

# LGBTQIA2S+ Issues in Teen Dating Abuse & Violence

## 1. Teen Dating Abuse & Violence Challenges for LGBTQIA2S+ Youth

LGBTQIA2S+ youth face unique barriers in recognizing, disclosing and escaping Teen Dating Abuse and Violence. Internalized and externalized homophobia, heterosexism and transphobia often lend themselves to tactics used by abusers. The discrimination, shame and isolation survivors experience because of their gender and/or sexual identity as well as the stereotypical view of assault and abuse as a heterosexual, cisgender couples' issue create substantial barriers to accessing support for LGBTQIA2S+ youth.

### Isolation:

**67%**

hear their families make negative comments about LGBTQIA2S+ people. \*

**42%**

indicated that the community in which they live is not accepting of LGBTQIA2S+ people<sup>1</sup>

\*This rate is even higher for youth who are not out to their parents (78%) and for youth of color.<sup>2</sup>

**Family:** A study on parental responses to “coming out” showed that in younger cohorts, common parental responses were that it is “**just a phase**” or that their child was “**too young to know.**”<sup>3</sup> This undermining and unsupportive response makes the family environment a much harder space in which to speak about their relationships, and thus, their abuse.

**Community:** Because their community, family and friends may reject them because of their gender and sexual identity, the only spaces that youth can find safe and accepting are limited, small LGBTQIA2S+ social circles. If a victim is part of the same social circle as their abuser, separating from an abuser or disclosing and escaping abuse may be rendered much more difficult. In cases where that separation is possible, they may then be ostracized and alienated from one of the few safe spaces/social circles to which they previously had access.

### Safety

The lack of community-specific and gender-affirming services may reinforce transphobic and homophobic thoughts for LGBTQIA2S+ youth. The limited or non-existent representation and conversation around LGBTQIA2S+ TDAV also leads to low confidence in service providers, law enforcement, and courts as to their sensitivity and the effectiveness of services for LGBTQIA2S+ people. Community services are vital for LGBTQIA2S+ youth's safety.

## What do community and gender-affirming services look like?

- Queer or trans specific youth groups
- Affordable and confidential gender-affirming medical and health treatment (including therapy)
- Community LGBTQIA2S+ centers
- School regulations that protect queer and trans youth
- Dating violence resources that reflect the experiences of queer survivors

## Shame

Students who are unsure of their sexual identity/orientation are at the highest risk of TDAV.<sup>4</sup>

*"I met Anthony through work when I was 22. The relationship seemed okay in the beginning, but in hindsight, there were warning signs of what was to come... Apart from my massive social withdrawal, the effect on my sexuality was really destructive. I became ashamed about being gay, about being sexually attractive and about having sexual desires. It was like going back in the closet."*

*-David, "Tales from Another Closet: Personal stories of domestic violence in same-sex relationships."  
ACON's Lesbian and Gay Anti-Violence Project. (2010)*

Homophobia, transphobia and heterosexism's social prevalence, and the discrimination and isolation that LGBTQIA2S+ youth experience is also internalized. Abusers, peers and the victim themselves may wrongly blame the abuse on the victim's sexuality or gender expression and identity. Additionally, the lack of representation of LGBTQIA2S+ relationships means that a "normalized" or "healthy" relationship standard doesn't exist, leaving a victim much more vulnerable to understand their abusers' abuse as "normal".

Feeling connected and claiming ownership over one's body can be a strong challenge for people who experience body dysmorphia and gender dysphoria. This can lead to shame and self-blame for the victim, creating additional barriers to recognition and admission of victimization and abuse. This could accentuate the victim's experience of psychological and physical abuse and isolation, leaving them more vulnerable and entrapped to the abuser.

## Disbelief

Society and popular culture often only portray and view abuse and violence as perpetrated by men against women. This leads to not only social stigma towards abuse in LGBTQIA2S+ relationships, but also institutional barriers.

When discussing female to female abuse in same sex relationships specifically, the occurrences are quite high, yet under-researched.

**43 %**

of LGBT youth reported being survivors of physical dating violence compared to 29% of heterosexual youth<sup>5</sup>

**67.4%**

of lesbian women reported having only female perpetrators of intimate partner violence<sup>6</sup>

**17.5%**

**&**

**24.5%**

of LBGTQIA2S+ students report having experienced sexual dating violence compared to 8.3% of heterosexual students<sup>7</sup>

## Stigma and Institutional Barriers:

Despite these high statistics, same sex assault continues to be under-researched because non-heterosexual sex and rape are often not perceived as “real.” This belief is accompanied by stereotypes of women as weak and/or nonviolent, incapable of assault and of men as incapable of being assaulted.

## Heteronormative Definitions of Sex and Survivors:

These beliefs are not only socially accepted and replicated, but many institutions also uphold heteronormative definitions of sex in their practices, including law enforcement, healthcare systems, and several states’ rape statutes.

### Examples

- Idaho defines rape as “the penetration, however slight, of the oral, anal or vaginal opening with the penetrator’s penis.” A separate definition exists for male-on-male rape, but not for female-on-female rape.
- Indiana defines rape as an act where the victim is of the “opposite sex”.

