

No. 21-10486

**IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

□

DARCY CORBITT, et al.,
Plaintiffs-Appellees,

v.

HON. HAL TAYLOR, in his official capacity as Secretary of the
Alabama Law Enforcement Agency, *et al.*,
Defendants-Appellants.

□

On Appeal from the United States District Court
for the Middle District of Alabama
Case No. 2:18-cv-00091-MHT-SMD

SUPPLEMENTAL APPENDIX VOLUME I

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APPEAL,CLOSED,MHT-ClerkC

U.S. District Court
Alabama Middle District (Montgomery)
CIVIL DOCKET FOR CASE #: 2:18-cv-00091-MHT-SMD

Corbitt et al v. Taylor et al(MHT)
Assigned to: Honorable Judge Myron H. Thompson
Referred to: Honorable Judge Stephen Michael Doyle
Case in other court: 21-10486-F
Cause: 42:1983 Civil Rights Act

Date Filed: 02/06/2018
Date Terminated: 01/15/2021
Jury Demand: None
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

Plaintiff**Darcy Corbitt**

represented by **Brock Boone**
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Defendant

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Date Filed	#	Docket Text
02/06/2018	1	COMPLAINT against Jeannie Eastman, Deena Pregno, Hal Taylor, Charles Ward (Filing fee \$ 400.00 receipt number 4602048251.), filed by Darcy Corbitt, John Doe, Destiny Clark. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Filing Fee Receipt) (kh,) (Entered: 02/08/2018)
02/06/2018	2	Plaintiff John Doe's Motion for Leave to Proceed under a Pseudonym and for Protective Order by John Doe. (Attachments: # 1 Text of Proposed Order)(kh,). (Entered: 02/08/2018)
02/06/2018	3	Corporate/Conflict Disclosure Statement by Darcy Corbitt. (kh,) (Entered: 02/08/2018)
02/08/2018	4	Corporate/Conflict Disclosure Statement by Destiny Clark. (kh,) (Entered: 02/08/2018)

Date	Entry	Description
02/08/2018		Corporate/Conflict Disclosure Statement by John Doe. (kh,) (Entered: 02/08/2018)
02/09/2018	6	Motion for Rose Ann Saxe to Appear Pro Hac Vice by Destiny Clark, Darcy Corbitt, John Doe. (Attachments: # 1 Text of Proposed Order, # 2 Certificate of Good Standing) (Boone, Brock) Modified on 2/9/2018 to add the attorney's name (kh,). (Additional attachment(s) added on 2/9/2018: # 4 Motion Pro Hac Vice Filing Fee) (kh,). (Entered: 02/09/2018)
02/09/2018	7	ORDER granting 6 Motion for Rose Ann Saxe to Appear Pro Hac Vice. Signed by Honorable Judge Myron H. Thompson on 2/9/2018. (kh,) (Entered: 02/09/2018)
02/09/2018	8	Summons Issued as to Jeannie Eastman, Deena Pregno, Hal Taylor, Charles Ward and mailed CMRRR with copy of 1 complaint, 2 Motion, 3 - 5 Corporate/Conflict Disclosure Statements(kh,) (Entered: 02/09/2018)
02/14/2018	9	Return Receipt Card showing service of 1 complaint, 2 Motion, 3 - 5 Corporate/Conflict Disclosure Statements signed by M.D. for Jeannie Eastman served on 2/13/2018, answer due 3/6/2018; Deena Pregno served on 2/13/2018, answer due 3/6/2018; Hal Taylor served on 2/13/2018, answer due 3/6/2018; Charles Ward served on 2/13/2018, answer due 3/6/2018. (kh,) (Entered: 02/16/2018)
02/26/2018	10	ORDERED that plaintiff John Doe's motion for leave to proceed under a pseudonym and for a protective order (doc. no. 2) is granted, with leave for each defendant to object within 10 business days after he or she first appears. Signed by Honorable Judge Myron H. Thompson on 2/26/2018. (kh,) (Entered: 02/26/2018)
02/28/2018	11	NOTICE of Appearance by Winfield James Sinclair on behalf of All Defendants (Sinclair, Winfield) (Entered: 02/28/2018)
02/28/2018	12	NOTICE of Appearance by Brad A. Chynoweth on behalf of All Defendants (Chynoweth, Brad) (Entered: 02/28/2018)
02/28/2018	13	Corporate/Conflict Disclosure Statement by Charles Ward. (Chynoweth, Brad) (Entered: 02/28/2018)
02/28/2018	14	Corporate/Conflict Disclosure Statement by Deena Pregno. (Chynoweth, Brad) (Entered: 02/28/2018)
02/28/2018	15	Corporate/Conflict Disclosure Statement by Hal Taylor. (Chynoweth, Brad) (Entered: 02/28/2018)
02/28/2018	16	Corporate/Conflict Disclosure Statement by Jeannie Eastman. (Chynoweth, Brad) (Entered: 02/28/2018)
02/28/2018	17	MOTION for Extension of Time to File Answer re 1 Complaint, (<i>UNOPPOSED</i>) by Jeannie Eastman, Deena Pregno, Hal Taylor, Charles Ward. (Chynoweth, Brad) (Entered: 02/28/2018)
02/28/2018	18	Response to Order re 10 Order on Motion for Miscellaneous Relief, Order on Motion for Protective Order., (<i>granting plaintiff John Does Motion for Leave to Proceed under a Pseudonym and giving defendants leave to file any objection within 10 business days of their appearance</i>) by Jeannie Eastman, Deena Pregno, Hal Taylor, Charles Ward. (Chynoweth, Brad) (Entered: 02/28/2018)
02/28/2018	19	TEXT ORDER granting 17 Motion for Extension of Time to Answer Answer due from Jeannie Eastman on 3/20/2018; Deena Pregno on 3/20/2018; Hal Taylor on 3/20/2018; Charles Ward on 3/20/2018. Signed by Honorable Judge Myron H. Thompson on 2/28/2018. (no pdf document attached to this entry)(kh,) (Entered: 02/28/2018)

Date	Link	Description
03/02/2018	20	NOTICE of Appearance by Michael Wayne Robinson on behalf of All Defendants (Robinson, Michael) (Entered: 03/02/2018)
03/15/2018	21	Second MOTION for Extension of Time to File Answer (<i>Unopposed</i>) by Jeannie Eastman, Deena Pregno, Hal Taylor, Charles Ward. (Chynoweth, Brad) (Entered: 03/15/2018)
03/26/2018		Set Hearings: Telephone Conference set for 3/29/2018 02:45 PM before Honorable Judge Myron H. Thompson. (ag,) (Entered: 03/26/2018)
03/29/2018	22	Minute Entry for proceedings held before Honorable Judge Myron H. Thompson: Telephone Conference held on 3/29/2018 (PDF available for court use only). (Recording Time 2:50 - 2:55.) (ag,) (Main Document 22 replaced on 3/29/2018) (ag,). (Entered: 03/29/2018)
03/29/2018	23	ORDER granting 21 second Motion for Extension of Time, such that defs now have until 4/3/2018 to respond to the complaint. Signed by Honorable Judge Myron H. Thompson on 3/29/18. (djy,) (Entered: 03/29/2018)
04/03/2018	24	ANSWER to 1 Complaint, by Jeannie Eastman, Deena Pregno, Hal Taylor, Charles Ward. (Chynoweth, Brad) (Entered: 04/03/2018)
04/06/2018	25	RULE 26(f) ORDER: Accordingly, it is ORDERED that the Rule 26(f) report containing the discovery plan shall be filed as soon as practicable but not later than April 27, 2018, as further set out in order. Signed by Honorable Judge Myron H. Thompson on 4/6/2018. (kh,) (Entered: 04/06/2018)
04/27/2018	26	REPORT of Rule 26(f) Planning Meeting. (Boone, Brock) (Entered: 04/27/2018)
04/30/2018	27	Motion to Appear Pro Hac Vice by Destiny Clark, Darcy Corbitt, John Doe. (Attachments: # 1 Text of Proposed Order, # 2 Certificate of Good Standing)(Boone, Brock) (Entered: 04/30/2018)
04/30/2018	28	ORDERED that the plaintiffs' motion for pro hac vice admission of Gabriel Arkles (doc. no. 27) is granted. Signed by Honorable Judge Myron H. Thompson on 4/30/2018. (kh,) (Entered: 04/30/2018)
05/03/2018	29	UNIFORM SCHEDULING ORDER: Final Pretrial Conference set for 8/9/2019, 10:00 AM, in Montgomery, Alabama, before Honorable Judge Myron H. Thompson; Non-Jury Trial set for 9/9/2019, 10:00 AM, in Montgomery, Alabama, before Honorable Judge Myron H. Thompson; Dispositive Motions due by 2/8/2019; Mediation Notice due by 1/18/2019; Amended Pleadings due by 7/16/2018; Discovery due by 1/11/2019, as further set out in order. Signed by Honorable Judge Myron H. Thompson on 5/3/2018. (furn: ag, calendar)(kh,) (Entered: 05/03/2018)
05/17/2018	30	Joint MOTION for Protective Order by Jeannie Eastman, Deena Pregno, Hal Taylor, Charles Ward, John Doe, Darcy Corbitt, Destiny Clark. (Attachments: # 1 Text of Proposed Order Protective Order, # 2 Exhibit Confidentiality Undertaking)(Chynoweth, Brad) Modified on 5/17/2018 to add as filed on behalf of the plaintiffs (kh,). (Entered: 05/17/2018)
05/18/2018	31	TEXT ORDER denying 30 Joint Motion for Protective Order with leave to refile for failure to comply with Section 15(c) of the court's Uniform Scheduling Order (see Doc. 29). Signed by Honorable Judge Gray M. Borden on 5/18/2018. (no pdf document attached to this entry)(kh,) (kh,). (Entered: 05/18/2018)
05/18/2018	32	Joint MOTION for Protective Order (<i>Renewed</i>) by Jeannie Eastman, Deena Pregno, Hal Taylor, Charles Ward. (Attachments: # 1 Text of Proposed Order Protective Order, # 2 Exhibit Confidentiality Undertaking)(Chynoweth, Brad) (Entered: 05/18/2018)

		USCA11 Case: 21-10486 Date Filed: 08/02/2021 Page: 16 of 235
05/18/2018	33	PROTECTIVE ORDER. It is ORDERED that the joint motion for protective order (Doc. 32) is GRANTED as further set out in order. Signed by Honorable Judge Gray M. Borden on 5/18/2018. (kh,) (Entered: 05/18/2018)
07/16/2018	34	First MOTION for Leave to File <i>Amended Complaint</i> by Destiny Clark, Darcy Corbitt, John Doe. (Attachments: # 1 Exhibit First Amended Complaint)(Boone, Brock) Modified on 8/6/2018 to clarify text to reflect as also filed on behalf of Jane Doe (qc/djy,). (Entered: 07/16/2018)
07/16/2018	35	Proposed MOTION for Leave to File <i>Under Pseudonym</i> by Jane Doe. (Boone, Brock) Modified on 8/6/2018 to clarify text to reflect as filed by Jane Doe not all plfs (qc/djy,). (Entered: 07/16/2018)
07/16/2018		***Attorney Brock Boone,Randall C Marshall,Gabriel Arkles,Rose Saxe for Jane Doe added pursuant to 34 motion (NO PDF document attached to this notice). (djy,) (Entered: 08/06/2018)
07/24/2018	36	ORDERED that plaintiffs' unopposed motion for leave to file an amended complaint (doc. no. 34) is granted. Signed by Honorable Judge Myron H. Thompson on 7/24/2018. (kh,) (Entered: 07/24/2018)
07/24/2018	37	ORDER: Upon consideration of plaintiff Jane Doe's motion for leave to proceed under a pseudonym and for a protective order (doc. no. 35), it is ORDERED that the defendants show cause, if any there be, by August 6, 2018, as to why the motion should not be granted. Signed by Honorable Judge Myron H. Thompson on 7/24/2018. (kh,) (Entered: 07/24/2018)
07/25/2018	38	AMENDED COMPLAINT for Declaratory and Injunctive Relief against All Defendants, filed by Darcy Corbitt, Destiny Clark, Jane Doe.(Boone, Brock) Modified on 8/6/2018 to clarify text to reflect as also filed on behalf of Jane Doe, not John Doe (qc/djy,). (Entered: 07/25/2018)
07/25/2018		***Attorney Gabriel Arkles for Destiny Clark, Darcy Corbitt added pursuant to the 38 amended complaint. (no pdf document attached to this entry) (kh,) Modified on 8/6/2018 to clarify text to remove reference to John Doe (qc/djy,). (Entered: 07/26/2018)
08/03/2018	39	REPLY BRIEF re 37 Order to Show Cause, filed by Jeannie Eastman, Deena Pregno, Hal Taylor, Charles Ward. (Chynoweth, Brad) (Entered: 08/03/2018)
08/08/2018	40	ANSWER to 38 Amended Complaint, by Jeannie Eastman, Deena Pregno, Hal Taylor, Charles Ward.(Chynoweth, Brad) (Entered: 08/08/2018)
08/20/2018	41	ORDERED that plaintiff Jane Doe's motion for leave to proceed under a pseudonym and for a protective order (doc. no. 35), to which defendants do not object, see Defs.' Reply to Show Cause Order (doc. no. 39), is granted. Signed by Honorable Judge Myron H. Thompson on 8/20/2018. (kh,) (Entered: 08/20/2018)
01/11/2019	42	MOTION for Protective Order (<i>HIPAA</i>) by Jeannie Eastman, Deena Pregno, Hal Taylor, Charles Ward. (Attachments: # 1 Exhibit Proposed Order)(Chynoweth, Brad) (Entered: 01/11/2019)
01/14/2019	43	PROPOSED QUALIFIED HIPAA PROTECTIVE ORDER: This order authorizes Defendants to submit the redacted information to the Court under seal. This order is intended to authorize such disclosures under the privacy regulations issued pursuant to HIPAA. 45 C.F.R. 164.512(e)(1)(i). The parties are EXPRESSLY PROHIBITED from using or disclosing the protected health information submitted pursuant to this order for any purpose other than this action. Further, the parties are ORDERED to destroy the protected health information (including all copies

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		made), immediately upon conclusion of this action. See 35 C.F.R. 163.502(b); 164.512(e)(1)(v). Signed by Honorable Judge Gray M. Borden on 1/14/2019. (kh,) (Entered: 01/14/2019)
01/14/2019	44	TEXT ORDER granting 42 MOTION for Protective Order (HIPAA). Signed by Honorable Judge Gray M. Borden on 1/14/2019. (no pdf document attached to this entry)(kh,) (Entered: 01/14/2019)
01/16/2019	45	Notice of Mediation and Settlement Conference by All Plaintiffs (Marshall, Randall) (Entered: 01/16/2019)
02/08/2019	46	MOTION for Summary Judgment by Jeannie Eastman, Deena Pregno, Hal Taylor, Charles Ward. (Chynoweth, Brad) (Entered: 02/08/2019)
02/08/2019	47	MOTION for Leave to File <i>Records Under Seal (Unopposed)</i> by Jeannie Eastman, Deena Pregno, Hal Taylor, Charles Ward. (Chynoweth, Brad) (Entered: 02/08/2019)
02/08/2019	48	Evidentiary Submission re 46 MOTION for Summary Judgment filed by Jeannie Eastman, Deena Pregno, Hal Taylor, Charles Ward. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3 - under seal, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Exhibit 6, # 7 Exhibit 7, # 8 Exhibit 8, # 9 Exhibit 9, # 10 Exhibit 10, # 11 Exhibit 10a - under seal, # 12 Exhibit 11, # 13 Exhibit 11a - under seal, # 14 Exhibit 12, # 15 Exhibit 13, # 16 Exhibit 14, # 17 Exhibit 15, # 18 Exhibit 16 - under seal)(Chynoweth, Brad) (Attachment 15 replaced on 3/20/2019) (kh,). (Entered: 02/08/2019)
02/08/2019	49	NOTICE OF FILING RECORDS UNDER SEAL by Jeannie Eastman, Deena Pregno, Hal Taylor, Charles Ward re 48 Evidentiary Submission,, (Attachments: # 1 Exhibit 3, # 2 Exhibit 10a, # 3 Exhibit 11a, # 4 Exhibit 16)(kh,) (Entered: 02/08/2019)
02/08/2019	50	MOTION for Summary Judgment <i>Declaratory Relief, and Permanent Injunction</i> by Destiny Clark, Darcy Corbitt, Jane Doe. (Boone, Brock) (Entered: 02/08/2019)
02/08/2019	51	BRIEF/MEMORANDUM in Support re 50 MOTION for Summary Judgment <i>Declaratory Relief, and Permanent Injunction</i> filed by Destiny Clark, Darcy Corbitt, Jane Doe. (Boone, Brock) (Entered: 02/08/2019)
02/08/2019	52	Evidentiary Submission re 50 MOTION for Summary Judgment <i>Declaratory Relief, and Permanent Injunction</i> , 51 BRIEF/MEMORANDUM in Support filed by Destiny Clark, Darcy Corbitt, Jane Doe. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Exhibit Placeholder, # 7 Exhibit Placeholder, # 8 Exhibit Placeholder, # 9 Exhibit Placeholder, # 10 Exhibit Placeholder, # 11 Exhibit Placeholder, # 12 Exhibit Placeholder, # 13 Exhibit Placeholder, # 14 Exhibit 14, # 15 Exhibit 15, # 16 Exhibit 16, # 17 Exhibit 17, # 18 Exhibit 18, # 19 Exhibit 19, # 20 Exhibit 20, # 21 Exhibit 21, # 22 Exhibit 22, # 23 Exhibit 23, # 24 Exhibit 24, # 25 Exhibit 25, # 26 Exhibit 26, # 27 Exhibit 27, # 28 Exhibit 28, # 29 Exhibit 29, # 30 Exhibit 30, # 31 Exhibit Placeholder, # 32 Exhibit 32, # 33 Exhibit 33, # 34 Exhibit 34, # 35 Exhibit 35, # 36 Exhibit 36, # 37 Exhibit 37, # 38 Exhibit 38, # 39 Exhibit Placeholder, # 40 Exhibit 40, # 41 Exhibit Placeholder, # 42 Exhibit Placeholder, # 43 Exhibit Placeholder, # 44 Exhibit Placeholder, # 45 Exhibit 45, # 46 Exhibit 46, # 47 Exhibit 47, # 48 Exhibit 48, # 49 Exhibit 49, # 50 Exhibit 50, # 51 Exhibit 51, # 52 Exhibit 52, # 53 Exhibit 53, # 54 Exhibit 54, # 55 Exhibit 55, # 56 Exhibit 56, # 57 Exhibit 57, # 58 Exhibit 58, # 59 Exhibit 59)(Boone, Brock) (Entered: 02/08/2019)
02/08/2019	53	NOTICE by Destiny Clark, Darcy Corbitt, Jane Doe re 50 MOTION for Summary Judgment <i>Declaratory Relief, and Permanent Injunction</i> , 51 BRIEF/MEMORANDUM in Support (Boone, Brock) (Entered: 02/08/2019)
02/08/2019	54	BRIEF/MEMORANDUM in Support re 46 MOTION for Summary Judgment filed by

		USCA11 Case: 21-10486 Date Filed: 08/02/2021 Page: 18 of 235 Jeannie Eastman, Deena Pregno, Hal Taylor, Charles Ward (Chynoweth, Brad) (Entered: 02/08/2019)
02/11/2019	55	TEXT ORDER granting 47 Motion for Leave to File Records Under Seal. Signed by Honorable Judge Myron H. Thompson on 2/11/2019. (No pdf attached to this entry) (alm,) (Entered: 02/11/2019)
02/11/2019	56	PLAINTIFFS' NOTICE OF FILING EXHIBITS UNDER SEAL by Destiny Clark, Darcy Corbitt, Jane Doe re 52 Evidentiary Submission (Attachments: # 1 Exhibit 6, # 2 Exhibit 7, # 3 Exhibit 8, # 4 Exhibit 9, # 5 Exhibit 10, # 6 Exhibit 11, # 7 Exhibit 12, # 8 Exhibit 13, # 9 Exhibit 31, # 10 Exhibit 39, # 11 Exhibit 41, # 12 Exhibit 42, # 13 Exhibit 43, # 14 Exhibit 44)(kh,) (Entered: 02/12/2019)
02/15/2019	57	ORDERED that the motions for summary judgment (doc. nos. 46 & 50) are set for submission without oral argument on March 22, 2019, with the opposition briefs and evidentiary materials due by March 8, 2019, and any replies to the opposition due by March 22, 2019. Signed by Honorable Judge Myron H. Thompson on 2/15/2019. (kh,) (Entered: 02/15/2019)
03/08/2019	58	BRIEF/MEMORANDUM in Opposition to <i>Defendant's Motion for Summary Judgment</i> filed by Destiny Clark, Darcy Corbitt, Jane Doe. (Boone, Brock) (Entered: 03/08/2019)
03/08/2019	59	Evidentiary Submission in Support of Plaintiffs' Opposition to Defendants' Motion for Summary Judgment filed by Destiny Clark, Darcy Corbitt, Jane Doe. (Attachments: # 1 Exhibit 60, # 2 Exhibit 61, # 3 Exhibit 62, # 4 Exhibit 63, # 5 Exhibit 64, # 6 Exhibit 65, # 7 Exhibit 66, # 8 Exhibit 67, # 9 Exhibit 68, # 10 Exhibit 69, # 11 Exhibit 70, # 12 Exhibit 71, # 13 Exhibit 72, # 14 Exhibit 73, # 15 Exhibit 74, # 16 Exhibit 75, # 17 Exhibit 76, # 18 Exhibit 77)(Boone, Brock) (Entered: 03/08/2019)
03/08/2019	60	BRIEF/MEMORANDUM in Opposition re 50 MOTION for Summary Judgment <i>Declaratory Relief, and Permanent Injunction</i> filed by Jeannie Eastman, Deena Pregno, Hal Taylor, Charles Ward. (Chynoweth, Brad) (Entered: 03/08/2019)
03/22/2019	61	REPLY BRIEF to Defendants' Opposition to Plaintiffs' Motion for Summary Judgment filed by Destiny Clark, Darcy Corbitt, Jane Doe. (Arkles, Gabriel) (Entered: 03/22/2019)
03/22/2019	62	REPLY BRIEF re 58 BRIEF/MEMORANDUM in Opposition to Defendants' Motion for Summary Judgment filed by Jeannie Eastman, Deena Pregno, Hal Taylor, Charles Ward. (Chynoweth, Brad) (Entered: 03/22/2019)
06/26/2019		Case Reassigned to Honorable Judge Stephen Michael Doyle as referral judge; Honorable Judge Gray M. Borden no longer assigned to the case. (no pdf document attached to this entry) (kh,) (Entered: 06/26/2019)
07/08/2019	63	ORDERED that all pending motions are set for an in-person oral argument on July 30, 2019, at 10:00 a.m., in Courtroom 2FMJ of the Frank M. Johnson Jr United States Courthouse Complex, One Church Street, Montgomery, Alabama. Signed by Honorable Judge Myron H. Thompson on 7/8/2019. (furn: ag, calendar)(kh,) (Entered: 07/08/2019)
07/15/2019	64	Joint MOTION for Extension of Deadline Trial Deadlines <i>Pending Oral Argument</i> by Destiny Clark, Darcy Corbitt, Jane Doe, Hal Taylor, Charles Ward, Deena Pregno, and Jeannie Eastman. (Attachments: # 1 Text of Proposed Order)(Boone, Brock) Modified on 7/18/2019 to add as filed on behalf of the defendants(kh,). (Entered: 07/15/2019)
07/16/2019	65	ORDERED that: (1) The motion to suspend trial deadlines pending oral argument on cross motions for summary judgment (doc. no. 64) is set for an in-person hearing on July 30, 2019, at 10:00 a.m., in Courtroom 2FMJ of the Frank M. Johnson Jr. United States Courthouse Complex, One Church Street, Montgomery, Alabama, as

		USCA11 Case: 21-10486 Date Filed: 08/02/2021 Page: 18 of 235 further set out. Signed by Honorable Judge Myron H. Thompson on 7/16/2019. (furn: calendar, ag)(kh,) (Entered: 07/16/2019)
07/16/2019	66	ORDER SETTING PRETRIAL HEARING: Final Pretrial Conference set for 8/9/2019, at 10:00 AM, in CR 2FMJ, before Honorable Judge Myron H. Thompson; Proposed Pretrial Order due by 8/6/2019. Non-Jury Trial set for 9/9/2019, at 10:00 AM, in Montgomery, Alabama before Honorable Judge Myron H. Thompson; as further set out. Signed by Honorable Judge Myron H. Thompson on 7/16/2019. (furn: calendar, ag)(kh,) (Entered: 07/16/2019)
07/23/2019	67	NOTICE by Destiny Clark, Darcy Corbitt, Jane Doe re 58 BRIEF/MEMORANDUM in Opposition, 55 Order on Motion for Leave to File, 62 Reply Brief, 59 Evidentiary Submission,, 50 MOTION for Summary Judgment <i>Declaratory Relief, and Permanent Injunction</i> , 56 Notice (Other), 54 BRIEF/MEMORANDUM in Support, 51 BRIEF/MEMORANDUM in Support, 52 Evidentiary Submission,,,,, 57 Order, 60 BRIEF/MEMORANDUM in Opposition, 61 Reply Brief, 53 Notice (Other) of <i>Supplemental Authority</i> (Attachments: # 1 Supplement)(Boone, Brock) (Entered: 07/23/2019)
07/30/2019	68	Minute Entry for proceedings held before Honorable Judge Myron H. Thompson: Motion Hearing held on 7/30/2019 re 50 MOTION for Summary Judgment <i>Declaratory Relief, and Permanent Injunction</i> filed by Destiny Clark, Darcy Corbitt, Jane Doe, 64 Joint MOTION for Extension of Deadline Trial Deadlines <i>Pending Oral Argument</i> filed by Destiny Clark, Deena Pregno, Charles Ward, Darcy Corbitt, Hal Taylor, Jane Doe, Jeannie Eastman, 46 MOTION for Summary Judgment filed by Deena Pregno, Charles Ward, Hal Taylor, Jeannie Eastman (PDF available for court use only). (Court Reporter Patricia Starkie.) (ag,) (Entered: 07/30/2019)
07/30/2019	69	ORDERED that the parties' motions for summary judgment (doc. nos. 46 & 50 are denied. Signed by Honorable Judge Myron H. Thompson on 7/30/2019. (kh,) (Entered: 07/30/2019)
07/30/2019	70	STIPULATION (<i>Joint</i>) by Jeannie Eastman, Deena Pregno, Hal Taylor, Charles Ward, Darcy Corbitt, John Doe, and Destiny Clark (Attachments: # 1 Exhibit A)(Chynoweth, Brad) Modified on 7/30/2019 to add as filed on behalf of the plaintiffs (kh,). (Entered: 07/30/2019)
07/31/2019	71	ORDERED that the joint motion for extension of deadlines (doc. no. 64) is ranted as follows: (1) The pretrial and trial are continued generally. However, the court has not yet decided whether to have a trial or not. (2) All unexpired deadlines connected to the pretrial and trial are suspended. However, the parties are still to submit a proposed pretrial order by August 6. (3) If the court decides to hold a trial, a new trial date, as well as new pretrial deadlines, will be set. Signed by Honorable Judge Myron H. Thompson on 7/31/2019. (furn: calendar, ag) (term: Final Pretrial Conference set for 8/9/2019; Non-Jury Trial set for 9/9/2019) (kh,) (Entered: 07/31/2019)
08/05/2019	72	Motion for Leslie J. Cooper to Appear Pro Hac Vice (Filing fee \$ 75.00 receipt number 4602054465.) by Destiny Clark, Darcy Corbitt, John Doe. (Attachments: # 1 Original Certificate of Good Standing - USDC-SDNY, # 2 Filing Fee Receipt)(kh,) (Entered: 08/06/2019)
08/06/2019	73	TEXT ORDER granting 72 Motion for Leslie J. Cooper to Appear Pro Hac Vice. Signed by Honorable Judge Myron H. Thompson on 8/6/2019. (no pdf document tatted to this entry)(kh,) (Entered: 08/06/2019)
08/06/2019		***Attorney Leslie J. Cooper for Destiny Clark,Leslie J. Cooper for Darcy Corbitt,Leslie

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	J. Cooper for Jane Doe added pursuant to the court's 73 text order. (no pdf document attached to this entry) (kh,) (Entered: 08/06/2019)
08/14/2019	74 NOTICE OF FILING OF OFFICIAL TRANSCRIPT of MOTION HEARING Proceedings (PDF ACCESS RESTRICTED FOR 90 DAYS) held on 7/30/2019, before Honorable Judge Myron H. Thompson. Court Reporter/Transcriber Patricia G. Starkie, Telephone number 334-262-1221. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. NOTICE OF INTENT TO REQUEST REDACTION DUE WITHIN 7 BUSINESS DAYS. Redaction Request due 9/4/2019. Redacted Transcript Deadline set for 9/16/2019. Release of Transcript Restriction set for 11/12/2019. (kh,) (Entered: 08/14/2019)
09/13/2019	75 NOTICE by Destiny Clark, Darcy Corbitt, Jane Doe re 58 BRIEF/MEMORANDUM in Opposition, 55 Order on Motion for Leave to File, 59 Evidentiary Submission,, 56 Notice (Other), 54 BRIEF/MEMORANDUM in Support, 51 BRIEF/MEMORANDUM in Support, 52 Evidentiary Submission,,,,, 57 Order, 60 BRIEF/MEMORANDUM in Opposition, 61 Reply Brief, 53 Notice (Other) of <i>Supplemental Authority</i> (Attachments: # 1 Exhibit A)(Boone, Brock) (Entered: 09/13/2019)
02/04/2020	76 MOTION to Withdraw as Attorney by Destiny Clark, Darcy Corbitt, Jane Doe. (Boone, Brock) (Entered: 02/04/2020)
02/20/2020	77 MOTION to Substitute Attorney by Jeannie Eastman, Deena Pregno, Hal Taylor, Charles Ward. (Barnes, Noel) (Entered: 02/20/2020)
03/23/2020	78 TEXT ORDER granting 77 Motion to Substitute Attorney. Signed by Honorable Judge Myron H. Thompson on 3/23/2020. (no pdf document attached to this entry) (kh,) (Entered: 03/23/2020)
03/23/2020	*** Attorney Michael Wayne Robinson terminated pursuant to the 78 text order. (no pdf document attached to this entry)(kh,) (Entered: 03/23/2020)
03/23/2020	79 TEXT ORDER granting 76 Motion to Withdraw as Attorney. Signed by Honorable Judge Myron H. Thompson on 3/23/2020. (no pdf document attached to this entry) (kh,) (Entered: 03/23/2020)
03/23/2020	*** Attorney Brock Boone terminated pursuant to the 79] text order. (no pdf document attached to this entry)(kh,) (Entered: 03/23/2020)
07/01/2020	80 NOTICE by Destiny Clark, Darcy Corbitt, Jane Doe <i>Notice of Supplemental Authority</i> (Arkles, Gabriel) (Entered: 07/01/2020)
09/03/2020	81 ORDER: This court, having denied the parties' crossmotions for summary judgment, must resolve "whether to decide the case on the paper record or to hold a trial as to some or all issues." Order (doc. no. 69). In order to inform that decision, the court seeks additional briefing from the parties. Accordingly, it is ORDERED that the parties are to separately file, by noon on September 18, 2020, a brief responding to the following questions, with any reply, if desired, due by noon on September 25, 2020, as further set out in order. Signed by Honorable Judge Myron H. Thompson on 9/3/2020. (kh,) (Entered: 09/03/2020)
09/18/2020	82 REPLY BRIEF re 81 Order,, filed by Jeannie Eastman, Deena Pregno, Hal Taylor, Charles Ward. (Chynoweth, Brad) (Entered: 09/18/2020)
09/18/2020	83 BRIEF/MEMORANDUM in Support re 81 Order,, filed by Destiny Clark, Darcy Corbitt, Jane Doe, John Doe. (Marshall, Randall) (Entered: 09/18/2020)
09/25/2020	84 REPLY BRIEF re 83 BRIEF/MEMORANDUM in Support filed by Jeannie Eastman,

09/25/2020	85	REPLY BRIEF re 82 Reply Brief, 81 Order,, filed by Destiny Clark, Darcy Corbitt, Jane Doe, John Doe. (Marshall, Randall) (Entered: 09/25/2020)
09/28/2020	86	MOTION to Expedite <i>Final Decision</i> by Destiny Clark, Darcy Corbitt, Jane Doe, John Doe. (Marshall, Randall) (Entered: 09/28/2020)
09/28/2020	87	TEXT ORDER: Conference Call re 86 motion set for 9/29/2020, at 07:30 AM, by telephone, before Honorable Judge Myron H. Thompson. Signed by Honorable Judge Myron H. Thompson on 9/28/2020. (furn: calendar, ag)(no pdf document attached to this entry)(kh,) (Entered: 09/28/2020)
09/29/2020	88	Minute Entry for proceedings held before Honorable Judge Myron H. Thompson: Motion Hearing held on 9/29/2020 re 86 MOTION to Expedite <i>Final Decision</i> filed by Destiny Clark, John Doe, Darcy Corbitt, Jane Doe (PDF available for court use only). (Court Reporter Patricia Starkie.) (ag,) (Entered: 09/29/2020)
10/19/2020	89	NOTICE of Appearance by Misty Shawn Fairbanks Messick on behalf of All Defendants (Messick, Misty) (Entered: 10/19/2020)
10/20/2020	90	Motion for James D. Esseks to Appear Pro Hac Vice by Destiny Clark, Darcy Corbitt, Jane Doe. (Attachments: # 1 Text of Proposed Order, # 2 Certificate of Good Standing) (Marshall, Randall) Modified on 10/20/2020 to add the attorney's name.(kh,). (Entered: 10/20/2020)
10/20/2020	91	Motion for Kaitlin Welborn to Appear Pro Hac Vice by Destiny Clark, Darcy Corbitt, Jane Doe. (Attachments: # 1 Text of Proposed Order, # 2 Certificate of Good Standing) (Marshall, Randall) Modified on 10/20/2020 to add the attorney's name. (kh,). (Entered: 10/20/2020)
10/22/2020	92	NOTICE of Appearance by James William Davis on behalf of Jeannie Eastman, Deena Pregno, Hal Taylor, Charles Ward (Davis, James) (Entered: 10/22/2020)
10/23/2020	93	ORDER: Based on the representations made on the record during the conference call on September 29, 2020, it is ORDERED that the motion to expedite (doc. no. 86) is granted to the extent that the court is expediting its consideration of this case, including whether to hold a hearing and when that should take place. Signed by Honorable Judge Myron H. Thompson on 10/23/2020. (kh,) (Entered: 10/23/2020)
10/23/2020	94	Pro Hac Vice Filing fee received re 90 Motion for James D. Esseks : \$ 75.00, receipt number 4602059946 (kh,) (Entered: 10/26/2020)
10/23/2020	95	Pro Hac Vice Filing fee received re 91 Motion for Motion for Kaitlin Welborn : \$ 75.00, receipt number 4602059947 (kh,) Modified on 10/26/2020 to correct the receipt number. (kh,). (Entered: 10/26/2020)
10/23/2020		***Attorneys Kaitlin Welborn and James Dixon Esseks Destiny Clark, Darcy Corbitt, Jane Doe pursuant to the 90 and 91 motions. (no pdf document attached to this entry) (kh,) (Entered: 10/26/2020)
10/26/2020	96	TEXT ORDER granting 90 Motion for James D. Esseks to Appear Pro Hac Vice; granting 91 Motion for Kaitlin Welborn to Appear Pro Hac Vice. Signed by Honorable Judge Myron H. Thompson on 10/26/2020. (no pdf document attached to this entry)(kh,) (Entered: 10/26/2020)
12/16/2020	97	NOTICE by Destiny Clark, Darcy Corbitt, Jane Doe re 51 BRIEF/MEMORANDUM in Support <i>Notice of Supplemental Authority</i> (Attachments: # 1 Exhibit A: Ray v McCloud) (Marshall, Randall) (Entered: 12/16/2020)

01/11/2021	98	NOTICE of Appearance by LaTisha Goteil Faulks on behalf of All Plaintiffs (Faulks, LaTisha) (Entered: 01/11/2021)
01/11/2021	99	Unopposed MOTION for Status Conference by Destiny Clark, Darcy Corbitt, Jane Doe. (Attachments: # 1 Exhibit A, # 2 Text of Proposed Order)(Faulks, LaTisha) Modified on 1/12/2021 to clarify the docket text (wcl,). (Entered: 01/11/2021)
01/15/2021	100	ORDER: It is ORDERED that plaintiffs' 99 motion for a status conference is denied as moot. Signed by Honorable Judge Myron H. Thompson on 1/5/2021. (amf,) (Entered: 01/15/2021)
01/15/2021	101	OPINION. Signed by Honorable Judge Myron H. Thompson on 1/15/2021. (amf,) (Entered: 01/15/2021)
01/15/2021	102	JUDGMENT: In accordance with the opinion entered this date, it is the ORDER, JUDGMENT, and DECREE of the court as follows: 1) Judgment is entered in favor of plaintiffs Darcy Corbitt, Destiny Clark, and Jane Doe, and against defendants Hal Taylor, Charles Ward, Deena Pregno, and Jeannie Eastman.; 2) It is DECLARED that the policy of the Alabama Law Enforcement Agency entitled "Subject: Changing Sex on a Driver License Due to Gender Reassignment," also known as Policy Order 63, as it has been applied to plaintiffs Corbitt, Clark, and Doe, is unconstitutional; 3) Defendants Taylor, Ward, Pregno, and Eastman are ENJOINED and RESTRAINED from failing to issue to plaintiffs Corbitt, Clark, and Doe new driver licenses with female sex designations, upon application for such licenses by them;further ORDERED that costs are taxed against defendants Taylor, Ward, Pregno, and Eastman, for which execution may issue; DIRECTING the Clerk to enter this document on the civil docket as a final judgment pursuant to Rule 58 FRCP; This case is closed. Signed by Honorable Judge Myron H. Thompson on 1/15/2021. (Attachments: # 1 Civil Appeals Checklist)(amf,) (Entered: 01/15/2021)
01/27/2021	103	Unopposed MOTION for Extension of Time to File <i>Motion for Attorney's Fees</i> by Destiny Clark, Darcy Corbitt, Jane Doe. (Attachments: # 1 Text of Proposed Order) (Welborn, Kaitlin) Modified on 1/28/2021 to clarify the docket text (wcl,). (Entered: 01/27/2021)
01/28/2021	104	ORDER granting 103 Unopposed Motion for Extension of Time to File a Motion for Attorney's Fees and that the deadline for plfs to file a motion for attorney's fees and expenses is extended to 3/1/2021. Signed by Honorable Judge Myron H. Thompson on 1/28/2021. (wcl,) (Entered: 01/28/2021)
02/12/2021	105	NOTICE OF APPEAL by Jeannie Eastman, Deena Pregno, Hal Taylor, Charles Ward as to 101 Opinion, and 102 Judgment entered 1/15/2021. (Chynoweth, Brad) Modified on 2/12/2021 to clean up text. (dmn,) (Entered: 02/12/2021)
02/12/2021	106	Appeal Instructions sent to Brad A. Chynoweth, James William Davis, Misty Shawn Fairbanks Messick, Winfield James Sinclair, and Noel Steven Barnes, counsel for Appellants Jeannie Eastman, Deena Pregno, Hal Taylor, Charles Ward re 105 Notice of Appeal. A copy of the Transcript Information Form must be mailed to each court reporter from whom you are requesting a transcript. (Attachments: # 1 Transcript Information Form)(dmn,) (Entered: 02/12/2021)
02/12/2021	107	Transmission of 105 Notice of Appeal, 102 Judgment, 101 Opinion, and Docket Sheet to US Court of Appeals. (Attachments: # 1 Docket Sheet and Appeal Record)(dmn,) (Entered: 02/12/2021)
02/17/2021	108	USCA Case Number 21-10486-F for 105 Notice of Appeal filed by Deena Pregno, Charles Ward, Hal Taylor, Jeannie Eastman. Fee Status: Fee Not Paid. Awaiting

		Appellant's Certificate of Interested Persons due on or before 2/26/2021 as to Appellant Hal Taylor. Awaiting Appellee's Certificate of Interested Persons due on or before 3/12/2021 as to Appellee Destiny Clark. (dmn,) (Entered: 02/17/2021)
02/17/2021	110	USCA Appeal Fees received \$ 505 receipt number 4602061520 re 105 Notice of Appeal filed by Deena Pregno, Charles Ward, Hal Taylor, Jeannie Eastman, 11th Circuit Appeal No. 21-10486-F. (dmn,) (Entered: 02/22/2021)
02/19/2021	109	TRANSCRIPT INFORMATION FORM re 105 Notice of Appeal, Appeal No. 21-10486-F by Jeannie Eastman, Deena Pregno, Hal Taylor, Charles Ward with following notation, "I AM ORDERING A TRANSCRIPT OF THE FOLLOWING PROCEEDINGS: Other 3/29/2018 Thompson FTR; 7/30/2019 Thompson Starkie; 9/29/2020 Thompson Starkie." (Note by Appeal Docket Clerk: 3/29/2018 Teleconference FTR; 7/30/2019 Motion Hearing, Court Reporter: Patricia Starkie; 9/29/2020 Motion Hearing, Court Reporter: Patricia Starkie; all hearings held before Judge Myron H. Thompson.) (Messick, Misty) Modified on 2/22/2021 to clean up and include additional text; date changed from 3/28/2018 to 3/29/2018. (dmn,) (Entered: 02/19/2021)
02/19/2021	111	Transcript Acknowledgment Part II received from Court Reporter Patricia Starkie on 105 Notice of Appeal, Appeal No. 21-10486-F. Satisfactory arrangements for paying the cost of the transcript were complete on 2/19/2021. Estimated filing date: 3/19/2021. (dmn,) (Entered: 02/22/2021)
03/01/2021	112	MOTION for Extension of Time to File <i>Motion for Attorney's Fees</i> by Destiny Clark, Darcy Corbitt, Jane Doe. (Attachments: # 1 Text of Proposed Order)(Welborn, Kaitlin) (Entered: 03/01/2021)
03/02/2021	113	ORDER granting 112 Unopposed Motion for Extension of Time to File to a Motion for Attorney's Fees and that the deadline for plfs to file a motion for attorney's fees and non-taxable expenses is extended until after the resolution of dfts' appeal (Doc. 105). Signed by Honorable Judge Myron H. Thompson on 3/2/2021. (wcl,) (Entered: 03/02/2021)
03/19/2021	114	Transcript Acknowledgment Part III received from Court Reporter Patricia Starkie on 105 Notice of Appeal, Appeal No. 21-10486-F. This is to certify that the transcript has been completed and filed with the district court on 3/19/21. Actual No. of Volumes and Hearing Dates: 2 Volumes, 9/29/20, 3/29/2018. 7/30/2019 on file Doc. 74 . (dmn,) (Entered: 03/19/2021)
03/19/2021	115	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of TELEPHONE CONFERENCE (PDF ACCESS RESTRICTED FOR 90 DAYS) for dates of 3/29/2018 before Judge Thompson, re 105 Notice of Appeal Court Reporter/Transcriber Starkie, Telephone number 334-322-8053. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. NOTICE OF INTENT TO REQUEST REDACTION DUE WITHIN 7 BUSINESS DAYS. Redaction Request due 4/9/2021. Redacted Transcript Deadline set for 4/19/2021. Release of Transcript Restriction set for 6/17/2021. (dgy,) (Entered: 03/23/2021)
03/19/2021	116	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of TELEPHONE CONFERENCE (PDF ACCESS RESTRICTED FOR 90 DAYS) for dates of 9/29/2020 before Judge Thompson, re 105 Notice of Appeal Court Reporter/Transcriber Starkie, Telephone number 334-322-8053. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. NOTICE OF INTENT TO REQUEST REDACTION DUE WITHIN 7 BUSINESS DAYS. Redaction

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 Request due 4/9/2021. Redacted Transcript Deadline set for 4/19/2021. Release of Transcript Restriction set for 6/17/2021. (djy,) (Entered: 03/23/2021)

05/25/2021

Pursuant to F.R.A.P. 11(c), the Clerk of the District Court for the Middle District of Alabama certifies that the record is complete for purposes of this appeal re: [105](#) Notice of Appeal, Appeal No. 21-10486-GG. The entire record on appeal is available electronically. (dmn,) (Entered: 05/25/2021)

PACER Service Center			
Transaction Receipt			
07/28/2021 15:26:11			
PACER Login:	chedavid47	Client Code:	000
Description:	Docket Report	Search Criteria:	2:18-cv-00091-MHT-SMD
Billable Pages:	17	Cost:	1.70

DOC. 46

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

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

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Defendants Hal Taylor, Charles Ward, Deena Pregno and Jeannie Eastman hereby move pursuant to Rule 56 of the Federal Rules of Civil Procedure for the entry of summary judgment in their favor as to all claims raised in the First Amended Complaint (doc. 38). Defendants contend that they are entitled to judgment as a matter of law on all claims as set forth in their brief. This motion is supported by the evidentiary submission and brief filed contemporaneously herewith.

