

PRESS RELEASE

EMBARGOED UNTIL OCTOBER 6, 1998
October 6, 1998

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Domestic Violence Prevalent in Lesbian, Gay, Bisexual, and Transgender Relationships

Report Reveals 41% Increase in Cases, Unequal Legal Protection for Victims

Between 25% and 33% of relationships between lesbian, gay, bisexual, or transgender partners include abuse, a rate equal to that of heterosexual relationships, according to a report released today. Compiled by the National Coalition of Anti-Violence Programs (NCAVP), the report documents 3, 327 cases of such domestic violence in 1997.

Other report highlights include the finding that statutes in seven states exclude same-sex victims of domestic violence from qualifying for a domestic violence protective order. In three additional states, these orders are arguably unavailable. Statutes in only four states make these orders explicitly available to same-sex victims.

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"Domestic violence protective orders are perhaps the most significant legal remedy available to victims," said Toni Broaddus, co-author of the report, "but unfortunately, some states make heterosexuality a prerequisite."

NCAVP documented 975 more cases of lesbian, gay, bisexual, and transgender domestic violence than in 1996, an increase of 41%. According to Greg Merrill, co-author of the report, “While this is an excellent sign that awareness and willingness to seek help have improved, the overall lack of sensitive, available services spells tragedy.”

According to Susan Holt, Coordinator of Domestic Violence Programs at the Los Angeles Gay and Lesbian Center: “While people may discriminate, domestic violence does not. It happens in all types of families, including lesbian, gay, bisexual, and transgender ones.”

LGBT Domestic Violence Found to be Common

The NCAVP report on domestic violence in the lesbian, gay, bisexual, and transgender (LGBT) communities, is the group’s second. The 3,327 documented cases of LGBT domestic violence were compiled by twelve of the community-based programs which comprise NCAVP. Other findings include:

- The number of reports by men (52%) and women (48%) were essentially equal.
- The programs reporting serve a population of only 47 million, or less than 20% of the nation's population.
- Academic prevalence studies suggest that between 25% and 33% of all LGBT relationships involve abuse, the same rate of prevalence found in heterosexual relationships.
- Reporting was up 41% from 1996, indicating that awareness and willingness to seek help may be improving among LGBT battering victims.
- LGBT domestic violence still appears to be vastly under-reported, and appropriate services in most locations are not available.

Legal Standing

All fifty states and the District of Columbia have statutes which permit domestic violence victims to seek special protective orders. These orders are typically easy to obtain and provide the victim with important remedies, including ordering the abuser to stay away from the victim.

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- Statutes in seven states explicitly define eligible petitioners as opposite-sex couples thereby excluding same-sex victims.
- Statutes in three additional states are written so that a court could easily interpret them to limit protection to heterosexuals or to require acknowledgment of an illegal sexual relationship.

- Statutes in thirty-seven jurisdictions are written in gender-neutral terms; thus, same-sex petitioners would probably be considered but would be subject to the court's opinion.
- Statutes in four states explicitly include and affirm the rights of same-sex victims to seek domestic violence protective orders.
- Legal options other than domestic violence protective orders may be available but are more difficult to obtain.

Domestic Violence Services Not Available, Not Accessible

- NCAVP Member organizations are likely to have only a single staff person responding to a service area of between two to three million persons. Several organizations serve an entire state and some an entire region of the country.
- Sources of assistance typically available to battered heterosexual women, including police, battered women's programs, medical personnel, clergy, and family members may hold prejudice against and/or be unresponsive to LGBT domestic violence victims.

Recommendations

The NCAVP report calls for several actions:

- Widespread development of services designed to assist LGBT persons affected by domestic violence;
- Increased government and private funding devoted to service development;
- Aggressive community education to raise awareness of this issue;
- Lobbying efforts to amend state statutes so as to increase their inclusiveness or constitutional challenges to statutes which exclude;
- Training judicial and criminal justice personnel to apply and interpret laws fairly.

Formed in 1995, the National Coalition of Anti-Violence Programs (NCAVP) is a coalition of lesbian, gay, bisexual, and transgender victim advocacy and documentation programs with approximately 25 member organizations. The group also releases an annual report on hate violence in March.

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I. INTRODUCTION

What is NCAVP?

The National Coalition of Anti-Violence Programs (NCAVP) is a coalition of 25 lesbian, gay, bisexual, and transgender victim advocacy and documentation programs located throughout the United States (See Appendix A). Before Officially forming in 1995, NCAVP members collaborated with one another and with the National Gay and Lesbian Task Force (NGLTF) for over a decade to create a coordinated response to violence against our communities. Since 1984, members have released an annual report every March, promoting public education about bias-motivated crimes against lesbian, gay, bisexual, and transgender people. As the prevalence of domestic violence in our community has emerged from the shadows, NCAVP member organizations have increasingly adapted their missions and their services to respond to violence within the community as well. The first annual domestic violence report was released in October of 1997. This is the second report and is released in conjunction with National Domestic Violence Awareness month.

Research Questions, Methods, and Definitions

The purpose of this report is to investigate the following research questions and to summarize our findings:

- 1) How prevalent is domestic violence among lesbian, gay, bisexual, and transgender people?
- 2) Do state statutes permit victims of same-sex domestic violence to obtain domestic violence protective orders?

The first question was selected because domestic violence in this community is an ignored, even invisible phenomenon that most people have never considered; the second, to determine whether or not equal legal protection was available to sexual minority victims.

In answering these questions, we reviewed academic literature on same-sex battering, conducted a survey of state domestic violence statutes and significant, relevant case law, and conducted our own member survey, described below.

Domestic violence encompasses a broad range of relationships including but not limited to romantic partner abuse, abuse of elders, abuse from an HIV caregiver or other caregiver, abuse of children, siblings, parents, or other relatives, and abuse occurring in other intimate relationships. For the purposes of this report, however, we limited the definition of domestic to partnerships that were romantic in nature.

Similarly, domestic violence typically includes many forms of abuse, often occurring simultaneously and in a pattern that escalates over time. For the purposes of this report, abuse is defined as any non-consensual behavior that causes another fear, causes another emotional, financial, or physical harm, or restricts another's freedom, rights, or privacy. Common forms of abuse include verbal abuse, including threats, emotional or psychological abuse, physical abuse, sexual abuse, financial abuse, and stalking.

