

EXHIBIT B

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 KRISTIN M. PERRY, et al.,)
4 Plaintiffs,)
5 v.) No. 09-CV-2292 VRW
6 ARNOLD SCHWARZENEGGER, in)
7 his official capacity as)
8 Governor of California,)
9 et al.,)
10 Defendants.)
11
12 Washington, D.C.
13 Friday, October 30, 2009
14 Deposition of LOREN DEAN MARKS, called for
15 examination by counsel for Plaintiffs in the
16 above-entitled matter, the witness being duly sworn
17 by CHERYL A. LORD, a Notary Public in and for the
18 District of Columbia, taken at the offices of COOPER
19 & KIRK PLLC, 1523 New Hampshire Avenue N.W.,
20 Washington, D.C., at 9:31 a.m., and the proceedings
21 being taken down by Stenotype by CHERYL A. LORD, RPR,
22 CRR.

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1 headings in various studies, it's -- it's rarely
 2 explicitly mentioned.
 3 Q. Is Johnson's study one that you would
 4 characterize as gold standard social science?
 5 A. I think it's a fine study, yes.
 6 Q. Can you turn to page 12, please.
 7 A. M-hm.
 8 Q. Page 12, the first bullet point numbered
 9 1, I'll read it and you can read along: 10 family
 10 types are defined as follows in order of decreasing
 11 frequency. 1, mother, father. The respondent
 12 reported the presence in the household of a mother
 13 and a father, open paren, biological or adoptive,
 14 close paren. The respondent did not report in the
 15 presence -- the presence in the household of any of
 16 the other 7 relations, that is, the respondent did
 17 not report living with a stepmother, a stepfather, an
 18 other relative, a nonrelative, or a spouse.
 19 Do you take that to mean that -- to mean
 20 as I do that Johnson defined a mother or a father as
 21 a biological or an adoptive mother or father?
 22 A. Yes.

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1 Q. Do you read that as I do that Johnson does
 2 not distinguish between biological and adoptive
 3 parents?
 4 A. He doesn't there.
 5 Q. Do you believe that Wilcox -- Wilcox's
 6 statement turning back to page 25 -- you need not
 7 turn to it because it's quoted in paragraph 15 of
 8 your report.
 9 Do you believe that Wilcox's statement
 10 that teens living with both biological parents are
 11 significantly less likely to use illicit drugs,
 12 alcohol, tobacco -- do you believe that's accurately
 13 supported by the Johnson study?
 14 A. Taking a close look at these -- at these
 15 definitions as been presented, I would withdraw
 16 that.
 17 Q. Would you also withdraw your emphasis on
 18 both biological parents?
 19 A. Certainly so.
 20 Q. Would you delete the word biological?
 21 A. I would.
 22 Q. I want to move now to your discussion of

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1 criminality and incarceration.
 2 In paragraph -- where is it? -- oh,
 3 I'm -- yes, paragraph 16, you state that: In another
 4 examination of criminality and delinquency, Rickel
 5 and Langer found that children who were residing with
 6 their biological fathers were the least involved in
 7 delinquent behavior, while children with stepfathers
 8 fared worse. Single-parented children fell in
 9 between.
 10 And for that proposition, you cite Rickel
 11 and Langer's 1985 study, and you see also to David
 12 Popenoe's book.
 13 Are you sure as you sit here right now
 14 that you used the term that Rickel and Langer --
 15 excuse me -- used the term biological fathers as you
 16 used the term biological fathers in your report?
 17 A. No, not positive.
 18 Q. Do you know if Rickel and Langer used the
 19 term biological fathers at all?
 20 A. One of hundreds of studies, Mr. McGill.
 21 Q. So is the answer, you don't know if Rickel
 22 and Langer used biological fathers?

