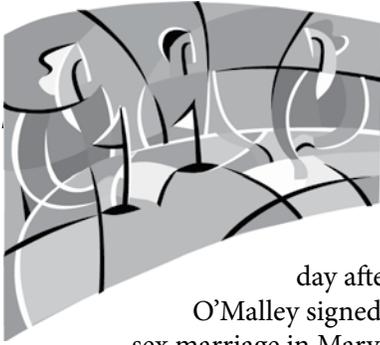


From the <i>Journal</i> Committee	2
Special Feature: Advancing Justice with the LGBTQ Community	
A Rural Legal Aid Perspective on Creating an LGBT Program <i>By Dan Torres, Esq., Program Manager, California Rural Legal Assistance</i>	3
Representing LGBTQ Youth in Foster Care and Juvenile Justice Systems <i>By Kimberly Forte, Supervising Attorney, LGBT Law and Policy Initiative, The Legal Aid Society</i>	7
Two Steps Forward, One Step Back: Providing Family Law Services to LGBT Clients at a Legal Services Organization <i>By Jerel McCrary, Domestic Violence Regional Counsel, Bay Area Legal Aid</i>	10
Working with Victims of Domestic Violence in Same-Sex Relationships: A Practical Guide for Civil Legal Services Providers <i>By Ted Farley, LGBTQ Initiative Coordinator, Urban Justice Project</i>	14
Serving LGBT Survivors in Rural Communities <i>By Sarah R Prout, Esq., Executive Director, Blue Water Safe Horizons, and Syeda Hossain-Davidson, Staff Attorney, Lakeshore Legal Aid</i>	19
Addressing the Challenges Facing LGBT Older Adults <i>By Catherine Thurston, LCSW, Senior Director of Programs, Services and Advocacy for GLBT Elders (SAGE)</i>	21
Guidelines for Creating a More Sensitive Legal Services Program for LGBT Elders <i>By Jennifer L. Berger, Supervising Attorney, AARP Legal Counsel for the Elderly</i>	24
New York's Marriage Equality Law: A Human Rights Victory and an Opportunity for Our Program <i>By Richard Saenz, Dan Pepitone and Andrea Zigman, Legal Services NYC</i>	26
A Great Unmet Need: Legal Aid Services for Low-Income Transgender Clients <i>by Catherine Sakimura and Daniel Redman, National Center for Lesbian Rights</i>	29
Serving Transgender Clients in Legal Aid Settings: Drawing on the Findings of the National Transgender Discrimination Survey <i>By Jaime M. Grant, Ph.D.</i>	33
HUD Unveils LGBT Equal Access Policy <i>By Maya Rupert, Esq., Policy Director, National Center for Lesbian Rights</i>	40
Who Knew that the Internal Revenue Code Could Benefit Same-Sex Couples: The Adoption Tax Credit <i>By William S. Singer, Esq. and James M. Wood, CPA</i>	42
Economic Disadvantage in the LGBT Community <i>By Gary J. Gates, PhD, Williams Distinguished Scholar, Williams Institute, UCLA School of Law</i>	45

Features

Become a Member of the MIE Journal Committee: Guidelines	49
Crossword Puzzle: A New Spin on Elvis	50
Book Review: "Women Are Like Teabags," by Deierdre L. Weir — An Interview with the Author and Review <i>By Michelle Johnson, Director of Litigation, Legal Aid and Defender Association, Inc.</i>	51





FROM THE JOURNAL COMMITTEE

“The times, they are a-changing.”

I am writing this message the day after Governor Martin O’Malley signed a bill legalizing same-sex marriage in Maryland. In a very short time, legislatures in New York, New Jersey and Washington all passed similar measures (although New Jersey’s was vetoed by the governor). Five other states — Iowa, Connecticut, Massachusetts, Vermont, New Hampshire — and the District of Columbia also allow same-sex marriage. “Don’t ask, don’t tell,” was recently repealed. Proposition 8, which prohibited same-sex marriage in California, was recently overturned by a panel of the 9th Circuit, and a recent poll finds that a huge majority in California is now opposed to Prop 8.



I am truly astonished by these advances in equality. But, at the same time as the news emanated from Maryland, stories about the Rutgers bullying/suicide trial also made headlines. Tyler Clementi, a gay college student, killed himself by jumping off of the George Washington Bridge in 2010, after he found out that his roommate had set up a web camera in their room and recorded him having relations with his partner. This was the most prominent of scores of additional reported examples of gay, lesbian, bisexual, and transgender youth facing harassment in schools and neighborhoods. Two prominent national figures recently founded campaigns partially in response to this issue: Lady Gaga (Born this Way Foundation) and Dan Savage (It Gets Better Project).

These are the headlines. But where do we fit in? Especially given a recent study by the Williams Institute which demonstrates that, on average, gay and lesbian couples are lower income than straight couples, and lesbian couples particularly are more likely to suffer poverty than straight couples?

We realized, as a *Journal* Committee, that it was time to take stock of how legal aid programs were responding both to the great advances in civil rights for people who are gay on the one hand, and the major challenges affecting gay communities on the other. While the *Journal* has published one or two pieces on legal issues affecting lesbian, gay, bisexual, transgender,

and questioning (LGBTQ) clients, we have never devoted a special issue to the topic. The response to our solicitations was so strong that the Special Feature has filled this issue, and we think that all legal aid managers and staff will find this issue enlightening and useful.

This special issue features a wide range of articles about programs involving LGBTQ clients. Dan Torres of California Rural Legal Assistance writes about *Proyecto Poderoso* (Project Powerful), which works with gay, lesbian, bisexual and transgender clients in rural California. Kimberly Forte addresses how The Legal Aid Society in New York City has helped to further the rights of LGBTQ youth in their foster care and juvenile justice systems. Jerel McCrary from Bay Area Legal Aid addresses the struggles and strategies associated with setting up a separate family law program in a legal aid organization. Members of Legal Services NYC’s Marriage Equality Act Project describe their new work. Ted Farley of the Urban Justice Project delves into domestic violence in same-sex relationships and also takes us through how we might better set up our programs to be more welcoming to LGBTQ and HIV status clients. Sarah Prout of Blue Water Safe Horizons and Syeda Hossain-Davidson of Lakeshore Legal Aid provide some concrete and direct dialogue about protecting the rights of LGBT survivors in rural Michigan.

Catherine Thurston of Services and Advocacy for Gay, Lesbian, Bisexual and Transgender Elders (SAGE) provides a comprehensive understanding of the myriad of issues—ranging from public benefits to housing—impacting aging LGBTQ clients. Immediately following this, Jennifer Berger of the AARP Legal Counsel for the Elderly suggests ways to make our legal aid programs more friendly to LGBT Elders. And there’s much, much more.

We hope that this issue helps to open minds and eyes as to the positive work our community is and can be doing to better serve those most needing our help.

*Dave Pantos, Member
MIE Journal Committee*



MIE’s mission is to spark excellence in leadership, management and fundraising in legal aid programs serving low income clients, through training, consulting and publishing activities of the highest quality.

ADVANCING JUSTICE WITH THE LGBTQ COMMUNITY



A Rural Legal Aid Perspective on Creating an LGBT Program

*By Dan Torres, Esq., Program Manager, Proyecto Poderoso¹
California Rural Legal Assistance*

This article explores California Rural Legal Assistance’s (CRLA) initiative to serve low-income lesbian, gay, bisexual and transgender (LGBT) clients. Specifically, the steps that CLRA has taken, so far, to reach an underserved community are set forth below along with advice on reaching the LGBT community in particular. CRLA’s journey and its ongoing efforts to strengthen its LGBT advocacy offer ideas for other organizations to undertake this important work.



Background

Since 1966, CRLA has been fighting for justice alongside the most exploited communities in our society. From challenging racist policies in schools to helping indigenous families create safer and healthier communities, CRLA has had a history of combating discrimination.

In the mid-1990s, CRLA developed a practice of assisting farm worker clients who had been sexually harassed. Most of the CRLA cases at that time involved women who had been harassed by men. Before long, the community presented CRLA with a new pattern of discrimination cases with LGBT farm workers who had been harassed in the fields.

One example of an early case handled by CRLA involved a male farm worker who faced constant anti-gay epithets from his foreman and co-workers. The verbal harassment escalated to physical harm when our client’s co-workers threw him into an irrigation canal in response to the foreman’s promise of a case of beer

for doing so. CRLA was ultimately able to negotiate a settlement on his behalf. That case, however, opened CRLA’s eyes both to the existence of the LGBT farm worker community and the need to develop more skills in handling future cases for LGBT people. Of course, before this example, LGBT-discrimination occurred in and around CRLA communities, but clients rarely disclosed sexual orientation and gender identity discrimination to CRLA advocates. The lack of disclosure made the LGBT rural community seem “invisible.”

In the last decade, however, LGBT rural communities have stepped out of the shadows. This is particularly true for same-sex households whose number has grown by half in the last decade nationwide.² Over time, through intentional community outreach by CRLA advocates, low-income LGBT people have become more visible in our communities of service, and we are now learning more about the prevalence of discrimination and struggles for justice they face. For CRLA, this has meant learning about LGBT advocacy and adapting our core strategies to be more inclusive of the LGBT community. It is the client community and its increased visibility that motivated CRLA to be more intentional about this work and start an LGBT project called *Proyecto Poderoso*, or Project Powerful.

The intentional effort to start the project involved hiring staff that could lead this advocacy at CRLA and develop key partnerships, such as a partnership with the National Center for Lesbian Rights (NCLR). Leveraging NCLR’s expertise in LGBT advocacy, CRLA enhanced its own advocacy on behalf of rural poor communities and farm workers via *Proyecto Poderoso*. In 2007, *Proyecto Poderoso* set out to expand legal services for low-income LGBT people living in rural

California. With specific allocation of staff resources, *Proyecto Poderoso* started as a local project within one CRLA office. *Proyecto Poderoso* has since developed into a statewide CRLA program.

Designing a Blueprint for an LGBT Program

Step 1: Study the Community

At the early stages of developing *Proyecto Poderoso*, CRLA obtained the help of the Williams Institute at UCLA Law School to conduct a demographic study of the LGB population³ within CRLA's service area. The study found that there were 136,000 lesbian, gay and bisexual people living in CRLA service counties. The study was eye-opening for many reasons. First, the past invisibility of the LGB community made the large numbers of LGB people found to be living in rural California seem shockingly high and highlighted a void in CRLA's service. Second, the data was also important in challenging common stereotypes that LGB people do not live in rural communities. Finally, the study refuted another common stereotype that most LGB people are relatively wealthy by documenting the large numbers of low-income LGB people in rural communities. The study found that the LGB people and heterosexual people living in CRLA service areas face similar poverty rates. It also found that LGB people in rural communities experience more poverty than LGB people living in urban centers. The study offered much more information about the LGB rural community, all of which was important for purposes of program planning and informing CRLA's strategies for serving the community.

Step 2: Develop Organizational Competency and Build the Community's Trust

Part of building an LGBT program involves creating relationships of trust with the LGBT community. Essential to building that trust is making sure that your house is in order before clients come through the door. Rural LGBT clients face discrimination in schools, jobs, homes and public spaces, and fear seeking help from any agency, including legal aid offices. Therefore, *Proyecto Poderoso* staff worked to develop deeper levels of cultural competency among CRLA staff to handle intakes, conduct outreach and to interview clients in ways that respect the LGBT community. The trainings included information on basic LGBT terminology. They also underscored the importance of not making

assumptions about a client's gender identity and sexual orientation. Trainers suggested interview questions that created a space for clients to specify how they want to be identified and openly disclose their legal problems.

Getting LGBT clients to trust your organization takes developing a good reputation with the LGBT client community. That effort takes time. Figuring out what your organization can do for the LGBT community is a process. Part of the journey involves examining your organization's priority areas and thinking about how the LGBT advocacy fits within that framework. To avoid confusion and maintain trust, it is important to keep a few strategies in place. First, be willing to expand existing practice areas to include the needs of LGBT clients. Second, develop partnerships with legal experts in LGBT law that can co-counsel with you as you develop experience working on new LGBT issues. Third, develop quality referrals to LGBT legal specialists, in the event you will not be able to assist the client. Keeping these strategies in mind will help address client needs competently and ensure you maintain your trusted advocate status as you continue to improve your LGBT program.

Step 3: Address LGBT Client Needs in Core Strategies and Practice Areas

CRLA found that the strategies for carrying out LGBT advocacy aligned with the overall advocacy programs that it already had in place, such as in the areas of employment, housing, education and other civil rights. Further, the LGBT client community is very much part of every community CRLA already serves and confronts many of the same issues that the broader rural, low-income community faces.

At the same time, in order to be effective, LGBT advocacy has to address the nuances of the discrimination faced by LGBT clients and incorporate the available protections that exist under state and federal law. In addition to the cultural competency trainings, *Proyecto Poderoso* offered trainings and updates on changes to the law to CRLA staff. Some of the tools to reach and serve the LGBT population are described below.

Direct Legal Services

Legal aid work is LGBT work. Many of the issues that LGBT clients bring to CRLA are bread and butter legal aid issues that are often addressed by direct legal representation. For example, the most common type of legal need LGBT clients bring to CRLA is employment discrimination. LGBT clients also need legal assistance

with discrimination in public accommodations, housing and education. Within those areas of need, LGBT clients have suffered some of the most severe forms of hate crimes and bullying. CRLA has had decades of experience working with diverse communities on issues of discrimination. Nevertheless, it was still important to be mindful of the different layers of challenges each community faces with discrimination. This is especially true for serving low-income rural LGBT clients because it can be difficult for these clients to talk about the discrimination they suffered. Therefore, existing strategies at times need to be adapted. An example of an adapted strategy is offered below.

Community Education

Community education has long been a core CRLA strategy. *Proyecto Poderoso* undertakes community education on LGBT legal rights, which continues to be critical as many people in rural communities are not aware of their legal rights. We often encounter many people in the general rural population, both straight and LGBT, who are not informed of existing LGBT legal protections. Consequently, the community education strategy serves two purposes: first, educating LGBT people about their legal rights so that they may vindicate those rights and, second, informing the general population, so that they know to respect those rights.

One example of CRLA's innovative community education is a *radionovela*, a Spanish-language radio soap opera that it produced to educate the public about LGBT issues. CRLA has used *radionovelas* in the past to raise awareness about legal issues in Latino migrant communities on various topics such as pesticide exposure and workers' rights. In partnership with *Radio Bilingue* and the Family Acceptance Project, *Proyecto Poderoso* developed a radio story about a gay Latino youth who was bullied in school because of his sexual orientation. Since he had not yet told his mother that he is gay, he was afraid to tell her about being bullied. Nevertheless, his mother found out that her son is gay and was being bullied in school. She struggled to accept her son, and protect him in school. Ultimately she finds help from family friends who also have a gay son. The family friends share their experience of family acceptance of their son and refer her to a legal aid office to get help with the bullying incidents. The story illustrated several common themes that community members wanted to be expressed about acceptance of LGBT people and the challenge of protecting the rights of LGBT people.

Educating Spanish-speaking communities about LGBT discrimination, including bullying at school, raises taboo subject matter. Therefore, *Proyecto Poderoso* searched for familiar ways to open up the conversation with its clients and develop awareness on this issue. As in the past, this community education strategy is proving to be effective at opening new doors for community dialogue on a difficult social and legal issue.

Leadership Skills

In addition to reaching out to the larger rural community, *Proyecto Poderoso* also works with LGBT clients to develop their own leadership skills to empower clients to address discrimination and assert their rights. *Proyecto Poderoso* also works with clients on developing their confidence to speak up, whether in media appearances, or in other settings where they can assist our advocates with community legal presentations. The leadership development work seeks to raise the confidence of LGBT clients, ameliorate the effects of their past discrimination, and prevent future discrimination. By raising visibility of the LGBT clients and simultaneously increasing their knowledge of legal rights, we seek to help clients lead the way to more secure lives for themselves and their community members.

Community Development and Rural LGBT Organizations

Though few rural LGBT-identified organizations exist, they serve an important role for low-income LGBT people. Many of these groups have informal organizational structures and very limited budgets, yet they offer low-income LGBT people critically important services such as peer support meetings, shelter, job training workshops and other important economic development services. Often, these groups cannot afford legal counsel of their own. As an emerging community resource, rural LGBT organizations need legal help on deciding whether or how to incorporate into non-profits. Because they can further develop resources for low-income LGBT communities, providing legal assistance to rural LGBT organizations is another important strategy for *Proyecto Poderoso* to serve the larger LGBT community.

Step 4: Expanding and Building More Capacity

The work ahead involves branching out to other organizations and agencies. In that effort, *Proyecto Poderoso* has worked to build capacity of other legal aid organizations, governmental agencies and social

service providers, to collaboratively increase access to justice for LGBT clients. Fortunately, *Proyecto Poderoso* has had excellent opportunities to expand its reach. Government and non-profit agencies have invited *Proyecto Poderoso* to participate in joint outreach efforts to LGBT communities. For example, a local county office on aging invited *Proyecto Poderoso* to conduct a series of community legal presentations to raise awareness about LGBT seniors' rights. In addition, a school district requested *Proyecto Poderoso's* participation in an anti-bullying roundtable. Similarly, legal aid organizations and social service providers continue to search for new ways to collaborate, all with the goal of increasing access to justice for LGBT people.

Reflections: Lessons Learned

Despite ongoing success, not all of the work has come easily. There have been many lessons learned along the way. Some of them have been discussed above, such as the importance of training organizational staff and partners on LGBT cultural competency and legal rights. That effort needs to continue and needs to be repeated often. It generally takes more than one round of training for critical messages to be grasped by staff and partners. We have found that different types of training styles can help to improve cultural competency levels. The LGBT cultural competency trainings have to exceed standard diversity training for staff. It is not enough to cover appropriate terminology because sometimes the information does not mean much without a context. Instead, trainings should include role-plays and case studies of real situations our clients face so that staff and advocates get a deeper perspective on the particularized issues LGBT clients experience.

Supervisors and managers must ask whether they have LGBT inclusive language in their own policies and programs. This also means taking a hard look at intake systems and protocols to ensure that LGBT clients will feel confident that they will be respected and well-served by the organization. An important value-added by having dedicated or assigned LGBT project staff is that they can pose these questions, call for necessary reforms and assist with implementation of necessary changes.

Adequately serving LGBT clients takes organizational commitment and support. This means being as intentional in developing LGBT advocacy as an

organization would with any other targeted advocacy. For example, in developing needs assessments, working with client advisory groups, and drafting work plans, organizations should use these planning tools to map out how they will carry out their LGBT advocacy. In the end, the clients will be better served.

Conclusion

Advocating on behalf of marginalized, low-income people is what legal aid organizations do. LGBT clients are marginalized and experience poverty rates similar to the general rural population. Advocating on behalf of low-income LGBT people fits within the broader justice outcomes we all work towards. As described above, legal aid organizations can fill an existing void in service to the LGBT population by recognizing the need within existing service populations, developing organizational competency and community trust, fine-tuning existing practice areas to meet the needs of the LGBT community, and building capacity within the LGBT community itself. The work we do for LGBT clients not only advances justice for the clients, but it makes our organizations relevant to the changing needs of the people we serve.

- 1 Dan Torres is an attorney and program manager for *Proyecto Poderoso*—Project Powerful— a California Rural Legal Assistance partnership with the National Center for Lesbian Rights aimed at improving legal services for low-income LGBT residents of rural California. Previously, Dan worked at the Immigrant Legal Resource Center organizing LGBT immigrants, conducting Know Your Rights presentations and providing technical assistance to legal services and pro bono attorneys. He represented clients as a staff attorney at the California Rural Legal Assistance Foundation in Sacramento, worked as a clinical instructor at the UC Davis School of Law Immigration Law Clinic, and served as a staff attorney for the United States Court of Appeals for the Ninth Circuit. Dan maybe reached at dtorres@crla.org.
- 2 <http://williamsinstitute.law.ucla.edu/press/finding-gay-rural-america>.
- 3 Due to lack of data sources, transgender people were not counted in this study. Therefore, the acronym LGB refers only to lesbian, gay and bisexual people. One CRLA county was also not included.



Representing LGBTQ Youth in Foster Care and Juvenile Justice Systems

*By Kimberly Forte, Supervising Attorney, LGBT Law and Policy Initiative¹
The Legal Aid Society*

The legal services world prides itself on fighting for those members of our communities that are most marginalized by society. Our practitioners strive each



day to right the injustices caused by a failing economy, racial bias, draconian immigration laws, and victimization by governmental agencies of those people they are charged to assist. Unfortunately, our world is lagging behind in a major

way — competent services to lesbian, gay, bisexual and transgender clients. This article is about how one firm challenged itself through internal constructive criticism and formulated a concrete action plan to improve its cultural competency and services to these communities. The Legal Aid Society in New York City is a private, not-for-profit legal services organization, the oldest and largest in the nation, which has provided quality legal representation to low-income New Yorkers since 1876. We are dedicated to the belief that no New Yorker should be denied access to justice because of poverty. The Society handles 300,000 individual cases and matters annually, in addition to law reform litigation that benefits two million low-income children and adults in New York City and has a statewide and national impact. Overall, the Society provides a comprehensive range of legal services in three areas: the Civil, Criminal and Juvenile Rights Practices. Unlike the Society's Criminal and Juvenile Rights Practices, which are legally mandated and supported by government, the Civil Practice relies heavily on private contributions.

Since 2006, the Juvenile Rights Practice (JRP) of The Legal Aid Society has been a leader in furthering the rights of lesbian, gay, bisexual, transgender and questioning (LGBTQ) youth in our city's foster care and juvenile justice systems. Through a combination of conducting internal and external cultural competency

trainings and proactive policy work, the JRP fights daily to set a high standard of practice for attorneys representing LGBTQ children. We recognize that it does not matter whether a client identifies as a member of the LGBTQ communities, but rather that it is our responsibility to ensure that our attorneys' representation and advocacy are always affirming. We conform our approach and advocacy to reflect that any of our clients may be a member of these communities, and it is the attorneys' responsibility to ensure that their representation is always affirming to these communities.

How did we get there? We educated ourselves in the realities LGBTQ youth face every day. We learned that LGBTQ youth are disproportionately represented in the child welfare and juvenile justices systems, truancy population and homeless youth population. We learned that high rates of LGBTQ youth are rejected by their families, bullied in the City's and State's care, bullied in school, and are engaging in high rates of self-harming behavior. One can simply turn on the news these days to see how LGBTQ youth are choosing to take their own lives with a belief that suicide is a better alternative than the unwelcoming community in which they live.

The Society decided it is our responsibility to mitigate and *out* the bias that our LGBTQ clients face due to their sexual orientation and/or gender identities and expressions. We realized that we could hold those adults responsible for our clients' care to an LGBTQ culturally competent standard. We do this not simply

The Society decided it is our responsibility to mitigate and *out* the bias that our LGBTQ clients face due to their sexual orientation and/or gender identities and expressions.

© REPRESENTING LGBTQ YOUTH
Continued from page 7

because our ethics rules require us to but because we witness first hand how youth suffer due to cultural ignorance. As a result of our and our colleagues' tireless efforts, New York State and New York City have taken concrete steps to create and implement policies and best practices for professionals working with LGBTQ youth. This process serves as a great example of how legal aid attorneys' out-of-court advocacy consisting of education and persistence can make a significant difference in the culture of the courts and with the providers who interact with our clients.

The JRP's successes served as motivation to evaluate how the overall Society serves its LGBTQ clients. When we began this process, we were acutely aware of how our offices struggled to mitigate prejudice and educate institutional players about how their lack of policies, combined with their overt and subconscious bias, creates negative outcomes for a client. The Society was uniquely positioned because we represent low income children and adults and we see our clients age from one social services system to another and from the juvenile justice system to the criminal justice system. This perspective allows us to see what challenges our collective clients face, our collective staff faces, and what collective negative attitudes and behaviors outside institutions have toward our clients.

We acknowledged early in our process that the Society has its own cultural bias. Our bias existed beyond an individual's practice. It included how we collect data and the physical appearance of our offices. Additionally, many of us were under the false belief the legal services offices in *liberal* communities must be places of affirmation toward the LGBTQ communities. However, we had knowledge of anecdotal information from our staff about how serving these communities poses significant challenges to them personally. In some cases, members of our staff were honest about the fact that despite the statistics and witnessing prejudice in the systems in which we practice, their opinion was that a client's sexual orientation and gender identity had no relevance at any time in a case. So to state the obvious — people have biases and they judge others based on those biases. Further, lawyers are programmed to judge situations and people every day. What makes us good practitioners is the ability to not fall victim to our individual and institutional biases, but rather rise above those biases to meet our clients at their experience and allow them to tell us their narrative in a

non-judgmental environment.

