

Transitioning Your Services: Serving Transgender Victims of Domestic Violence, Sexual Assault and Stalking

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The domestic violence prevention and services community is an important partner in creating safer communities for transgender people. Over the last decade, individual advocates, organizations, and associations have made great progress in improving access to services and prevention programs for transgender people and their partners. At the Transgender Law Center, we provide direct legal services to transgender individuals and their family members in California and technical assistance to attorneys serving transgender clients throughout the United States.

This article combines the real life lessons learned by providers with our experience serving transgender clients to provide helpful tips you can use or recommend that others use to increase the accessibility of your services and prevention programs. These tips are fleshed out with details about the legal issues that arise for transgender victims of sexual violence and some of the challenges transgender clients experience in reporting domestic violence, sexual assault, and stalking to law enforcement officers. Inevitably, some of you have devised strategies or programs not encompassed by this article. I encourage you to put those lessons learned into additional articles, tip sheets, and publications. Together, we are creating the tools that will significantly increase our country's ability to fully respond to domestic violence in transgender communities.

Transgender Clients and Law Enforcement

As many people reading this know all too well, institutional discrimination and institutional violence can deter people from seeking help from law enforcement. In part, because of the lack of basic information about transgender people among law enforcement agencies, a sizable portion of the community is wary about reporting violence to police. I'll share three stories that illustrate this point.

A transgender man contacted the police after being violently assaulted. The police arrived and discovered that he was male and the abuser was female. The officers failed to make a report despite the fact that the man had incurred serious injuries. Finally a police report was made after an attorney accompanied the client to a police station.

The officers did not take the assault seriously and did not create a police report. Apparently, men shouldn't ask for help, especially when their perpetrator is

female. Here, the issue has less to do with the victim's transgender status and more to do with institutionalized sexism in which men can't possibly be victims of abuse. This experience likely resonates with other male experiences of domestic violence, e.g. gay men who are survivors of domestic violence.

A transgender woman was being stalked by a man who was sexually harassing her and targeting her because of her transgender status. She contacted the police to report the violence. Because of her transgender status, the police did not act on her complaints. They refused to acknowledge her female gender identity which led to further humiliation and trauma. Ultimately, they failed to investigate the criminal behavior of the perpetrator under the false premise that this was a conflict between two men which did not necessitate police intervention.

Here, the transgender woman was deemed not "woman enough." Her status as a transgender woman led officers to ignore her female gender identity and treat her as man, who "shouldn't need help" from the police. Alternatively, her transgender status may be used as a basis to disbelieve her, discredit her, assume no one will believe her, or blame her for the violence. Providing trainings for law enforcement can help officers, lieutenants and commanders become culturally competent regarding transgender community members.

Following the breakup of a couple composed of two transgender men, one of the partners experienced violence from his ex. Even after significant stalking, property damage, and a physical assault the victim was unwilling to report the violence out of fear for his ex-boyfriend's wellbeing at the hands of police or in jail or prison if he were to be incarcerated.

Despite being aggrieved, the victim had well-founded fears of the consequences for the offender's safety if he were to be taken into custody. In one study, more than one in four respondents reported that they have suffered discrimination when interacting with police officers.¹ In another study, 67% of inmates who identified as LGBTQ reported having been sexually assaulted by another inmate during their incarceration, a rate that was 15 times higher than for the inmate population overall.²

Note: Concerns about repercussions for reporting are often exacerbated when the victim of abuse and/or the perpetrator are immigrants. They may have the same concerns as discussed above, but in addition fear that any

¹ National Center for Lesbian Rights/Transgender Law Center, *Trans Realities: A Legal Needs Assessment of San Francisco's Transgender Communities* (2003).

² See Cindy Valerie Jenness et al., Center for Evidence-Based Corrections, *Violence in California Correctional Facilities: An Empirical Examination of Sexual Assault* (2007) cited by Stop Prisoner Rape, *Fact Sheet, LGBTQ Detainees Chief Targets for Sexual Abuse in Detention* (October, 2007).

interactions with the police might negatively impact their legal status, or risk deportation (if undocumented).

Particular Legal Issues That May Arise with Transgender Clients

Housing and Service Agencies

Transgender people often face unique barriers to access DV shelters and other social services. Be aware of not just local resources such as shelters and other DV agencies, but also what the shelter/agencies' policies and practices are. For example, does the local battered women's shelter welcome all women *including transgender women*?

Practice Tips: Reach out to shelters/agencies to ensure that your client will be able to access appropriate and respectful services. Be prepared to advocate for your client, especially if a client's ID doesn't match their current name and gender identity. A great resource regarding shelters is The National Gay and Lesbian Task Force's publication *Transitioning Our Shelters: A Guide to Making Homeless Shelters Safe for Transgender People*.³

Safety Planning

If your office or agency assists clients with safety planning, you are probably familiar with providing referrals to mental health services and/or support groups.

Mental Health Services

Learn whether any local mental health services have LGBT-specific services. If there are LGBT-specific mental health resources this might be your first recommendation. If there aren't any local LGBT-specific mental health organizations, think about agencies or local therapists that may be transgender-friendly. Consider reaching out to them on your client's behalf. Also be sure to pass on phone numbers of LGBT groups that operate national crisis lines.⁴

Support Groups

Your client may or may not know about local transgender support groups. Make available a list of local transgender support groups that clients may be interested

³ The National Gay and Lesbian Task Force, *Transitioning Our Shelters: A Guide to Making Homeless Shelters Safe for Transgender People* (2003).

⁴ LGBT crisis line numbers include the Trevor Project's 24 hour suicide prevention line for LGBTQ youth (866).4.U.TREVOR, see: <http://www.thetrevorproject.org/home2.aspx>; GLBT National Help Center's Hotline (888) THE GLNH, see: <http://www.glnh.org/index2.html>; Community United Against Violence's 24 hour crisis line 415.333.HELP (4357), see: <http://www.cuav.org/>.

in attending. Providing your client with information about local groups, if available, and/or crisis lines is a valuable element to safety planning.

