

Local Narrative Summary 2004

Overview

In 2004, Community United Against Violence (CUAV) documented violence, vandalism, and harassment against diverse lesbian, gay, bisexual, and transgender communities (LGBT) in San Francisco and the greater Bay Area. CUAV reported 340 cases of LGBT hate violence in 2004, a 7 % increase from the total of 317 reported in 2003.

Trends of the 340 incidents include:

- a. CUAV conducted law enforcement, court and legal advocacy, media advocacy, case monitoring, and peer support/ counseling in four murder cases in 2004. Two of the murders occurred in 2004 while the others were ongoing cases that took place in 2002. There was a drop in murders from 5 in 2003 to 2 in 2004. In 2003 all documented cases were committed with the use of a firearm while the two murders in 2004 were a stabbing and a rape, beating, asphyxiation case. In these two cases the murders took place in a location familiar to the victim. On June 22, 2004 a mistrial was announced for transgender youth Gwen Araujo's October 2002 hate crime murder. A re-trial is set for May 2005. These cases illustrate that in dating and "pick-up" situations transphobic and homophobic bias can be a major motivating factor in violence and even murder.
- b. Mirroring National trends, San Francisco experienced a striking rise in the use of weapons during attacks. There was an increase from 22 weapons used in 2003 to 88 used in bias based attacks in 2004. In the Bay Area this increase in weapons use did not result in an increase in injuries.
- c. Last year San Francisco Mission's district reported the highest number of incidents that were reported to CUAV with 53 cases. 31 of these cases occurred on the street, on public transportation, and/or in and around LGBT clubs, bars and LGBT and non-LGBT public institutions, while 13 cases occurred in private residences. The Castro was the second highest with 27 cases, and the Tenderloin was the third highest with 19 cases.
- d. There was a 25% increase in cases reported to police, from 118 in 2003 to 148 in 2004. There was a 33% decrease in the number of police officers named as offenders from 40 in 2003 to 27 in 2004.
- e. Mayor Gavin Newsom's landmark decision to issue marriage licenses led to a resurgence of activism, community mobilization, and support for marriage equality and LGBT rights. CUAV documented 18 incidents of anti-gay marriage backlash/gay-bias in the form of email death-threats, hate crime vandalism to private residences, harassment, intimidation, and workplace discrimination. There was also an increase in incidents committed by hate groups from 1 in 2003 to 4 in 2004.

LOCATION OF ANTI-LGBT INCIDENTS

San Francisco Neighborhood	2004 Incidents
Bayview/Hunters Point	3
Castro	27
Downtown	5
Haight	3
Hayes Valley/Western Addition	11
Marina/Pacific Heights	2
Mission	53
Noe Valley	2
North Beach/Chinatown	4
OMI	4
Polk	6
Portola/Bernal Heights	2
Potrero Hill	3
Richmond	3
SOMA	14
Sunset	6
Tenderloin	19
Twin Peaks	5
Visitation Valley	0
Unknown within San Francisco	76
Total San Francisco	248

Northern California Counties	2004 Incidents
Alameda	22
Contra Costa	5
Fresno	2
Humboldt	2
Lake	3
Marin	1
Nevada	1
Placer	1
Sacramento	2
San Benito	1
San Joaquin	2
San Mateo	9
Santa Clara	4
Santa Cruz	2
Shasta	1
Solano	1
Sonoma	2
Stanislaus	1
Tulare	1
Unknown/Other	29
Total Northern California	92

Total Reported Incidents	340
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San Francisco's Historic Stand for Marriage Equality

In February 2004, San Francisco's LGBT community celebrated Mayor Gavin Newsom's decision to issue licenses to same-sex couples. Almost immediately LGBT communities were hit with homophobic and heterosexist backlash from right-wing conservatives and anti-gay marriage activists on the local and national level. CUAV documented 18 incidents of anti-gay marriage backlash/gay-bias, including email death-threats, hate crime vandalism to residences, harassment, intimidation, and workplace discrimination. Many public officials made high profile stands supporting marriage equality. There is continued need for security and privacy around the hate violence these individuals have faced as a result of their support, making the full extent of anti-marriage equality backlash impossible to assess.

