



Office of the City Manager

INFORMATION CALENDAR

November 3, 2022

To: Honorable Mayor and Members of the City Council

From: Dee William-Ridley, City Manager

Submitted by: Donald E. Ellison, Interim HR Director

Subject: UPDATE: HR Response: Audit Directive(s) for Comprehensive Domestic Violence Policy to Support City Employees

INTRODUCTION

On October 10th, 2019, the City Auditor's Office issued its audit, *Domestic Violence Response: Berkeley Needs a Comprehensive Policy to Support City Employees* with recommendations to improve Berkeley's domestic violence response policy. The purpose of this information item is to update City Council on the status of implementation of the audit report's recommendations. This is the first status report regarding this audit.

CURRENT SITUATION AND ITS EFFECTS

This report is an informational update on progress towards goals on HR's proposed Corrective Action Plan in response to Audit recommendations. The audit includes 6 recommendations as listed in attachment A Recommendation Table DV Policy.

BACKGROUND

As a follow-up to the May 10th 2022 HR Audit meeting with the City Auditor's office to review the City Auditors Report and recommendations for a Comprehensive Domestic Violence Policy to Support City Employees, the Human Resources Division is in the process of revising the Domestic Violence Policy A.R. 2.21.

On August 29th, 2022, the Human Resources department conferred with the affected departments regarding the revision of A.R. 2.21. The meet and confer process is ongoing; once it has been completed, the revision will be submitted to the City Manager's office for review and approval.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACT

There are no identifiable environmental effects or opportunities associated with the subject of this report.

CONTACT PERSON

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Attachments:

1. Attachment A (Recommendation Table DV Policy)
2. Attachment B (Audit Report)

Audit Title: Domestic Violence Response: Berkeley Needs a Comprehensive Policy to Support City Employees					
Finding	Recommendation		Lead Department	Expected or Actual Implementation Date	Status of Audit Recommendations, Corrective Action Plan, and Progress Summary
Policy Does Not Completely Reflect State Requirements	1.1	Define and include sexual assault, stalking, and witnesses' rights.	Human Resources	Ongoing	<u>Partly Implemented:</u> Human Resources has made proposed updates to terms and definitions in the policy. Policy is in draft form and awaiting approval.
Policy Does Not Completely Reflect State Requirements	1.2	State that when assessing safety accommodations, Human Resources takes into consideration danger to the employee and undue burden to the employer.	Human Resources	Ongoing	<u>Partly Implemented:</u> Human Resources has made proposed updates to terms and definitions in the policy. Policy is in draft form and awaiting approval.
Policy Does Not Completely Reflect State Requirements	1.3	Revise the policy title to reflect the comprehensive scope of the policy.	Human Resources	Ongoing	<u>Partly Implemented:</u> Policy title is updated in draft form and is awaiting approval.
Policy Does Not Completely Reflect State Requirements	1.4	Clarify that requirements for employees to document their use of leave or request for accommodations are at the discretion of Human Resources and may include self-certification when appropriate. We also recommend that Human Resources clarify that employees are encouraged to come to Human Resources for assistance even if they do not initially have the documentation that may be requested.	Human Resources	Ongoing	<u>Partly Implemented:</u> Policy is updated in draft form and is awaiting approval.

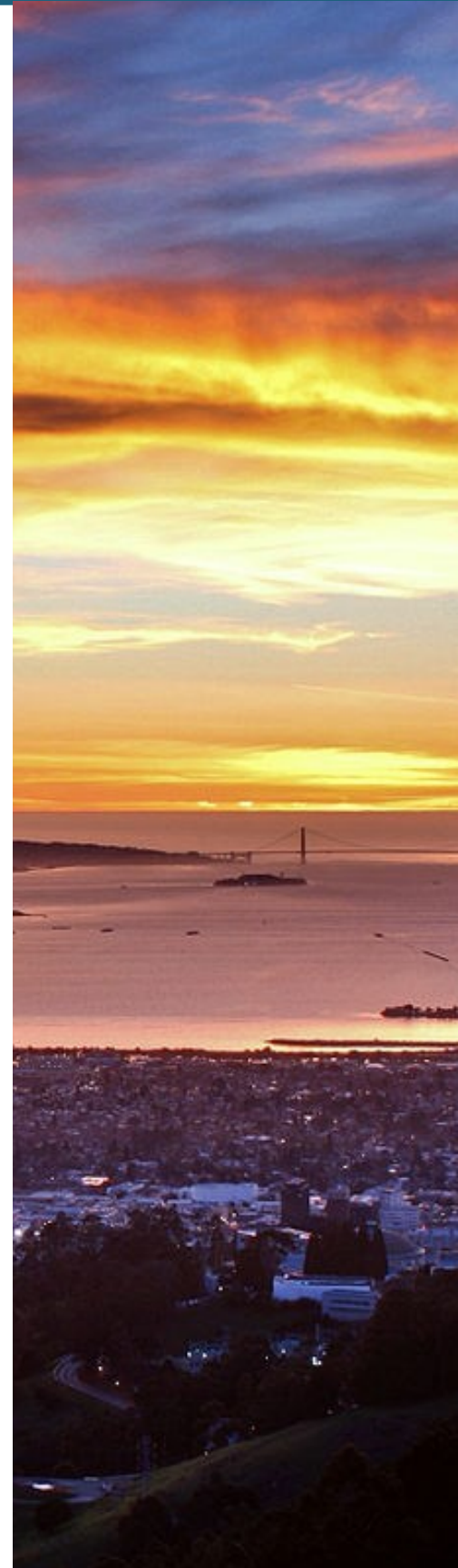
<p>Policy Does Not Address Key Workplace Domestic Violence Issues</p>	<p>2.1</p>	<p>Incorporate the model policy and all best practice elements described in this finding, and communicate this guidance to city staff.</p>	<p>Human Resources</p>	<p>Ongoing</p>	<p><u>Started:</u> The policy update is in draft form and is awaiting approval. In addition, Human Resources will assess the feasibility of adopting additional elements from model policies and will add as appropriate at a later date.</p>
<p>Berkeley Needs to Prepare All Staff to Comply with the Policy</p>	<p>3.1</p>	<p>Implement best practices, including:</p> <ul style="list-style-type: none"> • Training supervisors and Human Resources staff about their role in responding to employees experiencing domestic violence and providing information for employees about the domestic violence response policy; • Conducting periodic outreach to employees to inform them about the policy, encourage them to come forward, and provide general information about domestic violence; • Facilitating collaboration among city staff who have a role in implementing the policy, and convening a domestic violence response team to advise on policies, ongoing outreach and education, and Human Resources' implementation of recommendations from this audit; and • Adopting a trauma-informed and inclusive approach. 	<p>Human Resources</p>	<p>Ongoing</p>	<p><u>Started:</u> Human Resources may add policy review to supervisor training to include revised domestic violence policy.</p>

Audit Report
October 10, 2019

Domestic Violence Response: Berkeley Needs a Comprehensive Policy to Support City Employees



BERKELEY CITY AUDITOR



Domestic Violence Response: Berkeley Needs a Comprehensive Policy to Support City Employees

Report Highlights

October 10, 2019



Findings

1. Berkeley's domestic violence leave policy does not include the state requirements of defining sexual assault and stalking or stating that the policy covers employees dealing with these experiences. We also found that Berkeley's policy does not provide Human Resources the flexibility to use its discretion to allow self-certification in rare instances.
2. Berkeley's policy does not include guidance on key domestic violence issues that affect employees or the workplace.
3. Berkeley can adopt practices to be better positioned to implement a robust, coordinated, and supportive domestic violence response, including: training, outreach and education, collaboration, and commitment to an inclusive and trauma-informed response.



Recommendations

To reflect the full extent of state law, we recommend Human Resources revise the policy to define and include sexual assault, stalking, and witnesses' rights. We also recommend Human Resources clarify that requirements for employees to document their use of leave or request for accommodations are at the discretion of Human Resources, and that employees are encouraged to come to Human Resources for assistance even if they do not initially have the documentation that may be requested.

To ensure Berkeley's policy addresses key domestic violence issues in the workplace, we recommend Human Resources revise its policy to incorporate all the model policy and best practice elements described in the report, and communicate this guidance to city staff.

To prepare Berkeley for implementing an inclusive domestic violence response policy, we recommend Human Resources implement best practices, including providing supervisor training, conducting ongoing employee outreach, facilitating collaboration, and adopting a trauma-informed and inclusive approach.

Objectives

To what extent does Berkeley's policy reflect state requirements?

