

## **APPENDIX C. LITERATURE REVIEW AND BIBLIOGRAPHY**

**This Appendix is part of the following report:**

***Rapid Response under the Workforce Investment Act: An Evaluation of  
Management, Services, and Financing***

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## APPENDIX C. LITERATURE REVIEW AND BIBLIOGRAPHY

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### Introduction

Since the late 1970s, the causes and effects of worker dislocation have received increasing attention from academics, policy makers, labor unions, and private industry leaders alike. Concern about economic displacement has increased because of international trade, outsourcing, and ongoing restructuring of the domestic economy. Since the 1980s, a significant part of the literature on worker dislocation dealt with two major public policy issues. First, workforce system stakeholders discussed whether there should be advance notice legislation mandating that employers inform workers and state officials of an impending dislocation. Second, building on the issue of notice, there was emerging interest in how the public workforce system and private stakeholders could coordinate assistance, including a quick response at the point of dislocation. In general, organized labor and its supporters underlined the need for better coordinated and earlier outreach to potentially affected workers, while business interests and their advocates raised concerns about costs and potentially disruptive, unintended consequences of notice.

In 1988, two pieces of legislation were enacted to help dislocated workers respond to job loss and transition to new work. One was the Economic Dislocation and Worker Adjustment Assistance Act (EDWAA), which intensified and reorganized dislocated worker assistance programs, including requirements for states to create a Rapid Response unit and to provide specific Rapid Response services and activities in the event of a dislocation. These same requirements, with a few minor changes, were adopted as part of the Workforce Investment Act (WIA) in 1998 and are discussed in the report to which this is an appendix.

The other legislation passed in 1988 was the Worker Adjustment and Retraining Notification Act (WARN), which mandated that employers provide notice of impending dislocations 60 days in advance to workers, the state Dislocated Worker Unit and the chief local elected official.

WARN, still in force, applies only to businesses employing over 100 full-time workers, and only in certain circumstances, i.e., when there are mass layoffs of at least 50 workers constituting at least one-third of the workforce (and all layoffs of 500 or more workers regardless of the proportion of the workforce) and plant closings, if at least 50 employees at a single facility will

be affected. A number of states have also enacted advance notification laws that create more stringent requirements for employers than in WARN

The literature on Rapid Response and advance notice followed the broad outlines of the public policy debate. Research on advance notice and its effect on worker reemployment peaked in the 1980's and early 1990's and was intertwined with the policy and legislative debate. As such, when that debate largely ended with WARN's enactment, research activities on advance notification also waned. The debate then shifted from whether advance notice yields sufficient benefits to how best to coordinate public and private efforts to facilitate workers' transition to new employment. While most of the post-WARN literature focused on general issues related to dislocation, there was some recognition of the importance of Rapid Response in helping affected workers. Further, the Employment and Training Administration (ETA) actively engaged in efforts, such as conferences and creation of a national work group of Rapid Response practitioners, to facilitate the exchange of information on innovative practices and ways to improve operational quality. Against this background, ETA contracted with Social Policy Research Associates (SPR) in 2006 to systematically evaluate Rapid Response and, as part of that broader study, to review the relevant literature.

## **Methodology and Overview**

This Appendix provides a selective review of the literature on Rapid Response and advance notice, from the late 1980's to 2008, focusing on policy issues and programmatic practices. Sources were identified by searching reports from relevant research and policy agencies such as the Government Accountability Office (GAO) and the National Governors' Association (NGA) and by reviewing literature from academic and policy journals (such as the *Industrial and Labor Relations Review* and *Human Resource Planning*) and from practitioner groups. This process generated a number of references that provided the foundation for the literature search and bibliographies of critical works were probed to identify further sources. An extensive Internet search was also conducted using search engines including Google.com, Google Scholar, Questia.com, and LexisNexis. This search uncovered information on state notification laws, additional academic articles, policy briefs, and state Rapid Response strategic plans and protocols.

In general, there was abundant research, using both quantitative and qualitative data, on advance notice legislation. but relatively little on Rapid Response. GAO reports examined the effectiveness of the WARN law, WIA programs, and Trade Adjustment Assistance (TAA) programs but offered little analysis specifically on Rapid Response, other than the effect of the dislocated worker funding formula on the Rapid Response set-aside and expenditure rates. Practitioner groups produced information on innovative or promising practices in Rapid Response which, understandably, offered little, if any, research-based evidence on the

advantages of specific strategies. Similarly, consultants and a variety of other authors offered qualitative and anecdotal evidence to promote different practices in Rapid Response. Most of these reports incorporated case studies of specific dislocations or areas (potentially limiting their generalizability) and offered little or no empirical, quantitative data to support their findings. Notwithstanding these caveats, the literature review on Rapid Response highlights what researchers and practitioners identified as promising or innovative practices.

The literature review below is divided into two sections and covers literature on Rapid Response and advance notice. A bibliography is provided at the end of the Appendix on the works reviewed and other sources of interest.

## **Literature on Rapid Response**

In general, there was a modest literature on Rapid Response and it focused on activities related to responding to dislocations and the prospective role of Rapid Response in economic development. The discussion below, based on review of a sample of sources, focuses on findings relating to key practices (i.e., early warning systems, on-site centers, layoff aversion efforts, public-private partnerships, economic development linkages, and labor-management committees) and on issues relating to funding for Rapid Response. The section begins with a description of the sources and the methodology used by the authors.

Nine sources were reviewed, including five cross-cutting works that cover an array of Rapid Response practices, two works that focus on specific partnership efforts, and two reports by GAO that focus on use of labor-management committees and funding challenges. The five works that touch on multiple aspects of rapid response, in chronological order, are:

***Croft, Thomas. "Rapid Response Layoff Aversion Guidebook." Duquesne, PA: Steel Valley Authority (2001)*** provides practitioners with an overview of layoff aversion and retention strategies, real-life examples or case studies of success stories, and national and regional resources. The author drew on insights from: reports on economic development and workforce programs developed by economists, labor unions, and business organizations; analysts at the National Governors' Association; and members of National Rapid Response Workgroup (composed of state and local Rapid Response coordinators). The Steel Valley Authority (SVA), a regional development agency, sponsored by the Pennsylvania Department of Labor and Industry and charged with supporting economic revitalization and delivering workforce services since 1986. SVA initiated the Strategic Early Warning Network program to provide early warning and layoff aversion services to Pennsylvania's manufacturing employers.

**Estes, Chris, William Schweke, and Sara Lawrence. "Dislocated Workers in North Carolina: Aiding Their Transition to Good Jobs." NC Justice and Community Development Center and the Corporation for Enterprise Development (2002)** includes a review of the academic literature, private evaluations and studies, and state reports on WIA implementation, including North Carolina's report on the first year of WIA. The authors' goal, reflecting the advocacy organizations that funded the study, was to influence North Carolina policymakers to serve dislocated workers by "acting more aggressively and devising a more comprehensive policy to mitigate hardship, prepare the workforce for the new economy, modernize mature firms, and revitalize declining communities." The authors drew on recommendations for employee ownership from the National Center for Employee Ownership and Croft's Layoff Aversion Guidebook.

**National Governors Association Center for Best Practices. "Assisting Laid-off Workers in a Changing Economy." Issue brief. Employment and Social Services Policy Studies (2002)** draws on evaluations of workforce programs, articles from economic and social policy organizations and journals, data from ETA and the Bureau of Labor Statistics (BLS) in the U.S. Department of Labor, and the results of a 2001 survey NGA conducted regarding state policies for assisting dislocated workers. The survey examined state dislocated worker programs during a recessionary period with sharply increased dislocation rates. Thirty states responded to the survey but the paper does not provide details on the survey questions and how states' responses were solicited, nor does it provide information on the frequency or success rates of the state strategies for assisting dislocated workers.

