Access Denied: LGBTQ Survivors of Intimate Partner Violence and Orders of Protection

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Survivors of intimate partner violence who are lesbian, gay, bisexual, transgender, and queer (LGBTQ) face unique challenges in accessing safety. Despite high rates of intimate partner violence within LGBTQ communities, many LGBTQ survivors remain fearful of accessing the criminal justice system and filing for orders of protection. Misconceptions, biases, and lack of education on the part of law enforcement and court systems create barriers for LGBTQ survivors, and may also re-victimize LGBTQ survivors. Some state-level public policies prevent LGBTQ survivors from accessing protective orders. This article will provide information about LGBTQ communities and intimate partner violence, unique issues regarding LGBTQ survivors and orders of protection, and recommendations to increase access for LGBTQ survivors of intimate partner violence.

LGBTQ Communities and Intimate Partner Violence

Recent research shows that LGBTQ people experience similar, if not higher, rates of IPV compared to their cisgender or heterosexual counterparts. The 2010 National Intimate Partner Violence and Sexual Violence Survey (NISVS) found that 44% of lesbian women, 61% of bisexual women, 26% of gay men, and 37% of bisexual men experience IPV at some point in their lives. The limited research that exists on how IPV affects transgender and gender non-conforming people shows that they experience higher rates of IPV compared to their cisgender counterparts, with one study finding that 31.1% of transgender people experienced IPV compared to 20.4% of non-transgender people. Additional research found that LGBTQ youth are more likely to experience all forms of relationship violence compared to heterosexual or cisgender youth.

NCAVP’s most recent national LGBTQ intimate partner violence report found that LGBTQ Black/African American survivors were 1.47 times more likely to be injured as a result of IPV than people who did not identify as LGBTQ and Black/African American. Undocumented transgender survivors were 3.83 times more likely to experience discrimination and 1.78 times more likely to experience harassment than people who did not identify as transgender and undocumented.

Many LGBTQ survivors of IPV do not seek orders of protection. Of the LGBTQ survivors who reported information on whether or not they sought a protective order, 24% of survivors sought an order of protection in 2014, 58% of which were successful in receiving them.
LGBTQ Communities, the Criminal Justice System, and Orders of Protection

LGBTQ communities have a historical distrust of the criminal justice system due to a long history of oppressive public policies against LGBTQ people and negative interactions with law enforcement and the criminal justice system. Many LGBTQ people remain fearful of accessing the criminal justice system because they do not know if they will experience bias, if they will be believed, or if their experience of IPV will be validated.

Not long ago, consensual same-sex sexual activity was a crime in the form of sodomy laws in many states, it was considered a mental illness to be LGBTQ, and LGBTQ relationships were not legally recognized. Police raids of LGBTQ bars and clubs were routine. The modern LGBTQ rights movement was started in response to the now-famous Stonewall riots in New York City in 1969 when LGBTQ patrons protested against a police raid against the Stonewall Inn. As a result, LGBTQ people have only recently been able to access the criminal justice system and many LGBTQ people are still fearful and distrustful of engaging this system. This fear and distrust causes some LGBTQ survivors to not attempt to obtain orders of protection.

LGBTQ survivors who are not out have the fear of being outed if they attempt to obtain an order of protection, and the fear of having to publically disclose information about their relationships in court. LGBTQ survivors may also fear that they will not be taken seriously, because LGBTQ intimate partner violence is still a largely invisible issue.

Public policies governing who can and cannot obtain orders of protection for intimate partner violence are somewhat inconsistent across the United States. Currently, most jurisdictions’ statutes have no specific language regarding same-sex relationships. However, North Carolina and South Carolina do not allow same-sex partners access to all of the relief provided in the protection order code. Most courts understand that any party that meets the definition of current or former spouse, dating partner, or present household member would be covered under order of protection statutes. Misconceptions and biases cause law enforcement and courts to make mistakes about LGBTQ survivors. The nuances of LGBTQ intimate partner violence can be complex, and responders may not be able to identify who is the survivor and who is the abuser in a relationship. When law enforcement respond to LGBTQ intimate partner violence calls, they are much more likely to arrest the survivor or make a dual arrest. These experiences can be used against LGBTQ survivors when they try to obtain orders of protection. Additionally, biases that intimate partner violence is less severe or serious between two people of the same sex, or involving transgender partners, cause LGBTQ people to be denied orders of protection.

What Advocates Can Do

Fortunately, there are many committed advocates working to create more inclusion for LGBTQ survivors to obtain the protection they need to address intimate partner violence. The following recommendations can help guide your efforts to create this critical access.

1. Understand LGBTQ communities and LGBTQ intimate partner violence. Seek out education and training to learn the basics of who LGBTQ people are and how to respectfully work with LGBTQ survivors. Learn about the unique experiences of LGBTQ survivors of intimate partner violence, key barriers LGBTQ survivors face, and how your program can overcome them.

2. Create inclusive services and policies so that LGBTQ people are not discriminated against when trying to access services or when they seek orders of protection. NCAVP’s Training and Technical Assistance Center has a simple needs assessment that can help identify areas for LGBTQ inclusion.

3. Advocate for inclusion beyond your organization. Educate judges, court staff, and law enforcement partners on the barriers LGBTQ survivors face when accessing the criminal justice system, misconceptions and biases about LGBTQ intimate partner violence, and the unique dynamics of LGBTQ intimate partner violence.

4. Reach out to LGBTQ communities to build trust and awareness. LGBTQ survivors will not know if they can access services unless providers and the criminal justice system actively work to overcome LGBTQ survivors’ fear and distrust. Outreach can be as simple as changing language on your website and written materials, to participating in LGBTQ events in your community.

5. Advocate for inclusive public policies, so that all LGBTQ people are able to access the critical protections they need.
There are resources available to advocates working to create inclusion and access for LGBTQ survivors. NCAVP’s National Training and Technical Assistance Center provides LGBTQ training and technical assistance to domestic and sexual violence victim service providers across the country. Other national LGBTQ technical assistance and training providers include the Northwest Network, The Network/La Red, and FORGE, who specializes in training and technical assistance on inclusion for transgender survivors. Please reach out to one of these organizations to support your efforts to create access and safety for LGBTQ survivors in your community.

Footnotes


5. National Coalition of Anti-Violence Programs. Ibid.

6. National Coalition of Anti-Violence Programs. Ibid.