McGowan Declaration – Exhibit C

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

DIANE J. SCHROER,	:	
Plaintiff,	:	
v.	:	CA No. 06-763
JAMES H. BILLINGTON,	:	
Defendant.	:	

Washington, D.C.

Wednesday, October 25, 2006

30(b)(6) Deposition of SANDRA CHARLES, M.D., called for examination by counsel for Plaintiff, pursuant to notice, at the Law Offices of 1875 Pennsylvania Avenue, N.W., Washington, D.C., commensing at 9:35 a.m., before Barbara a. Huber, Notary Public in and for the District of Columbia, when were present on behalf of the respective parties:

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assert that their -- whatever the problems that they're having is related to a health issue. And sometimes even if it is believed by the supervisor that it may be related to a health issue, they can also be referred to us.

But we cannot just hand out information to supervisors or anyone else without either, one, there being the -- the consent of the employee, or in situations where the employee's using their medical -- whatever that medical issue may be as the -- and some explanation or some reason for something that's occurring in the workplace, in which case then there would be a need to know on the part of their supervisor as to what is affecting that person's -- whether it's conduct or performance or what have you.

Q The reason why I'm asking this is because in our deposition with Cynthia Wilkins a few weeks ago, the personnel security officer of the Library of Congress -- do you know Ms. Wilkins?

A Yes, I do.

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Q During the deposition with Ms. Wilkins, she stated that when there was a piece of information about an applicant that was medical in nature that might implicate the ability of the applicant to obtain a security clearance required for a position, the matter would be referred to the health services office.

So is that statement correct?

MS. RUSSELL: I'm going to object to the extent that it might mischaracterize Ms. Wilkins's testimony.

But you can go ahead and answer.

THE WITNESS: There are occasions when Ms. Wilkins will refer a matter to me on the grounds that there is something that may affect someone's clearance with respect to their suitability, judgment, reliability, as guided by the standards that she uses to make her determinations.

BY MS. McGOWAN:

Q And in a circumstance where Ms. Wilkins, for example, would refer that matter to you, what

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would the health services office do in that circumstance?

MS. RUSSELL: I'm going to object to the form of the question.

But you can answer if you understand the question.

THE WITNESS: Well, as I understand it, you want to know what happens when something is referred to me by Ms. Wilkins?

BY MS. McGOWAN:

Q Yes.

A And the short answer would be depends. And it depends on what the matter is. But the first -- if she refers something to me, she gets a release from the person that she's dealing with, to let them know that she's shared this information with -- or are going to share this information with me and referring them to me.

And I would in turn make an appointment, and meet with the person, and let them know again why I was meeting with them, and from that point make a determination as to whether I needed to

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seek further information, get independent evaluation, or do something else in order to make a recommendation back to Ms. Wilkins.

Q And are there circumstances where talking to the applicant is sufficient for you to obtain the information you need to make an assessment?

A There are, yes.

Q And in a situation where -- well, can you explain perhaps a situation where that would be the case?

A Sometimes -- well, whenever I get the referral, I usually get whatever information was received by personnel security pertinent to whatever that matter is. And so I would review that information and then speak with the applicant.

And it may simply be a response that the person may have had on their -- a positive response they may have had in terms of having sought care for a particular issue. And I just wanted to clarify with them the extent of it and

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the reasons for their doing so, and to get a sense from them as to where they currently were and whether it's still an ongoing issue or had resolved.

And if it was say treatment that had stopped, to see whether they had stopped it without the -- whoever their treatment provider be, having been the one to say you are at a point where you can no longer -- or you no longer need to come in or need to be treated, and something like that. I may be able to make a determination just talking to them. Or I may just need to get verification from their provider that they were at a point where they were -- their issue had resolved.

Q Is there ever a circumstance in which the personnel security officer, either Ms. Wilkins or whoever else it might be, refers a matter to the health services office that you actually determine even without talking to the applicant is not really a health concern at all?

A I'll say -- I would say yes. Yes.

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Q Perhaps can you give an example or describe what you mean?

A Well, there may be times when there are cases which Ms. Wilkins may say I have this, and this is what came back. And do I need to -- is there something that you need to see, or is this something that -- this is my feeling about it, this is what I have, and this is something that you think you need to see. And so I may say yes or no.

Q Is there an example that comes to mind of the kind of circumstance where you wouldn't actually really even need to see any additional information from Ms. Wilkins?

A Not immediately, no.

Q After talking to an applicant, you just talked about that there are circumstances where talking to the applicant alone is enough to provide you with the information that you need to make an assessment.

In a circumstance where you feel as though you want additional information, you

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mentioned that you might contact the healthcare provider under whose care the applicant is.

Can you explain what you would do as far as contacting that healthcare provider?

A Yes. I, of course, would get a written consent from the applicant, and would share that with the healthcare provider prior to making any contact so they would have it in hand, and essentially expect my call or communication on that applicant. And then I would make efforts to contact a provider.

Many times, because of what I -- the degree of information that's placed on the consent, I would make a follow-up phone call after they have gotten the consent, and again explain why I needed to get the information from them, and ask them to please, even though they would oftentimes speak to me on the phone about whatever the issue is, ask them to send me something in writing sort of verifying our conversation, and then use that information to make my determination.

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If I need more information, I let them know, or if it's some lack in clarity. And so that's what I would do.

Q Okay. And do you in every case request the provider to send you a copy of their medical record for the individual involved?

MS. RUSSELL: Objection to the form of that question.

THE WITNESS: And the answer is no.

BY MS. McGOWAN:

Q And when would you ask for the file itself to be sent?

A If the response that I get is one that is equivocal or just some how does not supply or meet the answer, you know, doesn't give me the needed information or -- I will make -- I may ask for the actual record.

Q And when this type of inquiry is made, who in your office would be the one doing it or -- and if that's multiple people, you know, who -- plural if necessary -- in your office would be the person making this contact with an applicant's

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healthcare provider?
MS. RUSSELL: Objection. Vague.
You can answer if you understand the question.
THE WITNESS: When you say "when this type," are we focused on the personnel security?
BY MS. McGOWAN:
Q Right. After having spoken to the applicant, in a situation where you've determined that you would like to speak to the healthcare provider, is that in every case you who makes that call, or are there other people in the health services office who may also be making these kinds of inquiries?
A I am the person who speaks with the provider. Someone may fax the form over or even get someone on the phone, but I'm the person who speaks to them.
Q What kind of information has been referred to your office for assessment?
MS. RUSSELL: Objection to the form.
But you can respond if you understand

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the question.
THE WITNESS: Can you be more specific?
BY MS. McGOWAN:
Q Sure. Ms. Wilkins said that certainly medical -- or information that she thinks is medical in nature is referred to your office for an assessment.
And I'm trying to find -- get a sense of sort of examples of what kind of information falls, you know, under the category of medical information that would need your assessment.
MS. RUSSELL: Again, objection to the form. And also objection to the extent that you're mischaracterizing Ms. Wilkins's testimony.
But respond if you understand the question.
THE WITNESS: In general terms, the matters that are referred usually have to do with whatever -- either the applicant's response to a question on their security questionnaire that asks about treatments for a particular diagnoses as outlined in the standards that Ms. Wilkins uses,

