

Remarks of Lorri L. Jean
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GEORGETOWN UNIVERSITY

Good evening. The last time I was on this campus was in 1982 when my law school graduation ceremony was held out on the lawn. I have to admit that it feels very surreal to be here today because for more than 30 years my sentiments about this institution have been...well...mixed, to say the least. I do have many good feelings about my time at Georgetown University Law Center. I made lifelong friends there. I got a great education. It brought me to D.C., where I flourished for ten years and did the work that laid the foundation for me to secure the most rewarding job ever as CEO of the world's largest lesbian, gay, bisexual and transgender organization.

But, for LGBTpeople during those years, there was no way to feel good about the institution itself because of Georgetown's insistence on explicitly discriminating against a whole class of its family. This was more than a legal and moral failing. It caused very real harm to countless individuals. Georgetown's misconduct drove people into the closet or kept them there—students, faculty, staff, alumnae, and more. It also robbed its LGBT students of something that virtually all alums everywhere take with them when they graduate—pride in their alma mater. We couldn't feel that pride because of the very clear message that the University was sending to all of us. At its best, we were second-class citizens. At its worst, we were unwelcome and unwanted and even reviled. And to this day, Georgetown has never apologized for its discrimination and the harm it did to so many.

Fortunately, the world has changed a great deal since the 80's, as has Georgetown University. Still, it feels quite odd to be here. This is especially so given that I have returned for a symposium at the Law Center that is honoring the impact and legacy of the landmark civil rights lawsuit. I never thought I'd see that day.

Before I continue, I want to acknowledge Shiva Subbaraman, the Director of the campus LGBTQ resource center, and the Administrators who agreed to her inviting me, including Todd Olson, VP for Student Affairs. Todd called this visit a "healing moment." So, that is the spirit in which I join you today. However, I do want to make one thing crystal clear: my comments tonight are not those of the LGBTQ Center. Nor are they endorsed by that Center or by the University. Neither have any idea what I'm going to say.

Does that make you just a little bit more excited about what you might hear tonight? Seriously, I don't want the Administrators here or Shiva sweating in their seats. It's a fact that the story of this litigation is not a positive reflection upon the university's history. But much of what the University is doing these days is.

History like what we'll discuss tonight is important. It shouldn't be forgotten or minimized just because it's painful. Before I launch in, there is one more group of people who deserve recognition. I want to thank the Tagliabue family for their extremely generous donation that helps to fund the LGBTQ resource center. I don't know for certain what led the Tagliabues to do what they did. But I DO know that their gift was a brilliant strategy for advancing fairness and justice on the GU campus, not just for LGBT people, but for everyone. It was a big step for the

University, it has set an international example, and it wouldn't have happened without the vision and leadership of the Tagliabues and the support of the Georgetown Administration.

So now, let's take a walk down memory lane. When we study the history of civil rights movements and impact litigation in particular, we learn that civil rights lawsuits are often the result of very considered, strategic efforts to identify the kinds of cases that would be most likely to succeed and have a sweeping impact on the law. But our case, the Georgetown Gay Rights Coalition case, was nothing like that. There were no strategic deliberations with legal experts on how best to achieve gay rights. Honestly, we didn't even realize that this would lead to litigation at all, let alone a lawsuit that would last almost 9 years and go down in history.

When I arrived at Georgetown Law Center in August of 1979, I was surprised to realize that while there were many gay and lesbian students, virtually none were out of the closet. In fact, only 3 of us were out. And there was no LGBT organization. During my first semester, one of the other openly gay people, Clint Hockenberry, approached me and proposed that we start a group at the law school. To be honest, I wasn't all that interested. My focus was on the Women's Rights Collective, the feminist law student group. But Clint said that he needed a woman to be the co-founder and so I agreed.

To become an official student group, we had to get approval of the Student Bar Association and of the Student & Faculty Life Committee. We also had recruited an undergraduate, Jim Ryan, to go through a similar process here on the main campus, where an informal group already existed. At the law school, as far as we knew, our proposal sailed through all of the bureaucratic steps. We were rolling. Then Clint and I met with Dean McCarthy and he told us that the whole thing had been vetoed by no less than the President of the University himself, Father Timothy Healy. The same thing happened to the undergrads. We were stunned. This was something we had never anticipated.

Remember, this was before the rise of religious political extremists in our country. The Moral Majority had only just been founded. The Catholic Church hadn't yet become deeply involved in fighting the civil rights of gay people.

