Transwomen in Women-only Domestic Violence Shelters

Transwomen are currently accepted in very few women-only shelters in the United States. These paragraphs examine the experience of domestic violence in the transgender community and present suggestions for better addressing the issues in women-centered facilities. The discussion is presented in the format of questions and responses structured around inquiries likely to be asked by shelter administrators when exploring transgender inclusion.

The first two questions cover the need for expanding access to transwomen first in terms of the amount of violence estimated to be experienced in the community, and second in terms of the lack of existing support. Questions three through six cover broad considerations about why access is important and possible qualifications for access, and questions seven and eight cover some of the legal and ethical issues. Question nine covers some of the policy considerations to address when expanding access. Finally, question ten lists current resources that are available to help in developing a trans-affirming policy, followed by resources cited and references for further reading.

We hope that these begin to answer some of the questions that women-centered shelters might have about being more inclusive of transwomen in their services. If you have additional questions, please feel free to contact Trans Pride Initiative at housing@tpride.org or 214-449-1439. We will be happy to provide perspective or conduct research to answer questions you may have.

1. What is the incidence of domestic violence in the trans community?

Although data collection for the trans[1] community is improving, data documenting specific issues is often sparse or non-existent. The lack of data directly addressing this question indicates that assessing need should include two aspects: presentation of data on general hate violence experienced by transpersons as a means of illustrating the violent expression of underlying social stigma toward trans identities, and presentation of the limited data directly related to domestic violence.

General hate violence directed at transpersons

Standard sources for violence statistics do not record trans identities. Until relatively recently, all crime statistics—as well as all federal, state, and local data collection efforts—rolled trans identities into one of two gender categories, rendering transpersons invisible. This is part of the structural stigma that transpersons face daily.

A few organizations are changing this. The National Coalition of Anti-Violence Programs (NCAVP) monitors hate violence against lesbian, gay, bisexual, transgender, queer, and HIV-affected persons, including police violence. Their 2011 report notes that, nationwide:

- transpersons are 1.58 times as likely to experience injuries because of hate violence (NCAVP 2012:28)

[1] We use the terms "trans" and "transperson" to refer to the broad community of persons who identify outside the stereotypical norms of gender as a fixed binary grounded in body form as assigned at birth. "Transgender" often has this same meaning, but it is also used by some, with derogatory connotations, to refer to persons who are not transsexual. "Transsexual" refers to persons who typically view gender as a binary (meaning male and female only, with everyone being one or the other) and identify as the gender other than the one assigned at birth. A transsexual person desires that their body conform to their identity, and generally seeks greater conformity through hormone adjustment and surgery.

Note that all definitions are subject to disagreement and variation depending on geographic area and peer usage.

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- transpersons require medical attention due to hate violence 1.76 times as often as overall survivors (NCAVP 2012:9)
- transpersons are 45% less likely to see police classify their incident as hate violence compared to cisgender[2] persons (NCAVP 2012:28)
- transpersons are 1.67 times as likely to experience police violence compared to cisgender persons (NCAVP 2012:28)
- transpersons of color face higher risk of physical violence, greater barriers in reporting to law enforcement, and are more likely to experience police violence (NCAVP 2012:30)
- transpersons of color experience police violence at 2.38 times overall survivors (NCAVP 2012:9)

NCAVP notes that in 2011, transwomen[3] were particularly at risk. Transwomen accounted for 73% of the survivors reporting to NCAVP (NCAVP 2012:45). Although the recently completed National Transgender Discrimination Survey (NTDS)[4] did not specifically ask about bias-motivated violence, generalizations can be made from more specific questions related to the experience of physical assault in educational settings, at work, in interactions with police and with family members, at homeless shelters, accessing public accommodations, and in jails and prisons. "Twenty-six percent (26%) of respondents had been physically assaulted in at least one of these contexts because they were transgender or gender non-conforming. Ten percent (10%) of respondents were sexually assaulted due to this bias" (Grant et al. 2011:80).

Specific domestic violence directed at transgender persons

The 2011 report on the NTDS results found that 19% of it's 6,450 respondents had experienced domestic violence prompted by their status as transgender or gender-nonconforming. White respondents experienced family violence at about 15% but other demographics were substantially higher.

> American Indian (45%), Asian (36%), Black (35%) and Latino/a (35%) respondents reported higher rates of domestic violence than the full sample, as well as undocumented non-citizens (39%), those earning under $10,000 annually (38%), those without a high school diploma (39%), the unemployed (30%), respondents who have lost jobs due to bias (35%) and those who worked in the underground economy (42%). MTF[5] respondents endured family violence more often (22%) than FTM respondents (15%) [Grant et al. 2011:100].

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[2] "Cisgender" means not transgender. "Cis" is derived from Latin and indicates "the near side," an antonym of the Latin-derived "trans." Thus cisgender is someone whose gender identity and physical body are "one the same side" or not discordant.

