

The Honorable Marsha J. Pechman

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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

RYAN KARNOSKI, et al.,

Plaintiffs, and

STATE OF WASHINGTON,

Plaintiff-Intervenor,

v.

DONALD J. TRUMP, in his official capacity
as President of the United States, et al.,

Defendants.

Case No. 2:17-cv-01297-MJP

**PLAINTIFFS’ NOTICE OF FILING OF
MOTION TO CLARIFY THE NINTH
CIRCUIT’S ADMINISTRATIVE STAY**

1 Plaintiffs respectfully provide to this Court their Motion to Clarify the Ninth Circuit's
2 Administrative Stay that Plaintiffs filed in the United States Court of Appeals for the Ninth
3 Circuit on August 4, 2020. A copy of Plaintiffs' motion is attached.

4
5 Respectfully submitted August 4, 2020.

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CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the United States of America and the laws of the State of Washington that all participants in the case are registered CM/ECF users and that service of the foregoing documents will be accomplished by the CM/ECF system on August 4, 2020.

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UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

In re DONALD J. TRUMP, *et al.*,
Petitioners.

DONALD J. TRUMP, President of the United States, *et al.*,
Petitioners-Defendants,

v.

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON,
Respondent,

RYAN KARNOSKI, *et al.*,
Real Parties in Interest-Plaintiffs,

STATE OF WASHINGTON,
Real Party in Interest-Plaintiff-Intervenor.

**REAL PARTIES IN INTEREST-PLAINTIFFS’
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TABLE OF CONTENTS

	Page
RELEVANT BACKGROUND	3
ARGUMENT	13
I. The Stay Should Not Prevent the District Court from Addressing the Separate Question Whether the Privilege Applies.	14
II. The Stay Should Not Prevent the District Court from Performing the “More Granular” Review That Defendants Seek.	16
III. The Stay Should Not Foreclose Deposition Testimony Concerning the Subject Matters Addressed in Defendants’ Petition.	19
CONCLUSION	20

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>FTC v. Warner Communications</i> , 742 F.2d 1156 (9th Cir. 1984)	1, 2
<i>Karnoski v. Trump</i> , 926 F.3d 1180 (9th Cir. 2019)	11, 17
<i>Nat’l Wildlife Fed’n v. U.S. Forest Serv.</i> , 861 F.2d 1114 (9th Cir. 1988)	1
Rules	
Fed. R. Civ. P. 30(b)(6).....	12, 20

Plaintiffs respectfully request that the Court issue an order clarifying that the administrative stay in this matter is limited to the three discovery orders that are the subject of Defendants' pending petition for mandamus. Those orders directed the production of three categories of documents Defendants withheld on the basis of the deliberative process privilege ("DPP"). In ordering their production, the District Court found that, even assuming these documents all qualified for the DPP, their relevance and Plaintiffs' corresponding need for those categories of documents overcame Defendants' general claims of a "chilling" effect on future deliberations under this Court's four-factor balancing test in *FTC v. Warner Communications*, 742 F.2d 1156 (9th Cir. 1984). *See* Pet., Dkt. 1, at Add. 1–85.

Since Defendants filed their mandamus petition and the Court issued an administrative stay, Defendants have repeatedly and improperly invoked the stay to broadly foreclose discovery and the District Court's consideration of issues well beyond those raised in Defendants' petition. For example, Defendants have invoked the administrative stay to block:

(1) Proceedings before the District Court, including *in camera* review of individual documents, concerning the separate, threshold question whether documents withheld by Defendants are subject to the privilege in the first place—that is, whether they are both "pre-decisional" and "deliberative." *See Nat'l Wildlife Fed'n v. U.S. Forest Serv.*, 861 F.2d 1114, 1117 (9th Cir. 1988). Defendants'

petition does not address this threshold issue. Instead, Defendants challenge the District Court's determination that any privilege has nevertheless been overcome under *FTC v. Warner, supra*.

(2) The District Court's *in camera* review of individual documents Defendants withheld on DPP grounds to determine whether the privilege has been overcome under *FTC v. Warner*. The orders at issue in the mandamus petition found the privilege was overcome for specific categories of documents, and Defendants' petition asks this Court to vacate those orders and "order the district court to conduct a more granular analysis." Pet. at 5, 32. *In camera* review on a document-by-document basis is the most "granular" review possible. It makes no sense to apply the stay to foreclose the very relief Defendants seek.

(3) The deposition testimony of government witnesses. Defendants' petition, which concerns document production, does not even address deposition discovery. Nevertheless, Defendants have taken the position that the stay forecloses, and that they will instruct their witnesses not to answer, any questions concerning the three subject areas addressed in Defendants' petition, which are central to this dispute.

In short, Defendants are misusing the administrative stay to significantly interfere with discovery and the preparation of this case for trial. The Court should therefore enter an order clarifying what should be clear from the face of the stay and

the context in which it was entered: that it is limited to the three discovery “orders challenged in [Defendants’] petition.” Dkt. 3. This clarification will prevent Defendants’ misuse of a narrow and temporary order to thwart discovery and remedy the District Court’s understandable reluctance to take any action that Defendants threaten will violate this Court’s administrative stay.¹

RELEVANT BACKGROUND

For over two years, Defendants have withheld over 40,000 relevant documents on the basis of DPP, and over 25,000 of those documents *solely* on the grounds of DPP. Currently before the Court is Defendants’ most recent petition for mandamus challenging the District Court’s determination that Plaintiffs have overcome the privilege as to three discrete categories of documents: (i) information concerning the “Mattis Policy” and transgender issues outside the so-called “Panel of Experts” (“Panel”) formal meetings, including the various working groups that “supported” the Panel and determined what information it would—and would not—receive; (ii) communications related to the development of the *post hoc* and anonymous February 2018 Report, which Defendants have represented is the exclusive statement of the purported justifications for the “Mattis Policy”; and

¹ Before filing this motion, counsel for Plaintiffs informed counsel for Defendants of the relief requested in this motion and asked for Defendants’ position. Defendants’ appellate counsel responded by stating that they could not provide their position without first seeing the full motion. *See* App. 978–979.

(iii) information concerning the Carter Working Group, which considered the exact same governmental interests Defendants rely on here, but reached the exact opposite conclusion—that open service by transgender persons promotes, rather than harms, unit cohesion and military readiness—less than two years before.

On February 12, 2020, this Court entered an administrative order that “temporarily stayed” the three specific discovery “orders challenged in this petition.” Dkt. 3. Since then, there have been a number of significant developments in the District Court that bear directly on the need for an order clarifying the administrative stay.

In late February 2020, Plaintiffs moved to compel the production of documents withheld by Defendants as non-responsive that were part of an otherwise responsive “family group” and bore obvious indicia of responsiveness in their subject lines or file names. App. 032. Defendants opposed the motion, including on the ground that “the relevance of attachments may have to be reconsidered” depending “on the Ninth Circuit’s consideration of the mandamus petition.” App. 043. On March 4, 2020, the Court ordered the attachments produced. App. 062–067. While the Government had not previously asserted privilege as to any of these documents, when it came time to produce them, Defendants withheld a significant subset, claiming that “during the course of preparing these . . . documents for production, Defendants have discovered” they were privileged. App. 069. The

Court ordered that the Government submit this subset to the Court for *in camera* review. App. 077–081. After a document-by-document review, the Court determined that of the 113 documents submitted *in camera* that were deemed relevant and not subject to other privileges, the Government erroneously withheld 96 documents as subject to the deliberative process privilege, or **85 percent of the total documents submitted**. App. 164–422; *see also* Ex. 1, Decl. of J. Heinz. The Court determined that “the Government has been overbroad in its privilege assertions, straying far outside the bounds of the deliberative process privilege,” and explained that “[t]his blanket assertion of privilege without close analysis or articulated rationale must stop” and that “[t]he Government can and should do better.” App. 166, 168.

Plaintiffs’ subsequent review of these documents confirmed that the Court’s conclusions were, if anything, an understatement. Defendants had systematically invoked the DPP as to documents that were not even remotely or arguably privileged. This included communications about news articles covering transgender military service that lacked any conceivable policy deliberations, *e.g.*, App. 167; talking points drafted and disseminated by the Australian and British Governments, App. 097, 154; and preparation notes for interviews and hearings designed for public consumption, *e.g.*, App. 167.

Plaintiffs also moved for the production of third-party communications that the Government withheld pursuant to the DPP, because the privilege generally does not apply to communications with third parties. App. 002–010. Although Defendants’ pending mandamus petition has nothing to do with the application of the DPP to third-party communications, they nonetheless objected that “at least some of those communications are ... the subject of the Ninth Circuit’s administrative stay.” App. 021. The District Court granted Plaintiffs’ motion. App. 056–061. In compliance with that order, on March 14, 2020, Defendants produced 307 documents previously withheld under the DPP. When Defendants attempted to continue withholding approximately 1,500 pages of documents containing communications with two outside consultants to the Department of Defense (the RAND Corporation and Kennell & Associates), the Court ordered that these documents be produced *in camera*. After conducting another document-by-document review, the Court found only **one document** was properly withheld pursuant to the deliberative process privilege. App. 143–152. The Court ordered all other documents produced to Plaintiffs.

That Defendants objected to whether these *in camera* reviews occur at all (even though such “more granular” review is precisely the relief they seek in their current petition) and that their results revealed only a small portion of the documents withheld were, in fact, privileged, heightened Plaintiffs’ concern that Defendants

had been broadly misapplying the privilege to documents that never should have been withheld in the first place. To further test this suspicion, Plaintiffs moved to compel Defendants to produce for *in camera* review 350 randomly selected documents withheld solely on the basis of DPP (a statistically significant sample of the documents withheld solely on the grounds of the DPP). App. 083–087. Once again, Defendants opposed the motion, arguing “[t]o now conduct *in camera* review and potentially order production of nearly the same documents would circumvent the Ninth Circuit’s stay.” App. 088; *see also* App. 094–096.

On May 14, 2020, the Court granted that motion, finding “significant and legitimate concerns that Defendants are improperly withholding documents where no colorable claim of privilege exists.” App. 155. The Court noted that Defendants’ conceded estimated error rate alone “would suggest that Defendants have erroneously withheld 1,300 documents.” *Id.* But even that figure understated the magnitude of the error, as the Court had “recently found that Defendants had erroneously asserted the privilege over hundreds of pages of documents submitted to the Court for *in camera* review at a much higher error rate.” *Id.* However, even though the Court’s review was limited to the separate, threshold question of whether the privilege even applied, the District Court allowed Defendants to identify documents they believed were “implicated by the Ninth Circuit’s stay” and “provide a replacement document for the Court’s *in camera* review.” App. 156.

On June 24, 2020, the District Court provided a preliminary report on its review of these documents. It found that “Defendants have inappropriately asserted the privilege over many of the submitted documents.” App. 425. As to other documents submitted, the Court noted that it was “unable to ascertain whether the privilege was appropriately asserted without additional information.” *Id.* To further assess Defendants’ privilege claims and “to provide guidance to Defendants on any patterns of erroneous assertions of the privilege,” the Court ordered Defendants to submit for *in camera* review “an additional 500 randomly selected documents that were withheld solely on the basis” of DPP. *Id.*

Significantly, when Defendants reviewed this batch of 500 additional documents, they concluded that 90, or approximately *one in five*, were so clearly not privileged that they withdrew their privilege claims and produced them to Plaintiffs. App. 432 n.1. For good reason. Many of these documents were not remotely deliberative, including purely factual Excel spreadsheets; calendar invitations without substantive information; an email from 2014—years before the relevant policies in this case—circulating an outside study; and a schedule of meetings without substantive information. Others were both non-deliberative and clearly

post-decisional, such as copies of the Carter Policy and Mattis memoranda, and documents implementing existing policy.²

Moreover, in assembling the documents submitted to the Court, Defendants took the position that the stay prohibited them from including, in either the initial group of 350 documents or the additional batch of 500 documents, any documents that were responsive to the two RFPs that were the subject of their mandamus petition. *See* App. 088, 094–096; App. 432 n.1 (stating that, in selecting the 500 documents for review, “Defendants removed 321 documents” from the initial random sample of 500 “because they were subject to RFP Nos. 15 or 29” and submitted replacement documents). Thus, the samples reviewed by the District Court did not include any documents concerning the three critically relevant subject matters included in those RFPs, which Defendants represent in their petition “comprise nearly all the deliberative documents still withheld in this case.” Pet. at 13. This includes the documents that are likely most relevant to whether the “Mattis Policy” was prompted by, and implements, the ban on open service by transgender persons directed by the President in his August 25, 2017 Memorandum, as Plaintiffs

² *See e.g.*, USDOE00075565; USDOE00091193; USDOE00132581; USDOE00084505; USDOE00265780; USDOE00260355; USDOE00099244; USDOE00247427; USDOE00092502; USDOE00127329.

contend, or, instead, was developed by the military completely independent and separate from the President's directives, as Defendants assert.

On July 15, 2020, the Court reported on the results of its *in camera* review. It noted that it had previously reviewed more than 3,500 pages of documents withheld for privilege, and that “[i]n very few instances was the Government’s assertion of the DPP sustained.” App. 684. It also noted that, in reviewing the initial batch of 500 randomly-selected documents, Defendants themselves had concluded that 90, or 18 percent of the total, were not privileged, which “does not give the Court much, if any, confidence that the Government is properly asserting the DPP privilege.” App. 687.

The Court then reported on its review of the 850 randomly selected documents. It began by noting that, for a document to be privileged, it must be both pre-decisional and deliberative, and that the “Government has asserted the DPP over many documents that do not meet this definition.” App. 685. The Court attached two lengthy schedules (one for the first batch of 350 documents and a second for the additional batch of 500 documents) that listed as to each of the documents it reviewed, the Court’s determination whether the privilege applied and a brief

explanation of its decision. The Court found that **87 percent** of the documents were not privileged.³ See App. 693–852, 980–1054; see also Ex. 1, Decl. of J. Heinz.

The Court noted that many of the documents “contain no deliberative process thoughts or opinions” and, instead, “fall into the ‘factual’ arena”; that “these ‘factual’ documents do not amount to ‘previews’ of the policies or otherwise reveal the deliberative thought process of the Department of Defense.” App. 690–691. More generally, and citing this Court’s prior opinion in this case, 926 F.3d 1180, 1204 (9th Cir. 2019), the Court found that Defendants had “fail[ed] to segregate portions of documents which may be partially protected by the DPP from those that are not, despite its obligation to do so, . . . instead simply tossing this responsibility to the Court.” App. 687.

Accordingly, the Court ordered the Government (1) to produce the specific documents it had determined were not privileged, and (2) to review the remainder of the documents withheld solely on grounds of DPP and produce those documents

³ Notably, this percentage did not include the 90 documents the Government itself conceded were not privileged and removed from the sample. It also did not include documents as to which the paper copies submitted to the Court “lacked corresponding identifying Bates numbers corresponding to the privilege log” submitted by Defendants, as to which the Court was unable to conduct a “deliberative process” review and, therefore, “no determination of privilege could be made.” App. 691. After Defendants submitted the missing Bates numbers, the Court reviewed the remaining documents and concluded that 751 out of 850 documents—or 88%—were not privileged. App. 859–945, 980–1054; Ex. 1, Decl. of J. Heinz.

outside the applicable pre-decisional periods determined by the Court, subject to Defendants' ability to withhold and submit for *in camera* review documents that it nevertheless maintained were pre-decisional and privileged. App. 687–688, 692. Finally, even though the order related to an issue that is not addressed in Defendants' petition (the threshold issue whether the privilege applies, as opposed to whether it has been overcome), in response to Defendants' argument that the administrative stay nevertheless applied, the Court excepted from its order “any documents specifically subject to the pending appeal to the Ninth Circuit.” App. 683.

Defendants have also invoked the administrative stay to block deposition testimony on some of the most important subject areas in this case. On March 9, 2020, Plaintiffs served notice of nine Rule 30(b)(6) deposition topics. App. 949–951. Defendants objected that “at least six of those subjects implicate the deliberative process privilege issues currently pending before the Ninth Circuit” and “therefore Plaintiffs may not inquire into these areas nor may the DoD provide responses until or unless that stay is lifted.” App. 954. While Defendants subsequently narrowed their objection to four topics, App. 117, those topics continue to concern central issues in this case, including: the “Transgender Service Policy Working Group” supporting the Panel, the February 2018 DoD Report, and the February 22, 2018 Mattis Memorandum. On April 17, 2020, the Government advised Plaintiffs that it objected to questioning of government witnesses concerning

these subject matters, and that it “expect[ed] to instruct its witness not to answer [] questions” concerning these subjects. App. 957.

Finally, on May 8, 2020, Defendants moved for a protective order limiting deposition testimony and “deferring any deposition as to Plaintiffs’ topics implicated in the Government’s pending mandamus petition until the Ninth Circuit has ruled on that petition.” App. 110. Out of “an abundance of caution,” the District Court granted Defendants’ motion, allowing them to “instruct their witnesses not to answer where Defendants believe the response is implicated by the Ninth Circuit’s stay.” App. 162.

ARGUMENT

Defendants are misusing this Court’s administrative stay, which was entered without briefing and has now been in effect for more than five months, to broadly foreclose unrelated and critically important discovery in the District Court. That, coupled with Defendants’ insistence that “if Plaintiffs believe the Ninth Circuit’s stay would permit [*in camera*, document-by-document] review and potential disclosures, the proper recourse is to ask the Ninth Circuit for relief,” App. 096, requires that Plaintiffs seek this Court’s clarification of its prior stay order. The need for such relief was recently heightened by this Court’s notice setting this matter for oral argument on October 14, 2020. Dkt. 21. This means that absent relief, the current stay—and Defendants’ misuse of that stay—may continue for at least

another three months, in addition to the period between argument and disposition. Accordingly, Plaintiffs request that the Court promptly enter an order clarifying that the administrative stay applies only to “[t]he district court’s December 18, 2019, February 3, 2020, and February 7, 2020 orders challenged in [Defendants’] petition.” Dkt. 3. Such an order is necessary to make clear that the stay does not apply to *other* discovery, such as the discovery discussed below, which is not subject to the pending mandamus petition.

I. The Stay Should Not Prevent the District Court from Addressing the Separate Question Whether the Privilege Applies.

Defendants’ petition assumes that the DPP applies to the documents that were ordered produced in the three discovery orders it challenges, and focuses on the separate question whether the privilege has been overcome under the *Warner* balancing test. *See generally* Pet.; *see also id.* at 5 (requesting an “order that plaintiffs are not entitled to any further deliberative documents from the two requests for production (RFPs) at issue in these orders—RFP 29 and RFP 15—***given plaintiffs’ inadequate showing of need under the proper standard for overcoming the deliberative process privilege***”) (emphasis added); *id.* at 31–32 (same). As described above, since Defendants’ petition was briefed, the District Court has conducted proceedings, including *in camera* reviews of individual documents, with respect to the separate, threshold issue of whether the privilege applies. Those reviews revealed that Defendants have massively over-applied the DPP to

documents that are clearly not privileged. That includes documents the Government now admits are not privileged, even though Defendants “vigorously defended [those documents] as privileged for nearly three years,” including in “two petitions for writs of mandamus to the Ninth Circuit.” App. 854 n.1.

Defendants’ petition does not provide any basis for staying such *in camera* reviews on this entirely separate issue. To date, however, Defendants have insisted that these reviews and proceedings must exclude any documents responsive to the two requests (RFP Nos. 15 and 29) that are the subject of Defendants’ petition, which Defendants concede “comprise nearly all of the deliberative documents still withheld in this case.” Pet. at 13; App. 088 (same); *see also* App. 432 n.1 (removing documents from initial 500-document random sample “because they were subject to RFP Nos. 15 or 29”). And, out of an abundance of caution, the District Court has acceded to their demand. App. 156 (allowing Defendants to withhold from *in camera* review “documents responsive to RFP Nos. 15 and 29”). Accordingly, both the initial set of 350 documents and the additional set of 500 documents recently reviewed by the District Court *in camera* excluded any documents responsive to these requests, even though they concern subject matters that go to the heart of this dispute. The same is true as to the District Court’s order that Defendants promptly review the rest of the documents they have withheld solely on grounds of DPP and produce those documents that are outside the pre-decisional periods determined by

the Court (subject to Defendants’ ability to withhold and submit for *in camera* review individual documents they contend are nevertheless privileged). That order excludes “any documents specifically subject to the pending appeal to the Ninth Circuit.” App. 683.

There is no legal or logical basis for this exclusion and these limitations. If the District Court finds the privilege does not apply in the first place for a specific document, it by definition falls outside the application of the *Warner* balancing test that is the subject of Defendants’ petition. The clarifying order requested by Plaintiffs will make this clear.

II. The Stay Should Not Prevent the District Court from Performing the “More Granular” Review That Defendants Seek.

The stay should also not prevent the District Court from performing a document-by-document review to determine whether the privilege has been overcome applying the *Warner* balancing test. Indeed, a more “granular” review is the very relief Defendants seek in their petition. It strains credulity for Defendants to argue the administrative stay should prevent the very type of relief they seek in their petition. *See, e.g.*, App. 088 (Defendants arguing that “[t]o now conduct *in camera* review and potentially order production of nearly the same documents would circumvent the Ninth Circuit’s stay”).

In its June 14, 2019 decision with respect to Defendants’ first petition for mandamus, this Court found that two of *Warner*’s four factors “favor Plaintiffs,” and

remanded to the District Court for further consideration of the remaining two factors. *Karnoski*, 926 F.3d at 1206. The Court noted that, “[a]lthough we do not mandate any particular course of action,” “[t]he district court appears to have conducted a single deliberative process privilege analysis covering all withheld documents, rather than considering whether the analysis should apply differently to certain categories.” *Id.* Accordingly, “[i]f Defendants persuasively argue that a more granular analysis would be proper, the district court should undertake it.” *Id.*

On remand, the District Court did exactly that. Without requiring any showing from Defendants, it instituted a process whereby it analyzed the relevance and need for, and chilling effect from production of, documents responsive to individual discovery requests, on a request-by-request basis, organized by priority, after extensive briefing and lengthy in-person hearings. *See* Pls.’ Answer, Dkt. 10, at 14–16. Nevertheless, on February 11, 2020, in the middle of this process, Defendants filed a second petition for mandamus challenging the District Court’s orders that the privilege had been overcome as to three categories of documents responsive to two of Plaintiffs’ document requests. Defendants complained that the District Court’s analysis was still not “granular” enough and asked this Court to “vacate the district court’s orders and order the district court to conduct a more granular analysis” still. Pet. at 5, 32.

As discussed above, to date, the District Court's subsequent orders and *in camera* review have been limited to the separate and threshold question whether the privilege applies. However, Plaintiffs have requested, and the Court's July 15, 2020 order contemplates, future proceedings and *in camera* review of documents determined to be privileged to determine whether the privilege has been overcome, applying the *Warner* balancing test. *See* App. 683. Plaintiffs' requested clarification is necessary to make clear that the administrative stay does not foreclose such further proceedings, including the District Court's *in camera* review of individual documents withheld on grounds of privilege that are the subject of Defendants' pending petition, to determine, on a document-by-document basis, whether the privilege is overcome pursuant to the *Warner* balancing test.

Such *in camera*, document-by-document review is extremely burdensome and time-consuming, particularly when applied to the large volume of documents withheld here. Accordingly, the District Court's willingness to date to conduct such reviews as to some of the individual documents that it determines to be privileged does not moot the need for a decision by this Court denying Defendants' petition challenging the District Court's orders that the privilege has been overcome as to particular categories of documents. But in the meantime, the current stay should not prevent the District Court from performing the still "more granular" review Defendants seek. Indeed, such a document-by-document review is the most

“granular” review possible. It also will allow the District Court to test the accuracy of Defendants’ unsupported assertions as to the nature of these and other documents withheld. Such review is also likely to better inform the District Court’s evaluation of Defendants’ privilege claims as to other documents in that class or category.

III. The Stay Should Not Foreclose Deposition Testimony Concerning the Subject Matters Addressed in Defendants’ Petition.

Both the Government’s petition and the administrative stay relate only to the District Court’s orders that Plaintiffs overcame the deliberative process privilege for, and the Government must produce, documents responsive to two of Plaintiffs’ document requests. They do not seek or purport to halt any other discovery. *See* Pet. at 5 (requesting an “order that plaintiffs are not entitled to *any further deliberative documents* from the two *requests for production* (RFPs) at issue in these orders—RFP 29 and RFP 15”) (emphasis added); *see also id.* at 31–32 (same). Nevertheless, Defendants have taken the position that the administrative stay applies to any questioning concerning the three subject matters that these documents address, which they will instruct witnesses not to answer. App. 123–125. Since these subject matters go to the heart of this dispute, *see* Pls.’ Answer, at 25–37, Defendants’ invocation of the stay has significantly limited Plaintiffs’ ability to take depositions other than those of a handful of less important or Rule 30(b)(6) depositions as to which these subject matters are not relevant or less important.

Defendants' petition provides no legal or logical basis for foreclosing any questioning on these critically important subjects. At most, the claims of privilege that underlie Defendants' petition might provide the basis for a specific privilege objection during a deposition to a particular question that reasonably calls for the disclosure of deliberations concerning a specific, identifiable decision to which the Government claims the privilege applies. But any such objection would arise from the law concerning privilege and not this Court's stay.

Plaintiffs' requested clarification is necessary to allow the depositions described above to proceed. It will make clear that the administrative stay does not foreclose or limit Plaintiffs' questioning of witnesses at depositions. Nor does the stay provide a basis for counsel to instruct the witness not to answer questions, including concerning the subject matters addressed in Defendants' petition.

CONCLUSION

For all of the foregoing reasons, Plaintiffs respectfully request that the Court enter an order clarifying that the administrative stay entered on February 12, 2020 is limited to the three "orders challenged in [Defendants'] petition," Dkt. 3, and thereby make clear that the stay does not foreclose other discovery and discovery-related proceedings, including those described above.

Dated: August 4, 2020

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify that this brief complies with the length limits permitted by Ninth Circuit Rule 27-1(1)(d) and 32-3(2), and Fed. R. App. P. 27(d)(2), because it does not exceed 20 pages and totals 4,554 words, excluding parts exempted by Federal Rule of Appellate Procedure 27(a)(2)(B) and 32(f). The brief's type size and type face comply with Fed. R. App. P. 32(a)(5) and (6).

/s/ Stephen R. Patton

Stephen R. Patton

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on August 4, 2020. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

/s/ Stephen R. Patton

Stephen R. Patton

EXHIBIT 1

No. 20-70365

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

In re DONALD J. TRUMP, *et al.*,
Petitioners.

DONALD J. TRUMP, President of the United States, *et al.*,
Petitioners-Defendants,

v.

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON,
Respondent,

RYAN KARNOSKI, *et al.*,
Real Parties in Interest-Plaintiffs,

STATE OF WASHINGTON,
Real Party in Interest-Plaintiff-Intervenor.

**DECLARATION OF JORDAN M. HEINZ IN SUPPORT OF REAL
PARTIES IN INTEREST-PLAINTIFFS'
MOTION TO CLARIFY THIS COURT'S ADMINISTRATIVE STAY**

I, Jordan M. Heinz, swear under penalty of perjury under the laws of the United States to the following:

1. I am counsel of record for Plaintiffs in this action, am over the age of 18, and am competent to be a witness. I make this declaration in support of Real Parties in Interest-Plaintiffs' Motion to Clarify this Court's Administrative Stay ("Motion") based on facts within my personal knowledge.

2. The email chain at App. 978–979 of the Appendix to Plaintiffs' Motion is a true and correct copy of my communications with Defendants' counsel regarding the relief requested in this Motion.

3. On May 29, 2020, the District Court for the Western District of Washington reported on its review of the documents that Defendants had initially withheld as non-responsive, but that Defendants subsequently claimed were privileged and submitted for *in camera* review after the Court ordered them produced. The District Court attached a spreadsheet that identified on a document-by-document basis whether the privilege applied. App. 170–422. The Court indicated that documents were not privileged by noting an "N" in the column labeled "Priv. Y/N." Plaintiffs have counted the number of "N" designations and determined that the Court found that 96 of the 113 documents submitted by Defendants for this review were not privileged.

4. On July 15, 2020, the District Court reported on its initial review of 850 documents randomly selected from the over 25,000 documents that Defendants are withholding solely on the basis of the deliberative process privilege. App. 682–692.

5. The District Court attached two lengthy schedules describing each of the 850 documents reviewed and listing, on a document-by-document basis, the Court’s determination whether the privilege applied. The District Court reviewed these 850 documents in two batches: as a set of 500 documents, and as a set of 350 documents. Documents designated with “N” in the column labeled “Priv. Y/N” were found to be not privileged. App. 693–765; App. 766–852.

6. Regarding the 350 documents that the District Court reviewed, Plaintiffs have determined that 329 of them included an “N” designation for not privileged. On July 21, 2020, the District Court issued an Amended Order that revised the number of non-privileged documents to 321 of 350 documents—or 91.7%. App. 980–1054.

7. Regarding the initial sampling of 500 documents that the District Court reviewed, 417 of them (or 83.4%) included an “N” designation for not privileged. App. 766–852. However, this review did not include certain documents in the batch of 500 because Defendants omitted their Bates numbers.

8. On July 28, 2020, the District Court finished its review of the sample of 500 documents after Defendants provided the missing Bates numbers. App. 857–858. The Court again attached a spreadsheet identifying on a document-by-document basis the Court’s determination whether the privilege applied. App. 859–945. Of the 500 documents, 430 of them (or 86%) included an “N” designation for not privileged. *See id.*

9. In total, the District Court determined that 751 of the 850 reviewed documents—or 88.35%—were not privileged.

10. The below chart summarizes Plaintiffs’ calculations of the District Court’s privilege determinations.

Total Claimed DPP	Number of “N” Findings	Percentage
113 (Dkt. 522)	96	84.96%
350 (Dkt. 545)	329	94%
500 (Dkt. 545)	417	83.4%
350 (Dkt. 549)	321	91.7%
500 (Dkt. 551)	430	86%

Dated: August 4, 2020

Respectfully submitted,

By: /s/ Jordan M. Heinz

Jordan M. Heinz

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/s/ Jordan M. Heinz

Jordan M. Heinz

No. 20-70365

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

In re DONALD J. TRUMP, *et al.*,
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DONALD J. TRUMP, President of the United States, *et al.*,
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v.

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
WASHINGTON,
Respondent,

RYAN KARNOSKI, *et al.*,
Real Parties in Interest-Plaintiffs,

STATE OF WASHINGTON,
Real Party in Interest-Plaintiff-Intervenor.

**REAL PARTIES IN INTEREST-PLAINTIFFS’
MOTION TO CLARIFY THIS COURT’S ADMINISTRATIVE STAY**

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TABLE OF CONTENTS

<u>Document</u>	<u>Description</u>	<u>Page(s)</u>
Dkt. No. 438	LCR 37 Joint Submission Regarding the Government's Withheld Communications with Third Parties	App. 001 – App. 030
Dkt. No. 449	LCR 37 Joint Submission Regarding Documents Withheld by the Government as Non-Responsive	App. 031 – App. 055
Dkt. No. 454	Order on Motion to Compel Regarding the Government's Withheld Communications with Third Parties	App. 056 – App. 061
Dkt. No. 455	Order on LCR 37 Joint Submission Regarding Documents Withheld by the Government as Non-Responsive	App. 062 – App. 067
Dkt. No. 463	Consent Motion for Clarification or Reconsideration	App. 068 – App. 076
Dkt. No. 464	Order on Agreed Motion for Reconsideration of Order on Motion to Compel (Dkt. No. 455)	App. 077 – App. 078
Dkt. No. 487	Order Requiring Additional Information to Complete <i>In Camera</i> Privilege Review re Documents Withheld as Non-Responsive (Dkt. Nos. 449, 455, 464)	App. 079 – App. 081
Dkt. No. 497	LCR 37 Joint Submission Regarding Defendants' Deliberative Process Privilege Claims	App. 082 – App. 108
Dkt. No. 503	LCR 37 Joint Discovery Submission Regarding Plaintiffs' FRCP 30(b)(6) Deposition Topics	App. 109 – App. 142
Dkt. No. 509	Order re Motion to Compel the Government's Withheld Communications with Third Parties (Dkt. No. 440); Requiring Production of Documents After <i>In Camera</i> Review	App. 143 – App. 152

<u>Document</u>	<u>Description</u>	<u>Page(s)</u>
Dkt. No. 514	Order on LCR 37 Joint Submission re Defendants Deliberative Process Privilege Claims (Dkt. No. 497)	App. 153 – App. 156
Dkt. No. 519	Order re LCR 37 Joint Discovery Submission Regarding Plaintiffs’ FRCP 30(b)(6) Deposition Topics	App. 157 – App. 163
Dkt. No. 522	Order re <i>In Camera</i> Review of Documents Submitted Pursuant to the Court’s Order on Documents Withheld by the Government as Non-Responsive (Dkt. Nos. 455, 464)	App. 164 – App. 422
Dkt. No. 536	Order re June 23, 2020 Status Conference; Joint Submission re <i>In Camera</i> Review of 350 Document Sampling of Defendants’ Deliberative Process Privilege Assertions (Dkt. Nos. 497, 514)	App. 423 – App. 430
Dkt. No. 542	Defendants’ Notice of Compliance re ECF No. 536	App. 431 – App. 681
Dkt. No. 545	Order re (Dkt. Nos. 497, 514, 536, 540-42); Establishing a Timeframe for Assertion of the Deliberative Process Privilege; Requiring Defendants to Review Their Deliberative Process Privilege Claims and Produce Those That Are Not Predecisional or Deliberative	App. 682 – App. 852
Dkt. No. 550	Order re: July 21, 2020 Status Conference; Holding Deadlines in Abeyance (Dkt. No. 545); Providing New Trial Date	App. 853 – App. 856
Dkt. No. 551	Order re: <i>In Camera</i> Review of Documents Submitted by Defendants in Response to July 15, 2020 Order	App. 857 – App. 945
	March 9, 2020 Plaintiffs’ Rule 30(b)(6) Notice to Defendant DoD	App. 946 – App. 953

<u>Document</u>	<u>Description</u>	<u>Page(s)</u>
	March 12, 2020 Letter from A. Carmichael to J. Heinz	App. 954 – App. 955
	April 17, 2020 Letter from A. Carmichael to J. Heinz	App. 956 – App. 977
	August 3, 2020 Email from A. Cheung to J. Heinz	App. 978 – App. 979
Dkt. No. 549	Order Amending July 15, 2020 Order (Dkt. No 545)	App. 980 – App. 1054

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/s/ Stephen R. Patton

Stephen R. Patton

The Honorable Marsha J. Pechman

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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

RYAN KARNOSKI, et al.,

Plaintiffs, and

STATE OF WASHINGTON,

Plaintiff-Intervenor,

v.

DONALD J. TRUMP, in his official capacity
as President of the United States, et al.,

Defendants.

Case No. 2:17-cv-01297-MJP

**LCR 37 JOINT SUBMISSION
REGARDING THE GOVERNMENT’S
WITHHELD COMMUNICATIONS
WITH THIRD PARTIES**

NOTE ON MOTION CALENDAR:
February 27, 2020

1 **PLAINTIFFS’ STATEMENT**

2 Plaintiffs are the moving party for this submission. Pursuant to Federal Rules of Civil
3 Procedure 26, 34, and 37, and Local Rule 37, Plaintiffs request an order compelling Mark Esper,
4 in his official capacity as Secretary of Defense, and the United States Department of Defense
5 (“DoD”) (together, “the Government”) to produce third-party communications that the
6 Government is improperly withholding pursuant to certain privileges. The parties have met and
7 conferred telephonically numerous times over the past four-and-a-half months in good faith to
8 resolve this dispute, but the Government continues to use shell game delay tactics, and
9 accordingly, Plaintiffs request the Court’s intervention.

10 The Government—despite its obligation under the Federal Rules to describe withheld
11 communications with sufficient particularity to enable Plaintiffs to assess the Government’s
12 privilege claims—refuses to produce communications with third parties that have been withheld
13 wrongfully under claims of Attorney-Client Privilege and Deliberative Process Privilege
14 (“DPP”). The Government itself has conceded in other court filings related to this litigation that
15 DPP does not apply to communications with third parties. As such, Plaintiffs ask the Court to
16 order Defendants to review the list of potential third parties provided by Plaintiffs in their
17 December 13, 2019 letter (*see, e.g.*, February 27, 2020 Declaration of Vanessa Barsanti
18 (“Barsanti Decl.”)) ¶ 2, Ex. 1.), and by March 13, 2020 (1) produce all communications with
19 individuals who are confirmed to be third parties, or, in the alternative, should the Court adopt
20 the consultant corollary theory, (a) require the Government to amend its privilege logs and serve
21 a declaration attesting to the elements of the consultant corollary doctrine with respect to each
22 third party for whom it continues to withhold communications, and (b) produce communications
23 with all other third parties; (2) for individuals confirmed to be government employees, amend its
24 privilege log entries to identify the employer and job title for each individual as of the date of the
25 communication.

26 **FACTUAL AND PROCEDURAL HISTORY**

27 Plaintiffs offer the below brief history of the parties’ dispute over third-party
28 communications in order to provide the Court a full understanding of how the parties reached

1 their current posture. In the spring of 2018, after the Government had objected to producing
2 documents in response to each and every one of Plaintiffs’ then-issued RFPs on the basis of
3 DPP, Plaintiffs began serving third parties with Rule 45 subpoenas directly. On May 3, 2018,
4 Plaintiffs issued a subpoena to third party Center for Military Readiness (“CMR”) and were
5 subsequently forced to move to compel production of these documents on July 3, 2018 in the
6 U.S. District Court for the Eastern District of Michigan.¹ *See Karnoski, et al. v. Trump, et al.*,
7 Case No. 2:18-mc-51013 (E.D. Mich.) (“CMR Dkt.”). The Government subsequently intervened
8 in the subpoena enforcement action in an attempt to shield production. The Government
9 primarily argued that its communications with CMR were irrelevant, despite substantial
10 similarities between CMR’s July 2017 report titled “The President, Defense Department &
11 Military Services Should Revoke Problematic Transgender Policy Directives and Instructions”
12 and Secretary of Defense James Mattis’ September 2017 memorandum to the Deputy Secretary
13 of Defense and the Vice Chairman of the Joint Chiefs of Staff (*see* CMR Dkt. No. 45, at 8–9),
14 and argued only in a passing footnote that its communications with CMR could be “*potentially*
15 subject to privilege.” (CMR Dkt. No. 29, at 9 n.2 (emphasis added).) Indeed, the Government
16 *conceded* that “as a general matter revealing privileged information to non-governmental third-
17 parties can waive the deliberative process privilege” (*Id.*) Plaintiffs argued that the
18 Government waived DPP by communicating with third parties. (*See* CMR Dkt. No. 31, at 4–7.)

19 On November 6, 2018, Magistrate Judge Stafford agreed with Plaintiffs, holding that
20 “[s]ince CMR is a private organization, documents reflecting communication between it and the
21 government do not enjoy an executive or deliberative process privilege.”² (CMR Dkt. No. 34, at
22 28–29 (citing *In re Sealed Case*, 121 F.3d 729, 741–42 (D.C. Cir. 1997); *UnitedHealthcare Ins.*
23 *Co. v. Azar*, 316 F. Supp. 3d 339, 349 (D.D.C. 2018); *In re Grand Jury Proceedings Oct. 12*,
24

25 _____
26 ¹ CMR is a lobbying organization whose public materials and statements contain numerous examples of hostility
27 towards LGBT people. (*See e.g.*, CMR Dkt. No. 1, at 3, 6; CMR Dkt. No. 31, at 15.) Subsequent discovery has
28 determined that CMR communicated with and distributed its policy suggestions regarding excluding transgender
service members directly to members of the Trump Campaign, the Office of the President and Vice President, and
high level officials and other employees at the DoD. (Barsanti Decl. ¶ 3, Ex. 2, CMR-0000176.)

² The court also found that “[t]he government asserted at the hearing that this privilege applies to its communication
with anyone from whom it sought advice. The controlling precedent states otherwise.” (CMR Dkt. No. 34, at 29.)

1 1995, 78 F.3d 251, 254 (6th Cir. 1996)).) On September 28, 2019, District Judge Edmunds
2 affirmed the order, explaining that “[t]he Court . . . reviewed the Ninth Circuit’s opinion and
3 agrees with Plaintiffs that the Magistrate Judge correctly concluded the deliberative process
4 privilege does not apply here.” (CMR Dkt. No. 62, at 18.) Neither CMR nor the Government
5 appealed this decision.

6 On August 22, 2018, Plaintiffs served a subpoena on Dr. Paul McHugh, a Professor of
7 Psychiatry and Behavioral Sciences at Johns Hopkins University School of Medicine.³ On
8 October 3, 2018, Plaintiffs moved to compel the production of documents responsive to the
9 subpoena in the U.S. District Court for the District of Maryland. *See Karnoski, et al. v. Trump, et*
10 *al.*, Case No. 1:19-mc-00674 (D. Md.) (“McHugh Dkt.”). On July 10, 2019, the Government
11 stated that it would consider “waiv[ing]” (and later did waive) its DPP objection with respect to
12 communications with McHugh. (Barsanti Decl. ¶ 4, Ex. 3.) On or around August 6, 2019,
13 Plaintiffs received communications between the Government and McHugh that were previously
14 withheld under DPP. These documents revealed that William Bushman of the Office of the
15 Undersecretary of Defense consulted with McHugh regarding the Ban in February 2018—*after*
16 the so-called “Panel of Experts” (the “Panel”) had finished deliberating—and sought additional
17 written sources of information regarding transgender healthcare⁴ and additional witnesses with
18 whom to speak regarding transgender military service. (*See id.* ¶ 6, Ex. 5.) At least some of the
19 articles provided by McHugh were cited in Secretary Mattis’ February 23, 2018 Memorandum
20 and the accompanying DoD Report and Recommendations, even though Dr. McHugh never
21 presented or provided information to the Panel. Dr. McHugh recommended that Bushman also
22 speak with Drs. Thomas Wise and Chester Schmidt. (*See id.*)

23 On August 23, 2019, Plaintiffs sent a letter to the Government requesting that the
24 Government produce all communications with Drs. Paul McHugh, Thomas Wise, and Chester
25

26 _____
27 ³ McHugh is a well-known critic of lesbian, gay, bisexual, and transgender issues, and whose views on medical
28 treatment of transgender people have been widely discredited by the medical community, including his own co-
workers. (*See* McHugh Dkt. No. 3, at 5–6.)

⁴ Indeed, one of the articles McHugh forwarded Bushman was from 1995 and titled “Witches, multiple
personalities, and other psychiatric artifacts.” (Barsanti Decl. ¶ 5, Ex. 4.)

Schmidt. (*Id.* ¶ 7, Ex. 6.) On September 13, 2019, the Government responded that it would waive its DPP arguments and produce the withheld communications. (*Id.* ¶ 8, Ex. 7.)

One of these documents produced by the Government contained a January 29, 2018 exchange between retired Lieutenant General Greg Newbold and Secretary James Mattis.

[REDACTED]

(*Id.* ¶ 9, Ex. 8.)

(*id.*)⁶ On September 20, 2019, Plaintiffs requested that the Government produce all communications with Greg Newbold and Woody Woodruff, as those communications could not be properly withheld under DPP as they involve third parties. (*Id.* ¶ 11, Ex. 10.) After almost a month of delay, on October 18, 2019, the Government agreed to “waive” its DPP arguments and later produced these communications. (*Id.* ¶ 12, Ex. 11.)

After discovering that the Government had improperly withheld many communications with third parties subject to claims of DPP and learning how critical these wrongfully withheld documents were to Plaintiffs’ claims, Plaintiffs requested that the Government produce *all* communications with third parties still being withheld on the basis of privilege. On October 7, 2019, Plaintiffs sent a letter to the Government explaining that their communications with third parties were not subject to DPP, and that the Government’s privilege logs failed to provide enough information for Plaintiffs to ascertain whether the individuals listed on the logs were third parties. (*Id.* ¶ 13, Ex. 12.) Plaintiffs attached to this letter a list of names for whom, based on *the Government’s* privilege logs, insufficient information was provided for Plaintiffs to assess whether the Government had waived applicable privileges by communicating with third parties. The names identified by Plaintiffs either: (1) did not contain an email address or job title on the privilege log, thus making it impossible for Plaintiffs to determine if an individual was a third

⁵ Notably, Woody Woodruff is counsel for CMR in its subpoena dispute against Plaintiffs.

⁶ Defendants’ communications with Woodruff indicate that [REDACTED] (*Id.* ¶ 10, Ex. 9, USDOE00285187.)

1 party; or (2) were associated with third-party email addresses, indicating that the communication
2 was sent outside of the DoD and federal government.⁷ (*Id.* at Ex. A to the letter.) Plaintiffs’ list
3 contained approximately 825 names of *potential* third parties, demonstrating the scope of the
4 Government’s inadequate log entries.

5 Three weeks later, during an extensive meet and confer on October 29, 2019 regarding this
6 and other discovery issues, the Government agreed to review Plaintiffs’ list of potential third
7 parties and provide additional information regarding who was a third party. (*Id.* ¶ 14, Ex. 13.) On
8 November 4, the Government responded and reversed course. According to the Government,
9 because a handful of the 825 names were government employees, “Defendants need not
10 undertake a burdensome review of the hundreds of entries in Exhibit A where Plaintiffs appear
11 not to have . . . determine[d] whether the individuals they have supposed are third parties are, in
12 fact, employees or officials of the Department of Defense or Military Services.” (*Id.*) In addition,
13 the Government refused to produce the communications containing the hundreds of remaining
14 third-party names that were not and were never government employees. (*Id.*)

15 Despite it being *the Government’s* burden to sufficiently identify the recipients of its
16 communications on its privilege logs, Plaintiffs attempted to re-review the list of compiled
17 names to eliminate those that Plaintiffs could determine were government employees. Plaintiffs
18 spent many hours comparing individual names from interrogatory and other discovery responses
19 to the names in their letter, ultimately reducing the list from 825 to 487 names. On December 13,
20 2019, Plaintiffs sent another letter to the Government reiterating that while the burden remains
21 on the Government to adequately describe their privilege bases to shield against production,
22 Plaintiffs significantly narrowed its list of potential third parties and requested that the
23 Government produce all wrongfully withheld third-party communications. (*Id.* ¶ 2, Ex. 1.)

24 On December 19, 2019, the Government stated that it would review the list of names in
25 Plaintiffs’ December 13 letter and provide “additional identifying information” by January 17,
26 2020. (*Id.* ¶ 15, Ex. 14.) On January 17, 2020, more than three months after Plaintiffs’ first letter
27

28 ⁷ Many of these privilege log entries contained email address domains belonging to private universities, hospitals, and corporations, and also included popular public email domains such as gmail.com, hotmail.com, and yahoo.com.

1 and one month after Plaintiffs' second letter, the Government once again reversed course and
2 refused to provide additional information as promised. (*Id.* ¶ 16, Ex. 15.) Although the
3 Government's letter made apparent that it did in fact review Plaintiffs' narrowed list, rather than
4 agree to produce withheld documents from custodians who were *clearly* third parties or agree to
5 further refine the list by excluding government employees, the Government refused to update its
6 privilege logs or produce improperly withheld documents.⁸ (*Id.*) Instead, the Government *again*
7 attempted to shift the burden of providing sufficient privilege bases to Plaintiffs by bizarrely
8 arguing that *Plaintiffs* have not provided an adequate list of third parties. And, although the
9 Government previously agreed to produce wrongfully withheld communications with Paul
10 McHugh, Thomas Wise, Chester Schmidt, Greg Newbold, and Woody Woodruff by name, and
11 in this letter agreed to produce communications with eight other individuals mentioned by name,
12 the Government stated that it could not produce additional communications without reference to
13 *specific* privilege log entries. (*Id.*)

14 After four months of string-a-long delay tactics, Plaintiffs now respectfully ask the Court
15 to compel the Government to review the list of potential third parties provided by Plaintiffs in
16 their December 13, 2019 letter (Barsanti Decl. ¶ 2, Ex. 1 at Ex. A.) and by March 13, 2020 (1)
17 provide information indicating whether each person is a third party or a government employee;
18 (2) produce all communications with individuals who are confirmed to be third parties, or, in the
19 alternative, should the Court adopt the consultant corollary theory, (a) require the Government to
20 amend its privilege logs and serve a declaration attesting to the elements of the consultant
21 corollary doctrine with respect to each third party for whom it continues to withhold
22 communications, and (b) produce communications with all other third parties; and (3) for
23 individuals confirmed to be government employees, amend its privilege log entries to identify
24 the employer and job title for each individual as of the date of the communication.

25
26
27 ⁸ Defendants agreed to produce communications for eight of the hundreds of names listed on Exhibit A to Plaintiffs'
28 December 13, 2019 letter. Defendants did not explain why documents for these eight individuals, but no others, would
be produced. The Government produced these communications on February 21, 2019. Two of these communications
are attached to the Barsanti Decl. ¶¶ 17-18, Exs. 16 & 17.

LEGAL STANDARD

1
2 “The party who resists discovery has the burden to show that discovery should not be
3 allowed, and has the burden of clarifying, explaining, and supporting its objections.” *Brown v.*
4 *Warner*, No. C09-1546RSM, 2015 WL 630926, at *1 (W.D. Wash. Feb. 12, 2015) (citation
5 omitted). Under Rule 26, a party who withholds discoverable information due to privilege has
6 the burden to “expressly make the claim; and describe the nature of the documents,
7 communications, or tangible things not produced or disclosed—and do so in a manner that,
8 without revealing information itself privileged or protected, will enable other parties to assess the
9 claim.” FED. R. CIV. P. 26(b)(5)(A)(i–ii)); *see also Weil v. Inv./Indicators, Research & Mgmt.,*
10 *Inc.*, 647 F.2d 18, 25 (9th Cir. 1981) (“As with all evidentiary privileges, the burden of proving
11 that the attorney-client privilege applies rests not with the party contesting the privilege, but with
12 the party asserting it.”); *Greenpeace v. Nat’l Marine Fisheries Serv.*, 198 F.R.D. 540, 543, 545
13 (W.D. Wash. 2000) (“The initial burden of establishing . . . the [deliberative process] privilege is
14 on the government.”).

15 The Government has previously conceded in court filings related to this litigation that “as a
16 general matter revealing privileged information to non-governmental third-parties can waive the
17 deliberative process privilege, *see In re Sealed Case*, 121 F.3d 729, 741–42 (D.C. Cir. 1997);
18 *UnitedHealthcare Ins. Co. v. Azar*, 316 F. Supp. 3d 339, 349 (D.D.C. 2018)” (CMR Dkt.
19 No. 29, at 9 n.2.) Indeed this is true, as attorney work product, attorney-client privilege, and DPP
20 do not apply to communications with third parties. *See Hernandez v. Tanninen*, 604 F.3d 1095,
21 1100 (9th Cir. 2010) (noting that disclosure of attorney client and attorney work product
22 information to third parties results in waiver); *Friends of the Earth v. U.S. Army Corps of Eng’rs*,
23 374 F. Supp. 3d 1045, 1052 (W.D. Wash. 2019) (“[I]f a document is not an ‘agency’ document,
24 an agency may not withhold it regardless of whether it reflects the deliberative process of the
25 agency, attorney work-product, or is an attorney-client communication. . . . [d]isclosure may also
26 be required . . . if the government agency waives its right to the exemption by voluntarily sharing
27 the document with third parties.”) (citing *Mobil Oil Corp. v. U.S. EPA*, 879 F.2d 698, 700–01
28 (9th Cir. 1989)); *Lucaj v. FBI*, 852 F.3d 541, 548 (6th Cir. 2017) (noting the Supreme Court

1 clearly limited disclosure of deliberative process privilege documents to only “inter-agency or
2 intra-agency” communications) (citation omitted); *In re Subpoena of Ctr. for Military Readiness*,
3 No. MC 18-51013, 2019 WL 4733602, at *9 (E.D. Mich. Sept. 28, 2019) (holding the magistrate
4 judge “correctly concluded the deliberative process privilege does not apply” to the
5 communications with third party Center for Military Readiness); *see also In re Subpoena of Ctr.*
6 *for Military Readiness*, No. MC 18-51013, 2018 WL 6722247, at *10 (E.D. Mich. Nov. 6, 2018)
7 (“Since [the Center for Military Readiness] is a private organization, documents reflecting
8 communication between it and the government do not enjoy an executive or deliberative process
9 privilege.”).

10 ARGUMENT

11 The Government’s deficient privilege logs fail to establish that communications with third
12 parties are appropriately covered by privilege. Plaintiffs created a list of potential third parties
13 and provided that list to the Government—twice. This list was created by identifying names in
14 Government privilege logs entries that either: (1) did not contain an email address or job title on
15 the privilege log, thus making it impossible for Plaintiffs to determine if an individual was a third
16 party; or (2) were associated with third-party email addresses, indicating that the communication
17 was sent outside of the DoD and federal government. Because communications with third parties
18 are not privileged, the Government should be compelled to review this list of individuals and
19 produce its communications with those confirmed to be third parties and amend its privilege log
20 information for those confirmed to be government employees.

21 **A. The Government’s privilege log entries that do not readily identify a custodian as a 22 government employee do not establish that all recipients of the communications were 23 properly covered by privilege.**

24 Because communications with third parties are not privileged, the burden is on the
25 Government to demonstrate that it was *not* communicating privileged information to third
26 parties. Numerous of the Government’s privilege log entries contain names without an email
27 address, employment information, or any other information that would establish the recipient of
28 the communication as a government employee. Therefore, these entries either do or may contain
third parties and the Government has failed to meet its burden of establishing that the withheld

1 communications are privileged. *See Bess v. Cate*, No. 2:07-cv-1989, 2008 WL 5100203, at *2
2 (E.D. Cal. Nov. 26, 2008) (holding that failure to serve an adequate privilege log waives
3 privilege) (citing *Burlington N. & Santa Fe Ry. Co. v. Kapsner*, 408 F.3d 1142, 1149 (9th Cir.
4 2005)).

5 The names without sufficient information are included in Exhibit A to Plaintiffs' December
6 13, 2019 letter *without highlight*. (Barsanti Decl. ¶ 2, Ex. 1 at Ex. A). These names are associated
7 with privilege log entries that do not provide email addresses, employment information, or other
8 information to establish that the custodian is a government employee. As such, the Government
9 has not satisfied its burden of demonstrating that these individuals *are not* third parties. The
10 Government should be ordered to either produce these documents if the communication involves
11 third parties, or supplement its privilege logs to identify the individual's employer and job title as
12 of the date of the communication. *Bess*, 2008 WL 5100203, at *5 ("Because defendants failed to
13 provide a privilege log, lodged blanket and dilatory objections, and unreasonably delayed
14 discovery, this court finds they have waived any such privilege.") (citing *Ritacca v. Abbott Labs.*,
15 203 F.R.D. 332, 336 (N.D. Ill. 2001) (finding the defendant's five-month delay in providing
16 adequate privilege logs "a clear case of foot-dragging; and [defendants'] cavalier attitude
17 towards discovery, an attitude we sharply discourage, warrants a finding of waiver.")).

18 **B. Privilege log entries that clearly contain third-party names or email addresses are not**
19 **privileged and must be produced.**

20 With respect to privilege log entries that contain third-party email domains, the face of the
21 Government's privilege logs alone evidence that the Government was communicating with a
22 third party. The entries excerpted from the Government's privilege logs that contain third-party
23 email domain names—such as @gmail.com, @deloitte.com, @aol.com, @univplastics.com,
24 @nycbar.com, and @NMMI.edu, among others—are those that were *highlighted* in Plaintiffs'
25 Exhibit A. (Barsanti Decl. ¶ 2, Ex. 1 at Ex. A). These domain names demonstrate that the
26 communications are with third parties, are not privileged, and must be produced.

DEFENDANTS' STATEMENT

1
2 After months of refusing to take basic steps to narrow this dispute, Plaintiffs now file an
3 unnecessary and legally untenable motion for production of *all* of DoD's communications with
4 third parties, despite clear case law demonstrating that such communications can be privileged.
5 As with their prior discovery motions, rather than focus on particular documents or privilege log
6 entries, Plaintiffs ask this Court to order blanket disclosure of privileged material without any
7 particularized or granular analysis.

8 And they do so with arguments that are entirely threadbare. Plaintiffs assert that Defendants
9 have "conceded" that their communications with third parties are not privileged. But Defendants
10 have made no such concession. To the contrary, Defendants have repeatedly and consistently
11 maintained in this and the related litigation that their confidential communications with non-
12 government third parties are privileged, pursuant to the "consultant corollary" doctrine. That
13 doctrine—which is regularly applied by courts in this circuit—provides that when the Government
14 solicits third parties to aid in its decision making process, its communications with those third
15 parties are privileged. *See, e.g., All. for the Wild Rockies v. Pena*, 2017 WL 8778579, at *4–5
16 (E.D. Wash. Dec. 12, 2017). Plaintiffs assert Defendants have "conceded" something different
17 only by cherry-picking a single clause of a single sentence from a single brief, reading it wholly
18 out of context, and ignoring the very next clause of the very same sentence.

19 In other words, when subjected to only the lightest scrutiny, Plaintiffs' sole argument that
20 DoD must produce its third-party communications collapses. Plaintiffs do not offer any other
21 explanation for why the consultant corollary would not apply in this case to protect DoD's
22 communications with third parties. Nor do they explain how production of all third-party
23 communications could be proper when at least some of those communications are responsive to
24 RFP Nos. 15 or 29, and thus at issue in Defendants' mandamus petition and the subject of the
25 Ninth Circuit's administrative stay.

26 Finally, Plaintiffs assert that Defendants have improperly refused to review lists of hundreds
27 of names and/or email addresses and provide Plaintiffs with more information about which
28 individuals are third parties. But that also is incorrect. What Plaintiffs leave out is that the lists

1 they have provided reflect no serious effort to narrow the dispute, given that they contain numerous
2 individuals who obviously *are* government officials, such as the current Secretary of Defense and
3 one of the currently serving Plaintiffs herself. While Defendants bear the burden of justifying any
4 claim of privilege, they are not required to spend hours providing information that Plaintiffs
5 already know or can easily determine. Nevertheless, in the interest of expediting resolution of this
6 dispute, and to avoid the need for any further extensions of the discovery schedule, Defendants
7 agree to complete their review of Plaintiffs’ most recent list of purported third parties, and to
8 provide Plaintiffs with additional information by March 13, 2020.

9 Accordingly, there is only one live question before the Court: whether, for those individuals
10 whom Defendants ultimately identify as third parties, all communications between them and DoD
11 must be produced. For the reasons set forth herein, the answer plainly is no. Plaintiffs’ motion
12 should be denied.⁹

13 **FACTUAL AND PROCEDURAL HISTORY**

14 **A. Prior Disputes Unrelated To The Instant Motion**

15 Plaintiffs’ statement discusses several prior disputes between the parties that largely have
16 already been resolved and for which Plaintiffs do not seek relief in this motion. Nevertheless, in
17 their discussion of these prior disputes, Plaintiffs mischaracterize Defendants’ positions and the
18 relevance of the materials Defendants produced. Below, Defendants correct the record.

19 **1. The CMR Subpoena**

20 Since May 2018, Plaintiffs have served at least a dozen Federal Rule of Civil Procedure 45
21 subpoenas on individuals and organizations not party to this case, seeking essentially any
22 communications those individuals and organizations may have had with the Government related
23 to transgender individuals and policies regarding transgender individuals.

24
25
26 ⁹ Local Civil Rule 37(a)(2) provides that the parties may “by agreement” decide to resolve discovery disputes through
27 an expedited joint motion procedure. Plaintiffs requested that Defendants agree to utilize this expedited procedure,
28 but given the importance of this case in challenging a national military policy and Defendants’ desire to build a fully
developed record, Defendants declined to consent to those procedures. Nevertheless, without obtaining Defendants’
consent, the Court, on February 3, 2020, issued an oral ruling that the parties must utilize the L.C.R. 37(a)(2) joint
motion procedures for all future discovery motions in this case. *See* Hr’g Tr. (Feb. 3, 2020) at 68:9–19. Defendants
respectfully object to the Court’s ruling, but will of course adhere to it, as they do here.

1 In July of 2018, Plaintiffs moved in the Eastern District of Michigan to compel compliance
2 with a Rule 45 subpoena served on the Center for Military Readiness (“CMR”), a non-profit
3 organization. (CMR Dkt. No. 1.) Defendants participated in the subpoena enforcement action,
4 repeatedly arguing, among other things, that any communications between CMR and the
5 Government were potentially subject to government privileges under the consultant corollary
6 doctrine. (*See* CMR Dkt. No. 29 at 9 n.2; CMR Dkt. No. 37 at 13–14; CMR Dkt. No. 47 at 8–
7 10.)

8 Notwithstanding Defendants’ consistent position, Plaintiffs state that Defendants have
9 “conceded” that “DPP does not apply to communications with third parties.” *Supra*, p. 1. That
10 assertion is flatly incorrect. Plaintiffs point to Defendants’ statement in the CMR litigation that
11 “as a general matter revealing privileged information to non-governmental third-parties can
12 waive the deliberative process privilege.” *Supra*, p. 2 (quoting CMR Dkt. No. 29 at 9 n.2). But
13 Plaintiffs omit *the very next clause of the very sentence they quote*, where Defendants state that,
14 nevertheless, “under the consultant corollary the privilege itself extends to communications with
15 non-governmental entities where the entity aids the agency’s decision-making process, . . .”
16 CMR Dkt. 29 at 9 n.2 (citations omitted). Only by isolating a single clause from a single
17 sentence and reading it out of context do Plaintiffs conclude that Defendants somehow concede
18 “DPP does not apply to communications with third parties.” *Supra*, p. 1. Quite the opposite,
19 Defendants have consistently (and correctly) maintained in this and the related cases that their
20 communications with third parties can be protected by privilege. (*See, e.g.*, CMR Dkt. No. 37 at
21 13 (“It is true that, as a general matter, when the Government voluntarily discloses privileged
22 information to non-governmental third parties, such disclosure can result in waiving privilege.
23 But that general rule yields to specific exceptions. For example, under the ‘consultant corollary’
24 doctrine, Government privileges like the presidential communications privilege extend to
25 communications with non-governmental third parties when such communications ‘aid the
26 agency’s decision-making process.’”) (citations omitted).) Plaintiffs’ mischaracterization of
27 Defendants’ position should be rejected outright.
28

1 Ultimately, the district court in the CMR subpoena dispute ordered CMR to produce its
2 communications with the Government. (CMR Dkt. No. 62.) Although Defendants disagreed
3 with that decision, they did not pursue relief in the Sixth Circuit.

4 2. The McHugh Subpoena

5 In addition to the subpoena directed to CMR, Plaintiffs also sought to enforce a subpoena
6 in the District of Maryland served on Dr. Paul McHugh, a professor of psychiatry and behavioral
7 sciences at Johns Hopkins University. In an attempt to resolve that subpoena without further
8 litigation, DoD ultimately withdrew its objection to Dr. McHugh producing his communications
9 with DoD. Defendants, however, specifically maintained that they “d[id] not concede that those
10 communications are not subject to the deliberative process privilege.” (Barsanti Decl. ¶ 4, Ex. 3,
11 Email from Skurnik to Barsanti (July 29, 2019).) Moreover, Defendants maintained their
12 objection to Dr. McHugh producing his communications with the White House, which are
13 potentially subject both to the deliberative process privilege and the presidential communications
14 privilege.¹⁰ (*Id.*)

15 Plaintiffs appear to suggest that DoD’s communications with Dr. McHugh call into
16 question its decision making process and provide a basis for further discovery into Defendants’
17 communications with other third parties. But setting aside the fact that, as noted, such
18 communications can be privileged, DoD’s consultations with Dr. McHugh merely reflect the
19 agency’s efforts to consider input from medical professionals with a variety of views as part of
20 its policy process. Indeed, Plaintiffs ignore that DoD considered the opinions and studies of
21 multiple experts, including Plaintiffs’ own expert, Dr. George Brown, *see* Defs.’ Interrog.
22 Resps., Dkt. No. 373 at 9–10, as well as military mental health specialists, surgeons,
23 endocrinologists and general practitioners from the Army, Navy and Air Force who had
24 collectively advised on more than 250 transgender service member medical treatment plans, *see*
25 AR 002830-5, Dkt. No. 381-2. There is nothing nefarious or indicative of bad faith about
26

27 ¹⁰ Plaintiffs’ miscellaneous action regarding Dr. McHugh’s remaining communications—any between him and the
28 White House—was subsequently transferred to this district and consolidated with this case. *See* Order, Dkt. 367. That
dispute, however, is not at issue here. Dr. McHugh’s communications with the White House are not raised in this
motion, nor are any White House communications with purported third parties. *See supra*, p. 1.

1 receiving input from experts with differing views. *See Gibson v. Collier*, 920 F.3d 212, 220, 222
2 n.6 (5th Cir. 2019) (citing Dr. McHugh among other medical experts in finding that “there is
3 robust and substantial good faith disagreement dividing respected members of the expert medical
4 community” concerning the necessity and efficacy of sex reassignment surgery). This is
5 underscored by the fact that another of Plaintiffs’ own experts, retired Major General Margaret
6 Wilmoth, recommended that the Carter Transgender Working Group (“TGWG”) speak with Dr.
7 McHugh. (*See* Dkt. No. 381-8, Wilmoth email of Oct. 15, 2015 (recommending Dr. McHugh
8 and stating “I would rather [the TGWG] get to a decision knowing how we got there by hearing
9 from all sides of this important decision rather than just hearing from advocates”.)

10 Nor does it matter that a DoD official consulted with Dr. McHugh after the Panel
11 completed its deliberations. *See supra*, p. 3. As Plaintiffs admit, DoD’s 44-page Report and
12 Recommendations reflects the pertinent information Dr. McHugh provided. *See id.* In any
13 event, Secretary Mattis adopted the Panel’s recommendations in full, *see* Defs.’ Mot. for
14 Clarification 8–9, Dkt. No. 405, so it is not as if consultations with Dr. McHugh somehow
15 changed the policy. Accordingly, the prior dispute concerning Dr. McHugh’s communications
16 has no bearing on the instant motion, and certainly does not provide a basis for blanket
17 disclosure of privileged third-party communications without regard to time period or topic.

18 3. Communications With McHugh, Newbold, and Woodruff

19 In response to inquiries from the Plaintiffs, Defendants have elected to waive the
20 deliberative process privilege over certain communications between DoD and several non-
21 government individuals, including Dr. McHugh himself, retired Lieutenant General Greg
22 Newbold, and William Woodruff.¹¹ Defendants’ decision to waive privilege over these
23 communications is consistent with the general approach they have taken across the related
24 cases—namely, that where Plaintiffs have identified particular documents for which they believe
25 they have a particularly strong need, Defendants have considered whether to waive privilege
26 over the documents, and in many cases have done so. Indeed, every time Plaintiffs have
27

28 ¹¹ In response to Plaintiffs’ inquiry, Defendants also conducted a search for communications between DoD and Dr. Thomas Wise and Dr. Chester Schmidt, but did not identify any such communications.

1 requested that Defendants provide DoD’s communications with a specific third-party individual,
2 Defendants ultimately have agreed to waive the deliberative process privilege over DoD’s
3 communications with that individual. *See, e.g.*, Barsanti Decl. ¶ 8, Ex. 7, Letter from Carmichael
4 to Barsanti (Sept. 13, 2019).

5 However, Defendants’ decision to waive privilege over particular documents does not
6 amount to an admission that those documents were not subject to privilege in the first place. Nor
7 can Defendants’ waiver of privilege with respect to communications with certain third parties act
8 as a waiver of communications with *all third parties*, as Plaintiffs’ focus on Defendants’
9 “waivers” appears to suggest. The case law on this point is crystal clear: the subject matter
10 waiver concept has no applicability to the deliberative process privilege. *See Agility Public*
11 *Warehousing Co. K.S.C. v. DoD*, 110 F. Supp. 3d 215, 222 n.4 (D.D.C. 2015) (holding that
12 “there is no authority for applying the broad, subject-matter waiver rule to [the deliberative
13 process] privilege; indeed, the cases suggest that the rule does *not* apply in this context”) Rather,
14 the “release of a document only waives [executive] privileges for the document or information
15 specifically released, and not for related materials.” *In re Sealed Case*, 121 F.3d 729, 741 (D.C.
16 Cir. 1997); *cf. Mobil Oil Corp. v. EPA*, 879 F.2d 698, 700 (9th Cir. 1989) (disclosure of
17 documents does not waive Government’s ability to assert FOIA exemption 5—which
18 encompasses the deliberative process privilege—as to “related documents”).

19 **B. Current Dispute Before The Court**

20 Defendants turn now to the dispute that is the subject of Plaintiffs’ motion, which centers
21 on Defendants’ communications with additional individuals Plaintiffs allege are third parties.

22 **1. Plaintiffs’ First List Of Purported Third Parties**

23 On October 7, 2019, Plaintiffs provided Defendants with a list of approximately 824
24 names, email addresses, or name and email address combinations, that they claimed belonged to
25 non-government third parties, and requested that Defendants produce all communications with
26 these individuals within eight days. (Barsanti Decl. ¶ 13, Ex. 12, Letter from Barsanti to
27 Carmichael (Oct. 7, 2019).) Plaintiffs stated that they had created this list of names and email
28 addresses based on Defendants’ privilege logs. Importantly, however, Plaintiffs did not identify

1 any particular privilege log entries to which they objected to Defendants’ invocation of privilege.
2 Plaintiffs just provided a long list of names and email addresses—without even a citation to
3 where on the logs they were located.

4 Nevertheless, in an effort to resolve the dispute, Defendants agreed to review the list and
5 provide Plaintiffs with additional information about whether it contained non-government third
6 parties. Upon beginning that review, however, it quickly became apparent that Plaintiffs had made
7 no serious effort to narrow the dispute in formulating their list. The list contained, for example:

- 8 • The current and most recent former confirmed Secretaries of Defense (“Esper, Mark T.”
9 and “Jim Mattis”);
- 10 • Two DOJ former counsel of record in this case (“Brinton Lucas” and “Ryan Parker”); and
- 11 • Numerous attendees at meetings of the Panel of Experts, all of whom have been previously
12 identified in Defendants’ discovery responses.

13 A cursory review of the list would have revealed to Plaintiffs that it was replete with
14 government officials, not third parties. As Defendants explained to Plaintiffs, they were not
15 required to undertake a burdensome review of the hundreds of entries in Plaintiffs’ list where
16 Plaintiffs appeared not to have made even a passing effort to review the names themselves.
17 Indeed, apart from obvious names like that of the Secretary of Defense, even for less obvious
18 entries on the list, in many cases a simple Google search or glance at Defendants’ responses to
19 Plaintiffs’ interrogatories would demonstrate that the particular name in fact belonged to a
20 government official. Defendants informed Plaintiffs that given the nature of the list, they would
21 not devote the significant attorney time and resources necessary to review it and provide
22 additional information. *Id.* ¶ 14, Ex. 13, Letter from Carmichael to Barsanti (Nov. 4, 2019).

23 **2. Plaintiffs’ Second List Of Purported Third Parties**

24 In response, Plaintiffs removed more than 300 entries from their list, reducing it in size
25 from approximately 824 names and/or email addresses down to approximately 487. *Id.* ¶ 2, Ex.
26 1, Letter from Barsanti to Carmichael (Dec. 13, 2019). In doing so, Plaintiffs essentially
27 confirmed Defendants’ objection—that the initial list included numerous obvious government
28 officials and did not represent a serious effort to narrow the dispute. Defendants agreed to

1 review Plaintiffs' second list and provide additional information about whether the listed
2 individuals were government officials.

3 However, after devoting numerous attorney hours to reviewing approximately half of the
4 entries on Plaintiffs' second list, it again became apparent that Plaintiffs still had not made a
5 serious effort to narrow the dispute. The second list of purported third parties still contained, for
6 example:

- 7 • At least two references to Plaintiff Lindsey Muller, who Plaintiffs allege in their complaint
8 is a member of the Armed Forces, and thus a government official;
- 9 • References to numerous individuals who hold or previously held senior Executive Branch
10 positions, including former Deputy Secretary of Defense Robert Work, former Secretary
11 of Homeland Security and DoD General Counsel Jeh Johnson, retired Army General Carter
12 F. Ham, and DoD Deputy General Counsel Ryan Newman.¹²
- 13 • Entries corresponding to numerous employees of the federal government whose email
14 addresses indicate that fact.

15 Once again, Plaintiffs failed to detect names of persons—including their own client—that
16 obviously were not third parties. Accordingly, Defendants informed Plaintiffs that they would
17 not continue to undertake the burdensome task of reviewing Plaintiffs' second list. *Id.* ¶ 16, Ex.
18 15, Letter from Powers to Barsanti (January 17, 2020). Plaintiffs to date have not agreed to
19 provide a list reflecting a serious effort to narrow this dispute.

20 ARGUMENT

21 **A. To Expedite Resolution Of This Dispute, Defendants Agree To Complete Their 22 Review Of Plaintiffs Second List Of Names.**

23 As set forth above, this is not a dispute about whether Defendants bear the burden to claim
24 privilege over third-party communications, but whether Plaintiffs should make a reasonable
25 effort to identify the names of persons they could reasonably contend may be third parties. To
26 date they have not done so. In such circumstances, Defendants are not obligated to devote hours

27 ¹² Although some of these individuals are no longer government officials, because Plaintiffs have insisted on
28 conferring over a context-free list of names rather than actual entries on Defendants' privilege logs, the parties' meet
and confer efforts have not involved discussions of whether any particular official was in government service at the
time of any particular communication.

1 to providing Plaintiffs with information they already know, should know, or could know with
2 minimal efforts. Indeed, this dispute likely could have been resolved or substantially narrowed
3 months ago if Plaintiffs would have simply identified particular privilege log entries, or provided
4 a reasonable list of purported third parties.

5 Plaintiffs are thus incorrect that Defendants have not sufficiently justified their claims of
6 privilege. Defendants do not have to specify to Plaintiffs that Mark T. Esper is in fact a
7 government official for Plaintiffs to know that he is the Secretary of Defense and a named
8 Defendant, and that his deliberative and pre-decisional communications are privileged.
9 Defendants' privilege logs contain information on the date, author, recipient, title/description,
10 privilege, and privilege basis of withheld documents. Defendants accordingly have provided
11 more than sufficient information to satisfy Rule 26's requirements. *See* FED. R. CIV. P.
12 26(b)(5)(A).

13 Nonetheless, in order to expedite resolution of this dispute and avoid any need for further
14 extensions of the discovery schedule, Defendants will agree to complete their review of
15 Plaintiffs' second list of individuals, and to do so by March 13, 2020. By that date, Defendants
16 will provide Plaintiffs with additional information about the individuals on the list, including
17 whether or not the individuals listed are government officials. Accordingly, the Court need not
18 order any relief as to whether the Defendants must complete their review of Plaintiffs' list of
19 purported third parties—Defendants already have agreed to do so.

20 Finally, private email accounts should not be used as a proxy to determine third parties, as
21 Plaintiffs suggest. *See supra*, p. 9–10. Government officials occasionally will use private email
22 accounts for official business, as they are permitted to do under federal records laws so long as
23 they also forward or copy relevant documents and communications to their official email
24 accounts. *See* 44 U.S.C. § 2911. But using a private email address cannot transform a
25 government official into a non-government third party. For example, one of the @gmail.com
26 addresses on Plaintiffs' lists belongs to Sasha N. Baker, who served as a Deputy Chief of Staff to
27 former Secretary of Defense Ashton Carter. Just because Ms. Baker may have forwarded a
28 document or communication to her private email address does not mean that she herself was not

1 a government official or that the document or communication she may have forwarded is not
 2 privileged. In any event, Defendants have agreed to review Plaintiffs' list and identify which of
 3 the entries belong to third parties, so there is no need to attempt that same inquiry based on
 4 private email addresses.

5 **B. Communications Between Defendants And Third Parties Are Privileged Where Those**
 6 **Communications Are Solicited And Aid Defendants' Decision Making Process.**

7 In light of Defendants' agreement to complete review of Plaintiffs' second list of purported
 8 third parties, the Court need address only one question: whether, for any individuals Defendants
 9 ultimately identify as non-government third parties, DoD may in certain cases withhold its
 10 communications with those individuals.

11 The answer plainly is yes. Although as a general matter, the Government's voluntary
 12 disclosure of privileged information can result in waiving privilege, *see, e.g., In re Sealed Case*,
 13 121 F.3d at 741–42, under the “consultant corollary” doctrine, communications between the
 14 Government and third parties are privileged where the Government solicits them in order to “aid
 15 the agency's decision-making process,”¹³ *Judicial Watch, Inc. v. DoT*, 950 F. Supp. 2d 213, 218–
 16 19 (D.D.C. 2013). This doctrine is well-established, and has been applied by numerous courts in
 17 this circuit. *See, e.g., All. for the Wild Rockies v. Pena*, 2017 WL 8778579, at *6 (E.D. Wash.
 18 Dec. 12, 2017) (communications between Forest Service and private subcontractor were properly
 19 withheld as deliberative pursuant to consultant corollary); *Sakamoto v. EPA*, 443 F. Supp. 2d
 20 1182, 1191–92 (N.D. Cal. 2006) (documents authored by non-government consultants hired by
 21 EPA properly withheld as deliberative pursuant to consultant corollary); *Friends of the Earth v.*
 22 *Army Corps of Engineers*, 374 F. Supp. 3d 1045, 1053–54 (W.D. Wash. 2019) (applying the
 23 consultant corollary doctrine but concluding that document at issue did not come within its
 24 protections); *Ctr. for Biological Diversity v. Office of U.S. Trade Representative*, 450 F. App'x
 25 605, 609 (9th Cir. 2011) (unpublished memorandum disposition) (noting the existence of
 26 _____

27 ¹³ The consultant corollary doctrine is also restricted to situations where the third-party does not have “an outside
 28 interest in obtaining a benefit that is at the expense of competitors,” but that condition is not at issue in this litigation.
Judicial Watch, Inc., 950 F. Supp. 2d at 218–19; *see Department of Interior v. Klamath Water Users Protective*
Association, 532 U.S. 1 (2001).

1 consultant corollary and remanding for further factual development on the relationship between
2 third party and the agency).

3 The consultant corollary is particularly important in a case like this, where the Government
4 hired an outside consultant (the RAND Corporation) as part of its policy development process
5 (for the Carter policy). Unsurprisingly, Plaintiffs’ lists of purported third parties include multiple
6 individuals with RAND email addresses, including Agnes Schaefer, RAND’s lead researcher on
7 its study of service by transgender individuals. See RAND Report, Dkt. 144-2. While RAND
8 itself may be subject to examination as to the basis for its conclusions, its actual communications
9 with the Government are protected as privileged. See *Nat’l Inst. of Military Justice v. DoD*, 512
10 F.3d 677, 685 (D.C. Cir. 2008) (“[T]he expectation that communications will remain confidential
11 is crucial to eliciting candid and honest advice from outside consultants.”); *Ryan v. DoD*, 617
12 F.2d 781, 789–90 (D.C. Cir. 1980) (“[C]onsultations [with temporary consultants] are an integral
13 part of [an agency’s] deliberative process; to conduct this process in public view would inhibit
14 frank discussion of policy matters and likely impair the quality of decisions.”).¹⁴

15 Indeed, it would be one thing if Plaintiffs argued that particular communications were not
16 in fact solicited as part of Defendants’ decision making process, and thus did not come within the
17 consultant corollary doctrine. But Plaintiffs instead act as if the doctrine does not exist *at all*, by
18 requesting production of *every* third-party communication. Their motion does not even mention
19 the consultant corollary, let alone explain why it would not apply to DoD’s communications with
20 consultants. Nor does it explain how production of all third-party communications could be
21 proper when at least some of those communications are responsive to RFP Nos. 15 or 29, and
22 thus at issue in Defendants’ mandamus petition and the subject of the Ninth Circuit’s
23 administrative stay. See Order, Dkt. 415. Finally, Plaintiffs do not even try to argue that their
24

25 _____
26 ¹⁴ Although DoD here paid RAND to conduct its study, a third party need not be paid or have a formal consulting
27 relationship with the Government in order for the Government’s communications with the third party to be protected.
28 It is sufficient that the communications at issue were solicited for the purpose of aiding the Government’s decision
making process. See *Nat’l Inst. of Military Justice*, 512 F.3d at 683 (“[A]lthough the individuals DoD consulted are . . .
private citizens rather than government employees or paid contract consultants, we see no reason why the absence of
a contract or compensation should differentiate them from the ‘typical’ outside agency consultants.”).

1 need for certain third-party communications has overcome the deliberative process privilege.
2 *See FTC v. Warner Comm’ns Inc.*, 742 F.2d 1156 (9th Cir. 1984). To the contrary, in Plaintiffs
3 view, they simply should get everything, with little argument or analysis.

4 The Court should reject this overbroad and legally incorrect approach. Instead, consistent
5 with case law in this and other circuits, the Court should conclude that DoD may withhold as
6 privileged its communications with third parties where they were solicited to aid in the agency’s
7 decision making process.

8 Finally, if the Court disagrees with Defendants’ position and orders production *en masse* of
9 communications with third parties, in no event should it extend its ruling to third party
10 communications with the President or his close advisors. Plaintiffs have not requested
11 production of such communications in their motion, *see supra*, p. 1 (requesting an order
12 compelling “Mark Esper, in his official capacity as Secretary of Defense, and the United States
13 Department of Defense (‘DoD’) (together, ‘the Government’) to produce third-party
14 communications”), and to order their production at this stage would raise serious separation-of-
15 powers concerns, *see Karnoski*, 926 F.3d at 1205.

16 **CONCLUSION**

17 Defendants will complete their review of Plaintiffs’ second list of purported third parties
18 and provide Plaintiffs with additional information by March 13, 2020. As to DoD’s
19 communications with third parties, the Court should hold that DoD may properly withhold such
20 communications as privileged where they were solicited and aid in the agency’s decision making
21 process. Accordingly, Plaintiffs motion should be denied.

22 **PLAINTIFFS’ REPLY**

23 The Government’s attempts to shift its discovery burden as a tactic to delay and obstruct
24 the discovery process should be tolerated no more. The Government has repeatedly refused to
25 cooperate with Plaintiffs throughout the meet and confer process and has done nothing to cure its
26 deficient privilege log entries, *even after* it “devot[ed] numerous attorney hours to reviewing
27 approximately half of the entries on Plaintiffs’ second list... of purported third parties.” Def’s.
28 Stmt. at 17, *supra*. Only now, after imposing a substantial burden on Plaintiffs and the Court to

1 resolve a dispute that could have been resolved between the parties months ago, has the
2 Government finally agreed to Plaintiffs’ initial October 7, 2019 ask to review Plaintiffs’ list of
3 potential third parties. The Government has had sufficient time to review this list (and indeed has
4 already reviewed half), and any further delay severely prejudices Plaintiffs.

5 Third-party communications are not subject to DPP, as the Ninth Circuit has never adopted
6 the consultant corollary theory. But, even if it had, the Government’s deficient privilege log
7 entries do not justify that its communications are protected by this theory. Beyond that, the
8 Government’s extreme and unjustified delay in remedying its deficient privilege log entries
9 warrants a finding that any meritless privilege claims over these documents have been waived.

10 **A. The consultant corollary theory does not protect the Government’s third-party**
11 **communications.**

12 The Government’s argument that the consultant corollary exception protects its third-party
13 communications from production fails for at least three reasons. *First*, the Court need not apply
14 the consultant corollary exception to waiver because it has never been adopted by the Ninth Circuit.
15 *See Rojas v. Fed. Aviation Admin.*, 927 F.3d 1046, 1054 (9th Cir. 2019), *reh’g en banc*
16 *granted*, No. 17-55036, 2020 WL 520853 (9th Cir. Jan. 30, 2020) (“We have yet to adopt the
17 consultant corollary in this Circuit . . .”).¹⁵ None of the Government’s cited case law regarding
18 consultant corollary theory is controlling on this Court.

19 *Second*, even if the Court found that the consultant corollary doctrine could *potentially*
20 apply to the Government’s third-party communications, the Government has done nothing to
21 support the application of that doctrine here. The burden to establish consultant corollary
22 protection is high. The Government must prove not only that the “consultant” (1) was solicited to
23 “aid the agency’s decision-making process . . .,” Def’s Stmt. at 19, *supra*, but also that it (2)
24 was “hired or solicited by the agency to provide neutral advice” that “does not represent an
25 interest of its own, or the interest of any other client, when it advises the agency that hires it,”
26

27 ¹⁵ The Government attempted to argue that consultant corollary theory prevented waiver of DPP over its
28 communications with CMR before Judges Edmunds and Stafford. The Sixth Circuit—like the Ninth Circuit—never
adopted the consultant corollary theory and both judges declined to apply that exception to waiver over Defendants’
communications with CMR.

1 such that the “private individual was acting just as a government employee would be expected to
2 do,” *Friends of the Earth*, 374 F. Supp. 3d at 1053-54 (internal quotations, alterations, and
3 citations omitted), before proving (3) that the communications are covered by DPP, for example,
4 that they are indeed deliberative and pre-decisional. The Government has woefully failed to meet
5 this burden by never formally invoking consultant corollary theory prior to this filing. Indeed, its
6 privilege log entries never indicate that it claims “consultant corollary” over any particular
7 communications or even attempt to establish the theory’s strict legal requirements. (*See* Barsanti
8 Decl. ¶¶ 19-21.)

9 Neither has the Government met the consultant corollary theory’s strict legal requirements
10 for claiming protection over documents with RAND Corporation. For example, although
11 RAND’s report was published and the Carter policy was announced on June 30, 2016, rendering
12 documents after this date no longer deliberative or pre-decisional, the Government has withheld
13 documents with RAND members after this date without explanation or justification. (*Id.* at ¶ 20.)

14 In addition, Government communications with third party individuals or interest groups are
15 not protected when they appear to receive preferential treatment relative to other members of the
16 public. *Friends of the Earth*, 374 F. Supp. 3d at 1055. The Government’s originally-withheld but
17 now produced communications with *at least* Greg Newbold, Woody Woodruff, Paul McHugh,
18 and CMR demonstrate that these individuals received preferential treatment when
19 communicating their own self-interests or the interests of anti-transgender advocacy groups to
20 the Government, such that these communications were never properly subject to DPP. The
21 remaining withheld documents also likely contain self-interested communications, too.

22 In fact, the Government’s recent production of third-party documents previously withheld
23 under the guise of DPP further emphasizes its inappropriate and overbroad application of DPP,
24 even if the consultant corollary theory applied. Included within its recent de-designation
25 production were, for example, an email from a reporter [REDACTED]
26 [REDACTED] and an [REDACTED] email from the head
27 of the New York City Bar Association’s Military Affairs and Justice Committee [REDACTED]
28

1 [REDACTED]. (Barsanti Decl. ¶¶ 17-18, Exs. 16-17.)

2 Neither is deliberative, and both were improperly withheld.

3 *Third*, as discussed *supra*, the Government’s extreme and unjustified delay in remedying its
4 deficient privilege log entries warrants a finding that any meritless privilege claims over these
5 documents has been waived. *E.g.*, *Bess*, 2008 WL 5100203, at *5; *Ritacca*, 203 F.R.D. at 336.

6 **B. The Government’s mandamus petition does not apply here.**

7 The Government’s argument that third-party communications are tied up in its mandamus
8 petition is a red herring. At issue in that petition is whether Plaintiffs have overcome the
9 Government’s claims of DPP with respect to certain categories of documents. Here, Plaintiffs
10 need not *overcome* DPP with respect to these third-party communications because DPP *does not*
11 *apply* to third-party communications. And, even if DPP *could* apply, the Government has not met
12 their burden to show that it *does*. Thus, the issues in the mandamus petition have no bearing on
13 this dispute, the requested third-party communications are not subject to the Ninth Circuit’s
14 administrative stay, and Plaintiffs need not establish the *Warner* factors over these documents.

15 **CONCLUSION**

16 In light of the Government’s inexcusable delay and refusal to meaningfully cooperate in
17 discovery, combined with its continued failure to support its privilege assertions, Plaintiffs
18 request the Court order the Government to review the list of potential third parties provided by
19 Plaintiffs, and by March 13, 2020 (1) provide information indicating whether each person is a
20 third party or a government employee; (2) produce all communications with individuals who are
21 confirmed to be third parties, or, in the alternative, should the Court adopt the consultant
22 corollary theory, (a) require the Government to amend its privilege logs and serve a declaration
23 attesting to the elements of the consultant corollary doctrine with respect to each third party for
24 whom it continues to withhold communications, and (b) produce communications with all other
25 third parties; and (3) for individuals confirmed to be government employees, amend its privilege
26 log entries to identify the employer and job title for each individual as of the date of the
27 communication.

CERTIFICATION

I certify that the full response by the responding party has been included in this submission, and that prior to making this submission the parties conferred to attempt to resolve this discovery dispute in accordance with LCR 37(a).

Respectfully submitted, February 27, 2020

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CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the United States of America and the laws of the State of Washington that all participants in the case are registered CM/ECF users and that service of the foregoing documents will be accomplished by the CM/ECF system on February 27, 2020.

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The Honorable Marsha J. Pechman

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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

RYAN KARNOSKI, et al.,
Plaintiffs, and
STATE OF WASHINGTON,
Plaintiff-Intervenor,
v.
DONALD J. TRUMP, in his official capacity
as President of the United States, et al.,
Defendants.

Case No. 2:17-cv-01297-MJP

**[PROPOSED] ORDER GRANTING LCR
37 JOINT SUBMISSION REGARDING
THE GOVERNMENT’S WITHHELD
COMMUNICATIONS WITH THIRD
PARTIES**

NOTE ON MOTION CALENDAR:
February 27, 2020

This matter comes before the Court on the foregoing LCR 37 Joint Submission Regarding the Government’s Withheld Communications with Third Parties (the “Joint Submission”). The Court, having considered the parties’ arguments and finding good cause therefor, GRANTS the Joint Submission.

IT IS HEREBY ORDERED:

1. By March 13, 2020, the Government must review Plaintiffs’ list of potential third parties, attached as Ex. A to Ex. 1 to the Declaration of Vanessa Barsanti in Support of the Joint Submission, and provide information indicating whether each person is a third party or a government employee.

2. By March 13, 2020, the Government must produce all communications with individuals who are confirmed to be third parties.

3. [IN THE ALTERNATIVE] By March 13, 2020, for all communications with individuals who are confirmed to be third parties, the Government must:

- a. Amend its privilege logs to adequately assert the consultant corollary doctrine and serve a declaration attesting to the elements of the consultant corollary doctrine with respect to each third party for whom it continues to withhold communications;
- b. Produce all withheld communications with all other third parties.

4. By March 13, 2020, for individuals confirmed to be government employees, the Government must amend its privilege log entries to identify the employer and job title for each individual as of the date of the communication.

IT IS SO ORDERED.

Dated this _____ day of _____, 2020.

The Honorable Marsha J. Pechman
United States District Court Judge

Presented by:
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The Honorable Marsha J. Pechman

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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

RYAN KARNOSKI, et al.,

Plaintiffs, and

STATE OF WASHINGTON,

Plaintiff-Intervenor,

v.

DONALD J. TRUMP, in his official capacity
as President of the United States, et al.,

Defendants.

Case No. 2:17-cv-01297-MJP

**LCR 37 JOINT SUBMISSION
REGARDING DOCUMENTS
WITHHELD BY THE GOVERNMENT
AS NON-RESPONSIVE**

NOTE ON MOTION CALENDAR:
February 28, 2020

PLAINTIFFS' STATEMENT

1
2 Plaintiffs are the moving party for this submission. Pursuant to Federal Rules of Civil
3 Procedure 26, 34, and 37, and Local Rule 37, Plaintiffs request an order compelling Mark
4 Esper, in his official capacity as Secretary of Defense, and the United States Department of
5 Defense (“DoD”) (together, “the Government”) to produce documents being withheld as non-
6 responsive belonging to otherwise responsive document families. The parties have met and
7 conferred over the past four months in good faith to try and resolve this dispute without Court
8 action, but with little to no progress made towards resolution, this dispute is now ripe for
9 resolution by the Court. Plaintiffs respectfully request that the Court grant Plaintiffs’ motion in
10 full.

PLAINTIFFS' OPENING ARGUMENT

11
12 In a letter dated October 4, 2019, Plaintiffs identified for the Government discovery
13 deficiencies related to the Government’s withholding of documents from its production on the
14 basis of purported “non-responsiveness,” even though the withheld document was part of a
15 responsive family group (*e.g.*, the Government produced a responsive email, but withheld the
16 email attachments based on a purported “non-responsiveness” objection). (*See* February 28,
17 2020 Barsanti Decl. ¶ 2, Ex. 1.) For each withheld “non-responsive” document, Plaintiffs
18 provided the document metadata and highlighted several examples of withheld documents with
19 notable indicia of responsiveness, such as email subject and/or file name information referring
20 to the Government’s policy regarding transgender service members and the cost of transgender
21 healthcare. By way of example, such email subjects and file names of withheld documents
22 include “Transgender Question,” “How much does a hysterectomy cost.docx,” and “How Much
23 Does an Orchiectomy Cost.docx.” (*Id.*) On October 29, 2019, the parties met and conferred, and
24 the Government agreed to re-review the handful of withheld document exemplars that Plaintiffs
25 had specifically identified in their October 4 letter, but refused to take any steps to review
26 documents beyond Plaintiffs’ examples or rectify the broader issue. (*See* Barsanti Decl. ¶¶ 3-4,
27 Ex. 2.) Worse, the Government attempted to shift its discovery burden by insisting that
28 Plaintiffs sift through the limited metadata available for all 15,000 withheld documents and

1 identify specific Bates numbers that the Government should re-review for responsiveness.

2 (Barsanti Decl. ¶ 3.)

3 Though the burden is not on Plaintiffs to ensure the Government’s production is
4 complete, to facilitate the discovery process and narrow the dispute, Plaintiffs agreed to provide
5 a list of specific Bates numbers that plainly warranted re-review. On November 26, 2019,
6 Plaintiffs provided a list of approximately 4,000 out of the 15,000 withheld documents with
7 obvious indicia of responsiveness such as email subject lines or file names that expressly
8 reference the DoD’s policy regarding transgender personnel and asked the Government to re-
9 review this smaller subset. (*See* Barsanti Decl. ¶ 5, Ex. 3.)

10 Several weeks later, in an email dated December 2, 2019, the Government indicated that
11 it was now *declining* to review the subset of documents identified in Plaintiffs’ November 26
12 letter. (Barsanti Decl. ¶ 6, Ex. 4.) Instead, the Government merely performed a sampling and
13 concluded that “the vast majority (I would estimate over 95%) of the documents with the
14 extension .msg in the file name were Outlook delivery or read receipts” and that such “delivery
15 and read receipts are not responsive to any discovery request and are plainly irrelevant to
16 Plaintiffs’ claims.” (*Id.*) The Government noted that the remainder of the withheld documents
17 reflected discussions between medical professionals regarding the treatment of service members
18 for gender dysphoria. Again, the Government concluded that these documents, *despite being a*
19 *part of otherwise responsive families*, are non-responsive. (*Id.*) In yet another attempt to
20 facilitate a resolution, Plaintiffs asked the Government to produce additional information
21 regarding the content of a random sampling of 50 documents in order for the Plaintiffs to test
22 the responsiveness of these withheld documents. (*See* Barsanti Decl. ¶ 7, Ex. 5.)

23 Over a month later, on January 17, 2020, the Government provided a spreadsheet with
24 additional information concerning the random sampling. (*See* Barsanti Decl. ¶ 8, Ex. 6.) After
25 taking several weeks to respond and several more weeks to review a mere sampling of 50
26 documents, it became clear from the limited information the Government did provide that the
27 withheld documents are indeed independently responsive, and Plaintiffs once again requested
28 their production. (*See* Barsanti Decl. ¶ 9, Ex. 7.) To date, the Government has not agreed to

1 produce these wrongfully withheld documents, or otherwise review the other withheld
2 documents. Plaintiffs now move to compel the Government's documents wrongfully withheld
3 as non-responsive that are part of responsive document families.

4 LEGAL STANDARD

5 The Government has wrongfully withheld documents that, as indicated by their metadata
6 and relationship to other responsive documents, are responsive and relevant. Under the Federal
7 Rules, the Government carries the burden of collecting and producing all non-privileged,
8 responsive documents. Fed. R. Civ. P. 26(b); *see also Putterman v. Supreme Chain Logistics,*
9 *Ltd.*, No. C18-376RSM, 2018 WL 6179325, at *2 (W.D. Wash. Nov. 27, 2018) (“[T]he party
10 who resists discovery has the burden to show that discovery should not be allowed, and has the
11 burden of clarifying, explaining, and supporting its objections.”) (citation omitted).

12 ARGUMENT

13 Despite its obligation under the Federal Rules to produce all non-privileged, relevant
14 documents in their entirety, the Government is improperly withholding documents in otherwise
15 responsive families on the alleged ground of non-responsiveness.¹ For example, the
16 Government has produced a responsive parent email but not produced one or more attachments
17 to the email and instead produced a slipsheet that says “Withheld for Non Responsiveness.” The
18 Government has already acknowledged that the withheld documents belong to responsive
19 families because the Government produced the withheld documents’ family members.
20 Moreover, the metadata of the withheld documents strongly indicates that the documents are, in
21 fact, independently responsive. In response, the Government argues that the withheld
22 documents are categorically non-responsive because they primarily reflect: (i) email read
23 receipts related to responsive documents; and (ii) medical professionals’ discussions related to
24 service members’ treatment plans for gender dysphoria. The Government’s own assertions of
25 deliberative process privilege (“DPP”) over other members of the documents’ families and its
26 various explanations regarding the substance of this withheld material strongly indicate that the
27

28 ¹ A document family is a group of related documents that includes parent and child documents. The most common example is an email, known as the parent document, and its attachments, known as its children.

1 withheld documents are responsive and relevant. The law demands that these withheld
2 documents be produced.

3 **A. The withheld documents are, in fact, relevant and responsive because they are**
4 **members of responsive families.**

5 The rule of completeness—Federal Rule of Evidence 106—requires that a party produce
6 *all* non-privileged documents in a family when it determines that any one member of the family
7 is responsive, as is the case here. *See* Fed. R. Evid. 106 (“If a party introduces all or part of a
8 writing or recorded statement, an adverse party may require the introduction, at that time, of any
9 other part—or any other writing or recorded statement—that in fairness ought to be considered
10 at the same time.”). Courts hold that “[t]he logic of this evidentiary rule extends backwards to
11 discovery which often leads to a conclusion (or at least a presumption) that if something was
12 attached to a relevant e-mail, it is likely also relevant to the context of the communication.” *Abu*
13 *Dhabi Commercial Bank v. Morgan Stanley & Co.*, No. 08 Civ. 7508(SAS), 2011 WL 3738979,
14 at *5 (S.D.N.Y. Aug. 18, 2011), *adopted without objection*, 2011 WL 3734236 (S.D.N.Y. Aug.
15 24, 2011).

16 This approach recognizes the practical importance of producing all documents in a
17 family to provide the necessary context for each family member. *See Sanchez Y Martin, S.A. de*
18 *C.V. v. Dos Amigos, Inc.*, No. 17cv1943-LAB (LL), 2019 WL 581715, at *11 (S.D. Cal. Feb.
19 13, 2019) (holding that “emails produced in discovery should be accompanied by their
20 attachments” and that doing otherwise is “effectively a redaction of responsive discovery”);
21 *Virco Mfg. Corp. v. Hertz Furniture Sys.*, No. CV 13-2205 JAK(JCx), 2014 WL 12591482, at
22 *5–6 (C.D. Cal. Jan. 21, 2014) (“Further, by failing to produce email attachments, plaintiff has
23 effectively redacted, based upon relevance, portions of documents it otherwise apparently views
24 to be discoverable/relevant/responsive to defendants’ discovery requests.”); *see also Families*
25 *for Freedom v. U.S. Customs & Border Prot.*, No. 10 Civ. 2705(SAS), 2011 WL 4599592, at *5
26 (S.D.N.Y. Sept. 30, 2011) (“Context matters. The attachments can only be fully understood and
27 evaluated when read in the context of the emails to which they are attached. That is the way
28 they were sent and the way they were received. It is also the way in which they should be

1 produced.”); *Doe v. Trump*, 329 F.R.D. 262, 275–76 (W.D. Wash. 2018) (“It is a rare document
2 that contains only relevant information; and irrelevant information within an otherwise relevant
3 document may provide context necessary to understand the relevant information.”).

4 Producing full families is such an accepted eDiscovery practice that the Department of
5 Justice’s *own* standard production specifications require the production of entire families of
6 documents. (*See* Barsanti Decl. ¶ 10, Ex. 8. (delineating that the production of email repositories
7 shall include “all parent items (mail, calendar, contacts, tasks, notes, etc.) and child files
8 (attachments of files to email or other items) with the parent/child relationship preserved”). That
9 the Department of Justice would apply a different standard now than it utilizes in other cases is
10 striking.

11 **B. The withheld documents’ metadata show that they are independently responsive to**
12 **Plaintiffs’ discovery requests.**

13 Moreover, even if the law did not demand production of the withheld documents
14 because they are part of responsive family groups, it is clear based on their metadata that they
15 are otherwise independently relevant and responsive. Though the onus is not on Plaintiffs to
16 parse the limited metadata associated with withheld documents for improperly withheld
17 documents, Plaintiffs did identify to the Government specific entries for which the email subject
18 line or file name *explicitly* refers to transgender military service or healthcare. *See* Barsanti
19 Decl. ¶ 5, Ex. 3. This is not to say that the other documents not included within Plaintiffs’
20 narrowed list are being properly withheld as non-responsive, but rather that Plaintiffs are unable
21 to determine the documents’ independent relevance based on the information available to them.
22 The Government, after all, is the only party with access to the documents’ contents.

23 The likelihood that these documents are responsive is further heightened by the fact that
24 they were shared amongst the members of the so-called “Panel of Experts” (the “Panel”) or
25 those directly supporting the Panel. For example, senders and recipients of the withheld
26 documents include Panel members such as Mr. Anthony Kurta, General James McConville, and
27 Admiral William Moran. (*See* Barsanti Decl. ¶ 11.) Colonel Mary Krueger, who supported the
28 Panel, is also amongst the senders and recipients. (Barsanti Decl. ¶¶ 11-12, Ex 12 at 57:16.) As

1 is Mr. Lernes Hebert, who provided a December 15, 2017 declaration in this matter stating that
2 he was “responsible for overseeing the human resource policies impacting the sustainment of
3 the all-volunteer-force for the Department of Defense” and opined on the implementation
4 of transgender accessions. (Dkt. No. 107 ¶ 1; Barsanti Decl. ¶¶ 11.) Moreover, the majority of
5 the withheld documents are attachments to communications withheld on the basis of DPP,
6 which is further evidence of their relevance to Plaintiffs’ claims. (Barsanti Decl. ¶ 13.)

7 **C. Discussions between medical professionals regarding service members’ treatment**
8 **plans for gender dysphoria are relevant because the documents were considered in**
9 **connection with the formation of the ban.**

10 The Government also fails to articulate why communications between medical
11 professionals regarding individualized treatment of a service member for gender dysphoria are
12 not responsive. The Government previously detailed their collection and searching
13 specifications for this Court (Dkt. No. 371-1, 8/29/19 Easton Decl.), and nowhere does it
14 indicate that the Government collected documents from the DoD’s general repository of service
15 members’ medical records or from individual treating physicians. Instead, the DoD collections
16 focused on custodians involved in the formation of the Ban. (*Id.* at 2 (explaining that “DoD’s
17 search and review efforts were focused on material reasonably related to the formation and
18 implementation” of the Ban).) To the extent the documents and communications regarding the
19 medical treatment of a service member for gender dysphoria were reviewed in connection with
20 the formation and implementation of the Ban, they are relevant and responsive. Moreover, the
21 responsiveness of these withheld documents becomes all the more clear in light of the fact that
22 many of them are attachments to communications between individuals supporting the Panel and
23 even members of the Panel itself—communications that, in large part, the Government
24 affirmatively recognizes are related to the development of the Ban because it is withholding
25 them on the basis of DPP.

26 The Government’s argument that documents relating to the treatment of gender
27 dysphoria are categorically non-responsive is its attempt to have it both ways: the Government
28 has withheld the parent communications between members of the Panel on the basis that they
reveal the specific formation of the Ban itself, but at the same time, the Government argues that

1 the documents considered in conjunction with those communications—including the medical
2 records of service members treated for gender dysphoria and medical professionals’ analyses—
3 are somehow non-responsive. This is yet another example of the Government improperly using
4 DPP as both a shield and a sword.

5 **D. The relevance of email read receipts cannot be separated from the relevance of the**
6 **underlying communications.**

7 The Government, citing to no authority, asserts that “delivery and read receipts are not
8 responsive to any discovery request and are plainly irrelevant to Plaintiffs’ claims.” (Barsanti
9 Decl. ¶ 6, Ex. 4.) Attempting to justify its position, the Government argued that the “substantive
10 content was produced to Plaintiffs (or, if applicable, withheld for privilege), whereas the non-
11 responsive delivery and read receipts were not.” (*Id.*) This position has no support in the law.
12 Courts routinely determine that electronic read receipts are relevant as to whether an individual
13 received a certain document or to confirm that an organization issued certain guidance. *See*
14 *Azeveda v. Comcast Cable Commc’ns LLC*, No. 5:19-cv-01225-EJD, 2019 WL 5102607, at *2
15 (N.D. Cal. Oct. 11, 2019) (citing, *inter alia*, read receipt to find that plaintiff received opt-out
16 materials); *Solomon v. Jacobson*, No. ED15CV01453VAP (JPRx), 2016 WL 6156189, at *2
17 (C.D. Cal. May 25, 2016) (citing, *inter alia*, read receipts to refute defendant’s claim that his
18 email was not functioning and that he had not received motion to compel); *see also Lee v.*
19 *Metro. Gov’t of Nashville & Davidson Cty.*, 432 F. App’x 435, 452 (6th Cir. 2011) (citing
20 police officers’ read receipts for police department training email as evidence that department
21 actively trained officers).

22 Read receipts directly relate to the substance of a responsive communication and can
23 show whether an intended recipient of an email received the communication if disputed.
24 Because each of the read receipts at issue is a family member of a responsive document, the
25 read receipts are presumptively also responsive and must be produced.

DEFENDANTS’ OPENING ARGUMENT²

The documents Plaintiffs seek to have produced are ones that Defendants individually reviewed to determine responsiveness and subsequently withheld from production as not responsive. The largest categories of documents are: (1) “delivery notifications,” “read receipts,” and “journal reports” which are automatically generated when an e-mail is delivered, opened, or in the case of a journal report, when the Microsoft Exchange server is journaling; and (2) communications between medical professionals regarding individualized treatment of a service member for gender dysphoria. These documents are not relevant to the dispute before the Court, and the burden of producing them tilts the balancing test required by Rule 26 towards Defendants. Plaintiffs try to confuse the issue by arguing that these non-responsive documents should nonetheless be produced because of their “family” relationship with documents Defendants have already produced, or because they have metadata that suggests the documents are relevant despite Defendants’ previous review of the documents. The Civil Rules do not mandate this slavish approach to family documents, and Plaintiffs have not articulated why the metadata alone establishes the relevance of the documents. Accordingly, the Court should not direct re-review and production of these records.

LEGAL STANDARD

A party may “obtain discovery regarding any nonprivileged matter that is relevant to any party’s claim or defense and proportional to the needs of the case.” Fed. R. Civ. P. 26(b)(1). Proportionality hinges on “the importance of the issues at stake in the action, the amount in controversy, the parties’ relative access to relevant information, the parties’ resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit.” *Id.* The court must limit discovery that “is unreasonably cumulative or duplicative, or can be obtained from some other source that is more convenient, less burdensome, or less expensive.” *Id.* 26(b)(2)(C)(i).

² The expedited procedures of Local Rule 37(a)(2) for resolving discovery disputes are only available upon “agreement” of the parties. Defendants have not given their consent to the expedited procedures and reiterate their objection to Plaintiffs’ use of Local Rule 37(a)(2) without their consent.

ARGUMENT

A. Production of Read Receipts, Delivery Notifications, and Journal Reports Is Not Proportional to the Needs of this Case.

The vast majority of the documents deemed not responsive are read receipts, delivery notifications sent automatically by Microsoft Outlook, and journal reports. "Read receipts" are sent to confirm an e-mail was opened by its recipient, and "delivery notifications" are sent to confirm delivery of the email message to the recipient's mailbox. See Microsoft Office Support, "Add and Request Read Receipts and Delivery Notifications," https://support.office.com/en-us/article/Add-and-request-read-receiptsand-delivery-notifications-a34bf70a-4c2c-4461-b2a1-12e4a7a92141. Likewise, sd.mil email accounts reside on journaled Exchange servers, which create a journal report when the server is journaling. "A journal report is the message that's recorded by journaling. The journal report contains the original message as an unaltered file attachment." Microsoft Office Support, Journaling in Exchange Server, "https://docs.microsoft.com/en-us/exchange/policy-and-compliance/journaling/journaling?view=exchserver-2019#journal-reports. Where relevant here, the original substantive message was attached to the journal report. These automatically generated records do not contain any substantive information responsive to Plaintiffs' discovery requests. Nonetheless, Plaintiffs speculate that these notifications might be "relevant as to whether an individual received a certain document or to confirm that an organization issued certain guidance," although Plaintiffs do not point to any communications for which they need confirmation that the e-mail was actually received by its addressees. See Plaintiffs' Submission, supra, at § B.2.d.

That absence of specificity is telling. There is no dispute in this case as to whether Defendants' e-mail systems were functioning during the relevant time period. Absent such a dispute, Plaintiffs cannot explain to what issue the read receipts and delivery notifications are relevant. Nor do they explain why the e-mails themselves are not adequate to understand who received documents or guidance. The read receipts, delivery notifications, and journal reports are, at best, cumulative to what the e-mail address fields already indicate. Because Plaintiffs

1 “ha[ve] not provided sufficient information to show that” producing these documents “would
2 reveal any more relevant information” than what the e-mails themselves show, the Court should
3 not grant Plaintiffs’ motion. *Weidenhamer v. Expedia, Inc.*, 2015 WL 7158212, at *6 (W.D.
4 Wash. Nov. 13, 2015) (denying motion to compel defendant to search the e-mail of account
5 representatives for approximately 170 different airlines because it had already searched the
6 individual who served as a liaison for baggage fee complaints).

7 Moreover, Plaintiffs’ focus on the possible relevance of the read receipts loses sight of
8 the inquiry Rule 26(b) demands. Under circumstances that do not maintain here, an individual
9 read receipt *could* be relevant information, particularly when the provision of notice is critical to
10 the claims or disputed by the parties, as the cases Plaintiffs cite demonstrate. *See Azeveda v.*
11 *Comcast Cable Comm’cs LLC*, 2019 WL 5102607, at *7 (N.D. Cal. Oct. 11, 2019) (holding that
12 a valid arbitration agreement existed because defendant had shown plaintiff “was given
13 meaningful opportunity to opt out of the agreement,” as demonstrated, *inter alia*, by the fact that
14 defendant possessed a read receipt of an e-mail containing opt-out information); *Solomon v.*
15 *Jacobson*, 2016 WL 6156189, at *2 (C.D. Cal. May 25, 2016) (introducing read receipts to
16 rebut plaintiff’s claim that his e-mail was not functioning); *Lee v. Metro. Gov. of Nashville &*
17 *Davidson Cnty.*, 432 F. App’x 435, 452 (6th Cir. July 18, 2011) (citing read receipts to show
18 that police department had sent training bulletin on taser use to two of its officers). But all these
19 cases do is acknowledge the possible relevance of read receipts as an evidentiary matter. None
20 of these cases addresses the issue of proportionality in discovery—that is, the weighing of the
21 benefits and burdens of producing particular sets of documents. That analysis, mandated by
22 Civil Rule 26, favors Defendants here. Producing thousands of read receipts, delivery
23 notifications, and journal reports when there is no issue concerning notice as to e-mail, or
24 dispute as to the functioning of Defendants’ e-mail system, is precisely the sort of
25 “unreasonably cumulative or duplicative” discovery the Court “must limit.” Fed. R. Civ. P.
26 26(b)(2)(C)(i); *see also Thompson v. HAL Nederland N.V.*, 2018 WL 6696689, at *2 (denying
27 motion to compel discovery regarding accidents “on other ships in Defendants’ fleet over the
28 past 10 years [as] cumulative and duplicative” and limiting discovery to ship where the disputed

1 accident occurred).

2 **B. Production of Individual Treatment Plans for Transgender Service Members Is Not**
3 **Proportional to the Needs of this Case**

4 Plaintiffs’ argument to compel production of the individual treatment plans of service
5 members is also meritless. Unsurprisingly, although Defendants made an effort to focus their
6 search on custodians involved in the formation of the Mattis Policy, the custodians searched and
7 the search terms used necessarily swept in documents that are not related to the formation of the
8 Mattis Policy. Plaintiffs argue that, “[t]o the extent the documents and communications
9 regarding the medical treatment of a service member for gender dysphoria were reviewed in
10 connection with the formation and implementation of the [Mattis Policy], they are relevant and
11 responsive.” *See* Plaintiffs’ Submission, *supra*, at § B.2.d. But Defendants have already
12 produced or agreed to produce the inputs to the Panel of Experts, including all deliberative
13 documents and communications related to the work of the Panel of Experts that were sent,
14 received or presented to any member of the Panel during the decision-making process.³ Unless
15 the Panel considered it as a part of its deliberations, the course of treatment for a particular
16 service member has no bearing on programmatic decisions regarding military policy towards
17 transgender service members.

18 Moreover, while Plaintiffs argue that the chart the Government prepared for the
19 Plaintiffs indicated “that the withheld documents are indeed independently responsive,” *id.*, they
20 fail to explain why that is the case for any of the documents at issue here, including the sample
21 set of documents on which Defendants provided comments. For instance, the document “How
22

23 ³ Defendants recently discovered two sets of documents subject to the prior *Doe* order that they intend to produce by
24 February 28. First, following inquiries from *Doe* plaintiffs’ counsel, Defendants discovered that 126 family
25 members of Air Force documents released in response to the *Doe* order were mistakenly still being withheld under
26 the deliberative process privilege. Second, Defendants recently conducted a supplemental collection from a
27 Department of Defense intranet site used by members of the Panel of Experts in relation to their work on the Panel.
28 Defendants made this collection in the interest of ensuring completeness of the record. Defendants are planning to
release 42 documents arising from this collection (although, Defendants note that a number of these documents have
been previously produced in discovery pursuant to Defendants’ prior collections. *See* USDOE0028908,
USDOE00289508, USDOE00288103, USDOE00289261 (production no. 39)). In addition, Defendants are releasing
36 documents that on re-review Defendants have determined contain largely factual information and therefore DOD
is withdrawing its prior deliberative process privilege claims. Defendants are not currently aware of any other
documents responsive to the *Doe* order that are being withheld as deliberative in relation to the Panel deliberations.

1 much does a hysterectomy cost.docx” contains outside analysis of how much these procedures
 2 cost in the *private* sector, not the military. It was attached to an e-mail currently being withheld
 3 for deliberative process privilege that postdates the Panel’s deliberations, and as such,
 4 implicates the mandamus petition currently pending before the Ninth Circuit. Other documents
 5 in the fifty-document sample upon which Defendants provided comment included a 2016 press
 6 release announcing the Carter policy, a photocopy of a service member’s passport, a curriculum
 7 vitae for a plastic surgeon, an incomplete draft attendance roster for a medical conference, and
 8 Cigna’s insurance coverage criteria for gender surgery. Such documents are not relevant to the
 9 formation and implementation of the Mattis Policy and were properly marked nonresponsive.

10 Plaintiffs argue that Defendants are trying “to have it both ways” by withholding parent
 11 communications that must “reveal the specific formation of the” Mattis Policy because they
 12 were withheld on deliberate process grounds, while arguing that “documents considered in
 13 conjunction with those communications . . . are somehow non-responsive.” *See* Plaintiffs’
 14 Submission, *supra*, at § B.2.d. That reasoning is flawed. First, it is not the case that every
 15 document withheld on deliberative process privilege grounds necessarily relates to “the
 16 formation and implementation of” the Mattis Policy. Second, because relevance is contextual, it
 17 matters whether a record is being considered for relevance as an attachment to a communication
 18 that is being produced, or on its own because the parent communication is privileged and not
 19 discoverable, as Plaintiffs claim to be the case for many of these documents. Despite asserting
 20 privilege over the parent document, Defendants individually reviewed the attachments to such
 21 communications to determine if privilege extended to the attachments and to consider whether,
 22 despite being attached to privileged materials, the attachments were responsive. If the parent
 23 document is eventually produced, the relevance of attachments may have to be reconsidered, *see*
 24 Fed. R. Evid. 106, but whether that reevaluation should occur hinges on the Ninth Circuit’s
 25 consideration of the mandamus petition that is now pending.

26 **C. Plaintiffs’ “Responsive Families” and Metadata Arguments Are Without Merit**

27 Given the flimsiness of Plaintiffs’ argument that Rule 26 requires production of these
 28 documents, Plaintiffs opened their submission with a broader, categorical argument about

1 relevance: that “all non-privileged documents in a family” should be produced when a member
 2 of that family is deemed responsive, even if (as explained above) there would be no justification
 3 for producing those documents in isolation. Plaintiffs’ Submission, *supra*, at § B.2.a. But the
 4 key case this argument relies upon is not categorical. In *Abu Dhabi*, it was unclear whether the
 5 plaintiff had reviewed attachments identified by defendants separately for relevance purposes
 6 and decided to withhold them on that basis. *Abu Dhabi Commercial Bank v. Morgan Stanley &*
 7 *Co.*, 2011 WL 3738979, at *6 (S.D.N.Y. Aug. 18, 2011), *adopted without objection*, 2011 WL
 8 3734236 (S.D.N.Y. Aug. 24, 2011). The Court ordered those unreviewed documents produced,
 9 but reserved judgment on remaining attachments pending consideration of those records. *Id.* at
 10 *8. The Special Master recognized that, “[c]onceptually, there is a good basis for considering
 11 each item (each e-mail and each attachment) separately,” and that “if an e-mail attaches three
 12 disparate items in one communication package, that does not mean that all three items relate to
 13 the same thing or would be equally relevant to a discovery request.” *Id.* at *5. And he found that
 14 “simply requiring [plaintiff] to produce all non-privileged attachments that were not produced
 15 but were attached at some point in time to relevant e-mails that [plaintiff] has already produced
 16 may be inefficient, and its benefit may not be justified by the burden and expense to Plaintiffs.”
 17 *Id.* at *7. Although he recognized a “prevailing practice,” based on “anecdotal evidence and
 18 secondary materials,” that parties should “produce any non-privileged attachment to an e-mail if
 19 the e-mail is determined to be relevant,” that is clearly not a categorical rule, as the rest of the
 20 order demonstrates. *Id.* at *5. Nothing in *Abu Dhabi* suggests that the relevance and
 21 proportionality considerations of Rule 26(b) no longer apply when considering attachments.⁴

22 The limitations of Plaintiffs’ categorical rule become particularly apparent when
 23 considering the documents at issue here. Read receipts, delivery notifications, and journal
 24 reports have virtually negligible relevance, and do not need to be introduced to understand the
 25 communications Defendants produced. Such an analysis is applicable to other types of
 26

27 _____
 28 ⁴ Similarly, while the production specifications from DOJ’s Civil Division Plaintiffs cite in their submission are consistent with these general principles, that guidance does not stand for the proposition that the balancing test of Rule 26(b) requires production of all email attachments, in all circumstances, no matter their relevance.

1 attachments to relevant e-mails which Defendants already reviewed for responsiveness, as well.
 2 As to attachments to e-mails withheld under a privilege assertion, which Plaintiffs claim
 3 constitute many of the documents which concern them, *Abu Dhabi* only addressed “responsive,
 4 non-privileged attachments to emails [the plaintiff] *produced*.” *Abu Dhabi*, 2011 WL 3738979
 5 at *1 (emphasis added). It does not suggest that the non-responsive attachments to e-mails that
 6 have been *withheld* for privilege are subject to production. Neither do the other cases Plaintiffs
 7 rely upon. *Sanchez Y Martin, S.A. de C.V. v. Dos Amigos, Inc.*, 2019 WL 581715, at *10–11
 8 (ordering defendant to “reproduc[e] . . . emails with their attachments in consecutive order” and
 9 holding that “emails produced in discovery should be accompanied by their attachments”);
 10 *Virco Mfg. Corp. v. Hertz Furniture Sys.*, 2014 WL 12591482, at *5–6 (granting defendants’
 11 motion to compel production of “attachments to emails that have previously been produced”).⁵
 12 Again, if the communications to which these documents were attached are eventually produced,
 13 the relevance determination may need to be reassessed to see if it is necessary to understand a
 14 produced document. Fed. R. Evid. 106. But until such a production is made, there is no basis to
 15 countermand Defendants prior determination of relevance.

16 Finally, Plaintiffs argue that the metadata Defendants have already provided shows that
 17 many of the documents in question should be produced, either because “the email subject line or
 18 file name explicitly refers to transgender military service or healthcare,” or because the
 19 documents were shared among members of the Panels of Experts or those directly supporting
 20 the Panel. Plaintiffs’ Submission, *supra*, at pt. B.2.b. But Plaintiffs again make no attempt to
 21 show *why* this is “clear” from either the metadata accompanying Defendants’ production, or
 22 from the supplemental explanations of non-responsiveness Defendants provided. Plaintiffs
 23 concede that, despite the metadata, that “other documents not included within Plaintiffs’
 24 narrowed list are being properly withheld as nonresponsive.” Nonetheless, Plaintiffs would have
 25 Defendants conduct a second responsiveness review of documents already so reviewed, in the
 26

27 ⁵ The remaining cases Plaintiffs cite deal with the redaction of nonresponsive information from otherwise responsive
 28 records, which is not at issue here. *Families for Freedom v. U.S. Customs & Border Prot.*, 2011 WL 4599592, at *2
 (S.D.N.Y. Sept. 30, 2011) (FOIA); *Doe v. Trump* F.R.D. 262, 275–76 (W.D. Wash. 2018).

1 hope of identifying some marginally responsive document that, in any event, is not germane to
2 the legal question the Court must answer in this case. As the special master in *Abu Dhabi*
3 recognized, such a review risks being “inefficient” and “burdensome,” without conferring any
4 meaningful benefit on the Plaintiffs, particularly since Defendants already reviewed the
5 attachments for relevance (which was not true in the *Abu Dhabi* case). *Abu Dhabi*, 2011 WL
6 3738979, at *7.

7 For these reasons, the Court should not compel production of these documents.

8 **PLAINTIFFS’ REPLY⁶**

9 The Government fails to combat Plaintiffs’ arguments that the withheld documents are
10 responsive, and foregoes any attempt to meet its burden to specifically allege why additional
11 production would be unduly burdensome. Moreover, the Government misleadingly misquotes
12 Plaintiffs’ argument and misrepresents Plaintiffs’ efforts to facilitate progress and identify
13 withheld documents with obvious indicia of responsiveness. Because the withheld documents
14 are relevant and responsive, and their production would entail minimal effort and cost, the Court
15 should direct the production of all withheld documents produced to Plaintiffs as non-responsive
16 slipsheets.

17 **A. The Government fails to combat the argument that the withheld read receipts are**
18 **responsive.**

19 The Government asserts a strawman argument that the withheld read receipts, all of
20 which are related to responsive communications, are not responsive because Plaintiffs have not
21 questioned the soundness of the Government’s email system. As indicated by the cases cited by
22 Plaintiffs, courts regularly find read receipts relevant as to whether individuals reviewed emails,
23 absent disputes over the integrity of email systems. *See Azeveda v. Comcast Cable Commc’ns*
24 *LLC*, NO. 5:19-cv-01225-EJD, 2019 WL 5102607, at *7 (N.D. Cal. Oct. 11, 2019); *Lee v.*
25 *Metro. Gov’t of Nashville & Davidson Cty.*, 432 F. App’x 435, 452 (6th Cir. 2011). The
26

27 ⁶ The issues addressed by the parties in this submission relate to global issues touching on each and every one of
28 Plaintiffs’ requests for production. Plaintiffs note that LCR 37(a)(2)(D), which sets a one-half page reply limit per
disputed discovery request, does not anticipate such global submissions. In line with the intent of the rule, Plaintiffs
have limited their contribution to this submission to twelve pages in accordance with LCR 37(a)(2)(E).

1 Government has not distinguished this case law.

2 The Government also fails to acknowledge the relevance of the withheld read receipts in
3 the context of the upcoming witness depositions. To the extent any of the Government’s
4 witnesses deny or cannot recollect reviewing certain sent emails, read receipts and the like may
5 assist a witness’s memory or combat a denial. Plaintiffs need not be required to, nor can they,
6 predict whether these read receipts are important because of their relation to a particular email
7 for a particular witness. The relevancy of these documents simply cannot be separated from
8 their parent communication.

9
10 **B. The Government misrepresents Plaintiffs’ efforts to build a non-exhaustive list of
improperly withheld documents.**

11 The Government egregiously misquotes Plaintiffs in an attempt to convince the Court
12 that Plaintiffs have conceded that certain non-responsive slipsheets are not relevant, rather than
13 accurately depict the parties’ meet and confer history, during which Plaintiffs narrowed the list
14 of withheld documents in the hopes of facilitating progress. Plaintiffs’ Submission, *supra*. The
15 Government writes, “Plaintiffs concede that, despite the metadata, that ‘other documents not
16 included within Plaintiffs’ narrowed list are being properly withheld as nonresponsive.’”
17 Government’s Submission, *supra*, at Section I.A. Yet this is entirely the opposite of what
18 Plaintiffs have repeatedly asserted in both their correspondence with the Government and this
19 very submission. Plaintiffs’ Submission, *supra*, at Section I.B (“***This is not to say that*** the other
20 documents not included within Plaintiffs’ narrowed list are being properly withheld as non-
21 responsive, but rather that Plaintiffs are unable to determine the documents’ independent
22 relevance based on the information available to them.” (emphasis added)). Plaintiffs’ previous
23 communications with the Government have clearly conveyed Plaintiffs’ position that the
24 narrowed list of withheld documents is not exhaustive, that it reflects Plaintiffs’ best efforts to
25 work with the limited data available to them, that the presentation of the list does not waive the
26 Government’s duty to produce all responsive documents, and that each of these withheld
27 documents is, in fact, relevant and responsive based on its association with a responsive record.
28 (See Barsanti Decl. ¶ 5, Ex. 3.) The Government’s misleading quotation reflects not the clarity

1 of Plaintiffs’ submission and these communications, but rather the Government’s efforts to
2 avoid its obligations under discovery.

3 **C. The withheld medical treatment plans for service members with gender dysphoria**
4 **bear numerous independent indicia of responsiveness.**

5 The Government’s now labors to argue that the withheld documents related to the
6 medical treatment of transgender individuals are somehow irrelevant and non-responsive. It
7 seems to willfully ignore the likelihood that service members’ gender dysphoria medical
8 treatment plans—particularly those exchanged by members of or individuals supporting the
9 Panel of Experts and particularly those for which the Government claims DPP over the parent
10 email—are responsive to Plaintiffs’ RFPs.

11 Similarly, with respect to the sampling of documents for which the Government
12 provided Plaintiffs’ additional information, it summarily dismisses their relevance despite the
13 obvious relation to the claims at issue in this case. For example, the Government concludes
14 without support that a withheld document relating to the cost of a gender transition surgery is
15 non-responsive simply because it discusses private sector costs. Likewise, the Government
16 dismisses a withheld document discussing the coverage criteria for gender transition surgeries
17 of Cigna, a major insurance carrier. The Government does not and cannot explain why
18 documents related to the cost of gender transition surgeries or insurance coverage for such
19 surgeries are *categorically* non-responsive to Plaintiffs’ RFPs simply because they focus on
20 private sector practices. In fact, this Court has previously determined that medical documents
21 are relevant to the formulation of the Mattis Policy. (Dkt. No. 412, Hr’g Tr. (Feb. 3, 2020) at
22 50:1–14.)

23 Bizarrely, the Government contends that the relevance of a document is contextual based
24 on whether or not its associated communications are being withheld for privilege or have been
25 produced. Notably the Government cites no authority for this illogical proposition. While the
26 associated communication may color or provide context to its attachments, which is precisely
27 Plaintiffs’ point regarding the rule of completeness—Federal Rule of Evidence 106—an
28 attachment cannot suddenly be considered irrelevant because the parent communication is being

1 withheld for reasons other than relevance.

2 **D. The Government puts forth no evidence regarding the burden of production.**

3 Completely absent from the Government's submission is any information supporting its
4 argument that production of the withheld material would be burdensome, such as evidence of
5 the associated time or cost. The Government merely vaguely alludes to the burden of producing
6 read receipts, but as evidenced by the Government's own submission and previous
7 communications with Plaintiffs, it has already collected and reviewed the requested documents,
8 thus the burden of production is minimal at best. (Government's Submission, *supra*; Barsanti
9 Decl. ¶ 6, Ex. 4 (12/2/19 email).) This is in stark contrast to the case law cited by the
10 Government, *Weidenhamer v. Expedia, Inc.*, in which the parties' dispute centered on the
11 burden of *searching* the accounts of an additional 170 entities that had *not* already been
12 collected and reviewed. No. C14-1239RAJ, 2015 WL 7158212, at *6 (W.D. Wash. Nov. 13,
13 2015).

14 Just as in the case of the withheld read receipts, the Government fails to provide specific
15 facts supporting the assertion that the production of the individual treatment plans would pose
16 an undue burden. The Government has already gathered the medical treatment plans at issue and
17 produced a slipsheet. As early as December 2, 2019, the Government's counsel reviewed the
18 withheld medical treatment plans. (*See* Barsanti Decl. ¶ 6, Ex. 4.) Furthermore, the
19 Government's submission and its discussion of individual documents within the withheld group
20 indicate that the Government further reviewed the documents. Government's Submission,
21 *supra*. The marginal cost and time associated with simply producing these documents are
22 negligible. Moreover, the Government unilaterally elected to withhold responsive documents
23 and produce a slipsheet, creating for itself any supposed burden. That the Government must
24 now go back and reproduce the actual documents instead of slipsheets is its own doing, and
25 should have no impact on Plaintiffs' ability to obtain the wrongfully withheld documents.

26 For all these reasons, the Government's burden arguments should be given no weight.
27 *See e.g., Hawkins v. Kroger Co.*, No. 15cv2320-JM(BLM), 2019 WL 4416132, at *13 n.7 (S.D.
28 Cal. Sept. 16, 2019) (overruling a burden objection and finding that the objecting party failed to

1 “allege (1) specific facts, which indicate the nature and extent of the burden, usually by affidavit
2 or other reliable evidence,” and “(2) sufficient detail regarding the time, money and procedures
3 required to comply with the purportedly improper request”) (quoting *Daisy Trust v. JP Morgan*
4 *Chase Bank., N.A.*, No. 2:13-cv-00966-RCJ-VCF, 2017 WL 3037427, at *2 (D. Nev. July 18,
5 2017)).

6 **E. The Government’s mandamus petition does not apply here.**

7 The Government once again confuses the issue and asserts that certain of these withheld
8 documents are subject to the mandamus petition pending before the Ninth Circuit. Not one of
9 the non-responsive withheld documents are withheld for privilege. The Government has never
10 claimed privilege over these documents, nor has it provided any associated privilege log
11 information. The Government has asserted DPP over other documents in these families—by the
12 Government’s own admission here, sometimes improperly. The Government strangely
13 acknowledges in its submission that it is withholding an email “for deliberative process
14 privilege that postdates the Panel’s deliberations. . . .” Government Submission, *supra*, at
15 Section I.B. As DPP does not protect post-deliberation communications, the Government should
16 produce the withheld email immediately. Aside from this admission, the documents *actually*
17 subject to DPP are not at issue here. Thus, the issues in the mandamus petition have no bearing
18 on this dispute, the requested documents are not subject to the Ninth Circuit’s administrative
19 stay, and Plaintiffs need not establish the *Warner* factors over these documents.

20 **CONCLUSION**

21 Because each of the documents withheld for non-responsiveness is a member of an
22 otherwise responsive family and therefore responsive, because thousands of the documents bear
23 independent indicia of responsiveness, and because the Government has failed to assert any
24 detail regarding the supposed burden of reproduction, Plaintiffs request the Court order the
25 Government to produce all documents previously withheld and produced to Plaintiffs only as
26 slipsheets bearing the text “Withheld for Non Responsiveness.”

CERTIFICATION

I certify that the full response by the responding party has been included in this submission, and that prior to making this submission the parties conferred to attempt to resolve this discovery dispute in accordance with LCR 37(a).

Respectfully submitted, February 28, 2020

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CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the United States of America and the laws of the State of Washington that all participants in the case are registered CM/ECF users and that service of the foregoing documents will be accomplished by the CM/ECF system on February 28, 2020.

s/ Rachel Horvitz
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The Honorable Marsha J. Pechman

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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

RYAN KARNOSKI, et al.,

Plaintiffs, and

STATE OF WASHINGTON,

Plaintiff-Intervenor,

v.

DONALD J. TRUMP, in his official capacity
as President of the United States, et al.,

Defendants.

Case No. 2:17-cv-01297-MJP

**[PROPOSED] ORDER GRANTING LCR
37 JOINT SUBMISSION REGARDING
DOCUMENTS WITHHELD BY THE
GOVERNMENT AS NON-RESPONSIVE**

NOTE ON MOTION CALENDAR:
February 28, 2020

This matter comes before the Court on the foregoing LCR 37 Joint Submission Regarding Documents Withheld by the Government as Non-Responsive (the “Joint Submission”). The Court, having considered the parties’ arguments and finding good cause therefore, GRANTS Plaintiffs’ portion of the Joint Submission.

IT IS HEREBY ORDERED:

1. By March 6, 2020, the Government must produce all documents previously withheld as non-responsive and for which the Government produced a slipsheet with the text “Withheld for Non-Responsiveness.”

1 2. In future productions, where one document in a family is responsive, the
2 Government must produce each and every non-privileged document in the family. The
3 Government shall not slipsheet documents in responsive families as non-responsive.

4
5 IT IS SO ORDERED

6 Dated this _____ day of _____, 2020.

7
8
9

The Honorable Marsha J. Pechman
United States District Court Judge

10 Presented by:
11 **NEWMAN DU WORS LLP**

12 s/ Rachel Horvitz
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27 **OUTSERVE-SLDN, INC. N/K/A**
28 **MODERN MILITARY ASSOCIATION**
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RYAN KARNOSKI, et al.,

Plaintiffs,

v.

DONALD J TRUMP, et al.,

Defendants.

CASE NO. C17-1297 MJP

ORDER ON MOTION TO COMPEL
REGARDING THE
GOVERNMENT’S WITHHELD
COMMUNICATIONS WITH
THIRD PARTIES

The above-entitled Court, having received and reviewed the LCR 37 Joint Submission Regarding the Government’s Withheld Communications with Third Parties (Dkt. No. 440), the Government’s Surreply to Plaintiffs’ Reply (Dkt. No. 443), along with relevant portions of the record, rules as follows:

IT IS ORDERED that the Government’s motion to strike Plaintiffs’ reply for violation of LCR 37(a)(2) is DENIED.

IT IS FURTHER ORDERED that the motion to compel the Government’s Withheld Communication with Third Parties is GRANTED as follows:

1 (1) The Government will complete their review of the list of 487 individuals provided in
2 Plaintiffs' December 13, 2019 letter, responding directly to Plaintiffs with
3 information about individuals listed who are government officials; those individuals
4 identified as government employees shall be identified by their employer and job title
5 (as of the date of the communication). This review is to be completed and the
6 information provided to Plaintiffs by **March 14, 2020**.

7 (2) For every individual for whom the Government intends to invoke a privilege under
8 the consultant corollary exception, the Government will provide evidence *in camera*
9 establishing that:

- 10 a. The individual identified as a consultant was solicited to aid in the
11 Government's decision-making process (i.e., the letter or email or other
12 communication which solicited the individual's participation),
13 b. The individual identified as a consultant was hired or solicited by the agency
14 to provide neutral advice that did not represent an interest of its own or the
15 interest of any other client upon providing the requested advice,
16 c. The communications are otherwise covered by the deliberative process
17 privilege (e.g., the communications with the consultant were *pre-deliberative*).

18 This evidence must be provided to the Court no later than **March 14, 2020**.

19 (3) Communications from all other third parties (those who are not identified as either
20 consultants or government employees) shall be disclosed to Plaintiffs by no later than
21 **March 14, 2020**.

1 **Motion to strike**

2 The Government moves, pursuant to LCR 37(a)(2)¹, to strike Plaintiffs' reply section
3 because it is three pages in length. The motion is denied.

4 The length of Plaintiffs' reply appears necessitated by the obligation to respond
5 substantively to the Government's introduction of its intent to claim the "consultant corollary"
6 exception as a privilege to withhold the production of documents. In the first place, the Court
7 notes that the Government's claim that it has "repeatedly and consistently maintained... that
8 their confidential communications with non-government third parties are privileged, pursuant to
9 the 'consultant corollary' doctrine" (Dkt. No. 440, LCR 37 Submission at 11) is unsupported by
10 any citations to the record, and flatly contradicted both by Plaintiffs ("The Government has ...
11 never formally invoke[ed] consultant corollary theory prior to this filing;" *Id.* at 24) and the
12 Court's own recollection. The consultant corollary doctrine is a substantive legal concept which
13 the Government asserts but goes to no lengths to describe, necessitating an explanatory reply by
14 Plaintiffs. Simply listing the elements of the privilege takes half a page.

15 Additionally, the Court notes that LCR 37 indicates: "The total text that each side may
16 contribute to a joint LCR 37 submission shall not exceed twelve pages." LCR 37(2)(E).
17 Including their three-page reply, Plaintiffs' total submission does not exceed twelve pages. The
18 Court finds Plaintiffs' pleadings within the spirit, if not the exact letter, of the rule. The motion
19 to strike is denied.

20 **Motion to Compel**

21 The Court will not reiterate the lengthy procedural history that brings us to this juncture.
22 The basic facts do not appear to be in dispute (even if the characterizations differ) and the Court
23

24 ¹ "The moving party's reply, if any... shall not exceed one half page for each reply."

1 incorporates by reference the factual statements found in the LCR 37 joint submission. Dkt. No.
2 440 at 2-9, 12-18.

3 Plaintiffs seek by this motion an order requiring the Government to review the list of 487
4 potential third parties provided by Plaintiffs in their December 13, 2019 letter and, alternatively:

- 5 (1) Produce all communications with individuals who are confirmed to be third parties; or
- 6 (2) Require the Government to amend its privilege logs and provide declarations attesting to
7 the elements of the consultant corollary doctrine with respect to each third party for
8 whom communications continue to be withheld, produce all communications for non-
9 consultant, non-government employed third parties, and identify the employer and job
10 title (as of the date of the communication) for all individuals designated as government
11 employees.

12 The Government seeks to shield its communications behind the “consultant corollary”
13 doctrine, which states that communications with third parties solicited by the Government to aid
14 in its decision-making process are privileged. All. For the Wild Rockies v. Pena, 2017 WL
15 8778579, at *4-5 (E.D. Wash. Dec. 12, 2017). Plaintiffs initially attempt to argue that the
16 consultant corollary exception has never been adopted by the Ninth Circuit, but the case which
17 they cite for that proposition (Rojas v. Fed. Aviation Admin., 927 F.3d 1046, 1054 (9th Cir.
18 2019)) has been granted an *en banc* rehearing and, by order of the Ninth Circuit, “shall not be
19 cited as precedent by or to any court of the Ninth Circuit.” Rojas v. FAA, 2020 U.S. App.
20 LEXIS 3042; ___ F.3d ___ (January 30, 2020).

21 The Court agrees with Plaintiffs, however, in the following regard: “[T]he Government
22 has done nothing to support the application of that doctrine here.” LCR 37 Memo at 23. The
23 Defendants are required to establish, for every third party claimed under the consultant corollary
24

1 doctrine, that (1) the third party was contacted to assist the agency in its decision-making
 2 process; (2) “the consultant[] [was] hired or solicited by the agency to provide neutral advice and
 3 did not... ‘represent . . . the interest of any other client, when it advise[d] the agency that hire[d]
 4 it.’” (Friends of the Earth v. United States Army Corps of Eng'rs, 374 F. Supp. 3d 1045, 1054
 5 (W.D. Wash. 2019))(quoting (Department of Interior v. Klamath Water Users Protective Ass'n,
 6 532 U.S. 1, 11 (2001))); and (3) that any communications the Government seeks to protect are
 7 indeed deliberative and *pre*-decisional.²

8 That is the burden the Government must discharge in order to successfully invoke the
 9 consultant corollary privilege. Additionally, for any persons on the list claimed to be privileged
 10 as government employees, the Government must produce evidence which identifies the employer
 11 and job title (as of the date of the communication) for all individuals so designated. If it does not
 12 go without saying, communications to any third party not falling into either the consultant or
 13 government employee category must be turned over.

14 The Government must review the list of 487 names and (1) provide the information and
 15 discovery relative to any invocation of the consultant corollary privilege described above to the
 16 Court for *in camera* review; (2) provide the information relative to job title and employer of any
 17 claimed government employee to Plaintiffs; and (3) produce all non-consultant, non-government
 18 employee third party communications to Plaintiffs; all this must be accomplished by **March 14,**
 19 **2020.**

23 ² The Court believes this should not be an overly-burdensome task for the Government, which presumably
 24 performed a similar search and analysis in order to determine that the third-party communications could be withheld
 under the consultant corollary exception in the first place.

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The clerk is ordered to provide copies of this order to all counsel.

Dated March 4, 2020.



Marsha J. Pechman
United States Senior District Judge

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RYAN KARNOSKI, et al.,

Plaintiffs,

v.

DONALD J TRUMP, et al.,

Defendants.

CASE NO. C17-1297 MJP

ORDER ON LCR 37 JOINT
SUBMISSION REGARDING
DOCUMENTS WITHHELD BY
THE GOVERNMENT AS NON-
RESPONSIVE

The above-entitled Court, having received and reviewed the LCR 37 Joint Submission Regarding Documents Withheld by the Government as Non-Responsive (Dkt. No. 449), the Government’s Surreply to Plaintiffs’ Reply (Dkt. No. 452), all attached declarations and exhibits, along with relevant portions of the record, rules as follows:

IT IS ORDERED that the Government’s motion to strike Plaintiffs’ reply for violation of LCR 37(a)(2) is DENIED.

IT IS FURTHER ORDERED that the motion to compel the production of documents withheld by the Government as non-responsive is GRANTED:

1 (1) The Government will produce, by **March 14, 2020**, all documents previously
2 withheld from families of responsive documents and for which the Government
3 produced a “Withheld for Non-responsiveness” slipsheet.

4 (2) Going forward, the Government will be required to produce every non-privileged
5 document in a family of one or more responsive documents; the practice of inserting
6 “non-responsiveness” slip sheets will be discontinued.

7 **Motion to strike**

8 The Government moves, pursuant to LCR 37(a)(2)¹, to strike Plaintiffs’ reply section
9 because it is over-length. The motion is denied.

10 The rule permits “one half page for each reply” – although this is a unified pleading and
11 Plaintiffs are requesting essentially a single remedy (production of the withheld documents), the
12 motion spans multiple requests for production, each (as will be seen below) with their own
13 separate issues and rationale for withholding. Plaintiffs could have brought separate motions for
14 each of the discovery requests; they did the Court the courtesy of uniting them in a single
15 pleading. The Court will permit Plaintiffs separate allocations of space for their reply to each of
16 the issues, finding it inequitable and impractical to limit the entirety of their arguments to a half
17 page only.

18 Additionally, the Court notes that LCR 37 indicates: “The total text that each side may
19 contribute to a joint LCR 37 submission shall not exceed twelve pages.” LCR 37(2)(E).
20 Including their reply, Plaintiffs’ total submission does not exceed twelve pages. The Court finds

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¹ “The moving party’s reply, if any... shall not exceed one half page for each reply.”

1 Plaintiffs’ pleadings within the spirit, if not the exact letter, of the rule.² The motion to strike is
2 denied.

3 **Motion to Compel**

4 This motion concerns the Government’s practice of withholding, on the grounds of “non-
5 responsiveness,” documents which are part of an otherwise responsive “family group” of
6 produced material; e.g., producing a responsive email, but withholding attachments to the email
7 on grounds of “non-responsiveness.” *See, e.g.,* Dkt. No. 450, Barsanti Decl. ¶ 2, Ex. 1.

8 The Federal Rules of Evidence favor the *complete* production of non-privileged evidence
9 if some portion of the evidence is deemed responsive. (“If a party introduces all or part of a
10 writing or recorded statement, an adverse party may require the introduction, at that time, of any
11 other part – or any other writing or recorded statement – that in fairness ought to be considered at
12 the same time.” FRE 106.) At least one court has found that the federal evidentiary rules create,
13 at minimum, a “presumption... that if something was attached to a relevant e-mail, it is likely
14 also relevant to the context of the communication.” Abu Dhabi Comm’l Bank v. Morgan
15 Stanley & Co., No. 08 Civ. 7508(SAS), 2011 WL 3738979 at *5 (S.D.N.&. Aug. 18, 2011),
16 *adopted without objection*, 2011 WL 3734236 (S.D.N.&. Aug 24, 2011).

17 To hold otherwise is to permit the producing party to essentially unilaterally redact
18 otherwise responsive discovery. *See* Sanchez Y Martin, S.A. de C.V. v. Dos Amigos, Inc., 2019
19 WL 581715 at *11 (S.D. Cal. Feb. 13, 2019); Vireco Mfg. Corp. V. Hertz Furniture Sys., 2014
20 WL 12591482 at *5-6 (C.D. Cal. Jan. 21, 2014); Families for Freedom v. U.S. Customs &
21 Border Prot., 2011 WL 4599592 at *5 (S.D.N.Y. Sept. 30, 2011)(“Context matters. The

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24 ² The Court takes the point of the Government’s “one-page opening, eleven-page reply” hypothetical, and will only comment at this point that such a strategy would *not* be “within the spirit... of the rule.”

1 | attachments can only be fully understood and evaluated when read in the context of the emails to
2 | which they are attached. That is the way they were sent and the way they were received. It is
3 | also the way in which they should be produced.”)

4 | In reviewing the documents provided to them by Plaintiffs which Plaintiffs believed
5 | showed “obvious indicia of responsiveness,” the Government responded that “the vast majority
6 | (...over 95%) of the documents with the extension .msg in the file name were Outlook delivery
7 | or read receipts,” and argues then and now (without citation to authority or further explanation)
8 | that such “delivery and read receipts are not responsive to any discovery request and are plainly
9 | irrelevant to Plaintiffs’ claims.” Barsanti Decl., ¶ 6, Ex 4. This Court disagrees and joins a
10 | plethora of other courts which have found that electronic read receipts have relevance on the
11 | issue of whether someone received information which was sent (a highly relevant issue when
12 | examining a witness at deposition or trial who denies or claims no recollection of having read a
13 | particular communication). *See Azeveda v. Comcast Cable Communic’s LLC*, 2019 WL
14 | 5102607 at *2 (N.D. Cal. Oct. 11, 2019); *Solomon v. Jacobson*, 2016 WL 6156189 at *2 (C.D.
15 | Cal. May 25, 2016); *Metro Gov’t of Nashville v. Davidson Cty*, 432 F.App’x 435, 452 (6th Cir.
16 | 2011).

17 | A portion of the withheld material concerns service members’ gender dysphoria medical
18 | treatment plans and documents related to the cost of gender transition surgeries or insurance
19 | coverage for such surgeries. Regarding the individual treatment plans, Defendants object on the
20 | grounds that they “have already produced or agreed to produce the inputs to the Panel of Experts
21 | [involved in the formation and implementation of the Ban], including all deliberative documents
22 | and communications related to the work of the Panel of Experts that were sent, received or
23 | presented to any member of the Panel during the decision-making process.” Dkt. No. 449, LCR
24 |

1 37 Joint Submission at 12. But the documents which Plaintiffs received from Defendants and
2 then reviewed were culled from “material reasonably related to the formation and
3 implementation” of the Ban. Dkt. No. 371-1, 8/29/19 Easton Decl. (Plaintiffs describe them as
4 “attachments to communications between individuals supporting the Panel and even member of
5 the Panel itself.” LCR 37 Joint Submission at 7.) If individual treatment plans were transmitted
6 to Panel members in advance of the creation of the Ban, they are relevant and responsive.
7 Additionally, this Court has previously found that medical documents such as these are relevant
8 to the formation of the policy. Dkt. No. 421, Hearing Transcript at 50:1-14.

9 Regarding the evidence (found in file names of withheld attachments, etc.) that
10 documents related to the cost of gender transition surgeries or insurance coverage for such
11 surgeries were withheld as “non-responsive,” the Government defends its decision by explaining
12 that the documents related to the “private sector,” with no further explanation of how that renders
13 them categorically non-responsive when it appears that they were considered in the formation
14 and implementation of the Ban. If they were exchanged and analyzed in the course of
15 developing the policy at issue in this lawsuit, they are relevant and responsive.

16 Defendants interpose, at several points in their argument, the FRCP 26 argument that the
17 discovery requested by Plaintiffs is overly burdensome. The Court is not persuaded. In the first
18 place, the Government makes no attempt to detail in what way the production of the withheld
19 material would be burdensome (e.g., evidence of associated time or cost). As regards both the
20 read receipts and individual treatment plans, it appears to the Court that the Government has
21 already gathered the material, thus the burden of producing it should be relatively *de minimis*.

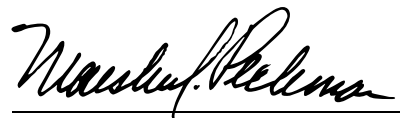
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1 **Conclusion**

2 Defendants’ motion to strike is denied. Plaintiffs’ motion to compel the production of
3 documents previously withheld by the Government as non-responsive is granted. The
4 Government will produce, by **March 14, 2020**, all document previously withheld from families
5 of responsive documents and for which the Government produced a “Withheld for Non-
6 responsiveness” slipsheet. Going forward, the Government will be required to produce every
7 non-privileged document in a family of one or more responsive documents; the practice of
8 inserting “non-responsiveness” slip sheets will be discontinued.

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10 The clerk is ordered to provide copies of this order to all counsel.

11 Dated March 4, 2020.



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13 Marsha J. Pechman
14 United States Senior District Judge

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The Honorable Marsha J. Pechman

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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

RYAN KARNOSKI, et al.,

Plaintiffs,

v.

DONALD J. TRUMP, et al.,

Defendants.

No. 2:17-cv-1297-MJP

**CONSENT MOTION FOR
CLARIFICATION OR
RECONSIDERATION**

NOTED FOR CONSIDERATION:
March 13, 2020

1 On March 4, 2020, the Court entered an order directing Defendants, among other things,
2 to “produce, by March 14, 2020, all documents previously withheld from families of responsive
3 documents and for which the Government produced a ‘Withheld for Non-responsiveness’
4 slipsheet.” Dkt. 455 at 2. Defendants are complying with the Court’s order. By March 14, 2020,
5 Defendants anticipate producing to Plaintiffs thousands of documents previously withheld as
6 non-responsive. *See* Ex. A, Declaration of Robert Easton ¶ 7.

7 As Defendants have noted, a large proportion of these documents are non-substantive,
8 such as journal reports automatically generated by Microsoft Outlook. *See* Dkt. 449 at 9. Some
9 are also medical documents. *Id.* at 11. However, during the course of preparing these non-
10 responsive family documents for production, Defendants have discovered that a small subset of
11 the documents are subject to privilege. These privileged documents—which include attorney-
12 client communications, attorney work product, pre-decisional Government deliberations, and
13 advice to the President or his senior advisors—were generally not previously withheld for
14 privilege. Easton Decl. ¶ 6. Instead, because the documents were coded as non-responsive, they
15 were withheld on that basis. *Id.*

16 Defendants respectfully request that the Court clarify that its March 4, 2020 order does
17 not require Defendants to produce non-responsive family documents that are subject to the
18 attorney-client, work product, deliberative process, or presidential communications privileges.¹
19 Such documents understandably were not addressed in the Court’s order. And now that
20 Defendants have discovered that these documents are privileged, the Court should clarify that its
21 order does not require them to be produced at this time. Instead, the Court should make clear
22 that Defendants are required to produce only the *non-privileged* non-responsive family
23 documents, of which there are thousands. In the event that the Court’s order properly is read to
24 compel disclosure of even *privileged* documents, Defendants request that the Court reconsider
25 its order.

26 _____
27 ¹ For non-responsive family documents potentially subject to the presidential
28 communications privilege, disclosure at this stage would be particularly problematic in light of
separation-of-powers concerns. *See Karnoski v. Trump*, 926 F.3d 1180, 1205 (9th Cir. 2019).

1 For each non-responsive family document that is subject to privilege, Defendants will
2 produce to Plaintiffs, by Friday, March 20, 2020, privilege logs explaining the privilege basis
3 and justification for the withholding.

4 Defendants have consulted with counsel for Plaintiffs and the State of Washington, and
5 both Plaintiffs and the State consent to this motion.

6
7 Dated: March 13, 2020

Respectfully submitted,

8 JOSEPH H. HUNT
9 Assistant Attorney General

10 DAVID M. MORRELL
11 Deputy Assistant Attorney General

12 ALEXANDER K. HAAS
13 Branch Director

14 ANTHONY J. COPPOLINO
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16 */s/ Matthew Skurnik*
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**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

RYAN KARNOSKI, *et al.*,

Plaintiffs, and

STATE OF WASHINGTON,

Plaintiff-Intervenor,

v.

DONALD J. TRUMP, in his official capacity
as President of the United States, *et al.*,

Defendants.

No. 17-cv-01297 (MJP)

**DECLARATION OF ROBERT E.
EASTON IN SUPPORT OF
DEFENDANTS' MOTION FOR
CLARIFICATION OR
RECONSIDERATION IN THE
ALTERNATIVE**

DECLARATION OF ROBERT E. EASTON

I, Robert E. Easton, do hereby declare as follows:

1. I currently serve as Director, Office of Litigation Counsel, in the Department of Defense (“DoD”) Office of General Counsel (“OGC”). I have held this position since 2006. In this capacity, I supervise the conduct and oversight of litigation of Departmental significance, including matters involving senior DoD leaders, and coordinate litigation among the Military Departments, Defense Agencies, and Field Activities.

2. In the exercise of my official duties, I have been made aware of this lawsuit and the three other cases involving the DoD Policy on Military Service by Transgender Persons and Persons with Gender Dysphoria.

3. I submit this declaration in support of Defendants’ Motion for Clarification of the Court’s March 4, 2020 Order regarding documents withheld by the Government as non-responsive or in the alternative for reconsideration of that Order. Dkt. 455. I base this declaration on my personal knowledge and information made available to me in the performance of my official duties.

4. The Court’s Order requires the Department of Defense to “produce, by March 14, 2020 all documents previously withheld from families of responsive documents and for which the Government produced a ‘Withheld for Non-responsiveness’ slipsheet.” *Id.* at 2.

5. As explained in detail in a previous declaration,¹ DoD conducted a thorough and in-depth search and collection of files and documents potentially relevant to the claims and defenses in response to this and the three other lawsuits challenging DoD’s policies regarding military service by transgender individuals and individuals with gender dysphoria. This process involved identifying custodians likely to have relevant information and working with them and DoD information technology personnel to gather these records. Once the responsive information was gathered, both through digital collections at the server level and with supplemental self-collections, the records were sent to Department of Justice (“DOJ”) attorneys for processing in their eDiscovery software, Relativity. This information was then organized within Relativity as it was collected and as it would appear in the ordinary course of business—by DoD or Military

¹ Decl. of Robert E. Easton Submitted in Support of Notice of Filing Documents for *In Camera* Review (Aug. 29, 2019), Dkt. 371-1.

Service component and custodian. After the data were de-duplicated and batched, DoD's responsiveness and privilege review began.


6. Reviewers were trained on the review process, responsiveness, privilege, and how to code documents in Relativity. They were further informed that responsiveness and privilege determinations should be made in succession while reviewing a document and should be completed before moving to the next document unless there were questions. Privilege determinations were made only after a document was determined to be responsive. When a document was determined to be non-responsive, it was marked accordingly and no privilege determination was made.

7. In response to the Court's Order of March 4, 2020, attorneys from my office and DOJ identified approximately 10,878 documents previously withheld from families of responsive documents and for which the Government produced a "Withheld for Non-responsiveness" slipsheet. Of those documents, approximately 10,552 are not privileged and will be released in full pursuant to the Court's Order. In addition, attorneys have identified approximately 61 documents that are properly subject to the attorney-client privilege or attorney work product doctrine and approximately five documents subject to the presidential communications privilege. Further, attorneys have identified approximately 260 documents containing deliberations on matters wholly unrelated to the Department's current or previous policies on transgender service members and service members diagnosed with gender dysphoria. For example, some documents marked as non-responsive contain deliberations on the Department's Military Accessions Vital to National Interest Program ("MAVNI"), a program whereby the Secretary of Defense authorizes the Military Services to recruit certain non-citizens whose skills are considered to be important to national security. These documents are properly

subject to the deliberative process privilege. In all instances where DoD now claims a privilege over a particular document or portion of a document previously marked as non-responsive, the claim of privilege will be expressly made on a privilege log that Defendants will produce to Plaintiffs by March 20, 2020.

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

EXECUTED this 13th day of March 2020, in Arlington, VA.



ROBERT E. EASTON
Director, Office of Litigation Counsel

The Honorable Marsha J. Pechman

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

RYAN KARNOSKI, et al.,

Plaintiffs,

v.

DONALD J. TRUMP, et al.,

Defendants.

No. 2:17-cv-1297-MJP

**[PROPOSED] ORDER GRANTING
DEFENDANTS' CONSENT MOTION
FOR CLARIFICATION OR
RECONSIDERATION**

For the reasons set forth in Defendants' Consent Motion for Clarification or Reconsideration, and upon a finding of good cause shown, it is hereby

ORDERED that Defendants' Motion is **GRANTED**, and that Defendants are not required to produce privileged documents in response to the Court's order of March 4, 2020, ECF No. 455.

DATED this ____ day of _____, 2020

The Honorable Marsha J. Pechman
United States District Judge

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Presented by:

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RYAN KARNOSKI, et al.,

Plaintiffs,

v.

DONALD J TRUMP, et al.,

Defendants.

CASE NO. C17-1297 MJP

ORDER ON AGREED MOTION
FOR RECONSIDERATION OF
ORDER ON MOTION TO COMPEL
(DKT. NO. 455)

THIS MATTER comes before the Court on the Parties’ Agreed Motion for Clarification or Reconsideration of the Court’s March 4, 2020 Order (Dkt. No. 455). (Dkt. No. 463.) Having reviewed the Motion and the related record, the Court GRANTS the Motion.

The Court’s Order granted the Plaintiffs’ motion to compel the production of documents Defendants previously withheld as non-responsive although part of a family that included responsive documents. (Dkt. No. 455 at 2.) While these documents were withheld as non-responsive, Defendants now assert that “during the course of preparing these non-responsive family documents for production, Defendants have discovered that a small subset of the documents are subject to privilege.” (Dkt. No. 463 at 2.) Defendants now ask the Court to

1 clarify that its Order does not require privileged documents to be produced. (Id.) Defendants'
2 Motion is GRANTED; Defendants are not required to produce privileged documents. The Court
3 therefore ORDERS Defendants to:

- 4 (1) Produce privilege logs to Plaintiffs and the Court specific to the privileged
5 documents Defendants discovered while preparing the family of documents for
6 production. The privilege logs must describe: (a) each and every privilege asserted
7 for these documents and (b) an explanation for why Defendant believes each
8 privilege applies to each document or class of documents. The privilege logs shall be
9 produced by Friday March 20, 2020;
- 10 (2) Produce the privileged documents to the Court for *in camera* review by Friday
11 March 27, 2020.

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13 The clerk is ordered to provide copies of this order to all counsel.

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15 Dated March 17, 2020.

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17 Marsha J. Pechman
18 United States District Judge

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RYAN KARNOSKI, et al.,

Plaintiffs,

v.

DONALD J TRUMP, et al.,

Defendants.

CASE NO. C17-1297 MJP

ORDER REQUIRING
ADDITIONAL INFORMATION TO
COMPLETE *IN CAMERA*
PRIVILEGE REVIEW RE
DOCUMENTS WITHHELD AS
NON-RESPONSIVE (DKT. NOS.
449, 455, 464)

THIS MATTER comes before the Court pursuant to the Defendants’ submission of documents for *in camera* review following the Court’s March 17, 2020 Order granting the Parties’ agreed Motion for Clarification or Reconsideration. (Dkt. No. 464, 467.) Finding that Defendants’ submissions make the Court’s *in camera* review unnecessarily difficult, the Court ORDERS Defendants to file the following documents by **May 1, 2020**:

- (1) The “root” documents to which the claimed privileged family documents were attached;
- (2) A privilege log that contains the document number of the root document, matching it with the corresponding document number of the family documents submitted for *in*

1 camera review. This log will also contain the corresponding “PrivWithhold” page ranges
2 of the documents submitted for *in camera* review.

3 **Background**

4 On March 4, 2020 the Court ordered Defendants to produce documents withheld on the
5 grounds of “non-responsiveness” which are part of an otherwise responsive “family group” of
6 produced material; e.g., Defendants produced a responsive email, but withheld attachments to the
7 email on grounds of “non-responsiveness.” (Dkt. No. 455 at 3.) On March 13, 2020, the
8 Defendants submitted a Motion for Reconsideration, informing the Court that “during the course
9 of preparing these non-responsive family documents for production, Defendants have discovered
10 that a small subset of the documents are subject to privilege.” (Dkt. No. 463 at 2.) The Court
11 granted the Motion, clarifying that Defendants are not required to produce privileged documents.
12 (Dkt. No. 464.) To evaluate the Defendants’ new privilege claims, the Court ordered Defendants
13 to produce privilege logs describing each and every privilege asserted and an explanation for
14 why the Defendants believe each privilege applies. (Id. at 2.) The Court also ordered
15 Defendants to produce the privileged documents for *in camera* review. (Id.)

16 The Court now finds that Defendants’ privilege log and production lack certain
17 information to facilitate *in camera* review. (Dkt. Nos. 465, 467.) In reviewing the family group
18 of documents submitted for *in camera* review, the Court has discovered that Defendants failed to
19 produce the underlying root document to which the family documents were attached. Thus, the
20 Court is unable to conduct a complete review of the issue of compliance and privilege review. In
21 addition, each page of the family documents submitted for *in camera* review bears a sequentially
22 numbered “Priv.Withhold” page number. However, the privilege log does not contain a column
23
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1 with a “PrivWithhold” page range. Because the privilege log is 57 pages long, the lack of
2 reference to the sequential “PrivWithhold” page range makes review unduly difficult.


3 **Conclusion**

4 Accordingly, the Court ORDERS Defendants to produce by **May 1, 2020**: (1) the “root”
5 documents to which the claimed privileged family documents were attached, and (2) a revised
6 privilege log that includes the document number of the root document and the corresponding
7 document number of the family documents submitted for *in camera* review. The privilege log
8 should also include the “PrivWithhold” page ranges of the documents submitted for *in camera*
9 review. Further, any future privilege logs for documents withheld based upon an assertion of
10 privilege will contain a column designated “PrivWithhold” which will identify the page range of
11 any documents withheld pursuant to a claim of privilege.

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The clerk is ordered to provide copies of this order to all counsel.

Dated April 23, 2020.


Marsha J. Pechman
Senior United States District Judge

The Honorable Marsha J. Pechman

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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

RYAN KARNOSKI, et al.,
Plaintiffs, and
STATE OF WASHINGTON,
Plaintiff-Intervenor,
v.
DONALD J. TRUMP, in his official capacity
as President of the United States, et al.,
Defendants.

Case No. 2:17-cv-01297-MJP
**LCR 37 JOINT SUBMISSION
REGARDING DEFENDANTS'
DELIBERATIVE PROCESS PRIVILEGE
CLAIMS**
NOTE ON MOTION CALENDAR:
May 5, 2020

1 **PLAINTIFFS' OPENING STATEMENT**

2 Plaintiffs are the moving party for this submission. Pursuant to Federal Rule of Civil
3 Procedure 26 and 53, and Local Rule 37, Plaintiffs request that the Court order the Special
4 Master to conduct an *in camera* review of a random sample of 350 documents withheld solely on
5 the basis of the deliberative process privilege and identify any documents as to which he believes
6 the Government erroneously claimed privilege.¹ The parties have met and conferred in good faith
7 several times over the course of many months in an attempt to resolve their disputes about the
8 Government's deliberative process privilege claims. The parties remain at an impasse over
9 whether the Government's privilege claims are impermissibly overbroad and asserted as to
10 documents for which there is no colorable claim of privilege. Thus, this dispute is ripe for
11 resolution by the Court and Special Master. Plaintiffs respectfully request that the Court grant
12 Plaintiffs' motion.

13 **A. Procedural History**

14 Over the course of two years, the parties have spilled substantial ink—and the Court has
15 invested a substantial amount of its time—addressing the Government's assertion of the
16 deliberative process as a basis to withhold tens of thousands of responsive documents. (*See* Dkt.
17 Nos. 245, 266, 273, 299, 364, 380, 385, 394, 398, 399, 408, 410, 434, 454, 469, 476.) As
18 Plaintiffs have chipped away at certain aspects of the Government's privilege claims and finally
19 seen some of the documents the Government has been withholding based on deliberative process
20 privilege, they have grown increasingly concerned that the Government has been broadly
21 misapplying the privilege to documents for which there is no colorable claim of privilege.

22 The Government recently produced over 300 documents previously withheld on the basis
23 of the deliberative process privilege. (Dkt 472.) After reviewing those documents, Plaintiffs
24 identified dozens of documents for which no colorable claim of privilege exists, because the
25 documents are post-decisional, non-deliberative, or both. This includes numerous
26 communications about news articles covering transgender military service that do not contain

27 _____
28 ¹ Plaintiffs' discovery vendor can utilize Relativity's randomization algorithm to pull a sample of 350 documents
from the Government's privilege logs that have been withheld solely on the basis of the deliberative process
privilege.

1 any conceivable policy deliberations (*e.g.*, Dkt. 473, Exs. 1–10); talking points or preparation
2 notes for teleconferences, interviews, or confirmation hearings that do not reflect policymaking
3 (*e.g.*, *id.*, Exs. 11–18); post-decisional and nondeliberative documents about the Carter Policy
4 (*e.g.*, *id.*, Exs. 19–25); and emails/invitations regarding speeches and events (*e.g.*, *id.* Exs. 26–
5 27).

6 On April 9, 2020, the Court appointed retired United States Magistrate Judge James P.
7 Donohue as Special Master to “assist the Court in reviewing Defendants’ privilege assertions”
8 and “identify to the Court those documents over which he believes the Defendants erroneously
9 made privilege assertions.” (Dkt. 479 at 3-4.)

10 **B. Legal Standard**

11 “Like all evidentiary privileges that derogate a court’s inherent power to compel the
12 production of relevant evidence, the deliberative process privilege is narrowly construed.”
13 *Greenpeace v. Nat’l Marine Fisheries Serv.*, 198 F.R.D. 540, 543 (W.D. Wash. 2000). “The
14 initial burden of establishing the applicability of the privilege is on the government.” *Id.*; *accord*
15 *Thomas v. Cate*, 715 F. Supp. 2d 1012, 1019 (E.D. Cal. 2010); *N. Pacifica, LLC v. City of*
16 *Pacifica*, 274 F. Supp. 2d 1118, 1122 (N.D. Cal. 2003).

17 “A document must meet two requirements for the deliberative process privilege to apply.
18 First, the document must be predecisional—it must have been generated before the adoption of
19 an agency’s policy or decision.” *F.T.C. v. Warner Commc’ns Inc.*, 742 F.2d 1156, 1161 (9th Cir.
20 1984). “Material which predates a decision chronologically, but did not contribute to that
21 decision, is not predecisional in any meaningful sense.” *Assembly of State of Cal. v. U.S. Dep’t of*
22 *Commerce*, 968 F.2d 916, 921 (9th Cir. 1992). “Second, the document must be deliberative in
23 nature, containing opinions, recommendations, or advice about agency policies. Purely factual
24 material that does not reflect deliberative processes is not protected.” *Warner*, 742 F.2d at 1161
25 (internal citation omitted). “The key inquiry in determining whether particular information is
26 ‘deliberative’ is whether disclosure of the information would expose the decision making process
27 in such a way as to discourage candid discussion within the agency and thereby undermine the
28 agency’s ability to perform its functions.” *Thomas v. Cate*, 715 F. Supp. 2d at 1019. Moreover,

1 “the deliberative process privilege does not protect documents in their entirety; if the government
2 can segregate and disclose non-privileged factual information within a document, it must.”
3 *Karnoski v. Trump*, 926 F.3d 1180, 1204 (9th Cir. 2019).

4 Last week, Magistrate Judge Copperthite in *Stone v. Trump* ordered the Government to
5 produce nearly the same categories of documents that this Court ordered produced in February,
6 and in doing so, explained the metes and bounds of the deliberative process privilege:

7 The takeaway from the language here is that it is the deliberative process itself
8 that is being protected, not the documents which are a byproduct of that process.
9 Further, the privilege covers opinions, it does not cover facts. In application, it
10 is not how the opinion was formed that is protected (the facts). It is the generated
11 opinion itself. The facts relied upon as well as the facts regarding the process are
12 not protected by the privilege. So by way of example, the factual information
13 provided to the decisionmakers along with how those facts came to exist and
14 how they were applied (absent the opinion itself) remain outside the scope of the
15 privilege. Did the President tweet his ban without factual support? Were there
16 truly no Generals or experts consulted? Did the President give his own
17 “marching orders” or in this case, non-marching orders to deny transgender
18 service? What was relied upon and what was the true impetus of the ultimate
19 ban? These are critical areas that are of great value in determining the outcome
20 of these constitutional challenges.

21 *Stone v. Trump*, No. CV GLR-17-2459, 2020 WL 1820082, at *3 (D. Md. Apr. 9, 2020) (internal
22 citations omitted). Plaintiffs believe the Government has misapplied these standards and
23 improperly withheld a significant volume of documents from production.

24 **PLAINTIFFS’ ARGUMENT**

25 The Government bears the burden to demonstrate that the deliberative process privilege
26 applies to each responsive document it has withheld from production. *See, e.g., Greenpeace*, 198
27 F.R.D. at 543. But as its recent production of previously-withheld documents confirm, it has
28 misapplied the privilege in many instances, including to plainly non-privileged information, such
as news reports and post-decisional explanations of policies. Further inquiry is therefore
warranted and indeed necessary to test the Government’s exceptionally broad—and now
suspect—privilege claims.

Where, as here, the government has asserted the deliberative process privilege over a large
volume of documents, courts frequently rely on an *in camera* review of a random sample of

1 documents to determine whether the privilege has been appropriately invoked. *See, e.g.,*
 2 *Harrison v. Shanahan*, No. 118CV641LMBIDD, 2019 WL 2216474, at *1 (E.D. Va. May 22,
 3 2019) (conducting an “*in camera* review of a random selection” of documents withheld under the
 4 deliberative process privilege and finding the government had “asserted the privilege to at least
 5 some documents and portions thereof in an undifferentiated and untailed manner”); *Coleman v.*
 6 *Schwarzenegger*, No. C01-1351 TEH, 2008 WL 4415324, at *3 (N.D. Cal. Sept. 25, 2008)
 7 (affirming magistrate judge’s *in camera* review of a “randomly-drawn sample” of 313
 8 documents withheld under the deliberative process privilege).

9 That approach is appropriate here. Plaintiffs respectfully move the Court to issue an Order:

- 10 1. Directing the Special Master to conduct an *in camera* review of a random sample of
 11 350 documents from the Government’s privilege logs withheld solely on the basis of
 12 the deliberative process privilege. Plaintiffs will use a Relativity randomization
 13 algorithm to select the documents and will identify them for the Government within
 14 two business days of the Court’s Order, should it grant this Motion.
- 15 2. Within three business days of receiving the list of 350 documents from Plaintiffs, the
 16 Government shall produce the documents to the Court and Special Master *in camera*.
- 17 3. Following his review, the Special Master shall recommend to the Court (1) a list of
 18 those documents for which he finds the privilege has been improperly invoked (*List*
 19 *1*), and (2) a list of those documents for which he finds the Government has validly
 20 asserted the privilege (*List 2*).
- 21 4. Each party shall have one week (seven calendar days) to file objections to the Special
 22 Master’s recommendations, and the opposing party will have three business days to
 23 respond
- 24 5. Consistent with the Court’s appointment of the Special Master (Dkt. 479), the Court
 25 shall review the Special Master’s determinations *de novo*. For those documents in
 26 List 2—those which the Government has validly asserted the privilege—the Court
 27 shall separately determine if the privilege has been overcome pursuant to the *Warner*
 28 factors.

1 6. The Court shall issue an Order identifying (a) those documents for which the
2 deliberative process privilege has been improperly invoked, (b) those documents for
3 which the privilege has been overcome pursuant to the *Warner* factors, and (c) those
4 documents that are properly withheld pursuant to the privilege.

5 7. Each party shall have one week (seven calendar days) to file a motion to reconsider
6 the Court’s ruling and/or object to the production of any document the Court finds
7 should be produced, and the opposing party shall have three business days to respond.

8 8. The Government shall produce all documents, if any, which the Court orders
9 produced within one week after the Court’s initial Order or Order on a motion to
10 reconsider, whichever is later.