So how did we begin this daunting task of not only improving our practices and offices by striving to be free of homophobia and transphobia while supporting our staff to push outside agencies and institutional providers to rid themselves of their bias? We started by looking at the numbers. The Williams Institute's data provided us with a robust understanding of the experience of low income LGBTQ residents of our country. With their detailed research, we could begin to justify, beyond the anecdotal, why we needed to have dedicated to staff to work on improving our practice and creating a voice for our LGBTQ clients.

We realized given our size, our numerous areas of practice and our staffing needs, the Society could not create a unit based model. Rather, we needed our practices to conform to meet the needs of our LGBTQ clients. Ultimately, we chose to create our LGBT Law and Policy Initiative which began in the summer of 2011.

The Initiative's goals are two-fold. First and foremost, the Society needed to create cultural competency training for all of its employees in its Civil and Criminal Defense Practices similar to that of the JRP's. We started in 2011 with our Civil Practice. Although the JRP training served as a model, we felt it was important to tailor each training to the individual practices, and to do that we created a committee consisting of managers, staff attorneys, and support staff. This committee authored the training which included creating training videos and supplemental educational material. As in JRP, the members of the committee were then trained by our in-house training director on how to provide the training for their colleagues. We learned that having staff peers provide training and be a resource is a comfort to practitioners when they begin to use the tools they learn in the training. This same process will begin in 2012 for our Criminal Defense Practice.

The second goal of the Initiative is to evaluate legal issues that disproportionately affect LGBTQ clients and determine what steps our practices will take to reduce these adversities. The Society is fortunate in that we have been serving low income New Yorkers for over 135 years. Like many legal services organizations across this country, we are experts in all areas of law in which we practice. Therefore, we did not have to reinvent the wheel regarding education on the legal disparities facing our clients, or our advocacy and litigation skills. However, we first had to evaluate our practices through the lens of our LGBTQ clients. We asked ourselves, are we proactively informing our LGBTQ clients about

their rights and the current protections in the law that benefit them? Are we asking our clients the right questions in the right form such that they feel affirmed and, therefore, inform their attorneys about the discrimination they may be facing? In response to these types of questions, we had each of our practices start creating strategic plans to enhance in- and out-of-court advocacy for their respective LGBTQ client populations which will include specific litigation tools like increasing our motion practice on LGBTQ specific legal issues.

Of course, there is internal and external resistance to achieve these goals. Two things have helped us significantly. The first is New York's Code for Professional Conduct for attorneys. Our code includes *sexual orientation* and *gender* in its list of impermissible bias in the practice of law. Although gender does not specifically refer to *gender identity and gender expression*, New York has case law that expands *gender* to include those concepts and the Society expects its attorneys and support staff to conform to that frame of mind.

The second tool that was invaluable was our own anti-discrimination policy which includes *sexual orientation* and *gender identity* and goes on to define *gender identity* as:

a person's actual or perceived sex, and includes self-image, appearance, behavior or expression, whether or not different from that traditionally associated with the legal sex assigned to the person at birth.

If I were to advise another organization on how to begin its process of cultural competency, I would say start with your state's Professional Code's ethical expectations as well as your organization's expectations. If your policy does not explicitly refer to *sexual orientation* and *gender identity*, change it so that it does. Then, work with your legal services community to petition to have your state's code changed.

We approach our process as a continuation of education and skills building, which we work on through training beyond the basics. We realize that this is a process of changing cultural competencies, and instructing someone to be culturally competent does little. The training includes, but is not limited to, interview role playing on how to discuss sexual orientation and gender identity with clients. We always start with training our managers and supervising attorneys. We want to ensure that by the time we expect our staff to increase their cultural competence and improve their representation of LGBTQ clients, our supervisors are modeling expectations and providing supportive

supervision. A support system must exist that allows staff to make mistakes and learn from those mistakes how to improve practice, but not be disciplined unless their behavior is intentionally harmful.

We realize we cannot become culturally competent or improve our practice in a vacuum. We also need to build our relationships with the LGBTQ communities through community education programs and legal rights trainings to both educate the community on their rights and promote the Society as an affirming service provider. These connections provide us an opportunity to receive feedback on how we are perceived by these communities.

In an ideal world, the Initiative should have a multi-year strategic plan in which it negates its own existence. Unfortunately, we have seen in our expectation that not only are our cities and states struggling to understand why LGBTQ cultural competence training and programs are needed, but that the legal services community is struggling with this concept as well. On a positive note, we have learned that bias is not insurmountable. Many members of our management and staff have embraced the Initiative and have given many hours of their time, beyond their expected institutional obligations, to ensure its success. Finally, we have learned that when you work to improve your practice for a subset of your clients, it improves your practice for all clients.

- 1 Kimberly Forte is the Supervising Attorney for the Legal Aid Society's new LGBT Law and Policy Initiative. The goals of this initiative are to increase Legal Aid's cultural competency as it relates to LGBTQ civil rights and increase the Society's litigation, public policy and legislative efforts on behalf of low-income LGBTQ New Yorkers. She has been with the Society for eleven years, where she has held various staff attorney positions in the Society's Juvenile Rights Practice, representing children who are the subject of neglect/abuse, person in need of supervision (PINS) and juvenile delinquency proceedings. In addition to providing direct legal services for youth, Kimberly was part of a legal team that was responsible for investigating and filing impact litigation cases and commenting on proposed legislation and policies affecting youth in the foster care and juvenile justice systems. Kimberly regularly presents at local, state and national conferences on issues related to her current position. She received a B.A. in Political Science from the University of Florida and a J.D. from SUNY at Buffalo. Kimberly may be reached at KForte@legal-aid.org.



Two Steps Forward, One Step Back: Providing Family Law Services to LGBT Clients at a Legal Services Organization

*By Jerel McCrary, Domestic Violence Regional Counsel'
Bay Area Legal Aid*

The San Francisco Bay Area is rightly considered a locus of the social, political and cultural life of the gay, lesbian, bisexual and transgender community (LGBT) in the United States. The American Community Survey of 2005 showed gay and lesbian individuals make up 15.4% of San Francisco —the highest percentage of any of the fifty largest U.S. cities, and the greater Bay Area has a higher concentration of lesbians and gay men than any other metropolitan area in the country. According to the 2010 Census, San Francisco ranked number one and Oakland ranked number three among large U.S. cities in same-sex couples per 1,000 households. Berkeley was number two, Vallejo number fourteen and Richmond number eighteen among mid-sized cities.



It would be natural to suppose that legal services in the Bay Area would reflect the substantial LGBT presence in terms of utilization by eligible LGBT individuals, but the story is more complicated.

Bay Area Legal Aid (BayLegal) is the Legal Services Corporation (LSC)-funded program providing services to the counties of Napa, Marin, Contra Costa, San Francisco, Alameda, San Mateo and Santa Clara. BayLegal was formed in 2000 by the merger of the LSC-funded programs of San Francisco, Alameda, Contra Costa and Santa Clara counties. The San Francisco Neighborhood Legal Assistance Foundation (SFNLAF) began a project to provide family law assistance to LGBT clients in 1996, and continued to do so through 2000. BayLegal re-started an LGBT family law program in 2008 and currently targets family law services to the client population with mixed success.

History of the LGBT Family Law Projects

Through an initial Echoing Green fellowship, the Legal Intervention for Family Empowerment Project (LIFE) began at SFNLAF in 1996. The charge of the LIFE project was to work with poor and working class “families of choice and necessity” needing education and advocacy around family law issues. The LIFE Project developed and disseminated informational materials and conducted forums and workshops concerning custody and visitation rights, government benefits, minors and parents, and the rights of unmarried partners. In 1997, small grants from several local charities allowed SFNLAF to add a domestic violence component to the project. Its goal was to reduce violence in the lives of LGBT women through education and advocacy.

SFNLAF’s regular family law practice focused on providing assistance to domestic violence survivors, prioritizing full representation in divorce and restraining order cases. The LGBT project represented a significant departure by featuring a specific client-population emphasis and not engaging in litigation.

At the end of two years, when the Echoing Green funding concluded, the only dedicated funding supporting continuation of the work was city domestic violence prevention funds. From 1998 to 2000, San Francisco funded a part-time advocacy position to address same-sex domestic violence and sexual assault. Outreach and education to members of the transgender community became a significant component of the project’s work for the first time. In its new incarnation, the project was renamed the Queer Violence Prevention and Education Project (QVPEP). During the 1998–1999 fiscal year, QVPEP distributed over 10,000 pieces of material at three major community events.

In 1999, SFNLAF subcontracted the education and outreach itself to Community United Against Violence

(CUAV), a local organization focused on violence prevention in the LGBT community, maintaining only project supervision. By 2000, SFNLAF had determined that its connection with QVPEP had become so attenuated that reapplication for city funding was not justified.

In 2008, Equal Justice Works funded a BayLegal fellow to represent LGBT clients in cases of domestic violence, custody and divorce and to participate in outreach and education with other LGBT community organizations. The LGBT family law fellowship continued from September 2009 until the fall of 2010. During that time, our fellow presented to a number of LGBT community organizations and conducted know-your-rights trainings at several community venues, notably the San Francisco LGBT Center. During June 2010, BayLegal conducted extensive outreach, timed to coincide with the annual Gay Pride Parade. Volunteers passed out hundreds of flyers featuring a dedicated phone number for LGBT family law callers seeking information or representation. During the one year fellowship, our county offices represented one person seeking dissolution of a domestic partnership. About four other callers received counsel and advice, but not representation, due to issues of ineligibility (*i.e.*, not residing in our service area, being over-income, or being a perpetrator of domestic violence.) Not a single client called the dedicated phone line.

Although BayLegal no longer has a specific LGBT “project,” we continue to prioritize services to LGBT family law clients. Most clients who contact BayLegal are screened by our Legal Advice Line. One of the factors screeners consider to determine if an eligible client presents a compelling case for intake is whether the underlying action involves same-sex partners. (Some of the other “compelling” factors include cases involving sexual assault or clients with limited English proficiency.)

During the last eighteen months, BayLegal has represented several LGBT clients in family law matters. We represented one woman seeking guardianship of children during her partner’s incarceration. We advised another lesbian client in a guardianship action and represented her in a divorce from her husband. A third client obtained representation in seeking visitation with the children of her long-term ex-partner, who was still married to an abusive husband. Finally we recently undertook representation of a gay man seeking divorce from his abusive partner. None of these clients came to BayLegal through our regular intake system.

Observations on Project Design and Consequent Outcomes

Education vs. Litigation

SFNLAF, and later BayLegal, always focused family law practice on litigation. However, for a number of reasons the earliest versions of the LGBT family law project did not include representation. California law did not recognize rights for registered domestic partners roughly equivalent to marital rights until its domestic partner legislation was amended in 2003. Prior to 2003, there were generally no rights to partner support; custody and visitation matters were determined based on common law; and complex property matters had to be resolved in separate civil actions, such as partition actions. Many of the strategies implicated in working with same-sex clients in family law involved the drafting of creative documents and mediation to keep clients *out* of court. With the domestic partner legislation changes, and later the decision by the California Supreme Court *In re Marriage Cases*², the landscape for litigation of LGBT family law matters changed considerably by the time BayLegal decided to sponsor another LGBT family law fellowship.

Neither of the fellows who began LGBT family law projects was licensed to practice law during the period of her fellowship, and except for a short time in 1998, the project was always staffed by advocates, rather than attorneys. This was partly because of limited funding. None of the attorneys in the family law unit was directly involved in the delivery of project services—only in supervision.

Domestic Violence Survivors Only

Since 1982, due to major contractions in legal services programs caused by cuts to federal funding, only clients experiencing domestic violence received full family law representation at SFNLAF. SFNLAF’s LGBT project was also limited to domestic violence survivors between 1998 and 2000.

California’s domestic violence statutes did provide potential remedies for victims of abuse by same-sex partners. Among the categories of individuals eligible to apply for restraining orders were “cohabitants or former cohabitants.” Since 1990, these statutes had also included persons in a “dating relationship” among those categories of individuals who could obtain restraining orders against abusive partners. At the time the LGBT domestic violence project was created, some local organizations such as the Cooperative Restraining Order Clinic and CUAV in San Francisco were already serving LGBT domestic violence survivors

© TWO STEPS FORWARD, ONE STEP BACK
Continued from page 11

applying for restraining orders. In 1996, the California Court of Appeal in the case of *O'Kane v. Irvine*,³ defined “cohabitant” as requiring a family-unit type relationship. Mere roommates no longer qualified for domestic violence restraining orders. This effectively meant that LGBT applicants for restraining orders had to “out” themselves, in order to qualify. Agencies assisting LGBT clients in restraining order cases noticed a decided drop in the number of LGBT clients seeking protection orders.

Nature of Project Outcomes

The education and outreach delivered by our various projects was generally well-received. Satisfaction surveys always showed over 90% favorable ratings by participants. However, it is impossible to gauge the genuine effect of these presentations on the lives of participants. For instance, the project goal of reducing violence for LGBT women was unquantifiable, given both the lack of baseline data and the failure to identify a mechanism to follow-up with presentation participants.

Efforts to network with local LGBT organizations and conduct outreach to community members begun in 2009 have not yet translated into a reasonable representation of the LGBT population among BayLegal's general family law clientele. Only a handful of LGBT individuals have sought representation. In our restraining order clinics operated in Contra Costa and San Mateo counties, the number of applicants for protective orders against an abusive same-sex partner has averaged about 1%, despite the fact that national studies estimate a similar rate of incidence of abuse among LGBT couples as among their heterosexual counterparts.

Ten Lessons Learned the Hard Way

A number of the lessons learned from our attempts to serve LGBT family law clients are equally applicable to developing and maintaining any successful project, but particularly one focused on serving a minority population.

1. **Go Where the Clients Are:** Outreach and education to LGBT populations must be conducted in settings in which the audience feels comfortable. Especially for legal services offices that are not located in locales normally identified as “gay-friendly,” it is important to conduct outreach in places where LGBT participants feel safe, such as a gay community center. Until your agency establishes credibility in the community, educational presentations at your own offices are likely to be poorly attended. Even intakes may be more successful if conducted at the office of an LGBT community partner.
2. **Don't Exclude Most of Your Target Population:** There is still a misperception that few LGBT individuals live in poverty—the so-called pink money myth. Studies by the Williams Institute and others have found that while single gay men may be slightly wealthier than their heterosexual counterparts, LGBT couples, and especially lesbian couples, are poorer.⁴ More than income ineligibility, the likely reason for the lack of LGBT legal aid clients is that the services do not meet client needs. In creating case acceptance guidelines for the LGBT family law project we started in 2009, BayLegal recognized that we were dealing with a limited client population. Accordingly, we dispensed with the requirement that applicants had to be victims of domestic violence. Had we not done so, the handful of LGBT clients we have represented would have been reduced to two.
3. **What's in a Name:** Especially in an area such as metropolitan San Francisco, where there are organizations like the National Center for Lesbian Rights, the Transgender Law Center and the AIDS Legal Referral Panel, readily identified as serving the legal needs of the LGBT community, it is incumbent on a legal service agency to develop its own identity as a place that welcomes and competently serves members of the LGBT community. Creating a project within the organization—with an LGBT-identified name— and project-specific materials will be far more effective than distributing general educational materials assumed to be equally effective for this client population. If possible, materials should be vetted by community allies.
4. **Collaborate with Agencies Already Serving These Clients:** Issues of turf and funding squabbles are pitfalls for many new legal service projects, but especially for those viewed as impinging on territory already claimed by minority-dedicated organizations. Some of the pain and ill-feeling engendered by being a mainstream agency encroaching on LGBT partner-agency turf can be obviated by identifying and making early contact with LGBT agencies. Frank discussions about

community needs and the capacity of each agency are crucial. In most cases, agencies genuinely devoted to the well-being of their clients can carve out complementary niches and develop collaborative strategies.

5. **Maintain Alliances:** Between the original forays of SFNLAF into community education around LGBT issues and the re-creation of a fellowship project at BayLegal nearly ten years later, alliances were allowed to wither. This undermined the original work of establishing agency credibility and necessitated re-assuring community partners of the genuineness of legal services' commitment to serving LGBT community members (See # 9, below.)
6. **Identify Point People:** It is not sufficient merely to conduct training at an LGBT agency or to notify them of your availability to serve LGBT clients. Relationships between key personnel in each agency will assure the community agency that their clients will be comfortable and treated with respect at legal services. This direct contact facilitates the community agency's immediate access to assistance if an LGBT client has a bad experience. Conversely, incorrect referrals from your LGBT partner are easily rectified. All of the LGBT family law clients BayLegal has represented since 2009 came as the result of direct referrals from a specific person at a community agency to a trusted staff member at BayLegal.
7. **Address Resistance:** Even in supposedly enlightened legal service offices, there may be resistance to developing a program serving LGBT clients. Resistance to providing inclusive services may run the gamut. "Gay people are not really poor." "I don't want anyone to think I'm 'that way.'" "I have religious objections to their lifestyle choices." Of the possible excuses, some are based on ignorance and can be overcome with training. Some are deeply ingrained and represent serious threats to the creation of a successful program. When a staff member is nervous, reluctant or adamantly opposed to providing services, the result is that the client will not receive quality assistance, the staff member will feel conflicted and the project may ultimately founder.
8. **Provide Training to Allay Concerns:** All staff who will interact with LGBT clients and any individuals who interface with LGBT partner agencies should receive training to assure the cultural sensitivity required to provide quality services. It only takes one insensitive comment, one refusal to serve a qualified LGBT client or one instance of a client being given the "referral runaround" for carefully developed partnerships to be destroyed. Reluctance to serve a new population may stem from a lack of knowledge about the specific issues presented by the client population and applicable laws. That is certainly true in dealing with LGBT family law. LGBT partner agencies can be of particular help in identifying pertinent issues and conducting trainings or identifying resources to supply necessary skill and knowledge.
9. **Seek Institutional Commitment:** When your agency begins providing service to a new client population, it is important to gauge whether the commitment is one the community can depend upon. While fellowships present wonderful opportunities to engage bright, young attorneys in legal services, and may provide the ability to help previously unreached clients, they do not necessarily represent an institutional commitment to provide uninterrupted service to the client community. What happens when the fellowship ends? Is the agency committed to serving the community if its fellow leaves, and will it have the competence to do so? If a project is destined to disappear once funding ends, how serious is the original commitment to the community? To create a sustainable project centered upon a fellow, the agency needs to engage other staff members in the provision of key services and consider continuing the project regardless of the availability of dedicated funds.
10. **If You Don't Ask the Question, You May Never Know the Answer:** In the area of family law, it is comparatively easy to determine whether a client is in a same-sex relationship without having to ask. In other areas, unless a client self-identifies, it is usually impossible to know a client's sexual orientation. However, the answer to this question can be important in areas ranging from public benefits to fair housing. We like to assume that a client will tell us all pertinent information, but this is rarely entirely true. A client may not know the relevance of this fact, may fear that disclosure may adversely affect their case — or may intuit the discomfort of their advocate. The refusal to ask this question implies there is something possibly shameful in the answer. It also leaves us unable to get a measure of whether we are truly providing needed services to

Continued on page 18



Working with Victims of Domestic Violence in Same-Sex Relationships: A Practical Guide for Civil Legal Services Providers

By Ted Farley, LGBTQ Initiative Coordinator¹
Urban Justice Project

For decades now, the conversation about domestic violence within same-sex relationships has been dominated by the question, “Why don’t we hear more about this issue?” While analysis of this question is an important part of understanding domestic violence in same-sex relationships, it does little to prepare legal services providers for what to do when these clients do in fact reach out for help.



From 2009 to 2010, the National Coalition of Anti-Violence Programs (hereinafter NCAVP) found a 38.1% increase of lesbian, gay, bisexual, transgender, queer or HIV affected (hereinafter LGBTQH) people reporting intimate partner violence.² Whether or not our organizations have encountered this issue before, the growing number of reports suggests that legal services providers should be educated on how to effectively address the problem within this particular community.

This article will attempt to jump start that education. The first step is understanding the unique obstacles victims of domestic violence in same-sex relationships face both before and after seeking help. The second step is applying this understanding to our interactions with these clients. In the end, the ultimate goal is to provide culturally competent services that assure these clients receive the fair and unbiased help they need and deserve.

The Unique Experience of the LGBTQH Victim

Domestic violence is generally defined as a “pattern of behaviors utilized by one partner (the abuser or

batterer) to exert and maintain control over another person (survivor or victim) where there exists an intimate, loving and dependent relationship.”³ The behaviors exhibited by abusers to manifest control over the victimized partner place the victim in a powerless position and prevent them from feeling free to leave the relationship. LGBTQH abusers use methods of exerting control that may not exist within abusive heterosexual relationships. At the same time, LGBTQH victims face unique pressures, both internal and societal, that can prevent them from ending the cycle of abuse. Understanding these methods and pressures is vital to helping the victims.

Outing

The concept of “outing” is a mechanism of control that is unique to domestic violence in same-sex relationships. To “out” someone means to divulge his or her sexual orientation, identity or HIV status to someone else who does not already know. Outing is used as a means of control when an abuser threatens to out his or her partner if he or she is not obedient. Abusers often threaten to tell family members or employers, each of which has particular consequences to the victim.

The threat to out an individual to his or her family is a powerful way to control someone in a relationship. Due to the prevalence of homophobia, victims may remain closeted to family members for fear of losing life-long relationships that provide love and support. Despite imperfections, a familial relationship may be the only source of support a victim has outside of the abusive relationship. If this is the case, victims whose abusers threaten to out them to their families will feel as though they stand to lose everything and may thus stay in the abusive relationship in order to protect those familial ties.

The threat to out an individual to their employer can be equally as powerful and can create problems the victim has absolutely no power to resolve. Because no federal legislation exists to protect a person from being fired due to their sexual orientation or identity and because many local laws also do not include these protections, victims may stand to lose their jobs if an employer finds out they are gay, lesbian, bisexual, transgender or queer.

Even if the victim is protected by law from being fired on the basis of sexual orientation or identity, the threat of being outed at work can still be quite powerful. A culture of homophobia, hyper-masculinity or a prejudice against HIV-affected individuals may create an impossible work environment for an individual whose co-workers suddenly find out they are LGBTQH. The threat to out at work is therefore successful as a control tactic, as the victim is likely to act in accordance with the abuser's wishes in order to avoid harassment on the job.

Gender Norms

While same-sex couples defy the norm that a relationship is made up of one man and one woman, individuals within these relationships can often find themselves under enormous pressure to fit the molds and stereotypes prescribed to their particular gender. This pressure, which may be self-imposed by the victim or used as a means of control by the abuser, is another unique factor of domestic violence in same-sex relationships.

Pressure to appear masculine may keep a gay male who is a victim of domestic violence from coming forward and seeking help. Traditional gender roles dictate that, in situations of domestic violence, the male is the aggressor and the female is the victim. Furthermore, a man is expected to be strong and capable of fighting back with physical force. Male victims of domestic violence in same-sex relationships may therefore fear being emasculated or being portrayed as feminine should they admit to being a victim of domestic violence.

Similarly, women who do not conform to traditional notions of femininity may face similar obstacles in seeking help. A female victim of violence who appears more masculine may fear she will be assumed to be the aggressor in the same-sex relationship because she does not appear feminine. Further, women face a similar pressure to men in that they may be expected to withstand or fight back against abuse from someone of the same-sex. A woman who has not fought back

The first step is understanding the unique obstacles victims of domestic violence in same-sex relationships face both before and after seeking help. The second step is applying this understanding to our interactions with these clients.

against another woman therefore may fear being told she has not done enough to protect herself should she seek help.

Discrimination within the Lesbian, Gay, Bisexual Transgender and Queer Community

The public battle over the validity of same-sex marriages has thrust same-sex relationships into the spotlight. The scrutiny of individual same-sex relationships by the media, and pressure from within the LGBTQ community for same-sex relationships to appear perfect, has created two distinct obstacles for victims of domestic violence.

First, the victim may feel pressure to uphold an image of an ideal relationship in order to combat any stigma associated with same-sex relationships.⁴ As a result, the abused partner may not come forward for help because doing so may add fuel to the fire of marriage equality opponents.

Second, in the event the abused partner does come forward, the LGBTQH community in the area where the victim lives may not be receptive to helping for similar reasons. The acknowledgement of the existence of domestic violence within the LGBTQH community adds a layer of complexity to the issue of relationship recognition that many marriage equality advocates would rather not address. This creates a particular problem for victims in that LGBTQH specific organizations, which have resources and expertise in servicing the population, may be unwilling to help.

Similar to gender norms, the pressure of these two potential scenarios of discrimination within the community may be self-imposed by the victim or exploited by the abuser in order to maintain control.

Accessing Victims Services, Law Enforcement and Courts

Even after coming forward for help, LGBTQH

© WORKING WITH VICTIMS OF DOMESTIC VIOLENCE
Continued from page 15

victims of domestic violence may face hurdles that do not exist to the same extent for heterosexual victims. The quality of a victim's interactions with service organizations, law enforcement, and the courts plays a vital role in his or her success in leaving the abusive relationship.