[3] The term "transwoman" refers to persons who were assigned male at birth and identify as female. Typically, a transwoman will interact in society as a female, although circumstances may make consistency difficult. For example, she may need to present as male to retain a job.

The term "transwoman" can be problematic, and not every person fitting this description will identify as a "transwoman." In most cases that is the most respectful term, but some will define themselves as, for example, "a woman with a trans/transgender/transsexual past/history." This identity will most often be used by a woman who may describe that history as having undergone genital reconstruction surgery to correct a birth defect and bring her body in conformity with her gender identity. There are many different variations on how a person can identify.

Language in the trans community can be problematic and a source of misunderstanding and discomfort. Most potential problems with language can be overcome by simply using the language that the transperson uses, and by asking what the transperson prefers.

[4] The full report of findings based on this survey is called *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey.* The survey is the largest study of its kind, garnering 6,450 valid responses from transgender persons in all 50 states, the District of Columbia, Puerto Rico, Guam, and the U.S. Virgin Islands (Grant et al. 2011:2).

[5] MTF is an abbreviation for male-to-female, a transwoman. FTM is an abbreviation for female-to-male, a transman.

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A small survey concerning domestic violence in Scotland garnered 60 usable responses from transgender persons and revealed even higher rates: 80% had experienced some form of abuse from a partner or ex-partner; only 60% recognized the behavior as domestic abuse. The most frequent type of abuse was characterized as "transphobic emotional abuse," experienced by 73% of respondents; 60% experienced controlling behavior; 45% experienced physical abuse; 47% experienced some form of sexual abuse; 37% said someone had forced or tried to force them to have sex before the age of 16; 46% said someone had forced or tried to force them to engage in some other form of sexual activity before the age of 16; 10% said someone had forced or tried to force them to have sex for money; and 51% of those answering questions about the impact of the abuse said they felt the abuse was "wrong but not a crime" (Scottish Transgender Alliance 2010:5).

2. What support structures currently exist?

By support structures, we mean not only public and private institutions and organizations that a person can turn to for support during times of crisis, but family and friends as well. Many in the trans community have close relationships with their own community, but they may suffer the loss of the more traditional social support structures. The NTDS found that approximately 57% of transpersons experience rejection by their families, with transwomen seeing higher rates of rejection than transmen. Forty-five percent see an end to partner relationships after coming out. For transwomen over the age of 25, partner rejection is between 57% and 73% (Grant et al. 2011:88, 94).

The 2007 *Engendered Penalties* study found similar figures for the United Kingdom, with 45% reporting a breakdown in family relationships, 37% feeling excluded from family events, and 36% having family members who do not speak to them because of their gender identity (Whittle et al. 2007:68).

Social support from friendship also vanishes at high rates. Turning to the NTDS survey again, 58% report losing close friends as a result of their gender identity or expression. Subgroups with higher numbers include undocumented non-citizens (66%), those unemployed due to bias (79%), and persons working in underground economies (70%). Transwomen reported losing friends more than transmen (67% compared to 51%) (Grant et al. 2011:100).

> "I don't talk to organisations. I talk to individuals who I know. There isn't organisations out there to help. To be honest, see if you get a crisis like that, it's an immediate thing. It's immediate, you need help. . . . Where do you seek help immediately? It's not there, it just isn't there."
>
> —survivor (Scottish Transgender Alliance 2010:29)

Human services organizations seldom accept transpersons, and if they do are unlikely to take steps to show respect for their gender identity. A recent national survey by NCAVP found 93% of survivor assistance providers said they have no training in working with transgender survivors, and the same percent said they lacked funding and staffing to provide services to transgender persons (NCVC/NCAVP 2010:11).

3. Why is access to women-only shelters important?

Domestic violence shelters may serve women only, men only, or may serve both. Access to a mixed-gender shelter is perfectly appropriate for transwomen, as long as they are encouraged to self-identify their gender and allowed to use gendered spaces that align with their identity (or gendered spaces where they feel most safe). For a transwoman, access to men-only shelters is not appropriate. Requiring a transwoman to reside in a men-only space may legitimize gender-based abuse by supporting the stigmatizing ideology of her abuser, contribute to negation of her identity, and very likely places her in a situation that will subject her to additional abuse.

Access to a shelter for women only can lay an important foundation from which to address issues of self-stigma, low self-esteem, and psychological damage resulting from experience of an abusive relationship. For many transwomen, simply interacting with cisnormative[6] society is engaging in an abusive relationship. Everyday interactions are accompanied by fear of humiliation or aggressive verbalization; certain places and people are avoided out of fear of insult; they are discouraged or prevented from furthering their education or going to work by denial of access, harassment, threats, and even assault; they are accused of being involved in underground economies (and may be accused of wrong-doing when filing complaints); the extent of stigma often leads transwomen to feel they deserve society's abuse; and blame for the abuse is excused by pointing to their gender nonconformity. Allowing a transwoman survivor access to a women's-only shelter can be an affirming action that she may desperately need, and can do a great deal to help establish a trusting relationship with caregivers on which to build recovery efforts.

