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Domestic Violence: Workplace Policies And Management Strategies

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The Impact of Domestic Violence on the Workplace

Domestic violence does not remain “domestic” by staying home while its victims go to work. Instead it often follows them into the workplace, sometimes with tragic consequences. Homicide is the second leading cause of death for women on the job,³ and approximately 15% of those deaths are caused by a current or former intimate partner. Moreover, a recent survey found that half of workplaces with a thousand or more employees reported an incident of workplace violence in the past year, with nearly a quarter being domestic violence-related.⁴ Such violence poses a threat not only to the victim, but also to the safety and well-being of co-workers, clients, customers and the general public.

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² Kim Wells is the Executive Director of the [Corporate Alliance to End Partner Violence](#). The Alliance is a leading force in the fight against domestic violence, and is the only national organization of its kind founded by business leaders and focused on the workplace. Since 1995, the Alliance has brought together dozens of progressive companies who exchange information, collaborate on projects, and use their influence to instigate change. Kim is a frequent speaker and guest lecturer in the United States and internationally on topics such as partner violence and the workplace, workplace violence, organizational ethics and leadership.

³ Bureau of Labor Statistics, US Dep't of Labor, *Census of Fatal Occupational Injuries* (2003), available at <http://www.bls.gov/iif/oshcfoi1.htm>.

⁴ Bureau of Labor Statistics, US Dep't of Labor, *The Survey of Workplace Violence Prevention* (2005) available at http://www.bls.gov/iif/osh_wpv.htm.

Even when domestic violence does not occur in the workplace, its effects on the workplace are enormous in terms of absenteeism, productivity, and healthcare costs. A 2005 national telephone survey by the Corporate Alliance to End Partner Violence (CAEPV) found that 21% of full time employed adults were victims of domestic violence, and 64% of them indicated that this violence significantly affected their ability to work.⁵ The US Centers for Disease Control and Prevention have estimated the costs of productivity losses alone to be \$727.8 million a year.⁶ Researchers from the University of Arkansas found that women who were victims of recent domestic violence had 26% more time lost to tardiness and absenteeism than non-victims.⁷

While employers should be motivated by humanitarian concerns to assist employees victimized by abuse, the staggering business costs and increased exposure to legal liability confronting employers serve as powerful proof of one inescapable fact: Domestic violence is an issue that no employer can afford to ignore. With one out of every four women reporting physical abuse by an intimate partner at some point in her lifetime,⁸ there can be no question that domestic violence affects the workplace.

Employers must take a proactive approach to addressing the impact of domestic violence in and on the workplace. The goal should be to create a safer environment by providing support to abused employees and guidelines to prepare all employees and managers to respond appropriately to these issues when they arise.

Demonstrated Commitment from Corporate Leadership

The key to the success of any corporate domestic violence program is a commitment from the highest levels of the organization. By providing leadership on this issue from the top ranks, managers and employees are more likely to view the policy and training as a serious issue. And it is important that employees at all levels recognize this as a serious issue, since the dangers of minimizing domestic violence in the workplace can lead to catastrophic results.

1. Create a Multidisciplinary Response Team

Before rolling out the policy, it is essential to establish and train Multidisciplinary Response Team (MRT) members to provide a front-line response to employees who choose to disclose their situations. This implementation component creates the infrastructure for the policy because having a policy that no one is aware of and that no

⁵ Group SJR, Corporate Alliance to End Partner Violence, *National Telephone Benchmarking Survey* (October 2005) available at http://www.caepv.org/about/program_detail.php?refID=5.

⁶ National Center for Injury Prevention and Control, US Centers for Disease Control and Prevention, *Costs of Intimate Partner Violence Against Women in the United States* (2003).

⁷ Anne O'Leary Kelly & Carol Reeves, *The Effects and Costs of Intimate Partner Violence for Work Organizations*, 22(3) J. Interpers. Viol. 327-344 (2007).

