

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
San Francisco Division

AMERICAN CIVIL LIBERTIES
UNION OF NORTHERN
CALIFORNIA,

Plaintiff,

v.

ERIC G. HARGAN, Acting
Secretary of Health and
Human Services, et al.,

Defendants,

v.

U.S. CONFERENCE OF
CATHOLIC BISHOPS,

Defendant-Intervenor.

Case Number:

3:16-cv-3539-LB

VIDEOTAPED DEPOSITION OF
SCOTT LLOYD, ESQUIRE, VOLUME II

Washington, D.C.

Tuesday, February 13, 2018 - 10:25 a.m.

Reported by:

Ann Medis, RPR

Job No. 20790

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Videotaped Deposition of
SCOTT LLOYD, ESQUIRE, VOLUME II

Held at the offices of:

U.S. Department of Justice
20 Massachusetts Avenue, N.W.
Washington, D.C. 20001
202.353.4556

Taken pursuant to notice, before Ann
Medis, Registered Professional Reporter,
and notary public in and for the District
of Columbia.

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Kim Johnson, Videographer
Llewellyn Woolford, Esquire, HHS
Caitlin Palacios, Esquire, HHS
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P R O C E E D I N G S

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THE VIDEOGRAPHER: This is Media Number 1 in the videotaped deposition of Scott Lloyd taken in the matter of American Civil Liberties Union of Northern California versus Burwell, et al., Case No. 3:16-cv-3539-LV in the U.S. District Court of Northern California, San Francisco division.

This deposition is being held at 20 Massachusetts Avenue, Northwest, Washington, D.C., on February 13, 2018 at approximately 10:25 a.m.

My name is Kim Johnson, and I'm a legal video specialist. The court reporter today is Ann Medis. Both are in association with TransPerfect.

Will counsel please introduce yourself and state whom you represent.

MS. AMIRI: Brigitt Amiri for the plaintiff.

MS. BURROWS: Meagan Burrows for the plaintiff.

MR. TOMLINSON: Martin Tomlinson for the federal defendants.

MR. WOOLFORD: Llewellyn Woolford for the federal defendants U.S. Department of Health

1 and Human Resources.

2 MS. PALACIOS: Caitlin Palacios, U.S.
3 Department of Health and Human Services.

4 MR. SPENCER: Jacob Spencer for the
5 defendant-intervenor USCCB. Rob Dunn also for the
6 defendant-intervenor.

7 THE VIDEOGRAPHER: Will the court
8 reporter please swear in the witness.

9 SCOTT LLOYD, ESQUIRE,
10 having been first duly sworn, was examined
11 and testified as follows:

12 EXAMINATION (Continued)

13 BY MS. AMIRI:

14 Q. Good morning, Mr. Lloyd.

15 A. Good morning.

16 Q. Have you finalized any policies related
17 to abortion since your deposition on December 18?

18 A. No.

19 Q. Have you spoken with anyone at the U.S.
20 Conference of Catholic Bishops about abortion
21 since your deposition on December 18?

22 A. Abortion, no.

23 Q. Have you spoken with anyone at Catholic
24 Charities about abortion since your deposition on
25 December 18?

1 A. No.

2 Q. Have you spoken with any religiously
3 affiliated shelter about abortion since
4 December 18?

5 A. I don't think so.

6 Q. Have you spoken with any shelter about
7 abortion since December 18?

8 A. I believe so, yes.

9 Q. And do you know whether any of those
10 shelters had a religious objection to providing
11 access to abortion?

12 A. I don't know, but I don't think so.

13 Q. What shelters did you speak with about
14 abortion since your deposition?

15 A. I don't recall.

16 Q. How many shelters did you speak with
17 about it?

18 A. Two or three.

19 Q. And you don't remember the names of
20 those shelters?

21 A. No.

22 Q. What was the substance of the
23 conversation?

24 A. Instructions regarding the handling of
25 termination requests.

1 Q. Were those instructions from you to the
2 shelters?

3 A. In some cases, yeah.

4 Q. Let's start in the case that -- in one
5 or more cases, did you provide instructions to
6 shelters about abortion requests?

7 A. Yes, either directly or through our
8 staff.

9 Q. So let's start with the ones directly.

10 A. I think it's more through our staff
11 actually.

12 Q. Let's start with any direct
13 communication you had with shelters with respect
14 to abortion since your deposition.

15 A. Okay.

16 Q. What were those communications?

17 A. Answering questions.

18 Q. What types of questions?

19 A. How should we proceed if this or that
20 happens.

21 Q. And what were your answers? What were
22 your instructions?

23 A. It depended on the question.

24 Q. So let's isolate a particular time that
25 you were in direct conversation with a shelter

1 about an abortion request.

2 Were any of those conversations about
3 religious objection that the shelter had to
4 providing access to abortion?

5 A. No.

6 Q. Were any of those shelters raising
7 religious objections that their staff had about
8 access to abortion?

9 A. No.

10 Q. We'll get to some documents that were
11 produced since your last deposition. So perhaps
12 as we're going through those, we can talk about
13 the different conversations you may have had
14 directly with shelters, and that may refresh your
15 recollection. If there's any shelters that you
16 have talked to that are not in the documents that
17 we produce, then we can try to isolate those when
18 we get there.

19 How many abortion requests have come to your
20 attention since your deposition on December 18?

21 A. I don't know.

22 Q. More than five?

23 A. No.

24 Q. Less than five?

25 A. Yes.

1 Q. Have any of them been from
2 religiously-affiliated shelters that have an
3 objection to providing access to abortion?

4 A. I don't know, but I don't think so.

5 Q. Since your deposition, have there been
6 any transfers from religiously-affiliated shelters
7 to a nonreligiously-affiliated shelter because of
8 an abortion request?

9 A. I don't think so.

10 Q. How about for a contraception request?

11 A. I don't think so.

12 Q. Since your deposition, have there been
13 placement decisions that ORR has made based on the
14 fact that a minor is seeking an abortion?

15 A. No.

16 Q. There have been no decisions that take
17 into account whether a particular shelter has a
18 religious objection to providing abortion before
19 placing a minor who is seeking an abortion with a
20 shelter since your deposition?

21 A. I don't think so.

22 Q. Since your deposition, have you spoken
23 with Maggie Wynne about abortion?

24 A. Yes.

25 Q. On how many occasions?

1 A. There were several. I work with her
2 regularly.

3 Q. Were they about abortion policies or
4 specific abortion requests?

5 A. Both.

6 MR. TOMLINSON: I'm going to object and
7 instruct the witness not to answer to the extent
8 this line of questioning calls for internal
9 deliberations about policy.

10 BY MS. AMIRI:

11 Q. Just to clarify, with Mr. Tomlinson's
12 objection, I'm not yet asking about the nature of
13 the conversations. But just to clarify, you have
14 spoken with Ms. Wynne about both abortion policy
15 and about specific abortion requests of minors?

16 A. Yes.

17 Q. I think I asked you this at the top of
18 your deposition, but since your deposition on
19 December 18, has ORR made any final policy
20 pronouncements about abortion since your
21 deposition?

22 A. No.

23 Q. Since your deposition, have you spoken
24 with Steven Wagner about abortion policies?

25 MR. TOMLINSON: Same objection and

1 instruction.

2 THE WITNESS: Yes.

3 BY MS. AMIRI:

4 Q. About abortion policies?

5 A. Yes.

6 Q. And have you spoken with Steven Wagner
7 about any specific abortion requests for minors?

8 A. Yes.

9 Q. Same line of questioning for the HHS
10 secretary that's new, Alex Azer, have you had
11 conversations with him about abortion policies
12 since your deposition on December 18?

