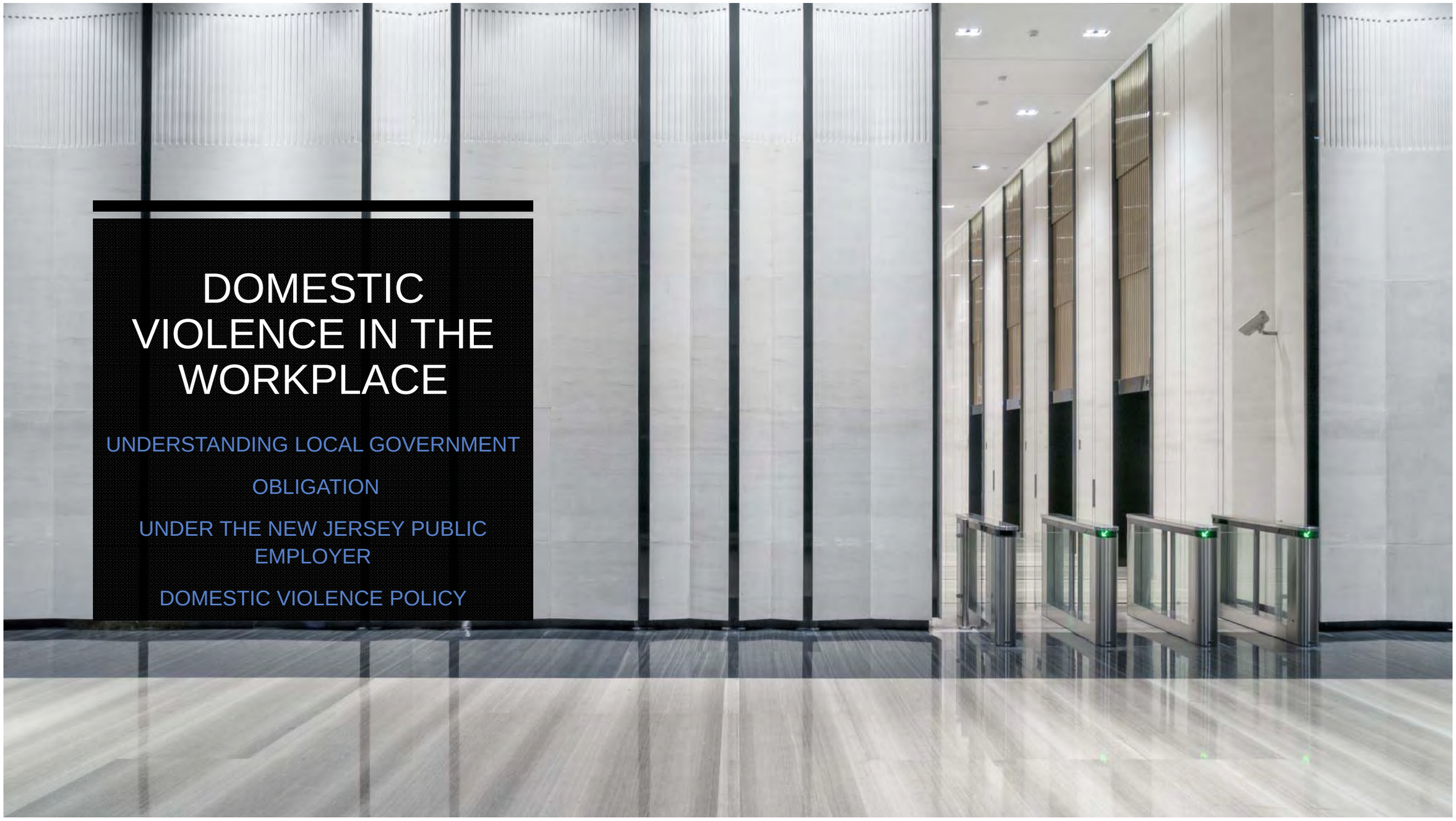


DOMESTIC VIOLENCE IN THE WORKPLACE

UNDERSTANDING LOCAL GOVERNMENT

OBLIGATION

UNDER THE NEW JERSEY PUBLIC EMPLOYER

DOMESTIC VIOLENCE POLICY

N.J.S.A.11A:2-6(a)

CIVIL SERVICE UNVEILS DOMESTIC VIOLENCE POLICY FOR PUBLIC EMPLOYERS

OCTOBER 15, 2019

This policy is designed to encourage employees who are victims of domestic violence as well as those impacted by domestic violence to seek assistance from their employers within both state and local government

PUBLIC EMPLOYER DOMESTIC VIOLENCE POLICY
N.J.S.A.11A:2-6(a)

- Applies to all public employers and local governments, not just civil service municipalities.
- The Civil Service Commission is charged with overseeing the implementation of this policy and working with state, county and local authorities.

