

Sloan Network Encyclopedia Entry

Domestic Violence and Work: Legal and Business Perspectives (2009)

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Basic Concepts & Definitions

Domestic violence--"a substantial cause of injury to women (BJS, 2007; CDC, 2003; Tjaden & Thoennes, 2000)--"significantly impacts America's workplaces. Individuals subjected to abuse, their coworkers, other third parties (volunteers, contractors, customers, etc.), and businesses all suffer consequences as a result of domestic violence that occurs at or spills over into the workplace. As explained below, domestic violence may cause employees to be distracted at work, arrive late, leave early, or otherwise miss work to address their injuries. A large number of victims report being subject to adverse employment actions as a result of dealing with domestic violence, up to and including termination from their jobs. This is a particularly troubling fact because a steady paycheck is often the key to a victim's economic independence and escape from abuse (Tebo, 2005). Domestic violence causes problems for employers as well. Employers experience economic loss due to lost productivity, administrative difficulties that result from employees who take unplanned time off, higher insurance premiums, and the possibility of lawsuits. Factors that could give rise to an employee claim include an employer's termination of an employee suffering from domestic violence in an effort to maintain a safe workplace or an employer's failure to adopt and/or enforce appropriate domestic violence prevention policies. As discussed below, employees and employers have rights, responsibilities, and resources available to them to assist in combating this problem.

No single act defines domestic violence. In general, domestic violence occurs when one or more persons uses intimidation, physical violence, threats, coercion, and/or emotional, sexual, or economic abuse to exert power and control over another person or persons (CDC, 2003, 2006). Domestic violence is used to describe a wide range of activities, including, but not limited to, name-calling, intimidation, pinching, slapping, hitting, strangling, assault, or homicide (or threatening or attempting any of these activities) (Straus, 1990; Swanberg & Logan, 2005). It may include financial manipulation or control, such as removing a spouse from joint accounts or changing a partner's allowance without notice or cause (CDC, 2003; NCADV, 2007; Swanberg & Logan, 2005). Other terms that are sometimes used to describe some aspect of domestic violence include: workplace violence, domestic abuse, intimate violence, intimate

partner violence, stalking, physical abuse, sexual abuse, sexual assault, psychological abuse, dating violence, relationship abuse, and family violence (Karin, 2009).

While domestic violence impacts both men and women, approximately 85% of victims of domestic violence are women (BJS, 2003; Legal Momentum, 2006). Domestic violence is also prevalent in same-sex relationships and crosses all socioeconomic, racial, ethnic, and religious backgrounds, although some reports conclude that domestic violence disproportionately affects the poor (BJS, 2007).

Current federal, state, and local laws--"as well as proposed legislation--"address some aspects of domestic violence in the workplace by providing specific protections and tools to employers and employees. As discussed below, existing laws provide a wide range of different legislative responses to the problem of domestic violence. The laws provide certain victims of domestic violence with the ability to seek a protection order to prevent perpetrators of abuse from contacting them at work, time off to address the aftermath of violence, eligibility to obtain unemployment compensation if they leave work as a result of violence, protection under employment discrimination laws that include domestic violence as a protected category, the ability to seek reasonable accommodations, and the potential to hold employers liable for failing to provide safe workplaces. The law also requires all employers to maintain a safe worksite free from recognized hazards and certain employers to establish prevention policies to proactively address violence at work. Limited funds are made available for activities that educate employers about strategies to effectively deal with the problem, and certain businesses are given the ability to seek a protection order to prevent future violence.

There are steps that both employees and employers can take to prevent, or at least reduce, the impact of future violence. Safety planning is an important component of any effort to proactively address domestic violence at work, at home, or anywhere else. With respect to work, safety planning for employees may include communicating with colleagues and supervisors about one's situation, changing the location or schedule of work as well as changing contact information such as email addresses and phone numbers, and/or seeking a protection order that covers the worksite. For employers, safety planning may mean establishing a multipronged strategy to develop and implement a written policy establishing protocols for responding to and supporting employees experiencing domestic violence at work. Ideally, a written policy would be customized to the employer, establish that domestic violence is not supported, assist employees in recognizing common signs of domestic violence, specify the exact steps an employee can take to bring a violent or potentially violent situation to the attention of the company, and inform employees of any supports the company may provide to assist in dealing with the situation.

A protection order (sometimes known as a restraining order, a no-contact order, a civil protection order, a civil restraining order, or a stay-away order) is a court order requiring someone to perform or not to perform specified acts for the protection of the petitioner, who is usually a victim of domestic violence.

Typically, a protection order would require someone to stay at least 100 yards from the petitioner. Most state protection order laws provide courts with the ability to instruct someone not to abuse, harass, or contact the petitioner (and sometimes other people) at work, home, or other frequently visited locations; many statutes also authorize decisions related to temporary custody and visitation of children, as well as requiring a perpetrator to relinquish firearms. A protection order issued in one state is enforceable anywhere in the United States.