⁸ Patricia Tjaden & Nancy Thoennes, U.S. Dep't of Just., NCJ 181867, *Extent, Nature, and Consequences of Intimate Partner Violence* (2000), available at <http://www.ojp.usdoj.gov/nij/pubs-sum/181867.htm>.

one knows what to do with can be worse than having no policy at all. This is particularly important given the significant likelihood that the announcement of a domestic violence policy usually triggers an increase in reports. The employer must be prepared for that.

To give the MRT legitimacy, it is optimal to have the Chief Executive Officer or company president appoint its members. Areas that should be represented on the MRT include Senior Management, Human Resources, Health/Medical, Legal, Security, Internal Communications, Public or Media Relations/Consumer Affairs, Community Relations, and representatives of the Employee Assistance Program (EAP) and unions. The members are charged with planning for implementation in a way that works best for that organization. The MRT should establish a realistic action plan and timeline for implementing the program.

2. Establish and Implement a Policy⁹

A domestic violence policy can stand alone or be integrated as an essential element of a general violence in the workplace policy. It is vital to understand, however, that while the two policies may be addressed in tandem, issues related to domestic violence, due to its prevalence, unique impact on the workplace and particular complexities, demand a specific analysis and implementation process.

The policy should focus on providing information and referrals to employees who are victims of domestic violence and should address issues such as the need for time off, security, and how to deal with performance issues. It is critical to keep in mind that domestic violence policies are not designed to place the employer in the position of expert or counselor. Rather, they are designed to mitigate the impact of domestic violence in the workplace by providing victims with a link to community resources that serve those functions. The employer's partnership with local domestic violence agencies therefore is essential to carrying out the policy's central mission of providing information and referrals to employees who are victims of domestic violence. The partnership ensures that the employer becomes the link to resources rather than the resource itself.

The policy should also set forth prohibited acts of domestic violence by employees. Under the policy, the use of company phones, fax machines, e-mail, time or other company property or resources to threaten or harass another person should result in disciplinary proceedings, which may include written warnings, paid or unpaid leave, required counseling or dismissal. It is important to keep in mind that, when disciplining or terminating employees accused or convicted of domestic violence, the focus should always be on safety. The MRT should collaborate with counsel and law enforcement where appropriate to determine the most safe, appropriate and legally responsible way to handle the situation. While disciplinary action should be delineated, the employer also should be ready to offer referrals or information about batterer's intervention programs for employees who want to get help.

⁹ Adapted from Stacey Dougan, *Employers May Face Liability When Domestic Violence Comes to Work*, Greenberg Traurig Alert (Sept. 2001).

The MRT and management should determine up front whether and to what extent the employer is going to respond to domestic violence that is committed when an employee is “off duty,” and should consider whether that issue will be addressed in the policy. This decision may depend on the type of work involved. For example, an employer may be justified in terminating a newscaster for such acts based on a morals clause in the employment contract, whereas an employer may not be justified terminating an accountant for the same conduct where the alleged abuse had no connection to the workplace. Employers must be careful to consult with counsel in making these types of decisions because state law varies in terms of what type of employment decisions may be made based on arrests and/or convictions. If not cautious, a well-intentioned employer can inadvertently wade into claims for discrimination or defamation in such cases.

During the policy development process, it is important to keep the following points in mind:¹⁰

- **Audit Personnel Handbook:** Audit existing employment policies and manuals to ensure that the domestic violence policy fits the employer’s needs, culture and various environments.
- **Compliance:** Ensure that the policy is compliant with the applicable laws in every jurisdiction in which the employer conducts business. This is particularly challenging for multi-jurisdictional employers given the multitude of federal, state, and local laws that govern their conduct toward domestic violence victims.
- **Confidentiality:** Protect the confidentiality of victims by detailing the procedure and circumstances under which information disclosed by employees may be communicated to other specifically-identified people (e.g., the general counsel, or director of security).
- **Culture:** A domestic violence policy and program is only as good as the internal culture that supports it. Companies must create a workplace where victimized employees actually believe they will get help and trust they will not be fired or discriminated against for sharing this information with a supervisor or manager. The same must be true for batterers who voluntarily seek help through workplace resources.
- **Insurance:** Audit insurance policies and check underwriting histories to make sure that company-affiliated insurers do not discriminate against victims. Forty-one states have laws that prohibit insurance companies from discriminating against domestic violence victims.¹¹

