to do the one thing at a federal level that would make a difference, I would go back to the Federal Juvenile Justice Act. When we amended the Federal Juvenile Justice Act to require states to study the issue of disproportionate minority contact, to come up with good faith remedial plans, to basically require that as a condition of federal support, a lot of good things happened. The problem has not disappeared, but we began to move a difficult issue forward. And I think I would recommend that you consider an amendment to the Federal Juvenile Justice Act requiring that every state, number one, conduct an investigation or study of this problem, come up with recommendations for action, and then condition receipt of federal funds, at least, on the submission of a good faith plan to remedy the issue of sexual violence in juvenile facilities.

Thank you very much.

CHAIRMAN WALTON: Thank you, Doctor.

Dr. Bidwell.

DR. BIDWELL: Good morning, and aloha. And thank you for the chance to speak with the Commission today.

I'm going to preface my testimony, my official testimony, with a few words that I hadn't intended.

I'm a pediatrician that works at the Honolulu Juvenile Detention Facility and at the Hawaii Youth Correctional Facility, and I've known Cyryna Pasion, who
testified earlier this morning, for three years, and although those of us in the Health Unit I think have been the most active and vocal advocates, at least within the Youth Correctional Facility, for her safety and the other youths' safety, clearly we failed her. I don't even know how some -- how I could have driven home at night knowing that Cyryna was staying there under those conditions and the other youth that I have worked with. Next time we're going to lock ourselves to the Administrator's car and not open the door until she makes the place a safe place for youth such as Cyryna.

As I mentioned, I am a pediatrician; I work at the Youth Correctional Facility under a contract between the School of Medicine at the University of Hawaii and the Youth Correctional Facility. The Health Unit staff did play an active role in advocating on behalf of three youths at HYCF who during 2004/2005 were sexually, verbally and physically harassed and assaulted because of their sexual orientation and gender identity, both by staff and by other youths without the intervention of staff or the HYCF administrator. Cyryna Pasion has told her story that she was joined by two other youths, J.D., a boy perceived to be gay, and R.G., a lesbian youth who brought a federal lawsuit against HYCF and the Hawaii Department of Human Services with the help of the American Civil Liberties Union because of the daily
harassment and assault that they were facing because of their sexual orientation and gender identity.

I'll be shortening lesbian, gay, bisexual and transgender to LGBT to make my testimony a little shorter.

The stories of J.D. and R.G. appear in my written testimony and, again, involved tremendous daily harassment that was either perpetrated or witnessed by HYCF staff with no intervention.

To make a long story short, the three youths won their lawsuit against the State. In February 2006, Federal Judge J. Michael Seabright issued an injunction against HYCF and the Hawaii Department of Human Services which oversees HYCF, "To refrain from harassing, abusing, discriminating against, or isolating the plaintiffs based on their actual or perceived sexual orientation, gender identity or sex," and "to refrain from failing to protect plaintiffs from anti-LGBT harassment and abuse."

This injunction was based on the following findings of fact.

Number one, verbal abuse by staff and other wards based on wards' actual or perceived sexual orientation is pervasive at HYCF. In other words, these were not isolated instances.

Number two, the pervasive abuse of HYCF harmed the plaintiffs.
Number three, two of the three plaintiffs endured physical and sexual assaults because of their sexual orientation and gender identity.

Number four, the defendants were aware of the abuse, that is, the State was aware, and yet took no meaningful action to end it.

And number five, HYCF lacks policies and procedures to ensure the safe conditions of confinement for LGBT youth.

In March 2006, Judge Seabright ordered HYCF and the Hawaii Department of Human Services to establish specific policies, and you'll be hearing me saying that again, I think there need to be specific policies protecting LGBT youth at HYCF from discrimination, harassment and abuse.

The question that some of us are asking but not enough are asking in our facility is how did we come to this point? How did we allow this to happen to the LGBT youth under our care at HYCF? From my vantage point as a pediatrician working at HYCF, it appears that there are several interrelated, systemic factors, and I emphasize the word "systemic," that came together and allowed ongoing violence against these youth. I believe these factors are not unique to HYCF but are common to nearly all youth detention and correctional facilities in the U.S. Also,
while I acknowledge that all the detained and incarcerated youth are at risk of violence, the following factors interact in specific ways that make these settings especially dangerous for LGBT youth.

Factor number one, a total lack of effective policies and procedures, which you've heard about several times today. In 2005, following an extensive investigation of HYCF by the U.S. Department of Justice, HYCF was described as being in "a state of chaos with no effective policies and procedures," which led to a "culture of unfettered abuse" against the youth at HYCF across the board.

Factor number two, and I believe that this is actually the most important one, and that is the institutional anti-LGBT sentiment at HYCF, and I believe at most institutions across the country. This anti-LGBT sentiment has made HYCF a dangerous place for LGBT youth. Institutions and the people who run them reflect the communities that they are a part of, and despite the standpoint of the American Academy of Pediatrics and most other child welfare professions that homosexuality is a part of the spectrum of normal human sexuality, large parts of the U.S. continue to view it as sick, sinful and disgusting. In the absence of specific policies and procedures mandating respectful treatment of LGBT youth, they will
continue to be treated as they are now, as sick, sinful and
disgusting and deserving of the violence that they receive.