In the past, proposals have been made to incentivize employers to take steps to prevent domestic violence from occurring at their office or worksite and to promptly respond to any violence that does occur, primarily through tax credits. Tax credits are financial incentives provided to employers to recoup certain costs associated with a prescribed activity; in this case, steps taken to address domestic violence. A business's tax liability consists of its gross income minus any authorized deductions. Business "tax liability [may also be reduced] by any applicable tax credits" (Joint Committee on Taxation, 2008). A tax credit reduces the taxpayer's tax amount dollar for dollar.

Unemployment compensation provides monetary payments for a defined period of time to a worker whose employment has been terminated through no fault of her or his own. Most states allow benefits to be paid to someone who voluntarily leaves a job for "good cause" or "just cause." A number of states have deemed individuals eligible for unemployment insurance benefits if they leave work due to domestic violence. Victims of violence may also qualify under a state "good cause" exception that encompasses caring for a serious illness of oneself or a family member or when a change in work requirements has caused an intractable conflict with child-care responsibilities.

Importance of Topic to Work-Family Studies

Impact of domestic violence on employees

One out of every five employed adults has personally experienced domestic violence (CAEPV, 2005; Stillman, 2003), and 96% of victims have experienced trouble at work related to domestic violence (Ridley et al., 2005). Employees experience decreased productivity during and after actual or threatened violence and may require time off from work (in short or long increments) or flexible work arrangements to address safety concerns, medical needs, and legal issues arising out of or related to the violence. For example, in 2002, the National Employment Law Project (NELP) reported survey results finding that domestic violence caused 56% of victimized employees to be late for work at least 5 times per month; 28% left work early at least 5 times a month; and 54% missed at least 3 days of work per month.

While precise numbers are difficult to find, studies have documented the negative impact on women's economic stability caused by domestic violence (see, e.g., BLS, 2005; Swanberg & Logan, 2005; Swanberg, Logan, & Macke, 2005; Swanberg & Macke, 2006; Swanberg, Macke, & Logan, 2007). The

research shows that acts of domestic violence often occur while a victim is at work because work is the one place where perpetrators know they will be able to find their victims. Perpetrators of violence visit, stalk, or harass their targets at work (CAEPV, 2005; NELP, 2002; Swanberg & Logan, 2005). They may call, email, fax, or otherwise disrupt a workday. They may also interfere with victims' employment by preventing someone from showing up to work or getting enough sleep before work (Swanberg & Logan, 2005). Among other tactics, they also may embarrass or otherwise cause psychological distress that impacts job performance.

Two vital resources for securing the immediate safety of victimized employees are time off from work and flexible work arrangements (FWAs). Time off can facilitate safety and security planning and the pursuit of legal, medical, or psychological recourses to violence.

The ability to have FWAs is an important option for victims because changing someone's work schedule and location may be important steps to securing their safety. Because work is the one place where perpetrators know they will be able to find victims, requests for FWAs (part-time work, telecommuting, and other changes to a victim's normal business schedule or location) are often a part of a safety plan. After a safety plan has been established, FWAs relating to scheduling may also help victims address child-care needs or receive necessary counseling or medical services.

Victims of domestic violence need to have access to time off and FWAs to maintain employment. A steady paycheck is often the key to a victim's economic independence and safety from abuse (Tebo, 2005). Economic independence is often the greatest indicator of whether a victim will be able to stay safe from the perpetrator. However, despite the importance of steady employment to victims' safety, a significant number of victims report being subject to adverse employment actions by their employers that are related to their being victims of domestic violence. According to the General Accounting Office, 25 to 50% of victims who lost a job did so (at least in part) due to having experienced domestic violence (GAO, 1998).

The research also demonstrates that the effects of domestic violence spill over into the workplace even if the specific acts of violence were not perpetrated at work. The job interference tactics of the perpetrator and the consequences of domestic violence described above hinder an employee's ability to work effectively and safely. In addition, other employees may have to or want to cover for distracted or absent coworkers, guard targeted employees from harassing calls or visitors, resent time off or accommodations given to targeted employees, or fear that their own safety could be in danger (OPM, 1999).

Impact of domestic violence on employers

Domestic violence imposes significant costs on businesses. As noted above, America's employers are faced with considerable economic losses from decreased productivity, administrative difficulties when

employees take unplanned time off, increased medical costs and insurance premiums, and the threat of liability for firing employees experiencing domestic violence in hopes of maintaining a safe workplace or failing to adopt and/or enforce appropriate domestic violence prevention policies.

The significant adverse impact on employers' bottom line has been documented. According to the Centers for Disease Control, approximately 8 million days of paid work (the equivalent of 32,114 full-time jobs) are lost as a result of domestic violence every year (CDC, 2003). Lost productivity alone has been calculated to cost employers between 3 and 5 billion dollars every year. This does not include the administrative difficulties and costs of covering people who take unplanned time off, training replacement workers, property damage, increased medical costs and insurance premiums for employers, or public relations problems that result when an incident of violence receives coverage in the news.

In addition, employers experience other economic repercussions as a result of employing a perpetrator of domestic violence. For example, a recent state survey of perpetrators found that business resources were regularly used to further the crime, and nearly 1 in 5 perpetrators had or almost had an accident at work (Ridley, 2004).

These direct economic costs are only one part of the challenge. As discussed below, employers are increasingly faced with lawsuits seeking to impose liability on employers that fail to adopt or enforce appropriate violence prevention policies or that otherwise hold employers responsible for actions a company took or failed to take in response to domestic violence at work.