**Eberts, Randall W. "After the Doors Close: Assisting Laid-Off Workers to Find Jobs." Economic Perspectives 29, no. 2 (2005): 75+** is based on prior research, including journal articles and ETA-sponsored papers on unemployment insurance and dislocated worker programs, and data from the Current Population Survey (September 2001). It also draws on the author's practical experience with administering WIA, Wagner-Peyser, and TAA programs in the Kalamazoo/St. Joseph Michigan Local Workforce Area. The paper examines which policies and program components worked well in identifying dislocated workers and getting them retrained and re-employed. The material on early warning was largely derived from secondary sources and did not include substantial detail on the methods used to identify potential dislocations.

**Schweke, William. "Promising Practices to Assist Dislocated Workers." Working Paper. Prepared for The North Carolina Rural Economic Development Center (2004)** drew on the author's own published work, his long career consulting on economic dislocations, and academic articles, case studies, and practitioner manuals to pinpoint innovative practices in serving dislocated workers. Although the paper was intended to inform the North Carolina Rural Economic Development Center, it includes a broad range of workforce practices in both urban

and rural settings and within a variety of industries. The criteria the author used for selecting innovative practices included 1) effectiveness, as demonstrated in the research and evaluation literature on economic dislocation, 2) practitioner feedback or acknowledgement of effective practices, 3) sufficient scope and scale to address the dislocated worker reemployment challenge, 4) political and administrative viability, and 5) congruence with family-strengthening values such as better pay and benefits, a family-friendly work environment, and opportunities for career advancement.

The two sources that focus on specific partnership activities are:

**Messina, Ken, Annette Summers, and Dawn Lay. "Benefits of Public-Private Partnerships." National Rapid Response Summit, St. Louis, Missouri (2006)** is based on the experiences of three Rapid Response coordinators and was presented as PowerPoint slides on public-private partnerships at the 2006 National Rapid Response Summit. The presenters described successful partnerships and the benefits in their respective states, but did not attempt to generalize about the prevalence of such partnerships or their success or obstacles to such partnerships.

**Castro, Patti. "Creating Meaningful Linkages with Economic Development. "Presentation for the St. Louis, Missouri National Rapid Response Summit (2006)** is a slide presentation by a Rapid Response practitioner in Alameda County, California on creating a plan to integrate economic development into the Rapid Response and local area workforce programs.

The two GAO reports that focus on specific topics relevant to Rapid Response included here are:

**Government Accountability Office. "Dislocated Workers: Labor-Management Committees Enhance Reemployment Assistance." GAO/HRD-90-3 (1989).** GAO was charged with examining the effectiveness of using the Canadian model of labor-management committees (LMCs) with the JTPA dislocated worker program between 1987 and 1989. GAO reviewed the Canadian-American Plant Closing Demonstration Project, a joint effort of the NGA and the Department of Labor (DOL), in six grantee states.<sup>1</sup> The agency conducted a cross-case study analysis of four committees, three of the project's 12 sites and a fourth site in a state that was not participating in the demonstration.<sup>2</sup> Site selection criteria for this study were largely practical. Selected sites needed to have started before the dislocation event and to have been sufficiently far along to show results. To test effectiveness, GAO staff drew on past research to establish criteria for effective labor-management committees, and their 1) provision of assistance tailored

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<sup>1</sup> Disclosure: Jeffrey Salzman, co-author of this report, was project manager for the DOL demonstration project.

<sup>2</sup> Idaho, the non-project state, participated in the informational seminar given by the project and kept regular contact with the NGA and DOL. In addition, the Idaho site involved a retail business, which provided some diversity since the other cases all involved manufacturing firms.

to the needs of workers, 2) early intervention, 3) coordination of project activities, and 4) continued support and encouragement for worker participation. To apply these criteria, the staff examined documentation and administrative data, and also conducted site visit interviews with state officials who initiated the projects, labor-management committee members, and local staff. No interviews were conducted with affected workers.

***Government Accountability Office (GAO). “Workforce Investment Act: Better Guidance and Revised Funding Formula Would Enhance Dislocated Worker Program.” GAO-02-274 (2002).*** GAO examined how dislocated worker set-aside funds were used for the Rapid Response process and other state-wide activities, among several other questions related to WIA funding of the dislocated worker program. GAO evaluators conducted two separate internet-based surveys of all 50 states, the District of Columbia, and Puerto Rico. The first survey, distributed directly to Dislocated Worker Units, asked about how states used the set-aside funds for Rapid Response services. The second, distributed to Dislocated Worker Unit parent agencies, inquired about how states used set-aside funding for other statewide activities. Each of the two surveys obtained a 96 percent response rate. In addition, GAO conducted site visits and in-depth interviews with officials and staff in six states and 14 local areas. States were selected to achieve diversity in funding levels, dislocated worker populations, and geographic location. Local sites were selected for diversity of sizes and locations (urban and rural).<sup>3</sup>

## **Early Warning Systems**

One of the promising practices identified by a number of authors was the need for early warning systems, which were viewed as particularly valuable. Schweke recommended identifying potential dislocations by establishing a dislocation “radar” system for early warning which would intercept signals in advance, early enough to develop a strategy either to prevent the dislocation or to assist workers through the adjustment period. The author suggested distinct—but not mutually exclusive—methods to gather intelligence on potential layoffs. One approach involved creating a “virtual organization,” in which experts in the state’s economy, history, and industry background (such as academics, private sector consultants, and nonprofit analysts) tracked the state’s performance relative to other states on a variety of economic and employment factors. A second approach would be to create an automated system that gathered data on a set number of economic indicators for firms, industries, and regions. While Schweke did not detail which indicators should be chosen, he noted that several unions have devised checklists of signs that indicate a firm may be in danger.

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<sup>3</sup> The GAO chose two local areas in each state, except for in California where they chose four local sites.

Croft identified early warning as a trigger for setting up a Rapid Response process for early reemployment, retraining or even layoff aversion and provided examples of Rapid Response teams that developed informal networks with local elected officials, unions, civic and faith-based organizations, and chambers of commerce. Croft's key insight about early warning was that he construed it as a broad, communicating network of informants (including local elected officials, unions, chambers of commerce, industry groups, and community or faith-based organizations) that worked in conjunction with a data collection effort by a Rapid Response team. However, Croft also advocated extensive and expanded use of existing data sources for tracking state and local industry well-being. In addition to the data states already were collecting (on the labor force, unemployment, employment by industry and occupation, local economic trends, and occupational wage rates and earnings), Croft proposed supplemental data sources ranging from layoff data and unemployment claims to *Dun and Bradstreet's Alerts*, that track sudden changes in firms and the *U.S. Industrial Outlook*, a report on industry well-being published by the Department of Commerce.

Croft also provided a framework for assessing the information, with specific indicators that pointed to a manufacturing company being at risk of laying off workers, including:

- *Facility indicators*, such as having an obsolete physical plant, outmoded operating procedure, or an inefficient production process.
- *Community indicators*, such as a lack of access to raw materials, products, and services or lack of skill in the local workforce.
- *Market indicators*, such as demand or sales declines or loss of market share.
- *Organizational indicators*, such as cuts in research and development, hours and overtime eliminated, or an increase in subcontractors or temporary workers.

Croft also found that early warning networks are crucial for allowing sufficient time to reach companies before their decisions become irreversible.

## **On-site Adjustment Centers**

Schweke identified worker transition centers located at or near a closing facility as an innovative practice which provided a central place for job search assistance, training, referrals to support services and counseling in a setting that was convenient and comfortable and promoted mutual support for the affected workers. He noted too that on-site transition centers were generally more successful as the product of collaboration between the employer and union, which further encouraged worker participation.

Eberts expressed similar views, noting that on-site adjustment centers could target the needs of particular groups of laid-off employees as well as provide workers with an environment with



which they were familiar. He also suggested that on-site adjustment centers might help to reduce the level of denial, i.e., the tendency of some dislocated workers to believe, even after a WARN notice, that the plant will not close. Such workers tended to avoid readjustment services altogether, or they accessed them only when they were about to exhaust UI benefits. Eberts suggested that on-site centers also minimized the stigma that some workers felt when accessing services from what they perceived as “welfare programs” or the “unemployment office.”

