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# Bullying and Violence in the Workplace

Prevention and Intervention Strategies

March 12, 2014

Foster Pepper  
Seattle, Washington

Presented by:



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Presented by:



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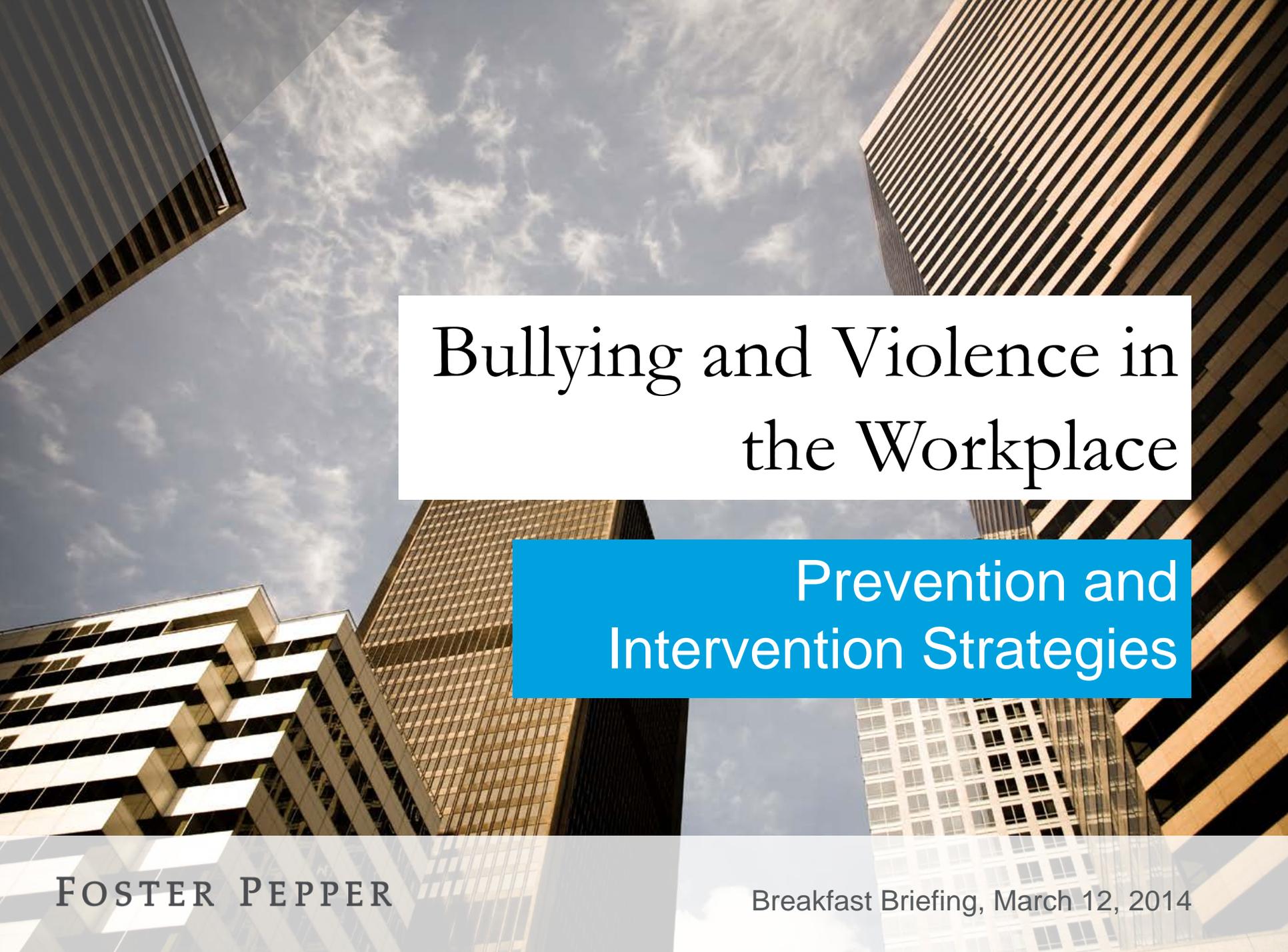
# Presentation

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FOSTER PEPPER PLLC

A low-angle, upward-looking photograph of several modern skyscrapers with glass and steel facades. The buildings are set against a bright blue sky with scattered, wispy white clouds. The perspective creates a sense of height and scale.

# Bullying and Violence in the Workplace

## Prevention and Intervention Strategies



# What We'll Cover

- Legal framework for workplace violence and bullying
- Psychology of the offender and the bully
- Preventive steps
- Responding to critical situations

An aerial photograph of a city skyline, likely San Francisco, with a white rectangular text box overlaid in the center. The text box contains the title "Workplace Bullying" in a black serif font. The background shows a dense urban landscape with various skyscrapers and buildings under a cloudy sky.

