Exhibit 33

We the People
Of the United States,
in Order to form a more perfect Union,
establish Justice, insure domestic Tranquility,
provide for the common defence,
promote the general Welfare, and secure
the Blessings of Liberty to ourselves and
our Posterity, do ordain and establish this
Constitution for the United States of America.
3
SIGNATURE OF BEARER / SIGNATURE DU TITULAIRE / FIRMA DEL TITULAR
PASSPORT
PASSEPORT
PASAPORTE
USA
UNITED STATES OF AMERICA
Type / Type / Tipo
P
Code / Code / Código
USA
Passport No. / No. du Passeport / No. de Pasaporte
Surname / Nom / Apellidos
CORBITT-HALL
Given Names / Prénoms / Nombres
DARCY JEDA
Nationality / Nationalité / Nacionalidad
UNITED STATES OF AMERICA
Date of birth / Date de naissance / Fecha de nacimiento
Place of birth / Lieu de naissance / Lugar de nacimiento
LOUISIANA, U.S.A.
Sex / Sexe / Sexo
F
Date of issue / Date de délivrance / Fecha de expedición
05 Dec 2016
Authority / Autorité / Autoridad
United States
Department of State
Date of expiration / Date d'expiration / Fecha de caducidad
04 Dec 2026
Endorsements / Mentions Spéciales / Anotaciones
SEE PAGE 27
USA
P<USACORBITT<HALL<<DARCY<JEDA<<<<<<<<<<<<<<<<

Exhibit 34

Fetty, Ronni

From:	Fetty, Ronni
Sent:	Wednesday, August 16, 2017 4:01 PM
To:	Holifield, Darin
Cc:	Williams, Becky
Subject:	Heads Up

Re: ALDL 8075188 – Darcy Jeda Corbitt-Hall

Until 2013, he was [REDACTED] He legally changed his name in 2013 (to Darcy Jeda Corbitt-Hall) and maintained the Alabama DL until 2015, where he left and went to ND. Somehow he obtained the ND license as a female and also obtained a US PP as a female. He came in to Opelika today.

Examiner Smith was assisting the applicant on a transfer back in to Alabama and didn't notice the M/F issue until the data card was printed at the end and the "female" sitting across from her (with a very male voice) said it was wrong. Examiner Smith contacted the Medical Unit and verified (via JJ) that a verification letter from "her" doctor was required indicating the completion of the gender surgery, as well as an amended birth certificate was needed to change the sex on the license.

This is being sent to you to let you know that "she" refused issuance of the driver license and indicated (or utilized the word "sue") in her conversation with Examiner Smith as "she" was leaving.

** Please make note of my new email address : Ronni.Fetty@ALEA.gov and update your records.

Sgt. Ronni Fetty
Alabama Law Enforcement Agency
Opelika Area Commander
Driver License Division
1220 Fox Run Ave, Ste 102-103
Opelika, AL 36801

Phone: (334) 737-1503
Fax: (334) 742-9653
Ronni.Fetty@ALEA.Gov

Exhibit 35

February 9, 2018

Statement – Examiner Teresa Smith

Re: Processing of Applicant Darcy Jeda Corbitt-Hall on August 16, 2016

On Wednesday, August 16, 2017, I was working at Desk #2 (41Q). I was training Examiner Marva Lockett. She was sitting beside me, between desks one and two, and observing, since it was her first day at work.

About mid-afternoon, Darcy Jeda Corbitt-Hall was called to my desk. She was there for an out of state transfer and had in her possession a valid U.S. Passport, a North Dakota Driver license and her social security card. I asked her if she'd ever had an Alabama license or identification card before, and she stated that she had.

I searched her by social security number first and located her record, opening the file as a transfer. I took her picture and processed her all the way through, verifying and updating her information (address, height and weight, phone number, etc). Once completed, I printed out the data document summary for her to sign. She looked at the document and stated that the sex was incorrect (the previous Alabama license had her as a male). Because, oftentimes, the sex is entered incorrectly, I had Sgt. Fetty pull up her previous Alabama license in Central Admin to see what her record showed. All previous licenses had her listed as a male, as well as the first couple of them had the name as [redacted] before it was changed. I don't remember the specific issue dates or when the name was changed, but it was her current name on the most recent Alabama license (that's probably why I didn't notice anything amiss when I was issuing).

After consulting with Sgt. Fetty, I called the medical unit and spoke with JJ. I was told by the medical unit that she would have to have a letter from the physician indicating that gender reassignment surgery had been completed or an amended Alabama birth certificate before I could change the sex on her license.

Ms. Corbitt-Hall was very upset. She was speaking louder than previously. She told me that if we would give her the $60,000 for surgery, she'd be glad to have it done. I think Sgt. Fetty heard it getting louder and walked out to my desk at that point, in an attempt to calm Ms. Corbitt-Hall. Sgt. Fetty reiterated, quietly, that in order to change the sex on a driver license, we had to have the letter from her doctor indicating the completion of gender reassignment surgery and/or an amended birth certificate. Sgt. Fetty explained that it was Department policy.

Ms. Corbitt-Hall was never (that I am aware of) addressed as a "He" or "it" (and definitely not by me), nor was she belittled or degraded. She was offered the Alabama license as is and refused, stating that she would go to Montgomery and complain and mentioned suing.

Teresa Smith
D.L. Examiner I

Exhibit 36

In The Matter Of:

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

Destiny Clark
November 8, 2018

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

Original File 11-8-18 Destiny Clark.txt
Min-U-Script® with Word Index

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

1 A P P E A R A N C E S

2

3 FOR THE PLAINTIFFS:

4 AMERICAN CIVIL LIBERTIES UNION FOUNDATION

5 Gabriel Arkles

6 125 Broad Street

7 18th Floor

8 New York, New York 10004

9

10 ALABAMA CIVIL LIBERTIES UNION FOUNDATION

11 Brock Boone

12 Randall C. Marshall

13 P.O. Box 6179

14 Montgomery, Alabama 36106

15

16 FOR THE DEFENDANTS:

17 OFFICE OF THE ATTORNEY GENERAL, STATE OF

18 ALABAMA

19 Brad A. Chynoweth

20 501 Washington Avenue

21 Montgomery, Alabama 36130

22

23

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

1 A. Destiny Clark.
2 Q. When were you born?
3 A. April 26, 1984.
4 Q. And that would make you how old?
5 A. Thirty-four. But a lady never
6 tells her age.
7 Q. Well -- I'm going to submit
8 Defendant's Exhibit 1.
9 (Defendant's Exhibit Number 1 was
10 marked for identification. A copy
11 is attached.)
12 Q. Is this an accurate copy of your
13 birth certificate?
14 A. Yes, it is.
15 Q. And what is the name on the birth
16 certificate?
17 A. The name on the birth certificate
18 is my given name at birth. It's [redacted]
19 [redacted]
20 Q. And what is the sex on the birth
21 certificate?
22 A. The sex I was assigned at birth is
23 male.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Exhibit 37

