

A GUIDE FOR EMPLOYERS:
DOMESTIC
VIOLENCE
IN THE WORKPLACE

图书馆



American Bar Association Commission on Domestic Violence

A GUIDE FOR EMPLOYERS: DOMESTIC VIOLENCE IN THE WORKPLACE

**THE AMERICAN BAR ASSOCIATION
COMMISSION ON DOMESTIC VIOLENCE**

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FORWARD

The American Bar Association Commission on Domestic Violence believes domestic violence is everybody's business. The Commission has been working with the corporate sector in an effort to eradicate domestic violence in the United States. Recognizing that domestic violence has direct impact on the "bottom line" – costing U.S. companies an estimated four to five billion dollars per year in absenteeism, employee turnover, reduced productivity, higher health insurance premiums, and the like – employers have embraced the ABA's efforts.

Our collaborative efforts with America's corporate community began with the publication and distribution of a safety planning brochure. Many companies (Winn-Dixie, SouthTrust Bank, Bell South, and Theragenics, to name but a few) began distributing the safety planning brochures to their customers and employees. Seed money, and other valuable assistance was provided by the ABA Tort and Insurance Practice Section. The 130,000 member ABA Young Lawyers Division has agreed to distribute the brochure nationally through its network of over 300 state and local affiliated organizations. This publication is the next step in our collective efforts to reduce the incidence of violence.

The Commission would like to thank the authors of this publication. The goal in developing these materials was to assist you in dealing with "real world" situations. We believe you will find the publication extremely practical and easy to use.

The Commission on Domestic Violence would also like to thank Robert Grey, Jr. and Tracy Giles. Robert Grey currently serves as Chair of the ABA's House of Delegates. Tracy Giles currently serves on the ABA Board of Governors. These two committed individuals have shown time and time again that one or two people can make a positive difference in the lives of real people. Mr. Grey and Mr. Giles organized efforts in Virginia to distribute the safety plan brochure and to train volunteer lawyers to provide desperately needed direct civil legal assistance to victims of domestic violence. The efforts of these two selfless gentlemen have resulted in helping transform "victims" into "survivors."

With your support, and the support of lawyers and non-lawyers alike in implementing the ideas found within "A Guide for Employers: Domestic Violence in the Workplace", we can make significant strides forward in improving the safety and quality of life for victims of domestic violence in America. Together we can create a safer environment for our employees, colleagues, customers and clients.

Michael A. Bedke
ABA Commission on Domestic Violence

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INTRODUCTION

The American Bar Association Commission on Domestic Violence has published this *Guide for Employers* to help businesses respond appropriately to domestic violence in the workplace. The guide promotes awareness and suggests safety protocols and strategies to protect and assist employees. Adopting some or all of the suggested strategies will result in a safer workplace and more productive business.

As our society learns more about the prevalence of domestic violence, it becomes increasingly clear that the effects of domestic violence are not confined to the home. Domestic violence also invades the workplace. Many abusers attempt to stalk, harass, threaten, or injure victims as they work. Violence at work not only harms the victim; it creates a dangerous environment for co-workers, clients, customers and the general public.

Approximately 30,000 to 40,000 incidents of on-the-job violence involve cases in which victims knew their attackers intimately.¹ In the past, most employers and businesses chose to respond to domestic violence in the workplace in two ways: either ignoring what was happening to the victim, or holding the victim, instead of the abuser, accountable. This traditional strategy can be both dangerous and unproductive. Domestic violence in the workplace is costly for both the victim and the employer.

As a result of domestic violence, employees' ability to perform their work may be negatively impacted. Costs to the victim may include lost work time, lost wages, and poor performance reviews. An abuser may come to the workplace in order to injure a targeted employee. Abusers also enter the workplace by threats delivered via phone, mail, fax or e-mail. This sort of invasion results in disruption and employees' compromised ability to perform work related duties. The danger of job loss because of an abuser's continual acts of harassment at the workplace diminishes the victim's ability to leave an abusive situation.

Though an employer may not immediately realize the actual cost of domestic violence in the workplace, such violence materially and adversely, affects the "bottom line." Costs are incurred when a worker's ability to produce is compromised. Adverse publicity may affect employee morale and business profitability. Public knowledge of an incident may frighten clients or customers and deter them from patronizing a business. Further, domestic violence may result in vandalism and property damage. Though most businesses are insured for property damage, costs are incurred when insurance rates increase. Employer paid health insurance premiums may also be increased as a result of violence in the workplace.