## **Layoff Aversion**

Layoff aversion—reducing or eliminating unemployment and maintaining production in a community—has been the Holy Grail for Rapid Response, especially when a layoff affects a company that is a significant employer in the community. Thus, the WIA regulations recognize the importance of aversion and focus attention on collaboration with economic development agencies, feasibility studies for buyouts, and the uses of Rapid Response funds for aversion purposes. As the following discussion demonstrates, layoff aversion has been of great interest, though it has been difficult to implement.

Croft identified the economic benefits of layoff aversion as one of the most convincing reasons to attempt the strategy. He estimated that each job lost results in lost revenues and increased public expenditures equaling \$25,000 per year. In addition, he found that the average cost per new job created through economic development strategies is between \$10,000 and \$50,000. In contrast, he contended that each job saved or created through community-based layoff aversion strategies saves the community between \$200 and \$4,000.<sup>4</sup>

However, Croft also reported that Rapid Response units are seldom able to seriously engage in aversion strategies for dislocation events since “once a company announces its intention to close or substantially downsize, the decision is usually final and irreversible.” Croft found that for layoff aversion efforts to be effective, an existing, working relationship with the company usually was necessary. Despite the difficulty, Croft found that at least 15 states have adopted statewide layoff aversion strategies.<sup>5</sup>

To determine whether a business could avoid layoffs, Croft contended that pre-feasibility studies should be implemented soon after the Rapid Response team makes contact with company executives in order to determine if a layoff aversion strategies might be successful. Pre-feasibility studies should include an assessment of a firm’s:

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<sup>4</sup> Croft cites a report from an incubator for community-based organizations: Center for Community Change, *Saving and Creating New Jobs: A Study of Industrial Retention and Expansion Programs*.

<sup>5</sup> See section on Economic Development for more details.

- *Organizational structure*, such as salary structure and management’s ability to restructure operations;
- *Market context*, such as industry trends and a firm’s market shares;
- *Financial status*, such as evaluations of purchase prices, profits, and expenses, and;
- *Legal issues* that might affect a change in ownership or other restructuring issues.

Croft cited a report by the non-profit Ohio Employee Ownership Center’s (which WIA funded to offer technical assistance to business and workers) that pre-feasibility studies showed a potential 25 percent success rate in firm retention or partial retention as a result of layoff aversion programs.<sup>6</sup>

In order to conduct effective layoff aversions, Croft recommended that Rapid Response teams collaborate with economic development agencies, especially at the state level. These agencies manage funding programs including tax subsidies and may support customized training and incumbent worker programs. Finally, Croft cited other resources, such as incumbent worker training (which may be funded through Rapid Response), work-share programs, employee buyouts, and operational and organizational consulting for the business.

Both Estes et al. and Schweke also promoted employee ownership as a potentially useful strategy to prevent the closing or liquidation of a profitable business and retain jobs. Like Croft, they cited the example of the Ohio Employee Ownership Center, which conducted pre-feasibility studies to determine whether a firm could be saved if workers chose to purchase it. They also pointed to the Center’s educational forums and succession-planning programs that help retiring owners find a private or employee-owned successor. While a buyout was not a “cookie-cutter” solution for all dislocations, it was an innovative practice, especially for family-owned businesses that seek to exit without ending the business.

Estes contended that sales and employment increased by about 2.3 percent in companies with employee ownership policies over companies without them and that other research showed that firms which combine employee ownership with increased employee participation grew more rapidly than others.<sup>7</sup> Estes recommended that North Carolina should establish an employee

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<sup>6</sup> SPR’s survey found that 18 states always attempted to avert layoffs, while 14 others indicated that they did so sometimes. However, there is only modest correspondence between the two surveys. Nine of the states that Croft identified reported to SPR that they tried aversion either always or sometimes.

<sup>7</sup> The GAO found that employee-owned firms that promoted employee participation at management levels experienced a 52 percent growth in productivity. GAO, “Employee Stock Ownership Plans: Little Evidence of Effects on Corporate Performance,” GAO. PEMD-88-1. October 1987.

ownership program to provide technical assistance and educational programs to prepare employees for ownership as well as loans and tax advantages to firms in the process of converting to employee ownership.

Estes also promoted work-sharing as an innovative layoff aversion practice. Work-sharing, also known as short-time compensation, involves sharing employment loss among a whole workforce (or a major segment of it) rather than laying off a portion of that workforce. Under work-sharing, a public subsidy from the state unemployment insurance fund mitigates the economic impact by allowing all workers at a facility to collect partial unemployment benefits while continuing to work part-time at their current job. Thus, all workers in the plant can share the burden as opposed to some being fully laid off. Estes also cited previous research that workers generally prefer work-sharing to the risk of being fully laid off. They further contended that states believe that the system promoted long-term economic growth by improving productivity, supporting workforce morale, and lowering the potential for long-term dependency on unemployment benefits. They noted that at the time, 17 states had modified their unemployment compensation systems to permit work-sharing.<sup>8</sup>

Work-sharing was also a strategy recommended by NGA in its report.

## **Public-Private Partnerships**

Many authors promoted public-private partnerships as a critical part of Rapid Response. For example, Schweke identified several types of public-private partnerships that benefited dislocated workers during Rapid Response and in later adjustment services. One type is an employer hiring an outplacement firm to partner with public agencies. An example is the Kellogg Company, which used an outplacement firm that worked closely with union representatives and partnered with the state Dislocated Worker Unit to create an adjustment committee. This committee met weekly to organize the information given to employees, clarify roles, and coordinate transition services to laid-off workers. The entire transition team identified 3,000 job openings, secured employment for many of the affected workers at 75 percent of former wages, and arranged for TAA training benefits for 78 employees. Both workers and the Kellogg Company were reportedly content with the partnership and its outcomes.<sup>9</sup>

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<sup>8</sup>Regarding UI laws, it is important to note, however, that states enacted work-sharing laws between the first enactment in California in 1965 and the early 1980s, but work-sharing legislation has essentially stalled since then.

<sup>9</sup> Case documented by Sophia Muirhead, “Compassionate Downsizing: Making the Business Case for Education and Training Services.” The Conference Board (2003).

Another type of public-private partnership cited by Schweke involved participation and assistance from the greater business community, and the provision of advice, technical assistance, resources, publicity, and job development assistance. The business community was also able to encourage individual firms to collaborate with Rapid Response and voluntarily give advance warning, even if they are not subject to WARN. The author suggested that North Carolina state workforce agencies should partner with appropriate business organizations to hold a statewide meeting on innovative practices in employment security and “compassionate downsizing.”

Messina et al. noted that effective public-private partnerships provided many potential benefits as they typically resulted in leveraging resources, more access to affected workers, program marketing opportunities, training for in-demand jobs, identifying workforce-related challenges, and developing solutions. Successful partnerships required the Rapid Response team and their partners to: understand each other’s roles, responsibilities, and needs, be knowledgeable about the partnering agency or organization, formalize agreements, and maintain confidentiality. Reasons to partner included securing services needed by dislocated workers that the Rapid Response team could not provide alone, managing issues of capacity, and expanding service throughout multiple regions and/or states.

Messina also discussed partnership with private outplacement firms and the benefits of doing so: 1) earlier access to the layoff employer; 2) a wider range of information and services for the layoff employer, resulting in a more complete re-adjustment plan for affected workers; and 3) a coordinated approach to local firms that may employ workers, which promotes efficiency. Also, outplacement firms could provide benefits to local employers who were able to hire the dislocated workers and thus access qualified job candidates at low cost. Finally, the presenters also briefly mentioned Rapid Response teams’ partnerships with training institutions such as community colleges and private training schools. The benefits of these partnerships include streamlining access to re-training for affected workers and providing training providers with increased numbers of students.

