

Stalking and Domestic Violence in the Workplace

By Karen Dempsey and Trudy Gregorie

Background

The workplace can provide a haven for domestic violence and stalking victims. It can reaffirm an individual's identity and self-worth, and can act as a safeguard against the isolation that is one of a batterer's many and powerful tools. As recounted in the pages of newspapers across the country every day, the workplace is also a place where countless domestic violence and stalking victims suffer harassment, threats, assault, rape and murder.

Domestic violence in the workplace is a broad concept that is not limited to abuse occurring at a victim's place of employment. It encompasses all behavior that prevents a person from safely and securely performing his or her duties at work. This includes myriad behavior from harassing phone calls and appearances at the workplace to abuse occurring away from the work-site, such as sleep deprivation and physical assaults, which impacts an individual's ability to fulfill his or her job responsibilities.ⁱ

Employers' responses vary from those who have fired victims as a result of the violence to the recent initiatives of companies like Polaroid Corporation and Liz Claiborne, Inc., who 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 workplaceⁱⁱ, managers, union leaders, and human resource and employee assistance professionals are re-examining their role in responding to the crisis.

Civil Remedies for Victims

Increasingly, federal and state laws are providing 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.ⁱⁱⁱ Federal legislative activity that followed included proposals which would authorize leave for battered women and require states to provide 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.^{iv} Local jurisdictions are also taking measures to address the issue. Maine recently became the first state in the country to mandate that businesses give employees time off to participate in legal proceedings or obtain medical treatment related to violent crimes. Employers must also provide victims of domestic abuse, sexual assault, and stalking with time off to obtain services such as counseling or emergency shelter.^v California this year passed legislation initiated by the California Alliance Against Domestic Violence which allows domestic violence victims time off work for court appearances.^{vi}

The proliferation of such opportunities, together with the reality that the systems established to support victims too often contribute to their trauma, challenges attorneys to research victim

dynamics and re-think their roles in assessing and addressing their clients' needs.

Special considerations in advocating for victims

- ***Learn about the dynamics of domestic violence and stalking.*** Familiarity with these 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, in divorce and child custody cases.
- ***Establish trust.*** As with all victims of crime, domestic violence and stalking victims have had their trust shattered by their perpetrators and often by the very systems designed to protect victims. Establishing trust and identifying critical issues will require discussing the facts of the case in the entire context of the relationship. Domestic violence and stalking are often evolving cases which require frequent and in-depth dialogue. Attorney accessibility, forthrightness and written and verbal explanations at every stage of the case are critical in establishing and maintaining the client/attorney relationship.
- ***Be mindful of the emotional toll of these discussions on the victim.*** Some victims may be disclosing abuse for the first time, an experience fraught with fear and anxiety that one advocate equated with the prospect stepping blindfolded off a cliff. Other victims will be drained from repeating their stories to police, criminal court clerks, community-based victim advocates, prosecutors and victim/witness staff, housing agents and employers. The process of revisiting the abusive incidents presents the risk of additional trauma.
- ***Ensure that victims and their children have resources and support independent of you.*** For meetings and court dates, encourage the presence of a community-based advocate and support of friends or family. Be aware that battering often includes isolating victims from support networks. Research community resources so that you can assist victims in identifying support for themselves and their children that can continue beyond the life of the case.
- ***Be mindful of 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 victim-centered and sensitive approach to cases.*** Victims should be left feeling empowered, not blamed, interrogated, or further victimized by their interactions with legal advocates. Attorneys must frame questions sensitively and explain the purpose of the discussions. In preparing a victim to testify, for example, the question "Why didn't you leave?" has been posed all too often in a society that historically questioned victims' actions instead of the behavior of batterers. A productive discussion might instead 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 the abuse and put victims' safety at greater risk.^{vii} 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, such as

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 3rd parties, even experienced advocates, broadcasts threats and danger to battered women.”^{viii} Every concern raised by the victim warrants further discussion.
- ***Work together to identify goals and solutions.*** Pinpointing the issues that are important to your client and the solutions to those problems takes time and creative thinking. Rhonda Martinson, a staff attorney with the Battered Women's Justice Project, learned that her neighbor was mis-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 involvement of the offender's parents and employer in responding to the abusive behavior.^{ix} 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 keep her safe.
- ***Finally, be aware that attorneys and advocates working with domestic violence and stalking victims are often themselves at significant 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.^x 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 are moving 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 legal advocacy for the future.

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i. Donna Norton, Esq., Stephen T. Moskey, Ph.D., and Elizabeth Bernstein (Eds.), *The Workplace Responds to Domestic Violence: A Resource Guide for Employers, Unions, and Advocates*, Family Violence Prevention Fund.

ii. Roper Starch Worldwide. (1994). *Addressing Domestic Violence: A Corporate Response*,

New York: Roper Starch Worldwide.

iii. 42 U.S.C.A. § 13981 (1995).

iv. Ibid.

v. California Labor Code § 230. (Effective January 2000).

vi. 26 M.R.S.A. § 850.

vii. Wilson, Margo and Martin Daly. (1993). Spousal homicide risk and estrangement. *Violence and Victims*, 8:1. New York: Springer Publishing Company.

viii. Hart, Barbara. (1999). Keynote address: Millenium Conference on Domestic Violence. Chicago.

ix. (1999). Author interview.

x. Figley, Charles R., Ph.D. (Ed). (1995). *Compassion Fatigue: Coping with Secondary Traumatic Stress Disorder in Those Who Treat the Traumatized*. New York: Brunner/Mazel Publishers; Saakvitne, Karen W., Ph.D. and Laurie Ann Pearlman, Ph.D. (1996). *Transforming the Pain: A Workbook on Vicarious Traumatization for Helping Professionals Who Work With Traumatized Clients*. New York: W.W. Norton & Company.