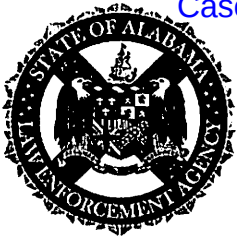


Exhibit 1



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.

Exhibit 2

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*

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

CIVIL ACTION NO.: 2:18-CV-00091-MHT-GMB

DARCY CORBITT, DESTINY CLARK, and JANE DOE,
Plaintiffs,

v.

HAL TAYLOR, in his official capacity as
Secretary of the Alabama Law Enforcement
Agency, et al.

Defendants.

DEPOSITION OF JEANNIE EASTMAN

November 13, 2018

Taken before Elaine Scott, CCR,
Commissioner for the State of Alabama at
Large, in the Law Offices of the Alabama
Attorney General, 501 Washington Avenue,
Montgomery, Alabama, on Thursday, November 13,
2018, commencing at approximately 12:59 p.m.

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A P P E A R A N C E S

FOR THE PLAINTIFFS:

AMERICAN CIVIL LIBERTIES UNION FOUNDATION

Gabriel Arkles

125 Broad Street

18th Floor

New York, New York 10004

ALABAMA CIVIL LIBERTIES UNION FOUNDATION

Brock Boone

Randall C. Marshall

P.O. Box 6179

Montgomery, Alabama 36106

FOR THE DEFENDANTS:

OFFICE OF THE ATTORNEY GENERAL, STATE OF

ALABAMA

Brad A. Chynoweth

501 Washington Avenue

Montgomery, Alabama 36130

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A P P E A R A N C E S (continued)

ALSO PRESENT:

Meredith Barnes

COURT REPORTER:

BAKER REALTIME WORLDWIDE REPORTING & VIDEO

Elaine Scott

250 Commerce Street

Third Floor, Suite One

Montgomery, Alabama 36104

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

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

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?

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?

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?

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

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

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

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

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?

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.

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.

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

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

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.

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.

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

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

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

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

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?

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

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 --

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

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?

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 --

Exhibit 3

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
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Original File 11-14-18 Deena Pregno.txt

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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

CIVIL ACTION NO.: 2:18-CV-00091-MHT-GMB

DARCY CORBITT, DESTINY CLARK, and JANE DOE,
Plaintiffs,
V.

HAL TAYLOR, in his official capacity as
Secretary of the Alabama Law Enforcement
Agency, et al.

Defendants.

DEPOSITION OF DEENA PREGNO

November 14, 2018

Taken before Elaine Scott, CCR,
Commissioner for the State of Alabama at
Large, in the Law Offices of the Alabama
Attorney General, 501 Washington Avenue,
Montgomery, Alabama, on Thursday, November 14,
2018, commencing at approximately 9:00 a.m.

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A P P E A R A N C E S

FOR THE PLAINTIFFS:

AMERICAN CIVIL LIBERTIES UNION FOUNDATION

Gabriel Arkles

125 Broad Street

18th Floor

New York, New York 10004

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Brock Boone

Randall C. Marshall

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FOR THE DEFENDANTS:

OFFICE OF THE ATTORNEY GENERAL, STATE OF

ALABAMA

Brad A. Chynoweth

501 Washington Avenue

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A P P E A R A N C E S (continued)

ALSO PRESENT:

Meredith Barnes

COURT REPORTER:

BAKER REALTIME WORLDWIDE REPORTING & VIDEO

Elaine Scott

250 Commerce Street

Third Floor, Suite One

Montgomery, Alabama 36104

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.

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.

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

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

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

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

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?

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?

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.

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.

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.

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?

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

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.

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

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

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.

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?

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

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

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?

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

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

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

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

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?

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.

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?

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?

Exhibit 4

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

Min-U-Script® with Word Index

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 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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A P P E A R A N C E S

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A P P E A R A N C E S (continued)

ALSO PRESENT:

Meredith Barnes

COURT REPORTER:

BAKER REALTIME WORLDWIDE REPORTING & VIDEO

Elaine Scott

250 Commerce Street

Third Floor, Suite One

Montgomery, Alabama 36104

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.

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

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

Exhibit 5

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.

Plaintiffs' Exhibit 6

**Letter from Christine McGinn, D.O.,
Papillon Center, to Whom It May Concern
(June 22, 2015) (D1170)**

Filed Under Seal

Plaintiffs' Exhibit 7

**Letter from Harold M. Reed to Vital
Statistics (May 16, 2017) (D1154)**

Filed Under Seal

Plaintiffs' Exhibit 8

**Letter from Daniel A. Medalie, M.D.,
MetroHealth, to Whom It May Concern
(Aug. 1, 2014) (D1166)**

Filed Under Seal

Plaintiffs' Exhibit 9

**Affidavit from Charles E. Garramone, D.O.
to Whom It May Concern (Nov. 30, 2015)
(D1174)**

Filed Under Seal

Plaintiffs' Exhibit 10

**Letter from Harold Reed, M.D., F.I.C.S. to
Whom It May Concern (May 7, 2009)
(D1139)**

Filed Under Seal

Plaintiffs' Exhibit 11

**Letter from William J. Hedden, M.D. to
Whom It May Concern (May 23, 2013)
(D1226)**

Filed Under Seal

Plaintiffs' Exhibit 12

**Jerry Gurley, M.D., FACOG, FACS to
Whom It May Concern (May 3, 2010)
(D1250)**

Filed Under Seal

Plaintiffs' Exhibit 13

**Letter from Stephen Steinmetz, M.D.,
F.A.C.S., to Whom It May Concern (Nov. 9,
2016) (D226)**

Filed Under Seal

Exhibit 14

7 FAM 1300 APPENDIX M GENDER CHANGE

(CT:CON-334; 06-10-2010)
(Office of Origin: CA/OCS/PRI)

7 FAM 1310 APPENDIX M SUMMARY

(CT:CON-334; 06-10-2010)

- a. This appendix provides policy and procedures that passport specialists and consular officers must follow in cases in which an applicant requests a gender on the passport application 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 an attending medical physician 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.
- 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. Sexual reassignment surgery is not a prerequisite for passport issuance and such documentation must not be requested.
- e. Medical certification of gender transition from an attending medical physician as described in 7 FAM 1320 Appendix M is the only documentation of gender change required. Other medical records are not to be requested. If a passport adjudicating officer or consular officer has questions about this guidance or a particular case, see 7 FAM 1380 Appendix M.

7 FAM 1320 APPENDIX M DOCUMENTS TO BE SUBMITTED WITH PASSPORT APPLICATION

(CT:CON-334; 06-10-2010)

- a. Requirements for all elements of the passport application aside from gender still apply, including:
- (1) Evidence of U.S. citizenship/nationality. The applicant must submit acceptable evidence of U.S. citizenship or nationality. (See 7 FAM 1100 Acquisition and Retention of U.S. Citizenship and Nationality.) It is not necessary, however, for the applicant to obtain an amended birth record 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;
 - (2) Evidence of identity. The applicant must be asked to submit acceptable evidence of identity in the new gender, if available, and must submit evidence of the new name, if changed. (See 7 FAM 1320.) State law and foreign laws vary as to whether a driver's license or other State government form of identity document may be issued reflecting a gender change. If evidence of change of gender in the identity documents is not obtainable because of state or local requirements, the passport may still be issued in the new gender based on the medical certification outlined below in paragraph b(1)(f).;
 - (3) Photograph. A recent photograph that reflects a good likeness of, and satisfactorily identifies the applicant must be submitted. The photograph must agree with the submitted identification evidence and reflect the applicant's current and true appearance. (See also 7 FAM 1300 Appendix E Passport Photographs.)
 - (4) Passport Fee. All necessary passport fees must be submitted. (See 7 FAM 1300 Appendix G Passport Fees.)
 - (5) Name Change. If the applicant's name has been changed, he/she must present satisfactory evidence of a legal name change. Adjudication of the name change must be handled as a routine request and conform to the requirements of 7 FAM 1300 Appendix C Names to Be Used in Passports.
- b. Medical Certification.
- (1) A full validity U.S. passport will be issued reflecting a new gender upon presentation of the following: A signed original statement, on office letterhead, from the attending medical physician (internist, endocrinologist, gynecologist, urologist or psychiatrist). The statement must include the following information (See 7 FAM 1320 Appendix M Exhibit B):
 - (a) Physician's full name;
 - (b) Medical license or certificate number;

- (c) Issuing state or other jurisdiction of medical license/certificate;
- (d) Drug Enforcement Administration (DEA) registration number assigned to the physician;

NOTE: If the attending physician does not have or provide a DEA number, the passport application is to be suspended for further clarification or verification of the physician's bona fides. Physicians in foreign countries, for example, would not have a DEA number.

- (e) Address and telephone number of the physician;
- (f) Language stating that he/she is the attending physician for the applicant and that he/she has a doctor/patient relationship with the applicant;
- (g) Language stating the applicant has had appropriate clinical treatment for gender transition to the new gender (male or female);
- (h) Language stating "I declare under penalty of perjury under the laws of the United States that the forgoing is true and correct": and
- (i) Annotate the application "gender transition" to record the reason for issuing the full validity passport in the new gender.

NOTE: Passport adjudicators and consular officers must not ask for additional medical information from the applicant.

- (2) A two year limited validity passport reflecting the new gender will be issued upon presentation of the following:
 - (a) Information listed in paragraph 1(a)-(h) above;
 - (b) Language stating the applicant is in the process of gender transition to the new gender (male or female); and
 - (c) Use endorsement code 46 for domestic and Overseas Photodigitized Passports (OPDP) issuance. Annotate the application "gender transition" to record the reason for the limited validity book in the new gender.

Endorsement Code 46: THIS PASSPORT EXPIRES ON (MON DAY, YEAR). IT CANNOT BE REPLACED WITHOUT THE EXPRESS AUTHORIZATION OF THE DEPARTMENT OF STATE.

- (3) If overseas, and an Emergency Photodigitized Passport (EPDP) must be issued so that the applicant can travel, the passport must be limited to three months using endorsement code 109. Annotate the application “gender transition” to record the reason for the limited validity book in the new gender.

Endorsement Code 109: THIS PASSPORT EXPIRES ON (mon day, year). IT CANNOT BE REPLACED WITHOUT THE EXPRESS AUTHORIZATION OF THE DEPARTMENT OF STATE.

- (4) The applicant will receive a passport for the remaining full validity period without further fee, (except for expedited service), if:
- (a) He/she 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);
 - (b) Meets the requirements of (1) or (2) above. ; and
 - (c) Use Endorsement Code 3 for domestic and OPDP passports.

Endorsement Code 3: THIS PASSPORT REPLACES (REGULAR/OFFICIAL/ DIPLOMATIC) PASSPORT NUMBER (NUMBER) ISSUED ON (MON DAY, YEAR). IT IS VALID UNTIL (MON DAY, YEAR).

To replace a passport canceled in error, spoiled or defective book, or a passport containing a data error. Limit to expiration date of original passport.

- c. If the applicant has not submitted the requested medical certification, use the appropriate Information Request Letter (IRL) in corresponding with the passport applicant. (See also 7 FAM 1320 Appendix M Exhibit A, Information Request Letter Regarding Gender Change.) (See 7 FAM 1300 Appendix T for general guidance about IRLs.)

7 FAM 1330 APPENDIX M CONVERSATIONS WITH PASSPORT APPLICANTS SEEKING TO DOCUMENT GENDER TRANSITION

(CT:CON-334; 06-10-2010)

- 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 his/her new gender.
- c. Ask only appropriate questions regarding information necessary to

determine citizenship and identity of the applicant.

7 FAM 1340 APPENDIX M AMENDING GENDER IN REPORTS OF BIRTH

(CT:CON-334; 06-10-2010)

The Form FS-240, Consular Report of Birth Abroad of Citizen of the United States of America, can be amended by the Vital Records Section of Passport Services (CA/PPT/TO/RS/VR) to reflect the change in gender. The same documentary requirements specified above for passport services would pertain to amending gender in a Form FS-240. (See 7 FAM 1440, Consular Report of Birth Abroad of a Citizen of the United States of America.) Inquirers should be directed to Passport Vital Records.

Contact ...

U.S. Department of State
Passport Services
Vital Records Section
1111 19th Street, NW, Suite 510
Washington, DC 20522-1705
(202) 955-0307

7 FAM 1350 APPENDIX M CASES OF UNSPECIFIED GENDER

(CT:CON-334; 06-10-2010)

“Intersex” is a group of conditions where there is a discrepancy between the internal and external genitals (previously this was referred to as hermaphroditism). Unless the applicant has undergone gender transition as outlined in this appendix, the gender listed on the applicant’s birth documentation will determine the gender to be listed in the passport.

7 FAM 1360 APPENDIX M GENDER ERRORS IN ORIGINAL BIRTH CERTIFICATE

(CT:CON-334; 06-10-2010)

If an applicant advises that the gender on his/her birth document mistakenly lists the wrong gender due to typographical error, refer the applicant to the appropriate issuing vital records office.

7 FAM 1370 APPENDIX M QUESTIONS

(CT:CON-334; 06-10-2010)

- a. Passport agencies and centers should contact CA-PPT-ADJQ@state.gov for specific guidance.
- b. U.S. embassies and consulates should contact ASKPRI@state.gov for specific guidance.

7 FAM 1380 THROUGH 1390 APPENDIX M UNASSIGNED

7 FAM 1320 APPENDIX M EXHIBIT A INFORMATION REQUEST LETTER TO APPLICANTS REGARDING GENDER CHANGE

(CT:CON-334; 06-10-2010)

Dear [Name of subject]:

Thank you for your recent passport application. We need your help in order to continue processing your request for the issuance of a passport reflecting a gender different from the one reflected on some or all of the submitted citizenship and/or identity evidence.