### Impact

- Law enforcement responses reflect the impact of these policies and stereotypes.

**64%**  
of LGBTQIA2S+ students experienced indifferent reactions from school security officers<sup>8</sup>

**36%**  
of providers reported that police did not recognize domestic violence in same sex relationships and **28%** reported they did not with transgender survivors<sup>9</sup>

- Shelter and support services are predominantly geared towards serving female victims abused by male perpetrators, leaving victims unprotected from their female abusers, and restricting services for male victims.

## Community:

There are concerns that the acknowledgement of violence committed by women against women might reinforce prejudice against lesbians or minimize concerns about the scale of male violence perpetrated against women. For example, calling out an abuser could reinforce the stereotype of lesbians being predatory and a “threat” to straight women. All of which are toxic, misconstrued and false assumptions. They do not make female on female abuse any less real or traumatizing and in no way should validate disbelieving survivors. Victims are not going against their community, they are recognizing abuse.

## The Risk of Being “Outed”

Teens are much more likely to not be “out” or still be in the process of figuring out their gender and sexual identity. An abuser may threaten to “out” their partner as leverage in their relationship. It may also be much harder for a victim to seek help, especially from peers, family, and authority figures because they are not ready or in a safe environment to reveal that they are not in a heterosexual relationship. It isn’t just about how one is outed, but also where and to whom.

### Outing isn’t just about sexuality:

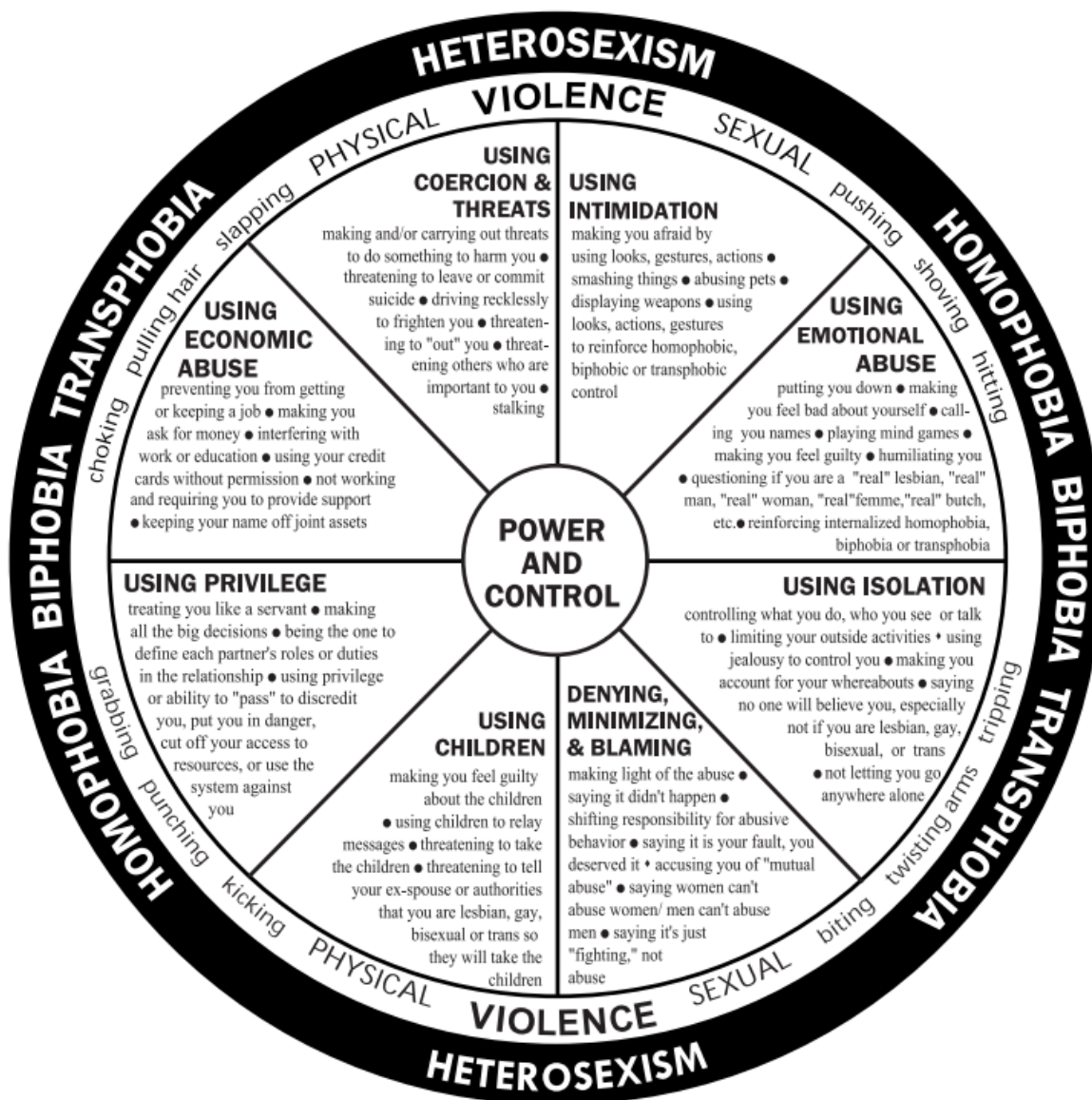
It can *also* include:

- Sexual history
- Gender identity
- Gender presentation in certain contexts
- HIV status

### Outed where?

- In school
- In extracurricular activities
- Online
- To friends and families
- To someone an abuser knows will be ‘unsafe’ for the victim

## 2. Power and Control Wheel for LGBTQIA2S+ Abuse



This wheel<sup>10</sup> is another version of the original "Power and Control Wheel" shown in our previous sheet on "The Dynamics and Consequences of Teen Dating Abuse & Violence". It displays the additional challenges facing a victim in an LGBTQIA2S+ abusive relationship. Abusive partners can reinforce tactics to maintain power and control with societal factors that compound the complexity a survivor faces in leaving or finding safety in an LGBTQIA2S+ relationship.

### 3. Transgender Youth and “Passing”

*“Passing ultimately forces an individual to live their life in the confines of society’s perception of normal which includes the looks, sounds, traits and actions typically allied to a binary gender.”*

-Transgender Hub, “Is Passing Really That Important”, (2017), retrieved from <https://www.transgenderhub.com/is-passing-really-that-important/>

#### Definition:

- Passing refers to a transgender person’s ability to be correctly perceived as the gender they identify with, and to *not* be perceived as transgender<sup>11</sup>.
- Passing refers specifically to trans people who recognize themselves in the gendered binary of either men or women. It should be noted that some non-binary people cannot “pass” as the gender with which they identify, because it is outside of the binary. Passing is rooted in “**cisnormativity**” – the assumption that everyone has a gender identity that matches the sex they were assigned at birth.

#### How does “passing” (or not) affect how someone is treated by others?

##### Ambivalent Privilege of Passing.

- Trans people who “pass” are less likely to experience harassment in public spaces such as gendered bathrooms, gendered sections of stores, while filling out any forms, and/or in the street.
- Their pronouns and preferred name are more likely to be respected, reaffirming their identity.
- Trans people who “pass” get more media attention because it makes their experience more understandable and relatable to cisgender people.

##### Community Isolation and Identity.

The ability to “pass” is not something that every trans person wants or has access to. “Passing”:

- can alienate a person from others in the queer community.
- means being seen in a cis gender binary because of cisnormativity, and in upholding and maintaining the assumption of being cisgender, a trans person may also feel that they are erasing a part of their identity for the sake of safety and understanding. Some people prefer saying they are “blending” with the general population without drawing attention to their gender.
- “Conversations, intimacy, experiences, cultural references, mindsets, health all have distinctly unique aspects when you’re transgender.”<sup>12</sup>

**Teens access to passing.** Teens are much less likely to have access to medical and social transition. They depend and live with their family, and usually have little or no financial independence.

- Their ability to be “out” is limited is by their family and social environment. Using a different name and pronouns can be difficult to navigate if they don’t want their unaccepting family to find out. Additionally, depending on the school and authority figures, they may not have the option to use their preferred name. They would need their family’s consent to change their legal name.
- Medical transition requires a significant amount of assets and care. Without the support of their family, they will not afford this care, or the space to recover and heal in the case of surgery.

**Harassment and violence.** Many instances of transphobic violence or harassment are triggered by a sense of being tricked or betrayed. For example, a man catcalling a trans woman on the street may initiate harassment based on the belief that their victim is a cisgender woman, and can then become violent upon “discovering” that their victim is trans.

**Rejection of identity.** A cisgender person may feel “tricked” when they discover a person is transgender. This sense of betrayal and of being lied to is rooted in the belief that everyone is cisgender, and that trans men are not real men and trans women are not real women. **This concept is transphobic and wrong.**

**Transition:** Trans and non-binary people do not all need or want surgery in order to appear and feel comfortable as who they are. Additionally, **young people are less likely to have the resources to undergo medical transition** even if they want to. Every transition needs, experience and body are different for each trans person<sup>12</sup>

**Passing challenges how we understand gender:** “In an ideal world, passing does not exist as a term—there is no need to prove the gender you align yourself with. You simply are. Trans-identity does not have requirements to fulfill, other than being transgender... **Gender is not earned, it is lived**”<sup>12</sup>