CUAV staff acted as security monitors to same-sex couples getting married while anti-same sex marriage protestors yelled and harassed couples coming entering and leaving San Francisco's City Hall. Protestors held homophobic/ anti-marriage posters with slogans such as, "homosexuality is a sin".

CUAV also documented a large increase in Asian victims reporting and an increase in Asian offenders. The majority of the anti-bias harassment and intimidation documented in Asian communities stemmed from a rally opposing same sex marriages organized by Chinese Christian conservative leaders during April 2004. This rally was one of the largest events of its kind anywhere in the country reported at that time. CUAV responded by initiating a national ad-hoc coalition of Asian American leaders and organizations committed to building support for marriage equality within the Asian American community.

This increase of anti-LGBT backlash indicates a major problem that will most likely continue to grow in 2005. It is critical as LGBT individuals fight for equality that we thoroughly document the backlash against community activism and the political progress we are making.

Demographics of Victims

Males remain the largest category of victims to report incidents of anti-LGBT violence in 2004, with 177 males reporting incidents in 2004, up from 163 male victims reporting in 2003. There was a drop in females reporting from 107 in 2003 to 93 in 2004. This year 80 transgender victims reported, with 64 Male to Female (MTF) victims, and 16 Female to Male victims (FTM) experiencing bias in 2004. This represents a 12% decrease of MTFs reporting and a 78% increase in reporting by FTMs. This increase in FTM reporting has been, in part, because of the growing visibility of Transgender and Transsexual men "coming out" and reporting hate violence and hate crimes. There were 240 cases from victims identifying as lesbian or gay. There were 17 cases reported by bisexuals (+143%). Cases reporting as unknown increased from 20 in 2003 to 59 in 2004. Many times, unknown is selected when an individual's self identity does not conform to established terms, like LGBT. Some of these identities include questioning, queer, gender-queer, and trans/transgender thought not specifically identifying as FTM or MTF

or Transsexual. This type of reporting and self identification is indicative of a Bay Area-wide trend to deconstruct and create identity that supports one's individual experience, not just the generally accepted ways of identifying or labeling oneself.

As in previous years, White/ Caucasian victims represent the largest racial and/or ethnic group to report hate crimes. White victims appear more likely to report, with 159 incidents in 2004 compared to 136 in 2003. This speaks to the safety, access, and comfort many White/ Caucasian victims feel and have compared to communities of color regarding reporting and accessing services when they experience bias-based violence towards them. The largest drop was seen in African Americans, as reported cases decreased from 56 in 2003 to 34 in 2004. Mutli-racial victims reporting decreased from 15 in 2003 to 12 in 2004. There also was a large decrease of Latina/o reports, 66 in 2003 to 46 in 2004. The two largest increases were Arab/Middle-Eastern increased from 1 in 2003 to 5 in 2004 and Asian/Pacific Islander raised from 17 in 2003 to 27 in 2004.

There was a decrease in the number of anti-LGBT youth (22 and under) violence/ harassment, from 39 in 2003 dropping to 29 cases in 2004. This drop seems to be a decrease in youth specific resources in the Bay Area which leads to limited reporting and decreased ability to monitor what youth are actually experiencing. As a result of CUAV's Love and Justice Project building connections with the African American community in the East Bay there was an increase in African American youth reporting hate violence in that area.

Levels of Violence

Weapons use increased from 24 incidents reported in 2003 to 88 in 2004 including; 8 reports of bats, clubs, and blunt objects compared to 10 in 2003; 8 reports of knives and sharp objects compared to 3 in 2003. Some weapons used in intimidation, harassment and coercion included rope, knives and strangulation. There was a small increase in use of firearms from 8 cases in 2003 to 9 instances of firearm use in 2004. Although the level of bodily harm did not increase this increase in weapons indicates a greatly increased level of threat and intent to cause physical harm and emotional distress against individuals perceived as lesbian, gay, bisexual and transgender.