We surveyed the 12 NCAVP member organizations who documented and responded to domestic violence in this community during calendar year 1997 (members who only document hate violence or who had not begun domestic violence services on or before January 1, 1997 were not included). Primarily, we investigated the number of documented incidents in each member organization's service area as well as the members' perceptions of the availability of resources.

The survey instrument is attached in Appendix C. Surveys were completed by the staff person or volunteer who coordinates domestic violence services at each of the twelve member organizations.

Completed surveys were received from NCAVP members in Boston, MA; Chicago, IL; Cleveland, OH; Columbus, OH; Denver, CO; Little Rock, AK; Los Angeles, CA; Minneapolis, MN; New York, NY; San Diego, CA; San Francisco, CA; and St. Louis, MO. Four of these members included data from other local sources with whom they collaborate, as follows: Boston, MA (The Network for Battered Lesbians and Bisexual Women, and Safe Transitions of the Beth Israel/Deaconess Medical Center); Los Angeles, CA (Alternatives to Violence/Long Beach, Assistance League of Southern California/Hollywood, Beverly Hills Counseling Int., YWCA Women's Service Center/Glendale, Project Pride, and Options Counseling/Long Beach); San Diego, CA (The San Diego Police Department, Domestic Violence Unit), and San Francisco, CA (The Asian Women's Shelter, the San Francisco DA's Office Family Violence Project, the San Francisco Network for Battered Lesbians and Bisexual Women, and W.O.M.A.N., Inc.).

Contact information for all contributing members is provided in Appendix A.

II. THE PREVALENCE OF LESBIAN, GAY, BISEXUAL, AND TRANSGENDER DOMESTIC VIOLENCE

NCAVP Documented 3,327 Cases of Lesbian, Gay, Bisexual, and Transgender Domestic Violence in 1997

The twelve NCAVP member organizations which were surveyed documented 3,327 cases of lesbian, gay, bisexual, and transgender domestic violence during calendar year 1997. Of those incidents, 1,746 (52%) were reported by men, and 1,581 (48%) by women. In total, 109 (3%) of these persons identified as transgender,¹ 105 who identified as transgender women and 4 who identified as transgender men.

The services of the surveyed NCAVP member organizations are available to an estimated 47 million persons, less than 20% of the nation's population.

The numbers of incidents documented by location are displayed in tabular form on the following page (Table 1).

¹ “Transgender” is an umbrella term that refers to persons who have a gender identity different from the one assigned to them at birth. This term includes but is not limited to: male-to-female transsexuals, also known as “MTFs,” who are referred to here as “transgender women;” female-to-male transsexuals, also known as “FTMs,” who are referred to here as “transgender men;” and intersexed persons who were born with “ambiguous genitalia” who are referred to as transgender men or women depending upon how they identify. Since gender orientation is different from sexual orientation, transgender people can be bisexual, lesbian or gay, or heterosexual.

TABLE 1:
NUMBER OF LESBIAN, GAY, BISEXUAL, AND
TRANSGENDER VICTIMS OF DOMESTIC VIOLENCE
DOCUMENTED BY NCAVP DURING 1997

Geographic Area Where NCAVP Member is Located (N=12)	Number of Male Cases	Number of Female Cases	Total Number of Cases
Los Angeles, CA ²	560	343	903
San Francisco, CA ³	451	440	891
New York, NY	236	185	421
San Diego, CA ⁴	241	162	403
Minneapolis, MN	114	196	310
Boston, MA ⁵	42	156	198
Columbus, OH	44	48	92
Denver, CO	28	18	46
Chicago, IL	26	12	38
St. Louis, MO	4	9	13
Little Rock, AK	0	10	10
Cleveland, OH	0	2	2
TOTALS	1,746	1,581	3,327

² Also includes data collected by Alternatives to Violence/Long Beach, Assistance League of Southern California/Hollywood, Beverly Hills Counseling Int., YWCA Women's Service Center/Glendale, Project Pride, and Options Counseling/Long Beach.

³ Also includes data collected by the Asian Women's Shelter, the San Francisco DA's Office Family Violence Project, the San Francisco Network for Battered Lesbians and Bisexual Women, and W.O.M.A.N., Inc.

⁴ Also includes data collected by the San Diego Police Department, Domestic Violence Unit.

⁵ Also includes data collected by The Network for Battered Lesbians and Bisexual Women, and Safe Transitions of the Beth Israel/Deaconess Medical Center.

The Number of Cases NCAVP documented during 1997 rose by 975 cases or 41% compared to 1996.

During calendar year 1996, a total of 2,352 cases were documented by NCAVP compared to 3,327 during 1997, an increase of 975 cases or 41%. Of the twelve locations, nine (75%) reported increases, two (22%) reported decreases, and one (11%) stayed the same.

The percentages of increased or decreased reported cases are summarized in the below table (Table 2).

**TABLE 2:
THE PERCENTAGE OF INCREASED OR DECREASED
REPORTING BY GEOGRAPHIC AREA FROM 1996 TO 1997**

Geographic Area Where NCAVP Member is Located (N=12)	Number of 1996 Cases	Number of 1997 Cases	% Increase or Decrease
Los Angeles, CA	253	891	+252%
San Francisco, CA	533	891	+67%
New York, NY	469	421	-10%
San Diego, CA	358	403	+13%
Minneapolis, MN	278	310	+12%
Boston, MA	175	198	+13%
Columbus, OH	83	92	+11%
Denver, CO	30	46	+53%
Chicago, IL	166	38	-77%
St. Louis, MO	4	13	+225%
Little Rock, AK	1	10	+900%
Cleveland, OH	2	2	0%
TOTALS	2,352	3,327	+41%

Review of Prevalence Studies

Less than a dozen academic studies have examined the prevalence of battering among lesbian, gay, bisexual, and transgender people. All have focused on lesbians and gay men, and most have not been published. Because these studies are exploratory, tend to use small samples, and tend not to use random sampling techniques, we can not draw firm conclusions from them. Taken together, however, their findings suggest a domestic violence prevalence rate of between 25 and 33%, comparable to the findings on prevalence in heterosexual couples (Brand and Kidd, 1986; Koss, 1990; Lockhart, White, Causby, and Isaac, 1994; Harms, 1995).

