

1 A. Instruction.

2 Q. -- instruction?

3 And was that the final product of the working
4 group, or at least the parts of it that you worked on,
5 or was there some other product?

6 A. The DoDI was the final product that ODS, the
7 office of Secretary of Defense, produced. So I had
8 mentioned that the transgender service review working
9 group started in about August and --

10 Q. August of 2015?

11 A. Yes, ma'am. So we had 180 days to look at
12 policy development. So as the working group came up
13 with products, the senior level working group, or the
14 members that you saw here, would discuss some of the
15 products and where we're going, and we'd filter
16 information back down to the document -- the DoDI
17 working group.

18 That, again, because transgender
19 healthcare -- or transgender service members was so
20 new, it was an education process for everyone to
21 understand what transgender meant in the scope of
22 transition.

23 So everyone was trying to understand what
24 would be the acceptable transition for a member and
25 understand what it is and what the healthcare needs

1 are. There was an anticipation of a policy being
2 released in February of 2016. During that transition
3 time Mr. Carson left -- vacated the position that he
4 had. So there was a gap in policy, or a gap in the
5 working group efforts, and then Mr. Peter Levine came
6 in and took over, and again, stated that "We're going
7 to move forward with this. We want one standard for
8 all service members."

9 So, you know, the goal was to have a standard
10 that applied to all service members to avoid having a
11 separate standard for transgender service members and
12 the service members at large. So -- introduce
13 Exhibit 5?

14 Q. Please finish your sentence first.

15 A. So we produced documents -- well, the best
16 efforts that we had to ODS to say, "This is what we
17 think a policy would be," and then what was published
18 in June of '16, when the announcement was made in June
19 of '16 that we would start the policy, implement the
20 policy effective October 2016 to allow transgender
21 service members that are currently serving to serve,
22 as well as an accession policy that would commence on
23 July of 2017.

24 MS. LAPORTE Okay.

25 (Deposition Exhibit 5 was marked for

1 identification.)

2 BY MS. LAPORTE:

3 Q. All right. Ms. Soper, can you identify
4 Exhibit 5?

5 A. Yes, ma'am. This is the "Directive-type
6 Memorandum 16-005, 'Military Service of Transgender
7 Service Members.'"

8 Q. And this, I think, is what you referred to
9 earlier in your testimony as the announcement by
10 Secretary Carter?

11 A. This is the product result of his
12 announcement in June of 2015 for the development
13 policy. So this is an end product.

14 Q. Okay. And so this end product, Exhibit 5, is
15 the announcement of the Open Service policy?

16 A. Correct.

17 Q. Okay. And was the working group pretty much
18 finished with its work by the time this came out, or
19 were you still trying to get things done?

20 A. We had submitted our documents to ODS on the
21 draft policy that we felt -- again, this establishes
22 what the services will do, and it talks about
23 accessions, the personnel policy about this. This is
24 not the policy that we developed. The DoDI was a
25 policy we developed.

1 So this is a directive-type memorandum
2 stating to the services, "Go forth and do and develop
3 your additional policies." So this is not the product
4 of our working group.

5 Q. Okay. Was any -- do you know what the
6 process was by which the product of your working group
7 affected, for example, the timing of this
8 announcement?

9 MR. PARKER: I'm going to object to the
10 extent it calls for deliberative material that's
11 protected by the deliberative process privilege.

12 MS. LAPORTE: Okay. Are you instructing her
13 not to answer that question?

14 MR. PARKER: I'm instructing her not to
15 answer to the extent you are asking about
16 recommendations that came to the group from the
17 deliberative process that was undertaken by the panel
18 in making recommendations regarding both the DTM and
19 the DoDI that have been discussed in the deposition.

20 BY MS. LAPORTE:

21 Q. So for the moment all I'm trying to
22 understand is how procedurally the work of the working
23 group fed into this announcement that is Exhibit 5.
24 In other words, I'm not trying to understand all the
25 details of what you recommended. I'm just trying to

1 understand whether Exhibit 5 reflects the Secretary of
2 Defense taking into account recommendations of the
3 working group or whether these were not -- whether
4 your recommendations were not feeding into the
5 development of this announcement.

6 MR. PARKER: Objection. To the extent you're
7 asking the witness whether this reflects the work
8 product or the recommendations of the working group,
9 the answer to that question would be protected by the
10 deliberative process privilege.

11 MS. LAPORTE: And that's not what I'm asking.
12 I'm just trying to understand the work flow here.

13 Q. So can you explain that in terms of how the
14 work that the working group did fed into Exhibit 5
15 without getting into the detail of the policies that
16 you recommended?

17 A. I don't know the work flow, ma'am. I don't
18 know the part that we submitted and how it got
19 approved by the Secretary of Defense.

20 Q. Were you aware that Secretary Carter was
21 going to make that announcement on June 30 before it
22 happened?

23 A. No, ma'am.

24 Q. Okay. What -- so you mentioned that you were
25 involved in a working group relating to accessions. I

1 think you referred to it specifically as an accessions
2 group within the working group. Do you recall that?