Offenders Incidents

There were 462 offenders tracked in 2004 from 480 in 2003. Males accounted for 303 offenders, while females were offenders in 66 cases. Offenders came from a broad range of ages: under 18 (24 cases), 18-22 year olds, (26 cases), 23-29 year olds (42 cases), 30-44 year olds (58 cases), 45-64 (16 cases) and 65 and older (6 incidents). Physical attacks and cases where the offender is a stranger tended to be committed by younger offenders while cases involving neighbors, landlords, and family members tended to include more offenders that are in their forties and older. Cases reported included 30 rape and sexual assaults, 4 police entrapment (down from 7 in 2003), 41 incidents of vandalism, 6 robberies, harassment and intimidation (email, mail, and telephone) totaling 484 cases. Discrimination was seen in 116 incidents. The bulk of the incidents reported this year

were in private residences: 115, 34% of cases, while 90 cases, 26% of those reported occurred on the streets and public areas. The proportion of incidences on the street or in public areas has decreased from 33% of cases in 2002. This shift indicates that hate violence attacks are occurring more frequently, not just on the street but in and around individual's homes, with some offender(s) being known to the victim prior to the bias based incident.

CUAV tracked an increase in incidents committed by hate groups with 1 in 2003 to 4 in 2004. Twenty-three cases of anti-LGBT violence took place in and around public accommodations including public restrooms, LGBT and straight clubs and/or bars. City Hall was a common location for public harassment in the form of national homophobic backlash by conservative right wing and Christian Fundamentalist conservative groups protesting during Gay and Lesbian marriages.

Two cases that reflect "pick-up" hate crimes are the murders of Delicious/Tony Green and Joel Robles. Ms. Green was murdered in a residential hotel while Mr. Robles was murdered in his home. Hate-crime murder trends indicate that it is quite common for the victim and the offender to know each other either intimately or briefly. A social situation can quickly escalate into a murder based on bias, homophobia, and/or Transphobia. Similar to date rape, authorities have been slow to recognize that bias based assaults do often occur between two parties that know each other, making it difficult to have the case charged and tried appropriately as a hate motivated crime or murder.

Law Enforcement

In 2004, the Bay Area documented 148 incidents of LGBT bias that were reported to the police compared to 118 in 2003, a 25% increase. There also was an overall decrease in police and security abuse, with 40 personnel/ officers named as offenders in LGBT harassment/violence in 2003 and 28 named as offenders in 2004. One case of security force/bouncer abuse occurred while 27 law enforcement officer abuse cases.

Over the past three years CUAV has documented a decline in overall law enforcement misconduct and abuse. The most significant decrease in police abuse has been a huge drop in Transgender/ Transsexual abuse cases. This was in large part due to the creation of the Transgender Police Task Force, the first ever group where the Human Rights Commission and the San Francisco Police Commission worked together with CUAV and other community groups to effectively prevent and deal with transphobia within the San Francisco Police Department. The approval and passing of standard transgender training and accountability for all San Francisco police officers two years ago along with CUAV's involvement in long-term cases, such as Gwen Araujo's murder, has lead to stronger coalitions between CUAV, the criminal justice system, the legal system, and the community as a whole. Because of these efforts we have seen a dramatic improvement in police sensitivity and responsiveness with a 33% decrease in cases of reported police abuse, from 40 in 2003 to 27 in 2004 even as there was a 25% increase of cases reported to police, from 118 in 2003 to 148 in 2004, an 25% increase. Despite the many gains in this area CUAV demands even more accountability on the part of the police and other

authorities, particularly with regard to the treatment, arrests and civil rights violations of transgender and transsexual women by the police.

HATE MURDER CASES 2004

Delicious/ Tony Green

Delicious, an African-American Transgender woman, was brutally beaten, raped, bound and gagged and died of asphyxiation after being left alone in a room at the Francois Hotel on Friday, August 13, 2004. Currently the murder is under investigation. Sexuality and anti-transgender bias have been looked into as a motive. Law enforcement said that the motive in this case is not a hate crime but apparently part of a robbery gone wrong. CUAV helped Delicious' family receive Victim Witness compensation for funeral expenses and outreached for the family in hosting a community vigil for her on Sunday, August 22, 2004, in Bay View Hunters Point. Over 120 people came to Delicious' vigil. CUAV has been in contact with the Inspectors in the SFPD Homicide Unit and have worked with media and community agencies to provide opportunities for the family to speak about their mourning and the horrors of what their family is going through because of the loss of a loved one to hate violence. Two alleged suspects who had warrants served for this crime are currently incarcerated for other crimes. The fact that these suspects have been arrested and can be tracked allows for action within the criminal justice system and the possibility of justice.