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or information that comes up when they do their background checks.
So that could run -- whatever the -- their standards I guess indicate are things that should raise a question and be further evaluated that are of a medical nature, those are the things that would be -- that refer to me.
BY MS. McGOWAN:
Q And would mental health concerns fall within the category of issues that would be referred to the health services office?
A Yes.
Q And how does the health services office go about assessing mental health concerns that are referred to it?
MS. RUSSELL: Objection to the form.
But you can go ahead and answer if you understand.
THE WITNESS: You're saying the health services office. But for these instances, I'm the person that usually -- that it's limited to.
BY MS. McGOWAN:

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Q Okay.
A And, again, the explanation I gave you of having the person, after they've been referred, coming to talk with me, reviewing whatever information was received or gleaned about the issue, and assessing that and determining whether something that between talking to them and reading what was available was enough, or getting information, further information from their provider, or determining that it is of -- whatever the nature of it -- the condition or issue may be, I would need to have a consultant evaluation.
Q Anything else?
A No.
Q If the applicant, in the course of talking with you, were to disclose to you that they actually currently hold a security clearance, would that change the type of evaluation that you would undertake with the applicant?
MS. RUSSELL: Objection. Lacks foundation.
But you can respond if you understand

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the question.
THE WITNESS: Actually, I'm not sure that I do, because I try to focus on what is asked of me.
BY MS. McGOWAN:
Q Sure. In a circumstance where an applicant explains that they actually currently are holding a security clearance, do you, for example, in every case request a copy of the most recent security investigation file?
MS. RUSSELL: Again, lacks foundation.
But you can respond if you understand the question.
THE WITNESS: Well, no.
BY MS. McGOWAN:
Q Are there circumstances where you would request the file of a prior security clearance investigation?
MS. RUSSELL: Objection. Lacks foundation.
But you can respond if you understand the question.

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THE WITNESS: I have never done so.
BY MS. McGOWAN:
Q One issue that we did address with Ms. Wilkins was this question about whether or not information was new, new information that needed to be taken into account that perhaps had not been taken into account previously.
And so in the health services offices' view, what constitutes new information?
MS. RUSSELL: Again, lacks foundation.
But you can respond if you understand the question.
THE WITNESS: I truly don't understand.
BY MS. McGOWAN:
Q Does the health services office attempt to ascertain whether or not a health issue has already been taken into account in a prior security clearance investigation?
MS. RUSSELL: Again, lacks foundation.
But you can respond if you understand the question.
THE WITNESS: No.

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BY MS. McGOWAN:
Q And just so I'm clear, in your experience, you have never requested to view the file of a prior security clearance investigation for an applicant that's been referred to you for consideration?
A No.
Q We've talked a little bit about the steps that you would undertake in assessing a concern about an applicant.
In a circumstance where an applicant disclosed that they were taking prescription medication, would that be information that you would investigate?
MS. RUSSELL: Objection. Vague.
THE WITNESS: What do you mean?
BY MS. McGOWAN:
Q If, for example, Ms. Wilkins said I have an applicant who's disclosed that they are taking a particular type of medication but I don't know what this medication is for, what it means, is that the kind of query that you would review at

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Ms. Wilkins's request?
A Do you mean would I review what the medication could possibly be used for, or do you mean would I see that the -- if the person's referred to me, then I'm -- I would be talking to them. And I will get all that information. But I'm not sure I understand what you mean by reviewing that information.
Q Well, the fact that you would talk to the applicant is part of what I was trying to determine, how you would assess sort of what the medication's relevance might be as far as the health of the applicant.
But in addition to talking to the applicant, is there ever a circumstance where you would call the prescribing physician, for example, to inquire about the fact that this medication had been prescribed?
MS. RUSSELL: Objection. Calls for speculation, vague.
But you understand the question, go ahead and answer.

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THE WITNESS: Again, if someone comes to me and I get -- whatever information I get is what I'm discussing with them. And if I need to, I get their permission to get information from their provider. So that would fall in that realm, if there was a necessity to find out what exactly they were being treated for or what the relevance or context in which they're getting a particular medication is.
BY MS. McGOWAN:
Q And when you say the information that's been provided to you, what kind of information would that be?
A I'm usually given the -- if it's the -- if it's information that came to the attention of the personnel security officer by way of the -- whatever investigation they are doing and they get a response of some kind, all that is relevant to the matter that is being referred to me as provided in the referral.
And so that is what I'm seeing as I was talking to the person. And I talk to them about

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what I'm seeing and what -- the issue that has been referred to me, the judgment, what my next step would be.
Q And are you the person who would seek to obtain a release from an applicant in the event that you wanted to talk to their therapist or their healthcare provider?
A Yes.
Q And do you ask for a release from every applicant with whom you meet?
A If I need to talk to their provider, yes.
Q But if you determine that you do not need to talk to their provider, then am I right that you would not ask for a release from them?
A I wouldn't need it, yes.
Q What factors would influence your decision to investigate a healthcare concern, beyond talking to the applicant and their treating physician?
A If I'm doing something with which I have little or no familiarity or understanding and I

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want to be sure that I'm getting all the information that's needed to properly make an assessment, then I would certainly seek consultation from someone who is an expert in whatever field that might be to guide me.
Q And is there a particular agency that you would go to in every case for that consultation, or does it depend on what the condition --
A It certainly depends on what I need.
Q So, for example, if there were a mental health concern that you wanted to get some additional consultation on, where would you go to obtain that consultation?
MS. RUSSELL: Objection to the form of the question.
But you can go ahead and answer if you understand.
THE WITNESS: Are you asking me how would I find someone to do the consultation?
BY MS. McGOWAN:
Q I'm asking sort of the whole range of

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the process. So whatever it is, you tell me.
A Okay. If I need to refer someone to a person who is expert in the field of whatever I'm assessing, if it's a mental health issue, I have in the past used the APA, American Psychological Association, Washington Psychiatric Society, as well as the medical society, the local medical society, to determine who in their records.
And they usually have people according to field of expertise. And they would give me a number of names to choose from based on whatever the issue that I'm assessing.
Q And have you ever done this in a case, in your experience at the Library?
A Any kind of case? Yes.
Q Specifically in a mental health case obtaining some additional guidance from the agencies that you've just described, have you ever -- actually ever needed to take that step in any case?
A Yes.
Q And how much time was involved in

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obtaining that additional consultation?
A It certainly varied. And I don't know if I remember totally, but it was well a month or more. Because apart from getting the names, I had to find the people. And they may or may not have been available. So there would be exchanging calls just to talk with someone.
And when I finally do get to talk to them, I have to ascertain if they were willing to do the evaluation, provide a report. And of course, I would explain to them the purpose and how the report would be used. And so it takes some time between exchanging calls and waiting for returns, and then scheduling appointments and getting the person on whom the evaluation is to be done to.
You know, usually we get people a choice of the -- so they have more than one, so they have a choice of the particular person. And so all those things take time. So a month is probably a good -- would be the short time. Longer than that would be --

