

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

3 1. I am a Senior Trial Counsel at the United States Department of Justice and
4 counsel of record for Defendants in this action. I submit this declaration in support of
5 Defendants' Notice of Compliance Regarding ECF No 629.

6 2. Attached to this declaration as Exhibit A is a true and correct copy of the
7 declaration of Robert Easton, Director of the Office of Litigation Counsel. Exhibit A formally
8 asserts the deliberative process privilege on behalf of the Department of Defense over the 34
9 documents submitted for *in camera* review.

10 3. Also attached to this declaration as Exhibit B is a privilege log that identifies the
11 document, date, DoD number, and PrivWithhold number of the 34 documents listed in the
12 declaration of Robert Easton submitted for *in camera* review.

13 4. Attorneys of record in this litigation have reviewed Exhibits A and B and the 34
14 documents over which the Department of Defense formally asserts the deliberative process
15 privilege, which are being submitted for *in camera* review.

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

18 EXECUTED this 1st day of December, 2020.

19
20 /s/ Andrew E. Carmichael
21 ANDREW E. CARMICHAEL
22 Senior Trial Counsel
23 United States Department of Justice
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Counsel for Defendants

EXHIBIT A

The Honorable Marsha J. Pechman

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

RYAN KARNOSKI, *et al.*,

Plaintiffs,

v.

No. 2:17-cv-1297-MJP

**DECLARATION OF ROBERT E.
EASTON IN SUPPORT OF
DEFENDANTS' SUBMISSION
FOR *IN CAMERA* REVIEW OF
DOCUMENTS WITHHELD
UNDER THE DELIBERATIVE
PROCESS PRIVILEGE**

DONALD J. TRUMP, *et al.*,

Defendants.

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. 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 March 12, 2019 DoD Policy on Military Service by Transgender Persons and Persons with Gender Dysphoria (“DoD Transgender Service Policy”).

3. I submit this declaration in response to the Court’s July 15, 2020, September 29, 2020, and October 28, 2020 orders directing the government to provide documents to the Court for *in camera* review, and to formally assert the deliberative process privilege on behalf of DoD over the documents and information described below. I base this declaration on my personal knowledge and information made available to me in the performance of my official duties.

4. The Court directed DoD to submit for *in camera* review certain documents from November 18, 2017, to January 11, 2018, that have been listed on the DoD privilege log as withheld from production pursuant to the deliberative process privilege.

5. Based on my review of the relevant documents, I have determined that the documents submitted with this Declaration, described below, were created as part of DoD’s decision-making processes. These documents reflect the deliberative process undertaken by senior DoD officials as they developed DoD’s 2018 policy on military service by transgender individuals and individuals with or having a history of gender dysphoria and DoD’s Report and

Recommendations on Military Service by Transgender Persons (“DoD Report”) before submitting DoD’s policy recommendation and the DoD Report to the President on February 22, 2018. These documents consist of draft letters from then-Secretary Mattis to the President that were never sent, early drafts of what became the executive summary section of the DoD Report, and early outlines of the DoD Report. Accordingly, DoD formally invokes the deliberative process privilege over each of these documents.

6. There are three categories of documents that are subject to the deliberative process privilege. Each of the next three numbered paragraphs addresses a specific category of such documents.

Documents Subject to the Deliberative Process Privilege

7. The first category of documents consists of drafts of a December 2017 letter from the Secretary of Defense to the President regarding DoD’s policy on military service by transgender individuals and individuals with or having a history of gender dysphoria.¹ The letter was never finalized or sent to the President and preceded the Secretary of Defense’s ultimate decision on the DoD Transgender Service Policy. DoD00086003, DoD00089708, DoD00089733, DoD00089736, and DoD00089781 are early drafts of the letter. DoD00085866, DoD00088720, DoD00089120, DoD00089728, DoD00089971, DoD00089975, DoD00089978, DoD00089982, and DoD00089986 are draft versions of the letter containing red-line edits and editorial comments in the margins, some with edits by Ms. Rachel Gleischman, a White House Fellow to the DoD and a Special Assistant to Secretary Mattis. Other versions – DoD00084379, DoD00084382, and CJCS_00001090 – are PDF copies of the draft letter containing Secretary

¹ The Department previously submitted two versions of this document (DoD00087202 and DoD00133344) for the Court’s *in camera* review. On November 25, 2020, the Court found that these documents are protected from disclosure by the deliberative process privilege. *See* Dkt. 614-1 at 214.

Mattis's handwritten edits and changes. These documents are both pre-decisional and deliberative. They are pre-decisional because the draft letter containing DoD's transgender policy development plan was never finalized or sent to the President and was created before Secretary Mattis submitted DoD's proposed policy recommendation to the President on February 22, 2018. The documents are also deliberative because they discuss possible strategic decisions and recommendations for DoD's policy. They also reflect the views and thought processes of senior advisors to the Secretary of Defense and of Secretary Mattis himself regarding anticipated actions.

8. The second category of documents concerns early drafts of what became the executive summary section of the DoD Report. *See* DoD Report, Dkt. 216-2, at 2-6. The documents were drafted to assist senior DoD decision-makers understand the scope and breadth of the work of the Panel of Experts, the policy questions the Panel considered in guiding its work, and the evidence it reviewed. These documents later were adapted to create the executive summary section of the DoD Report. DoD00007060, DoD00010610, DoD00010611, DoD00010613, DoD00007059, DoD00007898, DoD00007903, DoD00138098, DoD00138100, DoD00007061, DoD00000554, and DoD00010582 are draft versions of the executive summary containing red-line edits and/or editorial comments in the margins from Mr. Anthony Kurta, a senior official in Office of the Undersecretary of Defense for Personnel and Readiness ("OUSD(P&R)") and chair of the Panel of Experts, Ms. Stephanie Barna, Principal Deputy Assistant Secretary of Defense for Manpower and Reserve Affairs, and Mr. Lernes Hebert, a senior DoD official serving in OUSD(P&R). These documents are pre-decisional and deliberative. The deliberations and summary of the Panel's work in these documents occurred before Secretary Mattis submitted DoD's proposed policy recommendation along with the DoD

Report to the President on February 22, 2018. They are also deliberative. They reflect the internal concerns, opinions, and recommendations of senior DoD officials on how DoD should memorialize the work done by the Panel of Experts.