Joel Robles

Joel Robles, a 29 year-old cross-dresser living in Fresno was stabbed multiple times and left for dead in his apartment, on August 15, 2004. His alleged killer, Estanisalao Martinez, is in police custody and has been charged with the murder. Police responded to a 911 call from Robles' home, found him stabbed multiple times at about 4:30 a.m. He died at University Medical Center about 7 a.m. the same day. Joel's friends characterized him as a very loving and caring person who worked hard both as a dental assistant and for charity. There was a vigil held with, red, white and pink roses and a religious candle that formed a memorial shrine on the doorstep of his home. Joel was planning to be in a drag-queen fashion show just days after his death.

High Profile Trial Updates

Gwen Araujo Hate Crime Murder Trial

Twenty months after the brutal slaying of Gwen Araujo, a transgender teenager from Newark, the jury deadlocked on whether her attackers were guilty of first or second-degree murder. As the Transgender Law Center stated after hearing the devastating news of the Gwen Araujo hate crime murder trial “was not all in vain—it’s justice delayed not denied.” According to Alameda County District Attorney’s Office, none of the jurors were willing to settle for the lesser offense of manslaughter – despite efforts by defense

attorneys in the case to argue that Gwen's killers were somehow justified because she did not disclose her transgender identity to them. The prosecutor already has stated that he will re-try the three defendants, Michael Magidson, Jose Merel, and Jason Cazares, for murder. District Attorney, Chris Lamiero has committed to re-try the case in May 2005.

Gwen's deeply loving and compassionate family made a vigilant and vocal presence at the trial, and this was incredibly empowering for both straight and LGBT communities to witness. Gwen's mother Sylvia Guerrero and her family attended the historic "Transgender March and Rally" during the June 2004 San Francisco Pride Celebration. Ms. Guerrero spoke powerfully and eloquently to a crowd of thousands. Shortly after San Francisco Pride, the Transgender Law Center successfully worked with Ms. Guerrero and her family to have Gwen's name legally changed to from "Edward" to Gwen Amber Rose Araujo.

Along with family and friends, many community groups including CUAU, Gay-Straight Alliance Network, The Horizons Foundation, National Center for Lesbian Rights, National Coalition of Anti-Violence Programs, San Francisco LGBT Community Center, and the Transgender Law Center were pro-active in doing anti-transphobia media and community education and advocacy.

Murder Conviction of Gay Pick-up Crime

July 2004, Brian Misque, 25, was found guilty of murdering Rogelio DeChavez, 22 by stabbing him 27 times on July 6, 2002. The two men met on the Internet. The murder occurred on their second meeting after having had some sexual contact. This excessive use of violence, known as "overkill", is often linked with "gay panic". Although a gay panic defense was not specifically used in the case, Misque claimed self defense.

Jack Broughton Hate Crime Trial

On Thursday August 22, 2002 outside of the Transmission Theater in San Francisco, two females became victims of a hate crime. A queer Latina was assaulted in a Gay club by a White woman later identified as Jean Earl. This came just after the assailant's white boyfriend, Jack Broughton, had been yelling anti-Gay and anti-African-American epithets inside the club and both parties were asked to leave the premises. After the victim was punched, Earl ran outside of the club and the victim followed her. In the midst of the victim confronting the female assailant, Broughton started beating the victim to the ground, kicking her with his steel-toe boots until she was unconscious, while yelling anti-queer and sexist epithets. The victim's friend, a queer white woman, tried pulling Broughton off her friend. He turned and punched this second victim in the face and stomach.

Broughton and Earl fled the scene and went to a gay leather bar where Broughton proceeded to yell anti-gay epithets. It allegedly took eight police officers to detain him. Both offenders were arrested. Jean Earl was charged with a misdemeanor. Broughton

was charged with “simple battery”, “resisting arrest”, “felony assault by means of force likely to produce great bodily injury” with a “hate-crime enhancement”.

CUAV provided counseling, advocacy and helped coordinate a successful two-year court watch. Court watch provided emotional support to the survivors, LGBT visibility in the media and legal system, and showed that the community is holding offenders accountable with the help of the criminal justice system.