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Q Okay. And going back for a moment when you would call the therapist or the treating physician for an applicant, do you attempt to ascertain the qualifications of that therapist or physician to inform your assessment of the --
A Of the treating --
Q -- of the treating --
A -- physician?
Q Yes.
A Not always, no.
Q Would your decision to obtain an additional evaluation, for example in the case of mental health, depend on your confidence in the qualification of the applicant's treating physician or therapist?
MS. RUSSELL: Objection to the form of the question.
But you can answer if you understand the question.
THE WITNESS: Would you repeat?
BY MS. McGOWAN:
Q Sure. My question is does your decision

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to obtain a second opinion, for example by obtaining the services of another APA, a psychologist, psychiatrist, does that determination depend in part on your assessment of the qualifications of the applicant's treating therapist?
MS. RUSSELL: Same objection.
But if you understand the question, go ahead and answer.
THE WITNESS: Yes. Uh-huh.
BY MS. McGOWAN:
Q And how do you go about determining whether or not an applicant's treating therapist, for example, is someone who has the credentials that you feel you can rely on?
A It's really rather basic. Because many times it -- or I should say the time when it may most play a part is if the person who is treating is not -- that is not their area of expertise, and based on the history given as to how the treatment either began or proceeded, and talking with the particular provider, that generally helps to

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inform my need to go to someone who is considered an expert in the field.
Q And how often due find yourself needing a second opinion or a second consultation?
A It's not very frequent, but I can't give you a specific time percentage.
Q Can you describe cases where you've needed to get a second opinion?
MS. RUSSELL: Objection, to the extent that any answer would be a violation of the Privacy Act.
But you can respond if you understand the question, and to the extent it would not require disclosure of privacy-sensitive information.
THE WITNESS: In which case, I probably --
BY MS. McGOWAN:
Q Well, I'm certainly not looking for the name of any employee. And so I sort of -- you can explain the particular conditions where you sought a second opinion.

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BY MS. McGOWAN:
Q For example, would you ask the applicant about his or her therapist to find out more information about who this therapist was and their credentials?
MS. RUSSELL: Again, calls for speculation.
But you can respond if you understand the question.
THE WITNESS: In the course of getting a history and understanding what was going on, that information would probably come to light.
BY MS. McGOWAN:
Q And obviously since you're the only person in the office who handles these matters, while I'm asking you to think about circumstances that you may not have addressed, it's ultimately you're the person who would lay out what the protocol is. So I'm trying to hone in on what are the factors that would influence how you would proceed. And so --
MS. RUSSELL: Again, calls for

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speculation.
But you can --
BY MS. McGOWAN:
Q Well, actually, that wasn't even a question.
But trying to lay out, you know, how we're proceeding and where these lines of questions are going, since you're the person --
A Sure.
Q -- who decides what you need to know and --
A And it's a judgment based on the feedback I get from talking to someone, from what they tell me, and how it comports with just practice with regards to what particular illness we're talking about. If -- you know, if what I get from them is that it's sort of not being handled in a -- in the expected manner, or not expected, but it -- it's really -- it is difficult for me to tell you in detail how I'd form that judgment.
But it really has to do with trying to

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get clear information on what is happening with someone or what -- how they're being managed. And if that is -- I'm not saying for this particular case, but in some cases even if -- if a management -- it doesn't have to be a mental health -- is really being carried out according to what would be the accepted principles, I guess you could say.
And so I don't think that's very clear, but it's the best I can give you. I mean, talking to them gets me -- and getting that information, and, yes, what -- in some cases what they are -- their credentials are of who's treating them or how well or closely they're managing them just gives an idea of how I may need to proceed from that point.
Q And with respect to who they are getting their care from, one of the things we talked about was whether or not this is the kind of a condition that a primary care physician would handle or whether or not this was something that was in the care of a specialist, how would the fact that an

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applicant is under the care of a specialist inform your decision about whether or not to go to the treating physician or the treating therapist who is the specialist in the first instance as opposed to going to an outside source?
A How would it inform my decision? Well, certainly if they are being treated by someone whose expertise is whatever that issue is, it carries more weight than if it were not. And weight in a sense that I would have more confidence in how it is proceeding or what is being done.
Q And with respect to a condition with which you're less familiar, would you undertake an independent investigation to figure out who specialists in the field were?
A Well, that is what I do when I call to get the names of specialists, is to find out who the people are who are considered specialists in the field.
Q If you were to call, for example, the APA and find out that the applicant's treating

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physician is on the list of people they consider a specialist, how would that inform your decision to rely on the treating therapist alone, as opposed to seeking a second opinion?

MS. RUSSELL: Again, calls for speculation.

But you can respond if you understand.

THE WITNESS: It certainly would -- it may, may cause me to assess whether or not I would stop there or move -- still to go to have an independent evaluation.

MS. McGOWAN: Why don't we take a break and come back and 11:00.

(Recess)

BY MS. McGOWAN:

Q Back from our break. I just want to just ask a couple of follow-up questions about both your experience regarding gender identity issues and the experience of your staff at the health services office.

So looking at your full range of both education and practical experience, what

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experience do you have with transsexual people?

A None to speak of.

Q In fact, actually, do you know any transsexual people?

A Huh. No.

Q And while you were at the psychiatric hospital, did the psychiatric hospital actually have any patients dealing with gender identity issues?

A None that I knew.

Q And how many interns did you supervise or doctors did you supervise at the psychiatric hospital?

A Well, it's a long time ago. I think it's about -- this is definitely a guesstimate, but there were about six medical officers. And then the number of residents varied. So I don't have a particular number there.

Q At any one time, roughly how many people were you supervising?

A About 10, 12.

Q And at any time during your stint at the

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psychiatric hospital, did any of the people who supervise you inform you that they had a patient with a gender-related psychiatric issue?

A Not that I recall, no.

Q And turning to your staff at the health services office, what experience does your staff have with transsexual people?

A I don't know.

Q Has a Library employee ever come to the health services office with a gender identity issue?

A Not that I know.

Q And do any of your staff at the health services office have experience from prior to joining the Library regarding gender identity issues?

A I don't know.

Q Is it a requirement for employees at the health services office to have either experience or training regarding gender identity issues?

A No.

Q We've been talking generally about the

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protocol for assessing information. And I just want to make sure, as a general matter, I have all of the steps. We've talked about talking to the applicant themselves.

Would anyone other than you interview an applicant?

A In my office?

Q Yes.

A No.

Q So you are the exclusive health services office employee who would interview an applicant --

A Referred.

Q -- referred to you?

A Yes.

Q Okay. And then in addition to talking to the client when necessary, you've explained that you might talk to the treating physician or therapist, you might also obtain the records from that treating physician or therapist, and in some circumstances you might seek a second opinion or a consultation from an outside source.