4. Why consider this issue at all?

Even without allowing transwomen access to women-only shelters, there is greater need than can be presently accommodated by existing facilities, staff, and volunteers—so why even consider expanding services to a group whose exclusion can currently be socially and legally justified? Because doing so is in accord with fundamental principles that prompt the establishment of women-only services: they provide safe haven for survivors whose assault and abuse—and need for care—is based on an unjustifiable gender-based power differential in our society. Transpersons also face that power differential based on gender, and it comes from not only male-identified persons, but from the larger demographic of cisgender persons. Working to address this problem requires accepting transwomen into women-only shelters when there is a need for women-centered services related to domestic violence.

"After consideration, BAH [Bradley-Angle House] made the decision to open its services to anyone identifying as a woman. Erika Silver, BAH's executive director, identified one of the key reasons for this decision as the organization's mission statement itself. Silver saw the mission to serve women as inclusive of all women, as defined by the program participants themselves. The wisdom here is recognizing that being defined by others is a common experience of survivors. Giving survivors self-sufficiency skills not only in work or acquiring food or housing, but also in defining personal experiences and identities is a vital part of giving survivors the tools to recognize and set personal boundaries in future relationships. . . . Hardy was enthusiastic about her experiences, 'I've learned so much from trans survivors. They've completely transformed my analysis of Domestic Violence.' Certainly working closely with trans or intersex people provides a rare opportunity to identify and unlearn our own assumptions and stereotypes concerning sex and gender." (Courvant n.d.a:n.p.).

Ideally, due to the difference in services needed and the issues faced by transpersons who are survivors of domestic violence, trans specific services should be available for the transgender community. However, due to nearly nonexistent funding and support for such services, the transgender community must depend on partnerships with existing service providers, and women-only domestic violence shelters can be extremely important allies in helping transgender survivors overcome the damage inflicted by domestic abuse.

5. Which transwomen qualify for access to women's shelters?

Any program with scope limitations requires criteria to determine qualifications. What criteria might be considered for access to women's shelters? Should it simply be what is on legal documentation,

[6] "Cisnormative" refers to social norms that generally exist outside trans communities. In cisnormative society, most gender nonconformance is considered abnormal, a mental illness, or is otherwise viewed derisively.

and which documentation takes precedent when they differ (as in a state identification card versus a birth certificate)? Or should it be some physical characteristic? Or is there a psychological measure?

At the most simple level of explanation, being transgender means one has an innate and persistent sense that one's gender does not match the "M" or the "F" that a doctor assigned on a birth certificate—an assignment usually made in the first few seconds after birth, and an assignment that governs nearly every aspect of one's life thereafter, even though it was made without any input from the person whose life that assignment controls.[7] It is the birth certificate that most times establishes what is on other documentation, but that documentation can be changed or corrected more easily than a birth certificate. A transwoman's identity may contrast with her gender marker on the birth certificate or other identification. And identity may contrast with presentation, such as when a transwoman presents as a man to avoid discrimination or violence, or to retain employment.

"I once worked with a woman who was transgender, and whose partner had almost killed her. She had finally made the decision to leave the relationship and she went to a shelter in Massachusetts. When she got there, the counselors were confused about her gender even though she had previously explained to them that she was transgender, and what that meant. The shelter staff asked her a set of intensive and grueling questions about her body including, 'What is between your legs?' . . . after this humiliating treatment, they told her that she could not be housed there because they decided that she was really a man. After being denied shelter, this woman went back to her batterer because she had no family, no friends and nowhere else to go."
—Emily Pitt, Director, Fenway Community Health's Violence Recovery Program (*Shelter/Housing Needs for GLBT Victims of Domestic Violence* 2005:11)

All transgender persons feel what can be described as a discord between their self-identified gender and their body in terms of primary and secondary sexual characteristics. For some the discord is minor, for some it is extreme, and for some it may vary over time and according to circumstances. Some take limited or no steps to reduce the discord, but most seek various levels of medical intervention (from hormone adjustments to surgeries). Some transgender persons suffer from slight to extremely severe anxiety, depression, and other mental conditions due to the lack of body conformity, which can be compounded by social stigma. For these persons, body conformity is often more imperative. Not all persons can afford to undergo medical interventions, and some transgender persons may not be eligible for hormone adjustment or surgeries because of other medical issues. Higher social and economic status tends to lower the threshold for medical intervention.

