



Annual Report on Lesbian, Gay, Bisexual, Transgender Domestic Violence



The National Coalition of Anti-Violence Programs (NCAVP)
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Introduction

What is NCAVP?

The National Coalition of Anti-Violence Programs (NCAVP) is a coalition of 25 lesbian, gay, bisexual, and transgender victim 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 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 to other caregiver, abuse occurring in other intimate relationships. For the purposes of this report, however, we limited the definition of domestic 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, 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; 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.

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 1,582 (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.

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

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 number of the incidents documented by location are displayed in tabular form below (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

to here as "transgender women"; female-to-male transsexual, also known as "FMTs", who are referred to here as "transgender men" and the 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.

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 summarized in the table below (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	28	-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 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 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 possessing 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 will get better but they never did. She continually accused me of being unfaithful (I wasn't) and even raped me once 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 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 is 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, 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 a 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 occurs between men and women. In addition to staying in the relationship because they do not recognize themselves as being battered, victim typically stay because they love their partners, are blames 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 casual.

Like Jennifer, many gay, lesbian, 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, 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, or 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 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 transphobia ⁽⁶⁾.

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 a anti-gay violence. Similarly, volunteers, staff, and other clients at battered women's programs are likely to presume that all 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 reporting ⁽⁷⁾, 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.

7 This 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 much lesser extent, to the additional inclusion of secondary reporting sources noted in footnote 2.

and only two experienced ⁽⁸⁾ 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 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 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.

The Availability of Domestic Violence Protective Orders to Victims of Same Sex Domestic Violence

Introduction

In the previous sections, 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 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 have 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 the term differently. Relationships to 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.

8 Chicago, 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 this area had decreased.

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 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 the 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 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 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 cohabitating 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, 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 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 petition for protection. These states include Florida, Maryland, and Mississippi.

For example, Florida 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 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, 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 the 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 the current, accurate interpretations of local laws.

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 equivocal access to the same protective orders in the overwhelming majority of states. In some of those states, victims of the same-sex abuse are explicitly excluded from protection of the laws. Even where laws are written in gender-neutral language, judges, court personnel, attorney's 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 in the web of the law as heterosexual paradigms. Coupled with heterosexist and homophobic laws which regulate and 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 relationship, 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.

Conclusion

Summary of Findings

Domestic violence among lesbian, gay, bisexual and transgender persons appears to be 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-sex victims but are still subject to judicial interpretations. 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 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 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 must be eliminated.

- Train Judicial and Criminal Justice Personnel

Having non-heterosexist laws on 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 all victims of domestic violence, regardless of their gender or the gender of their abuser.

Appendix A

NCAVP Member Organizations and Affiliates who Contributed to This Report

ARKANSAS

Women's Project
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CALIFORNIA

Community United Against Violence
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San Francisco, CA 94103
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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
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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
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Denver, CO 80203
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equalityco@aol.com

ILLINOIS

Horizons Community Services
Anti-Violence Project
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773/472-6643 (fax)
horizin@interaccess.com

MASSACHUSETTS

Fenway Community Health Center
Violence Recovery Program
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Boston, MA 02115
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617/267-3667 (fax)
jpares@fchc.org

MINNESOTA

Out Front Minnesota
Gay and Lesbian Community Action Council
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Minneapolis, MN 55409
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612/822-8786 (fax)

MISSOURI

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NEW YORK

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OHIO

Buckeye Region Anti-Violence Organization
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Lesbian/Gay Community Service Cnter of Greater Cleveland
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Other Organizations (NON-NCAVP Members) Who Contributed Data

CALIFORNIA

Alternatives to Violence
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Asian Women's Shelter
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Assistance League of Southern California
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Hollywood, CA 90028
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213/469-5893
213/469-5896 (fax)

Beverly Hills Counseling Int.