State of the Body of Knowledge

Current and Existing Laws and Policies

Before examining specific workplace laws, it is worth noting that the workplace is not the first societal structure that most people think of when they think of changes that are needed to address domestic violence. Instead, when most people think of solutions to the problem of domestic violence, they usually think first of things like increased education to prevent the cycle of abuse, changes that need to be made to the prosecution of related crimes, or increased emergency housing for victims and their children (Karin, 2009). Only recently has domestic violence and its impact on the workplace been recognized as a problem that must be addressed through voluntary business practices as well as by the legislatures and the courts.

Employer Practices and their Impact on the Workplace

Domestic violence is often perceived as a personal and private problem. In society at large, people may refrain from inquiring about whether and how an individual is suffering from domestic violence in an effort to respect that person's privacy. That perception--"that the problem of domestic violence is personal and private"--has carried over into the workplace. Many employers and employees are uncomfortable

discussing domestic violence--"or, for that matter, disclosing violence or the possibility of a violent situation to others--"at work. Not surprisingly, there is often little or no structure in place at work for employees who want to bring domestic violence to a supervisor or coworkers' attention. This culture of secrecy presents obstacles to the creation of a comprehensive structural response to mitigating the effects of domestic violence at work.

In 2006, the National Institute for Occupational Safety and Health (NIOSH), the federal agency required to research techniques to prevent injuries at work, published findings from the first government-sponsored national conference on violence at work, entitled *Partnering in Workplace Violence Prevention: Translating Research to Practice*. At the conference, participants discussed obstacles to successful workplace violence prevention. Some of the obstacles identified at the conference include: (1) communication problems, including a fear of discussing this "private" problem; (2) the appropriate role for employers in preventing and responding to workplace violence; and (3) "too few incentives for companies to implement [a workplace violence] prevention program" (NIOSH, 2006). Other gaps that hinder violence prevention include the inconsistent and sometimes conflicting obligations under federal, state, and local law described below.

The NIOSH findings are supported by the limited number of academic studies that focus on the specific implications of domestic violence at work. These studies--"led by Jennifer Swanberg, T. K. Logan, and Caroline Macke--"identified job interference tactics used by abusers and their outcome on women's work performance, investigated the consequences associated with disclosure to employers and coworkers, and identified supports offered to employees upon disclosure. Among other things, their findings demonstrate that the decision to disclose violence may be influenced by the employer's perceived attitudes, the employee's assumptions about stigma, the impact on job performance, and the existence of employer-supported resources to help the employee, ranging from prevention to protection and even intervention (see, e.g., Swanberg & Logan, 2005; Swanberg, Logan, & Macke, 2005; Swanberg & Macke, 2006; Swanberg, Macke, & Logan, 2007).

The development of a formal policy to educate and train employees and to establish specific steps to take if violence is suspected or occurs is often seen as the first action employers should take to proactively address domestic violence at work (Campbell & Karin, 2001; Deming, 2006). A recent Bureau of Labor Statistics survey found that 94% of corporate security personnel at Fortune 100 companies believe domestic violence is a major security concern (BLS, 2005). However, despite this acknowledgement of risk, the survey reported that "[o]ver 70[%] of United States workplaces have no formal program or policy that addresses workplace violence," and only 44% of those that do have a program or policy address domestic violence (BLS, 2005).

Moreover, even though these studies accurately describe the prevailing corporate attitude as one that denies the need for employers to address domestic violence “until a tragic, violent event occurs” (see, e.g., NIOSH, 2006), an increasing number of employers have voluntarily begun to address violence at work. Some of these employers have stated a business case rationale as the impetus for these voluntary actions. Others have mentioned a sense of social and corporate responsibility. Regardless of the reason, these businesses are responding by implementing policies on domestic violence in the workplace to raise awareness of the problem; provide support, when appropriate, to employees experiencing domestic violence; offer guidance to management and mid-level supervisors on addressing the occurrence of domestic violence and its effects on the workplace; train employees about the existence of and how to use the programs they implement; and otherwise work to create a safer work environment.

Over the past few decades, a number of initiatives have emerged to help eradicate domestic violence and provide technical assistance to employers who are attempting to develop and create domestic violence policies in their workplaces. For example, the Family Violence Prevention Fund developed best practices and a model policy on domestic violence in the workplace to help educate employers and provide them with information and guidance as they develop business practices in this area (Norton, Moskey, & Berstein, 2000). In 1999, after having worked with the business community to distribute safety-planning brochures, the American Bar Association’s Commission on Domestic Violence published a guide for employers seeking to educate them on domestic violence and suggest strategies to assist employees dealing with violence (ABA, 1999). More recently, in early 2007, the Corporate Alliance to End Partner Violence (CAEPV)--“a coalition of over 120 companies--”was established to share information and strategies to cope with the impact of domestic violence at work. CAEPV member Liz Claiborne Inc., for example, works to create an environment of support, education, and assistance for employees dealing with domestic violence. It also offers consultation to other companies and nonprofits that are establishing policies and procedures regarding domestic violence, including protocol-training programs for employees in the human resources, security, and legal departments. A recent study by these groups offers encouraging support for these employers--“an overwhelming majority of employees (84%) believe that employers should be a part of the solution to addressing domestic violence (CAEPV, 2007).