Does Berkeley's policy address the key domestic violence issues in the workplace?

Is Berkeley prepared to implement a supportive domestic violence response policy?

Why This Audit Is Important

Domestic violence can extend into the workplace to threaten employee safety and wellbeing. In a national survey, 60 percent of respondents who experienced domestic violence reported losing their jobs as a consequence of the abuse. Studies estimate that domestic violence costs \$8.3 billion a year in health costs and lost productivity.

A comprehensive response for employees experiencing domestic violence can improve their wellbeing and help employees stay safe. Berkeley is a step ahead of many other workplaces in having developed a stand-alone leave policy in January 2019 to help employees experiencing domestic violence get the support they need. However, we are concerned that supervisors are not trained to comply with the policy and employees do not know about the options for assistance available to them.



BERKELEY CITY AUDITOR

For the full report, visit:

<http://www.cityofberkeley.info/auditor>

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Introduction

Domestic violence can occur anywhere, and its effects can extend into the workplace to threaten employee safety, health, and wellbeing. Nationally, one in four women and one in seven men have experienced severe violence by an intimate partner in their lifetime.¹ Domestic violence risk is higher for people of color and people who identify as LGBTQ+ or non-binary gender.² In a national survey, 60 percent of respondents who experienced domestic violence reported losing their jobs, and 96 percent reported their work performance suffered as a consequence of the abuse.³ Alarming, 43 percent of women killed in U.S. workplaces were killed by a relative or domestic partner.⁴ Studies estimate that domestic violence costs \$8.3 billion a year in health costs and lost productivity.⁵ Responding to local concerns about these distressing statistics, City Council passed a resolution in 2018 co-authored by Berkeley's Peace and Justice Commission and Commission on the Status of Women resolving that freedom from domestic violence is a human right.

A comprehensive and coordinated response for employees experiencing domestic violence can improve their wellbeing and help employees stay safe, but most workplaces do not have a domestic violence response policy.⁶ Berkeley is a step ahead of many other workplaces in having developed a stand-alone leave policy in January 2019 to help employees experiencing domestic violence get the support they need. However, we are concerned that supervisors are not trained to comply with the policy and employees do not know about the options for assistance available to them. We are also concerned that the current policy is limited. The intention for this audit is to outline a more comprehensive approach that Berkeley can adopt to be a leader in responding to domestic violence in the workplace and encouraging employees to seek the assistance available to them if needed.

Scope, Objectives, and Methodology

This audit focused on the City of Berkeley's domestic violence leave policy. Our objectives were to determine:

- 1. To what extent does Berkeley's policy reflect state requirements?**
- 2. Does Berkeley's policy address the key domestic violence issues in the workplace?**
- 3. Is Berkeley prepared to implement a supportive domestic violence response policy?**

We examined Berkeley's current policy, reviewed relevant laws and regulations, interviewed subject-matter experts and Berkeley employees, and reviewed best practices. For more information, see Appendix I.

¹ National Domestic Violence Hotline: <https://www.thehotline.org/resources/statistics/>

² Alameda County Department of Public Health: http://www.acphd.org/media/506904/dv_2018_ac.pdf

³ Workplaces Respond to Domestic and Sexual Violence: A National Resource Center: <https://www.workplacesrespond.org/facts/>

⁴ National Bureau of Labor Statistics, 2015 (most recent data available): <https://www.bls.gov/iif/oshwc/cfoi/workplace-homicides.htm>

⁵ Workplaces Respond to Domestic and Sexual Violence: A National Resource Center: <https://www.workplacesrespond.org/facts/>

⁶ National Domestic Violence Hotline: <https://www.thehotline.org/resources/statistics/>

Background

Domestic violence is a pattern of coercive behavior, including acts or threats, used by one person to gain power and control over another person. Domestic violence occurs between current or former spouses, family members, intimate partners, or parents of children or stepchildren in common. Domestic violence affects people of all walks of life regardless of race, gender, sexual orientation, income, culture, nationality, and religion. The populations at highest risk include:

- Women ages 18-44;
- Women of color, particularly African American and Native populations;
- Pregnant and postpartum women;
- LGBTQ+ people;
- People with disabilities;
- Youth and adults who witnessed or experienced domestic violence as children;
- People who are low-income or in poverty; and
- Immigrants and refugees.

Though incidents of domestic violence often occur outside of work, domestic violence is a serious issue that can affect employees in the workplace. Domestic violence can result in physical harm, health issues, trauma, and emotional distress for employees. As a result, employees experiencing domestic violence may have excessive absences from work, problems with work performance, and other interference that can threaten their ability to do their job, advance in their job, or keep their job. Maintaining sufficient employment is important for those experiencing domestic violence. About three out of four people who experience domestic violence cited economic insecurity as the main reason they stayed in an abusive situation.⁷

Table 1. Statistics on Domestic Violence in the Workplace

43%	of women killed in U.S. workplaces were killed by a relative or domestic partner. ⁸
96%	of people who experienced domestic violence reported their work performance suffered as a consequence of the abuse. ⁹
75%	of people who experience domestic violence cited economic insecurity as the main reason they stayed with the person abusing them. ⁹
64%	of employees who reported experiencing domestic violence felt their ability to work was affected by the violence. ¹⁰

Sources: See footnotes.

⁷ Workplaces Respond to Domestic and Sexual Violence: A National Resource Center: <https://www.workplacesrespond.org/facts/>

⁸ National Bureau of Labor Statistics, 2015 (most recent data available): <https://www.bls.gov/iif/oshwc/cfoi/workplace-homicides.htm>

⁹ Workplaces Respond to Domestic and Sexual Violence: A National Resource Center: <https://www.workplacesrespond.org/facts/>

¹⁰ National Domestic Violence Hotline: <https://www.thehotline.org/resources/statistics/>

In 2012, U.S. President Barack Obama issued a presidential memorandum that required federal agencies to develop or modify policies for addressing the effects of domestic violence on the workforce. At the time, California already had laws in place granting employees experiencing domestic violence, sexual assault, or stalking the right to take time off of work to safeguard their health and wellbeing, and to request accommodations to stay safe at work. In 2013, California passed a bill prohibiting employers from discriminating or retaliating against employees for taking time off work or requesting accommodations related to domestic violence. In 2015, the City of Berkeley updated its policy that allowed employees to take extended leave for family care or health issues to include domestic violence issues, as required by state and federal law. Berkeley issued a stand-alone version of the policy in early 2019 that focused on leave time and accommodations for employees experiencing domestic violence.

Domestic violence is a complex issue for employers to address. Employers are not expected to be counselors or provide supportive services such as shelter, legal services, or counseling. But a secure workplace can be a safe haven for some and safety at work is an important part of an individuals' comprehensive safety plan. Employers can also be a resource to connect employees to supportive services in the community, such as the City's existing Employee Assistance Program.¹¹ On the other hand, employers could inadvertently worsen the situation if their response to employees experiencing domestic violence does not use best practices to demonstrate sensitivity to those experiencing domestic violence. Another challenge is that employers must also balance the concerns of individual employees with the need to maintain business operations.

A note about language used in this report:

Domestic Violence: Domestic violence can take many forms, both physical and non-physical. It includes, but is not limited to: physical violence, injury, or intimidation; sexual violence or abuse; emotional and/or psychological intimidation; verbal abuse; threats; harassment; stalking; or economic abuse and control. This report uses the term domestic violence to include all of these forms of abuse.

Person/Employee, Survivor, and Victim: People are not defined by their experience. To acknowledge employees' personhood and personal right to choose how they would like to identify, we use the term "person/employee experiencing domestic violence" rather than "survivor" or "victim." We also use "person using violence or abuse" rather than "perpetrator" or "abuser."

¹¹ Berkeley contracts with Claremont Behavioral Services Employee Assistance Program, which provides city employees referrals to counseling and other supportive services, including domestic violence counseling and community resources.

Berkeley's Domestic Violence Leave Policy Does Not Completely Reflect State Requirements

Berkeley's domestic violence leave policy (Administrative Regulation 2.21) generally reflects state law by allowing employees to take time off of work and request workplace accommodations to stay safe at work. However, the policy is missing some important components and clarity that would help ensure that Berkeley complies with the requirements of state law. If Berkeley's policy does not have clear and explicit language that includes all key components of state law, city employees will not have complete information about how to support those experiencing domestic violence in a way that fully complies with the law, and city employees may not understand their rights and responsibilities.

The policy does not address sexual assault and stalking, or the rights of employees who have witnessed domestic violence.