Respectfully submitted,

Steve Marshall,
Attorney General

s/ Brad A. Chynoweth
Brad A. Chynoweth (ASB-0030-S63K)
Winfield J. Sinclair (ASB-1750-S81W)
Assistant Attorneys General

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*Counsel for Defendants Hal Taylor, Charles
Ward, Deena Pregno, and Jeannie Eastman*

CERTIFICATE OF SERVICE

I hereby certify that on February 8, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

Brock Boone
Randall C. Marshall
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DOC. 48-4

Exhibit 4

Deposition of Jeannie Eastman

In The Matter Of:

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

*Jeannie Eastman
November 13, 2018*

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

Original File 11-13-18 Jeannie Eastman.txt

Min-U-Script® with Word Index

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT OF ALABAMA
3 NORTHERN DIVISION
4
5 CIVIL ACTION NO.: 2:18-CV-00091-MHT-GMB
6
7 DARCY CORBITT, DESTINY CLARK, and JANE DOE,
8 Plaintiffs,
9 v.
10 HAL TAYLOR, in his official capacity as
11 Secretary of the Alabama Law Enforcement
12 Agency, et al.
13 Defendants.
14
15 DEPOSITION OF JEANNIE EASTMAN
16 November 13, 2018
17
18 Taken before Elaine Scott, CCR,
19 Commissioner for the State of Alabama at
20 Large, in the Law Offices of the Alabama
21 Attorney General, 501 Washington Avenue,
22 Montgomery, Alabama, on Thursday, November 13,
23 2018, commencing at approximately 12:59 p.m.

Page 3

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

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Page 4

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1 S T I P U L A T I O N S
2 It is hereby stipulated and agreed by
3 and between counsel representing the parties
4 that the deposition of JEANNIE EASTMAN is
5 taken pursuant to stipulation and agreement;
6 that all formalities with respect to
7 procedural requirements are waived; that said
8 deposition may be taken before Elaine Scott,
9 Certified Court Reporter and Commissioner for
10 the State of Alabama at Large, without the
11 formality of a commission; that objections to
12 questions other than objections as to the form
13 of the questions need not be made at this time
14 but may be reserved for a ruling at such time
15 as the deposition may be offered in evidence
16 or used for any other purpose as provided for
17 by the Alabama Rules of Civil Procedure.
18 It is further stipulated and agreed
19 by and between counsel representing the
20 parties that the filing of the deposition may
21 be introduced at the trial of this case or
22 used in any manner by either party hereto
23 provided for by the Statute.

Page 6

1 It is further stipulated and agreed
2 by and between the parties hereto and the
3 witness that the signature of the witness to
4 this deposition is hereby waived.
5
6 JEANNIE EASTMAN,
7 The witness, having first been duly
8 sworn or affirmed to speak the truth, the
9 whole truth and nothing but the truth,
10 testified as follows:
11
12 THE COURT REPORTER: Usual
13 stipulations?
14 (Affirmed by counsel.)
15
16 EXAMINATION
17 BY MR. BOONE:
18 Q. Hi. My name is Brock Boone. I'm
19 an attorney for the ACLU of Alabama. I'm here
20 to represent the plaintiffs in Corbitt v.
21 Taylor. It's a lawsuit concerning policy
22 order 63 by the Alabama Law Enforcement
23 Agency, and the plaintiffs are trying to get

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1 their gender marker changed on their driver's
2 license.
3 Could you please say your full
4 name?
5 A. Jeannie Thomas Eastman.
6 Q. And before we begin, I'd like to
7 give you a few instructions. If you could,
8 just say yes if you understand the
9 instructions. Can you please answer
10 everything verbally? So try not to say
11 anything like uh-huh or nodding your head or
12 shaking your head so that way the court
13 reporter can understand what you're saying?
14 A. Yes.
15 Q. And please let me know if you don't
16 understand my questions. Is that okay?
17 A. Yes.
18 Q. And you can ask for a break, but
19 please wait until after the question and
20 answer and then we can take a break.
21 A. Okay.
22 Q. Try to wait until I finish asking a
23 question before you answer, and I'll also try

Page 8

1 to wait for you to finish your answer before I
2 begin another question so that way the court
3 reporter can hear everything and get
4 everything down clearly. Is that
5 understandable?
6 A. Yes.
7 Q. And just please let me know if you
8 need to supplement or clarify an earlier
9 answer. Okay?
10 A. Okay.
11 Q. Have you ever been deposed before?
12 A. No.
13 Q. What did you do to prepare for the
14 deposition today?
15 A. Well, I looked at documents that we
16 had presented to y'all, I guess.
17 Q. And do you know which documents
18 those were?
19 A. Documents that were pulled from our
20 system, Paper Vision System.
21 Q. Did you look over them to prepare
22 for the deposition?
23 A. Yes.

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1 Q. Did you talk to anyone in your
2 office about this deposition?
3 A. Some of them -- the ones in my
4 office helped pull the documents.
5 Q. Did you all -- did anyone comment
6 on the lawsuit?
7 A. No.
8 Q. Do you know what type of documents
9 they were that were pulled?
10 A. Letters that we had received from
11 doctors.
12 Q. What about any emails?
13 A. Yes, there were some emails.
14 Q. Did you look over anything else?
15 A. No.
16 Q. Like the -- did you -- did you pull
17 the AAMVA manual or guidelines on transgender
18 driver's license?
19 A. No.
20 Q. Did you bring any documents with
21 you today?
22 A. No.
23 Q. Who all did you speak with in

Page 10

1 preparation for the deposition?
2 A. I spoke to the attorneys.
3 Q. Did you speak to anyone else who
4 wasn't an attorney about the deposition?
5 A. Well, Chief Pregno was in one of
6 the meetings. We had a meeting last week
7 about some documents.
8 Q. And what was -- if something is
9 privileged, just let me know. But was
10 anything said in the meeting? What was said
11 in that meeting with Chief Pregno?
12 A. It was just how we came about the
13 documents.
14 Q. Like what was -- like what about
15 the documents?
16 A. We -- that she ran a query on
17 driver's license where the sex had been
18 changed on them so we could get -- pull the
19 documents of the ones that had sexual
20 reassignment surgery.
21 Q. What about documents that were
22 denied?
23 A. There's really no way to pull those

Page 11

1 without driver's license numbers.
2 Q. So we, as in the opposing side, I
3 guess, aren't able to see who's denied; is
4 that right?
5 A. No. Like I said, there's no way to
6 pull those documents without driver's license
7 numbers.
8 Q. Who else was present at the time of
9 the meeting with Chief Pregno?
10 A. Meredith and Jennifer Colquitt.
11 She's one of the IT people.
12 Q. Why was she there, Jennifer
13 Colquitt?
14 A. Because she's the one that ran the
15 query.
16 Q. In your opinion do you think
17 anything might be missing from the discovery?
18 A. No, sir.
19 Q. Is there any reason why you
20 wouldn't be able to answer my questions fully
21 and accurately today?
22 A. No, sir.
23 Q. Is it your understanding that

Page 12

1 you're testifying on behalf of the Alabama Law
2 Enforcement Agency?
3 A. Yes.
4 Q. And when I refer to policy order 63
5 or if I ever say the policy, you know that I'm
6 referring to ALEA's policy for changing the
7 sex on driver's licenses, correct?
8 A. Yes.
9 Q. Are you prepared to testify
10 regarding the interpretation of policy order
11 63?
12 A. Yes.
13 Q. Are you prepared to testify
14 regarding the implementation of policy order
15 63?
16 A. Yes.
17 Q. Are you prepared to testify
18 regarding the responses to requests for
19 production concerning ALEA's interest in
20 policy order 63?
21 A. Yes.
22 Q. Are you prepared to testify
23 regarding the responses to interrogatories

Page 13

1 regarding policy order 63?
2 A. Yes.
3 Q. Can you describe your educational
4 background after high school?
5 A. Well, I had like two years of
6 college.
7 Q. Did you get a degree?
8 A. No.
9 Q. Where was that at?
10 A. AUM.
11 Q. And what did you do after that?
12 A. I worked for a realty company. And
13 then I went to work in -- I worked for the
14 revenue department with the state for eight
15 and a half years.
16 Q. What years were you at the realty
17 company?
18 A. Gosh. I started when I was in high
19 school until -- I'm trying to get -- I'm not
20 good with dates. I can't think of the dates.
21 I mean, I graduated in '76. So I worked for
22 the realty company like a year after that
23 probably, then started working with the

Page 14

1 state. So what would that be?
2 Q. So around --
3 A. '79.
4 Q. So you started working with the
5 revenue department around '78, '79.
6 A. Yeah, '79, I believe. I got
7 married in '80, yeah.
8 Q. Okay. And you worked at the
9 revenue department until '87?
10 A. Eight and a half years.
11 Q. Where did you go after the revenue
12 department?
13 A. I stayed with my children for
14 eleven and a half years.
15 Q. And after that eleven and a half
16 years, that puts us in the late '90s about,
17 right?
18 A. Uh-huh. It was 2000 I came to work
19 for -- it was Department of Public Safety at
20 the time.
21 Q. And you've stayed working with them
22 consistently throughout this time period?
23 A. Yes.

Page 15

1 Q. Even though, as we know, it's now
2 ALEA is the --
3 A. Yes, it changed, yes.
4 Q. But you are still working with the
5 Department of Public Safety under ALEA -- the
6 ALEA umbrella, correct?
7 A. Yes. I've been with driver's
8 license the whole time.
9 Q. Yeah. That's what I was going to
10 ask you. What division did you start off with
11 in 2000?
12 A. Accident records.
13 Q. What was your title?
14 A. I was an ASA-1.
15 Q. Can you explain what that is?
16 A. Administrative support assistant.
17 Q. And that was accident records?
18 A. Yes.
19 Q. How long were you an ASA-1 with
20 accident records?
21 A. Like I said, I'm not real good with
22 time lines. I mean, I was an ASA-1. Then I
23 was promoted to an account clerk while I was

Page 16

1 still in accident records.
2 Q. Do you have an estimate?
3 A. Maybe a couple years. I don't
4 know.
5 Q. How long were you an account clerk?
6 A. Until I was promoted to a
7 specialist.
8 Q. Is that a driver's license
9 specialist?
10 A. Uh-huh.
11 Q. Do you have an idea what year you
12 were promoted to a driver's license
13 specialist?
14 A. I should have gone through my time
15 line, and I didn't. I'm sorry.
16 Q. That's okay. If you were to guess
17 was it around 2010?
18 A. I've been with -- I'm trying to
19 work backwards. It may have been. I really
20 can't say for sure.
21 Q. What's your current position?
22 A. My current position is driver's
23 license examiner 3 is the title.

Page 17

1 Q. What are your duties as driver's
2 license examiner 3?
3 A. I'm the -- actually the supervisor
4 over CDL medical.
5 Q. You are the supervisor over both
6 CDL and medical?
7 A. Yes.
8 Q. I'm just kind of curious. Why
9 driver's license examiner number 3? That
10 doesn't sound like the correct title for
11 your -- considering --
12 A. Well, I was a supervisor until
13 July, and they're trying to -- the
14 examiners -- they're trying to do a career
15 path for examiners, so for some reason all the
16 supervisors they changed the title to an
17 examiner 3 so that we can go back and get
18 promoted to supervisor. I don't know. It's
19 kind of odd but --
20 Q. Were you demoted in July?
21 A. No. No.
22 Q. It's just simply a title change?
23 A. Right.

Page 18

1 Q. But nothing else has changed in
2 your --
3 A. Duties, no.
4 Q. When did you become a driver's
5 license supervisor?
6 A. I'm trying to think how long I've
7 been with -- I've been with medical like five
8 years, so I was a supervisor in the -- we
9 combined accident records with the records
10 unit when somebody retired, so I was put
11 over -- I took my girls with me from accident
12 records and we combined them with the records
13 unit. And I would say I was probably in there
14 about a year when they combined us, and I've
15 been with medical for about five years.
16 Q. And you were -- since you've been
17 with medical you've been a DL supervisor
18 basically that whole time?
19 A. Yes, until they changed us.
20 Q. This past July your title changed
21 but responsibilities are the same?
22 A. Right.
23 Q. How many people work under you?

Page 19

1 A. In medical I have five people.
2 Q. Currently?
3 A. Uh-huh.
4 MR. CHYNOWETH: Remember to say yes
5 or no.
6 A. Oh, yes. I'm sorry.
7 Q. Thank you. What are your
8 responsibilities?
9 A. Well, I supervise people that --
10 well, we -- they answer the phones, they
11 review medical forms. I review medical
12 forms. I suspend people when doctors feel
13 that they should not be driving any longer.
14 Q. What are your responsibilities in
15 regard to policy order 63?
16 A. I review the form -- I mean, the
17 letters that come in from doctors.
18 Q. Are you the only one that reviews
19 the letters?
20 A. No. J.J. or Jerrolynn Spencer
21 does.
22 Q. So right now it's only Jerrolynn
23 Spencer and yourself reviewing letters?

Page 20

1 A. Yes.
2 Q. What happens if both of you happen
3 to be out of the office?
4 A. They can go to Diane Woodruff
5 because she's the manager and she was in
6 medical before and she knows what the policy
7 is.
8 Q. How does Diane Woodruff's position
9 relate to yours?
10 A. She's not in my chain of command.
11 She's the driver's license manager, but she's
12 not in my chain.
13 Q. So she's not your supervisor?
14 A. No.
15 Q. But she's up -- she is at a higher
16 level would you say?
17 A. Yes.
18 Q. Who does she supervise then?
19 A. She supervises the first floor,
20 reinstatement, the supervisors over
21 reinstatement and driver services, safety
22 responsibility.
23 Q. Does she also supervise the

Page 21

1 individuals under you who you supervise?
2 A. No.
3 Q. So currently her relation to
4 medical and CDL is irregular?
5 A. I don't know what you mean by that.
6 Q. Well, does she work with the
7 medical unit and CDL in what capacity?
8 A. I mean, at the time she doesn't
9 really have a lot to do with CDL or medical.
10 I mean, she -- like I said, she's been in
11 there so she knows the process and everything.
12 Q. So people can go to her for advice?
13 A. Yes.
14 Q. Do you ever go to her for advice?
15 A. Yes.
16 Q. Did she used to have the position
17 that you currently have?
18 A. Yes.
19 Q. Who are the individuals that report
20 to you?
21 A. Okay. We have Jaquese Jackson (
22). Do you want the full name or just --
23 Q. That would be great.

Page 22

1 A. Jean Head, Emily Baggett. Well,
2 they're under me, but I have them under other
3 supervisors too. Do you still want
4 everything?
5 Q. That would be good.
6 A. Okay. Jerrolynn Spencer, Jackie
7 Cutter. They're the ones in the medical
8 unit. I have people in the CDL unit also, but
9 they don't do medical.
10 Q. You don't have to name them, but
11 how many people in CDL are under you?
12 A. Eight.
13 Q. Eight.
14 A. Well, nine. I have one retiree.
15 She doesn't work full-time.
16 Q. Okay. Other than Jerrolynn, have
17 any of those other four individuals in the
18 medical unit ever reviewed any letters under
19 policy order 63?
20 A. No.
21 Q. Do they know anything about policy
22 order 63?
23 A. I mean, they know the policy, but

Page 23

1 they refer everything to us. If there's any
2 questions on what an individual needs to do,
3 it's all referred to myself or J.J. -- or
4 Jerrolynn. I'm sorry.
5 Q. Do the other four outside of
6 Jerrolynn, do they ever take phone calls from
7 driver's license offices out in the field when
8 it comes to questions about policy order 63?
9 A. They may get phone calls, but they
10 refer them to us. I mean, if they answer the
11 phone, if they call their number and they
12 answer the phone, then they would refer them
13 to us.
14 Q. Do they ever answer any questions
15 of substance, those four, outside of Jerrolynn
16 in regards to policy order 63?
17 A. No.
18 Q. So if someone has a question about
19 policy order 63, it's only going to go to
20 either Jerrolynn or yourself; is that correct?
21 A. Yes.
22 Q. And that includes any questions
23 about what's required under the policy?

Page 24

1 A. Yes.
2 Q. Who do you report to?
3 A. Sergeant Brian Duke.
4 Q. Is that also who Diane Woodruff
5 reports to?
6 A. Yes, I believe so.
7 Q. And who does Sergeant Duke report
8 to?
9 A. He reports to Lieutenant Hubbard.
10 Q. And does Lieutenant Hubbard report
11 to Archer?
12 A. Right.
13 Q. And then Archer reports to --
14 A. Pregno.
15 Q. -- Deena Pregno?
16 A. Uh-huh.
17 Q. Could you describe your
18 understanding of Jerrolynn Spencer's
19 responsibilities?
20 A. She reviews medical records. She
21 answers the phone.
22 Q. And what are her responsibilities
23 in regards to policy order 63?

Page 25

1 A. She will -- can review the letters
2 we get from the doctors and make a decision
3 whether the criteria that we need in the
4 letter is what we need to change the sex.
5 Q. Would you say that both Jerrolynn
6 Spencer and yourself have the same
7 responsibilities in regards to policy order
8 63?
9 A. Yes.
10 Q. And the way -- depending on who the
11 applicant goes to, it's just a matter of who's
12 in the office that day or how does that
13 happen?
14 A. Most letters come to me, but if I'm
15 not there then Jerrolynn would --
16 Q. Is that the only time Jerrolynn
17 would see a letter is if you're not in the
18 office?
19 A. She may see it and then refer --
20 you know, she may talk with me about it and
21 then we, you know, make a decision.
22 Q. So who makes most of the decisions
23 when it comes to interpreting the policy for

Page 26

1 individual applicants?
2 A. I would think that I do mostly.
3 Q. Could you -- if you could put a
4 percentage on it, what would you say?
5 A. Maybe 70/30. I don't know.
6 Q. And do you know Deena Pregno?
7 A. Yes.
8 Q. Could you describe her
9 responsibilities?
10 A. She's over the driver's license
11 division.
12 Q. What does she do on a daily basis?
13 A. I really couldn't tell you.
14 Q. Do you know Destiny Clark?
15 A. I don't know her, no.
16 Q. Is that name familiar to you?
17 A. Yes.
18 Q. Do you remember seeing Destiny
19 Clark's letters coming through?
20 A. Yes.
21 Q. Are you aware of the name Darcy
22 Corbitt?
23 A. Just from an article that was in

Page 27

1 the paper or something.
2 Q. And that's it?
3 A. That's it. I mean, through this
4 lawsuit I guess, but I have not seen any
5 documents.
6 Q. Other than what's in this lawsuit
7 in the media or in the filings, are you aware
8 of anything Darcy has turned in?
9 A. (Witness shakes head.)
10 THE COURT REPORTER: No?
11 THE WITNESS: No. I'm sorry.
12 Q. Are you familiar -- strike that.
13 Could you describe policy order 63?
14 A. It states to change the sex on a
15 driver's license you have to have a letter
16 from the doctor that completed the surgery on
17 letterhead or an amended birth certificate.
18 Q. Does it say letterhead in the
19 policy?
20 A. I believe so.
21 Q. I'll pull it out now just to check.
22 A. Okay.
23 Q. I'm pulling out Plaintiff's Exhibit

Page 28

1 7. On page 1 of Plaintiff's Exhibit 7 this
2 was -- as we've been told, this was the
3 original policy that was written down. Does
4 that look correct to you?
5 A. Is this one 2012?
6 Q. Could you describe it while you're
7 looking at it, Ms. Eastman?
8 A. The policy states that to change
9 driver's license -- is that what you mean?
10 Q. Sure.
11 A. To change the sex on the driver's
12 license that you would -- due for gender
13 reassignment surgery, you're required to
14 submit to the medical unit an amended birth
15 certificate along with the documentation on
16 letterhead from the physician that performed
17 the sexual reassignment surgery stating the
18 surgery had been completed.
19 Q. That's fine. We don't have to read
20 it. But as far as you know, this is the
21 original policy written down?
22 A. Yes.
23 Q. On the second page of Plaintiff's

Page 29

1 Exhibit 7, is this the most updated policy?
2 A. Yes.
3 Q. And I'm -- for the record, I'm
4 going to review this as Plaintiff's Exhibit
5 7. The first page is Bates number 1 and the
6 second page is the second page of discovery.
7 A. Okay.
8 Q. Do you see -- do you see where it
9 says letterhead in the policy?
10 A. On physician's letterhead.
11 Q. And that's under number 1?
12 A. Number 1, uh-huh.
13 Q. When you get an application, what
14 do you usually do?
15 A. You mean when I get a letter from
16 the doctor?
17 Q. Let's do the -- yeah. If you get a
18 letter from a doctor's office, what would you
19 do once you get that letter?
20 A. I would read it to see if it had
21 the -- what we need to change it, the sex on
22 the license.
23 Q. And if by that determination it

Page 30

1 qualifies, what would you do at that point?
2 A. If it qualifies, then I would go
3 into the central admin and change the sex on
4 the license.
5 Q. Do you make a notation on the piece
6 of paper?
7 A. Yes.
8 Q. Do you make a notation anywhere
9 else what you did?
10 A. I might comment in the system.
11 Q. And where would that be?
12 A. It's in our database. I mean, it's
13 called DB2. It has a place where you put
14 comments. It's just an internal thing where
15 people in driver's license can look at it.
16 Q. Is that the software or is that --
17 A. It's the database. It's not really
18 software I don't guess.
19 Q. What happens if you feel like the
20 application doesn't qualify under the policy?
21 A. Then I would not change the sex on
22 the license.
23 Q. Is there anything else that you

Page 31

1 would do?
2 A. I would probably comment in the
3 system.
4 Q. Where?
5 A. In the DB2.
6 Q. Is there a section for comments
7 under that individual person?
8 A. It's under their driver's license.
9 Q. What do you do with the doctor's
10 letter?
11 A. We would scan that into our Paper
12 Vision System.
13 Q. Would you write anything on there
14 like denied or anything like that?
15 A. Yes, usually. And probably just
16 put -- like if they -- like if it didn't say
17 that they had the surgery, then I would write
18 that on there, that that's what we needed, a
19 doctor's letter stating that they had the
20 complete surgery.
21 Q. Do you ever make any phone calls?
22 A. I have called the doctor's office.
23 Q. How come?

Page 32

1 A. Because the letter did not say that
2 the surgery was complete.
3 Q. Where do you get that guidance
4 from?
5 A. What do you mean?
6 Q. Who told you to call the doctors'
7 offices?
8 A. I don't recall anybody telling me
9 to.
10 Q. So you came up with that on your
11 own?
12 A. I mean, we call about other things
13 in the medical unit, so -- I mean, I don't
14 know that that's said anywhere, that we call
15 or not call.
16 Q. Does it say in the policy to call
17 if you don't think the surgery was complete?
18 A. No.
19 Q. Does it say under number 2 in that
20 middle section on Plaintiff's Exhibit 7 -- on
21 page two of Plaintiff's Exhibit 7, what does
22 it say if a physician -- can you read that
23 line?

Page 33

1 A. If a physician letter is presented
2 there is no need to contact the physician
3 unless there is some doubt as to the
4 authenticity of the letter unless the
5 surgeries have been performed in other
6 countries.
7 Q. So it doesn't say anything about
8 calling if the surgery is complete, right?
9 A. No. It just says if we have a
10 doubt of the authenticity.
11 Q. But you have --
12 A. Which that says under the exam
13 office part.
14 Q. So you have no idea where you heard
15 about calling individuals' doctors' offices?
16 A. No.
17 Q. Roughly how many applications have
18 you received from people seeking to change the
19 sex designation on their driver's license?
20 A. I can't really give you a number of
21 how many we've received, by how many we have
22 done is like maybe ninety something.
23 Q. What do you mean done?

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1 A. Changed. I'm sorry.
2 Q. Okay. So you're saying you've
3 approved about ninety since you've been at the
4 medical unit?
5 A. No. That's overall.
6 Q. Oh, overall --
7 A. From the dates that y'all had -- or
8 we have pulled the documents on.
9 MR. BOONE: Can we take a quick
10 break?
11 (Break taken.)
12
13 Q. I want to go back a little bit.
14 Roughly how many applications has the medical
15 unit received in 2017?
16 A. I don't really keep a list of them,
17 so I can't really say.
18 Q. If you were to estimate, is it
19 about twenty?
20 A. I don't believe it was that many.
21 Q. Closer to ten?
22 A. Maybe. Fifteen. I don't know. I
23 can't really say.

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1 Q. Maybe ten to fifteen?
2 A. Yeah.
3 Q. How many of those were approved
4 would you estimate?
5 A. Most of them I would think. I
6 mean, I'm not -- like I said, I don't know how
7 many, so I really can't say.
8 Q. But some were denied probably,
9 right?
10 A. More than likely.
11 Q. But it's a small minority that were
12 denied?
13 A. Yes, I believe so.
14 Q. Roughly how many applications has
15 the medical unit received in the past five
16 years?
17 A. I really can't answer that.
18 Q. Do you have an estimate?
19 A. I really don't.
20 Q. You did just pull a lot of the
21 discovery I know. Would you say like about a
22 hundred?
23 A. In the last five years?

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1 Q. Yes. Remember to answer out loud.
2 MR. CHYNOWETH: Can you ask the
3 question again?
4 Q. Yeah. About how many applications
5 have been received by the medical unit in the
6 past five years, this includes approvals and
7 denials, just how many total applications have
8 come in?
9 A. I'm just going to guess maybe
10 around fifty.
11 Q. Around fifty in the last five
12 years?
13 A. I'm not sure.
14 Q. How many do you think were approved
15 out of those fifty?
16 A. I'd say at least half of them, if
17 not more.
18 Q. If a member of the public were to
19 ask about how you changed the sex designation,
20 what would you tell them?
21 A. I would tell them they would need a
22 letter from the doctor that performed the
23 surgery on letterhead stating that they had

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1 had the complete surgery or an amended birth
2 certificate.
3 Q. And you do have the power to
4 approve or deny an application yourself?
5 A. Yes.
6 Q. Do you ever have to talk to someone
7 above you in a supervisory role about the
8 application if you approve or deny it?
9 A. No, I don't have to talk to someone
10 else.
11 Q. Do you ever share those approvals
12 or denials with anyone else?
13 A. No.
14 Q. Do you ever share approvals or
15 denials with the legal department?
16 A. No.
17 Q. How often do you call the
18 physician's office when you receive an
19 application?
20 A. I really don't recall but calling
21 one time.
22 Q. What about Jerrolynn Spencer? Do
23 you know of instances where she's called the

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1 physician's office?
2 A. I'm sure she has.
3 Q. For the instance of -- that you
4 recall about calling the physician's office,
5 why did you call?
6 A. Because the letter did not say they
7 had had the completed surgery.
8 Q. Who did you talk to at that
9 physician's office?
10 A. It would have been the nurse that
11 answered the phone or a nurse.
12 Q. What did you ask the nurse?
13 A. If the subject had had the
14 completed surgery.
15 Q. What did the nurse say?
16 A. They said no in this case.
17 Q. Before you called the physician's
18 office, did you first contact the applicant
19 for permission?
20 A. No.
21 Q. Did you get a warrant?
22 A. No.
23 Q. What measures do you take to

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1 protect the privacy of applicants that are
2 trying to change the sex on their driver's
3 licenses?
4 A. I just call the doctor's office and
5 what that person -- if they had completed the
6 surgery. It's, you know, to see if they met
7 with our policy.
8 Q. And the doctor's offices give out
9 that information?
10 A. They just said yes or no, you
11 know. They said no on this case.
12 Q. Did they have any concerns about
13 giving out private medical information to you?
14 A. No, because it was a letter that
15 was sent by them. So I was just asking on the
16 letter. Most of the time they'll put on there
17 if you have any questions call.
18 Q. And you know for sure in this
19 instance that the letter came from the
20 office? Did you know in this instance that
21 the letter came directly from the physician's
22 office to ALEA?
23 A. I'm not sure if it came from the

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1 physician's office or from the applicant.
2 Q. So if it came from the applicant,
3 it didn't come directly from the physician's
4 office, correct?
5 A. I mean, if the applicant sent it
6 in, no, it didn't come directly from --
7 Q. Does that applicant know that you
8 might call their physician?
9 A. No.
10 Q. Would you say that your medical
11 record is private?
12 A. The medical record is.
13 Q. Does that include surgeries on
14 someone's body? Are surgeries on someone's
15 body a part of the medical record?
16 A. Yes.
17 Q. And that would be private, right?
18 A. Yes.
19 Q. Did you ever hesitate about calling
20 a physician's office?
21 A. I mean, I don't like calling the
22 physician's office, but if there's a question
23 about the documentation that was sent in to

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1 us, then I would call.
2 Q. But no one told you to call the
3 physician's office about whether or not the
4 surgery was complete or not, right?
5 A. No.
6 Q. And you have no idea where that
7 idea came from, right?
8 A. I just -- as far as I know, you
9 know, we've always called about different
10 things, so --
11 Q. So you call physicians' offices on
12 other issues in the medical unit?
13 A. Yes.
14 Q. Can you look back at Exhibit 7,
15 which again is discovery number 1 and number
16 2? And you've already stated you recognize
17 this document, right?
18 A. Yes.
19 Q. How did you first learn about the
20 policies in Plaintiff's Exhibit 7?
21 A. What do you mean how did I learn?
22 Q. When did you first hear about
23 policy order 63?

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1 A. When I became supervisor over the
2 medical unit, I believe.
3 Q. So you think day one you learned
4 about it?
5 A. Well, I can't say it's day one. I
6 am sure it's when someone had called in
7 questioning it.
8 Q. Do you remember who you asked a
9 question of since you probably didn't know
10 what to do, right?
11 A. I can't say for sure.
12 Q. Has anyone told you why this policy
13 is in place?
14 A. Well, it's in place to -- so, you
15 know, not just everybody can come in and
16 change the sex on the license.
17 Q. Does that happen frequently?
18 A. What? Somebody coming in wanting
19 the sex changed? No. I mean --
20 Q. Do you suspect that there's people
21 that come in to change the sex and they're
22 fraudulent, they're not actually transgender?
23 A. I'm sure there could be.

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1 Q. Do you know of any instances of
2 that happening?
3 A. No.
4 Q. So as far as you know that's never
5 happened?
6 A. As far as I know.
7 Q. So then do you know why the policy
8 is in place if it's not really a fear?
9 MR. CHYNOWETH: Object to the form.
10 Q. Is that the only reason that the
11 policy is in place?
12 A. (No response.)
13 Q. I'll restate. Is the only reason
14 the policy is in place is to stop people from
15 come in and changing the sex fraudulently?
16 A. It may not be the only reason, but
17 I'm not sure.
18 Q. Is that the only reason you know
19 of?
20 A. I don't know.
21 Q. You don't know if that's the only
22 reason you know of?
23 A. I don't know where you're going.

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1 Q. Well, you can just try to answer
2 the question to the best of your ability.
3 A. I didn't --
4 Q. You didn't create the policy,
5 right?
6 A. Right.
7 Q. Someone else created it?
8 A. Right.
9 Q. Do you know who created it?
10 A. No, I really don't. It was already
11 in place.
12 Q. You've never asked any questions
13 about the policy, it's creation of the policy?
14 A. No. It's a policy we go by. So,
15 you know.
16 Q. Have you ever received any verbal
17 guidance on what the policy means?
18 A. I'm sure I probably asked to begin
19 with, you know, exactly what it meant.
20 Q. But you're not sure?
21 A. I mean, when I came into the
22 medical unit, Diane was upstairs. And so if I
23 had gotten -- I didn't start -- I don't know

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1 where to go with this. Okay. I didn't start
2 taking all the responsibilities right off when
3 I was supervisor because I had another unit
4 also. So I'm sure if I got a letter I went to
5 her and asked her about it.
6 Q. So as best as you can recall Diane
7 might explain what the letter means?
8 A. That would have been who I would
9 have gone to if I --
10 Q. Did you ever receive any written
11 guidance outside of what's in the policy?
12 A. No.
13 Q. Have you ever given any verbal
14 guidance about the policy?
15 A. Yes.
16 Q. What was it?
17 A. Well, applicants take letters into
18 the driver's license offices, and then they'll
19 call me. And they'll usually fax the letter
20 over to me so I can read it to guide them if
21 it has the correct information on it to change
22 the sex on the license.
23 Q. But do you give any verbal guidance

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1 on what the policy means to coworkers or
2 individuals below you?
3 A. Well, Jerrolynn was in there before
4 I got in there, so she already knew. And,
5 like I said, the others do not --
6 Q. Did Jerrolynn give you -- did
7 Jerrolynn give you any verbal guidance on the
8 policy?
9 A. No.
10 Q. Did she give you any written
11 guidance on the policy?
12 A. No.
13 Q. So you've never been given any
14 written guidance on this policy?
15 A. No.
16 Q. Not even in an email?
17 A. Not that I can recall.
18 Q. Have you and Jerrolynn ever
19 discussed how you feel about the policy?
20 A. No. The policy is there for us to
21 uphold, so that's what we do.
22 Q. So you never discuss your feelings
23 about the policy?

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1 A. (Witness shakes head.) Not that I
2 recall.
3 Q. Do you agree with the policy?
4 A. I agree that there has to be
5 guidelines to change the sex on the license.
6 I agree with what the documentation -- that we
7 need for it.
8 Q. Because you're worried about people
9 fraudulently trying to change their sex?
10 A. Well, that could happen, yes.
11 Q. Any other reason?
12 A. You don't need to make it where
13 people can just go back and forth.
14 Q. Does that happen?
15 A. I don't know.
16 Q. You're just making that up?
17 A. It could.
18 MR. CHYNOWETH: Object to the form.
19 Q. It could. So that could happen?
20 A. It could.
21 Q. You've never heard of that
22 happening though, right?
23 A. No.

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1 Q. You said that you've given verbal
2 guidance. You give verbal guidance to
3 people -- individual driver's license
4 examiners in the field?
5 A. Yes, when they get a letter in the
6 field.
7 Q. So when they call about the policy,
8 what do you tell them?
9 A. I tell them exactly what it says
10 and that's what we need.
11 Q. Do you ever say anything outside of
12 what's in this policy?
13 A. No.
14 Q. Have you ever been told that you
15 applied the policy incorrectly?
16 A. No.
17 Q. Do you ever think you might have
18 applied the policy incorrectly?
19 A. No.
20 Q. Have you ever told someone else
21 that they've applied the policy incorrectly?
22 A. No.
23 Q. Do you think the policy has ever

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1 been applied incorrectly?
2 A. Not to my knowledge.
3 Q. Other than what's in the policy,
4 you've never heard anyone at ALEA discussing
5 the policy?
6 A. I mean, we may have discussed what
7 is in -- you know, does this apply, does this
8 letter meet the policy.
9 Q. But no comments on what maybe
10 reassignment procedure means, right?
11 A. I mean, we say complete surgery.
12 Q. And where do you get that from?
13 A. I guess that carries over from the
14 old policy, this policy here.
15 Q. So it doesn't say complete in the
16 current policy?
17 A. No.
18 Q. And why are you calling doctors'
19 offices about complete reassignment
20 procedures?
21 A. Because that has been our policy, I
22 mean, how we interpret the policy.
23 Q. And why do you interpret it that

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1 way?
2 A. Because that's the way it was in
3 the old one I guess.
4 Q. Do you think that might be a
5 mistake?
6 A. What might be a mistake? That they
7 did not put it in the new policy or --
8 Q. Do you think maybe it was
9 intentional that it's not in the new policy?
10 A. I don't believe so.
11 Q. So you choose to add complete even
12 though it's not in the new policy?
13 MR. CHYNOWETH: Object to the form.
14 A. (No response.)
15 Q. You're not going to answer that
16 question?
17 A. He objected to the form. I thought
18 you were supposed to say something else.
19 MR. CHYNOWETH: I'm sorry. You may
20 answer.
21 A. Okay. What was the question?
22 Q. So you choose not to -- you choose
23 to add complete even though it's not in the

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1 current policy?
2 MR. CHYNOWETH: Object to the form.
3 A. Well, this policy was never -- it
4 was more of a procedure here. The policy
5 never had the policy number on it.
6 Q. Can you explain that a little?
7 A. This was changed but it was -- as
8 far as I know, never had the policy number on
9 it.
10 Q. So this isn't good anymore?
11 A. It's kind of a procedure -- this
12 part is the procedural.
13 Q. So you're saying that this is still
14 in effect, policy order number 63, which is
15 dated 9-1-2012?
16 A. I'm just saying that the -- we've
17 always asked for the complete surgery, the
18 letter to state that.
19 Q. So, to your knowledge, page 1 of
20 discovery, Plaintiff's Exhibit 7, is not still
21 in effect, correct?
22 A. Well, this is the last policy that
23 they gave us.

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1 Q. So the policy that states 9-1-2012
2 at the top, that's no longer in effect, right?
3 A. No, I guess not.
4 Q. Have you ever made any
5 recommendations for changing the policy?
6 A. I thought that it should be clear.
7 Q. What do you mean by that?
8 A. Laid out more where it would be
9 clear on -- like most doctor's letters they
10 send in they put under perjury of law -- by
11 law, whatever. I think all the doctor's
12 letters should say that.
13 Q. How come?
14 A. Just so we can make sure that it is
15 an authentic letter.
16 Q. Are you worried there's some
17 doctors out there that are lying?
18 A. Well, we've gotten letters from
19 doctors stating that they have examined the
20 patient, they had all the surgery, and it did
21 not say that they did the surgery.
22 Q. How does that mean that -- how does
23 that imply that the doctor's lying?

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1 A. And then got a letter from another
2 doctor for the same person stating that the --
3 they had a surgical procedure.
4 Q. What's wrong with that?
5 A. It did not say they had the
6 complete surgery, which the doctor stated in
7 the other letter that they had, that he had
8 just examined them.
9 Q. It sounds like you know what
10 complete surgery is, right?
11 A. Well, the complete surgery would
12 have to be having all your -- the top part,
13 bottom part done surgical to make you a female
14 or a male.
15 Q. Who told you that?
16 A. I mean, nobody told me that.
17 Q. So you came up with that?
18 MR. CHYNOWETH: Object to the form.
19 A. Well, I don't see how a person
20 could be a -- I mean -- let me think which
21 way -- I mean, if you -- how can you change
22 your sex if you don't have the top and bottom
23 done? That's what we mean by completed

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1 surgery.
2 Q. But you're not a physician, right?
3 A. No, I'm not.
4 Q. So where are you getting this
5 from? Correct me if I'm wrong. It sounds
6 like it's coming from you, right?
7 A. Yes, I said that.
8 Q. So you think the policy should be a
9 little bit more rigorous and doctors should --
10 it should require that doctors' notes have
11 under penalty of perjury, right?
12 A. Well, to make sure it that is from
13 a doctor, yes, what is in it is true.
14 Q. And you think that some physicians
15 are not telling the truth; is that right?
16 A. I think there could be some that
17 don't.
18 Q. Do you have --
19 A. Or we could get forged letters.
20 Q. Couldn't someone forge a letter and
21 still put penalty of perjury on there?
22 A. It would be notarized and
23 everything.

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1 Q. It's still possible that a notary
2 could be false as well?
3 A. I guess anything's possible.
4 Q. Have you ever made any
5 recommendations for keeping the policy the
6 same?
7 A. No.
8 Q. Has anyone said maybe this is too
9 much work or something?
10 A. No.
11 Q. No one's ever said we should do
12 what most of the other states are doing and
13 not require surgery?
14 A. No.
15 Q. You've never heard anyone suggest
16 to possibly follow the guidelines from the
17 AAMVA?
18 A. I don't know what that is or what
19 the guidelines are.
20 Q. Do you know what the American
21 Association of Motor Vehicles Associates -- I
22 forgot the last A.
23 MR. ARKLES: Administrators.

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1 Q. Administrators. American
2 Association of Motor Vehicle Administrators,
3 have you ever heard about going by their
4 suggestions before?
5 A. No.
6 Q. Have you ever seen an email from
7 the AAMVA?
8 A. I may have. I'm not sure.
9 Q. So other than requiring doctors to
10 possibly have the penalty of perjury on the
11 letters, is there anything else you think
12 should be changed in the policy?
13 A. No. Like I said, I think the
14 documentation -- that we need that.
15 Q. Who do you understand to have the
16 power to change this policy? And when I say
17 this policy, I mean Exhibit 7 on the second
18 page which is the most recent policy.
19 A. Who has the authority to change it?
20 Q. Yes.
21 A. I would think our legal division.
22 Q. Could Chief Deena Pregno change it?
23 A. She could make changes and then it

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1 would have to be approved by legal, I would
2 think.
3 Q. How come?
4 A. To make sure it's legal.
5 Q. Does everything that -- do all of
6 Chief Deena Pregno's decisions go through
7 legal?
8 A. I have no idea.
9 Q. What makes you think that if she
10 were to make a change to the policy that it
11 would go through legal?
12 A. Because when policies are changed
13 they usually go through legal, any policy.
14 Q. Have you or, to your knowledge,
15 Ms. Spencer ever called a physician's office
16 to find out what types of surgeries have been
17 done?
18 A. No.
19 Q. So as far as you know the only
20 question is has surgery been completed?
21 A. Correct.
22 Q. And do you say sex reassignment
23 surgery, or what words do you use exactly?

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1 A. I would say -- ask them if the
2 sexual -- sex reassignment surgery had been
3 completed.
4 Q. Under policy order 63 a person may
5 have the sex designation changed on their
6 license with an amended state certified birth
7 certificate even without a letter from a
8 physician; is that right?
9 A. Right.
10 Q. And under policy order 63, the
11 amended state certified birth certificate must
12 have been updated to show a different sex
13 designation than the one on the original birth
14 certificate; is that right?
15 A. Yes.
16 Q. Could someone who was born in one
17 state and later moves to Alabama satisfy
18 policy order 63's requirement by showing the
19 amended state certified birth certificate from
20 the state in which they were born?
21 A. Yes.
22 Q. Does it matter which state they
23 move from?

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1 A. No.
2 Q. Does it matter what that state's
3 policy for changing the sex designation on the
4 birth certificate is?
5 A. Not as long as we have an amended
6 birth certificate.
7 Q. So even if another state does not
8 force its citizens to have genital surgery
9 you'll still accept that amended birth
10 certificate; is that right?
11 MR. CHYNOWETH: Object to the form.
12 A. Yes.
13 Q. I'll repeat it in another way
14 also. If another state does not require
15 surgery, then you'll still accept that birth
16 certificate, right?
17 A. If it's an amended birth
18 certificate, yes.
19 Q. Then do you know why Alabama
20 insists that genitals match the license for
21 the driver?
22 MR. CHYNOWETH: Object to form.
23 A. I mean, that's our policy.