PUBLIC EMPLOYER DOMESTIC VIOLENCE POLICY N.J.S.A.11A:2-6(a)

A declaration encouraging employees to contact Human Resource Officers (HRO) and seek assistance

A confidential method by which employees can report domestic violence incidents

A confidentiality policy to which HROs must adhere unless there is an immediate threat and law enforcement involvement is necessary

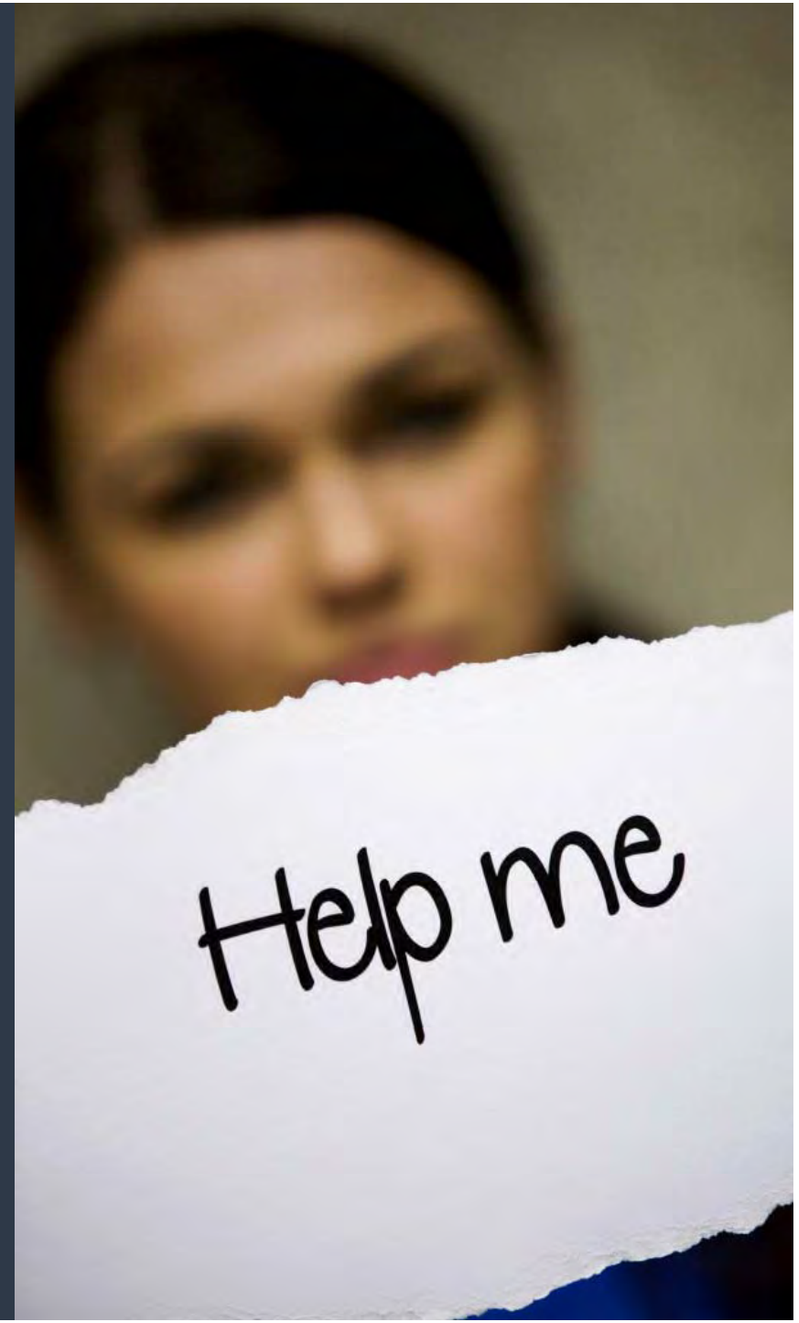
Listing or resources and advocate groups be provided to victims

A confidentiality requirement pertaining to victim records

An explanation of the New Jersey Security and Financial Empowerment Act

A requirement that a plan be developed to identify, respond to and correct employee performance issues related to a domestic violence incident

WHAT IS DOMESTIC VIOLENCE ?



WHO IS LEGALLY RECOGNIZED AS A VICTIM OF DOMESTIC VIOLENCE
N.J. STAT. § 2C:25-19(a)

1. Includes any person who is **18 years of age** or older or **who is an emancipated minor** who has been subjected to domestic violence by a:

a. spouse

b. former spouse

c. any other person who is a present or former household member, or

d. any person with whom the victim has had a dating relationship, or

e. any person whom the victim anticipates having a child in common because the victim or abuser is pregnant

OR

WHO IS LEGALLY RECOGNIZED AS A VICTIM OF DOMESTIC VIOLENCE UNDER N.J.S.A. 2C:25-19(a)

Or

2. Anyone who, regardless of age, has been subjected to domestic violence by a person:

a. with whom the victim has a child in common, or

b. with whom the victim anticipates having a child in common, because the victim or abuser is pregnant.

Or

3. Anyone who, regardless of age, has been subjected to domestic violence by a person with whom the victim has had a dating relationship.