Broughton plead guilty on all charges. A complete jury had been impaneled for the trial when Broughton opted for the plea bargain. Judge Tsenin agreed to accept the guilty plea, and sentenced Broughton to one year in county jail, which may be served in home detention with three years of probation and anger management counseling. Broughton is required to pay restitution to the victims, to a state victim fund and to a community-based agency focusing on preventing hate crimes. The Judge imposed restraining orders prohibiting Broughton from being within 100 yards of the survivors, the Transmission Theater, and the Eagle. Broughton still faces a civil suit filed by the survivors.

Fighting Hate in Music

From August through October, CUAV worked with international, national, and local social justice organizations to protest homophobic Jamaican Dancehall artists Capleton and Bounty Killer. These efforts prevented these musicians-- whose lyrics are typified by extreme homophobic hate--in San Francisco by raising community and media awareness of the anti-LGBT message these artists promote. CUAV protested in partnership with other groups, including Amnesty International, in solidarity with members of the Jamaican LGBT community who have been educating globally about dancehall song lyrics which incite extreme violence against gays and lesbians. The Jamaican LGBT community routinely experiences violence and discrimination, which is not only condoned by, but also perpetrated by law enforcement authorities. Last year, one of Jamaica’s long-time, well-loved and out-spoken LGBT activists’, Brian Williamson, was brutally murdered.

On February 15, 2005, CUAV and Amnesty International sponsored two Jamaican LGBT community members to speak about the dangerous and life-threatening situation in their homeland. They could not provide their full names or be photographed by the press because their lives are already in danger for being LGBT and speaking out.

Hate Violence Narratives

1. Brian Kirchner was arrested early Sunday morning, July 27, 2004, near 11th Street and Folsom, after he and another suspect yelled derogatory insults and hate speech toward a group of 5 queer/lesbians and one transgender man. The other suspect fled the scene. According to police reports, Kirchner continued harassing the group and subsequently physically attacked them. Kirchner attempted to flee, but was successfully detained by a transgender man who held him until the SFPD arrived. Several neighbors and other potential witnesses stopped to help the hate crime victims. Some of the victims sustained

injuries, including a broken nose, black eyes and injuries around the head and face. The defendant pled guilty to two counts of felony hate crime.

2. On August 1, 2004, a White and/or Latino male contacted an Asian gay man under the pretense of receiving a professional massage. Once inside the man's residence, the suspect impersonated an undercover cop and pulled out a gun. He used a rope to tie the victim's hands and ankles, then sexually assaulted and robbed him. The survivor worked with law enforcement and received support services and advocacy from CUAV. The case is still unsolved.

3. A Latina queer woman was taking a hike at the beach with her transgender male partner. The couple came upon two men, who started making comments, intimidating them, and subsequently chased and threw rocks at them. The incident was not reported to the police.

4. A White transgender man obtained a three year Civil Harassment Order against a neighbor who was being evicted. The survivor endured hate violence harassment, yelling, vandalism, property damage and transphobic threats from this neighbor.

5. A Latina transgender woman was sexually assaulted and robbed during 4th of July weekend by a group of young men in her neighborhood. When the police arrived, they denied her treatment for the physical and sexual violence and used inappropriate pronouns and other transphobic language. CUAV worked with the SFPD Hate Crime Unit to help counsel and advocate for her case.

6. A mixed race Filipino-African American queer youth who is disabled was in the Castro trying to access the street with his wheelchair. A White female in her car started yelling 'nigger' and anti-queer epithets at him. She then blocked him and hit his wheelchair. When the survivor called out for help; the crowd around would not help him.

Summary of Local Recommendations

1. Last year, California, the LGBT community and transgender-allies were outraged by the transphobic and sexist tactics used by the defense attorney during last years Gwen Araujo hate crime murder trial. The defenses tactics placed the victim's gender on trial, and subsequently did not hold the perpetrators' accountable for their brutally violent murder. AB 1160 will make clear that such shameful, harmful tactics have no place in the courtroom. Text of AB 1160 can be found at: www.leginfo.ca.gov

CUAV strongly recommends passing Assemblywoman Sally Lieber (D-San Jose) AB 1160. This new legislation, sponsored by Equality California would end the practice of "blaming the victim," frequently used by defendants and their attorneys in homicide trials when the victim (or victims) is gay, lesbian, bisexual, and/or transgender.