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Beverly Hills, CA 90212
Contact: Jim Gordan
310/271-3784

Family Violence Project
San Francisco District Attorney's Office
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San Francisco, CA 94102
Contact: Jeff Sheehy
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415/551-9515

Options Counseling
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Long Beach, CA 90807
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Project Pride
6221 Wilshire Blvd #408
Los Angeles, CA 90048
Contact: Clare Lord
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San Francisco Network for Battered Lesbian and Bisexual Women
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San Francisco, CA 94110
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Womaninc@norcov.com

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Domestic Violence Project
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MASSACHUSETTS

Beth- Israel-Deaconess Medical Center

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Other NCAVP Organizations

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CALIFORNIA

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DISTRICT OF COLUMBIA

Gay Men and Lesbians Opposing Violence
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FLORIDA

Gay and Lesbian Community Services of Central Florida
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GEORGIA

Lesbian and Gay Rights Chapter
American Civil Liberties Union of Georgia
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UTAH

Anti-Violence Project
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 Salt Lake City, UT 84070
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Appendix B

This chart indicates availability of protective orders to victims of same-sex domestic violence according to whether domestic violence orders are Affirmatively Available (law is written or has been interpreted to specifically provide protection for same-sex couples), Neutrally Available (laws are written in gender-neutral language, so orders should be available), Arguably Unavailable (laws or victims potentially affected by sex crime statutes), or Clearly Unavailable (laws which expressly exclude same-sex couples through heterosexist language). Even in states where a law is written in gender-neutral language, courts may not be willing to extend protection to lesbian, gay, bisexual or transgendered victims of domestic abuse, while courts in other states may issue protective orders despite apparently exclusive laws. As much information as possible has been provided so that advocates and victims may get a sense of how a particular state's laws are written. However, the law may have recently changed, or other remedies not listed here may be available. This chart is designed to provide information only; please consult an attorney for legal advice and current, accurate interpretations of local laws.

Restraining Order Availability (By State) for Victims of Same-Sex Domestic Violence

State	DV-Specific Protection Orders	Available to SSDV Victims?	Relevant Language or Restrictions	Other Statutory Options	Comments
Alabama	Ala. Code § 30-5-1 et. seq.	Neutrally Available	Protection available for "present or former household members."	None found	-

State	DV-Specific Protection Orders	Available to SSDV Victims?	Relevant Language or Restrictions	Other Statutory Options	Comments
Alaska	Alaska Stat. § 18.66.100 et. seq.	Neutrally Available	Protects household members, including "adults or minors who live together or who have lived together. . .who are dating or who have dates. . .who are engaged in or who have engaged in a sexual relationship."	None found	Redrafted in 1986 to remove personal pronouns.
Arizona	Ariz. Rev. Stat. § 13-3602, § 13-3624	Clearly Unavailable	Protection order availability requires marital, blood, or opposite-sex relationship.	Injunctions Against Harassment available under § 12-1809.	-
Arkansas	Ark. Code § 9-15-201 et. seq.	Neutrally Available	Must be or have been in the past residing or cohabiting (sic) together. But see Atty. Gen. Op. 97-392 (1998) (concluding that, in some circumstances, persons who have had sexual relationships	Protective Orders generally available for: Harassment § 5-71-208; Harassing Communications § 5-71-209; Stalking § 5-71-229; Terroristic Threatening § 5-13-301.	-

State	DV-Specific Protection Orders	Available to SSDV Victims?	Relevant Language or Restrictions	Other Statutory Options	Comments
			but who have not lived together may be included).		
California	Cal. Fam. Code § 6200 et. seq., 6300 et. seq.	Neutrally Available	The law protects "a cohabitant or former cohabitant" and "a person with whom the respondent is having or has had a dating or engagement relationship." Cohabitant is defined as "a person who regularly resides in the household." But see O'Kane v Irvine, 47 Cal. App. 4th 207, which held that sublessees are not cohabitants under the Act.	Protection for stalking victims is available under Penal Code § 646.91 and a civil harassment restraining order may be petitioned for under the Code of Civ. Proc. § 527.6.	-
Colorado	Colo. Rev. Stat. § 14-4-102	Neutrally Available	Applies to parties who have been involved in an "intimate relationship" as well as to parties who	§ 18-1-1001 mandates a restraining order against defendants to prohibit harassment or intimidation of	"Intimate relationship" is not defined for purposes of restraining order; criminal statute definition applies to

