IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

CRISTIAN NOEL IGLESIAS,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No.
	)	3:19-cv-00415-NJR
WARDEN TRUE, et al.,	)	
	)	
Defendants.	)	

MOTION HEARING

BE IT REMEMBERED AND CERTIFIED that heretofore on the 22nd day of November, 2021, HONORABLE NANCY J. ROSENSTENGEL, United States District Judge, presiding, the following proceedings were recorded by mechanical stenography; transcript produced by computer.

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I N D E X

E X H I B I T S

(Court convened at 9:01 a.m.)

THE CLERK: The matter of Iglesias v. True, et al., Case No. 19-cv-415, is called for a motion hearing. Will the parties please identify themselves for the record?

MR. KNIGHT: Sorry, Your Honor. John Knight, Meredith Taylor Brown, Leslie Cooper and Josh Blecher-Cohen for the plaintiffs.

THE COURT: All right. Good morning, Counsel.

MR. KNIGHT: Good morning.

MR. KOLSKY: Good morning, Your Honor. Joshua Kolsky from the Department of Justice. With me are John Robinson, Kate Talmor and Laura Jones, all from the Department of Justice, and Ryan Nelson from the Bureau of Prisons.

THE COURT: All right. Good morning.

MR. KOLSKY: Good morning.

THE COURT: All right. Is that everyone? All right. Well, just a few housekeeping things before we begin. I've said if you're vaccinated -- of course I have no way of knowing that, I just have to trust you -- and you're comfortable taking off your mask, I'm okay with you taking off your mask. I certainly want any witness to not have a mask on and anyone who chooses to come to the podium. Otherwise, if you want to remain seated, as long as you can speak into the microphone. I have to take a call at 11 o'clock that wouldn't -- shouldn't take too long, so we'll take a short

break then, and then depending on how we're doing, a short break for lunch.

So I want to get right into the witness testimony. I am familiar, of course, with the posture of the case and the background, and then at the end, assuming we have time today, I'll ask for a brief closing argument.

Now, Mr. Knight, I understand -- I see that Ms. Iglesias is handcuffed, and Deana said that you had requested that she be uncuffed; is that correct?

MR. KNIGHT: That's correct, Your Honor.

THE COURT: Does she have some papers that she needs to review or --

MR. KNIGHT: We would just like her to be free, more able to speak and use her hands.

THE COURT: Okay.

MR. KNIGHT: I don't think there are papers that she's going to have to use.

THE COURT: Okay. Just for comfort?

MR. KNIGHT: Just for comfort.

THE COURT: Okay. Well, whoever's in the room, I would appreciate it if she could be uncuffed. I assume that -- I mean, at least her hands uncuffed, if she's in the room by herself. Can you hear me, Ms. Iglesias?

MS. IGLESIAS: Yes. I'm not in the room by myself.

THE COURT: You are in the room by yourself?

MS. IGLESIAS: Can you hear? No, I'm not. My unit manager, Ms. Rex, is here.

THE COURT: Okay.

MS. REX: Your Honor, she cannot be uncuffed. She's currently under disciplinary -- she's being segregated, so I'd have to get with the captain to have her uncuffed.

THE COURT: Okay. Well, why don't -- whenever we take a break, why don't you discuss that with the captain, but I don't want to waste any time for that at this time.

So Ms. Iglesias will be your first witness; is that correct, Mr. Knight?

MR. KNIGHT: That's right. Your Honor, we do have some exhibits that Counsel for the Government has agreed can be admitted. These are the exhaustion records, and we've marked them as Exhibit 1 through 13, so I would just seek admission of those at this time.

THE COURT: Okay. 1 through 13 will be admitted, if you'll just hand those to Deana.

MR. KNIGHT: All right. We'll proceed, then.

MR. KOLSKY: Your Honor, one thing, if I may. Our witness, Dr. Leukefeld, is in the courtroom now. I just wanted to make sure that was okay if she's present during plaintiff's presentation.

THE COURT: Any objection to that?

MR. KNIGHT: Well, we have Dr. Ettner here and we

would like her to remain in the courtroom. I suppose we won't object if Counsel will not object to Ms. -- Dr. Ettner being --

MR. KOLSKY: We don't object to that.

THE COURT: Okay. Then the witnesses may remain. All right. You may proceed. First, Deana, if -- Ms. Iglesias, I'm going to ask you to take an oath.

(Witness sworn.)

COURTROOM DEPUTY: And would you please state your name for the record?

MS. IGLESIAS: Cristina Nichole Iglesias.

THE COURT: You may proceed.

MS. BROWN: Thank you.

CRISTINA NICHOLE IGLESIAS, produced, sworn and examined on behalf of the Plaintiff, testified as follows:

DIRECT EXAMINATION

BY MS. BROWN:

Q. Good morning, Cristina. Can you hear me okay?

A. Hi. Yes. Hi, Taylor.

Q. Wonderful. Okay. Cristina, I want to get some background information. Can you tell me how old you are?

A. I'm 47.

Q. And, Cristina, where are you originally from?

A. Florida.

Q. Cristina, what is your gender?

A. Female.
Q. What was your sex assigned at birth?
A. Male.
Q. Cristina, when did you first know that you were female?
A. I really started noticing at the age of 12.
Q. And how did you know that you were female?
A. Because I was different from other people. I wanted to be like my sister and I started wearing her training bras and having her concealer put on my face and stuff like that.
Q. Okay. And when you say different from other people, anything else aside from that?
A. Yeah. I was attracted to guys and I wanted -- I felt like a woman and did not identify with what I was born with.
Q. Cristina, did you experience any distress related to your gender not matching your body when you were young?
A. Yes, I did.
Q. Can you describe the distress?
A. It was -- I wanted to kill myself. I tied a jacket around my neck in school. I was hospitalized because of that. I also ran away a lot to New York City and San Francisco, trying to find acceptance, and I was picked on in school and -- because of being feminine.
Q. Cristina, did anyone diagnose you with gender dysphoria when you were young?
A. No.

Q. And could you have seen a health care provider at that time about the feelings and the distress you were experiencing?
A. No.
Q. And why not?
A. They didn't have that diagnosis when I was growing up as a child.
Q. Cristina, did there come a time when you began to express yourself as female?
A. Yes.
Q. How old were you?
A. I was 13 to 14 years old. I started dressing full time as a girl.
Q. And did you do anything else to express yourself as female aside from dressing?
A. I was called Kelly. I didn't like my birth name, so I went by Kelly, and I preferred she pronouns, which was very hard at that time, because everybody identifies you as being gay or a cross-dresser.
Q. Did you --
A. Even my school staff thought -- yeah.
Q. Sorry. You can finish what you were saying. Even your school staff?
A. They thought I was just gay or a cross-dresser.
Q. Did you wear makeup at that time?

A. Yes. Yes, I did, and earrings, yes.
Q. Did you have a feminine hairstyle?
A. Yes.
Q. Why did you do all of those things, Cristina?
A. Because I don't identify as a male and I identify as a woman, and I was -- I'm not happy being identified as a male and I was very adamant about that as a young child.
Q. Did there come a time when you began to live as female all of the time or express yourself as female all of the time?
A. Yeah.
Q. How old were you?
A. Yes. I was 15, going on 16.
Q. During this time, did you want to change your body?
A. Yes. Yes, I did.
Q. What kind of changes did you want?
A. I wanted breast development, so I would stuff my training bra or I would wear water balloons, three in one, and put water, air in them, to have breasts. I tucked full time. I wore panties. I always had no hair on my body and I'd wear full-on makeup and earrings.
Q. Okay. Did you want to change anything else on your body aside from breast development and --
A. Yes. I wanted gender reassignment surgery.
Q. Okay. And what did gender reassignment surgery mean to you?

A. Freedom and being able to be a normal woman, like, my sister's age.
Q. When you were young, did you do anything medically to live as female and change your body?
A. Yeah. I was taking -- I was running away and I was getting birth control pills, trying to grow breasts, because I heard they grow breasts, and I would take that.
Q. And how did the birth control affect you?
A. It made me feel like it was working. Whether it did, I don't know, but I felt like I was at least trying.
Q. Cristina, when did you first enter the Bureau of Prisons' custody?
A. The first time was 1994.
Q. And how old were you?
A. Twenty.
Q. What gender did you identify with whenever you entered the Bureau of Prisons' custody?
A. I identified as a female but was told because I'm in a male's prison I have to go by a man.
Q. Did you tell the Bureau of Prisons that you identified as female?
A. Yes, multiple times.
Q. During this time when you first entered the Bureau of Prisons' custody, did they diagnose you with anything?
A. Yeah, gender identity disorder.

Q. Did the Bureau of Prisons offer you treatment for gender identity disorder?
A. No, no.
Q. Did you ask for treatment?
A. Yes.
Q. What kind of treatment did you ask for?
A. Hormone therapy.
Q. Who did you make these asks to?
A. Medical.
Q. And what was their response to your request for hormone therapy?
A. That because I wasn't on it prior to coming to the Bureau of Prisons, their policy is they don't give it, and even if I was on it prior to coming, they would reduce the dosage to just 2 milligrams, so it wouldn't give me fully growth. So they denied it.
Q. Has the Bureau of Prisons ever diagnosed you with gender dysphoria?
A. Yes.
Q. When did they diagnose you with gender dysphoria?
A. Around 2015.
Q. Did the Bureau of Prisons ever provide you with hormone therapy?
A. Yes.
Q. When did that happen?

A. 2015.
Q. Have you been on hormone therapy since then?
A. Yes, I have.
Q. And how has hormone therapy affected you physically?
A. It's helped me a lot. It physically changed my characteristics, you know, breast development, my body changing to female.
Q. And any other effects?
A. Just helped. That's it.
Q. Has hormone therapy completely alleviated your gender dysphoria?
A. Absolutely not.
Q. And why not?
A. I still have facial hair on my face and I still have the sex I was assigned at birth.
Q. And, Cristina, have you asked for other treatments for your gender dysphoria besides hormone therapy?
A. Yes.
Q. What have you asked for?
A. Laser hair removal and gender-affirming surgery.
Q. And where specifically did you request laser hair removal for?
A. On my face. Is that what you're -- On my face, because I get called a bearded woman by the inmate population. I also -- It's -- It is a nightmare every day having to shave

twice a day and wear makeup constantly to hide that I'm not a female, and it causes me to stress and anxiety and a lot of panic attacks.

Q. Cristina, when did you first ask for facial laser hair removal?

A. 2017.

Q. And how many times have you asked for facial laser hair removal?

A. Over 14 times.

Q. And who do you make these requests to?

A. Psychology and medical services, health services.

Q. And has psychology or health services ever provided you with facial laser hair removal?

A. No.

Q. Cristina, did you ever pursue administrative remedies related to your requests for facial laser hair removal?

A. Yes, I did.

Q. When did you do that?

A. The end of 2017.

Q. And, Cristina, can you explain the administrative remedies process?

A. Yeah. The inmate, in order to go through the administrative, you have to do a BP-8 first, which is an informal resolution, and then when that comes back with a response, you go to the warden, which is a BP-9, and when they

respond, they -- you go to the BP-11, which is the regional office that you're in. Wherever region you're in, you send it to there. And then the final step is BP-11, which is Central Office appeal.

Q. And are there any steps after the BP-11?

A. No.

Q. Cristina, did you file a BP-8 for laser hair removal for your face?

A. Yes, I did.

Q. What was the response?

A. That I was under review by the TEC.

Q. What is the TEC?

A. The Transgender Executive Council.

Q. Did you ever receive a response from the Transgender Executive Council about your request for facial laser hair removal?

A. No, I did not.

Q. Cristina, did you file a BP-9 for facial laser hair removal?

A. Yes, I did.

Q. And what was the response?

A. The same as the BP-8. I was under review by the TEC and to keep my treatment options open. I was to keep doing my treatment that I'm currently doing, that I'd be notified.

Q. Did you file a BP-10?

A. Yes.
Q. And what was the response to your BP-10?
A. The same as the BP-9.
Q. And, Cristina, what about a BP-11? Did you file that?
A. Yes.
Q. And what was the response to your BP-11?
A. That I -- my request was under review by the TEC and that I would be notified when a decision was made, but at my last psychology contact I didn't report any distress and that they advised me that any distress that I was under, I needed to go to sick call or see psychology.
Q. And had you reported the distress related to having facial hair, male facial hair, to sick call and psychology?
A. Yes. Every month I get seen by a psychologist, and that is part of my gender dysphoria. I mean, that's part of my -- that causes -- between not having gender-affirming surgery and the laser hair is my two main concerns. So, yes, I definitely did say that.
Q. And have you told psychology services how it impacts you to have male facial hair?
A. Yes, I did.
Q. What do you tell psychology services?
A. That it's very -- it's torture and it's very painful and every day that I have to wake up at five o'clock in the morning before the inmate population and shave because it's

embarrassing to be -- you know, transition to a female in a males' prison or a females' prison and I have to shave, and it causes me anxiety, causes me panic, and it makes me somewhat depressed and it causes me a lot of -- it does cause me a lot of anxiety, because I'm very conscientious of how I look on my face.

Q. And do you continue to tell psychology services about this?

A. Yes, I do.

Q. Cristina, has the Bureau of Prisons offered you anything to address the distress associated with your male facial hair?

A. Other than shaving and, just recently here at Carswell, Nair.

Q. Cristina, does shaving help with the distress you feel about having male facial hair?

A. It helps.

Q. Has it completely alleviated your gender dysphoria?

A. No.

Q. And why not?

A. Because I constantly -- like, where I'm currently housed in the SHU, I'm only allowed to shave now three times a week, but before it was only one time, and I was feeling -- I was digressing in my mental status because I -- having facial hair causes a lot of torture for me. It was painful and I was feeling almost helpless.

Q. And when you do shave, how long before facial hair is visible again?
A. Within a couple hours.
Q. If you shave at night, how does your face look in the morning?
A. A five o'clock shadow.
Q. And how does it feel to be a woman and have to shave your face?
A. A living hell.
Q. Are you able to shave in private?
A. No.
Q. And where do you shave?
A. I have to shave in the bathroom, which is a public bathroom.
Q. Are there other inmates present?
A. Yes.
Q. How does it feel to have to shave in front of other people?
A. It's extremely uncomfortable and very -- it's just -- it's unnerving, mildly put.
Q. And you testified that --
A. Because they make you feel you're --
Q. No, go ahead. It makes you feel --
A. Because it makes you feel that everybody knows you're different.

Q. And do you take any other steps aside from waking up at 5 a.m. to avoid being seen shaving?
A. Yes.
Q. And what do you do?
A. I wear makeup 24 hours a day except in the shower, then I reapply in the shower before I come out so I don't have any look of facial hair.
Q. Has anyone ever walked in on you shaving?
A. Yes.
Q. And what happened?
A. It's just awkward. It's very -- It's embarrassing because they're looking at you like, "What?" You know, it's just very weird. It's very -- There's no privacy and it causes me to be anxiety and it makes me realize that, hey, you know, I'm different.
Q. Cristina, you said that the Bureau of Prisons has also given you Nair for male facial hair. Does the Nair work?
A. No. As a matter of fact, I tried it at the recommendation of psychology and I actually burnt my face this weekend with it.
Q. Do you continue to use it?
A. No. I discontinued it as of Saturday.
Q. And when you did use it, did it work at all?
A. No, no.
Q. And why not? What was the result?

A. I would still have to shave because the hair would not come out. I mean, it -- some would go, but I would still have patches of hair where I would have to shave.
Q. Cristina, I want to now turn to your request for gender-affirming surgery to treat your gender dysphoria. Cristina, who did you first make your request for gender-affirming surgery to?
A. Health services.
Q. Did health services ever provide you with gender-affirming surgery?
A. No.
Q. Did you pursue administrative remedies for your request for gender-affirming surgery?
A. Yes, I did.
Q. When did you do that?
A. 2016.
Q. And did you file a BP-8?
A. Yes.
Q. What was the response to your BP-8?
A. That I was under review by the TEC.
Q. And did you file a BP-9?
A. Yes.
Q. What was the response to your BP-9?
A. That my request had been forwarded to the TEC for review.
Q. And did you file a BP-10?

A. Yes.
Q. And what was the response to your BP-10?
A. The same, that I was currently under review.
Q. Under review by?
A. The TEC.
Q. And did you file a BP-11?
A. Yes, I did.
Q. And what was the response to your BP-11?
A. That I would be notified when a decision was made determining if the TCCT would approve it or something to -- I can't remember exactly that particular one, but it was something like that.
Q. Okay. And what's the TCCT?
A. The Transgender Clinical Care Team.
Q. Okay. Were you ever notified of a decision by the TEC or the TCCT for any of these administrative remedies you filed for facial laser hair removal?
A. No.
Q. Cristina, did you pursue administrative remedies for a second time related to your request for gender-affirming surgery?
A. Yes, I did.
Q. And when did you do that?
A. The end of 2017.
Q. Did you file the BP-8?

A. Yes.
Q. What was the response to your BP-8?
A. That my request was forwarded for review by the -- I believe that one said TEC.
Q. And did you get a response?
A. No.
Q. Did you file a BP-9?
A. Yes.
Q. And what was the response to that?
A. That I was under review, that the TEC had been -- yes, the TEC had been notified of my request.
Q. Did you file a BP-10?
A. Yes.
Q. And what was the response to your BP-10?
A. The same as the BP-9.
Q. And did you file a BP-11?
A. Yes.
Q. And what was the response to your BP-11?
A. The same, that I would be notified when a decision was made.
Q. And notified by?
A. The TEC.
Q. And so were you ever notified of a decision by the TEC for any of these second round of administrative remedies?
A. No.

Q. Cristina, did you pursue administrative remedies for a third time related to your request for gender-affirming surgery?
A. Yes.
Q. And when did you do that?
A. 2019.
Q. And did you file the BP-8?
A. Yes.
Q. And what was the response?
A. That my request for gender-affirming surgery was sent to the TCCT for review.
Q. And just again, the TCCT is the --
A. Transgender Clinical Care Team.
Q. Okay. Did you file a BP-9?
A. Yes.
Q. What was the response to that?
A. The same as the BP-8.
Q. And did you file a BP-10?
A. Yes.
Q. What was the response to your BP-10?
A. The same. The same.
Q. And did you file a BP-11?
A. Yes.
Q. Cristina, before I ask you about the response to your BP-11, I want to first ask, during the time you were going

through these administrative remedies process for the third time, did anything occur that led you to believe that you would be receiving gender-affirming surgery?

A. Yes.

Q. What happened?

A. In November I was -- well, in the end of October I was notified by my case manager, Miss Lamer, that I was being transferred to FMC Lexington for evaluation and treatment for gender-affirming surgery.

Q. And you said the end of October. What year was that?

A. 2019.

Q. Did anyone tell you why you were being transferred to FMC Lexington at USP Marion?

A. Yeah. Miss Lamer.

Q. And who is Miss Lamer?

A. She said I was being transferred per the TEC for gender-affirming evaluation -- gender-affirming surgery evaluation and treatment, meaning gender-affirming surgery.

Q. And who is Ms. Lamer?

A. My case manager.

Q. Cristina, do you know if anyone at USP Marion had sent a request for you to be evaluated for gender-affirming surgery?

A. Yes.

Q. Who?

A. Dr. Pass.

Q. And what was Dr. Pass' position at USP Marion?
A. Clinical director.
Q. Do you know if Dr. Pass supported you having gender-affirming surgery?
A. Yes, he did.
Q. And how do you know that Dr. Pass supported you having gender-affirming surgery?
A. He was very vocal with it, but he always would tell me that it's not in his control, that he would do everything he could, because he realized gender dysphoria -- I was really struggling not having the proper treatment, and he was very pleased that I was -- like Dr. Munneke, they were very pleased that I was not giving up hope and cutting myself and trying to castrate myself or other things, that I was fighting, you know, filing a lawsuit plus continuing to advocate for myself, and that he would do everything he could, and he said that he was submitting my paperwork to the TCCT, Dr. Stahl.
Q. And you mentioned Dr. Munneke?
A. Yes, the chief of psychology.
Q. And the chief of psychology, just to be clear, at which facility at the time?
A. Marion. Marion.
Q. Okay. And how do you know that Dr. Munneke supported you having gender-affirming surgery?
A. He actually told me himself that there was nothing

psychologically that would prevent me from receiving that surgery, that he supported my request. That was his words.
Q. Did anyone else at USP Marion support you having gender-affirming surgery?
A. Yes, my primary psychologist, Dr. Lindsay Owings.
Q. And how often did you meet with Dr. Owings?
A. For about eight months, once a week.
Q. And how do you know that she supported your request for having gender-affirming surgery?
A. She was very vocal and she, again, was very pleased that I was advocating for myself, that I wasn't giving up, and that she agreed that treatment is -- that the hormone therapy is not alone enough, that she could only do so much on her end, but she was very pleased that I was following administrative remedies, not cutting myself, even though I was very vocal that it's hard, plan B, it's always very difficult, and she supported it. She was very supportive of my efforts to receive that because she believed that I was ready.
Q. Okay. And just to be clear, you said plan B. What does that mean?
A. Castration or suicide.
Q. After you were transferred to FMC Lexington, were you evaluated for gender-affirming surgery?
A. Yes.
Q. Who did that evaluation?

A. Tammy Thomas at the University of Kentucky.
Q. Did -- And what was her title or position?
A. I believe she's a registered nurse practitioner, endocrinology department.
Q. And did Nurse Practitioner Thomas say that you met the criteria for gender-affirming surgery?
A. She said I definitely met the criteria for gender-affirming surgery.
Q. Did you have gender-affirming surgery after her evaluation?
A. No.
Q. Do you know why you didn't have it?
A. Because University of Kentucky or no one in the state of Kentucky could perform that surgery.
Q. Did anyone else who treated you at FMC Lexington support you having gender-affirming surgery?
A. Yes, my psychologist, Dr. Hernandez.
Q. And how do you know that Dr. Hernandez supported you having surgery, gender-affirming surgery?
A. Because she was very vocal with it, but she was also very pleased that even after receiving the news that I wouldn't be receiving gender-affirming surgery that I wasn't giving up hope, I was still, you know, obviously filing the lawsuit and still fighting for administrative rights and still going forward, but she definitely supported it, but she was very

concerned that I was going to do something.
Q. And when you say do something, what were those concerns around?
A. Take self-treatment, is what we call it, self-treatment, which is mutilation.
Q. And, Cristina, you testified earlier that prior to receiving an answer to your third BP-11 in the administrative remedies process for gender-affirming surgery, you were transferred to FMC Lexington for evaluation for gender-affirming surgery. Did you receive a response to the BP-11 you filed while you were at FMC Lexington?
A. Yes, I did.
Q. And what was the response to your BP-11?
A. That in order for me to be considered for gender-affirming surgery, that my hormone levels would have to be maximized before I could be considered, because I would have to live in a females' prison for one year.
Q. What did maximized mean to you?
A. Hormone, female range.
Q. And just to pause, Cristina, the camera shifted, but I just want to make sure you can see us and hear us okay.
A. Yes, I can see you.
Q. Okay. Thank you. And so --
A. Can you see me now?
Q. I can hear you now. Okay. Great. I'm going to repeat

the question. Cristina, what did maximize mean to you in regards to your hormones?
A. Being in female range.
Q. And at that time, how long had you been receiving hormone therapy?
A. Over four and a half years.
Q. Do you know why your hormones weren't maximized?
A. Because I changed from injections to oral medication and the dosage was lower.
Q. Did you request to be switched from injections to oral?
A. Yes, I did.
Q. And why did you request that change?
A. Because at FMC Lexington, it's a medical center, so there's a lot of emergencies, and I get my injection every other -- at that point I was getting it every other Friday, and they would forget to put me on the callout, and the other transgenders that was there was on pills, so I just felt it was better for me, because I actually had to go up there and tell them that I needed my injection, so they had forgot, you know, and so it was better for me to get on the pills instead of being injections so I could have self-care and I take it every day.
Q. And you requested a different form of hormone therapy, oral. Did you request that the dosage be lowered?
A. No, not at all.