All of these factors influence how one deals with or embraces being transgender. It also could be seen as creating subdivisions within the trans community. The following is a brief description of various possible subgroups, any one of which could also describe an endpoint in one's transition.[8] Together they form a kind of "hierarchy of being trans." This hierarchy is consciously embraced by few in the community (although those who do embrace it are often very vocal); creates an unfair stratification that can equate to greater status, power, and privilege for some based on their identity; and discriminates against transpersons with fewer financial and social resources (which in turn disproportionately affects racial and ethnic minority populations). This hierarchy is here presented in order of what would be generally considered "less to more trans."

- ❖ Transpersons who self-identify without seeking a counselor or other mental health assessment.

[7] Some transpersons will describe themselves as "male/female assigned at birth" or "designated male/female at birth" (MAAB/FAAB or DMAB/DFAB). This is a way of expressing the fact that their legal gender designation was something done *to* them, not something they were complicit in determining.

[8] "Transition" has traditionally meant undergoing all these steps through genital reconstruction surgery, but it can also mean any steps taken to realize greater body conformity and arrive at a level of body conformity suitable to one's gender identity.

- ❖ Transpersons who have a letter from a counselor documenting gender identity disorder, gender dysphoria, or other professionally documented status (this can be either or both a source of stigma and a source of gender identity validation that increases "transness").
- ❖ Transpersons who have taken certain steps to seek body and social conformity with their gender identity. This might entail presentation changes alone or in concert with hormone regimens.
- ❖ Transpersons who have established legal identity under their preferred name or gender.
- ❖ Transpersons who have undergone surgeries other than genital surgeries. These primarily include facial, breast (augmentation or reduction) and other body modification surgeries, and gonad removal (testes in transwomen and ovaries in transmen, generally done to reduce or eliminate unwanted hormone production and remove the need for taking anti-androgen medications in transwomen).
- ❖ Transpersons undergoing "real life experience." According to the World Professional Association for Transgender Health (WPATH), approximately 12 months must be spent in a gender role congruent with their gender identity prior to certain types of surgery, including genital reconstruction surgery (WPATH 2012:60-61). Some transpersons find when undergoing their "real life experience" that genital reconstruction surgery is not necessary for their peace of mind.
- ❖ Transpersons who have undergone genital reconstruction surgery. Because of the significance society places on genitalia, this surgery (sometimes several surgical procedures that may occur over one or more surgeries) belongs in its own subclass. This is usually seen as the final stage for those who experience more severe forms of body nonconformity or identify as transsexual.[9] Costs for relatively complete reconstruction surgeries vary greatly, but are likely to range from $20,000 upwards. Insurance seldom covers any of these costs.

One could use any of these levels to determine the dividing line that answers the question posed for this section: "Which transwomen qualify for access to women's shelters?" The level chosen may reflect administrators' personal opinions about what makes a person a man or woman, may be based on concerns about how the level chosen might affect funding providers, and may be set because of ideas about how other shelter guests could react to persons at these various levels. Screening by level would require intake staff to first identify a person as trans, which could involve hurtful trigger questions to transpersons and persons who are not trans but have masculine features. Once a trans person is identified, additional embarrassing (or degrading) questions and possible examinations might be undertaken to determine the proper level to pass entrance qualifications. And the greater the level required, the more admittance is tilted toward persons who have the financial and social support to meet those qualifications, meaning the most at-risk transwomen will be less likely to qualify. Only one qualification could be administered across the board to all guests without discrimination and without skewing admission by income and personal situation: self identity.

However one determines such eligibility, assessing these levels essentially asks the question "are you a real woman?" Some cisgender women with more masculine appearance or presentation may be subjected to questions about their gender at domestic violence shelters under such admission qualifications as well. Cisgender women with a more masculine presentation may have suffered from embarrassing questions, harassment, and discrimination due to gender presentation for much of their lives, and their physical features may have been used by their batterer to justify their actions. If staff

[9] For some, genital reconstruction surgery is the only legitimate goal of a "true" transperson (most likely described as a "true transsexual"), and anything else may be dismissed as related to fetishism, power and manipulation (male efforts to infiltrate and control female spaces), mental illness, and the like.

"Even if some less invasive eligibility test {meaning less invasive than genital surgery} is instituted, how does an agency determine which clients should be subjected to this extra test? The likely answer is that each worker will use a subjective idea of masculine cues. The result of that is placing additional barriers to service for any survivor that does not conform to a dominant culture definition of femininity. Ultimately, this can only reinforce sexism and further damage relationships with local communities of lesbian and bisexual women.

