

**TESTIMONY OF
NOW LEGAL DEFENSE AND EDUCATION FUND
ON THE IMPACT OF DOMESTIC AND SEXUAL VIOLENCE IN THE WORKPLACE**

**SUBMITTED TO THE UNITED STATES SENATE HEALTH, EDUCATION, LABOR
AND PENSIONS COMMITTEE**

**Hearing on “Violence Against Women in the Workplace: The Extent of the Problem and
What Government and Businesses are Doing About it”**

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NOW Legal Defense and Education Fund

INTRODUCTION

Thank you for the opportunity to testify today. NOW Legal Defense and Education Fund has been working for more than thirty years to define and defend women's rights. Our major goals include helping to bring an end to violence against women, and eliminating barriers that deny women economic opportunities. Today's hearing is an opportunity for me to discuss where those two goals intersect, and steps that can be taken to move toward achieving both.

NOW Legal Defense chairs the National Task Force to End Sexual and Domestic Violence Against Women, which includes over 2,000 national, state, and local organizations. NOW Legal Defense also provides legal assistance and information to thousands of domestic violence survivors through our "Employment Rights for Survivors of Abuse" project. In that vein, we have also worked with corporations across the country, including Liz Claiborne, American Express, Colgate-Palmolive, Polaroid, and others, to develop best practices for a companies in their efforts to deal with the effects of violence against women in their workplaces. NOW Legal Defense has also authored a popular handbook, "Creating Solutions – Creating Change," which demonstrates the impact of violence in the lives of working women and provides guidance and solutions to corporations and others who work to address these issues.

NOW Legal Defense is also proud to have participated in the crafting and in leading support for the Violence Against Women Act of 1994, its reauthorization in 2000, and the pending Victims' Economic Security and Safety Act (VESSA, [S. 1249, H.R. 2670]), which will address some of the terribly difficult work situations that survivors of domestic and sexual violence face.

Prevalence of Domestic and Sexual Violence

Let me begin by briefly describing the scope of the problem. Since Congress passed the Violence Against Women Act in 1994, domestic and sexual violence has been reduced, but it is still a problem of epidemic proportions. According to the U.S. Department of Justice, “the rate of intimate partner violence against women decreased 21 percent from 1993 to 1998,” but intimate partners continue to commit violent crimes at the rate of 937,490 annually against women and 144,620 against men.¹ Another Department of Justice report estimates that 2,800,000 people are victimized by intimate partners annually.² Over one million women and over 370,000 men are stalked annually in the United States,³ and 260,000 to 400,000 people are victims of rape annually.⁴

Twenty-five percent of women surveyed were raped and/or physically assaulted in their lifetime by an intimate partner, compared with eight percent of men.⁵ This includes women of all backgrounds: 24.8 percent of white women, 29.1 percent of African-American women, 37.5 percent of American Indian/Alaska Native women, and 15.0 percent of Asian/Pacific Islander women have been raped, physically assaulted or stalked by an intimate partner in their lifetimes.⁶

In each year between 1992 and 1996, more than two million U.S. residents were victims of a violent crime in the workplace.⁷ About 50,500 individuals, 83 percent of whom are women, were raped or sexually assaulted in the workplace each year during this period.⁸

Violence Hurts Women on the Job

Domestic violence is a workplace issue, plain and simple. Violence may enter the workplace when abusers attempt to sabotage their victims’ ability to work productively by threatening, attacking, stalking, or harassing their victims at work.⁹ Between 35 and 56 percent of

battered women in three separate studies reported that they were harassed at work by their batterers.¹⁰

Fortunately, some of this violence is preventable. There are many low- or no-cost changes that an employer can make in the workplace that reduce a batterer's opportunity to harass, threaten or harm an employee during the work day. For example, in order to stop phone harassment, an employer can change an employee's phone extension or route calls through a receptionist. If a batterer has threatened to come to the workplace, registering a copy of the protective order with building security or transferring the employee to another job site or shift may be appropriate. What will work in an individual case will differ based on the nature and severity of the violence involved and the type of the employee's job and the employer's business.¹¹