Q. And do you know why the dosage was lowered?
A. I have no idea.
Q. Cristina, have your hormones been maximized since then?
A. Yes.
Q. And before the switch from injections to pills and the brief period where your hormone dosage was lowered, how long had your hormones been maximized?
A. Like, because I started noticing after -- because I'd been on hormones for so long, I can tell when my body's not high, and so I went to sick call and said, hey, I don't think my levels are the same, you know, I need to increase my dosage, and so once the dosage was increased by 2 or 4 -- I can't remember -- 2 milligrams, I think, I was starting to feel back in maximized range again, and so when the last time I had my blood prior to moving to FMC Carswell, my levels were back in maximized range.
Q. And before that drop in hormones, how long had your hormones been maximized since you've been on hormone therapy?
A. Years. Years.
Q. And how many years would you say?
A. At least four.
Q. Cristina, had you requested to be transferred to a female facility at any point during the time that we just spoke of when your hormones were maximized and prior to the drop in dosage when you switched medication forms while at FMC

Lexington?
A. Yes.
Q. When was the first time that you requested to be transferred to a female facility?
A. 2015.
Q. How many times did you request to be transferred to a female facility in the same time period, so prior to your hormone dosage being temporarily reduced in 2019?
A. At least ten times.
Q. Have you been transferred to a female facility?
A. Yes.
Q. When were you transferred?
A. May 25th of this year, 2021.
Q. And what facility are you being housed at?
A. Federal Medical Center Carswell.
Q. Has being at FMC Carswell been helpful for your gender dysphoria?
A. Yes, it has.
Q. And how has being at FMC Carswell affected your feeling of safety?
A. I don't worry about sexual assault. I am able to navigate this place a little well, better than in the men's prison. I'm able to feel like staff -- Staff take things very serious here, so I -- compared to a males' prison, where they let a lot of things slip. Here I'm not forced to prostitute or

anything like that, so -- for being a trans woman, so --
Q. And that's regarding fear of sexual assault, but do you feel physically safer?
A. Yeah. Yes.
Q. Cristina, do you have any concerns that you might be transferred back to a male facility?
A. Yes, daily.
Q. And why do you have those concerns?
A. Because I'm constantly reminded by staff that if there's problems here that I could always go back to a male prison, and I've actually been verbally told by two staff members that I was being sent back to a males' prison.
Q. And which two staff members verbally told you that?
A. Captain Buckner and Lieutenant Anthony.
Q. And again, why have they told you that you're going to be transferred back to a male facility? We can wait.
A. Can I say --
Q. Just give it a moment and I'll re-ask the question.
A. Okay.

MS. REX: My apologies for the interruption.

MS. BROWN: No problem.

Q. (By Ms. Brown) So, Cristina, I'm going to ask the question again. The camera's been moved down, so I can see the top of your head. I don't know if that happened whenever Ms. Rex was -- oh, there we go. Okay.

A. Okay.

MS. REX: My apologies.

Q. And, Cristina, again, why have they told you that you are under threat of being transferred back to a male facility?

A. Because of me filing the PREA on women here.

Q. And why did you file those PREAs?

A. Because when I first got here, I -- there's three other trans females in this facility. I was the only one housed in what they call the high rise, which is where they house just general population females, which houses about 318 people in the unit. So when I got in there, it was different to adjust, but I was okay. However, the inmate rumors here are really, really rampant, so it was determined that I still had the body part of a male, so there was two women in my unit who were plotting to file PREA and a lawsuit against me, the -- against the BOP for housing me there, saying I provide -- that I was not letting them live in a safe environment, that I was using their bathrooms, so I got really nervous and I wrote the email saying, well, I don't feel safe or comfortable, because I thought I was getting set up, and so I sent that request back in August reporting those two girls to the captain and the warden.

Q. Okay. And so, Cristina, these women threatened to file false PREA complaints against you.

A. Right, because two girls -- one was trying to get in the

shower with me butt naked and I was holding the door, and another one used to always touch my breasts and try to grab my crotch area, and I reported them and they were locked up in the SHU.

Q. And before you requested --

A. I wasn't.

Q. And before you -- you said that you made a request. What was that request?

A. That I be sent back to a men's prison because I didn't feel safe here, that I was scared of being set up.

Q. And, Cristina, in requesting to be transferred back to a male facility, were you requesting to be transferred away from those women?

A. Yes.

Q. At the time, did you believe that you could be transferred to a different female facility?

A. No, I didn't believe that was an option, so I was trying to get away from the situation.

Q. Cristina, did you actually want to be transferred back to a male facility?

A. No, and I actually rescinded my request once Dr. Quick explained to me that I would -- if anything, I'd be sent to another females' prison, so I went back to the unit, and my unit manager, sitting right here, I rescinded that request to go back to a males' prison and just requested to be safe, once

I found out I would not be sent back to a males' prison just because I filed PREA on somebody.
Q. And how soon after you made the request did you rescind it with Dr. Quick?
A. The same day.
Q. And --
A. With the whole -- With the captain, Ms. Malone, which is the SIA. She asked me five questions and I rescinded it, so I didn't want to -- I do not want to be sent back to a males' prison. I'm fear for that.
Q. And, Cristina, what would going back to a male facility mean for you?
A. It would mean that I would have to go back prostituting and living under people's rule and forcing me to be with men as a trans female. That's what happens.
Q. Do you worry about your physical safety if you were sent back to a male facility?
A. Yes, I do, yes. I would be forced to be in a relationship to stay safe.
Q. Do you worry about sexual assault if you were sent back to a male facility?
A. Absolutely, yes, I do. I worry about that a lot, because it's happened to me.
Q. Would it have an impact on your gender dysphoria to be sent back to a male facility?

A. Yes, it does.
Q. And what kind of impact?
A. Because staff -- even though I'm able to purchase makeup in the commissary, a lot of staff still call me a man, a dude, a he/she, and that's the perception of what I am, so it makes me -- it really -- it's not a good thing, no.
Q. Cristina, have you requested gender-affirming surgery since you've been at FMC Carswell?
A. Yes, I have.
Q. And have you received gender-affirming surgery now that you're at a female facility and your hormones have been maximized?
A. No, I haven't.
Q. Cristina, what is your current understanding of why you have not received gender-affirming surgery?
A. That the Bureau of Prisons is not offering that as current treatment.
Q. Has the Bureau of Prisons said anything about the length of time in relation to your request for gender-affirming surgery?
A. The only thing that I was told is that the -- by Dr. Langham, which is the clinical director here, when I made my request for gender-affirming surgery, he told me that the last person that he had requested, they told him that she would have to be here a year. Well, she's been here five

years and still no gender-affirming surgery.
Q. And so when you say a year, a year where?
A. Here, or in a females' prison.
Q. Cristina, how long have you identified as a woman since you've been in the custody of the Bureau of Prisons?
A. All 28 years.
Q. And, Cristina, has anyone at FMC Carswell supported you having gender-affirming surgery?
A. Yes, they have.
Q. Who?
A. Dr. Langham.
Q. Anyone else?
A. Yes, Dr. Quick.
Q. And anyone besides Dr. --
A. And --
Q. Go ahead.
A. Yeah, Dr. Munneke. Also, yeah, Dr. Langham.
Q. And again --
A. Those three for sure.
Q. What is Dr. Langham's position at FMC Carswell?
A. Clinical director.
Q. And how do you know that Dr. Langham supports you having gender-affirming surgery?
A. Because he let me know that it's not him interfering with my treatment and that if it was up to him, he would have

already had me scheduled, so -- and he would send my request up for review again.
Q. And what's Dr. Quick's position?
A. He is my primary psychologist.
Q. And how do you know that Dr. Quick supports you having gender-affirming surgery?
A. He's very vocal. He's very -- He encourages me all the time to keep going, that he's very pleased about this court hearing, that he believes that it's going to help a lot of people just like myself. Very vocal with it.
Q. And you said Dr. Munneke. Is this the same Dr. Munneke from USP Marion?
A. Yes. He's here as the chief of psychology as well.
Q. And how do you know that Dr. Munneke supports you having gender-affirming surgery?
A. He's made that very vocal to me. He said that he's very proud, that I've come a long way from when I first came in the prison system and he's very pleased that I advocate for myself and that I'm not cutting myself and that I'm doing everything I possibly can to get surgery and live as a fully functioning female and that he let me know the day one that I arrived here. He brought Dr. Quick to me and told me that I have full support of the psychology services at FMC Carswell and that no one here is interfering with my treatment or surgery, it's warranted, nothing. He said that he supports my efforts to

get surgery to help cure my gender dysphoria.
Q. Cristina, when you first arrived at FMC Carswell and started being treated by Dr. Langham, did you have any reason to believe that he would be sending up a request then for you to have gender-affirming surgery?
A. Yeah. Yes, I did.
Q. What gave you that impression?
A. He told me that he would get it typed up and get everything going and that he -- it wouldn't take him long, a couple days, and he would have it sent off.
Q. And who was he going to have it sent up to?
A. Dr. Stahl.
Q. And who is Dr. Stahl?
A. The Transgender Clinical Care Team director.
Q. Cristina, more recently, do you now have a better understanding of what Dr. Langham has done in regard to your request for gender-affirming surgery?
A. Yes.
Q. And what is that understanding?
A. He let me know that he had not sent my request, he only sent an email to Dr. Stahl inquiring where to send my request to -- for me to have gender-affirming surgery, and that he would be officially sending one in the near future.
Q. And so prior to this conversation, did you believe that he had already sent up your request for gender-affirming surgery?

A. Yes, I did.
Q. And based on what you just said, you understand that he had not sent a request up.
A. Right.
Q. Has Dr. Langham evaluated you for gender-affirming surgery?
A. Yes.
Q. And what kind of evaluation?
A. He did a full physical exam, including measurements of my biological sex.
Q. When you say biological sex, what do you mean?
A. He measured my penis.
Q. And I know it's hard and difficult, so I can appreciate that. Is there anything else that Dr. Langham has done or ordered for your evaluation for gender-affirming surgery?
A. Yes. He ordered a psychosocial, which was done by the social worker, in reference to my request for gender-affirming surgery, and he received a current diagnosis from Dr. Quick.
Q. Has he received that diagnosis from Dr. Quick?
A. Yes, he has. It's current.
Q. And just what's the diagnosis?
A. Gender dysphoria.
Q. And you said that you were -- you had a psychosocial evaluation.
A. Yes.

Q. Who completed that?
A. Miss Barr.
Q. And what's Miss Barr's position again?
A. Social worker here at FMC Carswell.
Q. And what kind of questions were you asked during the psychosocial evaluation?
A. How long I identified as a woman, my support, how long I've been incarcerated, if I was in the process of changing my name legally, or just basic -- if I had support when I got released, if I had support inside the prison and how long I had been on hormone therapy, was I requesting to have sexual reassignment surgery, did I know the pros and cons, the reproductive, all of those questions; was I able -- what was my belief in after the surgery, would I believe that everything would go away, and, you know, obviously I said no, but it would help. So she said she would send it to Dr. Langham, which was this past week, so --
Q. And this past week meaning last week, the previous week from today.
A. Yes, Tuesday of last week.
Q. Cristina, have you had new lab work done?
A. No.
Q. And so in your understanding, for your request, what is the last thing that you're missing?
A. The updated lab results.

Q. Have you had any communication with anyone on your care team since the physical and psychosocial evaluations?
A. No. Other than Dr. Quick, no. I've not seen Dr. Langham.
Q. And what did Dr. Quick say?
A. He wasn't familiar other than he just said that my current diagnosis was recurring, that Dr. Langham already received his part of it, so that was it.
Q. Have you had any notification from anyone, the TEC, the TCCT or any of your providers, about your request for gender-affirming surgery?
A. No.
Q. And so, Cristina, I want to go over just briefly your prior testimony about your understanding of the BOP health care providers who -- and the Bureau of Prisons' health care providers who have supported you having gender-affirming surgery. Dr. Pass at USP Marion?
A. Yes.
Q. Dr. Owings at USP Marion?
A. Yes.
Q. Dr. Munneke at USP Marion and now FMC Carswell?
A. Yes.
Q. Dr. Hernandez at FMC Lexington?
A. Yes.
Q. Dr. Langham at FMC Carswell?
A. Yes.

Q. And Dr. Quick at FMC Carswell.
A. Yes.
Q. Cristina, have you ever met Dr. Alison Leukefeld?
A. One time.
Q. And when was that?
A. That was 2015.
Q. And what were the circumstances around you all meeting?
A. I was in a psychology treatment program called the stages program, which is an Axis II diagnosis program, and that was at FCI Terre Haute, and she was there observing, so we got to meet her in person, who she was.
Q. And when was that?
A. When was that?
Q. Yeah. When was that?
A. 2015. 2015.
Q. Okay. And was she there multiple days?
A. No, just one day.
Q. And how -- did you speak with her?
A. Just hello. We introduced ourself in the group and that was it.
Q. Has Dr. Leukefeld ever treated you?
A. No.
Q. Has Dr. Leukefeld ever evaluated you?
A. No.
Q. Have you had any conversations with Dr. Leukefeld since

that one-time introduction?
A. No.
Q. What is your understanding of Dr. Leukefeld's role in the Bureau of Prisons?
A. She's the chief of health -- mental health services for the BOP.
Q. Cristina, have you ever met anyone else on the TEC?
A. No.
Q. Cristina, have you ever met Dr. Stahl?
A. Never.
Q. And have you ever been treated by Dr. Stahl?
A. No.
Q. And have you ever been evaluated by Dr. Stahl?
A. No.
Q. And what is your understanding of Dr. Stahl's role at the Bureau of Prisons?
A. She approves the medical aspect of, like, the laser hair removal or gender-affirming surgery or anything regarding health care as far as transgenders in the Bureau of Prisons is concerned.
Q. Cristina, are you still living with gender dysphoria?
A. Yes.
Q. What is having gender dysphoria like?
A. It's extremely painful and it's basically a living hell. It's more than torture.

Q. And what kind of feelings do you have?
A. A lot of anxiety, panic attacks. I have extreme nervousness, how I look, which causes me to sweat profusely, and the fear of not getting treatment, honestly, self-castration or suicide is always there.
Q. And, Cristina, how often do you feel these feelings?
A. It's pain --
Q. Oh, go ahead. I apologize.
A. Every single moment. Every single moment I wake up.
Q. And so, Cristina, you testified that the Bureau of Prisons has provided you with hormone therapy, shaving and Nair to treat your gender dysphoria. Has the Bureau of Prisons provided to you or given you access to anything else to treat your gender dysphoria?
A. Yes. I can purchase makeup and feminine products in the commissary, and they give me bras and panties.
Q. And how has having access to bras, panties and makeup affected your gender dysphoria?
A. It helps. It helps.
Q. Has it completely alleviated your gender dysphoria?
A. Absolutely not.
Q. And why not?
A. Because it -- I still have the male body part that I'm -- was born with and I still have hair on my face, and it causes me pain and torture every day. Those products only help put

Band-Aids on them. It's like having a cancer and a growth, a cancer growth, and knowing there's treatment but you can't get it. It feels like it's terminal at this point because I've been living with it for so long that the BOP -- it doesn't matter where they transfer you, it's the same bureaucracy, and, you know, no matter how hopeful you are to try to get help for gender dysphoria, it's the same. It's the same bureaucracy. Dr. Stahl, Dr. Leukefeld or the TEC, those are the people they always claim are -- you know, it's them. So I can't get treatment for gender dysphoria other than hormone therapy and what they call psychotherapy, which is basically just a counseling session to see how I'm doing and document and make sure I'm not cutting myself or thoughts of killing myself, but as far as psychology treating me for it, there's no gender dysphoria treatment other than those things.

Q. Cristina, do you take any steps to avoid seeing your facial hair or facial hair shadow?

A. Yes.

Q. And what do you do?

A. I shave twice a day, starting at 5 -- between 5 and 5:15 when I'm in general population, and I reapply makeup, concealer, and shave again right before I get in the shower and I reapply makeup, and I sleep with makeup and everything.

Q. And how often do you wear makeup?

A. Every day, other than being in the shower or shaving.

Q. And do you wear makeup when you sleep?
A. Yes.
Q. And why do you wear it when you sleep?
A. So I don't feel that I look different and that I'll wake up, look in the mirror, and I have a five o'clock shadow.
Q. And do you want to wear makeup when you sleep?
A. No.
Q. And you said that you wear makeup in the shower?
A. I wash it off, and then before I get out of the shower I apply it so when I'm out of the shower -- when I come out of the shower, I look like I did when I went in.
Q. And why do you do that?
A. So no one can see me having facial hair and so that I don't feel like I have facial hair.
Q. Cristina, do you take any steps to avoid seeing your genitals?
A. Yes.
Q. And what do you do?
A. I wear two pair of panties and a maxi pad and I tuck.
Q. Cristina, what is tucking?
A. It is where I put my penis between my inner thighs and push my testicles up into a little hole on top so you can't see anything.
Q. Is tucking painful?
A. It is painful, yes, very so.

Q. Can you describe the pain?
A. It's physically painful. You -- You're pulling your body part in places it shouldn't be, but I'm doing it so I don't see I have a penis and it looks like I have a vagina in my pants, so sitting down sometimes, I have to sit back up because I sit on the penis, so it's very difficult. You have to be very delicate. And sometimes the panty has cut me from having to tuck underneath and the small part under the panties cut me, so it's painful. It's torture.
Q. And how long do you stay tucked?
A. All the time except for when I'm in the shower. I wash my area and I go right back in, or I sit down to pee and I'm right back. Any other time, I'm fully tucked, sleeping, any other time, other than those two times.
Q. And you said also when you shower?
A. Yes.
Q. And so how do you shower?
A. I use one pair of panty. I don't ever become completely naked in the shower. I use one pairs of -- one pair of panty and I turn towards the showerhead and I clean my private area, and as soon as I'm clean I retuck myself so that I can go ahead and perform other shower duties that I know that I don't look like I have a penis.
Q. And, Cristina, why do you wear a maxi pad when you tuck and wear two pairs of underwear?

A. Because it's a safety mechanism to where I -- it -- there's no way that anything can show that I have any male body parts for any reason.
Q. Cristina, have you thought about performing gender-affirming surgery on yourself?
A. All the time, yes, I do, and it's been recently more because I've been in the SHU and haven't been able to shave, and knowing -- I mean, it's hard, yes. I do, Taylor.
Q. Okay. And you said a little bit, but why do you have those thoughts?
A. Because I am very tired of being tormented every day with this cancer that I have.
Q. Cristina, have you ever tried to perform gender-affirming surgery on yourself?
A. Yes.
Q. What happened?
A. I used a razor blade and tried to split my penis in half.
Q. And when did you do that?
A. That was -- The first time, 2009.
Q. Is that the only time?
A. No.
Q. When was the --
A. And in --
Q. Go ahead.
A. 2014 I tried to cut my testicles off.

Q. And so what happened the first time, in 2009?
A. I seen the blood and I stopped, and nothing.
Q. Did you notify anyone at the Bureau of Prisons when this happened?
A. No, because they would give you an incident report and not help you, lock you in the SHU for self-mutilation, and I didn't want that. I let it heal and never told anybody till years later. They see the scar. They look for the scar, they see the scar, but that's it.
Q. And how long did it take you to heal?
A. A little bit. It was about six months, because the area is very -- I was constantly having to clean myself and use powder and stuff, because it's moist in that area, and for tucking, when you're in a hot environment, you become sweat, so you leave sweat, so it's tough.
Q. Were you tucking even after you had performed this?
A. Yes, yeah, and it was even painfuller. I was getting paper towels and -- or toilet paper and wrapping it around.
Q. And the time when you removed your testicles, what -- or tried to remove your testicles, I should say, what happened then?
A. I couldn't handle the pain. It didn't bleed at the time, but I just could not handle the pain, so I gave up.
Q. And how long did it take you to heal from that?
A. That was faster, because it wasn't really big.

Q. And just again, were you still tucking after that?
A. Yes.
Q. And was it painful?
A. Yeah.
Q. Cristina, I know this is difficult, but have you had thoughts of suicide?
A. Yeah.
Q. Why do you have these thoughts, Cristina?
A. I have lost the faith in the Bureau of Prisons providing me any type of treatment. I've actually been told by staff prior to coming here that the BOP was just trying to run the clock out on my lawsuit and that they were not trying to give me any kind of treatment, so that -- I just -- and after coming here and seeing the way that they treat -- they do -- this place tries to give you what you need, but to see that it stopped in Central Office or wherever it stopped and not here, it just -- I don't feel like anything's going to change.
Q. And when you say run the clock out, when's your projected release date?
A. December 25th of 2022.
Q. Cristina, do you want to commit suicide?
A. I don't.
Q. And what do you need to treat your gender dysphoria?
A. The hair removal on my face, to alleviate the pain from having facial hair, as well as sexual reassignment surgery at

least to help heal me and stop this torture of how I feel every day, knowing that I'm -- have a cancer growth on me. I feel like it's terminal.

Q. Cristina, you testified that the last rationale given to you from the BP-11, which is the Central Office of Administrative Remedies Division, the final step in the administrative remedies process for why you're being denied surgery was because you were not eligible for a transfer to a female facility because your hormones were not maximized?

A. Uh-huh. Yes.

Q. Cristina, are your hormones maximized?

A. Yes.

Q. And are you in a female facility?

A. Yes.

Q. And you testified that you started requesting a transfer to a female facility in 2016.

A. Yeah.

Q. And again, before your transfer to FMC Lexington whenever you experienced a drop in dosage, had your hormones been maximized?

A. Yes. Oh, yes, absolutely. The whole three years -- two and a half years I was at Marion, they were fully maximized.

Q. And, Cristina, was the last response you received from the Central Office of Administrative Remedies Division in response to your BP-11 regarding male facial hair -- are you

comfortable?
A. Yes. I can hear you.
Q. Okay. I'll start over. Cristina, was the last response you received from the Central Office of Administrative Remedy Division regarding your request for facial hair removal for the treatment of gender dysphoria, that last rationale was because you have not reported -- you had not reported in your previous visit with psychology any emotional problems.
A. Right, which was not true.
Q. And the BOP allows you to shave and use Nair to treat your gender dysphoria relating to having male facial hair.
A. Yeah.
Q. And from your testimony, neither of those work.
A. No.
Q. And lastly, Cristina, given everything that we've discussed today, again, you've testified to this before, but I just want to make it very clear for the record, have you received facial laser hair removal or gender-affirming surgery?
A. No, no.
MS. BROWN: No further questions, Your Honor.
THE COURT: All right. Cross examination.
MR. KOLSKY: Thank you, Your Honor. We have no questions for Ms. Iglesias.
THE COURT: All right. Thank you. Well,

Ms. Iglesias is going to stay connected to watch these proceedings, so plaintiffs may -- plaintiff may call their next witness.

MR. KNIGHT: Plaintiffs call --

MR. BLECHER-COHEN: We will call Dr. Ettner.

MR. KNIGHT: Oh, I'm sorry. Go ahead.

THE COURT: All right. Dr. Ettner, come on up to the witness stand. Deana will administer the oath.

(Witness sworn.)

COURTROOM DEPUTY: Please state your name for the record.

DR. ETTNER: Randi Ettner.

DR. RANDI ETTNER, produced, sworn and examined on behalf of the Plaintiff, testified as follows:

DIRECT EXAMINATION

BY MR. BLECHER-COHEN:

Q. Good afternoon, Dr. Ettner.

A. Good morning.

Q. Good morning. You're right. Time flies. Could you please state your name once more?

A. Randi Ettner.

Q. Dr. Ettner, what do you do?

A. I'm a clinical and forensic psychologist.

Q. Where do you currently reside and work?

A. Evanston, Illinois.

Q. I'd like to start, Dr. Ettner, by asking you a bit about your training and education. What degrees have you received and from where?
A. I received a bachelor's degree from Indiana University, I received a master's from Roosevelt University and a Ph.D. from Northwestern University.
Q. Are you licensed as a psychologist?
A. In the state of Illinois.
Q. Have you done work in transgender health, Dr. Ettner?
A. Yes.
Q. How did you first begin work in the field of transgender health?
A. I volunteered at Cook County Hospital when I was a student. They had a -- what was then called a sex reassignment clinic, and I was volunteering and I was asked to run groups of individuals who were awaiting sex reassignment surgery.
Q. What other training did you complete early on in this field?
A. I -- After graduating, I -- and passing my licensing test, I mentored with Harry Benjamin's protégé, Dr. Leah Schaefer, from approximately 1994 to 2008. I joined WPATH and I became active in this field.
Q. And when you say you were mentored, what did that entail?
A. Dr. Schaefer had been a student of Kinsey and she was a

close colleague of Harry Benjamin, and as you may know, WPATH was named after Harry Benjamin prior to changing their name, and I studied with her and received supervision from her until -- basically until she passed away.

Q. You've mentioned WPATH. What is WPATH?

A. WPATH stands for the World Professional Association of Transgender Health. It's 2500 professionals, mental health, endocrinologists, primary care providers and surgeons and attorneys, people who practice some aspect of transgender health care, and WPATH promulgates the standards of care for the treatment of gender dysphoria.

Q. Dr. Ettner, what is forensic testing?

A. It's using testing to provide data for any aspect of litigation, so it might require an individual to determine whether someone's fit to -- you know, competent. Some forensic testing is used in custody cases. It's used to test if there's emotional damage or malingering, for example.

Q. Have you had training in forensic testing, Dr. Ettner?

A. Yes.

Q. Can you describe that training?

A. I've had training at the University of Minnesota and elsewhere through the American Psychological Association. They offer continuing education and training for forensic psychology.