THE FOLLOWING CRIMINAL OFFENSES CONSTITUTE DOMESTIC VIOLENCE IF COMMITTED BY AN ADULT OR AN EMANCIPATED MINOR UPON A PERSON PROTECTED BY THE DOMESTIC VIOLENCE LAWS

Homicide	N.J.S.A. 2C:11-1
Assault	N.J.S.A. 2C:12-1
Terroristic Threats	N.J.S.A. 2C:12-3
Kidnapping	N.J.S.A. 2C:13-1
Criminal Restraint	N.J.S.A. 2C:13-2
False Imprisonment	N.J.S.A. 2C:13-3
Sexual Assault	N.J.S.A. 2C:14-2
Sexual Contact	N.J.S.A. 2C:14-3
Lewdness	N.J.S.A. 2C:14-4
Criminal Mischief	N.J.S.A. 2C:17-3
Burglary	N.J.S.A. 2C:18-2
Criminal Trespass	N.J.S.A. 2C:18-3
Harassment	N.J.S.A. 2C:33-4
Stalking	N.J.S.A. 2C:12-10

NATIONAL COALITION AGAINST DOMESTIC VIOLENCE

Domestic violence is the willful intimidation, physical assault, battery, sexual assault, and/or other abusive behavior as part of a systematic pattern of power and control perpetrated by one intimate partner against another. It includes physical violence, sexual violence, threats, and emotional abuse

NATIONAL COALITION AGAINST DOMESTIC VIOLENCE
NCADV

STAGGERING STATISTICS IN NEW JERSEY (NCADV)

- **26.2% of New Jersey women and 29.3% of New Jersey men experience intimate partner physical violence, intimate partner rape and/or intimate partner stalking in their lifetimes.**
- **In 2016 there were 63,420 domestic violence incidents in New Jersey.**
- **Children were involved or present during 29 percent of all domestic violence offenses occurring in 2012. Specifically, 4 percent (2,298) were involved and 25 percent (16,534) were present.**
- **Wives were the victims in 16 percent (10,829) and ex-wives were the victims in 3 percent (2,187) of the reported domestic violence offenses in 2012. Overall, females were victims in 75 percent (48,697) of all domestic violence offenses.**
- **Domestic violence offenses arising from a dating relationship accounted for 14 percent (9,370) of the state total.**

NATIONWIDE STATISTICS

RAPE

1 in 5 women and 1 in 71 men in the United States has been raped in their lifetime.

45.4% of female rape victims and 29% of male rape victims were raped by an intimate partner.

STALKING

19.3 million women and 5.1 million men in the United States have been stalked in their lifetime. 60.8% of female stalking victims and 43.5% men reported being stalked by a current or former intimate partner.

HOMICIDE

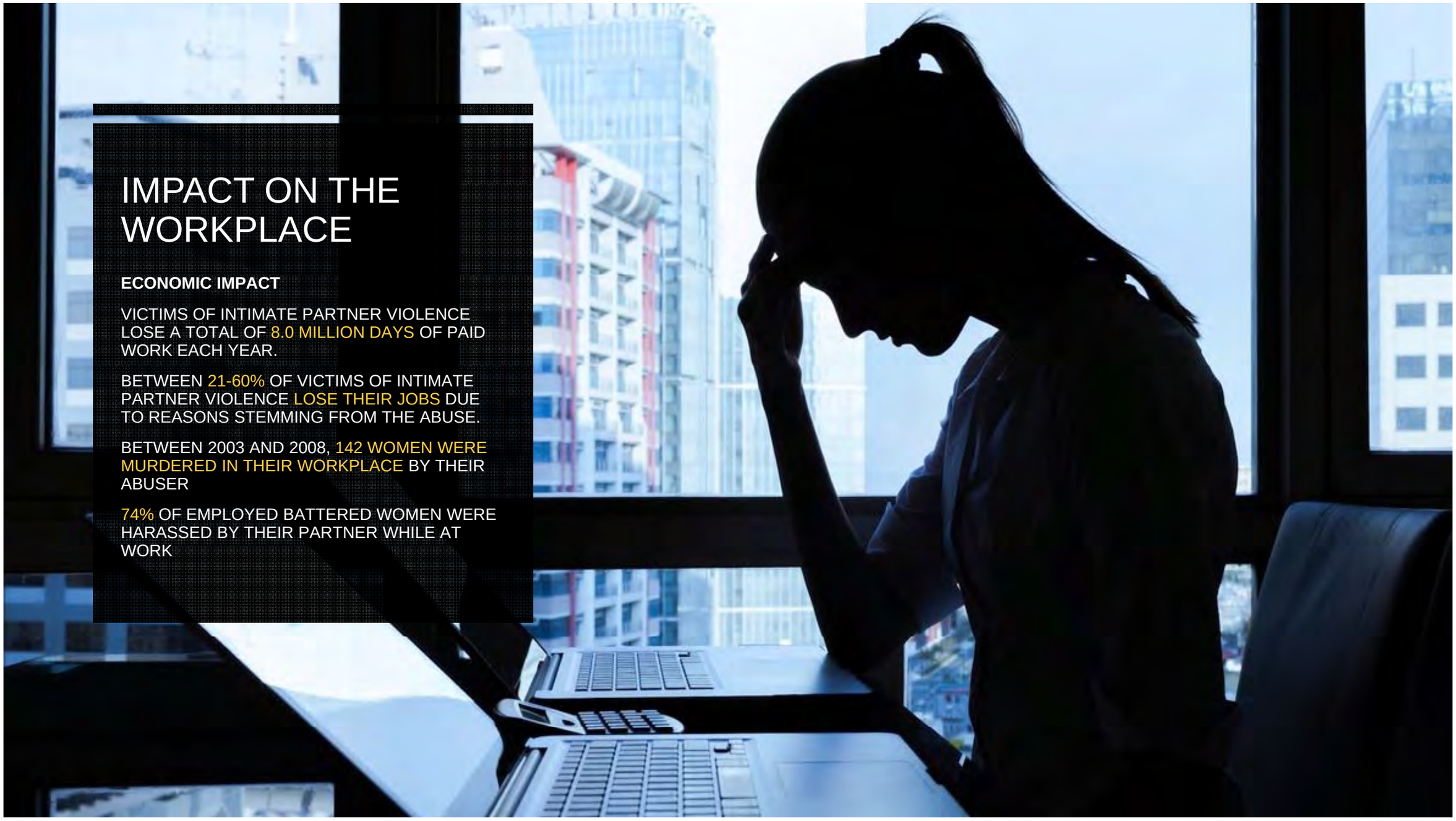
A study of intimate partner homicides found that 20% of victims were not the intimate partners themselves, but family members, friends, neighbors, persons who intervened, law enforcement responders, or bystanders.