But, an employer cannot take any steps -- to increase safety or to help a good employee keep her job while she is dealing with domestic or sexual violence -- unless the employer hears from the employee. The problem is, however, when we suggest that individuals talk to their employers to find a solution to workplace violence, victims' first response is often, "I am afraid to tell my employer, because I might lose my job." This is a very real fear. Between one quarter and one half of domestic violence victims surveyed in three separate studies reported they lost a job due, in part, to domestic violence.¹² Similarly, almost fifty percent of sexual assault survivors lose their jobs or are forced to quit in the aftermath of the crime.¹³ More than one quarter of stalking victims report losing time from work due to stalking and seven percent never returned to work.¹⁴ Outside of New York City--the only jurisdiction that explicitly prohibits employment discrimination against victims of domestic violence--we cannot assure an employee that no one can take an adverse job action against her -- just for asking for help.

We have learned through our work that all too often employers discriminate against domestic violence victims by firing or disciplining them, simply because they are in an abusive relationship. We have also learned that for many survivors of domestic violence, having a job is a key factor in successfully escaping a violent relationship. A job provides the economic security they need to leave their abusers. Although legislatures and executives across the country have recognized the need to prohibit discrimination against employees because they are victims of domestic or sexual violence, existing laws and policies apply in narrow circumstances only (e.g., only protecting state employees). If Congress prohibits such discrimination, and employees throughout the country know their employers cannot discriminate against them for disclosing that they are victims of domestic or sexual violence, they are more likely to come forward and talk with their employers about their situations and about how to make the workplace safer for them and their co-workers.

The need for proactively addressing this issue is clear from the statistics and is directly supported by the experiences we hear from individuals about their own experiences. Let me give you a sampling of these stories.

One woman was fired simply for asking her employer to lock the door the day after she left her batterer. She worked at a small clothing manufacturing facility that was not open to the public, so locking the door would not have disrupted her employer's business. In another case, a woman in Oregon was fired after her batterer smashed her car headlights in the employee parking lot and told their joint employer that he would kill her if she continued to work there.¹⁵ The employer fired her, but retained her batterer despite the fact that he was the one who was violent at work.

One client of our “Employment Rights for Survivors of Abuse” project, from Oregon, was fired after she obtained an order of protection against her batterer who was a co-worker at the same office. In several cases, women had to leave their jobs in order to get themselves and their children safe and, because they were in one of the thirty-two states that do not have laws stating that leaving due to domestic violence is “good cause,” they needed assistance to appeal denials of their applications for unemployment insurance.

A woman from California contacted us because her abuser, a co-worker, transferred to her office in order to continue to harass her while at work. When she told her supervisor, he advised her not to talk about the abuse because, he said, it could be slander. He also suggested that she should transfer if she was uncomfortable, because they would not take any action on her behalf to remove her abuser from her work site.

A woman working in New York used her available sick days to take time off to heal from injuries inflicted by her abusive ex-boyfriend. However, upon her return to work, her supervisor began insulting her and teasing her about being a victim of domestic violence in front of the other employees, and then fired her. An employee in New Jersey asked her employer to change her phone extension because her ex-boyfriend was harassing her. The employer denied her request and then fired her.

Studies, as well as our experience at NOW Legal Defense, show that victims of domestic violence, sexual assault, and stalking are treated differently than other crime victims. They are subjected to adverse treatment, perhaps in part due to stereotypes about domestic violence and sexual assault. We believe legislation such as VESSA is carefully tailored to respond to a particular and documented need.

Until the current law is improved, women will continue to be forced to decide which is worse: staying silent and putting up with harassment and violence, or speaking up and hoping their employers do not fire them.

Addressing the Impact of Domestic and Sexual Violence in the Workplace Will Help Keep People off Welfare, and Help Recipients Go from Welfare to Work

Not surprisingly, the economic devastation following the loss of their jobs has forced many survivors of domestic and sexual violence to rely upon welfare. As many as 70 percent of women on welfare report having been a victim of intimate violence at some point in their adult lives, and as many as 30 percent report abuse within the last year.¹⁶ By addressing the employment needs of victims of domestic violence, Congress will help many survivors keep their jobs, secure their economic independence, and stay off welfare. It's an investment with a big payoff.

