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# The Impact of Domestic Violence in the Workplace

*Helen LaVan, Yvette P. Lopez, Marsha Katz, and William M. Martin*

Domestic violence is a serious epidemic. For years, victims of domestic violence have had to deal with the stigmatization that often accompanies this form of abuse. As such, victims often work to hide the problem that for years has been considered a private issue in the home. Society, however, has come to recognize that this behavior is really more of a public epidemic than a private one.<sup>1</sup> In fact, the spillover effects of domestic violence have serious consequences for the workplace. A 2005 national telephone survey by the Corporate Alliance to End Partner Violence found that 21 percent of full-time employed adults were victims of domestic violence and 64 percent of them indicated their work performance was significantly affected. In addition, the American Institute on Domestic Violence computed costs of domestic violence on productivity at exceeding \$5.8 billion. This issue is therefore no longer a private concern but a public matter that managers and organizations should be working to address.

From the perspective of corporate social responsibility, firms can be held accountable for their stakeholders (e.g., employee victims, coworkers, customers) and stakeholder actions (e.g., employee perpetrators). Therefore, we first outline a rationale for considering domestic violence in the context of the workplace with regard to prevalence statistics and organizational costs. Next, we consider the legal implications of domestic violence spillover on the firm. We then consider the impacts on the employee victims and

coworkers. Finally, we describe the managerial responses for organizations with respect to HR, legal, and societal aspects.

## DOMESTIC VIOLENCE IN THE WORKPLACE

Although both men and women can be battered, 95 percent of reported cases involve a woman being battered by a man.<sup>2</sup> In general, the statistics related to domestic violence indicate that at least one in every three women will experience physical or sexual abuse during her lifetime.<sup>3</sup> Each year in the United States, between 600,000 and 6 million women and between 100,000 and 6 million men, will be victims of domestic violence.<sup>4</sup> The Federal Bureau of Investigation has estimated that a woman is beaten every nine seconds in the United States. The National Coalition Against Domestic Violence has further estimated that between six and ten million women are abused by current or former partners. Unfortunately, employers are not recognizing the spillover of domestic violence as a workplace issue.<sup>5</sup> To respond to this, some states have identified workplace policy solutions for protection of domestic violence victims. These policies fall into three broad categories: policies that offer work leave, policies that attempt to reduce employment discrimination for victims of domestic violence, and policies that promote awareness and safety in the workplace.

When taken into the context of the work environment, domestic violence has been reported as the leading cause of injury to

women and the leading cause of homicide for women in the workplace.<sup>6</sup> The US Department of Labor has estimated the cost of workplace violence spillover for US companies at around \$5 billion annually. This cost is manifested as low productivity, higher stress, increased health-care costs, absenteeism, turnover, and workplace incidents resulting in litigation. The Resource Center on Domestic & Sexual Violence at the Michigan Department of Social Services has further indicated that based on the experience of battered women who were employed outside of the home, 55 percent reported absenteeism, 62 percent reported tardiness or having to leave work early, and 24 percent reported having lost their jobs all due to the occurrences of the domestic violence they were presently experiencing.

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In worst-case scenarios, abusive relationships can turn into deadly incidents of violence. On average, more than three women and one man are murdered by their intimate partners in the United States every day.<sup>7</sup> In the context of the workplace, the American Institute of Domestic Violence has also noted that the health-related costs of rape, physical assault, stalking, and homicide by domestic partners are \$4.1 billion and are attributed to direct medical and mental health-care services. Aside from medical expenses, loss of productivity and earnings due to domestic violence accounts for nearly \$1.8 billion annually.<sup>8</sup>

## LEGAL CONSIDERATIONS

The spillover of domestic violence into the workplace is an important social issue for organizations. Aside from the implications that domestic violence has on an organization's profitability, there are several legal and public-policy concerns that may need to be heeded as well.