"While not clear to the staff involved at the time, it is clear to me that this behavior dramatically decreases–not increases–safety in our movement's programs. We cannot give agencies the power to police women's gendered appearance or behavior that these policies create. With violation of the most intimate spaces of our bodies as the penalty for displaying masculine 'cues,' what woman would not check her own behavior, ensuring that it falls within culturally acceptable limits of femininity? How many women would avoid our programs if this became common practice? The danger is heightened not only for trans and intersex women, but also for aging women whose natural changes (more plentiful, prominent, and bristly facial hair; deepening, more throaty voice; etc.) may carry with them connotations of masculinity. Butch women, already frequently uncomfortable in our programs, may be alienated further by the heightened possible consequences of displaying masculine traits. . . . Policies that do not arise out of ongoing, meaningful interactions between the activists, advocates, professionals, and agencies of the DV survivors' movement and members of the trans and intersex communities are rarely productive, and, as the example of a policy based on surgical history shows, potentially very dangerous." (Courvant n.d.b).

at a shelter or domestic violence facility are asking them to prove their gender identity, they risk causing further psychological harm and the appearance of legitimizing the actions of their abuser—not something that should be part of the experience of seeking help out of an abusive situation.

If this discussion seems overly complicated, perhaps it is. A general rule that accepts transgender women to women-only spaces can be very simple: respect self identity (Mottet and Ohle 2003:11). Underlying any qualification test is the principle that shelter guests need to be provided a safe and supportive environment in which to heal. All shelters have intake and screening procedures designed to provide that environment—to protect victims from their abusers or other potentially harmful situations—and the focus should be on just that: screening potential abuser access, not screening whether someone is "woman enough" to access services. As discussed above, accepting one's self-identity is respectful not only to transwomen, but to cisgender women as well.

6. *Is a transman a woman?*

No. Additionally, most transmen would not seek access to a women's shelter, and most would feel they were infringing on shelter guests if they were there.

However, admitting a transman to a women-only shelter may be warranted in some cases. First, many transmen have special relationships to women's communities, and many may have identified as lesbian women prior to identifying as transmen. "They counsel survivors, go to women's dances, call the crisis line, run groups, and use transition houses. In short, they are full participants in women's communities. Some trans-men helped establish women-only services. So, it is not difficult to understand why some do not want to completely lose the communities that they helped to build because of their decision to come out as men." (Cope and Darke 2002:89).

Second, social stigma encourages the view that transmen are deviant women, so physical, sexual, and mental abuse may be directed toward a transman as a female-bodied person. A similar and related violent enforcement of a power differential applies whether the survivor is a male-bodied woman, a female-bodied man, or a female-bodied woman.

Third, a female-bodied transman may receive limited benefit from services designed for cisgender men, particularly where the abuse included sexual assault against a female body. Accessing care in a cisgender men's shelter may also expose them to addition harm. "Many trans-men know that women's organizations will have the best understanding of their abuse experiences and, therefore,

can provide the most suitable services. Trans-men need services informed by a feminist analysis of violence and in which they will not be threatened or ridiculed." (Cope and Darke 2002:90).

Although it seems counterintuitive to base admission on identity when considering transwomen, but allow exceptions to identity when considering admittance of transmen, the operating principle for both should be to provide the best solution for the survivor in terms of safety and care.

7. Is serving only cisgender women discriminatory?

The word "discrimination" of course has two primary meanings. The first refers to the recognition and understanding of differences. Women's shelters discriminate between men and women in order to provide care to a demographic that needs specific services. This is not the definition of the word that is important here. "Discrimination" can also mean ***unjust or prejudicial decisions or actions made on some basis*** such as age, race, or sex. This is the meaning of discrimination we are referring to here, but we want to add that we all have prejudices and can act in discriminatory ways without realizing it. Stigma[10] against gender minorities is so pervasive that for most cisgender persons it is invisible. One purpose of outreach efforts by trans activists is to expose the stigma so that it becomes more visible, and that can mean exposing discrimination that goes unnoticed due its ubiquity.

Certain types of discrimination may be acceptable or unacceptable to certain individuals or social groups, and it can be legally allowed or proscribed. At this time in Texas, there are no specific legal proscriptions against a women's shelter serving only cisgender women, so doing so is not legally discriminatory. However, transgender women refused service would most likely feel discriminated against. Cisgender women may or may not feel refusing service to transgender women is discrimination.

"Never ask about a person's genitals or related surgeries. In addition to it being rude, invasive and potentially retraumatizing, you could also be sued for sexual harassment" (The Network/La Red 2010:20).

Note that The Network/La Red is located in Massachusetts, where this is illegal statewide. In Texas, the legality is questionable, but the Dallas Fair Housing Office will investigate complaints under the City of Dallas Human Relations Ordinance.