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

DARCY CORBITT, *et al.*,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	CASE NO. 2:18-cv-91-MHT-GMB
	)	
HAL TAYLOR, *et al.*,	)	
	)	
Defendants.	)	

Declaration of Destiny Clark

1. I am 33-year-old woman who lives in Saint Clair County, Alabama.
2. I am transgender. I was assigned male at birth, and I know myself to be female.
3. I grew up in Saint Clair County. I moved away as a young adult, but returned to care for my father when he was ill.
4. I have completed a legal name change, and I have corrected my sex with the Social Security Administration.
5. I currently work at Birmingham AIDS Outreach as a case manager for trans women living with HIV/AIDS. My tasks include basic case management, and this extends to transporting my clients to their daily activities such as doctor visits, grocery shopping, paying bills, and picking up medications. I drive to work, and while at work I drive my clients to appointments, shopping, and any other task they may need to attend to.
6. I drive my niece to the babysitter's house each day and pick her up afterward. I also drive to the events of the non-profits I am a participant in.
7. My license still wrongly lists my gender as male. As a result, I experience a high level of anxiety going about my daily life.

8. Around 2016, during a traffic stop in Odenville, Alabama, a police officer treated me politely when asking for my license. But, after seeing my license listed my sex as male, the officer became hostile and accusing.

9. I try to avoid using my license as much as possible. I do not go to clubs or bars where I believe I will be asked to show identification. I do not order alcohol in restaurants. If I want to buy alcohol in a store, I ask my boyfriend to buy it for me so I will not have to show my driver's license.

10. Because I am typically perceived as a woman, any time I show my license, the person seeing it observes the male gender designation and learns that I am transgender. As a woman who is transgender, I am at high risk of discrimination and violence. The wrong gender on my driver's license increases that risk.

11. I disagree with the state of Alabama's message about my gender because I am a female. It's unsafe for me to have the "M" on my driver's license. I fear having to show my ID to strangers because I do not know what type of harm they may inflict upon me.

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: 2/7/2019

By: Destiny Clark

Destiny Clark

Exhibit 38

IN THE PROBATE COURT FOR ST. CLAIR COUNTY ALABAMA

NORTHERN JUDICIAL DIVISION AT ASHVILLE

IN THE MATTER OF:

THE NAME CHANGE OF [redacted], an adult

DATE OF BIRTH: [redacted] **CASE NO. N-2015-143**

ORDER

A Declaration having been filed in writing under the provisions of Title 12 Section 12-13-1, *Code of Alabama,* praying for a name change as set out above, and it appearing to the Court that the facts set out are true and correct, therefore, it is CONSIDERED and ADJUDGED that

[redacted]

Henceforth shall be known by the name of:

DESTINY LYNN CLARK

And that the Declaration and Order be filed and recorded in this Court in the manner and form prescribed by law.

Done and Entered this the 17th **day of** April 2015.

Mike Bowling

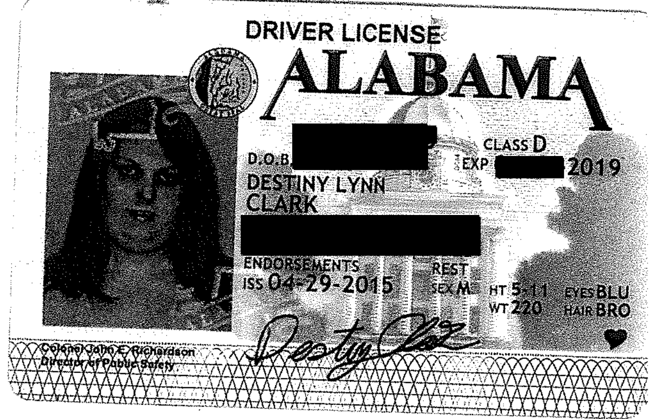
Judge of Probate

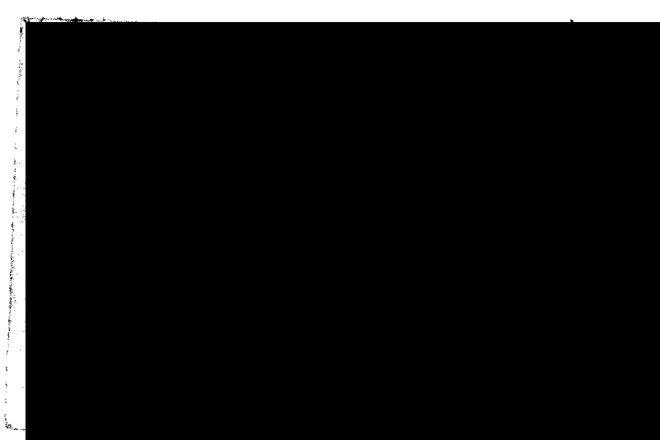
Plaintiff's Exhibit 39

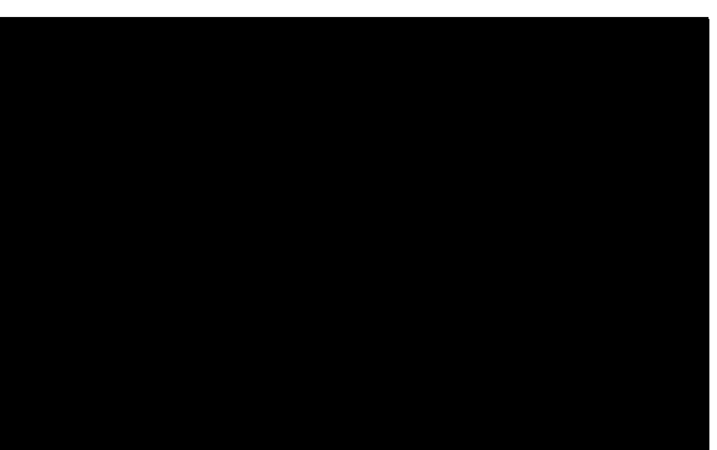
Medical Letter from Robert P. Bolling, MD (January 18, 2017) (D169)

Filed Under Seal

Exhibit 40


DRIVER LICENSE
ALABAMA
CLASS D
D.O.B.
EXP 2019
DESTINY LYNN
CLARK
ENDORSEMENTS
REST
ISS 04-29-2015
SEX M
HT 5-11
WT 220
EYES BLU
HAIR BRO
Colonel John E. Richardson
Director of Public Safety





Plaintiffs' Exhibit 41

Deposition of Jane Doe

Filed Under Seal

Plaintiffs' Exhibit 42

Declaration of Jane Doe

Filed Under Seal

Plaintiffs' Exhibit 43

Name Change Order of Jane Doe

Filed Under Seal

Plaintiffs' Exhibit 44

Letter Certifying Applicant's Gender Change

Filed Under Seal

Exhibit 45

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

DARCY CORBITT, *et al.*,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	CASE NO. 2:18-cv-91-MHT-GMB
	)	
HAL TAYLOR, *et al.*,	)	
	)	
Defendants.	)	

Expert Declaration of R. Nicholas Gorton, M.D.