# Workplace Bullying

# Bullying Case Study: Jerry the Jerk

- Earlier complaints unresolved
- Tom complains about Jerry
  - Unfairly and angrily critical, dismissive, unsupportive, and adversarial
  - Unfavorable and unjustified performance review

# Bullying Case Study: Jerry the Jerk

- Other subordinates describe Jerry
  - Very effective, committed and connected
  - Unsupportive, undermining, untrustworthy, and hypercritical
  - “Throws people under the bus”
  - Ambitious, will lie if expedient, blames others
  - “Turns on” people for no apparent reason
  - “Hoards” critical information and likes limelight
  - Plays favorites, especially Agnes

# Legal Framework for Bullying

- Bullying Laws
  - No specific anti-bullying laws
  - Legislative Efforts: “Healthy Workplace Bill”
  - Existing framework: anti-discrimination regulations, common-law torts

# Legal Framework for Bullying

- Policies
  - Anti-bullying
  - Anti-discrimination/Harassment
  - Workplace Violence
  - Respectful Workplace/Civility

# Why Bully?

- Motives
  - To increase control over the targeted co-worker, subordinate, manager, or others
  - For personal gratification and/or to protect or advance the bully's job conditions or career

*The repeated, intimidating and demeaning mistreatment of other individuals*

# Examples of Bullying Behavior

- Constant criticism
- Insisting on “my way”
- Refusing to delegate
- Public belittling
- Blocking career opportunities
- Isolating a subordinate
- Reputation destruction
- Physical intimidation and threats

*“Making life difficult.”*

# Effects of Bullying on Targets

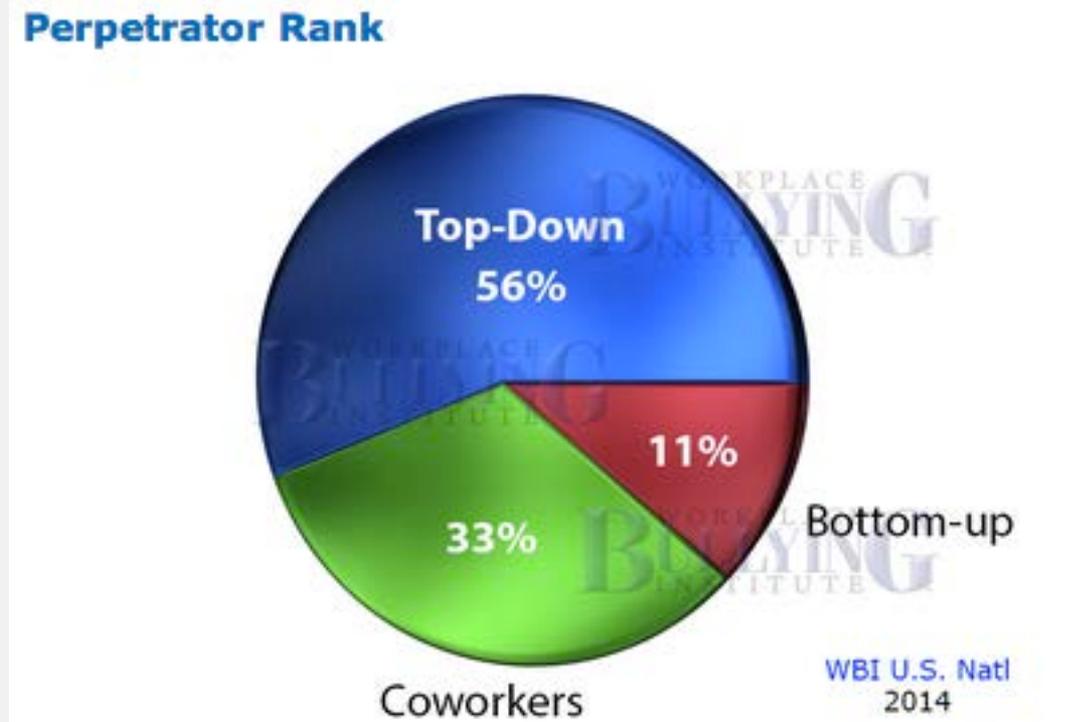
- Psychological Effects
- Organizational Effects

# Bullying Statistics

- 27% of U.S. workforce report being bullied at work
- 21% report witnessing bullying at work
- 72% are aware of workplace bullying

*Who's doing it?*

Source: WBI National Study, 2014



# Response to Bullying

- Investigation
- Action plan
- Monitor progress
- Maintain documentation

# Barriers to Effective Management

- Denial
- It's hard work
- Permissive work culture

*Avoidance*

# Managing Bullying

- Identify specific observable bullying behaviors as misconduct
- Identify targets and the details of the impact on them
- Identify the organizational & business impact
- Develop & present clear behavioral expectations
- Monitor closely with regularly scheduled meetings
- Frequent check-in with targets
- Stakeholders need to be on same page!

*Progressive Management*

# Prevention Strategies

- Policies
- Training
- Workplace culture
- Hiring practices

A blurred photograph of a person in a dark suit walking through a modern office hallway. The person is carrying a briefcase and is moving from left to right. The background shows a brightly lit corridor with wooden paneling and glass railings. A white rectangular box is overlaid on the center of the image, containing the text "Workplace Violence".

