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2	Federal Public Defender District of Arizona		
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4	-		
5	JEFFREY A. WILLIAMS, #012605 Asst. Federal Public Defender Attorney for Defendant		
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7	IN THE UNITED STATES DISTRICT COURT		
8	DISTRICT OF ARIZONA		
9	United States of America,	No. CR-16-325-PHX-DLR	
10	Plaintiff,		
11	VS.	REPLY TO GOVERNMENT'S RESPONSE TO DEFENDANT'S	
12	Beatrice Denise Welsh,	MOTION TO PRECLUDE STATEMENTS	
13	Defendant		
14		Defendant Out of Custody	
15	-		
16	The defendant, Beatrice Denise Welsh, through undersigned counsel		
17	The defendant, beautice beinse weish, unough undersigned counsel		
18	replies to the Government's Response to Defendant's Motion to Preclude		
19	Statements and moves the Court to grant the Defendant's Motion to Preclude		
20			
21	Statements for the reasons set forth below.		
22	In its response to the defendant's motion to preclude the government		
23	cites In re Grand Jury Proceedings, 801 F.2d 1164 (9th Cir. 1986) and United		
24			
25	States v. Meagher, 531 F.2d. 752 (5th Cir. 1976), for the proposition that "there		
26	exists no physician-patient testimonial privilege under federal law." However,		
27			
28	those line of cases were abrogated by Jaf	fe v. Redmond, 581 U.S. 1, 116 S.Ct. 1923	

(1996) where the Supreme Court held that federal law does recognize the privilege protecting communications between psychotherapists and their patients and found that statements made by a patient/police officer to a licensed social worker in the course of psychotherapy were protected from compelled disclosure.

In the present case, the defendant was arrested and taken to Parker Indian Health Services Hospital so that she could be medically cleared for incarceration and not because she requested medical attention. She was placed in the custody of CRIT Police Officer Michelle Iszick and transported to the emergency room to be examined and cleared. Officer Iszick never advised the defendant that she could refuse to be examined nor did she advise the defendant of her Miranda rights. Further Officer Iszick remained in the room during the examination and listened in on the defendant's conversation with the treating physician.

The government now seeks to introduce at trial statements made by the defendant to the treating physician. To do so would violate the physician-patient privilege as well as the defendant's Fifth Amendment rights pursuant to *Miranda*.

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1	Therefore, for the reasons stated, the defendant moves the Court to		
2	preclude the government from introducing the defendant's statement at trial and		
3	from using them for any other purpose.		
5	Respectfully submitted: January 25, 2017.		
6			
7	JON M. SANDS Federal Public Defender		
8	s/Jeffrey A. Williams		
9	JEFFREY A. WILLIAMS		
10	Asst. Federal Public Defender		
11	Copy of the foregoing transmitted		
12	by ECF for filing January 25, 2017, to:		
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15			
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17	ABBIE BROUGHTON MARSH		
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23	Copy mailed to:		
24	BEATRICE DENISE WELSH		
25	Defendant		
26	s/P. Muñoz		
27	P. Muñoz		
28			