. I can say that not having an identity
 24 document that appropriately identifies you
 25 compromises the mental and physical health --

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1 strike that -- the physical safety and the mental
 2 health of all transgender people. And so I think
 3 that would apply to them too.
 4 Q. Okay. Let me change gears again for you.
 5 Have you ever been arrested?
 6 A. No. I mean, I have had a couple of
 7 traffic tickets. But
 8 Q. Yeah. My colleague and I disagree as to
 9 what extent that constitutes an arrest. But fair
 10 enough.
 11 Have you ever been frisked by law
 12 enforcement?
 13 A. No.
 14 Q. Have you ever been subjected to a visual
 15 body cavity search in a correctional environment?
 16 A. No.
 17 Q. Do you agree that, whenever practical, a
 18 person being subjected to a personal search should
 19 be searched by a person of the same sex?
 20 A. Depends on what your definition of sex is.
 21 But according to my definition of sex, yes.
 22 Q. All right. Well, let me ask this a
 23 slightly different way since your definition of sex
 24 includes a relatively small percentage of the
 25 population.

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1 If a person identifies their sex as male,
 2 do you agree that the person who should be
 3 searching that person, whenever practical, should
 4 also be male?
 5 A. I think it's good to be a little bit more
 6 specific. So if we're talking about cisgender men,
 7 yes. That's absolutely an easy answer. If we're
 8 talking about transgender men, I would say that in
 9 the majority of instances it is appropriate that
 10 that search be conducted by a male. From a
 11 clinical perspective and from the perspective of
 12 the individual's safety and mental health, I could
 13 see a few circumstances where a transgender man
 14 might prefer a female search. But I think most
 15 would prefer a male person searching them. And I
 16 think with transgender women I would say the vast
 17 majority, if not all of them, would prefer a female
 18 search.
 19 Q. Do you agree that jail officials should
 20 attempt to determine the sex of an arrestee, person
 21 being arrested, before placing that person into
 22 confinement, especially if that person is to be
 23 confined with other inmates?
 24 A. Yes.
 25 Q. Do you agree that placing an inmate with

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1 female genitalia in with male arrestees creates a
 2 safety hazard for that inmate?
 3 A. I think there are -- jail and prison are
 4 not safe places for anybody. There are certain
 5 characteristics that make you more vulnerable, for
 6 example, a transgender man who has not had any
 7 genital surgery. I have had patients who are
 8 transgender men in that situation. And I have had
 9 them -- you know, my patient population
 10 unfortunately has a lot of entanglements with the
 11 law. So it's dangerous for those people to be
 12 housed with men, but it's also dangerous for them
 13 to be housed with women.
 14 And I think it's not so much the genitals
 15 as it is the fact that they're transgender that
 16 places them more at risk. It doesn't matter what
 17 your genitals are; you can be sexually assaulted.
 18 And I think it's transgender status that is the
 19 big, dangerous thing.
 20 I don't know if you can hear me, but I
 21 can't hear you at all. The sound just -- I can't
 22 hear you talking.
 23 MR. ARKLES: Oh, yeah. We've got nothing.
 24 THE WITNESS: I see you talking. I still
 25 can't hear you. I'm assuming you're asking can you

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1 hear me now.
 2 MR. ARKLES: We can see you.
 3 THE WITNESS: We can see you. Yeah,
 4 you're waving your hands.
 5 MR. ARKLES: But we can't hear you.
 6 THE WITNESS: But we can't hear you.
 7 MR. ARKLES: They're getting up, which I
 8 think might mean that they want to take a break.
 9 THE WITNESS: We're assuming you want to
 10 take a break to fix that. So we're going to take a
 11 break too.
 12 MR. ARKLES: I guess off the record.
 13 (Brief recess taken.)
 14 MR. SINCLAIR: We had a little bit of a
 15 glitch. We're back now.
 16 Q. We talked about placing an inmate with
 17 female genitalia in with male inmates and whether
 18 or not that created a specialized safety hazard for
 19 that inmate.
 20 A. Correct, we were talking about that.
 21 Q. Do you think that's the case?
 22 A. Again I think it's the transgender status.
 23 So, for example, if that inmate was placed in a
 24 jail because they were arrested and it was the case
 25 that there was bathroom facilities where they

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1 wouldn't be seen by other inmates, that might
 2 actually be safer for them than placing them in a
 3 women's population in the same jail because they're
 4 going to look like a guy. And being a man in a
 5 place that men aren't usually found places you at
 6 risk. So there is risks either way. And more it
 7 has to do with the person's status as a transgender
 8 person and whether or not other people are aware of
 9 that that makes them vulnerable to violence.
 10 Q. Okay. There's a little bit of a
 11 microphone problem. I noticed earlier that
 12 sometimes the audio gets a little muddy. So if you
 13 would, please try to speak slowly so I can make it
 14 out.
 15 But you do agree that -- well, do you
 16 think placing an inmate with male genitalia in with
 17 female inmates creates specialized problems in
 18 terms of safety or administrative risks?
 19 A. My answer is pretty similar to that in
 20 that it is that somebody is identified as
 21 transgender that places them at risk for violence.
 22 So if a transgender woman who had not had genital
 23 surgery was placed in a women's correctional
 24 environment and nobody was aware that she was
 25 transgender, I think that she would be safer than

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1 if people were aware of that in a women's
 2 environment or a men's environment.
 3 Q. Do you understand that, generally
 4 speaking, correctional facilities and jails, there
 5 is very limited privacy in order to prevent -- in
 6 order to deal with security issues or safety issues
 7 for inmates? Correct?
 8 A. In general, yes. Though I will add that
 9 in instances where I have interacted with
 10 transgender people who are either in prison or have
 11 been in prison, there are accommodations made for
 12 them sometimes. So like a transgender woman might
 13 be allowed to shower separately when nobody else is
 14 in the shower. So that can be mediated.
 15 Q. Now, you testified in deposition,
 16 according to your report, in Keohane v. Jones.
 17 That was in Florida.
 18 A. Correct. Keohane.
 19 Q. Keohane?
 20 A. Keohane.
 21 Q. Keohane. Okay. But you were not called
 22 as a trial witness; correct?
 23 A. Correct.
 24 Q. Do you know why?
 25 A. No, I don't.

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1 Q. You were not paid compensation for your
2 testimony in Keohane; right?
3 A. Correct.
4 Q. And you're not being paid compensation for
5 your testimony in this case; right?
6 A. Correct. Expenses but not compensation.
7 Q. And you testified in Whitaker vs. Kenosha
8 Unified School District in Wisconsin; correct?
9 A. No, I don't believe I testified in
10 Wisconsin. I may have --
11 Q. Did you provide a sworn statement in that
12 case like a declaration or an affidavit?
13 MR. ARKLES: I'm just showing the witness
14 his report where he talked about past depositions.
15 THE WITNESS: Let's see.
16 BY MR. SINCLAIR:
17 Q. That's for the last four years.
18 A. Oh, yeah, that's just -- that's not on
19 here.
20 Q. That's not on here, is it?
21 A. Maybe it was an amicus brief or report
22 possibly. That's a long time ago. And I didn't
23 review it before I came here, but I'm happy to look
24 at it if you have it for me. I wasn't deposed
25 though.

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1 Q. Okay. Do you recall if you signed a
2 declaration in August 2016 in that case?
3 A. I remember the case you are talking about.
4 I believe I did some work associated with it. As
5 to when I couldn't tell you.
6 Q. If I represent to you that it happened in
7 2016, would you have any reason to disagree with
8 that?
9 A. I don't have a basis to agree or disagree.
10 Q. All right.
11 A. I remember the case, but I don't remember
12 the details. I know I wasn't deposed.
13 MR. ARKLES: Mr. Sinclair, would you mind
14 maybe spelling that case name?
15 MR. SINCLAIR: Whitaker, W-h-i-t-a-k-e-r.
16 And Kenosha School District is K-e-n-o-s-h-a.
17 MR. ARKLES: Thank you.
18 THE WITNESS: The other thing too -- can I
19 add kind of two corrections too?
20 BY MR. SINCLAIR:
21 Q. Certainly.
22 A. One is in the particular area we're
23 talking about, subsequent to when I wrote that
24 report I have testified in court in the Edmo case
25 in Idaho.

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1 Q. We'll get to that.
2 A. And also too I remembered at the break
3 there was one other thing that they had given me
4 subsequent to writing my report -- I think I got it
5 in the last day or two -- which was some letters
6 from physicians that had notes written on them. I
7 think it was examples of people trying to get their
8 identity documents changed, like letters to support
9 that.
10 Q. Do you intend to write a supplemental
11 report in this case discussing that?
12 A. I don't intend to now. But, I mean,
13 there is a possibility it might become pertinent.
14 Q. You weren't paid compensation for your
15 declaration in the Whitaker case; correct?
16 A. Correct.
17 Q. And you testified in the Edmo case out of
18 Idaho; correct?
19 A. Correct.
20 Q. And you weren't compensated for your
21 testimony in that case, were you?
22 A. Just expenses.
23 Q. How many times would you estimate you have
24 testified in transgender cases, cases involving
25 transgender issues?

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1 A. Total?
2 Q. Yes.
3 A. Ever? And when you say testified, do you
4 mean depo and go to court or just court?
5 Q. Deposition, supplying an affidavit, or
6 live testimony at trial or a hearing.
7 A. That I can think of right now in addition
8 to those other ones that I noted, a number of years
9 ago I testified in two cases in the State of
10 Washington. It was I think before an
11 administrative law judge as to whether or not trans
12 people should get their care covered by the State's
13 medicaid. Cruz v. Zucker is on there. There was
14 also a case a number of years ago where I
15 testified -- no. I was deposed, but I didn't go to
16 court regarding a physician who had treated a trans
17 person for the defense for that physician. I mean,
18 I have signed onto a few amicus briefs here and
19 there.
20 That's what comes to mind now, but I can't
21 say that's an absolutely complete list. So maybe
22 five more times in addition to what you have.
23 Maybe more. Definitely not less.
24 Q. And in all those cases you testified on
25 behalf of the plaintiff; is that right?

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1 A. No.
2 Q. All right. Tell me about a case where you
3 testified on behalf of the defense.
4 A. The Florida case with the physician. I
5 can get the case for you. I can't say it right now
6 right off the tongue. It was basically a physician
7 who was facing -- he was an abortion provider in
8 the state, and he was facing -- he had -- I believe
9 they had tried to pull his license a few times.
10 But then they were trying to de-license him because
11 he treated a transgender patient that subsequently
12 committed suicide. And so that was for the
13 defense. And we had talked about compensation.
14 That's the only case that I have done where I have
15 taken compensation.
16 Q. In your report you reference that not all
17 transgender persons are appropriate candidates for
18 hormone replacement therapy or sex reassignment
19 surgery for various medical reasons. Correct?
20 A. Correct.
21 Q. Is it your testimony that any plaintiff in
22 this case is not an appropriate candidate for
23 hormone replacement therapy or sex reassignment
24 surgery?
25 A. I can't say either way.

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1 Q. Do you know of any medical reason why any
2 plaintiff in this case cannot receive hormone
3 replacement treatment or sex reassignment surgery?
4 A. I haven't reviewed their cases; so I
5 couldn't speak to that now.
6 Q. If you do not know, then I need the
7 plaintiffs to stipulate that no plaintiff in this
8 case cannot receive HRT or SRS as a result of any
9 medical condition. Otherwise, we'll need to
10 suspend the deposition or reserve the right to
11 recall the deposition pending receipt of that
12 plaintiff's medical record.
13 Mr. Arkles, what's your position?
14 MR. ARKLES: We're not prepared to enter
15 into a stipulation like that right now.
16 MR. SINCLAIR: All right. We reserve the
17 right to take a second deposition of this plaintiff
18 pending receipt of the plaintiffs' medical records
19 because the plaintiffs have consistently refused to
20 provide medical records saying they're either not
21 relevant. We now have a position where they are
22 relevant. And unless the plaintiffs wish to say
23 that any of the named plaintiffs cannot receive HRT
24 or SRS, then that suddenly is now at issue in this
25 case based on the testimony of your expert.

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1 If I might have a moment to review.
2 That's all the questions I have subject to
3 redirect and reserving our right to take a second
4 deposition or to reopen this deposition in the
5 event the plaintiffs cannot stipulate.
6 MR. ARKLES: All right. I'd like to take
7 a short break if that's all right.
8 MR. SINCLAIR: Certainly.
9 (Brief recess taken.)
10 MR. ARKLES: So, Mr. Sinclair, our expert
11 is here. He's prepared to testify and answer any
12 further questions you have. He's answered all of
13 your questions so far. He's testified that he's
14 not examined any of the plaintiffs. And I think if
15 you go back and look at their deposition testimony,
16 you will find that some of the -- that the
17 plaintiffs did all provide some information about
18 the medical care that they have provided.
19 So we're happy to stay here and have you
20 to continue to depose Dr. Gorton for as long as you
21 like up to seven hours.
22 MR. SINCLAIR: Okay. Well, that doesn't
23 quite answer my concern. But first, let's do this,
24 clean up the last bits and pieces.
25 Q. Doctor, what documents, if any, did you

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1 review for this deposition, or materials provided
2 by -- any materials? Did you review anything
3 before this deposition?
4 A. I reread my report. I checked my CV to
5 make sure you guys had the most updated version. A
6 couple of the papers that I cited in my report, I
7 just kind of perused them again. I think that's
8 it.
9 Oh, and I did within the past couple of
10 days look at those documents that I spoke about,
11 the report from the expert on the other side whose
12 name escapes me and the letters, the surgeon's
13 letters that I was sent.
14 MR. ARKLES: Mr. Sinclair, if you like, I
15 can give the Bates stamp numbers for those
16 documents that we provided Dr. Gorton.
17 MR. SINCLAIR: You can email them to us
18 later. That's fine.
19 MR. ARKLES: All right.
20 MR. SINCLAIR: Mr. Arkles, the only
21 question I have is: Is it the plaintiffs' position
22 that any of the named plaintiffs cannot receive
23 hormone replacement treatment? I know some
24 testified that they're actually receiving that.
25 But is your position that any of them for any

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1 medical reason can't receive hormone replacement
2 treatment?
3 MR. ARKLES: You've had an opportunity to
4 depose all of our clients. If you want me to try
5 to answer a fact question for them that you didn't
6 ask during the deposition, I'm not in a position to
7 do that right now.
8 MR. SINCLAIR: Okay. And the same thing
9 for sexual -- I'm sorry -- sex reassignment
10 surgery?
11 MR. ARKLES: Same thing.
12 MR. SINCLAIR: Okay. Here is the problem.
13 If in fact that's the position and this expert in
14 his expert report talks about some people for
15 medical reasons cannot receive those medical
16 treatments, then their medical records suddenly --
17 that is suddenly at issue, and then their medical
18 records are at issue. And I would just assume we
19 don't have to deal with a motion to compel medical
20 records if it's not necessary.
21 So if you can confer with your client.
22 And we will suspend -- or we'll suspend the
23 deposition, or we will reserve the right to
24 redepose him. Your pleasure. But it's something
25 we just can't leave unresolved in the middle of

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1 this litigation because if you propose to prove
2 something like that, we have an absolute right to
3 look into it.
4 So if you will check with your clients and
5 review their medical records or whatever you want
6 to do. But we need to have something that covers
7 that. Is that fair?
8 MR. ARKLES: Well, I'll certainly confer
9 with my clients.
10 Dr. Gorton is not offering in his opinion
11 any opinion specific to the individual plaintiffs
12 in that he has not examined them. So if there is
13 anything that you would like to ask Dr. Gorton
14 about his opinion or about what he is able to
15 testify to today, I would encourage you to take
16 this opportunity.
17 MR. SINCLAIR: I understand that. But
18 he's also testified he cannot testify with
19 certainty that he's never treated one of the named
20 plaintiffs. Correct? He did testify to that
21 earlier. He said he practiced in Mississippi and
22 he couldn't be sure.
23 MR. ARKLES: I believe he stated
24 Louisiana.
25 MR. SINCLAIR: Either way he did testify

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1 he couldn't be certain that he had not treated one
2 or more of the individual plaintiffs. So I'm going
3 to reserve the right to retake the deposition if
4 you cannot come to some agreement on whether or not
5 the plaintiffs have a medical -- any of the named
6 plaintiffs have a medical condition that makes sex
7 reassignment surgery or hormone replacement therapy
8 inappropriate for them.
9 All right. Finally -- first of all, Mr.
10 Arkles, do you have any questions for the doctor?
11 MR. ARKLES: I do not.
12 MR. SINCLAIR: Okay. Now, Doctor, we
13 talked earlier about your right to read and sign
14 the deposition or to waive it. I just wanted to
15 give you that opportunity again because you now
16 know what you have testified to. And you have the
17 opportunity, if you want, not to sign it if that's
18 your pleasure. Of course, you still retain the
19 right to read and sign it if that's your pleasure.
20 Which is your preference?
21 THE WITNESS: I prefer to read it just to
22 make sure it's accurate.
23 MR. SINCLAIR: Fair enough. I believe
24 that's all the questions I have. Thank you,
25 Doctor.

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1 MR. ARKLES: I'll take a standard
2 transcript order please.
3 (Deposition concluded at 9:51 a.m.)
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ERRATA SHEET

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RYAN NICHOLAS GORTON, M.D.

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1 ACKNOWLEDGEMENT OF DEPONENT

2

3 I, RYAN NICHOLAS GORTON, M.D., declare under

4 penalty of perjury that I have read the foregoing

5 transcript; that I have made any corrections,

6 additions, or deletions that I was desirous of

7 making; and that the foregoing is a true and

8 correct transcript of my testimony contained

9 therein.

10

11 _____

12 RYAN NICHOLAS GORTON, M.D. DATE

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R E P O R T E R ' S C E R T I F I C A T E

2

3 I, GLINDA F. BANKS, a Certified Shorthand

4 Reporter of the State of California, hereby certify

5 that the witness in the foregoing deposition was by

6 me duly sworn to tell the truth, the whole truth,

7 and nothing but the truth in the within-entitled

8 cause; that said deposition was taken at the time

9 and place therein stated; that the testimony of the

10 said witness was reported by me, a duly certified

11 shorthand reporter, and was thereafter transcribed

12 under my direction into typewriting; and that the

13 witness was given an opportunity to read and, if

14 necessary, correct said deposition and to subscribe

15 the same.

16 I FURTHER CERTIFY that I am not in any way

17 interested in the outcome of the cause named in

18 this caption.

19 IN WITNESS WHEREOF, I have hereunto set my

20 hand this day of January 2, 2019.

21

22

23 _____

24 GLINDA F. BANKS
CSR No. 11984

25

A	<p>Alabama (10) 4:16;8:12;25:14,18,21;26:1,11;31:6;32:7,12</p> <p>ALEA (7) 24:16;26:21;29:1,8,14;30:12,15</p> <p>allowed (2) 31:10;40:13</p> <p>allowing (1) 20:18</p> <p>along (2) 20:16,20</p> <p>altered (1) 19:6</p> <p>Although (1) 4:17</p> <p>ambiguous (1) 22:8</p> <p>American (1) 15:24</p> <p>amicus (2) 41:21;44:18</p> <p>anatomical (1) 20:13</p> <p>anatomy (2) 21:15,25</p> <p>and/or (1) 13:3</p> <p>ankle (1) 15:12</p> <p>Annals (1) 15:21</p> <p>answered (1) 47:12</p> <p>appear (1) 8:4</p> <p>appears (1) 11:14</p> <p>apply (1) 35:3</p> <p>applying (1) 32:22</p> <p>appropriate (12) 29:4,24;30:8,14;31:7;32:8,15,16;33:11;36:9;45:17,22</p> <p>appropriately (1) 34:24</p> <p>area (3) 27:13,14;42:22</p> <p>ARKLES (35) 4:24;7:14;8:4,9,6,22;11:14,18;16:12,15;21:16;22:1;30:23,25;37:23;38:2,5,7,12;41:13;42:13,17;46:13,14;47:6,10;48:14,19,20;49:3,11;50:8,23;51:10,11;52:1</p> <p>arrest (2) 11:11;35:9</p> <p>arrested (6)</p>	<p>10:24;11:3;12:6;35:5;36:21;38:24</p> <p>arrestee (1) 36:20</p> <p>arrestees (1) 37:1</p> <p>articles (6) 16:6,6;24:3,8,10;26:19</p> <p>aside (1) 26:19</p> <p>aspect (1) 22:17</p> <p>aspects (2) 19:4,15</p> <p>assaulted (1) 37:17</p> <p>Assembly (1) 15:25</p> <p>assigned (5) 21:21;22:3,3,9,12</p> <p>assistant (1) 4:12</p> <p>associated (2) 21:23;42:4</p> <p>assume (2) 33:16;49:18</p> <p>assuming (3) 34:17;37:25;38:9</p> <p>asthma (3) 13:14;14:13,13</p> <p>asthmatics (1) 14:15</p> <p>attached (1) 7:11</p> <p>attempt (1) 36:20</p> <p>attention (2) 7:20;13:20</p> <p>attorney (1) 4:12</p> <p>attorneys (3) 4:13;24:19,20</p> <p>attributes (1) 21:24</p> <p>audio (1) 39:12</p> <p>August (1) 42:2</p> <p>author (1) 16:5</p> <p>aware (5) 14:12;28:9;39:8,24;40:1</p>	<p>47:15</p> <p>background (3) 7:3;10:22,23</p> <p>bad (1) 13:16</p> <p>Based (4) 10:5;22:9;31:12;46:25</p> <p>Basically (5) 10:13;20:24;22:4;28:5;45:6</p> <p>basis (3) 16:13;28:10;42:9</p> <p>Bates (1) 48:15</p> <p>bathroom (1) 38:25</p> <p>become (1) 43:13</p> <p>behalf (2) 44:25;45:3</p> <p>best (1) 33:13</p> <p>bibliography (2) 10:9;24:7</p> <p>big (1) 37:19</p> <p>biochemistry (1) 7:5</p> <p>biological (1) 21:22</p> <p>biologically (1) 20:13</p> <p>birth (7) 21:21;22:3,3,6,9,12;26:16</p> <p>bit (3) 36:5;38:14;39:10</p> <p>bits (1) 47:24</p> <p>blank (2) 9:3,20</p> <p>board (1) 13:4</p> <p>body (2) 19:4;35:15</p> <p>book (1) 11:11</p> <p>booking (2) 11:6;12:10</p> <p>both (1) 18:10</p> <p>break (7) 6:11,13;38:8,10,11;43:2;47:7</p> <p>breaks (1) 6:12</p> <p>Brief (5) 11:19;22:5;38:13;41:21;47:9</p> <p>briefly (1) 7:3</p> <p>briefs (1)</p>	<p>44:18</p> <p>broad (1) 22:22</p> <p>broadly (1) 14:1</p> <p>Brooklyn (1) 7:10</p> <p>brought (1) 29:22</p>
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Exhibit 9

Deposition of Donald Leach Ph.D.

In The Matter Of:

Darcy Corbitt v.

Hal Taylor

Donald Leach

December 21, 2018

Tempest Reporting, Inc.
175 South Main, Suite 710
Salt Lake City, UT 84111
(801) 521-5222

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UNITED STATES DISTRICT COURT
 MIDDLE DISTRICT OF ALABAMA
 NORTHERN DIVISION

DARCY CORBITT, et al., :
 Plaintiffs, : Civil Action No.
 -v- : 2:18-cv-91-MHT-GMB

HAL TAYLOR, in his official :
 capacity as Secretary of the : Deposition of:
 Alabama Law Enforcement : DONALD LEACH
 Agency, et al., :
 Defendants. :

Place: TEMPEST REPORTING, INC.
 175 South Main Street, #710
 Salt Lake City, Utah 84111

Date: December 21, 2018
 9:03 a.m.

Reporter: Vickie Larsen, CSR/RMR

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11	Exhibit 39 Instructions to Change the	5
12	Indicator of Sex on an Idaho	
13	Birth Certificate to Reflect	
14	Gender Identity	
15	Exhibit 40 National Center for	5
16	Transgender Equality website	
17	printout	
18	Exhibit 41 Tennessee Rules and	5
19	Regulations excerpt	
20	Exhibit 42 Gender Designation Form	5
21	Exhibit 43 National PREA Resource Center	5
22	Guidance in Cross-Gender and	
23	Transgender Pat Searches	
24	Exhibit 44 Issues Surrounding Managing	5
25	Lesbian, Gay, Bisexual,	

Page 2

A P P E A R A N C E S

For the Plaintiff (present by videoconference):

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For the Defendants (present by videoconference):

Brad A. Chynoweth
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 OFFICE OF THE ATTORNEY GENERAL
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Also Present: (Present by videoconference):

Joshua Block

-oOo-

Page 4

Transgender & Intersex
 Offenders in Jails by
 Donald L. Leach II, Ph.D.

-oOo-

Page 5

1 December 21, 2018 9:03 a.m.
2 PROCEEDINGS
3 (Exhibits 38-44 were marked for identification.)
4 DONALD LEACH, Ph.D.
5 called as a witness, having been duly sworn,
6 was examined and testified as follows:
7
8 EXAMINATION
9 BY MR. ARKLES:
10 Q. Good morning, Don. My name is Gabriel
11 Arkles, and I represent the plaintiffs in a lawsuit
12 Corbitt v. Taylor.
13 Could you please state your full name for
14 the record.
15 A. Donald L. Leach, L-E-A-C-H.
16 Q. Thank you.
17 We're communicating by videoconference
18 today. Can you hear me okay?
19 A. Yes.
20 Q. All right. You just let me know if at
21 any point you can't hear me clearly, all right?
22 A. Yes.
23 Q. You've been deposed quite a number of
24 times before; right?
25 A. I have.

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1 Q. All right. So I know you already know
2 this, but I'm going to go over some of the basics
3 anyway just to be sure.
4 So -- so, first of all, while we are
5 doing a videoconference today, there's still going to
6 be a paper transcript that's created. So I'd like you
7 to be sure to give answers verbally rather than just
8 nodding your head or shaking your head or saying
9 "uh-huh"; is that clear?
10 A. Yes.
11 Q. And also I need you to try to avoid
12 talking over me or anyone else, and I'll try to do the
13 same; is that okay?
14 A. Yes.
15 Q. And if I ask you anything that's
16 confusing or that just doesn't make any sense, please
17 say so. Is that okay?
18 A. Yes.
19 Q. And if at any point you need to clarify,
20 correct, or supplement something that you've already
21 said, that's fine, just let me know and you can go
22 ahead and do that. Is that okay?
23 A. Yes.
24 Q. And of course you can ask for a break at
25 any time. I just ask that you answer any question

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1 that I have already asked you before we do that. Is
2 that okay?
3 A. Yes.
4 Q. Okay. Thank you.
5 And can you tell me when you were
6 retained as an expert in this matter?
7 A. Approximately August this year.
8 Q. Okay. And when you -- were you asked to
9 make any assumptions in preparing your report?
10 A. Not that I recall.
11 Q. Okay.
12 A. And it might have been later than August
13 that I was retained, because I was driving down the
14 highway at the time and we were talking at that point,
15 and I can't remember which state I was in. All I
16 remember is driving down the highway talking.
17 Q. All right. So roughly August, but you're
18 not sure if it was exactly August?
19 A. Yeah, it might have even been later than
20 that, actually.
21 Q. All right. That's fine.
22 And could you look at what should be
23 marked as Plaintiff Exhibit 38, please.
24 A. Okay.
25 Q. Is this the opinion -- is this the report

Page 8

1 that you prepared as an expert in this case?
2 A. Yes, it appears to be.
3 Q. Thank you.
4 And what did you do to prepare your
5 report?
6 A. I reviewed the documents that were listed
7 within this report.
8 Q. Did you do anything else to prepare the
9 report, aside from your review of this document?
10 A. Not that I recall. Discussions with
11 Brad, that's about it.
12 Q. And by "Brad," I assume you mean Brad
13 Chynoweth, who's one of the lawyers for the defendants
14 here; is that right?
15 A. Yes.
16 Q. And did you review any documents that are
17 not listed in the report when you were preparing the
18 report?
19 A. Yes, I have since reviewed a document
20 that wasn't necessarily used in preparing the report,
21 but I have reviewed one since, so, yes.
22 Q. Okay. And what's the document that you
23 have reviewed since then?
24 A. This is called the Transgender Offender
25 Manual. It's a publication by the U.S. Department of

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1 Justice Center of Bureau of Prisons on a policy of
2 transgender offender management.
3 Q. Thank you.
4 And just to be clear, that's something
5 that you reviewed after writing your report and before
6 the deposition today; right?
7 A. Yes.
8 Q. Okay. Thank you.
9 And did you write your report from
10 scratch, or did you build off of something that had
11 already been written?
12 A. No, I write everything from scratch.
13 Q. Thanks.
14 And aside from reviewing the documents
15 you mentioned and talking with Brad, is there anything
16 else that you did to prepare for the deposition today?
17 A. Not that I recall.
18 Q. Okay. If you turn to Page 5 in your
19 report, the Case History Disclosure, is this list of
20 your past depositions and trial testimony still up to
21 date?
22 A. As of today, yes.
23 Q. Okay. Thank you.
24 And do you recall which, if any, of these
25 cases you testified at trial in as opposed to just

Page 10

1 being deposed?
2 A. Rachel Hammers v. Douglas County, that
3 would be Number 5. Anthony Waller v. Bradley
4 Lovinger, that would be Number 11. Number 20,
5 multiple initials v. The City of Puyallup. Number 22,
6 Frank Hyman v. City of Philadelphia. That's it.
7 Q. Thank you.
8 And have you ever, aside from this case,
9 prepared an expert report on transgender or intersex
10 issues?
11 A. No.
12 Q. And have you ever, aside from in this
13 case, prepared an expert report on driver's licenses
14 before?
15 A. No.
16 Q. Thank you.
17 And then I just want to make sure I have
18 your compensation information correct. So you are
19 being compensated \$200 an hour for a research
20 consultation and report creation; right?
21 A. Yes.
22 Q. And you received \$3,000 for any part of a
23 day involved in a video deposition; right?
24 A. Yes.
25 Q. So you're being compensated \$3,000 today;

Page 11

1 right?
2 A. Yes.
3 Q. Thank you.
4 And -- and then \$2,000 for any part of a
5 day spent on trial testimony; is that right?
6 A. Yes.
7 Q. And \$1,000 a day for travel and on-site
8 consultation; is that right?
9 A. Yes.
10 Q. Okay. Great. Thank you.
11 So I'm going to go through and I'm going
12 to ask you for your definitions of some words that
13 were used in your report, just to make sure that I
14 understand them.
15 So first could you explain your
16 understanding of the term "sex"?
17 A. My understanding of the term "sex"?
18 Q. Yes.
19 A. Well, that's a very broad understanding.
20 As I try to illustrate in the report, there are
21 multiple components to the term "sex." There is --
22 there's -- and then when I do presentations, like I'm
23 getting ready to do a presentation for the Los Angeles
24 County Sheriff's Office regarding the management of
25 lesbian, gay, transgender, and intersex persons within

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1 their system.
2 It's a presentation I've done a number of
3 times. You and I did it one time -- not -- not the
4 exhaustive one that I do here -- where I talk about
5 the three parts of it, as I did in the report.
6 The first part of it is is it
7 physiognomy? The actual, I guess what a lot of
8 individuals might refer to as the biological levels of
9 sex, and then you have the gender portion of sex, and
10 then you have the idea of sexual preference.
11 So there really are three components to
12 sex that exist out there that have a tendency to get
13 very jumbled together. I think that's the point I was
14 trying to make in my report. They get jumbled
15 together, they get mixed up, and it's important
16 sometimes to come up with definitions. So which
17 definition are we looking at.
18 Q. Okay. Thank you.
19 MR. ARKLES: Let the record reflect that
20 Joshua Block has just joined me here in the room.
21 Q. And what's the basis for that definition
22 of sex?
23 A. Sir?
24 Q. What do you base that definition for sex
25 on?

Page 13

1 A. Of the -- what I consider to be the three
2 components?
3 Q. Yes.
4 A. I guess my observations of issues that
5 we've had in a correctional environment. My
6 observations of how people are, in general, within
7 society, how we interact one person to another. The
8 discussions that even you and I have had in the past
9 when we've done presentations. Things of that nature.
10 Q. Thank you.
11 And could you clarify for me what the
12 term "physiognomy" or -- I'm not sure how to pronounce
13 it -- what the term "physiognomy" means?
14 A. The physical being, the physical makeup,
15 physical compositions. The actual structural
16 components that go into -- in this case it would go
17 into -- into sex. But physiognomy is pretty much the
18 actual physical structures that are associated.
19 Q. So -- and so I'd like you to listen to
20 this definition of physiognomy -- sorry --
21 physiognomy: A person's facial features and
22 expression, especially when regarded as indicative of
23 character or ethnic origin.
24 That's not what you mean; right?
25 A. No.

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1 Q. Okay.
2 A. See that would be more gender.
3 Q. So the facial features is more gender?
4 A. Well, the expression of facial features,
5 yes.
6 Q. Okay. Tell me -- could you explain to me
7 why that's a part of gender?
8 A. Well, how one tries to appear to others.
9 Now, if they're talking about the
10 physical structures, such as Adam's apple presence
11 versus no Adam's apple, that might be physiognomy in
12 the way I'm referring to it, okay, the physical makeup
13 of the body.
14 The expressions that one uses, how one
15 presents themselves to another could be used as gender
16 expressions, how they perceive and how they want to be
17 perceived by others. I mean, there's a number of
18 examples I could point out, if you like, that relate
19 to just your and my relationship.
20 Q. Sure. Go ahead.
21 A. Well, you know, I know you and I have
22 done presentations in the past in which I think we --
23 you and I talked to the large jail network. Isn't
24 that where we did our presentation in 2007? Jails of
25 a thousand beds or bigger? I think you and I were

Page 15

1 doing that.
2 Q. That's not what I recall. But go ahead
3 and --
4 A. No? Okay. I mean, we've -- I've done it
5 so many times, it's difficult.
6 But it's your presentation, or the
7 presentation of an individual that wants to come
8 across and be perceived to others one way, okay,
9 versus what might physically, physiognomically,
10 biologically -- again, we get -- we get -- start
11 getting into these definitional issues of what they
12 might be without them doing their own gender
13 expressions.
14 Q. Okay. So if I understand correctly, you
15 would say that -- that say whether and when somebody
16 smiles might be a part of gender, and the person's
17 Adam's apple might be a part of their physicality, and
18 both of those are a part of sex; is that right?
19 A. Well, not necessarily just the act of
20 smiling. The act of smiling itself is just -- is just
21 an attempt to transfer to somebody an emotion or an
22 impression.
23 Now, how you use that smile or the
24 context in which you use that smile may very well be
25 an expression of gender and also an expression of sex.

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1 I know, I mean, how many times as a male
2 have I gone up and talked to a female and definitely
3 not got the smile that I was hoping to get. I mean,
4 that happens to people. You know, if you get a smile,
5 again, it's an expression back and forth. It's a
6 transmittal of information.
7 Q. Okay. And so -- and so then what is your
8 understanding of the term "gender identity"?
9 A. What is my understanding?
10 Q. Uh-huh, yes.
11 A. Gender identity is how one perceives
12 themselves. What they perceive their own sex. And
13 the term in that way is being used synonymous with
14 gender identity; what they view their sex to be or
15 even not to be as far as a gender identity.
16 Q. Okay. And is that understanding of that
17 based on your observations in correctional settings
18 and your observations in general and information
19 you've gotten from trainings?
20 A. Well, yeah. Training, my background. I
21 mean, if you look at my CV, you can see my -- my
22 education was in social and political theory, with my
23 undergraduate degree, with the focus there being on a
24 major in psychology, a major in sociology, and a major
25 in political science. You know, very much in the

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1 realm of how people express themselves with one
2 another and all those particular things.
3 Even my graduate work in geography was
4 based upon people's perception of space, place, and
5 time and how they view themselves acting and
6 interacting within their geographical environment. So
7 -- so it's based upon a lot of those issues, yes.
8 So training is one, education and
9 background is one, observations from the correctional
10 environment is one, and just being a human being and
11 interacting and being an individual who's open to
12 examine a lot of these -- these issues, because, you
13 know, a lot of people aren't open to examining a lot
14 of these issues.
15 As you and I well know, you know, we can
16 create quite a bit of disharmony amongst people when
17 we begin to challenge their perceptions of things,
18 like gender identity, sex, become problematic for
19 them.
20 Q. It can.
21 And then -- and then could you just also
22 define for me the term "sexual preference."
23 A. Sexual preference is basically, as I term
24 in my presentations, who it is that turns you on. Who
25 it is that has you elicit that sexual excitement.

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1 That's sexual preference.
2 Q. Okay. And could you define
3 "transgender," please.
4 A. Oh, wow. Now that's getting into a
5 really complex area, because even from the time that
6 you and I first did our presentations back in the
7 early 2000s to now, we see that whole term changing.
8 It's -- it's kind of -- it's morphing as -- as the
9 societal recognition of the issues involved becomes
10 much more prevalent.
11 So to -- for me to give a definition of
12 it, it would be just what I perceive it as being
13 versus what it might be tomorrow. So what I say could
14 be what it was yesterday.
15 Q. And when you use the term "transgender"
16 in your report, what did you mean by it in that
17 moment?
18 A. What was the last statement? In that
19 moment?
20 Q. Yes. What did you mean by transgender as
21 you used it in your report?
22 A. Typically, transgender is -- is basically
23 what I've learned in my discussions and dealings with
24 individuals like you, individuals that -- that have a
25 -- a different biological physiognomic sex whose

Page 19

1 gender identity felt that was not in line with what
2 they perceive themselves to be. As I say in my
3 presentations, when they look in the mirror, who they
4 see themselves as when they look in the mirror. That
5 becomes an issue where an individual becomes --
6 becomes transgender.
7 So it's a person who -- who sees that,
8 feels that, and then makes the decision that they're
9 going to begin to live as the other gender, which
10 might be separate from their physiognomy.
11 Q. Thank you.
12 And then I'm going to ask you the same
13 thing for intersex. Can you tell me what that term
14 means as you used it in your report?
15 A. Intersex is more the medical term that
16 refers to individuals that have ambiguous genitalia,
17 or in the medical profession, disorders of sexual
18 development.
19 The American Intersex Society -- and I
20 think that young lady was with us when we did the
21 presentation out there, the president of it -- but
22 it's individuals whose -- who have some level of --
23 some level of sexual development which doesn't fit
24 into what is the classical idea or what I talk about
25 in my paper, either end of the continuum of what would

Page 20

1 be an individual's perception of fully female or fully
2 male. That becomes intersex.
3 Disorders of sexual development. And
4 it's a range. And it's a range. We're truly causing
5 the question of whether or not any of us are truly
6 fully female or fully male. So we run into
7 definitional issues even when we get to that point.
8 Q. Right.
9 So you said in your report sex is sort of
10 a continuum between female and male; is that right?
11 A. Intersex.
12 Q. Okay. Intersex is people who are a
13 continuum between female and male?
14 A. Intersex lies on this continuum,
15 intersex -- because there's a range in there. I think
16 most people out in society, if -- when you talk, and I
17 know when I do my presentations in jails and with law
18 enforcement, and even with community groups, most
19 individuals still want to think of intersex strictly
20 as -- as a hermaphrodite, okay, an individual that has
21 both fully functioning sexual organs.
22 But the reality is, it's not like that.
23 That is -- that is so rare that it's an anomaly, that
24 it gets written of that you have two fully
25 functioning. So, you know, that would be the middle

Page 21

1 of that spectrum of fully female to fully male.
2 The truth of it is that people lie more
3 somewhere along that continuum. And even the American
4 Intersex Society is trying to get away from this whole
5 idea of hermaphroditism. They want to eliminate that,
6 because it brings up certain pejorative images when
7 people talk about that.
8 And it makes sense to me that they would
9 because, again, it's a range rather than -- rather
10 than a strict concept that people have that may -- may
11 completely be false.
12 Q. And when you refer to the American
13 Intersex Organization, it's not the Intersex Society
14 of North America that you're talking about, or a
15 different organization?
16 A. The Intersex Society of North America,
17 yes.
18 Q. Okay. Thank you.
19 A. The president of it did the presentation
20 with you and I. Do you recall she was there?
21 Q. I think we might be thinking about
22 different presentations but --
23 A. Oh, man.
24 Q. -- that's okay.
25 A. Well, it just goes to show, I've been

Page 22

1 trying to get these ideas and concepts out, so we get
2 definitions made all around the country for years now.
3 2007 to now, that's 11 years.
4 Q. Yes, that's -- it's a while.
5 And you already touched on this, but
6 could you also explain to me so -- so do you see the
7 term "sex" and "gender" as different, and if so, how?
8 What's the difference between those two?
9 A. Well, it -- how do we want to use the
10 term "sex," first off? Do we want to use the term
11 "sex" in a very large overarching sense to meet all
12 three parts?
13 So, I mean, my presentation I give starts
14 out, it's all about sex in jails, okay. Well, first
15 off, what is sex in jails? If we use sex in jails as
16 that big overarching term, it would then encompass
17 physiognomy, it would encompass the gender identity,
18 and it would encompass the sexual preference issues.
19 Now, if we want to use sex as -- as the
20 behavior that occurs between two individuals, that
21 might be sexual preference, okay. But it could also
22 be sexual identity and a gender identity in it. So,
23 again, it's how do we want to define that. That's
24 part of the whole issue here.
25 Q. Okay. Just a couple more definitions.

Page 23

1 So could you tell me what the term "risk
2 tolerance" means as you used it in your report?
3 A. I'm sorry, I didn't catch the word.
4 Q. Risk tolerance.
5 A. Oh, risk tolerance. Yeah, risk
6 tolerance. It's more of a concept that's used in risk
7 management circles and insurance companies and, you
8 know -- okay. Risk tolerance is how much the
9 individual person, the agency had, or government, or
10 even community. How much they're willing to tolerate
11 potential risk versus non-risky type of
12 decision-making processes.
13 So risk tolerance is, you know, what
14 you're willing to stake. Individuals that gamble,
15 they go and they gamble at a casino and they put money
16 on the table, obviously have a high risk tolerance
17 level for the loss of money or else they wouldn't be
18 doing the gambling.
19 Individuals that don't want -- like, I do
20 a lot of presentations in Las Vegas. Probably, I
21 don't know, half a dozen or more times a year, and I
22 never go to the gambling tables because I always
23 figure I'm going to lose. So that mean my risk
24 tolerance level for losing my money is pretty low in
25 that case.

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1 And it works the same way when we're
2 talking about decision-making in -- in how we're going
3 to operate our facilities and our agencies and our
4 governments. There are certain risk tolerance levels
5 that we have to have.
6 We see this all in this whole debate
7 regarding medical marijuana around the country,
8 recreational marijuana around the country. There is a
9 level of risk tolerance in all of that that is
10 being -- being expressed by both the public and
11 government.
12 So -- and we -- we just see that in
13 operation. And we've seen it change in that -- in the
14 last 20 years.
15 Q. What change have you seen in the last
16 20 years?
17 A. In medical marijuana?
18 Q. Oh, I'm sorry. I thought you were
19 referring to -- I thought you were referring back to
20 corrections. No, I don't need to hear about medical
21 marijuana, thank you.
22 A. No, no, let's talk about it in
23 corrections. It's an interesting issue because --
24 because, you know, in a correctional environment, we
25 have to provide based on, you know, Estelle v. Gamble,

Page 25

1 the federal court cases, we have to provide acceptable
2 level of medical care to individuals.
3 All right. Well, what does that mean?
4 Well, I can tell you back when I first started in
5 corrections in the '80s, the idea of giving
6 individuals psychotropic medications in jails, oh, no,
7 no, we don't do that. People will come in, they might
8 have acute psychosis, but when they came in, they
9 weren't getting it.
10 So we had a change in the corrections
11 environment in which we began to prescribe and -- and
12 provide to inmates in the jails psychotropic
13 medications, with the realization that they could be
14 trafficked, that there might be contraband issues,
15 that you might have overdose issues. Okay, we had all
16 that.
17 And we had the same thing with narcotics
18 in jails. And now we're starting to see, because of
19 medical marijuana, where, wait a minute, if it's a
20 legitimately prescribed medication recognized by the
21 state, and the individual comes into a correctional
22 institution and they have a valid prescription from a
23 community provider, are we going to provide that
24 medication to them in the jail setting, recognizing
25 it's marijuana.

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1 Oh, my God, everybody's up in arms about
2 it. Oh, we can't do that. We can't possibly do that.
3 Contraband issues, okay. The potential overdose
4 issues. It's the same discussion.
5 And as I look back in my -- my career, I
6 see that same discussion having occurred related to
7 narcotics, related to psychotropic meds.
8 So there may be -- may be a time where,
9 yeah, we are giving out medical marijuana in our
10 jails. And I have to tell you, in the law enforcement
11 community, what do you think the response there is?
12 They're up in arms on it. They didn't -- absolutely
13 can't see it.
14 But, you know, from a correctional
15 administrator's perspective, if it's -- if it's a
16 requirement that our jail physician also sees as a
17 requirement, we're going to have to do this.
18 I mean, there was a recent case that came
19 out of the First Circuit regarding an individual up
20 there in Suffolk County -- Suffolk County, New York,
21 that had been refused hormones.
22 I'm sure you have to be aware of this
23 case; right? I mean, this one just came out not long
24 ago; right? You're aware of this one? Yeah, it just
25 came out.

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1 I couldn't believe it. I'm looking at
2 the -- at the documents, I'm looking at a court case,
3 it goes back to 2013. And this individual's in the
4 Suffolk County Jail in New York, I mean, that's a
5 pretty progressive state in the provision of
6 correctional practices up there, and they're being
7 refused hormone therapy in the jail, even though the
8 VA physicians prescribed it, the jail doctor is
9 mocking it, making fun of it and not prescribing it.
10 I can't believe that in 2013 they were
11 still doing that. Of course, what happened? The
12 courts came down, we have to provide it. That's the
13 type of changes that are happening out there.
14 Q. Thank you.
15 And then just continuing with terms, you
16 used the term "baseline" in your report. Could you
17 tell me what that means in that context?
18 A. The term is what?
19 Q. Baseline.
20 A. Baseline. You have to have a starting
21 point. It's like a race. I mean, you go to any kind
22 of a race, they have a starting line at the race.
23 Now, that starting line can be ten yards
24 ahead if you wanted it, it can be ten yard behind if
25 you wanted it, but everybody has a starting line.

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1 And baseline is the starting line. It's
2 the foundation from which we can then build, modify,
3 and create.
4 Q. Okay. And the last one of these terms,
5 "reasonable correction officer." What do you mean by
6 "reasonable correctional officer"?
7 A. Reasonable correctional officer, what a
8 reasonable officer with adequate levels of training
9 and experience would believe to be an appropriate
10 practice.
11 Q. Thank you.
12 So I'm going to have us look at some
13 question portions of your report now. If you turn to
14 Page 18, and if you see right at the bottom, like the
15 third line from the last, there's a sentence that
16 begins "Lastly." Could you read starting "Lastly,
17 harm can arrive..."
18 A. Says:
19 "Lastly, harm can arise from
20 inappropriate restrictions on
21 conditions of employment."
22 Q. Keep going. I'll let you know when to
23 stop.
24 A. "All decisions arising the definition
25 of 'sex'" -- and that should have

Page 29

1 been arising from the definition of
2 sex -- "whether the one provided in
3 Policy Order Number 63, carry a
4 measure of risk. How risk adverse,
5 or risk taking, the law enforcement
6 or correctional administrator is
7 grounded in that individual's
8 personal and correctional
9 philosophies, or 'weltanschauung.'
10 The stat" -- there should have been
11 the state -- "of Alabama provides
12 through Policy Order Number 63 a
13 starting point from which the law
14 enforcement or correctional
15 administrator can measure his or her
16 policies or procedures."
17 Q. Thank you.
18 And is that, in fact, your opinion?
19 A. Yes.
20 Q. So would it be fair to say -- to say that
21 different correctional administrators, based on their
22 correctional philosophies, may make different
23 decisions about what "sex" means?
24 A. Yes.
25 Q. Would it be fair to say that they make

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1 different decisions about how to handle a
2 classification of transgender people for those
3 sex-based policies?
4 A. Yes. Yes. I mean, you see that --
5 Q. And is that -- go ahead.
6 A. Go ahead. You know, I'm -- there was a
7 case out of Wyoming that was just spot on. That point
8 where Dimarco v. Department of Corrections Wyoming, I
9 think it was -- I don't know if you're familiar with
10 that case -- but an individual was housed for about
11 nine months in the Laramie County Jail in Wyoming, and
12 was housed in one method, and that -- in general
13 population, free access, programming, recreations,
14 services.
15 And when she was moved to the Wyoming
16 Department of Corrections, they immediately put her
17 into a lockdown situation for over 400 and some days.
18 She had high levels of restriction on
19 interaction, wasn't allowed to interact with other
20 inmates, wasn't allowed to interact with many staff,
21 was prevented in purchasing certain levels of
22 commissary.
23 I mean, there were a number of things
24 that were wrong. Now, that's within the same state.
25 And all it was was a bus ride from the county jail to

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1 the prison system.
2 So, yeah, you see that happening.
3 Q. And is it possible that there could be
4 acceptable correctional practices that still vary in
5 their definition of the term "sex"?
6 A. Okay.
7 Q. And -- sorry. So if you look back to
8 Page 13, could you read the bolded language there?
9 A. "In sum, my opinion is there is
10 a governmental interest in having a
11 standardized definition of sex, such
12 as that established in Policy
13 Order 63 for law enforcement and
14 administrative purposes as expected
15 by a reasonable correctional
16 administrator so there is consistency
17 in the development and application of
18 administrative and operational
19 policies and procedures."
20 Q. And is that, in fact, your opinion?
21 A. Yes.
22 Q. So it's my understanding that it's
23 helpful from a correctional perspective to -- for
24 there to be a policy that leads to consistent
25 information about sex on a driver's license.

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1 Do I have that right?
2 A. Can you repeat that, please.
3 Q. Sure.
4 So is it your opinion that for
5 corrections, it's useful for there to be a policy
6 about driver's licenses that provide some consistent
7 information about what they mean by "sex"?
8 A. Yes.
9 Q. Okay. And you're not taking -- you're
10 not expressing an opinion about what the best
11 definition of sex would be for that purpose, are you?
12 A. No. Again, that best definition would be
13 based upon the risk tolerance level.
14 Q. Okay. So if instead of a current policy,
15 Alabama had a policy that said a driver's license sex
16 designation may be amended to reflect the person's
17 gender identity, would that information be useful to
18 correctional administrators?
19 A. Yes.
20 Q. Okay. And if they had a policy that
21 permitted a change in sex designation when a doctor
22 certified that appropriate clinical treatment had been
23 provided, would that be helpful to correctional
24 administrators?
25 A. Well, we would have to know what the

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1 definition is of "appropriate clinical treatment."
 2 Q. Okay. So -- and if that was left to the
 3 discretion of the doctor, would that still be helpful
 4 to correctional administrators?
 5 A. Well, I think having a definition is what
 6 is helpful to correctional administrators. Having a
 7 starting point.
 8 Q. Okay. And so would -- would saying that
 9 the person had received appropriate clinical treatment
 10 serve as a starting point?
 11 A. It would help if that was what was part
 12 of the definition that was being provided.
 13 Q. Okay. Thank you.
 14 And, in your opinion, it would be an
 15 acceptable correctional practice to use a definition
 16 of sex different than the one provided in Policy
 17 Order 63; right?
 18 A. Yes, because it's all based on the
 19 discretion of the administrator of the correctional
 20 agency, how they're going to base those definitions,
 21 where are they going to get that information from, and
 22 if they do it off of Policy 63, then they're simply
 23 following as a baseline what was provided to them by
 24 the state. And it helps them to establish the
 25 rationale for their decision-making processes in

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1 you have to have someplace to get the information
 2 from. And most jails around the country, if the
 3 individual has a driver's license, they will use a
 4 driver's license, and most people do have a driver's
 5 license.
 6 Q. If somebody came into a jail and didn't
 7 have a driver's license, how would that correctional
 8 administrator handle that?
 9 A. Well, then that becomes a little bit more
 10 tricky for us. We then have to rely on secondary
 11 definitions of it. So it might be both the asking of
 12 the individual, it might require some sort of a
 13 medical examination by a qualified medical provider,
 14 it might involve us having a staff member simply begin
 15 the strip search processes and then if they -- if they
 16 perceive -- because I wouldn't say that they
 17 identify -- but if they perceive that the individual
 18 is not the same sex that they are, then they might
 19 have to stop that process.
 20 Q. Would it be acceptable for a correctional
 21 administrator to use a sex designation from a pass
 22 point as a starting point rather than a sex
 23 designation from a driver's license?
 24 A. If they want to put that in as part of
 25 their data point, yes, they could do that. That's a

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1 developing their definitions.
 2 Q. And can you just spell out for me, how is
 3 that helpful?
 4 A. You mean how is it helpful to a jail to
 5 know what the sex of the individual is?
 6 Q. Well, how is it helpful to a jail to know
 7 what sex the -- the person is considered to be for
 8 purposes of driver's licenses?
 9 A. Well, again, it provides a starting point
 10 for them to develop their policies related to searches
 11 of the individual. Cross-gender searches, especially
 12 unclothed or strip searches by -- by differing sex
 13 individuals, you know, has been found to be intrusive.
 14 So, yeah, having that driver's license
 15 tells us a lot about what is the sex of both the
 16 employees, in that case, and the sex of the individual
 17 that is to be searched, or the arrestee, in that case.
 18 Q. In your experience, do correctional
 19 administrators typically take into account the sex
 20 designation on a driver's license in deciding how to
 21 apply those sex-based policies?
 22 A. Oh, sure, that's probably one of the --
 23 one of the foremost pieces of information that's used
 24 when booking an individual. The first time you come
 25 in contact with an individual into -- into your jail,

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1 discretionary decision, just like the use of the male
 2 versus female. The receipt of the physician's letter
 3 is the discretionary decision from the State of
 4 Alabama and the driver's license.
 5 I mean, these are discretionary
 6 governmental decisions that we have to use in order to
 7 develop our baselines.
 8 Q. So if somebody came in and was booked in
 9 a jail and you had a driver's license, how would that
 10 driver's license influence what happened next?
 11 A. Oh, wow, I can give you a prime example
 12 of that if you'd like, okay.
 13 Q. Please.
 14 A. Good friend of mine, an under sheriff
 15 with the county in Grand Rapids, Michigan, had -- got
 16 a call. In fact, he called me up. I got a call, he
 17 had an arrestee was pulled over on the street for a
 18 traffic violation, simple traffic violation.
 19 The officer then went up to the vehicle,
 20 looked in the vehicle, saw what appeared to be
 21 60s-plus-year-old male, heavy beard. And when asked
 22 for the driver's license and insurance, presented a
 23 driver's license for a female.
 24 On the driver's license it had -- it had
 25 the name of the individual, but it had the sex

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1 designation as female.
2 The officer then says this isn't your
3 driver's license. And the arrestee, the pulled over,
4 said that is my driver's license.
5 And apparently what had happened and
6 taken place with this individual was at some point in
7 their -- in his or her late 30s, had gone through a
8 crisis period and had been convinced that some sort of
9 sexual reassignment surgery was the way to go in order
10 to correct some of this phoria they were experiencing.
11 So he then went through the whole
12 process, lived that way for approximately 20 years as
13 a female; had the birth certificate changed, had the
14 driver's license changed, and lived that way.
15 And then when he turned in his 60s he
16 felt as though he'd made a grand mistake and decided,
17 no, that was not the right thing to have happened to
18 him.
19 So he then quit taking the hormones, he
20 began to revert back more appearances of being a male.
21 So of course when he got pulled over he appeared to
22 the arresting officer to be a male. The driver's
23 license said female.
24 So the arresting officer promptly
25 arrested him for possession of a fraudulent

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1 instrument, okay. Now it's a felony. It went from a
2 traffic stop to a felony possession of a fraudulent
3 instrument.
4 He gets brought to the jail. That's
5 where I get called by the administrator, the under
6 sheriff up there, a friend of mine. He's like, what
7 should we do here?
8 And that's how it impacts jails. Because
9 the questions that he wanted was, who does the
10 searching now, okay. Who -- who do I house him with
11 now? How do I proceed? Or do I -- do I take the --
12 the very risk adverse practice where I put them into
13 a situation where they have no contact with anybody
14 else in the jail, no contact with other inmates.
15 I mean, very -- you know, what I consider
16 to be kind of a very punitive-type of environment. So
17 we talked about it.
18 So, yeah, those issues about the driver's
19 license have a huge impact on who's going to do the
20 searches at booking, who's going to do the strip
21 search, where we going to house, you know, what type
22 of services are we going to provide, what type of
23 programming are we going to allow access to.
24 So, you know, a lot more decisions than
25 just simply what's on the driver's license.