Addressing the impact of domestic and sexual violence in the workplace is critical for women who are moving from welfare to work. Historically, women have relied on welfare to bridge the gap when they lose jobs due to domestic violence or leave batterers who contribute to household expenses. Studies confirm that from fourteen percent to thirty-two percent of welfare recipients are being abused by their current partners.¹⁷ It would be a tragedy for a woman to make the transition from welfare into a new job, only to be fired when she speaks to her new employer about domestic violence.

Batterers often take actions intended to prevent their victims from making the transition back into employment. In 1996, NOW Legal Defense surveyed 25 job-training providers in New York City. The providers reported that batterers sabotaged their victims' attempts at economic

independence by destroying clothing, inflicting visible injuries, renegeing on promises to provide child care, or keeping their victims up late at night before critical events like exams and job interviews.¹⁸

Studies conducted elsewhere confirm these findings.¹⁹ For example, a study of domestic violence victims in Wisconsin who were former or current public assistance recipients revealed a very troubling pattern: one out of three reported that they had lost a job due to the violence.²⁰ They also reported their batterers engaged in behavior that made it more difficult for them to work. More than half reported their batterers threatened them to the point they were afraid to go to school or work, and others reported their batterer refused child care at the last minute or inflicted physical injuries. Workplace protections for these victims are needed to enable women who have made the transition from welfare to work to build on their achievements instead of being pulled back by abusive partners. Congress should ensure that welfare agencies and welfare-to-work employers support survivors, rather than discriminate against them or otherwise hinder their ability to get and keep permanent jobs.

State and Local Policymakers throughout the Nation Are Recognizing the Importance of Addressing the Effects of Domestic Violence in the Workplace

Across the country, there is a growing recognition of the need to combat the effects of domestic and sexual violence on the workplace. States, counties, and cities have enacted laws that provide assistance to some employees who are victims of domestic and sexual violence. But, current laws are still inadequate. To date, only New York City prohibits employers from discriminating against domestic violence victims.

Eighteen states have passed laws providing unemployment insurance to employees who leave their jobs due to domestic violence.²¹ Unemployment insurance is vital, but it only addresses the problem after the victim loses her job.

Three states--California, Maine, and Colorado--have recognized the importance of *preventing* job loss by providing employment leave to domestic violence victims in order to go to court, go to the doctor, or take other steps to address the violence. Maine and Colorado extend the availability of leave to victims of stalking or sexual assault (and a similar amendment to California's leave law has passed the Assembly and is now before the State Senate).

Maine was the first state to pass an employment leave law for victims of domestic and sexual violence. Since 1999, all private and public employers in Maine have been required to grant "reasonable and necessary leave from work" for employees who have been victims of domestic violence, sexual assault, or stalking to "[p]repare for and attend court proceedings," "[r]eceive medical treatment," or "[o]btain necessary services to remedy a crisis caused by [the violence]." Earlier this year, the law was expanded to cover employees whose child was a victim. The Maine State Chamber of Commerce wrote to the State legislature to express support for the expansion of the leave law. In that letter the organization stated that when the leave law was originally introduced, "the Maine State Chamber expressed concerns about the bill," but the letter goes on to say:

Despite our original reservations the bill became law and has been in place for the last two years. During this time this organization has heard no complaints or concerns with its implementation. It appears that the bill supporters were correct regarding its application and its impact on the workplace.

It is for this reason we believe it is appropriate to extent [sic] the same leave opportunities for parents of children who are unfortunate enough to be victims of violence.

We believe this bill, like the current law, is appropriate given the difficult times we now live in. While we hope that someday we will be in the position that

individuals and families do not need to access leave for these very troublesome situations, we recognize that should they need to do so, such leave is appropriate and relatively unburdensome to the workplace. It is for these reasons we would again reiterate our support for LD 1960.²²

Notably, each of the state leave laws prohibits employers from discriminating against employees who have requested or taken the domestic violence leave provided in the law.²³

A few other states have prohibited employers from discriminating against or firing domestic violence victims in certain, narrow circumstances. New York State employees are protected by the State Domestic Violence Policy, which states that agencies must “[e]nsure that personnel policies and procedures do not discriminate against victims of domestic violence and are responsive to the needs of victims of domestic violence.”²⁴ New York State law also prohibits employers from discharging crime victims for taking time off to get an order of protection.²⁵ Similarly, Rhode Island prohibits employers from discriminating against employees because they have obtained or sought a civil order of protection.²⁶ The state of Maryland prohibits state agencies from treating their employees unfairly based solely on their status as victims of domestic violence.²⁷ These laws, however, are of no use to the battered woman who works for a private employer. Without similar workplace protections, she has no assurance that her employer cannot discharge her or retaliate against her just because she is in an abusive relationship or dares to come forward to ask for a small adjustment in her job structure to prevent harassment by her batterer at work.