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1 A. I don't recall.
 2 Q. Have you read the Rickel and Langer study?
 3 A. I've read just portions of it, as I
 4 mentioned earlier.
 5 Q. Can you tell me what methodology Rickel
 6 and Langer used to reach their conclusions?
 7 A. No.
 8 Q. Can you tell me when Rickel and Langer
 9 gathered the data for their study?
 10 A. No.
 11 It was published in '85, how -- how far
 12 before that, I don't know.
 13 Q. If I told you the data was gathered in the
 14 late 1960s, would you assume that was correct?
 15 A. I couldn't refute it.
 16 MR. MCGILL: Mark this as exhibit 6,
 17 please.
 18 (Marks Exhibit No. 6
 19 was marked for
 20 identification.)
 21 BY MR. MCGILL:
 22 Q. I want to direct you first to page 601

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1 focuses specifically on those families is nascent and
 2 new.
 3 There's hundreds of studies as I mentioned
 4 early on, each of which may have their own little
 5 twist or wrinkle. In social science, we call it an
 6 operational definition.
 7 Those -- those differ from study to study.
 8 And if I were to tease out every one of those
 9 definitions in a 12-page report, we wouldn't -- we
 10 would never get to the report. There are some --
 11 some admittedly broad-brush strokes and assumptions
 12 that are made. As a writer I had to make some of
 13 those.
 14 And leave it at that.
 15 Q. And one of the assumptions you made was
 16 that where a study labeled a family intact or as
 17 having biological parents, you assumed, did you not,
 18 that the parents had a genetic connection to the
 19 child?
 20 A. I did --
 21 Q. So you --
 22 A. -- because --

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1 Q. Please continue.
 2 A. -- because the researchers in -- in, you
 3 know, Susan Brown's case and Johnson, they elected to
 4 include adoptive families in with their definition of
 5 intact.
 6 Q. If you were designing a study that sought
 7 to demonstrate the importance of biological parenting
 8 as opposed to nonbiological parenting, how would you
 9 do it?
 10 A. I think the way I would probably go about
 11 it would be to do a comparison between the intact
 12 family as we've discussed to do it with a
 13 marriage-based adoptive family and also probably to
 14 include a third party of step- -- stepfamily, but I
 15 would be very careful to control for income given
 16 some of the assumptions that I made earlier about
 17 adoptive families having more economic resources.
 18 Q. Of any of the studies that you have
 19 reviewed in connection with your work as an expert,
 20 are you aware of any study that does as you just
 21 suggested right there?
 22 A. There -- I think there are studies that at

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1 least use an idea or 2.
 2 Lansford -- I think Brown at some -- some
 3 level has given some similar ideas, but again, we're
 4 talking about hundreds of studies, Mr. McGill, to
 5 pull one out and specifically looking at an
 6 adoption -- Lansford may have, 2001.
 7 Q. Based on your work as a social scientist
 8 and your experience in the social sciences for -- as
 9 a professor for 8 years, in the absence of a study
 10 that compared biological parents to nonbiological
 11 parents, is it possible to draw an inference that
 12 biological parents are superior at generating
 13 beneficial child outcomes than nonbiological
 14 parents?
 15 A. And we're talking about intact forms --
 16 Q. Intact.
 17 A. -- with everything except biology and
 18 place.
 19 MR. THOMPSON: Just so the record is
 20 clear, is marriage in place in in this question?
 21 BY MR. MCGILL:
 22 Q. My question was, in the absence of any

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1 study that compares biological parents to
 2 nonbiological parents, is it possible to draw an
 3 inference that biological parents are superior to
 4 nonbiological parents?
 5 A. In terms of the research that exists, I
 6 think we've established that -- that question is
 7 tough to address, which is I assume why you asked for
 8 an inference. I think it's a risky -- risky
 9 inference.
 10 That's -- that's why we have empirical
 11 research.
 12 Q. Is there any study that you've discussed
 13 in your report or cited in your list of references
 14 that tends to demonstrate that biological parents are
 15 superior to nonbiological parents at creating
 16 beneficial child outcomes?
 17 A. With -- with the marriage-based adoptive
 18 families as the wild card that sometimes are not
 19 included, sometimes as we have seen Johnson '96 are
 20 included under the intact heading, there are studies
 21 that -- that indicate once again that there is a
 22 potent outcome difference when you combine biology