Qualifications

1. My name is Ryan Nicholas Gorton. I am a physician licensed in California retained by the Plaintiffs in the above-captioned case. My professional background, publications, and experience are detailed in my curriculum vitae, a true and accurate copy of which is attached as Exhibit A to this declaration. I received my medical degree from the University of North Carolina School of Medicine in 1998 and completed my residency and chief residency in emergency medicine at Kings County Hospital in Brooklyn, New York.

2. In addition to working as an Emergency Medicine physician at Sutter Davis Hospital, I have also served as a primary care physician at Lyon-Martin Health Services ("Lyon-Martin") in San Francisco since 2005 where I have provided primary care and transition-related care to more than 400 transgender patients.

3. I provide medical assessments including the diagnosis of Gender Dysphoria, initiate and monitor hormonal treatment, and refer for mental health treatments. I also determine whether and when patients are appropriate for referral for sex reassignment surgeries, provide pre-operative preparation and clearance, and provide post-operative care in consultation with the

appropriate surgeon. I also provide supervision to Nurse Practitioners and Physician Assistants treating transgender patients at Lyon-Martin.

4. Lyon-Martin is an historically LGBT clinic that has been serving transgender patients for over 30 years. Lyon-Martin is also one of just a handful of sites in the United States that trains medical students, residents, and fellows to provide primary care to transgender patients, including treatment for gender dysphoria. I have been a primary clinical instructor for these trainees, including the one-year Nurse Practitioner Residency that Lyon-Martin has developed. I have provided extensive clinical instruction to over 100 trainees during this time.

5. I also serve as a clinician consultant for TransLine, a national transgender medical consultation service for clinicians needing expert advice about the care of their individual patients.

6. I am a member of the World Professional Association for Transgender Health (WPATH) and serve on their transgender medicine and research committee and institutionalized persons committee.

7. I have presented lectures and grand rounds on transgender health issues at numerous medical school and residency programs throughout the United States as well as national and international conferences. I have also co-authored numerous publications addressing transgender health, including professional journal articles and chapters and sections in professional texts, and publications aimed at the transgender community itself.

8. I have been retained as an expert regarding gender dysphoria and the treatment of gender dysphoria in multiple court cases and administrative proceedings. I was deposed as an expert and/or testified at trial in the following cases over the past four years: *Edmo v. Idaho Dept. of Corrections* 1:17-cv-00151 (U.S. District Court, District of Idaho); *Cruz v. Zucker,* 14

CV-4456 (U.S. District Court, Southern District of New York) and *Keohane v. Jones*, 4:16-cv-00511 (U.S. District Court, Northern District of Florida).

9. I am not charging a fee for my testimony in this case.

Definitions

10. **Sex** is the sum of the anatomical, physiological, and biologically functional characteristics of an individual that places them in the categories male, female, or along a spectrum between the two. In the majority of instances, these characteristics are congruent allowing individuals to be easily described as male or female. However, in some cases such as intersex and transgender people, individuals have characteristics that are not all in alignment.

11. **Gender identity** is the internal sense of oneself as male, female, or somewhere along the spectrum between the two, or, as in the case of agender individuals, external to this spectrum. It should be noted that gender identity, being a product of the central nervous system, should be considered one of the characteristics when describing the sex of an individual.

12. **Non-binary gender identity** is the gender identity of a minority of transgender people and those diagnosed with Gender Dysphoria. Their gender identity is neither typically male nor female. In some jurisdictions, these patients are allowed a non-binary sex designation on their identity documents instead of M or F.

13. **Gender expression** is the clothing, grooming, mannerisms, and other behaviors that signal to others our gender.

14. **Sex assigned at birth** is the sex to which typically an obstetrician, pediatrician, or midwife assigns a newborn which is recorded on their birth certificate (or records no sex at the time of birth due to an intersex condition).

15. **Transgender** is used to describe individuals whose sex assigned at birth is different than their gender identity.

16. **Transgender women** is used to describe individuals who were assigned a male sex at birth and have a female gender identity.

17. **Transgender men** is used to describe to individuals who were assigned a female sex at birth and have a male gender identity.

18. **Cisgender** is used to describe individuals whose sex assigned at birth is the same as their gender identity.

19. **Gender Dysphoria** (GD), like Depression is both a diagnosis and the predominant symptom of that diagnosis. The symptom of gender dysphoria is the psychological distress one feels when there is a conflict between one's internal gender identity and both one's physical body and how one is perceived and treated by others in society. Like depression, this can range from being mild to severe emotional distress. It should be noted that not all people who are transgender carry the diagnosis of Gender Dysphoria.

20. **Sex Reassignment Surgery** (SRS), A/K/A Gender Affirming Surgery, Gender-Confirming Surgery, or Gender Reassignment Surgery are a class of surgical procedures performed for some patients with gender dysphoria to align their physical bodies in accordance with their Gender Identity.

21. **Hormone Replacement Therapy** (HRT) is the provision of sex hormones (and sometimes sex hormone antagonists) to change the body of transgender people to better conform to their gender identity.

22. **Misgendering** is when transgender people are addressed either accidentally or intentionally with the wrong pronoun or with the patient's prior name (generally their birth

name). This action causes significant negative mental health consequences for transgender people and can worsen their gender dysphoria.

23. **Social transition** is when transgender people live and present themselves authentically as the gender corresponding to their gender identity. This can include using a new chosen name and pronouns, wearing different clothing, changing grooming practices, and in general interacting with society as the gender corresponding to their gender identity.

24. **Intersex** is term used to define a group of conditions where individuals are born with chromosomal, physiological, or anatomic differences that do not fit the typical definitions of a male or female body. Some of these conditions are identifiable at birth but some are not identified until later in life, if at all.

Health Ramifications of Identity Documents for Persons with Gender Dysphoria

25. Transgender people who are diagnosed with Gender Dysphoria may, as part of their prescribed medical treatment plan, change their legal name and their gender marker on official documents such as driving license, passport, birth certificate, and social security card. This process of changing identity documents has profound health benefits for patients with gender dysphoria as well as significant social, legal, and safety implications for transgender people navigating the world in accordance with their gender identity.

26. Misgendering (defined above) has profound and sometimes life-threatening negative mental health consequences for transgender people. For example, a recent study demonstrated that in adolescent and young adult transgender patients, use of their chosen name and the correct pronoun significantly decreased depression, suicidal ideation, and suicide attempts.[1] When transgender people are able to present identification that corresponds to their

[1]Russell, S. T., Pollitt, A. M., Li, G., & Grossman, A. H. (2018). Chosen name use is linked to reduced depressive symptoms, suicidal ideation, and suicidal behavior among transgender youth. *Journal of Adolescent Health.*

gender identity and expression in the numerous situations that require it, they are protected from misgendering and its negative health outcomes. As noted in a Lancet Psychiatry article, "transphobia and being misgendered can have a multiple layered negative intersection on every aspect of life."[2] Misgendering patients in health care settings has been associated with avoidance of necessary medical care in multiple studies.[3,4,5]

27. While rates of suicide are high among transgender people, a 2018 study identified several factors that were protective against suicide. Having an identity document gender marker that was concordant with their lived gender was associated with a large reduction in suicidal ideation and attempts. The study demonstrated that if 100 transgender people are allowed to change an identity document, 9 cases of suicidal ideation and 2 cases of suicide attempts will be prevented. [6] The magnitude of this improvement is greater than treating depressed suicidal patients with common antidepressants.