Q. Have you published in the field of transgender health and

gender dysphoria?
A. Yes.
Q. Can you describe your publishing history?
A. I've published numerous articles in peer-reviewed journals. I've written four books. Two are textbooks that I've edited and authored chapters of that are medical and surgical textbooks used in universities, and University of Vanderbilt asked me to author their chapter on surgery in their lesbian, gay and transgender health care handbook. I've also written chapters in other people's books dealing with transgender health care issues.
Q. Have you had clinical experience in the field of transgender health and gender dysphoria?
A. Yes. I have worked with in excess now of 3,000 individuals with gender dysphoria.
Q. Have you ever trained others to treat people with gender dysphoria?
A. Yes. I supervise psychologists, and have for years, who work with gender diverse populations. I have taught courses at universities in gender. I have lectured and given grand rounds at university hospitals. I have developed WPATH's global education initiative curriculum in mental health and have trained professionals in places including Vietnam and South America, and WPATH brings their training to interested groups who are new to the field.

Q. Do you consult with others about the treatment of transgender individuals?
A. Yes. I'm on staff at Weiss Hospital. I'm on their medical staff and I consult with the physicians there.
Q. Can you tell us a bit more about what you do at Weiss?
A. I work with their team. They have a team that consists of not only a plastic surgeon, but a urologist, social workers, primary care providers, physicians' assistants and physical rehabilitation people, and I consult with them about mental health issues. I present -- We do presentations and we have journal clubs where we come together as a group.
Q. You mentioned WPATH before. Do you hold any positions with WPATH?
A. I'm the immediate past secretary of WPATH. I was a board member for 12 years. I'm an author of the standards of care and I chair the Committee for Institutionalized Persons.
Q. Have you received any recognition for your work in the field of transgender health?
A. Yes. In 2017 I was invited along with Dr. Rachel Levine to address the director of the Office of Civil Rights of the Department of Health and Human Services regarding transgender issues. I was awarded the WPATH Distinguished Award in Education. I'm the honoree of the externally funded Fred -- Randi and Fred Transgender Health Fellowship at the University of Minnesota, and the University of Minnesota's Institute of

Sexual and Gender Health awarded me one of 50 sexual and gender revolutionaries in the world. Oh, and in 2019 I received a commendation from the U.S. House of Representatives for my work.

Q. Can you describe your previous work concerning individuals with gender dysphoria who live in institutionalized settings?

A. I have visited and interviewed and evaluated individuals in correctional facilities throughout the countries, throughout this country. I've been in more than 50 such institutions, including military prisons, state prisons, federal prisons, institutions for the criminally insane and many jails, and I've also consulted with two prisons about their policies for transgender prisoners.

Q. And in the course of that work, have you been involved in interviewing people who are in institutionalized settings?

A. Yes.

Q. And have you reviewed records as well?

A. I have, yes.

Q. And that's in addition to your work on WPATH's committee concerning how the standards of care apply in institutionalized settings?

A. Yes. That's separate work.

MR. BLECHER-COHEN: I'd like to present Plaintiff's Exhibit 14, which is Dr. Ettner's CV, and move to admit it.

THE COURT: All right. 14 will be admitted.

Q. (By Mr. Blecher-Cohen) Dr. Ettner, I'd like to turn now to the work that you've done in this case concerning Ms. Iglesias. What work is it that you have been asked to do in this case?
A. I was asked to provide an opinion about the adequacy of the care Ms. Iglesias was receiving, is receiving, from the Bureau of Prisons.
Q. What materials and interactions did you review to form your opinions in this case?
A. I reviewed the medical and mental health records that were provided to me. I reviewed some declarations. I reviewed Dr. Leukefeld's deposition. I reviewed the Transgender Executive Council meeting documents that I was provided with and I reviewed some grievances that Ms. Iglesias had submitted, and I think that's the extent, although I may be omitting something.
Q. And did you also speak with Ms. Iglesias directly?
A. Yes. In March I spoke by phone with Ms. Iglesias for approximately 30 minutes, and in July I conducted an assessment of Ms. Iglesias, a two-hour assessment.
Q. What did your 30-minute phone call with Ms. Iglesias in March involve?
A. Introducing myself and speaking with her and trying to get information about her current clinical status and about her gender dysphoria which had been diagnosed according to the

records, but to have a sense of her as an individual with gender dysphoria.

Q. Do you recall your impressions from that call?

A. I do.

Q. And what were they?

A. At the time, Ms. Iglesias was distressed. She seemed hopeless. She was very outspoken about her distaste for her genitalia. She described it as a cancer, as she has again today, and I asked her about her treatments, her hormone treatments, her medical treatments, her mental health treatments, to see if anything was particularly helpful. And excuse me, but is there any more --

Q. I've put a water for you -- next to you.

A. Thank you.

Q. What did your July 2021 evaluation of Ms. Iglesias involve?

A. I performed a clinical interview with Ms. Iglesias and I conducted psychological testing.

Q. What tests did you administer?

A. The Beck Depression Inventory number 2, the Beck Anxiety Inventory, the Beck Hopelessness Scale and the Traumatic Symptom Inventory-2.

Q. Why did you perform these tests?

A. The Traumatic Symptom Inventory-2 is a test that the military uses. It's a very comprehensive test that has the

benefit of including validity factors, so it gives information about whether a person is answering honestly, whether they're exaggerating their responses to appear more damaged than they may be, and it has an -- at least 12 different components to assess chronic and acute trauma separate from the demoralization of just being in prison and gives a great deal of information, because trauma affects everybody differently. The depression inventory, the anxiety inventory are typical inventories that psychologists use because they have validity that relates to the DSM-5 and they give information about different aspects of anxiety and depression. So anxiety, laypeople tend to think of this as just one being anxious, but like pain, anxiety and depression can mean different things. Pain from a headache is different from pain from a kidney stone, and so these tests tell us whether the depression is affecting systems in the body or whether the depression is just sort of a cognitive feeling guilty or affective, for instance, feeling unhappy, so it gives the clinician information that informs treatment.

THE COURT: Can I just interrupt real quick? Was your -- This evaluation in July, was this in person?

DR. ETTNER: It was via Zoom.

THE COURT: All right. Thank you.

Q. (By Mr. Blecher-Cohen) And why did you administer the hopelessness test?

A. Because the literature has proven that hopelessness is a better indicator of suicide even than depression, and hopelessness underlies many mental conditions.
Q. Are these tests appropriate for use in a prison setting?
A. Yes.
Q. How do you know that?
A. Because they're often used in prison settings and because they have several good validity and reliability indices.
Q. And have they been validated with appropriate norms?
A. Yes. In fact, the trans -- several of them have been validated with the norms for incarcerated people.
Q. Was Zoom a sufficient platform for you to run these tests and make your evaluation of Ms. Iglesias in July?
A. Yes. As we all discovered during COVID, Zoom can be a good alternative to an in-person evaluation.
Q. And did you interact with other of your clients via Zoom?
A. Yes. Well, with clients in my private practice, but I also did several evaluations via Zoom or other platforms.
Q. And, Dr. Iglesias -- or Dr. Ettner -- so sorry -- did you reach a conclusion based on the records you reviewed and your interactions with Ms. Iglesias about her treatment?
A. Yes.
Q. What conclusions were those?
A. Well, my conclusion was that she did have gender dysphoria, she had the most severe form of gender dysphoria,

and that the treatment she was receiving was inadequate to treat that severe gender dysphoria.

Q. And what does it mean when we say severe gender dysphoria?

A. Like most medical conditions, severity exists on a continuum, so some people can have an elevated AIC or they can have diabetes. People can have gender dysphoria that can be treated with cross-sex hormones, but for people with severe gender dysphoria, hormonal management is not sufficient.

Q. And are the materials that you relied on to form your opinions in this case similar to the kinds of materials in the field of clinical psychology that are -- others rely on to form comparable opinions?

A. In terms of gender dysphoria?

Q. Yes.

A. Yes. If they're -- If they are qualified mental health professionals, they would rely on those materials or similar materials.

Q. And were the materials and interactions that you had access to sufficient to form your conclusions?

A. Yes.

MR. BLECHER-COHEN: Your Honor, I'd like to tender Dr. Ettner as an expert in the field of transgender health, including treatment of gender dysphoria.

THE COURT: All right. She will be accepted as such.

MR. BLECHER-COHEN: Thank you, Your Honor.

Q. (By Mr. Blecher-Cohen) Dr. Ettner, let's talk a bit about your examination of Ms. Iglesias and her medical and mental health records in a bit more detail. You mentioned before that you concluded that Ms. Iglesias has severe gender dysphoria. What is the basis for that conclusion?
A. The basis of the conclusion is her history, her hormonal -- her long time on hormones without relief. At a very early age Ms. Iglesias showed the signs of childhood gender dysphoria, which persisted into adolescence, and we know that early onset gender dysphoria tends to be more severe than a later onset. She was cross-dressing at an early age. At 13 she left home and was traveling to appear as a female. She took birth control pills to alter her anatomy, even without understanding the nature of her condition. She has always had a deep internal inner sense of being female, which she didn't have the vocabulary or the knowledge really or assistance to get treatment for at the time. In 2009 she attempted auto-penectomy, and surgical self-treatment is -- unfortunately it's not uncommon in prisons, but we only see it when people are inadequately or inappropriately treated. She requested cross-sex hormones in 2011 and she received them in 2015. She has been on hormones for years. She has a well-consolidated female identity but she has severe anatomical dysphoria. Her genitals are so repugnant to her that she continuously fights the thought of surgical

self-treatment. And so hormones alone and social role transition are not sufficient, and in these cases, surgery is the cure for gender dysphoria.

Q. Dr. Ettner, does gender dysphoria increase as one ages?

A. Gender dysphoria intensifies particularly at middle age, so just as non-transgender women go through a perimenopause period or a menopause period and they may experience some emotional distress, transgender women will also have an acceleration that occurs around mid life and does intensify. Cortisol rises with normal aging, and that causes a diminution of DHEA and other factors, and so we see that that creates an intensification. When I reviewed Ms. Iglesias' mental health records, I noticed that in 2019 there was an intensification of her gender dysphoria and that her treating provider, mental health provider, at that time was noting month after month that this was becoming more and more intense, and we do see that in the community as well.

Q. What treatment is Ms. Iglesias currently receiving for her gender dysphoria?

A. She's receiving social role transition. She's appropriately living with females. She has access to female accoutrements and she's receiving cross-sex hormones.

Q. Is that treatment adequate to treat her gender dysphoria?

A. Those treatments are necessary but not sufficient.

Q. Why not?

A. Because of the anatomical dysphoria. Gender-affirming surgery has two therapeutic purposes. The removal of the testicles eliminates the circulating nascent androgens in the body. It also gives the individual appropriate functioning and typical-appearing genitalia, both of which are essential and both of which virtually provide a cure for gender dysphoria.

Q. And what treatment is medically indicated to treat Ms. Iglesias' gender dysphoria adequately?

A. Presently she requires safe and permanent hair removal and genital reconstruction.

Q. And is that in addition to the cross-sex hormones and social role transition she's already receiving?

A. Yes. She will require hormonal treatment throughout her lifetime.

Q. Let's talk first about gender-affirming surgery. Can Ms. Iglesias' gender dysphoria be treated without gender-affirming surgery?

A. It can be partially treated, but unfortunately, as time goes by, the failure to treat it entirely will lead to one of -- likely lead to one of three trajectories; psychological decompensation, surgical self-treatment or suicide.

Q. And so to be clear for the record, can Ms. Iglesias' gender dysphoria be adequately treated without gender-affirming surgery?

A. No.
Q. And why precisely is that?
A. Because hormone treatment and even living fully in social role do not rid the body of the testosterone or create body congruence, which are now the key individualized medically necessary treatments that Ms. Iglesias requires and which are medically indicated for her.
Q. Has Ms. Iglesias attempted to perform her own surgery while she's been in the Bureau of Prisons' custody?
A. Yes.
Q. What conclusions do you draw from that?
A. We know from the literature and from experience that people attempt auto-castration, auto-penectomy, not as a mutilation, not as a borderline might cut, but in an attempt to address the medical needs that they have that are being unattended to.
Q. And does -- do these attempts suggest anything to you about the adequacy of Ms. Iglesias' treatment?
A. Yes. We only see these in situations where people are receiving inadequate or inappropriate treatment, and too often they result in severe injury or actual death. People fairly frequently misunderstand the amount of blood that accompanies these surgeries, and with orchiectomy, the spermatic cords can retract, and these are not easy procedures to perform on oneself, needless to say.

Q. Dr. Ettner, has Ms. Iglesias attempted suicide?
A. Yes.
Q. Has she been evaluated for suicidality while in BOP custody?
A. Yes. Ms. Iglesias has several risk factors for suicide, the first being that she's attempted it before, and we know that prior suicidal attempts are the most likely cause of future and lethal suicides, and she's also engaged in something called method switching, which is also a serious risk factor. People who use different methods to attempt suicide are more likely to complete a suicide, and my review of mental health and medical records indicated that the Bureau of Prisons had at least 37 times assessed her for suicide.
Q. Do you have an opinion, Dr. Ettner, regarding the impact on Ms. Iglesias if the Bureau of Prisons continues to deny her gender-affirming surgery?
A. My opinion is that Ms. Iglesias would execute what she refers to as plan B, which is an attempt at surgical self-treatment.
Q. And by surgical self-treatment, what do you mean?
A. Removal of the genitalia that she currently has and that she views in her own words as a living death sentence, a cancer, tumor that needs to be removed, etc.
Q. Is the question regarding whether Ms. Iglesias needs gender-affirming surgery a difficult one?

A. In my opinion, no. I think specialists in this field would all come to the same opinion that I have.
Q. And why is that?
A. Because the criteria for gender dysphoria as listed in the DSM-5 are straightforward, and specialists who have experience with different presentations and have seen different symptoms and different variations of gender non-conforming presentations and to do a thorough assessment would see that this is a straightforward case of an individual who has a very severe form of gender dysphoria, severe enough that she would attempt to remove her own genitals.
Q. And, Dr. Ettner, are you aware of any other medications that Ms. Iglesias is taking besides her cross-sex hormones?
A. Yes.
Q. What medications are those?
A. She's currently taking or she was, as far as I know, receiving two antidepressant medications and one anxiolytic, an antianxiety medication, and these medications are very efficacious for depressive disorders and anxiety disorders. However, if the root cause of that anxiety or depression is the gender dysphoria, they will not be efficacious, and so even though she's taking those three drugs, she still has anxiety, depression and gender dysphoria.
Q. So is it safe to say, then, that those drugs aren't efficacious with respect to Ms. Iglesias right now?

A. Not for gender dysphoria. Those drugs would be efficacious if she had other coexisting conditions that also needed to be treated, and she may, but if the question is are they helpful in treating gender dysphoria in her case, the answer is no.
Q. And what, if any, conclusions do you draw from the fact that they aren't being helpful in treating her gender dysphoria?
A. Well, like psychotherapy, they are not the treatment when medical or surgical treatments are required, so by analogy, if an individual had diabetes and needed insulin, psychotherapy wouldn't be the appropriate treatment, and so we know what the treatment is, what's medically indicated for this individual, and it's not psychotropic medication.
Q. To take a step back, does Ms. Iglesias need gender-affirming surgery now?
A. Yes.
Q. Has she needed gender-affirming surgery in the past?
A. She's needed it for some time. I wouldn't say in -- when -- going how far past. She's needed it for quite a while, yes.
Q. For years?
A. Yes.
Q. I'd like to talk a bit now about permanent hair removal as well. You mentioned earlier that Ms. Iglesias needs permanent

hair removal as part of her treatment. What is the basis for that conclusion?

A. Facial hair, extensive facial hair, is a secondary sex characteristics of males, and if you look at the criteria for -- in the DSM-5 for gender dysphoria, it is to rid oneself of primary and/or secondary sex characteristics. Facial hair is the most visible and therefore can be the most disturbing stigmata of masculinity, and as Ms. Iglesias has described today, having to shave her face daily is extremely distressing. Most transgender women who have coarse or dark facial hair, in the community, the first treatment they seek is permanent hair removal, and a recent study that was done of 281 transgender women demonstrated that following safe hair removal that anxiety and depression were decreased and gender dysphoria also decreased.

Q. Is permanent hair removal medically necessary for Ms. Iglesias?

A. Yes.

Q. Why is it medically necessary?

A. Because it kindles the gender dysphoria and causes her great distress, and the standards of care are clear that hair removal is part of the medical treatment for gender dysphoria.

THE COURT: All right. I'm going to stop you there so I can take my call. We'll resume at 11:15. I will just note for the record that just a few moments ago Ms. Iglesias'

handcuffs were removed, so thank you for reaching out to the captain for that. We'll be in recess until 11:15.

(Brief recess taken.)

THE COURT: We can resume with Dr. Ettner's direct examination.

Q. (By Mr. Blecher-Cohen) Good morning, Dr. Ettner.

A. Good morning.

Q. Just wanted to prove that I -- Let's start again where we left off. Ms. Iglesias has been -- Has Ms. Iglesias been diagnosed with gender dysphoria?

A. Yes.

Q. And why is permanent hair removal medically necessary?

A. Again, because it's a secondary characteristics of males, not females. It causes her extreme distress. It kindles gender dysphoria and it requires her to shave, and that is not an effective way of removing hair from the face, and it is medically necessary to have some permanent form of hair removal in order to attenuate the gender dysphoria.

Q. And is it also medically necessary because there's an underlying medical diagnosis?

A. That's what differentiates it from a cosmetic procedure. If there's an underlying medical diagnosis -- and for hair removal that would be gender dysphoria or polycystic ovarian disease -- then those procedures are not considered cosmetic.

Q. So to be clear, when you say that Ms. Iglesias has a

medical need for permanent hair removal, that is not a cosmetic treatment?
A. Correct.
Q. And what is the importance of permanent hair removal in treating gender dysphoria?
A. Well, hair grows back on a certain schedule, so it needs to be removed permanently, and then I think after six weeks there's regrowth, so even for surgery there needs to be hair removal in the genital area, and it needs to begin early because of that regrowth cycle.
Q. And are there psychological effects related to hair removal and permanent hair removal specifically as well?
A. Yes, and I think that Ms. Iglesias has described that. The embarrassment, the humiliation of having to shave daily, to have to cover that with makeup is very distressing, and it continuously reminds her that she is other, that she's unlike the other people that she lives with who are not shaving and trying to hide that beard growth.
Q. And does treatment for gender dysphoria call for the elimination of certain secondary sex characteristics?
A. Treatment is on an individualized basis, and not everybody requires all treatments, but, yes, it -- hair removal is one of the treatments for gender dysphoria.
Q. And are shaving or chemical hair removal adequate long-term solutions for Ms. Iglesias' gender dysphoria?

A. No.
Q. Why not?
A. Because they're not permanent, and chemical hair removal is not safe. It can cause burning to the skin, and so laser or electrolysis are typically what's required.
Q. And both laser hair removal and electrolysis are permanent hair removal techniques?
A. They've been referred to as permanent hair reduction. There will always be some facial hair, but, yes, they are permanent and they are safe.
Q. I'd like to talk a bit about social transition, including housing.
A. And I'm sorry. I didn't hear you.
Q. Social transition, including housing. Dr. Ettner, what is social transition?
A. Living in one's affirmed gender.
Q. And what role does social transition play in treatment for gender dysphoria?
A. Given that the sine qua non of the medical condition of gender dysphoria is that one's gender identity doesn't match one's appearance, attaining the appearance of the affirmed gender is of the utmost importance. Looking in the mirror and seeing reflected back the person that you know you are is what the gender dysphoric individual seeks, and social role transition involves clothing, wearing clothing possibly,

hairstyles, mannerisms, cosmetics in the case of transgender females, changing one's name and one's pronouns and living to the fullest extent possible or the fullest extent comfortable in one's affirmed gender.

Q. Was Ms. Iglesias socially transitioning when she was held in men's prisons in BOP custody?

A. To the best of her ability in that context, yes.

Q. How was she doing so?

A. She was wearing makeup, as I understand it, and she was growing her hair. She was wearing female undergarments and she had requested a name -- that her name be changed and that her pronouns -- proper pronouns be used.

Q. What role does being at a women's prison now play in Ms. Iglesias' social transition?

A. Well, it furthers her ability to socially transition, of course. She's now provided with the same products and the same female accoutrements that female prisoners are, and importantly, she's safe from the sexual exploitation and abuse that she experienced in the male prisons.

Q. And is social transition a medical treatment for gender dysphoria?

A. Yes, in that it reduces gender dysphoria.

Q. Have you reached any conclusion about whether Ms. Iglesias should remain in a women's prison?

A. I have.

Q. And what is that?
A. It's appropriate for Ms. Iglesias to be in a male -- in a female prison.
Q. And why is that?
A. Because she's female.
Q. I'd like to ask you briefly about what is the role of therapy in treating gender dysphoria?
A. By therapy, do you mean psychotherapy?
Q. Yes.
A. That depends on the individual. So in the community where people may have more access to people who specialize in working with gender diverse individuals, therapy can be very helpful in working with families, in helping people navigate human resources in companies they work for, in helping to build resilience, and so -- and in treating any coexisting mental conditions that occur alongside the gender dysphoria, so psychotherapy can be a useful component in the treatment of gender dysphoria. It does not, however, obviate the need for medical or surgical treatments when those treatments are indicated. So by analogy, diet and education can be important components for an individual who has diabetes, but they don't obviate the need for insulin if a diabetic patient requires that.
Q. Dr. Ettner, what is cognitive and behavioral therapy?
A. It's a form of treatment that helps people -- It's a

psychotherapeutic treatment that helps people reconstruct cognitions so they can alter some negative thinking patterns, in a nutshell.

Q. What is the role, if any, of cognitive and behavioral therapy in treating gender dysphoria?

A. It's not a cure for gender dysphoria. It may be helpful for some coexisting conditions that gender dysphoric people have, but it does not treat gender dysphoria. There's never been a form of psychotherapy that has been a cure for gender dysphoria.

Q. I'd like to talk now about WPATH again. You mentioned them earlier. What are the WPATH standards of care?

A. The standards of care are treatment guidelines that inform care throughout the world.

Q. Are the WPATH standards of care accepted as the prevailing medical authority in treating people with gender dysphoria?

A. Yes. They're translated now, I think, into 18 different languages. They're accepted by all medical or most medical associations, including the World Health Organization, the American Medical Association, the American Psychiatric Association, the American Psychological Association, the Endocrine Society, the European Endocrine Society. The American College of Obstetrics and Gynecology endorse the WPATH standards, as do the American Academy of Pediatrics, the National Association of Social Workers, the American Society

for Plastic Surgeons, the American Society of Surgeons, and I'm -- the National Commission on Correctional Health, and I'm sure I'm leaving out many others.

THE COURT: Let me just ask you something there. That was one thing I noted in your declaration. You'd said that they -- all of these entities endorse protocols in accordance with WPATH standards of care. Do these organizations endorse all of those protocols or just certain ones?

DR. ETTNER: All of them.

THE COURT: All right. Thank you.

Q. (By Mr. Blecher-Cohen) Do the WPATH standards of care apply to people with gender dysphoria in prison settings?

A. Yes. Since 1998 the standards of care have discussed the treatment of incarcerated persons, and basically that treatment according to the standards of care should mirror what's available in the community, just like the treatment for other medical conditions doesn't differ. We don't treat people who have cardiac issues different if they're incarcerated than if they're non-incarcerated.

Q. And when you refer to what's available in the community, what do you mean by that?

A. I mean people who are not institutionalized and who have agency to seek out providers.

Q. Do the standards of care provide guidance about competency

requirements for treating people with gender dysphoria?
A. They do. I'm familiar with the competency requirements for mental health providers.
Q. And what are those requirements?
A. Those requirements are in the standards of care at Section 20 to 23, and they state that mental health providers should have at a minimum credentials in their own discipline, which for example would be Ph.D. for a psychologist or M.D. for a psychiatrist. They need to be licensed. They need to be familiar with the DSM-5 or the ICD, which is the International Classification of Diseases. They need to be trained and competent in psychotherapy or counseling. They need to be able to diagnose gender dysphoria and to distinguish it from other coexisting conditions. They need to be knowledgeable about the vast variety of gender diverse presentations and identities, and importantly, to be knowledgeable about assessment and treatment of gender dysphoria. They need to have continuing education in assessment and treatment. They need to be familiar with the growing body of scientific literature and to be culturally competent by attending meetings, workshops and other ongoing information imparting scientific meetings, and the standards also state that providers who are new to this field, irregardless of their expertise or training in other fields or in other specialties, if they're not expert in this field,

they need to seek supervision or mentorship with someone with demonstrated competence in assessing and treating gender dysphoric individuals.