72% of all murder-suicides involve an intimate partner; 94% of the victims of these murder suicides are female

CHILDREN AND DOMESTIC VIOLENCE

1 in 15 children are exposed to intimate partner violence each year, and 90% of these children are eyewitnesses to this violence.

HELP FOR DOMESTIC ABUSE
VICTIMS TURN TO CO-WORKERS FOR HELP



IMPACT ON THE WORKPLACE

ECONOMIC IMPACT

VICTIMS OF INTIMATE PARTNER VIOLENCE LOSE A TOTAL OF 8.0 MILLION DAYS OF PAID WORK EACH YEAR.

BETWEEN 21-60% OF VICTIMS OF INTIMATE PARTNER VIOLENCE LOSE THEIR JOBS DUE TO REASONS STEMMING FROM THE ABUSE.

BETWEEN 2003 AND 2008, 142 WOMEN WERE MURDERED IN THEIR WORKPLACE BY THEIR ABUSER

74% OF EMPLOYED BATTERED WOMEN WERE HARASSED BY THEIR PARTNER WHILE AT WORK

THE SCOPE OF DOMESTIC AND SEXUAL VIOLENCE IN THE WORKPLACE

- The cost of domestic violence to the US economy is more than $8.3 billion. This cost includes medical care, mental health services, and lost productivity (e.g., time away from work).
- In one study, 60 percent of the domestic violence survivors surveyed reported losing their jobs, and 96 percent reported their work performance suffered as a consequence of the abuse.

THE SCOPE OF DOMESTIC AND SEXUAL VIOLENCE IN THE WORKPLACE

- In 2016 homicide was the ninth leading cause of workplace deaths in the United States. By 2017, homicide was the fourth leading cause of workplace deaths.
- 42 percent of women murdered in the workplace are killed by a family member or domestic partner (2 percent of male homicide victims are killed by this demographic).
- Almost 80 percent of workplace fatalities involve firearms. The motive for the typical single-shooter workplace event (excluding robberies or mass shootings in which the motive is inscrutable) is either a mentally unstable worker whose life is spiraling out of control loses his or her job and returns to avenge a real or imaginary grievance, or more commonly, an estranged spouse or domestic partner who comes to the workplace to kill his or her spouse.

UNDERSTANDING YOUR MUNICIPAL OBLIGATION

WHAT DOES THE DOMESTIC VIOLENCE POLICY (DVP) COVER ?

- The DVP addresses critical areas such as:
  - The provision of a welcoming and confidential system for all public employees to report domestic violence incidents.
  - domestic violence reporting procedures
  - protects employees from retaliation by current and future employers for their history with domestic violence
  - responsibility of designated Human Resource Officers (HROs)
  - domestic violence action plans, resources and protections for domestic violence victims
  - applicable federal and state laws and confidentiality provisions.
  - tools to protect vulnerable men and women against the harsh realities of domestic violence

DEFINITIONS UNDER THE NEW JERSEY PUBLIC EMPLOYEE DOMESTIC VIOLENCE POLICY

N.J.S.A.11A:2-6(a)

- **Domestic Violence -** Acts or threatened acts, that are used by a perpetrator to ***gain power and control*** over a current or former spouse, family member, household member, intimate partner, someone the perpetrator dated, or person with whom the perpetrator shares a child in common or anticipates having a child in common if one of the parties is pregnant.