Availability of Victim Services

Services established to help victims of domestic violence may be ill-equipped or unable to help individuals in same-sex relationships. This is particularly evident in the case of domestic violence shelter space for LGBTQH victims. The NCAVP indicated that in 2010, 44.6% of the LGBTQH individuals who attempted to access shelter were denied.⁵ Shelter can be a life saving resource for victims of domestic violence victims. LGBTQH victims are denied access for a variety of reasons including a lack of available beds for men and confusion over where to house victims of violence who identify as transgender.

Even when services exist, LGBTQH individuals themselves may not know of available services because of naming and terminology. As an example, a male in a same-sex relationship would have no reason to know that an organization containing words similar to "center for women's services" or "center for battered women" might be able to help him.

Similarly a person in any same-sex relationship may not know that an organization dedicated to "family services" could be of assistance due to the constant and public debate over whether a same-sex couple can form a family. While many of these services are open to people of all gender and sexual orientation, those who are looking on the internet, or through a phone book, in an attempt to find help would most likely think they were excluded.

Courts

Civil restraining orders are one of the most effective methods in helping to keep a victim of domestic violence safe from their abuser. The NCAVP, however, reported that in 2010, 54.4% of LGBTQH identified individuals that reported requesting a restraining order were denied.⁶

One reason a victim of domestic violence in a same-sex relationship could be denied a civil restraining order is for failure to plead the type of relationship that is statutorily required to attain relief. The person

seeking the order may have to provide very personal and specific details about the level of intimacy in the relationship in order to establish that the relationship was not simply a friendship or roommate situation. If the person is unwilling to divulge sufficient personal details, or if they are unaware of the level of detail they must go into in order to establish the necessary relationship, they will be unsuccessful in their attempt to get a restraining order.

Victims of domestic violence in same-sex relationships may also be denied a restraining order because their abuser has not committed one of the statutorily prescribed civil offenses. Further, the type of offense required may vary depending upon whether the relationship is heterosexual or same-sex.

As an example, Montana's statutory definition of the term "partner"⁷ does not include same-sex couples and thereby limits the availability of restraining orders for LGBTQH victims. There, an individual in a same-sex relationship must show that their abuser committed any one of the six offenses for which civil protective orders are warranted regardless of the relationship between the parties.⁸ A person in a heterosexual relationship, however, must show that their abuser committed any one of twelve offenses warranted for protective orders between "partners."⁹ In this type of circumstance, even if identical facts were alleged, a heterosexual victim may be granted a restraining order while an LGBTQH victim is denied.

Even if a victim establishes the relationship and offense necessary to obtain a civil restraining order, they may find themselves in front of court personnel that prevent them from getting the relief they request. Judges may be unaware that the statute provides relief for individuals in same-sex relationships or unwilling to acknowledge that domestic violence can exist outside of heterosexual relationships.

Further, the litigant in a same-sex relationship may not make it as far as the judge before they are prevented from getting a restraining order against an abusive partner. Court clerks, who regularly provide assistance to pro se litigants filing petitions, may wrongly inform individuals that civil restraining orders are not available for same-sex couples.

Law Enforcement

The topic of law enforcement's response to incidents of domestic violence involving same-sex couples is deserving of its own article. What is important to understand for the purposes of this article, however, is that people who experience domestic violence in

same-sex relationships often do not view calling the police as an option when considering ways to keep them safe. Whether because of perceived bias on the part of police officers or past negative experience with law enforcement, the NCAVP reported that in 2010 only 7.1% of survivors reported calling the police for support.¹⁰

Working with the LGBTQH Victim of Domestic Violence

By applying knowledge of the legal, social and personal obstacles that affect LGBTQH victims of domestic violence, service providers can develop sensitive and carefully tailored practices for serving the population with competence.

The following is neither an exhaustive nor definitive list of what can be done to best serve LGBTQH clients experiencing domestic violence, but rather a starting point that can be utilized in conversations on the topic.

Establish a Welcoming Environment

Because LGBTQH individuals have most likely experienced discrimination or homophobia at some point, they should not be expected to assume they are welcome at a given organization. Whether or not your organization has ever served a person who identifies as LGBTQH, establishing an environment that clearly communicates they are welcome and valued is essential.

First, from the moment a potential client walks through the door, there should be some affirming nonverbal cue or communicated language that lets them know they can be open about their orientation and identity, or HIV status. Signage indicating that “all are welcome,” posters welcoming diversity in all forms, or rainbow flags (a very common symbol of LGBTQH pride) in the front office are just a few of the ways to indicate your ability and willingness to help.

Next, intake forms that gather personal and demographic information should use language inclusive of all identities and orientations. As an example, a client who identifies as transgender may feel alienated if they are asked to identify as solely male or solely female. A potential solution is to provide an option on the forms for them to write in their gender. By providing the opportunity for them to self-identify, they are more likely to feel that their presence is anticipated and welcome.

Much like intake forms, staff tasked with gathering information from clients during the intake process should be trained to use gender-neutral language. A

lesbian client who is asked what her husband’s name is, for example, could feel embarrassed, ashamed or angry that her identity was assumed to be heterosexual. Replacing gendered terms like “husband” and “wife” with “partner” is one very simple solution.

Finally, organizations may want to consider adding a question about sexual orientation to the intake form or interview. Asking the client about this directly, rather than relying on them to volunteer the information, takes the pressure off the client to have to “come out” to someone they may be meeting for the first time. Further, when the organization takes the initiative to ask the question of the client, the client may acknowledge that the organization recognizes differing sexual orientations and may in turn feel more comfortable.

Know the Law

Being familiar with local anti-discrimination laws and state laws regarding the availability of civil restraining orders is essential to providing quality services to LGBTQH victims of domestic violence.

Victims whose abusers threaten to out them to their employers may be unaware of laws that protect them from being fired on the basis of sexual orientation, identity or HIV status. A civil legal services provider who is able to inform a victim that their abuser’s threat is worthless helps to loosen the abuser’s reigns of control. Victims should not be assumed to be aware of such laws and may benefit greatly from knowing that, even if their abuser should make good on the threat, they do not stand to lose their paycheck.

A keen knowledge of the laws regarding civil orders of protection is also necessary to providing tailored services to the victim. A victim who is very private about their orientation may not be able to obtain a restraining order if they are unwilling to allege specifics about their relationship, or unwilling to testify to those facts in a courtroom. A service provider should be able to have a very frank conversation about this in order to help determine if a civil restraining order is the best and most sensitive method for keeping the victim safe.

Safety Plan with the LGBTQH Victim in Mind

Safety planning involves a discussion with the victim about how to get and stay safe. When working with victims of domestic violence in same-sex relationships, it is important to ask the questions, “who are you out to?” and “who are you comfortable telling about your relationship?”

A victim of domestic violence who is attempting to leave a relationship has enough to deal with when

© WORKING WITH VICTIMS OF DOMESTIC VIOLENCE
Continued from page 17

attempting to stay safe. Identifying personal resources for the victim that are accepting of the fact that they were in a same-sex relationship relieves the victim from having to worry about facing discrimination during this time.

In the event that the client does not have family or friends that they are out to, be ready with referrals to local LGBTQH organizations, support groups and mental health professionals who specialize in working with LGBTQH individuals.

Listen Plainly to the Facts of the Victim's Situation

Despite our best intentions, stereotypes and social norms may effect interactions with clients in same-sex relationships. Listening to the plain facts of a client's situation without focus on the gendered aspects of their appearance or demeanor may lessen this influence.

Take as an example the female client who presents as strong and masculine. Stereotypes and social norms may cause us to assume this woman is less likely to be a victim of abuse because of the way she looks and acts. Listening plainly to the facts of her relationship will allow a service provider to identify ways she may have been disempowered, isolated or abused by her partner, despite what appears to be an ability to defend herself.

Include Same-Sex Couples in All Discussion about Domestic Violence

Part of the reason why there are so many obstacles unique to the victim of domestic violence in a same-sex relationship is because same-sex domestic violence is not regularly part of the conversation about abusive relationships. Even if an organization has yet to service a client dealing with these circumstances, regular discussion about the existence of domestic violence amongst same-sex couples is important to assure that all are ready and prepared to assist with competence and sensitivity.

1 Ted Farley founded the LGBTQ Initiative with the Domestic Violence Project at the Urban Justice Center in August of 2009. In 2011 he received a Courage Award from the New York City Anti-Violence Project for his work serving LGBTQ victims of domestic violence. He is a graduate of Brooklyn Law School and currently resides in Los Angeles, California.

- 2 Nat'l Coalition of Anti-Violence Programs, Lesbian, Gay, Bisexual, Transgender, Queer and HIV-Affected Intimate Partner Violence 2010 at 8 (2011) (hereinafter NCAVP).
- 3 Michelle Aulivola, Note, Outing Domestic Violence: Affording Appropriate Protections to Gay and Lesbian Victims, 42 *Fam. Ct. Rev* 162, 162 (2004) (citing National Coalition of Anti-Violence Programs, Lesbian, Gay Bisexual and Transgender Domestic Violence in 2001, 4 (Rachel E. Baum & Clarence Patton ed., 2002)).
- 4 Harada, Satoko, Comment, Additional Barriers To Breaking The Silence: Issues to Consider When Representing A Victim of Same-Sex Domestic Violence, 41 *U. Balt. L.F.* 150, 157 (2011).
- 5 NCAVP, supra note i, at 9.
- 6 *Id.* at 9.
- 7 Mont. Code Ann. § 45-5-206.
- 8 Mont. Code Ann. § 40-15-102(1).
- 9 Mont. Code Ann. §40-15-102(2).
- 10 NCAVP, supra, note i, at 9.

© TWO STEPS FORWARD, ONE STEP BACK
Continued from page 13

the LGBT population. Knowing how many LGBT clients we serve has implications for project development, funding initiatives and client outreach efforts. At BayLegal, we do not yet ask this question of all clients. Beginning in 2012, a confidential survey administered at the conclusion of telephone intake will allow clients the option of being counted as members of the LGBT community. One step forward...

- 1 Jerel McCrary was one of the founders of the public interest law firm, Gay Rights Advocates in San Francisco in 1977. He has practiced family law at legal services since 1989, and is currently Domestic Violence Regional Counsel for Bay Area Legal Aid. Jerel may be reached at jmccrary@baylegal.org.
- 2 *In re Marriage Cases* (2008) 43 Cal.4th 757 [76 Cal. Rptr.3d 683, 183 P.3d 384].
- 3 *O'Kane v. Irvine* (1996) 47 Cal. App. 4th 207 [54 Cal. Rptr. 2d 549].
- 4 Quintana, Nico, "Poverty in the LGBT Community," Center for American Progress.



Serving LGBT Survivors in Rural Communities

By Sarah R Prout, Esq., Executive Director, Blue Water Safe Horizons, and Syeda Hossain-Davidson, Staff Attorney, Lakeshore Legal Aid¹

It was a remarkably snowy day, even for Michigan, when we decided to drive up to Huron County to meet a client who was the victim of domestic violence in a long term, same-sex relationship. Huron County is a very rural community of about 15,000 people about 120 miles north of Detroit, with no public transportation and in the winter, near impassable roads. Annie had been referred to us by a local domestic violence shelter which had very little understanding of the barriers faced by LGBT clients, and which had, as they had put it, “no idea what to do with Annie.”

We met Annie in the living room of her two bedroom double wide trailer that was affixed to a about one-half acre of property. Annie had recently bought the home with her partner Sandy, however the property was solely in Sandy’s name. The couple was well into their seventies and had decided to come to rural Michigan to live near the Lake Huron in a community with a low cost of living. There had been a pattern of abuse throughout the party’s entire relationship, with Sandy physically assaulting Annie as well as controlling the money. Annie had reached out to the shelter when Sandy had left the home to visit family in Detroit for a few days. Sandy had left Annie without money, food, heat or a car.

As legal services attorneys, we pride ourselves on providing assistance to under-represented groups. However, due to a lack of legal precedent and experi-



Sarah R Prout (L), Syeda Hossain-Davidson (R).

ence, survivors of domestic violence who identify as lesbian, gay, bisexual

or transgender (LGBT) are often overlooked. When those relationships occur in rural communities, it can be even more difficult to serve LGBT clients because of a lack of community understanding, lack of social services overall, and increased isolation.

Moreover, although battering relationships between couples who identify as LGBT have similarities with those between couples who are heterosexual, there are distinct nuances. As in heterosexual relationships, batterers often threaten to take the children away, fight the survivor for custody, or threaten to physically harm the survivor. Isolation is a form of battering in both types of relationships as well. However, isolation for LGBT survivors in rural communities is even more pronounced, not only because of geography but because institutional heterosexism and homophobia, coupled with a lack of services in general, can combine to make additional significant barriers to safety.

In rural communities, there is often a feeling that everyone knows everyone. Ironically, despite the tight-knit nature of the community, LGBT survivors, who may fear being outed because of a real concern about anti-gay violence, believe there is no way to seek help. Those who do reach out may find that, as in Annie’s case, service providers lack practical experience helping same sex survivors.

It is essential that legal services provide holistic advocacy in rural communities. To meet the need of this underserved community, Lakeshore Legal Aid often serves as the sole bridge to services for LGBT survivors, acting as a conduit between client and service providers. In Annie’s case, Lakeshore determined initially that a case management plan that went well beyond addressing the potential legal issues was necessary to insure Annie’s safety.

Initially, for Annie and for all LGBT survivors, it is necessary to devise an effective safety plan to help the survivor become safe. A traditional safety plan is almost never LGBT friendly, unless it allows for the possibility

© SERVING LGBT SURVIVORS IN RURAL COMMUNITIES
Continued from page 19

of seeing the batterer in some setting. This is because, in smaller communities, it is hard to tell LGBT survivors to avoid places that are LGBT friendly when there may not be very many. But even then, an LGBT batterer can follow a survivor to the same bathroom or even identify as the victim in the domestic violence shelters. LGBT survivors often choose not to seek shelter because of prior experiences of being revictimized by unfriendly or untrained staff. For some survivors in rural communities, it may be that staying in the community is not a practical option. It is often necessary for legal services attorneys to use creative lawyering to meet the clients' long term goals.

In Annie's case, it was determined Annie's long term goal was to return to Detroit to be near her extended family. In order to give staff time to work on this goal, Lakeshore worked with local churches to help Annie find temporary housing. At the same time, Lakeshore filed an affirmative suit arguing that Sandy, who had forced Annie to give her all her money, was acting as Annie's landlord and had violated a landlord's duty to maintain essential services effectively and had locked her out. Lakeshore concurrently filed and obtained a personal protective order on Annie's behalf preventing Sandy from further assaulting or contacting Annie in her new home. Sandy had been listed as Annie's medical and financial power of attorney, so Lakeshore assisted Annie in revoking both those documents, naming other family as principal advocates. After several months of litigation, Sandy settled out of court for enough money for Annie to start a new life. Throughout this entire litigation, Lakeshore was careful not to unintentionally "out" Annie, as she feared community reaction.

Balancing the needs of LGBT survivors of domestic violence and all LGBT clients with a client's realistic

fear of community response to sexual orientation is a complex but important task. In rural communities, it is essential that the attorney understand that a client's fear of institutional homophobia, as well as the practical barriers posed by poverty and geography, can drive a client's choices. Deferring to a client's unique expertise, perspective and experiences, while assisting the client eliminate practical and legal barriers, will insure that legal services fills a critical and vital role in providing access to justice to this underserved population.

1 Syeda Hossain-Davidson is a staff attorney at Lakeshore Legal Aid in Clinton Township, Michigan. She graduated cum laude from Thomas M. Cooley Law School in 2008, and has practiced family, criminal, and union-side labor law. At Lakeshore Legal Aid, her clients are low-income survivors of domestic violence who need representation in family law proceedings. Syeda may be reached at sdavidson@lakeshorelegalaid.org.

Sarah R. Prout is the Executive Director of Blue Water Safe Horizons. Prior to that she was the litigation director of Lakeshore Legal Aid for over ten years. She practices in the areas of family, real property, and elder law and has litigated hundreds of cases on behalf of domestic violence and sexual assault survivors. She is a state and nationally recognized expert on domestic violence litigation, having presented at the National Legal Aid and Defender Conference, the Ann E. Casey Foundation "Family to Family Conference," the Michigan Poverty Law Program, and the Michigan Coalition Against Domestic and Sexual Violence. In addition, Sarah has been featured on the national television show "E-Street" and in *USA Today* as well as the *Detroit News*, the *Detroit Free Press*, and the *Macomb Daily*. Sarah serves on the State Bar of Michigan's Standing Committee on Domestic Violence and the Probate and Estate Planning Section's Power of Attorney Subcommittee. She may be reached at proutsarah@yahoo.com.

However, due to a lack of legal precedent and experience, survivors of domestic violence who identify as LGBT are often overlooked. When those relationships occur in rural communities, it can be even more difficult to serve LGBT clients because of a lack of community understanding, lack of social services overall, and increased isolation.



Addressing the Challenges Facing LGBT Older Adults

By Catherine Thurston, LCSW, Senior Director of Programs¹
Services and Advocacy for GLBT Elders (SAGE)

It is no secret that even under the best conditions, the aging process can be wretched. As with older adults in general, lesbian, gay, bisexual, and transgender



(LGBT) older adults face many of the issues associated with aging: declining health, diminished income, the loss of friends and family, and society's ageism. However, LGBT older adults often face the added burdens of invisibility, ignorance, and discrim-

ination related to their sexual orientations and gender identities when accessing health care, social services, and most aging programs.

The challenges and inequities facing LGBT older adults are coming into sharper focus at a time when America's overall older population is experiencing unprecedented growth, with the current numbers of adults sixty-five and older expected to double over the next thirty years. Reflecting this trend, the numbers of LGBT elders are expected to double in size over the next several decades, reaching more than three million by 2030.

Services and Advocacy for Gay, Lesbian, Bisexual and Transgender Elders (SAGE) is the country's oldest and largest organization dedicated to improving the lives of LGBT older adults. Founded more than thirty years ago, SAGE has witnessed firsthand the unique challenges that can stand in the way of a healthy and rewarding later life for LGBT older people, and has created innovative solutions to address these barriers.

Key Challenges Facing LGBT Older Adults

Lifelong Discrimination. Historical prejudice against today's LGBT elders has disrupted their lives, their connections to their families of origin, their propensity to have and raise their own children, and

their opportunities to earn a living and save for retirement. Today's LGBT elders have seen their expressions of love labeled a psychiatric disorder, a criminal activity, anti-family and immoral, and a security risk or morale threat. They have seen AIDS decimate their social networks and destroy their communities. Not surprisingly, about one-third of lesbian and gay Baby Boomers, who are rapidly joining the ranks of LGBT people age sixty-five and over, identify discrimination due to sexual orientation as their greatest concern about aging.

This history of social stigma can have devastating consequences for LGBT elders' health and well-being. LGBT older people often do not access health care and aging services out of fear of harassment or hostility. According to a 2001 study by the U.S. Administration on Aging, LGBT older adults are only twenty percent as likely as their heterosexual peers to access needed services such as senior centers, housing assistance, meal programs, food stamps, and other entitlements.

Those LGBT elders who do seek services and care from aging services providers may interact with staff and clients who may harbor longstanding prejudices or simply be unused to working with LGBT elders. Few aging services providers plan for, or reach out to, the LGBT community—and few are prepared to address insensitivity or discrimination aimed at LGBT elders by staff or other older people.

Social Isolation. While today's LGBT elders are often estranged from their families of origin, SAGE's experience shows that LGBT older adults are resilient, and have often built up their own families of choice and support networks. Despite this, many of them still experience high rates of social isolation. As compared with their heterosexual peers, LGBT older adults are:

- Twice as likely to live alone;
- Half as likely to have significant others;
- Half as likely to have close relatives to call for help; and

© ADDRESSING THE CHALLENGES
Continued from page 21

- More than four times more likely to have no children.

LGBT older adults are also less likely to feel welcome in the places where many older people socialize, such as senior centers, volunteer centers and places of worship. Research and SAGE's experience show that the harmful effects of such social isolation can include depression, delayed care-seeking, poor nutrition and premature mortality.

Caregiving. In the U.S., about eighty percent of long-term care for older people is provided by family members such as blood relatives and spouses. However, LGBT older adults' lack of close relatives to rely on means that they often have fewer people to call on when they need care, or must rely on peers who may also be facing their own health issues.

In addition, because the support systems of LGBT elders—their partners and their families of choice—often are not recognized under the law, LGBT people frequently are not granted family or medical leave to take care of a sick or terminally ill partner. Furthermore, LGBT people can be excluded from decision-making on a partner's medical care and funeral plans, unless they have put specific legal arrangements in place. Unfortunately, LGBT people often do not make such arrangements, either because they cannot afford the legal costs or because they, like so many Americans, think they can put them off for another day.

Financial Insecurity. Contrary to popular stereotypes, LGBT older people are less financially secure than American elders as a whole. Poverty rates among elder lesbian and gay couples are 9.1% and 4.9%, respectively, compared to 4.6% among elder heterosexual couples. Several factors contribute to higher poverty rates, including employment discrimination; pension and retirement plans that deny same-sex couples key retirement benefits afforded to the broader population; and state laws that shut LGBT partners out of an inheritance, or require them to pay steep taxes on an estate that a surviving heterosexual spouse would inherit tax-free.

In addition, LGBT older adults experience unequal treatment under many of the key social safety net programs designed to protect elders. For example, in the U.S., Social Security is the single most important financial safety net program for older adults. Almost all elder households (89%) receive Social Security, and

almost a third of single retirees receive income only from Social Security. However, committed same-sex couples are denied the substantial spousal and survivor benefits provided to heterosexual married couples. An LGBT partner's average loss under the denial of the survivor benefit can cost up to \$28,152 per year. This can mean the difference between poverty or a sustainable living income.

Same-sex couples are also often denied critical protections under Medicaid. Medicaid qualification rules include a series of "spousal impoverishment protections" that aim to prevent a healthy spouse from having to give up a family home or retirement savings, and live in poverty, in order to qualify his or her spouse for Medicaid. Unfortunately, these spousal impoverishment protections generally do not apply to same-sex couples, which can leave a same-sex partner without a home, unprotected from impoverishment. While states now have the option to extend some spousal impoverishment protections to same-sex couples, very few have done so.

Lack of Critical Information. Despite the fact that LGBT older people face life choices distinct from those of their heterosexual peers, there is little information available to inform them about the aging policies that affect their lives or to help them make important decisions as they age. Frequently, LGBT older adults have no one to guide them in their personal decision making, or the available information does not address their circumstances. Examples include:

- Financial or legal planning information for retirees that assumes the availability of the legal protections that come with marriage and does not address discrimination against LGBT older adults in Social Security and other government benefits programs for older adults.
- Housing information that does not help older adults figure out whether a retirement community, nursing home or assisted living facility is LGBT-friendly.
- Health information that does not address the potential interactions of age-related medical conditions and HIV, lesbian health concerns, or health issues affecting transgender individuals.

Addressing the Challenges: Resources for Service Providers

In recent years, there has been tremendous growth in the LGBT aging field, and increased interest in addressing the challenges faced by LGBT older adults. A recent survey of Area Agencies on Aging—a national

network of aging services providers—shows that a growing number of respondents would welcome LGBT elders, but do not know what steps to take.

At SAGE, we often hear from organizations that work with older adults (and LGBT organizations who work with non-aged populations) that they are open to working with LGBT clients but are not sure of how to provide the best possible services. Sometimes organizations unintentionally make assumptions about LGBT older adults that can inhibit the quality of services, resulting in LGBT older adults being excluded or fearing less-than-equal treatment. For these agencies, SAGE offers a number of resources.

In 2010, SAGE established the National Resource Center on LGBT Aging (www.lgbtagingcenter.org) through a grant from the U.S. Department of Health and Human Services. The National Resource Center provides training and technical assistance, which is currently free of charge, to aging services providers that cover topics such as the needs and perspectives of LGBT older adults; best practices and policies for increasing inclusiveness and safety for LGBT older adults; and tools and education to better serve the LGBT older adults. In addition, the National Resource Center's website offers a wide variety of multimedia resources and original articles on LGBT aging issues from caregiving, to living with HIV, to legal and financial planning. The National Resource Center also recently released a best practices guide that contains practical information and tips for aging providers—or any organization that works with older adults—to ensure that they welcoming to LGBT elders.

In early 2012, SAGE also opened The SAGE Center, which is New York City's—and the country's—first full-time, municipally-funded LGBT senior center. This is the culmination of years of advocacy on SAGE's part for a facility with a person-centered approach that would serve the needs of a specific population (*i.e.*, LGBT elders) rather than the traditional model of a neighborhood center.

