

November 22, 2019

The Honorable William P. Barr  
Attorney General of the United States  
U.S. Department of Justice  
Robert F. Kennedy Main Building  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530

Dear Attorney General Barr:

When you met with members of DOJ Pride's board of directors in June, you encouraged us to highlight Department activities that could be adversely affecting the Department's LGBTQ workforce. We are following up today with a concern about employee morale in the wake of the Department's briefs and arguments in a trio of U.S. Supreme Court cases, *R.G. & G.R. Harris Funeral Homes Inc. v. EEOC*; *Bostock v. Clayton County, Ga.*; and *Altitude Express Inc. v. Zarda*.

DOJ Pride members, our families, and our communities have a lot riding on the question those cases pose: whether Title VII protects LGBTQ individuals from workplace discrimination based on who we are and whom we love. The Department's answer, advanced in briefs in August and in oral arguments in October, is that it does not.

We recognize that the Department was arguing in favor of a particular interpretation of a federal statute, and that it was not advocating that LGBTQ individuals are undeserving or unworthy of protections against discrimination. But many of our members did not perceive the Department to have made such a distinction. Some reached out to us in alarm, afraid that their jobs could be in jeopardy.

In light of those fears, we surveyed our members and the members of the DOJ Gender Equality Network (DOJ GEN), anonymously, to assess their reactions, if any, to the Department's positions. We found a clear and negative impact on employee morale. Every response but one reflected concern, dismay, and even distress about the cases. Various

respondents told us they believe that the Department does not support its LGBTQ workforce, that the Department thinks LGBTQ people do not need or deserve anti-discrimination protections, that the Department will be less able to recruit and retain talented employees, that Department employees will be less comfortable coming out at work, and that the Department's litigating positions set back the Department's mission of promoting justice, fairness, and equality.

The collective response was serious enough that we want to raise the alarm with you now. We acknowledge and appreciate the statements you have made and the actions you have taken to affirm the Department's commitment to ensuring that DOJ employees will not be subject to discrimination on the basis of sexual orientation or gender identity. Those include the Equal Employment Opportunity ("EEO") statement you issued in April, which stated that no "employee of our Department will be denied equal opportunity because of . . . sexual orientation . . . [or] gender identity." Nevertheless, our members told us that the Department's positions in *Harris Funeral Homes*, *Bostock*, and *Zarda* have left them questioning the Department's commitment to them and their commitment to the Department.

Accordingly, we think it would be helpful for you to reassure Department employees that, no matter what the Supreme Court decides, the Department will retain its EEO policy protecting them from discrimination on the basis of sexual orientation and gender identity. At the same time, we believe you should reiterate that the Department values its LGBTQ employees and that LGBTQ job applicants are welcome. In addition, and in light of your personal belief that there should be laws prohibiting discrimination against LGBTQ individuals,<sup>1</sup> we urge you to call for a legislative fix in the event that the Supreme Court adopts the Department's interpretation of Title VII. As you know, the tone you set at the top reverberates far and wide, so we believe that these actions would have a meaningful, positive impact on the morale of the Department's LGBTQ employees, and would reinforce that we are not second-class employees at the Department of Justice.

We would welcome the opportunity to meet with you again to discuss our members' concerns more fully and to suggest additional steps that would convey the Department's support—such as adding LGBTQ staff to the Department's leadership offices, or returning the Department's Pride Month program to the Great Hall and reintegrating it with DOJ Pride's annual awards ceremony, which were separated in 2018. We are interested to hear your ideas, as well, and to hear any follow-up from the inquiries you made at BOP and FBI in April in response to our prior letter.

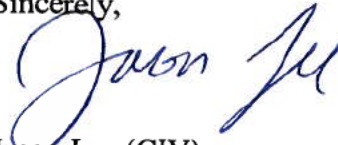
We share the goal you stated in your EEO statement, that the Department should be "an inclusive and productive workplace for all employees." We send this letter with that goal in

---

<sup>1</sup> <https://www.c-span.org/video/?456626-1/attorney-general-nominee-william-barr-confirmation-hearing&start=24635>.

mind, and we look forward to working with you in the days and months ahead to ensure that every Department employee feels protected, supported, and valued.

Sincerely,

A handwritten signature in blue ink that reads "Jason Lee". The signature is fluid and cursive, with the first name "Jason" being larger and more prominent than the last name "Lee".

Jason Lee (CIV)  
*President of DOJ Pride*

Adam Chandler (ATR)  
Julie Doctor (BOP)  
David Heath (USAO-CT)  
Derek Julius (CIV)  
Paul Killebrew (CRT)  
Avi Kupfer (ENRD)  
Timothy S. Laffredi. (USTP)  
*DOJ Pride Board of Directors*

cc:

Rachel Bissex, Counselor to the Attorney General and White House Liaison  
Office of the Deputy Attorney General  
Office of the Associate Attorney General