

**Testimony of Chanel Lopez
Transgender Communities Liaison
New York City Commission on Human Rights
Before the Committee on Women and Gender Equity
November 27, 2019**

Good morning, Chair Rosenthal and members of the Committee on Women and Gender Equity. Thank you for having today's oversight hearing on Access, Resources, and Support for Transgender and Gender Non-Conforming New Yorkers. I am Chanel Lopez and I am the Trans Communities Liaison at the New York City Commission on Human Rights. I am testifying today along with my colleague, Demoya Gordon, on behalf the New York City Commission on Human Rights. The Commission on Human Rights has been prioritizing, creating access and visibility, and supporting transgender and gender non-conforming and non-binary people since the start of Commissioner Malalis's tenure back in 2015, and we are very proud to talk about the work that we are doing at our agency. I will focus my remarks on the Commission's outreach initiatives, and Ms. Gordon, my colleague, will address the agency's law enforcement work in that area.

I must say as a proud Latina trans woman, I am thrilled to have the opportunity to talk to you all today, and to tell you about the important work my colleagues and I are performing at the Commission for our very communities, and our efforts to make New York City more inclusive for transgender and non-binary brothers, sisters, and family, as well as a model for other cities and states nationwide. This work is incredibly personal to me, as I know firsthand how important it is to the lives of transgender and gender non-conforming and non-binary people in New York City.

I started working at the Commission in April 2018 after having worked at the Anti-Violence Project (or AVP) for seven years as a Senior Counselor Advocate. In that role, I worked directly with survivors of domestic and sexual violence, many of whom identified as transgender and gender non-conforming, offering counseling, referrals, and accompaniment to courts, precincts, and hospitals. When I heard that the Commission was hiring to re-fill its Trans Communities Liaison position, I was very excited to apply for this position to bring my own experience as a community member, an advocate for many years, and also as a survivor to the agency and have

the power of the government behind me to provide resources to transgender communities. Many of my transgender brothers and sisters, who I spoke to about the position, had encouraged me to apply because under Commissioner Malalis's leadership, the Commission had developed a reputation for being a strong supporter and ally of our communities. Within her first few months of starting at the agency, she convened a roundtable of transgender and gender non-conforming leaders, advocates, and community members – including one of my AVP colleagues – and many of whom had been vocal about their criticisms and disappointments of government and law enforcement in our communities. While I was not at the meeting, I did hear from people who were present that the meeting was a success for several reasons. First, we saw that multiple transgender and gender non-conforming and non-binary people were already working at the Commission. These were people from our own communities that we knew and trusted working in both the Law Enforcement Bureau and the Community Relations Bureau. Seeing transgender and gender non-conforming and non-binary people in government agencies and working for elected officials, in positions where they are able to inform government policies and laws is still very rare now, and was even more so then, yet I cannot tell you how important it is to see yourself reflected in such positions of power. Second, Commissioner Malalis and her team were welcoming, transparent, supportive, already knowledgeable about many of our concerns, and, as basic as this may sound, culturally competent about our communities. They recognized the diversity within our communities and demonstrated an understanding of the specific challenges faced by non-binary people. Finally, they outlined a few specific projects and initiatives they were already working on to protect and serve our communities.

One of those projects ended up being the Commission's highly successful and groundbreaking "Look Past Pink and Blue" campaign, a citywide public education effort launched across City transit stations, kiosks, and social media that affirmed New Yorkers' right to use restrooms consistent with their gender identity and gender expression. At that time, over 20 hateful anti-trans bills had been introduced in a variety of jurisdictions across the country and it was a welcome reminder for transgender New Yorkers that our city was behind us. It received over 62 million impressions across various media platforms. The campaign also featured two videos, which you can find on our website. When the videos were premiered along with the posters at

another roundtable of trans and non-binary folks at the LGBT Center, I can tell you there was hardly a dry eye in the house. The impact of that kind of visibility and public support for my trans community – who are used to being targeted, shunned, and even demonized – cannot be understated.

That's another reason why I am so proud of my position as Trans Communities Liaison, which sits within the agency's Community Relations Bureau. Though there are several other transgender and gender non-conforming and non-binary staff working across many areas of the Commission, the role reflects the Commission's commitment to our communities. As far as I am aware, it is one of the only positions within City government dedicated exclusively to outreach and engagement to transgender, gender non-conforming, and non-binary communities. As part of my duties, I represent the Commission at events, rallies, and convenings across the five boroughs, sharing my lived experience, showing others that the City is committed to uplifting the voices of transgender and gender non-conforming and non-binary New Yorkers, and building necessary connections to City resources, programs, and employment.