13 MR. TOMLINSON: With the same objection
14 and instruction.

15 THE WITNESS: No.

16 BY MS. AMIRI:

17 Q. Have you had any conversation with Alex
18 Azer about abortion requests from individual
19 minors since your deposition?

20 A. No.

21 Q. Since your deposition on December 18,
22 have you spoken to any minors who are pregnant?

23 A. No.

24 Q. Since your deposition in --

25 A. I don't think so. It's possible that

1 they were pregnant and I didn't know it.

2 Q. So to your knowledge, at the time that
3 you were speaking with a minor, you were unaware
4 of whether the minor was pregnant or not?

5 A. Right. No.

6 Q. Did you speak to any minor who was
7 seeking abortion --

8 A. No.

9 Q. -- since your deposition? Since your
10 deposition, have you discussed religion with
11 minors?

12 A. No. Wait. In our care?

13 Q. Yes.

14 A. In our care.

15 Q. This all in your personal -- in your
16 official capacity, not in your personal capacity,
17 yes.

18 A. Okay.

19 Q. Have you discussed any -- have you
20 prayed with any minors in ORR care?

21 A. No.

22 Q. Have there been any contract or
23 cooperative agreement negotiations with shelters
24 since your deposition in December that involve
25 terms relating to reproductive health access?

1 A. I think so.

2 Q. What were the cooperative agreements
3 that were negotiated or discussed with shelters
4 that included some aspect of reproductive health?

5 A. I don't recall the exact party.

6 Q. One party or more than one party?

7 A. One party.

8 Q. Was it a shelter that had a religious
9 objection to providing access to contraception or
10 abortion?

11 A. I think that's the case.

12 Q. If you don't remember the party, who
13 would?

14 A. It's possible that Jonathan White would
15 or Jallyn Sualog.

16 Q. Do you remember the term relating to
17 abortion or contraception that was being discussed
18 in the cooperative agreement with the shelter that
19 had an objection?

20 A. Vaguely.

21 Q. And what is your recollection?

22 A. They were seeking an exception to
23 providing certain reproductive services.

24 Q. And does that include both abortion and
25 contraception?

1 A. I don't recall.

2 Q. Did ORR make a decision about whether to
3 grant that religiously-affiliated shelter an
4 exception to providing access to reproductive
5 healthcare?

6 A. Yes.

7 Q. Was that decision memorialized in an
8 agreement with the shelter?

9 A. My belief is that it was. It's possible
10 that it went on to an additional round of review
11 after that.

12 Q. Do you sign cooperative agreements or
13 contracts with shelters in general?

14 A. Yes.

15 Q. Did you sign this particular contract or
16 cooperative agreement with a shelter?

17 A. I think so.

18 Q. And the general term of the agreement
19 was that the shelter does not have to provide
20 access to abortion and contraception? Was that
21 the final decision?

22 A. Something along those lines. I don't
23 remember if it was both abortion and contraception
24 or one or the other.

25 Q. Was there a discussion in the

1 negotiations with the shelter about what would
2 happen if a minor in their care sought
3 reproductive healthcare that they were unwilling
4 to provide access to?

5 A. My recollection is that the minor would
6 be transferred according to the agreement.

7 Q. So according to the agreement, the minor
8 would be transferred to a shelter that did not
9 have a religious objection to providing access to
10 that care?

11 A. I believe so.

12 Q. And is it your understanding that --
13 strike that.

14 Do you know what region of the country the
15 shelter was located in?

16 A. No.

17 Q. Do you know whether that shelter was
18 part of the U.S. Conference of Catholic Bishops'
19 list of subgrantees?

20 A. That would be my guess.

21 Q. Was it a Catholic Charities?

22 A. I don't recall.

23 Q. Other than the cooperative agreement we
24 just discussed, have there been any other
25 discussions with shelters that have a religious

1 objection to providing access to abortion or
2 contraception since your deposition?

3 A. No.

4 Q. Are there shelters still operating
5 without a signed cooperative agreement, generally
6 speaking?

7 A. No, I don't think so.

8 MS. AMIRI: We're going to mark our
9 first Exhibit 22. We're just going to continue
10 with where we left off the last time.

11 (Lloyd Exhibit 22 was marked.)

12 BY MS. AMIRI:

13 Q. Do you recognize this document that's
14 been marked as Exhibit 22?

15 A. Yes.

16 Q. And what is it?

17 A. It's the errata sheet from my last
18 deposition, from the transcript of my last
19 deposition.

20 Q. Is this your handwriting in the Page,
21 Line and Correction and Reason columns?

22 A. No.

23 Q. I don't want to ask a question that's
24 going to require revelation of attorney/client
25 privilege. But this represents the corrections

1 that you wanted to make?

2 A. Yes.

3 Q. I just wanted some clarity on the two
4 corrections that you made, one on page 35 and one
5 on page 56. I'm happy to hand to you your
6 deposition. But on page 35, line 18, there was a
7 substantive change that you had requested made.

8 And the question preceding on page 35, line
9 15 of your deposition, I had asked: "Do you have
10 any involvement as the director of ORR in making
11 determinations about whether an unaccompanied
12 minor can have access to contraception?"

13 The answer at your deposition on line 19 was:
14 "No."

15 And in your errata you said that you wanted
16 to replace "No" with, quote, "No, not generally,
17 unless that might be a specific question."

18 I didn't really understand the correction. I
19 wanted to ask you what you meant by your
20 correction in your errata.

21 A. It's not a question that typically comes
22 to my attention in the operation of our shelters.

23 Q. So unless, you say -- you added though
24 that there might be a specific question about
25 contraception.

1 A. Sure.

2 Q. So are there situations that you have
3 had the occasion of considering a question from a
4 shelter about access to contraception in your time
5 at ORR?

6 A. Yes.

7 Q. And what was that?

8 A. They wanted to know whether they ought
9 to be filling a contraception prescription.

10 Q. The shelter did?

11 A. Um-hum.

12 Q. Can you just say "Yes" or "No" for the
13 reporter.

14 A. Sure. So the question I guess was --
15 can you repeat the question? I'm sorry.

16 Q. Yes. I was just clarifying that it was
17 the shelter who was asking the question about
18 whether they were supposed to fill a prescription
19 for contraception.

20 A. Yes.

21 Q. And what was your response to them?

22 A. They should follow the recommendation of
23 their medical director essentially.

24 Q. Have you ever instructed a shelter to
25 refrain from filling a contraception prescription?

1 A. No.

2 Q. Why did that specific request come to
3 you?

4 A. I don't know.

5 Q. Normally do contraception prescription
6 questions come to you before a shelter acts on
7 whether they can fill a particular contraception
8 prescription?

9 A. No.

10 Q. So this was out of the ordinary, but you
11 don't know why?

12 A. Right.

13 Q. Was the request from a
14 religiously-affiliated shelter that had an
15 objection to contraception?

16 A. I don't think they were religiously
17 affiliated, no.

18 Q. The next correction is on page 46, line
19 2. And I just wanted to ask for some clarity as
20 well. Starting on page 45, line 24, I asked:
21 "Has there ever been a minor's request for
22 contraception that has reached your level, a
23 request for contraception?"

24 And on line 2 of page 46, you said: "No."

25 And then on your errata, you wanted to

1 replace "No" with "No, not in a way where I
2 approved or disapproved a specific request."

3 So I wanted clarity as to what you meant by
4 that change.

5 A. Where I was the final decision-maker on
6 a request for contraception, the answer is no.

7 Q. So the correction is that a minor's
8 request for contraception may have reached your
9 level, but you were not the ultimate
10 decision-maker about whether to approve or
11 disapprove that request?