NOW Legal Defense urges Congress to consider workplace violence protection policies, such as those included in legislation such as VESSA. This would be an important step forward in dealing comprehensively with domestic and sexual violence and its effects in the workplace.

Addressing Domestic and Sexual Violence is Good Business

Forward-thinking companies, such as Harmon International under the visionary leadership of my fellow panelist, have realized that addressing the effects of violence against women in their workplaces is simply good business practice. These corporations understand that this issue affects their most important asset – their employees – and so undeniably affects the corporate bottom line. Domestic violence costs employers at least \$3 to \$5 billion a year in missed days of work and reduced productivity.²⁸ These figures do not begin to address the costs of additional security, liability, and employee assistance benefits, or the toll violence takes on women’s personal economic security.²⁹

Legislation assisting victims of domestic violence, sexual assault and stalking to retain their employment will benefit employers as well. Sixty-six percent of senior business executives surveyed said their companies’ financial performances would benefit by addressing the issue of domestic violence among their employees.³⁰ Maine’s expansive leave law (which applies to all private and public employers in the state) has been found by the Maine State Chamber of Commerce to be both “appropriate and relatively unburdensome” to businesses.³¹ A number of businesses have recently voluntarily adopted policies and procedures to address the issues of domestic violence, sexual assault and stalking among their employees.³² The growing realization that violence suffered outside the workplace affects employee productivity and retention was also reflected in a study showing that 78 percent of human resources professionals³³ and 94 percent of corporate security and safety directors at companies nationwide rank domestic violence as a high security concern.³⁴

In addition to costs associated with diminished productivity, businesses often lose valuable employees when those employees are victimized.³⁵ Losing loyal and experienced

employees generates substantial hiring and training costs, which would be largely avoided by addressing the impact of domestic and sexual violence in the workplace..³⁶

CONCLUSION

Charlene's story is a fitting conclusion to this testimony. Charlene is married to an abusive man who regularly harasses, threatens, and hits her. One evening, he flew into a rage, because she said she was considering leaving him, and beat her particularly brutally. She came into work the next day and explained to her supervisor that her injuries were the result of domestic violence. Her boss brought her to speak with someone in Human Resources who had received training in working with employees who are victims of sexual assault, domestic violence, or stalking. She helped Charlene contact a local domestic violence service provider. The employer gave Charlene the rest of the day off to meet with a counselor and figure out what other steps to take. When she realized she would need several days off to get a restraining order and move into a shelter, Charlene called her boss, who agreed that she could miss two more days of work.

Before returning to work, Charlene and a counselor at the shelter contacted her employer to discuss the safety plan they had developed. The employer agreed to allow Charlene to vary her start and end times by up to one hour. Then, Charlene, the employer, and the counselor agreed that Charlene could be out of the office two afternoons per month to attend group counseling sessions, and she could make up the time on other days.

Was Charlene one of the lucky few who happen to work for an understanding and accommodating employer? No, this story is fictional. The real story is the one we began with. But Charlene's story is possible in the near future.

Congress has the power to bring greater safety and economic security to all victims of domestic violence, sexual assault, and stalking, as well as to their employers and their co-workers. I urge you to consider and support meaningful workplace protections for victims of such violence.

Availability of leave, protection from discrimination, and eligibility for unemployment insurance can help survivors keep their jobs, maintain their economic independence, and remain safe from future violence. Victims of domestic or sexual violence need to know they can go to court to get an order of protection, seek shelter, or talk to their employers about how to make themselves and their co-workers safe, without fear of losing their jobs.

Some employers are taking a leading role in addressing violence by adopting policies, promoting workplace education, and developing appropriate security and safety plans. While those employers should be supported and encouraged, other employers that penalize or retaliate against employees who have experienced domestic violence, sexual assault, or stalking must be directed to end such discrimination.