Jennifer's Story

To humanize these statistics, we asked one survivor, Jennifer, to tell her story.

I met her at a party that a close friend hosted. She was intelligent, beautiful, and had a wonderful sense of humor. Our relationship developed rapidly and the closeness we shared was something I had never experienced before.

It is difficult to remember exactly when the abuse began because it was subtle. She criticized me because she didn't like my cooking, and she occasionally called me names when we argued. I didn't think much about it because she had recently lost custody of her daughter to her ex-husband because of her sexual orientation and was angry, irritable, and depressed. She often threatened suicide and attempted it during an argument that we had and then blamed me for calling 911 for help.

Despite the stress she was experiencing, she was very supportive of me when my family "disowned" me after I came out to them. When I bought my first car without their assistance, she insisted I put it in her name.

Although we had periods of profound happiness, our arguments increased in frequency as did her drinking and drug use. She was arrested once for possession and driving under the influence. Several months later, she insisted that I submit to drug testing in her place and threatened to tell my employer that I am a lesbian when I resisted.

I kept telling myself things would get better but they never did. She continually accused me of being unfaithful (I wasn't) and even once raped me after claiming I had flirted with a supermarket cashier. The first time she hit me I grabbed her wrist and twisted her arm to keep from being hit again. My response frightened me so much I suggested we see a couple's counselor, and she agreed.

Couples counseling was not helpful, and although things felt worse, our therapist said that was normal so we persevered. I began scrutinizing my own behavior believing that if I could only do things better or differently, our life together would improve.

It wasn't until she pulled a knife on me that I realized that it wasn't going to change for the better . . . it was only going to get worse. I called a crisis line and the counselor suggested that what I was experiencing was domestic violence. That had actually never occurred to me because we are both women.

Leaving her was the hardest thing I have ever done. We have occasional contact because my car is still in her name, and it is always very painful because she continues to be verbally abusive. My family used the abuse to justify their belief that lesbians are "sick." I have one friend who has been supportive but I do not tell mutual friends because I don't want them to abandon her.

It's still difficult to think of my situation as domestic violence but with the help of my counselor and support group, I am learning that women can be violent to other women, that anger, stress, depression, alcohol and drugs do not cause violence, that violence is a choice the abuser makes, and finally, that I am not to blame.

Jennifer's story is quite illustrative of the experiences of many battered lesbian, gay, bisexual, and transgender persons. When the abuse began, it was subtle and difficult to detect; over time, it grew into a pattern of many different forms including verbally, psychologically, financially, sexually abusive, threatening, and other controlling behaviors. Often the abuse and stalking persists even after the victim has left the relationship.

The abuse is frequently difficult for the victim and others to recognize because of the false but powerful belief that domestic violence only occurs between men and women. In addition to staying in the relationship because they do not recognize themselves as being battered, victims typically stay because they love their partner, are blamed for the problems, blame themselves, attribute the violence to situational factors, and hope for change.

Substance abuse and domestic violence frequently occur together as in Jennifer's situation. While substance abuse can contribute to domestic violence particularly by increasing the level of danger, it is not believed to be causal.

Like Jennifer, many lesbian, gay, bisexual, and transgender victims of domestic violence delay seeking assistance and experience barriers when doing so. Her family's homophobic reaction of disowning her and blaming the violence on her sexual orientation is, unfortunately, not uncommon. Similarly, since the community is very small in most places, friends are likely to know both parties, and victims may be reluctant to seek support from them.

Fortunately, Jennifer connected with a counselor and a support group that were knowledgeable, supportive, and available, and greatly improved her situation. Unfortunately, this part of Jennifer's experience is the exception.

Implications

Given that only 3,327 cases were reported in contrast to a suggested prevalence rate of 25-33%, the number of *documented* cases of lesbian, gay, bisexual, and transgender domestic violence would appear to be a tiny proportion of the number of *actual* cases. This is likely to be true for several reasons.

First, lesbian, gay, bisexual, and transgender domestic violence victims are not likely to report what has happened to them. While domestic violence tends to be under-reported by heterosexual couples as well, it may be even less likely to be reported by lesbian, gay, bisexual, and transgender persons if other factors including ethnicity, immigration status, location, and income are held constant.

Because battering has been defined primarily as a heterosexual problem, many community members do not recognize domestic violence even when it is happening to them. Like Jennifer, many community members have internalized the belief that domestic violence only occurs in heterosexual relationships. This belief is further reinforced by domestic violence

public education campaigns which assume universal heterosexuality and exclusively address male-female relationships.

Even if domestic violence is recognized as the problem, there may literally be no place for a battered lesbian, gay, bisexual, or transgender person to seek assistance. For the vast majority of lesbian, gay, bisexual, and transgender victims in the United States, sensitive assistance is unavailable.

Although many lesbian, gay, bisexual, and transgender persons would prefer to seek services from providers in their own community, of the 25 member agencies of NCAVP all of which offer services to hate violence victims, only 12 (48%) offer services to domestic violence victims. Most of these are located in urban areas and consist of a single staff person or volunteer who conduct outreach to and respond to reports from a catchment area of two to three million people, sometimes an entire state or region of the country. Since these members serve only 20% of the nation's population, their services are not available to the vast majority of people.

Overall, lesbian, gay, bisexual, or transgender victims are extremely reluctant to seek services traditionally accessed by battered heterosexual women, including police, battered women's programs, medical professionals, clergy, and family members. They often are fearful about encountering prejudices such as homophobia, biphobia, and transphobia⁶.

Anecdotal evidence indicates this fear is not irrational. For example, responding police officers often fail to take the situation as seriously as they would if the victim were a woman battered by a man; sometimes, they inappropriately arrest the victim, especially if she or he is physically larger or is perceived as "more masculine" than the assailant; worse yet, police often make anti-gay comments and occasionally even perpetrate anti-gay violence. Similarly, volunteers, staff, and other clients at battered women's programs are likely to presume that all of the women seeking services are heterosexual; they may respond less compassionately to a lesbian, bisexual, or transgender battered woman.

Even if the responding officer, battered women's or other provider is not prejudiced, they are often uneducated about lesbian, gay, bisexual, and transgender domestic violence and unresponsive. Similarly, even well-intentioned friends from the community may fail to recognize or respond to battering in their peer group.