11 If this review confirms Plaintiffs’ fears that the Government has been improperly invoking
12 the privilege over documents to which it does not apply, the Court’s orders above could provide
13 the basis for a further motion (and order) that the Government promptly review its privilege
14 claims as to the remaining documents withheld solely on the basis of the deliberative process
15 privilege and, on a rolling basis, produce any documents as to which the privilege is no longer
16 claimed, with the Special Master to conduct an *in camera* review of any documents as to which
17 the Government continues to claim the privilege. Plaintiffs respectfully submit that the above
18 process will efficiently assess the Government’s broad application of the deliberative process
19 privilege and bring this long-lasting dispute to an end.

20 **DEFENDANTS’ OPENING STATEMENT²**

21 Plaintiffs have made no showing that Defendants are “broadly misapplying” the
22 deliberative process privilege. Pls.’ Statement 1. To the contrary, throughout this case,
23 Defendants have properly applied the privilege in conducting its review of documents. Plaintiffs
24 contend otherwise only by taking an overly constricted view of the privilege that misreads or
25 ignores applicable case law.

26 Plaintiffs point to a set of documents that they assert were improperly withheld. Pls.’

27 _____
28 ² The expedited procedures of Local Rule 37(a)(2) for resolving discovery disputes are only available upon
“agreement” of the parties. Defendants have not given their consent to the expedited procedures and reiterate their
objection to Plaintiffs’ use of Local Rule 37(a)(2) without their consent.

1 Statement 1–2. But case law demonstrates that most of the documents identified by Plaintiffs in
 2 fact *were* properly withheld as deliberative. There is no need to review a random sample when
 3 Plaintiffs’ own handpicked examples do not show systematic discovery errors. And even if
 4 Plaintiffs were correct that their chosen documents should not have been withheld in the first
 5 instance (they are not), those documents amount to only a handful of the more than 1,500
 6 deliberative documents that have been produced over the past year. After nearly two and a half
 7 years of discovery, the evidence Plaintiffs proffer of a purportedly misapplied privilege instead
 8 demonstrates that sampling and *in camera* review are neither necessary nor appropriate.

9 In any event, the Ninth Circuit has issued an administrative stay of the Court’s prior orders,
 10 which required production of nearly all deliberative documents still withheld in this case. To
 11 now conduct *in camera* review and potentially order production of nearly the same documents
 12 would circumvent the Ninth Circuit’s stay. Plaintiffs request that this Court disregard the Ninth
 13 Circuit’s stay should be rejected and Plaintiffs’ motion should be denied.

14 **DEFENDANTS’ ARGUMENT**

15 **I. Defendants Have Properly Applied the Deliberative Process Privilege.**

16 Contrary to Plaintiffs’ contention, Defendants have not broadly misapplied the deliberative
 17 process privilege. Pls.’ Statement 1. Rather, throughout this case, Defendants have endeavored to
 18 apply the privilege correctly according to applicable standards. Plaintiffs, on the other hand, have
 19 taken a cramped view of the privilege that is inconsistent with the case law in this and other
 20 circuits. As a result, Plaintiffs have failed to establish why a sampling review by this Court is
 21 warranted.

22 **a. Plaintiffs Misread or Ignore Applicable Case Law.**

23 In support of their argument that Defendants have consistently misapplied the deliberative
 24 process privilege, Plaintiffs point to 27 documents recently produced in discovery. *See* Dkt. 473,
 25 Exhs. 1–27. Out of these 27 documents, 26 were documents that Defendants previously withheld
 26 pursuant to the deliberative process privilege but subsequently disclosed.³ Plaintiffs’ assertion

27 _____
 28 ³ Plaintiffs incorrectly assert that USDOE00132843_001 was previously withheld on the basis of the deliberative process privilege. *See* Dkt. 473, Exh. 27. That document, which contains a digital map screenshot showing the location of a foreign official’s residence, was previously withheld for non-responsiveness, not for privilege.

1 that there is “no colorable claim of privilege” as to these documents is rooted in an incorrect
2 understanding of applicable case law. Pls.’ Statement 1.

3 “To fall within the deliberative process privilege, a document must be both ‘predecisional’
4 and ‘deliberative.’” *Carter v. Commerce*, 307 F.3d 1084, 1089 (9th Cir. 2002). A “predecisional”
5 document is one that was “prepared in order to assist an agency decisionmaker in arriving at his
6 decision.” *Id* (citations omitted). Such documents may include “recommendations, draft
7 documents, proposals, suggestions, and other subjective documents which reflect the personal
8 opinions of the writer rather than the policy of the agency.” *Id.* (citations omitted). A
9 predecisional document is “deliberative” if disclosure of the document “would expose an
10 agency’s decisionmaking process in such a way as to discourage candid discussion within the
11 agency and thereby undermine the agency’s ability to perform its functions.” *Id.* (citations
12 omitted).

13 In applying these standards, the Ninth Circuit employs a “process-oriented” or “functional”
14 test, in which a document need not be deliberative in itself “in the sense that [it] make[s]
15 nonbinding recommendations on law or policy” to be subject to the privilege. *Nat’l Wildlife
16 Fed’n v. U.S. Forest Serv.*, 861 F.2d 1114, 1119 (9th Cir. 1988). The Ninth Circuit thus rejects a
17 strict distinction between “factual” materials and “deliberative” materials. *Id.* Instead, any
18 document that is “a part of the *deliberative process*” and whose disclosure would expose that
19 process is covered by the privilege, even if the information contained therein is factual or
20 otherwise does not contain a “recommendation.”⁴ *See id.* at 1118–19. Plaintiffs’ misunderstand
21 this case law in several ways.

22 *First*, Plaintiffs fail to appreciate that draft documents and communications concerning
23 draft documents are core to the Ninth Circuit’s understanding of the deliberative process
24

25 ⁴ Plaintiffs cite a recent Magistrate Judge decision in the related case *Stone v. Trump*, 2020 WL 1820082 (D. Md.
26 Apr. 9, 2020), as evidence of the “metes and bounds” of the privilege. Pls.’ Statement 3. But the Magistrate Judge in
27 *Stone* relied on a distinction between factual and deliberative information that is inconsistent with the approach
28 taken in the Ninth Circuit. *Compare id* at *3 (“[T]he privilege covers opinions, it does not cover facts”); *with Nat’l
Wildlife Fed’n*, 861 F.2d at 1119 (holding that application of the privilege “should not turn on whether we label the
contents of a document ‘factual’ as opposed to ‘deliberative’”). In addition, the Government has moved to stay the
Stone Magistrate Judge’s decision and has filed objections with the district court. *Stone v. Trump*, No. CV GLR-17-
2459 (D. Md.), Dkts. 301–302.

1 privilege. The Ninth Circuit specifically holds that the deliberative process privilege covers “all
 2 recommendations, *draft documents*, proposals, suggestions and other subjective documents
 3 which reflect the personal opinions of the writer rather than the policy of the agency, as well as
 4 documents which would inaccurately reflect or prematurely disclose the views of the agency.”
 5 *Nat’l Wildlife Fed’n*, 861 F.2d at 1118–19 (emphasis added) (citation omitted). This includes
 6 draft documents containing “line edits, marginal comments, or other written material that expose
 7 [] internal agency discussion.” *Sierra Club, Inc. v. U.S. Fish & Wildlife Serv.*, 925 F.3d 1000,
 8 1017 (9th Cir. 2019). Several of the 26 documents identified by Plaintiffs contain drafts that
 9 unquestionably are covered by the deliberative process privilege. *See, e.g.*, Dkt. 473, Exhs. 19–
 10 21, 23.

11 Plaintiffs assert that these documents are “post-decisional.” Pls.’ Statement 1–2. But a draft
 12 document, by its very nature, precedes the final version of the document at issue. *See Agility*
 13 *Public Warehousing Co. v. DoD*, 110 F. Supp. 3d 215, 221 (D.D.C. 2015) (“[D]raft documents,
 14 by their very nature, are typically predecisional and deliberative.” (citation omitted)). Drafts also
 15 reflect the agency’s editorial judgments about the document in question—judgments which are
 16 squarely deliberative. *See Nat’l Wildlife*, 861 F.2d at 1122 (“To the extent that [the requester]
 17 seeks through its [] request to uncover any discrepancies between the findings, projections, and
 18 recommendations between the draft[s] prepared by lower-level [agency] personnel and those
 19 actually adopted, . . . it is attempting to probe the editorial and policy judgments of the
 20 decisionmakers.”); *Dudman Commc’ns Corp. v. Dep’t of Air Force*, 815 F.2d 1565, 1569 (D.C.
 21 Cir. 1987) (“[T]he disclosure of editorial judgments—for example, decisions to insert or delete
 22 material or to change a draft’s focus or emphasis—would stifle the creative thinking and candid
 23 exchange of ideas necessary to produce good historical work.”). Defendants’ application of the
 24 deliberative process privilege to documents containing drafts was proper.

25 *Second*, Plaintiffs incorrectly attempt to draw a distinction between deliberations directly
 26 relating to “policy” or “policymaking,” and other types of deliberations, such as
 27 “communications about news articles” or “talking points or preparation notes for
 28 teleconferences, interviews, or confirmation hearings.” Pls.’ Statement 2. The case law, however,

1 expressly rejects this distinction. A document need not directly concern development of agency
 2 “policy” in order to be covered by the privilege. *See Nat’l Wildlife Fed’n*, 861 F.2d at 1118
 3 (rejecting argument that deliberations had to contain “non-binding recommendations on law or
 4 policy” in order to be protected by the privilege); *Ctr. for Biological Diversity v. Norton*, 2002
 5 WL 32136200, at *2 (D. Ariz. July 24, 2002) (holding that argument that the “privilege is limited
 6 to protecting only agency processes in which ‘policy’ is formulated, is inconsistent with Ninth
 7 Circuit precedent”). As just one example, in *Maricopa Audubon Soc’y v. U.S. Forest Serv.*, 108
 8 F.3d 1089 (9th Cir. 1997), the Ninth Circuit upheld the withholding of “portions of a letter from”
 9 an official accused of “illegal and unethical management” of a Forest Service office, who was
 10 “respond[ing] to the allegations that triggered the inquiry.” *Id.* at 1091. The document was
 11 deliberative, even though the official was not offering recommendations directly concerning a
 12 “policy” matter (such as management of national forests). Instead, he was “fighting to preserve
 13 his job and reputation” by offering his “candid and confidential responses . . . to the head of his
 14 agency in order to rebut the charges made against him.” *Id.* at 1095.

15 Other courts similarly conclude that documents are protected where they do not directly
 16 relate to so-called “policy” matters, and instead concern matters such as how best to advocate for
 17 a legislative proposal before Congress, how to manage public opinion, or how to respond to a
 18 media report. *See, e.g., Access Reports v. DOJ*, 926 F.2d 1192, 1196 (D.C. Cir. 1991)
 19 (memorandum contributing to the agency’s study of how to “shepherd [a] bill through Congress”
 20 was part of a protectable decisionmaking process); *Nielsen v. U.S. Bureau of Land Mgmt.*, 252
 21 F.R.D. 499, 522 (D. Minn. 2008) (protecting documents involving “how to address the possible
 22 public perception” of certain contemplated agency actions); *CREW v. DOL*, 478 F. Supp. 2d 77,
 23 83 (D.D.C. 2007) (email conversation regarding possible response to media article was
 24 predecisional and deliberative).

25 Indeed, a litany of judicial decisions hold that briefing materials and talking points to
 26 prepare agency officials for interactions with the press, public, and/or Members of Congress are
 27 squarely covered by the privilege, whether in draft or final form. *See, e.g., Protect Democracy*
 28 *Project, Inc. v. DoD*, 320 F. Supp. 3d 162, 176–77 (D.D.C. 2018) (concluding that talking points

1 “designed to assist Executive Branch officials in responding to inquiries from the press and from
 2 Congress” were “predecisional and deliberative” because “[r]evealing their contents would
 3 expose the process by which agency officials crafted a strategy for responding to the press and to
 4 Congress”); *Competitive Enter. Inst. v. EPA*, 12 F. Supp. 3d 100, 120 (D.D.C. 2014) (holding
 5 that internal agency communications discussing “*how* to communicate with members of
 6 Congress . . . and *how* to prepare for potential points of debate” are privileged (citation omitted));
 7 *ACLU v. DHS*, 738 F. Supp. 2d 93, 112 (D.D.C. 2010) (“talking points” are pre-decisional and
 8 deliberative; the “document itself suggests that a public statement was anticipated at the time of
 9 its creation, and given that no official statement has yet been made, the talking points remain ripe
 10 recommendations that are ready for adoption or rejection by the Department”).

11 Further, it is immaterial whether the talking points or briefings concern a policy that has
 12 already been decided or promulgated, because such materials still precede the agency’s decision
 13 about how to interact with the press, public and/or legislators. *See Protect Democracy Project*,
 14 320 F. Supp. 3d at 177 (“[C]ourts have generally found that documents created in anticipation of
 15 press inquiries are protected even if crafted after the underlying event about which the press
 16 might inquire”). *Judicial Watch, Inc. v. DHS*, 880 F. Supp. 2d 105, 111–12 (D.D.C. 2012)
 17 (holding that “discussions relating to how to respond to press inquiries are covered by the
 18 deliberative process privilege” even where the “documents are created after the underlying
 19 policy they discuss is finalized” because they “are generated as part of a continuous process of
 20 agency decision making, viz., how to respond to on-going inquiries.”).

21 Many of the 26 documents identified by Plaintiffs contain opinions about how to interact
 22 with members of the press or congress, or briefing materials or talking points. *See, e.g.*, Dkt. 473,
 23 Exhs. 2–7, 9–13, 18, 25. Although these documents do not contain so-called “policy”
 24 recommendations, they nonetheless fall comfortably within the scope of the privilege.

25 *Third*, Plaintiffs appear to contend that documents post-dating the release of either the
 26 Carter policy or Mattis policy cannot be pre-decisional. Pls.’ Statement 2. But “documents dated
 27 after [a decision was made] may still be predecisional and deliberative with respect to other,
 28 nonfinal agency policies[.]” *Judicial Watch, Inc. v. FDA*, 449 F.3d 141, 151 (D.C. Cir. 2006);

1 *see also Judicial Watch, Inc. v. DHS*, 841 F. Supp. 2d 142, 162 (D.D.C. 2012) “(E)ven
 2 documents dated after a decision has been made may still be eligible for protection under the
 3 deliberative process privilege.”). For example, deliberations postdating a particular policy can
 4 relate to later decisions about how to execute or modify that policy, and thus can be protected.
 5 *See Lahr v. Nat’l Transp. Safety Bd.*, 569 F.3d 964, 981 (9th Cir. 2009) (“[A]n agency’s issuance
 6 of a ‘final decision’ with respect to a particular issue does not necessarily preclude the agency
 7 from withholding documents prepared in a subsequent evaluation of the question . . .”); *Bloche v.*
 8 *DoD*, 279 F. Supp. 3d 68, 83 (D.D.C. 2017) (concluding that DoD’s discussion of “how [a]
 9 current policy is implemented and potential recommendations for changes are properly
 10 characterized as predecisional and deliberative”).

11 In addition, documents post-dating a decision also properly fall under the deliberative
 12 process privilege “when they recount or reflect pre-decisional deliberations.” *Judicial Watch*,
 13 841 F. Supp. 2d at 163. In such instance, although the document itself may post-date the
 14 decision, the deliberations recounted or reflected within the document are considered “pre-
 15 decisional” because they took place prior to the decision at issue. *See, e.g., North Dartmouth*
 16 *Properties, Inc. v. HUD*, 984 F. Supp. 65, 68 (D. Mass. 1997) (holding that email that
 17 “essentially re-state[d]” discussions had prior to the agency’s final decision were properly
 18 withheld despite the email post-dating the decision). In light of the above principles, Plaintiffs
 19 are incorrect that documents post-dating the release of either the Carter policy or Mattis policy
 20 cannot be privileged.

21 In short, there is no basis to conclude that defendants have misapplied the deliberative
 22 process privilege. Instead, it is Plaintiffs who misapprehend the proper scope of the privilege in
 23 protecting confidential agency deliberations. Plaintiffs request for *in camera* review of a sample
 24 of deliberative documents should thus be denied.

25 **b. Plaintiffs Assert A Negligible Error Rate.**

26 Even if, *arguendo*, Plaintiffs were correct that Defendants misapplied the privilege as to
 27 the 26 documents they identify, that still would not demonstrate any systematic error on the part
 28 of Defendants. Due to court orders and Defendants’ voluntary waivers of privilege, Defendants

1 have produced a significant number of documents that they previously withheld pursuant to the
 2 deliberative process privilege, including more than 1,500 such documents over the past year. The
 3 fact that Plaintiffs purport to have identified 26 errors out of more than 1,500 documents does
 4 not show a widespread misapplication of the privilege. At best, it would demonstrate an error
 5 rate of approximately 1.74%—an acceptable rate of error in a case involving tens of thousands of
 6 documents. *See Hunton & Williams LLP v. EPA*, 346 F. Supp. 3d 61, 69 (D.D.C. 2018)
 7 (declining to order reprocessing of documents “due to the low rate of error observed” by the
 8 court); *Schoenman v. FBI*, 763 F. Supp. 2d 173, 188 (D.D.C. 2011) (court not aware of authority
 9 providing that 12.9% error rate was sufficient to trigger duty to reprocess documents); *CREW v.*
 10 *DOJ*, 48 F. Supp. 3d 40, 52 (D.D.C. 2014) (“Two mistakes out of 168 documents, []—an error
 11 rate of just over one percent—does not come close to the kind of error rate that has prompted
 12 courts to require further disclosures.”).

13 In any case, for the reasons discussed above, many of the documents Plaintiffs identify in
 14 fact were properly withheld as privileged. At most, only three of the 26 documents chosen by
 15 Plaintiffs were not properly subject to the privilege.⁵ After nearly two and a half years of
 16 discovery, that is the sum total of Plaintiffs’ evidence that Defendants have broadly misapplied
 17 the privilege—three documents. These three documents comprise approximately 0.2% of the
 18 more than 1,500 deliberative documents that have been disclosed in the past year. Considering
 19 Plaintiffs themselves concede that “errors occur during document review,” Pls.’ Response to
 20 Special Master Notice 3, Dkt. 472, an error rate of 0.2 % is not cause for further review or
 21 sampling of deliberative documents.

22 II. Plaintiffs’ Request Would Circumvent the Ninth Circuit’s Administrative 23 Stay.

24 The Court has already ordered disclosure of nearly all documents still withheld solely on
 25 the basis of the deliberative process privilege, including the vast majority of the documents
 26 Plaintiffs now seek to have sampled and reviewed. *See* Hr’g Tr. 40–41 (holding that deliberative

27 ⁵ One document should not have been withheld because it simply contained a news article. *See* Dkt. 473, Exh. 8.
 28 One document should not have been withheld because it was a finalized policy guidance document. *Id.*, Exh. 22.
 And one should not have been withheld because it was simply a meeting invitation. *Id.*, Exh. 26. Any such errors
 likely were the result of Defendants being required to review voluminous amounts of documents on short timelines.

1 process privilege had been overcome as to all Carter Policy working group deliberative
 2 documents); Order 7, Dkt. 401 (holding that deliberative process privilege had been overcome as
 3 to all documents “relating or referring” to the Department of Defense’s Report and
 4 Recommendations); Order 5, Dkt. 413 (clarifying that Defendants are required to produce even
 5 deliberative documents “never seen or reviewed” by the Panel of Experts). The Ninth Circuit has
 6 issued an administrative stay of those orders. *See* Order, Dkt. 415 (staying “[t]he district court’s
 7 December 18, 2019, February 3, 2020, and February 7, 2020 orders challenged in th[e
 8 mandamus] petition.”).

9 Nonetheless, Plaintiffs request that the Court review a sample of nearly the very same
 10 documents and potentially order their production, and that it do so as a predicate to a possible
 11 “further motion (and order)” concerning review and potential production of all deliberative
 12 documents. Pls.’ Statement 5. In doing so, Plaintiffs ask the Court to initiate a process that would
 13 effectively circumvent the Ninth Circuit’s stay order.

14 Moreover, as part of that process, Plaintiffs ask the Court to “determine if the privilege has
 15 been overcome pursuant to the *Warner* factors.” Pls.’ Statement 5. But the question whether the
 16 *Warner* factors permit such disclosure is now pending before the Ninth Circuit *See* Defs.’ Pet.
 17 for Writ of Mandamus 5, Dkt. 414-1 (seeking an “order that plaintiffs are not entitled to any
 18 further deliberative documents” from RFPs Nos. 15 and 29 “given plaintiffs’ inadequate showing
 19 of need”). Where the Ninth Circuit has issued a stay and may address the matter shortly, the
 20 Court should refrain from further action with respect to the same documents at issue.

21 Plaintiffs assert that courts “frequently” rely on *in camera* review and random sampling to
 22 “determine whether the privilege has been appropriately invoked.” Pls.’ Statement 3–4. But this
 23 argument misses the point. Here Plaintiffs ask the Court to review samples of documents after
 24 they have already ordered disclosure of nearly all of the documents at issue and those orders
 25 have been stayed by the Court of Appeals. *See id.* at 4 (citing no case involving prior disclosure
 26 order of the same material). And for purposes of the Ninth Circuit’s stay, it makes no difference
 27 that the Court’s prior orders compelled disclosure of broad categories of documents, while
 28 Plaintiffs’ current proposal involves review and possible disclosure of individual documents. The

1 documents at issue are largely the same, and as to each of those documents the effect of a
2 production order would be the same.

3 In any case, if Plaintiffs believe the Ninth Circuit’s stay would permit such a review and
4 potential disclosures, the proper recourse is to ask the Ninth Circuit for relief, as it is better
5 positioned to interpret the breadth of its own stay order. In the meantime, this Court should not
6 order review and possible disclosures when production of those same documents has been stayed
7 and is subject to further proceedings before the Court of Appeals.

8 **III. Conclusion**

9 In sum, Defendants have appropriately applied the deliberative process privilege according
10 to applicable case law. Among the documents Plaintiffs handpick as demonstrating a supposed
11 broad misapplication of the privilege, all but three in fact were properly withheld. At best,
12 Plaintiffs have shown that on rare occasions, the privilege did not apply to a particular document.
13 But “the Federal Rules of Civil Procedure do not require perfection,” *Da Silva Moore v. Publicis*
14 *Groupe*, 287 F.R.D. 182, 191 (S.D.N.Y. 2012), and Plaintiffs themselves concede that “errors
15 occur during document review,” Pls.’ Response to Special Master Notice 3, Dkt. 472. Here, the
16 documents at issue amount to a negligible rate of error in a case involving thousands of
17 documents. They simply do not provide a basis to order sampling or *in camera* review. And even
18 if the Court were inclined to order such review, doing so would circumvent and disregard the
19 Ninth Circuit’s administrative stay. Accordingly, Plaintiffs’ motion should be denied.⁶

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⁶ Plaintiffs’ counsel has represented to Defendants that, if their motion is granted, they will generate the sample of documents by applying the Fisher-Yates shuffle algorithm in the document review platform Relativity, which is that platform’s randomization algorithm. Plaintiffs represent that they will apply this algorithm in Relativity to generate a randomly selected list of 350 documents from the universe of documents comprised solely of documents withheld only under the deliberative process privilege (as opposed to documents also withheld under one or more other privileges). However, if the Court determines that sampling and *in camera* review should take place (it should not for the reasons stated above), it should be Defendants who construct the randomized sample, not Plaintiffs. The documents, after all, are in Defendants’ possession, and Defendants have the most accurate information about which documents are still being withheld. Plaintiffs’ erroneous reliance on a document that was never even withheld for privilege, *see supra*, n.3, demonstrates that Defendants are better situated to provide information about their own documents.

1 **PLAINTIFFS’ REPLY**⁷

2 The Government’s opposition advances three arguments, all of which lack merit. **First**, the
3 Government’s attempt to meet its burden of defending its privilege claims on the merits fails. For
4 eight of these documents, its only response is agreement with Plaintiffs or else silence. It
5 expressly concedes its privilege claims had no basis for three documents (Exs. 8, 22, and 26),
6 and does not even mention at least five others—Exhibits 1, 14, 15, 16, and 17. It is not difficult
7 to discern why: the privilege claims as to those documents are likewise indefensible. Exhibits 14
8 and 15, for example, contain talking points drafted and disseminated by the Australian and
9 British governments, respectively.

10 As to the documents the Government actually purports to defend, it fails to show how or
11 why the privilege applies to any of the documents at issue. Instead, it asserts broad principles
12 without demonstrating that those principles actually apply to the specific documents at issue.
13 Most fundamentally, the Government argues that the Ninth Circuit’s adoption of a “functional”
14 approach to the privilege in *National Wildlife Federation v. U.S. Forest Service*, 861 F.2d 1114
15 (9th Cir. 1988), somehow extends the scope of the privilege to any deliberations on any decision
16 with the effect that any document that relates to any government decision in any way is
17 privileged. Opp. at 7. But Judge Pregerson explicitly warned against the Government’s
18 overbroad reading of *National Wildlife*’s holding in his concurrence, explaining that the adoption
19 of a “functional” test should not be read to confer “unrestrained discretion” to resist disclosure
20 based on the incorrect notion that “nearly everything an agency generates is somehow related to
21 the deliberative process.” 861 F.2d at 1124 (Pregerson, J., concurring). Courts have heeded that
22 warning and uniformly rejected the overly broad reading the Government advances. *See, e.g.*,
23 *Greenpeace v. Nat’l Marine Fisheries Serv.*, 198 F.R.D. 540, 544–45 (W.D. Wash. 2000) (“[A]
24 ‘functional’ analysis does not obviate the need to determine whether agency policymaking is
25 implicated in the first instance. . . . That simply is not the case here where the process itself is
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27 ⁷ Plaintiffs anticipate the Government may (as it has done before) move to strike this reply for exceeding one-half
28 page in length. (*See* Dkts. 443, 452.) As in prior cases where the Court rejected this argument, the issues raised in
this motion concern numerous discovery requests and Plaintiffs’ total contribution to the brief is within LCR 37’s
12-page limit. (*See* Dkt. 454 at 3.)

1 unrelated to any discretionary policy-making.”); *Nw. Env'tl. Advocates v. U.S. EPA*, 2009 WL
2 349732, at *6 (D. Or. Feb. 11, 2009) (“Applying the privilege to all documents which precede a
3 governmental decision risks expanding the privilege beyond its purpose, to a point where it
4 protects all documents which precede a governmental action.”).

5 Nevertheless, the Government applies its overbroad view of the privilege to three specific
6 categories of documents. Moreover, it again misstates the law and likewise fails to explain with
7 any specificity how the documents at issue are privileged.

8 **Draft Documents.** The Government broadly asserts that “draft documents” are at the
9 “core” of the privilege such that all drafts “unquestionably are covered by the privilege.” *Opp.* at
10 7-8. But the law is to the contrary: the Ninth Circuit has rejected a *per se* rule that drafts are
11 privileged, and courts recognize that draft documents are *not* privileged where they do not reveal
12 the author’s deliberative opinions, the agency’s decisionmaking, or policy formulation. *Sierra*
13 *Club, Inc. v. U.S. Fish & Wildlife Serv.*, 925 F.3d 1000, 1018 (9th Cir. 2019) (holding “draft”
14 opinions not privileged where they did not reveal agencies’ “internal deliberative processes”);
15 *First Resort, Inc. v. Herrera*, 2014 WL 988773, at *4 (N.D. Cal. Mar. 10, 2014) (compelling
16 production of draft press release because it was “not deliberative in that it would expose only a
17 description of the legislation and quotes from Supervisor Cohen, not any decision-making
18 process”). Thus, Exhibits 19 and 21, which the Government cites as examples, are not privileged
19 simply because they are draft documents containing marginal, non-deliberative comments. Those
20 comments do not reveal the “deliberative process” with respect to any agency policy or decision.
21 This makes them readily distinguishable from the draft materials found privileged in the
22 Government’s supporting authorities. For example, *National Wildlife* involved draft documents
23 that were themselves statements of agency policy (a “Forest Plan” and “Environmental Impact
24 Statement”). Even then, the privilege was limited to pages that discussed draft plans that
25 included “a particular proposed course of action” as well as a “comparison of alternative plans.”
26 861 F.2d at 1121–22.

27 **Talking Points and Briefing Materials.** The same flaws pervade the Government’s
28 sweeping assertion that the privilege protects all documents that contain talking points or

1 briefing materials. Opp. at 10. Where, as here, such documents do not disclose deliberations
2 concerning substantive agency policies or decisions, the privilege does *not* apply. *See, e.g.*,
3 *ACLU of Mass., Inc. v. U.S. ICE*, 2020 WL 1429882, at *6 (D. Mass. Mar. 24, 2020)
4 (compelling disclosure of three versions of “draft talking points”); *Herrera*, 2014 WL 988773, at
5 *5 (holding communications to “prepare for an interview” were not intended to “assist an agency
6 decisionmaker in arriving at a decision’ contemplated by the deliberative process privilege.”
7 (quoting *Renegotiation Bd. v. Grumman Aircraft Eng’g Corp.*, 421 U.S. 168, 184 (1975))); *Fox*
8 *News Network, LLC v. U.S. Dep’t of Treasury*, 911 F. Supp. 2d 261, 276 (S.D.N.Y. 2012)
9 (“[C]ommunications concerning how to present agency policies to the press or public, although
10 deliberative, typically do not qualify as substantive policy decisions protected by the deliberative
11 process privilege.”). And once again, the Government offers no explanation how its broad legal
12 assertion means the privilege applies to the documents it cites as examples. Opp. at 10. Exhibit 7
13 simply summarizes and reprints verbatim media coverage after the announcement of the Carter
14 Policy on June 30, 2016, and Exhibit 2 contains generic comments on a media article and
15 nothing that borders on revealing agency decisionmaking. Even taking the Government’s
16 position at face value, the Government makes no effort to square the substance of these
17 documents with the authorities it cites. Its principal case on this point—*Maricopa Audubon*
18 *Society*—found privileged communications from an official accused of misconduct to the Chief
19 of the Forest Service that were sent to aid in the agency’s official response to the misconduct
20 allegations. Nothing of that sort is presented in the documents the Government claims are
21 privileged here.

22 **Post-Decisional Documents.** Lastly, the Government takes issue with an argument
23 Plaintiffs do not make—that “documents post-dating the release of either the Carter policy or
24 Mattis policy cannot be privileged,” Opp. at 11—and does not explain how it bears on any of the
25 documents at issue. Plaintiffs do not dispute that a document that chronologically post-dates an
26 agency decision *may* qualify as privileged under certain circumstances. But the Government
27 carries the burden of identifying “a specific decision to which the document is predecisional” and
28 showing the discussions reveal the deliberative process. *Maricopa v. Audubon Soc’y v. U.S.*

1 *Forest Serv.*, 108 F.3d 1089, 1094 (9th Cir. 1997); *see also Coastal States Gas Corp. v. Dep't of*
2 *Energy*, 617 F.2d 854, 868 (D.C. Cir. 1980) (holding it “would be a serious warping of the
3 meaning of the word” to deem “predecisional” documents that “discuss established policies and
4 decisions” in an “ongoing audit process” of a policy).

5 At bottom, the Government has the burden to establish that these documents are privileged,
6 and nothing in its response comes close. Fortunately, the Court need not take either party’s word
7 for it, because these 26 documents speak for themselves—and speak volumes about the
8 Government’s approach to deliberative process privilege in this case. Put simply, the
9 Government’s attempt to defend its retracted privilege claims does not withstand scrutiny and
10 only underscores that it is the Government—not Plaintiffs—who “misapprehend[s] the proper
11 scope of the privilege.” *Opp.* at 11.

12 **Second**, the Government argues that *in camera* review is unwarranted and unnecessary
13 because Plaintiffs have identified only a “negligible” misapplication of the privilege. But that
14 assertion rests on a fundamental distortion of the facts that leads to incorrect (and ultimately
15 meaningless) calculations. For one, the Government argues that these are the only documents
16 that Plaintiffs could identify out of “more than 1,500 deliberative documents that have been
17 produced over the past year.” But Plaintiffs did not purport to identify every previously-withheld
18 document they believe was improperly claimed as privileged. Rather, as stated clearly in their
19 submission regarding the appointment of the Special Master, the examples cited are from the
20 Governments’ recent production of approximately 300 documents, which prompted this motion.
21 (Dkt. 472 at 2.) Thus, the Government’s denominator is wrong by a factor of five, making its
22 error rate “calculation” incorrect from the outset.

23 Moreover, the Government’s numerator is also wrong—it treats the documents that
24 Plaintiffs referenced as exhaustive when Plaintiffs made clear all along that these exhibits were
25 merely illustrative. Plaintiffs’ submission explained that they believed the “**vast majority** had no
26 colorable claim of privilege in the first place” and provided examples. *Id.* (emphasis added). The
27 Court should disregard the Government’s back-of-the-napkin math that purports to derive an
28 error rate. And more to the point, if the Government is confident that it made only a negligible

1 number of errors in its privilege review, it should have nothing to fear from *in camera* review of
2 a random sample of 350 documents, which would only confirm the correctness of their privilege
3 determinations.

4 **Third**, the Government asserts that Plaintiffs’ requested relief “circumvents” the Ninth
5 Circuit’s administrative stay relating to the Government’s pending mandamus petition
6 (“Petition”). Not so. Both the Petition and the Ninth Circuit’s order—which is administrative
7 only at this point and does not address the merits of the Government’s stay request—applies only
8 to this Court’s orders that the privilege claims as to documents responsive to two of the
9 Plaintiffs’ document requests (RFP Nos. 15 and 29) were overcome under *Warner*. The stay does
10 not purport to stay other discovery or this Court’s continued jurisdiction to consider other issues,
11 including the separate question whether the privilege even applies and was properly invoked,
12 with respect to the thousands of responsive documents withheld by the Government.

13 Moreover, the Government’s concerns are entirely theoretical and premature at this point.
14 The stay would not even arguably come into play unless and until the Court orders production of
15 documents that are responsive to RFP Nos. 15 and 29. And, in any event, Plaintiffs’ proposed
16 framework provides a process whereby the Government can raise such concerns, and invoke the
17 stay, should this hypothetical concern materialize. Plaintiffs’ proposed framework provides that,
18 if the Court orders any documents produced, the Government will have seven days to raise any
19 objection to such production, including that a document is responsive to RFP Nos. 15 and 29 and
20 subject to the stay.

21 In short, the Government’s pending Petition challenges only the Court’s finding that
22 Plaintiffs overcame the Government’s privilege claims under the *Warner* factors for documents
23 responsive to RFP Nos. 15 and 29. Moreover, even as to documents responsive to RFP Nos. 15
24 and 29, the application of *Warner* that the Government challenges in their Petition presupposed
25 the privilege applies, meaning the threshold question whether the Government is properly
26 invoking the privilege is not before Ninth Circuit. That issue can and should be considered by the
27 Special Master and the Court without encroaching on the Ninth Circuit’s administrative stay.
28 Moreover, even as to the *Warner* factor analysis, the Government’s complaint in its Petition is

1 that the Court did not assess the *Warner* factors on a sufficiently “granular” basis. *See* Pet. at 5,
2 32; Pet. Reply at 6. But Plaintiffs’ motion proposes the most “granular” review possible—a
3 document-by-document review under *Warner* of any documents the Court finds properly fall
4 within the privilege, to determine whether the privilege is overcome. The Government should not
5 be permitted to blockade the very type of relief it is seeking from the Ninth Circuit, nor claim to
6 be prejudiced by receiving it. The Court should grant Plaintiffs’ motion and address Plaintiffs’
7 concerns about production of any documents the Government claims are subject to the Ninth
8 Circuit’s administrative stay if and when those now hypothetical concerns materialize.

9 **CONCLUSION**

10 For the foregoing reasons, Plaintiffs respectfully move the Court pursuant to Federal Rule
11 of Civil Procedure 26 and Local Rule 37 for entry of the following Order:

12 1. The Special Master shall conduct an *in camera* review of a random sample of 350
13 documents from the Government’s privilege logs withheld solely on the basis of the deliberative
14 process privilege. Plaintiffs will use a Relativity randomization algorithm to select the
15 documents and will identify them for the Government within two business days of the Court’s
16 Order.

17 2. Within three business days of receiving the list of 350 documents from Plaintiffs, the
18 Government shall produce the documents to the Court and Special Master *in camera*.

19 3. Following his review, the Special Master shall recommend to the Court (1) a list of
20 those documents for which he finds the privilege has been improperly invoked (*List 1*), and (2) a
21 list of those documents for which he finds the Government has validly asserted the privilege (*List*
22 *2*).

23 4. Each party shall have one week (seven calendar days) to file objections to the
24 Special Master’s recommendations, and the opposing party will have three business days to
25 respond.

26 5. Consistent with the Court’s appointment of the Special Master (Dkt. 479), the Court
27 shall review the Special Master’s determinations *de novo*. For those documents in List 2—those
28 which the Government has validly asserted the privilege—the Court shall separately determine if

1 the privilege has been overcome pursuant to the *Warner* factors.

2 6. The Court shall issue an Order identifying (a) those documents for which the
3 deliberative process privilege has been improperly invoked, (b) those documents for which the
4 privilege has been overcome pursuant to the *Warner* factors, and (c) those documents that are
5 properly withheld pursuant to the privilege.

6 7. Each party shall have one week (seven calendar days) to file a motion to reconsider
7 the Court's ruling and/or object to the production of any document the Court finds should be
8 produced, and the opposing party shall have three business days to respond.

9 8. The Government shall produce all documents, if any, which the Court orders
10 produced within one week after the Court's initial Order or Order on a motion to reconsider,
11 whichever is later.

12 Respectfully submitted, May 4, 2020

13 **NEWMAN DU WORS LLP**

**UNITED STATES
DEPARTMENT OF JUSTICE**

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The undersigned certifies under penalty of perjury under the laws of the United States of America and the laws of the State of Washington that all participants in the case are registered CM/ECF users and that service of the foregoing documents will be accomplished by the CM/ECF system on May 4, 2020.

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The Honorable Marsha J. Pechman

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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

RYAN KARNOSKI, et al.,
Plaintiffs, and
STATE OF WASHINGTON,
Plaintiff-Intervenor,
v.
DONALD J. TRUMP, in his official capacity
as President of the United States, et al.,
Defendants.

Case No. 2:17-cv-01297-MJP
**[PROPOSED] ORDER GRANTING LCR
37 JOINT SUBMISSION REGARDING
DEFENDANTS’ DELIBERATIVE
PROCESS PRIVILEGE CLAIMS**
NOTE ON MOTION CALENDAR:
May 5, 2020

This matter comes before the Court on the foregoing LCR 37 Joint Submission Regarding Defendants’ Deliberative Process Privilege Claims (the “Joint Submission”). The Court, having considered the parties’ arguments and finding good cause therefore, GRANTS Plaintiffs’ portion of the Joint Submission.

IT IS HEREBY ORDERED:

1. The Special Master shall conduct an *in camera* review of a random sample of 350 documents from the Government’s privilege logs withheld solely on the basis of the deliberative process privilege. Plaintiffs will use a Relativity randomization algorithm to select the

1 documents and will identify them for the Government within two business days of the Court’s
2 Order.

3 2. Within three business days of receiving the list of 350 documents from Plaintiffs, the
4 Government shall produce the documents to the Court and Special Master *in camera*.

5 3. Following his review, the Special Master shall recommend to the Court (1) a list of
6 those documents for which he finds the privilege has been improperly invoked (*List 1*), and (2) a
7 list of those documents for which he finds the Government has validly asserted the privilege (*List*
8 *2*).

9 4. Each party shall have one week (seven calendar days) to file objections to the
10 Special Master’s recommendations, and the opposing party will have three business days to
11 respond.

12 5. Consistent with the Court’s appointment of the Special Master (Dkt. 479), the Court
13 shall review the Special Master’s determinations *de novo*. For those documents in List 2—those
14 which the Government has validly asserted the privilege—the Court shall separately determine if
15 the privilege has been overcome pursuant to the *Warner* factors.

16 6. The Court shall issue an Order identifying (a) those documents for which the
17 deliberative process privilege has been improperly invoked, (b) those documents for which the
18 privilege has been overcome pursuant to the *Warner* factors, and (c) those documents that are
19 properly withheld pursuant to the privilege.

20 7. Each party shall have one week (seven calendar days) to file a motion to reconsider
21 the Court’s ruling and/or object to the production of any document the Court finds should be
22 produced, and the opposing party shall have three business days to respond.

23 8. The Government shall produce all documents, if any, which the Court orders
24 produced within one week after the Court’s initial Order or Order on a motion to reconsider,
25 whichever is later.

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1 IT IS SO ORDERED

2 Dated this _____ day of _____, 2020.

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The Honorable Marsha J. Pechman
United States District Court Judge

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The Honorable Marsha J. Pechman

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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

RYAN KARNOSKI, et al.,

Plaintiffs,

v.

DONALD J. TRUMP, et al.,

Defendants.

No. 2:17-cv-1297-MJP

**LCR 37 JOINT DISCOVERY
SUBMISSION REGARDING
PLAINTIFFS' FRCP 30(B)(6)
DEPOSITION TOPICS**

NOTE ON MOTION CALENDAR:
May 8, 2020

DEFENDANTS' INTRODUCTORY STATEMENT

1
2 Plaintiffs have served a Rule 30(b)(6) notice of deposition seeking testimony into a wide
3 range of topics, many of which have nothing to do with the central issues in this case and have
4 already been (or will soon be) fully probed through other means of discovery, including
5 depositions of other officials. In addition, many of Plaintiffs' deposition topics specifically seek
6 privileged information implicated in the Government's pending mandamus petition before the
7 Ninth Circuit, including the mental impressions of senior Department of Defense ("DoD")
8 officials. Although the Government plans to assert privileges at the deposition itself and, in light
9 of the Ninth Circuit's administrative stay, instruct its witness not to answer, the broad scope of
10 the requested topics and significance of the privilege issues likely will foreclose any meaningful
11 inquiry. The parties have met and conferred in good faith in an attempt to resolve this dispute
12 without Court action but are currently at an impasse.

13 Accordingly, Defendants seek entry of a judicial protective order to limit the identified
14 topics of testimony to non-duplicative and non-privileged information regarding DoD's reasons
15 and justifications for the challenged policy. In the alternative, Defendants request an order (a)
16 limiting Plaintiffs to one 7-hour deposition of DoD officials (or former officials) currently
17 scheduled for deposition where the Government has indicated that they have sufficient
18 knowledge to answer non-privileged questions regarding Plaintiffs' proposed topics, and (b)
19 deferring any deposition as to Plaintiffs' topics implicated in the Government's pending
20 mandamus petition until the Ninth Circuit has ruled on that petition.

PROCEDURAL HISTORY

21
22 On March 9, 2020, Plaintiffs served DoD with a Rule 30(b)(6) notice seeking agency
23 testimony as to nine topics. Declaration of Andrew E. Carmichael ("Carmichael Decl.") ¶ 2, Ex.
24 1. Plaintiffs accompanied that notice with a letter acknowledging "that this notice may implicate
25 deliberative process privilege issues that may be impacted by Defendants' pending mandamus
26 petition." *Id.* ¶ 3, Ex 2. The letter further stated that Plaintiffs were "willing to discuss
27 postponing the deposition(s) for these topics until the Ninth Circuit rules on Defendants' petition,
28 but we would like to proceed with the others in the meantime." *Id.*

1 On March 12, 2020, the Government responded, agreeing with Plaintiffs that many of the
 2 topics of inquiry implicate deliberative process privilege issues currently before the Ninth
 3 Circuit. The Government also informed Plaintiffs that many of the remaining topics of inquiry
 4 could be pursued through the depositions of individual DoD officials whose depositions were
 5 already being scheduled. *Id.* ¶ 4, Ex 3.

6 Plaintiffs responded to the Government’s letter on March 18, 2020, stating that they
 7 would take the noticed Rule 30(b)(6) deposition off calendar and work with Defendants on
 8 rescheduling it for a mutually agreeable date in the future. *Id.* ¶ 5, Ex 4. Plaintiffs acknowledged
 9 that the Ninth Circuit stayed “the district court’s December 18, 2019, February 3, 2020, and
 10 February 7, 2020 orders[,]” *id.*, but clarified that they did not believe that the Ninth Circuit’s
 11 administrative stay applied to Plaintiffs’ Notice. Further, Plaintiffs asserted that the Ninth
 12 Circuit’s stay did not apply to this Court’s Order, also issued on February 3, 2020, “that
 13 deponents should answer questions over any deliberative process objection, and the deposition
 14 will be sealed until a determination can be made on the Government’s purported objection.” *Id.*
 15 ¶ 5, Ex 4. (quoting 2/3/20 Hrg. Tr. at 64.). Moreover, Plaintiffs stated that “the Government is
 16 free to designate as representatives witnesses who are already being deposed in their individual
 17 capacity; however, these witnesses will need to sit for up to seven hours of questioning in their
 18 individual capacity and for up to seven hours in their Rule 30(b)(6) capacity.” *Id.* ¶ 5, Ex 4.

19 On April 17, 2020, the Government responded with a letter detailing its specific
 20 objections to each of Plaintiffs’ Rule 30(b)(6) deposition topics and proposing to narrow the
 21 scope of those topics. *Id.* ¶ 6, Ex 5. The Government further noted that the Ninth Circuit had
 22 stayed this Court’s February 3, 2020 Order in its entirety and that, therefore, except where
 23 otherwise noted, the Government expected to instruct its witness not to answer questions where
 24 the answer would be protected from disclosure pursuant to the deliberative process privilege. *Id.*
 25 Moreover, the Government identified DoD employees and former DoD employees whom
 26 Plaintiffs were already scheduled to depose that could likely provide answers to the majority of
 27 the non-privileged portions of Plaintiffs’ identified topics. *Id.*

28

1 The parties met and conferred regarding the Government's letter on April 21, 2020 and
2 Plaintiffs declined to further narrow their Rule 30(b)(6) deposition topics. Accordingly,
3 Defendants now seek entry of a protective order to limit the identified topics of Rule 30(b)(6)
4 testimony sought by Plaintiffs to non-duplicative and non-privileged information regarding
5 DoD's reasons and justifications for the challenged policy.

6 STANDARDS GOVERNING A RULE 30(B)(6) PROTECTIVE ORDER

7 Federal Rule of Civil Procedure 30(b)(6) permits a party to name a government agency
8 or other entity as a deponent and "describe with reasonable particularity the matters for
9 examination." The agency must then "designate one or more officers, directors, or managing
10 agents . . . and it may set out the matters on which each person designated will testify." A party
11 may seek to limit a Rule 30(b)(6) deposition topic that seeks privileged material or is otherwise
12 burdensome, irrelevant, or otherwise inappropriate through a protective order. *See, e.g., Adidas*
13 *Am., Inc. v. TRB Acquisitions Ltd. Liab. Co.*, 324 F.R.D. 389, 401 (D. Or. 2017). While privilege
14 may be protected by instructing a witness not to answer at a 30(b)(6) deposition, *see generally*
15 *Rule 30(c)(2)* ("A person may instruct a deponent not to answer . . . when necessary to preserve
16 a privilege"), courts should consider whether other grounds exist to resolve discovery
17 disputes *before* the need for, or consideration of, formal privilege assertions, including whether
18 the information sought is relevant and necessary to litigate the claims. *See, e.g. Alexander v. FBI*,
19 186 F.R.D. 188, 192 (D.D.C. 1999). A plaintiff may overcome the deliberative process privilege
20 "if his or her need for the materials and the need for accurate fact-finding override the
21 government's interest in non-disclosure." *Karnoski v. Trump*, 926 F.3d 1180, 1206 (9th Cir.
22 2019) (quoting *FTC v. Warner Commc'ns Inc.*, 742 F.2d 1156, 1161 (9th Cir. 1984)).

23 DEPOSITION TOPICS AT ISSUE

24 **Topic 1.** Panel of Experts, including: its formation; its mission, purpose, assignment(s), and
25 deliverables; the potential courses of action and/or policy options it considered; the issues it
26 addressed; the information it requested and/or considered; its deliberations, conclusions, and
27 recommendations, including to whom those recommendations were made; and the Panel's Final
28 Report and Recommendation.

1 **Defendants’ Objection.** Unduly burdensome and disproportionate to the needs of the case
2 because it is duplicative of material previously sought and provided through document
3 productions, interrogatory responses, and expected deposition testimony of other DoD personnel.

4 **Scope of Response.** Notwithstanding the above objections, DoD will identify an individual to
5 answer questions regarding the reasons and justifications of the challenged policy including the
6 meaning of acronyms, military phrases, and jargon that appear in the Administrative Record and
7 the Panel’s meeting minutes that may not be readily understandable by individuals without a
8 military background.

9 **Identified DoD Employee or Former Employee Who Plaintiffs Are Scheduled to Depose.**
10 Mr. Anthony Kurta, Mr. Thomas Dee, Dr. Terry Adirim, Mr. Lernes Hebert, Ms. Stephanie
11 Miller.

12 **Topic 2.** The preparation, review, and approval of Panel meeting minutes, including: the identity
13 of any individuals who were responsible for documenting Panel meetings and drafting,
14 reviewing, finalizing and approving minutes before they were submitted to the Panel; the
15 process(es) these individuals followed for documenting Panel meetings; why minutes were
16 prepared for some, but not all, Panel meetings, including the Panel’s last four meetings; and the
17 identity of any individuals who decided whether minutes would or would not be prepared and
18 the reasons why minutes were or were not prepared.

19 **Defendants’ Objection.** Irrelevant, unduly burdensome, and disproportionate to the needs of
20 the case because it is duplicative of material previously sought and provided through document
21 productions, interrogatory responses, and expected deposition testimony of other DoD
22 personnel.

23 **Scope of those Responding.** Notwithstanding the above objections, DoD will identify an
24 individual to answer the questions raised in this topic (except where the topic calls for privileged
25 information) if other DoD officials who Plaintiffs already plan to depose are unable to speak to
26 these topics.

27 **Identified DoD Employee or Former Employee Who Plaintiffs Are Scheduled to Depose.**
28 Mr. Lernes Hebert.

Topic 3. ‘Transgender Service Policy Working Group’ or ‘Transgender Personnel Policy
Working Group,’ including: the identity of any individuals who served as chairperson, members,
or presented at or participated in the Group’s meetings; the Group’s mission, purpose, and
assignment(s); the potential courses of action the Group considered; the issues addressed by the
Group; any information the Group requested and/or considered; the Group’s deliberations,
conclusions, and recommendations; any reports, presentations, recommendations, or other
communications the Group had or shared with the Panel; and any records or other documents
that reflect the Group’s work, deliberations, conclusions, and/or recommendations.

Defendants’ Objection. Unduly burdensome and disproportionate to the needs of the case as
it is largely duplicative of discovery previously sought and provided through document
productions, interrogatory responses that answer these same questions, and expected deposition

1 testimony of other DoD personnel. Further, portions of this topic call for information protected
2 by the deliberative process privilege and risks circumvention of the Ninth Circuit's stay order.

3 **Scope of those Responding.** Notwithstanding the above objections, DoD will identify an
4 individual to answer the questions raised in this topic (except where the topic calls for privileged
5 information) if other DoD officials who Plaintiffs already plan to depose are unable to speak to
6 these topics.

7 **Identified DoD Employee or Former Employee Who Plaintiffs Are Scheduled to Depose.**
8 Ms. Stephanie Miller.

9 **Topic 4.** Any discussion, consideration, conclusions or recommendations relating to gender
10 dysphoria, gender transition or accession into the military or military service by transgender
11 persons by the Department of Defense's Medical and Personnel Executive Steering Committee
12 (MEDPERS) during the period July 1, 2015 to the present.

13 **Defendants' Objection.** Except where this topic seeks factual information regarding the work
14 of MEDPERS on the challenged policy this topic is unduly burdensome, disproportionate to the
15 needs of the case, and outside of the temporal scope of the litigation. Further, portions of this
16 topic call for information protected by the deliberative process privilege and risks
17 circumvention of the Ninth Circuit's stay order.

18 **Scope of those Responding.** Notwithstanding the above objections, DoD will identify an
19 individual to answer the questions raised in this topic as far as they pertain to MEDPERS work
20 with the Panel of Experts (except where the topic calls for privileged information) if other DoD
21 officials who Plaintiffs already plan to depose are unable to speak to these topics.

22 **Identified DoD Employee or Former Employee Who Plaintiffs Are Scheduled to Depose.**
23 Mr. Lernes Hebert, Dr. Terry Adirim.

24 **Topic 5.** The meeting on or around December 15, 2017 at which the Panel presented its
25 recommendations to the Deputy Secretary of Defense ("DSD") and the Vice Chair of the Joint
26 Chiefs of Staff ("VCJCS"), including: the identity of all individuals present at the meeting; the
27 content of all presentations or written materials provided at the meeting; the reactions and/or
28 response(s) of the DSD and the VCJCS to the Panel's recommendations; any directions by or
requests from the DSD and the VCJCS as to additional or further work the Panel should perform;
any documents that reflect what was said, presented, discussed, or decided at the meeting; any
follow-up or further work performed by the Panel or others in response to any concerns, reactions
or other views or directions of the DSD and/or the VCJCS as a result of the meeting; and any
subsequent meetings or communications with or between the Panel and the DSD and/or VCJCS.

Defendants' Objection. Irrelevant, unduly burdensome and disproportionate to the needs of
the case because it is duplicative of material previously sought and provided through document
productions, interrogatory responses, and expected deposition testimony of other DoD
personnel. Further, as far as this topic calls for the "reactions" of the DSD and VCJCS that
were not vocalized during the December 15, 2017 meeting DoD does not possess this
information.

1 **Scope of those Responding.** Notwithstanding the above objections, DoD will identify an
2 individual to answer the questions raised in this topic (except where the topic calls for privileged
3 information) if other DoD officials who Plaintiffs already plan to depose are unable to speak to
4 these topics.

5 **Identified DoD Employee or Former Employee Who Plaintiffs Are Scheduled to Depose.**
6 Mr. Anthony Kurta, Mr. Lernes Hebert.

7 **Topic 6.** The February 2018 Department of Defense “Report and Recommendations on Military
8 Service by Transgender Persons” (the “Report”), including the identity of any individuals who
9 approved the Report before it was submitted to Secretary Mattis; the role, if any, of Secretary
10 Mattis in drafting, preparing, reviewing, revising and/or finalizing the Report before it was
11 presented to him; the process that was followed and the information and alternatives that were
12 considered in drafting, revising, finalizing, and approving the Report; the identity and role of any
13 persons who were not current employees of the Department of Defense or one of the branches of
14 the military who were involved in any way in providing information that was considered or used
15 in preparing the Report or in drafting, reviewing, revising, finalizing and approving the Report.”

16 **Defendants’ Objections.** Irrelevant, unduly burdensome and disproportionate as it is outside
17 of the scope of the lawsuit or duplicative of discovery previously sought and provided through
18 document productions and interrogatory responses that answer these same questions. Further,
19 this topic specifically calls for privileged information including the mental impressions of
20 senior government officials implicated in the Government’s pending mandamus petition and
21 seeks circumvention of the Ninth Circuit’s stay order.

22 **Scope of those Responding.** Notwithstanding the above objections the Department of Defense
23 will identify an individual to be deposed to answer any technical questions such as to the meaning
24 of acronyms, military phrases, and jargon that appear in the Report that may not be readily
25 understandable by individuals without a military background.

26 **Topic 7.** The February 22, 2018 Memorandum for the President from Secretary Mattis
27 concerning Military Service by Transgender Individuals (“Memorandum”), including: the
28 principal author(s) of the Memorandum; the identity of any individuals who were involved in
drafting and preparing, reviewing and revising, finalizing and/or approving the Memorandum
before it was submitted to Secretary Mattis; the role, if any, of Secretary Mattis in drafting,
preparing, reviewing, revising and/or finalizing the Memorandum; the process that was
followed and the information and alternatives that were considered in drafting, revising,
finalizing, and approving the Memorandum; and the identity and role of any persons who were
not current employees of the Department of Defense or one of the branches of the military who
were involved in any way in drafting, reviewing, revising, finalizing and/or approving the
Memorandum.

Defendant’s Objections. Irrelevant, unduly burdensome and disproportionate as it is outside
of the scope of the lawsuit or duplicative of discovery previously sought and provided through
document productions and interrogatory responses that answer these same questions. Further,
this topic specifically calls for privileged information including the mental impressions of

senior government officials implicated in the Government’s pending mandamus petition and seeks circumvention of the Ninth Circuit’s stay order.

Scope of those Responding. Notwithstanding the above objections the Department of Defense will identify an individual to be deposed to answer any technical questions such as to the meaning of acronyms, military phrases, and jargon that appear in the Memorandum that may not be readily understandable by individuals without a military background.

Topic 8. Any requests for waivers, exceptions and/or Exceptions to Policy (ETPs) (a) between January 1, 2016 and April 11, 2019 and (b) since April 12, 2019 with respect to military accession or service by transgender persons, persons who have been diagnosed with or have gender dysphoria, and/or persons who have transitioned or need or seek to transition to a gender other than their birth-assigned gender, including: the number of such requests; the stated reasons for and in support of, and the facts and circumstances concerning, each such request; and the disposition of each such request, including whether it was granted or denied and the reasons provided for each such disposition.

Defendants’ Objection. Unduly burdensome and disproportionate to the needs of the case because it is duplicative of material previously sought and provided through document productions and is outside of the temporal scope of the litigation.

Scope of those Responding. Notwithstanding the above objections the Department of Defense will identify an individual to answer any technical questions regarding ETPs under its current policy such as the meaning of acronyms, military phrases, and jargon that appear in the ETPs themselves and action on those ETPs that may not be readily understandable by individuals without a military background.

Topic 9. The statement, at page 33 of the Report, that “currently available in-service data already show that, cumulatively, transitioning Service members in the Army and Air Force have averaged 167 and 159 days of limited duty, respectively, over a one-year period,” including: any data or other information on which this statement was based; how these averages were calculated and by whom; how “limited duty” was defined and determined for purposes of these calculations; and why such calculations were provided with respect to the Army and Air Force, but not the Navy and the Marine Corps.

Defendants’ Objection. No objection.

DEFENDANTS’ ARGUMENT

“A party who notices a Rule 30(b)(6) deposition should apply fairness and reasonableness to the scope of the matters that the witness is required to testify about,” *Madrigal v. Allstate Indem. Co.*, No. 14-4242, 2015 WL 12746225, at *5 (C.D. Cal. Apr. 22, 2015), as the task of making “a good faith effort to prepare . . . [one or more] 30(b)(6) witness[es] to ‘fully and unequivocally answer questions about the designated [topics] . . . becomes less realistic and

1 increasingly impossible as the number and breadth of noticed subject areas expand.” *Id.*
2 (citations omitted); *see also* 8A Charles Alan Wright et. al., *Federal Practice and Procedure* §
3 2103 (3d ed.) (“[T]he burdens faced by the responding party [served with a 30(b)(6) notice] are
4 considerably more challenging than with an ordinary deposition.”).

5 Here, Plaintiffs’ proposed Rule 30(b)(6) topics should be limited for three main reasons:
6 1) several of Plaintiffs’ topics extend well beyond the scope of the litigation; 2) the majority
7 Plaintiffs’ their topics are duplicative of information they have obtained through other discovery
8 methods or the expected deposition testimony of other current or former DoD employees; and 3)
9 four of Plaintiffs’ topics (3, 4, 6, and 7) call for the same privileged deliberations that are currently
10 at issue in the Governments pending mandamus petition. Accordingly, this Court should issue a
11 protective order limiting the scope of Plaintiffs’ proposed topics to specific factual questions
12 regarding the reasons and justifications for the challenged policy. In the alternative, the Court
13 should issue an order (a) limiting Plaintiffs to one 7-hour deposition of DoD officials (or former
14 officials) currently scheduled for deposition where the Government has indicated that they have
15 sufficient knowledge to answer non-privileged questions regarding Plaintiffs’ proposed topics
16 and (b) deferring any deposition as to Plaintiffs’ topics implicated in the Government’s pending
17 mandamus petition until the Ninth Circuit has ruled on that petition.

18 **A. Many of Plaintiffs’ Topics Fall Outside of the Scope of the Litigation.**

19 As an initial matter, because the Ninth Circuit has previously ruled that the inquiry in this
20 case is limited to whether DoD “reasonably determined [its] policy ‘significantly furthers’ the
21 government’s important interests,” *Karnoski v. Trump*, 926 F.3d 1180, 1202 (9th Cir. 2019), and
22 specifically prohibited this Court from “substitut[ing] its ‘own evaluation of evidence for a
23 reasonable evaluation’ by the military,” *id.* (quoting *Rostker v. Goldberg*, 453 U.S. 57, 68
24 (1981)), any Rule 30(b)(6) deposition should be limited to DoD’s reasons and justifications for
25 the challenged policy. “In short the district court must apply appropriate military deference to
26 its evaluation of the 2018 policy.” *Id.*

27 Discovery requests must both seek relevant information and be “proportional to the needs
28 of the case, considering the importance of the issues at stake in the action, the amount in

1 controversy, the parties' relative access to relevant information, the parties' resources, the
2 importance of the discovery in resolving the issues, and whether the burden or expense of the
3 proposed discovery outweighs its likely benefit." Fed. R. Civ. P. 26(b)(2); *see also Crystal Lakes*
4 *v. Bath & Body Works, LLC*, No. 2:16-CV-2989-MCE-GGH, 2018 WL 533915, at *1 (E.D. Cal.
5 Jan. 23, 2018) ("Relevancy alone is, therefore, no longer sufficient to obtain discovery in the absence
6 of proportionality." (citing *Lauris v. Novartis AG*, 2015 WL 7178602 *2 (E.D. Cal. 2015)). And
7 the Court must limit discovery where "the discovery sought is unreasonably cumulative or
8 duplicative, or can be obtained from some other source that is more convenient, less burdensome,
9 or less expensive" and where "the party seeking discovery has had ample opportunity to obtain
10 the information." Fed. R. Civ. P. 26(b)(2)

11 Here, Plaintiffs' topics stray far afield from anything this Court would be permitted to
12 consider in its evaluation of the constitutionality of the challenged policy. The drafting of the
13 meeting minutes of the Panel of Experts (topic 2), discussions of DoD's Medical and Personnel
14 Executive Steering Committee ("MEDPERS") that occurred as early as July 1, 2015 and
15 extending to the present day (topic 4), details about a particular meeting involving the Deputy
16 Secretary of Defense ("DSD") and Vice Chairman of the Joint Chiefs ("VCJC") (topic 5), the
17 process of drafting DoD's Report and Secretary Mattis' Memorandum (topics 6 and 7), and
18 waiver and Exceptions to Policy Requests (topic 8) extending well after the formation of the
19 challenged policy, all have no bearing on whether the challenged policy "significantly furthers"
20 the government's important interests." *Karnoski*, 926 F.3d at 1202. "[A]though the standard of
21 relevance in the context of discovery may be broader than in the context of admissibility, 'this
22 often intoned legal tenet should not be misapplied so as to allow fishing expeditions in
23 discovery.'" *Heller v. HRB Tax Grp., Inc.*, 287 F.R.D. 483, 485 (E.D. Mo. 2012) (quoting *Hofer*
24 *v. Mack Trucks, Inc.*, 981 F.2d 377, 380 (8th Cir. 1993)). Accordingly, this Court should limit
25 the scope of Plaintiffs' proposed topics to specific factual questions regarding the reasons and
26 justifications for the challenged policy or at least limit the relevant time period to the actual
27 formation of the challenged policy. *See Karnoski*, 926 F.3d at 1202 (questioning the relevance
28

1 of the Presidential Memorandum because it was issued prior to the formation of the Panel of
2 Experts).

3 **B. Plaintiffs’ Topics Are Duplicative of Other Discovery.**

4 Even if the Court permits some inquiry into the topics Plaintiffs have identified, it should
5 not permit questioning that is duplicative of other deposition testimony and other discovery
6 methods. Here, each of Plaintiffs’ proposed topics 1 through 8 are “unreasonably cumulative or
7 duplicative” in some respect. Fed. R. Civ. P. 26(b)(2). For each, either Plaintiffs have already
8 obtained the same information through other discovery methods, or Plaintiffs are already
9 planning to depose the same individuals who DoD would designate to answer their Rule 30(b)(6)
10 topics.

11 For example, topic 1 encompasses virtually anything having to do with the Panel of
12 Experts process. Aside from being entirely too broad for a Rule 30(b)(6) deposition, this topic is
13 wholly duplicative of thousands of pages of documents and interrogatory responses Plaintiffs
14 have already obtained through other discovery methods. For instance, Secretary Mattis’ Terms
15 of Reference—contained in the Administrative Record at 000330–000331—describes the
16 formation, mission, purpose, assignment, deliverables and to whom the recommendations of the
17 Panel would be made. *See* Dkt. 249-1; Dkt. 255-2. The Panel’s meeting minutes, provided to
18 Plaintiffs on November 1, 2019, detail the potential courses of action and policy options it
19 considered, as well as the issues it addressed and its deliberations. *See* Dkt 398 at 2. The 3075-
20 page Administrative Record provides the materials the Panel considered. *See* Dkt. 249-1. The
21 Administrative Record also contains the Panel’s conclusions and recommendations. *See* Dkt.
22 249-1; Dkt. 405-4. DoD has also provided all communications of Panel members regarding their
23 work on the Panel from their time on the Panel. *See* Dkt. 405 at 2. Moreover, in its answer to
24 Interrogatory 18, DoD described in detail the information, statements, advice, opinions, or other
25 input of each current DoD employee who attended Panel meetings. Dkt. 458 at 4. To obtain this
26 information, DoD interviewed all current employees who attended Panel meetings, including
27 several senior military officials including the current Chief of Staff of the Army and Vice Chief
28 of Staff of the Air Force (the highest and second highest ranking uniformed officers in the Army

1 and Air Force). Simply put, through other discovery tools, Plaintiffs have already obtained the
2 most fulsome answer to this topic that DoD can provide. To prepare an agency official for the
3 Rule 30(b)(6) deposition on this topic, Defendants would simply have the official review the
4 information above and summarize or recite it at the deposition. As a result, any further testimony
5 would be entirely duplicative and therefore an unnecessary and unduly burdensome on
6 Defendants. *See E.E.O.C. v. Boeing Co.*, 2007 WL 1146446, at *3 (D. Ariz. Apr. 18, 2007)
7 (finding topic duplicative where it requested information already provided).

8 Moreover, Plaintiffs have already sought, and Defendants have provided, dates for the
9 depositions of two Panel members—Mr. Thomas Dee and Mr. Anthony Kurta—and several
10 officials who attended Panel meetings, including Dr. Terry Adirim, Mr. Lernes Hebert, and Ms.
11 Stephanie Miller. Accordingly, the addition of a Rule 30(b)(6) deposition on the same topic
12 merely designed to obtain an additional deposition from a DoD official is entirely unnecessary.

13 For topics 6 and 7—information pertaining to the drafting of DoD’s Report and Secretary
14 Mattis’ Memorandum—what Plaintiffs seek is either (a) protected by privilege and at issue in
15 the Ninth Circuit’s mandamus petition (*e.g.*, drafts of the Report and Memorandum); (b)
16 duplicative of information previously provided to Plaintiffs in discovery, where Defendants have
17 already produced all non-privileged documents relating to the Memorandum and Report, or (c)
18 duplicative of information Plaintiffs recently obtained through the Court’s Orders regarding
19 interrogatories 16 and 17 and third party communications. *See* Dkt 454 and 458.¹ It would be
20 burdensome and entirely unnecessary to have a DoD employee sit for a deposition just to provide
21 the same information to Plaintiffs again.

22
23
24 ¹ The Court’s Order regarding Plaintiffs’ Interrogatories 16 and 17 required DoD to identify the
25 “principal authors” of DoD’s Report and Recommendations and Secretary Mattis’ Memorandum
26 in addition to identifying all persons who “reviewed, revised, or commented on any drafts” of
27 those documents. *See* Dkt 458 at 1–2. The Court’s Order regarding third party communications
28 required DoD to disclose such communications or formally assert the consultant corollary
exception. *See* Dkt 454 at 1–2. DoD asserted privilege as to communications with two of its
contractors RAND Corporation and Kennell and Associates, Inc., and disclosed all other third
party communications. Dkt. 460 at 2.

1 For topic 8—seeking requests for waivers, exceptions and/or Exceptions to Policy (ETPs)
2 (a) between January 1, 2016 and April 11, 2019 and (b) since April 12, 2019 with respect to
3 military accession or service by transgender persons—the topic itself seems to be a request for
4 production. But Defendants have already answered this very request and provided (or are in the
5 process of providing) the actual requests for waivers and exceptions to policy that Plaintiffs seek.
6 Dkt. 469 at 1, 10. In response to this request, Defendants have agreed to answer any technical
7 questions regarding ETPs under its current policy such as the meaning of acronyms, military
8 phrases and jargon that appear in the waivers, the ETPs themselves, and action on those ETPs,
9 all of which may not be readily understandable by individuals without a military background.
10 But beyond this purpose, it is unclear what purpose a Rule 30(b)(6) deposition on this topic could
11 serve.

12 Finally, for several other topics, Defendants do not object to providing the requested
13 information (despite the fact that much of it goes beyond the scope of the litigation). However,
14 Defendants do object to providing the information multiple times through various discovery
15 methods and multiple depositions of DoD personnel.

16 For topic 2—pertaining to the drafting of Panel meeting minutes—Plaintiffs already plan
17 to depose Mr. Lernes Hebert, who DoD previously identified in its response to Interrogatory 18
18 as one of the individuals responsible for reviewing, finalizing, and approving such minutes.
19 Carmichael Decl. ¶ 6, Ex 5.

20 For topic 3—pertaining to the Transgender Service Policy Working Group—Plaintiffs
21 already plan to depose Ms. Stephanie Miller, who the Government previously identified as the
22 chair of that committee. Carmichael Decl. ¶ 6, Ex 5; ¶ 7, Ex. 6.

23 For topic 4—pertaining to DoD’s Medical and Personnel Executive Steering Committee
24 (MEDPERS)—Plaintiffs plan to depose both Dr. Terry Adirim and Mr. Lernes Hebert, who the
25 Government previously identified as the co-chairs of that committee during the time period of
26 the Panel. Carmichael Decl. ¶ 6, Ex 5; ¶ 6, Ex. 6.

27 For topic 5—pertaining to a briefing given to the Deputy Secretary of Defense and Vice
28 Chair of the Joint Chiefs of Staff on December 15, 2017—Plaintiffs plan to depose Mr. Anthony

1 Kurta and Mr. Lernes Hebert, who the Government identified as the individuals who provided
2 the briefing and directly supported the briefer during the meeting, respectively. Carmichael Decl.
3 ¶ 6, Ex 5.

4 There is no reason why Plaintiffs cannot pursue the same lines of inquiry (where they do
5 not seek privileged information) during these forthcoming depositions. As explained by the
6 Advisory Committee Notes, Rule 30(b)(6) has three purposes: “reducing the difficulties . . .
7 encountered in determining, prior to the deposition, whether a particular employee or agent is a
8 ‘managing agent’. . . . ; curbing the ‘bandying by which officers or managing agents of a
9 corporation are deposed in turn but each disclaims knowledge of facts that are clearly known to
10 persons in the organization ; [and] assisting organizations which find that an unnecessarily
11 large number of their officers and agents are being deposed by a party uncertain of who in the
12 organization has knowledge.” *See also Cates v. LTV Aerospace Corp.*, 480 F.2d 620, 623 (5th
13 Cir. 1973) (citing Advisory Committee Notes); *Federal Deposit Insurance Corp. v. Butcher*, 116
14 F.R.D. 196, 199 (E.D. Tenn. 1986) (Murrian, Mag. J.) (Rule 30(b)(6) is intended “to curb any
15 temptation a [litigant] might have to shunt a discovering party from ‘pillar to post.’”), *aff’d*, 116
16 F.R.D. 203, 205 (E.D. Tenn. 1987). Here, none of these authorized purposes of the rule are
17 served. Instead, Plaintiffs’ proposed Rule 30(b)(6) topics appear only to serve the purpose of
18 obtaining an additional deposition testimony on the same topics that can be addressed by DoD
19 employees (or former employees) in upcoming individual depositions. Accordingly, an
20 additional Rule 30(b)(6) deposition would not only be wasteful and an undue burden, it would
21 work against the purpose of the rule itself. Therefore, Defendants request an order from this
22 Court limiting Plaintiffs to one 7-hour deposition of DoD officials (or former officials) currently
23 scheduled for deposition where the Government has indicated that they have sufficient
24 knowledge to answer non-privileged questions regarding Plaintiffs’ proposed topics. *See*
25 *Dongguk Univ. v. Yale Univ.*, 270 F.R.D. 70, 74 (D. Conn. 2010) (“Where the notice seeks
26 information which could more easily be obtained from another source, the court may refuse to
27 allow that topic to be the subject of a 30(b)(6) deposition.”)

1 **C. Topics 6 and 7 and Portions of Topics 3 and 4 Seek Privileged Information.**

2 Further, through much of Plaintiffs’ topics 6 and 7 (seeking information pertaining to the
3 drafting of DoD’s Report and Secretary Mattis’ Memorandum) and topics 3 and 4 (seeking
4 deliberations of two of DoD’s working groups), specifically seek the mental impressions of
5 senior military decision-makers, including then-Secretary of Defense Mattis himself. Such areas
6 of inquiry are properly subject to the deliberative process privilege and Plaintiffs may not use a
7 Rule 30(b)(6) deposition to delve into such matters. *Doe v. Shanahan*, 917 F.3d 694, 737 (D.C.
8 Cir. 2019) (Williams, J., concurring in result) (“[J]udicial inquires...into executive motivation
9 represent a substantial intrusion into the workings of [a coordinate] branch [] of government.”)
10 (quoting *Vill. Of Arlington Heights v. Metro. Housing Dev. Corp.*, 429 U.S. 252, 268 (1977));
11 *Dep’t of Commerce v. New York*, 139 S. Ct. 2551, 2573–74 (2019) (“In reviewing agency action,
12 a court is ordinarily limited to evaluating the agency’s contemporaneous explanation in light of
13 the existing administrative record. That principle reflects the recognition that further judicial
14 inquiry into executive motivation represents a substantial intrusion into the workings of another
15 branch of Government and should normally be avoided.”) (internal quotations and citations
16 omitted); *see also J.P. Morgan Chase Bank v. Liberty Mut. Ins. Co.*, 209 F.R.D. 361, 363
17 (S.D.N.Y. 2002) (disallowing 30(b)(6) deposition topic that, “[u]nder the guise of requesting
18 ‘facts,’” in fact sought “defendants’ mental impressions, conclusions, opinions, and legal
19 theory”).

20 If a Rule 30(b)(6) deposition were to proceed on these topics, the Government expects to
21 object and instruct its witness not to answer questions where the information sought would be
22 protected by the deliberative process privilege. *See* Rule 30(c)(2) (“A person may instruct a
23 deponent not to answer . . . when necessary to preserve a privilege”); *SEC v. Nacchio*, Civil
24 Action No. 05-cv-00480-MSK-CBS, 2009 U.S. Dist. LEXIS 8365, at *8–9 (D. Colo. Jan. 29,
25 2009) (denying motion to compel Government Rule 30(b)(6) witness to answer questions the
26 witness was instructed not to answer on the grounds of deliberative process privilege). And
27 although there may be some meaningful inquiry as to the functioning of the Panel’s working
28 groups (topics 3 and 4), including any factual information those groups considered and presented

1 to the Panel without delving into the working groups' deliberations, the same cannot be said for
2 Plaintiffs' topics 6 and 7. Topics 6 and 7 seek either information Plaintiffs have obtained through
3 other discovery, *see* Dkt. 454 (ordering the disclosure of third party communications with DoD)
4 and Dkt. 458 (ordering the disclosure of the identity of the "principal authors" of DoD's Report
5 and Secretary Mattis' Memorandum in addition to the identity of all persons who "reviewed,
6 revised, or commented on any drafts"), or information protected by the deliberative process
7 privilege (including deliberations of Secretary Mattis himself). Accordingly, because there can
8 be no meaningful inquiry as to topics 6 and 7, it is entirely too burdensome and disproportionate
9 to the needs of the case for DoD to prepare a witness to sit for a deposition where that witness
10 will be instructed not to answer the majority of questions within that topic. Therefore, this Court
11 should issue a protective order prohibiting a Rule 30(b)(6) deposition as to topics 6 and 7.

12 Plaintiffs' letter of March 18, 2020, argues that this Court's February 3, 2020 oral order
13 permits them to seek a deposition on topics 6 and 7 and the deliberative portions of 3 and 4. Yet
14 Plaintiffs acknowledged that the Ninth Circuit stayed "the district court's December 18, 2019,
15 February 3, 2020, and February 7, 2020 orders," Carmichael Decl. ¶ 5, Ex 4. *See id.* (citing one
16 of the district court's orders from February 3, 2020). Plaintiffs cannot evade this stay through a
17 Rule 30(b)(6) deposition. Nor may Plaintiffs seek to have this Court adjudicate the boundaries
18 of the Ninth Circuit's stay.

19 Next, Plaintiffs seem to suggest that this Court could simply enter a new order finding
20 that the deliberative process privilege is overcome as to their topics 3, 4, 6, and 7. However, the
21 deliberations of the working groups and the drafting process for both DoD's Report and Secretary
22 Mattis Memorandum are squarely at issue in the Government's mandamus petition, as Plaintiffs
23 themselves have recognized. Carmichael Decl. ¶ 3 and 5, Ex's 2 and 4. Allowing for the very
24 deliberations at issue in the documents before the Ninth Circuit to be disclosed through testimony
25 would be an impermissible circumvention of the Ninth Circuit's stay order.² At a minimum, this

26
27 ²As far as Plaintiffs' argue that the drafting of Secretary Mattis' Memorandum is not at issue in
28 the Government's mandamus petition, that is certainly not the case as the Memorandum both
relates and refers to DoD's Report. *See* Dkt. 413 (clarifying that DoD must produce all

1 Court should require Plaintiffs to defer a Rule 30(b)(6) deposition as to any of the topics
2 implicated in the Government’s pending mandamus petition until the Ninth Circuit has ruled on
3 that petition.

4 PLAINTIFFS’ INTRODUCTORY STATEMENT

5 The Government’s motion seeks to thwart Plaintiffs’ legal right under the Federal Rules
6 to use a basic and common discovery device—the deposition of a party’s designated
7 representative(s)—concerning subject matters that are not only indisputably relevant, but address
8 central issues and evidence in this dispute. The Government’s motion is grounded on three
9 objections for which it offers no support and that are contrary to settled law:

- 10 • The Government’s first objection—that “many of Plaintiffs’ topics fall outside of the scope
11 of the litigation”—is premised on an argument both the Ninth Circuit and this Court have
12 already rejected: that military deference forecloses any discovery beyond “factual questions
13 regarding the reasons and justifications” the Government *claims* prompted the “Mattis
14 policy” and/or the time period in which it *claims* that policy was formed. *See supra* at 8–9.
- 15 • The Government does not cite any support for its second objection—that Plaintiffs’
16 Rule 30(b)(6) notice should be limited or denied because it is “duplicative of other
17 discovery,” *supra* at 10—because there is none. The law is well-settled that other discovery
18 concerning the same subject matter—whether by deposition of the same or other witnesses
19 in their individual capacity, document production, or interrogatories—is *not* grounds for
20 objecting to Rule 30(b)(6) testimony on the exact same topic and by the same exact witness.
- 21 • Finally, neither the Government’s pending mandamus petition nor the administrative stay
22 relating to it purport to stay Rule 30(b)(6) depositions or other discovery. Moreover, to the
23 extent the Government thinks testimony by Rule 30(b)(6) witnesses is subject to the
24 deliberative process privilege, this Court has already ordered a process that avoids any
25 prejudice to the Government or use of privileged testimony: that testimony will be sealed and

26
27 _____
28 deliberative documents responsive to Plaintiffs’ RFP 29 which is all documents relating or
referring to its Report and Recommendations).

1 reviewed by the Court *in camera* to determine whether the privilege applies. (See 2/3/2020
2 Hr’g Tr.)

3 The Government’s motion should be denied.

4 **PLAINTIFFS’ ARGUMENT**

5 To obtain a protective order, the Government must show it will suffer “specific prejudice
6 or harm” absent the order. *Phillips ex rel. Estates of Byrd v. Gen. Motors Corp.*, 307 F.3d 1206,
7 1210–11 (9th Cir. 2002); *LVB-Ogden Mktg., LLC v. Bingham*, 2018 WL 6830319, at *4 (W.D.
8 Wash. Dec. 28, 2018). This burden “cannot be met by conclusory statements.” *Braun v. Primary*
9 *Distrib. Doe No. 1*, 2012 WL 12895845, at *2 (N.D. Cal. Nov. 19, 2012). Even when good cause
10 is established, a court must weigh the interests in allowing discovery against the relative burden
11 of the discovery. *Hard Drive Prods., Inc. v. Does 1–118*, 2011 WL 5416193, at *2 (N.D. Cal.
12 Nov. 8, 2011). Here, the Government has not demonstrated it will suffer *any* prejudice or harm
13 if Plaintiffs are permitted to proceed with a Rule 30(b)(6) deposition on the noticed topics, let
14 alone the type of specific harm that would outweigh Plaintiffs’ legal right to discovery pursuant
15 to Rule 30(b)(6) on these clearly relevant subject matters.

16 **A. Plaintiffs’ Rule 30(b)(6) Topics Are Clearly Relevant.**

17 The Government first argues that “many of Plaintiffs’ topics fall outside of the scope of
18 the litigation.” *Supra* at 8–9. This argument is wrong as a matter of both law and fact.

19 Legally, the Government’s relevancy objections are premised on an argument the Ninth
20 Circuit has rejected—that due to military deference, discovery must be limited to “factual
21 questions regarding the reasons and justifications for the challenged policy or at least ... the
22 relevant time period [of] the actual formation of the challenged policy.” *Id.* at 9. In the
23 Government’s view, questioning would be limited only to: identifying and clarifying the reasons
24 and justifications the Government *claims* prompted the Mattis policy, such as “the meaning of
25 acronyms, military phrases, and jargon that appear in the Administrative Record that may not be
26 readily understandable by individuals without a military background,” and to the time period
27 covered by the “Administrative Record,” beginning with the Panel of Experts and excluding both
28 the events leading up to and immediately following the President’s August 25, 2018

1 Memorandum and the specific directives that led to the formation of the Panel and the Mattis
2 policy. *See supra* at 4, 6–7.

3 In “support” of this limitation, the Government offers an inaccurate and selective reading
4 of the Ninth Circuit’s holding in *Karnoski v. Trump*, 926 F.3d 1180 (9th Cir. 2019), which leaves
5 out two critical points. **First**, far from requiring blind deference, the Ninth Circuit instructed that
6 the Government’s justifications for its discriminatory classification must be closely examined to
7 ensure they are “exceedingly persuasive ... genuine, not hypothesized or invented *post hoc* in
8 response to litigation.” *Id.* at 1200. **Second**, the Ninth Circuit found that discovery need *not* be
9 narrowly limited to the “administrative record” the Government later created to support the
10 Mattis policy or to the time period in which the Government claims that policy was formulated.
11 *Id.* at 1204. To the contrary, the Court explicitly acknowledged that Plaintiffs may discover and
12 “present additional evidence” showing that the Ban was “not an exercise of independent military
13 judgment.” This includes evidence that the military was constrained by President Trump’s prior
14 directives when it developed the “Mattis policy.” *Id.* at 1201–02; *accord* Dkt. 235 at 2 (finding
15 “no reason for discovery to be confined to the administrative record” because Plaintiffs “do not
16 challenge the policy under the APA, but instead raise direct constitutional claims”).

17 As the Ninth Circuit recognized, this Court cannot subject the Ban to the requisite
18 heightened scrutiny without knowing whether the Panel’s decision-making process and the
19 Mattis policy were preordained or influenced by the President’s directives in his August 25, 2017
20 Memorandum or motivated by animus. Nor is it appropriate to force Plaintiffs, when challenging
21 the Government’s decision-making process and result, to rely exclusively on the information the
22 Government chose to present to the Panel of Experts (and produce to Plaintiffs) and the February
23 2018 DoD Report, and ignore all other evidence. To determine whether the Ban was indeed
24 created and adopted independent from the President’s directives, and based solely on the
25 military’s judgment and compelling government interests, discovery into the Government’s
26 decision-making process and actual reasons and justifications for the Ban, including testimony
27 from a Government representative about these core issues, is required. (Dkt. 235 at 2.)

1 In short, the only “relevance” standard and limitation that applies here is the usual, liberal
2 definition that applies to all discovery under the Federal Rules of Civil Procedure. *See, e.g.,*
3 *Olberg v. Allstate Ins. Co.*, 2019 WL 6033699, at *2 (W.D. Wash. Nov. 14, 2019) (finding
4 relevance “construed broadly to encompass any matter that bears on, or that reasonably could
5 lead to other matter that could bear on, any issue that is or may be in the case”). The Government
6 does not (and cannot) argue that Plaintiffs’ proposed topics violate this standard, nor does it
7 articulate *any* burden from producing a witness to testify about these topics, let alone one that
8 outweighs the need for discovery. Nor could it. Each of the eight topics to which the Government
9 objects goes to core issues in this case. (The Government does not object to the ninth and final
10 topic in Plaintiffs’ Notice.) The Government’s responses to these topics border on the ridiculous.

11 **Topic 1.** Panel of Experts, including: its formation; its mission, purpose, assignment(s), and
12 deliverables; the potential courses of action and/or policy options it considered; the issues it
13 addressed; the information it requested and/or considered; its deliberations, conclusions, and
14 recommendations, including to whom those recommendations were made; and the Panel’s Final
15 Report and Recommendation.

16 Other than its general “military deference” objection, which both the Ninth Circuit and
17 this Court have rejected, the Government has no response to the relevance of, and Plaintiffs’ need
18 for, this information. Nevertheless, it objects to any examination beyond “the reasons and
19 justifications of the challenged policy, including the meaning of acronyms, military phrases, and
20 jargon that appear in the administrative record and the Panel’s meeting minutes that may not be
21 readily understandable by individuals without a military background.” There is no basis for such
22 a limitation, and the Court should overrule the Government’s objections.

23 **Topic 2.** The preparation, review, and approval of Panel meeting minutes, including: the identity
24 of any individuals who were responsible for documenting Panel meetings and drafting,
25 reviewing, finalizing and approving minutes before they were submitted to the Panel; the
26 process(es) these individuals followed for documenting Panel meetings; why minutes were
27 prepared for some, but not all, Panel meetings, including the Panel’s last four meetings; and the
28 identity of any individuals who decided whether minutes would or would not be prepared and
the reasons why minutes were or were not prepared.

The Government does not make any relevance objections to this topic. Nor could it, given
its heavy reliance on the minutes the Government has produced as a record of what the Panel

1 considered and what transpired at those meetings.³ Plaintiffs are entitled to discovery into
 2 whether the minutes are accurate and complete, particularly because documents recently
 3 produced pursuant to court order in the *Doe* case raise questions about the minutes’ accuracy and
 4 completeness. For example, at one meeting, the Panel heard from 10 commanders of units with
 5 transgender persons serving openly. After reviewing the minutes for that meeting, at least one
 6 Panel member complained that they did “not provide a balanced recording.” (Dkt. 425.)
 7 Although 9 of the 10 commanders did not identify “any unit cohesion or morale issues,” “[o]nly
 8 the negative comments were cited” in the minutes. (*Id.*)

9 **Topic 3.** ‘Transgender Service Policy Working Group’ or ‘Transgender Personnel Policy
 10 Working Group,’ including: the identity of any individuals who served as chairperson, members,
 11 or presented at or participated in the Group’s meetings; the Group’s mission, purpose, and
 12 assignment(s); the potential courses of action the Group considered; the issues addressed by the
 13 Group; any information the Group requested and/or considered; the Group’s deliberations,
 14 conclusions, and recommendations; any reports, presentations, recommendations, or other
 15 communications the Group had or shared with the Panel; and any records or other documents
 16 that reflect the Group’s work, deliberations, conclusions, and/or recommendations.

17 **Topic 4.** Any discussion, consideration, conclusions or recommendations relating to gender
 18 dysphoria, gender transition or accession into the military or military service by transgender
 19 persons by the Department of Defense’s Medical and Personnel Executive Steering Committee
 20 (MEDPERS) during the period July 1, 2015 to the present.

21 The Government likewise does not contest the relevance and need for this testimony. The
 22 Panel relied heavily on “working groups” to support its work, including determining what data,
 23 evidence, and policy considerations the Panel would and would not receive. One of the few
 24 working-group documents produced, a “Kickoff Meeting” presentation for the Transgender
 25 Personnel Policy Working Group, amply demonstrates the relevance of this discovery.
 26 Describing the “guidance” that would guide the group’s deliberations, the presentation cited both
 27 President Trump’s July 26, 2017 tweets and August 25, 2017 Memorandum. (Dkt. 422 at 4, 11.)

28 ³ The Government claims there are no minutes concerning the Panel’s last four meetings, where its
 “recommendations” were apparently discussed and voted on. (*See* Dkt. 435-17.) This includes the three meetings
 held after the Panel issued its “Final Report” and presented its recommendations to the Vice Chairman of the Joint
 Chiefs of Staff (VCJCS) and the Deputy Secretary of Defense (DSD), who rejected these recommendations. (Dkt.
 429.)

1 The presentation further stated that the premise for the committee’s work would be that all
2 “[p]roposed [courses of actions] address POTUS expressed end state.” (*Id.* at 13.)

3 **Topic 5.** The meeting on or around December 15, 2017 at which the Panel presented its
4 recommendations to the Deputy Secretary of Defense (“DSD”) and the Vice Chair of the Joint
5 Chiefs of Staff (“VCJCS”), including: the identity of all individuals present at the meeting; the
6 content of all presentations or written materials provided at the meeting; the reactions and/or
7 response(s) of the DSD and the VCJCS to the Panel’s recommendations; any directions by or
8 requests from the DSD and the VCJCS as to additional or further work the Panel should perform;
9 any documents that reflect what was said, presented, discussed, or decided at the meeting; any
10 follow-up or further work performed by the Panel or others in response to any concerns, reactions
11 or other views or directions of the DSD and/or the VCJCS as a result of the meeting; and any
12 subsequent meetings or communications with or between the Panel and the DSD and/or VCJCS.

13 The Government does not even attempt to explain its bare, unsupported assertion that this
14 topic is “irrelevant.” For good reason. Secretary Mattis directed the DSD and VCJCS “to lead”
15 “in developing an Implementation Plan on military service by transgender individuals, to effect
16 the policy and directives” in the President’s August 25, 2017 Memorandum, and directed that the
17 Panel of Experts would report to and “support” them in recommending to Mattis a policy that
18 would effect the President’s directives. (Dkt. 255-2.) A lone email recently produced in response
19 to the *Doe* order shows that the Panel presented its “Final Report” and recommendations to the
20 DSD and VCJCS on December 15, 2017, but that they rejected those recommendations:

21 VCJCS doesn’t believe SECDEF can defend the recommendations on the Hill or
22 before the press. DSD believes that given the competitive economy we need to
23 compete for all people who can do the job and we need to be clear on the standards
24 we expect - if you can meet them, regardless of what class of person you identify
25 with, then you should be acceptable for military service.

26 (Dkt. 429.) This is the sole document the Government has produced concerning the VCJCS and
27 DSD’s review and rejection or what actions were taken in response.

28 **Topic 6.** The February 2018 Department of Defense “Report and Recommendations on Military
Service by Transgender Persons” (the “Report”), including the identity of any individuals who
approved the Report before it was submitted to Secretary Mattis; the role, if any, of Secretary
Mattis in drafting, preparing, reviewing, revising and/or finalizing the Report before it was
presented to him; the process that was followed and the information and alternatives that were
considered in drafting, revising, finalizing, and approving the Report; the identity and role of any
persons who were not current employees of the Department of Defense or one of the branches of
the military who were involved in any way in providing information that was considered or used
in preparing the Report or in drafting, reviewing, revising, finalizing and approving the Report.”

1 **Topic 7.** The February 22, 2018 Memorandum for the President from Secretary Mattis
2 concerning Military Service by Transgender Individuals (“Memorandum”), including: the
3 principal author(s) of the Memorandum; the identity of any individuals who were involved in
4 drafting and preparing, reviewing and revising, finalizing and/or approving the Memorandum
5 before it was submitted to Secretary Mattis; the role, if any, of Secretary Mattis in drafting,
6 preparing, reviewing, revising and/or finalizing the Memorandum; the process that was
7 followed and the information and alternatives that were considered in drafting, revising,
8 finalizing, and approving the Memorandum; and the identity and role of any persons who were
9 not current employees of the Department of Defense or one of the branches of the military who
10 were involved in any way in drafting, reviewing, revising, finalizing and/or approving the
11 Memorandum.

12 The Government also does not explain why it objects to these requests as “irrelevant.” In
13 fact, the Government previously told this Court that the February 2018 DoD Report sets forth its
14 complete justification for and defense of the discriminatory “Mattis policy.” (7/17/2018 Hr’g
15 Tr.) Secretary Mattis said the same thing when he forwarded the Report to President Trump,
16 along with his February 2018 Memorandum setting forth the Mattis policy. (Dkt. 405-6 at 3
17 (Report sets forth “the factors and considerations forming the basis of the Department’s policy
18 proposals.”).)

19 Despite its critical role in its defense, the Government has refused to produce any
20 documents related to the DoD Report, or the period from January 11, 2018 through February 22,
21 2018 during which it was prepared, including how it was prepared or what sources, information,
22 or alternatives were considered in its preparation. This is so notwithstanding: (1) it is undisputed
23 the Report was prepared after the Panel completed its deliberations, issued its final
24 recommendations, and was disbanded; (2) the Report itself shows it was based on sources that
25 were *not* presented to or considered by the Panel; and (3) third-party discovery, which the
26 Government unsuccessfully sought to quash, confirmed that in early February 2018 a special
27 assistant for Secretary Mattis, who was working on the DoD Report, solicited and received
28 information and published sources cited in the Report from several leading third party opponents
of transgender service. For example, on February 5, 2018, Dr. Paul McHugh provided DoD a
list of sources he believed support the Ban, (Dkt. 435-23), including a May 2014 Hayes Directory
article, which the DoD Report cites five times as support for the “Mattis policy.” *Compare* Dkt.
435-25 *with* Dkt. 405-5 at nn. 26, 67, 72, 88–89; *see also* Dkts. 435-24, 435-26, 435-27, and 435-

1 28; Dkts. 430, 431, 432, and 433 (other correspondence with anti-transgender advocates and
2 sources collected). Despite the indisputable relevance of the February 2018 DoD Report and the
3 Mattis February 22, 2018 Memorandum, the Government has refused to produce any information
4 concerning how these documents were prepared, information and alternatives considered, and
5 whether third parties were involved and their role. Now, without any legal basis, the Government
6 seeks to limit any Rule 30(b)(6) deposition to “technical questions such as to the meaning of
7 acronyms, military phrases, and jargon that appears in [the report or the memorandum] that may
8 not be readily understandable to individuals without a military background.”

9 **Topic 8.** Any requests for waivers, exceptions and/or Exceptions to Policy (ETPs) (a) between
10 January 1, 2016 and April 11, 2019 and (b) since April 12, 2019 with respect to military
11 accession or service by transgender persons, persons who have been diagnosed with or have
12 gender dysphoria, and/or persons who have transitioned or need or seek to transition to a
13 gender other than their birth-assigned gender, including: the number of such requests; the stated
14 reasons for and in support of, and the facts and circumstances concerning, each such request;
15 and the disposition of each such request, including whether it was granted or denied and the
16 reasons provided for each such disposition.

17 The Government does not object to the relevance of this topic. Nor could it. In the past,
18 it has taken the position that, in practice, the effects of the Ban can be, and have been, tempered
19 by the grant of waivers and/or “Exceptions to Policy” for transgender individuals who seek to
20 join (access) the military or who are currently serving. This request seeks information concerning
21 the accuracy of that contention and whether any such waivers and/or exceptions have been
22 granted, and if so, their frequency and the circumstances. Once again, however, Defendants seek
23 to limit Rule 30(b)(6) testimony on this topic to “any technical questions regarding ETPs under
24 [DoD’s] current policy such as the meaning of acronyms, military phrases, and jargon that appear
25 in the ETPs themselves and action on those ETPs that may not be readily understandable by
26 individuals without a military background.”

27 In sum, each of the objected-to topics is not only relevant, but also concerns a core issue
28 as to which Plaintiffs’ need for discovery is clear. The Government’s relevance objections to
these topics are baseless.

B. Existing Discovery Does Not Substitute For A Rule 30(b)(6) Deposition.

The Court should also reject the Government’s argument that a Rule 30(b)(6) deposition is unnecessary because it would “duplicate” other discovery, including “documents and interrogatory responses” and deposition testimony of Government witnesses in their individual capacities. *See supra* at 10, 12. The Government does not provide any support for this objection, because there is none.

To start, the fact that Plaintiffs are taking depositions of fact witnesses who may have personal knowledge of the topics does not render a Rule 30(b)(6) deposition duplicative, nor does it justify limiting Plaintiffs to one seven-hour deposition of DoD officials who are testifying in their individual capacity and are also designated as Rule 30(b)(6) corporate representatives. “A party is entitled to depose someone in both their individual and their corporate capacity.” *YYGM S.A. v. Hanger 221 Santa Monica Inc.*, 2015 WL 12660401, at *1 (C.D. Cal. July 24, 2015). This is because a Rule 30(b)(6) deposition provides evidence unique from that gained via other forms of discovery. Unlike other depositions, a Rule 30(b)(6) deposition allows a party to obtain an “entity’s interpretation of events and documents” and provides that party with “binding testimony from the ... entity.” *Id.* Rule 30(b)(6) depositions also avoid the issue of multiple witnesses disclaiming knowledge on given topics: they curb the “bandying’ by which officers [] of a corporation are deposed in turn but each disclaims knowledge of facts that are clearly known to persons in the organization.” FED. R. CIV. P. 30(b)(6) Advisory Committee’s Note; *supra* at 13.

Accordingly, courts have “rejected the argument that a Rule 30(b)(6) deposition is unnecessary or cumulative simply because individual deponents ... have already testified about the topics noticed in the Rule 30(b)(6) deposition notice.” *La. Pac. Corp.*, 285 F.R.D. at 486–87; *see also Appleton Papers Inc. v. George A. Whiting Paper Co.*, 2009 WL 2870622, at *2 (E.D. Wis. Sept. 2, 2009) (“Corporate designees are commonly produced, and no doubt some of their testimony may be a re-hash of what’s been covered elsewhere, but their testimony is the testimony of the corporation itself, and for that reason alone it may not be duplicative.”). Simply put, “any testimony provided by employees as individuals does not satisfy the need for Plaintiff

1 to obtain binding testimony from the corporate entity.” *Kelly v. Provident Life & Acc. Ins. Co.*,
2 No. 04cv807-AJB (BGS), 2011 WL 2448276, at *4 (S.D. Cal. June 20, 2011).

3 The Government likewise may not avoid producing a Rule 30(b)(6) witness because it
4 has produced documents that are relevant to the deposition topics. “Producing documents and
5 responding to written discovery is not a substitute for providing a thoroughly educated Rule
6 30(b)(6) deponent.” *Great Am. Ins. Co. of N.Y. v. Vegas Constr. Co.*, 251 F.R.D. 534, 541 (D.
7 Nev. 2008). “[T]he two forms of discovery are not equivalent”; “depositions provide a more
8 complete means to obtain information and are, therefore, favored.” *Id.*; *accord Kelly*, 2011 WL
9 2448276, at *3 (similar); *FDIC v. 26 Flamingo, LLC*, 2013 WL 3975006, at *5 (D. Nev. Aug.
10 1, 2013) (“[A] corporation may not take the position that its documents state the company’s
11 position.”). Indeed, one purpose of a Rule 30(b)(6) deposition is to secure the “entity’s
12 interpretation of ... documents”—which may not be apparent from the face of the documents
13 themselves. *La. Pac. Corp.*, 285 F.R.D. at 486–87.

14 Finally, the same is true of interrogatory answers. Courts uniformly reject the
15 Government’s argument that parties may avoid Rule 30(b)(6) testimony “by providing written
16 answers” or “supply[ing] the answers in a written response to an interrogatory.” *26 Flamingo,*
17 *LLC*, 2013 WL 3975006, at *5; *Kelly*, 2011 WL 2448276, at *3. That is particularly true where,
18 as here, many of the Government’s interrogatory responses are neither clear nor complete.
19 Moreover, with respect to information that is provided, Plaintiffs are not required to simply “take
20 Defendants’ word for it” and rely solely on interrogatory answers crafted by opposing counsel.
21 Plaintiffs have a right to test the accuracy and completeness of that information by questioning
22 witnesses with direct knowledge and the authority to speak on behalf of the Government. *See*
23 *Kelly*, 2011 WL 2448276, at *3 (finding that written answers to interrogatories cannot serve as
24 substitutes for Rule 30(b)(6) deposition testimony); *La. Pac. Corp.*, 285 F.R.D. at 486–87 (same).

25 In short, the law is settled that other discovery is no substitute for, or basis for objecting
26 to, a Rule 30(b)(6) deposition. Under Rule 30(b)(6), Plaintiffs have a clear legal right to depose
27 knowledgeable witnesses designated by the Government and to obtain testimony from those
28 witnesses as representatives of, and that is binding on, the Defendants as entities.

1 **C. Deliberative Process Privilege Is No Basis to Preclude Plaintiffs’ Topics.**

2 Finally, the Court should reject the Government’s backstop claim that the deliberative
3 process privilege allows it to refuse to produce a Rule 30(b)(6) witness for Topics 3, 4, 6, and 7.
4 (The Government concedes its deliberative process arguments do not apply to the other five
5 noticed topics, nor is there any basis to suggest otherwise. *Supra* at 14–15.)

6 **First**, the Ninth Circuit’s administrative stay regarding the Government’s mandamus
7 petition does not require this Court to prohibit a Rule 30(b)(6) deposition. Both the Government’s
8 petition and the administrative stay relate only to this Court’s orders that Plaintiffs overcame the
9 deliberative process privilege for, and the Government must produce, documents responsive to
10 two of Plaintiffs’ document requests. They do not seek or purport to halt any other discovery.

11 **Second**, the Government’s deliberative process argument fares no better on the merits.
12 Its primary argument—that “mental impressions” of military decision-makers are categorically
13 privileged—lacks any support. Indeed, none of the three cases it cites even mentions deliberative
14 process privilege. *Supra* at 14. The one case that addresses “mental impressions” is addressing
15 Rule 30(b)(6) topics that seek *attorney* work product. *J.P. Morgan Chase Bank v. Liberty Mut.*
16 *Ins. Co.*, 209 F.R.D. 361, 363 (S.D.N.Y. 2002). The others are even further afield. One discusses
17 the proper scope of review in cases limited to an administrative record, a contention this Court
18 has repeatedly rejected for this case. *Dep’t of Commerce v. N.Y.*, 139 S. Ct. 2551, 2573–74
19 (2019); *see* Dkt. 235, at 2; *Karnoski*, 926 F.3d at 1203, 1206–07. And the other is a concurrence
20 in the D.C. Circuit’s *Doe* decision, which is irreconcilable with the law of this case. *See Doe 2*
21 *v. Shanahan*, 917 F.3d 694, 737 (D.C. Cir. 2019) (Williams, J., concurring). There simply is no
22 support for the Government’s claim that “mental impressions” are off limits under Rule 30(b)(6),
23 much less in a case that turns on the genuineness of the Government’s proffered justifications for
24 a discriminatory policy subject to heightened scrutiny. *See Karnoski*, 926 F.3d at 1206.

25 **Third**, even if the Government were correct that government witnesses’ “mental
26 impressions” are somehow privileged (and it is not), the Government’s argument that “there can
27 be no meaningful inquiry as to Topics 6 and 7” because those topics exclusively “seek the mental
28 impressions of senior military decision-makers” is demonstrably wrong. *See supra* at 15. The

1 challenged topics seek far more than “mental impressions.” Topic 6, for example, seeks (among
2 other things) testimony about “the identity of any individuals who approved the [February 2018]
3 Report before it was submitted to Secretary Mattis and the role, if any, of Secretary Mattis in
4 drafting, preparing, reviewing, revising and/or finalizing the Report before it was presented to
5 him”—factual information that does not remotely implicate “opinions, recommendations, or
6 advice about agency policies.” *Warner*, 742 F.2d at 1161. So too Topic 7, which seeks (among
7 other things) testimony about “the principal author(s) of the [February 2018 Memorandum; the
8 identity of any individuals who were involved in drafting and preparing, reviewing and revising,
9 finalizing and/or approving the Memorandum before it was submitted to Secretary Mattis; the
10 role, if any, of Secretary Mattis in drafting, preparing, reviewing, revising and/or finalizing the
11 Memorandum,” and “the identity and role of any persons who were not current employees of the
12 Department of Defense or one of the branches of the military who were involved in any way in
13 drafting, reviewing, revising, finalizing and/or approving the Memorandum.” The Government’s
14 attempt to foreclose entire subjects wholesale is both legally baseless and factually wrong.

15 Finally, this Court has already instructed the Government on the proper procedure if it
16 wishes to raise a deliberative process objection to deposition testimony: “[I]f there is an objection
17 based upon deliberative process, the objection is made, then the question is answered, and you
18 seal the deposition. And if we have to, we will go over line-by-line as to what comes in and what
19 doesn’t in terms of public testimony.” (2/3/2020 Hr’g Tr. at 64:14–24.) This process is all the
20 protection the Government needs, ensuring no privileged information will be used, or even seen
21 by anyone beyond attorneys in this case, unless and until every objection is fully vetted and only
22 if the Court rejects the Government’s privilege claim. This process also addresses the
23 Government’s past argument with respect to protective orders—that they do not completely
24 eliminate the harm of disclosure because opposing counsel can still “use the [information] in
25 litigation.” (Dkt. 414-1 at 5.) Under the Court’s order, if the Government’s privilege claim is
26 sustained, the testimony in question may not be used by Plaintiffs or their counsel. In short, the
27 Government faces no conceivable harm from proceeding with a Rule 30(b)(6) deposition.

28 * * *

1 The Government has failed to show good cause for a protective order. Plaintiffs therefore
2 respectfully request the Court deny the motion and order the Government to promptly designate
3 a witness for each topic in Plaintiffs' Rule 30(b)(6) notice and produce them for deposition.

4 DEFENDANTS' REPLY

5 Apart from ignoring the unique aspects of litigating in the arena of military affairs, Defs.'
6 Statement 8–10, Plaintiffs fail to acknowledge that Rule 26 requires an inquiry *beyond* just
7 relevance. The Court, in addition to determining relevance, “must limit the frequency or extent
8 of discovery otherwise allowed” if, *inter alia*, such discovery is “unreasonably cumulative or
9 duplicative, or can be obtained from some other source that is more convenient, less burdensome,
10 and less expensive[.]” Rule 26(b)(2)(C). It is wholly unreasonable to have government officials
11 sit for multiple depositions on the same topics when one deposition would be sufficient, or to use
12 Rule 30(b)(6) depositions simply to seek the same information that Plaintiffs already have
13 obtained through other methods of discovery. Worse, a host of Plaintiffs' topics (3–4, 6–7) baldly
14 attempt to circumvent the Ninth Circuit's stay order by requesting the exact same information at
15 issue in the mandamus petition—made obvious by the fact that Plaintiffs recycle much of their
16 arguments from their responses to that petition. *See* Dkt. 459-1 at 15-18 (addressing Plaintiffs'
17 arguments). Defendants' motion for protective order should be granted.

18 CONCLUSION

19 For the foregoing reasons, Defendants respectfully move this Court for a protective order
20 limiting Plaintiffs' Rule 30(b)(6) topics to non-duplicative and non-privileged information
21 regarding DoD's reasons and justifications for the challenged policy. In the alternative,
22 Defendants seek a protective order (a) limiting Plaintiffs to one 7-hour deposition of DoD
23 officials (or former officials) currently scheduled for deposition where the Government has
24 indicated that they have sufficient knowledge to answer non-privileged questions regarding
25 Plaintiffs' proposed topics, and (b) deferring any Rule 30(b)(6) deposition as to Plaintiffs' topics
26 6 and 7 and the portions of topics 3 and 4 seeking deliberations of the Department of Defense's
27 Transgender Service Policy Working Group or the Department of Defense's Department of

1 Defense's Medical and Personnel Executive Steering Committee (MEDPERS) pending the
2 adjudication of the Government's pending mandamus petition.

3
4 Respectfully submitted, May 8, 2020

5
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1 **II. CERTIFICATE OF SERVICE**

2 The undersigned certifies under penalty of perjury under the laws of the United States
3 of America and the laws of the State of Washington that all participants in the case are
4 registered CM/ECF users and that service of the foregoing documents will be accomplished by
5 the CM/ECF system on May 8, 2020.

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The Honorable Marsha J. Pechman

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

RYAN KARNOSKI, et al.,	
	Plaintiffs,
	v.
DONALD J. TRUMP, et al.,	
	Defendants.

No. 2:17-cv-1297-MJP

**[PROPOSED] ORDER GRANTING
PROTECTIVE ORDER REGARDING
PLAINTIFFS' FRCP 30(B)(6) TOPICS**

**NOTE ON MOTION CALENDAR:
[SAME DAY MOTION]**

This matter comes before the Court on the foregoing LCR 37 Joint Submission Regarding Plaintiffs' Federal Rule of Civil Procedure 30(b)(6) topics. The Court, having considered the parties' arguments and finding good cause therefore, GRANTS Defendants' portion of the Joint Submission.

IT IS HEREBY ORDERED:

That Plaintiffs' Rule 30(b)(6) topics will be limited to non-duplicative and non-privileged information regarding DoD's reasons and justifications for the challenged policy;

OR

Plaintiffs shall be limited to one 7 hour deposition of the DoD officials (or former

1 officials) currently scheduled for deposition where the Government has indicated that they have
2 sufficient knowledge to answer non-privileged questions regarding Plaintiffs’ proposed topics.
3 It is further ORDERED that any deposition as to Plaintiffs’ topics 6 and 7 and the portions of
4 topics 3 and 4 seeking deliberations of the Department of Defense’s Transgender Service
5 Policy Working Group or the Department of Defense’s Department of Defense’s Medical and
6 Personnel Executive Steering Committee (MEDPERS) shall be deferred pending the
7 adjudication of the Government’s pending mandamus petition.
8

9 Dated this _____ day of _____, 2020.

10 _____
11 The Honorable Marsha J. Pechman
12 United States District Court Judge
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RYAN KARNOSKI, et al.,
Plaintiffs,

v.

DONALD J TRUMP, et al.,
Defendants.

CASE NO. C17-1297

ORDER RE MOTION TO COMPEL
THE GOVERNMENT’S
WITHHELD COMMUNICATIONS
WITH THIRD PARTIES (DKT. NO.
440);

REQUIRING PRODUCTION OF
DOCUMENTS AFTER *IN CAMERA*
REVIEW

This matter comes before the Court on Defendants’ submission of documents for *in camera* review pursuant to the Court’s Order on Plaintiffs’ Motion to Compel the Government’s Withheld Communications with Third Parties. (Dkt. Nos. 438, 454, 461, 462.) The Special Master, having reviewed the approximately 1,500 pages of documents the Government filed with the Court, and the Court having conferred with the Master, finds that the deliberative process privilege may only apply to one of the documents submitted for review: “Gender Dysphoria Medical Utilization Comparison Methodology With Summary of Results” (“PrivWithhold page

1 numbers 110-119 and its duplicate copies). Further, only the email chains attached as Exhibit 6
2 to the Carmichael Declaration (Dkt. No. 462) are protected by the attorney-client privilege
3 and/or attorney work product. No other privileges were properly asserted. Accordingly, the
4 Court ORDERS:

5 (1) Defendants to produce the documents bearing the Priv/Withhold page numbers of
6 1-109, 120-174, 185-357, 368-496, and 517-1414.

7 (2) Defendants will also produce the Easton Declaration (Dkt. No. 461) and the
8 Carmichael Declaration (Dkt. No. 462), except for the documents in Exhibit 6;

9 (3) Defendants are required to provide additional information about the document
10 entitled “Gender Dysphoria Medical Utilization Comparison Methodology with
11 Summary of Results” (Priv/Withhold 110-119; Duplicates at 175-84, 357-67, 507-
12 16), as to why this document should be considered privileged under the deliberative
13 process privilege in a sealed pleading by May 20, 2020.

14 **Background**

15 This case involves challenges to the Trump Administration’s decision to bar transgender
16 troops from serving or enlisting to serve in the United States Armed Forces (“Mattis policy”),
17 effectively reversing the policy adopted in 2016 (“Carter policy”). In February, upon suspicion
18 that the Government had erroneously asserted the deliberative process privilege and
19 attorney-client privilege over communications with third parties, Plaintiffs identified 487
20 custodians from Defendants’ privilege logs who were potential third parties and asked the
21 Government to produce all communications with those third parties, as neither privilege would
22 apply to those communications. (Dkt. No. 438 at 7.) In the alternative, Plaintiffs moved to
23 compel the Government to revise its privilege logs to assert appropriate privileges over those
24

1 documents and provide sufficient information to allow Plaintiffs to assess the identities of the
2 487 custodians. (Id.) In response, the Government argued that its communications with those
3 third parties are shielded by the “consultant corollary” doctrine, which states that
4 communications with third parties solicited by the Government to aid in its decision-making
5 process are privileged. All. For the Wild Rockies v. Pena, 2017 WL 8778579, at *4-5 (E.D.
6 Wash. Dec. 12, 2017).

7 The Court granted Plaintiffs’ motion, and to the extent the Government claimed privilege,
8 ordered a privilege log be prepared, and privilege-claimed documents be submitted for *in camera*
9 review. Where the Defendants asserted the consultant corollary privilege, the Court ordered
10 Defendants to establish that (1) the third party was contacted to assist the agency in its
11 decision-making process; (2) “the consultant[] [was] hired or solicited by the agency to provide
12 neutral advice and did not . . . ‘represent . . . the interest of any other client, when it advise[d] the
13 agency that hire[d] it.’” Friends of the Earth v. United States Army Corps of Eng’rs, 374 F.
14 Supp. 3d 1045, 1054 (W.D. Wash. 2019) (quoting Department of Interior v. Klamath Water
15 Users Protective Ass’n, 532 U.S. 1, 11 (2001)); and (3) that any communications the
16 Government seeks to protect are indeed deliberative and pre-decisional. (Dkt. No. 454 at 5.)

17 The Government submitted approximately 1,500 pages of documents, representing
18 communications from only 14 of the the 487 persons identified by Plaintiffs. The submitted
19 documents fit into three categories: (1) The RAND Corporation (“RAND”) documents relating
20 to the preparation and release of the Carter policy and the RAND Report, both publicly released
21 on June 30, 2016, (Dkt. No. 505 at 6); (2) the Kennell documents from Kennell & Associates
22 (“Kennell”), a consulting group that assisted the DoD with the Carter policy and the subsequent
23 Mattis policy; and (3) email chains attached to the Carmichael declaration. (Dkt. No. 462.)
24

1 Each page, except for the email chains attached to the Carmichael Declaration, bears a separate
2 page notation “PrivWithhold,” which the Court will use to identify specific documents in the
3 analysis that follows.

4 **A. Rand Documents**

5 Defendants claim that there are 70 documents and communications between RAND and
6 DoD officials to which the deliberative process privilege should attach. (Easton Decl., ¶ 13.)
7 These documents bear the PrivWithhold page designations of 638-1414. Defendants twice
8 asserted the deliberative process privilege applies to the actual RAND Report, although it was
9 made available to the public. (Dkt. No. 505 at 5.) Indeed, one of the copies makes it clear that
10 the RAND Report could be purchased for \$22.50. (See PrivWithhold 1245.)

11 As noted above, the RAND Report was released publicly on June 30, 2016, the same date
12 that the Carter policy was officially adopted. (Dkt. No. 505 at 7.) At some time during the
13 process of preparing the Carter policy, the Government decided that the RAND Report was
14 going to be made available to the public. The Government chose not to identify that date for the
15 Court. However, there are at least some clues.

16 For instance, Agnes Schaefer, the lead contact for RAND, wrote her DoD counterpart:

17 I have begun to rework the transgender briefing per our discussion (please see
18 attached file). I have reorganized the material into the new shell and I have begun
19 to go through and eliminate the jargon, as well as boil down the findings so that
20 they are less academic. Knowing that these slides may go to a broader audience,
21 the flavor of this revised briefing feels much better to me. Look forward to
22 talking with you in the morning.

23 (PrivWithhold 1106 (emphasis added).) A fair inference from this document is that at least as
24 early as February 2016, the DoD and the consultants were aware that the ultimate audience
would be greater than simply the DoD decision-makers. The document also suggests that as of
this date public release of the work was expected by both parties.

1 When asked about this, the Government asserts that it “understand[s] that language to
 2 refer to a broader audience within DoD, not a broader audience of the public.” (Dkt. No. 505 at
 3 5.) The Court finds this unpersuasive because it fails to address Ms. Schaefer’s goal of
 4 eliminating “the jargon”; a broader audience within the DoD would be familiar with military
 5 jargon and abbreviations. The Government has offered nothing from either RAND (with whom
 6 it continues to do business) nor from the DoD to support its assertion.

7 The Government also contends that “[r]egarding the final version of the RAND Report,
 8 that final document was published on the same date that the Carter policy went into effect, June
 9 30, 2016. *See* DTM 16-005, “Military Service of Transgender Serrvice Members” (June 30,
 10 2016), Dkt. 21-8. Defendants thus disagree that the Report itself was intended to be made public
 11 prior to the formal adoption of the Carter policy.” (Dkt. No. 505 at 7-8.)

12 The Government misses the point. Presumably at least by February 6, 2016, the
 13 Government and RAND knew that the RAND Report was going to be made public, along with
 14 the Carter policy. In fact, they were released the same day, a further indication that both
 15 consultants and the government were aware of what the other was planning. Hence, the
 16 underlying basis of the deliberative process privilege is not impacted by the release of any
 17 RAND documents, at least those as early as February 2016.¹

18 In an appeal in this case, the Ninth Circuit discussed the status of the deliberative process
 19 privilege.

20 The deliberative process privilege ... still commands judicial consideration. We
 21 have held that “[a] litigant may obtain deliberative materials if his or her need for
 22 the materials and the need for accurate fact-finding override the government’s
 interest in non-disclosure.” (citing Warner). As the district court here correctly

23 ¹ The February 2016 date is based upon the email referenced. If the Government has information that indicates an
 24 earlier or later date was when the DoD and the RAND consultants knew these works were going to be submitted to
 the public, it should file this information by May 20, 2020.

1 recognized, we balance four factors in determining whether this exception to the
2 deliberative process privilege is met “1) the relevance of the evidence; 2) the
3 availability of other evidence; 3) the government’s role in the litigation; and 4) the
4 extent to which disclosure would hinder frank and independent discussion
5 regarding contemplated policies and decisions.”

6 Karnoski v. Trump, 926 F.3d 1180, 1206 (9th Cir. 2019). The Court held the first two factors
7 favored plaintiffs but directed further review by this Court on the first² and fourth factor. As to
8 the fourth factor, the Government has submitted only a boilerplate claim of harm:

9 The release of DoD’s communications with RAND and Kennell would have a
10 harmful chilling effect on the DoD’s future deliberations. The DoD
11 decision-making process apparatus relies on open and candid conversations
12 between DoD officials and nongovernmental consultants to address many of the
13 difficult and complicated decisions that DoD faces. If such deliberations were
14 disclosed, even pursuant to a protective order, DoD officials who interact with
15 retained consultants would be less willing to engage in full and frank discussions
16 about policy. Indeed, if DoD personnel knew that their thoughts, impressions,
17 and opinions conveyed to contractors like RAND and Kennell would be open to
18 scrutiny, they may hesitate to provide their true positions on potential sources of
19 action out of concern that these discussions could be revealed to wider
20 audiences. The absence of such essential input from DoD personnel would
21 degrade DoD’s decision-making process and could expose the nations to greater
22 overall risk.

23 (Easton Decl., ¶ 24.) This statement is the only “evidence” of harm submitted by the
24 Government regarding the fourth Warner factor. There are at least five problems with the
Government’s position. First, it is so generic and non-specific as to be worthless. There is no
attempt to relate these boilerplate assertions to this case. If this generic language and nothing
more suffices, then under what circumstances could any claim of deliberative process privilege
in any case be overcome?

² Plaintiffs have offered to withdraw their demands for the RAND documents if the Government enters into a stipulation regarding the Carter policy. (Dkt. No. 506 at 2.) If the Government accepts this stipulation, the issues regarding the RAND documents may become moot.

1 Second, the Government’s claim of harm to the deliberative process is unsupported by
 2 evidence from any consultant in this case. This specifically ties into the fact that the release of
 3 the Carter policy and the RAND Report were being issued on the same date, with both sides
 4 aware that there would be public dissemination of both. This raises the question – why would
 5 RAND and the DoD be less than frank and candid with each other regarding the Carter policy
 6 and the RAND Report if they both knew each document was going to be publicly disseminated
 7 on the same day? Third, the government acknowledges that some policy briefings predating the
 8 release of the Carter policy and the RAND Report have already been produced. While this may
 9 not constitute a complete waiver, it highlights the expected public release of this information,
 10 thus undercutting the fundamental purpose of the deliberative process privilege. Fourth, a quick
 11 review of the earlier revisions of RAND drafts consist principally of editorial revisions. While
 12 typos might embarrass the RAND consultant, release is not likely to prevent RAND from giving
 13 the government its full frank and candid advice in the future. Finally, the copyright to the
 14 RAND Report is owned by RAND. It and other documents filed with the Library of Congress
 15 and that bear the Priv/Withhold number, identify RAND as the owner. As to these earlier
 16 versions and documents, the Government has not demonstrated that it has the standing to protect
 17 these from being disclosed.

18 In sum, because it was known by all that the RAND Report and the Carter policy would
 19 be released publicly, the deliberative process privilege would not be harmed by the production of
 20 the RAND Report and related documents, including drafts. The fourth Warner factor does not
 21 prevent disclosure of these documents.

22 //

23 //

24

1 **B. Kennell Documents**

2 As discussed, Kennell is a consulting firm based in Falls Church, Virginia. It was asked
3 to assist in cost analyses for the Carter policy. Later, it was asked to put together studies in a
4 very short time frame to assist in the preparation of the Mattis policy. As part of its work on the
5 Carter policy and RAND Report, Task Orders focused on cost issues were prepared both pre and
6 post-dating the Carter policy and RAND Report. For the reasons set forth above, none of the
7 documents created in furtherance of the Carter policy are properly withheld pursuant to the
8 deliberative process privilege.

9 Kennell was also retained to assist the DoD in its work on the Mattis policy. The work
10 appears to relate to the formulation of a statistically sound study, and assistance in the
11 preparation of materials for a presentation to be made to DoD decision makers. Most of the
12 email chains at issue involve questions regarding construction of a proper study, preliminary
13 reports of data runs, and questions generated. None of these documents are privileged. First,
14 most are not deliberative, but simply report information from the data runs. Second, they do not
15 reach the level of high protection that the Court of Appeals addressed in this case, when it noted
16 “[d]ocuments involving the most senior executives or branch officials, for example may require
17 greater deference. (They may, of course, also be the most relevant.)” Karnoski, 926 F.3d at
18 1206. The email chains do not rise anywhere near this level. Third, to the extent that they
19 simply report data run results, this is data and not deliberation.

20 The Government has suggested that some of these lower level documents may be
21 protected by the Consultant’s Corollary Doctrine (“CCD”). The CCD would require Defendants
22 to show that “(1) the third party was contacted by the agency to assist it in its decision-making
23 process; (2) the consultant [] [was] hired or solicited by the agency to provide advice and did not
24

1 ... represent...the interest of any other client, when it advise[d] the agency that hire[d] it ...; and
2 (3) that any communications that the Government seeks to protect are indeed deliberative and
3 predecisional.” (footnote and citations omitted). The CCD does not shield these documents
4 from disclosure because while elements 1 and 2 may be established in the record, the documents
5 are not deliberative in any sense of the term. They report questions regarding limits and scope of
6 a study, preliminary results of the study, and data. They do not involve the process of
7 deliberation. They involve the process of data collection and reporting. Moreover, the CCD has
8 not been recognized by the Ninth Circuit. Rojas v. Fed. Aviation Admin., 948 F.3d 952 (9th Cir.
9 2020).

10 However, one document may rise to the level of deliberative process privilege. That is
11 the document entitled “Gender Dysphoria Medical Utilization Comparison Methodology with
12 Summary of Results.” (Priv/Withhold 110-119; Duplicates at 175-84, 357-67, 507-16.) While
13 Defendants are not required to produce this document at this time, Defendants must provide an
14 explanation for why the deliberative process privilege applies to this document in a sealed
15 pleading filed not later than May 20, 2020.

16 **C. Carmichael Declaration Documents Attached as Exhibit 6**

17 One of the 487 third party individuals identified by plaintiff was Amanda Samerson, who
18 appears on several email chains. Defendants have established that she was a contract legal
19 assistant providing support on discovery issues on behalf of the Department of Justice. Her
20 presence on the email chain does not destroy the attorney-client privilege or the work product
21 privilege associated with the email chain. The claim of privilege is sustained.

22 **Conclusion**

23 As directed by the Court of Appeals, the Court has applied a “granular” review of the
24 documents claimed as privileged under the deliberative process privilege. Each individual

1 document has been reviewed. None of the documents so claimed fall within the confines of the
 2 deliberative process privilege, with the possible exception of the single document identified
 3 above. The Defendants will produce Priv/Withholding pages 1-109, 120-174, 185-357, 368-496,
 4 517-1414 to plaintiffs not later than May 20, 2020. Defendants will provide further information
 5 on why Priv/Withhold document 110-119 should not be ordered produced not later than May 20,
 6 2020. Defendants will produce copies of the Easton and Carmichael Declarations to plaintiffs
 7 (except Ex. 6 to Carmichael Declaration) not later than May 20,2020. Defendants claims of
 8 privilege relating to the email chain attached as Ex. 6 to the Carmichael Declaration are
 9 sustained.

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 11 The clerk is ordered to provide copies of this order to all counsel.

12 Dated May 12, 2020.

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15 Marsha J. Pechman
 16 United States Senior District Judge

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RYAN KARNOSKI, et al.,

Plaintiffs,

v.

DONALD J TRUMP, et al.,

Defendants.

CASE NO. C17-1297 MJP

ORDER ON LCR 37 JOINT
SUBMISSION RE DEFENDANTS
DELIBERATIVE PROCESS
PRIVILEGE CLAIMS (DKT. NO.
497)

The above-entitled Court, having received and reviewed the LCR 37 Joint Submission Regarding Defendants’ Deliberative Process Privilege Claims (Dkt. No. 497), along with relevant portions of the record, ORDERS that Plaintiffs’ motion to compel Defendants to produce a random sampling of 350 documents for *in camera* review is GRANTED as follows:

- (1) Defendants shall provide Plaintiffs with an updated master privilege log, reflecting an accurate list of withheld documents and privilege assertions by May 22, 2020;
- (2) From the updated master privilege log, Plaintiffs will provide Defendants with a randomized list of 350 documents that were withheld solely on the basis of the deliberative process privilege by May 26, 2020;

- 1 (3) After reviewing the list provided by Plaintiffs, if Defendants find a document that has
2 been withheld on the basis of more than the deliberative process privilege,
3 Defendants will remove that document from the sampling. The Plaintiffs may then
4 substitute another randomized selection for a total of 350;
- 5 (4) Defendants shall file the 350 documents for an *in camera* review with the Court by
6 May 29, 2020.

7 Discussion

8 Since May 2018, Plaintiffs have steadily attempted to compel or obtain further
9 information about the 35,000 to 50,000 documents Defendants have withheld on the basis of the
10 deliberative process privilege. (See e.g., Dkt. Nos. 245, 364, 398, 408, 440, 445, 469.) When
11 Defendants recently produced 300 of these previously withheld documents, Plaintiffs found that
12 for dozens of these documents “no colorable claim of privilege exists.” (Dkt. No. 497 at 2
13 (citing Dkt. No. 472)). Several of these documents were news reports and post-decisional
14 explanations of policies that are not subject to the deliberative process privilege. (Dkt. No. 497
15 at 5.) Other documents contained talking points drafted and disseminated by the Australian and
16 British Governments over which Defendants—various officials and agencies of the United States
17 Government—cannot assert the privilege. (*Id.* at 16.) Because of this and other similar
18 disclosures, Plaintiffs “have grown increasingly concerned that the Government has been broadly
19 misapplying the privilege.” (Dkt. No. 497 at 2.)

20 Plaintiffs therefore seek an Order requiring Defendants to submit 350 documents for an
21 *in camera* review by the Special Master, where the Master will determine whether Defendants
22 have appropriately asserted the privilege. (*Id.* at 5.) This random sampling will include
23 documents withheld solely on the basis of the deliberative process privilege, selected by a
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1 randomization algorithm available through Plaintiffs' discovery review platform, Relativity.

2 (Id.)

3 Defendants argue that Plaintiffs have failed to make a showing that the deliberative
4 process privilege has been misapplied because the privilege was in fact applied correctly over
5 some of the documents recently released and even if it was not, those documents represent only a
6 small fraction of the total documents Defendants have withheld in this case. (Id. at 6-13.) But as
7 Plaintiffs note, the Government does not defend asserting the privilege over eight of the
8 contested documents; applying even this conceded error rate to the 50,000 documents
9 Defendants have withheld on the basis of the deliberative process privilege would suggest that
10 Defendants have erroneously withheld 1,300 documents. (Id. at 16.)

11 Additionally, the Court recently found that Defendants had erroneously asserted the
12 privilege over hundreds of pages of documents submitted to the Court for *in camera* review at a
13 much higher error rate than conceded by the Government in the present Motion. (See Dkt. No.
14 509.) The Court therefore finds that Plaintiffs have raised significant and legitimate concerns
15 that Defendants are improperly withholding documents where no colorable claim of privilege
16 exists.

17 Defendants also argue that Plaintiffs' request would circumvent the Ninth Circuit's
18 administrative stay pending a ruling on Defendants' current Petition for a Writ of Mandamus.
19 (Id. at 13-15.) Defendants are concerned that if the Court were to review these documents to
20 determine whether the privilege has been overcome pursuant to the Warner factors it would
21 violate the Ninth Circuit's administrative stay because the question of whether the Warner
22 factors permit such disclosure is now pending before the Ninth Circuit. (Dkt. No. 497 at 14.)
23 But the documents have not been chosen, so the Court cannot determine at this juncture whether
24

1 the sampling will include “‘deliberative documents’ from RFPs Nos. 15 and 29.” (Dkt. No. 497
2 at 14 (citing Dkt. No. 414-1 (Defendants’ pending Petition for a Writ of Mandamus).)
3 Defendants’ argument is therefore premature. Further, where Defendants identify documents
4 responsive to RFP Nos. 15 and 29 and implicated by the Ninth Circuit’s stay, Defendants may
5 note the documents to Plaintiffs and provide a replacement document for the Court’s *in camera*
6 review.

7 **Conclusion**

8 Finding that Plaintiffs have raised significant and legitimate concerns that Defendants are
9 improperly withholding documents where no colorable claim of privilege exists, the Court
10 GRANTS Plaintiffs’ Motion and ORDERS Defendants to produce the random sample of 350
11 documents to the Court for an *in camera* review by May 29, 2020. Further, Defendants must
12 provide Plaintiffs with an accurate list of withheld documents and privilege assertions by May
13 22, 2020 and the Plaintiffs must provide Defendants with the randomized list of 350 documents
14 by May 26, 2020.

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16 The clerk is ordered to provide copies of this order to all counsel.

17 Dated May 14, 2020.

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19 Marsha J. Pechman
20 Senior United States District Judge

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RYAN KARNOSKI, et al.,

Plaintiffs,

v.

DONALD J TRUMP, et al.,

Defendants.

CASE NO. C17-1297 MJP

ORDER RE LCR 37 JOINT
DISCOVERY SUBMISSION
REGARDING PLAINTIFFS' FRCP
30(B)(6) DEPOSITION TOPICS

The above-entitled Court, having received and reviewed the LCR 37 Joint Submission Regarding Plaintiffs' FRCP 30(b)(6) Deposition Topics (Dkt. No. 503), along with relevant portions of the record, rules as follows:

- (1) Plaintiffs' Rule 30(b)(6) deposition topics are within the scope of the litigation;
- (2) Plaintiffs are entitled to take seven-hour depositions for each designated witness, regardless of whether Plaintiffs have obtained previous discovery containing similar information and regardless of whether the witness has previously been deposed in their individual capacity;

1 (3) Defendants may instruct their witnesses not to answer questions related to Plaintiffs’
2 deposition topic numbers three, four, six, and seven, where the answer is implicated
3 by the Ninth Circuit’s administrative stay (Dkt. No. 415), but Defendants must state
4 the basis for their objection on the record in detail;

5 (4) If the Court rules that the Plaintiffs have overcome the deliberative process privilege
6 or misapplied the privilege in any area where Defendants have objected, Defendants
7 will be required to provide dates for their witnesses’ availability within 10 days of
8 any ruling and will bear the cost of these additional depositions, including travel
9 costs and expenses for Plaintiffs’ counsel.

10 **Discussion**

11 In this LCR 37 Joint Submission, Defendants seek a protective order limiting the nine
12 topics Plaintiffs have identified for their 30(b)(6) depositions, or, in the alternative, limiting
13 Plaintiffs to one seven-hour deposition of DoD officials (or former officials) and deferring any
14 deposition topics that may be implicated by the Government’s pending mandamus petition until
15 after the Ninth Circuit has issued its ruling on the extent of the privilege. (Dkt. No. 503 at 2.)
16 The Government makes three arguments in support of its Motion: (1) several of Plaintiffs’ topics
17 extend well beyond the scope of the litigation; (2) Plaintiffs’ topics are duplicative of
18 information they have obtained through other discovery methods; and (3) four of Plaintiffs’
19 topics seek privileged deliberations that are currently at issue in the Government’s pending
20 mandamus petition. (Dkt. No. 503 at 9.) The Court addresses each argument in turn.

21 1. Deposition Topics are Proportional to the Needs of the Case

22 Defendants first argue that any Rule 30(b)(6) deposition should be limited to the DoD’s
23 reasons and justifications for the challenged policy because the Court “‘must apply appropriate
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1 military deference to its evaluation of the 2018 policy.’” (Dkt. No. 503 (quoting Karnoski v.
2 Trump, 926 F.3d 1180, 1202 (9th Cir. 2019)).) Defendants therefore contend that any questions
3 beyond Defendants’ explanations of its reasons for the challenged policy are irrelevant and not
4 proportional to the needs of the case. (Id.) The Court finds Defendants’ argument unpersuasive.

5 First, even if Defendants’ position on the application of military deference in a case
6 requiring intermediate scrutiny were correct, Defendants have confused the evidentiary standard at
7 trial with the broader discovery standard, which allows parties to obtain discovery regarding any
8 nonprivileged matter that is relevant to any party’s claim or defense. (See Dkt. No. 486 at 3-4 (citing
9 Fed. R. Civ. P. 26).) Plaintiffs’ topics concern the process for drafting the meeting minutes of the
10 Panel of Experts (topic 2); discussions of DoD’s Medical and Personnel Executive Steering
11 Committee (topic 4); details about a particular meeting involving the Deputy Secretary of
12 Defense and Vice Chairman of the Joint Chiefs (topic 5); the process of drafting DoD’s Report
13 and Secretary Mattis’ Memorandum (topics 6 and 7), and Waiver and Exceptions to Policy
14 Requests extending after the formation of the challenged policy (topic 8). (Dkt. No. 503 at 10.)
15 Each of these topics are related to the challenged policy at the center of this lawsuit and seek
16 information “designed to define and clarify the issues.” Klopman-Baerselman v. Air & Liquid
17 Sys. Corp., No. 3:18-CV-05536-RJB, 2019 WL 5227332, at *2 (W.D. Wash. Oct. 16, 2019).

18 Second, while Defendants attack the relevance of the Plaintiffs’ deposition topics, they
19 fail to make any arguments about the factors the Court must weigh to determine whether the
20 topics are proportional to the needs of the case. These factors include: “the importance of the
21 issues at stake in the action, the amount in controversy, the parties’ relative access to relevant
22 information, the parties’ resources, the importance of the discovery in resolving the issues, and
23 whether the burden or expense of the proposed discovery outweighs its likely benefit.” Fed. R.
24 Civ. P. 26(b)(1). This case presents issues of national and constitutional importance and the

1 Government has not put forth even the barest explanation of why preparing the deponents to
 2 answer the proposed deposition topics would be burdensome or expensive. The Defendants have
 3 therefore failed to meet their “heavy burden of showing why discovery should be denied.”
 4 Blankenship v. Hearst Corp., 519 F.2d 418, 429 (9th Cir. 1975).

5 2. Duplicative Topics

6 Defendants next argue that Plaintiffs may not conduct depositions where they have
 7 already obtained the information described in their deposition topics through other discovery
 8 methods. (Dkt. No. 503 at 11.) But Defendants have provided no support for their argument
 9 and, as Plaintiffs note, Courts “uniformly reject the Government’s argument that parties may
 10 avoid Rule 30(b)(6) testimony ‘by providing written answers’ or ‘supply[ing] the answers in a
 11 written response to an interrogatory.’” (Dkt. No. 503 (quoting F.D.I.C. v. 26 Flamingo, LLC,
 12 No. 2:11-CV-01936-JCM, 2013 WL 3975006, at *5 (D. Nev. Aug. 1, 2013); Kelly v. Provident
 13 Life & Acc. Ins. Co., No. 04CV807-AJB BGS, 2011 WL 2448276, at *3 (S.D. Cal. June 20,
 14 2011)).) Even where Plaintiffs have previously received some of the information through
 15 discovery, they are entitled to question Defendants’ designated Rule 30(b)(6) witnesses about the
 16 nature of the documents or interrogatory answers under oath.

17 Defendants also object to providing the information through multiple depositions of the
 18 same witnesses, contemplating a situation where a witness is deposed in both an individual
 19 capacity for seven hours and then again as a 30(b)(6) witness for an additional seven hours on
 20 the same topic. (Dkt. No. 503 at 13.) But Defendants offer no support for this argument either.
 21 And “the fact that a party has already taken depositions of individuals does not insulate a
 22 corporation from producing the same individuals as corporate representatives to give Rule
 23 30(b)(6) depositions on the same topics.” Landmark Screens, LLC v. Morgan, Lewis & Brokius

1 LLP, No. C08-02581 JF(HRL), 2010 WL 3221859, at *2 (N.D. Cal. Aug. 13, 2010). The Court
2 expects the Parties to cooperate in order to minimize the burden on deponents who testify in both
3 their individual and Rule 30(b)(6) capacities; Plaintiffs are entitled to seven hours for each of
4 these depositions but should hold these depositions on consecutive days or even a single day
5 where the two depositions together total no more than seven hours.

6 3. Topics Implicated by the Government’s Pending Mandamus Petition

7 On February 11, 2020, Defendants filed a petition for a writ of mandamus, challenging
8 three of the Court’s orders granting Plaintiffs’ motions to compel responses to Plaintiffs’ RFP
9 Nos. 15 and 29, and arguing that in each instance, the relevance of the information Plaintiffs seek
10 does not overcome the chilling effect of producing the information. (Dkt. No. 414, Ex. 1.) In
11 particular, Defendants challenged the Court’s orders requiring production of DoD drafts of the
12 Report and Recommendations, documents and communications discussing issues related to the
13 policy but never produced to the Panel, and documents and communications related to the Carter
14 policy. (Id.)

15 On February 12, 2020 the Ninth Circuit granted Defendants’ request for a temporary
16 administrative stay, writing: “The district court’s December 18, 2019, February 3, 2020, and
17 February 7, 2020 orders challenged in this petition are temporarily stayed pending further court
18 order.” (Dkt. No. 415.) While the Court only addressed depositions in the February 3, 2020
19 Order, (see Dkt. No. 412 at 64:16-20), Defendants now argue that topic numbers six and seven—
20 which concern the processes used in drafting the DoD’s Report and Recommendations on
21 Military Service by Transgender Persons and the February 22, 2018 Memorandum for the
22 President from Secretary Mattis—and portions of topic numbers three and four—requesting
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1 information about the deliberative processes of two DoD working groups—seek privileged
2 information that is implicated in the Ninth Circuit’s stay. (Dkt. No. 503 at 15-17.)

3 Evaluating the scope of the Ninth Circuit’s broadly-worded stay with an abundance of
4 caution, the Court finds that the stay applies to information about drafts of the Report and
5 Recommendations, documents and communications discussing issues related to the policy but
6 never produced to the Panel, and documents and communications related to the Carter policy,
7 subjects raised by several of Plaintiffs’ topics. Defendants may therefore instruct their witnesses
8 not to answer where Defendants believe the response is implicated by the Ninth Circuit’s stay.
9 But the Court cautions that only some questions under these topics are implicated by the stay and
10 Defendants should proceed with precision. If the Court determines that the Plaintiffs have
11 overcome the deliberative process privilege in any area or the Defendants have asserted the
12 privilege inappropriately, Defendants will be required to provide dates for their witnesses’
13 availability within 10 days of the date of the Ninth Circuit’s ruling to provide the withheld
14 answers.

15 Finally, while the Court interprets the administrative stay broadly and will therefore
16 allow Defendants to instruct their witnesses not to answer certain deposition questions, the Court
17 notes that if Plaintiffs disagree, they may seek clarification from the Ninth Circuit regarding the
18 scope of its stay, especially where the order granting the stay totals two cursory sentences. (Dkt.
19 No. 415.) Further, Plaintiffs may bring to the Court’s attention at any time any objection they
20 believe has been inappropriately asserted.

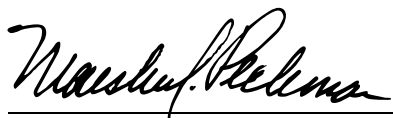
21 **Conclusion**

22 The Court finds that Defendants may instruct their witnesses not to answer where the
23 answer is implicated by the Ninth Circuit’s administrative stay. But Defendants must proceed
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1 with caution because Defendants will be required to produce the witness again at their own
 2 expense should the Court rule against Defendants. The remainder of Defendants' arguments on
 3 the scope and nature of Plaintiffs' topics are unconvincing. The Court therefore DENIES
 4 Defendants' Motion for a Protective Order (Dkt. No. 503) but allows that Defendants may
 5 instruct their designated Rule 30(b)(6) witnesses not to answer where necessary to assert the
 6 deliberative process privilege over topics implicated by the Ninth Circuit's administrative stay.

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 8 The clerk is ordered to provide copies of this order to all counsel.

9 Dated May 29, 2020.

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11 Marsha J. Pechman
 12 United States Senior District Judge

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RYAN KARNOSKI, et al.,

Plaintiffs,

v.

DONALD J TRUMP, et al.,

Defendants.

CASE NO. C17-1297 MJP

ORDER RE *IN CAMERA* REVIEW
OF DOCUMENTS SUBMITTED
PURSUANT TO THE COURT’S
ORDER ON DOCUMENTS
WITHHELD BY THE
GOVERNMENT AS
NON-RESPONSIVE (DKT. NOS.
455, 464)

This matter comes before the Court on Defendants’ submission of documents for *in camera* review pursuant to the Court’s Order on Plaintiffs’ Motion to Compel Documents Withheld by the Government as Non-Responsive. (Dkt. Nos. 449, 455, 465.) Having conferred with the Special Master concerning the approximately 1,700 pages of documents the

1 Government filed for *in camera* review, the Court has made the following privilege
2 determinations on a document-by-document basis, as listed in the attachment to this Order¹:

- 3 (1) The Government must produce all documents listed in the attached exhibit in which “N”
4 has been marked in the column labelled “Privileged” not later than **June 5, 2020**;
- 5 (2) Where the negative privilege decision is followed by an indication in the “Reasons”
6 column that only a portion of the document needs to be produced, the balance of the
7 document may be redacted;
- 8 (3) Documents that are privileged have been labelled by “Y” in the “Privileged” column;
9 where the column is blank, the Court has determined that the document is not relevant
10 and need not be produced.

11 **Background**

12 On March 4, 2020, the Court granted Plaintiffs’ motion to compel documents which are
13 part of an otherwise responsive “family group” of produced material but were withheld on the
14 grounds of “non-responsiveness”; as an example, the Government withheld attachments to
15 emails as “non-responsive” where the email itself was produced. (Dkt. No. 455.) While the
16 Government had not asserted any privilege over these documents or listed them on a privilege
17 log, shortly after the Court issued its Order, the Government submitted an agreed motion for
18 clarification or reconsideration, informing the Court that “during the course of preparing these
19 non-responsive family documents for production, Defendants [] discovered that a small subset of
20 the documents are subject to privilege.” (Dkt. No. 463 at 2.) Defendants believed these

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23 ¹ The Special Master has adjusted the privilege log provided to the Court as an Excel spreadsheet so that the
24 documents would be listed in PrivWithhold order, while still identifying the Defendants’ document numbering
scheme.

1 documents were protected from disclosure by the attorney-client privilege, the attorney work
2 product privilege, the deliberative process privilege, and the executive privilege. (*Id.*) The Court
3 granted Defendants’ Motion for Clarification, ordering Defendants to submit the subset of
4 documents that Defendants believed to be privileged to the Court for *in camera* review along
5 with a privilege log. (Dkt. No. 464.)

6 Discussion

7 Each of the documents submitted for *in camera* review, covering PrivWithholding page
8 numbers 1415 through 3180, have now been reviewed. For a sizeable number of these
9 documents, Defendants’ privilege assertions were not justified. This blanket assertion of
10 privilege without close analysis or articulated rationale must stop.

11 Defendants are reminded of the Ninth Circuit’s guidance concerning the deliberative
12 process privilege:

13 The deliberative process privilege ... still commands judicial consideration. We
14 have held that “[a] litigant may obtain deliberative materials if his or her need for
15 the materials and the need for accurate fact-finding override the government’s
16 interest in non-disclosure.” As the district court here correctly recognized, we
17 balance four factors in determining whether this exception to the deliberative
18 process privilege is met “1) the relevance of the evidence; 2) the availability of
19 other evidence; 3) the government’s role in the litigation; and 4) the extent to
20 which disclosure would hinder frank and independent discussion regarding
21 contemplated policies and decisions. In balancing these factors, we note that the
22 second and third favor plaintiffs.

23 Karnoski v. Trump, 926 F.3d 1180, 1206 (9th Cir 2019) (internal citation omitted). Here,
24 because the Court has determined that the documents at issue are relevant (see Dkt. No.
455), the Government was required to establish that the “chilling effect” of disclosure
outweighs the three other factors. This means, as a non-exhaustive list, that the following

1 types of documents meant for public disclosure or describing public reports are not
2 protected by the deliberative process privilege²:

- 3 1. Press Accounts. Many of the documents claimed privileged are summaries of
4 press inquiries about transgender service policies and the responses to those
5 inquiries. Obviously, these constitute reporting on who was asking questions,
6 the answers provided to the press, and similar public issues. Similarly, “Close
7 of Business” memos reporting on news reports summaries as a historical
8 accounting of the week’s news events should not have been withheld pursuant
9 to the deliberative process privilege.
- 10 2. Cards for prepared responses. These documents reported the use of certain
11 “cards” by categories, including “Transgender.” Prepared responses to
12 common or expected public questions are not deliberative.
- 13 3. Confirmation preparation. Questions and prepared responses to actual or
14 potential confirmation, budget, or Congressional questions are not
15 deliberative. Instead, they are designed for public consumption, the very
16 antithesis of deliberate privilege.

17 As to claims involving the attorney-client privilege, not all documents that include
18 the name of an attorney are subject to withholding pursuant to the privilege. Instead, the
19 communication must seek or elicit legal advice or send information relevant to that end.

20 See In re Grand Jury Investigation, 974 F.2d 1068, 1071 n.2 (9th Cir. 1992) (internal
21 citation omitted) (“The attorney-client privilege may be divided into eight essential
22 elements: (1) Where legal advice of any kind is sought (2) from a professional legal
23 adviser in his capacity as such, (3) the communications relating to that purpose, (4) made
24 in confidence (5) by the client, (6) are at his instance permanently protected (7) from
25 disclosure by himself or by the legal adviser, (8) unless the protection be waived”).

26 Transmittal emails that do not otherwise contain privileged information are not

² In the attachment to this Order, the Court lists these documents as “not deliberative,” a shorthand for rejection of Defendants’ deliberative process privilege claims.

1 privileged, even if they are sent to attorneys, and even if the attachment would otherwise
2 be privileged.

3 The Court makes its privilege determinations in a document-by document basis in
4 the attachment to this Order, using the following demarcations. The "Privilege" column
5 indicates whether each document is privileged by "Y" (yes) or "N" (no) designations.
6 Where the privilege column is blank this indicates, per the "Reasons" column, that the
7 document is not relevant and need not be produced. Where the negative privilege
8 decision is followed by an indication in the "Reasons" column that only a portion of the
9 document need to be produced, meaning the balance of the document can be redacted if
10 the Government chooses to do so.

11 **Conclusion**

12 After close consultation with the Special Master following the review of each document
13 submitted by the Defendants, the Court finds that the Government has been overbroad in its
14 privilege assertions, straying far outside the bounds of the deliberative process privilege and
15 asserting the attorney-client privilege without care. The Government can and should do better.
16 The Court therefore ORDERS the Government to produce all documents listed in the attached
17 exhibit in which "N" has been marked in the column labelled "Privileged" (as modified by
18 permissible redactions set forth in the "Reasons" column) not later than **June 5, 2020**. The
19 Government need not produce documents that have been labelled by a "Y" or have no
20 designation in the "Privileged" column.

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The clerk is ordered to provide copies of this order to all counsel.

Dated May 29, 2020.



Marsha J. Pechman
United States District Judge

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
AF_CTRL_00000187	AF_CTRL_00000185	PrivWith hold1415	PrivWith hold1448	5/10/2018	PDF with file name "20180514 - SecAF w Sen Udall SAC-D Pre-Hearing v5.pdf"	DP - Deliberative Process	Briefing notes produced in preparation for meeting between Secretary of the Air Force and U.S. Senator. Does not relate to the transgender military policy.		Not relevant
AF_CTRL_00000188	AF_CTRL_00000185	PrivWith hold1449	PrivWith hold1468	5/10/2018	PDF with file name "20180514 Sen Tester w SecAF SAC-D Pre-Hearing v5.pdf"	DP - Deliberative Process	Briefing notes produced in preparation for meeting between Secretary of the Air Force and U.S. Senator. Does not relate to the transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
Army_10003250		PrivWith hold1469	PrivWith hold1469	12/11/2017	Email with subject line "Accession Implementation"	AC - Attorney Client	Email from MAJ Dustin Murphy, an Army Judge Advocate assigned to the Office of the Judge Advocate General (Military Personnel Law) Branch requesting information concerning the intended use of attached documents in order to provide legal advice.	y	Attorney client
Army_10004634.0002	Army_10004634	PrivWith hold1470	PrivWith hold1471	10/18/2017	Attachment to an email. Word document titled "Declaration of Raymond Horoho" with file name "Horoho Declaration (John Doe 2).docx"	AC - Attorney Client; WP - Work Product	Draft (unsigned) declaration of Raymond Hororo for use in <i>Stockman v. Trump</i> , sent from MAJ Casey Biggerstaff (Army Litigation Attorney) to other Army attorneys.	y	AC and WP

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
Army_10005406.0001	Army_10005406	PrivWith hold1472	PrivWith hold1473	10/18/2017	Attachment to an email. Word document titled "Declaration of Raymond Horoho" with file name "Horoho Declaration (John Doe 2).docx"	AC - Attorney Client; WP - Work Product	Draft (unsigned) declaration of Raymond Hororo for use to <i>Stockman v. Trump</i> , sent from an Army attorney (MAJ Dustin Murphy, Office of The Judge Advocate General) to an Army attorney (Ms. Maanvi Patoir).	Y	AC and WP
Army_10005414.0002	Army_10005414	PrivWith hold1474	PrivWith hold1475	10/18/2017	Attachment to an email. Word document titled "Declaration of Raymond Horoho" with file name "Horoho Declaration (John Doe 2).docx"	AC - Attorney Client; WP - Work Product	Draft (unsigned) declaration of Raymond Hororo for use in <i>Stockman v. Trump</i> , sent from MAJ Casey Biggerstaff (Army Litigation Attorney) to other Army attorneys	Y	AC and WP

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
Army_10006880		PrivWith hold1476	PrivWith hold1476	1/16/2018	Email with subject line "SSG King SOTU Invite"	AC - Attorney Client	Email from an Army attorney (MAJ Dustin Murphy, Office of The Judge Advocate General, Administrative Law Division) to a Department of Defense attorney that provides information and legal advice regarding a meeting between a service member and an elected official	N	No legal advice sought or provided

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
Army_10006883		PrivWith hold1477	PrivWith hold1477	1/16/2018	Email with subject line "SSG King SOTU Invite"	AC - Attorney Client	Email from an Army attorney (MAJ Dustin Murphy, Office of The Judge Advocate General, Administrative Law Division) to other Army attorneys concerning a meeting between a service member and an elected official, referencing an attached legal review	N	No legal advice sought or provided

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
Army_10006887		PrivWith hold1478	PrivWith hold1478	1/16/2018	Email with subject line "SSG King SOTU Invite"	AC - Attorney Client	Email from an Army attorney (MAJ Dustin Murphy, Office of The Judge Advocate General, Administrative Law Division) that provides information and legal advice regarding a meeting between a service member and an elected official	N	No legal advice sought or provided

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
Army_10006888		PrivWith hold1479	PrivWith hold1479	1/16/2018	Email with subject line "SSG King SOTU Invite"	AC - Attorney Client	Email from an Army attorney (MAJ Dustin Murphy, Office of The Judge Advocate General, Administrative Law Division) that provides information and legal advice regarding a meeting between a service member and an elected official	N	No legal advice sought or provided

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
Army_10007046		PrivWith hold1480	PrivWith hold1480	1/26/2018	Email with subject line "Passport - Accession Processing"	AC - Attorney Client	Email from an Army attorney (MAJ Dustin Murphy, Office of The Judge Advocate General, Administrative Law Division) requesting information regarding the Army's application of transgender applicant processing guidance	N	No legal advice sought or provided
Army_10009171.002	Army_10009171	PrivWith hold1481	PrivWith hold1484	10/24/2017	Email with subject line "RE: Tasking from A/SA & CSA MAVNI (UNCLASSIFIED)"	DP - Deliberative	Email chain reflecting deliberations concerning the development of the MAVNI program.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
Army_10009932		PrivWith hold1485	PrivWith hold1486	1/19/2017	Email with subject line "RE: RFI Response (UNCLASSIFIED)"	AC - Attorney Client	Email from Army attorney (MAJ Laura Grace, Office of The Judge Advocate General) providing legal advice on documents sent for her review.	Y	AC
Army_10009943.0002	Army_10009943	PrivWith hold1487	PrivWith hold1542	1/18/2017	Attachment to email. PDF titled "Advance Policy Questions for James N. Mattis Nominee to be Secretary of Defense" with file name "Mattis Advance Policy Q and A-SASC-12 Jan 17.pdf"	DP - Deliberative	Document drafted to assist nominee for Secretary of Defense in confirmation hearing, which discusses various topics. Highlighted for review and comment in relation to preparations for Secretary of the Army nomination.	N	Not deliberative. Produce top lines of PrivWithhold 1487 and bottom of page reflecting PrivWithhold Number 1487. Produce PrivWithhold 1494-through second paragraph in PrivWithhold 1502. Balance of document not relevant.

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
Army_10010107		PrivWith hold1543	PrivWith hold1545	4/6/2017	Email with subject line "FW: Question about Transgenders and Bathrooms (UNCLASSIFIED)"	AC - Attorney Client	Email to Army attorney (MAJ Laura Grace, Office of the Judge Advocate General) requesting legal advice concerning transgender civilian personnel policy.	N	Legal advice neither sought nor provided
Army_10011373		PrivWith hold1546	PrivWith hold1547	1/24/2018	Email with subject line "RE: CIMT Azimuth Check WRT TG Integration into IET"	AC - Attorney Client	Redacted portion conveys legal advice received from Army attorneys.	Y	AC
Army_10030187	Army_10030186	PrivWith hold1548	PrivWith hold1549	2/21/2018	Email with subject line "RE: TG ROTC Issue"	AC - Attorney Client	Redacted portion conveys legal advice and analysis received from attorneys regarding Title IX issues.	Y	AC

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
Army_10 030301		PrivWith hold1550	PrivWith hold1551	2/12/2018	Email with subject line "RE: Draft Transgender Integration Products for review (UNCLASSIFIED)"	AC - Attorney Client	Email chain requesting and providing legal advice concerning transgender personnel policy, specifically requesting attorneys' feedback on a product title "TG Policy Vignettes"	Y	AC
Army_10 036334		PrivWith hold1552	PrivWith hold1553	2/26/2018	Email with subject line "RE: TG ROTC Issue"	AC - Attorney Client	Redacted portion conveys legal advice and analysis received from attorneys regarding Title IX issues.	Y	AC
Army_10 038153	Army_10 038152	PrivWith hold1554	PrivWith hold1555	2/21/2018	Email with subject line "RE: TG ROTC Issue"	AC - Attorney Client	Redacted portion conveys legal advice and analysis received from attorneys regarding Title IX issues.	Y	AC

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
Army_10 040256	Army_10 040255	PrivWith hold1556	PrivWith hold1566	3/13/2018	Attachment to email. Word document titled "Use of Supplemental Health Care Program Funds for Non-covered TRICARE Health Care Services and the Waiver Process for Active Duty Service Members " with file name "Draft DHA-PI_SHCP_Waivers_Feb 12_CLEAN.doc"	DP - Deliberative	Draft Defense Health Agency Procedural Instruction on "Use of Supplemental Health Care Program Funds for Non-covered TRICARE Health Care Services and the Waiver Process for Active Duty Service Members." Document contains reviewer tracked changes.	N	Not deliberative. Draft policy is not DP. Editorial change of two words does not convert to DP

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00000813		PrivWith hold1567	PrivWith hold1570	12/20/2017	Email with subject line, "RE: [Non-DoD Source] RE: Stone (4th Cir.) -- Opp to Stay Motion"	AC - Attorney Client Privilege; DP - Deliberative Process; WP - Work Product	Discussions between DOJ attorneys and DoD Office of General Counsel (OGC) attorneys concerning filings and draft filings in Stone v. Trump matter. Email discussion reflects attorney mental impressions regarding matter in litigation and draft litigation filings; communications seeking and providing legal advice regarding litigation filings; as well as predecisional deliberations about litigation filings.	Y	AC

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00000951		PrivWith hold1571	PrivWith hold1572	12/14/2017	Email with subject line, "RE: Army Tier 3 Training"	AC - Attorney Client Privilege; DP - Deliberative Process	DoD policy official seeking legal advice from DoD Office of General Counsel (OGC) attorney regarding a training presentation, and OGC attorney providing legal advice concerning that presentation. Discussion reflects OGC attorney's predecisional advice and recommendations regarding the presentation.	Y	AC

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0000 0985	DoD0000 0984	PrivWith hold1573	PrivWith hold1573	12/13/2017	Word document titled "Hard Questions for MAVNI and Foreign National Recruiting" with file name, "SD FY19 Budget Hearing QAs (MAVNI-Foreign National Recruiting).docx"	DP - Deliberative Process	Draft briefing paper regarding Military Accessions Vital to the National Interest (MAVNI) and Foreign National Recruiting. Drafted for Secretary of Defense in preparation for congressional hearing. Contains reviewer comments. Unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00001091	DoD00001090	PrivWith hold1574	PrivWith hold1574	12/11/2017	Word document titled "Hard Questions for Military Accessions Vital to the National Interest (MAVNI)" with file name, "MAVNI LPR FY19 Hard Qs and As.docx"	DP - Deliberative Process	Briefing paper regarding Military Accessions Vital to the National Interest (MAVNI) and Foreign National Recruiting. Drafted for Secretary of Defense in preparation for congressional hearing. Unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00001093	DoD00001090	PrivWith hold1575	PrivWith hold1575	12/11/2017	Word document titled, "Foreign National Recruiting" with file name "SD Foriegn National Recruiting.docx"	DP - Deliberative Process	Briefing paper regarding Military Accessions Vital to the National Interest (MAVNI) and Foreign National Recruiting. Drafted for Secretary of Defense in preparation for congressional hearing. Unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00001105	DoD00001104	PrivWith hold1576	PrivWith hold1577	12/11/2017	Word document titled, "Foreign National Recruiting" with file name "SD Foriegn National Recruiting.docx"	DP - Deliberative Process	Draft briefing paper regarding Military Accessions Vital to the National Interest (MAVNI) and Foreign National Recruiting. Drafted for Secretary of Defense in preparation for congressional hearing. Contains reviewer comments. Unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0000 1125	DoD0000 1124	PrivWith hold1578	PrivWith hold1579	12/11/2017	Word document titled, "Foreign National Recruiting" with file name "SD Foriegn National Recruiting1.docx"	DP - Deliberative Process	Draft briefing paper regarding Military Accessions Vital to the National Interest (MAVNI) and Foreign National Recruiting. Drafted for Secretary of Defense in preparation for congressional hearing. Unrelated to transgender military policy.		Not relevant
DoD0000 1223	DoD0000 1222	PrivWith hold1580	PrivWith hold1584	9/15/2017	Word document titled "DoD Military Accessions Vital to the National Interest (MAVNI) Litigation (as of 13 OCT 2017)" with file name, "MAVNI Litigation Matrix.docx"	AC - Attorney Client Privilege; DP - Deliberative Process; WP - Work Product	Chart describing the status of lawsuits challenging policy related to the Military Accessions Vital to the National Interest (MAVNI) program.	Y	WP

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0000 1469	DoD0000 1468	PrivWith hold1585	PrivWith hold1590	11/27/2017	Attachment to email. Draft Word document that is a memorandum for commanders and officers titled "Policy Memorandum 2-5, Transgender Applicant Processing" with the file name, "Transgender Applicant Processing Policy v10_Nov 27 2017 - DJG.DOC"	AC - Attorney Client Privilege; DP - Deliberative Process; WP - Work Product	Draft DoD memorandum containing edits and comments from DoD Office of General Counsel (OGC) Attorneys John Casciotti and David Gruber. Document reflects provision of attorney recommendations and advice and attorney mental impressions regarding matter in litigation.	Y	DP and AC

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0000 1735	DoD0000 1730	PrivWith hold1591	PrivWith hold1591	11/8/2017	Attachment to email. Word document titled "MILITARY ACCESSIONS VITAL TO THE NATIONAL INTEREST (MAVNI)" with file name, "14 - DACA and MAVNI.docx"	DP - Deliberative Process	Draft briefing paper for DoD leadership regarding Military Accessions Vital to the National Interest (MAVNI) and related litigation. Unrelated to transgender military policy.		Not relevant
DoD0000 2247	DoD0000 2246	PrivWith hold1592	PrivWith hold1593	9/22/2017	PDF of info memo with subject line "Military Accessions Vital to the National Interest (MAVNI) Pilot Program Update" with file name, "MAVNI.PDF"	DP - Deliberative Process	Memorandum for the Secretary of Defense from two Under Secretaries of Defense regarding Military Accessions Vital to the National Interest (MAVNI). Contains advice and recommendations for the Secretary. Unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0000 2891	DoD0000 2887	PrivWith hold1594	PrivWith hold1594	7/7/2017	Attachment to email. Word document titled, "Military Accessions Vital to the National Interest (MAVNI)" with file name "DSD Readbook - MAVNI.docx"	DP - Deliberative Process	Briefing paper prepared for the Deputy Secretary of Defense regarding Military Accessions Vital to the National Interest (MAVNI). Unrelated to transgender military policy.		Not relevant
DoD0000 2905	DoD0000 2898	PrivWith hold1595	PrivWith hold1596	4/4/2017	Attachment to email. Word document titled, "Military Accessions Vital to the National Interest (MAVNI)" with file name "3J DSD Confirmation - MAVNI-DACA 20170404.docx"	DP - Deliberative Process	Briefing paper prepared for the Deputy Secretary of Defense regarding Military Accessions Vital to the National Interest (MAVNI). Unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00003017	DoD00003016	PrivWith hold1597	PrivWith hold1599	6/19/2017	Attachment to email. Word document of a "Memorandum for the White House Staff Secretary and Cabinet Secretary" with subject "Department of Defense Weekly Update for the Week of June 19th, 2017" with file name, "19 June 2017 - PR Lookahead.docx"	DP - Deliberative Process; EP - Executive Privilege	Memorandum for the White House Staff Secretary and Cabinet Secretary on the subject of "Department of Defense Weekly Update for the Week of June 19, 2017." Unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0000 3104	DoD0000 3103	PrivWith hold1600	PrivWith hold1601	5/17/2017	Word document titled "MAVNI" with file name, "17 MAY - TOP LINES - MAVNI - Transgender (SAB).doc"	DP - Deliberative Process	Draft internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns Military Accessions Vital to the National Interest (MAVNI) as well as Transgender Policy.	N	Not deliberative
DoD0000 3106	DoD0000 3105	PrivWith hold1602	PrivWith hold1603	5/17/2017	Word document titled "MAVNI" with file name, "17 MAY - TOP LINES - MAVNI - Transgender (SAB).doc"	DP - Deliberative Process	Draft internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns Military Accessions Vital to the National Interest (MAVNI) as well as Transgender Policy.	N	Not deliberative.

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0000 3108	DoD0000 3107	PrivWith hold1604	PrivWith hold1605	5/17/2017	Word document titled "MAVNI" with file name, "17 MAY - TOP LINES - MAVNI - Transgender.doc"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns Military Accessions Vital to the National Interest (MAVNI) as well as Transgender Policy.	N	Not deliberative.
DoD0000 3114	DoD0000 3113	PrivWith hold1606	PrivWith hold1607	5/16/2017	Word document titled "MAVNI" with file name, "17 MAY - TOP LINES - MAVNI - Transgender.doc"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns Military Accessions Vital to the National Interest (MAVNI) as well as Transgender Policy.	N	Not deliberative

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0000 3210	DoD0000 3207	PrivWith hold1608	PrivWith hold1608	2/23/2017	Word document titled "MAVNI" with file name, "MAVNI_DACA QAs.docx"	DP - Deliberative Process;	Draft internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns policies and events unrelated to transgender military policy.		Not relevant
DoD0000 3796	DoD0000 3794	PrivWith hold1609	PrivWith hold1628	5/10/2016	Draft Word document titled "DOD INSTRUCTION ####.##" with file name, "DoDI 10 May Track Changes.docx"	AC - Attorney Client Privilege; DP - Deliberative Process; WP - Work Product	Draft DoD memorandum containing edits by DoD attorney Hershel Eisenberger. Document reflects provision of attorney recommendations and advice and attorney mental impressions regarding matter in litigation.	Y	AC and DP

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0000 4658	DoD0000 4657	PrivWith hold1629	PrivWith hold1630	8/1/2017	Word document titled "BACKGROUND ON MILITARY ACCESSIONS VITAL TO THE NATIONAL INTEREST (MAVNI) & DEFERRED ACTION FOR CHILDHOOD ARRIVALS (DACA)" with file name "MAVNI_DACA backgrounder (AP Smooth).docx"	DP - Deliberative Process	Internal briefing document prepared to assist senior DoD leadership. Contains briefing and recommendations concerning Military Accessions Vital to the National Interest (MAVNI). Concerns policies and events unrelated to transgender military policy.		Not relevant
DoD0000 5474	DoD0000 5472	PrivWith hold1631	PrivWith hold1633	2/10/2009	PDF the header "DoDI 1300.17, February 10, 2009" with file name "130017 draft Pre Post Religious Accommodation (Proposed Changes).pdf"	DP - Deliberative Process	Internal draft DoD memorandum regarding policy for religious accommodations in the military. Concerns policies and events unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00008025		PrivWith hold1634	PrivWith hold1635	12/8/2017	Email with file name "RE: Feedback from the Lethality WG Back brief to DSD"	DP - Deliberative Process	Email communication among DoD policy officials concerning recommendations presented to a senior official about lethality and readiness of the armed forces.	y	DP
DoD00009259	DoD00009258	PrivWith hold1636	PrivWith hold1636	12/11/2017	Attachment to email. Word document titled "Hard Questions for Military Accessions Vital to the National Interest (MAVNI)" with file name "SD Budget Hearing Q&As (MAVNI-Foreign National Recruiting).docx"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns Military Accessions Vital to the National Interest (MAVNI). Unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0000 9260	DoD0000 9258	PrivWith hold1637	PrivWith hold1637	12/11/2017	Attachment to email. Word document titled "Foreign National Recruiting" with file name "SAMPLE Issue Paper with Instructions" with file name "SD Budget Hearing Issue Paper (MAVNI-Foreign National Recruiting).docx"	DP - Deliberative Process	Internal briefing and press guidance document prepared to assist senior DoD leadership. Concerns Military Accessions Vital to the National Interest (MAVNI). Unrelated to transgender military policy.		Not relevant
DoD0000 9266	DoD0000 9265	PrivWith hold1638	PrivWith hold1638	12/11/2017	Attachment to email. Word document titled "Hard Questions for Military Accessions Vital to the National Interest (MAVNI)" with file name "MAVNI LPR FY19 Hard Qs and As.docx"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns Military Accessions Vital to the National Interest (MAVNI). Unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0000 9273	DoD0000 9271	PrivWith hold1639	PrivWith hold1639	12/11/2017	Attachment to email. Word document titled "Foreign National Recruiting" with file name "SAMPLE Issue Paper with Instructions" with file name "SD Budget Hearing Issue Paper (MAVNI-Foreign National Recruiting).docx"	DP - Deliberative Process	Internal briefing and press guidance document prepared to assist senior DoD leadership. Concerns Military Accessions Vital to the National Interest (MAVNI). Unrelated to transgender military policy.		Not relevant
DoD0000 9289		PrivWith hold1640	PrivWith hold1641	12/8/2017	Email with subject line "FW: MEDICAL STANDARDS FOR APPOINTMENTS ENLISTMENT OR INDUCTION OF TRANSGENDER APPLICANTS INTO THE MILITAROSD01526 5-17 RES FINAL (UNCLASSIFIED)"	AC - Attorney Client Privilege; DP - Deliberative Process;	Email communication from DoD policy official to DoD Office of General Counsel (OGC) attorneys seeking legal advice and recommendations on whether to forward a DoD memorandum to other components within DoD.	N	Transmittal email; no legal advice sought or provided

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00009838	DoD00009837	PrivWith hold1642	PrivWith hold1643	8/1/2017	Attachment to email. Word document titled "BACKGROUND ON MILITARY ACCESSIONS VITAL TO THE NATIONAL INTEREST (MAVNI) & DEFERRED ACTION FOR CHILDHOOD ARRIVALS (DACA)" with file name "MAVNI_DACA backgrounder (AP Smooth).docx"	DP - Deliberative Process	Internal briefing document prepared to assist senior DoD leadership. Contains background and recommendations concerning Military Accessions Vital to the National Interest (MAVNI). Concerns policies and events unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0000 9861	DoD0000 9860	PrivWith hold1644	PrivWith hold1644	7/10/2017	Attachment to email. Word document titled "Military Accessions Vital to the National Interest" with file name "DSD - MAVNI- DACA.DOCX"	DP - Deliberative Process	Internal briefing document prepared to assist senior DoD leadership. Contains background and recommendations concerning Military Accessions Vital to the National Interest (MAVNI). Concerns policies and events unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00009930		PrivWith hold1645	PrivWith hold1647	7/25/2017	Email with the subject line "FW: DSD priorities meeting today (suspense: 1200) (UNCLASSIFIED)"	DP - Deliberative Process	Internal email communication among DoD officials related to Military Accessions Vital to the National Interest (MAVNI). Reflects DoD analysis and recommendations. Concerns policies and events unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00010002	DoD00010001	PrivWith hold1648	PrivWith hold1648	7/10/2017	Attachment to email. Word document titled "Military Accessions Vital to the National Interest" with file name "3J- DSD Confirmation - MAVNI- DACA.docx"	DP - Deliberative Process	Internal briefing document prepared to assist senior DoD leadership. Contains background and recommendations concerning Military Accessions Vital to the National Interest (MAVNI). Concerns policies and events unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00010008	DoD00010006	PrivWith hold1649	PrivWith hold1649	7/10/2017	Attachment to email. Word document titled "Military Accessions Vital to the National Interest" with file name "3J- DSD Confirmation - MAVNI- DACA.docx"	DP - Deliberative Process	Internal briefing document prepared to assist senior DoD leadership. Contains briefing and recommendations concerning Military Accessions Vital to the National Interest (MAVNI). Concerns policies and events unrelated to transgender military policy.		Not relevant
DoD00010262	DoD00010261	PrivWith hold1650	PrivWith hold1650	2/23/2017	Attachment to email. Word document titled "MAVNI" with file name "MAVNI_DACA QAs.docx"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns Military Accessions Vital to the National Interest (MAVNI).		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0001 1514	DoD0001 1513	PrivWith hold1651	PrivWith hold1651	7/10/2017	Attachment to email. Word document titled "Military Accessions Vital to the National Interest" with file name "3J- DSD Confirmation - MAVNI- DACA.docx"	DP - Deliberative Process	Internal briefing document prepared to assist senior DoD leadership. Contains briefing and recommendations concerning Military Accessions Vital to the National Interest (MAVNI). Concerns policies and events unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0001 1518	DoD0001 1517	PrivWith hold1652	PrivWith hold1652	7/10/2017	Attachment to email. Word document titled "Military Accessions Vital to the National Interest" with file name "3J- DSD Confirmation - MAVNI- DACA.docx"	DP - Deliberative Process	Draft internal briefing document prepared to assist senior DoD leadership. Contains briefing and recommendations concerning Military Accessions Vital to the National Interest (MAVNI). Concerns policies and events unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0002 1464	DoD0002 1463	PrivWith hold1653	PrivWith hold1653	3/29/2017	Attachment to email. Word document titled "Military Accessions Vital to the National Interest (MAVNI)" with file name "3J Confirmation Issue Paper MAVNI-DACA v2.docx"	DP - Deliberative Process	Internal briefing document prepared to assist senior DoD leadership. Contains briefing and recommendations concerning Military Accessions Vital to the National Interest (MAVNI). Concerns policies and events unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00021669		PrivWith hold1654	PrivWith hold1656	8/1/2017	Email with subject line "FW: TG (UNCLASSIFIED)"	AC - Attorney Client Privilege; DP - Deliberative Process;	Internal DoD email communication in which DoD officials discuss deliberations regarding implementation of policy for transgender service members and impacts on readiness, and then seek legal advice from DoD Office of General Counsel (OGC) attorneys regarding the same. DoD OGC attorneys respond, providing advice.	Y	AC

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00021851		PrivWith hold1657	PrivWith hold1661	4/4/2017	Email with subject line "RE: DSD Nomination Prep Materials -- SUSPENSE: April 4th (UNCLASSIFIED) Part 1"	AC - Attorney Client Privilege; DP - Deliberative Process;	Internal DoD email communication in which DoD officials discuss draft briefing papers for confirmation hearing for Deputy Secretary of Defense, and then seek legal advice from DoD Office of General Counsel (OGC) attorneys regarding those draft briefing papers. Email discussion reveals DoD official's and OGC attorney's comments on the draft briefing papers.	N	No DP because not deliberative. No AC because legal advice neither sought or provided.