State	DV-Specific Protection Orders	Available to SSDV Victims?	Relevant Language or Restrictions	Other Statutory Options	Comments
			live or have lived together.	a victim or witness.	"unmarried couple" so applicability to same-sex abuse is unclear.
Connecticut	Conn. Gen. Stat. § 46b-15, 46b-38c	Neutrally Available	Must be residing together or have resided together in past.	Protection orders available for stalking victims available under § 54-1k.	-
Delaware	10 Del. Code § 1045	Clearly Unavailable	Protected classes include family (defined by blood and/or marriage) and former spouses, or man and woman cohabiting, or man and woman with child in common.	None found.	-
District of Columbia	D.C. Code § 16-1005	Neutrally Available	Protects those who share or have shared a residence and persons who maintain or maintained a "romantic relationship not necessarily including a	May be able to petition for a stay-away order if abuser violates Stalking Law, § 22-504	-

State	DV-Specific Protection Orders	Available to SSDV Victims?	Relevant Language or Restrictions	Other Statutory Options	Comments
			sexual relationship."		
Florida	Fla. Stat. § 741.30	Arguably Unavailable	The law protects "family or household members" which includes persons who are presently residing together as if a family or who have resided together in the past as if a family."	§ 914.24 creates a civil action to restrain harassment of a victim or witness. § 784.046 allows an action by a victim of repeat violence for a protective injunction ("repeat violence" is 2 or more incidents of assault, battery, sexual battery or stalking). Eligible victims may have fees waived.	Florida criminalizes same-sex sexual activity and bans same-sex marriage; both laws support an argument that the state does not consider same-sex couples to be a "family."
Georgia	GA. Code Ann. § 19-13-4	Neutrally Available	Although protective orders are available to "persons living or formerly living in the same household," some protections in the domestic violence order	§ 17-17-6 provides for orders prohibiting harassment of a victim or witness in a criminal case. § 16-5-94 allows any person who alleges stalking to	See also § 19-13-20, which defines family or household members more restrictively for purposes of state funded shelters.

State	DV-Specific Protection Orders	Available to SSDV Victims?	Relevant Language or Restrictions	Other Statutory Options	Comments
			are granted explicitly to spouses while other provisions apply generally to the "parties."	seek a restraining order; court may restrain conduct of harassing party and may order either or all parties to receive psychiatric treatment.	
Hawaii	Haw. Rev. Stat. § 586-3 et. seq.	Affirmatively Available	Family and household members are protected, including "reciprocal beneficiaries," a legal relationship specifically available to same-sex partners. Persons residing or formerly residing in same dwelling unit are also covered.	§ 604-10.5 gives district courts the power to enjoin, prohibit, or temporarily restrain harassment; any person may petition court for order.	Couples must register for reciprocal beneficiary status, which gives them many of the privileges and protections generally reserved for married heterosexuals.
Idaho	Idaho Code § 39-6304 et. seq.	Neutrally Available	Includes persons who reside or have resided together; § 39-6302 provides that law be "construed liberally."	Under § 18-920, a no-contact order may be issued when a person commits assault, battery, and other crimes.	-

State	DV-Specific Protection Orders	Available to SSDV Victims?	Relevant Language or Restrictions	Other Statutory Options	Comments
Illinois	725 Ill. Comp. Stat. 5/112A-14	Affirmatively Available	Protects persons who live or lived together, persons who have or had a dating relationship, and persons with disabilities and their personal assistants. See also <i>Glater v. Fabianich</i> , 625 N.E.2d 96 (1993) (upholding one man's protective order against another man).	None found.	-
Indiana	Ind. Code § 34-26-2-1 et. seq.	Neutrally Available	"A person may petition any court. . .for a protective order. . ." "Person" is defined at § 34-6-2-103 to include "individuals at least 18 years of age and emancipated minors."	Injunctions and Restraining Orders Generally § 34-26-1-1	-
Iowa	Iowa Code § 236.4 et. seq.	Neutrally Available	Protects "persons cohabiting" currently or	§ 910A.11 allows court to issue temporary	-

