



1 I, Andrew E. Carmichael, swear under penalty of perjury under the laws of the United  
2 States to the following:

3 1. I am a Trial Attorney at the United States Department of Justice and counsel of  
4 record for Defendants in this action. I submit this declaration in support of Defendants' response  
5 to Plaintiff-Intervenor's Motion to Compel under Local Rule 37. I base this declaration on my  
6 personal knowledge, as well as on information acquired by me or made available to me in the  
7 course of performing my official duties.

8 2. Attached to this declaration as Exhibit 1 is a true and correct copy of an email I  
9 sent to counsel for the Plaintiffs and for Washington on November 26, 2019.

10 3. Attached to this declaration as Exhibit 2 is a true and correct copy of an attachment  
11 to an email I sent to counsel for the Plaintiffs and for Washington on November 26, 2019. The  
12 attachment is a draft declaration from Army counsel that provides information on the Army's  
13 search and collection of materials in this and the related litigation.

14 4. Attached to this declaration as Exhibit 3 is a true and correct copy of an attachment  
15 to an email I sent to counsel for the Plaintiffs and for Washington on November 26, 2019. This  
16 attachment provided additional information regarding Defendants' search and collection of  
17 materials in this and the related litigation. The descriptions in the document were based upon  
18 information gathered from counsel in the Department of Defense ("DoD") and in the Military  
19 Services.

20 5. Attached to this declaration as Exhibit 4 is a true and correct copy of the U.S.  
21 Navy's *Transgender and Gender Transition Commanding Officer's Toolkit*. The document has  
22 the document ID Navy\_00012093 and is bates stamped USDOE00027185-27216.

23 6. Attached to this declaration as Exhibit 5 is a true and correct copy of *TGHC*  
24 *Module 1: Introduction to Policy Guidance and Concepts in Transgender Healthcare* that was  
25 presented by members of the Transgender Education and Training Work Group and is dated  
26 October 5, 2016. The document has the document ID DHA\_00002285 and is bates stamped  
27 USDOE00068324-68339. Copies of this document were produced by the Services as well (e.g.,  
28 AF\_00005422, AF\_00027029\_AF2, Army\_10003997.0003, Navy\_00070066).

1           7. Attached to this declaration as Exhibit 6 is a true and correct copy of *TGHC*  
2 *Module 2a: Evidence Based Practice Guidelines and Standards of Care Transgender Patient*  
3 *Populations* that was presented by members of the Transgender Education and Training Work  
4 Group and is dated October 27, 2016. The document has the document ID DHA\_00002305 and  
5 is bates stamped USDOE00068340–68353. Copies of this document were produced by the  
6 Services as well (*e.g.*, AF\_00005438, Navy\_00054561).

7           8. Attached to this declaration as Exhibit 7 is a true and correct copy of *TGHC*  
8 *Module 2b: Evidence Based Practice Guidelines and Standards of Care Primary Care* that was  
9 presented by members of the Transgender Education and Training Work Group and is dated  
10 October 27, 2016. The document has the document ID DHA\_00002325 and is bates stamped  
11 USDOE00068340–68353. Copies of this document were produced by the Services as well (*e.g.*,  
12 AF\_00005395, Navy\_00054575).

13           9. Attached to this declaration as Exhibit 8 is a true and correct copy of an Air Force  
14 Medicine presentation titled *AFMS Transgender Training*. The document has the document ID  
15 AF\_00005557 and is bates stamped USDOE00008276–8305.

16           10. Attached to this declaration as Exhibit 9 is a true and correct copy of an Army  
17 presentation titled *Policy on the Military Service of Transgender Soldiers, Interim Education*  
18 *Module*, dated August 18, 2016. The document has the document ID Army\_10001399 and is  
19 bates stamped USDOE00096342–96350.

20           11. Attached to this declaration as Exhibit 10 is a true and correct copy of an Army  
21 presentation titled *Policy on the Military Service of Transgender Soldiers, Training Module Tier*  
22 *3: Units and Soldiers*, dated September 16, 2016. The document has the document ID  
23 DoD00099549 and is bates stamped USDOE00223054–223072.

24           12. Attached to this declaration as Exhibit 11 is a true and correct copy of a Navy  
25 presentation titled *Transgender Policy Training*. The document has the document ID  
26 Navy\_00055145 and is bates stamped USDOE00148722–148736.