The SAGE Center is part of New York City's Innovative Senior Center program, a new initiative by Mayor Michael Bloomberg that is giving ten of the city's leading aging organizations the opportunity to better serve their elder communities with creative, needs-based programming that will create models for the “senior center of the future.” The SAGE Center is one of two citywide centers intended to address the needs of historically underserved elder populations (with the other center serving the needs of older adults who are blind or visually impaired). The SAGE Center will:

- Extend LGBT-affirming services throughout New York City's five boroughs, reaching LGBT older adults who do not use their local centers for fear of discrimination, and who may not know of or be able to access SAGE's current services.
- Address research showing that LGBT older adults identify primarily not as older but as LGBT, and so want their social interaction to center on this identity.
- Provide information and resources specific to LGBT older adults to guide them in decision-making in the areas of finance, housing or health care.

The SAGE Center programming is built on a holistic, constituent-driven approach that considers the broad array of services that meets the needs of LGBT older adults—such as social services, nutrition and preventive health care, or recreational programs—while providing LGBT elders the opportunity to facilitate classes and workshops, acknowledging that they are the experts on their own lives. While SAGE's direct service work has always been informed by this constituent-driven framework, we have seen in recent years that others in the aging field are considering moving toward person-centered program design. SAGE hopes that The SAGE Center programs, and our partnership with city government, will serve as a model for similar programs across the country.

Right now, our country is facing an unprecedented boom in the number of LGBT older adults. These elders, largely invisible until now, live in all communities across the country, and their needs are reasonable: the ability to age with dignity in their own homes, access to services responsive to their particular health and caregiving needs, and financial security. In recent years, SAGE has been heartened by the increasing attention paid to LGBT aging issues by aging services providers, LGBT organizations and policymakers at all levels of government. This growing awareness, along with the launch of the National Resource Center on LGBT Aging and The SAGE Center, are hopeful signs that our country's aging system is becoming better prepared to welcome and embrace the full diversity of our country.

- 1 Catherine Thurston, LCSW, is Senior Director of Programs for Services and Advocacy for GLBT Elders (SAGE), where she is responsible for all social and community-based programming, as well as for the

Continued on page 41



Guidelines for Creating a More Sensitive Legal Services Program for LGBT Elders

By Jennifer L. Berger, Supervising Attorney
AARP Legal Counsel for the Elderly¹

According to recent statistics, from five to ten percent of the U.S. population are lesbian, gay, bisexual or transgender (LGBT), with LGBT elders more likely



to be poor.² As people age and need more in-home assistance with their activities of daily living, the providers who assist those elders at home must be culturally competent. This includes recognizing that elders who are LGBT

experience unique challenges to accessing LGBT-friendly financial or estate planning, housing, health care and home health care services, employment, and community supports that reduce isolation.

The Washington D.C. LGBT Aging Coalition (Coalition) arose to address the unique needs of LGBT elders in the District of Columbia. This article explores the work of the Coalition, to provide a point of reference for legal services organizations to be more LGBT friendly.

Washington D.C. LGBT Aging Coalition

In December 2010, elder advocates met at AARP's national headquarters to discuss creating a coalition to advocate for the needs of District LGBT elders. Members included LGBT elders; representatives from the D.C. State Office of AARP; AARP Legal Counsel for the Elderly (LCE); the D.C. Office on Aging; LGBT organizations (D.C. Prime Timers, SAGE Metro DC, US Helping US, Whitman Walker Clinic); senior social service agencies; and managers of residential facilities. The Coalition's mission is: "to leverage the collective resource capacity of our members and participants in order to improve the quality of life of LGBT aging adults in the District of Columbia."

To support its mission, the Coalition created the following sub-committees: *Seal of Approval* (to conduct

an environmental scan of existing standards and requirements for LGBT friendliness); *Communications* (to increase awareness of current gay-friendly services); *Logistics* (to procure meeting space, create minutes, notify of meetings); and *Research* (obtain demographic information on D.C. elderly and LGBTQ residents). As the Coalition progressed, it focused more heavily on the Seal of Approval Committee work to contribute most meaningfully to LGBT elders.

Seal of Approval Committee

Prior to the involvement of the larger Coalition, and the Seal of Approval Committee drafted criteria to judge the LGBT-friendliness of organizations and facilities that serve District Elders. The Seal of Approval Committee researched criteria from other organizations to create criteria for District of Columbia agencies to be LGBT-friendly. The four main criteria are:³

1. Non-discrimination policy/marketing methods (i.e., LGBT-friendly office policy);
2. Clients (i.e., materials and forms clients receive);
3. Staff (i.e., LGBT or LGBT friendly staff, partner benefits);
4. Training (i.e., level, depth).

A. Non-discrimination Policy/Marketing

Organizations should have written non-discrimination policies which include sexual orientation and sexual identity for staff and clients and post the policies prominently throughout the agency in languages used by employees and clients. The agency should have a process for maintaining records of reported anti-LGBT incidents and the manner in which they were resolved, and have an ombudsperson for addressing the complaints. The agency should collect data on the number of LGBT persons served and train staff on how to collect data sensitively. Observance of Gay

Pride Day and/or Coming Out Day, public sponsorship of or active participation in LGBT events, and including sexual orientation and gender identity tolerance in program evaluation would promote a more LGBT friendly environment. For instance, Legal Counsel for the Elderly and AARP D.C. participated in the District of Columbia's gay pride activities, including tabling/outreach.

B. Treatment of Clients

Marketing information includes posting pictures and using language of LGBT persons prominently within the facility. Openness of clients about their identity or orientation is encouraged through inclusive language in-person contact, on telephone intakes and forms (i.e., use of spouse/partner/significant other). Needs assessments include sexuality, gender and sexual orientation information and include and welcome partners.

C. Staff

LGBT friendly staff undergo competency training to include sexual orientation and sexual identity as new hires and thereafter. LGBT friendly organizations provide equal benefits to LGBT couples as to non-LGBT couples (health benefits, sick leave policy, FMLA, bereavement policy). Moreover, children of LGBT couples receive the same health coverage, child care, family leave, etc., as heterosexual couples. Organizations should ensure that LGBT partners are as welcomed as spouses at all agency events, and offer LGBT interest groups as practicable given the size of the organization.

Other recommendations are to have members of the staff and board who are openly LGBT build coalitions with LGBT organizations, and actively recruit LGBT volunteers by advertising for volunteers within LGBT organizations, for example, gay lawyer organizations and LGBT organizations at universities. At Legal Counsel for the Elderly, we recruited volunteers from a local LGBT organization, Burgundy Crescent Volunteers, to help with our in-home work with chronic hoarders. By offering LGBT volunteers for LGBT clients, we hope to increase the number of self-identifying clients.

D. Training

Attributes of good training programs include coverage of broad cultural and legal issues when working with LGBT clients and specific issues germane to LGBT residents. The training should also include role

plays on the subject of staff competence and ways staff can manage their biases and respect the LGBT clients. New hire/on boarding/orientation training should include local demographics and rights of LGBT people and a zero tolerance discrimination policy. The trainer should be an LGBT community member and provide insight into LGBT client situations via relevant case examples.

Annual training on issues will include the ethical and legal obligation to provide non-discriminatory services to LGBT clients and non-discriminatory treatment of LGBT colleagues and staff. Training should include awareness of non-discrimination and harassment policies and consequences of actions and sensitivity to the need for confidentiality in dealing with LGBT clients.

The Seal of Approval Committee then explored trainings in more detail with the goal of creating a list of approved LGBT sensitivity trainings, with its members giving the trainings. Lastly, the Committee linked with volunteer sources to enhance LGBT friendliness of senior service organizations. The Committee is in the process of converting the criteria into a rating scale with different variations depending on the type of organization undergoing review. In March 2012, the Seal of Approval Committee will present its work and findings at the American Society on Aging Conference with the goal of increasing awareness of the issue among service providers and other community members and engaging their input to improve the criteria and rating scale.

Challenges to Creating an LGBT Friendly Legal Services Program

A primary challenge of LGBT advocacy with low income elders is that they often do not self-identify due to fear of discrimination. Hopefully this will change with each generation and we will gain a more accurate view of the scope of the client base we need to assist. Enhancing marketing and outreach to the LGBT community may increase the number of clients who self-identify as a member of the LGBT community.

Another challenge to creating an LGBT friendly legal services program is that it is unclear how much overlap there is between the low income and LGBT communities. The hope is that clearer census methods and local tracking of the LGBT community will yield more information to better serve LGBT elders. Secretary of Health & Human Services Kathleen Sebelius is seeking to include LGBT questions on federal health

Continued on page 41



New York’s Marriage Equality Law: A Human Rights Victory and an Opportunity for Our Program

By Richard Saenz, Dan Pepitone and Andrea Zigman¹

Marriage equality in New York is a profound and joyous human rights victory. The moment Governor Cuomo signed the law in late June, people started to ask us important questions: *I need Medicaid to survive, will*



Richard Saenz, Dan Pepitone and Andrea Zigman

I be able to keep it if I get married? Can my spouse live with me in my subsidized apartment? If we marry, will my partner be able to get a green card?

Could my spouse adopt my children? My only income is SSI, will I lose it if I get married? We quickly realized that Legal Services NYC (LSNYC), the largest legal services program in the country, had an unprecedented opportunity to make a contribution to the lives of many people in our low-income LGBT communities.

This was an opportunity we were eager to take: we are personally committed to ensuring that the doors of our program are open to low-income people who are LGBT; our program needs assessment identified low-income LGBT New Yorkers as having top-priority legal needs; and while many sources are giving legal advice about marriage to middle and higher income people, no guidance was available for our client community. With the enthusiastic participation of lawyers throughout our program, and strong support from program management, we created an advocacy collaboration called the Marriage Equality Act Project.

The Marriage Equality Act Project has now been underway for more than six months. In collaboration with Lambda Legal, we have conducted a multi-pronged initiative that has educated hundreds of people in the low-income LGBT community, lawyers,

“All low income clients need our help. Some — like the LGBT young adults, parents and other partners helped through this Project — are victims of discrimination, intolerance, and harassment that can create overwhelming challenges. When we do the kind of anti-discrimination work that is represented here, we are truly fighting the war on poverty that we were created to address. We are helping our clients and their families to access the kinds of opportunities for a fulfilling life that everyone deserves.

I am so proud of the leadership and work of our lawyers, especially our young lawyers, who made time in their high volume, high stress practices to identify new problems, create new collaborations, and deliver dynamic new services to our clients.”

Raun Rasmussen, Executive Director
Legal Services NYC

and organizations throughout New York City about life-changing legal rights and constraints. The project has also made a positive impact on our program. This article describes some of the key leadership lessons we learned and then explains how the project unfolded.

Leadership Lessons Learned

- *The effusive, widespread commitment to the project by Legal Services NYC staff and management had an immediately positive impact on LSNYC’s services to LGBT communities.* Our program started to have internal conversations concerning two dimensions of our institutional culture: providing services to LGBT clients and the issues faced by LGBT-identified staff. Some changes have happened quickly; for example, our intake process now uses language that is more sensitive to LGBT applicants. For the

longer term, the Marriage Equality Act Project mobilized a core group of our advocates from offices throughout the city who will continue to help maintain the program's focus on better serving LGBT clients and on making sure that our LGBT staff continues to have a prominent voice in our program.

- *Our focus on the Marriage Equality Act is creating the potential for exciting litigation, policy work and community education.* The so-called Defense of Marriage Act (DOMA) has generated many open legal questions as to how the federal government will treat New York's married same-sex couples in immigration, government benefits, and other arenas that are especially critical to low-income people. Now that we are known for our Marriage Equality Act Project, we anticipate requests for representation from people who are affected. Additionally, we hope that one outgrowth of our collaboration with Lambda Legal will be to enhance our ability to assist clients who experience discriminatory actions or treatment under city, state and federal laws.
- *All lawyers can play essential leadership roles in legal services programs.* Two of this article's authors, Richard Saenz and Dan Pepitone, spearheaded the creation and implementation of the Marriage Equality Act Project. We are staff attorneys with no formal management responsibilities. However, we learned that our commitment to the project and willingness to play leadership roles in making it happen were essential to the project's success. The leadership contribution of all of the other staff attorneys on our working group was equally indispensable. The project showed us that we can make an important difference in our program's work for clients.

The Marriage Equality Act Project

LSNYC has offices throughout New York City. Our first step in putting together the Marriage Equality Act Project was to approach our colleagues in our other offices for help. A natural forum for discussion was our programwide Medical Legal Partnership (MLP) Task Force. Many Task Force members have experience working with LGBT clients, including through our MLP with Callen-Lorde Community Health Center, the premier LGBT primary medical center in New York; our long-established HIV/AIDS units; and community partnerships with LGBT-serving community-based organizations and health services organizations. Task

Force members responded with enthusiasm and energy, and we formed the Marriage Equality Act Working Group.²

The Working Group quickly decided to focus on three things: producing a comprehensive series of "Question and Answer" fact sheets on legal issues and rights raised by Marriage Equality; training for lawyers throughout New York City (including lawyers in our program) and lay advocates such as social workers and case managers; and outreach to community and client organizations. We made the commitment that we would get this work done right away, so that we could provide assistance as rapidly as possible.

The project also provided an opportunity for LSNYC to collaborate with Lambda Legal. It was an ideal partnership, because our organizations brought complementary strengths to the table. Lambda Legal is well known for serving LGBT people and contributed trust from the community and visibility on LGBT issues. Lambda Legal is interested in becoming more focused on the issues of low-income people and does very limited direct service. LSNYC has broad and deep poverty law expertise, handles tens of thousands of cases annually, and desires to be fully accessible to low-income LGBT people. The partnership capitalized on both programs' strengths and interests and started an institutional relationship that we can build on in the future to serve our clients better and more fully.

The "Question and Answer" Fact Sheets

The informal Marriage Equality Act Working Group began by identifying specific legal areas of interest to LGBT families. An attorney in our Legal Support Unit undertook coordination of the fact sheet portion of the project and identified experts within our program in the various practice areas we planned to address.

In our initial discussions, the now-expanded working group identified the major areas in which marriage impacts people with no or low-incomes. Based on our collective experience in a wide range of substantive areas, the group discussed specific instances where marriage matters to low-income people's basic rights. We identified some that are detrimental. For instance, when a person gets married, the family's public assistance "household composition" changes, which in some situations can reduce the amount of their benefits. We also discussed circumstances where marriage can be beneficial. One example is that marriage can ensure succession rights to certain types of affordable housing in New York City. Finally, we talked about particularly

© NY's MARRIAGE EQUALITY LAW
Continued from page 27

dangerous areas where marriage may *seem* like a benefit but can in fact have a detrimental impact because of the federal DOMA law. One example is that the federal government will not recognize a same-sex marriage for the purposes of naturalization and therefore a person may put their spouse at risk of detainment if they apply to sponsor them for citizenship.

Following these discussions, the group divided the major issues — parent-child relationships, public assistance, immigration, and housing — and members began working individually and in small groups on one or two issues. Very soon, group members began identifying *other* significant areas. Over the course of a few weeks, the issues covered grew and came to include information on the marriage process, immigration, parent-child relationships, public assistance, food stamps, Medicaid, Medicare, housing, consumer, Social Security benefits, tax, and discrimination.

Once group members completed drafts of their sections, the drafts were shared, reviewed, and edited to ensure that the information is (1) correct, (2) explained clearly, and (3) expressed in language that is consistent with the other fact sheets. Then the series was translated into Spanish. With the help of Lambda Legal's sophisticated communications staff, the sixteen page fact sheets series was visually polished and then published.

Trainings and Community Outreach

When we completed the fact sheets, the Marriage Equality Act Working Group turned to outreach and education efforts. We wanted to reach out as widely as possible to New York City's lawyers, community-based organizations, and LGBT community members. We decided to start with two separate half-day trainings through our training entity, the Legal Services NYC Learning Center.

The first training was designed for attorneys and offered CLE credit. The curriculum addressed the wide range of legal rights affected by marriage equality. It highlighted our ethical duty as attorneys to stay current with changes in the law and to integrate them into our practices.

The second training was targeted at the many non-attorney advocates in New York City who work with low-income LGBT people, including social workers, case managers and other staff. In addition to providing general information on the Marriage Equality Act and

its impact on low-income families, we also addressed cultural competence in our offices and the importance of respecting all clients. Both trainings had vibrant attendance and were very positively received.

The Marriage Equality Act Working Group continues to engage in ongoing training and community outreach. Group members connect with partner organizations and colleagues in the community to provide them with fact sheets, and offer support in the form of trainings, technical assistance and resources.

Future Plans

The group is currently preparing for an expected presentation at the 2012 New York Bar Association's Legal Assistance Partnership conference. The group prioritized the conference because it provides access to wide variety of attorneys from all over the state.

Inside our program, we plan to continue to build on the Marriage Equality Act Working Group's achievements. The Legal Services NYC Diversity Committee has now established an affinity group for LGBTQ-identified staff. We will also continue to encourage our program to take on the challenge of incorporating LGBT issues into every practice area and every office's ongoing advocacy.

Conclusion

The Marriage Equality Act Project turned out to be a wonderful experience: we made a valuable contribution to clients and have become more visible in our low-income LGBT communities; we learned several important leadership lessons; and our program has become more responsive low-income LGBT New Yorkers and to LGBT staff. As marriage equality becomes a reality in more and more states, we hope that our Project's experience will encourage our poverty law colleagues in those states to help low-income people navigate all of the challenging legal issues and opportunities that arise from the new right to marry.

- 1 Richard Saenz is the HIV Advocacy Project attorney in the Queens Legal Services office of Legal Services NYC. Richard has over ten years of experience in LGBT advocacy and law, including national and regional work on LGBT and HIV issues that impact low-income families and immigrants. Richard can be reached at rsaenz@legalservicesnyc.org.

Dan Pepitone is a senior staff attorney in the Manhattan Legal Services, Harlem office of Legal Services NYC. Dan works on a Medical-Legal Partnership with the

Continued on page 48



A Great Unmet Need: Legal Aid Services for Low-Income Transgender Clients

By Catherine Sakimura and Daniel Redman, National Center for Lesbian Rights¹

Introduction

In 1995, many people were shocked when Tyra Hunter, a transgender African-American woman in Washington, D.C., was left to die by first responders



and emergency room technicians called to treat her after a car accident. Tyra—like many transgender people—had been unable to

afford expensive medical treatments related to gender transition. When first responders saw that she had male genitals, they spent precious minutes ridiculing her race and gender as she lay injured on the ground instead of helping her. At the emergency room, doctors refused to treat her. She died later that day, not just from her injuries, which were treatable, but from outright bigotry and neglect.

Over the last seventeen years, transgender people and their allies have made significant progress in expanding the legal protections available to them, with fifteen states and 143 municipalities now prohibiting discrimination based on gender identity. But these laws lack teeth without support from frontline attorneys like those at legal aid. The attitudes that killed Tyra are still pervasive, and lead to discrimination, harassment, and violence against transgender people to this day.

Transgender people face severe discrimination, harassment, and abuse in housing, employment, public accommodations, and access to services. This leads to extremely high levels of unemployment, poverty, and homelessness. One survey found that one in five transgender people have been homeless since they first identified as transgender. Transgender people are twice as likely to be living below the poverty level.²

Legal aid lawyers are in a unique position to make a huge difference in the lives of transgender people. Because many transgender people are poor and confront very high levels of discrimination, they have a great need for legal aid services. And, because the discrimination cuts across so many different parts of their lives, even small actions to advocate for them can have a tremendously positive impact. For example, helping a transgender client obtain a legal name and gender change may help them find a job, get a driver's license, or access public benefits.

Basic Terms

For most people, gender is a given — we were born male or female, we live our lives as male or female, and who we are as men or women is a core and unquestioned aspect of our identity. For transgender people, however, the sex they were assigned at birth does not match the gender that they feel and experience for themselves. Their gender is just as much a core part of who they are as anyone else, except that their bodies or how society views their gender is not the same as their innate sense of their own gender.

There are a few basic terms that you should know to help you learn about the needs of transgender clients:

The term *transgender* refers to people whose gender identity (how they feel about themselves) or gender expression (how other people view them) does not match the sex they were assigned at birth. This can include people who have taken steps socially, medically, or legally to change their gender. A person who was assigned female at birth but identifies as male can be called *female-to-male (FTM)* or a *transgender man*. A person who was assigned male at birth but identifies as female may be called *male-to-female (MTF)* or a *transgender woman*.

Gender identity refers to “a person's internal sense

© A GREAT UNMET NEED
Continued from page 29

of being male, female, or something else. ‘Trans’ is sometimes used as shorthand for ‘transgender.’³ Sexual orientation and gender identity are distinct characteristics. Many transgender people identify as straight or heterosexual, although some identify as lesbian, gay, or bisexual. For example, a female-to-male transgender man who is attracted only to women would be considered heterosexual, and a transgender man who is attracted only to men would be considered gay.

We use the term “*transition*” or “*transitioning*” to refer to the process a transgender person may go through to change their outer gender expression to match their internal gender identity. These steps may include everything from changing clothing and personal style to medical treatment or surgery. Not everyone is able to get medical care to change their gender, especially low-income people (these procedures and medicines can be very expensive)⁴ and people who are geographically isolated and far away from capable practitioners.

Providing Culturally Competent Services to Transgender Clients

Just as with all client populations, it is essential for advocates and staff to make both the office and the services they provide welcoming and respectful. All staff and volunteers should take these steps. Transgender clients may be discouraged from seeking an advocate’s help if front desk staff or intake workers do not respect their gender identity.

1. Use your client’s preferred name and gender pronoun

It is very important to respect your client’s preferred name and gender pronoun, and to ask others involved in their case to do so. Even if your client has not been able to legally change his or her gender or name, he or she deserves to have his or her identity respected.

If you don’t know, ask. If you are not sure of your client’s preferred name or gender, let the client know that you want to make sure you are using the name and gender pronoun that makes the client most comfortable. Ask what your client would prefer.

It is not appropriate to ask a transgender person about his or her genitals or medical history in order to find out whether a client is transgender or out of curiosity. If a client’s legal gender is an issue in the case, you

may need to ask your client questions about medical history and gender transition. If this is necessary, do so respectfully in the same manner that you would ask a client about any sensitive or private information that is necessary for your representation.

Use your client’s name and gender pronoun consistently, based on your client’s wishes.

Before using your client’s preferred name and pronoun with others, ask whether the client would like you to do so. Some transgender people may not yet be fully open about their gender to everyone because they are in the process of transitioning. Some transgender people may be known to everyone by their preferred name and gender, but are not open about the fact that they are transgender. You should respect your client’s confidentiality about his or her transgender status unless it is necessary to reveal it in court or administrative proceedings.

If your client is open about his or her gender identity, you should also ask others in your office to use the client’s preferred name and gender, as well as opposing counsel, other service providers, and administrative and court staff. If your client has not legally changed his or her gender or name, you should still use his or her preferred name and gender in court documents.⁵ In this situation, the first time you use the client’s preferred name and pronoun, you should provide a brief explanation.

2. Use gender-inclusive language with all clients

You cannot tell from just from looking at someone whether they are transgender, or what their gender identity is. Using inclusive language that does not assume the gender of any client sends a message that they are welcome and that it is safe for the client to talk about his or her gender identity.

Do not assume a person’s gender identity based on their voice over the phone. Many people use “sir” or “ma’am” over the phone with all callers to show respect. But if they don’t know the caller’s gender, they may make the wrong assumption and offend not only transgender clients but also any woman who has a low voice or man who has a higher voice.

Provide bathroom keys and directions without assumptions about gender. Staff members who provide keys or bathroom directions should not assume which gendered bathroom a person would like to use. Rather than the staff person choosing which key or directions to offer, the staff should offer both and allow the person to choose.

3. *Make your office space welcoming*

Most transgender people have previously experienced misunderstanding or hostility from other service providers and the legal system. Because of these experiences, they may assume that a lawyer's office will be unfriendly to transgender people unless they receive a clear indication otherwise.

Small changes in your office can make it more welcoming to transgender clients. You can do things like put up a safe space sign, or other poster that has a positive message about transgender people. If you have a place where you provide resources for clients, include brochures or flyers on the rights of transgender people. Please contact the authors for information about client resources, or visit www.nclrights.org.

4. *Provide cultural competency training for all staff*

If possible, it is important to provide training for all staff on using gender-inclusive language and not making assumptions about clients' or visitors' gender identity. This training does not have to be expensive — there are some organizations that provide this training for free. The National Center for Lesbian Rights is beginning a project to provide training and curriculum on LGBT competency for legal aid offices. Please contact the authors if you are interested in learning more about this project.

Even if you cannot have a training, it can be helpful to start by setting aside a time for staff to discuss what it means to be transgender and why it is important for all staff to respect a client's gender identity. The key to providing competent services is understanding how gender assumptions affect transgender clients and being willing to learn from clients how to respect their gender. It is ok to start small and know that this will be an ongoing process for your office.