State	DV-Specific Protection Orders	Available to SSDV Victims?	Relevant Language or Restrictions	Other Statutory Options	Comments
			within the past year. Cohabiting is defined in State v. Kellogg, 542 N.W.2d 514, by reference to six factors: sexual relationship between parties, sharing income and/or expenses, jointly owned property, holding selves out as husband and wife, continuity of relationship, and length of relationship.	restraining order prohibiting harassment or intimidation of victim or witness.	
Kansas	Kan. Stat. Ann. § 60-3105 et. seq.	Neutrally Available	Protected persons must reside or have resided together.	None found.	In 1983, statute changed so that "persons" replaced "family or household members."
Kentucky	KY. Rev. Stat. Ann. § 403.75 et. seq.	Affirmatively Available	Although the statute does not clearly include SSDV (it protects "unmarried couples who are living	None found.	Emergency Protective Services under Chapter 209 (Protection of Adults) are not available for

State	DV-Specific Protection Orders	Available to SSDV Victims?	Relevant Language or Restrictions	Other Statutory Options	Comments
			together or have formerly lived together"), the court in Ireland v. Davis, 957 S.W.2d 310 (1997), ruled that the laws "afford protection to same-sex couples just as they do to the others enumerated therein."		victims of same-sex domestic violence, though they are available for battered spouses.
Louisiana	LA. Rev. Stat. Ann. Tit. 19-A § 46:2131 et. seq.	Clearly Unavailable	Unmarried adults protected only if they reside together as spouses and if children also live with them.	Disabled persons and adults older than 60 may be able to obtain restraining orders under § 14:403.2.	-
Maine	ME. Rev. Stat. Ann. Tit. 10-A § 4001 et. seq.	Neutrally Available	Individuals "presently or formerly living together and individuals who are or were sexual partners" are protected.	Title 5 § 4651 et. seq. Allows any person who has been a victim of harassment to file for a protection order, including an emergency order.	Same-sex relationships are not included in the law regulating "Crimes between Family Members" (Title 15 § 321).
Maryland	MD. Code Ann., Fam.	Arguably Unavailable	Protects cohabitants,	None found.	-

State	DV-Specific Protection Orders	Available to SSDV Victims?	Relevant Language or Restrictions	Other Statutory Options	Comments
	Law § 4-501 et. seq.		defined as "a person who has had a sexual relationship with the respondent and resided with the respondent in the home for a period of at least 90 days within one year before the filing of the petition." But proving a sexual relationship may leave victim vulnerable to prosecution under state prohibition of "unnatural or perverted sex practices" (Art. 27, § 554).		
Massachusetts	Mass. Gen. Laws ch. 209A § 3	Neutrally Available	Protects persons who are or were residing together and persons who are or have been in a "substantive dating or engagement relationship"	None found.	-

State	DV-Specific Protection Orders	Available to SSDV Victims?	Relevant Language or Restrictions	Other Statutory Options	Comments
			as judged by 4 factors (e.g. duration and type of relationship).		
Michigan	Mich. Comp. Laws § 27A.2950 et. seq.	Neutrally Available	Protects persons who reside or resided together, or who have or have had a dating relationship.	Stalking Law § 28.643(8) and (9).	DV services provided by DSS available only to opposite sex partners.
Minnesota	Minn. Stat. § 518B.01	Neutrally Available	Protects persons who reside or resided together, or who are "involved in a significant romantic or sexual relationship."	None found.	-
Mississippi	Miss. Code Ann. § 93-21 et. seq.	Arguably Unavailable	Protects "persons living as spouses."	None found.	Probably difficult to prove that same-sex domestic partners "live as spouses" in a state with a sodomy law, a same-sex marriage ban, and no statewide civil rights protections for