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1 Q. So no reason?
2 MR. CHYNOWETH: Object to form.
3 A. I mean, I don't know why.
4 Q. Do genitals have anything to do
5 with driving?
6 A. No. It has to do with
7 identification.
8 Q. When do you show your genitals for
9 identification?
10 A. I'm thinking sex on the license.
11 I'm sorry.
12 Q. Genitals -- so you're saying that
13 genitals have to do with sex? I can ask the
14 first question again which was what do
15 genitals have to do with driving?
16 A. Nothing.
17 Q. Could someone who was born in
18 another country and later move to Alabama
19 satisfy policy order 63's requirement by
20 showing the amended state certified birth
21 certificate from the country in which they
22 were born?
23 A. Yes, if it was amended.

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1 Q. Does it matter what country they
2 were born in?
3 A. No.
4 Q. Does it matter what the country's
5 policy for changing the sex designation on the
6 birth certificate is?
7 A. No.
8 Q. And under policy order 63 a person
9 may have the sex designation changed on their
10 license with a letter from a physician who
11 performed gender reassignment surgery; is that
12 correct?
13 A. Yes.
14 Q. What happens if the physician has
15 retired, died, or otherwise becomes
16 unavailable?
17 A. I've never had that happen, so --
18 Q. What would you do if that were to
19 occur?
20 A. I would probably ask for guidance.
21 Q. From whom would you ask guidance
22 from?
23 A. I would probably have to go up my

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1 chain, but I would start with my sergeant.
2 Q. Sergeant Duke is who you would go
3 to first?
4 A. Yes.
5 Q. Do the terms gender reassignment
6 surgery and reassignment procedure in policy
7 order 63 refer to the same thing?
8 A. Yes.
9 Q. Do the terms sex reassignment
10 surgery and sexual reassignment mean the same
11 thing as gender reassignment surgery for
12 purposes of policy order 63?
13 A. Yes.
14 Q. Okay. I'm now getting out
15 defendant's answers to plaintiff's first set
16 of interrogatories. I'm going to mark this as
17 Plaintiff's Exhibit 23.
18 (Plaintiff's Exhibit Number 23 was
19 marked for identification. A copy
20 is attached.)
21 Q. Could you turn to page 6, please?
22 A. (Witness complies.)
23 Q. Could you read number 9? That's

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1 the question from the plaintiffs.
2 MR. CHYNOWETH: You're referring to
3 your interrogatories that you directed at us?
4 MR. BOONE: That's correct, yes,
5 our interrogatory question directed towards
6 the defendant's, number 9.
7 A. You want me to read it out loud?
8 Q. Could you? Yeah, identify any --
9 I'm sorry.
10 A. Identify any and all procedures
11 that constitute gender reassignment surgery,
12 sexual reassignment surgery, and the
13 assignment procedure for purposes of changing
14 the sex designation on an Alabama driver's
15 license.
16 Q. And now -- the first paragraph
17 below that you don't have to read that.
18 That's where it says response. Could you read
19 the second paragraph that's the defendant's
20 response?
21 A. Without waiving these objections?
22 Q. Yes, please start with, without
23 waiving these objections.

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1 A. Okay. Without waiving these
2 objections, defendants state that to change
3 the sex designation on an Alabama driver's
4 license policy order 63 requires proof of
5 sexual reassignment surgery that includes an
6 irreversible surgical change of sex
7 characteristics including genital
8 reassignment.
9 Q. Can you explain what that means?
10 A. Means that we require a letter from
11 the doctor stating that they have -- the
12 applicant has had reassignment surgery that's
13 irreversible.
14 Q. What does irreversible mean?
15 A. It cannot be changed back.
16 Q. What does including genital
17 reassignment mean there?
18 A. Say the question again.
19 Q. I want to say this is how I
20 understand this. Policy order 63 requires
21 proof of sexual reassignment surgery that
22 includes an irreversible surgical change of
23 sex characteristics including genital

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1 reassignment, meaning that it's not just
2 genital reassignment. My understanding of
3 this is it doesn't -- this means it doesn't
4 have to be genitals; is that -- is my
5 understanding correct?
6 A. It says including.
7 Q. So -- well, including to me, and
8 the way I read including, means that's, you
9 know, under an umbrella of reassignment
10 surgery, including genital reassignment. It
11 doesn't say only genital reassignment or this
12 means general reassignment. It says including
13 genital reassignment. Does that mean there's
14 more -- there's more forms of surgery that
15 don't have anything to do with genitals that
16 can satisfy policy order 63?
17 A. I'm not a doctor, so I can just go
18 by what our policy says.
19 Q. I mean, this is more about the
20 wording, not really whether you're a doctor or
21 not. Is it only genitals or is it more than
22 genitals?
23 A. I would think it would be more

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1 because you would have to have the top done.
2 Q. So are you saying that if you were
3 to have what some -- some are all bottom
4 surgery, but if you don't have top then it
5 doesn't work under the policy, they would be
6 denied?
7 A. It says complete surgery. So it
8 has to be irreversible completed surgery.
9 Q. I still don't know what that means,
10 what complete surgery means.
11 MR. CHYNOWETH: Object to the form.
12 Q. You don't have a definition of
13 complete surgery, do you? Let me retract
14 that. Do you have a definition of complete
15 surgery?
16 A. Do I have anything written out that
17 states what complete surgery is; is that what
18 you're asking? No, I don't.
19 Q. Yes. Do you have any verbal
20 guidance as to what complete surgery is?
21 A. Complete surgery would be having,
22 like I said, top and bottom both done.
23 MR. BOONE: Okay. If we could take

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1 a short break.
2 (Break taken.)
3
4 Q. Someone could be assigned male at
5 birth but she is a transgender woman and
6 begins taking hormones and develops breasts.
7 She then has bottom surgery. Would she be
8 able to have the sex changed on her license?
9 A. If we get a letter from the doctor
10 stating she's had the complete irreversible
11 surgery, yes.
12 Q. But what if it just states the
13 bottom surgery procedures and not anything
14 about top surgery because it wasn't necessary,
15 would she be approved?
16 A. No. Our policy says completed
17 surgery. So if the doctor would state that it
18 was irreversible surgery, then it would be.
19 Q. So would top surgery not be
20 necessary for that woman?
21 A. I mean, I'm not a doctor, so --
22 Q. But you are --
23 A. What we require is a letter from

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1 the doctor saying they had completed
2 irreversible surgery.
3 Q. What if the doctor said that and
4 then specifies it's only bottom surgery
5 procedures and doesn't mention anything about
6 top surgery, then would you accept or deny
7 that application?
8 A. If the letter states they have the
9 completed irreversible surgery, then we would.
10 Q. So top surgery isn't necessary?
11 A. I'm not a doctor, like I said. We
12 would need the letter stating that.
13 Q. If the letter just says -- I'll ask
14 it again. If the letter just says bottom
15 surgery completed, irreversible, doesn't
16 mention anything about top surgery, would that
17 person be approved or denied?
18 A. I've never had one that I know of
19 that just said that. If it said completed
20 irreversible surgery, then we would approve
21 it.
22 Q. Okay. You are representing ALEA
23 today and you stated earlier that complete

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1 means top and bottom, right?
2 A. Yes.
3 Q. So it's ALEA's policy that this
4 letter refers to top and bottom, right?
5 A. Yes.
6 Q. And even though it doesn't say
7 complete, ALEA is saying that that means
8 complete?
9 A. Yes.
10 Q. But you have no recollection of
11 where that came from?
12 A. Where what came from?
13 Q. The top plus bottom requirement.
14 A. Just my understanding that a
15 complete surgery -- and, like I said, we go by
16 what the letter of the doctor says and if it
17 says completed irreversible surgery.
18 Q. Is it the same for trans men and
19 trans women when it comes to top and bottom
20 requirements?
21 A. It's the same, what we require in
22 the letter stating that it had been completed
23 surgery.

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1 Q. So in my hypothetical, as long as
2 the doctor said complete irreversible surgery,
3 even though it's only referring to bottom and
4 it says only bottom, not top, would you then
5 accept it or deny it? I can rephrase if you
6 would like if that's easier.
7 So if a -- hypothetically, if a
8 doctor were to say we have done complete
9 irreversible surgery bottom, but we have not
10 done any for the top, what would you do at
11 that point? Would you change the gender or
12 would you keep it the same in the system?
13 A. I would probably get some advice
14 on --
15 Q. From Brian Duke?
16 A. Well, it would have to go up the
17 chain.
18 Q. You think it would -- how high up
19 the chain do you think it would go?
20 A. It may go to Pregno. I don't
21 know. But as long as the letter says
22 completed irreversible surgery, then we would
23 approve it.

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1 Q. Did you ever rely on the advice
2 from a medical expert for your understanding
3 of these terms?
4 A. No.
5 Q. What's your understanding of the
6 term reassignment procedure in policy order
7 63?
8 A. That they had had the complete
9 irreversible surgery.
10 Q. Can you point to me where it says
11 irreversible in Plaintiff's Exhibit 7, on the
12 second page of Plaintiff's Exhibit 7, which is
13 the most updated policy?
14 A. No.
15 Q. If the language complete
16 irreversible surgery is in the letter, is
17 there any other language that could be there
18 that could prevent a change of the sex
19 designation?
20 A. Like I said, if it said completed
21 irreversible surgery, then you would approve
22 it.
23 Q. For purposes of policy order 63, is

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1 testosterone subcutaneous implants a
2 reassignment procedure?
3 A. I don't know what that is, so.
4 Q. Testosterone subcutaneous implants
5 is a procedure to insert pellets beneath the
6 skin where they remain and release long-acting
7 testosterone. Is that a reassignment
8 procedure under policy order 63?
9 A. Like I said, the policy is
10 completed irreversible surgery. And if the
11 doctor gives us a letter stating that, then
12 that's when we approve it.
13 Q. So if it said completed
14 irreversible surgery, which was testosterone
15 subcutaneous implants, would you accept that
16 under policy order 63?
17 A. If the doctor says it's completed
18 irreversible surgery, then I believe we would
19 accept it.
20 Q. Even if it was just testosterone
21 subcutaneous implants, right?
22 A. Normally -- like I said, I've never
23 seen a letter written like that.

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1 Q. So if you did see that, you would
2 make the change in the system?
3 MR. CHYNOWETH: Objection. Asked
4 and answered.
5 MR. BOONE: I never -- I don't
6 remember hearing an answer.
7 Q. So if you saw irreversible complete
8 surgical procedure, which was only
9 testosterone subcutaneous implant, you would
10 make that change in the system?
11 A. If the letter said completed
12 irreversible surgery.
13 MR. ARKLES: Can we have just a
14 very quick break? Sorry.
15 (Break taken.)
16
17 Q. So ALEA requires top and bottom
18 surgery for -- to be considered sex
19 reassignment surgery under policy order 63,
20 right?
21 A. Yes.
22 Q. And you just stated that as long as
23 the doctor says complete irreversible surgery,

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1 even if it's only testosterone subcutaneous
2 implants, that still satisfies the policy,
3 right?
4 MR. CHYNOWETH: Object to the
5 form. Even if the doctor's note only said
6 that or even --
7 MR. BOONE: The doctor's.
8 MR. CHYNOWETH: -- if the doctor's
9 notes says complete surgery but only that
10 procedure was performed?
11 MR. BOONE: Yes, the latter.
12 MR. CHYNOWETH: Can you clarify --
13 can you ask the question again, please?
14 Q. The doctor's note says complete
15 irreversible surgery and the only procedure
16 performed was testosterone subcutaneous
17 implant. Would that satisfy policy order 63?
18 A. I might want to find some guidance
19 on that one.
20 Q. So does the actual procedure
21 matter?
22 A. As long as we get a letter from the
23 doctor saying that it's completed irreversible

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1 surgery.
2 Q. But if they --
3 A. That's what we look for in the
4 letter.
5 Q. But if the doctor puts in what
6 procedure it was, then the person -- and the
7 procedure was only implants, for example, then
8 they're good under the policy?
9 A. I might need to find some guidance
10 on it.
11 Q. For the purposes of policy order 63
12 is contra laryngoplasty a sexual reassignment
13 procedure?
14 A. I don't know what that is.
15 Q. That is a tracheal shave to reduce
16 the Adam's apple. Is that a sexual
17 reassignment procedure?
18 A. It may be part of it but -- like I
19 said, if the letter states it's completed
20 irreversible.
21 Q. So the procedure doesn't matter?
22 A. I'm just saying what we get from
23 the doctor, if it states that, then that's

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1 when we would change the sex on the license.
2 Q. We are just -- you are the 30(b)(6)
3 representative. You have to -- you're ALEA's
4 representative for the implementation of the
5 policy. We wouldn't want to have to call
6 anybody else. So we're trying to understand
7 what the policy is. So far you have said top
8 and bottom is required, right?
9 A. Yes.
10 Q. And you have also said that as long
11 as it says complete irreversible surgery then
12 that is fine, even if top and bottom hasn't
13 been done, right?
14 A. Well, I mean, we don't know for
15 sure. We're going by what the doctor letter
16 states, and that's -- if it says completed
17 irreversible surgery, then we -- like I said,
18 I've never had anything come across my desk
19 like that before like you're saying.
20 Q. So why is complete necessary if you
21 don't know the procedures?
22 A. I'm sure there's probably lots of
23 procedures I don't know about, but I'm not a

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1 doctor. So that's why we rely on what the
 2 doctor puts in the letter.
 3 Q. If a doctor were to say complete
 4 irreversible sex reassignment surgery, which
 5 was chest masculinization, would that be an
 6 approval under policy order 63?
 7 A. If he put that it was completed
 8 irreversible surgery.
 9 Q. So remind me again --
 10 A. Like I said, I've never had any
 11 letters that stated that.
 12 Q. But you have called and so has
 13 Jerrolynn -- have made calls to the
 14 physicians' offices before, right?
 15 A. Yes.
 16 Q. So why were you calling in those
 17 instances?
 18 A. The one I called about because he
 19 put that he had performed a procedure, a
 20 procedure. I had already gotten two letters
 21 previously from doctors stating that he had
 22 examined, I guess, and they had had all the
 23 surgeries, but then I get the one from the

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1 person physically present in Alabama has an
 2 ID?
 3 A. I'm sure that's possible.
 4 Q. Would you agree some people carry
 5 ID that is not their own?
 6 A. I'm sure that could happen.
 7 Q. Would you agree that not every
 8 person physically present in Alabama was born
 9 in Alabama?
 10 A. Yes, I'm sure there's people that
 11 weren't born here that's in Alabama.
 12 Q. Would you agree that not every
 13 person physically present in Alabama was born
 14 in the United States?
 15 A. Yes.
 16 Q. Would you agree that it's possible
 17 some transgender people have changed the sex
 18 designation on their Alabama driver's license
 19 without having surgery?
 20 A. Not without a letter or amended
 21 birth certificate.
 22 Q. I'll ask again. Would you agree
 23 that it is possible some transgender people

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1 surgeon saying he had performed a procedure.
 2 That's why I called.
 3 Q. But you don't know all the
 4 procedures, right?
 5 A. No, but it did not say that he had
 6 performed the completed irreversible surgery.
 7 Q. So even if it was just one
 8 procedure and he just happened to have put
 9 complete, you would not have made the phone
 10 call, right?
 11 A. If the letter had stated that he
 12 had performed the completed irreversible
 13 surgery, no, I would not have.
 14 Q. Would you agree that not every
 15 person physically present in Alabama has an
 16 Alabama driver's license?
 17 A. Say that again, please.
 18 Q. Would you agree that not every
 19 person physically present in Alabama has an
 20 Alabama driver's license?
 21 A. I'm sure not everybody in Alabama
 22 has an Alabama license.
 23 Q. Would you agree that not every

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1 have changed the sex designation on their
 2 Alabama driver's license without having
 3 surgery if, for example, they were born in a
 4 state that permitted amendments to the birth
 5 certificates without proof of surgery?
 6 A. Yes, if they --
 7 Q. Can you say that again?
 8 A. Yes, if they gave us an amended
 9 birth certificate.
 10 Q. I'm going to show you some
 11 documents.
 12 (Plaintiff's Exhibit Number 24 was
 13 marked for identification. A copy
 14 is attached.)
 15 Q. This is marked as Plaintiff's
 16 Exhibit 24. The discovery number is 208.
 17 Could you please describe this document?
 18 A. It's a letter stating that this
 19 doctor had performed reassignment surgery,
 20 successfully completed and in is compliance
 21 with the World Professional Association for
 22 Transgender Health.
 23 Q. Do you recognize this document?

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1 A. It's got my initials up there.
2 Q. And you said those are your
3 initials at the top?
4 A. Yes.
5 Q. What does the notation mean that
6 you wrote next to your initials?
7 A. I changed the -- it says I changed
8 the gender to female.
9 Q. Why did you approve it?
10 A. Because it said it was performed
11 and successfully completed.
12 Q. Does it say irreversible?
13 A. No, it does not.
14 Q. I'm going to hand you another
15 document marked as Plaintiff's Exhibit 25.
16 The discovery number is 232.
17 (Plaintiff's Exhibit Number 25 was
18 marked for identification. A copy
19 is attached.)
20 Q. Can you please describe this
21 document?
22 A. It's a letter from the doctor
23 saying that they had -- the individual has

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1 undergone gender confirmation surgery and that
2 this irreversible surgery was performed by me,
3 and it gives the doctor's name.
4 Q. Do you recognize this document?
5 A. Well, it has my comment at the top.
6 Q. You said that's your comment at the
7 top. And are those your initials?
8 A. Yes.
9 Q. And what did you do on this
10 document?
11 A. I changed the sex on the license
12 from male to female.
13 Q. Does it say complete on this
14 document?
15 A. It says irreversible.
16 Q. So it doesn't say the word
17 complete?
18 A. No.
19 Q. If, for example, the doctor said
20 this irreversible surgery of removal of testes
21 was performed by me, how would that change
22 your interpretation of this document?
23 A. I might question it.

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1 Q. And what would you do at that
2 point?
3 A. I may call the doctor. I'm not
4 sure.
5 Q. What would you ask the doctor?
6 A. If the surgery had been complete.
7 Q. If the doctor responds yes, it's
8 completed, we removed the testes, then what
9 would you do?
10 A. Might ask for a letter stating that
11 the surgery had been completed.
12 Q. And if you get another letter that
13 said it's been completed, we removed the
14 testes, what would you do then?
15 A. If it says irreversible, completed
16 surgery, it would probably be approved. This
17 one was approved.
18 Q. So if it said complete,
19 irreversible surgery, we removed the testes,
20 it would be approved, yes or no?
21 A. It said completed -- I can't talk
22 now -- irreversible surgery, yes, more than
23 likely it would be approved.

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1 (Plaintiff's Exhibit Number 26 was
2 marked for identification. A copy
3 is attached.)
4 Q. I'm now handing you Plaintiff's
5 Exhibit 26, which is marked in the discovery
6 as 233. Can you please describe this
7 document?
8 A. It's a letter stating that the --
9 from a doctor that says the individual
10 underwent irreversible genital reassignment
11 surgery performed by the doctor. The surgery
12 was performed at Pensacola Hospital. Surgery
13 was completed in accordance with standards
14 established with the World Professional
15 Association of Transgender Health.
16 Q. Are those your initials at the
17 top?
18 A. Yes.
19 Q. And did you make the change -- the
20 gender change on this one?
21 A. Yes.
22 Q. Why did you approve this one?
23 A. Because it says individual

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1 underwent irreversible genital reassignment
2 surgery and that the surgery was completed.
3 Q. If the letter had stated that the
4 surgeon anticipated that the person would need
5 to return for follow-up surgery, would that
6 have made a difference to your decision?
7 A. Not since the letter stated that he
8 had had irreversible gender reassignment
9 surgery and it was completed, no. I don't
10 know what kind of follow-up surgery that could
11 have been.
12 Q. So the note about follow-up surgery
13 wouldn't change the outcome of you changing
14 the gender, correct?
15 A. Because I'm not a doctor and I
16 don't know what the follow-up surgery would
17 have been.
18 (Plaintiff's Exhibit Number 27 was
19 marked for identification. A copy
20 is attached.)
21 Q. This next document is marked as
22 Plaintiff's Exhibit 27. It is discovery
23 number 236. Could you please describe this

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1 document?
2 A. It's a letter from the doctor
3 stating that they had performed a procedure of
4 chest -- I don't know how you say that.
5 Q. Is it chest masculinization?
6 A. Okay. Performed by me to
7 irreversibly -- irreversibly correct his
8 anatomy and appearance. And it goes on to say
9 that -- has completed sexual reassignment in
10 accordance with the appropriate medical
11 procedures. It says on 10-21-14 I performed
12 and completed sexual reassignment surgery.
13 Q. Is that your initials at the top?
14 A. Yes.
15 Q. And you changed the gender on this
16 person from female to male?
17 A. Yes.
18 Q. The only surgical procedure listed
19 is chest masculinization; is that correct?
20 A. Yes.
21 Q. Would you consider that a top or
22 bottom surgery?
23 A. The chest I would think would be

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1 top.
2 Q. So this person was changed in the
3 system even though bottom surgery wasn't
4 performed; is that correct?
5 A. Well, it says performed by me to
6 irreversibly correct his anatomy. Then down
7 here it says has completed sexual reassignment
8 in accordance with appropriate medical
9 procedures.
10 Q. Okay. So you're --
11 A. Performed and completed the sexual
12 reassignment surgery.
13 Q. You are reading that as chest
14 masculinization plus more procedures?
15 A. It's stating that they have
16 completed the sexual reassignment surgery.
17 Q. Which was chest masculinization,
18 right?
19 A. Well, it says they did that. Now
20 that -- if that's all they did I'm not sure
21 because it says it's completed the sexual
22 reassignment according with the appropriate
23 medical procedures.

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1 Q. Doesn't the doctor only mean chest
2 masculinization surgery here?
3 MR. CHYNOWETH: Object to the form.
4 A. I'm not a doctor. I don't know
5 what the doctor means. I'm just reading what
6 I'm reading.
7 Q. Do you know what other procedures
8 outside of chest masculinization that would
9 be?
10 A. No, because it just says completed
11 sexual reassignment.
12 Q. So the only procedure listed here
13 is chest masculinization, right?
14 A. Yes, that's the only thing listed
15 on that one.
16 (Plaintiff's Exhibit Number 28 was
17 marked for identification. A copy
18 is attached.)
19 Q. This is marked as Plaintiff's
20 Exhibit 28. In discovery it is listed as
21 238. Would you please describe this document?
22 A. It's a letter from the doctor
23 stating that this person had undergone gender

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1 altering surgical procedures. And then it
2 states that -- has had appropriate clinical
3 treatment including gender reassignment
4 surgery.
5 Q. Are those your initials at the top?
6 A. Yes.
7 Q. Did you change the gender on the
8 record for this person?
9 A. I did.
10 Q. Do you see the word complete in the
11 letter?
12 A. I do not.
13 Q. Do you see the word irreversible in
14 the letter?
15 A. No, I do not.
16 (Plaintiff's Exhibit Number 29 was
17 marked for identification. A copy
18 is attached.)
19 Q. This next exhibit will be marked as
20 Plaintiff's Exhibit 29. It is marked in
21 discovery as 167. Could you please describe
22 this document?
23 A. It's a letter from a doctor stating

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1 that he examined the subject and that all the
2 surgeries had been completed, but it was not a
3 letter from the doctor that completed the
4 surgery.
5 Q. First, are those your initials at
6 the top?
7 A. Yes.
8 Q. And what did you write as a
9 notation above your initials?
10 A. Must present letter from doctor
11 that performed surgery or amended birth
12 certificate.
13 Q. And do you see where it's -- does
14 it state in the letter she has completed all
15 surgeries necessary?
16 A. It does.
17 Q. Does it state including genital
18 reconstruction?
19 A. Yes.
20 Q. And then after including genital
21 reconstruction it states to bring her body
22 into alignment with her gender, correct?
23 A. Yes.

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1 Q. And why didn't you approve this?
2 A. Because the doctor did not perform
3 the surgery. He just examined.
4 Q. So once you saw -- tell me when you
5 knew that this wasn't the surgeon from your
6 perspective.
7 A. I have completed a physical
8 examination of her subsequent to these
9 procedures.
10 Q. Did you think the letter was
11 fraudulent?
12 A. I didn't know if it was or not, but
13 it did not meet our policy. It was not from
14 the surgeon.
15 Q. Do you see where it says in the
16 third paragraph Destiny Clark has undergone
17 medical and psychological testing, receiving
18 ongoing hormone replacement therapy, and was
19 referred for and received surgical procedures
20 to irreversibly correct her anatomy to match
21 her gender?
22 A. Yes.
23 Q. That isn't enough for there to be a

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1 change in the system under policy order 63?
2 A. No, because it was not from the
3 surgeon that performed the surgery.
4 Q. The next exhibit is Plaintiff's
5 Exhibit 30 marked in discovery as 169.
6 (Plaintiff's Exhibit Number 30 was
7 marked for identification. A copy
8 is attached.)
9 Q. Could you please describe this
10 document?
11 A. A letter from the doctor stating
12 that he performed a surgical procedure related
13 to gender transformation.
14 Q. Okay. Are those your initials at
15 the top?
16 A. Yes.
17 Q. And is that your note above your
18 initials?
19 A. Yes.
20 Q. Can you please read that note for
21 us?
22 A. Per PX with doctor office, doctor
23 did not --

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1 Q. Let me stop you. Can you -- if you
2 have any acronyms, can you explain what that
3 means for the record?
4 A. Okay. Per phone call with the
5 doctor's office doctor did not perform
6 complete gender reassignment surgery. Must
7 have letter stating complete surgery has been
8 performed or an amended birth certificate.
9 Q. So you didn't accept this letter,
10 correct?
11 A. Right.
12 Q. What made you not accept it?
13 A. Because it said I performed a
14 surgical procedure, and it's on the same
15 person that previous one was when they
16 submitted something from the doctor that had
17 just examined them.
18 Q. What does the previous letter from
19 that doctor have anything to do with this
20 letter?
21 A. It's for the same person.
22 Q. But how does that change your
23 analysis when you see this letter from a

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1 surgeon?
2 A. Because this letter states all
3 these procedures have been done, and he just
4 put I performed a surgical procedure. He did
5 not say he did a complete surgery or a
6 complete irreversible surgery. It just said a
7 surgical procedure.
8 Q. What if a wasn't there?
9 A. It still doesn't say that he did
10 the complete surgery or it was irreversible.
11 Q. We have previous documents that
12 don't state the word complete and
13 irreversible, correct?
14 A. Correct.
15 Q. And they were approved, right?
16 A. They stated irreversible or
17 complete, I think. There may have been one
18 that didn't. I don't remember.
19 Q. Let's look on this one. So on
20 Plaintiff's Exhibit 28 does it say the word
21 complete or irreversible on that document?
22 A. No.
23 Q. So why --

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1 A. This one doesn't.
2 Q. So why wasn't this document
3 approved, which is Plaintiff's Exhibit 30?
4 A. Because it says has been living as
5 a transgender female -- having been living as
6 a transgender female has previously been to my
7 practice for evaluation prior to gender
8 transformation surgery. Then it says I
9 performed a surgical procedure related to
10 gender transformation.
11 Q. So is one surgical procedure never
12 enough according to ALEA's policy 63?
13 A. It should be completed surgery.
14 Q. Although that didn't matter before,
15 right?
16 A. Well, this doesn't say they did the
17 surgery for gender reassignment surgery. It
18 just says he performed a surgical procedure
19 related to.
20 Q. Do you remember your phone call
21 with the doctor's office concerning
22 Plaintiff's Exhibit 30?
23 A. That's what I've got in my hand. I

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1 mean, I don't remember the whole conversation.
2 Q. Does your writing --
3 A. I called and asked if they had
4 completed the surgery or had the complete
5 surgery, and they said no.
6 Q. What did they tell you exactly?
7 A. That they had not completed the
8 surgery.
9 Q. Did you ask the applicant's
10 permission to make that phone call?
11 A. No.
12 Q. Did you have a warrant?
13 A. No.
14 Q. Do you remember speaking with the
15 applicant Ms. Destiny Clark on the phone?
16 A. No.
17 Q. Did you ever speak with Ms. Destiny
18 Clark on the phone?
19 A. I'm not sure.
20 Q. I'm going to mark this next exhibit
21 as Plaintiff's Exhibit 31.
22 (Plaintiff's Exhibit Number 31 was
23 marked for identification. A copy

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1 is attached.)
2 Q. It is document 131 in the
3 discovery. Could you please describe this
4 document?
5 A. It's an email from Diane Woodruff.
6 Q. And what does that -- and who is
7 the email to?
8 A. To me.
9 Q. What's the subject of the email?
10 A. Well, it's from me also. I sent it
11 to J.J. The subject it says Iowa now changes
12 the gender for transgender individuals the
13 same way we do. I just thought you might want
14 to see that for argument sake. I figure
15 eventually legal and DL will want to take a
16 look at the whole process again.
17 Q. Why did Ms. Woodruff send that to
18 you?
19 A. I guess because I was supervisor
20 over the medical unit.
21 Q. Were there ever -- the way this is
22 written, Iowa now changes the gender for
23 transgender individuals the same way we do,

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1 that infers that -- you are -- you are aware
2 that there's other states that do it
3 differently, right?
4 A. Yes, that's what I've heard.
5 Q. Why does it matter that other
6 driver's license offices might do it the same
7 way you all do it?
8 A. I don't know that it does matter.
9 Q. Why would she send it to you then?
10 A. You would have to ask her.
11 Q. Do you know what she meant by I
12 just thought you may want to see that for
13 argument sake?
14 A. No. You would have to ask her.
15 Q. It seems as if it refers to a
16 previous conversation. Am I wrong in that
17 assumption?
18 A. I don't remember a previous
19 conversation about Iowa.
20 Q. That's not what I'm asking. Have
21 there been any previous conversations about
22 the policy?
23 A. Not that I recall.

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1 Q. Do you know why she would say that
2 legal and DL will want to look at the whole
3 process again?
4 A. You would have to ask her.
5 Q. So you have -- you have no idea why
6 she sent you this?
7 A. I guess just an informative email
8 stating that Iowa does it the same way we do.
9 Q. You forwarded it to Jerrolynn
10 Spencer; is that correct?
11 A. Yes.
12 Q. Why would you forward it to
13 Jerrolynn Spencer?
14 A. Just to let her know Iowa does it
15 the same way we do.
16 Q. Why does that matter though?
17 A. It doesn't really. We just go by
18 our policy.
19 Q. If you just go by the policy, then
20 why is there any questioning of the policy?
21 A. I don't see that as a question of
22 the policy.
23 Q. Maybe this is support of the

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1 policy. Why is that -- the support of the
2 policy in question?
3 A. I don't see it as that. I just see
4 it as an email. She's just saying that Iowa
5 does it the same as we do.
6 Q. Would she ever send you an email of
7 another state which does it a different way?
8 A. She might.
9 Q. I guess my thought is if it's -- if
10 you're just enforcing policy and not thinking
11 about whether or not it's adequate or not I
12 don't know why an email like this would be
13 sent. You don't know either?
14 A. Huh-uh.
15 Q. I'm going to mark this next exhibit
16 as Plaintiff's Exhibit 32.
17 (Plaintiff's Exhibit Number 32 was
18 marked for identification. A copy
19 is attached.
20 Q. In discovery it's listed as 165.
21 Could you please describe this document?
22 A. It's an email I sent to Maryland.
23 It says the State of Alabama has an applicant

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1 that states she had a sex change and has
2 presented a Maryland birth certificate. The
3 name on the certificate is what we have in our
4 system, but the sex in our system is male and
5 on the certificate it's female. What is the
6 process for Maryland to amend a birth
7 certificate for sex changes? Does the birth
8 certificate not indicate that it was amended
9 when the change has been made?
10 Q. Why did you send that email to
11 Maryland?
12 A. Because we had a birth certificate
13 from Maryland. Alabama birth certificates
14 show the change at the bottom if it has been
15 amended. And I was trying to see if
16 Maryland -- if it would be on the birth
17 certificate that it had been amended or not.
18 Q. So you weren't sure if the Maryland
19 birth certificate had been amended or if it
20 was the original birth certificate?
21 A. It looks like the sex we had in our
22 system was different from the sex on the birth
23 certificate.

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1 Q. Do you know why?
2 A. That's what I was trying to find
3 out why, if Maryland does not put that it has
4 been amended. Some of them say amended on
5 them. Some of them don't I've come to find
6 out.
7 Q. Was that what you found out here?
8 A. I don't think I ever got an answer
9 from her.
10 Q. So in this situation the applicant
11 had a birth certificate from Maryland that
12 stated female, right?
13 A. Right.
14 Q. But in the Alabama database you all
15 had the applicant down as male; is that right?
16 A. Yes.
17 Q. And was the individual trying to
18 get a change in your Alabama system to female,
19 from male to female?
20 A. Yes.
21 Q. Did you make that change in the
22 system?
23 A. I'm really not sure because I don't

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1 know who this was. It was just a question I
2 sent an email on. So I don't have a license
3 number or anything to check it.
4 Q. You don't recall whether or not you
5 made the change or not?
6 A. Huh-uh. It may have been somebody
7 that was in one of the driver's license
8 offices and they called me. I'm not sure.
9 Q. So the Maryland birth certificate
10 with female wasn't enough for you to make the
11 change, right?
12 A. Well, we were -- I was asking them
13 if it was amended or not.
14 Q. What did the individual say about
15 her birth certificate?
16 A. I'm really not sure. Like I said,
17 I sent this just to ask, and I'm not sure who
18 it was on.
19 Q. Did you ask the individual if the
20 birth certificate was amended?
21 A. I don't know if I even talked to
22 the individual.
23 Q. What if the individual from

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1 Maryland -- from the Maryland -- what if the
2 individual from the Maryland government told
3 you that this wasn't an amended birth
4 certificate? What would you do at that point?
5 A. If I knew who the person was, then
6 I would I guess contact my chain of command
7 and tell them they were trying to give a
8 fraudulent birth certificate.
9 Q. How do you know it's fraudulent?
10 A. Well, we would check it out if
11 Maryland says that they write amended on it
12 and it didn't have amended.
13 Q. What if that was the original birth
14 certificate?
15 A. I mean, I can't do anything but
16 speculate because I'm not sure if I even saw
17 the birth certificate or if this was from a
18 call that I had received from a driver's
19 license office.
20 Q. Okay. I'm going to show you
21 Plaintiff's Exhibit 33.
22 (Plaintiff's Exhibit Number 33 was
23 marked for identification. A copy

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1 is attached.)
2 Q. What is this exhibit? What does
3 this document state? Oh, and it's discovery
4 number 256, Plaintiff's Exhibit 33.
5 A. It looks like it's a State of
6 Maryland birth certificate.
7 Q. What did you -- and are those your
8 initials at the bottom?
9 A. Yes.
10 Q. And what's the date say by your
11 initials?
12 A. The date?
13 Q. Yeah, next to your initials.
14 A. 9-19 of '17.
15 Q. Can you look back onto Plaintiff's
16 Exhibit 32?
17 A. Yeah, it says 9-19-17.
18 Q. And the date on Plaintiff's Exhibit
19 32 is 9-19-2017?
20 A. Uh-huh.
21 Q. Would you say that this is the
22 birth certificate in question --
23 A. It could be.

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1 Q. -- concerning the email?
2 A. I mean, there's no name, so I
3 don't --
4 Q. So you don't know if this is the
5 birth certificate that's --
6 A. I mean, with the dates you would
7 assume it is, but I can't say for sure.
8 Q. What does your note say on --
9 A. It says amended birth
10 certificate -- oh, I'm sorry.
11 Q. Yeah. Let me finish the question,
12 thank you, because it makes it easier. What
13 does your note say on Plaintiff's Exhibit 33
14 above your initials?
15 A. Amended birth certificate, subject
16 instructed to take original to driver's
17 license office and DO office, to call medical.
18 Q. Can you explain what that note
19 means?
20 A. Yes, because if it was the
21 original -- I mean, if it was an amended birth
22 certificate more than likely it would have a
23 raised seal on it. So I instructed them to

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1 take the birth certificate to the driver's
2 license office and then for them to call me
3 because apparently this must be all I had was
4 a copy of it like this.
5 Q. When you say them you're referring
6 to the applicant?
7 A. Yes.
8 Q. So when the applicant sent in this
9 birth certificate, that wasn't enough for you,
10 right?
11 A. Right.
12 Q. How come?
13 A. Because it doesn't say amended on
14 it. That's why they were instructed to take
15 the one that would have had a raised seal to
16 the driver's license office.
17 Q. So you didn't want to make the
18 change in the system, right?
19 A. Right.
20 (Plaintiff's Exhibit Number 34 was
21 marked for identification. A copy
22 is attached.)
23 Q. The next exhibit is Plaintiff's

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1 Exhibit 34. It's document 129 in the
2 discovery. Can you please explain what this
3 document is?
4 A. It's an email from Barbara Tony to
5 me.
6 Q. Who is Barbara Tony?
7 A. She works on the sixth floor. She
8 kind of screens calls for the -- well,
9 actually the whole headquarters as far as
10 driver's license.
11 Q. So --
12 A. She takes calls and tries to help,
13 you know, people on the phone.
14 Q. Would you say she's a receptionist
15 in the driver's license division?
16 A. She's an administrative support
17 assistant 2.
18 Q. To whom? She's an administrative
19 to whom?
20 A. Well, she takes phone calls for
21 driver's license.
22 Q. Is that the help desk? Is she
23 working the help desk?

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1 A. No.
2 MS. BARNES: It's ASA-2.
3 MR. ARKLES: Numeral.
4 MR. BOONE: Oh, oh, oh.
5 Q. And this is -- you stated this is
6 an email from Barbara Tony?
7 A. Uh-huh.
8 Q. To --
9 A. To me.
10 Q. What is the subject?
11 A. It says gender change.
12 Q. Can you read the email? And I
13 guess just say redacted where there's a
14 redacted portion?
15 A. It says contact information. I
16 assume there was a phone number to contact the
17 person. Want to know what has to be done to
18 change the sex on his DL. No bottom surgery
19 has been done.
20 Q. Do you know why Ms. Tony said no
21 bottom surgery has been done?
22 A. I would assume that whoever she was
23 talking to stated that.

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1 Q. Does Ms. Tony know about policy
2 order 63?
3 A. She used to work in the medical
4 unit, so I'm sure she probably does.
5 Q. If not for her working in the
6 medical unit would she have known about policy
7 order 63?
8 A. Probably not.
9 Q. I thought that only you,
10 Ms. Eastman, and Jerrolynn Spencer had
11 conversations with individuals about this
12 policy?
13 A. I mean, I don't know what the
14 conversation was. It's just they called and
15 wanted to know what the sex on the -- how to
16 change the sex on the license, and apparently
17 they gave her that information. I don't know
18 what she told him on the phone. I was not in
19 on that conversation.
20 Q. You don't know if the policy was
21 explained to that individual on the phone?
22 A. No. I mean, when I called them I'm
23 sure I explained it, but I don't know what

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1 Barbara explained to them.
2 Q. So this -- the language bottom
3 surgery, that's -- you don't know if that's
4 been used within ALEA?
5 A. What do you mean?
6 Q. Have you ever heard individuals use
7 the term bottom surgery since you've been
8 working at ALEA?
9 A. No, not really.
10 Q. Other than in this email?
11 A. I mean, we don't go around talking
12 about bottom surgeries or anything.
13 Q. And like you've said, there's no
14 guidance that says bottom surgery anywhere?
15 A. Huh-uh.
16 Q. Either verbal or written?
17 MR. CHYNOWETH: Answer yes or no.
18 Q. Yeah. Say yes or no for the
19 record.
20 A. No.
21 Q. Who can make the change in the
22 system from M to F or F to M?
23 A. I mean, I can change it. Jerrolynn

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1 Spencer can. I'm sure Diane still has the --
2 they can change it out in the driver's license
3 offices.
4 Q. Every driver's license office can
5 make the change?
6 A. Uh-huh.
7 Q. When was that --
8 MR. CHYNOWETH: Yes or no.
9 A. Oh, yes. I'm sorry.
10 Q. When was that implemented where all
11 the driver's license offices can make the
12 change?
13 A. I think it's only been maybe last
14 year.
15 Q. Is it possible that some people
16 could have their gender marker changed without
17 the medical unit ever knowing about it?
18 A. Yes.
19 Q. Does every -- does every letter
20 from a physician's office have to go through
21 the medical unit?
22 A. They can take the letter to the
23 driver's license office, but usually they'll

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1 call us after they -- you know, for us to
2 review it. They'll fax us a copy of it.
3 Q. But it's possible they could look
4 over the letter and make the change in the
5 system at the individual driver's license
6 office? Let me finish the question. So it's
7 possible they can make the change from male or
8 female or female to male in the individual
9 driver's license offices out in the field
10 without the physician's letter ever going to
11 the medical unit; is that correct?
12 A. Yes. They're supposed to fax it to
13 us.
14 Q. How do they know to fax -- how do
15 they know to fax it to you?
16 A. It's just kind of a procedure that
17 they should fax the letters to us so we could
18 have it on file.
19 Q. How would somebody know that -- how
20 would someone know to fax the physician's
21 letters out in the field?
22 A. Like I said, normally if they get a
23 letter they will call us about it and they'll

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1 fax us a copy so we can review it and tell
2 them if it's okay, that it meets policy.
3 Q. There's no written guidance for
4 individuals out in the field to fax these
5 physician letters into the medical unit, is
6 there?
7 A. No.
8 Q. Has there been any verbal guidance
9 or training for individuals out in the field
10 that would instruct them to fax these letters
11 into the medical unit?
12 A. I think it's been verbally told to
13 them to fax it in to us.
14 Q. When?
15 A. I can't say for sure.
16 Q. So just over time --
17 A. Yes.
18 Q. -- it's been told to them --
19 A. In the policy it says for them to
20 scan it.
21 Q. And they have this policy in
22 their -- all their offices?
23 A. They have a copy of that policy.

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1 Q. Where is it located in the driver's
2 license offices?
3 A. I'm not sure. I'm not an examiner,
4 so I don't go to the exam office.
5 Q. But you know about the exam
6 offices, right?
7 A. Some, not everything they do.
8 Q. Do you know if this policy is
9 posted in any of the exam offices?
10 A. I don't know.
11 Q. I'm going to mark this as
12 Plaintiff's Exhibit 35.
13 (Plaintiff's Exhibit Number 35 was
14 marked for identification. A copy
15 is attached.)
16 Q. And it is going to be pages in the
17 discovery 135, 136, and 137 all for
18 Plaintiff's Exhibit 35. Could you look over
19 these three pages and explain what these three
20 pages are?
21 A. Okay. It's an email from me to
22 Chief Pregno.
23 Q. What month and year is this email?

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1 A. October 31st of 2016.
2 Q. And what does this email -- it
3 looks like you wrote a message and you
4 forwarded an email from down below, right?
5 A. Yes.
6 Q. What does the original email
7 concern?
8 A. The one at the bottom?
9 Q. Yes.
10 A. It says, Hello, I'm researching
11 driver's license laws in respect to
12 transgender people. From what I've found
13 online it looks like Alabama requires proof of
14 sex reassignment surgery, court order, and/or
15 amended birth certificate in order to change
16 the person's gender marker on the birth
17 certificate. However, I'm having trouble
18 finding the relevant statute. Could you point
19 me to the policy statute that covers gender
20 sex marker changes?
21 Q. And you know the answer to that
22 question, right?
23 A. I know where the policy is.

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1 Q. And this email went originally to
2 driver's license info?
3 A. Uh-huh. Yes. I'm sorry.
4 Q. Yeah, thank you. And someone from
5 driver's license info, I'm assuming Barbara
6 from up top, right?
7 A. I'm not sure who it came from.
8 Q. Well, it came from driver's license
9 info to you; is that correct?
10 A. Yes.
11 Q. And why didn't you answer the email
12 since you know the answer?
13 A. Because I'm not supposed to be -- I
14 mean, I just felt this was something that
15 should come from higher up to see if it was --
16 that we should answer it.
17 Q. How come?
18 A. Because I didn't know who this
19 person was --
20 Q. Did you know who --
21 A. -- actually asking the question.
22 Q. Do you know everybody who contacts
23 the driver's license division?