Berkeley's domestic violence leave policy AR 2.21 does not define sexual assault and stalking or state that the policy covers employees dealing with those experiences. The policy also does not explicitly state that witnesses of domestic violence may use leave time to participate in court proceedings, though this right is included in the law. California law establishes employees' right to take time off from work to protect their health and wellness if they experience domestic violence, sexual assault, or stalking.¹² It also establishes their right to request reasonable accommodations to help them stay safe at work. The law further allows that witnesses of any of these circumstances have the right to use leave time to participate in court proceedings.

In 2018, Human Resources (HR) identified the need for a stand-alone domestic violence leave policy. In quickly meeting this need, HR based the policy on the existing Family Care Leave Policy,¹³ which did not include all the terms in the state requirements. The City Attorney's Office reviewed the policy but did not note that some language describing who is covered by the policy was missing. According to HR staff, the policy was limited to a leave policy, which could account for the omission.



Sexual assault can cause psychological, emotional, and physical distress that can lead to problems at work. More than 50 percent of people who have been stalked reported being stalked at work.

¹² California Labor Code sections 230 through 230.2: <https://bit.ly/2YO344z>

¹³ This policy allows employees to take leave, beyond what is allowed in other policies, for family care or health issues as required by state and federal law.

If Berkeley's policy does not explicitly define and address sexual violence and stalking as defined in state law, there is a risk that employees with these experiences will not know that they have rights under the policy. Additionally, supervisors may not be able to provide correct information to employees who are either facing these issues themselves or are witnesses. By not explicitly including these provisions from the law, there is an increased risk that city staff will not respond appropriately if someone experiencing sexual assault or stalking comes forward to seek assistance. As a result, employees experiencing sexual assault and/or stalking may not get the workplace assistance that they are allowed and they may face greater risk of harm, trauma, or even death. These risks can affect not only the person experiencing domestic violence but also their coworkers.

The policy does not state factors used in determining whether accommodations are reasonable.

Berkeley's policy AR 2.21 states that employees may request *reasonable* accommodations for their safety while at work, but does not include language from state law that describes how employers should evaluate whether a request is reasonable. If an employee reports that they are experiencing domestic violence and requests accommodations to stay safe at work, state law requires employers to engage in a timely, good faith, and interactive process with the employee to determine effective reasonable accommodations. This provision is included in Berkeley's policy, but does not explicitly state that HR considers employee circumstances and needs in addition to impact on city operations. The law requires employers to consider the following when determining whether the accommodation is reasonable:

- Employers must consider the urgency of the circumstance or danger facing the employee; and
- Employers are not required to undertake an action that constitutes an undue hardship on their business operations (requiring significant difficulty or expense).

Including this language in the policy would help city staff charged with arranging accommodations to better understand what factors to consider in determining if they are reasonable. Without this guidance, supervisors and HR staff may not consistently align with the law or apply the policy.



Impacts of domestic violence can affect not only the person experiencing domestic violence, but also their coworkers.



State law requires employers to engage in a timely, good faith, and interactive process with the employee to determine effective and reasonable accommodations.

The policy title is focused on leave and is not comprehensive.

The title of Berkeley’s policy in AR 2.21 is “Domestic Violence Leave Policy,” which implies that the topic is limited to taking leave related to domestic violence rather than a comprehensive response to employees experiencing or who have witnessed domestic violence, sexual assault, or stalking. State law goes beyond allowing leave to also granting the right for employees to request accommodations to help them stay safe at work. The title of the policy may be misleading to both employees and supervisors seeking information about the full range of support available to employees and how to access it. An accurate descriptive title can help employers easily communicate to employees what the policy covers and provide the information they need.

The policy does not allow exceptions for employees to self-certify their leave or accommodation.

Domestic violence circumstances and employee needs vary, yet Berkeley’s policy AR 2.21 does not provide HR the flexibility to tailor its response based on employees’ specific situation. If employees have an unexcused absence from work due to the effects of domestic violence, the law allows *but does not require* employers to request proof that the absence was for that reason.

Berkeley’s policy requires employees who have had an unexcused absence to retroactively provide certification to justify their use of leave in all instances. Certification can include a police report, restraining order, or note from a doctor, counselor, or domestic violence or sexual assault advocate.

Berkeley’s requirement also conflicts with guidance from domestic violence experts who state that it is important for policies to be flexible enough to allow for a case-by-case approach that responds to the unique circumstances individuals face. They also state that the needs of an individual experiencing domestic violence and how they choose to seek assistance can vary depending on many factors including their culture, support network, and access to resources. Some of the actions people take to stay safe may not provide official documentation. There is a risk that seeking services that provide documentation may result in increased danger and retaliation, especially considering that leaving an abusive relationship is usually the most dangerous point in a person’s domestic violence experience.¹⁴



California state law allows but does not require employers to request proof that the absence was for one of the reasons specified in the law.

¹⁴ National Coalition Against Domestic Violence: <https://ncadv.org/why-do-victims-stay>

Some of the actions people take to stay safe provide individuals with official documentation. For example, if law enforcement is called to a domestic violence situation, they are likely to issue an immediate temporary restraining order that could serve as documentation. Similarly, if an individual accesses services from a domestic violence agency or organization, such as staying in a shelter or participating in regular counseling, it is standard for the agency to issue documentation that clients can give to their employer.

However, some actions do not necessarily provide documentation. For example, leaving an abusive situation by moving into another family member's home may not involve domestic violence services or documentation, especially if law enforcement was not involved. Leaving a partner who harms or abuses is often the most dangerous time in a person's domestic violence experience, and there is a risk that seeking services that provide documentation may result in increased danger and retaliation. In the rare circumstances when an employee experiencing abuse may not have documentation, HR could allow employees to sign a statement certifying that they are using leave or requesting accommodations related to the allowed purpose.

HR staff reported that, in practice, they do consider individual needs and work interactively with employees to find the combination of leave time and accommodations that is the greatest benefit to the employee. They also reported that they prioritize getting employees the time off they need over getting documentation. However, it is important to document that practice in the policy to ensure it continues when new HR staff take on the role of administering the policy. It is also important that the policy state that HR may use its discretion to determine when additional supporting documentation may be necessary or when accepting a signed statement may be appropriate.

To encourage employees experiencing domestic violence to seek assistance from HR, the policy should specify that employees can come to HR regardless of whether they initially have supporting documentation. HR could also specify that a signed statement, like the one required for bereavement leave, can be acceptable to justify the need for accommodations. Domestic violence issues are unique to individual circumstances. Therefore, domestic violence leave policy elements do not necessarily need to apply to other city policies about employee leave and accommodations.



Leaving a partner who abuses is often the most dangerous time in a person's domestic violence experience. Therefore, there is a risk that seeking services that provide documentation may result in increased danger and retaliation.



Domestic violence is widely underreported. People experiencing domestic violence and abuse face many barriers to coming forward, including fear of discrimination or retaliation at work.

Recommendations

To reflect the full extent of state law, we recommend Human Resources revise the policy to:

- 1.1 Define and include sexual assault, stalking, and witnesses' rights.
- 1.2 State that when assessing safety accommodations, Human Resources takes into consideration danger to the employee and undue burden to the employer.

To clearly communicate the policy to employees and supervisors, we recommend Human Resources:

- 1.3 Revise the policy title to reflect the comprehensive scope of the policy.

To allow Human Resources the flexibility to tailor its response to individual domestic violence circumstances, we recommend Human Resources revise the policy to:

- 1.4 Clarify that requirements for employees to document their use of leave or request for accommodations are at the discretion of Human Resources and may include self-certification when appropriate. We also recommend that Human Resources clarify that employees are encouraged to come to Human Resources for assistance even if they do not initially have the documentation that may be requested.

Berkeley's Policy Does Not Address Key Workplace Domestic Violence Issues

Berkeley has taken an important first step in establishing a stand-alone domestic violence leave policy AR 2.21, but it is missing key elements that could guide staff in responding to common related issues. More than 70 percent of employers in the U.S. do not have a formal program or policy that addresses domestic violence.¹⁵ Berkeley is notable among employers because it has created a policy. However, Berkeley can do more to help navigate the challenges that result from domestic violence by adopting elements from model domestic violence response policies. Berkeley has an opportunity to develop its policy into a more comprehensive response to domestic violence in the workplace and demonstrate its commitment to keeping its workplace community safe.

Model workplace domestic violence response policies state that HR staff and supervisors need guidance on topics beyond allowing leave time and accommodations, including how to handle work performance issues for staff experiencing domestic violence and how to ensure accommodations are effective for staff in different work settings. Berkeley's policy contains only three of 12 model policy elements that address key domestic violence issues that affect the workplace (see Table 2).