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1 Q. What did you advise that person to do
2 with that person in Grand Rapids?
3 A. Well, again, he had definitions. He had
4 definitions for how they would do it. And what he was
5 wondering was, okay, how do I modify my definitions?
6 And that's what we talked about was,
7 okay, how do we modify definitions? How do we go
8 about doing this? Because all the old definitions
9 that he had didn't seem to work in this situation,
10 so -- but he needed a starting point.
11 So at least we had a starting point for
12 where to take the housing and supervision and
13 services. So my -- my recommendations to him was, all
14 right, you have an individual there. Who do you feel
15 most comfortable with having search you?
16 All right. The appearance -- by all
17 outward appearances, we have a male. The genitalia
18 has been reconstructed based upon sexual reassignment
19 surgery. The breast implants had been removed.
20 Okay, so who's going to do the strip
21 searching of the individual? And, again, who do you
22 feel most comfortable? And in this particular case,
23 the gentleman had no problem with a male officer.
24 So then it became an issue of where do we
25 house in our jail? And when I asked him -- I asked

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1 him very simple question, was how often do -- do --
2 does one inmate look at the sexual genitalia of
3 another inmate?
4 And the situation I used was, we have a
5 lot of vets that are coming back from Iraq, from
6 Afghanistan, from Syria, and I reflect back to my own
7 experience in the Marine Corps during the Vietnam War
8 where these Bouncing Bettys were used a lot by the
9 North Vietnamese.
10 These were small mines that would pop up
11 about waist level, and when they went off, they
12 didn't -- they didn't necessarily kill you, but they
13 did blow your genitalia off. That was not an uncommon
14 situation.
15 So what I asked him was if you had a vet
16 that came in and he'd had his genitalia blown off in
17 an IED explosion, where would you house that veteran
18 in your jail? Now all -- he just simply lacks --
19 lacks a penis and a scrotum, okay. Where would you
20 house him in the jail?
21 And that was where we started. That
22 became the baseline for the discussion about housing
23 supervision, the provision of services to the
24 individual.
25 Q. And do you know what happened to that

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1 individual?
2 A. I believe they housed him in general
3 population in a male housing unit, just like they did
4 in the Dimarco case.
5 Q. Oh, okay. So in Dimarco, that case, that
6 was in a general population of a male prison?
7 A. No. She was in a general population
8 female.
9 Q. Okay.
10 A. With a penis.
11 Q. That's what I thought. I just wanted to
12 make sure.
13 A. Yeah, with a penis.
14 Q. Right.
15 And do you know if the charges --
16 whatever happened with the charges against that
17 individual?
18 A. Oh, no, I -- no, I -- that was it. That
19 was -- my involvement with it was simply to try to --
20 to focus the discussion, to take their starting
21 points, their initial definitions that had been made
22 on prior, and then how to modify those definitions.
23 And, really, that's what we're looking at
24 in this case, is you have the State of Alabama coming
25 up with a baseline from which modifications can be

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1 made by the different agencies. But it does provide
2 that starting point so that when they decide they're
3 going to use the driver's license, at least they have
4 an understanding of where the information for that
5 driver's license is being derived.
6 Q. Okay. And you've reviewed -- you've
7 reviewed Policy Order 63; right?
8 A. Yes.
9 Q. And so what is the information that you
10 understand Policy Order 63 to provide as a baseline?
11 A. Well, I'd like to review it again. I
12 mean, I didn't -- I haven't read it that closely to
13 where I memorized it. It's my understanding it's
14 biological male/biological female or -- or -- or
15 documentation from a qualified medical provider that
16 sexual reassignment surgery has been accomplished
17 successfully on the individual.
18 Q. All right. I think that you actually
19 quote that policy on Page 16, so if you wouldn't mind,
20 turn to Page 16 and review the block that you have
21 there, and just tell me if anything changes about that
22 information you think that it provides.
23 A. The amended birth certificate, which is
24 based upon documentation from a physician that
25 performed the sexual reassignment surgery stating that

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1 the surgery has been completed.
2 Q. Okay. Thank you.
3 So it sounds like when you -- when you
4 advise different correctional administrators, often
5 you're talking about what their definition of sex is
6 and whether it makes sense to -- to change that
7 definition in some way; is that correct?
8 A. Or modify their operational philosophy,
9 yes. Modifications.
10 Q. Okay. So rather than modify the
11 definition of sex that we're working from, modify
12 their philosophy, their operational philosophy; is
13 that right?
14 A. Well, a lot of times what you find when
15 you get into these discussions with agencies is they
16 don't have definitions, okay. They're not really sure
17 when you begin to question people, okay. Why do you
18 do that? Where do you get that information from? And
19 what's the basis for all that?
20 You begin finding out that nobody's
21 really thought about it that much. Everybody's acting
22 on these -- these general paradigms and the world
23 views that most people have of -- of male and female,
24 and they're not taking in any of the middle ground.
25 Some of the issues that are now coming up

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1 and surfacing in society and creating a lot of the
2 issues, such as this one about what do we do, what do
3 we think, how do we act?
4 Q. So would -- would jails typically have
5 recorded somewhere the definition of sex that's used
6 in the state driver's license policy?
7 A. What they would have -- like for our
8 jail, for instance, when we used it we had data
9 dictionaries. Are you familiar with the concept of a
10 data dictionary?
11 Q. Why don't you explain it to me.
12 A. Okay. Data dictionary have all these
13 forms, all these documents that we use in all our
14 agencies out there. And then on all these forms we
15 have these data points on there. And, for example, on
16 this -- in this discussion, the data point would be
17 sex, okay.
18 So we would need a definition of what sex
19 is. That would be the first part of the data
20 dictionary, what's the definition?
21 Now, my definition might be different
22 than your definition that's different than his
23 definition. But it's a starting point, at least. It
24 shows this was a definition I used for this data point
25 information.

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1 Then I have to say where do I get that
2 information from? Let me give an example. We had an
3 individual in our custody, they've been coming in and
4 out of our jails. Always, you know, low-level things.
5 Kind of our -- our Otis Campbell, as it were.
6 Now, we were a 1,300 bed jail, 1,400 bed
7 jail, but we had our share of Otis Campbells, okay.
8 Ring the doorbell, it's cold outside, I'm drunk, I
9 want to come home, you know, that type of thing.
10 So this guy had been coming in and out of
11 our jail for 20-some years. And one day he went over
12 to court, and he told the judge in court, he said,
13 Judge, I've been coming in here for -- for 20-some
14 years and I've been telling you this is my name, but
15 that's not my real name, here's my real name.
16 The judge then issued an order saying
17 everybody needs to change their records to reflect his
18 real name.
19 Now the question is, is what's the real
20 name? All right. Now, of course, you know, we have a
21 judicial order to make the change, so we'll make the
22 change.
23 But in some agencies, when you get booked
24 into that agency, they have a data dictionary that
25 says when I book you in and I use that data field that

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1 says name, I used a name that's given on the arrest
2 citation.
3 Arresting officer pulls you over in the
4 street and he says, hey, you know, what's your name?
5 And you tell him, My name is Tom Cruise. And he books
6 you, he puts on the arrest citation Tom Cruise and he
7 brings you to jail and we're booking you into the
8 jail.
9 And I look at the name, I say Tom Cruise;
10 you've been booked in here five time in the last year,
11 your name's not Tom Cruise.
12 Now, at some jails, the policy, based
13 upon their definition of name, is I will book the
14 individual based on the name, the data point that is
15 on the arrest citation, and then I just link it to the
16 others.
17 In other jails around the country, they
18 will book the person into the name that he's known by
19 in the jail. That's how they define it.
20 Now, that sounds all clearcut and pretty
21 easy, we can do that. Oh, no, you actually run into
22 some legal issues by doing that. And we found this
23 out in the state of Kentucky. Because in Kentucky, we
24 were having individuals brought to the jail, and we
25 would tell the arresting officer, That's not Tom

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1 Cruise, that's Tom Jones.
2 And then the officer would change the
3 arresting documents, which completely invalidated the
4 arrest. And it didn't get caught until it went up in
5 the court somewhere, okay.
6 So, yeah, I mean, definitional points in
7 the starting point for how you -- where you get the
8 information, how you utilize the information, what
9 your definition is, is important to jails and
10 arresting agencies.
11 Q. And so -- and when you were talking about
12 how in many jails they don't necessarily -- they
13 haven't necessarily given the definition of sex a lot
14 of thought, is it your sense that the term "sex" would
15 typically be defined in a data -- in a data
16 dictionary?
17 A. If -- if the jail's doing what they
18 should be doing, then, yes, they need to do that.
19 They need to have a definition. That helps all the
20 employees in the jail, and it helps the inmate
21 population in the jail also.
22 Q. And I'm curious, is there sometimes a sex
23 that's noted on an arrest citation as well?
24 A. Absolutely.
25 Q. So would it be the policy of some -- of

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1 some jails to use the sex as something on the
2 arresting documents as the sex when booked into jail?
3 A. You could do that, if that was in their
4 data dictionary. If that was their discretionary
5 decision, yeah, they could do that.
6 Q. Okay. And I -- do jails sometimes update
7 their data dictionaries with new definitions?
8 A. Okay, so in an ideal world, my answer
9 would be yes. In a practical world, I would say that
10 most jails don't even have a data dictionary. Most
11 jails are still kind of establishing or operating on
12 established protocols and paradigms that are 20, 30,
13 maybe even 40 years old, and that's part of the
14 problem.
15 That's why even LA Sheriff's Office, I
16 mean, this is the largest jail in the country, 16,000
17 inmates. That's a pretty big jail. \$2 billion
18 operation, and they're going to have me come in and
19 teach them about what is sex.
20 That's LA, too, okay. That's LA, too,
21 you got to keep that in mind. But it's this idea that
22 there's recognition of these changing paradigms that
23 exist and how we have to get our staff up to date in
24 it.
25 So, you know, 3,200 jails in the United

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1 States. 3,200. Now, that's according to the Bureau
 2 of Justice statistics. That's a lot of jails. And of
 3 those jails, probably 80 percent of them are 200 beds
 4 or less.
 5 So are these jails updating data
 6 dictionaries? No, they probably don't even have a
 7 data dictionary, because 50-some percent of them are
 8 50 beds or less. They're lucky to have staff working
 9 in the jail.
 10 So having a data dictionary, especially
 11 in smaller jails like that, is really more important
 12 than it is in places like LA County where everything
 13 gets really automated.
 14 Q. Okay. And if somebody called you for a
 15 consultation and said, you know, we've decided we want
 16 to create a data dictionary and we're trying to
 17 consider what we want to put in there for sex, what --
 18 what recommendations might you give them for -- for
 19 how to define sex in that data dictionary?
 20 A. Well, the first question I would ask is
 21 what is the information that they're looking to get?
 22 What's their definition of sex, okay. So if they're
 23 looking for a definition of sex in order to, let's say
 24 maintain the Fourth Amendment rights of the
 25 individual, so that the searches aren't more intrusive

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1 than they need to be.
 2 Then you're probably looking at a
 3 definition of sex that's going to be based on
 4 physiognomy, okay. The plumbing of the individual,
 5 all right. The physical appearance.
 6 Because in a jail setting, the sexual
 7 preference is a lot of times predicated on the
 8 physical appearance of the individual. I mean, that's
 9 what we like to believe, all right.
 10 So -- so, yeah, the -- it might be you
 11 have to get them to define what the term "sex" is to
 12 start with. What is it that you're looking to get at,
 13 and then go from there.
 14 And if it's -- if it's that they're
 15 looking to have sex to determine who is going to
 16 search the individual or who presents the least risk
 17 in searching the individual, and by that it would be a
 18 Fourth Amendment intrusive risk of the individual,
 19 then you're probably looking at the physiognomy of the
 20 individual. That's really what they're going to be
 21 looking at.
 22 Q. And when you say "the plumbing," do you
 23 mean -- or "physiognomy" -- do you mean the appearance
 24 of external genitals?
 25 A. Well, yes, it would be the appearance of

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1 external, because in corrections we -- we don't do
 2 internal examinations.
 3 Q. Okay. Okay. And do you mean any other
 4 aspects of the body when you refer to physical
 5 appearance in that way?
 6 A. Well, we -- we could use breast, the
 7 presence of breasts, things of that nature. You know,
 8 I can actually see how in the future we may even get
 9 down to chromosomal levels, or have to get to that
 10 level, chromosomal levels, I don't know.
 11 But, yeah, it's generally the physical
 12 appearance of the individual that would -- that would
 13 somehow constitute a risk to that individual in the
 14 environment or risk to the agency.
 15 Q. And so in the example you gave me, you
 16 suggested asking the individual who they would be
 17 comfortable being searched by, and that person was
 18 fine with being searched by a man. When does that --
 19 when does the preference of the individual come into
 20 decisions about searches?
 21 A. Okay. The -- when does the preference of
 22 the individual arrestee or individual inmate come --
 23 that's based upon the risk tolerance. That's a
 24 discretionary decision by the correctional
 25 administrators as to whether or not they're going to

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1 consider that.
 2 That's -- that's one of the baseline
 3 decisions that you have to make is are you going to
 4 give consideration to that. Again, discretionary
 5 decisions.
 6 MR. ARKLES: Okay. I'd like to take just
 7 a short break.
 8 THE WITNESS: Okay.
 9 (There was a break taken.)
 10 MR. ARKLES: Let's go back on the record.
 11 Q. So would it be fair to say that whatever
 12 sex is listed on a driver's license, correctional
 13 administrators would probably need more information to
 14 figure out how to apply a sex-based policy to a
 15 transgender person?
 16 A. Well, it would depend, again, on whether
 17 or not they've made that discretionary decision that
 18 they're going to apply policies like that.
 19 Part of what I try to do is go around and
 20 help jails to develop policies like that in the face
 21 of having no policy whatsoever and having no
 22 management, other than based upon what's on the
 23 driver's license.
 24 Q. Okay. So a correctional agency could
 25 decide to go with what was on the driver's license for

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1 all sex-based classification decisions; is that right?
2 A. Discretionary decisions, yeah. For the
3 administrator of that particular agency, yes. Keeping
4 in mind their risk tolerance for things like Fourth
5 Amendment violations or EEOC issues. I mean, there's
6 a range of other issues that go into that risk
7 tolerance decision-making process, but it's all
8 discretionary.
9 Q. So would you say a correctional
10 administrator would have to have a high degree of risk
11 tolerance to simply go off of what was on the driver's
12 license?
13 A. No. I would think that they would
14 probably have a lower degree of risk tolerance and be
15 more risk adverse to just simply go off of the
16 driver's license.
17 Q. And why is that?
18 A. Well, because that provides them with a
19 lot of good legal cover that way. I mean, if they're
20 using the definition and the definition is
21 established, in this case by the State of Alabama for
22 what is male or female, and they're using that on the
23 driver's license, then they get some liability
24 coverage in their policies that say, well, look, we're
25 getting our information about whether or not this

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1 individual is a male or female based upon what the
2 state tells us that they're male or female, which is
3 what they recognize on the driver's license. So they
4 get some cover that way.
5 Q. And would that be true regardless what
6 state a driver's license is from?
7 A. Well, I think that, yeah, that's -- I
8 mean, if that's their data point, that's where they
9 get the information for it, yeah, it would be true
10 everywhere.
11 Q. Okay. But as you mentioned earlier, if
12 they wanted to take into account all of the aspects of
13 physicality, gender identity, and gender expression,
14 and sexual preference, they're probably not going to
15 be able to do that based on just the sex designation
16 on a driver's license; is that right?
17 A. I would say that that's true, because
18 that's -- that's just one data point in that decision
19 process. That's one discretionary data point that
20 they're using as part of making those decisions.
21 Q. Okay. So would a reasonable correctional
22 officer expect that two people with the same external
23 genitals and the same gender identity might have a
24 different sex designation on their license?
25 A. I don't think you would expect that at

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1 all, no. You're talking about an officer?
2 Q. Yes.
3 A. You used the term "officer."
4 Q. Yes.
5 A. Yeah, line level staff.
6 No. I think the line level staff are
7 going to expect that gender identity, physiognomy, and
8 the driver's license are all going to be reflective of
9 one another.
10 Q. So in Alabama -- I'd like you just to
11 assume for a moment that what I'm telling you is true.
12 So in Alabama, it is possible to change
13 the sex designation on one's license based on either
14 evidence of sex reassignment surgery or that one has
15 amended their birth certificate.
16 The amendment of the birth certificate
17 can be a birth certificate from any jurisdiction, and
18 some jurisdictions permit changes to birth
19 certificates without sex reassignment surgery.
20 So because of that, it is possible that
21 two people who identify as male but who have female
22 typical external genitals, one who was born in, say,
23 Idaho would have male on his Alabama license, and one
24 who is born in Alabama might be female on his license.
25 Does that make sense so far?

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1 A. Yeah, because their definition -- again,
2 here's where -- here's where that discretionary
3 decision comes in in that whole process, is that part
4 of their -- their definition for that driver's license
5 designation says we will accept what another state
6 says, all right.
7 Now -- and that's their discretionary
8 decision. They could very well write into that
9 definition, we're not going to accept what another
10 state says. You have to meet our criteria.
11 So, yeah, you might have a birth
12 certificate from Idaho that you had amended there and
13 they don't require it; but in our state, your birth
14 certificate, in order to be amended like that, we have
15 that requirement. They could very easily make that as
16 a designation.
17 Q. Okay. And so, again, assuming that what
18 I told you is true and they haven't made that
19 designation, they are accepting certificates from
20 other states, would that affect how useful this policy
21 would be for -- as a baseline for correctional
22 administrators?
23 A. Yes. Because if you came in and you had
24 "male" on your driver's license, and that basically
25 operationalized decision-making for searches by other

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1 males, then that's how you would be searched, and that
2 would give cover.
3 And if the individual came in and they
4 had "female" on their driver's license and that
5 operationalized decisions that led to being searched
6 by a female, again, that would give cover.
7 So in that we would say that there was
8 not a Fourth Amendment violation, because in each case
9 the information that we used to drive our
10 decision-making process for the intrusiveness of the
11 search was based upon the information that was on the
12 driver's license, which is recognized by the State of
13 Alabama.
14 Q. Okay. So whatever the policy is in
15 Alabama, going by the license in Alabama would provide
16 some legal cover for correctional administrators; is
17 that right?
18 A. Yes, it helps.
19 Q. And earlier you talked to me about a
20 person who had transitioned to female and then
21 transitioned back to male who was -- who was stopped
22 in Grand Rapids.
23 Would it be possible that a transgender
24 man, somebody who was assigned female at birth and who
25 had not had genital reconstruction surgery and who had

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1 a beard, would also be stopped under those same
2 circumstances and accused of not having a valid ID?
3 A. Well, it depends on how the driver's
4 license was issued.
5 Q. If the driver's license were issued such
6 that it said female but the person appeared typically
7 male with clothes on, is it possible that the same
8 thing could have happened that happened to the person
9 you told me about in Michigan?
10 A. I would imagine so, yes.
11 Q. And do you -- you mentioned in your
12 report that it's also important to identify staff sex
13 for purposes of searches and supervision; is that
14 right?
15 A. Yes.
16 Q. Is there a typical way that correctional
17 administrators go about identifying the sex of staff
18 members?
19 A. Oh, my. Now you're really getting
20 tricky. Geez, you're running into all sorts of EEOC
21 issues. So I got a story for you, how's that?
22 Q. Great. Great.
23 A. All right. I like my stories for you.
24 All right. Good friend of mine, the
25 under sheriff in Charleston County, South Carolina;

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1 large jail, 2,600 beds. Sitting in his office one
2 day, they're doing hiring, okay, for new employees.
3 The -- and I've got -- I did an interview with him
4 like this, a distance interview, and I use it in my
5 presentations.
6 And he describes how he's sitting in his
7 office and these three members of the hiring board
8 come to his office; one is a captain, she's an African
9 American female; one is a sergeant, and he's an
10 African American male; and then the other is just a
11 male officer.
12 And they come in the room and they say,
13 Chief, we got a problem.
14 So, okay, What's the problem?
15 Said, Well, we -- we had a candidate come
16 before the board, and we all looked at the folder.
17 The folder and the information all looked really good,
18 and we said, Send young lady in, because the name on
19 the folder, the sex in the folder, all indicated that
20 this was a female applying for a correctional officer
21 job, all right.
22 They bring the individual in, sits down
23 at the table, and they look up and they say, Oh, there
24 must be some mistake. We're expecting -- just as a
25 name I'll toss out -- they're expecting Marsha.

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1 And he says, No, my name's Matthew, I
2 used to be Marsha, from underneath a heavy beard.
3 And they say, Well, what do you want us
4 to do, chief?
5 And he said, Well, was the individual a
6 good candidate?
7 They said, Well, yeah, yeah, good
8 candidate.
9 Well, how was the interview?
10 Well, the interview was fine, yeah, good
11 candidate.
12 So he says -- he turned to the African
13 American captain, female, and he says, you know, in
14 Charleston ten years ago, 20 years ago, we'd have
15 looked at you and we'd have said, a female officer
16 working in the jail? In a male housing unit? In
17 command? We can't do that. We can't have that.
18 And he turned to the African American
19 sergeant and he said, 40 years ago in Charleston,
20 South Carolina, we'd have looked at you and said, an
21 African American man working in the jail? We can't
22 have that. We can't do that.
23 He said, now, if we'd have lived and had
24 those policies and kept those policies, neither one of
25 you would be here or in your positions. So what do

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1 you think?

2 They said, Well, you know, he would be a

3 pretty good candidate, but we're not sure what we can

4 do or how we're going to assign him, where he could

5 work, who he could search, and all this.

6 He said, I think we can manage that. He

7 said, Let's hire him. Okay. So they then send him up

8 the academy.

9 Now, South Carolina has a state-run

10 academy, central location up in Columbia. All

11 officers go to it. The officer goes up to it. He was

12 in the process, but he had not had sexual reassignment

13 surgery, but he was in the process.

14 So my friend, the under sheriff is

15 telling me, he said, he gets a call a few months later

16 and it's the director from that training academy, he

17 said -- he says, Look, I've got a problem. He said,

18 I've got an agency, they're sending me an individual.

19 This individual's a transgender person. My God, where

20 am I going to house her? You know, where do I --

21 where do I put them in my facility?

22 And so he said to him, Well, what did you

23 do with the guy I sent you?

24 He said, What do you mean do with the guy

25 you sent me?

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1 He said, Yeah, we sent a transgender guy

2 up to you months back. What did you do with him?

3 He said, I didn't know that.

4 He said, There you go. There's your

5 answer, okay.

6 So -- so when we're talking about these

7 issues, especially in EEOC situations, they can become

8 pretty tricky. Because on the other side of it, as

9 you and I know -- maybe you were in the presentation

10 in California that we did where the -- where guys in

11 the class literally got up and threw the chairs. Do

12 you remember that? And stormed out --

13 Q. I wasn't there.

14 A. Oh, yeah, they threw -- this is ungodly,

15 we can't talk about these issues, and that's wrong,

16 and we're not going to do that. And, okay, risk

17 tolerance, all right. You can see risk tolerance

18 right there, all right.

19 So, you know, you get that side of it of

20 an employee who says, Wait a minute, I'm not sure I'm

21 comfortable searching a transgender individual, okay.

22 All right.

23 So these are complex issues that we're

24 having to deal with, and all these definitions really

25 go into play, especially for us in jails, because the

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1 driver's license for an employee makes a difference.

2 Okay. What kind of positions are we going to assign

3 them to?

4 After the Prison Rape Elimination Act,

5 they came out with standards about who can do

6 cross-gender supervision, who can do cross-gender

7 search. It just got even more complicated with that.

8 And it becomes problematic when you start throwing in

9 that whole EEOC element. But it's something we have

10 to deal with.

11 Q. So it sounds like there's no clear answer

12 on how to categorize the sex of employees; is that

13 right?

14 A. No, no, because typically -- typically

15 the individual comes in and they mark on their

16 application what their sex is. They have to provide a

17 driver's license, which we then use to verify

18 information on the application.

19 And I -- I will say that there have

20 been -- I have heard of situations where individuals

21 came in and what they put on the application differed

22 from the driver's license, and that became an issue

23 for them.

24 Again, it goes to the risk tolerance

25 level of the agency. Are we going to hire that kind

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1 of person?

2 Q. And if they do hire that person, would it

3 be acceptable for them to assign that person to duties

4 based on the -- based on the sex they wrote down on

5 their application rather than the sex that's on their

6 driver's license?

7 A. Well, we would -- we would match up the

8 two.

9 Q. So would it -- so -- okay.

10 So let's say that there's an employee who

11 applies who's transgender, and they say I identify as

12 female and my passport says female, but my license

13 says male. I would rather have the duties of a female

14 officer.

15 Is there -- would the only acceptable

16 correctional process in that situation to be assigned

17 that person male duties as a male officer because of

18 their license?

19 A. Now we're getting, again, that issue of

20 risk tolerance and definitions on the agency. I mean,

21 if the agency is willing and has a higher level of

22 risk tolerance, they may well make that decision and

23 only say, yeah, you could work as a female; or only

24 say -- if they're risk adverse -- no, you can only

25 work as a male.

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1 Because we also, in a situation like
 2 that, we also have to look at situations where female
 3 inmates, even though that individual identifies them
 4 self as a female, a female inmate may not feel
 5 comfortable with being searched by a transgendered
 6 individual like that.
 7 So we have to take all those things into
 8 account. I, as an administrator, do I want to try to
 9 defend my actions of assigning a person based upon, as
 10 you say, based upon their driver's license or based
 11 upon the application?
 12 That's -- again, that's a definitional
 13 issue that drives my decision-making processes.
 14 Q. And would it change anything if a
 15 driver's license says male but the passport says
 16 female?
 17 A. Well, again, it's no different than if
 18 they came in with a driver's license that says male,
 19 birth certificate that says female, they put something
 20 else on their application, it would make -- you still
 21 have to have a definition of where am I going to get
 22 the information to drive the institution process.
 23 Q. So then would it be -- would it be
 24 riskier to go with the sex designation that's on the
 25 passport than the sex designation that's on the

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1 driver's license?
 2 A. Value judgment right there. Riskier.
 3 Which is riskier? Do I bet on red or do I bet on
 4 black? Which is riskier, okay.
 5 You know, that's -- again, that's --
 6 that's where that risk tolerance level of the agency
 7 comes in, you know. In many agencies they're really
 8 tolerant.
 9 For example, in the Dimarco case in
 10 Wyoming. I was actually doing a presentation and I
 11 was talking about the Dimarco case, and I was telling
 12 them, Guys, you got to loosen up. You got to think
 13 outside the box. We got to -- we got to expand our
 14 world view, that weltanschauung. We got to change
 15 some of our thought processes on all of this.
 16 And I'm talking about Dimarco. And who
 17 stands up in the audience but the administrator from
 18 that jail, okay.
 19 And he says, Yeah, I was the
 20 administrator, and here's what happened to me. Here's
 21 the flack I got. Here's the accolades I got.
 22 So, you know, it's both positive and
 23 negative, and it comes down to what is the risk
 24 tolerance of the individual? What are they willing to
 25 stand by and defend? What kind of information are

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1 they going to use to defend their decision processes?
 2 And that's why definitions are so
 3 important, because without good definitions, you get
 4 things happening all over the board, and you don't
 5 have any consistency.
 6 Here's an example on that: I was doing a
 7 classification analysis down in Pima County, Arizona,
 8 and they classified people on all sorts of criteria.
 9 And -- and certain criteria drive you up a
 10 classification, which basically gets you housed with
 11 the more violent, more riskier population, or they
 12 drive you down in classification, which gets you
 13 housed in a less risky, less violent population.
 14 The problem was that all the elements
 15 that they were using were not defined, so everything
 16 drove everybody up.
 17 So their classification officer, I'm
 18 talking to them and they're talking about how on their
 19 instrument they -- they asked the individual, and they
 20 have points. If the individual's talkative -- like
 21 kind of like me here -- they're talkative, they get a
 22 point that goes up.
 23 And I asked them, why do you give them a
 24 point that drives them up a classification and takes
 25 them from minimum to medium or from medium to max, why

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1 do you give them a point?
 2 Oh, because if someone's talkative,
 3 they're trying to beat you out of something. They're
 4 trying to get over on you for something. Oh, okay.
 5 So the next data point they had on there
 6 was verbose. And I asked them, I said, Do you know
 7 the definition of verbose?
 8 No.
 9 So how do you know to give them a point
 10 or not?
 11 Oh, well, we give everybody a point on
 12 verbose anyway.
 13 So now they get two points. And verbose
 14 basically is defined as talkative, all right. And it
 15 drove everybody up.
 16 The outcome of this was an individual who
 17 was pulled off the top bunk, hit his neck on the sink
 18 on the way down, broke it, you got a billion dollar
 19 baby, like that movie. Spinal fracture, paraplegic.
 20 Okay.
 21 That was the outcome of an individual who
 22 otherwise, absent all these non-defined, ill-defined
 23 terms, ill-understood terms, absent all that would
 24 have been in a work release housing unit, not up in
 25 medium security.

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1 So, yeah, I mean, definitional issues are
2 huge.

3 Q. Would it be possible that some male
4 inmates might feel uncomfortable being searched by a
5 transgender woman? We'll talk about unclothed
6 searches.

7 So is it possible some male inmates might
8 feel uncomfortable being searched unclothed by a
9 transgender woman?

10 A. Let me just say that -- that I've done
11 presentations around the country with transmen, as you
12 know, and I have been approached by people who were
13 officers in the room during the presentation, who saw
14 these same presenters in the bathroom, and came up to
15 me afterward and expressed how they were dissatisfied
16 and displeased with having to be in the same bathroom.

17 So, yeah, I think you could say that both
18 staff and inmates might have those feelings, yes. So
19 as an administrator, my decision is am I going to
20 override those concerns and decisions and their
21 feelings for operational reasons? And my risk
22 tolerance would say yes. Somebody else's risk
23 tolerance would say no.

24 Q. I guess what I'm trying to get at is
25 isn't it possible that both male and female inmates

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1 might have concerns about being searched by a
2 transgender woman?

3 A. Yes.

4 Q. Okay.

5 A. But you know what, here's -- here's what
6 it really is, okay. Here's what it really is. It
7 really isn't being searched by a transgender man or
8 transgender woman. It really isn't.

9 It really gets down to that third option
10 I talked about, that sexual preference. Their concern
11 is that they're getting searched by somebody that's
12 going to get titillated by the search. That's really
13 the issue.

14 The issue isn't -- isn't what's the --
15 what's the gender identity of the person or what's the
16 physiognomy of the person. The real issue is are they
17 getting some sexual gratification out of my searches,
18 out of what they're doing to me.

19 That -- that's the whole thing behind
20 this whole sexually intrusive nature under the Fourth
21 Amendment processes, okay. An individual feeling
22 embarrassed.

23 And they're feeling embarrassed why?
24 Well, they're feeling embarrassed because they feel as
25 though the other individual is driving some sexual

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1 satisfaction, because that same individual would not
2 feel the same way if they were being gynecologically
3 searched by a male doctor.

4 So it really has to do with their
5 perception of what the individual's doing and what
6 they're doing it for. That's why I do the three
7 parts.

8 Q. So -- all right. I'm just going to go
9 back and try to make sure I have clarity.

10 So if somebody had a driver's license
11 that showed one sex, and a passport that showed
12 another sex, would it require more risk tolerance to
13 go with the sex that was listed on the passport as
14 opposed to the one that was listed on the driver's
15 license?

16 A. Which is right? Which are you going to
17 use in your definition? Which is right? That's what
18 you're really asking. What is right? Okay.

19 So I say, well, I'm going to use the
20 passport. How do I know that's right? It's like the
21 guy that came in said his name was different. He went
22 to the judge and said, 20 years I've been coming in,
23 my name's different.

24 How do we know he's right? How do we
25 know he's not really giving us a false name? So,

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1 again, which is right? The driver's license or the
2 passport?

3 So what I have to do is I have to -- I
4 have to define the issue, define the term, and then
5 I've got to define where I'm going to get the
6 information from. If I've not conflicting information
7 processes, I have to make a decision, yes. I've got
8 to choose one or the other.

9 Q. Okay. So it would -- so whether you went
10 with a passport sex designation or a driver's license
11 designation, that would be a decision that the
12 correctional administrators would make based on how
13 they are defining sex and where they have chosen to
14 get that information from, and how they choose to
15 resolve disparities; is that right?

16 A. Yeah. And this is the prime example.
17 This case is a prime example of how that plays out in
18 a legal sense for correctional administrators and law
19 enforcement administrators.

20 I get some level of coverage in my
21 decision-making discretion by saying that I used what
22 the State of Alabama defines. I get some level of
23 coverage from that.

24 So as a correctional administrator, I
25 wouldn't be surprised if a lot of them say, Well,

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1 we're going to use the definition of sex that is used
 2 on the driver's license by the State of Alabama,
 3 because if I then get sued because I used that versus
 4 the passport, if I then get sued, I have some level of
 5 legal coverage on which to base my decision-making
 6 process.
 7 I can go and sit in the court and say,
 8 Judge, look, we used what the State of Alabama told
 9 us. Now he, the judge, could still say the State of
 10 Alabama's wrong, but it doesn't mean that I didn't use
 11 that information, okay.
 12 Q. Okay. So when I refer to "PREA," I mean
 13 the Prison Rape Elimination Act, okay?
 14 A. I've heard of it.
 15 Q. So you're familiar with PREA; right?
 16 A. I am familiar with PREA.
 17 Q. And have you -- when you have done
 18 consultation for different correctional
 19 administrators, have you consulted on PREA compliance?
 20 A. Yes, I've discussed. I've done
 21 presentations on PREA compliance, yes.
 22 Q. Great. And have you ever advised or
 23 trained correctional administrators specifically about
 24 PREA compliance when it comes to cross-gender
 25 searches, searches of transgender people, or searches

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1 of intersex people?
 2 A. No. Mine is more on a broader scope of
 3 the -- the Prison Rape Elimination standards. Now,
 4 the act itself is law, but the standards that were
 5 promulgated as part of the act are all voluntary,
 6 okay.
 7 So whether a jail decides to comply with
 8 the standards, to meet some of the standards, meet all
 9 the standards, or to meet none of the standards,
 10 whether they decide that they're going to tackle that
 11 whole -- the whole issue of sexual violence in jail
 12 without using the standards, that's a discretionary
 13 decision that is left up to the local jail
 14 administrator.
 15 So they're not required to it. The only
 16 agencies under the act that are actually mandated to
 17 meet the standards is the Federal Bureau of Prisons,
 18 the Homeland Security, ICE agencies, and then those
 19 individuals that wish to contract with those entities.
 20 So you have states like the State of Utah
 21 was not complying with Prison Rape Elimination Act.
 22 The State of Texas wasn't complying with it for a
 23 while, then they decided that they would.
 24 And all of those would simply lose a
 25 certain percentage of federal funding that flowed to

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1 them. But, again, that compliance was strictly
 2 voluntary. Wasn't mandated.
 3 So, you know, the -- the standards are
 4 much like the ACA, American Correctional Association
 5 standards, or the NCCHC, the National Council on -- or
 6 the National Commission on Correctional Health Care
 7 standards.
 8 You know, these are all voluntary
 9 standards which help guide us, maybe, in our
 10 decision-making practices. Again, those discretionary
 11 decisions in the jails.
 12 So -- but on specifically about the
 13 searches of them, no. What I try to do is I try to --
 14 to provide information which helps to shape their
 15 world view, to change those thought processes, so that
 16 they can begin to think about it differently.
 17 I have a great video, and I got it off of
 18 TV. It was on one of these American jail program-like
 19 things. And in this particular video, it's a Las
 20 Vegas metropolitan jail. Now, this is a 3,000-bed
 21 jail ran -- at that time, ran by a good friend of
 22 mine, Jack Donohue. Good guy.
 23 And it's a video where they arrested a
 24 young lady sitting in a parking lot, and this is --
 25 this is a pre-Florence, the strip search case, okay.

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1 Q. Right.
 2 A. This is pre-Florence. And they arrested
 3 her sitting in a parking lot in Las Vegas, and she had
 4 an open container in her lap, in her car. Oh, my God.
 5 They arrest her, they look at her driver's license,
 6 says male. Obviously a female in the car.
 7 They brought her to the jail -- they
 8 arrested her, they bring her to the jail. So
 9 basically her charge was possession of an open
 10 container. The car wasn't on, she wasn't driving, she
 11 wasn't intoxicated.
 12 So they bring the young lady in the jail.
 13 And the whole video is about the process that the jail
 14 is going through to try to determine is this a male or
 15 a female?
 16 So here's what they decide. They bring
 17 the young lady in, and sure enough, in their system it
 18 says 100 percent male. But wait a minute, it looks
 19 like a female.
 20 So they decide we're going to search
 21 it -- and -- and I use this video in my training,
 22 because I also use the language that's used in it.
 23 They're going to search "it" to determine what "its"
 24 sex is.
 25 So they get a female officer and they

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1 say, We're going to have you take her over in the
2 booth over there, and we want you to strip search her.
3 And if during the strip search process you get to a
4 point where you begin to identify what looks like a
5 man to me, we're going to stop the search and we'll
6 have a male officer come in.
7 All right. That's what we're going to
8 do. All on video, okay. So, I mean -- so -- all
9 right. So I'm doing a presentation, and it just so
10 happens that the jail administrator, Jack, was in the
11 room.
12 And I said, Jack, have you seen this
13 video and have you thought about the legal
14 implications of what they were doing in that video?
15 First off, it's pre-Florence. So you're
16 strip searching somebody for a nonviolent misdemeanor
17 offense in a state where you had to have reasonable
18 suspicion, okay. That didn't rise to that level.
19 Secondly, you've got a female officer
20 that you're sending in to strip search to try to
21 determine genitalia. What training did you provide
22 that officer in identification of genitalia, okay.
23 That's another issue.
24 I said -- and the third issue is -- is
25 what about the fact that the staff are using a search

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1 like that to determine sex of the individual. I have
2 to tell you, he had no idea the staff were doing that.
3 So he gets on the phone and he calls the
4 lieutenant from the video. He calls and brings him
5 over to the conference. Gets the sergeant, come over
6 to the conference. And we go through the video with
7 them and we go through the problems with the whole
8 thing.
9 So, you know, yeah, I -- you know, these
10 are all difficult issues for us, and having good
11 definitions is important on how we're going to -- how
12 we're going to manage our facilities of people coming
13 in.
14 Q. Okay. So I understand that you don't --
15 that you don't train on PREA and searches
16 specifically, and that -- and that PREA compliance
17 isn't mandatory in the jails that you're training.
18 Are you familiar with the PREA regulations about
19 cross-gender searches and searches of transgender
20 people?
21 A. Yes, I am. But let's be clear.
22 There's -- "regulations" is not the term. "Standard"
23 is the term, okay. There are --
24 Q. Why is that?
25 A. Huh?

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1 Q. Why is that?
2 A. Because that's what it says in their --
3 in their materials, their standards.
4 Q. Okay.
5 A. Yeah, it's called the PREA standards.
6 And they -- and you get audited based on those. Yeah,
7 there's a whole -- a whole cottage industry on that.
8 But I am familiar with the -- with the
9 prohibitions under PREA that -- that have prohibitions
10 of strip searching individuals, transgender, strictly
11 to determine sex of the individual. Yeah, I am
12 familiar with that.
13 Yeah, that -- I think that's a problem,
14 okay. I think it's a problem. We have to have better
15 definitions than that.
16 Q. You think that -- just to clarify -- you
17 think that searching people just to find out what
18 their genitals are is a problem; right?
19 A. Well, yeah.
20 Q. Okay.
21 A. I personally do.
22 Q. I want to make sure you didn't --
23 A. No. That's my risk tolerance, okay.
24 That's my risk tolerance.
25 Q. Got it.

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1 And, you know, in the post-Florence
2 world, how common are strip searches in jails, to the
3 extent you can say?
4 A. What -- what was your question?
5 Q. So post-Florence, after that decision,
6 how common is it for strip searches to be performed in
7 jails?
8 A. Let me -- let me just as a -- I guess to
9 make sure everybody knows, I was the expert for the
10 plaintiffs in Florence.
11 Q. I didn't realize that. Thank you.
12 A. Yeah, I -- I argued against -- I argued
13 against the use of blanket strip searches. The bright
14 line approach to strip searching, and I argued against
15 that on several levels.
16 But my primary level was it's not very
17 effective the way that we do it when we do a blanket
18 like that. Because when we do blanket strip searches,
19 nobody gets strip searched really well, all right.
20 What I liked was the idea of targeted
21 strip searching that the reasonable suspicion provided
22 with us. Because officers, if they really thought
23 that guy had a weapon on him, they were going to do a
24 much more thorough search versus officers that are
25 just searching everybody.

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1 So I've been to places, like I was in a
2 large jail out on the West Coast where individuals
3 would come in, and they'd line them up on a big line
4 on the gym floor, and they'd strip naked and they'd
5 all turn around and bend over, and they all sort of
6 walked down the line looking at everybody. And then
7 he'd tell them to turn around, and they'd turn around.
8 He say lift them up, and they'd lift them up and he'd
9 walk down the line looking at them all that way, okay.
10 That's manner search, but in that case,
11 done in a group setting, all right. So there was a
12 problem with all that. But in that search, you think
13 he really saw anything? You think he really captured
14 anything?
15 And what I saw was -- was we were doing a
16 lot of extra work. So now I'm going to look at it
17 from -- from maybe the Toyota model in that how do I
18 do more effective, more quality work?
19 So how do I make my searches more
20 effective in what I'm really looking to do, which is
21 prevent the entry of contraband, prevent the entry of
22 weapons, protect staff, you know, things of that
23 nature, okay. That's what I'm really looking to do.
24 And I do that when I do it targeted. But
25 when I do everybody, nobody gets searched. That's the

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1 problem with that, okay. That's what I felt in
2 Florence.
3 So now post-Florence -- and I don't know
4 if you listened to the arguments in Florence, but some
5 of the arguments from the defendants in argument
6 was -- were just ludicrous. They were talking about
7 people hiding five gallons of pruno.
8 You know what pruno is?
9 Q. No, I don't.
10 A. Homemade hooch, okay. The inmates make
11 it in their cells.
12 Q. Whatever it is, five gallons is a lot of
13 gallons. Sorry, go on.
14 A. Yeah, they're talking about five gallons,
15 you know, and come on, who's hiding five gallons?
16 Even on the worst strip search, if your staff isn't
17 catching five gallons of pruno on somebody, you got a
18 huge problem that's not related to the search, okay.
19 That becomes employee management there, right? That's
20 what we have there.
21 So -- so, you know, I -- some of the
22 issues in all that have come up with what I think is a
23 bad policy, because in that the court never really
24 established that bright line of where you can search.
25 They said, well, if you're going into

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1 general population, you can be searched. But they
2 don't define general population. So every jail you go
3 into across the country has a different definition for
4 it.
5 So you go into some jails in Georgia,
6 that bright line is the back door of the jail. So you
7 get out of the police car, when you cross the
8 threshold, you're strippable and you get stripped.
9 In other jails, that bright line might be
10 further down in the process. California, that bright
11 line might be 12 hours in the process, okay.
12 So, you know, I don't think it helped us.
13 I think it really hurt us, as correctional
14 administrators, more than helped us. I think the
15 reasonable suspicion really provided definitions and
16 definitions that were quantifiable.
17 I mean, if a guy came in and he had drug
18 charges, it was quantifiable. If he came in and had
19 past contraband charges, quantifiable.
20 But now, we're searching everybody and
21 we're finding less. So you see, jails are now going
22 to things like we need to use metal detectors because
23 their staff just aren't doing good searches.
24 Sorry, I prophesized a little bit on
25 that. I, as an officer, did thousands and thousands

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1 and thousands of strip searches, and nobody enjoys
2 strip inches. The inmates don't like it; we don't
3 like it.
4 Q. I believe it.
5 So in the PREA standards, they say
6 that -- let me back up.
7 So is it useful to correctional
8 administrators to know what genitals somebody has?
9 A. Is it useful for them to know that?
10 Q. To know it, yeah.
11 A. It depends on how you manage your jail.
12 If you manage your jail based on genitalia, then the
13 answer would be yes. If you manage your jail based
14 upon maybe gender identity, how the person feels about
15 themselves and how they operate, then probably no.
16 So, you know, it depends on -- again,
17 that's where that definition of risk tolerance comes
18 in. You know, in Laramie County, Wyoming, obviously
19 the genitalia wasn't that important to the
20 administrator. He was willing to house an individual
21 that had male genitalia in a female housing unit.
22 Now, when they went to the Wyoming
23 Department of Corrections, they were not so willing to
24 do that. Got housed in a male unit. You got a male
25 penis, male unit. So, you know, again, risk

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1 tolerance. That operational decision.
 2 Q. Okay. And so if -- if a jail -- if a
 3 correctional administrator decides it is important, we
 4 do want to know what somebody's genitals are, would
 5 you have any recommendation on how they can find out
 6 about what the person's genitals are, aside from doing
 7 the strip search?
 8 A. Driver's license, birth certificate,
 9 passport, ask.
 10 Q. Okay. And do you recall what the PREA
 11 standards say about how it's acceptable to try to find
 12 out somebody's genitals?
 13 A. No, not off the top of my head I don't.
 14 Q. All right. I'm going to -- I'm going to
 15 read part of it, I don't have it for you to look at,
 16 and it says:
 17 "The facility shall not search or
 18 physically examine a transgender or
 19 intersex inmate for the sole purpose
 20 of determining the inmate's genital
 21 status. If a inmate's genital status
 22 is unknown, it may be determined
 23 during conversations with the inmate,
 24 by reviewing medical records, or, if
 25 necessary, by learning that

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1 information as part of a broader
 2 medical examination conducted in
 3 private by a medical practitioner."
 4 Does that seem consistent with your
 5 memory?
 6 A. I mean, that's how they define it.
 7 Q. Okay. And they don't mention driver's
 8 licenses as a way to determine somebody's genitals, as
 9 you recall; right?
 10 A. Not in that policy. Not in the statement
 11 you just made. I don't know what the rest of it says.
 12 I'd have to review all of it. But I think what --
 13 Q. Fair enough.
 14 A. I think the intent, and so if you look at
 15 that standard, they come out -- those standards, they
 16 have a whole intent section, because they try to
 17 explain what they're trying to get at in it, because
 18 it's so nebulous, you know, that whole thing.
 19 And the keyword in all that is examined
 20 for the sole purpose, okay, the sole purpose, all
 21 right.
 22 You know, there are a lot of individuals
 23 that are walking around out there that have ambiguous
 24 genitalia, and we don't typically go around checking
 25 each other's genitalia. I have to tell you, we don't

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1 do that.
 2 I mean, that's not -- you know, in
 3 jails -- and my story on that is when I was an officer
 4 back in the '80s, we had a guy that came in all the
 5 time, minor things, you know, shoplifting, possession
 6 of marijuana. Never anything big.
 7 His name was Bruce. Great guy. He was
 8 my trustee, all right. But when he'd get arrested,
 9 he's brought in. And whenever we had to put them up
 10 or get them out, they had to be strip searched.
 11 Well, Bruce was an African American male.
 12 And I can remember -- and I'm embarrassed by it now --
 13 but I can remember joking with Bruce during the strip
 14 search about how as an African American he got
 15 shortchanged, all right, in his genitalia.
 16 Because now looking back on it, with what
 17 I know now, I can tell you that I think that Bruce
 18 probably had a micropenis. Bruce was probably one of
 19 those intersex people out there. And Bruce was always
 20 housed as a male. Nobody was checking each other's
 21 junk in the housing units, okay. It just doesn't
 22 happen up there.
 23 Did we ever search Bruce that way to try
 24 to determine whether or not Bruce was fully male or
 25 fully female? No, we -- that wasn't being done.

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1 So I think what they're trying to get at
 2 in that policy under PREA is that -- is that we don't
 3 necessarily search individuals for their -- looking at
 4 their genitalia in order to determine what their sex
 5 is. And I think it's -- that was actually not a bad
 6 policy, because we don't provide training to staff in
 7 genitalia identification, i.e., what does a normal
 8 penis look like?
 9 I mean, we all think we know. We've seen
 10 the videos. We've -- you know, we all got movies out
 11 there, okay. Or what does a vagina or clitoris look
 12 like? Okay, I mean, we all think we know, but in
 13 reality, we don't know.
 14 This is part one of my presentations, by
 15 the way, is that -- is that, okay, so what training do
 16 we provide staff to identify that.
 17 And now you're starting to get some of
 18 the larger providers, medical providers out there,
 19 companies like Horizon, NAPCare, just these large
 20 companies out there are really starting to question
 21 whether or not they want their medical staff involved
 22 in going down and identifying the genitalia of the
 23 people in custody under PREA, okay.
 24 Because what training are they providing
 25 to that LPN -- the LPN, you know, on genitalia

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1 identification? There is a whole branch of medicine
2 out there on genitalia identification.
3 So, you know, these companies are
4 saying -- and they're doing it on two levels. They're
5 doing it on the one level of the training, okay, Monel
6 issues; and then they're doing it a whole other risk
7 management level -- here we go with risk tolerance
8 again -- risk management level saying do I want to
9 have to pay my staff to sit in court to try to defend
10 their genitalia identification if they get sued on
11 some Fourth Amendment violation.
12 So people are starting to pull back and
13 go, wait a minute, and it's just becoming a more
14 tricky environment.
15 Q. Thank you.
16 Let's look at Exhibit 43. Okay. So
17 let's look at Page 41. First, can you just describe
18 what this document appears to be?
19 A. This is a publication by the -- the
20 private entity called the National PREA Resource
21 Center, which is a private entity, commercial entity.
22 It looks like it's their training for guidance in
23 cross-gender and transgender pat searches published in
24 February of 2015 by The Moss Group, Incorporated.
25 Q. Thank you.

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1 Now let's turn to Page 41.
2 A. What page? 4-1?
3 Q. 4-1.
4 A. Okay.
5 Q. So I'm going to ask you to read the third
6 bullet, including the three options, then I'm going to
7 ask your opinion about it. But first can you just
8 read out the -- it starts with "There are three
9 practices..."
10 A. "There are three practices
11 consistent with PREA" -- and, again,
12 remembering that PREA is voluntary,
13 not all jails comply, not all prison
14 systems comply, okay -- "with PREA
15 for assigning staff to perform pat
16 searches on transgender and intersex
17 inmates and residents:
18 "Option 1: Searches are conducted
19 only by medical staff;
20 "Option 2: Searches are conducted by
21 female staff only, since there is no
22 prohibition on the pat-searches
23 female staff can perform (except in
24 juvenile facilities)."
25 And having run a juvenile facility, I can

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1 tell you that that's not right either, okay. That's
2 not right. That's all based on the standards that are
3 put out by the Office of Juvenile Justice and
4 Delinquency Prevention, OJJDP. Those also are
5 volunteer standards that you put out if you want money
6 from the federal government from those agencies.
7 "Option 3: Asking inmates to
8 identify the gender of staff with
9 whom they would feel most
10 comfortable. This preference can be
11 documented at intake."
12 Q. Okay. So would you agree with these as
13 options for doing pat searches of transgender people?
14 A. No.
15 Q. Tell me why not.
16 A. Okay. First off, searches are conducted
17 by medical staff, okay. The search is a custodial
18 function. It's a security function, not a medical
19 function. So medical staff are performing a custodial
20 or correctional security function. That's not right.
21 That's not -- I wouldn't see that as appropriate,
22 okay.
23 Now, if we want to cross-train our
24 staff -- and I know that on -- we had individuals that
25 worked for me at our jail and I -- and in other jails

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1 around the country that were former medical providers,
2 they were LPNs, they were RNs, got out of the
3 business, came into jail, whatever -- for whatever
4 reason. So, I mean, you have that in there.
5 So, I mean, the individual like that that
6 might have both the cross-training of being medical
7 and a security officer performing a security function,
8 then that might be appropriate.
9 But by medical staff, most medical staff
10 in jails are not security officers. I, as an
11 administrator, my risk tolerance, won't let me have
12 them do a security function, all right.
13 I have some coverage under -- under
14 federal law, federal case law, okay, you know,
15 Turner v. Safley. I've got custody staff doing
16 searches as a security, right? I've got a legitimate
17 penal interest in custody staff doing it.
18 But when you start having medical staff
19 cross those boundaries and doing security functions,
20 it kind of muddies the water from a risk tolerance
21 level, from my perspective, okay. I would rather have
22 a custodial officer do it. That's that one, okay.
23 Searches are conducted by female staff
24 only. You know, basically what we're doing is we're
25 telling our male staff, we don't trust that you're not

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1 going to be sexually titillized by searching female
2 inmates, all right. That's what we're doing. That's
3 what -- basically what we're saying.
4 Why can't a male search a female? Why?
5 When we look at policing agencies, take the -- take
6 the Kentucky State Police or the Utah State Police.
7 When they're out in the middle of nowhere and they
8 pull over an arrestee, they pull over somebody for a
9 traffic violation, they arrest them on DUI. Their
10 policy will require, before you put that individual in
11 the back seat of your cruiser, you must search them
12 for the presence of weapon and drugs.
13 Why? Because we actually have people
14 shoot officers in the back from the back seat of the
15 cruisers. Because we actually had people overdose on
16 drugs they secreted on their body prior to the search
17 in the back seat of cruisers. So we have that.
18 Now, these officers, they perform those
19 searches in the community. So that's a male officer
20 searching a female. Why is it all of the sudden when
21 they cross the threshold of the jail, they can no
22 longer do that?
23 We can expect professionalism from our
24 police officer, but not professionalism from our
25 correctional staff? Absolutely wrong.

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1 We can expect professionalism from both
2 sides, if as administrators we demand it, we train it,
3 we supervise it. That's the critical aspect of that.
4 So, you know, just saying that only
5 female staff can do it, that also assumes that you
6 won't have like I had, a female inmate who was going
7 to lodge litigation against us against a female
8 officer who was titillated by the search that she was
9 conducting on that female inmate.
10 Why? Because everybody knew that that
11 female officer was openly lesbian. Again, we're
12 getting -- now we're getting into that third part,
13 that sexual preference part.
14 Now, this particular inmate didn't mind
15 being searched by the other female officers, only the
16 lesbian officer.
17 Why? Because she's concerned that the
18 officer is being titillated; that there's some sort of
19 sexual gratification being obtained by the officer.
20 And that's what this policy is looking to
21 do when they say only by female staff. This assumes
22 the female staff are not going to be sexually
23 gratified with touching the male genitalia.
24 That could be wrong, okay. Or how
25 about -- how about a gay man pat searching another gay

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1 -- another man? Or could a gay man not search a
2 female and not become sexually titillated? That's
3 where all these things get all mixed up and all thrown
4 together in one big ball.
5 So, yeah, I mean, I kind of have a
6 problem with that. Plus, you know the most difficult
7 staff to recruit in jails from a correctional
8 perspective are female officers. We have difficulty
9 getting them in, getting a percentage into our jail to
10 be able to work under these same sex guidelines.
11 Now -- and we're not even talking about
12 EEOC issues here, okay. When you have a policy that
13 says only female, you'd better be able to back it up
14 under EEOC.
15 How am I restricting that officer from
16 doing the same level of searches that that employee's
17 doing? Employee/employee, that's how you have to do
18 it.
19 Keep going?
20 Q. Well, so you talked about the first two
21 options. How about the third option?
22 A. You know, again, the third option I like.
23 I like. Third option is the one I try to train,
24 because I try to expand people's minds about what
25 we're doing out there. I like it.