DEFINITIONS UNDER THE NEW JERSEY PUBLIC EMPLOYEE DOMESTIC VIOLENCE POLICY

N.J.S.A.11A:2-6(a)

Domestic violence includes, but is not limited to the following:

physical violence;

injury;

intimidation;

sexual violence or abuse;

emotional and/or psychological intimidation;

verbal abuse;

threats; harassment;

cyber harassment;

stalking;

economic abuse or control;

damaging property to intimidate or attempt to control the behavior of a person in a relationship with the perpetrator;

strangulation; or

abuse of animals or pets.

DEFINITIONS UNDER THE NEW JERSEY PUBLIC EMPLOYEE DOMESTIC VIOLENCE POLICY

N.J.S.A.11A:2-6(a)

- **Intimate Partner** - Partners of any sexual orientation or preference who have been legally married or formerly married to one another, have a child or children in common, or anticipate having a child in common if one party is pregnant. Intimate partner also includes those who live together or have lived together, as well as persons who are dating or have dated in the past.
- **Abuser/Perpetrator** - An individual who commits or threatens to commit an act of domestic violence, including unwarranted violence against individuals and animals. Other abusive behaviors and forms of violence can include the following: ***bullying, humiliating, isolating, intimidating***, harassing, stalking, or threatening the victim, ***disturbing someone's peace***, or destroying someone's property.

DEFINITIONS UNDER THE NEW JERSEY PUBLIC EMPLOYEE DOMESTIC VIOLENCE POLICY

N.J.S.A.11A:2-6(a)

- **Temporary Restraining Order (TRO**) -A civil court order issued by a judge to protect the life, health or well-being of a victim. TROs can prohibit domestic violence offenders from having contact with victims, either in person or **through any means of communication, including third parties**.
- TROs also can prohibit offenders from a victim's home **and workplace**. A violation of a TRO may be a criminal offense. A TRO will last approximately 1O business days, or until a court holds a hearing to determine if a Final Restraining Order (FRO) is needed. In New Jersey, there is no expiration of a FRO.

DEFINITIONS UNDER THE NEW JERSEY PUBLIC EMPLOYEE DOMESTIC VIOLENCE POLICY

N.J.S.A.11A:2-6(a)

WHAT IS CONSIDERED A “WORKPLACE INCIDENT” UNDER THE POLICY

- Incidents of domestic violence, sexual violence, dating violence, and stalking, including acts, attempted acts, or threatened acts by or against :
  - employees,
  - **the families of employees**,
  - and/or their property…..
- ……that imperil the safety, well-being, or productivity **of any person associated with a public employee** in the State of New Jersey, **regardless of whether the act occurred in or outside the organization's physical workplace**.

HUMAN RESOURCE OFFICERS (HRO)

- **Human Resources Officer (HRO)** – An employee of a public employer with a human resources job title, or its equivalent, who is responsible for orienting, training, counseling, and appraising staff.
- Persons designated by the employer as the **primary** or **secondary** contact to assist employees in reporting domestic violence incidents.

WHO IS COVERED UNDER THE POLICY

- EMPLOYEES, which include:
  - full and part time employees
  - casual/seasonal employees
  - Interns
  - volunteers
  - temporary employees at any workplace location.

WHO IS **ENCOURAGED** TO REPORT AN INCIDENT OF DOMESTIC VIOLENCE TO AN HRO

- Employees who are victims of domestic violence are encouraged to seek immediate assistance from their HRO.
- Employees who have information about or witness an act of domestic violence against an employee, are encouraged to report that information to the designated HRO.

WHO HAS A **DUTY** TO REPORT TO THE HRO?

- Managers and supervisors are required to refer any employee who is experiencing domestic violence or who report witnessing domestic violence to the designated HRO.
  - **Maintain confidentiality to the extent possible**
  - **Be sensitive, compassionate, respectful and responsive**

THE ROLE OF THE HRO

Immediately respond to an employee upon request and **provide a safe and confidential location** to allow the employee to discuss the circumstances surrounding the domestic violence incident and the request for assistance.

THE ROLE OF THE HRO - REPORTING PROCEDURES

- Determine whether there is an imminent or emergent need to contact 911 or law enforcement.
- In cases where domestic violence involved a sexual touching or sexual assault between state employees, the HRO is also required to report the incident to their agency's EEO Officer or Title IX Officer
- If there is a report of sexual assault or abuse, the victim should be offered the services of the Sexual Assault Response Team.

THE ROLE OF THE HRO - REPORTING PROCEDURES

- Provide employee with resource information.
  - The HRO or the employee can contact the appropriate Employee Assistance Program to assist with securing resources and confidential services.
  - Refer the employee to the provisions and protections of The New Jersey Security and Financial Empowerment Act, N.J.S.A. 34:11C-1 et seq. (NJ SAFE Act)
  - Provide confidential telephone line to make necessary calls for services for emergent intervention and supportive services, when appropriate

THE ROLE OF THE HRO - REPORTING PROCEDURES

- **Upon the employee's consent**, the employee may provide the HRO with copies of any TROs, FROs, and/or civil restraint agreements that pertain to restraints in the work place and ensure that **security personnel** are aware of the names of individuals who are prohibited from appearing at the work location while the employee who sought the restraining order is present. All copies of TROs and FROs shall be maintained in a separate confidential personnel file.