¹⁰ Greenberg Traurig LLP, *Domestic Violence in the Workplace: Best Practices for Employers* (2002).

¹¹ As of April 2007 these states included Alabama, Alaska, Arizona, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Hampshire,

- **Employee Assistance Programs:** Audit Employee Assistance Program (EAP) policies to ensure that providers possess the requisite knowledge and experience to identify and respond appropriately to domestic violence situations.

3. Provide Training

MRT, Managers and Supervisors

After establishing the MRT and developing the policy, the third essential component of implementation is awareness training for employees and supervisors. It is imperative to train members of the MRT, managers and supervisors to ensure that they understand domestic violence itself as well as the legal framework governing their policy. In particular:

- Company representatives should not give personal advice or counseling (unless they are part of an in-house employee assistance program)—this should always be left to the experts.
- Training should outline what actions are appropriate and what referrals are available.
- Be mindful that policies and protocols are simply guidelines; there are rarely, if ever, black and white “right answers.” Most issues will have to be handled on a case-by-case basis.
- Be clear about how to address performance issues with employees who may be victims of domestic violence

All Employees

Design and facilitate internal corporate training and awareness activities for *all* employees, along with protocols, resource materials, and programs. In particular:

- Ensure that the training is skill-based and retrain employees regularly.
- Collaborate with local domestic violence programs¹² in training presentations to:
 - Ensure that employees learn about the dynamics of intimate partner violence, possible warning signs, and how to respond sensitively and confidentially when victimized employees are identified.

New Jersey, New Mexico, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, and Wisconsin.

¹² Employers should incorporate into their training budgets donations to the organizations that provide this training. Given that most advocacy organizations are understaffed and underpaid, it is unfair to expect them to provide these services for free.

- Inform employees how to communicate with a victim or a perpetrator.
- Reinforce that, as in the case of managers, co-workers are not to become counselors, but rather facilitators for helping co-workers get the help they need.
- Use existing training mechanisms (e-mail, web based training, intranet, message boards, newsletters, etc.) to reinforce policy and availability of resources for victims and perpetrators.

Integrate awareness programs with other programs that are complementary: for example, wellness fairs, workplace safety programs, and family issues seminars are all effective venues for sharing domestic violence information. Seminars on topics such as family issues, stress or workplace safety (where partner violence can be integrated), newsletter articles and brochures on intimate partner violence are ways employers create awareness of the issue.

4. Create Safe Work Environments

- **Security Protocol:** Develop a security protocol for promptly responding to actual or threatened incidents of violence in the workplace. This protocol will be highly contingent on the types of environments a company has (e.g., factory, retail, administrative, etc.).
- **Safety Plan:** Work with the employee to determine what steps may be needed to enhance her safety (and the safety of others where implicated). As with all safety planning with domestic violence victims, the victim is in the best position to assess her safety risk, and her wishes should be respected. A few of the tips an employer may offer to the employee include¹³:
 - Change regular travel habits
 - Keep court order and emergency numbers on person at all times (the employer should have a copy of the order since most orders require the perpetrator to stay away from the victim's workplace)
 - Keep a copy of the court order at work
 - Give a picture of the abuser to security and friends at work

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- Tell supervisors - see if they can make it harder for the abuser to find the victim
- Don't go to lunch alone
- Ask a security guard to walk the victim to her car or to the bus
- If the abuser calls at work, save voice mail and save e-mail
- **Employee Awareness:** Employees should be educated regarding security procedures to keep themselves and others safe in the workplace, including how to avoid inadvertently giving batterers access to victims, and where to go to report a potential threat. It is also important to help employees recognize the signs of a troublesome or abusive relationship and know where to turn for assistance, for themselves and for co-workers.