A full validity passport reflecting the new gender will be issued to you upon submission of a signed original statement, on office letterhead, from your attending medical physician (internist, endocrinologist, gynecologist or urologist, psychiatrist). The statement, signed under penalty of perjury, must include the following information:

- (a) Physician's full name;
- (b) Medical license or certificate number;
- (c) Issuing state of medical license/certificate;
- (d) Drug Enforcement Administration (DEA) registration number assigned to the physician;
- (e) Address and telephone number of the physician;
- (f) Language stating that he/she is the attending physician for the applicant. He/she has a doctor/patient relationship with the applicant; and
- (g) Language stating that the applicant has had appropriate clinical treatment for gender transition to the new gender (male or female).

If your gender transition process is ongoing, a two year limited validity passport reflecting the new gender will be issued upon submission of the items above and a statement from your attending physician that you are in the process of gender transition.

If we do not receive the requested information within ninety (90) days or the information you submit is insufficient to establish your gender transition, your passport will be issued in your birth gender. If you prefer you may withdraw your application. By law, passport fees are not refundable. Any special return postage will be returned or refunded.

Sincerely,

[Signature]

[Name]

[Title]

[Name of Passport Issuing Office]

7 FAM 1320 APPENDIX M EXHIBIT B MODEL LETTER FOR ATTENDING PHYSICIAN CERTIFYING TO THE APPLICANT'S GENDER CHANGE

(CT:CON-334; 06-10-2010)

Attending Physician's Letterhead (Physician's Address and Telephone Number)

I, (physician's full name), (physician's medical license or certificate number), (issuing State of medical license/certificate), (DEA Registration number), am the attending physician of (name of patient), with whom I have a doctor/patient relationship. (The letter must indicate that the physician is either an internist, endocrinologist, gynecologist, urologist or psychiatrist.)

(Name of patient) has had appropriate clinical treatment for gender transition 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).

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

Exhibit 15

THE GUIDE TO PERSONNEL RECORDKEEPING

Chapter 4: How to Reconstruct a Personnel Folder

Chapter 4 How to Reconstruct a Personnel Folder

How to Reconstruct a Personnel Folder

A transcript of service serves as the notice of reconstruction. The transcript is to remain as the top document of the reconstructed portion in the personnel folder. See Chapter 7 of this Guide for instructions on creating and formatting a transcript of service.

Request to Reconstruct Personnel Folder

Upon the request of an employee to reconstruct his or her personnel folder, use the following procedures.

Step 1 Copy any relevant documents the employee can furnish.

Example:

- Applications for Federal Employment.
- Standard Form 50, Notifications of Personnel Action.
- Earnings and Leave Statements.

Step 2 Request a computer-generated employment history from agencies where the individual was previously employed.

NOTE: While agencies are no longer required to keep Chronological File copies of Standard Form 50, Notification of Personnel Action, request copies when they may be available.

Step 3 Request retirement records.

- If the employee made retirement contributions...
Request a copy of all Individual Retirement Records, Standard Form 2806 and 3100. Provide the employee's name, social security number, and date of birth for each Individual Retirement Record requested. Send the request to:

**Office of Personnel Management
Retirement Operations Center
P. O. Box 45
Boyers, PA 16017**

Requests may also be faxed to 724-794-4668. Insure privacy of the personal information is maintained when requesting an Individual Retirement Record to be faxed to the personnel office. Detailed earnings information can be requested from the Social Security Administration. Send the request to:

THE GUIDE TO PERSONNEL RECORDKEEPING

Chapter 4: How to Reconstruct a Personnel Folder

**Social Security Administration
401 Security Boulevard
Baltimore, MD 21235**

NOTE: Advise the employee to use Form SSA-7050-F3 to request earnings by each employer.

It is important the employee know the Social Security Administration will charge a fee for this service and the fee is based on the number of years of earnings to be reported.

Step 4 Ask the National Personnel Records Center to search for personnel and payroll records.

Address the request to:

**National Archives and Records Administration,
National Personnel Records Center,
1411 Boulder Blvd,
Valmeyer, IL 62295,
ATTENTION: Chief, Civilian Reference Branch
(DO NOT OPEN IN MAILROOM)**

To request a search for the personnel folder:

- Submit a Standard Form 127 (see appendix A), Request for Official Personnel Folder (OPF). In the Remarks section, put the following statement:
 - "The OPF for this employee is lost or destroyed. This is to request a search be made by NPRC for the OPF of the named employee."
- This statement is required to insure the missing Official Personnel Folder was not inadvertently returned to the National Personnel Records Center.

To request a search for payroll records:

- Submit a memo on the agency letterhead. Include the employee's name, social security number, agency in which employed and the following:
 - "This is to request a search of any payroll records on the named employee that may be stored at NPRC."
- Not all agencies store payroll records at the National Personnel Records Center. If the records are not there, contact the agency.

Step 5 Obtain Documents

Obtain any copies of certificates establishing the employee's qualifications for specific jobs. Contact the office that issued appointment certificates for the individual. Use records that document Federal service from the investigative files, and security clearances where appropriate.

THE GUIDE TO PERSONNEL RECORDKEEPING

Chapter 4: How to Reconstruct a Personnel Folder

Step 6 Create Transcript of Service, (DG 27)

Transcript must be created to reflect new identity of employee. Transcript must contain the following information and will capture the data elements reflected in blocks 1-49 of the SF-50,

Data Elements Reflected in Blocks 1-49 of the SF-50

Nature of Personnel Action:

- Name (as directed by the court order)
- Social Security Number Date of Birth
- Effective Date (of Action)
- Nature of Action (NOA) Code
- Legal Authority Code
- Legal Authority Regulation
- Position Title and Number(s)
- Pay Plan
- Occupation Code
- Grade/Level
- Step/Rate
- Total Salary
- Pay Basis
- Locality Pay
- Adjusted Basic Pay
- Other Pay
- Name/Location of Position's Organization

Employee's Data

- Veterans Preference
- FEGLI Code
- Retirement Plan
- Service Computation Date
- Work Schedule
- Period Part Time Hours Per Biweekly

Position Data

- FLSA Category
- Appropriation Code
- Bargaining Unit Status
- Duty Station
- Duty Station Code

Agency Data

- Remarks
- Employing Department or Agency
- Agency Code
- Personnel Office ID
- Approval Date

An introductory paragraph should be added to the transcript identifying the documents used to prepare the transcript.

Example: "The following transcript of Federal service was prepared from an Individual Retirement Record, maintained by the Office of Personnel Management."

An introductory paragraph should be added to the transcript identifying the documents that were signed by the employee at their date of hire/inprocessing:

Example: "The OF 306, Declaration of Employment was signed by the employee on _____."

THE GUIDE TO PERSONNEL RECORDKEEPING

Chapter 4: How to Reconstruct a Personnel Folder

The SF 61, Employment Affidavit, was signed by the employee on

_____.

The SF 144, Statement of Prior Federal Service, was signed by the employee on

_____.

Step 7 Create Transcript of Federal Employees' Training Information

Agencies must collect the following training data elements which will constitute the training portion of an employee's official personnel folder:

List of Training Data Elements

Training Title	Training Credit Type Code
Training Type Code	Training Duty Hours
Training Sub-Type Code	Training Non Duty Hours
Training Start Date	Training Delivery Type Code
Training End Date	Training Purpose Type Code
Continued Service Agreement Expiration Date	Training Source Type Code
Continued Service Agreement Required Indicator	Training Materials Cost
Training Accreditation Indicator	Training Per Diem Cost
Training Credit	Training Travel Cost
Training Credit Designation Type Code	Training Tuition and Fees Cost
	Training Nongovernmental Contribution Cost

Alpha-numeric, or numeric, codes for the Training data elements are found in Chapter 4 of the Guide to Human Resources Reporting.

Step 8 Reconstruct Health Benefits Records.

Contact the employee's health plan and obtain a copy of his or her Health Benefits Election Form (SF 2809) or electronic record of enrollment. Records must go back at least five years; therefore it may be necessary to contact the previous health plan if the employee has changed health plans within the last five years. If the employee was not enrolled for five years, so note in the records.

Step 9 Request employee complete the following forms (as applicable):

- SF 1152, Designation of Beneficiary
- Form W-4 Federal Taxes
- OF 306, Declaration of Employment
- SF 61, Employment Affidavit
- SF 144, Statement of Prior Federal Service

THE GUIDE TO PERSONNEL RECORDKEEPING

Chapter 4: How to Reconstruct a Personnel Folder

- State Tax Form
- SF-1199A, Direct Deposit Form
- RI 76-10, Assignment of Federal Employee's Group Life Insurance*
- Standard Form 2823, Designation of Beneficiary under the Federal Employee's Group Life Insurance*
- Standard Form 3102, Federal Employees Retirement System Designation of Beneficiary*
- Standard Form 2808, Designation of Beneficiary, CSRS*
- TSP-3, Designation of Beneficiary Thrift Savings Plan

***Exceptions:** See Chapter 1, page 1-12. These documents must be initiated in paper with handwritten signatures from the witnesses. They may be converted to an electronic format via electronic scanning.

Step 10 File documents

Use the sections in Chapter 3 of this Guide. Documents listed as prohibited in Chapter 3 may not be filed in a reconstructed personnel folder.

- Documents filed with the transcript:
 - Any documents that support benefits
 - Any Standard Form 50, Notification of Personnel Actions
- Documents NOT filed with the transcript:
 - Standard Form 2806 or 3100, Individual Retirement Record
 - Computer-generated employment histories
 - Payroll records
 - Social Security earnings report

Step 11 Select and Create folder

Follow instructions in Chapter 2 of this Guide to select the correct folder. File the transcript of service in the folder. The transcript will be the top form of the reconstructed portion of the personnel folder. Documents located during the reconstruction process should be filed beneath the transcript.

Step 12 Merge transcript(s) and forms listed under step 8 to complete official personnel folder.

Step 13 Authenticate the official personnel folder by signing at the end of the transcript.

If the agency recognizes eOPF as the official record, the paper transcript can then be converted to an electronic format via electronic scanning into the electronic information system.

If the agency recognizes paper as the official record, file accordingly in agency filing system.

THE GUIDE TO PERSONNEL RECORDKEEPING

Chapter 4: How to Reconstruct a Personnel Folder

How to Reconstruct a Personnel Folder due to a Change in Gender Identity

Place a notice of the reconstruction in the folder

A transcript of service serves as the notice of reconstruction due to the change of name and gender. The transcript is to remain as the top document of the reconstructed portion in the personnel folder. See Chapter 7 of this Guide for instructions on formatting a transcript of service. For further policy guidance, please refer to [Guidance Regarding the Employment of Transgender Individuals in the Federal Workplace](#).

Upon the request of an employee to reconstruct his or her personnel folder to reflect a change in gender identity, use the following procedures. An employee may wish to change the name, gender, or both name and gender in the personnel record. However, for a variety of reasons an employee may not be able to, or choose to, obtain a legal name change at the same time the employee changes the name to be used in everyday interactions. For this reason, even if the OPF has not been updated, agencies are encouraged to adopt procedures that allow employees to use their name of daily usage or first initial in or on email accounts, employee directories, business cards, name tags, and similar items not posing legal or security implications, without requiring a name change order.

Step 1 Request and verify proper documentation from the employee.

Request that the employee submit acceptable evidence of identity in the new gender, if available, and require evidence of the new name, if changed. Legal documentation from a State or local government entity is the primary proof required for a legal name change. State and foreign laws vary as to whether a driver's license or other State form of identification documents may be issued to reflect a gender change. Possession of a valid passport or other government- issued document (e.g. amended birth certificate, court order, etc.) in the employee's new name and gender is per se acceptable evidence of the new name and gender, and no further evidence need be provided.

If there is legal documentation of the name change but evidence of change of gender in the identity documents is not obtainable because of state or local requirements or any other reason, the personnel folder may still be reconstructed with the employee's new name and gender to reflect a change in gender identity based on a secondary form of documentation (i.e. medical certification). To meet the medical certification requirement, the employee has the option to obtain a signed original statement, on office letterhead, from the attending healthcare professional (physician, internist, endocrinologist, gynecologist, urologist, psychiatrist, licensed psychologist, nurse practitioner, physician assistant, or clinical social worker/therapist), that contains the following information:

- Healthcare professional's full name;
- Healthcare professional license or certificate number;

THE GUIDE TO PERSONNEL RECORDKEEPING

Chapter 4: How to Reconstruct a Personnel Folder

- Issuing state or other jurisdiction of license/certificate;
- Address and telephone number of the healthcare professional;
- Language stating that the person is the attending healthcare professional for the employee and that the person has a healthcare professional /patient relationship with the employee;
- Language stating that the employee has had appropriate clinical treatment (based on individual clinical needs and does not imply any specific type or extent of treatment) for transition to the new gender (male or female); and
- Language stating “I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.”

NOTE: No additional medical information may be sought from the employee, and surgery is not required for the employee to have his or her records corrected to reflect the new name and gender.