Q. Is self-study sufficient to meet the continuing education criterion?

A. No.

Q. Is self-study sufficient to meet the formal education or supervision criteria?

A. No.

Q. Do you know, Dr. Ettner, what reasons the Bureau of Prisons has given for denying Ms. Iglesias gender-affirming surgery?

A. It's my understanding that the Bureau of Prisons identified something called a target hormone range and stated that prisoners who were not -- who did not attain that target range would not meet the criteria for surgery, and that there was a further requirement that the Bureau of Prisons stated that an individual had to live with other individuals in -- of the same gender for a period of a year before they could be eligible for surgery.

Q. Is it appropriate to withhold gender-affirming surgery on either of these bases?

A. No, it's not -- not if it's medically necessary, no.

Q. Are there any contraindications to gender-affirming surgery?

A. Yes.
Q. What are they?
A. Well, medical contraindications for gender-affirming surgery would be a history of hypercoagulable disease, cardiovascular disease that is not well controlled, liver failure, and a rare condition of hypothermia which makes general anesthesia not possible for an individual, and psychological or psychiatric contraindications would be if someone was having -- was in the midst of a psychotic break, if they were floridly psychotic, or if they had a major mental illness that was not well controlled.
Q. Are any of these medical or psychological contraindications present in Ms. Iglesias?
A. No.
Q. What are you basing that conclusion on?
A. On my review of her medical and mental health records and my own assessment of her.
Q. Do those records and assessments indicate that Ms. Iglesias has ever had any of these medical or psychological contraindications?
A. Those records do not indicate that.
Q. Let's take the Bureau of Prisons' reasons for denying gender-affirming surgery one at a time. Is optimization of hormone levels or failure to meet target hormone levels a valid reason to withhold gender-affirming surgery from

Ms. Iglesias?
A. No. Optimization of hormone levels occurs after 24 months of hormonal usage, and so by that criteria, she would have been eligible in 2017 for surgery, and the idea that there's a target range that is a criteria for surgery is not something that I have ever heard. That's not part of the standards of care and it's not a reasonable reason to deny someone surgery if they've been on hormones for at least a year.
Q. And is length of time in a women's facility a valid reason to withhold gender-affirming surgery from Ms. Iglesias?
A. No. Ms. Iglesias has lived as a female to the best of her ability for decades, I believe, and nowhere does it state in the standards of care or have I heard that it is a requirement to live in a context that's female. It's -- The requirement is 12 months of continuous living in role.
Q. And that requirement of living in role is from the WPATH standards of care?
A. Correct.
Q. Has Ms. Iglesias satisfied WPATH's criterion?
A. She has more than satisfied those criterion.
Q. How has she done so?
A. Well, the criteria are to have a well-documented diagnosis and to have had persistent gender dysphoria. She's surpassed that criteria. She's been on hormones for decades -- well, since -- for a long time, and took hormones as a teen in the

form of birth control pills. She's lived in role for more than 12 months and she's above the age of majority in the country in which she resides, and any medical or mental health issues that she has are well controlled, and those are the requirements.

Q. And to be clear, the standards of care don't require that someone satisfy the living in role criterion through living in a sex-specific environment.

A. No, they do not.

Q. And do they suggest that -- strike that. Are you aware, Dr. Ettner, of other prisoner systems that have provided gender-affirming surgery to transgender women?

A. I'm aware of four in which I have been involved as an expert, and those occurred in the states of Washington, Idaho, Massachusetts and California, and there may be more, but those are the ones that I'm familiar with where surgery occurred.

Q. Do you know who at the Bureau of Prisons decides whether Ms. Iglesias can get gender-affirming surgery?

A. My understanding is that it's the Transgender Executive Council.

Q. And what are you basing that understanding on?

A. The documents that I reviewed and Dr. Leukefeld's deposition.

Q. In your opinion, should a committee such as the Transgender Executive Council be making decisions about

whether someone receives gender-affirming surgery?
A. My opinion is that administrative bodies should not be making medical decisions, particularly if they haven't assessed the individual.
Q. And why is it important that someone involved in making decisions about treating gender dysphoria have met the individual being treated?
A. Well, all medical decisions and best practices are based upon a case-by-case basis, and not every individual who has gender dysphoria is the same, and so everybody needs to have an individual assessment to see if they have met the eligibility and readiness criteria that I just set forth from the standards of care and to do an assessment to understand that individual and their particular needs and what's medically indicated for them.
Q. And, Dr. Ettner, were you in the courtroom today when Ms. Iglesias testified that she had never met anyone on the Transgender Executive Council with the exception of a brief meeting of Dr. Leukefeld?
A. I was.
Q. Should a committee whose members have never examined Ms. Iglesias be involved in decisions about her treatment for gender dysphoria?
A. No.
Q. And, Dr. Ettner, based on the records you've reviewed, do

you have an understanding about whether there are people who are not specialists in treating gender dysphoria on the Transgender Executive Council?

A. That's my understanding, but I was unable to -- in the records that I received, much of which were redacted, I was unable to really know what the qualifications were of all those individuals, but I don't believe any of them were specialists in gender dysphoria.

Q. Should a committee whose members are not specialists in gender dysphoria or transgender health be involved in making decisions about an individual's treatment for gender dysphoria?

A. No, not about medical treatments.

Q. And why is that?

A. Because they don't have the competency to make those individualized decisions about this specialized area of medicine.

Q. Overall, Dr. Ettner, do you have an opinion about the Transgender Executive Council's fitness to make decisions about Ms. Iglesias' treatment for gender dysphoria?

A. My opinion is that they're not qualified to make that decision for Ms. Iglesias.

Q. And why is that?

A. Because they lack the qualifications necessary to make those medical decisions, to make referrals for surgery, to

understand what's involved in surgery and to understand how to evaluate and generate a treatment plan for a gender dysphoric individual.

Q. And stepping back once again, Dr. Ettner, what is your conclusion about the treatment Ms. Iglesias is currently receiving for her gender dysphoria?

A. My conclusion is the treatment she's receiving is not adequate for her gender dysphoria.

Q. What is the treatment she requires?

A. She requires vaginoplasty and hair removal, laser hair removal.

Q. Based on Ms. Iglesias' testimony this morning in addition to the materials you've reviewed and your previous interactions with her, what is the psychological impact of her not getting gender-affirming surgery and permanent hair removal?

A. She will -- Her psychological condition will deteriorate. Her thoughts of performing her own surgery, surgical self-treatment, will exacerbate, and whether or not her resilience will erode to the point where she cannot control her impulse to do that, as many people who are incarcerated cannot, she will unfortunately resort to that or to psychological decompensation.

Q. And just briefly, what is psychological decompensation?

A. It's when an individual has lost their ability to cope,

and so their ability to function, their global assessment of functioning plummets and they're no longer able to function and to have the same level of adjustment to carry out the daily activities of living and to be able to maintain at the level that they currently are. They start to go down an ingravescent course, and ultimately they either physically harm themselves or sometimes they attempt suicide.

MR. BLECHER-COHEN: Thank you, Dr. Ettner.

THE COURT: I have just a few questions and then I'll let you clarify if you want. You said that you've reviewed some medical and mental health records. Do you think you had everything or were there things that you were not able to review that you wanted to see?

DR. ETTNER: I had everything that was provided to me. I don't know if that included everything. I just know what I received.

THE COURT: Okay. And do hormones help with facial hair growth?

DR. ETTNER: What hormones do is they make the facial hair a bit finer, less coarse, but that's about all. They'll do that for the body hair and the facial hair. So in the community, Your Honor, we recommend that people don't start hair removal until after they've begun hormones because they're sort of wasting their money, because they'll need less electrolysis or less laser if they wait until the hormones

will sort of make it a little easier to remove the hair.

THE COURT: Okay. And is Ms. Iglesias on spironolactone?

DR. ETTNER: Yes.

THE COURT: Okay. Will the surgery -- would that help with the facial hair?

DR. ETTNER: Yes, because it completely removes the androgen, the testosterone, but it doesn't -- it won't help enough, so it's -- she will still have the facial hair. She may find that her body hair is a bit softer, a little finer, but she will still require laser or electrolysis, and she will need genital hair removal, because when they do the vaginoplasty, they use the scrotal tissue, and the scrotum has hair on it, and when that tissue is used to make the vaginal canal, if they don't remove that hair, the individual has hair in the vagina, that grows in the vagina, so they will do genital electrolysis prior to surgery, and that is why it should begin early as a way to get all the regrowth.

THE COURT: Okay. And I think I got this from your testimony, but based on your review of everything that you've reviewed, when is the earliest in your opinion that she would have been ready for surgery?

DR. ETTNER: Probably 2016 or 2017.

THE COURT: All right. Do you want to follow up on any of that?

MR. BLECHER-COHEN: Nothing further, Your Honor.

THE COURT: Okay. Why don't we take a break for lunch. We'll resume at 12:30 with cross examination.

(Court recessed from 11:56 a.m. to 12:30 p.m.)

THE COURT: Let's get Dr. Ettner back in the stand.

MR. KNIGHT: Your Honor, if I could just identify, Angela Povolish is actually at counsel table from the case.

THE COURT: Okay.

MR. KNIGHT: She was a little bit late because of some confusion about -- she went to Benton, I think.

THE COURT: I heard that. I'm sorry to hear you went to Benton.

MS. POVOLISH: My apologies, Your Honor.

THE COURT: No problem. All right. Dr. Ettner, if you'll come on up and take the stand again. All right. You may begin your cross examination.

MS. TALMOR: Thank you, Your Honor.

CROSS EXAMINATION

BY MS. TALMOR:

Q. Good afternoon, Dr. Ettner. It's nice to meet you.

A. Good afternoon.

Q. I'd like to start with some questions about the WPATH standards of care, please. So as I understand, you are one of the authors of the 7th edition of the WPATH standards of care, correct?

A. Yes.
Q. And the 7th edition was published in 2011?
A. Yes.
Q. And as one of the authors of the WPATH standards of care, it's fair to say that you agree with the content of that document, correct?
A. At the time it was written, yes.
Q. And you stand behind those standards?
A. Yes.
Q. Let's take a look at those standards. I'd like to draw your attention to page 2 of the WPATH standards for care under the heading of "The Standards of Care are Flexible Clinical Guidelines." Now, you agree that the standards of care are flexible clinical guidelines?
A. Yes, although I can't really read this.
THE COURT: You can zoom in on it.
A. Thank you.
Q. Just to clarify, you agree that the standards of care are flexible clinical guidelines?
A. Yes.
Q. And you interpret guidelines as recommendations rather than mandatory standards?
A. Yes.
Q. Further down in the middle paragraph on this page, which has been highlighted here --

MR. BLECHER-COHEN: I'm sorry. Could I just -- Dr. Ettner had eye surgery recently, so I just want to make sure that -- is Dr. Ettner -- are you able to read the documents in this way or is there another accommodation just so you can follow along?

A. I can -- I would prefer to have -- I think I can read this. Thank you.

Q. I'm happy, if it's okay with Chief Judge Rosenstengel, to bring the paper copy if that would be easier. What would you prefer?

A. This is probably larger than the paper copy.

Q. I can zoom in a bit more also if it would be helpful.

A. Thank you. And you're talking about just this highlighted area now?

Q. Well, now, that's correct.

A. Okay. Yes.

Q. Thank you, Dr. Ettner. So the highlighted portion, which is from, again, page 2 of the WPATH standards of care, it states, "As in all previous versions of the standards of care, the criteria put forth in this document for hormone therapy and surgical treatments for gender dysphoria are clinical guidelines," correct?

A. Yes.

Q. And you agree with that, correct?

A. I do.

Q. And after that it states, "Individual health professionals and programs may modify them." You agree with that?
A. Yes.
Q. I would like to take a -- talk a bit about WPATH, the organization. So you are aware that the WPATH standards of care identify the mission of the WPATH organization?
A. In the 7th iteration?
Q. Correct.
A. Yes. That's not what's broadcast here, though, correct?
Q. Correct. Let me go to page 1. Is that legible?
A. Yes.
Q. So this is page 1 of the WPATH standards of care.
A. Yes.
Q. So they identify the mission of the WPATH organization, correct?
A. Yes.
Q. And a part of WPATH's mission is advocacy for transgender health?
A. Yes.
Q. In fact, the WPATH standards of care expressly state that WPATH is committed to advocacy for changes in public policies and legal reform?
A. Are you asking me if that's written here or --
Q. I'm asking you if you understand that the standards of care expressly state that WPATH is committed to advocacy for

changes in public policy and legal reform.
A. I don't see legal reform here. I see evidence-based care, education, research, advocacy, public policy and respect for transgender health.
Q. Is it your understanding that the WPATH organization advocates for legal reform?
A. That is not my understanding, that it advocates in the sense that other medical associations advocate, like American Psychological Association lobbying in congress. We don't lobby, but if you consider the fact that we support human rights, then -- and that that might lead to legal change such as in changing identification documents, I would agree with that.
Q. WPATH has a Legal Issues Committee, correct?
A. We have a legal committee.
Q. And WPATH's Legal Issues Committee will draft on behalf of the organization legal briefs as needed to address specific cases?
A. We have at times asked the legal -- asked to participate in providing amicus briefs to various courts. That's the extent of what we've done.
Q. It's a little bit hard to center there, but what I have placed on the screen here is just a printout from WPATH's website discussing the Legal Issues Committee, and it says here, does it not, that the WPATH's Legal Issues Committee

will draft on behalf of the organization legal briefs as needed to address specific cases at bar?
A. It says that, although to my knowledge, we've not done that.
Q. So to your knowledge, WPATH has not participated in drafting legal briefs to address specific cases?
A. I don't think we've drafted briefs. As I said, we have signed on to amicus briefs, but when I was secretary, I was secretary of committees, and our legal committee did not draft any briefs.
Q. And it states here that WPATH's Legal Issues Committee seeks to improve societal recognition of the equal dignity, respect and rights of transgender people when the rights and dignity of those peoples may be or have been violated; is that correct?
A. Yes.
Q. And you mentioned earlier on direct that you'd received an award from WPATH. Isn't it correct that that award was for distinguished education and advocacy?
A. I believe so. I think that's now two different awards that they're providing.
Q. But isn't it correct that you list in your CV that you received an award for distinguished education and advocacy?
A. Probably, yes, that is the reward I received.
MS. TALMOR: I will not be using this for now. It's

possible I may need to use it again, but I don't need it for now.

Q. (By Ms. Talmor) Now, the current version of the WPATH standards of care were issued in 2011, correct?

A. Yes.

Q. And you believe that they were based on the best available scientific evidence at that time.

A. I do.

Q. Now, WPATH members have suggested changes for future iterations of the WPATH standards of care?

A. Have WPATH members suggested them?

Q. Isn't it true that WPATH members have suggested changes for future iterations of the standards of care?

A. Members, authors of the new standards and the mushrooming body of literature, changes in terminology, have all required that we update the standards.

Q. But isn't it correct that WPATH members themselves have suggested changes?

A. I assume that's true. I don't know that as a fact, though.

Q. Are you familiar with Gail Knudson?

A. Yes.

Q. And Gail Knudson is the former president of WPATH, correct?

A. Yes.

Q. You are aware that Ms. Knudson wrote WPATH membership in May 2017 and stated that membership had concerns with the lack of scientific evidence to ground the current standards of care?
A. I'm not aware of that in particular. I'm aware that based on the Executive Committee, we decided to have an independent evidence-based review of our forthcoming standards, which is being conducted by Johns Hopkins.
Q. Isn't it true that at the hearing held in the matter *Edmo* that you testified as to awareness that Gail Knudson had written to WPATH membership in May 2017 and expressed concern that there was a lack of scientific evidence to ground the standards of care?
A. I believe in *Edmo* I was asked if I knew Gail Knudson and I said yes, and that someone brought forth something she wrote in a newsletter, which I don't believe I had read, but I may be mistaken about that.
Q. Didn't you testify at the *Edmo* hearing that Mrs. -- Ms. Knudson had specified in her written communication to WPATH membership that one of the primary concerns that members of WPATH had related to the increased need for scientific evidence to ground the standards of care?
A. I think we're all in agreement that we need to have standards of care that reflect our current science knowledge. However, I don't remember having said that specifically in my

testimony at the *Edmo* case. If you have a document that says I did, then I would like to see that.

Q. Certainly. Thank you. I apologize. I think this green highlighting is going to be slightly unhelpful.

A. So according to this, I said that I was aware of that. I don't believe I read that, actually. The president sends newsletters monthly typically to the membership, so I may not have read that, but I do agree that we did need a revision and that the revision needed to be evidence-based.

Q. So it states here, the question is, "And you're aware of a letter or email that she wrote to membership on May 23rd, 2017, where she discussed, did she not, that membership had concerns with the lack of scientific evidence to ground the statements of care?" And your response says, "Yes, which is why our Standards of Care 8 are now being evidence reviewed by an outside authority as a result of not only Gail's concerns but, as mentioned in deposition, new information about children and adolescents"; is that correct?

A. Yes.

Q. Okay. And as stated here, those concerns are one of the reasons why the revisions to the standards of care are being evidence reviewed by an outside authority at Johns Hopkins, correct?

A. Would you repeat that?

Q. Certainly. These concerns that we've been discussing,

those are one of the reasons why the revisions to the standards of care are currently being evidence reviewed by an outside authority at Johns Hopkins, correct?
A. Yes.
Q. And there is an 8th edition of the WPATH standards of care that is in development now, correct?
A. Yes.
Q. And the 8th edition of the WPATH standards of care is expected to be released in 2022, correct?
A. Yes.
Q. And the 8th edition of the WPATH standards of care will be the first to be developed using an evidence-based approach by an external organization?
A. Yes.
Q. Now, with respect to the upcoming 8th edition of the WPATH standards of care, there is voluminous new evidence which needs to be incorporated and an abundance of literature which needs to be reviewed and graded for the level of evidence, correct?
A. I believe so. I'm only involved with the chapter that I work on, and we have been asked not to discuss the forthcoming standards of care.
Q. Isn't it correct that at your deposition in this matter you testified -- and I quote -- that -- well, strike that. Isn't it correct that at your deposition in this matter you

testified regarding the upcoming 8th edition of the WPATH standards of care that there is, quote, "voluminous new information which needs to be incorporated and an abundance of literature which needs to be reviewed and graded for the level of evidence," end quote?

A. Yes, that's true.

Q. But you cannot disclose at this time whether there have been recommended changes to the standards of care as it relates to incarcerated individuals, correct?

A. I cannot disclose the contents of the standards of care 8th edition.

Q. Isn't it also correct that you cannot disclose whether or not there have been any changes with regard to incarcerated individuals?

A. I cannot.

Q. And that's because the chairs of the standard committee and the researcher at Johns Hopkins have asked you not to discuss the contents until they are finalized, correct?

A. Until it's disseminated.

Q. Thank you for that clarification. And you agree that the field of transgender health care is a rapidly revolving interdisciplinary field, correct?

A. Yes, I agree that it's a multidisciplinary field and that there is a great deal of new information that's being published and has been published since 2011, yes.

Q. And you believe the standards of care need to reflect what we know now, correct?
A. Yes.
Q. And you agree that we are developing a better understanding of the condition of being transgender in 2021 than we had in 2011, correct?
A. Not only transgender, but in relation to all gender diverse individuals.
Q. But you agree that our understanding has changed in the intervening ten years, correct?
A. If by "our" you mean the medical community, yes.
Q. Yes. Thank you. And you agree, don't you, that challenges in caring for transgender individuals in correctional settings has -- and the means of addressing that condition have not been well explored in the literature?
A. I agree that there's not a great deal of literature, although there is more literature now than there was in 2011.
Q. But you would agree, wouldn't you, that the challenges in caring for transgender individuals in correctional settings has not been well explored in the literature at this point?
A. I think the challenges have been well explored.
Q. Isn't it true that you testified in your deposition in this matter that the challenges in caring for transgender individuals in correctional settings and the means of addressing them have not been well explored in the literature?

A. Are you talking about now or since 2011?
Q. Have not been well explored in the literature generally, so at this time.
A. In 2011, when that chapter was written, there were very little references. Now there are quite a few more, but there still is not a tremendous amount of literature about incarcerated transgender people.
Q. Thank you for clarifying. You also agree, don't you, that there's a lack of national corrections-based practice guidelines concerning caring for transgender people?
A. I'm sorry. I don't understand the question. Could you repeat it?
Q. Certainly. You also agree, don't you, that there's a lack of national corrections-based practice guidelines concerning the care for transgender individuals?
A. I -- My experience is that individual correctional facilities have their own policies which they follow.
Q. But don't you agree that there is a lack of national corrections-based guidelines concerning caring for transgender individuals in a correctional setting?
A. I think the national guidelines for care or the standards of care, they don't differ, just as treatment or guidelines for diabetic patients in prison don't differ, so I believe that the guidelines are there, but not all facilities follow those guidelines.

Q. But haven't you testified in this matter that there is a lack of national corrections-based practice guidelines for the care of transgender individuals?
A. I would have to see what I said in regards to that, but I believe that with the exception of PREA, there is not a -- national guidelines that differs from the standards of care that exist.
Q. So there is not a national guideline that is specific to the correctional setting, correct?
MS. BROWN: Objection, Your Honor. Asked and answered. She's asked this question several times.
THE COURT: Well, it's cross examination. I'll allow it.
Q. (By Ms. Talmor) I'm sorry. Could you give a verbal answer, please?
A. Yes. I'm not certain what you mean by national guidelines other than the standards of care, and again, when we -- when a study was done writing to every state prison asking what guidelines they followed, only 26 prisons responded, so I don't know what a national guideline would be, but I don't think there is one.
Q. Let me try to ask differently, because I may not be being clear. Wouldn't you agree that there is not a set of national guidelines for the care of transgender individuals that are specific to the correctional setting?

A. Other than the ones that are in the standards of care.
Q. Which are not specific to the correctional setting, correct?
A. Well, they are -- they do address the correctional setting.
Q. But the standards of care are for the treatment of transgender individuals generally rather than only in the correctional setting, correct?
A. No, there's a separate part that deals specifically with transgender people who are incarcerated, and it has since 1998.
Q. Didn't you testify in your deposition in this matter that the lack of national corrections-based guidelines leaves correctional administrators and health care providers with limited guidance for optimizing the care and safety of transgender inmates?
A. If I said that in my deposition -- and I would like to see that -- then I agree with that, although I'm not certain what that was in response to.
Q. Certainly. So here the question asked is: "Do you agree that challenges in caring for transgender people in correctional settings and means of addressing them have not been well explored in the literature?" Answer: "Yes." Question: "Do you agree that there's a lack of national corrections-based practice guidelines concerning caring for

transgender people?" Answer: "Yes." Question: "Do you agree that this lack of national corrections-based guidelines leaves correctional administrators and health care providers with a limited guidance for optimizing the care and safety of transgender individuals?" Answer: "I assume that that's true, yes." Did I read that correctly?

A. Yes.

Q. Thank you. I'd like to change gears a bit and ask about your opinions in this case. You are offering an opinion about the standards of care for gender-affirming surgery?

A. Yes.

Q. You are also offering an opinion that plaintiff satisfies the standards of care for gender-affirming surgery.

A. I am.

Q. Now, gender-affirming surgery is medical surgery, correct?

A. Yes.

Q. And earlier you testified that in plaintiff's case, gender confirmation surgery is medically necessary, correct?

A. Yes.

Q. But you're not a medical doctor.

A. Correct.

Q. And you testified earlier today, didn't you, that plaintiff has, to your knowledge, no medical contraindications?

A. No contraindications for vaginoplasty that would

absolutely be a contraindication.
Q. But you don't have a medical license, correct?
A. Correct.
Q. And so your examination of the plaintiff was a psychological and cognitive exam, not a medical exam, correct?
A. A clinical exam, yes.
Q. And now speaking generally, not just in plaintiff's case, but if a psychologist concludes that the WPATH standards of care are satisfied for a particular patient, the surgeon still has discretion to decide whether surgery is appropriate for that individual, correct?
A. Yes.
Q. And isn't it true that an individual receiving gender-affirming surgery needs a medical clearance before receiving such surgery?
A. By medical clearance, do you mean a physical exam by a primary care provider?
Q. Yes.
A. Yes.
Q. Now, the current WPATH standards of care requires two referrals for surgery, correct?
A. From mental health professionals, yes.
Q. And you have not seen two referrals for surgery for Ms. Iglesias, correct?
A. Would you repeat that, please?