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0002 2234	DoD0002 2232	PrivWith hold1662	PrivWith hold1663	3/28/2017	Attachment to email. Word document titled "Military Accessions Vital to the National Interest (MAVNI)" with file name "3J DSD Confirmation - MAVNI-DACA 20170404.docx"	DP - Deliberative Process	Internal briefing document prepared to assist senior DoD leadership. Contains briefing and recommendations concerning Military Accessions Vital to the National Interest (MAVNI). Concerns policies and events unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00022285	DoD00022284	PrivWith hold1664	PrivWith hold1664	7/10/2017	Attachment to email. Word document titled "Military Accessions Vital to the National Interest" with file name "DSD - MAVNI- DACA.DOCX"	DP - Deliberative Process	Internal briefing document prepared to assist senior DoD leadership. Contains briefing and recommendations concerning Military Accessions Vital to the National Interest (MAVNI). Concerns policies and events unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0002 2473	DoD0002 2472	PrivWith hold1665	PrivWith hold1665	3/28/2017	Attachment to email. Word document titled "Military Accessions Vital to the National Interest (MAVNI)" with file name "3J Confirmation Issue Paper MAVNI-DACA v2.docx"	DP - Deliberative Process	Internal briefing document prepared to assist senior DoD leadership. Contains background and recommendations concerning Military Accessions Vital to the National Interest (MAVNI). Concerns policies and events unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0002 2542	DoD0002 2540	PrivWith hold1666	PrivWith hold1666	3/28/2017	Attachment to email. Word document titled "Military Accessions Vital to the National Interest (MAVNI)" with file name "3J Confirmation Issue Paper MAVNI-DACA v2.docx"	DP - Deliberative Process	Internal briefing document prepared to assist senior DoD leadership. Contains background and recommendations concerning Military Accessions Vital to the National Interest (MAVNI). Concerns policies and events unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0002 2579	DoD0002 2575	PrivWith hold1667	PrivWith hold1667	7/7/2017	Attachment to email. Word document titled "Military Accessions Vital to the National Interest" with file name "M&RA U -- DACA and Military Personnel Policy (MAVNI) (1)(SAB).docx"	DP - Deliberative Process	Internal briefing document prepared to assist senior DoD leadership. Contains briefing and recommendations concerning Military Accessions Vital to the National Interest (MAVNI). Concerns policies and events unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0002 2604	DoD0002 2603	PrivWith hold1668	PrivWith hold1670	8/14/2017	Word document titled "MILITARY ACCESSIONS VITAL TO THE NATIONAL INTEREST" with file name "MAVNI Issue Papers.doc"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns Military Accessions Vital to the National Interest (MAVNI). Unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0002 2617	DoD0002 2610	PrivWith hold1671	PrivWith hold1672	3/28/2017	Attachment to email. Word document titled "Military Accessions Vital to the National Interest (MAVNI)" with file name "3J DSD Confirmation - MAVNI-DACA 20170404.docx"	DP - Deliberative Process	Internal briefing document prepared to assist senior DoD leadership. Contains briefing and recommendations concerning Military Accessions Vital to the National Interest (MAVNI). Concerns policies and events unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0002 2635	DoD0002 2631	PrivWith hold1673	PrivWith hold1673	7/7/2017	Attachment to email. Word document titled "Military Accessions Vital to the National Interest" with file name "M&RA U -- DACA and Military Personnel Policy (MAVNI) (1)(SAB).docx"	DP - Deliberative Process	Internal briefing document prepared to assist senior DoD leadership. Contains briefing and recommendations concerning Military Accessions Vital to the National Interest (MAVNI). Concerns policies and events unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0002 2678	DoD0002 2677	PrivWith hold1674	PrivWith hold1674	7/7/2017	Attachment to email. Word document titled "Military Accessions Vital to the National Interest" with file name "DSD - MAVNI- DACA.DOCX"	DP - Deliberative Process	Internal briefing document prepared to assist senior DoD leadership. Contains briefing and recommendations concerning Military Accessions Vital to the National Interest (MAVNI). Concerns policies and events unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0002 2695	DoD0002 2691	PrivWith hold1675	PrivWith hold1675	7/7/2017	Attachment to email. Word document titled "Military Accessions Vital to the National Interest" with file name "M&RA U -- DACA and Military Personnel Policy (MAVNI) (1)(SAB).docx"	DP - Deliberative Process	Internal briefing document prepared to assist senior DoD leadership. Contains briefing and recommendations concerning Military Accessions Vital to the National Interest (MAVNI). Concerns policies and events unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0002 2711	DoD0002 2707	PrivWith hold1676	PrivWith hold1676	7/7/2017	Attachment to email. Word document titled "Military Accessions Vital to the National Interest (MAVNI)" with file name "DSD Readbook - MAVNI.docx"	DP - Deliberative Process	Internal briefing document prepared to assist senior DoD leadership. Contains briefing and recommendations concerning Military Accessions Vital to the National Interest (MAVNI). Concerns policies and events unrelated to transgender military policy.		Not relevant

DoD0002 2795		PrivWith hold1677	PrivWith hold1679	3/28/2017	Email with subject line "Draft APQs for GC"	AC - Attorney Client Privilege; DP - Deliberative Process; WP - Work Product	Internal email communication by DoD official requesting legal advice from DoD Office of General Counsel (OGC) attorneys concerning potential questions from Congress regarding forthcoming nomination of the DoD General Counsel. DoD OGC attorneys then discuss how to divide up and respond to the request. Potential questions in the request cover topics (e.g. Detention and Military Commissions), which were the subject of ongoing litigation.		Not relevant
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Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0002 6962	DoD0002 6961	PrivWith hold1680	PrivWith hold1681	8/2/2017	Attachment to email. Word document titled "TRANSITION ASSISTANCE PROGRAM (TAP)" with file name "MRA N TAP(SAB).docx"	DP - Deliberative Process	Draft internal briefing document prepared to assist senior DoD leadership. Contains briefing and recommendations concerning Transition Assistance Program for veterans. Concerns policies and events unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00026963	DoD00026961	PrivWith hold1682	PrivWith hold1683	8/2/2017	Attachment to email. Word document titled "Military Technician Management" with file name "MRA N RC-Guard Issues MilTech(SAB).docx "	DP - Deliberative Process	Draft internal briefing document prepared to assist senior DoD leadership. Contains briefing and recommendations concerning Military Technician program. Concerns policies and events unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0002 6969	DoD0002 6968	PrivWith hold1684	PrivWith hold1685	8/1/2017	Attachment to email. Word document titled "BACKGROUND ON MILITARY ACCESSIONS VITAL TO THE NATIONAL INTEREST (MAVNI) & DEFERRED ACTION FOR CHILDHOOD ARRIVALS (DACA)" with file name "MAVNI_DACA backgrounder (AP Smooth).docx"	DP - Deliberative Process	Internal briefing and press guidance document prepared to assist senior DoD leadership. Concerns Military Accessions Vital to the National Interest (MAVNI). Unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00026979	DoD00026978	PrivWith hold1686	PrivWith hold1687	7/31/2017	Attachment to email. Word document titled "Reserve Component Duty Status Reform" with file name "MRA N-- RC Duty Status Reform(SAB).docx"	DP - Deliberative Process	Draft internal briefing document prepared to assist senior DoD leadership. Contains briefing and recommendations concerning Reserve Component Duty Status Reform. Concerns policies and events unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00026981	DoD00026978	PrivWith hold1688	PrivWith hold1688	7/31/2017	Attachment to email. Word document titled "Religious Accommodation" with file name "MRA N -- Religious Accommodations(SAB).docx"	DP - Deliberative Process	Draft internal briefing document prepared to assist senior DoD leadership. Contains briefing and recommendations concerning religious accomodations in the military. Concerns policies and events unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00026982	DoD00026978	PrivWith hold1689	PrivWith hold1689	7/7/2017	Attachment to email. Word document titled "Military Accessions Vital to the National Interest" with file name "MRA U -- DACA and Military Personnel Policy (MAVNI) (1)(SAB).DOCX"	DP - Deliberative Process	Draft briefing paper regarding Military Accessions Vital to the National Interest (MAVNI). Drafted pursuant to preparations for confirmation hearing of nominee to be Undersecretary of Defense for Personnel and Readiness. Contains reviewer comments and tracked changes. Unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0002 6983	DoD0002 6978	PrivWith hold1690	PrivWith hold1691	7/31/2017	Word document titled "Military Personnel Authorities Reform" with file name "MRA N -- Military Personnel Authorities Reform(SAB).docx"	DP - Deliberative Process	Draft briefing paper regarding Military Peronnel Reform Authorities. Drafted pursuant to preparations for confirmation hearing of nominee to be Undersecretary of Defense for Personnel and Readiness. Contains reviewer comments and tracked changes. Unrelated to transgender military policy.		Not relevant
DoD0002 7041	DoD0002 7040	PrivWith hold1692	PrivWith hold1693	5/17/2017	Attachment to email. Word document titled "MAVNI" with file name "17 MAY - TOP LINES - MAVNI - Transgender (SAB).doc"	DP - Deliberative Process	Draft internal talking points and press guidance document prepared to assist senior DoD leadership. Contains reviewer tracked changes.	N	Internal talking points for press briefing are not DP

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00027128	DoD00027127	PrivWith hold1694	PrivWith hold1694	2/23/2017	Attachment to email. Word document titled "MAVNI/DACA" with file name "SecDef QAs MAVNI_DACA mjk.docx"	DP - Deliberative Process	Draft briefing paper regarding Military Accessions Vital to the National Interest (MAVNI) and Deferred Action for Childhood Arrivals. Drafted for Secretary of Defense in preparation for congressional meeting. Contains tracked changes. Unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0002 7140	DoD0002 7139	PrivWith hold1695	PrivWith hold1696	2/23/2017	Attachment to email. Word document titled "Questions and Answers – Blended Retirement System (Policy)" with file name "SecDef QAs BRS policy mjk(SAB).docx"	DP - Deliberative Process	Draft briefing paper regarding Blended Retirement System policy. Drafted for Secretary of Defense in preparation for congressional meeting. Contains tracked changes and reviewer comments. Unrelated to transgender military policy.		Not relevant
DoD0002 7142	DoD0002 7141	PrivWith hold1697	PrivWith hold1699	2/23/2017	Attachment to email. Word document titled "Force of the Future" with file name "SecDef QAs FotF mjk (SAB).docx"	DP - Deliberative Process	Draft briefing paper regarding Force of the Future Program. Drafted for Secretary of Defense in preparation for congressional meeting. Contains tracked changes. Unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00027146	DoD00027145	PrivWith hold1700	PrivWith hold1701	2/23/2017	Attachment to email. Word document titled "Civilian Hiring Freeze" with file name "SecDef QAs Hiring Freeze mjk (SAB).docx"	DP - Deliberative Process	Draft briefing paper regarding civilian hiring freeze. Drafted for Secretary of Defense in preparation for congressional meeting. Contains tracked changes and reviewer comments. Unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00027150	DoD00027149	PrivWith hold1702	PrivWith hold1703	2/23/2017	Attachment to email. Word document titled "Commissaries" with file name "SecDef HASC QA.gccbto mjk.docx"	DP - Deliberative Process	Draft briefing paper regarding military commissaries. Drafted for Secretary of Defense in preparation for congressional meeting. Contains tracked changes and reviewer comments. Unrelated to transgender military policy.		Not relevant
DoD00028458	DoD00028457	PrivWith hold1704	PrivWith hold1706	7/19/2017	Attachment to email. Word document titled "Military Health System Risk Management Working Group (RMWG) Charter" with file name "RMWG charter2017draft (4) AF Clean.docx"	DP - Deliberative Process	Draft Military Health System Risk Management Working Group (RMWG) Charter. Circulated for review. Unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0003 1674	DoD0003 1673	PrivWith hold1707	PrivWith hold1711	3/24/2017	Attachment to email. Word document titled "Terms of Reference (TOR) for the Security, Suitability/Fitness, and Credentialing (SSC) Enterprise Project Plan" with file name "SSC Project Plan TOR 20170324.doc"	DP - Deliberative Process	Draft document related to proposed policy changes related to DoD background investigations, circulated to members of DoD senior steering group in advance of meeting. Unrelated to transgender military policy.		Not relevant
DoD0003 1899		PrivWith hold1712	PrivWith hold1712	8/28/2017	Email with the subject line "SOCO Weekly Report, 8/28/17 (UNCLASSIFIED)"	AC - Attorney Client Privilege; DP - Deliberative Process; WP - Work Product	Email contains attorney mental impressions regarding documents prepared by OGC Standards of Conduct Office. Unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0003 2419		PrivWith hold1713	PrivWith hold1714	8/16/2017	Email with the subject line "GC Nominee Information Binder (UNCLASSIFIED)"	AC - Attorney Client Privilege; DP - Deliberative Process; WP - Work Product	Email from and to OGC attorneys concerning preparations for DoD General Counsel nominee confirmation hearing.		Not relevant
DoD0003 2421	DoD0003 2419	PrivWith hold1715	PrivWith hold1717	8/10/2017	Attachment to email. PDF titled "Sequestration under the Budget Control Act" with file name "Sample Memoranda for GC Nominee.pdf"	AC - Attorney Client Privilege; DP - Deliberative Process; WP - Work Product	DoD OGC prepared memorandum reflecting legal analysis related to sequestration under the Budget Control Act of 2011.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0003 8083	DoD0003 8081	PrivWith hold1718	PrivWith hold1718	5/16/2017	Attachment to email. Word document titled "Military Accessions Vital to the National Interest (MAVNI) program" with file name "16 MAY TOP LINES - MAVNI.doc"	DP - Deliberative Process	Draft internal talking points and press guidance document prepared to assist senior DoD leadership, circulated for review. Concerns policies and events unrelated to transgender military policy.		Not relevant
DoD0003 8879		PrivWith hold1719	PrivWith hold1720	4/25/2017	Email with subject line "Documents from the EEOC concerning Harassment"	AC - Attorney Client Privilege; DP - Deliberative Process; WP - Work Product	Email from and to DoD OGC attorneys contains attorney mental impressions and advice regarding attached EEOC documents concerning harassment.	Y	AC

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00040141		PrivWith hold1721	PrivWith hold1724	5/19/2017	Email with subject line "RE: FY18 Posture Hearing Q&A -- Suspense: COB 22 May (UNCLASSIFIED//FOUO)"	AC - Attorney Client Privilege; DP - Deliberative Process; WP - Work Product	Email thread reflecting deliberations about preparing the Secretary of Defense for a congressional hearing. Contains attorney mental impressions regarding the same.	N	No DP because not deliberative. No AC because no legal advice sought or provided – transmittal email
DoD00051844	DoD00051842	PrivWith hold1725	PrivWith hold1725	7/7/2017	Attachment to email. Word document titled "Military Accessions Vital to the National Interest" with file name "3J- DSD Confirmation - MAVNI- DACA.docx"	DP - Deliberative Process	Draft briefing paper prepared for the Deputy Secretary of Defense regarding Military Accessions Vital to the National Interest (MAVNI). Unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0005 1851	DoD0005 1850	PrivWith hold1726	PrivWith hold1726	7/10/2017	Attachment to email. Word document titled "Military Accessions Vital to the National Interest" with file name "3J- DSD Confirmation - MAVNI- DACA.docx"	DP - Deliberative Process	Draft briefing paper prepared for the Deputy Secretary of Defense regarding Military Accessions Vital to the National Interest (MAVNI). Unrelated to transgender military policy.		Not relevant
DoD0005 2198	DoD0005 2197	PrivWith hold1727	PrivWith hold1727	7/10/2017	Attachment to email. Word document titled "Military Accessions Vital to the National Interest" with file name "3J- DSD Confirmation - MAVNI- DACA.docx"	DP - Deliberative Process	Draft briefing paper prepared for the Deputy Secretary of Defense regarding Military Accessions Vital to the National Interest (MAVNI). Contains reviewer comments. Unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00068051	DoD00068047	PrivWith hold1728	PrivWith hold1728	7/7/2017	Attachment to email. Word document titled "Military Accessions Vital to the National Interest" with file name "MRA U -- DACA and Military Personnel Policy (MAVNI) (1)(SAB).DOCX"	DP - Deliberative Process	Draft briefing paper regarding Military Accessions Vital to the National Interest (MAVNI). Drafted pursuant to preparations for confirmation hearing of nominee to be Undersecretary of Defense for Personnel and Readiness. Contains reviewer comments and tracked changes. Unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00074450		PrivWith hold1729	PrivWith hold1730	2/13/2017	Email with subject line "FW: Weekly Report"	AC - Attorney Client Privilege; DP - Deliberative Process; WP - Work Product	Email thread discussing preparation of internal DoD OGC weekly report.		Not relevant
DoD00082882	DoD00082880	PrivWith hold1731	PrivWith hold1733	12/5/2017	Attachment to email. Word document titled "U.S. Military/Coalition Presence in Syria Talking Points" with file name "Syria Messages and TPs FINAL 5 DEC 17.docx"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns Syria policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0008 2888	DoD0008 2886	PrivWith hold1734	PrivWith hold1736	12/5/2017	Attachment to email. Word document titled "U.S. Military/Coalition Presence in Syria Talking Points" with file name "Syria Messages and TPs FINAL 5 DEC 17.docx"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns Syria policy.		Not relevant
DoD0008 2981	DoD0008 2979	PrivWith hold1737	PrivWith hold1739	10/17/2017	Attachment to email. Word document titled "Kurdistan Contingency Statement" with file name "17 OCT TOP LINES PRESS GUIDANCE.doc"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns policies and events unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0008 3091	DoD0008 3089	PrivWith hold1740	PrivWith hold1748	9/13/2017	Attachment to email. Word document titled "Hurricane Irma" with file name "13 SEPT TOPLINES PRESS GUIDANCE.docx"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns policies and events unrelated to transgender military policy.		Not relevant
DoD0008 3095	DoD0008 3093	PrivWith hold1749	PrivWith hold1757	9/13/2017	Attachment to email. Word document titled "Hurricane Irma" with file name "13 SEPT TOPLINES PRESS GUIDANCE.docx"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns policies and events unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0008 3107	DoD0008 3105	PrivWith hold1758	PrivWith hold1762	9/12/2017	Attachment to email. Word document titled "Hurricane Irma" with file name "12 SEPT TOPLINES PRESS GUIDANCE.doc"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns policies and events unrelated to transgender military policy.		Not relevant
DoD0008 3110	DoD0008 3108	PrivWith hold1763	PrivWith hold1767	9/12/2017	Attachment to email. Word document titled "Hurricane Irma" with file name "12 SEPT TOPLINES PRESS GUIDANCE.doc"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns policies and events unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0008 3113	DoD0008 3111	PrivWith hold1768	PrivWith hold1772	9/12/2017	Attachment to email. Word document titled "Hurricane Irma" with file name "12 SEPT TOPLINES PRESS GUIDANCE.doc"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns policies and events unrelated to transgender military policy.		Not relevant
DoD0008 3124	DoD0008 3121	PrivWith hold1773	PrivWith hold1773	8/31/2017	Attachment to email. Word document titled "Afghanistan Deployment Orders" with file name "TOPLINES - SECDEF signs deployment orders.doc"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns policies and events unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0008 3125	DoD0008 3121	PrivWith hold1774	PrivWith hold1774	8/31/2017	Attachment to email. Word document titled "South Asia Strategy Roll Out" with file name "TOPLINES - South Asia Strategy 31 AUG.DOC"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns policies and events unrelated to transgender military policy.		Not relevant
DoD0008 3130	DoD0008 3127	PrivWith hold1775	PrivWith hold1775	8/31/2017	Attachment to email. Word document titled "Afghanistan Deployment Orders" with file name "TOPLINES - SECDEF signs deployment orders.doc"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns policies and events unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0008 3131	DoD0008 3127	PrivWith hold1776	PrivWith hold1776	8/31/2017	Attachment to email. Word document titled "South Asia Strategy Roll Out" with file name "TOPLINES - South Asia Strategy 31 AUG.DOC"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns policies and events unrelated to transgender military policy.		Not relevant
DoD0008 3149	DoD0008 3145	PrivWith hold1777	PrivWith hold1781	8/30/2017	Attachment to email. Word document titled "Force Management Level Accounting Change - Afghanistan" with file name "30 AUGUST TOP LINES PRESS GUIDANCE.doc"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Redacted portion concerns policies and events unrelated to transgender military policy.	N	Not deliberative. Produce PrivWithhold 1781 Balance not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0008 3154	DoD0008 3150	PrivWith hold1782	PrivWith hold1786	8/30/2017	Attachment to email. Word document titled "Force Management Level Accounting Change - Afghanistan" with file name "30 AUGUST TOP LINES PRESS GUIDANCE.doc"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Redacted portion concerns policies and events unrelated to transgender military policy.	N	Not deliberative. Produce PrivWithhold 1786. Balance not relevant.
DoD0008 3234	DoD0008 3232	PrivWith hold1787	PrivWith hold1790	8/17/2017	Attachment to email. Word document titled "US Presence in Syria" with file name "17 AUG TOP LINES PRESS GUIDANCE.doc"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns policies and events unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0008 3250	DoD0008 3247	PrivWith hold1791	PrivWith hold1801	8/14/2017	Attachment to email. Word document titled "F/A-18 crash in Bahrain" with file name "14 AUG TOP LINES PRESS GUIDANCE.doc"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns policies and events unrelated to transgender military policy.		Not relevant
DoD0008 3558	DoD0008 3555	PrivWith hold1802	PrivWith hold1807	5/31/2017	Attachment to email. Word document titled "Afghanistan bombing" with file name "31 MAY TOP LINES GUIDANCE.DOC"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns policies and events unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0008 3586	DoD0008 3583	PrivWith hold1808	PrivWith hold1813	5/25/2017	Attachment to email. Word document titled "Mosul Civilian Casualty Investigation" with file name "25 MAY TOP LINES PRESS GUIDANCE.DOC"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns policies and events unrelated to transgender military policy.		Not relevant
DoD0008 3774	DoD0008 3772	PrivWith hold1814	PrivWith hold1818	11/20/2017	Attachment to email. Word document titled "Somalia / U.S. Airstrikes" with file name "20 NOV TOPLINES PRESS GUIDANCE.DOC"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns policies and events unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00083778	DoD00083776	PrivWith hold1819	PrivWith hold1823	11/20/2017	Attachment to email. Word document titled "Somalia / U.S. Airstrikes" with file name "20 NOV TOPLINES PRESS GUIDANCE.DOC"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns policies and events unrelated to transgender military policy.		Not relevant
DoD00083782	DoD00083780	PrivWith hold1824	PrivWith hold1828	11/20/2017	Attachment to email. Word document titled "Somalia / U.S. Airstrikes" with file name "20 NOV TOPLINES PRESS GUIDANCE.DOC"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns policies and events unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0008 3854	DoD0008 3851	PrivWith hold1829	PrivWith hold1839	8/14/2017	Attachment to email. Word document titled "F/A-18 crash in Bahrain" with file name "14 AUG TOP LINES PRESS GUIDANCE.doc"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns policies and events unrelated to transgender military policy.		Not relevant
DoD0008 3858	DoD0008 3855	PrivWith hold1840	PrivWith hold1850	8/14/2017	Attachment to email. Word document titled "F/A-18 crash in Bahrain" with file name "14 AUG TOP LINES PRESS GUIDANCE.doc"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns policies and events unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00083880	DoD00083878	PrivWith hold1851	PrivWith hold1855	8/8/2017	Attachment to email. Word document titled "Afghanistan forces" with file name "8 AUG TOP LINES PRESS GUIDANCE.doc"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns policies and events unrelated to transgender military policy.		Not relevant
DoD00083883	DoD00083881	PrivWith hold1856	PrivWith hold1860	8/8/2017	Attachment to email. Word document titled "Afghanistan forces" with file name "8 AUG TOP LINES PRESS GUIDANCE.doc"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns policies and events unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00083887	DoD00083884	PrivWith hold1861	PrivWith hold1865	8/7/2017	Attachment to email. Word document titled "MV-22 Mishap" with file name "7 AUG TOPLINES PRESS GUIDANCE (FINAL).docx"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns policies and events unrelated to transgender military policy.		Not relevant
DoD00083891	DoD00083888	PrivWith hold1866	PrivWith hold1870	8/7/2017	Attachment to email. Word document titled "MV-22 Mishap" with file name "7 AUG TOPLINES PRESS GUIDANCE (FINAL).docx"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns policies and events unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00083903	DoD00083900	PrivWith hold1871	PrivWith hold1878	8/4/2017	Attachment to email. Word document titled "Yemen / Shabwah Offensive" with file name "4 AUG -TOP LINES PRESS GUIDANCE.docx"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns policies and events unrelated to transgender military policy.		Not relevant
DoD00083907	DoD00083904	PrivWith hold1879	PrivWith hold1886	8/4/2017	Attachment to email. Word document titled "Yemen / Shabwah Offensive" with file name "4 AUG -TOP LINES PRESS GUIDANCE.docx"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns policies and events unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0008 4033	DoD0008 4031	PrivWith hold1887	PrivWith hold1891	7/13/2017	Attachment to email. Word document titled "France - Bastille Day" with file name "13 July - TOPLINES PRESS GUIDANCE.doc"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns policies and events unrelated to transgender military policy.		Not relevant
DoD0008 4036	DoD0008 4034	PrivWith hold1892	PrivWith hold1896	7/13/2017	Attachment to email. Word document titled "France - Bastille Day" with file name "13 July - TOPLINES PRESS GUIDANCE.doc"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns policies and events unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0008 4041	DoD0008 4039	PrivWith hold1897	PrivWith hold1897	7/7/2017	Attachment to email. Word document titled "READ AHEAD FOR PHONE CALL W/REP MIKE TURNER (R-OH)" with file name "Mike Turner Phone Call.docx"	DP - Deliberative Process	Briefing document to assist Secretary of Defense for phone call with U.S. House member. Concerns topics unrelated to transgender military policy.		Not relevant
DoD0008 4042	DoD0008 4039	PrivWith hold1898	PrivWith hold1898	7/7/2017	Attachment to email. Word document titled "READ AHEAD FOR PHONE CALL W/REP ADAM SMITH (D-WA)" with file name "Adam Smith Phone Call.docx"	DP - Deliberative Process	Briefing document to assist Secretary of Defense for phone call with U.S. House member. Concerns topics unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0008 4047	DoD0008 4045	PrivWith hold1899	PrivWith hold1899	7/7/2017	Attachment to email. Word document titled "READ AHEAD FOR PHONE CALL W/REP MIKE TURNER (R-OH)" with file name "Mike Turner Phone Call.docx"	DP - Deliberative Process	Briefing document to assist Secretary of Defense for phone call with U.S. House member. Concerns topics unrelated to transgender military policy.		Not relevant
DoD0008 4048	DoD0008 4045	PrivWith hold1900	PrivWith hold1900	7/7/2017	Attachment to email. Word document titled "READ AHEAD FOR PHONE CALL W/REP ADAM SMITH (D-WA)" with file name "Adam Smith Phone Call.docx"	DP - Deliberative Process	Briefing document to assist Secretary of Defense for phone call with U.S. House member. Concerns topics unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0008 4150	DoD0008 4147	PrivWith hold1901	PrivWith hold1906	5/25/2017	Attachment to email. Word document titled "Mosul Civilian Casualty Investigation" with file name "25 MAY TOP LINES PRESS GUIDANCE.DOC"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns policies and events unrelated to transgender military policy.		Not relevant
DoD0008 4297	DoD0008 4295	PrivWith hold1907	PrivWith hold1910	11/8/2017	Attachment to email. Word document titled "Former Airman Involved in Texas Mass Shooting" with file name "8 NOV TOPLINES PRESS GUIDANCE.doc"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns policies and events unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0008 4301	DoD0008 4299	PrivWith hold1911	PrivWith hold1914	11/8/2017	Attachment to email. Word document titled "Former Airman Involved in Texas Mass Shooting" with file name "8 NOV TOPLINES PRESS GUIDANCE.doc"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns policies and events unrelated to transgender military policy.		Not relevant
DoD0008 4305	DoD0008 4303	PrivWith hold1915	PrivWith hold1921	10/30/2017	Attachment to email. Word document titled "Staff Sgt. Melgar Death Investigation" with file name "TOPLINES 30 OCT 2017.doc"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns policies and events unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0008 4309	DoD0008 4307	PrivWith hold1922	PrivWith hold1928	10/30/2017	Attachment to email. Word document titled "Staff Sgt. Melgar Death Investigation" with file name "TOPLINES 30 OCT 2017.doc"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns policies and events unrelated to transgender military policy.		Not relevant
DoD0008 5382	DoD0008 5381	PrivWith hold1929	PrivWith hold1929	8/4/2017	Email with subject line "Draft PM -- Transgender in Military 2 Aug 2017"	EP - Executive Privilege	Email from White House staff to DoD, describing communications among them.	N	Transmittal email

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00085871	DoD00085869	PrivWith hold1930	PrivWith hold1950	8/28/2017	Attachment to email. PDF of memorandum from DoD Office of General Counsel with subject "Litigation hold for Doe et al. v. Trump, et al., No. 1;17-cv-1597 (D.D.C.)" with file name "DoD Litigation Hold with Attachments 8-28-17.pdf"	AC - Attorney Client Privilege; DP - Deliberative Process; WP - Work Product	Litigation hold memorandum pursuant to <i>Doe v. Trump</i> , No. 17-1597 (D.D.C.).	Y	AC and WP
DoD00085954	DoD00085953	PrivWith hold1951	PrivWith hold1954	12/21/2017	Email with subject line "FW: Doe Interrogatories and RFP's (Doe, et al. v. Trump, et al., No. 17-1597 (D.D.C.)"	AC - Attorney Client Privilege; DP - Deliberative Process; WP - Work Product	Email thread discussing process for responding and providing advice related to discovery requests in <i>Doe v. Trump</i> , No. 17-1597 (D.D.C.).	Y	AC and WP

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00086008	DoD00086007	PrivWith hold1955	PrivWith hold1956	12/5/2017	Email with subject line "RE: Request for Info on 2018 Scheduled Events"	EP - Executive Privilege	Email from DoD to White House Office of Cabinet Affairs, responding to WH request for information.		Not relevant
DoD00087182	DoD00087176	PrivWith hold1957	PrivWith hold1961	2/13/2018	Attachment to email. Word document titled "Korean Diplomacy" with file name "180213 TOPLINES PRESS GUIDANCE.doc"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns policies and events unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00087190	DoD00087184	PrivWithhold1962	PrivWithhold1966	2/13/2018	Attachment to email. Word document titled "Korean Diplomacy" with file name "180213 TOPLINES PRESS GUIDANCE.doc"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns policies and events unrelated to transgender military policy.		Not relevant
DoD00087449	DoD00087447	PrivWithhold1967	PrivWithhold1975	2/8/2018	Attachment to email. Word document titled "Sexual Harassment and Violence at the MSAs" with file name "180208 TOPLINES PRESS GUIDANCE.DOC"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns policies and events unrelated to transgender military policy.		Not deliberative. Produce PrivWithhold 1969. Balance not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00087455	DoD00087453	PrivWith hold1976	PrivWith hold1984	2/8/2018	Attachment to email. Word document titled "Sexual Harassment and Violence at the MSAs" with file name "180208 TOPLINES PRESS GUIDANCE.DOC"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns policies and events unrelated to transgender military policy.	N	Not deliberative. Produce PrivWithhold 1976 and 1978. Balance not relevant
DoD00087753	DoD00087751	PrivWith hold1985	PrivWith hold2004	1/30/2018	Attachment to email. Word document titled "FY2018 Defense Budget" with file name "180130 TOPLINES PRESS GUIDANCE.DOC"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Redacted portion concerns policies and events unrelated to transgender military policy.	N	Not deliberative. Produce PrivWithhold 1997. Balance not relevant.

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00087772	DoD00087770	PrivWith hold2005	PrivWith hold2015	1/29/2018	Attachment to email. Word document titled "Meeting with ROK MOD" with file name "180129 TOPLINES PRESS GUIDANCE reviewed.DOC"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns policies and events unrelated to transgender military policy.		Not relevant
DoD00087778	DoD00087776	PrivWith hold2016	PrivWith hold2026	1/29/2018	Attachment to email. Word document titled "Meeting with ROK MOD" with file name "180129 TOPLINES PRESS GUIDANCE reviewed.DOC"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns policies and events unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0008 8316	DoD0008 8314	PrivWith hold2027	PrivWith hold2038	1/16/2018	Attachment to email. Word document titled "B-52s Arrive in Guam" with file name "180116 TOPLINES PRESS GUIDANCE.doc"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns policies and events unrelated to transgender military policy.		Not relevant
DoD0008 8320	DoD0008 8318	PrivWith hold2039	PrivWith hold2050	1/16/2018	Attachment to email. Word document titled "B-52s Arrive in Guam" with file name "180116 TOPLINES PRESS GUIDANCE.doc"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns policies and events unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0008 8484	DoD0008 8482	PrivWith hold2051	PrivWith hold2054	1/11/2018	Attachment to email. Word document titled "Afghanistan Video" with file name "180111 TOPLINES PRESS GUIDANCE reviewed.DOC"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns policies and events unrelated to transgender military policy.		Not relevant
DoD0008 8803	DoD0008 8801	PrivWith hold2055	PrivWith hold2059	1/4/2018	Attachment to email. Word document titled "Pakistan Military Aid" with file name "180104 TOPLINES PRESS GUIDANCE.doc"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Redacted portion concerns policies and events unrelated to transgender military policy.	N	Not deliberative. Produce PrivWithhold 2059. Otherwise not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0008 8809	DoD0008 8807	PrivWith hold2060	PrivWith hold2064	1/4/2018	Attachment to email. Word document titled "Pakistan Military Aid" with file name "180104 TOPLINES PRESS GUIDANCE.doc"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Redacted portion concerns policies and events unrelated to transgender military policy.	N	Not deliberative. Produce PrivWithhold 2064. Otherwise not relevant
DoD0008 8873	DoD0008 8871	PrivWith hold2065	PrivWith hold2072	1/3/2018	Attachment to email. Word document titled "Army Casualty in Afghanistan" with file name "180103 TOPLINES PRESS GUIDANCE.doc"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Redacted portion concerns policies and events unrelated to transgender military policy.	N	Not deliberative. Produce PrivWithhold 2072. Otherwise not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0008 8877	DoD0008 8875	PrivWith hold2073	PrivWith hold2080	1/3/2018	Attachment to email. Word document titled "Army Casualty in Afghanistan" with file name "180103 TOPLINES PRESS GUIDANCE.doc"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Redacted portion concerns policies and events unrelated to transgender military policy.	N	Not deliberative. Produce PrivWithhold 2080. Otherwise not relevant.
DoD0008 8949	DoD0008 8947	PrivWith hold2081	PrivWith hold2087	1/2/2018	Attachment to email. Word document titled "Pakistan Military Aid" with file name "180102 TOPLINES PRESS GUIDANCE.DOC"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Redacted portion concerns policies and events unrelated to transgender military policy.	N	Not deliberative. Produce PrivWithhold 2085. Otherwise not relevant.

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0008 8952	DoD0008 8950	PrivWith hold2088	PrivWith hold2094	1/2/2018	Attachment to email. Word document titled "Pakistan Military Aid" with file name "180102 TOPLINES PRESS GUIDANCE.DOC"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Redacted portion concerns policies and events unrelated to transgender military policy.		Not relevant
DoD0008 9014	DoD0008 9012	PrivWith hold2095	PrivWith hold2101	12/29/2017	Attachment to email. Word document titled "Civilian Casualties" with file name "171229 TOPLINES PRESS GUIDANCE reviewed.DOC"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns policies and events unrelated to transgender military policy.	N	Not deliberative. Produce PrivWithhold 2092. Otherwise not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00089020	DoD00089018	PrivWith hold2102	PrivWith hold2108	12/29/2017	Attachment to email. Word document titled "Civilian Casualties" with file name "171229 TOPLINES PRESS GUIDANCE reviewed.DOC"	DP - Deliberative Process	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns policies and events unrelated to transgender military policy.		Not relevant
DoD00091189	DoD00091185	PrivWith hold2109	PrivWith hold2117	9/14/2017	PowerPoint Presentation titled "Implication of OSD Reorganization" with file name "100617_SLC_ATL_OSD-REorg_Lord_FINAL.PPTX"	DP - Deliberative Process	Presentation from Office of the Undersecretary of Defense (Acquisition, Technology, and Logistics) to senior DoD leadership re. implications of Office of Secretary of Defense Reorganization.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0009 1191	DoD0009 1185	PrivWith hold2118	PrivWith hold2118	10/16/2017	Excel spreadsheet titled, "MDAP MDA Delegation Status Sheet" with file name "MDAP_Horse Blanket_ratings_v3 c.xlsx"	DP - Deliberative Process	Spreadsheet summarizing progress of numerous defense weapon acquisition projects under the Major Defense Acquisition Program		Not relevant
DoD0009 4640	DoD0009 4628	PrivWith hold2119	PrivWith hold2121	8/1/2017	Word document titled, "Background on Military Accessions Vital to the National Interest (MAVNI) & Deferred Action for Childhood Arrivals (DACA)" with file name "MAVNI_DACA backgrounder (AP Smooth) (002) (002).docx"	DP - Deliberative Process	Background summary regarding concerns of U.S. Senator about the interaction of the "Military Accessions Vital to the National Interest" program and the Deferred Action for Childhood Arrivals program.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0009 4642	DoD0009 4628	PrivWith hold2122	PrivWith hold2122	5/30/2017	Word document titled, "Background Security Investigation Process: Talking Points" with file name "OPM Director TPs on NBIB.docx"	DPP - Deliberative Process Privilege	Talking points on Background Security Investigation Process mission that DoD assumed from the Office of Personnel Management.		Not relevant
DoD0009 4648	DoD0009 4628	PrivWith hold2123	PrivWith hold2125	1/12/2017	Word document titled, "DSD White Paper on Religious Accommodation" with file name "Religious Accommodation Talking Points.docx"	DPP - Deliberative Process Privilege	Deputy Secretary of Defense White Paper on religious accommodation issues across the military.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0009 4650	DoD0009 4628	PrivWith hold2126	PrivWith hold2127	7/13/2017	Word document with meeting notes with file name "SD REadiness Review Summary (002).docx"	DPP - Deliberative Process Privilege; EP - Executive Privilege	Draft of minutes of meeting with Deputy Secretary of Defense and senior White House budget and national security personnel about history of operating under continuing resolutions.		Not relevant
DoD0009 4882	DoD0009 4880	PrivWith hold2128	PrivWith hold2131	8/11/2017	Word document titled, "MAVNI Program" with file name "11 AUG TOP LINES PRESS GUIDANCE.docx"	DPP - Deliberative Process Privilege	Draft of points provided to news agencies in response to request for information about the "Military Accessions Vital to the National Interest" program, Somalia, freedom of navigation operations, and Russia.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0009 4885	DoD0009 4883	PrivWith hold2132	PrivWith hold2135	8/11/2017	Word document titled, "MAVNI Program" with file name "11 AUG TOP LINES PRESS GUIDANCE.docx"	DPP - Deliberative Process Privilege	Draft of points provided to news agencies in response to request for information about the "Military Accessions Vital to the National Interest" program, Somalia, freedom of navigation operations, and Russia.		Not relevant
DoD0009 5473	DoD0009 5471	PrivWith hold2136	PrivWith hold2136	7/31/2017	Word document titled, "Office Call w/Sen Majority Leader McConnell (R-KY)" with file name "SD TPs for Office Call Sen McConnell_8.2.17v 3.docx"	DPP - Deliberative Process Privilege	Notes in preparation for call w/ Senate Majority Leader regarding nominations to Senate confirmed DoD posts, continuing resolutions, DoD budget.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0009 8490	DoD0009 8487	PrivWith hold2137	PrivWith hold2137	5/13/2017	Attachment to email. Word document titled "Core Themes if Confirmed as Deputy Secretary" with file name "Core Themes as DSD_v1.docx"	DPP - Deliberative Process Privilege	Summarizing talking points of confirmation hearing testimony for Deputy Secretary of Defense position.		Not relevant
DoD0009 8491	DoD0009 8487	PrivWith hold2138	PrivWith hold2138	5/11/2017	Attachment to email. Word document titled "FY 2017 National Defense Authorization Act Reorganization of AT&L and DCMO" with file name "3_Hot Topics Paper_ATL and CMO Reorganizations.zip ?3_Hot Topics Paper_ATL and CMO Reorganizations.docx"	DPP - Deliberative Process Privilege	Overview, background, and key points regarding FY 2017 National Defense Authorization Act Reorganization of processes of current Undersecretary of Defense for Acquisition, Technology, and Logistics, and the Deputy Chief Management Officer		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0009 8492	DoD0009 8487	PrivWith hold2139	PrivWith hold2139	5/11/2017	Attachment to email. Word document titled "Overmatch and Third Offset Strategy" with file name "3_Hot Topics Paper_ATL and CMO Reorganizations.zip ?4_Hot Topics Paper: Overmatch Third Offset.docx"	DPP - Deliberative Process Privilege	Overview, background, and key points regarding development of military technological capabilities.		Not relevant
DoD0009 8493	DoD0009 8487	PrivWith hold2140	PrivWith hold2140	5/11/2017	Attachment to email. Word document titled "Making DoD Auditable" with file name "3_Hot Topics Paper_ATL and CMO Reorganizations.zip ?5_Hot Topics Paper_Auditability.docx"	DPP - Deliberative Process Privilege	Overview, background and key points regarding financial audit of DoD.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0009 8494	DoD0009 8487	PrivWith hold2141	PrivWith hold2141	5/11/2017	Attachment to email. Word document titled "The Campaign to Defeat the Islamic State of Iraq and Syria (ISIS)" with file name "3_Hot Topics Paper_ATL and CMO Reorganizations.zip ?6_Hot Topics Paper_DISIS.docx"	DPP - Deliberative Process Privilege	Overview, background, and key points regarding Islamic State of Iraq and Syria.		Not relevant
DoD0009 8495	DoD0009 8487	PrivWith hold2142	PrivWith hold2142	5/11/2017	Attachment to email. Word document titled "Russia, Ukraine, and NATO Overview" with file name "3_Hot Topics Paper_ATL and CMO Reorganizations.zip ?7_Hot Topics Paper_Russia Ukraine NATO Overview.docx"	DPP - Deliberative Process Privilege	Overview, background, and key points regarding Russia, Ukraine, and NATO.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0009 8496	DoD0009 8487	PrivWith hold2143	PrivWith hold2143	5/11/2017	Attachment to email. Word document titled "Iran Overview" with file name "3_Hot Topics Paper_ATL and CMO Reorganizations.zip ?8_Hot Topics Paper_Iran.docx"	DPP - Deliberative Process Privilege	Overview, background, and key points regarding Iran.		Not relevant
DoD0009 8497	DoD0009 8487	PrivWith hold2144	PrivWith hold2144	5/11/2017	Attachment to email. Word document titled "China Military Modernization, South China Sea, and Freedom of Navigation Issues" with file name "3_Hot Topics Paper_ATL and CMO Reorganizations.zip ?9_China Military Modernization and SCS FONOPs.docx"	DPP - Deliberative Process Privilege	Overview, background, and key points regarding China Military Modernization, South China Sea, and Freedom of Navigation Issues.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0009 8498	DoD0009 8487	PrivWith hold2145	PrivWith hold2145	5/11/2017	Attachment to email. Word document titled "North Korea" with file name "3_Hot Topics Paper_ATL and CMO Reorganizations.zip ?10_Hot Topics Paper_North Korea.docx"	DPP - Deliberative Process Privilege	Overview, background, and key points regarding North Korea.		Not relevant
DoD0009 8499	DoD0009 8487	PrivWith hold2146	PrivWith hold2146	5/11/2017	Attachment to email. Word document titled "The Rebalance to the Asia-Pacific" with file name "3_Hot Topics Paper_ATL and CMO Reorganizations.zip ?11_Hot Topics Paper_Asia Rebalance.docx"	DPP - Deliberative Process Privilege	Overview, background, and key points regarding policy in the Asia-Pacific region.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00098500	DoD00098487	PrivWith hold2147	PrivWith hold2147	5/11/2017	Attachment to email. Word document titled "Nuclear Modernization" with file name "3_Hot Topics Paper_ATL and CMO Reorganizations.zip ?12_Hot Topics Paper_Nuclear Modernization.docx"	DPP - Deliberative Process Privilege	Overview, background, and key points regarding modernization of nuclear technology.		Not relevant
DoD00098502	DoD00098487	PrivWith hold2148	PrivWith hold2148	5/11/2017	Attachment to email. Word document titled "F-35 LIGHTNING II JOINT STRIKE FIGHTER" with file name "3_Hot Topics Paper_ATL and CMO Reorganizations.zip ?14_F-35 - Hot Topic.docx"	DPP - Deliberative Process Privilege	Overview, background, and key points regarding F-35 Lightning II Joint Strike Fighter Program.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0009 8503	DoD0009 8487	PrivWith hold2149	PrivWith hold2149	5/11/2017	Attachment to email. Word document titled "Key Issues in U.S. Ballistic Missile Defense Policy and Posture" with file name "3_Hot Topics Paper_ATL and CMO Reorganizations.zip ?15_Hot Topics Paper_Missile Defense.docx"	DPP - Deliberative Process Privilege	Overview, background, and key points regarding U.S. Ballistic Missile Defense Policy and Posture		Not relevant
DoD0009 8504	DoD0009 8487	PrivWith hold2150	PrivWith hold2150	4/5/2017	Attachment to email. Word document titled "CVN-78 / Ford Class Carrier" with file name "3_Hot Topics Paper_ATL and CMO Reorganizations.zip ?16_CVN Delivery-Cost Overruns - Hot Topic.docx"	DPP - Deliberative Process Privilege	Overview, background, and key points regarding CVN-78 / Ford Class Carrier program		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00098505	DoD00098487	PrivWith hold2151	PrivWith hold2151	5/11/2017	Attachment to email. Word document titled "COLUMBIA Ballistic Missile Submarine" with file name "3_Hot Topics Paper_ATL and CMO Reorganizations.zip ?17_Columbia SSBN - Hot Topic.docx"	DPP - Deliberative Process Privilege	Overview, background, and key points regarding COLUMBIA Ballistic Missile Submarine program.		Not relevant
DoD00098506	DoD00098487	PrivWith hold2152	PrivWith hold2152	3/31/2017	Attachment to email. Word document titled "Littoral Combat Ship (LCS) / Frigate Program" with file name "3_Hot Topics Paper_ATL and CMO Reorganizations.zip ?18_LittoralCombat Ship (LCS) -Hot Topic.docx"	DPP - Deliberative Process Privilege	Overview, background, and key points regarding Littoral Combat Ship (LCS) and Frigate programs		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0009 8507	DoD0009 8487	PrivWith hold2153	PrivWith hold2153	5/11/2017	Attachment to email. Word document titled "DoD Detention Operations and Policy Issues" with file name "3_Hot Topics Paper_ATL and CMO Reorganizations.zip ?19_Hot Topics Paper_GTMO and Detainee Issues.docx"	DPP - Deliberative Process Privilege	Overview, background, and key points regarding DoD detention operations and policy issues.		Not relevant
DoD0009 8509	DoD0009 8487	PrivWith hold2154	PrivWith hold2154	4/4/2017	Attachment to email. Word document titled "Sexual Assault Prevention and Response / Social Media" with file name "3_Hot Topics Paper_ATL and CMO Reorganizations.zip ?21_Sexual Assault Prevention and Social Media - Hot Topic.docx"	DPP - Deliberative Process Privilege	Overview, background, and key points regarding sexual assault prevention and response and social media tools to combat this issue in DoD.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00098511	DoD00098487	PrivWith hold2155	PrivWith hold2155	5/11/2017	Attachment to email. Word document titled "Base Realignemnt and Closure (BRAC) Issues" with file name "3_Hot Topics Paper_ATL and CMO Reorganizations.zip ?23_Hot Topics Paper_BRAC.docx"	DPP - Deliberative Process Privilege	Overview, background, and key points regarding Base Realignment and Closure (BRAC) issues.		Not relevant
DoD00098514	DoD00098487	PrivWith hold2156	PrivWith hold2156	5/11/2017	Attachment to email. Word document titled "Overview: Goldwater-Nichols Reforms" with file name "3_Hot Topics Paper_ATL and CMO Reorganizations.zip ?26_Hot Topics Paper_Goldwater Nichols Reform.docx"	DPP - Deliberative Process Privilege	Overview, background, and key points regarding Goldwater-Nichols reforms, related to organization of DoD.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0009 8516	DoD0009 8487	PrivWith hold2157	PrivWith hold2157	5/11/2017	Attachment to email. Word document titled "Afghanistan Key Issues" with file name "3_Hot Topics Paper_ATL and CMO Reorganizations.zip ?28_Hot Topics Paper_Afghanistan.docx"	DPP - Deliberative Process Privilege	Overview, background, and key points regarding Afghanistan policy		Not relevant
DoD0009 8517	DoD0009 8487	PrivWith hold2158	PrivWith hold2158	5/11/2017	Attachment to email. Word document titled "Overall Counterterrorism Policy" with file name "3_Hot Topics Paper_ATL and CMO Reorganizations.zip ?29_Hot Topics Paper_CT Policy.docx"	DPP - Deliberative Process Privilege	Overview, background, and key points DoD's Overall Counterterrorism Policy		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0009 8518	DoD0009 8487	PrivWith hold2159	PrivWith hold2159	5/11/2017	Attachment to email. Word document titled "Israel Key Issues" with file name "3_Hot Topics Paper_ATL and CMO Reorganizations.zip ?30_Hot Topics Paper_Israel.docx"	DPP - Deliberative Process Privilege	Overview, background, and key points regarding Israel		Not relevant
DoD0009 8519	DoD0009 8487	PrivWith hold2160	PrivWith hold2160	5/11/2017	Attachment to email. Word document titled "Yemen Key Issues" with file name "3_Hot Topics Paper_ATL and CMO Reorganizations.zip ?31_Hot Topics Paper_Yemen.docx "	DPP - Deliberative Process Privilege	Overview, background, and key points regarding Yemen		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0009 8520	DoD0009 8487	PrivWith hold2161	PrivWith hold2161	4/4/2017	Attachment to email. Word document titled "Military Compensation Reform" with file name "3_Hot Topics Paper_ATL and CMO Reorganizations.zip ?32_Military Compensation Reform - Hot Topic.docx"	DPP - Deliberative Process Privilege	Overview, background, and key points regarding military compensation reform.		Not relevant
DoD0009 8523	DoD0009 8487	PrivWith hold2162	PrivWith hold2162	12/20/2016	Attachment to email. Word document titled "KC-46 Pegasus" with file name "3_Hot Topics Paper_ATL and CMO Reorganizations.zip ?35_KC-46 Tanker.docx"	DPP - Deliberative Process Privilege	Overview, background, and key points regarding KC-46 aircraft recapitalization process and the air-refueling efforts of the AF, Navy, and USMC.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0009 8524	DoD0009 8487	PrivWith hold2163	PrivWith hold2163	12/19/2016	Attachment to email. Word document titled "PRESIDENTIAL AIRCRAFT RECAPITALIZATION PROGRAM" with file name "3_Hot Topics Paper_ATL and CMO Reorganizations.zip ?36_Presidential Aircraft Recapitalization - Hot Topic.docx"	DPP - Deliberative Process Privilege	Overview, background, and key points regarding Presidential aircraft recapitalization program.		Not relevant
DoD0009 8525	DoD0009 8487	PrivWith hold2164	PrivWith hold2164	3/31/2017	Attachment to email. Word document titled "A-10" with file name "3_Hot Topics Paper_ATL and CMO Reorganizations.zip ?37_A-10 - Hot Topic.docx"	DPP - Deliberative Process Privilege	Overview, background, and key points regarding A-10 airplane maintenance and operations in response to Congressional interest.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00098526	DoD00098487	PrivWith hold2165	PrivWith hold2165	5/11/2017	Attachment to email. Word document titled "Efficiencies Overview" with file name "3_Hot Topics Paper_ATL and CMO Reorganizations.zip ?1_Hot Topics Paper_Efficiencies.docx"	DPP - Deliberative Process Privilege	Overview, background, and key points regarding efforts by DoD to more efficiently use its budget, achieve savings, and redirect financial resources.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00101922		PrivWith hold2166	PrivWith hold2167	1/4/2017	Email with subject line "Fwd: URGENT: DOD Cab Exit Memo"	DPP - Deliberative Process Privilege; EP - Executive Privilege	Email between senior DoD officials containing deliberations regarding the public dissemination of an exit memo highlighting DoD's accomplishments from 2009 to 2016 the Obama Administration chose to highlight in the last month of the administration and attaching that exit memo. Email chain contains comments and deliberation from senior WH/EOP officials regarding the public dissemination of the memo.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00101925		PrivWith hold2168	PrivWith hold2170	1/3/2017	Email with subject line "RE: DOD Exit Memo - Remaining NSC Feedback"	DPP - Deliberative Process Privilege; EP - Executive Privilege	Email between senior DoD officials attaching draft exit memo highlighting DoD's accomplishments from 2009 to 2016 the Obama Administration considered highlighting in the last month of the administration. Email chain contains comments and edits on the draft exit memo from senior WH/EOP officials.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00101927		PrivWith hold2171	PrivWith hold2173	12/15/2016	Email with subject line "RE: DOD Exit Memo - Remaining NSC Feedback"	Deliberative Process Privilege; EP - Executive Privilege	Email conversation between senior DoD officials and senior WH/EOP officials containing deliberations on DoD accomplishments from 2009 to 2016 the Obama Administration considered highlighting in a draft exit memo in the last month of the administration and attaching draft memo containing edits in track changes.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00101930		PrivWith hold2174	PrivWith hold2175	12/15/2016	Email with subject line "RE: DOD Exit Memo - Remaining NSC Feedback"	Deliberative Process Privilege; EP - Executive Privilege	Email conversation between senior DoD officials and senior WH/EOP officials containing deliberations on DoD accomplishments from 2009 to 2016 the Obama Administration considered highlighting in a draft exit memo in the last month of the administration and providing edits from WH/EOP officials from the NSC on the draft memo.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00101933		PrivWith hold2176	PrivWith hold2177	12/12/2016	Email with subject line "RE: NSC EDITS: DOD Exit Memo"	Deliberative Process Privilege; EP - Executive Privilege	Discussion of edits and the actual edits to the counter terrorism section of a draft memo highlighting the accomplishments of DoD under the Obama Administration from 2009-2006 provided by WH/EOP officials in NSC.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00101936		PrivWith hold2178	PrivWith hold2179	12/9/2016	Email with subject line "RE: NSC EDITS: DOD Exit Memo"	Deliberative Process Privilege; EP - Executive Privilege	Email conversation between senior DoD officials and senior WH/EOP officials containing deliberations on DoD accomplishments from 2009 to 2016 the Obama Administration considered highlighting in a draft exit memo in the last month of the administration and providing edits from WH/EOP on the draft memo in track changes.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00101942		PrivWith hold2180	PrivWith hold2180	12/9/2016	Email with subject line "Transparency Report"	Attorney-Client Privilege; DPP - Deliberative Process Privilege; EP - Executive Privilege	Email conversation between senior DoD officials and senior WH/EOP officials discussing edits to a draft exit memo regarding DoD accomplishments from 2009 to 2016 the Obama Administration considered highlighting in a draft exit memo in the last month of the administration. Also, seeking attorney review of a section of the draft memo.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00101946		PrivWith hold2181	PrivWith hold2181	12/8/2016	Email with subject line "Exit Memo"	Deliberative Process Privilege	Email between senior DoD officials attaching draft exit memo highlighting DoD's accomplishments from 2009 to 2016 the Obama Administration considered highlighting in the last month of the administration and seeking input from senior DoD officials.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00101948		PrivWith hold2182	PrivWith hold2182	12/8/2016	Email with subject line "Latest Exit Memo"	Deliberative Process Privilege	Email between senior DoD officials attaching draft exit memo highlighting DoD's accomplishments from 2009 to 2016 the Obama Administration considered highlighting in the last month of the administration and discussing WH/EOP edits of the draft memo.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0010 2019		PrivWith hold2183	PrivWith hold2183	12/8/2016	Email with subject line "FW: NSC EDITS: DOD Exit Memo"	Deliberative Process Privilege; EP - Executive Privilege	Email between senior DoD officials attaching draft exit memo highlighting DoD's accomplishments from 2009 to 2016 the Obama Administration considered highlighting in the last month of the administration and containing deliberations on further review of the draft memo. Email chain includes discussion of edits from WH/EOP officials at NSC.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00102365	DoD00102364	PrivWith hold2184	PrivWith hold2190	12/6/2016	Email with subject line "RE: Exit Memo"	Deliberative Process Privilege; EP - Executive Privilege	Email conversation between senior DoD officials and senior WH/EOP officials containing deliberations on DoD accomplishments from 2009 to 2016 the Obama Administration considered highlighting in a draft exit memo in the last month of the administration and attaching a draft of the exit memo.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00102410	DoD00102409	PrivWith hold2191	PrivWith hold2192	12/5/2016	Email with subject line "RE: End of Administration Memo"	Deliberative Process Privilege	Email from a senior DoD officials to other senior DoD officials discussing the creation of a draft exit memo highlighting DoD's accomplishments from 2009 to 2016 the Obama Administration considered highlighting in the last month of the administration, asking for input on the draft memo, and attaching an draft of that exit memo.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0010 2414	DoD0010 2413	PrivWith hold2193	PrivWith hold2194	12/5/2016	Email with subject line "RE: End of Administration Memo"	Deliberative Process Privilege	Email between senior DoD officials attaching draft exit memo highlighting DoD's accomplishments from 2009 to 2016 the Obama Administration considered highlighting in the last month of the administration with edits from senior WH/EOP officials.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0010 2422	DoD0010 2421	PrivWith hold2195	PrivWith hold2201	12/5/2016	Email with subject line "RE: Exit Memo"	Deliberative Process Privilege; EP - Executive Privilege	Email conversation between senior DoD officials and senior WH/EOP officials containing deliberations on DoD accomplishments from 2009 to 2016 the Obama Administration considered highlighting in a draft exit memo in the last month of the administration.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00102702	DoD00102701	PrivWith hold2202	PrivWith hold2204	11/29/2016	Email with subject line "RE: Exit Memo"	Deliberative Process Privilege; EP - Executive Privilege	Email conversation between senior DoD officials and senior WH/EOP officials containing deliberations and input from various EOP officials regarding DoD's accomplishments from 2009 to 2016 the Obama Administration considered highlight in a draft exit memo in the last month of the administration.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0010 2751	DoD0010 2750	PrivWith hold2205	PrivWith hold2206	11/29/2016	Email with subject line "Fwd: DRAFT FOR REVIEW: DoD End of Administration Memo for Submission to the White House"	Deliberative Process Privilege	Email between senior DoD officials attaching draft exit memo highlighting DoD's accomplishments from 2009 to 2016 the Obama Administration considered highlighting in the last month of the administration.		Not relevant
DoD0010 2783	DoD0010 2782	PrivWith hold2207	PrivWith hold2207	11/28/2016	Email with subject line "RE: DRAFT FOR REVIEW: DoD End of Administration Memo for Submission to the White House"	Deliberative Process Privilege	Email between senior DoD officials proposing edits to a draft exit memo highlighting DoD's accomplishments from 2009 to 2016 the Obama Administration considered highlighting in the last month of the administration.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0010 2796	DoD0010 2795	PrivWith hold2208	PrivWith hold2209	11/28/2016	Email with subject line "Look ahead..."	Deliberative Process Privilege	Email between senior DoD officials containing deliberations on several topics unrelated to the litigation (transition, a forthcoming speech, paid contractor sick leave, and updating a DoD Instruction regarding the arming of servicemembers). Email also contains a draft exit memo highlighting DoD's accomplishments from 2009 to 2016 the Obama Administration considered highlighting in the last month of the administration.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00102874	DoD00102873	PrivWith hold2210	PrivWith hold2210	11/23/2016	Email with subject line "DRAFT FOR REVIEW: DoD End of Administration Memo for Submission to the White House"	Deliberative Process Privilege	Email between senior DoD officials discussing the creation of a draft exit memo highlighting DoD's accomplishments from 2009 to 2016 the Obama Administration considered highlighting in the last month of the administration and attaching an initial draft of that exit memo.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00102903	DoD00102902	PrivWith hold2211	PrivWith hold2212	11/22/2016	Email with subject line "RE: Exit Memo"	Deliberative Process Privilege; EP - Executive Privilege	Email between senior DoD officials and senior WH/EOP officials discussing the creation of a draft exit memo highlighting DoD's accomplishments from 2009 to 2016 the Obama Administration considered highlighting in the last month of the administration and attaching an initial draft of that exit memo.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00102976	DoD00102975	PrivWith hold2213	PrivWith hold2214	11/21/2016	Email with subject line "FW: End of Administration Memo - Hedger"	Deliberative Process Privilege	Senior DoD officials forwarding to his own personal email address a draft exit memo highlighting DoD's accomplishments from 2009 to 2016 the Obama Administration considered highlighting in the last month of the administration along with the underlying email chain containing deliberations on the creation of the draft exit memo.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00102991	DoD00102990	PrivWith hold2215	PrivWith hold2216	11/21/2016	Email with subject line "RE: Exit Memo"	Deliberative Process Privilege; EP - Executive Privilege	Email conversation between senior DoD officials and senior WH/EOP officials containing deliberations on DoD accomplishments from 2009 to 2016 the Obama Administration considered highlighting in a draft exit memo in the last month of the administration and attaching the draft memo.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00102999	DoD00102998	PrivWith hold2217	PrivWith hold2217	11/21/2016	Email with subject line "RE: Exit Memo"	Deliberative Process Privilege; EP - Executive Privilege	Email conversation between senior DoD officials and senior WH/EOP officials containing deliberations on DoD accomplishments from 2009 to 2016 the Obama Administration considered highlighting in a draft exit memo in the last month of the administration and attaching the draft memo.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00103007	DoD00103006	PrivWith hold2218	PrivWith hold2219	11/21/2016	Email with subject line "RE: End of Administration Memo"	Deliberative Process Privilege; EP - Executive Privilege	Email conversation between senior DoD officials and senior WH/EOP officials containing deliberations on DoD accomplishments from 2009 to 2016 the Obama Administration considered highlighting in a draft exit memo in the last month of the administration and attaching the draft memo.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00103029	DoD00103028	PrivWith hold2220	PrivWith hold2221	11/20/2016	Email with subject line "Re: End of Administration Memo"	Deliberative Process Privilege	Email from a senior DoD officials to other senior DoD officials discussing the creation of a draft exit memo highlighting DoD's accomplishments from 2009 to 2016 the Obama Administration considered highlighting in the last month of the administration, asking for input on the draft memo, and attaching an draft of that exit memo.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00103038	DoD00103037	PrivWith hold2222	PrivWith hold2224	11/19/2016	Email with subject line "RE: End of Administration Memo"	Deliberative Process Privilege	Email from a senior DoD officials to other senior DoD officials discussing the creation of a draft exit memo highlighting DoD's accomplishments from 2009 to 2016 the Obama Administration considered highlighting in the last month of the administration, attaching the draft of that exit memo, and discussing inputs to that draft exit memo from the Military Services.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00103041	DoD00103040	PrivWith hold2225	PrivWith hold2228	11/19/2016	Email with subject line "RE: End of Administration Memo (UNCLASSIFIED)"	Deliberative Process Privilege	Email from a senior DoD official to other senior DoD officials discussing the creation of a draft exit memo highlighting DoD's accomplishments from 2009 to 2016 the Obama Administration considered highlighting in the last month of the administration, attaching the draft of that exit memo, and discussing inputs to that draft exit memo from the Military Services.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00103044	DoD00103043	PrivWith hold2229	PrivWith hold2229	11/19/2016	Email with subject line "RE: USAF End of Administration Input Memo"	Deliberative Process Privilege	Email from a senior DoD official seeking inputs from senior Air Force officials on a draft exit memo highlighting DoD's accomplishments from 2009 to 2016 the Obama Administration considered highlighting in the last month of the administration and attaching the draft of that exit memo.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00103047	DoD00103046	PrivWith hold2230	PrivWith hold2230	11/19/2016	Email with subject line "RE: accomplishments"	Deliberative Process Privilege	Email from a senior DoD official seeking inputs from senior Navy officials on a draft exit memo highlighting DoD's accomplishments from 2009 to 2016 the Obama Administration considered highlighting in the last month of the administration and attaching the draft of that exit memo.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00103050	DoD00103049	PrivWith hold2231	PrivWith hold2232	11/19/2016	Email with subject line "Fwd: End of Administration Memo"	Deliberative Process Privilege	Email from senior DoD official seeking inputs from other senior DoD officials on a draft exit memo highlighting DoD's accomplishments from 2009 to 2016 the Obama Administration considered highlighting in the last month of the administration and attaching the draft of that exit memo.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0010 3062	DoD0010 3061	PrivWith hold2233	PrivWith hold2233	11/18/2016	Email with subject line "End of Administration Memo"	Deliberative Process Privilege	Email from senior DoD official seeking inputs from other senior DoD officials on a draft exit memo highlighting DoD's accomplishments from 2009 to 2016 the Obama Administration considered highlighting in the last month of the administration and attaching the draft of that exit memo.		Not relevant
DoD0010 3808	DoD0010 3803	PrivWith hold2234	PrivWith hold2234	11/2/2016	Word document titled, "ANTI-ISIL FACTS AND STATS" with file name "ANTI-ISIL FACTS 2 NOV 2016.doc"	Deliberative Process Privilege	Internal DoD document containing talking points and statistics regarding mission against ISIL.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0010 3809	DoD0010 3803	PrivWith hold2235	PrivWith hold2236	11/2/2016	Attachment to email. Word document titled "Budget Amendment" with file name "Budget Amendment - 2 OCT 2016.docx"	Deliberative Process Privilege	Internal DoD document containing talking points regarding a budget amendment for CENTCOM operations to counter-ISIL.		Not relevant
DoD0010 3859	DoD0010 3857	PrivWith hold2237	PrivWith hold2237	11/1/2016	Attachment to email. Word document titled, "ANTI-ISIL FACTS AND STATS" with file name "ANTI-ISIL FACTS 1 NOV 2016.doc"	Deliberative Process Privilege	Internal DoD document containing talking points and statistics regarding mission against ISIL.		Not relevant
DoD0010 3862	DoD0010 3860	PrivWith hold2238	PrivWith hold2238	11/1/2016	Attachment to email. Word document titled, "ANTI-ISIL FACTS AND STATS" with file name "ANTI-ISIL FACTS 1 NOV 2016.doc"	Deliberative Process Privilege	Internal DoD document containing talking points and statistics regarding mission against ISIL.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0010 5101	DoD0010 5094	PrivWith hold2239	PrivWith hold2239	10/3/2016	Attachment to email. Word document titled, "ANTI-ISIL FACTS AND STATS" with file name "ANTI-ISIL FACTS 03 OCT 2016.doc"	Deliberative Process Privilege	Internal DoD document containing talking points and statistics regarding mission against ISIL.		Not relevant
DoD0010 5115	DoD0010 5113	PrivWith hold2240	PrivWith hold2244	10/3/2016	Attachment to email. Word document titled "Syria – "Verge of Suspension" and One Year Since Russia Intervention" with file name "PG 20161003 Syria Updated.docx"	Deliberative Process Privilege	Internal DoD document providing background and talking points in response to potential questions on progress in Syria one year after Russian intervention		Not relevant
DoD0010 5117	DoD0010 5113	PrivWith hold2245	PrivWith hold2245	10/3/2016	Attachment to email. Word document titled "Syria HVI strike on al-Qaeda leader" with file name "161003 Syria HVI AQ strike Abu Faraj.docx"	Deliberative Process Privilege	Internal DoD document containing talking points on a Syrian strike on a High-value al-Qaeda leader.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0010 5119	DoD0010 5113	PrivWith hold2246	PrivWith hold2246	10/3/2016	Attachment to email. Word document titled "Afghanistan operational updates" with file name "Afghanistan operational updates.docx"	Deliberative Process Privilege	Internal DoD document containing talking points on Afghanistan operational updates for leadership.		Not relevant
DoD0010 5120	DoD0010 5113	PrivWith hold2247	PrivWith hold2247	10/3/2016	Attachment to email. Word document titled, "ANTI-ISIL FACTS AND STATS" with file name "ANTI-ISIL FACTS 03 OCT 2016.doc"	Deliberative Process Privilege	Internal DoD document containing talking points and statistics regarding mission against ISIL.		Not relevant
DoD0010 5122	DoD0010 5113	PrivWith hold2248	PrivWith hold2252	10/3/2016	Attachment to email. Word document titled "US Support to GNA in Libya" with file name "Libya Strikes 3 OCT 2016.docx"	Deliberative Process Privilege	Internal DoD document providing background and talking points in response to potential questions on US support to interim government in Libya and airstrikes in that area.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0010 5126	DoD0010 5113	PrivWith hold2253	PrivWith hold2259	10/3/2016	Attachment to email. Word document titled "Philippines - Pres. Duterte Comments" with file name "PG 20161003 - Philippines - Pres. Duterte Comments.docx"	Deliberative Process Privilege	Internal DoD document providing background on comments by Philippines Pres. Duterte in anticipation of media enquiries.		Not relevant
DoD0010 5127	DoD0010 5113	PrivWith hold2260	PrivWith hold2260	10/3/2016	Attachment to email. Word document titled "Iraq Humanitarian Assistance" with file name "161003 Iraq HA.DOCX"	Deliberative Process Privilege	Internal DoD document with talking points on Iraqi humanitarian assistance.		Not relevant
DoD0010 5128	DoD0010 5113	PrivWith hold2261	PrivWith hold2264	10/3/2016	Attachment to email. Word document titled "Russia in Syria" with file name "161003 Russia in Syria.docx"	Deliberative Process Privilege	Internal DoD document providing background and talking points in response to potential questions about Russian activities in Syria.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0010 5129	DoD0010 5113	PrivWith hold2265	PrivWith hold2270	10/3/2016	Attachment to email. Word document titled "ROK: Terminal High Altitude Area Defense" with file name "PG 20161003 -THAAD ROK Decision Update Policy.docx"	Deliberative Process Privilege	Internal DoD document providing background and talking points in response to potential questions about Korea Terminal High Altitude Area Defense operations.		Not relevant
DoD0010 5130	DoD0010 5113	PrivWith hold2271	PrivWith hold2271	10/3/2016	Attachment to email. Word document titled "North Korea/Japan Defense" with file name "PG 20161003 - North Korea Japan Defense.docx"	Deliberative Process Privilege	Internal DoD document providing background and talking points in response to potential questions about North Korea and Japan.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00105798	DoD00105795	PrivWith hold2272	PrivWith hold2273	9/8/2016	Attachment to email. Word document titled "BACKGROUND PAPER ON HAF CRISIS MANAGEMENT AND CONTINGENCY PLANNING AND EXECUTION" with file name "Transition_AF_SAF_AQ_TAB 11_FOUO Crisis Management and Contingency Plan.docx"	Deliberative Process Privilege	Background document regarding crisis management and contingency planning for National Capital Region.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00105809	DoD00105795	PrivWith hold2274	PrivWith hold2274	9/8/2016	Attachment to email. Word document titled "EFFECTS OF MEETING HIGHER END STRENGTH AND WAY AHEAD" with file name "Transition_AF_TA B 3_Initiatives and Actions_3d_Manp ower_Effects of Meeting Higher End Strength and Way Ahead.docx"	Deliberative Process Privilege	Background document regarding efforts to increase numbers of active duty servicemembers in the Air Force.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0010 5812	DoD0010 5795	PrivWith hold2275	PrivWith hold2277	8/9/2016	Attachment to email. Word document titled "USAF 2016 NUCLEAR POSTURE PRIORITIES/POSITIONS" with file name "Transition_AF_TA B 3_Initiatives and Actions_5a_AF Nuclear Issues_Nuclear Posture Status.docx"	Deliberative Process Privilege	Background document regarding US Air Force's 2016 Nuclear Posture Priorities and Positions.		Not relevant
DoD0010 5813	DoD0010 5795	PrivWith hold2278	PrivWith hold2278	8/15/2016	Attachment to email. Word document titled "ICBM Modernization" with file name "Transition_AF_TA B 3_Initiatives and Actions_5b_AF Nuclear Issues_ICBM Modernization.docx"	Deliberative Process Privilege	Background document regarding Intercontinental Ballistic Missile (ICBM) modernization.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0010 5814	DoD0010 5795	PrivWith hold2279	PrivWith hold2279	9/6/2016	Attachment to email. Word document titled "LONG RANGE STANDOFF" with file name "Transition_AF_TA B 3_Initiatives and Actions_5c_AF Nuclear Issues_Long Range Stand Off (LRSO).docx"	Deliberative Process Privilege	Background document regarding the "Long Range Stand Off" weapons program.		Not relevant
DoD0010 5821	DoD0010 5795	PrivWith hold2280	PrivWith hold2280	9/7/2016	Attachment to email. Word document titled "Joint Surveillance and Target Attack Radar System (JSTARS) Recapitalization (Recap) Program" with file name "Transition_AF_TA B 3_Initiatives and Actions_7e_Moder nization_JSTARS Recapitalization Program.docx"	Deliberative Process Privilege	Background document regarding Joint Surveillance and Target Attack Radar System (JSTARS) recapitalization.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0010 5848	DoD0010 5845	PrivWith hold2281	PrivWith hold2282	9/8/2016	Attachment to email. Word document titled "BACKGROUND PAPER ON HAF CRISIS MANAGEMENT AND CONTINGENCY PLANNING AND EXECUTION" with file name "Transition_AF_SAF_AQ_TAB 11_FOUO Crisis Management and Contingency Plan.docx"	Deliberative Process Privilege	Background document regarding crisis management and contingency planning for National Capital Region.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0010 5863	DoD0010 5845	PrivWith hold2283	PrivWith hold2283	8/15/2016	Attachment to email. Word document titled "ICBM Moderinzation" with file name "Transition_AF_TA B 3_Initiatives and Actions_5b_AF Nuclear Issues_ICBM Modernization.doc x"	Deliberative Process Privilege	Background document regarding Intercontinental Ballistic Missile (ICBM) modernization.		Not relevant
DoD0010 5864	DoD0010 5845	PrivWith hold2284	PrivWith hold2284	9/6/2016	Attachment to email. Word document titled "LONG RANGE STAND OFF" with file name "Transition_AF_TA B 3_Initiatives and Actions_5c_AF Nuclear Issues_Long Range Stand Off (LRSO).docx"	Deliberative Process Privilege	Background document regarding the Long Range Stand Off (LRSO) weapon.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0010 5865	DoD0010 5845	PrivWith hold2285	PrivWith hold2285	8/31/2016	Attachment to email. Word document titled "THIRD OFFSET: A STRATEGY FOR INNOVATION" with file name "Transition_AF_TAB 3_Initatives and Actions_6a_Innovation_Third Offset_A Strategy for Innovation.docx"	Deliberative Process Privilege	Background document regarding development of military technological capabilities.		Not relevant
DoD0010 6015	DoD0010 6013	PrivWith hold2286	PrivWith hold2286	9/15/2016	Attachment to email. Word document titled "Afghanistan: SIGAR report, corruption" with file name "160915 SIGAR report on Afghan corruption.docx"	Deliberative Process Privilege	Internal DoD document providing background and talking points in response to potential questions about Afghanistan		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0010 6016	DoD0010 6013	PrivWith hold2287	PrivWith hold2287	9/15/2016	Attachment to email. Word document titled "Anti ISIL Facts and Stats" with file name "ANTI-ISIL FACTS 15 SEP 2016.doc"	Deliberative Process Privilege	Internal DoD document containing talking points and statistics regarding mission against ISIL.		Not relevant
DoD0010 6021	DoD0010 6013	PrivWith hold2288	PrivWith hold2293	9/15/2016	Attachment to email. Word document titled "JOINT IMPLEMENTATION CELL – HARD Q&A" with file name "091516 DoD JIC Hard QA.DOCX"	Deliberative Process Privilege	Internal DoD document providing talking points in response to possible questions regarding ongoing negotiations about Syria.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0010 6022	DoD0010 6013	PrivWith hold2294	PrivWith hold2295	9/15/2016	Attachment to email. Word document titled "Iran – Unprofessional Interaction with Two US Maritime Patrol Aircraft" with file name "160915 Iran - Unprofessional Interaction with Two US Maritime Patrol Air....docx"	Deliberative Process Privilege	Internal DoD document providing background and talking points in response to potential questions about military incident in Strait of Hormuz.		Not relevant
DoD0010 6024	DoD0010 6013	PrivWith hold2296	PrivWith hold2301	9/15/2016	Attachment to email. Word document titled "North Korea, Nuclear Weapons Test" with file name "PG 20160915 - DPRK Nuclear Test.docx"	Deliberative Process Privilege	Internal DoD document providing background and talking points to anticipated questions about recent events in North Korea.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0010 6025	DoD0010 6013	PrivWith hold2302	PrivWith hold2305	9/15/2016	Attachment to email. Word document titled "Philippines - Pres. Duterte Comments" with file name "PG 20160915 - Philippines - Pres. Duterte Comments.docx"	Deliberative Process Privilege	Internal DoD document providing background on comments by Philippines Pres. Duterte in anticipation of media enquiries.		Not relevant
DoD0010 6121	DoD0010 6119	PrivWith hold2306	PrivWith hold2313	9/13/2016	Attachment to email. Word document titled "Syria Arrangement" with file name "PG 20160913 Syria Post Geneva Arrangement.docx"	Deliberative Process Privilege	Internal DoD document providing background and talking points to expected questions about Syria.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0010 6122	DoD0010 6119	PrivWith hold2314	PrivWith hold2318	9/13/2016	Attachment to email. Word document titled "Philippines - Pres. Duterte Comments" with file name "PG 20160913 - Philippines - Pres. Duterte Comments.docx"	Deliberative Process Privilege	Internal DoD document providing background on comments by Philippines Pres. Duterte in anticipation of media enquiries.		Not relevant
DoD0010 6123	DoD0010 6119	PrivWith hold2319	PrivWith hold2319	9/14/2016	Attachment to email. Word document titled "ANTI-ISIL FACTS AND STATS" with file name "ANTI-ISIL FACTS 14 SEP 2016.doc"	Deliberative Process Privilege	Internal DoD document containing talking points and statistics regarding mission against ISIL.		Not relevant
DoD0010 7021	DoD0010 7019	PrivWith hold2320	PrivWith hold2320	8/26/2016	Attachment to email. Word document titled "ANTI-ISIL FACTS AND STATS" with file name "ANTI-ISIL FACTS 26 AUG 2016.doc"	Deliberative Process Privilege	Internal DoD document containing talking points and statistics regarding mission against ISIL.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00107400	DoD00107397	PrivWith hold2321	PrivWith hold2333	8/19/2016	PDF of info memo with subject "Update -- Force of the Future Tranches V/VI and General/Flag Officer Matters" with file name "Update-Force of the Future V-VI.pdf"	Deliberative Process Privilege	Memo from Acting Undersecretary of Defense (Personnel and Readiness) to SecDef regarding Force of the Future program.		Not relevant
DoD00107404	DoD00107397	PrivWith hold2334	PrivWith hold2346	8/19/2016	PDF of a memorandum for the Secretary of Defense with the subject line "Dual Hat" with file name "Dual Hat Memo.pdf"	Deliberative Process Privilege	Memo from Deputy SecDef to SecDef on leadership structure of the US Cyber Command and the National Security Agency		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00107409	DoD00107397	PrivWith hold2347	PrivWith hold2353	8/18/2016	Word document labeled "draft" titled "OUTLINE1 FOR FY17 BUDGET/NDAA SPEECH NATIONAL PRESS CLUB, WASHINGTON, DC TBD-DAY BETWEEN AUG. 29 AND SEPT. 6, 2016" with file name "National Press Club Budget Speech Outline Draft 1.0.docx"	Deliberative Process Privilege	Speechwriter's outline draft for speech about the budget to be given by Secretary of Defense at the National Press club.		Not relevant
DoD00107414	DoD00107397	PrivWith hold2354	PrivWith hold2355	8/18/2016	PDF of memo with the subject line "Reprogramming Actions Update" with file name "Untitled.pdf"	Deliberative Process Privilege	Memo to SecDef from Under Secretary of Defense (Comptroller) regarding reprogramming actions.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00107434	DoD00107430	PrivWith hold2356	PrivWith hold2368	8/19/2016	PDF of info memo with subject "Update -- Force of the Future Tranches V/VI and General/Flag Officer Matters" with file name "Update-Force of the Future V-VI.pdf"	Deliberative Process Privilege	Memo from Acting Undersecretary of Defense (Personnel and Readiness) to SecDef regarding Force of the Future program.		Not relevant
DoD00107438	DoD00107430	PrivWith hold2369	PrivWith hold2381	8/19/2016	PDF of a memorandum for the Secretary of Defense with the subject line "Dual Hat" with file name "Dual Hat Memo.pdf"	Deliberative Process Privilege	Memo from Deputy SecDef to SecDef on leadership structure of the US Cyber Command and the National Security Agency		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0010 7442	DoD0010 7430	PrivWith hold2382	PrivWith hold2388	8/18/2016	Draft Word document titled "INSPECTORS GENERAL TOWN HALL OPENING REMARKS MARK CENTER AUDITORIUM, ALEXANDRIA, VA THURSDAY, AUGUST 26, 2016" with file name "IG Town Hall Draft 1.0.docx"	Deliberative Process Privilege	Speechwriter's draft for remarks made to DoD Inspector General Town Hall.		Not relevant
DoD0010 7443	DoD0010 7430	PrivWith hold2389	PrivWith hold2395	8/18/2016	Word document labeled "draft" titled "OUTLINE1 FOR FY17 BUDGET/NDAA SPEECH NATIONAL PRESS CLUB, WASHINGTON, DC TBD-DAY BETWEEN AUG. 29 AND SEPT. 6, 2016" with file name "National Press Club Budget Speech Outline Draft 1.0.docx"	Deliberative Process Privilege	Speechwriter's outline draft for speech about the budget to be given by Secretary of Defense at the National Press club.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00107448	DoD00107430	PrivWith hold2396	PrivWith hold2397	8/18/2016	PDF of memo with the subject line "Reprogramming Actions Update" with file name "Untitled.pdf"	Deliberative Process Privilege	Confidential memorandum, dated 8/18/2016, from M. McCord, Under Secretary of Defense (Comptroller); Chief Financial Officer, to the Secretary of Defense, concerning the status of actions for the reprogramming of funds appropriated to DOD, including summaries of those actions and a recommendation regarding the Secretary's action		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00107453	DoD00107450	PrivWith hold2398	PrivWith hold2410	8/19/2016	PDF of info memo with subject "Update -- Force of the Future Tranches V/VI and General/Flag Officer Matters" with file name "Update-Force of the Future V-VI.pdf"	Deliberative Process Privilege	Confidential memorandum dated 8/19/2016, from P. Levine, Acting Under Secretary of Defense, to Secretary of Defense, providing a summary of work done on the "forces of the future" initiative. The memo describes pre-decisional deliberations of DoD in that the efforts and discussions described in the memorandum pre-date the roll-out of the "forces of the future" program.		Not relevant

DoD0010 7457	DoD0010 7450	PrivWith hold2411	PrivWith hold2423	8/19/2016	PDF of a memorandum for the Secretary of Defense with the subject line "Dual Hat" with file name "Dual Hat Memo.pdf"	Deliberative Process Privilege	Confidential memorandum from R. Work, Deputy Secretary of Defense, to the Secretary of Defense, dated 8/19/2016, concerning proposed changes to authority delegated to Commander of CYBERCOM. It is predecisional because the memorandum was drafted before the Secretary finally decided on a memorandum, a draft of which is included in the package, from the Secretary of Defense to the President, notifying the President of the Secretary's		Not relevant
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Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
							decision regarding the delegated authority.		

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00107461	DoD00107450	PrivWith hold2424	PrivWith hold2430	8/18/2016	Draft Word document titled "INSPECTORS GENERAL TOWN HALL OPENING REMARKS MARK CENTER AUDITORIUM, ALEXANDRIA, VA THURSDAY, AUGUST 26, 2016" with file name "IG Town Hall Draft 1.0.docx"	Deliberative Process Privilege	Confidential draft of speech prepared for the Secretary of defense. The speech is scheduled for 8/26/2016. The draft is dated 8/18/2016, and marked draft 1.0. The draft is predecisional as it was prepared prior to the date of the speech.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00107462	DoD00107450	PrivWith hold2431	PrivWith hold2437	8/18/2016	Draft Word document titled "OUTLINE1 FOR FY17 BUDGET/NDAA SPEECH NATIONAL PRESS CLUB, WASHINGTON, DC TBD-DAY BETWEEN AUG. 29 AND SEPT. 6, 2016" with file name "National Press Club Budget Speech Outline Draft 1.0.docx"	Deliberative Process Privilege	Confidential outline of a scheduled speak at the National Press Club regarding the defense budget. The outline is pre-decisional as it was prepared prior to the speech, dated 8/18/2016, and before the preparation of initial drafts of the speech.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00107467	DoD00107450	PrivWith hold2438	PrivWith hold2439	8/18/2016	PDF of memo with the subject line "Reprogramming Actions Update" with file name "Untitled.pdf"	Deliberative Process Privilege	Confidential memorandum, dated 8/18/2016, from M. McCord, Under Secretary of Defense (Comptroller); Chief Financial Officer, to the Secretary of Defense, concerning the status of actions for the reprogramming of funds appropriated to DOD, including summaries of those actions and a recommendation regarding the Secretary's action		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0010 9257	DoD0010 9255	PrivWith hold2440	PrivWith hold2444	7/1/2016	Attachment to email sent by Stuart Munsch. Word document titled "Turkey: Terrorist Attack on Ataturk International Airport" with file name "PG 20160701 - Turkey - Istanbul Attacker.docx"	Deliberative Process Privilege	Confidential briefing document, dated 7/1/2016, to Secretary of Defense, prepared by DoD media office, containing proposed talking points and responses to media questions about DoD's investigation of a terrorist attack on a military base in Turkey. The document is predecisional at it was prepared before the Secretary's press briefing.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0010 9260	DoD0010 9255	PrivWith hold2445	PrivWith hold2466	7/1/2016	Attachment to email sent by Stuart Munsch Word document titled "Combined Talking Points" with file name "PG 20160701 -- CivCas EO and Aggregate Stats.doc"	Deliberative Process Privilege	Confidential briefing paper, dated 7/1/2016, to Secretary of Defense, containing and extended discussion of a proposed executive order regarding the use of lethal force and proposed talking points and responses to questions from the media regarding the same.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0010 9316	DoD0010 9314	PrivWith hold2467	PrivWith hold2471	7/1/2016	Attachment to email sent by Courtney Hillson. Word document titled "Turkey: Terrorist Attack on Ataturk International Airport" with file name "PG 20160701 - Turkey - Istanbul Attacker.docx"	Deliberative Process Privilege	Confidential briefing document, dated 7/1/2016, to Secretary of Defense, prepared by DoD meida office, containing proposed talking points and responses to media questions about DoD's investigation of a terrorist attack on a military base in Turkey. The document is predecisional at it was prepared before the Secretary's press briefing.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0010 9319	DoD0010 9314	PrivWith hold2472	PrivWith hold2493	7/1/2016	Attachment to email sent by Courtney Hillson. Word document titled "Combined Talking Points" with file name "PG 20160701 -- CivCas EO and Aggregate Stats.doc"	Deliberative Process Privilege	Confidential briefing paper, dated 7/1/2016, to Secretary of Defense, containing and extended discussion of a proposed executive order regarding the use of lethal force and proposed talking points and responses to questions from the media regarding the same.		Not relevant
DoD0010 9324	DoD0010 9322	PrivWith hold2494	PrivWith hold2494	7/1/2016	Attachment to email. Word document titled "ANTI-ISIL FACTS AND STATS" with file name "ANTI-ISIL FACTS 01 JUL 2016.doc"	Deliberative Process Privilege	Confidential briefing document, dated 7/1/2016, to senior DoD officials, concerning DoD's operations against ISIL.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0010 9445	DoD0010 9443	PrivWith hold2495	PrivWith hold2496	6/30/2016	Attachment to email. PDF titled "RCB Investigation Briefing Card with file name "06.30.2016 - RCB Investigation Briefing Card - APPROVED.PDF"	Deliberative Process Privilege	Confidential briefing document, dated 6/30/2016, to the chief of naval operations, containing a summary of an investigation into an incident involving Iranian forces, providing proposed talking points and responses to media questions regarding the incident and the subsequent investigation. The talking points are predecisional in that they were prepared prior to the press conference regarding this incident.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0010 9449	DoD0010 9443	PrivWith hold2497	PrivWith hold2497	6/30/2016	Attachment to email. Word document titled "ANTI-ISIL FACTS AND STATS" with file name "ANTI-ISIL FACTS 30 JUN 2016.doc"	Deliberative Process Privilege	Confidential briefing document, dated 7/1/2016, to senior DoD officials, concerning DoD's operations against ISIL.		Not relevant
DoD0011 4213	DoD0011 4211	PrivWith hold2498	PrivWith hold2499	4/5/2016	Word document titled "SYRIA/ISIL: Abu Firas, SOF, FFSTs" with file name "PG 20160405 -- Syria, ISIL - FFSTs.docx"	Deliberative Process Privilege	Confidential briefing document, dated 7/1/2016, to senior DoD officials, concerning DoD's operations against ISIL.		Not relevant
DoD0011 4215	DoD0011 4211	PrivWith hold2500	PrivWith hold2502	4/4/2016	Word document titled "Mar31 Air Strike in Somalia - Dhoore" with file name "Air Strike in Somalia-Dhoore - 4-5-2016.docx"	Deliberative Process Privilege	Internal talking points and press guidance document prepared to assist DoD/military leadership. Concerns al-Shabaab attack.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0011 4216	DoD0011 4211	PrivWith hold2503	PrivWith hold2503	4/5/2016	Word document titled "ANTI-ISIL FACTS AND STATS" with file name "ANTI-ISIL FACTS 5 APR 16.doc"	Deliberative Process Privilege	Internal briefing document prepared to assist DoD/military leadership. Concerns military campaign against ISIL.		Not relevant
DoD0011 4219	DoD0011 4211	PrivWith hold2504	PrivWith hold2510	4/5/2016	Word document titled "EMBARGOED - Guantanamo Press Guidance" with file name "PG 20160405 GTMO xfers to Senegal.docx"	Deliberative Process Privilege	Internal talking points and press guidance document prepared to assist DoD/military leadership. Concerns transfer of Guantanamo detainees.		Not relevant
DoD0011 4221	DoD0011 4211	PrivWith hold2511	PrivWith hold2513	4/4/2016	Word document titled "Somalia al-Shabaab Self Defense Strike" with file name "Somalia Self Defense Air Strike 4-5-2016.docx"	Deliberative Process Privilege	Internal talking points and press guidance document prepared to assist DoD/military leadership. Concerns al-Shabaab attack.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00116697		PrivWith hold2514	PrivWith hold2515	12/8/2016	Email with subject line "RE: NSC EDITS: DOD Exit Memo"	Deliberative Process Privilege	Email conversation between senior DoD officials and senior WH/EOP officials containing deliberations on DoD accomplishments from 2009 to 2016 the Obama Administration considered highlighting in a draft exit memo in the last month of the administration and attaching draft memo containing edits in track changes.		Not relevant
DoD00117082	DoD00117081	PrivWith hold2516	PrivWith hold2517	12/13/2016	PDF titled "ART Meeting Schedule - Dec 12-16" with file name "ART Meeting Schedule - Week of 12 December.pdf"	Deliberative Process Privilege	Draft schedule reflecting planned meetings involving administration transition officials.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00117268		PrivWith hold2518	PrivWith hold2520	12/19/2016	Email with subject line "RE: End of Administration Memo"	Deliberative Process Privilege	Email from a senior DoD officials to other senior DoD officials discussing the creation of a draft exit memo highlighting DoD's accomplishments from 2009 to 2016 the Obama Administration considered highlighting in the last month of the administration, attaching the draft of that exit memo, and discussing inputs to that draft exit memo from the Military Services.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00117270		PrivWith hold2521	PrivWith hold2521	12/7/2016	Email with subject line "Exit Memo"	Deliberative Process Privilege	Email from a senior DoD officials to other senior DoD officials discussing the creation of a draft exit memo highlighting DoD's accomplishments from 2009 to 2016 the Obama Administration considered highlighting in the last month of the administration, attaching the draft of that exit memo, and discussing inputs to that draft exit memo from the Military Services.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0012 2124		PrivWith hold2522	PrivWith hold2528	4/9/2018	Email with subject line "FW: [Non-DoD Source] TRICARE Regulatory Reform Briefing Schedule Groupings"	AC - Attorney Client Privilege	Email conversation between DoD OGC attorney and their clients seeking a legal review of proposed changes to TRICARE regulations covering gender dysphoria.	N	Not deliberative and no legal advice sought or provided. Defendants may redact the last email on the chain to John Casciotti at DoD OGC. Balance of PrivWith 2522-2528 to be produced.
DoD0013 2934		PrivWith hold2529	PrivWith hold2531	4/3/2018	Email with subject line "RE: Karnoski supp brief due tomorrow"	AC - Attorney Client Privilege	Email conversation between DoD OGC Counsel and their clients regarding a draft version of a legal brief in the instant litigation.	Y	AC
DoD0013 2937		PrivWith hold2532	PrivWith hold2533	4/2/2018	Email with subject line "[Non-DoD Source] Karnoski supp brief due tomorrow"	AC - Attorney Client Privilege; WP - Work Product Privilege	Email conversation between DoD OGC Counsel and DOJ counsel regarding a litigation deadline tracking document.	Y	AC

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0013 2939		PrivWith hold2534	PrivWith hold2540	4/2/2018	Email with subject line "RE: Chapter 2 in TG Litigation Begins"	AC - Attorney Client Privilege; WP - Work Product Privilege	Email conversation among DoD attorneys discussing developments in this litigation, and the related cases.	Y	AC
DoD0013 2961		PrivWith hold2541	PrivWith hold2547	3/30/2018	Email with subject line "RE: Chapter 2 in TG Litigation Begins"	AC - Attorney Client Privilege	Email conversation among DoD attorneys discussing developments in this litigation, and the related cases.	Y	AC
DoD0013 2963		PrivWith hold2548	PrivWith hold2553	3/30/2018	Email with subject line "RE: Chapter 2 in TG Litigation Begins"	AC - Attorney Client Privilege	Email conversation among DoD attorneys discussing developments in this litigation, and the related cases.	Y	AC
DoD0013 2967		PrivWith hold2554	PrivWith hold2554	3/29/2018	Email with subject line "Corrected Copies of Motion to Dissolve PI and Supporting Declaration"	AC - Attorney Client Privilege	Email conversation among DoD attorneys discussing developments in this litigation.	Y	AC

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0013 2986		PrivWith hold2555	PrivWith hold2558	3/28/2018	Email with subject line "RE: [Non-DoD Source] New events in your CourtLink Tracked Docket: DOE et al v. TRUMP et al - US-DIS-DCD - 1:17cv1597"	AC - Attorney Client Privilege	Email conversation among DoD attorneys discussing developments in this litigation, and the related cases.	Y	AC
DoD0013 2991		PrivWith hold2559	PrivWith hold2560	3/27/2018	Email with subject line "FW: [Non-DoD Source] New events in your CourtLink Tracked Docket: DOE et al v. TRUMP et al - US-DIS-DCD - 1:17cv1597"	AC - Attorney Client Privilege	Email conversation among DoD OGC attorneys regarding legal developments in <i>Doe v. Trump</i> , No. 17-cv-1597 (D.D.C.).	Y	AC
DoD0013 3006		PrivWith hold2561	PrivWith hold2561	3/27/2018	Email with subject line "Action Requested: PR POTUS TG Decision Memo - GC Edits & Comments"	AC - Attorney Client Privilege	Email conversation among DoD OGC attorneys regarding request for OGC legal review of a draft decision memo from the Under Secretary for Personnel and Readiness.	Y	AC

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00133021		PrivWith hold2562	PrivWith hold2562	3/26/2018	Email with subject line "FW: Search for PDFs (UNCLASSIFIED)"	AC - Attorney Client Privilege	Email conversation between DoD OGC Counsel and their clients regarding collection of documents pursuant to litigation proceedings.	Y	AC
DoD00137848	DoD00137847	PrivWith hold2563	PrivWith hold2563	12/11/2017	Attachment to email. Word document prepared by Stephanie Miller titled "Hard Questions for Military Accessions Vital to the National Interest" with file name "MAVNI LPR FY19 Hard Qs and As.docx"	Deliberative Process Privilege	Briefing paper regarding Military Accessions Vital to the National Interest (MAVNI). Drafted for Secretary of Defense in preparation for congressional hearing. Unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0013 7850	DoD0013 7847	PrivWith hold2564	PrivWith hold2564	12/11/2017	Attachment to email. Word document titled "Foreign National Recruiting" with file name "SD Foriegn National Recruiting.docx"	Deliberative Process Privilege	Briefing paper regarding Foreign National Recruiting. Drafted for Secretary of Defense in preparation for congressional hearing. Unrelated to transgender military policy.		Not relevant
DoD0013 7873	DoD0013 7872	PrivWith hold2565	PrivWith hold2565	12/11/2017	Attachment to email. Word document prepared by Stephanie Miller titled "Hard Questions for Military Accessions Vital to the National Interest" with file name "MAVNI LPR FY19 Hard Qs and As.docx"	Deliberative Process Privilege	Briefing paper regarding Military Accessions Vital to the National Interest (MAVNI). Drafted for Secretary of Defense in preparation for congressional hearing. Unrelated to transgender military policy.		Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00137875	DoD00137872	PrivWith hold2566	PrivWith hold2566	12/11/2017	Attachment to email. Word document titled "Foreign National Recruiting" with file name "SD Foriegn National Recruiting.docx"	Deliberative Process Privilege	Briefing paper regarding Foreign National Recruiting. Drafted for Secretary of Defense in preparation for congressional hearing. Unrelated to transgender military policy.		Not relevant
DoD00140607		PrivWith hold2567	PrivWith hold2569	1/9/2018	Email with subject line "RE: Have to Drop Off"	AC - Attorney Client Privilege	Email conversation among DoD OGC attorneys regarding responding to discovery in <i>Doe v. Trump</i> , No. 17-1597 (D.D.C.).	Y	AC
DoD00140608	DoD00140607	PrivWith hold2570	PrivWith hold2573	12/20/2017	Email with subject line "Doe Interrogatories and RFP's (Doe, et al. v. Trump, et al., No. 17-1597 (D.D.C.))"	AC - Attorney Client Privilege	Email message from DoD OGC attorney to clients regarding responding to discovery in <i>Doe v. Trump</i> , No. 17-1597 (D.D.C.).	Y	AC

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0014 2085	DoD0014 2084	PrivWith hold2574	PrivWith hold2574	1/17/2018	Attachment to email. Word document titled "Women in Combat Litigation" with file name "32-Women in Combat Litigation 12 Jan 2018.docx"	AC - Attorney Client Privilege; WP - Work Product Privilege	DoD OGC working paper for attorneys summarizing the DoD position for litigation concerning women in combat positions across the Military Services.		Not relevant
DoD0014 3348	DoD0014 3347	PrivWith hold2575	PrivWith hold2575	7/26/2017	Email with the subject line "CNN Reporting: Trump announces US military ban on transgender people"	AC - Attorney Client Privilege	Email conversation among DoD OGC attorneys regarding potential litigation.	N	Transmittal email, not soliciting or providing legal advice
DoD0014 3352	DoD0014 3351	PrivWith hold2576	PrivWith hold2576	7/26/2017	Email with the subject line "New transgender policy (UNCLASSIFIED)"	AC - Attorney Client Privilege	Email conversation between DoD OGC attorneys and their clients regarding the effect of social media posts from the Executive Branch on ongoing policy process.	Y	AC

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0014 3356	DoD0014 3355	PrivWith hold2577	PrivWith hold2578	7/26/2017	Email with the subject line "RE: POTUS TG TWEET (UNCLASSIFIED)"	AC - Attorney Client Privilege	Email conversation between DoD OGC attorneys and their clients regarding the effect of social media posts from the Executive Branch on ongoing policy process.	Y	AC
DoD0014 3358	DoD0014 3357	PrivWith hold2579	PrivWith hold2581	7/26/2017	Email with the subject line "RE: POTUS TG TWEET (UNCLASSIFIED)"	AC - Attorney Client Privilege	Email conversation between DoD OGC attorneys and their clients regarding the effect of social media posts from the Executive Branch on ongoing policy process.	Y	AC
Navy_00 067020		PrivWith hold2582	PrivWith hold2584	12/21/2017	Email with subject line "DISCOVERY: Doe, et al. v. Trump, et al., No. 17-1597 (D.D.C.)"	Attorney - Client Privilege; WP - Work Product Privilege	Email message from Navy attorney to clients regarding responding to discovery in <i>Doe v. Trump</i> , No. 17-1597 (D.D.C.).	Y	AC; WP

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
Navy_00067021		PrivWith hold2585	PrivWith hold2586	8/28/2017	Attachment to email. PDF of memorandum from the DoD Office of General Counsel with the subject "Litigation Hold for Doe et al. v. Trump et al., No. 1:17-cv-1597 (D.D.C.)" with file name "(1) Lit Hold Ltr.pdf"	Attorney - Client Privilege; WP - Work Product Privilege	Litigation hold memorandum pursuant to <i>Doe v. Trump</i> , No. 17-1597 (D.D.C.).	Y	AC
Navy_00067022		PrivWith hold2587	PrivWith hold2587	12/21/2017	PDF with file name "(1) Transgender Policy Related Litigation Hold (Doe v. Trump, Stone v. Trump, Karnoski v. Trump, and Stockman v. Trump).pdf"	Attorney - Client Privilege; WP - Work Product Privilege	Email message from Navy attorney to clients regarding litigation hold in <i>Doe v. Trump</i> , No. 17-1597 (D.D.C.).	Y	AC

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
Navy_00082081		PrivWith hold2588	PrivWith hold2589	1/23/2018	Email with subject line "UPDATE! TRANSGENDER LITIGATION (Secure transmission)"	Attorney - Client Privilege	Email conversation among Navy attorney and clients regarding litigation hold in <i>Doe v. Trump</i> , No. 17-1597 (D.D.C.), and related cases.	Y	AC
USCG00007597		PrivWith hold2590	PrivWith hold2591	1/19/2018	Email with the subject line "FW: Doe v. Trump Lawsuit"	AC - Attorney Client Privilege; WP - Work Product Privilege	Email conversation between USCG Counsel and their clients regarding documents to be used in <i>Doe v. Trump</i> , No. 17-1597 (D.D.C.)	Y	AC
AF_CTRL_00000185		PrivWith hold2592	PrivWith hold2593	5/14/2018	Calendar invitation titled "Prep for Hill Mtgs"	DP - Deliberative Process	Contains redaction regarding planned topics for discussion with Senators.	N	Not deliberative. Email notes PDF of points to discuss with Senator Collins re transgender policy. Does not appear to be included. Should be produced, if it hasn't already been produced.

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
Army_10004634		PrivWith hold2594	PrivWith hold2596	10/23/2017	Email addressing court filing.	AC - Attorney Client; DP - Deliberative	Attorney mental impressions regarding matter in litigation or anticipated litigation; Deliberations regarding the formulation of the transgender policy; Seeking or providing legal advice regarding transgender policy	Y	AC, WP
Army_10005406		PrivWith hold2597	PrivWith hold2598	10/19/2017	Email between agency attorneys from OTJAG and OGC discussing a matter in litigation or anticipated litigation pertaining to the development of the military's transgender policy.	AC - Attorney Client; DP - Deliberative; WP - Work Product	Attorney mental impressions regarding matter in litigation or anticipated litigation; Deliberations regarding the formulation of the transgender policy; Seeking or providing legal advice regarding transgender policy	Y	AC, WP

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
Army_10005414		PrivWith hold2599	PrivWith hold2599	10/18/2017	Document was produced and disseminated between agency attorneys pursuant to matters in litigation or in anticipated litigation.	AC - Attorney Client; WP - Work Product	Attorney mental impressions regarding matter in litigation or anticipated litigation; Seeking or providing legal advice regarding transgender policy; Seeking or providing legal advice regarding litigation risk	Y	AC, WP
Army_10009171		PrivWith hold2600	PrivWith hold2612	10/24/2017	Email with subject line "RE: REMINDER: CACO TASKER - Update of Personnel IP ISO Mr. McPherson - Nominee for Army GC (S: COB 25 OCT 17) (UNCLASSIFIED)"	DP - Deliberative	Email chain containing deliberations regarding preparation of briefing materials in support of nominee to be Army General Counsel.	Y	AC/WP pages PrivWithhold 2600-2604. Produce PrivWithhold 2605-through middle of PrivWithhold2607. Balance of PrivWithhold 2607-2612 not produced.
Army_10009943		PrivWith hold2613	PrivWith hold2621					N	Not privileged
Army_10030186		PrivWith hold2622	PrivWith hold2622					N	Not privileged

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
Army_10 038152		PrivWith hold2623	PrivWith hold2623						Not relevant
Army_10 040255		PrivWith hold2624	PrivWith hold2624					N	Not privileged
DoD0000 0984		PrivWith hold2625	PrivWith hold2629	12/13/2017	RE: Tasker: Due 14 December - SD Issue Papers and Hard Questions for FY19 Budget Hearings	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not deliberative
DoD0000 1090		PrivWith hold2630	PrivWith hold2635	12/11/2017	RE: Tasker: Due 14 December - SD Issue Papers and Hard Questions for FY19 Budget Hearings (UNCLASSIFIED)	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not deliberative

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00001104		PrivWith hold2636	PrivWith hold2640	12/11/2017	RE: Tasker: Due 14 December - SD Issue Papers and Hard Questions for FY19 Budget Hearings (UNCLASSIFIED)	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not deliberative
DoD00001124		PrivWith hold2641	PrivWith hold2645	12/11/2017	FW: Tasker: Due 14 December - SD Issue Papers and Hard Questions for FY19 Budget Hearings (UNCLASSIFIED)	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not deliberative

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00001222		PrivWith hold2646	PrivWith hold2649	12/8/2017	RE: TG Litigation (UNCLASSIFIED//FOUO)	AC - Attorney Client Privilege; DP - Deliberative Process; WP - Work Product	Seeking or providing legal advice regarding transgender policy; Seeking or providing legal advice regarding litigation risk	Y	AC; WP
DoD00001468		PrivWith hold2650	PrivWith hold2652	11/30/2017	RE: Draft USMEPCOM Policy Memorandum 2-5 - TG Applicant Processing (UNCLASSIFIED)	AC - Attorney Client Privilege; DP - Deliberative Process	Attorney mental impressions regarding matter in litigation or anticipated litigation; Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Seeking or providing legal advice regarding transgender policy	N	Transmittal emails not privileged, Redact the email message from Arendt to Casciotti on page PrivWithhold 2650, but otherwise produce,

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0000 1730		PrivWith hold2653	PrivWith hold2653					N	Transmittal email
DoD0000 2246		PrivWith hold2654	PrivWith hold2654	9/22/2017	RE: MAVNI and TG (UNCLASSIFIED)	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not deliberative
DoD0000 2887		PrivWith hold2655	PrivWith hold2659	7/7/2017	RE: DEPSECDEF information book - requests (SUSPENSE: 1200 July 10) (UNCLASSIFIED)	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy	N	Not deliberative
DoD0000 2898		PrivWith hold2660	PrivWith hold2663	7/7/2017	DEPSECDEF information book - requests (SUSPENSE: 1200 July 10) (UNCLASSIFIED)	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy	N	Not deliberative
DoD0000 3016		PrivWith hold2664	PrivWith hold2666					N	Not deliberative

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00003103		PrivWith hold2667	PrivWith hold2668	5/17/2017	FW: 17 MAY - TOP LINES - MAVNI - Transgender (UNCLASSIFIED)	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	Y	DP
DoD00003105		PrivWith hold2669	PrivWith hold2670	5/17/2017	FW: 17 MAY - TOP LINES - MAVNI - Transgender (UNCLASSIFIED)	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	Y	DP

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DoD00003107		PrivWith hold2671	PrivWith hold2671	5/17/2017	17 MAY - TOP LINES - MAVNI - Transgender (UNCLASSIFIED)	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy		Not relevant
DoD00003113		PrivWith hold2672	PrivWith hold2672	5/17/2017	FW: APPROVAL HOT HOT -- FW: Media Query - Transgender Policy - Military Times (UNCLASSIFIED)	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not deliberative
DoD00003207		PrivWith hold2673	PrivWith hold2676	3/16/2017	FW: HOT _ HOT -- FW: Hot: Prep Q&A for 28 March SASC Roundtable (UNCLASSIFIED)	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not deliberative

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00003794		PrivWith hold2677	PrivWith hold2678	5/10/2016	Updated DoDI (Clean & Track Changes)	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	Y	DP
DoD00004657		PrivWith hold2679	PrivWith hold2681	8/1/2017	Email regarding a DoD Transgender cost paper	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not deliberative

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00005472		PrivWith hold2682	PrivWith hold2683	12/12/14	Email chain concerning Pending ALARACT re: Army retention of transgender service members (UNCLASSIFIED)	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	Y	DP
DoD00009258		PrivWith hold2684	PrivWith hold2687					N	Not deliberative
DoD00009265		PrivWith hold2688	PrivWith hold2693					N	Not deliberative
DoD00009271		PrivWith hold2694	PrivWith hold2699					N	Not deliberative
DoD00009837		PrivWith hold2700	PrivWith hold2702	8/1/17	Email chain concerning Transgender cost paper (UNCLASSIFIED)	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy	N	Not deliberative
DoD00009860		PrivWith hold2703	PrivWith hold2707	7/31/17	Email concerning APPROVAL -- FW: P&R Nomination Prep Tasker (UNCLASSIFIED)	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy	N	Not deliberative

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00010001		PrivWith hold2708	PrivWith hold2712	7/10/17	Email forward concerning APPROVAL: DEPSECDEF information book - requests (SUSPENSE: 1200 July 10) (UNCLASSIFIED)	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy	N	Not deliberative. Redact email from Warren to Hebert on bottom of PrivWithhold 2709. Otherwise produce.
DoD00010006		PrivWith hold2713	PrivWith hold2716	7/10/17	Email chain concerning APPROVAL: DEPSECDEF information book - requests (SUSPENSE: 1200 July 10) (UNCLASSIFIED)	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy	N	Not deliberative
DoD00010261		PrivWith hold2717	PrivWith hold2718	2/23/17	Email concerning APPROVAL -- FW: SecDef HASC Roundtable - Q&A Prep Materials	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy	N	Not deliberative
DoD00011513		PrivWith hold2719	PrivWith hold2723					N	Not deliberative
DoD00011517		PrivWith hold2724	PrivWith hold2728					Y	DP

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0002 1463		PrivWith hold2729	PrivWith hold2731	4/25/2017	Email FW: SUSPENSE COB Apr 27 -- FW: Deputy Secretary of Defense Nominee Prep Assistance and Nominations Guidance	AC - Attorney Client Privilege; DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Seeking or providing legal advice regarding transgender policy	Y	DP
DoD0002 2232		PrivWith hold2732	PrivWith hold2735					N	Not deliberative
DoD0002 2284		PrivWith hold2736	PrivWith hold2740	7/31/2017	Email discussion on briefing plan for senior leadership nomination prep which includes transgender assignments	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy	N	Not deliberative
DoD0002 2472		PrivWith hold2741	PrivWith hold2744	4/25/2017	Email discussion on assistance for nomination prep including the transgender policy	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy;	N	Not deliberative

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0002 2540		PrivWith hold2745	PrivWith hold2746	3/31/2017	Email regarding Deputy Secretary of Defense Nominee Prep Assistance and Nominations Guidance	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not deliberative
DoD0002 2575		PrivWith hold2747	PrivWith hold2751	8/10/2017	Email discussion concerning preparation of various topics including the transgender policy for P&R nominees	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not deliberative

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00022603		PrivWith hold2752	PrivWith hold2756	8/14/2017	Email discussion concerning preparation of various topics including the transgender policy for P&R nominees	AC - Attorney Client Privilege; DP - Deliberative Process; EP - Executive Privilege	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy; Seeking or providing legal advice regarding transgender policy	N	Not deliberative

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00022610		PrivWith hold2757	PrivWith hold2760	7/7/2017	Email discussion concerning preparation of various topics including the transgender policy for the deputy secretary of defense	AC - Attorney Client Privilege; DP - Deliberative Process; EP - Executive Privilege	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy; Seeking or providing legal advice regarding transgender policy; Seeking or providing legal advice regarding litigation risk	Y	AC
DoD00022631		PrivWith hold2761	PrivWith hold2765					N	Not deliberative

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00022677		PrivWith hold2766	PrivWith hold2770	7/28/2017	Email discussion concerning preparation of various topics including the transgender policy for P&R nominees	AC - Attorney Client Privilege; DP - Deliberative Process; EP - Executive Privilege	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy; Seeking or providing legal advice regarding transgender policy	Y	AC

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00022691		PrivWith hold2771	PrivWith hold2775	8/10/2017	Email discussion concerning preparation of various topics including the transgender policy for P&R nominees	AC - Attorney Client Privilege; DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy; Seeking or providing legal advice regarding transgender policy	N	No legal advice discussed, sought or given. Not deliberative

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0002 2707		PrivWith hold2776	PrivWith hold2780	7/7/2017	Email discussion concerning preparation of various topics including the transgender policy for DSD	AC - Attorney Client Privilege; DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy; Seeking or providing legal advice regarding transgender policy	Y	DP
DoD0002 6961		PrivWith hold2781	PrivWith hold2782	8/2/2017	Email chain regarding Info papers for USD (P&R) Nominee Confirmation Prep (RI)	AC - Attorney Client Privilege; DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy; Seeking or providing legal advice regarding transgender policy	Y	AC

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0002 6968		PrivWith hold2783	PrivWith hold2785	8/1/2017	Email chain regarding Transgender cost paper	AC - Attorney Client Privilege; DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Seeking or providing legal advice regarding transgender policy	Y	AC
DoD0002 6978		PrivWith hold2786	PrivWith hold2786	7/31/2017	Email chain regarding Info papers for USD (P&R) Nominee Confirmation Prep (MPP)	AC - Attorney Client Privilege; DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy; Seeking or providing legal advice regarding transgender policy	Y	AC

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00027040		PrivWith hold2787	PrivWith hold2789	5/18/2017	Email chain regarding 17 MAY - TOP LINES - MAVNI - Transgender	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	Y	DP
DoD00027127		PrivWith hold2790	PrivWith hold2792	2/23/2017	Email chain regarding SecDef roundtable including discussion of policies for service of transgender individuals	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy	N	Not deliberative
DoD00027139		PrivWith hold2793	PrivWith hold2794	2/23/2017	Email chain regarding SecDef roundtable including discussion of policies for service of transgender individuals	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not deliberative

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00027141		PrivWith hold2795	PrivWith hold2797	2/23/2017	Email chain regarding SecDef roundtable including discussion of policies for service of transgender individuals	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not deliberative
DoD00027145		PrivWith hold2798	PrivWith hold2799	2/23/2017	Email chain regarding SecDef roundtable including discussion of policies for service of transgender individuals	AC - Attorney Client Privilege; DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy; Seeking or providing legal advice regarding transgender policy	N	Not deliberative

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00027149		PrivWith hold2800	PrivWith hold2801	2/23/2017	Email chain regarding SecDef roundtable including discussion of policies for service of transgender individuals	AC - Attorney Client Privilege; DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy; Seeking or providing legal advice regarding transgender policy	N	Not deliberative
DoD00028457		PrivWith hold2802	PrivWith hold2802					Y	

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00031673		PrivWith hold2803	PrivWith hold2805	3/27/2017	Email FW: 1200-1300: 45 Day Plan Senior Steering Group	AC - Attorney Client Privilege; DP - Deliberative Process;	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy; Seeking or providing legal advice regarding transgender policy	Y	AC, DP for PrivWithhold 2802-03. Produce PrivWithhold 2804 and 2805 – not privileged.
DoD00038081		PrivWith hold2806	PrivWith hold2806	5/16/2017	For REVIEW - Top Lines for SecDef Press Conf - MAVNI and Transgender .msg	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy	N	Not deliberative

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0005 1842		PrivWith hold2807	PrivWith hold2810	7/10/2017	Email chain concerning information book for DEPSECDEF including discussion of transgender policies	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	Y	DP
DoD0005 1850		PrivWith hold2811	PrivWith hold2815	7/10/2017	Email chain concerning information book for DEPSECDEF including discussion of transgender policies	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	Y	DP
DoD0005 2197		PrivWith hold2816	PrivWith hold2820	7/10/2017	Email regarding APPROVAL: DEPSECDEF information book - requests (SUSPENSE: 1200 July 10)	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	Y	DP

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00068047		PrivWith hold2821	PrivWith hold2821	7/31/2017	Email chain regarding Info papers for USD (P&R) Nominee Confirmation Prep (MPP)	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	Y	DP
DoD00082880		PrivWith hold2822	PrivWith hold2822						Not relevant
DoD00082881	DoD00082880	PrivWith hold2823	PrivWith hold2825					N	Not deliberative. Produce header only on PrivWithhold 2823 and second to the last paragraph on PrivWithhold 2825. Balance is not relevant
DoD00082886		PrivWith hold2826	PrivWith hold2826					N	Transmittal email
DoD00082887	DoD00082886	PrivWith hold2827	PrivWith hold2829					N	Not deliberative. Produce header only on PrivWithhold 2827 and second to the last paragraph on PrivWithhold 2829. Balance is not relevant.
DoD00082979		PrivWith hold2830	PrivWith hold2830					N	Transmittal email

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0008 2980	DoD0008 2979	PrivWith hold2831	PrivWith hold2833	10/17/2017	Email with subject line "Daily Comms Update (UNCLASSIFIED)"	DP - Deliberative Process	Email thread reflecting briefing for senior DoD leadership on press guidance and strategy.	N	Not deliberative. Produce header on PrivWithhold 2831 and last paragraph on page PrivWithhold 2832. Balance not relevant.
DoD0008 3089		PrivWith hold2834	PrivWith hold2834					N	Transmittal email
DoD0008 3090	DoD0008 3089	PrivWith hold2835	PrivWith hold2836					N	Not deliberative. Produce header PrivWithhold 2835 and second to last paragraph 2836. Balance is not relevant
DoD0008 3093		PrivWith hold2837	PrivWith hold2837					N	Transmittal email
DoD0008 3094	DoD0008 3093	PrivWith hold2838	PrivWith hold2839					N	Not deliberative. Produce header PrivWithhold 2838 and second to last paragraph 2839. Balance is not relevant.
DoD0008 3105		PrivWith hold2840	PrivWith hold2840					N	Transmittal email
DoD0008 3106	DoD0008 3105	PrivWith hold2841	PrivWith hold2843					N	Not deliberative
DoD0008 3108		PrivWith hold2844	PrivWith hold2844						Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0008 3109	DoD0008 3108	PrivWith hold2845	PrivWith hold2847	9/12/2017	Email conversation regarding status of the transgender decision to prepare for the media questions	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy;	N	Not deliberative
DoD0008 3111		PrivWith hold2848	PrivWith hold2848						Not relevant
DoD0008 3112	DoD0008 3111	PrivWith hold2849	PrivWith hold2851	9/12/2017	Email conversation regarding status of the transgender decision to prepare for the media questions	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy	N	Not deliberative
DoD0008 3121		PrivWith hold2852	PrivWith hold2852						Not relevant
DoD0008 3122	DoD0008 3121	PrivWith hold2853	PrivWith hold2855	8/31/2017	Email conversation regarding status of the transgender decision to prepare for the media questions	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy	N	Not deliberative. Produce header PrivWithhold 2853 and last two paragraphs on PrivWithhold2855. Balance not relevant
DoD0008 3127		PrivWith hold2856	PrivWith hold2856					N	Transmittal email

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0008 3128	DoD0008 3127	PrivWith hold2857	PrivWith hold2859	8/31/2017	Email conversation regarding status of the transgender decision to prepare for the media questions	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy	N	Not deliberative. Produce header PrivWithhold 2857 and last two paragraphs on PrivWithhold2859. Balance not relevant.
DoD0008 3145		PrivWith hold2860	PrivWith hold2860					N	Transmittal email
DoD0008 3146	DoD0008 3145	PrivWith hold2861	PrivWith hold2863	8/30/2017	Email conversation regarding status of the transgender decision to prepare for the media questions	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy	N	Not deliberative. Produce header on PrivWithhold 2861 and Paragraph on same page starting with "Transgender". Balance is not relevant
DoD0008 3150		PrivWith hold2864	PrivWith hold2864					N	Transmittal email
DoD0008 3151	DoD0008 3150	PrivWith hold2865	PrivWith hold2867	8/30/2017	Email conversation regarding status of the transgender decision to prepare for the media questions	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy	N	Not deliberative. Produce header on PrivWithhold 2865 and Paragraph on same page starting with "Transgender". Balance is not relevant.
DoD0008 3232		PrivWith hold2868	PrivWith hold2868					N	Transmittal email

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0008 3233	DoD0008 3232	PrivWith hold2869	PrivWith hold2870					N	Not deliberative. Produce header on PrivWithhold 2869 and paragraph on PrivWithhold 2870 that begins with "Transgender". Balance is not relevant.
DoD0008 3247		PrivWith hold2871	PrivWith hold2871					N	Transmittal email
DoD0008 3555		PrivWith hold2872	PrivWith hold2872						Not relevant
DoD0008 3556	DoD0008 3555	PrivWith hold2873	PrivWith hold2875					N	Not deliberative. Produce Header section on PrivWithhold 2873 and the paragraph on PrivWithhold 2874 starting with Transgender. Balance is not relevant.
DoD0008 3583		PrivWith hold2876	PrivWith hold2876					N	Transmittal email
DoD0008 3584	DoD0008 3583	PrivWith hold2877	PrivWith hold2879					N	Not deliberative. Produce header section on PrivWithhold 2877 and paragraph on PrivWithhold 2878 re Transgender cadets. Balance not relevant
DoD0008 3772		PrivWith hold2880	PrivWith hold2880					N	Transmittal email

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0008 3773	DoD0008 3772	PrivWith hold2881	PrivWith hold2883	11/20/2017	Talking points re TG policy	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not deliberative. Produce header and Paragraph beginning "Transgender" on PrivWithhold 2881. Balance is not relevant
DoD0008 3776		PrivWith hold2884	PrivWith hold2884					N	Transmittal email
DoD0008 3777	DoD0008 3776	PrivWith hold2885	PrivWith hold2887	11/20/2017	Talking points re TG policy	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not deliberative. Produce header and Paragraph beginning "Transgender" on PrivWithhold 2881. Balance is not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0008 3780		PrivWith hold2888	PrivWith hold2888					N	Transmittal email
DoD0008 3781	DoD0008 3780	PrivWith hold2889	PrivWith hold2891	11/20/2017	Talking points re TG policy	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not deliberative. Produce header and Paragraph beginning "Transgender" on PrivWithhold 2889. Balance is not relevant
DoD0008 3851		PrivWith hold2892	PrivWith hold2892					N	Transmittal email

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0008 3852	DoD0008 3851	PrivWith hold2893	PrivWith hold2895	8/14/2017	Email regarding updated media coverage of the transgender policy	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not deliberative. Produce PrivWithhold Document 2893 with header and then the portion of the page that starts with Off-Camera Briefing and subjects. Balance is not relevant.
DoD0008 3855		PrivWith hold2896	PrivWith hold2896					N	Transmittal email
DoD0008 3856	DoD0008 3855	PrivWith hold2897	PrivWith hold2899	8/14/2017	Email regarding updated media coverage of the transgender policy	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not deliberative. Produce PrivWithhold Document 2897 with header and then the portion of the page that starts with Off-Camera Briefing and subjects. Balance is not relevant.

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0008 3878		PrivWith hold2900	PrivWith hold2900					N	Transmittal email
DoD0008 3879	DoD0008 3878	PrivWith hold2901	PrivWith hold2903	8/8/2017	Email regarding updated media coverage of the transgender policy	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not deliberative. Produce header on PrivWithhold 2901 and paragraph on PrivWithhold 2902 beginning with Transgender. Balance is not relevant.
DoD0008 3881		PrivWith hold2904	PrivWith hold2904					N	Transmittal email

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0008 3882	DoD0008 3881	PrivWith hold2905	PrivWith hold2907	8/8/2017	Email regarding updated media coverage of the transgender policy	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not deliberative. Produce header on PrivWithhold 2905 and paragraph on PrivWithhold 2906 beginning with Transgender. Balance is not relevant.
DoD0008 3884		PrivWith hold2908	PrivWith hold2908					N	Transmittal email
DoD0008 3885	DoD0008 3884	PrivWith hold2909	PrivWith hold2911	8/7/2017	Email regarding updated media coverage of the transgender policy	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not deliberative. Produce PrivWithhold 2909 header and section entitled Briefings. Balance of document is not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0008 3888		PrivWith hold2912	PrivWith hold2912					N	Transmittal email
DoD0008 3889	DoD0008 3888	PrivWith hold2913	PrivWith hold2915	8/7/2017	Email regarding updated media coverage of the transgender policy	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not deliberative. Produce PrivWithhold 2913 header and section entitled Briefings. Balance of document is not relevant
DoD0008 3900		PrivWith hold2916	PrivWith hold2916					N	Transmittal email
DoD0008 3904		PrivWith hold2917	PrivWith hold2917						Not relevant
DoD0008 3905	DoD0008 3904	PrivWith hold2918	PrivWith hold2920	8/5/2017	Email discussing press items of interest including transgender.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not deliberative. Produce header section on PrivWithhold 2918, and Paragraph beginning "Transgender" on PrivWithhold 2919. Balance is not relevant.

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0008 4031		PrivWith hold2921	PrivWith hold2921					N	Transmittal email
DoD0008 4032	DoD0008 4031	PrivWith hold2922	PrivWith hold2923	7/13/2017	Email containing notes from press questions including transgender.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not deliberative. Produce header and first paragraph of PrivWithhold 2922. Balance is not relevant.
DoD0008 4034		PrivWith hold2924	PrivWith hold2924					N	Transmittal email
DoD0008 4035	DoD0008 4034	PrivWith hold2925	PrivWith hold2926	7/13/2017	Email containing notes from press questions including transgender.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not deliberative. Produce header and first paragraph of PrivWithhold 2925. Balance is not relevant.
DoD0008 4039		PrivWith hold2927	PrivWith hold2927					N	Transmittal email

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0008 4040	DoD0008 4039	PrivWith hold2928	PrivWith hold2929	7/8/2017	Email discussion of read ahead materials including transgender.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy	N	Not deliberative
DoD0008 4045		PrivWith hold2930	PrivWith hold2930						Not relevant
DoD0008 4046	DoD0008 4045	PrivWith hold2931	PrivWith hold2932	7/8/2017	Email discussion of read ahead materials including transgender.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy	N	Not deliberative
DoD0008 4147		PrivWith hold2933	PrivWith hold2933						Not relevant
DoD0008 4148	DoD0008 4147	PrivWith hold2934	PrivWith hold2936					N	Not deliberative. Produce Header on PrivWithhold 2934 and first full paragraph. Produce paragraph on PrivWithhold 2935 that starts with Transgender cadets. Balance is not relevant.
DoD0008 4295		PrivWith hold2937	PrivWith hold2937					N	Transmittal email
DoD0008 4296	DoD0008 4295	PrivWith hold2938	PrivWith hold2941					N	Not deliberative. Produce header section on PrivWithhold 2938 and paragraph on PrivWithhold 2940 that begins with Accessions and OPCA request for guidance. Balance is not relevant.

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0008 4299		PrivWith hold2942	PrivWith hold2942					N	Transmittal email
DoD0008 4300	DoD0008 4299	PrivWith hold2943	PrivWith hold2946					N	Not deliberative. Produce header section on PrivWithhold 2943 and paragraph on PrivWithhold 2945 that begins with Accessions and OPCA request for guidance. Balance is not relevant.
DoD0008 4303		PrivWith hold2947	PrivWith hold2947					N	Transmittal email
DoD0008 4304	DoD0008 4303	PrivWith hold2948	PrivWith hold2950					N	Not deliberative. Produce header section of PrivWithhold 2948 and Accessions paragraph on PrivWithhold 2949. Balance is not relevant
DoD0008 4307		PrivWith hold2951	PrivWith hold2951					N	Transmittal email
DoD0008 4308	DoD0008 4307	PrivWith hold2952	PrivWith hold2954					N	Not deliberative. Produce header section of PrivWithhold 2952 and Accessions paragraph on PrivWithhold 2953. Balance is not relevant
DoD0008 5381		PrivWith hold2955	PrivWith hold2955					N	Transmittal email
DoD0008 5869		PrivWith hold2956	PrivWith hold2956						Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0008 5870	DoD0008 5869	PrivWith hold2957	PrivWith hold2962	12/22/2017	FW_ Doe Interrogatories and RFP's (Doe, et al. v. Trump, et al., No. 17-1597 (D.D.C.) .msg	AC - Attorney Client Privilege; WP - Work Product	Attorney mental impressions regarding matter in litigation or anticipated litigation; Contains attorney mental impressions and opinions concerning a draft litigation filing; Seeking or providing legal advice regarding litigation risk; Seeks advice from a client on a draft litigation filing	Y	AC; WP
DoD0008 5953		PrivWith hold2963	PrivWith hold2963						Not relevant
DoD0008 6007		PrivWith hold2964	PrivWith hold2964						Not relevant
DoD0008 7176		PrivWith hold2965	PrivWith hold2965						Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0008 7177	DoD0008 7176	PrivWith hold2966	PrivWith hold2969	2/13/2018	email conversation regarding an update on a transgender story appearing in a news publication.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy	N	Not deliberative. Produce header in PrivWithhold 2966 and paragraph on same page regarding story on transgender Navy reservist. Balance not relevant
DoD0008 7184		PrivWith hold2970	PrivWith hold2970					N	Transmittal email
DoD0008 7185	DoD0008 7184	PrivWith hold2971	PrivWith hold2974	2/13/2018	email conversation regarding a media article that will be published about a transgender service member	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy	N	Not deliberative. Produce header in PrivWithhold 2971 and paragraph on same page regarding story on transgender Navy reservist. Balance not relevant
DoD0008 7447		PrivWith hold2975	PrivWith hold2975					N	Transmittal email
DoD0008 7448	DoD0008 7447	PrivWith hold2976	PrivWith hold2979	2/8/2018	Email between DoD personnel discussing media items.	DP - Deliberative Process	Deliberations regarding the rescission of the transgender policy	N	Not deliberative. Produce header on PrivWithhold 2976 and paragraphs on PrivWithhold 2978 starting with "Transgender" and "Non-Deployable Service Members". Balance in not relevant
DoD0008 7453		PrivWith hold2980	PrivWith hold2980					N	Transmittal email

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0008 7454	DoD0008 7453	PrivWith hold2981	PrivWith hold2984	2/8/2018	Email between DoD personnel discussing media items.	DP - Deliberative Process	Deliberations regarding the rescission of the transgender policy	N	Not deliberative. Produce header on PrivWithhold 2981 and paragraphs on PrivWithhold 2983 starting with "Transgender" and "Non-Deployable Service Members". Balance in not relevant
DoD0008 7751		PrivWith hold2985	PrivWith hold2985					N	Transmittal email
DoD0008 7752	DoD0008 7751	PrivWith hold2986	PrivWith hold2989					N	Not deliberative. Produce Header on PrivWithhold 2986 and paragraph beginning "Transgender" on PrivWithhold 2987. Balance is not relevant.
DoD0008 7770		PrivWith hold2990	PrivWith hold2990					N	Transmittal email
DoD0008 7771	DoD0008 7770	PrivWith hold2991	PrivWith hold2994	1/29/2018	Email between DoD personnel discussing media items.	DP - Deliberative Process	Deliberations regarding the rescission of the transgender policy	N	Not deliberative. Produce header on PrivWithhold 2991 and paragraph on same page relating to Rep. Kennedy guest at SOTU speech. Balance is not relevant.
DoD0008 7776		PrivWith hold2995	PrivWith hold2995					N	Transmittal email
DoD0008 7777	DoD0008 7776	PrivWith hold2996	PrivWith hold2999	1/29/2018	Email between DoD personnel discussing media items.	DP - Deliberative Process	Deliberations regarding the rescission of the transgender policy	N	Not deliberative. Produce header on PrivWithhold 2996 and paragraph on same page relating to Rep. Kennedy guest at SOTU speech. Balance is not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0008 8314		PrivWith hold3000	PrivWith hold3000					N	Transmittal email
DoD0008 8315	DoD0008 8314	PrivWith hold3001	PrivWith hold3003	1/16/2018	Email discussing transgender news items.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not deliberative. Produce PrivWithhold 3001 – header and second full paragraph which deals with a report by Tom Vanden Brook. Balance is not relevant
DoD0008 8318		PrivWith hold3004	PrivWith hold3004					N	Transmittal email
DoD0008 8319	DoD0008 8318	PrivWith hold3005	PrivWith hold3007	1/16/2018	Email discussing transgender news items.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not deliberative. Produce PrivWithhold 3001 – header and second full paragraph which deals with a report by Tom Vanden Brook. Balance is not relevant
DoD0008 8482		PrivWith hold3008	PrivWith hold3008					N	Transmittal email

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0008 8483	DoD0008 8482	PrivWith hold3009	PrivWith hold3012	1/11/2018	Email between DoD personnel discussing media items.	DP - Deliberative Process	Deliberations regarding the rescission of the transgender policy	N	Not deliberative. Produce header to PrivWithhold 3009, and paragraph on PrivWithhold 3011 on "Transgender/Accession. Balance is not relevant.
DoD0008 8801		PrivWith hold3013	PrivWith hold3013					N	Transmittal email
DoD0008 8802	DoD0008 8801	PrivWith hold3014	PrivWith hold3016	1/4/2018	Email conversation regarding daily comms update on transgender accessions	DP - Deliberative Process	Deliberations regarding the rescission of the transgender policy	N	Not deliberative. Produce PrivWithhold 3014 and the top portion of 3015 before the weather forecast. Balance is not relevant
DoD0008 8807		PrivWith hold3017	PrivWith hold3017					N	Transmittal email
DoD0008 8808	DoD0008 8807	PrivWith hold3018	PrivWith hold3020	1/4/2018	Email conversation regarding daily comms update on transgender accessions	DP - Deliberative Process	Deliberations regarding the rescission of the transgender policy	N	Not deliberative. Produce all of PrivWithhold 3018 and the top portion of 3019 before the weather forecast. Balance is not relevant
DoD0008 8871		PrivWith hold3021	PrivWith hold3021					N	Transmittal email
DoD0008 8872	DoD0008 8871	PrivWith hold3022	PrivWith hold3023	1/3/2018	Email conversation regarding daily comms update on transgender accessions	DP - Deliberative Process	Deliberations regarding the rescission of the transgender policy	N	Not deliberative. Produce all of PrivWithhold 3022 and 3023 through the weather forecast. Balance is not relevant.
DoD0008 8875		PrivWith hold3024	PrivWith hold3024					N	Transmittal email

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0008 8876	DoD0008 8875	PrivWith hold3025	PrivWith hold3026	1/3/2018	Email conversation regarding daily comms update on transgender accessions	DP - Deliberative Process	Deliberations regarding the rescission of the transgender policy	N	Not deliberative. Produce PrivWithhold 3025 and 3026 through the weather forecast. Balance is not relevant.
DoD0008 8947		PrivWith hold3027	PrivWith hold3027					N	Transmittal email
DoD0008 8948	DoD0008 8947	PrivWith hold3028	PrivWith hold3029	1/2/2018	Email conversation regarding daily comms update on transgender accessions	DP - Deliberative Process	Deliberations regarding the rescission of the transgender policy	N	Not deliberative. Produce PrivWithhold 3026. Balance is not relevant
DoD0008 8950		PrivWith hold3030	PrivWith hold3030					N	Transmittal email
DoD0008 8951	DoD0008 8950	PrivWith hold3031	PrivWith hold3032	1/2/2018	Email conversation regarding daily comms update on transgender accessions	DP - Deliberative Process	Deliberations regarding the rescission of the transgender policy	N	Not deliberative. Produce PrivWithhold 3031. Balance is not relevant
DoD0008 9012		PrivWith hold3033	PrivWith hold3033					N	Transmittal email

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0008 9013	DoD0008 9012	PrivWith hold3034	PrivWith hold3035	12/29/2017	Email conversation regarding daily comms update on transgender accessions	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not deliberative.
DoD0008 9018		PrivWith hold3036	PrivWith hold3036						Not relevant
DoD0008 9019	DoD0008 9018	PrivWith hold3037	PrivWith hold3038	12/29/2017	Email conversation regarding daily comms update on transgender accessions	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not deliberative

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0009 1185		PrivWith hold3039	PrivWith hold3039					N	Transmittal email
DoD0009 1186	DoD0009 1185	PrivWith hold3040	PrivWith hold3040					N	Transmittal email
DoD0009 4628		PrivWith hold3041	PrivWith hold3041					N	Transmittal email
DoD0009 4629	DoD0009 4628	PrivWith hold3042	PrivWith hold3042					N	Transmittal email
DoD0009 4880		PrivWith hold3043	PrivWith hold3043					N	Transmittal email
DoD0009 4881	DoD0009 4880	PrivWith hold3044	PrivWith hold3045	8/11/2017	DoD Email including EOP regarding TG policy	DP - Deliberative Process; EP - Executive Privilege	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not deliberative.
DoD0009 4883		PrivWith hold3046	PrivWith hold3046					N	Transmittal email

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0009 4884	DoD0009 4883	PrivWith hold3047	PrivWith hold3049	8/11/2017	DoD Email including EOP regarding TG policy	DP - Deliberative Process; EP - Executive Privilege	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not deliberative
DoD0009 5471		PrivWith hold3050	PrivWith hold3050					N	Transmittal email
DoD0009 5472	DoD0009 5471	PrivWith hold3051	PrivWith hold3053	7/31/2017	Email conversation regarding talking points	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy	Y	DP
DoD0009 8487		PrivWith hold3054	PrivWith hold3054					N	Transmittal email
DoD0009 8488	DoD0009 8487	PrivWith hold3055	PrivWith hold3055						Not relevant
DoD0010 2364		PrivWith hold3056	PrivWith hold3056						Not relevant
DoD0010 2409		PrivWith hold3057	PrivWith hold3058						Not relevant
DoD0010 2413		PrivWith hold3059	PrivWith hold3060						Not relevant
DoD0010 2421		PrivWith hold3061	PrivWith hold3061						Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0010 2701		PrivWith hold3062	PrivWith hold3062						Not relevant
DoD0010 2750		PrivWith hold3063	PrivWith hold3063						Not relevant
DoD0010 2782		PrivWith hold3064	PrivWith hold3064						Not relevant
DoD0010 2795		PrivWith hold3065	PrivWith hold3065						Not relevant
DoD0010 2873		PrivWith hold3066	PrivWith hold3066						Not relevant
DoD0010 2902		PrivWith hold3067	PrivWith hold3067						Not relevant
DoD0010 2975		PrivWith hold3068	PrivWith hold3068						Not relevant
DoD0010 2990		PrivWith hold3069	PrivWith hold3069						Not relevant
DoD0010 2998		PrivWith hold3070	PrivWith hold3070						Not relevant
DoD0010 3006		PrivWith hold3071	PrivWith hold3072						Not relevant
DoD0010 3028		PrivWith hold3073	PrivWith hold3073						Not relevant
DoD0010 3037		PrivWith hold3074	PrivWith hold3074						Not relevant
DoD0010 3040		PrivWith hold3075	PrivWith hold3075						Not relevant

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0010 3043		PrivWith hold3076	PrivWith hold3076						Not relevant
DoD0010 3046		PrivWith hold3077	PrivWith hold3077						Not relevant
DoD0010 3049		PrivWith hold3078	PrivWith hold3078						Not relevant
DoD0010 3061		PrivWith hold3079	PrivWith hold3079						Not relevant
DoD0010 3803		PrivWith hold3080	PrivWith hold3080						Not relevant
DoD0010 3804	DoD0010 3803	PrivWith hold3081	PrivWith hold3084					N	Not deliberative. Produce header on PrivWithhold 3081 and Transgender paragraph on 3082 and 2 paragraphs on 3083 re transgender and women in military. Balance not relevant.
DoD0010 3857		PrivWith hold3085	PrivWith hold3085					N	Transmittal email
DoD0010 3858	DoD0010 3857	PrivWith hold3086	PrivWith hold3088					N	Not deliberative. Produce header on PrivWithhold 3086, and paragraphs on transgender students, and Transgender and Women in the military, both on PrivWithhold 3087
DoD0010 3860		PrivWith hold3089	PrivWith hold3089					N	Transmittal email

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0010 3861	DoD0010 3860	PrivWith hold3090	PrivWith hold3092					N	Not deliberative. Produce header on PrivWithhold 3090 and the two Transgender paragraphs on PrivWithhold 3091. Balance not relevant
DoD0010 5094		PrivWith hold3093	PrivWith hold3093					N	Transmittal email
DoD0010 5095	DoD0010 5094	PrivWith hold3094	PrivWith hold3096					N	Not deliberative. Produce header on PrivWithhold 3094 and two paragraphs on transgender references on PrivWithhold 3095 and PrivWithhold page 3096
DoD0010 5113		PrivWith hold3097	PrivWith hold3097					N	Transmittal email
DoD0010 5114	DoD0010 5113	PrivWith hold3098	PrivWith hold3100					N	Not deliberative. Produce header on PrivWithhold 3098 and two paragraphs on transgender references on PrivWithhold 3099 and PrivWithhold page 3100
DoD0010 5795		PrivWith hold3101	PrivWith hold3101					N	Transmittal email
DoD0010 5796	DoD0010 5795	PrivWith hold3102	PrivWith hold3103					N	Transmittal email
DoD0010 5845		PrivWith hold3104	PrivWith hold3104					N	Transmittal email
DoD0010 5846	DoD0010 5845	PrivWith hold3105	PrivWith hold3106					N	Transmittal email

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0010 6013		PrivWith hold3107	PrivWith hold3107					N	Transmittal email
DoD0010 6014	DoD0010 6013	PrivWith hold3108	PrivWith hold3110					N	Not deliberative. Produce header for PrivWithhold 3108 and paragraph on Transgender on PrivWithhold 3109 and PrivWithhold 3110.
DoD0010 6119		PrivWith hold3111	PrivWith hold3111					N	Transmittal email
DoD0010 6120	DoD0010 6119	PrivWith hold3112	PrivWith hold3113					N	Not deliberative. Produce first half of PrivWithhold 3112. Balance is not relevant.
DoD0010 7019		PrivWith hold3114	PrivWith hold3114					N	Transmittal email
DoD0010 7020	DoD0010 7019	PrivWith hold3115	PrivWith hold3117					N	Not deliberative. Produce header on PrivWithhold 3115 and two paragraphs on PrivWithhold 3116 re "transgender". Balance is not relevant.
DoD0010 7397		PrivWith hold3118	PrivWith hold3118					N	Transmittal email
DoD0010 7398	DoD0010 7397	PrivWith hold3119	PrivWith hold3119	8/20/2016	Email regarding transgender memo.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy	N	Not deliberative
DoD0010 7399	DoD0010 7397	PrivWith hold3120	PrivWith hold3120					N	Transmittal email

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0010 7403	DoD0010 7397	PrivWith hold3121	PrivWith hold3121						Not relevant
DoD0010 7407	DoD0010 7397	PrivWith hold3122	PrivWith hold3122						Not relevant
DoD0010 7413	DoD0010 7397	PrivWith hold3123	PrivWith hold3123					N	Transmittal email
DoD0010 7430		PrivWith hold3124	PrivWith hold3124					N	Transmittal email
DoD0010 7431	DoD0010 7430	PrivWith hold3125	PrivWith hold3125	8/19/2016	Fwd_ CLEANSING EMAIL - Documents and Emails provided to SecDef on Thursday and Friday.msg	DP - Deliberative Process	Email contains description of materials provided to Secretary of Defense, including deliberations regarding formulation of TG policy.	N	Not deliberative
DoD0010 7433	DoD0010 7430	PrivWith hold3126	PrivWith hold3126					N	Transmittal email
DoD0010 7437	DoD0010 7430	PrivWith hold3127	PrivWith hold3127					N	Transmittal email
DoD0010 7441	DoD0010 7430	PrivWith hold3128	PrivWith hold3128					N	Not deliberative
DoD0010 7447	DoD0010 7430	PrivWith hold3129	PrivWith hold3129					N	Not deliberative; transmittal email
DoD0010 7450		PrivWith hold3130	PrivWith hold3130					N	Transmittal email

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0010 7451	DoD0010 7450	PrivWith hold3131	PrivWith hold3131	8/19/2016	Email regarding transgender memo.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy	N	Transmittal email
DoD0010 7452	DoD0010 7450	PrivWith hold3132	PrivWith hold3132					N	Transmittal email
DoD0010 7456	DoD0010 7450	PrivWith hold3133	PrivWith hold3133						Not relevant
DoD0010 7460	DoD0010 7450	PrivWith hold3134	PrivWith hold3134					N	Transmittal email
DoD0010 7466	DoD0010 7450	PrivWith hold3135	PrivWith hold3135					N	Transmittal email
DoD0010 9255		PrivWith hold3136	PrivWith hold3136					N	Transmittal email
DoD0010 9256	DoD0010 9255	PrivWith hold3137	PrivWith hold3139	7/4/2016	Press guidance document.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy	N	Transmittal email
DoD0010 9314		PrivWith hold3140	PrivWith hold3140					N	Transmittal email
DoD0010 9315	DoD0010 9314	PrivWith hold3141	PrivWith hold3142	7/1/2016	Press guidance document.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy	N	Transmittal email
DoD0010 9322		PrivWith hold3143	PrivWith hold3143					N	Transmittal email

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0010 9323	DoD0010 9322	PrivWith hold3144	PrivWith hold3146	7/1/2016	E-mail report regarding policy including transgender.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy	N	Not deliberative. Produce header to PrivWithhold 3144 and four paragraphs on PrivWithhold 3145. Balance is not relevant.
DoD0010 9443		PrivWith hold3147	PrivWith hold3147					N	Transmittal email
DoD0010 9444	DoD0010 9443	PrivWith hold3148	PrivWith hold3151	6/30/2016	Email regarding transgender media coverage.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy	N	Not deliberative. Produce header to PrivWithhold 3148, Top Issues Section on PrivWithhold 3149 and Card section on 3150. Balance is not relevant
DoD0011 4211		PrivWith hold3152	PrivWith hold3152					N	Transmittal email
DoD0011 4212	DoD0011 4211	PrivWith hold3153	PrivWith hold3155					N	Not deliberative. Produce header to Off Camera Briefing Section on PrivWithhold 3153. Balance is not relevant
DoD0011 7081		PrivWith hold3156	PrivWith hold3157					N	Transmittal email

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD00137847		PrivWith hold3158	PrivWith hold3163	2/7/2018	Email between DoD personnel gathering material for congressional briefings.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not deliberative
DoD00137872		PrivWith hold3164	PrivWith hold3169	1/25/2018	Email between DoD personnel gathering material for congressional briefings.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not deliberative
DoD00142084		PrivWith hold3170	PrivWith hold3171	1/18/2018	Email between DoD personnel including attorneys providing edits to transgender documents.	AC - Attorney Client Privilege; DP - Deliberative Process	Attorney mental impressions regarding matter in litigation or anticipated litigation; Seeking or providing legal advice regarding transgender policy	Y	AC

Document ID	Parent ID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Determination	Privilege Description	Privilege Y/N	Reasons
DoD0014 3347		PrivWith hold3172	PrivWith hold3173					N	No legal advice sought or provided
DoD0014 3351		PrivWith hold3174	PrivWith hold3175	7/26/2017	Email with the subject line "New transgender policy (UNCLASSIFIED)"	AC - Attorney Client Privilege	Email conversation between DoD OGC attorneys and their clients regarding the effect of social media posts from the Executive Branch on ongoing policy process.	Y	AC
DoD0014 3355		PrivWith hold3176	PrivWith hold3177	7/26/2017	Email with the subject line "RE: POTUS TG TWEET (UNCLASSIFIED)"	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy	Y	DP and AC
DoD0014 3357		PrivWith hold3178	PrivWith hold3180	7/26/2017	Email with the subject line "RE: POTUS TG TWEET (UNCLASSIFIED)"	AC - Attorney Client Privilege	Email conversation between DoD OGC attorneys and their clients regarding the effect of social media posts from the Executive Branch on ongoing policy process.	Y	AC

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RYAN KARNOSKI, et al.,

Plaintiffs,

v.

DONALD J TRUMP, et al.,

Defendants.

CASE NO. C17-1297 MJP

ORDER RE JUNE 23, 2020
STATUS CONFERENCE;

JOINT SUBMISSION RE *IN*
CAMERA REVIEW OF 350
DOCUMENT SAMPLING OF
DEFENDANTS' DELIBERATIVE
PROCESS PRIVILEGE
ASSERTIONS (DKT. NOS. 497,
514)

THIS MATTER comes before the Court upon the Parties' Joint Submission Regarding Defendants' Deliberative Process Privilege Claims (Dkt. No. 497), and June Joint Status Report (Dkt. No. 534). Having reviewed the 350 documents submitted pursuant to the Court's Order on the Joint Submission, reviewed the Parties' Joint Status Report, and having heard from the Parties during the June 23, 2020 status conference (Dkt. No. 535), the Court rules as follows:

- (1) Defendants are ORDERED to produce a randomized selection of 500 additional documents that were withheld solely on the basis of the deliberative process privilege

1 by July 1, 2020. The Parties must meet and confer before selecting the 500
2 documents. If they cannot agree on mutual search terms, the Plaintiffs are to select
3 random documents and the Parties are to follow the procedure outlined in the Court’s
4 Order on the Parties’ Joint Submission re Defendants’ Deliberative Process Privilege
5 Claims. (Dkt. No. 514 at 1-2.)

6 (2) Also by July 1, 2020, the Parties are ORDERED to answer the Court’s questions,
7 *infra*, regarding the 350 documents previously submitted for *in camera* review and
8 provide any additional information regarding the decisional timeline described in
9 Karnoski v. Trump, 926 F.3d 1180, 1188-1198 (9th Cir. 2019), in order to aid the
10 Court’s analysis of whether Defendants have asserted the deliberative process
11 privilege over documents that are predecisional; and

12 (3) The Court finds that its Order regarding the Joint Submission on Defendants’ motion
13 for a protective order regarding Plaintiffs’ Rule 30(b)(6) deposition topics (Dkt. No.
14 519), applies to any assertion of the deliberative process privilege during a deposition.
15 Defendants may instruct a witness not to answer where the testimony is protected by
16 the privilege but must make a full explanation of the basis of their objection on the
17 record. Should the Court find that Defendants’ objection is unwarranted, Defendants
18 will be required to produce the witness again at their own expense.

19 Discussion

20 A. Documents Submitted for *in camera* Review

21 On May 4, 2020, Plaintiffs moved to compel Defendants to produce one percent of the
22 35,000 documents Defendants are withholding solely on the basis of the deliberative process
23 privilege for *in camera* review, arguing that Defendants had “misapplied the privilege in many
24

1 instances.” (Dkt. No. 497 at 4.) On May 14, 2020, the Court granted the Plaintiffs’ motion and
2 ordered Defendants to produce 350 documents randomly selected through the document review
3 platform, Relativity, and a corresponding privilege log by May 26, 2020. (Dkt. No. 514.) On
4 that date, Defendants produced only 196 documents, instead completing their production by June
5 5, 2020. (Dkt. Nos. 524, 529.) Defendants were then directed to file an amended privilege log
6 that included the Government’s PrivWithhold page number range for each document, in line with
7 Defendants’ previous privilege logs. (Dkt. No. 532.) Defendants filed an updated privilege log
8 on June 18, 2020. (Dkt. No. 533.)

9 The Court has now reviewed the documents submitted for *in camera* review and finds
10 that Defendants have inappropriately asserted the privilege over many of the submitted
11 documents. For other documents, the Court is unable to ascertain whether the privilege was
12 appropriately asserted without additional information. To assess the extent of Defendants’
13 assertion of the privilege and to provide guidance to Defendants on any patterns of erroneous
14 assertion of the privilege, the Court ORDERS Defendants to produce an additional 500 randomly
15 selected documents that were withheld solely on the basis of the deliberative process privilege
16 for *in camera* review.

17 Further, the Parties shall (1) answer the following questions and (2) provide any
18 additional information the Parties find necessary to supplement the decisional timeline listed
19 below as it relates to whether the withheld documents are to be considered predecisional within
20 the framework of the deliberative process privilege.

21 1. Questions regarding document designations

22 During the Court’s preliminary assessment of the 350 documents submitted for *in camera*
23 review, it noted a number of documents stamped with “Draft Deliberative Document” or
24

1 “Draft/Working Papers/Pre-Decisional/For Official Use.” It appears that this marking was done
2 by the military. (See, e.g., document beginning at PrivWithhold 3186.) This is to be
3 distinguished from the PrivWithhold marking on the documents.

4 Defendants:

5 Question 1: How did the markings get on the document?

6 Question 2: Who applied the markings and which standard was used by the entity
7 doing the marking?

8 Question 3: Is there a formal military policy for applying such markings on
9 documents? If so, attach a copy of that policy in your response to this Order.

10 Question 4: What inference, if any, should the Court take from the markings?

11 Question 5: What inference, if any, should the Court take from the absence of any
12 such marking?

13 Plaintiffs: What are your views, if any, on these markings?

14 2. Policy timeline

15 In evaluating the Government’s assertion of the deliberative process privilege, the Court
16 must determine whether each submitted document is predecisional, meaning that “it was
17 generated before the adoption of an agency’s policy or decision.” F.T.C. v. Warner Commc’ns
18 Inc., 742 F.2d 1156, 1161 (9th Cir. 1984). The following timeline was set forth by the Ninth
19 Circuit in Karnoski, 926 at 1188-98.

- 20 • In 2015, then-Secretary of Defense Ashton Carter created a working group to study
21 the implications of transgender service in the military. Id. at 1188.

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- In June 2016 Secretary Carter ordered the armed forces to adopt a new policy allowing transgender individuals to serve openly in the military.¹ Id.
- On June 30, 2017 then-Secretary of Defense James Mattis deferred accessing transgender applicants into the military until January 1, 2018. Id.
- On July 26, 2017, President Trump announced a ban on transgender service in the military. Id.
- On August 25, 2017 President Trump followed his Twitter Announcement with a Presidential Memorandum directing the Secretary of Defense, and the Secretary of Homeland Security “to return to the longstanding policy and practice on military service by transgender individuals that was in place prior to June 2016” and directing the Secretary of Defense, in consultation with the Secretary of Homeland Security to submit “a plan for implementing” the general policy and specific directives of the Memorandum. Id. at 1189.
- On September 14, 2017 Secretary Mattis acknowledged receipt of the Presidential Memorandum, issued “Interim Guidance” providing that the pre-2016 policies prohibiting the accession of transgender individuals into the military would remain in effect and no new sex reassignment surgical procedures for military personnel would be permitted after March 22, 2018. Id. at 1190. Secretary Mattis also directed the Deputy Secretary of Defense and the Vice Chairman of the Joint Chiefs of Staff to

¹ In its Order re the Government’s Withheld Communications With Third Parties, the Court wrote that based upon emails reviewed *in camera*, the Government and RAND consultants knew by at least February 6, 2016 that the RAND Report and Carter policy would be made public, but if the Government had information that indicated an earlier or later date, it was to file the information by May 20, 2020. (Dkt. No. 509 n. 1.) To date, the Government has not filed any additional information.

- 1 lead the DoD in developing an Implementation Plan, to be supported by a panel of
- 2 experts drawn from the DoD and DHS. Id.
- 3 • In February 2018 the DoD produced its Report and Recommendation based on the
- 4 Panel’s work. Id. at 1191.
- 5 • On February 22, 2018 Secretary Mattis forwarded the Report to the President
- 6 accompanied by a memorandum that made several policy recommendations. Id.
- 7 • On March 23, 2018 the President accepted Secretary Mattis’s recommendations,
- 8 revoked the 2017 Presidential Memorandum, and authorized the implementation of
- 9 “any appropriate policies concerning military service by transgender individuals.” Id.
- 10 at 1192.

11 To aid the Court with its analysis, the Parties are directed to provide any necessary

12 supplemental information regarding this timeline, as well as their positions on the dates that the

13 Carter policy and Mattis policy should be considered adopted.² To highlight what the Court is

14 examining, for example, PrivWithhold document 3782 is an unclassified email chain dated

15 December 8-10, 2014. The Government has claimed it as privileged under the deliberative

16 process privilege, notwithstanding, as indicated above, that the Secretary of Defense did not

17 create a working group to study the implications of transgender service until much later in

18 2015. Why should this be considered predecisional for purposes of the privilege? Similarly, as

19 one of several examples, PrivWithhold document 4765-4769 is an email chain dated August 8,

20 2016, and then forwarded again on November 9, 2016. Why would this be considered

22 ² Earlier today, the Government provided the Court with a “Statement of Undisputed Material Facts” that was filed

23 in the related case, Doe v. Esper, 20-cv-10530 (D. Mass) (Dkt. No. 36-17). The Government may rely on this

24 statement to supplement the timeline reproduced above, but the Court still seeks the Government’s position on the

dates the Carter and Mattis policies should be considered adopted for purposes of analyzing what is predecisional as

it relates to the deliberative process privilege.

1 predecisional, in light of the July 2016 Carter policy adoption, which preceded the Mattis policy
2 group formation?

3 **B. Privilege Assertions During Depositions**

4 On May 8, 2020, Defendants moved for a protective order to limit Plaintiffs’ Rule
5 30(b)(6) topics. The Court denied Defendants’ motion for a protective order, finding that
6 Plaintiffs’ Rule 30(b)(6) deposition topics are within the scope of the litigation, but the Court
7 held that Defendants are permitted to instruct their witnesses not to answer questions implicated
8 by the Ninth Circuit’s administrative stay covering Plaintiffs’ Requests for Production Nos. 15
9 and 29. (Dkt. Nos. 415, 519.) Defendants now “seek clarification as to what procedures the
10 Court intends for Defendants to follow when asserting the deliberative process privilege in a
11 deposition when the topic does not fall under Plaintiffs’ Requests for Production 15 or 29.”
12 (Dkt. No. 534 at 3.)

13 The Court finds that the same procedures outlined in its Order on Defendants’ motion for
14 a protective order (Dkt. No. 519), apply to all assertions of the deliberative process privilege.
15 Defendants may instruct their witnesses not to answer questions that would elicit testimony
16 protected by the privilege but must state the basis for their objection on the record in detail. If
17 the Court rules that the Plaintiffs have overcome the deliberative process privilege or Defendants
18 have misapplied the privilege, Defendants will be required to provide dates for their witnesses’
19 availability within 10 days of any ruling and will bear the cost of these additional depositions,
20 including travel costs and expenses for Plaintiffs’ counsel.

21 **Conclusion**

22 In conclusion, in order to further the Court’s analysis of the Government’s deliberative
23 process privilege assertions, by July 1, 2020:

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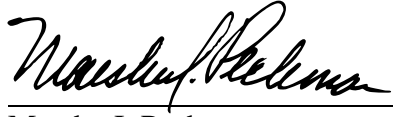
(1) Defendants are ORDERED to produce for *in camera* review a randomized selection of 500 additional documents that were withheld solely on the basis of the deliberative process privilege;

(2) Both Parties are ORDERED to answer the Court’s questions regarding the 350 documents previously submitted for *in camera* review and provide any necessary additional information regarding the decisional timeline provided.

Further, the Court finds that during depositions Defendants may instruct their witnesses not to answer where the testimony is protected by the deliberative process privilege but Defendants must state the basis for their objection on the record in detail. Should the Court find that Defendants’ objection is unwarranted, Defendants will be required to produce the witness again at their own expense.

The clerk is ordered to provide copies of this order to all counsel.

Dated June 24, 2020.



Marsha J. Pechman
United States Senior District Judge

The Honorable Marsha J. Pechman

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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

RYAN KARNOSKI, et al.,

Plaintiffs,

v.

DONALD J. TRUMP, et al.,

Defendants.

No. 2:17-cv-1297-MJP

**DEFENDANTS' NOTICE OF
COMPLIANCE RE ECF NO. 536**

1 Defendants respectfully give notice to the Court of completing their submission of 500
 2 additional randomly selected documents withheld solely on the basis of the deliberative process
 3 privilege for *in camera* review pursuant to the Court’s June 24, 2020 Order.¹ ECF No. 536. All
 4 documents subject to *in camera* review have been stamped “Confidential” and “PRIVILEGED
 5 — Produced for In Camera Review Only.” Where relevant, parent and related documents have
 6 been produced for the limited purpose of providing context for the documents subject to *in*
 7 *camera* review. Paralegals will send via Federal Express three binders containing hard copies of
 8 Defendants’ privilege log and the 500 randomly selected documents withheld solely on the basis
 9 of the deliberative process privilege to the Court.²

10 Defendants have attached to this Notice a privilege log for all documents within the
 11 sample set. *See* Exhibit A. The end of the privilege log consists of a list of the parent documents
 12 that were submitted to the Court to provide context for the documents subject to *in camera*
 13 review. *See id.* Defendants will provide the privilege log in Excel format via email to chambers.
 14

15 **Defendants’ Answers to the Court’s Questions of June 24, 2020**

16 Further, Defendants provide the following response to the Court’s questions issued on
 17 June 24, 2020. ECF No. 536 at 4.
 18

19 **Question 1:** How did the markings get on the document?

20 **Defendants’ Answer:** These documents were already marked with the cited language when
 21 collected in response to Plaintiffs’ discovery requests. The attorneys who reviewed these

22 ¹ Defendants reviewed, in order, 965 documents from the list Plaintiffs provided to reach this set
 23 of 500 documents. Of those 965 documents, Defendants removed 321 documents because they
 24 were subject to RFP Nos. 15 or 29; 30 documents because they were subject to other privileges
 25 (*e.g.*, attorney client privilege, attorney work product); 6 documents because they were
 26 encrypted; 1 document that the document review platform could not load; 16 documents that
 27 were previously submitted for *in camera* review; and 90 documents for which Defendants have
 28 withdrawn their privilege assertion. Defendants have included the 90 documents for which
 Defendants have withdrawn their privilege assertion at the end of the documents submitted for
in camera review and will produce those 90 documents to Plaintiffs in an upcoming production.

² Defendants have not included the 90 documents where the Government has withdrawn their
 privilege assertions in the three binders sent to the Court via Federal Express.

1 documents and determined whether they should be withheld under the deliberative process
2 privilege or any other privilege (either from the Department of Justice, Department of Defense
3 (“DoD”) Office of General Counsel, or Judge Advocate General (“JAG”) Officers from the
4 Military Services), did not apply these markings. The markings were generated by an individual
5 who created or revised the document (the “author”).

6
7 **Question 2:** Who applied the markings and which standard was used by the entity doing the
8 marking?

9 **Defendants’ Answer:** Unless the text of an email indicates the author of the document with a
10 marking, it is not possible to confirm the author of every document with such a marking without
11 contacting every individual who distributed these documents. However, as indicated in the
12 response to Question 1, these marking were not generated by the reviewing attorneys in
13 connection to this litigation. Accordingly, these documents were to be marked in accordance
14 with the standards set forth in DoD and Service-specific guidance that were applicable at the time
15 the documents were marked. Although it is not possible to definitively ascertain who initially
16 applied these markings or exactly what standard they used at that time, DoDM 5200.01, Vol 4
17 regulates the handling of information that is “For Official Use Only,” or FOUO. Information is
18 FOUO when disclosure to the public would reasonably be expected to cause a foreseeable harm
19 to an interest protected by one or more of FOIA Exemptions (2) through (9). DoDM 5400.07
20 provides guidance on these FOIA exemptions. FOIA exemption (5)—inter- or intra-agency
21 memoranda or letters containing information considered privileged in civil litigation—includes
22 documents protected by the deliberative process privilege. Under these regulations, the
23 originator of a document is responsible for determining at origination whether to apply
24 appropriate markings to the document. Competent authority, such as officials higher in the chain
25 of command, may modify these markings. Thus, the document’s author (the originator or
26 subsequent reviewer) was responsible for applying or maintaining markings such as “Draft
27 Deliberative Document” or “Draft/Working Papers/Pre-Decision/For Official Use” if the author
28 determined the document’s content included material protected by FOIA exemption (5).

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2 **Question 3:** Is there a formal military policy for applying such markings on documents? If so,
3 attach a copy of that policy in your response to this Order.

4 **Defendants' Answer:** The policies referenced above are published online and attached to this
5 notice as Exhibits B and C. These policies provide official guidance to DoD and the Military
6 Services regarding when such markings should be applied, by whom, and under what
7 circumstances.

8
9 **Question 4:** What inference, if any, should the Court take from the markings?

10 **Defendants' Answer:** The Court should draw no inference from the presence of a marking,
11 other than the author believed the document included protected information and was required to
12 comply with the applicable guidance, and the reviewing Government attorney would consider
13 that the document was marked “draft” in determining whether, in fact, the document was in draft
14 form. However, the above regulations and guidance recognize that marking information does
15 not automatically qualify documents for exemption from public release, and here, Government
16 attorneys independently reviewed all withheld documents and determined whether any privileges
17 applied based on the substance of the documents and the context in which they were created.

18
19 **Question 5:** What inference, if any, should the Court take from the absence of any such marking?

20 **Defendants' Answer:** The Court should draw no inference from the absence of a marking.
21 Again, the above regulations recognize that the absence of markings does not automatically
22 mean the information should be released. A document’s substance and context, not markings
23 applied by its author, determine whether the document is deliberative and pre-decisional. *See*
24 *Nat’l Wildlife Fed’n v. U.S. Forest Serv.*, 861 F.2d 1114, 1118–19 (9th Cir. 1988) (applying a
25 “process-oriented” or “functional” test in assessing whether documents are “a part of the
26 *deliberative process*” and thus covered by the privilege). The attorney reviewers understood
27 that a document that contains predecisional, deliberative information may be privileged even if
28 the document does not contain a marking. Conversely, the attorney reviewers also understood

1 that a marking alone does not render a document privileged if a privilege does not otherwise
2 apply.

3 4 Timeline of Relevant Events in Policy Development

5 The Defendants also provide the following timeline pertaining to DoD's policy regarding
6 military service by transgender individuals and individuals diagnosed with or having a history of
7 gender dysphoria.

8 1. In approximately March 2014, the DoD Office of the Under Secretary of Personnel and
9 Readiness ("USD (P&R)") began reviewing its policies for accession and retention of
10 transgender individuals and individuals diagnosed or having a history of gender dysphoria in
11 light of the 2013 updates to the Diagnostic and Statistical Manual of Mental Disorders (5th ed.)
12 ("DSM-5"). *See Doe v. Esper*, 20-cv-10530 (D. Mass), Statement of Undisputed Material Facts,
13 Dkt. No. 36-17, Ex. D ¶¶ 4-5; *see, e.g.*, DoD00019052; DoD00005490.

14 2. In April 2015, DoD's Accessions Medical Standards Working Group (AMSWG), held
15 formal meetings to provide recommendations pertaining to the revision of the military entry
16 standards for individuals diagnosed with or having a history of gender dysphoria to USD (P&R).
17 *See* Ex. D ¶ 11.

18 3. In July 2015, then-Secretary of Defense Ashton Carter ordered the creation of a working
19 group "to study over the next six months the policy and readiness implications of welcoming
20 transgender persons to serve openly," and instructed it to "start with the presumption that
21 transgender persons can serve openly without adverse impact on military effectiveness and
22 readiness." Ex. D ¶ 13.

23 4. The Joint Chiefs of Staff contacted the Office of the Secretary of Defense after Secretary
24 Carter made the July 2015 announcement that ordered the creation of the working group. The
25 Joint Chiefs of Staff asked for a briefing on the forthcoming policy review. Ex. D ¶ 14; *see, e.g.*,
26 DoD0004347 (briefing materials).

1 5. The Carter Transgender Service Review Working Group (“Carter TSRWG”) met at least
2 13 times between August 2015 and February 2016. *See Doe v. Esper*, 20-cv-10530 (D. Mass),
3 Declaration of Lernes Hebert (“Hebert Decl.”), Dkt. No. 36-9, Ex. E ¶ 7.

4 6. In September 2015, DoD commissioned the RAND National Defense Research Institute
5 (“RAND”) to conduct a study to “(1) identify the health care needs of the transgender population,
6 transgender service members’ potential health care utilization rates, and the costs associated with
7 extending health care coverage for transition-related treatments; (2) assess the potential readiness
8 impacts of allowing transgender service members to serve openly; and (3) review the experiences
9 of foreign militaries that permit transgender service members to serve openly.” Ex. D ¶ 18.³

10 7. RAND provided at least three briefings to the Carter TSRWG in January, February, and
11 March 2016. *See, e.g.*, Ex. E ¶¶ 13-14.

12 8. RAND answered several follow up questions from DoD (including questions directly
13 from then-Secretary Carter) between March 2016 and June 2016. *See, e.g.*, DoD00003726.

14 9. Representatives from the Military Services and the Service Surgeon Generals provided
15 multiple inputs and recommendations to the Carter TSRWG and to Secretary Carter between July
16 2015 and June 2016. Ex. D ¶¶ 21-22.

17 10. The Carter TSRWG provided inputs, draft policy language, and policy recommendation
18 to USD (P&R) and to then-Secretary Carter between July 2015 and June 2016. *See, e.g.*, Ex. E ¶
19 7-11, 16-20.

20
21 _____
22 ³ At page 5 of its June 24 Order, the Court notes that the Government and RAND employees
23 may have been aware by February 6, 2016 that the RAND Report and Carter Policy would
24 ultimately be made public. Regardless of the accuracy of this date, there is no evidence that
25 any of these employees or officials believed that pre-decisional drafts related to the RAND
26 Report or Carter Policy would be made public at any time. The anticipated confidentiality of
27 those predecisional documents, rather than the anticipated publication of a final product, is the
28 relevant fact for purposes of the deliberative process privilege. Indeed, a rule that predecisional
and deliberative documents are not privileged if they relate to a policy or document that will
ultimately be published cannot be reconciled with Ninth Circuit precedent. *See Nat’l Wildlife
Fed’n v. U.S. Forest Serv.*, 861 F.2d 1114, 1120 (9th Cir. 1988) (affirming agency withholding
of draft documents where documents “in final form” were made available to the public).

1 11. On June 30, 2016, Secretary Carter approved the publication of Directive-type
2 Memorandum (“DTM”) 16-005, entitled “Military Service of Transgender Service Members.”
3 DTM 16-005 (“the Carter policy”). Ex. D ¶ 23; *see, e.g.*, DoD00003606, DoD00003589 (policy
4 drafts).

5 12. Between approximately February 2016 and July 2016, USD (P&R) drafted DoDI
6 1300.28 entitled In-Service Transition for Transgender Service Members. *See*
7 https://dod.defense.gov/Portals/1/features/2016/0616_policy/DoD-Instruction-1300.28.pdf; *see,*
8 *e.g.*, DoD00003588 (draft of DoDI 1300.28).

9 13. Between approximately June 2016 and September 30, 2016, DoD worked on and
10 drafted Transgender Service in the U.S. Military: an Implementation Handbook. *See*
11 https://dod.defense.gov/Portals/1/features/2016/0616_policy/DoDTGHandbook_093016.pdf;
12 *see, e.g.*, DoD00011999; DoD00013379; DoD00003328 (draft of the handbook with
13 comments).

14 14. Between approximately May 2016 and July 29, 2016, the Office of the Assistant
15 Secretary of Defense for Health Affairs drafted guidance for the treatment of gender dysphoria
16 for active and reserve component service members. *See*
17 [https://dod.defense.gov/Portals/1/features/2016/0616_policy/Guidance_for_Treatment_of_Gen](https://dod.defense.gov/Portals/1/features/2016/0616_policy/Guidance_for_Treatment_of_Gender_Dysphoria_Memo_FINAL_SIGNED.pdf)
18 [der_Dysphoria_Memo_FINAL_SIGNED.pdf](https://dod.defense.gov/Portals/1/features/2016/0616_policy/Guidance_for_Treatment_of_Gender_Dysphoria_Memo_FINAL_SIGNED.pdf); *see, e.g.*, DoD00121670 (comment matrix on
19 draft document).