Step 2 Create Transcript of Service

Transcript must be created to reflect new identity of employee. Transcript must contain the following information and will capture the data elements reflected in blocks 1-49 of the SF-50, Nature of Personnel Action:

Data Elements Reflected in Blocks 1-49 of the SF-50

Nature of Personnel Action:

- Name (as directed by the court order)
- Social Security Number
- Date of Birth
- Effective Date (of Action)
- Nature of Action (NOA) Code
- Legal Authority Code
- Legal Authority Regulation
- Position Title and Number(s) Pay Plan
- Occupation Code
- Grade/Level
- Step/Rate
- Total Salary
- Pay Basis
- Locality Pay
- Adjusted Basic Pay
- Other Pay
- Name/Location of Position’s Organization

Employee’s Data

- Veterans Preference
- FEGLI Code
- Retirement Plan
- Service Computation Date
- Work Schedule
- Part Time Hours Per Biweekly Period

Position Data

- FLSA Category
- Appropriation Code
- Bargaining Unit Status
- Duty Station Code
- Duty Station

Agency Data

- Remarks
- Employing Department or Agency
- Agency Code
- Personnel Office ID
- Approval Date

THE GUIDE TO PERSONNEL RECORDKEEPING

Chapter 4: How to Reconstruct a Personnel Folder

Step 3 Create Transcript of Health Benefits Enrollment Records

- List of all FEHB enrollment actions including information recorded on SF 2809s and SF 2810s. Must list each of the following:
 - Initial enrollment with enrollment code and effective date
 - Election not to enroll and date
 - Enrollment changes with the codes and the effective date of each code;
 - Cancellations with the enrollment code and effective date
 - Terminations with the enrollment code and effective date
 - Reinstatements and Transfer Ins with the enrollment code and effective date
 - Name changes with enrollment code and effective date
 - Notations included in the Remarks section of the SF 2809s or SF 2810s
 - Effective dates and brief summary of any additional documents or memos, including: waiver of premium conversion;
 - documentation of belated elections;
 - court order requiring employee to enroll in a plan that covers children (the edits or flag in the system must stay in place to ensure that the employee does not cancel or change to self only, therefore, the flag must be moved to the new identity);
 - leave without pay election to terminate or continue with a direct pay account or continue and incur a debt;
 - election to terminate or continue during active military duty
 - waiver of automatic reinstatement due to transitional TRICARE following active duty military service;

NOTE: An alternative for maintaining a record of a court order is to redact the name of the employee from the court order document and include a copy in the new file along with the transcript.

- Must request a history of health benefits actions processed through electronic systems, for example, EBIS, My Pay, Personal Page, Employee Express or PostaleZ and attach to transcript.
- List children age 22 or over incapable of self support with their name, date of birth, social security number, sex, and the date the agency certified eligibility. Include call- up date for future re-evaluation if applicable.
- List foster children with their name, date of birth, social security number, sex, and the date the agency certified eligibility.
- The employing agency must complete a new SF 2810 to change the employee's gender and, if applicable, his or her name to reflect to change in gender identity. In completing this form, the agency should include the following in the remarks section: "Change in name data element from [name 1] to [name 2]. Change in gender data element from [male/female] to [female/male]." The effective date should be as soon as possible once the employee has submitted the information in Step 1 above.

THE GUIDE TO PERSONNEL RECORDKEEPING

Chapter 4: How to Reconstruct a Personnel Folder

- Temporary Continuation of Coverage (TCC) for family members is documented as a separate file from the OPF with the employee's name on it. We suggest that the new name be put on this file and it be maintained as is. If this is not possible, then the TCC file should have the employee's name redacted and maintained as an independent file with no association with the new name of the employee.
- Spouse Equity Act. Documentation of a former spouse's entitlement to benefits must travel with the employee's file in order to ensure the former spouse's entitlement up through the retirement or death of the employee. The former name of the employee may be redacted from the documents.
- Continuation of Benefits. The spouse of the employee at the time of the employee's change in gender identity retains coverage as the employee's spouse, as do the employee's children. The employee is entitled to benefits in the new gender and, if applicable, new name.

Step 4 Create Transcript of Federal Employees' Group Life Insurance (FEGLI) Records

- For current FEGLI actions, there is a SF 50 *Notification of Personnel Action* produced for any change. The Nature of Action (NOA) code 881 indicates a FEGLI Change. Must list each of the following for each FEGLI change:
 - Effective date of NOA
 - FEGLI Code displayed in block #27
 - Must include any written comments in Section 6, Agency Use Remarks section for all SF 2817 forms in OPF
- For FEGLI history prior to effective date of FEGLI code on the SF 50 form or for agencies that do not use SF 50 forms. Must list each of the following:
 - FEGLI coverage elected or SF 50 FEGLI code on the SF 2817 Life Insurance Election or its precursors SF 176, SF 176-T, or on Open Season election forms RI 76- 27, FE-2004
 - Date of receipt in employing office (on older forms)
 - Effective date of coverage. Shown on SF 2817 form dated June 1984 and later
 - Must include any written comments in Section 6, Agency Use Remarks section for all SF 2817 forms

NOTE: If employee is in a FEGLI eligible position, he or she automatically gets FEGLI Basic even if no form is completed.

- Must include a summary of all memos to file for FEGLI

Examples: Agency explanation for allowing a belated election

THE GUIDE TO PERSONNEL RECORDKEEPING

Chapter 4: How to Reconstruct a Personnel Folder

Incontestability explanation

- If there is an SF 2821 *Agency Certification of Insurance Status* or its precursor SF 56, the following items from that form must be detailed on the transcript:
 - Event requiring certification (block #4.a. on SF 2821)
 - Date of the event requiring certification (block #8. on SF 2821)
 - Date of SF 2819, *Notice of Conversion Privilege* (block #9 on SF 2821)
 - Annual basic pay (block #10)
 - Date signed by certifying official
- If there is an SF 2822 *Request for Insurance* in the OPF, the agency must provide the following information from Part B:
 - Decision—acceptance or denial
 - Date of decision
 - Name of OFEGLI Reviewer
- If there is a FE-8C form *Living Benefits Approval*. NOA code 805, 806 on SF 50. Must include a summary with the following:
 - NOA code
 - Effective date of Living Benefits election Post-election Basic Insurance Amount
- Public Law 110-81 authorizes the continuation of FEGLI coverage for up to 24 months for Federal employees called to active duty. An election form is required in the OPF. If the election form is present, it must be notated on the transcript. Must include the following:
 - Per Public Law 110-81, employee elected to continue the coverage at the end of 12 months OR;
 - Per Public Law 110-81, employee elected to terminate coverage at the end of 12 months.
 - Date signed by employee
 - Name of Agency Representative and Date signed
 - List child(ren) age 22 or over incapable of self support with the name, date of birth, sex and the date the agency certified eligibility. Include call-up date for future re- evaluation if applicable.

The criteria for the employing office's determination are the same as those for the FEHB Program and FEDVIP. If the employee has already established eligibility for a child under the FEHB Program, s/he does not need to establish eligibility again under FEGLI.

- List Foster child(ren) with the name, date of birth, sex, and the date the agency certified eligibility.

THE GUIDE TO PERSONNEL RECORDKEEPING

Chapter 4: How to Reconstruct a Personnel Folder

- Continuation of Benefits. The spouse of the employee at the time of the employee's change in gender identity retains coverage as the employee's spouse, as do the employee's children. The employee is entitled to benefits in the new gender and, if applicable, new name.

The requirements for coverage of foster children under FEGLI are the same as those for coverage of foster children under the Federal Employees Health Benefits (FEHB) Program or the Federal Employees Dental and Vision Insurance Program (FEDVIP). If there is already a certification on file for the FEHB or FEDVIP Program, the employee does not have to complete a new certification for Option C coverage, unless the employee is electing or increasing Option C because s/he acquires a foster child.

Original FEGLI documents needed that cannot be summarized on a transcript.

- SF 2823 Designation of Beneficiary or its precursor SF 54
- By law 8705 and regulation, FEGLI benefits are paid in a particular order. The first in this list is the designated beneficiary.
- The agency needs to strongly recommend to the employee that he/she complete a new SF 2823 (if there is an old one with the old identity) but cannot force the employee to do so.
- If a new one is validly completed and filed, it will supersede previous ones on file.
- If a new SF 2823 is not completed, by law any prior designation form in the sealed OPF is the form used for payment. That form will need to be accessed at death before any FEGLI payment can be made.
- The transcript must state if there are any FEGLI designations forms on file and the date of the form(s) if applicable. It should also be noted if there is no form on file.
- OFEGLI needs the actual hard copy form to pay proceeds after death.
- RI 76-10 Assignment of Life Insurance
- The original RI 76-10 is maintained by the agency. The agency needs to know that it is assigned since certain actions can be done by the assignee, not the insured. For example, the insured cannot reduce coverage (except for Option C) after an assignment. The agency sends the RI 76-10 to the OPM Retirement Office at the time of retirement or to OFEGLI after death. It cannot be condensed to put on the transcript. OFEGLI needs the actual hard copy form to pay proceeds after death.
- Once the coverage is assigned the employee cannot assign again. However, the assignee can assign the coverage to another party or back to the insured employee. Court order for FEGLI purposes
- The certified copy of a court order for FEGLI is maintained by the agency. It is not interpreted by the agency. They send to the OPM Retirement Office at the time of retirement or to OFEGLI after death. It cannot be condensed to put on the transcript.

THE GUIDE TO PERSONNEL RECORDKEEPING

Chapter 4: How to Reconstruct a Personnel Folder

OFEGLI needs the actual hard copy certified court order to make a determination at death. They need a certified copy of the complete court order.

Step 5 Request employee completes the following forms (as applicable):

- SF 1152, Designation of Beneficiary
- Form W-4 Federal Taxes
- State Tax Form
- OF 306, Declaration of Employment
- SF 61, Employment Affidavit
- SF 144, Statement of Prior Federal Service
- SF-1199A, Direct Deposit Form
- RI 76-10, Assignment of Federal Employee's Group Life Insurance*
- SF 2823, Designation of Beneficiary under the Federal Employee's Group Life Insurance*
- SF 3102, Federal Employees Retirement System Designation of Beneficiary*
- SF 2808, Designation of Beneficiary, CSRS*
- TSP-3, Designation of Beneficiary Thrift Savings Plan
- I-9 Form (Note: I-9 Form of the old identity will be captured, destroyed and replaced with an I-9 Form reflecting the new identity and will be placed in a separate file. Please refer to General Records Schedule 1, 10b for records retention and disposition instructions)

An introductory paragraph should be added to the transcript identifying the documents that were signed by the employee at their date of hire/inprocessing:

Example: "The OF 306, Declaration of Employment was signed by the employee on _____.

The SF 61, Employment Affidavit, was signed by the employee on _____.

The SF 144, Statement of Prior Federal Service, was signed by the employee on _____.

***Exceptions:** See Chapter 1, page 1-9. These documents must be initiated in paper with handwritten signatures from the witnesses. They may be converted to an electronic format via electronic scanning.

THE GUIDE TO PERSONNEL RECORDKEEPING

Chapter 4: How to Reconstruct a Personnel Folder

Step 6 Merge transcript(s) and forms listed under step 5 to complete official personnel folder.

Step 7 Authenticate the official personnel folder by signing at the end of the transcript.

If the agency recognizes eOPF as the official record, the paper transcript can then be converted to an electronic format via electronic scanning into the electronic information system.

If the agency recognizes paper as the official record, file accordingly in agency filing system.

Step 8 Send OPF to NPRC

OPF of former “identity” is sealed and forwarded to the National Personnel Records Center (NPRC). Folder should be double-wrapped along with introduction letter (see appendix B) and sent to the following address:

**National Archives and Records
Administration, National Personnel Records
Center,
1411 Boulder Blvd, Valmeyer, IL 62295,
ATTENTION: Chief, Civilian Reference Branch (DO NOT OPEN IN
MAILROOM)**

If the agency recognizes eOPF as the official record, the eOPF will be deactivated by the losing agency and the eOPF will be forwarded to the NPRC instance within EHRI.

Step 9 Provide copy of new OPF to the employee via paper or electronically.

Former employees returning back to Federal Service

Step 1 Initiate search for OPF

Submit a Standard Form 127, Request for Official Personnel Folder (OPF) of former employee’s former identity from the National Personnel Records Center:

**National Archives and Records
Administration, National Personnel Records
Center,
1411 Boulder Blvd,
Valmeyer, IL 62295111**

Step 2 Reconstruct OPF

Follow steps listed above regarding Change in Gender Identity.

THE GUIDE TO PERSONNEL RECORDKEEPING

Chapter 4: How to Reconstruct a Personnel Folder

Former employees returning back to Federal Service and the official personnel folder of the former identity cannot be located

Place a notice of the reconstruction in the folder

A transcript of service serves as the notice of reconstruction due to the change of name and gender. The transcript is to remain as the top document of the reconstructed portion in the personnel folder. See Chapter 7 of this Guide for instructions on formatting a transcript of service. For further policy guidance, please refer to [Guidance Regarding the Employment of Transgender Individuals in the Federal Workplace](#).

Upon the request of a former employee returning to Federal service to reconstruct his or her personnel folder to reflect a change in gender identity, use the following procedures. A former employee may wish to change the name, gender, or both name and gender in the personnel record. However, for a variety of reasons an employee may not be able to, or choose to, obtain a legal name change at the same time the employee changes the name to be used in everyday interactions. For this reason, even if the OPF has not been updated or not located, agencies are encouraged to adopt procedures that allow employees to use their name of daily usage or first initial in or on email accounts, employee directories, business cards, name tags, and similar items not posing legal or security implications, without requiring a name change order.

Step 1 Request and verify proper documentation from the employee.

Request that the employee submit acceptable evidence of identity in the new gender, if available, and require evidence of the new name, if changed. Legal documentation from a State or local government entity is the primary proof required for a legal name change. State and foreign laws vary as to whether a driver's license or other State form of identification documents may be issued to reflect a gender change. Possession of a valid passport or other government- issued document (e.g. amended birth certificate, court order, etc.) in the employee's new name and gender is per se acceptable evidence of the new name and gender, and no further evidence need be provided.