In 2016, the Commission launched a training focused on educating City agencies, community-based organizations, and businesses on the experience of transgender and gender non-conforming and non-binary communities. It was created as a train-the-trainer workshop to help build cultural competency regarding transgender communities, and it is often provided by me. Since the Commission launched the training, nearly 4,000 people across all five boroughs have taken the training. It has become one of our most requested trainings, and our staff have trained several other local, state and federal government agencies including the NYC Parks, the U.S. Department of Labor, the U.S. Equal Employment Opportunity Commission, and even the NYC Council to name a few. We've also trained large city institutions like the Queens Museum, the Columbia University School of Social Work, the New York City Opera, and the YMCA along with a diversity of other businesses and employers.

For transgender people, and transgender women of color in particular, addressing safety, bias-based policing, and barriers to employment remain a priority. To hear directly from the

community, I recently organized a roundtable with over a dozen transgender and gender non-conforming leaders to discuss their ongoing work, hear about the most pressing issues facing our communities, and to strategize on how the Commission can better serve and support our communities, at which Commissioner Malalis and other senior staff heard directly from transgender and non-binary community advocates and stakeholders. Earlier this year, I spoke at a listening session on issues facing transgender women of color with the Trans Latinx Network, Make the Road New York, and New York State Senator Jessica Ramos. To celebrate Women's History Month, the Commission co-hosted a panel discussion with Destination Tomorrow and the Trans Latinx Network focusing on addressing issues affecting transgender women of color. And just last week, I, along with my colleagues at the Commission, hosted a forum for transgender and gender non-conforming and non-binary community members focusing on their rights in the housing context and how to navigate government resources when we experience discrimination.

In Fiscal Year 2019, the Commission's Community Relations Bureau engaged over 7,339 attendees in 214 workshops and outreach activities on LGBTQI discrimination and educated participants about sexual orientation- and gender identity-based protections under the New York City Human Rights Law. In addition to the Commission's workshops, we have continued to host vibrant community gatherings. For the third year in a row, the Commission organized its annual LGBTQI Community Iftar in partnership with the LGBT Center, Muslims for Progressive Values, Tarab NYC, SALGA NYC, the Muslim Alliance for Sexual and Gender Diversity, Nur Ashki Jerrahi Community, and the Caribbean Equality Project. This event has grown every year, and this year the Commission broke bread with over 130 LGBTQI Muslim New Yorkers and allies.

Finally, the Commission continues to serve as one of the lead agencies of the Unity Project, which Ashe McGovern has already discussed today. The Commission expanded its conversation series with Gender and Sexuality Alliances (GSAs) within Department of Education schools about discrimination based on gender, gender identity, and sexual orientation, which began as an initiative through the Unity Project. In Fiscal Year 2019, the Commission's programming with

GSAAs grew from six schools to 14, and more than tripled its numbers, from 63 students in its first year to 209 in its second. These programs create space for young people to address anti-LGBTQI bullying and harassment in their schools and communities, provide participants with resources to foster more welcoming school environments, and support youth to create action plans to address these challenges. This year we expect to engage 20 schools across all five boroughs and connect directly with over a thousand students.

As I have been able to do this work with the support of the Commission, it has been incredibly satisfying to see the impact on transgender, gender non-conforming, and non-binary people throughout the city. As I do my work out in the community, I'm constantly hearing from folks on how happy they are to see someone who looks like them represented in government. Earlier this month, after I gave remarks at the Osborne Association for their Trans Day of Remembrance/Resilience event, a trans woman came up to me and told me how inspired she was seeing someone who is like them in a leadership role in government. Commissioner Malalis often talks about the importance of representation within the government, and it's difficult to overstate this importance especially with trans folks. So many trans folks now know they have an advocate in City government because they see me, and yes, they have my direct number and email when they need to reach me. They know they don't have to explain their challenges to me since I have experienced similar situations and feel comfortable when working with me.

Thank you again for convening today's hearing and for your interest in serving my community. It is my deepest honor to be a visible and proud member of the Commission dedicated to combating discrimination of transgender and gender non-conforming and non-binary New Yorkers and serving as a model for what local government can do to uphold the rights and dignity of my trans brothers, sisters, and family.