9. The final category of documents consists of an early version of an outline on military service by transgender individuals that later became the DoD Report submitted to the President on February 22, 2018. DoD00007078, DoD00007079, DoD00007873, DoD00007877, and DoD0000977 are drafts of this document. These drafts were a precursor to the DoD Report and formed the basis of what senior DoD officials thought should be addressed in the Report. These documents are pre-decisional because the discussions and deliberations reflected in them occurred before Secretary Mattis submitted DoD's proposed policy recommendation along with the DoD Report to the President on February 22, 2018. These documents are also deliberative. They are early versions of an outline of the DoD Report and reflect the iterative drafting process leading to the final version of the DoD Report. Moreover, two of these documents (DoD00007078 and DoD00007079) contain visible edits and comments from Mr. Hebert, who proposed changes to the document.

10. As discussed in my prior declarations, release of DoD information protected by the deliberative process privilege in this case, including the materials described above, would have a substantial and immediate chilling effect on policy deliberation and development within DoD writ large. The DoD decision-making apparatus relies on open and candid conversations among leadership, advisors, and policy analysts to advise and inform DoD policy-makers across the Military Services on various courses of action for any decision. Matters of national security frequently present multiple courses of action that require careful and delicate balancing of equities and priorities against the need to serve national defense interests, and leaders within the

Department encourage open and candid discussions about the merits of such actions. Opinions identifying risks or areas of concern are critical to the integrity and viability of the military decision-making process.

11. In addition, the geographically dispersed nature of DoD activities and the high operational tempo with which many of the Department's activities are conducted mean that deliberative and pre-decisional conversations frequently occur via email. Leaders across the Department routinely solicit feedback, thoughts, and opinions on highly sensitive topics, including those with national-security implications, using email so that those who need to review and weigh-in on a decision can do so in real time regardless of their physical location.

12. The forced release of these types of delicate and candid communications would directly and immediately impair open and frank conversations at both the operational and strategic levels. If DoD personnel knew that their thoughts, impressions, and opinions, including those reflected in draft documents, whether related to DoD transgender policy or otherwise, would be open to scrutiny, they may hesitate to provide their genuine positions on potential courses of action, not only as to military personnel decisions but regarding any politically sensitive decision that DoD faces in the future, for fear that these discussions could be revealed to wider audiences. The lack of essential input would degrade DoD's decision-making process and could expose the nation to greater overall risk.

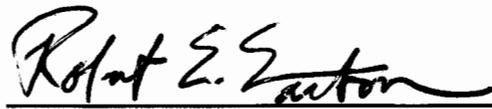
13. The disclosure of deliberative, pre-decisional input, analysis, and opinions from these individuals would breach DoD's commitment to maintain the confidentiality of participants' honest deliberations regarding the sensitive and complex topic of transgender service. This would irreparably harm DoD's ability to obtain candid and open input on any

similarly sensitive subject in the future, not just regarding military service by transgender individuals.

14. Finally, releasing early deliberations and early drafts of policy documents, including documents that were never finalized, increases the likelihood of public confusion over the purpose and reasoning behind government policies. Here, releasing early versions of outlines that were used to draft the DoD Report, drafts of letters that were never sent to the President, and draft executive summaries that were adapted for the DoD Report risks confusing the public as to the ultimate recommendation by the Secretary of Defense regarding the Department's policy on military service by transgender individuals and individuals with gender dysphoria.

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

EXECUTED this 1st day of December 2020, at Arlington, Virginia.



