



**Defending Liberty
Pursuing Justice**

Section of Individual Rights and Responsibilities • Commission on Domestic Violence • Criminal Justice Section

In collaboration with

The National LGBT Bar Association
 *An Affiliate of the American Bar Association*



Tool for Attorneys Working with Lesbian, Gay, Bisexual, and Transgender (LGBT) Survivors of Domestic Violence

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What is different about providing legal assistance to LGBT victims of domestic violence?

If you are currently representing survivors of domestic violence, it is likely that some of your clients are LGBT, whether or not they are “out” to you. Likewise, if you represent LGBT clients, it is likely that some of them are enduring violence and/or coercion in their relationships. Between one-third to one-fourth of lesbian, gay, bisexual, and transgender (LGBT) people in relationships experience domestic violence — the same rate as women in heterosexual relationships. In many ways, domestic violence committed in LGBT relationships is similar to domestic violence committed in heterosexual relationships, but it is also different in some important ways. Understanding these differences is essential to providing ethical and effective representation to LGBT victims of domestic violence.

It is important to consider the dynamics in LGBT relationships that may not be present in heterosexual relationships. Some of these different domestic violence dynamics experienced by LGBT individuals include:

- **Outing:** Abusers have the added tool in their arsenals of “outing” survivors to people or systems that survivors do not want to know about their sexual orientation and/or gender identity, including employers, religious communities, families, friends and child protective services. Outing can pose severe personal, professional and financial ramifications for individuals. For example, as of the date of this publication, individuals can be legally terminated from employment in 31 states based on their sexual orientation, and in 39 states based on their gender identity.
- **Systemic Oppression:** LGBT individuals may face homophobia and/or transphobia from courts, police, housing providers, domestic violence service agencies, and others, making it extremely difficult for them to get help. Even if these groups are welcoming and informed, LGBT survivors might not know this and might not seek help fearing that they will be treated poorly.
- **Exclusion from Services:** LGBT survivors who do reach out for support may be turned away or forced to hide their sexual orientation and/or gender identity to obtain services. Gay men, bisexual men, and transgender individuals may be turned away from “women’s only” shelters or services. Lesbians, bisexual women, and transgender individuals may be excluded from services because their abusive female partners have preemptively sought assistance, or may have been told to hide their identities to make other participants more comfortable. Even if service providers welcome participation of all survivors, past exclusion might lead LGBT people to not access services.
- **Children:** LGBT parents may fear losing custody of their children if their sexual orientation and/or gender identity is disclosed. Non-legal or non-biological parents may also fear that coming forward about abuse will lead to losing all contact with the children they have co-parented.
- **Small Communities:** LGBT communities are often small and insular, particularly in rural areas or in specific racial, ethnic, socio-economic, or other sub-communities. This may make it more difficult for LGBT survivors to find “safe spaces” where they can find support and not risk running into their abusers. For example, there might only be one LGBT-friendly church, bookstore, medical practice or bar in their community.

Showing clients that you are aware of these differences will help create a safe space and build rapport with your clients, helping you to obtain the best, most relevant information from your client, and strengthening your overall ability to represent that client.

What civil legal protections are there for LGBT survivors?

Civil Protection Orders (CPO): CPOs are available to LGBT survivors in most states. Some state laws explicitly allow for people in same-sex relationships to obtain protection orders against their abusive partners, and other state statutes are gender neutral and can be construed to allow for these orders. A few states limit the availability of orders for people in same-sex relationships. See www.abanet.org/domviol for an up-to-date list of state laws providing for Civil Protection Orders.

Keep in mind... *Issues may come up for your LGBT client around custody or economic relief. Learn your state's laws regarding the rights of people in same-sex relationships regarding children, marriage, domestic partnership, etc.*

Anti-Discrimination Protections: Many survivors fear being evicted from their homes, fired from their jobs or expelled from their schools or communities if their sexual orientation or gender identity is made public. Anti-discrimination protections in your jurisdiction may prohibit these types of reprisals.

