

HATE & BIAS-MOTIVATED CRIMES

SEXUAL VIOLENCE & INDIVIDUALS WHO IDENTIFY AS LGBTQ



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SEXUAL VIOLENCE & INDIVIDUALS WHO IDENTIFY AS LGBTQ

People often commit violence against individuals they perceive to be challenging traditional sexual and gender norms. In a study of 162 men who identified as gay, and 111 women who identified as lesbian, 52% of the participants reported at least one incident of sexual assault/coercion (Waldner-Haugrud & Gratch, 1997). In this same study, men who identified as gay reported 1.6 incidents per person on average and women who identify as lesbians reported 1.2 incidents per person.

In a study of 152 people who identified as lesbian and gay, 41% of women who identify as lesbians also self-identified as a victim of child sexual abuse, sexual assault, sexual abuse as an adult, sexual harassment, or attempted assault (Sloan & Edmond, 1996). Of those, 57% identified as being survivors of child sexual abuse (twice the rate of male respondents), 38% identified sexual harassment, 21% identified attempted sexual assault, and 21% identified sexual assault. Women who identify as lesbian reported that they experience the same rate of hate- and bias-motivated sexual assaults as men who identify as gay and people who identify as bisexual (Herek, Cogan, & Gillis, 2002).

However, in addition to hate-motivated sexual assault, women who identify as lesbian also experience sexual violence because they are women. In other words, they are at a greater risk for sexual abuse, whether or not it is hate-motivated, simply because they are female in U.S. culture (Gentlewarrior & Fountain, 2009). They experience a double bias – both being female and lesbian means they are at greater risk for sexual violence because of gender bias and homophobia (Gentlewarrior & Fountain, 2009).

Sexual assault or rape is used as a weapon against people who identify as LGBTQ and can be part of an anti-LGBTQ hate crime. The



political, social and cultural environment of homophobia in U.S. culture creates a climate of violence to exist for people in the LGBTQ community and contributes to levels of violence for all targeted groups of hate crimes. There are many ways to take a stand and fight against homophobia and hate crimes against individuals who identify as LGBTQ. Individuals and communities can increase their visible solidarity with the LGBTQ community by posting signs outside their doors, changing their internal policies, and showing support on their websites by publicly announcing their pride in their diverse workplaces.

HATE CRIMES LEGISLATION

The following are select United States hate crimes legislation. While these are only a few, there are many other laws and bills presented across the nation that have important impacts on the safety of people in the LGBTQ community. Passing laws to protect the LGBTQ community is vital to combating hate crimes and homophobia. Without protections, hate crimes (including sexual assaults) go unpunished. To learn how to advocate for LGBTQ legislation, visit the Human Rights Campaign at www.hrc.org, or Lambda Legal at www.lambdalegal.org.

The Hate Crime Statistics Act (HCSA), a law passed in 1990, requires the Attorney General

to collect data on hate crime acts and provide a yearly report. Hate crimes are: “[C]rimes that manifest evidence of prejudice based on race, religion, disability, sexual orientation, or ethnicity, including where appropriate the crimes of murder, non-negligent manslaughter, forcible rape, aggravated assault, simple assault, intimidation, arson, and destruction, damage or vandalism of property” (Hate Crime Statistics Act, 1990, para. 3).

The HCSA covers sexual orientation, but not gender. This means that women and people who are transgender are not protected. **The Violence Against Women Act (VAWA)**, passed into law in 1994, listed gender as a basis for hate crimes on the violation of the victim’s right to be free from discrimination (California Coalition Against Sexual Assault [CALCASA], 2010).

Because the HCSA was created simply to include the collection of data based on hate crimes, many states developed **state hate crime laws** that would penalize crimes motivated by a person’s bias against an individual or group (National Gay and Lesbian Task Force, 2009). The laws include crimes based on the victim’s actual or perceived sexual orientation and some even include gender identity. Many of the laws are difficult to enforce, because certain elements that are needed to prosecute are different from state to state (CALCASA, 2010).

The Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act (HCPA) was signed into law by President Obama on October 28, 2009. The HCPA gives the Department of Justice (DOJ) power to investigate all hate- and bias-motivated violence by providing the DOJ with jurisdiction over violent crimes where a perpetrator has selected a victim because of the person’s actual or perceived race, color,

religion, national origin, gender, sexual orientation, gender identity or disability (Human Rights Campaign [HRC], 2010).