ROBERT E. EASTON
Director, Office of Litigation Counsel

EXHIBIT B

Karnoski v. Trump
Privilege Log for In Camera Review
12/1/2020

DOCID	Priv Withhold Begin Bates	Priv Withhold End Bates	Date	Privilege(s)	Privilege Description (See DoD Declaration)
DoD00086003	PrivWithhold00014011	PrivWithhold00014012	12/6/2017	Deliberative Process Privilege	Draft of a December 2017 letter from the Secretary of Defense to the President regarding DoD's policy on military service by transgender individuals and individuals with or having a history of gender dysphoria. The document is predecisional because the draft letter was never finalized or sent to the President. The document is also predecisional because it preceded the Secretary of Defense's ultimate decision on the DoD Transgender Service Policy and was created before Secretary Mattis submitted DoD's proposed policy recommendation to the President on February 22, 2018. The draft letter is deliberative because it discusses possible strategic decisions and recommendations for DoD's policy, and it reflects the views and thought processes of senior advisors to the Secretary of Defense and of Secretary Mattis himself regarding anticipated actions. See Declaration of Robert Easton, ¶ 7.
DoD00089708	PrivWithhold00014013	PrivWithhold00014014	12/7/2017	Deliberative Process Privilege	Draft of a December 2017 letter from the Secretary of Defense to the President regarding DoD's policy on military service by transgender individuals and individuals with or having a history of gender dysphoria. The document is predecisional because the draft letter was never finalized or sent to the President. The document is also predecisional because it preceded the Secretary of Defense's ultimate decision on the DoD Transgender Service Policy and was created before Secretary Mattis submitted DoD's proposed policy recommendation to the President on February 22, 2018. The draft letter is deliberative because it discusses possible strategic decisions and recommendations for DoD's policy, and it reflects the views and thought processes of senior advisors to the Secretary of Defense and of Secretary Mattis himself regarding anticipated actions. See Declaration of Robert Easton, ¶ 7.
DoD00089733	PrivWithhold00014015	PrivWithhold00014016	12/6/2017	Deliberative Process Privilege	Draft of a December 2017 letter from the Secretary of Defense to the President regarding DoD's policy on military service by transgender individuals and individuals with or having a history of gender dysphoria. The document is predecisional because the draft letter was never finalized or sent to the President. The document is also predecisional because it preceded the Secretary of Defense's ultimate decision on the DoD Transgender Service Policy and was created before Secretary Mattis submitted DoD's proposed policy recommendation to the President on February 22, 2018. The draft letter is deliberative because it discusses possible strategic decisions and recommendations for DoD's policy, and it reflects the views and thought processes of senior advisors to the Secretary of Defense and of Secretary Mattis himself regarding anticipated actions. See Declaration of Robert Easton, ¶ 7.
DoD00089736	PrivWithhold00014017	PrivWithhold00014018	12/6/2017	Deliberative Process Privilege	Draft of a December 2017 letter from the Secretary of Defense to the President regarding DoD's policy on military service by transgender individuals and individuals with or having a history of gender dysphoria. The document is predecisional because the draft letter was never finalized or sent to the President. The document is also predecisional because it preceded the Secretary of Defense's ultimate decision on the DoD Transgender Service Policy and was created before Secretary Mattis submitted DoD's proposed policy recommendation to the President on February 22, 2018. The draft letter is deliberative because it discusses possible strategic decisions and recommendations for DoD's policy, and it reflects the views and thought processes of senior advisors to the Secretary of Defense and of Secretary Mattis himself regarding anticipated actions. See Declaration of Robert Easton, ¶ 7.
DoD00089781	PrivWithhold00014019	PrivWithhold00014020	12/6/2017	Deliberative Process Privilege	Draft of a December 2017 letter from the Secretary of Defense to the President regarding DoD's policy on military service by transgender individuals and individuals with or having a history of gender dysphoria. The document is predecisional because the draft letter was never finalized or sent to the President. The document is also predecisional because it preceded the Secretary of Defense's ultimate decision on the DoD Transgender Service Policy and was created before Secretary Mattis submitted DoD's proposed policy recommendation to the President on February 22, 2018. The draft letter is deliberative because it discusses possible strategic decisions and recommendations for DoD's policy, and it reflects the views and thought processes of senior advisors to the Secretary of Defense and of Secretary Mattis himself regarding anticipated actions. See Declaration of Robert Easton, ¶ 7.
DoD00085866	PrivWithhold00014021	PrivWithhold00014022	12/6/2017	Deliberative Process Privilege	Draft of a December 2017 letter from the Secretary of Defense to the President regarding DoD's policy on military service by transgender individuals and individuals with or having a history of gender dysphoria. This version contains redline edits from a DoD official. The document is predecisional because the draft letter was never finalized or sent to the President. The document is also predecisional because it preceded the Secretary of Defense's ultimate decision on the DoD Transgender Service Policy and was created before Secretary Mattis submitted DoD's proposed policy recommendation to the President on February 22, 2018. The draft letter is deliberative because it discusses possible strategic decisions and recommendations for DoD's policy, and it reflects the views and thought processes of senior advisors to the Secretary of Defense and of Secretary Mattis himself regarding anticipated actions. See Declaration of Robert Easton, ¶ 7.