Testimony of Demoya Gordon
Supervising Attorney, Law Enforcement Bureau
NYC Commission on Human Rights
Before the Committee on Women and Gender Equity
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Good morning. Thank you, Council Member Rosenthal and the members of the Committee, for convening today's hearing. My name is Demoya Gordon, and I am a supervising attorney in the Commission's Law Enforcement Bureau, where I investigate and prosecute cases of discrimination and harassment. I joined the Commission in 2018, after working for several years at Lambda Legal, the oldest and largest national legal organization whose mission is to achieve full recognition of the civil rights of LGBT people and people living with HIV. At Lambda Legal, I engaged in impact litigation, policy advocacy, and public education on a range of issues affecting transgender, gender non-conforming, (TGNC) non-binary and intersex people, including discriminatory treatment in the criminal legal system, employment, health care, education, government services, and other public accommodations. While I loved the work, I was doing at the national level, I jumped at the opportunity to work at the New York City Commission on Human Rights because it was clear that local antidiscrimination laws like the New York City Human Rights Law would be increasingly essential bulwarks against the ongoing efforts at the federal level to curtail our communities' rights. In light of those efforts, I wanted to work on behalf of my fellow New Yorkers to ensure that New York City continues to be a beacon and an example for other local governments in this particularly challenging time. The New York City Commission on Human Rights was a perfect place to do just that.

Even before I joined the Commission, it was clear to me and my fellow LGBTQ rights advocates that, from the very start of Commissioner Malalis's tenure, the agency had endeavored to be a place where transgender, gender non-conforming and non-binary New Yorkers could feel heard, seen, respected, and have their rights defended. In December 2015, the Commission issued ground-breaking legal enforcement guidance on gender identity and gender expression discrimination. The guidance established that New York City's broad protections, which have existed since 2002 but had been underutilized and not well-understood, could serve as a model for other jurisdictions and a signal to local and state governments across the country that social upheaval would not result from providing clear rights and protections to transgender, gender non-conforming and non-binary people. It provided transparency and clarity about what it means to have protections from discrimination in this area and addressed real life scenarios that spoke to the lived realities of transgender, gender non-conforming, and non-binary people. For example, the guidance made clear that people in New York City have the right to use bathrooms and other single-sex facilities consistent with their gender identity; that intentional misgendering and dead-naming in employment, housing, and places of public accommodation could form the basis of a complaint at the Commission; and that gendered uniform and grooming standards would violate the City Human Rights Law.

At the time the Commission issued the legal enforcement guidance, more than twenty jurisdictions across the country had introduced bills targeting transgender, gender non-

conforming, and non-binary people. Most of these bills sought to ban transgender people from using bathrooms and other single-sex facilities consistent with their gender identity. In the face of these attacks, the Commission's legal enforcement guidance was an immensely useful and significant example of how government should act to affirmatively protect the rights of vulnerable communities rather than attacking them. In fact, while I was at Lambda Legal, I often pointed to the Commission's legal guidance, and its "Look Past Pink and Blue" public education campaign in my presentations, trainings, and policy and legal advocacy on behalf of transgender, gender non-conforming, and non-binary people. The legal guidance was updated earlier this year to make the City Human Rights Law's protections for transgender, gender non-conforming, and non-binary people even clearer and it is now also codified into formal rules that were adopted after notice and comment from the public.

In March 2016, the Mayor signed Executive Order 16, directing all City agencies to provide training to supervisory and frontline staff on diversity and inclusion issues affecting transgender, gender non-conforming, and non-binary people, and to publicly post the City's policy that people must be allowed to use the single-sex facility that most closely aligns with their gender identity or expression without being required to show proof of gender. Historically, transgender, gender non-conforming, and non-binary people have had challenging relationships with government offices, and this Executive Order signaled the de Blasio Administration's desire to change that relationship and chart a new path forward.

Consistent with that goal, the Commission has worked with, and continues to work with the New York City Department of Correction to help bring its policies in line with the ethos of Executive Order 16. In April 2018, Mayor de Blasio announced that the New York City Department of Correction would house people in its custody consistent with their gender identity and that DOC would be working with the Commission to maintain what was formerly called the Transgender Housing Unit (now the Special Considerations Unit) as an additional safe housing option for transgender, gender non-conforming, and non-binary people in correctional facilities. By doing so, New York City became one of the first major cities in the nation to commit publicly to housing detained persons in accordance with their gender identity. Committing to keeping the Special Considerations Unit open ensures that transgender, gender non-conforming, and non-binary people continue to have this crucial housing option available to them and the Commission continues to work with DOC to ensure that people housed in the Special Considerations Unit are provided services in the same manner as people housed in the general population. Representatives from the Commission also serve on the Board of Corrections Taskforce for transgender, gender non-conforming, non-binary, and intersex people in DOC custody.