27           13. Attached to this declaration as Exhibit 12 is a true and correct copy of an Air Force  
28 memorandum with the subject, “AFMS Transgender Training Modules,” dated March 7, 2017.

1 The document has the document ID AF\_00005420 and is bates stamped USDOE00008139–  
2 8140.

3 14. Attached to this declaration as Exhibit 13 is a true and correct copy of a Navy  
4 document titled *Department of the Navy Transgender Training Plan—Information Brief*, dated  
5 October 31, 2016. The document has the document ID Navy\_00011425 and is bates stamped  
6 USDOE00026550–26562.

7 15. Attached to this declaration as Exhibit 14 is a true and correct copy of a Coast  
8 Guard manual titled *Military Transgender Service*. The document has the document ID  
9 USCG\_00010441 and is bates stamped USDOE00284330–284369.

10 16. In November 2019, the Department of Defense withheld five documents pursuant  
11 to the attorney client privilege and/or the work product doctrine that were responsive to  
12 Washington’s requests for production 14 and 15. The document IDs for these slipsheets are  
13 DoD00145068, DoD00145069, DoD00145095, DoD00145097, and DoD00145098. These  
14 documents were identified on a privilege log that was produced to Washington in January 2020.  
15 A true and correct copy of the privilege log is attached as Exhibit 15.

16 17. Attached to this declaration as Exhibit 16 is a true and correct copy of a  
17 presentation titled *Health Data on Active Duty Service Members with Gender Dysphoria*, dated  
18 December 13, 2017. The document is bates stamped ADMINISTRATIVE\_RECORD\_003011–  
19 3042. The pages showing the number of service members in each military service with a  
20 diagnosis of gender dysphoria that were on limited or restricted duty status, including as a result  
21 of transition-related surgery, for the period September 1, 2016 to August 31, 2017, are bates  
22 stamped ADMINISTRATIVE\_RECORD\_003024, 3027, and 3032–3035.

23 18. Attached to this declaration as Exhibit 17 is a true and correct copy of the first  
24 three pages of a four-page document titled *2016 Workplace and Gender Relations Survey of*  
25 *Active Duty Members Transgender Service Members*. The document is bates stamped  
26 ADMINISTRATIVE\_RECORD\_002849–2851. Because the fourth page contained personally  
27 identifiable information of DoD officials, it was not included with the exhibit. The fourth page  
28 did not include any substantive information.

1           19. Attached to this declaration as Exhibit 18 is a true and correct copy of a report by  
2 the RAND Corporation titled *Assessing the Implications of Allowing Transgender Personnel to*  
3 *Serve Openly*. The document is bates stamped ADMINISTRATIVE\_RECORD\_000093–192.  
4 The section of the report that provides an estimate of the number of transgender individuals in the  
5 military is on pages ADMINISTRATIVE\_RECORD\_000119–125.

6           20. Attached to this declaration as Exhibit 19 is a true and correct copy of an email  
7 sent by Department of Justice Trial Attorney James Powers to counsel for Plaintiffs and for  
8 Washington on April 1, 2020.

9           21. Attached to this declaration as Exhibit 20 is a true and correct copy of an Army  
10 presentation titled *Policy on the Military Service of Transgender Soldiers Training Module Tier*  
11 *2: Commanders and Leaders*. The document has the document ID Army\_10008621.0001 and is  
12 bates stamped USDOE00114459–114483.

13           22. Attached to this declaration as Exhibit 21 is a true and correct copy of a Navy  
14 presentation titled *TGHC Module 3 Navy Medicine TG Healthcare Policies*, dated November 18,  
15 2016. The document has the document ID Navy\_00018105 and is bates stamped  
16 USDOE00040345–40362.

17           23. Attached to this declaration as Exhibit 22 is a true and correct copy of an Army  
18 presentation titled *Army Medical Transgender Policy Training*. The document has the document  
19 ID Army\_10002593 and is bates stamped USDOE00103540–103554.

20           24. Attached to this declaration as Exhibit 23 is a true and correct copy of a document  
21 titled *Transgender Course Completion by Branch through 11.30.17*. The document has the  
22 document ID AF\_00005417 and is bates stamped USDOE00008136.

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24           Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true  
25 and correct.

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27           EXECUTED this 13th day of April, 2020.  
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/s/ Andrew E. Carmichael  
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