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1 A. No.
2 Q. So why didn't you answer this
3 question since you know the answer?
4 A. Like I said, I know what the policy
5 is, but I wasn't sure really if there was a
6 statute that we have on that subject.
7 Q. It doesn't ask for -- it says
8 policy or statute, right?
9 A. Uh-huh.
10 Q. And you do know the policy.
11 A. Yes.
12 Q. So is it because you saw the word
13 statute that's the reason why you didn't
14 answer it?
15 A. Yes.
16 (Plaintiff's Exhibit Number 36 was
17 marked for identification. A copy
18 is attached.)
19 Q. I now have Plaintiff's Exhibit 36,
20 which is also marked as 138, 139, 140, 141,
21 and 142 in the discovery. Could you please
22 describe this email chain?
23 A. It looks like it's an email from me

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1 to Sergeant Duke.
2 Q. It looks to me as if this
3 originally starts --
4 A. That's what I was trying to figure
5 out.
6 Q. Yeah. So the first page has emails
7 from 2018, correct?
8 A. Yes.
9 Q. And it refers back to emails from
10 September of 2017 on the rest of the pages,
11 right?
12 A. Yes.
13 Q. The bulk of these emails from page
14 2 to page -- or I should say from discovery
15 139 to discovery 142 looks like a back and
16 forth between yourself and Ms. Alice Harrison,
17 correct?
18 A. Yes.
19 Q. What is Ms. Alice Harrison trying
20 to find out here?
21 A. I believe she was trying to see
22 what our policy was to change the sex on the
23 driver's license.

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1 Q. And on page 140 it looks like you
2 stated our division chief -- can you read what
3 you wrote in that email to Ms. -- to Alice
4 Harrison?
5 A. Our division chief and legal
6 division is responsible for setting
7 departmental policies. I will pass your
8 questions and email address up the chain of
9 command.
10 Q. And did you do that?
11 A. Yes. I sent it to Sergeant Duke.
12 He's my next in the chain.
13 Q. It says on -- at the bottom where
14 it says doc 141 in the discovery, do you see
15 that? You stated that you sent her the
16 policy. It seemed as if she doesn't know if
17 this is the current policy; is that right?
18 A. I believe what I did was I copied
19 this part of the policy because really this is
20 just procedures.
21 Q. So the only thing you would share
22 with the public is the top part of the
23 policy? And we are referring back to

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1 discovery number 2. The first two paragraphs
2 are the only paragraphs you would share with
3 the public?
4 A. That's all I shared with her.
5 Q. Is --
6 A. Because that's what's needed to
7 change the sex on the license.
8 Q. So if you look at the last page,
9 discovery number 142, which is part of
10 Plaintiff's Exhibit 36, she didn't think --
11 she thought -- it looks like she didn't think
12 that that was -- that you just created the
13 policy that day?
14 A. Right.
15 Q. The reason you are saying is that
16 you copied and pasted from the policy --
17 A. Yes.
18 Q. -- and put it into an email
19 document?
20 A. Uh-huh.
21 MR. CHYNOWETH: You need to say yes
22 or no.
23 A. Yes.

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1 MR. BOONE: Okay. I'm going to --
2 I think we need to take a break.
3 (Break taken.)
4
5 Q. Okay. I'm going to look back at
6 Plaintiff's Exhibit 35 and Plaintiff's
7 Exhibit -- it should be 34. No.
8 MR. ARKLES: Are you looking for 33
9 and 32?
10 Q. Oh, yes. I'm looking back at
11 Plaintiff's Exhibit 32 and 33. This was the
12 situation with the Maryland birth certificate,
13 right?
14 A. Yes.
15 Q. If you never hear back from the
16 individual from Maryland's government, what
17 would you do?
18 A. I told them to take the original to
19 the driver's license office.
20 Q. You told the applicant to take the
21 original?
22 A. Apparently so. That's what I wrote
23 on there.

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1 Q. Did you write anything about the
2 raised seal in your note?
3 A. No.
4 Q. Why did you bring up the raised
5 seal?
6 A. Because I've had others that will
7 have a birth certificate, and I'll tell them
8 to take it to the driver's license office so
9 they can see the raised seal on it.
10 Q. Do you have a history of receiving
11 fraudulent birth certificates?
12 A. Not that I'm aware of.
13 Q. So why are you so adamant about
14 raised seals?
15 A. Because from that I can't tell
16 anything. I mean, it's a copy. It's not
17 coming from Maryland.
18 Q. Even if there was a raised seal,
19 would -- suppose there was a raised seal.
20 Would you have made the change in the system?
21 A. If I had the original birth
22 certificate with the raised seal, yes.
23 Q. Even if it didn't say amended?

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1 A. Yes. Some states --
2 Q. So you --
3 A. Sorry. Some states do not write
4 amended on there I have found out.
5 Q. So if you had a raised seal but it
6 doesn't say amended, that's good enough for
7 you to make the change in the system?
8 A. Yes.
9 Q. So you thought this birth
10 certificate, Plaintiff's Exhibit 33, was
11 fraudulent; is that correct?
12 A. No, I didn't say I thought it was
13 fraudulent.
14 Q. Well, what are you saying then?
15 A. I'm saying that is a copy, came
16 through the fax, and they need to take it to
17 the driver's license and show them the
18 original that they got from Maryland.
19 Q. What happens if the driver's
20 license office sees that there's an original
21 one from Maryland?
22 A. They should change the sex or call
23 me and say it has a raised seal and I would

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1 change it.
2 Q. And you would change the sex,
3 right?
4 A. Yes.
5 Q. Do you know -- I don't remember
6 exactly. Do you know what happened here?
7 A. If it was changed or not?
8 Q. Yeah. Do you know if this was
9 changed or -- or anything? Do you know what
10 happened after 9-19 concerning the Maryland
11 birth certificate situation?
12 A. No.
13 Q. Is it possible that the applicant
14 never heard back from the driver's license
15 office or ALEA?
16 A. If they took it into the office,
17 there wouldn't be anything for them to hear
18 back from.
19 Q. Who contacted that individual?
20 A. I don't know if -- like I said, I
21 don't know if that came from the driver's
22 license office, they took it into the driver's
23 license office, or they called me. I'm not

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1 sure.
2 Q. So you're not sure --
3 A. Because I don't know who that
4 individual is, so I can't look at the driver's
5 license to see what happened.
6 Q. From what you can see today though,
7 you're not sure if this applicant was ever
8 contacted again, right?
9 A. No. I couldn't say for sure.
10 Q. It's possible this applicant was
11 never heard from again?
12 A. It's possible.
13 Q. If you're coming from another
14 state, what do you need to get an Alabama
15 driver's license?
16 A. If you're coming from another
17 state?
18 Q. Correct.
19 A. Well, if you're transferring in
20 from another state, you would transfer your
21 other license. You would hand that over to
22 Alabama. And you would show -- I believe you
23 would show your Social Security card and your

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1 driver's license -- I mean, your birth
2 certificate.
3 Q. Do you have to have a birth
4 certificate to get an Alabama driver's
5 license?
6 A. Yes, I believe so. I don't work in
7 the exam office. But, yes, I believe you do
8 have to.
9 Q. Now, I know from personal
10 experience that a passport can be also
11 considered a primary document like a birth
12 certificate. Does that sound right to you?
13 A. Yes.
14 Q. So you could use a passport in lieu
15 of a birth certificate, correct?
16 A. I believe so.
17 Q. What do you know about the medical
18 advisory board?
19 A. It's a group of doctors that we
20 have on a board that we contact if we need
21 assistance or guidance.
22 Q. Have you ever contacted any of the
23 doctors?

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1 A. Yes.
2 Q. How many times do you think?
3 A. Not very often. Maybe three times
4 a year.
5 Q. Have you ever contacted any of the
6 doctors on the medical advisory board about
7 the policy order 63?
8 A. No.
9 Q. Why not?
10 A. Because it's set out in the policy
11 there. We don't -- there wasn't any need to.
12 Q. I know earlier you said that you're
13 not a doctor, but you would just make a
14 decision based off your knowledge, right?
15 A. Right.
16 Q. You've never felt compelled to call
17 a doctor regarding policy order 63?
18 A. To call on the medical advisory
19 board?
20 Q. That's correct. You've never felt
21 compelled to call on the medical advisory
22 board --
23 A. No.

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1 Q. -- regarding any of the
2 applications under policy order 63?
3 A. No.
4 Q. You said no, right?
5 A. Yes.
6 Q. I just wanted to -- has anyone in
7 the medical unit ever called the medical
8 advisory board to consult about policy order
9 63?
10 A. No.
11 Q. Do you know if the medical advisory
12 board was involved with crafting policy order
13 63?
14 A. I don't believe so.
15 Q. Do you know why not?
16 A. They're mostly for driver's
17 license, for the medical standards for
18 driver's licensing. It's more of the medical
19 of like endo, cardio, things we follow people
20 for that have conditions that might be
21 dangerous when they're driving.
22 Q. So you wouldn't contact them about
23 any of the different types of operations --

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1 A. No.
2 Q. -- that individuals have regarding
3 their sex and gender, right?
4 A. I've never contacted them.
5 Q. But you're not aware of those
6 procedures, right?
7 A. No.
8 Q. To your knowledge, how many
9 transgender people work at ALEA?
10 A. To my knowledge?
11 Q. To your knowledge.
12 A. One.
13 Q. Are you friendly with this person?
14 A. Yes.
15 Q. Does their transgender status have
16 any -- you know, does that change anything
17 about how you interact with them?
18 A. No.
19 Q. Have you heard -- ever heard anyone
20 at ALEA express their personal opinions about
21 transgender people?
22 A. I mean, there's been a conversation
23 before.

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1 Q. Can you give a little bit more
2 detail?
3 A. I mean, I was not in on the
4 conversation. I don't know. But I got an
5 email stating that it made somebody
6 uncomfortable, so I addressed it.
7 Q. What did the email state?
8 A. That they had -- this person had
9 friends that were transgender and that they
10 were uncomfortable at some of the
11 conversations I guess that was back there.
12 Q. Were the conversations -- would you
13 say that the conversations were anti-
14 transgender then?
15 A. I don't know. I wasn't there in on
16 them.
17 Q. What do you think would make
18 someone uncomfortable if they were transgender
19 about conversations at work?
20 A. I guess you would have to talk to
21 that person.
22 Q. You have no idea?
23 A. Well, different things make

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1 different people uncomfortable, so I couldn't
2 say. I can't speak for somebody else.
3 Q. Do you think that that person -- do
4 you doubt -- I'll retract.
5 Do you know who was a part of that
6 conversation?
7 A. No.
8 Q. Do you know what that conversation
9 was about?
10 A. Not really. Like I said, I just
11 got an email saying it was something that made
12 them feel uncomfortable.
13 Q. But it was relating to transgender
14 individuals?
15 A. I would assume since that's what it
16 said in the email, that they had friends that
17 were transgender.
18 Q. So it sounds like the person was
19 uncomfortable, but you're not sure if the
20 substance of the conversation was something to
21 make someone uncomfortable; is that right?
22 A. I don't know what the conversation
23 was, so I cannot answer that.

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1 Q. Would you be surprised to hear that
2 somebody was uncomfortable by a conversation
3 at ALEA?
4 A. I mean, anybody could be
5 uncomfortable about conversations, you know.
6 It could --
7 Q. And I know that you had to address
8 this email in your role as a supervisor; is
9 that right?
10 A. Yes.
11 Q. What did you tell the people who
12 work under you regarding this email that went
13 out?
14 A. I did not tell them I got an email
15 because the person wanted to stay anonymous,
16 so I did not state that I got an email. I
17 just addressed that they needed to be aware of
18 people around them and, you know, be -- I
19 can't think of the word I'm trying to say --
20 considerate to other people's feelings and not
21 to -- they don't need to discuss sex,
22 politics, religion in the workplace, that they
23 need to, you know, be considerate that they

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1 might hurt somebody's feelings or they may
2 make somebody uncomfortable.
3 Q. Was the person who was
4 uncomfortable someone who worked in your unit?
5 A. Yes.
6 Q. So the individuals in question that
7 were having the conversation that was arguably
8 causing discomfort, they work in your unit; is
9 that correct?
10 A. Yes.
11 Q. Who were those individuals?
12 A. Like I said, I was not there. I do
13 not know who was talking, so I cannot answer
14 that.
15 Q. You don't know who was having the
16 conversation?
17 A. No. They did not in -- the email
18 did not specify certain people.
19 Q. Did the email specify the person
20 who felt uncomfortable?
21 A. Well, it was an email from them,
22 yes.
23 Q. Who was that person?

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1 MR. CHYNOWETH: Answer the
2 question.
3 A. At the time -- do you want the name
4 at the time or the name now?
5 Q. Both.
6 A. Okay. The email was from Barry
7 Navarre.
8 Q. I'm sorry. What was the name?
9 A. Barry Navarre.
10 Q. Okay. Yeah, can you spell that?
11 A. Let me think. I always have to
12 write. N-A-V-A-R-R-E, I believe.
13 Q. N-A-V --
14 A. -- A-R-R-E.
15 Q. And the first name Barry, is it
16 spelled B-A-R-R-Y?
17 A. Yes.
18 Q. Is that the name that this
19 individual goes by now or is that the --
20 A. No. It's Layla. Same last name.
21 Q. So Barry Navarre goes by --
22 A. Layla.
23 Q. How do you spell that?

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1 A. L-Y -- L-A-Y-L-A, I think.
2 Q. L-A-Y-L-A?
3 A. Uh-huh.
4 Q. And Navarre is still the same?
5 A. Uh-huh.
6 Q. Does Layla still work in the
7 medical unit?
8 A. Well, CDL unit or the CDL part.
9 Q. Under your supervision though,
10 correct?
11 A. Yes.
12 Q. How did Layla feel about your
13 explanation to the group?
14 MR. CHYNOWETH: Object to the form.
15 A. I never heard anything else.
16 Q. Layla never said thank you?
17 A. Huh-uh.
18 MR. CHYNOWETH: Answer yes or no.
19 A. No.
20 Q. No, Layla never said thank you,
21 correct?
22 A. No.
23 Q. And Layla still works there --

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1 A. Yes.
2 Q. -- right now in the CDL unit?
3 A. Right.
4 Q. Not the medical unit that does
5 policy order 63 or anything?
6 A. No.
7 Q. How long has Layla worked with
8 ALEA?
9 A. I believe it may be -- I think
10 maybe July will be two years, next July.
11 Q. So about a year and a half you
12 would say?
13 A. Yeah, somewhere around there.
14 Q. What do you think about transgender
15 people?
16 MR. CHYNOWETH: Can I object? Is
17 this directed at her as 30(b)6 or as an
18 individual?
19 Q. As an individual.
20 A. I mean, it's not for me to judge
21 what people do. So, I mean, I have no
22 problem.
23 Q. You're saying you have no problem

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1 with transgender people?
2 A. Right.
3 Q. Have your opinions about
4 transgender people changed over time?
5 A. I guess I never really thought
6 about it a whole lot. I mean, they're
7 individuals. I just try to be, you know, kind
8 or whatever.
9 Q. Do you believe that someone who was
10 assigned male at birth who identifies as
11 female and who has had sex reassignment
12 surgery is a woman?
13 A. Well, yeah, if they've had the
14 surgery.
15 Q. So if they've had the surgery they
16 are a woman to you?
17 A. Yes.
18 Q. And what surgery would that be?
19 MR. CHYNOWETH: Are you just asking
20 her in her individual --
21 MR. BOONE: That's right.
22 MR. CHYNOWETH: I mean, I'm going
23 to object to this line of questioning. I

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1 just -- I don't see how this is relevant to
2 any claim or defense in this lawsuit.
3 MR. BOONE: I'm trying to get at
4 bias.
5 MR. CHYNOWETH: You can ask your
6 question.
7 A. Okay. What was the question
8 again?
9 Q. Sure. You said -- first I said do
10 you believe that someone who was assigned male
11 at birth who identifies as female, who has had
12 sex reassignment surgery is a woman? You've
13 said yes to that, right?
14 A. Yes.
15 Q. And then I said why? I'll ask it
16 now. Why?
17 MR. CHYNOWETH: Object to the
18 form. You may answer.
19 A. Because they've had the surgery to
20 change them.
21 Q. Which surgery?
22 MR. CHYNOWETH: Object to the form.
23 A. I mean, all I can see is the

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1 outside if I see somebody, what they dress
2 like. I mean, I don't know what they've done,
3 if I just run into somebody on the street, so
4 I don't know how to answer.
5 Q. But it does matter to you what
6 they've had done, right, as you've just
7 testified?
8 MR. CHYNOWETH: Object to the form.
9 Q. You said surgery matters to you
10 whether or not they are a woman, right?
11 MR. CHYNOWETH: Object to the form.
12 A. But there could be somebody that
13 hasn't had surgery that looks like a woman
14 that I wouldn't know the difference, you
15 know. I don't know what you're trying to get
16 at.
17 Q. I'll ask this. Do you believe that
18 someone who was assigned female at birth who
19 identifies as male and who has not had sex
20 reassignment surgery, would you say that
21 person is a man?
22 MR. CHYNOWETH: Object to the form.
23 A. If they haven't had the surgery?

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1 Q. This is someone who identifies as a
 2 man but this man has not had surgery?
 3 A. So it's a female that identifies as
 4 a man?
 5 Q. It's someone who was assigned --
 6 I'll say it again. I'll go slowly.
 7 Do you believe that someone who was
 8 assigned female at birth, identifies as a man,
 9 has not had sex reassignment surgery, do you
 10 believe that person is a man?
 11 MR. CHYNOWETH: Object to the form.
 12 A. Not if they haven't had any
 13 surgery.
 14 Q. Do you have any concerns about
 15 people transitioning gender?
 16 MR. CHYNOWETH: Object to the form.
 17 A. Like I said, it's not my place to
 18 judge anybody.
 19 Q. Do you have any concerns --
 20 MR. CHYNOWETH: Object to the form.
 21 Q. -- about people transitioning
 22 gender?
 23 A. No.

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1 Q. Do you know any transgender people
 2 personally outside of work?
 3 A. No.
 4 Q. Do you have any religious beliefs
 5 about people transitioning gender?
 6 MR. CHYNOWETH: Object to the form.
 7 A. I don't think my religious beliefs
 8 are --
 9 Q. Do you have any religious beliefs
 10 about people transitioning gender?
 11 MR. CHYNOWETH: Object to the form.
 12 A. Well, if you're born a male, I
 13 mean, your DNA never changes. You're still
 14 going to be a male as far as that.
 15 Q. Is that -- is that your religious
 16 beliefs or is that your personal beliefs?
 17 MR. CHYNOWETH: Object to the form.
 18 A. I don't -- I don't think God makes
 19 mistakes, but I don't know what a person has
 20 been through or their mind-set or anything, so
 21 --
 22 Q. Would you say that someone
 23 transitioning goes against God's creation?

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1 MR. CHYNOWETH: Object to the form.
 2 A. It goes against what the Bible
 3 says, I believe.
 4 Q. If you knew someone that was
 5 assigned male at birth but identifies as a
 6 woman, would you be comfortable referring to
 7 that person as miss, ma'am, and she?
 8 MR. CHYNOWETH: Object to the form.
 9 A. Okay. Man to a woman?
 10 Q. That's right.
 11 A. No, I have no problem with that.
 12 Q. Do you refer to Layla -- what
 13 pronouns do you use for Layla?
 14 A. She.
 15 Q. How did Layla identify, to your
 16 knowledge, when she started working at ALEA?
 17 A. As a male.
 18 Q. Did she tell you at some point that
 19 she would like to be -- tell me how -- how did
 20 she come out to you?
 21 A. She sent me an email.
 22 Q. And what did that email say?
 23 A. That she was I guess coming out.

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1 She was transgender. And she wanted to be
 2 called Layla and referred to as, you know,
 3 she, her.
 4 Q. How did you let everyone know that
 5 under you?
 6 A. Well, first I went -- because I had
 7 never dealt with anything like that before, so
 8 I went and -- down to Diane's office. And
 9 then I -- we called Pregno and I went up to
 10 her office and told her. And apparently she
 11 had already talked with Stan Goolsby, Layla
 12 had, so Layla -- I mean, Pregno called Stan.
 13 And so he handled letting everybody know
 14 that's in the office, you know.
 15 Q. Who is Stan Goolsby?
 16 A. He's our -- what is his title --
 17 MS. BARNES: Personnel director.
 18 A. Personnel director.
 19 Q. I think you said Layla contacted
 20 Stan already?
 21 A. Yes.
 22 Q. How come you went straight to Deena
 23 Pregno at the top skipping Duke and --

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1 A. Because I don't think he was there
2 that day.
3 Q. And what about Archer and the
4 other --
5 A. I don't think Archer was here then.
6 Q. Was there a reason you went to
7 Deena after Diane?
8 A. Well, I didn't tell Diane what -- I
9 just said we need -- I think we need to talk
10 to Deena -- I mean, Pregno about -- Chief
11 Pregno. Like I said, I had never --
12 Q. What did Stan Goolsby, the
13 personnel director, tell everyone that works
14 under you and works with Layla?
15 A. I can't remember the whole
16 conversation -- I mean, the whole meeting, but
17 that we had a transgender in the office or in
18 driver's license and, you know, just --
19 Q. Just to be aware of it?
20 A. Yeah, because they were changing
21 the bathrooms I think to -- what's it called?
22 I can't think of words right now. Unisex
23 bathrooms I guess.

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1 Q. What do you think about them
2 changing the bathrooms?
3 MR. CHYNOWETH: Object to the form.
4 A. I didn't have any problem with it.
5 Q. So the employees working under you
6 knew about the transition obviously from Barry
7 to Layla, right?
8 A. Yeah, after we had the meeting and
9 everything.
10 Q. And when did the uncomfortable
11 conversation occur?
12 A. That was before then.
13 Q. That uncomfortable conversation
14 happened before Layla ever told you about --
15 A. Uh-huh.
16 Q. And the uncomfortable conversation
17 happened before Layla spoke with Stan Goolsby?
18 A. Yes.
19 Q. Would you have any concerns if you
20 heard that a transgender person was a teacher
21 in the elementary school in the school
22 district where you live?
23 MR. CHYNOWETH: Object to the form.

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1 A. No, I don't think so.
2 Q. You don't think so?
3 A. Huh-uh.
4 Q. Are you --
5 MR. CHYNOWETH: Answer yes or no.
6 A. No.
7 Q. Are you aware of any problems that
8 may arise with transgender people who have a
9 sex listed on their driver's license that's
10 different than the sex they identify with?
11 A. I mean, I can see where it might
12 cause some problems.
13 Q. Like?
14 A. But it's not every day that you're
15 showing your driver's license to people. I
16 mean, I don't just get my driver's license out
17 and show it, you know, everywhere I go, so --
18 Q. You do show your driver's license
19 sometimes, right?
20 A. Yeah, but not --
21 Q. You would show it if you got pulled
22 over by a police officer, for example?
23 A. Oh, yeah.

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1 Q. And you think that would cause some
2 problems, right?
3 A. Well, this day and time I think
4 officers are aware of different situations,
5 and as long as the picture and the -- you
6 know, what they're dressed like matches I
7 don't see where it would -- they should have a
8 problem.
9 Q. So you think sex might not be
10 necessary on driver's licenses?
11 MR. CHYNOWETH: Object to the form.
12 A. I didn't say that.
13 Q. Do you think that sex might not be
14 necessary then on driver's licenses?
15 MR. CHYNOWETH: Object to the form.
16 A. I think it's an identifying thing
17 that needs to be on there.
18 Q. How so?
19 A. Well, I guess on the side of law
20 enforcement not just getting pulled over but
21 if somebody was killed or something.
22 MR. CHYNOWETH: I'm sorry. This is
23 outside of the scope of this witness' 30(b)(6)

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1 topics.

2 Q. Have you heard Deena Pregno express

3 any opinions about transgender people?

4 A. No.

5 Q. Have you heard Diane Woodruff

6 express any opinions about transgender

7 people?

8 A. No.

9 Q. Have you heard Jerrolynn Spencer

10 express any opinions about transgender people?

11 A. No.

12 Q. What training do driver's license

13 examiners and specialists receive on

14 interacting with transgender members of the

15 public?

16 A. I don't know if there's any special

17 training. They are just supposed to treat

18 them like -- accept for documents.

19 Q. Can you say that again or be a

20 little bit more specific? So there's no

21 training for transgender members to how to

22 interact with transgender members of the

23 public?

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1 A. Not that I'm aware of.

2 Q. To your knowledge, has anyone

3 within the agency ever been reprimanded for

4 interacting disrespectfully with a transgender

5 person?

6 A. Not to my knowledge.

7 Q. Was anyone -- no one was

8 reprimanded whenever Layla expressed concerns

9 about being uncomfortable at work?

10 A. No.

11 Q. Why not?

12 A. There was no specific person

13 identified in the email.

14 MR. BOONE: Okay. One last break.

15 (Break taken.)

16 MR. BOONE: We have nothing

17 further.

18 (Defendant's Exhibit Number 27 was

19 marked for identification. A copy

20 is attached.)

21

22 EXAMINATION

23 BY MR. CHYNOWETH:

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1 Q. I have just a few questions for

2 you, Jeannie.

3 A. Okay.

4 Q. Did you or have you or anyone else

5 in the medical unit ever called a doctor's

6 office to follow up on a letter requesting a

7 sex change on a driver's license?

8 A. Yes.

9 Q. Have you or anyone else in the

10 medical unit ever asked someone at a doctor's

11 office whether a sex reassignment procedure

12 has been performed?

13 A. Yes.

14 Q. Did anyone at the doctor's office

15 on any occasion that you are aware of ever say

16 what do you mean by sex reassignment

17 procedure?

18 A. No.

19 Q. Did anyone at a doctor's office

20 ever say what procedures do you mean by sex

21 reassignment surgery?

22 A. No.

23 Q. Did you gather together some

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1 medical documentation of other people in

2 response to discovery requests directed by

3 plaintiffs to you in this lawsuit?

4 A. Yes.

5 Q. Were these medical records of

6 people who had requested a sex change on their

7 Alabama driver's license?

8 A. Yes.

9 Q. Would the best evidence of what

10 documentation we considered sufficient to

11 change the sex on your license be contained in

12 the medical records we've produced?

13 A. Yes.

14 Q. Are there other medical conditions

15 unrelated to sex changes in which you have

16 contacted a doctor's office to ask questions

17 about documentation?

18 A. Yes.

19 Q. Can you give some examples?

20 A. Yes. Like if we get one report one

21 year saying that they had had a seizure or

22 passed out, loss of consciousness, and then

23 the next paper did not say that, then we might

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1 contact them to see what the last date of
2 episode was. Or if they mark the form saying
3 yes, they've had one, then we might call to
4 see when the last episode was.
5 Q. And in a situation like that if you
6 were to ask the doctor's office when the last
7 episode was, would they ever say what do you
8 mean by episode?
9 A. No.
10 Q. Is it possible that different
11 doctors might mean different things by
12 episode?
13 A. No, I don't believe so.
14 Q. When you use these medical terms in
15 speaking with the doctor's office do they
16 indicate to you whether they understand what
17 you're asking for?
18 A. Yes. They don't ask what I'm
19 asking for.
20 Q. Were you asked about letters from
21 doctors regarding the plaintiff in this
22 lawsuit named Destiny Clark?
23 A. Yes.

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1 Q. Do you recall the number of pages
2 of documents you were asked about by the
3 plaintiff's lawyer when you were asked about
4 those documents?
5 A. Two.
6 Q. I'm going to put Defendant's
7 Exhibit 27 into the record. Can you state the
8 number of documents I've given to you and
9 please read the Bates label in the bottom
10 right corner?
11 A. This?
12 Q. Yes. Can you read those?
13 A. It's 283, 284, and 285.
14 Q. Can you tell me the date at the top
15 of document 283?
16 A. January 15th of 2016.
17 Q. Now, do you recall any conversation
18 with Destiny Clark prior to receiving this
19 letter, or do you only remember receiving this
20 letter?
21 A. I just remember the letter. I
22 don't remember.
23 Q. Do you see a number written on this

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1 document --
2 A. Yes.
3 Q. -- at the top? What would that
4 number be?
5 A. Driver's license number.
6 Q. What would that indicate to you in
7 connection with this doctor's letter?
8 A. I don't know what you mean.
9 Q. Does that give you any indication
10 as to the purpose of this doctor's letter?
11 A. We put the license number up there
12 to identify whose file it needs to go under
13 when we scanned it into the Paper Vision
14 System.
15 Q. Would that be because this letter
16 was provided in connection with a request to
17 change sex on a license?
18 A. Yes.
19 Q. Can you tell me why -- did you find
20 this January 15th, 2016, letter to meet the
21 criteria for a sex change set out in policy
22 order 63?
23 A. No.

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1 Q. Can you explain why not?
2 A. Because it states that they
3 performed a thorough physical examination and
4 did not say that they performed the surgery.
5 Q. Can you turn to the next page?
6 A. (Witness complies.)
7 Q. What is the date on this document?
8 A. March 31st of '16.
9 Q. So this is approximately two months
10 after first doctor's letter?
11 A. Yes.
12 Q. And is it from the same doctor or a
13 different doctor as contained in the first
14 letter?
15 A. The same doctor.
16 Q. Now, did the first letter state
17 that the doctor was the doctor that performed
18 the procedure?
19 A. No.
20 Q. Why -- we've been over this, so
21 just briefly why did you find this second
22 letter to be insufficient, based on your
23 handwritten note at the top?

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1 A. Because he did not perform -- state
 2 that he performed the surgery, that he just
 3 examined her.
 4 Q. And can you turn to the third
 5 document? And is this document D2 --
 6 A. 285.
 7 Q. -- 85?
 8 A. Uh-huh.
 9 Q. And is this from the same doctor or
 10 a different doctor as in the first two
 11 documents?
 12 A. This is from a different doctor.
 13 Q. Do you have any recollection as to
 14 why you would have obtained a third letter
 15 from a second doctor in connection with this
 16 sex change request?
 17 A. Because they wanted to have the sex
 18 changed on the license.
 19 Q. Do you recall anything about the --
 20 do you remember any of the conversations with
 21 Destiny Clark that would have led you to
 22 obtaining this third --
 23 A. No.

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1 Q. -- letter? And, again, briefly
 2 based on your written -- handwritten notes
 3 there at the top, why was this document
 4 insufficient under our policy for changing
 5 Destiny Clark's sex?
 6 A. Because it did not state that they
 7 performed the irreversible complete surgery.
 8 It just said a surgical procedure was done.
 9 Q. And I know you were asked this
 10 earlier, but again do you recall the
 11 conversation you had with the doctor's office
 12 after you received the letter?
 13 A. I really don't recall the whole
 14 conversation. In my notes I asked them if
 15 they had completed the surgery, and they said
 16 no.
 17 Q. And, again, you don't recall anyone
 18 at the doctor's office saying what do you mean
 19 by gender reassignment surgery?
 20 A. No.
 21 MR. CHYNOWETH: No further
 22 questions.
 23 MR. BOONE: No further questions.

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1
 2 (The deposition of JEANNIE EASTMAN,
 3 concluded on November 13, 2018, at
 4 4:34 p.m.)
 5
 6 FURTHER DEPONENT SAITH NOT
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1 REPORTER'S CERTIFICATE
 2 STATE OF ALABAMA)
 3 JEFFERSON COUNTY)
 4 I, Elaine Scott, Licensed Court
 5 Reporter and Commissioner for the State of
 6 Alabama at Large, hereby certify that on
 7 November 13, 2018, I reported the deposition
 8 of JEANNIE EASTMAN, who was first duly sworn
 9 to speak the truth in the matter of the
 10 foregoing cause, and that pages 1 through 160
 11 contain a true and accurate transcription of
 12 the examination of said witness by counsel for
 13 the parties set out herein.
 14 I further certify that I am neither
 15 of kin nor of counsel to any of the parties to
 16 said cause nor in any manner interested in the
 17 results thereof.
 18 _____
 19 ELAINE SCOTT, Court Reporter
 20 and Commissioner for the State
 21 of Alabama at Large,
 22 CCR License No. 354, Expires 9/30/18
 23 MY COMMISSION EXPIRES NOVEMBER 16, 2019

A				B
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DOC. 48-16

Exhibit 14

Plaintiffs' Supplemental Response to Defendants' First Interrogatories to Plaintiffs

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

DARCY CORBITT, et al.,)	
)	
Plaintiffs,)	Civil Action No. 2:18-cv-91-MHT-GMB
vs.)	
)	
HAL TAYLOR, in his official capacity as)	
Secretary of the Alabama Law Enforcement)	
Agency, et al.,)	
)	
Defendants.)	
)	
)	
)	
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**PLAINTIFFS’ SUPPLEMENTAL RESPONSE TO DEFENDANTS’ FIRST
INTERROGATORIES TO PLAINTIFFS**

Plaintiffs Darcy Corbitt, Destiny Clark, and Jane Doe, by and through their attorneys, respond as follows to Defendants’ interrogatories with a supplemental response to interrogatory number sixteen.

GENERAL OBJECTIONS AND QUALIFICATIONS

1. Plaintiffs object to Defendants’ discovery requests to the extent that any inquiry or request is overbroad, vague, ambiguous, and/or unduly burdensome.

2. Plaintiffs object to Defendants’ discovery requests to the extent that any inquiry or request seeks information or documents protected by the attorney-client privilege, or any other evidentiary privilege, including any privilege involving health care providers or the work-product doctrine.

3. Plaintiffs object to Defendants' discovery requests to the extent that any inquiry or request seeks information or documents not reasonably calculated to lead to the discovery of admissible evidence.

4. Plaintiffs object to Defendants' discovery requests to the extent that any inquiry or request seeks to have Plaintiff create documents that do not exist.

5. Plaintiffs object to Defendants' discovery requests to the extent that any inquiry or request seeks information or documents that would be unreasonably cumulative or duplicative or equally available to Defendant.

6. Plaintiffs object to Defendants' discovery requests to the extent that any inquiry or request calls for a legal conclusion.

7. Plaintiffs object to each of Defendants' discovery requests that is not limited by a specific time restriction.

8. Plaintiffs reserve the right to supplement their responses to these requests to the extent that additional information becomes available to them.

Supplemental Response

16. For each plaintiff, state every gender confirming procedure or gender reassignment procedure the plaintiff has undergone.

RESPONSE: To the extent not answered through documents produced pursuant to Plaintiffs' initial disclosures, in Plaintiffs' Responses to the Defendants' First Requests to Admit, or in the rest of this response, the Plaintiffs object to this interrogatory because it is irrelevant to any party's claim or defense, not proportional to the needs of the case, overly broad, unduly burdensome and invasive, and seeks material protected by psychiatrist-patient or psychologist-patient privilege.

Without waiving any of the objections and qualifications noted in this response or above, and subject to the Protective Orders in this case. Plaintiffs state that the only gender-confirming surgery Destiny Clark has received is augmentation mammoplasty.

s/ Brock Boone
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CERTIFICATE OF SERVICE

I certify that on October 19, 2018, I served the above document on Brad Chynoweth (bchynoweth@ago.state.al.us), Michael Robinson (michael.robinson@alea.gov), and Win Sinclair (wsinclair@ago.state.al.us) via email.

s/ Brock Boone

DOC. 50

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

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

**PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT, DECLARATORY RELIEF,
AND PERMANENT INJUNCTION**

Pursuant to Federal Rule of Civil Procedure 56, Plaintiffs Darcy Corbitt, Destiny Clark, and Jane Doe hereby move the Court for summary judgment on the claims in Counts I, II, III, and IV of Plaintiffs' First Amended Complaint (Doc. No. 38), and seek a declaration that the Alabama Law Enforcement Agency Policy Order 63, which requires transgender people to submit proof of having undergone genital surgery prior to correcting the sex on their driver's license, is unconstitutional. Plaintiffs' also seek a permanent injunction of Policy Order 63.

For the reasons set forth more fully in Plaintiffs' accompanying Memorandum of Law, the surgical requirement of Policy Order 63 is unconstitutional under both the Due Process and Equal Protection clauses of the Fourteenth Amendment to the U.S. Constitution, as well as the Free Speech clause of the First Amendment to the U.S. Constitution. Because there is no genuine dispute as to any material fact, Plaintiffs are entitled to summary judgment as a matter of law. Plaintiffs are also entitled to a permanent injunction of Police Order 63 because they have prevailed on the merits of their claims, there is no adequate remedy at law for the violations of their constitutional rights, and because irreparable harm will result if the Court does not

permanently enjoin the Act. Accordingly, Plaintiffs' Motion for Summary Judgment and Requests for Declaratory Relief and a Permanent Injunction should be granted.

Respectfully submitted this 8th day of February 2019.

s/ Brock Boone
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Counsel for Plaintiffs Darcy Corbitt, Destiny Clark, and Jane Doe

CERTIFICATE OF SERVICE

I certify that on February 8, 2019, I filed the foregoing electronically using the Court's CM/ECF system, which will serve all counsel of record.

/s/ Brock Boone

DOC. 52-2

Exhibit 2

In The Matter Of:

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

*Jeannie Eastman
November 13, 2018*

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

Original File 11-13-18 Jeannie Eastman.txt

Min-U-Script® with Word Index

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

4
5 CIVIL ACTION NO.: 2:18-CV-00091-MHT-GMB

6
7 DARCY CORBITT, DESTINY CLARK, and JANE DOE,
8 Plaintiffs,

9 V.

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

13 Defendants.

14
15 DEPOSITION OF JEANNIE EASTMAN

16 November 13, 2018

17
18 Taken before Elaine Scott, CCR,
19 Commissioner for the State of Alabama at
20 Large, in the Law Offices of the Alabama
21 Attorney General, 501 Washington Avenue,
22 Montgomery, Alabama, on Thursday, November 13,
23 2018, commencing at approximately 12:59 p.m.

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A P P E A R A N C E S

FOR THE PLAINTIFFS:

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ALABAMA CIVIL LIBERTIES UNION FOUNDATION

Brock Boone

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Montgomery, Alabama 36106

FOR THE DEFENDANTS:

OFFICE OF THE ATTORNEY GENERAL, STATE OF

ALABAMA

Brad A. Chynoweth

501 Washington Avenue

Montgomery, Alabama 36130

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

ALSO PRESENT:

Meredith Barnes

COURT REPORTER:

BAKER REALTIME WORLDWIDE REPORTING & VIDEO

Elaine Scott

250 Commerce Street

Third Floor, Suite One

Montgomery, Alabama 36104

1 preparation for the deposition?

2 A. I spoke to the attorneys.

3 Q. Did you speak to anyone else who
4 wasn't an attorney about the deposition?

5 A. Well, Chief Pregno was in one of
6 the meetings. We had a meeting last week
7 about some documents.

8 Q. And what was -- if something is
9 privileged, just let me know. But was
10 anything said in the meeting? What was said
11 in that meeting with Chief Pregno?

12 A. It was just how we came about the
13 documents.

14 Q. Like what was -- like what about
15 the documents?

16 A. We -- that she ran a query on
17 driver's license where the sex had been
18 changed on them so we could get -- pull the
19 documents of the ones that had sexual
20 reassignment surgery.

21 Q. What about documents that were
22 denied?

23 A. There's really no way to pull those

1 without driver's license numbers.

2 Q. So we, as in the opposing side, I
3 guess, aren't able to see who's denied; is
4 that right?

5 A. No. Like I said, there's no way to
6 pull those documents without driver's license
7 numbers.

8 Q. Who else was present at the time of
9 the meeting with Chief Pregno?

10 A. Meredith and Jennifer Colquitt.
11 She's one of the IT people.

12 Q. Why was she there, Jennifer
13 Colquitt?

14 A. Because she's the one that ran the
15 query.

16 Q. In your opinion do you think
17 anything might be missing from the discovery?

18 A. No, sir.

19 Q. Is there any reason why you
20 wouldn't be able to answer my questions fully
21 and accurately today?

22 A. No, sir.

23 Q. Is it your understanding that

1 would do?

2 A. I would probably comment in the
3 system.

4 Q. Where?

5 A. In the DB2.

6 Q. Is there a section for comments
7 under that individual person?

8 A. It's under their driver's license.

9 Q. What do you do with the doctor's
10 letter?

11 A. We would scan that into our Paper
12 Vision System.

13 Q. Would you write anything on there
14 like denied or anything like that?

15 A. Yes, usually. And probably just
16 put -- like if they -- like if it didn't say
17 that they had the surgery, then I would write
18 that on there, that that's what we needed, a
19 doctor's letter stating that they had the
20 complete surgery.

21 Q. Do you ever make any phone calls?

22 A. I have called the doctor's office.

23 Q. How come?

1 A. Because the letter did not say that
2 the surgery was complete.

3 Q. Where do you get that guidance
4 from?

5 A. What do you mean?

6 Q. Who told you to call the doctors'
7 offices?

8 A. I don't recall anybody telling me
9 to.

10 Q. So you came up with that on your
11 own?

12 A. I mean, we call about other things
13 in the medical unit, so -- I mean, I don't
14 know that that's said anywhere, that we call
15 or not call.

16 Q. Does it say in the policy to call
17 if you don't think the surgery was complete?

18 A. No.

19 Q. Does it say under number 2 in that
20 middle section on Plaintiff's Exhibit 7 -- on
21 page two of Plaintiff's Exhibit 7, what does
22 it say if a physician -- can you read that
23 line?

1 A. If a physician letter is presented
2 there is no need to contact the physician
3 unless there is some doubt as to the
4 authenticity of the letter unless the
5 surgeries have been performed in other
6 countries.

7 Q. So it doesn't say anything about
8 calling if the surgery is complete, right?

9 A. No. It just says if we have a
10 doubt of the authenticity.

11 Q. But you have --

12 A. Which that says under the exam
13 office part.

14 Q. So you have no idea where you heard
15 about calling individuals' doctors' offices?

16 A. No.

17 Q. Roughly how many applications have
18 you received from people seeking to change the
19 sex designation on their driver's license?

20 A. I can't really give you a number of
21 how many we've received, by how many we have
22 done is like maybe ninety something.

23 Q. What do you mean done?

1 had the complete surgery or an amended birth
2 certificate.

3 Q. And you do have the power to
4 approve or deny an application yourself?

5 A. Yes.

6 Q. Do you ever have to talk to someone
7 above you in a supervisory role about the
8 application if you approve or deny it?

9 A. No, I don't have to talk to someone
10 else.

11 Q. Do you ever share those approvals
12 or denials with anyone else?

13 A. No.

14 Q. Do you ever share approvals or
15 denials with the legal department?

16 A. No.

17 Q. How often do you call the
18 physician's office when you receive an
19 application?

20 A. I really don't recall but calling
21 one time.

22 Q. What about Jerrolynn Spencer? Do
23 you know of instances where she's called the

1 physician's office?

2 A. I'm sure she has.

3 Q. For the instance of -- that you
4 recall about calling the physician's office,
5 why did you call?

6 A. Because the letter did not say they
7 had had the completed surgery.

8 Q. Who did you talk to at that
9 physician's office?

10 A. It would have been the nurse that
11 answered the phone or a nurse.

12 Q. What did you ask the nurse?

13 A. If the subject had had the
14 completed surgery.

15 Q. What did the nurse say?

16 A. They said no in this case.

17 Q. Before you called the physician's
18 office, did you first contact the applicant
19 for permission?

20 A. No.

21 Q. Did you get a warrant?

22 A. No.

23 Q. What measures do you take to

1 protect the privacy of applicants that are
2 trying to change the sex on their driver's
3 licenses?

4 A. I just call the doctor's office and
5 what that person -- if they had completed the
6 surgery. It's, you know, to see if they met
7 with our policy.

8 Q. And the doctor's offices give out
9 that information?

10 A. They just said yes or no, you
11 know. They said no on this case.

12 Q. Did they have any concerns about
13 giving out private medical information to you?

14 A. No, because it was a letter that
15 was sent by them. So I was just asking on the
16 letter. Most of the time they'll put on there
17 if you have any questions call.

18 Q. And you know for sure in this
19 instance that the letter came from the
20 office? Did you know in this instance that
21 the letter came directly from the physician's
22 office to ALEA?

23 A. I'm not sure if it came from the

1 physician's office or from the applicant.