## **Linkages with Economic Development and Other Agencies**

Several authors also advocated development of strong linkages with economic development and other agencies to enhance Rapid Response and other adjustment services for dislocated workers. Croft identified economic development agencies at the Federal, state, and local level that could partner with Rapid Response to avert layoffs and provide multiple types of aid for struggling business, such as loans on more favorable terms than market rates, grants for incumbent worker training, funds for research and development of a new product, government contracts for products or services, tax credits or exemptions, and technical assistance on improving business practices. Effective partnerships often included the state Dislocated Worker Unit, economic

development agencies, state or local chambers of commerce, community colleges, and technical institutes.

According to Croft, a prudent state policy balances efforts to support existing mature industries and recruit new industries. Mature industries provide stable, quality employment, while industries based on new technologies, even if they pay good wages, are often volatile. His favored development objective was to promote modern manufacturing techniques for mature industries. He identified the Manufacturing Modernization Extension Services Program, composed of numerous nonprofit entities in approximately 350 centers, as an aid to modernizing business practices and retaining jobs at manufacturing firms across the country. The program is funded by a combination of Federal, state, and local government and private resources. Based on a survey of the program's clients served between 2003 and 2004, these centers assisted in creating and retaining a total of 43,624 jobs and invested \$941 million dollars in modernization services, including incumbent worker training.<sup>10</sup>

Estes, Schweke, and Lawrence recommended that their state workforce system develop strong ties to economic development agencies to support communities and that the state should create a "Community Renewal Response Team." Such teams would be similar to state Rapid Response teams, but would focus on local economic development rather than worker readjustment. The authors suggested that Community Renewal teams could draw on federal, state, and philanthropic resources to support revolving loan funds and other financial resources for local economic development. The authors also recommended that the state support efforts to strengthen at-risk, mature industries through a special commission composed of government, business, labor, and university members that would assist financially troubled firms, and improve services to dislocated workers. The Commission would draw on an "Industry Intelligence System" to gather, examine, and disseminate data on industry trends and innovative practices from other states.

According to Castro, linking with economic development agencies is beneficial but requires key resources to maintain the partnership. The local Workforce Board coordinated the work of the Rapid Response team and the employer service program and reported regularly to the economic development agencies. The WIB faced several challenges in creating the economic development linkages: identifying the roles of each group or agency involved, directing WIB policies towards a "demand-driven business services strategy," and limited funding. In addition, her WIB had

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<sup>10</sup>See Making a Difference for America's Manufacturers. Manufacturing Extension Partnership 2006.  
[www.mep.nist.gov](http://www.mep.nist.gov)

begun working regionally to train the Rapid Response team and One-Stop staff on the key elements of economic development and labor market information for the region.<sup>11</sup>

NGA also strongly recommended integrating economic development, education, and workforce development resources and noted that states were beginning to alter their approaches to serving dislocated workers by acknowledging the need for skilled workers in a “knowledge-based” economy. Several state workforce agencies had attempted to pinpoint high-growth industries and in-demand jobs and to plan how to prepare less-skilled dislocated workers for these positions. NGA also noted that some states were working with employers and educational institutions to identify training needs for job candidates and design “fast track” programs to prepare laid off workers for employment. Other state strategies included development of flexible or modularized training programs that workers could begin and complete on short notice. In addition, states were assembling training resources from diverse funding streams, including co-enrolling customers in several state and Federal programs and helping affected workers apply for state grants and tuition assistance.

NGA also noted that states and regions used partners in the community to assist affected workers. In Michigan, for example, joint adjustment committees collaborated with local economic development agencies, chambers of commerce, and local business organizations to provide job referrals or develop other reemployment initiatives, which resulted in substantial increases in participation rates for dislocated worker services, including training.

## **Labor-Management Committees**

The 1989 GAO report found that the four labor-management committees it studied were successful to varying degrees. First, the committees were able to tailor assistance strategies to meet worker needs by being directly involved in project planning, managing worker progress, and direct assistance to affected workers. Committees conducted worker needs assessments and coordinated with workforce development agencies and post-secondary institutions to facilitate job search assistance and training. Second, the LMCs improved early intervention by arranging suitable methods of informing workers of their options before the dislocation occurred (since in each case the employer gave advance notice). Three of the committees held orientation sessions for workers on readjustment services and three used the worker representatives to provide personalized services, such as regular telephone calls, informal meetings with workers,

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<sup>11</sup> The SPR survey found that 16 states have economic development agencies participating in both planning and attending Rapid Response events while another 10 states use their economic development partners at events only. In response to a question about strategic planning, 29 states indicated that they work with economic development agencies.

circulating newsletters, responding to workers' questions and concerns, and offering motivating "success stories" about those who had found employment.

Third, the committees played a role in program coordination by serving as the focal point for planning and communication between workers and service providers and for monitoring service delivery. Finally, all four committees established worker assistance centers before the layoff onset, and three continued after the dislocation event.

The authors attributed variation in the extent to which LMCs were successful in the readjustment process to several key factors, including effective and prompt state guidance on committee operations, high quality leadership from the LMC chair, and the committee's composition and continued involvement after a layoff. In successful cases, the state attended LMC meetings and guided committee activities. Committee members noted that the state's guidance helped to build effective working relationships between LMC members and partnering agencies, define each party's role, and troubleshoot problems.

In addition to GAO, Schweke also noted that LMCs were useful, even where unions were absent. While the committees may be more difficult to form in such circumstances, the author challenged employers and State agencies, especially in states with relatively few unions, to help unorganized workers and employers to form committees. Schwecke added that a side-benefit of LMCs is the use of peer counseling networks. Peer counseling was initially developed in the early 1980s as a method for training rank-and-file workers or shop stewards to encourage co-workers to participate in readjustment activities. It was actively promoted by the AFL-CIO's Human Resources Development Institute (1995) and has been widely used by a number of state Rapid Response teams, often in collaboration with organized labor.

## **Funding Challenges**

The 2002 GAO report identified several Rapid Response funding challenges, which were due to problems associated with the underlying formula for allotment of dislocated worker funds to states. First, the dislocated worker funding formula is retrospective and does not take into account yearly fluctuations in state dislocated worker events and populations. Second, the use of excess unemployment as part of the formula created volatile increases and declines for many states. Finally, the formula component based on long-term unemployment has also created high volatility.

Since the Rapid Response set-aside is often a proportion of the allotment, there is a linear relationship between changes in the allotment and changes in the set-aside amount, particularly for those states that routinely set aside the maximum 25 percent. Consequently, GAO suggested that Congress consider revising the formula and that the Department of Labor undertake a study

of options to better distribute funds according to states' dislocated worker populations and reduce funding variations.

GAO also found that 20 states modified their Rapid Response process as a result of WIA implementation. Changes included the state assuming a more active role in the process, developing new programs to distribute the set-aside funds to local areas, increasing coordination with partnering agencies, changing the focus of information provided in orientations to “work-first” job-search services instead of training, and shifting state units from one state department to another.

## Literature on Advance Notice

In this section, nine works on advance notice are reviewed and their methodology and findings discussed at length. Of these, eight address Federal law and one focuses on state laws. Overall, the literature suggests that advance notice is beneficial to at least some workers and comes at a very low cost to employers. Possible benefits, however, are limited by at least three serious coverage and compliance questions. First, the law limits coverage to large companies, and then to fairly large dislocations at those companies, thus leaving out most dislocated workers. Second, the literature suggests there are significant compliance problems that are likely the result of both employer confusion and intention. Third, and related to compliance, is the lack of an effective enforcement mechanism, in the absence of legislation authorizing some entity to perform this function. Some state laws, enacted in the 1980s and 1990s, attempt to deal with these coverage and enforcement issues, but their effect is almost completely unknown.