Representing Transgender Clients

Low-income transgender people experience all of the same legal issues that any low-income client may face. For example, a transgender client may need an advocate to help obtain wages being withheld from an employer, or public housing. Your office can provide these same essential services to low-income transgender clients by taking just a few simple steps to make your office welcoming and respectful.

Transgender people also experience a lot of discrimination because of their gender, and they are at high risk for poverty, unemployment, and incarceration as a result. Assisting transgender people in simple matters that are already a part of your practice areas

can have a huge impact on their lives. Many of these matters will require little additional legal research — and if a client's transgender status is an issue in the case, many LGBT legal organizations, including the National Center for Lesbian Rights, can provide you with free technical assistance. If you have such a matter, please contact the authors of this article.

1. *Housing discrimination*

Discrimination based on gender in public housing is prohibited, but many transgender people face public housing denials based on their gender identity. You may be able to help a transgender client obtain housing with something as simple as a letter explaining that the Fair Housing Act prohibition on sex discrimination includes discrimination against transgender people.

According to the recent report *Injustice At Every Turn*, nineteen percent of transgender people report being denied a home or apartment and 11% report being evicted because they were transgender or gender non-conforming.⁶ Of those who had sought housing in a homeless shelter, 29% were denied outright.

Many transgender people experience the most serious discrimination and harassment from landlords and building managers when they begin to transition. One transgender woman's landlord left comments on her voicemail calling her things like, "dude or woman or whatever" and referred to her as "it" in front of others. He then changed the locks on her apartment, without any notice. Even when there are threats of violence, transgender people who are receiving Section 8 vouchers or living in public housing may be afraid to complain for fear that they will be evicted.

2. *Identification documents*

Transgender people also face harassment and discrimination when their identification documents (driver's license, birth certificate, Social Security records, etc.) do not match their gender presentation and chosen name. Non-matching documents can lead to outing a transgender person to a hostile service provider or employer, complicate benefits applications, and lead to increased police harassment. According to *Injustice At Every Turn*, only one-fifth (21%) of transgender people have been able to update all of their IDs and records with their new gender and one-third (33%) have not updated any of their IDs or records. Low-income people and people of color are most likely to lack access to corrected documents.⁷

This is an area where legal aid lawyers can make a big difference with just a little education and effort. In

© A GREAT UNMET NEED
Continued from page 31

most states, it is not difficult to correct identification documents to reflect — at least — the correct name of a transgender person after a simple name change action. In others, it is possible to change the gender marker (“male” or “female”) on a birth certificate or driver’s license. The authors of this article are available to provide technical assistance to legal aid attorneys seeking to help transgender clients obtain correct documents. Another resource is the Transgender Law Center publication “*ID Please: A Guide to Changing California & Federal Identity Documents to Match Your Gender Identity*.”⁸

Several stories highlight how important correct documents can be for basic safety for transgender people:

- An employer refused to hire a transgender woman because her name did not match her identity documents.
- Employees at a DMV office refused to serve a transgender man because his driver’s license said female and he presented as male. His driver’s license was suspended because he could not find someone to help him change his name and gender on the license.
- When only some of a person’s documents are updated, that can also cause problems. A transgender man had corrected the name and gender on all his state identification, but not his birth certificate from another state. He was denied a real estate license because all of his identification documents did not match.

3. Domestic violence

Finally, low-income transgender clients need representation for domestic violence cases. Transgender people experience domestic violence at the same rates as non-transgender people.

These survivors experience the same cycles of power and control with their abuser as any survivor. Additionally, the abuser may use the survivor’s transgender status against the survivor. For example, the abuser may threaten to out the survivor at work and have him or her fired. Or the abuser may prevent the survivor from obtaining or continuing medical care for his or her transition. Or the abuser can use the threat that no one else could possibly love the survivor because of his or her gender.

If a transgender survivor is being abused by a

dating partner, the same restraining order procedures available to address any violence between dating partners in your state can be accessed. If the transgender person is married to his or her abuser, spousal domestic violence procedures should apply. In some situations in some states, the legal gender of the transgender survivor may affect the relief available to him or her. If you have a case that may raise this issue, please contact the authors for technical assistance and resources.

Transgender survivors also especially need help finding shelters and other emergency assistance that will admit them and not discriminate against them. As with any DV situation, your assistance in these cases can be literally lifesaving.

For help finding shelters and emergency services, other technical assistance, assessment tools, and other resources for assisting domestic violence survivors who are transgender or lesbian, gay, or bisexual, contact The Northwest Network at (206) 568-7777 or www.nwnetwork.org.

Conclusion

There is a tremendous need for legal aid services to transgender clients. Many do not reach out to legal aid offices because they are afraid of experiencing the same discrimination and harassment they face in nearly every part of their lives. By creating a welcoming environment in your office, you send a message to transgender people that there is at least one place in their lives where they will be treated with dignity and respect. By taking a few simple steps and being willing to advocate for transgender clients in a few basic areas, you can not only have a great impact on your client’s life, but also educate other services providers and courts about the needs of transgender people.

- 1 Catherine Sakimura is a staff attorney and director of the National Center for Lesbian Rights’ Family Protection Project, which works to improve access to family law services for low-income LGBT parents and their children, with a focus on increasing services to families of color. This project provides free legal information to low-income LGBT parents and their children; trains and supports attorneys providing free and low-cost services to these families; and works in coalition with organizations serving communities of color to provide culturally competent services to families of color. She also works on NCLR’s litigation docket, particularly on family-related cases.

Continued on page 48



Serving Transgender Clients in Legal Aid Settings: Drawing on the Findings of the National Transgender Discrimination Survey

By Jaime M. Grant, Ph.D.

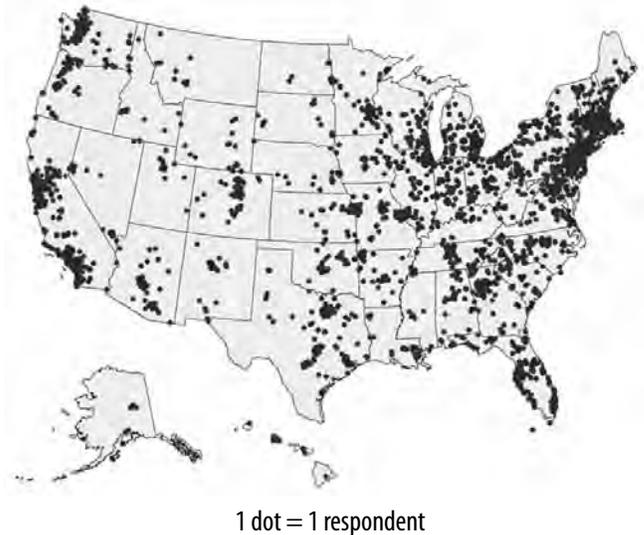
Introduction

In 2011, the National Center for Transgender Equality (NCTE) and the National Gay and Lesbian Task Force (the Task Force) published the first comprehensive, nationwide study of anti-transgender discrimination in the U.S., *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey* (Grant et al. 2011).¹ In 2008-2009, over a six month period, 6,450 transgender and gender non-conforming people responded to a seventy-question survey, reporting on their experiences of discrimination in virtually every major domain: education, housing, health and health care, public accommodation, experiences with the police/criminal justice system, and family life. Respondents hailed from all fifty states, the District of Columbia, Puerto Rico, Guam and the U.S. Virgin Islands. The racial and ethnic profile of the sample closely resembles the demographic profile of the general U.S. population.²

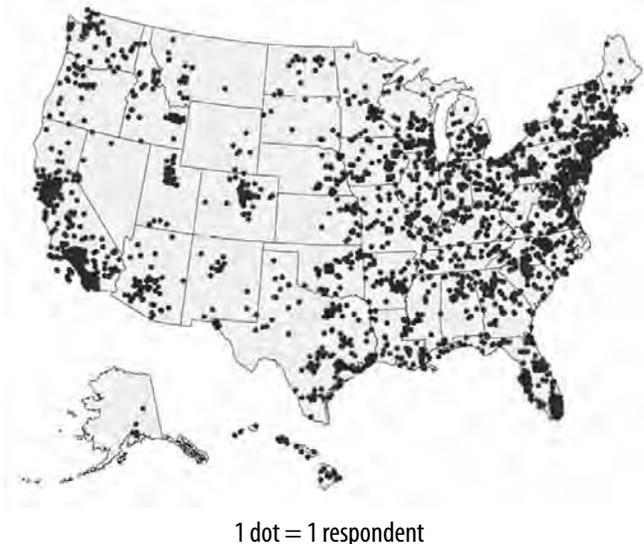
The results were surprising even to advocates with decades of experience working in LGBT communities. In every state, across every educational and economic category, respondents reported brutal impacts of discrimination, experiencing unemployment at twice the rate and living in extreme poverty at four times the rate of the general population. Transgender people of color — especially Black respondents — reported simply astronomical rates of poverty (See Fig. 1, p.34), unemployment (See fig. 2), harassment and abuse.

For this landmark effort, NCTE and the Task Force set out to collect the broadest possible swath of experiences of transgender and gender non-conforming people, with the initial, qualifying question: Do you identify as transgender or gender non-conforming in any way? Accordingly, the resulting data set presents a trove of information on gender variant people across the spectrum, from androgynous lesbians to

The National Transgender Discrimination Survey Sample



Population Density in the United States



© SERVING TRANSGENDER CLIENTS IN LEGAL AID SETTINGS
Continued from page 33

transsexual heterosexual women, from effeminate genderqueers to butch-identified transgender men. The following provides a glance at some of the study’s most dramatic findings, which implicate people at all levels of society in pervasive human rights violations. Transgender and gender non-conforming people face seemingly comprehensive marginalization and exclusion from the casual society and basic institutions that any participatory democracy purports to extend to all of its members.

These findings present an important resource for legal aid attorneys working with transgender clients. The breadth of this research presents the first 360-degree view of the challenges transgender and gender non-conforming people face in the U.S., as they move through extremely hostile social and legal environments. The impacts of anti-transgender bias reach into all aspects of life and livelihood for people in this study. Best practices in legal services must flow from these realities.

Findings

Education

Despite surviving significant abuse and harassment in both K through 12 and higher education settings, respondents report a surprisingly high level of educational attainment, having attended college or gained a college degree or higher at 1.74 times the rate of the general population — 47 percent vs. 27 percent. The chart below describes the experiences of respondents who attended K through 12 as a transgender or gender non-conforming student.

The survey asked participants to identify the perpetrators of abuse in K through 12 settings and respondents reported teacher/staff harassment and abuse with shocking frequency. (See Figs. 3 and 4, p. 35.)

The impact of mistreatment and abuse in K through 12 was associated with difficulty in securing livelihood and basic income – again, despite high educational attainment which, in the general population correlates positively with economic security. The first column in Fig. 5, p. 35, describes the general population. Column two describes study participants who did not experience anti-transgender harassment or abuse in K through 12 or higher education, and column three describes participants who experienced anti-transgender mistreatment in school, at any level.

Fig. 1: Household Incomes of Respondents

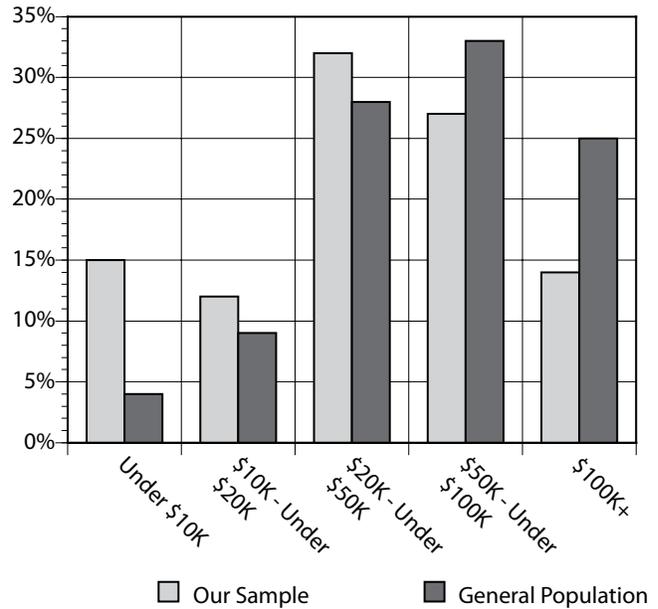
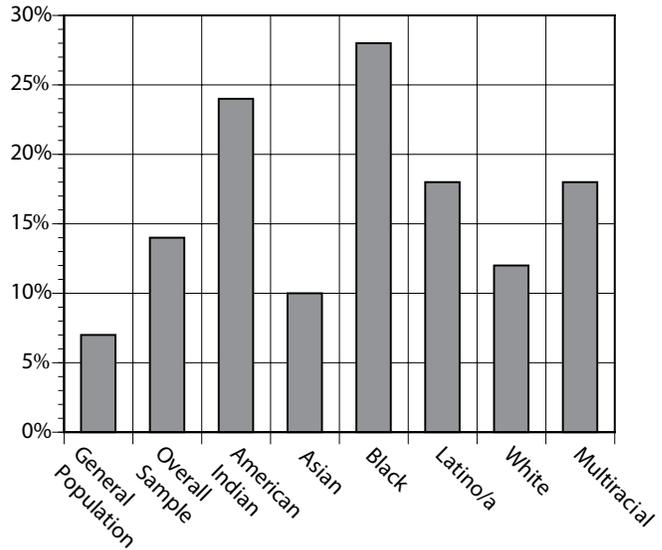


Fig. 2: Unemployment Rates of Respondents by Race



Health and Health Care

Respondents report significant barriers to attaining health care as well as poor health outcomes. Nineteen percent (19%) reported outright refusal by health care workers to provide care with refusal rates significantly higher for transgender people of color. (See Fig. 6, p. 36.)

Those who accessed care report high rates of harassment (28%) and even physical assault in their doctors’ offices (2%). For those who accessed care, fully 50% of the sample reports having to “teach my provider” about the basics of transgender health care.

Fig. 3: Harassment, Assault and Discrimination in K-12 Settings

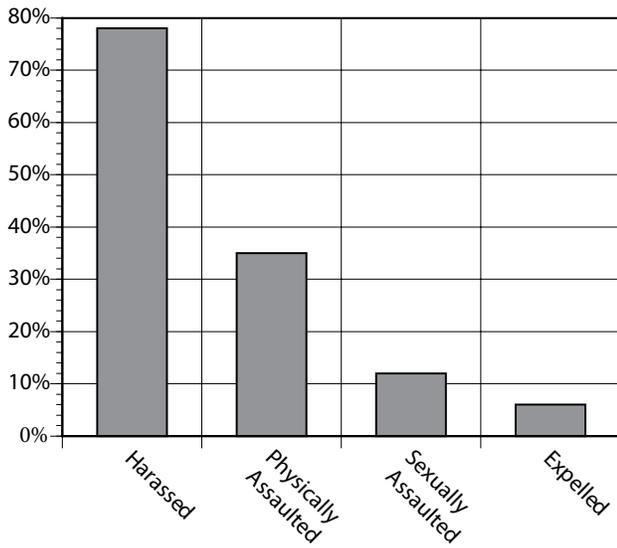


Fig. 4: K-12 Overall Abuse by Teacher/Staff

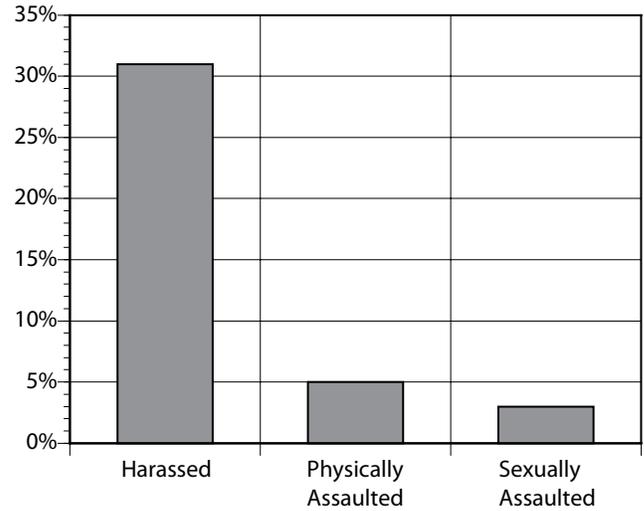


Fig. 6: Refusal to Provide Medical Care by Race

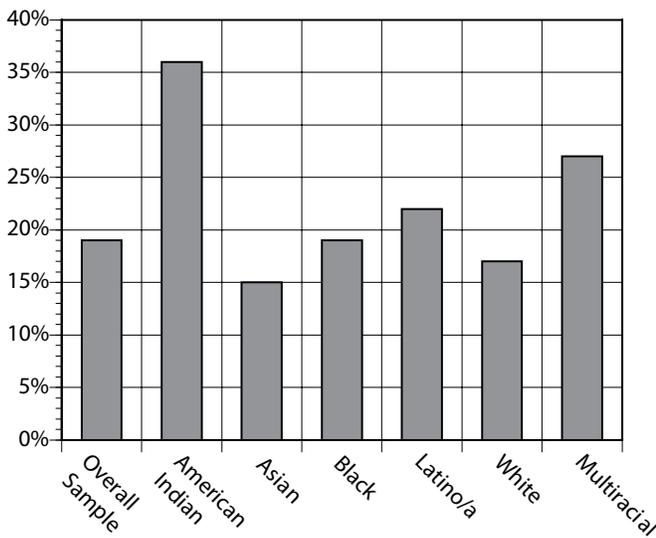


Fig. 7: HIV Infection by Race, Compared to U.S. General Population

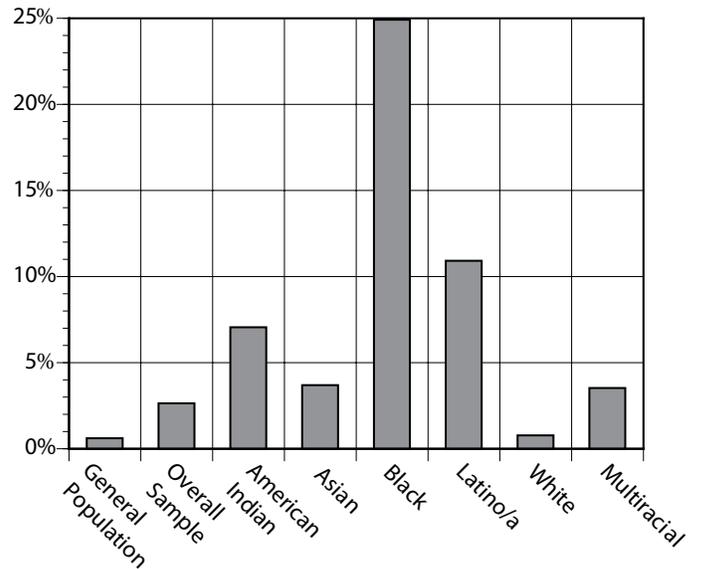


Fig. 5: Impact of Mistreatment and Abuse in K through 12 on Securing Livelihood

	General Population	No School Mistreatment	Mistreated in School
Under \$10K	4%	12%	21%
\$10K - Under \$20K	9%	11%	15%
\$20K - Under \$50K	28%	31%	33%
\$50K - Under \$100K	33%	30%	21%
\$100K+	25%	16%	9%

The impacts of discrimination and medical refusal, abuse and/or incompetence combine for devastating impacts on study participants, including high rates of HIV infection, drug abuse and smoking. (See Fig. 7, p.36.)

Study participants report currently using drugs and alcohol specifically to deal with the impacts of anti-transgender bias (8%); as well, a high percentage of respondents (18%) report using drugs and alcohol “in the

Fig. 8: Currently Homeless by Race

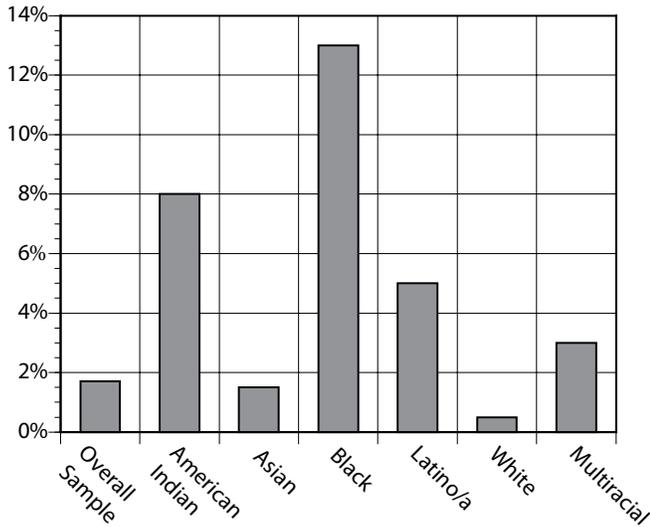


Fig. 9: "I have been evicted" by Race

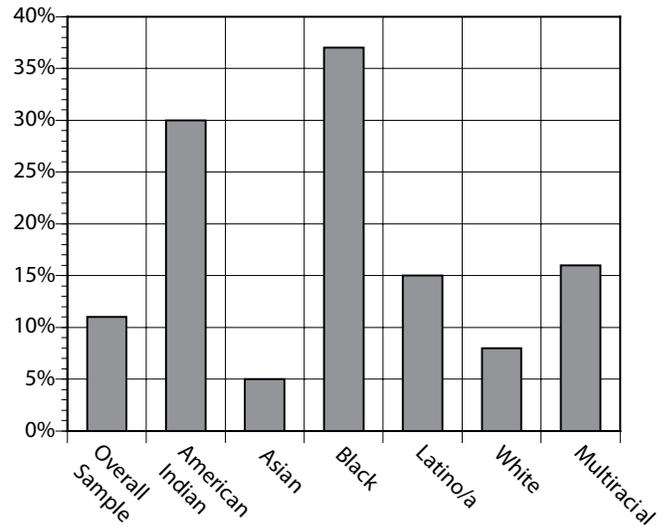


Fig. 10: Experiences of Discrimination and Violence in Public Accommodation

Location	Denied Equal	Harassed or Disrespected Treatment	Physically Assaulted
Retail Store	32%	37%	3%
Police Officer	20%	29%	6%
Doctor's Office or Hospital	24%	25%	2%
Hotel or Restaurant	19%	25%	2%
Government Agency/Official	22%	22%	1%
Bus, Train, or Taxi	9%	22%	4%
Emergency Room	13%	16%	1%
Airplane or Airport Staff/TSA	11%	17%	1%
Judge or Court Official	12%	12%	1%
Mental Health Clinic	11%	12%	1%
Legal Services Clinic	8%	6%	1%
Ambulance or EMT	5%	7%	1%
Domestic Violence Shelter/Program	6%	4%	1%
Rape Crisis Center	5%	4%	1%
Drug Treatment Program	35	4%	1%

combined impacts of racism and anti-transgender bias are devastating for transgender people of color in the study.

For those seeking shelter, safety net systems are all but non-existent, with 29% being turned away altogether. Over half of respondents accessing shelter report harassment in a shelter facility (55%); a quarter report physical assault and 22% report surviving sexual assault in a shelter. Other abuses in shelter settings include being "forced to live as the wrong gender" in order to gain admission.

Public Accommodation

Respondents described widespread discrimination and abuse in the arena of public accommodation from refusal of service or denial of equal treatment to disrespect, harassment and assault. Fig. 10, p. 36, illustrates the breadth and frequency of these incidents.

past" as a coping strategy. By way of contrast, the National Institutes of Health estimates that 7.3% of the general population is dependent upon alcohol while 1.7% struggle with drug addiction.