20 15. From approximately April 2016 until it was released on March 30, 2018, DoD and the
21 Military Services reviewed and revised multiple sections of its Medical Standards for
22 Appointment, Enlistment, or Induction into the Military Services (DoDI 6130.03). *See*
23 <https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/613003p.pdf>; *see, e.g.*,
24 Army_10010763.0002, Army_10010764.0002, Army_10019520.0001; Army_10001230,
25 Army_10008850, Army_10010763.0002, Army_10010764.0002 (drafts of DoDI 6130.03 and
26 Army revisions and comments on those drafts).

27 16. Between July 2016 and April 2017, the Military Services developed Service specific
28 implementation guidance and Service specific force and unit training materials regarding the

1 Carter policy. See, e.g., [https://health.mil/Reference-Center/Policies/2016/10/06/Air-Force-](https://health.mil/Reference-Center/Policies/2016/10/06/Air-Force-Policy-for-InService-Transition-for-Airmen-Identifying-as-Transgender)
2 [Policy-for-InService-Transition-for-Airmen-Identifying-as-Transgender](https://health.mil/Reference-Center/Policies/2016/10/06/Air-Force-Policy-for-InService-Transition-for-Airmen-Identifying-as-Transgender) (Air Force
3 implementing guidance); [https://www.public.navy.mil/bupers-](https://www.public.navy.mil/bupers-npc/support/21st_Century_Sailor/lgbt/Documents/CO%20Toolkit%20USN_Transgender%20a)
4 [npc/support/21st_Century_Sailor/lgbt/Documents/CO%20Toolkit%20USN_Transgender%20a](https://www.public.navy.mil/bupers-npc/support/21st_Century_Sailor/lgbt/Documents/CO%20Toolkit%20USN_Transgender%20a)
5 [nd%20Transitioning%20Command%20Officers%20Toolkit_V23.pdf](https://www.public.navy.mil/bupers-npc/support/21st_Century_Sailor/lgbt/Documents/CO%20Toolkit%20USN_Transgender%20a) (Navy Transgender and
6 Gender Transition Commanding Officers Toolkit); [https://www.public.navy.mil/bupers-](https://www.public.navy.mil/bupers-npc/reference/messages/Documents2/NAV2016/NAV16248.txt)
7 [npc/reference/messages/Documents2/NAV2016/NAV16248.txt](https://www.public.navy.mil/bupers-npc/reference/messages/Documents2/NAV2016/NAV16248.txt) (describing Navy specific
8 training regarding the Carter policy).

9 17. Between January 2017 and May 2017 then-Secretary Mattis met with several of the
10 Military Service Chiefs regarding potential revisions to the Carter policy. April 26, 2018 Senate
11 Testimony of Secretary James N. Mattis, Ex. F at 6.

12 18. On May 8, 2017, then-Deputy Secretary of Defense Robert Work directed the Military
13 Services to assess the Department’s readiness to begin accessing transgender applicants into
14 military service on July 1, 2017. Ex. E ¶ 22

15 19. In response to the request from then-Deputy Secretary of Defense Robert Work, each of
16 the Military Services formally recommended a delay of the Carter accessions standards
17 between May 2017 and June 2017. Ex. E ¶ 22; see, e.g., Army_10001449; Army_10010266;
18 Army_10010381; AF_CTRL_00000172; AF_00014734_AF2; AF_00014734_AF2;
19 AF_00014734_AF2.

20 20. On June 30, 2017, then-Secretary Mattis, approved the Services’ recommendation to
21 delay the implementation of the Carter accessions standards. Ex. E ¶ 23.

22 21. Also on June 30, 2017, then-Secretary Mattis established a study group that included the
23 representatives of the Service Secretaries and senior military officers, many with combat
24 experience, to conduct a six-month review of the impact of the Carter accessions standards on
25 military readiness and lethality. Ex. E ¶ 23; see, e.g., Army_10001243.0001; Army_10010529.

26 22. While that review was ongoing, the President stated on Twitter on July 26, 2017 that “the
27 United States Government will not accept or allow transgender individuals to serve in any
28 capacity in the U.S. Military.” Ex. D ¶ 38.

1 23. Between July 26, 2017 and August 25, 2017, DoD and the Military Services deliberated
2 regarding how the President's statements on Twitter would affect military policy. *See, e.g.*,
3 AF_00025946_AF2, AF_CTRL_00000014.

4 24. On August 25, 2017, the President issued a memorandum calling for "further study" into
5 the risks of maintaining the Carter policy and adherence to current accession standards while that
6 review was ongoing. Ex. D ¶¶ 39-40.

7 25. Between August 25, 2017 and September 14, 2017, DoD and the Military Services
8 drafted Interim Guidance as part of its response to the President's memorandum. Ex. D ¶ 41;
9 *see, e.g.*, Army_10004330.0001; Army_10003796.0001.

10 26. On September 14, 2017, then-Secretary Mattis established a Panel of Experts ("Panel")
11 to "conduct an independent multi-disciplinary review and study of relevant data and information
12 pertaining to transgender Service members." Ex. D ¶ 41.

13 27. In 13 separate meetings over the span of 90 days, the Panel met with military and civilian
14 medical professionals, military and civilian personnel experts, commanders of transgender
15 service members, and transgender service members themselves. Ex. D ¶ 44.

16 28. Once the Panel finalized its recommendations, then-Under Secretary of
17 Defense, Robert Wilkie, Mr. Kurta, and Mr. Hebert presented those recommendations to the
18 Deputy Secretary of Defense and the Vice Chairman of the Joint Chiefs of Staff and to then-
19 Secretary Mattis. Ex. E ¶ 31.

20 29. Between October 30, 2017 and January 1, 2018, DoD and the Military Services reviewed
21 their ability to implement the Carter accessions standards as required by multiple Court orders.
22 *See, e.g.*, ECF No. 103.

23 30. After considering the Panel's recommendations, along with additional information, then-
24 Secretary Mattis, with the agreement of the Secretary of Homeland Security, sent the President
25 a memorandum on February 22, 2018 proposing a new policy consistent with the Panel's
26 conclusions. Ex. D. ¶ 51.

27 31. The Mattis Memorandum was accompanied by a 44-page report setting forth in detail the
28 bases for the DoD's recommended new policy. Ex. D. ¶ 52.

1 32. On March 23, 2018, the President accepted then-Secretary Mattis's recommendation and
2 withdrew his August 25, 2017 Memorandum. Ex. E. ¶ 31.

3 33. Between January 22, 2019 and March 12, 2019, DoD and the Military services drafted
4 the standards to implement Secretary Mattis's February 2018 Memorandum and the
5 accompanying DoD Report. Ex. D. ¶ 67.

6 34. On March 12, 2019, DoD issued DTM 19-004 which implements Secretary Mattis's
7 February 2018 Memorandum and the accompanying DoD Report. Ex. D. ¶ 67; *see*
8 [https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dtm/DTM%2019-](https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dtm/DTM%2019-004.PDF?ver=2020-03-17-140438-090)
9 [004.PDF?ver=2020-03-17-140438-090](https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dtm/DTM%2019-004.PDF?ver=2020-03-17-140438-090).

10 35. On March 19, 2019, the Navy issued Service specific guidance regarding DTM 19-004.
11 Ex. D. ¶ 71.

12 36. On August 15, 2019, the Air Force issued Service specific guidance regarding DTM 19-
13 004 entitled AFPM2019-36-02, Air Force Policy Memorandum *Military Service by Transgender*
14 *Persons and Person's with Gender Dysphoria*.

15 37. On March 17, 2020, DoD issued a revised version of DTM 19-004. *See*
16 [https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dtm/DTM%2019-](https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dtm/DTM%2019-004.PDF?ver=2020-03-17-140438-090)
17 [004.PDF?ver=2020-03-17-140438-090](https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dtm/DTM%2019-004.PDF?ver=2020-03-17-140438-090)

18 38. Further, as the military's transgender and gender dysphoria policies developed, DoD and
19 the Military Services engaged in deliberations regarding the application of then-current policy to
20 specific situations and individuals, often discussing creating and revising Service specific
21 guidance on the application of DoD policy for their respective Military Service. *See e.g.*,
22 DoD00126805, DoD00126821 (emails seeking and receiving comments on draft implementation
23 papers); DoD00129712 (deliberations regarding the creation of briefing materials to updated
24 then-Secretary Carter and USD (P&R) on implementation of the Carter policy);
25 Army_10003651& 10003652 (deliberations regarding possible change to Army policy based on
26 a change to DOJ policy); Army_10010283.0001 (draft US Military Academy ("USMA")
27 transgender accession policy talking points and deliberations discussing the effect of the Army's
28 transgender accessions policy on USMA policy); Army_10010287 (deliberations regarding the

1 application of transgender policy on USMA accessions); AF_00014681_AF2 (draft Air Force
2 guidance regarding then-Secretary Carter’s July 2015 announcement regarding military service
3 by transgender individuals); AF_00024136_AF2 (draft Air Force implementing guidance
4 regarding the Carter policy); AF_00018214_AF2 (draft transgender awareness training for the
5 Air Force); AF_00035845_AF2 (draft talking points regarding implementation of the Mattis
6 policy).

7
8 Dated: July 1, 2020

Respectfully submitted,

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10 DAVID M. MORRELL
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11 ALEXANDER K. HAAS
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13
14
15 */s/ Andrew E. Carmichael*
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EXHIBIT A

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
AF_00011779_AF2	PrivWithhold00 005772	PrivWithhold 00005781	7/18/2016	HOLLINGSWORTH, DINAH N Maj USAF HAF U S AIR FORCE HQ/CIO A6CF		Draft Air Force Guidance Memorandum for Currently Serving Transgender Airmen. Labeled "DRAFT -- NOT FOR IMPLEMENTATION OR COMPLIANCE." Contains deliberations concerning the Air Force's implementation of policies and procedures for units, supervisors, commanders, transgender Airmen and the medical community to provide a construct by which transgender Airmen may transition gender while serving and outlines policies for accessing, separating, and retaining transgender Airmen.	DP - Deliberative Process	Deliberations regarding the implementation of transgender policy
AF_00015510_AF2	PrivWithhold00 005782	PrivWithhold 00005800	6/3/2016	Stephanie Barna		Draft Department of Defense Instruction ("DoDI") titled "IN-SERVICE TRANSITION FOR SERVICE MEMBERS IDENTIFYING AS TRANSGENDER." Contains a watermark on each page stating "DRAFT." Contains draft proposal concerning how transgender service members can transition while serving, how service members can change their gender markers in DEERS, and how service members can obtain medical treatment.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
AF_00016956_AF2	PrivWithhold00 005801	PrivWithhold 00005808	12/2/2016	PARKHILL, ELISHA N Maj MIL USAF SG3		Draft Air Force slides re: development of two training modules for total force awareness of transgender service. Contains speaker notes.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy. Undated draft slides regarding development of training modules, implementing the Carter policy, implementing medical policy, and data collection. Contains speaker notes. The slide deck is incomplete, missing the opening slides and closing slides.
AF_00017041_AF2	PrivWithhold00 005809	PrivWithhold 00005826	3/14/2016	Eric R. Holmes		Joint Chiefs of Staff draft PowerPoint titled "Transgender Service" with speaker notes and comments. Labeled "FOUO//Draft//Predecisional/Not for public release." Contains comments for recommended edits.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
AF_00017134_AF2	PrivWithhold00 005827	PrivWithhold 00005827	2/7/2017	Anthony Kurta		Excel spreadsheet tracking proposed training standards, methods, and timelines.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
AF_00017139_AF2	PrivWithhold00 005828	PrivWithhold 00005828	10/19/2016	IZAWA, EMI GS-14 USAF HAF U S AIR FORCE HQ/AF/A1P		Draft of excel spreadsheet to track milestones from Oct 16-Dec 17.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
AF_00019209_AF2	PrivWithhold00 005829	PrivWithhold 00005842	6/23/2017	George Gregory, USAF		Draft TFAT Audio/Narration Script for Transgender Awareness Training. Contains track changes and comments by Matthew McWhirter (USAF) with recommended changes.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
AF_00021839_AF2	PrivWithhold00 005843	PrivWithhold 00005845	1/21/2011	DANIEL R. SITTERLY, SES, DAF	AF/A1P Workflow <afdpp.workflow@pentagon.af.mil>; AF/A1PA Workflow <af a1pa@pentagon.af.mil>; AF/A1PP Workflow <afdppp.workflow@pentagon.af.mil>; AF/A1PT Workflow <Dppt.Workflow@pentagon.af.mil>; Ryan, Gerard F Lt Col MIL USAF AF/A1PP <Gerard.Ryan@pentagon.af.mil>	Email chain concerning Don't Ask Don't Tell.	DP - Deliberative Process	Deliberations regarding the development of training on the repeal of Don't-Ask-Don't-Tell. This email, dated 21 January 2011, seeks coordination and recommendations on proposed training.
AF_00022282_AF2	PrivWithhold00 005846	PrivWithhold 00005852	2/25/2013	Strickland, Tina CIV USAF AF/A1PT <Tina.Strickland@pentagon.af.mil>	Romer, Robert Lt Col MIL USAF AF/A1PA <Robert.Romer@pentagon.af.mil>	Email chain concerning Don't Ask Don't Tell.	DP - Deliberative Process	Deliberations regarding the implementation of the repeal of Don't-Ask-Don't-Tell. This email, dated 25 March 2013, discusses potential changes to service regulations regarding military benefits for same sex domestic partner.
AF_00022309_AF2	PrivWithhold00 005853	PrivWithhold 00005854	10/10/2013	John T. Park, SES, DAF		Not clearly relevant to any transgender policy. Document concerning coordination among Air Force commanders containing comment on Air Force Instruction (AFI) 36-3003. AFI 36-3003 was titled "Military Leave Program - Permissive (TDY) - Marriage (TMT)." Contains recommendation on whether to approve the AFI and reasons for that recommendation.	DP - Deliberative Process	Deliberations regarding the formulation Air Force Instruction 36-3003
AF_00022824_AF2	PrivWithhold00 005855	PrivWithhold 00005855	10/21/2013	JOHN T. PARK, SES, DAF		Not clearly relevant to any transgender policy. Consolidated comment matrix for "Interim Change(IC)1 for AFI 36-3003, Military Leave Program." Contains a recommendation on whether to approve the change to the Air Force Instruction.	DP - Deliberative Process	Deliberations regarding the formulation of Air Force Instruction

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7/1/2020

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AF_00027289_AF2	PrivWithhold00 005856	PrivWithhold 00005858	4/6/2017	Snyder, Lisa K Col USAF NGB SG (US)	Packler, Deborah A Lt Col USAF (US) <deborah.a.packler.mil@mail.mil>Champion, Trent J Maj USAF NGB A1 (US) <trent.j.champion.mil@mail.mil>; Decker, Elizabeth A Col USAF AFMOA (US) <elizabeth.a.decker4.mil@mail.mil>; Champion, Trent J Maj USAF NGB A1 (US) <trent.j.champion.mil@mail.mil>; Derwacter, Dennis D CMSgt USAF (US) <dennis.d.derwacter.mil@mail.mil>; Doyle, Lyndy R Lt Col USAF NG NGB (US) <lyndy.r.doyle.mil@mail.mil>; Kupcho, Daniel J CMSgt USAF (US) <daniel.kupcho.1@us.af.mil>; Navas, Stephanie J Col USAF NGB SG (US) <stephanie.j.navas.mil@mail.mil>	E-mail requesting input on draft ADLS transgender training with the content of the training as an attachment	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
AF_00027923_AF2	PrivWithhold00 005859	PrivWithhold 00005862	9/13/2016	Snyder, Lisa K Col USAF 181 MDG (US)	Desko, Robert C (Bob) Col USAF NGB SG (US) <robert.c.desko.mil@mail.mil>	E-mail circulating working draft of the AFPM on Transgender (including attachment)	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
AF_00029378_AF2	PrivWithhold00 005863	PrivWithhold 00005864	7/21/2016	Fedrico, John A SES USAF SAF-MR (US)	Sitterly, Daniel R SES USAF SAF-MR (US) <daniel.r.sitterly.civ@mail.mil>	Email chain deliberating on who would develop training and seeking transgender working group recommendations regarding development of training.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
AF_00036002_AF2	PrivWithhold00 005865	PrivWithhold 00005865	Undated	Martha Soper, GS-15		SSS template of ETP form, AF Form 1768. Form concerns an Exception to Policy (ETP) for Dress and Appearance / Use of Facilities. Contains a description of the Airman's request for an ETP and recommendations concerning review and approval. Form has placeholders and personal notes for later edits, and does not contain signatures from reviewers.	DP - Deliberative Process	Deliberations regarding the implementation of transgender policy

In Camera Production Privilege Log
7/1/2020

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AF_00036011_AF2	PrivWithhold00 005866	PrivWithhold 00005866	Undated	Martha Soper, GS-15		SSS template of ETP form, AF Form 1768. Form concerns an Exception to Policy (ETP) for Dress and Appearance / Use of Facilities. Contains a description of the Airman's request for an ETP and recommendations concerning review and approval. Form has placeholders and personal notes for later edits, and does not contain signatures from reviewers.	DP - Deliberative Process	Deliberations regarding the implementation of transgender policy
AF_00037900_AF2	PrivWithhold00 005867	PrivWithhold 00005870	3/11/2018	Ann M Col USAF SAF-MR (US)	"Sams, Kelly M Lt Col USAF AF-A1 (US) <kelly.m.sams.mil@mail.mil>"	Email dated 3/11/18 between SAF/MR and AF/A1 discussing answer to CSAF request for updates regarding progress of transgender policy at DoD level.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy.
AF_00037950_AF2	PrivWithhold00 005871	PrivWithhold 00005874	3/11/2018	Sams, Kelly M Lt Col USAF AF-A1 (US) <kelly.m.sams.mil@mail.mil>	Gen USAF SAF-LL (US) <steven.l.basham.mil@mail.mil>; Pletcher, John M Maj Gen USAF SAF-FM (US) <john.m.pletcher.mil@mail.mil>; Igl, Ann M Col USAF SAF-MR (US) <ann.m.igl.mil@mail.mil>; Grosso, Gina M Lt Gen USAF AF-A1 (US) <gina.m.grosso.mil@mail.mil>; Labrutta, Robert D Maj Gen USAF AF-A1 (US) <robert.d.labrutta.mil@mail.mil> Van Ovost, Jacqueline D Lt Gen USAF AF-CVA (US) <jacqueline.d.vanovost.mil@mail.mil>; Nolta, Noel Christina (Christy) SES USAF AF-CVA (US) <noel.c.nolta.civ@mail.mil>; Jenkins Sellers, Cotina R Lt Col USAF AF-CVA (US) <cotina.r.jenkinsellers.mil@mail.mil>; Glisson, Amy M Lt Col USAF (US)	"Email dated 3/11/18 from SAF/MR to many AF organizations answering questions posed by CSAF regarding a housing allowance policy with no application to transgender personnel. One of CSAF's questions pertains to status of transgender policy, however, there is no further discussion of the topic in this email."	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy.
Army_10000069	PrivWithhold00 005875	PrivWithhold 00005880	12/14/2017	Michael J. Fediaczko		Draft order re TG Policy implementation	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy. Predecisional, draft Army order (EXORD 029-17), "Implementation of Army Policy on Military Service of Transgender (TG) Soldiers."
Army_10000981.0001	PrivWithhold00 005881	PrivWithhold 00005894	4/27/2017	Elizabeth (Lisa) Davis, Office of People Analytics		Presentation titled "2016 Workplace and Gender Relations Survey of Active Duty Members (2016 WGRA)." Draft slides that include handwritten notes. Labeled "FOIA Exempt/Pre-decisional/For Official Use Only."	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
Army_10001099.0002	PrivWithhold00 005895	PrivWithhold 00005896	9/18/2017	Golden, Kerrie J COL MIL USA ASA MRA		DOD press guidance	DP - Deliberative Process	Deliberations regarding the implementation and formulation of transgender policy interim guidance. Draft DoD press guidance on the Interim Guidance.
Army_10001113.0003	PrivWithhold00 005897	PrivWithhold 00005897	8/8/2017	US Army user		VCSA draft message	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy; draft message to the force regarding the development of the implementation plan.
Army_10001126.0001	PrivWithhold00 005898	PrivWithhold 00005898	8/11/2017	US Army HQDA		Draft Army HQDA document on transgender accessions guidance for commanders submitted for reviewer feedback and comment. Labeled "DRAFT/PREDECISIONAL."	DP - Deliberative Process	Deliberations regarding the formulation and implementation of the transgender policy; draft Army document that provides guidance to commanders concerning transgender policy pending issuance of implementation plan.
Army_10001164	PrivWithhold00 005899	PrivWithhold 00005899	8/11/2017	Krueger, Mary V COL USARMY HQDA ASA MRA (US) [mary.v.krueger.mil@mail.mil] Krueger, Mary V COL USARMY HQDA ASA MRA (US)	Golden, Kerrie J COL USARMY HQDA ASA MRA (US) [kerrie.j.golden.mil@mail.mil]	Discussion by SCCC members about decision making process.	DP - Deliberative Process	Email containing a discussion concerning the decision-making process with respect to a TSIG update.
Army_10001187	PrivWithhold00 005900	PrivWithhold 00005901	8/9/2017	Salo, Donald G Jr SES USARMY HQDA ASA MRA (US) [donald.g.salo2.civ@mail.mil] Salo, Donald G Jr SES USARMY HQDA ASA MRA (US)	Rado, Mark A CIV USARMY HQDA ASA MRA (US) [mark.a.rado.civ@mail.mil] Freeman, Julie J COL USARMY HQDA ASA MRA (US) [julie.j.freeman.mil@mail.mil]; Frazier, Scott T LTC USARMY HQDA ASA MRA (US) [scott.t.frazier.mil@mail.mil]; Golden, Kerrie J COL USARMY HQDA ASA MRA (US) [kerrie.j.golden.mil@mail.mil]; Krueger, Mary V COL USARMY HQDA ASA MRA (US) [mary.v.krueger.mil@mail.mil]	Email exposes part of the SCCC member's deliberative process.	DP - Deliberative Process	Deliberations regarding the formulation and implementation of the transgender policy; email chain discussing a draft product that addresses transgender policy development and implementation.
Army_10001211.0001	PrivWithhold00 005902	PrivWithhold 00005910	7/21/2017	McTigue, Daniel C LTC MIL USA DCS G-1		Document contains pre-decisional information considered by SCCC members.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; slide deck containing predecisional, deliberative information concerning the assessment of readiness impacts of transgender service members
Army_10001239.0002	PrivWithhold00 005911	PrivWithhold 00005964	7/14/2017	Gearhart, Lee P COL USARMY OSD OUSD P-R (US)		Draft PowerPoint titled "Transgender Service Q&As Transgender Senior Implementation Group Meeting - July 14, 2017." Labeled "Not for distribution/Draft Deliberative Document." Also an apparent draft because the closing remarks have not been filled in. Also includes recommendations from Navy and questions from Army.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy. Draft PowerPoint presentation that contains predecisional, deliberative information with respect to transgender policy, titled "Transgender Service Q&As: Transgender Senior Implementation Group Meeting--July 14, 2017." Draft includes service recommendations and questions.

In Camera Production Privilege Log
7/1/2020

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Army_10001243.0002	PrivWithhold00 005965	PrivWithhold 00005967	7/15/2017	Diane M. Randon, Senior Official Performing the Duties of the Assistant Secretary of the Army (Manpower and Reserve Affairs)		Draft (unsigned) memorandum with the subject "Update on Transgender Service Implementation Group (TSIG)." Provides clarification as to membership of Army TSIG and purpose and next steps of TSIG.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy. Draft memorandum that establishes processes for and responsibilities of the Transgender Service Implementation Group.	
Army_10001396	PrivWithhold00 005968	PrivWithhold 00005972	7/7/2017	US Air Force		Document re Information/Background paper provided to the Sec. of the Air Force outlining questions/concerns from DoD components/Services to OUSD (P&R) regarding accessions policy.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy. Background paper for Secretary of the Air Force that includes questions and concerns regarding the transgender policy; and discusses draft Department of Defense guidance and the need for clarifying policy guidance.	
Army_10001469	PrivWithhold00 005973	PrivWithhold 00005991	4/25/2017	Briski, Julie C CIV DHA CMD GRP (US)		Draft version of DHA IPM 17-00x, Guidance for Medical Care of Transgender (TG) Active Duty Service Members (ADSMS) with a Diagnosis of Gender Dysphoria (GD)	DP - Deliberative Process	Deliberations regarding the formulation and implementation of the transgender policy; draft of DHA IPM 17-00x ("Interim Procedures Memorandum 17-00x, Guidance for Medical Care of Transgender (TG) Active Duty Service Members (ADSMS) with a Diagnosis of Gender Dysphoria (GD)."	
Army_10001686	PrivWithhold00 005992	PrivWithhold 00005994	11/30/2017	Krueger, Mary V COL USARMY HQDA ASA MRA (US)	COL USARMY MEDCOM WINN (US) [christopher.h.warner.mil @mail.mil];Sarmiento, Dennis M LTC USARMY MEDCOM (US) [dennis.m.sarmiento.mil @mail.mil];Pelzner, Michael A (Mike) COL USARMY NG NGB (US) [michael.a.pelzner.mil@m ail.mil];Page, Neil E COL USARMY HQDA OTSG (US) [neil.e.page.mil@mail.mil] ;Meyering, Christopher D LTC USARMY USAREC (US) [christopher.d.meyering. mil@mail.mil];Fontaine, Laurie Ann CIV USARMY HQDA (US) [laurie.a.fontaine.civ@mai l.mil];Freeman, Julie J COL USARMY HQDA ASA MRA (US) [julie.j.freeman.mil@mail. mil];Teneza, Brigilda C COL USARMY OSD USMEPCOM (US)		Email with subject "TG Accessions considerations for waiver authorities (UNCLASSIFIED)." Contains deliberations of accessions of transgender individuals pursuant to court- ordered preliminary injunctions.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy. Email concerning preparations for accessions of, and the waiver process for, transgender individuals based on court-ordered preliminary injunctions.
Army_10002380	PrivWithhold00 005995	PrivWithhold 00005995	5/3/2017	US Army		Draft media guidance regarding Army's implementation of the TG policy.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy; draft media guidance on Army's implementation of transgender policy	

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
Army_10002403	PrivWithhold00 005996	PrivWithhold 00005997	8/25/2016	Turro, VR		Draft policy regarding implementation of the TG policy. Marked "For Official Use Only - Predecisional" and has a watermark labeled "DRAFT." Contains draft Army guidance on gender transition for soldiers.	DP - Deliberative Process	Deliberations regarding the formulation and implementation of the transgender policy. Draft Army Directive on "Gender Transition for Active Duty Soldiers."
Army_10002480	PrivWithhold00 005998	PrivWithhold 00005999	7/1/2016	Army Directorate of Military Personnel Management (DMPM)		"(draft) in-service transition flowchart and additional information for decision makers at various levels [""current as of 26 June 2016""]"	DP - Deliberative Process	Deliberations regarding formulation and implementation of transgender policy. Draft Army flowchart titled "In Service Transition" that provides predecisional guidance on the in-service transition process.
Army_10002560	PrivWithhold00 006000	PrivWithhold 00006002	7/17/2017	Diane M. Randon Senior Official Performing the Duties of the Assistant Secretary of the Army (Manpower and Reserve Affairs)		Draft (unsigned) document pertaining to implementation group.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy. Draft memorandum that establishes processes for and responsibilities of the Transgender Service Implementation Group.
Army_10003246.0002	PrivWithhold00 006003	PrivWithhold 00006005	12/11/2017	US Army		PowerPoint with the file name "PoE Addendum Slides - Overview of DoDI and Implementation Plan 11 Dec 17___.pptx." Slides contain explanation and status of policy development process to include discussion of Panel of Experts.	DP - Deliberative Process	Deliberations regarding the formulation and implementation of the transgender policy. PowerPoint slides that include predecisional topics of discussion pertaining to implementing accessions after January 1, 2018 under the new policy and the requirement to develop additional policy for implementation in the context of the U.S. Military Academy
Army_10003305.0001	PrivWithhold00 006006	PrivWithhold 00006008	11/17/2017	US Army user		Draft document contains information submitted for feedback and comment.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy. Draft slide on transgender military service that discusses gender marker changes under the transgender policy and the possible effect of a court order on transgender policy.

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
Army_10003736	PrivWithhold00 006009	PrivWithhold 00006010	9/15/2017	Golden, Kerrie J COL USARMY HQDA ASA MRA (US) [kerrie.j.golden.mil@mail.mil]G olden, Kerrie J COL USARMY HQDA ASA MRA (US)	USARMY HQDA ASA MRA (US) [mary.v.krueger.mil@mail .mil];Salo, Donald G Jr SES USARMY HQDA ASA MRA (US) [donald.g.salo2.civ@mail. mil];Calloway, Joseph R BG USARMY HQDA DCS G- 1 (US) [joseph.r.calloway.mil@m ail.mil];Stephens, Ronald T BG USARMY MEDCOM (US) [ronald.t.stephens.mil@m ail.mil]MCTIGUE, Daniel C LTC USARMY HQDA DCS G- 1 (US) [daniel.c.mctigue.mil@ma il.mil];Thum, Andreas M (Andy) COL USARMY HQDA DCS G-1 (US) [andreas.m.thum.mil@ma il.mil];Patoir, Maanvi M CIV (US) [maanvi.m.patoir.civ@mai l.mil];Murphy, Dustin Patrick MAJ USARMY	Email containing feedback on TG policy formulation document	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy. Email chain discussing and requesting review of an attached, draft product on the interim guidance.
Army_10003900.0001	PrivWithhold00 006011	PrivWithhold 00006011	8/8/2017	US Army user		Draft message to the force regarding the announcement of the revised policy and the goals to achieve via the policy.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy. Draft message to Army leaders concerning the development of the implementation plan.
Army_10004637.0001	PrivWithhold00 006012	PrivWithhold 00006013	10/23/2017	OTJAG Administrative Law		Draft document on transgender policy implementation submitted for feedback. Contains comments for recommended edits.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy

In Camera Production Privilege Log
7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
Army_10008091	PrivWithhold00 006014	PrivWithhold 00006019	9/15/2017	Winski, Brian E BG USARMY HQDA OCLL (US) [brian.e.winski.mil@mail.mil]W inski, Brian E BG USARMY HQDA OCLL (US)	USARMY HQDA CSA (US) [mark.a.milley.mil@mail. mil];McCarthy, Ryan D HON USARMY HQDA SECARMY (US) [ryan.d.mccarthy3.civ@m ail.mil]Anderson, Olga M COL USARMY HQDA OCLL (US) [olga.m.anderson.mil@m ail.mil];Whiteside, Jacob A MAJ USARMY HQDA CSA (US) [jacob.a.whiteside.mil@m ail.mil];Ryan, Joseph A COL USARMY HQDA CSA (US) [joseph.a.ryan4.mil@mail. mil];Reilly, Heather M MAJ USARMY HQDA SECARMY (US) [heather.m.reilly6.mil@m ail.mil];McGuigan, Patrick M MAJ USARMY HQDA SECARMY (US) [patrick.m.mcguigan.mil@ mail.mil];Vowell, Joel B (JB) COL USARMY HQDA	Email traffic ref: pre-confirmation office calls.	DP - Deliberative Process	Deliberations regarding potential issues that could occur during confirmation hearing.
Army_10008530	PrivWithhold00 006020	PrivWithhold 00006021	6/7/2017	Stitt, Douglas F COL USARMY HQDA DCS G-1 (US)	Calloway, Joseph R BG USARMY HQDA DCS G-1 (US) [joseph.r.calloway.mil@m ail.mil]Turner, John Steven (Steve) JR COL USARMY HQDA DCS G-1 (US) [john.s.turner26.mil@mail .mil];Aswell, Paul L CIV USARMY HQDA DCS G-1 (US) [paul.l.aswell.civ@mail.mi l];Dietz, Jeffrey S LTC USARMY HQDA OTJAG (US) [jeffrey.s.dietz2.mil@mail.	Discusses senior-level responses to service-specific feedback on implementation timeline	DP - Deliberative Process	Email chain concerning predecisional deliberations of the services and DoD on the decision to delay implementation of the Carter accessions standards.

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
Army_10008584	PrivWithhold00 006022	PrivWithhold 00006023	7/27/2017	Aswell, Paul L CIV USARMY HQDA DCS G-1 (US) [paul.l.aswell.civ@mail.mil]Aswell, Paul L CIV USARMY HQDA DCS G-1 (US)	USARMY HQDA DCS G-1 (US) [joseph.r.calloway.mil@mail.mil]MCTIGUE, Daniel C LTC USARMY HQDA DCS G-1 (US) [daniel.c.mctigue.mil@mail.mil];Granger, Susie J COL USARMY HQDA DCS G-1 (US) [susie.j.granger.mil@mail.mil];Salo, Donald G Jr SES USARMY HQDA ASA MRA (US) [donald.g.salo2.civ@mail.mil];Krueger, Mary V COL USARMY HQDA ASA MRA (US) [mary.v.krueger.mil@mail.mil];St clair, Linden H CIV USARMY HQDA ASA MRA (US) [linden.h.stclair.civ@mail.mil];Green, Alphonsa D CIV USARMY HQDA DCS G-1 (US) [alphonsa.d.green.civ@mail.mil];Stallings, Megan B	Document contains talking points, strategies, and recommendations for how to communicate transgender policy to the media. Document also seeks reviewer feedback and comment on transgender policy formulation.	DP - Deliberative Process	Email chain containing predecisional, deliberative discussion of development and implementation of transgender policy following the President's July 26, 2017 statement on Twitter
Army_10008697.0006	PrivWithhold00 006024	PrivWithhold 00006025	5/15/2017	USARMY APG ATEC Mailbox G3 Distribution [usarmy.apg.atec.mbx.g3-distribution@mail.mil]USARMY APG ATEC Mailbox G3 Distribution	Aswell, Paul L CIV USARMY HQDA DCS G-1 (US) [paul.l.aswell.civ@mail.mil]	Email providing observations and assessments regarding the impact of transgender service.	DP - Deliberative Process	Email chain containing predecisional deliberations regarding the readiness of the Army to implement accession of transgender applicants.
Army_10008830	PrivWithhold00 006026	PrivWithhold 00006028	2/3/2017	Aswell, Paul L CIV USARMY HQDA DCS G-1 (US)	Daniels, Jesse E CIV USARMY HQDA DCS G-3-5-7 (US) [jesse.e.daniels2.civ@mail.mil]	Pre decisional email chain discussing TG policy.	DP - Deliberative Process	Deliberations regarding the formulation and implementation of the transgender policy. Email chain discussing predecisional changes to an Army order concerning transgender policy training for contractors.

In Camera Production Privilege Log
7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
Army_10008860	PrivWithhold00 006029	PrivWithhold 00006031	1/24/2017	Aswell, Paul L CIV USARMY HQDA DCS G-1 (US)	USARMY HQDA DCS G-1 (US) [joseph.g.henry10.civ@mail.mil]; Kennedy, Michele R LTC USARMY HQDA ASAMRA (US) [michele.r.kennedy2.mil@mail.mil]; Granger, Susie J COL USARMY HQDA DCS G-1 (US) [susie.j.granger.mil@mail.mil]; Stephenson, Charles Gregory (Greg) LTC USARMY HQDA DCS G-1 (US) [charles.g.stephenson2.mil@mail.mil]; Rado, Mark A CIV USARMY HQDA ASAMRA (US) [mark.a.rado.civ@mail.mil]; Golya, Lorri A COL USARMY HQDA (US) [lorri.a.golya.mil@mail.mil]; Doyle, Andrew E COL USARMY HQDA OTSG (US) [andrew.e.doyle.mil@mail.mil]; Adams, Kathryn L CIV USARMY HQDA OTSG (US)	Email chain with discussion of suggestions to TG policy.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy. Email chain concerning a discussion of pending DoD changes to accession medical fitness standards.
Army_10008863.0002	PrivWithhold00 006032	PrivWithhold 00006045	1/24/2017	Livingood, Lisa J LTC MIL USA TRADOC		Draft Q&A white paper on TG policy. Contains comments for recommended revisions.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
Army_10008890.0002	PrivWithhold00 006046	PrivWithhold 00006048	12/15/2016	Paul Aswell		FY 2018 posture paper titled "POLICY IMPLEMENTATION ON THE MILITARY SERVICE OF TRANSGENDER SOLDIERS." Contains anticipated questions from Congressional committees and recommended answers.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
Army_10009005.0003	PrivWithhold00 006049	PrivWithhold 00006063	10/31/2016	Livingood, Lisa J LTC MIL USA TRADOC		Draft document on TG policy submitted for feedback or approval	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy. Draft US Army Training and Doctrine Command Lesson Plan on Army policy on military service of transgender soldiers

Karloski v. Trump,
No. 17-cv-1297
In Camera Production Privilege Log
7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
Army_10009551	PrivWithhold00 006064	PrivWithhold 00006065	11/15/2016	Kennedy, Michele R LTC USARMY HQDA ASA MRA (US) [michele.r.kennedy2.mil@mail.mil] Kennedy, Michele R LTC USARMY HQDA ASA MRA (US)	USARMY HQDA DCS G-1 (US) [paul.l.aswell.civ@mail.mil]; Granger, Susie J COL USARMY HQDA DCS G-1 (US) [susie.j.granger.mil@mail.mil]; Grace, Laura A MAJ USARMY HQDA OTJAG (US) [laura.a.grace2.mil@mail.mil]; Eisenberg, Richard B CIV (US) [richard.b.eisenberg2.civ@mail.mil]; Doyle, Andrew E COL USARMY HQDA OTSG (US) [andrew.e.doyle.mil@mail.mil]; MCTIGUE, Daniel C LTC USARMY HQDA DCS G-1 (US) [daniel.c.mctigue.mil@mail.mil]; Kramer, Christine M COL USARMY HQDA ASA MRA (US) [christine.m.kramer12.mil@mail.mil] Stitt, Douglas F COL USARMY HQDA DCS G-1 (US)	Email soliciting input regarding proposed courses of action for TG accessions.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy. Email from Army (DCS G-1) soliciting input regarding proposed courses of action, for Army leadership consideration, concerning developing transgender policy with respect to applicants for enlistment and participants in officer producing programs.
Army_10010293	PrivWithhold00 006066	PrivWithhold 00006067	5/8/2017	Campbell, LaCher M LTC USARMY HQDA DCS G-1 (US) [lacher.m.campbell.mil@mail.mil] Campbell, LaCher M LTC USARMY HQDA DCS G-1 (US)	Taylor, Randy L LTC USARMY HQDA DCS G-1 (US) [randy.l.taylor20.mil@mail.mil]; Aswell, Paul L CIV USARMY HQDA DCS G-1 (US) [paul.l.aswell.civ@mail.mil]; Minitrez, H C (Hank) CIV USARMY HQDA DCS G-1 (US) [henry.c.minitrez.civ@mail.mil]; Prince, Paul D CIV USARMY HQDA DCS G-1 (US) [paul.d.prince.civ@mail.mil]	Email chain containing discussions re implementation of TG policy	DP - Deliberative Process	Deliberations regarding the implementation of the Carter policy. Email chain discussing the implementation of the policy in the context of the U.S. Military Academy, and providing a response to a question concerning what would happen if Department of Defense policy changes.
Army_10010360.0001.001	PrivWithhold00 006068	PrivWithhold 00006070	5/17/2017	White, Randy J MSG MIL NGB		Coordination page with the subject "CRITICAL CORRESPONDENCE: Readiness of Military Departments to Implement Accession of Transgender Applicants into Military Service." Contains notes and advice on TG policy implementation, as well as directive to assess readiness.	DP - Deliberative Process	Predecisional document regarding the military services' assessment whether they are ready to implement accessions of transgender applicants.

In Camera Production Privilege Log
7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
Army_10010455	PrivWithhold00 006071	PrivWithhold 00006071	7/18/2017	Granger, Susie J COL USARMY HQDA DCS G-1 (US) [susie j granger.mil@mail.mil]G ranger, Susie J COL USARMY HQDA DCS G-1 (US)	USARMY HQDA DCS G-1 (US) [daniel c.mctigue.mil@mail.mil];Aswell, Paul L CIV USARMY HQDA DCS G-1 (US) [paul.l.aswell.civ@mail.mil];Krueger, Mary V COL USARMY HQDA ASA MRA (US) [mary.v.krueger.mil@mail.mil];Doyle, Andrew E COL USARMY HQDA OTSG (US) [andrew.e.doyle.mil@mail.mil];Castorina, Susan A LTC USARMY HQDA OTJAG (US) [susan.a.castorina.mil@mail.mil];Patoir, Maanvi M CIV (US) [maanvi.m.patoir.civ@mail.mil];Daniels, Jesse E CIV USARMY HQDA DCS G-3-5-7 (US) [jesse.e.daniels2.civ@mail.mil];Mahoney, Michael T SES USARMY HQDA DCS G-3-5-7 (US)	Pre decisional comments/suggestions on TG policy.	DP - Deliberative Process	Email proposing a topic to be discussed by the Transgender Service Implementation Group concerning the implementation of transgender policy.

In Camera Production Privilege Log
7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
Army_10010528	PrivWithhold00 006072	PrivWithhold 00006077	7/7/2017	Krueger, Mary V COL USARMY HQDA ASA MRA (US) [mary.v.krueger.mil@mail.mil]Krueger, Mary V COL USARMY HQDA ASA MRA (US)	(Rick) CDR USN JS J1 (US) [richard.a.knight1.mil@mail.mil];Soper, Martha P CIV USAF SAF-MR (US) [martha.p.soper.civ@mail.mil];Granger, Susie J COL USARMY HQDA DCS G-1 (US) [susie.j.granger.mil@mail.mil];Merriweather, Jason A CAPT USCG (US) [jason.a.merriweather@uscg.mil];Bristol, Janet M CAPT USN (US) [janet.m.bristol.mil@mail.mil];McWaters, William J CIV USMC MANDR AFFAIRS (US) [william.mcwaters@usmc.mil];Aswell, Paul L CIV USARMY HQDA DCS G-1 (US) [paul.l.aswell.civ@mail.mil];Gearhart, Lee P COL USARMY OSD OUSD P-R (US) [lee.p.gearhart.mil@mail.mil];Jenkins, Mary E CAPT	Email discusses explanation of development of transgender policy.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy. Email chain regarding the medical non-availability/non-deployability rates among TG servicemembers for the purpose of assessing the impact of accessions under the Carter Policy on readiness.
Army_10010537	PrivWithhold00 006078	PrivWithhold 00006081	7/7/2017	Turner, John Steven (Steve) JR COL USARMY HQDA DCS G-1 (US) [john.s.turner26.mil@mail.mil]Turner, John Steven (Steve) JR COL USARMY HQDA DCS G-1 (US)	Krueger, Mary V COL USARMY HQDA ASA MRA (US) [mary.v.krueger.mil@mail.mil]Aswell, Paul L CIV USARMY HQDA DCS G-1 (US) [paul.l.aswell.civ@mail.mil];Granger, Susie J COL USARMY HQDA DCS G-1 (US) [susie.j.granger.mil@mail.mil]	Email contains comments on the impact of transgender accessions policy development.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; email chain discussing medical non-availability and non-deployability rates among transgender service members in order to assess the impact of accessions under the Carter policy on military readiness.
Army_10010596.0001	PrivWithhold00 006082	PrivWithhold 00006087	8/19/2016	Turro, VR		Draft policy regarding implementation of the TG policy. Subject line is "Army Directive 2016-XX (Army Policy on Military Service of Transgender Soldiers)." Marked "For Official Use Only - Predecisional" and has a watermark labeled "DRAFT." Contains draft Army guidance on gender transition for soldiers.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy. Predecisional, draft Army directive on Army policy on military service of transgender soldiers.

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
Army_10010596.0003	PrivWithhold00 006088	PrivWithhold 00006089	8/19/2016	Turro, VR		Draft policy regarding implementation of the TG policy. Marked "For Official Use Only - Predecisional" and has a watermark labeled "DRAFT." Contains draft Army guidance on gender transition for soldiers in the	DP - Deliberative Process	Deliberations regarding the formulation and implementation of the transgender policy. Predecisional, draft version of Army directive on Gender Transition for Soldiers Serving in the Standby Reserve, The Individual Ready Reserve, or the Retired Reserve
Army_10010620.0001	PrivWithhold00 006090	PrivWithhold 00006110	8/3/2016	Paul Aswell		Draft Army directive on TG policy. Contains the proposed Army directive concerning the administrative requirements that transgender soldiers must meet after they have completely transitioned or are in the process of transitioning. Shows coordination and recommendations from various Army leaders.	DP - Deliberative Process	Deliberations regarding the formulation and implementation of the transgender policy. Draft Army directive on Army Policy on Military Service of Transgender Soldiers and Staffing Form providing guidance in staffing and review of draft policy.
Army_10010643	PrivWithhold00 006111	PrivWithhold 00006115	10/3/2016	Green, Alphonsa D CIV USARMY HQDA DCS G-1 (US)	Aswell, Paul L CIV USARMY HQDA DCS G-1 (US) [paul.l.aswell civ@mail.mil]	Email chain with suggestions to implementation of TG policy.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy. Email chain concerning making changes to accession medical forms, discussing changes to these forms in regards to the accession of transgender applicants.
Army_10010722	PrivWithhold00 006116	PrivWithhold 00006119	10/14/2016	Aswell, Paul L CIV USARMY HQDA DCS G-1 (US)	(US) [richard.b.eisenberg2 civ@mail.mil]; Kennedy, Michele R LTC USARMY HQDA ASA MRA (US) [michele.r.kennedy2.mil@mail.mil]; Grace, Laura A MAJ USARMY HQDA OTJAG (US) [laura.a.grace2.mil@mail.mil]; Granger, Susie J COL USARMY HQDA DCS G-1 (US) [susie.j.granger.mil@mail.mil]; Golya, Lorri A COL USARMY HQDA (US) [lorri.a.golya.mil@mail.mil]; Doyle, Andrew E COL USARMY HQDA OTSG (US) [andrew.e.doyle.mil@mail.mil]; MCTIGUE, Daniel C LTC USARMY HQDA DCS G-1 (US) [daniel.c.mctigue.mil@mail.mil]; Kramer, Christine M COL USARMY HQDA ASA MRA (US) [christine.m.kramer12.mil]	Email chain with suggestions and comments on the implementation of TG policy.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy. Email chain concerning a predecisional, proposed measure for screening applicants for a medical history of gender transition

In Camera Production Privilege Log
7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
Army_10010727.0002	PrivWithhold00 006120	PrivWithhold 00006126	10/14/2016	US Army		Draft, predecisional order re Army policy on military service of TG soldiers that discusses how the Army will implement DoD's directive. Document is titled "HQDA EXORD XXX-16 IMPLEMENTATION OF ARMY POLICY ON MILITARY SERVICE OF TRANSGENDER SOLDIERS" and has a watermark stating "DRAFT" on each page. Labeled "For Official Use Only - Predecisional."	DP - Deliberative Process	Predecisional draft of Army order on the "Implementation of Army Policy on Military Service of Transgender Soldiers".
Army_10010744.0004	PrivWithhold00 006127	PrivWithhold 00006132	10/21/2016	Fediaczko, Michael J Mr CIV US USA DCS G-3/5/7		Draft training plan on TG policy.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy. Draft Annex to Army order, titled "Education and Training Plan for the Policy on Military Service of Transgender Soldiers."
Army_10010746.0001	PrivWithhold00 006133	PrivWithhold 00006157	10/21/2016	Livingood, Lisa J LTC MIL USA TRADOC		Draft document on TG policy submitted for feedback or approval	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy. Draft Army training materials on "Policy on the Military Service of Transgender Soldiers."
Army_10010761.0003	PrivWithhold00 006158	PrivWithhold 00006163	10/31/2016	Fediaczko, Michael J Mr CIV US USA DCS G-3/5/7		Draft document on TG policy submitted for feedback or approval	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy. Draft Annex to Army order, titled "Education and Training Plan for the Implementation of Army Policy on Military Service of Transgender Soldiers." Draft annex concerns developing training materials, training the force, and sustaining training in order to implement transgender policy.
Army_10010766.0001	PrivWithhold00 006164	PrivWithhold 00006174	7/21/2016	Army Directorate of Military Personnel Management (DMPM)		PowerPoint titled "TSIG Mission Analysis Briefing Template (Transgender Implementation)." Draft briefing summarizes the current courses of action and status of policy development	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy. Slide deck on Transgender Implementation, which discusses developing policies and procedures for gender transition in order to implement the transgender policy.
Army_10010772	PrivWithhold00 006175	PrivWithhold 00006177	8/16/2016	Evans, Jason T MG USARMY HQDA DCS G-1 (US) [jason.t.evans3.mil@mail.mil]E vans, Jason T MG USARMY HQDA DCS G-1 (US)	Aswell, Paul L CIV USARMY HQDA DCS G-1 (US) [paul.l.aswell.civ@mail.mil]; Golya, Lorri A COL USARMY HQDA (US) [lorri.a.golya.mil@mail.mil]; Stitt, Douglas F COL USARMY HQDA DCS G-1 (US) [douglas.f.stitt.mil@mail.mil]; Granger, Susie J COL USARMY HQDA DCS G-1 (US) [susie.j.granger.mil@mail.mil]	Email containing feedback and planning analysis for TG policy formulation	DP - Deliberative Process	Email chain containing predecisional, deliberative information concerning the development and implementation of transgender policy, including the drafting of an Army directive and training materials.

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
Army_10010773	PrivWithhold00 006178	PrivWithhold 00006181	8/16/2016	Evans, Jason T MG USARMY HQDA DCS G-1 (US) [jason.t.evans3.mil@mail.mil]E vans, Jason T MG USARMY HQDA DCS G-1 (US)	USARMY HQDA ASA MRA (US) [leslie.a.purser.mil@mail. mil]Cruz, David MSG USARMY HQDA ASA MRA (US) [david.cruz10.mil@mail.m il];Granger, Susie J COL USARMY HQDA DCS G-1 (US) [susie.j.granger.mil@mail. mil];Salo, Donald G Jr SES USARMY HQDA ASA MRA (US) [donald.g.salo2.civ@mail. mil];Whitlock, Warren S SES (US) [warren.s.whitlock.civ@m ail.mil];Usrey, Jack L COL USARMY HQDA ASA MRA (US) [jack.l.usrey.mil@mail.mil];Chancellor, Glen D COL USARMY NG NGB (US) [glen.d.chancellor.mil@m ail.mil];Delancy, Pamela Y COL USARMY (US) [pamela.y.delancy.mil@m	Email containing feedback and planning analysis for TG policy formulation	DP - Deliberative Process	Deliberations regarding the formulation and implementation of the transgender policy. Email containing a predecisional deliberative discussion of required tasks for the development and implementation of transgender policy based on an update provided by the Transgender Service Implementation Group.
Army_10020443.0008.0 005	PrivWithhold00 006182	PrivWithhold 00006182	1/19/2018	DHA Specialty Care @ EngilityCorp [DHA.SpecialtyCare@engil itycorp.com];Nelson, Michael R (Mike Nelson) COL USARMY HQDA OTSG (US) [michael.r.nelson4.mil@m ail.mil]	DHA Specialty Care @ EngilityCorp [DHA.SpecialtyCare@engil itycorp.com]	F-M SRS evaluation checklis_19 JAN 18_TG IPT revised v1 docx; draft Supplemental Health Care Program Checklist Female to Male Sex Reassignment Surgery Evaluation Waiver	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy. Predecisional draft checklist for female to make sex reassignment surgery evaluation waiver, which includes visible comments of reviewer.
Army_10022667.0001	PrivWithhold00 006183	PrivWithhold 00006187	6/19/2017	McTigue, Daniel C LTC MIL USA DCS G-1		Draft slide show on TG accessions policy.	DP - Deliberative Process	Presentation that contains predecisional deliberations regarding whether to request a delay of accessions of transgender applicants under the Carter Policy.

7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
Army_10028781	PrivWithhold00 006188	PrivWithhold 00006190	2/20/2018	Reoyo, Paul J CIV USARMY TRADOC (US)	USARMY OSD USMEPCOM (US) [brigilda.c.teneza.mil@ma il.mil];Aswell, Paul L CIV USARMY HQDA DCS G-1 (US) [paul.l.aswell.civ@mail.mi l]Krueger, Mary V COL USARMY HQDA ASA MRA (US) [mary.v.krueger.mil@mail .mil];Mullen, Lawrence E CIV DHA DIR SUPPORT (US) [lawrence.e.mullen.civ@ mail.mil];Golden, Kerrie J COL USARMY HQDA ASA MRA (US) [kerrie.j.golden.mil@mail. mil];MCTIGUE, Daniel C LTC USARMY HQDA DCS G- 1 (US) [daniel.c.mctigue.mil@ma il.mil];Green, Alphonsa D CIV USARMY HQDA DCS G- 1 (US) [alphonsa.d.green.civ@m ail.mil];Bouren, Kevin D	Email discussion between various medical staff officers regarding how to interpret and implement medical fitness standards for TG accessions, and discussing proposed interpretations.	DP - Deliberative Process	Deliberations regarding the formulation and implementation of the transgender policy; Deliberations regarding the implementation of the transgender policy. Email discussion between various medical staff officers regarding how to interpret and implement medical fitness standards for transgender accessions, and discussing issues and concerns with various proposed interpretations.
Army_10034484	PrivWithhold00 006191	PrivWithhold 00006192	2/16/2018	Aswell, Paul L CIV USARMY HQDA DCS G-1 (US)	Krueger, Mary V COL USARMY HQDA ASA MRA (US) [mary.v.krueger.mil@mail .mil];Green, Alphonsa D USA CIV (US) [alphonsa.d.green.civ@m ail.mil]	Email discussion between various medical staff officers regarding how to interpret and implement medical fitness standards for TG accessions, and discussing issues/concerns with various proposed interpretations.	DP - Deliberative Process	Email chain including deliberations concerning the applicatin of DoD medical accessions standards with respect to a specific applicant
Army_10035297	PrivWithhold00 006193	PrivWithhold 00006196	1/31/2018	Robert Burns		Attachment to emails discussing proposed changes to transgender policies. No decision was made.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy
Army_10038384	PrivWithhold00 006197	PrivWithhold 00006197	3/7/2018	MCTIGUE, Daniel C LTC USARMY HQDA DCS G-1 (US)	Thum, Andreas M (Andy) COL USARMY HQDA DCS G- 1 (US) [andreas.m.thum.mil@ma il.mil]	Email discussing and deliberating policy on medical waiver authority	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy. Predecisional email providing a topic for TSIG consideration regarding whether to renew a policy that applied to transgender applicants.
DHA_00000153	PrivWithhold00 006198	PrivWithhold 00006257	7/24/2017	Mullen, Lawrence E CIV DHA DIR SUPPORT (US)	Soper, Martha P CIV USAF SAF-MR (US); Cc: Teneza, Brigilda C COL USARMY OSD USMEPCOM (US); Kemp, David S CAPT USN OSD USMEPCOM (US); Bcc: Dalitsch, Walter W III CAPT USN NAVMED EAST (US); Drummond, Samuel C (Sam) CIV DODHRA HQ (US)	Intradepartment email concerning deliberations on implementation of transgender policy, including questions and answers. Subject of email is "Fwd: Transgender Policy Action Officer Working Group 25- 28 JUL 17 (UNCLASSIFIED)."	DP - Deliberative Process	Predecisional and deliberative internal agency document created as part of the agency's process of developing courses of action for implementing DoD's policy on the services and accessions of military personnel and the continuous process of assessing the policy's impact on military readiness.

No. 17-cv-1297
In Camera Production Privilege Log

7/1/2020

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DHA_00000361	PrivWithhold00 006258	PrivWithhold 00006320	7/24/2017	Mullen, Lawrence E CIV DHA DIR SUPPORT (US)	Soper, Martha P CIV USAF SAF-MR (US); Cc: Teneza, Brigilda C COL USARMY OSD USMEPCOM (US); Kemp, David S CAPT USN OSD USMEPCOM (US); Bentz, Kevin R MAJ USARMY OSD OUSD P-R (US); Brown, Gary W LTC USARMY OSD OUSD P-R (US); Lowry, Cheryl L Col USAF AF-SG (US); Miller, David C Lt Col USAF AFMSA (US); Bcc: Weber, John P CIV (US); Najjar, Donna M CIV DHA DHA CS MGT (US); Stinson, Samantha R CIV (US); Auces, Chiquita A MSG USARMY (US)	Intradepartment email concerning implementation of DoD transgender policy	DP - Deliberative Process	Predecisional and deliberative internal agency document created as part of the agency's process of developing courses of action for implementing DoD's policy on the services and accessions of military personnel and the continuous process of assessing the policy's impact on military readiness.
DoD00000238	PrivWithhold00 006321	PrivWithhold 00006322	9/20/2017	Martie Soper, RN, MSHS, Assistant Deputy, Health Policy, Office of the Secretary of the Air Force	Mailbox AF Central Coordination Cell <usaf.pentagon.saf- mr.mbx.af-central- coordination- cell@mail.mil>Cook, June M Col USAF (US) <june.cook.2@us.af.mil>; Gaudette, Carol CIV USAF AF-A4 (US) <carol.gaudette.civ@mail. mil>; Snyder, Lisa K Col USAF NGB SG (US) <lisa.k.snyder2.mil@mail. mil>; Jackson, Jacqueline F Lt Col USAF AF-A3 (US) <jacqueline.f.jackson2.mil @mail.mil>; Brooks, Mark J Col USAF 59 MDW (US) <mark.j.brooks3.mil@mail .mil>; Kelly, Colleen M Col USAF (US) <colleen.m.kelly.mil@mail .mil>; Brooks, Mark J Col USAF 59 MDW (US) <mark.j.brooks3.mil@mail .mil>; Decker, Elizabeth A Col USAF AFMOA (US)	Email with subject "NO SCCC meeting tomorrow 21 Sept 2017." Contains deliberations concerning service members' requests for exceptions to policy.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00000616	PrivWithhold00 006323	PrivWithhold 00006323	12/28/2017	Arendt, Christopher P CIV OSD OUSD P-R (US)	Excel file with file name "Active - My_ My Team 2017-12-28 13_15_31Z.xlsx." Contains status of pending assignments and items for follow-up, including assignments related to the transgender service policy.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	

In Camera Production Privilege Log
7/1/2020

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DoD00000960	PrivWithhold00 006324	PrivWithhold 00006324	12/13/2017	Kemp, David S CAPT USN OSD USMEPCOM (US) <david.s.kemp.mil@mail.mil>	MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@mail.mil>Arendt, Christopher P CIV OSD OUSD P-R (US) <christopher.p.arendt.civ@mail.mil>; Bentz, Kevin R MAJ USARMY OSD OUSD P-R (US) <kevin.r.bentz.mil@mail.mil>; Cunningham, Joanne T CIV OSD USMEPCOM (US) <joanne.t.cunningham2.civ@mail.mil>	Deliberative email conversation regarding a Transgender applicant at MEPS	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy
DoD00002126	PrivWithhold00 006325	PrivWithhold 00006329	10/4/2017	Hatchell, Jared, CIV, DHA		Draft version of the questions and answers for a hearing on DoD Manpower and reserve affairs which includes information on the implementation of the Transgender policy.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy
DoD00002254	PrivWithhold00 006330	PrivWithhold 00006330	8/30/2017	Lernes Hebert		Powerpoint of the 2017 TG policy review with timeline and recommended deliverables	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy
DoD00002308	PrivWithhold00 006331	PrivWithhold 00006332	9/15/2017	MILLER, Stephanie P SES OSD OUSD P-R (US)	Haverstick, Paul R Jr LTC USARMY OSD PA (US) <paul.r.haverstick.mil@mail.mil>Arendt, Christopher P CIV OSD OUSD P-R (US) <christopher.p.arendt.civ@mail.mil>; Lovisone, Gail R CIV (US) <gail.r.lovisone.civ@mail.mil>	Email with the subject "Re: TG interim guidance."	DP - Deliberative Process	Deliberations regarding DoD's and Army's responses to issues with MAVNI and DACA
DoD00002337	PrivWithhold00 006333	PrivWithhold 00006335	9/11/2017	Eric Wetzel		Document containing proposed study involving transgender service members.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy
DoD00002402	PrivWithhold00 006336	PrivWithhold 00006338	8/31/2017	MILLER, Stephanie P SES OSD OUSD P-R (US)	Arendt, Christopher P CIV OSD OUSD P-R (US) (christopher.p.arendt.civ@mail.mil); Wellman, Aaron C LTC USARMY OSD OUSD P-R (US) <aaron.c.wellman.mil@mail.mil>; Brown, Gary W LTC USARMY OSD OUSD P-R (US) (gary.w.brown.mil@mail.mil)	Email with subject line "FW: DRAFT Transgender Implementation Guidance for SD Signature Friday 1 Sep (UNCLASSIFIED)." Contains deliberations on the draft guidance and draft terms of reference.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00002435	PrivWithhold00 006339	PrivWithhold 00006341	8/25/2017	Stephanie Barna		Document with file name SD TG INTERIM POLICY 8-25.docx. Draft Interim Guidance. Labeled "Draft - For official use only" and has a "DRAFT" watermark.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy
DoD00002462	PrivWithhold00 006342	PrivWithhold 00006343	8/28/2017	MILLER, Stephanie P SES OSD OUSD P-R (US)	Wellman, Aaron C LTC USARMY OSD OUSD P-R (US) <aaron.c.wellman.mil@mail.mil>Arendt, Christopher P CIV OSD OUSD P-R (US) <christopher.p.arendt.civ@mail.mil>	RE: Secondary email address - DoD Central Coordination Cell (UNCLASSIFIED)	DP - Deliberative Process	Deliberations regarding the process used by the SCCC
DoD00002634	PrivWithhold00 006344	PrivWithhold 00006345	8/2/2017	Julian, David A CIV OSD OUSD P-R (US) <david.a.julian.civ@mail.mil>	Laughlin, Colleen R CIV OSD OUSD POLICY (US) <colleen.r.laughlin.civ@mail.mil>; MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@mail.mil>Chojnacki, Kip M MAJ USARMY OSD OUSD POLICY (US) <kip.m.chojnacki.mil@mail.mil>; Pixton, Ashley A CIV OSD OUSD POLICY (US)	Deliberative email conversation between DoD personnel regarding the proper point of contact to assist with Departmental gender issues.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy
DoD00002657	PrivWithhold00 006346	PrivWithhold 00006346	7/28/2017	Stephanie MILLER		Draft memo on Transgender Service Member and Unit Readiness. File name: TG Service Members and Unit Readiness 31 July 17 - DJG.docx. Contains track changes and comments for recommended edits.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy

In Camera Production Privilege Log
7/1/2020

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DoD00002826	PrivWithhold00 006347	PrivWithhold 00006349	7/19/2017	Medve, John VACO <John.Medve@va.gov>	Wellman, Aaron CLTC USARMY OSD OUSD P-R (US) <aaron.c.wellman.mil@m ail.mil>; MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@ mail.mil>Wilson, Elizabeth F SES OSD OUSD P-R (US) <elizabeth.f.wilson.civ@m ail.mil>; Kauth, Michael (HOU) <Michael.Kauth@va.gov>; Carson, Laurine, VBAVACO <Laurine.Carson@va.gov> >; Flohr, Cheryl R CIV (US) <cheryl.flohr@va.gov>; Crenshaw, Anna, VBAVACO <Anna.Crenshaw@va.gov >; Zais, Christina C CIV (US) <christina.zais@va.gov>; Ryan, Carla <Carla.Ryan@va.gov>	Deliberative email conversation between DoD and VA regarding working groups focused on Transgender medical care and benefits	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy
DoD00002832	PrivWithhold00 006350	PrivWithhold 00006351	7/17/2017	Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@mail.mil >	USARMY HQDA DAS (US) <gary.h.cheek.mil@mail. mil>; Randon, Diane M SES USARMY HQDA ASA MRA (US) <diane.m.randon.civ@mail. l.mil>; Burke, Robert P VADM USN CNO (US) <robert.p.burke@navy.mil >; Woods, Robert L SES USN ASSTSECNAV MRA DC (US) <robert.l.woods@navy.mi l>; Brilakis, Mark A LtGen USMC MANDR AFFAIRS (US) <mark.brilakis@usmc.mil> >; Sitterly, Daniel R SES USAF SAF-MR (US) <daniel.r.sitterly.civ@mail .mil>; Grosso, Gina M Lt Gen USAF AF-A1 (US) <gina.m.grosso.mil@mail. mil>; Mckinley, Andrew S RDML USCG HQS (US) <andrew.s.mckinley@usc g.mil>; Allan, Thomas G Jr CAPT USCG (US)	TG SIG Follow-on Actions (UNCLASSIFIED)	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy

In Camera Production Privilege Log
7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00002869	PrivWithhold00 006352	PrivWithhold 00006354	7/8/2017	Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@mail.mil>	USARMY OSD OUSD P-R (US) <lee.p.gearhart.mil@mail.mil>; MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@mail.mil>; Hebert, Lernes J SES OSD OUSD P-R (US) <lernes.j.hebert.civ@mail.mil>; Jarrett, Michael R (Rich) CDR USN OSD OUSD P-R (US) <michael.r.jarrett2.mil@mail.mil>; Sims, Pettis N LCDR USN OSD OUSD P-R (US) <pettis.n.sims.mil@mail.mil>; Gruber, David J CIV OSD OGC (US) <david.j.gruber.civ@mail.mil>; Smith, David J SES OSD OUSD P-R (US) <david.j.smith152.civ@mail.mil>; Adirim, Terry A SES OSD HA (US) <terry.a.adirim.civ@mail.mil>; Casciotti, John A SES OSD OGC (US)	Email with the subject "RE: Updated Slides (UNCLASSIFIED)." Email contains deliberations concerning medical accessions standards.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy

In Camera Production Privilege Log
7/1/2020

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DoD00002871	PrivWithhold00 006355	PrivWithhold 00006357	7/8/2017	Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@mail.mil>	USARMY OSD OUSD P-R (US) <lee.p.gearhart.mil@mail.mil>; MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@mail.mil>; Hebert, Lernes J SES OSD OUSD P-R (US) <lernes.j.hebert.civ@mail.mil>; Jarrett, Michael R (Rich) CDR USN OSD OUSD P-R (US) <michael.r.jarrett2.mil@mail.mil>; Sims, Pettis N LCDR USN OSD OUSD P-R (US) <pettis.n.sims.mil@mail.mil>; Gruber, David J CIV OSD OGC (US) <david.j.gruber.civ@mail.mil>; Smith, David J SES OSD OUSD P-R (US) <david.j.smith152.civ@mail.mil>; Adirim, Terry A SES OSD HA (US) <terry.a.adirim.civ@mail.mil>; Casciotti, John A SES OSD OGC (US)	Email re: cadets and midshipmen and TG accessions policy	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy
DoD00002935	PrivWithhold00 006358	PrivWithhold 00006359	6/29/2017	Brown, Gary W LTC USARMY OSD OUSD P-R (US) <gary.w.brown.mil@mail.mil>	MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@mail.mil>; Arendt, Christopher P CIV OSD OUSD P-R (US) <christopher.p.arendt.civ@mail.mil>; Gearhart, Lee P COL USARMY OSD OUSD P-R (US) <lee.p.gearhart.mil@mail.mil>	Email and FW: Draft DTM-17-008 (UNCLASSIFIED)	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00003025	PrivWithhold00 006360	PrivWithhold 00006364	6/20/2017	Arendt, Christopher P CIV OSD OUSD P-R (US) <christopher.p.arendt.civ@mail.mil>	Gearhart, Lee P COL USARMY OSD OUSD P-R (US) <lee.p.gearhart.mil@mail.mil>; MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@mail.mil>	Email re: draft DTM and deployability and accessions	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy

Karłoski v. Trump,
No. 17-cv-1297
In Camera Production Privilege Log
7/1/2020

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DoD00003049	PrivWithhold00 006365	PrivWithhold 00006366	6/8/2017	Arendt, Christopher P CIV OSD OUSD P-R (US) <christopher.p.arendt civ@mail .mil>	Caggins, Myles B III LTC USARMY OSD PA (US) <myles.b.caggins.mil@mail il.mil>Gearhart, Lee P COL USARMY OSD OUSD P-R (US) <lee.p gearhart.mil@mail. mil>; Michael, Johnny I Jr CIV OSD PA (US) <johnny.i.michael2.civ@m ail.mil>; Cooper, Willie L (Will) III Lt Col USAF OSD OASD LA (US) <willie.l.cooper10.mil@m ail.mil>; Gruber, David J CIV OSD OGC (US) <david.j.gruber.civ@mail. mil>; MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@ mail.mil>	RE: Early DRAFT -- Transgender Accessions Toplines (UNCLASSIFIED)	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy
DoD00003051	PrivWithhold00 006367	PrivWithhold 00006367	6/8/2017	Caggins, Myles B III LTC USARMY OSD PA (US) <myles.b.caggins.mil@mail.mil >	MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@ mail.mil>Gearhart, Lee P COL USARMY OSD OUSD P- R (US) <lee.p gearhart.mil@mail. mil>; Arendt, Christopher P CIV OSD OUSD P-R (US) <christopher.p arendt.civ @mail.mil>; Michael, Johnny I Jr CIV OSD PA (US) <johnny.i.michael2.civ@m ail.mil>; Cooper, Willie L (Will) III Lt Col USAF OSD OASD LA (US) <willie.l.cooper10.mil@m ail.mil>; Gruber, David J CIV OSD OGC (US) <david.j.gruber.civ@mail. mil>	Early DRAFT -- Transgender Accessions Toplines (UNCLASSIFIED)	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00003053	PrivWithhold00 006368	PrivWithhold 00006370	6/7/2017	Gearhart, Lee P COL USARMY OSD OUSD P-R (US) <lee.p.gearhart.mil@mail.mil>	OUUSD P-R (US) <anthony.m.kurta.civ@mail.mil>Arendt, Christopher P CIV OSD OUUSD P-R (US) <christopher.p.arendt.civ@mail.mil>; MILLER, Stephanie P SES OSD OUUSD P-R (US) <stephanie.p.miller.civ@mail.mil>; Smith, David J SES OSD OUSD P-R (US) <david.j.smith152.civ@mail.mil>; Mulcahy, Patricia SES OSD OUSD P-R (US) <patricia.mulcahy.civ@mail.mil>; Adirim, Terry A SES OSD HA (US) <terry.a.adirim.civ@mail.mil>; Gruber, David J CIV OSD OGC (US) <david.j.gruber.civ@mail.mil>; Hebert, Lernes J SES OSD OUSD P-R (US) <lernes.j.hebert.civ@mail.mil>; Barna, Stephanie A SES OSD OUSD P-R (US) <stephanie.a.barna.civ@	Email with subject "RE: Hot - TG Taskings (UNCLASSIFIED)." Contains deliberations concerning whether new studies impact DoD's policy and whether individuals can deploy to CENTCOM.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy
DoD00003119	PrivWithhold00 006371	PrivWithhold 00006374	5/16/2017	Gearhart, Lee P COL USARMY OSD OUSD P-R (US) <lee.p.gearhart.mil@mail.mil>	MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@mail.mil>Arendt, Christopher P CIV OSD OUUSD P-R (US) <christopher.p.arendt.civ@mail.mil>	email RE: Navy views on readiness of TG policy and coordination with DOD	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00003127	PrivWithhold00 006375	PrivWithhold 00006378	5/12/2017	Gearhart, Lee P COL USARMY OSD OUSD P-R (US) <lee.p.gearhart.mil@mail.mil>	MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@mail.mil>Arendt, Christopher P CIV OSD OUUSD P-R (US) <christopher.p.arendt.civ@mail.mil>	Email conversation regarding Navy's coordination on the DoD Transgender Policy tasker	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy

In Camera Production Privilege Log
7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00003138	PrivWithhold00 006379	PrivWithhold 00006380	5/10/2017	Caggins, Myles B III LTC USARMY OSD PA (US) <myles.b.caggins.mil@mail.mil>	Arendt, Christopher P CIV OSD OUSD P-R (US) <christopher.p.arendt.civ@ mail.mil>; MILLER, Stephanie P SES OSD OSD P-R (US) <stephanie.p.miller.civ@ mail.mil>; Gruber, David J CIV OSD OGC (US) <david.j.gruber.civ@mail. mil>; Washington, Keithen A Lt Col USAF OSD OUSD P- R (US) <keithen.a.washington.mil @mail.mil>Michael, Johnny I Jr CIV OSD PA (US) <johnny.i.michael2.civ@m ail.mil>; Ochoa, Laura C CIV OSD PA (US) <laura.c.ochoa.civ@mail. mil>; Cooper, Willie L (Will) III Lt Col USAF OSD OASD LA (US) <willie.l.cooper10.mil@m ail.mil>	Email re: USA Today - FW: transgender cadets	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy
DoD00003191	PrivWithhold00 006381	PrivWithhold 00006381	4/14/2017	Gearhart, Lee P COL USARMY OSD OUSD P-R (US) <lee.p.gearhart.mil@mail.mil>	Clark, Robert E CIV OSD OSD P-R (US) <robert.e.clark114.civ@m ail.mil>Arendt, Christopher P CIV OSD OSD P-R (US) <christopher.p.arendt.civ @mail.mil>; MILLER, Stephanie P SES OSD OSD P-R (US) <stephanie.p.miller.civ@ mail.mil>; Washington, Keithen A Lt Col USAF OSD OSD P-R (US) <keithen.a.washington.mil @mail.mil>; Lovison, Gail R CIV (US) <gail.r.lovisone.civ@mail. mil>	Staffer Day Slides providing and update on transgender policy	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy

In Camera Production Privilege Log
7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00003218	PrivWithhold00 006382	PrivWithhold 00006383	3/4/2017	Brown, Gary W LTC USARMY OSD OUSD P-R (US) <gary.w.brown.mil@mail.mil>	MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@ mail.mil>; Arendt, Christopher P CIV OSD OSD P-R (US) <christopher.p.arendt.civ @mail.mil>; Gearhart, Lee P COL USARMY OSD OUSD P-R (US) <lee.p.gearhart.mil@mail. mil>	FW: DoDI 6130 draft next steps and responses	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00003266	PrivWithhold00 006384	PrivWithhold 00006384	10/24/2016	Anthony Kurta		Excel doc re: Service TG Training Policies Update_0207.xlsx	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00003378	PrivWithhold00 006385	PrivWithhold 00006386	9/14/2016	Gearhart, Lee P COL USARMY OSD OUSD P-R (US) <lee.p.gearhart.mil@mail.mil>	Kurta, Anthony M SES OSD OSD P-R (US) <anthony.m.kurta.civ@m ail.mil>MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@ mail.mil>	RE: Army Directive on Transgender (UNCLASSIFIED)	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00003411	PrivWithhold00 006387	PrivWithhold 00006387	8/18/2016	Aaron Wellman		Doc of Weekly TG Q&A rollup 19 AUG 16.docx	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00003463	PrivWithhold00 006388	PrivWithhold 00006388	6/30/2016	Gearhart, Lee P COL USARMY OSD OUSD P-R (US) <lee.p.gearhart.mil@mail.mil>	Kurta, Anthony M SES OSD OSD P-R (US) <anthony.m.kurta.civ@m ail.mil>MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@ mail.mil>; Wellman, Aaron C LTC USARMY OSD OSD P-R (US) <aaron.c.wellman.mil@m ail.mil>	Deliberative email conversation regarding a DoD working group discussing reserve accessions	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00003501	PrivWithhold00 006389	PrivWithhold 00006391	6/29/2016	Stephanie MILLER		Draft memo titled "Transgender Policy Implementation: A Note to Commanders." Contains handwritten notes with recommended edits.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00003510	PrivWithhold00 006392	PrivWithhold 00006440	6/28/2016	Gearhart, Lee P COL USARMY OSD OUSD P-R (US)		Draft edits to DOD TG implemenatation Handbook	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00003529	PrivWithhold00 006441	PrivWithhold 00006445	6/28/2016	Stephanie MILLER		Doc with Examples of Challenging Transgender Cases v2 (1800 28JUN2016).docx	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00003592	PrivWithhold00 006446	PrivWithhold 00006456	6/16/2016	Carroll, Katherine SES SD		Draft document titled "Transgender Hard Q&A for Rollout." Labeled "FOR OFFICIAL USE ONLY / PRE- DECISIONAL INFORMATION." Provides questions concerning the policy and draft responses. Includes comments for recommended edits.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00003594	PrivWithhold00 006457	PrivWithhold 00006469	6/15/2016	Carroll, Katherine SES SD		Hard transgender QA 14 June (SAB)(pk1) jws.docx	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy

Karłoski v. Trump,
No. 17-cv-1297
In Camera Production Privilege Log
7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00003607	PrivWithhold00 006470	PrivWithhold 00006487	6/14/2016	Rachael DeNale		Doc of DRAFT DoDI (as of 14 June).docx	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00003674	PrivWithhold00 006488	PrivWithhold 00006488	4/13/2016	Delaune, Jules, CIV, OASD/HA		AMSWG recommendations regarding Transgender.docx	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00003684	PrivWithhold00 006489	PrivWithhold 00006505	5/27/2016	Rachael DeNale		Draft doc of DoDI 20 May (DRAFT to WG) USCG Comments docx	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00003693	PrivWithhold00 006506	PrivWithhold 00006506	5/26/2016	Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@mail.mil>	Gearhart, Lee P COL USARMY OSD OUSD P-R (US) <lee.p.gearhart.mil@mail.mil>; MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@mail.mil>; Hebert, Lernes J SES OSD OUSD P-R (US) <lernes.j.hebert.civ@mail.mil>; Sims, Pettis N LCDR USN OSD OUSD P-R (US) <pettis.n.sims.mil@mail.mil>	Fw: Navy Service Comments on TG DoDI and DTM	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00003722	PrivWithhold00 006507	PrivWithhold 00006524	5/20/2016	Rachael DeNale		Doc of DoDI 19 May (DRAFT to WG) ksg.docx	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00003760	PrivWithhold00 006525	PrivWithhold 00006525	5/15/2016	Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@mail.mil>	Gearhart, Lee P COL USARMY OSD OUSD P-R (US) <lee.p.gearhart.mil@mail.mil>; MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@mail.mil>; Guice, Karen S SES (US) <karen.s.guice2.civ@mail.mil>; Smith, Jack W CIV OSD HA (US) <jack.w.smith2.civ@mail.mil>; Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@mail.mil>; Sims, Pettis N LCDR USN OSD OUSD P-R (US) <pettis.n.sims.mil@mail.mil>	Deliberative email conversation regarding notes and comments based on review of several talking papers on the Transgender policy.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00003762	PrivWithhold00 006526	PrivWithhold 00006542	5/15/2016	Rachael DeNale		DoDI 15 May (DRAFT) .docx	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy

In Camera Production Privilege Log
7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00003763	PrivWithhold00 006543	PrivWithhold 00006545	5/13/2016	Smith, Jack W CIV OSD HA (US) <jack.w.smith2.civ@mail.mil>	MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@mail.mil>; Gruber, David J CIV OSD OGC (US) <david.j.gruber.civ@mail.mil>; Guice, Karen S SES (US) <karen.s.guice2.civ@mail.mil>Hebert, Lernes J SES OSD OUSD P-R (US) <lernes.j.hebert.civ@mail.mil>; Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@mail.mil>; Gearhart, Lee P COL USARMY OSD OUSD P-R (US) <lee.p.gearhart.mil@mail.mil>; Delaune, Jules M CIV OSD OUSD P-R (US) <jules.m.delaune.civ@mail.mil>; Smith, Jack W CIV OSD HA (US) <jack.w.smith2.civ@mail.mil>	Email RE: Request Review: TG In-Service Transition DoDI (DRAFT)	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00003791	PrivWithhold00 006546	PrivWithhold 00006562	5/11/2016	Rachael DeNale		Draft doc of DoDI 11 May (amk_1).docx	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00003800	PrivWithhold00 006563	PrivWithhold 00006566	5/6/2016	Joseph E. Pedone III		Doc of DOD P&R Response to Army SG TG Info Paper.docx	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00004010	PrivWithhold00 006567	PrivWithhold 00006569	12/22/2015	Rogers, Alexandra (Sasha) CIV SD		Transgender Issue Paper Template 12-21-15 (HSE edits).docx	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00004013	PrivWithhold00 006570	PrivWithhold 00006572	12/17/2015	Eisenberger, Hershel S CIV OSD OUSD P-R (US) <hershel.s.eisenberger.civ@mail.mil>	MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@mail.mil>Gearhart, Lee P COL USARMY OSD OUSD P-R (US) <lee.p.gearhart.mil@mail.mil>	RE: Transgender Accessions COA 1 Re-Write	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy

7/1/2020

DOCID	Begin Dates	End Dates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00004016	PrivWithhold00 006573	PrivWithhold 00006574	12/13/2015	Guice, Karen S SES (US) <karen.s.guice2.civ@mail.mil>	USN USUHS (US) <lisa.m.cartwright3.mil@mail.mil>; Clyde, Patrick W CAPT USN DHA NCR MEDICAL DIR (US) <patrick.w.clyde.mil@mail.mil>; Raney, Lance C COL USARMY MEDCOM HQ (US) <lance.c.raney.mil@mail.mil>; Simmer, Edward D CAPT USN DHA TRICARE HP (US) <edward.d.simmer.mil@mail.mil>; Jones, George E Jr CIV DHA HEALTH OPNS DIR (US) <george.e.jones48.civ@mail.mil>; Jackonis, Michael J Jr CIV DHA OGC (US) <michael.j.jackonis2.civ@mail.mil>; Smith, Jack W CIV OSD HA (US) <jack.w.smith2.civ@mail.mil>; Doss, Thomas L CAPT USPHS (US) <thomas.l.doss.mil@mail.mil>; Zelif, Barbara H CIV	Email re summary of meeting and discussion of transgender medical treatment plans and care	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00004057	PrivWithhold00 006575	PrivWithhold 00006575	12/2/2015	Gearhart, Lee P COL USARMY OSD OUSD P-R (US) <lee.p.gearhart.mil@mail.mil>	MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@mail.mil>	Email re: Gender Transition plans and service draft edits	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy
DoD00004062	PrivWithhold00 006576	PrivWithhold 00006579	11/19/2015	Anthony Kurta		Gender Transition Plan (Army edits ver2) docx	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy
DoD00004112	PrivWithhold00 006580	PrivWithhold 00006581	11/4/2015	Gearhart, Lee P COL USARMY OSD OUSD P-R (US)		Doc DRAFT_Understanding Transitioning Gender in the Workplace as of 30 September 2015.pdf	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy
DoD00004245	PrivWithhold00 006582	PrivWithhold 00006582	9/10/2015	Gearhart, Lee P COL USARMY OSD OUSD P-R (US) <lee.p.gearhart.mil@mail.mil>	Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@mail.mil>; MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@mail.mil>; Beyler, Juliet M SES OSD OUSD P-R (US) <juliet.m.beyler.civ@mail.mil>	Draft Agenda_TSRWG September 16	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy
DoD00004275	PrivWithhold00 006583	PrivWithhold 00006584	8/18/2015	Wark, Lawrence J CIV USARMY HQDA ASA MRA (US) <lawrence.j.wark.civ@mail.mil>	MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@mail.mil>	Email re: Army draft position on level of stability of individuals with GD	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy

No. 17-cv-1297
In Camera Production Privilege Log
7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00004323	PrivWithhold00 006585	PrivWithhold 00006587	7/21/2015	Beyler, Juliet M SES OSD OUSD P-R (US) <juliet.m.beyler.civ@mail.mil>	Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@mail.mil>; MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@mail.mil>; Hebert, Lernes J SES OSD OUSD P-R (US) <lernes.j.hebert.civ@mail.mil>	Email FW: Transgender directive on interim guidance during Carter policy review	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy
DoD00004327	PrivWithhold00 006588	PrivWithhold 00006588	7/20/2015	COL Lee P. Gearhart, ASD(M&RA)/(MPP/OEPM)		Draft Action Memo for the Secretary of Defense from Brad Carson, Acting Under Secretary of Defense for Personnel and Readiness (but prepared by Col Lee Gearhart), with the subject "Response to Chairman Thornberry's Transgender Service Member Letter." Contains a recommendation for a response to a Congressman's letter.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy
DoD00004681	PrivWithhold00 006589	PrivWithhold 00006592	7/8/2017	Kurta, Anthony M SES OSD OUSD P-R (US)	'Raymond, Lacey CIV SD' <Lacey.Raymond@sd.mil>	Email chain concerning responding questions posed on several talking papers developed for the Transgender policy	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00004736	PrivWithhold00 006593	PrivWithhold 00006594	6/30/2017	Kurta, Anthony M SES OSD OUSD P-R (US)	Cooper, Willie L (Will) III Lt Col USAF OSD OASD LA (US) <willie.l.cooper10.mil@mail.mil>Giambastiani, Pete CIV (US) <edmund.p.giambastiani2.civ@mail.mil>; Penrod, Virginia S SES OSD OUSD P-R (US) <virginia.s.penrod.civ@mail.mil>	Email concerning legislative proposals to transgender policy	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00004758	PrivWithhold00 006595	PrivWithhold 00006596	6/27/2017	Kurta, Anthony M SES OSD OUSD P-R (US)	'Raymond, Lacey CIV SD' <Lacey.Raymond@sd.mil>	Email chain concerning Gender Marker Change Numbers (UNCLASSIFIED)	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00004768	PrivWithhold00 006597	PrivWithhold 00006597	6/27/2017	Raymond, Lacey CIV SD <Lacey.Raymond@sd.mil>	Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@mail.mil>	Email conversation between DoD personnel concerning internal feedback on draft transgender policy points	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00004816	PrivWithhold00 006598	PrivWithhold 00006598	6/26/2017	Seamands, Thomas C LTG USARMY HQDA DCS G-1 (US) <thomas.c.seamands.mil@mail.mil>	Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@mail.mil>	Email chain concerning Transgender Questions - Service Chief Inputs (UNCLASSIFIED)	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy

In Camera Production Privilege Log
7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00004885	PrivWithhold00 006599	PrivWithhold 00006599	6/23/2017	Raymond, Lacey CIV SD <Lacey.Raymond@sd.mil>	Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@mail.mil>Sims, Pettis N LCDR USN OSD OUSD P-R (US) <pettis.n.sims.mil@mail.mil>; Jarrett, Michael R (Rich) CDR USN OSD OUSD P-R (US) <michael.r.jarrett2.mil@	Email chain concerning the number of transgender service members within the services (UNCLASSIFIED)	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00004931	PrivWithhold00 006600	PrivWithhold 00006601	6/21/2017	Kurta, Anthony M SES OSD OUSD P-R (US)	MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@mail.mil>; Hebert, Lernes J SES OSD OUSD P-R (US) <lernes.j.hebert.civ@mail.mil>; Barna, Stephanie A SES OSD OUSD P-R (US) <stephanie.a.barna.civ@mail.mil>Jarrett, Michael R (Rich) CDR USN OSD OUSD P-R (US) <michael.r.jarrett2.mil@mail.mil>; Penrod, Virginia S SES OSD OUSD P-R (US) <virginia.s.penrod.civ@mail.mil>; Sims, Pettis N LCDR USN OSD OUSD P-R (US) <pettis.n.sims.mil@mail.mil>	Email chain concerning TG and DODI update	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy
DoD00004947	PrivWithhold00 006602	PrivWithhold 00006604	6/19/2017	Sweeney, Kevin SES SD <Kevin.Sweeney@sd.mil>	Raymond, Lacey D CIV (US) <lacey.raymond@sd.mil>; Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@mail.mil>Bajraktari, Yil CIV OSD OSD (US) <yil.bajraktari@sd.mil>; Farris, Ryan CDR SD <Ryan.Farris@sd.mil>; Donnelly, Sally B SES (US) <sally.donnelly@sd.mil>; Sims, Pettis N LCDR USN OSD OUSD P-R (US) <pettis.n.sims.mil@mail.mil>	Email chain concerning WH TG info memo (UNCLASSIFIED)	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy

No. 17-cv-1297
In Camera Production Privilege Log
7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00005001	PrivWithhold00 006605	PrivWithhold 00006606	6/8/2017	Kurta, Anthony M SES OSD OUSD P-R (US)	Hebert, Lernes J SES OSD OUSD P-R (US) <lernes.j.hebert.civ@mail.mil>Penrod, Virginia S SES OSD OUSD P-R (US) <virginia.s.penrod.civ@mail.mil>; Barna, Stephanie A SES OSD OUSD P-R (US) <stephanie.a.barna.civ@mail.mil>; Arendt, Christopher P CIV OSD OUSD P-R (US) <christopher.p.arendt.civ@mail.mil>	Email chain concerning Early DRAFT -- Transgender Accessions Toplines (UNCLASSIFIED)	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00005127	PrivWithhold00 006607	PrivWithhold 00006607	5/2/2017	Kurta, Anthony M SES OSD OUSD P-R (US)	Barna, Stephanie A SES OSD OUSD P-R (US) <stephanie.a.barna.civ@mail.mil>	Email chain concerning Army input and the TG policy incolcing a TG waiver request(UNCLASSIFIED)	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00005134	PrivWithhold00 006608	PrivWithhold 00006608	4/13/2017	Hinrichs, Kurt B RADM <Kurt.B.Hinrichs@uscg.mil>	Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@mail.mil>Busch, Jerilyn B (Jeri) SES OSD OUSD P-R (US) <jerilyn.b.busch.civ@mail.mil>	Email concerning TG Accessions on July 1 and possible delay of deadline	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00005141	PrivWithhold00 006609	PrivWithhold 00006611	4/4/2017	Kurta, Anthony M SES OSD OUSD P-R (US)	Barna, Stephanie (stephanie.a.barna.civ@mail.mil); Hebert, Lernes J SES OSD OUSD P-R (US) <lernes.j.hebert.civ@mail.mil>	Email regarding medical care of transgender troops and question from outside 3rd party	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy
DoD00005179	PrivWithhold00 006612	PrivWithhold 00006612	3/12/2017	Hebert, Lernes J SES OSD OUSD P-R (US) <lernes.j.hebert.civ@mail.mil>	Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@mail.mil>	Email chain concerning SD TG Info Paper (UNCLASSIFIED)	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00005230	PrivWithhold00 006613	PrivWithhold 00006614	11/2/2016	Myles, Robert W Jr COL USARMY OSD OUSD P-R (US) <robert.w.myles.mil@mail.mil>	Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@mail.mil>	Email chain concerning White House Transgender Community Briefing	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00005314	PrivWithhold00 006615	PrivWithhold 00006616	6/22/2015	Kathleen Marsh		Document titled "Information Paper: Accession Medical Standards: Transgender." Labeled "Predecisional Information - FOIA EXEMPT." Provides Accession Medical Standards Working Group (AMSWG)'s recommendation for changes to DoDI 6130.03 Medical Standards for Appointment, Enlistment, or Induction in the Military Services related to transgender accession.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00005444	PrivWithhold00 006617	PrivWithhold 00006617	1/13/2015	William Horrigan		Electronic copy of file named ACLU Response - Transgender - 1-13- 15.doc	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy

In Camera Production Privilege Log
7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00005494	PrivWithhold00 006618	PrivWithhold 00006622	12/10/2014	Carson, Brad R HON USARMY HQDA SECARMY (US) <brad.r.carson.civ@mail.mil>	OUSD P-R (US) <jessica.l.wright12.civ@mail.mil>; Wada, Debra S HON USARMY HQDA ASA MRA (US) <debra.s.wada.civ@mail.mil>; McConville, James C LTG USARMY HQDA DCS G-1 (US) <james.c.mcconville3.mil@mail.mil>; Allyn, Daniel B GEN USARMY HQDA VCSA (US) <daniel.b.allyn.mil@mail.mil>Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@mail.mil>; Junor, Laura J HON OSD OUSD P-R (US) <laura.j.junor.civ@mail.mil>; 'Michael.Linnington@osd.mil'; 'stephanie.miller@sd.mil'; Barna, Stephanie A SES OSD OUSD P-R (US) <stephanie.a.barna.civ@mail.mil>; Christensen,	Email chain concerning Pending ALARACT re: Army retention of transgender service members	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00005498	PrivWithhold00 006623	PrivWithhold 00006626	12/9/2014	Christensen, Nathan J LCDR USN OSD PA (US) <nathan.j.christensen.mil@mail.mil>	Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@mail.mil>Hebert, Lernes J SES OSD OUSD P-R (US) <lernes.j.hebert.civ@mail.mil>; Arendt, Christopher P CIV OSD OUSD P-R (US) <christopher.p.arendt.civ@mail.mil>; Beyler, Juliet M SES OSD OUSD P-R (US) <juliet.m.beyler.civ@mail.mil>	Email chain concerning Pending ALARACT re: Army retention of transgender service members (UNCLASSIFIED)	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00005501	PrivWithhold00 006627	PrivWithhold 00006628	11/24/2014	Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@mail.mil>	Beyler, Juliet M SES OSD OUSD P-R (US) <juliet.m.beyler.civ@mail.mil>Arendt, Christopher P CIV OSD OUSD P-R (US) <christopher.p.arendt.civ@mail.mil>; Hebert, Lernes J SES OSD OUSD P-R (US) <lernes.j.hebert.civ@mail.mil>; Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@mail.mil>	Email chain concerning response to ACLU letter regarding transgender policies	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy

No. 17-cv-1297
In Camera Production Privilege Log

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00005536	PrivWithhold00 006629	PrivWithhold 00006629	10/21/2014	Hebert, Lernes J SES OSD OUSD P-R (US) <lernes.j.hebert.civ@mail.mil>	Smith, Jack W CIV (US) <jack.smith@ha.osd.mil> Smith, Jack W CIV (US) <jack.smith@ha.osd.mil>; Lockette, Warren E SES (US) <warren.lockette@ha.osd.mil>; Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@mail.mil>	Email regarding DOD review of transgender service members and possible upcoming guidance	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00005602	PrivWithhold00 006630	PrivWithhold 00006631	8/9/2017	Patel, Mili, CTR, DHA		Memorandum assessing state of the transgender policy and upcoming decision	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy
DoD00005667	PrivWithhold00 006632	PrivWithhold 00006634	8/18/2017	Taylor, Maura R CTR USARMY MEDCOM WRAIR (US)		Doc of GC non Coord - UPR002424-17 - Request Appro.. (1).pdf*DLIFLC Sexual Orientation Waiver_Response to .docx	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00005720	PrivWithhold00 006635	PrivWithhold 00006639	12/20/2016	Brown, Gary W LTC USARMY OSD OUSD P-R (US)	Findley, Andrew L Jr CIV (US) Cc: MILLER, Stephanie P SES OSD OUSD P-R (US); Adirim, Terry A SES OSD HA (US); Smith, Jack W CIV OSD HA (US)	Email re: Medical and Behavioral Standards Applying to TG accessions	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00005725	PrivWithhold00 006640	PrivWithhold 00006644	12/20/2016	Findley, Andrew L Jr CIV (US)	Brown, Gary W LTC USARMY OSD OUSD P-R (US) Cc: MILLER, Stephanie P SES OSD OUSD P-R (US); Adirim, Terry A SES OSD HA (US); Smith, Jack W CIV OSD HA (US)	Email concerning transgender medical policy.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00005739	PrivWithhold00 006645	PrivWithhold 00006645	12/13/2016	Fells, Quintin F CTR DHA CONTRACTING (US)	Findley, Andrew L Jr CIV (US) Cc: Adirim, Terry A SES OSD HA (US)	Email regarding a response to a congressional inquiry.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00005822	PrivWithhold00 006646	PrivWithhold 00006655	1/11/2017	Fells, Quintin F CTR DHA CONTRACTING (US)	Adirim, Terry A SES OSD HA (US); Cc: Smith, Jack W CIV OSD HA (US);	Email discussing transgender policy and coordination with P&R on medical and behavioral standards and TG accessions	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00005870	PrivWithhold00 006656	PrivWithhold 00006656	12/27/2017	Findley, Andrew L Jr CIV (US)	: Findley, Andrew L Jr CIV (US); To: Fells, Quintin F CTR DHA CONTRACTING (US); Cc: Adirim, Terry A SES OSD HA (US); Smith, Jack W CIV OSD HA (US);	Email regarding response to congressional inquiry about transgender policy.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy

In Camera Production Privilege Log
7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00005933	PrivWithhold00 006657	PrivWithhold 00006657	7/17/2017	Demartino, Robert E CAPT USPHS (US)	Robinson-Haley, Patrice D CIV OSD OUSD P-R (US)Cc:Adirim, Terry A SES OSD HA (US); Findley, Andrew L Jr CIV (US)	GC non Coord - UPR002424-17 - Request Approval to Include Sexual Orientation and Transgender Question on the Benchmarking Behavioral Health and Wellness at the Defense Language Institute Foreign Language Center(Joint) Survey (DLIFLC Joint) (UNCLASSIFIED)	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00005984	PrivWithhold00 006658	PrivWithhold 00006658	7/18/2017	Lee Gearhart		Document titled "transgender Action Officer Work Group." Contains proposed timeline for policy review.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender
DoD00006008	PrivWithhold00 006659	PrivWithhold 00006660	8/2/2017	Doan, Paul S CIV DHA HEALTH OPNS (US)	Adirim, Terry A SES OSD HA (US); Kugler, John P CIV DHA HEALTH OPNS (US)Cc:Findley, Andrew L Jr CIV (US); Davison, John W III CIV (US)	Email conversation regarding sex reassignment surgery for a member of the Coast Guard	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00006011	PrivWithhold00 006661	PrivWithhold 00006662	11/29/2016	Golden, Kerrie J COL USARMY OSD OUSD P-R (US)	Adirim, Terry A SES OSD HA (US)	Email discussion about which individual should receive particular slides for a transgender briefing	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00006070	PrivWithhold00 006663	PrivWithhold 00006663	7/26/2017	Lee, Daniel E., Col. USAF, DHA, DHA, CS, MGT (US)	Adirim, Terry A SES OSD HA (US); Ortel, Jesse K COL USARMY OSD OUSD P- R (US)Cc:Chinn, Colin G RADM USN DHA RESEARCH-DEV (US); Kiyokawa, Guy T SES DHA DIR SUPPORT (US); Clark,Jeffrey B MG USARMY DHA HEALTH OPNS (US); Priest, Christopher D CIV DHA HEALTH OPNS DIR (US);Canestrini, Kenneth G CIV DHA TRICARE NORTH (US)	Email conversation regarding discussing questions surrounding POTUS transgender policy	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the rescission of the transgender policy
DoD00006182	PrivWithhold00 006664	PrivWithhold 00006666	7/24/2017	Jared Hatchell	Terry Adirim	Email regarding medications for transgender hormone therapy	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00006325	PrivWithhold00 006667	PrivWithhold 00006668	12/27/2017	Rychalski, Jon J SES OSD HA (US)	Breen, Richard H Jr CIV (US); Roberts, Karen E CIV DHA CMD GRP (US); Casciotti, John A SES OSD OGC (US)Cc:Adirim, Terry A SES OSD HA (US); Lee, Michael R CTR (US); Kiyokawa, Guy T SES DHA DIR SUPPORT (US)	Email conversation RE: FOR REVIEW: Draft Statement on Transgender Email to Army	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00006355	PrivWithhold00 006669	PrivWithhold 00006722	7/14/2017	Gearhart, Lee P COL USARMY OSD OUSD P-R (US)		Draft PowerPoint titled "Transgender Service Q&As Transgender Senior Implementation Group Meeting - July 14, 2017." Labeled "Not for distribution/Draft Deliberative Document." Also an apparent draft because the closing remarks have	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy

No. 17-cv-1297
In Camera Production Privilege Log

7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00006601	PrivWithhold00 006723	PrivWithhold 00006723	4/29/2016	Westover, David S Jr Lt Col USAF EUCOM ECCE (US)		Doc of Electronic copy of file named 28APR16 Transgender (2).docx	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy
DoD00006665	PrivWithhold00 006724	PrivWithhold 00006728	3/25/2015	Lernes Hebert		Document titled "Information Paper: Armed Forces Accession Medical Standard Review Process" with file name AMSWG TP and QA - 24 March 2015 V3 docx. Labeled "Predecisional Information - FOIA EXEMPT." Contains details on the Department of Defense's ongoing review of medical standards for entry into the military.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy
DoD00006962	PrivWithhold00 006729	PrivWithhold 00006729	6/28/2017	Lernes Hebert		Excel file named Copy of MPP Update 30 August.xlsx providing update on revision of TG policy	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00006979	PrivWithhold00 006730	PrivWithhold 00006731	1/3/2018	Hebert, Lernes J SES OSD OUSD P-R (US)		Draft document named CY2018 PR (MPP) Look-Ahead (003). Contains key events for Personnel & Readiness. All events are not filled in.	DP - Deliberative Process	Draft list of key events for DoD Personnel & Readiness
DoD00008381	PrivWithhold00 006732	PrivWithhold 00006735	9/8/2017	Mulcahy, Patricia SES OSD OUSD P-R (US) <patricia.mulcahy.civ@mail.mil>	OUSD P-R (US) <lernes.j.hebert.civ@mail.mil>; MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@mail.mil>Arendt, Christopher P CIV OSD OUSD P-R (US) <christopher.p.arendt.civ@mail.mil>; Melillo, Michael R CIV OSD OUSD P-R (US) <michael.r.melillo4.civ@mail.mil>; Hofmann, Matthew T MAJ USARMY OSD OUSD P-R (US) <matthew.t.hofmann.mil@mail.mil>; Carnell, C M (Cherre) SMSgt USAF OSD OUSD P-R (US) <cherreonda.m.carnell.mil@mail.mil>; Bauer, Kent P CIV OSD OUSD P-R (US) <kent.p.bauer.civ@mail.mil>; Lust, Rebekah S (Becky) LTC USARMY OSD OUSD P-R (US) <rebekah.s.lust.mil@mail.mil>	Email chain concerning TG: Panel/Working Group Composition (UNCLASSIFIED)	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy

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DoD00008435	PrivWithhold00 006736	PrivWithhold 00006737	8/29/2017	Platan		Electronic copy of file named 15 - Transgender Integration Implementation (OK).docx. Document is titled "TRANSGENDER INTEGRATION IMPLEMENTATION" and contains track changes with recommended edits. Contains proposed talking points.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00008489	PrivWithhold00 006738	PrivWithhold 00006739	8/10/2017	Barna, Stephanie A SES OSD OUSD P-R (US) <stephanie.a.barna.civ@mail.mil>	Hebert, Lernes J SES OSD OUSD P-R (US) <lernes.j.hebert.civ@mail.mil>; Adirim, Terry A SES OSD HA (US) <terry.a.adirim.civ@mail.mil>	Email chain concerning transgender medical policy and TG related surgeries (UNCLASSIFIED)	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00008621	PrivWithhold00 006740	PrivWithhold 00006742	6/9/2017	Salo, Donald G Jr SES USARMY HQDA ASA MRA (US) <donauld.g.salo2.civ@mail.mil>	Hebert, Lernes J SES OSD OUSD P-R (US) <lernes.j.hebert.civ@mail.mil>; Krueger, Mary V COL USARMY HQDA ASA MRA (US) <mary.v.krueger.mil@mail.mil>; Warren, Jill M CIV OSD OUSD P-R (US) <jill.m.warren4.civ@mail.mil>	Deliberative email conversation regarding DoD participation in a meeting with foreign government personnel on the development of the Transgender policy	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy
DoD00008760	PrivWithhold00 006743	PrivWithhold 00006747	10/25/2016	Gearhart, Lee P COL USARMY OSD OUSD P-R (US) <lee.p.gearhart.mil@mail.mil>	Hebert, Lernes J SES OSD OUSD P-R (US) <lernes.j.hebert.civ@mail.mil>	Email chain concerning DODEA in Germany	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00008807	PrivWithhold00 006748	PrivWithhold 00006748	10/5/2016	Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@mail.mil>	Beyler, Juliet M SES (US) <juliet.beyler@navy.mil>; Hebert, Lernes J SES OSD OUSD P-R (US) <lernes.j.hebert.civ@mail.mil>; Ingram, Elena P CAPT USN ASSTSECNV MRA DC (US) <elena.ingram@navy.mil>	Email chain concerning MC TG Training Plan	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00008808	PrivWithhold00 006749	PrivWithhold 00006749	10/5/2016	Beyler, Juliet SES ASN (M&RA), MMP <juliet.beyler@navy.mil>	Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@mail.mil>; Hebert, Lernes J SES OSD OUSD P-R (US) <lernes.j.hebert.civ@mail.mil>; Ingram, Elena P CAPT USN ASSTSECNV MRA DC (US) <elena.ingram@navy.mil>	Email concerning MC TG Training Plan	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy

No. 17-cv-1297
In Camera Production Privilege Log

7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00008847	PrivWithhold00 006750	PrivWithhold 00006751	9/22/2016	Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@mail.mil	Barna, Stephanie A SES OSD OUSD P-R (US) <stephanie.a.barna.civ@ mail.mil>MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@ mail.mil>; Hebert, Lernes J SES OSD OUSD P-R (US) <lernes.j.hebert.civ@mail. mil>; Gearhart, Lee P COL USARMY OSD OUSD P-R (US) <lee.p.gearhart.mil@mail. mil>; Weiler, Todd A HON OSD OUSD P-R (US) <todd.a.weiler.civ@mail. mil>; Milam, Charles E SES OSD OUSD P-R (US) <charles.e.milam.civ@mai l.mil>; Penrod, Virginia S SES OSD OUSD P-R (US) <virginia.s.penrod.civ@m ail.mil>; Jackson, Robert J Lt Col USAF OSD OUSD P-R (US) <robert.j.jackson13.mil@ mail.mil>	Email chain concerning TG Handbook Approval Scheme	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy
DoD00008890	PrivWithhold00 006752	PrivWithhold 00006755	9/14/2016	Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@mail.mil	Pahon, Eric J CIV OSD PA (US) <eric.j.pahon.civ@mail.mi l>Barna, Stephanie A SES OSD OUSD P-R (US) <stephanie.a.barna.civ@ mail.mil>; Koffsky, Paul S SES OSD OGC (US) <paul.s.koffsky.civ@mail. mil>; Chandrasekaran, Rekha D CIV OSD OASD LA (US) <rekha.d.chandrasekaran. civ@mail.mil>; Sakrisson, Benjamin E Maj USAF OSD OSD (US) <benjamin.e.sakrisson.mil @mail.mil>; Sullivan, Dwight H SES OSD OGC (US) <dwight.h.sullivan.civ@m ail.mil>; Hebert, Lernes J SES OSD OUSD P-R (US) <lernes.j.hebert.civ@mail. mil>; Kantwill, Paul E CIV OSD OUSD P-R (US) <paul.e.kantwill.civ@mail. mil>	Email chain concerning [Non-DoD Source] Transition-related surgery request of Chelsea Manning	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy

No. 17-cv-1297
In Camera Production Privilege Log

7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00008987	PrivWithhold00 006756	PrivWithhold 00006757	8/15/2016	Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@mail.mil	Gearhart, Lee P COL USARMY OSD OUSD P-R (US) <lee.p.gearhart.mil@mail.mil>; Sims, Pettis N LCDR USN OSD OUSD P-R (US) <pettis.n.sims.mil@mail.mil>Hebert, Lernes J SES OSD OUSD P-R (US) <lernes.j.hebert.civ@mail.mil>; MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@mail.mil>; Wellman, Aaron C LTC USARMY OSD OUSD P-R (US) <aaron.c.wellman.mil@mail.mil>	Email chain concerning Public TG Website Page Views	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00009012	PrivWithhold00 006758	PrivWithhold 00006759	8/9/2016	Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@mail.mil	Fedrigo, John A SES USAF SAF-MR (US) <john.a.fedrigo.civ@mail.mil>; Beyler, Juliet M SES (US) <juliet.beyler@navy.mil>; Salo, Donald G Jr SES USARMY HQDA ASA MRA (US) <donald.g.salo2.civ@mail.mil>; Hinrichs, Kurt B RADM USCG (US) <kurt.b.hinrichs@uscg.mil> >Wark, Lawrence J SES JS J1 (US) <lawrence.j.wark.civ@mail.mil>; Hebert, Lernes J SES OSD OUSD P-R (US) <lernes.j.hebert.civ@mail.mil>; MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@mail.mil>; Gearhart, Lee P COL USARMY OSD OUSD P-R (US) <lee.p.gearhart.mil@mail.mil>	Email chain concerning DEERS Gender Marker Change Draft Guidance	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy
DoD00009020	PrivWithhold00 006760	PrivWithhold 00006761	8/9/2016	Gearhart, Lee P COL USARMY OSD OUSD P-R (US)		Electronic copy of file named Military Service of Transgender Service Members_Update.docx	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy

In Camera Production Privilege Log
7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00009031	PrivWithhold00 006762	PrivWithhold 00006765	8/5/2016	Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@mail.mil	MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@ mail.mil>Gearhart, Lee P COL USARMY OSD OUSD P- R (US) <lee.p.gearhart.mil@mail. mil>; Bentz, Kevin R MAJ USARMY OSD OUSD P-R (US) <kevin.r.bentz.mil@mail. mil>; Wellman, Aaron C LTC USARMY OSD OUSD P- R (US) <aaron.c.wellman.mil@m ail.mil>; Delaune, Jules M CIV OSD OUSD P-R (US) <jules.m.delaune.civ@mai l.mil>; Arendt, Christopher P CIV OSD OUSD P-R (US) <christopher.p.arendt.civ @mail.mil>; Hebert, Lernes J SES OSD OUSD P- R (US) <lernes.j.hebert.civ@mail.	Email chain concerning TG Accession Guidance to recruiting	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00009036	PrivWithhold00 006766	PrivWithhold 00006766	8/4/2016	Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@mail.mil	<juliet.beyler@navy.mil>; Fedrigo, John A SES USAF SAF-MR (US) <john.a.fedrigo.civ@mail. mil>; Salo, Donald G Jr SES USARMY HQDA ASA MRA (US) <donald.g.salo2.civ@mail. mil>; Hinrichs, Kurt B RADM USCG (US) <kurt.b.hinrichs@uscg.mil >Wark, Lawrence J SES JS J1 (US) <lawrence.j.wark.civ@mai l.mil>; Hebert, Lernes J SES OSD OUSD P-R (US) <lernes.j.hebert.civ@mail. mil>; MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@ mail.mil>; Gearhart, Lee P COL USARMY OSD OUSD P- R (US) <lee.p.gearhart.mil@mail. mil>; Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@m ail.mil>	Email concerning DEERS Gender Marker Change Draft Guidance	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy

Karloski v. Trump,
No. 17-cv-1297
In Camera Production Privilege Log
7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00009473	PrivWithhold00 006767	PrivWithhold 00006774	11/25/2016	Holstein, Peter, CTR, OASD(HA)/TMA		Electronic copy of file named MEDPERS - Transgender Update - Draft NOV2017.ppt	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00009504	PrivWithhold00 006775	PrivWithhold 00006775	10/16/2017	Blair, AK		Electronic copy of file named DSD Slides due 10-17 Slide 5 Talent Management.pptx	DP - Deliberative Process	Contains timelines and goals for ongoing review of Civilan HR Reform in DoD.
DoD00009713	PrivWithhold00 006776	PrivWithhold 00006781	8/23/2017	Stephanie Barna		Doc of Electronic copy of file draft INTERIM POLICY (SAB 22 Aug).docx	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00009879	PrivWithhold00 006782	PrivWithhold 00006785	7/28/2017	Clark, Robert E CIV OSD OUSD P- R (US) <robert.e.clark114 civ@mail.mil >	Hebert, Lernes J SES OSD OUSD P-R (US) <lernes.j.hebert civ@mail. mil>Carnell, C M (Cherre) SMSgt USAF OSD OUSD P- R (US) <cherreonda.m.carnell.mil @mail.mil>; Hofmann, Matthew T MAJ USARMY OSD OUSD P-R (US) <matthew.t.hofmann.mil @mail.mil>; Warren, Jill M CIV OSD OUSD P-R (US) <jill.m.warren4.civ@mail. mil>	Email concerning APPROVAL -- FW: P&R Nomination Prep Tasker (UNCLASSIFIED)	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy
DoD00010007	PrivWithhold00 006786	PrivWithhold 00006786	7/10/2017	Swartz, Esther S CIV (US)		Electronic copy of file named 3dDSD confirmation -	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00010096	PrivWithhold00 006787	PrivWithhold 00006789	6/2/2017	Adirim, Terry A SES OSD HA (US) <terry.a.adirim.civ@mail.mil>	Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@m ail.mil>; MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@ mail.mil>; Hebert, Lernes J SES OSD OUSD P-R (US) <lernes.j.hebert civ@mail. mil>; Gearhart, Lee P COL USARMY OSD OUSD P-R (US) <lee.p.gearhart.mil@mail. mil>Barna, Stephanie A SES OSD OUSD P-R (US) <stephanie.a.barna.civ@ mail.mil>; Penrod, Virginia S SES OSD OUSD P-R (US) <virginia.s.penrod civ@m ail.mil>; Sims, Pettis N LCDR USN OSD OUSD P-R (US) <pettis.n.sims.mil@mail. mil>; Jarrett, Michael R (Rich) CDR USN OSD OUSD P-R (US) <michael.r.jarrett2.mil@	Email chain concerning TG Accession Standards (UNCLASSIFIED)	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00010109	PrivWithhold00 006790	PrivWithhold 00006790	5/30/2017	Kelly, Michael J CIV OSD OUSD P-R (US) <michael.j.kelly51.civ@mail.mil>	Hebert, Lernes J SES OSD OUSD P-R (US) <lernes.j.hebert.civ@mail.mil>Warren, Jill M CIV OSD OUSD P-R (US) <jill.m.warren4.civ@mail.mil>	Email concerning extensions of the transgender Directive Type Memorandum.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00010168	PrivWithhold00 006791	PrivWithhold 00006791	5/8/2017	Brendan Lewis		Electronic copy of file named Placemat Update - PR topics MPP Input.docx	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00010289	PrivWithhold00 006792	PrivWithhold 00006795	1/23/2017	Sims, Pettis N LCDR USN OSD OUSD P-R (US) <pettis.n.sims.mil@mail.mil>	Hebert, Lernes J SES OSD OUSD P-R (US) <lernes.j.hebert.civ@mail.mil>	Email conversation regarding questions and answers in response to a media inquiry on the DoD Transgender Policy	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00010634	PrivWithhold00 006796	PrivWithhold 00006797	12/21/2017	Hebert, Lernes J SES OSD OUSD P-R (US)	Bauer, Kent P CIV OSD OUSD P-R (US) <kent.p.bauer.civ@mail.mil>	Deliberative email conversation concerning Inactive Ready Reserve and the DoD Transgender Policy	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00011012	PrivWithhold00 006798	PrivWithhold 00006799	8/9/2017	Hebert, Lernes J SES OSD OUSD P-R (US)	Barna, Stephanie A SES OSD OUSD P-R (US) <stephanie.a.barna.civ@mail.mil>	"Email chain concerning TG ""Holding"" Letter (UNCLASSIFIED)"	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy
DoD00011061	PrivWithhold00 006800	PrivWithhold 00006802	6/19/2017	Hebert, Lernes J SES OSD OUSD P-R (US)	Barna, Stephanie A SES OSD OUSD P-R (US) <stephanie.a.barna.civ@mail.mil>MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@mail.mil>; Arendt, Christopher P CIV OSD OUSD P-R (US) <christopher.p.arendt.civ@mail.mil>	Email chain concerning service inputs and new updates regarding TG studies	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy
DoD00011088	PrivWithhold00 006803	PrivWithhold 00006803	11/3/2016	Hebert, Lernes J SES OSD OUSD P-R (US)	Gearhart, Lee P COL USARMY OSD OUSD P-R (US) <lee.p.gearhart.mil@mail.mil>MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@mail.mil>	Email forward concerning TG Training Plan Matrix	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00011112	PrivWithhold00 006804	PrivWithhold 00006805	6/17/2016	Hebert, Lernes J SES OSD OUSD P-R (US)	Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@mail.mil>; Guice, Karen S SES (US) <karen.s.guice2.civ@mail.mil>	Email chain concerning TG Inputs from the service medical community discussion TG accession waiting periods	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00011145	PrivWithhold00 006806	PrivWithhold 00006810	5/27/2016	Kate Ives		Electronic copy of file named DTM 20 May (DRAFT to WG) USCG Comments docxEmail concerning Template for a Directive-type Memorandum	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00011207	PrivWithhold00 006811	PrivWithhold 00006812	12/14/2015	Hebert, Lernes J SES OSD OUSD P-R (US)	Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@mail.mil>Sims, Pettis N LCDR USN OSD OUSD P-R (US) <pettis.n.sims.mil@mail.mil>; Clark, Robert E CIV OSD OUSD P-R (US) <robert.e.clark114.civ@m	Email chain concerning Turnover - No need to read until you come into work!!	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00011434	PrivWithhold00 006813	PrivWithhold 00006817	8/23/2017	Hebert, Lernes J SES OSD OUSD P-R (US)	Bushman, William CIV SD <William.Bushman@sd.mi	Email chain concerning Draft SecDef Statement on Military Service by Transgender Individuals (UNCLASSIFIED)	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00011547	PrivWithhold00 006818	PrivWithhold 00006819	6/8/2017	Hebert, Lernes J SES OSD OUSD P-R (US)	Barna, Stephanie A SES OSD OUSD P-R (US) <stephanie.a.barna.civ@mail.mil>Koprowski, Daniel C COL USARMY OSD OUSD P-R (US) <daniel.c.koprowski.mil@mail.mil>; Kelly, Michael J CIV OSD OUSD P-R (US) <michael.j.kelly51.civ@mail.mil>; Warren, Jill M CIV OSD OUSD P-R (US) <jill.m.warren4.civ@mail.mil>; Arendt, Christopher P CIV OSD OUSD P-R (US) <christopher.p.arendt.civ@mail.mil>; Gearhart, Lee P COL USARMY OSD OUSD P-R (US) <lee.p.gearhart.mil@mail.mil>	Email concerning Early DRAFT -- Transgender Accessions Toplines (UNCLASSIFIED)	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00011575	PrivWithhold00 006820	PrivWithhold 00006822	5/12/2017	Hebert, Lernes J SES OSD OUSD P-R (US)	Marshall, Paul CIV SECNAV, ADMIN <paul.marshall2@navy.mil>MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@mail.mil>; Arendt, Christopher P CIV OSD OUSD P-R (US) <christopher.p.arendt.civ@mail.mil>; Warren, Jill M CIV OSD OUSD P-R (US) <jill.m.warren4.civ@mail.mil>	Email chain concerning OSD005337-17 / 2017- SECNAVGENCORRESPOND-000000039 (UNCLASSIFIED)	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy

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7/1/2020

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DoD00011578	PrivWithhold00 006823	PrivWithhold 00006824	5/11/2017	Hebert, Lernes J SES OSD OUSD P-R (US)	MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@ mail.mil>Arendt, Christopher P CIV OSD OSD P-R (US) <christopher.p.arendt.civ @mail.mil>; Warren, Jill M CIV OSD OUSD P-R (US) <jill.m.warren4.civ@mail. mil>; Warren, Jill M CIV OSD OUSD P-R (US) <jill.m.warren4.civ@mail. mil>; Clark, Robert E CIV OSD OUSD P-R (US) <robert.e.clark114.civ@m ail.mil>	Email chain concerning TG Response Tasker (UNCLASSIFIED). Contains deliberations on how to respond to request to assist Navy.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00011586	PrivWithhold00 006825	PrivWithhold 00006826	4/25/2017	Hebert, Lernes J SES OSD OUSD P-R (US)	Barna, Stephanie A SES OSD OUSD P-R (US) <stephanie.a.barna.civ@ mail.mil>Koprowski, Daniel C COL USARMY OSD OUSD P-R (US) <daniel.c.koprowski.mil@ mail.mil>; Kelly, Michael J CIV OSD OUSD P-R (US) <michael.j.kelly51.civ@m ail.mil>; MILLER, Stephanie P SES OSD OSD P-R (US) <stephanie.p.miller.civ@ mail.mil>; Warren, Jill M CIV OSD OUSD P-R (US) <jill.m.warren4.civ@mail. mil>	Email concerning URGENT: MEPCOM & DoDMERB Annual Medical Training: TG Accession Standards (UNCLASSIFIED)	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00011660	PrivWithhold00 006827	PrivWithhold 00006832	11/2/2016	Hebert, Lernes J SES OSD OUSD P-R (US)	Kurta, Anthony M SES OSD OSD P-R (US) <anthony.m.kurta.civ@m ail.mil>	Email forward concerning Request for Gender Marker Change to Non- binary	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00011695	PrivWithhold00 006833	PrivWithhold 00006833	9/23/2016	Hebert, Lernes J SES OSD OUSD P-R (US)	Barna, Stephanie A SES OSD OUSD P-R (US) <stephanie.a.barna.civ@ mail.mil>Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@m ail.mil>; Weiler, Todd A HON OSD OUSD P-R (US) <todd.a.weiler.civ@mail. mil>; MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@ mail.mil>	Email concerning USMC Bulletin in Transgender Service	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00011794	PrivWithhold00 006834	PrivWithhold 00006835	5/6/2016	Hebert, Lernes J SES OSD OUSD P-R (US)	Barna, Stephanie A SES OSD OUSD P-R (US) <stephanie.a.barna.civ@ mail.mil>	Email forward concerning Transgender: Wash Post and status of TG policy	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy

In Camera Production Privilege Log
7/1/2020

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DoD00011826	PrivWithhold00 006836	PrivWithhold 00006836	1/8/2016	John Hawk		Electronic copy of file named PR Posture Hearing - Issue Paper- Transgender_7 JAN docx	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00011890	PrivWithhold00 006837	PrivWithhold 00006840	10/14/2016	Davison, John W III CIV (US) > <john.w.davison2.civ@mail.mil	(US) <andrew.l.findley.civ@mail.mil>; Doan, Paul S CIV DHA HEALTH OPNS (US) <paul.s.doan.civ@mail.mil>; Petry, Brian L CIV DHA TRICARE NORTH (US) <brian.l.petry.civ@mail.mil>; Donehoo, Jody W CIV DHA HP EXECUTION OPS (US) <jody.w.donehoo.civ@mail.mil>; Black, James N CIV DHA HEALTH OPNS DIR (US) <james.n.black.civ@mail.mil>; Whitton, James R CIV DHA (US) <james.r.whitton.civ@mail.mil>Frazer, Nicole L CAPT USPHS DHA HEALTH OPNS DIR (US) <nicole.l.frazer.mil@mail.mil>; Frazer, Nicole L CAPT USPHS DHA HEALTH OPNS DIR (US) <nicole.l.frazer.mil@mail.mil>	Email chain concerning Gender Dysphoria and TRICARE Prime Remote ADASM Supplemental Health Care Program	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00012028	PrivWithhold00 006841	PrivWithhold 00006841	8/30/2016	Mark Munson		Electronic copy of file named 2017 Transition Book Issue Paper_Transgender HA 12 Aug 16- Dr J Smith docx	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00012049	PrivWithhold00 006842	PrivWithhold 00006844	8/17/2016	Delaune, Jules M CIV OSD OUSD P-R (US) <jules.m.delaune.civ@mail.mil>	Smith, Jack W CIV OSD HA (US) <jack.w.smith2.civ@mail.mil>; Adirim, Terry A SES (US) <terry.a.adirim.civ@mail.mil>; Guice, Karen S SES (US) <karen.s.guice2.civ@mail.mil>; Findley, Andrew L Jr CIV (US) <andrew.l.findley.civ@mail.mil>Davison, John W III CIV (US) <john.w.davison2.civ@mail.mil>	Email forward concerning TG conference to gather information on TG medical care	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy

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7/1/2020

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DoD00012064	PrivWithhold00 006845	PrivWithhold 00006846	8/12/2016	Smith, Jack W CIV OSD HA (US) <jack.w.smith2.civ@mail.mil>	DHA CMD GRP (US) <brandon.d.wilson8.civ@mail.mil>Smith, Jack W CIV OSD HA (US) <jack.w.smith2.civ@mail.mil>; Adirim, Terry A SES (US) <terry.a.adirim.civ@mail.mil>; Delaune, Jules M CIV OSD OUSD P-R (US) <jules.m.delaune.civ@mail.mil>; DHA NCR Prog Integ List PI List <dha.ncr.prog-integ.list.pilist@mail.mil>; Kugler, John P CIV DHA HEALTH OPNS DIR (US) <john.p.kugler.civ@mail.mil>; Doan, Paul S CIV DHA HEALTH OPNS (US) <paul.s.doan.civ@mail.mil>; Priest, Christopher D CIV DHA HEALTH OPNS DIR (US) <christopher.d.priest2.civ@mail.mil>; Findley, Andrew L Jr CIV (US) <andrew.l.findley.civ@mail.mil>	Email chain regarding New Administration Transition Book	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy
DoD00012097	PrivWithhold00 006847	PrivWithhold 00006847	10/29/2015	Christina Superina		Copy of Transgender Codes 6.8.2016.xlsx	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy
DoD00012178	PrivWithhold00 006848	PrivWithhold 00006866	4/26/2017	Briski, Julie C CIV DHA CMD GRP (US)		Doc of DHA-IPM 17-00x_Guidance for Medical Care of transgender ADsMs 20170417 v4.docx	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00012199	PrivWithhold00 006867	PrivWithhold 00006868	4/26/2017	Doan, Paul S CIV DHA HEALTH OPNS (US) <paul.s.doan.civ@mail.mil>	Findley, Andrew L Jr CIV (US) <andrew.l.findley.civ@mail.mil>	Email regarding [Non-DoD Source] Change in surgical policy	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00012251	PrivWithhold00 006869	PrivWithhold 00006871	3/13/2017	Adirim, Terry, SES, DHA		Doc of QA_Services_Concerns_transgender_Accession_Med_Standards_FINAL.docx	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00012281	PrivWithhold00 006872	PrivWithhold 00006874	3/3/2017	Chan, Edmund, CIV, OASD/HA		Doc draft of DoDI 6130 draft next steps and responses v3 docx	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy

In Camera Production Privilege Log
7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00012284	PrivWithhold00 006875	PrivWithhold 00006876	3/2/2017	Chan, Edmund M CIV OSD HA (US) <edmund.m.chan.civ@mail.mil>	Findley, Andrew L Jr CIV (US) <andrew.l.findley.civ@mail.mil>; Smith, Jack W CIV OSD HA (US) <jack.w.smith2.civ@mail.mil>; Brown, Gary W LTC USARMY OSD OUSD P-R (US) <gary.w.brown.mil@mail.mil>Ribeiro, Elizabeth M CTR OSD HA (US) <elizabeth.m.ribeiro.ctr@mail.mil>; Graham, Elizabeth A CTR OSD HA (US) <elizabeth.a.graham50.ctr@mail.mil>; Doan, Paul S CIV DHA HEALTH OPNS (US) <paul.s.doan.civ@mail.mil>	Email regarding DoDI 6130 draft next steps and responses	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00012318	PrivWithhold00 006877	PrivWithhold 00006881	1/18/2017	Aslam, Saira N CAPT USN DHA (US) <saira.n.aslam.mil@mail.mil>	NAVVED EAST PORS VA (US) <gail.h.manos.mil@mail.mil>OBoyle, John D CAPT USN DHA DHSS (US) <john.d.oboyle.mil@mail.mil>; Roop, Stuart A COL USARMY DHA NCR MD (US) <stuart.a.roop.mil@mail.mil>; Heimall, Michael S COL USARMY DHA WRNMMC (US) <michael.s.heimall.mil@mail.mil>; Galitz, Michael S CDR USN NAVHOSP PORS VA (US) <michael.s.galitz.mil@mail.mil>; Alonso, Robert A CAPT USN NAVHLTHCLIN QUA VA (US) <robert.a.alonso2.mil@mail.mil>; Clark, Max A II CDR USN BUMED FCH VA (US) <max.a.clark.mil@mail.mil>; Doan, Paul S CIV DHA HEALTH OPNS (US)	Email chain regarding Walter Reed NMC TGCT POC	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00012449	PrivWithhold00 006882	PrivWithhold 00006885	8/24/2017	Stephanie Barna		Electronic copy of file named SD TG INTERIM POLICY.docx	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy

In Camera Production Privilege Log
7/1/2020

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DoD00012476	PrivWithhold00 006886	PrivWithhold 00006886	6/23/2017	Chan, Edmund M CIV OSD HA (US) <edmund.m.chan.civ@mail.mil>	Adirim, Terry A SES OSD HA (US) <terry.a.adirim.civ@mail.mil>; Findley, Andrew L Jr CIV (US) <andrew.l.findley.civ@mail.mil>	Email concerning DRAFT DTM on TG Service 22 Jun 2017 - OGC Edits Comments	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00012520	PrivWithhold00 006887	PrivWithhold 00006888	2/8/2017	OBoyle, John D CAPT USN DHA DHSS (US) <john.d.oboyle@mail.mil>	HEALTH OPNS (US) <paul.s.doan.civ@mail.mil>; Doyle, Andrew E COL USARMY HQDA OTSG (US) <andrew.e.doyle@mail.mil>; Cohen, Ronald H LTC USARMY HQDA OTSG (US) <ronald.h.cohen@mail.mil>; Alonso, Robert A CAPT USN NAVHLTHCLIN QUA VA (US) <robert.a.alonso2@mail.mil>; Clark, Max A II CDR USN BUMED FCH VA (US) <max.a.clark@mail.mil>; Cheatham, Thomas N Col USAF AFMSA (US) <thomas.n.cheatham2@mail.mil>; Decker, Elizabeth A Col USAF AFMOA (US) <elizabeth.a.decker4@mail.mil>; Aslam, Saira N CAPT USN DHA (US) <saira.n.aslam@mail.mil>; Welbourn, Barton R	Email chain concerning Request Service TG POCs for NCR and transgender service member care	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00012571	PrivWithhold00 006889	PrivWithhold 00006940	1/26/2017	Rachael DeNale		Electronic copy of file named Draft DoDI 6130.03 Jan 26 2017 docx	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy
DoD00012588	PrivWithhold00 006941	PrivWithhold 00006945	7/19/2017	Findley, Andrew L Jr CIV (US) <andrew.l.findley.civ@mail.mil>	Doan, Paul S CIV DHA HEALTH OPNS (US) <paul.s.doan.civ@mail.mil>; Clark, Max A II CDR USN BUMED FCH VA (US) <max.a.clark@mail.mil>	Email chain concerning Testicular / Erectile Prosthesis	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00012743	PrivWithhold00 006946	PrivWithhold 00006963	9/12/2016	G. D. MacPherson, CDR, USPHS		Coast Guard Memorandum titled "Gender Reassignment Treatment Plan for [REDACTED SERVICE MEMBER NAME]."	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy as it relates to a specific service member's treatment plan

No. 17-cv-1297
In Camera Production Privilege Log

7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00013197	PrivWithhold00 006964	PrivWithhold 00006964	7/27/2017	Fraine, Melissa C CTR DHA HEALTH OPNS (US) <melissa.c.fraine.ctr@mail.mil>	Findley, Andrew L Jr CIV (US) <andrew.l.findley.civ@mail.mil>; Adirim, Terry A SES OSD HA (US) <terry.a.adirim.civ@mail.mil>Doan, Paul S CIV DHA HEALTH OPNS (US) <paul.s.doan.civ@mail.mil>	Email chain concerning number of TG personnel in the DoD	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00013269	PrivWithhold00 006965	PrivWithhold 00006973	12/8/2016	Michael Labejsza		Draft PowerPoint titled "TRANSGENDER SERVICE POLICY Implementation Update."	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00013287	PrivWithhold00 006974	PrivWithhold 00006975	11/17/2016	Davison, John W III CIV (US) <john.w.davison2.civ@mail.mil>	Fraine, Melissa C CTR DHA HEALTH OPNS (US) <melissa.c.fraine.ctr@mail.mil>; Findley, Andrew L Jr CIV (US) <andrew.l.findley.civ@mail.mil>; Doan, Paul S CIV DHA HEALTH OPNS (US) <paul.s.doan.civ@mail.mil>; Frazer, Nicole L CAPT USPHS DHA HEALTH OPNS DIR (US) <nicole.l.frazer.mil@mail.mil>; Rogut, Dori A CIV DHA HEALTH OPNS DIR (US) <dori.a.rogut.civ@mail.mil>	Email concerning Request for data: Gender Dysphoria diagnoses	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00013321	PrivWithhold00 006976	PrivWithhold 00006977	10/6/2016	Findley, Andrew L Jr CIV (US) <andrew.l.findley.civ@mail.mil>	Doan, Paul S CIV DHA HEALTH OPNS (US) <paul.s.doan.civ@mail.mil>; Bienia, Krystyna M CTR DHA (US) <krystyna.m.bienia.ctr@mail.mil>Findley, Andrew L Jr CIV (US) <andrew.l.findley.civ@mail.mil>	Email concerning TG Data Call and Capability Proposals	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy

In Camera Production Privilege Log
7/1/2020

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DoD00013324	PrivWithhold00 006978	PrivWithhold 00006983	9/22/2016	Davies, William G CIV DHA HEALTH OPNS DIR (US) <william.g.davies4.civ@mail.mil>	Doan, Paul S CIV DHA HEALTH OPNS (US) <paul.s.doan.civ@mail.mil>; Nguyen, Phung T CDR USPHS DHA HEALTH OPNS (US) <phung.t.nguyen8.mil@mail.mil> Findley, Andrew L Jr CIV (US) <andrew.l.findley.civ@mail.mil>; Hudak, Michele E LTC USARMY DHA INTEG UTILIZ (US) <michele.e.hudak.mil@mail.mil>; Jones, George E Jr CIV DHA HEALTH OPNS DIR (US) <george.e.jones48.civ@mail.mil>; Morales, Hector CIV DHA INTEG UTILIZ (US) <hector.morales8.civ@mail.mil>; Sood, Nita CAPT USPHS DHA HEALTH OPS DIR (US) <nita.sood.mil@mail.mil>	Email chain concerning request for information on Gender Reassignment	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00013340	PrivWithhold00 006984	PrivWithhold 00006986	9/8/2016	Aslam, Saira N CDR USN DHA NCR MEDICAL DIR (US) <saira.n.aslam.mil@mail.mil>	Findley, Andrew L Jr CIV (US) <andrew.l.findley.civ@mail.mil>; Doyle, Andrew E COL USARMY HQDA OTSG (US) <andrew.e.doyle.mil@mail.mil>; Alonso, Robert A CAPT USN NAVHLTHCLIN QUA VA (US) <robert.a.alonso2.mil@mail.mil>; Cheatham, Thomas N Col USAF AFMSA (US) <thomas.n.cheatham2.mil@mail.mil>; Doan, Paul S CIV DHA HEALTH OPNS (US) <paul.s.doan.civ@mail.mil>; Bienia, Krystyna M CTR DHA (US) <krystyna.m.bienia.ctr@mail.mil>	Email chain concerning BH Question and what providers are included in TG conversation	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00013363	PrivWithhold00 006987	PrivWithhold 00006989	9/27/2016	Smith, Jack W CIV OSD HA (US) <jack.w.smith2.civ@mail.mil>	Demartino, Robert E CAPT USPHS (US) <robert.e.demartino.mil@mail.mil> Findley, Andrew L Jr CIV (US) <andrew.l.findley.civ@mail.mil>	Email chain concerning Version 19, TG Handbook	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy

No. 17-cv-1297
In Camera Production Privilege Log
7/1/2020

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DoD00013370	PrivWithhold00 006990	PrivWithhold 00006991	9/23/2016	Smith, Jack W CIV OSD HA (US) <jack.w.smith2.civ@mail.mil>	Findley, Andrew L Jr CIV (US) <andrew.l.findley.civ@mail.mil>Smith, Jack W CIV OSD HA (US) <jack.w.smith2.civ@mail.mil>; Adirim, Terry A SES OSD HA (US) <terry.a.adirim.civ@mail.mil>	Email chain concerning TG Handbook, Version 24	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy
DoD00013463	PrivWithhold00 006992	PrivWithhold 00007010	10/5/2016	Doan, Paul, CIV, DHA		PowerPoint named "TGHC Module 1 Introduction to Policy Guidance and Concepts in Transgender Healthcare." Contains speaker notes.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy
DoD00013505	PrivWithhold00 007011	PrivWithhold 00007012	10/4/2016	Doan, Paul S CIV DHA HEALTH OPNS (US) <paul.s.doan.civ@mail.mil>	USARMY HQDA OTSG (US) <andrew.e.doyle.mil@mail.mil>; Aslam, Saira N CAPT USN DHA (US) <saira.n.aslam.mil@mail.mil>; Alonso, Robert A CAPT USN NAVLTHCLIN QUA VA (US) <robert.a.alonso2.mil@mail.mil>; Welbourn, Barton R CIV DHA WRNMMC (US) <barton.r.welbourn.civ@mail.mil>; Findley, Andrew L Jr CIV (US) <andrew.l.findley.civ@mail.mil>; Cheatham, Thomas N Col USAF AFMSA (US) <thomas.n.cheatham2.mil@mail.mil>; Sahakian, Nancy M CAPT USPHS USCG HQS (US) <nancy.m.sahakian@uscg.mil>; Taylor, Gerald N CAPT USPHS (US) <gerald.n.taylor@uscg.mil>; Clark, Max A II LCDR USN BUMED FCH VA (US)	Email forward concerning [Non-DoD Source] RE: DoD/VA JIF SCAN ECHO on transgender (TG) care	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy
DoD00013660	PrivWithhold00 007013	PrivWithhold 00007014	1/11/2017	Findley, Andrew L Jr CIV (US) <andrew.l.findley.civ@mail.mil>	Mentor, Marie L CIV DHA TRICARE NORTH (US) <marie.l.mentor.civ@mail.mil>Findley, Andrew L Jr CIV (US) <andrew.l.findley.civ@mail.mil>	Email chain regarding TG implementation within the Air Force	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00013698	PrivWithhold00 007015	PrivWithhold 00007020	10/19/2016	Montalvo, Miguel A CIV DHA TRICARE COS (US) <miguel.a.montalvo.civ@mail.mil>	Findley, Andrew L Jr CIV (US) <andrew.l.findley.civ@mail.mil>	Email forward concerning TG Care Team Contact List (UNCLASSIFIED)	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy

No. 17-cv-1297
In Camera Production Privilege Log

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00013739	PrivWithhold00 007021	PrivWithhold 00007021	6/21/2017	Black, James, CIV, DHA		Draft of proposed revisions to TRICARE SHCP	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00013771	PrivWithhold00 007022	PrivWithhold 00007023	11/4/2016	Julian, David A CIV OSD OUSD P-R (US) <david.a.julian.civ@mail.mil>	OUSD P-R (US) <david.a.julian.civ@mail.mil>; Smith, Jack W CIV OSD HA (US) <jack.w.smith2.civ@mail.mil>; Guice, Karen S SES (US) <karen.s.guice2.civ@mail.mil>; Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@mail.mil>; Gearhart, Lee P COL USARMY OSD OUSD P-R (US) <lee.p.gearhart.mil@mail.mil>; Brady, Thomas M SES (US) <thomas.brady@hq.dodea.edu>; Godfrey, Michael CIV DODEA DODEA HQ (US) <michael.godfrey@hq.dodea.edu>; Booth, William H (Bill) SR SES DODHRA HQ (US) <william.h.booth.civ@mail.mil>; Keohane, Ronald T SES (US)	Email concerning Task Force on Transgender Military Dependents - Meeting #2	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00013930	PrivWithhold00 007024	PrivWithhold 00007026	8/30/2017	Stephanie Barna		Draft version of the Interim Guidance to DoD on Military Service by Transgender Individuals	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00013938	PrivWithhold00 007027	PrivWithhold 00007027	8/28/2017	Ed Chan, OASD(HA)		Electronic copy of a file named Action Memo for Interim Guidance for TG Care - Draft docx	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00014224	PrivWithhold00 007028	PrivWithhold 00007034	1/30/2017	Andrew Findley; Jack Smith		Document titled "COMMENTS MATRIX FOR: DHA-IPM 16-00x Guidelines for Medical Care of Transgender Active Duty Service Members with a Diagnosis of Gender Dysphoria." Reflects comments by two DoD officials providing recommended edits and rationale for those edits for a DHA document.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00014234	PrivWithhold00 007035	PrivWithhold 00007038	8/16/2016	SMITH-FORD, CRESTEN GS-07 USAF AFMOA AFMOA/CCO		Electronic copy of a file named Tab 2. AFMS Clinical Pathway for Care of Transgender Service Members.ppt	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy

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7/1/2020

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DoD00014344	PrivWithhold00 007039	PrivWithhold 00007046	1/23/2017	Doyle, Andrew E COL USARMY HQDA OTSG (US) <andrew.e.doyle.mil@mail.mil>	Findley, Andrew L Jr CIV (US) <andrew.l.findley.civ@mail.mil.mil>; Adirim, Terry A SES OSD HA (US) <terry.a.adirim.civ@mail.mil.mil>; Graves, Peter J CTR DHA CMD GRP (US) <peter.j.graves10.ctr@mail.mil.mil>; Smith, Jack W CIV OSD HA (US) <jack.w.smith2.civ@mail.mil.mil>Dwyer, Kevin J CIV DHA CMD GRP (US) <kevin.j.dwyer10.civ@mail.mil.mil>; Doan, Paul S CIV DHA HEALTH OPNS (US) <paul.s.doan.civ@mail.mil.mil.mil>; Bienia, Krystyna M CTR DHA (US) <krystyna.m.bienia.ctr@mail.mil.mil>	Email chain regarding Transgender Surgeries -- Honolulu Star- Advertiser media inquiry (UNCLASSIFIED)	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00014349	PrivWithhold00 007047	PrivWithhold 00007050	11/8/2016	Sakrisson, Benjamin E Maj USAF OSD OSD (US) <benjamin.e.sakrisson.mil@mail.mil>	Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@mail.mil.mil>; MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@mail.mil.mil>; Findley, Andrew L Jr CIV (US) <andrew.l.findley.civ@mail.mil.mil>; Smith, Jack W CIV OSD HA (US) <jack.w.smith2.civ@mail.mil.mil>; Gearhart, Lee P COL USARMY OSD OUSD P-R (US) <lee.p.gearhart.mil@mail.mil.mil>; Gruber, David J CIV OSD OGC (US) <david.j.gruber.civ@mail.mil.mil>; Arendt, Christopher P CIV OSD OUSD P-R (US) <christopher.p.arendt.civ@mail.mil.mil>; Wellman, Aaron C LTC USARMY OSD OUSD P-R (US) <aaron.c.wellman.mil@mail.mil.mil>	Email chain regarding [Non-DoD Source] Seeking comments + questions for article on transgender Army service members / DEADLINE 3 pm ET	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy

7/1/2020

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DoD00014381	PrivWithhold00 007051	PrivWithhold 00007055	11/10/2016	Doan, Paul S CIV DHA HEALTH OPNS (US) <paul.s.doan.civ@mail.mil>	Hatchell, Jared J CIV DHA (US) <jared.j.hatchell.civ@mail .mil>; Speight, Cynthia P CIV DHA CMD GRP (US) <cynthia.p.speight.civ@mail .mil>DHA NCR Prog Integ List PI List <dha.ncr.prog-integ.list.pi- list@mail.mil>; Davison, John W III CIV (US) <john.w.davison2.civ@ma il.mil>; Frazer, Nicole L CAPT USPHS DHA HEALTH OPNS DIR (US) <nicole.l.frazer.mil@mail. mil>; Findley, Andrew L Jr CIV (US) <andrew.l.findley.civ@ma il.mil>; Doan, Paul S CIV DHA HEALTH OPNS (US) <paul.s.doan.civ@mail.mil >	Email chain regarding [Non-DoD Source] two DOD policy questions	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00014384	PrivWithhold00 007056	PrivWithhold 00007058	11/10/2016	Doan, Paul S CIV DHA HEALTH OPNS (US) <paul.s.doan.civ@mail.mil>	Davison, John W III CIV (US) <john.w.davison2.civ@ma il.mil>; Findley, Andrew L Jr CIV (US) <andrew.l.findley.civ@ma il.mil>; Frazer, Nicole L CAPT USPHS DHA HEALTH OPNS DIR (US) <nicole.l.frazer.mil@mail. mil>Doan, Paul S CIV DHA HEALTH OPNS (US) <paul.s.doan.civ@mail.mil >	Email forward concerning [Non- DoD Source] two DOD policy questions- TG care policy from the Hill	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00014410	PrivWithhold00 007059	PrivWithhold 00007061	8/16/2017	Doan, Paul S CIV DHA HEALTH OPNS (US) <paul.s.doan.civ@mail.mil>	Black, James N CIV DHA HEALTH OPNS (US) <james.n.black.civ@mail. mil>; D'Costa, Agatha L LCDR USPHS DHA DHSS CLINIC (US) <agatha.l.dcosta.mil@mail. mil>; Findley, Andrew L Jr CIV (US) <andrew.l.findley.civ@ma il.mil>Simmer, Edward D CAPT USN DHA TRICARE HP (US) <edward.d.simmer.mil@ mail.mil>; Kugler, John P CIV DHA HEALTH OPNS (US) <john.p.kugler.civ@mail. mil>	Email chain regarding TG eval SHCP waivers from BUMED	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy

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7/1/2020

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DoD00014411	PrivWithhold00 007062	PrivWithhold 00007063	8/16/2017	Doan, Paul S CIV DHA HEALTH OPNS (US) <paul.s.doan.civ@mail.mil>	Black, James N CIV DHA HEALTH OPNS (US) <james.n.black.civ@mail. mil>; D'Costa, Agatha L LCDR USPHS DHA DHSS CLINIC (US) <agatha.l.dcosta.mil@mai l.mil>; Findley, Andrew L Jr CIV (US) <andrew.l.findley.civ@ma il.mil>Simmer, Edward D CAPT USN DHA TRICARE HP (US) <edward.d.simmer.mil@ mail.mil>; Kugler, John P CIV DHA HEALTH OPNS (US) <john.p.kugler.civ@mail. mil>	Email chain regarding TG eval SHCP waivers from BUMED	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00014462	PrivWithhold00 007064	PrivWithhold 00007065	9/14/2017	Adirim, Terry A SES OSD HA (US) <terry.a.adirim.civ@mail.mil>	Gibson, Todd S CIV DHA J- 5 (US) <todd.s.gibson4.civ@mail. mil>Rychalski, Jon J SES OSD HA (US) <jon.j.rychalski.civ@mail. mil>; Findley, Andrew L Jr CIV (US) <andrew.l.findley.civ@ma il.mil>	Email forward concerning Fiscal Year 2018 Call for Studies Proposals, Suspense: August 31: OPA Pre-Coordination	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy

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DoD00014570	PrivWithhold00 007066	PrivWithhold 00007077	6/20/2017	Vythilingam CDR Meena <meena.vythilingam@usmc.mil>	AF-SG (US) <joyce.p.fiedler.mil@mail.mil>; Pflanz, Steven E Col USAF (US) <steven.e.pflanz.mil@mail.mil>; Decker, Elizabeth A Col USAF AFMOA (US) <elizabeth.a.decker4@mail.mil>; Brent, Elizabeth L LTC USARMY DHA FORT BELVOIR (US) <elizabeth.l.brent.mil@mail.mil>; Doan, Paul S CIV DHA HEALTH OPNS (US) <paul.s.doan.civ@mail.mil>; Rogut, Dori A CIV DHA HEALTH OPNS DIR (US) <dori.a.rogut.civ@mail.mil>; Yosick, Todd M LTC USARMY DHA HEALTH OPNS DIR (US) <todd.m.yosick.mil@mail.mil>; Cheatham, Thomas N Col USAF AFMSA (US) <thomas.n.cheatham2@mail.mil>; Demartino, Robert E CAPT USPHS (US) <robert.e.demartino.mil@	Email chain regarding Request Mental Health recommendation on the Requirement of Real Life Experience prior to Genital Reconstructive Surgery for Transgender (TG) ADSMs	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy
DoD00014607	PrivWithhold00 007078	PrivWithhold 00007081	10/26/2011	Navy BUMED		Electronic copy of file named TG SURG slides Benson(2).pptx	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00014676	PrivWithhold00 007082	PrivWithhold 00007082	3/27/2017	Doan, Paul, CIV, DHA		Definitions for Medical Accessions docx	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00014701	PrivWithhold00 007083	PrivWithhold 00007084	1/9/2017	Donehoo, Jody W CIV DHA Health Opns Dir		Decision Paper-TPR auths for Gender Dysphoria.docx re: medical care and transgender population	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00018155	PrivWithhold00 007085	PrivWithhold 00007086	6/24/2017	Anthony Kurta		Draft Action Memo for the Secretary of Defense with the subject "Approval of Directive-type Memorandum (DTM) 17-0XX." Contains draft recommendation from A. M. Kurta, Performing the Duties of Under Secretary of Defense (Personnel and Readiness), to the Secretary of Defense as to whether to approve a DTM concerning transgender applicants into military service and reasons for that recommendation.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00018159	PrivWithhold00 007087	PrivWithhold 00007088	6/1/2017	Kurta, Anthony M SES OSD OUSD P-R (US)	OUSD P-R (US) <david.j.smith152.civ@mail.mil>Rychalski, Jon J SES OSD HA (US) <jon.j.rychalski.civ@mail.mil>; Golden, Kerrie J COL USARMY OSD OUSD P-R (US) <kerrie.j.golden.mil@mail.mil>; Adirim, Terry A SES OSD HA (US) <terry.a.adirim.civ@mail.mil>; Penrod, Virginia S SES OSD OUSD P-R (US) <virginia.s.penrod.civ@mail.mil>; MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@mail.mil>; Hebert, Lernes J SES OSD OUSD P-R (US) <lernes.j.hebert.civ@mail.mil>; Gearhart, Lee P COL USARMY OSD OUSD P-R (US) <lee.p.gearhart.mil@mail.mil>; 'Raymond, Lacey CIV SD'	Email chain regarding TG info from ARmy (UNCLASSIFIED)	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy
DoD00018178	PrivWithhold00 007089	PrivWithhold 00007093	8/18/2017	Kurta, Anthony M SES OSD OUSD P-R (US)	Van Winkle, Elizabeth P SES OSD OUSD P-R (US) <elizabeth.p.vanwinkle.civ@mail.mil>Guieb, Rosendo T (Ross) COL USARMY OSD OUSD P-R (US) <rosendo.t.guieb.mil@mail.mil>; Penrod, Virginia S SES OSD OUSD P-R (US) <virginia.s.penrod.civ@mail.mil>; Hebert, Lernes J SES OSD OUSD P-R (US) <lernes.j.hebert.civ@mail.mil>; Boehmer, Matthew D (Matt) SES DODHRA OPA (US) <matthew.d.boehmer.civ@mail.mil>	Deliberative email conversation on the DoD response to a media article on the Transgender policy	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy

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7/1/2020

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DoD00018196	PrivWithhold00 007094	PrivWithhold 00007094	Undated	Robert Work, Deputy Secretary of Defense		Memorandum from the Deputy Secretary of Defense for the Secretary of Defense with the subject "Recommended Transgender Way Ahead." Contains highlighting and handwritten notes from Secretary Mattis. Labeled "Deliberative Pre- decisional." Provides recommendations from the Deputy Secretary of Defense to Secretary Mattis concerning accessions of transgender individuals and	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00018207	PrivWithhold00 007095	PrivWithhold 00007097	6/26/2017	Kurta, Anthony M SES OSD OSUD P-R (US)	USARMY OSD OUSD P-R (US) <lee.p.gearhart.mil@mail. mil>Sims, Pettis N LCDR USN OSD OUSD P-R (US) <pettis.n.sims.mil@mail. mil>; Jarrett, Michael R (Rich) CDR USN OSD OUSD P-R (US) <michael.r.jarrett2.mil@ mail.mil>; Barna, Stephanie A SES OSD OSUD P-R (US) <stephanie.a.barna.civ@ mail.mil>; MILLER, Stephanie P SES OSD OSUD P-R (US) <stephanie.p.miller.civ@ mail.mil>; Hebert, Lernes J SES OSD OUSD P-R (US) <lernes.j.hebert.civ@mail. mil>; Arendt, Christopher P CIV OSD OUSD P-R (US) <christopher.p.arendt.civ @mail.mil>; Adirim, Terry A SES OSD HA (US) <terry.a.adirim.civ@mail. mil>; Smith, David J SES	Email chain regarding TG Policy Input Venues (UNCLASSIFIED)	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00019130	PrivWithhold00 007098	PrivWithhold 00007098	3/14/2014	Christopher Arendt		Draft talking paper on the Department's position on military service by Transgender personnel. Labeled "DRAFT WORKING PAPER NOT FOR RELEASE."	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy

7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00019291	PrivWithhold00 007099	PrivWithhold 00007105	7/23/2014	Julian, David A CIV (US)	Golden, Kerrie, COL, ASD(HA); Smith, Jack W CIV (US); Arendt, Christopher P CIV OSD OUSD P-R (US)Cc:Lockette, Warren E SES (US); Matteson, Gary N CIV (US); Lewis, Jason, CDR, OASD(HA)/TMA; Anderson,Robert, CDR, OASD(HA)/TMA; Steele, Bernadette, Lt Col, DHA; Breen, Lorraine, COL, OASD(HA)	Email conversation regarding a tasker to response to a letter from American Military Partners Association on transgender issues	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00021533	PrivWithhold00 007106	PrivWithhold 00007108	6/29/2017	Gearhart, Lee P COL USARMY OSD OUSD P-R (US) <lee.p.gearhart.mil@mail.mil>	Michael, Johnny I Jr CIV OSD PA (US) <johnny.i.michael2.civ@mail.mil>MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@mail.mil>; Arendt, Christopher P CIV OSD OUSD P-R (US) <christopher.p.arendt.civ@mail.mil>; Ochoa, Laura C CIV OSD PA (US) <laura.c.ochoa.civ@mail.mil>	Email regarding transgender policy and delay of Carter policy implementation	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00021828	PrivWithhold00 007109	PrivWithhold 00007111	3/7/2017	Terry Adirim, M.D., M.P.H., Deputy Assistant Secretary of Defense of Health Services Policy and Oversight		Info Memo with the subject "Department of Defense 6130.03, "Medical Standards for Appointment, Enlistment, or Induction in the Military Services" Status Update and Way Forward." Contains deliberative discussions concerning transgender policy and DoD Instruction 6130.03 and recommendations for next steps.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00021885	PrivWithhold00 007112	PrivWithhold 00007116	2/28/2017	David S. Kemp, CAPT, USN		Draft Transgender Applicant Processing Policy v4 (Final 27 Feb 17)_Review.doc. Memorandum for commanders with the subject "Policy Memorandum 2-5, Transgender Applicant Processing." Contains comments and track changes for recommended edits. Labeled "Draft."	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00022094	PrivWithhold00 007117	PrivWithhold 00007120	2/10/2017	Rosenfeld, Paul CIV DODHRA DMDC (US) <paul.rosenfeld.civ@mail.mil>	MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@mail.mil>Arendt, Christopher P CIV OSD OUSD P-R (US) <christopher.p.arendt.civ@mail.mil>; Gearhart, Lee P COL USARMY OSD OUSD P-R (US) <lee.p.gearhart.mil@mail.mil>; Licari, Frederick C CIV WHS ESD (US) <frederick.c.licari.civ@mail.mil>; Williams, Kristin H CIV DODHRA DMDC (US) <kristin.h.williams2.civ@mail.mil>; Helland, Katherine R CIV DODHRA JAMRS (US) <katherine.r.helland.civ@mail.mil>; Boehmer, Matthew D (Matt) SES DODHRA FVAP (US) <matthew.d.boehmer.civ@fvap.gov>	Email regarding UPR007515-16 Request for Waiver Approval to Include Sexual Orientation Interview Questions in DoD Study	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00022403	PrivWithhold00 007121	PrivWithhold 00007121	2/23/2017	Lee Gearhart		Draft DoD responses to questions on the Transgender Policy	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00022551	PrivWithhold00 007122	PrivWithhold 00007123	7/28/2017	MILLER, Stephanie P SES OSD OUSD P-R (US)		Memo titled "Readiness Impacts of Military Service by transgender Members." Contains recommendations from the Services.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy
DoD00022589	PrivWithhold00 007124	PrivWithhold 00007128	7/31/2017	Washington, Keithen A Lt Col USAF OSD OUSD P-R (US) <keithen.a.washington.mil@mail.mil>	Arendt, Christopher P CIV OSD OUSD P-R (US) <christopher.p.arendt.civ@mail.mil>MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@mail.mil>	Email discussion concerning preparation of various topics including the transgender policy for P&R nominees	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00022633	PrivWithhold00 007129	PrivWithhold 00007129	8/10/2017	Lee (A1)		Document with file name "USD-PR Prep Paper Topics v2 (002).docx." Document is titled "P&R Nomination Prep Topics" and includes a list of possible topics to review in preparation for a Congressional hearing.	DP - Deliberative Process	Deliberations regarding preparation for Congressional hearing.
DoD00022650	PrivWithhold00 007130	PrivWithhold 00007130	6/19/2017	Lee (A1)		Document with file name "USD-PR Prep Paper Topics docx." Document is titled "P&R Nomination Prep Topics" and includes a list of possible topics to review in preparation for a Congressional hearing.	DP - Deliberative Process	Deliberations regarding preparation for Congressional hearing.