Q. In reviewing Ms. Iglesias' files, you have not seen two referrals for surgery for Ms. Iglesias, correct?
A. Within her files I have not seen letters of referral that correspond to what the standards of care require.
Q. So to your knowledge, Ms. Iglesias has not received two referrals for surgery at this time, correct?
A. Not that I'm aware of.
Q. And you have concluded that plaintiff has met and exceeded the five enumerated criteria for gender confirmation surgery as stated in the WPATH standards of care, correct?
A. Yes.
Q. And one of the criteria listed for a vaginoplasty for male to female patients is 12 continuous months living in a gender role that is congruent with gender identity, correct?
A. Yes.
Q. Now, you were not personally involved in the development of that particular provision of the standard of care, correct?
A. I think that in a sense, every author was personally involved in the criteria.
Q. Isn't it true that at your deposition in this matter you were asked, "Were you personally involved in the development of that particular provision of the standard of care?" and you answered, "I was not"?
A. I didn't write that provision, nor did I generate it, but it goes through a review process, so we all opined on that and

how it differs from our prior iterations.
Q. So are you saying now that you were personally involved in the development contrary to what you testified before or --
A. No. I'm saying as a group we reviewed every line of the standards of care. To that extent I was involved.
Q. Didn't you testify at your deposition in this matter that you do not know how the 12-month period was developed or derived?
A. I don't know exactly how it was derived. I know that it was a deviation from our prior standard, which was different, and that we reviewed literature that talked about the necessity for real-life experiences, real-life tests, and that that was the wording that ultimately came out, and then we all reviewed it. So I don't know the precise generation of that language, but I signed off on it.
Q. Here this is page 62, lines 1 through 11 of the deposition in this matter. So the question asked is, "Where it says in the WPATH standards of care 12 continuous months living in a gender role that is congruent with their gender identity, do you know how the 12-month period was developed or derived?" Answer: "No, not specifically. I don't." Question: "Can you tell me whether that same criteria is going to be present in the 8th edition of the standards of care?" Answer: "I'm sorry, I cannot. I have no idea about that." Did I read that correctly?

A. Yes.
Q. And so the WPATH standards of care, the current version, explains that the rationale for this requirement is, quote, "the expert clinical consensus that this experience provides ample opportunity for patients to experience and socially adjust in their desired gender role before undergoing irreversible surgery," correct? I don't have that up, but I'd be glad to place it up if you'd like me to refresh.
A. No, that's fine.
Q. Do you want me to repeat the question?
A. Please.
Q. The WPATH standard of care explains that the rationale for the 12-month requirement is, quote, "the expert clinical consensus that this experience provides ample opportunity for patients to experience and socially adjust in their desired gender role before undergoing irreversible surgery"?
A. Yes.
Q. And you agree with the standards of care that, quote, "changing gender roles can have profound personal and social consequences," correct?
A. Yes.
Q. Now, you've also opined that there is no medical justification for the Bureau of Prisons' policy requiring transgender inmates to live for a year in a facility consistent with their gender identity before they will be

considered for surgery, correct?
A. Yes.
Q. But you also have testified, correct, that transgender women with feminine characteristics are at elevated risk for harm when housed in male prisons?
A. Yes.
Q. And transgender female inmates are at a heightened risk of sexual assault when placed in a male facility, particularly if they have developed secondary sex characteristics, correct?
A. Would you repeat that second part, please?
Q. I'll repeat the entire question for clarity.
A. Thank you.
Q. Transgender female inmates are at a heightened risk of sexual assault when placed in a male facility, particularly if they have developed secondary sex characteristics, correct?
A. Yes.
Q. And by secondary sex characteristics, that refers, among other things, to breast development, correct?
A. Yes.
Q. Softened skin?
A. Correct.
Q. Or redistribution of body fat?
A. Yes.
Q. I'd like to change gears a bit to your opinion about placement in a female facility. Now, one of your opinions is

that Ms. Iglesias previously was not placed in an appropriate facility consistent with her gender identity, correct?
A. Yes.
Q. You are not familiar with the general policies for housing inmates by the Federal Bureau of Prisons, correct?
A. Only what I read in the material that I received.
Q. Isn't it true that you testified at your deposition that you do not have familiarity with the general policies for housing inmates by the Bureau of Prisons?
A. Correct, only what I was -- only what I received; was not elaborate.
Q. You're not familiar with how the determinations of where to house inmates are made by the Bureau of Prisons, correct?
A. Not specifically, no.
Q. You've never personally been responsible for the designation of inmates in a federal prison?
A. Correct.
Q. You're not familiar with the factors that the Bureau of Prisons uses in considering the placement of inmates in various federal facilities?
A. I am not personally familiar with that.
Q. But you are aware, correct, that federal prisons include maximum-, medium- and low-level security facilities, correct?
A. Yes.
Q. But you don't know what factors are used in designated a

federal prison as a high-level facility?
A. Not specifically.
Q. And you don't know what factors are used in designating a facility as a medium-level facility?
A. Correct.
Q. And you also aren't aware of how a federal inmate's security level is calculated, correct?
A. Correct.
Q. And so in offering your opinion about the appropriateness of placing Ms. Iglesias in a women's prison, you did not give consideration to her security level, correct?
A. Correct.
Q. And you have no opinion as to when it would have been appropriate to place Ms. Iglesias in a low-level security federal institution?
A. My opinion was based on binary nature of the prisons, male and female, and that Ms. Iglesias, being female, belonged in a female facility.
Q. Let me clarify just a bit, because my question is a little different. Isn't it correct that you are not offering an opinion today as to when it would have been appropriate to place Ms. Iglesias in a low-level federal institution?
A. I have not offered that opinion.
Q. You also opined that Ms. Iglesias requires permanent hair removal, correct?

A. Yes.
Q. Let's take a look at the WPATH standards of care again. Is that legible?
A. Yes.
Q. The section is entitled "Options for Social Support and Changes in Gender Expression," correct?
A. Yes.
Q. And one of the options that is considered to be in addition to psychological and medical treatment are options for hair removal, correct?
A. Yes.
Q. And it lists as hair removal options electrolysis, laser treatment or waxing, correct?
A. Yes.
Q. So by their own terms, the standards of care don't express a preference for one hair removal process over another, correct?
A. That's why they're flexible guidelines.
Q. Thank you. The WPATH standards of care don't distinguish between the efficacy of electrolysis, laser treatment or waxing with respect to gender dysphoria, correct?
A. Correct. That depends on the patient's ethnic heritage and how much hair they have.
Q. But isn't it --
A. Some patients don't require any hair removal. It's done

on an individual basis, the decisions.
Q. Isn't it correct that the standards of care by their own terms don't express any preference for one being more effective than the other? Correct?
A. They don't address efficacy.
Q. You state in your July declaration that Ms. Iglesias having to shave her face is humiliating and compounds her distress, correct?
A. Yes.
Q. You are aware now that the Bureau of Prisons has provided Ms. Iglesias with hair removal lotion, correct?
A. Did you say hair removal lotion?
Q. Yes. Let me repeat it just for clarity. You are aware, are you not, that the Bureau of Prisons has provided Ms. Iglesias with hair removal lotion?
A. I'm aware that she was provided with that. I don't know currently if that's being provided.
Q. Did you hear Ms. Iglesias' testimony this morning that she has been provided with hair removal lotion?
A. I thought I heard that.
Q. You have not expressed an opinion, correct, on whether there's a period of time that someone should use hair removal lotion before determining whether it's efficacious or not?
A. I haven't expressed any opinions about that.
Q. And you have testified previously in this matter that

you're not an expert on lotion removal of facial hair, correct?
A. That's true, yes.
Q. So you have no opinion as to whether if Ms. Iglesias were provided and is -- was using hair removal lotion whether that would be consistent with the standards of care?
A. I'm sorry. Would you repeat that?
Q. Certainly. Isn't it true that you've stated that you have no opinion as to whether if Ms. Iglesias were provided and was using hair removal lotion whether that would be consistent with the WPATH standards of care?
A. It would be inconsistent with what WPATH has on their website about hair removal being medically necessary.
Q. Didn't you testify previously in this matter that you were not offering an opinion as to whether if Ms. Iglesias was provided and using hair removal lotion whether that would be consistent with the standards of care?
A. I don't believe I offered an opinion about that.
Q. You agree, don't you, that the medical -- It's a good time for water.
A. I could use some myself if anyone has an extra. Thank you.
Q. You agree, don't you, that the medical necessity of electrolysis should be determined according to the judgment of the referring physician?

A. In consultation with the patient and their own experience of distress and how effective depilatories are for that individual.
Q. But you have testified that you agree that the medical necessity of electrolysis should be determined according to the judgment of the treating physician, referring physician, correct?
A. I testified to that?
Q. Do you agree with that statement, that the necessity should be determined by the referring physician?
A. I think that the necessity should be determined by the individual and after initiating hormones, and then it would be a choice between electrolysis and laser in terms of removing that hair permanently.
Q. This is page 89 at 15 through 22 from your deposition in this matter, and the question asked is, "Now, this letter from July 15th, 2016, says that it's WPATH's position that the medical necessity of electrolysis should be determined according to the judgment of the referring physician. Do you see that?" Answer: "Yes." Question: "Okay. Do you agree with that statement?" Answer: "Yes." Did I read that correctly?
A. Yes.
Q. And you don't know, do you, whether Ms. Iglesias ever provided the Bureau of Prisons with a request from her medical

provider for permanent hair removal?
A. I don't know that.
Q. I'd like to change gears again. This past July -- You testified that this past July you conducted a full psychological examination of Ms. Iglesias to determine her current status, correct?
A. Yes.
Q. And in your opinion presently, Ms. Iglesias is not at risk for attempting or completing suicide?
A. In her present situation, is that what you -- Would you repeat the question?
Q. In your opinion, presently Ms. Iglesias is not at risk for attempting or completing suicide?
A. I don't think that she would do that in her present situation as we sit here today.
Q. You also do not believe that Ms. Iglesias is currently at risk for surgical self-treatment at this point in time?
A. As of today, I believe that she will not attempt surgical self-treatment unless she is convinced or it remains uncertain as to whether she will be provided with medically indicated treatments. If she's not and if she -- if the uncertainty around that continues, I believe she's at risk for one of three trajectories which I mentioned earlier.
Q. Isn't it correct that in your deposition in this matter you testified -- and I quote -- "As I sit here today, I don't

believe she is at risk for surgical self-treatment at this point in time"?
A. Yes, as of July and my evaluation with her, that was my opinion.
Q. And on that same day, isn't it true that you testified -- and I quote -- "My opinion is that presently Ms. Iglesias is not at risk for attempting or completing a suicide"?
A. That was my opinion at that time, yes.
Q. Just a few final questions. Isn't it correct that you have been retained in at least 20 lawsuits against correctional institutions involving a transgender inmate? Correct?
A. Correct.
Q. You've never been retained by lawyers representing a correctional institution, correct?
A. Correct.
Q. And over the course of your career, you have evaluated over 40 inmates with gender dysphoria?
A. That sounds appropriate, yes.
Q. And all of those evaluations were done for litigation purposes, correct?
A. Yes.
Q. And out of all of those evaluations, so over 40 inmates, you concluded that approximately three inmates were getting adequate care and didn't require additional care, correct?

A. If that's what I stated at that time, that was correct. Was that as of July you're referring to?
Q. This is from the transcript in the *Monroe* hearing.
A. Then that was true as of that time.
Q. Have you since concluded that additional inmates -- transgender inmates were getting adequate and appropriate care?
A. I believe that there are inmates, yes, that are getting adequate care.
Q. I'm sorry. That wasn't my question. Out of the evaluations that you have completed for litigation purposes, which we've established was over 40, isn't it correct that approximately three of those evaluations you concluded that an individual was getting adequate and appropriate care?
A. I've since learned that there are others that are now getting adequate care.
Q. You're not a board certified psychiatrist?
A. I am not.
Q. And you're not a licensed psychiatrist, correct?
A. Correct. I'm not a psychiatrist.
Q. You chair the WPATH Committee for Incarcerated Persons, correct?
A. Yes.
Q. And you initiated the formation of that committee in 2009?
A. Yes.

Q. And one thing the WPATH Committee for Incarcerated Persons does is discuss lawsuits establishing precedent?
A. We did that on one occasion.
Q. Another function of the WPATH Committee for Incarcerated Persons is discussing potential revisions to the WPATH standards of care as it relates to institutionalized individuals, correct?
A. Correct.
Q. You are not a certified correctional health care professional, correct?
A. Correct.
Q. And a certified correctional health care professional is a designation from the National Commission of Correctional Health, correct?
A. I don't know.
Q. Didn't you testify in the *Edmo* hearing that you understood that a certified correctional health professional receives a designation from the National Commission of Correctional Health?
A. I assume that's so. I don't know that as a fact now.
Q. You have never been published in a peer-reviewed journal on a topic relating to providing care to transgender individuals in prison?
A. I currently have a publication in press in a surgical atlas on health care for prisoners.

Q. But at this time you do not have a published peer-reviewed journal article on this topic, correct?
A. I don't believe it's published at this time, correct.
Q. You have not gone to any correctional institutes to provide training on the care for transgender inmates, correct?
A. To any correctional institutions? Correct.
Q. You are familiar with the Prison Rape Elimination Act, or PREA, correct?
A. Yes.
Q. But you do not regard yourself as an expert in the PREA standards, correct?
A. Correct.
Q. And none of the work you've done with prisons has involved compliance with PREA obligations, correct?
A. PREA has been involved in some cases, but it has not been my -- but that's not my area of expertise.
Q. Let me clarify. I'm asking whether any of the work that you've done with prisons involved their compliance with PREA obligations.
A. Only my review of records that have shown that they've been in compliance with PREA recommendations.
Q. You don't make the determination as to whether a prison is in compliance with its PREA obligations, correct?
A. Correct.
Q. You've never been employed by a federal, state or local

prison before, correct?
A. Correct.
Q. And you've never been to a federal or state prison for any purpose other than possibly observing an inmate's behavior or interviewing an inmate, correct?
A. Correct.
Q. And you've never treated a patient of yours who at the time you provide treatment was an incarcerated person, correct?
A. They weren't incarcerated at that time. They were either -- incarcerated previously.
Q. But you've never had a psychologist/patient, client relationship with an individual who's currently incarcerated, correct?
A. I have not been the provider, correct.
Q. And you have no formal training in prison operations?
A. Correct.
Q. You have no formal training in prison security issues.
A. Correct.
Q. And you do not regard yourself as an expert in correctional security, correct?
A. I do not.
MS. TALMOR: Thank you, Dr. Ettner. I have no further questions.
THE COURT: Dr. Ettner, I just have one question. I

understand that you can't disclose what the revised standards of care are going to be in the 8th edition, but would any of your opinions change here today based on those revisions?

DR. ETTNER: No.

THE COURT: All right. Thank you. Any redirect?

MR. BLECHER-COHEN: Yes, Your Honor.

REDIRECT EXAMINATION

BY MR. BLECHER-COHEN:

Q. Are you all set with water, Dr. Ettner?

A. I am. Thank you.

Q. Just a few brief questions. Dr. Ettner, do other medical organizations sign on to amicus briefs?

A. Yes.

Q. Do they sometimes write legal briefs?

A. I imagine they do.

Q. Are the WPATH standards of care based on scientific evidence?

A. Scientific evidence and expert consensus, yes.

Q. Do you have any concerns about the scientific basis for the opinions you shared today about Ms. Iglesias' treatment?

A. No.

Q. And does the current research in the field of transgender health support those opinions?

A. Yes.

Q. And, Dr. Ettner, have you written referrals before to

surgeons for gender-affirming surgery?
A. Many.
Q. And are the materials and interactions that you review when writing those letters similar to those that you've conducted and seen about Ms. Iglesias?
A. No. Typically they're less extensive. I usually don't review an individual's entire medical and mental records to the extent that I reviewed Ms. Iglesias.
Q. If asked, would you feel able to write a letter in support of Ms. Iglesias' receiving gender-affirming surgery to a surgeon?
A. Yes.
Q. My colleague asked you a bit about waxing. Is waxing an appropriate treatment for Ms. Iglesias' specifically gender dysphoria?
A. Not waxing for facial hair.
Q. Why not?
A. Because waxing would not remove the extent of hair that needs to be removed. It might be appropriate for an underarm or something like that where the hair is less visible and less coarse and less dense.
Q. You're saying that while waxing might be -- for the face might be an appropriate treatment for some people, for Ms. Iglesias it wouldn't be?
A. Correct.

Q. And my colleague also mentioned electrolysis and referring physicians. To be adequate treatment, would a referring physician recommending any treatment for gender dysphoria need to be one that's competent in the treatment of gender dysphoria?
A. Yes.
Q. And why is that?
A. In order to understand the phenomenology and the distress that a gender dysphoric person experiences when these secondary sex characteristics are obvious, in the same way that a transgender man would bind their breasts until they were able to have surgical removal because the presence of that secondary sex characteristics is so abhorrent to the individual.
Q. And, Dr. Ettner, is -- if somebody is a transgender woman living in a men's prison and experiencing violence, does that mean that they're not -- or strike that. Does the threat of violence for a transgender woman in a men's prison affect whether or not they're living in a gender congruent role?
A. No.
Q. Does real-life experience or experience in a gender congruent role require you to be living with people of the same gender?
A. No.
Q. And, Dr. Ettner, do you have an opinion about the

psychological effect on Ms. Iglesias if she does not receive gender-affirming surgery and permanent hair removal?
A. Yes. As she noted in her conversations with her therapist when discussing this, she states that it is so distressing that it generates these -- this impulse to -- for surgical self-treatment, the ideation, that it's extremely distressing for her, and I think she described in great detail today the way she has to work around the -- being in a situation where other people can see that she's removing her hair, so she has to try to cover her shadow with makeup and shave daily or twice daily and that this was extremely distressing for her, and I think she described that herself.
Q. And, Dr. Ettner, do you have experience evaluating the medical aspects that relate to whether somebody needs gender-affirming surgery?
A. Yes. That's the role of the mental health professional, is to refer the person to the surgeon.
MR. BLECHER-COHEN: Your Honor, if I could confer with my colleagues for a brief minute.
THE COURT: You may.
(Off the record.)
MR. BLECHER-COHEN: No further questions. Thank you, Dr. Ettner.
THE COURT: All right. Thank you, Dr. Ettner. Does the plaintiff have any additional witnesses?

MR. KNIGHT: No, Your Honor, we do not.

THE COURT: All right. The defense may call their first witness.

MR. KOLSKY: Thank you, Your Honor. Defendants call Dr. Alison Leukefeld.

THE COURT: All right. Dr. Leukefeld, come on up to the stand. Before you sit down, I'll have you take an oath.

(Witness sworn.)

COURTROOM DEPUTY: Please be seated, and please state your name for the record and spell your last name.

DR. LEUKEFELD: My name is Alison Leukefeld, L-E-U-K-E-F, as in Frank, E-L-D.

DR. ALISON LEUKEFELD, produced, sworn and examined on behalf of the Defendants, testified as follows:

DIRECT EXAMINATION

BY MR. KOLSKY:

Q. Good afternoon, Dr. Leukefeld.

A. Good afternoon.

Q. Where are you currently employed?

A. I'm employed for the Federal -- with the Federal Bureau of Prisons.

Q. And what is your job position at the Federal Bureau of Prisons?

A. I'm the administrator for the psychology services branch.

Q. How long have you held this position?

A. A year and a half.
Q. And what are your job responsibilities?
A. I'm responsible for oversight in the Federal Bureau of Prisons of psychology services. That includes the writing and revision of policies, training and oversight of psychologists and mid-level mental health providers.
Q. Do you have any responsibilities with regard to BOP's Transgender Executive Council?
A. Yes. I'm a member of the Transgender Executive Council.
Q. Before going into more detail about your current job responsibilities, can you briefly describe your work experience?
A. Yes. I earned my Ph.D. in counseling psychology at the University of Oregon, and since then I've been employed with the Federal Bureau of Prisons, first at the Correctional Federal Complex in Forrest City, Arkansas, where I worked as a drug treatment specialist, a staff psychologist, a drug abuse program coordinator and the chief psychologist. After that I came to the Central Office, and in the Central Office I was first employed as the chief of mental health services and more recently in my current position.
Q. And you mentioned the Central Office. What is the Central Office?
A. The Central Office is the Bureau of Prisons' headquarters. It's located in Washington D.C. and it's where administrators

work.
Q. What degrees do you hold?
A. I hold a bachelor's degree, a master's degree in counseling psychology and a doctorate in counseling psychology.
Q. And are you a licensed psychologist?
A. I am. I'm licensed in the state of Arkansas.
Q. What, if any, involvement have you had in developing policies related to the care of transgender inmates?
A. I worked to help negotiate the transgender offender manual, which is the primary policy for transgender individuals, and also some other policies such as the treatment and care of individuals with mental health -- with mental illness, which might relate to some individuals who are transgender.
Q. What sort of trainings concerning transgender inmates have you provided or overseen?
A. My staff and I provided a training to all psychologists on the transgender offender manual and transgender care when that policy was issued. We have also worked to provide training to psychologists throughout the Bureau on transgender issues, and that has involved bringing in experts from the outside as well as providing smaller scale trainings to specific staff.
Q. Are you responsible for providing any guidance to BOP psychologists concerning the care of transgender inmates?

A. Yes. My staff and I are responsible for providing guidance on the psychological care of transgender inmates to approximately 600 psychologists who work across the agency.
Q. And earlier you mentioned that you're a member of the Transgender Executive Council. I'm going to refer to that today as the TEC. What is the TEC?
A. The TEC is a group of administrators who work in the Central Office and who oversee the provision of not day-to-day services for transgender inmates but the larger scale decisions about transgender individuals, specifically designation decisions and potentially surgery decisions.
Q. What division at BOP is responsible for leading the TEC?
A. The Reentry Services Division is the TEC.
Q. And which other offices within BEP -- within -- excuse me -- within BOP are on the TEC?
A. The Correctional Programs Division and the Health Services Division also have staff who are represented on the TEC.
Q. What sorts of disciplines are represented on the TEC?
A. Myself and another member are psychologists. There is a psychiatrist and a pharmacist, and there are also staff members who have expertise in designations and case management.
Q. How often does the TEC meet?
A. By policy it's required to meet monthly. Typically it meets every other week.

Q. What is the Designations and Sentence Computation Center, or DSCC?
A. That is a section within the Correctional Programs Division that oversees the placement of inmates in the BOP. They make initial designations decisions, and then when inmates are transferred they make decisions about the redesignation. They're experts in case management and security and they ensure that inmates go to placements where they'll be safe and that are appropriate for them.
Q. What role does the DSCC have on the TEC?
A. The DSCC plays a great support role on the TEC by ensuring that as we discuss inmates and their placement, those placements that are considered are consistent with the inmate's security classification and also that we wouldn't be placing an inmate, for example, at an institution where they have a separatee, so those kinds of security and safety issues.
Q. Within BOP, who is primarily responsible for the day-to-day health care needs of transgender inmates?
A. The local staff at each institution are responsible for the day-to-day care of transgender inmates. Health services would oversee decisions about hormones and psychology services would oversee mental health care, and other staff are also charged with decisions that affect transgender inmates; commissary staff, for example.

Q. So what role does the TEC play in transgender health care?
A. The TEC looks at much larger decisions about transgender health care and management, so as I mentioned before, the TEC makes initial decisions about -- when inmates are new, they make decisions about initial designations. They also review inmates at each designation decision, so whenever a transgender inmate is put in for a transfer, the TEC considers the case at that time. As I mentioned before, they would also make large scale decisions about surgery and support institutions that they come -- if they're trying to make a decision about something they're unfamiliar with, we would provide guidance.
Q. Doctor, do you currently treat any patients with gender dysphoria?
A. No, I don't.
Q. And why not?
A. I don't treat any patients in my present role as an administrator.
Q. Have you previously treated patients for gender dysphoria?
A. No, I have not.
Q. And do you regard yourself as a specialist in the treatment of gender dysphoria?
A. No, I do not.
Q. Why do you serve on the TEC if you're not a specialist in treating gender dysphoria?

A. I'm a psychologist, and so I have a broad education in mental health issues and also psychopathology. I also oversee mental health services throughout the agency, so as the TEC thinks about where we might place transgender inmates, I'm able to ensure that they go to institutions that have adequate supports for them and that provide the kind of care that they need.

Q. And how has your broader psychological training prepared you, if at all, to serve on the TEC?

A. Well, as I mentioned before, as a psychologist, I'm very familiar with psychopathology. I'm familiar with gender dysphoria. I'm familiar with many of the mental health concerns that transgender inmates may have in addition to potentially gender dysphoria, and I'm well aware of the kinds of services that we can provide to those inmates.

Q. Do you have staff who have expertise in the treatment of gender dysphoria?

A. Yes, I do.

Q. To what extent do you rely upon the expertise of your staff in developing policies and providing advice concerning gender dysphoria?

A. I rely on them considerably. So I have staff who have provided a great deal of transgender care in the field before they came to work for me in the Central Office, and they support the kinds of guidance that we give to the field. They

support policies and they help to devise training for the field as well.