# Workplace Violence

# Threats of Violence Case Study: Jerry the Jerk

- Urgent meeting with Agnes
  - Discloses affair
  - Trying to break it off
- Agnes afraid of Jerry
  - Threats (“If I can’t have you, nobody will.”)
  - Owns firearms
  - Physically abused his wife; police to their house
  - “He drinks too much”

# Threats of Violence Case Study: Jerry the Jerk

- Coworkers
  - Some fear for Agnes' safety
  - Some fear for own safety
  - Some resent “favors” from Jerry
- Past management response: tolerated bullying
- Agnes' requests
  - Don't tell Jerry
  - Don't fire me

# Prevention Strategies – Workplace Violence

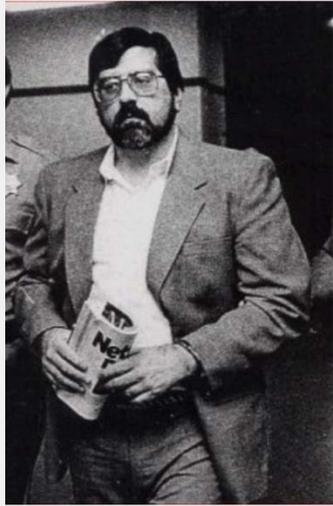
- Policy
- Hiring
- Security measures
- Response team
- Training

# Response to Threat – Workplace Violence

- Fact-gathering
- Risk assessment
- Action plan
- Monitor progress
- Maintain documentation



**Who is at risk for what and what are the odds?**



# Two dead in Vancouver workplace shooting

## Police investigating motive for late-morning shooting at paint distributor

By [Emily Gillespie](#) and [Patty Hastings](#)

Published: February 3, 2014, 11:40 AM

Updated: February 3, 2014, 11:36 PM



Police secure the scene of a shooting at a business park in Fruit Valley on Monday February 3, 2014.

[Buy this photo](#)

# Workplace Revenge Homicides

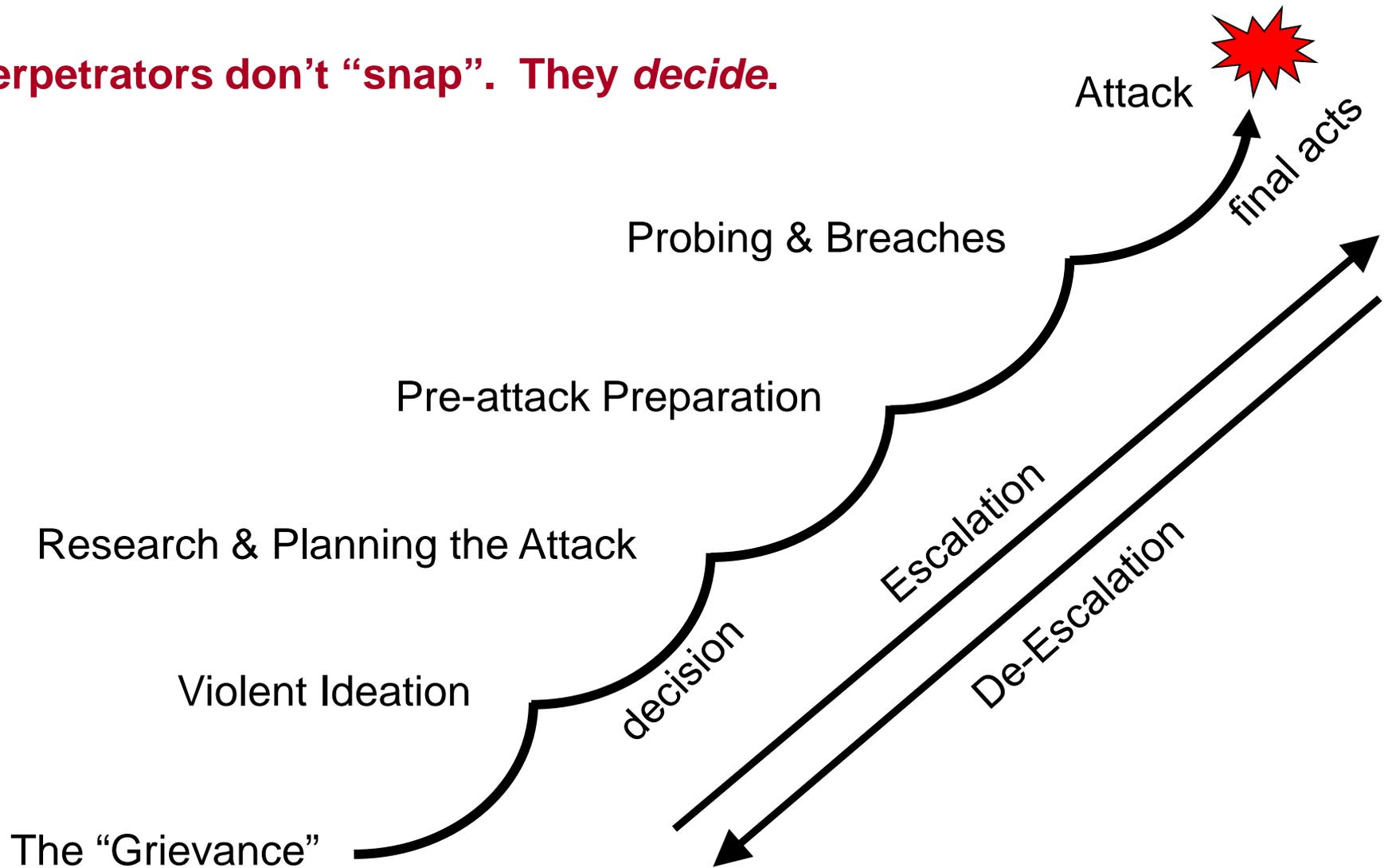
- Everyone's worst nightmare...
  - Why?
  - Suicidal decision
  - "Violence is justified"