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7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00022683	PrivWithhold00 007131	PrivWithhold 00007135	8/11/2017	Dyer, Evelyn J CIV OSD OUSD P-R (US) <evelyn.j.dyer.civ@mail.mil>	Arendt, Christopher P CIV OSD OUSD P-R (US) <christopher.p.arendt.civ@mail.mil>; MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@mail.mil>Drogo, Dennis J CIV OSD OUSD P-R (US) <dennis.j.drogo.civ@mail.mil>; Dyer, Evelyn J CIV OSD OUSD P-R (US) <evelyn.j.dyer.civ@mail.mil>	Email discussion concerning preparation of various topics including the transgender policy for P&R nominees	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00026695	PrivWithhold00 007136	PrivWithhold 00007140	6/23/2017	Stroh, Mark		P&R-Transgender Accessions_TC docx - OGC Edits & Comments 6-23-17.docx	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00026888	PrivWithhold00 007141	PrivWithhold 00007142	8/30/2017	Jonsson, Benjamin R Lt Col USAF SAF-OS (US) <benjamin.r.jonsson.mail@mail.mil>	OSD P-R (US) <anthony.m.kurta.civ@mail.mil>Wilson, Heather A HON USAF SAF-OS (US) <heather.a.wilson8.civ@mail.mil>; Barna, Stephanie A SES OSD OUSD P-R (US) <stephanie.a.barna.civ@mail.mil>; Hebert, Lernes J SES OSD OUSD P-R (US) <lernes.j.hebert.civ@mail.mil>; Bushman, William CIV SD <William.Bushman@sd.mil>; DeMartino, Anthony G SES (US) <tony.demartino@sd.mil>; Sweeney, Kevin M SES (US) <kevin.sweeney@sd.mil>; Sitterly, Daniel R SES USAF SAF-MR (US) <daniel.r.sitterly.civ@mail.mil>; Barna, Stephanie A SES OSD OUSD P-R (US) <stephanie.a.barna.civ@mail.mil>; Hebert, Lernes J	Email chain regarding Formal Coordination DRAFT Transgender Implementation Guidance for SD Signature Friday 1 Sep	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy

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DoD00026913	PrivWithhold00 007143	PrivWithhold 00007144	8/28/2017	Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@mail.mil>	OGC (US) <paul.s.koffsky.civ@mail.mil>; White, Dana W SES OSD (US) <dana.w.white6.civ@mail.mil>; Hood, Robert R HON OSD OASD LA (US) <robert.r.hood12.civ@mail.mil>; Barna, Stephanie A SES OSD OUSD P-R (US) <stephanie.a.barna.civ@mail.mil>; Hebert, Lernes J SES OSD OUSD P-R (US) <lernes.j.hebert.civ@mail.mil>; MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@mail.mil>; Charette, Todd J CIV DODHRA DCPAS (US) <todd.j.charette.civ@mail.mil>; Clardy, Herman S III LtGen USMC OSD OUSD P-R (US) <herman.s.clardy.mil@mail.mil>; Gainey, Andrew C COL USARMY OSD OUSD P-R (US) <andrew.c.gainey.mil@m	Email conversation regarding OGC coordination of draft transgender documents	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy;

7/1/2020

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DoD00027038	PrivWithhold00 007145	PrivWithhold 00007145	5/25/2017	Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@mail.mil>	USAF SAF-OS (US) <heather.a.wilson8.civ@mail.mil>; Stackley, Sean J CIV (US) <sean.j.stackley@navy.mil>; >; Speer, Robert Michael (Bob) HON USARMY HQDA SECARMY (US) <robert.m.speer4.civ@mail.mil> Disbrow, Lisa S HON USAF SAF-US (US) <lisa.s.disbrow.civ@mail.mil>; Sitterly, Daniel R SES USAF SAF-MR (US) <daniel.r.sitterly.civ@mail.mil>; Woods, Robert L SES USN ASSTSECNAV MRA DC (US) <robert.l.woods@navy.mil>; Randon, Diane M SES USARMY HQDA ASA MRA (US) <diane.m.randon.civ@mail.mil>; Barna, Stephanie A SES OSD OUSD P-R (US) <stephanie.a.barna.civ@mail.mil>; Kurta, Anthony M SES OSD OUSD P-R (US)	Email concerning coordination of inputs for the transgender policy development	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00027090	PrivWithhold00 007146	PrivWithhold 00007155	3/2/2017	Barna, Stephanie A SES OSD OUSD P-R (US)	Caggins, Myles B III LTC USARMY OSD PA (US) <myles.b.caggins.mil@mail.mil>; Trombo, Joseph L CIV OSD OGC (US) <joseph.l.trombo.civ@mail.mil>; Hipp, Cheryl A CIV OSD OGC (US) <cheryl.a.hipp2.civ@mail.mil>; Michael, Johnny I Jr CIV OSD PA (US) <johnny.i.michael2.civ@mail.mil>; Koprowski, Daniel C COL USARMY OSD OUSD P-R (US) <daniel.c.koprowski.mil@mail.mil>; Brady, Thomas M SES (US) <thomas.brady@hq.dodea.edu>	Email conversations regarding responses to media inquiries related to DoDEA's transgender student policies, including a request for assistance from OGC	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy

In Camera Production Privilege Log
7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00027117	PrivWithhold00 007156	PrivWithhold 00007156	2/23/2017	Barna, Stephanie A SES OSD OUSD P-R (US)	Milam, Charles E SES OSD OUSD P-R (US) <charles.e.milam.civ@mail.mil>; Julian, David A CIV OSD OUSD P-R (US) <david.a.julian.civ@mail.mil>Brady, Thomas M SES (US) <thomas.brady@hq.dode.a.edu>	Email conversation regarding the transgender policy implementation related to DoDEA's school policy	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00027131	PrivWithhold00 007157	PrivWithhold 00007162	2/23/2017	Barna, Stephanie A SES OSD OUSD P-R (US)	Brady, Thomas M SES (US) <thomas.brady@hq.dode.a.edu>	Email conversation regarding the transgender policy implementation related to DoDEA's school policy, includes legal opinion from OGC attorney	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00027178	PrivWithhold00 007163	PrivWithhold 00007197	1/13/2017	Ann Lee		Document with the file name "QFRs tasked 1.13.17 - P&R Assignment.doc." Contains anticipated questions from Senators and sections of DoD responsible for drafting proposed answers.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy;
DoD00027281	PrivWithhold00 007198	PrivWithhold 00007199	8/31/2017	Gearhart, Lee P COL USARMY USARC HQ (US) <lee.p.gearhart.mil@mail.mil>	Arendt, Christopher P CIV OSD OUSD P-R (US) <christopher.p.arendt.civ@mail.mil>; MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@mail.mil>Washington, Keithen A Lt Col USAF OSD OUSD P-R (US) <keithen.a.washington.mil@mail.mil>	Email chain regarding Central coordination cell	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00027643	PrivWithhold00 007200	PrivWithhold 00007255	7/14/2017	Gearhart, Lee P COL USARMY OSD OUSD P-R (US)		Meeting transgender (14 JUL 17)_v6.pptx" and titled "Transgender Service Q&As; Transgender Senior Implementation Group Meeting – July 14, 2017." Labeled "Not for Distribution//Draft Deliberative Document." Contains questions and draft answers on such issues as recruiting, medical, deployment, assignments, uniforms. Contains input from Navy and questions from Army.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy

In Camera Production Privilege Log
7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00028354	PrivWithhold00 007256	PrivWithhold 00007258	8/3/2017	Findley, Andrew L Jr CIV (US)	Fraine, Melissa C CTR DHA HEALTH OPNS (US) <melissa.c.fraine.ctr@mail.mil>; Adirim, Terry A SES OSD HA (US) <terry.a.adirim.civ@mail.mil>Davison, John W III CIV (US) <john.w.davison2.civ@mail.mil>; Doan, Paul S CIV DHA HEALTH OPNS (US) <paul.s.doan.civ@mail.mil>	Email chain regarding Gender dysphoria diagnoses	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00028397	PrivWithhold00 007259	PrivWithhold 00007259	8/2/2017	Findley, Andrew L Jr CIV (US)	Brown, Gary W LTC USARMY OSD OUSD P-R (US) <gary.w.brown.mil@mail.mil>Adirim, Terry A SES OSD HA (US) (terry.a.adirim.civ@mail.mil)	Email conversation regarding data on number of service members with GD and medical care	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00028507	PrivWithhold00 007260	PrivWithhold 00007264	7/26/2017	Findley, Andrew L Jr CIV (US)	Doyle, Andrew E COL USARMY HQDA OTSG (US) <andrew.e.doyle.mil@mail.mil>; Doan, Paul S CIV DHA HEALTH OPNS (US) <paul.s.doan.civ@mail.mil>>Clark, Max A II CDR USN BUMED FCH VA (US) <max.a.clark.mil@mail.mil>; Cheatham, Thomas N Col USAF AFMSA (US) <thomas.n.cheatham2.mil@mail.mil>; Adirim, Terry A SES OSD HA (US) (terry.a.adirim.civ@mail.mil)Findley, Andrew L Jr CIV (US) <andrew.l.findley.civ@mail.mil>	Email chain regarding Guidance needed for DDEAMC on transgender surgeries scheduled.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00029107	PrivWithhold00 007265	PrivWithhold 00007266	7/17/2017	Ribeiro, Elizabeth M CTR OSD HA (US) <elizabeth.m.ribeiro.ctr@mail.mil>	Chan, Edmund M CIV OSD HA (US) <edmund.m.chan.civ@mail.mil>	Email FW: DoDI 6130.03 With Current transgender associated Stds	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy

No. 17-cv-1297
In Camera Production Privilege Log

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DoD00029326	PrivWithhold00 007267	PrivWithhold 00007267	6/29/2017	Adirim, Terry A SES OSD HA (US) <terry.a.adirim.civ@mail.mil>	Smith, David J SES OSD OUSD P-R (US) <david.j.smith152.civ@mail.mil> Rychalski, Jon J SES OSD HA (US) <jon.j.rychalski.civ@mail.mil>; Findley, Andrew L Jr CIV (US) <andrew.l.findley.civ@mail.mil>; Chan, Edmund M CIV OSD HA (US) <edmund.m.chan.civ@mail.mil>; Atkins, Diana E CTR OSD HA (US) <diana.e.atkins.ctr@mail.mil>	Email regarding transgender questions from Service Chiefs and Personnel and Readiness	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy
DoD00029339	PrivWithhold00 007268	PrivWithhold 00007319	1/26/2017	Rachael DeNale		Doc draft of DODI 6130.03 - FC.DOCX	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00029368	PrivWithhold00 007320	PrivWithhold 00007331	6/28/2017	Findley, Andrew, CIV, DHA		Email conversation regarding transgender medical issues across the DoD.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00029516	PrivWithhold00 007332	PrivWithhold 00007334	6/19/2017	Adirim, Terry A SES OSD HA (US) <terry.a.adirim.civ@mail.mil>	Chan, Edmund M CIV OSD HA (US) <edmund.m.chan.civ@mail.mil> Findley, Andrew L Jr CIV (US) <andrew.l.findley.civ@mail.mil>	Email regarding Air Force hormone standard / DADT	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00034012	PrivWithhold00 007335	PrivWithhold 00007339	8/1/2017	Koffsky, Paul S SES OSD OGC (US)	Casciotti, John A SES OSD OGC (US) <john.a.casciotti.civ@mail.mil>; Tomatz, Michael D Col USAF OSD OGC (US) <michael.d.tomatz@mail.mil>; Guillen, Robert A Jr MAJ USARMY (US) <robert.a.guillen4@mail.mil>; Gruber, David J CIV OSD OGC (US) <david.j.gruber.civ@mail.mil>	Email fom attorneys re: TG Service and unit readiness issues with attachments	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; reflects deliberations regarding draft memorandum on these subjects
DoD00034798	PrivWithhold00 007340	PrivWithhold 00007340	8/15/2017	Paul Koffsky		Draft version of a statement for the Sec Def on Military Service by Transgender Individuals.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00034857	PrivWithhold00 007341	PrivWithhold 00007341	8/14/2017	Koffsky, Paul S SES OSD OGC (US)		Draft document titled "STATEMENT OF THE SECRETARY OF DEFENSE ON MILITARY SERVICE BY TRANSGENDER INDIVIDUALS." Labeled "DRAFT."	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy

No. 17-cv-1297
In Camera Production Privilege Log

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00035140	PrivWithhold00 007342	PrivWithhold 00007346	6/26/2017	Dr. Michael Strobl, Director, MPP, M&RA		Draft Info Memo from General Robert B. Neller, Commandant of the Marine Corps, to the Secretary of Defense with the subject "Continued Marine Corps Concerns Relating to Implementation of Policy Accessing Transgender Applicants into Military Service." Contains the Marine Corps' recommendation on the timing of accessions of transgender individuals and rationale for that recommendation. Prepared by Dr. Michael Strobl,	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy
DoD00036181	PrivWithhold00 007347	PrivWithhold 00007396	7/10/2017	Richard A. Knight, CDR, USN, JS J1		Joint Chiefs of Staff document titled "Transgender Smartbook." Talking points were created to prepare the Vice Chairman of the Joint Chiefs of Staff and the Deputy Secretary of Defense to lead discussions with Service Secretaries and Chiefs on transgender service and accessions implementation.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00036806	PrivWithhold00 007397	PrivWithhold 00007398	6/7/2017	Adirim, Terry, SES, DHA		Papers from AF Allegedly Showing TG comorbidities return after 3_edit docx	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00038938	PrivWithhold00 007399	PrivWithhold 00007400	4/24/2017	OUSD-PR		Draft memorandum from the Office of the Assistant Secretary of Defense with the subject "Accommodations Concerning Students in Department of Defense Education Activity Schools and Youth Programs." Contains proposed edits in track changes.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy;
DoD00039156	PrivWithhold00 007401	PrivWithhold 00007401	8/22/2017	Paul Koffsky		Doc of SecDef Statement on transgender.docx	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00044897	PrivWithhold00 007402	PrivWithhold 00007409	10/19/2016	Graham, Elizabeth, CTR, OASD(HA)		Document with file name "AMSWG_Draft Minutes_18 Oct 2016.docx." Contains draft meeting minutes of Accession Medical Standards Working Group (AMSWG) from October 18, 2016. Contains recommended changes to various medical standards.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00045015	PrivWithhold00 007410	PrivWithhold 00007411	1/9/2017	Graham, Elizabeth A CTR OSD HA (US) <elizabeth.a.graham50.ctr@mail.mil>	Brown, Gary W LTC USARMY OSD OUSD P-R (US) <gary.w.brown.mil@mail.mil>; Chan, Edmund M CIV OSD HA (US) <edmund.m.chan.civ@mail.mil>; Ribeiro, Elizabeth M CTR OSD HA (US) <elizabeth.m.ribeiro_ctr@mail.mil>	Email regarding edited DoDI 6130.03 Jan 9 2017	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy

No. 17-cv-1297
In Camera Production Privilege Log

7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00045034	PrivWithhold00 007412	PrivWithhold 00007414	7/20/2017	Chan, Edmund M CIV OSD HA (US) <edmund.m.chan.civ@mail.mil	Adirim, Terry A SES OSD HA (US) <terry.a.adirim.civ@mail.mil> Demartino, Robert E CAPT USPHS (US) <robert.e.demartino.mil@mail.mil>; Ribeiro, Elizabeth M CTR OSD HA (US) <elizabeth.m.ribeiro.ctr@mail.mil>; Kline, Dana F CIV OSD OUSD P-R (US) <dana.f.kline.civ@mail.mil>; Brown, Gary W LTC USARMY OSD OUSD P-R (US) <gary.w.brown.mil@mail.mil	Email FW: Completed Pre-coordination for DoDI 6130.03, "Medical Standards for Appointment, Enlistment, or Induction in the Military Services"	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00045048	PrivWithhold00 007415	PrivWithhold 00007471	1/5/2017	Rachael DeNale		Draft edited DoDI 6130.03_adjudication gwb USCG navy-USMCAF edits 5 Jan 17 docx	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00045098	PrivWithhold00 007472	PrivWithhold 00007474	4/19/2017	Chan, Edmund M CIV OSD HA (US) <edmund.m.chan.civ@mail.mil	Graham, Elizabeth A CTR OSD HA (US) <elizabeth.a.graham50ctr@mail.mil>; Brown, Gary W LTC USARMY OSD OUSD P-R (US) <gary.w.brown.mil@mail.mil>; Ribeiro, Elizabeth M CTR OSD HA (US) <elizabeth.m.ribeiro.ctr@mail.mil	Email chain regarding January AMSWG Minutes	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00045347	PrivWithhold00 007475	PrivWithhold 00007479	4/25/2017	USAF Pentagon SAF-MR Mailbox AF Central Coordination Cell <usaf.pentagon saf-mr.mbx.af- central-coordination- cell@mail.mil>	Mailbox AF Central Coordination Cell <usaf.pentagon.saf- mr.mbx.af-central- coordination- cell@mail.mil>; Gearhart, Lee P COL USARMY OSD OUSD P-R (US) <lee.p.gearhart.mil@mail. mil>; Krueger, Mary V COL USARMY HQDA ASA MRA (US) <mary.v.krueger.mil@mai l.mil>; Kramer, Christine M COL USARMY HQDA ASA MRA (US) <christine.m.kramer12.mil @mail.mil>; Bristol, Janet M CAPT USN (US) <janet.m.bristol.mil@mail .mil>; McWaters, William J CIV USMC MANDR AFFAIRS (US) <william.mcwaters@usmc .mil>; Merriweather, Jason A CAPT USCG (US) <jason.a.merriweather@u scg.mil>; Virkaitis, Kurtis L	Email regarding Joint SCCC meeting - Thurs, 20 April 17. Rm 4E1019, 0830-1000	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy
DoD00052017	PrivWithhold00 007480	PrivWithhold 00007481	5/12/2017	Clark, Robert E CIV OSD OUSD P- R (US) <robert.e.clark114.civ@mail.mil >	Hebert, Lernes J SES OSD OUSD P-R (US) <lernes.j.hebert.civ@mail. mil>Warren, Jill M CIV OSD OUSD P-R (US) <jill.m.warren4.civ@mail. mil>	Email request for informal views from Comp and OEPM (both from P&R)	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy
DoD00052105	PrivWithhold00 007482	PrivWithhold 00007483	1/17/2017	Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@mail.mil >	Gearhart, Lee P COL USARMY OSD OUSD P-R (US) <lee.p.gearhart.mil@mail. mil>Hebert, Lernes J SES OSD OUSD P-R (US) <lernes.j.hebert.civ@mail. mil>; MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@ mail.mil>	E-mail of 17 January 2017 regarding DRAFT Charter - Task Force on Transgender Military Dependents	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00052188	PrivWithhold00 007484	PrivWithhold 00007484	6/20/2017	Hebert, Lernes J SES OSD OUSD P-R (US)	Beyler, Juliet M SES (US) <juliet.beyler@navy.mil>A rendt, Christopher P CIV OSD OUSD P-R (US) <christopher.p.arendt.civ @mail.mil>; MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@ mail.mil>	Email conversation regarding number of transgender service members	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy

In Camera Production Privilege Log
7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00052231	PrivWithhold00 007485	PrivWithhold 00007488	1/23/2017	Hebert, Lernes J SES OSD OUSD P-R (US)	Sims, Pettis N LCDR USN OSD OUSD P-R (US) <pettis.n.sims.mil@mail. mil>; Clark, Robert E CIV OSD OUSD P-R (US) (robert.e.clark114 civ@m ail.mil); MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@ mail.mil>; Arendt, Christopher P CIV OSD OSD P-R (US) <christopher.p.arendt.civ @mail.mil>; Warren, Jill M CIV OSD OUSD P-R (US) <jill.m.warren4.civ@mail. mil>	Deliberative email conversation regarding responses to inquiries from media outlets seeking information on Transgender military service members.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00052233	PrivWithhold00 007489	PrivWithhold 00007492	2/9/2017	Hebert, Lernes J SES OSD OUSD P-R (US)	Barna, Stephanie A SES OSD OUSD P-R (US) <stephanie.a.barna.civ@ mail.mil>	Email regarding OSD Legislative Affairs Update - 7 Feb 17	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00052371	PrivWithhold00 007493	PrivWithhold 00007500	4/12/2017	Grifka, Amanda B CTR DMDC		Document re LGBT issue and the military with_Analysis docx	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00052386	PrivWithhold00 007501	PrivWithhold 00007501	6/20/2017	Hebert, Lernes J SES OSD OUSD P-R (US)	Beyler, Juliet SES ASN (M&RA), MMP <juliet.beyler@navy.mil> MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@ mail.mil>; Arendt, Christopher P CIV OSD OSD P-R (US) <christopher.p.arendt.civ @mail.mil>; Ingram, Elena P CAPT USN ASSTSECNV MRA DC (US) <elena.ingram@navy.mil> ; Caldwell, Darian T CDR USN ASSTSECNV MRA DC (US) <darian.caldwell@navy.mi l>; Perkins, Juliet A CAPT USN ASSTSECNV MRA DC (US) <juliet.perkins@navy.mil>	E-mail of 6/20/2017 regarding Transgender medical care	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00067859	PrivWithhold00 007502	PrivWithhold 00007507	6/30/2016	Aaron Sherman		Doc of Draft TG Remarks Outline Draft for Carter TG policy 8 0 docx	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00068011	PrivWithhold00 007508	PrivWithhold 00007508	8/1/2017	Stephanie MILLER		Draft doc re: transgender Service Members and Unit Readiness 31 July 17 - DJG e.docx	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy

In Camera Production Privilege Log
7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00068014	PrivWithhold00 007509	PrivWithhold 00007515	2/23/2017	Barna, Stephanie A SES OSD OUSD P-R (US)	USARMY OSD PA (US) <myles.b.caggins.mil@mail.mil>; Gruber, David J CIV OSD OGC (US) <david.j.gruber.civ@mail.mil>; Milam, Charles E SES OSD OUSD P-R (US) <charles.e.milam.civ@mail.mil>; Kelly, Michael J CIV OSD OUSD P-R (US) <michael.j.kelly51.civ@mail.mil>; Koffsky, Paul S SES OSD OGC (US) <paul.s.koffsky.civ@mail.mil> Jackson, Robert J Lt Col USAF OSD OUSD P-R (US) <robert.j.jackson13@mail.mil>; OSD Pentagon PA List DPO PR <osd.pentagon.pa.list.dpo-pr@mail.mil>; Pratt, Edwin A CIV OSD OUSD P-R (US) <edwin.a.pratt6.civ@mail.mil>; Riffe, Mary E (Beth) CIV OSD OUSD P-R (US) <mary.e.riffe.civ@mail.mil>	Email chain regarding FOR CLEARANCE - Transgender DoDEA Students - Military Times/CNN	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00068124	PrivWithhold00 007516	PrivWithhold 00007516	8/1/2017	Stephanie MILLER		Doc re: transgender Service Members and Unit Readiness 31 July 17 - DJG final docx	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy;
DoD00083413	PrivWithhold00 007517	PrivWithhold 00007517	7/26/2017	Raymond, Lacey CIV SD <Lacey.Raymond@sd.mil>	Sweeney, Kevin SES SD <Kevin.Sweeney@sd.mil>; Donnelly, Sally SES SD <Sally.Donnelly@sd.mil>; Walsh, Laurel Col SD <Laurel.Walsh@sd.mil> De Martino, Tony SES SD <Tony.DeMartino@sd.mil >; McFarlane, Matthew BG SD <Matthew.McFarlane@sd .mil>	EMail re: FW_ Transgender tweets by POTUS .msg	DP - Deliberative Process	Deliberations regarding the rescission of the transgender policy
DoD00083505	PrivWithhold00 007518	PrivWithhold 00007530	7/5/2017	Bajraktari, Yll CIV SD		PowerPoint titled Deputy Secretary of Defense In-Brief (Working). Shows priorities of the Secretary of Defense and the Deputy Secretary of Defense.	DP - Deliberative Process	Deliberations concerning priorities of senior DoD officials
DoD00083826	PrivWithhold00 007531	PrivWithhold 00007537	8/28/2017	Snyder, WL		Proposed talking points for public affairs regarding transgender policy (and other recent events).	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy

In Camera Production Privilege Log
7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00083994	PrivWithhold00 007538	PrivWithhold 00007538	7/27/2017	Davis, Jeff A CAPT USN OSD PA (US) <jeff a davis.mil@mail.mil>	Sweeney, Kevin SES SD <Kevin.Sweeney@sd.mil>; Walsh, Laurel Col SD <Laurel.Walsh@sd.mil>; Faller, Craig RADM SD <Craig.Faller@sd.mil>; Donnelly, Sally SES SD <Sally.Donnelly@sd.mil>; Koffsky, Paul S SES OSD OGC (US) <paul.s.koffsky.civ@mail.mil>; Giambastiani, Pete SES OSD OASD LA (US) <edmund.p.giambastiani2.civ@mail.mil>; White, Dana W SES OSD (US) <dana.w.white6.civ@mail.mil>	Email regarding a DRAFT statement on TG .msg	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00084038	PrivWithhold00 007539	PrivWithhold 00007540	7/8/2017	Giambastiani, Pete SES OSD OASD LA (US) <edmund.p.giambastiani2.civ@mail.mil>	Faller, Craig RADM SD <Craig.Faller@sd.mil>	Email discussion of read ahead materials including transgender updates for SECDEF	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00084092	PrivWithhold00 007541	PrivWithhold 00007541	6/27/2017	Sweeney, Kevin SES SD <Kevin.Sweeney@sd.mil>	Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@mail.mil>; Faller, Craig RADM SD <Craig.Faller@sd.mil>	Email conversation between DoD personnel regarding meetings on lethality	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00084616	PrivWithhold00 007542	PrivWithhold 00007544	7/6/2017	Mohler, Hallock CDR SD <Hallock.Mohler@sd.mil>	Walsh, Laurel Col SD <Laurel.Walsh@sd.mil>	Draft talking points and responses to questions from Congress on the Transgender Policy	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender
DoD00084739	PrivWithhold00 007545	PrivWithhold 00007545	2/24/2017	Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@mail.mil>	Work, Robert HON SD <Robert.Work@sd.mil>; Raymond, Lacey CIV SD <Lacey.Raymond@sd.mil>; Barna, Stephanie A SES OSD OUSD P-R (US) <stephanie.a.barna.civ@mail.mil>; Hedger, Stephen HON SD <Stephen.Hedger@sd.mil>; Penrod, Virginia S SES OSD OUSD P-R (US) <virginia.s.penrod.civ@mail.mil>; Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@mail.mil>	Email to Dep SECDEF re: rescission of policy re: TG policies related to schools and its effect on DODEA schools	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy

No. 17-cv-1297
In Camera Production Privilege Log

7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00087929	PrivWithhold00 007546	PrivWithhold 00007548	1/24/2018	Snodgrass, Guy CDR SD <Guy.Snodgrass@sd.mil>	Mohler, Hallock CAPT SD <Hallock.Mohler@sd.mil> Bushman, William CIV SD <William.Bushman@sd.mil>; Laughlin, Colleen CIV SD <Colleen.Laughlin@sd.mil>; Magney, Nicole CIV SD <Nicole.Magney@sd.mil>; Purifoy, Belinda CIV SD <Belinda.Purifoy@sd.mil>	Email concerning upcoming meetings including a meeting on the transgender.	DP - Deliberative Process	Deliberations regarding the rescission of the transgender policy
DoD00090527	PrivWithhold00 007549	PrivWithhold 00007551	11/15/2017	White, Dana W SES OSD (US) <dana.w.white6.civ@mail.mil>	<Kevin.Sweeney@sd.mil>; Donnelly, Sally SES SD <Sally.Donnelly@sd.mil>; Faller, Craig RADM SD <Craig.Faller@sd.mil>; Verga, Peter SES SD <Peter.Verga@sd.mil>; DeMartino, Tony SES SD <Tony.DeMartino@sd.mil>; Hood, Robert R HON OSD OASD LA (US) <robert.r.hood12.civ@mail.mil>; Giambastiani, Pete SES OSD OASD LA (US) <edmund.p.giambastiani2.civ@mail.mil>Charlie Summers <cesummers41@gmail.com>; Walsh, Laurel Col SD <Laurel.Walsh@sd.mil>; Raymond, Philip COL SD <Philip.Raymond@sd.mil>; Reid, Eric LtCol SD <eric.reid@sd.mil>; Stoddard, Ryan CDR SD <Ryan.Stoddard@sd.mil>; Beckman, Kristi L (KB) Lt Col USAF OSD PA (US)	Email between DoD personnel discussing media items related to TG including sex reassignment surgery and accessions standards	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00092655	PrivWithhold00 007552	PrivWithhold 00007560	9/27/2015	Jarret, MR		Deliberative presentation from DHA on several lines of effort within the DoD medical community including the Transgender Policy. Contains goals and deliverables among many lines of effort. Contains "initial thoughts" of DoD	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy

7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00093836	PrivWithhold00 007561	PrivWithhold 00007562	8/30/2017	Jonsson, Benjamin R Lt Col USAF SAF-OS (US) <benjamin.r.jonsson.mil@mail.mil>	OUSD P-R (US) <anthony.m.kurta.civ@mail.mil>Wilson, Heather A HON (US) <heather.a.wilson8.civ@mail.mil>; Barna, Stephanie A SES OSD OUSD P-R (US) <stephanie.a.barna.civ@mail.mil>; Hebert, Lernes J SES OSD OUSD P-R (US) <lernes.j.hebert.civ@mail.mil>; Bushman, William CIV SD <William.Bushman@sd.mil>; DeMartino, Tony SES SD <Tony.DeMartino@sd.mil>; Sweeney, Kevin SES SD <Kevin.Sweeney@sd.mil>; Sitterly, Daniel R SES USAF SAF-MR (US) <daniel.r.sitterly.civ@mail.mil>; Barna, Stephanie A SES OSD OUSD P-R (US) <stephanie.a.barna.civ@mail.mil>; Hebert, Lernes J SES OSD OUSD P-R (US)	Email RE_ Formal Coordination DRAFT Transgender Implementation Guidance for SD Signature Friday 1 Sep (UNCLASSIFIED).msg	DP - Deliberative Process	Deliberations regarding the rescission of the transgender policy
DoD00095186	PrivWithhold00 007563	PrivWithhold 00007566	8/7/2017	White, Dana W SES OSD (US) <dana.w.white6.civ@mail.mil>	Cardillo Robert NGA-D USA CIV <Robert.Cardillo@nga.mil>Bingen, Kari A HON (US) <kari.a.bingen.civ@mail.mil>; Bushman, William CIV SD <William.Bushman@sd.mil>; Harris, Audricia M MAJ USARMY OSD PA (US) <audricia.m.harris.mil@mail.mil>; Davis, Jeff A CAPT USN OSD PA (US) <jeff.a.davis.mil@mail.mil>	Email conversation regarding transgender in the workforce nad TITLE VII	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00095231	PrivWithhold00 007567	PrivWithhold 00007570	8/5/2017	Bingen, Kari A HON (US) <kari.a.bingen.civ@mail.mil>	White, Dana W SES OSD (US) <dana.w.white6.civ@mail.mil>Bushman, William CIV SD <William.Bushman@sd.mil>	Email conversation regarding transgender in the workforce	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00095320	PrivWithhold00 007571	PrivWithhold 00007572	8/3/2017	Bushman, William CIV SD <William.Bushman@sd.mil>	DeMartino, Tony SES SD <Tony.DeMartino@sd.mil>; Baker, Caitlin CIV SD <Caitlin.Baker@sd.mil>; Snodgrass, Guy CDR SD <Guy.Snodgrass@sd.mil>	Email conversation on POTUS memo on transgender policy	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy

Kulnoshi v. Trump,
No. 17-cv-1297
In Camera Production Privilege Log

7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00097078	PrivWithhold00 007573	PrivWithhold 00007573	6/25/2017	Robert Work, Deputy Secretary of Defense	Raymond, Lacey CIV SD <Lacey.Raymond@sd.mil> Work, Robert HON SD <Robert.Work@sd.mil>	Email conversation regarding the contents of a draft memorandum on transgender issues for the Secretary of Defense.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00097086	PrivWithhold00 007574	PrivWithhold 00007584	6/27/2016	Carroll, Katherine SES SD		Document with questions re: Transgender Hard Q & A for new Carter TG policy Rollout	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00097110	PrivWithhold00 007585	PrivWithhold 00007585	6/24/2017	Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@mail.mil >	Raymond, Lacey CIV SD <Lacey.Raymond@sd.mil> Smith, Elizabeth CIV SD <Elizabeth.Smith@sd.mil> ; Rychalski, Jon J SES OSD HA (US) <jon.j.rychalski.civ@mail. mil>	Email conversation regarding transgender medical question and deployability	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00097361	PrivWithhold00 007586	PrivWithhold 00007590	6/14/2017	Folliard, Daniel CIV SD <Daniel.Folliard@sd.mil>	DeMartino, Tony CIV SD <Tony.DeMartino@sd.mil > DuFrayne, Francis CIV SD <Francis.DuFrayne@sd.mi l>	Email conversation regarding Morning News of Note. Contains deliberations on response to Congressional inquiry and press.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00099005	PrivWithhold00 007591	PrivWithhold 00007592	4/27/2017	Robert Work, Deputy Secretary of Defense		Memorandum from the Deputy Secretary of Defense for the Secretary of Defense with the subject "Accession of Transgender Service Members." Contains recommendations from the Services on accessions and contains handwritten notes from the Deputy Secretary of Defense concerning his recommendation.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00101527	PrivWithhold00 007593	PrivWithhold 00007615	2/1/2017	Gregory Melville		Doc Draft of SECDEF speech.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00102412	PrivWithhold00 007616	PrivWithhold 00007639	12/5/2016	Peter Cook		Draft Memorandum for Record on the Department's progress on several area initiatives, including military personnel	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00103486	PrivWithhold00 007640	PrivWithhold 00007640	9/21/2016	Melissa L. Lewis		List of deliberative transition papers that various DoD elements were working on developing, including a paper on the DoD Transgender policy.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00103842	PrivWithhold00 007641	PrivWithhold 00007643	11/2/2016	Carroll, Katherine SES SD <Katherine.Carroll@sd.mil>	Rosenbach, Eric HON SD <Eric.Rosenbach@sd.mil>; Smith, Eric BGen SD <eric.smith@sd.mil>;Cook, Peter C SES (US) <peter.c.cook9.civ@mail. mil>; Foster, Beth CIV SD <Elizabeth.Foster@sd.mil	Deliberative email discussion between DoD personnel regarding media coverage of the Transgender Policy development	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00108913	PrivWithhold00 007644	PrivWithhold 00007649	7/11/2016	Ives, Kathleen H (Kate) CIV WHS ESD (US) <kathleen.h.ives civ@mail.mil>	Bozek, Andrew S CIV WHS ESD (US) <andrew.s.bozek civ@mail.mil>; Carlisle, Heather LTC SD <Heather.Carlisle@sd.mil >; Graber, Douglas CDR SD <Douglas.Graber@sd.mil> >; Cooley, Dan LtCol SD <Charles.Cooley@sd.mil>; Charette, Todd J CIV OSD OUSD P-R (US) <todd.j.charette.civ@mail.mil>; Quehl, Eric LtCol SD <Eric.Quehl@sd.mil>; Dannemiller, Robert J Jr CIV OSD OUSD P-R (US) <robert.j.dannemiller civ@mail.mil>	RE_ Clearance of _DTM Military Service of Transgender Service Members_ (DOPSR Case 16-D- 0107).msg	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00109024	PrivWithhold00 007650	PrivWithhold 00007654	7/8/2016	Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@mail.mil>	Pahon, Eric J CIV OSD PA (US) <eric.j.pahon.civ@mail.mil>; Delaune, Jules M CIV OSD OUSD P-R (US) <jules.m.delaune.civ@mail.mil>; Carroll, Katherine SES SD <Katherine.Carroll@sd.mil >; Barna, Stephanie A SES OSD OUSD P-R (US) <stephanie.a.barna.civ@mail.mil>; Guice, Karen S SES (US) <karen.s.guice2.civ@mail.mil>; Smith, Jack W CIV OSD HA (US) <jack.w.smith2.civ@mail.mil>; Foster, Beth CIV SD <Elizabeth.Foster@sd.mil >; MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@mail.mil>; Hebert, Lernes J SES OSD OUSD P-R (US) <lernes.j.hebert civ@mail.mil>	Deliberative email conversation between DoD personnel regarding the development of responses to Secretary of Defense questions and answers	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy
DoD00109587	PrivWithhold00 007655	PrivWithhold 00007655	6/30/2016	Foster, Beth CIV SD <Elizabeth.Foster@sd.mil>	Quehl, Eric LtCol SD <Eric.Quehl@sd.mil>;Cool ey, Dan LtCol SD <Charles.Cooley@sd.mil>	Deliberative email regarding the staffing of several discussion papers as they are moving through the staffing process.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00109897	PrivWithhold00 007656	PrivWithhold 00007656	6/29/2016	Carroll, Katherine SES SD <Katherine.Carroll@sd.mil>	O'Connor, Jennifer M HON OSD OGC (US) <jennifer.m.oconnor11.civ@mail.mil>	FW_ Final DoDI.msg	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00109918	PrivWithhold00 007657	PrivWithhold 00007662	6/29/2016	Aaron Sherman		Doc of TG Remarks Outline Draft docx to announce Carter policy	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy

In Camera Production Privilege Log
7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00110030	PrivWithhold00 007663	PrivWithhold 00007667	6/28/2016	Aaron Sherman		Doc of TG Remarks Outline Draft dox to announce Carter policy	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00110070	PrivWithhold00 007668	PrivWithhold 00007669	6/28/2016	Barna, Stephanie A SES OSD OUSD P-R (US) <stephanie.a.barna.civ@mail.mil>	Carroll, Katherine SES SD <Katherine.Carroll@sd.mil>; >; Levine, Peter K HON (US) <peter.k.levine.civ@mail.mil>; >; Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@mail.mil>; >; Guice, Karen S SES (US) <karen.s.guice2.civ@mail.mil>; >; Myles, Robert W Jr COL USARMY (US) <robert.w.myles.mil@mail.mil>; >; Jackson, Robert J Lt Col USAF OSD OUSD P-R (US) <robert.j.jackson13.mil@mail.mil>; >; Foster, Beth CIV SD <Elizabeth.Foster@sd.mil>; >; Raymond, Lacey CIV SD <Lacey.Raymond@sd.mil>; >; O'Connor, Jennifer M HON OSD OGC (US) <jennifer.m.oconnor11.civ@mail.mil>	Draft document with questions from SECDEF Carter with draft answers regarding transgender policy.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy
DoD00110081	PrivWithhold00 007670	PrivWithhold 00007675	6/28/2016	Aaron Sherman		Doc of TG Remarks Outline Draft dox to announce Carter policy	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00110604	PrivWithhold00 007676	PrivWithhold 00007676	6/22/2016	Evans, Alexandra CIV SD <Alexandra.Evans@sd.mil>	Raymond, Lacey CIV SD <Lacey.Raymond@sd.mil>	RE: DSD's call with HHS DepSec Wakefield	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00110725	PrivWithhold00 007677	PrivWithhold 00007679	6/21/2016	Carroll, Katherine SES SD <Katherine.Carroll@sd.mil>	Raymond, Lacey CIV SD <Lacey.Raymond@sd.mil>; >; Foster, Beth CIV SD <Elizabeth.Foster@sd.mil>	Email discussion of transgender media coverage and rollout.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00111484	PrivWithhold00 007680	PrivWithhold 00007681	6/5/2016	Carroll, Katherine SES SD <Katherine.Carroll@sd.mil>	Barna, Stephanie A SES OSD OUSD P-R (US) <stephanie.a.barna.civ@mail.mil>; >; Foster, Beth CIV SD <Elizabeth.Foster@sd.mil>; >; Levine, Peter K HON (US) <peter.k.levine.civ@mail.mil>	Email Re_ DRAFT SD FoTF Implementation Memo .msg	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00111596	PrivWithhold00 007682	PrivWithhold 00007683	6/3/2016	Carroll, Katherine SES SD		Deliberative talking about regarding the rollout of the Transgender Policy across the	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy

In Camera Production Privilege Log
7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00112485	PrivWithhold00 007684	PrivWithhold 00007687	5/15/2016	Cook, Peter C SES (US) <peter.c.cook9.civ@mail.mil>	Carroll, Katherine SES SD <Katherine.Carroll@sd.mil> >Foster, Beth CIV SD <Elizabeth.Foster@sd.mil> >; Rosenbach, Eric HON SD <Eric.Rosenbach@sd.mil>; Smith, Eric BGen SD <eric.smith@sd.mil>; Chadda, Nitin CIV SD <Nitin.Chadda@sd.mil>; Hermes, Gabrielle M LtCol USMC OSD PA (US) <gabrielle.m.hermes.mil@mail.mil>; Levine, Peter K HON (US) <peter.k.levine.civ@mail.mil>; Raymond, Lacey CIV SD	Email with subject line "Re_ Rand Study_NYT." Contains deliberations concerning how to respond to press.	DP - Deliberative Process	Deliberations regarding communications with the press concerning transgender policy
DoD00112580	PrivWithhold00 007688	PrivWithhold 00007690	5/12/2016	Guice, Karen S SES (US) <karen.s.guice2.civ@mail.mil>	Raymond, Lacey CIV SD <Lacey.Raymond@sd.mil>	RE_ Medical questions re_TG .msg	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy
DoD00112622	PrivWithhold00 007691	PrivWithhold 00007695	5/12/2016	Foster, Elizabeth CIV SD		Doc of UPDATE MEMO 5.13_bf edits docx	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy
DoD00116993	PrivWithhold00 007696	PrivWithhold 00007698	1/17/2017	Bajraktari, Ylber CIV SD	Baker, Sasha CIV SD <Alexandra.Baker@sd.mil> >; Bajraktari, Yll CIV SD <Yll.Bajraktari@sd.mil>; Blume, Susanna CIV SD <Susanna.Blume@sd.mil> >; Raymond, Lacey CIV SD <Lacey.Raymond@sd.mil> >; Foster, Beth CIV SD <Elizabeth.Foster@sd.mil> >; Carroll, Katherine SES SD <Katherine.Carroll@sd.mil> >; Chadda, Nitin CIV SD <Nitin.Chadda@sd.mil>; Hedger, Stephen HON SD <Stephen.Hedger@sd.mil> >; Rosenbach, Eric HON SD <Eric.Rosenbach@sd.mil>; Sine, Jack L Col USAF OSD OASD LA (US) <jack.l.sine.mil@mail.mil> >; Folliard, Daniel E CIV OSD OSD (US)	Circulating draft document containing material relevant to transgender policy	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy
DoD00116997	PrivWithhold00 007699	PrivWithhold 00007700	1/13/2017	Bajraktari, Yll CIV SD	Hedger, Stephen HON SD <Stephen.Hedger@sd.mil> >Blume, Susanna CIV SD <Susanna.Blume@sd.mil> >; Farris, Ryan CDR SD <Ryan.Farris@sd.mil>	Email conversation regarding DepSecDef attendance at a transgender policy briefing	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00117019	PrivWithhold00 007701	PrivWithhold 00007719	12/7/2016	Peter Cook		Document containing memo written at end of Obama administration discussing accomplishments of administration including transgender policy.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00117233	PrivWithhold00 007720	PrivWithhold 00007723	12/13/2016	Raymond, Lacey CIV SD	Jackson, Robert J Lt Col USAF OSD OUSD P-R (US) <robert.j.jackson13.mil@mail.mil>	Email regarding a READ-AHEAD: Transgender Update for the Deputy Secretary of Defense	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00117235	PrivWithhold00 007724	PrivWithhold 00007724	12/13/2016	Robert Jackson		DepSecDef Talking Points - Transgender implementation plan.docx	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00117409	PrivWithhold00 007725	PrivWithhold 00007775	8/17/2016	Gearhart, Lee P COL USARMY OSD OUSD P-R (US)		Draft transgender policy guidance Handbook of Carter policy	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00117435	PrivWithhold00 007776	PrivWithhold 00007776	7/21/2016	Soper, Martha P CIV USAF SAF-MR (US) <martha.p.soper.civ@mail.mil>	Gearhart, Lee P COL USARMY OSD OUSD P-R (US) <lee.p.gearhart.mil@mail.mil>	Deliberative email between DoD personnel discussing TG Training Materials	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00117446	PrivWithhold00 007777	PrivWithhold 00007779	11/3/2016	Julian, David A CIV OSD OUSD P-R (US) <david.a.julian.civ@mail.mil>	Gearhart, Lee P COL USARMY OSD OUSD P-R (US) <lee.p.gearhart.mil@mail.mil>Wellman, Aaron CLTC USARMY OSD OUSD P-R (US) <aaron.c.wellman.mil@mail.mil>	Email between DoD personnel discussing transgender medical issue.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00117461	PrivWithhold00 007780	PrivWithhold 00007784	10/25/2016	MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@mail.mil>	Gearhart, Lee P COL USARMY OSD OUSD P-R (US) <lee.p.gearhart.mil@mail.mil>	Discussions between attorneys and senior policymakers regarding impacts of transgender policy in DoD schools and unique overseas environments	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00117552	PrivWithhold00 007785	PrivWithhold 00007786	7/25/2016	Brown, Gary W LTC USARMY OSD OUSD P-R (US) <gary.w.brown.mil@mail.mil>	Wellman, Aaron CLTC USARMY OSD OUSD P-R (US) <aaron.c.wellman.mil@mail.mil>Gearhart, Lee P COL USARMY OSD OUSD P-R (US) <lee.p.gearhart.mil@mail.mil>	Deliberative email between DoD personnel regarding weekly TG Q&A Roll-Up.msg	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy

In Camera Production Privilege Log
7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00117750	PrivWithhold00 007787	PrivWithhold 00007787	9/23/2016	Hebert, Lernes J SES OSD OUSD P-R (US) <lernes.j.hebert.civ@mail.mil>	MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@mail.mil>; Gearhart, Lee P COL USARMY OSD OUSD P-R (US) <lee.p.gearhart.mil@mail.mil>; Arendt, Christopher P CIV OSD OUSD P-R (US) <christopher.p.arendt.civ@mail.mil>Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@m	Email between DoD personnel discussing edits to a transgender policy talking paper	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00117795	PrivWithhold00 007788	PrivWithhold 00007788	8/23/2016	Soper, Martha P CIV USAF SAF-MR (US) <martha.p.soper.civ@mail.mil>	Gearhart, Lee P COL USARMY OSD OUSD P-R (US) <lee.p.gearhart.mil@mail.mil>	Deliberative email conversation regarding exceptions to policy templates to the transgender policy	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00117840	PrivWithhold00 007789	PrivWithhold 00007789	10/14/2016	Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@mail.mil>	Gearhart, Lee P COL USARMY OSD OUSD P-R (US) <lee.p.gearhart.mil@mail.mil>MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@mail.mil>; Sims, Pettis N LCDR USN OSD OUSD P-R (US) <pettis.n.sims.mil@mail.mil>	Email re: Deliberative email conversation between DoD personnel regarding Draft TG Training policy with service inputs	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00117876	PrivWithhold00 007790	PrivWithhold 00007793	8/5/2016	MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@mail.mil>	Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@mail.mil>Gearhart, Lee P COL USARMY OSD OUSD P-R (US) <lee.p.gearhart.mil@mail.mil>; Bentz, Kevin R MAJ USARMY OSD OUSD P-R (US) <kevin.r.bentz.mil@mail.mil>; Wellman, Aaron C LTC USARMY OSD OUSD P-R (US) <aaron.c.wellman.mil@mail.mil>; Delaune, Jules M CIV OSD OUSD P-R (US) <jules.m.delaune.civ@mail.mil>; Arendt, Christopher P CIV OSD OUSD P-R (US) <christopher.p.arendt.civ	Email RE: TG Accession Guidance to recruiting.msg	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy

In Camera Production Privilege Log
7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00117939	PrivWithhold00 007794	PrivWithhold 00007796	10/20/2016	Nannette Howard, AF/AIDLT		Document titled Air Force Transgender In-Service Education and Training Plan. Contains plans for training on the transgender policy.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00118092	PrivWithhold00 007797	PrivWithhold 00007868	9/29/2016	Department of Defense		Draft copy of handbook titled "Transgender Service in the U.S. Military: An Implementation Handbook." Labeled "Version 26" and "Not for Distribution // Draft Deliberative Document." Contains draft deliberations concerning how commanders can implement DoD's policy.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00118103	PrivWithhold00 007869	PrivWithhold 00007940	9/27/2016	Department of Defense		Draft copy of transgender handbook for commanders. Labeled "Draft Deliberative Document." Version 25 of the draft. Contains draft deliberations concerning how commanders can implement DoD's policy.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00118162	PrivWithhold00 007941	PrivWithhold 00007944	9/20/2016	Rosenfeld, Paul CIV DODHRA DMDC (US) <paul.rosenfeld.civ@mail.mil>	<maura.r.taylor.ctr@mail.mil>Gearhart, Lee P COL USARMY OSD OUSD P-R (US) <lee.p.gearhart.mil@mail.mil>; Simmons, Robert O CIV USARMY HQDA ARI (US) <robert.o.simmons2.civ@mail.mil>; Randolph, Jacquelyn S CIV USARMY HQDA ARI (US) <jacquelyn.s.randolph.civ@mail.mil>; Thompson, Nicole J CIV USARMY HQDA ARI (US) <nicole.j.thompson14.civ@mail.mil>; Rosenfeld, Paul CIV DODHRA DMDC (US) <paul.rosenfeld.civ@mail.mil>; McGrath, David E CIV DODHRA DMDC (US) <david.e.mcgrath.civ@mail.mil>; Williams, Kristin H CIV DODHRA DMDC (US) <kristin.h.williams2.civ@mail.mil>; Rosenfeld, Paul	E Mail re: DoDI 1300.28 Query for Future Efforts on Researching Warfighter Readiness (UNCLASSIFIED).msg	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy

No. 17-cv-1297
In Camera Production Privilege Log

7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00118203	PrivWithhold00 007945	PrivWithhold 00007946	8/4/2016	Rosenfeld, Paul CIV DODHRA DMDC (US) <paul.rosenfeld.civ@mail.mil>	USARMY OSD OUSD P-R (US) <lee.p.gearhart.mil@mail.mil>DiNicolantonio, Michael T CTR DODHRA (US) <michael.t.dinicolantonio.ctr@mail.mil>; Williams, Kristin H CIV DODHRA DMDC (US) <kristin.h.williams2.civ@mail.mil>; Van Winkle, Elizabeth P CIV DODHRA DMDC (US) <elizabeth.p.vanwinkle.civ@mail.mil>; Wellock, Stephen M CIV DODHRA DMDC (US) <stephen.m.wellock.civ@mail.mil>; MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@mail.mil>; Rosenfeld, Paul CIV DODHRA DMDC (US) <paul.rosenfeld.civ@mail.mil>; McGrath, David E CIV DODHRA DMDC (US)	Email re: Transgender Ques Bank UPR002216-16.msg	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00118902	PrivWithhold00 007947	PrivWithhold 00007948	1/17/2018	Ciminera, Paul, CIV, DHA		Doc of AMSWG_ADHD_AnxietyBackground_PC.docx information	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00118963	PrivWithhold00 007949	PrivWithhold 00008009	11/30/2015	Rachael DeNale		DoDI 6130.03_Draft 2015.12.9.2015 tracked changes docx	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy

In Camera Production Privilege Log

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00119177	PrivWithhold00 008010	PrivWithhold 00008013	5/15/2017	Mullen, Lawrence E CIV DHA DIR SUPPORT (US) <lawrence.e.mullen.civ@mail.mil>	HA (US) <edmund.m.chan.civ@mail.mil>; Brown, Gary W LTC USARMY OSD OUSD P-R (US) <gary.w.brown.mil@mail.mil>Klimkowski, Paul Edward CDR USN BUMED FCH VA (US) <paul.e.klimkowski.mil@mail.mil>; Minarcik, Allison H CIV (US) <allison.h.minarcik.civ@mail.mil>; Miller, David C Lt Col USAF AFMSA (US) <david.c.miller8.mil@mail.mil>; Page, Neil E COL USARMY HQDA OTSG (US) <neil.e.page.mil@mail.mil>; Kemp, David S CAPT USN OSD USMEPCOM (US) <david.s.kemp.mil@mail.mil>; Teneza, Brigilda C COL USARMY OSD USMEPCOM (US) <brigilda.c.teneza.mil@mail.mil>; Donahue, Patrick	Email between DoD personnel discussing changes to DoD transgender medical policy and possible rereview of the policy	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00119437	PrivWithhold00 008014	PrivWithhold 00008016	3/7/2017	David J. Smith, M.D., Performing the Duties of the Assistant Secretary of Defense for Health Affairs		Info Memo with the subject "Department of Defense 6130.03, "Medical Standards for Appointment, Enlistment, or Induction in the Military Services" Status Update and Way Forward." Contains deliberative discussions concerning transgender policy and DoD Instruction 6130.03 and recommendations for next steps.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00119457	PrivWithhold00 008017	PrivWithhold 00008018	2/24/2017	Chan, Edmund, CIV, OASD/HA		Document discussing background on the DoDI 6130 03 and includes recommended next steps.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy

No. 17-cv-1297
In Camera Production Privilege Log
7/1/2020

DOCID	Begin Dates	End Dates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00119530	PrivWithhold00 008019	PrivWithhold 00008024	1/19/2017	Cerny CIV Kerry A <kerry.cerny@usmc.mil>	DHA DIR SUPPORT (US) <lawrence.e.mullen.civ@mail.mil>; Brown, Gary W LTC USARMY OSD OUSD P-R (US) <gary.w.brown.mil@mail.mil>; Chan, Edmund M CIV OSD HA (US) <edmund.m.chan.civ@mail.mil>; Teneza, Brigilda C COL USARMY OSD USMEPCOM (US) <brigilda.c.teneza@mail.mil>; Nakamura, Jason M LTC USARMY OSD USMEPCOM (US) <jason.m.nakamura@mail.mil>; Pearce, Teresa D MAJ USARMY (US) <teresa.d.pearce@mail.mil>; Pelzner, Michael A (Mike) COL USARMY HQDA OTSG (US) <michael.a.pelzner@mail.mil>; Miller, David C Lt Col USAF AFMSA (US) <david.c.miller8@mail.mil>; Klimkowski, Paul	Email between DoD personnel discussing the Accession Medical Standards Working Group meeting and review process.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy
DoD00119605	PrivWithhold00 008025	PrivWithhold 00008026	12/19/2016	Graham, Elizabeth A CTR OSD HA (US) <elizabeth.a.graham50.ctr@mail.mil>	Chan, Edmund M CIV OSD HA (US) <edmund.m.chan.civ@mail.mil>	Email between DoD personnel discussing issuances spreadsheet.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00119856	PrivWithhold00 008027	PrivWithhold 00008040	2/23/2017	Nathalie Holberg		DoDI 6130.03 Army Final SD 818 docx	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00120101	PrivWithhold00 008041	PrivWithhold 00008053	2/24/2017	Nathalie Holberg		Deliberative discussions concerning transgender policy and DoD Instruction 6130 03	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy
DoD00120186	PrivWithhold00 008054	PrivWithhold 00008054	4/19/2017	Doan, Paul, CIV, DHA		Deliberative discussions re: transgender medical policy and stability in preferred gender and reqts of medical provider	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00120662	PrivWithhold00 008055	PrivWithhold 00008058	3/26/2018	Kline, Dana F CIV OSD OUSD P-R (US) <dana.f.kline.civ@mail.mil>	Ribeiro, Elizabeth M CTR OSD HA (US) <elizabeth.m.ribeiro.ctr@mail.mil>	Deliberations regarding implementation of transgender accessions policy and coordination of new policy	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00120855	PrivWithhold00 008059	PrivWithhold 00008077	10/31/2014	Smith, Jack, Dr., OASD(HA)		Slides showing efforts of Informatics office including transgender.	DP - Deliberative Process	Deliberations regarding the rescission of the transgender policy

No. 17-cv-1297
In Camera Production Privilege Log

7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00121158	PrivWithhold00 008078	PrivWithhold 00008078	4/14/2014	DHA		Excel file titled "MHS Issuances & Publications Dashboard - JANUARY 2017 (results of DECEMBER 2016 data call)." Contains deliberations regarding timelines for transgender policy and other regulatory changes.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00121436	PrivWithhold00 008079	PrivWithhold 00008131	7/10/2017	Rachael DeNale		Draft DODI 6130.03 titled "MEDICAL STANDARDS FOR APPOINTMENT, ENLISTMENT, OR INDUCTION IN THE MILITARY SERVICES." Contains track changes with recommended edits.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00121505	PrivWithhold00 008132	PrivWithhold 00008132	4/11/2017	Ribeiro, Elizabeth M CTR OSD HA (US)	Chan, Edmund M CIV OSD HA (US) <edmund.m.chan.civ@ma il.mil>	Email between DoD personnel answering a transgender legal research question.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy
DoD00121530	PrivWithhold00 008133	PrivWithhold 00008135	3/30/2017	Ribeiro, Elizabeth M CTR OSD HA (US)	Adirim, Terry A SES OSD HA (US) <terry.a.adirim.civ@mail. mil>; Chan, Edmund M CIV OSD HA (US) <edmund.m.chan.civ@ma il.mil>; Brown, Gary W LTC USARMY OSD OUSD P-R (US) <gary.w.brown.mil@mail. mil>	Discussion between agency personnel discussing leadership feedback on proposed transgender policy implementation	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00121552	PrivWithhold00 008136	PrivWithhold 00008137	2/24/2017	Ribeiro, Elizabeth M CTR OSD HA (US)	Graham, Elizabeth A CTR OSD HA (US) <elizabeth.a.graham50 ctr @mail.mil>; Chan, Edmund M CIV OSD HA (US) <edmund.m.chan.civ@ma il.mil>	Deliberative discussions concerning transgender policy and DoD Instruction 6130 03	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00121596	PrivWithhold00 008138	PrivWithhold 00008191	9/19/2016	Rachael DeNale		Doc of TAB A_DoDI 6130.03_2016.9.19 doc	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00121617	PrivWithhold00 008192	PrivWithhold 00008244	8/22/2016	Rachael DeNale		Doc of TAB A_DoDI 6130.03_2016.8.1_HRPO comments.doc	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy
DoD00121624	PrivWithhold00 008245	PrivWithhold 00008245	4/14/2014	DHA		Excel file titled "MHS Issuances & Publications Dashboard - Results of AUGUST 2016 Data Call." Contains deliberations regarding timelines for transgender policy and other regulatory changes.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00121637	PrivWithhold00 008246	PrivWithhold 00008247	8/1/2016	Ribeiro, Elizabeth M CTR OSD HA (US)	Delaune, Jules M CIV OSD OUSD P-R (US) <jules.m.delaune.civ@mai l.mil>	Email RE: Internal Coordination Package for DoDI 6130.03.msg	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00121655	PrivWithhold00 008248	PrivWithhold 00008258	7/18/2016	Nathalie Lawrence		Document containing issuance comments for Guidance for Treatment of Gender Dysphoria for Active Duty Service Members.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy

In Camera Production Privilege Log
7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00122253	PrivWithhold00 008259	PrivWithhold 00008259	3/15/2018	D'Costa, Agatha, LCDR, DHA		Doc of Medical waiver request for a specific service member.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy
DoD00122456	PrivWithhold00 008260	PrivWithhold 00008260	2/22/2018	Findley, Andrew L Jr CIV (US) <andrew.l.findley.civ@mail.mil>	Adirim, Terry A SES OSD HA (US) <terry.a.adirim.civ@mail.mil>Brown, Gary W LTC USARMY OSD OUSD P-R (US) <gary.w.brown.mil@mail.mil>; Demartino, Robert E CAPT USPHS (US) <robert.e.demartino.mil@mail.mil>	E-mail between DoD personnel regarding study in light of current transgender policy announcements.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy
DoD00122772	PrivWithhold00 008261	PrivWithhold 00008261	1/19/2018	Demartino, Robert E CAPT USPHS (US) <robert.e.demartino.mil@mail.mil>	Adirim, Terry A SES OSD HA (US) <terry.a.adirim.civ@mail.mil>	Email between DoD personnel discussing medical research on transgender policy.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy
DoD00122773	PrivWithhold00 008262	PrivWithhold 00008265	1/19/2018	Colston, Michael J CAPT OASD(HA)/TMA		Document containing analysis of research material.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy
DoD00123121	PrivWithhold00 008266	PrivWithhold 00008266	11/29/2017	Klein, David A Lt Col USAF USARMY MEDCOM (US) <david.a.klein26.mil@mail.mil>	Adirim, Terry A SES OSD HA (US) <terry.a.adirim.civ@mail.mil>	email re: clinical experience treating transgender individuals in the Army	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; email conversation regarding deployability based on hormone therapy during transition
DoD00123249	PrivWithhold00 008267	PrivWithhold 00008275	11/20/2017	Robinson-Haley, Patrice D CIV OSD OUSD P-R (US) <patrice.d.robinson-haley.civ@mail.mil>	Adirim, Terry A SES OSD HA (US) <terry.a.adirim.civ@mail.mil>Demartino, Robert E CAPT USPHS (US) <robert.e.demartino.mil@mail.mil>; Rauch, Terry M CIV OSD HA (US) <terry.m.rauch.civ@mail.mil>	Email with subject "Re: Update on my UPR004797-17: Request Approval to Include Sexual Orientation Question on Survey." Email chain was between DoD personnel regarding the questions to ask on a survey.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy
DoD00123272	PrivWithhold00 008276	PrivWithhold 00008277	11/17/2017	Breen, Richard H Jr CIV (US) <richard.h.breen.civ@mail.mil>	Adirim, Terry A SES OSD HA (US) <terry.a.adirim.civ@mail.mil>	email regarding the DoD response to the media at an event at Walter Reed that involved a gender transition surgery.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00124469	PrivWithhold00 008278	PrivWithhold 00008280	9/5/2017	Clark, Jeffrey B MG USARMY DHA HEALTH OPNS (US) <jeffrey.b.clark4.mil@mail.mil>	Adirim, Terry A SES OSD HA (US) <terry.a.adirim.civ@mail.mil>Anderson, Jacqueline R LCDR USN WRNMMC BETHESDA MD (US) <jacqueline.r.anderson2.mil@mail.mil>	email regarding memo to DHA regarding current transgender policies and surgical care.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00124517	PrivWithhold00 008281	PrivWithhold 00008332	7/28/2017	Rachael DeNale		Deliberative discussions concerning transgender policy and DoD Instruction 6130 03	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy

In Camera Production Privilege Log
7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00124536	PrivWithhold00 008333	PrivWithhold 00008335	8/25/2017	Dwyer, Kevin J CIV DHA CMD GRP (US) <kevin.j.dwyer10.civ@mail.mil>	Adirim, Terry A SES OSD HA (US) <terry.a.adirim.civ@mail.mil> Graves, Peter J CTR DHA CMD GRP (US) <peter.j.graves10.ctr@mail.mil>; Kogan, Mark S CTR (US) <mark.s.kogan.ctr@mail.mil>	Email between DoD personnel discussing transgender media query.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00124558	PrivWithhold00 008336	PrivWithhold 00008336	8/18/2017	Ortel, Jesse K COL USARMY OSD OUSD P-R (US) <jesse.k.ortel.mil@mail.mil>	Adirim, Terry A SES OSD HA (US) <terry.a.adirim.civ@mail.mil> Askins, Kishla A LCDR USN OSD HA (US) <kishla.a.askins.mil@mail.mil>	Email between DoD personnel discussing briefing of TG policy to new Dept senior leaders	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00124624	PrivWithhold00 008337	PrivWithhold 00008339	8/9/2017	Findley, Andrew L Jr CIV (US) <andrew.l.findley.civ@mail.mil>	Fraine, Melissa C CTR DHA HEALTH OPNS (US) <melissa.c.fraine.ctr@mail.mil>; Adirim, Terry A SES OSD HA (US) <terry.a.adirim.civ@mail.mil> Davison, John W III CIV (US) <john.w.davison2.civ@mail.mil>; Doan, Paul S CIV DHA HEALTH OPNS (US) <paul.s.doan.civ@mail.mil>	Deliberative email conversation between DoD personnel regarding a question on a gender dysphoria diagnosis	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00124688	PrivWithhold00 008340	PrivWithhold 00008340	8/2/2017	Findley, Andrew L Jr CIV (US) <andrew.l.findley.civ@mail.mil>	Brown, Gary W LTC USARMY OSD OUSD P-R (US) <gary.w.brown.mil@mail.mil> Adirim, Terry A SES OSD HA (US) <terry.a.adirim.civ@mail.mil>	internal deliberations on the DoD interim transgender policy guidelines	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00124747	PrivWithhold00 008341	PrivWithhold 00008341	7/27/2017	Findley, Andrew L Jr CIV (US) <andrew.l.findley.civ@mail.mil>	Adirim, Terry A SES OSD HA (US) <terry.a.adirim.civ@mail.mil>	Email re: Deliberative discussions concerning transgender policy and impact of POTUS tweet	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy
DoD00124898	PrivWithhold00 008342	PrivWithhold 00008344	7/11/2017	Findley, Andrew L Jr CIV (US) <andrew.l.findley.civ@mail.mil>	Adirim, Terry A SES OSD HA (US) <terry.a.adirim.civ@mail.mil>	Email between DoD personnel providing medical input to transgender accessions policy discussions.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00124924	PrivWithhold00 008345	PrivWithhold 00008357	7/12/2017	Defense Healthcare Management Systems Program Executive Office		Draft slides: Defense Healthcare Management Systems Senior Military Medical Action Council. Labeled "FOIA Exemption 5 (Pre-decisional/deliberative)."	DP - Deliberative Process	Deliberations regarding Defense Healthcare Management Systems priorities

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00124925	PrivWithhold00 008358	PrivWithhold 00008360	7/8/2017	Smith, David J SES OSD OUSD P-R (US) <david.j.smith152.civ@mail.mil>	Gearhart, Lee P COL USARMY OSD OUSD P-R (US) <lee.p.gearhart.mil@mail.mil>Adirim, Terry A SES OSD HA (US) <terry.a.adirim.civ@mail.mil>	Email between DoD personnel involving updates to transgender policy slides to update new senior officials on TG policy	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00124935	PrivWithhold00 008361	PrivWithhold 00008361	7/6/2017	Gearhart, Lee P COL USARMY OSD OUSD P-R (US) <lee.p.gearhart.mil@mail.mil>	Adirim, Terry A SES OSD HA (US) <terry.a.adirim.civ@mail.mil>Smith, David J SES OSD OUSD P-R (US) <david.j.smith152.civ@mail.mil>; Findley, Andrew L Jr CIV (US) <andrew.l.findley.civ@mail.mil>	Email between DoD personnel discussing revisions to document.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00125043	PrivWithhold00 008362	PrivWithhold 00008414	4/19/2017	Rachael DeNale		Draft and undated red-line version of DoD Instruction 6130 03 which includes comments in the margins	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00125208	PrivWithhold00 008415	PrivWithhold 00008415	6/8/2017	D'Costa, Agatha, LCDR, DHA		Draft slides, draft info paper, and discussion.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00125250	PrivWithhold00 008416	PrivWithhold 00008416	6/7/2017	Smith, David J SES OSD OUSD P-R (US) <david.j.smith152.civ@mail.mil>	Findley, Andrew L Jr CIV (US) <andrew.l.findley.civ@mail.mil>Adirim, Terry A SES OSD HA (US) <terry.a.adirim.civ@mail.mil>	Email between DoD personnel discussing transgender medical studies.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00125271	PrivWithhold00 008417	PrivWithhold 00008417	6/2/2017	Patel, Mili K CTR OSD OSD (US) <mili.k.patel.ctr@mail.mil>	Adirim, Terry A SES OSD HA (US) <terry.a.adirim.civ@mail.mil>	Email summary of the ongoing efforts to develop different policies, including accession medical standards involving transgender service members	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00125304	PrivWithhold00 008418	PrivWithhold 00008421	5/26/2017	Findley, Andrew L Jr CIV (US) <andrew.l.findley.civ@mail.mil>	Adirim, Terry A SES OSD HA (US) <terry.a.adirim.civ@mail.mil>; Speight, Cynthia P CIV DHA CMD GRP (US) <cynthia.p.speight.civ@mail.mil>DHA NCR Prog Integ List PI List <dha.ncr.prog-integ.list.pilist@mail.mil>; Fells, Quintin F CTR DHA CONTRACTING (US) <quintin.f.fells.ctr@mail.mil>	Email chain regarding policy issues relating to surgical and medical treatment of transgender individuals	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy

In Camera Production Privilege Log
7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00125306	PrivWithhold00 008422	PrivWithhold 00008424	5/26/2017	Findley, Andrew L Jr CIV (US) <andrew.l.findley civ@mail.mil>	Adirim, Terry A SES OSD HA (US) <terry.a.adirim.civ@mail.mil>; Speight, Cynthia P CIV DHA CMD GRP (US) <cynthia.p.speight civ@mail.mil>DHA NCR Prog Integ List PI List <dha.ncr.prog-integ.list.pi-list@mail.mil>; Fells, Quintin F CTR DHA CONTRACTING (US) <quintin.f.fells.ctr@mail.mil>	Email chain regarding policy issues relating to treatment of transgender individuals	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00125349	PrivWithhold00 008425	PrivWithhold 00008425	5/19/2017	Findley, Andrew L Jr CIV (US) <andrew.l.findley civ@mail.mil>	Doyle, Andrew E COL USARMY HQDA OTSG (US) <andrew.e.doyle.mil@mail.mil>; Clark, Max A II CDR USN BUMED FCH VA (US) <max.a.clark.mil@mail.mil>; Cheatham, Thomas N Col USAF AFMSA (US) <thomas.n.cheatham2.mil@mail.mil>Doan, Paul S CIV DHA HEALTH OPNS (US) <paul.s.doan civ@mail.mil>; Bienia, Krystyna M CTR DHA (US) <krystyna.m.bienia.ctr@mail.mil>; Adirim, Terry A SES OSD HA (US) <terry.a.adirim.civ@mail.mil>; Fraine, Melissa C CTR DHA HEALTH OPNS (US) <melissa.c.fraine.ctr@mail.mil>	Email chain regarding policy issues surrounding treatment of non-service member transgender individuals	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00125409	PrivWithhold00 008426	PrivWithhold 00008427	5/3/2017	Rychalski, Jon J SES (US) <jon.j.rychalski.civ@mail.mil>	Adirim, Terry A SES OSD HA (US) <terry.a.adirim.civ@mail.mil>	Email chain discussing developments in policies regarding service of transgender individuals	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy
DoD00125595	PrivWithhold00 008428	PrivWithhold 00008430	3/7/2017	David J. Smith, M.D., Performing the Duties of the Assistant Secretary of Defense for Health Affairs		Info Memo with the subject "Department of Defense 6130.03, "Medical Standards for Appointment, Enlistment, or Induction in the Military Services" Status Update and Way Forward." Contains deliberative discussions concerning transgender policy and DoD Instruction 6130.03 and recommendations for next steps.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00125599	PrivWithhold00 008431	PrivWithhold 00008440	3/4/2017	Sine, Jack L Col USAF OSD OASD LA (US)		Document containing a list of questions from congress including transgender questions.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy

7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00125606	PrivWithhold00 008441	PrivWithhold 00008442	3/3/2017	Findley, Andrew L Jr CIV (US) <andrew.l.findley.civ@mail.mil>	Adirim, Terry A SES OSD HA (US) <terry.a.adirim.civ@mail.mil>	Email conversation regarding number of transgender service members on active duty.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00125685	PrivWithhold00 008443	PrivWithhold 00008446	2/15/2017	Lauren Olmsted		Meeting notes from the Policy Advisory Council with Tg discussion	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy
DoD00125784	PrivWithhold00 008447	PrivWithhold 00008447	10/16/2013	Carnemark, Karla, CTR, OASD(HA)/TMA		Materials relating to Medical Deputies Action Group meeting.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00125788	PrivWithhold00 008448	PrivWithhold 00008450	1/25/2017	Stockdale, Timothy R CIV DHA (US) <timothy.r.stockdale.civ@mail.mil>	DHA CS MGT (US) <nicole.c.creecy.ctr@mail.mil>; Minnier, Matthew C CIV DHA DHA CS MGT (US) <matthew.c.minnier.civ@mail.mil>; Oliver, Antoine D CTR DHA PROG MGT SUP (US) <antoine.d.oliver3.ctr@mail.mil>; Mohan, Nikitha A CTR (US) <nikitha.a.mohan.ctr@mail.mil>; Rychalski, Jon J SES (US) <jon.j.rychalski.civ@mail.mil>; Smith, David J SES OSD OUSD P-R (US) <david.j.smith152.civ@mail.mil>; Adirim, Terry A SES OSD HA (US) <terry.a.adirim.civ@mail.mil>; Golden, Kerrie J COL USARMY OSD OUSD P-R (US) <kerrie.j.golden.mil@mail.mil>; Clark, Tilford L LCDR USN OSD HA (US) <tilford.l.clark.mil@mail.mil>	Email re: DHSA memo on guidance of medical care and TG active duty service members	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00125936	PrivWithhold00 008451	PrivWithhold 00008455	12/9/2016	Stanek, Scott, COL, OASD(HA)		Draft document containing overview of policy efforts including transgender.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy
DoD00125981	PrivWithhold00 008456	PrivWithhold 00008459	12/6/2016	Findley, Andrew L Jr CIV (US) <andrew.l.findley.civ@mail.mil>	Adirim, Terry A SES OSD HA (US) <terry.a.adirim.civ@mail.mil>; Smith, Jack W CIV OSD HA (US) <jack.w.smith2.civ@mail.mil>	Email between DoD personnel circulating and discussing transgender info paper on GD and Active duty service members	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy

In Camera Production Privilege Log
7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00126369	PrivWithhold00 008460	PrivWithhold 00008462	9/30/2016	Smith, Jack W CIV OSD HA (US) <jack.w.smith2.civ@mail.mil>	Chan, Edmund M CIV OSD HA (US) <edmund.m.chan.civ@mail.mil>; Adirim, Terry A SES OSD HA (US) <terry.a.adirim.civ@mail.mil>; Ribeiro, Elizabeth M CTR OSD HA (US) <elizabeth.m.ribeiro_ctr@mail.mil>	Email between DoD personnel discussing roles and responsibilities for transgender policy.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00126475	PrivWithhold00 008463	PrivWithhold 00008466	9/23/2016	Burrows-McElwain, Cicely (SAMHSA) <Cicely.Burrows-McElwain@samhsa.hhs.gov>	Kennedy, Elliot (OS/OASH) <Elliot.Kennedy@hhs.gov>; Adirim, Terry A SES OSD HA (US) <terry.a.adirim.civ@mail.mil>	Email between DoD personnel following up on discussion from meeting.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00126546	PrivWithhold00 008467	PrivWithhold 00008467	9/19/2016	Findley, Andrew L Jr CIV (US) <andrew.l.findley.civ@mail.mil>	Adirim, Terry A SES OSD HA (US) <terry.a.adirim.civ@mail.mil>; Smith, Jack W CIV OSD HA (US) <jack.w.smith2.civ@mail.mil>	Email between DoD personnel discussing language for briefing bullets.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00126607	PrivWithhold00 008468	PrivWithhold 00008473	9/14/2016	Sakrisson, Benjamin E Maj USAF OSD OSD (US) <benjamin.e.sakrisson@mail.mil>	HA (US) <terry.a.adirim.civ@mail.mil>; Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@mail.mil>; Kantwill, Paul E CIV OSD OUSD P-R (US) <paul.e.kantwill.civ@mail.mil>; Barna, Stephanie A SES OSD OUSD P-R (US) <stephanie.a.barna.civ@mail.mil>; Koffsky, Paul S SES OSD OGC (US) <paul.s.koffsky.civ@mail.mil>; Chandrasekaran, Rekha D CIV OSD OASD LA (US) <rekha.d.chandrasekaran.civ@mail.mil>; Sullivan, Dwight H SES OSD OGC (US) <dwright.h.sullivan.civ@mail.mil>; Hebert, Lernes J SES OSD OUSD P-R (US) <lernes.j.hebert.civ@mail.mil>; Yager, Reggie D Lt Col USAF OSD OUSD P-R (US)	Email between DoD personnel discussing media inquiry about particular transgender service member.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00126671	PrivWithhold00 008474	PrivWithhold 00008477	9/6/2016	Findley, Andrew L Jr CIV (US) <andrew.l.findley.civ@mail.mil>	Adirim, Terry A SES OSD HA (US) <terry.a.adirim.civ@mail.mil>	Email between DoD discussing data gathering for presentation slides.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy

In Camera Production Privilege Log
7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00126833	PrivWithhold00 008478	PrivWithhold 00008481	8/15/2016	Dixon, Kristen E COL USARMY OSD OUSD P-R (US) <kristen.e.dixon.mil@mail.mil>	Golden, Kerrie J COL USARMY OSD OUSD P-R (US) <kerrie.j.golden.mil@mail.mil>; Smith, Jack W CIV OSD HA (US) <jack.w.smith2.civ@mail.mil>Adirim, Terry A SES (US) <terry.a.adirim.civ@mail.mil>; Webster, Angela M CDR USN OSD HA (US) <angela.m.webster6.mil@mail.mil>; Stabile, Christine L Lt Col USAF OSD OUSD P-R (US) <christine.l.stabile.mil@mail.mil>; Clark, Tilford L LCDR USN OSD HA (US) <tilford.l.clark.mil@mail.mil>; Breen, Richard H Jr CIV (US) <richard.h.breen.civ@mail.mil>; Roberts, Karen E CIV DHA CMD GRP (US) <karen.e.roberts.civ@mail.mil>	Email between DoD personnel discussing speaker for event.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00126988	PrivWithhold00 008482	PrivWithhold 00008484	3/13/2018	Adirim, Terry A SES OSD HA (US)	Lee, Daniel E Col USAF DHA DHA CS MGT (US) <daniel.e.lee8.mil@mail.mil>; Ortel, Jesse K COL USARMY OSD OUSD P-R (US) <jesse.k.ortel.mil@mail.mil>Demartino, Robert E CAPT USPHS (US) <robert.e.demartino.mil@mail.mil>	Email between DoD personnel providing information for transgender study proposal.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00127480	PrivWithhold00 008485	PrivWithhold 00008490	11/20/2017	Adirim, Terry A SES OSD HA (US)	Robinson-Haley, Patrice D CIV OSD OUSD P-R (US) <patrice.d.robinson-haley.civ@mail.mil>Demartino, Robert E CAPT USPHS (US) <robert.e.demartino.mil@mail.mil>; Rauch, Terry M CIV OSD HA (US) <terry.m.rauch.civ@mail.mil>	Email between DoD personnel regarding transgender survey.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy
DoD00128121	PrivWithhold00 008491	PrivWithhold 00008492	9/20/2017	Adirim, Terry A SES OSD HA (US)	Terry Adirim <ealtaa@comcast.net>	Email between DoD personnel circulating and discussing confirmation prep materials including transgender materials.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy

Karloski v. Trump, No. 17-cv-1297 In Camera Production Privilege Log 7/1/2020

Table with columns: DOCID, Begin Bates, End Bates, Date, Author/Custodian/Sender, Recipient(s), Title/Description, Privilege(s) Asserted, Privilege Basis and Description. Contains 15 rows of data regarding transgender policy deliberations.

In Camera Production Privilege Log
7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00128705	PrivWithhold00 008517	PrivWithhold 00008518	7/19/2017	Adirim, Terry A SES OSD HA (US)	Findley, Andrew L Jr CIV (US) <andrew.l.findley.civ@mail.mil>Demartino, Robert E CAPT USPHS (US) <robert.e.demartino.mil@mail.mil>; Fraine, Melissa C CTR DHA HEALTH OPNS (US) <melissa.c.fraine.ctr@mail.mil>	Email between DoD personnel gathering data for the House Armed Services Committee.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00128723	PrivWithhold00 008519	PrivWithhold 00008522	7/17/2017	Adirim, Terry A SES OSD HA (US)	Findley, Andrew L Jr CIV (US) <andrew.l.findley.civ@mail.mil>Demartino, Robert E CAPT USPHS (US) <robert.e.demartino.mil@mail.mil>	Email between DoD personnel circulating cost information relating to transgender treatment.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00128787	PrivWithhold00 008523	PrivWithhold 00008523	7/7/2017	Adirim, Terry A SES OSD HA (US)	Gearhart, Lee P COL USARMY OSD OUSD P-R (US) <lee.p.gearhart.mil@mail.mil>	Email between DoD personnel involving slides for Transgender Senior Implementation Group Meeting.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00128886	PrivWithhold00 008524	PrivWithhold 00008524	6/26/2017	Findley, Andrew, CIV, DHA		Configuration and meeting frequency and attendee lists of working groups on TG medical issues; discussions thereof.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00128926	PrivWithhold00 008525	PrivWithhold 00008533	11/25/2016	Holstein, Peter, CTR, OASD(HA)/TMA		Slides titled: Information Brief Transgender Care	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00128951	PrivWithhold00 008534	PrivWithhold 00008535	6/19/2017	Adirim, Terry, SES, DHA		Discussion re M31 of the AF Medical Standards Directory revisions and related talking points.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00128968	PrivWithhold00 008536	PrivWithhold 00008537	6/12/2017	Adirim, Terry A SES OSD HA (US)	OSD OUSD P-R (US) <rebecca.a.russell3 civ@mail.mil>; KRULEWITCH, Cara J (Dr. Cara) CIV OSD HA (US) <cara.j.krulewitch.civ@mail.mil>; Chan, Edmund M CIV OSD HA (US) <edmund.m.chan.civ@mail.mil>; Richardson, Shannon T CTR (US) <shannon.t.richardson2.ctr@mail.mil>; McNeal, Ruby L CTR (US) <ruby.l.mcneal.ctr@mail.mil>; Sands, Irene M CTR (US) <irene.m.sands.ctr@mail.mil>; Fells, Quintin F CTR DHA CONTRACTING (US) <quintin.f.fells.ctr@mail.mil>; Scott, John S COL USARMY OSD HA (US) <john.s.scott1.mil@mail.mil>; Demartino, Robert E CAPT USPHS (US) <robert.e.demartino.mil@mail.mil>; Shell, Donald	Email between DoD personnel circulating notes from Health Affairs staff meeting discussing transgender status implementation	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00129033	PrivWithhold00 008538	PrivWithhold 00008542	5/26/2017	Adirim, Terry A SES OSD HA (US)	Flossos, Anna S CIV (US) <anna.s.flossos.civ@mail.mil>	Email chain addressing policy development concerning transgender care of service member dependents	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00129056	PrivWithhold00 008543	PrivWithhold 00008544	5/19/2017	Adirim, Terry, SES, DHA		Slides providing oversight to HSP0 office structure and functions.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00129060	PrivWithhold00 008545	PrivWithhold 00008586	10/31/2014	Smith, Jack, Dr., OASD(HA)		Slides for DoD health symposium including transgender.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00129070	PrivWithhold00 008587	PrivWithhold 00008587	5/19/2017	Adirim, Terry A SES OSD HA (US)	Russell, Rebecca A CIV OSD OUSD P-R (US) <rebecca.a.russell3 civ@mail.mil>; Stevens, Bret CIV OSD OUSD P-R (US) <bret.stevens1.civ@mail.mil>; Bruner, A E (AI) CIV OSD HA (US) <alfred.e.bruner.civ@mail.mil>Demartino, Robert E CAPT USPHS (US) <robert.e.demartino.mil@mail.mil>	Email chain discussing policy developments being tracked by DHH's Health Services Policy and Oversight, including accession policies for transgender individuals	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy

In Camera Production Privilege Log
7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00129161	PrivWithhold00 008588	PrivWithhold 00008594	4/10/2017	Adirim, Terry A SES OSD HA (US)	Brown, Gary W LTC USARMY OSD OUSD P-R (US) <gary.w.brown.mil@mail. mil>; Chan, Edmund M CIV OSD HA (US) <edmund.m.chan.civ@ma il.mil>;Ribeiro, Elizabeth M CTR OSD HA (US) <elizabeth.m.ribeiro ctr@ mail.mil>; Demartino, Robert E CAPT USPHS (US) <robert.e.demartino.mil@ mail.mil>; Findley, Andrew L Jr CIV (US) <andrew.l.findley.civ@ma il.mil>	Email chain regarding the development of accession policies for transgender individuals	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00129191	PrivWithhold00 008595	PrivWithhold 00008596	3/24/2017	Adirim, Terry A SES OSD HA (US)	Veletz, Louise L CTR OSD HA (US) <louise.l.veletz.ctr@mail.m il>	Email between DoD personnel circulating talking points including transgender talking points.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00129237	PrivWithhold00 008597	PrivWithhold 00008599	3/7/2017	David J. Smith, M.D., Performing the Duties of the Assistant Secretary of Defense for Health Affairs		Draft Info Memo with the subject "Department of Defense 6130.03, "Medical Standards for Appointment, Enlistment, or Induction in the Military Services" Status Update and Way Forward." Contains deliberative discussions concerning transgender policy and DoD Instruction 6130.03 and recommendations for next steps. Contains track changes with recommended edits from Terry Adirim, DHA.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00129260	PrivWithhold00 008600	PrivWithhold 00008601	3/3/2017	Adirim, Terry A SES OSD HA (US)	Smith, David J SES OSD OUSD P-R (US) <david.j.smith152.civ@m ail.mil>;Rychalski, Jon J SES (US) <jon.j.rychalski.civ@mail. mil>	Email between DoD personnel discussing potential DoDI edits.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00129472	PrivWithhold00 008602	PrivWithhold 00008606	12/31/2016	Adirim, Terry A SES OSD HA (US) <terry.a.adirim.civ@mail.mil>	Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@m ail.mil>; Guice, Karen S SES (US) <karen.s.guice2.civ@mail. mil>;Gearhart, Lee P COL USARMY OSD OUSD P-R (US) <lee.p.gearhart.mil@mail. mil>; Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@m ail.mil>	Email between DoD personnel circulating and discussing transgender info paper and specific medical procedures	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy

No. 17-cv-1297
In Camera Production Privilege Log

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00129590	PrivWithhold00 008607	PrivWithhold 00008615	12/7/2016	Terry Adirim, M.D., M.P.H., Deputy Assistant Secretary of Defense of Health Services Policy and Oversight		Slides titled: Information Brief Transgender Care. Contains proposed next steps on implementing transgender policy.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00129611	PrivWithhold00 008616	PrivWithhold 00008617	11/25/2016	Adirim, Terry A SES OSD HA (US)	Guice, Karen S SES (US) <karen.s.guice2.civ@mail. mil>Rychalski, Jon J SES (US) <jon.j.rychalski.civ@mail. mil>	Slides titled: Information Brief Transgender Care related to TG medical issues and data re: gender dysphoria	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00129632	PrivWithhold00 008618	PrivWithhold 00008618	11/22/2016	Adirim, Terry A SES OSD HA (US)	Barna, Stephanie A SES OSD OUSD P-R (US) <stephanie.a.barna.civ@ mail.mil>Rychalski, Jon J SES (US) <jon.j.rychalski.civ@mail. mil>; Guice, Karen S SES (US) <karen.s.guice2.civ@mail. mil>	Email between DoD personnel discussing transgender medical data and active duty service members under Carter policy	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00129633	PrivWithhold00 008619	PrivWithhold 00008627	9/8/2016	Michael Labejsza		Slides titled: TRANSGENDER SERVICE POLICY Implementation Update	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00129805	PrivWithhold00 008628	PrivWithhold 00008630	10/15/2016	Adirim, Terry A SES OSD HA (US)	Casciotti, John A SES OSD OGC (US) <john.a.casciotti.civ@mail .mil>	Email between DoD personnel clarifying an aspect of transgender medical policy.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00129830	PrivWithhold00 008631	PrivWithhold 00008633	10/4/2016	Adirim, Terry A SES OSD HA (US)	Dwyer, Kevin J CIV DHA CMD GRP (US) <kevin.j.dwyer10.civ@mai l.mil>Kogan, Mark S CTR (US) <mark.s.kogan.ctr@mail. mil>; Graves, Peter J CTR DHA CMD GRP (US) <peter.j.graves10.ctr@ma il.mil>; Smith, Jack W CIV OSD HA (US) <jack.w.smith2.civ@mail. mil>; Findley, Andrew L Jr CIV (US) <andrew.l.findley.civ@ma il.mil>	Email between DoD personnel regarding transgender media item.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy

In Camera Production Privilege Log
7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00129839	PrivWithhold00 008634	PrivWithhold 00008634	9/30/2016	Adirim, Terry A SES OSD HA (US)	Kalniski V. Trump, No. 17-cv-1297 CONTRACTING (US) <quintin.f.fells.ctr@mail.mil>; Frost, Lucinda Z CTR OSD HA (US) <lucinda.z.frost.ctr@mail.mil>; Graham, Elizabeth A CTR OSD HA (US) <elizabeth.a.graham50.ctr@mail.mil>; Jovanovic, Olivera A CTR OSD HA (US) <olivera.a.jovanovic.ctr@mail.mil>; Ribeiro, Elizabeth M CTR OSD HA (US) <elizabeth.m.ribeiro.ctr@mail.mil>; Richardson, Shannon T CTR OSD OUSD P-R (US) <shannon.t.richardson2.ctr@mail.mil>; Adirim, Terry A SES OSD HA (US) <terry.a.adirim.civ@mail.mil>; Chan, Edmund M CIV OSD HA (US) <edmund.m.chan.civ@mail.mil>; Delaune, Jules M CIV OSD OUSD P-R (US) <deprov.jules.m.delaune.civ@mail.mil>	Email between DoD personnel discussing roles and responsibilities for transgender policy.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00130030	PrivWithhold00 008635	PrivWithhold 00008635	9/7/2016	Adirim, Terry A SES OSD HA (US)	Guice, Karen S SES (US) <karen.s.guice2.civ@mail.mil>; Golden, Kerrie J COL USARMY OSD OUSD P-R (US) <kerrie.j.golden.mil@mail.mil>; Clark, Tilford L LCDR USN OSD HA (US) <tilford.l.clark.mil@mail.mil>	Slides titled: Information Brief Transgender Care	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00130042	PrivWithhold00 008636	PrivWithhold 00008637	9/6/2016	Adirim, Terry A SES OSD HA (US) <terry.a.adirim.civ@mail.mil>	Findley, Andrew L Jr CIV (US) <andrew.l.findley.civ@mail.mil>	Email between DoD discussing gathering of data for presentation slides.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00130057	PrivWithhold00 008638	PrivWithhold 00008639	8/31/2016	Adirim, Terry A SES OSD HA (US)	Findley, Andrew L Jr CIV (US) <andrew.l.findley.civ@mail.mil>; Smith, Jack W CIV OSD HA (US) <jack.w.smith2.civ@mail.mil>	Email between DoD personnel discussing transgender data and requests for exceptions to policy re transgender medical issues	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00130080	PrivWithhold00 008640	PrivWithhold 00008640	8/22/2016	Adirim, Terry A SES OSD HA (US)	Delaune, Jules M CIV OSD OUSD P-R (US) <jules.m.delaune.civ@mail.mil>; Smith, Jack W CIV OSD HA (US) <jack.w.smith2.civ@mail.mil>	Email between DoD personnel discussing reference materials re: medical guidance for gender dysphoria	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy

No. 17-cv-1297
In Camera Production Privilege Log
7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00130101	PrivWithhold00 008641	PrivWithhold 00008642	8/16/2016	Adirim, Terry A SES (US)	Rychalski, Jon J SES (US) <jon.j.rychalski.civ@mail.mil>; Smith, Jack W CIV OSD HA (US) <jack.w.smith2.civ@mail.mil>; Delaune, Jules M CIV OSD OUSD P-R (US) <jules.m.delaune.civ@mail.mil>Golden, Kerrie J COL USARMY OSD OUSD P-R (US) <kerrie.j.golden.mil@mail.mil>	Email between DoD personnel discussing transgender policy status of implementation guidance of Carter policy	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00130207	PrivWithhold00 008643	PrivWithhold 00008643	3/22/2018	Bushman, William CIV SD <William.Bushman@sd.mil>	Mcaleer, Laura P SES OSD OASD LA (US) <laura.p.mcaleer.civ@mail.mil>; Miller, Jamie J SES (US) <jamie.j.miller20.civ@mail.mil>	Email between DoD personnel circulating transgender talking points.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00130950	PrivWithhold00 008644	PrivWithhold 00008645	3/9/2018	Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@mail.mil>	Bushman, William CIV SD <William.Bushman@sd.mil>	Email between DoD personnel discussing accessions process and specific transgender applicant.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00137262	PrivWithhold00 008646	PrivWithhold 00008646	3/7/2018	Wellman, Aaron C LTC USARMY OSD OUSD P-R (US)		Document containing draft policy Q and A including transgender policy questions	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00137481	PrivWithhold00 008647	PrivWithhold 00008647	2/15/2018	Aswell, Paul L CIV USARMY HQDA DCS G-1 (US) <paul.l.aswell.civ@mail.mil>	OSD OUSD P-R (US) <christopher.p.arendt.civ@mail.mil>Mullen, Lawrence E CIV DHA DIR SUPPORT (US) <lawrence.e.mullen.civ@mail.mil>; Golden, Kerrie J COL USARMY HQDA ASA MRA (US) <kerrie.j.golden.mil@mail.mil>; Krueger, Mary V COL USARMY HQDA ASA MRA (US) <mary.v.krueger.mil@mail.mil>; Nelson, Michael R (Mike Nelson) COL USARMY HQDA OTSG (US) <michael.r.nelson4.mil@mail.mil>; MCTIGUE, Daniel C LTC USARMY HQDA DCS G-1 (US) <daniel.c.mctigue.mil@mail.mil>; Green, Alphonsa D CIV USARMY HQDA DCS G-1 (US) <alphonsa.d.green.civ@mail.mil>; Bouren, Kevin D LTC USARMY HQDA DCS G-	Email between DoD personnel discussing transgender medical policy follow-up to meeting.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy

No. 17-cv-1297
In Camera Production Privilege Log

7/1/2020

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DoD00137908	PrivWithhold00 008648	PrivWithhold 00008648	4/25/2018	Hebert, Lernes J SES OSD OUSD P-R (US) <lernes.j.hebert.civ@mail.mil>	Barna, Stephanie A SES OSD OUSD P-R (US) <stephanie.a.barna.civ@ mail.mil>; Randon, Diane M SES USARMY HQDA ASA MRA (US) <diane.m.randon.civ@mai l.mil>; Penrod, Virginia S SES OSD OUSD P-R (US) <virginia.s.penrod.civ@m ail.mil>; MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@	Email between DoD personnel discussing specific transgender applicants.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00138140	PrivWithhold00 008649	PrivWithhold 00008657	9/8/2016	Michael Labejsza		Draft PowerPoint presentation on the implementation of the DoD policy on military service by transgender individuals	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00138203	PrivWithhold00 008658	PrivWithhold 00008669	9/16/2016	Barna, Stephanie A SES OSD OUSD P-R (US)	OUSD P-R (US) <paul.e.kantwill.civ@mail. mil>; Sakrisson, Benjamin E Maj USAF OSD OSD (US) <benjamin.e.sakrisson.mil @mail.mil>; Chandrasekaran, Rekha D CIV OSD OASD LA (US) <rekha.d.chandrasekaran. civ@mail.mil>; Anderson, Olga M COL USARMY HQDA OCLL (US) <olga.m.anderson.mil@m ail.mil>; Adirim, Terry A SES OSD HA (US) <terry.a.adirim.civ@mail. mil>; Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@m ail.mil>; Koffsky, Paul S SES OSD OGC (US) <paul.s.koffsky.civ@mail. mil>; Sullivan, Dwight H SES OSD OGC (US) <dwight.h.sullivan.civ@m ail.mil>; Hebert, Lernes J SES OSD OUSD P-R (US) <lernes.j.hebert.civ@mail.	Email between DoD personnel discussing media inquiry about particular transgender service member.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00138452	PrivWithhold00 008670	PrivWithhold 00008671	6/24/2016	Barna, Stephanie A SES OSD OUSD P-R (US)	Carroll, Katherine SES SD <Katherine.Carroll@sd.mil >	Email between DoD personnel discussing medical requirements for various medical issues.	DP - Deliberative Process	Deliberations regarding the implementation of the transgender policy
DoD00139564	PrivWithhold00 008672	PrivWithhold 00008673	12/20/2017	Bentz, KR		Slides titled: Recruiter Preliminary Screening Process	DP - Deliberative Process	Deliberations regarding medical screening process

In Camera Production Privilege Log
7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00139865	PrivWithhold00 008674	PrivWithhold 00008675	3/14/2018	Rogut, Dori A CIV DHA HEALTH OPNS DIR (US) <dori.a.rogut.civ@mail.mil>	Doan, Paul S CIV DHA HEALTH OPNS (US) <paul.s.doan.civ@mail.mil >; Findley, Andrew L Jr CIV (US) <andrew.l.findley.civ@ma il.mil>; Black, James N CIV DHA HEALTH OPNS (US) <james.n.black.civ@mail. mil>; D'Costa, Agatha L LCDR USPHS DHA DHSS CLINIC (US) <agatha.l.dcosta.mil@mai l.mil>Donze, Tayler A CTR (US) <tayler.a.donze.ctr@mail. mil>	Email between DoD personnel regarding posting of transgender policy documents online.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00139907	PrivWithhold00 008676	PrivWithhold 00008678	2/26/2018	Franzos, Marc Alaric CAPT USN BUMED FCH VA (US) <marc.a.franzos.mil@mail.mil>	USN DHA TRICARE HP (US) <edward.d.simmer.mil@ mail.mil>; DHA.SpecialtyCare@Engili ty.com; Doan, Paul S CIV DHA HEALTH OPNS (US) <paul.s.doan.civ@mail.mil >; Findley, Andrew L Jr CIV (US) <andrew.l.findley.civ@ma il.mil>; Nelson, Michael R (Mike Nelson) COL USARMY HQDA OTSG (US) <michael.r.nelson4.mil@ mail.mil>; Colt, Ross E COL USARMY DHA CLINIC SUPPORT (US) <ross.e.colt.mil@mail.mil >; Welch, Scott A CDR USN BUMED FCH VA (US) <scott.a.welch.mil@mail. mil>; Cheatham, Thomas N Col USAF AFMSA (US) <thomas.n.cheatham2.mil @mail.mil>; Kern, Therese J Col USAF (US) <therese.j.kern.mil@mail. mil>; Decker, Elizabeth A	Email between DoD personnel circulating information relating to Transgender Care IPT meeting.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00139913	PrivWithhold00 008679	PrivWithhold 00008680	2/26/2018	Doan, Paul S CIV DHA HEALTH OPNS (US) <paul.s.doan.civ@mail.mil>	Findley, Andrew L Jr CIV (US) <andrew.l.findley.civ@ma il.mil>	Email between DoD personnel regarding IPT meeting and trasgender updates	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00140271	PrivWithhold00 008681	PrivWithhold 00008681	3/16/2018	Casciotti, John A SES OSD OGC (US) <john.a.casciotti.civ@mail.mil>	Koffsky, Paul S SES OSD OGC (US) <paul.s.koffsky.civ@mail. mil>Gruber, David J CIV OSD OGC (US) <david.j.gruber.civ@mail. mil>	Email between DoD personnel regarding specific waver requests.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy

In Camera Production Privilege Log
7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00142589	PrivWithhold00 008682	PrivWithhold 00008684	3/9/2018	Dyer, Evelyn J CIV OSD OUSD P-R (US) <evelyn.j.dyer.civ@mail.mil>	MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@mail.mil>; Wellman, Aaron C LTC USARMY OSD OUSD P-R (US) <aaron.c.wellman.mil@mail.mil>	Email between DoD personnel regarding accessions.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy
DoD00142595	PrivWithhold00 008685	PrivWithhold 00008688	3/7/2018	Arendt, Christopher P CIV OSD OUSD P-R (US) <christopher.p.arendt.civ@mail.mil>	Wellman, Aaron C LTC USARMY OSD OUSD P-R (US) <aaron.c.wellman.mil@mail.mil>MILLER, Stephanie P SES OSD OUSD P-R (US) <stephanie.p.miller.civ@mail.mil>; Leopard, Patricia A CIV OSD OUSD P-R (US) <patricia.a.leopard.civ@mail.mil>; Lovisone, Gail R CIV (US) <gail.r.lovisone.civ@mail.mil>	Email between DoD personnel providing answers to transgender policy question.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy
DoD00142871	PrivWithhold00 008689	PrivWithhold 00008718	2/12/2018	MILLER, Stephanie P SES OSD OUSD P-R (US)	Rosenfeld, Paul CIV DODHRA OPA (US) <paul.rosenfeld.civ@mail.mil>; Hebert, Lernes J SES OSD OUSD P-R (US) <lernes.j.hebert.civ@mail.mil>; Adirim, Terry A SES OSD HA (US) <terry.a.adirim.civ@mail.mil>Boehmer, Matthew D (Matt) SES DODHRA OPA (US) <matthew.d.boehmer.civ@mail.mil>; Williams, Kristin H CIV DODHRA OPA (US) <kristin.h.williams2.civ@mail.mil>; Helland, Katherine R CIV DODHRA OPA (US) <katherine.r.helland.civ@mail.mil>; Sena, F Michael CIV OSD OUSD P-R (US) <f.m.sena.civ@mail.mil>; Frazier, Kim L CIV DHA J-5 (US) <kim.l.frazier2.civ@mail.mil>	Email between DoD personnel regarding transgender survey.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy

No. 17-cv-1297
In Camera Production Privilege Log

7/1/2020

DOCID	Begin Bates	End Bates	Date	Author/Custodian/Sender	Recipient(s)	Title/Description	Privilege(s) Asserted	Privilege Basis and Description
DoD00143482	PrivWithhold00 008719	PrivWithhold 00008720	3/30/2016	Raymond, Lacey CIV SD <Lacey.Raymond@sd.mil>	Chandrasekaran, Rekha D CIV OSD OASD LA (US) <rekha.d.chandrasekaran. civ@mail.mil>; Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@m ail.mil>Allen, Matthew R CIV OSD PA (US) <matthew.r.allen38.civ@ mail.mil>	Email re: updating Hill on status of Carter Policy review	DP - Deliberative Process	Deliberative email between DoD personnel regarding RAND report and congressional outreach.
DoD00143491	PrivWithhold00 008721	PrivWithhold 00008723	4/4/2016	Weiler, Todd A HON (US) <todd.a.weiler.civ@mail.mil>	Barna, Stephanie A SES OSD OUSD P-R (US) <stephanie.a.barna.civ@ mail.mil>; Chandrasekaran, Rekha D CIV OSD OASD LA (US) <rekha.d.chandrasekaran. civ@mail.mil>; Kurta, Anthony M SES OSD OUSD P-R (US) <anthony.m.kurta.civ@m ail.mil>; Raymond, Lacey D CIV (US) <lacey.raymond@sd.mil>	Deliberative email conversation between DoD personnel regarding the proper response to a NYT editorial on the Transgender Policy.	DP - Deliberative Process	Deliberative email between DoD personnel regarding publication of NYTimes editorial on transgender service members.
DoD00144734	PrivWithhold00 008724	PrivWithhold 00008726	8/9/2017	Hebert, Lernes J SES OSD OUSD P-R (US)	Stephanie Barna	Email Re: TG "Holding" Letter on Tg policy rereview	DP - Deliberative Process	Deliberative email between DoD personnel regarding DoD transgender policy meeting.
DoD00144855	PrivWithhold00 008727	PrivWithhold 00008728	7/6/2017	Hebert, Lernes J SES OSD OUSD P-R (US)	Gearhart, Lee P COL USARMY 3 MED DSC (USA) ; MILLER, Stephanie P SES OSD OUSD P-R (US) ; Arendt, Christopher P CIV OSD OUSD P-R (USA)	FW: Gender Change for Retiree, Dependent, Contractor (UNCLASSIFIED).msg	DP - Deliberative Process	Deliberative email between DoD personnel regarding DoD transgender dependent medical policy.
DoD00144928	PrivWithhold00 008729	PrivWithhold 00008731	6/26/2017	Smith, David J SES OSD OUSD P- R (US)	Adirim, Terry A SES OSD OUSD P-R (USA); Mitchell, Ashley M CTR DHA HA SUPPORT (USA); Atkins, Diana E CTR DHA DIR SUPPORT (USA); Golden, Kerrie J COL USARMY HQDA ASA MRA (USA)	Deliberative email conversation between DoD personnel regarding development of the transgender policy and specifics on implementation	DP - Deliberative Process	Deliberative email between DoD personnel regarding DoD transgender medical policy meeting.
DoD00144936	PrivWithhold00 008732	PrivWithhold 00008733	6/24/2017	Kurta, Anthony M SES OSD OUSD P-R (US)	Kevin M. Sweeney	Deliberative email conversation regarding the Transgender policy rollout	DP - Deliberative Process	Deliberative email between DoD personnel regarding DoD transgender medical policy.

No. 17-cv-1297
In Camera Production Privilege Log

7/1/2020

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DoD00145040	PrivWithhold00 008734	PrivWithhold 00008738	2/17/2017	Doan, Paul S CIV DHA HEALTH OPNS (US) <paul.s.doan.civ@mail.mil>	Doyle, Andrew E COL USARMY HQDA OTSG (US) <andrew.e.doyle.mil@mail.mil>; Aslam, Saira N CAPT USN DHA (US) <saira.n.aslam.mil@mail.mil>; Rotruck, John R CAPT USN DHA WRNMMC (US) <john.r.rotruck.mil@mail.mil>Findley, Andrew L Jr CIV (US) <andrew.l.findley.civ@mail.mil>; D'Costa, Agatha L LCDR USPHS DHA DHSS CLINIC (US) <agatha.l.dcosta.mil@mail.mil>; Black, James N CIV DHA HEALTH OPNS (US) <james.n.black.civ@mail.mil>	Email RE_ Assistance Requested of MTP and SCCC (33.4 KB).msg	DP - Deliberative Process	Deliberative email between DoD personnel regarding DoD transgender medical policy.
USCG 00007621	PrivWithhold00 008739	PrivWithhold 00008741	8/18/2015	Camille Nichols		This is a Department of Defense generated document titled "TRANSGENDER SERVICE REVIEW WORKING GROUP OUTLINE" that is labeled "Draft Deliberative." The document contains deliberative materials relating to the formulation and implementation of transgender policy.	DP - Deliberative Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy.
USCG 00007707	PrivWithhold00 008742	PrivWithhold 00008813	9/23/2016	Department of Defense		Draft DoD document titled "Transgender Service in the US Military: An Implementation Handbook." Contains draft deliberations concerning how commanders can implement DoD's policy.	DP - Deliberative Process	This document is titled "Transgender Service in the US Military: An Implementation Handbook." It was generated by the Department of Defense, and it is labeled "Not for Distribution/Draft Deliberative Document." It contains deliberative material regarding the formulation and implementation of transgender policy.

DOCIDs FOR PARENT/FAMILY DOCUMENTS (NOT PART OF RANDOM SAMPLE)

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DOCIDs FOR DOCUMENTS FOR WHICH THE DEFENDANTS HAVE WITHDRAWN THEIR PRIVILEGE ASSERTIONS (NOT PART OF RANDOM SAMPLE)
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Army_10013031.0004
Army_10013934.0001
Army_10013934.0005
Army_10014199
Army_10021791.0005
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DoD00013837
DoD00014619
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DoD00127773
DoD00127820
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DoD00128351
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EXHIBIT B



Department of Defense MANUAL

NUMBER 5200.01, Volume 4
February 24, 2012

USD(I)

SUBJECT: DoD Information Security Program: Controlled Unclassified Information (CUI)

References: See Enclosure 1

1. PURPOSE

a. Manual. This Manual is composed of several volumes, each containing its own purpose. The purpose of the overall Manual, as authorized by DoD Directive (DoDD) 5143.01 (Reference (a)) and DoD Instruction (DoDI) 5200.01 (Reference (b)), is to reissue DoD 5200.1-R (Reference (c)) as a DoD Manual to implement policy, assign responsibilities, and provide procedures for the designation, marking, protection, and dissemination of CUI and classified information, including information categorized as collateral, sensitive compartmented information (SCI), and Special Access Program. This guidance is developed in accordance with Reference (b), Executive Order (E.O.) 13526 and E.O. 13556, and part 2001 of title 32, Code of Federal Regulations (References (d), (e), and (f)). This combined guidance is known as the DoD Information Security Program.

b. Volume. This Volume provides guidance for the identification and protection of CUI.

2. APPLICABILITY. This Volume:

a. Applies to OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the Department of Defense (hereinafter referred to collectively as the "DoD Components").

b. Does not alter existing authorities and responsibilities of the Director of National Intelligence (DNI) or of the heads of elements of the Intelligence Community pursuant to policies issued by the DNI.

c. Does NOT implement the new CUI program established by Reference (e). This Volume implements current DoD CUI policy according to Reference (b). The CUI program required by

Reference (e) will be implemented by a change to this Volume after the Federal policy is finalized.

3. DEFINITIONS. See Glossary.

4. POLICY. It is DoD policy, in accordance with Reference (b), to:

a. Identify and protect national security information and CUI in accordance with national level policy issuances.

b. Promote information sharing, facilitate judicious use of resources, and simplify management through implementation of uniform and standardized processes.


c. Protect CUI from unauthorized disclosure by appropriately marking, safeguarding, disseminating, and destroying such information.

5. RESPONSIBILITIES. See Enclosure 2.

6. PROCEDURES. See Enclosure 3.

7. RELEASABILITY. UNLIMITED. This Volume is approved for public release and is available on the Internet from the DoD Issuances Website at <http://www.dtic.mil/whs/directives>.

8. EFFECTIVE DATE. This Volume is effective upon its publication to the DoD Issuances Website.


Michael G. Vickers
Under Secretary of Defense for Intelligence

Enclosures

- 1. References
- 2. Responsibilities
- 3. Identification and Protection of CUI
- 4. CUI Education and Training

Glossary

TABLE OF CONTENTS

ENCLOSURE 1: REFERENCES.....5

ENCLOSURE 2: RESPONSIBILITIES.....7

 UNDER SECRETARY OF DEFENSE FOR INTELLIGENCE (USD(I)).....7

 UNDER SECRETARY OF DEFENSE FOR POLICY (USD(P)).....7

 HEADS OF THE DoD COMPONENTS7

 SENIOR AGENCY OFFICIALS7

ENCLOSURE 3: IDENTIFICATION AND PROTECTION OF CUI9

 GENERAL.....9

 FOUO INFORMATION.....11

 LES INFORMATION18

 DoD UCNI.....20

 LIMITED DISTRIBUTION INFORMATION22

 OTHER AUTHORIZED DESIGNATIONS24

 Department of State (DoS) Sensitive But Unclassified (SBU) Information.....24

 Drug Enforcement Administration (DEA) Sensitive Information.....25

 FOREIGN GOVERNMENT INFORMATION26

 DISTRIBUTION STATEMENTS ON TECHNICAL DOCUMENTS27

ENCLOSURE 4: CUI EDUCATION AND TRAINING.....30

 REQUIREMENTS.....30

 CUI EDUCATION AND TRAINING RESOURCES30

 INITIAL ORIENTATION.....30

 REQUIREMENTS FOR INFORMATION SECURITY PROGRAM PERSONNEL32

 ADDITIONAL TRAINING REQUIREMENTS32

 ANNUAL REFRESHER TRAINING.....32

 CONTINUING CUI EDUCATION AND TRAINING33

 OUT-PROCESSING.....33

 MANAGEMENT AND OVERSIGHT TRAINING33

 PROGRAM OVERSIGHT34

GLOSSARY35

 PART I. ABBREVIATIONS AND ACRONYMS35

 PART II. DEFINITIONS.....36

FIGURES

 1. Exemption Notice for FOUO Disseminated Outside of the Department of Defense16

2. LES Warning Statement19

3. DoD UCNI Statement on Information Transmitted Outside of the Department of
Defense21

4. LIMITED DISTRIBUTION Notice23

TABLE

Text of Distribution Statements28

DoDM 5200.01-V4, February 24, 2012

ENCLOSURE 1REFERENCES

- (a) DoD Directive 5143.01, "Under Secretary of Defense for Intelligence (USD(I)),
November 23, 2005
- (b) DoD Instruction 5200.01, "DoD Information Security Program and Protection of Sensitive
Compartmented Information," October 9, 2008
- (c) DoD 5200.1-R, "Information Security Program," January 14, 1997 (cancelled by Volume 1
of this Manual)
- (d) Executive Order 13526, "Classified National Security Information," December 29, 2009
- (e) Executive Order 13556, "Controlled Unclassified Information," November 4, 2010
- (f) Part 2001 of title 32, Code of Federal Regulations
- (g) DoD Directive 5111.1, "Under Secretary of Defense for Policy (USD(P)),
December 8, 1999
- (h) Sections 552¹ and 552a² of title 5, United States Code
- (i) Clause 252.204-7000 of the Defense Federal Acquisition Regulation Supplement
- (j) DoD Directive 5230.09, "Clearance of DoD Information for Public Release,"
August 22, 2008
- (k) Deputy Secretary of Defense Memorandum, "Web Site Administration,"
December 7, 1998, with attached "Web Site Administration Policies and Procedures,"
November 25, 1998
- (l) DoD Directive 5230.20, "Visits and Assignments of Foreign Nationals," June 22, 2005
- (m) DoD Directive 8500.01E, "Information Assurance (IA)," October 24, 2002
- (n) DoD 5200.2-R, "Personnel Security Program," January 1, 1987
- (o) DoD Directive 5015.2, "DoD Records Management Program," March 6, 2000
- (p) DoD 5400.7-R, "DoD Freedom of Information Act Program," September 4, 1998
- (q) DoD Directive 5230.24, "Distribution Statements on Technical Documents,"
March 18, 1987
- (r) DoD 5400.11-R, "Department of Defense Privacy Program," May 14, 2007
- (s) DoD Directive 5405.2, "Release of Official Information in Litigation and Testimony by
DoD Personnel as Witnesses," July 23, 1985
- (t) DoD Instruction 5400.04, "Provision of Information to Congress," March 17, 2009
- (u) DoD Instruction 7650.01, "Government Accountability Office (GAO) and Comptroller
General Requests for Access to Records," January 27, 2009
- (v) Chapters 22³ and 33 of title 44, United States Code
- (w) DoD Directive 5210.83, "Department of Defense Unclassified Controlled Nuclear
Information (DoD UCNI)," November 15, 1991
- (x) DoD Instruction 5030.59, "National Geospatial-Intelligence Agency (NGA) LIMITED
DISTRIBUTION Geospatial Intelligence," December 7, 2006
- (y) Section 455 of title 10, United States Code

¹ Section 552 is also known as "The Freedom of Information Act"

² Section 552a is also known as "The Privacy Act of 1974, as amended"

³ Chapter 22 is also known as "The Presidential Records Act of 1978"

DoDM 5200.01-V4, February 24, 2012

- (z) Department of Defense and United Kingdom Ministry of Defence, “Security Implementing Arrangement,” January 27, 2003⁴
- (aa) DoD Directive 3200.12, “DoD Scientific and Technical Information (STI) Program (STIP),” February 11, 1998
- (ab) DoD Directive 8570.01, “Information Assurance Training, Certification, and Workforce Management,” August 15, 2004
- (ac) DoD Instruction 5230.29, “Security and Policy Review of DoD Information for Public Release,” January 8, 2009
- (ad) DoD Directive 5000.01, “The Defense Acquisition System,” May 12, 2003
- (ae) Section 403 of title 50, United State Code, as amended
- (af) Executive Order 12333, “United States Intelligence Activities,” December 4, 1981, as amended

⁴ Available from OUSD(P), International Security Programs Directorate.

DoDM 5200.01-V4, February 24, 2012

ENCLOSURE 2RESPONSIBILITIES

1. UNDER SECRETARY OF DEFENSE FOR INTELLIGENCE (USD(I)). The USD(I) shall:

a. Direct, administer, and oversee the DoD Information Security Program for the Department of Defense.

b. Develop and issue guidance as required for the implementation of Reference (e) and its implementing directives.

c. As required by Reference (e), submit to the National Archives and Records Administration, in its role as CUI Executive Agent, a catalogue of proposed categories and subcategories of CUI, with proposed associated markings, and a plan for compliance with the requirements of Reference (e).

d. Establish requirements for collecting and reporting data as necessary to support fulfilling the requirements of Reference (e) and other national level policy issuances.

2. UNDER SECRETARY OF DEFENSE FOR POLICY (USD(P)). The USD(P) shall, in accordance with DoDD 5111.1 (Reference (g)), establish policies and procedures for disclosing DoD CUI to foreign governments and international organizations.

3. HEADS OF THE DoD COMPONENTS. The Heads of the DoD Components, in addition to the responsibilities in Volume 1 of this Manual, shall:

a. Identify, program for, and commit necessary resources to effectively implement the requirements for the protection of CUI as part of the Component's information security program.

b. Ensure that Component personnel are provided CUI education and training in accordance with Enclosure 4 of this Volume.

4. SENIOR AGENCY OFFICIALS. The senior agency officials, under the authority, direction and control of the Heads of the DoD Components, appointed in accordance with Enclosure 2 of Volume 1 of this Manual shall, in addition to the responsibilities in Volume 1:

a. Direct the head of each activity within the DoD Component that creates, handles, or stores CUI to appoint, in writing, an official to manage and oversee the CUI portion of the activity's information security program. If the activity also creates, handles, or stores classified information, the security manager appointed pursuant to paragraph 7.c of Enclosure 2 of Volume 1 may also be assigned this responsibility. Persons appointed to these positions shall be provided:

- (1) The necessary authority to ensure personnel adhere to CUI requirements.
 - (2) Direct access to activity leadership.
 - (3) Organizational alignment that will ensure prompt and appropriate attention to CUI requirements.
 - (4) The training required by Enclosure 4.
- b. Establish procedures to prevent unauthorized persons from accessing CUI.
- c. Promptly address unauthorized disclosure of CUI, improper designation of CUI, and violations of the provisions of this Volume.
- d. Direct, administer, and oversee an ongoing oversight program to evaluate and assess the effectiveness and efficiency of the DoD Component's implementation of that portion of the information security program pertaining to CUI.
- (1) Evaluation criteria shall consider, at a minimum, CUI designation, safeguarding, education and training, and management and oversight.
 - (2) The oversight program shall include periodic review and assessment of the DoD Component's CUI information to ensure that such information is being properly marked and handled.
 - (3) DoD Component CUI education and training should be evaluated during oversight activities.
- e. Direct, administer, and oversee CUI education and training as required by Enclosure 4, and ensure that DoD Component personnel receive education and training appropriate to their assigned duties.

DoDM 5200.01-V4, February 24, 2012

ENCLOSURE 3

IDENTIFICATION AND PROTECTION OF CUI

1. GENERAL. In addition to classified information, certain types of unclassified information also require application of access and distribution controls and protective measures for a variety of reasons. In accordance with Reference (e), such information is referred to collectively as CUI. This enclosure identifies the controls and protective measures developed for DoD CUI (i.e., For Official Use Only (FOUO), Law Enforcement Sensitive (LES), DoD Unclassified Controlled Nuclear Information (DoD UCNI), and LIMITED DISTRIBUTION) as well as some of those developed by other Executive Branch agencies. This enclosure also addresses handling of certain foreign government information and the use of distribution statements on unclassified technical documents as a means to facilitate control, distribution, and release of such documents.

a. In accordance with Reference (b), information may not be designated CUI to:

- (1) Conceal violations of law, inefficiency, or administrative error;
- (2) Prevent embarrassment to a person, organization, or agency;
- (3) Restrain competition; or
- (4) Prevent or delay the release of information that does not require protection under statute or regulation.

b. Information shall not be designated CUI:

- (1) To prevent or avoid its proper classification in accordance with the requirements of Reference (d) and Volume 1 of this Manual; or
- (2) If there is significant doubt concerning the need for such designation in accordance with section 3.b of Reference (e).

c. Information that has been disclosed to the public under proper authority may not be subsequently designated or redesignated CUI.

d. The originator of a document is responsible for determining at origination whether the information may qualify for CUI status, and if so, for applying the appropriate CUI markings. However, this responsibility does not preclude competent authority (e.g., officials higher in chain of command; functional experts) from modifying the marking(s) applied or originally applying additional markings. In such cases, the originator shall be notified of the changes. Additionally, Freedom of Information Act Officers (individuals expert in section 552 of title 5, United States Code (U.S.C.) (also known as “The Freedom of Information Act” and hereinafter referred to as “FOIA” (Reference (h))) can be consulted for advice or training on the proper application of FOIA exemptions.

DoDM 5200.01-V4, February 24, 2012

e. When CUI is to be provided to or generated by DoD contractors, the controls and protective measures to be applied shall be described in the pertinent contract documents (e.g., contract clause; statement of work; or DD Form 254, "Department of Defense Contract Security Classification Specification"). Solicitations and contracts shall use a non-disclosure of information clause that prohibits release of unclassified information to the public without approval of the contracting activity (e.g., clause 252.204-7000 of the Defense Federal Acquisition Regulation Supplement (Reference (i))). The clause shall also be made applicable to subcontractors.

f. ALL DoD unclassified information MUST BE REVIEWED AND APPROVED FOR RELEASE through standard DoD Component processes before it is provided to the public (including via posting to publicly accessible websites) in accordance with DoDD 5230.09 (Reference (j)), Deputy Secretary of Defense Memorandum (Reference (k)), and other applicable regulations. Unclassified information previously approved for release to the public may be shared with any foreign government or organization.

g. Release or disclosure of CUI to foreign governments or international organizations shall be in accordance with DoDD 5230.20 (Reference (l)) and other policy and procedures that may be established by the USD(P).

h. Some CUI is export-controlled information which may additionally be protected by law, Executive order, regulation, or contract. DoD officials must pay particular attention to export control regulations and to access restrictions on each type of CUI to ensure compliance with export requirements, especially when non-U.S. citizens are assigned to or visit their organizations.

i. Release or disclosure of CUI to non-U.S. citizens employed by the Department of Defense is permitted, provided access is within the scope of their assigned duties; access would further the execution of a lawful and authorized DoD mission or purpose and would not be detrimental to the interests of the Department of Defense or the U.S. Government; there are no contract restrictions prohibiting access; and the access complies with the requirements of DoDD 8500.01E (Reference (m)), DoD 5200.2-R (Reference (n)), and export control regulations, as applicable. In such cases, the non-U.S. citizen shall execute a nondisclosure agreement approved by appropriate DoD Component authorities.

j. CUI may be identified in security classification guides to ensure the information receives appropriate protection. If the security classification guide is subsequently cancelled, a separate memorandum or other guidance document may be issued to identify the declassified information, if any, that qualifies as CUI as well as any CUI previously cited in the guide.

k. For unauthorized disclosures of CUI, no formal security inquiry or investigation is required. However, appropriate management action shall be taken to fix responsibility for unauthorized disclosure of CUI whenever feasible or required by other guidance, and appropriate disciplinary action shall be taken against those responsible (see section 17 of Enclosure 3 of Volume 1 for sanctions). Unauthorized disclosure of some CUI (e.g., information protected by section 552a of Reference (h) (also known and hereinafter referred to as "The Privacy Act of

1974, as amended”) or export-controlled technical data) may also result in civil and criminal sanctions against responsible persons. The DoD Component that originated the CUI shall be informed of its unauthorized disclosure.

l. Controlled unclassified documents and material that constitute permanently valuable records of the Government shall be maintained and disposed of according to DoDD 5015.2 (Reference (o)). Other controlled unclassified material shall be destroyed as specified in this Volume.

m. Exceptions to the guidance provided in this Volume must be approved by the USD(I). Requests shall be sent to the Deputy Under Secretary of Defense for Intelligence and Security through command channels.

2. FOUO INFORMATION

a. Description. FOUO is a dissemination control applied by the Department of Defense to unclassified information when disclosure to the public of that particular record, or portion thereof, would reasonably be expected to cause a foreseeable harm to an interest protected by one or more of FOIA Exemptions 2 through 9. The FOIA specifies nine exemptions:

(1) Exemption 1. Information that is currently and properly classified.

(2) Exemption 2. Information that pertains solely to the internal rules and practices of the agency that, if released, would allow circumvention of an agency rule, policy, or statute, thereby impeding the agency in the conduct of its mission.

(3) Exemption 3. Information specifically exempted by a statute establishing particular criteria for withholding. The language of the statute must clearly state that the information will not be disclosed.

(4) Exemption 4. Information such as trade secrets and commercial or financial information obtained from a company on a privileged or confidential basis that, if released, would result in competitive harm to the company, impair the Government’s ability to obtain like information in the future, or impair the Government’s interest in compliance with program effectiveness.

(5) Exemption 5. Inter- or intra-agency memorandums or letters containing information considered privileged in civil litigation. The most common privilege is the deliberative process privilege, which concerns documents that are part of the decision-making process and contain subjective evaluations, opinions, and recommendations. Other common privileges are the attorney-client and attorney work product privileges.

(6) Exemption 6. Information, the release of which would reasonably be expected to constitute a clearly unwarranted invasion of the personal privacy of individuals.

- (7) Exemption 7. Records or information compiled for law enforcement purposes that:
 - (a) Could reasonably be expected to interfere with law enforcement proceedings.
 - (b) Would deprive a person of a right to a fair trial or impartial adjudication.
 - (c) Could reasonably be expected to constitute an unwarranted invasion of the personal privacy of others.
 - (d) Disclose the identity of a confidential source.
 - (e) Disclose investigative techniques and procedures.
 - (f) Could reasonably be expected to endanger the life or physical safety of any individual.

(8) Exemption 8. Certain records of agencies responsible for supervision of financial institutions.

(9) Exemption 9. Geological and geophysical information (including maps) concerning wells.

b. Application

(1) It is the responsibility of the document’s originator to determine at origination whether the information may qualify for FOUO status and to ensure markings are applied as required. Further details on the types of information that may qualify for the specified exemptions and FOUO status can be found in Chapter 3 of DoD 5400.7-R (Reference (p)).

(2) Information that is currently and properly classified shall be withheld from mandatory release in accordance with FOIA Exemption 1. The marking “FOR OFFICIAL USE ONLY” is applied to information that can reasonably be expected to qualify for exemption under one or more of FOIA Exemptions 2 through 9. By definition, information must be unclassified in order to be designated FOUO. This means that:

(a) Information cannot be marked as classified and FOUO at the same time, because no individual element of information can be simultaneously classified and FOUO. Therefore, classified documents containing FOUO information cannot bear an overall document marking of FOUO. However, portions or pages of a classified document that contain only FOUO information will be marked in a manner that identifies the FOUO content.

(b) Information that is declassified may be designated and marked as FOUO only when disclosure to the public of that particular record, or portion thereof, would reasonably be expected to cause a foreseeable harm to an interest protected by one or more of FOIA Exemptions 2 through 9.

(c) FOUO is not authorized as a means of protecting information that otherwise does not merit protection as classified for national security reasons.

c. Markings

(1) Information that has been determined to qualify for FOUO status shall be indicated by markings. Markings are to be applied at the time documents are created to properly protect the information. When a classified document or portion thereof is declassified, FOUO markings may be applied, if applicable, to protect the information.

(2) Marking information FOUO does not automatically qualify it for exemption from public release pursuant to the FOIA. If a request for a record is received, the information shall be reviewed in accordance with the procedures of Reference (p) to determine if it truly qualifies for exemption. Similarly, the absence of the FOUO marking does not automatically mean the information shall be released. Some types of records (e.g., personnel records) are not normally marked FOUO, but may still qualify for withholding in accordance with the FOIA. Information marked FOUO shall not specify, or have annotated, a FOIA exemption number.

(3) Unclassified documents and material, including information in electronic form, containing FOUO information shall be marked as follows:

(a) Each document determined to contain FOUO information shall identify the originating agency or office. This information shall be clear and complete enough to allow someone receiving the document to contact the office if questions or problems about the designation or markings arise.

(b) Documents shall be marked "FOR OFFICIAL USE ONLY" at the bottom of the outside of the front cover (if there is one), the title page, the first page, and the outside of the back cover (if there is one). Optionally, for consistency with classified systems, the document may be marked "UNCLASSIFIED//FOR OFFICIAL USE ONLY."

(c) Internal pages of the document that contain FOUO information shall be marked "FOR OFFICIAL USE ONLY" at the bottom. Optionally, for consistency with classified systems, internal pages may be marked "UNCLASSIFIED//FOR OFFICIAL USE ONLY" or "UNCLASSIFIED//FOUO"; in such case internal pages shall be marked at both the top and bottom.

(d) Subjects, titles, and each section, part, paragraph, or similar portion of an FOUO document shall be marked to show that they contain information requiring protection. Use the parenthetical notation "(FOUO)" (or optionally "(U//FOUO)") to identify information as FOUO for this purpose. Place this notation immediately before the text.

(e) Each part of electronically transmitted messages, including e-mail, containing FOUO information shall be marked as required by paragraph 2.c of this enclosure. Unclassified messages containing FOUO information shall be marked "FOR OFFICIAL USE ONLY" (optionally "UNCLASSIFIED//FOR OFFICIAL USE ONLY" or "UNCLASSIFIED//FOUO")

DoDM 5200.01-V4, February 24, 2012

before the beginning of the text and shall contain the parenthetical portion marking “(FOUO)” (optionally “(U//FOUO)”) at the beginning of each portion containing FOUO information.

(f) Transmittal documents that have FOUO attachments, but no classified material attached, shall be marked with the following statement or a similar one: “FOR OFFICIAL USE ONLY ATTACHMENT.”

(g) When FOUO information is contained in media or material (including hardware and equipment) not commonly thought of as documents (e.g., computer files and other electronic media, audiovisual media, chart, maps, films, sound recordings), the requirement remains to identify, as clearly as possible, the information that requires protection. The main concern is that holders and users of the material are clearly notified of the presence of FOUO information. The markings required by this enclosure shall be applied either on the item or the documentation that accompanies it. Particular requirements and exceptions are noted in the following subparagraphs.

1. Information Technology and Other Electronic Media. Conspicuously mark removable storage media used with computers, information technology systems, and other electronic devices and any other device on which data is stored and which normally is removable from the system by the user or operator. (Examples of such media include, but are not limited to, compact discs (CDs), digital video discs (DVDs), removable hard disks, flash or “thumb” drives, magnetic tape reels, disk packs, floppy disks and diskettes, disk cartridges, optical discs, paper tape, magnetic cards, memory chips, tape cassettes, and micro-cassettes.) Internal media identification will include FOUO markings in a form suitable for the media. Where size permits, all such devices bearing FOUO information must be conspicuously marked on the device or a label affixed thereto. Where size or technology preclude marking or affixing a label to the removable device itself (e.g., compact disc-read only memory (CD-ROM), memory chips), the label may be affixed to the container in which the device is stored.

2. Blueprints, Engineering Drawings, Charts, and Maps. Mark blueprints, engineering drawings, charts, maps, and similar items not contained within another document, with the FOUO designation when applicable. The marking shall be unabbreviated, conspicuous, and applied top and bottom, if possible, in such a manner as to ensure reproduction on any copies. The legend or title shall also be marked. The parenthetical marking “(FOUO)” or “(U//FOUO)” following the legend or title may be used. If the blueprints, maps, and other items are large enough that they are likely to be rolled or folded, additional FOUO markings shall be placed to be visible when the item is rolled or folded.

3. Photographic Media

a. Mark photographs and negatives “FOR OFFICIAL USE ONLY” (optionally “UNCLASSIFIED//FOR OFFICIAL USE ONLY” or “UNCLASSIFIED//FOUO”). Mark photographs on the face, if possible. Where this cannot be done, the marking may be placed on the reverse side. Digital photographs may be edited to place the markings on the face of the photograph.

DoDM 5200.01-V4, February 24, 2012

b. Mark roll negatives and positives, and other film containing FOUO either on the film itself or on the canister, if one is used. If placed on the film itself, the marking shall be placed at the beginning and end of the roll.

c. Mark slides and transparencies on the image area of the item and also on the border, holder, or frame, if any. Information on the image area of each slide or transparency shall be portion marked in accordance with subparagraph 2.c.(3)(d) of this enclosure.

d. Mark DVDs, video tapes, and motion picture films at the beginning and end of the presentation (i.e., the played or projected portion). Discs, reels, and cassettes shall be marked and, when stored in a container, the container shall also be marked.

4. Sound Recordings. Place an audible statement of the designation of FOUO at the beginning and end of sound recordings. Reels or cassettes shall be marked as required, and when stored in a container, the container shall be marked.

5. Microfilm, Microfiche, and Similar Microform Media. Mark microfilm, microfiche, and similar microform media "FOR OFFICIAL USE ONLY" (optionally "UNCLASSIFIED//FOR OFFICIAL USE ONLY" or "UNCLASSIFIED//FOUO") in the image area that can be read or copied. Such media also shall have this marking applied so it is visible to the unaided eye. Any containers shall contain the required markings, except no markings are required if the container is transparent and the marking on the media itself is clearly visible.

(4) Classified documents and material, including those in electronic form, that also contain FOUO information shall be marked in accordance with Volume 2 of this Manual, with FOUO information identified as follows:

(a) Overall markings on the document shall follow the guidance in Volume 2 of this Manual. No additional special markings are required on the face of the document because it contains FOUO information.

(b) Pages of the document that contain classified information shall be marked in accordance with Volume 2 of this Manual. Pages that contain FOUO information but no classified information shall be marked "UNCLASSIFIED//FOR OFFICIAL USE ONLY" or "UNCLASSIFIED//FOUO" at the top and bottom if the overall document classification is not used as the page marking.

(c) Portions of the document shall be marked with their classification in accordance with Volume 2 of this Manual. If there are unclassified portions that contain FOUO information, use the parenthetical notation "(U//FOUO)" at the beginning of the portion. If a portion of a classified document contains both classified and FOUO information, the appropriate classification designation is sufficient to protect the information, and no additional marking shall be used to designate the FOUO content.

(d) Each portion of electronically transmitted classified messages, including e-mail, containing FOUO information shall be marked appropriately.

(5) FOUO information disseminated outside the Department of Defense shall also bear a marking on the outside of the front cover, first page, or at the beginning of the text that states that the information may be exempt from mandatory disclosure in accordance with the FOIA. A statement similar to that shown in Figure 1 is sufficient. A FOIA exemption number shall NOT be applied.

Figure 1. Exemption Notice for FOUO Disseminated Outside of the Department of Defense

This document contains information that may be exempt from mandatory disclosure under the Freedom of Information Act.

(6) Technical documents that require a distribution statement restricting disclosure and/or an export control warning notice pursuant to DoDD 5230.24 (Reference (q)) and section 8 of this enclosure should be marked as FOUO when appropriate, in addition to the required distribution statement.

d. Access to FOUO Information

(1) No person may have access to information designated as FOUO unless that person has been determined to have a valid need for such access in connection with the accomplishment of a lawful and authorized Government purpose.

(2) The final responsibility for determining whether an individual has a valid need for access to information designated as FOUO rests with the individual who has authorized possession, knowledge, or control of the information, not with the prospective recipient.

(3) Information designated as FOUO may be disseminated within the DoD Components and between officials of DoD Components and DoD contractors, consultants, and grantees to conduct official business for the Department of Defense, provided that dissemination is consistent with any further controls imposed by a distribution statement. (See section 8 of this enclosure for information on distribution statements.)

(4) Information designated as FOUO may be disseminated to representatives of foreign governments and international organizations to the extent that disclosure would further the execution of a lawful and authorized mission or purpose. Such dissemination shall be in compliance with Reference (l) and other applicable statutes, regulations, and policies. (See paragraphs 1.g and 1.h of this enclosure for general disclosure guidance.)

(5) DoD holders of information designated as FOUO are authorized to disseminate such information to officials in other departments and agencies of the Executive and Judicial Branches to fulfill a Government function provided such dissemination is consistent with any further controls imposed by distribution statements or other regulations. If the information is covered by

the Privacy Act of 1974, as amended, disclosure is authorized only if the requirements of DoD 5400.11-R (Reference (r)) are also satisfied. Records thus transmitted shall be marked as required by paragraph 2.c of this enclosure, and the recipient shall be advised that the information may qualify for exemption from public disclosure, pursuant to the FOIA, and that special handling instructions do or do not apply. Release of official information in litigation and testimony by DoD personnel as witnesses shall be in accordance with DoDD 5405.2 (Reference (s)).

(6) Release of FOUO information to Congress shall be in accordance with DoDI 5400.04 (Reference (t)). If the information is covered by the Privacy Act of 1974, as amended, disclosure is authorized only if the requirements of Reference (r) are also satisfied.

(7) DoDI 7650.01 (Reference (u)) governs release of FOUO information to the Government Accountability Office (GAO). If the information is covered by the Privacy Act of 1974, as amended, disclosure is authorized only if the requirements of Reference (r) are also satisfied.

(8) Records released outside of the Department of Defense, including to the Congress or GAO, should be reviewed to determine whether the information warrants FOUO status. If it does not, any prior FOUO markings shall be removed by lining-through or other appropriate means. If withholding criteria are met, the records shall be marked FOUO and the recipient provided an explanation for the marking.

(9) FOUO information may be shared with State, local, or tribal government officials, provided a specific need to know has been established and the information is shared in furtherance of an official governmental purpose. In all cases, the recipient must agree to the stipulation that the information shall be withheld by the recipient from public release. Records thus shared shall be marked in accordance with paragraph 2.c of this enclosure, and the recipient shall be advised whether special handling instructions do or do not apply.

e. Protection of FOUO Information

(1) During working hours, reasonable steps shall be taken to minimize the risk of access by unauthorized personnel (e.g., not reading, discussing, or leaving FOUO information unattended where unauthorized personnel are present). After working hours, FOUO information may be stored in unlocked containers, desks, or cabinets if Government or Government-contract building security is provided. If such building security is not provided or is deemed inadequate, the information shall be stored in locked desks, file cabinets, bookcases, locked rooms, etc.

(2) FOUO information and material may be transmitted via first class mail, parcel post, or, for bulk shipments, via fourth class mail. Whenever practical, electronic transmission of FOUO information (e.g., data, website, or e-mail) shall be by approved secure communications systems or systems utilizing other protective measures such as Public Key Infrastructure (PKI) or transport layer security (e.g., https). Use of wireless telephones should be avoided when other options are available. Transmission of FOUO by facsimile machine (fax) is permitted; the sender is responsible for determining that appropriate protection will be available at the receiving

location prior to transmission (e.g., machine attended by a person authorized to receive FOUO; fax located in a controlled government environment).

(3) FOUO information may only be posted to DoD websites consistent with security and access requirements specified in Reference (k).

(4) Additional guidance regarding FOUO information that may also require protection pursuant to the Privacy Act of 1974, as amended, may be found in Reference (r).

(5) Record copies of FOUO documents shall be disposed of according to provisions of chapter 33 of title 44, U.S.C. (Reference (v)) and the DoD Component records management directives. Non-record FOUO documents may be destroyed by any of the means approved for the destruction of classified information or by any other means that would make it difficult to recognize or reconstruct the information.

(6) The originator or other competent authority (e.g., initial FOIA denial and appellate authorities) shall terminate the FOUO status of specific information when circumstances indicate that the information no longer requires protection from public disclosure. When the FOUO status of information is terminated in this manner, all known holders shall be notified, to the extent practical. Upon notification, holders shall efface or remove the FOUO markings, but records in file or storage need not be retrieved solely for that purpose. Information whose FOUO status has been terminated shall not be released to the public without the review and approval required by paragraph 1.f of this enclosure.

3. LES INFORMATION

a. Description. “Law Enforcement Sensitive” is a marking sometimes applied, in addition to the marking “FOR OFFICIAL USE ONLY,” by the Department of Justice and other activities in the law enforcement community, including those within the Department of Defense. It denotes that the information was compiled for law enforcement purposes and should be afforded security in order to protect certain legitimate Government interests, including the protection of:

(1) Enforcement proceedings.

(2) The right of a person to a fair trial or an impartial adjudication; grand jury information.

(3) Personal privacy, including records about individuals requiring protection in accordance with the Privacy Act of 1974, as amended.

(4) The identity of a confidential source, including a State, local, or foreign agency or authority or any private institution that furnished information on a confidential basis.

(5) Information furnished by a confidential source.

(6) Proprietary information.

(7) Techniques and procedures for law enforcement investigations or prosecutions; guidelines for law enforcement investigations when disclosure of such guidelines could reasonably be expected to risk circumvention of the law, or jeopardize the life or physical safety of any individual, including the lives and safety of law enforcement personnel.

b. Markings

(1) In unclassified documents containing LES information, the phrase “Law Enforcement Sensitive” shall accompany the phrase “FOR OFFICIAL USE ONLY” at the bottom of the outside of the front cover (if there is one), the title page (if there is one), and the outside of the back cover (if there is one). Each page containing FOUO-LES information shall be marked “FOR OFFICIAL USE ONLY Law Enforcement Sensitive” at the bottom.

(2) Classified documents containing such information shall be marked in accordance with Volume 2 of this Manual, except that pages containing LES information but no classified information shall be marked “FOR OFFICIAL USE ONLY Law Enforcement Sensitive” on the top and bottom. Use separate portions for LES information; do not commingle LES information with classified information in the same portion.

(3) Portions of DoD unclassified documents that contain FOUO-LES information shall be marked with the parenthetical notation “(FOUO-LES)” at the beginning of the portion. If an unclassified portion of a classified document contains FOUO-LES information, the portion marking (U//FOUO-LES) shall be used. If a portion of a classified document contains both classified and FOUO-LES information, the appropriate classification designation is sufficient to protect the information and no additional marking shall be used to designate the LES content.

(4) Documents containing LES information shall be marked on the first page with the warning statement shown in Figure 2.

Figure 2. LES Warning Statement

LAW ENFORCEMENT SENSITIVE: The information in this document marked FOUO-LES is the property of (insert organization) and may be distributed within the Federal Government (and its contractors) to law enforcement, public safety and protection, and intelligence officials and individuals with a need to know. Distribution to other entities without prior (insert organization) authorization is prohibited. Precautions shall be taken to ensure this information is stored and destroyed in a manner that precludes unauthorized access. Information bearing the FOUO-LES marking may not be used in legal proceedings without prior authorization from the originator. Recipients are prohibited from posting information marked FOUO-LES on a website or unclassified network.

DoDM 5200.01-V4, February 24, 2012

c. Access. The criteria for allowing access to FOUO-LES information are the same as those used for FOUO information.

d. Protection. Within the Department of Defense, FOUO-LES information shall be safeguarded and destroyed as required for FOUO information.

4. DoD UCNI

a. Description. DoD UCNI is unclassified information on security measures (including security plans, procedures, and equipment) for the physical protection of DoD Special Nuclear Material (SNM), SNM equipment, SNM facilities, or nuclear weapons in DoD custody. Information is designated DoD UCNI in accordance with DoDD 5210.83 (Reference (w)) only when it is determined that its unauthorized disclosure could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by increasing significantly the likelihood of the illegal production of nuclear weapons or the theft, diversion, or sabotage of DoD SNM, SNM equipment, SNM facilities, or nuclear weapons in DoD custody.

b. Application. Information may be designated DoD UCNI by the Heads of the DoD Components and individuals delegated authority in accordance with Reference (w).

c. Markings

(1) Unclassified documents and material, including those in electronic form, containing DoD UCNI shall be marked as follows:

(a) Documents shall be marked with the phrase “DOD UNCLASSIFIED CONTROLLED NUCLEAR INFORMATION” (or alternately “DOD UCNI”) at the bottom on the outside of the front cover, if any; the outside of the back cover, if any; the first page; and each individual page containing DoD UCNI.

(b) Portions of the document that contain DoD UCNI shall be marked with the parenthetical notation “(DCNI)” at the beginning of the portion.

(2) Classified documents and material containing DoD UCNI shall be marked in accordance with Volume 2 of this Manual.

(a) Pages with no classified information but containing DoD UCNI shall be marked “UNCLASSIFIED//DOD UNCLASSIFIED CONTROLLED NUCLEAR INFORMATION” or “UNCLASSIFIED//DOD UCNI” at the top and bottom, unless the page is marked with the overall classification of the document.

(b) Portions of the document that contain DoD UCNI, but no classified information, shall be marked with the parenthetical notation “(U//DCNI)” at the beginning of the portion.

Portions containing both DoD UCNI and classified information shall be marked “DCNI” in addition to the required classification marking (e.g., “(S//DCNI”).

(3) Material in other formats (e.g., slides, computer media, films) shall bear conspicuous markings that alert the holder or viewer that the material contains DoD UCNI. See subparagraph 2.c.(3)(g) of this enclosure for guidance on marking such material.

(4) Transmittal documents shall call attention to the presence of DoD UCNI attachments by using a statement in the text or marking at the bottom of the transmittal document. A statement such as “The attached document contains DoD Unclassified Controlled Nuclear Information (DoD UCNI)” is sufficient.

(5) Documents and material containing DoD UCNI and transmitted outside the Department of Defense shall bear an expanded marking on the face of the document so that non-DoD holders understand that DoD UCNI is exempt from mandatory public disclosure under the FOIA. A statement similar to the one shown in Figure 3 shall be used:

Figure 3. DoD UCNI Statement on Information Transmitted Outside of the Department of Defense

Department of Defense
Unclassified Controlled Nuclear Information
Exempt from mandatory disclosure under
5 U.S.C. 552(b)(3), as authorized by 10 U.S.C. 128
Unauthorized dissemination subject to civil and criminal sanctions
under Section 148 of the Atomic Energy Act of 1954, as amended
(42 U.S.C. 2168).

d. Access. Access to DoD UCNI shall be granted only to persons who have a valid need to know the information and are specifically eligible for access in accordance with the provisions of Reference (w).

(1) Recipients shall be made aware of the status of such information, and transmission shall be by means that preclude unauthorized disclosure or dissemination.

(2) DoD holders of DoD UCNI are authorized to convey such information to officials in other U.S. departments or agencies on a need-to-know basis to fulfill a Government function.

e. Protection

(1) When not commingled with classified information, DoD UCNI may be sent by first-class mail in a single, opaque envelope or wrapping.

(2) Except in emergencies, transmission of DoD UCNI, to include voice, facsimile, and e-mail, shall be via approved secure communications circuits and equipment only.

DoDM 5200.01-V4, February 24, 2012

(3) During working hours, reasonable measures shall be taken to minimize the risk of access by unauthorized personnel (e.g., not reading, discussing, or leaving DoD UCNI unattended where unauthorized personnel are present). After working hours, DoD UCNI may be stored in unlocked containers, desks, or cabinets if Government or Government-contract building security is provided. If such building security is not provided or is deemed inadequate, DoD UCNI shall be stored in locked buildings, rooms, desks, file cabinets, bookcases, or similar items.

(4) Record copies of DoD UCNI documents shall be disposed of in accordance with chapter 33 of Reference (v) and the DoD Component records management directives. Non-record DoD UCNI documents may be destroyed by shredding or burning or by any of the means approved for the destruction of classified information.

(5) DoD UCNI is exempt from mandatory public disclosure under Exemption 3 of the FOIA.

5. LIMITED DISTRIBUTION INFORMATION

a. Description. “LIMITED DISTRIBUTION” is a caveat used by the National Geospatial-Intelligence Agency (NGA) to identify a select group of sensitive, unclassified imagery or geospatial information and data created or distributed by NGA or information, data, and products derived from such information. DoDI 5030.59 (Reference (x)) contains details of policies and procedures regarding use of the LIMITED DISTRIBUTION caveat. These policies and procedures are summarized in this section and in Enclosure 4 of Volume 2 of this Manual.

b. Application

(1) Information that qualifies for withholding from public release pursuant to section 455 of title 10, U.S.C. (Reference (y)) may be designated as LIMITED DISTRIBUTION in accordance with Reference (x).

(2) The marking indicates distribution of certain unclassified geospatial intelligence is limited to the Department of Defense and authorized DoD contractors. Other dissemination requests or requirements shall be referred to NGA for approval.

c. Marking. Information or material designated as LIMITED DISTRIBUTION, or derived from such information or material, shall, unless otherwise approved by the Director, NGA, be marked “LIMITED DISTRIBUTION” and shall carry the notice shown in Figure 4 on the front page. Portions of the document that contain LIMITED DISTRIBUTION information shall be marked at the beginning of the portion with the parenthetical notation “(DS)” for an unclassified document or “(U//DS)” for a classified document.

Figure 4. LIMITED DISTRIBUTION Notice

<p style="text-align: center;">Distribution authorized to DoD, IAW 10 U.S.C. 130 & 455. Release authorized to U.S. DoD contractors IAW 48 C.F.R. 252.245-7000. Refer other requests to Headquarters, NGA, ATTN: Release Officer, Mail Stop S82-OIAD, 7500 Geoint Drive, Springfield, VA 22150-7500 Destroy IAW DoD Manual 5200.01. Removal of this caveat is prohibited.</p>
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d. Access

(1) Information bearing the LIMITED DISTRIBUTION caveat shall be disseminated by NGA to Military Departments or other DoD Components, to DoD contractors, and to authorized grantees for the conduct of official DoD business.

(2) DoD civilian, military, and contractor personnel of a recipient Military Department, other DoD Component, contractor, or grantee may be granted access to information bearing the LIMITED DISTRIBUTION caveat provided they have been determined to have a valid need to know such information in connection with the accomplishment of official business for the Department of Defense. Recipients shall be made aware of the status of such information, and transmission shall be by means to preclude unauthorized disclosure or release. Further dissemination of information bearing the LIMITED DISTRIBUTION caveat by receiving contractors or grantees to another Military Department, other DoD Component, contractor, or grantee, or dissemination by any recipient Military Service, DoD Component, contractor, or grantee to any person, agency, or activity outside the Department of Defense, requires the express written approval of the Director, NGA.

(3) Information bearing the LIMITED DISTRIBUTION caveat, or information derived therefrom, shall not be released, made accessible, or sold to foreign governments or international organizations, without the express written approval of the Director, NGA. This requirement includes Foreign Security Assistance transactions or arrangements, transfer or loan of any weapon or weapon system that uses such information, intended use in mission planning systems, and/or sale through the Foreign Military Sales process.

(4) All FOIA requests for information bearing the LIMITED DISTRIBUTION caveat, or derived therefrom, shall be referred to NGA consistent with Reference (x).

e. Protection

(1) LIMITED DISTRIBUTION information shall be stored in the same manner approved for FOUO information.

DoDM 5200.01-V4, February 24, 2012

(2) Information bearing the LIMITED DISTRIBUTION caveat, or derivative information, shall not be stored on systems accessible by contractors or other individuals who are not directly working on a DoD contract and who do not require such access in the conduct of official DoD business.

(3) Transmission of LIMITED DISTRIBUTION information and materials shall be by means that preclude unauthorized disclosure or release. LIMITED DISTRIBUTION information cannot be processed on or transmitted via unencrypted or unsecured systems accessible by the public. Electronic transmission of such information (e.g., voice, data, or facsimile) shall be by approved secure communications systems or systems utilizing protective measures such as PKI.

(4) LIMITED DISTRIBUTION information, or derivative information, may be posted to DoD websites only in accordance with security and access requirements specified in Reference (k). Publicly-accessible websites shall not contain LIMITED DISTRIBUTION information.

(5) When no longer required, all LIMITED DISTRIBUTION information and copies shall be returned to NGA or destroyed in a manner sufficient to prevent its reconstruction.

6. OTHER AUTHORIZED DESIGNATIONS

a. Department of State (DoS) Sensitive But Unclassified (SBU) Information

(1) Description. DoS SBU information is information originated within the DoS which that agency believes warrants a degree of protection and administrative control and meets the criteria for exemption from mandatory public disclosure in accordance with the provisions of the FOIA.

(2) Markings

(a) Unclassified documents containing DoS SBU information shall be marked "SENSITIVE BUT UNCLASSIFIED" at the bottom of the outside of the front cover (if there is one), the title page (if there is one), the first page, and the outside of the back cover (if there is one). Each page containing DoS SBU information shall be marked "SENSITIVE BUT UNCLASSIFIED" at the bottom. Portions of the document that contain DoS SBU shall be marked with the parenthetical notation "(SBU)" at the beginning of the portion.

(b) When DoS information carries the additional dissemination restriction NOFORN (i.e., the document is marked "SBU NOFORN" or "SENSITIVE BUT UNCLASSIFIED NOFORN"), the NOFORN restriction shall be carried forward in the markings at the bottom of the cover pages, the title page, and each internal page and in the portion marking of portions containing such information. Portions of the document that contain information not releasable to foreign nationals (i.e., NOFORN information) shall be marked with the parenthetical notation "(SBU-NF)" at the beginning of the portion.

DoDM 5200.01-V4, February 24, 2012

(c) When a document contains both DoS SBU and FOUO portions, the SBU markings supersede FOUO in the markings at the bottom of the cover and title pages and at the bottom of internal document pages.

(d) No requirement exists to re-mark existing material containing DoS SBU information.

(e) See Volume 2 of this Manual for guidance on marking classified documents containing DoS SBU information.

(3) Access. Within the Department of Defense, the criteria for allowing access to DoS SBU information are the same as those used for FOUO information, EXCEPT that information marked “SBU NOFORN” (or portion marked “(SBU-NF)”) shall not be provided to any person who is not a U.S. citizen without the approval of the DoS activity that originated the information.

(4) Protection of DoS SBU Information. Within the Department of Defense, DoS SBU information shall be protected as required for FOUO information.

b. Drug Enforcement Administration (DEA) Sensitive Information

(1) Description. DEA Sensitive information is unclassified information that the DEA originates and that requires protection against unauthorized disclosure to protect sources and methods of investigative activity, evidence, and the integrity of pretrial investigative reports. The Administrator and certain other officials of the DEA have been authorized to designate information as DEA Sensitive; the Department of Defense agreed to implement protective measures for DEA Sensitive information in its possession. Types of information to be protected include:

- (a) Information and material that is investigative in nature.
- (b) Information and material to which access is restricted by law.
- (c) Information and material that is critical to the operation and mission of the DEA.
- (d) Information and material the disclosure of which would violate a privileged relationship.

(2) Markings

(a) Unclassified documents containing DEA Sensitive information shall be marked “DEA SENSITIVE” at the top and bottom of the front cover (if there is one), the title page (if there is one), the first page, and the outside of the back cover (if there is one). Each page containing DEA Sensitive information shall be marked “DEA SENSITIVE” top and bottom. Portions of unclassified DoD documents that contain DEA Sensitive information shall be marked with the parenthetical notation “(DSEN)” at the beginning of the portion.

(b) Classified documents containing DEA Sensitive information shall be marked in accordance with Volume 2 of this Manual. Pages containing DEA Sensitive information but no classified information may be marked "UNCLASSIFIED//DEA SENSITIVE" top and bottom. If a portion of a classified document contains DEA Sensitive information, include the "DSEN" marking after the parenthetical classification marking (e.g., (U//DSEN)). Classified and DEA Sensitive portions should be kept separate.

(3) Access. Access to DEA Sensitive information shall be granted only to persons who have a valid need to know the information. A security clearance is not required for access to unclassified DEA Sensitive information. DEA Sensitive information in the possession of the Department of Defense may not be released outside the Department without DEA authorization.

(4) Protection

(a) DEA Sensitive material may be transmitted within the continental United States (CONUS) by first class mail. Transmission outside CONUS shall be by a means approved for transmission of Secret material (see Enclosure 4 of Volume 3 for transmission guidance). Non-government package delivery and courier services may not be used. Enclose the material in two opaque envelopes or containers, the inner one marked "DEA SENSITIVE" on both sides.

(b) Electronic transmission of DEA Sensitive information within CONUS shall be over secure (i.e., encrypted) communications circuits whenever possible; electronic transmission outside CONUS must be over secure communications circuits.

(c) Reproduction of DEA Sensitive information and material shall be limited to that required for operational needs.

(d) DEA Sensitive material shall be destroyed by a means approved for destruction of material classified Confidential.

7. FOREIGN GOVERNMENT INFORMATION

a. In order to ensure the protection of foreign government information that is provided to a DoD Component marked "RESTRICTED" or on the condition that it will be treated "in confidence," such information shall be marked in accordance with Volume 2 of this Manual and handled in accordance with Enclosure 2 of Volume 3 of this Manual.

b. A revision to the U.S./United Kingdom (UK) Security Implementing Arrangement (Reference (z)) that deals with industrial operations specifies that DoD contactors operating under COMMERCIAL contracts with the UK are allowed to treat documents received from the UK bearing the marking "UK RESTRICTED" in a manner similar to FOUO. Pursuant to Reference (z), the UK must include its requirements for the marking and handling of "UK RESTRICTED" information in the applicable contract. The agreement does NOT apply to, nor permit, such handling of "UK RESTRICTED" information by DoD Components or by

contractors when performing on DoD contracts and the provisions of paragraph 7.a of this enclosure apply.

8. DISTRIBUTION STATEMENTS ON TECHNICAL DOCUMENTS

a. Description. Reference (q) requires distribution statements to be placed on classified and unclassified scientific and technical documents created under the DoD Scientific and Technical Information Program (see DoDD 3200.12 (Reference (aa))). These statements are intended to facilitate control, secondary distribution, and release of these documents without the need to repeatedly obtain approval or authorization from the controlling DoD office.

(1) Distribution statements are to be applied to all newly created technical documents generated by DoD-funded research, development, test, and evaluation programs and to newly created technical documents and other technical information (e.g., test plans, computer software) that can be used or adapted for use in development, manufacture, or operation of any military or space equipment or related technology. They are not intended for use on program documentation such as administrative documents, contracting documents, and general correspondence, etc., unless these documents also contain technical information.

(2) The wording of the distribution statements specified by Reference (q) may not be modified to specify additional distribution, such as distribution to foreign governments. However, where other markings are authorized and used in accordance with statute, regulation, or other policy (e.g., North Atlantic Treaty Organization markings, REL TO), those markings may be used to further inform distribution decisions.

b. Application. DoD Components generating or responsible for technical documents shall determine if one or more of the reasons for controlled dissemination as specified in Reference (q) apply and mark the documents appropriately before initial distribution. Refer to Reference (q) for details on use of the markings and allowable reasons for controlling distribution.

(1) Unclassified DoD technical documents shall bear one of the distribution statements specified in Reference (q) and shown in the Table. Documents recommended for public release (i.e., marked with Distribution Statement A) must also be reviewed in accordance with Reference (j).

(2) Classified technical documents shall be assigned Distribution Statements B, C, D, E, or F. The distribution statement assigned to a classified document shall be retained on the document after its declassification or until specifically changed or removed by the controlling DoD office. Technical documents that are declassified and have no distribution statement assigned shall be handled in accordance with Distribution Statement F until changed by the controlling DoD office.

(3) Documents containing export-controlled technical data shall be marked with the applicable export-control statement, as specified by paragraph E3.1.1.8 of Reference (q), and

assigned Distribution Statement B, C, D, E, F, or X. Export-controlled information may NOT be posted to publicly-accessible websites.

Table. Text of Distribution Statements

Distribution A	Approved for public release, distribution is unlimited.
Distribution B	Distribution authorized to U.S. Government Agencies only; (reason); (date). Other requests for this document shall be referred to (controlling DoD office)
Distribution C	Distribution authorized to U.S. Government agencies And their contractors; (reason); (date) Other requests for this document shall be referred to (controlling DoD office).
Distribution D	Distribution authorized to the DoD and U.S. DoD contractors only; (reason); (date). Other requests for this document shall be referred to (controlling DoD office).
Distribution E	Distribution authorized to DoD Components only; (reason); (date); Other requests for this document shall be referred to (controlling DoD office).
Distribution F	Further distribution only as directed by (controlling DoD office) or higher DoD authority; (date).
Distribution X	Distribution authorized to U. S. Government agencies and private individuals or enterprises eligible to obtain export-controlled technical data in accordance with DoD Directive 5230.25; (date). Controlling DoD office is (controlling DoD office).

(4) The existence of a distribution statement on a document does not automatically qualify the document for, nor is it a basis for, exempting the document from release under the FOIA. A FOIA exemption must apply in order to preclude disclosure in accordance with the FOIA. Paragraph 2.a of this enclosure and Chapter 3 of Reference (p) provide additional information on FOIA exemptions. When appropriate, technical documents qualifying for FOIA exemptions should be marked as FOUO in addition to the required distribution statement.

(5) The distribution statement shall be displayed conspicuously so as to be recognized readily by recipients. For standard written or printed material, the distribution statement shall appear on the front page of the document (i.e., the first page or cover page). If the information is not prepared in the form of an ordinary document and does not have a cover or title page (such as forms and charts), the applicable distribution statement shall be stamped, printed, written, or affixed by other means in a conspicuous position.

(6) When possible, parts that contain information creating the requirement for a distribution statement shall be prepared as an appendix to permit broader distribution of the basic document.

ENCLOSURE 4

CUI EDUCATION AND TRAINING

1. REQUIREMENTS. The Heads of the DoD Components shall ensure that their personnel receive CUI education and training that:

a. Provides necessary knowledge and information to enable quality performance of CUI designation, marking, and protection functions.

b. Promotes understanding of the DoD Information Security Program policies and requirements and their importance to the national interests.

c. Instills and maintains continuing awareness of security requirements.

d. Assists in promoting a high degree of motivation to support program goals.

2. CUI EDUCATION AND TRAINING RESOURCES

a. CUI education and training may be accomplished by establishing programs within the DoD Component, using external resources such as the Defense Security Service Academy, or a combination of the two.

b. DoD Components may, if desired, combine into one overall program the education and training requirements of this enclosure and those for classified information specified in Volume 3 of this Manual.

3. INITIAL ORIENTATION. All personnel in the organization, including DoD civilians, military members and on-site support contractors, shall receive an initial orientation to the DoD Information Security Program.

a. This initial orientation is intended to:

(1) Define classified information and CUI and explain the importance of protecting such information.

(2) Produce a basic understanding of security policies and principles.

(3) Notify personnel of their responsibilities within the security program, and inform them of the administrative, civil, or criminal sanctions that can be applied when appropriate.

(4) Provide individuals enough information to ensure the proper protection of classified and controlled unclassified information in their possession, including actions to be taken if such

DoDM 5200.01-V4, February 24, 2012

information is discovered unsecured, a security vulnerability is noted, or the individual believes a person has been seeking unauthorized access to such information.

(5) Inform personnel of the need for review of ALL unclassified DoD information prior to its release to the public.

b. Security educators shall also consider including in the initial orientation identification of the senior agency official and activity security management personnel, a description of their responsibilities, and whether they are involved in the protection of classified or controlled unclassified information. If not included in the initial orientation, such information must be included in the training required by paragraph 3.c. of this enclosure.

c. In addition to the requirements in paragraphs 3.a. and 3.b. of this enclosure, upon initial entry into a position that requires CUI access, all personnel shall receive training on CUI policies, principles, and practices, including:

- (1) The responsibilities of agency personnel who create or handle CUI.
- (2) The characteristics that qualify information for designation as CUI and the importance of properly applying CUI markings.
- (3) The fact that CUI encompasses multiple different types of information and that each type may have differing marking and protection requirements.
- (4) The major categories of CUI used within the Department of Defense.
- (5) The marking and protection requirements for FOUO information and other categories of CUI routinely used by the organization.
- (6) Where to find detailed guidance on marking, handling, storing, transmitting, sharing, and destroying the various types of CUI.
- (7) What constitutes an unauthorized disclosure of CUI and the criminal, civil, and administrative sanctions that may be taken against an individual who fails to protect CUI.
- (8) The steps an individual shall take when he or she believes CUI has not been, or is not being, properly protected.
- (9) The use of information systems to create, process, store, or transmit CUI. Where appropriate, this training may be combined with the information assurance training required by DoDD 8570.01 (Reference (ab)). Marking requirements for information (e.g., documents, e-mail, briefings, databases, web-based information, spreadsheets) in electronic format and application of CUI requirements to electronic storage media should specifically be addressed.
- (10) The requirement for DoD personnel, while acting in an official capacity, to have information prepared for public release approved in accordance with Reference (j) and DoDI

DoDM 5200.01-V4, February 24, 2012

5230.29 (Reference (ac)) and, while acting in a private capacity and not in connection with their official duties, to have information prepared for public release through non-DoD forums or media reviewed for clearance if it meets the criteria in Reference (ac).

(11) The precautions that should be taken before attendance at professional meetings or conferences where foreign participation is likely and/or travel to foreign countries where special concerns about possible exploitation exist, when appropriate for the activity's mission or functions.

4. REQUIREMENTS FOR INFORMATION SECURITY PROGRAM PERSONNEL.

Individuals with specified duties in the information security program shall be provided security education and training that is commensurate with job responsibilities and sufficient to permit effective performance of those duties. The education and training may be provided before or concurrent with assuming those duties.

5. ADDITIONAL TRAINING REQUIREMENTS. Additional CUI education and training may be required for personnel or organizations that:

- a. Review and approve information for release to the public, including through the use of websites.
- b. Are involved with acquisition programs subject to DoDD 5000.01 (Reference (ad)).
- c. Are involved with international programs (see Glossary for definition).
- d. Share CUI with State, local, tribal, and private sector officials and/or with foreign government representatives.

6. ANNUAL REFRESHER TRAINING. At a minimum, DoD civilians, military members, and on-site support contractors with access to CUI shall receive annual refresher training that reinforces the policies, principles, and procedures covered in their initial and specialized CUI training. Such training may be integrated with the annual security refresher required by section 7 of Enclosure 6 of Volume 3 or the annual information assurance awareness refresher, as required by Reference (ab), as appropriate. Refresher training shall also address the threat and the techniques foreign intelligence activities use while attempting to obtain DoD CUI and advise personnel of penalties for unauthorized disclosures. The importance of unclassified information, its potential sensitivity, and the requirement to have all information reviewed and approved for release prior to public disclosure or Web posting shall be reiterated. Refresher training shall also address relevant changes in CUI policy or procedures and issues or concerns identified during DoD Component oversight reviews.

DoDM 5200.01-V4, February 24, 2012

7. CONTINUING CUI EDUCATION AND TRAINING. CUI education shall be a continuous process. Periodic briefings, training sessions, and other formal presentations shall be supplemented with other information and promotional efforts to ensure that continuous awareness and performance quality is maintained. The use of job performance aids and other substitutes for formal training is encouraged when they are determined to be the most effective means of achieving program goals. The circulation of directives or similar material on a “read-and-initial” basis shall not be considered as the sole means of fulfilling any of the specific requirements of this enclosure.

8. OUT-PROCESSING. The DoD Components shall establish procedures to ensure that employees with access to CUI who leave the organization are advised during their out-processing of:

- a. Their continued responsibility to protect the CUI to which they have had access.
- b. The process for reporting any unauthorized attempt to gain access to such information.
- c. The prohibitions against retaining CUI material when leaving the organization.
- d. The potential civil and criminal penalties for failure to fulfill their continuing responsibilities.
- e. The requirement that retired personnel, former DoD employees, and non-active duty members of the Reserve Components use the DoD security review process specified by Reference (j).

9. MANAGEMENT AND OVERSIGHT TRAINING. Individuals designated as security managers and other personnel whose duties significantly involve managing and overseeing CUI shall receive training that addresses:

- a. The designation process and the standards applicable to each designation.
- b. The authorities and processes for terminating CUI status.
- c. The requirements for reporting unauthorized disclosures, including when in electronic form, and the penalties that may be associated with violating established protection requirements.
- d. The requirements for oversight as part of the information security program.
- e. Details of the marking, dissemination, and safeguarding specifications for each type of CUI routinely used by the Department of Defense, to include:

- (1) Designation standards.

DoDM 5200.01-V4, February 24, 2012

(2) Use, storage, reproduction, transmission, dissemination, and destruction requirements and limitations.

(3) Access restrictions.

10. **PROGRAM OVERSIGHT.** The Heads of the DoD Components shall ensure that CUI education and training are appropriately evaluated during oversight activities. This evaluation shall include assessing the quality and effectiveness of the efforts, as well as ensuring appropriate coverage of the target populations. The Heads of the DoD Components shall require maintaining records of education and training offered and employee participation as they deem necessary to permit effective oversight.

DoDM 5200.01-V4, February 24, 2012

GLOSSARYPART I. ABBREVIATIONS AND ACRONYMS

ATTN	attention
CD	compact disc
CD-ROM	compact disc-read only memory
CONUS	continental United States
CUI	controlled unclassified information
DEA	Drug Enforcement Administration
DNI	Director of National Intelligence
DoD UCNI	DoD Unclassified Controlled Nuclear Information
DoDD	DoD Directive
DoDI	DoD Instruction
DoS	Department of State
DSEN	DEA Sensitive
DVD	digital video disc
FOIA	Freedom of Information Act
FOUO	For Official Use Only
FOUO-LES	For Official Use Only-Law Enforcement Sensitive
GAO	Government Accountability Office
IAW	in accordance with
LES	Law Enforcement Sensitive
NGA	National Geospatial-Intelligence Agency
NIPRNET	Non-Secure Internet Protocol Router Network
NOFORN	not releasable to foreign nationals
PKI	Public Key Infrastructure
SBU	sensitive but unclassified
SCI	sensitive compartmented information
SNM	special nuclear material
UCNI	Unclassified Controlled Nuclear Information
UK	United Kingdom
U.S.C.	United States Code
USD(I)	Under Secretary of Defense for Intelligence
USD(P)	Under Secretary of Defense for Policy

PART II. DEFINITIONS

Unless otherwise noted, these terms and their definitions are for the purpose of this Manual.

access. The ability or opportunity to obtain knowledge of classified or controlled unclassified information.

activity security manger. The individual specifically designated in writing and responsible for the activity's information security program, which ensures that classified and controlled unclassified information is properly handled during its entire life cycle. This includes ensuring it is appropriately identified, marked, stored, disseminated, disposed of, and accounted for, as well as providing guidance on the handling of security incidents to minimize adverse effects and ensure that appropriate corrective action is taken. The security manager may be assigned responsibilities in other security disciplines such as personnel and physical security, etc.

controlling DoD office. The DoD activity that sponsored the work that generated the technical data or received the technical data on behalf of the Department of Defense and, therefore, has the responsibility for determining the distribution of a document containing such technical data. For joint sponsorship, the controlling office is determined by advance agreement and may be a party, group, or committee representing the interested activities or the DoD Components.

CONUS. U.S. territory, including adjacent territorial waters, located within the North American continent between Canada and Mexico.

CUI. Unclassified information that requires safeguarding or dissemination controls, pursuant to and consistent with applicable law, regulations, and Government-wide policies.

DEA Sensitive information. Unclassified information that the DEA originates and that requires protection against unauthorized disclosure to protect sources and methods of investigative activity, evidence, and the integrity of pretrial investigative reports.

declassification. The authorized change in the status of information from classified information to unclassified information.

distribution statement. A statement used on a technical document to denote the extent of its availability for secondary distribution, release, and disclosure without additional approvals or authorizations. A distribution statement marking is distinct from and in addition to a security classification marking. A distribution statement is also required on security classification guides submitted to the Defense Technical Information Center.

document. Any recorded information, regardless of the nature of the medium or the method or circumstances of recording. This includes any physical medium in or on which information is recorded or stored, to include written or printed matter, audiovisual materials, and electromagnetic storage media.

DoDM 5200.01-V4, February 24, 2012

DoD UCNI. Unclassified information on security measures (including security plans, procedures, and equipment) for the physical protection of DoD SNM, SNM equipment, SNM facilities, or nuclear weapons in DoD custody, designated and controlled pursuant to the provisions of Reference (w).

DoS SBU. Information originated within the DoS which that agency believes warrants a degree of protection and administrative control and meets the criteria for exemption from mandatory public disclosure in accordance with provisions of the FOIA.

exemption. The basis for withholding information from public release pursuant to the provisions of the FOIA.

FOUO. A protective marking to be applied to unclassified information when disclosure to the public of that particular record, or portion thereof, would reasonably be expected to cause a foreseeable harm to an interest protected by one or more provisions of the FOIA. This includes information that qualifies for protection pursuant to the provisions of the Privacy Act of 1974, as amended. See Reference (p) for detailed information on categories of information that may qualify for exemption from public release.

information. Any knowledge that can be communicated or documentary material, regardless of its physical form or characteristics, that is owned by, produced by or for, or is under the control of the U.S. Government.

information security. The system of policies, procedures, and requirements established in accordance with Reference (d) to protect information that, if subjected to unauthorized disclosure, could reasonably be expected to cause damage to the national security. The term also applies to policies, procedures, and requirements established to protect CUI, which may be withheld from release to the public in accordance with statute, regulation, or policy.

integrity. The state that exists when information is unchanged from its source and has not been accidentally or intentionally modified, altered, or destroyed.

Intelligence Community. An element or agency of the U.S. Government identified in or designated pursuant to section 403 of title 50, U.S.C., or section 3.5(h) of Executive Order 12333 (References (ae) and (af)).

international program. Any program, project, contract, operation, exercise, training, experiment, or other initiative that involves a DoD Component or a DoD contractor and a foreign government, international organization, or corporation that is located and incorporated to do business in a foreign country.

LES. A marking sometimes applied, in addition to or in conjunction with the marking “FOR OFFICIAL USE ONLY,” by the Department of Justice and other activities in the law enforcement community to denote that the information was compiled for law enforcement

DoDM 5200.01-V4, February 24, 2012

purposes and should be afforded appropriate security in order to protect certain legitimate government interests.

LIMITED DISTRIBUTION. A caveat used by the NGA to identify a select group of sensitive, unclassified imagery or geospatial information and data created or distributed by NGA or information, data, and products derived from such information.

material. Any product or substance on or in which information is embodied.

national security. The national defense or foreign relations of the United States. National security includes defense against transnational terrorism.

need to know. A determination that a prospective recipient requires access to specific information in order to perform or assist in a lawful and authorized governmental function.

network. A system of two or more computers that can exchange data or information.

page marking. Banner marking at top and/or bottom of an interior page of a document.

permanently valuable records. Records having sufficient value to warrant being maintained and preserved permanently.

records. The records of an agency and Presidential papers or Presidential records, as those terms are defined in chapters 22 and 33 of Reference (v), including those created or maintained by a U.S. Government contractor, licensee, certificate holder, or grantee that are subject to the sponsoring agency's control under the terms of the contract, license, certificate, or grant.

records management. The planning, controlling, directing, organizing, training, promoting, and other managerial activities involved with respect to records creation, records maintenance and use, and records disposition in order to achieve adequate and proper documentation of the policies and transactions of the Federal Government and effective and economical management of agency operations. Within the Department of Defense, records management is implemented by Reference (o).

safeguarding. Measures and controls that are prescribed to protect classified and controlled unclassified information.

SCI. Classified information concerning or derived from intelligence sources, methods, or analytical processes that is required to be handled within formal access control systems established by the DNI.

security clearance. A determination that a person is eligible in accordance with the standards of Reference (n) for access to classified information.

senior agency official. An official appointed by the head of a DoD Component to be responsible for direction, administration, and oversight of the DoD Component's information security

program, to include classification, declassification, safeguarding, and security education and training programs, and for the efficient and effective implementation of References (b), (d), (e) and (f) and the guidance in this Manual. Where used in reference to authorities under section 5.4(d) of Reference (d), this term applies only to the senior agency officials of the Military Departments and of the Department of Defense.

unauthorized disclosure. Communication or physical transfer of classified or controlled unclassified information to an unauthorized recipient.

EXHIBIT C



DoD MANUAL 5400.07

DoD FREEDOM OF INFORMATION ACT (FOIA) PROGRAM

Originating Component:	Office of the Deputy Chief Management Officer of the Department of Defense
Effective:	January 25, 2017
Releasability:	Cleared for public release. Available on the DoD Issuances Website at http://www.dtic.mil/whs/directives .
Incorporates and Cancels:	DoD 5400.7-R, "DoD Freedom of Information Act (FOIA) Program," September 4, 1998
Approved by:	David Tillotson III, Assistant Deputy Chief Management Officer

Purpose: This issuance:

- Implements the DoD FOIA Program pursuant to DoD Directive (DoDD) 5400.07, in accordance with the authority in DoDD 5105.53, DoDD 5105.82, and the July 11, 2014, Deputy Secretary of Defense Memorandum.
- Supplements Part 286 of Title 32, Code of Federal Regulations (CFR).
- Incorporates the provisions of the OPEN Government Act of 2007 and the FOIA Improvement Act of 2016.
- Promotes uniformity in the DoD FOIA Program by taking precedence over all DoD Component issuances that supplement and implement the DoD FOIA Program.

TABLE OF CONTENTS

- SECTION 1: GENERAL ISSUANCE INFORMATION 4
 - 1.1. Applicability 4
 - 1.2. Information Collections 4
- SECTION 2: RESPONSIBILITIES 5
- SECTION 3: GENERAL PROVISIONS 6
 - 3.1. Public Access to DoD information 6
 - 3.2. DoD Components 6
 - 3.3. FOIA RSCs 8
 - 3.4. FOIA Public Liaisons 9
 - 3.5. Unofficial Release of DoD Records 9
 - 3.6. Description of Requested Record 10
 - 3.7. Combatant Commands 10
 - 3.8. Security Clearances and Access 11
 - 3.9. Relationship Between the FOIA and the Privacy Act 11
 - 3.10. Use of Contractors in FOIA Administration 11
 - 3.11. Non-Responsive Information 12
 - 3.12. Honoring Form or Format Requests 13
 - 3.13. FOIA Annual Report 13
 - 3.14. Significant FOIA Requests 13
- SECTION 4: FOIA LIBRARIES 14
 - 4.1. Requirements 14
 - 4.2. Record Availability 15
 - 4.3. Indexes 15
 - 4.4. FOIA Section (a)(1) Records 16
- SECTION 5: EXEMPTIONS 17
 - 5.1. General Provisions 17
 - 5.2. Applying the FOIA Exemptions 18
- SECTION 6: FOIA REQUEST PROCESSING 27
 - 6.1. General Provisions 27
 - 6.2. Processing Procedures 27
 - 6.3. Initial Determinations 32
 - 6.4. Consultations, Referrals, and Coordinations 34
 - 6.5. Appeals 34
 - 6.6. Fee Schedule 34
 - 6.7. FOIA Litigation 35
- SECTION 7: EDUCATION AND TRAINING 36
 - 7.1. General 36
 - 7.2. Procedures 36
 - 7.3. Scope and Principles 36
 - 7.4. Implementation 36
- GLOSSARY 37
 - G.1. Acronyms 37
 - G.2. Definitions 37

DoDM 5400.07, January 25, 2017

REFERENCES 42

DoDM 5400.07, January 25, 2017

SECTION 1: GENERAL ISSUANCE INFORMATION

1.1. APPLICABILITY. This issuance applies to OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD (referred to collectively in this issuance as the “DoD Components”).

1.2. INFORMATION COLLECTIONS. The DoD Annual FOIA Report to the U.S. Attorney General, referred to in Paragraphs 3.13., 6.2.a.(1)(b), and 6.3.b., has been assigned report control symbol DD-DCMO(A)1365 in accordance with the procedures in Volume 1 of DoD Manual (DoDM) 8910.01.

DoDM 5400.07, January 25, 2017

SECTION 2: RESPONSIBILITIES

The DoD Component heads implement the procedures prescribed in this issuance and ensure that any supplemental guidance and procedures are in accordance with Part 286 of Title 32, CFR, and DoDD 5400.07.

SECTION 3: GENERAL PROVISIONS

3.1. PUBLIC ACCESS TO DOD INFORMATION.

a. Pursuant to the FOIA, the public has the right to access agency records concerning U.S. Government activities. An agency record requested by a member of the public in accordance with Part 286 of Title 32, CFR, and this issuance must not be withheld in whole or in part unless the FOIA exempts the record, or parts of it, from disclosure.

b. The Directorate for Oversight and Compliance (DO&C), Office of the Deputy Chief Management Officer, maintains a DoD FOIA Handbook for the public to use in obtaining information from the DoD, as required by the FOIA. This handbook is a short, simple explanation of the FOIA and how the public can use it to access agency records. This handbook is posted on the FOIA section of the DoD Open Government Website at <http://open.defense.gov/Transparency/FOIA/FOIAHandbook.aspx>.

c. Individuals seeking DoD records should address their FOIA requests to a FOIA Requester Service Center (RSC) listed in Paragraph 3.2.a. or 3.2.b.. Addresses and contact information for the FOIA RSCs are available at the FOIA.gov Website, <http://www.foia.gov/report-makerequest.html>.

3.2. DOD COMPONENTS. The DoD Components listed in Paragraph 3.2.a. and 3.2.b. are referred to in this issuance as “DoD FOIA Program Components.”

a. The following DoD Components have their own FOIA programs, including a FOIA appellate authority.

- (1) Office of the Secretary of Defense/Joint Staff (OSD/JS).
- (2) Department of the Army.
- (3) Department of the Navy.
- (4) Department of the Air Force.
- (5) Defense Commissary Agency.
- (6) Defense Contract Audit Agency.
- (7) Defense Contract Management Agency.
- (8) Defense Finance and Accounting Service.
- (9) Defense Health Agency.
- (10) Defense Information Systems Agency.

DoDM 5400.07, January 25, 2017

- (11) Defense Intelligence Agency.
- (12) Defense Logistics Agency.
- (13) Defense Security Service.
- (14) Defense Threat Reduction Agency.
- (15) DoD Education Activity.
- (16) National Geospatial-Intelligence Agency.
- (17) National Reconnaissance Office.
- (18) National Security Agency/Central Security Service.
- (19) Office of the Inspector General of the Department of Defense.

b. The following DoD Components have their own FOIA programs; however, their FOIA appellate authority is the FOIA appellate authority for the OSD/JS as assigned in DoDD 5400.07.

- (1) Armed Services Board of Contract Appeals.
- (2) Defense Technical Information Center.
- (3) Joint Personnel Recovery Agency.
- (4) National Guard Bureau.
- (5) United States Africa Command.
- (6) United States European Command.
- (7) United States Central Command.
- (8) United States Northern Command.
- (9) United States Pacific Command.
- (10) United States Special Operations Command.
- (11) United States Southern Command.
- (12) United States Strategic Command.
- (13) United States Transportation Command.

c. The OSD/JS FOIA RSC processes requests for the following DoD Components:

- (1) Defense Acquisition University.

DoDM 5400.07, January 25, 2017

- (2) Defense Advanced Research Projects Agency.
- (3) Defense Equal Opportunity Management Institute.
- (4) Defense Legal Services Agency.
- (5) Defense Microelectronics Activity.
- (6) Defense Media Activity.
- (7) Defense POW/MIA Accounting Agency.
- (8) Defense Security Cooperation Agency.
- (9) Defense Technology Security Administration.
- (10) Defense Travel Management Office.
- (11) DoD Human Resources Activity.
- (12) DoD Test Resource Management Center.
- (13) Joint Improvised-Threat Defeat Agency.
- (14) Missile Defense Agency.
- (15) National Defense University.
- (16) Office of Economic Adjustment.
- (17) Office of Military Commissions.
- (18) Pentagon Force Protection Agency.
- (19) Uniform Services University of the Health Sciences.
- (20) Washington Headquarters Services.
- (21) White House Military Office.

3.3. FOIA RSCS.

a. Each DoD FOIA Program Component listed in Paragraphs 3.2.a. and 3.2.b. of this issuance must establish one or more FOIA RSCs.

b. Each FOIA RSC will have a website that serves to educate the public on the FOIA process. These websites will comply with DoD Instruction (DoDI) 8550.01. At a minimum, each website will provide:

DoDM 5400.07, January 25, 2017

(1) The address, telephone number, facsimile number, and organizational e-mail address to which the public can send FOIA requests.

(2) Name of the DoD FOIA Program Component's FOIA point of contact.

(3) A link to the DoD FOIA Handbook.

(4) A description of the types of records that can be requested from the DoD FOIA Program Component.

(5) The name and contact information for each of the DoD FOIA Program Component's FOIA Public Liaisons.

(6) Information on how a FOIA requester can obtain the status of their FOIA request (either by telephone or through the FOIA RSC website).

(7) A FOIA library as described in Section 4 or a link to the DoD FOIA Program Component's FOIA library, if the library is centralized.

c. The websites of DoD FOIA Program Component headquarters FOIA RSCs will link to the websites of the other FOIA RSCs within their Components.

d. The Internet home page of every DoD Component will link to the FOIA RSC for that DoD Component.

3.4. FOIA PUBLIC LIAISONS. The DoD Components listed in Paragraph 3.2.a. will submit to the DO&C the names of personnel to serve as FOIA Public Liaisons. Each DoD FOIA Program Component will have at least one FOIA Public Liaison.

a. The FOIA Public Liaisons will:

(1) Ensure that the FOIA RSCs' websites comply with the requirements in Paragraph 3.3.b.

(2) Assist in the reduction of any delays in responding to requests.

(3) Increase transparency and understanding of request statuses.

(4) Assist in dispute resolution.

b. The FOIA Public Liaison for the DoD Components listed in Paragraph 3.2.b., the OSD/JS, and the Armed Services Board of Contract Appeals is in the DO&C.

3.5. UNOFFICIAL RELEASE OF DOD RECORDS. Records are considered part of the public domain when released to the public in response to a FOIA request or under circumstances in which a DoD official with the appropriate authority has authorized their release (e.g., a release under the DoD Mandatory Declassification Review Program, pursuant to DoD 5230.30-M). The

DoDM 5400.07, January 25, 2017

disclosure of exempt records, without authorization by an appropriate DoD official, is not an official release of information. Such a release does not waive the authority of the DoD to assert FOIA exemptions to withhold the same records in response to a FOIA request.

3.6. DESCRIPTION OF REQUESTED RECORD. The requester is responsible for providing a reasonable description of the desired record that will enable the DoD Component to locate the record with a reasonable amount of effort.

a. A reasonable description contains sufficient information to permit an organized, non-random search for the record based on the DoD Component's filing arrangements and existing retrieval systems. If filing arrangement details are unknown, then the requester should provide sufficient event-related details, to include the circumstances that resulted in the record being created or the date and circumstances surrounding the event the record covers, to permit a person familiar with the DoD Component's filing arrangements to reasonably identify where such records would be located. The DoD Component's decision on the reasonableness of the description must be based on knowledge of its files, not on the potential volume of records that may be located and the concurrent review effort to determine releasability.

b. The fact that a FOIA request appears broad or burdensome (e.g., contains a large volume of potentially responsive information) does not, by itself, entitle the DoD Component to deny the FOIA request on the grounds that it does not reasonably describe the record sought.

3.7. COMBATANT COMMANDS. The Combatant Commands' FOIA programs are placed under OSD jurisdiction instead of the administering Military Department or the Chairman of the Joint Chiefs of Staff. This is an exception to DoDD 5100.03 in that it authorizes and requires the Combatant Commands to process FOIA requests in accordance with Part 286 of Title 32, CFR, and this issuance.

a. Documents originated by the Military Service components of the Combatant Commands while acting in a headquarters capacity for joint exercises or operations under Combatant Command authority are joint in nature and are under the cognizance of the Combatant Commands.

b. Documents created for a Combatant Command, yet located within a Defense Criminal Investigative Organization or Military Department Counterintelligence Organization or accident investigation file at the Military Service component, are Military Service records and the release, initial denial, and appellate authorities remain with the Military Service. However, the Military Service component will consult with the responsible Combatant Command during the review process.

c. Documents created by the Military Service components of the Combatant Commands below the headquarters level are considered Military Service records. Examples would include base support, personnel, and logistical records.

3.8. SECURITY CLEARANCES AND ACCESS. Due to the nature of their duties and responsibilities, FOIA personnel require access to all records requested through their respective activities, regardless of the sensitivity or classification of the information. The DoD Components must ensure that FOIA personnel have the appropriate clearances and access to perform their duties and are provided the appropriate electronic equipment to process and transmit classified records.

3.9. RELATIONSHIP BETWEEN THE FOIA AND THE PRIVACY ACT.

a. Requesters seeking records about themselves contained only in a Privacy Act system of records will have their requests processed pursuant to Section 552a of Title 5, U.S.C. (also known as the “Privacy Act of 1974,” as amended, and referred to as the “Privacy Act” in this issuance) and implemented within the DoD by DoD 5400.11-R.

(1) If the Privacy Act system of records is exempt from the access provisions of Section (d)(1) of the Privacy Act, and if the records or any portion thereof are exempt pursuant to FOIA, the DoD Component will advise of the appropriate Privacy Act and FOIA exemption(s) in its response. Appeals must be processed pursuant to both the FOIA and the Privacy Act.

(2) If the Privacy Act system of records is not exempt from the access provisions of Section (d)(1) of the Privacy Act, a DoD Component cannot claim a FOIA exemption on the information and must release all information to the first-party requester. However, the DoD Component may withhold from such requester privacy-related information about another individual within the requester’s Privacy Act file. When this is the case, the DoD Component will advise the first-party requester that information was withheld because “a portion of the record you requested contains privacy-related information about a party other than yourself.”

b. Requesters seeking records about themselves not in a Privacy Act system of records who cite or imply the Privacy Act will have their requests processed pursuant to the FOIA, since the Privacy Act does not apply to these records. Appeals must be processed pursuant to the FOIA.

c. Requesters seeking records about themselves in a Privacy Act system of records and outside a Privacy Act system of records will have their requests processed pursuant to both the Privacy Act and the FOIA.

d. DoD Components will advise first-party requesters in the final response letter which Privacy Act and FOIA statutory authorities were used, inclusive of appeal rights.

3.10. USE OF CONTRACTORS IN FOIA ADMINISTRATION. Pursuant to DoDI 1100.22, Office of Management and Budget Circular No. A-76, and Office of Federal Procurement Policy Letter 11-01, DoD Components may not use contract support for certain functions known as “inherently governmental activities” (e.g., “governmental FOIA functions”).

a. Inherently governmental FOIA functions include:

(1) Formulating or approving FOIA policies and procedures.

DoDM 5400.07, January 25, 2017

(2) Making final determinations regarding whether to treat an incoming correspondence as a FOIA or Privacy Act request.

(3) Making denial or release determinations of information requested pursuant to the FOIA.

(4) Deciding any issues regarding the scope or interpretation of a FOIA request.

(5) Determining the appropriateness of claimed exemptions.

(6) Approving the approach taken in negotiations or discussions with the FOIA requester.

(7) Deciding administrative appeals.

(8) Conducting a final review of all outgoing final determination correspondence, memoranda, and release packages.

(9) Making final determinations on requests for expedited processing, fee category, and fee waivers.

(10) Executing documents for filing in litigation pursuant to the FOIA if the documents assert an official position of the DoD, any DoD Components, or any other federal agencies. Contractors may prepare and execute documents describing their own actions while processing FOIA requests.

b. Office of Federal Procurement Policy Letter 11-01 identifies the preparation of responses to FOIA requests as a function closely associated with inherently governmental functions. Examples of FOIA functions and duties that contractors may perform in the preparation of responses to FOIA requests include, but are not limited to:

(1) Making redactions to documents under the direction of an initial denial authority (IDA).