There we were, stopped in our tracks, in spite of universal approvals according to the established process. We were told it was because our existence as an organization would be contrary to catholic doctrine. But this made no sense to us. The Women's Rights Collective was regularly involved in efforts on behalf of abortion rights, clearly a position contrary to Catholic doctrine. The Jewish Student Union was allowed to exist, and they didn't believe in the divinity of Christ—a pretty central tenet of Catholicism. So why would we be singled out? We urged university leadership to change the decision, but to no avail. We were told that the decision was firm.

Clint Hockenberry and I were not only activists, we were budding lawyers. We knew that the District of Columbia had passed what was, at the time, one of the strongest human rights acts in the nation that included sexual orientation as a prohibited basis of discrimination. So, we thought, let's get a lawyer. To us, the law was crystal clear. We were very confident that if we got an attorney and filed a complaint, the University would see the error of its ways, back down, and allow our organizations to exist.

We began looking for attorneys and finally found Ron Bogard, an openly gay man who agreed to take the case for free. At the time, Ron was working as a lawyer for the federal government. He got approval to represent us in his spare time and drafted a complaint to show we weren't going

to take this discrimination lying down. All of us sincerely believed that the University would reverse its decision once they saw how serious we were. Surely, we presumed, the University wasn't going to try to fight this given the clarity of D.C. law. I know, now, that we were incredibly naïve.

Had we realized, then, all the forces that would align against us, the struggles we would have, the cost, and the backlash we would face—much of it fomented by the Georgetown Administration—I don't know that we would have had the courage to do it. And, the forces aligned against us were formidable.

Not only did the University not back down, they hired the preeminent law firm of Williams & Connolly—founding partner Edward Bennett Williams was one of Georgetown's most distinguished alums. That firm fought us in the most aggressive, mean-spirited manner possible. It was truly a David & Goliath story. Remember, Ron was representing us in his spare time. Georgetown had seemingly unlimited dollars and this huge law firm at their disposal. And it was very nasty litigation on their part. There are many stories to tell about the abusive and even vulgar ways the Williams & Connolly lawyers behaved that would shock and appall you, but I'll mention only one. It is very typical in cases like this for attorneys and lead plaintiffs to meet on occasion to discuss the case, prospects for settlement, etc. Those meetings never happened in our case until the very end because Williams & Connolly's condition for the meetings was, and I quote, that "no homosexuals could attend."

But, I get ahead of myself. We filed suit on April 30, 1980. And, much to our delight, we won the very first motion! Judge Leonard Braman ruled that the University's actions DID violate the D.C. Human rights Act. But he also scheduled the case for trial on the issue of whether applying that Act to the University violated its constitutional right to the free exercise of religion.

The trial was not held for two years. In the meantime, the battle was joined. The truth is, Clint and Ron and I woefully underestimated the power of homophobia; of bigotry and ignorance. This was also the first time I saw first-hand how truly insidious the closet could be and what it could make people do.

We students had to go through depositions and things got pretty ugly on campus. Tuition was rising and the University actually attempted to blame that increase on our suit. This was a complete falsehood, of course, but as was no doubt intended, it made many students angry at us; and some retaliated. For example, on the main campus, Jim Ryan was assaulted by a group of students who shoved him up against a wall, flashed a knife and physically threatened him if he continued. I remember how frightened Jim was after that happened. The Administration also did things like kick Dignity off of the main campus, a Catholic gay & ally organization that had been meeting on campus for a number of years.

At the law school, anonymous fliers were posted blaming the litigation for increases in tuition and defaming us. I also received very offensive, threatening notes in my student message file. They were filled with crude, anti-lesbian, anti-woman epithets and threats of physical harm. All anonymous, of course. Yet, to tell you the truth, while I was angered by the University's tactics that fomented these attacks, I don't remember taking the threats all that seriously. I guess that's one of the benefits of being an eternal optimist! Frankly, my girlfriend at the time was more worried about them than I was!

During all of that time, there was only one threat that really scared me. And, it came from Father Healy himself.

One day at the Law Center I noticed Father Healy walking through the lobby. I went up to him and introduced myself. I was hoping to engage him in conversation about bringing this fight to an end. But before I could really say anything, his face got beet red and he leaned over me and began poking me in the chest: "If you persist with the lawsuit, I will make certain that you never practice law in this town."

This was the President of the University. An extremely influential, powerful, nearly 60-year-old man. I was a 24-year old idealistic law student from the sticks in Arizona. I believed that he could make good on his threat. Now, I don't think Healy ever tried to do so. But, at the time, it really worried me.