¹⁵ National Domestic Violence Hotline: <https://www.thehotline.org/resources/statistics/>

Table 2. Comparison of Berkeley’s Domestic Violence Leave Policy AR 2.21 to Model Domestic Violence Response Policies

Model Policy Elements	Model Policies			Berkeley’s Policy (AR 2.21)
	Workplaces Respond	American Bar Association	Department of Justice	
Statement of support for employees	Yes	Yes	Yes	Yes
Explanation of leave time and accommodations available to employees	Yes	Yes	Yes	Yes
Statement on non-discrimination and non-retaliation related to domestic violence experience	Yes	Yes	Yes	No ¹⁶
Addresses employee work performance issues in the context of domestic violence experience	Yes	Yes	Yes	No
Designates responsibility of employer in helping employee to access unemployment insurance if maintaining work is no longer viable	Yes	Yes	No	No
Designates training requirements for domestic violence issues	No ¹⁷	Yes	Yes	No
Emphasizes prompt or immediate response to an employee reporting domestic violence	Yes	Yes	Yes	Yes
Emphasizes prompt or immediate response to domestic violence incidents between employees	Yes	Yes	Yes	No ¹⁸
Inclusion of different work locations and settings in workplace definition	N/A	N/A	Yes	No
Definitions of all relevant terms related to domestic violence issues and specified in the law	Yes	Yes	Yes	No
Section discussing the importance of maintaining domestic violence survivor confidentiality	Yes	Yes	Yes	No ¹⁹
Designates employer responsibility relative to restraining order enforcement, including if the person using violence or abuse is also a city employee	Yes	Yes	Yes	No

Sources: Policies listed in column headers, interviews with domestic violence organizations, and auditor conclusion.

¹⁶ Discussed in other workplace policies, but not Administrative Regulation 2.21: Domestic Violence Leave Policy.

¹⁷ Workplaces Respond discusses the purpose of the policy as supporting a comprehensive education and training program.

¹⁸ A separate policy on violence in the workplace specifies “immediate” response, but that is not stated in the Domestic Violence Leave Policy (AR 2.21).

¹⁹ AR 2.21 Domestic Violence Leave Policy states that supervisors and HR should keep information confidential but does not emphasize the importance of confidentiality or provide detail about how to ensure confidentiality.

In addition to elements identified in model policies, there are other best practices that could help Berkeley meet employees' needs. One recommendation from domestic violence organizations relevant to Berkeley's diverse community is that domestic violence response policies should make a commitment to providing support that is inclusive and representative of the community's cultural and linguistic diversity. This is critical to ensuring that a workplace domestic violence response policy is sensitive to the intersection between domestic violence and factors such as race, culture, and language. This view is not expressed in the City's stand-alone domestic violence leave policy. Making this commitment would distinguish Berkeley as a leader in workplace domestic violence response and align its policy with Berkeley's core values of safety, health, equity, and respect.

Without including the best practices such as those listed above, Berkeley may not be prepared to respond to many of the issues that may occur when an employee experiences domestic violence. As a result, the City may not be able to adequately protect employees experiencing domestic violence or support their success at work and continued employment. A lack of effective support for employees experiencing domestic violence could also cost Berkeley through decreased productivity and employee performance, and increase the risk of harm to employees.

Recommendation

To ensure Berkeley's policy addresses relevant domestic violence issues in the workplace, we recommend Human Resources revise its policy to:

- 2.1 Incorporate the model policy and all best practice elements described in this finding, and communicate this guidance to city staff.



Berkeley's Core Values: Service, Collaboration, Respect, Equity, Accountability, Continuous Learning, Innovation, Safety, and Health

Berkeley Needs to Take Steps to Prepare All Staff to Comply with the Policy

Berkeley employees are not prepared to implement a comprehensive domestic violence response policy. Without engaging in training, outreach, and collaboration, Berkeley cannot implement a comprehensive system to support employees experiencing domestic violence, sexual assault, or stalking. Berkeley has taken a first step in establishing a stand-alone domestic violence leave policy, but has not yet planned for how it will use best practices to fully implement the policy.

To be a leader in effective and thoughtful approaches to responding to domestic violence in the workplace, Berkeley will need to take steps to prepare all staff to comply with the policy as intended. There are practices that Berkeley is not currently following but can adopt to be better positioned to implement a robust, coordinated, and supportive domestic violence response plan. These include:

1. **Training** for all supervisors about domestic violence at work and the expectations for how they should respond;
2. **Outreach and education** to inform employees about domestic violence in the workplace and ways in which the City can support them;
3. **Collaboration** with resources in the City and in the community to strengthen Berkeley's domestic violence response; and
4. **Commitment to an inclusive and trauma-informed perspective** in addressing domestic violence at work.

Provide training and guidance for supervisors.

Supervisors need training to understand the domestic violence response policy and their role in following the policy. Supervisors and HR staff will also need training on the best practices for supporting employees experiencing domestic violence. All staff should be included in some level of information sharing about the policy because an employee experiencing domestic violence may be more willing to first report domestic violence to a coworker or supervisor they regularly work with rather than to HR. Without training on how to address performance issues that could be related to abuse, supervisors are not equipped to respond appropriately. HR should



“Employers have an important role to play [and by] providing support for employees who experience abuse, HR professionals may be able to prevent workplace tragedies.”

- Society for Human Resources Management, “When Domestic Violence Comes to Work”

provide training to help supervisors and HR personnel respond appropriately and sensitively to employees with domestic violence concerns. Trainings should include guidance on how to handle performance issues related to domestic violence.

Inform employees about the policy and encourage them to seek assistance.

Ongoing outreach and education about the domestic violence response policy can both inform employees about their options to address domestic violence and provide encouragement for them to seek the available assistance. In one national survey of U.S. workplaces, two out of three respondents reported that they were not aware of their workplace having a domestic violence response policy.²⁰ Employees who do not know about their rights or the City's policy, or who do not feel comfortable reporting their domestic violence experience, may not request the time off or accommodations they need to address domestic violence concerns. Informing all staff about the domestic violence response policy can also help staff understand the expectations of their role and mitigate the risk that Berkeley may be liable if staff are not sufficiently informed to follow the policy as intended. Actions HR could take to facilitate ongoing outreach include:

- Developing outreach materials using different types of media to let employees know about their rights as specified in the City's domestic violence response policy. Outreach materials should include language that is supportive, understandable, and trauma-informed (see text box below);
- Making sure outreach materials and information about domestic violence resources in the community are accessible to all employees, including on the City's website on a page that uses web-safety protocols; and
- Informing employees about the policy through the employee newsletter, Berkeley Matters, all-staff email communications, and, for staff without computer or internet access, by asking managers to share this information.



Considering current workload and capacity constraints, Human Resources can explore options such as providing short video trainings for supervisors and including domestic violence training in existing supervisor trainings.



Web safety protocols are steps organizations can take to help people stay safe by keeping their internet use private when accessing information online. Protocols include adding a safety alert header or a quick escape button to a website. More tips for technology safety can be found at NNEDV.org.

²⁰ Corporate Alliance to End Partner Violence: <http://www.ncdsv.org/images/CAEPVSurvey.WorkPlace.pdf>

A **trauma-informed** approach 1) takes into account that all people may have experienced trauma, 2) includes the individuals in decisions about their wellbeing, and 3) promotes a culture of safety, empowerment, and healing.

An **inclusive** response considers employees' needs across differences in socio-economic status, race, culture, language, age, gender, and sexual orientation. Resources and information should be accessible to people across these differences.

Collaborate with city staff on domestic violence response.

By collaborating with city employees who have expertise in domestic violence and crisis response, such as mental health providers and law enforcement, Berkeley can build capacity to promote a supportive and safe workplace. HR and city staff are not expected to be experts in domestic violence or provide supportive services such as shelter, counseling, or legal services. Convening a domestic violence response team would help HR access the knowledge and experience needed to develop a comprehensive domestic violence response that considers the many different perspectives of Berkeley's diverse employees. Actions HR could take to facilitate collaboration include:

- Convening a domestic violence response team with City staff, such as mental health providers and law enforcement, who are informed about domestic violence to advise on policies, outreach, and education;
- Communicating with representatives in each department that may be involved in a workplace accommodation to establish a response process and clarify roles. Those departments may include: HR, IT, OSHO/building security, public works, police, the City Attorney's Office, and the City Manager's Office; and
- Contacting domestic violence organizations and the City's Employee Assistance Program provider to develop a list of culturally-specific and linguistically-representative resources to refer employees to when they request help.