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1 Understand that my risk tolerance level's
2 really high, okay. You know, I -- and I did stuff in
3 my jail that other jails laugh at me about.
4 When I've done this presentation on sex
5 in jails, I did it -- I did it for the Kentucky Jails
6 Association, and I had people in there screaming bible
7 phrases at me.
8 Now, do you think that they're going to
9 think that that third one is appropriate? Okay. My
10 risk tolerance says I would do the third one. But if
11 their risk tolerance says that they won't do the third
12 one, that's really the most commonly acceptable
13 correctional practice out there.
14 And you know what you hear when you --
15 when you mention doing that? You hear jail people go,
16 oh, yeah, that's because every guy's going to come in
17 and say I want to be searched by her, because the
18 inmate wants to get titillated by it. Come on.
19 You know, I -- I -- personally, I just
20 don't find that as realistic. But that's my
21 perspective, all right. And, again, it becomes a
22 definitional issue of how we want to operate our
23 jails.
24 I won't say that it's wrong to not do
25 that, and I won't say it's wrong to do that. I would

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1 say that in our changing world, this evolving sense of
2 decency that we have in our society, some of our
3 practices have to change, but we need definitional --
4 definitions on which to base how we make those
5 changes. That's critical.
6 So one other thing. Gender of staff.
7 Gender of staff. Are we talking about what the staff
8 identify as or are we talking about what the staff has
9 as plumbing?
10 Q. Right.
11 A. You see how definitions come in.
12 Q. So it sounds like you don't think that --
13 that restrictions on cross-gender pat searches are
14 appropriate; is that right?
15 A. No. Not blanket like this, no. This is
16 a blanket policy, no. Blanket policies like that, no.
17 Q. Okay.
18 A. I've had my discussions with Andy Moss on
19 this. I know Andy. You know Andy.
20 Q. Is Andy one of the authors of this -- of
21 this guidance you think?
22 A. It's by The Moss Group.
23 Q. Yeah.
24 A. That's her company. I like Andy.
25 Q. So -- so if you don't think that, in

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1 general, cross-gender pat searches should be
2 prohibited, then it isn't necessarily required to
3 figure out how to classify somebody for purposes of
4 sex before doing a pat search; is that right?
5 A. Well, you have to have an idea of who to
6 have them search, right? So you have to have some --
7 you have to have some basis.
8 Q. Well, but I thought you said that for pat
9 searches it would be okay to have men search women or
10 to have women search men?
11 A. Oh, yeah.
12 Q. Am I wrong?
13 A. In my jail it would be. And, in fact --
14 in fact, we instituted cross-gender supervision in --
15 I was thinking it was, like, '89, '90, maybe.
16 Prior to that, in the state of Kentucky,
17 female officers -- they were called matrons, you
18 couldn't even call them officers, they were called
19 matrons -- they only dealt with the female inmates and
20 the male officers only dealt with the male inmates.
21 Which was okay except that there was one
22 captain, one lieutenant, one sergeant position. So if
23 you were a female officer and you came -- a female
24 matron at that time -- you came to work, your
25 opportunities for advancement within the organization

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1 were significantly limited.
2 There was one sergeant, one lieutenant.
3 But if you were a male officer, we had, God, 25
4 sergeant positions, and a dozen lieutenant positions.
5 So from an employee/employer perspective,
6 we were really discriminating against our female staff
7 in the way we managed them in that way. So we
8 integrate them.
9 Now, when we did that, all the male staff
10 claimed that the female officers were going to get
11 raped and assaulted, they couldn't control the male
12 housing units, the jail was going to go into a riot,
13 it was going to burn down, people were going to get
14 out, the community was going to be killed,
15 thermonuclear weapons are going to go off. I mean,
16 that's what you hear, okay. I mean, you get this
17 slippery slope argument.
18 In reality, we found that one of the best
19 performing officers we had in the jail was a
20 62-year-old female that the inmates called mom. She
21 could get them to do anything. She didn't have any
22 fights, okay. So that was good.
23 But the male staff, they all resented it.
24 And I think some of it was now it opened up those
25 positions to the female officers, okay. Yeah, now

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1 they got a little more competition, all right. That
2 was one issue.
3 The next thing we found after doing that
4 was when -- when altercations were happening, they
5 were sending all the male officers to the
6 altercations, all right.
7 And so now we had use of force issues for
8 an officer showing he had more use of forces than this
9 other officer over here, so it looked like he was
10 being a thug in the jail. When in reality, it was how
11 we're operationalizing their uses of force policy. We
12 were only sending the males.
13 So we became an equal opportunity
14 ass-kicking jail. Meaning if you were a female
15 officer, you got to go in on that fight too.
16 Everybody went in.
17 And you know what we found? When we
18 started sending only women in or we started sending
19 women in with the men, fights went down. Inmates
20 chilled out when they came in, because they didn't
21 want to fight the women.
22 Now, is that true across the board? No.
23 We did have some fights with women. But basically,
24 across the board, we did not have that. So, again,
25 it's how we operationalize some of these things.

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1 And then we decided, well, we're going to
 2 do cross-gender searches; meaning you get assigned to
 3 booking based upon a rotation, like you were talking
 4 about, just a rotation.
 5 If your name comes up, you're working
 6 booking. If you're in booking and a person -- guy
 7 comes in, you search the guy; woman comes in, you
 8 search the woman, doesn't care what you are. We did
 9 that.
 10 You know, we got grievances filed by our
 11 male staff. Not the female staff, the male staff.
 12 They felt uncomfortable searching the female inmates
 13 that were being arrested and being brought in. And we
 14 told them, it's only going to be based upon how
 15 professional you are. That's what you have to rely
 16 on.
 17 And we did that. Eventually it became
 18 such an issue we had to actually back off that policy,
 19 because our male staff were so much against it. The
 20 female officers, they had no problems whatsoever with
 21 it. They could be professional in it.
 22 So what we're talking about in this is
 23 professional conduct on the part of the staff; train
 24 it, supervise it, have a good policy that defines it
 25 all. That's critical.

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1 Q. Okay. What's your position on
 2 cross-gendered unclothed searches?
 3 A. We have to look at the Supreme Court for
 4 the guidelines from that. I mean, we've got -- we
 5 have plenty of guidelines from the Supreme Court that,
 6 except under exigent circumstances, the cross-gender
 7 searches -- now, we're talking about searches, okay,
 8 the correctional practice -- cross-gender searches is
 9 really more intrusive for a female than it is for a
 10 male.
 11 So, typically, it's frowned upon for any
 12 sort of cross-gender searches by -- by males on
 13 females and females on males.
 14 Q. And that's for the unclothed searches;
 15 right?
 16 A. That's the unclothed searches, the strip
 17 searches, yeah. And, you know, and again, that's not
 18 all -- that's not based on the fact that a male
 19 officer, like a doctor, could not be professional in
 20 the conduct of the duties.
 21 It's all based upon the notion and the
 22 idea that a male strip searching a female would be
 23 titillated by it, okay, would be sexually excited by
 24 it. There would be some sort of gratification
 25 achieved by it.

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1 And the fact of the matter is, is that's
 2 just not true, okay. And it goes the other way too.
 3 Because what we don't see is we don't see the issues
 4 out there of gay men stripping male inmates that are
 5 hetero. But, you know, I've had grievances filed by
 6 inmates on that, both ways. It's a little more
 7 difficult, isn't it, in a jail.
 8 Q. But you had never assigned somebody to do
 9 a search based on their sexual preference; right?
 10 A. No. I -- I'm going to assume the
 11 officers can perform professionally, unless they
 12 dictate and show me otherwise.
 13 I don't care who turns you on. I don't
 14 care what your gender is. I don't care what your
 15 plumbing is. I care that you conduct yourself in a
 16 professional manner that you've been trained to do.
 17 Q. Okay. Okay. Let's talk about housing.
 18 So, in your opinion, the rationale for
 19 separating people in custody based on gender is to
 20 reduce the incidents of sexual behavior, both rape and
 21 consensual sex; is that right?
 22 A. That's -- that's the concept, yes.
 23 Q. Okay.
 24 A. But it doesn't work.
 25 Q. But it doesn't work?

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1 A. Oh, no. That's why we have the Prison
 2 Rape Elimination Act. I mean, you still have -- you
 3 still have male on male consensual acts and you have
 4 female on female consensual acts.
 5 You still have male on male rape, and you
 6 still have female on female rape, okay. So, you know,
 7 it -- I -- I thought it was -- I thought it was
 8 interesting in doing the research to find out that
 9 Alabama actually allows you to -- to house in the same
 10 cell husband and wife, okay.
 11 Now, we won't even get into trying to
 12 determine -- trying to define the term husband and
 13 wife, okay, but in Alabama, it's okay.
 14 Q. Actually, what do you think the
 15 definitional issues would be around husband and wife?
 16 A. Oh, my. All right. So, you know, okay.
 17 I mean, we're getting into some really gray territory
 18 here.
 19 First off, if we're going to define it,
 20 we're going to have to come up with what is the
 21 definition of husband and wife.
 22 Are we going to include in that
 23 definition man and man, because the courts -- now we
 24 have court cases now which say that because same-sex
 25 marriages are -- have been approved by the Supreme

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1 Court, okay, we can't prohibit same-sex marriages, as
2 they tried to in Kentucky, okay, other places, Utah,
3 we can't prohibit those.
4 We now have to actually provide for
5 same-sex marriages of inmates in prisons and jails.
6 Did you know that? Were you aware of that? Yeah.
7 So, okay. All right.
8 So in that situation, is that a husband
9 and wife? Does it meet the definitional criteria of
10 husband and wife? Or are we going to define husband
11 and wife as husband is a male, wife is a female, okay.
12 Male based on what's the definition of
13 male; female based on definition of female. You see
14 now we start getting -- it's more complicated as we go
15 on through all this.
16 When really -- when really, ultimately,
17 what we're trying to prohibit in jail settings and in
18 prison settings is -- is sexual contact.
19 You know, I -- I was against -- I
20 spoke -- I was on the board of directors for the
21 American Jail Association, I was quite vehement with
22 the Prison Rape Elimination Commission in my
23 presentations to them, my discussions with them, about
24 we don't need a whole other level to prevent sexual
25 violence in jails and prisons. We already have plenty

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1 of law that says rape is not appropriate. Plenty of
2 law that says we must protect inmates from violence
3 arising from contact with other inmates.
4 And it doesn't say only one kind of
5 violence or another. It says violence. So that means
6 psychological violence, okay, verbal violence,
7 physical violence, or sexual violence.
8 So we didn't really need this whole other
9 layer that PREA standards provided out there. We
10 didn't really need that to muddy the water of what
11 we're doing in jails and prisons.
12 That's my perspective, okay. All we have
13 to do is protect people when they're in our custody,
14 and we want to protect them as best we can.
15 Q. And is there any other rationale for
16 separating people by gender in jails, aside from
17 preventing sexual contact?
18 A. Well, you have the Fourth Amendment
19 issues of individuals feeling the intrusiveness of
20 being seen, the rights to privacy that's guaranteed
21 under the Fourth Amendment.
22 Yeah, I mean, if you co-house males and
23 females together, you could very well have females
24 filing litigation that she felt violated.
25 In fact, there was a case that came out

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1 of Florida recently where -- where the jail had --
2 had -- basically they misidentified the woman. She
3 came in, a 50-year-old woman, brought into custody on
4 some outstanding warrant charges, and when she was
5 being booked into jail, she said she was a female.
6 But she also admitted that she was taking hormone
7 therapy, okay.
8 The hormone therapy happened to be
9 because she was a 50-year-old female. So she was on
10 hormone replacement therapy, something my wife and a
11 lot of other women in my age group are doing, all
12 right. Not unusual.
13 Oh, well, this sent up a red flag to some
14 of the people that were in the jail, that wait a
15 minute, this may be not a woman; this actually may be
16 a man, depending on how you want to define those, but
17 apparently they defined those as biological man. And
18 they said she's being housed with females, she needs
19 to be housed in the male housing unit.
20 And they promptly housed her in a male
21 housing unit, and she stayed in that male housing
22 unit, okay. That's a problem, yeah.
23 Now, she filed under this intrusiveness.
24 So, yeah, you could have females saying, you know, I
25 feel unduly embarrassed and my privacy rights have

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1 been intruded upon. You can have males do the same
2 thing. There's nothing to say you couldn't have males
3 do it.
4 Q. So you said before that separating people
5 in order to prevent sexual contact doesn't work --
6 A. No, I didn't say it doesn't work. I said
7 it's not working the way that whole philosophy intends
8 for it to do.
9 Q. Okay.
10 A. Okay.
11 Q. Tell me how it is working.
12 A. Huh?
13 Q. Tell me how it is working.
14 A. Oh, well, I mean, come on now, you know,
15 there is -- there is a certain level of sexual
16 violence that would occur out there that we have to be
17 cognizant of, all right.
18 But what we really need to be doing is we
19 need to be separating out individuals that are
20 demonstrating sexually predatory behavior from
21 individuals that are not. That's what we need to be
22 doing.
23 I don't care if it's a male and a female,
24 or if it's female and female. We ran -- in our jail,
25 we ran co-ed housing units in our jail. Again, we had

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1 a high risk tolerance.
2 Our intake unit, you know, in most jails
3 around the country, females get a very short amount of
4 resource placed toward their housing, supervision,
5 service provision.
6 There was a 2002 report that came out
7 from the National Institute of Corrections that talked
8 about the -- the lack of good classification housing
9 and supervision policies for female offenders in the
10 country, because nobody puts money toward them.
11 So, for example, you have a place like
12 Memphis, Shelby County, Tennessee, 33 -- 3,600-bed
13 jails, and they have very strict prohibitions in the
14 state of Tennessee on separating males from females,
15 sight and sound.
16 Now, why do we have a site and sound
17 separation once they cross that threshold of the jail?
18 They can sit together in the back seat of the cruiser,
19 but once they cross the threshold of the jail, we have
20 to have them separated.
21 That's because we all know if they can
22 even hear each other, they're going to become sexually
23 titillated by it, they're going to get some sort of
24 gratification out of it. Okay, that's why we have to
25 do this sight and sound separation.

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1 So you can't have them being booked in
2 the same area. You can't have them being housed in
3 the same area. Here's how it worked out in Memphis:
4 The males had a beautiful sitting area, they had
5 televisions to watch that they could, you know, pass
6 the time with. They had telephones that they can call
7 and get bonded out of custody with. Those were all
8 available to them.
9 You went to the female side, they were
10 given a large utility closet, no television, no
11 telephone. When they wanted to make a call, they had
12 to get an officer to get them out, to walk them up the
13 hall so the males couldn't see them, so that they
14 could make a phone call so they could get bonded out
15 of custody.
16 Now -- okay. Now we got a Fifth
17 Amendment right to bond, right? Okay. But it seemed
18 to be being hindered a little bit by these practices
19 of sight and sound separations. That's the way it
20 gets worked out.
21 Now, in our jail, we ran an intake unit,
22 we ran a passive seating area where males and females
23 all sat together. We ran an intake housing unit,
24 there was a co-ed housing unit, the males and females.
25 Males go on the lower level, females on the upper

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1 level. They came down, they commingled in the common
2 areas.
3 We ran a work release housing unit with
4 the males housed on one side and the female on the
5 other side, and in between we had vending machines,
6 and we had a pool table, ping pong table, a seating
7 area, and they commingled freely. The males didn't go
8 on their side, they didn't go on the male side.
9 I mean, you know, okay. Did we ever have
10 any problems in there? No. No, because we were
11 proactive. As soon as we started seeing a behavior of
12 an inmate inappropriate, we dealt with that behavior
13 right then. That's how you have to do it.
14 But that's my risk tolerance. When I
15 talk about doing this, the jails around the country,
16 they throw hands up. They're like, oh, my God, you
17 can't do that. They'll be having sex all over the
18 place.
19 You know, what I find personally is that
20 most people can control their sexual urges when
21 they're in jail, and that short period of time that
22 they're in, that they don't feel a need to have sex
23 with every female that walks in the door, nor do the
24 females feel that they have to have sex with every
25 male that walks in the door, and it work both ways.

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1 And if you give people the opportunity to
2 -- to demonstrate adult rational behavior, you reward
3 them for that, and you sanction them when you don't.
4 You'll get that from them.
5 But, again, that's my -- that's -- my
6 risk tolerance level's really high. Some people say
7 we got to punish.
8 Q. And when people ask you about your
9 recommendations for how transgender people should be
10 housed, what would you tell them?
11 A. Now, again, you're talking to Don Leach,
12 what would I recommend. I would ask an individual
13 where do you feel most comfortable being housed. Can
14 you live in a male housing unit? Yes. Okay, we'll
15 put you in there.
16 If you have any problems while you're in
17 there, you let us know. If there's any issues come
18 up, you let us know. If something happens while
19 you're in there, you let us know. You inform them
20 that they have to help participate in their
21 incarceration.
22 So we'll put you where you feel most
23 comfortable, but if a problem develops, you have to
24 tell us. But you know what, I would tell that to
25 anybody. I would tell that to anybody that goes in a

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1 housing unit. If you start having a problem with
2 other inmates in there, we want to know about it,
3 okay.
4 Doesn't matter whether or not you're
5 male, female, transgender, transsexual, it makes no
6 difference. I want to know if there's a problem in
7 there. That's the issue.
8 You know, so, yeah, in my mind, I would
9 do that. I would have the individual sign off that
10 they understand this, sign off that they're making an
11 adult, rational decision, and then -- and then there's
12 a risk.
13 Years ago we had a policy that when you
14 came in a jail, you gave up all of your jewelry when
15 you got booked in. So if you had a ring on, you had
16 to take it off; you had piercings, you had to take
17 them out. Regardless, all jewelry came off.
18 Why? Because if you don't take it off
19 and you get in there with the other inmates, they're
20 going to bite your finger off to get that ring.
21 They're going to fight you to get that from you.
22 They're going to extort it from you, and all this.
23 That was the idea.
24 So, you know, the fights that we had
25 trying to get wedding rings off of people that hadn't

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1 taken it off in 40 years, got arrested for DUI. They
2 come in the jail and they can't get it off because
3 they put it on 40 years ago and they're fat now, they
4 can't get it off. What do we do? We cut it off,
5 okay, or we fight them to get it off.
6 You know, we said, Whoa, whoa, why are we
7 doing this? Let's think about this. This doesn't
8 make sense. So we quit doing it.
9 So, you know, unless you came in with a
10 piece of jewelry that was obviously going to be --
11 could be used as a weapon, we let you keep it. You
12 got a tongue stud, keep the tongue stud. You got ear
13 studs that won't come out, keep the ear studs.
14 You sign a waiver saying, hey, look,
15 there's a risk on this. There may be a problem
16 associated with this, I understand it, but I don't
17 want to do this.
18 Now, we didn't do that with necklaces,
19 okay. We didn't do that with bracelets or things that
20 could come off. But we did that for things that we
21 were fighting people and having problems in managing.
22 Our costs went down. We looked at it, in
23 one year we put out 30-some-thousand dollars replacing
24 cut off jewelry, after the person went to court and
25 the charges were dismissed. We had to replace their

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1 jewelry for them or fix the jewelry. Lost jewelry,
2 oh, my God.
3 So once we went to the policy, the only
4 complaints we had about jewelry issues in the housing
5 units was from our officers. They lost them in
6 fights. They get in and get their necklace ripped
7 off, that type of thing.
8 So, again, you got to examine your
9 policies sometimes.
10 Q. And are you aware of any standards,
11 regulations, administrative guidance or best practices
12 documents that say that correctional administrators
13 should rely on the sex designation on a driver's
14 license in deciding where to house people?
15 A. Okay. That's a very broad spectrum.
16 Q. It is very broad, yes.
17 A. Because, you know, you look at the state
18 of Kentucky, and the state of Kentucky we do have
19 administrative regulations that are promulgated by the
20 legislator about the management of individuals in
21 jails.
22 Now, I think there's maybe -- used to be
23 30-some, but I think that's down to maybe 20 or so
24 that have that in the country. I don't know what they
25 all say, okay. I don't know what they all define.

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1 I know they all have definitions for
2 these things, all right. I don't think any of them --
3 my -- just off the top of my head, I don't -- I don't
4 believe any of them really go to the level of detail
5 that you're asking in that question.
6 So that's regulations. Now you're
7 talking about best practices. You're talking about,
8 you know, what people are doing out there. That's all
9 over the board. That's all over the board.
10 Q. Can you -- I realize you don't know all
11 of them and you might not remember them off the top of
12 your head, but can you recall any that specifically
13 recommend using the sex designation from a license?
14 A. No, they don't typically go that far.
15 Q. Okay. Thank you.
16 A. They -- generally, you find the state
17 promulgated standards are very broad nature. They
18 would say something like the jail, we have a policy
19 separating males from females, or by sight and sound.
20 That's the one from Tennessee I know.
21 The one from Alabama is actually cited in
22 my report, you know. So, you know, I mean, they don't
23 go into that level of specificity. That's left to the
24 discretion of the individual administrator.
25 Q. And, in your experience, jails aren't --

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1 jails aren't placing gay men with women because of
 2 their sexual preference, are they?
 3 A. I don't know. I don't know what all
 4 jails are doing. I could say that if I had a -- okay.
 5 Now let's go back to it. Three parts, remember.
 6 Q. Yes.
 7 A. Physiognomy, the plumbing; you've got the
 8 gender identity; and then you've got sexual
 9 preference.
 10 So you could very easily have an
 11 individual that has male genitalia, female gender
 12 identity, and has a preference for males. So does
 13 that make him a gay man? His gender identity is
 14 female. I don't know.
 15 But if we're going to house by gender
 16 identity and that individual feels most comfortable
 17 being housed in a female housing unit, then I would
 18 house that person in a female housing unit, but the
 19 sexual preference would still be for men.
 20 Q. So what if there's somebody who has male
 21 typical genitalia, and who has a male gender identity,
 22 and he was attracted to other men. Would you place
 23 that person with men or with women?
 24 A. It depends. What is my policy?
 25 What's -- what's my policy on how I'm going to house

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1 individuals? If I'm going to house based upon gender
 2 identity and who they gender identify as, it would be
 3 with a man, right? Being a male population. If I use
 4 it based upon physiognomy, he's a man, going to be
 5 with the men.
 6 You know, again, you know the story --
 7 I'm sorry if I'm boring you with my stories, but I've
 8 been -- I've done all this, okay.
 9 When I first started working at the jail,
 10 we made strict separations of our homosexuals. Oh, my
 11 God, you can't put a homosexual man in the general
 12 population with men. They'll be having sex all over.
 13 That was the idea. It's not working,
 14 okay. Because you know what, even gay men can control
 15 their sexual urges, believe it or not. They don't
 16 want to have sex with every guy out there just because
 17 it's a guy. But a lot of guys like to think that.
 18 And the reason they like to think that is
 19 because they're a guy and they want to think that
 20 they're attractive. Well, fundamentally, a lot of us
 21 aren't attractive to other human beings.
 22 Okay. There are some people attracted to
 23 some, and some aren't attracted to others. That's the
 24 reality of it, okay. And for those that we're not
 25 attracted to, I can actually withhold my sexual

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1 gratifications.
 2 All right. So when I first started
 3 worked in the jail, we made these separations. And
 4 how do I know that you were homosexual? Okay, you
 5 told me. You looked homosexual to me. What does that
 6 mean? I don't know.
 7 I -- he look homosexual to you? I don't
 8 know. He look homosexual to you? I don't know. I
 9 think he is. How many votes for homosexual? Okay, we
 10 got three votes, he's homosexual. He went in the
 11 homosexual unit.
 12 A guy comes in, he's a feminine. He goes
 13 in the homosexual unit. Okay, where was all our sex
 14 happening? In our homosexual unit. Where are all our
 15 problems of sexually predatory behavior happening? In
 16 our homosexual unit.
 17 All right. So I had a young trustee that
 18 was working for me one day, kid named Turk. Good --
 19 good trustee, good inmate. Homosexual. He was housed
 20 in the homosexual unit.
 21 I would get him out of there and let him
 22 work. Why? God, he was intelligent. He had a year
 23 of college. He was intelligent. You could talk to
 24 him. I mean, he had low level charges, possession
 25 charges.

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1 I mean, you know, okay, he's not a
 2 threat. He's minimum security. Let's get him out of
 3 that unit, let him work. So he worked for me, and he
 4 worked for me for a while. And one day he came to me
 5 and he said -- he said, Mr. Leach, I don't understand,
 6 why do I have to be housed in a homosexual unit when I
 7 know all those guys in the general population, we
 8 all -- we all come from the same street, we all went
 9 to school together. I don't have sex with them out
 10 there, I'm not going to have sex with them in here.
 11 So I went down and I talked to the
 12 administrator at that time, Ray Sabatini, and he and I
 13 had been doing consulting since, geez, back in the
 14 '80s, we'd been doing consulting work. And, you know,
 15 he taught me all I know about this, because our risk
 16 tolerance level is high.
 17 We said, yeah, why are we doing this?
 18 This doesn't make sense. We're going to start
 19 separating out people based on sexually predatory
 20 behavior, not on whether you're gay.
 21 Because you know who we didn't do it
 22 with? Our female population. We didn't separate out
 23 the individual females who were -- who were butch
 24 lesbians. We didn't separate them out. But who was
 25 in there having sex with other females in a general

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1 population unit? Sexual predatory female inmates.
2 So we decided we're going to -- we're
3 going to separate based upon sexually predatory
4 behavior. Again that preference, who turns you on,
5 even though it may not be a turn-on by the -- by the
6 sex, but a turn-on by the other issues that we know
7 that come with rape and violence like that, doesn't
8 make a difference. We have a duty to protect.
9 So, yeah, you know, we have to look at
10 our population and make our separations like that.
11 And at one point, that was all over the United States.
12 But nowadays, it's getting kind of passé that you
13 separate out individuals that are -- that are gay, but
14 it doesn't mean it still doesn't happen. It does.
15 Some jails out there still do it.
16 And the rationale would be that if he's a
17 gay man, you put him in with men, he's going to have
18 sex with those men, or those men are going to force
19 him to have sex. And the fact of the matter is,
20 that's not necessarily true.
21 Q. Do you know which jails are still doing
22 that, offhand?
23 A. No, not off the top of my head. I know
24 when I walk in them, I go, Oh, my God. Typically it's
25 the smaller jails around the country. You know,

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1 larger jails are trying to get away from that, but
2 typically it's the smaller jails.
3 Q. All right. Let's look back at your --
4 let's look back at your report again.
5 A. Are we done with this Exhibit 43?
6 Q. Yeah, I think we're done with that.
7 All right. So let's go back to Page 18.
8 And, again, that last paragraph just starting at
9 "Ultimately" now, could you just read that out for me.
10 A. "Ultimately, from a correctional
11 administrator's perspective, the
12 definition of 'sex' is intended to be
13 used to drive decisions that will
14 reduce the likelihood of harm
15 occurring to the individual inmate or
16 other inmates. Harm can arise from
17 the conduct of inappropriate
18 searches. Harm can arise from
19 inappropriate housing. Harm can
20 arise from inappropriate supervision.
21 Harm can arise from inappropriate
22 restrictions on conditions of
23 confinement. Lastly, harm can arise
24 from inappropriate restrictions on
25 conditions of employment."

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1 You want me to keep going?
2 Q. That's good. No, that's good there.
3 So I just want to make sure I understand
4 what you mean by each of these types of harm.
5 I'm sorry, getting a little echo.
6 So we've talked about searches. So
7 inappropriate searches would be -- well, why don't you
8 just tell me. Could you just summarize what an
9 inappropriate search could be that could cause harm.
10 A. Well, that would be one that might rise
11 to the level of being a Fourth Amendment violation.
12 Being too intrusive.
13 Q. Okay. And so inappropriate housing.
14 What's an example of inappropriate housing that could
15 lead to harm?
16 A. Well, I just -- I just kind of described
17 it with that whole decision about -- the whole
18 discussion on homosexual inmates. You know,
19 inappropriate housing could be placing the person
20 into -- into a setting where -- where they may become
21 victimized or where they may victimize others. That's
22 the type of harm that might occur.
23 Q. Okay. And I think you gave me some
24 examples about this maybe when you were talking about
25 the path where women could only supervise women and

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1 men could only supervise men, but could you describe
2 for me, you know, what is inappropriate supervision
3 that could lead to harm?
4 A. Well, inappropriate supervision would be
5 a situation where you're placing let's say a male
6 officer into -- into a female housing unit and you're
7 having problems that are arising from that.
8 Again, these are all decisions that --
9 that might be predicated upon operational philosophy,
10 but which result in litigation from female inmates
11 that are saying, hey, look, this officer being in here
12 is too intrusive, because every time they come around
13 to do supervision of my welfare, the hourly check by
14 looking in on the inmate, looking in the cell, they
15 might see me on the toilet, they might see me going to
16 the bathroom, and I find that that's too intrusive.
17 You could get that type of thing, so that
18 could be a harm from that.
19 Q. Okay. And what about harm that can arise
20 from inappropriate restrictions on conditions of
21 confinement?
22 A. Well, that's allowing the person to
23 participate in programs, recreational activity. So
24 you do like they did with Dimarco in the Wyoming case,
25 you know. She comes in and they place all these very

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1 onerous, punitive restrictions on -- on Dimarco just
 2 because she was a transgender, transsexual individual.
 3 Didn't arise out of any behavior, any demonstration.
 4 So, for example, Dimarco, I think at one
 5 point she wanted to purchase some female supplies,
 6 which were readily available in the commissary to
 7 other female inmates, all right. I don't recall what
 8 they were, but things maybe like makeup or curlers or
 9 something like that, okay.
 10 And she was prohibited from doing that.
 11 They said, no, you can't order that. You know, you're
 12 not a female, you can't order that. That type of
 13 thing.
 14 Her -- her recreation was really
 15 restricted. She was allowed one hour a day out. She
 16 was prohibited contact with the other inmates. You
 17 know, these are pretty punitive housing environments,
 18 okay, conditions of confinement on an individual
 19 that's based upon a perception that if you put them
 20 out there, she would either be harmed, okay, or cause
 21 harm.
 22 You know, that's where that risk
 23 tolerance all comes in. It's a scale. It's a balance
 24 that we have to do.
 25 Q. And then -- and then there's also the

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1 harm from inappropriate restrictions on conditions of
 2 employment. I think you already gave me some
 3 examples, but can you just summarize what harm could
 4 arise from inappropriate restrictions on conditions of
 5 employment?
 6 A. Oh, well, you could get litigation, EEOC
 7 litigation from officers that are being restricted
 8 from working certain posts, you know, things of that
 9 nature.
 10 You know, you could get -- you -- you
 11 know, we're starting to see litigation coming from
 12 officers coming through unions about -- about
 13 having -- having staff doing some of these transgender
 14 searches when they don't feel comfortable doing it.
 15 What do you do with a staff member where
 16 you have a policy -- formal policy that says you will
 17 allow searches to be based upon the gender the
 18 individual identifies with, and then the individual
 19 says I would be best searched by a -- a female
 20 officer, but I do have male genitalia, but my gender
 21 identity is female.
 22 And then you put a female officer to do
 23 that search, and the female officer feels as though I
 24 can't conduct that search. I can't do that. I can't
 25 look at that male genitalia. You should not force me

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1 to have to look at male genitalia as part of my
 2 duties.
 3 We're starting to see some of that. And
 4 it's more -- it's more backlash against this whole
 5 idea, okay, than it is really against the male
 6 genitalia. That's -- that's my perception.
 7 Q. If that came up in the jail while you --
 8 that you ran, that a female officer was concerned
 9 about doing a search of a transgender woman, how would
 10 you deal with that?
 11 A. Tell her she needs to act professionally.
 12 Q. All right.
 13 A. It's her duty.
 14 MR. ARKLES: Let's take another -- just a
 15 quick break, and then we can check in and see where we
 16 are, okay?
 17 THE WITNESS: Okay.
 18 (There was a break taken.)
 19 MR. ARKLES: We can go back on the
 20 record.
 21 Q. So let's take a look now at Exhibit 44.
 22 And can you identify this document?
 23 A. It's called "Issues Surrounding Managing
 24 Lesbian, Gay, Bisexual, Transgender & Intersex
 25 Offenders in Jails," and it was authored by me.

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1 Q. All right. So let's look at Page 5, and
 2 could you read the paragraph beginning at the bottom
 3 of Page 5 with "Typically jail" and continues on to
 4 the top of Page 6.
 5 A. "Typically jails base the determination
 6 of offender 'sex' on physiognomy of
 7 the offender. Line Officers are the
 8 ones making this determination based
 9 on asking or on looking at the
 10 offender unclothed. In situations
 11 where there may be some ambiguity
 12 (such as with intersex or those
 13 transgender persons in the" jail --
 14 "in the middle of surgical
 15 reassignment) staff will resort to
 16 medical staff for a recommendation."
 17 And this has worked well, for the most
 18 part, until now. Keep going?
 19 Q. Yes.
 20 A. "Now consideration may have to be
 21 made for 'gender identity.' Will we
 22 begin to query offenders at booking
 23 for their 'gender identity'? Will
 24 'gender identity' have as big an
 25 impact on offender management as

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1 'sex'?"
2 Continue?
3 Q. You can stop there. That's all good.
4 Thank you.
5 So here you stated that -- that the
6 determination of offender sex used to be made based on
7 asking the person, looking at the person when they're
8 not wearing clothes, or getting a recommendation from
9 medical staff; is that a fair summary?
10 A. I don't know if I mentioned medical staff
11 in there. Yeah, yeah, they'll talk to medical staff,
12 yeah, but that's after. But this all occurs after the
13 initial booking has occurred in which the initial
14 assignment of sex has been obtained. So this is down
15 -- this is a process down the line. This isn't at the
16 back door when they first come in.
17 Q. Okay. So here you were not referring to
18 how jails identify the sex of the offender initially;
19 is that right?
20 A. No. I think I was talking in a much
21 broader sense on how -- how jails operate. I wasn't
22 being specific in this, no.
23 Q. Okay. And you -- so that in the future
24 it may become necessary to ask people about their
25 gender identity at booking; is that right?

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1 A. I think so.
2 Q. All right. And in this paragraph you did
3 not mention using driver's license as a way to
4 determine sex; is that right?
5 A. No, because that -- again, that would
6 have been at the back door. So that would have been
7 the initial process. Before we ever get to the point
8 where they're getting the clothes off, we've already
9 determined at least an idea of what their sex is, and
10 that's where we would use the driver's license.
11 Q. Okay. So now let's look back to Page 1.
12 If you can just read the whole first paragraph, but
13 only the first paragraph.
14 A. Okay.
15 "The call came from booking. 'You
16 got to get down here and see this
17 woman being booked! She's a '10' if
18 I ever saw one!'"
19 Now, this story is 1985, okay, that's how
20 far back this -- this story went.
21 "Off to booking and sure enough
22 there's a female Officer pat frisking
23 a stunning '10.' Everything's fine
24 until the search hits the crotch. By
25 the look on the Officer's face

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1 something is amiss, or more
2 accurately something is a-present.
3 Off to the strip search room where
4 there's a shocking discovery: this is
5 no woman - at least not in the
6 conventional sense. But wait, from
7 the waist up she looks like a woman,
8 then again from the waist down a man.
9 Needless to say this generated
10 discussion on where are we going to
11 put this person, who is going to do
12 the searches, and what about the
13 hormones 'she' needs? This was to be
14 our first major exposure to
15 transgender/transsexual offenders.
16 While some of those decisions worked
17 'back then'" -- I mean, yeah, that
18 story was 1985 -- "'back then' those
19 same decisions would not be made
20 today. Times have changed."
21 Q. And can you tell me which decisions
22 worked back then but would not be made today?
23 A. Oh, well, first off, we wouldn't called
24 up to the floors anymore today. People wouldn't call
25 around like that anymore today. Come down here and

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1 take a look. That's the first thing.
2 Q. Okay.
3 A. The second thing is, is that -- is that
4 we probably would have done more querying of the
5 individual nowadays in the booking area. If we -- if
6 during the pat search the female officer felt as
7 though there was something amiss, we would probably do
8 more discussion prior to doing -- prior to doing a
9 search, yeah. And so there would be -- just the whole
10 processing of it might have been different.
11 Back in 1985 -- and I'm not sure that you
12 know this -- but back in the -- in the late '70s,
13 early '80s and through the '80s, Lexington, Kentucky,
14 where the jail that I was working at and the
15 administrator of, the University of Kentucky was --
16 actually had a reputation and was renowned
17 internationally for conducting sexual reassignment
18 surgeries.
19 So we -- we would get a lot of people who
20 were in the process. And typically they were
21 individuals that were in the process who had bad check
22 charges or drug-related charges.
23 Q. Okay. So male officers observing a woman
24 being pat frisked because she was attractive, that was
25 one of the decisions that was okay for back then but

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1 would not be made today; is that right?
 2 A. Well, I think the whole -- the whole
 3 surprise nature of it, yeah. Yeah. Looking back on
 4 it, that was probably an inappropriate correctional
 5 response to be doing. Now, that's judging it from the
 6 perspective 2018 to 1985.
 7 Q. It's been a while.
 8 And the -- and responding to that
 9 discovery with a strip search, that was one of the
 10 things also that worked at the time but different
 11 decision would be made today?
 12 A. Yeah, we -- yeah, now in my jail, okay --
 13 again, this is a risk tolerance issue, okay. In our
 14 jail I would say, wait a minute, we're going to talk
 15 and find out first. Let's find out what's the
 16 identification, let's talk to her about, you know, who
 17 would you best be searched by. Let's find out.
 18 Because really the issue there is -- is
 19 am I feeling a -- a penis and a scrotum when I come up
 20 between the legs, or am I feeling a bag of cocaine,
 21 bag of marijuana, a small -- a small handgun wrapped
 22 in -- wrapped in cloth or something, you know. I've
 23 seen these things, okay, found these things at
 24 booking.
 25 So, you know, I mean, this is not

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1 unusual, all right. So now to do a strip search to
 2 discover contraband like that, absolutely.
 3 So maybe -- maybe what we do, we ask the
 4 person first. Instead of saying off to the strip
 5 search room, okay, we go, wait a minute, look,
 6 something seems amiss here. Let's talk about this a
 7 minute. That's probably the more appropriate
 8 response.
 9 Q. Right. And so then if you determined
 10 that there was a reasonable suspicion that there was
 11 contraband there, then you would perform the strip
 12 search; right?
 13 A. Yeah, if she still -- in this case, if
 14 the individual -- and I recall this case vividly,
 15 because I have to tell you, she was a ten, okay,
 16 vivid. Everybody was down there.
 17 I think nowadays what we'd probably do is
 18 if there was a question about it, we would say, okay,
 19 we -- realize we have to search and make sure there's
 20 no contraband, so we're going to have to search more
 21 thoroughly. So you could do a more thorough pat
 22 search, okay.
 23 Q. Okay.
 24 A. I mean, you know, you can -- typically if
 25 it's a .357 you can feel it tucked between the legs.

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1 Q. Okay. So then my last questions are just
 2 to run through your qualifications.
 3 So -- so you have a Ph.D.; correct?
 4 A. I do.
 5 Q. And what was that Ph.D. in?
 6 A. Public administration.
 7 Q. And what was the subject of your
 8 dissertation?
 9 A. I didn't -- didn't catch that.
 10 Q. What was your dissertation on?
 11 A. Decision support systems for running
 12 jails. How to make quality decisions. It had -- in
 13 fact, it was all about this type of thing. How to
 14 data dictionary and how to gather the data, measure
 15 the data, and use the data to drive decision-making.
 16 Q. And did you use decisions about sex for
 17 transgender people as an example when you were writing
 18 that way back then?
 19 A. No, no, no. This -- this had -- this was
 20 a much broader perspective of how we manage jails
 21 using data-driven decisions, rather than using
 22 anecdotal evidence and things that we think are the
 23 way they are.
 24 And like all the stories I've been
 25 telling you, we all think it's like this, but, you

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1 know, we start collecting the data, we find it's not.
 2 That's why.
 3 Q. Okay. That's what I thought. Just
 4 wanted to make sure.
 5 A. It was a boring dissertation. You can
 6 get it. You'd be the only one that ever read it,
 7 other than my wife.
 8 Q. And where did you get your degree from?
 9 Your Ph.D. from?
 10 A. It was a university called Kennedy
 11 Western University out of Cheyenne, Wyoming.
 12 Q. Okay. And is that an accredited
 13 university?
 14 A. I don't think they were accredited at
 15 that time, no. They were the very first -- they were
 16 what would be called the bleeding edge of distance
 17 education in the United States back then.
 18 They were one of the only universities
 19 that provided a fully distance learning degree program
 20 in the United States. Nowadays, that's pretty common
 21 that they -- universities do this all over the
 22 country, you see it.
 23 But back -- back in -- when I first
 24 started in 1996, geez, how many -- computers hadn't
 25 been around all that long in 1996. So the idea of

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1 doing, you know, distance programming was -- was
 2 pretty unusual and pretty cutting edge.
 3 I actually found out about the program
 4 through the -- the Bureau of Prisons. I was working
 5 with a number of people at that time, networking with
 6 the National Institute of Corrections and other
 7 members of the Bureau of Prisons, and they mentioned
 8 the program to me as a way for working professionals
 9 in the correctional field to be able to get programs,
 10 to be able to get advanced degrees. So that's how I
 11 got into it.
 12 Q. Great.
 13 And can you explain to me the difference
 14 between law enforcement and corrections?
 15 A. Well, law enforcement is -- is a --
 16 typically used for law enforcement in a community
 17 setting. Corrections is inside the walls. Could be
 18 inside the walls in the jail, inside the walls in a
 19 prison, it could be inside the walls in a boot camp or
 20 a juvenile facility. That's typically corrections.
 21 Q. And your expertise is inside the walls
 22 corrections; is that correct?
 23 A. Yeah. I would say the majority of my
 24 work, 99 percent of it has been -- been in jails and
 25 prisons. I have done some street level law

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1 enforcement. We were -- in Kentucky, the jailer is a
 2 constitutionally elected official separate from the
 3 sheriff.
 4 So the sheriff ran street patrol and law
 5 enforcement in the community, tax collection, things
 6 like that. Whereas, the jailer was responsible for
 7 the housing and care and custody of inmates. Kind of
 8 a Daniel Boone common law system of England.
 9 During that process the jailer had
 10 statewide powers of law enforcement. So we could make
 11 arrests, we could chase people across county lines,
 12 throughout the whole state. Whereas, the sheriff's
 13 law enforcement authority was basically limited to the
 14 individual county.
 15 So, you know, as I -- when I was working
 16 at the jail, we worked in the community as law
 17 enforcement officers, typically, doing second jobs. I
 18 mean, it was, like, evening work, weekend work, things
 19 like that.
 20 But we were law enforcement. So I made a
 21 number of arrests in the community and law enforcement
 22 in the community that way too.
 23 Q. Okay. And so for purposes of your
 24 opinion, were you -- are you relying on expertise of
 25 the law enforcement officer in addition to

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1 correctional administration?
 2 A. Well, more how the two interface, okay.
 3 More how the two interface. You know, I've arrested
 4 people so I know what I have to do on the street.
 5 I've been -- I've also booked people in the jail,
 6 managed people in the jail, so I know what I have to
 7 do on that side of the house.
 8 You know, both sides of the house have --
 9 have a real need for definitional issues so that we
 10 know what we're talking about, we know how we're
 11 making the arrest and how we gather the data and the
 12 information for the arrest, and then how we utilize
 13 that in the processes.
 14 But I would say, like I said, 99 percent
 15 of what I did is in a correctional setting.
 16 Q. Okay. Just to flesh out on the community
 17 side, so when was the last time that you worked as a
 18 law enforcement officer in the community?
 19 A. So when was the last time I made an
 20 arrest as a law enforcement officer?
 21 Q. Sure, let's go with that.
 22 A. Okay. February 2008, maybe.
 23 Q. Okay.
 24 A. Like I said, we had law enforcement
 25 authority the whole time I was there, we had full

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1 power. So, you know, worked off and on all through
 2 that time.
 3 Q. And is your consulting and training work
 4 also for law enforcement agencies in addition to
 5 correctional agencies?
 6 A. Is there a -- I didn't understand the
 7 question.
 8 Q. So you do training and consultation work
 9 for various correctional agencies; is that right?
 10 A. Yes.
 11 Q. And do you also do that work with
 12 agencies that are doing law enforcement on the
 13 community side?
 14 A. If they ask me to, I have. I was
 15 doing it -- in fact, I was doing this
 16 transgender/transsexual management seminar, the
 17 Part 1, Part 2, Part 3 parts up in the state of Maine
 18 for the Maine Jail Administrators Association, and I
 19 had the chief law enforcement officer for the state of
 20 Maine sitting in on my class. So, yeah, I mean, yeah,
 21 they do.
 22 Q. Okay. Great.
 23 And -- and have you worked in prisons in
 24 addition to jails?
 25 A. Have I worked or have I consulted?

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1 Q. Well, let's go with work first.
2 Have you worked in prisons?
3 A. No. My -- my whole time that I worked,
4 my employment was with the Lexington-Fayette County
5 Government.
6 Q. Okay. And then have you consulted with
7 prisons?
8 A. Yes.
9 Q. Okay. Are there unique considerations to
10 jails as opposed to prisons?
11 A. There are some -- some fundamental
12 differences, but the vast majority of issues are very
13 similar. Jails are short-term holding agencies,
14 typically 85 to 90 percent of the population that roll
15 through a door of a jail, they get out of the jail
16 without going any further into the system.
17 That other, you know, 15, 10 percent that
18 roll on to a prison are there for a much longer span
19 of time.
20 So they have issues that deal with much
21 longer histories of managing inmates in custody than
22 jails do. But that changed now. You have to
23 understand, that changed.
24 Q. When did it change?
25 A. It changed in California when they --

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1 when they began to put people out of the prison system
2 in the state of California into local county jails.
3 So now there are some individuals serving up to
4 25 years in the county jail within the state of
5 California.
6 You've seen some states around the
7 country that enacted legislation that allows people to
8 serve between five and seven years in the local county
9 jail.
10 You're seeing a lot of -- a lot of states
11 where they contract with jails for the housing of
12 inmates from a correctional institution in the jail.
13 So an individual may be sentenced to
14 three or four years in the state prison, but actually
15 serve the whole time in the county jail. But, yeah,
16 there's been kind of a change that's going on out
17 there.
18 Q. So more and more they're -- people are in
19 jail for longer periods of time; is that right?
20 A. Oh, sure, and that has a huge impact on
21 how you're going to manage individuals that are
22 transsexual, transgender, individuals that are
23 undergoing any aspects of sexual reassignment surgery,
24 undergoing the hormone therapy. I mean, that all has
25 massive impacts on jail.

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1 So, you know, what we used to be able to
2 get away with in jails was, oh, we can't do that in a
3 jail, they're only here for a short time, you know,
4 they're going to be with us and gone. It's starting
5 to change around.
6 So now there are things that we used to
7 be able to say we're not going to do, and the courts
8 haven't held us to do, that they may hold us to do in
9 the future.
10 Q. Wouldn't an example of that be something
11 like sex reassignment surgery?
12 A. You know, it could well be. It could
13 very well be.
14 Q. What other things are you thinking of
15 when you say jails haven't been held to do some things
16 because it's such a short period of time, that that
17 might be changing?
18 A. Okay. For example, colonoscopies. Jails
19 typically didn't do colonoscopies on people. Why? We
20 don't really have them long enough to get in. But we
21 have to recognize that black males have a higher level
22 of colon cancer than white males do, and African
23 American males between 45 and 60 years old have a
24 higher rate of colon cancer.
25 So if we're going to house African

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1 American males, even for two, three, four years in the
2 local county jail, and they're in that range, we may
3 have to be doing colonoscopies. Now, think of the
4 cost of a colonoscopy. What is it going to cost a
5 jail to do that?
6 Mammographies for female inmates, all
7 right. You get certain age, groups of females, you
8 get certain ones that have -- are in that risk
9 category. We may be having to do mammographies.
10 So there are a lot of those types of
11 situations we haven't had to do in the past that we're
12 probably going to be required to do in the future.
13 There's one that's coming up now, which
14 is -- which is this medication assisted transitioning,
15 individuals that are opiate addicted. They're on --
16 in the community, they're on long-term methadone,
17 Suboxone, buprenorphine maintenance programs.
18 Well, you know, typically when they
19 rolled into a jail, we said we're the jail, they're
20 here for a short time, we don't do that in the jail.
21 Now it's starting to look like because of
22 the issues that are surrounding the management of
23 those people, you know, the -- the severe medical
24 issues or serious medical problems, we may wind up
25 having to do that.

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<p>1 So, again, that's all that changing 2 landscape. 3 Q. All right. Thank you. 4 And you're not claiming to have any 5 medical expertise; right? 6 A. I have my EMT certification, but that's 7 about it. That was through the Lexington Fire 8 Department back when I was working at the jail, yes, I 9 had that. But other than that, no. 10 Q. Okay. And do you have any degrees in 11 biology? 12 A. No. I was a liberal arts major. 13 Q. So was I. 14 And have you ever worked in the motor 15 vehicle department before? 16 A. No. 17 Q. And do you have expertise in driver's 18 licenses, specifically? 19 A. No. 20 Q. Okay. And have you ever been 21 disqualified as an expert before? 22 A. Not to my knowledge. 23 Q. Okay. And since you have experience 24 making arrests, I'd like to ask just a couple of 25 questions following up on that.</p>	<p>1 A. Long time ago. 2 Q. When you talked to them, did they -- did 3 you ask questions about their sex? 4 A. No, I don't -- I don't recall -- I don't 5 recall really talking about their sex to them too 6 much. It just -- it just was more obvious. Again, 7 we're talking about back in the '80s. 8 Q. Okay. Could you tell me, are there 9 unique concerns in a correctional environment that 10 aren't necessarily relevant in the community? 11 A. Are there unique concerns in the 12 correctional environment that are not relevant in the 13 community? 14 Q. Yes. 15 A. Well, I -- yeah, I mean, we have the 16 Fourth Amendment issues. I mean, intrusiveness of the 17 search, okay, where we have a policy that's going to 18 require a pretty intrusive search, a strip search, you 19 don't see many strip searches in the community. That 20 would probably be one. 21 You know, housing. You know, having to 22 make a decision about what apartment you can live in 23 the -- in the community. I don't know that any 24 governmental agency makes a decision on what apartment 25 you can be housed in based upon your sex or gender</p>
<p>Page 146</p> <p>1 So at the point where you make an arrest, 2 how do you identify -- do you identify the sex of the 3 person who you're arresting? 4 A. I did. Had it write it on -- had to 5 write it on the citation. 6 Q. And so how did you decide what to write 7 on the citation for sex? 8 A. I used his driver's license. 9 Q. Okay. Did you -- as far as you recall, 10 did you ever arrest somebody who you thought might be 11 transgender or intersex? 12 A. Not that I can recall, no. 13 Q. Have you ever arrested somebody who 14 didn't have a driver's license? 15 A. Not a juvenile? Not a juvenile. 16 Assuming it's not a juvenile. I've arrested 17 juveniles, they didn't have driver's licenses. 18 Q. With juveniles who did not have driver's 19 licenses, how did you determine what sex to write 20 down? 21 A. Physical appearance. And we would talk 22 to them, of course. You know, we're talking about a 23 long time ago. That would have been back in the -- 24 that was in the '80s. 25 Q. Okay.</p>	<p>Page 148</p> <p>1 identity or other issues, I'm not aware of it. So, I 2 mean, that might be another one. 3 Other than that, yeah, I don't -- that's 4 about it off the top of my head. 5 MR. ARKLES: All right. So I'm going to 6 take another very short break. I think we're probably 7 wrapping up here, and so unless -- of course Brad will 8 also have an opportunity to ask you questions. 9 Why don't we just take one last 10 five-minute break. 11 (There was a break taken.) 12 MR. ARKLES: We can go back on the 13 record, and I have no further questions at this time. 14 MR. CHYNOWETH: No questions from the 15 defendants. 16 MR. ARKLES: All right. Then I think 17 we're done. 18 Vickie, is there anything that you need 19 from us? 20 THE REPORTER: Do you both want a copy of 21 the transcript? 22 MR. ARKLES: Yes, please. 23 MR. CHYNOWETH: Yes. 24 THE REPORTER: Do you want the doctor to 25 read and sign? Or do you have read and sign?</p>

1 Or do you want to read and sign?
 2 MR. CHYNOWETH: I'm okay waiving that, if
 3 that's okay with you, Don.
 4 THE WITNESS: That's okay with me.
 5 (The deposition was concluded at 12:38 p.m.)
 6 * * *
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1 Reporter's Certificate
 2
 3 State of Utah)
 4 County of Salt Lake)
 5 I, Vickie Larsen, Certified Shorthand
 6 Reporter and Registered Merit Reporter, in the State of
 7 Utah, do hereby certify:
 8 THAT the foregoing proceedings were taken
 9 before me at the time and place set forth herein; that
 10 the witness was duly sworn to tell the truth, the whole
 11 truth, and nothing but the truth; and that the
 12 proceedings were taken down by me in shorthand and
 13 thereafter transcribed into typewriting under my
 14 direction and supervision;
 15 THAT the foregoing pages contain a true
 16 and correct transcription of my said shorthand notes so
 17 taken.
 18 IN WITNESS WHEREOF, I have subscribed my
 19 name this 4th day of January, 2019.
 20
 21
 22
 23 Vickie Larsen, CSR/RMR
 24
 25

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Darcy Corbitt v.
Hal Taylor

Donald Leach
December 21, 2018

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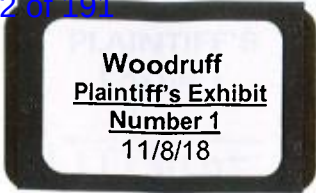
Darcy Corbitt v.
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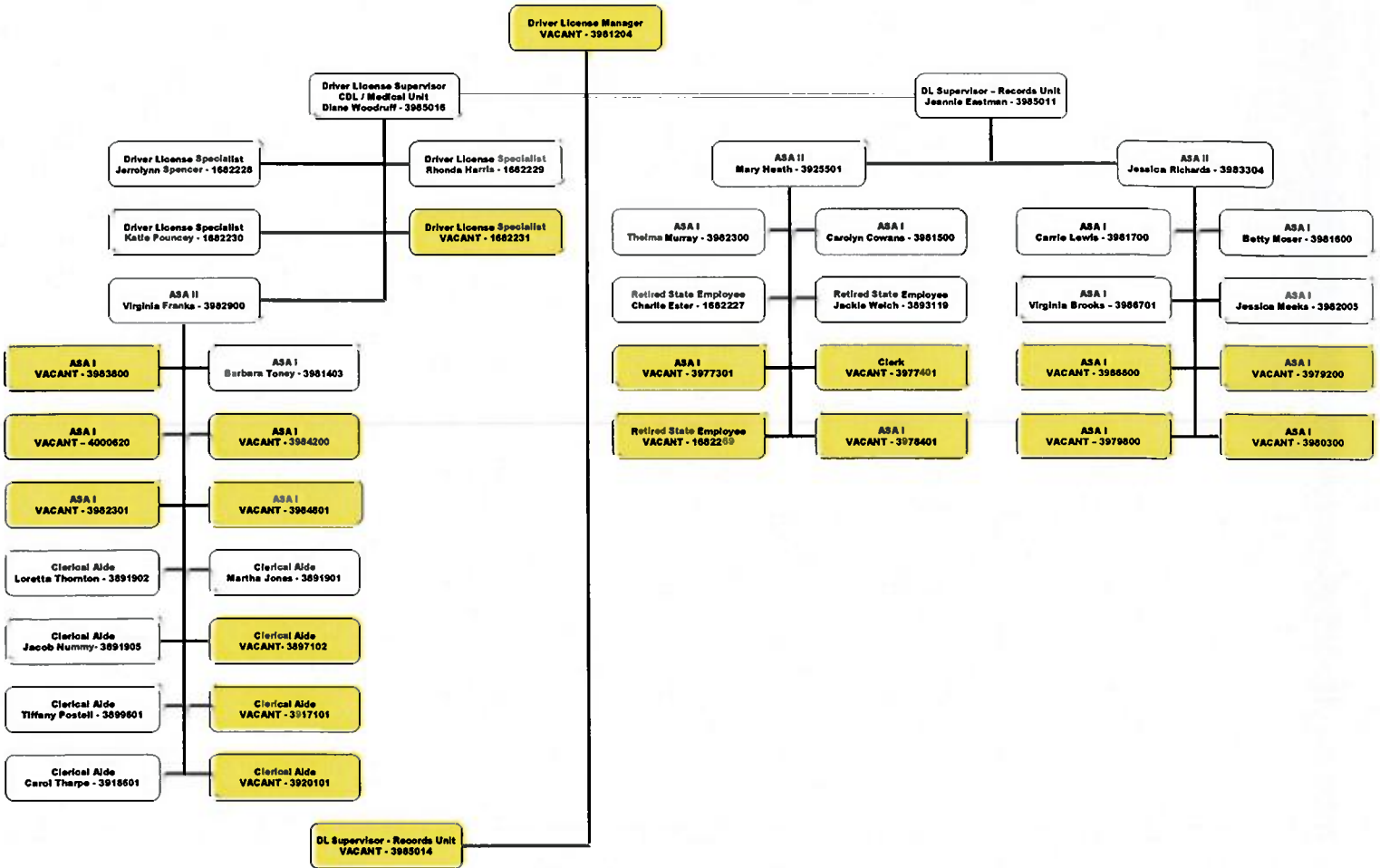
Exhibit 10

Deposition Exhibits PX1-44

(but not including PX11-13, PX15-21, PX24-30
that are filed under seal as Ex. 10a)

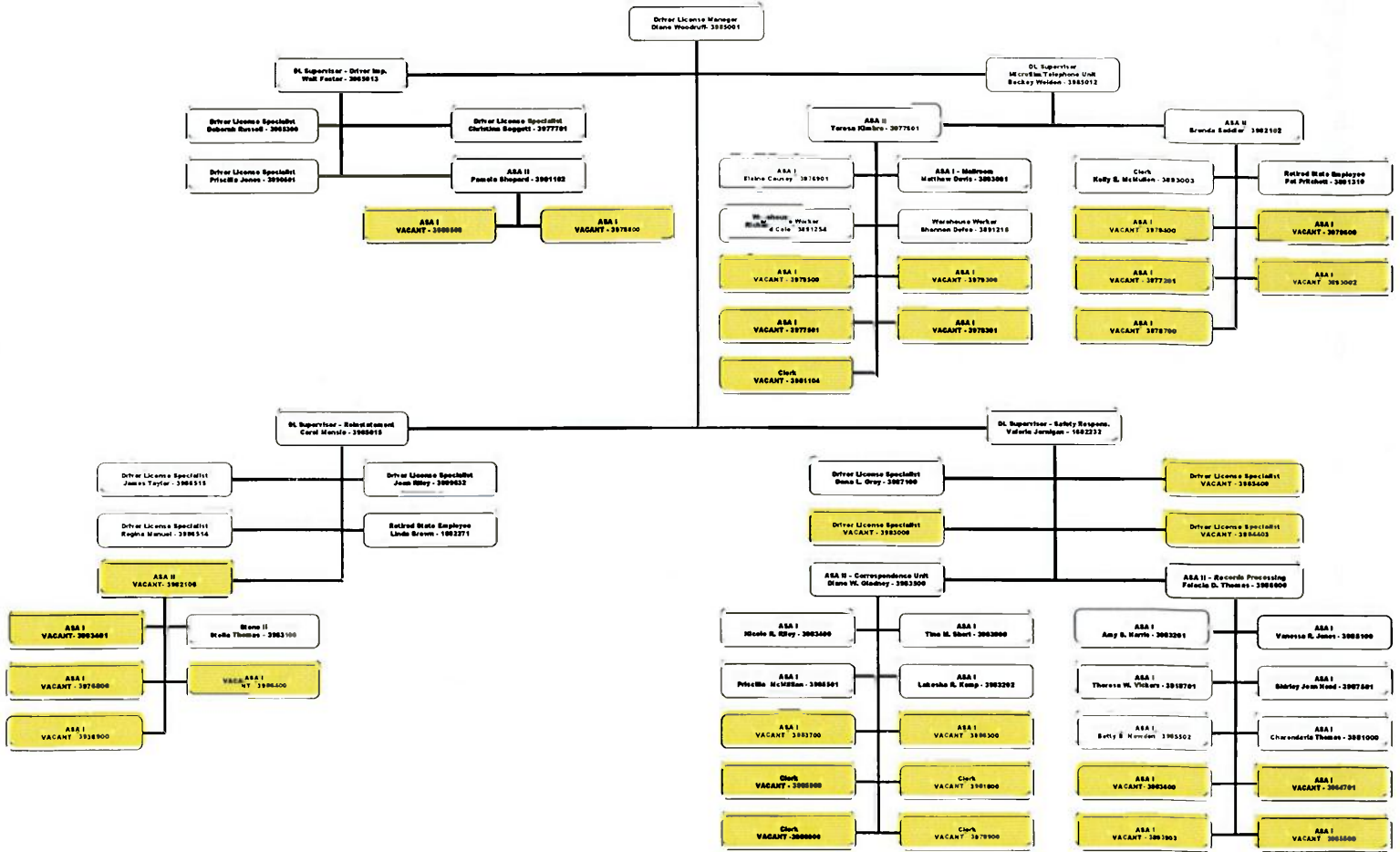


Customer Records

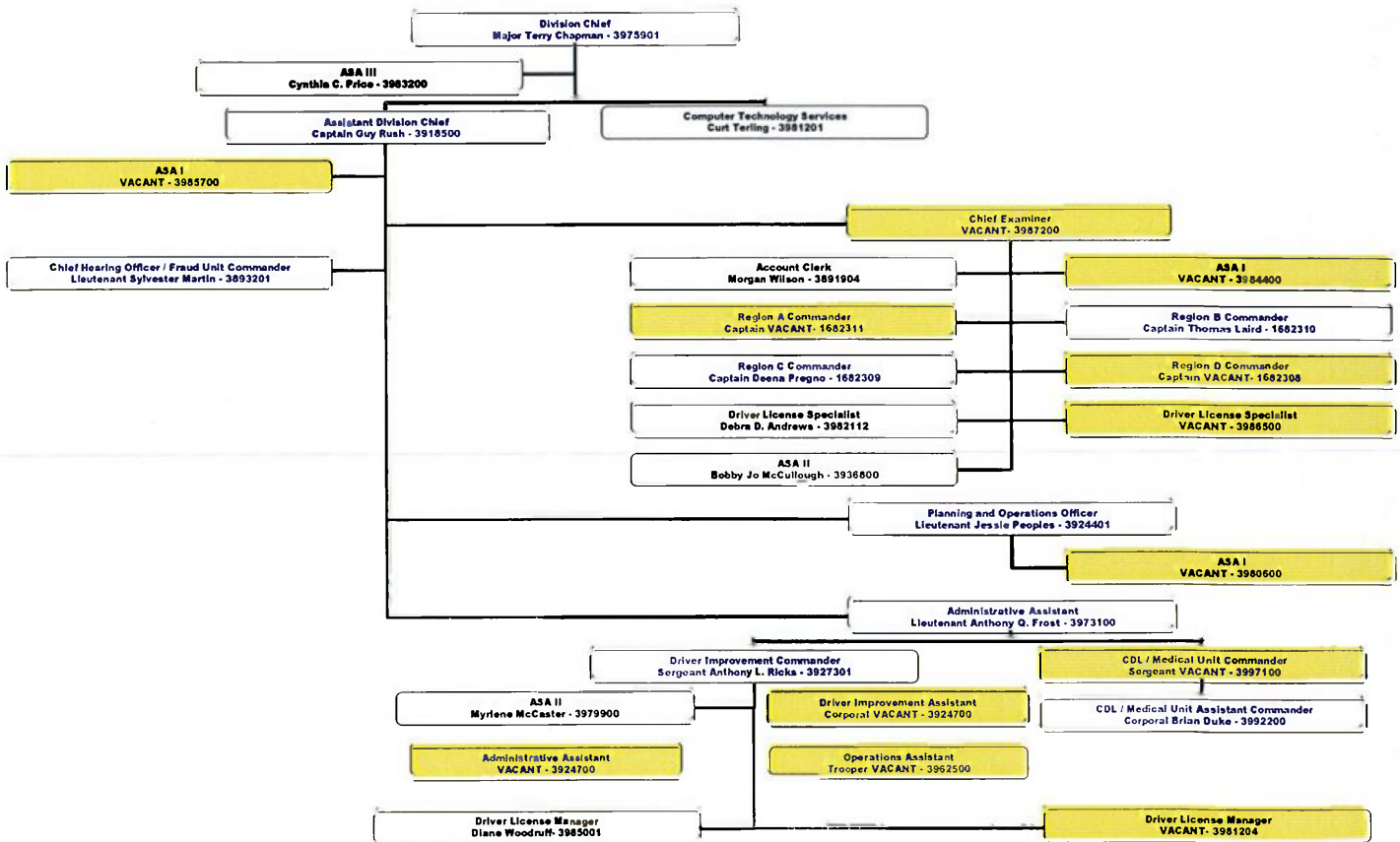




Customer Services



Driver License Division – Command Staff



April 1, 2013

Woodruff
 Plaintiff's Exhibit
 Number 3
 11/8/18

ALABAMA LAW ENFORCEMENT AGENCY

Revised Date: 07-01-2015

Driver License Policy Order No 63

Source: Legal Unit

**SUBJECT: CHANGING SEX ON A DRIVER LICENSE DUE
TO GENDER REASSIGNMENT**

It is the policy of the Chief of the Driver License Division that an individual wishing to have the sex changed on their Alabama driver license due to gender reassignment surgery are required to submit to an Examining office OR the Medical Unit the following:

1. An amended state certified birth certificate and/or a letter from the physician that performed the reassignment procedure. The letter must be on the physician's letterhead.