The Dallas Fair Housing office does consider discrimination based on gender identity to be actionable, and will investigate complaints about gender identity discrimination at shelters (personal communication, Chalisa Warren, City of Dallas Fair Housing Office). Specific actions resulting from a complaint against a women-only shelter would heavily depend on the individual situation. Related discussion of other legal aspects can be found under the next section, **What legal considerations might influence women's shelter decisions?**

8. What legal considerations might influence women's shelter decisions?

On February 3, 2012, the U.S. Department of Housing and Urban Development published a new rule titled Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity

[10] Stigma can be divided into four subgroups: enacted, felt, internalized, and structural. Enacted stigma is an action that expresses stigma. Transpersons experience enacted stigma through actions such as being shunned, insulted, and through violence. Transpersons experience felt stigma by recognizing that they belong to a stigmatized group, and by altering or hiding behaviors and their expression to avoid enacted stigma. Internalized stigma involves accepting a prevailing stigma as legitimate. Transpersons experience internalized stigma by feeling they deserve disrespect and mistreatment; cisgender persons experience internalized stigma by seeing a lack or respect, automatic assessment of mental illness, or denial of opportunities for transpersons as justified. Structural stigma is incorporated in language, laws, policies, and even data collection efforts. Transpersons experience structural stigma in many ways, from intake forms that have no accurate way for them to indicate gender, to health insurance policies that deny anyone trans from coverage due to a "pre-existing condition," to facing potential problems using public restrooms and other gender-segregated spaces.

(Fed. Reg. 5662 [Feb. 3, 2012]). The rule applies to all housing either assisted or insured by HUD. Gender identity is described as "actual or perceived gender-related characteristics" (Fed. Reg. 5674 [Feb. 3, 2012]), and the final rule states that it "implements policy to ensure that its core programs are open to all eligible individuals and families regardless of sexual orientation, ***gender identity,*** or marital status."

However, there is an exception to the rule that allows emergency shelters to ask a survivor about their "sex" as opposed to gender identity, meaning that discrimination is allowed for emergency shelters. Specifically, the lawful-inquiry-of-sex provision of the rule states: "[The] prohibition on inquiries regarding sexual orientation or gender identity does not prohibit lawful inquiries of an applicant or occupant's sex where the housing provided or to be provided to the individual involves the sharing of sleeping areas or bathrooms" (Fed. Reg. 5667 [Feb. 3, 2012]). Numerous comments to the draft version of the rule noted that HUD needed to define the term "sex" for this use, but HUD declined to do so. Among several responses by HUD, the most informative noted that "HUD is committed to further review of this issue and, as necessary, will issue guidance that, through examples, elaborates on how the prohibition of inquiries on sexual orientation and gender identity, and the allowance for lawful inquiries as to sex, will work in practice" (Fed. Reg. 5669 [Feb. 3, 2012]). It may be that HUD was declining to define "sex" so the determination would be made by the courts instead of HUD administrators. Shelters that inquire about a person's sex would likely take on at least some risk of being a party to that defining court case.

Regardless of whether the organization accepts HUD funding or has other contractual obligations with HUD that would require compliance with this rule, the trend in federal agencies is to extend protections based on gender identity to gender minorities. Examples at the federal level typically cover gender identity, defined as "the individual's internal sense of being male or female. . . . The way an individual expresses his or her gender identity is frequently called 'gender expression,' and may or may not conform to social stereotypes associated with a particular gender" (USOPM n.d.). The U.S. Office of Personnel Management has issued guidance establishing that discrimination based on sex includes gender identity (USOPM n.d.), meaning this protection is now extended to all federal employees and federal contractors.

The Equal Employment Opportunity Commission ruled in April 2012 that "discrimination based on gender identity, change of sex, and/or transgender status is cognizable under Title VII [of the Civil Rights Act of 1964 as discrimination based on sex]" (USEEOC 2012; Visconti and Chaloner 2012), and in May 2012, the U.S. Department of Justice accepted the EEOC ruling (Geidner 2012). The U.S. Department of Labor updated its nondiscrimination policy to specify that gender identity is covered as sex discrimination in April 2012 (USDOL 2011). The U.S. Health and Human Services also updated its nondiscrimination policy to specify that all its programs serve persons regardless of gender identity (USHHS n.d.a), and importantly, that Section 1557 of the Affordable Care Act is being interpreted to cover discrimination based on gender identity under sex discrimination (USHHS n.d.b). Finally, the Social Security Administration has decided to stop sending "gender no-match" letters for identification inquiries after a Freedom of Information Act request revealed 711,488 gender no-match letters were sent in just 2010, potentially playing an enormous role in unemployment among transgender persons (NCTE ca. 2011).

There is some chance that, continuing this trend of establishing equality for transpersons, the Internal Revenue Service may eventually take the position that declining to accept transwomen or only accepting a certain subgroup of transwomen could constitute discrimination that might negatively effect designation as a public charity under Section 501(c)(3) of the tax code. Certainly it is

allowable to have segregated facilities that provide services to women and not to men, but limiting those services on the basis of physical characteristics that do not conform to stereotypical expectations for gender identity could eventually be seen as unlawful discrimination against a subgroup of women. Such a determination may occur if a transwoman takes a shelter to court for denial of service. With the expansion of the definition of sex discrimination, women's shelters that deny all or some transwomen services are probably accepting some level of risk of litigation at this time. The risk may increase or decrease in the future, depending on additional legislation, agency rulings, and court decisions.