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1 and marriage.
 2 We -- we talked earlier about teasing that
 3 out. Causation, no. Correlation, yes.
 4 Q. What -- what study are you referring to
 5 when you said, powerful evidence of biological
 6 parenting combined with marriage?
 7 A. There I'm talking about Child Trends 2002,
 8 Kristin Moore, et al., McLanahan and Sandefur, 1994,
 9 Amato, 2005.
 10 Neither of those -- well, I'll just stop
 11 there.
 12 Q. Can you please turn to paragraph 34 of
 13 your report, which is marked as exhibit 2.
 14 This is where you discuss the Moore Child
 15 Trends report.
 16 Correct?
 17 A. Correct.
 18 Q. And that report states: It is not simply
 19 the presence of 2 parents as some have assumed but
 20 the presence of 2 biological parents that seems to
 21 support children's development.
 22 Is this one of the studies that you say is

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1 powerful evidence of the importance of biological
 2 parenting?
 3 A. I don't know that I used the word
 4 powerful.
 5 I've repeatedly stated that it's not just
 6 biology, but biology in connection with marriage,
 7 that combination.
 8 Q. And Moore and her Child Trends report is
 9 one of the studies you cite for that proposition?
 10 A. One, yes.
 11 Q. And have you read the Kristin Moore Child
 12 Trends research brief?
 13 A. Kristin, yes.
 14 Q. Do you understand it?
 15 A. As I said earlier, there's always things
 16 that kind of go over your head, but, yes, I believe I
 17 do, reasonable.
 18 Q. What's the central thesis of her --
 19 A. Again, in terms of memory, I struggle,
 20 Mr. McGill.
 21 There are about 5 Child Trends reports
 22 that year. I believe the one that I specifically

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1 cite dealt with adolescent development or things of
 2 that nature as opposed to others.
 3 Q. The -- this is not a study of original
 4 research, is it?
 5 A. Child Trends is a nonpartisan group that
 6 looks at issues that are -- they're viewed to have
 7 profound policy implications. They -- they sometimes
 8 do conduct primary research.
 9 I believe that this particular report is a
 10 brief -- or they're relying heavily on studies,
 11 especially gold standard studies of others.
 12 Q. And --
 13 MR. MCGILL: Will you mark that as exhibit
 14 number 8, please.
 15 (Marks Exhibit No. 8
 16 was marked for
 17 identification.)
 18 BY MR. MCGILL:
 19 Q. I would direct you to the last paragraph
 20 in the right-hand column, which is the portion that
 21 you quoted.
 22 It states: Children growing up with

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1 stepparents also have lower levels of well-being than
 2 children growing up with biological parents.
 3 It drops a footnote at that point.
 4 Thus it is not simply the presence of 2
 5 parents as some have assumed but the presence of 2
 6 biological parents that seem to support the
 7 children's development.
 8 In your experience as a social scientist,
 9 what authority do you believe Moore, et al., cited
 10 for that proposition?
 11 A. Let me look at the beginning again.
 12 2 parents versus the presence of
 13 biological parents.
 14 It's a point among others that both Amato
 15 and McLanahan and Sandefur have considered.
 16 Q. Do you think that Moore and her colleagues
 17 were relying on the source that they cited in
 18 footnote 5?
 19 A. To -- to make the statement that we just
 20 read?
 21 Q. Yes.
 22 A. I think it's likely that they were relying

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1 Well, I've listed here that that was drawn
 2 from Popenoe.
 3 Q. Is your reference to intact families
 4 accurate?
 5 A. May -- may include adopted as well, but
 6 memory doesn't -- doesn't serve me there.
 7 Q. Onward we go.
 8 Paragraph 37.
 9 A. M-hm.
 10 Q. Here you quote at some length from
 11 Lorraine Blackmon's review: For African American
 12 children, parental marriage produces important
 13 benefits.
 14 And then it ends by saying: Marriage
 15 itself appears to be contributing strongly to better
 16 outcomes for black children.
 17 And then you drop a footnote, footnote 59.
 18 And you state there that: The researchers
 19 are again referring to marriage between the
 20 biological father and the mother.
 21 Are you sure that's the case?
 22 A. Well, as we've seen in a few of these