If there is legal documentation of the name change but evidence of change of gender in the identity documents is not obtainable because of state or local requirements or any other reason, the personnel folder may still be reconstructed with the employee's new name and gender to reflect a change in gender identity based on a secondary form of documentation (i.e. medical certification). To meet the medical certification requirement, the employee has the option to obtain a signed original statement, on office letterhead, from the attending healthcare professional (physician, internist, endocrinologist, gynecologist, urologist, psychiatrist, licensed psychologist, nurse practitioner, physician assistant, or clinical social worker/therapist), that contains the following information:

- Healthcare professional's full name;
- Healthcare professional license or certificate number;
- Issuing state or other jurisdiction of license/certificate;
- Address and telephone number of the healthcare professional;

THE GUIDE TO PERSONNEL RECORDKEEPING

Chapter 4: How to Reconstruct a Personnel Folder

- Language stating that the person is the attending healthcare professional for the employee and that the person has a healthcare professional /patient relationship with the employee;
- Language stating that the employee has had appropriate clinical treatment (based on individual clinical needs and does not imply any specific type or extent of treatment) for transition to the new gender (male or female); and
- Language stating “I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.”

NOTE: No additional medical information may be sought from the employee, and surgery is not required for the employee to have his or her records corrected to reflect the new name and gender.

Step 2 Reconstruct OPF

Follow steps 1-4 regarding the reconstruction of an official personnel folder at the beginning of the chapter (using the old identity).

Once the proper documentation is obtained of the former identity, then follow the steps regarding the Change in Gender Identity listed above.

Exhibit 16

Department of Veterans Affairs
Veterans Health Administration
Washington, DC 20420

VHA DIRECTIVE 2013-003

February 8, 2013

PROVIDING HEALTH CARE FOR TRANSGENDER AND INTERSEX VETERANS

1. PURPOSE: This Veterans Health Administration (VHA) Directive establishes policy regarding the respectful delivery of health care to transgender and intersex Veterans who are enrolled in the Department of Veterans Affairs (VA) health care system or are otherwise eligible for VA care.

2. BACKGROUND: In accordance with the medical benefits package (title 38 Code of Federal Regulations (CFR) section 17.38), VA provides care and treatment to Veterans that is compatible with generally accepted standards of medical practice and determined by appropriate health care professionals to promote, preserve, or restore the health of the individual.

a. VA provides health care for transgender patients, including those who present at various points on their transition from one gender to the next. This applies to all Veterans who are enrolled in VA's health care system or are otherwise eligible for VA care, including those who have had sex reassignment surgery outside of VHA, those who might be considering such surgical intervention, and those who do not wish to undergo sex reassignment surgery but self-identify as transgender. Intersex individuals may or may not have interest in changing gender or in acting in ways that are discordant with their assigned gender.

b. VA does not provide sex reassignment surgery or plastic reconstructive surgery for strictly cosmetic purposes.

c. Definitions

(1) **Sex.** Sex refers to the classification of individuals as female or male on the basis of their reproductive organs and functions.

(2) **Gender.** Gender refers to the behavioral, cultural, or psychological traits that a society associates with male and female sex.

(3) **Transgender.** Transgender is a term used to describe people whose gender identity (sense of themselves as male or female) or gender expression differs from that usually associated with their sex assigned at birth.

(a) Transsexual (Male-to-Female). Male-to-female (MtF) transsexuals are a subset of transgender individuals who are male sex at birth but self-identify as female and often take steps to socially or medically transition to female, including feminizing hormone therapy, electrolysis, and surgeries (e.g., vaginoplasty, breast augmentation).

THIS VHA DIRECTIVE EXPIRES FEBRUARY 28, 2018

VHA DIRECTIVE 2013-003

February 8, 2013

(b) Transsexual (Female-to-Male). Female-to-male (FtM) transsexuals are a subset of transgender individuals who are female sex at birth but self-identify as male and often take steps to socially or medically transition to male, including masculinizing hormone therapy and surgeries (e.g., phalloplasty, mastectomy).

(4) **Sex reassignment surgery**. Sex reassignment surgery includes any of a variety of surgical procedures (including vaginoplasty and breast augmentation in MtF transsexuals and mastectomy and phalloplasty in FtM transsexuals) done simultaneously or sequentially with the explicit goal of transitioning from one sex to another. This term includes surgical revision of a previous sex reassignment surgery for cosmetic purposes. *NOTE: This term does not apply to non-surgical therapy (e.g., hormone therapy, mental health care, etc.) or intersex Veterans in need of surgery to correct inborn conditions related to reproductive or sexual anatomy or to correct a functional defect.*

(5) **Gender Identity Disorder (GID)**. GID is a conflict between a person's physical sex and the gender with which the person identifies.

(6) **Intersex**. Intersex individuals are born with reproductive or sexual anatomy and/or chromosome pattern that do not seem to fit typical definitions of male or female. People with intersex conditions are often assigned male or female gender by others at birth (e.g., parents), although the individual may or may not later identify with the assigned gender.

3. POLICY: It is VHA policy that medically necessary care is provided to enrolled or otherwise eligible intersex and transgender Veterans, including hormonal therapy, mental health care, preoperative evaluation, and medically necessary post-operative and long-term care following sex reassignment surgery. Sex reassignment surgery cannot be performed or funded by VA.

4. ACTION

a. **Veterans Integrated Service Network (VISN) Director**. Each VISN Director must ensure that necessary and appropriate health care is provided to all enrolled or otherwise eligible Veterans based on the Veteran's self-identified gender, regardless of sex or sex reassignment status.

b. **Medical Facility Director, Chief of Staff, and Associate Director for Patient Care Services or Nurse Executive**. The medical facility Director, Chief of Staff, and Associate Director for Patient Care Services or Nurse Executive are responsible for ensuring:

(1) Transgender patients and intersex individuals are provided all care included in VA's medical benefits package including but not limited to: hormonal therapy, mental health care, preoperative evaluation, and medically necessary post-operative and long-term care following sex reassignment surgery to the extent that the appropriate health care professional determines that the care is needed to promote, preserve or restore the health of the individual and is in accord with generally-accepted standards of medical practice.

VHA DIRECTIVE 2013-003
February 8, 2013

(a) Patients will be addressed and referred to based on their self-identified gender. Room assignments and access to any facilities for which gender is normally a consideration (e.g., restrooms) will give preference to the self-identified gender, irrespective of appearance and/or surgical history, in a manner that respects the privacy needs of transgender and non-transgender patients alike. Where there are questions or concerns related to room assignments, an ethics consultation may be requested.

(b) The documented sex in the Computerized Patient Record System (CPRS) needs to be consistent with the patient's self-identified gender. In order to modify administrative data (e.g., name and sex) in CPRS, patients must provide official documentation as per VHA guidance and policy on Identity Authentication for Health Care Services and Data Quality Requirements for Identity Management and Master Patient Index Functions.

(c) Sex reassignment surgery as defined in subparagraph 2c(4), will not be provided or funded.

(d) Non-surgical, supportive care for complications of sex-reassignment surgery must be provided. For example, a MtF patient over the age of 50 may be offered breast cancer screening and may wish to discuss the benefits and harms of prostate cancer screening with her provider. A FtM transsexual patient may be offered screening for breast and cervical cancer.

(e) A diagnosis of GID, or other gender dysphoria diagnoses, is not a pre-condition for receiving care consistent with the Veteran's self-identified gender.

(2) All other health services are provided to transgender Veterans without discrimination in a manner consistent with care and management of all Veteran patients.

(3) All staff, including medical and administrative staff, are required to treat as confidential any information about a patient's transgender status or any treatment related to a patient's gender transition, unless the patient has given permission to share this information.

(4) VA Mandates diversity awareness and maintains a zero-tolerance standard for harassment of any kind.

5. REFERENCES

Title 38 CFR § 17.38 (c).

6. FOLLOW-UP RESPONSIBILITY: The Office of Patient Care Services (10P4) is responsible for the contents of this Directive. Questions related to medical care may be referred to Specialty Care Services (10P4E) at (202) 461-7120. Questions related to mental health care may be referred to the Office of Mental Health Services (10P4M) at (202) 461-7310.

7. RESCISSIONS: VHA Directive 2011-024, Providing Health Care for Transgender and Intersex Veterans, is rescinded. This VHA Directive expires February 28, 2018.

VHA DIRECTIVE 2013-003
February 8, 2013

Robert A. Petzel, M.D.
Under Secretary for Health

Attachment

DISTRIBUTION: E-mailed to the VHA Publications Distribution List 2/11/2013

Attachment A**FREQUENTLY ASKED QUESTIONS (FAQ) REGARDING THE
PROVISION OF HEALTH CARE FOR TRANSGENDER AND INTERSEX VETERANS****1. What is the prevalence of transgender individuals? Is there a difference between transgender and transsexual individuals?**

a. The prevalence of transgender individuals is not known in general or in the Veteran population. This is because of challenges in defining gender identity, the reluctance of individuals to identify themselves to others as transgender, and measures that are narrowly focused on subsets of individuals who either have been diagnosed with gender identity disorder (GID) or have had sex reassignment surgery. It is for these reasons that the Institute of Medicine issued their report “The Health of Lesbian, Gay, Bisexual, and Transgender People: Building a Foundation for Better Understanding” (March 31, 2011) and called on Health and Human Services (HHS) and other Federal agencies to “implement a research agenda designed to advance knowledge and understanding of Lesbian, Gay, Bisexual, and Transgender (LGBT) health. This agenda includes appropriate data gathering on sexual orientation and gender identity in public health research tools and electronic health records.

b. Current estimates of the prevalence of transsexual individuals with GID are approximately 1:11,000 natal males and 1:30,000 natal females. The prevalence of all transgender individuals is much higher since “transgender” is an umbrella term that includes individuals who do not have GID.

c. Based on these data, the estimated prevalence of Male-to-Female (MtF) to Female-to-Male (FtM) transsexual individuals is approximately 3:1 in the general population. This prevalence ratio is likely to be higher in the predominantly male Veteran population. It is important to note that FtM transsexual individuals are also part of the Veteran population.

d. Intersex Veterans, that is, individuals who are born with reproductive or sexual anatomy and/or chromosome pattern that do not seem to fit typical definitions of male or female, may or may not identify as transgender.

2. Is transgender the same as being “gay” or “lesbian?”

No. The term “transgender” refers to gender identity or the sense of oneself as male, female, or other, (e.g., androgynous, eunuch, etc.). The terms “gay” (in the case of men) and “lesbian” (in the case of women) refer to sexual orientation. The sexual orientation of gay and lesbian persons is attraction to the same gender whereas heterosexual persons are attracted to the opposite gender. A transgender Veteran may identify as heterosexual (“straight”), gay, lesbian, bisexual (i.e., attracted to both genders), queer, pansexual, asexual, etc. Knowing someone’s gender identity gives you no information about their sexual orientation.

VHA DIRECTIVE 2013-003

February 8, 2013

3. What is intersex?

Intersex individuals are born with reproductive or sexual anatomy and/or chromosome pattern that do not seem to fit typical definitions of male or female. People with intersex conditions are often assigned male or female gender by others at birth (e.g., parents), although the individual may or may not later identify with the assigned gender.

4. Do all intersex individuals identify as transgender?

No. For example, an individual may be assigned the physical status of “female” at birth and identify as female throughout her lifetime, with or without knowledge of an intersex condition. Some intersex persons with male chromosomes who have been assigned female become gender dysphoric even without knowing that they were “reassigned” at, or near, birth. Knowing someone has an intersex condition gives you no information about their gender identity or sexual orientation.

5. What is sex reassignment surgery?

Sex reassignment surgery includes any of a variety of surgical procedures done simultaneously or sequentially with the explicit goal of transitioning from one gender to another. This term includes surgical revision of a previous sex reassignment surgery for cosmetic purposes. This term does not apply to non-surgical therapy (e.g., hormone therapy, mental health care, etc.) or to intersex Veterans in need of surgery to correct inborn conditions related to reproductive or sexual anatomy or to correct a functional defect.

6. Will VA provide sex reassignment surgery and plastic reconstructive surgery if needed?

VA does not provide sex reassignment surgery in VA facilities or through non-VA care. In addition, VA does not provide plastic reconstructive surgery for strictly cosmetic purposes in VA facilities or through non-VA care. However, patients with GID or other gender dysphoria conditions may elect to have one or more medical or surgical procedures over their lifetime to bring their bodies into a closer alignment with their perceived gender. *NOTE: Only a minority of transgender Veterans will undergo sex reassignment surgery, as their symptoms may often be adequately treated with other therapeutic interventions.* Some Veterans receiving care at the VA may have had sex reassignment surgery somewhere else. The VA does provide health care to pre- and post-operative transsexual Veterans, including treatment of surgical complications.

7. Will the VA provide for electrolysis through non-VA care for male-to-female transsexual (MtF) Veterans?

No. VA will not provide electrolysis as this is considered by VHA to be cosmetic rather than medically necessary to promote, preserve, or restore health of the Veteran.

8. What are the guidelines for clinical care and the informed consent process?

a. Effective clinical care for transgender and intersex patients ideally involves an interdisciplinary, coordinated treatment approach with special attention to the needs of the individual patient and collaboration among multiple specialties, notably: gynecology, mental health, primary and specialty care, women's health, pharmacy, and urology. For all treatments and procedures, informed consent and shared decision-making needs to be the basis for individualized care that weighs the possible benefits and harms, with an emphasis on the lowest (safest) dose to achieve benefits. *NOTE: Procedures regarding informed consent can be found in VHA Handbook 1004.01, Informed Consent for Clinical Treatments and Procedures at: http://www1.va.gov/vhapublications/ViewPublication.asp?pub_ID=2055.*

b. For treatment plans that include cross-sex hormone therapy, VA clinicians must, consistent with requirements of informed consent (VHA Handbook 1004.01), discuss the risks, benefits, and limitations of cross-sex hormone therapy with the patient. Signature consent is not required for cross-sex hormone therapy. Ongoing monitoring of treatment is required.