Ignoring the effect of domestic violence in the workplace does not ensure that a company will escape responsibility for damages caused by an abuser. Employers may realize the expenses involved with short and long-term disability if domestic violence injuries occur during work. Employer liability may also become an issue if employers, after having been alerted to the possibility of such violence, fail to take adequate steps to protect employees. As a business owner or manager, please take a positive first step by reading this resource guide carefully.

¹Greg Warchol, U.S. Department of Justice, Bureau of Justice Statistics, Special Report: Workplace Violence, 1992-96 (July 1998, NCJ 168634) at 5.

STEPS TO SAFETY

You are an employer or supervisor who takes the safety and well-being of your staff seriously. You want to address the impact domestic violence can have in your workplace. You know that domestic violence not only impacts the victim, but may impact others at the workplace as well as the profitability of your business. To respond effectively to these concerns, you may want to establish these objectives:

- **Ensure that your employees and customers have the safest possible environment in which to conduct business.**
- **Assist employees struggling with absenteeism and loss of productivity because of domestic violence.**
- **Enhance profits and protect your business from loss and liability.**

Some of the guidelines provided in this publication will help you.

RESPONDING TO DOMESTIC VIOLENCE IN THE WORKPLACE

As an employer, you can address the potential impact of domestic violence in your workplace by: **becoming knowledgeable** about domestic violence and **being prepared**. Knowing what you are dealing with and adopting preventive actions and procedures are an employer's best defense against economic loss and liability and an employee's best chance for

protection. You can increase awareness and knowledge about domestic violence at your workplace by taking these three steps: First, you, as a business leader must become knowledgeable. Second, you must educate key personnel (management, employee assistance, personnel administration, human resources and security staff) about the dynamics and impact of domestic violence. Third, you must increase the awareness of all other employees working in your business.

By reading this *Employers' Guide*, you will begin to increase your awareness of domestic violence. However, local domestic violence experts may be available to further assist your effort.

Locate domestic violence programs or law enforcement agencies in your area and arrange with them to participate in enhancing the awareness about domestic violence in your workplace. Many communities have developed a multi-disciplinary domestic violence task force that may have members specifically trained in workplace violence issues. These experts are found in the local programs.

Invite these local experts to train your designated staff about domestic violence and the community resources available to respond to it. Incorporate the material and training provided in this book, and by local experts, into workplace policies and procedures. Then, train key personnel to respond appropriately according to those policies when incidents of violence arise in the workplace.

Promote overall domestic violence awareness throughout your workforce. Your policies should provide for the safety of victims and other employees and the employees must know that your policies are supportive of victims. Let employees know who on staff is trained to offer confidential assistance and information to employees wanting to access local domestic violence resources.

Invite a local domestic violence program to send a speaker to do a brown bag lunch session for employ-

ees about domestic violence and your community's resources. Post information about local resources and your company's policies in inconspicuous locations, such as the women's restroom. Victims of domestic violence who are tentative about seeking help are more likely to take information if it can be done discreetly. Hang educational posters in general gathering areas, such as employee lunchrooms or rest areas. Many domestic violence programs have developed creative and effective poster series.² These educational materials can be acquired for a reasonable cost. Distribute safety planning information and domestic violence resource numbers to all employees. (See **Safety Plan** at the end of this Guide).

By establishing a supportive and responsive workplace environment, employees will be better able to respond to problems caused by domestic violence, whether the problem is an employee's own, that of a co-worker, or subordinate.

Join the increasing ranks of employers who are reconsidering how domestic violence should be handled in the workplace. Acknowledging its impact, supporting its victims and holding the abuser, not the victim, accountable will enhance your company's work environment, the employees' morale and most probably, your profitability.

Help send the message out into your community that domestic violence is a crime that will not be tolerated.

DEVELOPING WORKPLACE TRAINING

Education and training materials for personnel on domestic violence in the workplace.

Employees feel more secure—and more productive—if they know their employer has developed supportive policies about domestic violence and that responsible, well-trained staff are available to assist if a problem arises. At least one person in every company should be trained about domestic violence and designated as the key staff person responsible for responding to these issues in the workplace. The staff person should be trained to understand the dynamics of domestic violence and how to interact with victims, non-judgementally, safely, and confidentially. Security and front office staff should be trained in the same manner.

Seek professional help when developing workplace programs and protocols to address domestic violence. Most often, that will mean looking for professionals in the community with expertise in this area, such as domestic violence program professionals or law enforcement personnel with special knowledge of domestic violence law and cases. The cost of such training to your company is minimal when you consider the potential liability the business could face should a domestic violence incident occur in the workplace no one is prepared to respond appropriately.