2 Q. So if it came from the applicant,
3 it didn't come directly from the physician's
4 office, correct?

5 A. I mean, if the applicant sent it
6 in, no, it didn't come directly from --

7 Q. Does that applicant know that you
8 might call their physician?

9 A. No.

10 Q. Would you say that your medical
11 record is private?

12 A. The medical record is.

13 Q. Does that include surgeries on
14 someone's body? Are surgeries on someone's
15 body a part of the medical record?

16 A. Yes.

17 Q. And that would be private, right?

18 A. Yes.

19 Q. Did you ever hesitate about calling
20 a physician's office?

21 A. I mean, I don't like calling the
22 physician's office, but if there's a question
23 about the documentation that was sent in to

1 us, then I would call.

2 Q. But no one told you to call the
3 physician's office about whether or not the
4 surgery was complete or not, right?

5 A. No.

6 Q. And you have no idea where that
7 idea came from, right?

8 A. I just -- as far as I know, you
9 know, we've always called about different
10 things, so --

11 Q. So you call physicians' offices on
12 other issues in the medical unit?

13 A. Yes.

14 Q. Can you look back at Exhibit 7,
15 which again is discovery number 1 and number
16 2? And you've already stated you recognize
17 this document, right?

18 A. Yes.

19 Q. How did you first learn about the
20 policies in Plaintiff's Exhibit 7?

21 A. What do you mean how did I learn?

22 Q. When did you first hear about
23 policy order 63?

1 A. When I became supervisor over the
2 medical unit, I believe.

3 Q. So you think day one you learned
4 about it?

5 A. Well, I can't say it's day one. I
6 am sure it's when someone had called in
7 questioning it.

8 Q. Do you remember who you asked a
9 question of since you probably didn't know
10 what to do, right?

11 A. I can't say for sure.

12 Q. Has anyone told you why this policy
13 is in place?

14 A. Well, it's in place to -- so, you
15 know, not just everybody can come in and
16 change the sex on the license.

17 Q. Does that happen frequently?

18 A. What? Somebody coming in wanting
19 the sex changed? No. I mean --

20 Q. Do you suspect that there's people
21 that come in to change the sex and they're
22 fraudulent, they're not actually transgender?

23 A. I'm sure there could be.

1 Q. Do you know of any instances of
2 that happening?

3 A. No.

4 Q. So as far as you know that's never
5 happened?

6 A. As far as I know.

7 Q. So then do you know why the policy
8 is in place if it's not really a fear?

9 MR. CHYNOWETH: Object to the form.

10 Q. Is that the only reason that the
11 policy is in place?

12 A. (No response.)

13 Q. I'll restate. Is the only reason
14 the policy is in place is to stop people from
15 come in and changing the sex fraudulently?

16 A. It may not be the only reason, but
17 I'm not sure.

18 Q. Is that the only reason you know
19 of?

20 A. I don't know.

21 Q. You don't know if that's the only
22 reason you know of?

23 A. I don't know where you're going.

1 where to go with this. Okay. I didn't start
2 taking all the responsibilities right off when
3 I was supervisor because I had another unit
4 also. So I'm sure if I got a letter I went to
5 her and asked her about it.

6 Q. So as best as you can recall Diane
7 might explain what the letter means?

8 A. That would have been who I would
9 have gone to if I --

10 Q. Did you ever receive any written
11 guidance outside of what's in the policy?

12 A. No.

13 Q. Have you ever given any verbal
14 guidance about the policy?

15 A. Yes.

16 Q. What was it?

17 A. Well, applicants take letters into
18 the driver's license offices, and then they'll
19 call me. And they'll usually fax the letter
20 over to me so I can read it to guide them if
21 it has the correct information on it to change
22 the sex on the license.

23 Q. But do you give any verbal guidance

1 A. And then got a letter from another
2 doctor for the same person stating that the --
3 they had a surgical procedure.

4 Q. What's wrong with that?

5 A. It did not say they had the
6 complete surgery, which the doctor stated in
7 the other letter that they had, that he had
8 just examined them.

9 Q. It sounds like you know what
10 complete surgery is, right?

11 A. Well, the complete surgery would
12 have to be having all your -- the top part,
13 bottom part done surgical to make you a female
14 or a male.

15 Q. Who told you that?

16 A. I mean, nobody told me that.

17 Q. So you came up with that?

18 MR. CHYNOWETH: Object to the form.

19 A. Well, I don't see how a person
20 could be a -- I mean -- let me think which
21 way -- I mean, if you -- how can you change
22 your sex if you don't have the top and bottom
23 done? That's what we mean by completed

1 surgery.

2 Q. But you're not a physician, right?

3 A. No, I'm not.

4 Q. So where are you getting this
5 from? Correct me if I'm wrong. It sounds
6 like it's coming from you, right?

7 A. Yes, I said that.

8 Q. So you think the policy should be a
9 little bit more rigorous and doctors should --
10 it should require that doctors' notes have
11 under penalty of perjury, right?

12 A. Well, to make sure it that is from
13 a doctor, yes, what is in it is true.

14 Q. And you think that some physicians
15 are not telling the truth; is that right?

16 A. I think there could be some that
17 don't.

18 Q. Do you have --

19 A. Or we could get forged letters.

20 Q. Couldn't someone forge a letter and
21 still put penalty of perjury on there?

22 A. It would be notarized and
23 everything.

1 A. No.

2 Q. Does it matter what that state's
3 policy for changing the sex designation on the
4 birth certificate is?

5 A. Not as long as we have an amended
6 birth certificate.

7 Q. So even if another state does not
8 force its citizens to have genital surgery
9 you'll still accept that amended birth
10 certificate; is that right?

11 MR. CHYNOWETH: Object to the form.

12 A. Yes.

13 Q. I'll repeat it in another way
14 also. If another state does not require
15 surgery, then you'll still accept that birth
16 certificate, right?

17 A. If it's an amended birth
18 certificate, yes.

19 Q. Then do you know why Alabama
20 insists that genitals match the license for
21 the driver?

22 MR. CHYNOWETH: Object to form.

23 A. I mean, that's our policy.

1 Q. Does it matter what country they
2 were born in?

3 A. No.

4 Q. Does it matter what the country's
5 policy for changing the sex designation on the
6 birth certificate is?

7 A. No.

8 Q. And under policy order 63 a person
9 may have the sex designation changed on their
10 license with a letter from a physician who
11 performed gender reassignment surgery; is that
12 correct?

13 A. Yes.

14 Q. What happens if the physician has
15 retired, died, or otherwise becomes
16 unavailable?

17 A. I've never had that happen, so --

18 Q. What would you do if that were to
19 occur?

20 A. I would probably ask for guidance.

21 Q. From whom would you ask guidance
22 from?

23 A. I would probably have to go up my

1 because you would have to have the top done.

2 Q. So are you saying that if you were
3 to have what some -- some are all bottom
4 surgery, but if you don't have top then it
5 doesn't work under the policy, they would be
6 denied?

7 A. It says complete surgery. So it
8 has to be irreversible completed surgery.

9 Q. I still don't know what that means,
10 what complete surgery means.

11 MR. CHYNOWETH: Object to the form.

12 Q. You don't have a definition of
13 complete surgery, do you? Let me retract
14 that. Do you have a definition of complete
15 surgery?

16 A. Do I have anything written out that
17 states what complete surgery is; is that what
18 you're asking? No, I don't.

19 Q. Yes. Do you have any verbal
20 guidance as to what complete surgery is?

21 A. Complete surgery would be having,
22 like I said, top and bottom both done.

23 MR. BOONE: Okay. If we could take

1 a short break.

2 (Break taken.)

3

4 Q. Someone could be assigned male at
5 birth but she is a transgender woman and
6 begins taking hormones and develops breasts.
7 She then has bottom surgery. Would she be
8 able to have the sex changed on her license?

9 A. If we get a letter from the doctor
10 stating she's had the complete irreversible
11 surgery, yes.

12 Q. But what if it just states the
13 bottom surgery procedures and not anything
14 about top surgery because it wasn't necessary,
15 would she be approved?

16 A. No. Our policy says completed
17 surgery. So if the doctor would state that it
18 was irreversible surgery, then it would be.

19 Q. So would top surgery not be
20 necessary for that woman?

21 A. I mean, I'm not a doctor, so --

22 Q. But you are --

23 A. What we require is a letter from

1 person physically present in Alabama has an
2 ID?

3 A. I'm sure that's possible.

4 Q. Would you agree some people carry
5 ID that is not their own?

6 A. I'm sure that could happen.

7 Q. Would you agree that not every
8 person physically present in Alabama was born
9 in Alabama?

10 A. Yes, I'm sure there's people that
11 weren't born here that's in Alabama.

12 Q. Would you agree that not every
13 person physically present in Alabama was born
14 in the United States?

15 A. Yes.

16 Q. Would you agree that it's possible
17 some transgender people have changed the sex
18 designation on their Alabama driver's license
19 without having surgery?

20 A. Not without a letter or amended
21 birth certificate.

22 Q. I'll ask again. Would you agree
23 that it is possible some transgender people

1 have changed the sex designation on their
2 Alabama driver's license without having
3 surgery if, for example, they were born in a
4 state that permitted amendments to the birth
5 certificates without proof of surgery?

6 A. Yes, if they --

7 Q. Can you say that again?

8 A. Yes, if they gave us an amended
9 birth certificate.

10 Q. I'm going to show you some
11 documents.

12 (Plaintiff's Exhibit Number 24 was
13 marked for identification. A copy
14 is attached.)

15 Q. This is marked as Plaintiff's
16 Exhibit 24. The discovery number is 208.
17 Could you please describe this document?

18 A. It's a letter stating that this
19 doctor had performed reassignment surgery,
20 successfully completed and in is compliance
21 with the World Professional Association for
22 Transgender Health.

23 Q. Do you recognize this document?

1 Q. And why didn't you approve this?

2 A. Because the doctor did not perform
3 the surgery. He just examined.

4 Q. So once you saw -- tell me when you
5 knew that this wasn't the surgeon from your
6 perspective.

7 A. I have completed a physical
8 examination of her subsequent to these
9 procedures.

10 Q. Did you think the letter was
11 fraudulent?

12 A. I didn't know if it was or not, but
13 it did not meet our policy. It was not from
14 the surgeon.

15 Q. Do you see where it says in the
16 third paragraph Destiny Clark has undergone
17 medical and psychological testing, receiving
18 ongoing hormone replacement therapy, and was
19 referred for and received surgical procedures
20 to irreversibly correct her anatomy to match
21 her gender?

22 A. Yes.

23 Q. That isn't enough for there to be a

1 surgeon?

2 A. Because this letter states all
3 these procedures have been done, and he just
4 put I performed a surgical procedure. He did
5 not say he did a complete surgery or a
6 complete irreversible surgery. It just said a
7 surgical procedure.

8 Q. What if a wasn't there?

9 A. It still doesn't say that he did
10 the complete surgery or it was irreversible.

11 Q. We have previous documents that
12 don't state the word complete and
13 irreversible, correct?

14 A. Correct.

15 Q. And they were approved, right?

16 A. They stated irreversible or
17 complete, I think. There may have been one
18 that didn't. I don't remember.

19 Q. Let's look on this one. So on
20 Plaintiff's Exhibit 28 does it say the word
21 complete or irreversible on that document?

22 A. No.

23 Q. So why --

1 A. This one doesn't.

2 Q. So why wasn't this document
3 approved, which is Plaintiff's Exhibit 30?

4 A. Because it says has been living as
5 a transgender female -- having been living as
6 a transgender female has previously been to my
7 practice for evaluation prior to gender
8 transformation surgery. Then it says I
9 performed a surgical procedure related to
10 gender transformation.

11 Q. So is one surgical procedure never
12 enough according to ALEA's policy 63?

13 A. It should be completed surgery.

14 Q. Although that didn't matter before,
15 right?

16 A. Well, this doesn't say they did the
17 surgery for gender reassignment surgery. It
18 just says he performed a surgical procedure
19 related to.

20 Q. Do you remember your phone call
21 with the doctor's office concerning
22 Plaintiff's Exhibit 30?

23 A. That's what I've got in my hand. I

1 driver's license -- I mean, your birth
2 certificate.

3 Q. Do you have to have a birth
4 certificate to get an Alabama driver's
5 license?

6 A. Yes, I believe so. I don't work in
7 the exam office. But, yes, I believe you do
8 have to.

9 Q. Now, I know from personal
10 experience that a passport can be also
11 considered a primary document like a birth
12 certificate. Does that sound right to you?

13 A. Yes.

14 Q. So you could use a passport in lieu
15 of a birth certificate, correct?

16 A. I believe so.

17 Q. What do you know about the medical
18 advisory board?

19 A. It's a group of doctors that we
20 have on a board that we contact if we need
21 assistance or guidance.

22 Q. Have you ever contacted any of the
23 doctors?

1 Q. -- regarding any of the
2 applications under policy order 63?

3 A. No.

4 Q. You said no, right?

5 A. Yes.

6 Q. I just wanted to -- has anyone in
7 the medical unit ever called the medical
8 advisory board to consult about policy order
9 63?

10 A. No.

11 Q. Do you know if the medical advisory
12 board was involved with crafting policy order
13 63?

14 A. I don't believe so.

15 Q. Do you know why not?

16 A. They're mostly for driver's
17 license, for the medical standards for
18 driver's licensing. It's more of the medical
19 of like endo, cardio, things we follow people
20 for that have conditions that might be
21 dangerous when they're driving.

22 Q. So you wouldn't contact them about
23 any of the different types of operations --

DOC. 52-3

Exhibit 3

In The Matter Of:

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

*Deena Pregno
November 14, 2018*

*Baker Realtime Worldwide Court Reporting & Video
250 Commerce Street
Third Floor, Suite One
Montgomery, Alabama 36104
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Original File 11-14-18 Deena Pregno.txt

Min-U-Script® with Word Index

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

4
5 CIVIL ACTION NO.: 2:18-CV-00091-MHT-GMB

6
7 DARCY CORBITT, DESTINY CLARK, and JANE DOE,
8 Plaintiffs,

9 V.

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

13 Defendants.

14
15 DEPOSITION OF DEENA PREGNO

16 November 14, 2018

17
18 Taken before Elaine Scott, CCR,
19 Commissioner for the State of Alabama at
20 Large, in the Law Offices of the Alabama
21 Attorney General, 501 Washington Avenue,
22 Montgomery, Alabama, on Thursday, November 14,
23 2018, commencing at approximately 9:00 a.m.

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A P P E A R A N C E S

FOR THE PLAINTIFFS:

AMERICAN CIVIL LIBERTIES UNION FOUNDATION

Gabriel Arkles

125 Broad Street

18th Floor

New York, New York 10004

ALABAMA CIVIL LIBERTIES UNION FOUNDATION

Brock Boone

Randall C. Marshall

P.O. Box 6179

Montgomery, Alabama 36106

FOR THE DEFENDANTS:

OFFICE OF THE ATTORNEY GENERAL, STATE OF

ALABAMA

Brad A. Chynoweth

501 Washington Avenue

Montgomery, Alabama 36130

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

ALSO PRESENT:

Meredith Barnes

COURT REPORTER:

BAKER REALTIME WORLDWIDE REPORTING & VIDEO

Elaine Scott

250 Commerce Street

Third Floor, Suite One

Montgomery, Alabama 36104

1 approximate date of when you think this policy
2 was most recently reviewed?

3 A. Late 2015 or early 2016.

4 Q. Okay. Are there any other written
5 or unwritten policies currently in effect
6 regarding sex designations on Alabama driver's
7 licenses?

8 A. No.

9 Q. And was this policy, the most
10 recent policy, issued under your authority?

11 A. Yes.

12 Q. Did you personally approve this
13 policy before it went into effect?

14 A. Yes.

15 Q. I'm now going to show you what's
16 marked as Plaintiff's Exhibit 4. Can you tell
17 us what this policy is?

18 A. It's policy order 63, revised date
19 July 1, 2015.

20 Q. So is this the policy that was in
21 effect most recently before the one that you
22 just reviewed that was D2?

23 A. Yes.

1 A. I don't know.

2 Q. Did the policy from 2004 at some
3 point change into the unwritten procedure that
4 you described to me?

5 A. Yes.

6 Q. When did that change happen?

7 A. I don't know.

8 Q. How did that change happen?

9 A. I don't know.

10 Q. Why did that change happen?

11 A. Which change?

12 Q. The change from the policy in 2004
13 to the unwritten procedure?

14 A. I guess to allow more latitude for
15 people requesting.

16 Q. In what way does the unwritten
17 procedure -- sorry. I should say in what way
18 did the unwritten procedure provide more
19 latitude than the policy from 2004?

20 A. Well, I'm not sure what the policy
21 was in 2004. I'm going off of the 2012
22 policy.

23 Q. Was the policy in -- I'm sorry.

1 Q. Was anyone involved other than the
2 legal unit?

3 A. I would have to say someone from
4 the medical unit.

5 Q. And would anyone aside from the
6 legal unit and someone from the medical unit
7 have been involved?

8 A. Probably the driver's license
9 division chief and at the time director of
10 public safety.

11 Q. Under whose authority was it
12 issued?

13 A. The director of public safety and
14 the driver's license division.

15 Q. Do you know who the director of
16 public safety was at that time?

17 A. No.

18 Q. Who was consulted in the process of
19 developing this policy?

20 A. I can't be completely sure because
21 I was not there, but I would say medical unit
22 personnel and legal.

23 Q. And were there particular

1 individuals or positions within the medical
2 unit who would have been consulted?

3 A. Just those people that handled the
4 request.

5 Q. Okay. So the people in the medical
6 unit who responded to individual requests --

7 A. Correct.

8 Q. -- to change sex designation --

9 A. Correct.

10 Q. -- would have been consulted in the
11 process?

12 A. Correct.

13 Q. Do you know if the medical advisory
14 board was involved?

15 A. I do not know.

16 Q. Do you have any reason to think
17 that the medical advisory board was involved?

18 A. I do not.

19 Q. Who would have had the final say in
20 what the policy was?

21 A. I would think the director and the
22 legal unit would be collaborative.

23 Q. Okay. So ultimately the director

1 of public -- of the Department of Public
2 Safety and the legal department would have to
3 come to an agreement?

4 A. Correct.

5 Q. Okay. What problems did the policy
6 seek to address?

7 A. A formal procedure for handling
8 those requests.

9 Q. Okay. So one goal of creating the
10 policy was to have a formal procedure; is that
11 correct?

12 A. And consistency.

13 Q. Okay. So another goal was to
14 create more consistency in how ALEA responded
15 to these requests; is that right?

16 A. Right.

17 Q. Were there any other goals in
18 creating this policy?

19 A. Not to my knowledge.

20 Q. Were there meetings about
21 developing the policy?

22 A. I don't know.

23 Q. Are you aware of any notes or

1 records taken from meetings about the
2 development of the policy?

3 A. No.

4 Q. Were any constraints taken into
5 account in creating the policy?

6 A. Can you be more specific? What do
7 you mean by constraints?

8 Q. When ALEA was developing its
9 policy, did they consider any limitations on
10 resources or programmatic needs that would
11 limit what they could do with the policy?

12 A. I'm not sure. It was -- the policy
13 was established based on the state statute for
14 changing the gender on a birth certificate.
15 That's what it was modeled after.

16 Q. Okay. Before settling on modeling
17 the state statute for birth certificates, did
18 ALEA consider any other options for the
19 policy?

20 A. Not that I'm aware of.

21 Q. Why not?

22 A. I don't know.

23 Q. Why did ALEA choose to model the

1 policy after the state birth certificate
2 statute?

3 A. We wanted to be consistent in how
4 we operated as a state.

5 Q. And why was consistency with how
6 the state operated for birth certificates
7 important?

8 A. Because if we were going to require
9 an amended birth certificate, we wanted to
10 make sure we were handling it in the right
11 manner.

12 Q. What does the right manner mean?

13 A. We want an amended birth
14 certificate which follows Alabama statutes, so
15 we wanted to be in line with what their
16 requirements were.

17 Q. Was the understanding of ALEA at
18 the time that it was bound to follow the
19 statute regarding birth certificates?

20 A. No.

21 Q. Was it the understanding of ALEA at
22 the time that it would be desirable to follow
23 the statute as far as birth certificates?

1 A. Well, basically -- let me clarify.
2 ALEA is a law enforcement agency. Although we
3 submit -- we produce a driver's license, it's
4 also an official identity document. And as
5 law enforcement we want to ensure the
6 information that is on the card is correct,
7 and so we want to make sure the information
8 we're providing to law enforcement officers,
9 correctional agencies, emergency responders,
10 when you question someone -- when a male
11 officer questions a female subject normally
12 they have more than themselves in a room so
13 they can't allege that there's no impropriety
14 going on. So that's why we wanted to make
15 sure we were in line on the handling of the
16 subject as a law enforcement professional. If
17 you detain someone or arrest them as far as
18 booking procedures and things like that, it's
19 upon us to let them know the right procedures.

20 Q. So at the time that this policy was
21 created in 2012, did ALEA consider the impact
22 of this policy on arrest and booking
23 procedures?

1 A. I don't -- I'm not sure if they did
2 or not.

3 Q. So just sticking again just to the
4 time before the creation of this policy, in
5 the course of creating this policy, what
6 considerations went into ALEA's decision to
7 adopt this policy as opposed to some other?

8 A. What the state requires for amended
9 birth certificates.

10 Q. Okay. Were there any other
11 considerations that ALEA took into account at
12 that time?

13 A. Not that I'm aware of.

14 Q. Are you aware of any debate that
15 concerned -- that concerned the development of
16 the policy prior to 2012?

17 A. No.

18 Q. Were there any conflicting views
19 that had to be resolved at that time?

20 A. Not to my knowledge.

21 Q. When the policy was most recently
22 revised in 2016, what was that process?

23 A. We had it vetted through legal.

1 And we changed it to an and/or instead of
2 requiring both documents.

3 Q. Just to clarify, so in 2012 did it
4 require -- did the policy require both
5 documents?

6 A. Amended birth certificate along
7 with documentation on letterhead from the
8 physician.

9 Q. And so then in the 2016 version it
10 says and/or to indicate that either one of
11 those documents is sufficient?

12 A. Correct.

13 Q. Okay. Who was involved in making
14 that decision?

15 A. It would be me, the legal unit, and
16 the medical unit personnel.

17 Q. Who in the medical unit was
18 involved?

19 A. Jeannie Eastman.

20 Q. Who were the people from the legal
21 unit?

22 A. I'm not -- I would -- I think
23 Jessica Sanders was involved.

1 Q. And you think there may have been
2 other people who were involved from legal?

3 A. I don't know who else.

4 Q. Okay. And what was your goal in
5 revising policy order 63?

6 A. Giving them more latitude.

7 Q. And why was it important to give
8 more latitude?

9 A. To be more -- you know, give them
10 the ability to get what they want.

11 Q. And were there any reasons why you
12 wanted to make it easier for people to get
13 what they wanted?

14 A. To be reasonable. And as long as
15 they're following procedure.

16 Q. And was anyone aside from you,
17 Jeannie Eastman, and maybe Jessica Sanders or
18 someone else from the legal unit involved in
19 the most recent revision?

20 A. No.

21 Q. Were there any other goals that you
22 had in mind in creating this policy?

23 A. No.

1 Q. Did you consider other options
2 aside from the current policy before
3 implementing it?

4 A. No.

5 Q. Did you consider any other states'
6 procedures for changing the sex designation on
7 a license before revising the policy?

8 A. No.

9 Q. Why not?

10 A. We wanted to stay consistent with
11 Alabama -- the State of Alabama's birth
12 certificate procedure.

13 Q. Did you consider federal government
14 policy for changing designations on passports
15 when you were creating this policy?

16 A. No.

17 Q. Why not?

18 A. We just didn't.

19 Q. I'm going to show you a document
20 that is labeled Plaintiff's Exhibit 8. This
21 is Bates number D338 through -- it's actually
22 D at 337 through D at 380. And could you --
23 first, could you read the cover email?

1 circumstances that you can think of where a
2 legitimate Alabama license could prove that
3 you are who you say you are and a legitimate
4 U.S. passport could not?

5 A. Correct.

6 Q. Okay. And do driver's licenses for
7 other states serve for identification as well?

8 A. Yes.

9 Q. Could you please list for me the
10 interest that it is ALEA's position that
11 policy order 63 serves?

12 A. As I stated earlier, we are a law
13 enforcement agency, and we are preparing and
14 issuing an identification document. This
15 document is used by law enforcement officers
16 to identify the subject that they're dealing
17 with. It also identifies possible criminal
18 activity or the identification of a possible
19 criminal activity. It gives them a
20 description so they can confirm the person
21 that they -- the person in the license is
22 actually the person that they are dealing
23 with. It gives them the information they need

1 to make decisions on how to handle this person
2 for arrest procedures, medical, emergency
3 procedures, booking and retaining procedures,
4 interviewing and questioning procedures, and
5 as well as maintaining the actual physical
6 identifiers of that person.

7 Q. Okay. I'm going to try to say that
8 back to you to make sure I didn't miss
9 anything. You let me know whatever it is I'm
10 missing. So I heard that the government's
11 interest in policy order 63 are to assist
12 officers in identifying the people who they're
13 dealing with, to identify possible criminal
14 activity, to provide information to make
15 decisions for arrests and booking procedures,
16 for interviewing and questioning procedures,
17 for emergency medical procedures, and that the
18 government also has an interest from policy 63
19 in maintaining physical identifiers of license
20 holders. Is that all accurate?

21 A. Yes.

22 Q. And what did I miss?

23 A. I'm not sure. Hopefully nothing.

1 A. Correct.

2 Q. And you would agree with that?

3 A. Yes.

4 Q. And -- I'm trying to make sure I
5 have a thorough list. So would this be the
6 same as the assisting officers in identifying
7 the subjects they're dealing with and
8 maintaining physical identifiers?

9 A. Yes, sir.

10 Q. Okay. It also says that an Alabama
11 driver's license provides identification for
12 law enforcement and administrative purposes,
13 including but not limited to purposes related
14 to arrests, detention, identification of
15 missing persons or crime suspects, and the
16 provision of medical treatment; is that right?

17 A. Yes.

18 Q. And you would agree with those
19 interests?

20 A. Yes.

21 Q. It says here including but not
22 limited to. Are there any other law
23 enforcement or administrative purposes you can

1 think of that policy order 63 serves?

2 A. I don't know if it -- I guess it
3 would fall in there, but as far as identity
4 fraud or identity theft as far as tracking
5 someone that comes in and has -- comes in with
6 an identity as say male and then they go
7 through the process and they change their name
8 and then they change their sex and basically
9 have a whole new identity. It's a way for us
10 to link those identities. We actually had a
11 call from the district attorney's office a
12 couple of weeks -- a couple of week's ago and
13 they inquired -- as far as the subject's
14 identity, they kept running the subject and
15 said it came back as a Charles, and the
16 subject was Jasmine and was female, and the
17 autopsy report said a fully genital --
18 genitals of a female. And so they were
19 questioning the processes, how they were
20 getting this information, and if it was
21 correct. We went back to the original record
22 and the subject did come in as a male, changed
23 their name to a different name, and then not

1 too much longer after that, I think it was a
2 year or so, changed their sex. And so we were
3 able to confirm with the DA's office that this
4 was the person that they had who was
5 previously this name but now died under this
6 name.

7 Q. When you say that they ran the
8 person, what does that mean?

9 A. When you say the -- are you
10 referencing the district attorney's office
11 or --

12 Q. Yes. When you say the district
13 attorney's office was running this person and
14 the person came back as Charles, what would
15 running the person mean?

16 A. I can't testify what they did. I'm
17 assuming they ran them through a criminal
18 database.

19 Q. I see. So the criminal database
20 had the person's previous name --

21 A. Just had them as a -- yes, had them
22 as Charles.

23 Q. Had the previous name as male sex.

1 Q. How does that policy for what one
2 must do to change the sex designation on a
3 driver's license assist in providing a
4 physical description?

5 A. It ensures that the physical
6 features of that person are what's displayed
7 on the license.

8 Q. And what physical features do you
9 mean by that?

10 A. Well, if they are a male, they'll
11 have male genitalia. And if they're a female,
12 they'll have female genitalia.

13 Q. When an officer is seeking to
14 confirm that they are arresting the right
15 person, do they typically look at that
16 person's genitalia?

17 A. No. But it will tell them and the
18 booking personnel how they should separate
19 them in the population.

20 Q. But at the moment of seeking to
21 confirm the person's identity, typically a
22 police officer wouldn't see the person's
23 genitals, right?

1 A. No.

2 Q. If someone -- if an officer
3 perceived somebody as male because that person
4 had male pattern baldness and a beard and was
5 wearing masculine clothing, would that person
6 having a female sex designation on their
7 license assist the officer in confirming a
8 person's identity?

9 A. I don't know if it would assist,
10 but if they were to be arrested it would
11 definitely need to be known.

12 Q. So it might assist with the
13 procedures after the arrest, but it wouldn't
14 necessarily assist with confirming the
15 identity at the time of the arrest?

16 A. The photo would.

17 Q. The photo would, but the female sex
18 designation might not?

19 A. It should if it's -- could you ask
20 the question one more time?

21 Q. So if there were a transgender man
22 who has not gotten a male sex designation on
23 his license but has transitioned from female

1 to male and that he wears masculine clothing
2 and has masculine physical characteristics,
3 such as male pattern baldness and a beard and
4 is typically perceived by others as male, then
5 would it help an officer to confirm that
6 person's identity that his sex designation on
7 his license would still be female?

8 A. It may not help in that situation,
9 but that is still the physical characteristics
10 of that person.

11 Q. In fact, wouldn't a female sex
12 designation on the ID of somebody who the
13 officer perceived as male raise suspicion in
14 the officer that the person might not be who
15 he thought he was?

16 A. That's speculation. It's possible.

17 Q. Do Alabama law enforcement officers
18 receive training on policy order 63?

19 A. No.

20 Q. Do Alabama law enforcement officers
21 receive training on interacting with
22 transgender members of the public?

23 A. I would have to speak to someone in

1 Q. Do you have reason to think that
2 Alabama's interest in law enforcement officers
3 being able to identify people they're
4 interacting with is different from the
5 interests in those other states?

6 A. I'm not -- I don't know what other
7 states require.

8 Q. Do you have any reason to think
9 that Alabama has different needs than other
10 states do in identifying people?

11 A. No.

12 Q. And Alabama doesn't consistently
13 measure or require medical documentation of
14 height before listing that attribute on a
15 license, correct?

16 A. Correct.

17 Q. And it doesn't consistently measure
18 or require medical documentation of weight
19 before listing that attribute, right?

20 A. Correct.

21 Q. Does Alabama law require
22 individuals to update the photos on their
23 license when their appearance changes?

1 municipal arresting officers.

2 Q. Okay. And do the arrest -- I'm
3 sorry. Do the search procedures vary based on
4 whether it's a state, county, or city law
5 enforcement officer?

6 A. Yes. It varies from agency to
7 agency.

8 Q. And could you name -- which
9 agency's search procedures or practices are
10 you able to testify about today?

11 A. None.

12 Q. How do you know that policy order
13 63 is, in fact, serving search procedures?

14 A. Well, it just -- it does.

15 Q. Explain to me how it does.

16 A. I mean, it tells you physically
17 what -- who that person is and how that
18 officer should handle them, if they have
19 procedures in place to handle female subjects
20 differently than male. It also identifies
21 that person for different detention
22 facilities. When they are booked into a
23 facility as an officer you want to know that

1 the information that you're giving to them is
2 correct.

3 Q. Is it your understanding that when
4 agencies have policies that differ for
5 searches based on whether the arrestee is
6 female or male those policies refer
7 exclusively to the person's genitals?

8 A. Yes.

9 Q. And what is the basis for that
10 knowledge?

11 A. For the officer?

12 Q. How do you know that all of these
13 different policies when they refer to female
14 or male are referring to genitals?

15 A. I'm going off the information that
16 we use based on the identifiers on the
17 license.

18 Q. And I'm trying to figure out why
19 it's important that the identifier on the
20 license relates to genitals. So how do you
21 know that people's genitals are what matter
22 for purposes of search procedures?

23 A. I'm not sure I understand your

1 that genitals are the most useful piece of
2 information about sex for purposes of
3 detention?

4 A. It is for our purposes for the
5 driver's license. I need you to define
6 genitals to make sure my definition matches
7 yours.

8 Q. So you testified that one interest
9 the policy order 63 serves is to provide
10 information to detention agencies, right?

11 A. Correct.

12 Q. What information is it that you
13 intend to provide through policy order 63?

14 A. The physical characteristics of
15 their sex.

16 Q. And which physical characteristics
17 do you mean?

18 A. If they're a male, they have a
19 penis. And if they're a female, they have a
20 vagina.

21 Q. And do you know of any reason why
22 detention agencies would be more interested in
23 whether someone has a penis or a vagina than

1 any other sort of information related to sex?

2 A. I don't know if they would be more
3 interested, but I would say if they're putting
4 them into a holding cell that they would want
5 to know that information is accurate.

6 Q. So is it your understanding that
7 detention agencies will place people into a
8 holding cell based on whether they have a
9 penis or a vagina?

10 A. No. I'm saying I provide that
11 information so they can make that decision on
12 whether or not they want to put that
13 individual in a different holding cell.

14 Q. Is there any reason that you know
15 why it is more helpful to provide information
16 about whether somebody has a penis or a vagina
17 rather than any other type of information
18 about their sex?

19 A. That's who they are physically.
20 It's -- I mean, if that's who they are, then
21 that's their physical characteristic, that
22 they have those physical attributes.

23 Q. Do you know if any Alabama agencies

1 provision of emergency medical care was an
2 interest that policy order 63 serves, right?

3 A. Yes.

4 Q. And can you tell me how policy
5 order 63 serves that interest?

6 A. Emergency personnel, you know, when
7 you provide them the driver's license they see
8 whether they're dealing with a male or a
9 female.

10 Q. And how does that assist them with
11 providing medical care?

12 A. It gives them the information that
13 they know who they're dealing with.

14 Q. Under what circumstances would
15 emergency medical personnel rely on the sex on
16 a driver's license rather than physical
17 examination?

18 A. I'm not sure that they would. It's
19 just -- you know, it's a basic identifier for
20 those personnel that are responding.

21 Q. In what circumstances would the
22 health care that the person would receive vary
23 based on the sex designation on their license?

1 A. That would be up to the emergency
2 personnel, the responders.

3 Q. Are you aware of any circumstances
4 where the sex designation on the license would
5 change the medical treatment that someone
6 might receive?

7 A. No.

8 Q. You mentioned earlier that it was
9 important to have policy order 63 be
10 consistent with the state policy for birth
11 certificates; is that right?

12 A. Yes.

13 Q. Could you remind me of why having
14 that consistency is important to the
15 government?

16 A. We want to be consistent in
17 providing -- with requiring the same types of
18 documents when we're dealing with the same
19 type of situation.

20 Q. Is consistency with Social Security
21 records also important?

22 A. I'm not sure what information is in
23 Social Security records.

1 requirements for Alabama birth certificates,
2 right?

3 A. Yes. Maybe I -- did I answer
4 that -- I may have missed -- did I answer
5 incorrectly? Yes, we are consistent with the
6 State of Alabama's requirements to change the
7 sex designation with our policy.

8 Q. Okay. And why is it more important
9 to ALEA to match the requirements for birth
10 certificates than for say U.S. passports?

11 A. Well, we want to maintain
12 consistency, but we want what is displayed on
13 the document to be true.

14 Q. So is it ALEA's position that the
15 information on U.S. passports is less likely
16 to be true than the information on birth
17 certificates?

18 A. I don't know.

19 Q. Could documentation from a doctor
20 stating that someone had had clinical, but not
21 necessarily surgical, treatment to change
22 their sex provide a paper trail for purposes
23 of driver's licenses?

1 Q. Okay. And do you personally
2 believe that somebody who was assigned male at
3 birth and who identifies as female and who has
4 had sex reassignment surgery is a woman?

5 MR. CHYNOWETH: Object to form.

6 A. Repeat the question, please.

7 Q. Do you personally believe that
8 somebody who was assigned male at birth, who
9 identifies as female, and who has had sex
10 reassignment surgery is a woman?

11 MR. CHYNOWETH: Object to the form.

12 A. Genetically they're a male.
13 Physically they're a female.

14 Q. Okay. And personally do you
15 believe that somebody who was assigned male at
16 birth and who identifies as female and who has
17 not had sex reassignment surgery is a woman?

18 MR. CHYNOWETH: Object to the form.

19 A. They are physically a male.

20 Q. So you don't believe that somebody
21 is a woman in that circumstance?

22 A. Correct.

23 Q. And why is that?

DOC. 52-6

Plaintiffs' Exhibit 6

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

Filed Under Seal

DOC. 52-7

Plaintiffs' Exhibit 7

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

Filed Under Seal

DOC. 52-8

Plaintiffs' Exhibit 8

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

Filed Under Seal

DOC. 52-9

Plaintiffs' Exhibit 9

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

Filed Under Seal

DOC. 52-10

Plaintiffs' Exhibit 10

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

Filed Under Seal

DOC. 52-11

Plaintiffs' Exhibit 11

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

Filed Under Seal

DOC. 52-12

Plaintiffs' Exhibit 12

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

Filed Under Seal

DOC. 52-15

Exhibit 15

THE GUIDE TO PERSONNEL RECORDKEEPING

Chapter 4: How to Reconstruct a Personnel Folder

Chapter 4 How to Reconstruct a Personnel Folder

How to Reconstruct a Personnel Folder

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

Request to Reconstruct Personnel Folder

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

Step 1 Copy any relevant documents the employee can furnish.

Example:

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

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

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

Step 3 Request retirement records.

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

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

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

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

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

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

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

Address the request to:

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

To request a search for the personnel folder:

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

To request a search for payroll records:

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

Step 5 Obtain Documents

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

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Step 6 Create Transcript of Service, (DG 27)

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

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

Nature of Personnel Action:

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

Employee's Data

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

Position Data

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

Agency Data

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

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

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

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

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

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

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

Step 7 Create Transcript of Federal Employees' Training Information

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

List of Training Data Elements

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

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

Step 8 Reconstruct Health Benefits Records.

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

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

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

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

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

Step 10 File documents

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

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

Step 11 Select and Create folder

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

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

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

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

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

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

Place a notice of the reconstruction in the folder

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

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

Step 1 Request and verify proper documentation from the employee.

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

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

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

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

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

Step 2 Create Transcript of Service

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

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

Nature of Personnel Action:

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

Employee’s Data

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

Position Data

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

Agency Data

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

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Step 3 Create Transcript of Health Benefits Enrollment Records

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

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

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

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

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

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

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

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

Examples: Agency explanation for allowing a belated election

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Incontestability explanation

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

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

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

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

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

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

- SF 2823 Designation of Beneficiary or its precursor SF 54
- By law 8705 and regulation, FEGLI benefits are paid in a particular order. The first in this list is the designated beneficiary.
- The agency needs to strongly recommend to the employee that he/she complete a new SF 2823 (if there is an old one with the old identity) but cannot force the employee to do so.
- If a new one is validly completed and filed, it will supersede previous ones on file.
- If a new SF 2823 is not completed, by law any prior designation form in the sealed OPF is the form used for payment. That form will need to be accessed at death before any FEGLI payment can be made.
- The transcript must state if there are any FEGLI designations forms on file and the date of the form(s) if applicable. It should also be noted if there is no form on file.
- OFEGLI needs the actual hard copy form to pay proceeds after death.

- RI 76-10 Assignment of Life Insurance
- The original RI 76-10 is maintained by the agency. The agency needs to know that it is assigned since certain actions can be done by the assignee, not the insured. For example, the insured cannot reduce coverage (except for Option C) after an assignment. The agency sends the RI 76-10 to the OPM Retirement Office at the time of retirement or to OFEGLI after death. It cannot be condensed to put on the transcript. OFEGLI needs the actual hard copy form to pay proceeds after death.
- Once the coverage is assigned the employee cannot assign again. However, the assignee can assign the coverage to another party or back to the insured employee. Court order for FEGLI purposes
- The certified copy of a court order for FEGLI is maintained by the agency. It is not interpreted by the agency. They send to the OPM Retirement Office at the time of retirement or to OFEGLI after death. It cannot be condensed to put on the transcript.

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

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

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

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

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

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

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

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

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

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

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

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

Step 8 Send OPF to NPRC

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

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

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

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

Former employees returning back to Federal Service

Step 1 Initiate search for OPF

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

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

Step 2 Reconstruct OPF

Follow steps listed above regarding Change in Gender Identity.

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

Place a notice of the reconstruction in the folder

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

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

Step 1 Request and verify proper documentation from the employee.

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

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

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

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

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

Step 2 Reconstruct OPF

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

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

DOC. 52-16

Exhibit 16

Department of Veterans Affairs
Veterans Health Administration
Washington, DC 20420

VHA DIRECTIVE 2013-003

February 8, 2013

PROVIDING HEALTH CARE FOR TRANSGENDER AND INTERSEX VETERANS

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

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

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

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

c. Definitions

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

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

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

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

THIS VHA DIRECTIVE EXPIRES FEBRUARY 28, 2018

VHA DIRECTIVE 2013-003**February 8, 2013**

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

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

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

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

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

4. ACTION

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

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

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

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

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

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

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

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

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

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

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

5. REFERENCES

Title 38 CFR § 17.38 (c).

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

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

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Under Secretary for Health

Attachment

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

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

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

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

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

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

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

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3. What is intersex?

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

4. Do all intersex individuals identify as transgender?

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

5. What is sex reassignment surgery?

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

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

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

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

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

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

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

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

9. Will VA provide feminizing or masculinizing hormone therapy?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15. Is a mental health evaluation necessary or required?

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

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

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

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

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

18. What types of surgeries might transgender Veterans consider?

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

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

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

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

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

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

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

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

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

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

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

(1) Physician's full name;

(2) Medical license or certificate number;

(3) Issuing state of medical license or certificate;

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

(5) Address and telephone number of the physician;

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

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

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

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

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

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

23. What education will be provided to VA staff?

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

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

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

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

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

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

26. What about room assignments?

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

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

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

28. Are there any recommended resources for further information?

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

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

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

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

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

29. REFERENCES

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

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

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

DOC. 52-17

Exhibit 17



U.S. Citizenship and Immigration Services

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

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

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

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

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

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

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

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

NOTES

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

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

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DOC. 52-18

Exhibit 18

Program Operations Manual System (POMS)

TN 5 (06-13)

RM 10212.200 Changing Numident Data for Reasons other than Name Change

A. How We Change Numident Data

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

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

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

Keying Errors: See Details

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

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

1. Request evidence

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

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

2. Obtain documentation

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

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

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

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

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

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

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

3. Process the request

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

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

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

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

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

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

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

4. When to suppress an SSN card

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

5. When to send written notice

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

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

See Details:

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

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

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

(Physician’s Address and Telephone Number)

I, (physician’s full name), (physician’s medical license or certificate number), (issuing U.S. State/Foreign Country of medical license/certificate), am the physician of (name of patient), with whom I have a doctor/patient relationship and whom I have treated (or with whom I have a doctor/patient relationship and whose medical history I have reviewed and evaluated).

(Name of patient) has had appropriate clinical treatment for gender transition to the new gender (specify new gender, male or female).

I declare under penalty of perjury under the laws of the United States that the forgoing is true and correct.

Signature of Physician

Typed Name of Physician

Date

To Link to this section - Use this URL:

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

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

09/30/2013

Batch run: 09/30/2013

Rev:09/30/2013

DOC. 52-24

Exhibit 24

In The Matter Of:

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

*Diane Woodruff
November 8, 2018*

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

Original File 11-8-18 Diane Woodruff.txt

Min-U-Script® with Word Index

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

5 CIVIL ACTION NO.: 2:18-CV-00091-MHT-GMB
6

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

9 V.

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

13 Defendants.
14

15 DEPOSITION OF DIANE WOODRUFF

16 November 8, 2018
17

18 Taken before Elaine Scott, CCR,
19 Commissioner for the State of Alabama at
20 Large, in the Law Offices of the Alabama
21 Attorney General, 501 Washington Avenue,
22 Montgomery, Alabama, on Thursday, November 8,
23 2018, commencing at approximately 12:55 p.m.