Legal Requirements Relating to Domestic Violence at Work

Injured employees, customers, employers, and the government have obtained legal protections and judicial relief, as well as imposed liability on employers based on: (1) federal, state, and local statutes, and (2) judicially imposed requirements from common law.

Federal Laws

Federal law has raised the level of discourse on domestic violence to the national level and elevated the need to address and educate society about domestic violence. Through law, Congress has funded particular programs and resources to assist prosecutors, victims, businesses, and others. Federal law

has also provided the statutory basis for cases that seek to obtain benefits for victims or otherwise hold an employer accountable for employment actions taken in response to violence. Cases have been brought under a variety of federal laws, including the Occupational Safety and Health Act, the Family and Medical Leave Act, the Americans with Disabilities Act, and Title VII of the Civil Rights Act of 1964.

In 1994, Congress helped educate the country and elevate the national consciousness about the effects of domestic violence against women through The Violence Against Women Act (VAWA). The VAWA 1994, the first comprehensive federal legislation to address domestic violence, prompted changes in public attitudes, policy, law, and the criminal justice system affecting federal, state, and local responses to domestic violence against women and children (Roe, 2004). VAWA 1994 also provided the first federal programs to prosecute interstate domestic violence and sexual assault crimes, enforce protection orders across state lines, and highlight the unique needs of certain underserved populations, such as battered immigrants (NCADV, 2008). The original provisions of VAWA expired in 2000, but the law was subsequently reauthorized in 2000 and 2005. The reauthorizations also expanded the resources devoted and protections afforded to additional communities affected by domestic violence. VAWA 2000 and VAWA 2005 appropriated funding to expand legal assistance and programs to address prevention, housing, health care, child custody and visitation, and employment issues resulting from domestic violence (Laney, 2005). VAWA 2005 also appropriated money for the creation of a National Workplace Resource Center to assist businesses with the development and implementation of appropriate workplace policies to create a safer and more productive workplace (42 U.S.C. § 14043f).

Section 5(a)(1) of the Occupational Safety and Health Act (OSH Act), known as the general duty clause, requires all private employers to “furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees” (29 U.S.C. § 654(a)(1)). The general duty clause may be violated if an employer fails to adequately address a credible threat to an employee’s safety, such as if an employer takes inadequate safety measures to mitigate future harm after learning an employee is being subjected to domestic violence, or if an abuser is allowed to use resources at work to perpetrate or further domestic violence. For example, an employer that refuses to change the schedule or location of an employee who has informed her supervisor that she is being stalked at the same time and work entrance may be violating the OSH Act. However, the general duty clause has not been interpreted to require employers to establish domestic violence policies and procedures. The Occupational Safety and Health Administration--"the agency responsible for enforcing the OSH Act--"has declared that it will not issue citations under the general duty clause for a failure to institute a violence protection program. It has, however, issued guidance describing best practices and promoting the voluntary development of violence prevention programs (OSHA, n.d.).

Currently, there is no federal statute that specifically grants employees time off from work to take care of issues related to their victimization or that protects employees from adverse employment actions based on their victimization. However, victims of violence have used other federal laws to gain protections when they can meet the requirements of those laws.

For example, the Family and Medical Leave Act (FMLA) provides certain employees with up to 12 weeks of unpaid, job-protected time off to care for one's own serious health condition, the serious health condition of a covered family member, or to care for a family member in the military (29 U.S.C. § 2601 et seq.). (See Encyclopedia entry on FMLA for more information on this law: http://wfnetwork.bc.edu/encyclopedia_entry.php?id=233&area=All.) An employee may be eligible for FMLA leave if injuries resulting from domestic violence to the employee or a covered family member rise to the level of a serious health condition. For example, experiencing difficulties with a pregnancy as a result of domestic violence would likely constitute a serious health condition for which the FMLA would provide job-protected time off. If the injuries qualify an employee for time off under the law, an employer's failure to provide leave may impose liability under the FMLA and serve as a basis for a lawsuit.

An employee victim of domestic violence may also qualify as an individual with a disability under the Americans with Disabilities Act (ADA) and be afforded the protections provided by the ADA. The ADA prohibits employment discrimination against an individual with a disability (e.g., someone who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment). For example, an employee whose victimization caused post-traumatic stress disorder, depression, or back or neck problems may be found to have a disability under the ADA. Under the ADA, an employer has an obligation to provide a "reasonable accommodation" to an employee with a disability unless doing so would be an undue hardship for the employer (42 U.S.C. § 12112(b)(5)). An employer's failure to provide such an accommodation, which could include time off or the provision of an FWA that changes a victim employee's work schedule or restructures her job, may also impose liability on an employer and serve as a basis of a lawsuit.