# Workplace Revenge Homicides

- Are they mentally ill?

# Pathway to Workplace Targeted or Intended Violence

**Perpetrators don't "snap". They *decide*.**



Adapted with permission from F.S. Calhoun and S.W. Weston (2003). *Contemporary threat management: A practical guide for identifying, assessing and managing individuals of violent intent.*

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# Some encouraging facts

# Warning Signs of Violence

- Threats – verbal, electronic, symbolic
- References to workplace or notorious violence
- Entitled, rigid, blaming
- Anger and intimidation
- Paranoia
- Psychosis with violent content
- Depression, suicidal tendencies

# Warning Signs of Violence

- Romantic fixation - stalking
- Firearms/weapons (in a troubling context)
- Amphetamine/alcohol abuse
- Serious personal stressors
- History of violence or pattern of marked interpersonal conflict
- Threatened with imminent loss, especially a job
- *Escalation* of above signs

# Possible Intervention Options

- Background checks & investigations
- Collateral interviews with witnesses, managers, etc.
- Interview with subject-employee or student:
  - Defusing
  - Limit setting
  - Explanation of institution's position and expectations
- Professional risk assessment & defusing actions
  - Information gathering

# Possible Intervention Options

- Protective orders
- Heightened security measures
- Law enforcement assistance, arrest & detention
- Treatment - voluntary or involuntary
- Case-appropriate separation steps & severance packs

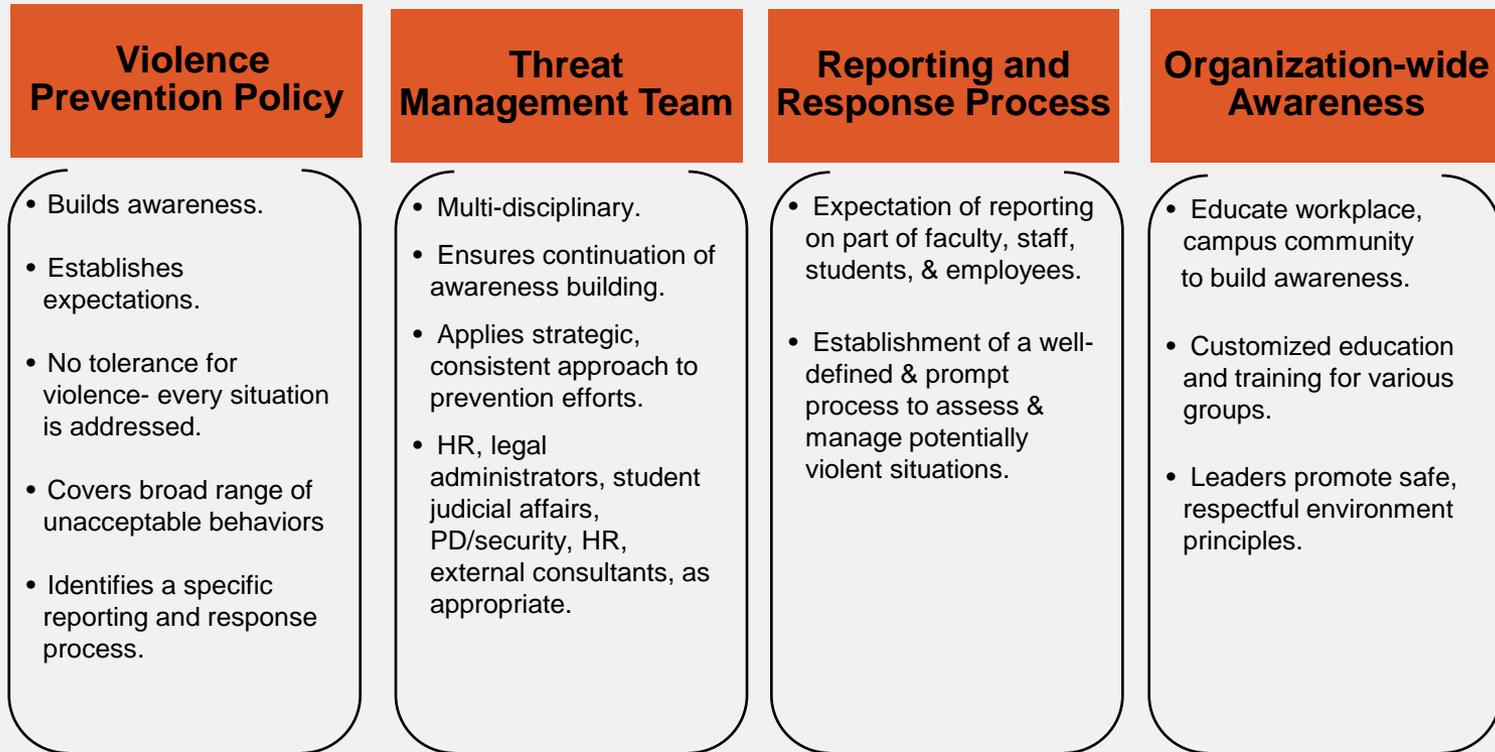
*But no “cookbook” – judgment always needed*