12 A. That's correct.

13 Q. You had started answering some of my
14 earlier questions about directions or instructions
15 that you had given to shelters about specific
16 abortion requests for individuals, and there are
17 some documents that were produced after your
18 deposition that I'd like to start to discuss with
19 you to see if some of those shelters are some of
20 the ones that you either spoke with directly or
21 provided instructions through your staff.

22 MS. AMIRI: Let's do 23.

23 (Lloyd Exhibit 23 was marked.)

24 (Witness reviewed the exhibit.)

25

1 BY MS. AMIRI:

2 Q. Sir, I've handed to you what I've marked
3 as Exhibit 23. I will also represent on the
4 record that the documents that I'll be handing you
5 that have been produced by the government haven't
6 been fully redacted pursuant to our agreement or
7 the confidentiality order.

8 MS. AMIRI: So that's something I want
9 some clarity on before -- or once we go off the
10 record at some point, one of my housekeeping
11 things I wanted to talk to you about.

12 BY MS. AMIRI:

13 Q. But just so you know, these are not in a
14 version -- these are in a version that's protected
15 by the confidentiality order and have not been
16 further redacted.

17 With this particular shelter where this minor
18 had requested an abortion, did you speak directly
19 to the shelter about this abortion request?

20 A. I don't think so.

21 Q. Did you provide any instructions to
22 staff to give to the shelter -- and we'll get to
23 some other emails -- that weren't captured in
24 emails in general?

25 A. Yes.

1 Q. What were those instructions?

2 A. Instructions to the?

3 Q. Instructions that -- I'll repeat the
4 question. Did you give any instructions to staff
5 to give to the shelter that were verbal only and
6 were not captured in emails?

7 A. My recollection is that most of our
8 instructions in this case were memorialized in
9 email.

10 Q. For this particular minor, did you
11 instruct the federal field specialist or any other
12 ORR staff member to read a description of an
13 abortion procedure to her?

14 A. Yes.

15 Q. Did that happen?

16 A. I believe so.

17 Q. Why would you require that?

18 A. For informed consent.

19 Q. Is it part of ORR's job to provide
20 medical informed consent to minors?

21 A. Informed consent, yes.

22 Q. It is ORR's job to provide medical
23 informed consent to minors?

24 A. It's appropriate.

25 Q. In what circumstances is it appropriate?

1 A. Well, in a case where, for example,
2 they're having a medical procedure done on them.

3 Q. In all instances in which unaccompanied
4 minors undergo medical procedures while they're in
5 ORR custody, does ORR provide medical informed
6 consent to those minors?

7 A. They ensure that it's given.

8 Q. Given by whom?

9 A. Providers.

10 Q. What kind of providers?

11 A. The providers who are giving the
12 procedure.

13 Q. The medical providers?

14 A. Um-hum.

15 Q. Are there other circumstances outside of
16 the abortion context where you have instructed
17 your staff to provide medical informed consent to
18 a minor undergoing a medical procedure?

19 A. Not that I recall.

20 Q. Have you ever instructed that a minor
21 who was delivering a baby either vaginally or via
22 C-section be provided with a description of the
23 experience they were about to undergo?

24 A. No.

25 Q. Did you also instruct that this minor be

1 offered a publication by the State of Texas about
2 abortion?

3 A. Something along those lines, yeah.

4 Q. Is this the first minor that you have
5 made such an instruction for?

6 A. I don't recall, but I don't think so.

7 Q. This minor wasn't in Texas, was she?

8 A. No.

9 Q. Why then would she be asked to read a
10 publication from the State of Texas?

11 A. We found it to be a good resource.

12 Q. Who is "we"?

13 A. People in the department.

14 Q. Who would that include?

15 A. Me and legal counsel and Maggie Wynne,
16 Steve Wagner, decision-makers.

17 Q. I'm not asking about any conversations
18 that you had with counsel, but any conversations
19 that you have had outside the presence of counsel
20 about the use of the Texas book to be provided to
21 minors.

22 MR. TOMLINSON: I'm going to object and
23 instruct him not to answer the question about the
24 substance of those conversations on the basis of
25 deliberative process.

1 MS. AMIRI: About whether to use a --
2 whether to give a booklet to people, you think
3 that's deliberative process?

4 MR. TOMLINSON: Yes. If we're saying
5 that the agency's practice is to give booklets to
6 minors, I think that is a decision about policy or
7 practice potentially.

8 THE WITNESS: Can you repeat the
9 question?

10 BY MS. AMIRI:

11 Q. Did you have conversations with people
12 in your department or above you outside the
13 presence of counsel about whether to provide to
14 unaccompanied minors a book published by Texas
15 about abortion?

16 A. I don't think so.

17 Q. They were all within the presence of
18 counsel?

19 A. I think so.

20 Q. Did you require this particular minor
21 that is discussed in Exhibit 23 to read the
22 pamphlet that the State of Texas publishes?

23 A. I don't think so.

24 Q. For this particular minor, you also
25 asked a series of questions to be posed to the

1 provider; is that right?

2 A. Yes.

3 Q. About the nature of the abortion
4 procedure?

5 A. Yes.

6 Q. Why did you ask those questions?

7 A. Because I wanted to know the answers to
8 those questions.

9 Q. Why?

10 A. We were responsible for the kids in our
11 care. I wanted to know what was happening to this
12 particular one.

13 Q. Why this particular one as opposed to
14 any other?

15 A. Because she's undergoing a major
16 procedure where a human life was being destroyed.
17 I wanted to know the details of that.

18 Q. Do you think that abortion is less safe
19 than childbirth?

20 A. I would defer to whatever the science
21 says on that.

22 Q. Do you happen to know yourself whether
23 childbirth is safer than abortion?

24 A. It depends on what kind of childbirth
25 and what kind of abortion. I don't have

1 statistics committed to memory.

2 Q. So this particular minor was -- had your
3 attention about the type of procedure that she was
4 going to undergo because in your mind, it was a
5 procedure that would involve the destruction of
6 human life?

7 A. Well, it's not just in my mind. That's
8 objective.

9 Q. That's objective?

10 A. Um-hum.

11 Q. You believe everyone regardless of their
12 belief systems believes that abortion is the
13 destruction of human life?

14 A. I think the objective facts are that it
15 involves the destruction of a human life. How
16 people internalize every element is a different
17 question.

18 Q. Is your belief that the abortion is the
19 destruction of human life informed by your
20 religion faith?

21 A. It's informed by the reality of the
22 situation and the scientific facts.

23 Q. You also believe that abortion is a sin?

24 A. What does that have to do with anything?

25 Q. It has to do with a lot. This case is

1 about -- involves an Establishment Clause
2 violation. Your religious imposition is directly
3 relevant to the case. So I get to ask the
4 questions. Mr. Tomlinson can object.

5 So my question is: Do you believe abortion
6 is a sin?

7 A. Yes.

8 MR. TOMLINSON: I'm going to object to
9 this line of questioning going any further because
10 he's testified in the past that he does not let
11 religion guide his job as ORR director. We're
12 getting pretty far afield into personal religious
13 beliefs.

14 MS. AMIRI: You can certainly ask him on
15 redirect any questions that you want. I don't see
16 that there's a basis for an instruction not to
17 answer. The political individuals who are
18 involved in enforcing the policy and their
19 personal religious belief and whether that is
20 imposed on the minors in their care is directly
21 relevant to this case, and there's no basis for
22 instructing him not to answer. If you want to
23 clarify on your redirect, that is certainly your
24 prerogative.