The sources, the methodology used, and their findings include the following:

*U.S. Congress, Office of Technology Assessment. “Plant Closing: Advance Notice and Rapid Response- Special Report.” OTA-ITE-321. Washington, DC: U.S. Government Printing Office (1986)*<sup>12</sup>

**Methodology:** The Office of Technology Assessment (OTA) report was a comprehensive examination of dislocation and response, drawing largely on secondary sources. Sources included: 1) a 1986 workshop, which OTA co-sponsored with GAO, that included experts from private industry, labor unions, academia and state and local workforce agencies; 2) its own research, including case studies of plant closings and anecdotal evidence, and 3) Bureau of Labor Statistics (BLS) and GAO reports to assess the costs and benefits of advance notice and early

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<sup>12</sup> The OTA was a research arm for Congress. It was eliminated in 1995. The document is available at [http://www.princeton.edu/~ota/ns20/year\\_f.html](http://www.princeton.edu/~ota/ns20/year_f.html)



Rapid Response interventions. The OTA published the report three years before the implementation of the WARN law.

**Findings:** OTA found that firms' practices of advance notice varied widely. Drawing on a 1986 GAO survey of establishments with 100 or more employees that experienced a plant closing or mass layoff in 1983 and 1984, OTA reported that 88 percent of larger companies (with over 100 employees) provided some kind of notice of pending layoffs or closings to at least some of their workers, but other workers got little or no specific warning that their jobs would be lost. That GAO report also found that the likelihood of workers receiving advance notice depended heavily on whether the group was unionized or whether the employees were blue or white-collar workers. In fact, 30 percent of employers gave no individual advance notice to blue-collar workers, and another 34 percent gave two weeks or less. On average, blue-collar workers only got 7 days. Unionized blue-collar workers received two weeks' notice compared with two days' notice for non-unionized workers. In contrast, white-collar workers received two weeks' notice. Finally, firms were more likely to provide help with finding a new job to white-collar than to blue-collar workers.

The OTA report also discussed the various benefits that advance notice yields for both employees and firms. These advantages include allowing sufficient time to develop a comprehensive adjustment program for workers, extra time for workers to adapt emotionally to the layoff, increased morale and loyalty from workers who are not laid off, and opportunities to implement layoff aversion strategies. For example, authors noted that many company managers viewed advance notice as an opportunity for companies to maintain a positive reputation among workers who were not laid off and in the community at large. In addition, the report detailed concerns about future notice legislation such as the need for flexibility so that the requirements do not become too burdensome or costly. Concerns were also raised about employers' inability to anticipate layoffs or closings and loss of worker productivity. OTA asserted that while the employer concerns about advance notice were credible, it was easier to find evidence of the benefits of notice than of the costs, which seemed confined to special cases. Finally, OTA reported that the greatest benefits of advance notice depended on a prompt, effective response to workers. These findings appear to reflect an emerging consensus over the costs and benefits of notice in the mid-1980s that led to enactment of WARN and EDWAA.

The OTA report pointed out that one of the benefits of advance notification was the extra time to implement adjustment interventions for dislocated workers. This finding was based on observations of early transition services to dislocated workers in some states before EDWAA required them. However, the authors argued that most workers were not receiving adjustment services. They estimated that, generally speaking, one out of 20 eligible displaced workers was

actually being served.<sup>13</sup> In addition, the authors cite a GAO survey, which observed that 21 and 32 percent of responding employers offered job search assistance and 16 and 25 percent offered assistance with resumé writing, to blue-collar and white-collar workers, respectively.

The OTA report included a limited discussion of Rapid Response (which was not enacted into law until 1988, two years after publication of the report). The report documented efforts of several states to develop Rapid Response teams based at least in part on the Canadian Industrial Adjustment Service model that emphasized labor-management committees.

***Mishel, Larry. "Advance Notice Provisions of Plant Closing: Benefits Outweigh the Cost." Economic Policy Institute: Washington, DC (1988).***

**Methodology:** This policy briefing paper was written to advocate for advance notice. The paper drew on several prior studies on advance notice conducted by government organizations such as GAO, BLS, and OTA, as well as non-profit organizations and stakeholders in the private business sector.

**Findings:** Mishel asserted that advance notice was beneficial to all and created no harm for employers, and that workers who received advance notice generally fared better than those who did not. The author, citing Ehrenberg and Jakobson (1991), contended that advance notice can facilitate labor market adjustments by allowing displaced workers to find employment prior to their date of displacement, reduce the probability of unemployment for individuals, and moderate temporary increases in unemployment rates. In addition, Mishel noted evidence from a report by Swaim and Podgursky (National Science Foundation and the American Statistical Association), which found that advance notice significantly shortens joblessness for most workforce groups.

Given the benefits, Mishel was concerned about the level of compliance with the newly-passed WARN law and its limited coverage. Citing a 1987 BLS survey of mass layoffs in seven states, he found that few displaced workers received advance notice of a layoff or closing. He noted that in 64 percent of layoffs, workers were given no notice at all. The absence of advance notice had a significant effect on the development of appropriate adjustment and training programs for affected workers. In most cases, because employers did not contact state dislocated worker staff, the workforce system did not have sufficient time to plan and implement a readjustment strategy.

Finally, Mishel addressed employer concerns about advance notice, such as diminished worker productivity, worker attrition, and a loss of credit or clientele. The author cited studies or reports by the Committee for Economic Development, the Conference Board, Ehrenberg and Jakobson, and the OTA to conclude that any potential costs either do not outweigh the benefits or simply

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<sup>13</sup> The authors do not discuss how they arrived at the estimated number, but the context suggests that they were summarizing the GAO work.

do not occur at all. He cited a Conference Board report which stated that managers felt that advance notice, combined with other gestures of good faith, actually increased worker productivity. In regard to the employer's potential loss of credit, the author cites the OTA report, which found it difficult to find instances of creditor or customer desertion following advance notice, although it notes that there is potential for this to occur.

***Ehrenberg, Ronald, and George Jakubson. "Why Warn? Plant Closing Legislation," Regulation Magazine: The Cato Review of Business and Government 13, no. 2 (1991).***

**Methodology:** This magazine article, published two years after WARN implementation, retrospectively examined the debate around advance notice and the evidence regarding the extent to which displaced workers received advance notice before WARN, as well as the empirical data on the effects of advance notice on workers and firms. The authors based their analysis on the January Displaced Worker Supplements to the 1984, 1986, and 1988 Current Population Surveys. These bi-annual surveys added dislocation and notice questions to the Census Bureau's normal monthly survey. In addition, the authors conducted a brief literature review of post-WARN practices of notice in plant closings and mass layoffs and interviewed Department of Labor lawyers and state Dislocated Worker Unit staff in the northeastern states. While the quantitative research based on the Current Population Survey was national in scope, the qualitative research on WARN compliance was quite limited. Only one region was examined, and there were no efforts to use multiple sources, such as union, employer or local community representatives. Further, the respondents may have had very limited information. Federal lawyers probably had little access to information beyond the small number of litigated cases, and the newly formed state Dislocated Worker Units may not have had the experience or opportunity to develop better warning systems for non-WARN dislocations, nor adequate data systems to report on WARN notices.

**Findings:** In examining advance notice before WARN, Ehrenberg and Jakubson found that very few workers received formal advance notice before 1989, and even fewer received the quality of notice now required by the 1988 law. The survey research, according to the authors, indicated that only 20 percent of displaced workers received written advance notice and of these, only seven percent of workers reported receiving written notice of the requisite two or more months before they lost their jobs.

The authors found that providing advance notice "significantly increased the likelihood that a displaced worker would not experience any unemployment" because advance notice offered workers the opportunity to find employment before the layoff or plant closing occurred. However, the study found that among laid-off workers who were laid off, there were no significant differences in re-employment rates between those who received advance notice and those who did not. Moreover, the authors discovered that advance notice had no effect on

workers' post-layoff earnings. Finally, they found no evidence that a firm's most productive workers were more likely to quit before the projected layoff or closing date because they received advance notice.