THE ROLE OF THE HRO-REPORTING PROCEDURES

- All records, TROs, FROs or civil restraint agreements must be kept in a locked file, confidential and separate and apart from personnel files
  - These are considered personnel, NOT PUBLIC RECORDS, NOT SUBJECT TO OPRA
- Any **security personnel** should be alerted to the names of the individuals prohibited from appearing at the workplace while the employee who sought the protection is present

FOUR IMPORTANT MESSGAES TO CONVEY WHEN THE EMPLOYEE IS OPEN TO SEEKING ASSISTANCE FROM THE HRO

- 1. You are concerned and will support the employee
- 2. You will keep the information as confidential as you possible can under the circumstances
- 3. Suggest that the employee should consider seeking assistance form an advocate that you will enforce any legal restrictions in the workplace.
- 4. You are to help with work issues if you need assistance

PUTTING YOUR POLICY INTO ACTION
THE PUBLIC EMPLOYER DOMESTIC VIOLENCE ACTION PLAN

- Designate your HROs
- Adopt your policy
- Recognize the adoption of the policy through a resolution
- Stay current on training and work with law enforcement in advance

PUTTING YOUR POLICY INTO ACTION
THE PUBLIC EMPLOYER DOMESTIC VIOLENCE ACTION PLAN

- Recognize that your employee may need an accommodation as the employee may experience temporary difficulty fulfilling job responsibilities:
  - Implementation of safety measures
  - Transfer or reassignment
  - Modified work schedule/ parking arrangements
  - Change work phone number and/or work station location
  - Assistance with documenting violence ***occurring at the workplace***

PUTTING YOUR POLICY INTO ACTION
THE PUBLIC EMPLOYER DOMESTIC VIOLENCE ACTION PLAN

NJ SAFE

NJFLA

NJFLI / TDI

OTHER POLICIES IN YOUR HANBOOK RELATING TO LEAVE OPTIONS

NJ EARNED SICK LEAVE LAW

NEW JERSEY SECURITY AND FINANCIAL EMPOWERMENT ACT (NJ SAFE ACT) N.J.S.A. 34:11C-1

- The New Jersey Security and Financial Empowerment (SAFE) Act applies to employers with 25 or more employees.
- Obligates employers to provide employees with up to 20 days of unpaid leave in a 12-month period following any act of domestic violence or sexual abuse.
- Employee must have worked at least 1,000 hours during the past 12 month period before the act of domestic violence or sexual abuse
- The definition of “family member” under the SAFE Act is expansive and includes a grandparent, grandchild, parent-in-law, or “or any other individual related by blood to the employee, and any other individual that the employee shows to have a close association with the employee which is the equivalent of a family relationship.”
- Employers are not required to compensate employees for this time, although employees may be eligible to elect paid benefits under other company policies or statutes, including the New Jersey Temporary Benefits Disability Law.

NEW JERSEY SECURITY AND FINANCIAL EMPOWERMENT ACT (NJ SAFE ACT) N.J.S.A. 34:11C-1

- LEAVE or INTERMITTENT LEAVE IS PERMITTED TO:
  - Seek medical attention
  - Obtain services from a victim services organization
  - Obtain psychological or other counseling
  - Participate in safety planning, temporarily or permanently relocating or taking other actions to increase security
  - Seeking legal services or remedies to ensure health and safety of the victim
  - Attending, participating in or preparing for a criminal or civil court appearance relating to the incident of domestic violence

NEW JERSEY PAID SICK LEAVE AND UNPAID LEAVE AS A REASONABLE ACCOMMODATION

- 1 hour for every 30 hours worked, or depending on the paid leave you provide for in your policy
- Sick leave allowed for “You or a family member who have been the victim of domestic violence or sexual violence and need time for treatment, counseling, or to prepare for legal proceedings.”
- If employee has no time available, call labor counsel to provide assistance with whether unpaid leave may be extended as a reasonable accommodation

PUTTING YOUR POLICY INTO ACTION
THE PUBLIC EMLOYER DOMESTIC VIOLENCE ACTION PLAN

- Have your list of resources readily available for an employee who may need assistance; also
- Place in visible areas:
  - Restrooms, cafeterias
  - Break rooms
  - Where other employment and DOL notices are posted
  - Provide at the time of reporting