In partnership with other City agencies and the Law Department, the Commission has been active in using its expertise on transgender, gender non-conforming, non-binary, and LGBTQ rights issues to contribute to amicus briefs in federal litigation and comments to proposed federal rules. For example, the Commission, in partnership with the Law Department, recently contributed to an amicus brief representing City governments across the country in the historic *Stephens* case, which is now pending before the Supreme Court. The Commission has also contributed to comments in opposition to proposed rules seeking to roll back protections for

transgender, gender non-conforming, non-binary, and LGBTQ rights in access to healthcare, in federal contracting, in the military, and in other areas.

The Commission's enforcement work defending the rights of transgender, gender non-conforming, and non-binary New Yorkers is robust. The Commission has initiated widespread investigations based on information received from the public, and has resolved cases for maximum impact, including in some instances, years-long monitoring by the Commission, mandated staff training, the creation of new positions to ensure compliance, overhauls of policies, and other relief aimed at preventing future harm.

The Commission takes its lead directly from the community, which often results in targeted investigations and enforcement actions. For example, in July 2017, the Commission announced four complaints filed against substance abuse centers across the City for discriminatory policies that affected transgender patients' access to these crucial services. The complaints, which the Commission filed on behalf of the City, were the result of proactive testing conducted by the Commission following advocates' reports of discrimination. The centers include Salvation Army Adult Rehabilitation Center in Brooklyn, Promesa Residential Health Care Facility in the Bronx, and the Thomas and Marie White Health Center in Queens. The Commission's complaints, filed by its Law Enforcement Bureau, charged the centers with gender identity discrimination for refusing to accept transgender patients and for discriminatory housing policies, including refusing to assign rooms based on gender identity, subjecting patients to physical examinations, and restricting transgender patients to separate rooms.

These investigations concluded with the payment of \$10,000 in civil penalties to the City of New York by Promesa as well as affirmative relief from all the centers. As part of that relief, the Respondents agreed to implement policies that prohibit gender-based discrimination and harassment, including by permitting transgender people to participate in all aspects of their services in a manner consistent with their gender identity, including room assignments and other gender-specific programs and facilities. Respondents also agreed to conduct ongoing antidiscrimination training and submit to monitoring by the Commission.

These enforcement actions, which were Commission-initiated, reflects the Commission's recognition that particularly vulnerable communities, including transgender, gender non-conforming, and non-binary people of color, may not feel safe or comfortable filing a public discrimination complaint. In these situations, as it did here, the Commission will serve as the complainant and will work to achieve broad, impactful relief on the community's behalf.

Another example of the Commission's commitment to obtaining broad, impactful systemic change involved a transgender woman who, while being treated at Mount Sinai Beth Israel Medical Center, was subjected to invasive questions about her body and her transition and was told that she could not room with other women and would have to be roomed alone because she had not had the "operation." After an investigation, the Law Enforcement Bureau issued a probable cause determination. The Commission, Complainant, and Respondent entered into a conciliation agreement requiring Beth Israel to pay Complainant \$25,000 in compensatory

damages; hold ongoing staff trainings on working with transgender patients; post the NYC Department of Health's LGBT "Bill of Rights" poster; update its systems to make patients' self-identified names and pronouns visible to frontline staff; update its website with information on its non-discrimination policies and how individuals can file a grievance with the hospital; flag and direct grievances regarding transgender patients to its Patient Safety and Patient Grievances Committee; continue twice-yearly meetings with a Community Advisory Board; and submit to monitoring by the Commission.

Creating this kind of change takes a lot of time and effort. It would be much easier and quicker to seek only monetary damages or civil fines and call it a day. But the Commission is committed to making meaningful systemic change, even if it that sometimes means taking a more difficult path to get there.

The Commission has also reached out to several large companies in the City where it came to the Commission's attention that their health insurance policies for employees discriminated against trans employees by excluding certain aspects of gender-affirming medical care from their health benefit plans. Using its pre-complaint intervention process, the Law Enforcement Bureau has worked with these companies to remove those exclusions so that transgender, gender non-conforming, and non-binary employees can have equitable access to medical care.

In the year prior to the start of Commissioner Malalis's tenure, 2014, the Commission filed just *two* cases of gender identity or gender expression discrimination. In each year since, the Commission has filed between 16 and 32 cases of gender identity or gender expression discrimination, a substantial increase. Additionally, in the last two years since the Commission's pre-complaint intervention unit launched, the Commission has also resolved an additional 9 cases without having to file a complaint in the first place, by using cease and desist letters, pre-complaint resolutions, and other quick interventions.

We are grateful for the opportunity to testify today on this important subject, and to work in partnership with the Council to build a City government that both reflects the beautiful and diverse transgender, gender non-conforming, and non-binary communities and is responsive to their needs. Thank you for convening today's hearing and I look forward to your questions.