In addition, it provides the DOJ with the ability to aid state and local jurisdictions with investigations and prosecutions of hate- and bias-motivated crimes. The HCPA authorizes the DOJ to provide money to state and local law enforcement to cover the expenses associated with the investigation and prosecution of hate crimes. It also authorizes the provision of grants for local programs to combat hate crimes committed by juveniles, including programs that train local law enforcement officers in identifying, investigating, prosecuting and preventing hate crimes. Furthermore, the HCPA requires the Federal Bureau of Investigation to track statistics on hate crimes based on gender and gender identity (statistics for the other groups were already tracked) (HRC, 2010).



HATE CRIME LAWS IN THE U.S. AS OF JULY 2009 (NATIONAL GAY AND LESBIAN TASK FORCE, 2009)

States that do not have hate crime laws that include crimes based on any characteristics:

- Arkansas
- Georgia
- Michigan
- South Carolina
- Wyoming

States with hate crime laws that do not include crimes based on sexual orientation or gender identity:

- Alabama
- Alaska
- Idaho
- Indiana
- Mississippi
- Montana
- North Carolina
- North Dakota
- Ohio
- Oklahoma
- Pennsylvania
- South Dakota
- Utah
- Virginia
- West Virginia

States with hate crime laws that include crimes based on sexual orientation and gender identity:

- California
- Colorado
- Connecticut
- District of Columbia
- Hawaii
- Maryland
- Minnesota
- Missouri
- New Jersey
- New Mexico
- Oregon
- Vermont
- Washington

States with hate crime laws that include crimes based on sexual orientation:

- Arizona
- Delaware
- Florida
- Illinois
- Iowa
- Kansas
- Kentucky
- Louisiana
- Maine
- Massachusetts
- Nebraska
- Nevada
- New Hampshire
- New York
- Rhode Island
- Tennessee
- Texas
- Wisconsin

ANTI-VIOLENCE PROJECTS AND PROGRAMS

Anti-violence projects are organizations that provide prevention efforts and crisis intervention for hate crimes in LGBTQ communities, including sexual assault. Some of these organizations are multi-faceted and multi-issue such as local LGBTQ community centers. Other agencies are more singular but include LGBTQ issues such as

local rape crisis centers. Through community outreach efforts and collaboration, these agencies can help in identifying survivors of sexual assault as a hate crime.

Just as some victims may not identify what happened to them as sexual assault, others may not identify it as a hate crime. Defining the assault in this context may help the survivor or significant other understand their legal options as well as counseling and advocacy services.

Throughout this guide, the terms “victim” and “survivor” are used interchangeably to be inclusive of the various ways people who have experienced sexual violence may identify. The Pennsylvania Coalition Against Rape (PCAR) recognizes and supports the use of person-first terminology that honors and respects the whole person, which is also reflected in this guide. Finally, PCAR acknowledges that individuals should ultimately choose the language that is used to describe their experiences and therefore supports advocacy approaches that are person-centered and that use the terminology preferred by individuals they serve.