28. Moreover, transgender people who lack appropriate identity documents often avoid situations that require them to use these documents to avoid misgendering and negative treatment due to being outed. For example, patients may avoid travelling by plane, applying for employment, applying for public benefits, filling prescriptions, purchasing alcohol, applying to and attending college, checking into a hotel, renting a car, voting, opening and using a checking account, using a credit or bank card, travelling internationally, and numerous other things that

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[2] Morgan, J. (2015). Trans* health: "diversity, not pathology". *The Lancet Psychiatry*, *2*(2), 124-125.

[3] Bauer, G. R., Hammond, R., Travers, R., Kaay, M., Hohenadel, K. M., & Boyce, M. (2009). "I don't think this is theoretical; this is our lives": how erasure impacts health care for transgender people. *Journal of the Association of Nurses in AIDS Care*, *20*(5), 348-361.

[4] Brown, J. F., & Fu, J. (2014). Emergency department avoidance by transgender persons: another broken thread in the "safety net" of emergency medicine care. *Annals of emergency medicine*, *63*(6), 721-722.

[5] Bauer, G. R., Scheim, A. I., Deutsch, M. B., & Massarella, C. (2014). Reported emergency department avoidance, use, and experiences of transgender persons in Ontario, Canada: results from a respondent-driven sampling survey. *Annals of emergency medicine*, *63*(6), 713-720.

[6] Bauer, G. R., Scheim, A. I., Pyne, J., Travers, R., & Hammond, R. (2015). Intervenable factors associated with suicide risk in transgender persons: a respondent driven sampling study in Ontario, Canada. BMC public health, 15(1), 525.

most of us take for granted. I have had patients report each of these things to me, some many times.

29. Being unable to safely do these activities has far-reaching effects such as increasing risks of homelessness. The US Transgender Survey (USTS) found 30% of transgender people had been homeless at some point in their lives, likely related to having more than three times the US unemployment rate and more than double the rates of poverty.[7] Even when transgender people are homeless, they may be unable to access shelters if they lack identity documents.

30. It should also be noted that my patients have reported avoidance of situations requiring the use of identity documents not just due to fear of what may happen in the future, but because of prior discrimination and sometimes violence they have encountered. Unfortunately, transgender people when they are outed as being transgender face starkly increased rates of interpersonal violence. The USTS found that in the prior year 9% of respondents had been physically attacked because they were transgender and 10% had been raped. The USTS also noted that among transgender people who were perceived as transgender, the rate of being a victim of violence was almost three times as high as those who were not perceived as transgender. Thus, being outed by presenting incongruent identity documents not only has serious negative mental health consequences, but also places transgender people in grave physical danger.

31. Finally, in the case of transgender people who are diagnosed and treated for Gender Dysphoria (GD), presenting identity documents that do not correspond to their gender presentation, a prescribed part of their treatment, are faced with the decision to avoid use of these

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[7]James, S. E., & Herman, J. (2017). *The Report of the 2015 US Transgender Survey: Executive Summary*. National Center for Transgender Equality.

documents or have to reveal their private medical history every time they do. This is medically inappropriate. Patients deserve privacy and forcing them to choose between this and using an identity document is unethical.

Determining correct gender marker for identity documents

32. Many transgender people who are diagnosed with GD have medical treatment in the form of hormone replacement therapy (HRT). This provides a range of physical and physiological changes that make the individual's body better reflect their internal gender identity. Many also undergo one or more surgeries to meet that same goal. However, many is not all transgender patients.

33. According to the US Transgender Survey Report, only 25% of US respondents have undergone surgery. This number has likely increased somewhat since 2015 because of greater insurance coverage of SRS. However, the majority of transgender Americans still live in locations where insurance discrimination is common.[8]

34. Moreover, medical need, ability to access care, and clinical appropriateness of these treatments in no way reflects an individual's gender identity or how they should be treated by others. The care of transgender people, like all other patients, must be individualized. No one would suggest that all diabetics need treatment with insulin, and in the same way not all people with GD need HRT or SRS.

35. For example, some transgender people do not require HRT (or at least don't require it on an ongoing basis) to successfully transition and treat their gender dysphoria. In addition, for some patients with GD, HRT may be medically contraindicated. For example, a transgender woman who has a hereditary thrombophilia resulting in an increased risk of blood clots would be placed at higher risk of development of these clots by standard HRT. In some

[8] US Trans Survey and https://transequality.org/health-care-action-center#state

cases, careful and low-dose HRT is still needed to treat their GD, but in some cases it is not. Similarly, transgender women who are carriers of a breast cancer gene mutation would be at substantially increased risk of cancer if they underwent standard HRT. Thus a requirement for a transgender woman to undergo HRT in order to change her identity document would place some patients at risk of serious illness and death.

36. Similarly, surgical treatments must also be individualized. While laymen might think that there is "one surgery" that defines an individual as having "changed their sex," the truth is far more complicated. There are dozens of possible procedures that transgender people can undergo, and no single patient undergoes all of the ones possible for their gender. Some people with GD require multiple SRS procedures on multiple body sites, while some may require only one or two, and some none at all to successfully treat their GD. It should be remembered that the goal of treatment of GD is to relieve the dysphoria, not accomplish a laundry list of treatments that may in fact be ill advised in some patients.

37. Moreover, even when discussing genital SRS, not all surgeries result in genitalia that directly correspond to the genitalia of cisgender people. For example, if vaginal penetration is not a desired result for transgender women, occasionally surgeons perform a zero depth vaginoplasty which is where a female vulva is created but no vagina is created. This option has much easier post-operative care and has less risks of complications. In transgender men, while phalloplasty is sometimes performed, some patients do not desire this surgery as it has a higher rate of complications. Many will undergo a metaidioplasty that takes the clitoris which enlarges under the influence of testosterone to create a phallus, but which is often quite small and generally corresponds to the size of cisgender men with congenital micropenis.

38. Moreover, similarly to HRT, for some patients, certain surgeries (or any surgery at all) may be medically contraindicated.

39. One benefit of genital SRS for transgender men is the ability to stand to urinate. In the case of a transgender man who is a paraplegic he would not realize this benefit of SRS. Given that the risk of genital SRS in a paraplegic would also be far greater, the benefits might not justify the risks and surgery would not be undertaken. Similarly, a transgender man who had prior pelvic radiation for childhood cancer would be at significantly greater risk of surgical complications which might preclude safely performing genital SRS. These patients might have their GD treated successfully with just HRT and mastectomy with chest reconstruction. Similarly, some people by virtue of coexisting medical issues are at very high risk of undergoing anesthesia for any surgery. While they might benefit from surgery, this must be weighed against the risks and an individualized treatment plan developed.