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DOCID	Priv Withhold Begin Bates	Priv Withhold End Bates	Date	Privilege(s)	Privilege Description (See DoD Declaration)
DoD00088720	PrivWithhold00014023	PrivWithhold00014024	12/6/2017	Deliberative Process Privilege	Draft of a December 2017 letter from the Secretary of Defense to the President regarding DoD's policy on military service by transgender individuals and individuals with or having a history of gender dysphoria This version contains redline edits from a DoD official The document is predecisional because the draft letter was never finalized or sent to the President The document is also predecisional because it preceded the Secretary of Defense's ultimate decision on the DoD Transgender Service Policy and was created before Secretary Mattis submitted DoD's proposed policy recommendation to the President on February 22, 2018 The draft letter is deliberative because it discusses possible strategic decisions and recommendations for DoD's policy, and it reflects the views and thought processes of senior advisors to the Secretary of Defense and of Secretary Mattis himself regarding anticipated actions See Declaration of Robert Easton, ¶ 7
DoD00089120	PrivWithhold00014025	PrivWithhold00014026	12/6/2017	Deliberative Process Privilege	Draft of a December 2017 letter from the Secretary of Defense to the President regarding DoD's policy on military service by transgender individuals and individuals with or having a history of gender dysphoria This version contains redline edits from a DoD official The document is predecisional because the draft letter was never finalized or sent to the President The document is also predecisional because it preceded the Secretary of Defense's ultimate decision on the DoD Transgender Service Policy and was created before Secretary Mattis submitted DoD's proposed policy recommendation to the President on February 22, 2018 The draft letter is deliberative because it discusses possible strategic decisions and recommendations for DoD's policy, and it reflects the views and thought processes of senior advisors to the Secretary of Defense and of Secretary Mattis himself regarding anticipated actions See Declaration of Robert Easton, ¶ 7
DoD00089728	PrivWithhold00014027	PrivWithhold00014028	12/6/2017	Deliberative Process Privilege	Draft of a December 2017 letter from the Secretary of Defense to the President regarding DoD's policy on military service by transgender individuals and individuals with or having a history of gender dysphoria This version contains redline edits from a DoD official The document is predecisional because the draft letter was never finalized or sent to the President The document is also predecisional because it preceded the Secretary of Defense's ultimate decision on the DoD Transgender Service Policy and was created before Secretary Mattis submitted DoD's proposed policy recommendation to the President on February 22, 2018 The draft letter is deliberative because it discusses possible strategic decisions and recommendations for DoD's policy, and it reflects the views and thought processes of senior advisors to the Secretary of Defense and of Secretary Mattis himself regarding anticipated actions See Declaration of Robert Easton, ¶ 7
DoD00089971	PrivWithhold00014029	PrivWithhold00014030	12/1/2017	Deliberative Process Privilege	Draft of a December 2017 letter from the Secretary of Defense to the President regarding DoD's policy on military service by transgender individuals and individuals with or having a history of gender dysphoria This version contains redline edits from Ms Rachel Gleichman, a White House Fellow to the DoD and a Special Assistant to Secretary Mattis The document is predecisional because the draft letter was never finalized or sent to the President The document is also predecisional because it preceded the Secretary of Defense's ultimate decision on the DoD Transgender Service Policy and was created before Secretary Mattis submitted DoD's proposed policy recommendation to the President on February 22, 2018 The draft letter is deliberative because it discusses possible strategic decisions and recommendations for DoD's policy, and it reflects the views and thought processes of senior advisors to the Secretary of Defense and of Secretary Mattis himself regarding anticipated actions See Declaration of Robert Easton, ¶ 7
DoD00089975	PrivWithhold00014031	PrivWithhold00014032	12/1/2017	Deliberative Process Privilege	Draft of a December 2017 letter from the Secretary of Defense to the President regarding DoD's policy on military service by transgender individuals and individuals with or having a history of gender dysphoria This version contains redline edits from Ms Rachel Gleichman, a White House Fellow to the DoD and a Special Assistant to Secretary Mattis The document is predecisional because the draft letter was never finalized or sent to the President The document is also predecisional because it preceded the Secretary of Defense's ultimate decision on the DoD Transgender Service Policy and was created before Secretary Mattis submitted DoD's proposed policy recommendation to the President on February 22, 2018 The draft letter is deliberative because it discusses possible strategic decisions and recommendations for DoD's policy, and it reflects the views and thought processes of senior advisors to the Secretary of Defense and of Secretary Mattis himself regarding anticipated actions See Declaration of Robert Easton, ¶ 7

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DoD00089978	PrivWithhold00014033	PrivWithhold00014034	12/1/2017	Deliberative Process Privilege	Draft of a December 2017 letter from the Secretary of Defense to the President regarding DoD's policy on military service by transgender individuals and individuals with or having a history of gender dysphoria This version contains redline edits from Ms Rachel Gleichman, a White House Fellow to the DoD and a Special Assistant to Secretary Mattis The document is predecisional because the draft letter was never finalized or sent to the President The document is also predecisional because it preceded the Secretary of Defense's ultimate decision on the DoD Transgender Service Policy and was created before Secretary Mattis submitted DoD's proposed policy recommendation to the President on February 22, 2018 The draft letter is deliberative because it discusses possible strategic decisions and recommendations for DoD's policy, and it reflects the views and thought processes of senior advisors to the Secretary of Defense and of Secretary Mattis himself regarding anticipated actions See Declaration of Robert Easton, ¶ 7
DoD00089982	PrivWithhold00014035	PrivWithhold00014036	12/1/2017	Deliberative Process Privilege	Draft of a December 2017 letter from the Secretary of Defense to the President regarding DoD's policy on military service by transgender individuals and individuals with or having a history of gender dysphoria This version contains redline edits from Ms Rachel Gleichman, a White House Fellow to the DoD and a Special Assistant to Secretary Mattis The document is predecisional because the draft letter was never finalized or sent to the President The document is also predecisional because it preceded the Secretary of Defense's ultimate decision on the DoD Transgender Service Policy and was created before Secretary Mattis submitted DoD's proposed policy recommendation to the President on February 22, 2018 The draft letter is deliberative because it discusses possible strategic decisions and recommendations for DoD's policy, and it reflects the views and thought processes of senior advisors to the Secretary of Defense and of Secretary Mattis himself regarding anticipated actions See Declaration of Robert Easton, ¶ 7
DoD00089986	PrivWithhold00014037	PrivWithhold00014038	12/1/2017	Deliberative Process Privilege	Draft of a December 2017 letter from the Secretary of Defense to the President regarding DoD's policy on military service by transgender individuals and individuals with or having a history of gender dysphoria This version contains redline edits from Ms Rachel Gleichman, a White House Fellow to the DoD and a Special Assistant to Secretary Mattis The document is predecisional because the draft letter was never finalized or sent to the President The document is also predecisional because it preceded the Secretary of Defense's ultimate decision on the DoD Transgender Service Policy and was created before Secretary Mattis submitted DoD's proposed policy recommendation to the President on February 22, 2018 The draft letter is deliberative because it discusses possible strategic decisions and recommendations for DoD's policy, and it reflects the views and thought processes of senior advisors to the Secretary of Defense and of Secretary Mattis himself regarding anticipated actions See Declaration of Robert Easton, ¶ 7
DoD00084379	PrivWithhold00014039	PrivWithhold00014040	12/5/2017	Deliberative Process Privilege	PDF version of a draft of a December 2017 letter from the Secretary of Defense to the President regarding DoD's policy on military service by transgender individuals and individuals with or having a history of gender dysphoria This version contains Secretary Mattis' handwritten edits and changes The document is predecisional because the draft letter was never finalized or sent to the President The document is also predecisional because it preceded the Secretary of Defense's ultimate decision on the DoD Transgender Service Policy and was created before Secretary Mattis submitted DoD's proposed policy recommendation to the President on February 22, 2018 The draft letter is deliberative because it discusses possible strategic decisions and recommendations for DoD's policy, and it reflects the views and thought processes of senior advisors to the Secretary of Defense and of Secretary Mattis himself regarding anticipated actions See Declaration of Robert Easton, ¶ 7
DoD00084382	PrivWithhold00014041	PrivWithhold00014042	12/5/2017	Deliberative Process Privilege	PDF version of a draft of a December 2017 letter from the Secretary of Defense to the President regarding DoD's policy on military service by transgender individuals and individuals with or having a history of gender dysphoria This version contains Secretary Mattis' handwritten edits and changes The document is predecisional because the draft letter was never finalized or sent to the President The document is also predecisional because it preceded the Secretary of Defense's ultimate decision on the DoD Transgender Service Policy and was created before Secretary Mattis submitted DoD's proposed policy recommendation to the President on February 22, 2018 The draft letter is deliberative because it discusses possible strategic decisions and recommendations for DoD's policy, and it reflects the views and thought processes of senior advisors to the Secretary of Defense and of Secretary Mattis himself regarding anticipated actions See Declaration of Robert Easton, ¶ 7