Keep in mind... *Not all jurisdictions have these anti-discrimination protections and some employers or other institutions may be exempt from such anti-discrimination laws.*

Immigration Relief: People in same-sex relationships who are surviving domestic violence may be eligible for UVisas, and LGBT people who experienced persecution because of their sexuality or gender identity in their home country may be eligible for asylum.

Keep in mind... *LGBT immigrants may fear working with law enforcement or the courts. Know the laws regarding when your clients' immigration status can be disclosed and to whom.*

How do I make my agency/services welcoming and ready to serve LGBT survivors?

- Educate yourself and your agency about LGBT legal issues. Learn your state's laws regarding protection orders, anti-discrimination protections, and other issues that could potentially affect LGBT survivors. Contact the "LGBT Domestic Violence Legal Resources" and "LGBT Legal Resources" listed below for more information.
- Partner with local LGBT organizations and host trainings for yourself and others at your organization to increase your understanding of issues affecting LGBT individuals. To be connected with LGBT domestic violence agencies in your state, contact the National Coalition of Anti-Violence Programs at www.ncavp.org. To connect with other LGBT agencies, contact organizations such as the National Gay and Lesbian Taskforce at www.thetaskforce.org; Parents and Friends of Lesbians and Gays at www.pflag.org; or Gay, Lesbian and Straight Education Network at www.glsen.org.
- Display welcoming materials, signs, stickers, or other indicators that your office is a safe space for LGBT people. The agencies listed are good resources for these materials. Consider changing language in your agency's materials that refers to all survivors as female and all abusers as male.
- Recognize that you might not be the best resource for LGBT survivors and know where to refer people if you are not. Determine these referrals by connecting with the groups listed in this tool.

How do I know the person I'm working with is the survivor, not the abuser?

Domestic violence advocates who work primarily with heterosexual women may not always assess potential clients to determine if they are the partner surviving abuse or abusing. Some agencies have

relied on the assumption that the survivor of abuse is the woman and the abuser is the man. These gender-based assumptions are not relevant when working with LGBT clients. It is important to look closely at relationship dynamics to determine whether the survivor-oriented services you provide are the best resource for the person with whom you are working. This is not an easy process, but it is an important one. If possible, attend a training on assessment hosted by agencies such as the Northwest Network of Bi, Trans, Lesbian and Gay Survivors.

Interviewing LGBT domestic violence clients

Tips and Strategies

- **Do** create an environment where an LGBT client can safely disclose information about sexual orientation and gender identity by having inclusive intake forms and open questions.
- **Don't** assume a female client has a male abuser or that a male client is the abuser.
- **Don't** assume anyone's sexual orientation and/or gender identity, regardless of how they present, until they disclose it to you.
- **Do** ask your clients what name and gender pronoun they prefer and use that name and pronoun.
- **Do** ask your clients where, when, and how they want to be out about their sexual orientation and gender identity. Advise your clients of the potential repercussions of filing public documents that may be used to "out" them later.
- **Do** reflect the language your clients use to describe themselves in conversations with the client and other service providers and in court hearings and formal filings.

Sample Interview Questions

- What is your relationship status? What is your partner's gender? What terms do you prefer for me to use to discuss your situation?
- What is your name and pronoun preference? Are there times where you would like me to use different pronouns or a different name (e.g., with other service providers, your family, the court)?
- Are you "out" about your sexual orientation and/or gender identity? Has your partner threatened to "out" you?
- Do you risk losing your job if your employer learns of your sexual orientation and/or gender identity?
- Do you and your partner have children? Are you the biological parent, adoptive parent or legal guardian?
- Are there LGBT community spaces that you no longer feel safe going to because of the abuse?

A Note About Transgender People and "Same-Sex" Relationships

Much of the law discussed in this section talks about people in "same-sex" relationships. Whether a transgender person is included in this category may depend on whether that person identifies or is legally

categorized as the same "sex" as their partner. For example, a transgender woman who is legally female should have the same rights as a non-transgender woman to file against an abusive male partner.



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Where can I find additional resources or information?