### OSHA: General-Duty Clause

The Occupational Safety and Health Act of 1970 (OSHA) contains a "general-duty clause" that requires employers to provide a workplace that is "free from recognized hazards that are causing or are likely to cause death or serious physical harm" to employees. Employers who know of a threat and do nothing can be sued under state law and Occupational Safety and Health Administration rules for not maintaining a safe workplace. Although OSHA itself does not provide for a private cause of action for injured employees, employees may use an OSHA violation to prove negligence per se or as evidence of negligence in separate tort actions. In order to prove a violation of OSHA's general-duty clause, the following must be met: (1) there must be an existence of a hazard likely to cause death or serious physical harm; (2) the employer must have recognition of the hazard; (3) there must be a feasible means to abate the hazard; and (4) the employer must have failed to implement the feasible means of stopping the incident.<sup>9</sup>

### Antidiscrimination Laws

Discrimination claims may arise solely on the basis of domestic violence, where such discrimination is specifically prohibited. For

example, New York City amended its discrimination laws to include a section on "Victims of Domestic Violence." The code states that it is an unlawful discriminatory practice for an employer to refuse to hire or employ, to discharge, or to discriminate against an individual in compensation or in other terms (conditions of employment), because of the actual or perceived status of said individual as a victim of domestic violence.<sup>10</sup> Also, Illinois has a comprehensive and general law that prohibits employers (and others) from discriminating against victims of domestic abuse, sexual assault, or stalking.

However, other types of discrimination claims may be related to domestic violence. For example, although domestic violence affects both men and women, more women than men experience it. Discrimination claims may arise if the employer takes a negative sanction against women employees. Similarly, discrimination claims may arise if employers take negative actions against members of certain racial or ethnic minority groups that experience a higher incidence of domestic violence.

### **Victims of Domestic Violence Protection Act**

The Violence Against Women Act (VAWA) (1994) seeks to improve criminal justice and community-based responses to domestic violence by providing access to services and justice professionals who better understand the issue of domestic violence. This has led to the passage of more than 660 state laws to combat domestic violence, dating violence, sexual assault, and stalking.<sup>11</sup> All states have passed laws making stalking a crime and changed laws that treated date or spousal rape as a lesser crime than stranger rape.<sup>12</sup> In April 2012, the Senate reauthorized the Violence

Against Women Act, and the House is expected to do so as well.<sup>13</sup> The Act is credited with a 51 percent increase in victims reporting domestic violence over the past five years alone. The law provides for services for victims of domestic violence, dating violence, sexual assault, and stalking. It also provides money for testing approximately 400,000 rape kits. The law also provides measures for protection of gay, lesbian, and transgendered couples; undocumented immigrants who have been victims of abuse; and Native Americans.

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### **Family and Medical Leave Act**

The Family and Medical Leave Act (FMLA) provides for up to 12 weeks of unpaid leave for a variety of conditions, including when the employee is unable to work due to a serious medical condition. Technically this could be interpreted as injuries sustained as the result of an assault or psychological illness due to abuse.

### **State Laws**

Twenty-six states and the District of Columbia have enacted statutes that specifically provide unemployment benefits to employees who quit or are terminated as a result of domestic violence.<sup>14</sup> There are also state statutes that allow employers to take action to help an employee who is being victimized at work by allowing the employer to seek and obtain restraining orders or protective

orders on behalf of the employee when violence, stalking, or harassment of employees has occurred. Additionally, several states have laws allowing victims of domestic abuse to take time off from work in order to deal with problems associated with the violence. California, Colorado, Hawaii, Illinois, Maine, New York, and North Carolina have state laws requiring employers to provide leave for victims for domestic abuse.<sup>15</sup>

Furthermore, Illinois became the first state to pass a law that not only provides leave and accommodation rights for victims of domestic abuse, but also prohibits discrimination against abuse victims. The statute allows for up to a total of 12 weeks of unpaid leave, without loss of benefits or seniority and with continuing health-insurance benefits

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in order to allow the employee-victim time to deal with a variety of issues relating to the abuse or violence to which he or she has been exposed. At the end of the leave, just as with qualifying circumstances under the FMLA, the victim must be returned to his or her same or an equivalent position.<sup>16</sup>