State	DV-Specific Protection Orders	Available to SSDV Victims?	Relevant Language or Restrictions	Other Statutory Options	Comments
					GLBT persons.
Missouri	MO. Rev. Stat. § 455.010 et. seq.	Neutrally Available	Includes adults who reside or have resided together.	An "adult who has been the victim of stalking" may petition for a protection order under Chapter 455.	-
Montana	Mont. Code Ann. § 40-15-102	Clearly Unavailable	Under § 40-15-102, partners and family members of abusers may file for orders of protection. However, "partner" is defined only in the context of an opposite sex relationship (see § 45-5-206).	In addition to partners and family members, § 40-15-102 does provide access to protective orders for victims of the following crimes (regardless of relationship to perpetrator): stalking, incest, sexual assault, sexual intercourse without consent.	Interestingly, § 49-1-101, entitled "Right of protection from personal injury," states "Besides the personal rights mentioned or recognized in other statutes and subject to the qualifications and restrictions provided by law, every person has the right of protection from bodily restraint or harm, personal insult, defamation, and injury to his personal relations."

State	DV-Specific Protection Orders	Available to SSDV Victims?	Relevant Language or Restrictions	Other Statutory Options	Comments
Nebraska	Nev. Rev. Stat. § 42-924	Neutrally Available	Includes persons who reside or resided together.	Stalking (crime committed by "any person who willfully and maliciously harasses another person with the intent to terrify, threaten, or intimidate"). § 28-311.03 Protection order is the same as domestic violence order.	-
Nevada	Nev. Rev. Stat. § 33.017 et. seq.	Neutrally Available	Protects persons who are or were "actually residing" together or who are having or have had a dating relationship. Although abuser is always referred to with male pronouns, victim is also referred to with male pronouns,	§ 200.591 allows any person who "reasonably believes" s/he is a victim of stalking or harassment to petition court for a protective order. § 33.015 provides for an injunction to restrain unlawful acts against witnesses or victims of a crime.	-

State	DV-Specific Protection Orders	Available to SSDV Victims?	Relevant Language or Restrictions	Other Statutory Options	Comments
			indicating generic use of gendered language.		
New Hampshire	NH. Rev. Stat. Ann. § 173-B:4	Neutrally Available	Protects persons who cohabit or cohabited and persons who are or were involved in a romantic relationship.	§ 633:3-a allows victims to obtain protective orders by proving stalking by a "preponderance of evidence" (a burden of proof less stringent than that required in a criminal case).	-
New Jersey	NJ. Stat. Ann. § 2C:25-28	Neutrally Available	Protects current or former household members and persons in "dating relationship."	A Stalking conviction under § 2C:12-10 acts as an application for a permanent restraining order for the victim.	-
New Mexico	NM. Stat. Ann. § 40-13-5	Neutrally Available	Protects persons with a "continuing personal relationship," cohabitation expressly not required.	None found.	-
New York	NY. Fam. Ct. Act § 828	Clearly Unavailable	Family Court Act § 812 gives the court jurisdiction, in	Victim may petition criminal court for protective	-

State	DV-Specific Protection Orders	Available to SSDV Victims?	Relevant Language or Restrictions	Other Statutory Options	Comments
			"family offense proceedings", over persons (a) related by consanguinity or affinity; (b) legally married; (c) formerly married; or (d) who have a child in common.	order if abuser is charged with crime such as assault or harassment.	
North Carolina	NC. Gen. Stat. § 50B-2	Neutrally Available	Prior to 1997, the domestic violence law protected persons of the opposite sex who live or lived together and persons of the opposite sex in dating relationships. In December 1997, the protected class of "former and current household members" was added, potentially broadening protections to include members of same-sex relationships	None found.	§ 50B-8 specifically provides that any protection order granted under that statute will not serve as a defense to persons prosecuted for fornication, adultery, or the "crime against nature."

State	DV-Specific Protection Orders	Available to SSDV Victims?	Relevant Language or Restrictions	Other Statutory Options	Comments
			who live together. But see Comments for interaction of domestic violence laws with sodomy laws.		
North Dakota	ND. Cent. Code § 14-07.1-02	Neutrally Available	Action for protection order may be brought 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 protection order." May also be brought by persons in a dating relationship or who live or lived together.	§ 12.1-31.2-01 allows any person who is a victim of "disorderly conduct" (defined as intrusive or unwanted acts, words, or gestures that are intended to adversely affect the safety, security, or privacy of another person) to petition for a restraining order.	Extremely liberal domestic violence law but depends largely on the discretion of the judge.
Ohio	Ohio Rev. Code Ann. § 2919.26 and 3113.31	Affirmatively Available	Statute protects "person living as a spouse," which is	Under § 2902.21.3, an Anti-Stalking protection order is	Case law holding that same-sex couples are covered: State