The City has department experts on issues and services related to domestic violence, such as mental health professionals in the Health Housing & Community Services Department and Berkeley Police Department's Domestic Violence Prevention Unit. These experts can advise Human Resources on the tone and language of the policy, training, and outreach materials.

Adopt a trauma-informed and inclusive approach.

Domestic violence organizations emphasize the importance of using a trauma-informed approach to developing a domestic violence response policy and response. Doing so takes into consideration the needs of people who have experienced trauma and provides referrals to resources that can support healing. They also emphasize that experiences of domestic violence can vary depending on an individual's circumstances and that a domestic violence response should be inclusive. An inclusive response considers employees needs across differences in socio-economic status, race, culture, language, age, gender, and sexual orientation. A thorough explanation of trauma-informed and inclusive principles is beyond the scope of this audit, but we included a high-level summary in the textbox above. A trauma-informed approach can help prevent employers from causing additional harm to someone experiencing domestic violence. An inclusive perspective is also essential to developing a domestic violence response that is as effective as possible for employees from different backgrounds. Actions HR could take to adopt a trauma-informed and inclusive approach include:

- Providing training to HR staff and supervisors about trauma-informed and inclusive principles;
- Applying a trauma-informed lens to addressing performance issues;
- Using a supportive and non-judgmental tone for policy and related communication;
- Ensuring flexibility in policy and options to reasonably meet unique needs of each individual; and
- Maintaining an up-to-date and accurate directory of resources to refer employees to, including culturally-specific and linguistically appropriate options (see Appendix III).

Recommendation

To prepare Berkeley employees for implementing an inclusive domestic violence response policy, we recommend Human Resources:

3.1 Implement best practices, including:

- Training supervisors and Human Resources staff about their role in responding to employees experiencing domestic violence and providing information for employees about the domestic violence response policy;
- Conducting periodic outreach to employees to inform them about the policy, encourage them to come forward, and provide general information about domestic violence;
- Facilitating collaboration among city staff who have a role in implementing the policy, and convening a domestic violence response team to advise on policies, ongoing outreach and education, and Human Resources' implementation of recommendations from this audit; and
- Adopting a trauma-informed and inclusive approach.

Appendix I—Methodology and Statement of Compliance

Methodology

We audited the City of Berkeley’s current domestic violence leave policy for city employees. We performed a risk assessment of the City’s policy and of domestic violence in the workplace to identify potential internal control weakness, health and safety concerns, and fraud risks. There were no fraud risks significant to our objectives. We focused our audit on the City’s policy and preparedness to respond to domestic violence concerns. We did not review how the City responded to current or past instances of employees experiencing domestic violence. We provided a copy of the draft report to the Health, Housing, and Community Services Department, the City Attorney, and the Police Department. To accomplish our audit objectives, we:

- Reviewed State of California Labor Code Sections 230, 230.1, and 230.2 governing employers’ responsibilities to employees who report experiencing domestic violence, sexual assault, or stalking, or who have witnessed such circumstances.
- Reviewed California Government Code Section 12926 to understand the legal definition of “undue hardship” and California Labor Code Section 6400 to understand the legal definition of a “place of employment that is safe and healthful” as both are referred to in California Labor Code Section 230.
- Reviewed Administrative Regulation 2.21: Domestic Violence Leave Policy; Administrative Regulation 2.4: Family Care Leave; Employee Violence in the Workplace and Employee Security Policy; and Bereavement Leave Policy to understand the city policies relevant to employee leave and safety.
- Interviewed Human Resources staff to gain an understanding of their process for developing and using the policy, and to understand their needs when supporting staff using the policy.
- Interviewed City Attorney staff to understand the process that city policies go through for review and approval in the City Attorney’s Office, and the specific review of Administrative Regulation 2.21: Domestic Violence Leave Policy.
- Reviewed best practices and studies from organizations focused on helping persons experiencing domestic violence to understand the impact of domestic violence in the workplace and what subject-matter experts suggest employers do to address the concern. Specifically, we looked at information from National Domestic Violence Hotline; Futures Without Violence; Rape, Abuse & Incest National Network; National Network to End Domestic Violence; Narika; Women Organized to Make Abuse Nonexistent, Inc. (W.O.M.A.N., Inc.); National Coalition Against Domestic Violence; Maine Department of Labor: Family Crisis Services; and Society for Human Resources Management.
- Reviewed model policies from organizations that focus on domestic violence in the workplace to understand what information policies need to include. Specifically, we looked at policies from Workplaces Respond to End Domestic and Sexual Violence: National Resource Center; American

Bar Association; U.S. Department of Justice; and Legal Momentum: The Women's Legal Defense and Education Fund.

- Reviewed King County, Washington's audit, *Domestic Violence Resources for County Employees Are Limited and Hard to Find*, to identify best practices, model policies, and common issues found in government jurisdictions in regards to responding to those experiencing domestic violence. We also reviewed Kind County's Peer Review, which concluded the organization and sufficient quality control system were in place. We, therefore, concluded we could rely on the results of their audit.
- Reviewed policies on domestic violence in the workplace from the City and County San Francisco, City of Los Angeles, and King County, Washington to understand what other local government jurisdictions have developed.
- Obtained Berkeley City Resolution 68,301-N.S. co-authored by Berkeley's Peace and Justice Commission and Commission on the Status of Women resolving that freedom from domestic violence is a human right to understand local concerns regarding the effects of domestic violence.
- Obtained the City of Berkeley's Strategic Plan to understand the core values as they may apply to the city's workforce.
- Reviewed labor agreements between the City of Berkeley and its unions, associations, and bargaining units to understand which contracts include explicit language regarding domestic violence leave.
- Gathered statistics on domestic violence at the national, state, and local level to understand the prevalence of domestic violence. We specifically obtained statistics from National Domestic Violence Hotline; Alameda County Department of Public Health; National Bureau of Labor Statistics; National Coalition Against Domestic Violence; Workplaces Respond to End Domestic and Sexual Violence: A National Resource Center; and Corporate Alliance to End Partner Violence.

Domestic Violence Statistics

Domestic violence is a sensitive topic making it difficult to obtain current, complete data. Research relies on people to self-report their domestic violence experiences and many people are unable to do so. Additionally, the organizations we cite in this report used varying sources, dates, population sizes, and other factors in their studies. As a result, some of the statistics we use in this report are several years old or do not match precisely across studies, e.g., one statistic may say 70 percent while another says 65 percent for the same topic. However, what is consistently true is that domestic violence is a severe and prevalent problem, it shows up in the workplace, and it can have devastating effects on those experiencing domestic violence and their colleagues. Further, the organizations that conducted the studies are knowledgeable on the effects of domestic

violence and, therefore, credible in their work. As such, we determined that the statistics were sufficiently reliable for providing context in our report.

Independence Assessment

The lead auditor for this report serves as our office's Area Safety Monitor (ASM). The role of the ASM is to discuss safety issues with the City's Occupational Health & Safety Officer (OHSO) during regular safety committee meetings for city employees, and to share safety information between the OHSO and our office. It was serving in this capacity that the concern regarding the City's domestic violence leave policy came to our attention. The lead auditor also has had prior experience working and volunteering with people experiencing domestic violence. We assessed the role of the ASM and the lead auditor's former experience. This included consulting with an external audit expert on audit independence standards. We concluded that no independence impairments exist. Nonetheless, to support our commitment to independence, we put safeguards in place to address any potential perception that impairments did exist. Safeguards include disclosing this information in this report, and ensuring that the Audit Manager verified that our audit findings, conclusions, and recommendations are supported by unbiased, factual, sufficient, and appropriate audit evidence.

Statement of Compliance

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II—Management Response

We provided a draft of this report to City Management and the Human Resources Department (HR) for review and comment. HR provided comments, which are reproduced in full below. In its comments, HR agreed to our findings and conclusions and agreed with five recommendations, but did not agree with one recommendation.

HR concurred with our recommendation 1.1 to revise the policy to define and include sexual assault, stalking, and witnesses' rights as well as with recommendation 1.2 to revise the policy on considerations in assessing safety accommodations. They also agreed to revise the title in recommendation 1.3 to be more comprehensive.

