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Stalking and Domestic Violence in the Workplace

Background

Domestic violence and stalking victims can find safe havens in work. Going to work can reaffirm an individual's identity and self-worth, and can act as a safeguard against the isolation that is often one of a batterer's many powerful tools. Unfortunately, the workplace is also a place where many domestic violence and stalking victims suffer harassment, threats, assault, rape, and murder at the hands of their abusers.

Domestic violence in the workplace is a broad concept not limited to abuse occurring at a victim's place of employment. It encompasses all behavior that prevents a person from performing duties at work. It includes myriad abuse behaviors, from harassing phone calls and appearances at the workplace, to acts of abuse that occur away from the workplace and result in sleep deprivation and physical injuries.¹⁴

Employers' responses vary. Some have fired victims in the wake of violence or threats of violence. Some far-sighted companies like Polaroid Corporation and Liz Claiborne, Inc., have undertaken wide-ranging corporate and community campaigns against domestic violence. Whether prompted by incidents in their own offices, by media coverage of assaults and homicides, by potential liability, or by research revealing the financial impact of domestic violence and stalking in the workplace,¹⁵ managers, union leaders, human resource, and employee assistance professionals are re-examining their role in responding to crises in workers' lives.

Civil Remedies for Victims

Increasingly, federal and state laws provide opportunities for victims to pursue justice—and safety—through civil remedies. The Violence Against Women Act of 1994 established victims' rights to file civil suits against their perpetrators.¹⁶ Federal legislative activity that followed included proposals that would authorize leave for battered women and require states to pro-

vide unemployment benefits to women who have left their jobs because of domestic violence. Other legislation that might apply includes laws addressing sexual harassment and hostile work environment, discrimination, the Family and Medical Leave Act, and the Americans With Disabilities Act.¹⁷ In addition, local jurisdictions are addressing the issue. Maine recently became the nation's first state to mandate that businesses give employees time off to participate in legal proceedings or obtain medical treatment related to violent crimes. Also, employers within the state must provide victims of domestic abuse, sexual assault, and stalking time off to obtain services such as counseling or emergency shelter.¹⁸ This year, California passed legislation initiated by the California Alliance Against Domestic Violence, which allows domestic violence victims time off for court appearances.¹⁹

The proliferation of such laws, together with the reality that the systems established to support victims too often contribute to their trauma, challenges attorneys to research the dynamics of stalking and domestic violence relationships, and to re-think how they assess and address a victim client's needs.

Special Considerations in Advocating for Victims

- **Learn about the dynamics of domestic violence and stalking.**²⁰ Familiarity with domestic violence and stalking dynamics will not only allow attorneys to best advocate for clients on related cases, but also might help attorneys to identify possible domestic violence situations in cases that may not initially present as such, for example, divorce and child custody cases.

- **Establish trust.** As with all victims of crime, domestic violence and stalking victims have had their trust shattered by perpetrators and often by the very systems designed for victim protection. To establish trust and identify critical issues requires placement of case facts in the entire context of the domestic violence

relationship. Domestic violence and stalking are often evolving cases which require frequent and in-depth dialogue to develop insight and understanding. Attorney accessibility, forthrightness, and written and verbal explanations at every stage of the case are critical to establish and maintain an effective client/attorney relationship.

- **Be mindful of the emotional toll discussions with an attorney may have on the victim.** Some victim-clients may be disclosing abuse for the first time, an experience so fraught with fear and anxiety that one advocate equated it with the prospect of stepping blindfolded off a cliff. Other victims will be emotionally drained from repeating their stories to police, criminal court clerks, community-based victim advocates, prosecutors, victim/witness staff, housing agents, and employers. The process of a victim's revisiting the abusive incidents presents risks of additional trauma.

- **Ensure that victims and their children have resources and support independent of their legal counsel.** For meetings and court dates, encourage the presence and support of community-based advocates, friends, and family. Be aware that battering often includes isolating victims from support networks. Counsel can research the existence of community resources that will assist victims in identifying support for themselves and their children. Such help might continue beyond the life of the case.

- **Be mindful of the possibility of stress reactions including posttraumatic stress disorder.** Such conditions may not only interfere with a victim's ability to communicate with you effectively, but may be triggered by meetings and court appearances. Learn to recognize signs of emotional distress and plan a course of action if your client comes to you in crisis.

- **Adopt a sensitive, victim-centered approach to cases.** Victims should feel empowered, not blamed, interrogated, or

further victimized by their interactions with legal advocates. Attorneys must frame questions with sensitivity, explaining the purpose of their work with clients. For example, in preparing a victim to testify, the question "Why didn't you leave?" is posed all too often by those who question victims' actions instead of the behavior of batterers. Instead, a productive discussion might be initiated with the statement, "We need to convey the obstacles and barriers that were the batterers' tools for keeping you in the relationship."

- **Know that victims of domestic violence and stalking will be at risk** coming to your office and to court, just as they are at risk in all of their activities. Attempts to leave an abusive relationship often escalate batterers' abuse and put victims' safety at greater risk.²¹ Just as domestic violence and stalking enter the workplace, so can they invade the other places where victims go to seek refuge, information, or support. Ensure that the victim has developed a detailed safety plan with the help of an advocate, and ask the victim what measures you can take to ensure her safety while you are working together. Some options include identifying a safe-room in the courthouse and providing your office-building's security desk with a photograph of the abuser.

- **Do not assume that any detail is unimportant.** "Batterer behavior that might seem innocuous to third parties, even experienced advocates, broadcasts threats and danger to battered women."²² Every concern raised by the victim warrants further discussion.

- **Work together to identify goals and solutions.** Pinpointing the issues that are important to your clients and the solutions to their problems takes time and creative thinking. Rhonda Martinson, a staff attorney with the Battered Women's Justice Project, learned that her neighbor was using his TTY equipment as a tool to harass her. She was able to curtail his behavior by enlisting the help of the telephone service provider, who warned the offender that further misuse would lead to confiscation of the equipment. Martinson also galvanized the involve-

ment of the offender's parents and employer in responding to the abusive behavior.²³ Learn to resist traditional parameters in favor of creative brainstorming to accomplish agreed-upon goals.

- **Prepare victims for all possible outcomes.** Above all, do not promise to guarantee a victim's safety.

- **Finally, be aware that attorneys and advocates who work with domestic violence and stalking victims are often at significant personal physical and emotional risk.** Attention to safety issues is critical for victims' attorneys, who can become targets of abusers. In addition, recent studies on vicarious traumatization have revealed the impact that advocating for victims can have on service providers.²⁴ Ongoing support and self-care are as important for attorneys as for the clients they represent.

Conclusion

Guided by the efforts and accomplishments of the domestic violence movement, communities have begun to move beyond traditional responses to stalking and domestic violence. Civil attorneys play an increasingly critical role as they cultivate careful partnerships with victims and re-envision future legal advocacy. **VA**

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16. U.S.C.A. 13981 (1995).

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