40. Mandating a genital surgery to obtain identity documents would place all of these patients in the situation of choosing between the substantial negative consequences detailed above that come with not having appropriate identity documents and the risks of serious complications or even death that may be the result of an ill-advised surgery to fulfill administrative requirements.

41. The determination of when SRS is complete is based on the patient's gender dysphoria. If a single non-genital surgery has adequately treated the patient's gender dysphoria, then surgical treatments are considered fully complete. The medical professional best suited to determine when this point has been reached is the patient's primary care provider possibly in conjunction with any mental health providers involved in the patient's care. Of members of the patient's care team, the one least likely to be able to assess this is the surgical provider. This is

not because of lack of competence, but rather because surgeons generally are not involved in long term care and thus are not privy to the knowledge needed to assess this. For example, if a surgeon completes surgery, they generally don't follow up with a patient six months later to reassess their dysphoria and determine whether further treatment is needed.

42. Physiognomy is not an appropriate term to discuss transgender patients, especially as used in the report of Donald Leach. Physiognomy is not a replacement word for physiology or anatomy. Physiognomy is a person's facial features and expression and connotes these as indicative of one's character and ethnicity.

43. Essentially all genital SRS for transgender women and the vast majority of those performed on transgender men result in infertility. It is not possible to retain the testicles in genital SRS for transgender women as the scrotum is an integral part of creation of the vulva. In almost all cases, genital SRS in transgender men results in infertility as a hysterectomy must be performed if the vaginal opening is closed. Theoretically a trans man could have a simple metaidioplasty without the other components of surgery, but I have never had a patient for whom this was appropriate or who had undergone this surgery through another provider. So for the vast majority of patients, genital SRS results in permanent infertility. While this is an unfortunate though acceptable side effect to many transgender people for their treatment, just as it might be for people with cancer, it should only be undertaken when the health benefits of treatment outweigh the risks.

44. Having forced sterilization as an administrative requirement for obtaining proper identity documents is morally wrong and harkens back to the era of forced sterilization in which over 60,000 Americans were sterilized without their consent in the first half of the twentieth century.

45. The American College of Obstetricians and Gynecologists Committee on Ethics has issued clinical guidance that states: "Coercive or forcible sterilization practices are unethical and should never be performed." In May 2014, the World Health Organization, the Office of the United Nations High Commissioner for Human Rights, UN Women, UNAIDS, UNDP, UNFPA, and UNICEF published a joint interagency statement: Eliminating forced, coercive and otherwise involuntary sterilization. This report states: "In many countries, transgender and often also intersex persons are required to undergo sterilization surgeries that are often unwanted, as a prerequisite to receiving gender affirmative treatment and gender-marker changes." The report also notes: "these sterilization requirements run counter to respect for bodily integrity, self-determination and human dignity, and can cause and perpetuate discrimination against transgender and intersex persons" and it recommends: "the revision of laws to remove any requirements for compulsory sterilization of transgender persons."

46. Given these clinical complexities, it is scientifically inaccurate, clinically inappropriate, and unethical to require a set of medical and surgical procedures to define who should be provided with appropriate identity documentation. It also places transgender people at risk of the dangerous mental health consequences of misgendering and the greater risk of interpersonal violence when their transgender identity is revealed by inappropriate documents.

Most jurisdictions have abandoned surgery requirements

47. Given the individual medical needs of individuals with Gender Dysphoria, conditioning a gender marker change on a particular treatment will fail to appropriately serve all transgender people. Thus most jurisdictions have moved away from surgery requirements and defer to the determination of patients and their health care providers.

48. Around four states and the District of Columbia allow transgender people to certify their own gender and around 30 states require a certification from a healthcare provider to be allowed to change gender markers on driver's licenses, with no particular surgery or treatment being required.

Requiring Genital SRS to Change a Gender Marker Would Not Result in Everyone with the Same Gender Marker Having the Same Anatomical Characteristics.

49. The use of genital SRS as a criterion in Policy Order 63 demonstrates a lack of understanding of the biological characteristics and clinical determinations relevant to sex, and would not yield consistency in the physical characteristics of people designated as having the same sex.

50. If genital anatomy is the only determinant, then a male could lose his right to have an M on his identification if he had a penectomy or orchiectomy for cancer. A person born with an intersex condition who has genitals that are neither characteristically male nor female might not be allowed a sex designation at all.

51. Because of intersex conditions, traumatic injuries, and medical treatments for various conditions, a significant number of people assigned a female sex at birth who have not undergone genital SRS nonetheless do not have female-typical genital anatomy or other female-typical anatomy, and a significant number of people assigned a male sex at birth who have not undergone genital SRS nonetheless do not have male-typical genital anatomy or other male-typical anatomy.

Conclusion

52. Policy order 63 provides no medical or scientific justification for that decision.

53. Were Alabama to decide to choose the route that is most clinically appropriate, they would adopt policies such as those in OR, DC, and CA: transgender individuals submit a form where they certify their gender, the genders allowed are three: male, female, and none or non-binary, and their identity document is changed based on the patient's affirmation.

54. Failing self-affirmation, the next best option from a clinical perspective is to rely on certification by any of a range of medical or mental health providers who are treating patients with GD.

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: 2/6/19

By: [signature]

R. Nicholas Gorton, M.D.

Exhibit 46

How many people are lesbian, gay, bisexual, and transgender?

by Gary J. Gates, Williams Distinguished Scholar

April 2011

Executive Summary

Increasing numbers of population-based surveys in the United States and across the world include questions that allow for an estimate of the size of the lesbian, gay, bisexual, and transgender (LGBT) population. This research brief discusses challenges associated with collecting better information about the LGBT community and reviews eleven recent US and international surveys that ask sexual orientation or gender identity questions. The brief concludes with estimates of the size of the LGBT population in the United States.

Key findings from the research brief are as follows:

- An estimated 3.5% of adults in the United States identify as lesbian, gay, or bisexual and an estimated 0.3% of adults are transgender.
- This implies that there are approximately 9 million LGBT Americans, a figure roughly equivalent to the population of New Jersey.
- Among adults who identify as LGB, bisexuals comprise a slight majority (1.8% compared to 1.7% who identify as lesbian or gay).
- Women are substantially more likely than men to identify as bisexual. Bisexuals comprise more than half of the lesbian and bisexual population among women in eight of the nine surveys considered in the brief. Conversely, gay men comprise substantially more than half of gay and bisexual men in seven of the nine surveys.
- Estimates of those who report any lifetime same-sex sexual behavior and any same-sex sexual attraction are substantially higher than estimates of those who identify as LGB. An estimated 19 million Americans (8.2%) report that they have engaged in same-sex sexual behavior and nearly 25.6 million Americans (11%) acknowledge at least some same-sex sexual attraction.
- Understanding the size of the LGBT population is a critical first step to informing a host of public policy and research topics. The surveys highlighted in this report demonstrate the viability of sexual orientation and gender identity questions on large national population-based surveys. Adding these questions to more national, state, and local data sources is critical to developing research that enables a better understanding of the understudied LGBT community.