**IF THE INDIVIDUAL INITIALLY REPORTS TO AN EXAM OFFICE FOR
THE GENDER CHANGE:**

1. The examiner is to review the document(s) presented for authenticity and contact the medical unit in order to make the necessary system change.
2. If a physician letter is presented, there is no need to contact the physician unless there is some doubt as to the authenticity of the letter. Many of the surgeries are performed in other countries.
3. After the system changes are completed, the examiner will then scan the documents presented into the driver record, and issue the person a corrected duplicate license (if not renewal time) for the duplicate fee.
4. The documents presented are to be given back to the applicant.

IF THE REQUEST IS MAILED TO THE MEDICAL UNIT: The medical unit will:

1. Review the document(s) for authenticity. The letter does NOT have to be submitted by the physician's office, the subject may send it in.
2. Make the necessary system updates (changing gender) and place a comment referencing the changes in the driver history.
3. The document(s) presented will be mailed back to the subject along with a letter informing the subject they can obtain a duplicate online or by visiting an ALEA or probate/license office.
4. The letter to the subject and the document(s) presented are to be scanned into the driver history.



**ALABAMA LAW ENFORCEMENT AGENCY
DRIVER LICENSE DIVISION**

301 SOUTH RIPLEY STREET/ P.O. BOX 1471/ MONTGOMERY, AL 36102-1471
PHONE: 334.242.4400/ ALEA.GOV

PLAINTIFF'S
Woodruff
Plaintiff's Exhibit
Number 5
11/8/18

**SUBJECT: CHANGING SEX ON A DRIVER LICENSE DUE TO
GENDER REASSIGNMENT**

It is the policy of the Chief of the Driver License Division that an individual wishing to have the sex changed on their Alabama driver license due to gender reassignment surgery are required to submit to an Examining office OR the Medical Unit the following:

1. An amended state certified birth certificate and/or a letter from the physician that performed the reassignment procedure. The letter must be on the physician's letterhead.



**ALABAMA LAW ENFORCEMENT AGENCY
DRIVER LICENSE DIVISION**

301 SOUTH RIPLEY STREET / P.O. BOX 1471 / MONTGOMERY, AL 36102-1471
PHONE 334.242.4400 / ALEA.GOV

**ROBERT
BENTLEY
GOVERNOR**

SPENCER

**SUBJECT: CHANGING SEX ON A DRIVER
LICENSE DUE TO GENDER REASSIGNMENT**

It is the policy of the Chief of the Driver License Division that an individual wishing to have the sex changed on their Alabama driver license due to gender reassignment surgery are required to submit to an Examining office OR the Medical Unit the following:

1. An amended state certified birth certificate and/or a letter from the physician that performed the reassignment procedure. The letter must be on the physician's letterhead.

IF THE INDIVIDUAL INITIALLY REPORTS TO AN EXAM OFFICE FOR THE GENDER CHANGE:

1. The Examiner is to review the document(s) presented for authenticity and contact the medical unit in order to make the necessary system change.
2. If a physician letter is presented, there is no need to contact the physician unless there is some doubt as to the authenticity of the letter. Many of the surgeries are performed in other countries.
3. After the system changes are completed, the Examiner will then scan the documents presented into the driver record, and issue the person a corrected duplicate license (if not renewal time) for the duplicate fee.
4. The documents presented are to be given back to the applicant.

IF THE REQUEST IS MAILED TO THE MEDICAL UNIT: The medical unit will:

1. Review the document(s) for authenticity. The letter does NOT have to be submitted by the physician's office, the subject may send it in.
2. Make the necessary system updates (changing gender) and place a comment referencing the changes in the driver history.
3. The document(s) presented will be mailed back to the subject along with a letter informing the subject to report to either a probate office/license commissioner or an Examining office to purchase another license.
4. The letter to the subject and the document(s) presented are to be scanned into the driver history.

Woodruff
Plaintiff's Exhibit
Number 6
11/8/18

From: "Eastman, Jeannie" <EXCHANGELABS/EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/RECIPIENTS/5F9485C89E274E929686774AE175929 F-EASTMAN, JE>
Sent: 9/7/2017 8:56:00 AM -0500
To: "Duke, Brian" <brian.duke@alea.gov>
Subject: gender change
Attachments: Gender Change Policy 3.docx

Jeannie Eastman
Driver License Supervisor
Alabama Law Enforcement Agency
Office: 334-242-4777
jeannie.eastman@alea.gov

Please note that my email address has changed



Woodruff
Plaintiff's Exhibit
Number 7
11/8/18

DEPARTMENT OF PUBLIC SAFETY

Revised Date: 09-01-2012

Driver License Policy Order No 63

Source: Legal Unit

I. CHANGING SEX ON A DRIVER LICENSE DUE TO GENDER REASSIGNMENT

- A. It is the policy of the Director and the Driver License Division that individuals wishing to have their sex changed on their Alabama license due to gender reassignment surgery are required to submit to the Medical Unit an amended birth certificate along with documentation on letterhead from the physician that performed the sexual reassignment surgery stating the surgery has been completed.
- B. Once the documentation is submitted to the Medical Unit, if acceptable, a letter will be sent to the subject informing them to purchase a duplicate license with the corrected sex listed.



ALABAMA LAW ENFORCEMENT AGENCY
DRIVER LICENSE DIVISION
301 SOUTH RIPLEY STREET / P.O. BOX 1471 / MONTGOMERY, AL 36102-1471
PHONE 334.242.4400 / ALEA.GOV

**ROBERT
BENTLEY**
GOVERNOR

SPENCER COLLIER

**SUBJECT: CHANGING SEX ON A DRIVER
LICENSE DUE TO GENDER REASSIGNMENT**

It is the policy of the Chief of the Driver License Division that an individual wishing to have the sex changed on their Alabama driver license due to gender reassignment surgery are required to submit to an Examining office OR the Medical Unit the following:

1. An amended state certified birth certificate and/or a letter from the physician that performed the reassignment procedure. The letter must be on the physician's letterhead.

IF THE INDIVIDUAL INITIALLY REPORTS TO AN EXAM OFFICE FOR THE GENDER CHANGE:

1. The Examiner is to review the document(s) presented for authenticity and contact the medical unit in order to make the necessary system change.
2. If a physician letter is presented, there is no need to contact the physician unless there is some doubt as to the authenticity of the letter. Many of the surgeries are performed in other countries.
3. After the system changes are completed, the Examiner will then scan the documents presented into the driver record, and issue the person a corrected duplicate license (if not renewal time) for the duplicate fee.
4. The documents presented are to be given back to the applicant.

IF THE REQUEST IS MAILED TO THE MEDICAL UNIT: The medical unit will:

1. Review the document(s) for authenticity. The letter does NOT have to be submitted by the physician's office, the subject may send it in.
2. Make the necessary system updates (changing gender) and place a comment referencing the changes in the driver history.
3. The document(s) presented will be mailed back to the subject along with a letter informing the subject to report to either a probate office/license commissioner or an Examining office to purchase another license.
4. The letter to the subject and the document(s) presented are to be scanned into the driver history.

Woodruff
Plaintiff's Exhibit
Number 8
11/6/18

Documentation
Guide License
Gender ID Card
Designation
PROCEDURES



Resource Guide on Gender Designation on Driver's Licenses and Identification Cards



September 2016

GENDER DESIGNATION WORKING GROUP

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American Association of Motor Vehicle Administrators

Photo credits: "Driver Licenses" © American Association of Motor Vehicle Administrators

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Chapter One Introduction

Jurisdictions across the United States and Canada have a range of policies and procedures for serving customers who seek to change the gender designation on a driver's license or identification card (DL/ID). The policies vary in the language used, the documentation required, and the procedure for requesting a change. In recent years, member jurisdictions have contacted the American Association

of Motor Vehicle Administrators (AAMVA) to gain insight into how other jurisdictions handle this service. Thus, the concept of creating a resource guide on gender designation changes on DL/ID was formed, and the Gender Designation Working Group (GDWG) was created. What follows is a resource guide summarizing jurisdictions' policies and procedures.

Chapter Two Trends of Driver's License Gender Change Policies

The general trend in recent years is jurisdictions replacing requirements to submit proof of surgical treatment with standards that focus on the gender in which individuals live in their daily lives, as affirmed by a medical provider, mental health provider, or social worker. A second modernization trend is

simplified forms applicants must complete in lieu of a letter from a provider. The form approach streamlines the process for both applicants and State Driver License Agency (SDLA) staff, saving time and money, and reduces the jurisdiction's liability in holding customers' private medical information.

Chapter Three Key Features of Jurisdictional Gender Designation Change Policies

Key features of gender change procedures in jurisdictions that have recently updated their approach to permit changing the gender designation on a government-issued DL/ID include the following:

1. An easy-to-understand gender designation change form submitted by the applicant
2. No requirement of surgery or other specified treatment
3. No requirement of a court order or amended birth certificate
4. Attestation of the gender identity of the applicant which can be signed by one of a variety of licensed providers
5. Acceptance of an updated passport, birth certificate, or identification card issued by another government agency as an alternative to the provider certification
6. Guidance and sensitivity training for agency personnel on protecting private information relating to gender changes

It is useful to note that there are many types of licensed providers who are qualified to provide treatment to, and are in a position to evaluate the

gender identity of, transgender individuals. The expansion of this field of expertise has offered jurisdictions a broader range of licensed health care providers who may certify an applicant's gender designation. The licensing of each type of provider ensures the integrity of provider certifications of gender change and ensures all certifying providers are professionally and legally accountable for the information they submit. Jurisdictions considering changes to their guidance, materials, or training have found it helpful to meet with their medical advisory boards and outside interest groups for additional insight. Types of medical providers that have been recognized in this field include:


- Physician
- Physician assistant
- Psychologist
- Nurse practitioner
- Clinical social worker
- Marriage family therapist
- Psychiatric social worker
- Social worker

Chapter Four Conclusion


The working group has recommended providing this resource guide on the range of approaches jurisdictions use when serving customers who apply to make a gender designation change on government-issued DL/IDs. The reference table is followed by examples of policies that have been modified in recent years.

Examples of simplified gender designation change forms are included as an appendix to the resource guide. The use of the provider certification form assures validity because it documents the provider's license, streamlines the process, and reduces the risk of disclosure of personal information and medical records.

Appendix A Examples of Jurisdictional Gender Designation Change Forms



Gender Designation Form



PART ONE: TO BE COMPLETED BY APPLICANT

Last Name	First Name	Middle Name	Social Security Number
Street Address	City/State	Zip Code	License/Identification Number
Washington, D.C.			

I, _____ wish to designation the gender on my
(print name)
 driver's license or identification card to read: circle one: **Male** **Female**

I hereby certify under penalty of law that this request for gender designation is for the purpose of ensuring my driver's license / identification card accurately reflects my gender identity and is not for any fraudulent or other unlawful purpose.

Signature: _____ Date: _____

PART TWO: TO BE COMPLETED BY MEDICAL OR SOCIAL SERVICE AUTHORITY

Provider Last Name	Provider First Name	Provider Title	
Provider Organization Name (if applicable)			
Provider Street Address	City	State	Zip Code
Provider Phone	Provider E-mail	Provider Organization or Professional License Number	

I am a:

- Physician
- Licensed therapist or counselor
- Case worker or social worker
- Other. Please specify:

In my professional opinion, the applicant's gender identity is (circle one): **Male** **Female** and can reasonably be expected to continue as such in the foreseeable future.

I hereby certify under penalty of law the foregoing information is true and correct.

Signature: _____ Date: _____

Any person using a fictitious name or address and/or knowingly making any false statement on this application is in violation of D.C. Law and subject to a fine of not more than \$1,000 or 180 days imprisonment or both. (D>C. Official Code §22-2405).

To report waste, fraud and abuse by any DC Government agency or official, call the DC Inspector General at 1-800-521-1639 Ver. 11-2006



GENDER DESIGNATION ON A LICENSE OR IDENTIFICATION CARD

PROCEDURE FOR CHANGING GENDER DESIGNATION ON DRIVER'S LICENSE OR IDENTIFICATION CARD

Applicants requesting a change of the gender designation on their driver's license or identification card from that showing on their identity proof documents must:

- o Surrender any current state-issued license or identification card;
- o Submit a completed Gender Designation form; and
- o Pay applicable fees for new or amended license. The applicant shall have a new photograph taken.

Employees shall not request additional gender-related information beyond that required on the applicable forms or otherwise inquire about the applicant's private medical history or records.

Until the Department of Motor Vehicles is able to provide all employees comprehensive training on this procedure, gender designation applications should be directed to DMV service center managers.

PRIVACY OF INFORMATION RELATING TO GENDER DESIGNATION

The Gender Designation form contains private medical information and will be kept confidential and protected under the provisions of the Driver Privacy Protection Act.

MATCHING GENDER DATA FROM OTHER SOURCES

DMV will change the gender designation on an applicant's license or identification card contingent on the submission of the fully and accurately completed Gender Designation form. The applicant is not required to have changed his or her gender designation on other forms of identification.

CHANGE OF NAME

Name changes related to gender are completed via submission of appropriate court documents and must also be reflected on the Social Security card.

DMV. Ver. 11/2006

STATE OF ALASKA
DIVISION OF MOTOR VEHICLES

CERTIFICATION FOR CHANGE OF SEX DESIGNATOR ON DRIVER LICENSE OR IDENTIFICATION CARD

This certification must be accompanied by one of the following:

- Application for a Non-Commercial Alaska Driver License, Permit or Identification Card (Form 478) or
- Application for a Commercial Driver License (Form 415) and Commercial Driver Medical and Self Certifying Verification (Form 413)

If one of the following documents can be provided section B and C of this form are not required.

- Amended Birth Certificate
- Valid US Passport
- Court Order issued by a court in the United States granting change of sex or gender

THIS FORM MUST BE COMPLETED IN FULL AND MUST BE COMPLETED IN BLACK OR BLUE INK.

A				APPLICANT INFORMATION AND SEX DESIGNATION STATEMENT													
FULL LEGAL NAME:		First	Middle	Last	Suffix												
ALASKA DL or ID number		Date of Birth		I wish the sex designation on my Driver License/ID Card to read:													
				<input type="checkbox"/> Male <input type="checkbox"/> Female _____ Signature													
B								PATIENT MEDICAL RELEASE AUTHORIZATION									
I _____, authorize the licensed provider listed in section C to release information related to this request. I hereby certify under penalty of unsworn falsification that this request for the selected sex designation to appear on my driver's license/ID Card accurately reflects my gender identity and is not for any fraudulent or other unlawful purpose.																	
X _____ Signature Title																	
C								LICENSED PROVIDER CERTIFICATION									
This section must be completed in full by a licensed physician in medicine or osteopathy, social worker, psychologist, professional counselor, physician assistant or advanced nurse practitioner.																	
Patient Name								Provider Full Name									
Provider Address								Telephone Number									
Professional License Number								License-Issuing Jurisdiction									
I am a licensed <input type="checkbox"/> physician in medicine or osteopathy <input type="checkbox"/> social worker <input type="checkbox"/> psychologist <input type="checkbox"/> professional counselor <input type="checkbox"/> physician assistant <input type="checkbox"/> advanced nurse practitioner																	
I hereby certify under penalty of unsworn falsification that I am a licensed provider in the field checked above. I have treated the applicant or reviewed and evaluated the medical history of the applicant with regard to the condition necessitating the requested change of sex designator on the driver license or ID card. The applicant has had appropriate clinical treatment for the condition necessitating the change and the change is expected to be permanent. The applicant's gender identification is <input type="checkbox"/> Male <input type="checkbox"/> Female.																	
X _____ Provider Signature								X _____ Provider Printed Name and Title								_____ Date	
THE PROVIDER SIGNATURE MUST BE ORIGINAL AND MAY NOT BE STAMPED OR IN AN ELECTRONIC FORMAT.																	
DMV Use Only		• Amended Birth Certificate				• Valid US Passport				• US Court Order							
		Jurisdiction: _____				Number: _____				Jurisdiction: _____							

For questions or information on changing the sex designator on a license please contact:

Anchorage Driver Licensing
1300 W. Benson Blvd, Suite 100
Anchorage, Alaska 99503
(907) 269-3770 Phone
(907) 269-3774 Fax

Form 427 (Rev. 08/12)

Alaska.gov/dmv

DR 2083 (04/15/15)
 Colorado Department of Revenue
 PO Box 173350
 Denver CO 80217-3350

Medical Information Authorization (Change of Sex Identification)

Name	DL/ID Number	Date
Address	City	ZIP
Previous Name (if name change is concurrent)		
To Be Completed By Licensed Colorado Physician		
Physician (Please print)		Colorado Medical License Number
Based on the patient's gender identity and full time gender role expression, or on prior completion of medical sex reassignment, my professional opinion is that the person's gender is:		
<input type="checkbox"/> Male <input type="checkbox"/> Female		
A complete examination form for this person is on file in my office at:		
Address	City	ZIP
Signature of Physician		Date
Attention Physician: please return this form to the subject for inclusion with their driver's license or identification card application.		
To Be Completed by Applicant		
I hereby authorize my physician to answer the above questions and submit information to the Division of Motor Vehicles, relating to my gender identification, for the purpose of obtaining a driver's licence or identification card under my preferred gender.		
I understand that information received by the Division will be held in strict confidence per Colorado Revised Statute 42-2-121 and the federal Driver's Privacy Protection Act, Section 2721-		
By signing below, I hereby affirm under the penalty of second degree perjury CRS 18-8-503(1) that the information provided above is my own and the above statements are true. I understand that it is a criminal offense to knowingly submit false information to the Colorado Department of Revenue, punishable by fines, incarceration, and/or loss of driving privileges or identification card.		
Signed		Date

**GENDER DESIGNATION
CHANGE FORM**
B-372 New 10-2013

STATE OF CONNECTICUT
DEPARTMENT OF MOTOR VEHICLES
On The Web At ct.gov/dmv



The DMV can only accept original forms with original signatures. Photocopies and faxes are not acceptable. You must surrender the existing driver's license or ID Card that is to be amended.

PART 1: TO BE COMPLETED BY APPLICANT (Name on current Driver's License/ID or Identity documents)

LAST NAME	FIRST NAME	MIDDLE	SOCIAL SECURITY NUMBER
STREET ADDRESS			CITY/TOWN
		ZIP CODE	DRIVER'S LICENSE/ID NUMBER

Gender Designation Statement:

I, _____ wish the gender designation on my
(print name from above)

Driver's License/ID Card to read (circle one): **MALE** **FEMALE**

I hereby swear, under the penalty of perjury, that this request for the selected gender designation to appear on my Driver's License/ID Card is for the purpose of ensuring that my Driver's License/ID Card accurately reflects my gender identity and is not for any fraudulent or other unlawful purpose.

SIGNATURE	DATE
X	

The information provided to the Commissioner of Motor Vehicles herein is subscribed by me, under penalty of false statement, in accordance with the provisions of Section 14-110 and 53a-157b of the Connecticut General Statutes.

PART 2: TO BE COMPLETED BY MEDICAL OR SOCIAL SERVICE PROVIDER

LAST NAME	FIRST NAME	TITLE
PROVIDER'S ORGANIZATIONAL NAME (if applicable)		
PROVIDER'S STREET ADDRESS	CITY	STATE
		ZIP CODE
PROVIDER'S TELEPHONE NUMBER	PROVIDER'S E-MAIL	PROVIDER'S PROFESSIONAL LICENSE NUMBER AND STATE

I am licensed as a: PHYSICIAN THERAPIST OR COUNSELOR PSYCHIATRIC SOCIAL WORKER

My practice includes the treatment and counseling of persons with gender identity issues, including the applicant named herein, and in my professional opinion, the applicant's gender identity is (circle one):

MALE **FEMALE** and can reasonably be expected to continue as such for the foreseeable future.

I hereby certify, under the penalty of perjury, that the foregoing information is true and correct.

SIGNATURE	DATE
X	

The information provided to the Commissioner of Motor Vehicles herein is subscribed by me, under penalty of false statement, in accordance with the provisions of Section 14-110 and 53a-157b of the Connecticut General Statutes.

REQUEST FOR GENDER CHANGE ON DRIVER LICENSE/IDENTIFICATION CARD



PLEASE TYPE OR PRINT ALL INFORMATION IN BLUE OR BLACK INK

Customer: Please complete Sections A, B, C, and D.

A - DRIVER INFORMATION			
DRIVER LICENSE NUMBER		LAST NAME(S)	
FIRST NAME		MIDDLE NAME	
DATE OF BIRTH		DAYTIME TELEPHONE NUMBER	
MONTH	DAY	YEAR	E-MAIL ADDRESS (if applicable)

Please check the product(s) you currently have:

- Class D Driver License
 Commercial Driver License
 Identification Card

B - GENDER DESIGNATION STATEMENT	
I, _____, wish the gender designation on my driver license/ID card to read:	
<input type="checkbox"/> MALE <input type="checkbox"/> FEMALE	

C - TO BE COMPLETED BY MEDICAL OR SOCIAL SERVICE PROVIDER LICENSED IN THE UNITED STATES			
PROVIDER'S LAST NAME		PROVIDER'S FIRST NAME	
PROVIDER'S ORGANIZATION		STATE MEDICAL LICENSE #	STATE LICENSED IN
PROVIDER'S STREET ADDRESS			
CITY		STATE	ZIP

I am a licensed: Physician Therapist/Counselor Social Worker

My practice includes assisting, counseling or treating persons with gender identity issues, including the applicant named herein, and in my professional opinion, the applicant's gender identity is _____ Male Female and can reasonably be expected to continue as such for the foreseeable future.

I certify, under the penalty of perjury, that the foregoing medical or social service provider information on this application is true and correct.

PROVIDER'S SIGNATURE: _____ DATE: _____

D - AUTHORIZATION AND CERTIFICATION	
I certify, under the penalty of perjury, that the information on this application is true and correct to the best of my knowledge, that this request for the selected gender designation to appear on my driver license/ID card accurately reflects my gender identity and is not for any fraudulent or other unlawful purpose, and that I am a bona fide resident of Delaware.	
APPLICANT'S SIGNATURE: _____	DATE: _____

E - TO BE COMPLETED BY THE DIVISION OF MOTOR VEHICLES	
APPROVING SUPERVISOR/SENIOR NAME: _____	
APPROVING SUPERVISOR/SENIOR SIGNATURE: _____	DATE: _____

MY2020
08/11

GENDER DESIGNATION FORM

PART ONE: TO BE COMPLETED BY APPLICANT

 Last Name First Name Middle Name

 Street Address City/State Zip Code Driver's License Number

I, _____ wish to designate the gender on my
 (Print name)

Driver's license card to read: circle one Male Female

I hereby certify under penalty of law that this request for gender designation is for the purposes of ensuring my driver's license accurately reflects my gender identity and is not for any fraudulent or other unlawful purposes.

Signature: _____ Date: _____

PART TWO: TO BE COMPLETED BY MEDICAL OR SOCIAL AUTHORITY

 Provider Last Name Provider First Name Provider Title

 Provider Organization Name (if applicable)

 Provider Street Address City State Zip Code

 Provider Phone Provider E-mail Provider Organization or Professional License Number

I am a:

- | | |
|---|---|
| <input type="checkbox"/> Physician | <input type="checkbox"/> Licensed Psychologist |
| <input type="checkbox"/> Licensed Psychiatrist | <input type="checkbox"/> Licensed Clinical Social Worker |
| <input type="checkbox"/> Licensed Clinical Social Worker | <input type="checkbox"/> Licensed Marriage and Family Therapist |
| <input type="checkbox"/> Licensed Mental Health Counselor | <input type="checkbox"/> Licensed Social Worker |
| <input type="checkbox"/> Advanced Nurse Practitioner | <input type="checkbox"/> Physician Assistant |
| <input type="checkbox"/> Psychiatric Nurse Practitioner | |

In my professional opinion, the applicant's gender is (circle one): Male Female
 and can reasonably be expected to continue as such in the foreseeable future.

I hereby certify under penalty of law the foregoing information is true and correct.

Signature: _____ Date: _____



GENDER DESIGNATION FORM

The Maine Bureau of Motor Vehicles can only accept original forms with original signatures.
Photocopies and faxes are not acceptable.

You must surrender the existing license or ID card that is to be amended.

Part I: TO BE COMPLETED BY APPLICANT (Name on current license or ID)			
Ⓞ Last Name	First Name	Middle	Social Security #
Ⓞ Street Address	City/Town	Zip Code	License/ID #
<u>Gender Designation Statement</u>			
I _____ request the gender designation on my (print name from above)			
Driver's License/ID Card to read (circle one): Male Female			
I hereby swear, under the penalty of perjury, that this request for the selected gender designation to appear on my Driver's License/ID Card is for the purpose of ensuring that my Driver's License/ID Card accurately reflects my gender identity and is not for any fraudulent or other unlawful purpose.			
Signature: _____		Date: _____	
<i>(False statements may be punishable by fine, imprisonment, or both)</i>			

Part II: TO BE COMPLETED BY MEDICAL OR SOCIAL SERVICE PROVIDER			
Ⓞ Provider's Last Name	Provider's First Name	Title	
Ⓞ Provider's Organizational Name (if applicable)			
Ⓞ Provider's Street Address	City	State	Zip
Ⓞ Provider's Tel.#	Provider's E-mail	Provider's Professional License # and State	
I am licensed as a: <input type="checkbox"/> Physician <input type="checkbox"/> Therapist or Counselor <input type="checkbox"/> Social Worker			
<input type="checkbox"/> Other (Qualified Professional – please specify) _____			
In my professional opinion, the applicant's gender identity is (circle one): Male Female and can reasonably be expected to continue as such in the foreseeable future.			
I hereby certify, under the penalty of perjury that the foregoing information is true and correct.			
Signature: _____		Date: _____	
<i>(False statements may be punishable by fine, imprisonment, or both)</i>			

Bureau of Motor Vehicles, License Services Division
29 State House Station, Augusta, ME 04333-0029
Telephone: (207)624-9000 ext. 52114 TTY Users call Maine relay 711

Updated 01/2013



MASSACHUSETTS GENDER DESIGNATION CHANGE FORM

Registry of Motor Vehicles
P.O. Box 55889
Boston, MA 02205-5889

The RMV can only accept original forms with original signatures. Photocopies and faxes are not acceptable.
You must surrender the existing license or ID Card that is to be amended

PART 1: TO BE COMPLETED BY APPLICANT (Name on current License/ID or Identity documents)

<input type="checkbox"/> Last Name	First Name	Middle	Social Security #
<input type="checkbox"/> Street Address	City/Town	Zip Code	License/ID #

Gender Designation Statement:

I, _____ wish the gender designation on my
(print name from above)

Driver's License/ID Card to read (circle one): **Male** **Female**

I hereby swear, under the penalty of perjury, that this request for the selected gender designation to appear on my Driver's License/ID Card is for the purpose of ensuring that my Driver's License/ID Card accurately reflects my gender identity and is not for any fraudulent or other unlawful purpose.

Signature _____ Date: _____

(False statements are punishable by fine, imprisonment, or both. (MGL Chapter 90, Section 24))

PART 2: TO BE COMPLETED BY MEDICAL OR SOCIAL SERVICE PROVIDER

<input type="checkbox"/> Last Name	First Name	Title	
<input type="checkbox"/> Provider's Organizational Name (if applicable)			
<input type="checkbox"/> Provider's Street Address	City	State	Zip
<input type="checkbox"/> Provider's Tel. #	Provider's E-mail	Provider's Professional License # and State	

I am licensed as a: Physician Therapist or Counselor Psychiatric Social Worker
 Other (please describe) _____

My practice includes the treatment and counseling of persons with gender identity issues, including the applicant named herein, and in my professional opinion, the applicant's gender identity is (circle one):

Male **Female** and can reasonably be expected to continue as such for the foreseeable future.

I hereby certify, under the penalty of perjury, that the foregoing information is true and correct.

Signature: _____ Date: _____

(False statements are punishable by fine, imprisonment, or both. (MGL Chapter 90, Section 24))

RMV Use Only:

ALARS ID #: _____ Batch #: _____ Date: _____

T21816-0308



New Jersey Motor Vehicle Commission

Declaration of Gender Designation Change for New Jersey Motor Vehicle Commission (MVC) Driver License or Identification Card

PART ONE: TO BE COMPLETED BY APPLICANT

Name: Last	First	M.I.	Date of Birth
Street Address	City/State	Zip Code	License/ Identification Number

I _____ (print name) wish to change the gender designation on my driver license/identification card to read: **M** or **F** (circle one)

I hereby certify, under penalty of law, that this request for change of sex designation is for the purpose of making my driver license/identification card reflect my gender identity, and is not for fraudulent or other unlawful purposes.

Signature: _____ Date: _____

Note: You must surrender your current driver's license or identification card and obtain a duplicate for the standard fee of \$11.00. In order to change a name on a driver license or identification card, you will need to follow MVC procedures, available at any motor vehicle agency/regional service center or online at www.njmvc.gov.

PART TWO: TO BE COMPLETED BY LICENSED MEDICAL OR SOCIAL SERVICE PROVIDER

Provider Last Name	Provider First Name	Provider Title	
Provider Organization Name (if applicable)			
Provider Street Address	City	State	Zip Code
Provider Phone	Provider Email	Provider Organization or Professional License Number	

I am a licensed:

- Physician
- Therapist or Counselor
- Social Worker
- Other (please describe) _____

My practice includes assisting, counseling or treating persons with gender identity issues, including the applicant named herein, and in my professional opinion, the applicant's gender identity is (circle one):

Male **Female** and can reasonably be expected to continue as such for the foreseeable future.

I hereby certify, under penalty of law, that the foregoing information is true and correct.

Signature: _____ Date: _____

(A misstatement of fact or false statement made in this or any application is punishable by fine and/or imprisonment and may result in the suspension of driving privileges. (N.J.S.A. 39:3-37))



John J. Barthelmes
Commissioner of Safety

NH DEPARTMENT OF SAFETY
Division of Motor Vehicles
Stephen E. Merrill Building
23 Hazen Drive, Concord, NH 03305
Tele: (603) 227-4020



Richard C. Bailey, Jr.
Director of Motor Vehicles

Change of Gender Designation

Please note: This form may not be used for name or address changes. Please fill out a "Record Change Request" form (DSMV 30) for any name and/or address changes. Name changes will require authorized supporting documentation.

Name on Current NH Driver License or Non-Driver ID: _____

Date of Birth: _____ DL or NDID # _____

Address: _____
Street Name or PO Box No. Town or City State Zip Code

I, _____ wish to change the gender designation on my NH Driver License or Non-Driver Identification card to read (*please check one*): Male Female

I hereby certify under penalty of unsworn falsification that this request for change of gender is for the purpose of ensuring my driver license/identification card accurately reflects my gender identity and is not for any fraudulent or other unlawful purpose:

Signature of Applicant: _____ Date: _____
Signed under penalty of unsworn falsification (RSA 641:3)

The below certification must be completed by a licensed and qualified Health Care Provider

In my professional opinion, the applicant's gender identity is (*please check one*): Male Female and can reasonably be expected to continue as such in the foreseeable future.

Name of Health Care Provider (*please print*): _____

Please check one:

Physician APRN Clinical Social Worker Clinical Mental Health Counselor

Name of Practice: _____

Address: _____
Street Town or City State Zip Code

Telephone Number: _____

I certify, under the penalty of unsworn falsification pursuant to RSA 641:3, that the person whose name appears above is under my treatment and care for the change of gender identity as indicated above by the applicant.

Signature of Health Care Provider: _____ Date: _____

DSMV 626 (12/2014)

MVD - 10237
INT. 07/10



New Mexico Taxation & Revenue Department, Motor Vehicle Division

GENDER DESIGNATION CHANGE REQUEST



Use this form to request a change to the gender designation on your New Mexico Driver's License (DL) or Identification Card (ID), or if you are applying for a first-time New Mexico DL or ID and are requesting a change of gender designation from that shown on your current identification documents. If you are also changing your name, please provide both current/prior and new name with appropriate original documentation (court order, marriage certificate or divorce decree). This form must be completed in full by you and your medical or social service provider.

Applicant Information and Request for Change of Gender Designation			
Applicant's current/prior full legal name:			
Last name	First name	Middle name(s)	
If changing name: Applicant's new full legal name:			
Last name	First name	Middle name(s)	
Residence street address	City	State	ZIP code
Driver's license or ID number	Telephone number	Email address	
Gender Designation Statement:			
I, _____, wish the gender designation on my Driver's License/ID Card to designate my gender as (circle one): Male (M) Female (F).			
I hereby swear, under the penalty of perjury, that this request for the selected gender designation to appear on my Driver's License/ID Card is for the purpose of ensuring that my Driver's License/ID Card accurately reflects my gender identity and is not for any fraudulent or other unlawful purpose.			
Signature _____ Date _____			
Medical or Social Service Provider Information and Certification			
Last name	First name	Title	
Provider's organizational name (if applicable)			
Provider's street address	City	State	ZIP code
Telephone number	Email address	Professional license number and state	
I am licensed as a: <input type="checkbox"/> Physician <input type="checkbox"/> Therapist or Counselor <input type="checkbox"/> Psychiatric Social Worker			
<input type="checkbox"/> Other (please describe) _____			
My practice includes the treatment and counseling of persons with gender identity issues, including the Applicant named herein, and in my professional opinion the applicant's gender identity is (circle one): Male Female and can reasonably be expected to continue as such for the foreseeable future.			
I hereby certify, under the penalty of perjury, that the foregoing information is true and correct.			
Signature _____ Date _____			



DEPARTMENT OF TRANSPORTATION
DRIVER AND MOTOR VEHICLE SERVICES
PREVIOUS EDITIONS ARE OBSOLETE

CHANGE OF GENDER DESIGNATION FORM

Reset Form

Print Form

PART ONE: TO BE COMPLETED BY APPLICANT

LAST NAME (please print)	FIRST NAME	MIDDLE NAME	ODL/DJ CUSTOMER #
STREET ADDRESS		CITY	STATE ZIP CODE

I, _____ wish to change the gender designation on my driver license or identification card to read (check one): **Male** **Female**

I hereby certify under penalty of law that this request for gender designation change is for the purpose of ensuring my driver license / identification card accurately reflects my gender identity and is not for any fraudulent or other unlawful purpose.

APPLICANT SIGNATURE X	DATE SIGNED
---------------------------------	-------------

PART TWO: TO BE COMPLETED BY A LICENSED HEALTH CARE PROVIDER or SOCIAL SERVICE AUTHORITY

PROVIDER LAST NAME (please print)	PROVIDER FIRST NAME	PROVIDER TITLE
PROVIDER ORGANIZATION NAME (if applicable)		
PROVIDER STREET ADDRESS		CITY STATE ZIP CODE
PROVIDER PHONE NUMBER	PROVIDER E-MAIL	PROVIDER ORGANIZATION or PROFESSIONAL LICENSE NUMBER

I am a:

- Primary Care Provider (PCP) (Physician, Nurse Practitioner (NP) or Physician Assistant (PA))
- Clinical Social Worker, Surgeon, or a Doctor of Naturopathic Medicine
- Licensed Professional Counselor or Therapist
- Licensed Psychologist
- Social Service Case Specialist, Worker, or other Social Service Authority

In my professional opinion, the applicant's gender identity is (check one): **Male** **Female**
and can reasonably be expected to continue as such in the foreseeable future.

I hereby certify under penalty of law the foregoing information is true and correct.

SIGNATURE OF HEALTH CARE PROVIDER or SOCIAL SERVICE AUTHORITY X	DATE SIGNED
---	-------------

735-7401 (10-15)

DL-32 (7-14)



REQUEST FOR GENDER CHANGE ON DRIVER'S LICENSE/IDENTIFICATION CARD

ALL SECTIONS MUST BE COMPLETED

A APPLICANT INFORMATION					
DRIVER'S LICENSE/ID NUMBER		LAST NAME(S)			JR/ETC
FIRST NAME			MIDDLE NAME		
DATE OF BIRTH		TELEPHONE NUMBER (8:00 a.m. to 4:30 p.m.)		E-MAIL ADDRESS (if applicable)	
MONTH	DAY	YEAR			
Please check the product(s) you currently have:					
<input type="checkbox"/> Non-Commercial Driver's License		<input type="checkbox"/> Commercial Driver's License		<input type="checkbox"/> Identification Card	
B GENDER DESIGNATION STATEMENT					
I, _____ wish the gender designation on my Driver's License/ ID Card to read					
PRINT NAME					
<input type="checkbox"/> MALE		<input type="checkbox"/> FEMALE			
I hereby certify under penalty of law that this request for the selected gender designation to appear on my Driver's License/ ID Card accurately reflects my gender identity and is not for any fraudulent or other unlawful purpose.					
C TO BE COMPLETED BY MEDICAL OR SOCIAL SERVICE PROVIDER LICENSED IN THE UNITED STATES					
LAST NAME		FIRST NAME		TITLE	
PROVIDER'S ORGANIZATION			STATE MEDICAL LICENSE #	STATE LICENSED IN	
PROVIDER'S STREET ADDRESS					
CITY			STATE	ZIP	
I am a licensed: <input type="checkbox"/> Physician <input type="checkbox"/> Therapist/Counselor <input type="checkbox"/> Social Worker					
My practice includes assisting, counseling or treating persons with gender identity conditions, including the applicant named herein, and in my professional opinion, the applicant's gender identity <input type="checkbox"/> Male <input type="checkbox"/> Female and can reasonably be expected to continue as such for the foreseeable future.					
I hereby certify, under penalty of law, that the foregoing information is true and correct					
PROVIDER'S SIGNATURE: _____			DATE: _____		
<small>WARNING: Misstatement of fact is a misdemeanor of the third degree punishable by a fine of up to \$2,500 and/or imprisonment up to 1 year (18 Pa. C.S. Section 4904(b)).</small>					
D AUTHORIZATION AND CERTIFICATION					
<input type="checkbox"/> Veterans Designation: I certify under penalty of law that I am a qualified applicant and hereby request it be added to my product. I understand that misrepresentation will result in the cancellation of my driver's license and/or identification card.					
I certify under penalty of law that all information given on this application is true and correct. I hereby authorize the Social Security Administration to release to the Department of Transportation information concerning my Social Security Identification Number for the purpose of identification. I hereby acknowledge this day that I have received notice of the provisions of Section 3709 of the Vehicle Code.					
<input type="checkbox"/> I wish to contribute \$1.00 to the Organ Donation Awareness Trust Fund (see reverse)					
<input type="checkbox"/> I wish to contribute \$3.00 to the Veterans' Trust Fund (see reverse)					
SIGN HERE					
<small>(APPLICANT'S SIGNATURE IN INK)</small>		<small>DATE</small>			
<small>WARNING: Misstatement of fact is a misdemeanor of the third degree punishable by a fine of up to \$2,500 and/or imprisonment up to 1 year (18 Pa. C.S. Section 4904(b)).</small>					

FEE PAID In This Amount	
<small>SEE REVERSE FOR FEES</small>	



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

**DIVISION OF MOTOR VEHICLES
LICENSE AND REGISTRATION OFFICE**

600 New London Avenue
Cranston, RI 02920-3024
Phone: 401-462-4368 Fax: 401-462-5785/5786
www.dmv.ri.gov

GENDER DESIGNATION ON A LICENSE OR IDENTIFICATION CARD

Procedure for Changing Designation on Driver's License or Identification Card

Applicants requesting a change of the gender designation on their driver's license or identification card from that showing on their identity proof documents must:

- Surrender any current state-issued license or identification card;
- Submit a completed Gender Designation form; and
- Pay applicable fees for new or updated license or identification card. The applicant shall have a new photograph taken.

Employees shall not request additional gender-related information beyond that required on the applicable forms or otherwise inquire about the applicant's private medical history or records.

The Gender Designation Form contains private medical information and will be kept confidential and protected under the provisions of the Driver Privacy and Protection Act.

Name Change

Name changes related to gender are completed via submission of appropriate court documents and also must be reflected on the Social Security card. Please refer to the RI DMV Document Checklist - License and ID Cards.

PART ONE: TO BE COMPLETED BY APPLICANT

Last Name First Name Middle Initial Social Security Number

Street Address City/Town State Zip Code License/Identification Number

I, _____, wish the designation of gender on my driver's license or identification card to read (please check one): Male Female

I, the undersigned, hereby make application for either license, state identification card or permit and declare under penalty of perjury that all statements made on this application are true and complete to the best of my knowledge and belief.

Signature: _____ Date: _____

PART TWO: TO BE COMPLETED BY MEDICAL OR SOCIAL SERVICE AUTHORITY

Provider Last Name Provider First Name Provider Title

Provider Organization Name (if applicable)

Provider Street Address City/Town State Zip Code Provider Telephone

Provider E-Mail Provider Organization or Professional License Number

I am a: Physician Licensed therapist or counselor Case worker or social worker

In my professional opinion, the applicant's gender identity is (please check one): Male Female and can reasonably be expected to continue as such in the foreseeable future.

I, the undersigned, hereby declare under penalty of perjury that all statements made in this section, "Part Two," by me, are true and complete to the best of my knowledge and belief.

Signature: _____ Date: _____

rev. 05/12



Change of Gender Designation Request

You can use this form to request a gender designation change on your Washington driver license, instruction permit, identification (ID) card, enhanced driver license, or enhanced identification card. This form must be completed by you and a licensed health care provider (as noted in the Physician section below) familiar with your treatment. Send this completed form **and** a photocopy of your valid Washington driver license, instruction permit, identification card, enhanced driver license, or enhanced identification card to:

**Programs and Services, Driver Records
 Department of Licensing
 PO Box 9030
 Olympia WA 98507-9030**

You will be notified in writing when your request has been processed. Incomplete applications will not be processed.

Applicant

TYPE or PRINT Name as it appears on your current license or ID card (Last, First, Middle)		License or ID card number
(Area code) Daytime telephone number	Email (in case we need to contact you)	
Answer the following What gender designation would you like on your license or ID card? <input type="checkbox"/> Male <input type="checkbox"/> Female		
I authorize the licensed health care provider listed in the physician section to release information related to this request. I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.		
Date and place signed		X Signature

Physician

This section must be completed by a licensed medical physician, internist, endocrinologist, gynecologist, urologist, osteopathic physician, psychiatrist, psychologist, or a Washington State licensed naturopathic physician, advanced registered nurse practitioner, physician assistant, or certified osteopathic physician assistant familiar with your treatment.

TYPE or PRINT Name of patient			
Your name as it appears on your license			
Medical number	Expiration date	Issuing state/jurisdiction	DEA registration number
Hospital or medical clinic name			(Area code) Telephone number
Physical address (Address, City, State, ZIP code, County)			
Mailing address, if different (Address, City, State, ZIP code, County)			
Answer the following			
1. I am the attending health care provider with a doctor/patient relationship with the applicant.			<input type="checkbox"/> Yes <input type="checkbox"/> No
2. I have reviewed and evaluated the applicant's medical history.			<input type="checkbox"/> Yes <input type="checkbox"/> No
3. The applicant has undergone the appropriate gender transition clinical treatment.			<input type="checkbox"/> Yes <input type="checkbox"/> No
4. What is the gender identification of this applicant?			<input type="checkbox"/> Male <input type="checkbox"/> Female
I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.			
Date and place signed			X Physician signature

DL 500-043 (R/S/13)WA

We are committed to providing equal access to our services. If you need an accommodation, please call (360) 902-3900 or TTY (360) 664-0116.

DMV-99-RD
REV 06/15

West Virginia Department of Transportation
Division of Motor Vehicles
Gender Designation Form



1-800-642-9066
dmv.wv.gov

Procedure for changing your gender designation on your driver's license or identification card:

The DMV will change the gender designation on the applicant's driver's license or ID card contingent on the submission of this fully and accurately completed form. The applicant is not required to have changed his or her gender designation on the birth certificate or other forms of identification. DMV Employees shall not request additional gender-related information beyond that required on the applicable form or otherwise inquire about the applicant's private medical history or records.

Any name changes require submission of appropriate documentation of the name change and must also be reflected in the Social Security record. Name changes can be processed at any time regardless of gender designation.

Applicants requesting to change the gender designation on their driver's license or identification (ID) card must:

- Surrender any current state-issued license or identification card (if applicable).
- Submit this Gender Designation Form when it has been accurately completed.
- Submit the correct driver's license or ID card application and pay the correct fees as outlined on the application. For standard driver's licenses and ID cards use the application DMV-DS-23P or for a commercial driver's license use the application DMV-CDL-1.
- Have a new photograph taken for the driver's license or ID card.

PART 1 TO BE COMPLETED BY THE APPLICANT

APPLICANT NAME (LAST, FIRST, MIDDLE)	SOCIAL SECURITY NUMBER
STREET ADDRESS	DRIVER'S LICENSE OR ID CARD NUMBER
CITY, STATE, AND ZIP CODE	
I, _____, wish to change the gender on my West Virginia driver's license or identification card to read the gender <input type="checkbox"/> male <input type="checkbox"/> female.	
(X) _____ SIGNATURE OF APPLICANT	_____/_____/_____ DATE

PART 2 TO BE COMPLETED BY THE LICENSED PHYSICIAN

PHYSICIAN NAME (LAST, FIRST, MIDDLE)	PHYSICIAN TITLE	MEDICAL LICENSE NUMBER
PHYSICIAN ORGANIZATION NAME (IF APPLICABLE)	PHYSICIAN PHONE NUMBER	
PHYSICIAN ADDRESS		
In my professional opinion, the applicant's gender identity is: <input type="checkbox"/> male <input type="checkbox"/> female	I hereby certify under penalty of perjury/law that the information contained herein is true and correct.	
	(X) _____ SIGNATURE OF LICENSED PHYSICIAN	_____ DATE



**DRIVER LICENCE/GENERAL IDENTIFICATION CARD (GIC)
CHANGE OF GENDER DESIGNATION
CHANGEMENT DE LA MENTION DU SEXE SUR LE PERMIS
DE CONDUIRE OU LA CARTE D'IDENTITÉ GÉNÉRALE (CIG)**

**APPLICANT
DEMANDEUR¹**

I, _____ Date of birth: _____
 Je, _____ Date de naissance : _____
FULL LEGAL NAME-PLEASE PRINT
NOM LÉGAL COMPLET EN LETTRES DÉTACHÉES YYYY-MM-DD
AAAA-MM-JJ

Address: _____ Postal Code: _____
 Adresse : _____ Code postal : _____
MAILING ADDRESS
ADRESSE POSTALE

Yukon driver licence/GIC no.: _____, wish the designation of gender on my driver licence
 Permis de conduire/CIG n° : _____, souhaite que la mention du sexe sur mon permis de
 conduire et/ou sur ma CIG indique (cochez une case) : Female Male
 conduire ou sur ma CIG indique (cochez une case) : Femme Homme

 SIGNATURE OF APPLICANT DATE (YYYY-MM-DD)
 SIGNATURE DU DEMANDEUR DATE (AAAA-MM-JJ)

Your personal information contained here is collected under Yukon's Motor Vehicles Act, RSY 2002, c.153 (as amended) ("MVA") in accordance with Yukon's Access to Information and Protection of Privacy Act RSY 2002, c. 1. (as amended). By providing the personal information contained herein you fully consent to such information being collected, used, stored, and disclosed for the purposes of: administering and enforcing the MVA; law enforcement purposes, including the investigation and enforcement of laws by other governments or law enforcement agencies; research and statistical analysis and policy planning and program activities by Government of Yukon. If you have any questions about the collection, use or disclosure of your personal information, please contact the Registrar of Motor Vehicles at Unit A, 2251 2nd Avenue Whitehorse, YT Y1A 5W1 or phone: (867) 667-5313, toll free within Yukon, 1-800-661-0408 ext. 5313.

Les renseignements personnels fournis dans les présentes sont recueillis en vertu de la Loi sur les véhicules automobiles du Yukon, L.R.Y. 2002, ch. 153 (dans sa version modifiée), et en conformité avec la Loi sur l'accès à l'information et la protection de la vie privée du Yukon, L.R.Y. 2002, ch. 1 (dans sa version modifiée). En fournissant lesdits renseignements, vous consentez pleinement à leur collecte, utilisation, conservation et communication aux fins suivantes : application de la Loi sur les véhicules automobiles; exécution de la loi, y compris la tenue d'enquête et la mise en œuvre de lois par d'autres gouvernements ou organismes d'application de la loi; recherches et analyses statistiques ainsi que planification des politiques et des programmes et services par le gouvernement du Yukon. Veuillez adresser toute demande relative à la collecte, à l'utilisation ou à la communication de vos renseignements personnels au registraire des véhicules automobiles, au 2251, 2^e Avenue, porte A, Whitehorse (Yukon) Y1A 5W1, ou par téléphone, au 867-667-5313 ou (sans frais au Yukon) au 1-800-661-0408, poste 5313.

**SERVICE PROVIDER
FOURNISSEUR DE SERVICES**

Name: _____
 Nom : _____
FULL LEGAL NAME-PLEASE PRINT
NOM LÉGAL COMPLET EN LETTRES DÉTACHÉES

Address: _____ Postal Code: _____
 Adresse : _____ Code postal : _____
MAILING ADDRESS
ADRESSE POSTALE

I am a Physician Psychiatrist Psychologist Therapist/Counsellor Nurse Practitioner
 Je suis médecin psychiatre psychologue thérapeute/consellier infirmière praticienne

 Licence or professional certification #: _____
 Permis d'exercice ou agrément professionnel n° : _____

In my professional opinion, the applicant's gender identity is (please check one): Female Male
 Selon mon avis professionnel, l'identité de genre du demandeur est (cochez une case) : Femme Homme

and can reasonably be expected to continue as such in the foreseeable future.
 Il est par ailleurs raisonnable de s'attendre à ce que cette situation reste inchangée dans un avenir prévisible.