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CJCS_00001090	PrivWithhold00014043	PrivWithhold00014044	12/5/2017	Deliberative Process Privilege	PDF version of a draft of a December 2017 letter from the Secretary of Defense to the President regarding DoD's policy on military service by transgender individuals and individuals with or having a history of gender dysphoria. This version contains Secretary Mattis' handwritten edits and changes. The document is predecisional because the draft letter was never finalized or sent to the President. The document is also predecisional because it preceded the Secretary of Defense's ultimate decision on the DoD Transgender Service Policy and was created before Secretary Mattis submitted DoD's proposed policy recommendation to the President on February 22, 2018. The draft letter is deliberative because it discusses possible strategic decisions and recommendations for DoD's policy, and it reflects the views and thought processes of senior advisors to the Secretary of Defense and of Secretary Mattis himself regarding anticipated actions. See Declaration of Robert Easton, ¶ 7.
DoD00007060	PrivWithhold00014045	PrivWithhold00014046	1/2/2018	Deliberative Process Privilege	Early draft of what became the executive summary section of the DoD Report. See DoD Report, Dkt 216-2, at 2-6. The document was drafted to assist senior DoD decision-makers understand the scope and breadth of the work of the Panel of Experts, the policy questions the Panel considered in guiding its work, and the evidence the Panel reviewed. The document later was adapted to create the executive summary section of the DoD Report. Contains red-line edits and/or editorial comments in the margins from Mr. Anthony Kurta, a senior official in Office of the Undersecretary of Defense for Personnel and Readiness ("OUSD(P&R)") and chair of the Panel of Experts, Ms. Stephanie Barna, Principal Deputy Assistant Secretary of Defense for Manpower and Reserve Affairs, and/or Mr. Lernes Hebert, a senior DoD official serving in OUSD(P&R). The document is pre-decisional because the deliberations and summary of the Panel's work in the document occurred before Secretary Mattis submitted DoD's proposed policy recommendation along with the DoD Report to the President on February 22, 2018. The document is also pre-decisional because it was drafted before Secretary Mattis submitted DoD's proposed policy recommendation along with the DoD Report to the President on February 22, 2018. The document is deliberative because it reflects the internal concerns, opinions, and recommendations of senior DoD officials on how DoD should memorialize the work done by the Panel of Experts. See Declaration of Robert Easton, ¶ 8.
DoD00010610	PrivWithhold00014047	PrivWithhold00014049	1/2/2018	Deliberative Process Privilege	Early draft of what became the executive summary section of the DoD Report. See DoD Report, Dkt 216-2, at 2-6. The document was drafted to assist senior DoD decision-makers understand the scope and breadth of the work of the Panel of Experts, the policy questions the Panel considered in guiding its work, and the evidence the Panel reviewed. The document later was adapted to create the executive summary section of the DoD Report. Contains red-line edits and/or editorial comments in the margins from Mr. Anthony Kurta, a senior official in Office of the Undersecretary of Defense for Personnel and Readiness ("OUSD(P&R)") and chair of the Panel of Experts, Ms. Stephanie Barna, Principal Deputy Assistant Secretary of Defense for Manpower and Reserve Affairs, and/or Mr. Lernes Hebert, a senior DoD official serving in OUSD(P&R). The document is pre-decisional because the deliberations and summary of the Panel's work in the document occurred before Secretary Mattis submitted DoD's proposed policy recommendation along with the DoD Report to the President on February 22, 2018. The document is also pre-decisional because it was drafted before Secretary Mattis submitted DoD's proposed policy recommendation along with the DoD Report to the President on February 22, 2018. The document is deliberative because it reflects the internal concerns, opinions, and recommendations of senior DoD officials on how DoD should memorialize the work done by the Panel of Experts. See Declaration of Robert Easton, ¶ 8.
DoD00010611	PrivWithhold00014050	PrivWithhold00014051	1/2/2018	Deliberative Process Privilege	Early draft of what became the executive summary section of the DoD Report. See DoD Report, Dkt 216-2, at 2-6. The document was drafted to assist senior DoD decision-makers understand the scope and breadth of the work of the Panel of Experts, the policy questions the Panel considered in guiding its work, and the evidence the Panel reviewed. The document later was adapted to create the executive summary section of the DoD Report. Contains red-line edits and/or editorial comments in the margins from Mr. Anthony Kurta, a senior official in Office of the Undersecretary of Defense for Personnel and Readiness ("OUSD(P&R)") and chair of the Panel of Experts, Ms. Stephanie Barna, Principal Deputy Assistant Secretary of Defense for Manpower and Reserve Affairs, and/or Mr. Lernes Hebert, a senior DoD official serving in OUSD(P&R). The document is pre-decisional because the deliberations and summary of the Panel's work in the document occurred before Secretary Mattis submitted DoD's proposed policy recommendation along with the DoD Report to the President on February 22, 2018. The document is also pre-decisional because it was drafted before Secretary Mattis submitted DoD's proposed policy recommendation along with the DoD Report to the President on February 22, 2018. The document is deliberative because it reflects the internal concerns, opinions, and recommendations of senior DoD officials on how DoD should memorialize the work done by the Panel of Experts. See Declaration of Robert Easton, ¶ 8.