3 A. It's the accessions medical standards working
4 group, yes, ma'am.

5 Q. Yes. Okay. And did that actually relate to
6 the specifics of the accessions policy?

7 MR. PARKER: I'm going to object. The term
8 "relate to" is a little vague. Can you specify so
9 that I can decide whether there's a privilege
10 objection? What do you mean by "relate to"?

11 BY MS. LAPORTE:

12 Q. When you were on the accessions medical
13 standards working group, were you working on the
14 standards or procedures that would be required in
15 order for transgender people to accede to the
16 military? And you can answer that "yes" or "no."

17 A. Yes.

18 Q. What process did you follow to determine what
19 kind of standards and practices would be needed to
20 permit transgender applicants to accede to the
21 military?

22 MR. PARKER: I'm going to object to the
23 extent this calls for information related to the types
24 of discussions or the substantive recommendations that
25 would come out of the panel or the subcommittee that

1 you participated on, on deliberative process grounds.

2 MS. LAPORTE: All right. Let me move on to
3 another topic then.

4 Q. I have heard that you were involved in a
5 hotline relating to issues of transgender service in
6 the military. Is that accurate, or is that an
7 informal way of referring to some of the
8 responsibilities that you've had that have more fancy
9 titles?

10 A. I would ask you to clarify what you mean by
11 "hotline."

12 Q. Okay. So it sounds like "hotline" is not a
13 term that you use?

14 A. No, ma'am.

15 Q. Okay.

16 A. Sounds like the red phone, and I don't do
17 that.

18 Q. And you don't work on the red phone?

19 A. No, ma'am.

20 MS. LAPORTE: Well, in that case, let me...
21 (Deposition Exhibit 6 was marked for
22 identification.)

23 BY MS. LAPORTE:

24 Q. Okay. So Exhibit 6 should be labeled
25 USDOE0018301 and -302. Is that what you have before

1 you?

2 A. Yes, ma'am.

3 Q. Okay. So this is an E-mail chain, and like
4 most E-mail chains, it has to be read from the bottom
5 up. So I'd like to start with the first E-mail in the
6 chain, which is one from John Rychalski, I think, to
7 some other people who do not include you. Do you see
8 that?

9 A. Yes, ma'am.

10 Q. Okay. And then the second E-mail in the
11 chain forwards that one to you, among other people,
12 and the person doing the forwarding is Mary Jenkins;
13 correct?

14 A. Yes, ma'am.

15 Q. All right. And you were forwarded this
16 earlier E-mail on June 23 of 2016; right?

17 A. Yes, ma'am.

18 Q. Okay. So in the initial E-mail that you're
19 being given notice of when you received the
20 forwarding, it says, "You're probably well aware of
21 the Department's efforts to consider suitability of
22 transgender persons to serve in the military. This
23 seems to be a fast-moving issue at the moment. One
24 cornerstone of the Department's strategy is to be
25 prepared to stand up a medical/personnel 'cell' to

1 address questions and issues if and when the SECDEF
2 decides on a course of action." Do you see that?

3 A. Yes, ma'am.

4 Q. Okay. So the reference to a "medical
5 personnel 'cell,'" do you understand what that is?

6 A. Yes, ma'am.

7 Q. What is it?

8 A. The medical/personnel cell is an effort for
9 the services to identify medical personnel with -- to
10 provide some guidance on questions from the field
11 regarding transgender healthcare.

12 Q. Is the cell that's referred to in this
13 E-mail, do you understand that to be something that
14 establishes what I've seen referred to in other
15 documents as the "SCCC"?

16 A. That is a different cell, yes, ma'am.

17 Q. A different cell?

18 A. Yes, ma'am. You have medical and personnel
19 cells. So those are two different cells.

20 Q. Okay. So what's a "cell"?

21 THE WITNESS: Can I just take a moment to
22 read the E-mail?

23 MS. LAPORTE Yes, of course.

24 THE WITNESS: Thank you.

25 (The witness reviewed Exhibit 6.)

1 THE WITNESS: So in reading Captain Jenkins'
2 E-mail, there's a couple things to note in her E-mail.
3 There's the directions from the Health Affairs that
4 will direct a medical cell, medical component that
5 will be tasked to provide virtual support to the
6 field.

7 There's also a process for DSD, the SECDEF,
8 to meet with service chiefs for them to provide a
9 binding request for certain people to support the
10 cell, including medical personnel as well. And this
11 is -- Health Affairs is tasking the SG's office to
12 provide medical support. So this is a cell that
13 Health Affairs was looking to stand up, but it says,
14 "In addition, and separate from the Q&A cell, a group
15 has been tasked to finalize the Commander's handbook."
16 So there's a couple of different things going on with
17 this E-mail.

18 The Health Affairs cell, I'm not familiar
19 with the Health Affairs cell within their office. I
20 was one of the binding people to work on the
21 transgender handbook with the establishment of DoDI
22 1300.28, the services in ODS was required to set up
23 training for the field. The training would be --
24 would dovetail -- again, as I've mentioned before, ODS
25 Health Affairs and those directorates have the

1 responsibility to establish a training program, and
2 then it would be given to the services for them to
3 implement the training, and of course, in accordance
4 with their business practices.