## Torts

Torts are civil wrongs that are recognized by law as grounds for a lawsuit. Torts differ from criminal wrongdoings, which involve a breach of a duty to society. Although some torts are also crimes punishable with imprisonment, the primary aim of tort law is to provide relief for the damages incurred

and deter others from committing the same activities. The injured person may sue for an injunction to prevent the continuation of the tortuous conduct or for monetary damages.<sup>17</sup>

In order to establish tort liability for workplace violence, a plaintiff would have to prove three things: (1) there were warning signs of the violent act; (2) if the company had been paying attention, it would have noticed the warning signs; and (3) the company could have minimized or prevented the violence. If the employer knew of the potential risk and did nothing, the risk of liability increases.<sup>18</sup>

## IMPACTS OF DOMESTIC VIOLENCE ON ORGANIZATIONAL STAKEHOLDERS

Employee victims, coworkers, customer bystanders, and the organization itself can all be affected by the occurrence of domestic violence. Domestic violence can have psychological, physiological, and economic effects, to varying degrees, on all organizational stakeholders.

### Psychological Repercussions

Psychological indicators of victims of domestic violence include symptoms of posttraumatic stress disorder (PTSD), depression, and reduced self-esteem.<sup>19</sup> In addition, there are often higher levels of substance abuse and dependence,<sup>20</sup> anxiety, eating and sleep disorders, phobias and panic disorders, psychosomatic disorders, suicidal behavior, and self-harm.<sup>21</sup>

The lifetime prevalence of PTSD among interpersonal violence victims is 45 percent.<sup>22</sup> Men are also more likely to report symptoms of PTSD with exposure to intimate partner



violence both as a victim and as a perpetrator.<sup>23</sup> Statistically significant relationships have been reported between lifetime exposure to maternal domestic violence and symptoms associated with PTSD.<sup>24</sup> Additionally, among pregnant Latina women, it was found that PTSD was associated with exposure to intimate-partner violence.<sup>25</sup>

Like primary victims, secondary victims (including children) can be traumatized or injured through either witnessing the episode or through direct physical harm. Therefore, secondary victims may suffer the same types of negative physical and psychological effects as primary victims.<sup>26</sup>

### Physical Repercussions

Victims of domestic abuse suffer a wide range of physical injuries, including bruising, sprains, broken bones, and, ultimately, even death. Nearly 20 percent of women fatally injured in the workplace were attacked by an intimate partner.<sup>27</sup> In a recent study examining employed women who had recently filed a domestic-violence order, 40 percent of the women had been harassed in person or on the phone while on the job.<sup>28</sup> In effect, workplaces are ideal locations for perpetrators to hassle or harass victims of domestic violence because typically the work location of the victim remains unchanged even in circumstances where the victim has left the residence, or left their intimate partner, giving the perpetrator knowledge of where the victim will be during certain times.<sup>29</sup> Research indicates that on-the-job harassment related to domestic violence can also spill over to coworkers and supervisors of the victim. Perpetrators of domestic violence may make frequent telephone calls to not only victims, but also to workers and supervisors.<sup>30</sup> Additionally, in the previously mentioned study

involving employed women who had recently filed a domestic violence order, 24 percent reported that their intimate partner had bothered their coworkers while they were on the job.<sup>31</sup> Secondary victims might include customers or any others who are present during an episode of aggressive behavior or violence.<sup>32</sup>

### Economic Repercussions

Employees who are victims of domestic violence often miss entire days of work due to injuries such as a black eye or broken bones. According to the American Institute on Domestic Violence, violence victims lose nearly 8.0 million days of paid work each year—the equivalent of more than 32,000 full-time jobs and nearly 5.6 million days of household productivity. The institute notes that, on average, an individual victim of domestic violence loses 137 work hours annually, which is roughly equivalent to four full-time weeks. This creates a risk that the victim will lose a significant portion of her income or even lose her job. For a domestic violence victim, the economic insecurity relating to reduced earnings or even job loss creates a large obstacle when leaving an abusive partner.<sup>33</sup> Women are more likely to return to or stay with their abusers if they have no alternative income, thereby creating a perpetual cycle of abuse.<sup>34</sup> There is also the risk of becoming homeless. Fifty-seven percent of homeless women recently reported leaving their home due to a violent situation.<sup>35</sup>