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DoD00010613	PrivWithhold00014052	PrivWithhold00014053	1/2/2018	Deliberative Process Privilege	Early draft of what became the executive summary section of the DoD Report See DoD Report, Dkt 216-2, at 2-6 The document was drafted to assist senior DoD decision-makers understand the scope and breadth of the work of the Panel of Experts, the policy questions the Panel considered in guiding its work, and the evidence the Panel reviewed The document later was adapted to create the executive summary section of the DoD Report Contains red-line edits and/or editorial comments in the margins from Mr Anthony Kurta, a senior official in Office of the Undersecretary of Defense for Personnel and Readiness (“OUSDP&R”) and chair of the Panel of Experts, Ms Stephanie Barna, Principal Deputy Assistant Secretary of Defense for Manpower and Reserve Affairs, and/or Mr Lernes Hebert, a senior DoD official serving in OUSD(P&R) The document is pre-decisional because the deliberations and summary of the Panel’s work in the document occurred before Secretary Mattis submitted DoD’s proposed policy recommendation along with the DoD Report to the President on February 22, 2018 The document is also pre-decisional because it was drafted before Secretary Mattis submitted DoD’s proposed policy recommendation along with the DoD Report to the President on February 22, 2018 The document is deliberative because it reflects the internal concerns, opinions, and recommendations of senior DoD officials on how DoD should memorialize the work done by the Panel of Experts See Declaration of Robert Easton, ¶ 8
DoD00007059	PrivWithhold00014054	PrivWithhold00014056	1/2/2018	Deliberative Process Privilege	Early draft of what became the executive summary section of the DoD Report See DoD Report, Dkt 216-2, at 2-6 The document was drafted to assist senior DoD decision-makers understand the scope and breadth of the work of the Panel of Experts, the policy questions the Panel considered in guiding its work, and the evidence the Panel reviewed The document later was adapted to create the executive summary section of the DoD Report Contains red-line edits and/or editorial comments in the margins from Mr Anthony Kurta, a senior official in Office of the Undersecretary of Defense for Personnel and Readiness (“OUSDP&R”) and chair of the Panel of Experts, Ms Stephanie Barna, Principal Deputy Assistant Secretary of Defense for Manpower and Reserve Affairs, and/or Mr Lernes Hebert, a senior DoD official serving in OUSD(P&R) The document is pre-decisional because the deliberations and summary of the Panel’s work in the document occurred before Secretary Mattis submitted DoD’s proposed policy recommendation along with the DoD Report to the President on February 22, 2018 The document is also pre-decisional because it was drafted before Secretary Mattis submitted DoD’s proposed policy recommendation along with the DoD Report to the President on February 22, 2018 The document is deliberative because it reflects the internal concerns, opinions, and recommendations of senior DoD officials on how DoD should memorialize the work done by the Panel of Experts See Declaration of Robert Easton, ¶ 8
DoD00007898	PrivWithhold00014057	PrivWithhold00014059	1/2/2018	Deliberative Process Privilege	Early draft of what became the executive summary section of the DoD Report See DoD Report, Dkt 216-2, at 2-6 The document was drafted to assist senior DoD decision-makers understand the scope and breadth of the work of the Panel of Experts, the policy questions the Panel considered in guiding its work, and the evidence the Panel reviewed The document later was adapted to create the executive summary section of the DoD Report Contains red-line edits and/or editorial comments in the margins from Mr Anthony Kurta, a senior official in Office of the Undersecretary of Defense for Personnel and Readiness (“OUSDP&R”) and chair of the Panel of Experts, Ms Stephanie Barna, Principal Deputy Assistant Secretary of Defense for Manpower and Reserve Affairs, and/or Mr Lernes Hebert, a senior DoD official serving in OUSD(P&R) The document is pre-decisional because the deliberations and summary of the Panel’s work in the document occurred before Secretary Mattis submitted DoD’s proposed policy recommendation along with the DoD Report to the President on February 22, 2018 The document is also pre-decisional because it was drafted before Secretary Mattis submitted DoD’s proposed policy recommendation along with the DoD Report to the President on February 22, 2018 The document is deliberative because it reflects the internal concerns, opinions, and recommendations of senior DoD officials on how DoD should memorialize the work done by the Panel of Experts See Declaration of Robert Easton, ¶ 8