The finding of a 41% increase in reporting between 1996 and 1997 is promising. Although a portion of that increase must be attributed to the fact that the Los Angeles, CA member experienced a huge increase in reporting⁷, nine of the twelve programs experienced increases

⁶ Homophobia refers to the irrational fear or hatred of gay men and lesbians; biphobia, of bisexual people; transphobia, of transgender people.

⁷This enormous increase can be attributed to consistent year-long staffing in 1997, to the implementation of domestic violence screening procedures for clients accessing the agency's health and mental health services, and to a much lesser extent, to the additional inclusion of secondary reporting sources noted in footnote 2.

and only two⁸ experienced decreases. This suggests that services were more available and that the willingness of lesbian, gay, bisexual, and transgender victims to seek assistance increased between 1996 and 1997.

While these findings are significant in terms of what they suggest, they should be interpreted cautiously. Because the data collection method used was self-reporting, not random sampling, these findings, while suggestive, are not generalizable. Secondly, self-reported data is extremely sensitive to the staffing patterns of each NCAVP member. For example, it is no surprise that the members with the most funding and staffing (i.e. Los Angeles, CA, San Francisco, CA, and New York, NY) have reported the most cases; because these members have more capacity to provide outreach and community education services, to take reports, and to respond to victims, their number of reported cases are higher. Finally, it must be reiterated that NCAVP members respond to geographic areas in which only 20% of the nation's population resides. Thus, a full 80% of the nation's population remains unaccounted for. Since NCAVP members are primarily located in urban areas, rural areas are particularly underrepresented.

III. THE AVAILABILITY OF DOMESTIC VIOLENCE

PROTECTIVE ORDERS TO VICTIMS OF SAME-SEX

DOMESTIC VIOLENCE

Introduction

In the previous section, the spotlight was shone on the occurrence of battering among sexual minorities, and it was suggested that resources were frequently unavailable. In this section, we will explore the question of whether or not legal remedies are as available to lesbian, gay, bisexual, and transgender victims as they are to their heterosexual counterparts.

Domestic violence laws were originally passed in response to awareness of a problem often referred to as “wife battering.” Women’s groups and others called for legislation designed to protect women victims of male abuse. This view of domestic violence framed the responses of lawmakers and was perpetuated through the resulting legislation. Even if the laws were written (or later revised) in a gender-neutral framework, the gendered conception of domestic violence became further entrenched in the application of the laws by police, court personnel, attorneys, and judges. Simply removing personal pronouns from a law does not

⁸Chicago, IL attributes their decrease in reporting to a loss of outreach funds; New York, NY to inconsistent staffing patterns that have been remedied. Neither believed that the magnitude of the problem in their area had decreased.

ensure that it will be enforced beyond the gendered frame of reference within which the law was created.

Every state and the District of Columbia has enacted some form of legislation designed to address domestic violence. Orders of protection for victims of domestic abuse are available in all fifty-one jurisdictions. Typically, statutes allow “family and household members” to petition for protective orders, but each state defines that term differently. Relationships of affinity (by marriage, including in-law relationships) and consanguinity (by blood) are generally protected. Other “household” relationships may or may not include persons in romantic or sexual relationships, persons engaged in dating relationships, or persons residing in the same household. Often, cohabitation is required, which may be interpreted in a number of ways, including living together with or without a sexual relationship, or living as spouses.

The availability of orders of protection – also called restraining orders, no-contact orders, stay-away orders, and TROs (temporary restraining orders) – depends on two things. First, laws must grant courts the authority to issue such orders. Second, once laws are passed, police officers, judges, and others must interpret, implement and enforce those laws. Our findings are confined to the first necessary element: do laws exist which allow courts to issue restraining orders in domestic violence situations where both the abuser and the batterer are of the same sex?

Domestic Violence Orders Provide Important Protections

Domestic violence protective orders are perhaps the most significant legal remedy available to victims of abuse. Designed specifically to address violence in family relationships, domestic abuse statutes grant judges broad authority to restrain or direct the behavior of the abuser, regardless of whether criminal charges have been filed. At their simplest, domestic violence orders direct the abuser to refrain from abusing the victim, and usually to stay away from the victim’s home, school, or place of employment. Most laws allow judges to go far beyond these simple steps.

A domestic violence restraining order may evict the abuser from the shared household, often without regard to whose name is on the lease. The order may restrict use of jointly owned property, such as cars, checkbooks, or keys. It may require that the abuser pay temporary monetary support as well as child support. The order may require that the abuser pay damages, such as medical, dental, or counseling expenses, loss of earnings, cost of repair or replacement of real property, moving expenses, and attorney fees. The abuser may be prohibited from transferring, selling, or concealing property. He or she may also be required to relinquish guns or other weapons. One significant protection of a restraining order is that it usually authorizes or requires police to arrest the abuser on the spot, without a warrant, for committing any of the acts prohibited by the order. In most states, violating a protective order is a criminal offense.

The process for obtaining a domestic violence order is simpler than filing other court actions. Often, a state will provide domestic violence advocates at the courthouse or the district attorney’s office will assist the victim throughout the legal process. Clerks may be directed to provide assistance with paperwork, and fill-in-the-blank forms are frequently

available. Significantly, filing fees are commonly waived for low-income victims, and often there are no fees at all to petition for a domestic violence protective order.

For a victim of abuse by a partner of the same sex, these protections may not be available. Laws written to address domestic violence from a heterosexual perspective make it more difficult for a battered lesbian, gay man, bisexual or transgender person to escape the cycle of abuse which is characteristic of domestic violence. In order to leave a violent same-sex relationship, a person may be forced to leave his or her home, give up access to jointly owned property, absorb staggering financial losses, and terminate relationships with children. Without a restraining order, a victim of same-sex abuse may be unable to sustain employment or educational efforts if the abuser repeatedly contacts the victim at school or work. The victim may also be wrongly arrested if the police cannot rely on a protective order to determine the aggressor in a violent situation. Without access to the support provided by protective orders, a victim of same-sex abuse may feel compelled to remain in the abusive relationship, thus prolonging the violence and risk to the victim's life.

Domestic Violence Protective Orders Are Clearly Unavailable for Victims of Same-Sex Abuse in Seven States

The laws in seven states which allow a victim to petition the court for an order of protection are generally written to define eligible petitioners as members of opposite-sex couples. These states include: Arizona, Delaware, Louisiana, Montana, New York, South Carolina, and Virginia.