NO DISCRIMINATION

Commit to NJ SAFE

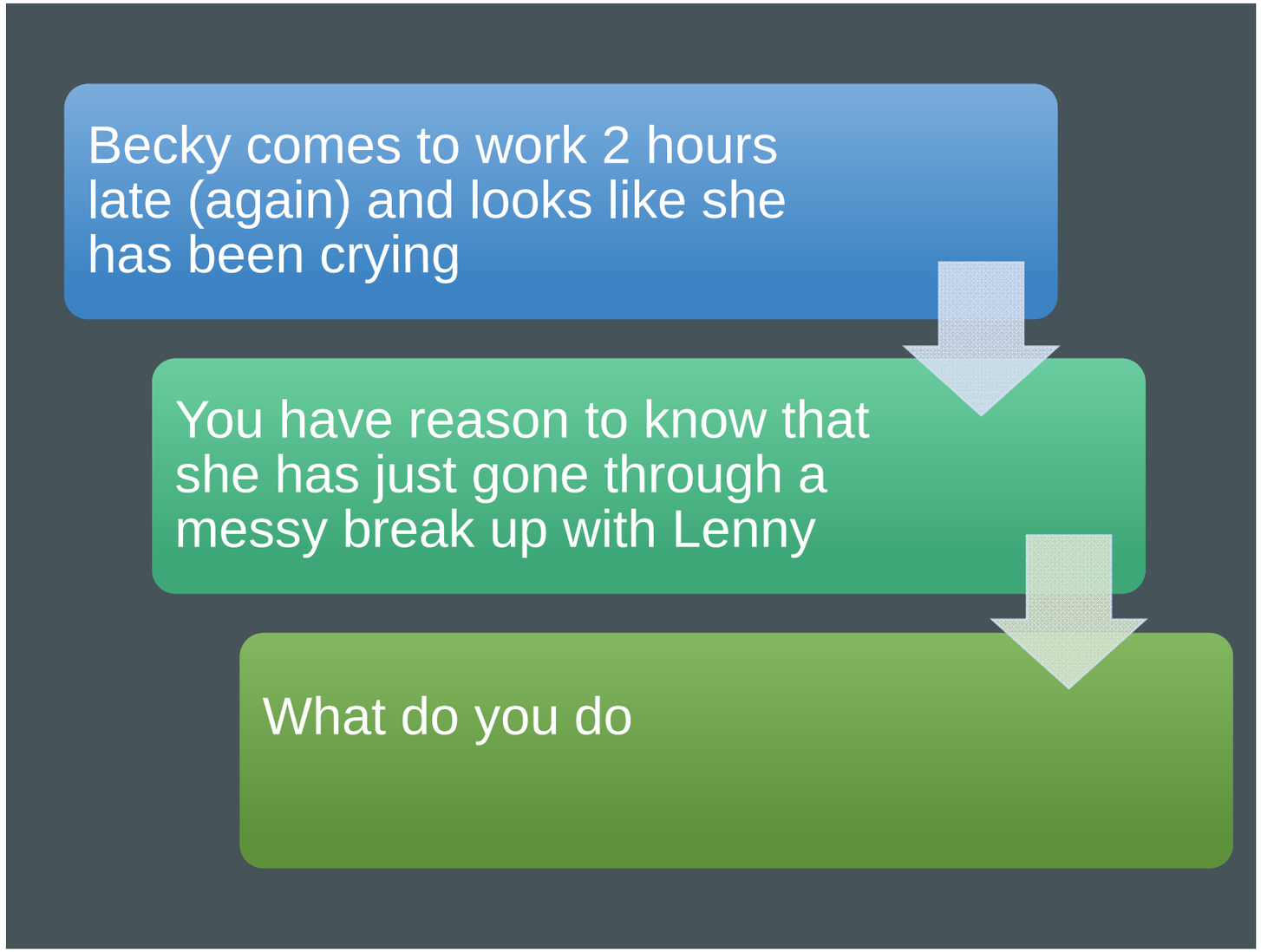
No retaliation or discrimination

Employees should also be advised to contact their labor relations officer, CEPA officer or EEO if they believe that the adverse action is a violation of a CBA, CEPA or the NJLAD

PRACTICAL APPLICATION

- HROs, Managers and Supervisors will need to understand how to assist employees experiencing violence in a safe and nonthreatening way.
  - Forcing information shuts down dialogue
  - Keep lines of communication open
- HROs, Managers and Supervisors need to understand how to address performance issues as a byproduct of domestic violence.
- HROs, Managers and Supervisors' actions represent the employer's commitment to a safe and supportive workplace and create an organizational culture.

PRACTICAL APPLICATION



PRACTICAL APPLICATION

- Brett, a co-worker, overhears Becky on the phone with someone he assumes is her boyfriend, she is trying to get off and explain that he cannot call her at work, but he continues to call over and over again, embarrassing Becky and disrupting her work and Brett's.
- Brett comes to you to report that Becky is getting a ridiculous amount of personal calls at work that are distracting him and her. He says that sometimes she doesn't even answer the phone and could be missing calls from residents.
- What do you say to Brett?
- What do you not say to Brett?

PRACTICAL APPLICATION

- After speaking with Brett, you call Becky into the private office and let her know that it seems that she is getting an inordinate amount of calls that seem to upset her and she opens up that it is Lenny calling, and that she does not want him calling either but doesn’t know what to do.
- You know that you have an obligation to provide her with resources and material to help her, but you also know that reasonable accommodations can be made to help the employee, so you offer to take the calls and tell him to stop calling.
- Is this reasonable under the policy?