In contrast to other observers in later studies, Ehrenberg and Jakubson asserted that WARN compliance was relatively high, at least in the northeastern part of the country. The article reported that state Dislocated Worker Unit personnel in that region knew of no lawsuits filed for noncompliance and the Solicitor's office of the Department of Labor could only identify eight to ten WARN suits throughout the country. While both Dislocated Worker Unit personnel and the DOL received numerous complaints of non-compliance, Ehrenberg and Jakubson attribute most complaints to worker misunderstandings about the law's coverage. However, later studies by GAO and others conclude that the low number of lawsuits was more likely a reflection of the high costs and improbable benefits of litigating.

Lastly, the authors concluded that WARN did not apply to a substantial number of permanently laid-off workers. For example, during the law's first 11 months, WARN recipients represented only about 4.6 percent of new unemployment insurance recipients in New York. The authors attribute the low percentage of WARN-covered dislocated workers to the legislation's exemptions. Most dislocations occurred in layoffs where the number of workers overall in the business or the number of affected workers was too small to trigger notice.<sup>14</sup>

*Nord, Stephen, and Yuan Ting. "The Impact of Notice of Plant Closings on Earnings and the Probability of Unemployment." Industrial and Labor Relations Review 44, no.4 (1991): 681-91.*

**Methodology:** With this study, economist Nord and political scientist Ting sought to 1) analyze the impact of written advance notice of plant closings or relocations on the reemployment earnings and the probability of unemployment among dislocated workers and 2) determine at what point advance notice became effective in improving post-displacement outcomes of dislocated workers. The study differed from its predecessors in that it sought to examine what was the optimal amount of time for notice if workers were to successfully transition into a new job. The article thus specifically addressed the effectiveness of provisions in the 1988 WARN Act, which mandate 60-day advance notification for employers subject to the law.

After reviewing previous studies, Nord and Ting asserted that inconsistency of previous research on the effectiveness of advance notice is at least partially due to the use of the 1984 and 1986 Current Population Survey Displaced Worker Surveys as data sources. In these surveys, questions on advance notice were limited to whether workers expected or received any sort of

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<sup>14</sup> No efforts were made to distinguish dislocated workers from other types of unemployment insurance claimants.

advance notice of the layoff or plant closing. In contrast, for this study, the authors used the 1988 Survey, which asked workers not only whether they received written or verbal notification but also about how far in advance of the dislocation event the workers received notice.

Nord and Ting limited the dislocated worker sample to non-agricultural workers between the ages of 20 and 65 who were displaced from full-time jobs since January 1983.<sup>15</sup> They further excluded those who did not answer the notice questions or did not remember whether they received notice, yielding an analysis sample of 1,366 workers.<sup>16</sup> The researchers controlled for characteristics such as age, race, gender, tenure, and wages and economic conditions such as industry, blue collar status, and unemployment rate. They also adjusted for recently laid off workers whose job searches had just started before the survey. They analyzed differences among workers by the amount of time prior to layoff notice was received, comparing results for a notice period of less than a month, between one and two months, and more than two months before the dislocation event.

Although Nord and Ting used the more detailed 1988 Current Population Survey DWS, they were unable to examine several potentially significant factors in successful worker transition after advance notice of a dislocation. First, the authors acknowledge that the data do not support analysis of factors relating to company, such as firm size. Second, and perhaps more importantly, the data do not discuss what happened to workers during the notice period. Thus, the length of advance notice may conceal important variables such as services to workers from the public workforce system, company, union, or community sources.

**Findings:** The authors found that advance notice of plant closings and relocations improved workers' chances for re-employment and decreases earnings loss only when notification was provided at least two months prior to the pending dislocation. Advance notice of less than two months had no significant impact of dislocated worker outcomes. The study's results suggest that the 60-day mandatory notice required by the WARN Act of 1988 is appropriate.

In addition, the authors found other factors that affected the probability of re-employment and earnings. For example, dislocated workers with more formal education were less likely to experience one or more weeks of unemployment and less likely to experience high earnings loss when re-employed. Finally, Nord and Ting found that people of color and women fared worse than white men, even when they received 60-day written advance notice of a plant closing or

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<sup>15</sup> The researchers used this particular age range, also used by Podgursky and Swaim, because the DWS only asked dislocation related questions to individuals who were 20 years and older. They also excluded older workers, many of whom retire from the labor market.

<sup>16</sup> They controlled for response bias, which they concluded was not an issue for their analysis.

relocation. When controlling for other variables, these groups of workers were more likely to experience higher earnings losses after re-employment

**Levin-Waldman, Oren M. "Plant Closings: Is WARN an Effective Response?" *Review of Social Economy* 56, no. 1 (1998): 59-79.**

**Methodology:** This article was based on two surveys of state Dislocated Worker Units in 1992 and 1995 and a review of previous research to examine the extent to which WARN is effective in shortening unemployment and increasing re-employment wages for laid off workers. The survey asked about the number of WARN-covered and uncovered layoffs that occurred since enactment in 1988, WARN compliance, the existence of state laws similar to WARN, and how workers who received notice fared. The first survey yielded a 50 percent response rate, and the second survey a 36 percent response rate. For the sake of continuity, Levin-Waldman focused his analysis on 13 states that responded to both surveys. The low response rates and small composite sample size obviously limit the representativeness of the findings. Finally, the author acknowledged that because state Dislocated Worker Unit respondents did not keep good quality files on economic dislocations and WARN activity at the time of the surveys, they were not able to provide accurate data.

**Findings:** Levin-Waldman's literature review found that workers who received at least 60 days of advance notice about pending layoffs generally fared better than those who did not. However, he added that the research was not conclusive and that there were few data from the Dislocated Worker Units that would shed any light on these issues. In his own survey, Levin-Waldman found that only two of the 13 states in the survey had collected any information on outcomes<sup>17</sup>

The author also reported that almost 50 percent of the state Dislocated Worker Unit respondents thought that the WARN legislation should be rewritten to cover a wider number of economic dislocations and that the law should be assigned to an agency for enforcement. Levin-Waldman concluded that "it makes no sense to have legislation which has no teeth to it."

**Government Accountability Office (GAO). "Dislocated Workers: Worker Adjustment and Retraining Notification Act Not Meeting its Goals." *GAO/HRD-93-18*. Washington, DC (1993).**

**Methodology:** Congress asked GAO to address several issues that underlie the concerns of most of the literature on advanced notice discussed in this section of the paper: 1) the proportion of mass layoffs and plant closures that are actually subject to WARN requirements, 2) compliance issues regarding the extent to which employers subject to WARN actually provide advance

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<sup>17</sup> SPR's survey of state Dislocated Worker Units, which had a higher response rate, only turned up a handful of states that had data that were suitable for tracking outcomes for workers who received Rapid Response services.

notice, and 3) identifying issues that employers and workers face in understanding their obligations and rights according to the law.

GAO used three methodological approaches to address these issues. First, the evaluators analyzed dislocation events by matching BLS Mass Layoff Statistics data with WARN notices in eleven states. The GAO did not specify its selection criteria except to say that the states accounted for 55 percent of the closures and layoffs reported in 1990 to the Mass Layoff Statistics Program. The Mass Layoff data, which includes information on layoffs affecting 50 workers or more in a five-week period, produced 1,606 events in these eleven states. GAO excluded events not subject to WARN coverage and focused more heavily on closures than layoffs, yielding 149 dislocations to be examined.<sup>18</sup> GAO researchers attempted to match each mass layoff event to the states' WARN notices to determine whether the events appeared to be subject to WARN and to determine how many employers actually provided notice. Second, to determine timeliness and completeness of the information provided during notification, GAO examined a nationwide random sample of 397 WARN notices, representing roughly 17 percent of notices provided in 1990. Then, GAO surveyed the 397 employers, with a response rate of 63 percent, about their experience with the WARN law. Third, GAO interviewed employers who had filed WARN notices, staff at several state Dislocated Worker Units, and groups of dislocated workers.

Three major methodological limitations emerged in this work. The first was the focus on closures (and not layoffs) to examine compliance. Layoff employers, according to several other authors, were less likely to comply with WARN, and, therefore, compliance may be over-reported. The second was the modest response rate in the employer survey, a fact of considerable importance in a survey about legal compliance. And finally, the BLS confidentiality pledge precluded GAO from contacting employers to verify and gain additional information.