Sex discrimination under Title VII of the Civil Rights Act of 1964 (Title VII) may also be used to impose liability on an employer (42 U.S.C. § 2000e). Title VII prohibits employment discrimination on the basis of sex. Title VII claims may be brought under a disparate treatment or disparate impact theory. A disparate treatment claim may exist if a victim employee was treated differently than other employees. For such a claim to succeed, the employee needs to demonstrate that she is qualified for her job, that she suffered an adverse employment action under circumstances that give rise to an inference of discrimination, and that the employer does not have a legitimate nondiscriminatory reason for any such treatment or offers a reason that is merely a pretext for discrimination. For example, an employer that penalizes a female employee who takes time off to attend a weekly support group for survivors, but allows a male employee

to leave early once a week to coach his daughter's Little League team without recourse, would need to offer a legitimate nondiscriminatory reason for the different treatment. A disparate impact claim may exist if a facially neutral policy or practice has a disparate impact on female employees unless the employer can demonstrate that the policy or practice is "job related and consistent with business necessity," and the employee cannot show that the employer could have used a less-discriminatory alternative to achieve the same goals. For example, an employer's policy not to promote anyone to management who has been a party to a civil lawsuit might have a disparate impact on female employees, who are more likely to be victims of domestic violence and have petitioned for a protection order.

State and Local Laws

In addition to these federal protections, states and localities have promulgated their own laws to address the effects of domestic violence that manifest at work. For example, every state in the country has a law that allows a court to issue a protection order that may instruct another person not to visit, harass, or contact the petitioner employee at work. Most states also have their own versions of a number of the federal laws discussed above. For example, almost every state has its own version of the FMLA. The state law may define who constitutes a qualified family member differently from the federal FMLA, or it might provide additional caregivers with the ability to take job-protected time off from work. Alternatively, the state law may include a smaller employer coverage provision, applying the law to any employer with at least 25 employees (rather than the 50 required under the federal FMLA). Often, federal law preempts state and local laws that do not offer at least the same protection, which means that, in practice, a state or local law on the same topic may offer additional protections (or the same protections to more people) than the equivalent federal provision. Accordingly, employers and employees should be aware of their rights and responsibilities under federal, state, and local laws on a particular subject.

In recent years, in an effort to address the effects of violence at work, states and localities have also been granting additional employment-related protections to employees, or expanding existing ones, primarily by granting employees: (1) access to time off from work, (2) access to unemployment compensation, and (3) protection from adverse employment actions via anti-discrimination laws.

The first trend finds states and localities creating new requirements or expanding existing ones to provide time off in an effort to support victims' economic self-sufficiency (Legal Momentum, 2006; Trent & Margulies, 2007). Under these mandates, employers are required to provide access to some form of job-protected time off to be used in responding to violence. (The majority of these laws provide for unpaid time off. San Francisco, Milwaukee, and Washington, DC, however, have recently enacted a requirement to provide paid time off.)

The second trend in state laws granting additional protection to victimized employees involves the provision of unemployment benefits under "good cause" provisions, which entitle employees to benefits if

they quit work because their health, safety, or comfort has been endangered. No federal law requires states to provide unemployment compensation to victims of domestic violence at this time. But a growing trend among state laws is to define “good cause” to include protection of oneself or one’s children from domestic violence, requiring employers to provide unemployment compensation to an increasing number of employees as the definition broadens. More state laws are likely to appear in the near future as a result of a financial incentive included in President Obama’s first stimulus package that offers money to states that amend their unemployment compensation structure to provide victims of domestic violence access to these benefits.

The third trend relates to protecting victims under state and local anti-discrimination laws. Three jurisdictions--"Illinois, New York City, and Westchester County--"specifically prohibit all forms of employment discrimination against employees because they are or are perceived to be victims of domestic violence and require employers to provide victims with reasonable accommodations at work. Other states and localities offer protections against discrimination on the basis of certain activities in which victims of domestic violence may engage; for example, serving as a witness in court, obtaining a protection order, or refusing to obtain a protection order.

In addition to utilizing state and local laws that may be more protective than their equivalent federal laws, some victims may also seek relief under state workers’ compensation laws. Workers’ compensation laws hold employers responsible for all injuries that arise out of one’s employment and may cover acts of violence that occur at work. In fact, workers’ compensation usually provides the exclusive remedy for injuries that occur at work. However, an injury that is intentionally caused may serve as the basis for a state tort law claim.

The most common tort claim is brought by a victimized employee for wrongful termination in violation of public policy, alleging that the employer’s decision to fire the employee was made out of fear that the employee’s presence would bring violence to their office or because the employee was late or missed work to deal with domestic violence. Another frequent claim is a negligence claim against an employer that fails to provide a safe workplace by adequately responding to or preventing violence.

State laws also provide employers with tools to combat domestic violence in the workplace. Ten states currently grant employers the right to seek protection orders. These laws vary as to on whose behalf an employer may seek a protection order, what constitutes an employer’s worksite, and what actual protections may be provided as appropriate relief.

A handful of states also require certain employers to have written domestic violence prevention policies. These laws often apply to public employers only. For example, the New York State Workplace

Prevention Act requires all state agencies to develop a prevention program and implement annual training on workplace violence.

These laws and subsequent cases based on them demonstrate that employers are increasingly faced with additional duties to respond to the impact of violence at work, and employers are sometimes faced with conflicting obligations under these laws. Employer representatives regularly mention that the threat of litigation in this area is a real concern to them, and that the conflicting obligations they are presented with offer no clear instructions on what to do to maintain a safe workplace or to limit or eliminate their potential liability.