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A P P E A R A N C E S

FOR THE PLAINTIFFS:

AMERICAN CIVIL LIBERTIES UNION FOUNDATION

Gabriel Arkles

125 Broad Street

18th Floor

New York, New York 10004

ALABAMA CIVIL LIBERTIES UNION FOUNDATION

Brock Boone

Randall C. Marshall

P.O. Box 6179

Montgomery, Alabama 36106

FOR THE DEFENDANTS:

OFFICE OF THE ATTORNEY GENERAL, STATE OF

ALABAMA

Brad A. Chynoweth

501 Washington Avenue

Montgomery, Alabama 36130

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

ALSO PRESENT:

Meredith Barnes

COURT REPORTER:

BAKER REALTIME WORLDWIDE REPORTING & VIDEO

250 Commerce Street

Third Floor, Suite One

Montgomery, Alabama 36104

1 had -- if they had surgery then they would be
2 able to get a letter from the physician.

3 Q. What about people who don't have
4 surgery?

5 A. Actually at that time when I was
6 working in the medical unit I didn't have that
7 many that didn't -- there were some I guess
8 that came up. Basically if you didn't have
9 the surgery we couldn't change the sex.

10 Q. What did you think about that?

11 MR. CHYNOWETH: Object to the form.

12 A. Well, following guidelines, you
13 know, which is what we have to do, I can't
14 really have an opinion. You know, this is
15 just what we have to do, you know, you don't
16 need the guidelines or what we've set forth,
17 so --

18 Q. You're still human, I guess. Okay.

19 A. Well, you would know. Yeah. And
20 I'm very compassionate to people.

21 Q. Did anyone ever complain?

22 A. Yeah, I'm sure they did. I can't
23 list -- I can't name anybody in particular,

1 but I'm sure they did.

2 Q. Do you remember anyone being upset
3 or were they sad?

4 A. Uh-huh, I remember talking to some
5 sad people.

6 Q. How did that make you feel?

7 MR. CHYNOWETH: Object to the form.

8 A. Obviously compassion for them.

9 Q. You felt bad?

10 A. Right. Just like anybody we
11 can't -- we can't help, you know.

12 Q. I understand. Do you know what --
13 what problem were they trying to address with
14 the procedure?

15 A. As far as -- most of the time
16 they -- if I'm answering -- if I'm
17 understanding the question correctly, they
18 just had -- maybe they would say they had gone
19 through part of the whole procedure, like
20 maybe they had lived as a different sex, you
21 know, for a certain amount of time or whatever
22 but they just hadn't gone to the surgery part,
23 and so -- and I've been living like this for,

1 what documentation must they present?

2 A. A state certified birth certificate
3 and a Social Security card and proof of
4 address. And then if any name change they
5 would need to have a name change document.

6 Q. And that's when they apply for the
7 first time?

8 A. Yes, sir.

9 Q. Is there anything else?

10 A. Well, if they're fifteen to
11 eighteen years of age they'll need to provide
12 school proof. Now, if they're not a U.S.
13 citizen then they would need their immigration
14 documents. They can also present a valid U.S.
15 passport.

16 Q. If someone wants to trade in an
17 out-of-state license for an Alabama license,
18 what documentation must they present?

19 A. Their out-of-state driver's license
20 and their state certified birth certificate
21 and then any name change document and proof of
22 address or the -- anything on our authorized
23 presence list but, yes, that's the meat and

1 the potatoes.

2 Q. When people first apply for a
3 driver's license in Alabama, does anyone ever
4 ask them from ALEA down if they are
5 transgender?

6 A. No, sir.

7 Q. Would you agree that if a
8 transgender person applying for an Alabama
9 license for the first time presented
10 documentation only reflecting the sex with
11 which they identify and not the sex they were
12 assigned at birth they would receive an
13 Alabama license with a sex designation that
14 matched the sex designation on their other
15 documents?

16 MR. CHYNOWETH: Object to the
17 form.

18 MR. BOONE: How come? I just want
19 to make sure I'm -- can you answer the
20 question?

21 A. Can you repeat it cause it's kind
22 of long?

23 Q. It's long. If someone -- if

1 someone is -- if the only documents that the
2 DMV sees are documents of the sex that they
3 identify with, would they receive an Alabama
4 license with that sex designation?

5 A. Are we talking about a birth
6 certificate?

7 Q. Yes.

8 A. If they had a birth certificate --

9 Q. Or --

10 A. -- then that's the sex that we're
11 going to use on the birth certificate.

12 Q. Are birth certificates always
13 required to get an Alabama license?

14 A. You could bring your passport or
15 your immigration documents.

16 Q. So if someone brings in a
17 passport --

18 A. Uh-huh.

19 Q. -- and it states female, what's the
20 designation that's going to be put on their
21 license?

22 A. It would be female if we don't have
23 anything to the -- you know, if you present

1 two documents that are different, you know,
2 just like if you came in and your name was
3 John Smith on one document and John Jones on
4 the other document, we operate on a paper
5 trail documentation. So what brought it from
6 John Smith to John Jones, the document that
7 changed it? But if you brought in a passport
8 that said female, your Social Security card,
9 and your proof of address, then that's what
10 would be put on your driver's license.

11 Q. Okay. What if there is a
12 contradiction? What if, for example, someone
13 has one sex on their passport, one sex on
14 their Social Security card? What would you do
15 in that situation?

16 A. Well the Social Security doesn't
17 have a sex on it, so --

18 Q. Okay.

19 A. But if they --

20 Q. Is there another -- can you give me
21 an example of a contradictory situation?

22 A. Let's say that they had a birth
23 certificate and their out-of-state driver's

CERTIFICATE OF SERVICE

I certify that on August 2, 2021, I electronically filed the foregoing using the CM/ECF system, thereby serving all counsel of record.

s/ Z. Gabriel Arkles

Z. Gabriel Arkles

Counsel for the Plaintiffs-Appellees

No. 21-10486

**IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

□

DARCY CORBITT, et al.,
Plaintiffs-Appellees,

v.

HON. HAL TAYLOR, in his official capacity as Secretary of the
Alabama Law Enforcement Agency, *et al.*,
Defendants-Appellants.

□

On Appeal from the United States District Court
for the Middle District of Alabama
Case No. 2:18-cv-00091-MHT-SMD

SUPPLEMENTAL APPENDIX VOLUME II

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Exhibit 27

In The Matter Of:

Darcy Corbitt v.

Hal Taylor

Donald Leach

December 21, 2018

Tempest Reporting, Inc.

175 South Main, Suite 710

Salt Lake City, UT 84111

(801) 521-5222

Original File 122118DL.txt

Min-U-Script® with Word Index

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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

DARCY CORBITT, et al., :
Plaintiffs, : Civil Action No.
2:18-cv-91-MHT-GMB
-v- :
HAL TAYLOR, in his official :
capacity as Secretary of the : Deposition of:
Alabama Law Enforcement : DONALD LEACH
Agency, et al., :
Defendants. :

Place: TEMPEST REPORTING, INC.
175 South Main Street, #710
Salt Lake City, Utah 84111

Date: December 21, 2018
9:03 a.m.

Reporter: Vickie Larsen, CSR/RMR

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A P P E A R A N C E S

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6 212.549.2605

7 Garkles@aclu.org

8 Brock Boone

9 ACLU OF ALABAMA

10 P.O. Box 6179

11 Montgomery, Alabama 36106

12 334.265.2754

13 Bboone@aclualabama.org

14 For the Defendants (present by videoconference):

15 Brad A. Chynoweth

16 ASSISTANT ATTORNEY GENERAL

17 CONSTITUTIONAL DEFENSE DIVISION

18 OFFICE OF THE ATTORNEY GENERAL

19 STATE OF ALABAMA

20 501 Washington Avenue

21 P.O. Box 300152

22 Montgomery, Alabama 36130

23 334.242.7997

24 Bchynoweth@ago.state.al.us

25 Also Present: (Present by videoconference):

Joshua Block

-oOo-

Page 4

1		Transgender & Intersex	
2		Offenders in Jails by	
3		Donald L. Leach II, Ph.D.	
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1 Justice Center of Bureau of Prisons on a policy of
2 transgender offender management.
3 Q. Thank you.
4 And just to be clear, that's something
5 that you reviewed after writing your report and before
6 the deposition today; right?
7 A. Yes.
8 Q. Okay. Thank you.
9 And did you write your report from
10 scratch, or did you build off of something that had
11 already been written?
12 A. No, I write everything from scratch.
13 Q. Thanks.
14 And aside from reviewing the documents
15 you mentioned and talking with Brad, is there anything
16 else that you did to prepare for the deposition today?
17 A. Not that I recall.
18 Q. Okay. If you turn to Page 5 in your
19 report, the Case History Disclosure, is this list of
20 your past depositions and trial testimony still up to
21 date?
22 A. As of today, yes.
23 Q. Okay. Thank you.
24 And do you recall which, if any, of these
25 cases you testified at trial in as opposed to just

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1 being deposed?
2 A. Rachel Hammers v. Douglas County, that
3 would be Number 5. Anthony Waller v. Bradley
4 Lovinger, that would be Number 11. Number 20,
5 multiple initials v. The City of Puyallup. Number 22,
6 Frank Hyman v. City of Philadelphia. That's it.
7 Q. Thank you.
8 And have you ever, aside from this case,
9 prepared an expert report on transgender or intersex
10 issues?
11 A. No.
12 Q. And have you ever, aside from in this
13 case, prepared an expert report on driver's licenses
14 before?
15 A. No.
16 Q. Thank you.
17 And then I just want to make sure I have
18 your compensation information correct. So you are
19 being compensated \$200 an hour for a research
20 consultation and report creation; right?
21 A. Yes.
22 Q. And you received \$3,000 for any part of a
23 day involved in a video deposition; right?
24 A. Yes.
25 Q. So you're being compensated \$3,000 today;

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1 right?
2 A. Yes.
3 Q. Thank you.
4 And -- and then \$2,000 for any part of a
5 day spent on trial testimony; is that right?
6 A. Yes.
7 Q. And \$1,000 a day for travel and on-site
8 consultation; is that right?
9 A. Yes.
10 Q. Okay. Great. Thank you.
11 So I'm going to go through and I'm going
12 to ask you for your definitions of some words that
13 were used in your report, just to make sure that I
14 understand them.
15 So first could you explain your
16 understanding of the term "sex"?
17 A. My understanding of the term "sex"?
18 Q. Yes.
19 A. Well, that's a very broad understanding.
20 As I try to illustrate in the report, there are
21 multiple components to the term "sex." There is --
22 there's -- and then when I do presentations, like I'm
23 getting ready to do a presentation for the Los Angeles
24 County Sheriff's Office regarding the management of
25 lesbian, gay, transgender, and intersex persons within

Page 12

1 their system.
2 It's a presentation I've done a number of
3 times. You and I did it one time -- not -- not the
4 exhaustive one that I do here -- where I talk about
5 the three parts of it, as I did in the report.
6 The first part of it is is it
7 physiognomy? The actual, I guess what a lot of
8 individuals might refer to as the biological levels of
9 sex, and then you have the gender portion of sex, and
10 then you have the idea of sexual preference.
11 So there really are three components to
12 sex that exist out there that have a tendency to get
13 very jumbled together. I think that's the point I was
14 trying to make in my report. They get jumbled
15 together, they get mixed up, and it's important
16 sometimes to come up with definitions. So which
17 definition are we looking at.
18 Q. Okay. Thank you.
19 MR. ARKLES: Let the record reflect that
20 Joshua Block has just joined me here in the room.
21 Q. And what's the basis for that definition
22 of sex?
23 A. Sir?
24 Q. What do you base that definition for sex
25 on?

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1 realm of how people express themselves with one
2 another and all those particular things.
3 Even my graduate work in geography was
4 based upon people's perception of space, place, and
5 time and how they view themselves acting and
6 interacting within their geographical environment. So
7 -- so it's based upon a lot of those issues, yes.
8 So training is one, education and
9 background is one, observations from the correctional
10 environment is one, and just being a human being and
11 interacting and being an individual who's open to
12 examine a lot of these -- these issues, because, you
13 know, a lot of people aren't open to examining a lot
14 of these issues.
15 As you and I well know, you know, we can
16 create quite a bit of disharmony amongst people when
17 we begin to challenge their perceptions of things,
18 like gender identity, sex, become problematic for
19 them.
20 Q. It can.
21 And then -- and then could you just also
22 define for me the term "sexual preference."
23 A. Sexual preference is basically, as I term
24 in my presentations, who it is that turns you on. Who
25 it is that has you elicit that sexual excitement.

Page 18

1 That's sexual preference.
2 Q. Okay. And could you define
3 "transgender," please.
4 A. Oh, wow. Now that's getting into a
5 really complex area, because even from the time that
6 you and I first did our presentations back in the
7 early 2000s to now, we see that whole term changing.
8 It's -- it's kind of -- it's morphing as -- as the
9 societal recognition of the issues involved becomes
10 much more prevalent.
11 So to -- for me to give a definition of
12 it, it would be just what I perceive it as being
13 versus what it might be tomorrow. So what I say could
14 be what it was yesterday.
15 Q. And when you use the term "transgender"
16 in your report, what did you mean by it in that
17 moment?
18 A. What was the last statement? In that
19 moment?
20 Q. Yes. What did you mean by transgender as
21 you used it in your report?
22 A. Typically, transgender is -- is basically
23 what I've learned in my discussions and dealings with
24 individuals like you, individuals that -- that have a
25 -- a different biological physiognomic sex whose

Page 19

1 gender identity felt that was not in line with what
2 they perceive themselves to be. As I say in my
3 presentations, when they look in the mirror, who they
4 see themselves as when they look in the mirror. That
5 becomes an issue where an individual becomes --
6 becomes transgender.
7 So it's a person who -- who sees that,
8 feels that, and then makes the decision that they're
9 going to begin to live as the other gender, which
10 might be separate from their physiognomy.
11 Q. Thank you.
12 And then I'm going to ask you the same
13 thing for intersex. Can you tell me what that term
14 means as you used it in your report?
15 A. Intersex is more the medical term that
16 refers to individuals that have ambiguous genitalia,
17 or in the medical profession, disorders of sexual
18 development.
19 The American Intersex Society -- and I
20 think that young lady was with us when we did the
21 presentation out there, the president of it -- but
22 it's individuals whose -- who have some level of --
23 some level of sexual development which doesn't fit
24 into what is the classical idea or what I talk about
25 in my paper, either end of the continuum of what would

Page 20

1 be an individual's perception of fully female or fully
2 male. That becomes intersex.
3 Disorders of sexual development. And
4 it's a range. And it's a range. We're truly causing
5 the question of whether or not any of us are truly
6 fully female or fully male. So we run into
7 definitional issues even when we get to that point.
8 Q. Right.
9 So you said in your report sex is sort of
10 a continuum between female and male; is that right?
11 A. Intersex.
12 Q. Okay. Intersex is people who are a
13 continuum between female and male?
14 A. Intersex lies on this continuum,
15 intersex -- because there's a range in there. I think
16 most people out in society, if -- when you talk, and I
17 know when I do my presentations in jails and with law
18 enforcement, and even with community groups, most
19 individuals still want to think of intersex strictly
20 as -- as a hermaphrodite, okay, an individual that has
21 both fully functioning sexual organs.
22 But the reality is, it's not like that.
23 That is -- that is so rare that it's an anomaly, that
24 it gets written of that you have two fully
25 functioning. So, you know, that would be the middle

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1 of that spectrum of fully female to fully male.
2 The truth of it is that people lie more
3 somewhere along that continuum. And even the American
4 Intersex Society is trying to get away from this whole
5 idea of hermaphroditism. They want to eliminate that,
6 because it brings up certain pejorative images when
7 people talk about that.
8 And it makes sense to me that they would
9 because, again, it's a range rather than -- rather
10 than a strict concept that people have that may -- may
11 completely be false.
12 Q. And when you refer to the American
13 Intersex Organization, it's not the Intersex Society
14 of North America that you're talking about, or a
15 different organization?
16 A. The Intersex Society of North America,
17 yes.
18 Q. Okay. Thank you.
19 A. The president of it did the presentation
20 with you and I. Do you recall she was there?
21 Q. I think we might be thinking about
22 different presentations but --
23 A. Oh, man.
24 Q. -- that's okay.
25 A. Well, it just goes to show, I've been

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1 trying to get these ideas and concepts out, so we get
2 definitions made all around the country for years now.
3 2007 to now, that's 11 years.
4 Q. Yes, that's -- it's a while.
5 And you already touched on this, but
6 could you also explain to me so -- so do you see the
7 term "sex" and "gender" as different, and if so, how?
8 What's the difference between those two?
9 A. Well, it -- how do we want to use the
10 term "sex," first off? Do we want to use the term
11 "sex" in a very large overarching sense to meet all
12 three parts?
13 So, I mean, my presentation I give starts
14 out, it's all about sex in jails, okay. Well, first
15 off, what is sex in jails? If we use sex in jails as
16 that big overarching term, it would then encompass
17 physiognomy, it would encompass the gender identity,
18 and it would encompass the sexual preference issues.
19 Now, if we want to use sex as -- as the
20 behavior that occurs between two individuals, that
21 might be sexual preference, okay. But it could also
22 be sexual identity and a gender identity in it. So,
23 again, it's how do we want to define that. That's
24 part of the whole issue here.
25 Q. Okay. Just a couple more definitions.

Page 23

1 So could you tell me what the term "risk
2 tolerance" means as you used it in your report?
3 A. I'm sorry, I didn't catch the word.
4 Q. Risk tolerance.
5 A. Oh, risk tolerance. Yeah, risk
6 tolerance. It's more of a concept that's used in risk
7 management circles and insurance companies and, you
8 know -- okay. Risk tolerance is how much the
9 individual person, the agency had, or government, or
10 even community. How much they're willing to tolerate
11 potential risk versus non-risky type of
12 decision-making processes.
13 So risk tolerance is, you know, what
14 you're willing to stake. Individuals that gamble,
15 they go and they gamble at a casino and they put money
16 on the table, obviously have a high risk tolerance
17 level for the loss of money or else they wouldn't be
18 doing the gambling.
19 Individuals that don't want -- like, I do
20 a lot of presentations in Las Vegas. Probably, I
21 don't know, half a dozen or more times a year, and I
22 never go to the gambling tables because I always
23 figure I'm going to loose. So that mean my risk
24 tolerance level for losing my money is pretty low in
25 that case.

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1 And it works the same way when we're
2 talking about decision-making in -- in how we're going
3 to operate our facilities and our agencies and our
4 governments. There are certain risk tolerance levels
5 that we have to have.
6 We see this all in this whole debate
7 regarding medical marijuana around the country,
8 recreational marijuana around the country. There is a
9 level of risk tolerance in all of that that is
10 being -- being expressed by both the public and
11 government.
12 So -- and we -- we just see that in
13 operation. And we've seen it change in that -- in the
14 last 20 years.
15 Q. What change have you seen in the last
16 20 years?
17 A. In medical marijuana?
18 Q. Oh, I'm sorry. I thought you were
19 referring to -- I thought you were referring back to
20 corrections. No, I don't need to hear about medical
21 marijuana, thank you.
22 A. No, no, let's talk about it in
23 corrections. It's an interesting issue because --
24 because, you know, in a correctional environment, we
25 have to provide based on, you know, Estelle v. Gamble,

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1 been arising from the definition of
2 sex -- "whether the one provided in
3 Policy Order Number 63, carry a
4 measure of risk. How risk adverse,
5 or risk taking, the law enforcement
6 or correctional administrator is
7 grounded in that individual's
8 personal and correctional
9 philosophies, or 'weltanschauung.'
10 The stat" -- there should have been
11 the state -- "of Alabama provides
12 through Policy Order Number 63 a
13 starting point from which the law
14 enforcement or correctional
15 administrator can measure his or her
16 policies or procedures."
17 Q. Thank you.
18 And is that, in fact, your opinion?
19 A. Yes.
20 Q. So would it be fair to say -- to say that
21 different correctional administrators, based on their
22 correctional philosophies, may make different
23 decisions about what "sex" means?
24 A. Yes.
25 Q. Would it be fair to say that they make

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1 different decisions about how to handle a
2 classification of transgender people for those
3 sex-based policies?
4 A. Yes. Yes. I mean, you see that --
5 Q. And is that -- go ahead.
6 A. Go ahead. You know, I'm -- there was a
7 case out of Wyoming that was just spot on. That point
8 where Dimarco v. Department of Corrections Wyoming, I
9 think it was -- I don't know if you're familiar with
10 that case -- but an individual was housed for about
11 nine months in the Laramie County Jail in Wyoming, and
12 was housed in one method, and that -- in general
13 population, free access, programming, recreations,
14 services.
15 And when she was moved to the Wyoming
16 Department of Corrections, they immediately put her
17 into a lockdown situation for over 400 and some days.
18 She had high levels of restriction on
19 interaction, wasn't allowed to interact with other
20 inmates, wasn't allowed to interact with many staff,
21 was prevented in purchasing certain levels of
22 commissary.
23 I mean, there were a number of things
24 that were wrong. Now, that's within the same state.
25 And all it was was a bus ride from the county jail to

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1 the prison system.
2 So, yeah, you see that happening.
3 Q. And is it possible that there could be
4 acceptable correctional practices that still vary in
5 their definition of the term "sex"?
6 A. Okay.
7 Q. And -- sorry. So if you look back to
8 Page 13, could you read the bolded language there?
9 A. "In sum, my opinion is there is
10 a governmental interest in having a
11 standardized definition of sex, such
12 as that established in Policy
13 Order 63 for law enforcement and
14 administrative purposes as expected
15 by a reasonable correctional
16 administrator so there is consistency
17 in the development and application of
18 administrative and operational
19 policies and procedures."
20 Q. And is that, in fact, your opinion?
21 A. Yes.
22 Q. So it's my understanding that it's
23 helpful from a correctional perspective to -- for
24 there to be a policy that leads to consistent
25 information about sex on a driver's license.

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1 Do I have that right?
2 A. Can you repeat that, please.
3 Q. Sure.
4 So is it your opinion that for
5 corrections, it's useful for there to be a policy
6 about driver's licenses that provide some consistent
7 information about what they mean by "sex"?
8 A. Yes.
9 Q. Okay. And you're not taking -- you're
10 not expressing an opinion about what the best
11 definition of sex would be for that purpose, are you?
12 A. No. Again, that best definition would be
13 based upon the risk tolerance level.
14 Q. Okay. So if instead of a current policy,
15 Alabama had a policy that said a driver's license sex
16 designation may be amended to reflect the person's
17 gender identity, would that information be useful to
18 correctional administrators?
19 A. Yes.
20 Q. Okay. And if they had a policy that
21 permitted a change in sex designation when a doctor
22 certified that appropriate clinical treatment had been
23 provided, would that be helpful to correctional
24 administrators?
25 A. Well, we would have to know what the

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1 definition is of "appropriate clinical treatment."
2 Q. Okay. So -- and if that was left to the
3 discretion of the doctor, would that still be helpful
4 to correctional administrators?
5 A. Well, I think having a definition is what
6 is helpful to correctional administrators. Having a
7 starting point.
8 Q. Okay. And so would -- would saying that
9 the person had received appropriate clinical treatment
10 serve as a starting point?
11 A. It would help if that was what was part
12 of the definition that was being provided.
13 Q. Okay. Thank you.
14 And, in your opinion, it would be an
15 acceptable correctional practice to use a definition
16 of sex different than the one provided in Policy
17 Order 63; right?
18 A. Yes, because it's all based on the
19 discretion of the administrator of the correctional
20 agency, how they're going to base those definitions,
21 where are they going to get that information from, and
22 if they do it off of Policy 63, then they're simply
23 following as a baseline what was provided to them by
24 the state. And it helps them to establish the
25 rationale for their decision-making processes in

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1 developing their definitions.
2 Q. And can you just spell out for me, how is
3 that helpful?
4 A. You mean how is it helpful to a jail to
5 know what the sex of the individual is?
6 Q. Well, how is it helpful to a jail to know
7 what sex the -- the person is considered to be for
8 purposes of driver's licenses?
9 A. Well, again, it provides a starting point
10 for them to develop their policies related to searches
11 of the individual. Cross-gender searches, especially
12 unclothed or strip searches by -- by differing sex
13 individuals, you know, has been found to be intrusive.
14 So, yeah, having that driver's license
15 tells us a lot about what is the sex of both the
16 employees, in that case, and the sex of the individual
17 that is to be searched, or the arrestee, in that case.
18 Q. In your experience, do correctional
19 administrators typically take into account the sex
20 designation on a driver's license in deciding how to
21 apply those sex-based policies?
22 A. Oh, sure, that's probably one of the --
23 one of the foremost pieces of information that's used
24 when booking an individual. The first time you come
25 in contact with an individual into -- into your jail,

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1 you have to have someplace to get the information
2 from. And most jails around the country, if the
3 individual has a driver's license, they will use a
4 driver's license, and most people do have a driver's
5 license.
6 Q. If somebody came into a jail and didn't
7 have a driver's license, how would that correctional
8 administrator handle that?
9 A. Well, then that becomes a little bit more
10 tricky for us. We then have to rely on secondary
11 definitions of it. So it might be both the asking of
12 the individual, it might require some sort of a
13 medical examination by a qualified medical provider,
14 it might involve us having a staff member simply begin
15 the strip search processes and then if they -- if they
16 perceive -- because I wouldn't say that they
17 identify -- but if they perceive that the individual
18 is not the same sex that they are, then they might
19 have to stop that process.
20 Q. Would it be acceptable for a correctional
21 administrator to use a sex designation from a pass
22 point as a starting point rather than a sex
23 designation from a driver's license?
24 A. If they want to put that in as part of
25 their data point, yes, they could do that. That's a

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1 discretionary decision, just like the use of the male
2 versus female. The receipt of the physician's letter
3 is the discretionary decision from the State of
4 Alabama and the driver's license.
5 I mean, these are discretionary
6 governmental decisions that we have to use in order to
7 develop our baselines.
8 Q. So if somebody came in and was booked in
9 a jail and you had a driver's license, how would that
10 driver's license influence what happened next?
11 A. Oh, wow, I can give you a prime example
12 of that if you'd like, okay.
13 Q. Please.
14 A. Good friend of mine, an under sheriff
15 with the county in Grand Rapids, Michigan, had -- got
16 a call. In fact, he called me up. I got a call, he
17 had an arrestee was pulled over on the street for a
18 traffic violation, simple traffic violation.
19 The officer then went up to the vehicle,
20 looked in the vehicle, saw what appeared to be
21 60s-plus-year-old male, heavy beard. And when asked
22 for the driver's license and insurance, presented a
23 driver's license for a female.
24 On the driver's license it had -- it had
25 the name of the individual, but it had the sex

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1 designation as female.
2 The officer then says this isn't your
3 driver's license. And the arrestee, the pulled over,
4 said that is my driver's license.
5 And apparently what had happened and
6 taken place with this individual was at some point in
7 their -- in his or her late 30s, had gone through a
8 crisis period and had been convinced that some sort of
9 sexual reassignment surgery was the way to go in order
10 to correct some of this phoria they were experiencing.
11 So he then went through the whole
12 process, lived that way for approximately 20 years as
13 a female; had the birth certificate changed, had the
14 driver's license changed, and lived that way.
15 And then when he turned in his 60s he
16 felt as though he'd made a grand mistake and decided,
17 no, that was not the right thing to have happened to
18 him.
19 So he then quit taking the hormones, he
20 began to revert back more appearances of being a male.
21 So of course when he got pulled over he appeared to
22 the arresting officer to be a male. The driver's
23 license said female.
24 So the arresting officer promptly
25 arrested him for possession of a fraudulent

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1 instrument, okay. Now it's a felony. It went from a
2 traffic stop to a felony possession of a fraudulent
3 instrument.
4 He gets brought to the jail. That's
5 where I get called by the administrator, the under
6 sheriff up there, a friend of mine. He's like, what
7 should we do here?
8 And that's how it impacts jails. Because
9 the questions that he wanted was, who does the
10 searching now, okay. Who -- who do I house him with
11 now? How do I proceed? Or do I -- do I take the --
12 the very risk adverse practice where I put them into
13 a situation where they have no contact with anybody
14 else in the jail, no contact with other inmates.
15 I mean, very -- you know, what I consider
16 to be kind of a very punitive-type of environment. So
17 we talked about it.
18 So, yeah, those issues about the driver's
19 license have a huge impact on who's going to do the
20 searches at booking, who's going to do the strip
21 search, where we going to house, you know, what type
22 of services are we going to provide, what type of
23 programming are we going to allow access to.
24 So, you know, a lot more decisions than
25 just simply what's on the driver's license.

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1 Q. What did you advise that person to do
2 with that person in Grand Rapids?
3 A. Well, again, he had definitions. He had
4 definitions for how they would do it. And what he was
5 wondering was, okay, how do I modify my definitions?
6 And that's what we talked about was,
7 okay, how do we modify definitions? How do we go
8 about doing this? Because all the old definitions
9 that he had didn't seem to work in this situation,
10 so -- but he needed a starting point.
11 So at least we had a starting point for
12 where to take the housing and supervision and
13 services. So my -- my recommendations to him was, all
14 right, you have an individual there. Who do you feel
15 most comfortable with having search you?
16 All right. The appearance -- by all
17 outward appearances, we have a male. The genitalia
18 has been reconstructed based upon sexual reassignment
19 surgery. The breast implants had been removed.
20 Okay, so who's going to do the strip
21 searching of the individual? And, again, who do you
22 feel most comfortable? And in this particular case,
23 the gentleman had no problem with a male officer.
24 So then it became an issue of where do we
25 house in our jail? And when I asked him -- I asked

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1 him very simple question, was how often do -- do --
2 does one inmate look at the sexual genitalia of
3 another inmate?
4 And the situation I used was, we have a
5 lot of vets that are coming back from Iraq, from
6 Afghanistan, from Syria, and I reflect back to my own
7 experience in the Marine Corps during the Vietnam War
8 where these Bouncing Bettys were used a lot by the
9 North Vietnamese.
10 These were small mines that would pop up
11 about waist level, and when they went off, they
12 didn't -- they didn't necessarily kill you, but they
13 did blow your genitalia off. That was not an uncommon
14 situation.
15 So what I asked him was if you had a vet
16 that came in and he'd had his genitalia blown off in
17 an IED explosion, where would you house that veteran
18 in your jail? Now all -- he just simply lacks --
19 lacks a penis and a scrotum, okay. Where would you
20 house him in the jail?
21 And that was where we started. That
22 became the baseline for the discussion about housing
23 supervision, the provision of services to the
24 individual.
25 Q. And do you know what happened to that

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1 all sex-based classification decisions; is that right?
2 A. Discretionary decisions, yeah. For the
3 administrator of that particular agency, yes. Keeping
4 in mind their risk tolerance for things like Fourth
5 Amendment violations or EEOC issues. I mean, there's
6 a range of other issues that go into that risk
7 tolerance decision-making process, but it's all
8 discretionary.
9 Q. So would you say a correctional
10 administrator would have to have a high degree of risk
11 tolerance to simply go off of what was on the driver's
12 license?
13 A. No. I would think that they would
14 probably have a lower degree of risk tolerance and be
15 more risk adverse to just simply go off of the
16 driver's license.
17 Q. And why is that?
18 A. Well, because that provides them with a
19 lot of good legal cover that way. I mean, if they're
20 using the definition and the definition is
21 established, in this case by the State of Alabama for
22 what is male or female, and they're using that on the
23 driver's license, then they get some liability
24 coverage in their policies that say, well, look, we're
25 getting our information about whether or not this

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1 individual is a male or female based upon what the
2 state tells us that they're male or female, which is
3 what they recognize on the driver's license. So they
4 get some cover that way.
5 Q. And would that be true regardless what
6 state a driver's license is from?
7 A. Well, I think that, yeah, that's -- I
8 mean, if that's their data point, that's where they
9 get the information for it, yeah, it would be true
10 everywhere.
11 Q. Okay. But as you mentioned earlier, if
12 they wanted to take into account all of the aspects of
13 physicality, gender identity, and gender expression,
14 and sexual preference, they're probably not going to
15 be able to do that based on just the sex designation
16 on a driver's license; is that right?
17 A. I would say that that's true, because
18 that's -- that's just one data point in that decision
19 process. That's one discretionary data point that
20 they're using as part of making those decisions.
21 Q. Okay. So would a reasonable correctional
22 officer expect that two people with the same external
23 genitals and the same gender identity might have a
24 different sex designation on their license?
25 A. I don't think you would expect that at

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1 all, no. You're talking about an officer?
2 Q. Yes.
3 A. You used the term "officer."
4 Q. Yes.
5 A. Yeah, line level staff.
6 No. I think the line level staff are
7 going to expect that gender identity, physiognomy, and
8 the driver's license are all going to be reflective of
9 one another.
10 Q. So in Alabama -- I'd like you just to
11 assume for a moment that what I'm telling you is true.
12 So in Alabama, it is possible to change
13 the sex designation on one's license based on either
14 evidence of sex reassignment surgery or that one has
15 amended their birth certificate.
16 The amendment of the birth certificate
17 can be a birth certificate from any jurisdiction, and
18 some jurisdictions permit changes to birth
19 certificates without sex reassignment surgery.
20 So because of that, it is possible that
21 two people who identify as male but who have female
22 typical external genitals, one who was born in, say,
23 Idaho would have male on his Alabama license, and one
24 who is born in Alabama might be female on his license.
25 Does that make sense so far?

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1 A. Yeah, because their definition -- again,
2 here's where -- here's where that discretionary
3 decision comes in in that whole process, is that part
4 of their -- their definition for that driver's license
5 designation says we will accept what another state
6 says, all right.
7 Now -- and that's their discretionary
8 decision. They could very well write into that
9 definition, we're not going to accept what another
10 state says. You have to meet our criteria.
11 So, yeah, you might have a birth
12 certificate from Idaho that you had amended there and
13 they don't require it; but in our state, your birth
14 certificate, in order to be amended like that, we have
15 that requirement. They could very easily make that as
16 a designation.
17 Q. Okay. And so, again, assuming that what
18 I told you is true and they haven't made that
19 designation, they are accepting certificates from
20 other states, would that affect how useful this policy
21 would be for -- as a baseline for correctional
22 administrators?
23 A. Yes. Because if you came in and you had
24 "male" on your driver's license, and that basically
25 operationalized decision-making for searches by other

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1 males, then that's how you would be searched, and that
2 would give cover.
3 And if the individual came in and they
4 had "female" on their driver's license and that
5 operationalized decisions that led to being searched
6 by a female, again, that would give cover.
7 So in that we would say that there was
8 not a Fourth Amendment violation, because in each case
9 the information that we used to drive our
10 decision-making process for the intrusiveness of the
11 search was based upon the information that was on the
12 driver's license, which is recognized by the State of
13 Alabama.
14 Q. Okay. So whatever the policy is in
15 Alabama, going by the license in Alabama would provide
16 some legal cover for correctional administrators; is
17 that right?
18 A. Yes, it helps.
19 Q. And earlier you talked to me about a
20 person who had transitioned to female and then
21 transitioned back to male who was -- who was stopped
22 in Grand Rapids.
23 Would it be possible that a transgender
24 man, somebody who was assigned female at birth and who
25 had not had genital reconstruction surgery and who had

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1 a beard, would also be stopped under those same
2 circumstances and accused of not having a valid ID?
3 A. Well, it depends on how the driver's
4 license was issued.
5 Q. If the driver's license were issued such
6 that it said female but the person appeared typically
7 male with clothes on, is it possible that the same
8 thing could have happened that happened to the person
9 you told me about in Michigan?
10 A. I would imagine so, yes.
11 Q. And do you -- you mentioned in your
12 report that it's also important to identify staff sex
13 for purposes of searches and supervision; is that
14 right?
15 A. Yes.
16 Q. Is there a typical way that correctional
17 administrators go about identifying the sex of staff
18 members?
19 A. Oh, my. Now you're really getting
20 tricky. Geez, you're running into all sorts of EEOC
21 issues. So I got a story for you, how's that?
22 Q. Great. Great.
23 A. All right. I like my stories for you.
24 All right. Good friend of mine, the
25 under sheriff in Charleston County, South Carolina;

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1 large jail, 2,600 beds. Sitting in his office one
2 day, they're doing hiring, okay, for new employees.
3 The -- and I've got -- I did an interview with him
4 like this, a distance interview, and I use it in my
5 presentations.
6 And he describes how he's sitting in his
7 office and these three members of the hiring board
8 come to his office; one is a captain, she's an African
9 American female; one is a sergeant, and he's an
10 African American male; and then the other is just a
11 male officer.
12 And they come in the room and they say,
13 Chief, we got a problem.
14 So, okay, What's the problem?
15 Said, Well, we -- we had a candidate come
16 before the board, and we all looked at the folder.
17 The folder and the information all looked really good,
18 and we said, Send young lady in, because the name on
19 the folder, the sex in the folder, all indicated that
20 this was a female applying for a correctional officer
21 job, all right.
22 They bring the individual in, sits down
23 at the table, and they look up and they say, Oh, there
24 must be some mistake. We're expecting -- just as a
25 name I'll toss out -- they're expecting Marsha.

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1 And he says, No, my name's Matthew, I
2 used to be Marsha, from underneath a heavy beard.
3 And they say, Well, what do you want us
4 to do, chief?
5 And he said, Well, was the individual a
6 good candidate?
7 They said, Well, yeah, yeah, good
8 candidate.
9 Well, how was the interview?
10 Well, the interview was fine, yeah, good
11 candidate.
12 So he says -- he turned to the African
13 American captain, female, and he says, you know, in
14 Charleston ten years ago, 20 years ago, we'd have
15 looked at you and we'd have said, a female officer
16 working in the jail? In a male housing unit? In
17 command? We can't do that. We can't have that.
18 And he turned to the African American
19 sergeant and he said, 40 years ago in Charleston,
20 South Carolina, we'd have looked at you and said, an
21 African American man working in the jail? We can't
22 have that. We can't do that.
23 He said, now, if we'd have lived and had
24 those policies and kept those policies, neither one of
25 you would be here or in your positions. So what do

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1 say that in our changing world, this evolving sense of
2 decency that we have in our society, some of our
3 practices have to change, but we need definitional --
4 definitions on which to base how we make those
5 changes. That's critical.
6 So one other thing. Gender of staff.
7 Gender of staff. Are we talking about what the staff
8 identify as or are we talking about what the staff has
9 as plumbing?
10 Q. Right.
11 A. You see how definitions come in.
12 Q. So it sounds like you don't think that --
13 that restrictions on cross-gender pat searches are
14 appropriate; is that right?
15 A. No. Not blanket like this, no. This is
16 a blanket policy, no. Blanket policies like that, no.
17 Q. Okay.
18 A. I've had my discussions with Andy Moss on
19 this. I know Andy. You know Andy.
20 Q. Is Andy one of the authors of this -- of
21 this guidance you think?
22 A. It's by The Moss Group.
23 Q. Yeah.
24 A. That's her company. I like Andy.
25 Q. So -- so if you don't think that, in

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1 general, cross-gender pat searches should be
2 prohibited, then it isn't necessarily required to
3 figure out how to classify somebody for purposes of
4 sex before doing a pat search; is that right?
5 A. Well, you have to have an idea of who to
6 have them search, right? So you have to have some --
7 you have to have some basis.
8 Q. Well, but I thought you said that for pat
9 searches it would be okay to have men search women or
10 to have women search men?
11 A. Oh, yeah.
12 Q. Am I wrong?
13 A. In my jail it would be. And, in fact --
14 in fact, we instituted cross-gender supervision in --
15 I was thinking it was, like, '89, '90, maybe.
16 Prior to that, in the state of Kentucky,
17 female officers -- they were called matrons, you
18 couldn't even call them officers, they were called
19 matrons -- they only dealt with the female inmates and
20 the male officers only dealt with the male inmates.
21 Which was okay except that there was one
22 captain, one lieutenant, one sergeant position. So if
23 you were a female officer and you came -- a female
24 matron at that time -- you came to work, your
25 opportunities for advancement within the organization

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1 were significantly limited.
2 There was one sergeant, one lieutenant.
3 But if you were a male officer, we had, God, 25
4 sergeant positions, and a dozen lieutenant positions.
5 So from an employee/employer perspective,
6 we were really discriminating against our female staff
7 in the way we managed them in that way. So we
8 integrate them.
9 Now, when we did that, all the male staff
10 claimed that the female officers were going to get
11 raped and assaulted, they couldn't control the male
12 housing units, the jail was going to go into a riot,
13 it was going to burn down, people were going to get
14 out, the community was going to be killed,
15 thermonuclear weapons are going to go off. I mean,
16 that's what you hear, okay. I mean, you get this
17 slippery slope argument.
18 In reality, we found that one of the best
19 performing officers we had in the jail was a
20 62-year-old female that the inmates called mom. She
21 could get them to do anything. She didn't have any
22 fights, okay. So that was good.
23 But the male staff, they all resented it.
24 And I think some of it was now it opened up those
25 positions to the female officers, okay. Yeah, now

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1 they got a little more competition, all right. That
2 was one issue.
3 The next thing we found after doing that
4 was when -- when altercations were happening, they
5 were sending all the male officers to the
6 altercations, all right.
7 And so now we had use of force issues for
8 an officer showing he had more use of forces than this
9 other officer over here, so it looked like he was
10 being a thug in the jail. When in reality, it was how
11 we're operationalizing their uses of force policy. We
12 were only sending the males.
13 So we became an equal opportunity
14 ass-kicking jail. Meaning if you were a female
15 officer, you got to go in on that fight too.
16 Everybody went in.
17 And you know what we found? When we
18 started sending only women in or we started sending
19 women in with the men, fights went down. Inmates
20 chilled out when they came in, because they didn't
21 want to fight the women.
22 Now, is that true across the board? No.
23 We did have some fights with women. But basically,
24 across the board, we did not have that. So, again,
25 it's how we operationalize some of these things.

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1 a high risk tolerance.
2 Our intake unit, you know, in most jails
3 around the country, females get a very short amount of
4 resource placed toward their housing, supervision,
5 service provision.
6 There was a 2002 report that came out
7 from the National Institute of Corrections that talked
8 about the -- the lack of good classification housing
9 and supervision policies for female offenders in the
10 country, because nobody puts money toward them.
11 So, for example, you have a place like
12 Memphis, Shelby County, Tennessee, 33 -- 3,600-bed
13 jails, and they have very strict prohibitions in the
14 state of Tennessee on separating males from females,
15 sight and sound.
16 Now, why do we have a site and sound
17 separation once they cross that threshold of the jail?
18 They can sit together in the back seat of the cruiser,
19 but once they cross the threshold of the jail, we have
20 to have them separated.
21 That's because we all know if they can
22 even hear each other, they're going to become sexually
23 titillated by it, they're going to get some sort of
24 gratification out of it. Okay, that's why we have to
25 do this sight and sound separation.