**Findings:** The GAO found that the tendency for employers to provide 60-day advance notice increased after WARN became law. However, there continued to be areas of concern about coverage and compliance. For example, while WARN only targets large firms and large dislocations, many events at such firms are not subject to the law. In the events that GAO examined, half of the firms with 100 workers or more were not subject to WARN, mostly because the layoff event did not affect one-third of the workforce. Even when layoffs affected 250 workers or more, 41 percent of them were exempt from the law. Furthermore, even when layoffs or closings properly were subject to WARN, many employers did not comply with the

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<sup>18</sup> A BLS Mass Layoff event is triggered by 50 UI claims over a five-week period, so some WARN layoffs that were spread over WARN's allowable 90-day period might not show up in the BLS data.

law. By matching dislocation events from the Mass Layoff data to state Dislocated Worker Unit data, GAO found that only 46 percent of employers subject to WARN submitted notices. In addition, in their analysis of the nationwide sample of WARN notices, GAO noted that 29 percent of firms provided workers with fewer than 60 days advance notice and did not offer any explanation.

In spite of the coverage gap and widespread lack of compliance, GAO also found that very few workers or worker representatives filed suit to recover their losses. In fact, from the law's implementation to December 1992, GAO could only identify 66 court cases related to non-compliance with WARN. According to interviews GAO conducted with lawyers and Dislocated Worker Unit staff, workers and their representatives might have been discouraged from filing suit because of uncertain outcomes and high costs. These respondents suggested that the lack of enforcement of the law may also be a reason for low compliance. Consequently, GAO recommended that Congress consider giving enforcement authority to the Labor Department.

The employer survey, despite its modest response rate, still offered insight into employer understanding of WARN requirements and their perspective on the law's costs and benefits. The survey results suggested that these employers generally did not understand the law's requirements, despite clarifying regulations from the Department of Labor. For example, about one third of the respondents noted that they were confused about specific provisions in the law. The causes of the confusion were most frequently provisions on the time frame of the dislocation event and the definition of the single site where the event occurred. Nonetheless, many of the employers acknowledged the benefits of advance notice for workers, with almost half of the employers stating that they believed that advance notice promoted quicker re-employment.

Finally, the respondents also suggested that the costs of notice were minimal, despite the general business opposition to notice based on cost. The employers said that the process costs were \$500 or less, and only 29 percent of employers claimed that productivity decreased after giving notification.

***Government Accountability Office (GAO). "The Worker Adjustment and Retraining Notification Act: Revising the Act and Educational Materials Could Clarify Employer Responsibilities and Employee Rights." GAO-03-1003. Washington, DC (2003).***

**Methodology:** In 2003, GAO covered the same ground as in its 1993 report on WARN. This time, however, the study used a larger national random sample of 600 WARN notices but did not conduct an employer survey. Instead, to identify issues that employers and workers faced in understanding their obligations and rights under WARN, GAO conducted interviews with dislocated worker officials in all 50 states, labor experts, employee and employer groups, law firms, and employers from a randomly selected sample of 50 that provided WARN notices in 2001. GAO was able to contact only 32 of the 50 employers, and of these, nine employers



declined to participate. To examine compliance, this time GAO provided BLS with the WARN notices from each state. Finally, in this study, GAO reviewed all reported, WARN-related court cases decided between 1998 and 2002 to identify key compliance issues.

**Findings:** GAO found that the proportion of dislocation events subject to WARN decreased from its first report. Only 24 percent of all dislocation events in 2001 appeared to be subject to WARN requirements as opposed to about half of the dislocations in 1990. The drop was even more significant when considering just mass layoffs, of which only 13 percent were subject to WARN. Data suggest that most workers affected by mass layoffs were not covered by the advance notice law. Specifically, the 13 percent of WARN layoffs affected about 300,000 workers, while the other 87 percent affected over one million. GAO acknowledged several possible explanations for this phenomenon. First, the nature of economic dislocations could have changed. For example, employers may have laid off workers during longer lengths of time, or employers could be hiring more temporary workers who do not count towards WARN coverage. However, GAO did not further investigate the decrease in WARN-related dislocations.

In addition, the 2003 GAO study suggested that overall compliance with WARN had decreased since its 1993 report. For example, GAO found that employers provided notice for about 36 percent of all dislocations that appeared to be subject to WARN, as compared to the 46 percent found in the 1993 GAO report. In addition, of the employers that issued WARN notices, the evaluators estimated that only 68 percent provided at least 60-day notices. As in the previous study, compliance is lower in mass layoff events than closings. Employers provided notices for 46 percent of plant closures that appear to be subject to WARN compared to 26 percent of mass layoffs.

The GAO identified several reasons for low WARN compliance. First, based on interviews with employer and worker representatives, GAO suggested that the low rate of advance notice for events may be due to employers engaging in alternative practices such as asking employees to waive their right to advance notice in exchange for severance pay.<sup>19</sup> A second factor in low compliance may be employer misunderstandings of WARN requirements and definitions. Employer respondents noted that they were particularly confused about whether their mass layoff event was subject to WARN. On the other hand, GAO also attributed voluntary WARN notices by non-covered companies to confusion, but it seems at least as plausible that companies gave a WARN notice because they wanted to help their workers and communities. A third factor may come from the Federal courts that have applied the WARN damages in different ways: for

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<sup>19</sup> The remedy under WARN for violations of worker rights is the pay and benefits that the worker would have received during the notice period.

example, some courts have calculated restitution by calendar days and others have used workdays.

The recommendations in this GAO report focus more on employers' misunderstanding, while its 1993 predecessor focused on a lack of enforcement. As such, the report does not renew the 1993 recommendation that Congress should require the Labor Department to enforce the law. Instead, GAO recommended that Labor further develop materials and offer training to promote employer and employee understanding of each part's rights and responsibilities. In addition, GAO suggested that Congress provide clearer guidance on implementing issues such as defining how damages are calculated.

*Van Horn, Carl, William M. Rogers III, Neil Ridley, and Laurie M. Harrington. John J. Heldrich Center for Workforce Development and Edward J. Bloustein School of Planning and Public Policy at Rutgers University. "Getting Back to Work: New Public/Private Strategies for Laid-Off American Workers." Rutgers, The State University of New Jersey (2005).*

**Methodology:** The report drew on various existing data sources as well as in-depth interviews and focus groups with key stakeholders to examine the extent to which firms: 1) offer advance notice and 2) leverage resources with other public and private agencies in order to implement effective adjustment strategies for displaced workers. The objective of the study was to provide recommendations on "how to share the burden of dislocation more equitably among workers, employers and the government," given that workers bear the brunt of that burden. The authors based these recommendations on an analysis of empirical data from the 2004 Current Population Survey/Dislocated Worker Supplement and the Heldrich Center's own *Work Trends* surveys (conducted in 2003 and 2004), which observed displaced worker experiences between 2001 and 2004. These *Work Trends* telephone surveys contained responses from 1015 and 1007 randomly selected individuals in the workforce, respectively. The samples of the two worker surveys were weighted to match Census estimates for regional representation, age, educational attainment, gender, and race. In addition, the 2004 *Work Trends* survey included phone interviews with 502 randomly selected employer respondents with five or more employees from Dun and Bradstreet's database of American corporations. The authors asserted that the sample for the employer survey is representative of the nation's employers because the percentage of workers employed by a firm with fewer than 5 employees is only five percent. However, the authors did not clearly describe the response rate for any of the surveys.<sup>20</sup>

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<sup>20</sup>In the *Work Trends* surveys, the authors reported that 1,484 and 1,462 adults were contacted, but only adults in the labor force received a full interview. Fourteen interviews were started but not completed. No response rate information was given for the employer interviews. The sampling error for the worker surveys was +/- 3% and +/- 4% for the employer surveys.