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DoD00007903	PrivWithhold00014060	PrivWithhold00014061	1/2/2018	Deliberative Process Privilege	Early draft of what became the executive summary section of the DoD Report See DoD Report, Dkt 216-2, at 2-6 The document was drafted to assist senior DoD decision-makers understand the scope and breadth of the work of the Panel of Experts, the policy questions the Panel considered in guiding its work, and the evidence the Panel reviewed The document later was adapted to create the executive summary section of the DoD Report Contains red-line edits and/or editorial comments in the margins from Mr Anthony Kurta, a senior official in Office of the Undersecretary of Defense for Personnel and Readiness (“OUSDP&R”) and chair of the Panel of Experts, Ms Stephanie Barna, Principal Deputy Assistant Secretary of Defense for Manpower and Reserve Affairs, and/or Mr Lernes Hebert, a senior DoD official serving in OUSD(P&R) The document is pre-decisional because the deliberations and summary of the Panel’s work in the document occurred before Secretary Mattis submitted DoD’s proposed policy recommendation along with the DoD Report to the President on February 22, 2018 The document is also pre-decisional because it was drafted before Secretary Mattis submitted DoD’s proposed policy recommendation along with the DoD Report to the President on February 22, 2018 The document is deliberative because it reflects the internal concerns, opinions, and recommendations of senior DoD officials on how DoD should memorialize the work done by the Panel of Experts See Declaration of Robert Easton, ¶ 8
DoD00138098	PrivWithhold00014062	PrivWithhold00014064	1/2/2018	Deliberative Process Privilege	Early draft of what became the executive summary section of the DoD Report See DoD Report, Dkt 216-2, at 2-6 The document was drafted to assist senior DoD decision-makers understand the scope and breadth of the work of the Panel of Experts, the policy questions the Panel considered in guiding its work, and the evidence the Panel reviewed The document later was adapted to create the executive summary section of the DoD Report Contains red-line edits and/or editorial comments in the margins from Mr Anthony Kurta, a senior official in Office of the Undersecretary of Defense for Personnel and Readiness (“OUSDP&R”) and chair of the Panel of Experts, Ms Stephanie Barna, Principal Deputy Assistant Secretary of Defense for Manpower and Reserve Affairs, and/or Mr Lernes Hebert, a senior DoD official serving in OUSD(P&R) The document is pre-decisional because the deliberations and summary of the Panel’s work in the document occurred before Secretary Mattis submitted DoD’s proposed policy recommendation along with the DoD Report to the President on February 22, 2018 The document is also pre-decisional because it was drafted before Secretary Mattis submitted DoD’s proposed policy recommendation along with the DoD Report to the President on February 22, 2018 The document is deliberative because it reflects the internal concerns, opinions, and recommendations of senior DoD officials on how DoD should memorialize the work done by the Panel of Experts See Declaration of Robert Easton, ¶ 8
DoD00138100	PrivWithhold00014065	PrivWithhold00014066	1/2/2018	Deliberative Process Privilege	Early draft of what became the executive summary section of the DoD Report See DoD Report, Dkt 216-2, at 2-6 The document was drafted to assist senior DoD decision-makers understand the scope and breadth of the work of the Panel of Experts, the policy questions the Panel considered in guiding its work, and the evidence the Panel reviewed The document later was adapted to create the executive summary section of the DoD Report Contains red-line edits and/or editorial comments in the margins from Mr Anthony Kurta, a senior official in Office of the Undersecretary of Defense for Personnel and Readiness (“OUSDP&R”) and chair of the Panel of Experts, Ms Stephanie Barna, Principal Deputy Assistant Secretary of Defense for Manpower and Reserve Affairs, and/or Mr Lernes Hebert, a senior DoD official serving in OUSD(P&R) The document is pre-decisional because the deliberations and summary of the Panel’s work in the document occurred before Secretary Mattis submitted DoD’s proposed policy recommendation along with the DoD Report to the President on February 22, 2018 The document is also pre-decisional because it was drafted before Secretary Mattis submitted DoD’s proposed policy recommendation along with the DoD Report to the President on February 22, 2018 The document is deliberative because it reflects the internal concerns, opinions, and recommendations of senior DoD officials on how DoD should memorialize the work done by the Panel of Experts See Declaration of Robert Easton, ¶ 8