In South Carolina, for example, the law protects family and household members, but defines those terms to include marital and blood relationships, persons who have a child in common, and "a male and female who are cohabiting or formerly have cohabited." In New York state, domestic violence orders are issued by family courts, which have jurisdiction in family offense proceedings only over persons related by consanguinity or affinity, persons legally married, persons formerly married, or persons who have a child in common -- all categories which legally exclude same-sex relationships. Montana protects "partners" but defines that term to include only relationships between persons of the opposite sex. In Virginia, the domestic violence statute protects persons who cohabit or who cohabited in the last twelve months, but a 1994 Attorney General opinion defines "cohabit" as persons living together as husband and wife, specifically excluding roommates and members of lesbian and gay relationships from the class of persons protected by the law.

Protective Orders Are Arguably Unavailable for Victims of Same-Sex Abuse in Three States

The domestic violence statutes in three states are written so that a court could easily interpret them to limit protection to heterosexuals, or to require acknowledgment of an illegal sexual relationship when petitioning for protection. These states include: Florida, Maryland, and Mississippi.

For example, Florida's statute protects persons "residing as a family" and Mississippi protects persons "living as spouses." But sodomy laws in both states criminalize homosexual acts and both states ban same-sex marriage -- legal policies which would

support an argument that domestic violence orders were not intended to protect same-sex couples. Maryland's statute protects cohabitants, but defines cohabitant as "a person who has had a sexual relationship with the respondent in the home" for a specific period of time. Unfortunately, acknowledging a same-sex sexual relationship in Maryland could leave the victim of abuse vulnerable to prosecution under the state prohibition of "unnatural or perverted sex practices" commonly known as a sodomy law.

Domestic Violence Protective Orders are Neutrally Available to Victims of Same-Sex Abuse in Thirty-Seven Jurisdictions

In about two-thirds of the states (and in the District of Columbia), a victim of same-sex abuse should be able to obtain an order of protection because the laws in these jurisdictions are written in gender-neutral language. These jurisdictions include: Alabama, Alaska, Arkansas, California, Colorado, Connecticut, District of Columbia, Georgia, Idaho, Indiana, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Texas, Utah, Vermont, Washington, West Virginia, Wisconsin, and Wyoming.

In Colorado, for example, the law protects parties who have been involved in an "intimate relationship" as well as parties who live or have lived together. The District of Columbia protects those who share or have shared a residence and persons who maintain or maintained a "romantic relationship not necessarily including a sexual relationship." Idaho domestic violence restraining orders are available to persons who reside or have resided together, and the statute further provides that the law be "construed liberally." Minnesota domestic violence laws apply to persons residing together, or persons who are or have been in a "substantive dating or engagement relationship" as determined by factors such as the duration and type of relationship. North Dakota's law is one of the most liberal, allowing an action for protection by any person "if the court determines that the relationship between that person and the alleged abusing person is sufficient to warrant the issuance of a domestic violence order." Texas protects current and former household members, defining household as "a unit composed of persons living together in the same dwelling, without regard to whether they are related to each other." Similarly, Wyoming protects "adults sharing common living quarters." In December of 1997, North Carolina law was broadened to include "former and current household members" which should allow access to protective orders for at least some same-sex victims; however, the statute also warns that such an order may not be used as a defense for persons charged with the "crime against nature" prohibited by the North Carolina sodomy law.

In any of these states, the availability of a protective order for an individual victim of same-sex abuse will depend on a variety of factors particular to the state and to the victim. Some states may protect roommates; others do not. Some states protect persons who are dating; other states require that the parties live together. Sexual relationships may define the protected class, or a sexual relationship may be expressly irrelevant. However, the laws in these states should be accessible by victims of same-sex abuse in the same manner that they are available to victims of opposite-sex domestic violence.

Domestic Violence Protective Orders Are Affirmatively Available Victims of Same-Sex Abuse in Four States

Only four states affirmatively make protective orders available to victims of same-sex domestic violence. These states include: Hawaii, Illinois, Kentucky, and Ohio.

Of these four states, only Hawaii law specifically addresses same-sex relationships, providing access to protective orders for “reciprocal beneficiaries.” By registering for reciprocal beneficiary status, same-sex couples are granted many of the rights and obligations of legally married heterosexual couples – including protection under Hawaii domestic violence laws. Laws in the other three states – Illinois, Kentucky, and Ohio – are actually written in gender-neutral terms, but courts in those states have interpreted the statutes to apply to same-sex relationships. One Kentucky court has ruled that the statutory term “unmarried couples” included same-sex couples. Similarly, an Illinois court upheld one man’s protective order against his male abuser. In Ohio, at least three courts have found that a member of a same-sex couple is a “person living as a spouse” for purposes of the domestic violence laws.

Other Remedies May Be Available for Victims of Same-Sex Abuse

In addition to domestic violence protective orders, some state laws provide other civil protection orders which apply to specific crimes such as harassment and stalking. These orders may be limited in scope to ordering the restrained person to stay away from the victim. The court probably will not be able to evict an abuser from his or her home, or require an abuser to pay damages or refrain from selling jointly owned property, and the victim may be required to pay filing fees. Secondly, individuals may be able to obtain protective orders if they pursue a criminal charges against their abuser which many victims are reluctant to do. Finally, although cumbersome and difficult to obtain, injunctions may be sought which can order the abuser to refrain from abuse.

Because of the complex interplay of the laws, a victim of domestic abuse should consult a local attorney or domestic violence program for legal advice and for current, accurate interpretations of local laws.

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Refer to Appendix B for a chart which references each state's domestic violence protection code, relevant language or restrictions, and other statutory options.

Implications

Victims of domestic violence are not uniformly provided with equal protection of the laws. Despite the availability of domestic violence protective orders for heterosexuals in all states, persons involved in abusive same-sex relationships do not have unequivocal access to the same protective orders in the overwhelming majority of states. In some of those states, victims of same-sex abuse are explicitly excluded from protection of the laws. Even where laws are written in gender-neutral language, judges, court personnel, attorneys and police officers with no exposure to or training in same-sex domestic violence may not apply the law in a neutral fashion.