 SIGNATURE OF SERVICE PROVIDER DATE (YYYY-MM-DD)
 SIGNATURE DU FOURNISSEUR DE SERVICES DATE (AAAA-MM-JJ)

YG(63050)F1 04/2016

¹ Dans le présent document, les expressions désignant des personnes visent à la fois les hommes et les femmes.

Appendix B U.S. Driver's License Policies

U.S. Jurisdiction Driver's License and ID Card Policies

Simplified form. Certification accepted from a range of licensed professionals, no medical details required. 18 states, the District of Columbia, and Puerto Rico	Alaska (2012) Colorado (2006) Connecticut Delaware (2011) District of Columbia (2007) Hawaii (2012) Indiana	Maine (2013) Massachusetts (2008) New Jersey (2009) New Hampshire New Mexico (2010) Ohio (2009) Oregon (1998)	Pennsylvania (2010) Puerto Rico (2016) Rhode Island (2012) Virginia (2012) Washington (2009) West Virginia (2015)
No form. Certification accepted from medical or mental health providers. Proof of surgery or court order are not required. 7 states	Arizona (1995) Florida (2011) Idaho (2013) Illinois (2013)	New York (1987) Vermont Wisconsin	
Simplified form. Certification only accepted from a limited range of health care providers. Proof of surgery or court order are not required. 3 states	California (2008) Nebraska Nevada (2010)		
No form. Certification only accepted from limited range of healthcare providers. No requirement of proof of surgery or court order. 1 state	Minnesota (2013)		
No form. No requirement of proof of surgery, court order, or amended birth certificate. 2 states	Maryland (medical approval process involving several steps) Utah (must provide other updated ID, such as a passport)		
Unknown 5 states and 4 territories	Arkansas Mississippi North Carolina North Dakota South Dakota	American Samoa Guam Northern Marianas Island U.S. Virgin Islands	
Proof of surgery, court order, or amended birth certificate required. 14 states – 9 surgery, 3 court order, 2 other	Alabama (surgery) Georgia (surgery) Iowa (court order and amended birth certificate) Kansas	Kentucky (surgery) Louisiana (surgery) Michigan (surgery) Missouri Montana (surgery) Oklahoma	South Carolina (court order) Tennessee (surgery) Texas (court order) Wyoming (surgery)

Total jurisdictions in which individuals can reliably change their gender designation without proof of surgery, court order, or amended birth certificate: *31 states + District of Columbia and Puerto Rico*

* Verified via AAMVA email, website search.

Appendix C Canadian Driver’s License Policies*

Canadian Jurisdiction Driver’s License and ID Card Policies

Simplified form, certification accepted from a range of licensed professionals; no medical details required.	Alberta British Columbia Manitoba Yukon
No form. Certification from medical or mental health provider is sufficient. Proof of surgery or court order is not required.	
Simplified form. Certification only accepted from a limited range of health care providers. Proof of surgery or court order are not required.	
No form but no requirement of proof of surgery or court order; certification from limited range of health care providers.	Ontario Quebec Saskatchewan
Unknown policy	New Brunswick Newfoundland & Labrador Nova Scotia Northwest Territories Nunavut

Total provinces in which individuals can reliably change their gender designation without proof of surgery, court order, or amended birth certificate: *7 provinces*

* Provided by the AAMVA Survey. Content current as of June 2015.

Appendix D U.S. Department of State Policy for Changing the Gender Designation on a U.S. Passport

The United States Department of State (DOS) has adopted a policy that explains the need for medical certification from a licensed physician regarding the change in gender, as well as the need for accurate identification and a photograph reflecting the applicant's current appearance. To obtain a passport, sexual reassignment surgery is not a prerequisite, and such documentation is not requested. The DOS requires medical certification of gender transition from a licensed physician as the only documentation of gender change required. Other medical records are not requested. The applicant must submit acceptable evidence of identity in the new gender, if available, and must submit evidence of the new name, if changed. The DOS may accept documentation from the SDLA if available as evidence of identity, but because of the variety and inconsistencies with state license requirements, evidence of change of gender in these identity documents may not be obtainable. However, the passport can be issued in the new gender based on the medical certification. Importantly, the U.S. Passport is an acceptable document used by SDLAs to validate a person's identity for the DL/ID. States with policies that require changes to birth certificates, court orders, or surgical reassignment to validate gender change will be in conflict if an individual provides a passport reflecting a change in gender. A modernized gender designation process eliminates this conflict.

U.S. Department of State Foreign Affairs Manual – Volume 7

Consular Affairs

7 FAM 1300 Appendix M

GENDER CHANGE

(CT:CON-576; 05-05-2015)

(Office of Origin: CA/OCS/L)

7 FAM 1310 APPENDIX M SUMMARY

(CT:CON-653; 03-31-2016)

- a. This appendix provides policy and procedures that passport specialists and consular officers (“you”) must follow when an applicant indicates a gender on the “sex” line on the passport application with information different from the one reflected on some or all of the submitted citizenship and/or identity evidence, including a prior passport.
- b. This policy explains the need for medical certification from a licensed physician who has treated the applicant or reviewed and evaluated the medical history of the applicant regarding the change in gender, as well as the need for accurate identification and a photograph reflecting the applicant's current appearance. It is based on standards and recommendations of the World Professional Association for Transgender Health (WPATH), recognized as the authority in this field by the American Medical Association (AMA).
- c. A passport is defined by INA 101(a)(30) (Immigration and Nationality Act) (8 U.S.C. 1101(a)(30)) as “any travel document issued by competent authority showing the bearer's origin,

identity, and nationality if any, which is valid for the entry of the bearer into a foreign country.”

An individual’s gender is an integral part of that person’s identity.

- d. Sex reassignment surgery is not a prerequisite for passport issuance based on gender change.
- e. Medical certification of gender transition from a licensed physician as described in 7 FAM 1320 Appendix M is the *only* documentation of gender change required. Other medical records must not be requested.
- f. A Form DS-11 “Application for U.S. Passport” must be used the first time an applicant applies for a passport in reassigned gender, as personal appearance for execution is required, even if the applicant has a previous passport. A change in gender is a change in the identity of the applicant, and evidence of identity in the new name (if applicable) and gender must be presented. Subsequent applications in the same gender may be submitted on a Form DS-82 if the applicant is eligible (see 7 FAM 1345.4 regarding eligibility to apply on a Form DS-82 and 7 FAM 1334 Appendix M regarding resumption of the birth gender).

7 FAM 1320 APPENDIX M DOCUMENTATION REQUIREMENTS

7 FAM 1321 Appendix M Documents to be Submitted with the Form DS-11

(CT:CON-653; 03-31-2016)

- a. **Evidence of U.S. citizenship/non-citizen U.S. nationality.** The applicant must submit acceptable evidence of U.S. citizenship or non-citizen U.S. nationality. (see 7 FAM 1100 “Acquisition and Retention of U.S. Citizenship and Nationality”). The applicant is not required to obtain an amended birth record, amended Consular Report of Birth (CRBA), or to request that the U.S. Citizenship and Immigration Services (USCIS) issue a replacement

Certificate of Naturalization/Citizenship reflecting the change of gender. State law in the United States and the laws of other countries vary on whether an amended birth certificate may be issued reflecting a gender change;

NOTE: An amended birth certificate in the new gender is not acceptable evidence of gender change (as opposed to amending a birth certificate to correct a typographical error—see 7 FAM 1370 Appendix M). See also 7 FAM 1350 Appendix M regarding Form FS-240, “Consular Report of Birth of a U.S. Citizen Abroad.”

- b. **Evidence of identity.** As with all applications, the applicant must be asked to submit acceptable Identification Document(s) (IDs) in the new gender, and name, if applicable (see 7 FAM 1320 “Identity of the Passport Applicant”). However, state law and foreign laws vary as to whether a driver’s license or other State or foreign government ID may be issued reflecting a gender change. So, the applicant may document her/his identity by submitting any of the following ID documents:
 - (1) Primary ID in the new gender (see 7 FAM 1325.1 regarding identification using primary ID);
 - (2) Secondary ID in the new gender (see 7 FAM 1325.3 regarding identification using secondary ID); or
 - (3) Acceptable primary ID in the birth gender if it readily identifies the applicant.

NOTE: Some form of photographic ID must be presented; You cannot use the doctor’s certification as the only evidence to identify an applicant.

- c. **Photograph.** A recent photograph that is a good likeness of the applicant, and satisfactorily identifies the applicant must be submitted. The photograph must agree with the submitted ID and reflect the applicant’s current and true appearance (see also 7 FAM 1300 Appendix E “Passport Photographs”);

- d. **Passport Fee.** All necessary passport fees must be submitted (see 7 FAM 1300 Appendix G “Passport Fees”), and
- e. **Name Change.** If the applicant’s name has been changed, either by court order or by customary usage, she/he must present satisfactory evidence of the material name change (see 7 FAM 1300 Appendix C “Names and Name Usage”). Both names must be cleared (see 7 FAM 1334).

7 FAM 1322 Appendix M Medical Certification for Gender Change/Transition

(CT:CON-653; 03-31-2016)

- a. A full validity U.S. passport will be issued reflecting a new gender upon presentation of a signed, original certification or statement, **on office letterhead**, from a licensed physician who has treated the applicant for her/his gender-related care or reviewed and evaluated the gender-related medical history of the applicant.
- b. Licensed physicians include:
- (1) A Doctor of Osteopathy (D.O.) (not to be confused with a Doctor of Optometry (O.D.), whose certification is not acceptable); or
 - (2) A Medical Doctor (M.D.). M.D.s may specialize in various medical fields including, but not limited to, internists, endocrinologists, gynecologists, urologists, surgeons, psychiatrists, pediatricians, and family practitioners.
- c. Medical certifications from persons who are not licensed physicians are not acceptable. They include, but are not limited to:
- (1) Psychologists;
 - (2) Physician Assistants;
 - (3) Nurse practitioners;
 - (4) Health practitioners;
 - (5) Licensed vocational nurses;
 - (6) Registered nurses;
 - (7) Chiropractors; or
 - (8) Pharmacists.
- d. The medical certification **must** include the following information (see 7 FAM 1300 Appendix M Exhibit 1):
- (1) Licensed physician’s full name;
 - (2) Medical license or certificate number;
 - (a) Licensed physicians in foreign countries must have a comparable foreign license or certificate registration number.
 - (b) For all foreign licensed physician gender change requests, passport agencies/centers must scan copies of the Form DS-11 and attach all submitted documents to Passport Services’ Adjudication Policy Division (CA/PPT/S/A/AP) at AskPPTAdjudication@state.gov. CA/PPT/S/A/AP works with the Overseas Citizens Services’ Office of Legal Affairs (CA/OCS/L) to verify the bona fides of the foreign-based licensed physician with the applicable post abroad. CA/PPT/S/A/AP will advise the passport agency/center of the outcome of post’s verification as soon as possible.
 - (c) Posts must verify their own foreign-based licensed physicians or, if the statement is from a physician in another country, contact the post which covers that country for verification.
 - (3) Address and telephone number of the licensed physician;
 - (4) Language stating that she/he has treated the applicant or has reviewed and evaluated the medical history of the applicant and that she/he has a doctor/patient relationship with the applicant;
 - (5) Language stating the applicant has had appropriate clinical treatment for gender transition to the new gender of either male or female; and

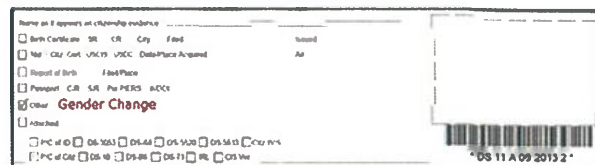
- (6) Language stating “I declare under penalty of perjury under the laws of the United States that the forgoing is true and correct.”
- e. If the applicant has not submitted the requested medical certification, use the appropriate letter (or similar language for overseas posts) available in Information Request Letter (IRL) 706 in corresponding with the passport applicant. (See [7 FAM 1300 Appendix T “Information Request Letters and Information Notices.”](#))
- f. For applicants who have just begun and may be in the initial stages of the gender transition process, a two year limited validity passport using endorsement 46 (see [7 FAM 1320 Appendix B](#)) reflecting the new gender will be issued upon presentation of a medical certification described in paragraph a above that includes the following:
 - (1) Information listed in paragraph [7 FAM 1300 Appendix M](#) d(1)-(4) above;
 - (2) Language stating the applicant is in the process of gender transition to the new gender of either male or female; and
 - (3) Language stating “I declare under penalty of perjury under the laws of the United States that the forgoing is true and correct.”
- g. Faxed, e-mailed, or scanned photocopies of medical certifications are not acceptable for full validity U.S. passports. In emergency circumstances, you may issue a limited validity passport in the new gender using endorsement 46.

7 FAM 1330 APPENDIX M ADJUDICATING GENDER CHANGE OR TRANSITION

7 FAM 1331 Appendix M Adjudicating Gender Change Cases

(CT:CON-653; 03-31-2016)

- a. You must annotate the reason for issuing the full validity passport in the new gender in the “For Issuing Office Only” block of the Form DS-11:



- b. You must annotate and attach the medical certification to the Form DS-11:



NOTE: You must not ask for additional specific clinical details regarding the gender change from the applicant.

NOTE: If the applicant requests that the original medical certification be returned, you may attach a clear photocopy of the medical certification, clearly annotate that the original medical certification was seen and returned, and return the original medical certification to the applicant

7 FAM 1332 Appendix M Adjudicating Gender Transition Cases

(CT:CON-653; 03-31-2016)

- a. You must annotate the reason for issuing the limited validity passport in the new gender in the “For Issuing Office Only” block of the Form DS-11:



- b. You must annotate and attach the medical certification to the Form DS-11:

- c. You must add an appropriate endorsement to limit the validity period of the passport:

- (1) Use endorsement code 46 domestically and for Overseas Photo-Digitized Passports (OPDPs) (see also [7 FAM 1365](#) regarding OPDPs and [7 FAM 1300 Appendix B, "Passport Endorsements"](#))
- (2) Use endorsement code 109 in Emergency Photo-Digitized Passports (EPDPs) for urgent overseas cases where the applicant must travel immediately (see also [7 FAM 1300 Appendix B](#))

7 FAM 1333 Appendix M Replacement of Passport Limited Because of Gender Transition

(CT:CON-653; 03-31-2016)

- a. An applicant who received a limited passport book because of a gender transition will receive a replacement, fully-valid passport without further fee (except for expedited service, if requested), if she/he:

- (1) Applies for the new passport within two years of issuance using Form DS-5504, "Application for a U.S. Passport: Name Change, Data Correction, and Limited Passport Book Replacement;"
- (2) Meets the requirements of [7 FAM 1320 Appendix M](#); and
- (3) Presents a new medical certification that meets the requirements for a fully-valid passport in [7 FAM 1322 Appendix M](#).

- b. If, after two years, the applicant applies for a new passport and her/his gender transition has

not been completed, the applicant must submit a new physician's statement, following the same information and licensure requirements in [7 FAM 1320 Appendix M](#), reflecting that the applicant still is in the process of gender transition. The applicant must also submit a new Form DS-11, with appropriate identity, citizenship, and passport fees submitted (see [7 FAM 1321 Appendix M](#)) Another two-year limited validity passport will be issued.

7 FAM 1334 Appendix M Resumption of the Birth Gender

(CT:CON-653; 03-31-2016)

If an applicant who already has been issued a passport in a new gender requests issuance of a passport in the birth gender, a medical certification of the transition back to the birth gender is required (see [7 FAM 1322 Appendix M](#) regarding medical certifications). The same procedures for adjudication and issuance of full validity (gender change) or limited validity (gender transition) passports apply if the applicant is returning to the birth gender (see also [7 FAM 1331 Appendix M](#) and [7 FAM 1332 Appendix M](#))

7 FAM 1340 APPENDIX M CONVERSATIONS WITH PASSPORT APPLICANTS SEEKING TO DOCUMENT GENDER CHANGE/TRANSITION

(CT:CON-653; 03-31-2016)

- a. As with all passport applicants, you must be sensitive and respectful at all times.
- b. Refer to the applicant by the pronoun appropriate to her/his new gender even if the transition is not complete.
- c. Ask only appropriate questions regarding information necessary to determine citizenship and identity of the applicant.

7 FAM 1350 APPENDIX M AMENDING GENDER IN CONSULAR REPORTS OF BIRTH ABROAD

(CT:CON-653; 03-31-2016)

The Form FS-240, "Consular Report of Birth Abroad of Citizen of the United States of America," can be amended by Passport Services' Office of Technical Operations, Record Services division (CA/PPT/S/TO/RS) to reflect the change in gender. The documentary requirements specified in this Appendix for passport services are the same for amending gender on a Form FS-240. (See also [7 FAM 1440](#), "Consular Report of Birth Abroad of a Citizen/Non-Citizen National of the United States of America.") See Bureau of Consular Affairs Internet Information on amending a Form FS-240. Inquirers are directed to contact Passport Services' Record Services Division, using the below dual addresses, both physical and P.O. box address, and the nine-digit zip code.

U.S. Department of State
Record Services Division
CA/PPT/S/TO/RS
44132 Mercure Cir
PO Box 1213
Sterling, VA 20166-1213
Telephone (public): 202-485-8300
Fax: 202-485-8302

d. An amended Form FS-240 is acceptable evidence of a gender change for a subsequent passport application.

7 FAM 1360 APPENDIX M INTERSEX CONDITIONS (DISORDERS OF SEX DEVELOPMENT)

(CT:CON-653; 03-31-2016)

- a. "Intersex" is a condition in which a person is born with a reproductive or sexual anatomy and/or chromosomal pattern that does not fit typical definitions of male or female.
- b. Birth documentation is often not updated to reflect corrected gender. When the passport application indicates a sex different from the one reflected on the birth documentation, the applicant, or her/

his applying parents in the case of a minor child, must provide medical certification that meets the requirements in [7 FAM 1322 Appendix M](#), adjusting the language to reflect the intersex condition and specify the gender correction to either male or female. In the case of a minor child, the applying parent(s) also must submit a signed statement confirming the gender correction to either male or female. These statements must be attached to the passport application.

- c. Unless the applicant, or her/his applying parent, provides the statements described above, the gender listed on her/his birth documentation will determine the gender to be listed in the passport.

7 FAM 1370 APPENDIX M GENDER ERRORS IN ORIGINAL BIRTH CERTIFICATE

(CT:CON-653; 03-31-2016)

- a. If an applicant advises that the gender on her/his birth document mistakenly lists the wrong gender due to typographical error, and there is sufficient time before the listed departure date, refer the applicant to the appropriate issuing vital records office to have the error corrected (IRL 875-33).
- b. If the departure date is imminent, you may issue a limited one year validity passport, listing the applicant's requested gender, using endorsement code 46 (see [7 FAM 1300 Appendix B](#).) A corrected certified copy of the amended birth document will be required before issuance of a full validity passport in the requested gender.

7 FAM 1380 APPENDIX M QUESTIONS

(CT:CON-653; 03-31-2016)

- a. Passport agencies and centers must contact AskPPTAdjudication@state.gov for specific guidance.
- b. U.S. embassies and consulates must contact Ask-OCS-L@state.gov for specific guidance.

7 FAM 1390 APPENDIX M UNASSIGNED

**7 FAM 1300 APPENDIX M EXHIBIT 1
MODEL LETTER FOR LICENSED PHYSICIAN
CERTIFYING TO THE APPLICANT'S GENDER
CHANGE/TRANSITION**

(CT:CON-653; 03-31-2016)

Licensed Physician's Letterhead

(Physician's Address and Telephone Number)

I, (physician's full name), (physician's medical license or certificate number), (issuing U.S. State/Foreign Country of medical license/certificate), am the physician of (name of patient), with whom I have a

doctor/patient relationship and whom I have treated (or with whom I have a doctor/patient relationship and whose medical history I have reviewed and evaluated).

(Name of patient) has had appropriate clinical treatment for gender change to the new gender (specify new gender male or female).

Or

(Name of patient) is in the process of gender transition to the new gender (specify new gender male or female). (NOTE TO PHYSICIAN ONLY: Use this sentence only when the patient has just begun or is in the early stages of his or her gender transition.)

I declare under penalty of perjury under the laws of the United States that the forgoing is true and correct.

Signature of Physician

Typed Name of Physician

Date

Appendix E Real ID and the State's Authority to Change the Gender Designation on a Driver's License or Identification Card

SDLAs in the United States often have questions about their legal authority to set an appropriate policy for changing gender designations. This became evident with the passage of the REAL ID Act and subsequent publication of implementing regulations (federal) published by the Department of Homeland Security (DHS) in 2008.

Jurisdictional concerns were addressed by DHS during the public comment period for the rule when DHS explicitly stated in response to comments from concerned states that, "DHS will leave the determination of gender up to the States since different States have different requirements concerning when, and under what circumstances, a transgendered [sic] individual should be identified as another gender." Additionally, in listing what needs to be on the face of the license, the regulations state that the "Gender (as determined by the State) must be displayed."

Thus, although the REAL ID Act requires states to continue listing "gender" on licenses, states are free to continue to set their own regulations and procedures in this area.

(FINAL RULE)

§ 37.17 Requirements for the surface of the driver's license or identification card.

To be accepted by a Federal agency for official purposes, REAL ID driver's licenses and identification cards must include on the front of the card (unless otherwise specified below) the following information:

- a. Full legal name. Except as permitted in § 37.11(c) (2), the name on the face of the license or card must

be the same as the name on the source document presented by the applicant to establish identity. Where the individual has only one name, that name should be entered in the last name or family name field, and the first and middle name fields should be left blank. Place holders such as NFN, NMN, and NA should not be used.

- b. Date of birth.
- c. Gender, as determined by the State.
- d. Unique Driver's license or identification card number. This cannot be the individual's SSN, and must be unique across driver's license or identification cards within the State.
- e. Full facial digital photograph. A full facial photograph must be taken pursuant to the standards set forth below:
 - (1) States shall follow specifically ISO/IEC 19794-5:2005(E) Information technology—Biometric Data Interchange Formats—Part 5: Face Image Data. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy of these incorporated standards from <http://www.ansi.org>, or by contacting ANSI at ANSI, 25 West 43rd Street, 4th Floor, New York, New York 10036. You may inspect a copy of the incorporated standard at the Department of Homeland Security, 1621 Kent Street, 9th Floor, Rosslyn, VA (please call 703-235-0709 to make an appointment) or at the National Archives and Records

Administration (NARA). For information on the availability of material at NARA, call 202-741-6030. These standards include:

- (i) Lighting shall be equally distributed on the face.
 - (ii) The face from crown to the base of the chin, and from ear-to-ear, shall be clearly visible and free of shadows.
 - (iii) Veils, scarves or headdresses must not obscure any facial features and not generate shadow. The person may not wear eyewear that obstructs the iris or pupil of the eyes and must not take any action to obstruct a photograph of their facial features.
 - (iv) Where possible, there must be no dark shadows in the eye-sockets due to the brow. The iris and pupil of the eyes shall be clearly visible.
 - (v) Care shall be taken to avoid “hot spots” (bright areas of light shining on the face).
- (2) Photographs may be in black and white or color.

EXCERPTS FROM THE FINAL RULE

IV. Discussion of Comments

- 1. Minimum Driver’s License or Identification Card Data Element Requirements*
- 2. Gender

Comment: Two States raised issues about how gender is determined for transgender individuals and whether gender will be included as a verifiable identifier through EVVE.

Response: DHS will leave the determination of gender up to the States since different States have different requirements concerning when, and under what circumstances, a transgendered individual should be identified as another gender. Data fields in EVVE are outside the scope of this rulemaking.

* Federal Register Volume 73, Number 19 (Tuesday, January 29, 2008)
[Rules and Regulations]
[Pages 5272-5340]
From the Federal Register Online via the Government Printing Office
(www.gpo.gov)
[FR Doc No: 08-140]

Appendix F Canadian Passport Order SI/81-86: Schedule Additional Information

Sex *

- 4 (1) Where the sex indicated in an application for a passport is not the same as that set out in that applicant's birth certificate, the applicant may be requested to provide an explanation.
- (2) Where an application for a passport indicates that a change of sex of the applicant has taken place, the applicant may be requested to submit a certificate from a medical practitioner to substantiate the statement.

Identity Management: Change of sex designation for reasons other than a clerical or administrative error †

Historical records, such as an immigration record of landing or a Confirmation of Permanent Residence, will not be amended unless a clerical or administrative error was made by Immigration, Refugees and Citizenship Canada (IRCC). In such instances, the officer should follow the instructions in *Change of sex designation due to a clerical or administrative error*.

For other records, below are the general documents that can be submitted to support a request to change the sex designation on IRCC documents.

* "Canadian Passport Order SI/81-86 (February 3, 2016), http://laws-lois.justice.gc.ca/PDF/SI-81_86.pdf, <http://laws-lois.justice.gc.ca>, Schedule, Section 8 Additional Information: Sex 4(1)(2)

† "Identity Management: Change of sex designation for reasons other than a clerical or administrative error" (March 23, 2016), *Government of Canada, Citizenship and Immigration Canada, Communications Branch*, <http://www.cic.gc.ca/english/resources/tools/id/designation/request.asp>

In addition to the documentary evidence listed below, the applicant must still provide any documents requested as part of the application instruction guide and document checklist to establish identity.

Additional documentation may be requested during the processing of the application. If anything further is required, the officer should contact the applicant.

Acceptable documents

The following are the three options for documents that can be submitted in order to request a change of sex designation on IRCC documents.

Documents issued by Canadian provinces or territories

- Legal document issued by provincial or territorial vital statistics organizations indicating a change in sex designation
- Court order
- Amended birth certificate indicating a change in sex designation

If the applicant appears to be eligible for the listed documents issued by Canadian provinces or territories and has not provided adequate reasoning for why a provincial or territorial document was not submitted in their statutory declaration, the application should be returned as incomplete and the applicant should be advised to reapply with the required documentation. See the section on the statutory declaration to request a change of sex designation for acceptable reasons.

Proof of sex reassignment surgery

IRCC does not require proof of any sex reassignment surgery in order to amend the sex designation on documents. However, an applicant can, in order to support their request to change their sex designation, submit proof of sex reassignment surgery (partial or full) from a medical practitioner in good standing with the regulatory body under which they practise.

Applicants unable to obtain documents issued by Canadian provinces or territories

If the applicant is unable to obtain or is ineligible for the provincial or territorial documents listed, they must submit the following two documents in English or French:

- a statutory declaration stating that the applicant's gender identity corresponds with the requested change in sex designation and that they are living full time in the gender corresponding to the sex designation requested to appear on the IRCC document, along with a reason why a provincial or territorial document was not issued; and
- a letter from an authorized physician or psychologist following the template provided by IRCC stating that they
 - are a practising member in good standing with the appropriate regulatory body,
 - have treated or evaluated the applicant, and
 - confirm that the applicant's gender identity does not correspond with the sex designation on their IRCC document.

Additional requirements

Complete statutory declaration

On the statutory declaration, applicants are required to provide reasons why they are not providing an amended birth certificate or legal order issued by a provincial or territorial vital statistics organization indicating a change in sex designation.

If the applicant has not provided a reason, the officer should return the entire application as incomplete.

Witnesses

In Canada, a statutory declaration attesting to the applicant's gender identity must be sworn in the presence of one of the following:

- a notary public;
- a commissioner of taking oaths; or
- a commissioner of taking affidavits.

Outside Canada, it must be sworn in the presence of a notary public.

Signature of a parent or legal guardian for minors

If a change of sex designation is being requested on an application for proof of citizenship, a grant of citizenship, permanent residency or a permanent resident card for an individual under 18 years of age, both the applicant and their parent or legal guardian will need to sign and provide proof of parentage or legal guardianship, as stipulated within the appropriate jurisdiction.

Letter from a medical professional

The requirement that a medical professional in Canada be a practising member in good standing with the respective regulatory body should be verified, where possible, on provincial or territorial regulatory bodies' public websites.

- Ontario
 - [College of Physicians and Surgeons of Ontario](#)
 - [College of Psychologists of Ontario](#)
- Quebec
 - [Collège des médecins du Québec](#)
 - [Ordre des psychologues du Québec](#)
- Nova Scotia
 - [College of Physicians and Surgeons of Nova Scotia](#)
 - [The Nova Scotia Board of Examiners in Psychology](#)
- Newfoundland and Labrador
 - [College of Physicians and Surgeons of Newfoundland and Labrador](#)
 - [Newfoundland and Labrador Psychology Board](#)
- Prince Edward Island
 - [College of Physicians and Surgeons of Prince Edward Island](#)
 - [PEI Psychologists Registration Board](#)
- New Brunswick
 - [College of Physicians and Surgeons of New Brunswick](#)
 - [College of Psychologists of New Brunswick](#)
- Manitoba
 - [College of Physicians and Surgeons of Manitoba](#)
 - [Psychological Association of Manitoba](#)
- Saskatchewan
 - [College of Physicians and Surgeons of Saskatchewan](#)
 - [Saskatchewan College of Psychologists](#)
- Alberta
 - [College of Physicians and Surgeons of Alberta](#)
 - [College of Alberta Psychologists](#)
- British Columbia
 - [College of Physicians and Surgeons of British Columbia](#)
 - [College of Psychologists of British Columbia](#)
- Yukon
 - [Yukon Medical Council](#)
 - No association for psychologists
- Northwest Territories
 - The Northwest Territories does not have a college of physicians and surgeons. Practitioners within the territory must be eligible to practise in their own home province or territory and can therefore be verified on the appropriate provincial or territorial college's website.
 - Registrar of Psychologists, Department of Health and Social Services
8th Floor, Centre Square Tower
Government of the Northwest Territories,
Box 1320
Yellowknife, Northwest Territories X1A 2L9
Telephone: 867-920-8058
- Nunavut
 - Nunavut does not have a college of physicians and surgeons. Practitioners within the territory must be eligible to practise in their own home province and can therefore be verified on the appropriate provincial or territorial college's website.
 - Registrar, Professional Licensing, Nunavut Health and Social Services
Government of Nunavut, Box 390
Kugluktuk, Nunavut X0B 0E0
Telephone: 867-982-7668

Further documentary evidence required by line of business

Applicants may be required to submit further documentary evidence, according to the line of business and where the documentation originated.

Where documentary evidence originates in Canada

Citizenship and permanent residence

For the citizenship and permanent residence lines of business, if the documentary evidence provided by the applicant originates in Canada, the applicant must submit

- a document issued by a Canadian province or territory indicating the change of sex designation, or a statutory declaration and a letter from a medical professional if they are unable to obtain a document issued by a Canadian province or territory; and
- a signed copy of a *Request for permanent resident card indicating sex different from foreign travel document* if they are applying for changes to a permanent resident card but have not amended their foreign passport or travel document. It should be noted that this document need only be signed by the applicant and does not need to be co-signed by a witness.

See *Change of sex designation for reasons other than clerical or administrative error* for more information.

Temporary residence

For the temporary residence line of business, the sex designation indicated on the IRCC document must reflect what is indicated on the foreign passport.

If an applicant with a valid temporary resident document (such as a work permit, study permit, temporary resident permit, temporary resident visa or visitor record) has their foreign passport amended to reflect a change in sex designation, they will need to apply for a new document, along with all relevant application-related supporting documents, including a linking document for a change of sex designation.

Where documentary evidence originates outside Canada

Citizenship

For the citizenship line of business, if the documentary evidence provided originates outside Canada, the applicant must submit

- a document indicating a change of sex designation, such as a legal order, court order or amended birth certificate, or a statutory declaration and accompanying letter from a medical professional; and
- photo identification issued by the national, state or provincial (or equivalent) authority where they reside that indicates the amended sex designation.

If the applicant is unable to obtain the supplementary photo identification in the requested sex designation, they must provide a reason (such as fear of persecution or inability to amend foreign documents prior to amending Canadian documents). If photo identification is not provided and the applicant fails to provide an adequate reason, the application must be returned as incomplete.

For applicants residing in Canada, supplementary photo identification can include the following documents issued by a Canadian province or territory:

- a driver's license;
- a health card;
- an age of majority card;
- a social services card; or
- a senior citizen identification card.

For applicants residing outside Canada, supplementary photo identification can include

- an amended foreign passport, for dual Canadian citizens; or
- a national or state identification card.

Note: Any copy of a foreign passport or national authoritative document should show the document type and number, issuance date and expiry date and the applicant's full name, photo and date of birth.

Permanent residence and temporary residence

For permanent residence and temporary residence, if the documentary evidence provided originates outside Canada, the applicant's foreign passport must first be amended to indicate the amended sex designation. The applicant must provide a linking document used as evidence of a change of sex designation that will be copied or scanned and kept in the applicant's file.

For permanent residence and temporary residence lines of business, if the foreign passport has been amended to indicate the requested sex designation, the applicant must submit

- a copy of their foreign passport or other national authoritative document amended to reflect the requested sex designation; **and**
- a document indicating a change of sex designation, such as a legal order, court order or amended birth certificate, or a statutory declaration and accompanying letter from a medical professional, with an official translation if not in English or French; **and**
- photo identification issued by the national, state or provincial (or equivalent) authority where they reside that indicates the amended sex designation.

For applicants residing in Canada, supplementary photo identification can include the following documents issued by a Canadian province or territory:

- a driver's license;
- a health card;
- an age of majority card;
- a social services card; or
- a senior citizen identification card.

For applicants residing outside Canada, supplementary photo identification can include the following documents (with an official translation):

- a national or state identification card; or
- a foreign passport (in addition to the primary one being used for the application), if the applicant is a dual citizen.

Note: Any copy of a foreign passport or national authoritative document should show the document type and number, issuance and expiry dates and the applicant's full name, photo and date of birth.

Recording information regarding change of sex designation requests in GCMS

In all cases, a client note must be recorded to the applicant's unique client identifier (UCI) in GCMS, and the applicant must be notified of the decision to grant or deny the change. If the applicant's request to change the sex designation on their document is granted, the amended sex designation will be recorded in the appropriate field for sex designation (typically Sex or Gender). Once the amended sex designation is recorded, the officer should ensure that the previous sex designation is indicated as the former sex designation.

If the applicant's request to change the sex designation on their document is denied, the officer should ensure that notes on the applicant's record indicate that a request was made as well as the reasons for denying it.

Date Modified: 2016-03-23

**safe drivers
safe Vehicles
secure identities
saVing lives!**



American Association of Motor Vehicle Administrators
4401 Wilson Boulevard, Suite 700
Arlington, Virginia 22203
703.522.4200 | aamva.org

From: "Short, Nona" <nona.short@alea.gov>
Sent: 9/26/2016 9:49:20 AM -0500
To: "Pregno, Deena" <deena.pregno@alea.gov>; "Washington, Rufus" <rufus.washington@alea.gov>
Subject: AAMVA Resource Guide
Attachments: ResourceGuideOnGenderDesignationOnDLID_September2016.pdf

AAMVA sent this resource guide

Woodruff
Plaintiff's Exhibit
Number 9
11/8/18



Diane Crew Woodruff



Badger

Home

Find Friends



Tripp Halstead Updates ✓

Cause

Like

Follow



The Black Jacket Symphony

Performing Arts

Like

Follow



John Ed Mathison Leadership Ministries

Nonprofit Organization

Like

Follow



Southern Thrift Store

Thrift & Consignment Store

Like

Follow



Laura Ingraham

Author

Like

Follow



Southern Living ✓

Magazine

Like

Follow





Eastman, Jeannie

From: Eastman, Jeannie
Sent: Tuesday, October 10, 2017 4:09 PM
To: Spencer, Jerrolynn
Subject: FW: Gender change in Iowa

*Jeannie Eastman
Driver License Supervisor
Alabama Law Enforcement Agency
Office: 334-242-4777
jeannie.eastman@alea.gov*

Please note that my email address has changed



From: Woodruff, Diane
Sent: Tuesday, October 10, 2017 2:51 PM
To: Eastman, Jeannie
Subject: Gender change in Iowa

Iowa now changes the gender for transgender individuals the same way we do. I just thought you may want to see that for argument's sake. I figure eventually legal and DL will want to look at the whole process again.

Diane

DOT Eases Driver's License Changes for Transgender Iowans

By JOYCE RUSSELL · OCT 4, 2017
[Tweet](#)[Share](#)[Google+](#)[Email](#)

PLAINTIFF'S
EXHIBIT
Spencer 14
11/9/18

Eastman, Jeannie

From: Eastman, Jeannie
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Driver License Supervisor
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Diane

DOT Eases Driver's License Changes for Transgender Iowans

By JOYCE RUSSELL • OCT 11, 2017
[Tweet](#) [Share](#) [Google+](#) [Email](#)

PLAINTIFF'S
EXHIBIT
Spencer 22
11/9/18

Eastman, Jeannie

From: Spencer, Jerrolynn
Sent: Monday, January 04, 2016 3:54 PM
To: Eastman, Jeannie
Subject: FW: Wrong Sex

In dl office

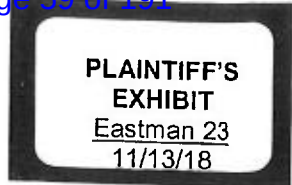
Thank you

From: South, Patricia
Sent: Monday, January 4, 2016 3:48 PM
To: Harris, Rhonda <rhonda.harris@dps.alabama.gov>; Spencer, Jerrolynn <Jerrolynn.Spencer@dps.alabama.gov>;
Kimbrough, Charlotte <Charlotte.Kimbrough@dps.alabama.gov>
Subject: Wrong Sex

Please change sex for applicant [Confidential Information] (DL # [Confidential Message] from male to female.
Just faxed AL.BC & temp AL.DL.

Thanks , Rodney

PX # 256-338-5546



IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

DARCY CORBITT, DESTINY)
CLARK, and JOHN DOE,)

Plaintiffs,)

v.)

Civil Action No.
2:18-cv-00091-MHT-GMB

HAL TAYLOR, in his official capacity)
as Secretary of the Alabama Law)

Enforcement Agency; Colonel)

CHARLES WARD, in his official)

capacity as Director of the Department)

of Public Safety; DEENA PREGNO, in)

her official capacity as Chief of the)

Driver License Division, and JEANNIE)

EASTMAN, in her official capacity as)

Driver License Supervisor in the Driver)

License Division,)

Defendants.)

**DEFENDANTS' ANSWERS TO
PLAINTIFFS' FIRST SET OF INTERROGATORIES**

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure and in compliance with the "Protective Order" dated May 18, 2018 (doc. 33), Hal Taylor, Charles Ward, Deena Pregno and Jeannie Eastman ("Defendants") hereby respond as follows to the *Plaintiffs' First Set of Interrogatories to Defendants*. In formulating these responses, Defendants have relied on information presently

available to them and will furnish any such information to the Plaintiffs to the extent required under Rule 26 of the Federal Rules of Civil Procedure.

INTERROGATORIES

1. Identify all policies, whether written or unwritten, and all revisions to those policies, concerning whether and when people may change the sex designation on an Alabama driver's license, including the dates on which those policies were issued and revised.

RESPONSE: Defendants object to this interrogatory to the extent identifying written or unwritten policies would require defendants to disclose information protected by the attorney client privilege or work product privilege.

Without waiving these objections, defendants state that Policy Order 63 determines whether an individual may change the sex designation on an Alabama driver license. Policy Order 63 was issued in 2012 and was revised on July 1, 2015. Policy Order 63 was revised again in April 2016.

2. Identify each person who has any personal knowledge or information regarding the meaning, creation, revision, promulgation, implementation, or enforcement of Policy Order 63.

RESPONSE: Defendants object to this interrogatory to the extent that the request to identify "each person who has *any* personal knowledge" regarding Policy Order 63 is vague or ambiguous. Defendants object to this interrogatory to the extent that identifying "each person" with "any" personal knowledge whatsoever of Policy Order 63 is irrelevant to any party's claim or defense, not proportional to the needs of the case, overly broad, and unduly burdensome. Defendants object to this interrogatory to the extent that identifying any individual requires the disclosure of information protected by attorney client privilege.

Without waiving these objections, defendants state that Deena Pregno and Jeannie Eastman have personal knowledge regarding the meaning, creation, revision, promulgation, implementation, or enforcement of Policy Order 63. Defendants further state that current and former members of ALEA's Legal Unit

have such personal knowledge but any knowledge they possess is protected by attorney-client or work product privilege.

3. Identify each person who has any personal knowledge or information regarding the meaning, creation, revision, promulgation, implementation, or enforcement of Defendants' defenses.

RESPONSE: Defendants object to this interrogatory to the extent that the request to identify "each person who has any personal knowledge . . . of Defendants' defenses" is vague or ambiguous. Defendants object to this interrogatory to the extent that identifying "each person" with "any" personal knowledge whatsoever of "Defendants' defenses" is irrelevant to any party's claim or defense, not proportional to the needs of the case, overly broad, and unduly burdensome. Defendants object to this interrogatory to the extent that identifying any individual requires the disclosure of information protected by attorney client privilege. Defendants further object to this interrogatory on the grounds that this litigation is in its early stages and the request to identify "each person" with knowledge of "Defendants' defenses" is premature.

Without waiving these objections, defendants state that, aside from legal counsel, Deena Pregno and Jeannie Eastman have personal knowledge of defendants' defenses. Defendants further state that they anticipate retaining the services of one or more expert witnesses in this case and will disclose the identities of these witnesses in accordance with the Scheduling Order entered in this case.

4. Identify each person who possesses or controls any data, documents, evidence or other tangible items regarding the creation, revision, promulgation, implementation, or enforcement of Policy Order 63.

RESPONSE: Defendants object to this interrogatory to the extent that the request to identify "each person who possesses or controls" any tangible items regarding Policy Order 63 is vague or ambiguous. Defendants object to this interrogatory to the extent that identifying "each person" with possession or control of tangible items regarding Policy Order 63 is irrelevant to any party's claim or defense, not proportional to the needs of the case, overly broad, and unduly burdensome. Defendants object to this interrogatory to the extent that identifying any individual requires the disclosure of information protected by attorney client privilege.

Without waiving these objections, defendants state that the Chief of the Driver License Division at ALEA, Deena Pregno, maintains ultimate authority over the possession of any tangible items related to the creation, revision, promulgation, implementation, or enforcement of Policy Order 63. Jeannie Eastman, Supervisor of the Driver License Division Medical Unit possesses or controls tangible items regarding the implementation or enforcement of Policy Order 63. Defendants further state that the Legal Unit possesses tangible items related to Policy Order 63 but that these items are subject to attorney-client or work-product privilege.

5. Identify each person who possesses or controls any data, documents, evidence or other tangible items regarding the creation, revision, promulgation, implementation, or enforcement of Defendants' defenses.

RESPONSE: Defendants object to this interrogatory to the extent that the request to identify "each person who possesses or controls" any tangible items regarding "Defendants' defenses" is vague or ambiguous. Defendants object to this interrogatory to the extent that identifying "each person" with possession or control of tangible items regarding "Defendants' defenses" is irrelevant to any party's claim or defense, not proportional to the needs of the case, overly broad, and unduly burdensome. Defendants object to this interrogatory to the extent that identifying any individual requires the disclosure of information protected by attorney client privilege. Defendants further object to this interrogatory on the grounds that this litigation is in its early stages and the request to identify "each person who possesses or controls" tangible items regarding "Defendants' defenses" is premature.

Without waiving these objections, see the response to Interrogatory 4.

6. Describe any and all government interests Defendants assert that Policy Order 63 serves, as well as how those government interests are furthered by Policy Order 63.

RESPONSE: Defendants object to this interrogatory to the extent that the request for "any and all" government interests served by Policy Order 63 is vague or ambiguous, irrelevant to any party's claim or defense, not proportional to the needs of the case, overly broad, or unduly burdensome. Defendants object to this interrogatory to the extent that it seeks a legal conclusion. Defendants object to this interrogatory on the grounds that this litigation is in its early stages and the

information it seeks is premature. Defendants object to this interrogatory to the extent that the information it seeks is protected by the attorney client privilege.

Without waiving these objections, and subject to the right to supplement these responses, defendants state that Policy Order 63 serves the State's interests in providing an accurate description of the bearer of an Alabama driver license. An Alabama driver license provides identification for law enforcement and administrative purposes, including, but not limited to, purposes related to arrest, detention, identification of missing persons or crime suspects, and the provision of medical treatment. Policy Order 63 furthers these interests by providing a uniform understanding of what physical characteristics underlie the sex designation on a driver license. Policy Order 63 serves the State's interests in maintaining consistency between the information contained on a driver license and that contained on a birth certificate since obtaining an amended birth certificate to change a sex designation requires proof that the individual's sex has been changed by surgical procedure. *See* Ala. Code § 22-9A-19(d).

7. Identify all documents and communications in Defendants' possession or control or upon which Defendants rely related to the government interests described in response to interrogatory 4.

RESPONSE: [Defendants understand this interrogatory to contain a drafting error and construe it to refer to the government interests described in response to interrogatory 6]. Defendants object to this interrogatory to the extent that the request for "all" documents relied on related to the interests served by Policy Order 63 is vague or ambiguous, irrelevant to any party's claim or defense, not proportional to the needs of the case, overly broad, or unduly burdensome. Defendants object to this interrogatory on the grounds that this litigation is in its early stages and the information it seeks is premature. Defendants object to this interrogatory to the extent that the information it seeks is protected by the attorney client privilege or work product privilege.

Without waiving these objections, defendants state that they rely on Alabama Code §§ 22-9A-19(d), 32-6-6, 32-6-9(a).

8. Identify all documents and communications reviewed, referenced, relied upon directly or indirectly, or considered by Defendants prior to and as a basis or impetus for the following:

- a. The original creation of Policy Order 63; and

b. Any and all revision of Policy Order 63.

RESPONSE: Defendants object to this interrogatory to the extent that the request for “all” documents relied on related to the creation or revision Policy Order 63 is vague or ambiguous, irrelevant to any party’s claim or defense, not proportional to the needs of the case, overly broad, or unduly burdensome. Defendants object to this interrogatory on the grounds that this litigation is in its early stages and the information it seeks is premature. Defendants object to this interrogatory to the extent that the information it seeks is protected by the attorney client privilege or work product privilege.

Without waiving these objections, defendants state that they or their predecessors relied on Alabama Code §§ 22-9A-19(d), 32-6-6, 32-6-9(a).

9. Identify any and all procedures that constitute “gender reassignment surgery,” “sexual reassignment surgery,” or “the reassignment procedure” for purposes of changing the sex designation on an Alabama driver’s license.

RESPONSE: Defendants object to this interrogatory on the grounds that the request to identify “any and all” procedures that constitute gender reassignment surgery under Policy Order 63 is vague or ambiguous, irrelevant to any party’s claim or defense, not proportional to the needs of the case, overly broad, or unduly burdensome.

Without waiving these objections, defendants state that to change the sex designation on an Alabama driver license, Policy Order 63 requires proof of sexual reassignment surgery that includes an irreversible surgical change of sex characteristics, including genital reassignment.

10. Describe the process and criteria by which it is and, since the enactment of Policy Order 63 has been, determined whether a person has undergone “gender reassignment surgery” or “sexual reassignment surgery” under Policy Order 63.

RESPONSE: Defendants state that the process and criteria identified by Policy Order 63 for determining whether a person has had sexual reassignment surgery is “[a]n amended state certified birth certificate and/or a letter from the physician that performed the reassignment procedure. The letter must be on the physician’s letterhead.” Defendants further state that this process may also involve

a member of ALEA's Medical Unit contacting the office of the physician on the letter to confirm the required procedure was performed.

11. Describe each factual basis that predicates Defendants' first affirmative defense (labeled 2 under affirmative defenses in Defendants' answer, regarding failure to state a claim).

RESPONSE: Defendants object to this interrogatory to the extent that the request for "each factual basis" underlying the second affirmative defense is vague or ambiguous, irrelevant to any party's claim or defense, not proportional to the needs of the case, overly broad, or unduly burdensome. Defendants object to this interrogatory to the extent that it seeks a legal conclusion. Defendants object to this interrogatory on the grounds that this litigation is in its early stages and the information it seeks is premature. Defendants object to this interrogatory to the extent that the information it seeks is protected by the attorney client privilege.

Without waiving these objections, defendants state that they are aware of facts, or have a good faith basis to believe that discovery will reveal facts, that show some or all plaintiffs do not view their transgender status as private or confidential, that their driver license does not disclose their transgender status, that their sex designation on their driver license does not subject them to increased danger, that their driver license does not compel plaintiffs to disclose their transgender status, that complying with Policy Order 63 before changing a sex designation on an Alabama driver license does not compel plaintiffs to accept unwanted medical treatment, that Policy Order 63 does not discriminate against transgender individuals. Defendants reserve the right to add to or alter these facts as discovery proceeds.

12. Describe each factual basis that predicates Defendants' second affirmative defense (labeled 3 under affirmative defenses in Defendants' answer, regarding standing).

RESPONSE: Defendants object to this interrogatory to the extent that the request for "each factual basis" underlying the third affirmative defense is vague or ambiguous, irrelevant to any party's claim or defense, not proportional to the needs of the case, overly broad, or unduly burdensome. Defendants object to this interrogatory to the extent that it seeks a legal conclusion. Defendants object to this interrogatory on the grounds that this litigation is in its early stages and the

information it seeks is premature. Defendants object to this interrogatory to the extent that the information it seeks is protected by the attorney client privilege.

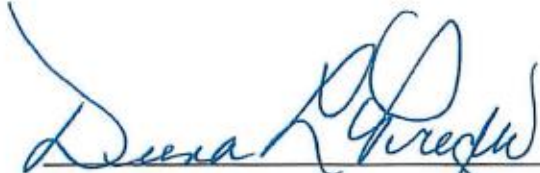
Without waiving these objections, defendants state that they are aware of facts, or have a good faith basis to believe that discovery will reveal facts, that some or all plaintiffs lack standing as to Count I because they have voluntarily publicly disclosed their transgender status, that plaintiff Darcy Corbitt may lack standing as to all claims because she does not intend to become an Alabama resident or acquire an Alabama driver license, and other such facts as discovery may reveal. Defendants reserve the right to add to or alter these facts as discovery proceeds.

13. Describe each factual basis that predicates Defendants' third affirmative defense (labeled 4 under affirmative defenses in Defendants' answer, regarding statute of limitations)

RESPONSE: Defendants object to this interrogatory to the extent that the request for "each factual basis" underlying the fourth affirmative defense is vague or ambiguous, irrelevant to any party's claim or defense, not proportional to the needs of the case, overly broad, or unduly burdensome. Defendants object to this interrogatory to the extent that it seeks a legal conclusion. Defendants object to this interrogatory on the grounds that this litigation is in its early stages and the information it seeks is premature. Defendants object to this interrogatory to the extent that the information it seeks is protected by the attorney client privilege.

Without waiving these objections, defendants state that they are aware of facts, or have a good faith basis to believe that discovery will reveal facts, that some or all plaintiffs were aware, or should have been aware of, Policy Order 63 and were subject to the application of Policy Order 63 before February 6, 2016. Defendants reserve the right to add to or alter these facts as discovery proceeds.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing Answers to Interrogatories are true and correct to the best of my knowledge, information, and belief based upon information that has been provided to me.


Deena Pregno
Chief, Driver License Division
Alabama Law Enforcement Agency

6/22/2018
Date

As to objections:


Brad A. Chynoweth
Assistant Attorney General

Steve Marshall
Attorney General

Winfield J. Sinclair
Assistant Attorney General

State of Alabama
Office of the Attorney General
501 Washington Avenue
Montgomery, Alabama 36130
(334) 242-7300
(334) 353-8440 (fax)
bchynoweth@ago.state.al.us
wsinclair@ago.state.al.us

Counsel for Defendants

CERTIFICATE OF SERVICE

Pursuant to an agreement memorialized in the Report of the Parties' Planning Meeting, electronic service is acceptable for this document. I hereby certify that I have served a copy of the foregoing document on Brock Boone (bboone@aclualabama.org), Randall C. Marshall (rmarshall@aclualabama.org), Gabriel Arkles (garkles@aclu.org) and Rose Saxe (rsaxe@aclu.org), via email on this the 22nd day of June 2018.

s/ Brad A. Chynoweth
OF COUNSEL

PLAINTIFF'S
EXHIBIT
Eastman 31
11/13/18

Eastman, Jeannie

From: Eastman, Jeannie
Sent: Tuesday, October 10, 2017 4:09 PM
To: Spencer, Jerrolynn
Subject: FW: Gender change in Iowa

*Jeannie Eastman
Driver License Supervisor
Alabama Law Enforcement Agency
Office: 334-242-4777
jeannie.eastman@alea.gov*

Please note that my email address has changed



From: Woodruff, Diane
Sent: Tuesday, October 10, 2017 2:51 PM
To: Eastman, Jeannie
Subject: Gender change in Iowa

Iowa now changes the gender for transgender individuals the same way we do. I just thought you may want to see that for argument's sake. I figure eventually legal and DL will want to look at the whole process again.

Diane

DOT Eases Driver's License Changes for Transgender Iowans

BY JOYCE RUSSELL · OCT 4, 2017
[TweetShareGoogle+Email](#)



Eastman, Jeannie

From: Eastman, Jeannie
Sent: Tuesday, September 19, 2017 2:44 PM
To: 'scook@maryland.gov'
Subject: sex change on a birth certificate

The State of Alabama has an applicant that states he had a sex change. He has presented a Maryland birth certificate, the name on the certificate is what we have in our system but the sex in our system is male and on the certificate is female. What is the process for Maryland to amend/change birth certificates for sex changes. Does the birth certificate not indicate that it was amended when a change has been made?

Jeannie Eastman
Driver License Supervisor
Alabama Law Enforcement Agency
Office: 334-242-4777
jeannie.eastman@alea.gov

Please note that my email address has changed



09/19/2017 01:18

PAGE 01/01

PLAINTIFF'S
EXHIBIT
Eastman 33
11/13/18

CERTIFICATION OF VITAL RECORD

VIEW PRESENCE OF WATERMARK. HOLD TO LIGHT TO VIEW

STATE OF MARYLAND
Department of Health and Mental Hygiene
Division of Vital Records

CERTIFICATE OF LIVE BIRTH

File No. [REDACTED]

1. CHILD'S NAME (First, Middle, Last, Suffix) [REDACTED]		
2. TIME OF BIRTH (24 hr) 02:18 AM	3. SEX Female	4. BIRTHWEIGHT 6 lbs 12 oz
5. DATE OF BIRTH (Mo/Day/Yr) [REDACTED]	6. COUNTY OF BIRTH [REDACTED]	
7a. MOTHER'S LEGAL NAME AT TIME OF CHILD'S BIRTH [REDACTED]		
7b. MOTHER'S NAME PRIOR TO FIRST MARRIAGE [REDACTED]		
8. MOTHER'S AGE [REDACTED]	9. BIRTHPLACE (State, Territory, or Foreign Country) [REDACTED]	
10a. FATHER'S CURRENT LEGAL NAME [REDACTED]		
10b. FATHER'S AGE [REDACTED]	10c. BIRTHPLACE (State, Territory, or Foreign Country) [REDACTED]	
11. DATE FILED BY REGISTRAR January 25, 1995		

*Amended birth certificate
subj instructed
to take over
to DL office
and DL office
to call med*

This is to certify that this is a true and correct abstract of the official record on file in the Maryland Division of Vital Records.

*9/19/17
dte*

1532052

Geneva G. Sparks
Geneva G. Sparks
State Registrar

06/05/2017
Date Issued

DO NOT ACCEPT UNLESS ON SECURITY PAPER WITH SEAL
OF VITAL RECORDS CLEARLY EMBOSSED.



ANY ALTERATION OR ERASURE VOIDS THIS CERTIFICATE

PLAINTIFF'S
EXHIBIT
Eastman 34
11/13/18

Eastman, Jeannie

From: Toney, Barbara
Sent: Wednesday, October 18, 2017 11:30 AM
To: Eastman, Jeannie
Subject: gender change

[REDACTED], contact information [REDACTED]..
Want to know what has to be done to change the sex on his dl..
No, bottom surgery has been done...

Thanks,

PLAINTIFF'S
EXHIBIT
Eastman 35
11/13/18

Eastman, Jeannie

From: Eastman, Jeannie
Sent: Monday, October 31, 2016 10:56 AM
To: Pregno, Deena
Cc: Duke, Brian
Subject: FW: LE WEBSITE DL Comment/Question From: Kaleb Stephens

Importance: High

Chief Pregno,

I received this email from DriverLicenseInfo while I was out of the office, I'm not sure if this is the same person that Barbara had received an email from a few weeks ago. When I asked you about the email Barbara had, you stated that you would reply to it. Do you want to reply to this email or would you like for me to forward it to Legal?