HR did not agree to allow employees to self-certify their leave request as we proposed in recommendation 1.4. The department said that, in its efforts to be consistent in its application of leave protected by legal mandate, that it is essential for employees to obtain documentation as allowed by law. We understand their perspective but note that the state law uses the language "may obtain" rather than "mandate." for the list of possible documentation. In our work focusing on identifying risks, we want to ensure that in rare circumstances employees can attest to their unique situation. For some, obtaining documentation poses an obstacle that they may be unable to overcome even in life-threatening circumstances. This is a risk that could be addressed through self-certification. HR agreed to our proposal in recommendation 1.4 to encourage employees to come forward for help even if they do not have documentation. HR also informed us that they will work closely with employees to first prioritize their safety and connect them with help through the Employee Assistance Program to obtain documentation. While we understand the confines within which HR must operate, we continue to encourage flexibility to allow for employees to forego the certification requirement in rare circumstances.

HR expressed its commitment to the intent of recommendations 2.1 and 3.1. While the department agreed to those recommendations, it is still evaluating how best to fully implement them within the boundaries of its operations. Our recommendations are not meant to require HR to take actions for which they are not qualified. Therefore, as part of our follow-up process, we will be actively engaging with HR to continue to help them understand the purpose of our recommendations so that they implement them only as intended. We want to emphasize the importance of collaborating with domestic violence experts working in the city in developing policies and trainings, and that these are created and implemented through a trauma-informed lens. Ultimately, we made these recommendations with the intention of mitigating safety and harm risks to the city when addressing domestic violence issues.

Below are HR planned corrective actions and proposed implementation dates. We will monitor their progress through our follow-up process and the department will provide City Council with regular updates on its actions until they address all of our recommendations.

1.1 To reflect the full extent of state law, we recommend Human Resources revise the policy to define and include sexual assault, stalking, and witnesses' rights.

Management Response: Concur

Proposed Implementation Plan: Note: Proposed changes to the language of the current policy are indicated by italics.

Add Witnesses To Policy: Human Resources proposes to modify the language of Administrative Regulation No. 2.21 at Section II "Policy," such that the first sentence reads as follows: "The City of Berkeley is committed to promoting a work environment that is supportive of victims of domestic violence, *testifying witnesses*, and the effects the abuse can have on employees and the workplace."

Add Witnesses To Definitions: Human Resources proposes to add language to Administrative Regulation No. 2.21 at Section III "Definitions," to include the following sentence: "*D. Witness -- A witness is an employee required by subpoena or other court order to testify as a witness at any judicial proceeding.*"

Add Witnesses To Procedures: Human Resources proposes to modify Administrative Regulation No. 2.21 at Section IV "Procedures" to reflect the provisions in Labor Code Section 230(b), regarding witnesses. The following paragraph may be added under IV, A., 6: "*6. Procedure for Witnesses: An employee who requests time off to serve as a witness in any judicial proceeding must produce either a subpoena or other court order to immediate supervisor requiring their appearance as a witness in any judicial proceeding, including but not limited to restraining orders hearings, family court hearings, and trial.*"

Note Re Accused/Alleged Perpetrators As Witnesses: Human Resources may also add a brief note indicating that the City also permits leave under this policy for testifying witnesses who are accused of domestic violence, sexual violence, stalking, etc. Labor Code Section 230(b) protects subpoenaed witnesses when required to testify in "any judicial proceeding."

Modify Definition of Perpetrator: Because of the updates related to sexual assault and stalking, HR proposes to revise the definition of perpetrator in Administrative Regulation No. 2.21 at Section III. "Definitions," C. "Perpetrator" as follows: "*Perpetrator – The individual who commits or threatens to commit an act of domestic violence, sexual assault or stalking.*"

Adding Sexual Assault And Stalking: Human Resources proposes to modify Administrative Regulation No. 2.21 at Section IV "Procedures," A. "Request for Time Off" to read as follows: "Employees who are victims of domestic violence, *sexual assault and/or stalking* [...]"

Proposed Implementation Date: January 1, 2020

1.2 To reflect the full extent of state law, we recommend Human Resources revise the policy to state that when assessing safety accommodations, Human Resources takes into consideration danger to the employee and undue burden to the employer.

Management Response: Concur

Proposed Implementation Plan: Human Resources proposes to revise Administrative Regulation No. 2.21 at Section V. “Responsibilities,” C. “Human Resources Department,” to provide, in accordance with Labor Code Section 230(f), that: *“In determining whether the accommodation is reasonable, the City of Berkeley shall consider an exigent circumstance or danger facing the employee. This does not require the City to undertake any action that constitutes an undue hardship on the employer’s business operations.”*

The above sentence would be inserted prior to the last sentence in the current Regulation. The last sentence reads: “To the extent required by law, the Human Resources staff will maintain confidentiality of any employee requesting time off.”

Proposed Implementation Date: January 1, 2020

1.3 To clearly communicate the policy to employees and supervisors, we recommend Human Resources revise the policy title to reflect the comprehensive scope of the policy.

Management Response: Concur

Proposed Implementation Plan: Human Resources proposes to revise the title to read: *Domestic Violence, Other Protections and Leave Policy*, and advise employees of changes to the policy which include protections for victims of sexual violence, stalking and witnesses giving testimony. Additionally, further definitions listed in Section 1.1 give sufficient notice of bases for leave and reasonable accommodation.

Proposed Implementation Date: January 1, 2020

1.4 To allow Human Resources the flexibility to tailor its response to individual domestic violence circumstances, we recommend Human Resources revise the policy to clarify that requirements for employees to document their use of leave or request for accommodations are at the discretion of Human Resources and may include self-certification when appropriate. We also recommend that Human Resources clarify that employees are encouraged to come to Human Resources for assistance even if they do not initially have the documentation that may be requested.

Management Response: Disagree

Proposed Implementation Plan: This recommendation is not reflective of requirements under Labor Code Section 230.

Request for time off: Section 230 provides that when an unscheduled absence occurs, employer shall not take any action against employee until employee provides certification within a reasonable time. The mandatory certification requirements listed in Administrative Regulation No. 2.21 are already within legal parameters for taking leave/time off as delineated in Labor Code Section 230(d)(2)(A-C). Self-certification is not included or discussed in this portion of the statute. Human Resources proposes to add a Section IV. A. 2. iv. Which provides as follows: “*iv. A written declaration or statement by employee request for the applicable leave and agreement to submit one of the listed items listed in i. through iii. within ten (10) calendar days within leave request.*”

Request for an accommodation: When employee requests an accommodation, however, the self-certification *may* be requested by the employer and submitted by the employee. The statute at Section 230(f)(7)(A) refers to self-certification as “a written statement signed by the employee or individual acting on the employee’s behalf, certifying that the accommodation is for a purpose authorized [...]” by the statute.

To be clear, the City is obligated to obtain certification from employees requesting leave for unauthorized absences in the form of police reports, court orders or documentation from a professional. However, when the employee requests a reasonable accommodation, the City may accept self-certification (i.e., a written statement from the employee). To ensure that accommodation requests are consistent with other policies (e.g., FMLA and/or ADA), Human Resources proposes to add a Section IV. B.1. which provides as follows: “*1. In support of a request for reasonable accommodation, an employee shall provide written certification documentation from a medical professional or other healthcare provider concurrent with the accommodation request. Alternatively, an employee may provide a written declaration*

or statement by the employee followed by documentation from a medical professional or other healthcare provider within thirty (30) calendar days of the accommodation request.”

The Human Resources staff will engage the employee in an interactive process to determine effective reasonable accommodations that can be provided to aid her/him in safeguarding their health and safety. *When implementing any accommodations Human Resources will ensure that all appropriate benefits are provided, i.e. EAP.* Any reasonable accommodation involving changes to an employees working conditions will be in accordance with the terms of the employee’s MOU, Personnel Rules and Regulations.

HR proposes to add to Section IV. 3 Confidentiality: *The City recognizes the importance of maintaining confidentiality.* The immediate supervisor shall maintain the confidentiality of any employee requesting leave under this regulation.

Proposed Implementation Date: January 1, 2020

2.1 **To ensure Berkeley’s policy addresses relevant domestic violence issues in the workplace, we recommend Human Resources revise its policy to incorporate the model policy and all best practice elements described in this finding, and communicate this guidance to city staff.**

Management Response: Concur

Proposed Implementation Plan: Human Resources intends to distribute the policy to city staff via email on a quarterly basis with an explanation of changes. Human Resources may notify employees in Berkeley Matters, highlighting changes and notifying supervisors about changes of which they need to be aware. Following the model policies provided by the Audit Team, Human Resources will add a) the statement of non-discrimination and non-retaliation; b) further definitions of key terms; and c) a sentence addressing the importance of survivor confidentiality.