(2) Preparing correspondence for signature by a U.S. Government official.

(3) Communicating with a FOIA requester concerning the status of the FOIA request.

(4) Recommending information to be denied.

(5) Entering relevant information into the DoD Component's FOIA tracking system.

3.11. NON-RESPONSIVE INFORMATION. It is not uncommon for a DoD Component, when processing records in response to a FOIA request, to locate records that deal with multiple subjects, and only one of these subjects pertain to the FOIA request. In most of these cases the DoD Components should release non-responsive information that is not exempt from the FOIA. However, if it is determined that processing the non-responsive information may cause a burden to the DoD Component or is not in the best interests of the FOIA requester, the DoD Component

DoDM 5400.07, January 25, 2017

will consult with the FOIA requester and seek their concurrence to the redaction of the non-responsive information without a FOIA exemption. If the FOIA requester agrees, the responsive record will contain the annotation “non-responsive” at this redaction, and this concurrence will be documented in the response letter. For further information, consult the Department of Justice guidance on this topic at <https://www.justice.gov/oip/blog/foia-update-oip-guidance-determining-scope-foia-request>

3.12. HONORING FORM OR FORMAT REQUESTS.

a. The DoD Components will make reasonable efforts to:

(1) Provide the record in any form or format requested if the record is readily reproducible in that form or format in the Component’s automated system.

(2) Provide records in a form that is reasonably usable.

(3) Maintain records in forms and formats that are reproducible.

b. A record is not considered readily reproducible if the DoD Component does not have the reproduction capability or if significant resources must be expended to reproduce it into the requested format. In responding to FOIA requests for records, the DoD Components will make reasonable efforts to search for records in electronic form or format if maintained in automated systems, except when such efforts would significantly interfere with the operation of the automated systems. The DoD Components will make such determinations on a case-by-case basis.

3.13. FOIA ANNUAL REPORT. The DoD FOIA Annual Report to the United States Attorney General and the Director of Office of Government Information Services is mandated by Section (e)(1) of the FOIA and completed on a fiscal-year basis. Due to the magnitude of the requested statistics and the need for accuracy, the DoD FOIA Program Components will track the annual report data as FOIA requests are processed. This facilitates accurate compilation of the statistics in completing the report. Each September, the DO&C provides instructions to the DoD FOIA Program Components concerning Component input for the annual report. Using the current edition of DD Form 2564, “Annual Freedom of Information Act Report,” the DoD Components will forward their reports to the DO&C no later than October 31. In turn, the DO&C submits a consolidated report to the Attorney General by February 1 of each year, and places a copy of this report in the FOIA section of the DoD Open Government Website.

3.14. SIGNIFICANT FOIA REQUESTS. DoD FOIA Program Components receiving a FOIA request for records, the release of which may be of interest to DoD leadership, will contact DO&C for further guidance. DO&C will coordinate expeditiously the responses with DoD leadership; however, it will not act as the IDA for any denial of information.

SECTION 4: FOIA LIBRARIES

4.1. REQUIREMENTS.

a. General. The FOIA requires agency records described in Section (a)(2) of the FOIA and created on or after November 1, 1996, to be available for public inspection in an electronic format. To meet this requirement, each DoD FOIA Program Component will maintain an online FOIA library. In addition to these records, the DoD FOIA Program Components may elect to place other agency records of public interest in their FOIA libraries.

b. DoD FOIA Program Component FOIA Libraries. Each DoD Component will establish one or more FOIA libraries. The DoD Components that have only one FOIA RSC will meet this requirement by having a FOIA library on its FOIA website. The DoD Components with more than one FOIA RSC will meet this requirement by either having one FOIA library on its primary FOIA website or having a FOIA library on each FOIA RSC website.

(1) **Final Opinions.** Section (a)(2)(A) of the FOIA requires agencies to make final opinions available to the public. This requirement can be met by the public availability of DoD Component websites such as the Defense Office of Hearings and Appeals and Armed Services Board of Contract Appeals. DoD FOIA Program Components are not required to also post or link to these otherwise publically available documents in their FOIA libraries.

(2) **Statements of Policy.** Section (a)(2)(B) of the FOIA requires agencies to make statements of policy and interpretations that have been adopted by the agencies and are not published in the Federal Register available to the public. This requirement can be met by the publication of DoD issuances on the DoD Issuances Website. DoD FOIA Program Components are not required to post or link to these documents in their FOIA libraries.

(3) **Administrative Staff Manuals or Instructions.** Section (a)(2)(C) of the FOIA requires agencies to make administrative staff manuals and instructions that establish policy or interpretations that affect the public available to the public. Each DoD FOIA Program Component FOIA library must link to its respective Component's publicly available issuance publication web page. For example, the Air Force FOIA Website will link to the Air Force e-Publishing Website, and the OSD/Joint Staff FOIA RSC will link to the DoD Issuances Website.

(4) Frequently Requested Records.

(a) Each FOIA Program DoD Component FOIA library must meet the requirements of Section (a)(2)(D) of the FOIA by making available to the public records that:

1. Have been released under the FOIA; and
2. Are or are likely to become the subject of subsequent FOIA requests; or
3. Have been requested three or more times.

(b) These types of documents will not be posted in FOIA Libraries.

DoDM 5400.07, January 25, 2017

1. Documents requested by a person that would be exempt from release to any other requester pursuant to Exemptions 6 or 7(C) because they contain personally identifiable information about the requester. This commonly occurs when a requester makes a first party request for their own information; however, it could arise in other situations.

2. Documents requested by a commercial entity that would be exempt from release to any other requester pursuant to Exemption 4 because they contain trade secrets or commercial or financial information concerning the requester.

(5) **Index.** Section (a)(2)(E) of the FOIA requires the libraries to provide an index of the documents posted in accordance with Section (a)(2)(D). DoD FOIA Program Components can meet this requirement by arranging these documents in their FOIA libraries by topical or descriptive words, rather than by case name or numbering system, so that the public can readily locate material. Case name and numbering arrangements may also be included for DoD FOIA Program Component convenience.

(6) **Proactive Releases.** DoD FOIA Program Components may post other documents in their FOIA libraries, such as proactive releases, documents released in accordance with the Mandatory Declassification Review program, and other documents released in accordance with the FOIA. This section also may contain links to other DoD FOIA Program Component offices proactively releasing documents. DoD Components must not proactively release documents that are contained within a Privacy Act system of records unless the published system of records notice specifically allows for proactive releases in the routine uses section.

c. Exemptions. DoD FOIA Program Components will redact from all records in FOIA libraries all information that qualifies for withholding pursuant to one or more of the FOIA exemptions described in Section 5.

4.2. RECORD AVAILABILITY. The DoD FOIA Program Components should consider enhancing their FOIA libraries with search engines and document categories to provide the public easier access.

4.3. INDEXES. Sections (g)(1) and (2) of the FOIA require agencies to make available for public inspection in an electronic format an index of all major information systems and a description of major information and record locator systems publicly available.

a. Major Information System. The FOIA section of the DoD Open Government Website satisfies this requirement for the DoD. The DoD FOIA Program Components are not required to post or link to this index in their FOIA libraries.

b. Record Locator System. The FOIA section of the DoD Open Government Website satisfies this requirement for the DoD. The FOIA Program DoD Components are not required to post or link to this index in their FOIA libraries.

4.4. FOIA SECTION (A)(1) RECORDS.

a. Although FOIA Section (a)(1) records need not be made available in response to FOIA requests or in FOIA libraries, they must be made publicly available. Examples of (a)(1) records include:

- (1) Descriptions of an agency’s central and field organization and, to the extent they affect the public, rules of procedure.
- (2) Descriptions of forms available.
- (3) Instructions as to the scope and contents of papers, reports, or examinations.
- (4) Any amendments, revisions, or reports of the aforementioned records.

b. In accordance with Section (a)(1) of the FOIA, each DoD Component will disclose, through publication in the Federal Register, information describing its organization, functions, procedures, substantive rules, and statements of general policy.

SECTION 5: EXEMPTIONS

5.1. GENERAL PROVISIONS.

a. This section is not a thorough or exhaustive explanation of the applicability of the FOIA exemptions. For more detailed explanations, the DoD Components may consult the Department of Justice Guide to the Freedom of Information Act (available at <http://www.usdoj.gov/oip/foia-guide.html>).

b. Information responsive to a FOIA request will be withheld only if the DoD Component reasonably foresees that disclosure would harm an interest protected by one or more of the FOIA exemptions, or disclosure is prohibited by law. Under this standard, the content of a particular record should be reviewed and a determination made as to whether the DoD Component reasonably foresees that disclosing it, given its age, content, and character, would harm an interest protected by the applicable exemption. Mere speculative or abstract fears, or fear of embarrassment, are an insufficient basis for withholding information.

c. As described in this section, nine types of exempt information in records may be withheld, in whole or in part, from public disclosure unless otherwise prescribed by law. In general, a release of a record to one FOIA requester prevents the withholding of the same record pursuant to a FOIA exemption if the record is later requested by someone else.

d. In applying exemptions, the identity of the FOIA requester and the purpose for the FOIA request are irrelevant; however, an exemption may not be invoked when the particular interest to be protected is the FOIA requester's interest. For example, privacy information concerning an individual would not be withheld from that individual if they were to request it under the FOIA unless another FOIA exemption applies.

e. When a DoD Component determines that information contained within a record is exempt from release, it will consider whether a partial release of the record is possible by taking reasonable steps to conduct a line-by-line review to segregate and release nonexempt information contained within the record.

f. If admitting the fact of the existence or nonexistence of a record responsive to a FOIA request would itself reveal information protected from release by one of the nine exemptions, the DoD Components must neither confirm nor deny the existence or nonexistence of the requested record.

(1) This is commonly called a "Glomar" response (for detailed guidance on using this type of response, see the Department of Justice Guide to the Freedom of Information Act), and the appropriate exemption must be cited by the DoD Component in the response. This situation most commonly arises with Exemptions 1, 6, and 7(C); however, it could arise with other exemptions.

(2) A "refusal to confirm or deny" response must be used consistently by the DoD Components, not only when a record exists, but also when a record does not exist. If not used

DoDM 5400.07, January 25, 2017

consistently, the pattern of a “no record” response when a record does not exist, and a “refusal to confirm or deny” when a record does exist, risks disclosing exempt information.

5.2. APPLYING THE FOIA EXEMPTIONS. This paragraph describes the nine types of exempt information in records and the procedures for applying them.

a. Exemption 1. Pursuant to section (b)(1) of the FOIA, records properly and currently classified in the interest of national defense or foreign policy, pursuant to an existing Executive order, are exempt from disclosure. If the responsive information is not marked as classified when the FOIA request is submitted, the DoD Component may undertake a classification review in accordance with Volume 1 of DoDM 5200.01 to determine whether the information should be classified. The FOIA requester will be advised as to which sections of an Executive order apply in determining that the information is classified. Exemption 1 also is invoked when:

(1) Individual items of unclassified information, when compiled, reveal additional associations or relationships that meet the standard for classification pursuant to an existing Executive order and Volume 1 of DoDM 5200.01, and are not otherwise revealed in the individual items of information. This is known as the “mosaic” or “compilation” approach.

(2) The fact of the existence or nonexistence of a responsive record would itself reveal information containing classified information. In this situation, the DoD Components must provide a Glomar response and cite Exemption 1.

b. Exemption 2. Pursuant to section (b)(2) of the FOIA, records related solely to the internal personnel rules and practices of the DoD or any of the DoD Components are exempt from disclosure.

c. Exemption 3. Pursuant to section (b)(3) of the FOIA, records concerning matters that another statute specifically establishes criteria for withholding are exempt from disclosure.

(1) This exemption allows for the withholding of information because its release is prohibited by another statute only if one of two disjunctive requirements concerning the statute is met:

(a) The statute requires that the information be withheld from the public in such a manner as to leave no discretion on the issue; or

(b) The statute establishes particular criteria for withholding or refers to particular types of matters to be withheld.

(2) For any statute enacted after October 28, 2009, in order to qualify as an Exemption 3 statute under this paragraph, it must cite to section (b)(3) of the FOIA. The DO&C maintains a list of Exemption 3 information and statutes used within the DoD on the FOIA section of the DoD Open Government Website, including, but not limited to:

(a) **Personally Identifying Information of DoD Personnel.** Section 130b of Title 10, U.S.C., authorizes the withholding of names, ranks, duty addresses, official titles, and pay

DoDM 5400.07, January 25, 2017

information of DoD personnel (civilian and military) in overseas, sensitive, or routinely deployable units when this information is requested pursuant to the FOIA. The United States Special Operations Command and the United States Cyber Command and their components qualify as sensitive units pursuant to Section 130b of Title 10, U.S.C. Information withheld pursuant to Exemption 3 and this statute also should be withheld pursuant to Exemption 6.

1. The DoD Components may make discretionary releases of names and duty information of personnel in overseas, sensitive, or routinely deployable units who, by the nature of their position and duties, frequently interact with the public. Officials whose identities may be released include general and flag officers, public affairs officers, other personnel designated as official command spokespersons, and other senior officials whose identities are known to the public through the performance of their duties.

2. The provision in Paragraph 5.2.c.(2)(a), does not change DoD issuances for public affairs officers and the rules used by public affairs offices to release information to the general public and the media. Public affairs offices should continue to release information in accordance with current DoD issuances, Privacy Act restrictions, and security classifications.

(b) Sensitive Information of Foreign Governments and International Organizations. Section 130c of Title 10, U.S.C., authorizes the withholding of unclassified sensitive information of a foreign government or international organization (e.g., the North Atlantic Treaty Organization, the United Nations, the North American Aerospace Defense Command, the Inter-American Defense Board, or the International Committee of the Red Cross). DoD Component IDAs must withhold this information pursuant to Exemption 3 (for procedural instructions, see Paragraph 6.2.f.(2)) when they make all three of these determinations concerning the requested information:

1. The information was provided to the DoD by (or produced in cooperation with) a foreign government or international organization.

2. The information is withheld from public disclosure by the foreign government or international organization and the foreign government or international organization has made this representation in writing.

3. Any of these three conditions are met:

a. The foreign government or international organization requests, in writing, that the information be withheld.

b. The foreign government or international organization provides the information to the U.S. Government on the condition that it is not released to the public.

c. DoD regulations specify the release of the requested information would have an adverse effect on the ability of the U.S. Government to obtain the same or similar information in the future.

(c) Critical Infrastructure Security Information (CISI). In accordance with Section 130e of Title 10, U.S.C., the Secretary of Defense and the Director of Administration (DA),

DoDM 5400.07, January 25, 2017

Office of the Deputy Chief Management Officer, may exempt CISI from release under the FOIA. The IDAs asserting the exemption must obtain a written determination from the DA in accordance with the procedures in Paragraph 6.2.j. before withholding CISI from a FOIA requester. If the IDA asserting the exemption is from a consulted DoD Component, that DoD Component must obtain the written DA determination before responding to an closing the consultation.

(d) **Military Flight Operations Quality Assurance (MFOQA) System Data File.** In accordance with Section 2254a of Title 10, U.S.C., the Secretary of Defense and the DA may exempt MFOQA system data files from release under the FOIA. The IDAs asserting the exemption must obtain a written determination from the DA in accordance with the procedures in Paragraph 6.2.j. before withholding MFOQA system data file information from a FOIA requester.

d. Exemption 4. Pursuant to Section (b)(4) of the FOIA, certain non-government financial information is exempt from disclosure.

(1) This exemption protects:

(a) Trade secrets; or

(b) Information that is:

1. Commercial or financial;

2. Obtained from a person or entity outside of the U.S. Government; and

3. Privileged or confidential.

(2) Commercial or financial information that is voluntarily submitted to the U.S. Government, absent any exercised authority prescribing criteria for submission, may be categorically protected, provided it is not customarily disclosed to the public by the submitter. Examples of exercised authorities prescribing criteria for submission include statutes, Executive orders, regulations, invitations for bids, requests for proposals, and contracts. DoD Components should analyze submission of information pursuant to these authorities in accordance with Part 286 of Title 32, CFR.

(3) Commercial or financial information that is not voluntarily provided to the U.S. Government is considered “confidential” for Exemption 4 if its disclosure is likely to:

(a) Impair the U.S. Government’s ability to obtain necessary information in the future (known as the “impairment prong”);

(b) Harm an identifiable private or governmental interest; or

(c) Cause substantial harm to the competitive position of the person providing the information.

DoDM 5400.07, January 25, 2017

(4) Examples of information that may be protected by Exemption 4 include:

(a) Commercial or financial information received in connection with loans, bids, contracts, or proposals.

(b) Statistical data and commercial or financial information concerning contract performance, income, profits, losses, and expenditures.

(c) Personal statements given during inspections, investigations, or audits.

(d) Financial data provided by private employers in connection with locality wage surveys that are used to fix and adjust pay schedules applicable to the prevailing wage rate of DoD employees.

(e) Scientific and manufacturing processes or developments concerning technical or scientific data or other information submitted with applications for research grants or with a report while research is in progress.

(f) Technical or scientific data developed by a contractor or subcontractor exclusively at private expense, or developed in part with federal funds and in part at private expense. The contractor or subcontractor must retain legitimate proprietary interests in such data, in accordance with Sections 2320 and 2321 of Title 10, U.S.C., and Parts 227.71 and 227.72 of Title 48, CFR. Technical data developed exclusively with federal funds may be withheld pursuant to Exemption 3 if it meets the criteria of Section 130 of Title 10, U.S.C., and Parts 227.71 and 227.72 of Title 48, CFR.

(g) Information copyrighted pursuant to Section 106 of Title 17, U.S.C., if release of copyrighted material otherwise meets the standards of Exemption 4.

(5) When the DoD Components receive FOIA requests for information that could be protected by this exemption, they will notify the submitter of the information in accordance with the procedures in Subpart 286.10 of Title 32, CFR.

e. Exemption 5. Pursuant to Section (b)(5) of the FOIA, inter- or intra-agency memoranda or letters containing information considered privileged in civil litigation are exempt from disclosure. Merely being an internal record is an insufficient basis for withholding pursuant to this exemption. To qualify as exempt pursuant to Exemption 5, the document must meet a particular threshold and must be privileged in the civil discovery context.

(1) **Threshold.** A document must meet the threshold requirement of being an inter- or intra-agency document before the proper privilege can be identified in any given case. Because the U.S. Government may seek expert advice from external entities (or consultants) in many instances, it is possible that an external entity may qualify as an “agency” for this exemption. See the Department of Justice Guide to the Freedom of Information Act for further discussion on this subject.

(2) **Privileges.** The privileges and types of information protected by Exemption 5 include, but are not limited to:

DoDM 5400.07, January 25, 2017

(a) Deliberative Process Privilege.

1. To qualify for this privilege, the information must be deliberative and pre-decisional. DoD Components cannot withhold factual information from a FOIA requester pursuant to this privilege, except when:

a. The author of a document deliberately selects specific facts out of a larger group of facts and uses only this subset of facts to make a decision, thereby revealing the author's internal thought processes; or

b. The factual information is so inextricably connected to the deliberative material that its disclosure would expose or cause harm to the agency's deliberations.

2. A direction or order from a superior to a subordinate usually does not qualify as a deliberative process document if it constitutes guidance on a departmental policy or a decision. However, correspondence from a superior to a subordinate may qualify if it discusses preliminary matters or requests information or advice relied upon in the decision-making process.

3. An agency's final decision and post-decisional documents related to the decision cannot be withheld pursuant to the deliberative process privilege.

4. Examples of deliberative process documents include:

a. Staff papers, including after-action reports, inspection reports, lessons learned, and situation reports containing staff evaluations, advice, opinions, or suggestions.

b. Advice, suggestions, or evaluations prepared on behalf of the DoD by individual consultants or by internal boards, committees, councils, groups, panels, conferences, commissions, task forces, or other similar groups that are formed for obtaining advice and recommendations.

c. Drafts of final records.

d. Information of a speculative, tentative, or evaluative nature, or such matters as proposed plans to procure, lease, or otherwise acquire and dispose of materials, real estate, facilities, or functions, when such information would provide undue or unfair competitive advantage to private personal interests or would impede legitimate U.S. Government functions.

e. Agency documents underlying the President's budget decisions, as described in Office of Management and Budget Circular No. A-11. This includes planning, programming, and budgetary information that is involved in the defense planning and resource allocation process and out-year discretionary data.

5. The deliberative process privilege does not apply to records created 25 years or more prior to the date of the FOIA request.

DoDM 5400.07, January 25, 2017

(b) **Attorney-Client Privilege.** This privilege protects confidential communications between an attorney and a client (or multiple clients that share a common interest) relating to legal matters for which the client has sought professional advice. The information that the client supplies to the attorney, the legal advice that the attorney gives to the client in return, and communications between attorneys that involve client-supplied information are protected by this privilege. Unlike the deliberative process privilege, the attorney-client privilege mandates the withholding of all the information, including the facts, unless the client waives the privilege.

(c) **Attorney Work Product Privilege.** This privilege protects documents prepared by an attorney or at an attorney's direction in reasonable anticipation of litigation. Unlike the deliberative process privilege, the attorney work product privilege mandates the withholding of all the information, including the facts. This privilege still can be used after the litigation is complete.

(d) **Government Trade Secret Privilege.** This privilege protects trade secrets or other confidential research, development, or commercial information owned by the U.S. Government, premature release of which is likely to affect the U.S. Government's negotiating position or other commercial interest.

(e) **Safety Investigation Privilege.** This privilege protects privileged safety information, as defined in DoDI 6055.07.

(f) **Presidential Communications Privilege.** This privilege protects communications among the President and Presidential advisors created to assist the President in the exercise of non-delegable constitutional duties.

f. Exemption 6. Pursuant to Section (b)(6) of the FOIA, information in personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, is exempt from disclosure. If the information qualifies as Exemption 6 information, there is no discretion in its release.

(1) When considering applying this exemption, the DoD Component must balance the public interest in disclosure against the individual's privacy interest. When there is no public interest in the requested information, the DoD Component may withhold the information even if there is only a negligible privacy interest. In determining the public interest, the DoD Component should only consider whether the information sheds light on the operations or activities of the U.S. Government. The FOIA requester has the burden of showing a public interest in disclosure.

(2) A privacy interest may exist in personal information even though the information was previously disclosed but may no longer be in the public's eye and has faded from memory. This is known as the concept of "practical obscurity." In this case, the privacy interest in this type of situation may have increased over time and the public interest may have decreased over time; therefore, the DoD Component should now withhold the once-public information, if the balance of interests has shifted in favor of privacy.

DoDM 5400.07, January 25, 2017

(3) This exemption usually protects home addresses, telephone numbers, and private e-mail addresses. This includes home addresses and military quarters addresses not associated with the occupants' names.

(4) This exemption must not be used in an attempt to protect the privacy of a deceased person. It may be used to protect the privacy of the deceased person's surviving family members if disclosure would rekindle grief, anguish, pain, embarrassment, or result in a disruption of their peace of mind.

(5) This exemption also applies when the fact of the existence or nonexistence of a responsive record would itself reveal information containing a privacy interest, and the public interest in disclosure does not outweigh the privacy interest. In this situation, the DoD Components must provide a Glomar response and cite Exemption 6.

(6) If a FOIA requester requests information that is about that FOIA requester, Exemption 6 may not be used to deny privacy information about that individual. However, if another FOIA requester requests the same information, it should be denied under Exemption 6.

g. Exemption 7. Pursuant to Section (b)(7) of the FOIA, records or information compiled for law enforcement purposes are exempt from disclosure upon the identification of one of the six conditions delineated in this paragraph. Law enforcement purposes include civil, criminal, military, and regulatory/administrative purposes, including the implementation of Executive orders or regulations issued pursuant to law. A DoD Component may invoke this exemption to prevent disclosure of documents not originally created, but later gathered, for law enforcement purposes.

(1) Conditions Where Exemption 7 Applies.

(a) **Exemption 7(A).** Section (b)(7)(A) of the FOIA applies to records compiled for law enforcement purposes when disclosure could reasonably be expected to interfere with enforcement proceedings. Determining the applicability of Exemption 7(A) requires a two-step analysis.

1. DoD Components must identify an ongoing, pending, or prospective law enforcement proceeding. This would include any subsequent or pending proceedings resulting from the original proceeding. This exemption cannot be used if an investigation is terminated or complete.

2. DoD Components must determine whether release of the information could cause some articulable harm to the law enforcement proceeding. In order to satisfy the "articulable harm" requirement of Exemption 7(A), there must be some distinct harm that could reasonably be expected to result if the record or information requested were disclosed.

(b) **Exemption 7(B).** Section (b)(7)(B) of the FOIA applies to records compiled for law enforcement purposes when disclosure would deprive a person of the right to a fair trial or to an impartial adjudication.

(c) **Exemption 7(C).** Section (b)(7)(C) of the FOIA applies to records compiled for law enforcement purposes when disclosure could reasonably be expected to constitute an unwarranted invasion of the personal privacy of a living person, including surviving family members of an individual identified in such a record. This exemption also applies when the fact of the existence or nonexistence of a responsive record would itself reveal information containing a privacy interest, and the public interest in disclosure does not outweigh the privacy interest. In this situation, the DoD Components must provide a Glomar response and cite Exemption 6.

(d) **Exemption 7(D).** Section (b)(7)(D) of the FOIA applies to records compiled for law enforcement purposes when disclosure could reasonably be expected to disclose:

1. The identity of a confidential source, including:
 - a. A source within the DoD;
 - b. A State, local, or foreign agency or authority; or
 - c. Any private institution that furnishes the information on a confidential

basis.

2. Information furnished from a confidential source and obtained by a criminal law enforcement authority in a criminal investigation or by an agency conducting a lawful national security intelligence investigation.

(e) **Exemption 7(E).** Section (b)(7)(E) of the FOIA applies to records compiled for law enforcement purposes when disclosure would reveal:

1. Non-obvious techniques and procedures for law enforcement investigations or prosecutions; or
2. Guidelines for law enforcement investigations or prosecutions, if such disclosure could reasonably be expected to risk circumvention of the law.

(f) **Exemption 7(F).** Section (b)(7)(F) of the FOIA applies to records compiled for law enforcement purposes when disclosure could reasonably be expected to endanger the life or physical safety of any individual.

(2) **Examples of Exemption 7 Applications.**

(a) Statements of witnesses and other material developed during the course of an investigation and all materials prepared in connection with related government litigation or adjudicative proceedings may be exempt from disclosure pursuant to Exemptions 7(A), 7(C), and 7(D).

(b) The identity of firms or individuals being investigated for alleged irregularities in contracting with the DoD, when the United States has obtained no indictment or filed any civil action against them, may be exempt from disclosure pursuant to Exemptions 7(A) and 7(C).

DoDM 5400.07, January 25, 2017

(c) Information obtained in confidence, expressed or implied, during a criminal investigation by a criminal law enforcement activity or a lawful national security intelligence investigation may be exempt from disclosure pursuant to Exemptions 7(A), 7(C), and 7(D). National security intelligence investigations include background security investigations and those investigations conducted to obtain affirmative or counterintelligence information.

(d) Emergency action plans, guidelines for response to terrorist attacks, analyses of security procedures, and other sensitive information that could prove deadly if obtained by those seeking to do harm to the public on a large scale may be exempt from disclosure pursuant to Exemptions 7(E) and 7(F).

h. Exemption 8. Pursuant to Section (b)(8) of the FOIA, records in or related to examination, operation, or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions are exempt from disclosure.

i. Exemption 9. Pursuant to Section (b)(9) of the FOIA, records containing geological and geophysical information and data (including maps) concerning wells are exempt from disclosure.

SECTION 6: FOIA REQUEST PROCESSING

6.1. GENERAL PROVISIONS.

a. Requests From Private Parties. A FOIA request may be made by any person. It may not be used by federal agencies seeking official information.

b. Requests From Local or State Government Officials, Congress, and Foreign Governments.

(1) Local or State government officials, foreign officials requesting on behalf of their governments, foreign individuals, or foreign organizations requesting DoD Component records pursuant to the FOIA are treated the same as any other FOIA requester.

(2) The FOIA does not apply to the records of a DoD Component that is an element of the intelligence community, as defined in Section 401a(4) of Title 50, U.S.C., if the FOIA request is from an entity or representative of a foreign government.

(3) Requests from members of Congress who are not seeking records on behalf of a congressional committee or subcommittee, or on behalf of the House of Representatives or the Senate sitting as a whole, are not FOIA requests and should not be processed through FOIA channels. However, any release of information will be consistent with a release to any individual pursuant to the FOIA and its withholding exemptions. In these cases, the member will not be provided with FOIA appeal rights.

(4) Requests submitted by members of Congress on behalf of a congressional committee or subcommittee, or on behalf of the House of Representatives or the Senate sitting as a whole, that are received by a FOIA RSC are referred to the appropriate office that handles legislative inquiries for processing pursuant to DoDI 5400.04 or supplementing DoD Component issuances. Such requests are not processed pursuant to the FOIA and withholding exemptions may not apply.

(5) If a member of Congress chooses to request records pursuant to the FOIA, then the provisions of Part 286 of Title 32, CFR, and this issuance apply.

(6) Constituent requests for records that are forwarded by members of Congress are processed as FOIA or Privacy Act requests, as applicable. The member forwarding the request will be advised of these circumstances.

(7) Requests from officials of foreign governments that do not invoke the FOIA are referred by the FOIA RSC to the appropriate office authorized to disclose official DoD information to foreign governments, and the requester is so notified.

6.2. PROCESSING PROCEDURES.

a. Receipt and Control.

DoDM 5400.07, January 25, 2017

(1) When a FOIA RSC receives a FOIA request, it must open a file in a formal control system. The formal control system:

- (a) Must be designed for accountability and compliance with the FOIA.
- (b) Should include the data elements necessary to compile the statistics required by the annual report.

(2) Each request must be assigned a unique tracking number, which will be included in all correspondence with the requester.

b. Prompt Action on FOIA Requests.

(1) When unusual or exceptional circumstances prevent a FOIA RSC from making a final response determination within the statutory time period, it will advise the FOIA requester in writing and provide the requester an opportunity to narrow the scope of the request. FOIA RSCs will be available, as a matter of good practice, to assist requesters in the formulating of requests.

- (a) The FOIA describes unusual circumstances as:
 1. The need to search for and collect the requested records responsive from field offices or other establishments that are separate from the office processing the FOIA request.
 2. The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records.
 3. The need for consultation, which will be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more DoD Components having substantial subject-matter interest in the records.

(b) The FOIA does not affirmatively explain “exceptional circumstances;” however, exceptional circumstances do not include a delay that results from predictable component backlogs, unless the DoD FOIA Program Component demonstrates reasonable progress in reducing its backlog.

(2) DoD Components receiving a misdirected FOIA request will follow the procedures in Subpart 286.7 of Title 32, CFR.

(3) DoD FOIA Program Components will provide interim responses when they are unable to make a final determination within the statutory 20 working days, and should communicate with the FOIA requester before the final response, if appropriate. These communications may include acknowledging receipt of the FOIA request and negotiating with the FOIA requester concerning the scope of the FOIA request, the response timeframe, and the fee agreement. However, such communications do not constitute a final response determination. The initial interim response will include, at a minimum:

- (a) The date the 20-working-day statutory time period started for the FOIA request.

DoDM 5400.07, January 25, 2017

(b) The tracking number for the FOIA request.

(c) Contact information concerning how the FOIA requester can obtain information about the processing of the FOIA request.

(4) The statutory time period to make a release determination on a FOIA request usually begins on the date when the FOIA RSC responsible for the requested records receives the FOIA request. However, if the FOIA request was originally misdirected to another FOIA RSC, the timing provisions of Subpart 286.6 of Title 32, CFR, for misdirected requests apply.

(5) The 20-working-day statutory period for responding to a FOIA request begins only when a perfected FOIA request is received. After this time, a FOIA RSC may toll the statutory time period for only two reasons. In both situations, the FOIA requester's response to the DoD Component's request ends the tolling period.

(a) The time period may be tolled one time when the FOIA RSC goes back to the FOIA requester and reasonably asks for additional information (not connected to the assessment of fees).

(b) The time period may be tolled if it is necessary for the FOIA RSC to clarify issues regarding fee assessment with the FOIA requester. There is no limit to the number of times a DoD Component may go back to a FOIA requester to clarify fee assessment issues, which sometimes may be done in stages as the records are located and processed.

c. Estimated Completion Date. See Subpart 286.9 of Title 32, CFR.

d. Multi-Track Processing. See Subpart 286.8 of Title 32, CFR.

e. Expedited Processing. See Subpart 286.8 of Title 32, CFR.

f. Responsive Documents Originated by a Non-government Source.

(1) **Commercial or Financial Information.** See Subpart 286.10 of Title 32, CFR.

(2) **Foreign Government or International Organization Information.** The coordination provisions of this paragraph apply to the release of responsive information received from foreign governments or international organizations.

(a) DoD Components should coordinate directly with their foreign government counterparts when processing foreign government information responsive to a FOIA request. Coordination also may be made through the Department of State or the specific foreign embassy.

(b) When the DoD Components locate North American Aerospace Defense Command documents in their files responsive to a FOIA request, they will refer the documents to the United States Northern Command FOIA RSC, which will consult with the North American Aerospace Defense Command.

DoDM 5400.07, January 25, 2017

(c) Coordination with most international organizations may be made directly with those organizations.

(d) When a foreign government or international organization asks the DoD to withhold classified information originating with that foreign government or international organization, it is withheld pursuant to Exemption 1 of the FOIA.

(e) If the DoD Component is asked to withhold sensitive unclassified information originated by an international organization or foreign government, then the DoD Component withholds it pursuant to Exemption 3 and references the relevant statute as Section 130c of Title 10, U.S.C. To qualify for withholding, the information must meet these criteria:

1. If the information came into the DoD's possession or control prior to October 30, 2000, and more than 25 years prior to receipt of the FOIA request, the DoD Component notifies the foreign government or international organization of the request for disclosure. The information then qualifies for withholding only if the foreign government or international organization requests in writing that the information not be disclosed for a specific period of time. This date can be extended with a later request by the foreign government or international organization.

2. If the information came into possession or control of the DoD on or after October 30, 2000, the information cannot be withheld after the release date specified by the foreign government or international organization. When one or more foreign governments or international organizations provided the information, the latest date specified by any of them will be used. If no release date was specified, and the information came into the possession of the DoD Component more than 10 years prior to receipt of the FOIA request, the procedures set forth in Paragraph 6.2.f.(2)(e)1. apply.

g. Processing the Receipt of FOIA Fees. The Treasurer of the United States has established an account for FOIA receipts, Receipt Account 3210. When depositing the receipts, the appropriate disbursing office 2-digit prefix must precede the account number. This account will be used for depositing all FOIA receipts except for those of working capital and non-appropriated funded activities. Those activities must establish their own procedures for depositing FOIA receipts to the applicable fund. All checks or money orders remitting FOIA fees should be made payable to the U.S. Treasurer.

h. Creating a Record. To be subject to the FOIA, a record must exist and be in DoD possession and control when the DoD Component searches for it. The DoD Components are not obligated to create, compile, or answer questions to satisfy a FOIA request.

(1) However, in order to provide quality customer service, the DoD Components may compile a new record when doing so would result in a more useful response to the FOIA requester and would be less burdensome to the DoD Component than providing existing records. This could be the case when a FOIA requester wants, for example, a list of all travel locations for a single senior official. Instead of processing the large number of travel documents, the DoD Component may wish to compile a list of travel locations extracted from the documents.

(2) Prior to the creation of the document, any such compilation should be coordinated with and approved by the FOIA requester. The cost of creating or compiling such a record may not be charged to the FOIA requester unless the fee for creating the record is equal to or less than the fee that would be charged for providing the existing record. Fee assessments must be in accordance with Subparts 286.12 and 286.13 of Title 32, CFR.

i. Electronic Records and Searches.

(1) **Significant Interference.** Section (a)(3)(C) of the FOIA requires DoD Components to make reasonable efforts to conduct electronic searches for responsive documents, except when the searches would cause significant interference with the operation of the DoD Components' automated information systems.

(a) If extensive monetary or personnel resources are needed to conduct an electronic search, DoD Components should take this into account when determining whether they are making reasonable efforts to search for electronic records.

(b) Creating a computer program that produces specific requested fields or records contained within a well-defined database structure usually constitutes a "reasonable effort." However, creating a computer program to merge files with disparate data formats and extract specific elements from the resultant file is considered a special service rather than a reasonable effort.

(2) **Data Links.** The DoD Components are not required to expend DoD funds to establish data links that provide real-time or near-real-time data to a FOIA requester.

j. CISI and MFOQA Data Files. IDAs may deny CISI and MFOQA system data files from release under Exemption 3 of the FOIA after the DA has made a written determination that the information is exempt.

(1) When DoD Components have reason to believe that information responsive to a FOIA request is CISI or MFOQA system data file information, they will submit a package to the DA, through the DO&C, recommending exemption of the requested information. If the information believed to be CISI or MFOQA is the subject of a consultation, and the consulted DoD Component wishes to assert the exemption, the consulted component will submit the package for approval before responding to the consultation. The package will contain, at a minimum:

(a) A cover memorandum from a DoD Component official.

(b) A copy of the initial FOIA request.

(c) A copy of the documents in electronic format, with only the CISI or MFOQA system data file information marked. Do not indicate information that will be denied under any other exemption.

(d) Details on how the information recommended for exemption meets the threshold of qualifying as CISI or MFOQA system data file.

DoDM 5400.07, January 25, 2017

(e) A thorough explanation of the harm that could reasonably be expected to result if the information is released. This explanation must be as specific as possible to allow the DA to make a fully informed determination; however, it should contain only publicly releasable information since the DA's determination, accompanied by a statement of the basis for determination, will be made available on the FOIA section of the DoD Open Government Website.

(f) Any documentation of the public interest in the release of the information. This could be provided to the DoD Component by the FOIA requester or other interested parties supporting the FOIA request.

(g) A draft of the DA determination and statement of the basis for determination.

(2) The DO&C will provide the DA determination and the statement of the basis for the determination and post it in the FOIA section of the DoD Open Government Website.

(3) The DoD Component IDA will deny the exempt information and provide a copy of the determination to the FOIA requester. If the DoD Component denying the information is a consulted component, the DoD Component that received and is processing the request will make all necessary notifications to the requester. The FOIA requester will be advised of the right to appeal to the DoD Component's appellate authority.

6.3. INITIAL DETERMINATIONS.

a. Denials of Information.

(1) An IDA must make a determination of whether to withhold information responsive to a FOIA request. The IDA will review the withheld information to determine whether it meets the criteria for withholding pursuant to one or more of the FOIA exemptions. This determination may be made upon the recommendation of a review official.

(2) IDAs and review officials will not use the existence of classification markings or distribution limiting statements, such as "For Official Use Only" markings, as justification to withhold information. Information so marked must be reviewed after the receipt of a FOIA request to determine if a FOIA exemption allows the withholding of the information.

(3) To deny information in a requested record that is in the possession and control of the DoD Component, the IDA must determine that one or more of the FOIA exemptions justify withholding all or part of the record.

(4) A Glomar response constitutes a total denial.

b. Reasons for Denying a FOIA Request Other than Exemptions. The following are reasons, other than using one or more exemptions, for denying a FOIA request. The DoD FOIA Program Components will track each reason in its control system database for ease of retrieval and for its input to the annual report.

DoDM 5400.07, January 25, 2017

(1) **No Records.** A reasonable search of files failed to identify responsive records, or no search was undertaken because the DoD Component determined that it would not locate records responsive to the request.

(2) **Referral.** The DoD Component has transferred all responsive records to another DoD Component or federal agency.

(3) **Request Withdrawn.** The FOIA requester withdraws the FOIA request. Additionally, when a FOIA RSC sends a communication to ask if a requester still has interest in the request and the requester does not respond, the FOIA RSC will consider the request as withdrawn.

(4) **Fee-related Reason.** The FOIA requester is unwilling to pay fees associated with a FOIA request; the FOIA requester is past due in the payment of fees from a previous FOIA request; or the FOIA requester disagrees with the fee estimate.

(5) **Records not Reasonably Described.** A record has not been described with sufficient particularity to enable the DoD Component to locate it by conducting a reasonable search.

(6) **Not a Proper FOIA Request for Some Other Reason.** The FOIA requester has failed unreasonably to comply with procedural requirements, other than fee-related requirements, imposed by this issuance.

(7) **Not an Agency Record.** The information requested is not a record within the meaning of the FOIA.

(8) **Duplicate Request.** A duplicate request occurs when the FOIA requester asks for the same information requested in a prior request. If a search for documents responsive to the new request finds documents created since the search was accomplished for the previous request, then it is not considered duplicative. This includes identical requests received from the same requester for the same information through different means (e.g., e-mail, facsimile, mail, courier) at the same or different times.

(9) **Other.** The DoD Components may use the following additional reasons for denying FOIA requests:

(a) **Directed Requester to Another Agency.** The FOIA request is for another federal agency's records (e.g., the Department of State), and the FOIA RSC directs the requester to send a FOIA request to the appropriate agency. This would include a request for another agency's records that are already publicly available.

(b) **Litigation.** The FOIA request is administratively closed because the FOIA requester has filed a complaint in federal court. In this case, the FOIA RSC should consult legal counsel to determine whether to continue processing the FOIA request.

(c) **Misdirected Request.** A misdirected request will not be counted as a request received or processed for annual report purposes.

DoDM 5400.07, January 25, 2017

(d) **Unable to Contact Requester.** The FOIA RSC is unable to contact the FOIA requester after several attempts.

c. Responding to FOIA Requesters. All correspondence with FOIA requesters must include the FOIA request tracking number and the date of the FOIA request.

(1) **Grant.** When a DoD Component decides to release a record, the FOIA RSC should make a copy available promptly to the FOIA requester. Directing a FOIA requester on how to electronically obtain a publicly available DoD record (e.g., a record released under the FOIA and available in a DoD FOIA Program Component's FOIA Library) is considered a grant.

(2) **Adverse Determination.** When a DoD Component provides an adverse determination in response to a FOIA request, the official designated to respond will comply with the procedures in Subpart 286.9 of Title 32, CFR.

d. Providing Documents to FOIA Requesters. See Subpart 286.9 of Title 32, CFR.

e. Commercial Delivery Services. A FOIA RSC may use a commercial delivery service to deliver the requested information in a timelier manner if the FOIA requester asks for the service and pays directly for the service.

6.4. CONSULTATIONS, REFERRALS, AND COORDINATIONS.

a. General Provisions. See Subpart 286.7 of Title 32, CFR.

b. White House Information. DoD FOIA Program Components locating records originating with or containing White House equities, to include the National Security Council Staff, will forward the records as a consultation to the Office of Freedom of Information, which is the FOIA RSC for the OSD/JS. The Office of Freedom of Information will coordinate with the National Security Council Staff and then return the records to the DoD Component for response to the FOIA requester.

c. Government Accountability Office (GAO) Information. The GAO is outside the Executive Branch and not subject to the FOIA. FOIA requests for GAO documents within DoD files will be processed pursuant to the FOIA. If necessary, the DoD Components will consult with the GAO on the releasability of the requested information. The DoD Component will make the final response.

6.5. APPEALS. See Subpart 286.11 of Title 32, CFR.

6.6. FEE SCHEDULE. See Subparts 286.12 and 286.13 of Title 32, CFR.

DoDM 5400.07, January 25, 2017

6.7. FOIA LITIGATION.

a. FOIA requesters may seek an order from a U.S. District Court to compel release of information after administrative remedies have been exhausted (e.g., when the FOIA requester has filed an administrative appeal of an adverse action or when the DoD FOIA Program Component has failed to respond within the time limits prescribed by the FOIA). The Department of Justice “Freedom of Information Act Guide” provides more detailed guidance on FOIA litigation.

b. If a DoD Component is served with a complaint concerning a FOIA request that is still open, it will administratively close the FOIA request after consultation with legal counsel.

c. FOIA officers should confer with legal counsel or Department of Justice attorneys on whether administrative processing should continue and whether it is appropriate to communicate directly with the FOIA requester or requester’s counsel.

SECTION 7: EDUCATION AND TRAINING

7.1. GENERAL. In accordance with Section (j)(2)(F) of the FOIA, the purpose of the DoD FOIA educational and training programs is to provide DoD personnel who have FOIA responsibilities as one of their primary duties, and DoD attorneys, with the knowledge and skills necessary to ensure compliance with the FOIA. Fulfilling this purpose will improve customer service to members of the public and improve the public trust in the DoD.

7.2. PROCEDURES.

a. The DO&C establishes a DoD FOIA educational and training program to provide personnel involved in the day-to-day processing of FOIA requests with a thorough understanding of the provisions and requirements of Part 286 of Title 32, CFR, the FOIA, and this issuance.

b. Each DoD FOIA Program Component designs its FOIA educational and training programs to fit the particular requirements of its personnel, dependent upon their degrees of involvement in implementing the FOIA. These programs will service two target audiences.

(1) Personnel who are involved in the day-to-day processing of FOIA requests.

(2) Staff personnel who provide search or review staff-support to the DoD FOIA Program Component FOIA process.

7.3. SCOPE AND PRINCIPLES. The programs will:

a. Familiarize personnel with the requirements of the FOIA and its implementation by Part 286 of Title 32, this issuance, and respective DoD FOIA Program Component issuances.

b. Instruct personnel who act in FOIA matters on the provisions of Part 286 of Title 32 and this issuance, and advise them of the legal hazards involved in and the strict prohibition against arbitrary and capricious withholding of information.

c. Provide procedural and legal guidance and instruction to initial denial and appellate authorities concerning the discharge of their responsibilities.

7.4. IMPLEMENTATION. To ensure uniformity of interpretation, the DoD FOIA Program Components will coordinate their educational and training programs with the DO&C.

GLOSSARY

G.1. ACRONYMS.

CFR	Code of Federal Regulations
CISI	Critical Infrastructure Security Information
DA	Director of Administration
DO&C	Directorate for Oversight and Compliance
DoDD	DoD directive
DoDI	DoD instruction
DoDM	DoD manual
FOIA	Freedom of Information Act
GAO	Government Accountability Office
IDA	initial denial authority
MFOQA	military flight operations quality assurance
OGIS	Office of Government Information Services
RSC	Requester Service Center
U.S.C.	United States Code

G.2. DEFINITIONS. Unless otherwise noted, these terms and their definitions are for the purpose of this issuance.

administrative appeal. A request by a member of the public, made pursuant to the FOIA, asking the appellate authority of a DoD Component to reverse, modify, or reconsider any adverse determination.

adverse determination. Defined in Subpart 286.9 of Title 32, CFR.

agency record. Includes all documents or records created or obtained by a U.S. Government agency that are in the agency's possession and control at the time a FOIA request is received. Four factors determine an agency's control:

The intent of the creator of the document to retain control over the record.

The ability of the agency to use and dispose of the record as it sees fit.

The extent to which agency personnel have read or relied upon the document.

DoDM 5400.07, January 25, 2017

The degree to which the document was integrated into the agency's record systems or files. Records maintained by a government contractor for records management purposes are considered in the DoD Component's possession. Records created by an agency employee during employment, including e-mails, may be either agency records or personal files.

Examples of agency records include:

Research data produced during the performance of a federal grant used by the U.S. Government in developing an agency action that has the force and effect of law, in accordance with Office of Management and Budget Circular No. A-110.

All recorded information, regardless of form or characteristics. "Form or characteristics" refers to physical media type or transmission mode desired by the FOIA requester (e.g., computer disk, computer tape, file transfer protocol, photographs, videotape, and microfiche).

Examples of agency records do **not** include:

Objects or articles such as structures, furniture, vehicles, and equipment, whatever their historical value or value as evidence.

Anything that is not a tangible or documentary record, such as an individual's memory or oral communication.

Personal files.

The definition of an agency record under the FOIA is more expansive than the definition of a federal record. For example, documents such as drafts and working files are not considered official records, but are still agency records responsive to FOIA requests.

appellate authority. The DoD FOIA Program Component head, or designee, having jurisdiction to review and possibly reverse, remand, or amend any adverse determination.

CISI. Defined in Section 130e(c) of Title 10, U.S.C.

consultation. The process whereby, in certain situations, a federal agency transfers a FOIA responsive document to another federal agency or non-government entity to obtain recommendations on the releasability of the document. After review, the document is returned to the original agency for response to the FOIA requester or further review.

Defense Criminal Investigative Organization. A DoD Component that conducts criminal investigations. These are the U.S. Army Criminal Investigation Command, Naval Criminal Investigative Service, Air Force Office of Special Investigations, and Defense Criminal Investigative Service.

deliberative. Having the function of deliberating.

electronic records. Records (including e-mail) created, stored, and retrievable by electronic means.

DoDM 5400.07, January 25, 2017

federal agency. Defined in Section 552(f)(1) of Title 5, U.S.C.

first-party requester. A FOIA requester that is requesting information that is about themselves.

FOIA Public Liaison. A supervisory official to whom a FOIA requester can raise concerns about the service the FOIA requester receives from a FOIA RSC and who is responsible for assisting in reducing delays, increasing transparency and understanding of the status of requests, and assisting in the resolution of disputes.

FOIA request. A written request for agency records that reasonably describes the records sought, enabling a DoD Component employee familiar with the files to locate the records with a reasonable amount of effort.

FOIA requester. Any person, including a partnership, corporation, association, State or State agency, foreign government, foreign national, or a lawyer or other representative acting on behalf of any person who submits a FOIA request. This definition specifically excludes agencies within the Executive Branch of the U.S. Government.

FOIA RSC. A DoD Component office that receives FOIA requests from and responds directly to the public on the status of their request.

form. The storage media that hold content in digital form on which responsive information is provided to FOIA requesters. Examples are electronic documents, audiovisual material on tape, and all storage media that hold content in digital form and that are written and read by a laser (e.g., all the various compact disk and digital video disk variations).

format. A layout for data.

Glomar response. A response to a FOIA request where the DoD Component neither confirms nor denies the existence or nonexistence of records responsive to the FOIA request.

IDA. An official who has been granted authority by a DoD Component head to withhold information requested pursuant to the FOIA for one or more of the nine categories of records exempt from mandatory disclosure, as described in Section 5.

inherently governmental activity. A function that is so intimately related to the public interest as to require performance by U.S. Government personnel because it requires the exercise of discretion in applying government authority or the making of value judgments in making decisions for the U.S. Government.

international organization. Defined in Section 130c(h)(3) of Title 5, U.S.C.

MFOQA system data file. Defined in Section 2254(a)(2) of Title 10, U.S.C.

Military Department counterintelligence organization. An element within a Military Department that is authorized to conduct counterintelligence investigations. They are Army Counterintelligence, Naval Criminal Investigative Service, and the Air Force Office of Special Investigations.

DoDM 5400.07, January 25, 2017

misdirected FOIA request. A FOIA request for DoD records that is addressed to FOIA RSC that is not itself the FOIA RSC to process the request. For example, a FOIA requester sends a request for an Air Force contract to the Navy.

neutral. An individual who, with respect to an issue in controversy, functions specifically to aid the parties in resolving the controversy.

non-responsive. Information or records not requested by a FOIA requester.

perfected FOIA request. A FOIA request that arrives at the FOIA RSC of the DoD Component in possession of the records. The statutory time limit for responding to a FOIA request does not begin until it is perfected.

person. Defined in Section 551(2) of Title 5, U.S.C.

personal file. Documents unrelated to the conduct of agency business or indirectly related to agency business but outside the scope of agency records. A personal file is not subject to the FOIA. FOIA case law predominantly refers to personal files as personal records. Examples include:

Business or professional files created before entering U.S. Government service; files created during or relating to previously held positions, political materials, and reference files.

Private files brought into, created, or received in the office; family and personal correspondence; and materials documenting professional activities and outside business or political pursuits, including manuscripts and drafts for articles and books and volunteer and community service records that are considered personal, even if created or received while in office, because they do not relate to agency business.

Work-related personal files, including e-mails, diaries, journals, notes, and personal calendars and appointment schedules. Though work-related, these files may be personal if they are used only as reminders and personal observations on work-related topics and not for the transaction of government business.

pre-decisional information. Information created before the decision maker reached a final decision.

Privacy Act request. Defined in DoD 5400.11-R.

Privacy Act system of records. Defined in DoD 5400.11-R.

referral. The process whereby a DoD FOIA Program Component receiving a FOIA request locates documents originating with another DoD Component or federal agency. Accordingly, the FOIA request and documents are transferred to the originating DoD Component or federal agency for response directly to the FOIA requester.

responsive. Information or agency records requested by a FOIA requester.

toll. To delay, suspend, or hold off the effects of a statute.

DoDM 5400.07, January 25, 2017

REFERENCES

- Code of Federal Regulations, Title 32, Part 286
- Code of Federal Regulations, Title 48
- Department of Justice “Guide to the Freedom of Information Act,” current edition¹
- Department of Justice, Office of Information Policy, FOIA Update, Vol. XVI, No. 3, “Determining the Scope of a FOIA Request,” January 1, 1995
- Deputy Secretary of Defense Memorandum, “Reorganization of the Office of the Deputy Chief Management Officer,” July 11, 2014
- DoD 5230.30-M, “DoD Mandatory Declassification Review (MDR) Program,” December 22, 2011
- DoD 5400.11-R, “Department of Defense Privacy Program,” May 14, 2007
- DoD Directive 5100.03, “Support of the Headquarters of Combatant and Subordinate Unified Commands,” February 9, 2011
- DoD Directive 5105.53, “Director of Administration and Management (DA&M),” February 26, 2008
- DoD Directive 5105.82, “Deputy Chief Management Officer (DCMO) of the Department of Defense,” October 17, 2008
- DoD Directive 5400.07, “DoD Freedom of Information Act (FOIA) Program,” January 2, 2008
- DoD Instruction 1100.22, “Policy and Procedures for Determining Workforce Mix,” April 12, 2010
- DoD Instruction 5400.04, “Provision of Information to Congress,” March 17, 2009
- DoD Instruction 6055.07, “Mishap Notification, Investigation, Reporting, and Record Keeping,” June 6, 2011
- DoD Manual 5200.01, Volume 1, “DoD Information Security Program: Overview, Classification, and Declassification,” February 24, 2012
- DoD Manual 8910.01, Volume 1, “DoD Information Collections Manual: Procedures for DoD Internal Information Collections,” June 30, 2014, as amended
- Office of Federal Procurement Policy Letter 11-01, “Performance of Inherently Governmental and Critical Functions,” September 12, 2011
- Office of Management and Budget Circular No. A-11, “Preparation, Submission, and Execution of the Budget,” June 2015
- Office of Management and Budget Circular No. A-76, “Performance of Commercial Activities,” May 29, 2003
- Office of Management and Budget Circular No. A-110, “Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals, and Other Non-profit Organizations,” September 20, 1999
- United States Code, Title 5
- United States Code, Title 10

¹ Available at: <https://www.justice.gov/oip/doj-guide-freedom-information-act>

DoDM 5400.07, January 25, 2017

United States Code, Title 17, Section 106

United States Code, Title 50, Section 401a(4)

EXHIBIT D

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
BOSTON DIVISION

LT JANE DOE,

Plaintiff,

v.

MARK T. ESPER, *et al.*,

Defendants.

CIVIL ACTION NO. 1:20-cv-10530-FDS

**DEFENDANTS’ STATEMENT OF UNDISPUTED MATERIAL FACTS
IN SUPPORT OF THEIR MOTION FOR SUMMARY JUDGMENT**

I. Department of Defense Policy Prior to 2015

1. For decades, military standards presumptively barred the accession and retention of transgender individuals. Department of Defense Report and Recommendations on Military Service by Transgender Persons at 7 (Feb. 2018), Dkt. 12-3 (hereinafter, “DoD Report”).

2. The third edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM), published by the American Psychiatric Association (APA), treated “transsexualism” as a disorder. *See* DoD Report at 10 (citing American Psychiatric Association, Diagnostic and Statistical Manual of Mental Disorders, at 261–64 (3d ed. 1980)).

3. The military’s retention standards prior to 2015 generally permitted the discharge of service members with “transsexualism” or “sexual gender and identity disorders.” DoD Report at 11 (citing Department of Defense Instruction (DoDI) 1332.38, Physical Disability Evaluation (Nov. 14, 1996) cancelled by DoDI 1332.18, Disability Evaluation System (Aug. 4, 2014)).

4. In 2013, the APA published the fifth edition of the DSM, which replaced the term “gender identity disorder” (itself a replacement for “transsexualism” in the fourth edition) with “gender dysphoria.” Ex. 2 (Diagnostic and Statistical Manual of Mental Disorders (5th ed.) (hereinafter, “DSM-5”) at 451; *see also* DoD Report at 10, 12.

5. The DSM-5 defines the mental condition of “gender dysphoria” as a “marked incongruence between one’s experience/expressed gender and assigned gender, of at least 6 months duration,” that is “associated with clinically significant distress or impairment in social, occupational, or other important areas of functioning.” Ex. 2 (DSM-5) at 452–53; *see also* DoD Report at 12–13, 20.

6. Treatment for gender dysphoria often involves psychotherapy and, in some cases, may include gender transition through cross-sex hormone therapy, sex-reassignment surgery, or living and working in one’s preferred gender. Ex. 2 (DSM-5) at 451; *see also* DoD Report at 22; RAND Corp., *Assessing the Implications of Allowing Transgender Personnel to Serve Openly* (2016) (hereinafter, “RAND Report”) at 6–7, 21, 79–81, Dkt. 32-2 at 54–165.

7. The DSM-5 states that “[c]linically referred adults with gender dysphoria may have coexisting mental health problems, most commonly anxiety and depressive disorders.” Ex. 2 (DSM-5) at 459.

8. The DSM-5 states that “[a]fter gender reassignment, adjustment may vary, and suicide risk may persist.” Ex. 2 (DSM-5) at 454.

9. The APA has stated that, by itself, identification with a gender different from one’s biological sex—i.e., transgender status—was not a mental disorder because “not all transgender people suffer from gender dysphoria.” Am. Psychiatric Ass’n, “Expert Q & A: Gender Dysphoria,” *available at* <https://www.psychiatry.org/patients-families/gender-dysphoria/expert-q-and-a> (last visited May 18, 2020); *see also* DoD Report at 20.

10. Many mental and behavioral health conditions in the DSM-5 are presumptively disqualifying when applying the medical standards for appointment, enlistment, or induction into the

military. *See* Ex. 6 (Department of Defense Instruction 6130.03, “Medical Standards for Appointment, Enlistment, or Induction into the Military Services” (May 6, 2018)) at 11, 44–46 (listing “learning, psychiatric, and behavioral disorders” that are presumptively disqualifying for military service); Hebert Decl. ¶ 9.

II. DoD’s Review by Medical and Professional Experts in 2015

11. In April 2015, the Department of Defense’s Accessions Medical Standards Working Group (AMSWG) began a review of military entry standards for individuals diagnosed with or a history of gender dysphoria in light of recent updates to the DSM-5. Declaration of Lernes Hebert (“Hebert Decl.”) (May 18, 2020), Ex. D (Meeting Minutes, Accessions Medical Standards Working Group (Apr. 7–9, 2015)) at 7.

12. The AMSWG recommended an accessions standard where a current diagnosis or history of gender dysphoria would disqualify an individual from military service unless the individual was 1) “[s]table without psychotropic medications or mental health treatment for 36 months[.]” 2) “[o]utpatient mental healthcare for the resolution of gender dysphoria [had not been] required for greater than 24 cumulative months” (except where therapy was more supportive in nature); and 3) the individual “did not require inpatient mental health treatment in hospital or residential facility.” Hebert Decl. Ex. D (Meeting Minutes, Accessions Medical Standards Working Group (Apr. 7–9, 2015)) at 7.

III. Development of the Carter Policy

13. In July 2015, then-Secretary of Defense Ashton Carter ordered the creation of a working group “to study over the next six months the policy and readiness implications of welcoming transgender persons to serve openly,” and instructed it to “start with the presumption that transgender persons can serve openly without adverse impact on military effectiveness and readiness.”

Memorandum from Secretary Carter (July 28, 2015), Dkt. 12-4; Statement by Secretary of Defense Ash Carter on DOD Transgender Policy, Release No. NR-272-15 (July 13, 2015), *available at* <https://www.defense.gov/Newsroom/Releases/Release/Article/612778/> (last visited May 18, 2020); *see also* DoD Report at 13; Hebert Decl. ¶ 5.

14. The Joint Chiefs of Staff contacted the Office of the Secretary of Defense after Secretary Carter made the July 2015 announcement that ordered the creation of the working group. The Joint Chiefs of Staff asked for a briefing on the forthcoming policy review. Hebert Decl. ¶ 6.

15. Some of the Service Chiefs expressed concern that the review may not be objective and that the presumption appeared to mandate a pre-determined outcome. A similar concern was expressed to DoD in a letter from the then-Chairman of the House Committee on Armed Services. Hebert Decl. ¶ 6.

16. The working group noted that several studies suggested that individuals diagnosed with gender dysphoria have higher than normal associated rates of depression and suicide. *See* Hebert Decl. Ex. A (Transgender Service Review Work Group Out) at 8; Hebert Decl. ¶ 10.

17. The working group heard from a civilian endocrinologist and a civilian plastic surgeon who spoke about care for transgender individuals, but the working group did not hear from any doctor who had treated gender dysphoria (or its comorbidities) from a psychiatric or psychological perspective. Hebert Decl. ¶ 11, Ex. A at 28–43 (showing agendas and speakers at meetings).

18. The Department of Defense commissioned the RAND National Defense Research Institute (RAND) to conduct a study to “(1) identify the health care needs of the transgender population, transgender service members’ potential health care utilization rates, and the costs associated with extending health care coverage for transition-related treatments; (2) assess the potential readiness impacts of allowing transgender service members to serve openly; and (3) review the experiences of foreign militaries that permit transgender service members to serve openly.” RAND National Defense

Research Institute, *Assessing the Implications of Allowing Transgender Personnel to Serve Openly*, at 1 (2016) (hereinafter, “RAND Report”), Dkt. 12-5.

19. In its final report, RAND included a discrete section of “limitations and caveats” in which it recommended caution in interpreting its study results because of “the lack of rigorous epidemiological studies of the size or health care needs of either the U.S. transgender population or the transgender population serving in the military” and “no definitive data” on these populations. RAND Report at 3–4.

20. The RAND Report concluded that allowing transgender service members to serve in their preferred gender would limit deployability, impede readiness, and impose costs on the military, but also stated that those impacts were “negligible,” “marginal,” or “minimal.” RAND Report at xii, 39–42, 46–47, 69–70.

21. Some of the Service Surgeons General recommended a stability period between 24 and 36 months, after which waiver would be permitted for accession into the military. Hebert Decl. ¶ 19.

22. Those Service Surgeons General who recommended a stability period between 24 and 36 months, after which waiver would be permitted for accession into the military, did so to more closely align the military accession standards for gender dysphoria with anxiety disorder and major depressive disorder. Hebert Decl. ¶ 19.

23. On June 30, 2016, Secretary Carter approved the publication of Directive-type Memorandum (DTM) 16-005, entitled “Military Service of Transgender Service Members.” DTM 16-005, Dkt. 12-6.

24. In DTM 16-005, Secretary Carter directed the Department of Defense to revise its accession standards by July 1, 2017. Under these revised accession standards, a history of “gender dysphoria,” “medical treatment associated with gender transition,” or “sex reassignment or genital reconstruction surgery” would remain disqualifying unless an applicant provided a certificate from a licensed medical

provider that the applicant had been stable or free from associated complications for 18 months. DTM 16-005 at Attachment, ¶ 2.

25. DTM 16-005 states that effective June 30, 2016, current service members could not be discharged “solely on the basis of their gender identity” or their “expressed intent to transition genders.” DTM 16-005 at Attachment, ¶ 1.

26. On June 30, 2016, Secretary Carter approved the publication of Department of Defense Instruction (DoDI) 1300.28, entitled “In-service Transition for Service Members Identifying as Transgender.” DoDI 1300.28, Dkt. 12-8.

27. DoDI 1300.28 allowed for a service member who was diagnosed with gender dysphoria to transition genders. DoDI 1300.28, ¶ 3.1.b.

28. Under DoDI 1300.28, transgender service members must receive a diagnosis from a military medical provider for which gender transition is medically necessary in order to change the service member’s gender marker in DEERS and be subject to standards and requirements consistent with that gender marker. DoDI 1300.28 ¶ 3.3(a)(3); *see also* DoD Report at 15.

29. Consistent with these directives, the Navy issued guidance to commands regarding this policy. *See generally* Ex. 1 (U.S. Navy Transgender and Gender Transition Commanding Officer’s Toolkit).

30. Under this guidance, sailors were required to obtain a waiver if their transition could not be completed in 18 months. *See* Ex. 1 (U.S. Navy Transgender and Gender Transition Commanding Officer’s Toolkit) at 3.

IV. Secretary Mattis's Decision to Delay Accession of Individuals with Gender Dysphoria Under Carter Policy

31. On May 8, 2017, then-Deputy Secretary of Defense Robert Work directed the Military Services to assess the Department's readiness to begin accessing transgender applicants into military service on July 1, 2017. Hebert Decl. ¶ 22.

32. The Army requested "a delay in implementing the draft accessions policy until July 1, 2019, to allow for a meaningful analysis and determination regarding the impact of transgender accessions on the Army's readiness," and noted that "some transgender Soldiers experience extensive medical non-deployability both before and after transition[.]" Hebert Decl. ¶ 22.

33. The Air Force recommended a 12 to 36 month delay of the Carter accessions policy, and noted that "information received from Combatant Commands (CCMDs) raises significant concerns about the potential availability, readiness, and deployability of potential transgender accessions that warrants more study." Hebert Decl. ¶ 22.

34. The Navy stated that it was ready to access new accessions but was willing to support the delay requested by the other Services. Hebert Decl. ¶ 22.

35. The Marine Corps requested a 24-month delay of the new accessions policy. Hebert Decl. ¶ 22.

36. On June 30, 2017, Secretary Mattis, approved the Services' recommendation to delay the implementation of the Carter accessions standards. Hebert Decl. ¶ 23.

37. Also on June 30, 2017, Secretary Mattis established a study group that included the representatives of the Service Secretaries and senior military officers, many with combat experience, to conduct a six-month review of the impact of the Carter accessions standards on military readiness and lethality. Hebert Decl. ¶ 23.

V. Presidential Statements on Twitter and Presidential Memorandum

38. While that review was ongoing, the President stated on Twitter on July 26, 2017 that “the United States Government will not accept or allow transgender individuals to serve in any capacity in the U.S. Military.” Twitter Statements, Dkt. 12-12.

39. On August 25, 2017, the President issued a memorandum stating that former Secretary Carter had “failed to identify a sufficient basis to conclude that terminating the Departments’ longstanding policy”—which generally disqualified transgender individuals from service—“would not hinder military effectiveness and lethality, disrupt unit cohesion, or tax military resources.” Military Service by Transgender Individuals, 82 Fed. Reg. 41319 (Aug. 25, 2017) §§ 1(a), 2(a), Dkt. 12-15.

40. The President’s memorandum also ordered “further study” into the risks of maintaining the Carter policy and adherence to current accession standards while that review was ongoing. Military Service by Transgender Individuals, 82 Fed. Reg. 41319 (Aug. 25, 2017) §§ 1(a), 2(a), Dkt. 12-15.

VI. The Department’s Development of the 2018 Policy

41. On September 14, 2017, Secretary Mattis established a Panel of Experts (Panel) to “conduct an independent multi-disciplinary review and study of relevant data and information pertaining to transgender Service members.” Memorandum from James N. Mattis, Secretary of Defense, “Terms of Reference—Implementation of Presidential Memorandum on Military Service by Transgender Individuals, at 1–2 (Sept. 14, 2017), Dkt. 12-16; *see also* Military Service by Transgender Individuals – Interim Guidance (Sept. 14, 2017), Dkt. 12-17; DoD Report at 17; Hebert Decl. ¶ 25.

42. The Panel consisted of the members of senior military leadership who had “the statutory responsibility to organize, train, and equip military forces and are uniquely qualified to evaluate the impact of policy changes on the combat effectiveness and lethality of the force.” DoD Report at 18; Hebert Decl. ¶ 25.

43. Unlike the working group that led to the creation of the Carter policy, the Panel was not required to apply a presumption that transgender persons, including transgender individuals diagnosed with gender dysphoria, were generally qualified for military service. Hebert Decl. ¶ 29.

44. In 13 separate meetings over the span of 90 days, the Panel met with military and civilian medical professionals, military and civilian personnel experts, commanders of transgender service members, and transgender service members themselves. DoD Report at 18; Hebert Decl. ¶ 26.

45. The Panel reviewed information regarding gender dysphoria, its treatment, and its impact on military effectiveness, unit cohesion, and military resources. DoD Report at 18; Hebert Decl. ¶ 28.

46. The Panel received briefing from three separate working groups or committees dedicated to issues involving personnel, medical treatment, and military lethality. DoD Report at 18; Hebert Decl. ¶ 25.

47. The Panel considered the military's experience with the Carter policy to date and considered evidence supporting and cutting against its recommendations. DoD Report at 18; Hebert Decl. ¶ 28.

48. As part of its review, the Panel examined data related to current service members diagnosed with gender dysphoria. DoD Report at 21–22; Hebert Decl. ¶ 28; *see* Ex. 5 (*Health Data on Active Duty Service Members with Gender Dysphoria*) (Dec. 13, 2017), at ADMINISTRATIVE_RECORD_003011–42.

49. This same data was not available to RAND nor the Carter Transgender Service Review Working Group in 2016. DoD Report at 21–22; Hebert Decl. ¶ 28.

50. The Panel provided Secretary Mattis with a set of recommendations. DoD Report at 18–19.

51. After considering the Panel's recommendations, along with additional information, Secretary Mattis, with the agreement of the Secretary of Homeland Security, sent the President a memorandum in February 2018 proposing a new policy consistent with the Panel's conclusions. Memorandum for the President Regarding Military Service by Transgender Individuals (Feb. 22, 2018), Dkt. 12-2 (hereinafter, "Mattis Memorandum"); Hebert Decl. ¶ 31.

52. The Mattis Memorandum was accompanied by a 44-page report setting forth in detail the bases for the Department of Defense’s recommended new policy. Mattis Memorandum at 3; *see* DoD Report.

53. The Mattis Memorandum states, “Based on the work of the Panel and the Department’s best military judgment,” the Department of Defense had concluded “that there are substantial risks associated with allowing the accession and retention of individuals with a history or diagnosis of gender dysphoria and require, or have already undertaken, a course of treatment to change their gender.” Mattis Memorandum at 2.

54. The Mattis Memorandum states that the Department of Defense had found “that exempting such persons from well-established mental health, physical health, and sex-based standards, which apply to all Service members, including transgender Service members without gender dysphoria, could undermine readiness, disrupt unit cohesion, and impose an unreasonable burden on the military that is not conducive to military effectiveness and lethality.” Mattis Memorandum at 2.

55. The Mattis Memorandum states that the RAND Report “contained significant shortcomings” because, *inter alia*, it relied on “limited and heavily caveated data to support its conclusions, glossed over the impacts of healthcare costs, readiness, and unit cohesion, and erroneously relied on the selective experiences of foreign militaries with different operational requirements than our own.” Mattis Memorandum at 2.

56. The Mattis Memorandum states, “In short, this policy issue has proven more complex than the prior administration or RAND assumed.” Mattis Memorandum at 2.

57. Secretary Mattis proposed a policy that continued some aspects of the Carter policy and departed from others. *Compare* Mattis Memorandum at 2–3, *and* DoD Report at 4–6, 33–43, *with* DTM 16-005.

58. Under the 2018 policy, as under the Carter policy, individuals who “identify as a gender other than their biological sex” but who do not suffer clinically significant “distress or impairment of functioning in meeting the standards associated with their biological sex”—and therefore have no history or diagnosis of gender dysphoria—may serve if “they, like all other persons, satisfy all standards and are capable of adhering to the standards associated with their biological sex.” DoD Report at 4.

59. Under the 2018 policy, individuals who both are “diagnosed with gender dysphoria, either before or after entry into service,” and “require transition-related treatment, or have already transitioned to their preferred gender,” are presumptively “ineligible for service.” DoD Report at 5.

60. This presumptive disqualification for individuals who both are “diagnosed with gender dysphoria, either before or after entry into service,” and “require transition-related treatment, or have already transitioned to their preferred gender,” is subject to both individualized “waivers or exceptions” as well as a categorical reliance exception for service members who took advantage of the Carter policy. DoD Report at 5; *see* Department of Defense DTM 19-004 at 2, Attach. 2 at 5, Attach. 3 at 10, Dkt. 12-19.

61. Service members “who were diagnosed with gender dysphoria by a military medical provider after the effective date of the Carter policy, but before the effective date of any new policy,” including those who entered the military “after January 1, 2018,” “may continue to receive all medically necessary care, to change their gender marker in the Defense Enrollment Eligibility Reporting System (DEERS), and to serve in their preferred gender, even after the new policy commences.” DoD Report at 5.

62. Under the new policy, individuals who “are diagnosed with, or have a history of, gender dysphoria” but who neither require nor have undergone gender transition are likewise “generally disqualified from accession or retention.” DoD Report at 5.

63. This presumptive disqualification for individuals who “are diagnosed with, or have a history of, gender dysphoria” but who neither require nor have undergone gender transition is subject to both

individualized “waivers or exceptions” as well as a categorical reliance exception for service members who took advantage of the Carter policy. DoD Report at 5.

64. Under the new policy, with respect to accession, individuals with a history of gender dysphoria may enter the military if they (1) can demonstrate “36 consecutive months of stability (i.e., absence of gender dysphoria) immediately preceding their application”; (2) “have not transitioned to the opposite gender”; and (3) “are willing and able to adhere to all standards associated with their biological sex.” DoD Report at 5.

65. Under the new policy, with respect to retention, individuals diagnosed with gender dysphoria after entering the military may remain so long as they (1) can comply with Department and Service-specific “non-deployab[ility]” rules; (2) do “not require gender transition”; and (3) “are willing and able to adhere to all standards associated with their biological sex.” DoD Report at 5.

66. On March 23, 2018, the President issued a new memorandum that revoked the 2017 Memorandum “and any other directive” the President “may have made with respect to military service by transgender individuals,” thereby allowing the Secretaries of Defense and Homeland Security to “exercise their authority to implement any appropriate policies concerning military service by transgender persons.” Military Service by Transgender Individuals, 83 Fed. Reg. 13367 (Mar. 23, 2018), Dkt. 12-18.

VII. Implementation of the 2018 Policy

67. On March 12, 2019, the Department of Defense issued a memorandum implementing the standards announced in Secretary Mattis’s February 2018 Memorandum and the accompanying DoD Report. *See generally* DTM 19-004.

68. DTM 19-004 prohibits the denial of accessions into the military; involuntary separation or discharge from the military; denial of reenlistment or continuation of service in the military; or

subjecting an individual to adverse action or mistreatment on the basis of gender identity. DTM 19-004 at 2.

69. Pursuant to DTM 19-004, service members who are not exempt from the policy “may consult with a military medical provider, receive a diagnosis of gender dysphoria, and receive mental health counseling, but may not obtain a gender marker change in DEERS or serve in their preferred gender.” DTM 19-004 at 9.

70. Service members who are not exempt “[m]ay not be separated solely based on a diagnosis of gender dysphoria without first being medically evaluated for possible referral to the Disability Evaluation System (DES) pursuant to DoDI 1332.18 or the USCG Physical Disability Evaluation System (PDES), pursuant to Commandant Instruction (COMDTINST) M1850.2 (series).” DTM 19-004 at 9.

71. On March 19, 2019, the Navy issued further guidance regarding DTM 19-004. *See* ALNAV 022/19, Dkt. 12-20; NAVADMIN 070/19, Dkt. 12-21.

72. NAVADMIN 070/19 describes DTM 19-004 and provides guidance on the procedure for requesting an Exception to Policy (“ETP” or “waiver”). *See* NAVADMIN 070/19 § 4.b.

VIII. The Navy Grants Lieutenant Jane Doe’s Waiver Request

73. Plaintiff Lieutenant (LT) Jane Doe sought treatment for depression and anxiety in the spring of 2019. Compl. ¶ 76.

74. In June 2019, a military medical provider diagnosed LT Doe with gender dysphoria, but did not make a finding that transition treatment was medically necessary. Compl. ¶¶ 77, 85.

75. Because LT Doe received the gender dysphoria diagnosis after the effective date of DTM 19-004, she submitted a request to waive the standards of the new policy and serve under the standards of the prior policy. Compl. ¶ 80.

76. To support her waiver request, LT Doe attached three letters of recommendation from her current and former supervisors, who all recommended that the Navy approve her waiver request. *See* Ex. 4 (Letters from Commanders (Aug. 13, 2019, Sept. 20, 2019, Oct. 4, 2019)).

77. In the letters of recommendation supporting her waiver request, LT Doe's current and former supervisors praised her work performance, education, and character. *See* Ex. 4 (Letters from Commanders (Aug. 13, 2019, Sept. 20, 2019, Oct. 4, 2019)).

78. In one of the letters of recommendation supporting her waiver request, a commander stated that officers in LT Doe's position "rarely deploy," and "[a]s such [she] is ideally situated to transition at the right time for [her] regardless of where [she] is serving in the community." *See* Ex. 4 (Letter from Commander (Sept. 20, 2019)).

79. While LT Doe's waiver request was pending, the Naval Medical Forces Atlantic Transgender Care Team reviewed LT Doe's medical records, agreed with the diagnosis of gender dysphoria, and determined that gender transition is medically necessary. Compl. ¶ 85.

80. LT Doe's waiver request was fully approved on May 13, 2020. Ex. 3 (Letter from Acting Secretary James E. McPherson).

81. Because her waiver request was approved, LT Doe is designated as a member of the exempt population and thus may begin her transition and receive all medically necessary care as directed by DoD Instruction 1300.28. *See* DTM 19-004 at 8; Ex. 3 (Letter from Acting Secretary James E. McPherson).

82. Pursuant to DoD Instruction 1300.28, which governs in-service transition for transgender service members, once a military medical provider determines that her medical treatment plan is complete, LT Doe will be able to serve in her preferred gender and obtain a gender marker change in DEERS. *See* DoDI 1300.28 at 7; *see also* DTM 19-004 at 8; Ex. 1 (Navy Commanding Officer's Toolkit) at 5, 19.

May 18, 2020

Respectfully Submitted,

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EXHIBIT E

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
BOSTON DIVISION**

<p>LT JANE DOE,</p> <p style="text-align: center;"><i>Plaintiff,</i></p> <p style="text-align: center;">v.</p> <p>MARK T. ESPER, <i>et al.</i>,</p> <p style="text-align: center;"><i>Defendants.</i></p>

CIVIL ACTION NO. 1:20-cv-10530-FDS

DECLARATION OF LERNES J. HEBERT

I, Lernes J. Hebert, do hereby declare as follows:

1. I am currently the Deputy Assistant Secretary of Defense for Military Personnel Policy, in the Office of the Under Secretary of Defense for Personnel and Readiness. I have held this position in either an acting or appointed capacity since January 2017. As the Deputy Assistant Secretary, I am responsible for overseeing the full spectrum of human resource policies, including accessions, compensation, development, separations, and recognition programs for over two million active duty, Guard, and Reserve military personnel serving in the Department of Defense (“DoD” or “the Department”). I am also directly responsible for policies to sustain the all-volunteer force.

2. Between September 2012 and January 2017, I served as Principal Director, Military Personnel Policy in the Office of the Under Secretary of Defense for Personnel and Readiness and have served in Military Personnel Policy since August 2003. During that time, I have led the Department through a number of major personnel initiatives and policy changes

including initiatives to restructure career longevity provisions, joint officer management, and general and flag officer management.

3. Prior to my retirement from the United States Air Force in the rank of Colonel after 24 years of active service, I served at every level of the field of personnel management to include key assignments in the Office of the Secretary of Defense, the Air Staff, at the Air Force Personnel Center, and with Air Combat Command. I hold a Master of Science degree in National Security Strategy from the National War College, a Masters of Arts degree in Management and Computer Resource Management from Webster University, and a Bachelor of Science degree in Management from the University of Louisiana.

4. In the exercise of my official duties, I have been made aware of the above-captioned lawsuit, as well as four additional suits by transgender individuals pending in other jurisdictions. I submit this declaration in support of Defendants' Consolidated Opposition to Plaintiff's Motion for a Preliminary Injunction and Motion to Dismiss Plaintiff's Complaint, or, in the Alternative, Motion for Summary Judgment. The statements made herein are based on my personal knowledge and information available to me in the course of my official duties.

Secretary Carter Initiates a Policy Review

5. On July 28, 2015, then-Secretary of Defense Ashton Carter issued a memorandum to the Secretaries of the Military Departments announcing that effective July 13, 2015, the authority to approve any involuntary separation or denial of reenlistment based on gender identity was elevated and required the personal approval of the Under Secretary of Defense for Personnel and Readiness. This memorandum also created the Transgender Service Review Working Group ("TSRWG"), which was chartered to formulate policy options for DoD regarding the military service of transgender service members and provide the Secretary with

recommendations within 180 days. The memorandum specifically directed the TSRWG to presume that transgender persons can serve openly without adverse impact to military effectiveness and readiness, unless objective, practical impediments are identified.

6. Shortly after Secretary Carter made this announcement, the Office of the Secretary of Defense (“OSD”) was contacted by the Joint Chiefs of Staff who asked for a briefing on the forthcoming policy review. Some of the Service Chiefs expressed concern that the review may not be objective and that the presumption appeared to mandate a pre-determined outcome. A similar concern was expressed to DoD in a letter from the then-Chairman of the House Committee on Armed Services.

Formation of the TSRWG

7. The TSRWG was chaired by then-Acting Under Secretary of Defense for Personnel and Readiness Brad Carson and was composed of senior civilians and military personnel representing the Services’ personnel offices, the Surgeons General from the Services and Joint Staff, representatives from the U.S. Coast Guard, as well as senior OSD staff from Personnel and Readiness, Health Affairs, Legislative Affairs, Public Affairs, and the Office of the General Counsel. At the time, I served as the Principal Director for Military Personnel Policy. Mr. Anthony Kurta, who at the time was serving as the Deputy Assistant Secretary of Defense for Military Personnel Policy, and I were key representatives of the Office of the Under Secretary of Defense for Personnel and Readiness at TSRWG meetings. I personally attended and participated in 11 of the 13 TSRWG bi-weekly meetings held between August 15, 2015 and January 19, 2016. I also participated in a debrief of the results of the TSRWG’s various lines of effort and products that was given to Mr. Carson on February 17, 2016.

8. At the beginning of the TSRWG process, there was some degree of disparity in the level of familiarity and expertise among working group members regarding transgender issues, including the medical needs of transgender service members. Portions of some of the earliest meetings were devoted to getting all TSRWG members to a base level of understanding. For example, some TSRWG members initially did not fully appreciate that gender dysphoria is a separate behavioral health condition affecting only a portion of transgender individuals. As we learned, the Fifth edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association (“DSM-5”) states that individuals with gender dysphoria are a subset of transgender individuals who experience “significant distress or problems functioning” as a result of an incongruence between their expressed gender and/or secondary sex characteristics.

Challenges Faced by the TSRWG

9. In my experience, it was unusual that a medical condition, such as gender dysphoria, should carry with it a presumption of fitness for military service, as directed by Secretary Carter, and particularly unusual for a mental or behavioral health condition in the DSM-5 to carry such a presumption. I am unaware of any other medical condition or any other mental or behavioral health condition where such a presumption of fitness for military service is applied. Indeed, as outlined in Department of Defense Instruction 6130.03, many mental and behavioral health conditions in the DSM-5 are presumptively disqualifying when applying the medical standards for appointment, enlistment, or induction into the military.

10. The TSRWG attempted to come to grips with several other thorny issues, some of which are addressed in the TSRWG’s written “Report Out,” which was briefed to Mr. Carson on February 17, 2016. A copy of the Report Out is attached as Exhibit A. For example, one

challenge was a lack of information regarding the efficacy of transition treatment to relieve the “significant distress” associated with gender dysphoria. The TSRWG was presented with the results of several studies suggesting that individuals diagnosed with gender dysphoria have higher than normal associated rates of depression and suicide, as well as medical research that indicated important short-term medical and psychiatric benefits from gender reassignment treatment in some individuals. But, there was limited data on the rates of improvement or the continued level of improvement during transition or post-transition. This made crafting a policy that would account for a stability period after which a transitioning service member would again be worldwide deployable or a transitioned applicant for military service would be able to complete basic training extremely challenging. This challenge was exacerbated by the fact that a number of studies and experts in the field of transgender care often seemed to blur the lines between scientific research and advocacy. In fact, some of the advocacy groups that the TSRWG consulted consistently advocated for no stability period beyond the standard recovery periods associated with surgical procedures. Those groups opined that any post-transition distress was purely due to the social stigma and not due to gender dysphoria which they claim transition entirely resolved. Yet, the TSRWG could not identify any empirical data which supported these theories.

11. In a related matter, a senior military member of the TSRWG who represented the Office of the Surgeon General for one of the Services complained about an apparent outsized role that advocacy groups had in shaping the TSRWG’s medical analysis and recommended that the TSRWG also hear from a medical professional, Dr. Paul R. McHugh, who was known to have differing views. While the TSRWG did invite a distinguished plastic surgeon and distinguished endocrinologist to speak on transgender care in the civilian community, the

working group never heard from Dr. McHugh or any doctor who had treated gender dysphoria (or its comorbidities) from a psychiatric or psychological perspective.

RAND Study and Report

12. To assist the TSRWG, DoD also contracted the services of the RAND National Defense Research Institute. RAND was to complete its study and provide its recommendations within the 180-day window Secretary Carter had allotted to the TSRWG to complete its review. The RAND study encountered some challenges similar to those faced by the TSRWG because of gaps in reliable data. Indeed, in its final report, RAND included a discrete section of “limitations and caveats” in which it recommended caution in interpreting its study results because of “the lack of rigorous epidemiological studies of the size or health care needs of either the U.S. transgender population or the transgender population serving in the military” and “no definitive data” on these populations.

13. In the course of assisting the TSRWG, RAND researchers gave several presentations to DoD in which these and additional challenges were highlighted. For example, in one presentation given in January 2016, attached as Exhibit B, RAND specifically noted that “[u]ncertainty remains regarding the long term efficacy of G[ender] R[eassignment] T[reatment], though existing data suggests potentially important short term medical and psychiatric benefits[.]” In that same presentation, RAND opined on the impact to unit cohesion and noted that there was “[n]o direct evidence, applicable surveys, or systematic information to determine attitudes on transgender individuals among military members[.]” Although RAND further stated that “evidence from previous integration efforts (*e.g.*, gays, lesbians, and women) indicates that such integration had minimal impact on unit cohesion and readiness,” both the TSRWG and the later Panel of Experts found that such prior examples of integration had little

applicability to the unique concerns at issue in its review of military service by individuals diagnosed with gender dysphoria because those integration efforts did not involve potential lost deployment time due to a medical condition.

14. Other assumptions made by RAND to support some of their conclusions, subsequently turned out to be simply wrong. For example, in February 2016, RAND again briefed members of the TSRWG. That presentation is attached as Exhibit C. In that presentation, RAND estimated the maximum total non-deployable days for certain medical treatments for gender dysphoria. Although RAND identified cross-sex hormone treatments as the largest percentage of treatments, and noted that deployment limitations may apply based on such treatments, it accounted for zero non-deployability days based on “pending accommodations[.]” In its final report, RAND explained that it based its estimate of zero non-deployability days for cross-sex hormone treatments on an assumption that DoD would either depart from Endocrine Clinical Practice Guidelines for the Treatment of Gender-Dysphoric / Gender-Incongruent Persons or deploy independent medical personnel to supervise hormone treatments administered to individuals diagnosed with gender dysphoria in a deployed environment. Ultimately, however, as the Panel of Experts discovered during its subsequent policy review, several of the Military Services and at least one Combatant Command¹ (*i.e.*, MOD 13 to USCENTCOM Individual Protection and Individual/Unit Deployment Policy) determined that administering hormone treatments in a forward deployed environment or declining to apply established medical guidelines, were not feasible accommodations.

¹ A Combatant Command is a military command which has broad, continuing missions. *See* 10 U.S.C. § 161. These commands are established to provide effective command and control of U.S. military forces, regardless of branch of service, in peace and war. They are organized either on a geographical basis or on a functional basis. U.S. Central Command is the geographical command responsible for responding to crises, deterring and defeating threats, and increasing regional stability throughout the Middle East.

15. In addition, subsequent data showed that RAND underestimated the utilization rates of medical treatment for gender dysphoria. Specifically, RAND estimated that the open service directive would result in approximately 140 active duty service members initiating transition-related hormone treatment. However, the data provided to the Panel of Experts, based on actual treatment records of military service members, shows that the rate of hormone-related transition care was approximately five times higher than RAND’s estimate.

Input from Military Medical Professionals

16. Early in the process, the TSRWG was presented with the results of recently completed work on gender dysphoria from DoD’s Accessions Medical Standards Working Group (“AMSWG”). The AMSWG is a standing committee established under the direction of the DoD Medical and Personnel Executive Steering Committee (“MEDPERS”). (Since January 2017, I have served as the MEDPERS co-chair.) The AMSWG is composed of medical and personnel subject-matter experts from across the Department, the Military Services, and the U.S. Coast Guard and meets regularly to review military accession standards involving over 30 bodily systems and medical focus areas, carefully considering evidence-based clinical information, peer-reviewed scientific studies, scientific expert consensus, and the performance of existing military medical accession standards in light of empirical data on attrition, deployment readiness, waivers, and disability rates. The TSRWG was presented with the AMSWG’s recommendations to update the Department of Defense medical standards for accessions into the military—DoD Instruction 6130.03—in light of updates to DSM-5.

17. As reflected in the minutes of their April 2015 meetings, attached as Exhibit D, the AMSWG recommended that a current diagnosis or history of gender dysphoria be disqualifying for accession unless: (1) the applicant was stable without psychotropic medications or mental health treatment for 36 months; (2) outpatient mental healthcare for the

resolution of gender dysphoria was not required for greater than 24 cumulative months. (If therapy is more supportive in nature, *e.g.*, through the transition process, the same provision would not apply); and (3) the applicant did not require inpatient mental health treatment in hospital or residential facility.

Input from the Military Services and Decision

18. As part of the TSRWG process, input was sought from personnel experts from the Military Services on a new accessions standard for transgender individuals and individuals diagnosed with gender dysphoria. The positions of the Military Services were collected and assembled into a matrix which was presented to Mr. Carson in February 2016. The matrix is attached as Exhibit E. As reflected in the matrix, there were several disagreements between the Military Services regarding accessions standards, including whether DoD should require potential service members' biological sex to correspond with their gender identity, the length of any period of stability required before an individual could access into the military, and whether or not service members should be allowed to transition within their first term of service. The Army and Marine Corps recommended a more conservative approach, similar to the policy that was recommended by the Panel of Experts to Secretary Mattis in 2018. The Navy and the Air Force recommended a policy that would allow for service in one's preferred gender, with the Navy recommending a stability period prior to accession in the military of 12 months and the Air Force recommending a 24-month stability period.

19. Although not captured in this particular matrix, some of the Service Surgeons General advocated for a stability period between 24 and 36 months, after which waiver would be permitted, to more closely align with the comorbidities of gender dysphoria—*anxiety disorder and major depressive disorder.*

20. Ultimately, then-Secretary Carter adopted the views favoring service consistent with one’s gender identity and set the stability period for accessions at 18 months, as announced on June 30, 2016, as DTM 16-005, Military Service of Transgender Service Members. Secretary Carter also directed that these accessions standards be reviewed within two years and be maintained or changed consistent with applicable medical standards and clinical practice guidelines in order to ensure military readiness and promote effectiveness in recruiting and retention.

The New Administration

21. Following the start of the Trump Administration, some of the Services sought to have then-Secretary Mattis reconsider the Carter policy, based in part on recent challenges encountered while implementing the 2016 policy. Further, the Service Surgeons General formally recommended extending the 18-month Carter policy accessions stability period to at least 24 months, noting that “currently accepted clinical practice guidelines and our experience in DoD demonstrate that successful gender transition is a protracted process, often requiring several years to reach clinical stability.” This memorandum is attached as Exhibit F.

22. In response to these concerns, on May 8, 2017, then-Deputy Secretary of Defense Robert Work directed the Military Services to assess the Department’s readiness to begin accessing transgender applicants into military service on July 1, 2017, as directed under the Carter policy. Each of the Service Secretaries formally responded to the Deputy Secretary, and each one of them recommended a delay of the Carter accessions policy. The Services’ responses are attached as Exhibit G. The Army requested “a delay in implementing the draft accessions policy until July 1, 2019, to allow for a meaningful analysis and determination regarding the impact of transgender accessions on the Army’s readiness,” noting that “some

transgender Soldiers experience extensive medical non-deployability both before and after transition[.]” The Air Force recommended a 12- to 36-month delay of the Carter accessions policy, noting that “information received from Combatant Commands (CCMDs) raises significant concerns about the potential availability, readiness, and deployability of potential transgender accessions that warrants more study.” The Navy stated that it was ready to access new accessions but was willing to support the delay requested by the other Services. And, the Marine Corps requested a 24-month delay of the Carter accessions policy.

23. On June 30, 2017, before the Carter accessions standards were set to take effect, Secretary Mattis approved the Services’ recommendation to delay the implementation of those standards for an additional six months to evaluate more carefully their impact on military readiness and lethality. Secretary Mattis also established a study group that included the representatives of the Service Secretaries and senior military officers, many with combat experience, to conduct this six-month review.

24. On August 25, 2017, while this review was ongoing, the President sent the Secretaries of Defense and Homeland Security a memorandum expressing his concern that the Carter policy “failed to identify a sufficient basis” for changing longstanding policy and that “further study is needed to ensure that continued implementation of last year’s policy change would not have ... negative effects.” The President then directed DoD and the Department of Homeland Security (“DHS”) to reinstate the preexisting policy concerning accession of transgender individuals “until such time as a sufficient basis exists upon which to conclude that terminating that policy” would not “hinder military effectiveness and lethality, disrupt unit cohesion, or tax military resources.” The President’s Memorandum also made clear, however,

that DoD and DHS could notify him “at any time, in writing, that a change to this policy is warranted.”

Creation of Panel of Experts

25. On September 14, 2017, then-Secretary Mattis created a Panel of Experts (“the Panel”) comprised of senior uniformed and civilian Defense Department and U.S. Coast Guard leaders and directed them to consider the issue of military service by transgender individuals and individuals with gender dysphoria and develop policy proposals based on data, as well as their professional military judgment, that would enhance the readiness, lethality, and effectiveness of the military. The Panel consisted of senior military and civilian leaders who had the statutory responsibility to organize, train, and equip military forces and who, based on their positions and experience, were uniquely qualified to evaluate the impact of policy changes on the combat effectiveness and lethality of the force. The Panel’s task was to “conduct an independent multidisciplinary review and study of relevant data and information pertaining to transgender Service members.” The Panel was supported by three working groups, which were assigned areas of focus and expertise. Secretary Mattis also directed the Panel to provide its best military advice based on increasing the lethality and readiness of the armed forces, without regard to any external factors.

Work of the Panel of Experts

26. The Panel met 13 times over a span of 90 days. I attended and participated in all of the Panel’s meetings. In the first Panel meeting on October 13, 2017, Mr. Kurta, who was then performing the duties of the Under Secretary of Defense for Personnel and Readiness, chaired the Panel and gave an overview of Secretary Mattis’s direction. Mr. Kurta advised the Panel that because the President’s memorandum made clear that at any time the Department

could advise the President that a change in policy was warranted, the Panel was free to consider a full range of policy options. The Panel members agreed that this was the correct interpretation of the President’s Memorandum and Secretary Mattis’s direction to the Panel. Additionally, the members of the Panel agreed that their recommendations should be free of political considerations.

27. To fulfill its mandate, the Panel addressed three primary questions:

- Should the Department of Defense access transgender individuals?
- Should the Department allow transgender individuals to transition gender while serving, and if so, what treatment should be authorized?
- How should the Department address transgender individuals who are currently serving?

28. In order to provide evidence-based recommendations regarding these questions, the Panel met with and received input from transgender Service members, commanders of transgender Service members, military medical professionals, and civilian medical professionals with experience in the care and treatment of individuals with gender dysphoria. The Panel also reviewed information and analyses about gender dysphoria, the treatment of gender dysphoria, and the effects of currently serving individuals with gender dysphoria on military effectiveness, unit cohesion, and resources. The Panel’s analysis was also informed by the Department’s own data and experience obtained since the Carter policy took effect, *e.g.*, Health Data on Active Duty Service Members with Gender Dysphoria, December 13, 2017. This data was not available to RAND or the TSRWG in 2016.

29. Unlike the TSRWG, the Panel was not required to apply a presumption that transgender persons, including transgender individuals diagnosed with gender dysphoria, were

generally qualified for military service; the Panel made no assumptions but instead attempted to apply the relevant standards applicable to every service member to determine the extent to which transgender persons, including transgender individuals diagnosed with gender dysphoria, are qualified for military duty. Further, while the RAND report analyzed the factors of military readiness, deployability, unit cohesion, and cost on a force-wide or macro level, the Panel also looked at impacts at the unit or micro level, including the impact that high numbers of non-deployable military personnel place on families whose service members deploy more often to backfill or compensate for non-deployable persons.

30. After extensive review and deliberation, which included evidence in support of and against the Panel's recommendations, the Panel concluded that there are substantial risks associated with allowing the accession and retention of individuals with a history or diagnosis of gender dysphoria and who require, or have already undertaken, a course of treatment to change their gender. Furthermore, the Panel found that exempting such persons from well-established mental health, physical health, and sex-based standards, which apply to all service members, including transgender service members without gender dysphoria, could undermine readiness, disrupt unit cohesion, and impose an unreasonable burden on the military that is not conducive to military effectiveness and lethality. The Panel did recommend, however, that individuals who relied on the Carter policy be allowed to continue serving in their preferred gender.

Adoption of Panel Recommendations

31. Once the Panel finalized its recommendations, the then-Under Secretary of Defense, Robert Wilkie, Mr. Kurta, and I presented those recommendations to the Deputy Secretary of Defense and the Vice Chairman of the Joint Chiefs of Staff and then to Secretary

Mattis. Secretary Mattis made his decision to accept the recommendations of the Panel and directed a formal report to be created. That report, titled Department of Defense Report and Recommendations on Military Service by Transgender Persons, was created under the authority of Under Secretary of Defense for Personnel and Readiness and submitted to then-Secretary Mattis, who in turn submitted it to the President, along with a three-page cover memo on February 22, 2018. On March 23, 2018, the President accepted then-Secretary Mattis's recommendation and withdrew his August 25, 2017 Memorandum.

Conclusion

32. Having participated in both the review by the TSRWG convened by then-Secretary Carter and the Panel of Experts convened by former Secretary Mattis, it is my view that the work of both groups reflected thoughtful, considered processes that incorporated the experience and expertise of dedicated military and civilian officials to address difficult, complex, and controversial issues. In my opinion, the most substantial factors that account for the different outcomes in these reviews are: (1) the general presumption of fitness for military service that was applied by the TSRWG but not the Panel of Experts; (2) additional knowledge DoD and the Military Services gained from their experience under the Carter policy; (3) the additional data available to the Panel of Experts to review regarding impacts under the Carter policy; (4) the fact that the Panel of Experts' review included more analysis of unit-level implications than during the TSRWG review; and (5) that Secretary Mattis was less willing than Secretary Carter to assume risk in the absence of clear data regarding impacts on military readiness and deployability.

Pursuant to 28 U.S.C. § 1746(2), I declare under the penalty of perjury that the foregoing is true and correct.

Executed on this 18th day of May 2020, in Arlington, Virginia.



Lernes J. Hebert
Deputy Assistant Secretary of Defense for Military
Personnel Policy
Office of the Under Secretary of Defense for Personnel
and Readiness

EXHIBIT F

Stenographic Transcript
Before the

COMMITTEE ON
ARMED SERVICES

UNITED STATES SENATE

HEARING TO RECEIVE TESTIMONY ON THE DEPARTMENT OF DEFENSE
BUDGET POSTURE IN REVIEW OF THE DEFENSE AUTHORIZATION
REQUEST FOR FISCAL YEAR 2019 AND THE FUTURE YEARS DEFENSE
PROGRAM

Thursday, April 26, 2018

Washington, D.C.

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1 look at what they are doing with their support for terrorism
2 from Bahrain to Yemen, from Syria to Lebanon and elsewhere,
3 their maritime threat, their cyber threat. We have got to
4 look at all these things, sir, as a whole, but at the same
5 time focus on this imperfect arms control agreement and
6 determine if that is in our best interest.

7 Senator Sullivan: Trust factor?

8 Secretary Mattis: I think trust but verify would be an
9 exaggeration. I think it is distrust and verify.

10 Senator Sullivan: Thank you.

11 Senator Inhofe: Thank you, Senator Sullivan.

12 Senator Gillibrand: Thank you, Mr. Chairman.

13 General Dunford, your fellow chiefs have told me that
14 they are not aware of any instances of issues with unit
15 cohesion, morale, and discipline as a result of open
16 transgender service. Have you heard of any such incidents?

17 General Dunford: Senator, thanks. I would not
18 typically hear of individual cases of cohesion or discipline
19 issues.

20 And maybe just a comment on transgender. For me, the
21 issue with transgender has never been about cohesion or
22 discipline anyway. It was just about any individual,
23 regardless of circumstances, being able to meet the physical
24 and mental qualifications of being worldwide deployable. So
25 if an individual is serving without accommodation, then I do

1 not think I would expect to see discipline or cohesion
2 issues in that unit.

3 Senator Gillibrand: During our last discussion on this
4 topic, you said that you would treat all service members,
5 including transgender service members, with dignity and
6 respect.

7 The recommendations on transgender service and the
8 accompanying panel report were released as part of the DOJ's
9 filing on Friday night. Service members found out in the
10 news that the Department had submitted a report that cast
11 dispersions on their fitness to serve, implied they could
12 harm the lethality of the force, and left their futures in
13 the military up in the air.

14 Do you think this rollout accords transgender service
15 members with the dignity and respect they deserve?

16 General Dunford: Senator, one thing we have tried to
17 clarify for our men and women that are current serving is
18 that -- and I cannot talk about any changes in the policy.
19 But one thing that did not change was the status of the men
20 and women that are currently serving.

21 Senator Gillibrand: That is not the impression the
22 report leaves.

23 Do you know whether this has created anxiety among
24 these troops? Have you met with any transgender troops
25 given this report?

1 General Dunford: I have not since the report was
2 released, Senator.

3 Senator Gillibrand: I recommend that you do so so you
4 are more informed.

5 Secretary Mattis, one of the things that struck me
6 about your panel's report was its claim that, quote, unlike
7 past reviews, the panel's analysis was informed by the
8 Department's own data and experience obtained since the
9 Carter policy took effect. That is why I have been asking
10 the chiefs about unit cohesion. In fact, General Milley put
11 it with regard to the Army as precisely zero instances of
12 units with less unit cohesion, morale, and discipline.

13 I am very concerned about this report because it says
14 that there is, quote, scientific uncertainty surrounding the
15 efficacy of transition-related treatments for gender
16 dysphoria. Yet, the American Medical, Psychological, and
17 Psychiatric Associations have all said the report
18 misrepresents what is the scientific consensus when it comes
19 to gender dysphoria and transition. In fact, despite the
20 report's stated concerns about deployability of transgender
21 service members because of gender dysphoria or associated
22 medical care, a report being issued today by the Palm Center
23 here, which I am going to give to you so you can read in
24 full, says that, quote, out of 994 service members diagnosed
25 with gender dysphoria in 2016 and the first half of 2017, 40

1 percent deployed in support of Operation Enduring Freedom,
2 Operation Iraqi Freedom, or Operation New Dawn, and only one
3 had an issue during that deployment.

4 It appears that this report that your Department has
5 issued is not based on the Department's data or science but
6 rather, quote, potential risks that the authors cannot back
7 up. And in fact, this seems to me to be the same uninformed
8 and unfounded concerns that led to the opposition of
9 repealing don't ask/don't tell, integrating women into the
10 military, integrating African Americans into the military.
11 And I think you need to do a lot more work on this topic to
12 inform yourselves.

13 What is so different about transgender service that
14 makes you think that though the data and medical science do
15 not justify it, transgender service will harm the readiness
16 and lethality of our force?

17 Secretary Mattis: Well, Senator, I regret the way you
18 characterize it. I would remind you that when I came into
19 this job, I said I do not come in with a preordained or
20 agenda to change something. I am in to carry three lines of
21 effort forward. One of them was to create a more lethal
22 military. And I believe that service in the military is a
23 touchstone for patriotic Americans. The military protects
24 all Americans' freedom and liberty to live as they choose,
25 and we are proud of that.

1 71 percent of 18 to 24-year-old men and women in this
2 country do not qualify for medical, legal, behavioral,
3 intellectual reasons to enlist as a private in the U.S.
4 Army. 71 percent.

5 In this case, I was meeting with the service chiefs and
6 the Chairman -- not the Joint Chiefs, the service chiefs --
7 last spring, and they were asking me questions because we
8 were coming up on the advent of the induction of
9 transgender. And they wanted to know how they were going to
10 deal with certain issues about basic training, about
11 deployability. I said, did you not get all of this when the
12 policy came out? The Carter policy we call it. They said
13 no. And I said, well, did you have input? They said no,
14 they did not.

15 So I convened that panel. That panel was made up of
16 combat veterans, the vice chiefs of the services, and the
17 under secretaries. And they called together transgender
18 troops. They brought in commanders of transgender troops,
19 and they brought in and listened to civilian and military
20 medical experts who have provided care for transgenders both
21 in the military and outside. And I gave my 44-page advice.
22 I would like to have it entered, Chairman, for the record.

23 [The information referred to follows:]

24 [COMMITTEE INSERT]

25

1 Senator Gillibrand: And a list of all experts you
2 consulted, please.

3 Secretary Mattis: Pardon?

4 Senator Gillibrand: I would like a list of all the
5 experts, medical experts, that were consulted for that
6 report, please.

7 Secretary Mattis: Right now, this is under litigation.
8 I will see what I can provide or when I can provide it. I
9 will do that, Senator.

10 But at the same time, basically my responsibility is to
11 give the best advice I can for making a lethal force. And I
12 think that right now the Carter policy is still in effect,
13 and we have the four cases being litigated.

14 Why these issues like this would not come to the
15 service chief level during this was a very, very, I would
16 call it, newsworthy situation. And the reason is that under
17 the Carter policy, the reporting is opaque. We cannot
18 report that a problem emanated from a transgender. We
19 cannot under the Carter policy do that. So the question you
20 have asked the service chiefs and the Chairman are ones that
21 right now the Carter policy prohibited that very information
22 from coming up because it is private information. And it is
23 specifically called out in his policy statement. So it is
24 impossible for them to have responded to you.

25 And I would just say that right now we look at medical

1 conditions. If gender dysphoria has anxiety or it has some
2 kind of depression, we do not allow anyone in with that. I
3 would have to make a special category that said you can have
4 these disqualifying factors only if you are transgender, and
5 then we can bring you in. I think you understand why we
6 have not chosen to do that.

7 Senator Inhofe: Thank you.

8 Senator Fischer?

9 Senator Fischer: Thank you, Mr. Chairman.

10 Secretary Mattis, in last year's NDAA, Congress
11 required the Department to evaluate whether existing cruise
12 missile systems could be converted into a ground-launched
13 version as part of our response to Russia's violation to the
14 INF Treaty. The Department's response, which was a letter
15 from Under Secretary Lord, was sent to the committee 2 weeks
16 ago. And it states that DOD is in the early stages of
17 identifying the system requirements and is therefore unable
18 to conduct an assessment at this time.

19 I know the Department is moving forward on a broader
20 effort beyond just a ground-launched cruise missile, but I
21 am concerned about the urgency of our response because, as
22 we both know, we can spend the next 3 years defining
23 requirements and analyzing alternatives and not conduct any
24 actual research and development.

25 So I would just ask, what is your expected timeline for

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RYAN KARNOSKI, et al.,

Plaintiffs,

v.

DONALD J TRUMP, et al.,

Defendants.

CASE NO. C17-1297 MJP

ORDER RE (DKT. NOS. 497, 514,
536, 540-42);

ESTABLISHING A TIMEFRAME
FOR ASSERTION OF THE
DELIBERATIVE PROCESS
PRIVILEGE;

REQUIRING DEFENDANTS TO
REVIEW THEIR DELIBERATIVE
PROCESS PRIVILEGE CLAIMS
AND PRODUCE THOSE THAT
ARE NOT PREDECISIONAL OR
DELIBERATIVE

This matter comes before the Court upon the Parties’ Joint Submission Regarding Defendants’ Deliberative Process Privilege Claims (Dkt. No. 497). Having reviewed the 850 documents submitted pursuant to the Court’s Orders on the Joint Submission (Dkt. No. 514, 536), the Parties’ responses to the questions posed by the Court (Dkt. Nos. 540-42), and two earlier *in camera* document reviews, the Court finds and ORDERS:

- 1 (1) Defendants must produce all documents where the privilege category is designated
2 with “N” in the spreadsheets attached to this Order by **July 22, 2020**. As to those
3 documents where the privilege category is marked “Y”, the Court is satisfied that a
4 *prima facie* case of deliberative process privilege (“DPP”) privilege has been
5 established, subject to a possible further review under the balancing test set out in
6 FTC v. Warner Commc’ns Inc., 742 F.2d 1156, 1161 (9th Cir. 1984);
- 7 (2) Defendants will review their list of approximately 35,000 documents withheld solely
8 on the basis of DPP and apply the temporal filter of July 13, 2015 through June 30,
9 2016 (Carter policy) and September 14, 2017 through January 11, 2018 (Mattis
10 policy). All documents falling outside of these two timeframes and withheld solely
11 pursuant to the a DPP claim will be produced by **July 29, 2020**. The only exception
12 shall be any documents specifically subject to the pending appeal to the Ninth Circuit.
13 The temporal time filter will also apply to the documents withheld on the basis of
14 other privileges in addition to a DPP claim, and the Defendants shall delete DPP as a
15 claim for withholding the documents that fall outside of this time frame.
- 16 (3) Not later than **July 29, 2020**, the Defendants will filter the remaining documents
17 withheld solely under a DPP claim, and file a privilege log of documents relating to
18 those documents that fall within the designated time frames.
- 19 (4) Not later than **July 22, 2020**, the Defendants will produce paper copies of 500
20 documents submitted for *in camera* review that are not considered privileged as
21 indicated in Attachment 2 to this Order, so the Court can review these documents to
22 satisfy the “deliberative” test. The documents will each bear the “PrivWithhold”
23
24

1 number on the bottom of the document corresponding to the “PrivWithhold”
2 designation in the privilege log submitted to the Court.

3 **Background**

4 In this ongoing discovery dispute, the Government has withheld approximately 50,000
5 documents from production claiming they are exempt from disclosure, at least in part, pursuant
6 to the deliberative process privilege (“DPP”). Within these 50,000 documents, a subset of
7 approximately 35,000 has been withheld *solely* on the basis of a DPP claim. To test whether the
8 Government has been properly asserting the DPP privilege, the Parties and the Court devised a
9 process where 1% (350) of the documents withheld solely on a DPP claim were randomly
10 selected and sent to the Court for an *in camera* review. (See Dkt. Nos. 497, 514.) After
11 reviewing the first submission of 350 documents, and due to a problem of overreach in the claim
12 of DPP privilege, the Court ordered the Government to submit another batch of 500 randomly
13 selected documents for *in camera* review, in order to test the extent of Defendants’ assertion of
14 the privilege. (Dkt. No. 536.)

15 The Court has had difficulty with the Government’s over-assertion of the DPP in the past.
16 On two prior occasions, the Court has reviewed, with the assistance of the Special Master, more
17 than 3,500 pages of documents, withheld for privilege claims, including the DPP. In very few
18 instances was the Government’s assertion of the DPP sustained.

19 In light of the enormous task remaining before the Parties and the Court on this issue of
20 privilege, the Court is setting out discovery standards to be followed relating to the remaining
21 approximately 48,000 documents to which a DPP claim has been asserted. This Order will
22 describe the boundaries for documents that are presumptively not entitled to DPP protection.
23 The Order will deal specifically with the 850 random DPP-claimed documents submitted for *in*
24

1 camera review. Finally, the Government will be directed to review its DPP claims for the
2 remaining approximately 48,000 documents, and remove its claim of DPP protection from those
3 documents that do not reach the *prima facie* threshold described in this Order, and to produce the
4 documents not reaching this threshold to the Plaintiffs.

5 **Discussion**

6 The DPP applies to protect the decision-making process. To qualify, “a document ‘must
7 be *both* (1) ‘predecisional’ or ‘antecedent to the adoption of agency policy’ and (2)
8 ‘deliberative,’ meaning ‘it must actually be related to the process by which policies are
9 formulated.’” National Wildlife Federation v. U.S. Forest Service, 861 F. 2d 1114, 1117 (9th
10 Cir. 1988) (citation omitted, emphasis in original). For the reasons that follow, the Court finds
11 that the Government has asserted the DPP over many documents that do not meet this definition.

12 **A. Predecisional**

13 Before a document can be withheld pursuant to the DPP, it must be predecisional. See
14 NLRB v. Sears, Roebuck & Co., 421 U.S. 132, 151-52 (1975) (explaining the privilege applies
15 “prior to the time the decision is made” and not to “communications made after the decision and
16 designed to explain it”); Lahr v. NTSB, 569 F.3d 964, 981 (9th Cir. 2009) (noting “we have
17 rejected the argument that a continuing process of agency self-examination is enough to render a
18 document ‘predecisional,’” instead, “[t]he documents must be prepared to assist an agency
19 decision-maker in arriving at a future particular decision”) (internal quotations and citations
20 omitted); Fishermen’s Finest, Inc. v. Gutierrez, No. C07-1574MJP, 2008 WL 2782909, at *2
21 (W.D. Wash. July 15, 2008) (“A document that was prepared to support a decision already made
22 is not predecisional.”). But, what, then, is predecisional in this case?

1 The Government appears to make the claim that because certain individuals began to
2 consider transgender policies in March 2014, and because policies continue to change even
3 today, the predecisional date begins in March of 2014, and everything since that date to the
4 present remains predecisional. The Court rejects this reasoning, because the analysis fails to
5 focus on the specific policies at issue in this litigation. The Government’s position reads the
6 DPP “predecisional” requirement out of existence.

7 There are two policies at issue in this case: (1) The Carter policy which permitted
8 transgender service members to enlist and serve in the U.S. Military; and (2) the Mattis policy
9 which reversed the Carter policy. While these two decisions resulted in a number of spin-off
10 plans designed to execute and implement the two underlying policies, the fundamental issue
11 being challenged by Plaintiffs is the reversal of the Carter policy in favor of the Mattis policy.
12 The implementation and execution plans are simply secondary to the policy switch. As a result,
13 for purposes of determining the “predecisional” and “post-decisional” timeframes for *prima facie*
14 applicability of DPP, the timeframe around these two policy decisions is paramount.

15 For discovery purposes, documents outside the predecisional timeframe for these
16 decisions are presumptively not subject to the DPP. In National Wildlife, *supra*, the court
17 recognized that there may be instances in which production of documents after the policy might
18 provide a roadmap as to the actual decision-making process, which could otherwise protect those
19 documents. This is because the focus of the DPP is to protect the decision-making process. In
20 reviewing the 850 documents submitted for DPP examination, the Court could identify but a
21 handful of documents as to which this could be seriously asserted. However, as explained
22 below, the handful of these documents will continue to be protected under protective order with
23 claw back provisions in the process described.

1 The Court is exercising its discretion to manage discovery in this manner, for several
2 reasons. First, this is consistent with the pleadings in this case, and as analyzed by the Ninth
3 Circuit in the previous appeal. Second, based upon the Court’s examination of four batches of
4 documents submitted for *in camera* review (approximately 8,813 pages of documents), the Court
5 finds that the Government has consistently been overbroad in asserting the DPP.

6 Third, the Government fails to segregate portions of documents which may be partially
7 protected by the DPP from those that are not, despite its obligation to do so. See Karnoski v.
8 Trump, 926 F.3d 1180, 1204 (9th Cir. 2019) (quoting Army Times Publ’g Co. v. Dep’t of Air
9 Force, 998 F.2d 1067, 1071 (D.C. Cir. 1993)) (“Unlike the presidential communications
10 privilege, the deliberative process privilege does not protect documents in their entirety; if the
11 government can segregate disclosed non-privileged factual information within a document, it
12 must.”). Thus far, the Government has not performed any segregation, instead simply tossing
13 this responsibility to the Court.

14 Fourth, the Government claims that 50,000 documents are covered by the DPP and other
15 privileges, and of that quantity, 35,000 are subject to the DPP and no other privilege. Yet after
16 making a random selection of 500 documents for *in camera* inspection, the Government
17 acknowledged that 90 of the randomly selected documents (or 18% of the total) were not subject
18 to a proper DPP claim. (Dkt. No. 542 n. 1.) The Government produced these 90 documents to
19 Plaintiffs and then chose an additional 90 documents to submit to the Court for review. This
20 does not give the Court much, if any, confidence that the Government is properly asserting the
21 DPP privilege, a concern that is amplified by the earlier poor showing on its DPP claims.

22 Finally, the Court opts for this arrangement because all documents produced will still be
23 subject to the protective order in place, and if it turns out that some documents falling outside the
24

1 predecisional and post-decisional date ranges are properly the subject of the DPP, specific
2 documents can be brought to the Court’s attention on subsequent motion. The Order includes a
3 claw-back provision for documents produced erroneously. This decision is made for discovery
4 rather than for trial purposes. Accordingly, as a discovery management tool, the Court sets the
5 following pre and post-decisional dates to establish a framework for evaluating the
6 Government’s DPP assertions.

7 1. Carter Policy

8 As to the Carter policy, on July 13, 2015, then-Secretary Carter announced the military
9 would begin to study the implications of allowing transgender troops to serve in the military.
10 (Dkt. No. 540, Ex. 14). A working group was formed on July 28, 2015 to formulate a policy
11 decision on use of transgender troops. (Dkt. No. 540, Ex. 15.) The work of the committee was
12 completed and on June 30, 2016, Secretary of Defense Carter formally announced the new
13 policy. (Dkt. No. 540, Ex. 12; Dkt. No. 542 at 7; Dkt. No. 505 at 7.) This Court previously
14 ordered production of certain earlier Carter-policy documents on the grounds that it appeared
15 that the Department of Defense (“DOD”) and RAND contemplated that the underlying RAND
16 studies would be published contemporaneously with the announcement of the Carter policy.
17 (Dkt. No. 540, Ex. 12; Dkt. No. 542 at 7; Dkt. No. 505 at 7.) The Court found that the policy
18 was in effect before the public announcement, based on emails from February of that year
19 between the lead contact for RAND and her DoD counterpart discussing the public
20 announcement of the new policy. (Dkt. No. 509 at 4 (citing PrivWithhold 1106).) The practical
21 effect of this is to back up the post-decisional date of the Carter policy to February 6, 2016.
22 However, for purposes of this discovery management tool, the Court will use the announcement
23
24

1 date of the Carter policy – June 30, 2016 – to define the end of the predecisional time frame
2 relating to the Carter policy.

3 Thus, only documents within the date range July 13, 2015 through June 30, 2016 are
4 presumptively predecisional, and therefore subject to a proper DPP claim regarding the Carter
5 policy. As a result, documents created prior to July 13, 2015 are presumptively not considered
6 pre-decisional regarding the Carter policy. Documents created after June 30, 2016 are
7 presumptively considered post-decisional. Just as the Court previously concluded, the end date
8 of the “predecisional” time frame may ultimately be backed up by applying the fourth factor of
9 the Warner test – an issue to be resolved at a later point.

10 2. Mattis Policy

11 Secretary Mattis formed his working panel to consider the issues surrounding use of
12 transgender troops on September 14, 2017. (Dkt. No. 542 at 8.) And the Government has long
13 taken the position that the Panel’s recommendations, issued on January 11, 2018, “were adopted
14 in their entirety by then-Secretary of Defense James Mattis.” (Dkt. No. 414-1, Pet. for
15 Mandamus at 8.) When the Court asked the Government whether “the decision had been made”
16 once the Panel sent over its recommendations to the Office of the Secretary of Defense, the
17 Government responded that yes, at that point, “the final decision was made.” (Dkt. No. 402, Tr.
18 28:16-17, 19.) As a result, documents created before September 14, 2017 are presumptively not
19 predecisional, and documents created after January 11, 2018 are presumptively post-decisional.

20 Although Plaintiffs have argued that the Government adopted the challenged policy no
21 later than August 25, 2017, when the President issued a memorandum that formalized his July
22 26, 2017 Tweets banning transgender military service and ordered the military to implement that
23 policy (Dkt. No. 540 at 6), because the President’s March 23, 2018 Presidential Memorandum
24

1 revoked his 2017 Memorandum and because the Ninth Circuit determined that “the 2018 Policy
2 is a significant change from the 2017 Memorandum” Karnoski v. Trump, 926 F.3d 1180,
3 1189-92, 1202 (9th Cir. 2019), the Court’s focus here is on the adoption of the Mattis policy.

4 Therefore, in the Government’s privilege log, only documents that fall within the date
5 ranges of July 13, 2015 to June 30, 2016 (Carter policy) and September 14, 2017 to January 11,
6 2018 (Mattis policy) are presumptively predecisional and entitled to possible DPP protection.

7 **B. Deliberative**

8 In the Ninth Circuit, the DPP applies “whenever the unveiling of factual materials would
9 be tantamount to the ‘publication of the evaluation and analysis of the multitudinous facts’
10 conducted by the agency.” Nat’l Wildlife, 861 F.2d at 1119 (citations omitted). In National
11 Wildlife, the court confronted the issue of whether a document was deliberative or merely
12 factual. The plaintiff argued that because certain information in an Environmental Impact
13 Statement (“EIS”) was factual, rather than opinion, the document was not subject to a proper
14 DPP claim. The Ninth Circuit held this distinction was too narrow. Instead, the court held that
15 the analysis of whether a document was protected or not from disclosure should focus on the
16 “*deliberative process*.” Id. at 1118 (emphasis in original). Under this approach, nonbinding
17 recommendations on law or policy would be exempt from disclosure. Factual material would be
18 exempt from disclosure to the extent that it revealed the mental processes of decisionmakers.
19 Ultimately, the court held that draft Environmental Impact Statements and “previews” were
20 subject to the DPP and concluded they were “predecisional” because they were drafts, subject to
21 change, and that disclosure would reveal the deliberative process of the Forest Service.

22 In this case, many of the documents submitted by the Government for *in camera* review
23 contain no deliberative process thoughts or opinions. Instead, many fall into the “factual” arena.

1 Moreover, these “factual” documents do not amount to “previews” of the policies or otherwise
2 reveal the deliberative thought process of the Department of Defense. Even if the documents
3 could be at least partially so classified, the Government has not sought to segregate any portions
4 of the documents which express an opinion (potentially protectible) from the facts portion of the
5 documents (generally not protectible, unless revealing thought processes), as required. In the
6 attached analysis of DPP-claimed documents, those which fall into this “factual” arena, or which
7 are not otherwise substantive and thus not subject to DPP protection, are labelled “not
8 deliberative,” and the privilege category is marked with “N” in the attachment to this Order.¹

9 In the second batch of 500 documents submitted to the Court for *in camera* review, the
10 paper documents sent to the Court lacked corresponding identifying Bates numbers
11 corresponding to the privilege log. The Special Master spent several hours attempting to use or
12 find certain identifying characteristics on the documents to match up with the privilege log.
13 Ultimately, the Special Master concluded that the second batch should simply be filtered on the
14 basis of disqualifying dates as set forth above. For documents falling outside the date range as
15 described on the privilege log, the document was denied DPP status as being “Not
16 predecisional.” The Special Master could not conduct a “deliberative” process review. For all
17 documents that fell within the time frame that defines the DPP in this case, no determination of
18 privilege could be made. This does not require that all documents be sent to the Court with
19 appropriate PrivWithhold Bates numbers. It does, however, require that the Government submit

20
21 _____
22 ¹ The Court began its work by declaring some of the documents “not predecisional” and “not deliberative.” As the
23 review continued, the Court stopped undertaking a dual analysis. The Court only examined whether a document
24 was “deliberative” or “Not deliberative” after a predecisional determination had been made. The Parties should not
assume that because a document was determined to be “predecisional” that the absence of comment that the
document is “not deliberative” is a determination that the document was, in fact “deliberative.” To qualify for DPP
protection, a document must be both predecisional and deliberative.

1 properly labelled copies of the documents with appropriate Bates labels for those documents as
2 to which no ruling is reflected on Attachment 2.

3 **Conclusion**

4 After conducting an *in camera* review of the randomly selected sample of documents the
5 Government has withheld solely on the basis of the DPP, the Court finds that Defendants have
6 broadly over-asserted the privilege. The Court therefore ORDERS Defendants to produce
7 documents, as indicated in the attachment to this Order. As to those documents where the
8 privilege category is designated with “N”, the Government is required to produce these
9 documents not later than **July 22, 2020**. As to those documents where the privilege category is
10 marked “Y”, the Court is satisfied that a *prima facie* case of DPP privilege has been established.
11 Further, Defendants must produce all documents that fall outside the date ranges of July 13, 2015
12 to June 30, 2016 (Carter policy) and September 14, 2017 to January 11, 2018 (Mattis policy) and
13 all documents or portions of documents that are purely factual by **July 29, 2020**.

14 This Order does not reach the issue of whether Plaintiffs can overcome Defendants’
15 privilege assertions under the factors described in Warner, 742 F.2d at 1161, but the Court will
16 entertain future briefing from the Parties as to specific documents the Government continues to
17 withhold after complying with this Order. The Court will also review additional documents *in*
18 *camera* if necessary to determine the accuracy of the Government’s privilege claims.

19
20 The clerk is ordered to provide copies of this order to all counsel.

21 Dated July 15, 2020.

22 

23 Marsha J. Pechman
24 United States Senior District Judge

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
AF_00014681_AF2	PrivWithhold03181	PrivWithhold03184	7/20/2015 0:00	Draft Guidance for Commanders Regarding Currently Serving Transgender Airmen	Deliberations regarding the implementation of transgender policy	Y	
AF_00014734_AF2	PrivWithhold03185	PrivWithhold03195	5/30/2017 0:00	Request for Coord on Draft of Accession of Transgender Applicants into Military	Deliberations regarding the implementation of transgender policy	N	Not predecisional
AF_00019464_AF2	PrivWithhold03196	PrivWithhold03376		Draft Transgender Awareness Training Commanders and Leaders CBT	Deliberations regarding the implementation of the transgender policy	N	Not predecisional; not deliberative
AF_00019783_AF2	PrivWithhold03377	PrivWithhold03579		Draft Transgender Awareness Training Commanders and Leaders CBT	Deliberations regarding the implementation of the transgender policy	N	Not predecisional; not deliberative
AF_00022387_AF2	PrivWithhold03580	PrivWithhold03581		Spreadsheet w/ consolidated comments re: AFI 36-3003.	Deliberations regarding the formulation of the transgender policy		Document appears to qualify as deliberative. It has no date. Govt required to determine the date and produce if outside the predecisional timeframe ordered. ff within time frame, presumptively privileged
AF_00024136_AF2	PrivWithhold03582	PrivWithhold03598		Draft talking paper on transgender policy guidance	Deliberations regarding the implementation of the transgender policy		Document appears to qualify as deliberative. It has no date. Gov't required to determine date of document and produce it if outside the predecisional timeframe ordered. If within this timeframe, presumptively privileged
AF_00038179	PrivWithhold03600	PrivWithhold03613		Draft guidance for medical care for service members and other TRICARE eligible beneficiaries with gender dysphoria, with request for comment.	Deliberations regarding the implementation of transgender policy.	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
AF_CTRL_00000014	PrivWithhold03614	PrivWithhold03614	7/26/2017 0:00	Email from SAF/PA to numerous senior AF leaders re USA Today inquiry on USAFA and West Point transgender cadets along with link to USA Today Article regarding transgender service	Deliberations regarding the implementation of transgender policy	N	Not predecisional; not deliberative
Army_10001163	PrivWithhold03615	PrivWithhold03616	8/14/2017 0:00	Discussion re teleconference with service TG leads re guidance on transition-related surgery for TG servicemembers	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional; Not deliberative
Army_10001243.0001	PrivWithhold03618	PrivWithhold03621	7/15/2017 0:00	Draft document pertaining to implementation group.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional; not deliberative
Army_10001449	PrivWithhold03622	PrivWithhold03635	7/14/2017 0:00	Brief to the DAS on the current status of transgender policy development/implementation that contains deliberative comments on the Army and other Services recommendations on accessions COAs.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional; not deliberative in parts.

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
Army_10002505	PrivWithhold03636	PrivWithhold03636	3/2/2017 0:00	Document contains thoughts and impressions on implementing transgender policy.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional; not deliberative
Army_10003651	PrivWithhold03637	PrivWithhold03638	10/6/2017 0:00	Email discusses feedback and comments on impact of TG policy development.	Deliberations regarding the formulation of the transgender policy	Y	
Army_10003652	PrivWithhold03639	PrivWithhold03641	10/6/2017 0:00	Email discusses feedback and comments on impact of TG policy development.	Deliberations regarding the formulation of the transgender policy	Y	
Army_10003796.0001	PrivWithhold03642	PrivWithhold03643	9/15/2017 0:00	Draft Information Paper regarding interim guidance on Tg policy implementation.	Deliberations regarding the implementation of the transgender policy	Y	
Army_10003964.0001	PrivWithhold03644	PrivWithhold03647	8/9/2017 0:00	Slides contain strategy on formulating transgender policy guidance.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
Army_10004145	PrivWithhold03648	PrivWithhold03649	8/10/2017 0:00	Email provides review comments and recommended changes for draft attachment	Deliberations regarding the formulation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
Army_10004 380.0001	PrivWithhold03650	PrivWithhold03651	8/30/2017 0:00	Proposed guidance regarding policy formation	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
Army_10009 961.0001	PrivWithhold03652	PrivWithhold03665	1/11/2017 0:00	Document seeks reviewer feedback and comment on transgender policy implementation issues	Deliberations regarding the implementation of the transgender policy	Y	
Army_10010 283.0001	PrivWithhold03667	PrivWithhold03669	5/4/2017 0:00	Draft document containing talking points to communicate transgender policy to the media.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional; not deliberative
Army_10010 529	PrivWithhold03670	PrivWithhold03674	7/7/2017 0:00	Email discussion communicating transgender accession policy concerns.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
Army_10018 547.0002	PrivWithhold03676	PrivWithhold03680	7/6/2016 0:00	Draft flow chart summarizing the gender transition process, submitted for review.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional; not deliberative
Army_10019 520.0001	PrivWithhold03681	PrivWithhold03681	4/27/2017 0:00	Projected timeline for implementation of TG policy	Deliberations regarding the implementation of the transgender policy	N	Not predecisional; not deliberative

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
Army_10036630	PrivWithhold03682	PrivWithhold03683	2/25/2018 0:00	Slide listing topics to consider when requesting RFIs for the development of transgender policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00002777	PrivWithhold03684	PrivWithhold03685	7/26/2017 0:00	Email in chain in DoD00002760 from the Director of Military Accessions Policy to the the Deputy Assistant Secretary of the Navy for Military Manpower & Personnel regarding transgender working group and implementation of transgender policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional; not deliberative
DoD00002803	PrivWithhold03686	PrivWithhold03688	7/20/2017 0:00	TG Background Paper for new DSD 20 Jul.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional; not deliberative

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00002805	PrivWithhold03689	PrivWithhold03691	7/18/2017 0:00	TG Action Officer Work Group_25 July 17.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00003186	PrivWithhold03692	PrivWithhold03697	3/9/2017 0:00	Transgender Applicant Processing Policy v6 (9 Mar 17).doc	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional;
DoD00003291	PrivWithhold03698	PrivWithhold03699	11/8/2016 0:00	Weekly TG Q&A rollup 11 NOV 16.docx	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00003328	PrivWithhold03700	PrivWithhold03700	9/30/2016 0:00	TG Handbook	Deliberations regarding the implementation of the transgender policy	N	Not predecisional; not deliberative

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00003588	PrivWithhold03701	PrivWithhold03704	6/16/2016 0:00	DoDI EXSUM.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00003589	PrivWithhold03705	PrivWithhold03706	6/16/2016 0:00	DTM EXSUM.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00003606	PrivWithhold03708	PrivWithhold03711	6/14/2016 0:00	Template for a Directive-type Memorandum	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00003625	PrivWithhold03712	PrivWithhold03732	6/10/2016 0:00	SAF MR_Draft DoDI - In-Service Transition for Service Members Identifying as Transgender (DHRB 03 June).docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD0000433 3	PrivWithho ld03733	PrivWithhold 03742	6/24/2015 0:00	Transgender Service Equality Bill 1.0.pdf	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD0000434 7	PrivWithho ld03744	PrivWithhold 03767	3/25/1996 0:00	OpsDeps Tank (Transgender) -Draft4.pptx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0000490 7	PrivWithho ld03768	PrivWithhold 03768	6/22/2017 0:00	Email forward concerning TG Action Memo (UNCLASSIFIED)	Deliberations regarding the implementation of the transgender policy	N	Not predecisional; not deliberative
DoD0000495 5	PrivWithho ld03769	PrivWithhold 03770	6/19/2017 0:00	Email chain concerning [Non- DoD Source] Fwd: Air Force hormone standard / DADT (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD0000498 8	PrivWithho ld03771	PrivWithhold 03772	6/14/2017 0:00	Email chain concerning TG Training (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0000498 9	PrivWithho ld03773	PrivWithhold 03773	6/14/2017 0:00	Email chain concerning TG Training (UNCLASSIFIED)	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00005058	PrivWithhold03774	PrivWithhold03774	5/31/2017 0:00	Email chain concerning USAF Input on the TG policy	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00005065	PrivWithhold03775	PrivWithhold03776	5/31/2017 0:00	Email chain concerning Transgender Applicants into Military Service (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00005080	PrivWithhold03777	PrivWithhold03777	5/29/2017 0:00	Email chain concerning Meeting to discuss Army input on the TG policy (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00005186	PrivWithhold03778	PrivWithhold03778	3/4/2017 0:00	Email concerning Medical Accession Standards (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00005468	PrivWithhold03779	PrivWithhold03781	12/15/2014 0:00	Email chain concerning Fwd: Transgender announcement?	Attorney mental impressions regarding matter in litigation or anticipated litigation; Deliberations regarding the formulation of the transgender policy	N	Not predecisional; not deliberative

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00005490	PrivWithhold03782	PrivWithhold03787	12/10/2014 0:00	Email chain concerning Pending ALARACT re: Army retention of transgender service members	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00005735	PrivWithhold03788	PrivWithhold03790	7/13/2017 14:50	Email gathering information for transgender medical policy.	Deliberations regarding the implementation of the transgender policy;	Y	
DoD00006014	PrivWithhold03791	PrivWithhold03793	6/26/2017 19:55	Email regarding [Non-DoD Source] regarding Transgender Questions - Service Chief Inputs	Deliberations regarding the implementation of the transgender policy	N	Not predecisional; not deliberative
DoD00006067	PrivWithhold03794	PrivWithhold03795	4/11/2017 0:00	Document containing proposed language for sexual orientation question from survey.	Deliberations regarding the formulation of the transgender policy	N	Not predecisional; not deliberative
DoD00006084	PrivWithhold03796	PrivWithhold03797	7/31/2017 10:17	Email regarding Rep. Taylor's RFI: Transgender Service Members	Deliberations regarding the implementation of the transgender policy	N	Not predecisional; not deliberative
DoD00006110	PrivWithhold03798	PrivWithhold03805	9/29/2017 0:00	transgender Care JIF Info Paper for Acting ASD-HA.docx	Deliberations regarding the implementation of the transgender policy	Y	
DoD00006118	PrivWithhold03806	PrivWithhold03807	1/12/2017 18:55	Email regarding DRAFT Charter - Task Force on Transgender Military Dependents	Deliberations regarding the formulation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00006159	PrivWithhold03809	PrivWithhold03812	1/17/2017 0:00	REVISED TAB A TransgenderThornberryLetter.docx	Deliberations regarding the implementation of the transgender policy	N	Not predecisional; not deliberative
DoD00006268	PrivWithhold03813	PrivWithhold03814	9/9/2016 0:00	Email conversation coordinating the final review of the slides for this meeting	Deliberations regarding the implementation of the transgender policy	N	Not predecisional;
DoD00008834	PrivWithhold03815	PrivWithhold03816	9/23/2016 0:00	Email chain concerning USMC Bulletin in Transgender Service	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00009013	PrivWithhold03817	PrivWithhold03819	8/9/2016 0:00	Email chain concerning DEERS Gender Marker Change Draft Guidance	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00009061	PrivWithhold03820	PrivWithhold04012	5/12/2015 0:00	Electronic copy of file named RAND Final Report on Implications of Integrating Women into USMC Infantry....pdf	Deliberations regarding the formulation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00009273	PrivWithhold04013	PrivWithhold04019	12/11/2017 0:00	"Attachment to email. Word document titled ""Foreign National Recruiting"" with file name ""SAMPLE Issue Paper with Instructions"" with file name ""SD Budget Hearing Issue Paper (MAVNI-Foreign National Recruiting).docx""	Internal briefing and press guidance document prepared to assist senior DoD leadership. Concerns Military Accessions Vital to the National Interest (MAVNI). Unrelated to transgender military policy.		Not relevant
DoD00010065	PrivWithhold04020	PrivWithhold04021	6/20/2017 0:00	Email chain concerning TG numbers (UNCLASSIFIED)	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00010198	PrivWithhold04022	PrivWithhold04032	3/1/2017 0:00	Electronic copy of file named Blue Star Families Military Family Lifestyle Survey 2016 Key Collateral.....pptx	Deliberations regarding the implementation of the transgender policy	N	Not predecisional; not deliberative
DoD00010235	PrivWithhold04033	PrivWithhold04035	3/29/2017 0:00	Email chain concerning Question from AAFES - FW: [Non-DoD Source] DoD transgender restroom policy (UNCLASSIFIED)	Deliberations regarding the implementation of the transgender policy	N	Not predecisional; not deliberative
DoD00010360	PrivWithhold04036	PrivWithhold04039	12/13/2016 0:00	Email chain concerning DSD TG Update	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00010425	PrivWithhold04041	PrivWithhold04041	7/7/2015 0:00	Electronic copy of file named ODME0 Comment - Informal Views - H.R.____ - Transgender Inclusion Policy.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	Y	
DoD00011095	PrivWithhold04042	PrivWithhold04044	9/22/2016 0:00	Email chain concerning TG Handbook Approval Scheme	Deliberations regarding the implementation of the transgender policy	N	Not predecisional; not deliberative
DoD00011191	PrivWithhold04045	PrivWithhold04052	4/28/2016 0:00	Email chain concerning DD 214 email and SMs who gave consent to share information with a State veterans agency	Deliberations regarding the implementation of the transgender policy	N	Not deliberative
DoD00011473	PrivWithhold04053	PrivWithhold04055	8/2/2017 0:00	Email chain concerning LGBT items removed from the 2017 WGRR Survey (UNCLASSIFIED)	Deliberations regarding the implementation of the transgender policy	N	Not predecisional; not deliberative
DoD00011682	PrivWithhold04056	PrivWithhold04058	10/21/2016 0:00	Email forward concerning DODEA in Germany	Deliberations regarding the formulation of the transgender policy	N	Not predecisional; not deliberative
DoD00011810	PrivWithhold04059	PrivWithhold04062	3/3/2016 0:00	Email chain concerning FORCE OF THE FUTURE: EXIT SURVEYS--ACTION NEEDED, NLT 10 MARCH 2016	Deliberations regarding the formulation of the transgender policy	Y	

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD0001184 4	PrivWithho ld04063	PrivWithhold 04063	11/22/2016 0:00	Email concerning 2nd Formal Coordination for Review of DHA-IPM on transgender (TG) care	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD0001199 2	PrivWithho ld04066	PrivWithhold 04066	9/19/2016 0:00	Electronic copy of a file named COMMON TG DATA REQUESTS.docx	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD0001199 9	PrivWithho ld04067	PrivWithhold 04086	9/9/2016 0:00	Electronic copy of file named TG Handbook Scenarios 8 SEP.docxEmail concerning Version 15, August 4, 2016	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0001203 4	PrivWithho ld04089	PrivWithhold 04089	8/29/2016 0:00	Electronic copy of a file named Questions for MCSCs for IPT 26 SEP 16_v2.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00012074	PrivWithhold04090	PrivWithhold04095	8/2/2016 0:00	Electronic copy of a file named Best Practices in TG Care Industry Day Questions.doc	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00012255	PrivWithhold04096	PrivWithhold04096	3/10/2017 0:00	Email Update on transgender Accession	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00012550	PrivWithhold04097	PrivWithhold04097	7/19/2017 0:00	Email concerning Accession Policy Sans Transgender	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00012686	PrivWithhold04098	PrivWithhold04098	7/11/2017 0:00	Email concerning SMMAC Brief - Transgender Update - Draft July 2017.ppt	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00013274	PrivWithhold04099	PrivWithhold04100	11/21/2016 0:00	Email chain concerning MHSER Draft Brief	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00013317	PrivWithhold04101	PrivWithhold04101	11/10/2016 0:00	Email concerning NMCP TGCT Case Data - NO PHI_08 Nov 2016.xlsx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional; not deliberative
DoD00013379	PrivWithhold04102	PrivWithhold04174	9/19/2016 0:00	Electronic copy of file named TransBOOK19sept2016.pdf	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00013405	PrivWithhold04175	PrivWithhold04177	8/8/2017 0:00	Email chain concerning [Non-DoD Source] Transgender (TG) Care IPT	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00013528	PrivWithhold04178	PrivWithhold04180	5/24/2017 0:00	Email chain regarding DHCC Blog - 3 posts on TG	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00013579	PrivWithhold04181	PrivWithhold04181	10/27/2016 0:00	Email concerning Latest draft of Navy Medicine Training Plan	Deliberations regarding the formulation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00013667	PrivWithhold04182	PrivWithhold04188	1/6/2017 0:00	Email chain regarding Development of COAs for Care of Gender Dysphoria in TRICARE	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00014060	PrivWithhold04190	PrivWithhold04191	8/31/2017 0:00	Electronic copy of a file named TAB B - HA Interim Guidance Tasking to M&RA TA Reviewed.doc	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00014232	PrivWithhold04192	PrivWithhold04193	10/26/2016 0:00	Email forward concerning Air Force Medical Service Clinical Pathway for Care of Transgender Members	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00014311	PrivWithhold04195	PrivWithhold04201	9/21/2016 0:00	Electronic copy of a file named DRAFT_TG BUMEDNOTE_215 ep_Final Draft_v3.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00014361	PrivWithhold04202	PrivWithhold04209	10/7/2016 0:00	Email chain regarding Washington Post Interview	Deliberations regarding the implementation of the transgender policy	N	Not predecisional; not deliberative

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00014613	PrivWithhold04210	PrivWithhold04211	11/3/2016 0:00	Electronic copy of file named Info Paper Transgender Care HA-DHA 03 Nov 2016.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00014761	PrivWithhold04212	PrivWithhold04213	7/11/2016 0:00	Email Transgender (transgender) Care IPT	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00018230	PrivWithhold04214	PrivWithhold04216	6/1/2017 0:00	Email chain regarding TG info from ARmy (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00018284	PrivWithhold04217	PrivWithhold04219	6/19/2017 0:00	Email chain regarding [Non-DoD Source] Fwd: Air Force hormone standard / DADT (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00019052	PrivWithhold04220	PrivWithhold04223	11/6/2014 0:00	Email concerning draft information paper, memo, and policy matrix for transgender policy and accession	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00019095	PrivWithhold04224	PrivWithhold04225	11/6/2014 0:00	Email deliberations concerning draft response to American Military Partner Association letter regarding transgender service	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00022402	PrivWithhold04226	PrivWithhold04228	2/23/2017 0:00	Email conversation regarding the DoD transgender policy preparation	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00022484	PrivWithhold04229	PrivWithhold04231	5/8/2017 0:00	Email conversation regarding military academies sports policy and the transgender policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00022649	PrivWithhold04236	PrivWithhold04250	5/8/2017 0:00	QAs - DepSecDef Confirmation - P&R Final.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00027150	PrivWithhold04253	PrivWithhold04254	2/23/2017 0:00	"Attachment to email. Word document titled ""Commissaries"" with file name ""SecDef HASC QA.gccbto mjk.docx"""	Draft briefing paper regarding military commissaries. Drafted for Secretary of Defense in preparation for congressional meeting. Contains tracked changes and reviewer comments. Unrelated to transgender military policy.	N	Not predecisional
DoD00027558	PrivWithhold04257	PrivWithhold04258	5/31/2017 0:00	TAB E3_SECAF Action Memo to DSD - Accession of Transgender Applicants In....pdf	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00027601	PrivWithhold04259	PrivWithhold04259	7/26/2017 0:00	Email regarding tweet on service by transgender individuals	Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00027833	PrivWithhold04260	PrivWithhold04261	8/31/2017 0:00	Email regarding health affairs Interim Medical Guidance for Gender Dysphoria	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00028044	PrivWithhold04263	PrivWithhold04270	8/30/2017 0:00	Memo for transgender Care Guideline - Current Draft.doc	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD0002827 3	PrivWithho ld04271	PrivWithhold 04271	8/11/2017 0:00	Email transgender IPT Phone Meeting	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0002909 6	PrivWithho ld04273	PrivWithhold 04275	9/23/2016 0:00	DD106_DODI 6130.03.pdf	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0002912 0	PrivWithho ld04276	PrivWithhold 04279	7/15/2017 0:00	Email chain regarding 6130.03 DoDI For Coordination	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0003027 9	PrivWithho ld04280	PrivWithhold 04286	7/14/2017 0:00	Email chain regarding Follow up on AMSWG comments regarding DOD/VA discrepancy in treatment of transgender conditions /disability	Deliberations regarding the implementation of the transgender policy;	N	Not predecisional
DoD0003035 0	PrivWithho ld04287	PrivWithhold 04287	6/27/2017 0:00	Spreadsheet showing status of policy work including transgender.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00034235	PrivWithhold04288	PrivWithhold04293	12/4/2015 0:00	Sex Reassignment Surgery for the Treatment of Gender Dysphoria	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00037382	PrivWithhold04294	PrivWithhold04302	6/7/2017 0:00	Email regarding a review two Air Force slides ASAP that concern the transgender policy	Deliberations regarding the implementation of the transgender policy;	N	Not predecisional
DoD00044950	PrivWithhold04303	PrivWithhold04305	1/13/2017 0:00	Email FW: January 2017 Accession Medical Standards Working Group (AMSWG) Meeting	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00044984	PrivWithhold04306	PrivWithhold04307	3/21/2017 0:00	Email between DoD personnel providing comments regarding transgender document revisions.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00045264	PrivWithhold04312	PrivWithhold04331	5/18/2017 0:00	Document containing the minutes of the May 17, 2017 MEDPERS meeting, which includes deliberative discussion of accession standards for transgender individuals	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not rpedecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD0005185 1	PrivWithho ld04337	PrivWithhold 04337	7/10/2017 0:00	"Attachment to email. Word document titled ""Military Accessions Vital to the National Interest"" with file name ""3J- DSD Confirmation - MAVNI-DACA.docx""	Draft briefing paper prepared for the Deputy Secretary of Defense regarding Military Accessions Vital to the National Interest (MAVNI). Unrelated to transgender military policy.		Not relevant
DoD0005203 2	PrivWithho ld04338	PrivWithhold 04340	7/26/2017 0:00	E-mail of 26 July 2017 regarding transgender Tweet	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0008314 6	PrivWithho ld04342	PrivWithhold 04344	8/30/2017 0:00	Email conversation regarding status of the transgender decision to prepare for the media questions	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0008337 8	PrivWithho ld04346	PrivWithhold 04348	7/26/2017 0:00	Email regarding transgender news item.	Deliberations regarding the formulation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00083774	PrivWithhold04350	PrivWithhold04354	11/20/2017 0:00	"Attachment to email. Word document titled ""Somalia / U.S. Airstrikes"" with file name ""20 NOV TOPLINES PRESS GUIDANCE.DOC""	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns policies and events unrelated to transgender military policy.		Irrelevant
DoD00084013	PrivWithhold04355	PrivWithhold04369	7/26/2017 0:00	Document containing notes of press briefing including information on the transgender policy.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional; not deliberative
DoD00084030	PrivWithhold04371	PrivWithhold04371	7/24/2017 0:00	Email containing policy updates including transgender.	Deliberations regarding the formulation of the transgender policy	N	Not predecisional; not deliberative
DoD00084036	PrivWithhold04372	PrivWithhold04377	7/13/2017 0:00	"Attachment to email. Word document titled ""France - Bastille Day"" with file name ""13 July - TOPLINES PRESS GUIDANCE.doc""	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns policies and events unrelated to transgender military policy.		Irrelevant

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00085466	PrivWithhold04379	PrivWithhold04384	7/27/2017	Re_ Morning News of Note 27 July 2017 (UNCLASSIFIED).msg	Deliberations regarding the rescission of the transgender policy	N	Not predecisional; not deliberative
DoD00085543	PrivWithhold04386	PrivWithhold04387	7/1/2017	Re_ Europe.msg	Deliberations regarding the implementation of the transgender policy	N	Not predecisional; not deliberative
DoD00087734	PrivWithhold04389	PrivWithhold04393	1/30/2018 0:00	Email discussing transgender news items.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00087979	PrivWithhold04394	PrivWithhold04397	1/23/2018 0:00	Email concerning upcoming meetings including transgender.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00088265	PrivWithhold04398	PrivWithhold04402	1/17/2018 0:00	Email involving press topics including transgender.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00091187	PrivWithhold04404	PrivWithhold04414	6/26/2015 0:00	DoD Chart regarding transgender policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00091976	PrivWithhold04416	PrivWithhold04423	10/11/2017 0:00	Email regarding Morning News of Note	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not deliberative
DoD00095440	PrivWithhold04425	PrivWithhold04426	8/1/2017 0:00	Email conversation regarding clarification of medical care	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD0009611 0	PrivWithho ld04428	PrivWithhold 04428	7/21/2017 0:00	Chart detailing transgender service Q & As	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0009697 1	PrivWithho ld04430	PrivWithhold 04430	6/27/2017 0:00	Email conversation regarding gender marker change numbers	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0009714 1	PrivWithho ld04432	PrivWithhold 04432	6/23/2017 0:00	Email conversation regarding transgender numbers	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0009746 8	PrivWithho ld04434	PrivWithhold 04436	6/9/2017 0:00	Email conversation regarding daily comms update on transgender accessions	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0010521 6	PrivWithho ld04438	PrivWithhold 04439	9/30/2016 0:00	Draft memo	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00105224	PrivWithhold04441	PrivWithhold04442	9/30/2016 0:00	Email concerning transgender memo.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00105848	PrivWithhold04444	PrivWithhold04445	9/8/2016 0:00	"Attachment to email. Word document titled ""BACKGROUND PAPER ON HAF CRISIS MANAGEMENT AND CONTINGENCY PLANNING AND EXECUTION"" with file name ""Transition_AF_SAF_AQ_TAB 11_FOUO Crisis Management and Contingency Plan.docx"""	Background document regarding crisis management and contingency planning for National Capital Region.	N	Not predecisional
DoD00107542	PrivWithhold04447	PrivWithhold04449	8/18/2016 0:00	Draft memo	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00109115	PrivWithhold04451	PrivWithhold04456	6/30/2016 0:00	DTM-16-005 (Final 30 June) incorporating KC comments(3).doc	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00117054	PrivWithhold04460	PrivWithhold04478	12/15/2016 0:00	Draft end of administration accomplishments, includes information pertinent to TG policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Seeking or providing legal advice regarding transgender policy	N	Not predecisional
DoD00117373	PrivWithhold04479	PrivWithhold04479	10/28/2016 0:00	FW: Updated TG, Military Gender Transition, COMDTINST M1000.13.msg	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00117676	PrivWithhold04480	PrivWithhold04481	9/29/2016 0:00	Email serving as a cover to a transgender document.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD0011777 2	PrivWithho ld04482	PrivWithhold 04482	9/14/2016 0:00	Email between DoD personnel discussing Army transgender policy input.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0011780 9	PrivWithho ld04483	PrivWithhold 04485	8/18/2016 0:00	FW: Draft TG Service SECNAVINST - as of 18 Aug.msg	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0011782 7	PrivWithho ld04486	PrivWithhold 04487	10/19/2016 0:00	RE: USMC Training Plan for TG.msg	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0011784 3	PrivWithho ld04488	PrivWithhold 04488	10/7/2016 0:00	Email between DoD personnel relating to transgender training.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD0011784 4	PrivWithho ld04489	PrivWithhold 04489	10/7/2016 0:00	Email between DoD personnel relating to transgender training.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0011798 1	PrivWithho ld04490	PrivWithhold 04491	8/10/2016 0:00	RE: Networks on Transgender Issues (UNCLASSIFIED).msg	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0011817 6	PrivWithho ld04492	PrivWithhold 04494	9/6/2016 0:00	RE: ISSCC Bi-Annual Meeting (Sept 8-9) - Agenda (Final): Transgender Session.msg	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0011970 9	PrivWithho ld04496	PrivWithhold 04496	4/14/2014 0:00	Deliberations regarding timelines for transgender policy and other regulatory changes	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0011977 4	PrivWithho ld04497	PrivWithhold 04498	10/13/2016 0:00	Email between DoD personnel circulating notes from staff meeting.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00119862	PrivWithhold04501	PrivWithhold04501	1/23/2017 0:00	Deliberative discussion re: transgender policy and drafting of DoD Instruction 6130.03	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00120159	PrivWithhold04502	PrivWithhold04504	5/10/2017 0:00	RE: Accession of Transgender Members currently in other Uniformed Services.msg	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00120273	PrivWithhold04508	PrivWithhold04511	3/7/2017 0:00	Deliberative discussions re: transgender policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD0012028 4	PrivWithho ld04512	PrivWithhold 04513	3/9/2017 0:00	Deliberative discussions concerning transgender policy and DoD Instruction 6130.03	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0012046 1	PrivWithho ld04514	PrivWithhold 04515	9/20/2016 0:00	RE: AMSWG DoDI Comments.msg	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD0012053 9	PrivWithho ld04517	PrivWithhold 04569	8/15/2016 0:00	TAB A_DoDI 6130.03_2016.8.1_HRPO comments.doc	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0012059 4	PrivWithho ld04570	PrivWithhold 04572	10/16/2017 0:00	October 2017 Accession Medical Standards Working Group (AMSWG) Meeting.msg	Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD0012078 4	PrivWithho ld04575	PrivWithhold 04587	2/24/2017 0:00	Draft DD818_DODI 613003.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00120977	PrivWithhold04589	PrivWithhold04617	10/26/2017 0:00	Presentation titled MEDICAL and SURGICAL TREATMENT FOR GENDER DYSPHORIA	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	Y	
DoD00121090	PrivWithhold04618	PrivWithhold04619	3/7/2018 0:00	Deliberations between agency personnel regarding regulatory framework for transgender policy implementation	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00121256	PrivWithhold04620	PrivWithhold04621	11/15/2017 0:00	"RE: Modified SECAF Response for DoDI 6130.03, ""Medical Standards for Appointment, Enlistment, or Induction in the Military Services"" .msg"	Deliberations regarding the implementation of the transgender policy	Y	
DoD00121416	PrivWithhold04622	PrivWithhold04628	7/17/2017 0:00	Email between DoD personnel discussing edits to DoDI 6130.03.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00121858	PrivWithhold04629	PrivWithhold04650	7/5/2017 0:00	Document containing transgender policy questions and answers.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00121919	PrivWithhold04651	PrivWithhold04652	12/14/2016 0:00	Meeting invite to transgender meeting.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00124343	PrivWithhold04655	PrivWithhold04691	3/8/2016 0:00	Slides titled: INTERAGENCY TASK FORCE ON MILITARY AND VETERANS MENTAL HEALTH (ITF)	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	Y	
DoD00124515	PrivWithhold04693	PrivWithhold04700	8/30/2017 0:00	Email concerning draft interim policy for service members with GD	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD0012464 7	PrivWithho ld04701	PrivWithhold 04701	8/8/2017 0:00	Email between DoD personnel containing slide with statistical analysis.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0012493 3	PrivWithho ld04702	PrivWithhold 04704	7/6/2017 0:00	Email between DoD personnel containing notes from staff meeting.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0012523 0	PrivWithho ld04705	PrivWithhold 04706	6/7/2017 0:00	Discussion of references.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0012523 4	PrivWithho ld04707	PrivWithhold 04716	3/24/2017 0:00	Discussion of references.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00125235	PrivWithhold04717	PrivWithhold04719	6/7/2017 0:00	Email between DoD personnel discussing transgender medical studies.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Seeking or providing legal advice regarding transgender policy	N	Not predecisional
DoD00125430	PrivWithhold04720	PrivWithhold04724	4/27/2017 0:00	Email chain discussing policy regarding treatment of transgender service members	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00125596	PrivWithhold04726	PrivWithhold04727	3/6/2017 0:00	Deliberative discussions concerning transgender policy and DoD Instruction 6130.03	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00125844	PrivWithhold04728	PrivWithhold04732	1/9/2017 0:00	Email between DoD personnel discussing transgender policy material.	Deliberations regarding the implementation of the transgender policy	N	Not deliberative

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD0012594 1	PrivWithho ld04733	PrivWithhold 04736	12/14/2016 0:00	Email between DoD personnel circulating and discussing transgender info paper.	Deliberations regarding the implementation of the transgender policy	N	Not deliberative
DoD0012680 5	PrivWithho ld04737	PrivWithhold 04738	8/16/2016 0:00	Email between DoD personnel discussing transgender policy status update.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0012688 8	PrivWithho ld04739	PrivWithhold 04740	3/5/2018 0:00	Email between DoD personnel discussing transgender media item.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0012844 3	PrivWithho ld04741	PrivWithhold 04741	8/10/2017 0:00	Deliberations on interim transgender policy guidelines	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0012854 8	PrivWithho ld04742	PrivWithhold 04744	7/31/2017 0:00	Email between DoD personnel providing information in response to a congressional inquiry.	Deliberations regarding the rescission of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00128714	PrivWithhold04745	PrivWithhold04746	7/18/2017 0:00	Email between DoD personnel discussing transgender meeting.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00128861	PrivWithhold04747	PrivWithhold04748	6/28/2017 0:00	Email between DoD personnel providing answers to transgender medical questions.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00128927	PrivWithhold04749	PrivWithhold04749	6/22/2017 0:00	Email between DoD personnel discussing transgender medical question.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00128942	PrivWithhold04750	PrivWithhold04751	6/20/2017 0:00	email conversation regarding the definition of various terms for the transgender policy implementation plan	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00128949	PrivWithhold04753	PrivWithhold04754	6/19/2017 0:00	Discussion re M31 of the AF Medical Standards Directory revisions and related talking points.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00129040	PrivWithhold04755	PrivWithhold04756	5/25/2017 0:00	Email chain discussing policy developments being tracked by DHH's HSPO, including discussion of policy for accession of transgender individuals	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00129055	PrivWithhold04757	PrivWithhold04757	5/23/2017 0:00	Email chain discussing policy developments being tracked by DHH's Health Services Policy and Oversight, including accession policies for transgender individuals	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00129339	PrivWithhold04758	PrivWithhold04759	2/8/2017 0:00	Email chain regarding the development of accession policies for transgender individuals	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00129350	PrivWithhold04760	PrivWithhold04762	2/6/2017 0:00	email conversation regarding requests for information on the transgender accessions policy from the hill and preparation of testimony on the same topic	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00129380	PrivWithhold04763	PrivWithhold04764	2/3/2017 0:00	email conversation regarding requests for information on the transgender accessions policy from the hill and preparation of testimony on the same topic	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00129712	PrivWithhold04765	PrivWithhold04769	11/9/2016 0:00	Email between DoD personnel discussing transgender policy development.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00129806	PrivWithhold04770	PrivWithhold04772	10/14/2016 0:00	Email between DoD personnel clarifying an aspect of transgender medical policy.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00129923	PrivWithhold04773	PrivWithhold04775	9/20/2016 0:00	Email between DoD personnel regarding response to congressional inquiry.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00129947	PrivWithhold04776	PrivWithhold04776	9/19/2016 0:00	Email between DoD personnel discussing language for briefing bullets.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00129954	PrivWithhold04777	PrivWithhold04777	9/19/2016 0:00	Draft transgender policy guidance including attorney-client concerns and deliberations, including feedback from the services	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00130021	PrivWithhold04779	PrivWithhold04779	9/8/2016 0:00	Transition briefing deliberations and materials.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00138231	PrivWithhold04780	PrivWithhold04781	9/1/2016 0:00	Email between DoD personnel circulating transgender policy guidance.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00138295	PrivWithhold04782	PrivWithhold04787	7/8/2016 0:00	Email between DoD personnel discussing costs of transgender medical care.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
SOPER DEP_RFP_00567	PrivWithhold04788	PrivWithhold04807		Draft of memorandum from OASD providing Guidance for Medical Care of Transgender (TG) Active and Reserve Component Service Members with a Diagnosis of Gender Dysphoria (GD)	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
AF_00013186_AF2	PrivWithhold04808	PrivWithhold04808	12/10/2014 0:00	AFI docs for FOIA request for gender dysphoria policy dtd 2014	Deliberations regarding the implementation of transgender policy	N	Not predecisional
AF_00013381_AF2	PrivWithhold04810	PrivWithhold04810	7/22/2010 0:00	AFPC Coord on draft of AFI 36-3206	Deliberations regarding the implementation of transgender policy	N	Not predecisional
AF_00014098_AF2	PrivWithhold04811	PrivWithhold04822	8/22/2014 0:00	Draft Interim Change 3 to AFI 36-2005	Deliberations regarding the implementation of transgender policy	N	Not predecisional
AF_00018214_AF2	PrivWithhold04823	PrivWithhold04853		Draft Transgender Awareness CBT	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
AF_00025946_AF2	PrivWithhold04854	PrivWithhold04854	7/26/2017 0:00	Annotated e-mail quoting POTUS Tweet re transgender policy	Deliberations regarding the rescission of the transgender policy	N	Not predecisional
AF_00025956_AF2	PrivWithhold04855	PrivWithhold04858	8/9/2017 0:00	E-mail chain re the current guidance/policy on accessions of transgender individuals into the Air Force	Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
AF_00027852_AF2	PrivWithhold04861	PrivWithhold04883		Draft PPT slides regarding one of the proposed Transgender Training Modules	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
AF_00028582_AF2	PrivWithhold04886	PrivWithhold04888		Draft memo re training on AF Transgender Policy	Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
AF_00035845_AF2	PrivWithhold04889	PrivWithhold04889	3/23/2018 0:00	Transgender Policy Public Talking Points as of 23 mar 18	Deliberations regarding the implementation of transgender policy	N	Not predecisional
AF_CTRL_0000006	PrivWithhold04890	PrivWithhold04890	6/21/2017 0:00	Email from office of AF/CV to AF/CV with attached edits from various AF sources to the Transgender Memo.	Deliberations regarding the implementation of transgender policy	N	Not predecisional
AF_CTRL_00000172	PrivWithhold04894	PrivWithhold04898	5/30/2017	AF Presentations AV/VTC Request Form	Generic unfilled Audio-Visual / VTC Request Form -- attachment to (deliberate process privileged)Meeting invite sent 30 May 2017 to Air Force personnel to discuss transgender policy with SecAF.	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
Army_10001 184.0001	PrivWithho ld04901	PrivWithhold 04902	8/9/2017 0:00	Document is pre-decisional and for consideration by SCCC members.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
Army_10001 230	PrivWithho ld04903	PrivWithhold 04904	7/19/2017 0:00	Email contains deliberative information.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
Army_10001 470	PrivWithho ld04905	PrivWithhold 04907	8/10/2017 0:00	Working draft of a document establishing a Transgender Service Policy Group.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
Army_10002 386	PrivWithho ld04908	PrivWithhold 04909	3/16/2017 0:00	Contains documents that are deliberative regarding the TG policy.	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
Army_10004 330.0001	PrivWithho ld04913	PrivWithhold 04915	8/30/2017 0:00	Draft document on transgender accessions policy submitted for reviewer feedback and comment.	Deliberations regarding the formulation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
Army_10008566	PrivWithhold04916	PrivWithhold04916	9/5/2017 0:00	Email requests status update and timeline	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
Army_10008850	PrivWithhold04917	PrivWithhold04923	1/31/2017 0:00	Email chain discussing suggestions to TG policy.	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
Army_10009001.0002	PrivWithhold04925	PrivWithhold04937	10/31/2016 0:00	Draft document on TG policy submitted for feedback or approval	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
Army_10009002.0001.0003	PrivWithhold04940	PrivWithhold04954	10/31/2016 0:00	Draft document on TG policy submitted for feedback or approval	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
Army_10009476.0001	PrivWithhold04956	PrivWithhold04956	12/15/2016 0:00	Draft products related to implementation of TG policy.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
Army_10009997.0001	PrivWithhold04958	PrivWithhold04958	1/4/2017 0:00	Request for implementation policy guidance from the field seeking advice from policy makers	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
Army_10010067	PrivWithhold04959	PrivWithhold04960	4/25/2017 0:00	Comment on the contents of the Air Force's recommendations regarding implementation of accessions.	Deliberations regarding the formulation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
Army_10010 266	PrivWithhold04961	PrivWithhold 04962	5/22/2017 0:00	Email chain containing recommendations and discussion re formulation and implementation of TG policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
Army_10010 287	PrivWithhold04963	PrivWithhold 04963	5/5/2017 0:00	Email containing discussions re formulation and implementation of TG policy concerning accessions.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
Army_10010 355	PrivWithhold04964	PrivWithhold 04964	5/17/2017 0:00	Comments re: transgender enlistment challenges up to superiors	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
Army_10010 381	PrivWithhold04965	PrivWithhold 04965	5/23/2017 0:00	Email chain with comments and suggestions on formulation/implementation of TG policy.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
Army_10010 530	PrivWithhold04966	PrivWithhold 04970	7/7/2017 0:00	Email discussion on the status and the progress of transgender accessions policy development.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
Army_10010 763.0002	PrivWithhold04975	PrivWithhold 05023	4/6/2016 0:00	Draft document on TG policy submitted for feedback or approval	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
Army_10010764.0002	PrivWithhold05027	PrivWithhold05075	4/6/2016 0:00	Draft document on TG policy submitted for feedback or approval	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
Army_10016977.0003.0001	PrivWithhold05077	PrivWithhold05087	7/21/2016 0:00	Draft briefing summarizes the current courses of action and status of policy development	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DHA_00000702	PrivWithhold05088	PrivWithhold05096	7/26/2017 0:00	Intradepartment email concerning implementation of transgender policy	Predecisional and deliberative internal agency document created as part of the agency's process of developing courses of action for implementing DoD's policy on the services and accessions of military personnel and the continuous process of assessing the policy's impact on military readiness.	N	Not predecisional
DoD00002384	PrivWithhold05097	PrivWithhold05099	8/31/2017 0:00	RE: Congressional Request (RUSH for Sep. 5): Number of transgender servicemembers undergoing therapy/surgery (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD0000276 5	PrivWithho ld05100	PrivWithhold 05101	7/26/2017 0:00	Email discussion between a member of the office of the Assistant to the Secretary of Defense for Public Affairs and the Director of Military Accessions Policy regarding transgender policy in view of Presidential announcement	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0000287 6	PrivWithho ld05104	PrivWithhold 05104	7/6/2017 0:00	DSD Way Ahead memo.pdf	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD0000411 8	PrivWithho ld05105	PrivWithhold 05106	11/2/2015 0:00	RE: Gender transition PPT slide	Deliberations regarding the formulation of the transgender policy	Y	
DoD0000435 9	PrivWithho ld05107	PrivWithhold 05107	6/30/2015 0:00	FW: Info paper on Hill atmospherics	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD0000471 6	PrivWithho ld05108	PrivWithhold 05109	6/30/2017	RE: ACCESSION OF TRANSGENDER INDIVIDUALS INTO MILITARY SERVICES (UNCLASSIFIED).msg	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0000474 1	PrivWithho ld05110	PrivWithhold 05111	6/29/2017 0:00	Email chain concerning TG Q&A (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00004987	PrivWithhold05112	PrivWithhold05112	6/14/2017 0:00	Email concerning TG meeting	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00004998	PrivWithhold05113	PrivWithhold05113	6/13/2017 0:00	Email forward concerning TG Meeting with DSD and Service Chiefs (UNCLASSIFIED)	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00005067	PrivWithhold05114	PrivWithhold05114	5/31/2017 0:00	Email chain concerning Navy Input on the TG policy	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00005184	PrivWithhold05115	PrivWithhold05116	3/7/2017 0:00	Email chain concerning Medical Accession Standards (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00005366	PrivWithhold05117	PrivWithhold05117	3/17/2015 0:00	Email forward concerning Army's ALARACT on transgender	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00005378	PrivWithhold05118	PrivWithhold05119	2/26/2015 0:00	Email chain concerning PVT Chelsea Manning USDB Ft Leavenworth - Hormone Replacement Therapy (HRT) Approved	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD0000538 2	PrivWithho ld05120	PrivWithhold 05120	2/26/2015 0:00	Email concerning Retention information paper	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD0000550 7	PrivWithho ld05121	PrivWithhold 05122	11/20/2014 0:00	Email chain concerning Transgender accession medical working group	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0000591 3	PrivWithho ld05123	PrivWithhold 05125	8/21/2017 9:46	Email discussing gathering transgender data	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0000600 1	PrivWithho ld05128	PrivWithhold 05128	4/27/2017 0:00	transgender Update for DepSecDef - April 27, 2017.docx	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0000602 8	PrivWithho ld05131	PrivWithhold 05131	11/2/2016 0:00	Task Force on Transgender Military Dependents - ...(7).pdf^Agenda-TF- TMD2.docx	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0000613 8	PrivWithho ld05132	PrivWithhold 05133	3/6/2017 16:45	Email regarding temporary ad hoc Transgender (transgender) working group	Deliberations regarding the formulation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00006552	PrivWithhold05134	PrivWithhold05141	8/28/2017 0:00	Unsigned memorandum involving transgender medical policy.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00008746	PrivWithhold05142	PrivWithhold05142	11/4/2016 0:00	Email chain concerning Weekly TG Q&A rollup through 4 NOV 16	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00008821	PrivWithhold05143	PrivWithhold05144	9/23/2016 0:00	Email chain concerning USMC Bulletin in Transgender Service	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00009259	PrivWithhold05149	PrivWithhold05149	12/11/2017 0:00	"Attachment to email. Word document titled ""Hard Questions for Military Accessions Vital to the National Interest (MAVNI)"" with file name ""SD Budget Hearing Q&As (MAVNI-Foreign National Recruiting).docx""	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns Military Accessions Vital to the National Interest (MAVNI). Unrelated to transgender military policy.		Not relevant
DoD00009517	PrivWithhold05153	PrivWithhold05161	6/26/2015 0:00	Electronic copy of file named Draft edits on DSD 1-Page Slides (12 Oct 2017) Final.pptx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00009649	PrivWithhold05162	PrivWithhold05163	8/30/2017 0:00	Email serving as a cover to a transgender document.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00009995	PrivWithhold05165	PrivWithhold05165	7/10/2017 0:00	Electronic copy of file named DSD Briefings.xlsx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD0001096 4	PrivWithho ld05166	PrivWithhold 05169	9/8/2017 0:00	Email chain concerning TG: Panel/Working Group Composition (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD0001169 7	PrivWithho ld05170	PrivWithhold 05170	9/23/2016 0:00	Email chain concerning USMC Bulletin in Transgender Service	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0001189 2	PrivWithho ld05171	PrivWithhold 05173	10/11/2016 0:00	Email forward concerning WaPo - Transgender update - Kurta interview	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD0001219 7	PrivWithho ld05174	PrivWithhold 05176	4/26/2017 0:00	Email FW: [Non-DoD Source] Change in surgical policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0001224 9	PrivWithho ld05178	PrivWithhold 05221	3/13/2017 0:00	DD818_DODI 613003 Draft Response v2.docx	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD0001251 4	PrivWithho ld05222	PrivWithhold 05224	3/30/2017 0:00	Email chain concerning Stability (UNCLASSIFIED)	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0001254 6	PrivWithho ld05225	PrivWithhold 05226	7/19/2017 0:00	Email chain concerning Accession Policy Sans Transgender	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00012936	PrivWithhold05227	PrivWithhold05228	9/15/2016 0:00	Email Transgender and MEB Scenario	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00013369	PrivWithhold05231	PrivWithhold05283	9/21/2016 0:00	Electronic copy of file named DON Transgender Service in the US Military 9_SEP_2016_Combined Input.docxEmail concerning Version 15, August 4, 2016	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00013394	PrivWithhold05284	PrivWithhold05286	9/20/2016 0:00	Email chain concerning Costs of Transgender Surgery	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00013431	PrivWithhold05287	PrivWithhold05287	5/9/2017 0:00	Email concerning TG Education and Training Module Completion Reporting	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00013445	PrivWithhold05288	PrivWithhold05289	10/28/2016 0:00	Email chain concerning MOG Briefing (UNCLASSIFIED)	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00013485	PrivWithhold05292	PrivWithhold05295	10/20/2016 0:00	Electronic copy of a file named TG Education and Training Plan_10 OCT 16_ final clean.docx	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00013517	PrivWithhold05296	PrivWithhold05296	11/16/2016 0:00	Email concerning Air Force MOA TG webinar	Deliberations regarding the formulation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00013879	PrivWithhold05297	PrivWithhold05297	4/28/2017 0:00	Email chain regarding TG-DHA IPM post edits by DoD personnel	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00013982	PrivWithhold05298	PrivWithhold05298	6/15/2017 0:00	Email chain regarding consulting with in various fields to gain information related to TG care	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00014066	PrivWithhold05300	PrivWithhold05300	8/31/2017 0:00	Electronic copy of a file named TAB B - HA Interim Guidance Tasking to M&RA TA.doc	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00014259	PrivWithhold05303	PrivWithhold05321	10/7/2016 0:00	Electronic copy of a file named Army Directive 2016-35 (Army Policy on Military Service of Transgender S....pdf	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD0001428 9	PrivWithho ld05325	PrivWithhold 05337	9/27/2016 0:00	Draft instructions concerning interim guidance for service of transgender Navy personnel	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD0001431 9	PrivWithho ld05340	PrivWithhold 05356	9/21/2016 0:00	Electronic copy of a file named DRAFT AFPM Transgender v13 (Attachments) (2).docx	Deliberations regarding the formulation of the transgender policy; Seeking or providing legal advice regarding transgender policy	N	Not predecisional
DoD0001432 2	PrivWithho ld05358	PrivWithhold 05361	2/26/2008 0:00	Electronic copy of a file named Transition Timelines and Fitness Exemptions v3.ppt	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD0001456 7	PrivWithho ld05362	PrivWithhold 05364	10/6/2016 0:00	Email chain regarding TG Surgery care (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD0001474 8	PrivWithho ld05368	PrivWithhold 05368	8/9/2016 0:00	Proposed Service Transgender Care Military Treatment Facilities 9 Aug 16.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0002136 4	PrivWithho ld05369	PrivWithhold 05375	3/10/2017 0:00	Transgender Policy - PR Topics List 2017.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD0002205 2	PrivWithho ld05376	PrivWithhold 05379	2/8/2017 0:00	Email conversation regarding draft media responses to questions regarding accessions of transgender cadets	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD0002232 8	PrivWithho ld05380	PrivWithhold 05382	2/8/2017 0:00	Email regarding Media query - AP - Transgender policy questions	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0002689 1	PrivWithho ld05383	PrivWithhold 05384	8/30/2017 0:00	Email chain regarding Formal Coordination DRAFT Transgender Implementation Guidance for SD Signature Friday 1 Sep	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD0002696 9	PrivWithho ld05388	PrivWithhold 05389	8/1/2017 0:00	"Attachment to email. Word document titled ""BACKGROUND ON MILITARY ACCESSIONS VITAL TO THE NATIONAL INTEREST (MAVNI) & DEFERRED ACTION FOR CHILDHOOD ARRIVALS (DACA)"" with file name ""MAVNI_DACA backgrounder (AP Smooth).docx"""	Internal briefing and press guidance document prepared to assist senior DoD leadership. Concerns Military Accessions Vital to the National Interest (MAVNI). Unrelated to transgender military policy.	N	Not predecisional
DoD0002699 6	PrivWithho ld05390	PrivWithhold 05391	7/17/2017 0:00	Email conversation regarding the formation of the transgender policy action-officer level working group	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00027664	PrivWithhold05392	PrivWithhold05395	7/13/2017 0:00	Discussion re: responses to QFRs on the transgender policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00029717	PrivWithhold05396	PrivWithhold05396	6/1/2017 0:00	Email regarding transgender accessions and input from the services	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00032015	PrivWithhold05397	PrivWithhold05397	8/25/2017 0:00	Email regarding the draft Terms of Reference and the Draft interim Guidance transgender Documents	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00032645	PrivWithhold05398	PrivWithhold05402	8/10/2017 0:00	Email Morning Congressional Correspondence, PRS-PRD, and ASN-ADN Update	Deliberations regarding the implementation of the transgender policy;	N	Not predecisional
DoD00034773	PrivWithhold05408	PrivWithhold05408	8/16/2017 0:00	SecDef Statement on transgender.docx	Deliberations regarding the implementation of the transgender policy;	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD0003904 4	PrivWithho ld05409	PrivWithhold 05410	4/19/2017 0:00	Email FW: transgender Bathroom References	Deliberations regarding the implementation of the transgender policy;	N	Not predecisional
DoD0004517 1	PrivWithho ld05411	PrivWithhold 05413	1/12/2017 0:00	Email chain regarding Body Composition --- OSD Accession Policy RFI (AMSWG)	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD0006805 8	PrivWithho ld05414	PrivWithhold 05415	8/18/2017 0:00	Email chain regarding transgender medical care deliberations	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD0006806 7	PrivWithho ld05417	PrivWithhold 05418	8/22/2017 0:00	SECDEF transgender statement QA (SAB).DOCX	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0008393 8	PrivWithho ld05420	PrivWithhold 05423	7/27/2017 0:00	Email involving transgender news item.	Deliberations regarding the formulation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00084032	PrivWithhold05425	PrivWithhold05426	7/13/2017 0:00	Email containing notes from press questions including transgender.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00093940	PrivWithhold05428	PrivWithhold05430	8/29/2017 0:00	Email conversation regarding implementation of transgender policy	Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00094690	PrivWithhold05437	PrivWithhold05437	8/16/2017 0:00	SecDef memo regarding transgender policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00094819	PrivWithhold05440	PrivWithhold05440	8/14/2017 0:00	SecDef memo regarding transgender policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00095473	PrivWithhold05445	PrivWithhold05445	7/31/2017 0:00	"Word document titled, ""Office Call w/Sen Majority Leader McConnell (R-KY)"" with file name ""SD TPs for Office Call Sen McConnell_8.2.17v3.docx""	Notes in preparation for call w/ Senate Majority Leader regarding nominations to Senate confirmed DoD posts, continuing resolutions, DoD budget.	N	Not predecisional
DoD00096508	PrivWithhold05447	PrivWithhold05448	7/14/2017 0:00	Email conversation regarding transgender SIG meeting	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00096828	PrivWithhold05507	PrivWithhold05507	6/30/2017 0:00	Draft transgender policy document.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00098494	PrivWithhold05510	PrivWithhold05510	5/11/2017 0:00	"Attachment to email. Word document titled ""The Campaign to Defeat the Islamic State of Iraq and Syria (ISIS)"" with file name ""3_Hot Topics Paper_ATL and CMO Reorganizations.zip?6_Hot Topics Paper_DISIS.docx""	Overview, background, and key points regarding Islamic State of Iraq and Syria.	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00098509	PrivWithhold05511	PrivWithhold05511	4/4/2017 0:00	"Attachment to email. Word document titled ""Sexual Assault Prevention and Response / Social Media"" with file name ""3_Hot Topics Paper_ATL and CMO Reorganizations.zip?21_Sexual Assault Prevention and Social Media - Hot Topic.docx""	Overview, background, and key points regarding sexual assault prevention and response and social media tools to combat this issue in DoD.	N	Not predecisional
DoD00105141	PrivWithhold05516	PrivWithhold05516	10/3/2016 0:00	Email containing public affairs update.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00105144	PrivWithhold05520	PrivWithhold05521	9/30/2016 0:00	Draft memo	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00117178	PrivWithhold05524	PrivWithhold05542	12/8/2016 0:00	Draft end of administration accomplishments, includes information pertinent to TG policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00117386	PrivWithhold05543	PrivWithhold05546	9/22/2016 0:00	Deliberative email between DodD personnel regarding edits to Transgender handbook for Commanders	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00117427	PrivWithhold05547	PrivWithhold05547	7/27/2016 0:00	Email between DoD personnel responding to a transgender medical inquiry.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00117469	PrivWithhold05548	PrivWithhold05550	10/21/2016 0:00	Discussions between attorneys and senior policymakers regarding impacts of transgender policy in DoD schools and unique overseas environments	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00118182	PrivWithhold05553	PrivWithhold05554	8/31/2016 0:00	Inter-Service Survey Coordinating Committee Agenda September2016.doc	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD0011920 0	PrivWithho ld05555	PrivWithhold 05556	5/9/2017 0:00	Email between DoD personnel circulating transgender accessions memo.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0011943 8	PrivWithho ld05559	PrivWithhold 05560	3/6/2017 0:00	Deliberative discussions concerning transgender policy and DoD Instruction 6130.03	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0011965 2	PrivWithho ld05562	PrivWithhold 05565	11/17/2016 0:00	Deliberative discussions re: transgender policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0011979 3	PrivWithho ld05568	PrivWithhold 05619	3/15/2018 0:00	Draft DoDI-6130.03- 2018_clean.docx	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0012016 8	PrivWithho ld05620	PrivWithhold 05621	5/4/2017 0:00	Deliberative discussions re: transgender policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD0012026 8	PrivWithho ld05622	PrivWithhold 05624	3/13/2017 0:00	Deliberative discussions re: transgender policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0012026 9	PrivWithho ld05625	PrivWithhold 05627	3/7/2017 0:00	Deliberative discussions re: transgender policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0012031 2	PrivWithho ld05630	PrivWithhold 05633	3/3/2017 0:00	Deliberative discussions concerning transgender policy and DoD Instruction 6130.03	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0012045 3	PrivWithho ld05636	PrivWithhold 05636	4/14/2014 0:00	Copy of Copy of Issuance Dashboard for October 2016 Publication.xlsx	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0012066 6	PrivWithho ld05637	PrivWithhold 05639	3/23/2018 0:00	Deliberations regarding implementation of transgender accessions policy	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00120991	PrivWithhold05640	PrivWithhold05640	7/18/2016 0:00	FW: Emailing: TG care policy memo informal coordination sent 7 6 2016 v2_USCG.msg	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00120998	PrivWithhold05641	PrivWithhold05642	7/18/2016 0:00	Email between DoD personnel answering a transgender question.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00121431	PrivWithhold05643	PrivWithhold05644	7/12/2017 0:00	Email between DoD personnel providing transgender medical policy language.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00121670	PrivWithhold05645	PrivWithhold05657	7/18/2016 0:00	Document containing issuance comments for Guidance for Treatment of Gender Dysphoria for Active Duty Service Members.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00124359	PrivWithhold05658	PrivWithhold05664	9/13/2017 0:00	Email chain discussing development of policy information concerning transgender service members	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not deliberative
DoD00124766	PrivWithhold05665	PrivWithhold05665	7/26/2017 0:00	Email between DoD personnel discussing meeting.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00126387	PrivWithhold05666	PrivWithhold05677	9/30/2016 0:00	Email between DoD personnel discussing mentions of transgender policy work.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00126760	PrivWithhold05678	PrivWithhold05678	8/23/2016 0:00	Email between DoD personnel regarding a transgender media inquiry.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