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provider, or who may or may not be an expert in the field. I don't know. And, again, make a judgment if I have sufficient information, or if I need to seek independent evaluation.
BY MS. McGOWAN:
Q And when you say seek an independent evaluation, in every case would that involve an evaluation of the applicant by the consultant that you'd retained?
A As opposed to?
Q As opposed to getting sort of generic information about the particular condition from the individual or entity that you'd retained for a consultation?
A I was referring to having the applicant being evaluated.
Q And if you decided to go the route of obtaining an independent evaluation, at that point would you -- at what point, if any, would you go back to the treating therapist to get additional information from the treating therapist?
MS. RUSSELL: Objection. Calls for

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speculation.
THE WITNESS: And I'm not sure I understand what you mean.
BY MS. McGOWAN:
Q After getting an evaluation from the independent consultant, would that information standing alone be the basis of your evaluation, or would you then also want to have the information from the treating therapist, as well, before making a final determination?
A It's one of those it depends questions. Generally, I would have some previous information. And who knows, it may -- I may need to do that. That's -- I guess that's a possibility. But I don't know that I would or wouldn't.
Q So walking through the options, if you had obtained an independent consultant and they had evaluated the applicant and came back to you saying that this person was in fine mental health, what, if anything, else would you do at that point?
MS. RUSSELL: Again, calls for

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speculation.
But you can respond if you understand.
THE WITNESS: Since all I'm seeing is the data -- objective assessment and I would have -- in asking for the consultation, I would have certainly outlined what it was I was seeking in terms of their recommendations.
So if they were to recommend that based on their evaluation, assessment, what have you, there was nothing found that would -- the standards indicate would impair their judgment, reliability, or suitability, then I would have received an answer that I could use to forward a recommendation to the personnel security officer.
BY MS. McGOWAN:
Q So I'm just trying to make sure that if you've spoken to the applicant and gotten a favorable independent consultation, is there any additional investigation you would undertake before passing on a positive recommendation to the personnel security officer who had referred the matter to you?

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MS. RUSSELL: Calls for speculation.
But you can answer if you understand.
THE WITNESS: Okay. And I sit here, I'd say I can't think of anything that would make me want to go outside of whatever the consultant report says.
BY MS. McGOWAN:
Q And we talked about this sort of in a general way. But if you, from the independent consultant, learned that the treating therapist was someone that the APA, for example, considered a credible specialist in the field, how would that influence your decision about whether or not you talked to the treating therapist or sought a second opinion?
MS. RUSSELL: Same objection.
THE WITNESS: I need to hear it again to be sure I heard.
BY MS. McGOWAN:
Q Sure. So if the APA is the entity that you would contact about finding additional resources with expertise on gender identity, and

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they came back to you and said in fact the treating therapist of this applicant is someone who is on our list of people we consider to be credible experts in this field, at that point would you, in the first instance, go back to the treating therapist, or would you still feel as though you wanted an independent evaluation of the applicant?

A Considering that other than I'm just trying to figure out what I may do or may not do, I would think that I probably would at least speak with the person who is the treating therapist, to see if I can get what I need.

Q And if you received back a positive evaluation from the treating therapist who was someone that the APA considered to be on their list of referrals, would you still go on to obtain a second evaluation?

MS. RUSSELL: Objection to the form. Again, it calls for speculation.

But you may respond if you understand the question.

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THE WITNESS: That is a possibility, that I would end it there.

BY MS. McGOWAN:

Q And what factors would influence your decision whether or not to end it there or do something else?

A Again, it depends on what I get when I talk to the person, the provider in question, the feedback that I get, their -- the objectivity that they demonstrate, and the clarity in which they give me information, and the -- and whatever judgment they may give to me, as well as my talking -- having talked initially with the applicant.

Q Anything else?

A No.

Q What kinds of things would you ask the therapist to assess their objectivity?

MS. RUSSELL: Objection. Calls for speculation.

THE WITNESS: And it may not be so much what I ask them as to how they respond as we go

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through the -- whatever the case may be, and I explain what I'm trying to determine, and what the significance of the information is, and the impact of it, and why I'm making the inquiry. And, you know, I guess as I get answers, then that may help me to pose other questions.

And it may be in getting those answers that I may perceive that there may be some lack of objectivity and pursue at that point in time. So I can't tell you exactly what I may say or do, but one would sort of inform the other.

BY MS. McGOWAN:

Q Would you ask the therapist how many patients were under his or her care for this, for the same condition?

A I may find out from them how many such cases. And -- and that is the part of the -- I would need to know the -- yeah, the scope of their dealing with that particular issue, and even the scope of the issue in general, to help me. Of course, some of the basic information, I would say I may just seek in general reading, knowledge, so

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I would know particular questions to ask the therapist.

And I guess generally speaking, one of the things that I would be trying to determine from someone is, you know, all of us could particularly say have a particular diagnosis. But since I'm trying to find out how it affects a particular person, I'd have know what their -- how their -- how it's manifested in them or how it affects their functioning and ability. Because those are the things that -- and how they are living with it, working with it, and dealing with it.

Because those are the things that would possibly -- their ability or inability to do so would -- may be what would affect their judgment and reliability, and hence their suitability, and be open for any kind of -- I think one of the things the standard says is opened for black male, or something like that. So it has to be individualized, even though I'm asking about some of the general aspects, as well. But I certainly

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A No. No. I don't know a purpose.
Q Turning back to the issue of applicants that are referred to the health services office.
Has an applicant ever been referred to the health services office because there was a concern about an individual's treatment for depression?
A By whom?
MS. RUSSELL: Objection. Relevance.
THE WITNESS: Yeah, I'm not sure really by whom.
BY MS. McGOWAN:
Q You can answer. It's just a question of whether or not you --
A I don't really -- I'm not following the line of questioning, I guess.
Q Sure. If an applicant had disclosed that they were under the care of a therapist for depression --
A To whom?
Q -- for example, to the hiring officer, who then went to Cynthia Wilkins and said, you

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know, they're under the care of a therapist, is this a health concern from a security clearance perspective?
I'm wondering if that is a circumstance where -- has there ever been a circumstance like that, where someone has been referred to you to assess whether or not their healthcare for depression has been referred to the health services office for investigation?
A No.
Q Okay. Has the Library -- I'm sorry.
Has the health services office ever faced a situation where a Library employee indicated that they were under the care of a mental health professional to cope with the stress of being a crime victim?
MS. RUSSELL: Objection. Relevance.
THE WITNESS: I really don't remember such case.
BY MS. McGOWAN:
Q In the view of the health services office, is mental health counseling for the

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treatment of depression always disqualifying with respect to security clearance?
MS. RUSSELL: Objection. Lacks foundation, and relevance.
THE WITNESS: I'd have to say no.
BY MS. McGOWAN:
Q When would mental health counseling for the treatment of depression rise to the level of a disqualifying factor with respect to security clearance?
MS. RUSSELL: Objection. Calls for speculation.
THE WITNESS: And I'd have to say that, again, if someone is referred for -- because of that particular history, it would still go through the steps we have discussed, to see if whatever their particular situation is causes them to be not suitable because of a problem of judgment or reliability being impaired.
BY MS. McGOWAN:
Q And so if an individual were referred to you because they were in therapy for a range of

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conditions, would the protocol for investigating whether or not that issue was a security concern be different depending on why the individual was in therapy?
A If -- that protocol, you mean what we've been through already?
Q Right. The process of speaking to the applicant, doing further investigation?
A Then no.
Q If an applicant were referred to the health services office because they had disclosed that they had intended to have surgery that would alter his or her appearance, how would -- would the health services office consider that to be a significant health-related concern that needed investigation?
MS. RUSSELL: Objection. Calls for speculation.
THE WITNESS: And I'm not sure what you mean surgery to alter their appearance.
BY MS. McGOWAN:
Q Whether it was cosmetic surgery or

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reconstructive surgery, something that would alter, for example, their face such that they would look different than they had at the time of their application, is that, on its face, a health issue that would require investigation by the health services office?
MS. RUSSELL: Objection as to the form.
THE WITNESS: I'm not sure I could answer. I would just have to have more context.
BY MS. McGOWAN:
Q So just to be clear, if a matter was referred to you because an applicant had disclosed that they intended on having, you know, surgery that would alter their appearance, you would have to make an independent assessment of whether or not, in fact, that was information that had implications for security clearance; is that right?
A What do you mean independent assessment? You mean I would go through my protocol?
Q Yes.
A See the person?