9. What considerations should go into making policy changes?

First and foremost, policy changes that open a shelter to transwomen should not be put into effect until staff and volunteers have the knowledge and training to appropriately carry out the policy. This includes training in how to deal with harassment and physical harm that may come from other guests. Even if providers do have basic training such as "trans 101" type coverage of cultural sensitivity issues, these may not address the complications that can be present for a transperson in crisis. "Often a trans or intersex survivor has a unique body and/or a unique vulnerability to the emotional aftermath of sexual violence [or domestic abuse]; either can make difficult or impossible discussing this abuse with an unfamiliar victims' advocate" (Courvant and Cook-Daniels n.d.). Personnel who understand how to assist cisgender survivors of domestic violence may need additional experience and training to effectively assist transgender survivors. In their article "Trans and Intersex Survivors of Domestic Violence: Defining Terms, Barriers, and Responsibilities," authors Diana Courvant and Loree Cook-Daniels discuss to the multiple layers of stigma that can complicate treatment of domestic abuse and that providers need to understand in order to be effectual.

> "It was only when the relationship broke up that I realised it was wrong. At the time I did not consider myself oppressed. I thought it was wrong to be transgender and so could understand why it upset her so much."
> —survivor, Scottish Transgender Alliance 2010:29

> Related to this problem [of the unique relationship to their body that transpersons have] is the shame and self-doubt that is endemic in these communities, due to the pressures trans and intersex persons have felt from their earliest years to deny their feelings and conform to others' expectations. Adding to this shame and self-doubt is the widespread perception that trans and intersex individuals are mentally ill. This popular stigma of mental illness is furthered by the existence of Gender Identity Disorder (GID) in the DSM-IV,[11] the guidebook to diagnosis of mental illness and personality disorders, but this perception of mental illness is independent of the DSM-IV and is often strongly felt by those completely unfamiliar with the GID diagnosis. Abusers use this shame and self-doubt against their trans and intersex victims to undermine their victims' perceptions and to convince them that no one else will want them. Combined with stories of dating violence, . . . these "warnings" can convince trans and intersex survivors that they are lucky just to have a partner who doesn't kill them (Courvant and Cook-Daniels n.d.).

[11] DSM-IV, or more specifically DSM-IV-TR, refers to the current *Diagnostic and Statistical Manual of Mental Disorders* (Fourth Edition, Text Revision), published in 1994 and revised in 2000. The new DSM-V, to be published in 2013, removes the diagnosis Gender Identity Disorder and replaces it with Gender Dysphoria, which many in the community see as doing little to address the problem of associating trans identities with mental illness. A good argument against continuing to include any such designation in the DSM can be found in the comments to the draft version of the DSM-V provided by Howard Brown Health Center. The letter of comment references "gender incongruence," a term now replaced by "gender dysphoria," but the points remain valid. The letter is available online at http://www.howardbrown.org/uploadedFiles/Services_&_Programs/HBHC%20APA%20COMMENT.pdf

Perhaps the consideration that may be at the top of the list for shelter administrators is the acceptance of transwomen by cisgender women survivors accessing services at the shelter, primarily in terms of safety and privacy. Safety concerns may be related to fear of aggression and violence by the transperson or by the other survivors toward the transperson. Either should be addressed by strong safety policies applied equitably to all. When aggressive actions occur that involve a transperson, the same policies that govern aggressive actions between two or more cisgender persons should be applied: education, additional steps if education is not effective, and as a last resort a request to leave the facility. The education component (and this applies to staff training as well) will need to address the sensitive topic that fear of safety is based on the culturally reinforced belief that transwomen are not "real women." Regardless of one's personal beliefs and acceptance of another person's gender identity, there is no evidence that transwomen are more verbally or physically abusive than cisgender women. As in all organizations, whether women-centered or not, any member of a marginalized group may be more likely to experience emotional and physical abuse from other group members. Safety policies and education need to address this for all marginalized persons, not just transpersons.

> Gunner Scott works with The Network/La Red in Boston, an organization that works against abuse in the lesbian, gay, bisexual and transgender community. Scott has trained many Boston-area domestic violence shelters that accept transgender women. Scott notes that: "Stereotypes of transgender people attacking women come from movies and television shows that inaccurately portray transgender people as dangerous and abusive. This is far from the truth. When it comes to transgender people, the more serious risk is that violence will be committed against transgender people by others. Also, shelters need to learn that it is a myth that woman-only space is always safe. The occurrence of woman-to-woman abuse by both straight and lesbian women is real, and shelters need clear rules against it. By enforcing these rules for all residents, transgender and non-transgender, these spaces can become truly safe." (Mottet and Ohle 2003:13-14).