For a woman to survive violence and move on with her life, she needs more than luck and fortitude: she needs to be able to financially support herself and get the help she needs without fearing the loss of her job. A woman deserves a guarantee that she will not lose her job and therefore her economic security because she needs to go to court, take time to talk to her children's child care center about the issue, or see a physician after she's been attacked. If she must leave her work due to the violence, then unemployment compensation should be available to enable her to get back into the workforce as soon as possible. As a caring society, we cannot allow a woman who has suffered a violent attack to be further victimized by her employer.

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- ¹ See CALLIE MARIE RENNISON & SARAH WELCHANS, U.S. DEP'T OF JUSTICE, INTIMATE PARTNER VIOLENCE 2, 8 (May 2000).
- ² See PATRICIA TJADEN & NANCY THOENNES, U.S. DEP'T OF JUSTICE, FULL REPORT OF THE PREVALENCE, INCIDENCE, AND CONSEQUENCES OF VIOLENCE AGAINST WOMEN 26 (2000) ["TJADEN, FULL REPORT"].
- ³ See *id.* at 14.
- ⁴ See *id.* at 15 (302,091 women and 92,748 men raped annually); CALLIE MARIE RENNISON, U.S. DEP'T OF JUSTICE, CRIMINAL VICTIMIZATION 2000: CHANGES 1999-2000 WITH TRENDS 1993-2000 8 (2001) (estimating 260,950 victims of rape in 2000).
- ⁵ See TJADEN, FULL REPORT, *supra* note 2, at 26.
- ⁶ See PATRICIA TJADEN & NANCY THOENNES, U.S. DEP'T OF JUSTICE, EXTENT, NATURE, AND CONSEQUENCES OF INTIMATE PARTNER VIOLENCE 26 (2000).
- ⁷ See GREG WARCHOL, BUREAU OF JUSTICE STATISTICS, WORKPLACE VIOLENCE 1992-1996, at 1 (1998). This study includes homicide, rape and sexual assault, robbery, aggravated assault and simple assault.
- ⁸ See *id.* at 2.
- ⁹ JODY RAPHAEL & RICHARD M. TOLMAN, TRAPPED BY POVERTY, TRAPPED BY ABUSE: NEW EVIDENCE DOCUMENTING THE RELATIONSHIP BETWEEN DOMESTIC VIOLENCE AND WELFARE (1997).
- ¹⁰ See UNITED STATES GENERAL ACCOUNTING OFFICE, DOMESTIC VIOLENCE: PREVALENCE AND IMPLICATIONS FOR EMPLOYMENT AMONG WELFARE RECIPIENTS 19 (Nov. 1998) (summarizing three studies of employed battered women) ["GAO REPORT"].
- ¹¹ For information on the types of common sense steps that women can take to address violence in the workplace, see Robin R. Runge and Marcellene E. Hearn, *Employment Rights Advocacy for Domestic Violence Victims*, 5 DOMESTIC VIOLENCE REP. 17, 18, 26 (2000).
- ¹² See GAO REPORT, *supra* note 10, at 19 (summarizing three studies of employed battered women).
- ¹³ S. REP. NO. 138, 103rd Cong., 2d Sess. 54, n. 69 citing E. Ellis, B. Atkeson and K. Calhoun, *An Assessment of the Long Term Reaction to Rape*, 50 J. ABNORMAL PSYCHOLOGY No. 3, 264 (1981).
- ¹⁴ PATRICIA TJADEN & NANCY THOENNES, U.S. DEP'T OF JUSTICE, STALKING IN AMERICA: FINDINGS FROM THE NATIONAL VIOLENCE AGAINST WOMEN SURVEY 11 (1998).
- ¹⁵ See *Valdez v. Truss Components, Inc.*, No. CV 98-1310-RE (D. Or.) (filed Oct. 23, 1998).
- ¹⁶ See Richard M. Tolman & Jody Raphael, *A Review of Research on Welfare and Domestic Violence*, 56 J. SOC. ISSUES, 655, 661-62 (2000).
- ¹⁷ See JODY RAPHAEL & RICHARD TOLMAN, TRAPPED BY POVERTY TRAPPED BY ABUSE: NEW EVIDENCE DOCUMENTING THE RELATIONSHIP BETWEEN DOMESTIC VIOLENCE AND WELFARE iii (1997) (summarizing the results of four research studies).
- ¹⁸ See CATHERINE T. KENNEY & KAREN R. BROWN, NOW LEGAL DEFENSE AND EDUCATION FUND, REPORT FROM THE FRONT LINES: THE IMPACT OF VIOLENCE ON POOR WOMEN 7, 14-16 (1996).
- ¹⁹ Jody Raphael, *Keeping Women Poor: How Domestic Violence Prevents Women from Leaving Welfare and Entering the World of Work* in BATTERED WOMEN, CHILDREN AND WELFARE REFORM (1999).
- ²⁰ See THOMAS MOORE & VICKY SELKOWE, THE INSTITUTE FOR WISCONSIN'S FUTURE, DOMESTIC VIOLENCE VICTIMS IN TRANSITION FROM WELFARE TO WORK: BARRIERS TO SELF-SUFFICIENCY AND THE W-2 RESPONSE 5-6 (1999).
- ²¹ See NOW LEGAL DEFENSE AND EDUCATION FUND, STATE LAWS CAN HELP DOMESTIC VIOLENCE VICTIMS AT WORK: UNEMPLOYMENT INSURANCE, at <http://www.nowldef.org/html/issues/vio/FactsheetPage.shtml> (May 16, 2002).
- ²² Letter from Peter M. Gore, Senior Governmental Affairs Specialist, Maine State Chamber of Commerce, to Senator Beth Edmonds, Senate Chair, Representative George Bunker, House Chair, and Members of the Joint Standing Committee on Labor (Jan. 10, 2002) (on file with NOW Legal Defense and Education Fund).
- ²³ See CAL. LAB. CODE § 230 (2000); 26 ME. REV. STAT. § 850 (2000) (as amended by 2002 Me. Laws 685); 2002 Colo. Sess. Laws 114 (to be codified at COLO. REV. STAT. § 24-34-402.7).
- ²⁴ See NEW YORK STATE OFFICE FOR THE PREVENTION OF DOMESTIC VIOLENCE, STATE OF NEW YORK DOMESTIC VIOLENCE POLICY § II (July 2000) (*available at* <http://www.opdv.state.ny.us/workplace/statepolicy.html>).
- ²⁵ See N.Y. PENAL LAW § 215.14 (Consol. 2000).
- ²⁶ See CAL. LABOR CODE § 230 (Deering 2000); R.I. GEN. LAWS § 12-28-11 (1999).
- ²⁷ See Md. Exec. Order No. 01.01.1998.25 (1998).