# Strategic Guidelines Highlights

- Unless imminent risk, *slow down*, assess first
- Anticipate potential *trigger* events
- Try to protect self-esteem vs. responses that increase shame and rage
- Avoid “going to war” if possible
- Realize pros and cons of short-term solutions

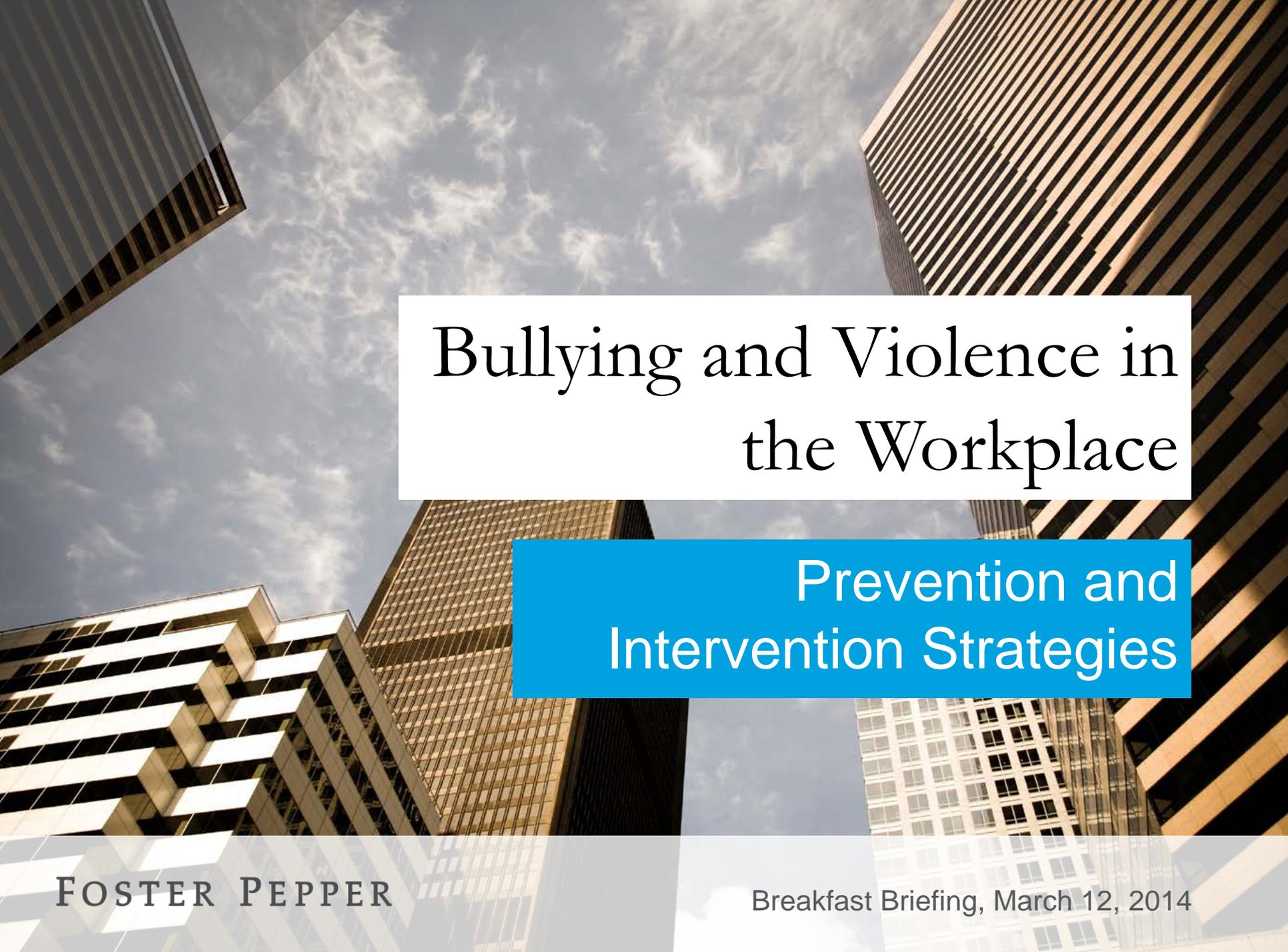
**“When in doubt, confer”**

# Elements of Successful Threat Management Programs



*Confidence in the program is built through cumulative successes*

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A low-angle, upward-looking photograph of several modern skyscrapers with glass and steel facades. The buildings are set against a bright blue sky with scattered, wispy white clouds. The perspective creates a sense of height and scale.