LGBT Domestic Violence Legal Resources

American Bar Association

- Commission on Domestic Violence: www.abanet.org/domviol
- Legal Assistance for LGBT Victims of Domestic Violence Project: www.abanet.org/irr/enterprise/LGBT

Family Justice Center of Boston GLBT

- Domestic Violence Attorney Program: www.gmdvp.org

Los Angeles Gay and Lesbian Center

- Domestic Violence Legal Advocacy Project: www.lagaycenter.org

Sanctuary for Families

- LGBT Attorney, Sanctuary for Families: www.sanctuaryforfamilies.org

Women Empowered Against Violence (WEAVE)

- WEAVE LGBT Domestic Violence Project: www.weaveincorp.org

LGBT Domestic Violence Non-Legal Resources

- National Coalition of Anti-Violence Programs: www.ncavp.org
- Northwest Network of Bi, Trans, Lesbian and Gay Survivors: www.nwnetwork.org

LGBT Legal Resources

- Lambda Legal: www.lambdalegal.org
- National Center for Lesbian Rights: www.nclrights.org
- National LGBT Bar Association: www.nlgla.org
- Sylvia Rivera Law Project: www.slrp.org
- Transgender Law Center: www.transgenderlawcenter.org

Important Terminology**

Sexual Orientation: one's romantic, emotional, and/or sexual attraction to another.

Lesbian: woman who is attracted to women.

Gay: man who is attracted to men; also sometimes used colloquially as an umbrella term such as the "gay community."

Bisexual: person who is attracted to men and women.

Gender Identity: one's personal view of one's own gender.

Gender Presentation or Expression: how one expresses one's gender outwardly.

Transgender: umbrella term used to describe a continuum of individuals whose gender identity and how it's expressed, to varying degrees, does not correspond to their biological sex.

Queer: inclusive term to collectively refer to LGBT individuals, or to individuals who do not ascribe to distinct gender, sexual and/or sexual orientation categories. "Queer" has long been used in hurtful and oppressive ways and some still consider it derogatory. Others embrace it as a term of pride and inclusion.

Out: being open or explicit about one's LGBT identity to others.

Outed: having one's LGBT identity made public to others.

Homophobia: an irrational fear of, aversion to, or discrimination against homosexuals; the systematic oppression of LGB people based on their sexual orientation.

Transphobia: the systematic oppression of transgender people because they do not fit or ascribe to societal expectations of how men and women are supposed to act and look.

Heterosexism: bias and/or discrimination in favor of heterosexuals and heterosexuality and against homosexuals and homosexuality.

***Note: Language is always evolving and varies temporally and geographically. Practitioners should give clients the space to self-identify and respect the client's choices about language.*

Myths about LGBT Domestic Violence

- **Myth:** Women can't be abusers and when lesbian couples fight, it is just a "cat fight," not domestic violence. Men are too tough to be abused and when men fight, it is simply "boys being boys."
Fact: Domestic violence is about power and control. Statistically, LGBT individuals experience domestic violence at the same rate as heterosexual women.
- **Myth:** The bigger, more masculine, or stronger partner is always the abuser in LGBT relationships.
Fact: People of all shapes, sizes, sexual orientations and gender identities can be abusers or survivors in LGBT relationships. Focusing simply on physical attributes ignores the non-physical ways abusers assert power and control, including emotionally, verbally, psychologically, and financially, as well as the very real physical abuse that can come from a smaller partner.
- **Myth:** Most abuse that occurs in LGBT relationships is mutual.
Fact: No evidence indicates LGBT people are more involved in "mutual abuse" than heterosexuals. While survivors of all genders and sexual orientations might use physical force to defend themselves, this is not mutual domestic violence. In domestic violence, one partner uses a pattern of power and control over the other partner.
- **Myth:** The dynamics of domestic violence in LGBT relationships are identical to the dynamics of domestic violence in heterosexual relationships; there is nothing more I need to know.
Fact: While the dynamics of power and control might be the same, abusers of LGBT people have different tools at their disposal and LGBT survivors face different realities when seeking help. LGBT people also face a different legal landscape in many jurisdictions.