9. Will VA provide feminizing or masculinizing hormone therapy?

Yes, if it is consistent with the patient's wishes, the treatment team's clinical recommendations, and VA treatment guidance.

10. What guidance is available to clinicians regarding hormone therapy?

VA Pharmacy Benefits Management Services has developed guidance for the use of hormone therapy in transgender and intersex patients in VA. This guidance is located at: <http://vaww.national.cmop.va.gov/PBM/default.aspx>. *NOTE: This is an internal Web site and is not available to the public.*

11. What are the goals of cross-sex hormonal treatment? What effects and risks are associated with hormonal treatment?

a. Cross-sex hormonal treatment is used to reduce or eliminate gender dysphoria and other symptoms related to the discordance between a transgender or intersex individual's gender identity and their biological sex at birth or the gender they were assigned at birth. The treatment produces changes in hormonally-sensitive sex characteristics (i.e., reducing characteristics of the original sex and inducing those of the opposite sex). VA clinicians need to provide transgender and intersex patients with a careful evaluation prior to providing a prescription for cross-sex hormonal therapy.

b. The goal of cross-sex hormone therapy in treatment of MtF transgender patients is to suppress testosterone levels and introduce estrogen to achieve a pre-menopausal female hormonal range. The effects are decreased facial and body hair, redistribution of fat, breast development and prostate and testicular atrophy. Risks include venous thromboembolism, liver dysfunction, hypertension, and cardiovascular disease. As with any medical therapy, benefits

VHA DIRECTIVE 2013-003

February 8, 2013

and harms of treatment need individualization using principles of shared decision-making, with an emphasis upon the lowest (safest) dose to achieve benefits.

c. The goal of cross-sex hormone therapy in treatment of FtM transgender patients is to maintain testosterone and estrogen levels in the normal male range, generally through testosterone supplementation and sometimes in combination with a Gonadotropin Releasing Hormone (GnRH) agonist or progestins to suppress menses. The effects are increased facial and body hair and muscle, acne, permanent deepening of the voice, cessation of menses, redistribution of fat mass, and clitoral enlargement. Risks include hypertension, erythrocytosis, liver dysfunction, lipid changes, weight gain, and sodium retention.

12. Are there specific diagnostic criteria to consider in prescribing cross-sex hormone therapy?

a. A diagnosis of GID or other dysphoria condition should be the basis for prescription for cross-sex hormonal therapy for transgender patients. There may be clinical exceptions to the diagnosis for prescribing cross-sex hormone therapy (e.g., transgender individuals with “GID not otherwise specified”).

b. Intersex patients are excluded from the GID diagnosis by DSM IV criteria. Transgender patients with intersex conditions who are seeking hormonal treatment need to fulfill DSM IV criteria for “GID not otherwise specified.” Intersex and transgender individuals may have different mental health considerations.

13. Transgender and intersex Veterans are presenting to VA providers with prescriptions for hormones from outside sources, such as from another provider, the internet, or illicit sources. Should we stop these medications while we do a full evaluation or should a VA provider rewrite the prescriptions so they can be filled in a VA pharmacy and continued?

Under current VHA National Dual Care Policy, VA providers are not permitted to simply rewrite prescriptions from an outside provider, unless the VA provider has first made a professional assessment that the prescribed medication is medically appropriate. However, cross sex hormones cannot generally be stopped abruptly without negative physical and psychiatric consequences. If the patient has records that support a thorough evaluation and psychotherapy prior to initiation of hormones, then it may be appropriate for a VA provider to rewrite the prescriptions so they can be filled in a VA pharmacy and continued while the evaluation is in progress and to monitor hormone levels. A mental health exam in this situation is not required and is based on the clinical situation. Very high doses of cross-sex hormones are associated with a greater likelihood of side effects, and a reduction in dose may be required. Additionally, the benefits and harms of hormonal therapy differ based upon the presence or absence of risk factors for, or occurrence of, serious complications (cardiovascular, thrombotic-embolic) and thus dosage needs to be individualized.

14. What if a transgender or intersex Veteran presents to VA and self-reports that they have been taking cross sex hormones that they would like to continue but can provide no supportive documentation from a physician?

Consistent with the VHA National Dual Care Policy, VA clinicians need to provide transgender patients with a careful medical and mental health evaluation prior to providing a prescription for cross-sex hormonal therapy.

15. Is a mental health evaluation necessary or required?

A thorough and careful mental health evaluation needs to be completed prior to provision of hormone therapy and needs to include evaluation and treatment for psychiatric comorbidities that may have overlapping presentations, such as depression, anxiety, Post Traumatic Stress Disorder (PTSD) or substance use disorders. The presence of other psychiatric and physical conditions is not necessarily a barrier to initiating treatment. For patients who enter VA with well-documented cross-sex hormone therapy from outside clinicians, mental health evaluations are optional based on the clinical presentation.

16. I understand that VA does not provide sex reassignment surgery, but are there any special considerations regarding a mental health evaluation prior to sex reassignment surgery?

Mental health evaluation prior to surgery includes specialized exams by knowledgeable doctoral level clinicians. Some professional associations with expertise on transgender issues (see resources in paragraph 28 of this Attachment) recommend that individuals contemplating genital surgery need to participate in a minimum of a 1-year “real life experience” i.e., living full time in the preferred gender role, prior to any genital surgical intervention.

17. In what ways would a pre-operative medical evaluation differ for these Veterans?

Medical evaluation prior to surgery includes pre-operative cardiac risk assessment and careful evaluation of current medications including hormone dosing.

18. What types of surgeries might transgender Veterans consider?

a. As part of their transition, FtM patients might consider undergoing several types of surgery including mastectomy, hysterectomy or oophorectomy, and neophallus construction. The common complications of neophallus construction include flap or graft necrosis, fistulae, urinary tract infection, donor site scarring, and infections. Mastectomy and hysterectomy have far fewer complications. Clinicians need to be aware that VA does not provide sex reassignment surgery or plastic reconstructive surgery for strictly cosmetic purposes in VA facilities or through non-VA care.

b. As part of their transition, MtF patients might consider undergoing several types of surgery including orchiectomy, penectomy, vaginoplasty, breast implants, laryngeal shave, and facial feminization procedures. Common complications of genital surgeries include strictures,

VHA DIRECTIVE 2013-003

February 8, 2013

infections, fistulae, urinary tract complications and loss of genital sensation. Clinicians need to be aware that VA does not provide sex reassignment surgery or plastic reconstructive surgery for strictly cosmetic purposes in VA facilities or through non-VA care. MtF patients may consider undergoing electrolysis for hair removal. Clinicians need to be aware that VA does not provide electrolysis as this is considered a cosmetic rather than a medically necessary procedure.

19. If a patient has had sex reassignment surgery, how do we handle preventive screening requirements?

In addition to treatments related to their new gender identity, transgender patients need appropriate medical screening and/or treatment specific to their birth sex. This includes prostate exams and mammograms for MtF patients and vaginal exams and mammograms for FtM patients, as indicated.

20. Can a transgender Veteran request a change of gender or sex in Computerized Patient Record System (CPRS) before having sex reassignment surgery?

Amending the gender or sex of the Veteran in CPRS is based on the Veteran making a request to the facility Privacy Officer and providing the official documentation as required by VHA policies. Sex reassignment surgery is not a prerequisite for amendment of gender or sex in the Veteran's record.

21. What constitutes "official documentation" in order for gender or sex to be changed in CPRS?

A Veteran's request for amendment to gender or sex in the record is considered a Privacy Act "amendment request."

a. One of the following is required as supporting documentation: Legal documentation (i.e., amended birth certificate or court order), passport or a signed original statement on office letterhead, from a licensed physician. Sex reassignment surgery is not a prerequisite for amendment of gender/sex in the Veteran's record.

b. The licensed physician's statement must include all of the following information:

(1) Physician's full name;

(2) Medical license or certificate number;

(3) Issuing state of medical license or certificate;

(4) Drug Enforcement Administration (DEA) registration number assigned to the physician or comparable foreign designation, if applicable;

(5) Address and telephone number of the physician;

VHA DIRECTIVE 2013-003

February 8, 2013

(6) Language stating that the physician has treated the patient or reviewed and evaluated the medical history of the applicant. The physician also has a doctor patient relationship with the applicant, which is evident in having one or more clinical encounters between doctor and patient;

(7) Language stating that the patient has had appropriate clinical treatment for gender transition to the new gender (specifying male or female); and

(8) Language stating, “I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.”

22. Do I need to become an expert in treating transgender Veterans?

a. All clinicians and staff who provide clinical services to transgender Veterans need to become more knowledgeable about transgender health issues. Everyone needs to be aware that transgender Veterans deserve to receive health care at VA and need to be treated with dignity and respect. Primary Care and Mental Health providers need to be encouraged to consult with specialty physicians on any aspect of management for which they need advice or for ongoing management, as they would for any other complex patient. The initial VA prescription for cross-sex hormone therapy need to be restricted to facility-designated providers experienced with the use of cross-sex hormone therapy (e.g., women’s health specialist, endocrinologist, psychiatrist, or other local designee).

b. The potential lack of clinical expertise in specialties such as endocrinology, mental health, and surgery regarding clinical care of transgender and intersex Veterans, may necessitate establishing a mechanism for timely expert consultation on complicated cases within Veterans Integrated Service Networks (VISN) or facilities.

23. What education will be provided to VA staff?

Cultural awareness and sensitivity education for field staff was developed and implemented in fiscal year 2012. The VA standard of zero tolerance for discrimination, harassment, or abuse of Veterans applies to VHA treatment of transgender and intersex Veterans.

24. What is the correct pronoun to use when speaking with a transgender Veteran and in documentation of the clinical encounter in a progress note?

Transgender Veterans should always be addressed and referred to based on their self-identified gender, in conversation and in documentation in the patient record, irrespective of the Veteran’s appearance. Neither sex reassignment surgery nor official documentation of change in sex is required for Veterans to be identified by their preferred gender or for documentation of preferred gender in the patient record.

25. Are transgender Veterans allowed to use the bathroom of their choice?

Transgender Veterans who presently self-identify as female are allowed to use bathrooms for women. Likewise, those who presently self-identify as males are allowed to use bathrooms for

VHA DIRECTIVE 2013-003

February 8, 2013

men. This is irrespective of the Veteran's appearance or whether the Veteran has had sex reassignment surgery. The privacy needs of other patients must also be considered; availability of "unisex" bathrooms (for men and women) throughout facilities is a practical approach to this issue and is common practice in some facilities.

26. What about room assignments?

Patient room assignments are made in accordance with the patient's self-identified gender irrespective of the Veteran's appearance or whether the Veteran has had sex reassignment surgery, and in consideration of the needs of other patients. *NOTE: Ethics consultations are encouraged when concerns arise related to the provision of respectful care for transgender and intersex Veterans and other patients.*

27. In situations where shared inpatient rooms are common, might assignments be made such that a MtF transsexual patient and a biologic female would be assigned to share a room or a FtM transsexual patient and a biologic male would be assigned to share a room?

Yes. According to current VHA policy, "room assignments will give preference to the self-identified gender, irrespective of appearance and/or surgical history, in a manner that respects the privacy needs of transgender and non-transgender patients alike." Privacy and confidentiality dictate that staff may not share any information about one patient with another without express permission. If a room assignment leads to distress for either patient, then efforts need to be made to assign one of them to a private room. When this cannot be accommodated or when there are questions or concerns related to room assignments, an ethics consultation needs to be requested.

28. Are there any recommended resources for further information?

VA does not currently have clinical practice guidelines for the care of transgender and intersex Veterans. While VA does not endorse the following private sector guidelines, they may serve to provide information and education about the complexities of caring for this patient population.

a. World Professional Association for Transgender Health's Standards of Care for Gender Identity Disorders, Version 7, 2011. Available from www.WPATH.org

b. Endocrine Society Guidelines <http://www.endo-society.org/guidelines/final/upload/Endocrine-Treatment-of-Transsexual-Persons.pdf>

c. Clinical Protocol Guidelines for Transgender Care
<http://www.vch.ca/transhealth> or <http://transhealth.vch.ca/resources/careguidelines.html>

d. The Joint Commission: *Advancing Effective Communication, Cultural Competence and Patient-and-Family Centered Care for the Lesbian, Gay, Bisexual and Transgender (LGBT) Community: A Field Guide*. Oak Brook, IL, Oct. 2011. <http://www.jointcommission.org/lgbt/>

29. REFERENCES

a. Brown, G. R. (2010). Autocastration and autopenectomy as surgical self-treatment in incarcerated persons with gender identity disorder. *International Journal of Transgenderism*, 12(1), 31-39 doi:10.1080/15532731003688970.

b. Institute of Medicine. (2011). *The health of lesbian, gay, bisexual, and transgender people: Building a foundation for better understanding*. Washington, DC: The National Academies Press: <http://www.iom.edu/Reports/2011/The-Health-of-Lesbian-Gay-Bisexual-and-Transgender-People.aspx>.

c. Murad, M. H., Elamin, M. B., Garcia, M. Z., Mullan, R. J., Murad, A., Erwin, P. J., &Montori, V. M. (2010). Hormonal therapy and sex reassignment: A systematic review and meta-analysis of quality of life and psychosocial outcomes. *Clinical Endocrinology*, 72(2), 214-231. doi:10.1111/j.1365-2265.2009.03625.x.