In addition, Human Resources will assess the feasibility of adopting additional elements from model policies and will add as appropriate at a later date.

Proposed Implementation Date: January 1, 2020

3.1 To prepare Berkeley employees for implementing an inclusive domestic violence response policy, we recommend Human Resources implement best practices, including:

- Training supervisors and Human Resources staff about their role in responding to employees experiencing domestic violence and providing information for employees about the domestic violence response policy;
- Conducting periodic outreach to employees to inform them about the policy, encourage them to come forward, and provide general information about domestic violence;
- Facilitating collaboration among city staff who have a role in implementing the policy, and convening a domestic violence response team to advise on policies, ongoing outreach and education, and Human Resources' implementation of recommendations from this audit; and
- Adopting a trauma-informed and inclusive approach.

Management Response: Concur

Proposed Implementation Plan:

Training (To Be Implemented By Approx. January 1, 2020): Human Resources may coordinate with organizational trainer Wilhelmina Parker to add policy review to supervisor training to include revised domestic violence policy. Additionally, training announcement to be placed in Berkeley Matters.

Human Resources Will Request Appropriate Resources: Human Resources will be requesting resources to conduct additional year-round training outside of what is currently proposed. The department does not have resources to prioritize domestic violence policy as a program, but aims to make its leave administration consistent with other such as FMLA, ADA, and collaborative with the needs of employees experiencing workplace violence.

Collaborative Approached Already Implemented: Human Resources already collaborates with other departments regarding necessary resources for the employee, including building security, workplace violence prevention, and information technology (changing computer, phone, email, work location). Administrative Regulation No. 2.21 Section IV, 1 ("Procedures") already provides that employees will give reasonable advance notice to their immediate supervisor re leaves and unscheduled absences. In addition, Human Resources already has applicable Leave Specialist in the department available to process leave requests. A response team requires additional resources and may create potential liabilities re HIPAA, privacy and confidentiality as well as inefficient administration.

Human Resources employees are not trained social workers or therapists equipped to provide Response Team services which are outside of the scope of leave administration.

Critical to future deployment and operational implementation, Human Resources will seek broad input from various departments in administration and in training development around this policy.

Proposed Implementation Date: Specified for individual components of the implementation plan, above.

Appendix III—Domestic Violence Resources

Domestic Violence Resources

To further our intention of providing a roadmap for Berkeley, we wanted to provide some resources for those who could benefit. If you or someone you know are experiencing domestic violence or abuse, sexual assault, or stalking, you are not alone and help is available. Please reach out to one of the following resources for more support:

- If your life is in danger, please call **9-1-1** or your local emergency number.
- **National Domestic Violence Hotline:** Advocates are available 24 hours a day, 365 days a year to help you create a plan to stay safe and refer you to services in your community. Help is available by phone or online chat:

1-800-799-7233 (English and Spanish) | 1-800-787-3224 (TTY) | thehotline.org

- **Employee Assistance Program:** City of Berkeley employees have access to counselors through Claremont Employee Assistance Program. Counselors are available by phone 24 hours a day, 365 days a year. Claremont can also refer members to counselors or domestic violence services in your local community. Services are available in many languages and translation services are available:

1-800-834-3773

- **Alameda County Family Justice Center (ACFJC):** The ACFJC website provides helpful information and resources for people experiencing domestic abuse in Alameda County. Information is available that addresses domestic violence and teens, the LGBTQ+ community, immigrants, children, people with disabilities. There is also information about restraining orders, technology safety, housing, and employment. Visit their website:

http://www.acfjc.org/resource_library/domestic_violence

Appendix III—Domestic Violence Resources

Domestic Violence Resource Guide for Alameda County Guía de Recursos de Violencia Domestica para el Condado de Alameda

24-HOUR CRISIS LINES

Lineas de crisis las 24 hrs. del día

A Safe Place	510-536-7233
Building Futures with Women and Children	1-866-292-9688
Crisis Support Svcs of the E-Bay	1-800-309-2131
Ruby's Place	888-339-7233
Tri-Valley Haven	1-800-884-8119 925-449-5842
Center for Domestic Peace (Español)	415-924-6616 415-924-3456
WOMAN, Inc. – referrals (SF) (Español)	415-864-4722 877-384-3578
Next Door	408-279-2962
Family Violence Law Center... Mobile Response Team	1-800-947-8301
National Domestic Violence Hotline	1-800-799-7233
Queer Asian Women & Transgender Hotline	877-751-0880
Bay Area Women Against Rape	510-845-7273

BATTERER'S TREATMENT

Tratamiento para agresores/golpeadores

Associated Counseling (SL)	510-357-0550
Davis Street Family Resource Ctr. (SL)	415-472-3275
John Hamel & Associates (B)	510-644-8190
Men Creating Peace (O/SF)	510-730-0184
Peace Creations (CV)	925-833-9505
Second Chance (H) (N)	510-886-8696 510-792-4357
Terra Firma Diversion (H)	510-675-9362
Triumph (O)	510-636-4111
West Oakland Health Council (O)	510-729-8800

CHILD ABUSE SERVICES

Servicios de abuso infantil

Child and Family Services (Alameda Co.)	510-259-1800
(SF)	415-558-2650

COUNSELING SERVICES

Servicios de asesoramiento/Consejería

ACCESS Mental Health Referrals	1-800-491-9099
Alameda Family Services (A)	510-629-6300
Asian Health Services (O)	510-986-6800
CARE Program (children) (O)	510-428-3407
Center for Non-abusive Relationships (O)	510-208-5006
Community Health for ... Asian Americans (A)	510-835-2777
Earth Circles Counseling Center (O)	510-601-1929
Family Paths (O) (H)	510-893-9230 510-893-9230
La Familia (H)	510-881-5921
Mujeres con Esperanza (O)	510-300-3156
Mujeres Unidas y Activas (O) (SF)	510-261-3398 415-621-8140
Rainbow Psychotherapy Assoc. (B)	510-420-8083
Shimtih Korean Center (SL) Korean	510-547-2360 844-828-2254
The D.O.V.E.S Project (O)	510-428-3135
Triumph (O)	510-636-4111
Berkeley Therapy Institute (B)	510-841-8484

2/08/2019 A. Flores & M. Minard, Alameda County Family Justice Center, 510-267-8800

Blue Oak Therapy Center (B)	510-649-9818
Jewish Family & Children Services (SF)	415-449-1200

COUNSELING *continued*

Servicios de asesoramiento, *continua*

Oak Creek Counseling Center (B)	1-888-637-7404
UC Psychology Clinic (Sept.-May) (B)	510-642-5292
Hume Center (F) (P)	510-745-9151 925-223-8047
Simi Markar, MFT (F)	510-273-9126
Davis Street Family Resource Ctr (SL)	510-347-4620
Family Services Counseling Ctr (SL)	510-483-6715
Pathways Counseling Center/Girls Inc. (SL)	510-357-5515
Tri-Valley Haven	925-449-5845
Cameron House (Chinese) (SF)	415-781-0401
Women's Daytime Drop-In Center (B)	510-548-2884

CULTURALLY SPECIFIC RESOURCES

Recursos culturalmente específicos

Arab Cultural and Community Center (SF)	415-664-2200
Asian Health Services (O)	510-986-6800
Korean Community Center East Bay (O)	510-547-2662
La Clinica de la Raza (O)	510-535-4000
Maitri-Indian (San Jose)	1-888-862-4874
Narika-South Asian (B)	1-800-215-7308
Shalom Bayit-Jewish (O)	866-742-5667
Terra Firma Diversion-Spanish (H)	510-675-9362

DEAF RESOURCES

Recursos para sordos

DCARA	510-343-6670
DeafHope (O)	deafhope@deaf-hope.org Video Phone: 510-735-8553
Deaf Community Counseling Center (DCCS) (SF) (SL)	415-474-7310
Video Phone (SL):	510-343-7277
Video Phone (SF):	415-255-5848

ELDER ABUSE SERVICES

Servicios para personas mayores victimas de abusos

Adult Protective Services (Alameda County) (SF)	510-577-3500 415-557-5230
API Legal Outreach (O) (SF)	510-251-2846 415-567-6255
Area Agency on Aging (Alameda County)	510-577-1900
Institute on Aging (SF)	415-750-4111
Legal Assistance for Seniors (O)	510-832-3040
Victim Witness (O)	510-272-6180