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1 studies, they include -- some of them include intact,
 2 adoptive families under -- under biological. That
 3 certainly is possible if not probable in some of
 4 these studies cited by Blackmon, since it's a review
 5 where they cite -- they claimed to cite 120 or so.
 6 In this case, I would anticipate that they
 7 would probably have at least some studies. They
 8 included a handful of adopted marriage-based families
 9 in there.
 10 Q. Do you wish to revise your statement that
 11 the phrase parental marriage refers to marriage
 12 between the biological father and mother?
 13 A. I think that what I would do there is say
 14 typically, conceptually, although some of the
 15 studies, Johnson, et al., and others do include in
 16 their definition adoptive families under that
 17 heading.
 18 Q. So we couldn't conclude from Blackmon's
 19 conclusion here that the benefits of marriage to --
 20 for black children are in any way limited to
 21 biological parents?
 22 A. I think that that's an overstatement,

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1 although in several of the studies that we've pulled
 2 out, they mention that they include in -- different
 3 social scientists want to be -- and, you know, more
 4 or less inclusive or claiming the definition of who
 5 they include in the study. We've seen in several of
 6 these cases that they decide to include adoptive
 7 families, which are a small, small minority in the
 8 general population, a small minority. I don't know
 9 the exact figures.
 10 But when you're dealing as these
 11 researchers are with broad national-based samples,
 12 they are as I mentioned earlier, sometimes painting
 13 with a broad brush.
 14 If some of these studies we're talking
 15 about, they use the term biological or intact and
 16 they throw in some -- some adopted studies, we would
 17 call that noise at some level, that there's a little
 18 bit of -- there's a little bit of muddying of
 19 concepts, but unless we -- unless we know that
 20 conceptually, they're including so many adoptive
 21 families, I find that very hard to believe to
 22 overthrow the general conclusion of a study based on

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1 thousands and thousands of people.
 2 It's --
 3 Q. Well, but --
 4 A. Well, it's -- it's conceptually an
 5 inconvenience to -- to have a nonclear-cut
 6 definition, but the points that are being made, if --
 7 if adoptive families comprise 1 or 2 or 3 percent of
 8 the subgroup of what they're calling intact
 9 biological families, we're talking about a study
 10 that's still 97 percent pure.
 11 It doesn't overthrow -- it makes my
 12 definition, which is necessarily messy upfront, less
 13 convenient, less clean, but it -- you don't throw out
 14 the baby with the bath water because they decided to
 15 include a few adoptive families under the intact
 16 heading. That's ridiculous.
 17 Further if -- if they decided to put the
 18 intact families or the marriage-based adoptive
 19 families in for whatever reason in with stepparent
 20 families, and it only accounted for a very small
 21 minority of the studies in that total population,
 22 it's -- it's again impure conceptually, but it

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1 doesn't ruin the whole study. It doesn't ruin the
 2 conclusions.
 3 You're always by definition dealing with
 4 noise in social science. The best of these studies
 5 are claiming to explain sometimes 30, 35 percent, 40
 6 percent of the variance.
 7 They're offering incomplete explanations.
 8 They're doing the very best they can with -- with
 9 real life, which is pretty messy, Mr. McGill. And
 10 adoptive families as I said before, I -- I -- from a
 11 scholarly vantage, I don't have anything particularly
 12 for or against them.
 13 If -- if some of the researchers decide to
 14 put them in with intact, that's -- that's fine. And
 15 with stepfamilies, that's fine.
 16 But I would prefer -- I believe that they
 17 deserve a discrete category themselves. My belief
 18 doesn't apply to a hundred different researchers who
 19 approach this -- this tough problem.
 20 It's a tough problem to -- to tease out,
 21 that they're going to approach it in different ways.
 22 I would only reframe the statement that I make there

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1 a little bit.
 2 I wouldn't -- I wouldn't retract it. It
 3 would be ideal to know specifically at the end of the
 4 day, to call somebody on these gold standard studies
 5 and say, okay, you had 12,000 and 6,000 were intact
 6 families, of that 6,000, how many were adopted, so
 7 that they could tell you 30, 60, a hundred. And
 8 you'd know what kind of noise you were dealing with,
 9 but you still wouldn't throw the study out.
 10 And I wouldn't throw out my conclusion. I
 11 would -- I would refine it, but I wouldn't throw it
 12 out.
 13 Q. Is there anything in Blackmon's statement
 14 that for African American children, parental marriage
 15 produces important benefits?
 16 Let's focus on that sentence.
 17 A. Okay.
 18 Q. Is there anything in that sentence that
 19 would allow you to infer that a marriage of adoptive
 20 parents produces less importance benefits than
 21 marriage of biological parents?
 22 A. No, I don't think so, from that sense.