Additionally, because secondary victims of domestic violence may experience health effects that are similar to those experienced by the primary victims, these may also have economic consequences for the employer, including reduced productivity, increased tardiness, and increased turnover/job loss.<sup>36</sup>

## IMPACT OF DOMESTIC VIOLENCE ON THE VICTIM'S OR PERPETRATOR'S EMPLOYER

The impacts of domestic violence described earlier have associated costs for employers that affect morale as well as the organization's bottom line. In particular, health-care and litigation costs related to domestic violence in the workplace can weigh heavily on employers.

### Increased Health-Care Costs

There exist numerous estimates of the cost of domestic and interpersonal violence. The World Health Organization (WHO) tracks intimate partner violence as part of its agenda and with it the substantial economic

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impacts. For instance, in 2001 in the United States, the total cost estimate (which includes health-care and law-enforcement costs) is \$12.6 billion per year in comparison with \$1.1 billion per year in Canada for direct medical costs for women.<sup>37</sup>

Given the recent focus on health-care costs with the passage of the Patient Protection and Affordable Care Act on March 23, 2010, it has been suggested that health-care costs can be reduced by at least 20 percent if hospital-based domestic violence interventions are more widespread.<sup>38</sup> A related study discovered that women suffering ongoing intimate personal violence between ages

18–64 enrolled in a health plan had 42 percent higher medical costs than their nonabused counterparts.<sup>39</sup> It was also found that mental health-care utilization increased.<sup>40</sup> Not only does health-care utilization increase along with its associated costs, but also work productivity decreases.<sup>41</sup>

### Litigation and Increased Security Costs

The costs of litigation of incidents relating to the spillover of domestic violence into the workplace are complex.<sup>42</sup> There is increasing legislation in various states that make employers more liable, including leave requirements, antidiscrimination protection, altered unemployment insurance, and workplace restraining orders. Because these are state laws, required employer actions and possible litigation can vary from state to state. In some respects, the increased costs of litigation and increased security are incalculable or at least not easily calculable. Most organizations have in-house counsel or have counsel on retainer, so there are lost productivity costs associated with having to go to court to obtain restraining orders or to testify in domestic violence cases rather than addressing other issues. Additionally, some security experts consider the spillover of domestic violence into the workplace an underrecognized risk.<sup>43</sup>

### CREATING A COMPREHENSIVE MANAGERIAL RESPONSE

In fashioning managerial responses to address spillover of domestic violence into the workplace, care has to be taken to balance the varying stakeholders' interests: victims, innocent stakeholders, perpetrators, organizations, and society. In effect, there

**Managerial Response—Victims**

1. Providing Employee Assistance Programs
2. Providing leave, including FMLA leave
3. Providing job reassignments, flexible scheduling
4. Providing enhanced benefits

**Managerial Response—Other Stakeholders**

1. Developing policy adhering to applicable law
2. Training of managers regarding victim
3. Training of managers regarding perpetrator
4. Training for referral to applicable resources
5. Training to avoid legal risks
6. Providing additional security
7. Providing higher levels of scrutiny in hiring of ex-offenders

**Managerial Response—Perpetrator**

1. Providing fair treatment of perpetrator
2. Providing EAP and community-based referrals
3. Conferencing with corporate attorneys to assure legal compliance

**Managerial Response—Organization as a whole**

1. Identifying threats to workplace safety
2. Enhancing workplace safety
3. Consulting legal counsel regarding organizational responsibilities

**Societal Involvement**

1. Enacting legislation
2. Engaging in lobbying
3. Providing social services support
4. Providing worker's compensation
5. Providing public assistance

***Exhibit 1. Responses to Domestic Violence Spillover***

are several aspects to consider to the balancing of interests. (See **Exhibit 1.**)