2. For many hate crime victims, bringing a civil action within one year is not possible or advisable. Criminal proceedings involving hate crimes can often take well over one year. The goal of civil and criminal proceedings may conflict, particularly if settlement discussions in the civil proceeding are initiated. Civil proceedings expose victims to the legal discovery process, allowing perpetrators access to sensitive information about the victims that they might not have. The attackers may not be identified until after the one year period has expired.

CUAV recommends extending and supporting AB 378: Hate Crime Civil Remedies Act which will provide hate crime victims with a fair opportunity to seek meaningful civil recovery under the Ralph and Bane Acts (California Civil Code Sections 51.7, 52, and 52.1). Asian Law Caucus (San Francisco, CA) has been spear-heading this Act. Asian Law Caucus' involvement is based on their work on a case in which five Asian youth who were attacked and beaten by up to twenty white male teens, while being verbally threatened with anti-Asian epithets in June of 2003. www.leginfo.ca.gov

3. CUAV successfully assisted with the passing of S.B. 1234 (Kohl) – Hate Crimes Omnibus Bill, SB 1234. This bill establishes goals of sentencing for hate crimes: punishment, crime, and violence prevention, and restorative justice. The bill clarifies that hate crime protections extend to victims who are targeted for their association with a protected class. This bill ensures more comprehensive POST (Peace Officer Standards and Training) including education around gender bias, disability bias crimes, crimes against homeless, anti-Arab and anti-Islamic crimes, and multi-mission criminal extremism. This bill also simplifies the language around gender while continuing to explicitly include a person's gender identity and gender related appearance and/or behavior whether or not stereotypically associated with one's assigned gender at birth. This bill offers important protections to immigrant victims and witnesses of hate crimes that cooperate with the police. For more information: caag.state.ca.us/civilrights/sections/rights.htm

4. CUAV continues to recommend that communities throughout California and nationally continue to document incidents of hate. CUAV's 24-hour crisis line (415) 333-HELP (4357) is one of many resources to which any person can report hate violence. CUAV is alerting the community at large to be aware, prepared and document anti-gay marriage organizing and backlash. Whether that person is a victim/survivor, witness, family member, friend, or member of an institution experiencing bias, please contact CUAV and document anti-LGBT harassment, intimidation, and violence.

5. "Not in Our Town: Northern California" is a documentary that recounts how a community can take steps to draw law enforcement, government officials, and community members together peacefully in response to hate violence and hate crimes. "Not in Our Town: Northern California," is also an example of how communities can create and implement creative responses to fighting and preventing hate. CUAV encourages grass-roots organizing, education, and violence prevention. Coalition building involving neighbors, faith-based communities, LGBT communities, heterosexual allies and local media can often result increased safety for LGBT individuals, their families and the community as a whole.

6. In 2004 CUAV documented that the Mission neighborhood compiled the largest Number of hate violence incidents in San Francisco with 53 cases. 31 of these cases of hate violence occurred on the streets, public transportation, and/or in and around LGBT clubs, bars and LGBT and non-LGBT public institutions. Many of these incidents were one-time incidents where the offender was unknown to the victim. The types of attacks included use of anti-LGBT slurs, threats of physical harm and/or death, property damage, eviction, and physical and/or sexual violence. There were 13 cases where the incidents occurred in a victim's home, apartment, or public area of a residential building. The offender was a neighbor, landlord or known to the victim in 8 of those 13 cases.

CUAV wishes to honor the residents and visitors to Northern California who, due to circumstances beyond their control, became targets of hate. Their strength and courage in coming forward makes this report possible. They have helped focus national attention on the reality of anti-LGBT violence, and for that, the staff and volunteers of CUAV express our deepest gratitude.

We would like to congratulate and acknowledge all the same-sex couples that have proudly and bravely come forward to publicly express their love while continuing in the struggle for LGBTQ rights. CUAV believes anti-marriage activism is rooted in bigotry and intolerance against the LGBT community. CUAV will monitor and promote LGBT-positive activism, coalition building and community organizing and continue to respond to anti-LGBT/ anti-marriage equality backlash, crimes, media coverage and activism.