²⁸ See BUREAU OF NAT'L AFF., SPECIAL REP. NO. 32, VIOLENCE AND STRESS: THE WORK/FAMILY CONNECTION 2 (1990).

²⁹ See, e.g., *id.*; JODY RAPHAEL, TAYLOR INST., PRISONERS OF ABUSE: DOMESTIC VIOLENCE AND WELFARE RECEIPT 8-9 (1996).

³⁰ ROPER STARCH, LIZ CLAIBORNE, ADDRESSING DOMESTIC VIOLENCE: A CORPORATE RESPONSE 9 (1994).

³¹ Letter from Gore, *supra* note 22.

³² NOW LEGAL DEFENSE AND EDUCATION FUND, THE IMPACT OF VIOLENCE IN THE LIVES OF WORKING WOMEN: CREATING SOLUTIONS – CREATING CHANGE 4 (2002), *available at* <http://www.nowldef.org/html/pub/pubs/CreatingSolutions.pdf>.

³³ Corporate Alliance to End Partner Violence, statistics, citing Personnel Journal, April 1995: 64, *available at* www.caepv.org/pvstats.htm

³⁴ JOSEPH A. KINNEY, NAT'L SAFE WORKPLACE INST., DOMESTIC VIOLENCE MOVES INTO WORKPLACE (1994).

³⁵ See, e.g., NOW LEGAL DEFENSE, *supra* note 32, at 5..

³⁶ See generally NEW YORK STATE OFFICE FOR THE PREVENTION OF DOMESTIC VIOLENCE, DOMESTIC VIOLENCE – IT IS YOUR BUSINESS: EMPLOYER HANDBOOK & RESOURCE GUIDE 2 (2001) (*available at* <http://www.opdv.state.ny.us/workplace/privatepolicy/q&a.html>).