## The Panic Defense

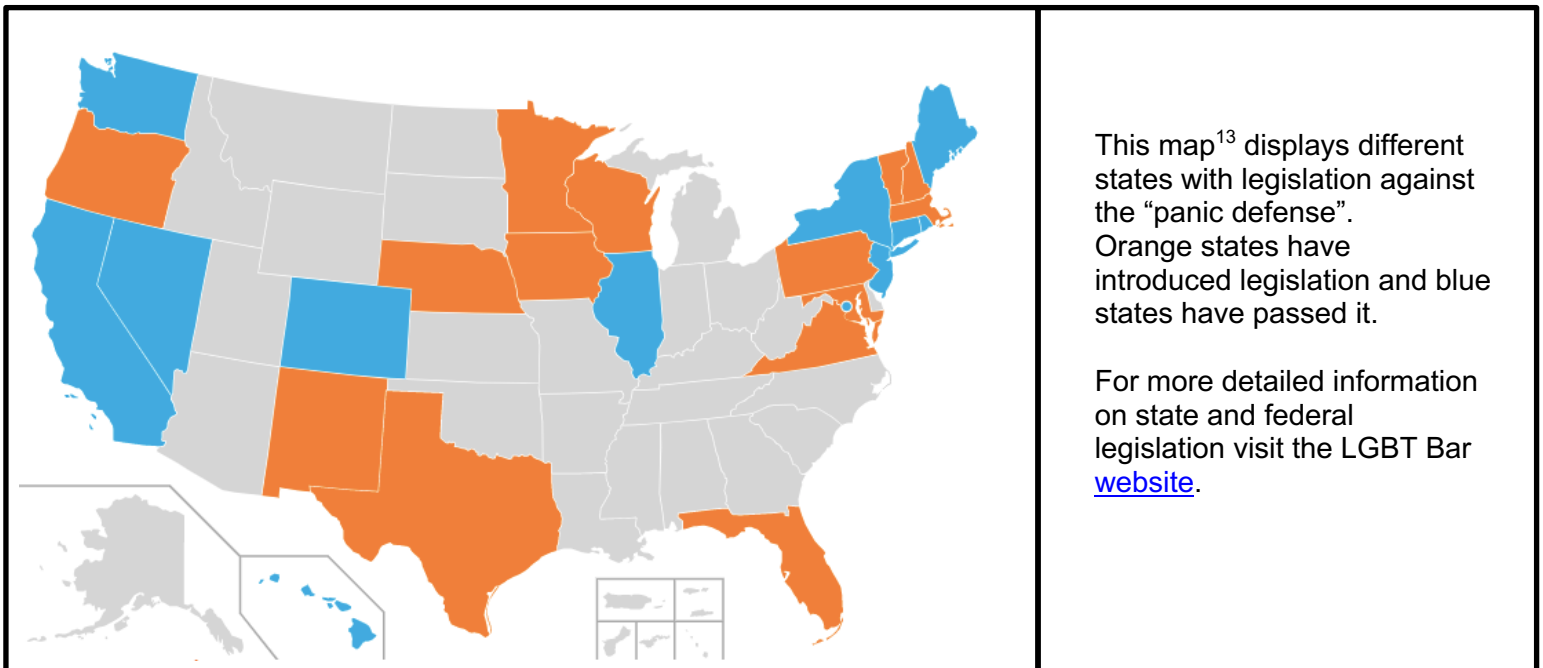
*“The LGBTQIA2S+ “panic” defense strategy is a legal strategy that asks a jury to find that a victim’s sexual orientation or gender identity/expression is to blame for a defendant’s violent reaction, including murder.”*

-LGBTQIA2S+ “Panic” Defense, LGBT Bar

It has been used as a defense theory of provocation, of diminished capacity, and of self-defense. The Panic Defense exemplifies a way in which “passing” can pose a danger to trans youth and a way in which judicial systems can undermine the safety of transgender victims. The LGBT Bar continues to work to ban this defense in all states, but as of now, only 11 states (California, Illinois, Rhode Island, Nevada, Connecticut, Maine, Hawaii, New York, New Jersey, Washington, Colorado) have done so.

*This defense is based on “the idea that violent, vicious reactions to LGBT people are understandable because there’s something about us that is so shocking and so horrifying that a violent reaction is to be understood.”*

Jenny Pizer - Law and Policy Director of LGBTQ advocacy group Lambda Legal



This map<sup>13</sup> displays different states with legislation against the “panic defense”. Orange states have introduced legislation and blue states have passed it.

For more detailed information on state and federal legislation visit the LGBT Bar [website](#).

## History of high-profile cases having used the “trans panic” and “gay panic” defense:



**1998:** Murder of 21-year-old Matthew Shepard in Laramie, WY by two men after Shepard put his hand on one of the men’s knees.

**2002:** Murder of Gwen Araujo, a 17-year-old trans woman in California who was killed by four men, two of whom she had been intimate with, after they discovered she was transgender.

**2019:** Murder of 17-year-old Nikki Kuhnhausen in Washington by a 25-year-old Vancouver man who had been seeking a sexual encounter with her and strangled her to death after learning that she was transgender.

### Case Study on the Panic Defense

A 17-year-old trans woman, Kayla, starts dating a cisgender man named X who is a few years older than she is. They met on an online dating app. They’ve gone out together several times and started to kiss and hold hands.

Kayla started taking estrogen a year ago, and while her friends and family know that she is trans, she often “passes” as a cisgender woman and is rarely questioned about her gender identity. She does not disclose to the man she’s been dating that she has not undergone any surgical transition, although she plans to when she saves up enough money.