Housing

Respondents report significant housing insecurity due to anti-transgender bias, with 19% being denied a home or apartment and 13% surviving eviction. Nineteen percent (19%) report being homeless at some point in their lives with 1.7% of study participants currently homeless. (See Figs. 8 and 9.) Again, the

Fig. 11: Police Harassment and Assault, Due to Bias, by Race

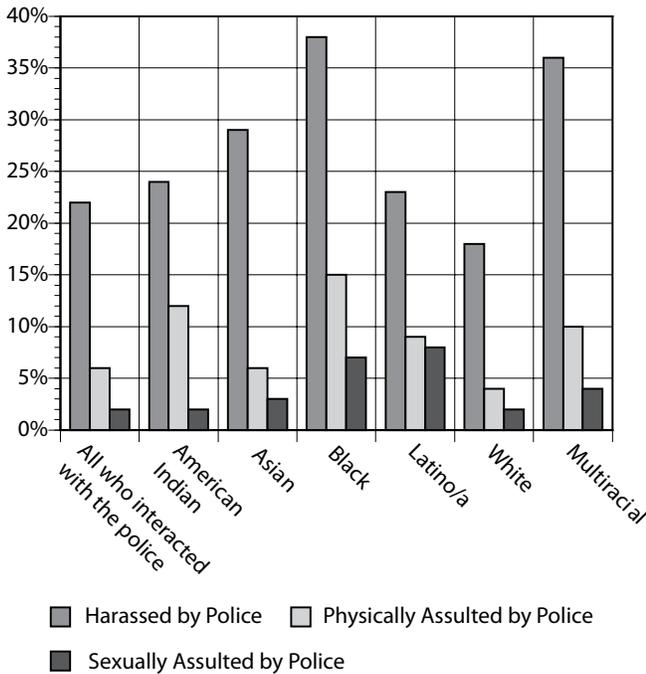


Fig. 12: Incarceration by Race

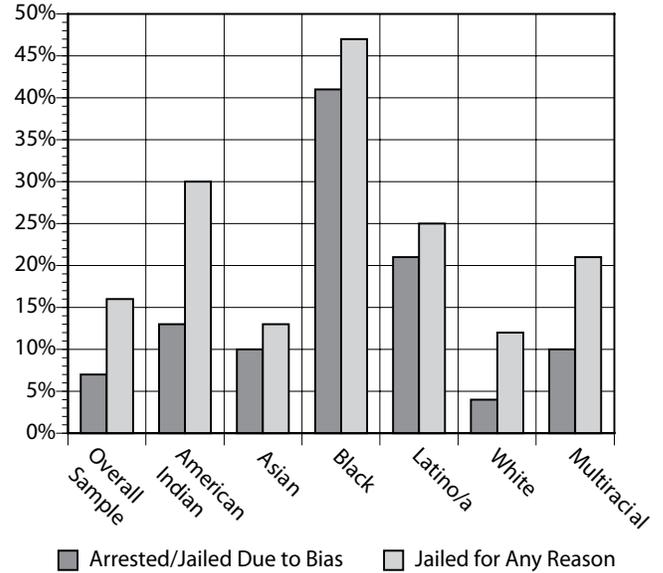
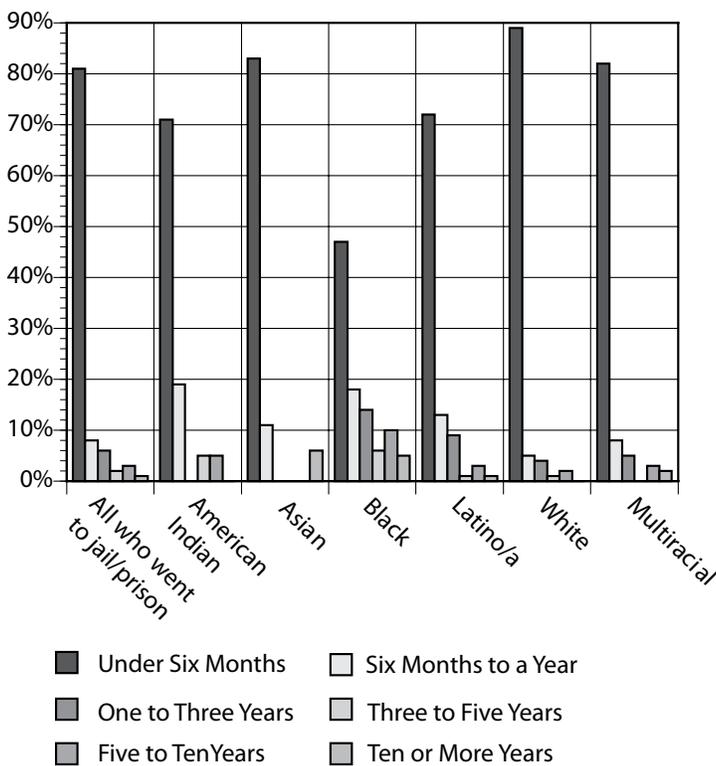


Fig. 13: Total Length of Incarceration by Race (of those Incarcerated)



Police and Jails

Transgender and gender non-conforming people in the study who interacted with police report high rates of police harassment, with nearly half the full sample indicating discomfort with seeking police assistance. Racism and anti-transgender bias combined to create even graver jeopardy for transgender people of color.

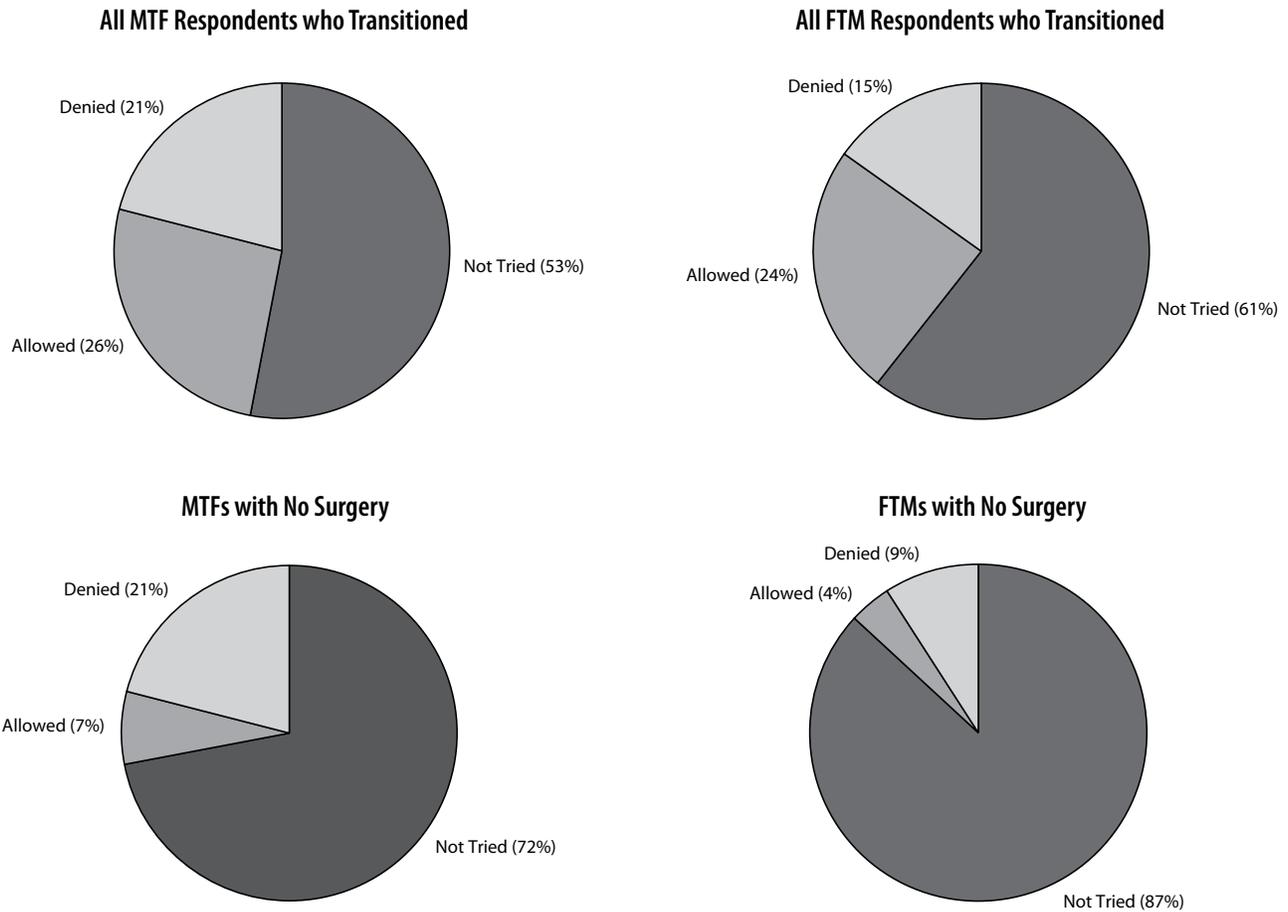
Given the widespread discrimination reported in other key domains of private and public life, harassment and violence by police underscore the relentless gauntlet of abuses many transgender people navigate on a daily basis.

In terms of incarceration, 7% of the full sample reports being held in a cell for “walking while transgender.” Black respondents found the double jeopardy of “walking while Black and transgender” overwhelmingly risky, with 41% report being held in a cell strictly on the basis of their gender and racial identities. While incarceration rates and length of stay were high overall for participants in the study, Black, Latino and American Indian/Alaska Native respondents report higher risk for incarceration and longer prison terms. (See Figs. 11, 12 and 13, p. 37.)

Identity Documents

Identity documents are critical to social mobility and economic security in the U.S. Across nearly every domain in the study, participants who had pursued gender congruent identity documents

Fig. 14: Success in Changing Identify Documents



with limited success were at higher risk for harassment and abuse than those who had been successful. Since transgender and gender non-conforming people are often *in the process* of a transition when they are experiencing limited success at obtaining gender congruent documentation (though many clearly face barriers prior to, outside of, or beyond transition processes), this data suggests that people in the midst of social, medical or surgical transition might be at high risk for harassment, abuse and events such as eviction or bias-driven job loss.

Among study participants, those who had had some type of transition-related surgery had an increased likelihood of having changed each of the ID documents to reflect their gender identity (including passports, birth certificates, drivers licenses, work ID, student records, and military ID). For example, 81% of those who had some type of surgery have updated their driver’s license compared to 37% of those who did not have any surgery. (See Fig. 14.)

Given that the study’s health data found that most transgender people who seek gender affirming surgeries are unable to access these procedures, this leaves a very

significant population of transgender and gender non-conforming people with limited options and limited ability to obtain changes in gender identity documents.

People of color, and those with lower household incomes and educational attainment, were generally less likely to have updated their IDs/records across the board, even when controlling for surgical status, with few exceptions.

Forty percent (40%) of those who presented ID (as required in the ordinary course of life) that did not match their gender identity reported being harassed and 3% reported being attacked or assaulted. Fifteen percent (15%) reported being asked to leave the setting in which they had presented incongruent identification.

Rates of reported hiring discrimination and discrimination in housing, including campus housing, are much higher for those who do not have an updated driver’s license.

Family Life

Data collected in the domain of family life provided dramatic evidence of the impacts of

affirmation and support versus rejection and abuse in the lives of transgender and gender non-conforming people. For, while 53% of the sample report enduring some form of family rejection, fully 47% of participants report supportive family behaviors and the sustaining of key formative and familial relationships, including those with ex-spouses and children. The positive impact of family acceptance was significant, and mirrors the findings of Dr. Caitlin Ryan’s longitudinal study of the impact of family acceptance on LGBTQ youth well-being, the Family Acceptance Project. (<http://familyproject.sfsu.edu/>). (See Fig. 15.)

Conclusion

Legal services providers are specifically implicated by the study findings in the public accommodations section above. Respondents who attempted to access legal services report being denied equal treatment (8%) as well as surviving harassment (6%) and physical assault (1%).

In light of these damning statistics, providers should be grounded in the magnitude and breadth of the study findings on anti-transgender harassment, abuse and violence when serving transgender and gender non-conforming clients. The most egregious human rights barometer in the study — a suicide attempt rate of 41% — is an indictment of a system rigged for grave injustice and despair.

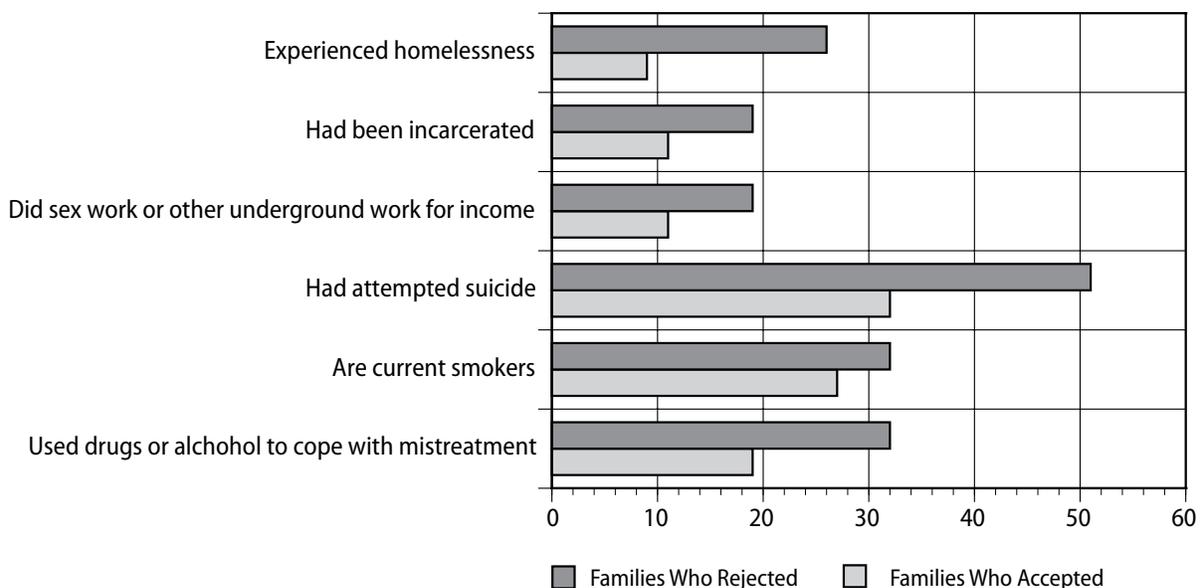
Legal services attorneys, who for many transgender

clients may constitute a singular, essential resource for confronting overwhelming discrimination and violence, must be prepared to strenuously counter pervasive human rights violations in the larger culture and society, and to press for justice for clients who may present multiple rights abuses and tenuous safety nets. Moreover, armed with the knowledge that family acceptance presents a vital source of affirmation and support for many transgender people, attorneys might investigate how police, social workers, judges and other actors in the system may have crippled existing support networks for their clients, and seek redress and reconnection.

Legal services providers seeking staff training, support and advice, may consult local transgender-led or transgender-serving organizations, or contact staffers at NCTE www.transequality.org or The Task Force www.thetaskforce.org for consultation.

- 1 The information and figures in this article rely on the data collected for and published in *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey* (http://www.thetaskforce.org/reports_and_research/ntds and http://transequality.org/PDFs/Executive_Summary.pdf). Principal authors of the study are Jaime M. Grant, Ph D, Lisa Mottet, Esq. and Justin Tanis with Jack Harrison, Jody Herman, Ph. D. and Mara Keisling.

Fig. 15: Impact of Family Acceptance





HUD Unveils LGBT Equal Access Policy

*By Maya Rupert, Esq., Policy Director'
National Center for Lesbian Rights*

In a powerful speech on January 28th, 2012, U.S. Department of Housing and Urban Development (HUD) Secretary Shaun Donovan made history when he unveiled HUD's LGBT Equal Access policy—a new rule that will protect more than 5.5 million people across the country from discrimination in public housing and Federal Housing Administration (FHA)-insured mortgages.



The new rule, announced at the National Gay and Lesbian Task Force's annual Creating

Change conference, will improve the lives of lesbian, gay, bisexual and transgender (LGBT) people and families across the country—and marks the first time that any administration has extended such broad protections against housing and mortgage discrimination to the LGBT community.

This final rule, which was published on February 3, 2012, came after a proposed version of this rule was released in January 2011. In response to the proposed rule, NCLR drafted comments on behalf of over thirty other LGBT, civil rights, and fair housing organizations—many of which were incorporated into the final version of the rule.

Perhaps most significantly, this new rule, which has the effect of law, will prohibit all owners and operators of HUD-assisted or HUD-insured housing from discriminating against an applicant or occupant of a residence based on sexual orientation, gender identity, or marital status.

This is huge.

HUD-assisted and HUD-insured housing account for a large segment of all of housing opportunities. Thanks to this rule, it is now illegal in that housing market to discriminate against our families because of who we are. The rule also prohibits all lenders

offering FHA-insured mortgages from considering sexual orientation or gender identity in determining a borrower's eligibility. FHA-insured mortgages represent a very large share—between 40% and 50% of the mortgage market.

The rule also clarifies the definition of "family" to ensure that otherwise eligible participants in any HUD programs will not be excluded based on marital status, sexual orientation, or gender identity. These programs, including crucial public housing programs like Section 8, will now be accessible to all LGBT individuals and families.

In 2010, HUD announced that it would require all grant-seekers applying for funds from HUD to comply with any state and local laws prohibiting discrimination based on sexual orientation or gender identity. It also announced the launch of a ground-breaking national study of housing discrimination against members of the LGBT community in the sale and rental of housing.

In another historic move later that year, HUD announced that it interprets the Fair Housing Act's prohibition against discrimination based on sex to protect transgender and gender non-conforming people. In September 2010, NCLR co-hosted a webinar with HUD that educated HUD staff and housing providers on their new obligations under this guidance.

In December, NCLR partnered with HUD and the U.S. Department of Health and Human Services' Administration on Aging to hold the first-ever national summit examining housing issues for LGBT elders. The day-long event provided a forum for attendees to discuss ideas and policy proposals to support housing and long-term care designed for LGBT elders.

HUD's new LGBT Equal Access policy will have an impact that goes beyond increased access to housing and housing services. The homelessness and housing insecurity that results from widespread housing discrimination places our community at increased risk

for violence, and while the passage of hate crimes legislation was historic, we urgently need policies aimed at reducing vulnerability to violence.

This new rule will increase access to essential housing services and programs, making it easier for LGBT families to secure home loans, and keep more LGBT people in safe and affordable housing.

It will literally save lives.

- 1 Maya Rupert, Esq., is the Federal Policy Director of the National Center for Lesbian Rights (NCLR). She joined NCLR in 2010 to advance NCLR's federal policy and legislative priorities. Maya's work includes advocacy in many areas including federal legislation and regulations on housing, family policy, health, and employment. Maya has also been a regular contributing writer to a number of media outlets—including the *Los Angeles Times*, the *San Francisco Chronicle*, and *The Huffington Post*—where she frequently addresses the intersection of race, sexual orientation, and gender identity. She has been recognized by national outlets like *Ebony Magazine* and *The Root* for being one of the most influential African-American leaders in the country.

Maya received her B.A. from U.C. Santa Barbara in 2003, and her J.D. from U.C. Berkeley (Boalt Hall) in 2006. In 2007, Maya clerked for the Honorable Eric L. Clay of the Sixth Circuit Court of Appeals. Prior to joining NCLR, she was an associate with Sidley Austin LLP's Los Angeles office. Maya may be reached at mrupert@nclrights.org.

☉ ADDRESSING THE CHALLENGES *Continued from page 23*

nation's first federally funded National Resource Center on LGBT Aging. Catherine has worked in the fields of aging and mental health for more than twenty-four years. For more information, visit www.sageusa.org.

References

- Albelda, R., Badgett, M.V.L., Schneebaum, A., & Gates, G.J. (2009). *Poverty in the lesbian, gay, and bisexual community*. The Williams Institute. Los Angeles, CA. Retrieved from <http://services.law.ucla.edu/williamsinstitute/pdf/LGBPovertyReport.pdf>.
- Movement Advancement Project & Services and Advocacy for Gay, Lesbian, Bisexual and Transgender Elders. (2010). *Improving the lives of LGBT older adults*. Movement Advancement Project & Services and Advocacy for Gay, Lesbian, Bisexual and Transgender Elders. Denver, CO and New York, NY.

Cantor, M.H., Brennan, M., & Shippy, R.A. (2004). *Caregiving among older lesbian, gay, bisexual, and transgender New Yorkers*. National Gay and Lesbian Task Force Policy Institute, Pride Senior Network and Fordham University Graduate School of Social Service. New York, NY.

☉ GUIDELINES FOR CREATING A MORE SENSITIVE PROGRAM *Continued from page 25*

surveys and is consulting with LGBT organizations regarding the best way to ask such questions. This will enhance our understanding of the scope and needs of our LGBT client base.

Conclusion

While there are challenges to getting clients to self-identify as LGBT community members, creating a more hospitable environment for them to do so is critical. While the work of the Washington LGBT Aging Coalition is ongoing, their findings inform practice tremendously. Obtaining more accurate statistics of the intersection between poverty and sexual orientation and increasing outreach and education to LGBT organizations are initial steps in the right direction toward a more inclusive legal services organization.

- 1 Jennifer L. Berger, J.D., M.S.W. is Supervising Attorney of the Alternatives to Landlord/Tenant Court for the Elderly Project of the AARP Legal Counsel for the Elderly. She is the Chair of the Seal of Approval Committee of the Washington LGBT Aging Coalition. Jennifer graduated from Bucknell University with degrees in psychology and Spanish, and has a dual degree in social work and law from State University of New York at Buffalo Schools of Law and Social Work. She would like to thank the members of the Washington LGBT Aging Coalition, AARP and Legal Counsel for the Elderly for their insight and concern for LGBT elders. Jennifer may be reached at jberger@aarp.org.
- 2 Jaime Grant, NGLTF Policy Institute, "Outing Age, 2010: Public Policy Issues Affecting LGBT Elders", 24-36, http://www.thetaskforce.org/downloads/reports/reports/outingage_final.pdf (viewed January 24, 2012).
- 3 The Seal of Approval Committee drafted their criteria based on SAMHSA (DHHS Publication No. (SMA) 01-3498) and Services & Advocacy for GLBT Elders. "No Need to Fear, No Need to Hide: A Training Program about Inclusion and Understanding of Lesbian, Gay, Bisexual, and Transgender Elders" (2004).



Who Knew that the Internal Revenue Code Could Benefit Same-Sex Couples: The Adoption Tax Credit

By William S. Singer, Esq. and James M. Wood, CPA

In 1996, in order to encourage the placement and the adoption of children by United States citizens, the United States Congress instituted the adoption credit. This tax provision gives adopting parents an economic



incentive to undertake an adoption with special provisions for the adoption of children with special needs. Unlike

most tax provisions, this one has a feature that benefits lesbian and gay families for which non-gay families are not qualified.

Under the Internal Revenue Code Section 23, taxpayers may claim a credit on their income tax for qualified adoption expenses. As with any tax code provision there are intricacies in using this provision, so it is important to understand all of its allowances and restrictions.

A Special “Benefit” For Same-Sex Parents

As long as the Defense of Marriage Act (DOMA) directs that the marriage (or other legally recognized relationships such as civil unions or registered domestic partnerships) of a same-sex couple cannot be recognized under federal law, the adoption tax credit represents an opportunity for same-sex families that is unavailable to different sex couples.

Take the example of a man and woman who have a child and subsequently the man dies. If the woman remarries and the stepfather adopts the child, that stepparent adoption is not eligible for the adoption tax credit. Stepparent adoptions are specifically excluded from using the adoption tax credit as they are

intra-family adoptions.

But because DOMA bars recognition of a same-sex legal relationship, the adoption by the biological parent’s same-sex spouse is not considered a stepparent adoption. This fact pattern represents one of the few times that the interplay between the Internal Revenue Code and DOMA work to the advantage of same-sex couples.

This provision in the Internal Revenue Code gives a non-biological parent a method to protect her or his parental rights with the United States government underwriting it through the use of the adoption tax credit.

For example, when a lesbian gives birth to a child, often her same-sex spouse’s name is automatically put on the birth certificate as a result of relevant state law. Despite this apparent protection, there are questions whether that non-biological parent’s rights are portable to another state, particularly a state with its own mini-DOMA or with courts hostile to the rights of same-sex couples.

Since a birth certificate is only considered indicia of parenthood, the non-biological mother’s parentage could be subject to attack in a hostile state if the only reason that she is named on the birth certificate is based on a marriage, civil union or domestic partnership. As a result, lawyers who counsel same-sex families advise that the non-biological parent undertake a confirmatory second parent adoption.

By obtaining the confirmatory adoption order, the non-biological parent’s status is thereby protected under the Full Faith and Credit Clause of the U.S. Constitution. The costs of that second parent adoption are eligible for the tax credit.

The same fact pattern holds for a same-sex male couple. If the biological father has a child through a surrogacy or adopts, when the second father adopts his

spouse's child, he is entitled to use of the credit. It does not matter that the child was born through a surrogacy arrangement for the second father to take advantage of the credit as he is not seeking coverage of a surrogacy arrangement; he is using the credit because he adopted a child.

What Is the Amount of the Credit?

In 2010, Congress increased the amount of the tax credit to \$13,170. In 2011, the amount was increased to \$13,360. If the child adopted has special needs, the adopting parent is entitled to the full \$13,170 credit without regard to the amount of qualified adoption expenses paid or incurred and regardless of the taxpayer's liability.

Previous to 2010, any adoption credit in excess of a taxpayer's federal tax liability had to be carried over to the following year. As part of the health care reform legislation, that requirement has changed so that the adoption credit is "refundable;" it will be fully reimbursed regardless of the taxpayer's overall tax liability.

For 2012, the maximum credit is \$12,650, but it reverts to a non-refundable credit. After 2012, the adoption tax credit could disappear unless Congress passes legislation to extend it.

What Expenses Are Covered?

A taxpayer can use the credit for qualified adoption expenses which the taxpayer incurred including: adoption fees, court costs, attorney fees, travel expenses (including meals and lodging) while away from home and other expenses which are directly related to, and whose principal purpose is for, the legal adoption of an eligible child.