State	DV-Specific Protection Orders	Available to SSDV Victims?	Relevant Language or Restrictions	Other Statutory Options	Comments
			defined as a person who is cohabiting or has cohabited in the last 5 years with offender. At least 3 Ohio courts have held that this applies to 2 persons of the same sex living together.	available to victims not covered under the domestic violence law.	v. Hadlinger, 573 N.E.2d 1191 (1991); State v. Linner, 665 N.E.2d 1180 (1996); State v. Yaden, No. C-960483, 1997 WL 106343.
Oklahoma	Okla. Stat. tit. 22 § 60.2	Neutrally Available	Protection form "Domestic Abuse" available for family or household members or for persons who are or were in a dating relationship.	Protective orders are also available under this law for any persons who are victims of Stalking or Harassment.	-
Oregon	OR. Rev. Stat. § 107.710	Neutrally Available	Protects persons who have been in sexually intimate relationship with abuser.	Stalking protection order available under § 30.866 and 163.738.	-
Pennsylvania	23 PA. Cons. Stat. § 6108	Neutrally Available	Protects persons living as or who lived as spouses, and current or former sexual	Title 18 § 4954 allows criminal court to grant protective orders for crime victims	-

State	DV-Specific Protection Orders	Available to SSDV Victims?	Relevant Language or Restrictions	Other Statutory Options	Comments
			or intimate partners.	and witnesses.	
Rhode Island	RI. Gen. Laws § 8-8.1-3 and 15-15-3	Neutrally Available	§ 8-8.1-3 protects "persons who are or have been in a substantive dating. . .relationship within the past 6 months" and cohabitants (persons who reside or resided within the past 3 years together) § 15-15-3 protects "persons who are or have been in a substantive dating or engagement relationship within the past 6 months in which at least one of the persons is a minor."	§ 12-28-3 sets forth the rights of crime victims, including the right to protection.	Most victims of same-sex abuse should be able to file for protective orders under Title 8, Courts and Civil Procedure. The Domestic Relations Laws apparently apply to minor's relationships. The primary difference between the two orders is that the Domestic Relations order provides for a temporary order of child custody and support.
South Carolina	SC. Code Ann. § 16-25-50	Clearly Unavailable	Protects household members, defined by blood and marital	§ 16-3-1750 authorizes courts to issue restraining orders against persons engaged in	1994 amendment added the "male and female" language to the domestic violence law.

State	DV-Specific Protection Orders	Available to SSDV Victims?	Relevant Language or Restrictions	Other Statutory Options	Comments
			relationships, and as "a male and female" who cohabit(ed).	harassment or stalking.	
South Dakota	SD. Codified Laws § 25-10-3	Neutrally Available	Protects "persons living in the same household" and "persons who have lived together."	§ 22 19A-8 provides for a Stalking protection order.	-
Tennessee	Tenn. Code Ann. § 36-3-606	Neutrally Available	"Victim" of domestic abuse includes member of following categories who is not the primary aggressor: adults or minors who live or lived together, or who are dating or have dated, or who have or had a sexual relationship.	None found.	-
Texas	Tex. Fam. Code § 85.022	Neutrally Available	Protects current and former household members; household defined as "a	The Code of Criminal Procedure § 17.292 allows issuance of protective order at	-

State	DV-Specific Protection Orders	Available to SSDV Victims?	Relevant Language or Restrictions	Other Statutory Options	Comments
			unit composed of persons living together in the same dwelling, without regard to whether they are related to each other."	request of stalking victim.	
Utah	Utah Code Ann. § 30-6-2	Neutrally Available	"Cohabitant Abuse Act" § 30-6-1 et. seq. protects persons 16 and older who were living as spouses or who reside or resided in same residence.	None found.	-
Vermont	Vt. Stat. Ann. Tit. 15 § 1103	Neutrally Available	Protects persons who "are living or have lived together, are sharing or have shared occupancy of a dwelling, are engaged in or have engaged in a sexual relationship, or minors who are dating or who have dated."	None found.	-
Virginia	VA. Stat. Ann. § 16.1-253.1	Clearly Unavailable	Although protected	§ 19.2-152.8 et. seq. allow	-