After dating for several weeks, they decide to become intimate and she discloses to him that she is trans. He becomes enraged, telling her that she lied to him about who she was and that he can’t believe he kissed a man. He strikes her across the face. She manages to leave, but afterwards he begins texting her non-stop with transphobic slurs. A week later he outs her publicly on her Facebook page. She files a police report for the assault and harassment. The police officer who interviews her misgenders her several times and keeps using her deadname (the name she was given at birth and no longer uses) even after she corrects him multiple times. When the case goes to court, X invokes the Panic Defense, stating that he was threatened by her disclosure that she was trans.

### Elements of Kayla’s Story:

#### Cisnormativity

X assumed that Kayla was cisgender and claims that the revelation about her gender identity was a threat that justified his violence. In his mind, he consented to being with a cisgender woman, not a trans woman. However, Kayla did not misrepresent her identity as a woman, and the assault against her is a crime.

### Blame and Isolation

Kayla may experience intense shame because her identity was used to justify the use of violence against her. Kayla already feels isolated because of the limited representation of trans women in the media and the lack of resources serving LGBTQIA2S+ youth in her community. The abuser's behavior and prejudice amplifies this isolation.

### Accountability

Kayla decided to turn to the justice system to hold X accountable, but doing so meant exposure to harassment and discrimination at the hands of police. Accountability needs to focus on the actions of the abuser, rather than the victim's sexuality/gender identity.

### Erasure

X's assumption that Kayla is cisgender erases part of her identity. Kayla has not chosen to be transgender; she is transgender.

### "Passing" as a double-edged sword

Kayla's ability to "pass" allows her to move through the world without being subjected to significant levels of harassment. However, X felt threatened by his attraction to a trans person and felt betrayed when she disclosed to him that she is trans.

The abuser is making the victim's identity about himself. Kayla's sexuality and gender identity are hers; the way the abuser feels about and relates to them is not the victim's responsibility. This type of defense and its use in the legal system creates a very unsafe environment and connection to the court system for youth.

## 4. Bullying, Mental Health & Schools

**80%+**

of LGBTQIA2S+ middle and high school students have been subjected to harassment at school & their sexual orientation/gender expression were reported as the most common reasons for the harassment<sup>15</sup>

**40+%**

of LGBTQIA2S+ students reported being subjected to cyberbullying in the past year, almost 3 times more than non- LGBTQIA2S+ youth<sup>14</sup>

**60%**

of LGBTQIA2S+ students reported having been subjected to LGBTQ-related discrimination by their school itself.<sup>15</sup>

### Unwelcoming Environment:

As the statistics above show, peer harassment is not the only challenge LGBTQIA2S+ students face. The discrimination schools perpetuate makes them unsafe places to report harassment, because they are part of the problem. The most common reasons officially recorded for underreporting were that students did not feel that the school would respond with effective intervention meaning reporting might worsen the harassment.



## What does this mean for TDAV:

- **Sexual Harassment:** This harassment and bullying is also sexual - 1 out of 3 LGBTQIA2S+ youth reported being sexually harassed online in the past year<sup>14</sup>. “Lesbian, gay, bisexual, transgender, and questioning (LGBTQ) youth reported **significantly higher rates** of cyber dating abuse victimization, and perpetration than heterosexual youth.”<sup>16</sup>
- **Reporting:** Bullying and unsupportive school systems leave youth more vulnerable to dating abuse and undermine their confidence in the school’s ability to effectively intervene, creating a deterrent to reporting to school or safety authorities.
- **Relationship to Authorities:** Less than 5% of LGBTQIA2S+ survivors of dating violence seek protective orders. Schools are among the first places in which LGBTQIA2S+ youth may learn that harassment and abuse will be met with impunity by authorities.<sup>17</sup>

## Suicide

40%

of transgender adults report having made a suicide attempt

92%

of this group report having attempted suicide before 25 years of age<sup>18</sup>

- A hostile school environment has a significant impact on a young person’s mental health (LGBTQIA2S+ youth with high rates of peer victimization have significantly higher rates of suicidality).
- LGBTQIA2S+ youth who have had **1 or more adverse childhood experience (ACEs) were more likely to have undergone conversion therapy**, and those who were subjected to conversion therapy are almost twice as likely to experience suicidal ideation or attempt suicide when compared to their peers.<sup>19</sup>
- LGBTQIA2S+ young people experience suicidal ideation at 3 times the rate of heterosexual youth and are almost 5 times more likely to attempt suicide.<sup>20</sup>

## Benefits and Online Community

With the small amount of accessible and existing in-person services, the online world creates sources of community and support, especially for LGBTQIA2S+ youth. 73% of LGBTQIA2S+ youth say that they are more honest about themselves online than in the real world (as opposed to 43% of non-LGBTQIA2S+ youth).<sup>21</sup> Despite the higher occurrences of harassment and abuse online, this medium does create safety, community and resources for these youth.