5. Address Performance Issues¹⁴

Managers are often concerned about where their responsibility lies as a manager or supervisor – when is it management’s business to talk to an employee about these issues? How to ask the question, “Are you being battered at home?” depends on the employment relationship to the person being asked. The employee’s supervisor, team leader or manager should NOT ask this question – at least, not in this way.

In dealing with performance issues, supervisors and managers must be careful to keep the focus of discussion on how behavior or performance is affecting work, to avoid the appearance of interfering in an employee’s private life and/or creating potential problems under laws such as the Americans with Disabilities Act by presuming that the employee is impaired in some way. This means saying something like, “I’ve noticed a change in your work in the past few months. You are not meeting your productivity goals, you are frequently late for work, often leave early, and have missed the past two team meetings. I am concerned about you, and about your work performance – is there anything I can do to help you improve?” or, “Is there anything I can do to help you get you back on track?”

No matter the answer, it is the supervisor’s responsibility to work with the employee on a work improvement plan. If the employee does not disclose anything about home, then a supervisor must respect the employee’s privacy, and remind the employee of resources available through the company if assistance is ever needed. These resources should be detailed in the policy and may include human resources, the local advocacy organization or an EAP.

If the employee does disclose, it is important to have a plan in place to help the individual safely access the resources needed – remember, the manager is not a mental health professional, and no one expects him or her to be. Nor should the

¹⁴ Adapted from Corporate Alliance to End Partner Violence, *Everybody’s Business* (Winter 2003).

manager share the information about the employee's situation outside those with an absolute need to know as outlined within the policy. There are no easy answers in balancing employee privacy with a desire to assist in cases of domestic violence. It is important that employers wrestle with these delicate issues, and to keep the dialogue going within their MRT—even when the answer is not readily apparent. For example, employers should make it absolutely clear that their electronic information systems, including e-mail, voice-mail, and computers belong to the company and there is no expectation of privacy in the use of the equipment by its employees. At the same time, privacy interest should be weighed in the balance when determining safety and security measures.

6. Establish and Maintain Linkages

- **Advocacy Community.** Establish and build requisite relationships with the local domestic violence advocacy community, as they are the resources to which the employer is the link. Local domestic violence programs have the expertise necessary to assist victims with safety planning, advocacy and other support. The employer's involvement should be limited to providing a supportive environment in which it strives to meet a victim's *work-related* needs.
- **Peer to Peer.** Employers implementing best practices are willing to network with other businesses and ask them how they handle the tough and delicate issues and challenges. Some examples of these groups include the [Corporate Alliance to End Partner Violence](#) (national), [Safe@Work Coalition](#) (New York City), Employers Against Domestic Violence (Boston, Cape Cod and Worcester, Massachusetts), Indianapolis Employers Against Domestic Violence, and others. Whether individually or in groups, these companies are committed to reaching out to the community to engage local service providers in training their staff or EAP. They also engage employees in volunteer activities for service providers.¹⁵

Conclusion

Few would deny that the human toll of domestic violence is staggering. However, until a few years ago, employers believed that domestic violence was a private matter that should not be brought into the workplace. We now know that domestic violence is a matter of public health and safety. It also costs employers billions of dollars each year. Although the implementation of a domestic violence program has its challenges, the savings are immeasurable. The bottom line is that, for most employers, it's not a matter of *if* they will confront domestic violence; it's a matter of when. The best thing an employer can do is to be prepared before tragedy strikes.

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¹⁵ Jane Randel & Kim Wells, *Corporate Approaches to Reducing Intimate Partner Violence through Workplace Initiatives*, 3 Clinics in Occupational and Env'tl. Med. 821 (2003).