25 MR. TOMLINSON: Let me clarify. I did

1 not instruct him not to answer. I just wanted to
2 put this objection on the record as to this
3 questioning.

4 MS. AMIRI: Fair enough.

5 BY MS. AMIRI:

6 Q. I believe you answered the question.
7 You think abortion is a sin. Yes?

8 A. I answered the question.

9 (Lloyd Exhibit 24 was marked.)

10 BY MS. AMIRI:

11 Q. I'm going to hand you what has been
12 marked as Exhibit 24, if you'd like to take a
13 look.

14 (Witness reviewed the exhibit.)

15 BY MS. AMIRI:

16 Q. Do you recognize what has been marked as
17 Exhibit 24?

18 A. Most of it.

19 Q. Which parts do you not recognize?

20 A. The cover -- the cover email I hadn't
21 seen before.

22 Q. Just by background for this particular
23 minor that we've been discussing, Jonathan White
24 made a recommendation to you that this particular
25 minor be allowed to have access to abortion; is

1 that correct?

2 A. Yes.

3 Q. This minor had been raped; correct?

4 A. Well, she claimed to have been raped,
5 yes.

6 Q. Do you have any reason to disbelieve
7 her?

8 A. No.

9 Q. This minor had thoughts of self harm?

10 A. She expressed something along those
11 lines, yes.

12 Q. And Mr. White sent you a decision memo
13 about whether to approve or deny the abortion
14 access and funding; is that right?

15 A. Yes.

16 Q. Has Mr. White sent you a decisional memo
17 like this for any other abortion?

18 A. I don't think so.

19 Q. If you flip to Bates-stamp 15607, in the
20 middle paragraph, about halfway in the middle
21 paragraph, you reference an information session
22 that imparted information about fetal development
23 and the abortion procedure she requests.

24 A. Can you repeat that last part?

25 Q. Yes. I just wanted to draw your

1 attention to the middle paragraph. About halfway
2 through that middle paragraph, the sentence says,
3 "She has had an information session that imparted
4 information about fetal development and the
5 abortion procedure she requests."

6 A. Yes.

7 Q. What information session are you
8 referring to there?

9 A. She met with her clinician and our -- a
10 child welfare specialist from our program to go
11 through information regarding her request for
12 termination. I believe the medical director from
13 the program was there, too.

14 Q. So there were three individuals that
15 were at the informational session?

16 A. At least three and a translator.

17 Q. When you mentioned her provider, is that
18 an ob-gyn?

19 A. I believe it was the medical -- the
20 medical staff from the program as opposed to the
21 provider.

22 Q. Was there a clinician, a medical
23 provider who was not associated with the shelter
24 at the informational session?

25 A. I don't know, but I don't think so.

1 Q. Did you provide any instructions for
2 this particular minor that she visit a crisis
3 pregnancy center?

4 A. I don't recall, but I actually don't
5 think that happened in this case.

6 Q. So even if you provided the instruction,
7 you don't think that she went to a crisis
8 pregnancy center?

9 A. That would be my recollection, but it's
10 possible that my recollection is off.

11 Q. Did you instruct that this particular
12 minor go to any particular ob-gyn for the
13 provision of care?

14 A. No.

15 Q. On Price production 15609, you say in
16 the last paragraph, "Although formal research on
17 this matter appears to be sparse..." that
18 sentence.

19 A. Um-hum.

20 Q. I believe you're talking about trauma
21 from abortion; is that correct?

22 A. Yes.

23 Q. Have you done a literature review of the
24 science literature about whether abortion causes
25 trauma?

1 A. Me personally?

2 Q. Yes.

3 A. No.

4 Q. Have you read any summaries about the
5 scientific literature about whether abortion
6 causes trauma?

7 A. Yes.

8 Q. And what were those summaries that you
9 read?

10 A. Compilations, various compilations of
11 scientific literature on the harms of abortion.

12 Q. And who provided that to you?

13 A. I believe the staff -- well, I mean,
14 over the years, many different places. Usually
15 you find this stuff on the internet. It may have
16 been part of my own research on this or that
17 project. But in the context of this -- in these
18 responsibilities, ACF staff provided me some
19 literature, and we were also working with ASPE,
20 the assistant secretary for planning and
21 evaluation, regarding related topics. But I don't
22 think it goes directly to abortion trauma.

23 Q. Who is the ASPE director?

24 A. It was just -- who is ASPE director?
25 John. I don't know his last name.

1 Q. So just to back up, did any of your
2 staff give you medical or scientific literature
3 about abortion trauma that you considered in the
4 context of this particular memo?

5 A. No.

6 Q. Do you know what the American
7 Psychological Association says about whether
8 abortion causes trauma?

9 A. I don't have that committed to memory.

10 Q. What did the scientific literature that
11 you were provided say about whether abortion
12 causes trauma?

13 A. If I recall, there's some studies that
14 have found an increased likelihood of self harm,
15 suicide, that sort of thing.

16 Q. Were those studies conducted by a man
17 named Vincent Rue?

18 A. I don't know.

19 Q. Priscilla Coleman?

20 A. I don't know.

21 Q. Did you ever speak to the minor who is
22 at issue in this memo?

23 A. No.

24 Q. The next page, 15610, in the fourth
25 paragraph, second sentence, you say, "How could

1 abortion be in their best interest where other
2 options are available..."

3 Is it your position that abortion is never in
4 the best interest of a minor because there are
5 other options for the pregnancy available to the
6 minor?

7 A. Where are we?

8 Q. Fourth paragraph on 15610, second
9 sentence.

10 A. Okay.

11 Q. Is it your position that abortion is
12 never in the best interest of a minor because
13 there are other options available to a minor?

14 A. In this -- it's a case-by-case
15 determination for each minor in our care.

16 Q. But do you believe that abortion would
17 never be in the best interest of a minor where the
18 minor has other options for the pregnancy?

19 MR. TOMLINSON: Objection. Calls for
20 speculation.

21 BY MS. AMIRI:

22 Q. You can answer.

23 A. It's a case-by-case determination.

24 Q. So what did you mean here when you said,
25 "How could abortion be in their best

1 interest...where other options are available..."?

2 A. I should have said her best interest,
3 and that would have clarified, I think.

4 Q. You ultimately made the determination
5 not to allow this particular minor access to the
6 abortion; correct?

7 A. Yes.

8 Q. Does that mean it was not in her best
9 interest?

10 A. If I could clarify, I made the
11 determination that the program would not assist
12 her in obtaining an abortion.

13 Q. Now I'm confused because I believe that
14 you have said in this memo, "At bottom, this is a
15 question of what is in the interest of the young
16 woman..."

17 A. Um-hum.

18 Q. So if you're charged with acting in the
19 best interest of a minor, how does what the
20 program wants to do relate to what is in the best
21 interest of a particular minor?

22 A. Our determination about the best
23 interest of a minor is going to determine how we
24 expend our resources in pursuit of that best
25 interest.

1 Q. So you believe as part of the best
2 interest determination of a minor, that that
3 includes an assessment of ORR resources?

4 MR. TOMLINSON: Objection. I think that
5 mischaracterizes what he said.

6 MS. AMIRI: That's why I'm trying to get
7 clarification here.

8 THE WITNESS: No. The best -- once we
9 determine what's in the best interest of a child
10 in a certain situation, then we determine how our
11 program is going to pursue those best interests.

12 BY MS. AMIRI:

13 Q. But for this particular minor, you made
14 the determination that the abortion was not in her
15 best interest.

16 A. Yes.

17 Q. She was asking for the abortion; right?

18 A. That's the way it was reported to us,
19 yes.

20 Q. So in this decision memo, you have
21 supplanted your decision for hers based on your
22 determination that the abortion is not in her best
23 interest?