Exhibit 17



U.S. Citizenship and Immigration Services

\ afm \ Adjudicator's Field Manual \ Chapter 10 An Overview of the Adjudication Process. \ 10.22 Change of Gender Designation on Documents Issued by USCIS
[Previous Document](#) | [Next Document](#)

10.22 Change of Gender Designation on Documents Issued by USCIS (Added 4/10/2012; PM-602-0061; AD12-02; PM-602-0141)

USCIS issues a variety of documents that show identity and immigration status in the United States. These include, but are not limited to, Employment Authorization Documents, Refugee Travel Documents, Permanent Resident Cards, and Certificates of Citizenship or Naturalization. Individuals may request a change in the gender reflected on a USCIS-issued document using the standard USCIS form for requesting the desired document. USCIS will issue an initial or amended document reflecting the changed gender designation if the individual presents one of the following forms of evidence in support of the change in gender designation along with meeting all other requirements for the requested document:

- A court order granting change of sex or gender;
- A government-issued document reflecting the requested gender designation. Acceptable government-issued documents include an amended birth certificate, a passport, a driver's license, or other official document showing identity issued by the U.S. Government, a state or local government in the United States, or a foreign government; or
- A letter from a licensed health care professional certifying that the requested gender designation is consistent with the individual's gender identity. For the purposes of this subchapter, a licensed health care professional includes licensed counselors, nurse practitioners, physicians (Medical Doctors or Doctors of Osteopathy), physician assistants, psychologists, social workers, and therapists. The health care certification letter must include the following information:
 - The health care professional's full name, address, and telephone number;
 - The health care professional's license number and the issuing state, country, or other jurisdiction of the professional license;
 - Language stating that the health care professional has treated or evaluated the individual in relation to the individual's gender identity¹; and
 - The health care professional's assessment of the individual's gender identity.

Sample health care certification language can be found in [Appendix 10-22, Change of Gender Designation on Documents Issued by USCIS](#).

USCIS may request additional evidence of the individual's gender identity, as necessary to verify the requested change in gender designation. As in all adjudications, if an officer finds significant substantive discrepancies, has reason to question the accuracy or authenticity of documents submitted, or finds other indicators of fraud, the case may be referred to the USCIS Fraud Detection and National Security Directorate (FDNS) in accordance with current national and local policies.

If the individual is also requesting that a name change be reflected on the document to be issued by USCIS, evidence that the name change was completed according to the relevant state or foreign law must also be submitted.

USCIS-issued documents that display a gender or sex identifier are limited to indicating only female or male. Consequently, requests for USCIS-issued documents reflecting a change of gender designation must indicate either female or male as the new gender.

NOTES

¹ Proof of sex reassignment surgery or any other specific medical treatment is not required to issue the requested document in the changed gender.

\ afm \ Adjudicator's Field Manual \ Chapter 10 An Overview of the Adjudications Process. \ 10.22 Change of Gender Designation on Documents Issued by USCIS

[Previous Document](#) | [Next Document](#)

Exhibit 18

Social Security

Program Operations Manual System (POMS)

TN 5 (06-13)

RM 10212.200 Changing Numident Data for Reasons other than Name Change

A. How We Change Numident Data

We only “correct” or “change” information that is on a prior Numident record when there is a documented keying error.

In cases of a keying error, you must review the prior Social Security number (SSN) application; however, do not presume there was a keying error. If you cannot review the prior application, obtain a new application with proper evidence. The individual must submit evidence showing the correct data or information (e.g., a BC to correct an individual’s sex field information) with evidence established before the cycle date on the Numident entry where the keying error was made.

If an individual wishes to update information previously submitted to us, the individual must complete and submit an SSN replacement application with evidence supporting the update, and we will create a new record showing the new data and append it to the prior record(s) on the Numident.

Keying Errors: See Details

- For instructions on date of birth (DOB) changes on the Numident, see RM 10210.295.
- For instructions on correcting a coding error that resulted in an incorrect employment legend on the SSN card, see RM 10215.055.

B. How Do You Create A New Numident Entry To Update Data On The Numident

1. Request evidence

Each individual requesting an update of information on a current Numident record must submit:

- an SSN application for a replacement SSN or card;
- evidence of identity to establish that he or she is the person on the record to whom SSA assigned the SSN; and
- evidence to support the update per the chart in RM 10212.200B.2 in this section.

2. Obtain documentation

Use this table to determine the supporting documentation required for requested updates to the Numident and any additional actions needed.

NOTE: These procedures apply to updates only. In cases of keying errors, see the instructions in RM 10212.200A in this section.

For this update	Obtain this supporting documentation and follow any additional instructions
Sex field	Accept any of the following: <ul style="list-style-type: none"> • full-validity, 10-year U.S. passport with the new sex <p>NOTE: Do not accept passports with less than ten years of validity.;</p> <ul style="list-style-type: none"> • State-issued amended BC with the new sex; • court order directing legal recognition of change of sex;

For this update	Obtain this supporting documentation and follow any additional instructions
	<ul style="list-style-type: none">• medical certification of appropriate clinical treatment for gender transition in the form of an original signed statement from a licensed physician (i.e., a Doctor of Medicine (M.D.) or Doctor of Osteopathy (D.O.)). The statement must include the following:<ul style="list-style-type: none">physician’s full name;medical license or certificate number;issuing state, country, or other jurisdiction of medical license or certificate;address and telephone number of the physician;language stating that the individual has had appropriate clinical treatment for gender transition to the new gender (male or female);language stating the physician has either treated the individual in relation to the individual’s change in gender or has reviewed and evaluated the medical history of the individual in relation to the individual’s change in gender and that the physician has a doctor/patient relationship with the individual;language stating “I declare under penalty of perjury under the laws of the United States that the forgoing is true and correct.” <p>NOTE: See RM 10212.200C in this section for a sample letter from a licensed physician that includes all required information to certify to the individual’s gender change.</p>

For this update	Obtain this supporting documentation and follow any additional instructions
	<p>IMPORTANT: Surgery is no longer required to change the sex field on the Numident. However, if an individual presents an original or certified letter from a physician stating the individual has undergone sexual reassignment surgery, accept it as evidence to change the sex field when it meets the requirements in GN 00301.030 and contains sufficient biographical data (e.g., name, date of birth) to clearly identify the individual.</p> <p>NOTE: In some cases an individual's sex may impact eligibility for benefits dependent upon spousal relationships. To make title II entitlement or title XVI eligibility determinations dependent upon marriage, follow the instructions in GN 00305.005B. Do not use sex field data on SSA records to make marital status determinations.</p>
Date of birth field	See Date of Birth Change on the Numident, in RM 10210.295.
Place of birth (PLB) field	<ul style="list-style-type: none"> • U.S. born: a BC • foreign born: an acceptable document such as a BC or an acceptable proof of age document listed in kinds of documents that establish age for an SSN card in RM 10210.265, provided the document also list the individual's PLB.

For this update	Obtain this supporting documentation and follow any additional instructions
Citizenship field	<p data-bbox="609 222 997 258">Evidence of U.S. citizenship:</p> <ul data-bbox="609 331 1425 1052" style="list-style-type: none"><li data-bbox="609 331 1425 562">• U.S. public birth record showing birth in one of the 50 U.S. states, the District of Columbia, American Samoa, Puerto Rico, Guam, the Virgin Islands of the U.S. (on or after 01/17/1917), or the Northern Mariana Islands (on or after 11/04/1986 (NMI Local time),<li data-bbox="609 636 846 672">• U.S. passport,<li data-bbox="609 745 1049 781">• Certificate of Naturalization,<li data-bbox="609 854 1044 890">• Certificate of Citizenship, or<li data-bbox="609 963 1360 1052">• Other documents listed in RM 10210.505, RM 10210.510, RM 10210.520, and RM 10210.525. <p data-bbox="609 1125 1438 1451">Interviewers should request and obtain from the individual, the U.S. citizenship document with the highest evidence level available (i.e., the document exists or the individual can obtain the U.S. document within 10 working days) before accepting a document of a lower level. You may use primary, secondary, third-level, or fourth-level evidence to change the citizenship data on a Numident record.</p> <p data-bbox="609 1493 1443 1717">EXAMPLE: If primary evidence of U.S. citizenship is not available (does not exist or the individual cannot obtain the primary evidence in 10 working days), then the interviewer may accept secondary evidence to change the citizenship data on the Numident record.</p>

For this update	Obtain this supporting documentation and follow any additional instructions
Parent's name field	<ul style="list-style-type: none"> • original or amended BC, or • final adoption decree issue by the court or court determination of paternity

3. Process the request

If you change the sex code on the Numident, and the individual is:

- receiving Social Security benefits,
- receiving Supplemental Security Income (SSI) payments, or
- a representative payee for his or her child,

change the sex immediately if it is different on the Master Benefit Record (MBR), the Supplemental Security Record (SSR), or in the Representative Payee System (RPS) to agree with the Numident. List all documents or evidence submitted to change the individual's sex code on the Social Security Number Application Process (SSNAP) Summary screen.

NOTE: For instructions on determining whether a valid marital relationship exists, see GN 00305.005B.

When changing a parent's name on a child's Numident record, ask the parent if he or she is a title II beneficiary, an SSI recipient, or a representative payee. If so, review the MBR, SSR, or RPS record and initiate or complete actions necessary to update the record (e.g., correcting a parent's name on the SSR record or ensuring that actions are taken to complete a new representative payee application).

In the "Remarks" block on the SSNAP Summary screen, list any evidence or documents the individual submitted to change the following fields on the Numident, if not previously captured in SSNAP:

- sex field, or
- PLB field, or
- parent's name field.

4. When to suppress an SSN card

Process the requested change but **suppress** the issuance of a replacement SSN card when the correction will not affect any data on the face of the SSN card (i.e., changes to the sex, DOB, PLB, or parent's name fields on the Numident) **and** the individual is still in possession of the SSN card showing the correct information.

5. When to send written notice

Send a written notice if you are unable to provide an individual with an original or replacement SSN or card. Follow the appropriate instructions in:

- RM 00299.020 Form SSA-L676 – Refusal to Process SSN Application, or
- RM 10205.090 Form SS-5 Received and Additional Documentation is Needed, or
- RM 10215.110 Policy on Providing Written Notice and Second Review When SSN or Card May Not Be Issued, or
- RM 10215.115 Procedures for Providing Written Notice to an SSN Applicant.

See Details:

- RM 10210.265 Kinds of Documents that Establish Age for an SSN Card
- RM 10210.295 Date of Birth Change on the Numident
- RM 10210.505 Primary Level Evidence of U.S. Citizenship
- RM 10210.510 Secondary Level Evidence of U.S. Citizenship for a U.S. Born Applicant

- RM 10210.520 Third Level Evidence of U.S. Citizenship for a U.S. Born Applicant
- RM 10210.525 Fourth Level Evidence of U.S. Citizenship for a U.S. Born Applicant
- RM 10215.055 Correct a Coding Error that Resulted in an Incorrect Employment Legend on the SSN Card
- RM 10220.210 Evidence Requirements for Documentation of Harassment, Abuse, or Life Endangerment (HALE)
- GN 00301.030 Acceptability of Documentary Evidence
- GN 00301.080 Certification by Custodian of the Record
- GN 00301.045 Validity of Documents

C. Exhibit – Sample Letter From Licensed Physician Certifying To The Individual’s Gender Change

(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 transition to the new gender (specify new gender, male or female).

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

To Link to this section - Use this URL:

<http://policy.ssa.gov/poms.nsf/lnx/0110212200>

RM 10212.200 - Changing Numident Data for Reasons other than Name Change -

09/30/2013

Batch run: 09/30/2013

Rev:09/30/2013

Exhibit 19



American Association of
Motor Vehicle Administrators

Documentation Guide License Gender ID Card Designation PROCEDURES



Resource Guide on Gender Designation on Driver's Licenses and Identification Cards



September 2016

Contents

Chapter One	Introduction	2
Chapter Two	Trends of Driver’s License Gender Change Policies.	3
Chapter Three	Key Features of Jurisdictional Gender Designation Change Policies	4
Chapter Four	Conclusion	5
<i>Appendix A</i>	<i>Examples of Jurisdictional Gender Designation Change Forms.</i>	<i>6</i>
<i>Appendix B</i>	<i>U.S. Driver’s License Policies.</i>	<i>25</i>
<i>Appendix C</i>	<i>Canadian Driver’s License Policies.</i>	<i>26</i>
<i>Appendix D</i>	<i>U.S. Department of State Policy for Changing the Gender Designation on a U.S. Passport</i>	<i>27</i>
<i>Appendix E</i>	<i>Real ID and the State’s Authority to Change the Gender Designation on a Driver’s License or Identification Card.</i>	<i>34</i>
<i>Appendix F</i>	<i>Canadian Passport Order SI/81-86: Schedule Additional Information.</i>	<i>36</i>

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:

- Surrender any current state-issued license or identification card;
- Submit a completed Gender Designation form; and
- 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 Date			
C LICENSED PROVIDER CERTIFICATION <small>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.</small>			
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 license 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)				SUFFIX
FIRST NAME				MIDDLE NAME		
DATE OF BIRTH		DAYTIME TELEPHONE NUMBER		E-MAIL ADDRESS (if applicable)		
MONTH	DAY	YEAR				
Please check the product(s) you currently have:						
<input type="checkbox"/> Class D Driver License		<input type="checkbox"/> Commercial Driver License		<input type="checkbox"/> Identification Card		
B - GENDER DESIGNATION STATEMENT						
I, _____, wish the gender designation on my driver license/ID card to read:						
(Applicant's Full Name)						
<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 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 issues, including the applicant named herein, and in my professional opinion, the applicant's gender identity is <input type="checkbox"/> Male <input type="checkbox"/> 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: _____						