# Bullying and Violence in the Workplace

## Prevention and Intervention Strategies

An aerial photograph of a city skyline, likely San Francisco, featuring numerous skyscrapers and dense urban development. A white rectangular text box is centered over the middle of the image. The sky is overcast with soft, grey clouds. A grey diagonal shape is visible in the top-left corner of the page.

# Additional Materials

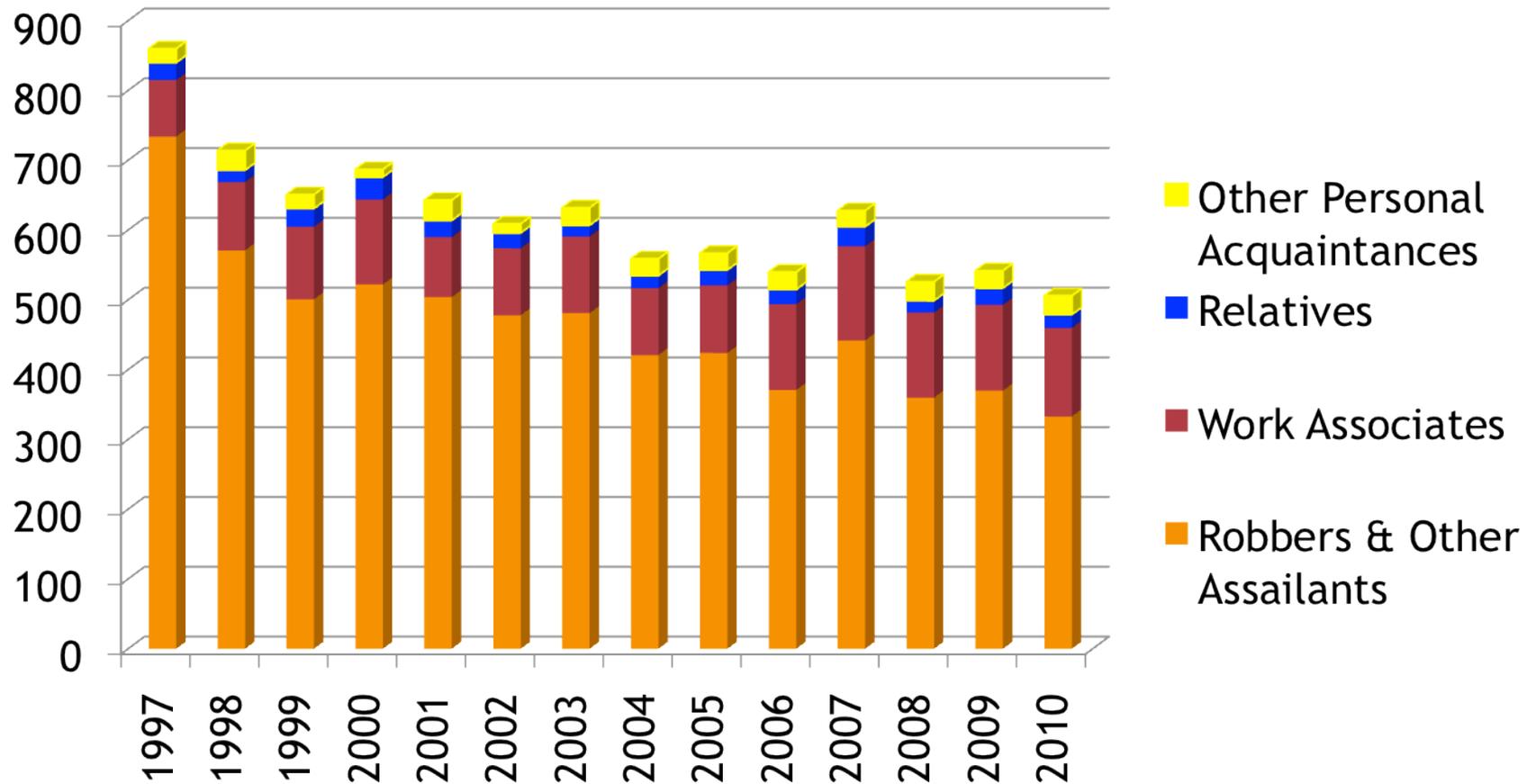
# Workplace Violence

- Workplace violence more likely where employees:
  - Work directly with public
  - Exchange money with public
  - Have a mobile workplace
  - Work alone or in small numbers
  - Work late night or early morning
  - Work in high-crime areas
  - Guard valuable property
  - Work with unstable or volatile persons
  - Work in community-based settings or house-to-house