Q. And roughly how many people are encompassed within your staff?

A. About 40 people work for me in the Central Office.

Q. If a BOP psychologist felt the need to consult a specialist in gender dysphoria, are there opportunities to do so?

A. Yes, absolutely.

Q. And have there been circumstances in which BOP psychologists have reached out to specialists on gender dysphoria?

A. Yes, and in addition, my staff and I support those types of outreach. So for example, we've arranged for staff from our institutions to travel to WPATH conferences and we have arranged for experts to visit institutions where psychologists are supporting transgender inmates.

Q. I want to ask you some questions about the guidance and standards that BOP uses to provide care to transgender inmates, but first, you mentioned WPATH. Are you familiar with the standards of care developed by WPATH?

A. I am.

Q. To what extent does BOP follow the WPATH standards of care in providing care and treatment to transgender inmates?

A. BOP uses the WPATH standards as a guide, but we do not

follow them in entirety, and that's because they weren't developed specifically for correctional settings.

Q. Do the BOP -- or excuse me. Did the WPATH standards of care state that they apply to correctional institutions?

A. I believe they state that they apply to correctional institutions, but they don't provide great detail in regard to how they would be adapted to correctional institutions.

Q. So in your view, what, if any, limitations did the WPATH standards of care have as applied to correctional institutions?

A. Correctional institutions have safety as a primary goal always in everything that we do, and so when we think about the placement of inmates in different institutions, we have to always consider where they would be safe, how the placement of any particular inmate would impact the safety of their peers, and those kinds of decisions by necessity have to be a priority, and they impact our ability to, for example, place a transgender woman into a female facility.

Q. Doctor, are you familiar with the Prison Rape Elimination Act, also known as PREA?

A. I am.

Q. At a high level, what does PREA require of BOP?

A. At the highest level it requires that we prevent sexual assault and sexually abusive behavior in our prisons, and there are some specific provisions as well for transgender

individuals in regard to keeping them safe.
Q. Do the WPATH standards of care address BOP's obligations under PREA?
A. No, they don't.
Q. Given the limitations of the WPATH standards of care, has BOP developed its own guidance for the treatment of transgender inmates?
A. Yes, BOP has.
Q. What guidance has BOP developed?
A. Well, one example would be that we work to move inmates from higher -- transgender women, for example, from higher level security to lower security level institutions as a part of their transition, and that's so that we can eventually move them into female facilities.
Q. And are there any policies that BOP has developed regarding the care of transgender inmates?
A. Yes. I believe you're referring to the idea that we keep -- that we would like to see those inmates placed -- transgender women placed in a female facility for 12 months before we consider surgery, and that allows for them to be able to adjust, to socially transition to living with female peers, and also allows us to ensure that they're going to be able to stay in that placement successfully before providing surgery which is permanent.
Q. Have there been circumstances where transgender inmates

have been placed in female facilities and later were transferred back to male facilities?
A. Yes, there have.
Q. Under what circumstances?
A. I can think of two cases where that has happened. In one of the cases, the transgender woman was in a female facility and requested to return to a male facility. She didn't feel comfortable around her peers and ultimately decided that she would feel more comfortable back at a male institution. In the other case I'm aware of, the transgender woman was placed in a female facility and didn't behave in a way that ultimately we felt was safe for her peers, so on two occasions she disrobed in the institution, outside in the open compound, and she also used some strong and vulgar language really to talk about her attraction to her female peers. Ultimately we decided that she was not safe there with her peers, and so we moved her -- or she was making her peers feel unsafe, and so we moved her back to a male institution.
Q. Do you know if Ms. Iglesias has ever requested to be transferred from her female facility back to a male facility?
A. She did request that, I believe about three months after she arrived.
Q. And did she withdraw that request?
A. Yes, she did.
Q. What significance, if any, do you attribute to

Ms. Iglesias' request to be transferred back to a male facility?

A. I think that the social adjustment of moving from a male prison to a female prison is significant and it can be challenging, and because that adjustment is so large, living in a female institution is so very different, that's why we've stated that we would like to see transgender women live for 12 months in a female facility before surgery.

Q. Do all transgender inmates request to be placed in prisons consistent with their gender identity?

A. No, they don't.

Q. How did BOP develop the 12-month requirement?

A. Well, the 12-month requirement really is an adaptation of the WPATH standard which talks about living in one's gender role for 12 months prior to surgery.

Q. Do you know the reason why WPATH recommends a 12-month period of living in one's preferred gender before approving gender confirmation surgery?

A. Yes. I believe it's because they recommend that period for social adjustment and engagement and really living in one's role and consolidating those experiences.

Q. So how does the WPATH 12-month standard compare to BOP's 12-month standard?

A. In many ways it's quite similar. It's an opportunity to socially adjust and to engage with peers and to consolidate

one's gender identity in relationship to peers, which although parts of that can be done for a transgender woman living in a male prison, other parts of it simply can't, and living with female peers in a prison is a unique experience, and that is where the individual would be housed following surgery, so it's important that they can be successful in that setting.

Q. Is the BOP's 12-month requirement written into BOP policy?

A. No, it's not.

Q. Why not?

A. Well, I think it's something that we -- that evolved as we were looking to consider how we would transition people who were requesting that transition to happen, and it seems like an appropriate application of the WPATH standard and also a way to ensure safety of inmates, both transgender individuals and peers.

Q. Has BOP's -- excuse me. Has BOP's 12-month requirement been applied to inmates other than Ms. Iglesias that are seeking gender confirmation surgery?

A. Yes, it has.

Q. Can you approximate the number of other inmates the 12-month requirement has been applied to?

A. I believe I can. I'm not -- Not all inmates who are requesting to be moved to a female facility are also requesting surgery, so a very broad estimate might be 20 to 30.

Q. Now, you've testified about the security concerns with placing an anatomically female inmate into a male prison. Has BOP ever placed a male transgender inmate who was anatomically female into a male prison?
A. Yes, we have.
Q. How, if at all, are the safety and security concerns different or similar between the placement of a transgender man in a men's prison and the placement of a postsurgical transgender female in a men's prison?
A. They would be the same.
Q. And why did the TEC recommend transfer of the male transgender inmate into a men's prison given those concerns?
A. Yes. The TEC had significant concerns about the transgender man's safety in a male prison and wanted for him to have the opportunity to progress in his transition at his request, and so we worked very carefully to ensure that we would -- we chose with, for example, the designation staff the most appropriate setting, the most appropriate unit and institution, where we provided training to staff before the placement took place. We went -- We did as much as we could to make sure that that placement would be safe and successful.
Q. And that individual had requested to be placed in a men's prison.
A. Correct.
Q. I want to turn to BOP's care and treatment of

Ms. Iglesias. Are you aware that Ms. Iglesias has been diagnosed with gender dysphoria?
A. I am.
Q. What treatments or accommodations for gender dysphoria has BOP provided to Ms. Iglesias?
A. So BOP has provided a number of treatments and accommodations to Ms. Iglesias, many of which have been discussed today. She's been on hormones, I believe since 2015. She is able to receive female commissary items and was even when she was in a male prison. She's been placed at a female prison. She receives female pat searches. I may have missed something, but those are the ones that I recall right now.
Q. Do you know if Ms. Iglesias has received any mental health treatment during her time at BOP?
A. Yes.
Q. Can you talk about what sort of treatment?
A. She's received a great deal of mental health treatment in her time at BOP. She has participated in a number of residential treatment programs, which typically involve four hours a day of counseling and treatment, and she has been classified since the care level system was put into place as either care level 2 or 3, which means that she's required to meet with a psychologist once a month if her classification is care 2 and once a week if her classification is care 3. She's

participated in many, many groups and individual treatment sessions to support her mental health.

Q. And she's participated in residential programs?

A. Yes, she has.

Q. How long do those residential programs last?

A. Those residential programs typically last nine months to a year. I don't know if she finished all of the residential programs that she participated in, but they're long-term programs that, as I mentioned before, include half-day mental health treatment and also provide a milieu where there's lots of support and engagement both from staff and from inmate peers.

Q. And you testified that Ms. Iglesias has been classified as level care 2 or 3?

A. Uh-huh.

Q. What percentage of BOP's inmate population is at a level 2, 3 or 4?

A. 5 percent, so she's among a group -- a small group of inmates who are getting a great deal of care.

Q. Approximately how long have these various accommodations been in place?

A. As I mentioned, the hormones have been in place since 2015. Her mental health care has been in place throughout her incarceration and has only increased in 2014. That's when the care level system came into place, so she would have been

care 2 or 3 after that, and she's been receiving psychiatric medicine as well, so --

Q. Where is Ms. Iglesias currently housed?

A. She's housed in FMC Carswell.

Q. And is FMC Carswell a women's prison?

A. It is.

Q. Is she currently in protective custody at Carswell?

A. She is.

Q. When was Ms. Iglesias transferred to Carswell?

A. She was transferred to Carswell in May of this year, I believe.

Q. Why didn't the TEC recommend Ms. Iglesias' transfer before this year?

A. Before this year, two reasons. One is that her security level was not consistent with a female prison prior to this. Female prisons only are classified as low or minimum, and Ms. Iglesias was a male low or medium or high security inmate prior to recently. In addition, there was a time when we looked at moving her recently, and at the time we looked, her hormones were not at the goal level, and so it was not a good time to move her then.

Q. Okay. So I want to ask you about each of those, the security level and the hormones. Why does the TEC require a transgender inmate's hormone levels to reach the goal range before recommending transfer to a female facility?

A. Sure. Transgender inmates typically want their hormones to be within the goal level, that they give the effects that they're looking for such as softer skin, but they also serve a number of purposes that are related to security concerns, so when inmates -- when female transgender inmates are on hormones and those hormones are at goal level, their libido is lowered, they have less muscle mass and they're less likely to have erections, and those are important for security concerns in a correctional setting.

Q. If an inmate is a transgender female, why is there still a concern about the ability to maintain erections and sexual activity in a female facility?

A. Sexual orientation and gender identity are two separate constructs that run on different continuums, so there's no reason to assume a transgender female is necessarily attracted to men or to assume that she is heterosexual. A transgender female could be heterosexual or have a different sexual orientation.

Q. Are you aware that Ms. Iglesias had previously met hormone target levels before the TEC had recommended her transfer to a women's prison?

A. Yes, I am.

Q. And why didn't the TEC recommend Ms. Iglesias be transferred to a women's prison at that time when her hormone levels had met the goal range?

A. When her hormone levels were within goal range, she was still classified as a medium security male, which is a significantly higher security classification than is appropriate for a low-security female prison.
Q. Why does the TEC believe it is important that an inmate not be transferred directly from a higher level men's prison to a lower level women's prison?
A. Well, it's for safety and security of the inmate peers who will be there in prison with the transgender individual who would be skipping security levels down to a much lower facility. The BOP has a classification system that's designed to keep inmates safe and to ensure that a more dangerous individual isn't put with less dangerous peers.
Q. So did the TEC recommend that Ms. Iglesias be transferred to a lower level men's prison?
A. Yes, it did. She was at USP Marion, which is a medium, and we made a recommendation specifically to aid in her transition that she move to FMC Lexington, which is a low-security male prison.
Q. And what is an FMC?
A. It's a federal medical center.
Q. What is a federal medical center?
A. It's a hospital that also functions as a prison.
Q. Now, did you hear Ms. Iglesias' testimony this morning that staff at FMC Carswell allegedly told her that she would

be transferred back to a male prison?
A. I did.
Q. Would any such transfer have to be approved by the TEC?
A. It absolutely would.
Q. Does the TEC have any plans to transfer Ms. Iglesias back to a men's prison?
A. None. The only reason she would be transferred back is if she were not able to be -- if her peers were not able to be safe there, and that has not been the case. The TEC is not considering that at this time.
Q. I next want to ask you about gender confirmation surgery. Has the TEC ever recommended gender confirmation surgery for a transgender inmate at BOP?
A. Yes, it has.
Q. When did it do so?
A. It did so in October of this year.
Q. Had that inmate been in a prison consistent with her gender identity for more than 12 months?
A. Yes, she had.
Q. Has Ms. Iglesias made requests for gender confirmation surgery?
A. Yes, she's made those requests.
Q. Has the TEC recommended Ms. Iglesias for surgery?
A. Not at this time, because she's not yet been in a female prison for 12 months.

Q. Has the TEC conducted a psychological or psychiatric evaluation of Ms. Iglesias?
A. No, the TEC has not. We would rely on local prison staff to do that.
Q. Are you aware that Ms. Iglesias has stated that Dr. Langham, one of her treating physicians, supports her request for gender confirmation surgery?
A. I'm aware she's stated that.
Q. What reaction, if any, do you have to Ms. Iglesias' claim about Dr. Langham?
MR. KNIGHT: Objection to the extent this calls for hearsay.
MR. KOLSKY: Your Honor, my understanding is the Seventh Circuit has ruled that hearsay may be considered at a preliminary injunction hearing, and this also goes to the TEC's knowledge of this claim. As I understand it, plaintiffs are claiming that the TEC ignored requests from providing -- from medical providers, and so it's relevant to know what the TEC's knowledge about that is.
THE COURT: All right. I'll allow it.
Q. (By Mr. Kolsky) I'll re-ask the question. What reaction, if any, do you have to Ms. Iglesias' claim about Dr. Langham?
A. I was surprised to hear that claim, as I have no knowledge of it. I did have a conversation with Dr. Langham, and he indicated that he did not say that to Ms. Iglesias.

Q. Same question concerning Dr. Quick, Ms. Iglesias' treating psychologist.
A. I also had a conversation with Dr. Quick, who indicated he did not tell Ms. Iglesias that she was, you know, to have surgery.
Q. And same question about Dr. Pass, the clinical director at USP Marion.
A. The same. I had a conversation with Dr. Pass, who informed me that he did not tell Ms. Iglesias that he was submitting her for surgery.
Q. Now, this morning, did you hear Ms. Iglesias' -- Ms. Iglesias list some additional health care professionals that she believes support her request for surgery; specifically, Dr. Munneke, Dr. Hernandez and Dr. Owings?
A. I heard that.
Q. Have you seen anything to corroborate Ms. Iglesias' testimony in that regard?
A. I see nothing in the record that supports that.
Q. If those individuals supported Ms. Iglesias' request for surgery, could they have informed the TEC?
A. Yes, they could have and should have if they wanted for something to move forward in that regard.
Q. To your knowledge, have they so informed the TEC?
A. No.
Q. Has BOP made any determinations regarding placement of

Ms. Iglesias in a residential reentry center, otherwise known as a halfway house?

A. Yes. Ms. Iglesias is ending -- nearing the end of her sentence, and the BOP has determined that she should go to a halfway house in March.

Q. March of what year?

A. March of 2022.

Q. Thank you. What is the gender of the inmates in the RRC that Ms. Iglesias will be placed in?

A. Female.

Q. And who will be responsible for Ms. Iglesias' medical care while she is in the halfway house?

A. The BOP is responsible for inmates' medical care in the halfway house.

Q. Has the BOP determined when it will next assess Ms. Iglesias for surgery after she is transferred to the halfway house?

A. Yes. She's transferred in March, and the TEC determined that they would assess her for surgery in April. That's slightly less than 12 months, but if she's assessed in April, that will allow enough time potentially for her to have surgery and recover before the end of her BOP term.

MR. KOLSKY: Thank you, Doctor. I have no further questions at this time.

THE COURT: I have just a few I want clarification.

I think you just answered one of my questions, but I was wondering if her transfer to the RRC would impact her ability to meet that 12 months. So you're saying that they will still evaluate her even after she has been transferred?

DR. LEUKEFELD: We'll still evaluate her even after she has been transferred and one month prior to the 12-month mark.

THE COURT: Okay. And if a transgender inmate is receiving medications -- antidepressant medications and antianxiety medications and yet they're still suffering from depression and anxiety, would you agree that those symptoms would stem, then, from gender dysphoria?

DR. LEUKEFELD: I'm sorry. Can you say that again?

THE COURT: So if they're on antidepressant medications and antianxiety medications but yet still have depression and anxiety and they've been diagnosed with gender dysphoria, would you agree that then those conditions are coming from the gender dysphoria?

DR. LEUKEFELD: Not necessarily. There are a number of -- Medications and psychotherapy may be working to a certain extent but may not have achieved all of their potential, and I don't believe that medications work in such a way that they treat certain kinds of depression and anxiety but not other kinds, so I think that it's possible that gender dysphoria exists and depression and anxiety exist, and the

extent to which they're interrelated is difficult to pull apart.

THE COURT: Okay. And you talked about the makeup of the TEC. There are no medical doctors on it, correct?

DR. LEUKEFELD: Correct.

THE COURT: All right. So the -- if a --

DR. LEUKEFELD: I'm sorry. There's a psychiatrist, so yes.

THE COURT: The psychiatrist, but the -- so would you make a referral, then, for a medical examination -- if the TEC was considering, say, that an inmate at a -- seeking gender-confirming surgery at a female facility, hormone levels are stabilized, would you then refer her for a medical evaluation?

DR. LEUKEFELD: Yes. For example, in the case where the TEC recently made a recommendation for surgery, we of course are working with the local health care professionals, and when we made that recommendation, we referred it to BOP's medical director, who will ensure that the individual is appropriate for surgery, that there are no contraindications, and look for a surgeon.

THE COURT: Okay. Has that person who was recently recommended for surgery received the surgery?

DR. LEUKEFELD: They have not, because that process I just discussed is happening right now.

THE COURT: Okay. And how long does it take once the TEC approves that for that next stage to go on?

DR. LEUKEFELD: I don't know for certain, but I don't think that it takes a very long time. I anticipate that a surgeon will be identified in the near future.

THE COURT: Okay. Are there any transgender inmates in BOP's custody who have received surgery?

DR. LEUKEFELD: No.

THE COURT: All right. And do you know how many BOP has evaluated for surgery?

DR. LEUKEFELD: This will be the first.

THE COURT: Okay. And so your testimony is that there's no medical provider who has recommended that Ms. Iglesias receive surgery; is that correct?

DR. LEUKEFELD: Correct. BOP's procedure is that the TEC would be making that recommendation and medical providers would refer the person in consideration to the TEC.

THE COURT: Okay. Do you want to follow up on any of that?

MR. KOLSKY: No. No further questions.

THE COURT: Why don't we take a short break. We'll resume at 2:15 with cross examination.

(Brief recess taken.)

THE COURT: Before you begin, I remembered another question that I had. You had mentioned about female

facilities being low or minimum.

DR. LEUKEFELD: Uh-huh.

THE COURT: I would assume -- I don't know -- but aren't there women who come into BOP who are at a medium or a high security level?

DR. LEUKEFELD: Our classification system has really just two levels for women, and they're minimum and low, and there's one very small unit -- it's actually FMC Carswell -- that houses -- the last time I looked, it was seven women who are -- one was on death row and the others were very, very high security, but it's a very small kind of singular unit for women who don't fit into those other two classifications.

THE COURT: Okay. Didn't know that. All right. Cross examination.

MR. KNIGHT: Your Honor, I have binders of some of the documents to -- I'm hoping this makes it easier for people to be able to see the documents, so I can provide one to the Court and one to the witness.

THE COURT: Has Counsel been given these or you have one for Counsel as well?

MR. KNIGHT: I do have one for Counsel as well.

THE COURT: Do you happen to have an extra for my law clerk?

MR. KNIGHT: No, unfortunately, I don't.

THE COURT: Okay. That's fine.

MR. KNIGHT: I am going to use some additional documents which are not binders, and I may not actually seek admission of all the things that are in the binder, but --

THE COURT: All right. You may proceed.

MR. KNIGHT: I'm ready.

CROSS EXAMINATION

BY MR. KNIGHT:

Q. Dr. Leukefeld, nice to meet you. I'm John Knight. I represent the plaintiffs. We met, I think, at your deposition. Okay. Dr. Leukefeld, you would agree that gender dysphoria is a serious medical condition?

A. Yes.

Q. Okay. And you would agree that untreated, it can result in suicide, self-castration, self-mutilation? You understand that?

A. Yes.

Q. The same can be true of inadequately treated gender dysphoria, right?

A. Correct.

Q. And whether gender dysphoria is adequately treated is going to be judged against the professional standards of care applicable to treatment of that condition, right?

A. Yes.

Q. And the prevailing standards for treatment of gender dysphoria are the WPATH standards of care, correct?

A. They are the most -- Yes, they are the standard.
Q. Hormone therapy is a form of treatment for gender dysphoria?
A. Yes.
Q. And it can be medically necessary for transgender prisoners?
A. Yes.
Q. Okay. And you understand and I think you talked about is that the Bureau of Prisons has not always provided that for people who were not on hormones prior to being incarcerated.
A. There was a time when BOP did not provide hormone therapy, that's true.
Q. They had a -- what was called a freeze frame policy?
A. Correct.
Q. They would not -- Someone who didn't have them before, they would not provide them, correct?
A. Correct.
Q. And --
A. That is no longer the case, but that was the case --
Q. Right. That changed in 2011; do you recall that?
A. I don't recall the exact year, but, yes, that did change, and it was some time ago.
Q. Okay. And it changed as a result of a lawsuit. You must be aware of that. Social transition, I believe you've talked about, or if I'm remembering correctly, you understand that's

access to clothing, grooming items, correct?
A. Yes.
Q. And that can be medically necessary for treatment of some people with gender dysphoria.
A. Yes. My understanding is it includes access to those items as well as the utilization of them with peers and people with whom you have relationships.
Q. Right. And use of correct pronouns for someone as well as names, a gender appropriate name that someone chooses, correct?
A. Yes.
Q. Being searched by persons of your gender, I believe you talked about that. That's part of social transition, correct?
A. Correct.
Q. And that can be medically necessary for some people.
A. Yes.
Q. Hair removal, permanent hair removal, can be medically necessary for some transgender individuals. You would agree with that?
A. For some people, yes.
Q. And that can include electrolysis or laser hair removal. You know that, correct?
A. Correct.
Q. I'm sorry. It's just important for the record that we get an answer. Has the Bureau of Prisons ever provided permanent

hair removal for any transgender women?
A. Not that I'm aware of.
Q. So effectively, they've got a blanket rule against it at this stage.
A. I wouldn't agree with that, but it has not been done.
Q. Well, a de facto rule against it. It's just never happened.
A. It has never happened.
Q. And surgery, that's medically necessary for some transgender people? You would agree with that?
A. I agree.
Q. Okay. But again, I think as you testified before, the Bureau of Prisons has never provided surgery to any transgender individual.
A. We're in the process of doing that for the first time now, but we have never done it before.
Q. Whether someone needs surgery is a medical decision, correct?
A. A medical and a mental health decision, yes.
Q. Okay. And I believe you -- if I recall correctly, you had said that you believe that cognitive behavioral therapy is a treatment for gender dysphoria. Did I misunderstand?
A. I believe that it is a treatment for gender dysphoria, yes.
Q. Okay. You would agree, though, that even if that's true,

it's not sufficient for some transgender individuals, is it?
A. For some people, I agree, it's not sufficient.
Q. The Bureau understands that transgender women face serious risks of harm in male facilities.
A. Yes.
Q. They often face sexual harassment and even rape.
A. Yes.
Q. And for some transgender women in male facilities -- some transgender women in male facilities have experienced those things, sexual assault and rape.
A. Yes, they have.
Q. And you would agree that the risk of those things happening is much greater for a transgender woman in a male facility than in a female facility.
A. Yes. There's potential risk for all prisoners and BOP works hard to mitigate that, and it is greater in a male facility.
Q. For transgender women it would certainly be greater in a male facility than in a female facility.
A. Yes.
Q. Okay. We've talked about the Transgender Executive Council, and I -- you've talked about the fact that there are two psychologists; yourself; Dr. McLearen, I believe, is a psychologist on that committee; is that right?
A. Correct.

Q. And Dr. Lewis is the chief psychiatrist?
A. Uh-huh. Yes.
Q. Ms. Epplin. Now, I take it Ms. Epplin -- and correct me if it's Dr. Epplin, but is Ms. Epplin a psychologist?
A. She is not.
Q. Okay. Does she have medical training or mental health training?
A. She has case management background.
Q. Okay. And then there are the Correctional Service Division individuals; Ms. Jeter, correct?
A. Correct.
Q. And some of her staff who participate?
A. That's right.
Q. And then Ms. Robbins, who's the chief of the DSCC. So those individuals -- none of those individuals have medical training, right?
A. Correct. Ms. Robbins works for Ms. Jeter at DSCC, and, no, Dr. Lewis, as you mentioned before, is a psychiatrist with medical training, and Chris Bina is a pharmacist.
Q. Okay. And you said that you don't consider yourself to be an expert in treating gender dysphoria, right? And I'm assuming the same is true for several of these other individuals. Would you agree that -- Mr. Bina is a pharmacist, for example. You would not consider him an expert in treatment of gender dysphoria, would you?