It is also worth noting that this patchwork of state and local laws means that the legal protections afforded to victim employees and employers differs depending on where the victim and employer are located (Karin, 2009). Indeed, a few states do not afford any of these protections (Legal Momentum, 2006), nor do they otherwise have a comprehensive approach to dealing with violence at work. Finally, the fact that small employers are not covered under many of these laws creates additional confusion for both employees and employers with respect to which protections they are afforded and which laws employers must observe.

Implications for Policy and Practice and Research

The dialogue about the intersection of domestic violence and employment continues to have significant implications for public policy, employers, and researchers.

From a policy perspective, there has been an increasing sense that society should respond to this problem, and bills have been introduced on the federal, state, and local levels to address aspects of it. For example, provisions related to domestic violence were included in the American Recovery and Reinvestment Act of 2009, the economic stimulus package that President Obama signed into law on February 17, 2009. The final stimulus package included the Unemployment Insurance Modernization Act, which provides a portion of \$7 billion in financial incentives to states that extend eligibility for unemployment insurance to people who leave their employment as a result of domestic violence (42 U.S.C. § 1103(f)).

On the federal level, a number of other proposals were introduced in the 110th Congress that would have provided additional employment protections to employees, including:

- Additional time off to deal with the aftermath of domestic violence (see, e.g., Survivors' Empowerment and Economic Security Act, S. 1136 and Security and Financial Empowerment Act, H.R. 2395, which would have provided up to 30 days of unpaid job-protected time off per year; Job Protection for Survivors Act, H.R. 4015, which would have provided up to 15 days of

time off to deal with the aftermath of violence and “such leave as is necessary” to participate in civil or criminal proceedings related to domestic violence; Employment Protection for Battered Women, Title III of The Family and Medical Leave Expansion Act, H.R. 1369, which would have added addressing problems arising from domestic violence as a new reason for eligibility under the existing FMLA-protected leave structure; Healthy Families Act, S. 910 and H.R. 1542, which would have granted up to 7 days of paid sick leave annually and required the GAO to study “[w]hether employees used the paid sick leave to care for illnesses or conditions caused by domestic violence against the employees or their family members.”

- Adding actual or perceived status as a victim of domestic violence as a protected category of employees against whom adverse employment actions may not be taken unless it would present an undue burden to the employer (see, e.g., Survivors’ Empowerment and Economic Security Act, S. 1136; Security and Financial Empowerment Act, H.R. 2395; Job Protection for Survivors Act, H.R. 4015).
- Prohibiting employers and insurance providers from basing coverage decisions on an employee’s history of being a victim of domestic violence (see, e.g., Insurance Non-Discrimination for Survivors Act, H.R. 4014).

None of these bills were passed during the 110th Congress. As a result, before any of these bills can become law, they need to be reintroduced in the 111th Congress and work their way through the legislative process. A few have already started that process (see, e.g., Security and Financial Empowerment Act, H.R. 739).

There has also been a significant amount of activity on the state and local levels. In recent sessions, state legislatures have considered or seen a large number of bills related to various aspects of the problems associated with domestic violence and the workplace. Many of these proposals mirror laws that have been enacted in other states or are contained in the federal proposals described above. For example, the majority of the state bills propose expanding the circumstances for which an employee may take job-protected time off from work to address the effects of violence. Others propose requirements on employers to provide paid time off in addition to job protection or to provide reasonable accommodations for victim employees unless it would impose an undue hardship on the employer. Still others relate to the qualification of victim employees for unemployment benefits if work is terminated as a result of violence. (For more information, see State Laws listed on Sloan Network’s Domestic Violence Page at http://wfnetwork.bc.edu/topic_extended.php?id=31&type=3&area=All.)

Bills also have been introduced to expand the number of states that allow employers to seek a protection order when violence happens at work or credible threats are made against an employee that would impact the workplace. Other bills propose the creation of a tax credit for employers that establish and/or maintain resources and programs to combat domestic violence in the workplace. The intent behind these

tax credit proposals is to incentivize employers and educate them on how to appropriately deal with the effects of violence at work by allowing them recover certain costs related to addressing domestic violence. Under some of the proposals, for example, employers would be able to recover a percentage of costs related to things like training employees to recognize warning signs for potential violence, educating them on available options if violence occurs, organizing escorts to walk people to their cars, establishing an employee assistance program that provides services related to domestic violence (such as counseling or referral services), or retaining counsel to help employees seek protection orders.

Additional bills to address domestic violence at work are likely to be introduced in the future on the local, state, and federal levels.

From the perspective of employers, organizations have begun to realize the significant costs associated with domestic violence. The key implication to recognize is that employers and the workplace structure play an important role in reducing the impact of domestic violence on the workplace. Employers need to proactively consider how to protect themselves and address domestic violence to make the workplace safer for and to protect themselves, their employees, and other third parties. As discussed above, domestic violence can have a major impact on employee performance, and this suggests a business case for employers to implement strategies to address this concern. Likely, success in this regard will hinge on mobilizing resources that make employers more cognizant of this issue and how it may affect their operations.