Costs associated with a surrogacy parenting arrangement are *not* eligible for the credit. Further, as discussed above, expenses related to the adoption of the children of a taxpayer's spouse are also ineligible unless it is within the context of a same-sex couple. Any employer paid expenses for the adoption are also not eligible for the credit, but they are excludable from the taxpayer's income up to the threshold for the current year.

For the tax year when the adoption will be final, practitioners advise clients to reduce their federal withholding or estimated tax payments to increase their cash flow and obtain the benefits even before filing the tax return.

Which Children Are Eligible?

In order for an adopted child to be eligible for the

adoption tax credit, the child must be under the age of eighteen at the time of the adoption or be a special needs child who is physically or mentally incapable of caring for herself or himself. A child with special needs is any child who cannot or should not be returned to the home of her or his parents and a specific factor or condition makes it reasonable to conclude that the child cannot be placed with adoptive parents unless assistance is provided as determined by a state. Also, a special needs child must be a resident or citizen of the United States. A child who is not a citizen or resident of the United States does not qualify for the adoption credit until the adoption is final.

The Latest Requirements from the IRS

In 2011, the Internal Revenue Service announced that a person using the credit needs to submit documentation with the tax return. For a domestic adoption, the taxpayer should include an adoption order or decree.

If it is an international adoption, the taxpayer should submit a Hague Convention certificate, an IH-3 visa or a foreign adoption decree translated into English.

If the taxpayer is taking a credit for adopting a special needs child, that individual needs to include a copy of the state determination of special needs.

Because the required documents may contain sensitive material, the IRS will allow submission of redacted copies. Given this requirement for paperwork to be included with the tax return, the return cannot be filed electronically, but must be filed by mail. If the IRS receives a return with missing documentation, it will automatically be sent for a correspondence audit.

Latest Developments for Same-Sex Parents

In 2011, in reviewing tax returns for some taxpayers in same-sex families, the IRS initially questioned or denied the credit to some same-sex families because, according to the IRS "the child's mother did not terminate her parental rights in the adoption process" or because "the child's mother and the taxpayer claiming the credit are jointly responsible for supporting the child." These positions taken by the IRS have been contested and defeated because they are not supported in the law or regulations.

The pertinent section of the Internal Revenue Code Section 36C does not require a termination of parental rights. There is no such requirement in any regulations, rulings or other authority. Although Notice 97-9 provides that when an unmarried couple jointly adopts

☉ IRS CODE COULD HELP SOME SAME-SEX COUPLES
Continued from page 43

the same child, they will be entitled to a single adoption credit to be divided between them. That rule does not apply to a situation where a person adopts her or his partner's child on her or his own and did not engage in a joint adoption.

Professor Patricia Cain of Santa Clara Law School reports that the National Office of the IRS fully agrees with the position that a second parent adoption can qualify for the adoption tax credit provided that it meets the other statutory requirements.

IRS Forms

For further information, one can consult IRS Publication 968. To file for use of the credit, a taxpayer files Form 8839. The 2011 Form was recently updated and includes expanded instructions, including a list of the documentation needed by the Internal Revenue Service. <http://www.irs.gov/pub/irs-pdf/i8839.pdf>.

- 1 William S. Singer, a partner of Singer & Fedun, LLC, has been in the private practice of law in Somerset County, New Jersey, for over forty-one years.

Bill is the founder and Chair of the LGBT Family Law Institute, an annual meeting of attorneys from the U.S. and abroad, who specialize in LGBT family law issues. He is a fellow of the American Academy of Assisted Reproductive Technology Attorneys and a member

of the National Family Law Advisory Council of the National Center for Lesbian Rights.

His practice concentrates on the creation and protection of non-traditional families and as counselor to numerous non-profit organizations. He has succeeded in extending rights to non-traditional families through both the Court system and the legislative process. He has been serving as the general counsel of the National LGBT Bar Association since its founding in the 1980s and, among others, serves as general counsel to ACLU-NJ, the Sierra Club in New Jersey and the New Jersey Association for Justice.

Bill lectures frequently throughout the country on issues concerning LGBT and other non-traditional families and diversity in the practice of law. He received a degree in history with distinction from Rutgers College and his Juris Doctorate degree from the Columbia University School of Law. Bill may be reached at wsinger@singerfedun.com.

Jim Wood has been in public accounting for twenty-six years. A graduate of Wake Forest University, he began his career with Peat Marwick Mitchell in Greensboro, North Carolina. More interested in the type of client base attracted to smaller firms, Jim joined a local firm in New Brunswick, New Jersey, in 1988 and spun off his own practice in 1998. Jim currently practices in Hillsborough, New Jersey, where he and his staff specialize in nonprofit organizations, local savings institutions, small businesses, and individuals, particularly the tax issues associated with non-traditional families.

Board of Directors

Jacquelynne Bowman, Chair
Greater Boston Legal Services

Catherine Carr, Vice Chair
Community Legal Services

Michele Storms, Secretary
*William H. Gates Public Services Law
Scholarship Program*

Steve Gottlieb, Treasurer
Atlanta Legal Aid Society

Mary Asbury
Legal Aid Society of Greater Cincinnati

Lorray Brown
Michigan Poverty Law Program

Charles Hey-Maestre
Puerto Rico Legal Services

Jan May
AARP/Legal Counsel for the Elderly

Eric Mittelstadt
Utah Legal Services

Linda Rexer
Michigan State Bar Foundation

Toby Rothschild
Legal Aid Foundation of Los Angeles

John Tobin
New Hampshire Legal Assistance

Betty Balli Torres
Texas Access to Justice Foundation

César Torres
Northwest Justice Project

Adrienne Worthy
Legal Aid of West Virginia

Journal Committee

Jan May, Co-chair
AARP/Legal Counsel for the Elderly

John Tobin, Co-chair
New Hampshire Legal Assistance

Catherine Carr
Community Legal Services

M. Victor Geminiani
*Hawai'i Appleseed Center for Law and
Economic Justice*

Joann Lee
Legal Aid Foundation of Los Angeles

Patrick McIntyre
*Washington State Alliance for
Equal Justice*

Dave Pantos
Legal Aid of Nebraska

Elizabeth Wehner
Legal Aid of West Virginia

David Yoder
Legal Aid of East Tennessee

Patricia Pap
Management Information Exchange





Economic Disadvantage in the LGBT Community

By Gary J. Gates, PhD, Williams Distinguished Scholar¹
Williams Institute, UCLA School of Law

Lesbian, gay, bisexual and transgender (LGBT) characters like Cameron and Mitchell on *Modern Family* and Will on *Will and Grace* offer evidence of a prevailing media image of the LGBT community as wealthy, white and urban. The notion of gay wealth even worked its way into Supreme Court Justice Antonin Scalia's dissent in *Romer v. Evans*, when he argued that gay people have "high disposable incomes."² Findings from a 2009 report from UCLA's Williams Institute contradict this notion and show that many LGBT people, especially those raising children, are

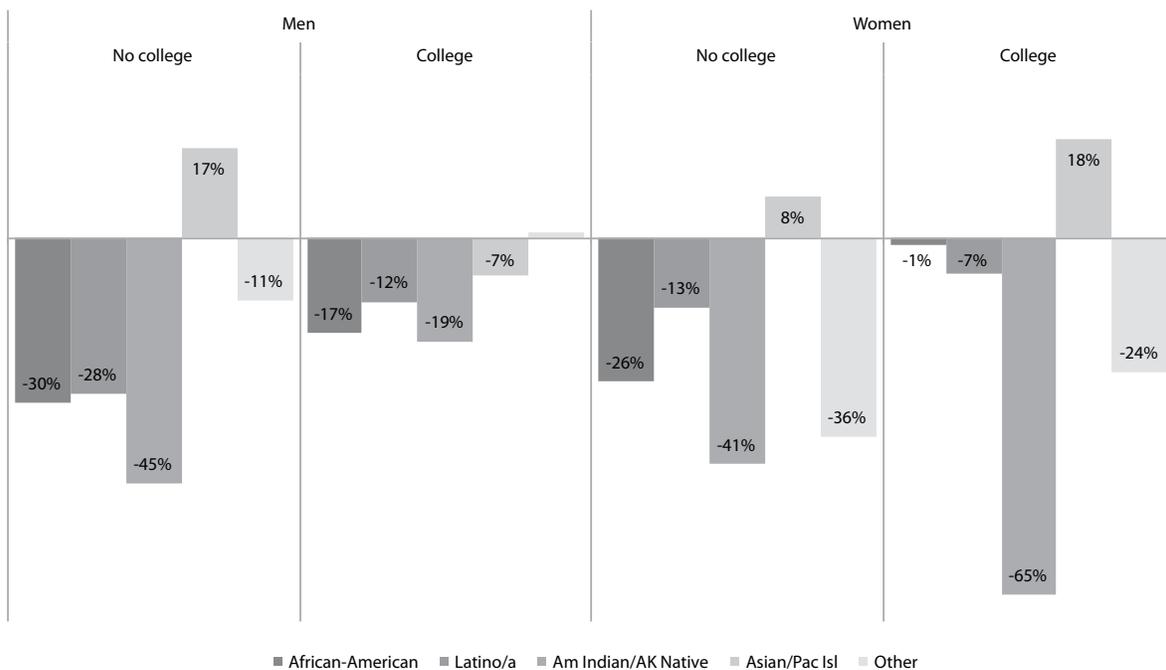


economically challenged. Analyses of same-sex couples in the 2000 Census showed that nearly 20 percent of children being raised by same-sex couples were poor compared to less than ten percent of children with different-sex married parents.³ The analyses also note high poverty rates among African-American and rural same-sex couples. New analyses of data from the US Census Bureau's 2010 American Community Survey (ACS) show that these patterns have continued throughout the decade.⁴

Race/ethnicity and Economic Disadvantage in the LGBT Community

Estimates from the 2008/2010 General Social

Figure 1. Earnings gap between White and non-White individuals in same-sex couples, by race/ethnicity American Community Survey, 2010



© ECONOMIC DISADVANTAGE IN THE LGBT COMMUNITY
Continued from page 45

Survey (a nationally representative survey of adults in the United States) show that more than one-quarter of LGBT-identified adults are racial or ethnic minorities. Analyses from the 2010 ACS find that a similar portion of individuals who are part of same-sex couples are non-White. The National Transgender Discrimination Survey, a national (though not population-based) survey of more than 6,000 transgender individuals, found that more than one in six respondents were non-White.⁵

Non-White LGBT people often experience economic disadvantage in ways similar to their non-LGBT counterparts. This is particularly true for those with lower levels of education (see Figure 1). African-American and Latino men in same-sex couples who do not have a college degree report average annual earnings that are 30% and 28% (respectively) less than their

White counterparts. For American Indians and Alaska Natives, the gap is even more pronounced at 45%. Among women in same-sex couples who do not have a college degree, African-American average annual earnings are 26% less than White women, Latinas earn 13% less and American Indians and Alaska Natives earn 41% less. In general, earnings gaps are somewhat smaller among those with a college education with the exception of Latinas. They report average annual earnings that are 65% below the earnings of White women.

Given these findings regarding earnings, it is not surprising that non-White individuals in same-sex couples are more likely than their White counterparts to receive public assistance and are more likely to not have health insurance (see Figure 2). The portion of individuals in same-sex couples who say that they received public assistance income is more than three times among African-Americans and American Indians and Alaska Natives than among White men and women (4.2%, 4.8%, and 1.3%, respectively). While 12% of White individuals in same-sex couples lack health insurance, the situation is much worse for similar American-Indians and Alaska Natives, 40% of whom do not have insurance. The same is true for 32% of Latinos and 26% of African-Americans. Even though Asians and Pacific Islanders reported generally higher earnings than their White counterparts, they were still nearly twice as likely to not have health insurance.

Child-rearing marks another substantial difference between White and non-White individuals in same-sex couples and also highlights another factor that associated with economic disadvantage. Among individuals in same-sex couples, African-Americans are nearly three times as likely as their White counterparts to be raising a child under age 18 in the home (see Figure 3). More than four in ten (41%) African-Americans in same-sex couples are raising a child compared to just 14% of White individuals. Childrearing is more common in all minority racial/ethnic groups when compared to White men and women in same-sex couples.

While just about one-third of same-sex couples include a non-White partner, that group accounts for nearly half of couples raising a child under eighteen. Given the data shown on earnings by race and ethnicity, it should come as no surprise that this means that same-sex couples with children tend to have

Figure 2. Public assistance and health insurance among individuals in same-sex couples, by race/ethnicity
American Community Survey, 2010

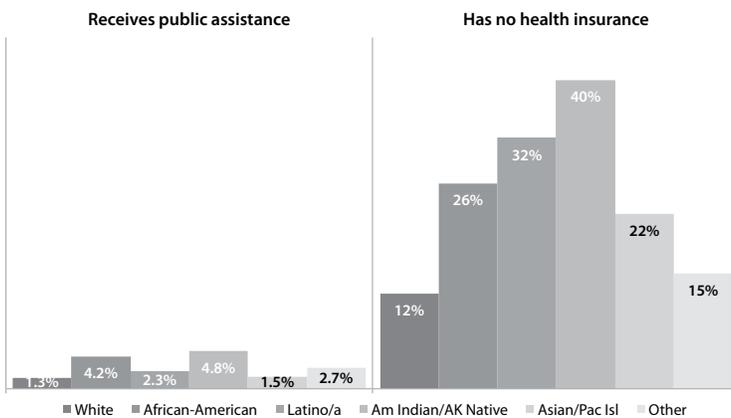


Figure 3. Childrearing among individuals in same-sex couples, by race/ethnicity
American Community Survey, 2010

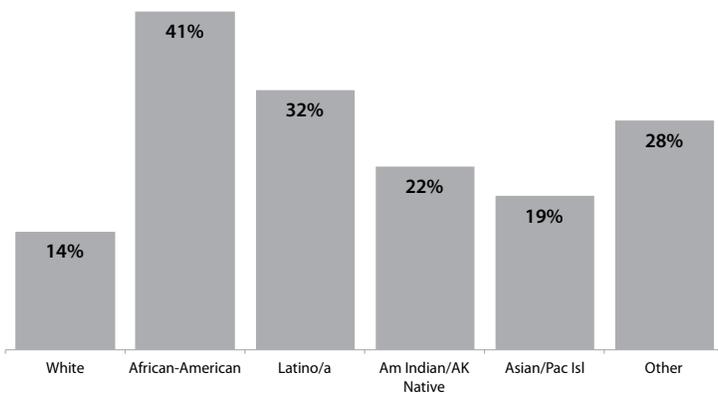


Figure 4. Average household income for couples by childrearing status and race/ethnicity
American Community Survey, 2010

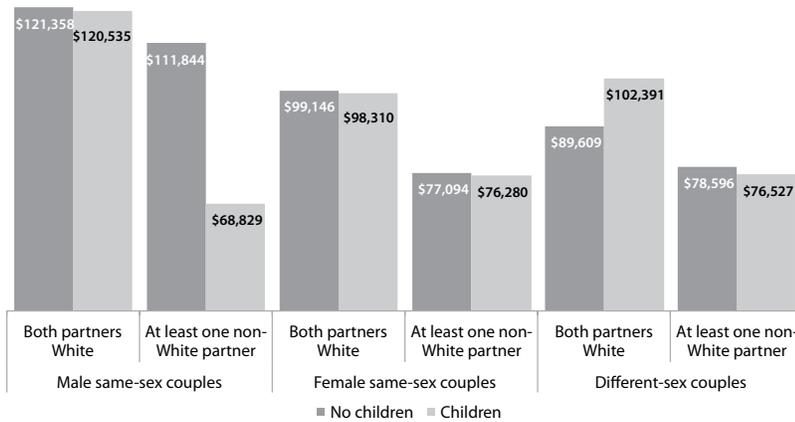


Figure 5. Receipt of public assistance among individuals in couples by couple type, childrearing and urban/rural location
American Community Survey, 2010

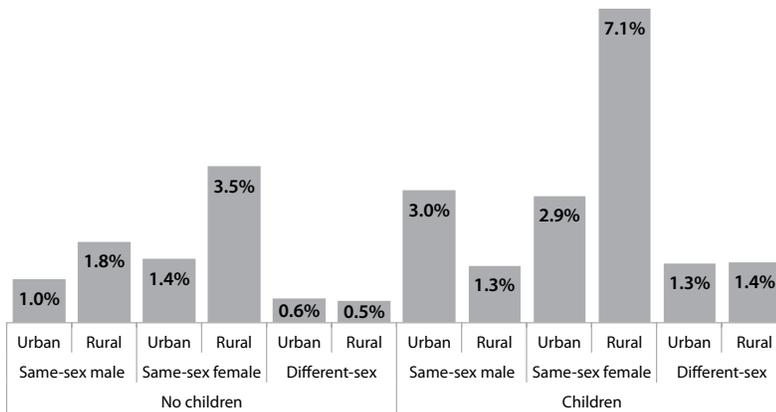
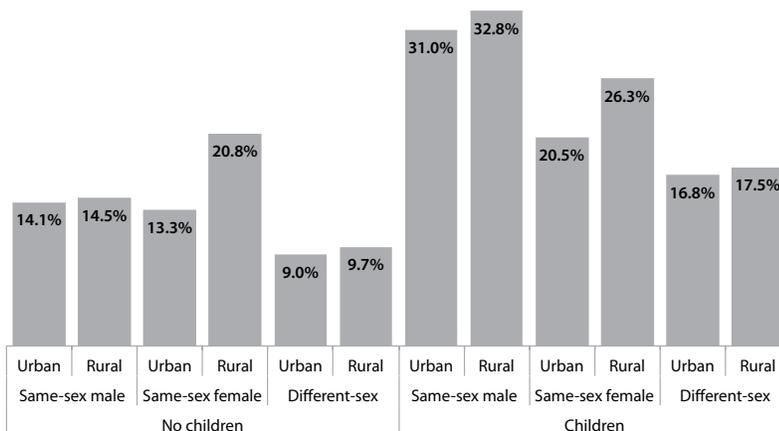


Figure 6. Lack of health insurance among individuals in couples by couple type, race/ethnicity, and urban/rural location
American Community Survey, 2010



lower average household incomes than those not raising children. The difference is most pronounced among male couples that include a non-White partner (see Figure 4), who report average household income of about \$69,000. This is lower than the average for different-sex couples raising children, both White couples and those that include a non-White partner (\$102,000 and \$76,500, respectively). It is also substantially lower than White male same-sex couples raising children, who report average household income of nearly \$112,000. Notably, it is even lower than the average income of female couples, White and those that include a non-White partner, whether they are raising children or not.

Economic Disadvantage in the LGBT Community in Rural Communities

Same-sex couples who live in rural communities evidence many of the same patterns of economic disadvantage that have been observed in communities of color. In urban areas, the median household income of same-sex male couples exceeds that of different-sex couples by 28%. In rural areas, the difference is just 11%. The disadvantage for rural female same-sex couples is much greater. In urban areas, female same-sex couple median household income exceeds that of different-sex couples by 5%. But in rural areas, the income of female same-sex couples falls 13% below that of different-sex couples.

Like same-sex couples that include a person of color, rural same-sex couples evidence relatively high rates of child-rearing. While about 18% of same-sex couples are raising children in urban areas, nearly 26% of rural same-sex couples are raising children. These couples show evidence of economic disadvantage both when compared to same-sex couples who live in urban areas and compared to comparable different-sex couples.

In general, individuals in same-sex couples are more likely to receive public assistance than those in different-sex

© NY'S MARRIAGE EQUALITY LAW
Continued from page 28

Callen-Lorde Community Health Center, providing legal advice and representation to the Center's primarily LGBT patients with HIV and AIDS. His practice areas include benefits, housing, disability, consumer, discrimination, immigration, family, health, and employment. Dan can be reached at dpepitone@legalservicesnyc.org.

Andrea Zigman consults to Legal Services NYC, MIE and legal aid programs across the country. In her prior life, Andrea was a legal services attorney for more than two decades at the Legal Aid Society of Greater Cincinnati and at Orange County Legal Aid in California. She can be reached at azigman@legalservicesnyc.org.

- 2 Rachel Bash, South Brooklyn Legal Services
Audrey Carr, Legal Support Unit
Montel Cherry-Slack, Manhattan Legal Services
Jennifer Ching, Queens Legal Services
Mallory Curran, Manhattan Legal Services
Edward Josephson, Legal Support Unit
Pete Kempner, South Brooklyn Legal Services
Dan Pepitone, Manhattan Legal Services
Richard Saenz, Queens Legal Services
Tanya Wong, Legal Support Unit
Andrea Zigman, Consultant

© A GREAT UNMET NEED
Continued from page 32

Cathy joined NCLR in 2006 as an Equal Justice Works Fellow. She received her J.D. from UC Hastings College of the Law in 2006 and her B.A. from Stanford University in 2001. Prior to law school, she worked at Gay-Straight Alliance Network, where she empowered young people to combat harassment in their schools and participated in a multi-organization project linking work against homophobia with work against racism. Cathy was also previously a member of the Board of Directors of COLAGE, a national movement of children, youth, and adults with one or more lesbian, gay, bisexual, transgender, and/or queer parents. Cathy may be reached at csakimura@nclrights.org.

Daniel R. Redman is an attorney in the Elder Law Project of the National Center for Lesbian Rights (NCLR). He joined NCLR in 2010 as the recipient of both the Pride Law Fund Tom Steel Fellowship and the Berkeley Law Foundation Fellowship. Daniel leads the Del Martin Memorial LGBT Elder Advocacy Initiative, focusing on discrimination against LGBT elders.

Daniel received his J.D. in 2008 from the UC Berkeley School of Law (Boalt Hall), where he was an articles editor of the *California Law Review*, student notes editor of the *Berkeley Journal of Gender, Law & Justice*, and a research assistant to Professor Joan Hollinger. In addition to his legal work, Daniel is a GLAAD Media Award-nominated journalist and a contributing writer to *Aging Today*. He has written on LGBT issues for *The Nation*, *Slate*, *The American Prospect*, *The New Republic*, and other publications. His LGBT legal scholarship has appeared in the *Berkeley Journal of Gender, Law & Justice*, the *Seattle University Law Review* and *Connecticut Law Review*. Daniel may be reached at dredman@nclrights.org.

- 2 Transgender Law Center, *State of Transgender California Report: Results from the 2008 California Transgender Economic Health Survey* (2008), available at <http://www.transgenderlawcenter.org>.
- 3 American Psychological Association, "Answers to your questions about transgender people, gender identity, and gender expression" available at <http://www.apa.org/topics/sexuality/transgender.aspx>
- 4 In some states (like California), transgender people may have access to Medicaid coverage for some transition-related medical expenses.
- 5 Courts have noted that it is appropriate to refer to transgender litigants by their preferred pronouns and names. E.g., *Schwenk v. Hartford*, 204 F.3d 1187, 1192, n.1 (9th Cir. 2000) (Following "convention of judicial decisions" referring to transgender individuals by their choice of pronoun); *Farmer v. Haas*, 990 F.2d 319, 320 (7th Cir. 1993) ("[Appellant] prefers the female pronoun and we shall respect her preference").
- 6 National Center for Transgender Equality & National Gay & Lesbian Task Force, *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey* (2011), available at <http://www.transequality.org>.
- 7 Id.
- 8 This publication is available at: <http://www.transgenderlawcenter.org>.



BECOME A MEMBER OF THE MIE *JOURNAL* COMMITTEE: GUIDELINES

We would like to invite YOU to sign up to be an MIE Journal Committee member.

Duties and Commitment

- Help plan and guide four issues of the *MIE Journal* per year
- Participate in three hour-long meetings of the *Journal* Committee by conference call per issue
- Write articles and features regularly
- Suggest topics for articles and themes for “special features” — the focus of each issue
- Recruit authors from your network of managers/leaders to contribute thoughtful articles.
- Read and edit draft articles



- and for each issue, a theme that we explore through a combination of conceptual articles and a collection of shorter more specific notes, comments and reports, all of which try to present a range of creative and specific approaches that have worked in programs across the country.

Invitation

We invite you to join the MIE Journal Committee. To express your interest, please contact Patricia Pap, MIE Executive Director, at 617-556-0288, ppap@m-i-e.org.

Goals and Operating Principles

MIE’s purpose, embedded in our name, is the “exchange” of “information” about the “management” of legal services, defining “information” and “management” very expansively, a “big-tent” approach.