# 5. Primary Aggressor Analysis and the Myth of Mutual Abuse

LGBTQIA2S+ teen dating abuse and violence is especially prone to the Myth of Mutual Abuse being upheld by the abuser, and perpetuated by support services, their social environment and the court system because the stereotypical gendered roles of abuser and victim are no longer attributable. It is important to look under the surface, looking at the “wide range of behaviors of both partners in the relationship and determin[e] who has the power and control over the other person.” (LGBTQ Partner Abuse, The Network/La Red)

## The Myth of Mutual Abuse

*In situations where both partners are injured or being violent towards each other, some abusers may claim to a court that they are the victim. Judges may be inclined to view or label a relationship as “mutually abusive”. The stereotypical view of men as abusers, and women as victims also reinforces the view that same-sex relationships are mutually abusive.*

**This is a myth.**

## Reality

Abuse is about an imbalance of power and control<sup>22</sup>. In an abusive relationship, there may be unhealthy behaviors from both partners, but one person always controls the relationship, makes the most serious threats and causes the most injury – *the primary aggressor*. So what makes courts and society view this as mutual abuse? What allows abusers to frame themselves as the victim?

### Self-Defensive Behaviors:

When one suffers from abuse, they may need to use vocal and physical violence for protection, or even survival.

Self-defense does not equal abuse.

### Assumptions & Gender Roles:

LGBTQIA2S+ abuse breaks the stereotyped thinking that men are abusers and women are victims. Society normalizes the view of the abuser as male, strong and physically abusive. As described in “The Dynamics and Consequences of Teen Dating Abuse & Violence” sheet, there are many different kinds of abuse, physical, emotional, economic, etc.

Abuse can be enacted by and towards people of all sizes, genders and can take many different forms. Even if it is physical, strength and size

### Blame Shifting:

Abusers may try to manipulate their victim into thinking they are responsible and accountable for the violence they are suffering. Abusers can use acts of self-defense, frustration and anger to frame themselves as victims, and aggravate the abuse through guilt.

### Difference between survivor and abuser:

Victims may not recognize the red flags of abuse in their abusers’ behaviors and this, along with an abusive partner’s constant manipulation and blame shifting, can make it hard for one to view themselves as the survivor and *not* the abuser. One important difference between survivor and abuser is the willingness to seek change. Admitting to unhealthy or abusive behavior, committing to stopping, reaching out for help and asking about the process of change are things that abusive people rarely do.

## Role of Courts:

The following excerpt from Karen Lee Asheran's article about abuse in lesbian relationships exemplifies the dangers and repercussions of systems upholding the myth of mutual abuse, for both the victim and the abuser:

*"When a victim seeks help and is told that she is in any way (even equally) responsible for the violence, she hears that the abuser is right. The message is that she is to blame, therefore has the power to fix the violence, and she returns to her critical self-dissection which is encouraged by her partner. This keeps her more deeply trapped in the relationship, and consequently increases the risk of lethality. In addition, telling an abusive woman that her partner is equally abusive releases the abuser from responsibility, and eliminates any hope for accountability. She believes not only that she need do nothing to improve her behaviors, but also her sense of herself as victim is fortified."*

- Karen Lee Asheran, "Some thoughts on the Myth of Mutual Abuse", 2006, retrieved from <http://vawnet.org/sites/default/files/materials/files/2016-08/ThoughtsonMutualAbuse.pdf>

**It is vital for courts to perform primary aggressor analysis.** This analysis should be done before a litigant gets to the court appearance.

### What do Screening & Assessment tools do?

*"Proper assessment can mean the difference between assisting a survivor in escaping abuse and isolating a survivor from help by mistakenly assisting their abuser."*

Determine if the individual in question is a survivor or perpetrator of abuse, or neither.

- Context: Questions leading up to the behavior
- Intent: Reasoning behind the behavior
- Effect: How did the behavior impact the individual

### LGBTQIA2S+ cases of abuse:

The reality of LGBTQIA2S+ abuse may not seem as it does on its face. With proper assessment, a fuller story may emerge. Traditional modes of analysis might be turned on their head.

Cross-protective orders and harms committed on both sides are common in LGBTQIA2S+ abuse. This does not imply mutual abuse. Courts must consider their assumptions, self-defensive behaviors and perform in-depth assessments. It is vital to perform primary aggressor analysis.

### Screening:

Evaluating the balance of power and control in a relationship might mean screening for:

- individual autonomy
- effect/consequence of behavior
- use of threat of physical violence
- sexual coercion
- entitlement
- fear and dread
- isolation

### Role of Judges:

Some judges may think it is not their job to find out who the real victim and rather that it is their job to find out whether family offenses were committed.

As shown in the passage from Karen Lee Asheran, in this context self-defense **efforts undertaken for survival can be delegitimized**, and used against victims to undermine what they experienced.

**LINK TO RECOMMENDED RESOURCE: [NYS LGBTQ Intimate Partner Violence Network, "Power and Control in Relationships: An Assessment Tool,"](#)**

## 6. Judicial Leadership

### Barriers LGBTQIA2S+ Youth Face in Coming to the Court System:

LGBTQIA2S+ youth are affected by many issues unaddressed by the justice system. This environment may be or feel like one where they cannot be or present as their true self, and have their identity respected. Courts and authorities have historically disproportionately targeted and discriminated against LGBTQIA2S+ youth, with hostility, or structural laws directly taking away their rights and services.