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1 So you can't have them being booked in
2 the same area. You can't have them being housed in
3 the same area. Here's how it worked out in Memphis:
4 The males had a beautiful sitting area, they had
5 televisions to watch that they could, you know, pass
6 the time with. They had telephones that they can call
7 and get bonded out of custody with. Those were all
8 available to them.
9 You went to the female side, they were
10 given a large utility closet, no television, no
11 telephone. When they wanted to make a call, they had
12 to get an officer to get them out, to walk them up the
13 hall so the males couldn't see them, so that they
14 could make a phone call so they could get bonded out
15 of custody.
16 Now -- okay. Now we got a Fifth
17 Amendment right to bond, right? Okay. But it seemed
18 to be being hindered a little bit by these practices
19 of sight and sound separations. That's the way it
20 gets worked out.
21 Now, in our jail, we ran an intake unit,
22 we ran a passive seating area where males and females
23 all sat together. We ran an intake housing unit,
24 there was a co-ed housing unit, the males and females.
25 Males go on the lower level, females on the upper

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1 level. They came down, they commingled in the common
2 areas.
3 We ran a work release housing unit with
4 the males housed on one side and the female on the
5 other side, and in between we had vending machines,
6 and we had a pool table, ping pong table, a seating
7 area, and they commingled freely. The males didn't go
8 on their side, they didn't go on the male side.
9 I mean, you know, okay. Did we ever have
10 any problems in there? No. No, because we were
11 proactive. As soon as we started seeing a behavior of
12 an inmate inappropriate, we dealt with that behavior
13 right then. That's how you have to do it.
14 But that's my risk tolerance. When I
15 talk about doing this, the jails around the country,
16 they throw hands up. They're like, oh, my God, you
17 can't do that. They'll be having sex all over the
18 place.
19 You know, what I find personally is that
20 most people can control their sexual urges when
21 they're in jail, and that short period of time that
22 they're in, that they don't feel a need to have sex
23 with every female that walks in the door, nor do the
24 females feel that they have to have sex with every
25 male that walks in the door, and it work both ways.

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1 And if you give people the opportunity to
2 -- to demonstrate adult rational behavior, you reward
3 them for that, and you sanction them when you don't.
4 You'll get that from them.
5 But, again, that's my -- that's -- my
6 risk tolerance level's really high. Some people say
7 we got to punish.
8 Q. And when people ask you about your
9 recommendations for how transgender people should be
10 housed, what would you tell them?
11 A. Now, again, you're talking to Don Leach,
12 what would I recommend. I would ask an individual
13 where do you feel most comfortable being housed. Can
14 you live in a male housing unit? Yes. Okay, we'll
15 put you in there.
16 If you have any problems while you're in
17 there, you let us know. If there's any issues come
18 up, you let us know. If something happens while
19 you're in there, you let us know. You inform them
20 that they have to help participate in their
21 incarceration.
22 So we'll put you where you feel most
23 comfortable, but if a problem develops, you have to
24 tell us. But you know what, I would tell that to
25 anybody. I would tell that to anybody that goes in a

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1 So, again, that's all that changing
2 landscape.
3 Q. All right. Thank you.
4 And you're not claiming to have any
5 medical expertise; right?
6 A. I have my EMT certification, but that's
7 about it. That was through the Lexington Fire
8 Department back when I was working at the jail, yes, I
9 had that. But other than that, no.
10 Q. Okay. And do you have any degrees in
11 biology?
12 A. No. I was a liberal arts major.
13 Q. So was I.
14 And have you ever worked in the motor
15 vehicle department before?
16 A. No.
17 Q. And do you have expertise in driver's
18 licenses, specifically?
19 A. No.
20 Q. Okay. And have you ever been
21 disqualified as an expert before?
22 A. Not to my knowledge.
23 Q. Okay. And since you have experience
24 making arrests, I'd like to ask just a couple of
25 questions following up on that.

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1 So at the point where you make an arrest,
2 how do you identify -- do you identify the sex of the
3 person who you're arresting?
4 A. I did. Had it write it on -- had to
5 write it on the citation.
6 Q. And so how did you decide what to write
7 on the citation for sex?
8 A. I used his driver's license.
9 Q. Okay. Did you -- as far as you recall,
10 did you ever arrest somebody who you thought might be
11 transgender or intersex?
12 A. Not that I can recall, no.
13 Q. Have you ever arrested somebody who
14 didn't have a driver's license?
15 A. Not a juvenile? Not a juvenile.
16 Assuming it's not a juvenile. I've arrested
17 juveniles, they didn't have driver's licenses.
18 Q. With juveniles who did not have driver's
19 licenses, how did you determine what sex to write
20 down?
21 A. Physical appearance. And we would talk
22 to them, of course. You know, we're talking about a
23 long time ago. That would have been back in the --
24 that was in the '80s.
25 Q. Okay.

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1 A. Long time ago.
2 Q. When you talked to them, did they -- did
3 you ask questions about their sex?
4 A. No, I don't -- I don't recall -- I don't
5 recall really talking about their sex to them too
6 much. It just -- it just was more obvious. Again,
7 we're talking about back in the '80s.
8 Q. Okay. Could you tell me, are there
9 unique concerns in a correctional environment that
10 aren't necessarily relevant in the community?
11 A. Are there unique concerns in the
12 correctional environment that are not relevant in the
13 community?
14 Q. Yes.
15 A. Well, I -- yeah, I mean, we have the
16 Fourth Amendment issues. I mean, intrusiveness of the
17 search, okay, where we have a policy that's going to
18 require a pretty intrusive search, a strip search, you
19 don't see many strip searches in the community. That
20 would probably be one.
21 You know, housing. You know, having to
22 make a decision about what apartment you can live in
23 the -- in the community. I don't know that any
24 governmental agency makes a decision on what apartment
25 you can be housed in based upon your sex or gender

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1 identity or other issues, I'm not aware of it. So, I
2 mean, that might be another one.
3 Other than that, yeah, I don't -- that's
4 about it off the top of my head.
5 MR. ARKLES: All right. So I'm going to
6 take another very short break. I think we're probably
7 wrapping up here, and so unless -- of course Brad will
8 also have an opportunity to ask you questions.
9 Why don't we just take one last
10 five-minute break.
11 (There was a break taken.)
12 MR. ARKLES: We can go back on the
13 record, and I have no further questions at this time.
14 MR. CHYNOWETH: No questions from the
15 defendants.
16 MR. ARKLES: All right. Then I think
17 we're done.
18 Vickie, is there anything that you need
19 from us?
20 THE REPORTER: Do you both want a copy of
21 the transcript?
22 MR. ARKLES: Yes, please.
23 MR. CHYNOWETH: Yes.
24 THE REPORTER: Do you want the doctor to
25 read and sign? Or do you have read and sign?

DOC. 52-28

Exhibit 28

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

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

Declaration of Darcy Corbitt

1. I am a woman. I am also transgender.
2. Strangers perceive me to be a woman in my day-to-day life. Everyone close to me knows me to be a woman.
3. I was born in Louisiana, and I grew up in Alabama. I moved to North Dakota in 2015.
4. While living in North Dakota, I began updating the gender listed for my government records. My North Dakota driver's license, United States passport, and Social Security records now reflect my gender as female.
5. Before my gender was updated on my North Dakota driver's license, showing my license outed me as transgender every time I showed it someone. I tried to avoid situations where I would have to show identification. Not only was it embarrassing and upsetting to use my ID, but also it was frightening. I was afraid someone who learned I was transgender might attack me.
6. When I received a license and passport that accurately reflected my female gender, I was moved to tears. In the weeks that followed, I felt like a burden had lifted from my shoulders. I felt like I was a full participant in life and that my government was accepting me as a

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

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

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

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

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

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

Executed on: 7 February 2019

By:  _____

Darcy Corbitt

DOC. 52-29

Exhibit 29

In The Matter Of:

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

*Darcy Corbitt
November 21, 2018*

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

Original File 11-9-18 Darcy Corbitt.txt

Min-U-Script® with Word Index

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

4
5 CIVIL ACTION NO.: 2:18-CV-00091-MHT-GMB

6
7 DARCY CORBITT, DESTINY CLARK, and JANE DOE,
8 Plaintiffs,

9 V.

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

13 Defendants.

14
15 DEPOSITION OF DARCY CORBITT

16 November 9, 2018

17
18 Taken before Elaine Scott, CCR,
19 Commissioner for the State of Alabama at
20 Large, in the Law Offices of the Alabama
21 Attorney General, 501 Washington Avenue,
22 Montgomery, Alabama, on Thursday, November 9,
23 2018, commencing at approximately 8:57 a.m.

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A P P E A R A N C E S

FOR THE PLAINTIFFS:

AMERICAN CIVIL LIBERTIES UNION FOUNDATION

Gabriel Arkles

125 Broad Street

18th Floor

New York, New York 10004

ALABAMA CIVIL LIBERTIES UNION FOUNDATION

Brock Boone

Randall C. Marshall

P.O. Box 6179

Montgomery, Alabama 36106

FOR THE DEFENDANTS:

OFFICE OF THE ATTORNEY GENERAL, STATE OF

ALABAMA

Brad A. Chynoweth

501 Washington Avenue

Montgomery, Alabama 36130

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

ALSO PRESENT:

Meredith Barnes

COURT REPORTER:

BAKER REALTIME WORLDWIDE REPORTING & VIDEO

Elaine Scott

250 Commerce Street

Third Floor, Suite One

Montgomery, Alabama 36104

1 A. My name is Darcy Jeda Corbitt Hall.

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

3 A. 11th of May 1992.

4 Q. Okay. And that makes you how old

5 now?

6 A. 26.

7 Q. Where were you born?

8 A. Baton Rouge, Louisiana.

9 (Defendant's Exhibit Number 9 was
10 marked for identification. A copy
11 is attached.)

12 Q. I'm presenting to you Defendant's
13 Exhibit 9. Can you state what this is?

14 A. This is my birth certificate.

15 Q. And what is the name on your birth
16 certificate?

17 A. [REDACTED]

18 Q. And what is the sex on this birth
19 certificate?

20 A. Male.

21 Q. So you were assigned male sex at
22 birth?

23 A. That is correct.

1 University where I continued my bachelor's
2 work.

3 Q. So you got an associate's degree at
4 Southern Union?

5 A. I did.

6 Q. And in August of 2012 you started
7 at Auburn University?

8 A. That is correct.

9 Q. What were you studying?

10 A. I was studying a double major in
11 English literature and psychology.

12 Q. How long did those studies
13 continue?

14 A. Until 2015.

15 Q. And did you complete your
16 bachelor's at that time?

17 A. I did.

18 Q. In spring of 2015?

19 A. May of 2015.

20 Q. And what did you do after you
21 graduated in May of 2015?

22 A. I moved to Fargo, North Dakota,
23 where I started doctoral work in clinical

1 psychology.

2 Q. And that would have been in the
3 fall of 2015?

4 A. That is correct.

5 Q. Where were you in school?

6 A. North Dakota State University.

7 Q. How long -- I'm sorry. What were
8 you studying there?

9 A. Clinical psychology.

10 Q. And was that a master's or a Ph.D.
11 program?

12 A. It was a nonterminal master's
13 transitioning to Ph.D.

14 Q. And how long did you study at North
15 Dakota State?

16 A. I studied until August 2017, I
17 believe.

18 Q. And you said that was a nonterminal
19 degree, so what was the completion of that
20 course of studies?

21 A. I did not complete those studies.

22 Q. And what did you do after August of
23 2017?

1 A. My doctoral advisor got a job at
2 Auburn and invited me to join her at Auburn to
3 work as her project student there and to
4 manage a grant-funded project that we had --
5 would be starting in August. And so I
6 accepted her offer and moved back to Auburn.

7 Q. So you relocated to Auburn. Would
8 that have been August or maybe a little later?

9 A. It was August.

10 Q. August of 2017. And were you
11 enrolled in Auburn at that time or you were
12 just working for this professor?

13 A. I was enrolled at Auburn.

14 Q. And what was your degree?

15 A. My current degree is doctoral
16 program in human development and family
17 studies also known as developmental
18 psychology.

19 Q. And are you currently enrolled in
20 pursuing the same degree at Auburn?

21 A. I am.

22 Q. Have you completed all of your
23 course work?

1 don't have that luxury. You apply where there
2 is an open position.

3 Q. And so when you have completed your
4 Ph.D., do you anticipate applying to a variety
5 of universities that have open positions?

6 A. I do.

7 Q. And those will be tailored somewhat
8 to what your specialty is in developmental
9 psychology?

10 A. As far as I can.

11 Q. And do you anticipate a significant
12 number of those job openings being out of
13 state?

14 A. I'm unable to speculate about the
15 nature of the academic job market in five or
16 six years, but I can say that Auburn
17 University is the third highest ranked program
18 in the country and has the research interest
19 that I am involved in.

20 Q. But you would apply based on any
21 acceptable position regardless of geographical
22 location of the university?

23 A. That is true.

1 A. That's fine.

2 Q. Your sex designation on your
3 license that you obtained when you were
4 sixteen was M?

5 A. That is correct.

6 Q. And you possessed an Alabama
7 driver's license from the time you were
8 sixteen until when?

9 A. Sometime in 2015 in the fall.

10 Q. And that would have been when you
11 moved to North Dakota?

12 A. That is correct.

13 Q. And you obtained a North Dakota
14 driver's license at that time?

15 A. I did.

16 Q. And what was the sex designation on
17 that driver's license?

18 A. Male.

19 Q. Did you ever have the sex on your
20 North Dakota license changed?

21 A. I did.

22 Q. When was that?

23 A. I'm not sure of the date. It was

1 Q. Do you have a United States
2 passport?

3 A. I do.

4 Q. When did you obtain that?

5 A. In January of 2017.

6 Q. And you were living in North Dakota
7 at that time?

8 A. I was.

9 Q. What is the sex designation on your
10 U.S. passport?

11 A. Female.

12 Q. And when you returned to Alabama in
13 August 2017, did you obtain an Auburn
14 University student ID?

15 A. I did.

16 (Defendant's Exhibit Number 11 was
17 marked for identification. A copy
18 is attached.)

19 Q. This is Defendant's Exhibit 11.
20 Can you tell me what that is?

21 A. This is my Auburn University ID.

22 Q. So do you currently still hold your
23 North Dakota driver's license that is Exhibit

1 10?

2 A. I do hold that.

3 Q. You still hold a current valid
4 United States passport?

5 A. I do.

6 Q. And is Exhibit 11 a student ID that
7 you currently hold?

8 A. I do not hold this specific ID any
9 longer. I have a new version of it, same
10 information, different picture, issued a month
11 ago.

12 Q. So your 2018 Auburn University
13 student ID is substantially the same in that
14 it has your name and photograph and it
15 identifies you as a student?

16 A. That is correct.

17 Q. Can you tell me when you first
18 identified as a woman?

19 A. My earliest memory is of me
20 identifying as a woman and finding out that
21 that identification was not consistent with
22 how other people saw me.

23 Q. Do you recall approximately what

1 year that would have been?

2 A. I don't know the year. I believe I
3 was between the ages of three or four.

4 Q. And what is your current gender
5 identity?

6 A. I am a woman.

7 Q. Would it be fair to say that --
8 strike that. Do you identify yourself as a
9 transgender woman?

10 A. Yes.

11 Q. Can you explain what transgender
12 means to you?

13 A. It means that the way that I
14 understand my gender and my sex is different
15 than that which is listed on my birth
16 certificate.

17 Q. Would it be fair to say that the
18 process of you understanding yourself to be a
19 transgender woman was a transition or involved
20 a transition?

21 A. I would say that it is fair that
22 all human beings undergo some form of
23 transition in their life where they understand

1 who they are.

2 Q. And in your case one aspect of that
3 transition was becoming aware of your identity
4 as a transgender woman?

5 A. I wouldn't say that I became aware
6 that I was a transgender woman. I would say
7 that I became aware that there was a term that
8 existed to explain how I felt and that there
9 was a future for me and the life I thought was
10 best for me.

11 Q. Do you recall around what age that
12 was when you had that awareness?

13 A. Twenty.

14 (Defendant's Exhibit Number 12 was
15 marked for identification. A copy
16 is attached.)

17 Q. I am going to place into the record
18 Defendant's Exhibit 12. What is this
19 document?

20 A. This is my legal name change
21 document.

22 Q. And is the date on that July 22nd,
23 2013?

1 A. That is correct.

2 Q. Can you explain to me the
3 significance of legally changing your name in
4 this process of transition that we've been
5 talking about?

6 A. Of course. I had started living as
7 Darcy full-time on May 11th, 2013, and part of
8 the process for me was making sure that my
9 identification correctly reflected who I was
10 and who I knew myself to be and who my friends
11 knew me to be. And so I went and changed my
12 name at the courthouse, and it was a very
13 scary experience. I did not think that it
14 would be easy. I felt that they would
15 discriminate against me when I told them the
16 reason. They did look at me funny, but they
17 did issue the name change. And it made me
18 feel -- it made me feel -- it made me feel
19 somewhat normal for the first time in my life
20 to have, you know, a legal identity that was
21 closer to who I was as a person.

22 Q. Can you explain what you mean when
23 you said it was a scary experience to go to

1 questions about a transitional process,
2 correct?

3 A. That is correct.

4 Q. Would it be accurate to say that
5 that transitional process was complete on May
6 11th, 2013?

7 A. I would say that that process had
8 begun on May 11th, 2013.

9 Q. On May 11th, 2013, I believe the
10 way you put it was you began living as Darcy?

11 A. Full-time.

12 Q. And prior to that, how had you been
13 living that was different?

14 A. My name was different. I didn't
15 expect people to use Darcy as my name. I
16 didn't expect people to use my gender
17 pronouns. I had been dressing as a woman
18 since approximately June or July 2011, but I
19 had not been consistently asking people to
20 treat me as a woman because at the time I
21 still was uncertain about what gender identity
22 was. I didn't really have a concept of it.
23 Once I did have a concept of it, the process

1 Can you state whether you have been diagnosed
2 with gender dysphoria disorder?

3 A. I have.

4 Q. Can you tell me when that was?

5 A. I'm unable to provide you with the
6 date of that.

7 Q. Do you know a year?

8 A. Possibly in 2013.

9 Q. Do you recall the name of the
10 doctor or the psychologist that made the
11 diagnosis?

12 A. Ann Marie Delsignore.

13 Q. So was that here in Alabama?

14 A. Yes.

15 Q. Can you spell the name for me?

16 A. Ann Marie, A-N-N M-A-R-I-E
17 D-E-L-S-I-G-N-O-R-E.

18 Q. And what is her -- what is the
19 nature of her medical training?

20 A. She is a -- I think she's finished
21 with her Ph.D. in counseling psychology. She
22 was working at the counseling center at Auburn
23 University.

1 Q. Okay.

2 A. Okay.

3 Q. Fair enough. I will be referring
4 to the paragraphs, the numbered paragraphs, as
5 opposed to the numbers at the bottom.

6 A. Okay.

7 Q. And do you see in paragraph four
8 where it says the plaintiffs Ms. Darcy
9 Corbitt, Ms. Destiny Clark, and Ms. Jane Doe
10 have all been personally harmed by this
11 policy? Do you see where it says that in
12 paragraph four?

13 A. I do see that.

14 Q. And do you understand that this
15 policy refers to the policy for when you can
16 change the sex on your driver's license in
17 Alabama?

18 A. I do.

19 Q. Can you explain to me in your own
20 words how this policy has harmed you?

21 A. Of course. From an emotional
22 standpoint it has caused very deep emotional
23 harm. Being publicly humiliated by ALEA

1 officials in the driver's license office in a
2 very public way when there were other people
3 present was very, very emotionally disturbing
4 to me. The subsequent stress over this
5 lawsuit and what the outcome will be and what
6 that means for my future as both a person
7 living in Alabama as well as a person just
8 living in general has caused me loss of hours
9 at work, loss of sleep, increased visits to
10 the doctor's office, and the need to resume
11 therapy.

12 From a practical standpoint it is
13 very difficult for me to navigate the world
14 not having a driver's license in the state
15 where I live. I work in public elementary
16 schools, and I have to produce a driver's
17 license in order to access those schools, and
18 I'm currently having to use a North Dakota
19 license. And at the time in which I will have
20 to have an Alabama license if it does not
21 accurately define my status it will out me to
22 my employers and it will out me to the schools
23 where I work. And the schools are mostly in

1 rural areas and will not take kindly to a
2 transperson working with their students.

3 It also from a philosophical
4 perspective is incredibly insulting to be
5 treated differently than other people in my
6 state, and it is also insulting that had I
7 gone to any other state and applied for a
8 driver's license with the documentation that I
9 have I would have been given a driver's
10 license that said female, and the only reason
11 I have a driver's license that says male in
12 this state is because I was previously
13 licensed here.

14 Q. With what schools do you work?

15 A. I'm not able to provide an answer
16 to that question.

17 Q. Do you work in schools in
18 connection with your graduate studies?

19 A. I do.

20 Q. And this is as a student teacher or
21 intern or in what capacity?

22 A. I'm the program manager for a
23 federally funded antibullying program.

1 of the amended complaint?

2 A. (Witness complies.)

3 Q. Can you tell me what you recall
4 about the basis of the allegations in
5 paragraph 69? That would be your August 2017
6 visit to Lee County driver's license to obtain
7 an Alabama license. Can you tell me what you
8 recall about that event?

9 A. Are you asking for a narrative of
10 what happened at that -- on that occasion?

11 Q. Yes. I'm -- did you attempt -- did
12 you visit a Lee County Driver's License Office
13 in August 2017?

14 A. I did.

15 Q. Did you do so in order to transfer
16 your North Dakota driver's license to an
17 Alabama driver's license?

18 A. I did do so.

19 Q. Can you tell me what you recall
20 about your interaction there?

21 A. Yes. I entered the office. I was
22 seen almost immediately, which was a
23 relatively normal experience for me at that

1 office. And the clerk was very friendly. We
2 chatted. She said, oh, you lived in North
3 Dakota. I said yeah. We did the normal
4 banter about it being really cold there. She
5 asked me why I moved back to Alabama. I told
6 her. Or why I had moved to Alabama, and I
7 told her because I hadn't told her I had lived
8 in Alabama before.

9 She asked if I had ever been
10 licensed in Alabama before. I said yes,
11 provided her with my Social Security number.
12 To this point she was very friendly and
13 courteous to me. It was normal interaction.
14 And she got really quiet after she looked me
15 up. She didn't look at me. She didn't talk
16 to me. I tried to make conversation and she
17 was very brisk with me.

18 She took my picture. And then
19 she -- I think she asked me if my weight had
20 changed, and it had. Nothing else -- well, my
21 address had changed. I updated that. And
22 then she printed out a little receipt that
23 said all the information on it and was like

1 can you verify that all this is accurate. And
2 I noticed the sex designation was M, and I
3 said -- I circled it and said this is not
4 accurate.

5 And she said I know, and I never
6 would have known if I hadn't seen your
7 driver's license. And I said, well, that's
8 not accurate. It needs to be updated. She
9 said I am not able to update that for you.
10 And I said, well, I need you to find out how
11 you can update it because it is inconsistent
12 with the other documentation that I have and
13 the other forms of identification that I have
14 and I don't need an inconsistency in
15 identifying documents.

16 And so she called her supervisor
17 over. And her supervisor would not look at me
18 either and was very disinterested and said you
19 just need to call Montgomery and find out. So
20 she called Montgomery. And when she was on
21 the phone with the person in Montgomery --

22 Q. I'm sorry. Let me stop you there.
23 When you said she called Montgomery, are you

1 referring to the supervisor or the clerk?

2 A. The clerk. The supervisor walked
3 away.

4 Q. And so the examiner called and
5 spoke to someone in Montgomery?

6 A. Yes. And I do not know who that
7 person is.

8 Q. And then what happened?

9 A. She was explaining the situation,
10 and she said he is sitting here, he has a
11 North Dakota license that says female, but his
12 Alabama license says male and he wants to
13 change it and, no, he does not have a note
14 from a doctor.

15 And all this -- before all of this
16 had happened she was referring to me as she.
17 She was treating me like a woman, but when she
18 saw my driver's license from Alabama she
19 started treating me like I was a man. She did
20 so very loudly.

21 It is an open room like this one.
22 There was someone to the right of me and to
23 the left of me. The person to the right of me

1 was a woman and she looked at me very
2 pityingly. The people on the left were two
3 men, and they looked at me with disgust.
4 There was also a state trooper present who
5 looked at me and I was afraid of the way that
6 she was looking at me. I didn't know what it
7 meant.

8 I felt very afraid. I did not know
9 if I was going to be safe. I was also in a
10 situation where I didn't know how much the
11 person in front of me could help me and so I
12 wasn't able to advocate for myself or defend
13 myself or correct her. And I had to endure
14 her insulting and detrimental behavior because
15 I didn't know if she would help me or not.

16 And this went on for about ten
17 minutes. At one point she said it is sitting
18 here or something like that. She referred to
19 me as it, as an object. And then while she
20 was on hold she looked at me, and she said I
21 guess I should be saying she, huh. And to
22 this point I was being really magnanimous. I
23 felt like, well, she just doesn't know, but

1 the fact that she was self-aware to realize
2 that what she was doing was offensive and then
3 proceeded to continue to call me he was -- and
4 naturally that's when she said it was after
5 she acknowledged she should say she. Then she
6 said it and then she went back to he. Never
7 once apologized for any of that behavior.

8 And she told me that I would need
9 to either get an amended birth certificate
10 from the state where I was born or a doctor's
11 note indicating that I had had surgery before
12 the license could be updated. And I told her
13 I refused to surrender my North Dakota
14 license; I do not want an Alabama license
15 today; and I will see you in court. And I
16 left. And I literally ran to my car because
17 the men on the other side of me were leaving
18 at the same time and I thought they were going
19 to beat me up in the parking lot.

20 Q. Was it your understanding that you
21 could have obtained an Alabama license at that
22 time except it would have had an M sex
23 designation on it?

1 A. I was unable to obtain an Alabama
2 license because I wasn't able to verify that
3 the information provided was accurate.

4 Q. But you could have obtained a
5 driver's license with that sex designation on
6 there at that time, correct?

7 A. I could have obtained an Alabama
8 driver's license if I lied and misrepresented
9 who I was as a person.

10 Q. Were there any other statements
11 made to you about why you didn't satisfy the
12 policy for changing sex other than what you've
13 stated?

14 A. There are -- no other statements
15 were made.

16 Q. So did you, in fact, threaten to
17 file a lawsuit at that time?

18 A. I didn't threaten. I stated that I
19 would see her in court.

20 Q. And what do you mean by that?

21 A. That I would file a lawsuit.

22 Q. Did you, in fact, file a lawsuit?

23 A. I did, in fact, call the ACLU as

1 the questions that I just asked you, is your
2 status as a transgender individual something
3 that is not publicly known?

4 A. No, it is not a secret.

5 Q. Is your status as a transgender
6 individual something that is confidential?

7 A. Depends on the circumstances.

8 Q. What would be some circumstances in
9 which it would be?

10 A. On a dark country road with a
11 police officer who pulls me over it would be a
12 confidential thing. When I'm getting carded
13 for an alcoholic beverage it would be a
14 confidential thing. And in any other
15 situation where I deem myself to be at
16 significant risk if that information was
17 disclosed it is a confidential thing.

18 Q. Are you not -- are you maintaining
19 that such a disclosure would place you at
20 risk?

21 A. I am indicating that.

22 Q. Do you not publicly across all of
23 the internet floor that we have identified

1 disclose your status as a transgender
2 individual?

3 A. Can you repeat the question?

4 Q. Do you not already publicly
5 disclose your status as a transgender
6 individual through various social media?

7 A. I do. But the likelihood of a
8 random police officer or a random bartender
9 knowing that information when they interact
10 with me is very low.

11 Q. Aren't you disclosing your
12 transgender status to a much larger volume of
13 people by means of social media than by means
14 of any government identification documents?

15 A. In the forms in which I disclose
16 that information I control the narrative. And
17 if I ever felt unsafe, I could pull the
18 Facebook, I could pull the website, I could
19 pull the Twitter, I could pull the Instagram.
20 In the situation of a driver's license I
21 cannot control that narrative.

22 Q. But, of course, you don't have an
23 Alabama driver's license?

1 A. I do not.

2 Q. And your driver's license
3 identifies you as a female, does it not?

4 A. It does.

5 Q. So you are not disclosing any
6 transgender status by means of any driver's
7 license you currently possess, do you?

8 A. Not at this time.

9 Q. Don't you voluntarily accept any
10 risk created by disclosing your transgender
11 status when you disclose it through social
12 media?

13 A. Yes.

14 Q. Can you get an Alabama driver's
15 license without having to get medical
16 treatment you don't want?

17 A. Not at this time, no.

18 Q. Why not?

19 A. Because at this time I have not
20 made the determination that I want to have the
21 procedures the state requires of me.

22 Q. Will the State of Alabama
23 physically issue you an Alabama driver's

1 used your passport as your ID to vote?

2 A. I typically use my passport, yes.

3 Q. If you were to have an Alabama
4 license that designated your sex as male, how
5 would you typically carry that license with
6 you?

7 A. Well, I wouldn't carry it because I
8 wouldn't accept it. But if I had to, if I was
9 compelled to, then I would carry it in my
10 wallet and use it with hesitation.

11 Q. Let's turn to your North Dakota
12 license. How do you carry your North Dakota
13 license?

14 A. With pride.

15 Q. Okay. Where physically do you
16 carry your North Dakota license?

17 A. In my wallet.

18 Q. And where do you keep your wallet?

19 A. In my bag or at my side. My wallet
20 is the kind that can be carried as a purse.

21 Q. So you typically carry your North
22 Dakota license concealed within your wallet?

23 A. As do pretty much everybody.

1 experiences, mostly because they didn't
2 understand why some LGBT person was talking to
3 them I'm assuming. They definitely didn't act
4 weird around other people, so I just said
5 thank you for coming today, we really
6 appreciate your show of support and for
7 keeping us safe.

8 Q. So they were there to provide
9 security?

10 A. That is correct.

11 Q. So you thanked them for allowing
12 you to --

13 A. Be safe.

14 Q. And you said on October 17th of
15 2018 you had an officer come to your
16 residence?

17 A. Yes.

18 Q. And why was that?

19 A. Because someone has been stalking
20 me.

21 Q. Did you call 911 in connection with
22 that incident?

23 A. I called dispatch directly and had

1 get a driver's license in Alabama and because
2 I've lived here before and had a license I
3 already had a number and I was already in the
4 system. And my old license had M on it
5 obviously and they said that because of that
6 they couldn't update it, even though my
7 passport has an F on it, even though with the
8 Social Security Administration I have an F on
9 their records, even though my North Dakota
10 license has an F on it. I can't -- according
11 to the State of Alabama, I'm a man.

12 And let me just tell you how this
13 went down. I went in. She was using the
14 right pronouns of me, and then she saw it and
15 then she started using the wrong ones. And
16 then she corrected herself and then proceeded
17 to keep using the wrong ones. And it was just
18 totally offensive.

19 They called Montgomery and they
20 tried to like figure out what to do.
21 Basically I have to have surgery. Well, I
22 can't afford that. In fact, I told them if I
23 had sixty thousand dollars I would go get it

DOC. 52-30

Exhibit 30

FILED IN
OFFICE THIS

JUL 22 2013

BILL ENGLISH
Judge of Probate

STATE OF ALABAMA

IN THE PROBATE COURT

COUNTY OF LEE

. LEE COUNTY, ALABAMA

ORDER GRANTING CHANGE OF NAME

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

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

Done this the 22nd day of July, 2013.


BILL ENGLISH
PROBATE JUDGE
LEE COUNTY ALABAMA



DOC. 52-32

Exhibit 32



North Dakota
LEGENDARY

USA
ND

DRIVER
LICENSE



D-1
9 CLASS D 12 RESTR NONE 9a END NONE
1 CORBITT-HALL
2 DARCY JEDA

8 [REDACTED]

4d LIC# [REDACTED]

3 DOB [REDACTED]

15 SEX F

4a ISS 11/02/2016

16 HGT 5'-09"

4b EXP [REDACTED] /2020

18 EYES BLU



[Handwritten signature]

5 DD 9COR929194CD52011eA69NDZ

REV 01-08-2014

DOC. 52-36

Exhibit 36

In The Matter Of:

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

*Destiny Clark
November 8, 2018*

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

Original File 11-8-18 Destiny Clark.txt

Min-U-Script® with Word Index

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

4
5 CIVIL ACTION NO.: 2:18-CV-00091-MHT-GMB

6
7 DARCY CORBITT, DESTINY CLARK, and JANE DOE,
8 Plaintiffs,

9 V.

10 HAL TAYLOR, in his official capacity as
11 Secretary of the Alabama Law Enforcement
12 Agency, et al.,
13 Defendants.

14
15 DEPOSITION OF DESTINY CLARK

16 November 8, 2018

17
18 Taken before Elaine Scott, CCR,
19 Commissioner for the State of Alabama at
20 Large, in the Law Offices of the Alabama
21 Attorney General, 501 Washington Avenue,
22 Montgomery, Alabama, on Thursday, November 8,
23 2018, commencing at approximately 9:00 a.m.

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A P P E A R A N C E S

FOR THE PLAINTIFFS:

AMERICAN CIVIL LIBERTIES UNION FOUNDATION

Gabriel Arkles

125 Broad Street

18th Floor

New York, New York 10004

ALABAMA CIVIL LIBERTIES UNION FOUNDATION

Brock Boone

Randall C. Marshall

P.O. Box 6179

Montgomery, Alabama 36106

FOR THE DEFENDANTS:

OFFICE OF THE ATTORNEY GENERAL, STATE OF

ALABAMA

Brad A. Chynoweth

501 Washington Avenue

Montgomery, Alabama 36130

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

ALSO PRESENT:

Meredith Barnes

COURT REPORTER:

BAKER REALTIME WORLDWIDE REPORTING & VIDEO

Elaine Scott

250 Commerce Street

Third Floor, Suite One

Montgomery, Alabama 36104

1 A. Destiny Clark.

2 Q. When were you born?

3 A. April 26, 1984.

4 Q. And that would make you how old?

5 A. Thirty-four. But a lady never
6 tells her age.

7 Q. Well -- I'm going to submit
8 Defendant's Exhibit 1.

9 (Defendant's Exhibit Number 1 was
10 marked for identification. A copy
11 is attached.)

12 Q. Is this an accurate copy of your
13 birth certificate?

14 A. Yes, it is.

15 Q. And what is the name on the birth
16 certificate?

17 A. The name on the birth certificate
18 is my given name at birth. It's [REDACTED]

19 [REDACTED]

20 Q. And what is the sex on the birth
21 certificate?

22 A. The sex I was assigned at birth is
23 male.

1 Q. So where did you grow up?

2 A. I grew up in Odenville, Alabama.

3 Q. That's in St. Clair County?

4 A. It is.

5 Q. Did you go to high school there?

6 A. I did.

7 Q. Where did you go to high school?

8 A. St. Clair County High School.

9 Q. What did you do after you graduated
10 high school?

11 A. I volunteered with a fire
12 department and so I worked with an ambulance
13 and the sheriff's office for a little bit.
14 And then I moved to Birmingham.

15 Q. Approximately when did you move to
16 Birmingham?

17 A. Oh, goodness. I graduated in -- so
18 '04, late '04.

19 Q. And what did you in Birmingham
20 around 2004?

21 A. I had a list of jobs from
22 servers -- mainly food industry.

23 Q. And what did you do after that?

1 Q. And where did you move to?

2 A. I moved back home, back to
3 St. Clair County.

4 Q. So you moved to St. Clair County in
5 approximately 2011?

6 A. Sounds right, yes.

7 Q. And when did you move to the
8 address that is on your current driver's
9 license?

10 A. That was five years ago. We're
11 going into our sixth year at our -- at the
12 current house.

13 Q. What did you do in 2011 when you
14 returned to St. Clair County?

15 A. So I immediately started working
16 for Cracker Barrel Old Country Store.

17 Q. Okay. And how long did you work at
18 that job?

19 A. I'm currently still employed there.

20 Q. So you've worked continuously at a
21 Cracker Barrel in St. Clair County from 2011
22 to the present?

23 A. Yes. I have two jobs currently.

1 Q. What is your second job?

2 A. I am a project recruiter and case
3 manager for Birmingham AIDS Outreach as well.

4 Q. You said project recruiter --

5 A. Uh-huh.

6 Q. -- and case manager?

7 A. And a case manager.

8 Q. For -- what was the organization?

9 A. Birmingham AIDS Outreach.

10 Q. Is that paid or volunteered?

11 A. It is paid.

12 Q. How many times a week do you work
13 for that organization?

14 A. I work there five days a week,
15 full-time, forty hours.

16 Q. So your position at Cracker Barrel
17 is a part-time position?

18 A. It is part-time now.

19 Q. And so you work primarily on
20 weekends at Cracker Barrel?

21 A. Weekends. Some days I go in after
22 I leave my other job.

23 Q. Do you have any plans on leaving

1 the state any time in the future?

2 A. I do not.

3 Q. So your current intent is to remain
4 in the state for the foreseeable future?

5 A. This is my home, yes.

6 Q. I'm going to introduce Defendant's
7 Exhibit 2.

8 (Defendant's Exhibit Number 2 was
9 marked for identification. A copy
10 is attached.)

11 Q. Can you tell me what Exhibit 2 is?

12 A. It is my state driver's license.

13 Q. And what is the sex designation on
14 the driver's license?

15 A. It is the sex that I was assigned
16 at birth, male.

17 Q. And just for purposes of this
18 deposition, when I use the word sex
19 designation I'm just referring to the field on
20 your driver's license that says sex and
21 whether it says M or F. That's what I mean by
22 sex designation. Is that fair?

23 A. That's fair.

1 Q. I'm going to introduce Defendant's
2 Exhibit 3.

3 (Defendant's Exhibit Number 3 was
4 marked for identification. A copy
5 is attached.)

6 Q. Can you tell me what this document
7 is?

8 A. This is the order from Judge Mike
9 Bowling when I legally changed my name.

10 Q. And when is the date of this
11 document?

12 A. April 17th, 2015.

13 Q. What is your current gender
14 identity?

15 A. I am a female.

16 Q. When did you first become aware
17 that you were a female?

18 A. I have known from an early age that
19 I've been female. I think maybe five is when
20 I really realized I was female.

21 Q. Is there an age where one can say
22 that your awareness of your identity was
23 complete?

1 A. Can you -- what do you mean by your
2 question?

3 Q. Thank you for asking that. When
4 were you first fully aware that you were
5 female?

6 A. Safely I would say I was fully
7 aware that I was not like my brother and my
8 cousins when I was about six. I was never the
9 type to go and do boy things. I would stay
10 inside with my grandmother and cook, make
11 quilts. When we did play, we would play super
12 heroes. I would always be the female
13 character. My favorite character was Zena.
14 So I would pretend to be Zena. So at an early
15 age. I would safely say about six.

16 Q. Do you identify yourself as
17 transgender?

18 A. I identify myself as a transgender
19 female. However, I am a female.

20 Q. Can you explain, in your own words,
21 what it means when you say you are a
22 transgender female?

23 A. So in -- what I am, my gender

1 identity, is a female, a trans female, meaning
2 that I was assigned male at birth, but I have
3 since transitioned to female.

4 Q. Can you explain the significance of
5 legally changing your name in that process?

6 A. The significance, I present as
7 female. People in my everyday life respect me
8 as a female. Strangers look at me, they see
9 female. [REDACTED] is not a male name -- or is not
10 a female name, so I wanted a name that matched
11 who I was. And so -- and I also still wanted
12 to honor my mom and my dad, so that is where I
13 left my middle name and my last name. But
14 Destiny is the name that I chose.

15 Q. When did you first obtain an
16 Alabama driver's license?

17 A. Oh, goodness. When I was sixteen.
18 It's been a few years ago.

19 Q. So when you were sixteen. And how
20 old were you when this name change was
21 completed?

22 A. That was in 2015. Thirty -- I
23 just -- twenty-nine, thirty.

1 Q. When you first obtained your
2 driver's license at sixteen, what was the sex
3 designation on your driver's license?

4 A. The sex that I was assigned at
5 birth was male.

6 Q. Did you identify with the sex on
7 your license at that time?

8 A. I presented as male at that time.

9 Q. Did you consider yourself to be a
10 male at that time?

11 A. I have never considered myself to
12 be a male. I have always considered myself to
13 be a female. However, at the time of my
14 sixteenth birthday when I obtained my driver's
15 license I had to identify as male.

16 Q. What do you mean when you say you
17 had to identify as male?

18 A. My parents and family would not
19 accept me transitioning.

20 Q. I see. When did you move out from
21 living with your parents?

22 A. When I was eighteen years old.

23 Q. Was there a time when you were able

1 to establish your identity independently as
2 fully female?

3 A. So in a transgender person's life
4 they have many stages of coming out. I
5 originally came out as gay to hide the stigma
6 that was related to transpeople. Transpeople
7 have never been openly accepted in the world,
8 and this is Alabama. So I originally came out
9 as male. I started to secretly take hormones
10 and dress privately as female -- in my own
11 home as female. Several of my close friends
12 knew, but outwardly I still presented as a
13 male.

14 Q. And you referred to stages of
15 coming out.

16 A. Uh-huh.

17 Q. Can you just take me through the
18 stages of your becoming or recognizing
19 yourself as female?

20 A. Can you elaborate on your
21 question?

22 Q. So you said that there were certain
23 stages.

1 A. Yes.

2 Q. And I believe you said that the
3 first stage was identifying as a gay male?

4 A. Yes. At first I identified as a
5 gay male.

6 Q. And can you recall approximately
7 what age you were when you reached that first
8 stage?

9 A. Eighteen. That was right after I
10 moved out of my parents' house.

11 Q. And what would have been the next
12 stage after that?

13 A. The next stage as far as when did I
14 publicly or --

15 Q. I think the next stage -- in
16 whatever order. The next stage in your
17 awareness as you said that -- as I understand
18 it you said it's a process.

19 A. Uh-huh.

20 Q. And I'm just asking you
21 chronologically to take me through this
22 process.

23 A. Sure. So, like I said, I've always

1 known I was female. I did not know another
2 transgender individual until I moved to
3 Birmingham, and then I could actually put
4 something on there. I was about twenty-one
5 when I met another trans individual and could
6 sit down and talk with her, and we connected.
7 It was just like the light bulb came on.

8 Q. And what do you mean by that when
9 you say the light bulb came on?

10 A. So I didn't feel like I was
11 mentally ill. I felt like I knew what I was.
12 I knew it felt like I knew who I was. It was
13 just getting to the point where I could be who
14 I am.

15 Q. Would it be accurate to say that
16 when you were twenty-one and you met this
17 individual and had these conversations you
18 became aware of what you had always been?

19 A. So are you asking if when I met
20 this person is that when I started to identify
21 or what is your question?

22 Q. When you understood what it meant
23 to be a transgendered individual.

1 A. Yeah, I would safely say that was
2 when I --

3 Q. When you understood what it was to
4 be a transgender individual?

5 A. Yes.

6 Q. And that you were such an
7 individual?

8 A. Yes.

9 Q. And that you were a female?

10 A. Yes.

11 Q. So that was approximately when you
12 were twenty-one?

13 A. Uh-huh.

14 Q. And you had an Alabama driver's
15 license at that time?

16 A. I did.

17 Q. And the sex on that license was
18 male?

19 A. It was male, the --

20 Q. The sex -- I'm sorry. The sex
21 designation on your license at that time was
22 male?

23 A. Correct. It was my assigned birth.

1 Q. What was the next stage as you put
2 it after the occasion when you were twenty-one
3 and met this individual and had an
4 understanding of what it meant to be
5 transgender? Would there be another stage or
6 development after that?

7 A. For me personally -- each
8 individual has different stories. For me
9 personally, I started to transition and then
10 stopped for one reason or the other, whether
11 it be fear of rejection from society, fear of
12 rejection from family, fear of rejection from
13 friends. So I kept my trans identity very
14 private until I was about twenty-six, twenty-
15 seven.

16 Q. And when you say you started your
17 transition and stopped it, are you referring
18 to publicly identifying yourself as --

19 A. No. I have always dressed
20 privately and with friends -- one of the ways
21 that I made cash at that point in time was I
22 would perform at local drag shows. So I've
23 always been known as Destiny, but when I

1 say -- when I started and stopped my
2 transition, there were times when I would
3 start hormones and then for one reason or the
4 other I would stop, whether it be financial
5 because medical insurance wasn't steadily
6 available or I just could not get the hormones
7 at the time for one reason or the other.

8 Q. And so this was around the time
9 when you were living in Birmingham in 2004?

10 A. Uh-huh.

11 Q. And you would dress as a woman in
12 drag shows?

13 A. Yes.

14 Q. Would you dress as a woman in your
15 everyday life?

16 A. Not at work, but if I was at home,
17 privately I identified as female.

18 Q. And what would be the next stage in
19 your transition then from this time period?

20 A. After I moved to North Carolina and
21 then back, I found my current doctor,
22 Dr. Weisberg. I started to see him for
23 hormone therapy. I then went to Dr. Keith

1 Abrams for my letter to start hormones. You
2 have to legally see a psychiatrist in the
3 State of Alabama before you are able to start
4 hormones. That's when I was diagnosed with
5 gender dysphoria and I legally started my
6 hormones, and I have been on hormones ever
7 since and I will be on hormones every day for
8 the rest of my life.