The *Journal* is a **forum for the legal services community**, and for each issue we seek a variety of articles, from practical and specific to philosophical and sweeping, including:

- thoughtful presentations on the meaning of our advocacy, as well as the frameworks our colleagues have created which help them remain passionate and energetic,
- introductions between members and leaders of our community,
- practical and concrete ideas about the daily operations of our programs: an exchange of suggestions and best practices about “management,” in the most literal and nitty-gritty sense,
- vigorous debate about particular issues or general trends in the ever-changing legal services world — not the airing of airing *ad hominem* attacks, but hosting a lively dialogue about the past, present, and future of our movement,

A Special Note on Retrenchment Challenges

The MIE *Journal* Committee is aware that many programs have gone through incredibly painful retrenchment experiences recently. We also understand that many more programs will be facing this challenge in 2012 and in the years ahead. Many, or most of us who have been through it (for some of us old timers, through it once again), feel that the pain is still too severe for ourselves, our current and former staff, our boards and our communities to engage in a truly valuable written dissection of events, impacts and outcomes. We do hear the requests for help from those of you entering the process. We do have lessons/experiences/observations that should be shared. We would like to offer our personal reflections to you. Members of the Journal Committee are willing to share our experiences and reflections in consultation. Please contact us. If you also are willing to share your experiences, please let MIE know.

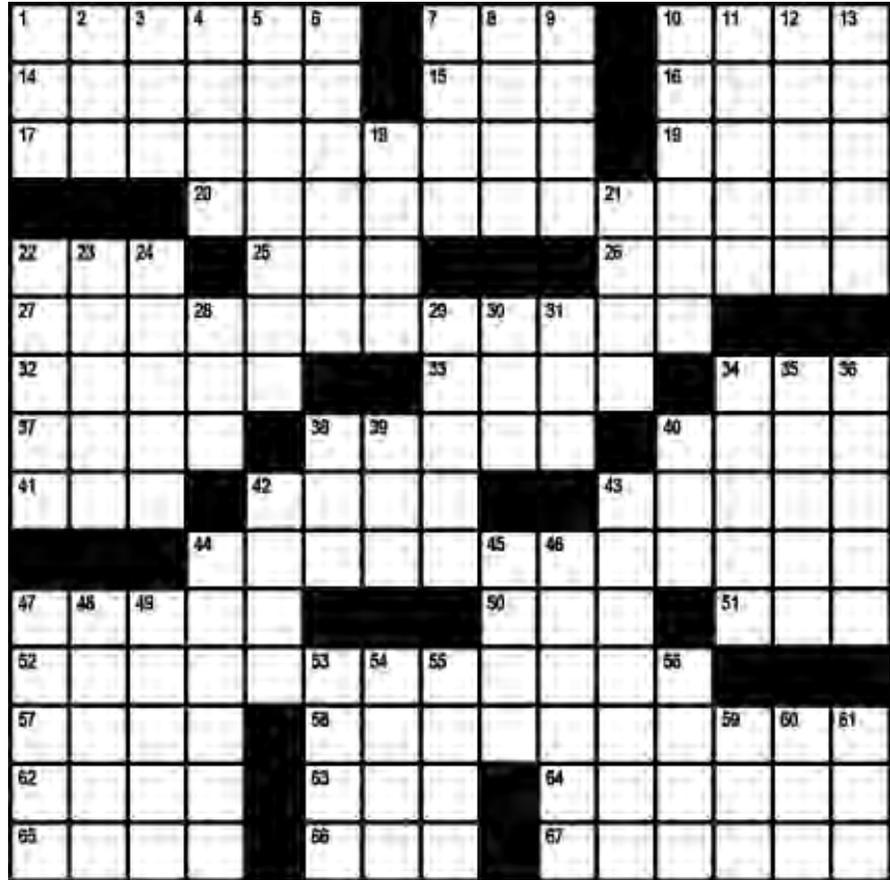
A New Spin on Elvis — A Puzzle

ACROSS

- 1 Arnaz-Ball studio
- 7 East Berlin's land, initially
- 10 "What ___?"
- 14 Cultural/teaching facility
- 15 John, to Ringo
- 16 ___ tab
- 17 Hauls in the loot
- 19 Agency. concerned with black boxes
- 20 *Elvis record about his hope that the gift he's opening doesn't have wool surface embroidery?*
- 22 Detachable container
- 25 Some QB protectors
- 26 Hopping mad
- 27 *Elvis record about how he transfers real property?*
- 32 Mrs. F. Scott Fitzgerald
- 33 Klutz's cry
- 34 Used to be
- 37 Bantu tribesman
- 38 Sin city of the Bible
- 40 Throw over, as a romantic partner
- 41 Some rush-hour periods: Abbr.
- 42 Symbol of stubbornness
- 43 Mideast's Meir
- 44 *Elvis record pleading with a prospective seller to accept his proffered purchase offer*
- 47 Heroic tales
- 50 It touches four Great Lakes: Abbr.
- 51 Starfleet Academy grad.
- 52 *Elvis record about an extortion incident?*
- 57 Dairy airs?
- 58 Flashy move for breaking stacks of bricks in half
- 62 Sweetie pie
- 63 "___ Had a Hammer" (Peter, Paul and Mary hit)
- 64 Pal of Jerry Seinfeld
- 65 Summer drinks
- 66 Letter that didn't "stand for anything" according to President Grant
- 67 Scheduled

DOWN

- 1 Beaver's work
- 2 Hurler's stat.
- 3 NASDAQ purchase



- 4 Old TV's "___ Three Lives"
- 5 Longtime Dodgers manager Tommy
- 6 African river
- 7 Smooth-tongued
- 8 Finito
- 9 Campus military org.
- 10 Cantankerous
- 11 Islamic decree
- 12 Map within a map
- 13 Word with kitchen or multiplication
- 18 ___ Helens, Wash.
- 21 Narrow inlets
- 22 Square meal on a cardboard wheel
- 23 Concert hall
- 24 Computers with a tilting E
- 28 Dean's e-mail address ender
- 29 Portmanteau word relating to computer connections
- 30 Berkeley law professor John associated with Bush Administration torture memos
- 31 Keyboard speed meas.
- 34 Literary Oscar
- 35 John on the Mayflower
- 36 Great balls of fire
- 38 Explorer or Blazer, e.g.
- 39 Blanca's "Bravo!"
- 40 Rock's Bon Jovi
- 42 Kind of pit
- 43 (: (::)) in a text or e-mail
- 44 Glasgow girls
- 45 Sci-fi sage
- 46 Some gov't. instruments
- 47 Brazilian dance
- 48 "That's ___ off my mind!"
- 49 Boston newspaper
- 53 Tom Joad, for one
- 54 33 — Across utterers
- 55 Kringle or Kristofferson
- 56 Sweet 16 org.
- 59 Single or double
- 60 "The loneliest number"
- 61 ___ Xing

Thanks to Pat McIntyre, whose puzzles also appear in the New York Times, for this crossword. The solution is on MIE's website: www.m-i-e.org.



“WOMEN ARE LIKE TEABAGS” BY DEIERDRE L. WEIR

An Interview with the Author and Review by Michelle Johnson, Director of Litigation, Legal Aid and Defender Association, Inc.

Deirdre L. Weir is President and CEO of Legal Aid and Defender Association, Inc. in Detroit, Michigan, one of the largest legal service providers in the United States, a position she has held for over twenty-five years. Ms. Weir, a native of Detroit, is past chair of the board of directors of the NLADA, and has held, and continues to hold, a variety

of positions within the legal services community as well as Detroit’s business and political community.

As a mentor to many inside and outside of the legal aid community, Weir believes that professional development not only encompasses solid management principles and training, but also nurturing and support of the person as a whole. She was recently a panelist at the 2011 NLADA Annual Conference in Washington, DC, which was focused on work/life balance. Weir is committed to not only providing avenues to help her staff achieve a balance between the dedicated work that they are committed to, but with her recently published book, demonstrates that she also pursues that balance. Having always had a love for writing, she has channeled that love into her first novel, *Women Are Like Teabags*, which was published in 2011. The following is a brief interview with the author and a review of the book.

Interview with the Author

What inspired you to try your hand at writing?

I have always enjoyed writing. I have discovered that fictional writing is the perfect escape for me from the day to day pressures that come with managing a law firm.

How long did it take you to write your novel?

It took me thirteen months to write the novel. I would work during the day and, to relieve the stress of work I would write for four-to-six hours most evenings.

Can you give a little detail about your process of writing?

Well, probably like most writers, I spent the most time developing the characters, especially the five women — the main characters. And then, unlike probably most writers, I just sat down and started writing freestyle. By that I mean, I had a general idea of the story, but I had no idea where it would go from beginning to end. One day, thirteen months later, I typed the last word and I then typed “the end.”

In our work as legal aid advocates, we encounter an interesting variety of people daily. It is a common theory that fiction novels are often in some way related to the author’s real life experiences. Did you get inspiration for any of your characters or storyline from your experiences in legal aid work?

LOL! Not at all. In fact I wanted it to be as far removed from what I did everyday as possible. Now, I did one character who was an attorney, but she didn’t practice law!!

Seriously though, I believe that the portrayal of the main characters as strong, independent, smart, and successful women of color, is a reflection of my own work environment. The majority of the members of my management team are females, and women of color. The interactions and support that the women in my book give each other, is a reflection of the relationships that have developed within the Legal Aid and Defender Association, Inc. (LAD).

I would assume that one would have to have a fair amount of structure and discipline to become a successful writer. Did you find any

parallels between your process in writing and your management experiences?

Yes, definitely! I am an A type personality. I like to set goals, timetables, deadlines, etc. And while the writing was fairly easy and effortless, because of my need to get everything just right (perfect), the editing was brutal. Every time I would read it, I would change something. It was hard to let it go. Similarly, I am very deliberate and structured in how I go about carrying out my day-to-day responsibilities at LAD. But I also try to think of “creative” ways to make what we do and how we do it more meaningful and enjoyable. In writing my book, I was very disciplined in scheduling time and process for my writing, but at the same time, it was fun. I also try to incorporate “life lessons” into the workplace; the book is full of “life lessons,” about women relationships and especially women in high positions in the workplace.

Have you found that your process of writing has added in any way to your management style?

I’ve realized that the journey to a goal is an important and enjoyable as reaching the goal. And I’ve learned that there is no such thing as “perfect.”

Can you give some “take aways” or “learnings” from your experience or process in writing or your experience as a new author?

- Writing fiction is much more difficult than non-fiction.
- Write about what you know.
- Seek input early on and often from people you know and trust to give you honest feedback.
- Enjoy the journey.

BOOK REVIEW

Women are Like Teabags is a look at the challenges and triumphs of five friends dubbed “teabags” by the author. The title is derived from a quote from Eleanor Roosevelt... “Women are like teabags...you never know how strong they are until you drop them in hot water.” The “teabags” are beautiful and successful in their chosen careers. Each of the “teabag” friends faces her own brand of “hot water,” and the author takes you on an absorbing journey through the lives and loves of the complex but very human characters. It is set in Detroit,

with wonderful references to landmarks familiar to native Detroiters, and gives others a nice taste of “the D.”

The story centers primarily around Minuete Winston, a beautiful, auburn-haired financial wizard who is executive vice president and second in command of one of the largest private investment firms in the country. She is a hair’s breadth away from the apex of her carefully scripted career and everything she has ever desired. She is also engrossed in an affair with Justin Carter, her married boss. As she approaches a milestone birthday, Minuete makes a miscalculation that places in jeopardy all that she realizes is most important to her.

Minuete’s best friend, Kersten Emmanuel, is a beautiful but self-centered attorney and co-owner in Emmanuel-Bryant, a management consulting enterprise. From Kersten’s perspective, the world was designed just to accommodate her and to do her bidding. Nothing much matters unless it pleases or benefits her. Kersten is married to Jackson Makkee, but their marriage is not as it seems. When Jackson is injured, Kersten’s self-centeredness takes on new dimensions as she strives to secure her happiness, which leaves even her long-time friends and fellow teabags speechless.

Morgan Bryant is Kersten’s partner in a successful management consulting business. She has managed to extract herself from marriage to a jealous, controlling husband, who tried to have her declared unstable when she started divorce proceedings. After extensive therapy, Morgan has reassembled herself, more self-assured and confident for her ordeal. Typically the sensible teabag, she steps out of her comfort zone in a way that leads her into an intriguing relationship. As she grows closer in the relationship, and opens her heart, her new feelings are tested as she tries to be supportive. Ultimately, Morgan finds her personal voice to be surprisingly strong and strident when needed.

Dr. Cydnei Daniels is a beautiful and successful doctor who is still a work in progress. Like her friends, Cydnei struggles with love. She has great difficulty breaking free of a long time love, whom even she agrees means her no good. But she finds her way through and a new beginning where she least suspects it.

Aeryne Jones, Cydnei’s older sister and a Pulitzer Prize-winning author, seems to have it all, to those who are on the outside looking in: a successful career, beautiful children, and an adoring younger husband. Aeryne, however, has her own brand of angst to deal with. Aeryne will simultaneously have to address critical issues within her marriage and a watershed moment

in her career. A story explosive enough to earn her another journalistic award, but which could cause someone she loves to lose everything, leaves Aeryne torn between loyalty and her journalistic integrity.

The overriding theme of the novel is that through the challenges and battles that each faces, several of which test the teabags' friendship, each of the friends comes to know that she is much stronger than she realizes, and to truly value the circle of friends to whom she is connected. The friends are there to love and support each other, provide counsel when guidance is needed, and even to bring voice and light to the ugly truth at times. Each teabag brings her own unique perspective to the events in the lives of the others. Just when you think you have a handle on the characters and their issues, the story takes a number of unexpected and shocking twists, each larger in its breadth and implications than the last. As the chain of events unfolds, revealing deep dark secrets that have been carefully guarded, the lives of the teabags are transformed.

Women are Like Teabags is an excellent read with well-developed characters and a satisfying ending that makes you want to hear more of the life and times of the characters.

Women Like Teabags is available for purchase online for \$19.95 plus shipping:
<http://www.womenareliketeabags.com/>.

Please also visit the website for additional information about the author and the book.

© ECONOMIC DISADVANTAGE IN THE LGBT COMMUNITY
Continued from page 47

couples, but the difference is substantially more pronounced in rural areas (see Figure 5). Among those in different-sex couples, rates of public assistance receipt do not vary much between urban and rural areas. But with the exception of men in same-sex couples raising children, rural individuals in same-sex couples are about twice as likely as their urban counterparts to receive public assistance. At greatest disadvantage are women in rural same-sex couples raising children, more than 7% of whom say they are on public assistance. This is higher than the public assistance rates for any racial/ethnic minority individuals within same-sex couples.

Individuals in rural same-sex couples are also more likely than either their urban counterparts or different-sex couples to report being without health insurance. This is particularly true for those raising children (see Figure 6). Nearly a third (32.8%) of men in same-sex

couples raising a child in a rural area say they do not have health insurance. For similar women in same-sex couples, it is more than a quarter (26.3%). Rates of health insurance do not differ that much for individuals in urban versus rural different-sex couples or same-sex male couples. But women in rural same-sex couples are much less likely to have health insurance than their urban counterparts. Among those without children, 13% of urban women in same-sex couples lack health insurance compared to nearly 21% of rural women. For those with children, the difference is 20% versus 26%.

Summary

Demographically, it is tempting to think of the LGBT community as a monolithic group. The findings in these analyses are designed to demonstrate that such thinking can substantially distort the salience of issues associated with economic disadvantage to the LGBT community. This is particularly true for LGBT people of color, those living rural communities, and those raising children. All of these subsets of individuals within same-sex couples are disadvantaged relative to other same-sex couples and most show disadvantage relative to comparable different-sex couples. Both policy makers and service providers interested in addressing the needs of the LGBT community must develop an expansive understanding of the racial/ethnic and socio-economic diversity within the community.

- 1 Dr. Gary J. Gates serves as the Williams Distinguished Scholar at the Charles R. Williams Institute on Sexual Orientation and Gender Identity Law and Public Policy. Gary is a recognized national expert on the geography and demography of the lesbian, gay, bisexual, and transgender (LGBT) population. He holds a PhD from the Heinz College, School of Public Policy and Management at Carnegie Mellon University, along with a Master of Divinity degree from St. Vincent Seminary and a Bachelor of Science degree in Computer Science from the University of Pittsburgh at Johnstown. Gary may be reached at GATES@law.ucla.edu.
- 2 *Romer v. Evans*, 517 U.S. 620, 636, 645-46 (1996) (Scalia, J., dissenting).
- 3 <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Albelda-Badgett-Schneebaum-Gates-LGB-Poverty-Report-March-2009.pdf>.
- 4 Analyses of couples presented in this paper used the 2010 American Community Survey Public Use Microdata Sample and were all conducted by the author.
- 5 http://www.thetaskforce.org/downloads/reports/reports/ntds_full.pdf.

Thanks to Ethnic Bridge for its sponsorship in part of this Journal.



MY FATHERS FIGHT

*by P. Johan Sekovski, Founder
Ethnic Bridge*

My father Nikola was born in a small farming village in former Yugoslavia. The people of the village were humble but self-reliant, hard working but kind-hearted. Their families, their land and their animals were everything to them. They lived peacefully until Hitler made the decision to go to war. In early April 1941, the German machine rolled south aided by neighboring Italy, Hungary and Bulgaria. Against four nations Yugoslavia had little chance and eleven short days later it was over. My father's childhood memories are of people running, women screaming and lots of gunfire. Some of the men were part of the Partisans which were the freedom fighters of the day. These men were singled out and executed in front of their families. My father watched in horror as his uncle was put on his knees and shot in the forehead in the living room of their home. With the village in ruin and the resistance squelched, the invaders then finished off the morale of the people by systematically killing all the farm animals. As you can clearly understand, without animals a peasant farmer is wiped out. They made the villagers dig a huge pit and then drag their own dead animals and throw them in.

Being the first male in the family line to graduate from college, my father took me back to the village as a type of graduation present. It was wonderful to visit the place that had previous to being there only filled my imagination with the stories that fathers and uncles had verbally passed down. I had always heard about the pit so I asked my dad where it was. He pointed to a nearby hill but clearly he didn't want to go with me. I walked up to the edge of the pit and looked over amazed to still see a huge pile of tangled bones. An elder yelled at me to get away from the pit. To this day no one goes near it as it is a continual reminder of those sad and fateful days.

Yugoslavia went from Nazi occupation to communism and so my father and uncles planned their escape. They waited until the border guards were a safe distance away and the three of them made a run for it. They made a pact that even if anyone was caught or fell the rest would push on. Unfortunately my uncle Risto, was shot and caught. He was tortured every day

for over a year and could barely walk when his ordeal was over. My father and his older brother made it and eventually wound up in a refugee camp outside Athens. They patiently waited for over three years until they were able to be placed.

My father was sent to Sweden and there learned how to be a machinist. At an outdoor café he met my mother and with a dance and glass or two of wine, the rest is history! They eventually made it to America. My father's dream after years of struggle finally had become reality. They settled in one of the poorest neighborhoods in the Buffalo, New York area, within a mile of Bethlehem Steel. I remember the train rumbling by on the tracks nearby delivering coal to the mill. The trains ran constantly and the noise was inescapable. I remember the soot and the noise the most. We lived in a garage that had been somewhat modified to barely accommodate people. It was rough but thanks to the machinist skills he picked up in Sweden, my father secured work at a nearby factory. He picked up another two jobs and learned English at a sponsored night-school. The American dream was slowly gaining momentum.

My dad was chronically exhausted but was relentless in his desire to make a better life. Mom struggled with depression as she was extracted from the rolling seaside hills of western Sweden and was dropped in a dirty, soot caked city in a rough neighborhood. In over 300 years of documented history at her family's local Lutheran church, no one had ever moved away farther away than thirty kilometers. Here she was far away and alone, raising children with a husband working three jobs. She lost her family, her culture, her language and her support network. Though our family always was filled with love, we were also very realistic about the current challenges.

I learned English as my third language and was often bullied and teased. Not fitting in is tough. I was keenly aware that my accent, my clothing, my hair style and my demeanor were different. School was a struggle as I had so many simultaneous issues to try to deal with. The good news is that we made it! I eventually became wrestling captain in high school and broke the

regions power-lifting record. Needless to say, no one was picking on me anymore!

Over the years I graduated with advanced degrees and became successful in business. My sister scored in the top 1% in the nation in her SAT scores and went to Dartmouth, the least snooty Ivy League school according to her! She passed on Yale and Harvard though she had academic scholarships to both. Our extended family is filled with college graduates who have become business owners, cardiologists, attorneys and skilled trade technicians. My father marvels at how all this was possible in one generation. I marvel that such advances are built upon the sacrifice of brave young men who in their teen years made a decision with their parents' blessing to escape and fight for a better life.

The immigrant journey is many times tragic. It is a heart-rending struggle to lean towards a better life. All the support mechanisms that yield internal equilibrium are gone and it can often be utterly disorienting and overwhelming. Years ago I founded Ethnic Bridge to serve those who have left everything in search of a better life. For me it is much more than a business. It is a clear internal passion. I understand what the immigrant community struggles with. I have been there. Our family went through it and because of that I have a unique perspective in aiding families and individuals. Communication is often a primary struggle as it is the key skill in adapting and figuring things out. The person who speaks little if any English is often referred to as an "LEP" or "Limited English Proficiency" person.

Linguistic barriers create a formidable obstacle for the immigrant community. To this end Ethnic Bridge was created. Our official tagline is "Ethnic Bridge addresses cross-cultural communication challenges by providing affordable over-the-phone interpretation in nearly 200 languages."

We have custom tailored our service to be easy to use and affordable. I am proud to say that we focus on Legal Aid offices nationally as well as schools, non-profits and pro-bono networks. My chief goal is to provide our service as affordably as possible. Over the years, hundreds of offices across the country have enjoyed substantial savings. I know funding is sporadic and challenging to say the least. Please allow me to customize a program for you that will accomplish your objectives while being kind to your budget!

I recently wrote a small piece in the January e-newsletter for the Management Information Exchange titled "Through Their Eyes." I want to thank you again for serving the immigrant community. Looking through the eyes of an immigrant in this new country can be overwhelming and confusing. Together let's build a bridge for them to cross over into their hopes and dreams!

For estimates and to customize an affordable over-the-phone interpretation program for your organization, please contact P. Johan (Peter) Sekovski directly at: 888-YES-ETHNIC (888-937-3846) or peter@ethnicbridge.com.



Articles published in the Management Information Exchange *Journal* represent the views of their authors and are not the views or policies of the MIE *Journal* Committee or the MIE Board of Directors. Readers are welcome to comment on articles appearing in the *Journal* and may do so by writing to the MIE *Journal* Committee. The Committee strives to present in the pages of the *Journal* diverse perspectives on the management and related issues in legal services.

MIE invites readers to submit articles for publication. Please note that the MIE *Journal* contains 56 pages and is published four times each year. Articles accepted for publication may not appear immediately but may appear in later issues consistent with the themes of the issue and the decisions and editorial policies of the MIE *Journal* Committee.

Management Information Exchange

99 Chauncy St., Suite 700

Boston, MA 02111-1743

T: 617-556-0288; F: 617-507-7729

www.m-i-e.org | Patricia Pap, Executive Director (ppap@m-i-e.org)

HOW TO JOIN



MANAGEMENT | INNOVATION | EXCELLENCE | FOR LEGAL AID

All directors and managers of legal services, IOLTA-funded, *pro bono*, Older Americans Act, protection and advocacy, and similar civil legal assistance programs, are invited to subscribe to MIE's services. Your yearly subscription entitles you to:

- Register at reduced fees for MIE training events,
- Receive the *MIE Journal*,
- Receive MIE's fundraising and management consulting services at reduced fees,
- Order articles, contracts, sample fundraising grants, and other materials from the MIE library,
- Call MIE as often as you like for referral to an experienced manager or information on a management or fundraising issue.

This subscription is an eligible expense with LSC funding.

Subscription Fees

Total program budget	Annual subscription fee	Copies of <i>Journal</i>
\$0 to \$500,000	\$150	One
\$500,000 to \$1 million	\$200	Two
\$1 to \$2 million	\$410	Three
Over \$2 million	\$640	Four
Over \$4 million	\$695	Five

Additional subscriptions to the *Journal* are \$40.

We will send your *Journals* directly to the managers and addresses you specify.

MIE SUBSCRIPTION FORM

Name _____ Title _____
Program Name _____
Address _____
City/State/Zip _____
Phone _____ Fax _____
E-mail _____ Date _____

Subscription Amount: \$150 \$200 \$410 \$640 \$695

Extra copies ordered @ \$40 each: _____ Total enclosed: _____

Please attach a list of the names and addresses of the managers who are to receive the *Journal*.

Make checks payable to *Management Information Exchange*
and send to MIE at 99 Chauncy St., Suite 700, Boston, MA 02111-1743

For more information, contact Patricia Pap, Executive Director, at 617-556-0288, or ppap@m-i-e.org.



99 CHAUNCY ST., SUITE 700
BOSTON, MA 02111-1743

MANAGEMENT | INNOVATION | EXCELLENCE | FOR LEGAL AID



PRESORTED
FIRST CLASS MAIL
U.S. POSTAGE
PAID
PROVIDENCE, RI
PERMIT NO. 421