24 A. No.

25 Q. So please correct me and explain why

1 that's wrong.

2 A. Whatever she feels about what's in her
3 best interest is one matter, and then what we do
4 as a program serving her is a different matter.

5 Q. How then do you reconcile your
6 determination about what is in her best interest
7 with what you just said in terms of the program?
8 I don't quite understand.

9 A. We are charged with acting in the best
10 interest of the children in our care.

11 Q. Yes.

12 A. And that's what we did in this case.

13 Q. So you think that denying her access to
14 abortion was in her best interest?

15 A. In this case, it was.

16 Q. Why?

17 A. For the reasons that I laid out in the
18 memo.

19 Q. If that is true, how would -- strike
20 that.

21 You're never going to approve an abortion
22 request; right?

23 MR. TOMLINSON: Objection. Speculative.

24 BY MS. AMIRI:

25 Q. You can answer the question.

1 A. I'm sorry?

2 Q. You can answer the question. That's an
3 objection. That's not an answer.

4 A. I'm going to look at each case and make
5 a determination on a case-by-case basis.

6 Q. As the ORR director, you have to
7 personally approve any abortion request, correct,
8 putting aside medical emergencies?

9 A. Yeah. We determine whether the program
10 is going to assist in that, yes.

11 Q. And it would require your explicit
12 approval for a minor to have an abortion outside
13 of the emergency medical context?

14 A. Yes.

15 Q. If you believe that an abortion is a sin
16 and you approved an abortion, wouldn't you be
17 complicit in sin?

18 MR. TOMLINSON: Object to the form. I
19 object to the form of that question.

20 THE WITNESS: Potentially.

21 BY MS. AMIRI:

22 Q. What is the potential? What's potential
23 about it?

24 A. I mean, we're speculating. That, too,
25 is a case-by-case determination according to my

1 understanding.

2 Q. If you have to sign on a line approving
3 an abortion request, wouldn't you be complicit in
4 sin?

5 MR. TOMLINSON: I'm going to renew the
6 objection. We're talking about his religious
7 beliefs, not his -- how he does his official
8 duties here.

9 BY MS. AMIRI:

10 Q. You can answer the question.

11 A. Can you restate the question?

12 Q. Yes. Mr. Tomlinson's objection will
13 stand. If you were to approve an abortion
14 request, wouldn't you be complicit in sin?

15 A. I could be. It depends. It's a
16 case-by-case determination.

17 Q. Depends on what?

18 A. A number of factors.

19 Q. So it depends on the factors that are
20 involved in the minor seeking the abortion?

21 A. It depends on all the factors and
22 including what you just said, according to my
23 understanding. But I'm not here as an expert on
24 my faith. I'm here as the director of the Office
25 of Refugee Reassignment.

1 Q. I understand. I'm trying to understand
2 what the policy really is here with respect to
3 abortion requests.

4 A. Okay. Then let's talk about the policy.

5 Q. I'm trying to understand whether there
6 is any abortion request that you are ever going to
7 approve.

8 A. The answer is I don't know.

9 Q. You don't know?

10 A. It's a case-by-case determination.

11 Q. I will get a speculative objection. We
12 can just put that on the record right now.

13 Let's say there's a minor who's pregnant as a
14 result of rape. She's eight weeks pregnant.
15 She's requested an abortion. She has threatened
16 self harm if she's not allowed to have the
17 abortion. She's voluntarily told her parents and
18 her sponsor, all of whom are supportive of her
19 abortion decision and would like her to have the
20 abortion. She has obtained a judicial bypass.

21 Would you in that case still deny the
22 request?

23 A. I don't know.

24 Q. What do you mean you don't know?

25 A. I don't know.

1 Q. You don't know if you would?

2 A. Right.

3 Q. What facts would you need that I have
4 not laid out that would help you with your
5 decision?

6 A. It would have to be a real case.

7 MR. TOMLINSON: Object to form.

8 BY MS. AMIRI:

9 Q. It would have to be a real case?

10 A. Yeah.

11 Q. Why?

12 A. Because I'm not going to engage in a
13 speculation session.

14 Q. Well, hypothetical questions are
15 perfectly acceptable to ask at depositions. I
16 understand there's a speculation objection that's
17 put on the record. That's fine. I'm trying to
18 understand if there are any constellation of facts
19 that would be presented to you --

20 A. And the answer, which I've answered, is
21 I don't know.

22 Q. Are all the facts that you considered in
23 making a determination about what's in the minor's
24 best interest related to the minor's specific
25 circumstances, or are there other facts that you

1 consider in making a decision?

2 A. There are other facts --

3 Q. Like what?

4 A. -- for consideration. I think we went
5 through this in some detail in my last deposition.
6 I don't think my answer has changed.

7 Q. Was this minor that we're talking about
8 in this memo required to tell her parents about
9 her abortion decision?

10 A. I don't recall.

11 Q. Why did you --

12 A. Yeah, I think she did tell her parents.
13 I don't remember if she was required to or not.

14 Q. In the past there have been minors that
15 you have instructed that they tell their parents
16 or the shelter will tell their parents; correct?

17 A. Um-hum.

18 Q. Can you say "Yes" for the court
19 reporter.

20 A. Yes.

21 Q. You don't know whether that particular
22 instruction happened for this particular minor?

23 A. I don't recall if she already had the
24 conversation or if we directed the program to
25 arrange the parental notification.

1 Q. You've made many instructions with
2 respect to this particular minor including that
3 she receive a description of the medical
4 procedure, that she have the informational
5 session. Nevertheless, you denied her request for
6 an abortion.

7 And my question to you is: Why would you
8 make her go through all of what you made her go
9 through simply to then just deny her abortion
10 request?

11 A. Without informed consent, then there
12 isn't really a  request in my mind.

13 Q. But you didn't deny her abortion request
14 because you felt like she was uninformed about the
15 abortion, did you?

16 A. If she was uninformed about the
17 abortion, then she never would have made the
18 request.

19 Q. But she had made the request before you
20 had required her to hear a description of the
21 abortion procedure and offer her the Texas
22 pamphlet; correct?

23 A. It wasn't clear -- yes.

24 Q. So she had already made that request.
25 And in fact, the only time that she rescinded her

1 request is when her parent and her sponsor
2 threatened to beat her if she had the abortion;
3 right?

4 A. That's correct.

5 Q. So my question is: Why subject her to
6 the things that you subjected her to only to deny
7 her abortion request?

8 MR. TOMLINSON: Object to the form.

9 THE WITNESS: We were sharing
10 information about the procedure that she was
11 requesting so that we knew that she knew what she
12 was asking for.

13 BY MS. AMIRI:

14 Q. But that didn't factor into your
15 decision about whether to deny her request?

16 A. Yes, it did.

17 Q. How so?

18 A. Because without it being clear that she
19 knew what she was asking for, it wouldn't be clear
20 that she was actually making a request for what
21 she was -- she seemed to be requesting.

22 Q. Do you think that minors outside the
23 abortion context know what they're asking for when
24 they ask for a particular medical procedure even
25 without having been read a description of the

1 medical procedure?

2 MR. TOMLINSON: Object to the form.

3 THE WITNESS: That's going to depend on
4 the circumstances.

5 BY MS. AMIRI:

6 Q. So going back to the issue carried to
7 term, a minor who is perhaps making a decision
8 about whether to have a vaginal delivery or
9 C-section, ORR, I believe you said, had never
10 required a particular minor to read a description
11 about a C-section; right?