Introduction

Increasing numbers of population-based surveys in the United States and across the world include questions designed to measure sexual orientation and gender identity. Understanding the size of the lesbian, gay, bisexual, and transgender (LGBT) population is a critical first step to informing a host of public policy and research topics. Examples include assessing health and economic disparities in the LGBT community, understanding the prevalence of anti-LGBT discrimination, and considering the economic impact of marriage equality or the provision of domestic partnership benefits to same-sex couples. This research brief discusses challenges associated with collecting better information about the LGBT community and reviews findings from eleven recent US and international surveys that ask sexual orientation or gender identity questions. The brief concludes with estimates of the size of the LGBT population in the United States.

Challenges in measuring the LGBT community

Estimates of the size of the LGBT community vary for a variety of reasons. These include differences in the definitions of who is included in the LGBT population, differences in survey methods, and a lack of consistent questions asked in a particular survey over time.

In measuring sexual orientation, lesbian, gay, and bisexual individuals may be identified strictly based on their self-identity or it may be possible to consider same-sex sexual behavior or sexual attraction. Some surveys (not considered in this brief) also assess household relationships and provide a mechanism of identifying those who are in same-sex relationships. Identity, behavior, attraction, and relationships all capture related dimensions of sexual orientation but none of these measures completely addresses the concept.

Defining the transgender population can also be challenging. Definitions of who may be considered part of the transgender community include aspects of both gender identities and varying forms of gender expression or non-conformity. Similar to sexual orientation, one way to measure the transgender community is to simply consider self-identity. Measures of identity could include consideration of terms like transgender, queer, or genderqueer. The latter two identities are used by some to capture aspects of both sexual orientation and gender identity.

Similar to using sexual behaviors and attraction to capture elements of sexual orientation, questions may also be devised that consider gender expression and non-conformity regardless of the terms individuals may use to describe themselves. An example of these types of questions would be consideration of the relationship between the sex that individuals are assigned at birth and the degree to which that assignment conforms with how they express their gender. Like the counterpart of measuring sexual orientation through identity, behavior, and attraction measures, these varying approaches capture related dimensions of who might be classified as transgender but may not individually address all aspects of assessing gender identity and expression.

Another factor that can create variation among estimates of the LGBT community is survey methodology. Survey methods can affect the willingness of respondents to report stigmatizing identities and behaviors. Feelings of confidentiality and anonymity increase the likelihood that respondents will be more accurate in reporting sensitive information. Survey methods that include face-to-face interviews may underestimate the size of the LGBT community while those that include methods that allow respondents to complete questions on a computer or via the internet may increase the likelihood of LGBT respondents identifying themselves. Varied sample sizes of surveys can also increase variation. Population-based surveys with a

larger sample can produce more precise estimates (see SMART, 2010 for more information about survey methodology).

A final challenge in making population-based estimates of the LGBT community is the lack of questions asked over time on a single large survey. One way of assessing the reliability of estimates is to repeat questions over time using a consistent method and sampling strategy. Adding questions to more large-scale surveys that are repeated over time would substantially improve our ability to make better estimates of the size of the LGBT population.

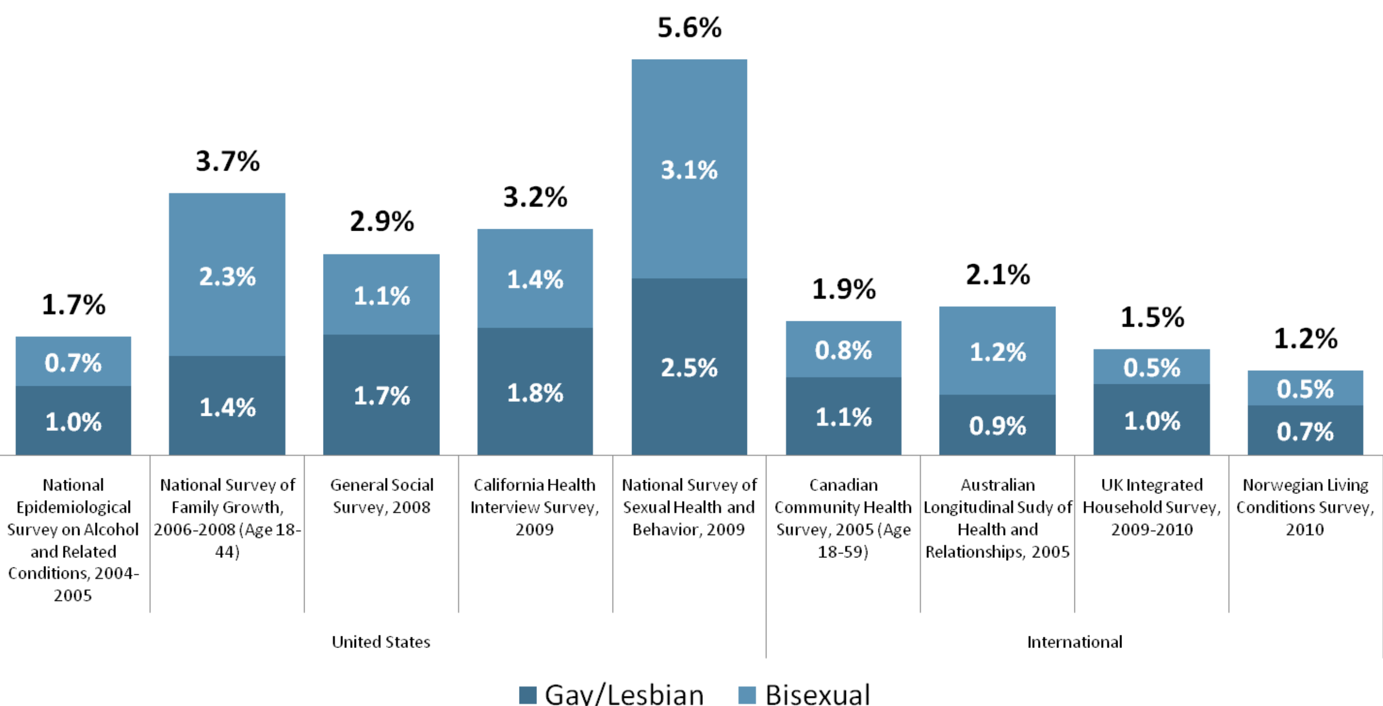
How many adults are lesbian, gay, or bisexual?

Findings shown in Figure 1 consider estimates of the percentage of adults who self-identify as lesbian, gay, or bisexual across nine surveys conducted within the past seven years. Five of those surveys were fielded in the United States and the others are from Canada, the United Kingdom, Australia, and Norway. All are population-based surveys of adults, though some have age restrictions as noted.

The lowest overall percentage comes from the Norwegian Living Conditions Survey at 1.2%, with the National Survey of Sexual Health and Behavior, conducted in the United States, producing the highest estimate at 5.6%. In general, the non-US surveys, which vary from 1.2% to 2.1%, estimate lower percentages of LGB-identified individuals than the US surveys, which range from 1.7% to 5.6%.