PRACTICAL APPLICATION

- AVOID UNINTENDED CONSEQUENCES
  - Direct engagement with the abuser by you could result in a manipulative effort by the abuser to try and get the employee in trouble at work
  - The abuser may become enraged at being exposed by the victim at the victim's workplace and escalate the harassment
  - The abuser may become angry that he is being prevented from speaking with the victim and show up at work creating a risk to the entire workplace

PRACTICAL APPLICATION

- You are there to help, not judge.
- Include employee victim in process by asking what you can do to help
- Remember that the victim is usually in the best position to know what will or will not escalate the situation
- Maybe a relocation to a new office with a new line?
- Maybe a new temporary responsibility would be to assign someone else to answer calls within the municipal department

PRACTICAL APPLICATION

- The Abuser shows up at the municipal building to see the victim
- Now the workplace and the employee may be at risk.
  - What do you do ?

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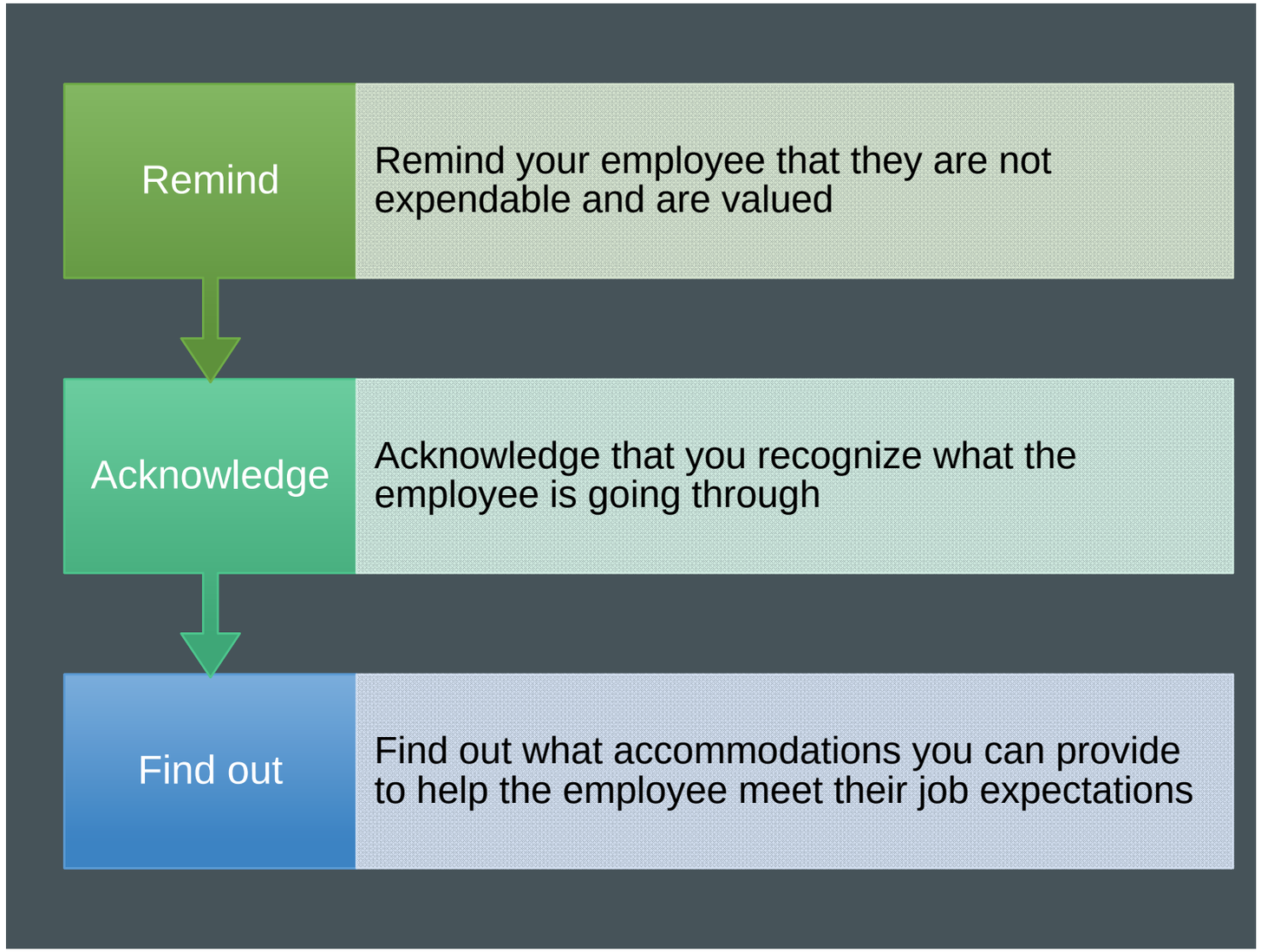
PRACTICAL APPLICATION

- HAVE A SECURITY PLAN IN PLACE
  - Talk to PD in the abstract, before there is an issue about steps you can take to prevent and address a situation in the event an abuser shows up at the municipal complex.
  - Alert PD or Police covering the municipality In advance of a threat – TRO, FRO or Civil restraints

ADDRESSING WORKPLACE PERFORMANCE WITH AN EMPLOYEE GOING THROUGH A DOMESTIC VIOLENCE ISSUE



QUESTIONS OR COMMENTS?