12 A. I don't believe -- no, we haven't -- I
13 don't know. I don't know.

14 Q. You have never instructed that?

15 A. Right.

16 (Lloyd Exhibit 25 was marked.)

17 BY MS. AMIRI:

18 Q. I hand you what has been marked as
19 Exhibit 25.

20 (Witness reviewed the exhibit.)

21 BY MS. AMIRI:

22 Q. Just to clarify, what's on page 15452 is
23 the description of the abortion procedure that you
24 required be read. It's from the Supreme Court
25 decision Gonzales versus Carhart.

1 A. Yes.

2 Q. Have you ever required that a minor be
3 read a description of any medical procedure from
4 any court case outside the context of abortion?

5 A. No.

6 Q. Do you know whether anyone on your staff
7 has the training to provide options counseling
8 about abortion?

9 A. I don't know.

10 (Lloyd Exhibit 26 was marked.)

11 BY MS. AMIRI:

12 Q. On that first page I wanted to ask you
13 about what is in No. 2 of the email from Jonathan
14 White to you. There's a sentence that starts,
15 "██████████ has indicated that the DHUC staff are not
16 able to participate..."

17 A. Okay.

18 Q. What does DHUC stand for?

19 A. Division of Health for Unaccompanied
20 Children.

21 Q. And ██████████ referred to in this sentence
22 is ██████████?

23 A. Yes.

24 Q. So just reflecting on this email, back
25 to my question about whether you had anyone on

1 your staff who had the clinical training and
2 expertise to provide options counseling, isn't
3 Jonathan White indicating to you that the DHUC
4 staff do not have that competency?

5 A. Well, Jonathan is characterizing a
6 conversation he had with [REDACTED] who represented
7 that DHUC staff doesn't have that.

8 Q. Do you have any reason to believe that
9 that is incorrect?

10 A. I don't have -- I don't know. If I had
11 to think about it, I'd probably have a discussion
12 with [REDACTED] to see if we were talking about the
13 same thing.

14 Q. What is your concern about whether you
15 might be talking about something different?

16 A. I don't know. What he meant by options
17 counseling outside their clinical training, I
18 mean, the DHUC staff are not clinicians. I
19 suppose that's what he was talking about.

20 Q. Do you think that that is an incorrect
21 assessment then that Jonathan was reporting that
22 [REDACTED] said?

23 A. Well -- so it's speaking to the clinical
24 training. I didn't second guess their
25 characterization.

1 Q. Have you dispatched anyone from your
2 staff to provide options counseling to a minor who
3 is seeking an abortion?

4 A. No.

5 Q. As the term options counseling is used
6 in this exhibit, what do you think Jonathan is
7 referring to? How do you think he defines options
8 counseling?

9 MR. TOMLINSON: Objection. Calls for
10 speculation.

11 THE WITNESS: It's providing options
12 about pregnancy, information about options.

13 BY MS. AMIRI:

14 Q. And what would those options include?

15 A. Well, we discussed this in the last
16 deposition. Termination, adoption and childbirth.

17 Q. It does look like this email refers to
18 and some other emails involving [REDACTED]. I
19 probably pronounced that wrong.

20 A. That's right.

21 Q. [REDACTED]. [REDACTED], who is
22 she?

23 A. She's our child welfare specialist on
24 staff.

25 Q. Is she based here in D.C.?

1 A. Yeah.

2 Q. And did you instruct [REDACTED] to
3 go visit this particular minor?

4 A. Yes.

5 Q. And why did you do so?

6 A. To make sure that she -- well, it's in
7 the email. But to make sure that she's aware of
8 her options and that she has informed consent
9 about the procedure.

10 Q. So to your knowledge, [REDACTED] is the one
11 who read to this minor the description of the
12 abortion procedure from Gonzales versus Carhart?

13 A. I don't think that's correct.

14 Q. So who from your staff read that portion
15 of that --

16 A. I believe it was the minor's clinician,
17 the program staff, shelter staff.

18 Q. The shelter staff. [REDACTED] does, in
19 fact, report to you, correct, about the meeting?

20 A. Yes.

21 Q. We have it somewhere.

22 (Lloyd Exhibit 27 was marked.)

23 BY MS. AMIRI:

24 Q. I've handed you what's been marked as
25 Exhibit 27. Is this an email communication

1 between you and [REDACTED] about the visit for the
2 particular minor?

3 A. Yes.

4 Q. So there are a number of things that you
5 had asked [REDACTED] to communicate to her on page
6 15522?

7 A. Yes.

8 Q. Do you know if the minor requested
9 spiritual counseling?

10 A. I don't know. I don't think she did.

11 Q. Do you know if ORR or the shelter
12 required her to attend spiritual counseling even
13 if she did not want it?

14 A. Do I know?

15 Q. Yes. Do you know whether ORR or the
16 shelter staff required her to attend spiritual
17 counseling?

18 A. I know that nobody required her to do
19 that.

20 Q. That somebody required -- sorry. I
21 didn't hear.

22 A. I know that nobody required her to do
23 that.

24 Q. So in number three, you had asked
25 [REDACTED] to talk to her about the abortion

1 procedure, if she knows what a dilation and
2 extraction abortion is. But to confirm your
3 earlier testimony, you did not have [REDACTED] read
4 the description of Gonzales to her; correct?

5 A. Right. [REDACTED] did not.

6 Q. Did [REDACTED] offer an illustration of an
7 abortion at 23 weeks?

8 A. I believe that she did.

9 Q. Do you know if the minor decided to view
10 that image?

11 A. She decided not to.

12 Q. Do you know what information [REDACTED]
13 communicated to her about what was in your No. 4
14 about abortion, she may experience abortion as
15 trauma on top of the trauma from her rape?

16 A. Well, this was -- well, it's for all
17 three scenarios, parenting, adoption and abortion.
18 I don't recall there being much details about that
19 discussion.

20 Q. You don't know whether [REDACTED] said to
21 her if you have an abortion, you may experience
22 that as trauma?

23 A. I don't know if she said that.

24 Q. In number five you said that she should
25 know that the program is able to do for her -- I'm

1 sorry -- she should know what the program is able
2 to do for her if she decides to carry her baby to
3 term or give him or her up for adoption and that
4 if born in the U.S., the baby would be a U.S.
5 citizen.

6 Why did you want [REDACTED] to communicate this
7 to this particular minor?

8 A. So that the minor would know that for
9 communicating her decision.

10 Q. Why do you think it was important for
11 her to know her baby, if born in the United
12 States, would be a U.S. citizen?

13 A. I don't know. It's just good
14 information to have.

15 (Lloyd Exhibit 28 was marked.)

16 BY MS. AMIRI:

17 Q. I hand you what's been marked as Exhibit
18 28. What I've just handed to you marked as
19 Exhibit 28 is [REDACTED]'s report back to you; is
20 that correct?

21 A. Yes.

22 Q. In the first paragraph, I understand
23 there have been some redactions made to protect
24 the names of individuals, but I'm wondering if
25 anyone was present during the visit from ORR

1 staff, including federal field specialists, or
2 whether those names that have been redacted are
3 nongovernmental employees.

4 A. The federal staff that I know was there
5 was [REDACTED]. I don't remember if the federal
6 field staff was there.

7 MS. AMIRI: This might be a good place
8 for a break.

9 THE VIDEOGRAPHER: We are off the record
10 at 11:38.

11 (Recess from 11:38 a.m. to 11:54 a.m.)

12 THE VIDEOGRAPHER: This is Media Number
13 2 in the video recorded deposition of Scott Lloyd.
14 We're back on the record at 11:54.