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DoD0012680 0	PrivWithho ld05679	PrivWithhold 05682	8/17/2016 0:00	Email between DoD personnel discussing TRICARE transgender issue,	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0012682 1	PrivWithho ld05683	PrivWithhold 05685	8/16/2016 0:00	Email between DoD personnel discussing transgender policy status update.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0012701 5	PrivWithho ld05686	PrivWithhold 05686	3/5/2018 0:00	E-mail between DoD personnel regarding study in light of current transgender policy announcements.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD0012701 7	PrivWithho ld05687	PrivWithhold 05687	3/5/2018 0:00	Email between DoD personnel discussing specific transgender case.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD0012828 9	PrivWithho ld05688	PrivWithhold 05690	9/5/2017 0:00	Deliberative email conversation between DoD personnel regarding an update for leadership on the transgender policy.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0012853 7	PrivWithho ld05691	PrivWithhold 05691	8/1/2017 0:00	Email between DoD personnel requesting a policy guidance update.	Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD0012870 3	PrivWithho ld05693	PrivWithhold 05693	6/28/2017 0:00	Document containing list of research materials.	Deliberations regarding the implementation of the transgender policy		
DoD0012876 1	PrivWithho ld05694	PrivWithhold 05695	7/10/2017 0:00	Email between DoD personnel discussing transgender medical costs.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0012904 4	PrivWithho ld05697	PrivWithhold 05698	5/19/2017 0:00	Slides providing oversight to HSPO office structure and functions.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD0012921 2	PrivWithho ld05699	PrivWithhold 05701	3/14/2017 0:00	Email between DoD personnel discussing transgender working group.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0012944 6	PrivWithho ld05703	PrivWithhold 05725	5/6/2009 0:00	Slides titled: VA/DoD Health Executive Committee Clinical Care & Operations Business Line Update Decision Brief	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0012955 2	PrivWithho ld05726	PrivWithhold 05728	12/6/2016 0:00	Email between DoD personnel circulating and discussing transgender info paper.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0013005 8	PrivWithho ld05729	PrivWithhold 05731	8/31/2016 0:00	Email between DoD personnel regarding a media inquiry.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0013006 1	PrivWithho ld05732	PrivWithhold 05737	8/31/2016 0:00	email conversation regarding preparation for a brief to senior DoD officials on the updated transgender implementation plan.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0013090 6	PrivWithho ld05739	PrivWithhold 05739	3/21/2018 0:00	Email between DoD personnel regarding transgender meeting.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD0013821 0	PrivWithho ld05740	PrivWithhold 05750	9/14/2016 0:00	Email between DoD personnel discussing media inquiry about particular transgender service member.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0013904 3	PrivWithho ld05753	PrivWithhold 05756	1/29/2015 0:00	Armed Forces Accession Medical Standard Review Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0013933 5	PrivWithho ld05758	PrivWithhold 05758	3/1/2018 0:00	Draft memo: Transgender Service Policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD0014119 6	PrivWithho ld05760	PrivWithhold 05760	3/1/2018 0:00	Draft memo: Transgender Service Policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD0014338 3	PrivWithho ld05761	PrivWithhold 05762	4/4/2016	FW NYT Op-Ed on TG (31).msg	Deliberative email between DoD personnel discussing RAND study release.	N	Not predecisional
DoD0014466 6	PrivWithho ld05763	PrivWithhold 05764	8/24/2017	RE: TG Documents (UNCLASSIFIED).msg	Deliberative email between DoD personnel regarding edits to transgender document.	N	Not predecisional
DoD0014476 0	PrivWithho ld05765	PrivWithhold 05767	8/4/2017	RE: FOUO: Transgender Dependent RFI (UNCLASSIFIED).msg	Deliberative email between DoD personnel regarding DoD transgender dependent medical policy.	N	Not predecisional
DoD0014505 7	PrivWithho ld05768	PrivWithhold 05771	9/19/2016	FW: FOUO\\ FW: Version 19, TG Handbook.msg	Deliberative email between DoD personnel regarding edits to transgender document.	N	Not deliberative

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
AF_00011779 _AF2	PrivWithhold 05772	PrivWithhold 05781	7/18/2016	Draft Air Force Guidance Memorandum for Currently Serving Transgender Airmen. Labeled "DRAFT -- NOT FOR IMPLEMENTATION OR COMPLIANCE." Contains deliberations concerning the Air Force's implementation of policies and procedures for units, supervisors, commanders, transgender Airmen and the medical community to provide a construct by which transgender Airmen may transition gender while serving and outlines policies for accessing, separating, and retaining transgender Airmen.	Deliberations regarding the implementation of transgender policy	N	Not predecisional
AF_00015510 _AF2	PrivWithhold 05782	PrivWithhold 5800	6/3/2016	Draft Department of Defense Instruction ("DoDI") titled "IN-SERVICE TRANSITION FOR SERVICE MEMBERS IDENTIFYING AS TRANSGENDER." Contains a watermark on each page stating "DRAFT." Contains draft proposal concerning how transgender service members can transition while serving, how service members can change their gender markers in DEERS, and how service members can obtain medical treatment.	Deliberations regarding the implementation of the transgender policy		
AF_00016956 _AF2	PrivWithhold 05801	PrivWithhold 5808	12/2/2016	Draft Air Force slides re: development of two training modules for total force awareness of transgender service. Contains speaker notes.	Deliberations regarding the implementation of the transgender policy. Undated draft slides regarding development of training modules, implementing the Carter policy, implementing medical policy, and data collection. Contains speaker notes. The slide deck is incomplete, missing the opening slides and closing slides.	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
AF_00017041 _AF2	PrivWithhold 05809	PrivWithhold 5826	3/14/2016	Joint Chiefs of Staff draft PowerPoint titled "Transgender Service" with speaker notes and comments. Labeled "FOUO//Draft//Predecisional/Not for public release." Contains comments for recommended edits.	Deliberations regarding the implementation of the transgender policy		
AF_00017134 _AF2	PrivWithhold 05827	PrivWithhold 5827	2/7/2017	Excel spreadsheet tracking proposed training standards, methods, and timelines.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
AF_00017139 _AF2	PrivWithhold 05828	PrivWithhold 5828	10/19/2016	Draft of excel spreadsheet to track milestones from Oct 16-Dec 17.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
AF_00019209 _AF2	PrivWithhold 05829	PrivWithhold 5842	6/23/2017	Draft TFAT Audio/Narration Script for Transgender Awareness Training. Contains track changes and comments by Matthew McWhirter (USAF) with recommended changes.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
AF_00021839 _AF2	PrivWithhold 05843	PrivWithhold 5845	1/21/2011	Email chain concerning Don't Ask Don't Tell.	Deliberations regarding the development of training on the repeal of Don't-Ask-Don't-Tell. This email, dated 21 January 2011, seeks coordination and recommendations on proposed training.	N	Not predecisional
AF_00022282 _AF2	PrivWithhold 05846	PrivWithhold 5852	2/25/2013	Email chain concerning Don't Ask Don't Tell.	Deliberations regarding the implementation of the repeal of Don't-Ask-Don't-Tell. This email, dated 25 March 2013, discusses potential changes to service regulations regarding military benefits for same sex domestic partner.	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
AF_00022309 _AF2	PrivWi thhold 05853	PrivWi thhold 5854	10/10/2013	Not clearly relevant to any transgender policy. Document concerning coordination among Air Force commanders containing comment on Air Force Instruction (AFI) 36-3003. AFI 36-3003 was titled "Military Leave Program - Permissive (TDY) - Marriage (TMT)." Contains recommendation on whether to approve the AFI and reasons for that recommendation.	Deliberations regarding the formulation Air Force Instruction 36-3003	N	Not predecisional
AF_00022824 _AF2	PrivWi thhold 05855	PrivWi thhold 5855	10/21/2013	Not clearly relevant to any transgender policy. Consolidated comment matrix for "Interim Change(IC)1 for AFI 36-3003, Military Leave Program." Contains a recommendation on whether to approve the change to the Air Force Instruction.	Deliberations regarding the formulation of Air Force Instruction	N	Not predecisional
AF_00027289 _AF2	PrivWi thhold 05856	PrivWi thhold 5858	4/6/2017	E-mail requesting input on draft ADLS transgender training with the content of the training as an attachment	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
AF_00027923 _AF2	PrivWi thhold 05859	PrivWi thhold 5862	9/13/2016	E-mail circulating working draft of the AFPM on Transgender (including attachment)	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
AF_00029378 _AF2	PrivWi thhold 05863	PrivWi thhold 5864	7/21/2016	Email chain deliberating on who would develop training and seeking transgender working group recommendations regarding development of training.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
AF_00036002 _AF2	PrivWi thhold 05865	PrivWi thhold 05865	Undated	SSS template of ETP form, AF Form 1768. Form concerns an Exception to Policy (ETP) for Dress and Appearance / Use of Facilities. Contains a description of the Airman's request for an ETP and recommendations concerning review and approval. Form has placeholders and personal notes for later edits, and does not contain signatures from reviewers.	Deliberations regarding the implementation of transgender policy		

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
AF_00036011_AF2	PrivWithhold 05866	PrivWithhold 05866	Undated	SSS template of ETP form, AF Form 1768. Form concerns an Exception to Policy (ETP) for Dress and Appearance / Use of Facilities. Contains a description of the Airman's request for an ETP and recommendations concerning review and approval. Form has placeholders and personal notes for later edits, and does not contain signatures from reviewers.	Deliberations regarding the implementation of transgender policy		
AF_00037900_AF2	PrivWithhold 05867	PrivWithhold 5870	3/11/2018	Email dated 3/11/18 between SAF/MR and AF/A1 discussing answer to CSAF request for updates regarding progress of transgender policy at DoD level.	Deliberations regarding the implementation of the transgender policy.	N	Not predecisional
AF_00037950_AF2	PrivWithhold 05871	PrivWithhold 5874	3/11/2018	"Email dated 3/11/18 from SAF/MR to many AF organizations answering questions posed by CSAF regarding a housing allowance policy with no application to transgender personnel. One of CSAF's questions pertains to status of transgender policy, however, there is no further discussion of the topic in this email."	Deliberations regarding the implementation of the transgender policy.	N	Not predecisional
Army_10000069	PrivWithhold 05875	PrivWithhold 5880	12/14/2017	Draft order re TG Policy implementation	Deliberations regarding the implementation of the transgender policy. Predecisional, draft Army order (EXORD 029-17), "Implementation of Army Policy on Military Service of Transgender (TG) Soldiers."		
Army_10000981.0001	PrivWithhold 05881	PrivWithhold 5894	4/27/2017	Presentation titled "2016 Workplace and Gender Relations Survey of Active Duty Members (2016 WGRA)." Draft slides that include handwritten notes. Labeled "FOIA Exempt/Pre-decisional/For Official Use Only."	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
Army_100010 99.0002	PrivW thhold 05895	PrivW thhold 5896	9/18/2017	DOD press guidance	Deliberations regarding the implementation and formulation of transgender policy interim guidance. Draft DoD press guidance on the Interim Guidance.		
Army_100011 13.0003	PrivW thhold 05897	PrivW thhold 5897	8/8/2017	VCSA draft message	Deliberations regarding the implementation of the transgender policy; draft message to the force regarding the development of the implementation plan.	N	Not predecisional
Army_100011 26.0001	PrivW thhold 05898	PrivW thhold 5898	8/11/2017	Draft Army HQDA document on transgender accessions guidance for commanders submitted for reviewer feedback and comment. Labeled "DRAFT/PREDECISIONAL."	Deliberations regarding the formulation and implementation of the transgender policy; draft Army document that provides guidance to commanders concerning transgender policy pending issuance of implementation plan.	N	Not predecisional
Army_100011 64	PrivW thhold 05899	PrivW thhold 5899	8/11/2017	Discussion by SCCC members about decision making process.	Email containing a discussion concerning the decision-making process with respect to a TSIG update.	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
Army_10001187	PrivWithhold 05900	PrivWithhold 5901	8/9/2017	Email exposes part of the SCCCC member's deliberative process.	Deliberations regarding the formulation and implementation of the transgender policy; email chain discussing a draft product that addresses transgender policy development and implementation.	N	Not predecisional
Army_10001211.0001	PrivWithhold 05902	PrivWithhold 5910	7/21/2017	Document contains pre-decisional information considered by SCCC members.	Deliberations regarding the formulation of the transgender policy; slide deck containing predecisional, deliberative information concerning the assessment of readiness impacts of transgender service members	N	Not predecisional
Army_10001239.0002	PrivWithhold 05911	PrivWithhold 5964	7/14/2017	Draft PowerPoint titled "Transgender Service Q&As Transgender Senior Implementation Group Meeting - July 14, 2017." Labeled "Not for distribution/Draft Deliberative Document." Also an apparent draft because the closing remarks have not been filled in. Also includes recommendations from Navy and questions from Army.	Deliberations regarding the implementation of the transgender policy. Draft PowerPoint presentation that contains predecisional, deliberative information with respect to transgender policy, titled "Transgender Service Q&As: Transgender Senior Implementation Group Meeting--July 14, 2017." Draft includes service recommendations and questions.	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
Army_100012 43.0002	PrivWithhold 05965	PrivWithhold 5967	7/15/2017	Draft (unsigned) memorandum with the subject "Update on Transgender Service Implementation Group (TSIG)." Provides clarification as to membership of Army TSIG and purpose and next steps of TSIG.	Deliberations regarding the implementation of the transgender policy. Draft memorandum that establishes processes for and responsibilities of the Transgender Service Implementation Group.	N	Not predecisional
Army_100013 96	PrivWithhold 05968	PrivWithhold 5972	7/7/2017	Document re Information/Background paper provided to the Sec. of the Air Force outlining questions/concerns from DoD components/Services to OUSD (P&R) regarding accessions policy.	Deliberations regarding the formulation of the transgender policy. Background paper for Secretary of the Air Force that includes questions and concerns regarding the transgender policy; and discusses draft Department of Defense guidance and the need for clarifying policy guidance.	N	Not predecisional
Army_100014 69	PrivWithhold 05973	PrivWithhold 5991	4/25/2017	Draft version of DHA IPM 17-00x, Guidance for Medical Care of Transgender (TG) Active Duty Service Members (ADSMs) with a Diagnosis of Gender Dysphoria (GD)	Deliberations regarding the formulation and implementation of the transgender policy; draft of DHA IPM 17-00x ("Interim Procedures Memorandum 17-00x, Guidance for Medical Care of Transgender (TG) Active Duty Service Members (ADSMs) with a Diagnosis of Gender Dysphoria (GD)."	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
Army_100016 86	PrivWithhold 05992	PrivWithhold 5994	11/30/2017	Email with subject "TG Accessions considerations for waiver authorities (UNCLASSIFIED)." Contains deliberations of accessions of transgender individuals pursuant to court-ordered preliminary injunctions.	Deliberations regarding the formulation of the transgender policy. Email concerning preparations for accessions of, and the waiver process for, transgender individuals based on court-ordered preliminary injunctions.		
Army_100023 80	PrivWithhold 05995	PrivWithhold 5995	5/3/2017	Draft media guidance regarding Army's implementation of the TG policy.	Deliberations regarding the implementation of the transgender policy; draft media guidance on Army's implementation of transgender policy	N	Not predecisional
Army_100024 03	PrivWithhold 05996	PrivWithhold 5997	8/25/2016	Draft policy regarding implementation of the TG policy. Marked "For Official Use Only - Predecisional" and has a watermark labeled "DRAFT." Contains draft Army guidance on gender transition for soldiers.	Deliberations regarding the formulation and implementation of the transgender policy. Draft Army Directive on "Gender Transition for Active Duty Soldiers."	N	Not predecisional
Army_100024 80	PrivWithhold 05998	PrivWithhold 5999	7/1/2016	"(draft) in-service transition flowchart and additional information for decision makers at various levels [""current as of 26 June 2016""]"	Deliberations regarding formulation and implementation of transgender policy. Draft Army flowchart titled "In Service Transition" that provides predecisional guidance on the in-service transition process.	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
Army_100025 60	PrivWithhold 06000	PrivWithhold 6002	7/17/2017	Draft (unsigned) document pertaining to implementation group.	Deliberations regarding the implementation of the transgender policy. Draft memorandum that establishes processes for and responsibilities of the Transgender Service Implementation Group.	N	Not predecisional
Army_100032 46.0002	PrivWithhold 06003	PrivWithhold 6005	12/11/2017	PowerPoint with the file name "PoE Addendum Slides - Overview of DoDI and Implementation Plan 11 Dec 17___.pptx." Slides contain explanation and status of policy development process to include discussion of Panel of Experts.	Deliberations regarding the formulation and implementation of the transgender policy. PowerPoint slides that include predecisional topics of discussion pertaining to implementing accessions after January 1, 2018 under the new policy and the requirement to develop additional policy for implementation in the context of the U.S. Military Academy and ROTC.		
Army_100033 05.0001	PrivWithhold 06006	PrivWithhold 6008	11/17/2017	Draft document contains information submitted for feedback and comment.	Deliberations regarding the implementation of the transgender policy. Draft slide on transgender military service that discusses gender marker changes under the transgender policy and the possible effect of a court order on transgender policy.		

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
Army_100037 36	PrivWi thhold 06009	PrivWi thhold 6010	9/15/2017	Email containing feedback on TG policy formulation document	Deliberations regarding the formulation of the transgender policy. Email chain discussing and requesting review of an attached, draft product on the interim guidance.	N	Not deliberative
Army_100039 00.0001	PrivWi thhold 06011	PrivWi thhold 6011	8/8/2017	Draft message to the force regarding the announcement of the revised policy and the goals to achieve via the policy.	Deliberations regarding the formulation of the transgender policy. Draft message to Army leaders concerning the development of the implementation plan.	N	Not predecisional
Army_100046 37.0001	PrivWi thhold 06012	PrivWi thhold 6013	10/23/2017	Draft document on transgender policy implementation submitted for feedback. Contains comments for recommended edits.	Deliberations regarding the formulation of the transgender policy		Resubmit pages with Bates numbers attached
Army_100080 91	PrivWi thhold 06014	PrivWi thhold 6019	9/15/2017	Email traffic ref: pre-confirmation office calls.	Deliberations regarding potential issues that could occur during confirmation hearing.		Not relevant
Army_100085 30	PrivWi thhold 06020	PrivWi thhold 6021	6/7/2017	Discusses senior-level responses to service-specific feedback on implementation timeline	Email chain concerning predecisional deliberations of the services and DoD on the decision to delay implementation of the Carter accessions standards.	N	Not predecisional

In Camera Review of 500 DPP Documents

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Army_100085 84	PrivWithhold 06022	PrivWithhold 6023	7/27/2017	Document contains talking points, strategies, and recommendations for how to communicate transgender policy to the media. Document also seeks reviewer feedback and comment on transgender policy formulation.	Email chain containing predecisional, deliberative discussion of development and implementation of transgender policy following the President's July 26, 2017 statement on Twitter	N	Not predecisional
Army_100086 97.0006	PrivWithhold 06024	PrivWithhold 6025	5/15/2017	Email providing observations and assessments regarding the impact of transgender service.	Email chain containing predecisional deliberations regarding the readiness of the Army to implement accession of transgender applicants.	N	Not predecisional
Army_100088 30	PrivWithhold 06026	PrivWithhold 6028	2/3/2017	Pre decisional email chain discussing TG policy.	Deliberations regarding the formulation and implementation of the transgender policy. Email chain discussing predecisional changes to an Army order concerning transgender policy training for contractors.	N	Not predecisional
Army_100088 60	PrivWithhold 06029	PrivWithhold 6031	1/24/2017	Email chain with discussion of suggestions to TG policy.	Deliberations regarding the formulation of the transgender policy. Email chain concerning a discussion of pending DoD changes to accession medical fitness standards.	N	Not predecisional
Army_100088 63.0002	PrivWithhold 06032	PrivWithhold 6045	1/24/2017	Draft Q&A white paper on TG policy. Contains comments for recommended revisions.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
Army_100088 90.0002	PrivWi thhold 06046	PrivWi thhold 6048	12/15/201 6	FY 2018 posture paper titled "POLICY IMPLEMENTATION ON THE MILITARY SERVICE OF TRANSGENDER SOLDIERS." Contains anticipated questions from Congressional committees and recommended answers.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
Army_100090 05.0003	PrivWi thhold 06049	PrivWi thhold 6063	10/31/201 6	Draft document on TG policy submitted for feedback or approval	Deliberations regarding the implementation of the transgender policy. Draft US Army Training and Doctrine Command Lesson Plan on Army policy on military service of transgender soldiers	N	Not predecisional
Army_100095 51	PrivWi thhold 06064	PrivWi thhold 6065	11/15/201 6	Email soliciting input regarding proposed courses of action for TG accessions.	Deliberations regarding the formulation of the transgender policy. Email from Army (DCS G-1) soliciting input regarding proposed courses of action, for Army leadership consideration, concerning developing transgender policy with respect to applicants for enlistment and participants in officer producing programs.	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
Army_10010293	PrivWithhold 06066	PrivWithhold 6067	5/8/2017	Email chain containing discussions re implementation of TG policy	Deliberations regarding the implementation of the Carter policy. Email chain discussing the implementation of the policy in the context of the U.S. Military Academy, and providing a response to a question concerning what would happen if Department of Defense policy changes.	N	Not predecisional
Army_10010360.0001.0001	PrivWithhold 06068	PrivWithhold 6070	5/17/2017	Coordination page with the subject "CRITICAL CORRESPONDENCE: Readiness of Military Departments to Implement Accession of Transgender Applicants into Military Service." Contains notes and advice on TG policy implementation, as well as directive to assess readiness.	Predecisional document regarding the military services' assessment whether they are ready to implement accessions of transgender applicants.	N	Not predecisional
Army_10010455	PrivWithhold 06071	PrivWithhold 6071	7/18/2017	Pre decisional comments/suggestions on TG policy.	Email proposing a topic to be discussed by the Transgender Service Implementation Group concerning the implementation of transgender policy.	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
Army_100105 28	PrivW thhold 06072	PrivW thhold 6077	7/7/2017	Email discusses explanation of development of transgender policy.	Deliberations regarding the formulation of the transgender policy. Email chain regarding the medical non-availability/non-deployability rates among TG servicemembers for the purpose of assessing the impact of accessions under the Carter Policy on readiness.	N	Not predecisional
Army_100105 37	PrivW thhold 06078	PrivW thhold 6081	7/7/2017	Email contains comments on the impact of transgender accessions policy development.	Deliberations regarding the formulation of the transgender policy; email chain discussing medical non-availability and non-deployability rates among transgender service members in order to asses the impact of accessions under the Carter policy on military readiness.	N	Not predecisional
Army_100105 96.0001	PrivW thhold 06082	PrivW thhold 6087	8/19/2016	Draft policy regarding implementation of the TG policy. Subject line is "Army Directive 2016-XX (Army Policy on Military Service of Transgender Soldiers)." Marked "For Official Use Only - Predecisional" and has a watermark labeled "DRAFT." Contains draft Army guidance on gender transition for soldiers.	Deliberations regarding the implementation of the transgender policy. Predecisional, draft Army directive on Army policy on military service of transgender soldiers.	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
Army_100105 96.0003	PrivWithhold 06088	PrivWithhold 6089	8/19/2016	Draft policy regarding implementation of the TG policy. Marked "For Official Use Only - Predecisional" and has a watermark labeled "DRAFT." Contains draft Army guidance on gender transition for soldiers in the reserves.	Deliberations regarding the formulation and implementation of the transgender policy. Predecisional, draft version of Army directive on Gender Transition for Soldiers Serving in the Standby Reserve, The Individual Ready Reserve, or the Retired Reserve	N	Not predecisional
Army_100106 20.0001	PrivWithhold 06090	PrivWithhold 6110	8/3/2016	Draft Army directive on TG policy. Contains the proposed Army directive concerning the administrative requirements that transgender soldiers must meet after they have completely transitioned or are in the process of transitioning. Shows coordination and recommendations from various Army leaders.	Deliberations regarding the formulation and implementation of the transgender policy. Draft Army directive on Army Policy on Military Service of Transgender Soldiers and Staffing Form providing guidance in staffing and review of draft policy.	N	Not predecisional
Army_100106 43	PrivWithhold 06111	PrivWithhold 6115	10/3/2016	Email chain with suggestions to implementation of TG policy.	Deliberations regarding the implementation of the transgender policy. Email chain concerning making changes to accession medical forms, discussing changes to these forms in regards to the accession of transgender applicants.	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
Army_100107 22	PrivWi thhold 06116	PrivWi thhold 6119	10/14/201 6	Email chain with suggestions and comments on the implementation of TG policy.	Deliberations regarding the implementation of the transgender policy. Email chain concerning a predecisional, proposed measure for screening applicants for a medical history of gender transition	N	Not predecisional
Army_100107 27.0002	PrivWi thhold 06120	PrivWi thhold 6126	10/14/201 6	Draft, predecisional order re Army policy on military service of TG soldiers that discusses how the Army will implement DoD's directive. Document is titled "HQDA EXORD XXX-16 IMPLEMENTATION OF ARMY POLICY ON MILITARY SERVICE OF TRANSGENDER SOLDIERS" and has a watermark stating "DRAFT" on each page. Labeled "For Official Use Only - Predecisional."	Predecisional draft of Army order on the "Implementation of Army Policy on Military Service of Transgender Soldiers".	N	Not predecisional
Army_100107 44.0004	PrivWi thhold 06127	PrivWi thhold 6132	10/21/201 6	Draft training plan on TG policy.	Deliberations regarding the implementation of the transgender policy. Draft Annex to Army order, titled "Education and Training Plan for the Policy on Military Service of Transgender Soldiers."	N	Not predecisional
Army_100107 46.0001	PrivWi thhold 06133	PrivWi thhold 6157	10/21/201 6	Draft document on TG policy submitted for feedback or approval	Deliberations regarding the implementation of the transgender policy. Draft Army training materials on "Policy on the Military Service of Transgender Soldiers."	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
Army_100107 61.0003	PrivWithhold 06158	PrivWithhold 6163	10/31/2016	Draft document on TG policy submitted for feedback or approval	Deliberations regarding the implementation of the transgender policy. Draft Annex to Army order, titled "Education and Training Plan for the Implementation of Army Policy on Military Service of Transgender Soldiers." Draft annex concerns developing training materials, training the force, and sustaining training in order to implement transgender policy.	N	Not predecisional
Army_100107 66.0001	PrivWithhold 06164	PrivWithhold 6174	7/21/2016	PowerPoint titled "TSIG Mission Analysis Briefing Template (Transgender Implementation)." Draft briefing summarizes the current courses of action and status of policy development	Deliberations regarding the implementation of the transgender policy. Slide deck on Transgender Implementation, which discusses developing policies and procedures for gender transition in order to implement the transgender policy.	N	Not predecisional
Army_100107 72	PrivWithhold 06175	PrivWithhold 6177	8/16/2016	Email containing feedback and planning analysis for TG policy formulation	Email chain containing predecisional, deliberative information concerning the development and implementation of transgender policy, including the drafting of an Army directive and training materials.	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
Army_10010773	PrivWithhold 06178	PrivWithhold 6181	8/16/2016	Email containing feedback and planning analysis for TG policy formulation	Deliberations regarding the formulation and implementation of the transgender policy. Email containing a predecisional deliberative discussion of required tasks for the development and implementation of transgender policy based on an update provided by the Transgender Service Implementation Group.	N	Not predecisional
Army_10020443.0008.0005	PrivWithhold 06182	PrivWithhold 6182	1/19/2018	F-M SRS evaluation checklist_19 JAN 18_TG IPT revised v1.docx; draft Supplemental Health Care Program Checklist Female to Male Sex Reassignment Surgery Evaluation Waiver	Deliberations regarding the implementation of the transgender policy. Predecisional draft checklist for female to make sex reassignment surgery evaluation waiver, which includes visible comments of reviewer.	N	Not predecisional
Army_10022667.0001	PrivWithhold 06183	PrivWithhold 6187	6/19/2017	Draft slide show on TG accessions policy.	Presentation that contains predecisional deliberations regarding whether to request a delay of accessions of transgender applicants under the Carter Policy.	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
Army_100287 81	PrivWithhold 06188	PrivWithhold 6190	2/20/2018	Email discussion between various medical staff officers regarding how to interpret and implement medical fitness standards for TG accessions, and discussing issues/concerns with various proposed interpretations.	Deliberations regarding the formulation and implementation of the transgender policy; Deliberations regarding the implementation of the transgender policy. Email discussion between various medical staff officers regarding how to interpret and implement medical fitness standards for transgender accessions, and discussing issues and concerns with various proposed interpretations.	N	Not predecisional
Army_100344 84	PrivWithhold 06191	PrivWithhold 6192	2/16/2018	Email discussion between various medical staff officers regarding how to interpret and implement medical fitness standards for TG accessions, and discussing issues/concerns with various proposed interpretations.	Email chain including deliberations concerning the applicatin of DoD medical accessions standards with respect to a specific applicant	N	Not predecisional
Army_100352 97	PrivWithhold 06193	PrivWithhold 6196	1/31/2018	Attachment to emails discussing proposed changes to transgender policies. No decision was made.	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
Army_100383 84	PrivWithhold 06197	PrivWithhold 6197	3/7/2018	Email discussing and deliberating policy on medical waiver authority	Deliberations regarding the formulation of the transgender policy. Predecisional email providing a topic for TSIG consideration regarding whether to renew a policy that applied to transgender applicants.	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DHA_00000153	PrivWithhold 06198	PrivWithhold 6257	7/24/2017	Intradepartment email concerning deliberations on implementation of transgender policy, including questions and answers. Subject of email is "Fwd: Transgender Policy Action Officer Working Group 25-28 JUL 17 (UNCLASSIFIED)."	Predecisional and deliberative internal agency document created as part of the agency's process of developing courses of action for implementing DoD's policy on the services and accessions of military personnel and the continuous process of assessing the policy's impact on military readiness.	N	Not predecisional
DHA_00000361	PrivWithhold 06258	PrivWithhold 6320	7/24/2017	Intradepartment email concerning implementation of DoD transgender policy	Predecisional and deliberative internal agency document created as part of the agency's process of developing courses of action for implementing DoD's policy on the services and accessions of military personnel and the continuous process of assessing the policy's impact on military readiness.	N	Not predecisional
DoD00000238	PrivWithhold 06321	PrivWithhold 6322	9/20/2017	Email with subject "NO SCCC meeting tomorrow 21 Sept 2017." Contains deliberations concerning service members' requests for exceptions to policy.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy		

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00000616	PrivWithhold 06323	PrivWithhold 6323	12/28/2017	Excel file with file name "Active - My _ My Team 2017-12-28 13_15_31Z.xlsx." Contains status of pending assignments and items for follow-up, including assignments related to the transgender service policy.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy		
DoD00000960	PrivWithhold 06324	PrivWithhold 6324	12/13/2017	Deliberative email conversation regarding a Transgender applicant at MEPS	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy		
DoD00002126	PrivWithhold 06325	PrivWithhold 6329	10/4/2017	Draft version of the questions and answers for a hearing on DoD Manpower and reserve affairs which includes information on the implementation of the Transgender policy.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy		

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00002254	PrivWithhold 06330	PrivWithhold 6330	8/30/2017	Powerpoint of the 2017 TG policy review with timeline and recommended deliverables	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00002308	PrivWithhold 06331	PrivWithhold 6332	9/15/2017	Email with the subject "Re: TG interim guidance."	Deliberations regarding DoD's and Army's responses to issues with MAVNI and DACA		
DoD00002337	PrivWithhold 06333	PrivWithhold 6335	9/11/2017	Document containing proposed study involving transgender service members.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00002402	PrivWithhold 06336	PrivWithhold 6338	8/31/2017	Email with subject line "FW: DRAFT Transgender Implementation Guidance for SD Signature Friday 1 Sep (UNCLASSIFIED)." Contains deliberations on the draft guidance and draft terms of reference.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00002435	PrivWithhold 06339	PrivWithhold 6341	8/25/2017	Document with file name SD TG INTERIM POLICY 8-25.docx. Draft Interim Guidance. Labeled "Draft - For official use only" and has a "DRAFT" watermark.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00002462	PrivWithhold 06342	PrivWithhold 6343	8/28/2017	RE: Secondary email address - DoD Central Coordination Cell (UNCLASSIFIED)	Deliberations regarding the process used by the SCCC	N	Not predecisional
DoD00002634	PrivWithhold 06344	PrivWithhold 6345	8/2/2017	Deliberative email conversation between DoD personnel regarding the proper point of contact to assist with Departmental gender issues.	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00002657	PrivWithhold 06346	PrivWithhold 06346	7/28/2017	Draft memo on Transgender Service Member and Unit Readiness. File name: TG Service Members and Unit Readiness 31 July 17 - DJG.docx. Contains track changes and comments for recommended edits.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00002826	PrivWithhold 06347	PrivWithhold 06349	7/19/2017	Deliberative email conversation between DoD and VA regarding working groups focused on Transgender medical care and benefits	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00002832	PrivWithhold 06350	PrivWithhold 06351	7/17/2017	TG SIG Follow-on Actions (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00002869	PrivWithhold 06352	PrivWithhold 06354	7/8/2017	Email with the subject "RE: Updated Slides (UNCLASSIFIED)." Email contains deliberations concerning medical accessions standards.	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00002871	PrivWithhold 06355	PrivWithhold 06357	7/8/2017	Email re: cadets and midshipmen and TG accessions policy	Deliberations regarding the formulation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00002935	PrivWithhold 06358	PrivWithhold 06359	6/29/2017	Email and FW: Draft DTM-17-008 (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00003025	PrivWithhold 06360	PrivWithhold 06364	6/20/2017	Email re: draft DTM and deployability and accessions	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00003049	PrivWithhold 06365	PrivWithhold 06366	6/8/2017	RE: Early DRAFT -- Transgender Accessions Toplines (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00003051	PrivWithhold 06367	PrivWithhold 06367	6/8/2017	Early DRAFT -- Transgender Accessions Toplines (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00003053	PrivWithhold 06368	PrivWithhold 06370	6/7/2017	Email with subject "RE: Hot - TG Taskings (UNCLASSIFIED)." Contains deliberations concerning whether new studies impact DoD's policy and whether individuals can deploy to CENTCOM.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00003119	PrivWithhold 06371	PrivWithhold 06374	5/16/2017	email RE: Navy views on readiness of TG policy and coordination with DOD	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00003127	PrivWithhold 06375	PrivWithhold 06378	5/12/2017	Email conversation regarding Navy's coordination on the DoD Transgender Policy tasker	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00003138	PrivWithhold 06379	PrivWithhold 06380	5/10/2017	Email re: USA Today - FW: transgender cadets	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00003191	PrivWithhold 06381	PrivWithhold 06381	4/14/2017	Staffer Day Slides providing and update on transgender policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00003218	PrivWithhold 06382	PrivWithhold 06383	3/4/2017	FW: DoDI 6130 draft next steps and responses	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00003266	PrivWithhold 06384	PrivWithhold 06384	10/24/2016	Excel doc re: Service TG Training Policies Update_0207.xlsx	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00003378	PrivWithhold 06385	PrivWithhold 06386	9/14/2016	RE: Army Directive on Transgender (UNCLASSIFIED)	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00003411	PrivWithhold 06387	PrivWithhold 06387	8/18/2016	Doc of Weekly TG Q&A rollup 19 AUG 16.docx	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00003463	PrivWithhold 06388	PrivWithhold 06388	6/30/2016	Deliberative email conversation regarding a DoD working group discussing reserve accessions	Deliberations regarding the implementation of the transgender policy		
DoD00003501	PrivWithhold 06389	PrivWithhold 06391	6/29/2016	Draft memo titled "Transgender Policy Implementation: A Note to Commanders." Contains handwritten notes with recommended edits.	Deliberations regarding the implementation of the transgender policy		
DoD00003510	PrivWithhold 06392	PrivWithhold 06440	6/28/2016	Draft edits to DOD TG implementation Handbook	Deliberations regarding the implementation of the transgender policy		
DoD00003529	PrivWithhold 06441	PrivWithhold 06445	6/28/2016	Doc with Examples of Challenging Transgender Cases v2 (1800 28JUN2016).docx	Deliberations regarding the implementation of the transgender policy		

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00003592	PrivWithhold 06446	PrivWithhold 06456	6/16/2016	Draft document titled "Transgender Hard Q&A for Rollout." Labeled "FOR OFFICIAL USE ONLY / PRE-DECISIONAL INFORMATION." Provides questions concerning the policy and draft responses. Includes comments for recommended edits.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy		
DoD00003594	PrivWithhold 06457	PrivWithhold 06469	6/15/2016	Hard transgender QA 14 June (SAB)(pkl) jws.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy		
DoD00003607	PrivWithhold 06470	PrivWithhold 06487	6/14/2016	Doc of DRAFT DoDI (as of 14 June).docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy		
DoD00003674	PrivWithhold 06488	PrivWithhold 06488	4/13/2016	AMSWG recommendations regarding Transgender.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy		
DoD00003684	PrivWithhold 06489	PrivWithhold 06505	5/27/2016	Draft doc of DoDI 20 May (DRAFT to WG) USCG Comments.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy		

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00003693	PrivWithhold 06506	PrivWithhold 06506	5/26/2016	Fw: Navy Service Comments on TG DoDI and DTM	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy		
DoD00003722	PrivWithhold 06507	PrivWithhold 06524	5/20/2016	Doc of DoDI 19 May (DRAFT to WG) ksg.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy		
DoD00003760	PrivWithhold 06525	PrivWithhold 06525	5/15/2016	Deliberative email conversation regarding notes and comments based on review of several talking papers on the Transgender policy.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy		
DoD00003762	PrivWithhold 06526	PrivWithhold 06542	5/15/2016	DoDI 15 May (DRAFT) .docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy		
DoD00003763	PrivWithhold 06543	PrivWithhold 06545	5/13/2016	Email RE: Request Review: TG In-Service Transition DoDI (DRAFT)	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy		

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00003791	PrivWithhold 06546	PrivWithhold 06562	5/11/2016	Draft doc of DoDI 11 May (amk_1).docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy		
DoD00003800	PrivWithhold 06563	PrivWithhold 06566	5/6/2016	Doc of DOD P&R Response to Army SG TG Info Paper.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy		
DoD00004010	PrivWithhold 06567	PrivWithhold 06569	12/22/2015	Transgender Issue Paper Template 12-21-15 (HSE edits).docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy		
DoD00004013	PrivWithhold 06570	PrivWithhold 06572	12/17/2015	RE: Transgender Accessions COA 1 Re-Write	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy		
DoD00004016	PrivWithhold 06573	PrivWithhold 06574	12/13/2015	Email re summary of meeting and discussion of transgender medical treatment plans and care	Deliberations regarding the implementation of the transgender policy		
DoD00004057	PrivWithhold 06575	PrivWithhold 06575	12/2/2015	Email re: Gender Transition plans and service draft edits	Deliberations regarding the formulation of the transgender policy		
DoD00004062	PrivWithhold 06576	PrivWithhold 06579	11/19/2015	Gender Transition Plan (Army edits ver2).docx	Deliberations regarding the formulation of the transgender policy		

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00004112	PrivWithhold 06580	PrivWithhold 06581	11/4/2015	Doc DRAFT_Understanding Transitioning Gender in the Workplace as of 30 September 2015.pdf	Deliberations regarding the formulation of the transgender policy		
DoD00004245	PrivWithhold 06582	PrivWithhold 06582	9/10/2015	Draft Agenda_TSRWG September 16	Deliberations regarding the formulation of the transgender policy		
DoD00004275	PrivWithhold 06583	PrivWithhold 06584	8/18/2015	Email re: Army draft position on level of stability of individuals with GD	Deliberations regarding the formulation of the transgender policy		
DoD00004323	PrivWithhold 06585	PrivWithhold 06587	7/21/2015	Email FW: Transgender directive on interim guidance during Carter policy review	Deliberations regarding the formulation of the transgender policy		
DoD00004327	PrivWithhold 06588	PrivWithhold 06588	7/20/2015	Draft Action Memo for the Secretary of Defense from Brad Carson, Acting Under Secretary of Defense for Personnel and Readiness (but prepared by Col Lee Gearhart), with the subject "Response to Chairman Thornberry's Transgender Service Member Letter." Contains a recommendation for a response to a Congressman's letter.	Deliberations regarding the formulation of the transgender policy		
DoD00004681	PrivWithhold 06589	PrivWithhold 06592	7/8/2017	Email chain concerning responding questions posed on several talking papers developed for the Transgender policy	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00004736	PrivWithhold 06593	PrivWithhold 06594	6/30/2017	Email concerning legislative proposals to transgender policy	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00004758	PrivWithhold 06595	PrivWithhold 06596	6/27/2017	Email chain concerning Gender Marker Change Numbers (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00004768	PrivWithhold 06597	PrivWithhold 06597	6/27/2017	Email conversation between DoD personnel concerning internal feedback on draft transgender policy points	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00004816	PrivWithhold 06598	PrivWithhold 06598	6/26/2017	Email chain concerning Transgender Questions - Service Chief Inputs (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00004885	PrivWithhold 06599	PrivWithhold 06599	6/23/2017	Email chain concerning the number of transgender service members within the services (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00004931	PrivWithhold 06600	PrivWithhold 06601	6/21/2017	Email chain concerning TG and DODI update	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00004947	PrivWithhold 06602	PrivWithhold 06604	6/19/2017	Email chain concerning WH TG info memo (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00005001	PrivWithhold 06605	PrivWithhold 06606	6/8/2017	Email chain concerning Early DRAFT -- Transgender Accessions Toplines (UNCLASSIFIED)	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00005127	PrivWithhold 06607	PrivWithhold 06607	5/2/2017	Email chain concerning Army input and the TG policy incolcing a TG waiver request(UNCLASSIFIED)	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00005134	PrivWithhold 06608	PrivWithhold 06608	4/13/2017	Email concerning TG Accessions on July 1 and possible delay of deadline	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00005141	PrivWithhold 06609	PrivWithhold 06611	4/4/2017	Email regarding medical care of transgender troops and question from outside 3rd party	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00005179	PrivWithhold 06612	PrivWithhold 06612	3/12/2017	Email chain concerning SD TG Info Paper (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00005230	PrivWithhold 06613	PrivWithhold 06614	11/2/2016	Email chain concerning White House Transgender Community Briefing	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00005314	PrivWithhold 06615	PrivWithhold 06616	6/22/2015	Document titled "Information Paper: Accession Medical Standards: Transgender." Labeled "Predecisional Information – FOIA EXEMPT." Provides Accession Medical Standards Working Group (AMSWG)'s recommendation for changes to DoDI 6130.03 Medical Standards for Appointment, Enlistment, or Induction in the Military Services related to transgender accession.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00005444	PrivWithhold 06617	PrivWithhold 06617	1/13/2015	Electronic copy of file named ACLU Response - Transgender - 1-13-15.doc	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00005494	PrivWithhold 06618	PrivWithhold 06622	12/10/2014	Email chain concerning Pending ALARACT re: Army retention of transgender service members	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00005498	PrivWithhold 06623	PrivWithhold 06626	12/9/2014	Email chain concerning Pending ALARACT re: Army retention of transgender service members (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00005501	PrivWithhold 06627	PrivWithhold 06628	11/24/2014	Email chain concerning response to ACLU letter regarding transgender policies	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00005536	PrivWithhold 06629	PrivWithhold 06629	10/21/2014	Email regarding DOD review of transgender service members and possible upcoming guidance	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00005602	PrivWithhold 06630	PrivWithhold 06631	8/9/2017	Memorandum assessing state of the transgender policy and upcoming decision	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00005667	PrivWithhold 06632	PrivWithhold 06634	8/18/2017	Doc of GC non Coord - UPR002424-17 - Request Appro...(1).pdf^DLIFLC Sexual Orientation Waiver_Response to .docx	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00005720	PrivWithhold 06635	PrivWithhold 06639	12/20/2016	Email re: Medical and Bahvarioal Standards Applying to TG accessions	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00005725	PrivWithhold 06640	PrivWithhold 06644	12/20/2016	Email concerning transgender medical policy.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00005739	PrivWithhold 06645	PrivWithhold 06645	12/13/2016	Email regarding a response to a congressional inquiry.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00005822	PrivWithhold 06646	PrivWithhold 06655	1/11/2017	Email discussing transgender policy and coordination with P&R on medical and behavaioral standards nd TG accessions	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00005870	PrivWithhold 06656	PrivWithhold 06656	12/27/2017	Email regarding response to congressional inquiry about transgender policy.	Deliberations regarding the implementation of the transgender policy		
DoD00005933	PrivWithhold 06657	PrivWithhold 06657	7/17/2017	GC non Coord - UPR002424-17 - Request Approval to Include Sexual Orientation and Transgender Question on the Benchmarking Behavioral Health and Wellness at the Defense Language Institute Foreign Language Center(Joint) Survey (DLIFLC Joint) (UNCLASSIFIED)	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00005984	PrivWithhold 06658	PrivWithhold 06658	7/18/2017	Document titled "transgender Action Officer Work Group." Contains proposed timeline for policy review.	Deliberations regarding the implementation of the transgender	N	Not predecisional
DoD00006008	PrivWithhold 06659	PrivWithhold 06660	8/2/2017	Email conversation regarding sex reassignment surgery for a member of the Coast Guard	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00006011	PrivWithhold 06661	PrivWithhold 06662	11/29/2016	Email discussion about which individual should receive particular slides for a transgender briefing	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00006070	PrivWithhold 06663	PrivWithhold 06663	7/26/2017	Email conversation regarding discussing questions surrounding POTUS transgender policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00006182	PrivWithhold 06664	PrivWithhold 06666	7/24/2017	Email regarding medications for transgender hormone therapy	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00006325	PrivWithhold 06667	PrivWithhold 06668	12/27/2017	Email conversation RE: FOR REVIEW: Draft Statement on Transgender Email to Army	Deliberations regarding the implementation of the transgender policy		
DoD00006355	PrivWithhold 06669	PrivWithhold 06722	7/14/2017	Draft PowerPoint titled "Transgender Service Q&As Transgender Senior Implementation Group Meeting - July 14, 2017." Labeled "Not for distribution/Draft Deliberative Document." Also an apparent draft because the closing remarks have not been filled in.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00006601	PrivWithhold 06723	PrivWithhold 06723	4/29/2016	Doc of Electronic copy of file named 28APR16 Transgender (2).docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy		
DoD00006665	PrivWithhold 06724	PrivWithhold 06728	3/25/2015	Document titled "Information Paper: Armed Forces Accession Medical Standard Review Process" with file name AMSWG TP and QA -- 24 March 2015 V3.docx. Labeled "Predecisional Information – FOIA EXEMPT." Contains details on the Department of Defense's ongoing review of medical standards for entry into the military.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00006962	PrivWithhold 06729	PrivWithhold 06729	6/28/2017	Excel file named Copy of MPP Update 30 August.xlsx providing update on revision of TG policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00006979	PrivWithhold 06730	PrivWithhold 06731	1/3/2018	Draft document named CY2018 PR (MPP) Look-Ahead (003). Contains key events for Personnel & Readiness. All events are not filled in.	Draft list of key events for DoD Personnel & Readiness		
DoD00008381	PrivWithhold 06732	PrivWithhold 06735	9/8/2017	Email chain concerning TG: Panel/Working Group Composition (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00008435	PrivWithhold 06736	PrivWithhold 06737	8/29/2017	Electronic copy of file named 15 - Transgender Integration Implementation (OK).docx. Document is titled "TRANSGENDER INTEGRATION IMPLEMENTATION" and contains track changes with recommended edits. Contains proposed talking points.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00008489	PrivWithhold 06738	PrivWithhold 06739	8/10/2017	Email chain concerning transgender medical policy and TG related surgeries (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00008621	PrivWithhold 06740	PrivWithhold 06742	6/9/2017	Deliberative email conversation regarding DoD participation in a meeting with foreign government personnel on the development of the Transgender policy	Deliberations regarding the formulation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00008760	PrivWithhold 06743	PrivWithhold 06747	10/25/2016	Email chain concerning DODEA in Germany	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00008807	PrivWithhold 06748	PrivWithhold 06748	10/5/2016	Email chain concerning MC TG Training Plan	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00008808	PrivWithhold 06749	PrivWithhold 06749	10/5/2016	Email concerning MC TG Training Plan	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00008847	PrivWithhold 06750	PrivWithhold 06751	9/22/2016	Email chain concerning TG Handbook Approval Scheme	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00008890	PrivWithhold 06752	PrivWithhold 06755	9/14/2016	Email chain concerning [Non-DoD Source] Transition-related surgery request of Chelsea Manning	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00008987	PrivWithhold 06756	PrivWithhold 06757	8/15/2016	Email chain concerning Public TG Website Page Views	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00009012	PrivWithhold 06758	PrivWithhold 06759	8/9/2016	Email chain concerning DEERS Gender Marker Change Draft Guidance	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00009020	PrivWithhold 06760	PrivWithhold 06761	8/9/2016	Electronic copy of file named Military Service of Transgender Service Members_Update.docx	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

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DoD00009031	PrivWithhold 06762	PrivWithhold 06765	8/5/2016	Email chain concerning TG Accession Guidance to recruiting	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00009036	PrivWithhold 06766	PrivWithhold 06766	8/4/2016	Email concerning DEERS Gender Marker Change Draft Guidance	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00009473	PrivWithhold 06767	PrivWithhold 06774	11/25/2016	Electronic copy of file named MEDPERS - Transgender Update - Draft NOV2017.ppt	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00009504	PrivWithhold 06775	PrivWithhold 06775	10/16/2017	Electronic copy of file named DSD Slides due 10-17 Slide 5 Talent Management.pptx	Contains timelines and goals for ongoing review of Civilan HR Reform in DoD.		
DoD00009713	PrivWithhold 06776	PrivWithhold 06781	8/23/2017	Doc of Electronic copy of file draft INTERIM POLICY (SAB 22 Aug).docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00009879	PrivWithhold 06782	PrivWithhold 06785	7/28/2017	Email concerning APPROVAL -- FW: P&R Nomination Prep Tasker (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00010007	PrivWithhold 06786	PrivWithhold 06786	7/10/2017	Electronic copy of file named 3dDSD confirmation - Transgender.docx	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00010096	PrivWithhold 06787	PrivWithhold 06789	6/2/2017	Email chain concerning TG Accession Standards (UNCLASSIFIED)	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00010109	PrivWithhold 06790	PrivWithhold 06790	5/30/2017	Email concerning extensions of the transgender Directive Type Memorandum.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

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DoD00010168	PrivWithhold 06791	PrivWithhold 06791	5/8/2017	Electronic copy of file named Placemat Update - PR topics MPP Input.docx	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00010289	PrivWithhold 06792	PrivWithhold 06795	1/23/2017	Email conversation regarding questions and answers in response to a media inquiry on the DoD Transgender Policy	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00010634	PrivWithhold 06796	PrivWithhold 06797	12/21/2017	Deliberative email conversation concerning Inactive Ready Reserve and the DoD Transgender Policy	Deliberations regarding the implementation of the transgender policy		
DoD00011012	PrivWithhold 06798	PrivWithhold 06799	8/9/2017	"Email chain concerning TG ""Holding"" Letter (UNCLASSIFIED)"	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00011061	PrivWithhold 06800	PrivWithhold 06802	6/19/2017	Email chain concerning service inputs and new updates regarding TG studies	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00011088	PrivWithhold 06803	PrivWithhold 06803	11/3/2016	Email forward concerning TG Training Plan Matrix	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00011112	PrivWithhold 06804	PrivWithhold 06805	6/17/2016	Email chain concerning TG Inputs from the service medical community discussion TG accession waiting periods	Deliberations regarding the implementation of the transgender policy		
DoD00011145	PrivWithhold 06806	PrivWithhold 06810	5/27/2016	Electronic copy of file named DTM 20 May (DRAFT to WG) USCG Comments.docxEmail concerning Template for a Directive-type Memorandum	Deliberations regarding the implementation of the transgender policy		
DoD00011207	PrivWithhold 06811	PrivWithhold 06812	12/14/2015	Email chain concerning Turnover - No need to read until you come into work!!	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy		
DoD00011434	PrivWithhold 06813	PrivWithhold 06817	8/23/2017	Email chain concerning Draft SecDef Statement on Military Service by Transgender Individuals (UNCLASSIFIED)	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00011547	PrivWithhold 06818	PrivWithhold 06819	6/8/2017	Email concerning Early DRAFT -- Transgender Accessions Toplines (UNCLASSIFIED)	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00011575	PrivWithhold 06820	PrivWithhold 06822	5/12/2017	Email chain concerning OSD005337-17 / 2017-SECNAVGENCORRESPOND-00000039 (UNCLASSIFIED)	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00011578	PrivWithhold 06823	PrivWithhold 06824	5/11/2017	Email chain concerning TG Response Tasker (UNCLASSIFIED). Contains deliberations on how to respond to request to assist Navy.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00011586	PrivWithhold 06825	PrivWithhold 06826	4/25/2017	Email concerning URGENT: MEPCOM & DoDMERB Annual Medical Training: TG Accession Standards (UNCLASSIFIED)	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00011660	PrivWithhold 06827	PrivWithhold 06832	11/2/2016	Email forward concerning Request for Gender Marker Change to Non-binary	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00011695	PrivWithhold 06833	PrivWithhold 06833	9/23/2016	Email concerning USMC Bulletin in Transgender Service	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00011794	PrivWithhold 06834	PrivWithhold 06835	5/6/2016	Email forward concerning Transgender: Wash Post and status of TG policy	Deliberations regarding the implementation of the transgender policy		
DoD00011826	PrivWithhold 06836	PrivWithhold 06836	1/8/2016	Electronic copy of file named PR Posture Hearing - Issue Paper-Transgender_7 JAN.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy		
DoD00011890	PrivWithhold 06837	PrivWithhold 06840	10/14/2016	Email chain concerning Gender Dysphoria and TRICARE Prime Remote ADSM Supplemental Health Care Program	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00012028	PrivWithhold 06841	PrivWithhold 06841	8/30/2016	Electronic copy of file named 2017 Transition Book Issue Paper_Transgender HA 12 Aug 16-Dr J Smith.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00012049	PrivWithhold 06842	PrivWithhold 06844	8/17/2016	Email forward concerning TG conference to gather information on TG medical care	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00012064	PrivWithhold 06845	PrivWithhold 06846	8/12/2016	Email chain regarding New Administration Transition Book	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00012097	PrivWithhold 06847	PrivWithhold 06847	10/29/2015	Copy of Transgender Codes 6.8.2016.xlsx	Deliberations regarding the formulation of the transgender policy		
DoD00012178	PrivWithhold 06848	PrivWithhold 06866	4/26/2017	Doc of DHA-IPM 17-00x_Guidance for Medical Care of transgender ADSMs 20170417 v4.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00012199	PrivWithhold 06867	PrivWithhold 06868	4/26/2017	Email regarding [Non-DoD Source] Change in surgical policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00012251	PrivWithhold 06869	PrivWithhold 06871	3/13/2017	Doc of QA_Services_Concerns_transgender_Accession_Med_Standards_FINAL.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00012281	PrivWithhold 06872	PrivWithhold 06874	3/3/2017	Doc draft of DoDI 6130 draft next steps and responses v3.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00012284	PrivWithhold 06875	PrivWithhold 06876	3/2/2017	Email regarding DoDI 6130 draft next steps and responses	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00012318	PrivWithhold 06877	PrivWithhold 06881	1/18/2017	Email chain regarding Walter Reed NMC TGCT POC	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00012449	PrivWithhold 06882	PrivWithhold 06885	8/24/2017	Electronic copy of file named SD TG INTERIM POLICY.docx	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00012476	PrivWithhold 06886	PrivWithhold 06886	6/23/2017	Email concerning DRAFT DTM on TG Service 22 Jun 2017 - OGC Edits Comments	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00012520	PrivWithhold 06887	PrivWithhold 06888	2/8/2017	Email chain concerning Request Service TG POCs for NCR and transgender service member care	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00012571	PrivWithhold 06889	PrivWithhold 06940	1/26/2017	Electronic copy of file named Draft DoDI 6130.03 Jan 26 2017.docx	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00012588	PrivWithhold 06941	PrivWithhold 06945	7/19/2017	Email chain concerning Testicular / Erectile Prosthesis	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

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DoD00012743	PrivWithhold 06946	PrivWithhold 06963	9/12/2016	Coast Guard Memorandum titled "Gender Reassignment Treatment Plan for [REDACTED SERVICE MEMBER NAME]."	Deliberations regarding the implementation of the transgender policy as it relates to a specific service member's treatment plan	N	Not predecisional
DoD00013197	PrivWithhold 06964	PrivWithhold 06964	7/27/2017	Email chain concerning number of TG personnel in the DoD	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00013269	PrivWithhold 06965	PrivWithhold 06973	12/8/2016	Draft PowerPoint titled "TRANSGENDER SERVICE POLICY Implementation Update."	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00013287	PrivWithhold 06974	PrivWithhold 06975	11/17/2016	Email concerning Request for data: Gender Dysphoria diagnoses	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00013321	PrivWithhold 06976	PrivWithhold 06977	10/6/2016	Email concerning TG Data Call and Capability Proposals	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00013324	PrivWithhold 06978	PrivWithhold 06983	9/22/2016	Email chain concerning request for information on Gender Reassignment	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

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DoD00013340	PrivWithhold 06984	PrivWithhold 06986	9/8/2016	Email chain concerning BH Question and what providers are included in TG conversation	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00013363	PrivWithhold 06987	PrivWithhold 06989	9/27/2016	Email chain concerning Version 19, TG Handbook	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00013370	PrivWithhold 06990	PrivWithhold 06991	9/23/2016	Email chain concerning TG Handbook, Version 24	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00013463	PrivWithhold 06992	PrivWithhold 07010	10/5/2016	PowerPoint named "TGHC Module 1 Introduction to Policy Guidance and Concepts in Transgender Healthcare." Contains speaker notes.	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00013505	PrivWithhold 07011	PrivWithhold 07012	10/4/2016	Email forward concerning [Non-DoD Source] RE: DoD/VA JIF SCAN ECHO on transgender (TG) care	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00013660	PrivWithhold 07013	PrivWithhold 07014	1/11/2017	Email chain regarding TG implementation within the Air Force	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00013698	PrivWithhold 07015	PrivWithhold 07020	10/19/2016	Email forward concerning TG Care Team Contact List (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00013739	PrivWithhold 07021	PrivWithhold 07021	6/21/2017	Draft of proposed revisions to TRICARE SHCP	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00013771	PrivWithhold 07022	PrivWithhold 07023	11/4/2016	Email concerning Task Force on Transgender Military Dependents - Meeting #2	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00013930	PrivWithhold 07024	PrivWithhold 07026	8/30/2017	Draft version of the Interim Guidance to DoD on Military Service by Transgender Individuals	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00013938	PrivWithhold 07027	PrivWithhold 07027	8/28/2017	Electronic copy of a file named Action Memo for Interim Guidance for TG Care - Draft.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00014224	PrivWithhold 07028	PrivWithhold 07034	1/30/2017	Document titled "COMMENTS MATRIX FOR: DHA-IPM 16-00x Guidelines for Medical Care of Transgender Active Duty Service Members with a Diagnosis of Gender Dysphoria." Reflects comments by two DoD officials providing recommended edits and rationale for those edits for a DHA document.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00014234	PrivWithhold 07035	PrivWithhold 07038	8/16/2016	Electronic copy of a file named Tab 2. AFMS Clinical Pathway for Care of Transgender Service Members.ppt	Deliberations regarding the formulation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

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DoD00014344	PrivWithhold 07039	PrivWithhold 07046	1/23/2017	Email chain regarding Transgender Surgeries -- Honolulu Star-Advertiser media inquiry (UNCLASSIFIED)	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00014349	PrivWithhold 07047	PrivWithhold 07050	11/8/2016	Email chain regarding [Non-DoD Source] Seeking comments + questions for article on transgender Army service members / DEADLINE 3 pm ET	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00014381	PrivWithhold 07051	PrivWithhold 07055	11/10/2016	Email chain regarding [Non-DoD Source] two DOD policy questions	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00014384	PrivWithhold 07056	PrivWithhold 07058	11/10/2016	Email forward concerning [Non-DoD Source] two DOD policy questions- TG care policy from the Hill	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00014410	PrivWithhold 07059	PrivWithhold 07061	8/16/2017	Email chain regarding TG eval SHCP waivers from BUMED	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00014411	PrivWithhold 07062	PrivWithhold 07063	8/16/2017	Email chain regarding TG eval SHCP waivers from BUMED	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00014462	PrivWithhold 07064	PrivWithhold 07065	9/14/2017	Email forward concerning Fiscal Year 2018 Call for Studies Proposals, Suspense: August 31: OPA Pre-Coordination	Deliberations regarding the implementation of the transgender policy		
DoD00014570	PrivWithhold 07066	PrivWithhold 07077	6/20/2017	Email chain regarding Request Mental Health recommendation on the Requirement of Real Life Experience prior to Genital Reconstructive Surgery for Transgender (TG) ADSMs	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00014607	PrivWithhold 07078	PrivWithhold 07081	10/26/2017	Electronic copy of file named TG SURG slides Benson(2).pptx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00014676	PrivWithhold 07082	PrivWithhold 07082	3/27/2017	Definitions for Medical Accessions.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00014701	PrivWithhold 07083	PrivWithhold 07084	1/9/2017	Decision Paper-TPR auths for Gender Dysphoria.docx re: medical care and transgender population	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00018155	PrivWithhold 07085	PrivWithhold 07086	6/24/2017	Draft Action Memo for the Secretary of Defense with the subject "Approval of Directive-type Memorandum (DTM) 17-0XX." Contains draft recommendation from A. M. Kurta, Performing the Duties of Under Secretary of Defense (Personnel and Readiness), to the Secretary of Defense as to whether to approve a DTM concerning transgender applicants into military service and reasons for that recommendation.	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00018159	PrivWithhold 07087	PrivWithhold 07088	6/1/2017	Email chain regarding TG info from ARmy (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00018178	PrivWithhold 07089	PrivWithhold 07093	8/18/2017	Deliberative email conversation on the DoD response to a media article on the Transgender policy	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00018196	PrivWithhold 07094	PrivWithhold 07094	Undated	Memorandum from the Deputy Secretary of Defense for the Secretary of Defense with the subject "Recommended Transgender Way Ahead." Contains highlighting and handwritten notes from Secretary Mattis. Labeled "Deliberative Pre-decisional." Provides recommendations from the Deputy Secretary of Defense to Secretary Mattis concerning accessions of transgender individuals and training.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy		

In Camera Review of 500 DPP Documents

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DoD00018207	PrivWithhold 07095	PrivWithhold 07097	6/26/2017	Email chain regarding TG Policy Input Venues (UNCLASSIFIED)	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00019130	PrivWithhold 07098	PrivWithhold 07098	3/14/2014	Draft talking paper on the Department's position on military service by Transgender personnel. Labeled "DRAFT WORKING PAPER NOT FOR RELEASE."	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00019291	PrivWithhold 07099	PrivWithhold 07105	7/23/2014	Email conversation regarding a tasker to response to a letter from American Military Partners Association on transgender issues	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00021533	PrivWithhold 07106	PrivWithhold 07108	6/29/2017	Email regarding transgender policy and delay of Carter policy implementation	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00021828	PrivWithhold 07109	PrivWithhold 07111	3/7/2017	Info Memo with the subject "Department of Defense 6130.03, "Medical Standards for Appointment, Enlistment, or Induction in the Military Services" Status Update and Way Forward." Contains deliberative discussions concerning transgender policy and DoD Instruction 6130.03 and recommendations for next steps.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00021885	PrivWithhold 07112	PrivWithhold 07116	2/28/2017	Draft Transgender Applicant Processing Policy v4 (Final 27 Feb 17)_Review.doc. Memorandum for commanders with the subject "Policy Memorandum 2-5, Transgender Applicant Processing." Contains comments and track changes for recommended edits. Labeled "Draft."	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00022094	PrivWithhold 07117	PrivWithhold 07120	2/10/2017	Email regarding UPR007515-16 Request for Waiver Approval to Include Sexual Orientation Interview Questions in DoD Study	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00022403	PrivWithhold 07121	PrivWithhold 07121	2/23/2017	Draft DoD responses to questions on the Transgender Policy	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00022551	PrivWithhold 07122	PrivWithhold 07123	7/28/2017	Memo titled "Readiness Impacts of Military Service by transgender Members." Contains recommendations from the Services.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00022589	PrivWithhold 07124	PrivWithhold 07128	7/31/2017	Email discussion concerning preparation of various topics including the transgender policy for P&R nominees	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00022633	PrivWithhold 07129	PrivWithhold 07129	8/10/2017	Document with file name "USD-PR Prep Paper Topics v2 (002).docx." Document is titled "P&R Nomination Prep Topics" and includes a list of possible topics to review in preparation for a Congressional hearing.	Deliberations regarding preparation for Congressional hearing.	N	Not predecisional
DoD00022650	PrivWithhold 07130	PrivWithhold 07130	6/19/2017	Document with file name "USD-PR Prep Paper Topics.docx." Document is titled "P&R Nomination Prep Topics" and includes a list of possible topics to review in preparation for a Congressional hearing.	Deliberations regarding preparation for Congressional hearing.	N	Not predecisional
DoD00022683	PrivWithhold 07131	PrivWithhold 07135	8/11/2017	Email discussion concerning preparation of various topics including the transgender policy for P&R nominees	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00026695	PrivWithhold 07136	PrivWithhold 07140	6/23/2017	P&R-Transgender Accessions_TC.docx - OGC Edits & Comments 6-23-17.docx	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00026888	PrivWithhold 07141	PrivWithhold 07142	8/30/2017	Email chain regarding Formal Coordination DRAFT Transgender Implementation Guidance for SD Signature Friday 1 Sep	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

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DoD00026913	PrivWithhold 07143	PrivWithhold 07144	8/28/2017	Email conversation regarding OGC coordination of draft transgender documents	Deliberations regarding the implementation of the transgender policy;	N	Not predecisional
DoD00027038	PrivWithhold 07145	PrivWithhold 07145	5/25/2017	Email concerning coordination of inputs for the transgender policy development	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00027090	PrivWithhold 07146	PrivWithhold 07155	3/2/2017	Email conversations regarding responses to media inquiries related to DoDEA's transgender student policies, including a request for assistance from OGC	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00027117	PrivWithhold 07156	PrivWithhold 07156	2/23/2017	Email conversation regarding the transgender policy implementation related to DoDEA's school policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00027131	PrivWithhold 07157	PrivWithhold 07162	2/23/2017	Email conversation regarding the transgender policy implementation related to DoDEA's school policy, includes legal opinion from OGC attorney	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00027178	PrivWithhold 07163	PrivWithhold 07197	1/13/2017	Document with the file name "QFRs-tasks 1.13.17 - P&R Assignment.doc." Contains anticipated questions from Senators and sections of DoD responsible for drafting proposed answers.	Deliberations regarding the implementation of the transgender policy;	N	Not predecisional
DoD00027281	PrivWithhold 07198	PrivWithhold 07199	8/31/2017	Email chain regarding Central coordination cell	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

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DoD00027643	PrivWithhold 07200	PrivWithhold 07255	7/14/2017	PowerPoint with file name "SIG Meeting transgender (14 JUL 17)_v6.pptx" and titled "Transgender Service Q&As; Transgender Senior Implementation Group Meeting – July 14, 2017." Labeled "Not for Distribution//Draft Deliberative Document." Contains questions and draft answers on such issues as recruiting, medical, deployment, assignments, uniforms. Contains input from Navy and questions from Army.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00028354	PrivWithhold 07256	PrivWithhold 07258	8/3/2017	Email chain regarding Gender dysphoria diagnoses	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00028397	PrivWithhold 07259	PrivWithhold 07259	8/2/2017	Email conversation regarding data on number of service members with GD and medical care	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00028507	PrivWithhold 07260	PrivWithhold 07264	7/26/2017	Email chain regarding Guidance needed for DDEAMC on transgender surgeries scheduled.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00029107	PrivWithhold 07265	PrivWithhold 07266	7/17/2017	Email FW: DoDI 6130.03 With Current transgender associated Stds	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

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DoD00029326	PrivWithhold 07267	PrivWithhold 07267	6/29/2017	Email regarding transgender questions from Service Chiefs and Personnel and Readiness	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00029339	PrivWithhold 07268	PrivWithhold 07319	1/26/2017	Doc draft of DODI 6130.03 - FC.DOCX	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00029368	PrivWithhold 07320	PrivWithhold 07331	6/28/2017	Email conversation regarding transgender medical issues across the DoD.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00029516	PrivWithhold 07332	PrivWithhold 07334	6/19/2017	Email regarding Air Force hormone standard / DADT	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

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DoD00034012	PrivWithhold 07335	PrivWithhold 07339	8/1/2017	Email fom attorneys re: TG Service and unit readiness issues with attachments	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; reflects deliberations regarding draft memorandum on these subjects	N	Not predecisional
DoD00034798	PrivWithhold 07340	PrivWithhold 07340	8/15/2017	Draft version of a statement for the Sec Def on Military Service by Transgender Individuals.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00034857	PrivWithhold 07341	PrivWithhold 07341	8/14/2017	Draft document titled "STATEMENT OF THE SECRETARY OF DEFENSE ON MILITARY SERVICE BY TRANSGENDER INDIVIDUALS." Labeled "DRAFT."	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00035140	PrivWithhold 07342	PrivWithhold 07346	6/26/2017	Draft Info Memo from General Robert B. Neller, Commandant of the Marine Corps, to the Secretary of Defense with the subject "Continued Marine Corps Concerns Relating to Implementation of Policy Accessing Transgender Applicants into Military Service." Contains the Marine Corps' recommendation on the timing of accessions of transgender individuals and rationale for that recommendation. Prepared by Dr. Michael Strobl, Director, MPP, M&RA.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

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DoD00036181	PrivWithhold 07347	PrivWithhold 07396	7/10/2017	Joint Chiefs of Staff document titled "Transgender Smartbook." Talking points were created to prepare the Vice Chairman of the Joint Chiefs of Staff and the Deputy Secretary of Defense to lead discussions with Service Secretaries and Chiefs on transgender service and accessions implementation.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00036806	PrivWithhold 07397	PrivWithhold 07398	6/7/2017	Papers from AF Allegedly Showing TG comorbidities return after 3_edit.docx	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00038938	PrivWithhold 07399	PrivWithhold 07400	4/24/2017	Draft memorandum from the Office of the Assistant Secretary of Defense with the subject "Accommodations Concerning Students in Department of Defense Education Activity Schools and Youth Programs." Contains proposed edits in track changes.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy;	N	Not predecisional
DoD00039156	PrivWithhold 07401	PrivWithhold 07401	8/22/2017	Doc of SecDef Statement on transgender.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00044897	PrivWithhold 07402	PrivWithhold 07409	10/19/2016	Document with file name "AMSWG_Draft Minutes_18 Oct 2016.docx." Contains draft meeting minutes of Accession Medical Standards Working Group (AMSWG) from October 18, 2016. Contains recommended changes to various medical standards.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00045015	PrivWithhold 07410	PrivWithhold 07411	1/9/2017	Email regarding edited DoDI 6130.03 Jan 9 2017	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00045034	PrivWithhold 07412	PrivWithhold 07414	7/20/2017	Email FW: Completed Pre-coordination for DoDI 6130.03, "Medical Standards for Appointment, Enlistment, or Induction in the Military Services"	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00045048	PrivWithhold 07415	PrivWithhold 07471	1/5/2017	Draft edited DoDI 6130.03_adjudication gwb USCG navy-USMC AF edits 5 Jan 17.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00045098	PrivWithhold 07472	PrivWithhold 07474	4/19/2017	Email chain regarding January AMSWG Minutes	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00045347	PrivWithhold 07475	PrivWithhold 07479	4/25/2017	Email regarding Joint SCCC meeting - Thurs, 20 April 17. Rm 4E1019, 0830-1000	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00052017	PrivWithhold 07480	PrivWithhold 07481	5/12/2017	Email request for informal views from Comp and OEPM (both from P&R)	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00052105	PrivWithhold 07482	PrivWithhold 07483	1/17/2017	E-mail of 17 January 2017 regarding DRAFT Charter - Task Force on Transgender Military Dependents	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00052188	PrivWithhold 07484	PrivWithhold 07484	6/20/2017	Email conversation regarding number of transgender service members	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00052231	PrivWithhold 07485	PrivWithhold 07488	1/23/2017	Deliberative email conversation regarding responses to inquiries from media outlets seeking information on Transgender military service members.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00052233	PrivWithhold 07489	PrivWithhold 07492	2/9/2017	Email regarding OSD Legislative Affairs Update - 7 Feb 17	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00052371	PrivWithhold 07493	PrivWithhold 07500	4/12/2017	Document re LGBT issue and the military with_Analysis.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00052386	PrivWithhold 07501	PrivWithhold 07501	6/20/2017	E-mail of 6/20/2017 regarding Transgender medical care	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00067859	PrivWithhold 07502	PrivWithhold 07507	6/30/2016	Doc of Draft TG Remarks Outline Draft for Carter TG policy 8.0.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy		
DoD00068011	PrivWithhold 07508	PrivWithhold 07508	8/1/2017	Draft doc re: transgender Service Members and Unit Readiness 31 July 17 - DJG e.docx	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

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DoD00068014	PrivWithhold 07509	PrivWithhold 07515	2/23/2017	Email chain regarding FOR CLEARANCE - Transgender DoDEA Students - Military Times/CNN	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00068124	PrivWithhold 07516	PrivWithhold 07516	8/1/2017	Doc re: transgender Service Members and Unit Readiness 31 July 17 - DJG final.docx	Deliberations regarding the implementation of the transgender policy;	N	Not predecisional
DoD00083413	PrivWithhold 07517	PrivWithhold 07517	7/26/2017	EMail re: FW_ Transgender tweets by POTUS .msg	Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00083505	PrivWithhold 07518	PrivWithhold 07530	7/5/2017	PowerPoint titled Deputy Secretary of Defense In-Brief (Working). Shows priorities of the Secretary of Defense and the Deputy Secretary of Defense.	Deliberations concerning priorities of senior DoD officials	N	Not predecisional
DoD00083826	PrivWithhold 07531	PrivWithhold 07537	8/28/2017	Proposed talking points for public affairs regarding transgender policy (and other recent events).	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00083994	PrivWithhold 07538	PrivWithhold 07538	7/27/2017	Email regarding a DRAFT statement on TG .msg	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00084038	PrivWithhold 07539	PrivWithhold 07540	7/8/2017	Email discussion of read ahead materials including transgender updates for SECDEF	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00084092	PrivWithhold 07541	PrivWithhold 07541	6/27/2017	Email conversation between DoD personnel regarding meetings on lethality	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00084616	PrivWithhold 07542	PrivWithhold 07544	7/6/2017	Draft talking points and responses to questions from Congress on the Transgender Policy	Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00084739	PrivWithhold 07545	PrivWithhold 07545	2/24/2017	Email to Dep SECDEF re: rescission of policy re: TG policies related to schools and its effect on DODEA schools	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00087929	PrivWithhold 07546	PrivWithhold 07548	1/24/2018	Email concerning upcoming meetings including a meeting on the transgender.	Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00090527	PrivWithhold 07549	PrivWithhold 07551	11/15/2017	Email between DoD personnel discussing media items related to TG including sex reassignment surgery and accessions standards	Deliberations regarding the implementation of the transgender policy		
DoD00092655	PrivWithhold 07552	PrivWithhold 07560	9/27/2015	Deliberative presentation from DHA on several lines of effort within the DoD medical community including the Transgender Policy. Contains goals and deliverables among many lines of effort. Contains "initial thoughts" of DoD on various issues.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy		
DoD00093836	PrivWithhold 07561	PrivWithhold 07562	8/30/2017	Email RE_ Formal Coordination DRAFT Transgender Implementation Guidance for SD Signature Friday 1 Sep (UNCLASSIFIED).msg	Deliberations regarding the rescission of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00095186	PrivWithhold 07563	PrivWithhold 07566	8/7/2017	Email conversation regarding transgender in the workforce nad TITLE VII	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00095231	PrivWithhold 07567	PrivWithhold 07570	8/5/2017	Email conversation regarding transgender in the workforce	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00095320	PrivWithhold 07571	PrivWithhold 07572	8/3/2017	Email conversation on POTUS memo on transgender policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00097078	PrivWithhold 07573	PrivWithhold 07573	6/25/2017	Email conversation regarding the contents of a draft memorandum on transgender issues for the Secretary of Defense.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00097086	PrivWithhold 07574	PrivWithhold 07584	6/27/2016	Document with questions re: Transgender Hard Q & A for new Carter TG policy Rollout	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy		

In Camera Review of 500 DPP Documents

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DoD00097110	PrivWithhold 07585	PrivWithhold 07585	6/24/2017	Email conversation regarding transgender medical question and deployability	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00097361	PrivWithhold 07586	PrivWithhold 07590	6/14/2017	Email conversation regarding Morning News of Note. Contains deliberations on response to Congressional inquiry and press.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00099005	PrivWithhold 07591	PrivWithhold 07592	4/27/2017	Memorandum from the Deputy Secretary of Defense for the Secretary of Defense with the subject "Accession of Transgender Service Members." Contains recommendations from the Services on accessions and contains handwritten notes from the Deputy Secretary of Defense concerning his recommendation.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00101527	PrivWithhold 07593	PrivWithhold 07615	2/1/2017	Doc Draft of SECDEF speech.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00102412	PrivWithhold 07616	PrivWithhold 07639	12/5/2016	Draft Memorandum for Record on the Department's progress on several area initiatives, including military personnel	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00103486	PrivWithhold 07640	PrivWithhold 07640	9/21/2016	List of deliberative transition papers that various DoD elements were working on developing, including a paper on the DoD Transgender policy.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00103842	PrivWithhold 07641	PrivWithhold 07643	11/2/2016	Deliberative email discussion between DoD personnel regarding media coverage of the Transgender Policy development	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00108913	PrivWithhold 07644	PrivWithhold 07649	7/11/2016	RE_ Clearance of _DTM Military Service of Transgender Service Members_ (DOPSR Case 16-D-0107).msg	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00109024	PrivWithhold 07650	PrivWithhold 07654	7/8/2016	Deliberative email conversation between DoD personnel regarding the development of responses to Secretary of Defense questions and answers	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00109587	PrivWithhold 07655	PrivWithhold 07655	6/30/2016	Deliberative email regarding the staffing of several discussion papers as they are moving through the staffing process.	Deliberations regarding the implementation of the transgender policy		
DoD00109897	PrivWithhold 07656	PrivWithhold 07656	6/29/2016	FW_ Final DoDI.msg	Deliberations regarding the implementation of the transgender policy		
DoD00109918	PrivWithhold 07657	PrivWithhold 07662	6/29/2016	Doc of TG Remarks Outline Draft docx to announce Carter policy	Deliberations regarding the implementation of the transgender policy		
DoD00110030	PrivWithhold 07663	PrivWithhold 07667	6/28/2016	Doc of TG Remarks Outline Draft docx to announce Carter policy	Deliberations regarding the implementation of the transgender policy		
DoD00110070	PrivWithhold 07668	PrivWithhold 07669	6/28/2016	Draft document with questions from SECDEF Carter with draft answers regarding transgender policy.	Deliberations regarding the formulation of the transgender policy		

In Camera Review of 500 DPP Documents

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DoD00110081	PrivWithhold 07670	PrivWithhold 07675	6/28/2016	Doc of TG Remarks Outline Draft docx to announce Carter policy	Deliberations regarding the implementation of the transgender policy		
DoD00110604	PrivWithhold 07676	PrivWithhold 07676	6/22/2016	RE: DSD's call with HHS DepSec Wakefield	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy		
DoD00110725	PrivWithhold 07677	PrivWithhold 07679	6/21/2016	Email discussion of transgender media coverage and rollout.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy		
DoD00111484	PrivWithhold 07680	PrivWithhold 07681	6/5/2016	Email Re_ DRAFT SD FoTF Implementation Memo .msg	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy		
DoD00111596	PrivWithhold 07682	PrivWithhold 07683	6/3/2016	Deliberative talking about regarding the rollout of the Transgender Policy across the Department	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy		
DoD00112485	PrivWithhold 07684	PrivWithhold 07687	5/15/2016	Email with subject line "Re_ Rand Study_NYT." Contains deliberations concerning how to respond to press.	Deliberations regarding communications with the press concerning transgender policy		
DoD00112580	PrivWithhold 07688	PrivWithhold 07690	5/12/2016	RE_ Medical questions re_ TG .msg	Deliberations regarding the formulation of the transgender policy		

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00112622	PrivWithhold 07691	PrivWithhold 07695	5/12/2016	Doc of UPDATE MEMO 5.13_bf edits.docx	Deliberations regarding the formulation of the transgender policy		
DoD00116993	PrivWithhold 07696	PrivWithhold 07698	1/17/2017	Circulating draft document containing material relevant to transgender policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00116997	PrivWithhold 07699	PrivWithhold 07700	1/13/2017	Email conversation regarding DepSecDef attendance at a transgender policy briefing	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00117019	PrivWithhold 07701	PrivWithhold 07719	12/7/2016	Document containing memo written at end of Obama administration discussing accomplishments of administration including transgender policy.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00117233	PrivWithhold 07720	PrivWithhold 07723	12/13/2016	Email regarding a READ-AHEAD: Transgender Update for the Deputy Secretary of Defense	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

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DoD00117235	PrivWithhold 07724	PrivWithhold 07724	12/13/2016	DepSecDef Talking Points - Transgender implementation plan.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00117409	PrivWithhold 07725	PrivWithhold 07775	8/17/2016	Draft transgender policy guidance Handbook of Carter policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00117435	PrivWithhold 07776	PrivWithhold 07776	7/21/2016	Deliberative email between DoD personnel discussing TG Training Materials	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00117446	PrivWithhold 07777	PrivWithhold 07779	11/3/2016	Email between DoD personnel discussing transgender medical issue.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00117461	PrivWithhold 07780	PrivWithhold 07784	10/25/2016	Discussions between attorneys and senior policymakers regarding impacts of transgender policy in DoD schools and unique overseas environments	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

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DoD00117552	PrivWithhold 07785	PrivWithhold 07786	7/25/2016	Deliberative email between DoD personnel regarding weekly TG Q&A Roll-Up.msg	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00117750	PrivWithhold 07787	PrivWithhold 07787	9/23/2016	Email between DoD personnel discussing edits to a transgender policy talking paper	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00117795	PrivWithhold 07788	PrivWithhold 07788	8/23/2016	Deliberative email conversation regarding exceptions to policy templates to the transgender policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00117840	PrivWithhold 07789	PrivWithhold 07789	10/14/2016	Email re: Deliberative email conversation between DoD personnel regarding Draft TG Training policy with service inputs	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00117876	PrivWithhold 07790	PrivWithhold 07793	8/5/2016	EMail RE: TG Accession Guidance to recruiting.msg	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00117939	PrivWithhold 07794	PrivWithhold 07796	10/20/2016	Document titled Air Force Transgender In-Service Education and Training Plan. Contains plans for training on the transgender policy.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

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DoD00118092	PrivWithhold 07797	PrivWithhold 07868	9/29/2016	Draft copy of handbook titled "Transgender Service in the U.S. Military: An Implementation Handbook." Labeled "Version 26" and "Not for Distribution // Draft Deliberative Document." Contains draft deliberations concerning how commanders can implement DoD's policy.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00118103	PrivWithhold 07869	PrivWithhold 07940	9/27/2016	Draft copy of transgender handbook for commanders. Labeled "Draft Deliberative Document." Version 25 of the draft. Contains draft deliberations concerning how commanders can implement DoD's policy.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00118162	PrivWithhold 07941	PrivWithhold 07944	9/20/2016	EMail re: DoDI 1300.28 Query for Future Efforts on Researching Warfighter Readiness (UNCLASSIFIED).msg	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00118203	PrivWithhold 07945	PrivWithhold 07946	8/4/2016	Email re: Transgender Ques Bank UPR002216-16.msg	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00118902	PrivWithhold 07947	PrivWithhold 07948	1/17/2018	Doc of AMSWG_ADHD_AnxietyBackground_PC.docx information	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00118963	PrivWithhold 07949	PrivWithhold 08009	11/30/2015	DoDI 6130.03_Draft 2015.12.9.2015 tracked changes.docx	Deliberations regarding the implementation of the transgender policy		
DoD00119177	PrivWithhold 08010	PrivWithhold 08013	5/15/2017	Email between DoD personnel discussing changes to DoD transgender medical policy and possible rereview of the policy	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

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DoD00119437	PrivW thhold 08014	PrivW thhold 08016	3/7/2017	Info Memo with the subject "Department of Defense 6130.03, "Medical Standards for Appointment, Enlistment, or Induction in the Military Services" Status Update and Way Forward." Contains deliberative discussions concerning transgender policy and DoD Instruction 6130.03 and recommendations for next steps.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00119457	PrivW thhold 08017	PrivW thhold 08018	2/24/2017	Document discussing background on the DoDI 6130.03 and includes recommended next steps.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00119530	PrivW thhold 08019	PrivW thhold 08024	1/19/2017	Email between DoD personnel discussing the Accession Medical Standards Working Group meeting and review process.	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00119605	PrivW thhold 08025	PrivW thhold 08026	12/19/2016	Email between DoD personnel discussing issuances spreadsheet.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00119856	PrivW thhold 08027	PrivW thhold 08040	2/23/2017	DoDI 6130.03 Army Final SD 818.docx	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00120101	PrivW thhold 08041	PrivW thhold 08053	2/24/2017	Deliberative discussions concerning transgender policy and DoD Instruction 6130.03	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

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DoD00120186	PrivWithhold 08054	PrivWithhold 08054	4/19/2017	Deliberative discussions re: transgender medical policy and stability in preferred gender and reqts of medical provider	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00120662	PrivWithhold 08055	PrivWithhold 08058	3/26/2018	Deliberations regarding implementation of transgender accessions policy and coordination of new policy	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00120855	PrivWithhold 08059	PrivWithhold 08077	10/31/2014	Slides showing efforts of Informatics office including transgender.	Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00121158	PrivWithhold 08078	PrivWithhold 08078	4/14/2014	Excel file titled "MHS Issuances & Publications Dashboard - JANUARY 2017 (results of DECEMBER 2016 data call)." Contains deliberations regarding timelines for transgender policy and other regulatory changes.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00121436	PrivWithhold 08079	PrivWithhold 08131	7/10/2017	Draft DODI 6130.03 titled "MEDICAL STANDARDS FOR APPOINTMENT, ENLISTMENT, OR INDUCTION IN THE MILITARY SERVICES." Contains track changes with recommended edits.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00121505	PrivWithhold 08132	PrivWithhold 08132	4/11/2017	Email between DoD personnel answering a transgender legal research question.	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00121530	PrivWithhold 08133	PrivWithhold 08135	3/30/2017	Discussion between agency personnel discussing leadership feedback on proposed transgender policy implementation	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00121552	PrivWithhold 08136	PrivWithhold 08137	2/24/2017	Deliberative discussions concerning transgender policy and DoD Instruction 6130.03	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

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DoD00121596	PrivWithhold 08138	PrivWithhold 08191	9/19/2016	Doc of TAB A_DoDI 6130.03_2016.9.19.doc	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00121617	PrivWithhold 08192	PrivWithhold 08244	8/22/2016	Doc of TAB A_DoDI 6130.03_2016.8.1_HRPO comments.doc	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00121624	PrivWithhold 08245	PrivWithhold 08245	4/14/2014	Excel file titled "MHS Issuances & Publications Dashboard - Results of AUGUST 2016 Data Call." Contains deliberations regarding timelines for transgender policy and other regulatory changes.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00121637	PrivWithhold 08246	PrivWithhold 08247	8/1/2016	Email RE: Internal Coordination Package for DoDI 6130.03.msg	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00121655	PrivWithhold 08248	PrivWithhold 08258	7/18/2016	Document containing issuance comments for Guidance for Treatment of Gender Dysphoria for Active Duty Service Members.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00122253	PrivWithhold 08259	PrivWithhold 08259	3/15/2018	Doc of Medical waiver request for a specific service member.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00122456	PrivWithhold 08260	PrivWithhold 08260	2/22/2018	E-mail between DoD personnel regarding study in light of current transgender policy announcements.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

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DoD00122772	PrivWithhold 08261	PrivWithhold 08261	1/19/2018	Email between DoD personnel discussing medical research on transgender policy.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00122773	PrivWithhold 08262	PrivWithhold 08265	1/19/2018	Document containing analysis of research material.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00123121	PrivWithhold 08266	PrivWithhold 08266	11/29/2017	email re: clinical experience treating transgender individuals in the Army	Deliberations regarding the formulation of the transgender policy; email conversation regarding deployability based on hormone therapy during transition		
DoD00123249	PrivWithhold 08267	PrivWithhold 08275	11/20/2017	Email with subject "Re: Update on my UPR004797-17: Request Approval to Include Sexual Orientation Question on Survey." Email chain was between DoD personnel regarding the questions to ask on a survey.	Deliberations regarding the formulation of the transgender policy		
DoD00123272	PrivWithhold 08276	PrivWithhold 08277	11/17/2017	email regarding the DoD response to the media at an event at Walter Reed that involved a gender transition surgery.	Deliberations regarding the implementation of the transgender policy		

In Camera Review of 500 DPP Documents

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DoD00124469	PrivWithhold 08278	PrivWithhold 08280	9/5/2017	email regarding memo to DHA regarding current transgender policies and surgical care.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00124517	PrivWithhold 08281	PrivWithhold 08332	7/28/2017	Deliberative discussions concerning transgender policy and DoD Instruction 6130.03	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00124536	PrivWithhold 08333	PrivWithhold 08335	8/25/2017	Email between DoD personnel discussing transgender media query.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00124558	PrivWithhold 08336	PrivWithhold 08336	8/18/2017	Email between DoD personnel discussing briefing of TG policy to new Dept senior leaders	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00124624	PrivWithhold 08337	PrivWithhold 08339	8/9/2017	Deliberative email conversation between DoD personnel regarding a question on a gender dysphoria diagnosis	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00124688	PrivWithhold 08340	PrivWithhold 08340	8/2/2017	internal deliberations on the DoD interim transgender policy guidelines	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00124747	PrivWithhold 08341	PrivWithhold 08341	7/27/2017	Email re: Deliberative discussions concerning transgender policy and impact of POTUS tweet	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00124898	PrivWithhold 08342	PrivWithhold 08344	7/11/2017	Email between DoD personnel providing medical input to transgender accessions policy discussions.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00124924	PrivWithhold 08345	PrivWithhold 08357	7/12/2017	Draft slides: Defense Healthcare Management Systems Senior Military Medical Action Council. Labeled "FOIA Exemption 5 (Pre-decisional/deliberative)."	Deliberations regarding Defense Healthcare Management Systems priorities	N	Not predecisional
DoD00124925	PrivWithhold 08358	PrivWithhold 08360	7/8/2017	Email between DoD personnel involving updates to transgender policy slides to update new senior officials on TG policy	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00124935	PrivWithhold 08361	PrivWithhold 08361	7/6/2017	Email between DoD personnel discussing revisions to document.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00125043	PrivWithhold 08362	PrivWithhold 08414	4/19/2017	Draft and undated red-line version of DoD Instruction 6130.03 which includes comments in the margins	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00125208	PrivWithhold 08415	PrivWithhold 08415	6/8/2017	Draft slides, draft info paper, and discussion.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00125250	PrivWithhold 08416	PrivWithhold 08416	6/7/2017	Email between DoD personnel discussing transgender medical studies.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00125271	PrivWithhold 08417	PrivWithhold 08417	6/2/2017	Email summary of the ongoing efforts to develop different policies, including accession medical standards involving transgender service members	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00125304	PrivWithhold 08418	PrivWithhold 08421	5/26/2017	Email chain regarding policy issues relating to surgical and medical treatment of transgender individuals	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00125306	PrivWithhold 08422	PrivWithhold 08424	5/26/2017	Email chain regarding policy issues relating to treatment of transgender individuals	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00125349	PrivWithhold 08425	PrivWithhold 08425	5/19/2017	Email chain regarding policy issues surrounding treatment of non-service member transgender individuals	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00125409	PrivWithhold 08426	PrivWithhold 08427	5/3/2017	Email chain discussing developments in policies regarding service of transgender individuals	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00125595	PrivWithhold 08428	PrivWithhold 08430	3/7/2017	Info Memo with the subject "Department of Defense 6130.03, "Medical Standards for Appointment, Enlistment, or Induction in the Military Services" Status Update and Way Forward." Contains deliberative discussions concerning transgender policy and DoD Instruction 6130.03 and recommendations for next steps.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00125599	PrivWithhold 08431	PrivWithhold 08440	3/4/2017	Document containing a list of questions from congress including transgender questions.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00125606	PrivWithhold 08441	PrivWithhold 08442	3/3/2017	Email conversation regarding number of transgender service members on active duty.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00125685	PrivWithhold 08443	PrivWithhold 08446	2/15/2017	Meeting notes from the Policy Advisory Council with Tg discussion	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00125784	PrivWithhold 08447	PrivWithhold 08447	10/16/2013	Materials relating to Medical Deputies Action Group meeting.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00125788	PrivWithhold 08448	PrivWithhold 08450	1/25/2017	Email re: DHS memo on guidance of medical care and TG active duty service members	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00125936	PrivWithhold 08451	PrivWithhold 08455	12/9/2016	Draft document containing overview of policy efforts including transgender.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00125981	PrivWithhold 08456	PrivWithhold 08459	12/6/2016	Email between DoD personnel circulating and discussing transgender info paper on GD and Active duty service members	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00126369	PrivWithhold 08460	PrivWithhold 08462	9/30/2016	Email between DoD personnel discussing roles and responsibilities for transgender policy.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00126475	PrivWithhold 08463	PrivWithhold 08466	9/23/2016	Email between DoD personnel following up on discussion from meeting.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00126546	PrivWithhold 08467	PrivWithhold 08467	9/19/2016	Email between DoD personnel discussing language for briefing bullets.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00126607	PrivWithhold 08468	PrivWithhold 08473	9/14/2016	Email between DoD personnel discussing media inquiry about particular transgender service member.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00126671	PrivWithhold 08474	PrivWithhold 08477	9/6/2016	Email between DoD discussing data gathering for presentation slides.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00126833	PrivWithhold 08478	PrivWithhold 08481	8/15/2016	Email between DoD personnel discussing speaker for event.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00126988	PrivWithhold 08482	PrivWithhold 08484	3/13/2018	Email between DoD personnel providing information for transgender study proposal.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00127480	PrivWithhold 08485	PrivWithhold 08490	11/20/2017	Email between DoD personnel regarding transgender survey.	Deliberations regarding the formulation of the transgender policy		

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00128121	PrivWithhold 08491	PrivWithhold 08492	9/20/2017	Email between DoD personnel circulating and discussing confirmation prep materials including transgender materials.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy		
DoD00128205	PrivWithhold 08493	PrivWithhold 08499	9/13/2017	Email chain discussing development of policy information concerning transgender service members	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00128207	PrivWithhold 08500	PrivWithhold 08502	9/12/2017	Email chain discussing formulation of the interim guidance on TG policy with talkingpoints and Q and A.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00128253	PrivWithhold 08503	PrivWithhold 08503	9/8/2017	Email concerning draft guidance for treatment of transgender service members	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00128308	PrivWithhold 08504	PrivWithhold 08504	8/31/2017	Email chain regarding interim guidance for treatment of transgender service members during policy rereview	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00128310	PrivWithhold 08505	PrivWithhold 08506	8/31/2017	Email chain regarding interim guidance for treatment of transgender service members	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00128463	PrivWithhold 08507	PrivWithhold 08509	8/9/2017	Email chain regarding the formulation of transgender policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00128526	PrivWithhold 08510	PrivWithhold 08512	8/3/2017	Email re: Deliberations on interim transgender policy and waivers for TG related surgical procedures and evaluations	Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00128579	PrivWithhold 08513	PrivWithhold 08513	7/26/2017	Document titled: Service Member Transgender Health Care	Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00128586	PrivWithhold 08514	PrivWithhold 08514	7/26/2017	Talking paper on Service Member Transgender Health Care	Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00128620	PrivWithhold 08515	PrivWithhold 08516	7/26/2017	Email between DoD personnel formulating response to POTUS tweet.	Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00128705	PrivWithhold 08517	PrivWithhold 08518	7/19/2017	Email between DoD personnel gathering data for the House Armed Services Committee.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00128723	PrivWithhold 08519	PrivWithhold 08522	7/17/2017	Email between DoD personnel circulating cost information relating to transgender treatment.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00128787	PrivWithhold 08523	PrivWithhold 08523	7/7/2017	Email between DoD personnel involving slides for Transgender Senior Implementation Group Meeting.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00128886	PrivWithhold 08524	PrivWithhold 08524	6/26/2017	Configuration and meeting frequency and attendee lists of working groups on TG medical issues; discussions thereof.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00128926	PrivWithhold 08525	PrivWithhold 08533	11/25/2016	Slides titled: Information Brief Transgender Care	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00128951	PrivWithhold 08534	PrivWithhold 08535	6/19/2017	Discussion re M31 of the AF Medical Standards Directory revisions and related talking points.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00128968	PrivWithhold 08536	PrivWithhold 08537	6/12/2017	Email between DoD personnel circulating notes from Health Affairs staff meeting discussing transgender status implementation	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00129033	PrivWithhold 08538	PrivWithhold 08542	5/26/2017	Email chain addressing policy development concerning transgender care of service member dependents	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00129056	PrivWithhold 08543	PrivWithhold 08544	5/19/2017	Slides providing oversight to HSPO office structure and functions.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00129060	PrivWithhold 08545	PrivWithhold 08586	10/31/2014	Slides for DoD health symposium including transgender.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00129070	PrivWithhold 08587	PrivWithhold 08587	5/19/2017	Email chain discussing policy developments being tracked by DHH's Health Services Policy and Oversight, including accession policies for transgender individuals	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00129161	PrivWithhold 08588	PrivWithhold 08594	4/10/2017	Email chain regarding the development of accession policies for transgender individuals	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00129191	PrivWithhold 08595	PrivWithhold 08596	3/24/2017	Email between DoD personnel circulating talking points including transgender talking points.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00129237	PrivWithhold 08597	PrivWithhold 08599	3/7/2017	Draft Info Memo with the subject "Department of Defense 6130.03, "Medical Standards for Appointment, Enlistment, or Induction in the Military Services" Status Update and Way Forward." Contains deliberative discussions concerning transgender policy and DoD Instruction 6130.03 and recommendations for next steps. Contains track changes with recommended edits from Terry Adirim, DHA.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00129260	PrivWithhold 08600	PrivWithhold 08601	3/3/2017	Email between DoD personnel discussing potential DoDI edits.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00129472	PrivWithhold 08602	PrivWithhold 08606	12/31/2016	Email between DoD personnel circulating and discussing transgender info paper and specific medical procedures	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00129590	PrivWithhold 08607	PrivWithhold 08615	12/7/2016	Slides titled: Information Brief Transgender Care. Contains proposed next steps on implementing transgender policy.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00129611	PrivWithhold 08616	PrivWithhold 08617	11/25/2016	Slides titled: Information Brief Transgender Care related to TG medical issues and data re: gender dysphoria	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00129632	PrivWithhold 08618	PrivWithhold 08618	11/22/2016	Email between DoD personnel discussing transgender medical data and active duty service members under Carter policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00129633	PrivWithhold 08619	PrivWithhold 08627	9/8/2016	Slides titled: TRANSGENDER SERVICE POLICY Implementation Update	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00129805	PrivWithhold 08628	PrivWithhold 08630	10/15/2016	Email between DoD personnel clarifying an aspect of transgender medical policy.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00129830	PrivWithhold 08631	PrivWithhold 08633	10/4/2016	Email between DoD personnel regarding transgender media item.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00129839	PrivWithhold 08634	PrivWithhold 08634	9/30/2016	Email between DoD personnel discussing roles and responsibilities for transgender policy.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00130030	PrivWithhold 08635	PrivWithhold 08635	9/7/2016	Slides titled: Information Brief Transgender Care	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00130042	PrivWithhold 08636	PrivWithhold 08637	9/6/2016	Email between DoD discussing gathering of data for presentation slides.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00130057	PrivWithhold 08638	PrivWithhold 08639	8/31/2016	Email between DoD personnel discussing transgender data and requests for exceptions to policy re transgender medical issues	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00130080	PrivWithhold 08640	PrivWithhold 08640	8/22/2016	Email between DoD personnel discussing reference materials re: medical guidance for gender dysphoria	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00130101	PrivWithhold 08641	PrivWithhold 08642	8/16/2016	Email between DoD personnel discussing transgender policy status of implementation guidance of Carter policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00130207	PrivWithhold 08643	PrivWithhold 08643	3/22/2018	Email between DoD personnel circulating transgender talking points.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00130950	PrivWithhold 08644	PrivWithhold 08645	3/9/2018	Email between DoD personnel discussing accessions process and specific transgender applicant.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00137262	PrivWithhold 08646	PrivWithhold 08646	3/7/2018	Document containing draft policy Q and A including transgender policy questions	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00137481	PrivWithhold 08647	PrivWithhold 08647	2/15/2018	Email between DoD personnel discussing transgender medical policy follow-up to meeting.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00137908	PrivWithhold 08648	PrivWithhold 08648	4/25/2018	Email between DoD personnel discussing specific transgender applicants.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00138140	PrivWithhold 08649	PrivWithhold 08657	9/8/2016	Draft PowerPoint presentation on the implementation of the DoD policy on military service by transgender individuals	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00138203	PrivWithhold 08658	PrivWithhold 08669	9/16/2016	Email between DoD personnel discussing media inquiry about particular transgender service member.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00138452	PrivWithhold 08670	PrivWithhold 08671	6/24/2016	Email between DoD personnel discussing medical requirements for various medical issues.	Deliberations regarding the implementation of the transgender policy		
DoD00139564	PrivWithhold 08672	PrivWithhold 08673	12/20/2017	Slides titled: Recruiter Preliminary Screening Process	Deliberations regarding medical screening process		
DoD00139865	PrivWithhold 08674	PrivWithhold 08675	3/14/2018	Email between DoD personnel regarding posting of transgender policy documents online.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00139907	PrivWithhold 08676	PrivWithhold 08678	2/26/2018	Email between DoD personnel circulating information relating to Transgender Care IPT meeting.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00139913	PrivWithhold 08679	PrivWithhold 08680	2/26/2018	Email between DoD personnel regarding IPT meeting and transgender updates	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00140271	PrivWithhold 08681	PrivWithhold 08681	3/16/2018	Email between DoD personnel regarding specific waver requests.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00142589	PrivWithhold 08682	PrivWithhold 08684	3/9/2018	Email between DoD personnel regarding accessions.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00142595	PrivWithhold 08685	PrivWithhold 08688	3/7/2018	Email between DoD personnel providing answers to transgender policy question.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00142871	PrivWithhold 08689	PrivWithhold 08718	2/12/2018	Email between DoD personnel regarding transgender survey.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00143482	PrivWithhold 08719	PrivWithhold 08720	3/30/2016	Email re: updating Hill on status of Carter Policy review	Deliberative email between DoD personnel regarding RAND report and congressional outreach.		
DoD00143491	PrivWithhold 08721	PrivWithhold 08723	4/4/2016	Deliberative email conversation between DoD personnel regarding the proper response to a NYT editorial on the Transgender Policy.	Deliberative email between DoD personnel regarding publication of NYTimes editorial on transgender service members.		

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00144734	PrivWithhold 08724	PrivWithhold 08726	8/9/2017	Email Re: TG "Holding" Letter on Tg policy rereview	Deliberative email between DoD personnel regarding DoD transgender policy meeting.	N	Not predecisional
DoD00144855	PrivWithhold 08727	PrivWithhold 08728	7/6/2017	FW: Gender Change for Retiree, Dependent, Contractor (UNCLASSIFIED).msg	Deliberative email between DoD personnel regarding DoD transgender dependent medical policy.	N	Not predecisional
DoD00144928	PrivWithhold 08729	PrivWithhold 08731	6/26/2017	Deliberative email conversation between DoD personnel regarding development of the transgender policy and specifics on implementation	Deliberative email between DoD personnel regarding DoD transgender medical policy meeting.	N	Not predecisional
DoD00144936	PrivWithhold 08732	PrivWithhold 08733	6/24/2017	Deliberative email conversation regarding the Transgender policy rollout	Deliberative email between DoD personnel regarding DoD transgender medical policy.	N	Not predecisional
DoD00145040	PrivWithhold 08734	PrivWithhold 08738	2/17/2017	Email RE_ Assistance Requested of MTP and SCCC (33.4 KB).msg	Deliberative email between DoD personnel regarding DoD transgender medical policy.	N	Not predecisional
USCG 00007621	PrivWithhold 08739	PrivWithhold 08741	8/18/2015	This is a Department of Defense generated document titled "TRANSGENDER SERVICE REVIEW WORKING GROUP OUTLINE" that is labeled "Draft Deliberative." The document contains deliberative materials relating to the formulation and implementation of transgender policy.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy		

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
USCG 00007707	PrivWithhold 08742	PrivWithhold 08813	9/23/2016	Draft DoD document titled "Transgender Service in the US Military: An Implementation Handbook." Contains draft deliberations concerning how commanders can implement DoD's policy.	This document is titled "Transgender Service in the US Military: An Implementation Handbook." It was generated by the Department of Defense, and it is labeled "Not for Distribution/Draft Deliberative Document." It contains deliberative material regarding the formulation and implementation of transgender policy.	N	Not predecisional

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RYAN KARNOSKI, et al.,

Plaintiffs,

v.

DONALD J TRUMP, et al.,

Defendants.

CASE NO. C17-1297 MJP

ORDER RE: JULY 21, 2020
STATUS CONFERENCE;

HOLDING DEADLINES IN
ABEYANCE (DKT. NO. 545);

PROVIDING NEW TRIAL DATE

THIS MATTER comes before the Court upon the Parties' Joint Status Report (Dkt. No. 546), Defendants' Motion to Stay (Dkt. No. 547), and upon issues raised by the Parties during the Court's July 21, 2020 Status Conference (Dkt. No. 548). Having reviewed the Joint Status Report, the Motion to Stay, and having heard from the Parties, the Court HOLDS IN ABEYANCE the deadlines in its July 15, 2020 Order (Dkt. No. 545), GRANTS Plaintiffs' request to postpone setting a new discovery deadline and sets a new trial date of **April 26, 2021**.

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1 1. Defendants’ Motion to Stay

2 On July 15, 2020 the Court issued an Order requiring the Government to review its
3 deliberative process privilege (“DPP”) claims and produce those documents that are not
4 predecisional or deliberative. See National Wildlife Federation v. U.S. Forest Service, 861 F. 2d
5 1114, 1117 (9th Cir. 1988) (requiring a document to be “*both* (1) ‘predecisional’ or ‘antecedent
6 to the adoption of agency policy’ and (2) ‘deliberative,’ meaning ‘it must actually be related to
7 the process by which policies are formulated.’”) (citation omitted, emphasis in original). The
8 Order followed the Court’s assessment of the 850 documents the Government submitted for *in*
9 *camera* review and its finding that the Government had erroneously asserted the privilege over
10 many of these documents. Indeed, for hundreds of the submitted documents, the Court could
11 find no plausible basis for the Government’s privilege claims at all.

12 Noting the enormous task remaining before the Parties and the Court of evaluating the
13 Government’s assertion of the DPP over approximately 48,000¹ documents, as a discovery
14 management tool the Court outlined a timeframe for documents that are presumptively not
15 entitled to DPP protection because they do not fall within the decision period for the Carter and
16 Mattis policies. Defendants were ordered to produce documents that were reviewed *in camera*
17 and not entitled to DPP protection by July 22, 2020 and to produce all documents that fall
18 outside the date ranges of July 13, 2015 to June 30, 2016 (Carter policy) and September 14, 2017
19 to January 11, 2018 (Mattis policy) and all documents or portions of documents that are purely
20 factual by July 29, 2020. The Court explicitly excepted from this production any documents

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22 _____
23 ¹ The Government claims this figure is now approximately 40,000 documents and the number of documents
24 withheld solely on the basis of the DPP is now 25,000, down from the original 35,000 documents the Government
withheld. (Dkt. No. 547 at 2 n.1.) The Government provides no explanation for why it has disclosed 10,000
documents it vigorously defended as privileged for nearly three years, documents that were the subject of two
petitions for writs of mandamus to the Ninth Circuit.

1 implicated by the Government’s pending Petition for a Writ of Mandamus with the Ninth
2 Circuit. (See Dkt. Nos. 414-16.)

3 On the evening of July 20, 2020, Defendants filed a motion to stay the Court’s July 15,
4 2020 Order until the pending mandamus petition is resolved. (Dkt. No. 545.) Defendants
5 informed the Court that if it did not grant Defendants’ motion for a stay within 24 hours,
6 Defendants would file an emergency motion in the Ninth Circuit requesting a stay of this Court’s
7 July 15, 2020 Order. (Dkt. No. 547 at 3.) Because the 24-hour timeline Defendants propose
8 does not allow for a response from Plaintiffs, and because the Court will not issue a ruling on
9 Defendants’ Motion to Stay until it is fully briefed, the Court HOLDS IN ABEYANCE the
10 production deadlines in its July 15, 2020 Order (Dkt. No. 545) until it issues a ruling on
11 Defendants’ Motion to Stay (Dkt. No. 547).

12 2. Trial Date and Discovery Deadline

13 In the Parties’ July 17, 2020 Joint Status Report, Plaintiffs requested that the Court
14 postpone setting a new discovery cutoff and noted that this will likely delay trial beyond the
15 current, October 22, 2020 trial date. (Dkt. No. 546 at 6.) Among other things, Plaintiffs noted
16 Defendants’ pending mandamus petition and stalled productions have impacted Plaintiffs’ ability
17 to depose witnesses. (*Id.* at 4.) While Defendants objected to Plaintiffs’ request to vacate the
18 trial date “and indefinitely extend discovery” in the Joint Status report, two days later they filed
19 their Motion to Stay, threatening to file another petition for a writ of mandamus with the Ninth
20 Circuit if the Court did not stay Defendants’ current production deadlines. (Dkt. No. 547.)
21 Given the enormous number of relevant documents that remain contested in this matter, the
22 Court will postpone setting a new discovery cutoff and will set a new trial date of April 26, 2021.

1 Plaintiffs may wait to take depositions until after Defendants have produced documents in line
2 with the Court’s rulings and relevant to the particular witness being deposed.

3 **Conclusion**

4 In summary, the production deadlines in the Court’s July 15, 2020 Order (Dkt. No. 545)
5 are HELD IN ABEYANCE until the Court issues a written order on Defendants’ Motion to Stay
6 (Dkt. No. 547). Further, the Court sets a new trial date of April 26, 2021 and will not set a new
7 discovery cutoff deadline at this time.

8 Dated July 23, 2020.

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11 Marsha J. Pechman
12 United States Senior District Judge
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RYAN KARNOSKI, et al.,

Plaintiffs,

v.

DONALD J TRUMP, et al.,

Defendants.

CASE NO. C17-1297 MJP

ORDER RE: *IN CAMERA* REVIEW
OF DOCUMENTS SUBMITTED
BY DEFENDANTS IN RESPONSE
TO JULY 15, 2020 ORDER


THIS MATTER comes before the Court upon the Parties’ Joint Submission Regarding Defendants’ Deliberative Process Privilege Claims (Dkt. No. 497), and upon subsequent *in camera* filings from the Defendants in response to Court Orders (see Dkt. Nos. 497, 514, 536, 540-42, 545, 549).

In its July 15, 2020 Order, among other things, the Court directed Defendants to submit copies of the withheld 500 documents falling inside the designated date ranges for “predecisional” documents. (Dkt. 545.) The copies supplied to the Court failed to include appropriate Bates numbers to permit the Court to ensure it was examining documents identified on the privilege log. The Defendants corrected this error, and the Court has had an opportunity

1 to review these selected documents. A revised privilege analysis, now covering all 500
 2 documents submitted for *in camera* review has now been completed and is attached as
 3 Attachment 1 to this Order. As indicated in Attachment 1, Defendants must produce all
 4 documents where the privilege category is designated with “N” in accordance with the Court’s
 5 recent Order holding Defendants’ production deadlines in abeyance until the Court issues its
 6 ruling on Defendants’ pending Motion to Stay. (Dkt. Nos. 547, 550.)

7
 8 The clerk is ordered to provide copies of this order to all counsel.

9 Dated July 28, 2020.

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 12 Marsha J. Pechman
 13 United States Senior District Judge
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In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
AF_00011779 _AF2	PrivWithhold 05772	PrivWithhold 05781	7/18/2016	Draft Air Force Guidance Memorandum for Currently Serving Transgender Airmen. Labeled "DRAFT -- NOT FOR IMPLEMENTATION OR COMPLIANCE." Contains deliberations concerning the Air Force's implementation of policies and procedures for units, supervisors, commanders, transgender Airmen and the medical community to provide a construct by which transgender Airmen may transition gender while serving and outlines policies for accessing, separating, and retaining transgender Airmen.	Deliberations regarding the implementation of transgender policy	N	Not predecisional
AF_00015510 _AF2	PrivWithhold 05782	PrivWithhold 5800	6/3/2016	Draft Department of Defense Instruction ("DoDI") titled "IN-SERVICE TRANSITION FOR SERVICE MEMBERS IDENTIFYING AS TRANSGENDER." Contains a watermark on each page stating "DRAFT." Contains draft proposal concerning how transgender service members can transition while serving, how service members can change their gender markers in DEERS, and how service members can obtain medical treatment.	Deliberations regarding the implementation of the transgender policy	Y	
AF_00016956 _AF2	PrivWithhold 05801	PrivWithhold 5808	12/2/2016	Draft Air Force slides re: development of two training modules for total force awareness of transgender service. Contains speaker notes.	Deliberations regarding the implementation of the transgender policy. Undated draft slides regarding development of training modules, implementing the Carter policy, implementing medical policy, and data collection. Contains speaker notes. The slide deck is incomplete, missing the opening slides and closing slides.	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
AF_00017041_AF2	PrivWithhold 05809	PrivWithhold 5826	3/14/2016	Joint Chiefs of Staff draft PowerPoint titled "Transgender Service" with speaker notes and comments. Labeled "FOUO//Draft//Predecisional/Not for public release." Contains comments for recommended edits.	Deliberations regarding the implementation of the transgender policy	Y	
AF_00017134_AF2	PrivWithhold 05827	PrivWithhold 5827	2/7/2017	Excel spreadsheet tracking proposed training standards, methods, and timelines.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
AF_00017139_AF2	PrivWithhold 05828	PrivWithhold 5828	10/19/2016	Draft of excel spreadsheet to track milestones from Oct 16-Dec 17.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
AF_00019209_AF2	PrivWithhold 05829	PrivWithhold 5842	6/23/2017	Draft TFAT Audio/Narration Script for Transgender Awareness Training. Contains track changes and comments by Matthew McWhirter (USAF) with recommended changes.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
AF_00021839_AF2	PrivWithhold 05843	PrivWithhold 5845	1/21/2011	Email chain concerning Don't Ask Don't Tell.	Deliberations regarding the development of training on the repeal of Don't-Ask-Don't-Tell. This email, dated 21 January 2011, seeks coordination and recommendations on proposed training.	N	Not predecisional
AF_00022282_AF2	PrivWithhold 05846	PrivWithhold 5852	2/25/2013	Email chain concerning Don't Ask Don't Tell.	Deliberations regarding the implementation of the repeal of Don't-Ask-Don't-Tell. This email, dated 25 March 2013, discusses potential changes to service regulations regarding military benefits for same sex domestic partner.	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
AF_00022309 _AF2	PrivWi thhold 05853	PrivWi thhold 5854	10/10/2013	Not clearly relevant to any transgender policy. Document concerning coordination among Air Force commanders containing comment on Air Force Instruction (AFI) 36-3003. AFI 36-3003 was titled "Military Leave Program - Permissive (TDY) - Marriage (TMT)." Contains recommendation on whether to approve the AFI and reasons for that recommendation.	Deliberations regarding the formulation Air Force Instruction 36-3003	N	Not predecisional
AF_00022824 _AF2	PrivWi thhold 05855	PrivWi thhold 5855	10/21/2013	Not clearly relevant to any transgender policy. Consolidated comment matrix for "Interim Change(IC)1 for AFI 36-3003, Military Leave Program." Contains a recommendation on whether to approve the change to the Air Force Instruction.	Deliberations regarding the formulation of Air Force Instruction	N	Not predecisional
AF_00027289 _AF2	PrivWi thhold 05856	PrivWi thhold 5858	4/6/2017	E-mail requesting input on draft ADLS transgender training with the content of the training as an attachment	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
AF_00027923 _AF2	PrivWi thhold 05859	PrivWi thhold 5862	9/13/2016	E-mail circulating working draft of the AFPM on Transgender (including attachment)	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
AF_00029378 _AF2	PrivWi thhold 05863	PrivWi thhold 5864	7/21/2016	Email chain deliberating on who would develop training and seeking transgender working group recommendations regarding development of training.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
AF_00036002 _AF2	PrivWi thhold 05865	PrivWi thhold 05865	Undated	SSS template of ETP form, AF Form 1768. Form concerns an Exception to Policy (ETP) for Dress and Appearance / Use of Facilities. Contains a description of the Airman's request for an ETP and recommendations concerning review and approval. Form has placeholders and personal notes for later edits, and does not contain signatures from reviewers.	Deliberations regarding the implementation of transgender policy	Y	

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
AF_00036011_AF2	PrivWithhold 05866	PrivWithhold 05866	Undated	SSS template of ETP form, AF Form 1768. Form concerns an Exception to Policy (ETP) for Dress and Appearance / Use of Facilities. Contains a description of the Airman's request for an ETP and recommendations concerning review and approval. Form has placeholders and personal notes for later edits, and does not contain signatures from reviewers.	Deliberations regarding the implementation of transgender policy	Y	
AF_00037900_AF2	PrivWithhold 05867	PrivWithhold 5870	3/11/2018	Email dated 3/11/18 between SAF/MR and AF/A1 discussing answer to CSAF request for updates regarding progress of transgender policy at DoD level.	Deliberations regarding the implementation of the transgender policy.	N	Not predecisional
AF_00037950_AF2	PrivWithhold 05871	PrivWithhold 5874	3/11/2018	"Email dated 3/11/18 from SAF/MR to many AF organizations answering questions posed by CSAF regarding a housing allowance policy with no application to transgender personnel. One of CSAF's questions pertains to status of transgender policy, however, there is no further discussion of the topic in this email."	Deliberations regarding the implementation of the transgender policy.	N	Not predecisional
Army_10000069	PrivWithhold 05875	PrivWithhold 5880	12/14/2017	Draft order re TG Policy implementation	Deliberations regarding the implementation of the transgender policy. Predecisional, draft Army order (EXORD 029-17), "Implementation of Army Policy on Military Service of Transgender (TG) Soldiers."	Y	
Army_10000981.0001	PrivWithhold 05881	PrivWithhold 5894	4/27/2017	Presentation titled "2016 Workplace and Gender Relations Survey of Active Duty Members (2016 WGRA)." Draft slides that include handwritten notes. Labeled "FOIA Exempt/Pre-decisional/For Official Use Only."	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
Army_100010 99.0002	PrivW thhold 05895	PrivW thhold 5896	9/18/2017	DOD press guidance	Deliberations regarding the implementation and formulation of transgender policy interim guidance. Draft DoD press guidance on the Interim Guidance.	N	Not deliberative
Army_100011 13.0003	PrivW thhold 05897	PrivW thhold 5897	8/8/2017	VCSA draft message	Deliberations regarding the implementation of the transgender policy; draft message to the force regarding the development of the implementation plan.	N	Not predecisional
Army_100011 26.0001	PrivW thhold 05898	PrivW thhold 5898	8/11/2017	Draft Army HQDA document on transgender accessions guidance for commanders submitted for reviewer feedback and comment. Labeled "DRAFT/PREDECISIONAL."	Deliberations regarding the formulation and implementation of the transgender policy; draft Army document that provides guidance to commanders concerning transgender policy pending issuance of implementation plan.	N	Not predecisional
Army_100011 64	PrivW thhold 05899	PrivW thhold 5899	8/11/2017	Discussion by SCCC members about decision making process.	Email containing a discussion concerning the decision-making process with respect to a TSIG update.	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
Army_10001187	PrivWithhold 05900	PrivWithhold 5901	8/9/2017	Email exposes part of the SCCCC member's deliberative process.	Deliberations regarding the formulation and implementation of the transgender policy; email chain discussing a draft product that addresses transgender policy development and implementation.	N	Not predecisional
Army_10001211.0001	PrivWithhold 05902	PrivWithhold 5910	7/21/2017	Document contains pre-decisional information considered by SCCC members.	Deliberations regarding the formulation of the transgender policy; slide deck containing predecisional, deliberative information concerning the assessment of readiness impacts of transgender service members	N	Not predecisional
Army_10001239.0002	PrivWithhold 05911	PrivWithhold 5964	7/14/2017	Draft PowerPoint titled "Transgender Service Q&As Transgender Senior Implementation Group Meeting - July 14, 2017." Labeled "Not for distribution/Draft Deliberative Document." Also an apparent draft because the closing remarks have not been filled in. Also includes recommendations from Navy and questions from Army.	Deliberations regarding the implementation of the transgender policy. Draft PowerPoint presentation that contains predecisional, deliberative information with respect to transgender policy, titled "Transgender Service Q&As: Transgender Senior Implementation Group Meeting--July 14, 2017." Draft includes service recommendations and questions.	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
Army_100012 43.0002	PrivWithhold 05965	PrivWithhold 5967	7/15/2017	Draft (unsigned) memorandum with the subject "Update on Transgender Service Implementation Group (TSIG)." Provides clarification as to membership of Army TSIG and purpose and next steps of TSIG.	Deliberations regarding the implementation of the transgender policy. Draft memorandum that establishes processes for and responsibilities of the Transgender Service Implementation Group.	N	Not predecisional
Army_100013 96	PrivWithhold 05968	PrivWithhold 5972	7/7/2017	Document re Information/Background paper provided to the Sec. of the Air Force outlining questions/concerns from DoD components/Services to OUSD (P&R) regarding accessions policy.	Deliberations regarding the formulation of the transgender policy. Background paper for Secretary of the Air Force that includes questions and concerns regarding the transgender policy; and discusses draft Department of Defense guidance and the need for clarifying policy guidance.	N	Not predecisional
Army_100014 69	PrivWithhold 05973	PrivWithhold 5991	4/25/2017	Draft version of DHA IPM 17-00x, Guidance for Medical Care of Transgender (TG) Active Duty Service Members (ADSMs) with a Diagnosis of Gender Dysphoria (GD)	Deliberations regarding the formulation and implementation of the transgender policy; draft of DHA IPM 17-00x ("Interim Procedures Memorandum 17-00x, Guidance for Medical Care of Transgender (TG) Active Duty Service Members (ADSMs) with a Diagnosis of Gender Dysphoria (GD)."	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
Army_100016 86	PrivWithhold 05992	PrivWithhold 5994	11/30/2017	Email with subject "TG Accessions considerations for waiver authorities (UNCLASSIFIED)." Contains deliberations of accessions of transgender individuals pursuant to court-ordered preliminary injunctions.	Deliberations regarding the formulation of the transgender policy. Email concerning preparations for accessions of, and the waiver process for, transgender individuals based on court-ordered preliminary injunctions.	Y	
Army_100023 80	PrivWithhold 05995	PrivWithhold 5995	5/3/2017	Draft media guidance regarding Army's implementation of the TG policy.	Deliberations regarding the implementation of the transgender policy; draft media guidance on Army's implementation of transgender policy	N	Not predecisional
Army_100024 03	PrivWithhold 05996	PrivWithhold 5997	8/25/2016	Draft policy regarding implementation of the TG policy. Marked "For Official Use Only - Predecisional" and has a watermark labeled "DRAFT." Contains draft Army guidance on gender transition for soldiers.	Deliberations regarding the formulation and implementation of the transgender policy. Draft Army Directive on "Gender Transition for Active Duty Soldiers."	N	Not predecisional
Army_100024 80	PrivWithhold 05998	PrivWithhold 5999	7/1/2016	"(draft) in-service transition flowchart and additional information for decision makers at various levels [""current as of 26 June 2016""]"	Deliberations regarding formulation and implementation of transgender policy. Draft Army flowchart titled "In Service Transition" that provides predecisional guidance on the in-service transition process.	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
Army_100025 60	PrivWi thhold 06000	PrivWi thhold 6002	7/17/2017	Draft (unsigned) document pertaining to implementation group.	Deliberations regarding the implementation of the transgender policy. Draft memorandum that establishes processes for and responsibilities of the Transgender Service Implementation Group.	N	Not predecisional
Army_100032 46.0002	PrivWi thhold 06003	PrivWi thhold 6005	12/11/2017	PowerPoint with the file name "PoE Addendum Slides - Overview of DoDI and Implementation Plan 11 Dec 17____.pptx." Slides contain explanation and status of policy development process to include discussion of Panel of Experts.	Deliberations regarding the formulation and implementation of the transgender policy. PowerPoint slides that include predecisional topics of discussion pertaining to implementing accessions after January 1, 2018 under the new policy and the requirement to develop additional policy for implementation in the context of the U.S. Military Academy and ROTC.	Y	
Army_100033 05.0001	PrivWi thhold 06006	PrivWi thhold 6008	11/17/2017	Draft document contains information submitted for feedback and comment.	Deliberations regarding the implementation of the transgender policy. Draft slide on transgender military service that discusses gender marker changes under the transgender policy and the possible effect of a court order on transgender policy.	Y	

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
Army_100037 36	PrivWi thhold 06009	PrivWi thhold 6010	9/15/2017	Email containing feedback on TG policy formulation document	Deliberations regarding the formulation of the transgender policy. Email chain discussing and requesting review of an attached, draft product on the interim guidance.	N	Not deliberative
Army_100039 00.0001	PrivWi thhold 06011	PrivWi thhold 6011	8/8/2017	Draft message to the force regarding the announcement of the revised policy and the goals to achieve via the policy.	Deliberations regarding the formulation of the transgender policy. Draft message to Army leaders concerning the development of the implementation plan.	N	Not predecisional
Army_100046 37.0001	PrivWi thhold 06012	PrivWi thhold 6013	10/23/2017	Draft document on transgender policy implementation submitted for feedback. Contains comments for recommended edits.	Deliberations regarding the formulation of the transgender policy		Resubmit pages with Bates numbers attached
Army_100080 91	PrivWi thhold 06014	PrivWi thhold 6019	9/15/2017	Email traffic ref: pre-confirmation office calls.	Deliberations regarding potential issues that could occur during confirmation hearing.		Not relevant
Army_100085 30	PrivWi thhold 06020	PrivWi thhold 6021	6/7/2017	Discusses senior-level responses to service-specific feedback on implementation timeline	Email chain concerning predecisional deliberations of the services and DoD on the decision to delay implementation of the Carter accessions standards.	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
Army_100085 84	PrivWi thhold 06022	PrivWi thhold 6023	7/27/2017	Document contains talking points, strategies, and recommendations for how to communicate transgender policy to the media. Document also seeks reviewer feedback and comment on transgender policy formulation.	Email chain containing predecisional, deliberative discussion of development and implementation of transgender policy following the President's July 26, 2017 statement on Twitter	N	Not predecisional
Army_100086 97.0006	PrivWi thhold 06024	PrivWi thhold 6025	5/15/2017	Email providing observations and assessments regarding the impact of transgender service.	Email chain containing predecisional deliberations regarding the readiness of the Army to implement accession of transgender applicants.	N	Not predecisional
Army_100088 30	PrivWi thhold 06026	PrivWi thhold 6028	2/3/2017	Pre decisional email chain discussing TG policy.	Deliberations regarding the formulation and implementation of the transgender policy. Email chain discussing predecisional changes to an Army order concerning transgender policy training for contractors.	N	Not predecisional
Army_100088 60	PrivWi thhold 06029	PrivWi thhold 6031	1/24/2017	Email chain with discussion of suggestions to TG policy.	Deliberations regarding the formulation of the transgender policy. Email chain concerning a discussion of pending DoD changes to accession medical fitness standards.	N	Not predecisional
Army_100088 63.0002	PrivWi thhold 06032	PrivWi thhold 6045	1/24/2017	Draft Q&A white paper on TG policy. Contains comments for recommended revisions.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
Army_100088 90.0002	PrivWithhold 06046	PrivWithhold 6048	12/15/2016	FY 2018 posture paper titled "POLICY IMPLEMENTATION ON THE MILITARY SERVICE OF TRANSGENDER SOLDIERS." Contains anticipated questions from Congressional committees and recommended answers.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
Army_100090 05.0003	PrivWithhold 06049	PrivWithhold 6063	10/31/2016	Draft document on TG policy submitted for feedback or approval	Deliberations regarding the implementation of the transgender policy. Draft US Army Training and Doctrine Command Lesson Plan on Army policy on military service of transgender soldiers	N	Not predecisional
Army_100095 51	PrivWithhold 06064	PrivWithhold 6065	11/15/2016	Email soliciting input regarding proposed courses of action for TG accessions.	Deliberations regarding the formulation of the transgender policy. Email from Army (DCS G-1) soliciting input regarding proposed courses of action, for Army leadership consideration, concerning developing transgender policy with respect to applicants for enlistment and participants in officer producing programs.	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
Army_100102 93	PrivWithhold 06066	PrivWithhold 6067	5/8/2017	Email chain containing discussions re implementation of TG policy	Deliberations regarding the implementation of the Carter policy. Email chain discussing the implementation of the policy in the context of the U.S. Military Academy, and providing a response to a question concerning what would happen if Department of Defense policy changes.	N	Not predecisional
Army_100103 60.0001.0001	PrivWithhold 06068	PrivWithhold 6070	5/17/2017	Coordination page with the subject "CRITICAL CORRESPONDENCE: Readiness of Military Departments to Implement Accession of Transgender Applicants into Military Service." Contains notes and advice on TG policy implementation, as well as directive to assess readiness.	Predecisional document regarding the military services' assessment whether they are ready to implement accessions of transgender applicants.	N	Not predecisional
Army_100104 55	PrivWithhold 06071	PrivWithhold 6071	7/18/2017	Pre decisional comments/suggestions on TG policy.	Email proposing a topic to be discussed by the Transgender Service Implementation Group concerning the implementation of transgender policy.	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
Army_100105 28	PrivWi thhold 06072	PrivWi thhold 6077	7/7/2017	Email discusses explanation of development of transgender policy.	Deliberations regarding the formulation of the transgender policy. Email chain regarding the medical non-availability/non-deployability rates among TG servicemembers for the purpose of assessing the impact of accessions under the Carter Policy on readiness.	N	Not predecisional
Army_100105 37	PrivWi thhold 06078	PrivWi thhold 6081	7/7/2017	Email contains comments on the impact of transgender accessions policy development.	Deliberations regarding the formulation of the transgender policy; email chain discussing medical non-availability and non-deployability rates among transgender service members in order to asses the impact of accessions under the Carter policy on military readiness.	N	Not predecisional
Army_100105 96.0001	PrivWi thhold 06082	PrivWi thhold 6087	8/19/2016	Draft policy regarding implementation of the TG policy. Subject line is "Army Directive 2016-XX (Army Policy on Military Service of Transgender Soldiers)." Marked "For Official Use Only - Predecisional" and has a watermark labeled "DRAFT." Contains draft Army guidance on gender transition for soldiers.	Deliberations regarding the implementation of the transgender policy. Predecisional, draft Army directive on Army policy on military service of transgender soldiers.	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
Army_100105 96.0003	PrivWithhold 06088	PrivWithhold 6089	8/19/2016	Draft policy regarding implementation of the TG policy. Marked "For Official Use Only - Predecisional" and has a watermark labeled "DRAFT." Contains draft Army guidance on gender transition for soldiers in the reserves.	Deliberations regarding the formulation and implementation of the transgender policy. Predecisional, draft version of Army directive on Gender Transition for Soldiers Serving in the Standby Reserve, The Individual Ready Reserve, or the Retired Reserve	N	Not predecisional
Army_100106 20.0001	PrivWithhold 06090	PrivWithhold 6110	8/3/2016	Draft Army directive on TG policy. Contains the proposed Army directive concerning the administrative requirements that transgender soldiers must meet after they have completely transitioned or are in the process of transitioning. Shows coordination and recommendations from various Army leaders.	Deliberations regarding the formulation and implementation of the transgender policy. Draft Army directive on Army Policy on Military Service of Transgender Soldiers and Staffing Form providing guidance in staffing and review of draft policy.	N	Not predecisional
Army_100106 43	PrivWithhold 06111	PrivWithhold 6115	10/3/2016	Email chain with suggestions to implementation of TG policy.	Deliberations regarding the implementation of the transgender policy. Email chain concerning making changes to accession medical forms, discussing changes to these forms in regards to the accession of transgender applicants.	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
Army_100107 22	PrivWi thhold 06116	PrivWi thhold 6119	10/14/201 6	Email chain with suggestions and comments on the implementation of TG policy.	Deliberations regarding the implementation of the transgender policy. Email chain concerning a predecisional, proposed measure for screening applicants for a medical history of gender transition	N	Not predecisional
Army_100107 27.0002	PrivWi thhold 06120	PrivWi thhold 6126	10/14/201 6	Draft, predecisional order re Army policy on military service of TG soldiers that discusses how the Army will implement DoD's directive. Document is titled "HQDA EXORD XXX-16 IMPLEMENTATION OF ARMY POLICY ON MILITARY SERVICE OF TRANSGENDER SOLDIERS" and has a watermark stating "DRAFT" on each page. Labeled "For Official Use Only - Predecisional."	Predecisional draft of Army order on the "Implementation of Army Policy on Military Service of Transgender Soldiers".	N	Not predecisional
Army_100107 44.0004	PrivWi thhold 06127	PrivWi thhold 6132	10/21/201 6	Draft training plan on TG policy.	Deliberations regarding the implementation of the transgender policy. Draft Annex to Army order, titled "Education and Training Plan for the Policy on Military Service of Transgender Soldiers."	N	Not predecisional
Army_100107 46.0001	PrivWi thhold 06133	PrivWi thhold 6157	10/21/201 6	Draft document on TG policy submitted for feedback or approval	Deliberations regarding the implementation of the transgender policy. Draft Army training materials on "Policy on the Military Service of Transgender Soldiers."	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
Army_100107 61.0003	PrivWithhold 06158	PrivWithhold 6163	10/31/2016	Draft document on TG policy submitted for feedback or approval	Deliberations regarding the implementation of the transgender policy. Draft Annex to Army order, titled "Education and Training Plan for the Implementation of Army Policy on Military Service of Transgender Soldiers." Draft annex concerns developing training materials, training the force, and sustaining training in order to implement transgender policy.	N	Not predecisional
Army_100107 66.0001	PrivWithhold 06164	PrivWithhold 6174	7/21/2016	PowerPoint titled "TSIG Mission Analysis Briefing Template (Transgender Implementation)." Draft briefing summarizes the current courses of action and status of policy development	Deliberations regarding the implementation of the transgender policy. Slide deck on Transgender Implementation, which discusses developing policies and procedures for gender transition in order to implement the transgender policy.	N	Not predecisional
Army_100107 72	PrivWithhold 06175	PrivWithhold 6177	8/16/2016	Email containing feedback and planning analysis for TG policy formulation	Email chain containing predecisional, deliberative information concerning the development and implementation of transgender policy, including the drafting of an Army directive and training materials.	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
Army_10010773	PrivWithhold 06178	PrivWithhold 6181	8/16/2016	Email containing feedback and planning analysis for TG policy formulation	Deliberations regarding the formulation and implementation of the transgender policy. Email containing a predecisional deliberative discussion of required tasks for the development and implementation of transgender policy based on an update provided by the Transgender Service Implementation Group.	N	Not predecisional
Army_10020443.0008.0005	PrivWithhold 06182	PrivWithhold 6182	1/19/2018	F-M SRS evaluation checklist_19 JAN 18_TG IPT revised v1.docx; draft Supplemental Health Care Program Checklist Female to Male Sex Reassignment Surgery Evaluation Waiver	Deliberations regarding the implementation of the transgender policy. Predecisional draft checklist for female to make sex reassignment surgery evaluation waiver, which includes visible comments of reviewer.	N	Not predecisional
Army_10022667.0001	PrivWithhold 06183	PrivWithhold 6187	6/19/2017	Draft slide show on TG accessions policy.	Presentation that contains predecisional deliberations regarding whether to request a delay of accessions of transgender applicants under the Carter Policy.	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
Army_100287 81	PrivWithhold 06188	PrivWithhold 6190	2/20/2018	Email discussion between various medical staff officers regarding how to interpret and implement medical fitness standards for TG accessions, and discussing issues/concerns with various proposed interpretations.	Deliberations regarding the formulation and implementation of the transgender policy; Deliberations regarding the implementation of the transgender policy. Email discussion between various medical staff officers regarding how to interpret and implement medical fitness standards for transgender accessions, and discussing issues and concerns with various proposed interpretations.	N	Not predecisional
Army_100344 84	PrivWithhold 06191	PrivWithhold 6192	2/16/2018	Email discussion between various medical staff officers regarding how to interpret and implement medical fitness standards for TG accessions, and discussing issues/concerns with various proposed interpretations.	Email chain including deliberations concerning the applicatin of DoD medical accessions standards with respect to a specific applicant	N	Not predecisional
Army_100352 97	PrivWithhold 06193	PrivWithhold 6196	1/31/2018	Attachment to emails discussing proposed changes to transgender policies. No decision was made.	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
Army_100383 84	PrivWithhold 06197	PrivWithhold 6197	3/7/2018	Email discussing and deliberating policy on medical waiver authority	Deliberations regarding the formulation of the transgender policy. Predecisional email providing a topic for TSIG consideration regarding whether to renew a policy that applied to transgender applicants.	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DHA_00000153	PrivWithhold 06198	PrivWithhold 6257	7/24/2017	Intradepartment email concerning deliberations on implementation of transgender policy, including questions and answers. Subject of email is "Fwd: Transgender Policy Action Officer Working Group 25-28 JUL 17 (UNCLASSIFIED)."	Predecisional and deliberative internal agency document created as part of the agency's process of developing courses of action for implementing DoD's policy on the services and accessions of military personnel and the continuous process of assessing the policy's impact on military readiness.	N	Not predecisional
DHA_00000361	PrivWithhold 06258	PrivWithhold 6320	7/24/2017	Intradepartment email concerning implementation of DoD transgender policy	Predecisional and deliberative internal agency document created as part of the agency's process of developing courses of action for implementing DoD's policy on the services and accessions of military personnel and the continuous process of assessing the policy's impact on military readiness.	N	Not predecisional
DoD00000238	PrivWithhold 06321	PrivWithhold 6322	9/20/2017	Email with subject "NO SCCC meeting tomorrow 21 Sept 2017." Contains deliberations concerning service members' requests for exceptions to policy.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	Y	

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00000616	PrivWithhold 06323	PrivWithhold 6323	12/28/2017	Excel file with file name "Active - My _ My Team 2017-12-28 13_15_31Z.xlsx." Contains status of pending assignments and items for follow-up, including assignments related to the transgender service policy.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not deliberative
DoD00000960	PrivWithhold 06324	PrivWithhold 6324	12/13/2017	Deliberative email conversation regarding a Transgender applicant at MEPS	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not deliberative
DoD00002126	PrivWithhold 06325	PrivWithhold 6329	10/4/2017	Draft version of the questions and answers for a hearing on DoD Manpower and reserve affairs which includes information on the implementation of the Transgender policy.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not deliberative

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00002254	PrivWithhold 06330	PrivWithhold 6330	8/30/2017	Powerpoint of the 2017 TG policy review with timeline and recommended deliverables	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00002308	PrivWithhold 06331	PrivWithhold 6332	9/15/2017	Email with the subject "Re: TG interim guidance."	Deliberations regarding DoD's and Army's responses to issues with MAVNI and DACA	N	Not deliberative
DoD00002337	PrivWithhold 06333	PrivWithhold 6335	9/11/2017	Document containing proposed study involving transgender service members.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00002402	PrivWithhold 06336	PrivWithhold 6338	8/31/2017	Email with subject line "FW: DRAFT Transgender Implementation Guidance for SD Signature Friday 1 Sep (UNCLASSIFIED)." Contains deliberations on the draft guidance and draft terms of reference.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00002435	PrivWithhold 06339	PrivWithhold 6341	8/25/2017	Document with file name SD TG INTERIM POLICY 8-25.docx. Draft Interim Guidance. Labeled "Draft - For official use only" and has a "DRAFT" watermark.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00002462	PrivWithhold 06342	PrivWithhold 6343	8/28/2017	RE: Secondary email address - DoD Central Coordination Cell (UNCLASSIFIED)	Deliberations regarding the process used by the SCCC	N	Not predecisional
DoD00002634	PrivWithhold 06344	PrivWithhold 6345	8/2/2017	Deliberative email conversation between DoD personnel regarding the proper point of contact to assist with Departmental gender issues.	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00002657	PrivWithhold 06346	PrivWithhold 06346	7/28/2017	Draft memo on Transgender Service Member and Unit Readiness. File name: TG Service Members and Unit Readiness 31 July 17 - DJG.docx. Contains track changes and comments for recommended edits.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00002826	PrivWithhold 06347	PrivWithhold 06349	7/19/2017	Deliberative email conversation between DoD and VA regarding working groups focused on Transgender medical care and benefits	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00002832	PrivWithhold 06350	PrivWithhold 06351	7/17/2017	TG SIG Follow-on Actions (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00002869	PrivWithhold 06352	PrivWithhold 06354	7/8/2017	Email with the subject "RE: Updated Slides (UNCLASSIFIED)." Email contains deliberations concerning medical accessions standards.	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00002871	PrivWithhold 06355	PrivWithhold 06357	7/8/2017	Email re: cadets and midshipmen and TG accessions policy	Deliberations regarding the formulation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00002935	PrivWithhold 06358	PrivWithhold 06359	6/29/2017	Email and FW: Draft DTM-17-008 (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00003025	PrivWithhold 06360	PrivWithhold 06364	6/20/2017	Email re: draft DTM and deployability and accessions	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00003049	PrivWithhold 06365	PrivWithhold 06366	6/8/2017	RE: Early DRAFT -- Transgender Accessions Toplines (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00003051	PrivWithhold 06367	PrivWithhold 06367	6/8/2017	Early DRAFT -- Transgender Accessions Toplines (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00003053	PrivWithhold 06368	PrivWithhold 06370	6/7/2017	Email with subject "RE: Hot - TG Taskings (UNCLASSIFIED)." Contains deliberations concerning whether new studies impact DoD's policy and whether individuals can deploy to CENTCOM.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00003119	PrivWithhold 06371	PrivWithhold 06374	5/16/2017	email RE: Navy views on readiness of TG policy and coordination with DOD	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00003127	PrivWithhold 06375	PrivWithhold 06378	5/12/2017	Email conversation regarding Navy's coordination on the DoD Transgender Policy tasker	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00003138	PrivWithhold 06379	PrivWithhold 06380	5/10/2017	Email re: USA Today - FW: transgender cadets	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00003191	PrivWithhold 06381	PrivWithhold 06381	4/14/2017	Staffer Day Slides providing and update on transgender policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00003218	PrivWithhold 06382	PrivWithhold 06383	3/4/2017	FW: DoDI 6130 draft next steps and responses	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00003266	PrivWithhold 06384	PrivWithhold 06384	10/24/2016	Excel doc re: Service TG Training Policies Update_0207.xlsx	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00003378	PrivWithhold 06385	PrivWithhold 06386	9/14/2016	RE: Army Directive on Transgender (UNCLASSIFIED)	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00003411	PrivWithhold 06387	PrivWithhold 06387	8/18/2016	Doc of Weekly TG Q&A rollup 19 AUG 16.docx	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00003463	PrivWithhold 06388	PrivWithhold 06388	6/30/2016	Deliberative email conversation regarding a DoD working group discussing reserve accessions	Deliberations regarding the implementation of the transgender policy		Not predecisional Not deliberative
DoD00003501	PrivWithhold 06389	PrivWithhold 06391	6/29/2016	Draft memo titled "Transgender Policy Implementation: A Note to Commanders." Contains handwritten notes with recommended edits.	Deliberations regarding the implementation of the transgender policy	Y	
DoD00003510	PrivWithhold 06392	PrivWithhold 06440	6/28/2016	Draft edits to DOD TG implemenatation Handbook	Deliberations regarding the implementation of the transgender policy	Y	
DoD00003529	PrivWithhold 06441	PrivWithhold 06445	6/28/2016	Doc with Examples of Challenging Transgender Cases v2 (1800 28JUN2016).docx	Deliberations regarding the implementation of the transgender policy	Y	

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00003592	PrivWithhold 06446	PrivWithhold 06456	6/16/2016	Draft document titled "Transgender Hard Q&A for Rollout." Labeled "FOR OFFICIAL USE ONLY / PRE-DECISIONAL INFORMATION." Provides questions concerning the policy and draft responses. Includes comments for recommended edits.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	Y	
DoD00003594	PrivWithhold 06457	PrivWithhold 06469	6/15/2016	Hard transgender QA 14 June (SAB)(pkl) jws.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	Y	
DoD00003607	PrivWithhold 06470	PrivWithhold 06487	6/14/2016	Doc of DRAFT DoDI (as of 14 June).docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	Y	
DoD00003674	PrivWithhold 06488	PrivWithhold 06488	4/13/2016	AMSWG recommendations regarding Transgender.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	Y	
DoD00003684	PrivWithhold 06489	PrivWithhold 06505	5/27/2016	Draft doc of DoDI 20 May (DRAFT to WG) USCG Comments.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	Y	

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00003693	PrivWithhold 06506	PrivWithhold 06506	5/26/2016	Fw: Navy Service Comments on TG DoDI and DTM	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	Y	
DoD00003722	PrivWithhold 06507	PrivWithhold 06524	5/20/2016	Doc of DoDI 19 May (DRAFT to WG) ksg.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	Y	
DoD00003760	PrivWithhold 06525	PrivWithhold 06525	5/15/2016	Deliberative email conversation regarding notes and comments based on review of several talking papers on the Transgender policy.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	Y	
DoD00003762	PrivWithhold 06526	PrivWithhold 06542	5/15/2016	DoDI 15 May (DRAFT) .docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	Y	
DoD00003763	PrivWithhold 06543	PrivWithhold 06545	5/13/2016	Email RE: Request Review: TG In-Service Transition DoDI (DRAFT)	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	Y	

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00003791	PrivWithhold 06546	PrivWithhold 06562	5/11/2016	Draft doc of DoDI 11 May (amk_1).docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	Y	
DoD00003800	PrivWithhold 06563	PrivWithhold 06566	5/6/2016	Doc of DOD P&R Response to Army SG TG Info Paper.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	Y	
DoD00004010	PrivWithhold 06567	PrivWithhold 06569	12/22/2015	Transgender Issue Paper Template 12-21-15 (HSE edits).docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not deliberative
DoD00004013	PrivWithhold 06570	PrivWithhold 06572	12/17/2015	RE: Transgender Accessions COA 1 Re-Write	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	Y	
DoD00004016	PrivWithhold 06573	PrivWithhold 06574	12/13/2015	Email re summary of meeting and discussion of transgender medical treatment plans and care	Deliberations regarding the implementation of the transgender policy	Y	
DoD00004057	PrivWithhold 06575	PrivWithhold 06575	12/2/2015	Email re: Gender Transition plans and service draft edits	Deliberations regarding the formulation of the transgender policy	Y	
DoD00004062	PrivWithhold 06576	PrivWithhold 06579	11/19/2015	Gender Transition Plan (Army edits ver2).docx	Deliberations regarding the formulation of the transgender policy	Y	

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00004112	PrivW thhold 06580	PrivW thhold 06581	11/4/2015	Doc DRAFT_Understanding Transitioning Gender in the Workplace as of 30 September 2015.pdf	Deliberations regarding the formulation of the transgender policy	Y	
DoD00004245	PrivW thhold 06582	PrivW thhold 06582	9/10/2015	Draft Agenda_TSRWG September 16	Deliberations regarding the formulation of the transgender policy	Y	
DoD00004275	PrivW thhold 06583	PrivW thhold 06584	8/18/2015	Email re: Army draft position on level of stability of individuals with GD	Deliberations regarding the formulation of the transgender policy	Y	
DoD00004323	PrivW thhold 06585	PrivW thhold 06587	7/21/2015	Email FW: Transgender directive on interim guidance during Carter policy review	Deliberations regarding the formulation of the transgender policy	Y	
DoD00004327	PrivW thhold 06588	PrivW thhold 06588	7/20/2015	Draft Action Memo for the Secretary of Defense from Brad Carson, Acting Under Secretary of Defense for Personnel and Readiness (but prepared by Col Lee Gearhart), with the subject "Response to Chairman Thornberry's Transgender Service Member Letter." Contains a recommendation for a response to a Congressman's letter.	Deliberations regarding the formulation of the transgender policy	Y	
DoD00004681	PrivW thhold 06589	PrivW thhold 06592	7/8/2017	Email chain concerning responding questions posed on several talking papers developed for the Transgender policy	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00004736	PrivW thhold 06593	PrivW thhold 06594	6/30/2017	Email concerning legislative proposals to transgender policy	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00004758	PrivW thhold 06595	PrivW thhold 06596	6/27/2017	Email chain concerning Gender Marker Change Numbers (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00004768	PrivWithhold 06597	PrivWithhold 06597	6/27/2017	Email conversation between DoD personnel concerning internal feedback on draft transgender policy points	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00004816	PrivWithhold 06598	PrivWithhold 06598	6/26/2017	Email chain concerning Transgender Questions - Service Chief Inputs (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00004885	PrivWithhold 06599	PrivWithhold 06599	6/23/2017	Email chain concerning the number of transgender service members within the services (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00004931	PrivWithhold 06600	PrivWithhold 06601	6/21/2017	Email chain concerning TG and DODI update	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00004947	PrivWithhold 06602	PrivWithhold 06604	6/19/2017	Email chain concerning WH TG info memo (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00005001	PrivWithhold 06605	PrivWithhold 06606	6/8/2017	Email chain concerning Early DRAFT -- Transgender Accessions Toplines (UNCLASSIFIED)	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00005127	PrivWithhold 06607	PrivWithhold 06607	5/2/2017	Email chain concerning Army input and the TG policy incolcing a TG waiver request(UNCLASSIFIED)	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00005134	PrivWithhold 06608	PrivWithhold 06608	4/13/2017	Email concerning TG Accessions on July 1 and possible delay of deadline	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00005141	PrivW thhold 06609	PrivW thhold 06611	4/4/2017	Email regarding medical care of transgender troops and question from outside 3rd party	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00005179	PrivW thhold 06612	PrivW thhold 06612	3/12/2017	Email chain concerning SD TG Info Paper (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00005230	PrivW thhold 06613	PrivW thhold 06614	11/2/2016	Email chain concerning White House Transgender Community Briefing	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00005314	PrivW thhold 06615	PrivW thhold 06616	6/22/2015	Document titled "Information Paper: Accession Medical Standards: Transgender." Labeled "Predecisional Information – FOIA EXEMPT." Provides Accession Medical Standards Working Group (AMSWG)'s recommendation for changes to DoDI 6130.03 Medical Standards for Appointment, Enlistment, or Induction in the Military Services related to transgender accession.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00005444	PrivW thhold 06617	PrivW thhold 06617	1/13/2015	Electronic copy of file named ACLU Response - Transgender - 1-13-15.doc	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00005494	PrivW thhold 06618	PrivW thhold 06622	12/10/2014	Email chain concerning Pending ALARACT re: Army retention of transgender service members	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00005498	PrivWithhold 06623	PrivWithhold 06626	12/9/2014	Email chain concerning Pending ALARACT re: Army retention of transgender service members (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00005501	PrivWithhold 06627	PrivWithhold 06628	11/24/2014	Email chain concerning response to ACLU letter regarding transgender policies	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00005536	PrivWithhold 06629	PrivWithhold 06629	10/21/2014	Email regarding DOD review of transgender service members and possible upcoming guidance	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00005602	PrivWithhold 06630	PrivWithhold 06631	8/9/2017	Memorandum assessing state of the transgender policy and upcoming decision	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00005667	PrivWithhold 06632	PrivWithhold 06634	8/18/2017	Doc of GC non Coord - UPR002424-17 - Request Appro...(1).pdf^DLIFLC Sexual Orientation Waiver_Response to .docx	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00005720	PrivWithhold 06635	PrivWithhold 06639	12/20/2016	Email re: Medical and Behavioral Standards Applying to TG accessions	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00005725	PrivWithhold 06640	PrivWithhold 06644	12/20/2016	Email concerning transgender medical policy.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00005739	PrivWithhold 06645	PrivWithhold 06645	12/13/2016	Email regarding a response to a congressional inquiry.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00005822	PrivWithhold 06646	PrivWithhold 06655	1/11/2017	Email discussing transgender policy and coordination with P&R on medical and behavioral standards and TG accessions	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00005870	PrivWithhold 06656	PrivWithhold 06656	12/27/2017	Email regarding response to congressional inquiry about transgender policy.	Deliberations regarding the implementation of the transgender policy	N	Not deliberative
DoD00005933	PrivWithhold 06657	PrivWithhold 06657	7/17/2017	GC non Coord - UPR002424-17 - Request Approval to Include Sexual Orientation and Transgender Question on the Benchmarking Behavioral Health and Wellness at the Defense Language Institute Foreign Language Center(Joint) Survey (DLIFLC Joint) (UNCLASSIFIED)	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00005984	PrivWithhold 06658	PrivWithhold 06658	7/18/2017	Document titled "transgender Action Officer Work Group." Contains proposed timeline for policy review.	Deliberations regarding the implementation of the transgender	N	Not predecisional
DoD00006008	PrivWithhold 06659	PrivWithhold 06660	8/2/2017	Email conversation regarding sex reassignment surgery for a member of the Coast Guard	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00006011	PrivWithhold 06661	PrivWithhold 06662	11/29/2016	Email discussion about which individual should receive particular slides for a transgender briefing	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00006070	PrivWithhold 06663	PrivWithhold 06663	7/26/2017	Email conversation regarding discussing questions surrounding POTUS transgender policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00006182	PrivWithhold 06664	PrivWithhold 06666	7/24/2017	Email regarding medications for transgender hormone therapy	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00006325	PrivWithhold 06667	PrivWithhold 06668	12/27/2017 Actual date 08/18/17	Email conversation RE: FOR REVIEW: Draft Statement on Transgender Email to Army	Deliberations regarding the implementation of the transgender policy		Not predecisional
DoD00006355	PrivWithhold 06669	PrivWithhold 06722	7/14/2017	Draft PowerPoint titled "Transgender Service Q&As Transgender Senior Implementation Group Meeting - July 14, 2017." Labeled "Not for distribution/Draft Deliberative Document." Also an apparent draft because the closing remarks have not been filled in.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00006601	PrivWithhold 06723	PrivWithhold 06723	4/29/2016	Doc of Electronic copy of file named 28APR16 Transgender (2).docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	Y	

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00006665	PrivWithhold 06724	PrivWithhold 06728	3/25/2015	Document titled "Information Paper: Armed Forces Accession Medical Standard Review Process" with file name AMSWG TP and QA -- 24 March 2015 V3.docx. Labeled "Predecisional Information – FOIA EXEMPT." Contains details on the Department of Defense's ongoing review of medical standards for entry into the military.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00006962	PrivWithhold 06729	PrivWithhold 06729	6/28/2017	Excel file named Copy of MPP Update 30 August.xlsx providing update on revision of TG policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00006979	PrivWithhold 06730	PrivWithhold 06731	1/3/2018	Draft document named CY2018 PR (MPP) Look-Ahead (003). Contains key events for Personnel & Readiness. All events are not filled in.	Draft list of key events for DoD Personnel & Readiness	N	Not deliberative
DoD00008381	PrivWithhold 06732	PrivWithhold 06735	9/8/2017	Email chain concerning TG: Panel/Working Group Composition (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00008435	PrivWithhold 06736	PrivWithhold 06737	8/29/2017	Electronic copy of file named 15 - Transgender Integration Implementation (OK).docx. Document is titled "TRANSGENDER INTEGRATION IMPLEMENTATION" and contains track changes with recommended edits. Contains proposed talking points.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00008489	PrivWithhold 06738	PrivWithhold 06739	8/10/2017	Email chain concerning transgender medical policy and TG related surgeries (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00008621	PrivWithhold 06740	PrivWithhold 06742	6/9/2017	Deliberative email conversation regarding DoD participation in a meeting with foreign government personnel on the development of the Transgender policy	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00008760	PrivWithhold 06743	PrivWithhold 06747	10/25/2016	Email chain concerning DODEA in Germany	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00008807	PrivWithhold 06748	PrivWithhold 06748	10/5/2016	Email chain concerning MC TG Training Plan	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00008808	PrivWithhold 06749	PrivWithhold 06749	10/5/2016	Email concerning MC TG Training Plan	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00008847	PrivWithhold 06750	PrivWithhold 06751	9/22/2016	Email chain concerning TG Handbook Approval Scheme	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00008890	PrivWithhold 06752	PrivWithhold 06755	9/14/2016	Email chain concerning [Non-DoD Source] Transition-related surgery request of Chelsea Manning	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00008987	PrivWithhold 06756	PrivWithhold 06757	8/15/2016	Email chain concerning Public TG Website Page Views	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00009012	PrivWithhold 06758	PrivWithhold 06759	8/9/2016	Email chain concerning DEERS Gender Marker Change Draft Guidance	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00009020	PrivWithhold 06760	PrivWithhold 06761	8/9/2016	Electronic copy of file named Military Service of Transgender Service Members_Update.docx	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00009031	PrivWithhold 06762	PrivWithhold 06765	8/5/2016	Email chain concerning TG Accession Guidance to recruiting	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00009036	PrivWithhold 06766	PrivWithhold 06766	8/4/2016	Email concerning DEERS Gender Marker Change Draft Guidance	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00009473	PrivWithhold 06767	PrivWithhold 06774	11/25/2016	Electronic copy of file named MEDPERS - Transgender Update - Draft NOV2017.ppt	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00009504	PrivWithhold 06775	PrivWithhold 06775	10/16/2017	Electronic copy of file named DSD Slides due 10-17 Slide 5 Talent Management.pptx	Contains timelines and goals for ongoing review of Civilan HR Reform in DoD.		Not relevant
DoD00009713	PrivWithhold 06776	PrivWithhold 06781	8/23/2017	Doc of Electronic copy of file draft INTERIM POLICY (SAB 22 Aug).docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00009879	PrivWithhold 06782	PrivWithhold 06785	7/28/2017	Email concerning APPROVAL -- FW: P&R Nomination Prep Tasker (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00010007	PrivWithhold 06786	PrivWithhold 06786	7/10/2017	Electronic copy of file named 3dDSD confirmation - Transgender.docx	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00010096	PrivWithhold 06787	PrivWithhold 06789	6/2/2017	Email chain concerning TG Accession Standards (UNCLASSIFIED)	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00010109	PrivWithhold 06790	PrivWithhold 06790	5/30/2017	Email concerning extensions of the transgender Directive Type Memorandum.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00010168	PrivWithhold 06791	PrivWithhold 06791	5/8/2017	Electronic copy of file named Placemat Update - PR topics MPP Input.docx	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00010289	PrivWithhold 06792	PrivWithhold 06795	1/23/2017	Email conversation regarding questions and answers in response to a media inquiry on the DoD Transgender Policy	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00010634	PrivWithhold 06796	PrivWithhold 06797	12/21/2017	Deliberative email conversation concerning Inactive Ready Reserve and the DoD Transgender Policy	Deliberations regarding the implementation of the transgender policy	Y	
DoD00011012	PrivWithhold 06798	PrivWithhold 06799	8/9/2017	"Email chain concerning TG ""Holding"" Letter (UNCLASSIFIED)"	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00011061	PrivWithhold 06800	PrivWithhold 06802	6/19/2017	Email chain concerning service inputs and new updates regarding TG studies	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00011088	PrivWithhold 06803	PrivWithhold 06803	11/3/2016	Email forward concerning TG Training Plan Matrix	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00011112	PrivWithhold 06804	PrivWithhold 06805	6/17/2016	Email chain concerning TG Inputs from the service medical community discussion TG accession waiting periods	Deliberations regarding the implementation of the transgender policy	Y	
DoD00011145	PrivWithhold 06806	PrivWithhold 06810	5/27/2016	Electronic copy of file named DTM 20 May (DRAFT to WG) USCG Comments.docx Email concerning Template for a Directive-type Memorandum	Deliberations regarding the implementation of the transgender policy	Y	

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00011207	PrivWithhold 06811	PrivWithhold 06812	12/14/2015	Email chain concerning Turnover - No need to read until you come into work!!	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	Y	
DoD00011434	PrivWithhold 06813	PrivWithhold 06817	8/23/2017	Email chain concerning Draft SecDef Statement on Military Service by Transgender Individuals (UNCLASSIFIED)	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00011547	PrivWithhold 06818	PrivWithhold 06819	6/8/2017	Email concerning Early DRAFT -- Transgender Accessions Toplines (UNCLASSIFIED)	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00011575	PrivWithhold 06820	PrivWithhold 06822	5/12/2017	Email chain concerning OSD005337-17 / 2017-SECNAVGENCORRESPOND-00000039 (UNCLASSIFIED)	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00011578	PrivWithhold 06823	PrivWithhold 06824	5/11/2017	Email chain concerning TG Response Tasker (UNCLASSIFIED). Contains deliberations on how to respond to request to assist Navy.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00011586	PrivWithhold 06825	PrivWithhold 06826	4/25/2017	Email concerning URGENT: MEPCOM & DoDMERB Annual Medical Training: TG Accession Standards (UNCLASSIFIED)	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00011660	PrivWithhold 06827	PrivWithhold 06832	11/2/2016	Email forward concerning Request for Gender Marker Change to Non-binary	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00011695	PrivWithhold 06833	PrivWithhold 06833	9/23/2016	Email concerning USMC Bulletin in Transgender Service	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00011794	PrivWithhold 06834	PrivWithhold 06835	5/6/2016	Email forward concerning Transgender: Wash Post and status of TG policy	Deliberations regarding the implementation of the transgender policy	Y	