**Addressing the Needs of Employees Who Are Victims of Domestic Abuse**

Victims cross a wide range of occupational and salary levels.<sup>44</sup> The prevalence of the problem makes employer involvement difficult

in that women with higher occupational status might not feel comfortable accessing such services.<sup>45</sup> Studies on battered women's experience indicate how important employment is, not just to basic economic and survival needs, but also to ending their victimization.<sup>46</sup> The links between victimization and workplace productivity highlight the need for workplace policies.<sup>47</sup>



But these policies need to reflect the variation in the victims. Where workplace programs do exist, there is very little evaluative data. There is some evidence, however, from three studies, which indicate that when victims of violence had reached out for either informal assistance (such as help from a colleague) or formal assistance (such as change in work schedule or security measures), the victims were satisfied with the help they received.<sup>48</sup> They felt that the assistance allowed them to remain productive in the workplace.

It is important to assess on an ongoing basis whether there are credible threats to the employee or victim. More effective communication needs to take place in terms of training managers to recognize the issue. They should also be trained to communicate with potential victims about their rights,

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responsibilities, and available resources (both internal and external to the organization). Therefore, managers should be able to address the issues related to the victim involved in the domestic violence dispute, including an understanding of the organization's employee assistance programs (EAPs), legal responsibilities, restraining-order options, security aspects, job flexibility, and enhanced employee benefits.

Through EAPs, employee victims can receive effective and confidential counseling that includes psychological, legal, and financial advice. Victims can also receive referrals to other resources not available to them

through EAPs, such as the availability of local services, mental-health services, access to domestic-violence specialists who have been trained to work with victims of domestic abuse, individual counseling, support groups, education and prevention seminars, and referral networks with local shelters and services rendered to victims of abuse. Often EAPs are available to the immediate family members of the employee as well, which could prove to be one of the most useful resources for victims of abuse.

Managers should also be trained to know what the organization's legal responsibilities are and what appropriate actions should be taken in various situations. This is especially important in view of rapidly changing state and municipal laws, which seek to increase the responsibility of the employer. For instance, managers should understand the options for victims, including legal options, such as taking leaves of absence that might be state mandated or federally mandated, such as an FMLA leave. If employee victims need to miss work due to a serious medical condition brought on by injuries sustained as a result of the abuse, managers need to understand and communicate to the victim the options available through the FMLA with regard to taking up to 12 weeks of unpaid leave and continuation of health insurance.

In addition, managers should be trained to know what additional tools are available to the organization to assist the employee/victim, including involving the employer in obtaining restraining orders and helping the employee with legal assistance in court proceedings, if deemed appropriate by legal counsel. It should be noted that in many cases, the restraining order does not deter the perpetrator.

Managers should also be educated and trained so that policies and guidelines for safety planning can be adequately developed and applied. It is highly desirable that managers consider providing increased security in the workplace, allow for job reassignments, and/or provide flexible working arrangements and scheduling. These considerations might include flexible hours in secure locations to help minimize the possibility of access and availability of the potential victim and innocent stakeholders. With fixed hours and location, the employee is more easily available for continued harassment by the perpetrator.

Managers may also consider the possibility of providing enhanced, optional employee benefits—for example, increasing insurance coverage for victims of domestic abuse, disability insurance, supplemental life insurance for dependents, and workers' compensation for those victims abused while on the job. Although workers' compensation may be beyond the control of the employer, it may be state-mandated in some instances.

### **Addressing the Needs of Other Stakeholders**

There are a variety of managerial responses directed toward other stakeholders not involved in the domestic violence dispute. These responses include policy development conforming to applicable laws, training of managers and other employees not involved in the domestic violence, referral mechanisms to external resources, protection of the public, and maintaining the organization's social responsibility. These other stakeholders are coworkers, supervisors, and perhaps members of the public.

Certainly, there should be company policies in place to deal with managing domestic violence that spills over into the workplace.

The policies should be constructed taking into account applicable federal, state, and local laws. An important component of the response is training so that management knows how to handle the variety of occurrences. The content of this training would focus on the legal, psychological, and operational aspects of the spillover of violence. Particularly challenging may be a necessity to alert coworkers to possible danger, so that they both can warn the potential victim and protect themselves, while at the same time not alarming the coworkers. There is also a delicate balance between providing resources in a caring manner and invading the privacy of the victim.