A. I wouldn't speak for him on that. I don't know what his training as a pharmacist is in regard to the medications that might be used.
Q. Okay. But you would not call him an expert in that field, would you, in the treatment of gender dysphoria? I mean, he addresses pharmacy issues for everything, doesn't he?
A. Yes, that's correct.
Q. Are any of these individuals experts in the field of treatment of gender dysphoria?
A. All of these individuals have expertise in the correctional management of individuals who identify as transgender.
Q. But you -- okay. Correctional management, right? Right. But not the medical treatment of gender dysphoria.
A. That's correct. Now, the expertise may come from local staff who work in our prisons and are providing the treatment on a day-to-day basis.
Q. Okay. And you've never provided medical treatment for Ms. Iglesias?
A. Correct.
Q. And nobody else on the TEC has provided medical treatment for her directly, has it?
A. Correct.
Q. Okay. And you said it's involved in placement, but the TEC also makes the decision about surgery, correct?

A. Yes, the TEC makes a recommendation for surgery that is passed to the chief medical officer, who then would make arrangements for surgery.
Q. So -- But no one's going to get surgery unless they get past the TEC; is that right?
A. The TEC is the body that makes the recommendation for surgery, that's correct.
Q. So -- But in other words, if the TEC doesn't approve someone having surgery, it's not going to happen.
A. That's correct.
Q. Okay. And the TEC has also made recommendations about other forms of medical treatment, like hair removal.
A. It can.
Q. And it has.
A. I'm not sure.
Q. Okay. But that's something that might come before the TEC.
A. It possibly is, because an institution could go ahead and provide hair removal, but they might look to the TEC for advice on something like that if they hadn't done it before.
Q. Okay. But when we're -- I think you said before that the BOP has never provided permanent hair removal, right?
A. I said I didn't believe it has.
Q. Okay. But -- So when you're talking about hair removal at this moment, you're talking about shaving and lotions, is that

right, for hair removal; Nair, for example?
A. I think you -- I thought you were speaking about permanent hair removal.
Q. Right, and I'm asking, is that the kind of thing that would come before the TEC?
A. Potentially, but it also might be done at -- by the institution-level staff. They're not required to ask the TEC about that intervention.
Q. Could the local staff provide permanent hair removal to an individual without the TEC approval?
A. I believe they could. They've not been told that they have to ask for that.
Q. Okay. But as far as you know, it's never happened.
A. As far as I know, but like I said, I wouldn't necessarily know of everything that happens locally.
Q. Well, doesn't the local staff have to look to the TEC for guidance on a number of medical issues, like surgery?
A. On surgery, yes.
Q. So definitely surgery, but you're not -- but maybe not about hair removal.
A. Correct.
Q. Okay. I believe that my client, Ms. Iglesias, represented a reference to Dr. Stahl.
A. Uh-huh.
Q. And Dr. Stahl is not on the TEC, is she?

A. No. She's the BOP's medical director.
Q. Okay. And she's part of the -- is there still a Transgender Care -- Clinical Care Team, or do you know?
A. Dr. Stahl was a physician in the field, and at that time she was on the TCCT.
Q. And --
A. Now she is the chief medical officer for the Agency.
Q. So -- But Dr. Stahl does not determine whether someone gets surgery; is that right?
A. Correct. The TEC makes that recommendation, and then she and her staff would work to find a surgeon and make sure that there's -- that there are no contraindications that would preclude surgery.
Q. And I believe you said that the TCCT does not make the final decisions regarding health care.
A. Correct.
Q. For -- They don't make -- okay.
A. Correct.
Q. There's no formal relationship between the TCCT and the TEC, correct?
A. Correct.
Q. Okay. And the TEC meets, you said, typically every other week?
A. The -- Yes, the TEC meets every other week typically.
Q. And that's for between 20 minutes and an hour?

A. Yes, depending on how many cases we review.
Q. Okay. And the TEC members do not get materials about prisoners or typically don't get materials about prisoners in advance of those meetings, do they?
A. Yes, they do. They receive a brief write-up with key information about the inmates who will be reviewed, and then each professional on the TEC would look to the records in their area so that they could come to the meeting informed and ready to discuss the individuals.
Q. Okay. You've worked your entire career at the Bureau of Prisons, Dr. Leukefeld?
A. I have.
Q. And for the last 12 to 13 years you've been in the Central Office doing administration, correct?
A. Correct.
Q. So you only treated prisoners for about four years?
A. Yes, four and a half years in the field and a year before that at FMC Lexington on my internship.
Q. Okay. And you've not had specific training in treatment of gender dysphoria?
A. Correct.
Q. Okay. You don't consider yourself an expert in the field.
A. Well, I have had specific training in gender dysphoria through specific continuing education, and I don't consider myself an expert.

Q. Okay. And I believe you said this, but you've never treated a transgender prisoner for gender dysphoria.
A. Correct.
Q. And you've not evaluated or treated Ms. Iglesias.
A. Correct.
Q. Nor have any of the other people on the TEC.
A. That is true, but as I mentioned, we all look to the records that relate to the individuals we discuss on TEC, and we call professionals in the field who are the treating professionals to discuss those individuals and to ask questions of them.
Q. The TEC has known that Ms. Iglesias has been suicidal for a long time.
A. Physically she has been suicidal and has engaged in self-harm at some point in her -- during her prison sentence, but I don't know that I would characterize it to say that she's been suicidal for a long time. She's had episodes of suicidality.
Q. She's -- Right. She's had multiple episodes of threats or -- where suicide was a serious concern --
A. Correct.
Q. -- at the Bureau of Prisons.
A. Yes.
Q. Okay. I'd like to take a look at the TEC records. You understand that Ms. Iglesias has been seeking surgery for a

very long time.
A. Yes.
Q. The TEC's aware of that.
A. Yes.
Q. And has known that she's been seeking it since 2016.
A. I can't speak to 2016, as of that date, but, yes, she's been seeking it for a long time.
Q. Well, let's take a look at some of the TEC records, and the first record is in the binder, which is -- make sure I've got this at the right place. Okay. It should be at number 7, and these are selected pages Bates number 370 through 682, and I'd like to look through some of those with you. Now, I thought that I had put together all of -- a group of all of the different committee meetings, but then I discovered that some were not included in this batch that was produced to us, so I'll have to cover those separately as we get to them, but let's take a look. In 2016 Ms. Iglesias is on the agenda. You see that's on the -- on page -- the very first page of this group?
A. Yes.
Q. Now, it says that she's -- there's a BP-9 that's come to the TEC saying that she's requesting gender reassignment surgery. Do you see where I'm reading on the second page, Bates 373?
A. Yes. Yes.

Q. Okay. And then the -- there's a question for the team, discussion on BP-9, consider transfer. You see where I'm reading?
A. Yes, I do.
Q. So as early as 2016, there was a discussion of surgery and then there was also a question raised for the team about transfer.
A. Yes.
Q. That's right? Okay. Let's look again on the next time she comes up, which is September 12th. This time it looks like she's -- she herself is requesting transfer to a female facility, and the information about her indicates that she's doing very well, no problematic behavior, attending therapy, suspected of being in a relationship but no allegations or investigations made, no inappropriate behavior, okay? And then she's up again, it looks like, February 6. Again, she's up -- here she's reporting that she's a victim of a sexual assault, she no longer feels safe, and as I understand it, she's still requesting transfer.
A. Yes.
Q. And this -- I'm sorry?
A. Yes, she is. She's also in a medium-security facility, which is one of the challenges in terms of moving her to a female facility.
Q. Okay. It does indicate she's -- that she had requested

transfer -- I'm reading in the middle -- and was reviewed a few months ago and was determined that she should continue to demonstrate stability and be reviewed in the future. Since her last review she's continued to participate in treatment and has remained stable. So according to these notes, she was stable at the time, and that's what you were looking for, stability.

A. Yes, that's a part of what the TEC would look at. She was stable, and that's good, and she's also a medium-security inmate, which makes it inappropriate to transfer her to a low-security female facility at that time, so the TEC is asking for her to continue to engage in treatment and to not get incident reports, no misbehavior, and that is what supports her ability to move to lower security facilities.

Q. Okay. And then she -- But you did not move her to a low-level male security institution at that time, did you?

A. I don't believe at that time we did, and that may well have been because her custody classification didn't support it yet.

Q. Okay. Well, I'm not going to go through each one of these, but if -- as we walk through this, she's requested surgery, transfer multiple times. It's come up repeatedly before the TEC, and yet she's always denied --

A. Well --

Q. -- both of those things.

A. Yes. When I flip to the next page, I see this is when she was moved to FMC Lexington, which -- so she was moved to a lower security facility.
Q. This is September 11, 2017?
A. I'm sorry. I don't know if I'm -- January 27, 2020, it looks like, and then the next page where she was at Lexington, so the previous review would have been when we made that recommendation.
Q. Okay. Well, we can continue going through this, but repeatedly she's sought transfer and repeatedly there's one barrier or another to transfer or surgery, until a few months ago.
A. I don't agree with that. She was moved to Lexington, which was a lower security prison, and that was a step toward female facility for her, and she had left Lexington for Fort Dix and she was reviewed at Fort Dix, and that's when she was moved to a female facility.
Q. All right. Let's take a look at -- I think is in the binder at 8, and this is October 7th, 2019.
A. But not the first page. Oh, I see.
Q. Oh, I'm sorry. Right.
A. We're looking at the second page, correct?
Q. Right. So this is Iglesias A 0001, 0004, and this is the October 7th, 2019, meeting, and this is when she's transferred to --

A. Here she's at Marion, correct.
Q. Right. Okay. This is when she's in Marion, and indicates she's -- initially was diagnosed in 2014 with gender dysphoria, has consistently manifested her desire to live as a female since that time. You would agree with that.
A. Yes.
Q. And she's consistently attempted to portray a female appearance to the extent possible.
A. Yes.
Q. And she's received hormone therapy consistently since 2015 as in compliant hormone levels are appropriate for a transgender female, she's adjusted well, has a good therapeutic relationship. You would agree with all of that.
A. Yes, that's what's written on the page when she was considered for transfer at Marion, and that's when we moved her to a low-security facility.
Q. Okay. And then she's up -- binder number 4, which is the March 9th, 2020, this indicates that she was considered -- this is a review of her --
THE COURT: Can I --
MR. KNIGHT: I'm sorry?
THE COURT: You said binder number 4. Are you still --
MR. KNIGHT: I'm sorry. Number 9, which I'm not sure if there's -- I may have -- so this would be the March 9th,

2020, records. I may have messed up my binder numbers. This is Iglesias A 24.

THE COURT: Okay. That's the first page under tab 8.

MR. KNIGHT: Okay.

DR. LEUKEFELD: I'm sorry. The first page where?

THE COURT: Under tab 8.

DR. LEUKEFELD: Oh, okay.

Q. (By Mr. Knight) So this would be the March 9, 2020, meeting, and you reviewed the labs regarding compliance, additional labs have been ordered. So what happens on March 9th? Why isn't she transferred to a female facility at that point?

A. So it looks to me like we reviewed the labs but they weren't current, and new labs were requested so that we could use current information.

Q. Okay. Well, looking at what's binder 7, this is -- and it's Bates number 656 -- this, I believe, is where you say you're not transferring her because her hormones level -- hormone levels have fallen below goal, have not been maximized.

A. Yes, yes.

Q. Okay. So those were -- those obviously had been maximized well before. We talked about that. They had been for a number of years, and yet BOP had not transferred her until it finally transferred her to -- it had not transferred her to a

female facility, had not transferred her to a low-level security until I believe it was 2019, when she was transferred to FMC Lexington; is that right?

A. I believe it was 2019, yes, she was transferred. When her security classification qualified her for low-security institution, we moved her to Lexington, and then when she was considered at Lexington for her next move, her hormones were not at goal, but she needed to move, so she went to Fort Dix.

Q. Ms. Iglesias has not had a history of violence at the Bureau of Prisons. You understand -- I mean, I can show you the records that indicate that, that there was no -- there's been no history of violence on her part.

A. Ms. Iglesias has been classified as a medium- or high-security inmate for much of her time in BOP, and a lot of different considerations go into that classification, and I'm not a case management expert, but those would include things like her initial crime, her adjustment, her compliance with prison rules, all of those things, and so the custody classification system is what makes -- along with her behavior and her adjustment in prison is what determines her security level.

Q. So ultimately, I think what you're saying is that her behavior and whatever her history of her crime is the reason she's not gotten surgery; is that right? Her disciplinary history and her original crime, that's the reason why she's

not gotten surgery.
A. All of that plays into her ability to progress, which is not entirely -- I guess her ability to progress to a female institution is related to her institution adjustment and her history and her behavior as she moves through our prison.
Q. But ultimately, I think it's clear what you're saying is that because of her -- whatever the classification and however her discipline or her criminal -- original crime are the reason she was not transferred much earlier to a female facility, and ultimately that's the reason why she's not gotten the surgery she needs.
A. Not necessarily, but those are a piece of the progression. Those impact her transition and her progression.
Q. Well, ultimately, she could not have -- I think what you've said clearly is that she could not get surgery until the Bureau of Prisons moved her to a female facility, and because of her classification level, it was not going to do that.
A. I think what I'm trying to communicate is that following surgery she would be required to be housed at a female facility and there would really be no other appropriate place to house her, and it's important that her female peers in that facility are safe in terms of who they're placed with and that she's safe along the way as well.
THE COURT: How -- Let me just ask you, how often --

so I'm familiar with sending people to BOP, that they get an initial security classification. How often is that reevaluated?

DR. LEUKEFELD: It's reevaluated every six months.

THE COURT: Every six months, for every inmate.

DR. LEUKEFELD: For every inmate, until the very last year, I think, or the last, and then it's every -- it's multiple, frequent.

THE COURT: Okay.

MR. KOLSKY: Your Honor, if I may interrupt, I've just -- I've been informed that BOP needs to move Ms. Iglesias back to secured housing at 3:30, so I just wanted to inform the Court of --

THE COURT: Okay. Well, hopefully we'll be wrapping up at that point.

Q. (By Mr. Knight) Okay. And I believe that the TEC has stated that it's recommending Ms. Iglesias for surgery one month after placement in a residential reentry center.

A. Right.

Q. Is that correct? Has it considered and denied her request for permanent hair removal?

A. I don't believe that the TEC has considered that request. I've reviewed records, and I just didn't see that that was something that the TEC considered.

Q. You're aware, though, that the -- she has grieved the

denial of permanent hair removal and the -- and Central Office has denied that request for permanent hair removal.

A. Yes, I heard the testimony earlier today.

Q. But it -- But that's never been the TEC who made that denial as far as you're aware.

A. As far as I'm aware.

Q. Okay. Let's talk about the reasons -- the one-year requirement. So you -- the policy's not written down -- I think you said that before -- this one-year requirement.

A. Correct.

Q. It -- The TEC's concern is that a transgender woman might seek to be transferred back to a male facility and we're not going to know whether that's going to happen until a year has passed. Is that the concern?

A. There are two concerns with placing transgender women in female facilities before surgery. One is whether they will feel comfortable in which to stay, and it's -- we've seen that it's a challenging transition and that some women do request to leave, even when we encourage them to stay, and I'm glad Ms. Iglesias decided to stay. The other concern is the safety of peers, female peers in those facilities, and ensuring that they are safe and that we can safely house that individual with their peers.

Q. So to be clear, if -- and you're basing that on the fact that one transgender woman requested transfer back. You've

got an example of one where that's happened.
A. Ms. Iglesias did request it once, although she pulled back her request, and then we did have one transgender woman who requested to go back and did. We've also had a transgender woman who we were not able to maintain at a female facility.
Q. So I believe you said that there are clearly transgender -- I'm sorry -- cisgender women who present disciplinary problems, who engage in sex with other women, who have problems, but you would never transfer a cisgender woman back to a male facility.
A. That's correct, and we would also never transfer a postsurgical transgender woman back to a male facility.
Q. And, I mean, you're aware, of course, that cisgender women at a women's facility might not be entirely accepting of transgender women there.
A. That's possible.
Q. That could easily be the reason why they would request a transfer back, they don't feel comfortable.
A. That's possible and unfortunate, and I think it's important to note that that could persist following surgery.
Q. So if a cisgender woman were having difficulty with peers at a female facility, you wouldn't transfer her to a male facility, would you?
A. No, and I want to say that we didn't transfer the woman who requested to go back due to difficulty with peers. We

transferred her because of her request.
Q. Right, but her request was based on difficulty with peers.
A. Yes.
Q. That was your testimony.
A. Oh, yes, that's why she requested it, but if she would have wished to stay at the facility and -- you know, despite difficulty, we would have supported that and we would have tried to work to ameliorate that difficulty.
Q. Right, but again, assume that a cisgender woman had said, I've got difficulty with peers, I want to go to a male facility, or for whatever reason, I want to go to a male facility. You wouldn't allow that, would you?
A. No, we wouldn't.
Q. Even if she requested it.
A. No. I mean, I think it speaks to the difficult space that transgender women are in.
Q. Well, I think it speaks to the fact that the Bureau of Prisons doesn't see transgender women as women.
A. No, I don't agree with that.
Q. Well, and you're clearly treating transgender women quite differently than you're treating cisgender women.
A. Are you suggesting that we should transfer all women aside from their requests, all transgender women?
Q. I'm saying do you think that -- do you really think that Ms. Iglesias if she had surgery would seek transfer back to a

male facility?
A. I don't know the answer to that. I can't answer that.
Q. Well, I mean, clearly -- we don't have to speak for all transgender women, because clearly, I mean, there's a range of experiences in treatment of transgender people. It's an individualized treatment modality. But Ms. Iglesias you know has been seeking transfer to a female facility since 2016 consistently, over and over and over.
A. I know that she has.
MR. KOLSKY: Objection. Counsel's testifying. I don't think there was a question there, Your Honor.
MR. KNIGHT: That was a question.
THE COURT: I think that was a question. You can answer.
A. What I would say is that Ms. Iglesias has already requested once to return to a male facility, and she pulled that back and I'm pleased for it, but it's a difficult transition, and I think part of the value of transition is giving time to people to allow them to work through those issues.
Q. (By Mr. Knight) Well, isn't part of the difficulty of the transition something that the Bureau of Prisons needs to work on? In other words, the acceptance of a transgender woman in the women's facility is something that is the Bureau of Prisons' responsibility, isn't it?

A. It is, and those are the kinds of things that I do think we've taken important steps towards. We have worked to train -- We worked to train staff at Carswell before we put transgender women in Carswell. We did training with all staff at Danbury before we put a transgender man in that setting. We've provided specialized training to mental health providers and medical providers, so, yes, I agree that that's important, and that is something that we've done.

THE COURT: Do you do any training for inmates?

DR. LEUKEFELD: I do not believe that we've done specialized training for inmates, partly due to the privacy of the individual who's moving in. They might want to deal with that, or disclose or not disclose.

Q. (By Mr. Knight) Dr. Leukefeld, can you think of any other medical care that can only be provided someone after they've been transferred to and successful in a particular prison or a particular security level?

A. We certainly do offer treatment -- Treatment and the environment interact in all cases, and so there are some treatments that are offered at some security levels and not at others. However, I see your point, that this is one of the very challenging aspects of managing transgender individuals in prison and supporting and treating them, and so the Bureau has worked hard to balance security and care needs.

Q. So you had said that the one-year requirement serves to

ensure that housing placement works out after surgery for a transgender woman; is that -- am I understanding that right?
A. Yes, that's one of the reasons.
Q. So does that mean that if the placement doesn't work out, you would deny the woman a -- the transgender woman the surgery she needs?
A. If a transgender woman cannot be safely housed in a female facility, then we would not maintain her there, if her peers couldn't be safe in a female facility.
Q. So in that instance, you would believe that a postsurgical transgender woman would present a safety risk in -- to the cisgender woman. Is that what you're saying? Actually, I'm talking about the instance of someone who you're going to deny this. So you're going to deny someone surgery because of their -- the discipline that they underwent at the female facility.

MR. KOLSKY: Objection. Calls for a hypothetical.

THE COURT: I'm not sure I understand your question. Can you rephrase it?
Q. (By Mr. Knight) Sure. Sorry. You -- I just want to understand, Dr. Leukefeld, you're saying that if a transgender woman -- if things didn't work out for a transgender woman, she engaged in some kind of activity that -- and was disciplined for it, you would deny her the surgery that she needs.

MR. KOLSKY: Same objections. Calls for speculation.

THE COURT: I'll let her answer.

A. No, I'm not saying that because of any disciplinary infraction we would return a transgender woman to a male facility. That's not the case at all. As you pointed out, cisgender women have disciplinary infractions in female prisons. What I'm talking about is something more than disciplinary infractions. If an individual can't be safely housed around female peers, we would not maintain them in that prison, and as was stated before, all care is individualized, and that may mean that they would return potentially to a male prison and other forms of care would be provided as necessary and appropriate.

Q. (By Mr. Knight) Okay. Well, I think that -- I think you're saying what I'm asking, which is that if things didn't work out for the transgender woman and she was -- you felt like you couldn't safely house her there, then you're not going to give her the surgery.

A. I think if the surgery was really needed, we would have to think hard about how to individualize care, but I don't have an answer for how that would happen right now.

Q. Okay. And I think I asked a version of this, but is there any other woman -- a cisgender woman whose medical treatment would be contingent on lowering their security level?

A. I think I answered that before. Some types of treatment

and care are available at some types of institutions and not others based on either security level or the sex of the inmates who are housed in those institutions, so, yes, we certainly do have those kinds of situations.

Q. So the Bureau of Prisons -- I'm sorry. Were you finished?

A. There's some types of care that are offered only at certain types of facilities, and so it's true that if an individual doesn't necessarily qualify for that institution, we would select a different type of care to provide to them that would try to achieve the same goals, but it might be a different program of care.

Q. Okay. But if there is only one form of care that's going to work to resolve someone's medical condition, is there any other condition other than gender dysphoria where you would deny that care to a prisoner because of their security level?

A. I think the answer is no, but I am not -- you're asking me something that's difficult to respond to. I don't have another thing in mind, so --

Q. Can't think of anything.

A. No.

Q. Okay. And I believe you said that there are transgender -- I'm sorry -- 1200 transgender people living in BOP custody?

A. Correct.

Q. And never has BOP found that any of them -- that surgery

is medically necessary for any of those 1200 transgender individuals until now.
A. We -- In October we put someone forward. We -- TEC recommended surgery.
Q. Okay. And I think we've said this, but the -- you understand that the BOP 12-month standard is different from the WPATH standard. In other words, your -- this is the BOP's interpretation of the WPATH standard.
A. We consider it an adaptation of the WPATH standard.
Q. There's not any other prison that has a similar one-year requirement for surgery that you're aware of, is there?
A. I don't know if there are or not.
Q. So BOP has a program statement that talks about -- sets a very high barrier for transfers. You're aware of that, the transgender offender manual, and that is number 6 in the binder?
A. Yes, I'm aware of that.
Q. So you're aware of that. And it says that the designation to a facility of the inmate's identified gender would be appropriate only in rare cases. Is that why it's taken so long to transfer Ms. Iglesias to a female facility? She's one of the rare cases?
A. No, it's not why it's taken as long as it's taken.
Q. So this program statement played no role in the BOP's waiting this long to make the transfer.

A. That language was in the program statement for only part of the program statement's existence, and no. Ms. Iglesias has been working toward -- she's been requesting it actively, she's been working toward it, and the TEC has been reviewing her case and made a recommendation when her security level allowed her a low-security prison, and then she was transferred to a female prison.

MR. KNIGHT: Okay. May I have a moment, Your Honor?

THE COURT: You may.

(Off the record.)

Q. (By Mr. Knight) Okay. I'm sorry. This is -- I think we've talked about this, but just to nail down, you -- the BOP will not provide surgery to someone unless they've been in a female facility for a year, correct?

A. Typically, yes. As you can see in Ms. Iglesias' case, we're working to be flexible, and we said the TEC would review in April, which is slightly less than a year, but we'd give her time to receive surgery before the end of her sentence.

Q. So that's 11 months.

A. Uh-huh.

Q. Right. So if 11 months, why not 10 months? I mean, I'm just having trouble with this. I mean, it seems like an absolute very arbitrary bar.