Gendered notions of social roles are part of our national consciousness, and they are intricately woven into the web of the law as heterosexual paradigms. Coupled with heterosexist and homophobic laws which regulate or prohibit adult sexual and marital relationships, these heterosexual paradigms are a powerful barrier to equitable applications of domestic violence laws which might otherwise be used for protection by victims of non-heterosexual relationship abuse.

Our laws enforce relationship norms. As a result, persons whose lives do not fit those norms are often beyond the protection of the law. Victims of same-sex abuse, unable to access the support necessary to escape violent relationships, may remain in those relationships longer than their heterosexual counterparts. The failure of our legal system to extend protections to victims of same-sex abuse may mean that lesbian, gay, bisexual and transgender persons are subject to the dangerous behaviors of their abusers over a longer period of time than are heterosexual victims who are able to enlist the support of the state.

IV. CONCLUSION

Summary of Findings

Domestic violence among lesbian, gay, bisexual, and transgender persons appears to be a serious but under-reported problem.

In 1997, 3,327 cases were reported to NCAVP organizations which serve less than 20% of the nation's population. Preliminary prevalence studies indicate that between 25 and 33% of lesbian, gay, bisexual, and transgender persons are abused by their partners, comparable to the rate of domestic violence occurring in heterosexual relationships.

The number of documented incidents increased by 41% over 1996, suggesting a marked increase in the availability of services and the willingness of community members to come forward. While this is promising, a dearth of available services and significant obstacles to help-seeking make lesbian, gay, bisexual, and transgender battering victims extremely unlikely to report their victimization or to seek assistance.

Our legal analysis indicates that even if these victims sought assistance, some state laws as currently written do not allow for them to receive protection under domestic violence statutes. Such statutes are available in all fifty states and the District of Columbia and allow heterosexual domestic violence victims to petition for domestic violence protective orders which provide them with enhanced protection. Seven states explicitly exclude same-sex relationships from qualifying. In three additional states, domestic violence protective orders are arguably unavailable. In thirty-seven states, the statutes are written in gender-neutral terms and are probably available to same-gender victims but are still subject to judicial interpretation. In only four states, the orders are affirmatively available. As a result of these barriers, lesbian, gay, bisexual, and transgender victims may have a more difficult time appropriately protecting themselves.

Key Recommendations

Operating from the principle that our society believes domestic violence is unacceptable including in the lesbian, gay, bisexual, and transgender community and operating from the principle that all individuals affected by battering, regardless of sexual or gender orientation, should have equivalent access to resources, we make the following recommendations:

- ***Develop Community-Based Services***

Given the prevalence and seriousness of this problem, community-based services must continue to be developed and expanded immediately. All local lesbian, gay, bisexual, and transgender community agencies and traditional domestic violence service providers should collaborate to develop and implement services for victims and perpetrators of battering. It may be that such services could be integrated into pre-existing programs or that new services need to be created.

- ***Increased Funding for Community-Based Services***

In order for viable services to be developed, they must obviously be funded. Federal, state, and local government as well as private foundations should increase the amount of money available to fund domestic violence programs and should earmark funds for programs that provide domestic violence services specifically to this population.

- ***Conduct Aggressive Outreach and Community Education***

Because this problem is under-recognized and until recently, was virtually unnamed, aggressive community education and outreach campaigns which directly target various segments of the lesbian, gay, bisexual, and transgender community must be planned and implemented. The goal of such campaigns should be to raise community awareness, to increase willingness to seek assistance, and to change community norms to oppose battering.

- ***Lobby for Legislative Change***

State statutes should be changed to be explicitly gender-exclusive, permitting and encouraging such victims to seek domestic violence protective orders. Depending upon the state, this may require amending the domestic violence statute, revising case law, and/or altering the Attorney General's opinions. Statutes should define "domestic" in expansive terms so that protection is provided to anyone who has had a dating or intimate relationship, regardless of gender, sexual orientation, marital status, or cohabitation. If legislatures will not amend the laws, civil rights legal organizations should challenge their constitutionality. Moreover, sodomy statutes need to be eliminated.

- ***Train Judicial and Criminal Justice Personnel***

Having non-heterosexist laws on the books while extremely valuable is rarely sufficient. Judicial and criminal justice personnel, including prosecutors and police, must be trained so that laws are applied and interpreted to protect to all victims of domestic violence, regardless of their gender or the gender of their abuser.

ACKNOWLEDGMENTS

NCAVP would like to acknowledge the primary authors of this report, Toni Broaddus and Gregory Merrill of Community United Against Violence/San Francisco. Significant editorial contributions were also made by Susan Holt of the Los Angeles Gay and Lesbian Center, Gerardo Montemayor and Toni Carrigan of Horizons/Chicago. Diane Dolan-Soto and Carl Locke of the New York City Anti-Violence Project, Jose Pares-Avila and Emily Pitt of the Fenway Community Health Center/Boston, Denise de Percin of Equality Colorado, and Jennifer Rakowski, Lester Olmstead-Rose, and Jessica DuLong of Community United Against Violence.

In addition, the New York City Anti-Violence Project provided valuable conference call services as concepts for this report were being developed. Bert Green of Circle Elephant Art in San Francisco designed the cover and the accompanying map. Heller, Ehrman, White, & McAuliffe of San Francisco provided pro bono reproduction services.

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APPENDIX A:

**NCAVP MEMBER ORGANIZATIONS AND AFFILIATES
WHO CONTRIBUTED DATA TO THIS REPORT**

**NCAVP Member Organizations
Who Contributed Data**

ARKANSAS

Women's Project
2224 Main St
Little Rock, AR 72206
Contact: Judy Matsuoka
501/372-5113
501/372-0009 (fax)
wproject@aol.com (e-mail)

CALIFORNIA

Community United Against Violence
973 Market St #500
San Francisco, CA 94103
Contact: Greg Merrill (ext. 304)
415/777-5500
415/777-5565 (fax)

Los Angeles Gay and Lesbian Center
S.T.O.P. Domestic Violence Program
1625 N. Shrader Blvd., Ste. 40
Los Angeles, CA 90028-6213
Contact: Susan Holt
213/993-7640
213/993-7699 (fax)