Make sure that employee assistance program staff or contractors have undertaken domestic violence specific training. It is rare that traditionally trained employee assistance program personnel, such as counselors trained to handle marital counseling or substance abuse issues, have a comprehensive background in the legal,

²The National Workplace Resource Center on Domestic Violence, a project of the Family Violence Prevention Fund, has many useful materials for employers, including posters, brochures, model policies and training materials. They can be contacted at 800 END-ABUSE or 415/252-8900. The National Domestic Violence Hotline, a project of the Texas Council on Family Violence, has a screening poster appropriate for use in the workplace. They can be contacted at 512/453-8117.

safety, and psychological issues created by domestic violence. Traditional counseling and therapeutic models often have an emphasis on enhancing communication between partners. This may create increased danger for victims of domestic violence. Those professionals associated with your company who intend to help victims of domestic violence must be adequately trained.

To find experts prepared to offer domestic violence training, look in the local phone book under crisis services. Some programs are run as government agencies. Others operate as private non-profit groups. Look in both the business and government listing for such programs. This *Employer's Guide* provides a thorough resource listing in the appendix, which will provide additional general and workplace specific information about domestic violence.

Whether the intent is to develop a training program for designated staff (such as Human Resources or Employee Assistance Program personnel) or for all employees, consider the following:

Develop a standard training curriculum outlining workplace policies, referrals and interventions. Make a print, videotape, or electronic copy of the curriculum. Then, if trained staff leave the company or move into different positions, new staff can be quickly and effectively trained.

Once key staff have been trained to assist victims and respond to abusers appropriately, encourage them to use their skills. Make domestic violence counseling and assistance a regular part of their job descriptions and provide them with the time and resources to do their work well.

Ensure that as many employees as possible, particularly those in supervisory or management positions, learn more about domestic violence and how to respond to it in the workplace. All training throughout your company program must encompass victim confidentiality information. Confidentiality for victims of domestic violence is critical to safety. Victims know best when sharing information will not compromise their safety.

UNDERSTANDING DOMESTIC VIOLENCE

The following sections are intended to enhance employers' understanding about domestic violence. Awareness of the dynamics of domestic violence and the ability to recognize domestic violence indicators is fundamental to developing protocols that will effectively protect your business and your employees.

WHAT IS DOMESTIC VIOLENCE?

Domestic violence is not defined solely by physical acts, such as battery or assault. It is also made up of a combination of psychological and social factors. In some families, actual physical violence may be a current problem. In other families, physical violence may have occurred in the past, and the perpetrator may now exert power and control over his partner simply by looking at her a certain way, reminding her of prior episodes, or threatening her. In other families, although the violence may be sporadic, it still has the effect of controlling the abused partner.

In many families, the abuser controls the victim's behavior by tightly controlling the family

finances, often denying the victim or the children money for clothing, food, or medical treatment. It is not unusual for victims of domestic violence to have their economic security and that of their children connected to the batterers' income.

Frequently, perpetrators use threats about the children to manipulate victims. Threats to take or hurt the children are effective tactics perpetrators use to control a victim, especially if the victim thinks about leaving. Perpetrators often invent complex rules about what victims or the children can or cannot do and force victims to obey these frequently changing sets of rules.

Dr. Mary Ann Dutton, a nationally recognized forensic psychologist, observes that domestic violence includes a pattern of interaction in which one intimate partner is forced to change his or her behavior in response to the threats or abuse of the other partner.³

Domestic violence is a pattern of behavior in which one intimate partner uses physical violence, coercion, threats, intimidation, isolation and emotional, sexual or economic abuse to control the other partner in the relationship.

³ Mary Ann Dutton, The Dynamics of Domestic Violence: Understanding the Response from Battered Women, Vol. LXVIII FLA. Bar J. 24 (Oct.1994).

UNDERSTANDING THE DYNAMICS MYTHS & FACTS

Be sensitive to common misconceptions about domestic violence and make sure that key staff understand the dynamics of domestic violence.

✗ Myth: It takes two to tango. She must have done something to provoke the abuser.

✓ Fact: Acts of physical violence are not justifiable, even if the violent person claims that he was “provoked” into using violence. (The only exception to this is when a victim must use force in self-defense.) “Nagging” is not a justifiable provocation for violence, nor is burning the dinner, nor is failing to keep the baby from crying—even adultery is no justification for domestic violence—no matter how distressing such behavior may be to the abuser.

✗ Myth: She’s got to take some responsibility for ending the violence too. Surely there are things she can do to keep him from getting so angry, like trying to be more understanding when he’s feeling stressed out.