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DoD00007061	PrivWithhold00014067	PrivWithhold00014071	1/5/2018	Deliberative Process Privilege	Early draft of what became the executive summary section of the DoD Report See DoD Report, Dkt 216-2, at 2-6 The document was drafted to assist senior DoD decision-makers understand the scope and breadth of the work of the Panel of Experts, the policy questions the Panel considered in guiding its work, and the evidence the Panel reviewed The document later was adapted to create the executive summary section of the DoD Report Contains red-line edits and/or editorial comments in the margins from Mr Anthony Kurta, a senior official in Office of the Undersecretary of Defense for Personnel and Readiness ("OUSD(P&R)") and chair of the Panel of Experts, Ms Stephanie Barna, Principal Deputy Assistant Secretary of Defense for Manpower and Reserve Affairs, and/or Mr Lernes Hebert, a senior DoD official serving in OUSD(P&R) The document is pre-decisional because the deliberations and summary of the Panel's work in the document occurred before Secretary Mattis submitted DoD's proposed policy recommendation along with the DoD Report to the President on February 22, 2018 The document is also pre-decisional because it was drafted before Secretary Mattis submitted DoD's proposed policy recommendation along with the DoD Report to the President on February 22, 2018 The document is deliberative because it reflects the internal concerns, opinions, and recommendations of senior DoD officials on how DoD should memorialize the work done by the Panel of Experts See Declaration of Robert Easton, ¶ 8
DoD00000554	PrivWithhold00014072	PrivWithhold00014074	1/5/2018	Deliberative Process Privilege	Early draft of what became the executive summary section of the DoD Report See DoD Report, Dkt 216-2, at 2-6 The document was drafted to assist senior DoD decision-makers understand the scope and breadth of the work of the Panel of Experts, the policy questions the Panel considered in guiding its work, and the evidence the Panel reviewed The document later was adapted to create the executive summary section of the DoD Report Contains red-line edits and/or editorial comments in the margins from Mr Anthony Kurta, a senior official in Office of the Undersecretary of Defense for Personnel and Readiness ("OUSD(P&R)") and chair of the Panel of Experts, Ms Stephanie Barna, Principal Deputy Assistant Secretary of Defense for Manpower and Reserve Affairs, and/or Mr Lernes Hebert, a senior DoD official serving in OUSD(P&R) The document is pre-decisional because the deliberations and summary of the Panel's work in the document occurred before Secretary Mattis submitted DoD's proposed policy recommendation along with the DoD Report to the President on February 22, 2018 The document is also pre-decisional because it was drafted before Secretary Mattis submitted DoD's proposed policy recommendation along with the DoD Report to the President on February 22, 2018 The document is deliberative because it reflects the internal concerns, opinions, and recommendations of senior DoD officials on how DoD should memorialize the work done by the Panel of Experts See Declaration of Robert Easton, ¶ 8
DoD00010582	PrivWithhold00014075	PrivWithhold00014077	1/5/2018	Deliberative Process Privilege	Early draft of what became the executive summary section of the DoD Report See DoD Report, Dkt 216-2, at 2-6 The document was drafted to assist senior DoD decision-makers understand the scope and breadth of the work of the Panel of Experts, the policy questions the Panel considered in guiding its work, and the evidence the Panel reviewed The document later was adapted to create the executive summary section of the DoD Report Contains red-line edits and/or editorial comments in the margins from Mr Anthony Kurta, a senior official in Office of the Undersecretary of Defense for Personnel and Readiness ("OUSD(P&R)") and chair of the Panel of Experts, Ms Stephanie Barna, Principal Deputy Assistant Secretary of Defense for Manpower and Reserve Affairs, and/or Mr Lernes Hebert, a senior DoD official serving in OUSD(P&R) The document is pre-decisional because the deliberations and summary of the Panel's work in the document occurred before Secretary Mattis submitted DoD's proposed policy recommendation along with the DoD Report to the President on February 22, 2018 The document is also pre-decisional because it was drafted before Secretary Mattis submitted DoD's proposed policy recommendation along with the DoD Report to the President on February 22, 2018 The document is deliberative because it reflects the internal concerns, opinions, and recommendations of senior DoD officials on how DoD should memorialize the work done by the Panel of Experts See Declaration of Robert Easton, ¶ 8
DoD00007078	PrivWithhold00014078	PrivWithhold00014083	12/8/2017	Deliberative Process Privilege	Early draft of an outline on military service by transgender individuals that later became the DoD Report submitted to the President on February 22, 2018 The drafts was a precursor to the DoD Report and formed the basis of what senior DoD officials thought should be addressed in the Report This version of the document contains visible edits and comments from Mr Lernes Hebert, a senior DoD official serving in OUSD(P&R) The document is pre-decisional because the discussions and deliberations reflected in it occurred before Secretary Mattis submitted DoD's proposed policy recommendation along with the DoD Report to the President on February 22, 2018 The document is also deliberative because it is an early version of an outline of the DoD Report and reflects the iterative drafting process leading to the final version of the DoD Report See Declaration of Robert Easton, ¶ 9

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DoD00007079	PrivWithhold00014084	PrivWithhold00014089	12/10/2017	Deliberative Process Privilege	Early draft of an outline on military service by transgender individuals that later became the DoD Report submitted to the President on February 22, 2018. The drafts was a precursor to the DoD Report and formed the basis of what senior DoD officials thought should be addressed in the Report. This version of the document contains visible edits and comments from Mr. Lernes Hebert, a senior DoD official serving in OUSD(P&R). The document is pre-decisional because the discussions and deliberations reflected in it occurred before Secretary Mattis submitted DoD's proposed policy recommendation along with the DoD Report to the President on February 22, 2018. The document is also deliberative because it is an early version of an outline of the DoD Report and reflects the iterative drafting process leading to the final version of the DoD Report. See Declaration of Robert Easton, ¶ 9.
DoD00007873	PrivWithhold00014090	PrivWithhold00014096	12/14/2017	Deliberative Process Privilege	Early draft of an outline on military service by transgender individuals that later became the DoD Report submitted to the President on February 22, 2018. The drafts was a precursor to the DoD Report and formed the basis of what senior DoD officials thought should be addressed in the Report. The document is pre-decisional because the discussions and deliberations reflected in it occurred before Secretary Mattis submitted DoD's proposed policy recommendation along with the DoD Report to the President on February 22, 2018. The document is also deliberative because it is an early version of an outline of the DoD Report and reflects the iterative drafting process leading to the final version of the DoD Report. See Declaration of Robert Easton, ¶ 9.
DoD00007877	PrivWithhold00014097	PrivWithhold00014103	12/14/2017	Deliberative Process Privilege	Early draft of an outline on military service by transgender individuals that later became the DoD Report submitted to the President on February 22, 2018. The drafts was a precursor to the DoD Report and formed the basis of what senior DoD officials thought should be addressed in the Report. The document is pre-decisional because the discussions and deliberations reflected in it occurred before Secretary Mattis submitted DoD's proposed policy recommendation along with the DoD Report to the President on February 22, 2018. The document is also deliberative because it is an early version of an outline of the DoD Report and reflects the iterative drafting process leading to the final version of the DoD Report. See Declaration of Robert Easton, ¶ 9.
DoD00000977	PrivWithhold00014104	PrivWithhold00014110	12/13/2017	Deliberative Process Privilege	Early draft of an outline on military service by transgender individuals that later became the DoD Report submitted to the President on February 22, 2018. The drafts was a precursor to the DoD Report and formed the basis of what senior DoD officials thought should be addressed in the Report. The document is pre-decisional because the discussions and deliberations reflected in it occurred before Secretary Mattis submitted DoD's proposed policy recommendation along with the DoD Report to the President on February 22, 2018. The document is also deliberative because it is an early version of an outline of the DoD Report and reflects the iterative drafting process leading to the final version of the DoD Report. See Declaration of Robert Easton, ¶ 9.