From: DriverLicenseInfo
Sent: Monday, October 24, 2016 4:36 PM
To: Eastman, Jeannie
Subject: FW: LE WEBSITE DL Comment/Question From: Kaleb Stephens
Importance: High

Hey,
Will this be something that you can answer, or should it go to legal.

Thanks,

From: kaleb@lgbtmap.org [<mailto:kaleb@lgbtmap.org>]
Sent: Friday, September 30, 2016 6:07 PM
To: DriverLicenseInfo <DriverLicenseInfo@alea.alabama.gov>
Subject: LE WEBSITE DL Comment/Question From: Kaleb Stephens
Importance: High

Prefix: Mr.
First Name: Kaleb
Last Name: Stephens
E-mail: kaleb@lgbtmap.org
Phone: 303-578-4603
Address: 2215 Market St.
City: Denver
State: Colorado
Zip: 80205
Issue: Driver License
DL Number: n/a
Browser IP Address: 4.34.49.67

Comments: Hello, I'm researching driver's license laws in respect to transgender people. From what I've found online, it looks like Alabama requires proof of sex reassignment surgery, court order, and/or amended birth certificate in order to change a person's gender marker on a birth certificate. However, I'm having trouble

finding the relevant statute. Could you point me to the policy/statute that covers gender/sex marker changes?
Thank you! -Kaleb

Eastman, Jeannie

From: Eastman, Jeannie
Sent: Monday, October 31, 2016 10:27 AM
To: Duke, Brian
Subject: FW: LE WEBSITE DL Comment/Question From: Kaleb Stephens

Importance: High

I received this email while I was out of the office last week, Barbara had an email similar that she asked me about and Chief Pregno said to send it to her to answer.

From: DriverLicenseInfo
Sent: Monday, October 24, 2016 4:36 PM
To: Eastman, Jeannie
Subject: FW: LE WEBSITE DL Comment/Question From: Kaleb Stephens
Importance: High

Hey,
Will this be something that you can answer, or should it go to legal.

Thanks,

From: kaleb@lgbtmap.org [<mailto:kaleb@lgbtmap.org>]
Sent: Friday, September 30, 2016 6:07 PM
To: DriverLicenseInfo <DriverLicenseInfo@alea.alabama.gov>
Subject: LE WEBSITE DL Comment/Question From: Kaleb Stephens
Importance: High

Prefix: Mr.
First Name: Kaleb
Last Name: Stephens
E-mail: kaleb@lgbtmap.org
Phone: 303-578-4603
Address: 2215 Market St.
City: Denver
State: Colorado
Zip: 80205
Issuc: Driver License
DL Number: n/a
Browser IP Address: 4.34.49.67

Comments: Hello, I'm researching driver's license laws in respect to transgender people. From what I've found online, it looks like Alabama requires proof of sex reassignment surgery, court order, and/or amended birth certificate in order to change a person's gender marker on a birth certificate. However, I'm having trouble finding the relevant statute. Could you point me to the policy/statute that covers gender/sex marker changes? Thank you! -Kaleb

PLAINTIFF'S
EXHIBIT
Eastman 36
11/13/18

Eastman, Jeannie

From: Eastman, Jeannie
Sent: Wednesday, January 03, 2018 2:30 PM
To: Duke, Brian
Subject: FW: gender reassignment

This was originally sent in September, 2017 and Ms. [REDACTED] has not received a response or been contacted. Can you please resend it through the chain?

Thanks!

*Jeannie Eastman
Driver License Supervisor
Alabama Law Enforcement Agency
Office: 334-242-4777
jeannie.eastman@alea.gov*

Please note that my email address has changed



From: [REDACTED]
Sent: Wednesday, January 03, 2018 2:24 PM
To: Eastman, Jeannie
Subject: Re: gender reassignment

Hi Jeannie,

Could you please inform me of an update on this? I have not had anyone reach out to me about this yet.

Thanks,
[REDACTED]

On Wed, Sep 6, 2017 at 4:41 PM [REDACTED] > wrote:

Great, thank you so much! I'll be looking forward to hearing from them - in the meantime I'm waiting to get my new birth certificate in the mail so that I can get it changed within the official (albeit very outdated) policy. Appreciate your help,
[REDACTED]

On Wed, Sep 6, 2017 at 4:37 PM Eastman, Jeannie <Jeannie.Eastman@alea.gov> wrote:

This has been sent to my Sergeant and will go through the chain to the Chief.

Jeannie Eastman

Driver License Supervisor

Alabama Law Enforcement Agency

Office: 334-242-4777

jeannie.eastman@alea.gov

Please note that my email address has changed

From: [REDACTED]
Sent: Wednesday, September 06, 2017 4:35 PM

To: Eastman, Jeannie
Subject: Re: gender reassignment

Do you have their emails or have I already been CC'd to them?

[REDACTED]

On Wed, Sep 6, 2017 at 4:27 PM [REDACTED] > wrote:

Thank you,

I only ask because this policy isn't in accordance with WPATH guidelines (recognized as the authority in this field by the American Medical Association) and I believe it is very discriminatory in nature.

I'd greatly appreciate an opportunity to talk to the Division Chief or Legal Division before I consider taking any sort of legal action.

Thank you so much for your help, Jeannie - I appreciate it.

[REDACTED]

On Wed, Sep 6, 2017 at 4:18 PM Eastman, Jeannie <Jeannie.Eastman@alea.gov> wrote:

Our Division Chief and Legal Division is responsible for setting departmental policies. I will pass your questions and email address up the chain of command.

Jeannie Eastman

Driver License Supervisor

Alabama Law Enforcement Agency

Office: 334-242-4777

jeannie.eastman@alea.gov

Please note that my email address has changed

From: [REDACTED]

Sent: Wednesday, September 06, 2017 4:12 PM

To: Eastman, Jeannie

Subject: Re: gender reassignment

Hi Jeannie,

Thank you for scanning that for me.

I understand that this *is* your current policy, but my question was not if it was the policy, rather *who* is responsible for deciding and setting your current policy. Essentially I'm asking who or what process decided this requirement, and when the policy was put into place in an official capacity.

If you're not sure - could connect me with someone who would know?

Thanks again,



On Wed, Sep 6, 2017 at 4:04 PM Eastman, Jeannie <Jeannie.Eastman@alea.gov> wrote:

The document sent to you was copied, printed on letterhead and scanned so it could be emailed to you. This is our current policy and the letter you sent us does not meet the requirements to change the gender on a driver license.

Jeannie Eastman

Driver License Supervisor

Alabama Law Enforcement Agency

Office: 334-242-4777

jeannie.eastman@alea.gov

Please note that my email address has changed

From: 

Sent: Wednesday, September 06, 2017 3:47 PM
To: Eastman, Jeannie
Subject: Re: gender reassignment

Hi Jeannie,

Thank you for sending me this information. However - it appears in the file metadata that this document was created *just earlier today* at 3:29:58 PM. Is this the original policy document?

If not, who is responsible for this policy and how can I contact them? I'd really like to get to the bottom of this "internal policy".

Thank you,



On Wed, Sep 6, 2017, 3:31 PM Eastman, Jeannie <Jeannie.Eastman@alea.gov> wrote:

Attached is the Driver License Division Policy on Gender Reassignment.

PLAINTIFF'S
EXHIBIT
Pregno 37
11/14/18

Alabama Department of
Public Safety

REPLY MAY BE MADE TO:

*Legal Unit
P.O. Box 1511
Montgomery, Alabama
36102-1511*

September 9, 2004

Lisa Mottet
Transgender Civil Rights Project
National Gay and Lesbian Task Force
1325 Massachusetts Ave., NW
Suite 6000
Washington, DC 20005

Dear Ms. Mottet,

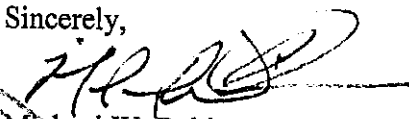
I recently spoke with Ms. [REDACTED] in referenced to Alabama's policy on how a transgender individual can change the gender or sex designation on his or her driver's license. Our policy is as follows:

Names on driver licenses can be changed upon receipt of court ordered name change affidavits. However, the sex on a driver license is not changed prior to the completion of successful surgery, and then the attending physician, or a physician who has knowledge of your medical condition and has examined you must submit acceptable documentation attesting to the success of the surgery. *Medical Advisory Board Opinion*

In essence, the sex on the driver's license will only be changed upon successful completion of surgery and with corresponding documentation from the attending physician who has knowledge of the success of the surgery.

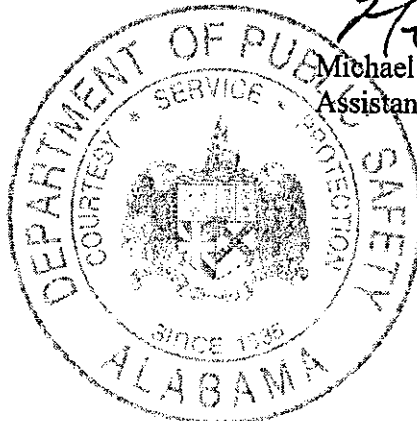
If you should need further assistance, please do not hesitate to contact me.

Sincerely,



Michael W. Robinson
Assistant Attorney General

MWR/cs



DARCY CORBITT, DESTINY CLARK and JOHN DOE, Plaintiff,
v.
HAL TAYLOR, CHARLES WARD, DEENA PREGNO and JEANNE EASTMAN, Defendants,
in the
U. S. DISTRICT COURT, MIDDLE DISTRICT of ALABAMA, NORTHERN DIVISION
CIVIL ACTION NO. 2:18-cv-00091-MHT-GMB

EXPERT REPORT

I. INTRODUCTION

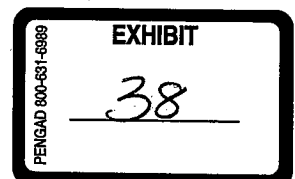
This is a report addressing the issues related to the governmental interest in establishing baselines and definitions for determine the data term "sex," from which appropriate administrative and operational policies and procedures will be developed. This report is predicated upon the information outlined in the section "Materials Reviewed." Should additional information be disclosed that affects my opinions and conclusions, I reserve the right to alter my opinions and conclusions as necessary.

II. QUALIFICATIONS

I have been employed in the criminal justice system since 1984 when I began work with the Fayette County Detention Center in Lexington, Kentucky, as a Deputy Jailer. In 1985 I was assigned as Training Coordinator for the Fayette County Detention Center and began the development of a formal Pre-service and In-service Deputy Jailer training program for the jail. An area of additional assignment was the development, revision and maintenance of the Detention Center's policies and procedures. I remained in this position until 1992 when I assumed the position of Planning and Research Analyst at the Detention Center to develop and implement an objective jail classification system. This implementation included the development of a management information system infrastructure and programming to accomplish the goals of the jail classification system. I attained the position of Administrative Deputy, Senior (Deputy Director) for the Division of Detention in 1996 assuming increased levels of administrative responsibility that included a primary role in the planning, design and construction of a 1000+ Direct Supervision detention facility, combining the principles of Objective Jail Classification with Direct Supervision. Throughout my tenure I continued to perform the functions of a Deputy Jailer often wearing two, or more hats. Performing those essential job functions varied and diminished in frequency as the supervisory responsibilities within the agency increased.

In 2001, I was assigned the additional responsibility of contract development and management for privatized services (food, medical, mental health, commissary, inmate telephones) and various other projects. In 2004, I was assigned the development and supervision of the Lexington-Fayette Urban County Division of Community Corrections Bureau of Professional Standards which included Internal Affairs; Safety, Sanitation and Standards; and Administrative and Disciplinary Hearings. I retired from my last position in August 2008.

My consulting activities began in the early 1990's. I have been a certified instructor of correctional curriculum since 1985, and have been a FBI certified firearms instructor and a Federal Bureau of Prisons defensive tactics instructor. I have taught and consulted for the National Institute of Corrections since 1990, the American Jail Association since 2004, and other criminal justice system consulting agencies. I have assisted in developing policies and procedures for jails throughout the country. I have conducted numerous classification system evaluations of mega-jails, large jails, medium jails and small jails in various states around the US for the National Institute of Corrections and other contractors. I am experienced in matters involving overall jail management including, but not limited to, such areas as the use of force; issues of security and operations; the provision of medical and mental health services; classification and inmate behavior management; contract management for privatized services (food, medical, mental



*Corbitt v Taylor-AL
Expert Report*

health); management information systems; strip search; gang and security threat group management in jails. I have co-created and developed a new jail management paradigm – Mission Based Management. I received a Bachelor of General Studies in Social and Political Theory and a Doctorate in Public Administration. I have been a member of the Board of Directors for the American Jail Association and serve as Second Vice-President on the Executive Board. I am also on the faculty of the Americans for Effective Law Enforcement (AELE), where I instruct at seminars on topics of Inmate Classification, in-custody death prevention, Prison Rape Elimination Act and serve on the Editorial Board for AELE's publications.

In recent years, I have become involved in litigation consultation and expert witness work for both the plaintiff and the defense. These cases primarily involved strip search, classification, use of force, medical care, in-custody deaths and conditions of confinement. My opinions are given within a reasonable degree of professional certainty in those areas involving jail and correctional issues, acceptable correctional practice, correctional administration and correctional supervision.

III. **PUBLICATIONS**

1. "The Use of Force Continuum: Is it Worth Keeping?" (Part 2); Collins, William; Swartz, Jeffrey; and Leach, Donald, Correctional Law Reporter, May/June 2011
2. "The Use of Force Continuum: Is it Worth Keeping?" (Part 1); Collins, William; Swartz, Jeffrey; and Leach, Donald, Correctional Law Reporter, December/January 2011
3. "Arrestee Strip Searches: An Administrator's View", Correctional Law Reporter, July/August 2010
4. "PREA Redux: What's It Going to Cost Us?", American Jails, Hagerstown: May/June 2010
5. "PREA Redux: What's It Going to Cost?", Correctional Law Reporter, December/January 2010
6. "Prison Rape Elimination Act Lives On", Correctional Managers Report, December/January 2009
7. "Carrots versus Sticks: Managing Behavior in the Jail", - American Jails, Hagerstown: November/December 2008
8. "PREA Draft Standards are PREA 'DAFT' Standards" -Correctional Managers Report, August 2008
9. "Carrots versus Sticks: Managing Behavior in the Jail", -Correctional Managers Report, April/May 2008
10. "Issues Surrounding Managing Lesbian, Gay, Bi-sexual, Transsexual, and Intersex Offenders (LGBTI) in Jails", - American Jails, Hagerstown: November/December 2007; LJN Exchange, National Institute of Corrections, US Department of Justice, 2006; and Corrections Professional, November 2007
11. "Excited Delirium: Fact or Fiction", - LJN Exchange, National Institute of Corrections, US Department of Justice, 2007
12. "Are Tasers in Jails a Great New Tool or Another Headache", - LJN Exchange, National Institute of Corrections, US Department of Justice, 2006
13. "Mission Creep and the Role of the Jail in Public Health Policy" - LJN Exchange, National Institute of Corrections, US Department of Justice, 2004
14. "Creating a New Jail Management Paradigm", Kennedy-Western University, Published Dissertation, 2004
15. "Journey into Objective Jail Classification", Leach, Don and Sabbatine, Ray, American Jails, Hagerstown: January 1999
16. "A New Strip Search Paradigm", Leach, Donald and Sabbatine, Ray, American Jails, Hagerstown: November/December 1996

IV. COMPENSATION

My rate of compensation is \$200.00 per hour for research, consultation and report generation. My fee for depositions and trial testimony is \$2000 per any part of a business day, video depositions are \$3000 per any part of a business day, and \$1000 per any part of a business day for travel, awaiting trial testimony or onsite consultation plus all reasonable expenses (travel, printing and duplication).

V. **CASE HISTORY DISCLOSURE**

Cases in which I have testified in court or deposition in the past four years:

1. *Donald J. Hinson v. Sheriff Grady Judd; et al.*, (U. S. District Court, Middle District of Florida, Tampa Division, 8:17-CV-02039-JDW-MAP, 10/2018)
2. *Solomon Cindea v Matthew Abbott, et al.*, (U. S. District Court, Northern District of Ohio, Eastern Division, 4:17-cv-02525, 09/2018)
3. *Debra Hopkins v Board of Wilson County, Kansas, Commissioners, et al.* (U.S. District Court, District of Kansas, 2:15-CV-2071-CM-GLR, 08/2018)
4. *Michelle Kindoll, v. Southern Health Partners, et al.*, (U. S. District Court, Eastern District of Kentucky, Northern Division at Covington, 2:17-CV-84-DLB-JGW, 07/2018)
5. *Rachel M. Hammers v Douglas County, et. al.*, (U.S. District Court, District of Kansas, 2:15-CV-07994-CM-KGG 06/2018)
6. *James Barnes v. Sheriff John T. Boyd, LaPorte County Sheriff's Department, LaPorte County et al.*, (U. S. District Court, Northern District of Indiana, 3:16-CV-00190-RLM-MGG, 01/2018)
7. *Robert Moore v. Mason County, Kentucky and Mason County, et al.*, (U. S. District Court, Eastern District of Kentucky, 2:16-CV-00185-DLB-CJS, 01/2018)
8. *Randy S. Hisey, for James Merchant v. Woodbury County; et al.*, (U. S. District Court, Northern District of Iowa, Western Division, 7C16-CV-4111, 11/2017)
9. *Taylor Martin v Miguel Huapilla, Dayton Gaston, Joseph Peaks and Michael Scott*, (U. S. District Court, Middle District of Florida, 2:16-cv-537-FTM-99MRM, 08/2017)
10. *Jose Luis Garza v City of Donna, Texas*, (U.S. District Court, Southern District of Texas, McAllen Division, 7:16-CV-00558 05/2017)
11. *Anthony Waller v Bradley Lovinger*, (U.S. District Court, District of Colorado, 14-CV-02109-WYD-NYW, 05/2017)
12. *Bradley Johansen v. Officer A.J. Cox and the City of Kent*, (U.S. District Court, Western District of Washington at Seattle, 216-CV-004160, 01/2017)
13. *Rachel M. Hammers v Douglas County, et. al.*, (U.S. District Court, District of Kansas, 2:15-CV-07994-CM-KGG 08/2016)
14. *Charles Axl Rose v. McCreary County, et al.*, (U. S. District Court, Eastern District of Kentucky, 6:14-CV-00111-GFVT, 03/2016)
15. *Timothy Redmond, et. al. v Scott Crowther, et. al.*, (U. S. District Court, District of Utah, 2:13-cv-00393DAK, 7/2015)
16. *Jerome Odom, v Steve Whidden*, (Twentieth Judicial Circuit, Florida, Civil Division, Number 2012-570-CA, 7/2015)
17. *Christina Bobbin, v Corizon Health, Inc., f/k/a Prison Health Services, Inc., et. al.*, Mike Scott, et. al., (U. S. Dis-

trict Court, Middle District of Florida, 2:14-cv-158-FtM-29DNF, 07/2015)

18. *Shana Bennett v Hinds County, Mississippi, and John and Jane Does 1-100*, (U. S. District Court, Southern District of Mississippi, 3:14-CV-753-DNJ-FKB, 02/2015) consolidated with *Damion Lewis and Derrick Lewis v Hinds County, Mississippi, John and Jane Does 1-100*, (U.S. District Court, Northern District of Mississippi, 3:14-cv-450-TSL-JMR, 02/2015)
19. *Joseph Reilly v Sheriff of Leon County, Florida*, (U. S. District Court, Northern District of Florida, 4:14-CV-00397-RH-CAS, 01/2015)
20. *FK.S., K.K., H.M., T.K., J.H., S.B., S.C., T.S., C.K., D.R., L.A., and M.L., v City OF Puyallup, Police Chief Bryan Jeter, Lieutenant Edward Shannon*, (U. S. District Court, Eastern District of Washington, 3:13CV-05926, 12/2014)
21. *Oral Jason Murphy v Clark County Sheriff's Office, Paul Gaudette, Tammy Webster*, (U. S. District Court, Eastern District of Missouri, 13-CV-1103, 11/2014)
22. *Frank Hyman, v City of Philadelphia, Warden Clyde Gainey, Deputy Warden Gerald May, Lieutenant Demond Anderson, Corrections Officers Dwayne Corley and Ryan Hoover*, (U. S. District Court, Eastern District of Pennsylvania, 10-499, 05/2014)
23. *Christina Smith v Erie County Sheriff's Department; Erie County Board of Commissioners; Terry Lions; D. Todd Dempsey; Brittany M. Hausman; Sarah R. Worley; Jason A. Beatty; Kyle Bellamy; Linda Scroggy; and Perkins Township Board of Trustees* (U. S. District Court, Northern District of Ohio, 3:12-CV-01853-DAK, 09/2013)

VI. MATERIALS REVIEWED

I reviewed the following materials in formulating my opinion in this case.

1. "Adult sex offender-Identification requirements," § 15-20A-18, Code of Alabama Title 15, Criminal Procedure, Chapter 20A
2. "Changing Sex on a Driver License Due to Gender Reassignment," Driver License Division, Alabama Law Enforcement Division
3. Defendant's Answers to Plaintiffs' First Set of Interrogatories dated 06/22/2018
4. "Detention and Correctional Standards for Maine Counties and Municipalities," Maine Department of Corrections, Inspections Division, September 2005
5. Documentation of Receiving Sexual Reassignment Surgery
 - 5.1. Affidavit, Dr. Pierre Brassard dated 01/20/2011
 - 5.2. Affidavit of Dr. Charles Garramone
 - 5.2.1. Dated 12/24/2009 (x2)
 - 5.2.2. Dated 01/21/2010
 - 5.2.3. Dated 01/12/2010
 - 5.2.4. Dated 01/21/2010
 - 5.2.5. Dated 05/17/2010
 - 5.2.6. Dated 06/15/2011
 - 5.2.7. Dated 01/04/2013
 - 5.2.8. Dated 10/30/2013
 - 5.2.9. Dated 03/04/2014
 - 5.2.10. Dated 04/21/2014
 - 5.2.11. Dated 02/05/2015
 - 5.2.12. Dated 11/30/2015
 - 5.2.13. Dated 07/21/2016
 - 5.2.14. Dated 09/28/2017
 - 5.3. Amended Certificate of Live Birth, Center for Health Statistics, Alabama
 - 5.3.1. Dated 09/18/2009
 - 5.3.2. Dated 04/21/2014
 - 5.3.3. Dated 12/15/2014
 - 5.3.4. Dated 06/18/2015
 - 5.3.5. Dated 11/24/2015

5.3.6. Dated 12/23/2015

5.3.7. Dated 04/04/2016

5.4. Certificate of Live Birth, Division of Vital Records, Department of Health and Mental Hygiene, Maryland dated 06/05/2017

5.5. Chromosome Analysis, Laureate Medical Group dated 07/21/2003

5.6. Correspondence

5.6.1. Dr. Marci L. Bowers

5.6.1.1. Dated 03/14/2008

5.6.1.2. Dated 03/02/2016

5.6.2. Dr. Michael Brownstein

5.6.2.1. Dated 12/10/2008

5.6.3. Dr. Lazaro Cardenasicamarena

5.6.3.1. Dated 01/18/2012

5.6.4. Dr. Alan Dulin

5.6.4.1. Dated 03/31/2017

5.6.5. Dr. Beverly Fischer

5.6.5.1. Dated 08/03/2011

5.6.6. Dr. William Hadden

5.6.6.1. Dated 08/13/2014

5.6.7. Dr. Sherman N. Leis

5.6.7.1. Dated 08/12/2014

5.6.8. Dr. Keelee J. MacPhee

5.6.8.1. Dated 01/07/2016

5.6.9. Dr. Huey G. McDaniel

5.6.9.1. Dated 06/27/2016

5.6.10. Dr. Christine McGinn

5.6.10.1. Dated 06/22/2015

5.6.11. Dr. Daniel Medalie

5.6.11.1. Dated 04/16/2012

5.6.11.2. Dated 08/01/2014

5.6.12. Dr. Toby R. Meltzer

- 5.6.12.1. Dated 06/05/2013
- 5.6.12.2. Dated 08/13/2013 (x2)
- 5.6.13. Dr. Robert I. Oliver
 - 5.6.13.1. Dated 01/18/2017
- 5.6.14. Dr. Scott Parry
 - 5.6.14.1. Dated 09/18/2014
- 5.6.15. Dr. Peter Raphael
 - 5.6.15.1. Dated 07/29/2014
 - 5.6.15.2. Dated 09/21/2016 (x2)
- 5.6.16. Dr. Harold M. Reed
 - 5.6.16.1. Dated 05/07/2009
 - 5.6.16.2. Dated 03/04/2013
 - 5.6.16.3. Dated 06/05/2015
 - 5.6.16.4. Dated 05/16/2017
- 5.6.17. Dr. Kathy L. Rumer
 - 5.6.17.1. Dated 11/30/2017
- 5.6.18. Dr. Stephen Steinmetz
 - 5.6.18.1. Dated 03/09/2016
 - 5.6.18.2. Dated 11/03/2016
 - 5.6.18.3. Dated 05/30/2017
- 5.6.19. Dr. Preecha Tiewtranon
 - 5.6.19.1. Dated 12/13/2013
- 5.6.20. Dr. Suporn Watanyusakui
 - 5.6.20.1. Dated 08/26/2014
- 5.6.21. Dr. Scott R. Weisberg
 - 5.6.21.1. Dated 06/10/2011
 - 5.6.21.2. Dated 10/23/2012
- 5.7. Driver's License, Alabama dated 03/17/2017
- 5.8. Email, "RE: RE: gender change," from Jeannie Eastman to Barbara Toney dated 10/18/2017; 1203 hours
- 5.9. Judgment of change of Name and Issuance of New Birth Certificate After Anatomical Change of Sex by Surgery, Civil District Court for the Parish of Orleans, Louisiana dated 04/01/2016

- 5.10. Order, Probate Court of Mobile County, Alabama, dated 04/15/2015
- 5.11. Order to Amend Vital Record, Circuit Court of Mobile County, Alabama dated 04/07/2014
- 5.12. Order to Change Name, Gender and to Issue and Amend Vital Record (Birth Certificate), Houston County Circuit Court, Alabama dated 11/17/2011
6. Driver License Policy Order Number 63, Department of Public Safety, revised date 09/01/2012
7. First Amended Complaint for Declaratory and Injunctive Relief filed 07/25/2018
8. Jail and Prison Legal Issues: An Administrator's Guide, William Collins, Esq., published by the American Jail Association, updated 2006
9. "Minimum Standards for Local Correctional Facilities," Chapter 1400-1, "Rules of the Tennessee Corrections Institute, "Correctional Facilities Inspection revised 11/2004
10. Performance-based Standards for Adult Local Detention Facilities, 4th Edition, American Correctional Association, June 2004
 - 10.1. 2016 Standards Supplement, American Correctional Association, 2016
11. Protective Order filed 05/18/2018
12. *Bell v Wolfish*, 441 U. S. Supreme Court, 520 (1979)
13. *Estelle v. Gamble*, 429 U.S. 97; 97 S. Ct. 285; 50 L. Ed. 2d 251; 1976 U.S. LEXIS 175, (1976)
14. *Farmer v Brennan* (92-7247), 511 U.S. 825 (1994)
15. *Turner v Safley*, 482 U.S. 78 482 U.S. 78 (1987)

VII. EXHIBITS TO BE USED TO SUMMARIZE OR SUPPORT OPINIONS

I may employ some, or all, of the materials referred to in the previous section to summarize or support my opinions. This report is predicated on the facts as presented through reviewing the provided materials.

VIII. FOCUS OF EXAMINATION

My review focused on the following issue:

- A. *Is there a governmental interest in having a standardized definition of sex, such as that established in Policy Order 63, for law enforcement and administrative purposes as expected by a reasonable correctional administrator?*

IX. OPINION

My opinion is predicated on a comprehensive review of the information listed in Section VI. My opinions and conclusions are given within a reasonable degree of professional certainty in those areas involving jail and correctional issues, acceptable correctional practice, supervision and administration. I reserve the right to supplement or alter my opinions and conclusions should additional information be received.

- A. *In sum, my opinion is there is a governmental interest in having a standardized definition of sex, such as that established in Policy Order 63, for law enforcement and administrative purposes as expected by a reasonable correctional administrator so there is consistency in the development, and application, of administrative and operational policies and procedures.***

X. COMMENTS AND BASIS FOR OPINION

In preparing my opinion, I relied upon my training and experience in corrections as an officer, instructor and administrator along with training and information provided by attorney and correctional law expert Mr. William Collins, Esq. in *Jail and Prison Legal Issues: An Administrator's Guide*¹. Additionally, my opinions and basis for opinions reflect my continuing studies and research of correctional management issues. Those studies and research include frequent review of case studies, correctional articles² and participation in correctional conferences and workshops conducted by, the Americans for Effective Law Enforcement; Institute for the Prevention of In-custody Death; the American Jail Association, and the American Correctional Association, both as a presenter and as a participant.

My opinions arise from the information reviewed; are the product of that review; reflect relevant professional duties; standards of care; and, accepted practices in the field of corrections. Any reference to court opinions and/or use of legal terms reflects my training and experience in the correctional profession and as a correctional practices expert. My reference to cases or use of any terms that have a specific legal definition is not intended to express any legal expertise beyond the scope of my experiences and training as a correctional officer, and correctional administrator, and as used by a knowledgeable correctional administrator in operating that which the Courts have determined to be a Constitutionally-based correctional facility.

In corrections, agency policies and practices are intended to conform to Constitutionally-based duties; applicable state regulatory standards; and standards of care and training. Supervision is intended to ensure knowledge and application of those Constitutional duties by correctional staff. Policy is a guideline enacted through procedures that are intended to demonstrate Constitutionally-based acceptable correctional practices. The various correctional duties, standards of care and accepted practices have all evolved over time, illustrating "the evolving standards of decency that mark the progress of a maturing society."³

The phrase "acceptable correctional practice" refers to how objectively reasonable correctional professionals perform, or should perform, their duties based on legal policy codified and adopted into policy and procedure, that is published, trained and supervised. "Acceptable correctional practice" does not refer to "best practice" or "ideal practice", but rather to those situations and practices that correctional personnel confront as part of their customary duties. They generally fall within a range of options available to the officer in any given situation.

I relied on my training, experience and knowledge as a correctional administrator in evaluating the governmental need for baseline definitions that provide for the consistent application of policies and procedures to law enforcement and correctional agencies.

¹ *Jail and Prison Legal Issues: An Administrator's Guide*, William Collins, Esq., published by the American Jail Association, updated 2006

² Correctional publications that I routinely read and review provide current thoughts, issues, problems, solutions, relevant case law include the *Correctional Manager's Report*; the *Correctional Health Care Report*; the *Correctional Law Reporter*; the *Correctional Mental Health Report*; *American Jails* magazine; *Jail and Prisoner Law Bulletin*; *AELE Monthly Law Journal*; and *Corrections Today* magazine.

³ *Estelle v. Gamble*, 429 U.S. 97; 97 S. Ct. 285; 50 L. Ed. 2d 251; 1976 U.S. LEXIS 175, (1976)

XI. ANALYSIS

Baselines, and the definitions that are used to establish those baselines are at the core of the development of policies and procedures governing key facets for the administration and operation of law enforcement and correctional agencies. Law enforcement and correctional administrators appreciate policies and procedures that are well defined, and clearly delineated. This baseline definition is intended to provide for the consistent application of those policies and procedures. It is the purview of law enforcement and correctional administrators to establish policies and procedures predicated upon definitions provided by the state or the courts, if not internally developed. Whether provided by the state or the courts, the definitions provide a baseline from which law enforcement and correctional administrators can make decisions regarding administrative and operational issues. Such is the case where a definition for the concept of sex, when being used as an identifying characteristic, is required.

The problem is that "sex," as a biological noun, when employed as an identifying characteristic, is not easily defined in a manner that generates broad acceptance and agreement. The concept of "sex" is often used synonymously with concept of gender, and vice versa. Depending upon the context of the discussion, this may well be wrong.

In a broad social and biological context, sex is a state of being, how one thinks about oneself, externally and internally. Sex is how others perceive us, and we, them. Sex is how we act towards others, and others toward us. In essence there are three parts to our sexual being: physiognomy; gender identity; and, sexual preference.

Sex, in the context of Policy Order Number 63, refers to the physiognomy of the individual, typically male or female. Gender is more frequently used when referring to social and cultural differences as opposed to physiognomical differences, typically the perception of oneself as male or female separate from physiognomy. Even in sex physiognomy, there is the mistaken perception that an individual's sex is readily defined as either male or female, with easily identifiable male or female genitalia to guide the identification. This is not accurate.

It is probably more accurate to see the individual's physiognomical sex as lying somewhere along a continuum, with what can be described a "fully male" at one end and "fully female" at the other. In between are intersex individuals who may have ambiguous genitalia or retain gonadal histology, chromosomes and internal reproductive organs of the opposite physiognomy. According to the Intersex Society of North America, the occurrence of babies born with atypical genitalia is approximately 1 in 2000 live births.⁴ The number of individuals that lie somewhere on the continuum may be even higher when considering that other characteristics associated with being intersex may not be readily visible but identifiable by other means. The ambiguity about physiognomy, as demonstrated by the presence of intersex individuals, is why definitions are critical in forming the baseline from which to structure policies and procedures. This is especially true for correctional facilities.

Any discussion of "sex" must include a discussion of one's perception of his or her "sex," or "gender identity." Gender identity is the second part of our sexual being; but, gender identity and physiognomy are not always congruent. For the vast majority of people, physiognomy and gender identity coincide. For others, there is a disparity between physiognomy and gender identity. The "sex" these individuals perceive themselves as being does not match what they see when they look in the mirror. Nor does their "sex" match what others see them as being based upon physiognomy.

A baseline definition of "sex" in the physiognomy sense provides starting point from which an exchange of

⁴ See <http://www.isna.org/faq/frequency>

views can occur. As with any concept there may be disagreement about the what constitutes the "best" baseline definition of sex. While there may be disagreement about the definition of sex, there are circumstances, especially in law enforcement and corrections, where a definition of sex is essential to the application of policies and procedures. By way of analogy, an example is the definition of adult and juvenile. The definitional distinction between what is an "adult" and a "juvenile" are set by legislatures and courts. And these definitions are crucial in determining appropriate incarceration practices. Similarly then, this need for a definitional distinction of the term "sex" is the situation that has resulted in the state of Alabama developing Driver License Policy Order Number 63. Policy Order Number 63 adopts a definition of "sex" as needed to change that designation on the state-issued driver's license as being,

"It is the policy of the Director and the Driver License Division that individuals wishing to have their sex changed on their Alabama license due to gender reassignment surgery are required to submit to the Medical Unit an amended birth certificate along with documentation on letterhead from the physician that performed the sexual reassignment surgery stating the surgery has been completed."⁵

And the definition of "sex" is further refined in the policy directive, "Changing Sex on a Driver License Due to Gender Reassignment"

"An amended state certified birth certificate and/or a letter from the physician that performed the reassignment procedure. The letter must be on the physician's letterhead."⁶

Policy Order Number 63 serves as a baseline definition of "sex" that can be applied in law enforcement and correctional policies, practices and procedures. While recognizing that while there may be other definitions, employed by other agencies, the definitions within Policy Order Number 63 provide a baseline for Alabama Law enforcement and correctional agencies to develop administrative and operational policies, practices and procedures. Having an established starting point from which to develop administrative and operational policies, practices and procedures is critical especially in an environment where the concept, such as sex, is so readily misunderstood.

In corrections, there are many custodial policies, procedures and practices that are based on the definition of "sex." The decision by the state of Alabama defining sex as it has in Policy Order Number 63 provides a foundation upon which correctional agencies can begin to develop their own internal "data dictionary." A "data dictionary" defines both the data term, such as what is "sex", and where that data information is derived. A "data dictionary" provides an organized reference point for staff. The data dictionary provides a standardized definition for all staff to use when employing the data term, such as "sex". Using the data dictionary, everyone works from the same definition regardless of where in the custodial process the individual lies: starting with the initial booking and continues through release from custody. Critical decisions on housing, supervision and the provisioner care services are predicated on data terms, such as "sex."

The first correctional decision in which the data term "sex" plays an essential role is the conduct of searches. Who searches whom will be decisions arising from the definition of the term "sex." It is commonly acceptable correc-

⁵ Driver License Policy Order Number 63, Department of Public Safety, 1. A., revised date 09/01/2012

⁶ "Changing Sex on a Driver License Due to Gender Reassignment," Driver License Division, Alabama Law Enforcement Division, 1.

tional practice for searches to be conducted by members of the same "sex."⁷ While clothed searches by members of the opposite sex (or "cross-gender") is acceptable correctional practice, it is generally limited in use. The intent of this practice is to avoid Fourth amendment violations related to the manner of the search.

There is a legitimate governmental interest in conducting a through search of all individual entering the correctional facility.⁸ In an attempt to preserve as much of the individual's dignity as possible, the clothed search (or pat-down) would be conducted by member of the same "sex;" the idea being that a search by a member of the same "sex" would be less intrusive and disconcerting. It is commonly prohibited in a correctional facility for members of the opposite "sex" to conduct unclothe (strip) searches unless there are exigent circumstances. Crucial in these decisions of who is searched by whom is the definition of the data term, "sex."

Another area wherein the definition of the data term "sex" is critical is when making housing decisions. The commonly acceptable correctional practice is to not co-house members of the opposite "sex." The intent is to minimize sexual behavior occurring in the housing units, regardless of whether the sexual behavior is consensual or coerced. Underpinning this separation by "sex" is the concern that co-housing members of the same "sex" increases the opportunity for prohibited sexual behavior to occur. In some states, such as Tennessee, inmates of the opposite "sex" must be separated by sight and sound.⁹ Surprisingly, Alabama is the only state that provides for the co-housing of men and women, as long as they are married.¹⁰ Needless to say, this creates another definitional issue for correctional administrators when making the determination of what is "married."

What cannot be overlooked in the discussion of "sex" and custodial practices is the consideration that must be made for the "sex" of the involved staff. In any discussion of non-exigent strip searching, the "sex" of the inmate and the "sex" of the staff member must be clearly defined. This prevents the incurrence of Fourth Amendment rights violation. In housing and inmate supervision issues, "sex" of both the inmate and the staff member may carry potential Equal Employment Opportunity concerns. This potential issue is recognized in the Idaho jail standards,

"Policies governing supervision of female inmates by male employees and male inmates by female employees are based on equal employment opportunity and inmate privacy needs. Except in emergencies, or the safety of the inmate is in question, facility employees are not permitted to observe inmates of the opposite sex in toilet and shower areas. Male and female employees are available, as needed, to conduct or assist in the admissions process of female and male inmates, conduct searches of inmates, and perform other sensitive pro-

⁷ See Tennessee Jail Standards, 1400-1-07, "Security," (5) "Procedure shall differentiate between the searches allowed (orifice, pat, or strip) and identify when these shall occur and by whom such searches may be made. All orifice searches shall be done under medical supervision. Prisoners shall be searched by jail personnel of the same sex, except in emergency situations." And Maine, H. 17, "All prisoners shall be searched thoroughly whenever entering or leaving the holding area. Any strip search shall be conducted in private and in a manner that preserves the dignity of the inmate; by a staff member of the same sex in an area completely free from members of the opposite sex; and under sanitary conditions."

⁸ These governmental interests is primarily for preventing the introduction of contraband but also may include the identification of medical problems.

⁹ See Tennessee Jail Standards, 1400-1-17, "Classification," (2)"This plan ensures total sight, sound or physical contact separation between male and female inmates and between adults and juveniles being tried as adults." And Maine R. "Facilities," 4. "Female inmates shall be provided housing areas separate by sight and audible sound from male inmates. All shower and bathroom facilities shall be designed to prevent direct viewing by staff and inmates of the opposite sex to insure the inmates' right to privacy."

¹⁰ See Alabama Code Title 14. Criminal Correctional and Detention Facilities, Chapter 6, "Jails," § 14-6-13 "Men and women prisoners, except husband and wife, must not be kept in the same room or apartment"

cedures involving inmates.”¹¹

This Idaho policy creates the need to define “sex”, in this case being what is “male” and what is “female.” The application of the Policy Order Number 63 would provide one definition for “sex” from which an Idaho correctional administrator could develop, implement and supervise policies and procedures related to housing and supervision. A similar situation is faced by correctional administrators in Alabama jails. Policy Order Number 63 provides a definition that can be employed when determining the “sex” of both inmates and staff. Whether the Alabama jail administrator makes the decision to use the definition of “sex” as provided in Policy Order Number 63, or to use another definition, is discretionary. That discretion is going to be based on the “risk tolerance” level of the correctional administrator.

“Risk tolerance” is the willingness of the correctional administrator to take risks, or to avoid them. Managing human behavior is a risky business for correctional administrators. As stated previously, decisions on housing, supervision and care services have to be made for effective management of human behavior. “Risk tolerance” is the amount of variability the correctional administrator is willing to tolerate arising from a given decision, policy or practice. It is a balance between the perceived benefits and perceived risks with a given practice. Every correctional administrator has his or her own level of risk tolerance that will guide policy decisions. The more liberal philosophical approach the correctional possess, the more risk that same administrator will be willing to tolerate. Whether the correctional administrator chooses to use the Policy Order Number 63 definition of “sex” or another, that choice will be guided by the administrator’s “risk tolerance.”

“Risk tolerance” is also a reflection of local community standards. The level of risk a correctional administrator in a major metropolitan area versus a more rural community will reflect the local community values. Ultimately, the correctional administrator is going to be responsive to, and accountable to, the local community. Policy Order Number 63 is reflective of the community standards for the state of Alabama as interpreted by the state’s elected officials.

What complicates the “risk tolerance” decision defining “sex” is the issue of sexual preference. Sexual preference refers to who one is attracted to sexually. Sexual preference is complex and multifaceted. It is not as straightforward as physiognomical male attracted to physiognomical female (and vice versa), or physiognomical male to physiognomical male. Complicating the discussion is gender identity. Combining physiognomy, gender identity and sexual preferences results in variety of sexual existences that colors the perception of any one of the individual elements. Definitions of what it means to be straight; gay; lesbian; bi-sexual; and, asexual are complicated by physiognomy and gender identity. A definition of “sex”, such as that provided by Policy Order Number 63, provides a starting point for discussions regarding what can then be defined into categories of homosexual, heterosexual or bi-sexual behavior.

Ultimately, from a correctional administrator’s perspective, the definition of “sex” is intended to be used to drive decisions that will reduce the likelihood of harm occurring to the individual inmate or other inmates. Harm can arise from the conduct of inappropriate searches. Harm can arise from inappropriate housing. Harm can arise from inappropriate supervision. Harm can arise from inappropriate restrictions on conditions of confinement. Lastly, harm can arise from inappropriate restrictions on conditions of employment. All decisions arising the definition of “sex,” whether the one provided in Policy Order Number 63, carry a measure of risk. How risk aversive, or risk tak-

¹¹ Chapter 7, “Security and Control,” “Inmate Supervision and Management,” 07.04 (ref. 03.03) (Revised 12/03) (Revised 12/09)

ing, the law enforcement or correctional administrator is grounded in that individual's personal and correctional philosophies, or "weltanschauung,"¹² The stat of Alabama provides through Policy Order Number 63 a starting point from which the law enforcement or correctional administrator can measure his or her policies and procedures.

¹² "Weltanschauung" is defined as a worldview held by a person or group.

XII. REPORT CONCLUSION

Correctional and law enforcement agencies need definitions for data elements, such as what is "sex." The definition is intended to be used when developing agency policies and procedures. The definition is intended to be used when identifying individuals in the community. The definition is intended to drive decisions on housing, supervision and care services. The development of the definition of "sex" is a discretionary decisions within the purview of the agency, such as the Alabama Law Enforcement Agency. Correctional and law enforcement agencies have the discretion to adopt the definition of "sex" as put forward in Policy Order Number 63 as is; modify the definition as put forward in Policy Order Number 63; or, in the absence of a legal definition, to create their own definition.

I reserve the right to supplement or alter my opinion should additional information be received.



Donald L. Leach II

October 31, 2018



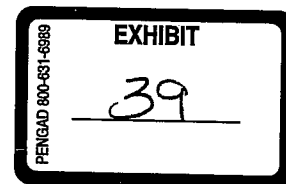
IDAHO DEPARTMENT OF HEALTH & WELFARE
DIVISION OF PUBLIC HEALTH
 Bureau of Vital Records and Health Statistics

INSTRUCTIONS TO CHANGE THE INDICATOR OF SEX ON AN IDAHO BIRTH CERTIFICATE TO REFLECT GENDER IDENTITY

As of April 6, 2018, people who were born in Idaho can apply to change the indicator of sex on their birth certificate to match their gender identity. In addition to these instructions, this packet provides the application form to change the sex and an order form to request copies of the new certificate. Medical documentation is **not required** to change the sex; however, a court order granting name change is required to change the name of the person listed as the child on the birth certificate. After a valid application is received and reviewed, the Idaho Bureau of Vital Records and Health Statistics will create a replacement birth certificate. The new certificate will not show that the gender or name has been changed. The original birth certificate will be placed in a sealed file that can only be opened by an Idaho court order.

Summary Instructions

1. Read all information in this packet before completing the application.
2. The application information may be filled out online and printed or entered by hand. If entering the information by hand, use blue or black ink and make sure the information is neat and can be read.
3. If you want to change the name on the birth certificate at the same time, you must include a certified copy of a court order legally changing the name of the person listed as the child on the birth certificate.
4. Applications to change the sex or name must be signed in the presence of a notary public.
5. If you want a copy of the new birth certificate, you must submit a completed order form and a copy of the signer's identification.
6. There is a fee of \$20.00 to process the application. Copies of the new birth certificate are an additional \$16.00 each.
7. Mail the application to:
 IDAHO VITAL RECORDS
 PO BOX 83720
 BOISE, IDAHO 83720-0036



Who can make a request to change the indicator of sex on the birth certificate?

Anyone who was born in Idaho and feels their gender identity does not match the indicator of sex on their birth certificate can request this change. The person listed on the birth certificate is referred to as the registrant. In some cases, the person applying to make the change (the applicant) may be different from the registrant. For example, if the registrant is under the age of 18, the applicant must be a parent (or legal guardian) since the parent(s) listed on the registrant's birth certificate must consent to changing the birth certificate. On the application form, there is a place for the applicant's information and the registrant's information.

Can the name on the birth certificate be changed at the same time?

Yes. The applicant will need to send an original, certified copy of a court order legally changing the registrant's name. The court order must identify the person by the name currently on the birth certificate and their date of birth. If the court order does not contain the required information, the applicant may submit, along with the court order, a certified copy of the petition or application for the name change if it contains the required information. The new certificate will not show that the name has been changed. If the name on the certificate was changed previously, the applicant can ask that notations of amendment on the record be removed. Any future legal name changes will be shown on the record.



IDAHO DEPARTMENT OF HEALTH & WELFARE
DIVISION OF PUBLIC HEALTH
Bureau of Vital Records and Health Statistics

INSTRUCTIONS TO CHANGE THE INDICATOR OF SEX ON AN IDAHO BIRTH CERTIFICATE TO REFLECT GENDER IDENTITY

How long will it take to make the change on the birth record once the application has been submitted?

Processing times are subject to variation and incomplete orders will be significantly delayed. Applicants can anticipate about a four to six-week turnaround time. Requests are processed in the order they are received in the Bureau. For those who need a quicker turnaround on their application, they may choose to pay a RUSH fee (\$25.00) to expedite the application. These typically have a one to two-week turnaround time.

How do I get a copy of the new birth certificate?

To order a copy of the new birth certificate, fill out the IDAHO VITAL STATISTICS CERTIFICATE REQUEST form. It is at the end of this packet. Carefully review the instructions on the back of the form to ensure that it is filled out completely. Proper identification and payment are required. If they are not included, the request for the certificate will be significantly delayed. Ordering a copy of the new record is optional. If the applicant wants a copy of the original birth certificate, it must be ordered prior to requesting this change. Once the change to the indicator of sex is made, the original certificate will be placed in a sealed file which cannot be opened except upon the receipt of a court order from an Idaho court.

What is the process if I am a parent requesting that my child's birth certificate be changed?

All parents listed on the child's birth certificate must consent to changing the indicator of sex on the birth certificate. Consent is demonstrated by having both parents' signatures notarized on the application form. If a parent cannot be found, the applicant must also submit a certified copy of an order from an Idaho court ordering that the consent of only one parent is required. If a parent listed on the birth certificate is deceased, an original, certified copy of a death certificate must be submitted with the application. The death certificate will be returned to the applicant.

What fees are associated with making an application to change the indicator of sex on the birth certificate?

- \$20.00 application fee
- \$25.00 RUSH fee to add expedited service (optional). Please note that RUSH service is requested by writing RUSH on the front of the envelope and including the RUSH fee.
- \$16.00 fee for each copy of the new certificate requested.
- There is no shipping charge for regular mail. If express mail is desired, the applicant can express mail the application materials to us and include a prepaid express mail envelope for the return.

Who do I contact if I have more questions?

- www.vitalrecords.dhw.idaho.gov for forms and general ordering information.
- ivr@dhw.idaho.gov to email questions to the Bureau of Vital Records and Health Statistics.
- (208) 334-5980 to contact a vital records customer service representative.
- IDAHO VITAL RECORDS to mail requests.
PO BOX 83720
BOISE IDAHO
83720-0036



IDAHO DEPARTMENT OF HEALTH & WELFARE
DIVISION OF PUBLIC HEALTH
 Bureau of Vital Records and Health Statistics

APPLICATION TO CHANGE THE INDICATOR OF SEX ON AN IDAHO BIRTH CERTIFICATE TO REFLECT GENDER IDENTITY

This application form is only for requesting a change to the indicator of sex on the birth certificate. This is NOT an order form. To order a certificate, use the IDAHO VITAL STATISTICS CERTIFICATE REQUEST form.

APPLICANT INFORMATION			
1. Applicant's current legal name	First	Middle	Last
2. Applicant's relationship to registrant	<input type="checkbox"/> SELF <input type="checkbox"/> PARENT <input type="checkbox"/> LEGAL GUARDIAN		(provide copy of court ordered guardianship)
CURRENT REGISTRANT INFORMATION ON THE BIRTH RECORD TO BE AMENDED			
3. Full name as it currently appears on the birth record	First	Middle	Last
4. Date of birth	MM/DD/YYYY	5. Place of birth	CITY
6. Sex as it currently appears on the birth certificate	<input type="checkbox"/> MALE <input type="checkbox"/> FEMALE <input type="checkbox"/> UNKNOWN		
7. Mother/Parent full name on registrant's birth certificate	First	Middle	Last
8. Father/Parent full name on registrant's birth certificate	First	Middle	Last
NAME CHANGE			
<input type="checkbox"/> The name on this certificate has previously been amended to reflect a name change. I want the amendment note removed.			
<input type="checkbox"/> Change the name to:			
	First	Middle	Last
	Suffix		
<i>(An original, certified copy of the court order changing the name is required with the application.)</i>			
<input type="checkbox"/> I am not requesting a name change at this time.			
ATTESTATION			
The sex shown on the birth certificate referenced above does not match the registrant's gender identity. I am requesting that the sex on the birth certificate identified above be changed to <input type="checkbox"/> MALE <input type="checkbox"/> FEMALE			
State of _____)	AFFIDAVIT* OF REGISTRANT (18 OR OLDER), LEGAL GUARDIAN,		
County of _____)	OR PARENT LISTED ON THE BIRTH CERTIFICATE (UNDER 18)		

Subscribed and sworn (affirmed) to before me this _____ day of _____, 20____

Notary Public _____	Applicant's signature _____
Residing At _____	Printed Name _____
My Commission Expires _____ / _____ /20_____	Street Address _____
(Seal)	City, State, Zip Code _____

*IDAHO CODE §39-273 STATES THAT FURNISHING FALSE OR FRAUDULENT INFORMATION AFFECTING ANY CERTIFICATE IS A FELONY PUNISHABLE BY A FINE OF NOT MORE THAN FIVE THOUSAND DOLLARS (\$5,000) OR IMPRISONMENT OF NOT MORE THAN FIVE (5) YEARS, OR BOTH.



IDAHO DEPARTMENT OF HEALTH & WELFARE
DIVISION OF PUBLIC HEALTH
 Bureau of Vital Records and Health Statistics

**APPLICATION TO CHANGE THE INDICATOR OF SEX ON AN
 IDAHO BIRTH CERTIFICATE TO REFLECT GENDER IDENTITY**

State of)
 County of) SUPPORTING AFFIDAVIT* OF THE SECOND PARENT LISTED ON THE BIRTH CERTIFICATE
 REQUIRED FOR MINORS IF TWO PARENTS ARE LISTED ON THE BIRTH CERTIFICATE

Subscribed and sworn (affirmed) to before me this _____ day of _____, 20_____

Notary Public _____ Parent's signature _____

Residing At _____ Printed Name _____

My Commission Expires _____ / _____ /20_____ Street Address _____

(Seal) _____ City, State, Zip Code _____

State of)
 County of) SUPPORTING AFFIDAVIT* OF MINOR
 REQUIRED FOR MINORS UNDER THE AGE OF 18

Subscribed and sworn (affirmed) to before me this _____ day of _____, 20_____

Notary Public _____ Minor Applicant's Signature _____

Residing At _____ Printed Name _____

My Commission Expires _____ / _____ /20_____ Street Address _____

(Seal) _____ City, State, Zip Code _____

CHECKLIST	
<input type="checkbox"/> Complete APPLICANT and REGISTRANT information has been provided <input type="checkbox"/> The appropriate selection for a name change has been selected. <input type="checkbox"/> All required signatures have been notarized. <input type="checkbox"/> The certificate request form has been completed and reviewed and identification has been included (if a new certificate is desired). <input type="checkbox"/> Appropriate fees have been included. <input type="checkbox"/> Mail to: IDAHO VITAL RECORDS PO BOX 83720 BOISE, IDAHO 83720-0036	Fees: \$20.00 application fee \$16.00 certificate fee (per certificate) \$25.00 RUSH fee (optional)

*IDAHO CODE §39-273 STATES THAT FURNISHING FALSE OR FRAUDULENT INFORMATION AFFECTING ANY CERTIFICATE IS A FELONY PUNISHABLE BY A FINE OF NOT MORE THAN FIVE THOUSAND DOLLARS (\$5,000) OR IMPRISONMENT OF NOT MORE THAN FIVE (5) YEARS, OR BOTH.

IDAHO VITAL STATISTICS CERTIFICATE REQUEST

IDAHO VITAL RECORDS • P.O. Box 83720 • Boise, ID 83720-0036 • (208) 334-5988 • www.vitalrecords.dhw.idaho.gov

Instructions for completing this form are located on the back of this document. Please read these instructions carefully. Failure to do so may cause a significant delay in processing your request.

YOUR MAILING ADDRESS INFORMATION (PERSON REQUESTING THE CERTIFICATE)			
FULL FIRST NAME	FULL MIDDLE NAME	FULL LAST NAME	
STREET AND NUMBER (P.O. BOX)		CITY, STATE	ZIP CODE
CONTACT PHONE NUMBER (DAYTIME)	YOUR RELATIONSHIP TO THE PERSON NAMED ON THE CERTIFICATE (SELF, MOTHER, ETC.)		
PURPOSE FOR THE CERTIFICATE		<input type="checkbox"/> INCLUDE COPY OF ACKNOWLEDGEMENT OF PATERNITY WITH BIRTH CERTIFICATE.	
SIGNATURE OF THE PERSON REQUESTING THE CERTIFICATE: PROVIDE A PHOTOCOPY OF SIGNER'S IDENTIFICATION *			
IMPORTANT: BIRTH, DEATH, STILLBIRTH, MARRIAGE OR DIVORCE MUST HAVE OCCURRED IN IDAHO			
<input checked="" type="checkbox"/> EVENT REQUESTED: BIRTH <input type="checkbox"/> STILLBIRTH <input type="checkbox"/> DEATH <input type="checkbox"/> Available from July of 1911 MISCARRIAGE <input type="checkbox"/> Available from July of 2016			
NAME ON THE CERTIFICATE			
FULL FIRST NAME	FULL MIDDLE NAME	FULL LAST NAME	
DATE OF EVENT	CITY OF EVENT	NUMBER OF COPIES YOU ARE REQUESTING	
<input type="checkbox"/> MOTHER <input type="checkbox"/> FATHER			
FULL FIRST NAME	FULL MIDDLE NAME	FULL LAST NAME	MAIDEN SURNAME
<input type="checkbox"/> MOTHER <input type="checkbox"/> FATHER			
FULL FIRST NAME	FULL MIDDLE NAME	FULL LAST NAME	MAIDEN SURNAME
<input checked="" type="checkbox"/> EVENT REQUESTED: MARRIAGE <input type="checkbox"/> DIVORCE <input type="checkbox"/> Available from May of 1947			
<input type="checkbox"/> BRIDE/WIFE <input type="checkbox"/> GROOM/HUSBAND			
FULL FIRST NAME	FULL MIDDLE NAME	FULL LAST NAME (AT THE TIME OF THE EVENT)	
<input type="checkbox"/> BRIDE/WIFE <input type="checkbox"/> GROOM/HUSBAND			
FULL FIRST NAME	FULL MIDDLE NAME	FULL LAST NAME (AT THE TIME OF THE EVENT)	
DATE OF EVENT	CITY OF EVENT	NUMBER OF COPIES YOU ARE REQUESTING	
ORDER TOTALS			
DESCRIPTION OF ITEM		FEES	TOTAL COST
BIRTH-STILLBIRTH/MISCARRIAGE-MARRIAGE-DIVORCE-DEATH CERTIFIED COPY (COMPUTER GENERATED)		\$16.00	\$ 0.00
BIRTH-STILLBIRTH/MISCARRIAGE-MARRIAGE-DIVORCE-DEATH CERTIFIED PHOTOCOPY		\$21.00	\$ 0.00
ADDITIONAL PHOTOCOPIES OF THE SAME CERTIFICATE EVENT		\$16.00	\$ 0.00
SPECIAL HANDLING (RUSH ORDERS ONLY) PER EVENT REQUESTED		\$10.00	\$ 0.00
TOTAL ENCLOSED			\$ 0.00

* See the back of this document for further instructions, information, and explanation of fees.