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Q Right.
A Yes.
Q Okay. And what kind of information would you want to know from the applicant about the procedures that they were planning to undertake, to determine its relevance?
MS. RUSSELL: Objection. Calls for speculation.
THE WITNESS: I'm not sure. I mean, the fact that I would want to go through the protocol is simply were referred. So I would have to see what it was that motivated the referral, or what information there was.
And I would do the same sorts of assessments, in terms of information, and talking to the person to find out what they were having, simply because I needed to -- I would need to know, and why. And, again, see if -- or determine if I were dealing with something that left with them open to impaired judgment, suitability, or reliability as it relates to the standards that we're using.

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BY MS. McGOWAN:
Q Part of what I'm curious about is if someone were referred to you and it wasn't obvious to you why they were being referred, could you -- or would you call the person who had referred to you and have a conversation to get more information about why they were referring the matter to you in the first place?
A Basically, yes. If I get a referral, I need to know why. And so I would -- and -- are we talking about a personnel security referral?
Q Yes.
A Okay. So yes.
Q So are you required to undertake some form of investigation for every applicant that's referred to you, or do you have any discretion in deciding whether or not an investigation is even necessary?
MS. RUSSELL: Objection as to the form of the question.
THE WITNESS: I'm not sure what you mean by required. But there's nothing that says you

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must do this or must not. If I get a referral, I need to know why.
BY MS. McGOWAN:
Q And by required, what I'm asking is if you think in your medical judgment that this is not information even on its face that is a problem that -- and you don't feel as though a further investigation even with talking to the applicant is necessary, do you have the authority to go back to the personnel security officer and say this actually isn't even a health concern at all, I don't need to do anything more to be able to tell you that?
MS. RUSSELL: Same objection.
You can answer.
THE WITNESS: Yes.
BY MS. McGOWAN:
Q Okay. I want to turn to a different subject now. We've talked a little bit about Cynthia Wilkins, but I just want to sort of make clear that you know who Cynthia Wilkins is.
A Okay.

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Q So, yes, am I right you know who Cynthia Wilkins is?
A Yes.
Q And do you know who Charlotte Preece is?
A Yes.
Q And who is she?
A I knew her to be a supervisor in the Congressional Research Services.
Q At her deposition, Ms. Wilkins stated that she was asked to attend a meeting with Charlotte Preece and some other Library employees to discuss the fact that a candidate for the position of terrorism specialist was undergoing a gender transition.
What do you know about that meeting?
A Nothing.
Q Was anyone from the health services office asked to attend this meeting?
A No.
Q Do you know why not?
A No.
Q And just to be clear, were you ever

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asked to attend the meeting?
A No.
Q At any point, did you find out that this meeting had happened?
A No.
Q Did you ever discuss with Ms. Wilkins a meeting that she had attended regarding an applicant for the terrorism specialist position who was undergoing a gender transition?
A No.
Q Did you ever have a conversation with Charlotte Preece about an applicant that was undergoing a gender transition?
A No.
Q Did you have any discussion with anyone at the Congressional Research Service about the fact that there was an applicant for a position with the Congressional Research Service that was undergoing a gender transition?
A No.
Q Had you been asked to provide your opinion about the significance of an applicant's

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gender transition with respect to their suitability for employment with the Congressional Research Service, what would have you have said?
MS. RUSSELL: Objection. Calls for speculation.
But you can respond if you understand.
THE WITNESS: And when you say had I been asked, had I been asked by whom?
BY MS. McGOWAN:
Q Had you been asked -- assuming that you had been asked to attend a meeting with Cynthia Wilkins and Charlotte Preece to get your guidance about the significance of the fact that an applicant for a position with the Congressional Research Service had disclosed that they were undergoing a gender transition, what would your guidance to them have been?
MS. RUSSELL: Again, calls for speculation.
THE WITNESS: And I'm not sure I -- I certainly would have had to counsel them in the terms of if, it's referred to me by personnel

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security, as the -- any other thing that's requires medical input on terms of reliability, judgment, and suitability. And I would treat it in the same way as any other referral.
BY MS. McGOWAN:
Q And had you been asked how long it would have taken you to provide an assessment of this information, what would your guidance to them have been?
A That I would not be able to tell them any specific time, but that could be a month or longer, depending on how much I would have to do and whether I need to refer it, and do, and the whole nine yards.
Q Have you ever discussed with Ms. Wilkins what your process is for -- when a matter is referred to you?
A In general terms?
Q Yes.
A Yes.
Q Have there been meetings in the past where someone from the health services office has

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been asked to provide guidance about the significance of an applicant's health issue with respect to their employment?
A No.
Q When a meeting is called, or have -- are there ever meetings regarding of health concerns of a Library employee?
MS. RUSSELL: Objection. Vague.
But you can answer if you understand.
THE WITNESS: Yes.
BY MS. McGOWAN:
Q Would someone from the health services office normally attend a meeting like that?
MS. RUSSELL: Calls for speculation.
THE WITNESS: I can't speak to normally, because I only know the meetings which we're asked to participate. And so I don't know if there is a normally about it, but we have attended meetings.
BY MS. McGOWAN:
Q And would the person from the health services office that attends be you, or would it be someone else from your office?

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A It may be me, or it may be a supervisor, nurse practitioner.
Q And what are the subjects that have been discussed at these meetings that you're describing?
A Oftentimes, it may be a meeting about someone who has leave and attendance issues for which they're asserting there's a medical reason, which many times may or may not -- well, may or may not be known by the people calling the meeting. And so our input is to -- or the reason for attendance being requested so to ask for guidance on how to handle the leave or attendance issue.
Q Any other types of issues that have come up in meetings where you've been asked to attend?
A Besides leave and attendance, there may be a conduct issue.
Q And what do you mean by that?
A Someone who may be acting in a manner that's disruptive to the work site or to the work of other people.