5 So ODS's effort in developing the training
6 platform for the services was the establishment of the
7 handbook. Okay. So that was one cell.

8 BY MS. LAPORTE:

9 Q. So there was a cell established to write the
10 handbook?

11 A. Correct.

12 Q. Okay. What's that cell called?

13 A. That was -- I don't even know if we have a
14 formal name. There were so many working groups being
15 stood up at the time we just -- actually, that -- we
16 didn't have a name. The group that wrote this
17 handbook was a binding group of representatives from
18 the services. It was a small group, and we were
19 sequestered for two weeks to sit and do nothing but
20 write this handbook.

21 Q. Okay. So there was a cell to write the
22 handbook -- let me just step back for a moment and ask
23 you again, what is a cell? Is it another way of
24 talking about a working group?

25 A. It is a -- it's a group of people. A cohort

1 of people that are established for a specific purpose.
2 I don't know the official DoD definition of a cell.

3 Q. Okay. So I think you mentioned that you were
4 involved in a couple of them, and you've described the
5 one to write the handbook. What other cells were you
6 involved in relating to the implementation of the Open
7 Service policy?

8 A. I was originally involved when the ODS --
9 well, I wasn't really part of their cell. My role was
10 the establishment of the Air Force SCCC, the service
11 central coordination cell.

12 Q. And what is that?

13 A. That is a cell that was directed by the
14 Secretary of the Air Force at the time, which is a
15 follow-on as a requirement from ODS for the services
16 to establish a cell, a group of subject matter experts
17 on transgender issues.

18 So the commanders and members in the field
19 had a single go-to point for advice on how to deal
20 with questions or issues regarding transgender
21 healthcare. Not just healthcare, but transgender
22 service members in general.

23 Q. So each of the services -- or each of the
24 service branches had its own SCCC?

25 A. SCCC, yes, ma'am.

1 Q. And, again, SCCC is --

2 A. The service central coordination cell.

3 Q. Okay. And so you were involved for the
4 Air Force. Who else was on the SCCC of the Air Force?

5 A. Secretary Gene directed representatives from
6 MR, which was the lead, and that would be me. Our
7 personnel division, our JA division.

8 Q. What's "JA"?

9 A. Judge advocate. Operations division, and
10 then various representatives we felt -- deemed
11 necessary. So I included members from the Guard and
12 the Reserve to be on the working group as well.

13 Q. Was the SCCC something that stayed in place
14 to try to work on the implementation of the Open
15 Service policy for some period of months or longer?

16 A. The SCCC exists as of today.

17 Q. Okay. And has it operated continuously since
18 it was established?

19 A. Yes, ma'am.

20 Q. Okay. And what is the function of the SCCC?

21 A. Our function is to be able to field questions
22 and provide guidance to the field regarding any
23 questions regarding transgender issues.

24 Q. And how has that function evolved over time
25 since the first establishment of the SCCC?

1 A. Actually, I have to say where we stood up is
2 where we are right now. Our main goal is to assist
3 our airmen in providing guidance and assisting them in
4 their transition, as well as commanders, on what
5 support we can provide the commanders and the medical
6 care. Our Air Force SCCC has really leaned forward on
7 making this work.

8 Q. Have you interacted on the SCCC with the
9 corresponding people in the other service branches?

10 A. There was only one meeting that we had that I
11 offered it as a joint meeting, meaning inviting
12 representatives from the Army and the Navy and the
13 Marine Corps to come and join our meeting. We have no
14 formal structure, if you will. It's one of the
15 additional duties I picked up in this, and we have the
16 meetings weekly and we informally talk about different
17 issues and topics. And like I said, there was only
18 one time that I invited the other services, and this
19 is in the infancy of the SCCC, and I actually invited
20 the newly appointed president of SPARTA to come and
21 meet with the group to teach us -- or talk to us about
22 transgender, what it is and who he was.

23 Q. What is SPARTA?

24 A. I'd have to look it up, ma'am. I don't
25 remember what the acronym stands for.

1 Q. What do you understand them to do?

2 A. SPARTA is an advocacy group of military
3 members supporting military members who are at the
4 transgender, gay, lesbian, transgender, transsexual
5 community.

6 Q. Okay. Did you -- is there any reporting
7 responsibility regarding your work at the SCCC?

8 A. No.

9 Q. Did you produce any kinds of summary reports
10 or memorandum for people who might want to look at
11 what the SCCC was doing?

12 A. No.

13 Q. Did you keep records of any kind?

14 A. Yes.

15 Q. What kinds of records?

16 A. The documentation on the coordination process
17 for ETP requests, exemption to policy requests for
18 members. There was very specific documents for
19 individuals for our service members. And just -- I
20 kept records for documents that required a follow-up
21 action. So if we had a response that came from the
22 field that was -- required coordination from either
23 our personnel division or our logistics division,
24 there was just documents that tracked the process and
25 what was our turn-around time because we owed an