From a researcher's perspective, it is promising that studies have begun to look at this problem to diagnose the exact costs to employees, businesses, and society. There is no comprehensive national benchmarking study on domestic violence, however, although there are studies for certain subsets of people (GAO, 2006). As mentioned above, researchers have begun to document the negative impact on women's economic stability caused by domestic violence at work (see, e.g., Farmer & Tiefenthaler, 2004; Ridley, 2004; Swanberg & Macke, 2006; and Swanberg, Macke, & Logan, 2005). But more work is needed. For example, additional research is needed to evaluate the effectiveness of strategies being utilized by employers to support victimized employees and limit the financial impact of domestic violence. As policy makers, employers, and employees continue to discuss this topic, there is a key role for researchers to play in developing studies to correctly diagnose some of the effects of domestic violence at work as well as the efficacy of various policy responses, incentives, and other proposals to address the problem.

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Locations in the Matrix of Information Domains of the Work-Family Area of Studies

The Editorial Board of the Teaching Resources section of the Sloan Work and Family Research Network has prepared a Matrix as a way to locate important work-family topics in the broad area of work-family studies. ([More about the Matrix ...](#)).

Note: The domain areas most closely related to the entry's topic are presented in full color. Other domains, represented in gray, are provided for context.

Domain A: Antecedent Descriptives	Domain B: Work-Family Issues and Experiences	Domain C: Covariates	Domain D: Responses to W-F Issues and Experiences	Domain E: Outcomes and Impacts
Individual Antecedents	Individual Experiences	Individual Covariates	Individual Decisions & Responses	Individual Outcomes & Impacts
Family Antecedents	Family Experiences	Family Covariates	Family Decisions & Responses	Family Outcomes & Impacts
Workplace Antecedents	Workplace Experiences	Workplace Covariates	Workplace Decisions & Responses	Workplace Outcomes & Impacts
Community Antecedents	Community Experiences	Community Covariates	Community Decisions & Responses	Community Outcomes & Impacts
Societal Antecedents	Societal Experiences	Societal Covariates	Societal Decisions & Responses	Societal Outcomes & Impacts
Domain F: Theoretical Underpinnings to All Domains				

About the Matrix

Sloan Work and Family Research Network

Resources for Teaching: Mapping the Work-Family Area of Studies

Introduction

It was appropriate that the members of the Founding Editorial Board of the Resources for Teaching began their work in 2000, for their project represented one of the turning points in the area of work and family studies. This group accepted the challenge of developing resources that could support the efforts of teaching faculty from different disciplines and professional schools to better integrate the work-family body of knowledge into their curricula. The Virtual Think Tank began its work with a vision, a spirit of determination, and sense of civic responsibility to the community of work-family scholars.

A fundamental challenge emerged early in the process. It became clear that before we could design resources that would support the teaching of those topics, we would first need to inventory topics and issues relevant to the work-family area of studies (and begin to distinguish the work-family aspect of these topics from "non work-family" aspects).

The members of the Virtual Think Tank were well aware that surveying the area of work and family studies would be a daunting undertaking. However, we really had no other choice. And so, we began to grapple with the mapping process.

Purpose

1. To develop a preliminary map of the body of knowledge relevant to the work-family area of study that reflects current, "across-the-disciplines" understanding of work-family phenomena.
2. To create a flexible framework (or map) that clarifies the conceptual relationships among the different information domains that comprise the work-family knowledge base.

It is important to understand that this mapping exercise was undertaken as a way to identify and organize the wide range of work-family topics. This project was not intended as a meta-analysis for determining the empirical relationships between specific variables. Therefore, our map of the workfamily area of study does not include any symbols that might suggest the relationships between specific factors or clusters of factors.

Process

The Virtual Think Tank used a 3-step process to create the map of the work-family area of studies.

1. Key Informants: The members of the Virtual Think Tank included academics from several different disciplines and professions who have taught and written about work-family studies for years. During the first stage of the mapping process, the Virtual Think Tank functioned as a panel of key informants.

Initially, the Panel engaged in a few brainstorming sessions to identify work-family topics that could be addressed in academic courses. The inductive brainstorming sessions initially resulted in the identification of nearly 50 topics.

Once the preliminary list of topics had been generated, members of the Virtual Think Tank pursued a deductive approach to the identification of work-family issues. Over the course of several conversations, the Virtual Think Tank created a conceptual map that focused on information domains (see Table 1 below).

The last stage of the mapping process undertaken by the Virtual Think Tank consisted of comparing and adjusting the results of the inductive and deductive processes. The preliminary, reconciled list was used as the first index for the Online Work and Family Encyclopedia.

2. Literature review: Members of the project team conducted literature searches to identify writings in which authors attempted to map the work-family area of study or specific domains of this area. The highlights of the literature review will be posted on February 1, 2002 when the First Edition of the Work-Family Encyclopedia will be published.