MV2020
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 Psychiatrist
<input type="checkbox"/> Licensed Clinical Social Worker
<input type="checkbox"/> Licensed Mental Health Counselor
<input type="checkbox"/> Advanced Nurse Practitioner
<input type="checkbox"/> Psychiatric Nurse Practitioner | <input type="checkbox"/> Licensed Psychologist
<input type="checkbox"/> Licensed Clinical Social Worker
<input type="checkbox"/> Licensed Marriage and Family Therapist
<input type="checkbox"/> Licensed Social Worker
<input type="checkbox"/> Physician Assistant |
|--|--|

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)			
<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			
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 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 #
<i>Gender Designation Statement:</i>			
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: <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: _____	
(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 _____				



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/ID 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: _____		
<i>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)).</i>					
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					
(APPLICANT'S SIGNATURE IN INK)		DATE			
<i>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)).</i>					

FEE PAID In This Amount	
SEE REVERSE FOR FEES	



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 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			
License 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, Country)			
Mailing address, if different (Address, City, State, ZIP code, Country)			
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

DMV-99-RD
REV06/15

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-D5-23P 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		
<p>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.</p>		
(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			
<p>In my professional opinion, the applicant's gender identity is: <input type="checkbox"/> male <input type="checkbox"/> female</p>		<p>I hereby certify under penalty of perjury/law that the information contained herein is true and correct.</p>	
(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
 and/or general identification card to read (please check one): Female Male
 conduire ou sur ma CIG indique (cochez une case) : Femme Homme

SIGNATURE OF APPLICANT
 SIGNATURE DU DEMANDEUR DATE (YYYY-MM-DD)
 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/conseiller 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
 SIGNATURE DU FOURNISSEUR DE SERVICES DATE (YYYY-MM-DD)
 DATE (AAAA-MM-JJ)

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:

This is a form titled "Name as it appears on citizenship evidence" with a dashed box for a signature. It contains several checkboxes for citizenship evidence types: Birth Certificate, Nat./Citiz. Cert., Report of Birth, Passport, and Other. The "Other" checkbox is checked, and the text "Gender Change" is written next to it. Below this, there are checkboxes for various passport types: PIC of ID, PIC of Citiz., and others. A barcode is at the bottom right with the text "DS 11 A 09 2013 2".

b. You must annotate and attach the medical certification to the Form DS-11:

This is a form similar to the one above, but the "Other" checkbox is checked and annotated with "MD Ltr re: Gender Change".

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:

This is a form similar to the one above, but the "Other" checkbox is checked and annotated with "Gender Transition".

- b. You must annotate and attach the medical certification to the Form DS-11:

Name as it appears on citizenship evidence _____

Birth Certificate SR CR City Filed Issued

Nat. / Citiz. Cert. USCIS USCIS Date/Place Acquired

Report of Birth Filed/Place

Passport CR SR Per PERS #DOI

Other

Attached MD Ltr re: Gender Transition

PIC of ID DS-3053 DS-44 DS-5520 DS-5513 Citiz WIS

PIC of Cit. DS-10 DS-86 DS-71 IR DS Ver

* DS 11 A 09 2013 2 *

- 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.

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.

* "Canadian Passport Order SI/81-86" (February 3, 2016), <http://laws-loisjusticexccca/PDF/SI-81-86pdf>, <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>

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

Exhibit 20



Driver and Vehicle Services

A Division of the Minnesota Department of Public Safety



Minnesota
Department of Public Safety

Search this site...

Self-designated Descriptors

The following are the self-designated descriptors for a standard or REAL ID-compliant Minnesota driver's license or identification card.

- Height
- Weight
- Eye color
- Sex

Applicants are not required under state or federal law to present documentation that confirms the information they submit for these entries.



[Privacy Policy](#) | [Terms and Conditions](#) | [Accessibility](#) | [Contact Us](#)

An equal opportunity employer. Women, minorities, and individuals with disabilities are encouraged to apply.
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Exhibit 21



Oregon Driver & Motor Vehicle Services

(/ODOT/DMV/)

(/ODOT/)


[Home](#) (/ODOT/Pages/index.aspx) > Oregon Driver & Motor Vehicle Services (/ODOT/DMV/Pages/index.aspx)
> Changing Your Sex Identifier on Your Driver License or ID Card

 Site Navigation

Changing Your Sex Identifier on Your Driver License or ID Card

How to Apply

To change the sex identifier on your driver license or ID card:

- Go to a DMV office (/ODOT/DMV/Pages/Offices/index.aspx);
- Turn in a completed application  with the desired indicator marked;
- Meet the requirements for issuance of a renewal or replacement license or ID card; and
- Pay the renewal or replacement fee (/ODOT/DMV/Pages/Fees/index.aspx).

You may also change your name (/ODOT/DMV/Pages/DV/chgname.aspx) as part of this request.



(/ODOT/DMV/Pages/FAQs/index2.aspx)

 **Help us improve!** Was this page helpful?

Yes

No

Exhibit 22



**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF MOTOR VEHICLES**

***PROCEDURE FOR ESTABLISHING OR CHANGING GENDER DESIGNATION
ON A DRIVER LICENSE OR IDENTIFICATION CARD***

Applicants establishing or requesting to change the gender designation on their driver license or identification card must:

- Submit a completed and signed Gender Designation form;
- Pay applicable fees for a new or amended license; and
- Have a new photograph taken.

WHICH GENDER DESIGNATION MAY APPLICANTS CHOOSE

Applicants should indicate on the form the gender designation that is the best fit for them. Please note transgender people may identify as male, female, or neither male nor female. Additionally, people of any gender may choose not to disclose their gender using an X marker.

PRIVACY OF INFORMATION RELATING TO GENDER DESIGNATION

Employees shall not request additional gender-related information beyond the Gender Designation Form or otherwise inquire about the applicant's private medical history or records. The form contains private information kept confidential under the provisions of the Driver Privacy Protection Act.

MATCHING GENDER DATA FROM OTHER SOURCES

An applicant is not required to have already changed their gender designation on their birth certificate or other forms of identification to change their gender on their District ID or license, and is not required to have matching gender designations on all forms of identification.

NAME CHANGE

Name changes on a driver license or identification card are completed via 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.

PHOTOGRAPH

The applicant should have a new photograph taken as the applicant chooses to present themselves, regardless of requested gender, and consistent with existing photographic requirements of DC DMV.

ADDITIONAL ASSISTANCE

The DMV is dedicated to serving customers in a professional, courteous and non-judgmental manner. DMV is committed to processing Gender Designation requests in a manner that respects the applicants privacy at all times, and does not draw undue attention to the applicant. DMV staff have received training on this process; therefore, any problems or complaints should be directed to a supervisor or manager at the location.



GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF MOTOR VEHICLES

GENDER SELF-DESIGNATION FORM

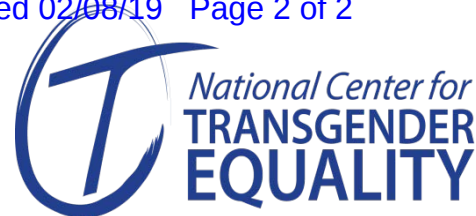
TO BE COMPLETED BY APPLICANT		
(Last Name)	(First Name)	(Middle Name)
(Social Security Number)		
(License/Identification Card Number)		
(Street Address)		
Washington, DC		
(City/State)		(Zip Code)
I, _____ wish to change the gender marker on my		
(Print Name)		
driver license / identification card to read: M (Male) F (Female) X (Unspecified/Other)		
(Circle One)		
<i>I hereby certify under penalty of law this request for gender designation is not for any fraudulent or other unlawful purpose.</i>		
(Signature of Applicant)		(Date)

Any person using a fictitious name or address and/or knowingly making any false statement on this application is in violation of DC Law and subject to a fine of not more than \$1,000 or 180 days imprisonment or both. (DC Official Code §22-2405)

To confidentially report waste, fraud or abuse by a DC Government Agency or official, call the DC Inspector General at 1-800-521-1639.

Exhibit 23

HOW TRANS-FRIENDLY IS THE DRIVER'S LICENSE GENDER CHANGE POLICY IN YOUR STATE?



A+	Easy-to understand form, gender-neutral option available, no provider certification required (2 states + DC)	<u>Oregon</u> (2017), <u>District of Columbia</u> (2017), <u>California</u> (starting Jan 2019)
A	Easy-to-understand form, no provider certificate required (2 states)	<u>Massachusetts</u> (2018), <u>Nevada</u> (2018)
B+	Easy-to-understand form, certification from a range of licensed professionals (13 states + 1 territory)	<u>Alaska*</u> (2012), <u>Connecticut</u> (2013)*, <u>Delaware*</u> (2011), <u>Hawai'i</u> (2012), <u>Maine</u> (2013), <u>Missouri</u> (2016), <u>New Hampshire</u> (2015), <u>New Jersey*</u> (2009), <u>New Mexico*</u> (2010), <u>Pennsylvania*</u> (2010), <u>Puerto Rico</u> (2016), <u>Rhode Island</u> (2012), <u>Virginia</u> (2012), <u>Washington State</u> (2009)
B	Easy-to-understand form, certification from a limited range of licensed professionals (1 states)	<u>Ohio</u> (2009)
B-	Easy-to-understand form but must be certified by physician only (4 states)	<u>Colorado</u> (2006), <u>Indiana</u> (2014), <u>Nebraska</u> (2010), <u>West Virginia</u> (2015)
C+	No form, but no requirement of proof of surgery or court order; certification from medical/mental health professional (9)	<u>Arizona</u> (1995), <u>Florida</u> (2011), <u>Idaho</u> (2013), <u>Illinois</u> (2013), <u>Kansas</u> (2011), <u>Minnesota</u> (2013), <u>New York</u> (1987), <u>Vermont</u> , <u>Wisconsin</u>
C	No form, and burdensome process requirements, but does not require proof of surgery, court order, or amended birth certificate (3 states)	<u>Maryland</u> (requires medical <u>and</u> mental health provider letters), <u>Michigan</u> (requires updated passport), <u>Utah</u> (must provide other updated ID, such as a passport)
D	Unclear, unknown or unwritten policy (5 states + 4 territories)	Arkansas, Mississippi, Montana, North Dakota, South Dakota, American Samoa, Guam, Northern Marianas Island, U.S. Virgin Islands
F	Proof of surgery, court order, or amended birth certificate required (11 states)	Alabama, Georgia, Iowa, Kentucky, Louisiana, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Wyoming

* In these states, licensed professionals must certify that their practice includes the treatment and counseling of individuals with gender identity issues.

For more information, please contact:

Arli Christian, State Policy Counsel, National Center for Transgender Equality
 achristian@transequality.org; (202) 804-6044

Exhibit 24

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

1
2
3
4
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14
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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

CIVIL ACTION NO.: 2:18-CV-00091-MHT-GMB

DARCY CORBITT, DESTINY CLARK, and JANE DOE,
Plaintiffs,
V.

HAL TAYLOR, in his official capacity as
Secretary of the Alabama Law Enforcement
Agency, et al.

Defendants.

DEPOSITION OF DIANE WOODRUFF

November 8, 2018

Taken before Elaine Scott, CCR,
Commissioner for the State of Alabama at
Large, in the Law Offices of the Alabama
Attorney General, 501 Washington Avenue,
Montgomery, Alabama, on Thursday, November 8,
2018, commencing at approximately 12:55 p.m.

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A P P E A R A N C E S

FOR THE PLAINTIFFS:

AMERICAN CIVIL LIBERTIES UNION FOUNDATION

Gabriel Arkles

125 Broad Street

18th Floor

New York, New York 10004

ALABAMA CIVIL LIBERTIES UNION FOUNDATION

Brock Boone

Randall C. Marshall

P.O. Box 6179

Montgomery, Alabama 36106

FOR THE DEFENDANTS:

OFFICE OF THE ATTORNEY GENERAL, STATE OF

ALABAMA

Brad A. Chynoweth

501 Washington Avenue

Montgomery, Alabama 36130

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A P P E A R A N C E S (continued)

ALSO PRESENT:

Meredith Barnes

COURT REPORTER:

BAKER REALTIME WORLDWIDE REPORTING & VIDEO

250 Commerce Street

Third Floor, Suite One

Montgomery, Alabama 36104

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,

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,

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

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

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

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

Exhibit 25

License and ID Cards

DEPARTMENT OF PUBLIC SAFETY (/DPS) / DRIVER LICENSE (/DPS/DRIVER-LICENSE) / LICENSE AND ID CARDS

Document Requirements and Fees

Driver or Learner License (age 16 and older)

- Two forms of identification, at least one of which contains a photograph (one form must be from the “primary” list, in addition to the Social Security card) or three forms of non-photo identification (one form must be from the “primary” list, in addition to the Social Security card).
- Social Security card. *
- Acceptable school enrollment form or proof of graduation (if younger than 19 and applying for the first time). **
- \$5 test fee (no checks).
- Applicants 18 or older who wish to complete all testing for a license must have a licensed driver, proof of car insurance and a vehicle that will pass inspection.
- \$36.25 to purchase license (no checks).
- Credit Cards Accepted (MasterCard, Visa or Discover) convenience fee of 4% applies to the total charge.