15 (Lloyd Exhibit 29 was marked.)

16 BY MS. AMIRI:

17 Q. I'm going to hand you what's been marked
18 as Exhibit No. 29.

19 (Witness reviewed the exhibit.)

20 BY MS. AMIRI:

21 Q. In Exhibit 29 now we're talking about a
22 different minor than the one we were talking about
23 before the break; is that right?

24 A. Yes.

25 Q. It looks like there's one instruction

1 that you gave to the federal field specialist
2 through Jonathan White on 15592 about [REDACTED]
3 notification of the pregnancy and the termination
4 request; is that accurate?

5 A. Yes.

6 Q. Did you give any other instructions with
7 respect to this particular minor either directly
8 to the shelter or through your staff?

9 A. I don't recall.

10 Q. Did you speak to the shelter where this
11 minor was living at the time directly?

12 A. I don't think so.

13 Q. If you don't recall whether you had any
14 other further instructions, just to see if this
15 refreshes your recollection at all, did you
16 instruct that this particular minor be taken to
17 visit a center on the trusted list of HHS approved
18 in crisis pregnancy centers?

19 A. It's possible. I don't recall.

20 Q. Did you speak personally to this
21 particular minor?

22 A. No.

23 Q. Did you instruct that this particular
24 minor read a description of an abortion procedure?

25 A. No.

1 Q. Did you instruct that this particular
2 minor receive information about adoption?

3 A. That would be one of the -- if we gave
4 the instruction that she have options counseling,
5 that would be one of the reasons for the options
6 counseling.

7 Q. Separate and apart from options
8 counseling, did you direct the shelter staff, for
9 example, to provide this minor with anything very
10 specific with respect to adoption?

11 A. That be would the purpose of options
12 counseling, so no.

13 Q. Who do you anticipate would do that
14 options counseling?

15 A. The pregnancy center.

16 Q. Did you instruct this minor to undergo
17 an ultrasound?

18 A. No.

19 Q. So other than what's in the email with
20 respect to the direction about notification of the
21 sister, are there any specific instructions that
22 you remember for this specific minor that you
23 provided?

24 A. Yes, I don't recall.

25 Q. Since your deposition in December, have

1 you had any conversations with ICE about abortion?

2 A. I don't think so.

3 Q. Have you instructed your staff to have
4 any conversations with ICE about abortion since
5 your deposition?

6 A. I don't think so.

7 Q. So before we talked about other minor
8 abortion requests that came in since your
9 deposition. So this represents two. I want to
10 talk about others. There was one in January, and
11 I wanted to ask you questions about what
12 instructions you made with respect to her, to her
13 abortion.

14 A. January?

15 Q. Um-hum.

16 A. I don't recall. I would need more
17 specifics.

18 Q. So this will be under the
19 confidentiality order. [REDACTED]

20 [REDACTED]. Does that ring a bell?

21 A. It does.

22 Q. What instruction did you provide for
23 this particular minor when her abortion request
24 came in?

25 A. I don't recall. It would be along the

1 lines of I would instruct the staff to develop the
2 record if there was something missing. I don't
3 recall the specific instructions given to staff
4 with regard to that request.

5 Q. When you -- strike that.

6 When you said develop the record and see if
7 there's anything missing, what are the types of
8 things that you're looking for when you get an
9 abortion request?

10 A. Same as in the last deposition, just the
11 full facts.

12 Q. Were you involved in this particular
13 minor's release decision to her sponsor?

14 A. This is [REDACTED]?

15 Q. Yeah.

16 A. I don't think so.

17 Q. Are you typically personally involved in
18 decisions to release minors to their sponsors?

19 A. Not typically.

20 Q. If you are not, who is in your staff?

21 A. That's a determination made by field
22 staff in conjunction with their case manager.

23 Q. So on a routine basis, decisions to
24 release a minor to her sponsor don't reach your
25 desk; is that fair?

1 A. Yeah. On a routine basis, most
2 decisions do not reach my desk.

3 Q. About release to sponsors?

4 A. Right.

5 Q. And is that also true for any sort of
6 release or transfer to ICE upon a minor reaching
7 the age of maturity, or is that a different
8 question?

9 A. Usually I would not be involved in that.
10 There's some releases for -- that do reach our --
11 reach the office of the director on a routine
12 basis, but it's a very minor segment of the
13 population.

14 Q. What is the criteria for that minor
15 segment of the population?

16 A. Potential danger to the community/gang
17 involvement.

18 Q. So far none of the minors that we have
19 talked about fall into that category; is that
20 fair?

21 A. That's fair.

22 Q. With respect to the minor that we're
23 talking about in [REDACTED] now, did you request
24 that she be read information about an adoptive
25 family?

1 A. Yes, I believe so. I think we're
2 talking about the same case.

3 Q. What did that information about the
4 adoptive family say?

5 A. It was an offer that we received from a
6 family interested in adoption that was directed
7 toward that particular minor. That was just --
8 they were able to do that because of news reports
9 about the case. So we asked that the offer be
10 translated into [REDACTED] to the UAC.

11 Q. Did you know this prospective adoptive
12 couple?

13 A. No.

14 Q. You never heard their names before?

15 A. No.

16 Q. Is this the first type of offer for
17 adoption that has made its way to you in the
18 context of having someone seeing a news story
19 about the abortion request and ORR custody?

20 A. No.

21 Q. Sorry. It's not the first one?

22 A. (Nodding.)

23 Q. Typically when you get an offer for
24 adoption, what do you do with that?

25 A. It's not a typical situation. It's

1 really only, in my recollection, arose twice. I
2 think the circumstances of the first time were
3 such that we couldn't do much with the offer. And
4 the second time, we just passed it on to the girl.

5 Q. And in the first circumstance, why were
6 you unable to do anything?

7 A. I think, if memory serves -- well,
8 first, there's no real procedure for that. So
9 that may have been a delaying factor. Then the
10 other, I believe the UAC either left custody or
11 obtained an abortion before it was material.

12 Q. So with this minor, going back to the
13 [REDACTED] minor, when you received this offer of
14 adoption, did you do anything to vet the couple
15 that was making the offer?

16 A. No.

17 Q. Any assessment of whether they would be
18 good adoptive parents?

19 A. No.

20 Q. Why did you instruct that the minor
21 receive the offer?

22 A. To discern whether that is something
23 she'd be interested in pursuing.

24 Q. Had the minor given any indication that
25 you were aware of that she was interested in

1 carrying the pregnancy to term and placing the
2 baby for adoption?

3 A. No.

4 Q. Was the offer of adoption read to the
5 minor by shelter staff or someone on your staff?

6 A. I think that it was. I actually don't
7 recall receiving confirmation of that.

8 Q. Any other instructions with respect to
9 this particular minor that you either communicated
10 directly to the shelter or directly -- I'm
11 sorry -- through staff?

12 A. Not that I -- I don't recall.

13 Q. I'm sorry if I forgot this, but did you
14 speak directly to this other particular shelter?

15 A. I don't think so.

16 Q. So earlier when we started the
17 deposition, you indicated there may have been a
18 shelter or more than one shelter that you had
19 spoken directly to about a minor's abortion
20 request. So far in the three minors that we've
21 talked about thus far, none of those shelters
22 you've spoken to directly; is that fair?

23 A. Yeah. That sounds right.

24 Q. So in what other circumstances -- what
25 other minors have we not yet talked about where

1 you may have talked to the shelter directly?

2 A. I can say that I really don't think that
3 I have been in direct contact with a shelter in
4 any circumstance since our last deposition.