For young people generally, it takes a lot of energy, courage and strength to engage with to the court system, but the **history and prejudice LGBTQIA2S+ youth are at risk of makes it especially hard for them to see the courts as an avenue for help or protection.**

#### History of discrimination and oppression by courts and authorities :

**Laws:** Marriage is only recently legal; anti-sodomy laws; successful panic defense strategies, bathroom laws; transphobic laws prohibit access to healthcare and sports.

#### **Police brutality:**

- Transgender people were 7 times more likely to experience physical violence when interacting with the police compared to cisgender survivors and victims.<sup>23</sup>
- Prison industrial complex and the overincarceration of POC and LGBTQIA2S+ folks: almost fifty percent of transgender people of color reported believing that they had been "arrested for being trans."<sup>24</sup>

## Disproportionate Representation in the Criminal Justice System

*“Researchers argue that this combination of bullying, family rejection, running away, and homelessness has led to the overrepresentation of LGBTQ youth in the justice system.”<sup>25</sup>*

### Arrests:

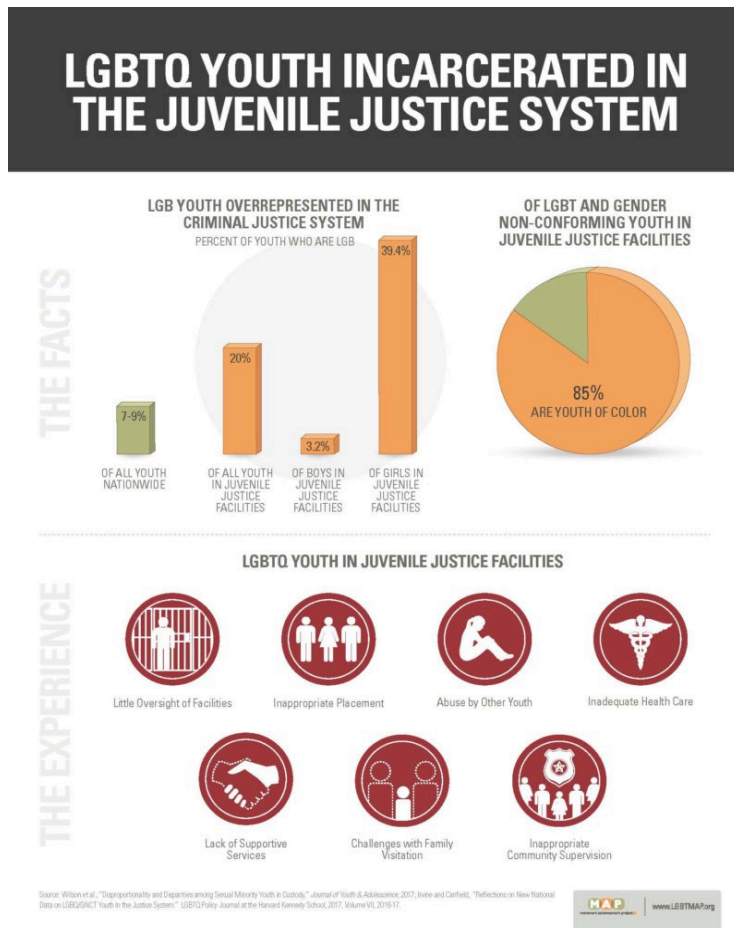
- **Prostitution:** Queer young women are **2x** as likely, and queer young men are 10x as likely to be **incarcerated** compared to non-LGBTQIA2S+ peers.<sup>26</sup>
- **Other Non-Violent Offences:** LGBTQIA2S+ youth are confined **at twice the rate** of their heterosexual/gender conforming peers.<sup>27</sup>

### Incarceration:

- **40%** of girls in juvenile detention identify as LGBTQIA2S+.<sup>28</sup>
- **20%** of the juvenile detention population identifies as LGBTQIA2S+, **85%** of them are youth of color.<sup>28</sup>

### Sexual Assault:

LGBTQIA2S+ & gender non-conforming incarcerated youth are much more likely to be sexually abused than adults, and their heterosexual peers.<sup>27</sup>



### Impact:

LGBTQIA2S+ youth experience a lot of fear about not being believed or taken seriously, and being unsafe. They may feel that the justice system is more likely to criminalize them than to help them, and is not made for them.