When we finally went to trial, it lasted 7 days and there were 22 witnesses, including me and Father Healy. I remember feeling very positive after the trial ended. The evidence on our side was powerful. But then the waiting began. We couldn't get the judge to issue the decision. Finally, after a year and a half of unfulfilled promises that the opinion was imminent, we filed a motion to compel her to issue her long-delayed ruling. She finally did so in October, 1983. And we lost. Georgetown's religious freedom argument trumped our equal rights argument.

We were shocked and devastated. We felt that this was clearly wrong as a matter of law. Yet, we had much trepidation about appealing. A bad precedent at the trial court level was one thing, we thought. But, if we appealed and lost, we would be setting a horrible appellate court precedent that could impact the fight for equality all over the nation. We weren't sure we were willing to take that risk. Ultimately, though, we decided that we had to appeal in hopes that justice would prevail.

We also had to get a new lawyer. Ron had had to quit his government jobs and go into private solo practice to have time to represent us. Our case took virtually all of his time and he wasn't getting paid. He was moving to New York to take a better paying job. Fortunately, we found Rick Gross from a well-respected firm to handle the appeal on a pro bono basis. Rick was, and is, a wonderful, liberal straight guy who became our champion, with the help of some very capable associates at his side: Laura Foggan and John Daly.

We had secured our appellate counsel and the nasty litigation continued. But there were also a number of significant skirmishes outside of the courtroom. For example, in 1983 or 1984, Georgetown wanted to sell more than \$127 million in bonds to finance construction of the Leavey Center and other projects. Of course, a bond issue requires local government approval. We worked with the D.C. government—the City Council and the Mayor—and persuaded them to side with us. They told Georgetown that it could sell the bonds, but only if they complied with the D.C. Human Rights Act. Georgetown wouldn't budge, so they didn't get the financing.

Several years later the University also wanted to get a street closure, at the law school I think, to do new construction. They had already done their construction plans assuming the closure. Again, we worked with key officials. As before, Georgetown was told that they could have the street closure, but only IF they complied with D.C. law. Because they wouldn't, they had to redo all of their plans. We found those victories to be very satisfying. Clearly, the University's homophobia got quite expensive—and that doesn't even count the 7-figures they likely spent on attorney fees.

It would take another 2 years, but on July 30, 1985, a three judge panel of the D.C. Court of Appeal reversed Judge Bacon and decided in favor of us. They found that allowing us to exist

was not a great burden on Georgetown's religious beliefs. The Court also said that "in a pluralistic university environment," student groups "must have nondiscriminatory access to Georgetown's facilities to publicize messages they ascribe only to themselves, not to the University." It was a huge relief to have won. Yet, on the very day the decision was issued the court took the uncommon step of suspending its own ruling pending a hearing before the entire Court of Appeals, which happened three months later.

Finally, after two more years, late in 1987, the entire D.C. Court of Appeals issued its 5:2 decision in our favor. 171 pages worth. To paraphrase, it required the University to provide the gay student groups with equal access to all of the tangible benefits, including funding, to which other student groups were entitled. It said that doing so did not amount to endorsement of homosexuality and that the slight burden this might pose on the university's free exercise of its religion was outweighed by the District of Columbia's compelling interest in eradicating discrimination based on sexual orientation. It said that these compelling interests included: "the fostering of individual dignity, the creation of a climate and environment in which each individual can utilize his or her potential to contribute to and benefit from society, and equal protection of the life, liberty and property that the Founding fathers guaranteed us all." In so doing, the D.C. Court of Appeal became the highest court in the land to rule that banning discrimination on the basis of sexual orientation had the same status as banning race and sex discrimination.

Now, you might have thought this would have ended matters. But it didn't. Some people at Georgetown still wanted to fight. So, next thing we knew, Georgetown filed a motion asking the United States Supreme Court to stop the lower decision from going into affect while the university prepared a motion asking them to hear the case. The Supreme Court promptly denied that motion. Yet, Georgetown couldn't accept it. They took the unheard of step of filing another motion asking the Supreme Court to take a second look. This, too, was promptly denied.

It was only then that many of Georgetown's decision-makers realized that the U.S. Supreme Court was unlikely to hear the case. Our sources told us that Edward Bennett Williams—or, as we had come to refer to him, Edward Bigot Williams—argued vociferously to the Georgetown board of trustees that they should continue the fight, assuring them that he could have the case overturned. Leo O'Donovan, who later succeeded Father Healy as Georgetown President, reportedly urged that cooler heads prevail. Apparently the law school Dean authorized to proceed with the settlement process but Williams & Connolly was simultaneously authorized to prepare a motion to ask the Supreme Court to hear the case.