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Q And you would be involved in that kind of meeting for what reason?
A Again, simply saying how shall we handle this, which essentially -- it's usually a meeting where there may be legal representation, as well, and they're just trying to deal with it. And they decided to call anybody who would possibly have involvement in it; or they -- or they're considering any sort of action, they want to be sure that they are covering all basis.
Q And in the context of those meetings, are you asked to provide medical guidance?
A Only in the sense that -- we can or cannot -- we cannot give them any medical information, but in how they should go about having people bring in what is necessary, or for us to evaluate and then give guidance, or for them to -- or to tell them that they need to just direct it to their proper administrative channels in dealing with those things that follow whatever their regulations are.
Q Did anyone from the health services

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office ever have any discussions with a Library of Congress employee about Ms. Schroer's application for employment?
A No.
Q And did anyone from the health services office have any other discussions with any other Library of Congress employee about the process that would be necessary to determine whether Ms. Schroer could satisfy the suitability and eligibility requirements for the terrorism specialist position?
A Not that I'm aware of.
Q And did you have any discussions, or anyone from your office, anyone with the health services office, have any discussions about the length of time that would be required to determine whether Ms. Schroer could satisfy the suitability and eligibility requirements for the terrorism specialist position?
A Not that I recall.
MS. McGOWAN: Can we go off the record a moment?

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(Whereupon, at 11:47 a.m., a luncheon recess was taken.)
AFTERNOON SESSION
(1:05 a.m.)
Whereupon,
SANDRA CHARLES, M.D.,
was recalled as the witness and, having been previously sworn, was examined and testified further as follows:
EXAMINATION BY COUNSEL FOR PLAINTIFF
CONTINUED
BY MS. McGOWAN:
Q Good afternoon. I'm just going to run through a few questions to wrap up the discussion that we had this morning, or the series of discussions that we had, and then turn to a few documents that you may be familiar with.
The first thing I just wanted to clarify and make sure that I had the clear answer to this was had the health services office ever been asked to investigate the -- a gender identity issue with respect to an applicant for employment?

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A No.
Q And has the health services office ever been asked to investigate the -- a gender identity issue for a current Library employee?
A No.
Q Has the Library's health services office ever provided counseling for a Library employee dealing with gender identity issues?
A No.
Q Has the Library's health services office ever provided a referral to a mental health professional for a Library employee dealing with gender identity issues?
A No.
Q If the health services office learned that an employee in a position requiring a top secret security clearance was under the care of a mental health specialist for a gender identity issue, would the health services office be required to inform anyone about that information?
A No.
Q And even if they were not required to do

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so, would the health services office share that information with anyone?
A No.
Q And would the health services office be required to investigate the matter further?
A No.
MS. RUSSELL: Objection to the form. But you can answer.
THE WITNESS: No.
BY MS. McGOWAN:
Q And whether or not it was required to do so, would the health services office undertake on its own an investigation of that matter?
A No.
Q If the health services office learned that an employee in the position requiring a top secret security clearance was undergoing hormone therapy as part of a gender transition, would the office be required to inform anyone of that information?
A No.
Q Would the health services office

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voluntarily disclose that information to anyone, whether or not it was required to do so?
A No.
Q Would the office initiate an investigation of that information?
A No.
Q Would it be required to do so?
A No.
Q If the health services office learned that a Library employee in a position requiring a top secret security clearance was planning to have a fascial reconstructive surgery as part of a gender transition, would the health services office be required to notify anyone of that information?
A No.
Q Would they disclose that information to anyone, regardless of whether or not it was required?
A No.
Q And would the health services office initiate an investigation of that information?

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A No.
Q And would it be required to do so?
A No.
Q If the health services office learned that a Library employee in a position requiring a top secret security clearance was planning to have sex reassignment surgery as part of the gender transition, would the health services office be required to inform anyone of that information?
A No.
Q Would it voluntarily share that information with anyone?
A No.
Q Would it be obligated to initiate an investigation of that information?
A No.
Q Would it initiate an investigation, notwithstanding the lack of any requirement to do so?
A No.
Q With respect to how the health services office would investigate a gender identity issue,

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would there ever be a circumstance where a gender identity issue would be referred to the health services office where a determination would be made that no further investigation would be required not even -- for example, not even talking to the applicant?
MS. RUSSELL: Objection. Calls for speculation.
THE WITNESS: I really cannot answer that. I can't say what a circumstance might be, whatever -- again, in terms of referrals, if we are asked to -- if it's referred to us, we go through the protocol that we've already discussed. And that's what we would do.
BY MS. McGOWAN:
Q For example -- this is as a possible example -- if a gender identity matter were referred to the health services office and it turned out that the facts were that the applicant 20 years ago had transitioned from male to female and had been living for the last 20 years as a woman, is that the kind of information that might

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result in a health services office's determination that no further investigation was required?
A Are you saying that that would be referred to me?
Q It would have been referred to you, and then you would have learned that the facts were that the transition had taken place 20 years ago.
What would the health services office do if that information were presented to it?
Would that necessarily require further investigation?
MS. RUSSELL: Again, calls for speculation.
THE WITNESS: Right. So would it necessarily? No.
BY MS. McGOWAN:
Q So there is a circumstance where if that were the information presented to you, you would determine that it was not necessary to do any further investigation?
A I can't say there is a circumstance, but that's a possible outcome.

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Q And so assuming that there is some hypothetical circumstance where -- regarding a gender identity issue where you would be able to make an assessment that I don't even need to talk to the applicant, it's either so old or it's over, that I don't even need to investigate, what would be the kinds of factors that would lead to a determination by you that I don't even need to look any further into this information?
MS. RUSSELL: It's the same objection.
THE WITNESS: I mean, unless there's something that has come up that raises the question to the level where the standards say this can -- is it one of those conditions or situations which could possibly impair judgment or reliability or suitability therefore you should evaluate it, I don't know that I would be looking any further into something that's -- that had occurred prior to a person being -- either coming to the Library or being at the Library.
BY MS. McGOWAN:
Q Okay. We also talked about the points

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at which you would determine what your next steps would be throughout the process. And one permutation that I wasn't sure that we had fully discussed was would there be a situation where, after talking to an applicant with a gender identity issue, you would determine that the next step would be talking to the treating therapist?
A You're saying would there be a situation?
Q Yeah.
A It's possible, yes.
Q And would there be a situation where, after talking to the applicant and her treating therapist about the gender identity issue, that you might determine that that investigation was sufficient for you to render a positive evaluation of the applicant?
MS. RUSSELL: Again, calls for speculation.
THE WITNESS: I think based on what we went through prior, that possibility would exist, yes.

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BY MS. McGOWAN:
Q How do you relay your assessment back to the personnel security officer or whoever it was that referred to matter to you in the first place?
A How, meaning?
Q Is it written? Is it oral?
A Written, generally, uh-huh.
Q And what format does it take? Is it a letter or a memo?
A Usually a memo.
Q And there standard parts of the memo that you would include in providing this evaluation to the personnel security officer?
A What do you mean by standard parts?
Q I don't know if there's like a template --
A Oh.
Q -- memo where you have, you know, an introductory section and a background of what you've investigated. I'm trying to figure out whether it's a standard form that you provide this information.