✓ Fact: Only abusers are responsible for their violence; victims cannot control or manage the behavior of abusers. **Do not insist that the victim try to “work with” or placate the abuser.**

✗ Myth: From what she’s telling me, he hasn’t hit her in a long time. She should try to work things out.

✓ Fact: The level of domestic violence an employee experiences may vary at different times. The abuser may be very violent at some times, but may not use force for months afterwards. The abuser, however, may still be emotionally abusive or financially controlling. If there is still a pattern of behavior indicating that the abuser is trying to control, demean, or manipulate the victim, you should still talk to the victim about her options. Abusive behavior often increases over time. Waiting to see if “things get better” is not a safe option. However, be aware that many victims need a certain amount of time to feel strong enough and supported enough to leave. If the victim does not want to end the relationship, she can develop a safety plan for work and home. (See the section on safety planning for more information.)

✗ Myth: Victims of domestic violence have psychological disorders that cause them to become victimized.

✓ Fact: Many people incorrectly assume that victims of domestic violence must be “sick” or they would not “take” the abuse. More recent theories demonstrate that battered women resist abuse in a variety of ways.⁴

In addition, most victims of domestic violence are not mentally ill, although individuals with mental disabilities are certainly not immune from being abused by their spouses or intimate partners. Some victims of domestic violence suffer psychological effects, such as post-traumatic stress disorder or depression, as a result of being abused.⁵

⁴See Dutton, *supra* note 3.

⁵ Mary Ann Dutton, Post-Traumatic Stress Disorder Among Battered Women: Analysis of Legal Implications, BEHAV. SCI. & L. 215, 219 (1994).

✗ Myth: Low self-esteem causes victims to get involved in abusive relationships.

✓ **Fact:** Many well-meaning individuals assume that victims of domestic violence lack adequate self-esteem or else they would not “allow” themselves to be abused by intimate partners or spouses.⁶ In fact, studies have demonstrated that victims of domestic violence fail to share common characteristics other than being female.⁷ However, some victims may experience an understandable decrease in self-esteem as a result of being abused.

✗ Myth: Victims of domestic violence never leave their abusers, or if they do, they just get involved in other abusive relationships.

✓ **Fact:** Most victims of domestic violence leave their abusers. It may take a number of attempts to permanently separate because abusers use violence, financial control, or threats about the children to compel victims to return. Additionally, a lack of support from friends, family members, or other community members may cause victims to return. Since risk of injury increases when victims separate from their abusers, they may think that it's safer to stay than to leave. The earlier victims receive help, the greater their chances of obtaining the protection and financial security they need to leave their abusers permanently. While some victims become involved with other partners who later begin to abuse them, there is no evidence that the majority of victims have this experience.

✗ Myth: Victims of domestic violence must like to be beaten, or why would they put up with it?

✓ **Fact:** Victims of domestic violence desperately want the abuse to end, and engage in various survival strategies, including calling the police or seeking help from family members, to protect themselves and their children.⁸

✗ Myth: Batterers abuse their partners or spouses because of alcohol or drug abuse.

✓ **Fact:** Alcohol or substance abuse does not cause perpetrators of domestic violence to abuse their partners, although abusers frequently use it as an excuse. Substance abuse may increase the frequency or severity of violent episodes in some cases.⁹ Treatment for substance abuse alone, however, will not end abusive behavior.

✗ Myth: Perpetrators of domestic violence abuse their partners or spouses because they are under a lot of stress or unemployed.

✓ **Fact:** Stress or unemployment does not cause batterers to abuse their partners. Since domestic violence cuts across socioeconomic lines, partner abuse cannot be attributed solely to unemployment or poverty. Similarly, advocates note that if work-related stress caused domestic violence, batterers would assault their bosses or co-workers rather than their intimate partners. Domestic violence flourishes because perpetrators learn that they can achieve what they want through the use of force, without facing serious consequences.

⁶ Naomi Cahn & Joan S. Meier, Domestic Violence and Feminist Jurisprudence: Towards A New Agenda, 4 B.U. PUB. INT. L.J. 339, 344 (1995) (discussing stereotypes of battered women).

⁷ Gerald T. Hotaling & David B. Sugarman, An Analysis of Risk Markers in Husband to Wife Violence: The Current State of Knowledge, 1 VIOLENCE & VICTIMS 101,118 (1986).

⁸ See Dutton, *supra* note 3 at 27.

⁹ Irene Anne Jillson & Bettina Scott, Violence, Women and Alcohol: Reducing the Risks, Redressing the Consequences, Dept. of Health & Human Services, Draft Report, Jan. 1996.