Practice Tip: Reach out to LGBT Centers and/or support group contacts to ensure that that meeting information listed on the internet is current

Identity Documents

It is quite common for transgender people to change their names as a part of their transition. All states have a procedure for acquiring a court-ordered name change and in most states it is possible to gain legal recognition of a change of gender. Regardless of how long ago your client transitioned, your client may or may not have updated their identity documents to accurately reflect their current name and gender.

Practice Tips: Be aware of your state's laws on name changes and obtaining legal recognition of gender identity. A client who does not know how to update their identity documents may be interested in learning the necessary steps. In a minority of states it is not possible to gain legal recognition of a change of gender.

Note: it's rarely relevant or appropriate to ask a transgender person about the extent, if any, to which the person has physically transitioned. However, this question often comes up with regard to obtaining legal recognition of gender identity. A practice that has worked well is to acknowledge that such a question is very personal, but is relevant to determining what, if any, legal recognition of gender identity a person can access, e.g. court orders recognizing a change of gender, state Department of Motor Vehicles or Registry of Motor Vehicles license or identification cards.

Making Your Office Transgender Friendly

Creating a Welcoming Atmosphere

Your first contact with your clients is almost always on the telephone. Be careful to avoid gender-specific words like "sir" or "ma'am" on the phone or in person until you've confirmed a person's gender identity. Although such salutations may be offered with respectful intentions, the gendered nature of such greetings can have unintended effects when offered in error, e.g. "sir-ing" a transgender woman or "ma'am-ing" a transgender man.

Don't assume a person's gender even if their presentation may appear to be clearly "feminine" or "masculine." A person's **gender presentation** (an individual's characteristics and behaviors such as appearance, dress, mannerisms, speech patterns, and social interactions that are perceived as

masculine or feminine) may not always align with their **gender identity** (a person's internal, deeply-felt sense of being male, female, something other or in-between), especially if the person's current housing or employment is not a place where the person can safely express their gender identity.

Likewise, when it comes to pronouns (e.g. "she" or "he", "her" or "his") it's always better to ask for preference, rather than assume.

Intake Forms

Name

Allow people to self-identify their current name, while leaving space for a former and/or legal name if necessary. Let your client know that you will be happy to refer to them by their preferred name. Addressing clients by their chosen name, labeling their file with their chosen name, and ensuring that co-workers and administrative staff identify clients by current name will help your client feel comfortable and welcome in your office.

Gender identity

Instead of having female and male boxes for gender identity, allow people to self-define their gender by leaving a blank space for people to fill in their answer.

Sexual orientation

Likewise, if you gather information about sexual orientation, let clients self-identify. There is no correlation between sexual orientation and gender identity. Just like nontransgender people, transgender people may identify as heterosexual, lesbian, bisexual, gay, queer, and any number of other categories of sexual orientations.

Relationship to Offender

Again, leaving a blank space instead of specifying spouse and/or domestic partner will allow your clients to self-identify their relationship to the offender.

Note: If you practice in a state that only allows people who are in a legally recognized relationship with their offender to file for civil protection orders, you may need to research whether your client is in a legally recognized relationship. National LGBT organizations such as National Center for Lesbian Rights (NCLR) and Lambda Legal can usually provide information on specific state law.⁵

⁵ National Center for Lesbian Rights, see: <http://www.nclrights.org/site/PageServer>; Lambda Legal, see: <http://www.lambdalegal.org/>

Correspondence, Court Papers and Settlement Agreements

Use the correct name and pronoun in all correspondence, court papers, and settlement agreements. Except in extremely rare circumstances, it is very important that you use the name and pronoun that corresponds to a person's gender identity (for example if your client transitioned from female to male, use male pronouns). It may be necessary to footnote the person's prior name and to clarify in an initial letter that the recipient of the letter may know your client by their prior name or gender but that you will be referring to the client by their current name and gender. It is also important that you respectfully urge opposing counsel, court staff, and judicial officers to do the same.⁶

Restroom Accessibility

Ensure that anyone who walks into your office can access a restroom that best corresponds to their gender identity, regardless of the person's sex assigned at birth. If possible, provide an easily accessible unisex single stall bathroom for use by anyone who desires increased privacy.

Non-Discrimination Policy

If not already present, add "gender identity" and "gender expression" to your office or agency's non-discrimination policy. Model language: "This organization is committed to promoting diversity and does not discriminate based upon race, color, religion, sex, gender identity, sexual orientation, national origin, marriage status, age, political affiliation or disability."⁷

Some Final Comments

Obviously, due to space constraints there are important substantive issues not examined here. For example, if there are children involved in your client's case, the other party may try to use your client's status as a transgender person to undermine their parental rights. Another major issue is health care discrimination. You may encounter a client who, despite incurring serious injuries, did not access medical care because of negative experiences with doctors or hospitals in the past. These and a myriad of other issues may come up when representing transgender clients. The Transgender Law Center has numerous publications available on specific legal issues on our website: www.transgenderlawcenter.org. Additionally, please don't hesitate to contact us for technical assistance regarding your particular case at (415) 865-0176.

⁶ Transgender Law Center, *Top 5 Tips for Working with Transgender Clients and Co-Workers*, <http://transgenderlawcenter.org/pdf/Top%205%20tips%20on%20clients%20and%20co-workers.pdf> (last visited August 22, 2008).

⁷ The State Bar of California Office of Legal Services, Access & Fairness Programs *Creating a Model Work Environment for Lesbian, Gay, Bisexual and Transgender Individuals* (2007).