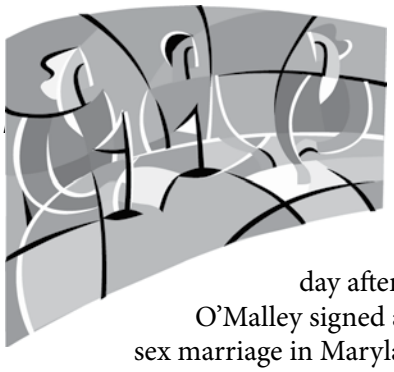
MIE JOURNAL

MANAGEMENT INNOVATION EXCELLENCE FOR LEGAL AID

VOLUME XXVI NO. 1 • SPRING 2012

SPECIAL FEATURE: ADVANCING JUSTICE WITH THE LGBTQ COMMUNITY



From the *Journal* Committee

"The times, they are a-changing."

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 "Don't ask, don't tell," was recently repealed.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

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

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

We realized, as a *Journal* Committee, that it was time to take stock of how legal aid programs were responding both to the great advances in civil rights for people who are gay on the one hand, and the major challenges affecting gay communities on the other. While the *Journal* has published one or two pieces on legal issues affecting lesbian, gay, bisexual, transgender, and questioning (LGBTQ) clients, we have never devoted a special issue to the topic. The response to our solicitations was so strong that the Special Feature has filled this issue, and we think that all legal aid managers and staff will find this issue enlightening and useful.

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

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

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

Dave Pantos, Member
MIE Journal *Committee*

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

MIE JOURNAL | SPECIAL FEATURE

ADVANCING JUSTICE WITH THE LGBTQ COMMUNITY

A Rural Legal Aid Perspective on Creating an LGBT Program

By Dan Torres, Esq., Program Manager, Proyecto Poderoso[1]
California Rural Legal Assistance

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

Background

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

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

One example of an early case handled by CRLA involved a male farm worker who faced constant anti-gay epithets from his foreman and co-workers. The verbal harassment escalated to physical harm when our client's co-workers threw him into an irrigation canal in response to the foreman's promise of a case of beer for doing so. CRLA was ultimately able to negotiate a settlement on his behalf. That case, however, opened CRLA's eyes both to the existence of the LGBT farm worker community and the need to develop more skills in handling future cases for LGBT people. Of course, before this example, LGBT-discrimination occurred in and around CRLA communities, but clients rarely disclosed sexual orientation and gender identity discrimination to CRLA advocates. The lack of disclosure made the LGBT rural community seem "invisible."

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

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

A Rural Legal Aid Perspective
Continued from page 3

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

Designing a Blueprint for an LGBT Program

Step 1: Study the Community

At the early stages of developing *Proyecto Poderoso*, CRLA obtained the help of the Williams Institute at UCLA Law School to conduct a demographic study of the LGB population[3] within CRLA's service area. The study found that there were 136,000 lesbian, gay and bisexual people living in CRLA service counties. The study was eye-opening for many reasons. First, the past invisibility of the LGB community made the large numbers of LGB people found to be living in rural California seem shockingly high and highlighted a void in CRLA's service. Second, the data was also important in challenging common stereotypes that LGB people do not live in rural communities. Finally, the study refuted another common stereotype that most LGB people are relatively wealthy by documenting the large numbers of low-income LGB people in rural communities. The study found that the LGB people and heterosexual people living in CRLA service areas face similar poverty rates. It also found that LGB people in rural communities experience more poverty than LGB people living in urban centers. The study offered much more information about the LGB rural community, all of which was important for purposes of program planning and informing CRLA's strategies for serving the community.

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

Part of building an LGBT program involves creating relationships of trust with the LGBT community. Essential to building that trust is making sure that your house is in order before clients come through the door. Rural LGBT clients face discrimination in schools, jobs, homes and public spaces, and fear seeking help from any agency, including legal aid offices. Therefore, *Proyecto Poderoso* staff worked to develop deeper levels of cultural competency among CRLA staff to handle intakes, conduct outreach and to interview clients in ways that respect the LGBT community. The trainings included information on basic LGBT terminology. They also underscored the importance of not making assumptions about a client's gender identity and sexual orientation. Trainers suggested interview questions that created a space for clients to specify how they want to be identified and openly disclose their legal problems.

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

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

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

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

Direct Legal Services

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

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

Community Education

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

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

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

Leadership Skills

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

Community Development and Rural LGBT Organizations

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

Step 4: Expanding and Building More Capacity

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

A Rural Legal Aid Perspective
Continued from page 5

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

Reflections: Lessons Learned

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

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

Adequately serving LGBT clients takes organizational commitment and support. This means being as intentional in developing LGBT advocacy as an organization would with any other targeted advocacy. For example, in developing needs assessments, working with client advisory groups, and drafting work plans, organizations should use these planning tools to map out how they will carry out their LGBT advocacy. In the end, the clients will be better served.

Conclusion

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

1 Dan Torres is an attorney and program manager for *Proyecto Poderoso*—Project Powerful— a California Rural Legal Assistance partnership with the National Center for Lesbian Rights aimed at improving legal services for low-income LGBT residents of rural California. Previously, Dan worked at the Immigrant Legal Resource Center organizing LGBT immigrants, conducting Know Your Rights presentations and providing technical assistance to legal services and pro bono attorneys. He represented clients as a staff attorney at the California Rural Legal Assistance Foundation in Sacramento, worked as a clinical instructor at the UC Davis School of Law Immigration Law Clinic, and served as a staff attorney for the United States Court of Appeals for the Ninth Circuit. Dan maybe reached at *dtorres@crla.org.*

2 *http://williamsinstitute.law.ucla.edu/press/finding-gay-rural-america.*

3 Due to lack of data sources, transgender people were not counted in this study. Therefore, the acronym LGB refers only to lesbian, gay and bisexual people. One CRLA county was also not included.

Two Steps Forward, One Step Back:

Providing Family Law Services to LGBT Clients at a Legal Services Organization

By Jerel McCrary, Domestic Violence Regional Counsel[1]
Bay Area Legal Aid

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

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

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

History of the LGBT Family Law Projects

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

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

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

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

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

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

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

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

Observations on Project Design and Consequent Outcomes

Education vs. Litigation

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

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

Domestic Violence Survivors Only

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

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

Two Steps Forward, One Step Back
Continued from page 11

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

Nature of Project Outcomes

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

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

Ten Lessons Learned the Hard Way

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

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

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

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

Continued on page 18

Two Steps Forward, One Step Back
Continued from page 13

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

1 Jerel McCrary was one of the founders of the public interest law firm, Gay Rights Advocates in San Francisco in 1977. He has practiced family law at legal services since 1989, and is currently Domestic Violence Regional Counsel for Bay Area Legal Aid. Jerel may be reached at *jmccrary@baylegal.org*.

2 *In re Marriage Cases* (2008) 43 Cal.4th 757 [76 Cal. Rptr.3d 683, 183 P.3d 384].

3 *O'Kane v. Irvine* (1996) 47 Cal. App. 4th 207 [54 Cal. Rptr. 2d 549].

4 Quintana, Nico, "Poverty in the LGBT Community," Center for American Progress.