## How to make courtrooms a safer space for LGBTQIA2S+ Youth: Inclusive Language

**Law:** Federal law prohibits sex discrimination, including discrimination based on gender identity or transgender status, and several cities and states have specific anti-discrimination laws that prohibit intentionally failing to use a person's preferred name, pronoun, or title. For example, New York City Local Law No. 3 (2002), Code § 8-102 requires employers and covered entities to use the name, pronouns, and title with which a person self-identifies, regardless of the person's sex assigned at birth, anatomy, gender, medical history, appearance, or the sex indicated on the person's identification.<sup>29</sup>

**Need for Safety:** Using inclusive language is the first step towards making LGBTQIA2S+ youth feel safe in your courtroom. The history of discrimination against LGBTQIA2S+ people in the judicial and legal system makes the initial contact and knowledge of the courtroom a difficult and scary place for youth to get to, using language that shows you recognize and accept their identity is a first step towards making them feel comfortable and seen. Additionally, administrative paperwork and ways to identify themselves usually already cause them to deny or erase part of their identity, assigning the wrong gender and name, reinforcing the fact that they should not be themselves, or feel like themselves in this context, losing one's basic right to be recognized, and referenced, as who they are. The courtroom can become a place that helps, rather than a place that oppresses, erases and attacks them.

Below are guidances<sup>30 31</sup> on how to implement and use this inclusive, gender-affirming language and paperwork.

## GENDER-SPECIFIC & GENDER-NEUTRAL PRONOUNS

**GENDER-SPECIFIC PRONOUNS** are the ways we refer to each other in the third person. People who are transitioning in some way might choose to change their pronouns.



GENDER-NEUTRAL PRONOUNS

**THEY  
THEM  
THEIR**



I saw Lauren come to work today and **they** seemed really happy. I wonder if it has anything to do with **their** weekend. I hope I see **them** soon to hear all about it!

**ZE (ZEE)  
SIE (SEE)  
ZIE (ZEE)  
HIR (HEAR)**



I saw Lauren come to work today and **ze** seemed really happy. I wonder if it has anything to do with **hir** weekend. I hope I see **hir** soon to hear all about it!

### ASK



You cannot tell someone's name or pronoun just by looking at them.

### RESPECT



If someone takes the time to let you know their name and pronoun, use and respect it. It's not up to you to decide someone else's identity.

### PRACTICE



If you have difficulty using someone's pronoun and name, practice. Ask co-workers, peers, and friends to point out when you've made a mistake.

Hi everyone, my name is Lauren. My pronouns are she and her.

**ASK!** If you find yourself unsure of someone's pronoun, be attentive to how others refer to this person. If you are still unclear or concerned that people might be using the incorrect pronoun, politely and **privately** ask that person what pronoun they use.

All name tags and name plates can also have a spot to show someone's pronouns.



Start meetings with everyone introducing themselves and stating their pronoun.

## STARTING CONVERSATIONS

### AVOID ASSUMED USE OF GENDERED TITLES



USE THESE TITLES ONLY AFTER YOU HAVE CONFIRMED HOW SOMEONE WISHES TO BE ADDRESSED.

### EMAIL CONVERSATION

TO OPEN AN EMAIL DIALOGUE, CONSIDER STARTING IT WITH...

#### WHEN WRITING AN EMAIL,

it is not required to use a gender-specific title (i.e., Mr., Ms., Miss., Mrs.), consider just using the person's first and last name. Along with gender-neutral pronouns, you can use Mx. as a gender-neutral title.



### SAMPLE CONVERSATIONS THAT REMOVE GENDERED TITLES



Hi there, how are you today?

How can I help you today? What would you like support with?



I would just like to confirm what name you go by. [...] Great, thanks so much for giving me that information. I will make a note with your account to ensure that other folks know that this is your name.



Is there anything else you would like to tell me to help us better meet your needs?

#TRANSINCLUSION

INFOGRAPHIC DESIGN BY: LIGHTUP.THE.SIX/CA



#TRANSINCLUSION

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## Policies & Paperwork

Have both preferred and legal name on any paperwork, inquire about a young person's pronouns, and make sure to use the preferred name and pronouns stated.

### **Courts as a Safer Space:**

Create a court environment in which there is no tolerance for homophobic or transphobic language by others in the proceedings:

- Avoid “**misgendering**” (using the wrong pronouns) or “**deadnaming**” (using a person’s pre-transition name) when identifying an individual. Misgendering and deadnaming create a hostile and exclusionary environment. It can also accidentally out someone, making them feel unsafe or triggering traumatic memories of discrimination and erasure.
- Correct other people when they misgender or deadname someone. If you are corrected, apologize without justifying why you made the mistake. If the individual visibly looks thrown off and upset, allow them space to process the emotions they are experiencing.

## **Protecting Confidentiality**

**Disclosure:** Be conscious that not all youth are “out” to family, friends, and social circles, and of the risks and fears LGBTQIA2S+ teens face when disclosing their identity:

- Fear of reinforcing stereotypes about community and/or culture
- Fear of betraying family, community and/ or culture
- Fear of being ostracized from family, community and/or culture
- Fear of retaliation
- Fear of discrimination by courts and other authority figures

### **Respecting Confidentiality:**

- Be mindful about discussing gender identity in open court or court documents without permission when it is not relevant to proceedings
- Be mindful of how issues are raised and whether something could be used against litigants if they are not “out.”
- Allow individuals to define their gender and identity.

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- <sup>8</sup> “Protected and Served? School Security, Policing and Discipline,” Lambda Legal, 2015, <https://www.lambdalegal.org/node/30521>.
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