* If you would like to RUSH your order, please include a one-time charge of \$10.00 (per event) and write **RUSH** on the outside of your envelope. There is no shipping charge for regular mail. If express mail is desired, you may express mail your request to us and include a prepaid express mail envelope back to yourself. We cannot send your order C.O.D.

PLEASE READ THESE INSTRUCTIONS CAREFULLY

WHO CAN ORDER

Only immediate family members, their legal representative, or those who provide documentation showing it is needed for their property right may order legally confidential certificates. Immediate family includes: spouse, sibling, parent, child, grandparent, and grandchild.

Proof of relation/legal representation may be required. Step-relatives, in-laws, great-grandparents, aunts, uncles, cousins, etc. are not immediate family as defined by Idaho Statute.

IDENTIFICATION IS REQUIRED

The applicant (person signing this request) must provide a photocopy of their driver's license or other current signed government [state, federal or tribal] issued picture identification. If this is not available, copies of two other forms of identification are required; one of which **MUST** include the applicant's signature. (Refer to the following list) **ID is accepted upon validity verification by our office.**

IMPORTANT: If acceptable identification is NOT enclosed, and/or your application is incomplete, your request will be returned and significant delays in processing your order may occur.

APPROVED IDENTIFICATION LIST

Current Government Issued Picture Identification with a signature	OR Two Forms of CURRENT ID – One MUST have a Signature		OR
<ul style="list-style-type: none"> • Driver's License • State ID Card • Passport • Tribal ID Card • Concealed Weapons Permit • Prison ID Card 	<ul style="list-style-type: none"> • Social Security Card with signature • Work ID Card with picture or signature • Auto registration with signature • Traffic Ticket with signature • Court Record with signature • College/School ID with picture • Matricula Card with signature. 	<ul style="list-style-type: none"> • Insurance Record • Auto Insurance • Driver Permit • Pay stub • Hunting/Fishing License • Passport Card 	<ul style="list-style-type: none"> • Notarized Signature on the Request • Have an immediate family member (that has current ID from the approved list) request it for you (Please Note: Proof of relation may be required.) • Court Order

FEEES

CERTIFICATE FEES

Each certified copy or record search of a Birth, Stillbirth/Miscarriage, Death, Marriage or Divorce Certificate is \$16.00. Certified copies are computer-generated and are valid for most legal purposes. If the requested certificate cannot be found a statement of search will be issued. A certified *photocopy* (not computer-generated) of a Birth, Stillbirth/Miscarriage, Death, Marriage or Divorce certificate can be ordered for \$21.00; each additional certified photocopy of that record, ordered at the same time, is \$16.00.

LEGAL FEES

The Processing fee to complete an adoption, paternity, or court order name change is \$20.00. The processing fee to complete a delayed registration is \$25.00. (Does not include a copy of the certificate).

RUSH FEES

If you would like to RUSH your order, please include a one-time charge of \$10.00 (per event) and write **RUSH** on the outside of your envelope. If you would like to RUSH your legal action, please include a one-time charge of \$25.00 (per event). There is no shipping charge for regular mail. If express mail is desired, you may express mail your request to us and include a prepaid express mail envelope back to yourself. We cannot send your order C.O.D.

To order on-line, through VitalChek, please see our website at <http://www.vitalrecords.dhw.idaho.gov>. *Additional charges will apply.* All credit card orders are processed through Vitalchek.

Make checks or money orders payable to Idaho Vital Records.

SUBMITTING THE REQUEST

Complete the request form and mail it to the address on the front of the form. Remember to sign your request and enclose the correct fees and a copy of *both sides* of your signed picture ID.

WARNING: False application for a certified copy of a vital record is a felony punishable by a fine up to \$5,000, five years in prison, or both (*Title 39, Chapter 2, Idaho Code*).

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f (HTTPS://WWW.FACEBOOK.COM/TRANSEQUALITYNOW) t (HTTPS://TWITTER.COM/TRANSEQUALITY)

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★ SHARE YOUR STORY (HTTP://WWW.TRANSEQUALITY.ORG/SHARE-YOUR-STORY)

DONATE (HTTPS://SALSA4.SALSALABS.COM/O/51171/P/SALSA/DONATION /COMMON/PUBLIC/?DONATE_PAGE_KEY=8966)



(/)

ID Documents Center (/Documents) | Kentucky

Welcome to our one-stop hub for name and gender change information. Find out how to get a legal name change where you live and update your name/gender on state and federal IDs and records.

How friendly is the driver's license gender change policy in your state?

Check the grade we gave your state (/sites/default/files /docs/id /Drivers%20License%20Grades%20Nov%202018.docx).

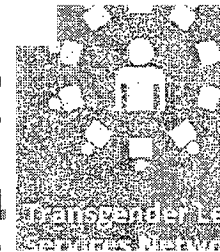
Last updated November 2018

Name Change, Driver's License & Birth Certificate Policies in:

- Choose State/Territory -

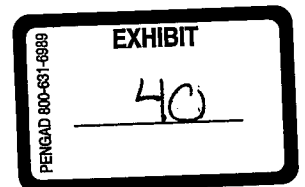
Federal IDs and Records:

- Choose -



documents-center/transgender-legal-services-network)

(id-



Kentucky Name Change Laws

To obtain a legal name change in Kentucky, an applicant must submit a petition to the court. No publication is required; the court keeps the name change in a book of records. (Ky. Rev. Stat. Ann. §§ 401.010-401.040).

Kentucky Drivers License Policy & Procedures

To change the name on a Kentucky ID, the applicant must submit a document demonstrating the name change, such as a birth certificate or court order. To change the gender marker, the applicant must submit one of the four documents:

- An updated birth certificate showing the correct gender
- A court order of gender change
- A 10 year Passport showing the correct gender
- A letter from a surgeon stating that gender reassignment surgery has been completed

The Kentucky Transportation Cabinet addresses name changes **here** (<http://drive.ky.gov/driver-licensing/Pages/Drivers-License-and-ID-Card.aspx#name-or-address-change>).

Resources

Kentucky
Transportation
Cabinet General
Information
(<http://drive.ky.gov/driver-licensing/Pages/Drivers-License-and-ID-Card.aspx#name-or-address-change>)

Kentucky Birth Certificate Laws

Kentucky will issue an amended certificate of birth "[u]pon receipt of a sworn statement by a licensed physician indicating that the gender of an individual born in the Commonwealth has been changed by surgical procedure and a certified copy of an order of a court of competent jurisdiction changing that individual's name." Certificates shall be marked as amended. Ky. Rev. Stat. Ann. 213.121. The Office of Vital Statistics is at 275 E. Main St. 1E-A, Frankfort, KY 40621 and can be reached at (502) 564-4212.

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About Transgender People (/about-transgender)

Issues (/issues)

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Employment (/issues/employment)

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Health & HIV (/issues/health-hiv)

Housing & Homelessness (/issues/housing-homelessness)

Identity Documents & Privacy (/issues/identity-documents-privacy)

Immigration (/issues/immigration)

International (/issues/international)

Military & Veterans (/issues/military-veterans)

National Transgender Discrimination Survey (/issues/national-transgender-discrimination-survey)

Non-Discrimination Laws (/issues/non-discrimination-laws)

Police, Jails & Prisons (/issues/police-jails-prisons)

Racial & Economic Justice (/issues/racial-economic-justice)

Research & Data Needs (/issues/research-data-needs)

Travel (/issues/travel)

Voting Rights (/issues/voting-rights)

Youth & Students (/issues/youth-students)

Know Your Rights (/know-your-rights)

ID Document Center (/documents)

About Us (/about)

History (/history)

Our Staff (/about/people)

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Tips for Journalists (/issues/resources/fact-sheet-writing-about-transgender-people-and-issues)

Releases (/press/releases)

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(<https://www.facebook.com/transequalitynow>)



(<https://twitter.com/transequality>)



(<https://www.youtube.com/user/NCTEquality>)



(<http://transequality.org>)

(202) 642-4542

ncte@transequality.org
(<mailto:ncte@transequality.org>)

1133 19th St NW
Suite 302
Washington D.C. 20036

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[Terms of Use \(/terms-use\)](/terms-use)

[Privacy and Return Policy \(/privacy-policy\)](/privacy-policy)

Tennessee Rules and Regulations Currentness

1340. Tennessee Department of Safety and Homeland Security

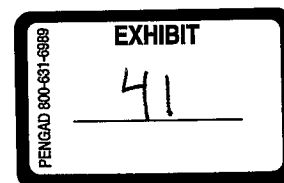
1340-01. Driver Control Division

Chapter 1340-01-13. Classified and Commercial Drivers Licenses and Temporary Driver Licenses (Refs & Annos)

Tenn. Comp. R. & Regs. 1340-01-13-.12

1340-01-13-.12 PROOF OF DATE OF BIRTH, RESIDENCY,
LAWFUL PERMANENT RESIDENCY, AND IDENTIFICATION.

- (1) The Driver License Examiner will require positive proof of date of birth, residency, and identification of any person applying for any class of driver license, intermediate driver license, instructional permit, photo identification license, temporary driver license, temporary intermediate driver license, temporary instructional permit or temporary photo identification license.
- (2) Acceptable primary identification will include original or certified documents with full name and date of birth, such as the following items as approved by the Department of Safety:
 - (a) Certified/Original Birth Certificate
 - (b) Military Identification
 - (c) Valid Foreign Passport or Permanent Resident Card
 - (d) Out-of-State License/Another Country's License
 - (e) Marriage License/Certificate
 - (f) Federal Census Record
 - (g) Applicant's Own Child's Birth Certificate
 - (h) Adoptive Decree
 - (i) Legal Change of Name (as recorded in court decree)
 - (j) Military Discharge (for separation from service)
 - (k) Any confirmation of date of birth in court of law
 - (l) U.S. Department of Homeland Security documentation
 - (m) Social Security Number Verification
 - (n) Valid or expired U.S. Passport



- (o) Any other documentary evidence which confirms to the satisfaction of the Department the true identity and date of birth of the applicant.

- (3) If the Department has reason to question the authenticity of any document provided, the Department shall confirm the authenticity of the document(s). If the document(s) cannot be authenticated to the satisfaction of the Department, the document(s) shall not be accepted.

- (4) In addition to the primary identification, verification of the Social Security Number is required for applicants for commercial driver licenses and may be required for applicants for other classes of driver or photo identification licenses. Acceptable verification includes original, computer generated or typed documents containing the Social Security Number such as:
 - (a) Social Security Card itself, not metal or plastic replicas
 - (b) Out-of-State Driver License
 - (c) Military Records: IDEA, Assignment orders, DD-214, Selective service card
 - (d) Social Security Print Out
 - (e) IRS Forms and W-2 Forms
 - (f) Health Insurance Card
 - (g) Medicaid/Medicare Cards
 - (h) Computer Printouts of Bank Statements, and Saving Account Statements
 - (i) Work ID's
 - (j) Computerized Check Stubs
 - (k) Union Membership Cards.

- (5) The following documents are acceptable for name changes:
 - (a) Certified or original Marriage Certificate
 - (b) Certified Court Order
 - (c) Certified Divorce Decree
 - (d) Military Identification
 - (e) Any other documentary evidence which confirms to the satisfaction of the Department the applicant's name change.

- (6) The following document is required for gender changes:

- (a) A statement from the attending physician that necessary medical procedures to accomplish the change in gender are complete.
- (7) An applicant seeking to obtain a driver license, intermediate driver license, instructional permit, photo identification license, temporary driver license, temporary intermediate driver license, temporary instructional permit or temporary photo identification license upon initial issuance shall provide acceptable proof of residency which shall consist of providing two (2) documents including, but not limited to, the following, which must include the applicant's name or the name of the applicant's spouse, if the applicant has a spouse, or if the applicant is a minor, the name of a parent or legal guardian:
- (a) Utility bill, including telephone service, showing a valid Tennessee residence address;
 - (b) Bank Statement showing a valid Tennessee residence address;
 - (c) Rental contract or receipt showing a valid Tennessee residence address;
 - (d) Employer verification acceptable by the Department;
 - (e) Automobile, Life, or Health Insurance Policies showing a valid Tennessee residence address;
 - (f) Driver License issued by State of Tennessee to a parent, legal guardian or spouse;
 - (g) Tennessee motor vehicle registration showing a valid Tennessee residence address;
 - (h) Internal Revenue Service Tax Reporting W-2 form;
 - (i) Receipt for personal or real estate taxes paid within the last year showing a valid Tennessee resident address;
 - (j) In the case of a student enrolled in a public or private education institution in this state, the student may provide a photo student I.D. and documentation acceptable to the Department that the student resides on campus.
- (8) Should an applicant be unable to provide two (2) of the documents described in paragraph 7, the applicant may provide acceptable proof of residency by providing one (1) of the documents listed in paragraph 7 and one (1) of the following:
- (a) The Individual Taxpayer Identification Number (ITIN) issued by the Internal Revenue Service resulting from the submission of a Form W-7 to the Internal Revenue Service;
 - (b) Form I-94 issued to the applicant by the U.S. Department of Homeland Security;
 - (c) Employment authorization document (E.A.D.) issued to the applicant by the U.S. Department of Homeland Security;
 - (d) I-551 issued to the applicant by the U.S. Department of Homeland Security.

Credits

Authority: T.C.A. §§ 55-50-202, 55-50-303, 55-50-321, 55-50-331, Public Chapter No. 194, 2007, Public Acts of 2004; Chapter 778, and 49 C.F.R. § 383.153 (1992). *Administrative History:* Original rule filed April 8, 1996; effective August 28,

1996. Amendment filed August 27, 2001; effective December 28, 2001. Amendment filed May 7, 2002; effective September 27, 2002. Amendment filed July 27, 2004; effective November 26, 2004. Public necessity rule filed September 24, 2007, effective through March 7, 2008. Public necessity rule filed September 24, 2007, expired March 8, 2008. Public necessity rule filed March 11, 2008, effective through August 23, 2008. Amendments filed December 3, 2007; effective April 29, 2008.

Current through rules effective November 29, 2018.

Tenn. Comp. R. & Regs. 1340-01-13-.12, TN ADC 1340-01-13-.12

End of Document

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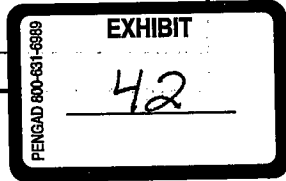
GENDER DESIGNATION FORM

The Maine Bureau of Motor Vehicles can only accept original forms with original signatures.
Photocopies and faxes are not acceptable.

You must surrender the existing license or ID card that is to be amended.

Part I: TO BE COMPLETED BY APPLICANT (Name on current license or ID)			
<input type="radio"/> Last Name	First Name	Middle	Social Security #
<input type="radio"/> Street Address	City/Town	Zip Code	License/ID #
<u>Gender Designation Statement</u>			
I _____ request the gender designation on my (print name from above)			
Driver's License/ID Card to read (circle one): Male Female Non-binary			
I hereby swear, under the penalty of perjury, that this request for the selected gender designation to appear on my Driver's License/ID Card is for the purpose of ensuring that my Driver's License/ID Card accurately reflects my gender identity and is not for any fraudulent or other unlawful purpose.			
Signature: _____		Date: _____	
<i>(False statements may be punishable by fine, imprisonment, or both)</i>			

Part II: TO BE COMPLETED BY MEDICAL OR SOCIAL SERVICE PROVIDER			
<input type="radio"/> Provider's Last Name	Provider's First Name	Title	
<input type="radio"/> Provider's Organizational Name (if applicable)			
<input type="radio"/> Provider's Street Address	City	State	Zip
<input type="radio"/> Provider's Tel.#	Provider's E-mail	Provider's Professional License # and State	
I am licensed as a: <input type="checkbox"/> Physician <input type="checkbox"/> Therapist or Counselor <input type="checkbox"/> Social Worker			
<input type="checkbox"/> Other (Qualified Professional – please specify)			
In my professional opinion, the applicant's gender identity is (circle one): Male Female Non-binary and can reasonably be expected to continue as such in the foreseeable future.			
I hereby certify, under the penalty of perjury that the foregoing information is true and correct.			
Signature: _____		Date: _____	
<i>(False statements may be punishable by fine, imprisonment, or both)</i>			



NATIONAL
PREA
RESOURCE
CENTER



EXHIBIT
43
PENGAD 800-631-6989

Guidance in Cross-Gender and Transgender Pat Searches

February 2015



THE MOSS GROUP, INC.

Experienced Practitioners Committed to Excellence in Correctional Practice

Introduction

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Acknowledgments

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Notice of Federal Funding and Federal Disclaimer –

Notice of Federal Funding and Federal Disclaimer – This project was supported by Grant No. 2010-RP-BX-K001 awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the Office for Victims of Crime, and the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking. Points of view or opinions in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice nor those of the National Council on Crime and Delinquency (NCCD), which administers the National PREA Resource Center through a cooperative agreement with the Bureau of Justice Assistance.

Introduction

Course Description

This Facilitator's Guide (Guide) is to be used in conjunction with the video: **Guidance in Cross-Gender and Transgender Pat Searches**. This Guide and video provide all of the materials needed for the training.

Models of Use

This training was designed to be used in a 3.5-hour session, with 3 hours of work time and two 15-minute breaks. You may also consider breaking the training into 2 separate trainings with the first training including the video and activities for practicing cross-gender pat searches and the second training focused on special considerations for transgender and intersex inmates and residents. The Guide indicates suggested times for each portion of the training, and with breaks inserted after each 60 minutes of work time.

Class Agenda

0:15	Introductions and housekeeping
0:05	Training goals and overview
0:10	Watch 1 st video segment (Introduction) and debrief
0:25	Exigent circumstances worksheet activities and report out
0:05	Presentation on trauma
0:15	BREAK
0:20	Watch 2 nd video segment (Pat searches) and safety debrief
0:05	Watch 3 rd video segment (Cross-gender pat searches)

0:05	<i>Placeholder for covering your agency's policies on cross-gender pat searches</i>
0:05	De-brief
0:25	Pat search practice activity and debrief
	BREAK
0:15	Presentation on special considerations for transgender and intersex inmates and residents
0:10	Watch 4 th video segment (Transgender and intersex searches)
0:05	<i>Placeholder for covering your agency's policies on transgender pat searches</i>
0:05	De-brief
0:20	Transgender case study worksheet activity
0:10	Report out and discuss
0:05	Watch 5 th video segment (review)
0:05	Evaluation and wrap up

Learning Objectives

Through completing all parts of this training, corrections professionals will develop skills for performing cross-gender pat searches and searches of transgender and intersex inmates and residents per PREA Standards §115.15(f)/.215(f)/.315(f).

Specifically, they will:

1. Learn the relevant PREA Standards for cross-gender pat searches and for searches of transgender and intersex inmates and residents;
2. Understand and apply the definition of exigent circumstances;

Introduction

3. Learn and understand key terms relevant to conducting appropriate searches and considerations for searches of transgender or intersex inmates and residents;
4. Practice the steps of cross-gender pat searches and searches of transgender or intersex inmates and residents; and
5. Observe, analyze and provide feedback to peers on practice searches.

Target Audience

This training is designed for security staff who work with inmates and residents consistent with standards §115.15(f)/.215(f)/.315(f). Lockups are not required to comply with these sections of the standards; however, elements of this training may be beneficial to all security staff responsible for conducting searches.

Capacity

25 to 35 participants

Trainer Requirements

Two facilitators are recommended for this training. The training team should include individuals who possess strong facilitative skills and requisite knowledge and experience in the content to be delivered.

Important Considerations for Trainers and Agency Administrators¹

This training is intended to teach the techniques of performing an effective cross-gender pat search. For purposes of this training, "effective" means the following:

- Is appropriate to accomplish the goals of preventing the dispersal of contraband by both inmates and staff;
- Is performed in a thorough and respectful manner;
- Takes into consideration the gender of the staff performing the search and the gender identity and expression of the inmate or staff receiving the search; and
- Is performed in a manner that acknowledges and minimizes trauma-related experiences of the individual being searched.

Nothing in this training is intended to vouch for the legality or permissibility of the techniques demonstrated. The training aims to identify and demonstrate practices for conducting cross-gender and transgender pat searches and discuss the different choices agencies and staff can make in performing them. An essential task, however, in establishing appropriate policies and practices related to pat searches involves:

- Consulting with legal counsel and human resource professionals in your agency;
- Being knowledgeable of the law in your jurisdiction as it pertains to searches of individuals in custody at each stage from arrest to confinement and ultimate release to community supervision;
- Being knowledgeable of the PREA standards related to searches of inmates, residents and transgender and intersex inmates and residents; and
- Being aware of collective bargaining agreements and their impact on which staff and how staff conduct cross-gender and transgender and intersex pat searches.

Introduction

There has been significant research already done in this area that may assist you, should modifications to policies and practices be needed. These materials include:

- Cross-gender Searches: A Case Law Summary²
- Preamble of PREA Standards³
- Gender Responsive Strategies Publication by NIC⁴
- Keeping Vulnerable Populations Safe under PREA: Alternative Strategies to the Use of Segregation in Prisons and Jails⁵

Additionally, the National PREA Resource Center offers technical assistance and will accept requests for assistance in reviewing and implementing appropriate policies and procedures that are consistent with PREA, best practices, and legal considerations.

How to Use This Guide

The instructional outline that follows is a blueprint of the entire session. It provides an overview of:

- Content to be covered at each step
- Activities and resources for each step
- Approximate timing suggested for each step

You can use the instructional outline to:

- Conduct the session within a predictable time frame
- Keep track of progress through the training
- Ensure all training goals are met

Note that you should not attempt to memorize this presentation. There are scripts provided for the technical details and you can read those

IMPORTANT! TRAINER/AGENCY NOTE

The information and activities provided in this Guide are designed to meet intended student performance objectives consistent with required training outlined in the PREA Standards §115.15(f)/.215(f)/.315(f).

If your agency is not prepared to provide the lesson in the designed format, you may make the necessary adjustments to conform to your desired delivery platform.

Please understand if modifications are made to the lesson content or format, it is your agency's responsibility to verify that the revised training is consistent with the PREA Standards.

sections from the Facilitator Guide. You should, however, read through the instructional outline a few times before the session so you can anticipate questions and have a familiarity with the content and activities.

The Guide uses a 2-column layout. The left hand column is a script that you can use to present the material, and the right hand column has tips for presenting and other information for guiding the training.

Based on your start time for the class, you may want to make notes to yourself for the approximate time you expect to complete an activity. For example, if the session begins at 3pm and the first activity takes 15 minutes, you would

Introduction

note "finish at 3:15". This will allow you to quickly monitor your progress and make adjustments to keep on schedule through the class.

If you are allowing time for small group work and participants get through the activity more quickly, you can end earlier and move to the next activity. The timing for the training is meant to be elastic and you can apply extra time to the areas where your participants need the additional focus.

Note that there are two sections in the training labeled as: *Placeholder for Agency Policy*. In these

sections you should be prepared to review your policies and procedures and discuss similarities and differences when compared to the training video and other materials.

If your Agency's policy differs from the suggested answers in this training, then discuss that with the group and as a trainer, work with your supervisor to determine if necessary policy changes should be considered to align policy and practice with PREA requirements.

Introduction

Preparation Checklists

Prior to Day of Class


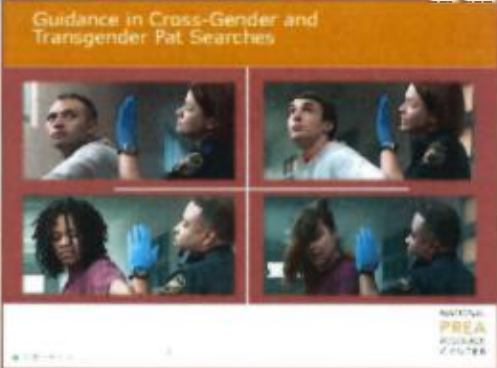
TASK	COMPLETE
Schedule class	<input type="checkbox"/>
Book room	<input type="checkbox"/>
Send out invitations	<input type="checkbox"/>
Book audio and video equipment including a way to play videos	<input type="checkbox"/>
Download the videos from the website (note that this is a long video and may take more than 30 minutes without turning off your computer)	<input type="checkbox"/>
Watch the video and develop familiarity with the terms and definitions, as well as how the video informs the training activities	<input type="checkbox"/>
Read the Facilitator's Guide and all appendices	<input type="checkbox"/>
Read the recommended background information on transgender and intersex inmates and residents so you are prepared to answer questions that are not covered in the video. While you don't need to be able to teach this material, you will want to be familiar enough to refer others to specific resources for further reading	<input type="checkbox"/>
Enroll students (if applicable)	<input type="checkbox"/>
Prepare discussion-starter responses for all discussion questions and debriefs	<input type="checkbox"/>
Print Facilitator Guide and prepare for use	<input type="checkbox"/>
Send out copies of your agencies' relevant policies and procedures; let participants know that they should read this information and be prepared to discuss this information on the day of the class. Print additional copies to have at the workshop	<input type="checkbox"/>
Make arrangements for lunch and/or break arrangements (If applicable)	<input type="checkbox"/>
Print copies of worksheets from the Appendices	<input type="checkbox"/>
Gather pencils, notepads, and flipcharts as needed	<input type="checkbox"/>
Make copies of any agency-specific evaluation forms	<input type="checkbox"/>
Customize the Facilitator Introduction slide in the slide deck, and add any other slides you would like to prepare the slide deck	<input type="checkbox"/>
Make flip charts or slides for large group discussion activities; see the Appendices for recommended templates	<input type="checkbox"/>
Create completion certificates and make copies (If applicable)	<input type="checkbox"/>
Make name tents for tables	<input type="checkbox"/>
Confirm room booking	<input type="checkbox"/>
Confirm number of participants and check all copies of items needed	<input type="checkbox"/>
Confirm lunch or break logistics (If applicable)	<input type="checkbox"/>

Introduction

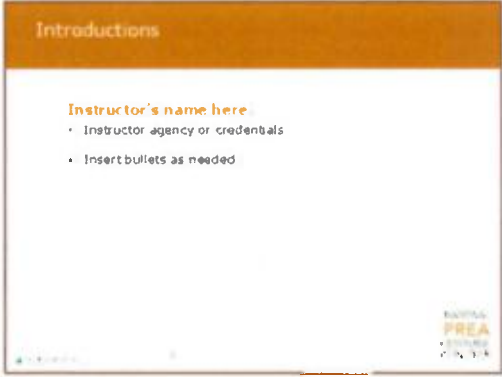
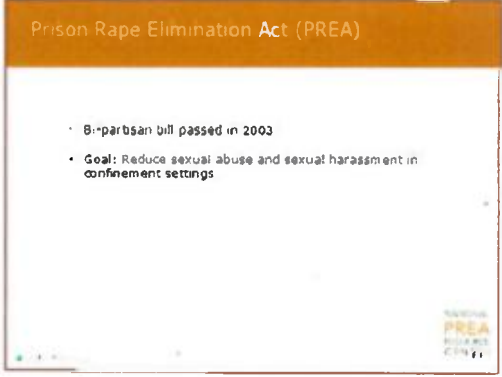
Day of Class

TASK	COMPLETE
Test audio and video in the room; set audio level for the video	<input type="checkbox"/>
Set up and test projector for slides	<input type="checkbox"/>
Locate light switches so you can dim lights during video	<input type="checkbox"/>
Place name tags/table tents and copies of the agenda near the door	<input type="checkbox"/>
Place extra copies of your agency policies where people can pick them up on the way in the door	<input type="checkbox"/>
Arrange tables to allow easy arrangement to small group work	<input type="checkbox"/>
Meet and greet attendees at the door	<input type="checkbox"/>
Remind attendees that if they have not read your agency's policies and procedures, they should do so before class begins	<input type="checkbox"/>

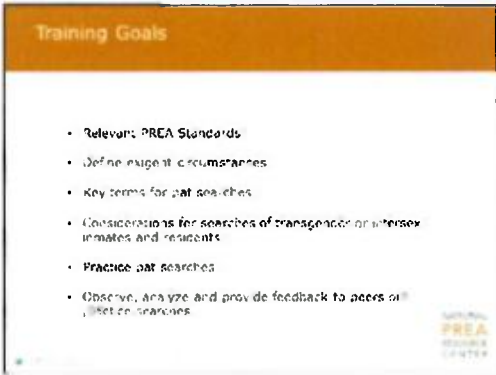
Facilitator Guide

Instructor Script	Instructional Notes
<p><i>[As people enter, greet each one at the door]</i></p> <p>Welcome to the training. Glad you are here!</p> <p>Please pick up your name tag/table tent before you take a seat.</p> <p>If you didn't have a chance to read our agency's policies, please take time to do so before we begin. We'll be discussing them during the class.</p>	<p>SLIDE</p>  <p>TIP Have extra copies of your agency policy ready for anyone who did not bring theirs.</p>
<p>PRESENT <i>(Approx. time: 5 minutes)</i></p> <p>Hello, and welcome to the training for: Guidance in Cross-Gender and Transgender Pat Searches.</p> <p>Today's training focuses on the Prison Rape Elimination Act Standards, which are also referred to as the PREA Standards.</p> <p>Specifically, we'll cover the skills and considerations to effectively conduct appropriate and professional cross-gender pat searches and searches of transgender inmates and residents, while ensuring safety and security.</p> <p>For many of you, you have likely already received training on pat searches. However, from a PREA perspective there are some additional considerations that may be new to you or can serve as a valuable review.</p>	<p>SLIDE</p>  <p>TIP Remember to start on time! Do not delay beginning the session because of late participants.</p> <p>TIP Watch for late arrivals and be sure they get the necessary materials on their way in.</p>

Facilitator Guide

<p><i>[Insert any other general announcements here]</i></p>	<p>TIP: Be sure to communicate the training format to participants. If you modified the training format from the original design include those changes here.</p>
<p>LARGE GROUP ACTIVITY <i>(Approx. time: 10 minutes)</i></p> <p>Let's begin with introductions. We'll go around the room and each person can introduce themselves and tell us a little bit about whether you are new to this training topic, or if you have some experience in this area.</p> <p>I'll go first...[introduce yourself]</p>	<p>SLIDE</p>  <p>ACTION Introduce yourself and then have your co-facilitator go next.</p> <p>LISTEN FOR Ask each participant to introduce themselves and you can make affirmations or ask follow-ups as appropriate.</p>
<p>PRESENT <i>(Approx. time: 5 minutes)</i></p> <p>Thank you everyone for sharing!</p> <p>As a brief overview, The Prison Rape Elimination Act was a bipartisan bill passed in Congress in 2003, and it was subsequently signed by former President George W. Bush.</p> <p>The goals of the act are to eliminate sexual abuse and sexual harassment in confinement settings. There are a number of parts to the law that go beyond the PREA standards. However, for this training we are going to focus specifically on helping our agency</p>	<p>SLIDE</p>  <p>TIP During this section, the co-facilitator can prepare to play the video.</p>

Facilitator Guide

<p>address required standards, commonly referred to as the PREA standards.</p> <p>The two key areas we will focus on are: cross-gender pat searches and pat searches of transgender and intersex inmates and residents.</p> <p>This training will include watching videos, participating in activities and working on some written materials.</p>	
<p>There are six goals for this training:</p> <ul style="list-style-type: none"> • Learn the relevant PREA Standards for cross-gender pat searches and for transgender and intersex pat searches; • Understand and apply the definition of exigent circumstances; • Learn and understand key terms relevant to conducting appropriate searches and to considerations for searches of transgender or intersex inmates and residents; • Practice the steps of cross-gender pat searches and transgender or intersex pat searches; and • Observe, analyze and provide feedback to peers on practice searches. 	<p>Slide</p> 
<p>What are some reasons that pat searches would be covered in the PREA standards?</p> <p><i>[Gather a few responses]</i></p> <p>Those are some great insights. I'm going to give you some background on the video and</p>	<p>BACKGROUND READING</p> <p>Response provided by the Department of Justice Final Rule, page 52-54. http://ojp.gov/programs/pdfs/prea_final_rule.pdf</p> <p>Pat-down searches are a daily occurrence in corrections settings and, when performed correctly, require staff to have intimate bodily contact with inmates.</p>

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training we'll be conducting today, so you understand the context of our work together.

The Department of Justice's Final Rule that accompanies the PREA Standards cited research and Bureau of Justice Statistics (BJS) data that indicate that *pat searches* can re-traumatize inmates or residents who have experienced prior sexual abuse.

While it is hard for some of us to understand trauma and the impact it can have on someone, I'm sure you've all heard stories and maybe even know some veterans who have returned from battle with Post Traumatic Stress Disorder or PTSD.

[Ask if anyone wants to share an insight here. Acknowledge their sharing.]

That *ongoing and genuine* reaction to an event or sequence of events is the same kind of reaction that can happen when a person is sexually abused.

Setting off an adverse reaction in people who have experienced trauma can happen through many types of triggers.

Even a professionally conducted cross-gender pat search may be traumatic by inmates who have experienced past sexual abuse.

As professionals we can utilize practices that *reduce* "triggering" past trauma by thinking in a way that incorporates an understanding of the effects of trauma. And by conducting consistent, thorough and trauma-informed pat

Although most pat searches are conducted legitimately by conscientious staff, it can be difficult to distinguish between a pat search conducted for legitimate security purposes and one conducted for the illicit gratification of the staff person, which would constitute sexual abuse.

The National PREA Resource Center (PRC) has additional resources on trauma, including a training video series to be released in 2015. This series will provide practitioner perspectives, research and data on the impact of trauma and the connection to PREA, and may be a valuable supplemental resource for trainers and participants alike.

Facilitator Guide

searches you can actively help to maintain safe and secure environments.

Research on female offenders indicates many women and girls, in particular, have histories of sexual abuse or other trauma prior to incarceration. Given these higher histories of trauma, PREA Standards incorporated some specific standards to address these issues.

The PREA standards require a ban on cross-gender pat-down searches of female inmates, absent exigent circumstances, which is consistent with most corrections policies today. In juvenile facilities, cross-gender pat searches of both males and females is prohibited, absent exigent circumstances. We will discuss what the term exigent circumstances means in a minute.

It is important to note that male sexual trauma is also important to consider in correctional settings. According the U.S. Department of Veteran Affairs, at least 10% of men in our country have suffered from trauma as a result of sexual assault (this is all men, not only veterans).

Some of the common elements of pat searches you will see today can be implemented even if the technique in the video differs from your agency policy. For example, respectful communication, consistency in technique, professionalism, and awareness of safety and security.

VIEW VIDEO

(Approx. time: 10 minutes)

TIP

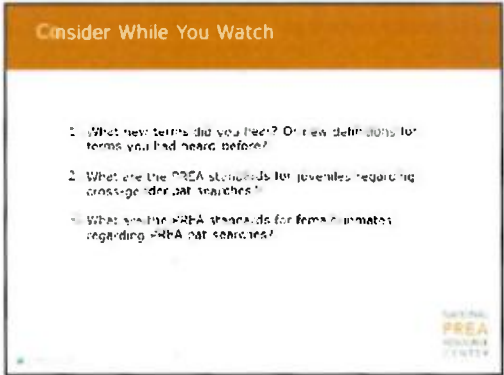
The U.S. Department of Veteran Affairs cite some male specific information on sexual trauma, signs of trauma in men and additional information for reference.

<http://www.ptsd.va.gov/public/types/violence/men-sexual-trauma.asp>


TIP

Whenever you ask for feedback or input, wait for at least a slow count of 3 before

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<p>Does anyone have any questions before we watch the first section of the video?</p> <p><i>[Consider and answer questions. If there are items that you know will be covered in part in the video, let them know you'll come back to that after watching.]</i></p>	<p>you go on. That gives time for different style learners to process and respond.</p>
<p>When you watch the video, you may want to jot down some notes on the following things:</p> <ol style="list-style-type: none"> 1. What new terms did you hear? Or new definitions for terms you had heard before? 2. What are the PREA standards for juveniles regarding cross-gender pat searches? 3. What are the PREA standards for female inmates regarding PREA pat searches? <p>OK, now we'll watch the first segment, which is about 7 minutes long.</p>	<p>Slide</p> 
<p>VIEW VIDEO <i>[pause for video]</i></p>	<p>ACTION</p> <p>Watch the introductory section of video: up to the chapter marker for the 2nd section (Female Staff Searching Male Inmate). This will be approximately 6:32 minutes into the video and will be after the sentence, "...take into account potential trauma histories of inmates and be conducted with respectful and professional communication"</p> <p>VIDEO CUE FOR PAUSE</p>

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<p>LARGE GROUP ACTIVITY Does anyone have immediate questions or comments on what we have seen so far?</p> <p><i>[Remember to follow up on any questions from before the video that you delayed until now]</i></p>	<p>TIP This is a good place to have a “conversation starter” ready from your co-facilitator (or yourself if you are facilitating alone). This could be just an observation about what you saw in the video, or something specific about your agency, etc.</p> <p>ACTION Keep this feedback session to 2-3 minutes so you have enough time for the upcoming activity.</p> <p>LISTEN FOR If participants ask questions about the information already covered in the video, give a positive affirmation and then open the question up to the rest of the room and see if someone else has an answer. (e.g. “Great clarifying question...does someone have a response to that?”)</p> <p>TIP Refer to your background materials in order to answer questions not addressed in the video. If you don’t have the answer, that’s ok. Let them know you will provide it to them after the training, or that you will look it up while they are doing the next activity.</p>
<p>INDIVIDUAL WORK <i>(Approx. time: 5 minutes)</i></p> <p>Now we are going to do some activities to build on what you just watched.</p>	<p>ACTION Hand out <u><i>Exigent Circumstances Worksheet</i></u></p> <p>TIP You will not need the projector again until after completing the following activity.</p>

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<p>First I'd like you each to work individually, and complete this worksheet. We will then get into small groups so you can discuss your responses to see where you agree and disagree.</p> <p>Let's take about 5 minutes to work individually first.</p>	
<p><i>[pause for work time]</i></p> <p><i>As people begin to wrap up, announce "Let's take 1-2 more minutes" and get them to finish up.</i></p>	
<p>SMALL GROUP ACTIVITY (Approx. time: 10 minutes)</p> <p>OK, it looks like everyone is done, so let's get into small groups or pairs. We'll be working in small groups and pairs often today so you'll have a chance to rotate around and work with others later.</p> <p>Just pick 1-2 people and take about 5 minutes to go through each of your answers and see if you agree with each other or not. If not, discuss the reasons why.</p>	
<p><i>[pause for work time]</i></p>	<p>ACTION Walk around the room while they are discussing and see if you hear specific patterns from group to group.</p> <p>LISTEN FOR Are most people in alignment or not? Use the Exigent Circumstances Worksheet Answer Key (below) for tips on what to listen for, and suggested prompts that may help people as they work.</p> <p>ACTION</p>

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	<p>Give participants a 2-minute warning as you approach the end of your time for this activity.</p> <p>TIP If some groups finish ahead of others, ask them to develop their own exigent circumstance case study.</p>
--	---

Facilitator Guide

Exigent Circumstances Worksheet

Answer Key

Answers to look for:

	Exigent circumstances?	Allowable Search?
Tom	Yes	Yes
Ruby	No	No
Shardell/Lucia	No	Yes
Alonzo	No	No

Directions:

Working individually, fill in this worksheet with your responses.

Once complete, work in small groups or pairs and compare answers. Be prepared to share your responses with the group.

Definitions

Exigent circumstances

Any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of a facility. (Temporary + Unforeseen + Requires Immediate Action)

PREA standards for exigent circumstance searches

In all facilities, all cross-gender strip searches and visual body cavity searches are prohibited, except in exigent circumstances or when performed by medical practitioners.

For juvenile facilities, cross-gender pat searches of both female and male residents are prohibited unless there are exigent circumstances, or if a medical professional performs the search.

Facilitator Guide

1. Tom is a corrections officer at a small rural jail in North Dakota. One December night, it is 35 below zero, just as the power at the jail goes out. He then discovers that the back-up generator will not start, so he has no heat in the building.

He has to move the inmates to another location and search them before transport. He has two confined female inmates, but the only female officer on his 3-person staff is out of town for the holidays. Tom decides he is within policy to search the inmates, maintaining PREA compliance.

Is this situation temporary?	Yes <input checked="" type="checkbox"/>	No
Is this situation unforeseen?	Yes <input checked="" type="checkbox"/>	No
Does this situation require immediate action?	Yes <input checked="" type="checkbox"/>	No
Is this an exigent circumstance search?	Yes <input checked="" type="checkbox"/>	No
Is this search allowable under PREA standards? Yes		
Why or why not? This is an exigent search since it is temporary, AND unforeseen AND it requires immediate action.		
What would you have done? Listen for answers about locating another female staff e.g. police department or state highway patrol, or the transport staff. If this comes up, be sure to note that they would have to be appropriately trained to perform pat searches.		

2. Ruby is Deputy Warden at a State Prison, where the staff has been reduced due to budget cuts. Even though this is an all-women's facility, most of the staff that has been let go were women, since they had the least seniority.

One night, an inmate attacks another, leading to outbreaks of violence and threatened violence involving more than 20 inmates. It's imperative to get all inmates searched and back into their dorms ASAP, but she only has male staff on shift. She decides she cannot permit the male COs to help with the searches.

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Is this situation temporary?	Yes	No X
Is this situation unforeseen?	Yes	No X
Does this situation require immediate action?	Yes X	No
Is this an exigent circumstance search?	Yes	No X
<p>Is this search allowable under PREA standards? The search of the female inmates by anyone other than Ruby is not allowable under PREA guidelines.</p> <p>Why or Why not? This is not an example of an exigent circumstance because being short staffed with female staff is not a temporary and/or unforeseen circumstance.</p> <p>What would you have done? Listen for problem solving such as locking the women in separate cells until Ruby can search them. The facility should have a plan in place that allows for mandatory overtime or having female staff on-call.</p>		

3. Shardell and Lucia work at an all male prison. The facility has irregularly scheduled searches as part of its protocol. A search is announced mid-shift so Shardell and Lucia begin to search the men in their block.

Is this situation temporary?	Yes	No X
Is this situation unforeseen?	Yes	No X
Does this situation require immediate action?	Yes	No X
Is this an exigent circumstance search?	Yes	No X
<p>Is this search allowable under PREA standards? This is not an exigent circumstance search because it does not meet any of the criteria.</p> <p>Why or Why not? However, the search is allowable, because PREA does not restrict female staff from searching male inmates at any time.</p> <p>NOTE: Some staff may ask why this is applied only to female inmates. The U.S. Department of Justice Final Rule that accompanies the PREA standards indicates that research has shown that female inmates are likely to have experienced sexual abuse and sexual-related trauma prior to incarceration and to reduce the likelihood of re-traumatizing female inmates, PREA standards placed a ban on cross-gender pat searches of male staff with female inmates. It is very important to</p>		

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note, however, that male inmates may have also experienced sexual abuse or related trauma.

What would you have done?

Listen for people referring to the PREA standards, not just the definition of exigent circumstances. As you circulate around the room you may want to coach people to consider all the information on the front of the worksheet including the definition of an exigent circumstance search.

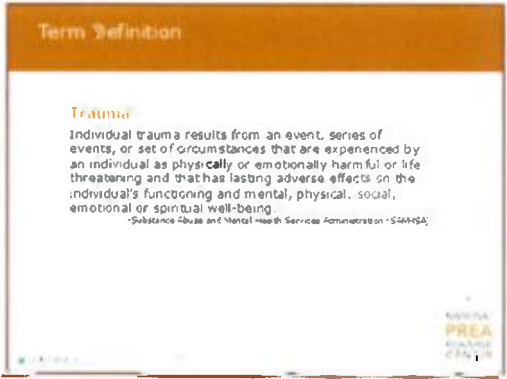
4. Alonzo works at a small juvenile facility that houses both male and female residents. A teen girl is brought in for intake, but there is no female staff on duty until the night shift. Since he had not been informed ahead of time that this resident was arriving, he decides this is an exigent circumstance and performs a pat search as part of her intake.

Is this situation temporary?	Yes	No X
Is this situation unforeseen?	Yes	No X
Does this situation require immediate action?	Yes	No X
Is this an exigent circumstance search?	Yes	No X
Is this search allowable under PREA standards? No		
Why or Why not? This is not an exigent circumstance because there is no threat to safety or security and because being short staffed is not unforeseen or temporary.		
What would you have done? Listen for choices such as holding the teen separately until appropriately trained female staff can be located; also that the facility should have a plan in place if this had been a threat to safety and security.		

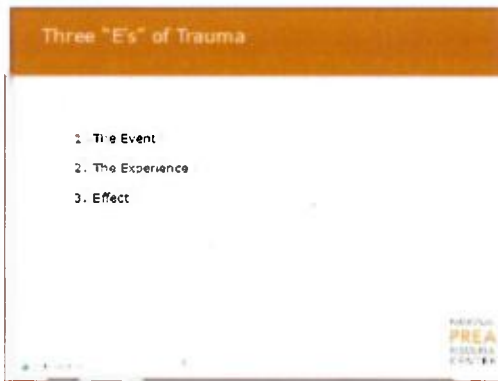
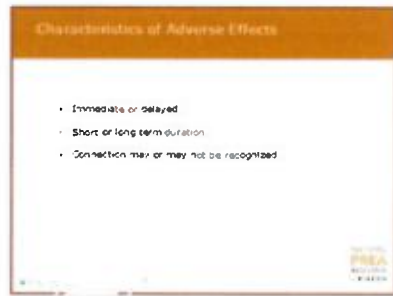
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Instructor Script	Instructional Notes
<p>LARGE GROUP ACTIVITY</p> <p><i>(Approx. time: 10 minutes)</i></p> <p>Thank you for your work on that activity—I heard some interesting things as you were working... <i>[cite 2-3 things here and give affirmation, e.g. "This group had an interesting question about x;" or "Over here, I heard some great insights about y."]</i></p> <p>I'd like to get a quick poll just to see where we agree and disagree, and then we'll come back and discuss. Just give me a show of hands for which of these searches are allowable?</p>	
<p>Scenario 1: Allowable by PREA standards or not?</p> <p>How about Scenario 2 with Ruby... Allowable by PREA standards or not?</p> <p>And Scenario 3: Allowable by PREA standards or not?</p> <p>And the final scenario with Alonzo: Allowable by PREA standards or not?</p>	<p>ACTION</p> <p>Do a quick look at the show of hands so people can see whether or not everyone agrees.</p> <p>TIP</p> <p>Don't ask the "why/why not" at this time, just do a quick poll.</p>
<p>I can see you all put a lot of thinking into this, and these can be complicated questions.</p> <p>Let's drill down a bit.</p>	<p>ACTION</p> <p>Revisit each of the scenarios. Record responses on a flip chart or white board. (Template provided in Appendices.)</p>

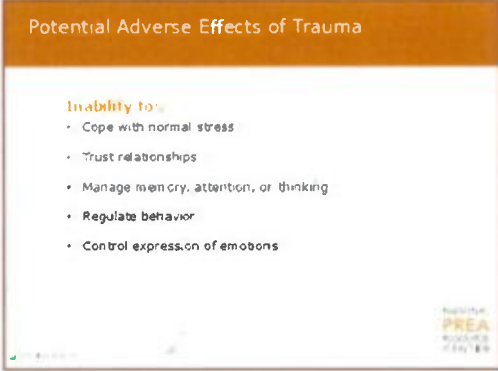
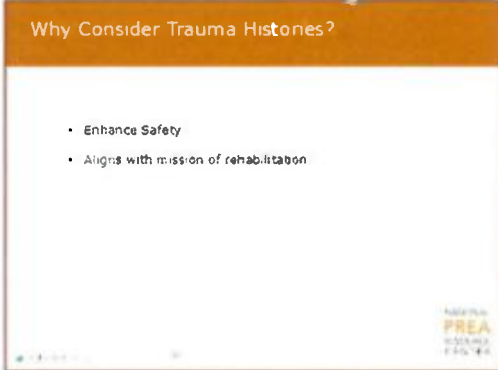
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<p><i>[Use the flip chart to walk through each of the scenarios; based on your groups' responses—see notes to the right]</i></p> <p>That was a great discussion, and thank you for all the thoughtful answers.</p>	<p>If there was unanimous (and correct) agreement, just get one group to supply a quick why/why not for the exigent circumstances and for why/why not allowable.</p> <p>LISTEN FOR</p> <p>If there is disagreement, get one group from each side to present their reasons. Rather than lead the discussion, refer them back to the definitions and standards and ask them to consider that information and discuss among themselves (there are correct answers here, it is not a matter of opinion.)</p> <p>If they don't draw out the correct answer in each case, point out the specific standard or definition and ask them why the answer is correct.</p> <p>TIP</p> <p>See the "listen for" points in the worksheet above for additional prompts.</p>
<p>PRESENT</p> <p><i>(Approx. time: 5 minutes)</i></p> <p>I'd like to talk a bit more now about trauma and ask you to consider its potential impact on safety and security.</p> <p>Individual trauma results from an event, series of events, or set of circumstances that</p>	<p>SLIDE</p> 

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<p>are experienced by an individual as physically or emotionally harmful or life threatening and that has lasting adverse effects on the individual's functioning and mental, physical, social, emotional or spiritual well-being.</p>	<p>TIP Source of the definition is from: Substance Abuse and Mental Health Services Administration. <i>SAMHSA's Concept of Trauma and Guidance for a Trauma-Informed Approach</i>. HHS Publication No. (SMA) 14-4884. Rockville, MD: Substance Abuse and Mental Health Services Administration, 2014.</p>
<p>As you can see from that definition, there are three E's of trauma:</p> <ul style="list-style-type: none"> • The Event • The Experience of Event; and • The lasting Effect of the Event 	<p>SLIDE</p>  <p>TIP If you are unfamiliar with key concepts of trauma review SAMSHA's guide to trauma-informed approach. http://store.samhsa.gov/shin/content/SM A14-4884/SMA14-4884.pdf</p>
<p>According to SAMHSA, long lasting adverse effects are a critical component of trauma.</p> <ul style="list-style-type: none"> • They may occur immediately or may have a delayed onset. • The duration of the effects can be short to long-term. • In some situations, individuals may not even recognize the connection between the traumatic events and its lasting effects. 	<p>SLIDE</p> 

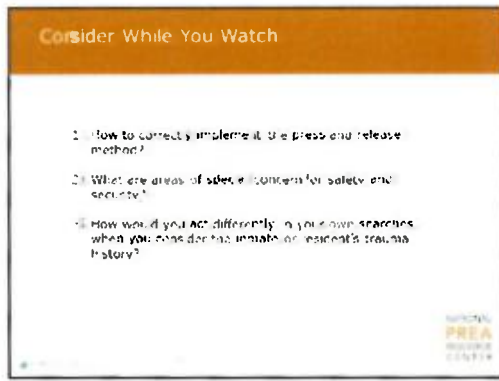

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<p>Examples of adverse effects might include:</p> <ul style="list-style-type: none"> • An individual's inability to cope with normal stresses and strains of daily living; • Inability to trust and benefit from relationships; • Inability to manage cognitive processes such as memory, attention, thinking; and • Inability to regulate behavior, or to control the expression of emotions. <p>As professionals working with a population that has likely experienced trauma coupled with mental health issues, it is important that we are equipped with tools to respond effectively.</p>	<p>5-Part Build SLIDE</p> 
<p>By better understanding signs of trauma and developing responses we can enhance our safety as staff and the population we supervise.</p>	<p>SLIDE</p>  <p>TIP Keep the preceding slide on screen through the rest of this section.</p>
<p>Specific to conducting pat searches, one way to reduce trauma is by talking to the inmate or resident professionally. Communicate clearly about what you are going to do,</p>	

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<p>including that you are approaching the inmate and informing them on what side of the body you will start the search to help reduce the inmate's anxiety.</p> <p>If an inmate begins to act erratically, you may consider halting the search until a fellow officer or supervisor can arrive to support the search process and help deescalate the situation.</p> <p>While you may never know which inmates have experienced traumatic events, if you approach each inmate or resident in this way, not just in a cross-gender situation, you can make a big difference in maintaining safety and supporting your facility's mission.</p>	
<p>We're going to take a break now and when we come back, we'll watch the next part of the video that includes a step-by-step breakdown of a cross-gender pat search.</p> <p>It is [<i>insert time</i>] now, so please be back in your seats ready to go at [<i>time</i> + 15 minutes] and we'll start promptly.</p>	
<p>Break: 15 minutes</p>	
<p>VIEW VIDEO (Approx. time: 10 minutes)</p>	<p>TIP Start promptly at the end of the announced time</p>

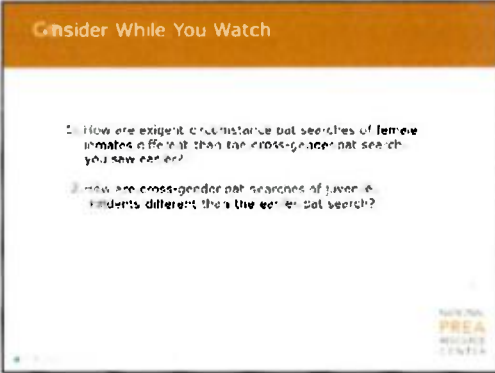
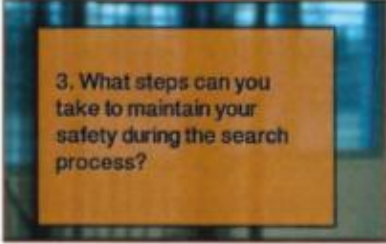
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<p>Next we'll watch a segment in the video to observe a step-by-step pat search.</p> <p>As you watch this video, consider:</p> <ol style="list-style-type: none"> 1. How to correctly implement the press and release method; 2. What are areas of special concern for safety and security; and 3. How you might act differently in your own searches when you consider the inmate or resident's trauma history. <p>After we watch the video we'll talk about our agency policies and how they align with the demonstrations you are watching.</p>	<p>SLIDE</p> 
<p><i>[pause for video]</i></p>	<p>ACTION</p> <p>Play video through the end of the step-by-step pat search. This will be approximately 14:17 minutes into the video, when you hear, "This completes the step-by-step breakdown of the quadrant search"</p> <p>VISUAL CUE FOR PAUSE</p> 
<p>LARGE GROUP ACTIVITY <i>(Approx. time: 5 minutes)</i></p> <p>That was a fairly long and technical video with a lot of information so we are going to do some review activities before we move on.</p>	<p>ACTION</p> <p>Record your answers on a flipchart or white board. A sample template is provided in the Appendices.</p> <p>LISTEN FOR</p> <p>Each item named below. As each item is mentioned, ask <u>why</u> that item is important.</p> <ul style="list-style-type: none"> ◦ Gloves: protect from bodily fluids or unsanitary objects you may encounter

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<p>First, let's talk about safety and security. What are all the things you saw in this process that contribute to safety and security?</p>	<ul style="list-style-type: none"> ◦ Body position: So inmate knows where you are ◦ Ongoing professional communication: so inmate knows what to expect ◦ Observation of non-verbal cues: to cue you for physical resistance ◦ Hand up: for spitting ◦ Hand on back: so you can tell if they are about to make a move ◦ Keep eyes elevated: so you can see if they are shifting their body/positioning <p>ACTION As each answer comes up, offer an affirmation and ask if the group agrees. As each safety practice is named as important put a star or check next to it.</p> <p>TIP If not all of these answers are elicited, try to remind people by asking them "What precaution would you take to be sure...[name the potential threat]."</p>
<p>Great work, this is a really complete list.</p> <p>Now, as you look this over, <i>which</i> of these practices do you think may be particularly important when you are considering that this inmate may have a history of trauma before or during incarceration?</p>	<p>LISTEN FOR Give them some time to think this through, but overall they should realize that all safety issues are heightened (some more immediately than others) when they consider trauma history.</p>
<p>So we can see that trauma history could be a big contributor to safety and security issues.</p>	