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1 Q. And so you would admit, then, that your
 2 footnote 59 where you say that parental marriage was
 3 referring to the marriage between a biological mother
 4 and a father -- were you not in that footnote trying
 5 to draw exactly that inference, that it's the
 6 biological marriage that produces importance benefits
 7 to the exclusion of other nonbiological marriages?
 8 A. That's a reference to the way biological
 9 was conceptualized in a number of the studies that
 10 were being drawn on.
 11 And as I've said, I would want -- you
 12 know, in -- in hindsight, your point being a good
 13 one, I would be more refined in emphasizing that
 14 researchers conceptualize that a little bit
 15 differently.
 16 MR. THOMPSON: Can we take a 5-minute
 17 break?
 18 If you're in the middle of something --
 19 THE VIDEOGRAPHER: 10 minutes.
 20 MR. MCGILL: Do you want to wait till the
 21 tape is up?
 22 MR. THOMPSON: Sure.

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1 THE WITNESS: Let's keep rolling.
 2 BY MR. MCGILL:
 3 Q. In paragraph 41 -- and we're nearing the
 4 end of your report -- paragraph 41, you state that:
 5 When biological fatherhood and marriage are combined,
 6 the research indicates that children tend to fare
 7 better, at least in part because married fathers tend
 8 to have better relationships with the mothers of
 9 their children than fathers in marriage alternatives.
 10 And for that proposition, you cite Nock's
 11 1998 book.
 12 Do you know if Nock was referring to bio-
 13 -- referred ever to biological fatherhood?
 14 We're in paragraph 41.
 15 A. In marriage alternatives.
 16 Q. And I'm focused here on the phrase
 17 biological fatherhood.
 18 A. Biological.
 19 I have read Nock's book in its entirety,
 20 but it's been a while. Let me look at the statement
 21 one more time, Mr. McGill.
 22 Married fathers tend to have better

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1 adjustment than the intact family?
 2 MR. THOMPSON: Objection, compound.
 3 A. Gay or lesbian --
 4 BY MR. MCGILL:
 5 Q. Let's break -- let's break it up.
 6 A. Okay. Go ahead.
 7 Q. Do you have an opinion as to whether
 8 the -- whether a married lesbian couple, let us say
 9 they were married in Massachusetts, is as likely to
 10 produce good childhood adjustment, good child
 11 adjustment than the intact family?
 12 MR. THOMPSON: And I'm going to object on
 13 the grounds that his rebuttal report may well address
 14 this, but I'm going to let him answer it subject to
 15 the caveat that he's thinking about this and will be
 16 thinking hard about it over the next week and a half.
 17 But go ahead.
 18 BY MR. MCGILL:
 19 Q. If the answer is that you do not yet have
 20 an opinion formed, please give that answer, but if
 21 you have an opinion, I'd like to hear it.
 22 MR. THOMPSON: I'm just saying it's

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1 subject to the caveat that he may revise the opinion
 2 or expand on the opinion, but it's the focus of
 3 ongoing research.
 4 But go ahead.
 5 A. Intact lesbian married couple -- well, I
 6 mean, lesbian married couple compared with intact
 7 marriage, my -- my read on the scholarly research is
 8 that as I mentioned, there have only been 1 or 2 --
 9 perhaps another study or 2 that I'm unaware of that
 10 have directly made that kind of a comparison, but
 11 there are several that have compared lesbian mothers
 12 to single-parent or single-mother families.
 13 BY MR. MCGILL:
 14 Q. I guess I didn't -- I did not get out of
 15 that whether you have an opinion or not.
 16 A. The opinion that I have would be
 17 inferential based on the gold standard studies that
 18 I've referred to that indicate the intact families do
 19 substantially better across the critical concerns
 20 that I outlined in the research report than
 21 single-mother or single-parent families do.
 22 By inference, cautious, careful inference,