Lesbian and Gay Men's Community Center
Anti-Violence Project
3916 Normal Street
San Diego, CA 92103
Contact: Domestic Violence Program
619/692-2077 ext. 805
619/260-3092 (fax)

COLORADO

Equality Colorado
Anti-Violence Project
POB 300476
Denver, CO 80203
Contact: Denise de Percin or Deryk Standing
303/839-5540 ext. 2
303/839-1361 (fax)
equalityco@aol.com

ILLINOIS

Horizons Community Services
Anti-Violence Project
961 W. Montana
Chicago, IL 60614
Contact: Toni Carrigan (ext. 224) or Gerardo Montemayor (ext. 254)
773/472-6469
773/472-6643 (fax)
horizons@interaccess.com

MASSACHUSETTS

Fenway Community Health Center
Violence Recovery Program
7 Haviland St
Boston, MA 02115
Contact: Jose Pares-Avila or Emily Pitt
617/927-6250
617/859-1256 (TTY)
617/267-3667 (fax)
jpares@fchc.org (e-mail)

MINNESOTA

OutFront Minnesota
Gay and Lesbian Community Action Council
310 East 38th St, Ste 204
Minneapolis, MN 55409
Contact: Tommie Seidel (ext. 102)
612/822-0127
612/822-8786 (fax)

MISSOURI

St. Louis Lesbian and Gay Anti-Violence Project
University of Missouri, Psychology Department
St. Louis, MO 63121
Contact: Suzanna Rose
314/516-5467
314/516-5392 (fax)
srose@umsl.edu (email)

NEW YORK

New York City Gay and Lesbian Anti-Violence Project
240 West 35th Street, Ste 200
New York, NY 10001-2506
Contact: Diane Dolan-Soto (ext. 24)
212/714-1184
212/714-2627 (fax)

OHIO

Buckeye Region Anti-Violence Organization
POB 82068
Columbus, OH 43202
Contact: Gloria McCauley
614/262-9222
614/262-9264 (fax)

Lesbian/Gay Community Service Center of Greater Cleveland
POB 6177
Cleveland, OH 44101
Contact: Curtis Proctor or Jen Kruger
216/522-1999
216/522-0025 (fax)
thecenter@earthlink.net (e-mail)

**Other Organizations (Non-NCAVP Members)
Who Contributed Data**

CALIFORNIA

Alternatives to Violence
3703 Long Beach Blvd, Ste E10
Long Beach, CA 90807
Contact: Alyce LaViolette
562/493-1161
562/426-6995 (fax)

Asian Women's Shelter
3543 18th St #19
San Francisco, CA 94110
Contact: Joy Caneda
415/751-7110
415/751-0806 (fax)

Assistance League of Southern California
1360 N. St. Andrew's Place
Hollywood, CA 90028
Contact: Frank Sermier
213/469-5893
213/469-5896 (fax)

Beverly Hills Counseling Int
204 S. Beverly Dr #116
Beverly Hills, CA 90212
Contact: Jim Gordan
310/271-3784

Family Violence Project
San Francisco District Attorney's Office
850 Bryant St, Rm 320
San Francisco, CA 94102
Contact: Jeff Sheehy
415/553-9044
415/551-9515

Options Counseling
3703 Long Beach Blvd E12
Long Beach, CA 90807
Contact: William Harris
562/989-0809

Project Pride
6221 Wilshire Blvd #408

Los Angeles, CA 90048
Contact: Clare Lord
213/965-0034
213/935-9614 (fax)

San Francisco Network for Battered Lesbians and Bisexual Women
3543 18th St #28
San Francisco, CA 94110
Contact: Maggie Paul
415/281-0276

W.O.M.A.N., Inc.
333 Valencia St, Ste 251
San Francisco, CA 94103
Contact: Robin Nickel
415/864-4777
415/864-1082 (fax)
Womaninc@norcov.com (e-mail)

YWCA Women's Services Center
Domestic Violence Project
1007 S. Central, Ste 208
Glendale, CA 91204
Contact: Donna Cox
818/242-4155
818/240-0169 (fax)

MASSACHUSETTS

Beth Israel-Deaconess Medical Center
Safe Transitions
330 Brookline Ave, Rose 200
Boston, MA 02215
Contact: Lisa Tieszen Gary
617/667-8141
617/667-8701 (fax)

The Network for Battered Lesbian and Bisexual Women
POB 6011
Boston, MA 02114
Contact: Beth Levantahl
617/695-0877 (voice, fax, tty)
nblbw@erols.com (e-mail)

Other NCAVP Organizations

ARIZONA

Anti-Violence Project/Valley of the Sun
Gay and Lesbian Community Center
POB 33367
Phoenix, AZ 85067
Contact: Lyle Miller, Barb Jones
602/265-7283 (voice, fax)
lmiller@swlink.net (e-mail)

CALIFORNIA

The AVEC Anti-Violence Project of the Central Coast
POB 241
Santa Barbara, CA 93102
Contact: Neil or Keith Coffman-Grey
805/569-0561
805/569-0526 (fax)

DISTRICT OF COLUMBIA

Gay Men and Lesbians Opposing Violence
1511 K Street, NW, Ste 821
Washington, DC 20005
202/737-4568

FLORIDA

Gay and Lesbian Community Services of Central Florida
714 E. Colonial Drive
Orlando, FL 32803
Contact: Lara Anderson
407/425-4527
407/423-9904 (fax)

GEORGIA

Lesbian and Gay Rights Chapter
American Civil Liberties Union of Georgia
142 Mithcell St., SW, Ste 301
Atlanta, GA 30303
Contact: Jon Greaves
404/523-5398

KENTUCKY

Gay and Lesbian Services Organization
BOX 11471
Lexington, KY 40575
Contact: Jeff Jones
606/257-3530
jeffj@uky.campus.mci.net (e-mail)

MICHIGAN

Triangle Foundation
19641 West Seven Mile Road
Detroit, MI 48219
Contact: Jeffrey Montgomery
313/537-3323
313/537-3379 (fax)
trijeffm@aol.com (e-mail)

NORTH CAROLINA

North Carolina Coalition for Gay and Lesbian Equality
(Contact information not available when this report went to print)

RHODE ISLAND

Rhode Island Alliance for Lesbian and Gay Civil Rights
POB 5758, Weybosset Stn
Providence, RI 02903
Contact: Rodney Davis
401/331-0227