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A I guess I use -- the language I use becomes fairly standard, but it's not a designator or preformatted template that's been provided.
Q And is there ever a circumstance where you report back to the personnel security officer in stages?
A Yes. Uh-huh.
Q And when you do go back in stages, is that something that the personnel security officer has requested you to do?
A Maybe I should ask you to tell me what you mean by stages.
Q Sure. We talked about some of the different steps that you would go through in talking to the applicant. And I was curious whether or not, for example, after you've -- in a situation where you've talked to the applicant but perhaps decided that you need to talk to the therapist, is there ever a circumstance where you would check back in with the personnel security officer and say I've talked with the applicant, I need a little bit more information, so I'm going

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to -- I need to do a little bit more, it's going to take me a little bit more time?
A Yes.
Q And has there ever been a circumstance where you have reported back to the personnel security officer that you're going to need to do more investigation than just, for example, talk to the applicant, where the personnel security officer has come back to you said, you know what, we're pulling the plug on this candidate, don't worry about it, don't bother going any further?
A No, not that I recall.
Q To your knowledge, are you required to complete -- once you've initiated an investigation, are you required to offer a final assessment of an applicant that's been referred to you; or, for example, in a situation where if they decided to not pursue the candidate, would you be allowed to just discontinue your investigation?
A When you say required, what do you mean?
Q And certainly you help me. Because I'm trying to sort of --

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A Okay.
Q -- guess at what the process is.
Once you've begun an investigation of a candidate, my question is are you required to see that through to the end, where you make a final evaluation; or is it possible to basically abort the investigation if you're told, for example, that they've decided to go with a candidate, "they" being the personnel security officer who referred to matter to you?
MS. RUSSELL: Objection to the form.
THE WITNESS: And I don't recall any situation where I've had -- where that has occurred. And so where there is no requirement in terms of some legal designation. If I'm -- if something is referred to me, I usually see it through to whatever logistical conclusion, in terms of sending back a report.
I suppose at some point in time the occasion could arise where I'm told I don't need to do anything further with a case. But I just do not know of any where that has occurred.

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BY MS. McGOWAN:
Q One open question that we had from this morning was the issue about when you have needed to go and obtain the services of a consultant. And I was wondering --
A Sure.
Q -- if we could just go back to that issue.
A I guess it was just me trying to figure out how best to frame it. Because the case was a person in a position of trust or that needed -- or would be considered for such a position, where they had a particular behavior regarding a fetish or something, things that they would do.
And so the question was whether or not this was something that could put them at risk for either impaired -- be used against them, and so impair their judgment, reliability, or suitability. And in that particular case, I spoke with the person. And there was no specific treating provider. And I went to an outside consultant, asked for an evaluation, and relied on

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their report to make a recommendation.
Q And without disclosing information that is identifying of the individual involved, can you describe what the behavior was?
A That's what I've been trying to -- I honestly don't -- I think it had something to do with them participating in -- in these, for want of a better term, games, where they would dress up and -- I can't quite remember the details of it, but it -- I'm probably not going to give you an accurate description, so I do not want to misrepresent anything.
Q How did that information come to your attention as a matter that needed investigation?
A That was something that was referred to me by the personnel security.
Q And was this a situation involving a current employee, or an applicant for employment?
A I'm not sure I remember. It may have been someone who started out in one capacity and was being considered for another position. And they may have started as a contractor -- and

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I'm -- again, this is just my recollection -- and were being considered both to become an employee and to be put in the particular position that they were considering.
Q And did you discuss this information with the subject involved?
A Yes.
Q And did that person discuss with you the behavior that was involved and your concern?
A Yes.
Q And at what point did you decide it was necessary to go and obtain the services of a consultant?
A Well, subsequent to our discussion, that was what I decided that I needed to do to in order to fully understand and make a determination regarding the case.
Q And prior to having the outside consultant get involved, did you at any time report back to the personnel security officer that you were going to go outside of your office to get an evaluation of this person?

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A I believe I did.
Q And what kind of an evaluation -- or, actually, the broader question is what kind of services did the consultant provide for you?
And it may have included an evaluation of the subject, but I'm curious about the whole -- how you utilized their services to inform your opinion.
A Well, again, this was a situation where I found -- I obtained the name, actually, several names, of consultants of whose area of expertise involved the case in question, and spoke at -- I let the subject know that this was what I was doing, and spoke with the -- each person, and got their agreement, and in terms of timeline how soon they could do the evaluation.
And I certainly also let them know why I was doing this, and what was the basis for the evaluation. And so I got someone to agree. And the subject went and was evaluated and got the opinion back from the consultant.
Q And how long did that process take?

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A I cannot say exactly, but I would say it was close to a month, or maybe a little more.
Q And after you received information -- well, at some point, if I'm understanding you correctly, you received an evaluation back from the consultant; is that right?
A Yes.
Q And once you received that information, what did you do then?
A I read it, discussed it, and issued a determination to the personnel security office.
Q And was your determination favorable to the subject, or unfavorable?
A It was favorable.
Q And at any point in the process did the personnel security officer who had referred to matter to you ask you how long it would take to get feedback from you?
A She may have. It's a logistical question. I just don't recall.
Q And was the behavior at issue in this case -- did the behavior in this case involve

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cross-dressing, dressing in the attire of another gender?
A No.
Q Was there any aspect of that behavior that involved conduct at the workplace?
A What do you mean?
Q I'm wondering whether or not this was sort of an off-duty, you know, non-work --
A Oh.
Q -- hobby, and there was a concern about -- or whether or not there was aspects of, you know, the behavior that would also manifest at work, as well?
A It was non-work.
Q And were there any other cases where you obtained the services of an outside consultant?
A Not that I can immediately recall.
Q I just wanted to also follow up to make sure that I had a clear understanding.
Are you certain that you never had any discussion with Cynthia Wilkins about an applicant would who was undergoing a gender transition?

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A Am I certain that I never had a discussion with her?
Q Yes.
A No. And if I said I never had a discussion with her, that would not be accurate. I know at some point in time it was mentioned that there was a case that had not been referred to me. And I don't know the details of the conversation. But the reason I know that there was some point in time where we discussed it was I actually recall expressing relief that I didn't have to deal with it.
Q And how did --
A Sorry.
Q -- that information come to your attention in the first place, the fact that there had even -- this issue had even come up?
A What issue?
Q The issue of an applicant with a gender transition issue.
A Well, at some point in time it was in the press.

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Q And did your conversation with Ms. Wilkins happen in response to news -- around the time that the case was discussed in the news?
A That, I cannot recall.
Q Do you know if it was before any report of this was in the news, or after?
A No.
Q Okay. And tell me what you remember as -- about the conference with Ms. Wilkins.
(Interruption)
BY MS. McGOWAN:
Q Please tell your about your conversation with Ms. Wilkins.
A There is actually very little I can tell you, because I honestly do not remember the details. I don't think it was a formal -- any set of formal meeting or anything. And the only reason I do recall is the one I just expressed to you.
Q And do you recall having any conversation with Ms. Wilkins about what the process would have been for dealing with this

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information?
A No.
Q And did you discuss at any point with Ms. Wilkins how long you thought it would have been taken to adequately assess the information?
A No. I don't recall.
Q Let me turn now to a document that was marked Exhibit Number 3 from a prior deposition, which is Executive Order 12968.
Are you familiar with this document?
A May I look at it?
Q You may.
A (Witness examined document). It really does not look familiar to me, no.
Q And so is this a document that you use in the course of fulfilling your duties at the health services office?
A Since it doesn't look familiar to me, I'd have to say no.
Q Okay. One question that I have that comes from this document is on -- there's number stamps on the bottom. So it's page 373.