In the meantime, our lawyers demanded that Georgetown comply with the decision, which was now several months old. Yet, those demands went unanswered. We ultimately filed a motion to hold Georgetown in contempt and enforce compliance. Our lawyer actually asked that Father Healy be incarcerated until the University complied. When people don't comply with judgments, they go to jail. The judge gave the parties one week to settle before ruling on that motion. During that week, Law School Dean Pitofsky reached out to our lawyer and a meeting with counsel and lead plaintiffs took place. After more than 8 years, that was the first time that Georgetown's lawyers had agreed to meet with the "homosexual" plaintiffs, other than in depositions. By then, they had no choice.

After several weeks and numerous drafts a settlement was reached. In substance, it required unambiguous compliance with the law forever, even if the DC Council were to change the law (something Georgetown had been trying to achieve by getting Congress to interfere). It also required payment of our legal fees, the establishment of a permanent LGBT resource in the

Georgetown library and funding of an internship at the law school annually for 20 years (I think.) We plaintiffs were offered a tiny amount of money, which virtually all of us donated to the LGBT student groups. Of course, Georgetown was required to abandon any efforts before the Supreme Court.

That consent decree was signed on March 30, 1988 and then we had a victory party. Clint flew in from San Francisco and we all got to celebrate the end of a long, hard fight. Justice had indeed prevailed. I'm sorry to say that Jim Ryan died of AIDS very early in the epidemic, and never lived to see us win. Clint also died of AIDS, but not until 1992.

I'm happy to say that all of our attorneys got paid—Ron, who had been so selfless throughout all of those early years, was able to buy a house on Fire Island.

So, the story had a good ending. Our groups were allowed to exist. Georgetown continued just fine. Neither the University nor Catholicism as we know it were harmed by the presence of official LGBT groups on campus, any more than they were harmed by the feminist or Jewish groups.

As I was preparing my remarks for tonight, and was reminded of so much of what happened, it seemed astonishing all over again to think about what we went through. It was a costly battle in so many ways—to the students personally and to Georgetown institutionally.

And while we won, our work is not done. The existence of LGBT organizations on campus, or even a wonderful LGBTQ Center, is not the end goal. This fight wasn't about the organizations themselves. It was about equality and freedom. And we have made enormous strides as a movement and as a society since Clint and I naively decided to file a lawsuit 32 years ago. Today, while no federal law yet protects us from employment discrimination, a majority of the people in this country live in jurisdictions with good local or state laws. LGBT people can now be more out in more places with fewer negative consequences than ever before. Most of the Fortune 500 companies have nondiscrimination policies and equal benefits for their LGBT employees. We have openly gay and lesbian people in the U.S. house and senate. Even professional sports are beginning to see the light! Kids are coming out at younger and younger ages and it's clear that by the time today's teenagers become the nation's decision-makers, any vestiges of discrimination under the law will not be allowed to remain.

I know I don't need to tell you that we're far from where we want and need and deserve to be. The closet is still a powerful force. LGBT people in the United States are still treated as second-class citizens under the law and by many social mores, which can have a corrosive impact upon people.

While most Americans now believe we should be treated fairly under the law in all respects, the religious political extremists of this country and around the world are driving the anti-LGBT movement here and abroad, seeking to stop our progress and deny us our rightful place in society. They want to take away what rights we've gained, stop us from getting more, and push us back into the closet. So while it may seem that our social justice movement is moving inexorably forward, without continued vigilance, we could lose ground.

Fortunately, there are many religious institutions that do welcome and accept LGBT people. And, hopefully, this summer, we'll make more legal progress and the U.S. Supreme Court will strike down the so-called Defense of Marriage Act, thereby allowing same-sex couples to be treated equally under the law. Hopefully they'll also affirm the 9th Circuit Court of Appeals decision

finding that Prop 8 in California was unconstitutional, making marriage legal again for same-sex couples in our state.

We must continue to fight for the kind of society that treats all people fairly. A society that gives full and modern meaning to the aspirational principles upon which this nation was founded: life, liberty and the pursuit of happiness, where all people have inalienable rights because we are all created equal.

I yearn for that day, although I suspect I will not live to see it. But, I have no doubt that it will be achieved and I'm counting on many of the people in this room, and your contemporaries, to make certain of it.