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1 it would seem right now that it would be likely that
 2 the answer to that question would be the intact
 3 family would have better child development outcomes.
 4 But we've got again, 2 or 3 studies, and I'm going to
 5 be patient and see -- let the research speak its
 6 piece.
 7 Again, as mentioned, I'm formulating.
 8 Q. And are you -- in your answer, you are
 9 referring to a married lesbian couple?
 10 A. That's -- it's a good question, because in
 11 terms of marriage, you want to talk about nascent,
 12 you know, and brand-new and budding. We're -- we're
 13 having to deal, you know, in the research now almost
 14 solely to my knowledge in the same-sex parenting
 15 literature with cohabiting couple -- or cohabiting
 16 lesbian relationships or domestic partnerships.
 17 So there's -- in fact, I know of no -- no
 18 study that specifically addresses lesbian marriage
 19 and child outcomes. Partnerships, yes, cohabiting,
 20 yes, but marriage is -- marriage is brand-new.
 21 There may be a Massachusetts study coming
 22 out that I'm not aware of, but --

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1 Q. You cite in your report on a few occasions
 2 David Popenoe's book, here, Life Without Father.
 3 Are you familiar with this book?
 4 A. I am.
 5 Q. Have you read it in its entirety?
 6 A. I have.
 7 Q. Are you familiar with Popenoe's argument
 8 that gender-differentiated parenting is essential for
 9 good child outcomes?
 10 A. I am.
 11 Q. Do you agree with that argument?
 12 A. The research that I have read shows --
 13 shows mixed support I would say at best for that
 14 thesis of Dr. Popenoe's.
 15 There is some research that supports it.
 16 There's some that would refute it, including
 17 literature that I've read by Dr. Lamb.
 18 Q. So you did not rely on the theory most
 19 famously espoused by Dr. Popenoe that
 20 gender-differentiated parenting is essential for good
 21 child outcomes?
 22 You did not rely on that theory in

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1 arriving at your conclusions?
 2 A. No.
 3 I use -- I don't know that any of the 6
 4 critical concerns that I outline are
 5 gender-laden-oriented.
 6 I use biological intact parenting not of
 7 my choice necessarily, because it's -- it's the
 8 phrase as we've seen that -- that Child Trends --
 9 that McLanahan and Sandefur use in assessing the
 10 scholarship.
 11 It's not Popenoe influence.
 12 Q. Would it -- is it influenced by a theory
 13 of the importance of gender-differentiated parenting
 14 at all, whether -- as espoused by Popenoe or someone
 15 else?
 16 A. I don't -- let me think for a moment.
 17 One more time if you don't mind restating
 18 the question.
 19 Q. Do your conclusions in this case rely upon
 20 the theory of gender-differentiated parenting and
 21 specifically the importance of gender-differentiated
 22 parenting to reaching good child outcomes at all,

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1 whether as espoused by Popenoe or someone else?
 2 A. Gender -- gender is usually defined as
 3 cultural as opposed to sex, which would be more
 4 biologically driven.
 5 In terms of gender-differentiated
 6 parenting, I don't think I make any specific
 7 arguments that argue a whole lot about the cultural
 8 construct of gender. I'm dealing with sex, meaning
 9 intact, you know --
 10 Q. Right.
 11 A. -- biological father and biological
 12 mother.
 13 I don't -- I don't think that the report
 14 deals with gender differentiation specifically.
 15 Frankly I felt the critical concerns that I listed
 16 were more important, more salient.
 17 Q. So I want to just make sure I understand
 18 it.
 19 Your -- you are -- you do not share the
 20 view relied upon by -- or espoused by Popenoe that
 21 there are parenting activities that men can do that
 22 women cannot do and -- or are very unlikely to do,

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1 and there are parenting activities that women can do
 2 that men are very unlikely to do. And I'm not
 3 talking about biologically, you know, obvious
 4 parenting activities, such as breast feeding, but his
 5 theory that men play with their children differently
 6 and in a way that women do not, and women care for
 7 their children differently in a way that men do not.
 8 Is that general theory of parenting taken
 9 at its broadest level of generality -- is that at all
 10 a basis for the conclusions you reach in your report?
 11 A. That's -- that's not a theory that -- that
 12 I espouse.
 13 In terms of research, I think I mentioned
 14 earlier in the day that that's highly contested
 15 ground. It's highly contested ground, and frankly,
 16 it's not a battle that I would fight either way.
 17 I don't know that you'd say I'm agnostic
 18 on the issue, but I've seen good scholarship from
 19 both sides and I'm not ready to buy either theory.
 20 Q. But importantly for this proceeding, it is
 21 not a basis for the conclusions in your report?
 22 A. It's not a basis for it, no.