Learner License (age 15)

- U.S. birth certificate (certified and issued by the Bureau of Vital Statistics (NO PHOTOCOPIES)).
- Social Security card. *
- Acceptable proof of school enrollment or graduation. **
- \$5 testing fee (no checks).
- \$36.25 to purchase license (no checks).
- Credit Cards Accepted (MasterCard, Visa or Discover) convenience fee of 4% applies to the total charge.

CDL or CDL Learner License Applicants

- Current driver license.
- Social Security card.*
- If transferring from out of state, applicant must present one document from the “primary” list (in addition to the Social Security number document).

MORE IN THIS DIVISION

Boat/Vessel License Requirements (/dps/driver-license/license-and-id-cards/boatvessel-license-requirements)

Driver Licenses - Classes, Endorsements, and Restrictions (/dps/driver-license/license-and-id-cards/driver-licenses-classes-endorsements-and-restrictions)

Graduated Driver License (/dps/driver-license/license-and-id-cards/graduated-driver-license)

Ignition Interlock Laws (/dps/driver-license/license-and-id-cards/ignition-interlock-laws)

Road Test Study Guide (/dps/driver-license/license-and-id-cards/road-test-study-guide)

ONLINE RESOURCES

Submit Hearing Request (<http://app.alea.gov/HearingRequest>)

Register Vehicle/Renew Vehicle Tags (<https://revenue.alabama.gov/motor-vehicle/tag-registration/>)

CDC Document Help (<https://www.cdc.gov/nchs/w2w/index.htm>)

RELATED SERVICES (/ONLINE-SERVICES)

VIEW ALL ONLINE SERVICES (/ONLINE-SERVICES)

- Current Department of Transportation long medical form (unless medically exempt).
- \$25 testing fee (no checks).
- Transportation Security Administration background check if transferring or obtaining a hazardous materials endorsement.
- If not a U.S. citizen, applicant must legally be in permanent status in the United States and domiciled in Alabama.
- Skills test if upgrading a license or first-time applicant (test by appointment only; \$20 skills test fee).
- Proof of insurance.
- \$66.25 to purchase class “A” license.
- \$56.25 to purchase class “B” license.
- \$36.25 to purchase class “C” license.
- \$36.25 to purchase commercial learner license.
- Credit Cards Accepted (MasterCard, Visa or Discover) convenience fee of 4% applies to the total charge.

Motor-Driven Cycle License (ages 14 and 15)

- U.S. birth certificate (certified and issued by the Bureau of Vital Statistics (NO PHOTOCOPIES)),
or
Alabama non-driver identification card or Alabama vessel license.
- Social Security card. *
- Third form of identification from “secondary” list (if other identification is nonphoto).
- Fifteen-year-old applicants must have acceptable proof of school enrollment or graduation. **
- \$5 testing fee (no checks).
- \$36.25 to purchase motor-driven cycle license (no checks).
- Credit Cards Accepted (MasterCard, Visa or Discover) convenience fee of 4% applies to the total charge.

Out-of-State License Transfers

- Must be at an ALEA Office.
- Out-of-state driver license.
- Social Security card. *
- One item from primary list, in addition to the Social Security card.
- Proof of school enrollment or graduation (if younger than 19). **
- \$5 transfer fee (no checks).
- \$36.25 to purchase license (no checks).
- Credit Cards Accepted (MasterCard, Visa or Discover) convenience fee of 4% applies to the total charge.

Vessel License (age 12 and older)

- U.S. birth certificate (certified and issued by the Bureau of Vital Statistics (NO PHOTOCOPIES)).
- Social Security card. *
- One other item from “secondary” list.
- \$5 for test or transfer fee (no checks).
- \$36.25 to purchase license.
- Credit Cards Accepted (MasterCard, Visa or Discover) convenience fee of 4% applies to the total charge.

Non-Driver Identification Card

- One document from the primary list which verifies name and date of birth.
- Social Security card. *
- Third form of identification from the "primary" or "secondary" lists (required only if primary document is non-photo).
- \$36.25 to purchase non-driver identification card.
- Credit Cards Accepted (MasterCard, Visa or Discover) convenience fee of 4% applies to the total charge.

Non-U.S. Citizens

- A valid foreign passport with an acceptable visa or resident alien card.
- Social Security number verification * or letter from Social Security stating non-eligibility.
- Document from the “secondary” list authorizing presence in the U.S. for more than 160 days.
- \$5 test or transfer fee plus cost of license (no checks).
- Credit Cards Accepted (MasterCard, Visa or Discover) convenience fee of 4% applies to the total charge.

* Social Security Verification

- Social Security card (original). **A Social Security card is required of all applicants who have been assigned and/or are eligible for the assignment of a Social Security number by the Social Security Administration.**
- U.S. military form DD 214.
- Medicare/Medicaid identification card (if Social Security number is followed by the letter “A”).
- W2 tax form.

** School Enrollment Documents

- Form DL1/93.
- Certificate of graduation.
- GED certificate.
- Certified letter from school officials stating student is enrolled.

Acceptable Forms of Identification

+ Primary Documents

- Certified U.S. birth certificate issued by an agency designated by state or federal authority.
- U.S. passport.
- Alabama identification card.
- Alabama driver license.
- Certificate of naturalization.
- Certificate of citizenship.
- U.S. certificate of birth abroad.
- Resident alien card.
- Valid foreign passport with valid U.S. immigration document.

+ Secondary Documents

+ Additional Secondary Documents for Non-U.S. Citizens

Alabama Law Enforcement Agency [f\(https://www.facebook.com/ALEAprotects\)](https://www.facebook.com/ALEAprotects) [t\(https://twitter.com/ALEAprotects\)](https://twitter.com/ALEAprotects) [@\(https://v](https://v)

Citizen Reporting ()

Contact (/contact-alea/email-us)

Departments & Units (/#divisions)

Employment ()

News & Alerts ()

Online Services ()

Exhibit 26

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

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-29DNE, 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 a 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

Exhibit 27

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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Page 0

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

Page 3

I N D E X

	DONALD LEACH	Page
4	MR. ARKLES	5
5		
6	-oOo-	
7		
8	E X H I B I T S	
9	No. Description	Page
10	Exhibit 38 Expert Report of Donald Leach	5
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

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Joshua Block

-oOo-

Page 4

Transgender & Intersex
 Offenders in Jails by
 Donald L. Leach II, Ph.D.

-oOo-

Page 9

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

Page 12

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 17

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.

Page 18

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 loose. So that mean my risk
 24 tolerance level for losing my money is pretty low in
 25 that case.

Page 24

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 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

Page 30

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

Page 31

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.

Page 32

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

Page 33

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

Page 34

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,

Page 35

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

Page 36

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

Page 37

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

Page 38

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.

Page 39

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

Page 40

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

Page 53

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

Page 54

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

Page 55

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?

Page 56

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

Page 57

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

Page 58

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;

Page 59

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.

Page 60

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

Page 97

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

Page 98

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

Page 99

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

Page 100

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.

Page 109

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.

Page 110

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

Page 111

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.

Page 112

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

Page 145

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.

Page 146

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.

Page 147

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

Page 148

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?

Exhibit 28

human being worthy of being treated equally and with dignity. Because I do not always experience the same treatment or rights and privileges as most US citizens, I often feel like I do not belong in the country of my birth, that I am not welcome. By having documents issued by the Federal Government and the State of North Dakota that recognized who I am, I felt as if the Federal and State governments were accepting me as an American and as a North Dakotan.

7. With a driver's license listing me as female, I no longer have to avoid making large purchases, ordering alcohol in restaurants, or doing any other activities that require identification. When I show my driver's license with the correct gender, I no longer feel embarrassed, ashamed, or afraid.
8. Based on my own experience, I started a not-for-profit organization while I was in North Dakota that works to promote the health and global wellbeing of the transgender and queer community through education and direct assistance to transgender individuals. I still run this organization.
9. In the summer of 2017, I returned to Alabama to attend graduate school at Auburn University, where I am pursuing a Ph.D. in Human Development and Family Studies.
10. I now live in Alabama. I drive almost every day to work and to elementary schools around the East Alabama region for data collection for my graduate research assistantship. I also drive frequently to Birmingham for medical care.
11. I believe I am currently being stalked because I am transgender. After the filing of this lawsuit, beginning in August of 2018, the tires of my car have been deflated repeatedly. My mechanic told me that someone was tampering with my tires, and suggested I file a police

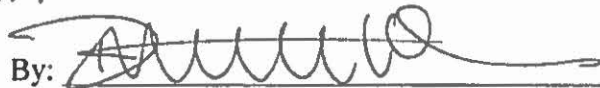
report. I have filed a police report and taken measures to protect my personal security, but I remain afraid. I have received death threats for speaking out on transgender issues in the past.

12. I would have liked to consider relocating to Alabama permanently after completing my studies. However, it is my understanding that at that point I would be required to trade in my North Dakota license for an Alabama license. Because of Policy Order 63, I do not believe it would be possible for me to remain in the state permanently without sacrificing my integrity, safety, privacy, autonomy, and dignity.
13. I disagree with the message the state of Alabama's driver's license policy conveys about my gender. The State has no role in defining individual identity and knowledge about the self, nor should the State be involved in the personal medical decisions of its citizens. Moreover, as a devout and practicing Christian, it is my closely held belief that God has created me as a transgender woman. For me to reject my transgender identity would be to reject God.
14. To receive an Alabama driver's license, I must either undergo surgical procedures which I do not feel are right for me at this time or accept the state of Alabama's message about my gender. If I were to accede to the state of Alabama's surgery requirements at a time when I felt they were not right for me, I would be being coerced into going against what I believe is God's will for me at this time and perpetuating an erroneous message that a transgender person is not a real person until their body parts match how they present themselves. If I were to accept an Alabama driver's license that says I am male when I know that is not true, I would be forced by the state of Alabama to live and proclaim complicity in a lie.
15. In either requiring that I have a procedure done at a time when it is not right for me or forcing me to live and proclaim a lie about my gender, the state of Alabama would be, in effect,

forcing me into breaking faith with both my God, my community, and myself in order to be a full participant in the life of the state of Alabama and the rights of its citizens.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on: 7 February 2019

By:  _____

Darcy Corbitt

Exhibit 29

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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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

CIVIL ACTION NO.: 2:18-CV-00091-MHT-GMB

DARCY CORBITT, DESTINY CLARK, and JANE DOE,
Plaintiffs,

v.

HAL TAYLOR, in his official capacity as
Secretary of the Alabama Law Enforcement
Agency, et al.

Defendants.

DEPOSITION OF DARCY CORBITT

November 9, 2018

Taken before Elaine Scott, CCR,
Commissioner for the State of Alabama at
Large, in the Law Offices of the Alabama
Attorney General, 501 Washington Avenue,
Montgomery, Alabama, on Thursday, November 9,
2018, commencing at approximately 8:57 a.m.

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A P P E A R A N C E S

FOR THE PLAINTIFFS:

AMERICAN CIVIL LIBERTIES UNION FOUNDATION

Gabriel Arkles

125 Broad Street

18th Floor

New York, New York 10004

ALABAMA CIVIL LIBERTIES UNION FOUNDATION

Brock Boone

Randall C. Marshall

P.O. Box 6179

Montgomery, Alabama 36106

FOR THE DEFENDANTS:

OFFICE OF THE ATTORNEY GENERAL, STATE OF

ALABAMA

Brad A. Chynoweth

501 Washington Avenue

Montgomery, Alabama 36130

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A P P E A R A N C E S (continued)

ALSO PRESENT:

Meredith Barnes

COURT REPORTER:

BAKER REALTIME WORLDWIDE REPORTING & VIDEO

Elaine Scott

250 Commerce Street

Third Floor, Suite One

Montgomery, Alabama 36104

1 A. My name is Darcy Jeda Corbitt Hall.

2 Q. And when -- what's your birthday?

3 A. 11th of May 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.

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

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?

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?

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.

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

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

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

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

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?

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

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

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.

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

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

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.

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

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

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

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

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

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?

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

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

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?

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

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.

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

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

Exhibit 30

FILED IN
OFFICE THIS

JUL 22 2013

BILL ENGLISH
Judge of Probate

STATE OF ALABAMA

IN THE PROBATE COURT

COUNTY OF LEE

. LEE COUNTY, ALABAMA

ORDER GRANTING CHANGE OF NAME

This day came [REDACTED] whose date of birth is [REDACTED] and filed [REDACTED] petition and declaration in writing under oath and in conformity with the Code of Alabama, Section 12-13-1(10), praying that [REDACTED] name be changed to **DARCY JEDA CORBITT-HALL** and it appearing that the facts stated in said petition and declaration are true and that the said [REDACTED] is a resident of this county and that [REDACTED] is over the age of nineteen (19) years and that [REDACTED] has heretofore been known by the name of [REDACTED]

NOW THEREFORE, IT IS CONSIDERED, ORDERED AND ADJUDGED by the Court that the said petition and declaration be filed and recorded and that the said [REDACTED] henceforth shall be known by the name of **DARCY JEDA CORBITT-HALL**.

Done this the 22nd day of July, 2013.

Bill English
BILL ENGLISH
PROBATE JUDGE
LEE COUNTY ALABAMA



Plaintiffs' Exhibit 31

**Letter from Jennifer Demma to Whom it
may concern**

Filed Under Seal

Exhibit 32



North Dakota
LEGENDARY

USA
ND

DRIVER
LICENSE



D-1

9 CLASS
D

12 RESTR
NONE

9a END
NONE

1 CORBITT-HALL

2 DARCY JEDA

8
DOB

4d LIC#

3 DOB

15 SEX F

4a ISS 11/02/2016

16 HGT 5'-09"

4b EXP /2020

18 EYES BLU



DONGR

5 DD 9COR929194CD52011eA69NDZ

REV 01-08-2014

[Handwritten signature]