The Heldrich Center report also drew on several other sources:

- A national telephone survey with 192 dislocated workers (54 percent response rate) to identify services they received from public and private entities to support their reemployment or retraining.
- Eight focus groups with a total of 84 dislocated workers in seven One-Stop and social service centers across the country to discover how workers learned of layoffs, the services and severance that workers received, and how they reacted emotionally to their job loss.
- Structured interviews with human resource representatives, outplacement firm executives, and dislocated worker program administrators.

The authors did not describe the selection criteria used to identify respondents in any of these data collections. Finally, authors reviewed current literature on the WARN legislation, trends in worker displacement, and services offered to dislocated workers such as Unemployment Insurance benefits, adjustment programs, and retraining.

**Findings:** As in other past studies, the Heldrich Center found that, although firms varied widely in the type of notice they offered employees, a large number provided very minimal notice. Needless to say, firms not covered by WARN were less likely to offer advance notice. This was especially true for small firms whose dislocation events were highlighted in the *Work Trends* surveys. For example, in the 2004 survey, 30 percent of small firms reported providing no more than one week's notice of a pending layoff or closing. In addition, more than a third of respondents in the worker survey reported not receiving any warning of job loss. On the other hand, almost one-fifth of the employers surveyed reported giving one month advance notice to employees, and one-fourth provided more than a month's notice. And, not surprisingly, workers under collective bargaining agreements tended to receive greater notice, including some agreements with more than 60 days of notice.

The report also addressed issues of non-compliance with the WARN law. First, the authors referred to the 1993 and 2003 GAO studies, which found confusion about employer responsibilities related to the law. However, the Heldrich Center authors suggested that many employers have less benign intentions, noting that "because of WARN's complexity and ambiguity, firms can easily circumvent the federal notification requirements." Based on employer-representative interviews, there were two approaches employers used to avoid advance notice. First, some employers issued an "open notice" that identifies a group of workers in a specific geographical area as being affected by a potential layoff, thereby avoiding the need to issue more detailed notices in the future. The second strategy was to organize small, rolling layoffs that did not meet the WARN threshold.

In addition, the report provided insight into workers' views on adjustment services from the public workforce system. The Heldrich Center reported that, of the workers who received

services, 44 percent noted that job search assistance was the most helpful, followed by job training or continuing education. But the report did not distinguish the role of the Rapid Response in organizing or providing any services from other sources.

Finally, the report described three different approaches manifested by employers. The first was the “go-it-alone” approach, in which employers did not work with the workforce agencies because they were suspicious of government involvement, did not want to attract media attention to their situation, or were simply unaware of public services available.

The second approach was described as “hands-off,” in which employers referred affected workers to public assistance but did not participate in Rapid Response activities. In this model, some firms provided state Dislocated Worker Unit staff with lists of affected workers. Employers using this approach noted that referring workers to the public workforce system was less expensive than hiring a private outplacement firm.

Finally, some employers opted for the “public-private” model, in which they worked collaboratively with the public system. This model ranged from allowing meetings to occur on the work site to helping to set up an on-site transition center. Employers who engaged in this method reported that workers appreciated convenience of the service, which put them more “at ease” with the layoff. The report did not provide quantitative information as to the number of employers that engaged in each of these approaches or the pertinent outcomes from such models.

## **State Laws**

In addition to the Federal WARN law, some states and cities enacted their own advance notification laws. Some of these preceded WARN, while others followed to address specific coverage or notification issues absent from WARN. The most comprehensive description of these laws can be found in the article by Kenneth De Meuse and Evgeny Dobrovolsky who documented these requirements in an effort to inform industry leaders. However, as far as the effect of these laws on workers or communities or Rapid Response is concerned, almost nothing is known.<sup>21</sup>

***De Meuse, Kenneth P., and Evgeny Dobrovolsky. “The Worker Adjustment and Retraining Notification Act: A Closer Look.” Human Resource Planning 27, no. 4 (2004):19+.***

**Methodology:** The authors identified state advance notice laws and discussed how these intersect with the Federal law. The authors sent out open-ended electronic surveys to 53 state

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<sup>21</sup>One study of Maine’s notice law, published in 1984, found that notice lowered unemployment in that state. Nancy R. Folbre, Julia L. Leighton, Melissa R. Roderick, “Plant Closings and Their Regulation in Maine, 1971-1982, *Industrial and Labor Relations Review*, Vol. 37, No. 2 (Jan., 1984), pp. 185-196.

Dislocated Worker Unit Coordinators requesting information on state notice requirements and had a 100 percent response rate. The authors did not address the issue of whether state Dislocated Worker Unit coordinators provided complete, accurate, and up-to-date information on state laws, nor do they discuss their methodology for verifying responses. In addition, the authors did not discuss compliance and enforcement of these laws or the laws' impact on employers and workers.

**Findings:** Seventeen states, the Virgin Islands, and some municipalities had enacted laws regarding advance notification. These laws varied in their coverage, but were often more demanding of employers than the Federal WARN law. Seven states required the standard 60-day advance notification; however, two states, Maryland and the Virgin Islands, required firms to provide 90 days notice. At least two states asked employers to act on “good faith” to notify employees as soon as possible. Also, ten states lowered the threshold of employed personnel that render firms subject to these laws. For example, Hawaii, Maryland, Massachusetts, Tennessee, and Wisconsin all require employers with 50 or more employees to comply with advance notice laws. The Virgin Islands lowered the number to ten, and California law covers employers with seven or more employees. In addition, about nine state laws called for employers to notify additional government and community stakeholders. At least eight state laws required employers to offer additional allowances to dislocated workers such as extended health care coverage, severance pay equal to a week for each year of tenure, and additional dislocated worker allowances and funding for re-training. Finally, at least one state, Illinois, granted enforcement authority to a state agency.

## Conclusions

In general, the literature on Rapid Response offers a rich account of the multiple ways state Rapid Response units serve dislocated workers. It is full of anecdotal evidence and case studies that highlight innovative approaches and provide detailed accounts of how certain practices are implemented. However, this literature generally lacks quantitative data and rigorous analysis of which practices are most effective for whom; but it does reflect an emerging consensus about promising practices such as early warning systems, linkages with economic development, layoff aversion, on-site readjustment centers, labor management committees, and a variety of public-private partnerships.

Ultimately, rigorous studies of Rapid Response that examine impact or effectiveness will depend on having sufficient data available. Currently, there are shortcomings in both event and participant data. Although states have been collecting event data for some time, no national standards apply to the type and format of such data. On the participant side, until recently, almost no states recorded individual receipt of Rapid Response services or sought some form of

registration in the workforce system at Rapid Response orientations. Several states have now moved in that direction, and this trend is abetted by the general movement towards increased registration in WIA and Wagner-Peyser programs. If consistent data on both events and participants were collected, it might be feasible to estimate overall Rapid Response effects and the benefits of some Rapid Response practices.

The literature on advance notice demonstrated the intense debate among politicians, policy makers, academics, worker groups, and business representatives about the impact of advance notice laws. But, with the enactment of WARN in 1988, the political debate largely ended, although researchers continued to attempt to document the law's effects for a short time in the early 1990s. While there are still important research issues regarding the effect of notice on some worker groups and the length of notice—the 60 days required by WARN quickly became the standard yardstick—the existing literature appears largely settled on the conclusions that notice tends to increase the probability that individuals will avoid unemployment, increase take-up rates for re-employment services, and promote worker and community morale. On the employer side, substantial concerns had been raised during the political debates that providing notice would adversely affect employers, i.e., that they would lose access to customers and credit and that workers would flee or sabotage production. But the works reviewed here found that such effects were neither significant nor widespread.

Despite the WARN act and similar state laws, coverage and compliance problems remain and the literature is clear that most dislocated workers do not receive a 60-day written advance notice. The WARN law only covers a small percentage of all layoffs and plant closures, and many employers subject to WARN do not comply with the law. The literature suggests that continuing employer confusion about their responsibilities and a lack of enforcement are reasons for low compliance.

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