3. Peer review: On October 1, 2001, the Preliminary Mapping of the work-family area of study was posted on the website of the Sloan Work and Family Research Network. The members of the Virtual Think Tank invite work-family leaders to submit suggestions and comments about the Mapping and the List of Work-Family Topics. The Virtual Think Tank will consider the suggestions and, as indicated, will make adjustments in both of these products. Please send your comments to Marcie Pitt-Catsouphes at pittcats@bc.edu

Assumptions

Prior to identifying the different information domains relevant to the work-family area of study, members of the Virtual Think Tank adopted two premises:

1. Our use of the word "family" refers to both traditional and nontraditional families. Therefore, we consider the term "work-family" to be relevant to individuals who might reside by themselves. Many work-family leaders have noted the problematic dimensions of the term "work-family" (see Barnett, 1999). In particular, concern has been expressed that the word "family" continues to connote the married couple family with dependent children, despite the widespread recognition that family structures and relationships continue to be very diverse and often change over time. As a group, we understand the word "family" to refer to relationships characterized by deep caring and commitment that exist over time. We do not limit family relationships to those established by marriage, birth, blood, or shared residency.

2. It is important to examine and measure work-family issues and experiences at many different levels, including: individual, dyadic (e.g., couple relationships, parent-child relationships, caregiver-caretaker relationships), family and other small groups, organizational, community, and societal. Much of the work-family discourse glosses over the fact that the work-family experiences of one person or stakeholder group may, in fact, be different from (and potentially in conflict with) those of another.

Outcomes

We will publish a Working Paper, "Mapping the Work-Family Area of Study," on the Sloan Work and Family Research Network in 2002. In this publication, we will acknowledge the comments and suggestions for improvement sent to us.

Limitations

It is important to understand that the members of the Virtual Think Tank viewed their efforts to map the work-family area of study as a "work in progress." We anticipate that we will periodically review and revise the map as this area of study evolves.

The members of the panel are also cognizant that other scholars may have different conceptualizations of the work-family area of study. We welcome your comments and look forward to public dialogue about this important topic.

Listing of the Information Domains Included in the Map

The members of the Virtual Think Tank wanted to focus their map of work-family issues around the experiences of five principal stakeholder groups:

1. individuals,
2. families,
3. workplaces,
4. communities, and
5. society-at-large.

Each of these stakeholder groups is represented by a row in the Table 1, Information Domain Matrix (below).

Work-Family Experiences: The discussions of the members of the Virtual Think Tank began with an identification of some of the salient needs & priorities/problems & concerns of the five principal stakeholder groups. These domains are represented by the cells in Column B of the Information Domain Matrix.

- Individuals' work-family needs & priorities
- Individuals' work-family problems & concerns
- Families' work-family need & priorities
- Families' work-family problems & concerns
- Needs & priorities of workplaces related to work-family issues
- Workplace problems & concerns related to work-family issues
- Needs & priorities of communities related to work-family issues
- Communities' problems & concerns related to work-family issues
- Needs and priorities of society related to work-family issues
- Societal problems & concerns related to work-family issues

Antecedents: Next, the Virtual Think Tank identified the primary roots causes and factors that might have either precipitated or affected the work-family experiences of the principal stakeholder groups. These domains are highlighted in Column A of the Information Domain Matrix.

- Individual Antecedents
- Family Antecedents
- Workplace Antecedents
- Community Antecedents
- Societal Antecedents

Covariates: The third set of information domains include factors that moderate the relationships between the antecedents and the work-family experiences of different stakeholder groups (see

Column C in Table 1).

- Individual Covariates
- Family Covariates
- Workplace Covariates
- Community Covariates
- Societal Covariates

Decisions and Responses: The responses of the stakeholder groups to different work-family experiences are highlighted in Column D.

- Individual Decision and Responses
- Family Decisions and Responses
- Workplace Decisions and Responses
- Community Decisions and Responses
- Public Sector Decisions and Responses

Outcomes & Impacts: The fifth set of information domains refer to the outcomes and impacts of different work-family issues and experiences on the principal stakeholder groups (see Column E).

- Outcomes & Impacts on Individuals
- Outcomes & Impacts on Families
- Outcomes & Impacts on Workplaces
- Outcomes & Impacts on Communities
- Outcomes & Impacts on Society

Theoretical Foundations: The Virtual Think Tank established a sixth information domain to designate the multi-disciplinary theoretical underpinnings to the work-family area of study (noted as Information Domain F).

Table 1: Matrix of Information Domains (9/30/01)

Domain A: Antecedent Descriptives	Domain B: Work-Family Issues and Experiences	Domain C: Covariates	Domain D: Responses to W-F Issues and Experiences	Domain E: Outcomes and Impacts
Individual Antecedents	Individual Experiences: Needs & Priorities; Problems & Concerns	Individual Covariates	Individual Decisions & Responses	Individual Outcomes & Impacts
Family Antecedents	Family Experiences: Needs & Priorities; Problems & Concerns	Family Covariates	Family Decisions & Responses	Family Outcomes & Impacts
Workplace Antecedents	Workplace Experiences: Needs & Priorities; Problems & Concerns	Workplace Covariates	Workplace Decisions & Responses	Workplace Outcomes & Impacts
Community Antecedents	Community Experiences: Needs & Priorities; Problems & Concerns	Community Covariates	Community Decisions & Responses	Community Outcomes & Impacts
Societal Antecedents	Societal Experiences: Needs & Priorities; Problems & Concerns	Societal Covariates	Societal Decisions & Responses	Societal Outcomes & Impacts
Domain F: Theoretical Underpinnings to All Domains				