# Workplace Violence

- Four types of potential perpetrators
  - Employee
  - Domestic violence
  - Customer or client
  - Criminal

# Workplace Homicides by Perpetrator Relationship to Victim 1997-2010



SOURCE: Bureau of Labor Statistics, Census of Fatal Occupational Injuries, 2010 Data

# Online Resources

[Washington Workplace Law](#) – Foster Pepper’s employment law blog has information on preventing and addressing workplace bullying and violence

[Work Trauma Services, Inc.](#) – WTS’ website includes information on workplace and campus violence risk assessment and prevention

[Washington State Department of Labor & Industries](#) – L&I’s safety research program site contains fact sheets, reports and workplace bullying prevention materials

[Healthy Workplace Bill](#) – Website tracks and promotes anti-workplace bullying legislation in the U.S.

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# Speaker Bios

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FOSTER PEPPER PLLC



## Steven R. Peltin

### Member

#### Seattle

T 206.447.6215

F 206.749.2094

[pelts@foster.com](mailto:pelts@foster.com)

#### **PRACTICES**

Employment and Labor Relations (Chair)

Financial Institutions

#### **INDUSTRIES**

Emerging Companies and Venture Capital

Retail

Tax-Exempt Organizations

#### **PRACTICE OVERVIEW**

Steve chairs the firm's Employment and Labor Relations practice and his practice covers the gamut of employment and labor law. His advice practice is dedicated to helping employers solve problems such as employee discipline and discharge, leaves of absence, discrimination and harassment claims, and threats of employee violence. Steve enhances employee handbooks and prepares and negotiates employment, confidentiality, and non-compete agreements. He also counsels executives and professionals on employment and separation agreements, and assists with corporate transactions such as purchases and sales of businesses.

Steve has extensive experience in litigation and represents public and private employers in lawsuits claiming discrimination, harassment, wrongful discharge and violations of wage and hour, employee benefits, trade secrets, and non-compete obligations. He also appears before local, state, and federal administrative agencies and arbitrators in employment and labor matters.

#### **REPRESENTATIVE CASES**

- Won a jury trial for an employer accused of age discrimination by laid-off union employee.
- Prevailed in a hearing before the United States Department of Labor brought by a union business agent who claimed that the company conspired with the union to discharge him.
- Co-counsel in class action claiming pay for commuting in company vehicle; certification defeated and individual claim resolved promptly.
- Co-counsel for large employers in two U.S. Department of Labor collective actions claiming that employees worked off the clock; summary judgment obtained in one case, and the other was settled favorably.
- Won summary judgment on discrimination / harassment claim for financial services company.
- Obtained temporary restraining orders in two cases where employees removed and refused to return computerized documents and information.
- Won summary judgment on sex bias claim by male employee of performing arts client.

## Steven R. Peltin (continued)

- Convinced OSHA that a safety whistleblower on a construction site was not subject to a hostile work environment.
- Obtained anti-harassment orders against former employees.
- Defended company in ERISA case brought by former executive seeking payments under a Supplemental Executive Retirement Plan.

### **REPRESENTATIVE TRANSACTIONS**

- Employment and labor counsel in sales of business, including drafting of purchase agreement language, preparation of offer letters, executive employment agreements and employee communications.
- Assistance to client in reductions in force.
- Counseling of clients facing threat of workplace violence.
- Creation of documentation for background investigations, hiring, leaves of absence, requests for disability accommodation, last chance agreement and severance agreements.
- Preparation on policies such as travel pay, use of cell phones and blogging.
- Management training on employment law topics, including avoiding harassment and discrimination, performance management and hiring.

### **HONORS & AWARDS**

- *The Best Lawyers in America*<sup>®</sup>
  - Labor Law – Management, 2012-2014
  - Litigation – Labor & Employment, 2013-2014
- Best in the Business: Leading Lawyers in the Puget Sound Region, *Seattle Business* magazine
  - Labor: Management, 2013
  - Litigation: Labor & Employment, 2013

### **PROFESSIONAL/CIVIC ACTIVITIES**

- Seattle Theatre Group
  - Board of Directors
  - Executive Committee
- University Preparatory Academy
  - Board of Directors, 2011-2012
  - Chair of Personnel Committee, 2011-2012
- Foster Pepper Pro Bono
  - Featured in 2012 Pro Bono Annual Report

## Steven R. Peltin (continued)

### PUBLICATIONS

Steve Peltin is a frequent contributor to Foster Pepper's Washington Workplace Law blog. See the latest at [www.washingtonworkplacelaw.com](http://www.washingtonworkplacelaw.com).