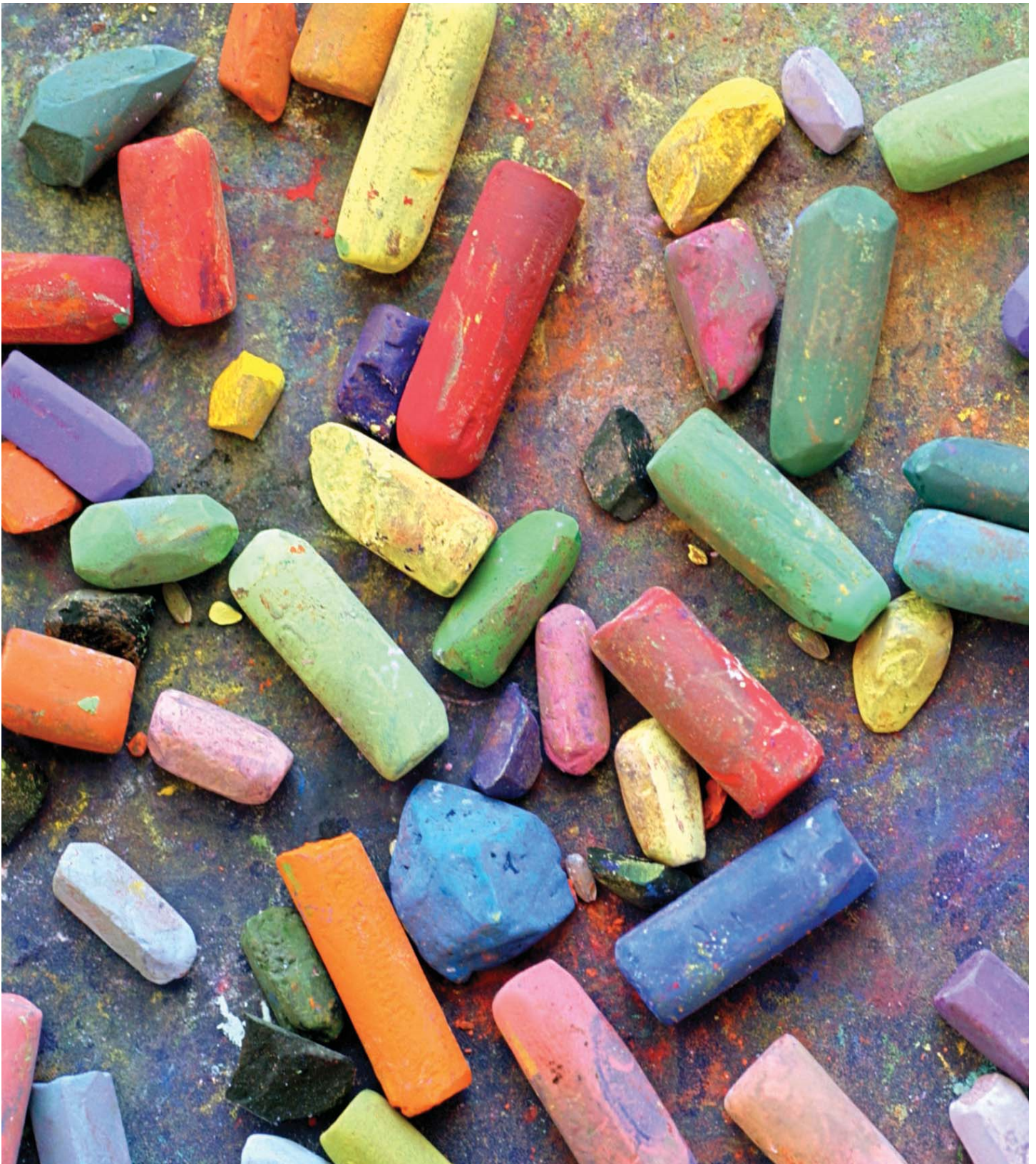
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Sarah Dawgert, MSW, is a consultant to organizations working to empower communities and increase awareness of issues surrounding women’s health and wellness. Sarah has worked in the anti-poverty and anti-sexual violence movements since 1996. Prior to launching her current consulting firm, Sarah managed the education and volunteer programs at the Boston Area Rape Crisis Center. She also spent several years working with homeless and low-income women and families in San Francisco’s Tenderloin neighborhood. Sarah has trained and coordinated community educators, developed and implemented needs/strengths assessments for service organizations, and facilitated state certification trainings for rape crisis counselors. She has training on a range of issues related to sexual violence, has spoken at national and local conferences, and has been cited and published in dozens of regional and national media outlets. Sarah has a Bachelor’s Degree in Human Development from Boston College and a Masters of Social Work from Boston University.



REFERENCES

- California Coalition Against Sexual Assault. (2010). *Focusing on pride (Part 2): Hate crimes against lesbian, gay, bisexual and transgender (LGBT) survivors of sexual assault*. Retrieved from <http://calcasa.org/wp-content/uploads/2010/12/LGBT-Part-2-FINAL-UPLOAD-12.29.10.pdf>
- Gentlewarrior, S., & Fountain, K. (2009). *Culturally competent service lesbian, gay, bisexual and transgender survivors of sexual violence*. Retrieved from VAWnet: the National Online Resource Center on Violence Against Women: http://new.vawnet.org/Assoc_Files_VAWnet/AR_LGBTSexualViolence.pdf
- Hate Crime Statistics Act, 28 U.S.C. § 534(1990)
- Herek, G. M., Cogan, J. C., & Gillis, J. R. (2002). Victim experiences in hate crimes based on sexual orientation. *Journal of Social Issues*, 58, 319-339. doi:10.1111/1540-4560.00263
- Human Rights Campaign. (2010). *Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act*. Retrieved from <http://www.hrc.org/laws-and-legislation/federallaws/matthew-shepard-and-james-byrd-jr.-hate-crimesprevention-act>
- National Gay and Lesbian Task Force. (2009). *Hate crime laws in the U.S.* Retrieved from http://www.thetaskforce.org/downloads/reports/issue_maps/hate_crimes_7_09_color.pdf
- Sloan, L., & Edmond, T. (1996). Shifting the focus: Recognizing the needs of lesbian and gay survivors of sexual violence. *Journal of Gay and Lesbian Social Services*, 5(4), 33-52. doi:10.1300/J041v05n04_03
- Waldner-Haugrud, L. K., & Gratch, L. V. (1997). Sexual coercion in gay/lesbian relationships: Descriptives and gender differences. *Violence and Victims*, 12, 87-98.



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