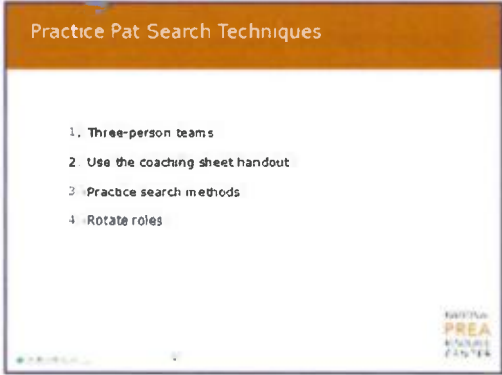
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<p>We'll be looking at that again later in the training, so hold onto your thoughts about that as we move forward.</p>	
<p>VIEW VIDEO (Approx. time: 5 minutes)</p> <p>Let's watch the next segment, and as you watch, consider:</p> <ul style="list-style-type: none"> • How are exigent circumstance pat searches of female inmates different from the cross-gender pat search you saw earlier? • How are cross-gender pat searches of juvenile residents different than the earlier pat search? 	<p>SLIDE</p> 
<p>[pause to watch video]</p>	<p>ACTION</p> <p>Play video through the end of the pat search of the female inmate and the juvenile resident. This will be at approximately 22:12 minutes into the video, when you hear, "What steps can you take to maintain your safety during the search process?"</p> <p>VISUAL CUE FOR PAUSE</p> 
<p>PRESENT (Approx. time: 5 minutes)</p> <p><i>Placeholder: You should be prepared to review your agency's policy on cross-gender pat searches.</i></p>	<p><i>Handouts and/or presentations to be created by individual agencies specific to policy.</i></p>

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<p><i>If your agency's policy aligns with what has been demonstrated in the video, this is a good time to make that point. If there are points of difference, bring those up as well and discuss.</i></p>	
<p>LARGE GROUP ACTIVITY (Approx. time: 5 minutes)</p> <p>1. Were there things in that video that made you think about pat searches you've seen or performed?</p>	<p>LISTEN FOR</p> <p>This question is open-ended, just for feedback. This is another place to have your co-facilitator prepared with something s/he can share in case you need to encourage people to start talking.</p>
<p>2. What did you see demonstrated about exigent cross-gender pat searches of female inmates that was different from searches of male inmates? What was the same?</p>	<p>LISTEN FOR</p> <p>Different: Searching the bra area (and the hair; may note that they would use that for a man in a facility that allowed long hair);</p> <p>Same: (all the other parts of the search.)</p>
<p>3. What did you see demonstrated about cross-gender pat searches of juvenile residents that was different from searches of adult inmates? How would you handle that if you were searching a juvenile resident?</p>	<p>LISTEN FOR</p> <p>Communication process (more explanation to the resident)</p> <p>TIP</p> <p>If your agency does not include juveniles you can skip this question.</p>
<p>4. We saw some specific hand positions and other guidance in the initial video that were used here again. Why would those specific techniques be important in cross-gender pat searches?</p>	<p>LISTEN FOR</p> <p>Using the blade or the back of the hand when searching intimate areas; less likely to lead to trauma trigger and less likely to be misinterpreted as sexual contact.</p>

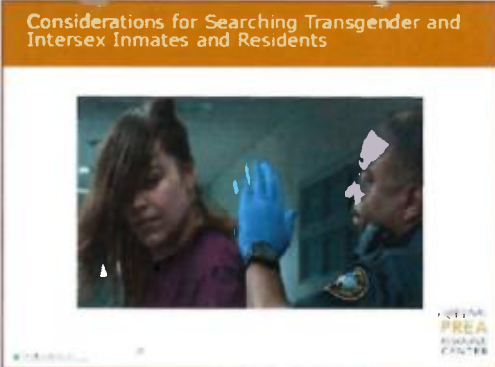
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<p>Great answers, thank you!</p> <p>It is important to note that the search techniques demonstrated here should be used for same gender as well as cross-gender pat searches. A key component of effective searches is <u>consistency</u>.</p>	
<p>SMALL GROUP ACTIVITY (Approx. time: 20 minutes)</p> <p>Now we are going to practice cross-gender pat search techniques. I'd like to ask you to get into groups of 3. You will each rotate through 3 roles. One person will play the inmate, one will be the searching officer and one will observe and provide coaching at each step of the search. Remember these scenarios are for exigent circumstances and will likely never or rarely happen, but it is good to be prepared.</p> <p>For the purposes of this activity, the male staff should pretend they are searching female inmates or residents, and female staff should pretend they are searching male inmate or juvenile residents. (Note: Female staff can search a male inmate in adult prisons and jails and still be in compliance with PREA)</p>	<p>ACTION Hand out <u>Quadrant Method Peer Coaching Sheet</u> with tips and photos.</p> <p>TIP Some staff may be uncomfortable practicing a pat search with the opposite sex, or at all. Let people know it's ok to request a same sex partner or observe the activity as others are practicing.</p> <p>SLIDE</p> 

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<p>Again, in most of these cases this would only happen in an exigent circumstance, which means a temporary, unforeseen situation that requires immediate action in order to combat a threat to facility security. But if you had to perform one in this case, this exercise will ensure we are consistent with PREA guidelines on cross-gender pat searches.</p> <p>As you work in your teams, the role of the observer is to be giving the person in the role of the CO some feedback at each step. We're passing out a sheet with some photos and information so you can coach your teammates through the process.</p> <p>Don't feel like you need to rush through this, just do each step a few times until you feel like you are comfortable with it, and you are developing some familiarity of how that action feels when it is done correctly.</p>	
<p><i>[pause for search activity]</i></p>	<p>LISTEN FOR During this search activity, walk around and be sure the observers and searchers are working as a team, with a good feedback loop at each step of the search. If it is not going well, you may sit in for a bit as the coach and model the kinds of feedback that will help at each step.</p> <p>ACTION Coach the people giving the feedback, not just the person doing the search. This will help them learn what to look for, which will also improve their own practice.</p>

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	<p>ACTION After about 3 minutes, ask the groups to conclude the first search and rotate roles.</p> <p>ACTION After another 5-7 minutes, ask the groups to conclude the second search and finish up feedback.</p>
<p>LARGE GROUP ACTIVITY <i>(Approx. time: 5 minutes)</i></p> <p>Great work everyone! If you can all take your seats again, we'll debrief on that just a bit. Also, we'll have more time at the end of the training to do another round of practice searches.</p> <p>Were there parts of the search that you found to be especially easy or especially difficult?</p> <p>How did these searches differ from your previous training on pat searches?</p> <p>What insights or comments do you have to share about your search?</p>	<p>TIP Some trainers may opt out of the second practice round later on in the video to save time. If that is the case, be sure to include final thoughts and feedback on the search process during this portion of the training or wait to practice the skills at the very end.</p>
<p>We are going to take another break, for 10 minutes.</p> <p>It's [time] now, please be back in your seats ready to go a [time + 10 minutes]</p>	
<p>Break, 15 minutes</p>	
<p>PRESENT <i>(Approx. time: 15 minutes)</i></p> <p>Thank you for returning so promptly!</p> <p>This is the final portion of the training and we are done with talking about cross-gender pat searches, and we will cover a different topic.</p>	<p>SLIDE</p> <p>Considerations for Searching Transgender and Intersex Inmates and Residents</p> 

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<p>The next section of this training will focus on searches of transgender and intersex inmates and residents. We will discuss some specific considerations around safety and security.</p> <p>In this next video segment we will cover these considerations.</p> <p>The PREA standards address several areas to guide facilities specific to transgender and intersex inmates to include classification, housing and placement, programming and training for staff. This includes our work today on pat searches.</p>	
<p>Before we begin, I'd like to acknowledge that covering the special considerations for these populations can make some people uncomfortable. Just like many other things in your personal life, you are entitled to your own perspectives when you are on your own time.</p> <p>But when you step inside your facility, we know that we are expected to shift those concerns to focus on safety and security, and acting in a professional manner at all times.</p> <p>That means we all have to put aside our personal feelings or beliefs and focus on our mission at all times.</p> <p>We all know that it's important to maintain our standard of professionalism in the language and actions we use with all inmates and residents.</p>	<p>TIP</p> <p>If you think your staff will have religious objections with this topic, one option is to pre-discuss this with your chaplain and then offer chaplain services to discuss it further outside of the workshop.</p>

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Let's first define some important terms based on PREA standard definitions.

The PREA standards define "transgender" as a person whose gender identity is different from the person's assigned sex at birth.

TIP

For additional background reading for the trainer:

An Ally's Guide to Terminology

Talking About LGBT People and Equality

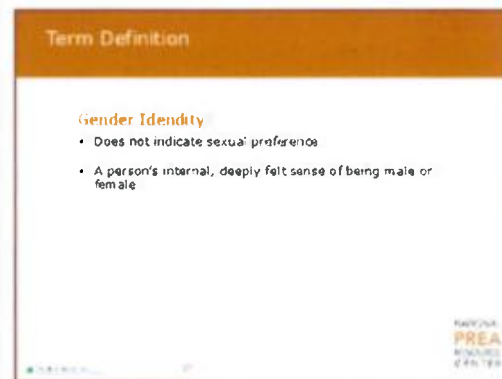
http://www.glaad.org/sites/default/files/allys-guide-to-terminology_1.pdf

SLIDE

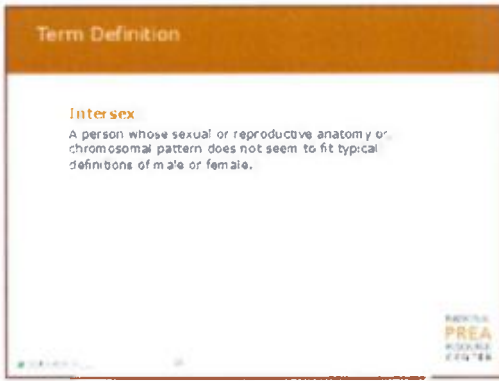


"Gender identity" does not indicate sexual preference; it refers to a person's internal, deeply felt sense of being male or female.


SLIDE



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<p>“Intersex” is defined as a person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit <u>typical definitions</u> of male or female.</p>	<p>SLIDE</p>  <p>TIP</p> <p>This is the last slide in the presentation. You can turn off the projector unless you are using it for other parts of your presentation.</p>
<p>An example of being respectful is using the correct pronouns for transgender inmates, such as a woman who was born biologically male but identifies as a female. Using pronouns such as “she” and “her” would usually be considered respectful. And for man who was born biologically female and identifies as male, using the pronoun such as “he” and “him” would usually be considered respectful.</p> <p>The most recent BJS data collected nationally demonstrates that transgender and intersex inmates and residents are more vulnerable to sexual abuse than other incarcerated populations. One in three transgender adult inmates in jail and prisons settings reported</p>	<p>TIP</p> <p>For additional background reading:</p> <ol style="list-style-type: none"> 1. <i>STANDING WITH LGBT PRISONERS: An Advocate’s Guide to Ending Abuse and Combating Imprisonment</i> http://transequality.org/sites/default/files/docs/resources/JailPrisons_Resource_FINAL.pdf 2. <i>LGBTI: Lesbian, Gay, Bisexual, Transgender, and Intersex Offenders: Selected Resource for Criminal Justice Professionals</i> https://s3.amazonaws.com/static.nicic.gov/Library/026518.pdf <p>TIP</p> <p>It is important to reference agency policy during this discussion of working with</p>

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<p>sexual abuse in confinement. In juvenile settings, residents who identify as lesbian, gay or "other" are seven times more likely to be sexually abused while in confinement.</p> <p>Based on research, data, and PREA guidance, transgender and intersex inmates require special considerations to keep them safe.</p> <p>While you watch the pat search of a transgender inmate, think about some of the considerations that are mentioned. We'll work on an activity after watching this section.</p>	<p>transgender inmates. Particularly as it relates to proper names of inmates, searches, cross gender viewing, housing and placement.</p>
<p>VIEW VIDEO <i>(Approx. time: 10 minutes)</i></p> <p><i>[pause for video]</i></p>	<p>ACTION</p> <p>Play video through the end of Transgender and Intersex section. This will be at approximately 21:53 minutes into the video, when you hear: "This concludes the section of the video that covers cross-gender pat searches. As you consider the concepts and information, see if you can answer the following review questions"</p> <p>VISUAL CUE FOR PAUSE</p> 

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<p>PRESENT</p> <p><i>(Approx. time: 5 minutes)</i></p> <p><i>Placeholder: You should be prepared to review your agency's policy on pat searches of transgender and intersex inmates and residents.</i></p> <p><i>If your agency's policy aligns with what has been demonstrated in the video, this is a good time to make that point. If there are points of difference, bring those up.</i></p>	<p><i>Handouts and/or presentations to be created by individual agencies specific to policy.</i></p>
<p>LARGE GROUP ACTIVITY</p> <p><i>(Approx. time: 5 minutes)</i></p> <p>I'm sure you have some questions and comments about this topic, so I've provided some resources here, which have more background information. These will be very useful if you'd like to do some additional reading to develop a better understanding of these populations in your facility.</p> <p>Before we start our video follow-up activity, are there any questions or comments you'd like to share?</p>	<p>ACTION</p> <p>Hand out <u><i>Transgender and Intersex Inmates and Residents Additional Resources</i></u></p> <p>LISTEN FOR</p> <p>You may have participants who have not encountered many of these terms and ideas and so are looking for more definitions, etc. Let them know that the follow up activity should help with that and if not, some of these other resources will be useful too.</p> <p>Also, since this can be a topic on which people are conflicted or confused, it will be useful to let a few people just get their thoughts "off their chest". As long as it remains positive or inquiring, that is a useful learning activity and you should offer affirmations about their</p>

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	<p>thoughtfulness and desire to learn more as a way to becoming better professionals.</p> <p>If you receive comments or feedback that seem incorrect (e.g. assumptions that “transgender” and “gay” are the same thing, etc.) or inappropriate, you can offer a response such as, “I know that there is a lot of conflicting information that we all learn, and I hope you can take some time to check out the additional resources listed, because I think they will help answer those questions.”</p>
<p>SMALL GROUP ACTIVITY (Approx. time: 20 minutes)</p> <p>The worksheet we are handing out has the definitions and standards you heard in the video. Below that, there are 3 scenarios.</p> <p>I’d like to ask you to read through the initial material to become more familiar with the terms, and then get together in pairs to work on the scenarios and follow-up questions. We’ll take about 20 minutes for this work session, and then we’ll get together and share our answers.</p>	<p>ACTION</p> <p>Hand out <u><i>Transgender Case Study Worksheet</i></u></p>
<p>[pause for work session]</p>	<p>LISTEN FOR</p> <p>As you move around the room, see how people are doing with both language and concepts. If people have discomfort in</p>

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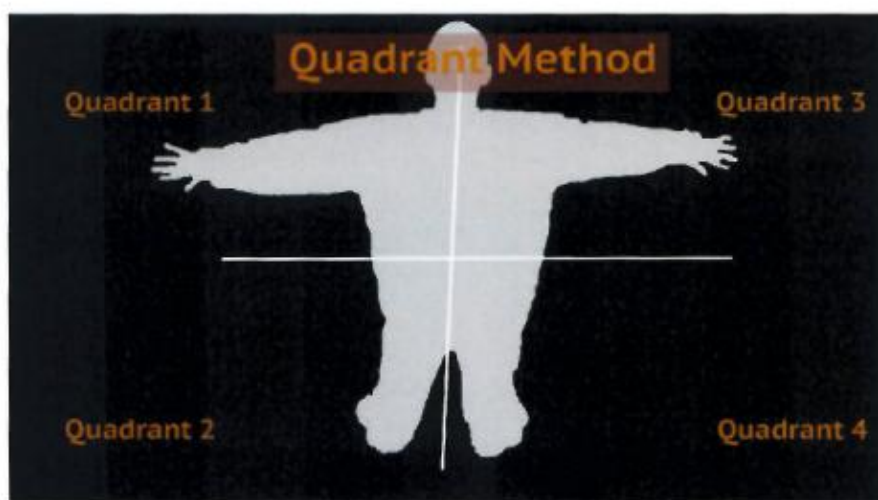
	<p>some areas, focus the work on professionalism, safety and security.</p> <p>ACTION</p> <p>As people appear to be getting close to done (or as the time is approaching 20 minutes) give people a 5-minute warning to wrap up.</p>
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Transgender Inmates and Residents Worksheet (Facilitator Key)

Directions: Read the background information and the three scenarios. After you are done reading, pair up with a classmate to discuss and answer the follow-up questions.

Be prepared to share your responses with the group.



The procedure for the pat search of transgender and intersex inmates and residents is the same as for other inmates and residents, but the standards require some special considerations.

Definitions

Transgender: A person whose gender identity is different from the person's assigned sex at birth. Do not call someone "a transgender" instead use "a transgender person"; likewise do not use -ed at the end (transgender is correct, not transgendered).

Gender Identity: A person's internal, deeply felt sense of being male or female. It does not indicate sexual preference.

Intersex: A person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female.

Individual Trauma: Psychological or physical harm that results from an event, series of events, or set of circumstances experienced by an individual as physically or emotionally harmful or threatening and that has lasting adverse effects on the individual's functioning and physical, social, emotional, or spiritual well-being.

Facilitator Guide

PREA Standards

- The PREA Standards impose a complete ban on searching or physically examining a transgender or intersex inmate or resident for the sole purpose of determining the inmate's genital status.
- Interpretive guidance from DOJ on PREA standard 115.15 states that staff should never conduct "dual gender" pat searches, where the staff of one gender searches the top half of the inmate and the staff of the other gender searches the bottom half of the inmate. <http://www.prearesourcecenter.org/faq/cross-gender-supervision>
- There are three practices consistent with PREA for assigning staff to perform pat searches on transgender and intersex inmates and residents:

Option 1: Searches are conducted only by medical staff;

Option 2: Searches are conducted by female staff only, since there is no prohibition on the pat-searches female staff can perform (except in juvenile facilities).

Option 3: Asking inmates to identify the gender of staff with whom they would feel most comfortable. This preference can be documented at intake.

Note that the preferred staff assignment may change over the course of the inmate or residents' confinement.

Scenario 1

James is a transgender male, but whose birth sex is female. He dresses as a man and had begun his transition with hormones before being arrested for robbing a convenience store. During his intake process, the jail staff assigned an officer to search him, and he discovered James' female genitalia. He put James in a holding cell with female inmates and told his colleagues, "She's some kind of dyke in men's clothes."

Facilitator Guide

What was incorrect about the staff's conclusions and/or actions?

- **As soon as he realized that James' assigned sex was female he should have halted the search and followed the agency's policy—otherwise he is performing an unallowable cross-gender pat search.**
- **Staff assumed that dressing as a male means that it is related to sexual preference and not gender identity.**

What would you have done differently?

- **[Answer to be based on your agency policy for searching transgender persons]**

Scenario 2

Courtney's birth sex is male, but her gender identity and expression is female. Courtney is 16 and, with her parents' support, has been living as a female since she was 10. She was picked up for shoplifting and a female officer began to search her. As the search started, Courtney told the officer, "I don't want you to freak out, but I am biologically male." The officer completed searching the top part of Courtney's body and called over her male partner to complete the search on the lower half.

What was incorrect about the staff's conclusions and/or actions?

- **Staff should have immediately halted the search or this is an unallowable cross-gender pat search.**
- **Should not have performed a "dual search".**

What would you have done differently?

- **Either ask and document preference of person to perform the search, or call in medical personnel.**

Facilitator Guide

Scenario 3

Pepe has been incarcerated for 6 months and during that time he has continued the hormone therapy that has been part of the transition before his sex re-assignment surgery. Because his assigned sex at birth was female, he is housed in a women's prison. One night there is a tornado alert and the staff needs to move all prisoners to a safe location in another wing. Each prisoner is to be searched before after being moved into the other wing. One of the male staff decides to go ahead and search Pepe, since it is an exigent circumstance.

What was incorrect about the staff's conclusions and/or actions?

- Should be **informed whether Pepe has a documented request on file.**
- Likely not an **exigent circumstance because there were officers available of either gender.**

What would you have done differently?

- **[Answer depends on agency policy]**

Facilitator Guide

Instructor Script	Instructional Notes
<p><i>...Small group activity continued</i> (Approx. time: 10 minutes)</p> <p>This is a really difficult activity and as I walked around the room I was really interested to hear how all of you were bringing your professionalism and insights to the discussions.</p> <p><i>.... [cite 2-3 things here and give affirmation, e.g. "This group had an interesting question about x"; or "Over here, I heard some great insights about y".]</i></p>	
<p>I'd like to go through each scenario and ask you to share your responses to the questions.</p> <p>In the first scenario with James, what was incorrect about the staff's conclusions and/or actions?</p> <p><i>[listen and record]</i></p> <p>And what would you have done differently?</p> <p><i>[listen and record]</i></p> <p>In the second scenario with Courtney, what was incorrect about the staff's conclusions and/or actions?</p> <p><i>[listen and record]</i></p> <p>And what would you have done differently?</p>	<p>ACTION</p> <p>Record responses on a flip chart or white board. You may choose to use the Transgender Case Study flip chart template provided in the Appendices.</p> <p>TIP</p> <p>Note that some of these responses will depend on your Agency's policies, so if people are uncertain of the answer, ask them to refer to your Agency's policy.</p> <p>TIP</p> <p>Note that you will likely need time to discuss each of these more than in other activities. Allow people time to think about and understand the answers and special considerations involved.</p>

Facilitator Guide

<p>In the third scenario with Pepe, what was incorrect about the staff's conclusions and/or actions?</p> <p><i>[listen and record]</i></p> <p>And what would you have done differently?</p> <p><i>[listen and record]</i></p> <p>Great work and lots of thoughtful responses and useful thoughts for considerations when working with these populations.</p> <p>Thank you for working through the scenarios!</p>	
<p>VIEW VIDEO</p> <p><i>(Approx. time: 5 minutes)</i></p> <p>We have a final, brief piece of video that has a review of the information in the training.</p>	<p>ACTION</p> <p>Play the video through the end.</p>
<p><i>[pause for video]</i></p>	
<p>INDIVIDUAL WORK</p> <p><i>(Approx. time: 5 minutes)</i></p>	<p>ACTION</p> <p>Hand out <i>Evaluation Form</i> specific to your agency.</p>
<p><i>[pause for evaluation]</i></p>	

Facilitator Guide

<p>I'd like to thank you again for your work on and attention to this training.</p>	<p>ACTION</p> <p>After everyone has finished the evaluation, make any final announcements and handle any certification paperwork relevant to your agency.</p>
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Additional Resources for Trainer

1. The Department of Justice, Final Rule PREA.
http://ojp.gov/programs/pdfs/prea_final_rule.pdf
2. "LGBT People and the Prison Rape Elimination Act", July 2012. National Center for Transgender Equality.
http://transequality.org/sites/default/files/docs/resources/PREA_July2012.pdf
3. Policy Review and Development Guide: *Lesbian, Gay, Bisexual, Transgender, and Intersex Persons in Custodial Settings*
<https://static.nicic.gov/Library/027507.pdf>
4. SAMSHA's Concept of Trauma and Guidance for a Trauma-Informed Approach, July 2014 <http://store.samhsa.gov/shin/content/SMA14-4884/SMA14-4884.pdf>

Definitions

Pat Search means a running of the hands over the clothed body of an inmate, detainee, or resident by an employee to determine whether the individual possesses contraband. *Department of Justice National Standards to Prevent, Detect and Respond to Prison Rape*,
<http://www.prearesourcecenter.org/sites/default/files/library/2012-12427.pdf>

Gender a socially constructed concept classifying behavior as either "masculine" or "feminine," unrelated to one's external genitalia. *NIC: LGBTI Populations: Their Safety. Your Responsibility*. http://static.nicic.gov/UserShared/2012-12-31_pdf_part_guide-lgbti_d11.pdf

Sex one's anatomical make-up, including external genitalia, chromosomes, and reproductive system. *NIC: LGBTI Populations: Their Safety. Your Responsibility*
http://static.nicic.gov/UserShared/2012-12-31_pdf_part_guide-lgbti_d11.pdf

Gender Identity distinct from sexual orientation and refers to a person's internal, deeply felt sense of being male or female. *NIC: LGBTI Populations: Their Safety. Your Responsibility*. http://static.nicic.gov/UserShared/2012-12-31_pdf_part_guide-lgbti_d11.pdf

Transgender a person whose gender identity differs from their birth sex. *NIC: LGBTI Populations: Their Safety. Your Responsibility, page 6*,
http://static.nicic.gov/UserShared/2012-12-31_pdf_part_guide-lgbti_d11.pdf

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Gender Non-Conforming a person whose appearance or manner does not conform to traditional societal gender expectations. *Department of Justice National Standards to Prevent, Detect and Respond to Prison Rape*, <http://www.prearesourcecenter.org/sites/default/files/library/2012-12427.pdf>

Sexual Orientation romantic and/or physical attraction to members of the same or different sex. *NIC: LGBTI Populations: Their Safety. Your Responsibility*. http://static.nicic.gov/UserShared/2012-12-31_pdf_part_guide-lgbti_d11.pdf

Gender Dysphoria a condition in which a person feels that there is a mismatch between their biological sex and their gender identity. *National Health Service* <http://www.nhs.uk/conditions/Gender-dysphoria/Pages/Introduction.aspx>

Sexual Identity the sex that a person sees themselves as. This can include refusing to label oneself with a sex. *NIC: LGBTI Populations: Their Safety. Your Responsibility*. http://static.nicic.gov/UserShared/2012-12-31_pdf_part_guide-lgbti_d11.pdf

Intersex a condition in which a person is born with external genitalia, internal reproductive organs, chromosome patterns, and/or an endocrine system that does not fit typical definitions of male or female. *NIC: LGBTI Populations: Their Safety. Your Responsibility*. http://static.nicic.gov/UserShared/2012-12-31_pdf_part_guide-lgbti_d11.pdf

Trauma Informed promoting recovery and resilience for those individuals and families impacted by trauma involves developing and implementing interventions specific to the trauma experienced by them and examining ways to reduce re-traumatizing people through their experiences in services and systems. (SAMHSA) **OR** to identify trauma and its symptoms among inmates, train staff to understand the impact of trauma, minimize re-traumatization, maintain sensitivity to triggers of trauma, and identify how traumatic dynamics may, without intent, repeatedly play out in prisons. <http://www.samhsa.gov/nctic>

Trigger something that sets off a memory tape or flashback transporting the person back to the event of her/his original trauma. *University of Alberta, Sexual Assault Centre*, <http://www.ualberta.ca/~uasac/Triggers.htm>

Exigent Circumstances means any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of a facility. *Department of Justice National Standards to Prevent, Detect and Respond to Prison Rape*, <http://www.prearesourcecenter.org/sites/default/files/library/2012-12427.pdf>

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Exigent Circumstances Participant Worksheet

Directions

Working individually, fill in this worksheet with your responses.

Once complete, work in small groups or pairs and compare answers. Be prepared to share your responses with the group.

Definitions

Exigent circumstances

Any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of a facility. (Temporary + Unforeseen + Requires Immediate Action)

PREA standards for exigent circumstance searches

In all facilities, all cross-gender strip searches and visual body cavity searches are prohibited, except in exigent circumstances or when performed by medical practitioners.

For juvenile facilities, cross-gender pat searches of both female and male residents are prohibited unless there are exigent circumstances, or if a medical professional performs the search.

1. Tom is a corrections officer at a small rural jail in North Dakota. One December night, it is 35 below zero, just as the power at the jail goes out. He then discovers that the back-up generator will not start, so he has no heat in the building.

He has to move the inmates to another location and search them before transport. He has two confined female inmates, but the only female officer on his 3-person staff is out

Appendices

of town for the holidays. Tom decides he is within policy to search the inmates, maintaining PREA compliance.

Is this situation temporary?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Is this situation unforeseen?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Does this situation require immediate action?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Is this an exigent circumstance search?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Is this search allowable under PREA standards?		
Why or why not?		
What would you have done?		

2. Ruby is Deputy Warden at a State Prison, where the staff has been reduced due to budget cuts. Even though this is an all-women's facility, most of the staff that has been let go were women, since they had the least seniority.

One night, an inmate attacks another, leading to outbreaks of violence and threatened violence involving more than 20 inmates. It's imperative to get all inmates searched and back into their dorms ASAP, but she only has male staff on shift. She decides she cannot permit the male COs to help with the searches.

Is this situation temporary?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Is this situation unforeseen?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Does this situation require immediate action?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Is this an exigent circumstance search?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Is this search allowable under PREA standards?		
Why or why not?		

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What would you have done?

3. Shardell and Lucia work at an all male prison. The facility has irregularly scheduled searches as part of its protocol. A search is announced mid-shift so Shardell and Lucia begin to search the men in their block.

Is this situation temporary?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Is this situation unforeseen?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Does this situation require immediate action?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Is this an exigent circumstance search?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Is this search allowable under PREA standards?		
Why or why not?		
What would you have done?		

4. Alonzo works at a small juvenile facility that houses both male and female residents. A teen girl is brought in for intake, but there are no female staff on duty until the night shift.

Since he had not been informed ahead of time that this resident was arriving, he decides this is an exigent circumstance and performs a pat search as part of her intake.

Is this situation temporary?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Is this situation unforeseen?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Does this situation require immediate action?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Is this an exigent circumstance search?	Yes <input type="checkbox"/>	No <input type="checkbox"/>

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Is this search allowable under PREA standards? Why or why not?
What would you have done?

If your group has extra time, create your own scenario to present.

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Exigent Circumstances Activity Flip Chart Sample

Before the session, you may wish to use this example to create a flip chart, slide or white board to record answers.

	Temporary?	Unforeseen?	Require Immediate Action?	Exigent circumstances?	Allowable Search?	What would you have done?
Tom	Yes	Yes	Yes	Yes	Yes	
	No	No	No	No	No	
Ruby	Yes	Yes	Yes	Yes	Yes	
	No	No	No	No	No	
Shardell & Lucia	Yes	Yes	Yes	Yes	Yes	
	No	No	No	No	No	
Alonzo	Yes	Yes	Yes	Yes	Yes	
	No	No	No	No	No	

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Safety and Security T-chart Sample

Before the session, you may wish to use this example to create a flip chart, slide or white board to record answers.

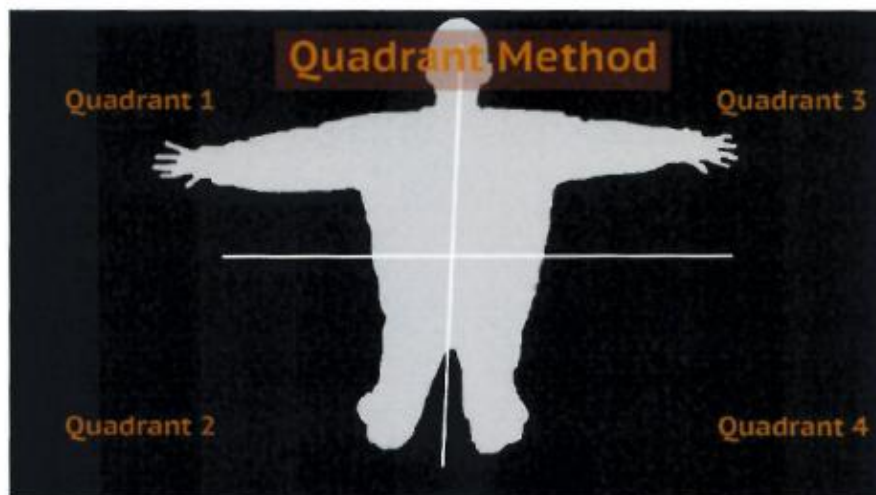
SAFETY AND
SECURITY ACTION

WHY IT'S IMPORTANT

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Cross-Gender Pat Search & Searches of Transgender and Intersex Inmates Quadrant Method Peer Coaching Sheet

Directions: Use this sheet to peer coach your classmates in the pat search process based on the video guidance provided. Please note, if your agency's search techniques differ from the video, be sure to spend some time marking the differences on this sheet and discuss those differences with your group.



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Always put on gloves before approaching the inmate.

Tell the inmate that the search is beginning, and that you will start on the upper left side of his body.



Stand at a forty-five degree angle behind the inmate. This angled approach helps him see where you are located, keeping him calm during the search. It also ensures you are in a good tactical position where you can see and respond to sudden movement.



Place your right hand on the inmate's middle back.

Direct the inmate to lift his left hand back toward you.

After inspecting the hand, begin at the inmate's wrist, and work up his arm searching both the top and bottom, finishing at the shoulder. Do not slide your hands over the inmate. Instead, use the press and release method for your search.

Search the shoulder area, working toward the neck. Search the neck for unseen articles such as necklaces, chains, and contraband.

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Direct the inmate to use one hand to run their fingers through their hair.



Place your free hand up to protect from spitting.

Direct the inmate to turn his head to the left to expose his nasal passages, and instruct him to open his mouth for examination.

Examine the outer and inner ear area.



Move back down the neck, using your thumb and fingers on opposite sides of the collar. Search the entire collar, using your thumb and fingers, working from back to front.



Remain standing behind the inmate to search the chest area. Use the back of your left hand and slide across the top of inmate's chest. Do not pat or rub the chest area.

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Then position your hand with the fingers pointing upward and centered in the middle of the chest.



Use the blade of your hand to sweep across the side and bottom of the inmate's chest, towards the armpit.

The search procedure for the chest area should stop at the top, side, and bottom of the chest.



(If searching a female) Direct the inmate to, "Clasp your bra with your fingers and pull the bra away from your body and shake the bra. Release the bra and please place your arms out again with palms facing upward so I can continue the search."



Once done with the chest, reposition yourself to search the back area.

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Carefully use your fingertips to check the surface around his waist. If it is near the waist of the pants, search the inner and outer band of the inmate's underwear. Press and release the underwear waistband between your thumb and fingers. Then move to the band of the inmate's pants.



Slide the back of the left hand (thumb tight against index finger) over the top of the groin area below the waistband.



Beginning at the waist area, search downward over the inmate's hips.

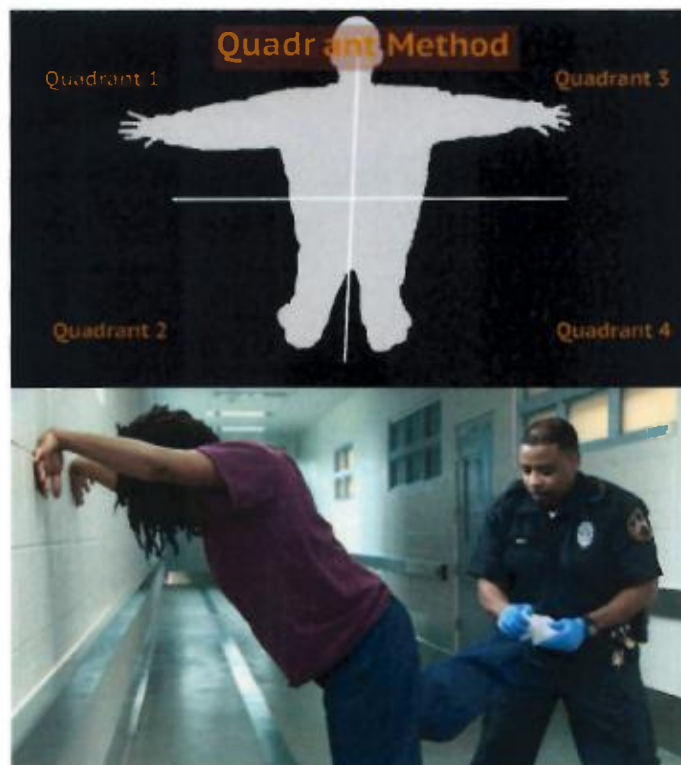
Work down the outside of the inmate's left leg using press and release

Keep your head raised, with your eyes focused on the inmate's upper back so you will see any movement.



Next, hold your left hand in a blade position, thumb tucked in, and start at the inside of the bottom of the left ankle. Use the back of your hand to follow up the inseam toward the groin area.

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After searching the second quadrant, recheck the inmate's body position. Tell the inmate that you will now begin searching his right side before you begin.

The searching procedures for quadrants three and four mirror those of quadrants one and two, so that the opposite hand and foot positions are used.

Search the tops and bottoms of the feet. Once complete, inform the inmate or resident, "You can put your shoes back on and return to your designated area."

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Transgender and Intersex Inmates and Residents: Additional Resources

STANDING WITH LGBT PRISONERS:

An Advocate's Guide to Ending Abuse and Combating Imprisonment

http://transequality.org/sites/default/files/docs/resources/JailPrisons_Resource_FINAL.pdf

LGBTI: Lesbian, Gay, Bisexual, Transgender, and Intersex Offenders: Selected Resource for Criminal Justice Professionals:

<https://s3.amazonaws.com/static.nicic.gov/Library/026518.pdf>

An Ally's Guide to Terminology:

http://www.glaad.org/sites/default/files/allys-guide-to-terminology_1.pdf

National PREA Resource Center Frequently Asked Questions:

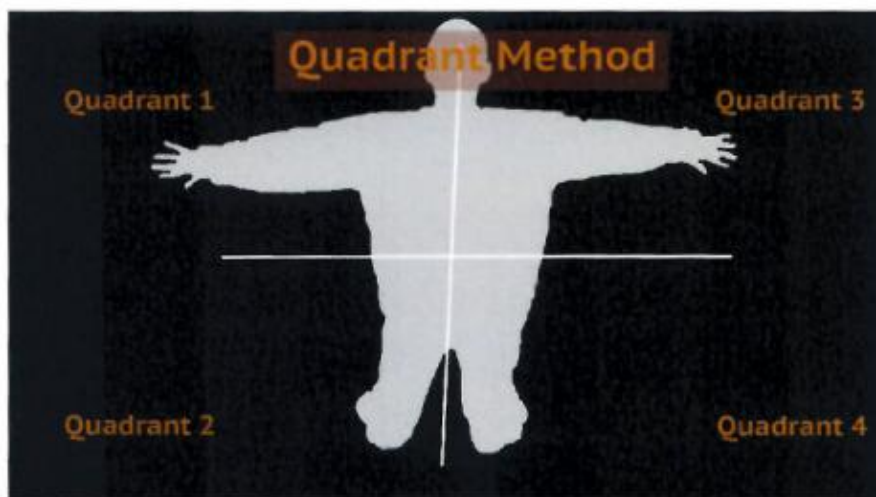
<http://www.prearesourcecenter.org/faq>

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Transgender Inmates and Residents Worksheet

Directions

Read the background information and the 3 scenarios. After you are done reading, pair up with a classmate to discuss and answer the follow-up questions. Be prepared to share your responses with the group.



The procedure for the pat search of transgender and intersex inmates and residents is the same as for other inmates and residents, but the standards require some special considerations.

Definitions

Transgender: A person whose gender identity is different from the person's assigned sex at birth. Do not call someone "a transgender" instead use "a transgender person"; likewise do not use -ed at the end (transgender is correct, not transgendered).

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Gender Identity: A person's internal, deeply felt sense of being male or female. It does not indicate sexual preference.

Intersex: A person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female.

Individual Trauma: Psychological or physical harm that results from an event, series of events, or set of circumstances experienced by an individual as physically or emotionally harmful or threatening and that has lasting adverse effects on the individual's functioning and physical, social, emotional, or spiritual well-being.

PREA Standards

- The PREA Standards impose a complete ban on searching or physically examining a transgender or intersex inmate or resident for the sole purpose of determining the inmate's genital status.
- Interpretive guidance from DOJ on PREA standard 115.15 states that staff should never conduct "dual gender" pat searches, in which the staff of one gender searches the top half of the inmate and the staff of the other gender searches the bottom half of the inmate.
- There are three practices consistent with PREA for assigning staff to perform pat searches on transgender and intersex inmates and residents:
 - **Option 1:** Searches are conducted only by medical staff;
 - **Option 2:** Searches are conducted by female staff only, since there is no prohibition on the pat-searches female staff can perform (except in juvenile facilities); or
 - **Option 3:** Asking inmates to identify the gender of staff with whom they would feel most comfortable. This preference can be documented at intake.

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Note that the preferred staff assignment may change over the course of the inmate or residents' confinement.

Scenario 1

James is a transgender male, but whose birth sex is female. He dresses as a man and had begun his transition with hormones before being arrested for robbing a convenience store. During his intake process, the jail staff assigned an officer to search him, and he discovered James' female genitalia. He put James in a holding cell with female inmates and told his colleagues, "She's some kind of dyke in men's clothes."

What was incorrect about the staff's conclusions and/or actions?

What would you have done differently?

Scenario 2

Courtney's birth sex is male, but her gender identity and expression is female. Courtney is 16 and, with her parents' support, has been living as a female since she was 10. She was picked up for shoplifting and a female officer began to search her. As the search started, Courtney told the officer, "I don't want you to freak out, but I am biologically male." The officer completed searching the top part of Courtney's body and called over her male partner to complete the search on the lower half.

What was incorrect about the staff's conclusions and/or actions?

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What would you have done differently?

Scenario 3

Pepe has been incarcerated for 6 months and during that time he has continued the hormone therapy that has been part of the transition before his sex re-assignment surgery. Because his assigned sex at birth was female, he is housed in a women's prison. One night there is a tornado alert and the staff needs to move all prisoners to a safe location in another wing. Each prisoner is to be searched before after being moved into the other wing. One of the male staff decides to go ahead and search Pepe, since it is an exigent circumstance.

What was incorrect about the staff's conclusions and/or actions?

What would you have done differently?

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Transgender Flip Chart Template

Scenario 1: James

Incorrect:

Correct:

Scenario 2: Courtney

Incorrect:

Correct:

Scenario 3: Pepe

Incorrect:

Correct:

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Endnotes

¹ This section was developed by Brenda V. Smith, Law Professor at American University, Washington College of Law. The Project on Addressing Prison Rape. <https://www.wcl.american.edu/endsilence/>

² Smith, Brenda V. and Melissa C. Loomis. "Cross Gender Searches: A Case Law Summary." The Project on Addressing Prison Rape. February 1, 2013 found at: http://www.wcl.american.edu/endsilence/documents/CrossGenderCases_PRC.pdf

³ US Department of Justice, 28 CFR Part 115 "Preamble to the National Standards to Prevent, Detect, and Respond to Prison Rape" May 17, 2013 at 49-60.

⁴ A Summary of Research, Practice, and Guiding Principles for Women Offenders, Gender Responsive Strategies Publication by the National Institute of Corrections Bloom, Barbara; Owen, Barbara; Covington, Stephanie. National Institute of Corrections (Washington, DC). National Institute of Corrections (Washington, DC). 2005

⁵ *Keeping Vulnerable Populations Safe Under PREA: Alternative Strategies to the Use of Segregation in Prisons and Jails* is a resource developed by the Vera Institute of Justice, a PRC partner. The guide provides promising strategies for safely housing inmates at risk of sexual abuse without isolating them. These strategies aim to not only protect individuals from abusers, but also to ensure that all inmates have equal access to programming, physical and mental health services, and opportunities to socialize. <http://www.prearesourcecenter.org/sites/default/files/library/keepingvulnerablepopulationsSAFEunderPREAapril2015.pdf>

Issues Surrounding Managing Lesbian, Gay, Bisexual, Transgender & Intersex

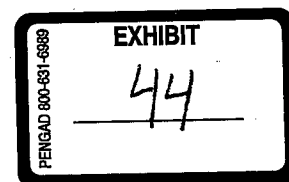
Offenders in Jails

Donald L. Leach II, Ph.D.

The call came from booking, “You got to get down here and the see this woman being booked! She is a ‘10’ if I ever saw one!” Off to booking and sure enough there’s female Officer pat frisking a stunning ‘10’. Everything’s fine until the search hits the crotch. By the look on the Officer’s face something is amiss, or more accurately something is a-present. Off to the strip search room where there is a shocking discovery: this is no woman-at least not in the conventional sense. But wait, from the waist up she looks like woman, then again from the waist down a man. Needless to say this generated discussion on where are we going to put this person, who is going to do the searches, and what about the hormones “she” needs? This was to be our first major exposure to transgender/transsexual offenders. While some of those decisions worked “back then” those same decisions would not be made today. Times have changed.

The changing of the times is reflected in a report to the National Institute of Corrections on “Working with Lesbian, Gay, Bisexual, Transsexual and Intersex Populations”. The report is the outcome of workshop held by the Center for Innovative Public Policy focusing on correctional issues associated with managing this group of offenders in the nation’s jails. This was primarily an issue identification meeting that has PREA implications for most jails. Beyond that there is an emerging agenda within the lesbian, gay, bisexual, transgender and intersex (LGBTI) community regarding the management, supervision and housing of this population. Cases pushing through the courts all over the country are addressing the provision of hormonal medications to transgender offenders, the continuation of transgender-specific medical procedures, and gender awareness issues in areas such as housing and searches. All of these issues will have an impact on jail operations. My goal is to discuss these issues in a non-academic manner without being overly elementary. Forgive me if I seem parsimonious. This article may generate more questions than answers, as this is an example of evolving community standards and the reflection of those standards on jail management.

There is a wide variance in the definitions for the terms “lesbian, gay, bisexual, transsexual and intersex.” Even within the LGBTI community there is some disagreement about the terms. There are a number of national and regional organizations representing the interests of these individuals in social, legal and political contexts. Several terms refer to sexual orientation regardless of gender identity and “plumbing”. The terms gay/lesbian/bisexual relate to “sexual orientation” and denote a person’s



orientation toward someone else, in terms of sexual desire, who they find sexually and/or romantically attractive. Generally, they break down thusly:

Lesbian – This word describes a person’s sexual orientation. Typically this is someone with a female gender identity with female “plumbing,” who is sexually attracted to other females.

Gay – This word describes a person’s sexual orientation. Typically this is someone with a male gender identity with male “plumbing,” who is sexually attracted to other males.

Bisexual – This word describes a person’s sexual orientation. Typically this is someone with a female gender identity with female “plumbing” who is sexually attracted to both males and females; or someone with a male gender identity with male “plumbing” who is sexually attracted to both males and females.

Transgender – This word describes a person’s internally felt sense of one’s own gender, without regard to physical traits present at birth. This person’s internal identity is at odds with the “plumbing”. These persons feel as if they were “born in the wrong body”. Transgender persons are the people most often heard of as seeking hormone treatments or sex reassignment surgery to match their gender identity. Transgender people may either be a “trans-man” (female-to-male) or “trans-woman” (male-to-female). Transgender people may have a sexual orientation that is straight, bisexual, gay, or lesbian.

Intersex – Intersex (also “Disorders of Sex Representation/Differentiation”) is a condition where a person is born with indeterminate genital structures (“plumbing”) that are not entirely male or female, may have a combination of both, or may be under-developed (both externally and internally). Generally, these persons have some parts that male and some parts that are female though this may not be physically obvious. This group also includes individuals that are outwardly male or female but internally have a mixed sexual anatomy. In no cases do they have all male parts AND all female parts. Intersex persons may have a sexual orientation that is straight, bisexual, gay, or lesbian.

There seems to be a 3-sided matrix for what I am terming the “sexual being”. One side of “sexual being” is *physiognomy* (“plumbing”), second is *gender identity*, and the last is *sexual orientation*. The physiognomy for the vast majority of human beings is either male or female. As defined previously intersex persons are the exception, though it may not always be apparent from a simple examination. The most common procedure in a jail for determining an offender’s “sex” (here sex equaling physiognomy) is a visual examination by an Officer, or when available, medical staff. The outcome of this examination is the pronouncement of either “male” or “female”. With this declaration come attenuating management,

supervision and housing practices pertinent to that sex. When sex is not easily determinable, such as the case with some intersex individuals, problems can arise.

Gender identity becomes a little trickier still. There is a wide variation on the definition of “gender identity”. The meaning continues to change as societal norms, mores and values evolve. It can be particular to individual cultures. Generally, gender identity is what the person feels they are internally – male or female. It is the sum of the clothing, behaviors, roles, etc., that a person demonstrates or identifies with on a continuous and on-going basis. This doesn’t mean it is not subject to change as those clothing, behaviors, roles, etc., change. I am really over-simplifying the issue. It is complex and difficult to grasp. For example, most people the gender identity and “plumbing” are in-line (male body with male identity, female body with female identity). But this is not always the case.

There is growing acknowledgment in the medical and mental health fields of a condition termed “gender identity disorder”. According to the Diagnostic and Statistical Manual of Mental Disorders – 4th Edition (DSM-IV) “gender identity disorder” is the persistent and strong cross-gender identification. These persons do not merely want to be a member of the other gender but they are characterized by a general discomfort with their own physiognomy. Persons with this “gender identity disorder” often report feeling out of place in their body. As adults many of these persons express strong desires to live as a member of the opposite sex. Increasingly there is recognition of “gender identity disorder” in children. In April 2007, Barbara Walters had a television special (“Born in the Wrong Body” on ABC) focusing on this issue of juvenile transgenderism.

Add the last element, sexual orientation, and you have the total “sexual being”. “Sexual orientation” refers to the erotic and romantic attraction a person feels toward either males and/or females. I use the “and/or” because there are those individuals with a predilection for either sex, referred to as bisexual persons. Those that have a sexual orientation toward members of the same sex are considered to be homosexual typically termed as gay (for males) or lesbian (for females). For the majority of people the sexual orientation is an attraction for a member of the opposite sex (males prefer females, females prefer males) referred to as heterosexuality. The most complicating element in the matrix is sexual orientation.

Things get tricky in mixing and matching the three elements. For the majority of people the breakdown is something along this order: for males it is male “plumbing”, male gender identity, and an attraction to females; or, for females it is female “plumbing”, female gender identity, and an attraction to males. This would be considered the “norm” (not to be confused with “normal”) or the typical/dominant human “sexual being”. But there are other combinations that are being seen with greater frequency: male “plumbing”, male gender identity, and an attraction to males; female “plumbing”, female gender identity,

and an attraction to females. Transgenderism offers an even greater diversity. Transgender people can run from male “plumbing”, female gender identity, and an attraction to females (or males or both) or female “plumbing”, male gender identity, and an attraction to females (or males, or both). And then they get thrown into jails. This is where we come in and the issues begin to multiply.

Any government’s obligation upon incarcerating a citizen is to provide for a reasonable protection of that person. This is derived from the 8th and 14th Amendments of the U.S. Constitution. Under the 8th Amendment, jails have the duty is to take reasonable measures to guarantee the safety of inmates from assault, suicide, fire/ life safety and preventable illness, that includes: assault and excessive use of force; suicide and self harm; serious medical and mental health needs; and, unconstitutional “conditions of confinement”. The fundamental question is, “How do we uphold our obligations in managing GLBTI offenders?” Additionally, this question only gives rise to a host of other questions some not easily answered:

I would venture to say that most jails have adopted the position that ANY sexual behavior in the facility is a violation. Sex between persons in a correctional setting is forbidden, period. Whether that behavior is homosexual, heterosexual or bisexual is of no consequence. Policies, rules, regulations all articulate this position. Segregate or mainstream. Don’t ask, don’t tell. The focus is more aptly on the potential for victimization – victimization regardless of sexual orientation. Most jails have clearly defined policies on the housing, supervision and management of heterosexual, gay, and lesbian offenders. What about transgender and intersex offenders?

Housing of heterosexual offenders is pretty straightforward (all other classification factors being equal) – males with males, females with females. The segregation of gay and lesbian offenders is generally based upon an articulated risk – current or previous institutional behavior where the need for segregation has been identified, request for protective custody or waiving out of protective custody. Many jails (ours included) do not have a blanket policy of segregating gay and lesbian offenders. Those that can exist in general population are permitted to remain there. They remain there until a situation arises requiring the need for a change in status (victimizing or being victimized, consensual sexual activity, behavioral problems, etc.). A similar situation occurs with regard to bisexual offenders. Protective custody housing will be offered with the offender having the opportunity to waive out to general population which we find the majority of our gay and lesbian offenders wanting to do. Transgender people are placed directly into protective custody with little opportunity to waive out.

Many transgender persons are in the process of changing their physiognomy (sexual re-assignment). This process involves counseling, lifestyle changes, hormone replacement therapy and,

ultimately, various surgical procedures to either implant or remove breasts and genital reconstruction. During this period, many live as a member of the sex they identify most strongly with. So here are the questions:

- What different medical and mental health services must we provide to transgender offenders? Is there a need for a greater level of service and support for the sexual reassignment process? What is the psychological impact of impeding the sexual reassignment process? Does this rise to the level of “serious medical need”? Who makes the determination of this “serious medical need” (a General Practitioner, a specialist in sexual reassignment surgery)?
- Do we book this person in our management information systems as a male or a female? Is the “sex” of the offender going to be based on the offender’s perception of their “sex”? Do we begin to ask offenders to state their gender identity?
- Do we make changes to that information once the surgical procedures are completed? If the offender is now a “trans-man” do we change previous records to reflect that transformation? Do we simply place this into the file as another form of alias?
- What is the basis for determining designation of “sex” in the management information systems? Do we get this information from the offender? Arresting officer? Booking Officer? Medical staff? Do we use DNA and base it on XY/XX chromosomes? Or an Officer specially trained in the new process of “SID-Sexual Identification” (this is a hypothetical post involving an Officer with specialty training in identifying the sex of an individual based on the persons physiognomy)?
- What impact does being a transsexual and “gender identity” have on the above determinations?
- Do we have searches differently based on being transgender, and “gender identity”? If an offender with a female gender identity is more comfortable being pat searched by a female Officer, do we comply? What about the strip search? Use a mixed team (two Officers, one male, one female)? Is there an issue of intrusiveness when a male with a female gender identity is searched by only a male Officer?
- Do we house differently based on being transgender and “gender identity”?

Typically jails base the determination of offender “sex” on physiognomy of the offender. Line Officers are the ones making this determination based on asking or on looking at the offender unclothed. In situations where there may be some ambiguity (such as with intersex or those transgender persons in the middle of surgical reassignment) staff will resort to medical staff for a recommendation. And this has worked well for the most part, until now. Now consideration may have to be made for “gender identity”.

Will we begin to query offenders at booking for their “gender identity”? Will “gender identity” have as big an impact on offender management as “sex”?

Our obligation under the 8th Amendment requires we address “serious medical need”. There is some caselaw that recognizes that a person undergoing sex reassignment process has a “serious medical need” for continuation of hormone treatments (Wolfe v. Horn, 130 F.Supp.2d 648 (E.D.Pa. 2001))...transsexualism [transgenderism] has been characterized as a “serious medical need...” and Kosilek v. Maloney, 221 F.Supp.2d 156 (D. Mass. 2002). But little has been said concerning the continuation of the surgical procedures. Advocates for the LGBTI community would argue for continuation based upon the negative psychological and physical impact of stopping the process. For those jails holding for short periods (a year or less) this probably has minimal impact. But some jails house for five years or more. What then are their responsibilities?

A more pertinent discussion is centered on the issues of housing and searches. Do we house based on “gender identity”? Do we disregard physiognomy in making housing decisions? Do we place a transwoman in a female housing unit even though she possesses male genitalia? Again attorneys for the GLBTI community would make a case for this placement based upon the psychological impact of housing someone with a female gender identity with males. And what about housing people with female physiognomy but with male gender identities with males?

Then there are the searches. Do we base the sex of the Officer conducting the search on the gender identity of the offender? What is the perceived intrusiveness of the search of a transsexual offender if conducted by a member of the opposite sex? Is there a perception of being violated similar to that a person with female “plumbing” and female gender identity would experience if searched by a male Officer? We all acknowledge the legal requirement that strip searches are conducted by a member of the same sex (except in exigent circumstances) and the legal implications of violating this caveat. Should there be a policy that searches are conducted by a “mixed” team of Officers?

Last, what about clothing. If we provide female “plumbing” offenders with bras would we also provide “trans-women” with bras as well? Female offenders usually have access to the same clothing as male offenders. But if female offenders have different clothing than male offenders what accommodations will be made for transgender persons or those with different “gender identity”? We seem more accepting of female offenders walking around in male clothing than male offenders walking around sporting panties and bras. Might this need to change? And what about curlers and other accoutrements associated with “female”? Allow trans-women with male “plumbing” to have them also?

My intent is to open a discussion about the changing nature of “sexual being” and its impact on jails. Society is changing, and in jails we will have to alter the way we do business to reflect these changes. Consider how the civil rights movement brought about significant changes in corrections practice. LGBTI groups are pushing an agenda that could have a similar impact. As always, jails will be better prepared to navigate these changes if they proactively address them rather than waiting until external forces bring the issue to the forefront.

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Exhibit 10a

Deposition Exhibits

PX11-13, PX15-21, PX24-30

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