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1 Q. Okay. So the basis for your conclusion
 2 that the intact family -- I just want to read it --
 3 A. You bet.
 4 12?
 5 MR. THOMPSON: 44, the conclusions.
 6 BY MR. MCGILL:
 7 Q. 44.
 8 Your basis for the conclusion that the
 9 intact family is the ideal context for these child
 10 outcomes, the basis for your conclusion that the
 11 intact family is the ideal context for these child
 12 outcomes is based on as I understand it 2 factors.
 13 One is the marital structure, and second
 14 is the biological link between parents and children.
 15 A. That's correct.
 16 Q. Are there other --
 17 MR. THOMPSON: Do you have anything to add
 18 to that?
 19 THE WITNESS: No.
 20 I'll continue to listen for a moment.
 21 MR. THOMPSON: Well, no, if you have more,
 22 because you don't know what he's going to say. So if

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1 Do I impose it on others?
 2 I believe in cleaning up my own backyard.
 3 Q. And for clarity sake, the -- the dogma
 4 that you referred to just in your last response,
 5 that's known as the law of chastity.
 6 Correct?
 7 A. That is correct.
 8 Q. Did your religious convictions impact your
 9 opinion that the ideal family structure is marriage
 10 between man and a woman and a child biologically
 11 related to each in any way?
 12 A. My exposure to -- to that -- that dogma
 13 I'm sure is one of many factors that -- that ran
 14 around in my head.
 15 But again I was called as an expert
 16 witness in the same sense that I wouldn't come in
 17 here and make my argument based on what's stated in
 18 the family proclamation to the world. I took that
 19 same approach in my scholarly -- my scholarly work.
 20 I think I've addressed again and again
 21 that I acknowledge potential for bias and that that
 22 makes challenge fair play. However, please remember

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1 my earlier statement that I also have taken upon me
 2 the burden of challenge. This is -- you know,
 3 scholarship is about strengths and challenges, not
 4 just dogmatically presenting one.
 5 Q. When is the first time you held the belief
 6 that the ideal family structure is marriage between a
 7 man and a woman and a child biologically related to
 8 each?
 9 MR. THOMPSON: Objection, relevance.
 10 A. Mr. McGill, I don't know. I don't know
 11 how to answer that question.
 12 BY MR. MCGILL:
 13 Q. Is it -- is it fair to say that you held
 14 that view, you held that belief before your
 15 engagement as an expert in this case?
 16 A. Yes.
 17 Q. Is it fair to say you held that belief
 18 before you received your Ph.D. degree?
 19 A. Yes.
 20 Q. Did you hold that belief before you
 21 graduated from college?
 22 A. Yes.

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1 Q. So that belief predates your work as a
 2 social scientist?
 3 A. Yes.
 4 MR. MCGILL: We'll take a 1-, 2-minute
 5 break and find out if there are any last questions.
 6 MR. THOMPSON: Sound good.
 7 THE VIDEOGRAPHER: We're going off the
 8 record. The time is now 6:09 PM.
 9 (Recess.)
 10 THE VIDEOGRAPHER: The time is now 6:13
 11 PM. You may proceed.
 12 BY MR. MCGILL:
 13 Q. Dr. Marks, earlier in the deposition
 14 today, we addressed paragraph 15 of your report,
 15 which is marked as exhibit 2.
 16 A. Okay.
 17 Q. Can you go back to that.
 18 A. I'll try -- I'll try and get there
 19 quickly. Okay.
 20 Q. And addressing the last sentence: Wilcox
 21 and colleagues state that teens living with both
 22 biological parents are significantly less likely to