A. It's the same bar set by WPATH for 12 months living in one's gender.

Q. Okay. But it was --
A. That's where the BOP's guidance comes from.
Q. Right. Well, and as we've clearly established, the WPATH standards are flexible. There's no -- But the reality is Ms. Iglesias has lived as a woman for -- in every possible way for years and years. You understand that. The BOP understands that.
A. She's lived as a woman in many, many ways. She's not lived as a woman in a female facility, so I wouldn't say every possible way.
Q. So it's -- So you can only be a woman if you live in a women's facility. Is that the BOP's position?
A. No, that's not what I said. I said she's lived as a woman in many, many ways but not every possible way. You said every possible way, and I disagree with that part of your statement.
Q. Well, I mean -- okay. The reality is, your view -- BOP's view is that real-life or the social transition living as a woman is only possible if you're living in a women's facility.
A. That's an important part of social transition.
Q. Well, and for BOP, correct?
A. Yes, for prison inmates, that's an important part of social transitioning.
Q. Okay. The -- And just to be clear, if things don't work out for Ms. Iglesias and you transfer her back to a male facility -- and I know you said that's not what the TEC

intends to do, but you haven't taken that off the table. You've certainly done it in the past. Well, you mentioned before you've done it once in the past. You've sent someone back because of misconduct.

A. Egregious misconduct, yes.

Q. Okay. Well, but if that were to happen, you would deny her the surgery she needs no matter how clearly medically necessary it is.

A. I don't know the answer to that. As we've said, care is individualized, and I don't imagine Ms. Iglesias will be returning to a male prison, but in any case, it appears she'll go to a halfway house in March, and so those are -- there are a lot of changes on her horizon, and we would try to be flexible as we considered what was best for her in terms of care.

Q. When Ms. Iglesias lived in male facilities, she certainly was around women in those facilities, right? She was around female staff.

A. She was around female staff. I think female staff and female peers are two very different groups that would bring on very different social roles and interactions.

Q. Well, and she was around other transgender women.

A. Yes.

Q. And those are women.

A. Yes.

Q. So she was interacting with women, in fact; just not in a women's facility, all-women's facility.
A. Yes, she had some transgender peers in those facilities.
Q. And just to be clear, at this point the Bureau of Prisons hasn't taken a position on whether Ms. Iglesias has a medical need for surgery.
A. Correct.
Q. Because all it's done is say she's close enough to the one year that we'll have someone else evaluate her.
A. I'm not sure I -- The TEC's --
Q. The TEC.
A. The TEC's position is that we will evaluate her for surgery in April.
Q. Okay. And so she's -- Ms. Iglesias has been seeking surgery since 2016 and we're in 2021, and it's going to be 2022 before she's even evaluated for surgery.
A. That's correct. She's had a lengthy transition because she's had to move down in security level in order to go to a female facility. Now she's there and she's experiencing life with female peers, and we'll evaluate her earlier than typical because we recognize that she will be released.
MR. KNIGHT: I would like to seek some admission of a couple of these documents, which maybe it's best if I organize myself in -- if that's all right, Your Honor. I'm sorry. I know I've taken a lot of the Court's time.

THE COURT: We can do it at the end. Okay. I have a few questions too. Just so that I'm clear, you're saying there was only one transgender woman who was a threat to others or had egregious behavior and was transferred back to a male facility; is that correct?

DR. LEUKEFELD: That's correct.

THE COURT: Okay. And what are the types of conditions where you were talking with Mr. Knight about some things aren't offered at some facilities and so there might be an alternative treatment? Like, what's an example of that?

DR. LEUKEFELD: Sure. So for example, the challenge program is -- that's a high-security male drug treatment program. It's only offered at penitentiary, only at high-security institutions. For a long time -- and happily, we have resolved it -- our trauma treatment program was only offered at female facilities. So there are certain types of programs that are only offered for certain -- at certain -- either male or female or certain security levels, and we would always work to make sure that they have their needs met, even if a particular program wasn't there.

THE COURT: Are any of those other conditions for which treatment is being sought considered a serious medical condition?

DR. LEUKEFELD: Yes, and we would definitely work around that. So, I mean, I think of serious mental illness,

right? Some institutions are going to have programs and others aren't, but we would -- there's just more flexibility. When it comes to prisons, they come in male and female, and those are the only two types of prisons that we have, so, yes, there are serious medical or mental health conditions that can't be treated at certain types of institutions, but we've got more flexibility to work around them.

THE COURT: And what do you do with a -- and I'm sorry if you covered this, but just so that I'm clear -- with a cisgender woman who can't get along with her peers and has multiple disciplinary infractions? How do you handle that person?

DR. LEUKEFELD: She would never go to a male institution. She would potentially get a rise in security level; maybe she was minimum and she would become a low. There would be progressive discipline if the behavior was under her control, and potentially, hopefully for a short time, she could be placed in restrictive housing, but those would really be the options.

THE COURT: Okay. And just so I'm clear, and you said that -- I think we've -- both things have been said here today. Is the committee going to recommend surgery in April or refer her at that time for an evaluation?

DR. LEUKEFELD: The committee will make a determination about whether to recommend in April, and if it

does, she would immediately be referred to the medical director to find --

THE COURT: Okay. So first you have to recommend it and then she would be referred, and for the one that you just mentioned in October who was referred -- were they referred or recommended?

DR. LEUKEFELD: The TEC recommended surgery and referred her to the medical director. Medical director would not -- will do surgery unless there's some kind of contraindication.

THE COURT: And that's the BOP medical director?

DR. LEUKEFELD: Correct.

THE COURT: Okay. But you don't know how long that's going to take.

DR. LEUKEFELD: I don't know how long it will ultimately take, but I -- but it is underway.

THE COURT: All right. Mr. Knight, do you want to follow up on any of that?

MR. KNIGHT: I'm sorry. I'm not entirely sure this is specifically following your questions, Your Honor.

Q. (By Mr. Knight) I guess I'm -- If -- Let me -- I'm sorry. So I believe in response to Your Honor's questions you said -- you talked about some different alternative programs, you said it's medically necessary, but those are alternatives, right, so --

A. They are.
Q. You're not -- Okay. Didn't want to cut you off. So -- But you're not suggesting that there's an alternative to surgery for Ms. Iglesias. Medically -- If surgery is medically necessary for her -- and clearly you recognize that it can be. You haven't said one way or the other whether it is, but -- because you haven't gotten to that point, right?
A. Uh-huh.
Q. But if it's medically necessary for her, there's no alternative, is there?
A. You're right. I think that's the challenge we have in prisons with treating transgender individuals, is trying to both safely house them and meet their needs.
Q. Okay. And I guess I'm -- the biggest thing I'm having trouble with is that the Bureau of Prisons seriously thinks that Ms. Iglesias after living as a woman for decades is suddenly going to decide she doesn't want to continue to do that. Is that what you're saying?
A. That's not what I'm saying.
Q. Well, why -- if she's not living as a woman and she's not presenting as a woman, why would you send her back to a male facility?
A. I don't think the Agency has any interest in sending her back to a male facility, but the goal is for her to have the opportunity to do a full social transition, to engage with

peers and to consolidate her identity, to not move through this very, very quickly, and to ensure safety and thoughtfulness as we move through this. As I mentioned, it is flexible. We say 12 months and we're -- we've made a plan to reevaluate at 11 months to ensure that the opportunity is available to her if the TEC makes a recommendation for surgery.

Q. Has the TEC made arrangements for permanent hair removal for Ms. Iglesias?

A. No. As I mentioned, I don't believe the TEC has considered that.

Q. Well, you understand that she needs permanent hair removal before she can have surgery.

A. Oh, in regard to surgery, that -- I understand that that is a piece of surgery.

Q. And has the TEC taken that into account? I mean, I guess my concern is that this is never going to happen under the circumstances we're talking about here. Can you tell me otherwise?

A. No, I'm not sure what the question is.

Q. Well, the question is, is Ms. Iglesias ever going to get surgery under the circumstances we're talking about here? The TEC still hasn't decided to recommend her for surgery to the medical director, has not made arrangements for permanent hair removal, has not made arrangements for a surgeon as far as I

can tell, so my client, I think, would like to know if it's ever going to happen.

A. The TEC set a date to consider her for surgery. That takes into account her release date and will ensure that if she's recommended for surgery, she'll have time to recover in BOP custody. The TEC has provided her feedback over time about -- has made requests of her to, you know, manage her behavior, to participate in treatment. She's done those things. I understand it's a process, and progression is happening.

MR. KNIGHT: No further questions.

THE COURT: All right. Do you have any redirect?

MR. KOLSKY: A few questions, Your Honor.

THE COURT: Okay. Just a few, then we'll excuse Ms. Iglesias and I'll take closing arguments.

MR. KOLSKY: Thank you, Your Honor.

REDIRECT EXAMINATION

BY MR. KOLSKY:

Q. Dr. Leukefeld, Mr. Knight asked you -- I think the question was can you think of any other medical care that can only be provided after transfer to a particular facility. Do you recall that question?

A. Yes.

Q. I have two questions related to that. First, are BOP prisons segregated by gender?

A. Yes, they are.
Q. And second, can you think of any other medical care that changes a person's gender?
A. No.
Q. Counsel also asked you about the 1200 -- roughly 1200 identified transgender inmates in BOP custody and asked how many of them have received surgery. Do all transgender inmates in BOP custody request gender confirmation surgery?
A. No, they don't all request surgery, and many of them don't request to move to female facilities or facilities that align with their gender.
Q. Do most of them request surgery?
A. No.
Q. You were asked a number of questions about transfer to a female facility. So just to be clear, is Ms. Iglesias currently housed in a female facility?
A. Yes, she is.
Q. And does the TEC have any plans to transfer her back to a men's facility?
A. No plans whatsoever.
MR. KOLSKY: Thank you. No further questions.
THE COURT: All right. Thank you. You may step down.
All right. So I'm told Ms. Iglesias needs to go back, so I think -- well, I'm operating under the assumption

that that was your only witness. Is that correct?

MR. KOLSKY: Yes, Your Honor.

THE COURT: All right. So I will excuse Ms. Iglesias. Let's take about a ten-minute break, and at 3:40 I'd like just brief -- very brief closing arguments about the testimony here today.

(Brief recess taken.)

THE COURT: Who will give the arguments for plaintiff? And let's try to keep it to about ten minutes.

MR. KNIGHT: I will keep it quick. All right. Your Honor, plaintiffs have met -- have shown Ms. Iglesias meets the four factors for granting a preliminary injunction; likelihood of success, inadequacy of legal remedies, irreparable harm from being denied surgery and hair removal, and that the balance of harms favors the relief she seeks.

Now, at the closing of Dr. Leukefeld's testimony, to justify why this medical treatment can be denied someone, she said that there's no other surgery that can change a person's gender, so effectively, the Bureau of Prisons is saying Ms. Iglesias is not a woman until she has surgery. That's, I think, the implication of the testimony, and that means ultimately -- and I -- and at another point she said that if medically -- if the classification got in the way or somehow prevented access to medically necessary care or the treatment that is needed, we'd have to work something out, so the

question, I think, is ultimately, why hasn't the Bureau of Prisons worked something out years ago? Ms. Iglesias has needed surgery for years, and I think the testimony is abundantly clear of that. Dr. Ettner is the only one who offered testimony today about the medical necessity of surgery and permanent hair removal for Ms. Iglesias. The Bureau of Prisons did not rebut that testimony. They simply said, we haven't considered it, we're going to consider that down the way; first we're going to require a month -- I'm sorry -- 12 months but now we're going to require 11 months and we're not going to actually have her evaluated to determine whether she needs the surgery and gets started with the treatment that she needs until 11 months have passed, and even then they're just going to make a recommendation to the director, Dr. Stahl. Needless to say, that's -- the evidence I think overwhelmingly shows, Your Honor, delay after delay after delay on the part of the Bureau of Prisons in terms of providing the medically necessary care that Ms. Iglesias needs.

The only reasons that the Bureau of Prisons has given for denying her permanent hair removal and surgery -- well, let's talk about surgery in particular, because they've offered no reason why she shouldn't have the permanent hair removal. The only reason they've offered for denying her the surgery is that she's not at the right security level, needs

to be stable, they said at one point needs to be in a female facility, but those are not medical reasons, and where security gets in the way of necessary medical care, again, Dr. Leukefeld said, we'd have to figure something out. Well, the Bureau of Prisons should have figured something out by now. There is simply no reason to wait the -- what is it -- we're in November -- the four or five additional months to even consider her for surgery. That, I think, is the evidence that shows a violation of the Eighth Amendment and also a violation of the Equal Protection Clause.

Ms. Iglesias is clearly treated differently from cisgender women because she is transgender. She's being treated differently both in terms of access to medically necessary care and in her placement. She's been seeking placement for years. Dr. Leukefeld agreed that all cisgender women are placed in a female facility. What this case asks is not that all transgender women be placed in a women's facility. What it asks is simply that that -- the Bureau of Prisons' treatment of Ms. Iglesias for many, many years differently from other women because she is transgender not be the barrier to her getting the necessary medical care that she needs, gender-affirming surgery. That's what the Bureau of Prisons has created. That violates both the Equal Protection Clause and the Eighth Amendment. The evidence shows that this treatment is objectively inadequate. Dr. Ettner's testimony

shows that clearly, and that is unrebutted testimony, and the Bureau of Prisons knows that the care that it has provided is inadequate and has for years, and that fulfills the subjective prong of the Eighth Amendment. We believe that a preliminary injunction should be entered, Your Honor.

THE COURT: And as of today, what is it exactly that you're asking for in the preliminary injunction? Because now that she's housed at a female facility, you had asked for that, and to protect from the known and serious risks of harm she continues to face while housed in a men's prison. So you're seeking an injunction to provide her with medically necessary health care, including permanent hair removal and gender-confirming surgery?

MR. KNIGHT: Yes, but we're also asking for an order that she not be returned to a male facility, because where she was, she faced serious incidents for years, and the evidence shows that, and the Bureau of Prisons has indicated that it has sent some transgender women back to male facilities. Absent an order to prevent that, it's always a risk that we're seriously concerned about.

THE COURT: Okay. And is there anything in the record, any medical records to substantiate Ms. Iglesias' testimony here today that doctors have recommended her for surgery or said that she would be a good candidate for gender-confirming surgery?

MR. KNIGHT: We -- Your Honor, we don't have those records. I guess I would simply say that those -- I -- you know, we -- I was not a part of this conversations with those entities. They didn't testify here today. Those individuals -- I'm sorry -- entities -- individuals, Dr. Quick, Dr. Langford, I think it is, may -- I mean, and I'm not sure that Dr. Leukefeld actually said that they don't believe she is qualified for a surgery. She said that they haven't conducted a formal evaluation, so I think ultimately we don't have records that support it. I don't think that Dr. Leukefeld's testimony precludes the fact that in fact they did examine her and say she needs surgery, but ultimately those -- all of those individuals report to the Bureau of Prisons. Their paycheck comes from the Bureau of Prisons. They want to hold on to their jobs, and ultimately they know that the Bureau -- the TEC makes the final determination, so they may say, well, yes, we support you, but we can't formally move forward with your need for surgery until the TEC says we can.

THE COURT: Okay. I get it. All right. Thank you.

MR. KNIGHT: Thank you.

THE COURT: Who will give closing arguments for defendants?

MR. ROBINSON: I will, Your Honor. John Robinson for the United States.

THE COURT: All right.

MR. ROBINSON: Good afternoon. At the outset, I just want to thank the Court and the Court's staff for their time today. I know it's been a long day, and we appreciate their time and your time, of course.

I also want to emphasize at the outset, as I hope was clear through our briefing and through the presentations today, including Dr. Leukefeld's testimony, that there is no dispute from the Government that Ms. Iglesias' gender dysphoria is a serious medical condition that requires attention, that Ms. Iglesias deserves our respect, and the Bureau of Prisons takes its obligation extremely seriously to protect her from harassment and harm.

I also want to emphasize three developments that we heard today that I think are important to the resolution of plaintiff's motion for preliminary injunction, because none of them had taken place at the time they filed their motion several months ago. First, as the Court heard, in May of 2021 of this year, Ms. Iglesias was transferred from a men's facility to a women's facility, where she's currently being held in protective custody, and Dr. Leukefeld testified that the TEC has no plans to transfer her back to a men's facility. If that were even considered, the TEC would -- it would come before the TEC, and we would of course notify plaintiffs and the Court immediately if that was something that was being

considered. It is not being considered.

Second, since plaintiff filed her motion for a preliminary injunction, she has been scheduled to be transferred to a halfway house in March -- on March 24th, 2022, which is approximately four months from today, and third, the Bureau of Prisons Transgender Executive Council has announced that it will meet in April of 2022 to consider Ms. Iglesias for surgery, and while that's slightly shorter than her 12-month anniversary in a women's prison, the Bureau has decided to do it at that time to make sure that she has sufficient time to recover if she's approved for surgery before she is released in December of 2022, released from BOP custody in December of 2022.

So what is in dispute, and what's in dispute is the question of deliberate indifference, and I really want to emphasize at the outset that this is an Eighth Amendment cruel and unusual punishment deliberate indifference claim, and we would respectfully submit, Your Honor, that plaintiff has not met her burden to establish entitlement to what would effectively amount to not just a preliminary injunction but a permanent mandatory irreversible injunction that would ultimately give her the relief that she's seeking in this case in the context of gender confirmation surgery.

So I'll just touch briefly on the merits of her gender confirmation claim and her hair removal claim and then

on irreparable harm. So I hope that the record has been clear that the Bureau of Prisons has not simply ignored plaintiff's request for gender confirmation surgery. They are aware of it and they are addressing it. The Bureau has not rejected her request and in fact is planning to meet in April to consider it again.

The Bureau has offered two reasons why it has not approved surgery up to this point. The first is the 12-month requirement that we've heard a lot about today, and that is the requirement that the Bureau has imposed based on the recognized WPATH standards, that the Bureau believes it's important for a transgender inmate, in this case a transgender woman, to live in a facility with other women for 12 months before performing major irreversible surgery. This is not a policy that applies only to plaintiff. Dr. Leukefeld testified today that the Bureau has applied it to 20 or 30 other inmates, and respectfully, Your Honor, the Bureau is entitled to come up with a reasonable policy and apply it evenhandedly to prisoners. The Eighth Amendment does not prohibit that. If this were an APA case, a case under the Administrative Procedure Act, which our office deals with all the time, we would be asking questions such as, well, why can't we make an exception for Ms. Iglesias, which I think was the primary point that Counsel made in his closing argument, or why isn't this policy overinclusive or underinclusive, and

we would have to defend why it's reasonable and not arbitrary. That's not this case. This is a cruel and unusual punishment case, so the standard is whether the Bureau has exhibited total unconcern for the inmate's care, and we would just respectfully submit that that is not the case. The Bureau has prescribed her hormones, has ensured that only women officers are performing pat-downs, that officers use female pronouns when interacting with Ms. Iglesias. Recently, as noted, the Bureau has transferred her to a women's facility and has provided her with facial hair removal cream. So the deliberate indifference standard, we would submit, has not been met.

The Bureau has offered two reasons for the 12-month requirement. The first is that it's important for the health and safety of the inmate and important for her social adjustment -- and that comes straight from WPATH -- that she experience living as a woman for 12 months. Now, prisons are unique. They are same-sex institutions, and the Bureau believes that it's important that in a -- that a transgender woman live in that facility for 12 months before she undergo irreversible surgery. The second reason for the 12-month rule is that there are safety concerns with placing a transgender woman who has already undergone surgery in a male facility, and as we heard today, there have been cases -- just a few, but there have been cases where transgender women have

requested to go back to a male facility, including Ms. Iglesias just a few months after she was transferred. Now, she withdrew that request and it is not an issue today, but I think it does help to demonstrate the reasonableness of the Bureau of Prisons' policy. You know, I haven't heard from plaintiffs in argument that no amount of time is reasonable, that if an inmate has just been transferred to a women's facility, they should be entitled to surgery immediately. So the question comes down to is 12 months unconstitutionally reasonable, and we would submit that it's not.

I know there's been a lot of discussion about why it's taken so long, and I just want to briefly touch on the reasons that the Court heard from Dr. Leukefeld. I mean, for a substantial period of time Ms. Iglesias was in a medium-security facility and the Bureau reasonably concluded that it was not appropriate to move her immediately from that facility to a low-security women's facility. Instead, the Bureau took the intermediate step of transferring her to a lower level men's facility in Lexington, Kentucky, before transferring her to a women's facility. She was considered at one point for transfer and surgery. Her hormone levels were not maximized. That is a reasonable policy given the security concerns that would be present to taking a transgender woman whose hormones have not maximized and placing her immediately in a men's facility, but that's not an issue anymore. They

are maximized. But it is one of the reasons why it has taken as long as it has.

Now, it's been clear today that Dr. Ettner and plaintiff disagree with these policies and disagree with the reasons behind them, but again, we would submit that that disagreement is not sufficient to show a cruel and unusual punishment. There are several circuit courts of appeals, as we pointed out in our briefs, that have held that there's no constitutional violation even where prisons have an outright blanket ban on gender confirmation surgery. That's not necessarily the case in the First Circuit case, but, you know, the First Circuit case, most notably in *Kosilek*, rejected a constitutional claim for gender confirmation surgery, but it's not just the First; the Fifth Circuit just recently in a case called *Gibson*, the Tenth Circuit in a case called *Lamb*, the Eleventh Circuit in a case called -- forget the name right now, but we cited it in our brief. So several courts of appeals have held that this is not a constitutional right at all, and the Seventh Circuit, while it hasn't addressed the question directly, just two years ago in the *Campbell* case said that it wasn't a clearly established right for purposes of qualified immunity. So -- And again, what distinguishes this case from the handful of cases that have found a constitutional violation is that this is not an outright rejection. The Bureau is considering it and in fact will meet

again in just a few months to consider plaintiff's request.

Just briefly on the hair removal claim, again, plaintiff has been provided with facial hair removal lotion. That was back in June. We heard today for the first time that she stopped that on I think it was last Saturday, she said that that wasn't working. Again, it's the first we've heard of that. Plaintiff hasn't grieved that request, and our main point on this argument is that we require -- the Bureau requires that it be medically indicated, that her medical providers come to the conclusion that it is clinically necessary for her. She did not present that when she requested this to the Bureau of Prisons. She still hasn't requested it, and Dr. Ettner today, I believe, admitted that she can't offer an opinion about whether the provisions that are being made today, the ability to shave twice a day and the facial hair removal cream, that that's medically inadequate. If she brings that to her doctor and the doctor brings it to the attention of the Bureau, obviously that'll be considered, but she hasn't done so at this time.

So just finally, on irreparable harm, I mean, when plaintiff filed her motion, she was in a men's facility. She alleged that her life was at risk, and today, the world is very different. She is in a women's facility. She is scheduled to be transferred to a halfway house in March. She is scheduled to have her request reviewed in April, and

Dr. Ettner testified that she is not in her opinion presently at the risk of suicide, is not presently at the risk of self-treatment, so we would request that the Court -- there is no legal basis to grant plaintiff's motion for a preliminary injunction, plaintiffs have not shown a constitutional violation, they have not shown irreparable harm. Deny it without prejudice. If the TEC in April denies her request for surgery, of course nothing would prevent her from bringing her motion again, but at this time we would respectfully submit that plaintiff has not met her burden to entitlement of the extraordinary remedy of a preliminary injunction.

THE COURT: All right. And I just have one question for you. So Dr. Leukefeld testified that every six months the security classification is reevaluated, and obviously it went quite a while from when she entered BOP to the time it was lowered that she could go to Lexington. Do you know if there's anything in the record that shows what was occurring through that time as far as disciplinary infractions or something that didn't change -- that caused her security classification to remain the same?

MR. ROBINSON: I'm afraid I personally don't. We will certainly take a look, and if there is something in the record, we can provide that to the Court.

THE COURT: I think there are some, and I can go back and look at that, in your reply, perhaps, but -- okay. All

right. Thank you.

MR. ROBINSON: Thank you.

THE COURT: All right. Well, thanks, Counsel. I appreciate everyone's efforts to get this concluded today, and everyone was prepared and organized, and I appreciate that. Mr. Knight, if you will just meet with Counsel and Deana, and if you're in agreement on the exhibits, then I'll accept those that you're offering if you narrowed it down to specific pages. Did you do that?

MR. KNIGHT: I did. The documents were 7, 8 -- I can actually just work this out right now rather than taking the Court's time.

THE COURT: Okay. Why don't you work them out and confer with Deana. If I need to come back, I will. All right. Everyone be careful going home and have a happy Thanksgiving, and I'll take the motion under advisement and get an order out just as soon as I can.

(Court adjourned at 4:03 p.m.)

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REPORTER'S CERTIFICATE

I, Karen E. Waugh, CSR, RPR, CRR, Official Court Reporter for the U.S. District Court, Southern District of Illinois, do hereby certify that I reported with mechanical stenography the proceedings contained in pages 1 - 208; that the same is a full, true, correct and complete transcript from the record of proceedings in the above-entitled matter.

DATED this 6th day of December, 2021.

/s/Karen E. Waugh, CSR, RPR, CRR