While the surveys show a fairly wide variation in the overall percentage of adults who identify as LGB, the proportion who identify as lesbian/gay versus bisexual is somewhat more consistent (see Figure 2). In six of the surveys, lesbian- and gay-identified individuals outnumbered bisexuals. In most cases, these surveys were roughly 60% lesbian/gay versus 40% bisexual. The UK Integrated Household Survey found the proportion to be two-thirds lesbian/gay versus one-third bisexual.

Figure 1. Percent of adults who identify as lesbian, gay, or bisexual.



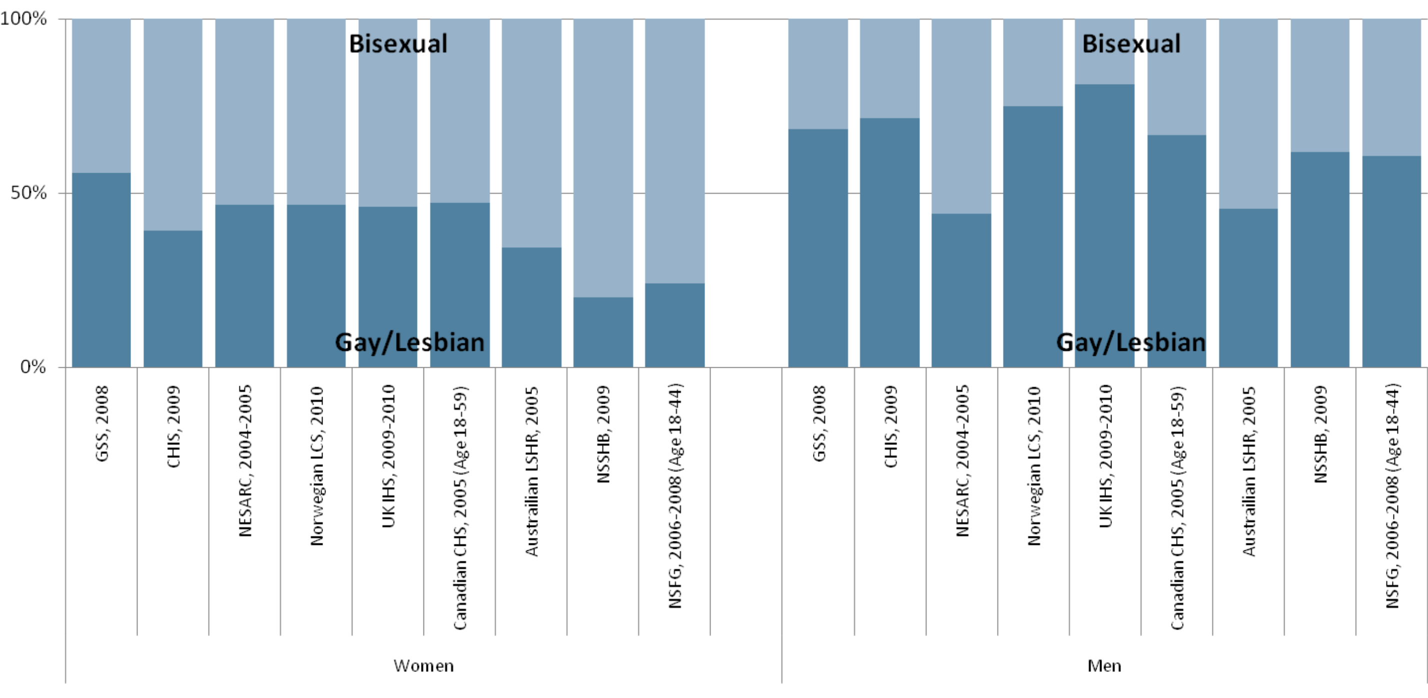
The National Survey of Family Growth found results that were essentially the opposite of the UK survey with only 38% identifying as lesbian or gay compared to 62% identifying as bisexual. The National Survey of Sexual Health and Behavior and the Australian Longitudinal Study of Health and Relationships both found a majority of respondents (55% and 59%, respectively) identifying as bisexual.

The surveys show even greater consistency in differences between men and women

Figure 2. Percent of adults who identify as gay/lesbian versus bisexual.

	Survey	Bisexual	Gay/Lesbian
United States	National Epidemiological Survey on Alcohol and Related Conditions, 2004-2005	42%	58%
	National Survey of Family Growth, 2006-2008 (Age 18-44)	62%	38%
	General Social Survey, 2008	40%	60%
	California Health Interview Survey, 2009	44%	56%
	National Survey of Sexual Health and Behavior, 2009	55%	45%
International	Canadian Community Health Survey, 2005 (Age 18-59)	42%	58%
	Australian Longitudinal Sudy of Health and Relationships, 2005	59%	41%
	UK Integrated Household Survey, 2009-2010	33%	67%
	Norwegian Living Conditions Survey, 2010	42%	58%

Figure 3. Percent of adults who identify as lesbian/gay versus bisexual, by sex.



associated with lesbian/gay versus bisexual identity. Women are substantially more likely than men to identify as bisexual. Bisexuals comprise more than half of the lesbian and bisexual population among women in eight of the nine surveys considered (see Figure 3). Conversely, gay men comprise substantially more than half of gay and bisexual men in seven of the nine surveys.

Figure 4. Percent of adults who report any same-sex attraction and behavior.

	Survey	Percent	LGB Identity
Same-sex attraction	National Survey of Family Growth, 2006-2008 (Age 18-44)	11.0%	3.7%
	Australian Longitudinal Sudy of Health and Relationships, 2005	6.5%	2.1%
	Norwegian Living Conditions Survey, 2010	1.8%	1.2%
Same-sex behavior	National Survey of Family Growth, 2006-2008 (Age 18-44)	8.8%	3.7%
	General Social Survey, 2008	7.5%	3.2%
	Australian Longitudinal Sudy of Health and Relationships, 2005	6.9%	2.1%

Four of the surveys analyzed also asked questions about either sexual behavior or attraction. Within these surveys, a larger fraction of adults report same-sex attractions and behaviors than self-identify as lesbian, gay, or bisexual (see Figure 4). With the exception of the Norwegian survey, these differences are substantial. The two US surveys and the Australian survey all suggest that adults are two to three times more likely to say that they are attracted to individuals of the same-sex or have had same-sex sexual experiences than they are to self-identify as LGB.

How many adults are transgender?

Population-based data sources that estimate the percentage of adults who are transgender are very rare. The Massachusetts Behavioral Risk Factor Surveillance Survey represents one of the few population-based surveys that include a question designed to identify the transgender population. Analyses of the 2007 and 2009 surveys suggest that 0.5% of adults aged 18-64 identified as transgender (Conron 2011).

The 2003 California LGBT Tobacco Survey found that 3.2% of LGBT individuals identified as transgender. Recall that the 2009 California Health Interview Survey estimates that 3.2% of adults in the state are LGB. If both of these estimates are true, it implies that approximately 0.1% of adults in California are transgender.