State	DV-Specific Protection Orders	Available to SSDV Victims?	Relevant Language or Restrictions	Other Statutory Options	Comments
	et. seq. and 16.1-279.1		household members include persons who cohabit or cohabited in last 12 months, a 1994 Attorney General Opinion defines "cohabit" as persons living together as husband and wife, specifically excluding roommates and GLBT relationships." 1994 V. Op. Att. Gen. 60 (July 22, 1994).	issuance of orders to protect any person from stalking.	
Washington	Wash. Rev. Code § 26.50.060, 26.50.070, 10.99.040, 10.99.050	Neutrally Available	Protects adults who reside or resided together; persons over 16 who reside or resided together and have or had a dating relationship; persons 16 and over who have or had a dating	Civil Antiharassment Protection Orders are available under § 10.14.080.	-

State	DV-Specific Protection Orders	Available to SSDV Victims?	Relevant Language or Restrictions	Other Statutory Options	Comments
			relationship. Dating relationship is defined as "a social relationship of a romantic nature." § 26.50.010		
West Virginia	W.VA. Code § 48-2A-6	Neutrally Available	Protects persons living as spouses or who formerly resided together as spouses; current or former sexual or intimate partners; persons who are dating or who have dated; persons presently or formerly residing or cohabiting together.	None found.	-
Wisconsin	Wis. Stat. § 813.12	Neutrally Available	Protects household members. Household member defined as "a person currently or formerly residing in a place of abode with	Harassment restraining orders provided under § 813.125.	-

State	DV-Specific Protection Orders	Available to SSDV Victims?	Relevant Language or Restrictions	Other Statutory Options	Comments
			another person."		
Wyoming	Wyo. Stat. Ann. § 35-21-103	Neutrally Available	Protects persons now or formerly living with each other as if married, and "other adults sharing common living quarters."	An order of protection for stalking victims is provided under § 7-3-509. § 1-40-205 directs courts to take "appropriate measures" to protect victims and key witnesses.	-

Appendix C

NCAVP Member Organization Survey Instrument National Domestic Violence Report

General Instructions:

The information collected by this instrument will be used to compile our second annual national report on Lesbian, Gay, Bisexual, and Transgender Domestic Violence. There are five sections, as follows:

1. contact information for your project;
2. tallies for the number of LGBT persons reporting domestic violence during the 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 415-777-5500 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(s) 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 the calendar year 1997 (January 1, 1997 - 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 V.

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

2. Number of Females in Question 13 Who Identified as Transgendered:

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

4. Number of Males in Question 15 Who Identified as Transgendered:

5. 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

1. Below is a list of domestic violence victim services generally available. Please indicate whether each service is available in your area, either by your project or another domestic violence provider, to persons of each of five 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 only accept heterosexual and lesbian/bisexual women, then place Y's in the first two columns and N's in the latter three.

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

1. 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

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

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

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

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

If you used outside sources of information for reporting LGBT domestic violence cases in Section II, then 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. 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(s) for Domestic Violence:

9. Contact Person's Phone: _____
10. Name of Person Completing this Survey:

References

- Brand, P.A., & Kidd, A.H. (1986). Frequency of physical aggression in heterosexual and female homosexual dyads. *Psychological Reports*, 59, 1307-1313.
- Harms, B. (1995). Domestic violence in the gay male community. Unpublished master's thesis, San Francisco State University, Department of Psychology.
- Koss, M.P. (1990). The woman's mental health research agenda: Violence against women. *American Psychologist*, 45, 374-380.
- Lockhart, L., White, B., Causby, V., & Tsaac, A. (1994). Letting out the secret: Violence in lesbian relationships. *The Journal of Interpersonal Violence*, 9 (4), 469-492.

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