TEXAS

Lambda Services
POB 31321
El Paso, TX 79931
Contact: Rob Knight
915/562-4297
915/553-6024 (fax)

Montrose Counseling Center
V.O.C.A. Grant Program
701 Richmond Ave
Houston, TX 77006
Contact: Melissa Martin
713/529-0037
713/526-4367 (fax)
mcc@neosoft.com

UTAH

Anti-Violence Project
POB 521598
Salt Lake City, UT 84070
801/297-4004

VIRGINIA

Virginians for Justice
POB 342, Capitol Stn
Richmond, VA 23202
Contact: Shirley Lesser
804/643-4816
804/643-2050 (fax)

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APPENDIX C

NCAVP MEMBER ORGANIZATION SURVEY INSTRUMENT National Domestic Violence Report

General Instructions: The information collected by this instrument will be to compile our second annual national report on Lesbian, Gay, Bisexual, and Transgender Domestic Violence. There are sections, as follows: 1) contact information for your project; 2) tallies for the number of LGBT persons reporting domestic violence during calendar year 1997; 3) availability of services; 4) perceptions of helpfulness of domestic violence restraining orders; and 5) contact information for providers other than your project who have contributed statistical data.

The Domestic Violence Program Coordinator at your agency should complete this survey. Please read the instructions for each question carefully. If you have questions, please telephone Greg Merrill at 415-5500 ext. 304. **All surveys are due by 5 p.m. Pacific Time on Monday, August 31, 1998.**

I. Anti-Violence Project Contact Information

Please answer all questions, even if the information has not changed.

1. Agency's Name: _____
2. Anti-Violence Project's Name (if different): _____
3. Mailing Address: _____

4. Business Number: _____
5. Fax Number: _____
6. E-mail Address: _____
7. Crisis Number: _____
8. Contact Person or Persons for Domestic Violence: _____
9. Contact Person's Phone: _____
10. Name of Person Completing this Survey: _____

11. Please describe the region you serve, including the name of cities, counties, state or states that you consider in your intended service area.

12. Please describe the total population of all persons living in your intended service area (for example, if you serve Annapolis and outlying suburbs, list the total estimated population for these areas; or if you serve the entire state of New Hampshire, include the estimate of the entire state's population). **Do not leave blank.**

II. Reported Cases of LGBT Domestic Violence Victimization for 1997

We need the documented, unduplicated number of lesbian, gay, bisexual, and transgender cases of domestic violence victimization in your intended service area during calendar year 1997 (January 1 to December 31, 1997). For purposes of this report, we are defining domestic violence as a pattern of emotional, physical, financial, and/or sexual abuse occurring in the context of a romantic relationship.

In addition to reporting data documented from your project, you may also include data from other service providers in your service area or from your local police department and/or district attorney's office. If you include data from other sources, however, measures must be taken to prevent double-counting (for example, a client should be counted only by the provider to whom they presented first and not by subsequent providers). You must also provide contact information for the other sources in Section III.

13) Total number of Reported Cases of Lesbian, Bisexual, and Transgendered Female Domestic Violence During Calendar Year 1997:

14) Number of Females in Question 13 Who Identified as Transgendered:

15) Total Number of Reported Cases of Gay, Bisexual, and Transgendered Male Domestic Violence During Calendar Year 1997:

16) Number of Males in Question 15 Who Identified as Transgendered:

17) Total Number of Reported Cases of Lesbian, Gay, Bisexual and Transgendered Domestic Violence During Calendar Year 1997 (i.e. add Totals for 13 and 15):

III. Availability of Services

18. Below is a list of domestic violence victim services generally available. Please indicate whether service is available in your area, either by your project or another domestic violence provider, to people in each of five different categories: heterosexual women; lesbian/bisexual women; transgendered women; gay/bisexual men; and transgendered men. Place a "Y" for yes if they are available; an "N" for no if they are not available; or a "U" if unknown. For example, if a battered women's shelter in your area will accept heterosexual and lesbian/bisexual women, then place Y's in the first two columns and N's in the last three.

Type of Victim: Het Wom L/B Wom TG Wom G/B Men TG Men

Type of Service:

24 hour crisis line	_____	_____	_____	_____	_____
In-person Counseling	_____	_____	_____	_____	_____
Support Groups	_____	_____	_____	_____	_____
Criminal Justice Advocacy	_____	_____	_____	_____	_____
Assistance Obtaining Restraining Orders	_____	_____	_____	_____	_____
Emergency Shelter	_____	_____	_____	_____	_____
Perpetrator Treatment	_____	_____	_____	_____	_____

IV. Perceptions About Helpfulness of DV Restraining Orders

19. In your opinion, how helpful are domestic violence restraining orders in deterring batterers from harassing LGBT domestic violence victims? Check one.

- Makes the abuse worse
- Does not help at all
- Varies greatly/depends
- Somewhat helpful
- Extremely helpful
- Do not know

20. Are courts in your area likely to grant domestic violence restraining orders to petitioning LGBT violence victims? Check one.

- Extremely unlikely
- Somewhat unlikely
- Varies greatly/depends
- Somewhat likely
- Extremely likely
- Do not know

21. In your experience, how helpful are domestic violence restraining orders in terms of improving response of law enforcement to LGBT victims of domestic violence. Check one.

- Makes things worse
- Does not help at all
- Varies greatly/depends
- Helps Somewhat
- Extremely Helpful
- Do not know

If you used outside sources of information for reporting LGBT domestic violence cases in Section please complete Section V. Please return this survey immediately to:

Greg Merrill
Community United Against Violence
973 Market Street, Suite 500
San Francisco, CA 94103
Fax 415/777-5565
Voice 415/777-5500 ext. 304.

All Surveys are due by 5 p.m. Pacific Time on Monday, August 31, 1998.

V. Contact Information for Other Sources Reporting LGBT Cases

If you used outside sources of information in Section II, please provide the following contact information for each of those sources:

1. Agency's Name: _____
2. Domestic Violence Project's Name (if different): _____
3. Mailing Address: _____

4. Business Number: _____
5. Fax Number: _____
6. E-mail Address: _____
7. Crisis Number: _____
8. Contact Person or Persons for Domestic Violence: _____
9. Contact Person's Phone: _____
10. Name of Person Who Compiled Data: _____