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I'm writing in opposition to the change in form DS-5504 per Executive Order 14168 that changes "gender" on the passport form for name changes, limited passport replacements, and other purposes to "sex" and requests people to provide their "biological sex at birth" and allows only M and F as answers. (I have already left similar comments for the passport forms DS-11 and DS-82.)

"Biological sex" does not have a single understood definition. Sex is affected by inherited genes, where most parents have either two X chromosomes (generally understood to be female) or an X and Y (generally considered to be male). Not everyone receives the XX or XY chromosomes that would make a simple determination (in fact in the long view of biology, the Y chromosome is likely to disappear and its genes will end up on a different chromosome). Some people have different combinations that they might not even be aware of. Those who do have this condition cannot truthfully and accurately complete the form, and thus might be denied a passport. Even people who answer in good faith might later find out they do not have XX or XY chromosome combinations, meaning they answered incorrectly. Sex is also sometimes defined by physical characteristics but these do not fit neatly within a simple M/F binary. It can also be influenced by hormones, both in terms of natural fetal and childhood development through puberty into adulthood, as well as environmental exposures starting before birth and proceeding throughout life (including medication). All of these biological factors complicate someone's sex. Some people are intersex and present physically in ways that are not clearly in one category, or are at odds with their chromosomal sex indicators.

Forcing this change will lead to expensive and unnecessary lawsuits trying to disentangle what is scientifically a very complex process. All for an executive order that is of dubious constitutionality and likely exceeds the power of the executive without more action from Congress. It would be simpler both scientifically and constitutionally to leave the form as it is, where people can report their gender, M, F, or X for those whose gender doesn't fit within the usual binary. That would also be consistent with state laws that allow for those same categories, avoiding situations where state ID and passports have gender or sex identifiers that are not consistent. Another possibility would be to simply leave off any gender or sex category altogether, as the name, birth date, and photo and other such information on the passport is sufficient to uniquely identify each passport holder without any need to reference gender or sex that might not match their identity or appearance. Certainly gender or sex should have no relevance on whether someone can receive or use a passport to travel over international borders with the protection of the US government. So why is that information needed at all? Either have a form that reflects the actual identity and presentation of people involved, or remove that information entirely.