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00011826	PrivWithhold 06836	PrivWithhold 06836	1/8/2016	Electronic copy of file named PR Posture Hearing - Issue Paper-Transgender_7 JAN.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	Y	
DoD00011890	PrivWithhold 06837	PrivWithhold 06840	10/14/2016	Email chain concerning Gender Dysphoria and TRICARE Prime Remote ADSM Supplemental Health Care Program	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00012028	PrivWithhold 06841	PrivWithhold 06841	8/30/2016	Electronic copy of file named 2017 Transition Book Issue Paper_Transgender HA 12 Aug 16-Dr J Smith.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00012049	PrivWithhold 06842	PrivWithhold 06844	8/17/2016	Email forward concerning TG conference to gather information on TG medical care	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00012064	PrivWithhold 06845	PrivWithhold 06846	8/12/2016	Email chain regarding New Administration Transition Book	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00012097	PrivWithhold 06847	PrivWithhold 06847	10/29/2016	Copy of Transgender Codes 6.8.2016.xlsx	Deliberations regarding the formulation of the transgender policy	Y	
DoD00012178	PrivWithhold 06848	PrivWithhold 06866	4/26/2017	Doc of DHA-IPM 17-00x_Guidance for Medical Care of transgender ADSMs 20170417 v4.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00012199	PrivWithhold 06867	PrivWithhold 06868	4/26/2017	Email regarding [Non-DoD Source] Change in surgical policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00012251	PrivWithhold 06869	PrivWithhold 06871	3/13/2017	Doc of QA_Services_Concerns_transgender_Accession_Med_Standards_FINAL.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00012281	PrivWithhold 06872	PrivWithhold 06874	3/3/2017	Doc draft of DoDI 6130 draft next steps and responses v3.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00012284	PrivWithhold 06875	PrivWithhold 06876	3/2/2017	Email regarding DoDI 6130 draft next steps and responses	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00012318	PrivWithhold 06877	PrivWithhold 06881	1/18/2017	Email chain regarding Walter Reed NMC TGCT POC	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00012449	PrivWithhold 06882	PrivWithhold 06885	8/24/2017	Electronic copy of file named SD TG INTERIM POLICY.docx	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00012476	PrivWithhold 06886	PrivWithhold 06886	6/23/2017	Email concerning DRAFT DTM on TG Service 22 Jun 2017 - OGC Edits Comments	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00012520	PrivWithhold 06887	PrivWithhold 06888	2/8/2017	Email chain concerning Request Service TG POCs for NCR and transgender service member care	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00012571	PrivWithhold 06889	PrivWithhold 06940	1/26/2017	Electronic copy of file named Draft DoDI 6130.03 Jan 26 2017.docx	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00012588	PrivWithhold 06941	PrivWithhold 06945	7/19/2017	Email chain concerning Testicular / Erectile Prosthesis	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00012743	PrivWithhold 06946	PrivWithhold 06963	9/12/2016	Coast Guard Memorandum titled "Gender Reassignment Treatment Plan for [REDACTED SERVICE MEMBER NAME]."	Deliberations regarding the implementation of the transgender policy as it relates to a specific service member's treatment plan	N	Not predecisional
DoD00013197	PrivWithhold 06964	PrivWithhold 06964	7/27/2017	Email chain concerning number of TG personnel in the DoD	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00013269	PrivWithhold 06965	PrivWithhold 06973	12/8/2016	Draft PowerPoint titled "TRANSGENDER SERVICE POLICY Implementation Update."	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00013287	PrivWithhold 06974	PrivWithhold 06975	11/17/2016	Email concerning Request for data: Gender Dysphoria diagnoses	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00013321	PrivWithhold 06976	PrivWithhold 06977	10/6/2016	Email concerning TG Data Call and Capability Proposals	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00013324	PrivWithhold 06978	PrivWithhold 06983	9/22/2016	Email chain concerning request for information on Gender Reassignment	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00013340	PrivWithhold 06984	PrivWithhold 06986	9/8/2016	Email chain concerning BH Question and what providers are included in TG conversation	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00013363	PrivWithhold 06987	PrivWithhold 06989	9/27/2016	Email chain concerning Version 19, TG Handbook	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00013370	PrivWithhold 06990	PrivWithhold 06991	9/23/2016	Email chain concerning TG Handbook, Version 24	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00013463	PrivWithhold 06992	PrivWithhold 07010	10/5/2016	PowerPoint named "TGHC Module 1 Introduction to Policy Guidance and Concepts in Transgender Healthcare." Contains speaker notes.	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00013505	PrivWithhold 07011	PrivWithhold 07012	10/4/2016	Email forward concerning [Non-DoD Source] RE: DoD/VA JIF SCAN ECHO on transgender (TG) care	Deliberations regarding the formulation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00013660	PrivWithhold 07013	PrivWithhold 07014	1/11/2017	Email chain regarding TG implementation within the Air Force	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00013698	PrivWithhold 07015	PrivWithhold 07020	10/19/2016	Email forward concerning TG Care Team Contact List (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00013739	PrivWithhold 07021	PrivWithhold 07021	6/21/2017	Draft of proposed revisions to TRICARE SHCP	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00013771	PrivWithhold 07022	PrivWithhold 07023	11/4/2016	Email concerning Task Force on Transgender Military Dependents - Meeting #2	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00013930	PrivWithhold 07024	PrivWithhold 07026	8/30/2017	Draft version of the Interim Guidance to DoD on Military Service by Transgender Individuals	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

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DoD00013938	PrivWithhold 07027	PrivWithhold 07027	8/28/2017	Electronic copy of a file named Action Memo for Interim Guidance for TG Care - Draft.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00014224	PrivWithhold 07028	PrivWithhold 07034	1/30/2017	Document titled "COMMENTS MATRIX FOR: DHA-IPM 16-00x Guidelines for Medical Care of Transgender Active Duty Service Members with a Diagnosis of Gender Dysphoria." Reflects comments by two DoD officials providing recommended edits and rationale for those edits for a DHA document.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00014234	PrivWithhold 07035	PrivWithhold 07038	8/16/2016	Electronic copy of a file named Tab 2. AFMS Clinical Pathway for Care of Transgender Service Members.ppt	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00014344	PrivWithhold 07039	PrivWithhold 07046	1/23/2017	Email chain regarding Transgender Surgeries -- Honolulu Star-Advertiser media inquiry (UNCLASSIFIED)	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00014349	PrivWithhold 07047	PrivWithhold 07050	11/8/2016	Email chain regarding [Non-DoD Source] Seeking comments + questions for article on transgender Army service members / DEADLINE 3 pm ET	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00014381	PrivWithhold 07051	PrivWithhold 07055	11/10/2016	Email chain regarding [Non-DoD Source] two DOD policy questions	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00014384	PrivWithhold 07056	PrivWithhold 07058	11/10/2016	Email forward concerning [Non-DoD Source] two DOD policy questions- TG care policy from the Hill	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00014410	PrivWithhold 07059	PrivWithhold 07061	8/16/2017	Email chain regarding TG eval SHCP waivers from BUMED	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00014411	PrivWithhold 07062	PrivWithhold 07063	8/16/2017	Email chain regarding TG eval SHCP waivers from BUMED	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

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DoD00014462	PrivWithhold 07064	PrivWithhold 07065	9/14/2017	Email forward concerning Fiscal Year 2018 Call for Studies Proposals, Suspense: August 31: OPA Pre-Coordination	Deliberations regarding the implementation of the transgender policy	Y	
DoD00014570	PrivWithhold 07066	PrivWithhold 07077	6/20/2017	Email chain regarding Request Mental Health recommendation on the Requirement of Real Life Experience prior to Genital Reconstructive Surgery for Transgender (TG) ADSMs	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00014607	PrivWithhold 07078	PrivWithhold 07081	10/26/2017	Electronic copy of file named TG SURG slides Benson(2).pptx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00014676	PrivWithhold 07082	PrivWithhold 07082	3/27/2017	Definitions for Medical Accessions.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00014701	PrivWithhold 07083	PrivWithhold 07084	1/9/2017	Decision Paper-TPR auths for Gender Dysphoria.docx re: medical care and transgender population	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00018155	PrivWithhold 07085	PrivWithhold 07086	6/24/2017	Draft Action Memo for the Secretary of Defense with the subject "Approval of Directive-type Memorandum (DTM) 17-0XX." Contains draft recommendation from A. M. Kurta, Performing the Duties of Under Secretary of Defense (Personnel and Readiness), to the Secretary of Defense as to whether to approve a DTM concerning transgender applicants into military service and reasons for that recommendation.	Deliberations regarding the formulation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00018159	PrivWithhold 07087	PrivWithhold 07088	6/1/2017	Email chain regarding TG info from ARmy (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00018178	PrivWithhold 07089	PrivWithhold 07093	8/18/2017	Deliberative email conversation on the DoD response to a media article on the Transgender policy	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00018196	PrivWithhold 07094	PrivWithhold 07094	Undated	Memorandum from the Deputy Secretary of Defense for the Secretary of Defense with the subject "Recommended Transgender Way Ahead." Contains highlighting and handwritten notes from Secretary Mattis. Labeled "Deliberative Pre-decisional." Provides recommendations from the Deputy Secretary of Defense to Secretary Mattis concerning accessions of transgender individuals and training.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	Y	
DoD00018207	PrivWithhold 07095	PrivWithhold 07097	6/26/2017	Email chain regarding TG Policy Input Venues (UNCLASSIFIED)	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00019130	PrivWithhold 07098	PrivWithhold 07098	3/14/2014	Draft talking paper on the Department's position on military service by Transgender personnel. Labeled "DRAFT WORKING PAPER NOT FOR RELEASE."	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00019291	PrivWithhold 07099	PrivWithhold 07105	7/23/2014	Email conversation regarding a tasker to response to a letter from American Military Partners Association on transgender issues	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00021533	PrivWithhold 07106	PrivWithhold 07108	6/29/2017	Email regarding transgender policy and delay of Carter policy implementation	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00021828	PrivWithhold 07109	PrivWithhold 07111	3/7/2017	Info Memo with the subject "Department of Defense 6130.03, "Medical Standards for Appointment, Enlistment, or Induction in the Military Services" Status Update and Way Forward." Contains deliberative discussions concerning transgender policy and DoD Instruction 6130.03 and recommendations for next steps.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00021885	PrivWithhold 07112	PrivWithhold 07116	2/28/2017	Draft Transgender Applicant Processing Policy v4 (Final 27 Feb 17)_Review.doc. Memorandum for commanders with the subject "Policy Memorandum 2-5, Transgender Applicant Processing." Contains comments and track changes for recommended edits. Labeled "Draft."	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00022094	PrivWithhold 07117	PrivWithhold 07120	2/10/2017	Email regarding UPR007515-16 Request for Waiver Approval to Include Sexual Orientation Interview Questions in DoD Study	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00022403	PrivWithhold 07121	PrivWithhold 07121	2/23/2017	Draft DoD responses to questions on the Transgender Policy	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00022551	PrivWithhold 07122	PrivWithhold 07123	7/28/2017	Memo titled "Readiness Impacts of Military Service by transgender Members." Contains recommendations from the Services.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00022589	PrivWithhold 07124	PrivWithhold 07128	7/31/2017	Email discussion concerning preparation of various topics including the transgender policy for P&R nominees	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00022633	PrivWithhold 07129	PrivWithhold 07129	8/10/2017	Document with file name "USD-PR Prep Paper Topics v2 (002).docx." Document is titled "P&R Nomination Prep Topics" and includes a list of possible topics to review in preparation for a Congressional hearing.	Deliberations regarding preparation for Congressional hearing.	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00022650	PrivWithhold 07130	PrivWithhold 07130	6/19/2017	Document with file name "USD-PR Prep Paper Topics.docx." Document is titled "P&R Nomination Prep Topics" and includes a list of possible topics to review in preparation for a Congressional hearing.	Deliberations regarding preparation for Congressional hearing.	N	Not predecisional
DoD00022683	PrivWithhold 07131	PrivWithhold 07135	8/11/2017	Email discussion concerning preparation of various topics including the transgender policy for P&R nominees	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00026695	PrivWithhold 07136	PrivWithhold 07140	6/23/2017	P&R-Transgender Accessions_TC.docx - OGC Edits & Comments 6-23-17.docx	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00026888	PrivWithhold 07141	PrivWithhold 07142	8/30/2017	Email chain regarding Formal Coordination DRAFT Transgender Implementation Guidance for SD Signature Friday 1 Sep	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00026913	PrivWithhold 07143	PrivWithhold 07144	8/28/2017	Email conversation regarding OGC coordination of draft transgender documents	Deliberations regarding the implementation of the transgender policy;	N	Not predecisional
DoD00027038	PrivWithhold 07145	PrivWithhold 07145	5/25/2017	Email concerning coordination of inputs for the transgender policy development	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00027090	PrivWithhold 07146	PrivWithhold 07155	3/2/2017	Email conversations regarding responses to media inquiries related to DoDEA's transgender student policies, including a request for assistance from OGC	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00027117	PrivWithhold 07156	PrivWithhold 07156	2/23/2017	Email conversation regarding the transgender policy implementation related to DoDEA's school policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00027131	PrivWithhold 07157	PrivWithhold 07162	2/23/2017	Email conversation regarding the transgender policy implementation related to DoDEA's school policy, includes legal opinion from OGC attorney	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00027178	PrivWithhold 07163	PrivWithhold 07197	1/13/2017	Document with the file name "QFRs-tasks 1.13.17 - P&R Assignment.doc." Contains anticipated questions from Senators and sections of DoD responsible for drafting proposed answers.	Deliberations regarding the implementation of the transgender policy;	N	Not predecisional
DoD00027281	PrivWithhold 07198	PrivWithhold 07199	8/31/2017	Email chain regarding Central coordination cell	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00027643	PrivWithhold 07200	PrivWithhold 07255	7/14/2017	PowerPoint with file name "SIG Meeting transgender (14 JUL 17)_v6.pptx" and titled "Transgender Service Q&As; Transgender Senior Implementation Group Meeting – July 14, 2017." Labeled "Not for Distribution//Draft Deliberative Document." Contains questions and draft answers on such issues as recruiting, medical, deployment, assignments, uniforms. Contains input from Navy and questions from Army.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00028354	PrivWithhold 07256	PrivWithhold 07258	8/3/2017	Email chain regarding Gender dysphoria diagnoses	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00028397	PrivWithhold 07259	PrivWithhold 07259	8/2/2017	Email conversation regarding data on number of service members with GD and medical care	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00028507	PrivWithhold 07260	PrivWithhold 07264	7/26/2017	Email chain regarding Guidance needed for DDEAMC on transgender surgeries scheduled.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00029107	PrivWithhold 07265	PrivWithhold 07266	7/17/2017	Email FW: DoDI 6130.03 With Current transgender associated Stds	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00029326	PrivWithhold 07267	PrivWithhold 07267	6/29/2017	Email regarding transgender questions from Service Chiefs and Personnel and Readiness	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00029339	PrivWithhold 07268	PrivWithhold 07319	1/26/2017	Doc draft of DODI 6130.03 - FC.DOCX	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00029368	PrivWithhold 07320	PrivWithhold 07331	6/28/2017	Email conversation regarding transgender medical issues across the DoD.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00029516	PrivWithhold 07332	PrivWithhold 07334	6/19/2017	Email regarding Air Force hormone standard / DADT	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00034012	PrivWithhold 07335	PrivWithhold 07339	8/1/2017	Email fom attorneys re: TG Service and unit readiness issues with attachments	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; reflects deliberations regarding draft memorandum on these subjects	N	Not predecisional
DoD00034798	PrivWithhold 07340	PrivWithhold 07340	8/15/2017	Draft version of a statement for the Sec Def on Military Service by Transgender Individuals.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00034857	PrivWithhold 07341	PrivWithhold 07341	8/14/2017	Draft document titled "STATEMENT OF THE SECRETARY OF DEFENSE ON MILITARY SERVICE BY TRANSGENDER INDIVIDUALS." Labeled "DRAFT."	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

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DoD00035140	PrivWithhold 07342	PrivWithhold 07346	6/26/2017	Draft Info Memo from General Robert B. Neller, Commandant of the Marine Corps, to the Secretary of Defense with the subject "Continued Marine Corps Concerns Relating to Implementation of Policy Accessing Transgender Applicants into Military Service." Contains the Marine Corps' recommendation on the timing of accessions of transgender individuals and rationale for that recommendation. Prepared by Dr. Michael Strobl, Director, MPP, M&RA.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00036181	PrivWithhold 07347	PrivWithhold 07396	7/10/2017	Joint Chiefs of Staff document titled "Transgender Smartbook." Talking points were created to prepare the Vice Chairman of the Joint Chiefs of Staff and the Deputy Secretary of Defense to lead discussions with Service Secretaries and Chiefs on transgender service and accessions implementation.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00036806	PrivWithhold 07397	PrivWithhold 07398	6/7/2017	Papers from AF Allegedly Showing TG comorbidities return after 3_edit.docx	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00038938	PrivWithhold 07399	PrivWithhold 07400	4/24/2017	Draft memorandum from the Office of the Assistant Secretary of Defense with the subject "Accommodations Concerning Students in Department of Defense Education Activity Schools and Youth Programs." Contains proposed edits in track changes.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy;	N	Not predecisional
DoD00039156	PrivWithhold 07401	PrivWithhold 07401	8/22/2017	Doc of SecDef Statement on transgender.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00044897	PrivWithhold 07402	PrivWithhold 07409	10/19/2016	Document with file name "AMSWG_Draft Minutes_18 Oct 2016.docx." Contains draft meeting minutes of Accession Medical Standards Working Group (AMSWG) from October 18, 2016. Contains recommended changes to various medical standards.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00045015	PrivWithhold 07410	PrivWithhold 07411	1/9/2017	Email regarding edited DoDI 6130.03 Jan 9 2017	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00045034	PrivWithhold 07412	PrivWithhold 07414	7/20/2017	Email FW: Completed Pre-coordination for DoDI 6130.03, "Medical Standards for Appointment, Enlistment, or Induction in the Military Services"	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00045048	PrivWithhold 07415	PrivWithhold 07471	1/5/2017	Draft edited DoDI 6130.03_adjudication gwb USCG navy-USMC AF edits 5 Jan 17.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00045098	PrivWithhold 07472	PrivWithhold 07474	4/19/2017	Email chain regarding January AMSWG Minutes	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00045347	PrivWithhold 07475	PrivWithhold 07479	4/25/2017	Email regarding Joint SCCC meeting - Thurs, 20 April 17. Rm 4E1019, 0830-1000	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00052017	PrivWithhold 07480	PrivWithhold 07481	5/12/2017	Email request for informal views from Comp and OEPM (both from P&R)	Deliberations regarding the formulation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00052105	PrivWithhold 07482	PrivWithhold 07483	1/17/2017	E-mail of 17 January 2017 regarding DRAFT Charter - Task Force on Transgender Military Dependents	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00052188	PrivWithhold 07484	PrivWithhold 07484	6/20/2017	Email conversation regarding number of transgender service members	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00052231	PrivWithhold 07485	PrivWithhold 07488	1/23/2017	Deliberative email conversation regarding responses to inquiries from media outlets seeking information on Transgender military service members.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00052233	PrivWithhold 07489	PrivWithhold 07492	2/9/2017	Email regarding OSD Legislative Affairs Update - 7 Feb 17	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00052371	PrivWithhold 07493	PrivWithhold 07500	4/12/2017	Document re LGBT issue and the military with_Analysis.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00052386	PrivWithhold 07501	PrivWithhold 07501	6/20/2017	E-mail of 6/20/2017 regarding Transgender medical care	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00067859	PrivWithhold 07502	PrivWithhold 07507	6/30/2016	Doc of Draft TG Remarks Outline Draft for Carter TG policy 8.0.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	Y	
DoD00068011	PrivWithhold 07508	PrivWithhold 07508	8/1/2017	Draft doc re: transgender Service Members and Unit Readiness 31 July 17 - DJG e.docx	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00068014	PrivWithhold 07509	PrivWithhold 07515	2/23/2017	Email chain regarding FOR CLEARANCE - Transgender DoDEA Students - Military Times/CNN	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00068124	PrivWithhold 07516	PrivWithhold 07516	8/1/2017	Doc re: transgender Service Members and Unit Readiness 31 July 17 - DJG final.docx	Deliberations regarding the implementation of the transgender policy;	N	Not predecisional
DoD00083413	PrivWithhold 07517	PrivWithhold 07517	7/26/2017	EMail re: FW_ Transgender tweets by POTUS .msg	Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00083505	PrivWithhold 07518	PrivWithhold 07530	7/5/2017	PowerPoint titled Deputy Secretary of Defense In-Brief (Working). Shows priorities of the Secretary of Defense and the Deputy Secretary of Defense.	Deliberations concerning priorities of senior DoD officials	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00083826	PrivWithhold 07531	PrivWithhold 07537	8/28/2017	Proposed talking points for public affairs regarding transgender policy (and other recent events).	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00083994	PrivWithhold 07538	PrivWithhold 07538	7/27/2017	Email regarding a DRAFT statement on TG .msg	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00084038	PrivWithhold 07539	PrivWithhold 07540	7/8/2017	Email discussion of read ahead materials including transgender updates for SECDEF	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00084092	PrivWithhold 07541	PrivWithhold 07541	6/27/2017	Email conversation between DoD personnel regarding meetings on lethality	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00084616	PrivWithhold 07542	PrivWithhold 07544	7/6/2017	Draft talking points and responses to questions from Congress on the Transgender Policy	Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00084739	PrivWithhold 07545	PrivWithhold 07545	2/24/2017	Email to Dep SECDEF re: rescission of policy re: TG policies related to schools and its effect on DODEA schools	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00087929	PrivWithhold 07546	PrivWithhold 07548	1/24/2018	Email concerning upcoming meetings including a meeting on the transgender.	Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00090527	PrivWithhold 07549	PrivWithhold 07551	11/15/2017	Email between DoD personnel discussing media items related to TG including sex reassignment surgery and accessions standards	Deliberations regarding the implementation of the transgender policy	N	Not deliberative
DoD00092655	PrivWithhold 07552	PrivWithhold 07560	9/27/2015	Deliberative presentation from DHA on several lines of effort within the DoD medical community including the Transgender Policy. Contains goals and deliverables among many lines of effort. Contains "initial thoughts" of DoD on various issues.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	Y	
DoD00093836	PrivWithhold 07561	PrivWithhold 07562	8/30/2017	Email RE_ Formal Coordination DRAFT Transgender Implementation Guidance for SD Signature Friday 1 Sep (UNCLASSIFIED).msg	Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00095186	PrivWithhold 07563	PrivWithhold 07566	8/7/2017	Email conversation regarding transgender in the workforce nad TITLE VII	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00095231	PrivWithhold 07567	PrivWithhold 07570	8/5/2017	Email conversation regarding transgender in the workforce	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00095320	PrivWithhold 07571	PrivWithhold 07572	8/3/2017	Email conversation on POTUS memo on transgender policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00097078	PrivWithhold 07573	PrivWithhold 07573	6/25/2017	Email conversation regarding the contents of a draft memorandum on transgender issues for the Secretary of Defense.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00097086	PrivWithhold 07574	PrivWithhold 07584	6/27/2016	Document with questions re: Transgender Hard Q & A for new Carter TG policy Rollout	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	Y	
DoD00097110	PrivWithhold 07585	PrivWithhold 07585	6/24/2017	Email conversation regarding transgender medical question and deployability	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

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DoD00097361	PrivWithhold 07586	PrivWithhold 07590	6/14/2017	Email conversation regarding Morning News of Note. Contains deliberations on response to Congressional inquiry and press.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00099005	PrivWithhold 07591	PrivWithhold 07592	4/27/2017	Memorandum from the Deputy Secretary of Defense for the Secretary of Defense with the subject "Accession of Transgender Service Members." Contains recommendations from the Services on accessions and contains handwritten notes from the Deputy Secretary of Defense concerning his recommendation.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00101527	PrivWithhold 07593	PrivWithhold 07615	2/1/2017	Doc Draft of SECDEF speech.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00102412	PrivWithhold 07616	PrivWithhold 07639	12/5/2016	Draft Memorandum for Record on the Department's progress on several area initiatives, including military personnel	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00103486	PrivWithhold 07640	PrivWithhold 07640	9/21/2016	List of deliberative transition papers that various DoD elements were working on developing, including a paper on the DoD Transgender policy.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

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DoD00103842	PrivWithhold 07641	PrivWithhold 07643	11/2/2016	Deliberative email discussion between DoD personnel regarding media coverage of the Transgender Policy development	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00108913	PrivWithhold 07644	PrivWithhold 07649	7/11/2016	RE_ Clearance of _DTM Military Service of Transgender Service Members_ (DOPSR Case 16-D-0107).msg	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00109024	PrivWithhold 07650	PrivWithhold 07654	7/8/2016	Deliberative email conversation between DoD personnel regarding the development of responses to Secretary of Defense questions and answers	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00109587	PrivWithhold 07655	PrivWithhold 07655	6/30/2016	Deliberative email regarding the staffing of several discussion papers as they are moving through the staffing process.	Deliberations regarding the implementation of the transgender policy	Y	
DoD00109897	PrivWithhold 07656	PrivWithhold 07656	6/29/2016	FW_ Final DoDI.msg	Deliberations regarding the implementation of the transgender policy	Y	
DoD00109918	PrivWithhold 07657	PrivWithhold 07662	6/29/2016	Doc of TG Remarks Outline Draft docx to announce Carter policy	Deliberations regarding the implementation of the transgender policy	Y	
DoD00110030	PrivWithhold 07663	PrivWithhold 07667	6/28/2016	Doc of TG Remarks Outline Draft docx to announce Carter policy	Deliberations regarding the implementation of the transgender policy	Y	
DoD00110070	PrivWithhold 07668	PrivWithhold 07669	6/28/2016	Draft document with questions from SECDEF Carter with draft answers regarding transgender policy.	Deliberations regarding the formulation of the transgender policy	Y	
DoD00110081	PrivWithhold 07670	PrivWithhold 07675	6/28/2016	Doc of TG Remarks Outline Draft docx to announce Carter policy	Deliberations regarding the implementation of the transgender policy	Y	

In Camera Review of 500 DPP Documents

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DoD00110604	PrivWithhold 07676	PrivWithhold 07676	6/22/2016	RE: DSD's call with HHS DepSec Wakefield	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	Y	
DoD00110725	PrivWithhold 07677	PrivWithhold 07679	6/21/2016	Email discussion of transgender media coverage and rollout.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not deliberative
DoD00111484	PrivWithhold 07680	PrivWithhold 07681	6/5/2016	Email Re_ DRAFT SD FoTF Implementation Memo .msg	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	Y	
DoD00111596	PrivWithhold 07682	PrivWithhold 07683	6/3/2016	Deliberative talking about regarding the rollout of the Transgender Policy across the Department	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	Y	
DoD00112485	PrivWithhold 07684	PrivWithhold 07687	5/15/2016	Email with subject line "Re_ Rand Study_NYT." Contains deliberations concerning how to respond to press.	Deliberations regarding communications with the press concerning transgender policy	N	Not deliberative
DoD00112580	PrivWithhold 07688	PrivWithhold 07690	5/12/2016	RE_ Medical questions re_ TG .msg	Deliberations regarding the formulation of the transgender policy	Y	
DoD00112622	PrivWithhold 07691	PrivWithhold 07695	5/12/2016	Doc of UPDATE MEMO 5.13_bf edits.docx	Deliberations regarding the formulation of the transgender policy	Y	

In Camera Review of 500 DPP Documents

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DoD00116993	PrivWithhold 07696	PrivWithhold 07698	1/17/2017	Circulating draft document containing material relevant to transgender policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00116997	PrivWithhold 07699	PrivWithhold 07700	1/13/2017	Email conversation regarding DepSecDef attendance at a transgender policy briefing	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00117019	PrivWithhold 07701	PrivWithhold 07719	12/7/2016	Document containing memo written at end of Obama administration discussing accomplishments of administration including transgender policy.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00117233	PrivWithhold 07720	PrivWithhold 07723	12/13/2016	Email regarding a READ-AHEAD: Transgender Update for the Deputy Secretary of Defense	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00117235	PrivWithhold 07724	PrivWithhold 07724	12/13/2016	DepSecDef Talking Points - Transgender implementation plan.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

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DoD00117409	PrivWithhold 07725	PrivWithhold 07775	8/17/2016	Draft transgender policy guidance Handbook of Carter policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00117435	PrivWithhold 07776	PrivWithhold 07776	7/21/2016	Deliberative email between DoD personnel discussing TG Training Materials	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00117446	PrivWithhold 07777	PrivWithhold 07779	11/3/2016	Email between DoD personnel discussing transgender medical issue.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00117461	PrivWithhold 07780	PrivWithhold 07784	10/25/2016	Discussions between attorneys and senior policymakers regarding impacts of transgender policy in DoD schools and unique overseas environments	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00117552	PrivWithhold 07785	PrivWithhold 07786	7/25/2016	Deliberative email between DoD personnel regarding weekly TG Q&A Roll-Up.msg	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00117750	PrivWithhold 07787	PrivWithhold 07787	9/23/2016	Email between DoD personnel discussing edits to a transgender policy talking paper	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00117795	PrivWithhold 07788	PrivWithhold 07788	8/23/2016	Deliberative email conversation regarding exceptions to policy templates to the transgender policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00117840	PrivWithhold 07789	PrivWithhold 07789	10/14/2016	Email re: Deliberative email conversation between DoD personnel regarding Draft TG Training policy with service inputs	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00117876	PrivWithhold 07790	PrivWithhold 07793	8/5/2016	EMail RE: TG Accession Guidance to recruiting.msg	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00117939	PrivWithhold 07794	PrivWithhold 07796	10/20/2016	Document titled Air Force Transgender In-Service Education and Training Plan. Contains plans for training on the transgender policy.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00118092	PrivWithhold 07797	PrivWithhold 07868	9/29/2016	Draft copy of handbook titled "Transgender Service in the U.S. Military: An Implementation Handbook." Labeled "Version 26" and "Not for Distribution // Draft Deliberative Document." Contains draft deliberations concerning how commanders can implement DoD's policy.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00118103	PrivWithhold 07869	PrivWithhold 07940	9/27/2016	Draft copy of transgender handbook for commanders. Labeled "Draft Deliberative Document." Version 25 of the draft. Contains draft deliberations concerning how commanders can implement DoD's policy.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00118162	PrivWithhold 07941	PrivWithhold 07944	9/20/2016	EMail re: DoDI 1300.28 Query for Future Efforts on Researching Warfighter Readiness (UNCLASSIFIED).msg	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00118203	PrivWithhold 07945	PrivWithhold 07946	8/4/2016	Email re: Transgender Ques Bank UPR002216-16.msg	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00118902	PrivWithhold 07947	PrivWithhold 07948	1/17/2018	Doc of AMSWG_ADHD_AnxietyBackground_PC.docx information	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00118963	PrivWithhold 07949	PrivWithhold 08009	11/30/2015	DoDI 6130.03_Draft 2015.12.9.2015 tracked changes.docx	Deliberations regarding the implementation of the transgender policy	Y	
DoD00119177	PrivWithhold 08010	PrivWithhold 08013	5/15/2017	Email between DoD personnel discussing changes to DoD transgender medical policy and possible rereview of the policy	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00119437	PrivWithhold 08014	PrivWithhold 08016	3/7/2017	Info Memo with the subject "Department of Defense 6130.03, "Medical Standards for Appointment, Enlistment, or Induction in the Military Services" Status Update and Way Forward." Contains deliberative discussions concerning transgender policy and DoD Instruction 6130.03 and recommendations for next steps.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00119457	PrivW thhold 08017	PrivW thhold 08018	2/24/2017	Document discussing background on the DoDI 6130.03 and includes recommended next steps.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00119530	PrivW thhold 08019	PrivW thhold 08024	1/19/2017	Email between DoD personnel discussing the Accession Medical Standards Working Group meeting and review process.	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00119605	PrivW thhold 08025	PrivW thhold 08026	12/19/2016	Email between DoD personnel discussing issuances spreadsheet.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00119856	PrivW thhold 08027	PrivW thhold 08040	2/23/2017	DoDI 6130.03 Army Final SD 818.docx	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00120101	PrivW thhold 08041	PrivW thhold 08053	2/24/2017	Deliberative discussions concerning transgender policy and DoD Instruction 6130.03	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00120186	PrivW thhold 08054	PrivW thhold 08054	4/19/2017	Deliberative discussions re: transgender medical policy and stability in preferred gender and reqts of medical provider	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00120662	PrivW thhold 08055	PrivW thhold 08058	3/26/2018	Deliberations regarding implementation of transgender accessions policy and coordination of new policy	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00120855	PrivW thhold 08059	PrivW thhold 08077	10/31/201 4	Slides showing efforts of Informatics office including transgender.	Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00121158	PrivW thhold 08078	PrivW thhold 08078	4/14/2014	Excel file titled "MHS Issuances & Publications Dashboard - JANUARY 2017 (results of DECEMBER 2016 data call)." Contains deliberations regarding timelines for transgender policy and other regulatory changes.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00121436	PrivW thhold 08079	PrivW thhold 08131	7/10/2017	Draft DODI 6130.03 titled "MEDICAL STANDARDS FOR APPOINTMENT, ENLISTMENT, OR INDUCTION IN THE MILITARY SERVICES." Contains track changes with recommended edits.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00121505	PrivW thhold 08132	PrivW thhold 08132	4/11/2017	Email between DoD personnel answering a transgender legal research question.	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00121530	PrivW thhold 08133	PrivW thhold 08135	3/30/2017	Discussion between agency personnel discussing leadership feedback on proposed transgender policy implementation	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00121552	PrivW thhold 08136	PrivW thhold 08137	2/24/2017	Deliberative discussions concerning transgender policy and DoD Instruction 6130.03	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00121596	PrivW thhold 08138	PrivW thhold 08191	9/19/2016	Doc of TAB A_DoDI 6130.03_2016.9.19.doc	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00121617	PrivW thhold 08192	PrivW thhold 08244	8/22/2016	Doc of TAB A_DoDI 6130.03_2016.8.1_HRPO comments.doc	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00121624	PrivW thhold 08245	PrivW thhold 08245	4/14/2014	Excel file titled "MHS Issuances & Publications Dashboard - Results of AUGUST 2016 Data Call." Contains deliberations regarding timelines for transgender policy and other regulatory changes.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00121637	PrivWithhold 08246	PrivWithhold 08247	8/1/2016	Email RE: Internal Coordination Package for DoDI 6130.03.msg	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00121655	PrivWithhold 08248	PrivWithhold 08258	7/18/2016	Document containing issuance comments for Guidance for Treatment of Gender Dysphoria for Active Duty Service Members.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00122253	PrivWithhold 08259	PrivWithhold 08259	3/15/2018	Doc of Medical waiver request for a specific service member.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00122456	PrivWithhold 08260	PrivWithhold 08260	2/22/2018	E-mail between DoD personnel regarding study in light of current transgender policy announcements.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00122772	PrivWithhold 08261	PrivWithhold 08261	1/19/2018	Email between DoD personnel discussing medical research on transgender policy.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00122773	PrivWithhold 08262	PrivWithhold 08265	1/19/2018	Document containing analysis of research material.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00123121	PrivWithhold 08266	PrivWithhold 08266	11/29/2017	email re: clinical experience treating transgender individuals in the Army	Deliberations regarding the formulation of the transgender policy; email conversation regarding deployability based on hormone therapy during transition	Y	
DoD00123249	PrivWithhold 08267	PrivWithhold 08275	11/20/2017	Email with subject "Re: Update on my UPR004797-17: Request Approval to Include Sexual Orientation Question on Survey." Email chain was between DoD personnel regarding the questions to ask on a survey.	Deliberations regarding the formulation of the transgender policy	Y	
DoD00123272	PrivWithhold 08276	PrivWithhold 08277	11/17/2017	email regarding the DoD response to the media at an event at Walter Reed that involved a gender transition surgery.	Deliberations regarding the implementation of the transgender policy	N	Not deliberative
DoD00124469	PrivWithhold 08278	PrivWithhold 08280	9/5/2017	email regarding memo to DHA regarding current transgender policies and surgical care.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00124517	PrivWithhold 08281	PrivWithhold 08332	7/28/2017	Deliberative discussions concerning transgender policy and DoD Instruction 6130.03	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00124536	PrivWithhold 08333	PrivWithhold 08335	8/25/2017	Email between DoD personnel discussing transgender media query.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00124558	PrivWithhold 08336	PrivWithhold 08336	8/18/2017	Email between DoD personnel discussing briefing of TG policy to new Dept senior leaders	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00124624	PrivWithhold 08337	PrivWithhold 08339	8/9/2017	Deliberative email conversation between DoD personnel regarding a question on a gender dysphoria diagnosis	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00124688	PrivWithhold 08340	PrivWithhold 08340	8/2/2017	internal deliberations on the DoD interim transgender policy guidelines	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00124747	PrivWithhold 08341	PrivWithhold 08341	7/27/2017	Email re: Deliberative discussions concerning transgender policy and impact of POTUS tweet	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

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DoD00124898	PrivWithhold 08342	PrivWithhold 08344	7/11/2017	Email between DoD personnel providing medical input to transgender accessions policy discussions.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00124924	PrivWithhold 08345	PrivWithhold 08357	7/12/2017	Draft slides: Defense Healthcare Management Systems Senior Military Medical Action Council. Labeled "FOIA Exemption 5 (Pre-decisional/deliberative)."	Deliberations regarding Defense Healthcare Management Systems priorities	N	Not predecisional
DoD00124925	PrivWithhold 08358	PrivWithhold 08360	7/8/2017	Email between DoD personnel involving updates to transgender policy slides to update new senior officials on TG policy	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00124935	PrivWithhold 08361	PrivWithhold 08361	7/6/2017	Email between DoD personnel discussing revisions to document.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00125043	PrivWithhold 08362	PrivWithhold 08414	4/19/2017	Draft and undated red-line version of DoD Instruction 6130.03 which includes comments in the margins	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00125208	PrivWithhold 08415	PrivWithhold 08415	6/8/2017	Draft slides, draft info paper, and discussion.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00125250	PrivWithhold 08416	PrivWithhold 08416	6/7/2017	Email between DoD personnel discussing transgender medical studies.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00125271	PrivWithhold 08417	PrivWithhold 08417	6/2/2017	Email summary of the ongoing efforts to develop different policies, including accession medical standards involving transgender service members	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00125304	PrivWithhold 08418	PrivWithhold 08421	5/26/2017	Email chain regarding policy issues relating to surgical and medical treatment of transgender individuals	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00125306	PrivWithhold 08422	PrivWithhold 08424	5/26/2017	Email chain regarding policy issues relating to treatment of transgender individuals	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00125349	PrivWithhold 08425	PrivWithhold 08425	5/19/2017	Email chain regarding policy issues surrounding treatment of non-service member transgender individuals	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00125409	PrivWithhold 08426	PrivWithhold 08427	5/3/2017	Email chain discussing developments in policies regarding service of transgender individuals	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00125595	PrivWithhold 08428	PrivWithhold 08430	3/7/2017	Info Memo with the subject "Department of Defense 6130.03, "Medical Standards for Appointment, Enlistment, or Induction in the Military Services" Status Update and Way Forward." Contains deliberative discussions concerning transgender policy and DoD Instruction 6130.03 and recommendations for next steps.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00125599	PrivWithhold 08431	PrivWithhold 08440	3/4/2017	Document containing a list of questions from congress including transgender questions.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00125606	PrivWithhold 08441	PrivWithhold 08442	3/3/2017	Email conversation regarding number of transgender service members on active duty.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00125685	PrivWithhold 08443	PrivWithhold 08446	2/15/2017	Meeting notes from the Policy Advisory Council with Tg discussion	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00125784	PrivWithhold 08447	PrivWithhold 08447	10/16/2013	Materials relating to Medical Deputies Action Group meeting.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00125788	PrivWithhold 08448	PrivWithhold 08450	1/25/2017	Email re: DHSA memo on guidance of medical care and TG active duty service members	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

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DoD00125936	PrivWithhold 08451	PrivWithhold 08455	12/9/2016	Draft document containing overview of policy efforts including transgender.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00125981	PrivWithhold 08456	PrivWithhold 08459	12/6/2016	Email between DoD personnel circulating and discussing transgender info paper on GD and Active duty service members	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00126369	PrivWithhold 08460	PrivWithhold 08462	9/30/2016	Email between DoD personnel discussing roles and responsibilities for transgender policy.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00126475	PrivWithhold 08463	PrivWithhold 08466	9/23/2016	Email between DoD personnel following up on discussion from meeting.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00126546	PrivWithhold 08467	PrivWithhold 08467	9/19/2016	Email between DoD personnel discussing language for briefing bullets.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00126607	PrivWithhold 08468	PrivWithhold 08473	9/14/2016	Email between DoD personnel discussing media inquiry about particular transgender service member.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00126671	PrivWithhold 08474	PrivWithhold 08477	9/6/2016	Email between DoD discussing data gathering for presentation slides.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00126833	PrivWithhold 08478	PrivWithhold 08481	8/15/2016	Email between DoD personnel discussing speaker for event.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00126988	PrivWithhold 08482	PrivWithhold 08484	3/13/2018	Email between DoD personnel providing information for transgender study proposal.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00127480	PrivWithhold 08485	PrivWithhold 08490	11/20/2017	Email between DoD personnel regarding transgender survey.	Deliberations regarding the formulation of the transgender policy	Y	
DoD00128121	PrivWithhold 08491	PrivWithhold 08492	9/20/2017	Email between DoD personnel circulating and discussing confirmation prep materials including transgender materials.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not deliberative
DoD00128205	PrivWithhold 08493	PrivWithhold 08499	9/13/2017	Email chain discussing development of policy information concerning transgender service members	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00128207	PrivWithhold 08500	PrivWithhold 08502	9/12/2017	Email chain discussing formulation of the interim guidance on TG policy with talkingpoints and Q and A.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00128253	PrivWithhold 08503	PrivWithhold 08503	9/8/2017	Email concerning draft guidance for treatment of transgender service members	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00128308	PrivWithhold 08504	PrivWithhold 08504	8/31/2017	Email chain regarding interim guidance for treatment of transgender service members during policy rereview	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00128310	PrivWithhold 08505	PrivWithhold 08506	8/31/2017	Email chain regarding interim guidance for treatment of transgender service members	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00128463	PrivWithhold 08507	PrivWithhold 08509	8/9/2017	Email chain regarding the formulation of transgender policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00128526	PrivWithhold 08510	PrivWithhold 08512	8/3/2017	Email re: Deliberations on interim transgender policy and waivers for TG related surgical procedures and evaluations	Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00128579	PrivWithhold 08513	PrivWithhold 08513	7/26/2017	Document titled: Service Member Transgender Health Care	Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00128586	PrivWithhold 08514	PrivWithhold 08514	7/26/2017	Talking paper on Service Member Transgender Health Care	Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00128620	PrivWithhold 08515	PrivWithhold 08516	7/26/2017	Email between DoD personnel formulating response to POTUS tweet.	Deliberations regarding the rescission of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

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DoD00128705	PrivWithhold 08517	PrivWithhold 08518	7/19/2017	Email between DoD personnel gathering data for the House Armed Services Committee.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00128723	PrivWithhold 08519	PrivWithhold 08522	7/17/2017	Email between DoD personnel circulating cost information relating to transgender treatment.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00128787	PrivWithhold 08523	PrivWithhold 08523	7/7/2017	Email between DoD personnel involving slides for Transgender Senior Implementation Group Meeting.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00128886	PrivWithhold 08524	PrivWithhold 08524	6/26/2017	Configuration and meeting frequency and attendee lists of working groups on TG medical issues; discussions thereof.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00128926	PrivWithhold 08525	PrivWithhold 08533	11/25/2016	Slides titled: Information Brief Transgender Care	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00128951	PrivWithhold 08534	PrivWithhold 08535	6/19/2017	Discussion re M31 of the AF Medical Standards Directory revisions and related talking points.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

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DoD00128968	PrivWithhold 08536	PrivWithhold 08537	6/12/2017	Email between DoD personnel circulating notes from Health Affairs staff meeting discussing transgender status implementation	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00129033	PrivWithhold 08538	PrivWithhold 08542	5/26/2017	Email chain addressing policy development concerning transgender care of service member dependents	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00129056	PrivWithhold 08543	PrivWithhold 08544	5/19/2017	Slides providing oversight to HSPO office structure and functions.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00129060	PrivWithhold 08545	PrivWithhold 08586	10/31/2014	Slides for DoD health symposium including transgender.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00129070	PrivWithhold 08587	PrivWithhold 08587	5/19/2017	Email chain discussing policy developments being tracked by DHH's Health Services Policy and Oversight, including accession policies for transgender individuals	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

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DoD00129161	PrivWithhold 08588	PrivWithhold 08594	4/10/2017	Email chain regarding the development of accession policies for transgender individuals	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00129191	PrivWithhold 08595	PrivWithhold 08596	3/24/2017	Email between DoD personnel circulating talking points including transgender talking points.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00129237	PrivWithhold 08597	PrivWithhold 08599	3/7/2017	Draft Info Memo with the subject "Department of Defense 6130.03, "Medical Standards for Appointment, Enlistment, or Induction in the Military Services" Status Update and Way Forward." Contains deliberative discussions concerning transgender policy and DoD Instruction 6130.03 and recommendations for next steps. Contains track changes with recommended edits from Terry Adirim, DHA.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00129260	PrivWithhold 08600	PrivWithhold 08601	3/3/2017	Email between DoD personnel discussing potential DoDI edits.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00129472	PrivWithhold 08602	PrivWithhold 08606	12/31/2016	Email between DoD personnel circulating and discussing transgender info paper and specific medical procedures	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00129590	PrivWithhold 08607	PrivWithhold 08615	12/7/2016	Slides titled: Information Brief Transgender Care. Contains proposed next steps on implementing transgender policy.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00129611	PrivWithhold 08616	PrivWithhold 08617	11/25/2016	Slides titled: Information Brief Transgender Care related to TG medical issues and data re: gender dysphoria	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00129632	PrivWithhold 08618	PrivWithhold 08618	11/22/2016	Email between DoD personnel discussing transgender medical data and active duty service members under Carter policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00129633	PrivWithhold 08619	PrivWithhold 08627	9/8/2016	Slides titled: TRANSGENDER SERVICE POLICY Implementation Update	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00129805	PrivWithhold 08628	PrivWithhold 08630	10/15/2016	Email between DoD personnel clarifying an aspect of transgender medical policy.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00129830	PrivWithhold 08631	PrivWithhold 08633	10/4/2016	Email between DoD personnel regarding transgender media item.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00129839	PrivWithhold 08634	PrivWithhold 08634	9/30/2016	Email between DoD personnel discussing roles and responsibilities for transgender policy.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00130030	PrivWithhold 08635	PrivWithhold 08635	9/7/2016	Slides titled: Information Brief Transgender Care	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00130042	PrivWithhold 08636	PrivWithhold 08637	9/6/2016	Email between DoD discussing gathering of data for presentation slides.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00130057	PrivWithhold 08638	PrivWithhold 08639	8/31/2016	Email between DoD personnel discussing transgender data and requests for exceptions to policy re transgender medical issues	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00130080	PrivWithhold 08640	PrivWithhold 08640	8/22/2016	Email between DoD personnel discussing reference materials re: medical guidance for gender dysphoria	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00130101	PrivWithhold 08641	PrivWithhold 08642	8/16/2016	Email between DoD personnel discussing transgender policy status of implementation guidance of Carter policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00130207	PrivWithhold 08643	PrivWithhold 08643	3/22/2018	Email between DoD personnel circulating transgender talking points.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00130950	PrivWithhold 08644	PrivWithhold 08645	3/9/2018	Email between DoD personnel discussing accessions process and specific transgender applicant.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00137262	PrivWithhold 08646	PrivWithhold 08646	3/7/2018	Document containing draft policy Q and A including transgender policy questions	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00137481	PrivWithhold 08647	PrivWithhold 08647	2/15/2018	Email between DoD personnel discussing transgender medical policy follow-up to meeting.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00137908	PrivWithhold 08648	PrivWithhold 08648	4/25/2018	Email between DoD personnel discussing specific transgender applicants.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00138140	PrivWithhold 08649	PrivWithhold 08657	9/8/2016	Draft PowerPoint presentation on the implementation of the DoD policy on military service by transgender individuals	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00138203	PrivWithhold 08658	PrivWithhold 08669	9/16/2016	Email between DoD personnel discussing media inquiry about particular transgender service member.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00138452	PrivWithhold 08670	PrivWithhold 08671	6/24/2016	Email between DoD personnel discussing medical requirements for various medical issues.	Deliberations regarding the implementation of the transgender policy	Y	
DoD00139564	PrivWithhold 08672	PrivWithhold 08673	12/20/2017	Slides titled: Recruiter Preliminary Screening Process	Deliberations regarding medical screening process	Y	
DoD00139865	PrivWithhold 08674	PrivWithhold 08675	3/14/2018	Email between DoD personnel regarding posting of transgender policy documents online.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00139907	PrivWithhold 08676	PrivWithhold 08678	2/26/2018	Email between DoD personnel circulating information relating to Transgender Care IPT meeting.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00139913	PrivWithhold 08679	PrivWithhold 08680	2/26/2018	Email between DoD personnel regarding IPT meeting and transgender updates	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00140271	PrivWithhold 08681	PrivWithhold 08681	3/16/2018	Email between DoD personnel regarding specific waver requests.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00142589	PrivWithhold 08682	PrivWithhold 08684	3/9/2018	Email between DoD personnel regarding accessions.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00142595	PrivWithhold 08685	PrivWithhold 08688	3/7/2018	Email between DoD personnel providing answers to transgender policy question.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00142871	PrivWithhold 08689	PrivWithhold 08718	2/12/2018	Email between DoD personnel regarding transgender survey.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00143482	PrivWithhold 08719	PrivWithhold 08720	3/30/2016	Email re: updating Hill on status of Carter Policy review	Deliberative email between DoD personnel regarding RAND report and congressional outreach.	N	Not deliberative
DoD00143491	PrivWithhold 08721	PrivWithhold 08723	4/4/2016	Deliberative email conversation between DoD personnel regarding the proper response to a NYT editorial on the Transgender Policy.	Deliberative email between DoD personnel regarding publication of NYTimes editorial on transgender service members.	N	Not deliberative
DoD00144734	PrivWithhold 08724	PrivWithhold 08726	8/9/2017	Email Re: TG "Holding" Letter on Tg policy rereview	Deliberative email between DoD personnel regarding DoD transgender policy meeting.	N	Not predecisional
DoD00144855	PrivWithhold 08727	PrivWithhold 08728	7/6/2017	FW: Gender Change for Retiree, Dependent, Contractor (UNCLASSIFIED).msg	Deliberative email between DoD personnel regarding DoD transgender dependent medical policy.	N	Not predecisional
DoD00144928	PrivWithhold 08729	PrivWithhold 08731	6/26/2017	Deliberative email conversation between DoD personnel regarding development of the transgender policy and specifics on implementation	Deliberative email between DoD personnel regarding DoD transgender medical policy meeting.	N	Not predecisional
DoD00144936	PrivWithhold 08732	PrivWithhold 08733	6/24/2017	Deliberative email conversation regarding the Transgender policy rollout	Deliberative email between DoD personnel regarding DoD transgender medical policy.	N	Not predecisional

In Camera Review of 500 DPP Documents

DOCID	Begin Bates	End Bates	Date	Title/Description	Privilege Basis and Description	Priv. Y/N	Notes
DoD00145040	PrivWithhold 08734	PrivWithhold 08738	2/17/2017	Email RE_ Assistance Requested of MTP and SCCC (33.4 KB).msg	Deliberative email between DoD personnel regarding DoD transgender medical policy.	N	Not predecisional
USCG 00007621	PrivWithhold 08739	PrivWithhold 08741	8/18/2015	This is a Department of Defense generated document titled "TRANSGENDER SERVICE REVIEW WORKING GROUP OUTLINE" that is labeled "Draft Deliberative." The document contains deliberative materials relating to the formulation and implementation of transgender policy.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	Y	
USCG 00007707	PrivWithhold 08742	PrivWithhold 08813	9/23/2016	Draft DoD document titled "Transgender Service in the US Military: An Implementation Handbook." Contains draft deliberations concerning how commanders can implement DoD's policy.	This document is titled "Transgender Service in the US Military: An Implementation Handbook." It was generated by the Department of Defense, and it is labeled "Not for Distribution/Draft Deliberative Document." It contains deliberative material regarding the formulation and implementation of transgender policy.	N	Not predecisional

The Honorable Marsha J. Pechman

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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

RYAN KARNOSKI, et al.,
Plaintiffs, and
STATE OF WASHINGTON,
Plaintiff-Intervenor,
v.
DONALD J. TRUMP, in his official capacity
as President of the United States, et al.,
Defendants.

Case No. 2:17-cv-01297-MJP
**NOTICE OF RULE 30(b)(6)
DEPOSITION**


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PLEASE TAKE NOTICE that, pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, Plaintiffs will take the deposition of Defendant United States Department of Defense beginning at 9:00 a.m. on March 24, 2020 and continuing day to day thereafter until concluded. The deposition(s) shall be taken at the offices of Kirkland & Ellis, LLP, 1301 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The United States Department of Defense is requested to designate one or more officers, managers, agents, employees or other representatives to testify on its behalf concerning the subjects of examination set forth in Exhibit A, which is attached hereto.

The deposition will take place pursuant to the applicable provisions of the Federal Rules of Civil Procedure before a registered court reporter or some other person authorized by law to administer oaths, and the testimony of the witness(es) will be transcribed by a registered court reporter and/or videorecorded.

Dated: March 9, 2020.

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**LAMDBA LEGAL DEFENSE AND
EDUCATION FUND, INC.**

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Carl Charles (admitted pro hac vice)

OUTSERVE-SLDN, INC.

Peter Perkowski (admitted pro hac vice)

KIRKLAND & ELLIS LLP

James F. Hurst, P.C. (admitted pro hac vice)
Jordan M. Heinz (admitted pro hac vice)
Vanessa Barsanti (admitted pro hac vice)
Daniel I. Siegfried (admitted pro hac vice)
Steve Patton (admitted pro hac vice)
Sam Ikard (admitted pro hac vice)

Attorneys for Plaintiffs

EXHIBIT A

SUBJECTS OF EXAMINATION

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3 1. The Panel of Experts, including: its formation; its mission, purpose, assignment(s),
4 and deliverables; the potential courses of action and/or policy options it considered; the issues it
5 addressed; the information it requested and/or considered; its deliberations, conclusions, and
6 recommendations, including to whom those recommendations were made; and the Panel’s Final
7 Report and Recommendation.

8 2. The preparation, review, and approval of Panel meeting minutes, including: the
9 identity of any individuals who were responsible for documenting Panel meetings and drafting,
10 reviewing, finalizing and approving minutes before they were submitted to the Panel; the
11 process(es) these individuals followed for documenting Panel meetings; why minutes were
12 prepared for some, but not all, Panel meetings, including the Panel’s last four meetings; and the
13 identity of any individuals who decided whether minutes would or would not be prepared and the
14 reasons why minutes were or were not prepared.

15 3. The “Transgender Service Policy Working Group” or “Transgender Personnel Policy
16 Working Group,” including: the identity of any individuals who served as chairperson, members,
17 or presented at or participated in the Group’s meetings; the Group’s mission, purpose, and
18 assignment(s); the potential courses of action the Group considered; the issues addressed by the
19 Group; any information the Group requested and/or considered; the Group’s deliberations,
20 conclusions, and recommendations; any reports, presentations, recommendations, or other
21 communications the Group had or shared with the Panel; and any records or other documents
22 that reflect the Group’s work, deliberations, conclusions, and/or recommendations.

23 4. Any discussion, consideration, conclusions or recommendations relating to gender
24 dysphoria, gender transition or accession into the military or military service by transgender
25 persons by the Department of Defense’s Medical and Personnel Executive Steering Committee
26 (MEDPERS) during the period July 1, 2015 to the present.

27 5. The meeting on or around December 15, 2017 at which the Panel presented its
28 recommendations to the Deputy Secretary of Defense (“DSD”) and the Vice Chair of the Joint

1 Chiefs of Staff (“VCJCS”), including: the identity of all individuals present at the meeting; the
2 content of all presentations or written materials provided at the meeting; the reactions and/or
3 response(s) of the DSD and the VCJCS to the Panel’s recommendations; any directions by or
4 requests from the DSD and the VCJCS as to additional or further work the Panel should perform;
5 any documents that reflect what was said, presented, discussed, or decided at the meeting; any
6 follow-up or further work performed by the Panel or others in response to any concerns,
7 reactions or other views or directions of the DSD and/or the VCJCS or as a result of the meeting;
8 and any subsequent meetings or communications with or between the Panel and the DSD and/or
9 VCJCS.

10 6. The February 2018 Department of Defense “Report and Recommendations on
11 Military Service by Transgender Persons” (the “Report”), including the identity of any
12 individuals who approved the Report before it was submitted to Secretary Mattis; the role, if any,
13 of Secretary Mattis in drafting, preparing, reviewing, revising and/or finalizing the Report before
14 it was presented to him; the process that was followed and the information and alternatives that
15 were considered in drafting, revising, finalizing, and approving the Report; the identity and role
16 of any persons who were not current employees of the Department of Defense or one of the
17 branches of the military who were involved in any way in providing information that was
18 considered or used in preparing the Report or in drafting, reviewing, revising, finalizing and
19 approving the Report.

20 7. The February 22, 2018 Memorandum for the President from Secretary Mattis
21 concerning Military Service by Transgender Individuals (“Memorandum”), including: the
22 principal author(s) of the Memorandum; the identity of any individuals who were involved in
23 drafting and preparing, reviewing and revising, finalizing and/or approving the Memorandum
24 before it was submitted to Secretary Mattis; the role, if any, of Secretary Mattis in drafting,
25 preparing, reviewing, revising and/or finalizing the Memorandum; the process that was followed
26 and the information and alternatives that were considered in drafting, revising, finalizing, and
27 approving the Memorandum; and the identity and role of any persons who were not current
28 employees of the Department of Defense or one of the branches of the military who were

1 involved in any way in drafting, reviewing, revising, finalizing and/or approving the
2 Memorandum.

3 8. Any requests for waivers, exceptions and/or Exceptions to Policy (ETPs) (a) between
4 January 1, 2016 and April 11, 2019 and (b) since April 12, 2019 with respect to military
5 accession or service by transgender persons, persons who have been diagnosed with or have
6 gender dysphoria, and/or persons who have transitioned or need or seek to transition to a gender
7 other than their birth-assigned gender, including: the number of such requests; the stated reasons
8 for and in support of, and the facts and circumstances concerning, each such request; and the
9 disposition of each such request, including whether it was granted or denied and the reasons
10 provided for each such disposition.

11 9. The statement, at page 33 of the Report, that “currently available in-service data
12 already show that, cumulatively, transitioning Service members in the Army and Air Force have
13 averaged 167 and 159 days of limited duty, respectively, over a one-year period,” including: any
14 data or other information on which this statement was based; how these averages were calculated
15 and by whom; how “limited duty” was defined and determined for purposes of these
16 calculations; and why such calculations were provided with respect to the Army and Air Force,
17 but not the Navy and the Marine Corps.

18 **DEFINITIONS AND INSTRUCTIONS**

19 1. The “Department of Defense,” “You,” “your,” and “yours,” whether or not
20 capitalized, shall mean the Department of Defense and all officers and employees thereof,
21 including, but not limited to, the Secretary of Defense, the Deputy Secretary of Defense, any
22 Undersecretary of Defense, any Assistant Secretary of Defense, any Deputy Assistant Secretary
23 of Defense, the Chairman and Vice Chairman of the Joint Chiefs of Staff, and all employees and
24 officers of the Office of the Secretary of Defense, the Department of the Navy, the Department
25 of the Army, and Department of the Air Force.

26 2. The “Report” shall refer to the February 2018 Department of Defense “Report and
27 Recommendations on Military Service by Transgender Persons,” which was provided to
28 Secretary Mattis on February 22, 2018.

3. The “Panel’s Final Report and Recommendation” shall refer to the Final Report and Recommendations of the Transgender Panel dated October 13 - December 13, 2017 that was produced as USDOE00088638_0001.

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CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the United States of America and the laws of the State of Washington that the foregoing was served via email on March 9, 2020.

/s/Jordan M. Heinz

Jordan M. Heinz

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U.S. Department of Justice
Civil Division, Federal Program

Andrew E. Carmichael
Trial Attorney
Andrew.E.Carmichael@usdoj.gov

Tel: (202) 514-3346
Email:

March 12, 2020

By Email

Jordan M. Heinz
Kirkland & Ellis LLP
300 North LaSalle
Chicago, IL 60654

Counsel for Plaintiffs

Re: Plaintiffs’ Rule 30(b)(6) Deposition Notice to the United States Department of Defense of March 9, 2020 in *Karnoski v. Trump*, No. 17-1297

Counsel,

I write concerning Plaintiffs’ Rule 30(b)(6) Deposition Notice to the United States Department of Defense (“DoD”) of March 9, 2020. Of the nine subjects of examination you have identified in Exhibit A to your notice, at least six of those subjects implicate the deliberative process privilege issues currently pending before the Ninth Circuit (Subjects 2–7). As you are aware, there is currently an administrative stay in place regarding these issues and therefore Plaintiffs may not inquire into these areas nor may the DoD provide responses until or unless that stay is lifted.

Of the remaining three subjects of examination (Subjects 1, 8, and 9) it is likely, given the differing nature of the subjects, that a separate individual will need to be designated to respond to each subject of inquiry.

However, Plaintiffs have previously indicated that they plan to depose several of the individuals whom DoD would likely designate to respond to these lines of inquiry, and DoD has provided dates for those depositions. Accordingly, we suggest that DoD go through Plaintiffs’ present list of individuals they intend to depose and where that same individual can answer a subject of inquiry in Exhibit A to Plaintiffs Rule 30(b)(6) Notice, Defendants will so indicate. Defendants then propose that the indicated Rule 30(b)(6) line of inquiry (if permissible pursuant to any forthcoming Ninth Circuit order) be pursued during the deposition previously scheduled for that individual.

In any event, because DoD requires additional time to determine whom to designate to answer the lines of inquiry in Plaintiffs’ Rule 30(b)(6) Deposition Notice and to prepare that person to answer those questions, the Government proposes that March 24, 2020 be used for

the deposition of Mr. Thomas Dee in Washington, D.C. (as Defendants have previously indicated that Mr. Dee is available on that date) and the Rule 30(b)(6) Deposition be scheduled for a later date that the parties can mutually agree upon. Please notify Defendants by March 16, 2020, if Plaintiffs agree to this proposal and if they intent to go forward with the deposition of Mr. Dee on March 24, 2020.

Sincerely,

/s/

Andrew E. Carmichael



U.S. Department of Justice
Civil Division, Federal Program Branch

Andrew E. Carmichael
Trial Attorney

Tel: (202) 514-3346
Email: Andrew.E.Carmichael@usdoj.gov

April 17, 2020

By Email

Jordan Heinz
Kirkland & Ellis LLP
300 North LaSalle
Chicago, IL 60654

Counsel for Plaintiffs

Re: FRCP 30(b)(6) Deposition in *Karnoski v. Trump*, No. 17-1297

Dear Jordan,

I write in furtherance of our discussions regarding Plaintiffs’ proposed Rule 30(b)(6) deposition. As an initial matter, the Government maintains its position that any Rule 30(b)(6) deposition is inappropriate in this litigation. As the Ninth Circuit has previously ruled in this case, the district court must decide in the first instance if the Department of Defense (“DoD”) “reasonably determined [its] policy ‘significantly furthers’ the government’s important interests,” *Karnoski v. Trump*, 926 F.3d 1180, 1202 (9th Cir. 2019), and that determination should be made on the Administrative Record providing DoD’s justifications for the policy. *See also id.* at 1206 n.22 (noting that in *Trump v. Hawaii*, 138 S. Ct. 2392 (2018), a 12-page Proclamation was sufficient for judicial review). “In short the district court must apply appropriate military deference to its evaluation of the 2018 policy.” *Id.*

Without waiving this objection, Defendants would be willing to designate a witness to answer Plaintiffs’ proposed topics of inquiry as far as they seek relevant and non-duplicative factual information regarding the challenged policy.

However, many of Plaintiffs’ areas of inquiry specifically seek the mental impressions of senior military decision-makers, including then-Secretary of Defense Mattis himself. Such

areas of inquiry are properly subject to the deliberative process privilege and Plaintiffs may not use a Rule 30(b)(6) deposition to delve into such matters under any view of the law. *See Doe v. Shanahan*, 917 F.3d 694, 737 (D.C. Cir. 2019) (Williams, J., concurring) (“[J]udicial inquiries...into executive motivation represent a substantial intrusion into the workings of [a coordinate] branch [] of government.”) (quoting *Vill. Of Arlington Heights v. Metro. Housing Dev. Corp.*, 429 U.S. 252, 268 (1977)); *see also J.P. Morgan Chase Bank v. Liberty Mut. Ins. Co.*, 209 F.R.D. 361, 363 (S.D.N.Y. 2002) (disallowing 30(b)(6) deposition topic that, “[u]nder the guise of requesting ‘facts,’” in fact sought “defendants’ mental impressions, conclusions, opinions, and legal theory”).

Moreover, as I previously noted in my letter of March 12, 2020, several of Plaintiffs’ topics (subjects 3–7)¹ specifically seek, through testimony, the same or similar deliberative information as is encompassed in the deliberative documents at issue in the Government’s mandamus petition currently pending before the Ninth Circuit. Accordingly, any attempt to inquire into these areas would be an impermissible circumvention of the Ninth Circuit’s administrative stay. Indeed, Plaintiffs served their Rule 30(b)(6) deposition notice only after the Ninth Circuit issued its administrative stay, and never mentioned the possibility of such a deposition prior to the notice being served. If a Rule 30(b)(6) deposition were to proceed on topics 3 through 7 while the Ninth Circuit’s administrative stay is pending, which also stays Judge Pechman’s order regarding depositions issued at the February 3, 2020 hearing, the Government expects to instruct its witness not to answer such questions pursuant to the deliberative process privilege (except where noted in Defendants’ scope of response to each topic below). *See* Dkt. 415 (staying “[t]he district court’s December 18, 2019, February 3, 2020, and February 7, 2020 orders challenged in [the mandamus] petition”); *see also* Rule 30(c)(2) (“A person may instruct a deponent not to answer . . . when necessary to preserve a privilege”); *SEC v. Nacchio*, Civil Action No. 05-cv-00480-MSK-CBS, 2009 U.S. Dist. LEXIS 8365, at *8–9 (D. Colo. Jan. 29, 2009) (denying motion to compel Government Rule 30(b)(6) witness

¹ My prior letter included topic 2 in this subset. However, following Defendants’ supplemental production and responses to Plaintiffs’ Interrogatory 18, Defendants are not aware of any additional documents that are still being withheld pursuant to the deliberative process privilege that fall within this topic.

to answer questions the witness was instructed not to answer on the grounds of deliberative process privilege).

Further, several of Plaintiffs' proposed topics of inquiry are duplicative of information previously provided in discovery. Under Rule 26(b)(2)(C), the Court "must limit the frequency or extent of discovery otherwise allowed" if, *inter alia*, such discovery is "unreasonably cumulative or duplicative, or can be obtained from some other source that is more convenient, less burdensome, and less expensive," or "the burden or expense of the proposed discovery outweighs its likely benefit, considering the needs of the case." Fed. R. Civ. P. 26(b)(2)(C)(i), (iii). Here, because in many instances Plaintiffs have the exact same information they currently request through a Rule 30(b)(6) deposition in the form of documents and interrogatory responses, preparing an individual to provide the same information Plaintiffs would be inefficient, a waste of resources, and an unreasonable burden on Defendants.

Below please find Defendants' specific objections to Plaintiffs' definitions and topics.

Definitions. Defendants object to Plaintiffs' definition "You," "your," and "yours" as substantially overbroad, ambiguous, and disproportionate to the needs of the case. Plaintiffs have defined "You," "your," and "yours" to encompass "all officers and employees thereof, including, but not limited to, the Secretary of Defense, the Deputy Secretary of Defense, any Undersecretary of Defense, any Assistant Secretary of Defense, any Deputy Assistant Secretary of Defense, the Chairman and Vice Chairman of the Joint Chiefs of Staff, and all employees and officers of the Office of the Secretary of Defense, the Department of the Navy, the Department of the Army, and Department of the Air Force[.]" thus covering more than a million people.

Defendants object to Plaintiffs' definition of the "Panel's Final Report and Recommendation" as "the Final Report and Recommendations of the Transgender Panel dated October 13 - December 13, 2017" as this was not the Final Report and

Recommendations of the Panel of Experts but rather a draft product that does not constitute the Department of Defense's final report and justifications for its policies.

Topic 1. This topic seeks information regarding the Department of Defense's "Panel of Experts, including: its formation; its mission, purpose, assignment(s), and deliverables; the potential courses of action and/or policy options it considered; the issues it addressed; the information it requested and/or considered; its deliberations, conclusions, and recommendations, including to whom those recommendations were made; and the Panel's Final Report and Recommendation."

Defendants' Objection. Defendants object to Plaintiffs' request for testimony regarding the Panel of Experts as unduly burdensome and disproportionate to the needs of the case because it is entirely duplicative of the thousands of pages of material previously sought and provided through document productions and interrogatory responses that answer these same questions.

"A party who notices a Rule 30(b)(6) deposition should apply fairness and reasonableness to the scope of the matters that the witness is required to testify about." *Madrigal v. Allstate Indem. Co.*, No. 14-4242, 2015 WL 12746225, at *5 (C.D. Cal. Apr. 22, 2015). The task of making "a good faith effort to prepare . . . [one or more] 30(b)(6) witness[es] to 'fully and unevasively answer questions about the designated [topics] . . . becomes less realistic and increasingly impossible as the number and breadth of noticed subject areas expand.'" *Id.* (citations omitted); see also 8A Charles Alan Wright et. al., *Federal Practice and Procedure* § 2103 (3d ed.) ("[T]he burdens faced by the responding party [served with a 30(b)(6) notice] are considerably more challenging than with an ordinary deposition.").

Here, the Terms of Reference contained in the Administrative Record at 000330–000331 describe the formation, mission, purpose, assignment, deliverables and to whom the recommendations of the Panel of Experts would be made. The Panel's unredacted meeting minutes provided to Plaintiffs on November 1, 2019 provide the potential courses of action and policy options it considered, as well as the issues it addressed and its deliberations. The 3,075-page Administrative Record provides the materials the Panel considered. The

Administrative Record also contains the Panel's conclusions and recommendations. *See* AR 3059–3067. DoD has also provided all deliberative communications of Panel members regarding their work on the Panel from their time on the Panel. Moreover, in its answer to Interrogatory 18, DoD described in detail the information, statements, advice, opinions, or other inputs each current DoD employee who attended Panel meetings provided to the Panel. To obtain this information, DoD interviewed all current employees who attended Panel meetings including several very senior military officials (*e.g.*, the current Chief of Staff of the Army, the Army's highest ranking military official). If Defendants were required to prepare Rule 30(b)(6) witness(es) to address topic 1, they would rely on these exact same documents and interrogatory responses. Simply put, through other discovery tools, Plaintiffs have already obtained the most fulsome answer to this topic that DoD can provide and any further testimony would be entirely duplicative and therefore an unnecessary and undue burden on Defendants. *See E.E.O.C. v. Boeing Co.*, 2007 WL 1146446, at *3 (D. Ariz. Apr. 18, 2007) (finding topic duplicative where it requested information already provided).

Scope of those Responding. Notwithstanding the above objections, the Department of Defense will identify an individual to answer any technical questions such as the meaning of acronyms, military phrases, and jargon that appear in the Administrative Record and the Panel's meeting minutes that may not be readily understandable by individuals without a military background.

Topic 2. This topic seeks information regarding “the preparation, review, and approval of Panel meeting minutes, including: the identity of any individuals who were responsible for documenting Panel meetings and drafting, reviewing, finalizing and approving minutes before they were submitted to the Panel; the process(es) these individuals followed for documenting Panel meetings; why minutes were prepared for some, but not all, Panel meetings, including the Panel's last four meetings; and the identity of any individuals who decided whether minutes would or would not be prepared and the reasons why minutes were or were not prepared.”

Defendants’ Objection. Defendants objects to a Rule 30(b)(6) deposition on this topic because it is not relevant to any party’s claim or defense. *See E.E.O.C. v. Boeing Co.*, 2007 WL 1146446, at *2 (D. Ariz. Apr. 18, 2007) (denying motion to compel discovery related to defendant’s efforts to locate documents on ground of irrelevance). As the Ninth Circuit has previously ruled in this case, the district court must determine in the first instance if DoD “reasonably determined [its] policy ‘significantly furthers’ the government’s important interests,” *Karnoski v. Trump*, 926 F.3d 1180, 1202 (9th Cir. 2019), and the method of preparation, review, and approval of Panel meeting minutes, as well as the identity of individuals who assisted in the preparation of those meeting minutes are entirely irrelevant to the Court’s inquiry into this question. The Department of Defense has provided its justifications for the challenged policies in the form of its 44-page report and its 3,075-page Administrative Record. These justifications either pass constitutional muster or they do not. A fishing expedition into the preparation of meeting minutes and the deliberative process used in the creation of the Panel’s meeting minutes is an impermissible use of Rule 30(b)(6). *Heller v. HRB Tax Grp., Inc.*, 287 F.R.D. 483, 485 (E.D. Mo. 2012) (“[A]though the standard of relevance in the context of discovery may be broader than in the context of admissibility, ‘this often intoned legal tenet should not be misapplied so as to allow fishing expeditions in discovery.’”) (quoting *Hofer v. Mack Trucks, Inc.*, 981 F.2d 377, 380 (8th Cir. 1993)).

Further, much of Plaintiffs’ proposed topic of examination is duplicative of information Plaintiffs have sought and received through other discovery tools. For example, DoD’s response to Plaintiffs’ Interrogatory 18 provides the answer to many, if not all, of Plaintiffs’ inquiries regarding the identity of individuals responsible for documenting Panel meeting minutes, as well as the drafting, reviewing, finalizing and approving such minutes. For example, DoD’s response to Interrogatory 18 already identified Major Matt Hoffman as one of the primary individuals responsible for drafting the Panel’s meeting minutes and Mr. Lernes Hebert as one of the individuals responsible for reviewing, finalizing, and approving such minutes. Further, in DoD’s response to Plaintiffs’ Interrogatory 18, several other members of the Panel discussed their ability to review and provide edits to meeting minutes before they were finalized. Accordingly, designating a 30(b)(6) witness to review these

materials and provide the same information to Plaintiffs would be wasteful and an undue burden.

Further, Plaintiffs have already sought the deposition of Mr. Hebert, and Defendants are in the process of providing Mr. Hebert's availability for that deposition. There is no reason why Plaintiffs cannot ask these same questions of Mr. Hebert during that deposition. As explained by the Advisory Committee Notes, Rule 30(b)(6) has three purposes: "reducing the difficulties . . . encountered in determining, prior to the deposition, whether a particular employee or agent is a 'managing agent'. . . . ; curbing the 'bandying by which officers or managing agents of a corporation are deposed in turn but each disclaims knowledge of facts that are clearly known to persons in the organization ; [and] assisting organizations which find that an unnecessarily large number of their officers and agents are being deposed by a party uncertain of who in the organization has knowledge." *See also Cates v. LTV Aerospace Corp.*, 480 F.2d 620, 623 (5th Cir. 1973) (citing Advisory Committee Notes); *Federal Deposit Insurance Corp. v. Butcher*, 116 F.R.D. 196, 199 (E.D. Tenn. 1986) (Murrian, Mag. J.) (Rule 30(b)(6) intended "to curb any temptation a [litigant] might have to shunt a discovering party from 'pillar to post.'"), *aff'd*, 116 F.R.D. 203, 205 (E.D. Tenn. 1987). Here, Plaintiffs' proposed 30(b)(6) topics appear only to serve the purpose of obtaining an additional deposition on the same topics that Mr. Hebert would be able to speak to in his own deposition. Accordingly, a Rule 30(b)(6) deposition on this topic would not only be wasteful and an undue burden, it would work against the purpose of the rule itself. Moreover, much of Plaintiffs' topic 2 requests information protected by the deliberative process privilege. Specifically, inquiry pertaining to the processes followed for documenting Panel meetings, why minutes were prepared for some, but not all, Panel meetings, and the reasons why minutes were or were not prepared seeks information protected by the deliberative process privilege. Accordingly, the Government expects to instruct any witness not to answer questions that would reveal privileged information within this topic. Further, as explained above, because there is currently an administrative stay over the district court's order to produce all deliberative documents "related" to the Department's February 2018 Report and Recommendations and this topic involves an inquiry into deliberations related to that Report because multiple Panel

meeting minutes were cited in the Report itself, any line of inquiry on this topic risks circumvention of the Ninth Circuit's administrative stay order.

Scope of those Responding. Notwithstanding the above objections, the Department of Defense will identify an individual to answer questions regarding the identity of any individuals who were responsible for documenting Panel meetings and the drafting, reviewing, finalizing and approving minutes before they were submitted to the Panel, the identity of any individuals who decided whether minutes would or would not be prepared for a particular meeting, and the process undertaken to prepare Panel meeting minutes.

Topic 3. This topic seeks information pertaining to “‘Transgender Service Policy Working Group’ or ‘Transgender Personnel Policy Working Group,’ including: the identity of any individuals who served as chairperson, members, or presented at or participated in the Group’s meetings; the Group’s mission, purpose, and assignment(s); the potential courses of action the Group considered; the issues addressed by the Group; any information the Group requested and/or considered; the Group’s deliberations, conclusions, and recommendations; any reports, presentations, recommendations, or other communications the Group had or shared with the Panel; and any records or other documents that reflect the Group’s work, deliberations, conclusions, and/or recommendations.”

Defendants’ Objection. Defendants object to Plaintiffs’ request for testimony regarding the Transgender Personnel Policy Working Group because it is unduly burdensome and disproportionate to the needs of the case as it is largely duplicative of discovery previously sought and provided through document productions and interrogatory responses that answer these same questions. Plaintiffs previously sought the identities of individuals on this working group through their Interrogatory 19 and Defendants answered that interrogatory in full. Accordingly, having an official from DoD review and provide the same information to Plaintiffs in a deposition would be entirely wasteful and an undue burden.

Moreover, “any reports, presentations, recommendations, or other communications the Group had or shared with the Panel” were previously provided to Plaintiffs as a result of the *Doe* Court’s deliberative process privilege ruling and seeking the same information again through testimony is likewise wasteful and an undue burden.

Further, in my November 15, 2019 letter to Plaintiffs, I identified the Chair of the Transgender Service Policy Working Group as Ms. Stephanie Miller. Plaintiffs have already requested to depose Ms. Miller, and Defendants have provided dates for her deposition. Therefore, Ms. Miller is already available to answer questions regarding “the Group’s mission, purpose, and assignment(s)” along with any factual questions pertaining to “the issues addressed by the Group” and “any information the Group requested and/or considered[.]” As explained by the Advisory Committee Notes, Rule 30(b)(6) has three purposes: “reducing the difficulties . . . encountered in determining, prior to the deposition, whether a particular employee or agent is a ‘managing agent’. . . . ; curbing the ‘bandying by which officers or managing agents of a corporation are deposed in turn but each disclaims knowledge of facts that are clearly known to persons in the organization ; [and] assisting organizations which find that an unnecessarily large number of their officers and agents are being deposed by a party uncertain of who in the organization has knowledge.” *See also Cates v. LTV Aerospace Corp.*, 480 F.2d 620, 623 (5th Cir. 1973) (citing Advisory Committee Notes); *Federal Deposit Insurance Corp. v. Butcher*, 116 F.R.D. 196, 199 (E.D. Tenn. 1986) (Murrian, Mag. J.) (Rule 30(b)(6) intended “to curb any temptation a [litigant] might have to shunt a discovering party from ‘pillar to post.’”), *aff’d*, 116 F.R.D. 203, 205 (E.D. Tenn. 1987). Here, Plaintiffs’ proposed 30(b)(6) topics appear only to serve the purpose of obtaining an additional deposition on the same topics that Ms. Miller would be able to speak to in her own deposition. Accordingly, a Rule 30(b)(6) deposition on this topic would not only be wasteful and an undue burden, it would work against the purpose of the rule itself.

Finally, as to the deliberations of the Transgender Personnel Policy Working Group itself, such deliberations are protected by the deliberative process privilege and are squarely encompassed within the Ninth Circuit’s administrative stay. Accordingly, Plaintiffs may not inquire into such deliberations. If a Rule 30(b)(6) deposition were to proceed on this topic

while the Ninth Circuit’s administrative stay is pending, which also stays Judge Pechman’s order regarding depositions issued at the February 3, 2020 hearing, the Government expects to instruct its witness not to answer questions where the information sought would be protected by the deliberative process privilege. *See* Dkt. 415 (staying “[t]he district court’s December 18, 2019, February 3, 2020, and February 7, 2020 orders challenged in [the mandamus] petition”); *see also* Rule 30(c)(2) (“A person may instruct a deponent not to answer . . . when necessary to preserve a privilege”); *SEC v. Nacchio*, Civil Action No. 05-cv-00480-MSK-CBS, 2009 U.S. Dist. LEXIS 8365, at *8–9 (D. Colo. Jan. 29, 2009) (denying motion to compel Government Rule 30(b)(6) witness to answer questions the witness was instructed not to answer on the grounds of deliberative process privilege).

Scope of those Responding. Notwithstanding the above objections, Defendants will make a witness available to answer questions pertaining to “the Group’s mission, purpose, and assignment(s)” along with any factual questions pertaining to “the issues addressed by the Group.”

Topic 4. This topic seeks information pertaining to “[a]ny discussion, consideration, conclusions or recommendations relating to gender dysphoria, gender transition or accession into the military or military service by transgender persons by the Department of Defense’s Medical and Personnel Executive Steering Committee (MEDPERS) during the period July 1, 2015 to the present.”

Defendants’ Objection. Defendants object to Plaintiffs’ request for testimony regarding MEDPERS because it is unduly burdensome and disproportionate to the needs of the case. Specifically, the majority of the temporal scope of the topic is outside of the scope of this litigation, and the remaining portion of the topic is duplicative of materials previously provided in discovery. As an initial matter, the temporal scope of Plaintiffs’ topic is well beyond the scope of the lawsuit as it extends more than two years before and two years after the relevant time period of the formation of the challenged policy. *See Karnoski v. Trump*, 926 F.3d at 1202

(questioning the relevance of the Presidential Memorandum because it was issued prior to the formation of the Panel of Experts); see *Banks v. Office of Senate Sergeant-at-Arms*, 222 F.R.D. 7, 18 (D.D.C. 2004) (ordering parties to redefine “absurdly overbroad” topics that were ill-suited to a deposition).

Moreover, any deliberative materials MEDPERS provided to the Panel of Experts was previously provided to Plaintiffs as a result of the *Doe* Court’s deliberative process privilege ruling. Seeking the same information again through testimony is therefore wasteful and an undue burden.

Finally, as to deliberations of MEDPERS that were not shared with the Panel, such deliberations are protected by the deliberative process privilege and are squarely encompassed within the Ninth Circuit’s administrative stay. Accordingly, Plaintiffs may not inquire into such deliberations. If a Rule 30(b)(6) deposition were to proceed on this topic while the Ninth Circuit’s administrative stay is pending, which also stays Judge Pechman’s order regarding depositions issued at the February 3, 2020 hearing, the Government expects to instruct its witness not to answer questions where the information sought would be protected by the deliberative process privilege. See Dkt. 415 (staying “[t]he district court’s December 18, 2019, February 3, 2020, and February 7, 2020 orders challenged in [the mandamus] petition”); see also Rule 30(c)(2) (“A person may instruct a deponent not to answer . . . when necessary to preserve a privilege”); *SEC v. Nacchio*, Civil Action No. 05-cv-00480-MSK-CBS, 2009 U.S. Dist. LEXIS 8365, at *8–9 (D. Colo. Jan. 29, 2009) (denying motion to compel Government Rule 30(b)(6) witness to answer questions the witness was instructed not to answer on the grounds of deliberative process privilege).

Scope of those Responding. Notwithstanding the above objections, Defendants will make a witness available to explain the function and operation of MEDPERS generally and to answer technical questions such as the meaning of acronyms, military phrases, and jargon that appear in MEDPERS documents that may not be readily understandable by individuals without a military background.

Topic 5. This topic seeks information pertaining to “[t]he meeting on or around December 15, 2017 at which the Panel presented its recommendations to the Deputy Secretary of Defense (“DSD”) and the Vice Chair of the Joint Chiefs of Staff (“VCJCS”), including: the identity of all individuals present at the meeting; the content of all presentations or written materials provided at the meeting; the reactions and/or response(s) of the DSD and the VCJCS to the Panel’s recommendations; any directions by or requests from the DSD and the VCJCS as to additional or further work the Panel should perform; any documents that reflect what was said, presented, discussed, or decided at the meeting; any follow-up or further work performed by the Panel or others in response to any concerns, reactions or other views or directions of the DSD and/or the VCJCS or as a result of the meeting; and any subsequent meetings or communications with or between the Panel and the DSD and/or VCJCS.”

Defendants’ Objection. Defendants object to Plaintiffs’ request for testimony regarding the content of all presentations or written materials provided at the meeting December 15, 2017 at which the Panel presented its recommendations to the DSD and VCJCS, documents that reflect what was said or presented at the meeting, and follow-up work provided by the Panel as it is largely duplicative of discovery previously sought and provided through documents produced that answer these same questions. For, example Defendants previously provided Plaintiffs with the presentation the Panel provided to the DSD and VCJCS, *see* USDOE00088635_0001, along with emails identifying the briefer (Mr. Tony Kurta), the individual in direct support of the briefer (Mr. Lernes Hebert), the agenda from the meeting and Panel materials from before, during, and after the meeting as a result of the *Doe* Court’s deliberative process privilege ruling. *See* Def.’s Production 38 and 39. Accordingly, having the Department designate a 30(b)(6) witness to review these materials and read them back to Plaintiffs would be wasteful and an undue burden.

Further, Plaintiffs have already sought the deposition of both Mr. Kurta and Mr. Hebert, and Defendants are in the process of providing Mr. Kurta’s and Mr. Hebert’s availability for that deposition. Plaintiffs can ask these same questions of either Mr. Kurta or Mr. Hebert during that deposition. As explained by the Advisory Committee Notes, Rule

30(b)(6) has three purposes: “reducing the difficulties . . . encountered in determining, prior to the deposition, whether a particular employee or agent is a ‘managing agent’. . . . ; curbing the ‘bandying by which officers or managing agents of a corporation are deposed in turn but each disclaims knowledge of facts that are clearly known to persons in the organization ; [and] assisting organizations which find that an unnecessarily large number of their officers and agents are being deposed by a party uncertain of who in the organization has knowledge.” *See also Cates v. LTV Aerospace Corp.*, 480 F.2d 620, 623 (5th Cir. 1973) (citing Advisory Committee Notes); *Federal Deposit Insurance Corp. v. Butcher*, 116 F.R.D. 196, 199 (E.D. Tenn. 1986) (Murrian, Mag. J.) (Rule 30(b)(6) intended “to curb any temptation a [litigant] might have to shunt a discovering party from ‘pillar to post.’”), *aff’d*, 116 F.R.D. 203, 205 (E.D. Tenn. 1987). Here, Plaintiffs’ proposed 30(b)(6) topics appear only to serve the purpose of obtaining an additional deposition on the same topics that both Mr. Kurta and Mr. Hebert would be able to speak to in their own depositions. Accordingly, a Rule 30(b)(6) deposition on this topic would not only be wasteful and an undue burden, it would work against the purpose of the rule itself.

Defendants also object to a Rule 30(b)(6) deposition as far as it seeks any “reactions and/or response(s) of the DSD and the VCJCS to the Panel’s recommendations” because this area of inquiry specifically seeks the mental impressions of senior military decisions-makers. Such areas of inquiry are properly subject to the deliberative process privilege and Plaintiffs may not use a Rule 30(b)(6) deposition to delve into such matters under any view of the law. *Doe v. Shanahan*, 917 F.3d 694, 737 (D.C. Cir. 2019) (Williams, J., concurring) (“[J]udicial inquires . . . into executive motivation represent a substantial intrusion into the workings of [a coordinate] branch [] of government.”) (quoting *Vill. Of Arlington Heights v. Metro. Housing Dev. Corp.*, 429 U.S. 252, 268 (1977)); *see also J.P. Morgan Chase Bank v. Liberty Mut. Ins. Co.*, 209 F.R.D. 361, 363 (S.D.N.Y. 2002) (disallowing 30(b)(6) deposition topic that, “[u]nder the guise of requesting ‘facts,’” in fact sought “defendants’ mental impressions, conclusions, opinions, and legal theory). And, as far the “reactions and/or response(s) of the DSD and the VCJCS to the Panel’s recommendations” were not conveyed to the Panel, they are squarely encompassed within the Ninth Circuit’s administrative stay. Accordingly, Plaintiffs may not

inquire into such deliberations. If a Rule 30(b)(6) deposition were to proceed on this topic while the Ninth Circuit’s administrative stay is pending, which also stays Judge Pechman’s order regarding depositions issued at the February 3, 2020 hearing, the Government expects to instruct its witness not to answer questions where the information sought would be protected by the deliberative process privilege. *See* Dkt. 415 (staying “[t]he district court’s December 18, 2019, February 3, 2020, and February 7, 2020 orders challenged in [the mandamus] petition”); *see also* Rule 30(c)(2) (“A person may instruct a deponent not to answer . . . when necessary to preserve a privilege”); *SEC v. Nacchio*, Civil Action No. 05-cv-00480-MSK-CBS, 2009 U.S. Dist. LEXIS 8365, at *8–9 (D. Colo. Jan. 29, 2009) (denying motion to compel Government Rule 30(b)(6) witness to answer questions the witness was instructed not to answer on the grounds of deliberative process privilege).

Further, Defendants object to a Rule 30(b)(6) deposition as far as it seeks any “reactions and/or response(s) of the DSD and the VCJCS to the Panel’s recommendations” because it is not relevant to any party’s claim or defense. *See E.E.O.C. v. Boeing Co.*, 2007 WL 1146446, at *2 (D. Ariz. Apr. 18, 2007) (denying motion to compel discovery related to defendant’s efforts to locate documents on ground of irrelevance). As the Ninth Circuit has previously ruled in this case, the district court must determine in the first instance if DoD “reasonably determined [its] policy ‘significantly furthers’ the government’s important interests,” *Karnoski v. Trump*, 926 F.3d 1180, 1202 (9th Cir. 2019), and the reaction and or response by the DSD and VCJCS to the Panel’s recommendations is entirely irrelevant to the Court’s inquiry into this question. The Department of Defense has provided its justifications for the challenged policies in the form of its 44-page report and its 3,075-page Administrative Record; these justifications either pass constitutional muster or they do not. A fishing expedition into the “reactions and / or response of the DSD and the VCJCS to the Panel’s recommendations” is an impermissible use of Rule 30(b)(6) particularly because the “reaction” of a particular individual is entirely subjective and not something the Department can testify to as a definitive fact. *Heller v. HRB Tax Grp., Inc.*, 287 F.R.D. 483, 485 (E.D. Mo. 2012) (“[A]though the standard of relevance in the context of discovery may be broader than in the context of admissibility, ‘this often intoned legal tenet should not be misapplied so as to allow fishing

expeditions in discovery.”) (quoting *Hofer v. Mack Trucks, Inc.*, 981 F.2d 377, 380 (8th Cir. 1993)).

Scope of those Responding. Notwithstanding the above objections, the Department of Defense will identify an individual to answer questions regarding the identity of any individuals who were at the December 15, 2017 meeting, at which the Panel presented its recommendations to the DSD and the VCJCS, generally what occurred at that meeting and any subsequent meetings between the DSD/VCJCS and the Panel, any direction DSD/VCJCS gave the Panel regarding any follow-up work, and to answer any technical questions such as the meaning of acronyms, military phrases, and jargon that appear in the Panel’s presentation to the DSD/VCJCS that may not be readily understandable by individuals without a military background.

Topic 6. This topic seeking information pertaining to “[t]he February 2018 Department of Defense “Report and Recommendations on Military Service by Transgender Persons” (the “Report”), including the identity of any individuals who approved the Report before it was submitted to Secretary Mattis; the role, if any, of Secretary Mattis in drafting, preparing, reviewing, revising and/or finalizing the Report before it was presented to him; the process that was followed and the information and alternatives that were considered in drafting, revising, finalizing, and approving the Report; the identity and role of any persons who were not current employees of the Department of Defense or one of the branches of the military who were involved in any way in providing information that was considered or used in preparing the Report or in drafting, reviewing, revising, finalizing and approving the Report.”

Defendants’ Objections: Defendants object to this topic of inquiry as it specifically seeks the mental impressions of senior military decisions-makers, including then-Secretary of Defense Mattis himself. Such areas of inquiry are properly subject to the deliberative process privilege and Plaintiffs may not use a Rule 30(b)(6) deposition to delve into such matters under any view of the law. *Doe v. Shanahan*, 917 F.3d 694, 737 (D.C. Cir. 2019) (Williams, J.,

concurring) (“[J]udicial inquires...into executive motivation represent a substantial intrusion into the workings of [a coordinate] branch [] of government.”) (quoting *Vill. Of Arlington Heights v. Metro. Housing Dev. Corp.*, 429 U.S. 252, 268 (1977)); see also *J.P. Morgan Chase Bank v. Liberty Mut. Ins. Co.*, 209 F.R.D. 361, 363 (S.D.N.Y. 2002) (disallowing 30(b)(6) deposition topic that, “[u]nder the guise of requesting ‘facts,’” in fact sought “defendants’ mental impressions, conclusions, opinions, and legal theory”). Moreover, this topic specifically seeks the same or similar deliberative information through testimony that is encompassed in the deliberative documents at issue in the Government’s mandamus petition currently pending before the Ninth Circuit. Accordingly, any attempt to inquire into these areas would be an impermissible circumvention of the Ninth Circuit’s administrative stay. Indeed, Plaintiffs served their Rule 30(b)(6) deposition notice only after the Ninth Circuit issued its administrative stay and never mentioned the possibility of such a deposition prior to the notice being served. If a Rule 30(b)(6) deposition were to proceed on this topic while the Ninth Circuit’s administrative stay is pending, which also stays Judge Pechman’s order regarding depositions issued at the February 3, 2020 hearing, the Government expects to instruct its witness not to answer questions where the information sought would be protected by the deliberative process privilege. See Dkt. 415 (staying “[t]he district court’s December 18, 2019, February 3, 2020, and February 7, 2020 orders challenged in [the mandamus] petition”); see also Rule 30(c)(2) (“A person may instruct a deponent not to answer . . . when necessary to preserve a privilege”); *SEC v. Nacchio*, Civil Action No. 05-cv-00480-MSK-CBS, 2009 U.S. Dist. LEXIS 8365, at *8–9 (D. Colo. Jan. 29, 2009) (denying motion to compel Government Rule 30(b)(6) witness to answer questions the witness was instructed not to answer on the grounds of deliberative process privilege).

Further, Defendants object to a Rule 30(b)(6) deposition on this topic because it is not relevant to any party’s claim or defense. See *E.E.O.C. v. Boeing Co.*, 2007 WL 1146446, at *2 (D. Ariz. Apr. 18, 2007) (denying motion to compel discovery related to defendant’s efforts to locate documents on ground of irrelevance). As the Ninth Circuit has previously ruled in this case, the district court must determine in the first instance if DoD “reasonably determined [its] policy ‘significantly furthers’ the government’s important interests,” *Karnoski v. Trump*, 926

F.3d 1180, 1202 (9th Cir. 2019), and the method of preparation, review, and approval, of the Department's Report is entirely irrelevant to the Court's inquiry into this question. The Report itself provides the justifications for the challenged policies along with the accompanying 3,075-page Administrative Record. These justifications either pass constitutional muster or they do not. A fishing expedition into the creation of the Department's Report and the deliberative process used in the preparation of the Report is an impermissible use of Rule 30(b)(6). *Heller v. HRB Tax Grp., Inc.*, 287 F.R.D. 483, 485 (E.D. Mo. 2012) (“[A]though the standard of relevance in the context of discovery may be broader than in the context of admissibility, ‘this often intoned legal tenet should not be misapplied so as to allow fishing expeditions in discovery.’”) (quoting *Hofer v. Mack Trucks, Inc.*, 981 F.2d 377, 380 (8th Cir. 1993)).

Moreover, much of Plaintiffs' topic 6 requests information that is duplicative of information Plaintiffs have sought and received through other discovery tools. In particular, the identity of individuals who reviewed or commented on the Report, the primary staff members assigned to draft the Report, and the ultimate approver of the Report were previously provided to Plaintiffs in DoD's response to Interrogatory 16. Accordingly, having DoD designate a 30(b)(6) witness to review that interrogatory response and provide the same information to Plaintiffs would be wasteful and an undue burden.

Scope of those Responding. Notwithstanding the above objections the Department of Defense will identify an individual to be deposed to answer any technical questions such as to the meaning of acronyms, military phrases, and jargon that appear in the Report that may not be readily understandable by individuals without a military background.

Topic 7. This topic seeks information pertaining to “[t]he February 22, 2018 Memorandum for the President from Secretary Mattis concerning Military Service by Transgender Individuals (“Memorandum”), including: the principal author(s) of the Memorandum; the identity of any individuals who were involved in drafting and preparing, reviewing and revising, finalizing and/or approving the Memorandum before it was submitted to Secretary Mattis; the role, if any, of Secretary Mattis in drafting, preparing, reviewing, revising and/or

finalizing the Memorandum; the process that was followed and the information and alternatives that were considered in drafting, revising, finalizing, and approving the Memorandum; and the identity and role of any persons who were not current employees of the Department of Defense or one of the branches of the military who were involved in any way in drafting, reviewing, revising, finalizing and/or approving the Memorandum.”

Defendants’ Objections: Defendants object to this topic of inquiry as it specifically seeks the mental impressions of senior military decisions-makers, including then-Secretary of Defense Mattis himself. Such areas of inquiry are properly subject to the deliberative process privilege and Plaintiffs may not use a Rule 30(b)(6) deposition to delve into such matters under any view of the law. *Doe v. Shanahan*, 917 F.3d 694, 737 (D.C. Cir. 2019) (Williams, J., concurring) (“[J]udicial inquiries...into executive motivation represent a substantial intrusion into the workings of [a coordinate] branch [] of government.”) (quoting *Vill. Of Arlington Heights v. Metro. Housing Dev. Corp.*, 429 U.S. 252, 268 (1977)); see also *J.P. Morgan Chase Bank v. Liberty Mut. Ins. Co.*, 209 F.R.D. 361, 363 (S.D.N.Y. 2002) (disallowing 30(b)(6) deposition topic that, “[u]nder the guise of requesting ‘facts,’” in fact sought “defendants’ mental impressions, conclusions, opinions, and legal theory”). Moreover, this topic specifically seeks the same or similar deliberative information through testimony that is encompassed in the deliberative documents at issue in the Government’s mandamus petition currently pending before the Ninth Circuit. Accordingly, any attempt to inquire into these areas would be an impermissible circumvention of the Ninth Circuit’s administrative stay. Indeed, Plaintiffs served their Rule 30(b)(6) deposition notice only after the Ninth Circuit issued its administrative stay and never mentioned the possibility of such a deposition prior to the notice being served. If a Rule 30(b)(6) deposition were to proceed on this topic while the Ninth Circuit’s administrative stay is pending, which also stays Judge Pechman’s order regarding depositions issued at the February 3, 2020 hearing, the Government expects to instruct its witness not to answer questions where the information sought would be protected by the deliberative process privilege. See Dkt. 415 (staying “[t]he district court’s December 18, 2019, February 3, 2020, and February 7, 2020 orders challenged in [the mandamus] petition”); see

also Rule 30(c)(2) (“A person may instruct a deponent not to answer . . . when necessary to preserve a privilege . . .”); *SEC v. Nacchio*, Civil Action No. 05-cv-00480-MSK-CBS, 2009 U.S. Dist. LEXIS 8365, at *8–9 (D. Colo. Jan. 29, 2009) (denying motion to compel Government Rule 30(b)(6) witness to answer questions the witness was instructed not to answer on the grounds of deliberative process privilege).

Further, Defendants object to a Rule 30(b)(6) deposition on this topic because it is not relevant to any party’s claim or defense. *See E.E.O.C. v. Boeing Co.*, 2007 WL 1146446, at *2 (D. Ariz. Apr. 18, 2007) (denying motion to compel discovery related to defendant’s efforts to locate documents on ground of irrelevance). As the Ninth Circuit has previously ruled in this case, the district court must determine in the first instance if DoD “reasonably determined [its] policy ‘significantly furthers’ the government’s important interests,” *Karnoski v. Trump*, 926 F.3d 1180, 1202 (9th Cir. 2019), and the method of preparation, review, approval, of then-Secretary Mattis’ Memorandum is entirely irrelevant to the Court’s inquiry into this question. The Department of Defense has provided its justifications for the challenged policies in the form of its 44-page report and its 3,075-page Administrative Record. These justifications either pass constitutional muster or they do not. A fishing expedition into the creation of Secretary Mattis’ Memorandum and the deliberative process used in preparation of that Memorandum is an impermissible use of Rule 30(b)(6). *Heller v. HRB Tax Grp., Inc.*, 287 F.R.D. 483, 485 (E.D. Mo. 2012) (“[A]though the standard of relevance in the context of discovery may be broader than in the context of admissibility, ‘this often intoned legal tenet should not be misapplied so as to allow fishing expeditions in discovery.’”) (quoting *Hofer v. Mack Trucks, Inc.*, 981 F.2d 377, 380 (8th Cir. 1993)).

Moreover, much of Plaintiffs’ topic 7 requests information that is duplicative of information Plaintiffs have sought and received through other discovery tools. In particular, the identity of individuals who reviewed or commented on the Memorandum, the primary staffmembers assigned to draft the Memorandum and the ultimate approver of the Memorandum were previously provided to Plaintiffs in DoD’s response to Interrogatory 17. Accordingly, having the Department designate a 30(b)(6) witness to review that interrogatory

response and provide the same information to Plaintiffs would be wasteful and an undue burden.

Scope of those Responding. Notwithstanding the above objections the Department of Defense will identify an individual to be deposed to answer any technical questions such as to the meaning of acronyms, military phrases, and jargon that appear in the Memorandum that may not be readily understandable by individuals without a military background.

Topic 8. This topic seeks information pertaining to “[a]ny requests for waivers, exceptions and/or Exceptions to Policy (ETPs) (a) between January 1, 2016 and April 11, 2019 and (b) since April 12, 2019 with respect to military accession or service by transgender persons, persons who have been diagnosed with or have gender dysphoria, and/or persons who have transitioned or need or seek to transition to a gender other than their birth-assigned gender, including: the number of such requests; the stated reasons for and in support of, and the facts and circumstances concerning, each such request; and the disposition of each such request, including whether it was granted or denied and the reasons provided for each such disposition.”

Defendants’ Objections: Defendants object to this topic of inquiry because Plaintiffs’ request for testimony regarding the “waivers, exceptions and/or Exceptions to Policy (ETPs) (a) between January 1, 2016 and April 11, 2019 and (b) since April 12, 2019” is unduly burdensome and disproportionate to the needs of the case as it is entirely duplicative of material previously sought and provided (or that Defendants are in the process of providing) through document productions. Here, Defendants have specifically searched for, located, and either have provided (or will provide) the actual ETP requests and action on those requests in the course of document discovery. Simply put, Plaintiffs have already obtained through other discovery tools the most fulsome answer to this topic that the Department of Defense can provide and any further testimony would be entirely duplicative and therefore an unnecessary and undue burden to Defendants. *See E.E.O.C. v. Boeing Co.*, 2007 WL 1146446, at *3 (D.

Ariz. Apr. 18, 2007) (finding topic duplicative where it requested information already provided).

Scope of those Responding. Notwithstanding the above objections the Department of Defense will identify an individual to answer any technical questions regarding ETPs under its current policy such as the meaning of acronyms, military phrases, and jargon that appear in the ETPs themselves and action on those ETPs that may not be readily understandable by individuals without a military background.

Topics 9. This topic seeks information pertaining to “[t]he statement, at page 33 of the Report, that “currently available in-service data already show that, cumulatively, transitioning Service members in the Army and Air Force have averaged 167 and 159 days of limited duty, respectively, over a one-year period,” including: any data or other information on which this statement was based; how these averages were calculated and by whom; how “limited duty” was defined and determined for purposes of these calculations; and why such calculations were provided with respect to the Army and Air Force, but not the Navy and the Marine Corps.”

Defendants’ Objection. Defendants object to this topic because it requests testimony that is largely duplicative of discovery previously sought and provided through documents and therefore is unduly burdensome and disproportionate to the needs of the case. The majority of the information sought through this topic is in the Administrative Record itself. Further, as far as that information was not already contained in the Administrative Record, Plaintiffs previously sought and Defendants provided in its December 20, 2019 production, the underlying information supporting this statement in DoD’s Report. Accordingly, having an officer from DoD review these documents and provide the same information to Plaintiffs in a deposition would be entirely wasteful and an undue burden.

Scope of those Responding. Notwithstanding the above objections Defendants will make a witness available to answer questions pertaining to the meaning of the statement, how the

averages were calculated and by whom, how limited duty was defined and determined for purposes of the calculations and why the calculations were provided with respect to the Army and Air Force, but not the Navy and the Marine Corps.

Please let me know if you would like to meet and confer further on this issue.


Sincerely,

/s/

Andrew E. Carmichael

Malloy, Emily N.

From: Cheung, Ashley (CIV) <Ashley.Cheung@usdoj.gov>
Sent: Tuesday, August 4, 2020 9:50 AM
To: Heinz, Jordan M.; Stallings-Ala'ilima, Chalia (ATG); *prenn@lambdalegal.org;
*tborelli@lambdalegal.org; *Rachel@newmanlaw.com; Siegfried, Daniel I.;
*colleen.melody@atg.wa.gov; *jason@newmanlaw.com; *vbarsanti@redgravellp.com;
Patton, Stephen R.; Ruge, Nicholas
Cc: Fan, Dennis (CIV); Hinshelwood, Bradley A. (CIV); Skurnik, Matthew (CIV); Enlow,
Courtney D. (CIV); Powers, James R. (CIV); Carmichael, Andrew E. (CIV)
Subject: RE: Karnoski, et al. v. Trump, et al.

 > This message is from an EXTERNAL SENDER - be cautious, particularly with links and attachments.

Jordan,

We cannot give you a position on this until we see the motion.

Best,

Ashley Cheung

Attorney
U.S. Department of Justice
Civil Division, Appellate Staff
950 Pennsylvania Ave. NW
Washington, D.C. 20530
(p) (202) 353-9018 | (f) (202) 514-8151
ashley.cheung@usdoj.gov

From: Powers, James R. (CIV) <jpowers@CIV.USDOJ.GOV>
Sent: Monday, August 03, 2020 3:05 PM
To: Heinz, Jordan M. <jheinz@kirkland.com>; Skurnik, Matthew (CIV) <maskurni@CIV.USDOJ.GOV>; Enlow, Courtney D. (CIV) <cenlow@CIV.USDOJ.GOV>; Carmichael, Andrew E. (CIV) <ancarmic@CIV.USDOJ.GOV>; Fan, Dennis (CIV) <dfan@CIV.USDOJ.GOV>; Cheung, Ashley (CIV) <ascheung@CIV.USDOJ.GOV>; Hinshelwood, Bradley A. (CIV) <bhinshel@CIV.USDOJ.GOV>
Cc: Stallings-Ala'ilima, Chalia (ATG) <Chalia.SA@atg.wa.gov>; *prenn@lambdalegal.org <prenn@lambdalegal.org>; *tborelli@lambdalegal.org <tborelli@lambdalegal.org>; *Rachel@newmanlaw.com <Rachel@newmanlaw.com>; Siegfried, Daniel I. <daniel.siegfried@kirkland.com>; *colleen.melody@atg.wa.gov <colleen.melody@atg.wa.gov>; *jason@newmanlaw.com <jason@newmanlaw.com>; *vbarsanti@redgravellp.com <vbarsanti@redgravellp.com>; Patton, Stephen R. <stephen.patton@kirkland.com>; Ruge, Nicholas <nicholas.ruge@kirkland.com>
Subject: RE: Karnoski, et al. v. Trump, et al.

Hi Jordan – I have copied our appellate colleagues Dennis, Ashely, and Brad. They will respond directly to the request.

Thanks,
Jim

From: Heinz, Jordan M. <jheinz@kirkland.com>
Sent: Monday, August 03, 2020 2:56 PM

To: Skurnik, Matthew (CIV) <maskurni@CIV.USDOJ.GOV>; Enlow, Courtney D. (CIV) <cenlow@CIV.USDOJ.GOV>; Carmichael, Andrew E. (CIV) <ancarmic@CIV.USDOJ.GOV>; Powers, James R. (CIV) <jpowers@CIV.USDOJ.GOV>
Cc: Stallings-Ala'ilima, Chalia (ATG) <Chalia.SA@atg.wa.gov>; *prenn@lambdalegal.org <prenn@lambdalegal.org>; *tborelli@lambdalegal.org <tborelli@lambdalegal.org>; *Rachel@newmanlaw.com <Rachel@newmanlaw.com>; Siegfried, Daniel I. <daniel.siegfried@kirkland.com>; *colleen.melody@atg.wa.gov <colleen.melody@atg.wa.gov>; *jason@newmanlaw.com <jason@newmanlaw.com>; *vbarsanti@redgravellp.com <vbarsanti@redgravellp.com>; Patton, Stephen R. <stephen.patton@kirkland.com>; Ruge, Nicholas <nicholas.ruge@kirkland.com>
Subject: Karnoski, et al. v. Trump, et al.

Counsel -

Plaintiffs intend to file a motion with the Ninth Circuit seeking to clarify that the current administrative stay is limited to the three discovery orders that are the subject of the Government's pending petition for mandamus, and does not prohibit other discovery, including for example (1) the District Court's threshold determination as to whether the deliberative process privilege applies in the first place, (2) the District Court's *in camera* review of individual documents to determine if the privilege has been overcome under *Warner*, and (3) examination of witnesses at depositions concerning the subject areas addressed in the Government's mandamus petition.

Given the Government's prior statements, we assume the Government opposes this relief, but please confirm by 10AM CT tomorrow morning.

Regards,

Jordan

Jordan M. Heinz

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RYAN KARNOSKI, et al.,

Plaintiffs,

v.

DONALD J TRUMP, et al.,

Defendants.

CASE NO. C17-1297 MJP

ORDER AMENDING JULY 15,
2020 ORDER (DKT. NO. 545)

THIS MATTER comes before the Court *sua sponte* upon the Court’s determination that Attachment 1 to its July 15, 2020 Order contained an error (Dkt. No. 545). As announced during the Status Conference on July 21, 2021, some documents in the first 350 documents sent to the Court for *in camera* review were erroneously marked “not predecisional” in this Attachment.

In its Order the Court adopted July 13, 2015 through June 30, 2016 as the relevant time frame for considering the Carter policy decisional time-period for purposes of the deliberative process privilege (“DPP”). June 30, 2016 was the date the Carter policy was adopted, and the policy and accompanying RAND Report were released to the public. However, in Attachment 1 of that Order, dates earlier than the June 30, 2016 date were applied, resulting in several documents erroneously

1 marked as “not predecisional.” The Court has reviewed the Attachment and all documents that were
2 erroneously marked, which are dated on the privilege log with a date after July 13, 2015 and before
3 June 30, 2016, and has adjusted the ruling on the following documents as further reflected on the
4 Amended Attachment 1.

5 <u>Priv/Withhold No.</u>	<u>Amended Ruling</u>
6 3701-04	Presumptively DPP
7 3705-06	Presumptively DPP
8 3708-11	Presumptively DPP
9 3712-32	Presumptively DPP
10 3733-44	Presumptively DPP
11 4403-14	Presumptively DPP
12 4451-56	Predecisional – documents were distributed by Priv/Withhold 4450 dated 07/06/16. No DPP.
13 4975-5023	Presumptively DPP
14 5027-75	Presumptively DPP
15 5761-5762	No DPP. Not deliberative

16 The clerk is ordered to provide copies of this order to all counsel.

17 Dated July 21, 2020.



18 Marsha J. Pechman
19 United States Senior District Judge

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
AF_00014681_AF2	PrivWithhold03181	PrivWithhold03184	7/20/2015 0:00	Draft Guidance for Commanders Regarding Currently Serving Transgender Airmen	Deliberations regarding the implementation of transgender policy	Y	
AF_00014734_AF2	PrivWithhold03185	PrivWithhold03195	5/30/2017 0:00	Request for Coord on Draft of Accession of Transgender Applicants into Military	Deliberations regarding the implementation of transgender policy	N	Not predecisional
AF_00019464_AF2	PrivWithhold03196	PrivWithhold03376		Draft Transgender Awareness Training Commanders and Leaders CBT	Deliberations regarding the implementation of the transgender policy	N	Not predecisional; not deliberative
AF_00019783_AF2	PrivWithhold03377	PrivWithhold03579		Draft Transgender Awareness Training Commanders and Leaders CBT	Deliberations regarding the implementation of the transgender policy	N	Not predecisional; not deliberative
AF_00022387_AF2	PrivWithhold03580	PrivWithhold03581		Spreadsheet w/ consolidated comments re: AFI 36-3003.	Deliberations regarding the formulation of the transgender policy		Document appears to qualify as deliberative. It has no date. Govt required to determine the date and produce if outside the predecisional timeframe ordered. ff within time frame, presumptively privileged
AF_00024136_AF2	PrivWithhold03582	PrivWithhold03598		Draft talking paper on transgender policy guidance	Deliberations regarding the implementation of the transgender policy		Document appears to qualify as deliberative. It has no date. Gov't required to determine date of document and produce it if outside the predecisional timeframe ordered. If within this timeframe, presumptively privileged
AF_00038179	PrivWithhold03600	PrivWithhold03613		Draft guidance for medical care for service members and other TRICARE eligible beneficiaries with gender dysphoria, with request for comment.	Deliberations regarding the implementation of transgender policy.	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
AF_CTRL_00000014	PrivWithhold03614	PrivWithhold03614	7/26/2017 0:00	Email from SAF/PA to numerous senior AF leaders re USA Today inquiry on USAFA and West Point transgender cadets along with link to USA Today Article regarding transgender service	Deliberations regarding the implementation of transgender policy	N	Not predecisional; not deliberative
Army_10001163	PrivWithhold03615	PrivWithhold03616	8/14/2017 0:00	Discussion re teleconference with service TG leads re guidance on transition-related surgery for TG servicemembers	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional; Not deliberative
Army_10001243.0001	PrivWithhold03618	PrivWithhold03621	7/15/2017 0:00	Draft document pertaining to implementation group.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional; not deliberative
Army_10001449	PrivWithhold03622	PrivWithhold03635	7/14/2017 0:00	Brief to the DAS on the current status of transgender policy development/implementation that contains deliberative comments on the Army and other Services recommendations on accessions COAs.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional; not deliberative in parts.

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
Army_10002505	PrivWithhold03636	PrivWithhold03636	3/2/2017 0:00	Document contains thoughts and impressions on implementing transgender policy.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional; not deliberative
Army_10003651	PrivWithhold03637	PrivWithhold03638	10/6/2017 0:00	Email discusses feedback and comments on impact of TG policy development.	Deliberations regarding the formulation of the transgender policy	Y	
Army_10003652	PrivWithhold03639	PrivWithhold03641	10/6/2017 0:00	Email discusses feedback and comments on impact of TG policy development.	Deliberations regarding the formulation of the transgender policy	Y	
Army_10003796.0001	PrivWithhold03642	PrivWithhold03643	9/15/2017 0:00	Draft Information Paper regarding interim guidance on Tg policy implementation.	Deliberations regarding the implementation of the transgender policy	Y	
Army_10003964.0001	PrivWithhold03644	PrivWithhold03647	8/9/2017 0:00	Slides contain strategy on formulating transgender policy guidance.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
Army_10004145	PrivWithhold03648	PrivWithhold03649	8/10/2017 0:00	Email provides review comments and recommended changes for draft attachment	Deliberations regarding the formulation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
Army_10004 380.0001	PrivWithho ld03650	PrivWithhold 03651	8/30/2017 0:00	Proposed guidance regarding policy formation	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
Army_10009 961.0001	PrivWithho ld03652	PrivWithhold 03665	1/11/2017 0:00	Document seeks reviewer feedback and comment on transgender policy implementation issues	Deliberations regarding the implementation of the transgender policy	Y	
Army_10010 283.0001	PrivWithho ld03667	PrivWithhold 03669	5/4/2017 0:00	Draft document containing talking points to communicate transgender policy to the media.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional; not deliberative
Army_10010 529	PrivWithho ld03670	PrivWithhold 03674	7/7/2017 0:00	Email discussion communicating transgender accession policy concerns.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
Army_10018 547.0002	PrivWithho ld03676	PrivWithhold 03680	7/6/2016 0:00	Draft flow chart summarizing the gender transition process, submitted for review.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional; not deliberative
Army_10019 520.0001	PrivWithho ld03681	PrivWithhold 03681	4/27/2017 0:00	Projected timeline for implementation of TG policy	Deliberations regarding the implementation of the transgender policy	N	Not predecisional; not deliberative

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
Army_10036630	PrivWithhold03682	PrivWithhold03683	2/25/2018 0:00	Slide listing topics to consider when requesting RFIs for the development of transgender policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00002777	PrivWithhold03684	PrivWithhold03685	7/26/2017 0:00	Email in chain in DoD00002760 from the Director of Military Accessions Policy to the the Deputy Assistant Secretary of the Navy for Military Manpower & Personnel regarding transgender working group and implementation of transgender policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional; not deliberative
DoD00002803	PrivWithhold03686	PrivWithhold03688	7/20/2017 0:00	TG Background Paper for new DSD 20 Jul.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional; not deliberative

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00002805	PrivWithhold03689	PrivWithhold03691	7/18/2017 0:00	TG Action Officer Work Group_25 July 17.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00003186	PrivWithhold03692	PrivWithhold03697	3/9/2017 0:00	Transgender Applicant Processing Policy v6 (9 Mar 17).doc	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional;
DoD00003291	PrivWithhold03698	PrivWithhold03699	11/8/2016 0:00	Weekly TG Q&A rollup 11 NOV 16.docx	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00003328	PrivWithhold03700	PrivWithhold03700	9/30/2016 0:00	TG Handbook	Deliberations regarding the implementation of the transgender policy	N	Not predecisional; not deliberative

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD0000358 8	PrivWithho ld03701	PrivWithhold 03704	6/16/2016 0:00	DoDI EXSUM.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	Y	
DoD0000358 9	PrivWithho ld03705	PrivWithhold 03706	6/16/2016 0:00	DTM EXSUM.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	Y	
DoD0000360 6	PrivWithho ld03708	PrivWithhold 03711	6/14/2016 0:00	Template for a Directive-type Memorandum	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	Y	
DoD0000362 5	PrivWithho ld03712	PrivWithhold 03732	6/10/2016 0:00	SAF MR_Draft DoDI - In- Service Transition for Service Members Identifying as Transgender (DHRB 03 June).docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	Y	

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD0000433 3	PrivWithho ld03733	PrivWithhold 03742	7/15/2015 0:00	Transgender Service Equality Bill 1.0.pdf	Deliberations regarding the formulation of the transgender policy	Y	
DoD0000434 7	PrivWithho ld03744	PrivWithhold 03767	3/25/1996 0:00	OpsDeps Tank (Transgender) -Draft4.pptx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0000490 7	PrivWithho ld03768	PrivWithhold 03768	6/22/2017 0:00	Email forward concerning TG Action Memo (UNCLASSIFIED)	Deliberations regarding the implementation of the transgender policy	N	Not predecisional; not deliberative
DoD0000495 5	PrivWithho ld03769	PrivWithhold 03770	6/19/2017 0:00	Email chain concerning [Non- DoD Source] Fwd: Air Force hormone standard / DADT (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD0000498 8	PrivWithho ld03771	PrivWithhold 03772	6/14/2017 0:00	Email chain concerning TG Training (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0000498 9	PrivWithho ld03773	PrivWithhold 03773	6/14/2017 0:00	Email chain concerning TG Training (UNCLASSIFIED)	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00005058	PrivWithhold03774	PrivWithhold03774	5/31/2017 0:00	Email chain concerning USAF Input on the TG policy	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00005065	PrivWithhold03775	PrivWithhold03776	5/31/2017 0:00	Email chain concerning Transgender Applicants into Military Service (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00005080	PrivWithhold03777	PrivWithhold03777	5/29/2017 0:00	Email chain concerning Meeting to discuss Army input on the TG policy (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00005186	PrivWithhold03778	PrivWithhold03778	3/4/2017 0:00	Email concerning Medical Accession Standards (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00005468	PrivWithhold03779	PrivWithhold03781	12/15/2014 0:00	Email chain concerning Fwd: Transgender announcement?	Attorney mental impressions regarding matter in litigation or anticipated litigation; Deliberations regarding the formulation of the transgender policy	N	Not predecisional; not deliberative

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD0000549 0	PrivWithho ld03782	PrivWithhold 03787	12/10/2014 0:00	Email chain concerning Pending ALARACT re: Army retention of transgender service members	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0000573 5	PrivWithho ld03788	PrivWithhold 03790	7/13/2017 14:50	Email gathering information for transgender medical policy.	Deliberations regarding the implementation of the transgender policy;	Y	
DoD0000601 4	PrivWithho ld03791	PrivWithhold 03793	6/26/2017 19:55	Email regarding [Non-DoD Source] regarding Transgender Questions - Service Chief Inputs	Deliberations regarding the implementation of the transgender policy	N	Not predecisional; not deliberative
DoD0000606 7	PrivWithho ld03794	PrivWithhold 03795	4/11/2017 0:00	Document containing proposed language for sexual orientation question from survey.	Deliberations regarding the formulation of the transgender policy	N	Not predecisional; not deliberative
DoD0000608 4	PrivWithho ld03796	PrivWithhold 03797	7/31/2017 10:17	Email regarding Rep. Taylor's RFI on Transgender Service Members	Deliberations regarding the implementation of the transgender policy	N	Not predecisional; not deliberative
DoD0000611 0	PrivWithho ld03798	PrivWithhold 03805	9/29/2017 0:00	transgender Care JIF Info Paper for Acting ASD-HA.docx	Deliberations regarding the implementation of the transgender policy	Y	
DoD0000611 8	PrivWithho ld03806	PrivWithhold 03807	1/12/2017 18:55	Email regarding DRAFT Charter - Task Force on Transgender Military Dependents	Deliberations regarding the formulation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00006159	PrivWithhold03809	PrivWithhold03812	1/17/2017 0:00	REVISED TAB A TransgenderThornberryLetter.docx	Deliberations regarding the implementation of the transgender policy	N	Not predecisional; not deliberative
DoD00006268	PrivWithhold03813	PrivWithhold03814	9/9/2016 0:00	Email conversation coordinating the final review of the slides for this meeting	Deliberations regarding the implementation of the transgender policy	N	Not predecisional;
DoD00008834	PrivWithhold03815	PrivWithhold03816	9/23/2016 0:00	Email chain concerning USMC Bulletin in Transgender Service	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00009013	PrivWithhold03817	PrivWithhold03819	8/9/2016 0:00	Email chain concerning DEERS Gender Marker Change Draft Guidance	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00009061	PrivWithhold03820	PrivWithhold04012	5/12/2015 0:00	Electronic copy of file named RAND Final Report on Implications of Integrating Women into USMC Infantry....pdf	Deliberations regarding the formulation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00009273	PrivWithhold04013	PrivWithhold04019	12/11/2017 0:00	"Attachment to email. Word document titled ""Foreign National Recruiting"" with file name ""SAMPLE Issue Paper with Instructions"" with file name ""SD Budget Hearing Issue Paper (MAVNI-Foreign National Recruiting).docx""	Internal briefing and press guidance document prepared to assist senior DoD leadership. Concerns Military Accessions Vital to the National Interest (MAVNI). Unrelated to transgender military policy.		Not relevant
DoD00010065	PrivWithhold04020	PrivWithhold04021	6/20/2017 0:00	Email chain concerning TG numbers (UNCLASSIFIED)	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00010198	PrivWithhold04022	PrivWithhold04032	3/1/2017 0:00	Electronic copy of file named Blue Star Families Military Family Lifestyle Survey 2016 Key Collateral.....pptx	Deliberations regarding the implementation of the transgender policy	N	Not predecisional; not deliberative
DoD00010235	PrivWithhold04033	PrivWithhold04035	3/29/2017 0:00	Email chain concerning Question from AAFES - FW: [Non-DoD Source] DoD transgender restroom policy (UNCLASSIFIED)	Deliberations regarding the implementation of the transgender policy	N	Not predecisional; not deliberative
DoD00010360	PrivWithhold04036	PrivWithhold04039	12/13/2016 0:00	Email chain concerning DSD TG Update	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00010425	PrivWithhold04041	PrivWithhold04041	7/7/2015 0:00	Electronic copy of file named ODME0 Comment - Informal Views - H.R.____ - Transgender Inclusion Policy.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	Y	
DoD00011095	PrivWithhold04042	PrivWithhold04044	9/22/2016 0:00	Email chain concerning TG Handbook Approval Scheme	Deliberations regarding the implementation of the transgender policy	N	Not predecisional; not deliberative
DoD00011191	PrivWithhold04045	PrivWithhold04052	4/28/2016 0:00	Email chain concerning DD 214 email and SMs who gave consent to share information with a State veterans agency	Deliberations regarding the implementation of the transgender policy	N	Not deliberative
DoD00011473	PrivWithhold04053	PrivWithhold04055	8/2/2017 0:00	Email chain concerning LGBT items removed from the 2017 WGRS Survey (UNCLASSIFIED)	Deliberations regarding the implementation of the transgender policy	N	Not predecisional; not deliberative
DoD00011682	PrivWithhold04056	PrivWithhold04058	10/21/2016 0:00	Email forward concerning DODEA in Germany	Deliberations regarding the formulation of the transgender policy	N	Not predecisional; not deliberative
DoD00011810	PrivWithhold04059	PrivWithhold04062	3/3/2016 0:00	Email chain concerning FORCE OF THE FUTURE: EXIT SURVEYS--ACTION NEEDED, NLT 10 MARCH 2016	Deliberations regarding the formulation of the transgender policy	Y	

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00011844	PrivWithhold04063	PrivWithhold04063	11/22/2016 0:00	Email concerning 2nd Formal Coordination for Review of DHA-IPM on transgender (TG) care	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00011992	PrivWithhold04066	PrivWithhold04066	9/19/2016 0:00	Electronic copy of a file named COMMON TG DATA REQUESTS.docx	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00011999	PrivWithhold04067	PrivWithhold04086	9/9/2016 0:00	Electronic copy of file named TG Handbook Scenarios 8 SEP.docxEmail concerning Version 15, August 4, 2016	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00012034	PrivWithhold04089	PrivWithhold04089	8/29/2016 0:00	Electronic copy of a file named Questions for MCSCs for IPT 26 SEP 16_v2.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00012074	PrivWithhold04090	PrivWithhold04095	8/2/2016 0:00	Electronic copy of a file named Best Practices in TG Care Industry Day Questions.doc	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00012255	PrivWithhold04096	PrivWithhold04096	3/10/2017 0:00	Email Update on transgender Accession	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00012550	PrivWithhold04097	PrivWithhold04097	7/19/2017 0:00	Email concerning Accession Policy Sans Transgender	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00012686	PrivWithhold04098	PrivWithhold04098	7/11/2017 0:00	Email concerning SMMAC Brief - Transgender Update - Draft July 2017.ppt	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00013274	PrivWithhold04099	PrivWithhold04100	11/21/2016 0:00	Email chain concerning MHSER Draft Brief	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00013317	PrivWithhold04101	PrivWithhold04101	11/10/2016 0:00	Email concerning NMCP TGCT Case Data - NO PHI_08 Nov 2016.xlsx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional; not deliberative
DoD00013379	PrivWithhold04102	PrivWithhold04174	9/19/2016 0:00	Electronic copy of file named TransBOOK19sept2016.pdf	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00013405	PrivWithhold04175	PrivWithhold04177	8/8/2017 0:00	Email chain concerning [Non-DoD Source] Transgender (TG) Care IPT	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00013528	PrivWithhold04178	PrivWithhold04180	5/24/2017 0:00	Email chain regarding DHCC Blog - 3 posts on TG	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00013579	PrivWithhold04181	PrivWithhold04181	10/27/2016 0:00	Email concerning Latest draft of Navy Medicine Training Plan	Deliberations regarding the formulation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00013667	PrivWithhold04182	PrivWithhold04188	1/6/2017 0:00	Email chain regarding Development of COAs for Care of Gender Dysphoria in TRICARE	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00014060	PrivWithhold04190	PrivWithhold04191	8/31/2017 0:00	Electronic copy of a file named TAB B - HA Interim Guidance Tasking to M&RA TA Reviewed.doc	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00014232	PrivWithhold04192	PrivWithhold04193	10/26/2016 0:00	Email forward concerning Air Force Medical Service Clinical Pathway for Care of Transgender Members	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00014311	PrivWithhold04195	PrivWithhold04201	9/21/2016 0:00	Electronic copy of a file named DRAFT_TG_BUMEDNOTE_215 ep_Final Draft_v3.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00014361	PrivWithhold04202	PrivWithhold04209	10/7/2016 0:00	Email chain regarding Washington Post Interview	Deliberations regarding the implementation of the transgender policy	N	Not predecisional; not deliberative

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00014613	PrivWithhold04210	PrivWithhold04211	11/3/2016 0:00	Electronic copy of file named Info Paper Transgender Care HA-DHA 03 Nov 2016.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00014761	PrivWithhold04212	PrivWithhold04213	7/11/2016 0:00	Email Transgender (transgender) Care IPT	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00018230	PrivWithhold04214	PrivWithhold04216	6/1/2017 0:00	Email chain regarding TG info from ARmy (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00018284	PrivWithhold04217	PrivWithhold04219	6/19/2017 0:00	Email chain regarding [Non-DoD Source] Fwd: Air Force hormone standard / DADT (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00019052	PrivWithhold04220	PrivWithhold04223	11/6/2014 0:00	Email concerning draft information paper, memo, and policy matrix for transgender policy and accession	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00019095	PrivWithhold04224	PrivWithhold04225	11/6/2014 0:00	Email deliberations concerning draft response to American Military Partner Association letter regarding transgender service	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00022402	PrivWithhold04226	PrivWithhold04228	2/23/2017 0:00	Email conversation regarding the DoD transgender policy preparation	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00022484	PrivWithhold04229	PrivWithhold04231	5/8/2017 0:00	Email conversation regarding military academies sports policy and the transgender policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00022649	PrivWithhold04236	PrivWithhold04250	5/8/2017 0:00	QAs - DepSecDef Confirmation - P&R Final.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00027150	PrivWithhold04253	PrivWithhold04254	2/23/2017 0:00	"Attachment to email. Word document titled ""Commissaries"" with file name ""SecDef HASC QA.gccbto mjk.docx"""	Draft briefing paper regarding military commissaries. Drafted for Secretary of Defense in preparation for congressional meeting. Contains tracked changes and reviewer comments. Unrelated to transgender military policy.	N	Not predecisional
DoD00027558	PrivWithhold04257	PrivWithhold04258	5/31/2017 0:00	TAB E3_SECAF Action Memo to DSD - Accession of Transgender Applicants In....pdf	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00027601	PrivWithhold04259	PrivWithhold04259	7/26/2017 0:00	Email regarding tweet on service by transgender individuals	Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00027833	PrivWithhold04260	PrivWithhold04261	8/31/2017 0:00	Email regarding health affairs Interim Medical Guidance for Gender Dysphoria	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00028044	PrivWithhold04263	PrivWithhold04270	8/30/2017 0:00	Memo for transgender Care Guideline - Current Draft.doc	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00028273	PrivWithhold04271	PrivWithhold04271	8/11/2017 0:00	Email transgender IPT Phone Meeting	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00029096	PrivWithhold04273	PrivWithhold04275	9/23/2016 0:00	DD106_DODI 6130.03.pdf	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00029120	PrivWithhold04276	PrivWithhold04279	7/15/2017 0:00	Email chain regarding 6130.03 DoDI For Coordination	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00030279	PrivWithhold04280	PrivWithhold04286	7/14/2017 0:00	Email chain regarding Follow up on AMSWG comments regarding DOD/VA discrepancy in treatment of transgender conditions /disability	Deliberations regarding the implementation of the transgender policy;	N	Not predecisional
DoD00030350	PrivWithhold04287	PrivWithhold04287	6/27/2017 0:00	Spreadsheet showing status of policy work including transgender.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00034235	PrivWithhold04288	PrivWithhold04293	8/15/2017 0:00	Sex Reassignment Surgery for the Treatment of Gender Dysphoria	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00037382	PrivWithhold04294	PrivWithhold04302	6/7/2017 0:00	Email regarding a review two Air Force slides ASAP that concern the transgender policy	Deliberations regarding the implementation of the transgender policy;	N	Not predecisional
DoD00044950	PrivWithhold04303	PrivWithhold04305	1/13/2017 0:00	Email FW: January 2017 Accession Medical Standards Working Group (AMSWG) Meeting	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00044984	PrivWithhold04306	PrivWithhold04307	3/21/2017 0:00	Email between DoD personnel providing comments regarding transgender document revisions.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00045264	PrivWithhold04312	PrivWithhold04331	5/18/2017 0:00	Document containing the minutes of the May 17, 2017 MEDPERS meeting, which includes deliberative discussion of accession standards for transgender individuals	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not rpedecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00051851	PrivWithhold04337	PrivWithhold04337	7/10/2017 0:00	"Attachment to email. Word document titled ""Military Accessions Vital to the National Interest"" with file name ""3J- DSD Confirmation - MAVNI-DACA.docx""	Draft briefing paper prepared for the Deputy Secretary of Defense regarding Military Accessions Vital to the National Interest (MAVNI). Unrelated to transgender military policy.		Not relevant
DoD00052032	PrivWithhold04338	PrivWithhold04340	7/26/2017 0:00	E-mail of 26 July 2017 regarding transgender Tweet	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00083146	PrivWithhold04342	PrivWithhold04344	8/30/2017 0:00	Email conversation regarding status of the transgender decision to prepare for the media questions	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00083378	PrivWithhold04346	PrivWithhold04348	7/26/2017 0:00	Email regarding transgender news item.	Deliberations regarding the formulation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00083774	PrivWithhold04350	PrivWithhold04354	11/20/2017 0:00	"Attachment to email. Word document titled ""Somalia / U.S. Airstrikes"" with file name ""20 NOV TOPLINES PRESS GUIDANCE.DOC""	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns policies and events unrelated to transgender military policy.		Irrelevant
DoD00084013	PrivWithhold04355	PrivWithhold04369	7/26/2017 0:00	Document containing notes of press briefing including information on the transgender policy.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional; not deliberative
DoD00084030	PrivWithhold04371	PrivWithhold04371	7/24/2017 0:00	Email containing policy updates including transgender.	Deliberations regarding the formulation of the transgender policy	N	Not predecisional; not deliberative
DoD00084036	PrivWithhold04372	PrivWithhold04377	7/13/2017 0:00	"Attachment to email. Word document titled ""France - Bastille Day"" with file name ""13 July - TOPLINES PRESS GUIDANCE.doc""	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns policies and events unrelated to transgender military policy.		Irrelevant

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00085466	PrivWithhold04379	PrivWithhold04384	7/27/2017	Re_ Morning News of Note 27 July 2017 (UNCLASSIFIED).msg	Deliberations regarding the rescission of the transgender policy	N	Not predecisional; not deliberative
DoD00085543	PrivWithhold04386	PrivWithhold04387	7/1/2017	Re_ Europe.msg	Deliberations regarding the implementation of the transgender policy	N	Not predecisional; not deliberative
DoD00087734	PrivWithhold04389	PrivWithhold04393	1/30/2018 0:00	Email discussing transgender news items.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00087979	PrivWithhold04394	PrivWithhold04397	1/23/2018 0:00	Email concerning upcoming meetings including transgender.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00088265	PrivWithhold04398	PrivWithhold04402	1/17/2018 0:00	Email involving press topics including transgender.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00091187	PrivWithhold0443	PrivWithhold04414	6/26/2015 0:00	DoD Chart regarding transgender policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	Y	
DoD00091976	PrivWithhold04416	PrivWithhold04423	10/11/2017 0:00	Email regarding Morning News of Note	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not deliberative
DoD00095440	PrivWithhold04425	PrivWithhold04426	8/1/2017 0:00	Email conversation regarding clarification of medical care	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00096110	PrivWithhold04428	PrivWithhold04428	7/21/2017 0:00	Chart detailing transgender service Q & As	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00096971	PrivWithhold04430	PrivWithhold04430	6/27/2017 0:00	Email conversation regarding gender marker change numbers	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00097141	PrivWithhold04432	PrivWithhold04432	6/23/2017 0:00	Email conversation regarding transgender numbers	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00097468	PrivWithhold04434	PrivWithhold04436	6/9/2017 0:00	Email conversation regarding daily comms update on transgender accessions	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00105216	PrivWithhold04438	PrivWithhold04439	9/30/2016 0:00	Draft memo	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00105224	PrivWithhold04441	PrivWithhold04442	9/30/2016 0:00	Email concerning transgender memo.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00105848	PrivWithhold04444	PrivWithhold04445	9/8/2016 0:00	"Attachment to email. Word document titled ""BACKGROUND PAPER ON HAF CRISIS MANAGEMENT AND CONTINGENCY PLANNING AND EXECUTION"" with file name ""Transition_AF_SAF_AQ_TAB 11_FOUO Crisis Management and Contingency Plan.docx"""	Background document regarding crisis management and contingency planning for National Capital Region.	N	Not predecisional
DoD00107542	PrivWithhold04447	PrivWithhold04449	8/18/2016 0:00	Draft memo	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00109115	PrivWithhold04451	PrivWithhold04456	6/30/2016 0:00	DTM-16-005 (Final 30 June) incorporating KC comments(3).doc	Deliberations regarding the implementation of the transgender policy	N	Not predecisional. Real date from email Priv/Withhold 4450 is 07/06/2016

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00117054	PrivWithhold04460	PrivWithhold04478	12/15/2016 0:00	Draft end of administration accomplishments, includes information pertinent to TG policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Seeking or providing legal advice regarding transgender policy	N	Not predecisional
DoD00117373	PrivWithhold04479	PrivWithhold04479	10/28/2016 0:00	FW: Updated TG, Military Gender Transition, COMDTINST M1000.13.msg	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00117676	PrivWithhold04480	PrivWithhold04481	9/29/2016 0:00	Email serving as a cover to a transgender document.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD0011777 2	PrivWithhold04482	PrivWithhold04482	9/14/2016 0:00	Email between DoD personnel discussing Army transgender policy input.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0011780 9	PrivWithhold04483	PrivWithhold04485	8/18/2016 0:00	FW: Draft TG Service SECNAVINST - as of 18 Aug.msg	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0011782 7	PrivWithhold04486	PrivWithhold04487	10/19/2016 0:00	RE: USMC Training Plan for TG.msg	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0011784 3	PrivWithhold04488	PrivWithhold04488	10/7/2016 0:00	Email between DoD personnel relating to transgender training.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD0011784 4	PrivWithho ld04489	PrivWithhold 04489	10/7/2016 0:00	Email between DoD personnel relating to transgender training.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0011798 1	PrivWithho ld04490	PrivWithhold 04491	8/10/2016 0:00	RE: Networks on Transgender Issues (UNCLASSIFIED).msg	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0011817 6	PrivWithho ld04492	PrivWithhold 04494	9/6/2016 0:00	RE: ISSCC Bi-Annual Meeting (Sept 8-9) - Agenda (Final): Transgender Session.msg	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0011970 9	PrivWithho ld04496	PrivWithhold 04496	4/14/2014 0:00	Deliberations regarding timelines for transgender policy and other regulatory changes	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0011977 4	PrivWithho ld04497	PrivWithhold 04498	10/13/2016 0:00	Email between DoD personnel circulating notes from staff meeting.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00119862	PrivWithhold04501	PrivWithhold04501	1/23/2017 0:00	Deliberative discussion re: transgender policy and drafting of DoD Instruction 6130.03	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00120159	PrivWithhold04502	PrivWithhold04504	5/10/2017 0:00	RE: Accession of Transgender Members currently in other Uniformed Services.msg	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00120273	PrivWithhold04508	PrivWithhold04511	3/7/2017 0:00	Deliberative discussions re: transgender policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD0012028 4	PrivWithho ld04512	PrivWithhold 04513	3/9/2017 0:00	Deliberative discussions concerning transgender policy and DoD Instruction 6130.03	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0012046 1	PrivWithho ld04514	PrivWithhold 04515	9/20/2016 0:00	RE: AMSWG DoDI Comments.msg	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD0012053 9	PrivWithho ld04517	PrivWithhold 04569	8/15/2016 0:00	TAB A_DoDI 6130.03_2016.8.1_HRPO comments.doc	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0012059 4	PrivWithho ld04570	PrivWithhold 04572	10/16/2017 0:00	October 2017 Accession Medical Standards Working Group (AMSWG) Meeting.msg	Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD0012078 4	PrivWithho ld04575	PrivWithhold 04587	2/24/2017 0:00	Draft DD818_DODI 613003.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00120977	PrivWithhold04589	PrivWithhold04617	10/26/2017 0:00	Presentation titled MEDICAL and SURGICAL TREATMENT FOR GENDER DYSPHORIA	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	Y	
DoD00121090	PrivWithhold04618	PrivWithhold04619	3/7/2018 0:00	Deliberations between agency personnel regarding regulatory framework for transgender policy implementation	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00121256	PrivWithhold04620	PrivWithhold04621	11/15/2017 0:00	"RE: Modified SECAF Response for DoDI 6130.03, ""Medical Standards for Appointment, Enlistment, or Induction in the Military Services"" .msg"	Deliberations regarding the implementation of the transgender policy	Y	
DoD00121416	PrivWithhold04622	PrivWithhold04628	7/17/2017 0:00	Email between DoD personnel discussing edits to DoDI 6130.03.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00121858	PrivWithhold04629	PrivWithhold04650	7/5/2017 0:00	Document containing transgender policy questions and answers.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00121919	PrivWithhold04651	PrivWithhold04652	12/14/2016 0:00	Meeting invite to transgender meeting.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00124343	PrivWithhold04655	PrivWithhold04691	3/8/2016 0:00	Slides titled: INTERAGENCY TASK FORCE ON MILITARY AND VETERANS MENTAL HEALTH (ITF)	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	Y	
DoD00124515	PrivWithhold04693	PrivWithhold04700	8/30/2017 0:00	Email concerning draft interim policy for service members with GD	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD0012464 7	PrivWithho ld04701	PrivWithhold 04701	8/8/2017 0:00	Email between DoD personnel containing slide with statistical analysis.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0012493 3	PrivWithho ld04702	PrivWithhold 04704	7/6/2017 0:00	Email between DoD personnel containing notes from staff meeting.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0012523 0	PrivWithho ld04705	PrivWithhold 04706	6/7/2017 0:00	Discussion of references.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0012523 4	PrivWithho ld04707	PrivWithhold 04716	3/24/2017 0:00	Discussion of references.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00125235	PrivWithhold04717	PrivWithhold04719	6/7/2017 0:00	Email between DoD personnel discussing transgender medical studies.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Seeking or providing legal advice regarding transgender policy	N	Not predecisional
DoD00125430	PrivWithhold04720	PrivWithhold04724	4/27/2017 0:00	Email chain discussing policy regarding treatment of transgender service members	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00125596	PrivWithhold04726	PrivWithhold04727	3/6/2017 0:00	Deliberative discussions concerning transgender policy and DoD Instruction 6130.03	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00125844	PrivWithhold04728	PrivWithhold04732	1/9/2017 0:00	Email between DoD personnel discussing transgender policy material.	Deliberations regarding the implementation of the transgender policy	N	Not deliberative

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD0012594 1	PrivWithhold04733	PrivWithhold04736	12/14/2016 0:00	Email between DoD personnel circulating and discussing transgender info paper.	Deliberations regarding the implementation of the transgender policy	N	Not deliberative
DoD0012680 5	PrivWithhold04737	PrivWithhold04738	8/16/2016 0:00	Email between DoD personnel discussing transgender policy status update.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0012688 8	PrivWithhold04739	PrivWithhold04740	3/5/2018 0:00	Email between DoD personnel discussing transgender media item.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0012844 3	PrivWithhold04741	PrivWithhold04741	8/10/2017 0:00	Deliberations on interim transgender policy guidelines	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0012854 8	PrivWithhold04742	PrivWithhold04744	7/31/2017 0:00	Email between DoD personnel providing information in response to a congressional inquiry.	Deliberations regarding the rescission of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00128714	PrivWithhold04745	PrivWithhold04746	7/18/2017 0:00	Email between DoD personnel discussing transgender meeting.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00128861	PrivWithhold04747	PrivWithhold04748	6/28/2017 0:00	Email between DoD personnel providing answers to transgender medical questions.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00128927	PrivWithhold04749	PrivWithhold04749	6/22/2017 0:00	Email between DoD personnel discussing transgender medical question.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00128942	PrivWithhold04750	PrivWithhold04751	6/20/2017 0:00	email conversation regarding the definition of various terms for the transgender policy implementation plan	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00128949	PrivWithhold04753	PrivWithhold04754	6/19/2017 0:00	Discussion re M31 of the AF Medical Standards Directory revisions and related talking points.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00129040	PrivWithhold04755	PrivWithhold04756	5/25/2017 0:00	Email chain discussing policy developments being tracked by DHH's HSPO, including discussion of policy for accession of transgender individuals	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00129055	PrivWithhold04757	PrivWithhold04757	5/23/2017 0:00	Email chain discussing policy developments being tracked by DHH's Health Services Policy and Oversight, including accession policies for transgender individuals	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00129339	PrivWithhold04758	PrivWithhold04759	2/8/2017 0:00	Email chain regarding the development of accession policies for transgender individuals	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00129350	PrivWithhold04760	PrivWithhold04762	2/6/2017 0:00	email conversation regarding requests for information on the transgender accessions policy from the hill and preparation of testimony on the same topic	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00129380	PrivWithhold04763	PrivWithhold04764	2/3/2017 0:00	email conversation regarding requests for information on the transgender accessions policy from the hill and preparation of testimony on the same topic	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00129712	PrivWithhold04765	PrivWithhold04769	11/9/2016 0:00	Email between DoD personnel discussing transgender policy development.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00129806	PrivWithhold04770	PrivWithhold04772	10/14/2016 0:00	Email between DoD personnel clarifying an aspect of transgender medical policy.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00129923	PrivWithhold04773	PrivWithhold04775	9/20/2016 0:00	Email between DoD personnel regarding response to congressional inquiry.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00129947	PrivWithhold04776	PrivWithhold04776	9/19/2016 0:00	Email between DoD personnel discussing language for briefing bullets.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00129954	PrivWithhold04777	PrivWithhold04777	9/19/2016 0:00	Draft transgender policy guidance including attorney-client concerns and deliberations, including feedback from the services	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00130021	PrivWithhold04779	PrivWithhold04779	9/8/2016 0:00	Transition briefing deliberations and materials.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00138231	PrivWithhold04780	PrivWithhold04781	9/1/2016 0:00	Email between DoD personnel circulating transgender policy guidance.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00138295	PrivWithhold04782	PrivWithhold04787	7/8/2016 0:00	Email between DoD personnel discussing costs of transgender medical care.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
SOPER DEP_RFP_00567	PrivWithhold04788	PrivWithhold04807		Draft of memorandum from OASD providing Guidance for Medical Care of Transgender (TG) Active and Reserve Component Service Members with a Diagnosis of Gender Dysphoria (GD)	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
AF_00013186_AF2	PrivWithhold04808	PrivWithhold04808	12/10/2014 0:00	AFI docs for FOIA request for gender dysphoria policy dtd 2014	Deliberations regarding the implementation of transgender policy	N	Not predecisional
AF_00013381_AF2	PrivWithhold04810	PrivWithhold04810	7/22/2010 0:00	AFPC Coord on draft of AFI 36-3206	Deliberations regarding the implementation of transgender policy	N	Not predecisional
AF_00014098_AF2	PrivWithhold04811	PrivWithhold04822	8/22/2014 0:00	Draft Interim Change 3 to AFI 36-2005	Deliberations regarding the implementation of transgender policy	N	Not predecisional
AF_00018214_AF2	PrivWithhold04823	PrivWithhold04853		Draft Transgender Awareness CBT	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
AF_00025946_AF2	PrivWithhold04854	PrivWithhold04854	7/26/2017 0:00	Annotated e-mail quoting POTUS Tweet re transgender policy	Deliberations regarding the recission of the transgender policy	N	Not predecisional
AF_00025956_AF2	PrivWithhold04855	PrivWithhold04858	8/9/2017 0:00	E-mail chain re the current guidance/policy on accessions of transgender individuals into the Air Force	Deliberations regarding the implementation of the transgender policy; Deliberations regarding the recission of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
AF_00027852_AF2	PrivWithhold04861	PrivWithhold04883		Draft PPT slides regarding one of the proposed Transgender Training Modules	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
AF_00028582_AF2	PrivWithhold04886	PrivWithhold04888		Draft memo re training on AF Transgender Policy	Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
AF_00035845_AF2	PrivWithhold04889	PrivWithhold04889	3/23/2018 0:00	Transgender Policy Public Talking Points as of 23 mar 18	Deliberations regarding the implementation of transgender policy	N	Not predecisional
AF_CTRL_0000006	PrivWithhold04890	PrivWithhold04890	6/21/2017 0:00	Email from office of AF/CV to AF/CV with attached edits from various AF sources to the Transgender Memo.	Deliberations regarding the implementation of transgender policy	N	Not predecisional
AF_CTRL_00000172	PrivWithhold04894	PrivWithhold04898	5/30/2017	AF Presentations AV/VTC Request Form	Generic unfilled Audio-Visual / VTC Request Form -- attachment to (deliberate process privileged)Meeting invite sent 30 May 2017 to Air Force personnel to discuss transgender policy with SecAF.	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
Army_10001 184.0001	PrivWithho ld04901	PrivWithhold 04902	8/9/2017 0:00	Document is pre-decisional and for consideration by SCCC members.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
Army_10001 230	PrivWithho ld04903	PrivWithhold 04904	7/19/2017 0:00	Email contains deliberative information.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
Army_10001 470	PrivWithho ld04905	PrivWithhold 04907	8/10/2017 0:00	Working draft of a document establishing a Transgender Service Policy Group.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
Army_10002 386	PrivWithho ld04908	PrivWithhold 04909	3/16/2017 0:00	Contains documents that are deliberative regarding the TG policy.	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
Army_10004 330.0001	PrivWithho ld04913	PrivWithhold 04915	8/30/2017 0:00	Draft document on transgender accessions policy submitted for reviewer feedback and comment.	Deliberations regarding the formulation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
Army_10008566	PrivWithhold04916	PrivWithhold04916	9/5/2017 0:00	Email requests status update and timeline	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
Army_10008850	PrivWithhold04917	PrivWithhold04923	1/31/2017 0:00	Email chain discussing suggestions to TG policy.	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
Army_10009001.0002	PrivWithhold04925	PrivWithhold04937	10/31/2016 0:00	Draft document on TG policy submitted for feedback or approval	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
Army_10009002.0001.0003	PrivWithhold04940	PrivWithhold04954	10/31/2016 0:00	Draft document on TG policy submitted for feedback or approval	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
Army_10009476.0001	PrivWithhold04956	PrivWithhold04956	12/15/2016 0:00	Draft products related to implementation of TG policy.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
Army_10009997.0001	PrivWithhold04958	PrivWithhold04958	1/4/2017 0:00	Request for implementation policy guidance from the field seeking advice from policy makers	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
Army_10010067	PrivWithhold04959	PrivWithhold04960	4/25/2017 0:00	Comment on the contents of the Air Force's recommendations regarding implementation of accessions.	Deliberations regarding the formulation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
Army_10010 266	PrivWithhold04961	PrivWithhold 04962	5/22/2017 0:00	Email chain containing recommendations and discussion re formulation and implementation of TG policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
Army_10010 287	PrivWithhold04963	PrivWithhold 04963	5/5/2017 0:00	Email containing discussions re formulation and implementation of TG policy concerning accessions.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
Army_10010 355	PrivWithhold04964	PrivWithhold 04964	5/17/2017 0:00	Comments re: transgender enlistment challenges up to superiors	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
Army_10010 381	PrivWithhold04965	PrivWithhold 04965	5/23/2017 0:00	Email chain with comments and suggestions on formulation/implementation of TG policy.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
Army_10010 530	PrivWithhold04966	PrivWithhold 04970	7/7/2017 0:00	Email discussion on the status and the progress of transgender accessions policy development.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
Army_10010 763.0002	PrivWithhold04975	PrivWithhold 05023	4/6/2016 0:00	Draft document on TG policy submitted for feedback or approval	Deliberations regarding the implementation of the transgender policy	Y	

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
Army_10010764.0002	PrivWithhold05027	PrivWithhold05075	4/6/2016 0:00	Draft document on TG policy submitted for feedback or approval	Deliberations regarding the implementation of the transgender policy	Y	
Army_10016977.0003.0001	PrivWithhold05077	PrivWithhold05087	7/21/2016 0:00	Draft briefing summarizes the current courses of action and status of policy development	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DHA_00000702	PrivWithhold05088	PrivWithhold05096	7/26/2017 0:00	Intradepartment email concerning implementation of transgender policy	Predecisional and deliberative internal agency document created as part of the agency's process of developing courses of action for implementing DoD's policy on the services and accessions of military personnel and the continuous process of assessing the policy's impact on military readiness.	N	Not predecisional
DoD00002384	PrivWithhold05097	PrivWithhold05099	8/31/2017 0:00	RE: Congressional Request (RUSH for Sep. 5): Number of transgender servicemembers undergoing therapy/surgery (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00002765	PrivWithhold05100	PrivWithhold05101	7/26/2017 0:00	Email discussion between a member of the office of the Assistant to the Secretary of Defense for Public Affairs and the Director of Military Accessions Policy regarding transgender policy in view of Presidential announcement	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00002876	PrivWithhold05104	PrivWithhold05104	7/6/2017 0:00	DSD Way Ahead memo.pdf	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00004118	PrivWithhold05105	PrivWithhold05106	11/2/2015 0:00	RE: Gender transition PPT slide	Deliberations regarding the formulation of the transgender policy	Y	
DoD00004359	PrivWithhold05107	PrivWithhold05107	6/30/2015 0:00	FW: Info paper on Hill atmospherics	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00004716	PrivWithhold05108	PrivWithhold05109	6/30/2017	RE: ACCESSION OF TRANSGENDER INDIVIDUALS INTO MILITARY SERVICES (UNCLASSIFIED).msg	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00004741	PrivWithhold05110	PrivWithhold05111	6/29/2017 0:00	Email chain concerning TG Q&A (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00004987	PrivWithhold05112	PrivWithhold05112	6/14/2017 0:00	Email concerning TG meeting	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00004998	PrivWithhold05113	PrivWithhold05113	6/13/2017 0:00	Email forward concerning TG Meeting with DSD and Service Chiefs (UNCLASSIFIED)	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00005067	PrivWithhold05114	PrivWithhold05114	5/31/2017 0:00	Email chain concerning Navy Input on the TG policy	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00005184	PrivWithhold05115	PrivWithhold05116	3/7/2017 0:00	Email chain concerning Medical Accession Standards (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00005366	PrivWithhold05117	PrivWithhold05117	3/17/2015 0:00	Email forward concerning Army's ALARACT on transgender	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00005378	PrivWithhold05118	PrivWithhold05119	2/26/2015 0:00	Email chain concerning PVT Chelsea Manning USDB Ft Leavenworth - Hormone Replacement Therapy (HRT) Approved	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD0000538 2	PrivWithhold05120	PrivWithhold05120	2/26/2015 0:00	Email concerning Retention information paper	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD0000550 7	PrivWithhold05121	PrivWithhold05122	11/20/2014 0:00	Email chain concerning Transgender accession medical working group	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0000591 3	PrivWithhold05123	PrivWithhold05125	8/21/2017 9:46	Email discussing gathering transgender data	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0000600 1	PrivWithhold05128	PrivWithhold05128	4/27/2017 0:00	transgender Update for DepSecDef - April 27, 2017.docx	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0000602 8	PrivWithhold05131	PrivWithhold05131	11/2/2016 0:00	Task Force on Transgender Military Dependents - ... (7).pdf^Agenda-TF-TMD2.docx	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0000613 8	PrivWithhold05132	PrivWithhold05133	3/6/2017 16:45	Email regarding temporary ad hoc Transgender (transgender) working group	Deliberations regarding the formulation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00006552	PrivWithhold05134	PrivWithhold05141	8/28/2017 0:00	Unsigned memorandum involving transgender medical policy.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00008746	PrivWithhold05142	PrivWithhold05142	11/4/2016 0:00	Email chain concerning Weekly TG Q&A rollup through 4 NOV 16	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00008821	PrivWithhold05143	PrivWithhold05144	9/23/2016 0:00	Email chain concerning USMC Bulletin in Transgender Service	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00009259	PrivWithhold05149	PrivWithhold05149	12/11/2017 0:00	"Attachment to email. Word document titled ""Hard Questions for Military Accessions Vital to the National Interest (MAVNI)"" with file name ""SD Budget Hearing Q&As (MAVNI-Foreign National Recruiting).docx""	Internal talking points and press guidance document prepared to assist senior DoD leadership. Concerns Military Accessions Vital to the National Interest (MAVNI). Unrelated to transgender military policy.		Not relevant
DoD00009517	PrivWithhold05153	PrivWithhold05161	6/26/2015 0:00	Electronic copy of file named Draft edits on DSD 1-Page Slides (12 Oct 2017) Final.pptx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00009649	PrivWithhold05162	PrivWithhold05163	8/30/2017 0:00	Email serving as a cover to a transgender document.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00009995	PrivWithhold05165	PrivWithhold05165	7/10/2017 0:00	Electronic copy of file named DSD Briefings.xlsx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD0001096 4	PrivWithho ld05166	PrivWithhold 05169	9/8/2017 0:00	Email chain concerning TG: Panel/Working Group Composition (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD0001169 7	PrivWithho ld05170	PrivWithhold 05170	9/23/2016 0:00	Email chain concerning USMC Bulletin in Transgender Service	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0001189 2	PrivWithho ld05171	PrivWithhold 05173	10/11/2016 0:00	Email forward concerning WaPo - Transgender update - Kurta interview	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD0001219 7	PrivWithho ld05174	PrivWithhold 05176	4/26/2017 0:00	Email FW: [Non-DoD Source] Change in surgical policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0001224 9	PrivWithho ld05178	PrivWithhold 05221	3/13/2017 0:00	DD818_DODI 613003 Draft Response v2.docx	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD0001251 4	PrivWithho ld05222	PrivWithhold 05224	3/30/2017 0:00	Email chain concerning Stability (UNCLASSIFIED)	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0001254 6	PrivWithho ld05225	PrivWithhold 05226	7/19/2017 0:00	Email chain concerning Accession Policy Sans Transgender	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00012936	PrivWithhold05227	PrivWithhold05228	9/15/2016 0:00	Email Transgender and MEB Scenario	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00013369	PrivWithhold05231	PrivWithhold05283	9/21/2016 0:00	Electronic copy of file named DON Transgender Service in the US Military 9_SEP_2016_Combined Input.docxEmail concerning Version 15, August 4, 2016	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00013394	PrivWithhold05284	PrivWithhold05286	9/20/2016 0:00	Email chain concerning Costs of Transgender Surgery	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00013431	PrivWithhold05287	PrivWithhold05287	5/9/2017 0:00	Email concerning TG Education and Training Module Completion Reporting	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00013445	PrivWithhold05288	PrivWithhold05289	10/28/2016 0:00	Email chain concerning MOG Briefing (UNCLASSIFIED)	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00013485	PrivWithhold05292	PrivWithhold05295	10/20/2016 0:00	Electronic copy of a file named TG Education and Training Plan_10 OCT 16_ final clean.docx	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00013517	PrivWithhold05296	PrivWithhold05296	11/16/2016 0:00	Email concerning Air Force MOA TG webinar	Deliberations regarding the formulation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00013879	PrivWithhold05297	PrivWithhold05297	4/28/2017 0:00	Email chain regarding TG-DHA IPM post edits by DoD personnel	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00013982	PrivWithhold05298	PrivWithhold05298	6/15/2017 0:00	Email chain regarding consulting with in various fields to gain information related to TG care	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00014066	PrivWithhold05300	PrivWithhold05300	8/31/2017 0:00	Electronic copy of a file named TAB B - HA Interim Guidance Tasking to M&RA TA.doc	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00014259	PrivWithhold05303	PrivWithhold05321	10/7/2016 0:00	Electronic copy of a file named Army Directive 2016-35 (Army Policy on Military Service of Transgender S....pdf	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00014289	PrivWithhold05325	PrivWithhold05337	9/27/2016 0:00	Draft instructions concerning interim guidance for service of transgender Navy personnel	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00014319	PrivWithhold05340	PrivWithhold05356	9/21/2016 0:00	Electronic copy of a file named DRAFT AFPM Transgender v13 (Attachments) (2).docx	Deliberations regarding the formulation of the transgender policy; Seeking or providing legal advice regarding transgender policy	N	Not predecisional
DoD00014322	PrivWithhold05358	PrivWithhold05361	2/26/2008 0:00	Electronic copy of a file named Transition Timelines and Fitness Exemptions v3.ppt	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00014567	PrivWithhold05362	PrivWithhold05364	10/6/2016 0:00	Email chain regarding TG Surgery care (UNCLASSIFIED)	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00014748	PrivWithhold05368	PrivWithhold05368	8/9/2016 0:00	Proposed Service Transgender Care Military Treatment Facilities 9 Aug 16.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00021364	PrivWithhold05369	PrivWithhold05375	3/10/2017 0:00	Transgender Policy - PR Topics List 2017.docx	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00022052	PrivWithhold05376	PrivWithhold05379	2/8/2017 0:00	Email conversation regarding draft media responses to questions regarding accessions of transgender cadets	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00022328	PrivWithhold05380	PrivWithhold05382	2/8/2017 0:00	Email regarding Media query - AP - Transgender policy questions	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00026891	PrivWithhold05383	PrivWithhold05384	8/30/2017 0:00	Email chain regarding Formal Coordination DRAFT Transgender Implementation Guidance for SD Signature Friday 1 Sep	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00026969	PrivWithhold05388	PrivWithhold05389	8/1/2017 0:00	"Attachment to email. Word document titled ""BACKGROUND ON MILITARY ACCESSIONS VITAL TO THE NATIONAL INTEREST (MAVNI) & DEFERRED ACTION FOR CHILDHOOD ARRIVALS (DACA)"" with file name ""MAVNI_DACA backgrounder (AP Smooth).docx"""	Internal briefing and press guidance document prepared to assist senior DoD leadership. Concerns Military Accessions Vital to the National Interest (MAVNI). Unrelated to transgender military policy.	N	Not predecisional
DoD00026996	PrivWithhold05390	PrivWithhold05391	7/17/2017 0:00	Email conversation regarding the formation of the transgender policy action-officer level working group	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD0002766 4	PrivWithho Id05392	PrivWithhold 05395	7/13/2017 0:00	Discussion re: responses to QFRs on the transgender policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD0002971 7	PrivWithho Id05396	PrivWithhold 05396	6/1/2017 0:00	Email regarding transgender accessions and input from the services	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0003201 5	PrivWithho Id05397	PrivWithhold 05397	8/25/2017 0:00	Email regarding the draft Terms of Reference and the Draft interim Guidance transgender Documents	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD0003264 5	PrivWithho Id05398	PrivWithhold 05402	8/10/2017 0:00	Email Morning Congressional Correspondence, PRS-PRD, and ASN-ADN Update	Deliberations regarding the implementation of the transgender policy;	N	Not predecisional
DoD0003477 3	PrivWithho Id05408	PrivWithhold 05408	8/16/2017 0:00	SecDef Statement on transgender.docx	Deliberations regarding the implementation of the transgender policy;	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00039044	PrivWithhold05409	PrivWithhold05410	4/19/2017 0:00	Email FW: transgender Bathroom References	Deliberations regarding the implementation of the transgender policy;	N	Not predecisional
DoD00045171	PrivWithhold05411	PrivWithhold05413	1/12/2017 0:00	Email chain regarding Body Composition --- OSD Accession Policy RFI (AMSWG)	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00068058	PrivWithhold05414	PrivWithhold05415	8/18/2017 0:00	Email chain regarding transgender medical care deliberations	Deliberations regarding the formulation of the transgender policy	N	Not predecisional
DoD00068067	PrivWithhold05417	PrivWithhold05418	8/22/2017 0:00	SECDEF transgender statement QA (SAB).DOCX	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00083938	PrivWithhold05420	PrivWithhold05423	7/27/2017 0:00	Email involving transgender news item.	Deliberations regarding the formulation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00084032	PrivWithhold05425	PrivWithhold05426	7/13/2017 0:00	Email containing notes from press questions including transgender.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00093940	PrivWithhold05428	PrivWithhold05430	8/29/2017 0:00	Email conversation regarding implementation of transgender policy	Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00094690	PrivWithhold05437	PrivWithhold05437	8/16/2017 0:00	SecDef memo regarding transgender policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00094819	PrivWithhold05440	PrivWithhold05440	8/14/2017 0:00	SecDef memo regarding transgender policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00095473	PrivWithhold05445	PrivWithhold05445	7/31/2017 0:00	"Word document titled, ""Office Call w/Sen Majority Leader McConnell (R-KY)"" with file name ""SD TPs for Office Call Sen McConnell_8.2.17v3.docx""	Notes in preparation for call w/ Senate Majority Leader regarding nominations to Senate confirmed DoD posts, continuing resolutions, DoD budget.	N	Not predecisional
DoD00096508	PrivWithhold05447	PrivWithhold05448	7/14/2017 0:00	Email conversation regarding transgender SIG meeting	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00096828	PrivWithhold05507	PrivWithhold05507	6/30/2017 0:00	Draft transgender policy document.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00098494	PrivWithhold05510	PrivWithhold05510	5/11/2017 0:00	"Attachment to email. Word document titled ""The Campaign to Defeat the Islamic State of Iraq and Syria (ISIS)"" with file name ""3_Hot Topics Paper_ATL and CMO Reorganizations.zip?6_Hot Topics Paper_DISIS.docx""	Overview, background, and key points regarding Islamic State of Iraq and Syria.	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00098509	PrivWithhold05511	PrivWithhold05511	4/4/2017 0:00	"Attachment to email. Word document titled ""Sexual Assault Prevention and Response / Social Media"" with file name ""3_Hot Topics Paper_ATL and CMO Reorganizations.zip?21_Sexual Assault Prevention and Social Media - Hot Topic.docx"""	Overview, background, and key points regarding sexual assault prevention and response and social media tools to combat this issue in DoD.	N	Not predecisional
DoD00105141	PrivWithhold05516	PrivWithhold05516	10/3/2016 0:00	Email containing public affairs update.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00105144	PrivWithhold05520	PrivWithhold05521	9/30/2016 0:00	Draft memo	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00117178	PrivWithhold05524	PrivWithhold05542	12/8/2016 0:00	Draft end of administration accomplishments, includes information pertinent to TG policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD0011738 6	PrivWithhold05543	PrivWithhold05546	9/22/2016 0:00	Deliberative email between DodD personnel regarding edits to Transgender handbook for Commanders	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0011742 7	PrivWithhold05547	PrivWithhold05547	7/27/2016 0:00	Email between DoD personnel responding to a transgender medical inquiry.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0011746 9	PrivWithhold05548	PrivWithhold05550	10/21/2016 0:00	Discussions between attorneys and senior policymakers regarding impacts of transgender policy in DoD schools and unique overseas environments	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0011818 2	PrivWithhold05553	PrivWithhold05554	8/31/2016 0:00	Inter-Service Survey Coordinating Committee Agenda September2016.doc	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00119200	PrivWithhold05555	PrivWithhold05556	5/9/2017 0:00	Email between DoD personnel circulating transgender accessions memo.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00119438	PrivWithhold05559	PrivWithhold05560	3/6/2017 0:00	Deliberative discussions concerning transgender policy and DoD Instruction 6130.03	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00119652	PrivWithhold05562	PrivWithhold05565	11/17/2016 0:00	Deliberative discussions re: transgender policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00119793	PrivWithhold05568	PrivWithhold05619	3/15/2018 0:00	Draft DoDI-6130.03-2018_clean.docx	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00120168	PrivWithhold05620	PrivWithhold05621	5/4/2017 0:00	Deliberative discussions re: transgender policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00120268	PrivWithhold05622	PrivWithhold05624	3/13/2017 0:00	Deliberative discussions re: transgender policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00120269	PrivWithhold05625	PrivWithhold05627	3/7/2017 0:00	Deliberative discussions re: transgender policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00120312	PrivWithhold05630	PrivWithhold05633	3/3/2017 0:00	Deliberative discussions concerning transgender policy and DoD Instruction 6130.03	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00120453	PrivWithhold05636	PrivWithhold05636	4/14/2014 0:00	Copy of Copy of Issuance Dashboard for October 2016 Publication.xlsx	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00120666	PrivWithhold05637	PrivWithhold05639	3/23/2018 0:00	Deliberations regarding implementation of transgender accessions policy	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00120991	PrivWithhold05640	PrivWithhold05640	7/18/2016 0:00	FW: Emailing: TG care policy memo informal coordination sent 7 6 2016 v2_USCG.msg	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00120998	PrivWithhold05641	PrivWithhold05642	7/18/2016 0:00	Email between DoD personnel answering a transgender question.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00121431	PrivWithhold05643	PrivWithhold05644	7/12/2017 0:00	Email between DoD personnel providing transgender medical policy language.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00121670	PrivWithhold05645	PrivWithhold05657	7/18/2016 0:00	Document containing issuance comments for Guidance for Treatment of Gender Dysphoria for Active Duty Service Members.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00124359	PrivWithhold05658	PrivWithhold05664	9/13/2017 0:00	Email chain discussing development of policy information concerning transgender service members	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not deliberative
DoD00124766	PrivWithhold05665	PrivWithhold05665	7/26/2017 0:00	Email between DoD personnel discussing meeting.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00126387	PrivWithhold05666	PrivWithhold05677	9/30/2016 0:00	Email between DoD personnel discussing mentions of transgender policy work.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00126760	PrivWithhold05678	PrivWithhold05678	8/23/2016 0:00	Email between DoD personnel regarding a transgender media inquiry.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00126800	PrivWithhold05679	PrivWithhold05682	8/17/2016 0:00	Email between DoD personnel discussing TRICARE transgender issue,	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00126821	PrivWithhold05683	PrivWithhold05685	8/16/2016 0:00	Email between DoD personnel discussing transgender policy status update.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00127015	PrivWithhold05686	PrivWithhold05686	3/5/2018 0:00	E-mail between DoD personnel regarding study in light of current transgender policy announcements.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00127017	PrivWithhold05687	PrivWithhold05687	3/5/2018 0:00	Email between DoD personnel discussing specific transgender case.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD0012828 9	PrivWithho ld05688	PrivWithhold 05690	9/5/2017 0:00	Deliberative email conversation between DoD personnel regarding an update for leadership on the transgender policy.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0012853 7	PrivWithho ld05691	PrivWithhold 05691	8/1/2017 0:00	Email between DoD personnel requesting a policy guidance update.	Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD0012870 3	PrivWithho ld05693	PrivWithhold 05693	6/28/2017 0:00	Document containing list of research materials.	Deliberations regarding the implementation of the transgender policy		
DoD0012876 1	PrivWithho ld05694	PrivWithhold 05695	7/10/2017 0:00	Email between DoD personnel discussing transgender medical costs.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0012904 4	PrivWithho ld05697	PrivWithhold 05698	5/19/2017 0:00	Slides providing oversight to HSPO office structure and functions.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD0012921 2	PrivWithho ld05699	PrivWithhold 05701	3/14/2017 0:00	Email between DoD personnel discussing transgender working group.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0012944 6	PrivWithho ld05703	PrivWithhold 05725	5/6/2009 0:00	Slides titled: VA/DoD Health Executive Committee Clinical Care & Operations Business Line Update Decision Brief	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0012955 2	PrivWithho ld05726	PrivWithhold 05728	12/6/2016 0:00	Email between DoD personnel circulating and discussing transgender info paper.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0013005 8	PrivWithho ld05729	PrivWithhold 05731	8/31/2016 0:00	Email between DoD personnel regarding a media inquiry.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0013006 1	PrivWithho ld05732	PrivWithhold 05737	8/31/2016 0:00	email conversation regarding preparation for a brief to senior DoD officials on the updated transgender implementation plan.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD0013090 6	PrivWithho ld05739	PrivWithhold 05739	3/21/2018 0:00	Email between DoD personnel regarding transgender meeting.	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00138210	PrivWithhold05740	PrivWithhold05750	9/14/2016 0:00	Email between DoD personnel discussing media inquiry about particular transgender service member.	Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00139043	PrivWithhold05753	PrivWithhold05756	1/29/2015 0:00	Armed Forces Accession Medical Standard Review Process	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy	N	Not predecisional
DoD00139335	PrivWithhold05758	PrivWithhold05758	3/1/2018 0:00	Draft memo: Transgender Service Policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional
DoD00141196	PrivWithhold05760	PrivWithhold05760	3/1/2018 0:00	Draft memo: Transgender Service Policy	Deliberations regarding the formulation of the transgender policy; Deliberations regarding the implementation of the transgender policy; Deliberations regarding the rescission of the transgender policy	N	Not predecisional

In Camera Review of Initial 350 DPP Claims

Not DocID	In Camera Begin Bates	In Camera End Bates	Date	Title of Document/Subject Line of Email/Description	Privilege Description	Priv. Y/N	Notes
DoD00143383	PrivWithhold05761	PrivWithhold05762	4/4/2016	FW NYT Op-Ed on TG (31).msg	Deliberative email between DoD personnel discussing RAND study release.	N	Not deliberative
DoD00144666	PrivWithhold05763	PrivWithhold05764	8/24/2017	RE: TG Documents (UNCLASSIFIED).msg	Deliberative email between DoD personnel regarding edits to transgender document.	N	Not predecisional
DoD00144760	PrivWithhold05765	PrivWithhold05767	8/4/2017	RE: FOUO: Transgender Dependent RFI (UNCLASSIFIED).msg	Deliberative email between DoD personnel regarding DoD transgender dependent medical policy.	N	Not predecisional
DoD00145057	PrivWithhold05768	PrivWithhold05771	9/19/2016	FW: FOUO\\ FW: Version 19, TG Handbook.msg	Deliberative email between DoD personnel regarding edits to transgender document.	N	Not deliberative