Several studies have reviewed multiple sources to construct estimates of a variety of dimensions of gender identity. Conway (2002) suggests that between 0.5% and 2% of the population have strong feelings of being transgender and between 0.1% and 0.5% actually take steps to transition from one gender to another. Olyslager and Conway (2007) refine Conway's original estimates and posit that at least 0.5% of the population has taken some steps toward transition. Researchers in the United Kingdom (Reed, et al., 2009) suggest that perhaps 0.1% of adults are transgender (defined again as those who have transitioned in some capacity).

Notably, the estimates of those who have transitioned are consistent with the survey-based estimates from California and Massachusetts. Those surveys both used questions that implied a transition or at least discordance between sex at birth and current gender presentation.

How many lesbian, gay, bisexual and transgender people are there in the United States?

Federal data sources designed to provide population estimates in the United States (e.g., the Decennial Census or the American Community Survey) do not include direct questions regarding sexual orientation or gender identity. The findings shown in Figure 1 suggest that no single survey offers a definitive estimate for the size of the LGBT community in the United States.

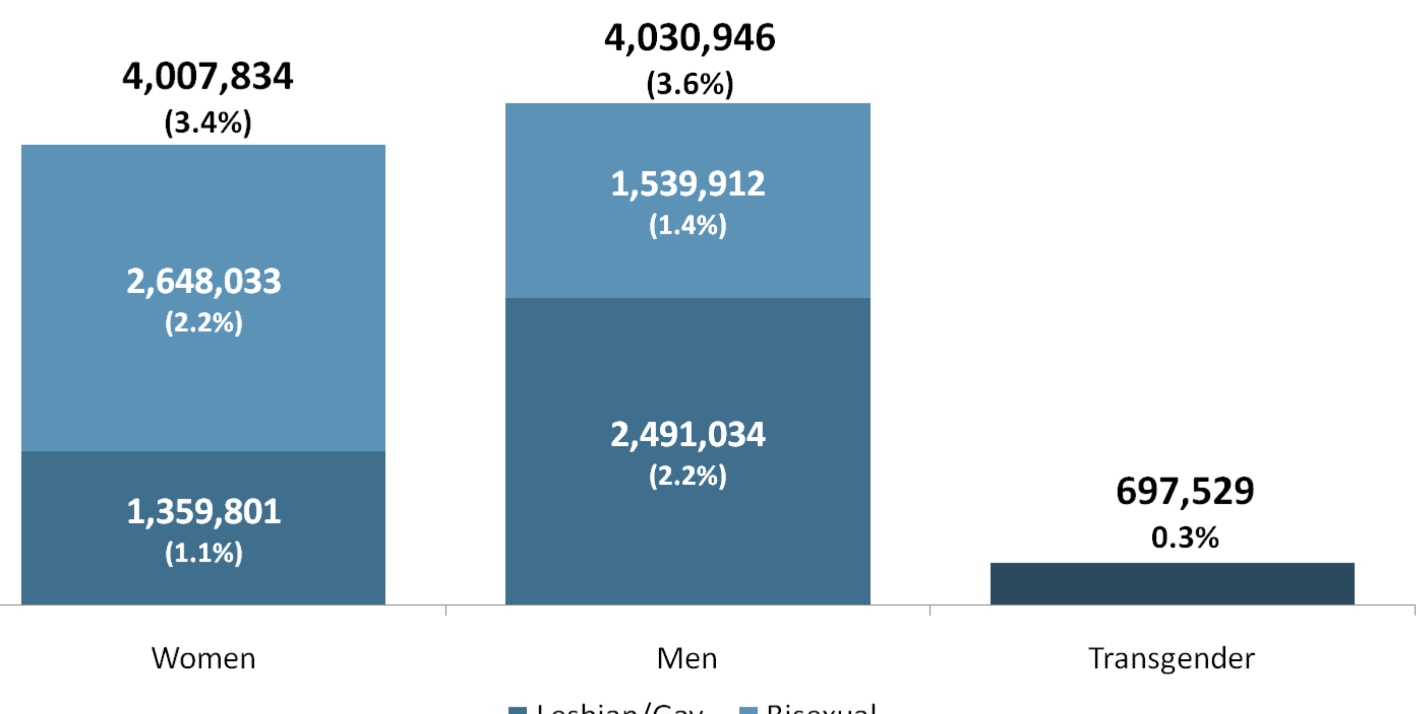
However, combining information from the population-based surveys considered in this brief offers a mechanism to produce credible estimates for the size of the LGBT community. Specifically, estimates for sexual orientation identity will be derived by averaging results from the five US surveys identified in Figure 1.

Separate averages are calculated for lesbian and bisexual women along with gay and bisexual men. An estimate for the transgender population is derived by averaging the findings from the Massachusetts and California surveys cited earlier.

It should be noted that some transgender individuals may identify as lesbian, gay, or bisexual. So it is not possible to make a precise combined LGBT estimate. Instead, Figure 5 presents separate estimates for the number of LGB adults and the number of transgender adults.

The analyses suggest that there are more than 8 million adults in the US who are LGB, comprising 3.5% of the adult population. This is split nearly evenly between lesbian/gay and bisexual identified individuals, 1.7% and 1.8%, respectively. There are also nearly 700,000 transgender individuals in the US. Given these findings, it seems reasonable to assert that approximately 9 million Americans identify as LGBT.

Figure 5. Percent and number of adults who identify as LGBT in the United States.



Averaging measures of same-sex sexual behavior yields an estimate of nearly 19 million Americans (8.2%) who have engaged in same-sex sexual behavior.[1] The National Survey of Family Growth is the only source of US data on attraction and suggests that 11% or nearly 25.6 million Americans acknowledge at least some same-sex sexual attraction.[2]

By way of comparison, these analyses suggest that the size of the LGBT community is roughly equivalent to the population of New Jersey. The number of adults who have had same-sex sexual experiences is approximately equal to the population of Florida while those who have some same-sex attraction comprise more individuals than the population of Texas.

The surveys highlighted in this report demonstrate the viability of sexual orientation and gender identity questions on large-scale national population-based surveys. States and municipal governments are often testing grounds for the implementation of new LGBT-related public policies or can be directly affected by national-level policies. Adding sexual orientation and gender identity questions to national data sources that can provide local-level estimates and to state and municipal surveys is critical to assessing the potential efficacy and impact of such policies.

[1] This estimate uses data from the National Survey of Family Growth and the General Social Survey.
[2] Since the NSFG data only survey 18-44 year olds, this estimate assumes that patterns in this group are the same for those aged 45 and older. It may be that older adults are less likely to report same-sex attraction. If so, this estimate may somewhat overstate same-sex attraction among all adults.

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About the Institute

The Williams Institute on Sexual Orientation and Gender Identity Law and Public Policy at UCLA School of Law advances law and public policy through rigorous, independent research and scholarship, and disseminates its work through a variety of education programs and media to judges, legislators, lawyers, other policymakers and the public. These studies can be accessed at the Williams Institute website.

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