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A Oh, okay.
(Witness examined document). Yes.
Q Okay. And section 2.4 talks about the reciprocal acceptance of access eligibility determinations.
And in this section, it discusses that -- or the section A says, Except when an agency has substantial information indicating that an employee may not satisfy the standards of section 3.1 of this order, background investigations and eligibility determinations conducted under this order shall be mutually and reciprocally accepted by all agencies.
A Uh-huh.
Q So my question is what, in the view of the health services office, constitutes substantial information?
MS. RUSSELL: Objection. Lacks foundation.
THE WITNESS: And I really cannot answer that. This is not something that I work with. And don't use it.

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BY MS. McGOWAN:
Q Okay. Okay. I'll show you what's been marked as Exhibit 6 from a prior deposition.
A (Witness examined document).
Q Are you familiar with this document?
A This, I have seen parts of.
Q And what is this document?
A Well, the official title here is adjudicative desk reference.
Q And what is the purpose of this document?
MS. RUSSELL: Lacks foundation.
THE WITNESS: It says that they're guidelines for determining eligibility for access for classified information.
BY MS. McGOWAN:
Q Do you use this document in the health services office?
A Yes. When cases are referred, I get parts that are pertinent to the particular aspect of the case attached to the referral.
Q And who is it that determines what

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Actually, on to page 448, guidances A through M, which guidances would you consult if asked to provide an assessment of a transsexual applicant for employment?
MS. RUSSELL: Calls for speculation.
THE WITNESS: It would all depend on what the individual's issues were.
BY MS. McGOWAN:
Q How do you attempt to ascertain whether or not an applicant is vulnerable to coercion?
MS. RUSSELL: Objection. Lacks foundation.
THE WITNESS: I don't think I could answer that just off the top of my head without looking at the guidelines and understanding what I'm dealing with.
BY MS. McGOWAN:
Q If you were asked to assess a transsexual applicant, would you be concerned about their vulnerability to coercion?
MS. RUSSELL: Objection. Lacks foundation.

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THE WITNESS: That may become one of the concerns, and probably would be the basis for my asking for additional evaluation or information.
BY MS. McGOWAN:
Q And what, if anything, would you ask the applicant herself in order to ascertain information about whether or not they present a concern about vulnerability to coercion?
MS. RUSSELL: Objection. Lacks foundation. Calls for speculation.
THE WITNESS: That being said, again, I'd take a history, you know, and try to determine how this person's dealing with their concern, their particular issue, how it affected them, and how they deal with others, whether it's -- it's an open knowledge or they're attempting to be secretive and, therefore, would want to take measures to cover it up.
It's just a host of things that as you talk to someone you may ask them basic questions. And their responses elicit other questions.
BY MS. McGOWAN:

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Q Does the health services office have a mental health professional on staff who would have been able to provide an assessment of an applicant's transsexualism?
A No.
Q And was the health services office ever asked to provide an assessment of Ms. Schroer's gender transition with respect to her eligibility for a top secret security clearance?
MS. RUSSELL: Objection. Asked and answered.
THE WITNESS: No.
BY MS. McGOWAN:
Q And was the health services office ever asked to explain what the process would have been to assess Ms. Schroer's ability to qualify for a top secret security clearance?
A No.
Q And was the health services office ever asked to explain how long the process would have taken to provide an assessment of Ms. Schroer's eligibility and suitability for employment?

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A No.
Q Are there any documents upon which you would have relied to gain additional information about transsexuality or gender transition if you had been asked to provide an assessment of a transsexual applicant?
A That's a broad question.
MS. RUSSELL: Calls for speculation.
THE WITNESS: So are there documents that I have in my possession? No.
BY MS. McGOWAN:
Q Are there particular reference guides that you frequently rely upon when you encounter a new condition with which you may not be familiar, or other resources that you would have turned to?
A It depends on the condition. We certainly have medical textbooks. After all, we are a library. So we have any number of books available. And speaking to people who are in the field as a -- you know, including consultants, so --
Q And was the health services office ever

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going. Because while I'm waiting, I'm doing something else. I'm working with something, covering something else. So you ask me, I'm tell you. If you don't ask me, I probably won't until I go back to say I've gotten this back and I follow up with that person. So she usually initiates the follow-up as to how soon.
Q And in many of your cases do you have that kind of phone call, asking for a check in on where the process is, or is that the rare case that you would get a phone call like that?
MS. RUSSELL: Objection to the form.
THE WITNESS: And, again, I can't -- I'm not going to say many or in rare. She probably does a better job of keeping track of what's out there than I do of what I owe. So I think that as a matter of course if something goes an extended period of time which I cannot find, she will check in with me.
BY MS. McGOWAN:
Q We were talking about a case in which you had obtained the services of an outside

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consultant?
A Yes.
Q And in that case, the individual involved was not actually under the care of a therapist for the condition that was the point of concern.
I'm wondering, has there ever been a case where you obtained the services of a consultant where the individual was, in fact, under the care of an physician or therapist for the issue that was the concern?
A I cannot recall.
Q Roughly, how -- I know we described the one case that you remembered in greater detail.
But roughly how many cases have required you to go and seek the services of an outside consultant or a second opinion?
MS. RUSSELL: Objection to the form.
You can answer the question.
THE WITNESS: I don't know.
BY MS. McGOWAN:
Q Is it rare, relatively regular that that

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happens?
MS. RUSSELL: Same objection.
THE WITNESS: I just don't know. I can't say.
BY MS. McGOWAN:
Q Have there been other cases besides the one that we've discussed?
A That I referred?
Q Right.
A To an outside consultant?
Q Uh-huh.
A I cannot remember specifically of such a case.
Q We talked about the conversation that you had with Ms. Wilkins about the applicant with the gender transition.
And I'm wondering, in the course of that conversation with Ms. Wilkins, did you ever ask her why the health services office had not been brought into the discussion?
MS. RUSSELL: Objection as to the form.
THE WITNESS: I don't think so. I -- I

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could probably say no.
BY MS. McGOWAN:
Q And do you feel that it was appropriate for a decision to be made about an applicant based on a health concern without the health services offices being involved?
A I have no opinion.
MS. RUSSELL: Objection as to the form.
THE WITNESS: No opinion.
BY MS. McGOWAN:
Q Would you have attended the meeting with Ms. Wilkins and Ms. Preece had you been asked?
MS. RUSSELL: Calls for speculation.
THE WITNESS: 20/20 hindsight, I don't know whether I would have or not. I can't say now. I may have. I may not have. I don't know.
BY MS. McGOWAN:
Q Are transsexual applicants less likely to qualify for national security clearances than non-transsexual applicants?
MS. RUSSELL: Objection. Lacks foundation.