Similar to safety, some may believe that masculine features of transwomen could be an unnecessary stress and trigger for cisgender women survivors. However, this should not be an unduly difficult problem to deal with. Survivors must address response to triggers that can come from almost any source, be it skin color, a sound, a smell, or a time of day, and it is not uncommon for survivors of male violence to fear men or masculine features. Masculine features of transwomen—which they may view more as the scars of testosterone exposure due to a birth defect—are no different from the features of a masculine cisgender woman. These triggers can be found in the actions and appearances of other survivors, and responses to triggers must be addressed in abuse counseling. All of these need to be dealt with during the healing process, not through denial of services to the persons who exhibit the features.

Staff or survivors could worry that a male abuser dressed as a woman might gain access to the shelter as a survivor. Although there is probably some chance that could happen, it is very unlikely that a male intruder posing as a transwoman would get through the screening process. It is more likely that a female intruder could pose as a survivor to gain access to a lesbian partner, but staff certainly will have been trained to screen for that possibility. However, this scenario also rarely happens. One other variation on this is that a transwoman may request access as a survivor to gain access to a partner (a transwoman or a cisgender woman), or a cisgender woman may pose as a survivor to gain access to a transwoman partner. These are also rare. Although assessment may be more difficult in cases like this because they may not fit typical scenarios of abusive relationships, training in same-sex partner abuse should inform staff sufficiently to identify the abuser and the survivor.

How to convey that the shelter is a safe space for transwomen may also need to be addressed. Transwomen "may refuse to seek shelter or assistance from women-centered agencies out of a respect

for the fears or discomfort of non-trans and non-intersex female survivors. Others may avoid seeking help from those agencies out of low self-esteem or feelings that others will not perceive them as 'real' women" (Courvant and Cook-Daniels n.d.). Where transwomen are battered by other women (trans or cis), they may also not seek care out of fear that they will not be believed, with good reason. The dominant models addressing factors leading to domestic violence do not incorporate the stigma, stereotyping, and social structures that come into play when transgender identities are involved. In providing services to transwomen, organizations may need to adapt domestic violence models to incorporate the issues faced by transwomen, and to remember that "the most important tools for control an abuser possesses are not physical." (Courvant and Cook-Daniels n.d.; New York State Office for the Prevention of Domestic Violence 2010:38).

> What about a separate space for transwomen? Such as a hotel room? "Perhaps the biggest obstacle we face with hotel-based safe homes is the isolation of the survivor. . . . When a survivor first leaves their batterer, there is often a period of doubt as to whether they made the right decision. Survivors may feel frightened and alone, and decide that going home to the batterer is better than sitting alone, thinking, and worrying about the decision. This is the time when a survivor most needs support. . . . I dream of a time when GLBT survivors will not have to worry about becoming homeless, and can focus on their emotional and psychological healing."
>
> —Sabrina Santiago, Safe Home Coordinator, The Network/La Red (Shelter/Housing Needs for GLBT Victims of Domestic Violence 2005:18).

Finally, there is the issue of privacy where a transwoman may have gender nonconforming genitalia. Respect for privacy needs to be given to all, both in terms of preventing others from viewing potentially embarrassing physical features on a guest's own body, and in terms of not having a guest be unnecessarily exposed to personal physical features of other guests' bodies. Where restrooms have multiple stalls, partitions ensure privacy. Single occupancy restrooms can be made private by installing a simple lock. Most showering and bathing facilities similarly accommodate privacy. Sharing bedrooms may require creativity to address privacy concerns. Creating a private space can be as simple as setting up a partition curtain or screen, but this should not be done in a way that underscores the difference of the transwoman. Perhaps one dorm or multi-bed room should always have partitions for those with special requests for privacy for various reasons based on individual circumstances (Cope and Darke 1999:n.p.; Cope and Darke 2002:84-86, 89).

10. What resources are available to help?

There are several resources available to help with information related to domestic violence and transgender survivors. One of the most important is The Network/La Red, a Massachusetts-based survivor-led social justice organization working to end partner abuse. They provide training and offer free fact sheets and information: http://tnlr.org/. Particularly helpful is their publication *Open Minds Open Doors: Transforming Domestic Violence Programs to Include LGBTQ Survivors* (The Network/La Red 2010). The booklet is free to download by request, which can be submitted on their website: http://tnlr.org/training-tools/for-providers/.

A second source is the website of the Survivor Project: http://survivorproject.org. The Survivor Project was created in 1997 to address the needs of transgender and intersex survivors of domestic violence and sexual assault. The group also provides information, training, and workshops, and maintains several very informative articles on their website.

Several documents available online may be of use in developing programs that accommodate transgender persons. All of these were consulted in the development of this document and are also listed in the references.

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