5 Q. So we have talked about three minors.
6 There's a minor that recently requested access to
7 abortion in [REDACTED].

8 A. How recently?

9 Q. Very recently, this month.

10 A. Okay.

11 Q. Were you aware of that abortion request?

12 A. Yes, if we're talking about the same
13 thing.

14 Q. What instructions have you given with
15 respect to that minor?

16 A. To ascertain whether she desires legal
17 counsel in the matter.

18 Q. And how did you instruct that that
19 determination be reached?

20 A. Just through her caseworker, clinical
21 caseworker.

22 Q. At the shelter?

23 A. Yeah.

24 Q. Have you made any instructions with
25 respect to any of the other types of instructions

1 we have seen with other abortion requests, for
2 example, telling the parents in the home country
3 or requiring the minor to tell the parents in the
4 home country?

5 A. Yes.

6 Q. A visit to a crisis pregnancy center?

7 A. No.

8 Q. Spiritual counseling?

9 A. No.

10 Q. So the only instructions that you have
11 made with respect to this particular minor that
12 made the request for abortion this month is
13 pertaining to whether she wants legal counsel?

14 A. Right. I may have mentioned to ensure
15 that she knows that spiritual counseling is
16 available if she wants it.

17 Q. Do you know if she requested spiritual
18 counseling?

19 A. I don't think that she did.

20 Q. So we talked about four minors. We had
21 talked about that you thought there would be less
22 than five abortion requests.

23 Are there any abortion requests that have
24 been made that have been brought to your attention
25 since your deposition on December 18 that we have

1 not discussed?

2 A. No, not to my recollection. I think
3 we've covered them all.

4 Q. Have you provided instruction to legal
5 services attorneys funded by ORR about what they
6 may or may not say about abortion to their
7 clients?

8 A. I'm sorry. Could you repeat the
9 question? I missed the first part.

10 Q. Have you made an instruction to legal
11 services attorneys, organizations rather, that
12 receive funding through ORR about what they may or
13 may not say about abortion?

14 A. No.

15 Q. Do you know whether anyone on your staff
16 has?

17 A. No.

18 Q. Is it your position that a legal
19 services organization that receives funding
20 through ORR either directly or through the Vera
21 Institute is not prohibited from discussing
22 abortion with their clients?

23 A. Is it my position that they're not
24 prohibited from? Yes. It's my position. Because
25 that's my understanding of the contract that they

1 sign, but I would defer to the contract officer as
2 to what the specific terms are.

3 Q. You personally have not instructed your
4 staff to communicate to the Vera Institute that
5 their grantees or subcontractors, rather, should
6 not discuss abortion with their clients?

7 A. No. I did not make that.

8 Q. Did you make that request with respect
9 to any Know Your Rights material used by those
10 organizations?

11 A. No.

12 MS. AMIRI: If we can step out for about
13 five minutes, I'm probably pretty close to being
14 done.

15 THE VIDEOGRAPHER: We're off the record
16 at 12:12.

17 (Recess from 12:12 p.m. to 12:17 p.m.)

18 THE VIDEOGRAPHER: We're back on the
19 record at 12:17.

20 MS. AMIRI: I don't have anything
21 further at this time. Mr. Tomlinson may have
22 questions for you which may then trigger questions
23 for me, but at this time, I have nothing further.

24 MR. TOMLINSON: Do you mind if we just
25 take a minute?

1 THE VIDEOGRAPHER: Off the record at
2 2:17.

3 (Recess from 12:17 p.m. to 12:25 p.m.)

4 THE VIDEOGRAPHER: We're back on the
5 record at 12:25.

6 EXAMINATION

7 BY MR. TOMLINSON:

8 Q. Mr. Lloyd, I have just a couple
9 questions for you. I'm going to ask you to look
10 at what plaintiff's counsel marked as Exhibit 24.
11 And specifically I'm going to ask you to look at
12 the note to file that starts on the second page of
13 that exhibit, the one that's with the Bates number
14 15607. Do you see that?

15 A. Yes.

16 Q. You said in your deposition that this
17 is -- that decisions like this about whether to
18 approve a minor's request for termination of
19 pregnancy are made on a case-by-case basis; right?

20 A. Yes.

21 Q. You said that that considers all the
22 facts available to you; right?

23 A. Yes.

24 Q. Is there anywhere in this memo where you
25 reference religion or your personal religious

1 beliefs?

2 A. No.

3 Q. How important are your personal
4 religious beliefs in making the case-by-case best
5 interest determination?

6 A. My religious beliefs form the -- they're
7 at the core of anything I would do in all
8 settings. They motivate me to treat other people
9 the way that I do and to -- they are in a sense --
10 they're just part of who I am, core part of who I
11 am. But they're not a part of an analysis as to
12 what happens in the termination request when I'm
13 acting as director of the Office of Refugee
14 Resettlement.

15 MR. TOMLINSON: That's all the questions
16 I have. Thank you.

17 EXAMINATION

18 BY MR. SPENCER:

19 Q. I just have a few clarifying questions.
20 Earlier in your deposition, you discussed an
21 agreement that was negotiated or signed with a
22 religiously-affiliated shelter since your last
23 deposition; is that right?

24 A. Yes.

25 Q. And you testified that you did not know

1 which shelter that was.

2 A. That's correct.

3 Q. And you did not know whether that
4 shelter was a subgrantee of the USCCB?

5 A. That's correct.

6 Q. So your answer that it was likely part
7 of USCCB's list of subgrantees and possibly
8 Catholic Charities was speculation?

9 A. Yes.

10 MR. SPENCER: I don't have any other
11 questions.

12 RE-EXAMINATION

13 BY MS. AMIRI:

14 Q. I have just one follow-up drawn out by
15 Mr. Tomlinson's questions.

16 On Exhibit 24 that's in front of you, on
17 Price production 15609, footnote 6, there's a
18 reference to an organization called Hope After
19 Abortion.

20 A. Yes.

21 Q. What is Hope After Abortion?

22 A. It's a ministry for women who have had
23 abortions and come to regret them and seek
24 healing.

25 Q. Have you had any connections with them

1 professionally prior to joining ORR?

2 A. No.

3 Q. Have you had any conversations with them
4 since your time at ORR?

5 A. No.

6 MS. AMIRI: I have nothing further.

7 THE VIDEOGRAPHER: This concludes the
8 video recorded deposition of Scott Lloyd. We're
9 off the record at 12:30.

10 (Whereupon, at 12:30 p.m., the taking of
11 the instant deposition ceased.)

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C E R T I F I C A T E

DISTRICT OF COLUMBIA:

I, Ann Medis, Registered Professional Reporter and Notary Public, hereby certify the witness, SCOTT LLOYD, ESQUIRE, was by me first duly sworn to testify to the truth, that the foregoing deposition was taken at the time and place stated herein, and that the said deposition was recorded stenographically by me and then reduced to printing under my direction, and constitutes a true record of the testimony given by said witness.

I certify the inspection, reading and signing of said deposition were NOT waived by counsel for the respective parties and by the witness.

I certify I am not a relative or employee of any of the parties, or a relative or employee of either counsel, and I am in no way interested directly or indirectly in this action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office this 26th day of February, 2018.

Notary Public

1 TRANSPERFECT DEPOSITION SERVICES
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3 212.400.8845

4 ERRATA SHEET

5 CASE: ACLU v HARGAN, ET AL.
6 DATE: FEBRUARY 13, 2018
7 WITNESS: SCOTT LLOYD, ESQUIRE

7	Page	Line	Change and reason for change:
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21
22
23 Subscribed and sworn to me this
24 _____ day of _____, 2018.
25 _____