HEALTHCARE RESOURCES

Recursos para el cuidado de la salud

Axis Community Health (P)	925-462-1755
Berkeley Free Clinic (B)	510-548-2570
Davis Street Family Resource Ctr. (SL)	510-347-4620
Healthy Communities (O)	510-444-9655
Highland Hospital (O)	510-437-4800
La Clinica de la Raza (O)	510-535-4000
La Familia (H)	510-881-5921
Native American Health Center (O)	510-535-4400
Public Health Dept. Immunizations (O)	510-267-3230
Tiburcio Vasquez (H/U)	510-471-5907
Tri-City Health Center (Fremont)	510-770-8133

Location Key: Oakland (O), Berkeley (B), Fremont (F), Hayward (H), Livermore (L), Newark (N), Pleasanton (P), San Leandro (SL), San Ramon (SR), Santa Clara County (SC), Castro Valley (CV)

Appendix III—Domestic Violence Resources

Domestic Violence Resource Guide for Alameda County Guía de Recursos de Violencia Domestica para el Condado de Alameda

Urban Indian Health Board (O) 510-535-4400
West Oakland Health Center (O) 510-835-9610

LAW ENFORCEMENT

Aplicación y ejecución de la ley

For life-threatening emergencies call 911

Alameda Police Department 510-337-8340
Albany Police Department 510-525-7300
Berkeley Police Department 510-981-5900
Dublin Police Department 925-833-6670
Emeryville Police Department 510-596-3700
Fremont Police Department 510-790-6800
Hayward Police Department 510-293-7272
Livermore Police Department 925-371-4900
Newark Police Department 510-578-4237
Oakland Police Department 510-777-3333
Pleasanton Police Department 925-931-5100
San Leandro Police Department 510-577-2740
Union City Police Department 510-471-1365
Alameda Co. Sheriff's Department 510-670-5048

LEGAL SERVICES

Servicios legales

Alameda County BAR Association (O) 510-302-2222
API Legal Outreach (O) 510-251-2846
(SF) 415-567-6255
Bay Area Legal Aid (O) 1-800-663-4744
Family Violence Law Center (O) 1-510-208-0220
Family & Children Law Center (SF) 415-492-9230
Self-Help Center (H) 510-272-1393
Employment Law Center (SF) 415-864-8848
Tri-Valley Haven 925-449-5842

LGBT RESOURCES

Recursos para lesbianas, homosexuales,

bi-sexuales y transexuales

CUAV (SF) 415-777-5500
Hayward Lighthouse Center (referrals) 510-881-8167
Pacific Center (B) 510-548-8283
Project Eden (H) 510-413-3487
Queer Asian Women Services (SF) (Shelter) 415-751-7110
San Francisco LGBT Center 415-865-5555
Tri-Valley Haven 800-884-8119

SEXUAL ASSAULT

Ayuda para víctimas de asaltos sexuales

Bay Area Women Against Rape (O) 510-430-1298
CALCASA (Sacramento) 916-446-2520
Contra Costa Rape Crisis 1-800-670-7273
Highland Hospital (O) 510-437-4800
San Francisco Women Against Rape 415-861-2024
Tri-Valley Haven 1-800-884-8119

SHELTERS

Albergues/Refugios

A Safe Place 510-536-7233
Asian Women's Shelter 415-751-0806
Building Futures with Women and Children 1-866-292-9688
Eden I&R 2-1-1
510-537-2710
Ruby's Place 888-339-7233
La Casa de Las Madres 415-503-0500
Next Door 415-487-3300
Riley Center 415-597-7960
SAVE 510-794-6055
Second Chance 510-792-4357
Shepherd's Gate 925-443-4283
Tri-Valley Haven 1-800-884-8119
WOMAN, Inc. – referrals (SF) 415-864-4722

TRANSITIONAL HOUSING

Alojamiento de transición

Alameda Point Collaborative (O) 510-898-7800
Bonita House (B) 510-526-4765
BOSS 510-841-5572
Henry Robinson (O) 510-238-5091

IMMIGRATION ASSISTANCE

Asistencia de inmigración

Bay Area Legal Aid (O) 510-663-4744
Centro legal de la Raza (O) 510-437-1554
East Bay Sanctuary (B) 510-540-5296
Immigration Center for Women & Children (SF) 415-861-1449
International Institute of the Bay Area (O) 415-538-2846

MISCELLANEOUS

Misceláneo

Alameda County Community Food Bank 510-636-3773
Department of Child Support Services (P) 1-866-901-3212
District Attorney's Office (O) 510-272-6222
Family and Children's Bureau (O) 510-690-2500
Victim Witness Assistance Division (O) 510-272-6180
Victim Compensation Program (O) 510-272-5044

SERVICES FOR MALE VICTIMS

Servicios para las víctimas masculinas

Except for shelter, most of the agencies listed make their services available to male victims of domestic violence. Please call agency for more information.

For a wide range of domestic violence related services call
Alameda County Family Justice Center
(510) 267-8800

Mission Statement

Promoting transparency and accountability in Berkeley government.

Audit Team

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BERKELEY CITY AUDITOR

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To: Honorable Mayor and Members of the City Council
From: Jenny Wong, City Auditor *JW*
Subject: Domestic Violence Response: Berkeley Needs a Comprehensive Policy to Support City Employees

RECOMMENDATION

We recommend City Council request that the City Manager report back by April 28, 2020, and every six months thereafter, regarding the status of our audit recommendations until reported fully implemented by the Human Resources Department. They have agreed to our findings and five of our recommendations. Please see our report for their complete response.

FISCAL IMPACTS OF RECOMMENDATION

We estimate that our first two recommendations will require 40 hours of staff time at an approximate cost of \$5,000, and that the third, and final, recommendation will require approximately 100-300 hours at a cost of about \$13,000 - \$38,000, respectively. The Human Resources Department may need funding to implement our recommendation to provide training to their staff and supervisors. The cost is dependent upon the type of training Human Resources chooses to implement.

It is not possible to assign a price to health and safety, but the cost of not implementing the recommendations could be higher due to potential lost productivity, physical harm to employees, and legal costs.

CURRENT SITUATION AND ITS EFFECTS

Berkeley's domestic violence leave policy does not completely reflect California state law. The policy does not address sexual assault, stalking, or witnesses' rights; state factors used in determining reasonable accommodations; or allow rare exceptions for employees to self-certify their leave or accommodation requests. The policy title is also focused on leave, which is misleading as to the scope that the state law covers.

Beyond state law, the policy does not address key workplace domestic violence issues, such as addressing work performance issues for employees experiencing domestic violence. Further, there are practices that Berkeley is not currently following, but could adopt, to be better positioned to implement a coordinated and supportive domestic violence response, including: training, outreach and education, collaboration, and commitment to an inclusive and trauma-informed response.

To reflect the full extent of state law, we recommend Human Resources revise the policy to address sexual assault, stalking, and witnesses' rights, and amend the policy title to reflect its comprehensive scope. We also recommend that Human Resources allow for employees to self-certify their leave and accommodation request when, in rare instances, it is not safe to obtain other documentation, and to clarify in the policy that employees are encouraged to come to Human Resources for assistance even if they do not initially have the documentation that may be requested.

To ensure Berkeley's policy addresses relevant domestic violence issues in the workplace, we recommend Human Resources revise its policy to incorporate the model policy and best practice elements described in our audit, and communicate the guidance to city staff. Additionally, to prepare Berkeley for implementing an inclusive domestic violence response policy, we recommend Human Resources provide training to supervisors and Human Resources staff responsible for implementing the policy, conduct outreach and education for all employees, facilitate collaboration, and adopt a trauma-informed and inclusive approach.

BACKGROUND

California law grants employees experiencing domestic violence, sexual assault, or stalking the right to take time off of work to safeguard their health and wellbeing, and to request accommodations to stay safe at work. The law extends to witnesses' of domestic violence who need to take leave in order to participate in court proceedings. Berkeley has a domestic violence leave policy that focuses on leave time and accommodations for employees experiencing domestic violence.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with this report.

RATIONALE FOR RECOMMENDATION

In a national survey, 60 percent of respondents who experienced domestic violence reported losing their jobs as a consequence of the abuse. Studies estimate that domestic violence costs \$8.3 billion a year in health costs and lost productivity in the United States. A comprehensive and coordinated response for employees experiencing domestic violence can improve their wellbeing and help keep workplaces safer.

CONTACT PERSON

Jenny Wong, City Auditor, City Auditor's Office, 510-981-6750

Attachment:

- 1: Audit Report: Domestic Violence Response: Berkeley Needs a Comprehensive Policy to Support City Employees