9 Q. Are you aware that your attorneys
10 have objected to you revealing any of these
11 medical conditions about yourself?

12 A. Can you -- what do you mean by
13 that?

14 Q. Are you aware that the state
15 requested the plaintiffs identify medical
16 conditions about themselves, such as whether
17 the plaintiffs had been diagnosed with gender
18 dysphoria and that your attorneys declined to
19 answer those questions?

20 A. Uh-huh.

21 MR. ARKLES: Can we take a break?

22 MR. CHYNOWETH: Yes.

23 (Break taken.)

1 MR. ARKLES: So just to state, we
2 don't have any objections to the questions
3 that you've been asking today. They are
4 different than the questions in the
5 interrogatories and we feel -- we have no
6 objections to the questions you've been asking
7 thus far.

8 MR. CHYNOWETH: Okay.

9
10 BY MR. CHYNOWETH:

11 Q. I believe where we left off you
12 were discussing when you had returned to
13 St. Clair County from Asheville, North
14 Carolina; is that correct?

15 A. We were talking about my medical
16 history and Dr. Abrams and Dr. Weisberg.

17 Q. I'm going to ask you some questions
18 and your attorneys might make an objection.
19 Can you state whether you have been diagnosed
20 with gender dysphoria disorder?

21 A. From Dr. Keith Abrams.

22 Q. When was that?

23 A. Oh, goodness. I do not recall the

1 exact -- it was right when I began legally my
2 legal/medical transition.

3 Q. That would have been sometime after
4 2010 or 2011 when you returned to the state?

5 A. I think so, yes, correct. But,
6 again, I don't know the exact date. So I --
7 if I -- yeah. I can get the information. I
8 just don't know it right off the top of my
9 head.

10 Q. Where is Dr. Abrams located?

11 A. He is located in Birmingham.

12 Q. When you returned -- did you obtain
13 a North Carolina license when you were living
14 in North Carolina?

15 A. I did not have -- I kept my Alabama
16 state license.

17 Q. So you -- have you had an Alabama
18 driver's license continuously since the age of
19 sixteen?

20 A. Yes, I have.

21 Q. And at all times the sex
22 designation on that license was M?

23 A. Yes, it was.

1 government identification document besides
2 your Alabama driver's license?

3 A. My Alabama driver's license, my
4 birth certificate, my Social Security card.

5 Q. But you have always been aware that
6 your Alabama license had M as the sex
7 designation on it?

8 A. Yes. It's never changed.

9 Q. Was there a time where it first
10 bothered you that your sex on your license was
11 M?

12 A. Yes, when I was sixteen when I got
13 the driver's license.

14 Q. It has bothered you ever since that
15 time?

16 A. Very much so.

17 Q. Can you state your understanding of
18 the state's policy for when you can change
19 your sex on a driver's license?

20 A. So the policy states, when I was
21 finally able to read the policy -- and I do
22 not know this word-by-word -- once a person
23 has gender-confirming surgery. It does not

1 state what gender-confirming surgery you have
2 to have, so --

3 Q. Can you explain to me in your own
4 words how your inability to change the sex on
5 your driver's license has harmed you?

6 A. Sure. I try not to show my ID at
7 all. It's a pain in the butt to show my ID.
8 People look at it differently. There was a
9 time I was pulled over by a police officer as
10 we were leaving for vacation. We left late at
11 night so we can get there early in the
12 morning. The demeanor of the officer changed
13 when the officer realized that I identified as
14 female but my driver's license says male.

15 If we go out to a restaurant and I
16 order drinks, I try to avoid showing my ID at
17 all costs. So I try not to drink socially
18 unless I know the bartender or the person
19 knows me and knows that I'm a legal adult.

20 This recent instance is this past
21 Tuesday during voting. I presented as
22 female. I am a female. The clerk at the
23 polling place referred to me with male

1 pronouns and called me a sir in front of fifty
2 or so people.

3 So it's very dangerous for a
4 transperson to have that identification
5 because of the way people treat you and the
6 way -- the officer easily could have been
7 worse than what he was. If someone would have
8 heard the polling person call me sir and refer
9 to me with male pronouns and they wanted to
10 cause a ruckus outside of the polling place,
11 it's a danger to myself.

12 Q. I'm going to ask you some questions
13 about some of the allegations in the
14 complaint, and I'm going to give you a copy
15 for your reference. I'm not going to put it
16 in as an exhibit, if that's okay with you.

17 MR. ARKLES: That's fine.

18 A. What page are you starting from?

19 Q. Can you turn to paragraph four?
20 And I believe we just covered some of this,
21 but do you see in paragraph four where it says
22 Ms. Clark avoids lawful activities that could
23 lead her to have to show her license?

1 A. Uh-huh.

2 Q. Can you tell me what that
3 allegation is based on?

4 A. Well, the -- it's not an
5 allegation. It's those events that I just
6 previously described to you: Being pulled
7 over by a police officer; I don't show my ID
8 at grocery stores to buy alcohol; I don't go
9 to places where I would be required to show my
10 ID; just this past week with voting. So those
11 are some of the things.

12 Q. So when you voted on Tuesday you
13 used your Alabama driver's license as your
14 photo ID?

15 A. I do. It was this photo -- this
16 driver's license right here.

17 Q. And you're pointing to Defendant's
18 Exhibit 2?

19 A. My -- Exhibit Number 2.

20 Q. Can you turn to page 15? Does it
21 say in paragraph 77 that you have corrected
22 your gender with the Social Security
23 Administration?

1 A. Yes, it does.

2 Q. What did that process involve?

3 A. The process involved I took the
4 probate order from Judge Bowling to the Social
5 Security office in Trussville. The nice lady
6 behind the desk said I assume you would like
7 me to change this from male to female, and I
8 said yes, please. She changed it right then
9 and there.

10 Q. So the only thing that was required
11 was the proof of your change of name?

12 A. Correct.

13 Q. Do you see paragraph 78 where it
14 says Ms. Clark has tried to change the gender
15 listed on her Alabama license multiple times?

16 A. I do.

17 Q. Do you recall how many times you
18 have tried to change the gender on your
19 license?

20 A. Three. And then I stopped.

21 Q. Can you tell me when you recall the
22 first time was?

23 A. The first time was shortly after I

1 changed my name legally.

2 Q. So that would have been in
3 approximately April of 2015?

4 A. Correct.

5 Q. Where was that?

6 A. That was in Pell City.

7 Q. Can you tell me what happened when
8 that happened?

9 A. Sure. I went to the driver's
10 license office, and they sent me downstairs to
11 the state examiner. The state examiner then
12 told me I had to contact the Montgomery
13 office. I contacted the Montgomery office,
14 and that was when I first spoke with
15 Ms. Eastman. That was when she said it's a
16 simple process. All I have to do is backspace
17 the M and put an F and the next day you're
18 ready to get your driver's license changed. I
19 just need the documents from your doctor.
20 That is when I sent all of the information I
21 had, plus my letter from my doctor. And
22 that's when it was denied the first time.

23 Q. Can you tell me any other details

1 A. Yes, Pl. I apologize.

2 Q. The letter in Pl. So Dr. Bowling
3 in that letter refers to a surgical procedure
4 related to gender transformation on March 2nd,
5 2016. Is that referring to breast
6 augmentation surgery?

7 A. That is correct.

8 Q. Do you recall -- so you recall a
9 second time in which you attempted to have
10 your sex changed on your driver's license?

11 A. Yes.

12 Q. And Pl was submitted in connection
13 with that second request?

14 A. Correct.

15 Q. Do you -- can you tell me the
16 details of that process?

17 A. So I sent this -- this to
18 Ms. Eastman. I did not give her any further
19 information other than this, and that is when
20 she says, well, if you have it, we can do it.
21 And I sent it to her and I did not hear
22 anything from her. That was the second time I
23 called. Two days later without hearing

1 anything from anyone from earlier I called and
2 spoke with someone who was under Ms. Eastman.
3 And then she said Ms. Eastman called the
4 doctor's office without my permission to
5 receive information about my medical care, and
6 that was when Ms. Eastman then denied the
7 change again.

8 Q. Do you recall any discussions with
9 Ms. Eastman about what kind of medical
10 documentation would be sufficient to have your
11 sex changed on your license?

12 A. She said the full surgery. So the
13 full surgery for me is breast augmentation.

14 Q. What did you understand her to mean
15 by full surgery?

16 A. My understanding was that she
17 wanted the full surgery. So for my full
18 surgery, my full surgery was breast
19 augmentation. The only thing I can assume
20 that she was thinking was she wanted that I
21 have the full sexual reassignment surgery.

22 Q. And do you understand what full
23 sexual reassignment surgery means?

1 A. So, again, sexual reassignment, the
2 full surgery is different for different
3 individuals. For myself the full surgery
4 was -- ended at my breast augmentation.

5 Q. Do you understand what Ms. Eastman
6 meant by full sex reassignment surgery?

7 A. I can only assume she meant that
8 she wanted me to have the full sexual
9 reassignment surgery.

10 Q. Which would be what?

11 A. It would mean that I would have to
12 go through a full sex change.

13 Q. And do you understand what that
14 process entails?

15 A. I do.

16 Q. So we've talked about two attempts
17 to change your driver's license in which you
18 had conversations with Ms. Eastman. Has there
19 been any other attempt to change your license?

20 A. There has not.

21 Q. So can you tell me whether the
22 allegations in paragraphs 79 through 85 refer
23 to the first or the second of those

1 attempt to change the sex on your license you
2 sent P1 as well as P2 again?

3 A. Correct.

4 Q. In paragraph 87 does the complaint
5 refer to a traffic stop by a police officer in
6 Odenville?

7 A. It does.

8 Q. Do you recall what year that was?

9 A. I do not. It was two or three
10 years ago. We were -- myself, my sister, my
11 niece, and my boyfriend were going down to see
12 my mother who lives in south Alabama.

13 Q. And were you required to show your
14 driver's license in connection with that
15 traffic stop?

16 A. I was. This is the traffic stop
17 that I previously told you about earlier.

18 Q. Correct. Can you just take me
19 through the details of that incident?

20 A. Sure. So we left late at night
21 because we wanted to drive all night to be
22 there all day to get on the beach. Pulled out
23 of the street we live on. My sister and I

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

19 Q. And you believe that this was the
20 result of seeing the sex designation on your
21 driver's license?

22 A. I'm one hundred percent positive.
23 Odenville is a very small town and it's very

1 viewable?

2 A. Yes, there are.

3 Q. And those are things related to
4 your activity as a transgender activist?

5 A. Yes.

6 Q. That's all. I'm done with that
7 line of questioning.

8 Can you explain what you mean by
9 being a transgender activist?

10 A. And I shouldn't say transgender
11 activist because I'm not an activist just for
12 transpeople. I'm an activist for the LGBTQ
13 people and the LGBTQ community.

14 Q. And does that involve your
15 membership in certain organizations?

16 A. It does.

17 Q. And what are some of those
18 organizations?

19 A. I am currently the president of
20 Central Alabama Pride, the largest and oldest
21 LGBTQ Pride organization in Alabama. I'm also
22 queen for the Magic City Sisters of Perpetual
23 Indulgence.

1 Q. Do you understand that you could
2 obtain a U.S. passport that would designate
3 your sex as female?

4 A. According to this? I've not ever
5 known it to be, so this is a first time seeing
6 this. I've never had the need for a passport.

7 Q. Would you like to have a passport
8 that designated your sex as female?

9 A. I would like to have a driver's
10 license that designate it. I mean, I have no
11 plans to travel so I wouldn't see the need for
12 a passport.

13 Q. Well, my question was would you
14 like to have a passport that said that your
15 sex was female on it?

16 A. I don't see a need for it because I
17 have no plans to travel, and I don't leave the
18 country.

19 Q. Can you use a passport for things
20 other than travel?

21 A. Well, I assume you can. It is a
22 United States document.

23 Q. If you wanted to obtain a passport,

1 And then the third time was after the breast
2 augmentation.

3 Q. Okay. Thank you. And how many
4 years have you worked in the food industry?

5 A. Since I was eighteen. So it's been
6 a good many years, thirteen plus.

7 Q. And in the course of your work in
8 the food industry, do you need to verify
9 people's age before serving them alcohol?

10 A. Yes.

11 Q. And how many times has somebody
12 presented a passport to you to verify their
13 age in those years?

14 A. I have never had anyone to present
15 a passport for age verification.

16 Q. If somebody did show you a passport
17 to verify their age, how would you react to
18 that?

19 A. It would kind of shock me because
20 it's never been done, but -- it would take me
21 a little bit longer to find where the birth
22 date is because I have never looked at the
23 passport.

1 Q. Thank you. And could you describe
2 how you understand the risk to yourself when
3 you post on Facebook about a transgender
4 event?

5 A. So the risk to myself on Facebook,
6 there are keyboard warriors, and I can take
7 keyboard warriors. Those don't necessarily
8 mean that I'm going to be physically harmed.
9 They can't come through the computer and punch
10 me in the face.

11 Q. Could you describe what you mean by
12 keyboard --

13 A. Keyboard warriors are those who
14 post awful things about transpeople, trans
15 violence, who -- I think one of my emails I've
16 gotten is freak, I'm going to kill you, I'm
17 going to hang you. Those are just some of the
18 messages.

19 Q. Okay. And how is that different
20 from the risk that you anticipate when you
21 share your license with somebody who is right
22 in front of you?

23 A. If I show them right in front of

1 me, it's a great risk because they see it.
2 We're feet from each other. The harm is right
3 there.

4 Q. What do you mean by right there?

5 A. It's in the two feet vicinity
6 from -- if someone wants to see that and wants
7 to commit a violent crime, they can do so.

8 Q. Okay. And what is the risk that
9 you perceive to yourself when you are
10 participating in -- well, I'm sorry. Withdraw
11 that.

12 When you serve as queen with the
13 Sisters of Perpetual Indulgence what sort of
14 events do you appear at?

15 A. The only events that we've ever
16 really appeared at that -- when I have been
17 queen has been LGBTQ events to raise funds for
18 HIV awareness.

19 Q. Okay. And is it fair to say they
20 are a lot of LGBTQ people at those events?

21 A. It's predominantly LGBTQ people and
22 their allies.

23 Q. And so what's the risk that you

1 perceive to yourself when you appear publicly
2 at those events?

3 A. At those events I don't -- I don't
4 feel like I'm at harm because I do have enough
5 people that if something were to happen I
6 would be quickly defended.

7 Q. And how is that different from the
8 risk that you perceive when showing your
9 driver's license to a stranger?

10 A. A stranger, I don't know how
11 they're going to react with that. There's
12 always the risk of violence. So if they see
13 that and they choose to be -- I'm here in the
14 south -- there are really -- there's a lot of
15 hate groups. So if one of them particularly
16 wants -- is a hate -- part of that hate group
17 and I don't know it and they ask for the ID
18 it's very simple that they could commit
19 violence right there, beat me up, shoot me, do
20 something.

21 MR. ARKLES: Thank you. Those are
22 all of my questions. Do you have any follow-
23 ups?

DOC. 52-37

Exhibit 37

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

DARCY CORBITT, *et al.*,

Plaintiffs,

v.

HAL TAYLOR, *et al.*,

Defendants.

)
)
)
)
)
)
)
)
)
)
)

CASE NO. 2:18-cv-91-MHT-GMB

Declaration of Destiny Clark

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

8. Around 2016, during a traffic stop in Odenville, Alabama, a police officer treated me politely when asking for my license. But, after seeing my license listed my sex as male, the officer became hostile and accusing.
9. I try to avoid using my license as much as possible. I do not go to clubs or bars where I believe I will be asked to show identification. I do not order alcohol in restaurants. If I want to buy alcohol in a store, I ask my boyfriend to buy it for me so I will not have to show my driver's license.
10. Because I am typically perceived as a woman, any time I show my license, the person seeing it observes the male gender designation and learns that I am transgender. As a woman who is transgender, I am at high risk of discrimination and violence. The wrong gender on my driver's license increases that risk.
11. I disagree with the state of Alabama's message about my gender because I am a female. It's unsafe for me to have the "M" on my driver's license. I fear having to show my ID to strangers because I do not know what type of harm they may inflict upon me.

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

Executed on: 2/2/2019

By: 
Destiny Clark

DOC. 52-38

Exhibit 38

IN THE PROBATE COURT FOR ST. CLAIR COUNTY ALABAMA
NORTHERN JUDICIAL DIVISION AT ASHVILLE

IN THE MATTER OF:

THE NAME CHANGE OF [REDACTED] an adult

DATE OF BIRTH: [REDACTED]

CASE NO. N-2015-143

ORDER

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

[REDACTED]

Henceforth shall be known by the name of:

DESTINY LYNN CLARK

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

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

Mike Bowling

Judge of Probate

USCA11 Case: 21-10486 Date Filed: 08/02/2021 Page: 115 of 161

DOC. 52-39

Plaintiff's Exhibit 39

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

Filed Under Seal

DOC. 52-41

Plaintiffs' Exhibit 41

Deposition of Jane Doe

Filed Under Seal

DOC. 52-42

Plaintiffs' Exhibit 42

Declaration of Jane Doe

Filed Under Seal

DOC. 52-43

Plaintiffs' Exhibit 43

Name Change Order of Jane Doe

Filed Under Seal

DOC. 52-45

Exhibit 45

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

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

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

Qualifications

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

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

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

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

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

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

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

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

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

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

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

Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Health Ramifications of Identity Documents for Persons with Gender Dysphoria

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Determining correct gender marker for identity documents

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Most jurisdictions have abandoned surgery requirements

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

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

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

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

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

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

Conclusion

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

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

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

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

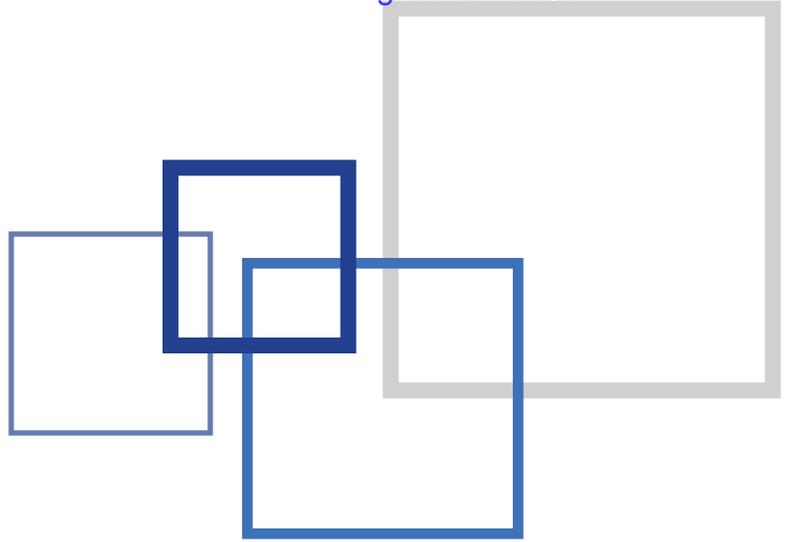
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By:  _____

R. Nicholas Gorton, M.D.

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Exhibit 47



THE REPORT OF THE

2019

U.S.

TRANSGENDER

SURVEY

About the National Center for Transgender Equality

The National Center for Transgender Equality (NCTE) is the nation's leading social justice policy advocacy organization devoted to ending discrimination and violence against transgender people. NCTE was founded in 2003 by transgender activists who recognized the urgent need for policy change to advance transgender equality. NCTE now has an extensive record winning life-saving changes for transgender people. NCTE works by educating the public and by influencing local, state, and federal policymakers to change policies and laws to improve the lives of transgender people. By empowering transgender people and our allies, NCTE creates a strong and clear voice for transgender equality in our nation's capital and around the country.

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The Report of the **2015 U.S. Transgender Survey**

by:

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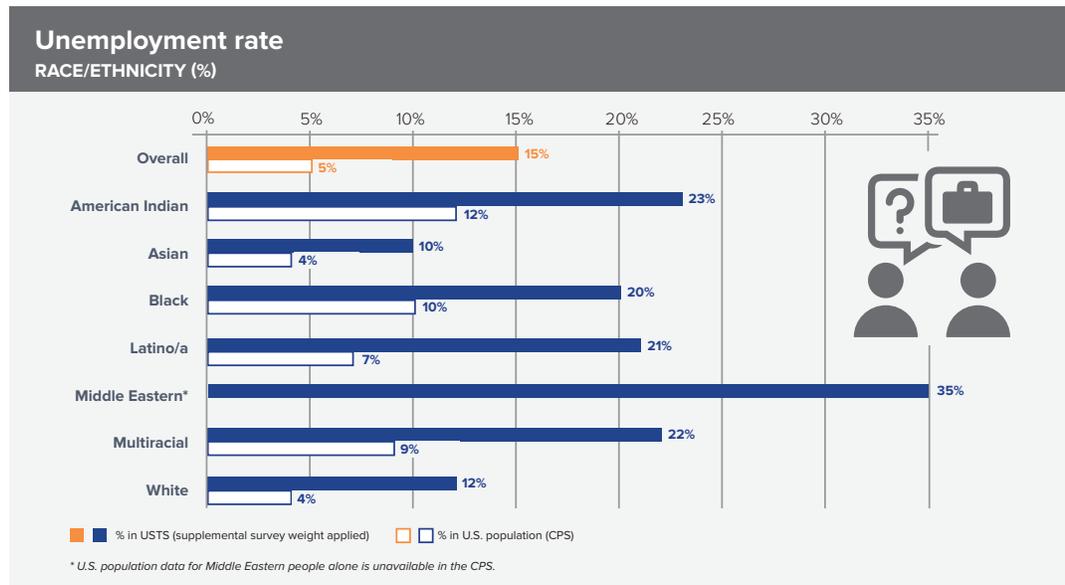
Lisa Mottet

Ma'ayan Anafi

December 2016

Income and Employment Status

- **The unemployment rate among respondents (15%) was three times higher than the unemployment rate in the U.S. population (5%),** with Middle Eastern, American Indian, multiracial, Latino/a, and Black respondents experiencing higher rates of unemployment.



- **Nearly one-third (29%) were living in poverty, more than twice the rate in the U.S. population (12%).**

Employment and the Workplace

- **One in six (16%)** respondents who have ever been employed—or 13% of all respondents in the sample—**reported losing a job because of their gender identity or expression** in their lifetime.
- **In the past year, 27%** of those who held or applied for a job during that year—19% of all respondents—**reported being fired, denied a promotion, or not being hired for a job they applied for because of their gender identity or expression.**
- **Fifteen percent (15%)** of respondents who had a job in the past year were **verbally harassed, physically attacked, and/or sexually assaulted** at work because of their gender identity or expression.
- **Nearly one-quarter (23%)** of those who had a job in the past year **reported other forms of mistreatment** based on their gender identity or expression during that year,

Sex Work and Other Underground Economy Work

- Respondents reported high rates of experience in the underground economy, including sex work, drug sales, and other work that is currently criminalized. **One in five (20%) have participated in the underground economy** for income at some point in their lives—including 12% who have done sex work in exchange for income—and 9% did so in the past year, with higher rates among women of color.
- Respondents who interacted with the police either while doing sex work or while the police mistakenly thought they were doing sex work reported high rates of police harassment, abuse, or mistreatment, with **nearly nine out of ten (86%) reporting being harassed, attacked, sexually assaulted, or mistreated in some other way by police.**
- **Those who have done income-based sex work were also more likely to have experienced violence.** More than three-quarters (77%) have experienced intimate partner violence and 72% have been sexually assaulted, a substantially higher rate than the overall sample. Out of those who were working in the underground economy at the time they took the survey, nearly half (41%) were physically attacked in the past year and over one-third (36%) were sexually assaulted during that year.

Police Interactions and Prisons

- **Respondents experienced high levels of mistreatment and harassment by police.** In the past year, of respondents who interacted with police or law enforcement officers who thought or knew they were transgender, **more than half (58%) experienced some form of mistreatment.** This included being verbally harassed, repeatedly referred to as the wrong gender, physically assaulted, or sexually assaulted, including being forced by officers to engage in sexual activity to avoid arrest.
- **Police frequently assumed that respondents—particularly transgender women of color—were sex workers.** In the past year, of those who interacted with law enforcement officers who thought or knew they were transgender, one-third (33%) of Black transgender women and 30% of multiracial women said that an officer assumed they were sex workers.
- **More than half (57%)** of respondents said they would feel **uncomfortable asking the police for help** if they needed it.
- Of those who were arrested in the past year (2%), **nearly one-quarter (22%) believed they were arrested because they were transgender.**

KEY FINDINGS

- ▶ Eleven percent (11%) of respondents had their preferred name and gender on all IDs and records, while 68% reported that none of their IDs had the name and gender they preferred.
- ▶ Forty-nine percent (49%) did not have an ID or record with the name they preferred, and 67% did not have an ID or record with the gender they preferred.
- ▶ Thirty percent (30%) of respondents completed a legal name change.
- ▶ Thirty-four percent (34%) of people who were granted a legal name change reported that they had spent over \$250, and 11% spent over \$500.
- ▶ Thirty-five percent (35%) of those who did not try to change their legal name did not try because they could not afford it.
- ▶ Of those who wanted to update their driver's license or state ID, an estimated 44% were able to change their name on the license and an estimated 29% were able to change their gender.
- ▶ Of those who wanted to change the gender on their birth certificate, only an estimated 9% were able to do so.
- ▶ As a result of showing an ID with a name or gender that did not match their gender presentation, 25% of people were verbally harassed, 16% were denied services or benefits, 9% were asked to leave a location or establishment, and 2% were assaulted or attacked.

I. Access to Legal Name Changes

Changing a name is a step in the transition process for some, but not all, transgender people. A legal name change order is almost always required to update the name listed on many forms of official IDs and records, such as driver's licenses, passports, and Social Security cards.⁴ Legal name changes typically happen through a court order, and the process for obtaining a court order varies in each state and territory. Respondents were

asked a series of questions about factors in their decision to legally change their name and their access to a legal name change.

Approximately one-third (36%) of respondents have tried to obtain a legal name change, and 30% were able to do so. This rate varied greatly according to gender identity, where transgender men and women (51%) were almost five times as likely to have tried or completed the name change process as non-binary people (11%). A vast majority (96%) of respondents who underwent the process did so through a court order, less than 1%

Nearly one-third (32%) of respondents who did not have their preferred gender on any of their IDs or records reported that they could not afford to change them.

Those who said that none of the IDs reflected the preferred gender were asked why that was the case. Twenty-five percent (25%) of these respondents believed they were not allowed to change the gender on their IDs or records, for reasons such as not having undergone medical treatment needed to change their gender on an ID or not having a doctor’s letter. Nearly one-third (32%) of respondents indicated that none of their IDs or records had the gender they preferred because they could not afford it. Eighty-eight percent (88%) of non-binary individuals who indicated that none of their IDs or records had the gender they preferred reported that it was because the available gender options (male or female) did not fit their gender identity, in contrast to 4% of transgender men and women (Table 6.4).

Table 6.4: Reasons for not changing gender on IDs or records

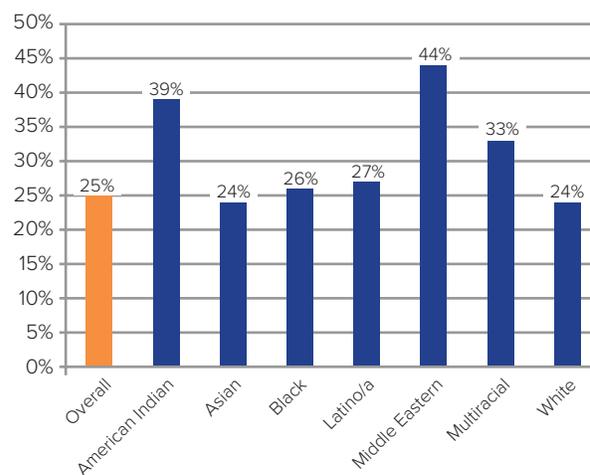
Reasons for not changing gender	% of those who reported having no IDs/records with the gender they preferred
They have not tried yet	44%
The available gender options (male or female) do not fit their gender identity	41%
They could not afford it	32%
They were not ready	30%
They did not know how	26%
They believed they were not allowed	25%
They worried that they might lose benefits or services	25%
They worried that changing gender would out them	25%
Their request was denied	1%
A reason not listed	10%

III. Experiences When Presenting Incongruent Identity Documents

Respondents were asked about their experiences when they have shown an ID with a name or gender that did not match the gender in which they present. Overall, nearly one-third (32%) of individuals who have shown IDs with a name or gender that did not match their presentation reported negative experiences, such as being harassed, denied services, and/or attacked.

One-quarter (25%) of these respondents reported being verbally harassed. Middle Eastern (44%) and American Indian (39%) respondents reported experiencing this more often than other racial or ethnic groups (Figure 6.6).

Figure 6.6: Verbally harassed when using an ID with a name or gender that did not match their presentation RACE/ETHNICITY (%)



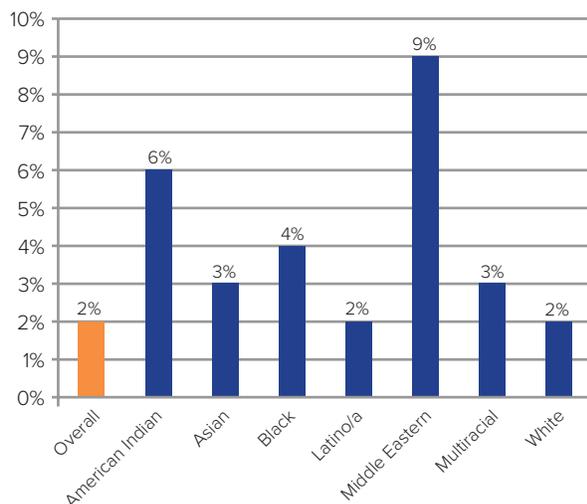
Sixteen percent (16%) of people who showed IDs with a name or gender that did not match the gender they present in were denied services or benefits. Transgender men and women were more likely to have been denied services or benefits (20%) compared to non-binary respondents (10%).

Nearly one-third (32%) of individuals who have shown IDs that did not match their presentation reported negative experiences, such as being harassed, denied services, and/or attacked.

Nine percent (9%) of people who showed an incongruent ID were asked to leave. Transgender women were more likely to have been asked to leave after presenting incongruent IDs (13%), compared to transgender men (9%) and non-binary people (6%).

Two percent (2%) of people who showed IDs with a name and gender that did not match the gender they present in were assaulted or attacked. These experiences differed by race and ethnicity. Middle Eastern respondents were almost five times as likely (9%) to report experiencing this, American Indians were three times as likely (6%), and Black respondents were twice as likely (4%) (Figure 6.7). Undocumented residents were also substantially more likely to report being assaulted or attacked (15%), in contrast to documented residents (3%) and citizens (2%).

Figure 6.7: Assaulted or attacked when using an ID with a name or gender that did not match their presentation
RACE/ETHNICITY (%)



Conclusion

Findings indicate that respondents encountered substantial issues related to obtaining IDs and records that reflect their gender identity, including financial, procedural, and eligibility barriers. The data suggests that the cost of a legal name change presents a considerable challenge to getting a preferred name on identity documents. Results also indicate that the cost of updating gender markers and procedural requirements (such as providing documentation of certain medical procedures) are among the main barriers preventing respondents from updating the gender on their IDs and records. Further, results suggest that respondents who presented IDs that did not correspond with the gender they presented in were put at risk of harassment, assault, and other forms of negative treatment. Overall, these findings illustrate a variety of difficulties that arise during the name and gender change process and emphasize the importance of access to accurate identity documentation for the safety and well-being of transgender people.

Figure 7.10: Any surgery for gender transition INDIVIDUAL INCOME (%)

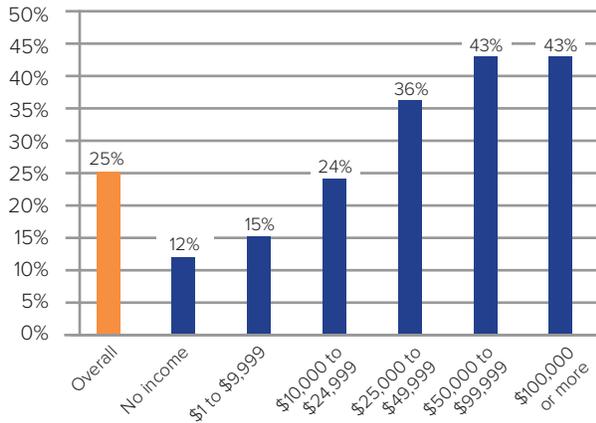
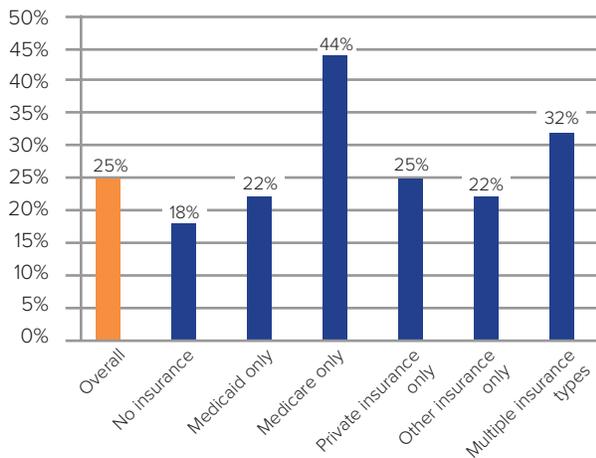


Figure 7.11: Any surgery for gender transition INSURANCE TYPE (%)



Respondents were asked a series of questions about whether they had received or wanted to have specific surgical and other procedures. Respondents received different questions based on the sex that they reported was listed on their original birth certificate.¹⁶

i. Experiences of Respondents With Female on Their Original Birth Certificate

Of respondents who had female on their original birth certificates, 21% had a chest reduction or reconstruction¹⁷ and 8% had a hysterectomy.¹⁸ Only 2% reported having any genital surgery, such as metoidioplasty¹⁹ (1%) or phalloplasty²⁰ (1%) (Table 7.4). These experiences differed greatly by gender identity, with transgender men (Figure 7.12) being

more likely to have had any of the procedures than non-binary respondents who had female on their original birth certificate (Figure 7.13).

Table 7.4: Procedures among respondents with female on their original birth certificate

Type of procedure	Have had it	Want it some day	Not sure if they want this	Do not want this
Chest surgery reduction or reconstruction	21%	52%	17%	10%
Hysterectomy	8%	44%	28%	19%
Metoidioplasty	1%	15%	37%	47%
Phalloplasty	1%	11%	31%	56%
Other procedure not listed	3%	7%	13%	77%

Figure 7.12: Procedures among transgender men

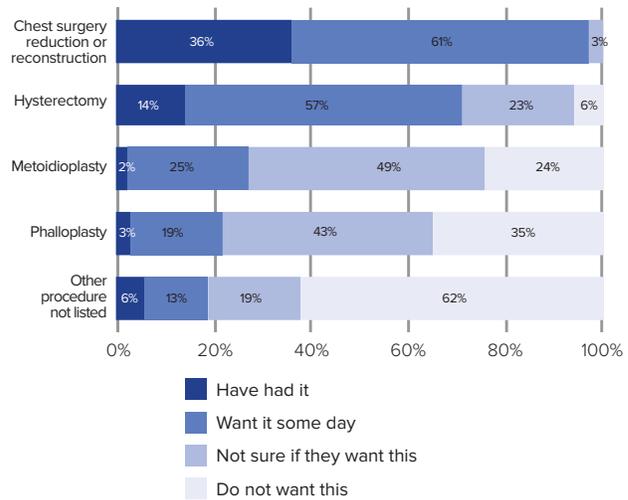
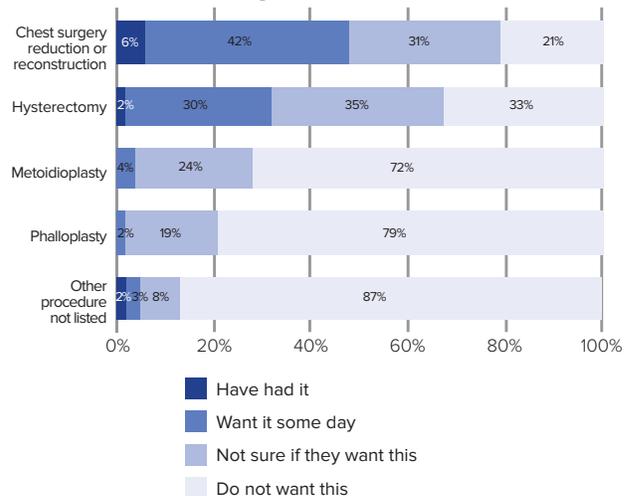


Figure 7.13: Procedures among non-binary respondents with female on their original birth certificate



KEY FINDINGS

- ▶ Nearly half (48%) of all respondents in the sample reported being denied equal treatment, verbally harassed, and/or physically attacked in the past year because of being transgender.
 - One in seven (14%) respondents reported that they were denied equal treatment or service in a public place in the past year because of being transgender.
 - Nearly half (46%) of respondents reported that they were verbally harassed in the past year because of being transgender.
 - Nearly one in ten (9%) respondents reported that they were physically attacked in the past year because of being transgender.

- ▶ Nearly half (47%) of respondents have been sexually assaulted at some point in their lifetime.

- ▶ One in ten (10%) respondents in the survey were sexually assaulted in the past year.

- ▶ More than half (54%) of respondents experienced some form of intimate partner violence.
 - More than one-third (35%) experienced physical violence by an intimate partner, compared to 30% of the U.S. adult population. Nearly one-quarter (24%) experienced severe physical violence by a current or former partner, compared with 18% of the U.S. population.

I. Overall Experiences of Unequal Treatment, Harassment, and Physical Attack

Respondents were asked if they had been denied equal treatment or service, verbally harassed, or physically attacked in the past year for any reason, regardless of whether it happened because they were transgender. This section of the chapter will examine respondents' overall experiences in the past year, and is followed by separate sections

examining denial of equal treatment, verbal harassment, and physical attacks in greater detail.

Fifty-eight percent (58%) of respondents said that they were denied equal treatment or service, verbally harassed, and/or physically attacked in the past year for any reason. Respondents who were currently working in the underground economy, such as sex work, drug sales, or other work that is currently criminalized (82%), and people with disabilities⁷ (69%) were more likely to report one or more of these experiences. Middle Eastern (70%), multiracial (70%), and American Indian (69%) respondents were also more likely to report one or more of these experiences (Figure 15.1).

DOC. 69

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

DARCY CORBITT, et al.,)	
)	
Plaintiffs,)	
)	
v.)	CIVIL ACTION NO.
)	2:18cv91-MHT
)	(WO)
HAL TAYLOR, in his)	
official capacity as)	
Secretary of the Alabama)	
Law Enforcement Agency,)	
et al.,)	
)	
Defendants.)	

ORDER

At oral argument today, the parties agreed to submission of the case on the record, with the restrictions of Federal Rule of Procedure 56 not applying. Therefore, and as stated during the hearing, the court will deny the parties' cross-motions for summary judgment. The issue remaining for the court to decide is whether to decide the case on the paper record or to hold a trial as to some or all issues.

Accordingly, it is ORDERED that the parties' motions for summary judgment (doc. nos. 46 & 50) are denied.

DONE, this the 30th day of July, 2019.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE

DOC. 99-1

EXHIBIT A

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

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

DECLARATION OF DARCY CORBITT

1. I am a Plaintiff in the above-captioned case.
2. Prior to September 30, 2020, I held a North Dakota driver's license with a female gender marker.
3. On September 30, however, my North Dakota license expired. I was unable to renew that license.
4. I have not held a valid driver's license for more than three months.
5. Defendants will not provide me with an Alabama driver's license with a female gender marker.
6. Getting a license with a male gender marker is not an option for me. I would have to lie about my gender to the government to get it. I am a devout Christian, and since February 2, 2020, a member of the Christian clergy. I believe that accepting a driver's license with a male gender marker would make me complicit in a lie about who I am, would deny the identity God has ordained for me, violate my baptismal and ordination vows, and undermine my ministry and Christian witness. It would also expose me to the risk of discrimination and violence any time I used my license.

7. Without a valid driver's license, I cannot drive to work, school, and medical appointments. *See* Doc. No. 52-28 ¶¶ 9–10.

8. While it has been a struggle, I managed to find ways to get through life without a driver's license until yesterday. Last night, that changed. Lacking a valid driver's license put my physical safety in jeopardy.

9. Although I am leasing a house, it is an hour's walk from my work and school. Public transportation does not run in the evenings, which is when I have classes, or on the weekends. Ridesharing is expensive and unreliable in my area. As a transgender person, walking alone, at night, in a neighborhood that is not well-lit, is ill-advised. Living in my house without a valid driver's license thus is unfeasible.

10. For the past three months I have been forced to live with my family so they can drive me where I need to go.

11. Of course, they have their own busy lives, and my work, school, and personal life have been disrupted. In many instances, I have been unable to fulfil my duties as a minister because I could not travel to my parishioners. Because I often could not get to campus for my classes, I required a remote option in my two seminars. Taking the courses remotely interrupted the flow of the in-person discussion, inconveniencing my teachers and classmates. And in November 2020, I had to miss the funeral of a great aunt who I have been close to for most of my life. I was unable to grieve with and support my family because I had no way to get to Columbia, South Carolina.

12. Staying with my family has been a financial burden to me because I still must pay for the lease and maintenance of my own home. To date, I have spent 41% of my monthly income maintaining a home I am unable to live in and which sits vacant. I recently learned that, because I have not been home to control the heating and air conditioning or do ordinary maintenance, the

house has developed a significant mildew problem. I had to discard over \$1000 worth of new furniture because of the damage, and I have been advised that the entire house will require professional cleaning before it can be safely re-inhabited.

13. Still, while staying with family has been logistically, personally, and financially inconvenient, it has allowed me to keep my job, continue my studies, and get basic necessities, like groceries and medicine.

14. Last night, however, I could not stay with my family either. A family argument became abusive and violent. A family member aggressively screamed at me and punched a hole in the wall. I was afraid I would be next.

15. I was terrified. I knew I needed to leave immediately. But I wasn't sure *how* I could leave, because I wasn't allowed to drive and didn't want to put my other family members in the home at risk of violence by seeking their assistance.

16. I was eventually able to get away, but lacking a valid driver's license delayed my ability to escape from a dangerous and violent situation, and made the crisis even more stressful.

17. I went to a hotel with nothing but my purse, medication, and two changes of clothes. The hotel insisted on photo identification to check in and would not accept an expired driver's license. Luckily, I happened to have my passport with me. If I had not, I would not have been able to check into the hotel. I am not sure where I would have gone if I could not have stayed there.

18. I don't know what to do next. As a graduate student, I do not make very much money. I cannot afford to stay in a hotel and pay for rides through ridesharing apps for more than a few days. If I go back to my own home, it could mean losing my job, interrupting my studies, and having no way to get to medical appointments. Until the mildew problem is resolved, it would also put my health at risk. If I go back to my family, it could mean getting physically attacked, and

maybe very badly hurt. I am trying to brainstorm options, but it isn't easy. If I had a valid driver's license, it would be far easier for me to find an option.

19. I hope to have a valid Alabama driver's license with a female gender marker as soon as possible so my life can return to normal.

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

Date: January 11, 2021

A handwritten signature in black ink, appearing to read "Darcy Corbitt", written over a horizontal line.

Darcy Corbitt

CERTIFICATE OF SERVICE

I certify that on August 2, 2021, I electronically filed the foregoing using the CM/ECF system, thereby serving all counsel of record.

s/ Z. Gabriel Arkles
Z. Gabriel Arkles
Counsel for the Plaintiffs-Appellees