Another kind of management training would be directed at managing the alleged perpetrator. How can the organization remain productive and provide appropriate supervision to the perpetrator, who might otherwise be a productive employee? There is also a potential conflict between the doctrine of employment at-will and innocent until proven guilty. This can come into play when someone is accused of being a perpetrator but has not been judged so. On one hand, while an employer has the right to hire and fire at-will in employment-at-will states, a coworker who has a domestic-violence charge pending still needs to be treated fairly. This is particularly troublesome if the alleged domestic violence occurred off company premises. On the other hand, if an employee is in fact a perpetrator of domestic violence, are other employees in danger if there should be a spillover? This is fraught with the potential for legal difficulties: charge of discrimination if the perpetrator is a member of a protected class or tort action of defamation of character or intentional infliction of emotional distress.

Certainly, another component of managerial response would be training managers to refer stakeholders to applicable resources. Most companies have EAPs that would provide counseling and other psychological and social services, as previously mentioned. In addition, resources outside of the EAPs could be provided, if other employees (innocent stakeholders) are fearful. These could include emergency housing or medical care.

If members of the public have access to the work site, it may be appropriate to have additional security, either temporary or permanent, put into place. This could present a public-relations problem, if members of the public think it is unsafe to go to the place of business. But preventing harm to members of

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the public or other innocent stakeholders could be overriding in this decision.

Some organizations pride themselves on corporate social responsibility and hire ex-offenders. On occasion, these ex-offenders could have been perpetrators in domestic violence in the past. If domestic violence is a particularly sensitive issue in the company, the decision to hire such ex-offenders may need to be reexamined.

### **Addressing Issues Related to the Perpetrator**

Care must be taken to assure that responses are not discriminatory and that all employees are treated in the same manner, without regard to race, sex, or national origin. There is increasing evidence that a woman as well as a man could be the perpetrator.

Referrals should be identified and made, because there is evidence that post-battering psychological treatment reduces recidivism. These referrals could be to the EAP or to community resources.

There should be frequent consultations with corporate legal counsel to assure that applicable laws are followed and that employees, who may also be perpetrators, are treated fairly.

### **Ensuring a Safe Workplace**

It is important for managers to understand the impact that domestic violence can have in the workplace for both victims and perpetrators. In response, managers should be prepared for potential threats to workplace safety, the potential need for enhanced security, and potential legal responsibilities arising from rapidly changing state and municipal laws.

With regard to workplace safety, managers should be aware of the potential threats to workplace safety by employees who might be perpetrators of abusive or violent behavior. Given that managers have the option of discharging an employee who demonstrates this kind of behavior, there is the potential for the perpetrator to unleash violent tendencies toward the organization and its agents following any disciplinary action taken by management. Additionally, there are costs associated with recruiting and hiring to replace the employee perpetrator, so it might be more effective for management to provide a form of rehabilitation for the employee through such means as an EAP. In the same regard, managers must understand their responsibility in providing a safe working environment for its employees. This responsibility can be exacerbated when employers should have known about the potential domestic violence

that appears to be spilling over into the workplace. Managers should offer increased security and secured locations to help minimize access and availability of targeted individuals in the workplace. Therefore, managers should be appropriately trained and educated in how to provide a workplace free from recognized hazards as required by OSHA.

Additionally, managers may need to consult with legal counsel regarding further organizational legal responsibilities related to dealing with employee perpetrators and employee victims to provide a safe working environment for all stakeholders involved.

## HR'S ROLE

HR's role is critical in formulating a comprehensive organizational response to the complex issues that arise when domestic violence spills over into the workplace. From the perspective of corporate social responsibility, firms can be held accountable for their various stakeholders and stakeholder actions. Given the prevalence of domestic violence and the organizational costs associated with related productivity losses and legal expenses, management should feel compelled to take the necessary steps to address the issue. Organizations have resources to protect victims and other stakeholders and in the future may be mandated to do so. Therefore, if state legislation continues to change public policy, managerial responses for organizations will need to be aware of all aspects of this once private, now public, epidemic.

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