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1 illicit drugs alcohol and tobacco.
 2 And you said that on reflection, having
 3 reviewed with me the Johnson study, you would delete
 4 the word biological.
 5 A. Said, delete.
 6 I probably would have contextualized it
 7 differently, added to it to make it accurate for the
 8 1996 study and more precisely consistent with 1996.
 9 Q. So you might have said, teens living with
 10 both biological and adoptive families?
 11 A. Including adoptive, yeah.
 12 Q. And my question, which is my very last
 13 question, is, are there any other changes you would
 14 make to this report that you would -- or any words
 15 you would like to delete before trial?
 16 A. No.
 17 I would want to be more precise on the
 18 definitions than I was in a couple of cases. It's
 19 the danger of large studies. I would want to be more
 20 precise, but I stand behind the report as is.
 21 Q. Do you stand behind the -- do you
 22 recall -- excuse me -- do you recall when we went --

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1 when we discussed the Rinkel and Langer report?
 2 A. Yes.
 3 That was a natural -- or natural father
 4 versus biological.
 5 Correct?
 6 Q. It was -- you used biological --
 7 A. And they used natural.
 8 Q. -- but Rinkel and Langer studied natural
 9 fathers, stepfathers, no father?
 10 MR. THOMPSON: Surrogates.
 11 A. And surrogates.
 12 BY MR. MCGILL:
 13 Q. Which included stepfather.
 14 A. It included adopted under the natural --
 15 or it was -- anyway, go ahead.
 16 Q. So my question is, would you change that?
 17 Would you change that use of biological
 18 there?
 19 A. Yes, I would be precise -- more precise.
 20 Q. Do you recall when we went through the
 21 Blackmon paper?
 22 A. Yes.

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1 Q. And his use of parental marriage, that
 2 term?
 3 A. (Nodding head.)
 4 Q. Would you change footnote 59 where you say
 5 that Blackmon was, quote, referring to marriage
 6 between the biological father and mother?
 7 A. I would make it more precise. And as a
 8 blanket statement, I'd say I would list upfront what
 9 I said orally, but not in writing, that some of these
 10 studies may included adoptive fathers -- or adoptive
 11 with intact, cover it -- that would cover it.
 12 Q. Is there any use of biological in this
 13 report that you are absolutely certain refers only to
 14 children who are genetically related to their
 15 parents?
 16 A. I would go back and put a statement
 17 upfront that says exactly what I just said, it would
 18 include -- some of these studies include a very small
 19 noise amount of adoptive families.
 20 I certainly wouldn't throw the studies out
 21 as indicated earlier, but I'd be more precise on --
 22 on that.

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1 MR. MCGILL: Thank you.
 2 As Melanie wrote to me, "you are done."
 3 THE VIDEOGRAPHER: This concludes the
 4 deposition of Dr. Loren Marks. The time is now 6:18
 5 PM. The total number of videotapes used were 7.
 6 Thank you.
 7 (Whereupon, at 6:18 p.m., the taking of
 8 the instant deposition ceased.)
 9
 10
 11
 12 _____
 13 Signature of the Witness
 14
 15 SUBSCRIBED AND SWORN to before me this _____ day of
 16 _____, 20_____.
 17
 18
 19 _____
 20 Notary Public
 21
 22 My Commission Expires: _____

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1 CERTIFICATE OF COURT REPORTER
 2 UNITED STATES OF AMERICA)
 3 DISTRICT OF COLUMBIA)
 4 I, CHERYL A. LORD, the reporter before
 5 whom the foregoing deposition was taken, do hereby
 6 certify that the witness whose testimony appears in
 7 the foregoing deposition was sworn by me; that the
 8 testimony of said witness was taken by me in machine
 9 shorthand and thereafter transcribed by
 10 computer-aided transcription; that said deposition is
 11 a true record of the testimony given by said witness;
 12 that I am neither counsel for, related to, nor
 13 employed by any of the parties to the action in which
 14 this deposition was taken; and, further, that I am
 15 not a relative or employee of any attorney or counsel
 16 employed by the parties hereto, or financially or
 17 otherwise interested in the outcome of this action.
 18
 19 CHERYL A. LORD
 20 Notary Public in and for
 21 the District of Columbia
 22 My Commission expires April 30, 2011