Factor number three, lack of advocates for LGBT
youth, both outside and inside institutions. Incarcerated
youth in general have few community advocates, and given
community attitudes, LGBT youth have even fewer. Even the
most natural of advocates, parents, often reject their LGBT
children or believe they deserve the abuse they receive.
There are even fewer advocates within institutions, even
among those professions committed to the welfare of
children. In part, this may come from their own disapproval
of LGBT children as professionals often reflect their own
communities. But to be honest, the greatest fear in
standing up in advocacy for these children is that one's own
sexuality will be called into question immediately, and, so,
we watch the abuse and we do nothing.

Factor number three, lack of effective grievance
procedure, which has been mentioned before, but it's
especially scary for a gay youth or a lesbian youth to make
a grievance because often they are outed in the process. In
fact, we had a staff member at HYCF when a grievance was
instituted by one of the youths announced to all the wards
on the boys' wards that so-and-so was "a legal known fag,"
and this -- there was no consequence for the staff because,
in fact, he's still working there today.
Factor five, a lack of visible LGBT supportive messages and role models within the facility.

Number six, a lack of staff training on LGBT youth issues.

Number seven, placement of LGBT youth in settings almost guaranteed to subject them to violence such as Cyryna experienced.

Factor number eight, the fact that HYCF is part of actually a continuum of anti-LGBT placements in programs that often extend from childhood until the point after a child leaves HYCF. It's not just HYCF that does not approve of LGBT youth.

And finally factor number nine, the lack of nationally recognized standards for the treatment of LGBT youth in confinement. Until there are such standards, the standards that do cover youth in facilities will be those of the community's norms of no-acceptance.

As a pediatrician, just a word about the effects of sexual violence and other abuse on LGBT youth at HYCF. Childhood and adolescence are such critical times in life for learning who one is and becoming comfortable with and accepting of that emerging reality, and one's sexual orientation and gender identity are among the deepest and most important parts of who one is. Unfortunately, many LGBT youth grew up in homes and communities who are
unaccepting of who they are. In fact, this is in part why many of them end up in the juvenile correctional setting. The tragic thing to me is that these youths now find themselves in the care of the state where the legacy of harassment and abuse continues.

Research has repeatedly shown that when LGBT youth are surrounded by supportive families and communities that they thrive and grow into happy, healthy and productive adults, but when they are surrounded by negative messages about who they are and subjected to daily violence and harassment with no protection from those who should be protecting them, very predictable and damaging things happen to their spirit, and worst of all, they usually come to believe that they deserve the abuse they receive and turn to self-destructive behaviors out of anger or despair or pain.

In my testimony I provide thoughts about how HYCF could have been more responsive, and I have also referred the Commission in a section on recommendations to a document entitled "The Model Standards Project: Creating Inclusive Systems for LGBT Youth," that was developed by the National Center for Lesbian Rights and Legal Services for Children, Incorporated. Basically, they call for LGBT-affirming environments and strong policies that specifically prohibit harassment against LGBT youth. I believe that if these standards were adopted or used as a basis for standards that
you might adopt that LGBT youth would no longer experience the discrimination and violence, including sexual violence that they've experienced at HYCF.

I should say that based on the federal lawsuit I described above, the State of Hawaii has also hired a consultant that will be working on standards for Hawaii that we hope will become state-of-the-art standards around LGBT policy, and I believe she's asked to turn those in within the next month, so, that might be another resource that you could turn to.

In conclusion, the experience of LGBT youth at HYCF is not unique; it's, I think, the reality across the country. It occurs every day at scores of youth facilities. This is why the work of this Commission is so vitally important to these youths; they have so few advocates in the community or within their institutions that you may be one of the few advocates that can be there for them, and the harm they endure goes so deep, lasting a lifetime. Having listened to the voices of LGBT today and those who work with them, the Commission is in a position to enunciate national standards of care and confinement that specifically address the experience and needs of LGBT youth. This will help end the extraordinary suffering that they endure and allow them to become the happy, healthy and productive members of society that they were meant to be.
Thank you very much.

CHAIRMAN WALTON: Thank you, Dr. Bidwell.

Mr. Gibson.

MR. GIBSON: Thank you, Mr. Chairman. I've Steve Gibson. I really feel privileged to be here. I'm going to take a little different approach to this. I will follow my testimony. The severity of the problem obviously varies in jurisdiction; I'll go through some of the reasons why, and you've heard some of those.

Just a little bit on my background. I've been fortunate, I guess, that I started in 1974 as a line staff in a Maine secure facility; I've been a counselor, a parole officer, I worked with Child Protective Services, I've been the superintendent of that facility which I was fired from for not watering the superintendent's lawn, and now I am a bureaucrat.

I think a lot of things have been talked about, and rather than just -- we talked about leadership attitudes, policy procedures, facility design operation, training programs for staff, offenders, recruitment, staffing ratios, facility design, I think they're all connected. I'd just like to go a little farther on some of these things as suggestions in relationship to what's already been said.

As far as zero tolerance, of course, that should