- "Effective Negotiation of Executive Employment Agreements," Author, *Inside the Minds: Negotiating and Employment Agreements, Leading Lawyers on Constructing Effective Employment Contracts*, 2012 Edition
- "Employers: Beware of High School Diploma Requirements," Author, *WIB HR & Training Digest*, February 2012
- "Bad Acts: Smaller Employers Should Confront Threats of On-The-Job Physical Assaults," Author, *Washington Journal*
- "Telecommuting: Legal and Management Risks For Employers," Author, *Corporate Counsel* magazine
- "Reducing Telecommuting Management Risks," Author, *National Underwriter* magazine
- "How To Reduce Workplace Violence," Author, *National Underwriter* magazine
- "50-State Survey of Employment Libel and Privacy Law, Washington Chapter," Author, Media Law & Resource Center
- "Hiring Employees: Disability Questions and Medical Exams," Author, *Realty & Building*
- "Workplace Sexual Harassment," Author, *Realty & Building*
- "Hidden Threats – There are steps you can take to prevent violence in the workplace," Co-author, *Washington CEO* magazine

### NEWS

- "[Court Overturns Loan Officer Overtime Ruling in 'Win' by MBA](#)," Quoted in *Reverse Mortgage Daily*, July 2013
- "'In Person' Feature - Best Practices for Employers to Comply with the City of Seattle's Paid Sick and Safe Time Ordinance," Interviewed in *Puget Sound Business Journal*, November 2012
- "It's Not Just Paid Time Off -- It's the Law: Attorneys explain what Seattle's new sick leave ordinance means for employers," Quoted in *Puget Sound Business Journal*, September 2011
- "Your Office Away from the Office," Quoted in *Utah CEO Magazine*
- "Keeping violent employees out of the workplace," Quoted in *Risk Management Magazine*
- "10 Considerations in Developing Telecommuting Policies and Agreements," Quoted in HR.COM

## Steven R. Peltin (continued)

### PRESENTATIONS

- Legalization of Marijuana - The Impact on Washington Employers
  - Speaker, South King County SHRM
  - Speaker, Employee Assistance Pacific Northwest Chapter
- ["Employment Discrimination Law – Hear From The Agencies,"](#)  
Speaker/Moderator, Foster Pepper Client Briefing
- ["Managing Employee Performance While Reducing Legal Risks"](#)  
Speaker, Northwest Marine Trade Associations
- ["Wage & Hour Compliance – Beyond the Basics \(Part I\),"](#)  
Speaker/Moderator, Foster Pepper Client Briefing
- ["Wage & Hour Compliance – Beyond the Basics \(Part II\),"](#)  
Speaker/Moderator, Foster Pepper Client Briefing
- ["Filling the Empty Chairs: Legal and Effective Hiring,"](#) Speaker/Moderator,  
Foster Pepper Client Briefing
- "Out of Sight But Not Out of Mind: Untangling Leave of Absence Requirements," Speaker, 14<sup>th</sup>, 15<sup>th</sup>, and 16<sup>th</sup> Annual Labor & Employment Law Seminar, The Seminar Group
- "Understanding Seattle Paid Sick and Safe Time"
  - Speaker, Washington Trucking Associations
  - Speaker, Northwest Marine Trade Association
- ["Seattle Paid Sick and Safe Time: Practical Guidance Employers Need to Know,"](#) Speaker/Moderator, Foster Pepper Client Briefing
- "Legal Issues for Startups: Employment Law," Speaker, SURF Incubator
- "Employment Law Challenges for Public Employers and Current Developments under the Public Employees Collective Bargaining Act," Speaker, 2012 Association of Washington Housing Authorities (AWHA) Meeting
- ["Reasonably Accommodating Employees with Disabilities,"](#)  
Speaker/Moderator, Foster Pepper Client Briefing
- "High-Stakes Employment and IP Protections: Protect your Company from Increasing Employment Risks and Shield your Valuable Intellectual Property," Speaker, Foster Pepper and Washington State Chapter of ACC America
- ["Conducting Effective Workplace Investigations,"](#) Speaker/Moderator, Foster Pepper Client Briefing
- "Managing the Process of Labor Negotiations," Speaker, Washington Fire Commissioners Association 63rd Annual Conference

## Steven R. Peltin (continued)

- [“Out of Sight but Not Out of Mind: Untangling Employer Obligations under FMLA and Other Leave Statutes,”](#) Speaker/Moderator, Foster Pepper Client Briefing
- [“Social Media in the Workplace,”](#) Speaker/Moderator, Foster Pepper Client Briefing
- “Payroll Management,” Speaker, Lorman Educational Services
- “Time Off: State and Federal Laws on Employee Leave, Vacations and Holidays,” Speaker, Lorman Educational Services
- “Recent Developments under the Family and Medical Leave Act,” Speaker, National Council of State Housing Agencies
- “10 Scary Issues You Need to Know About Your Employees,” Speaker, ASTRA Women’s Business Alliance
- “New Developments in Employment Law,” Speaker, Seattle CFO Arts Roundtable
- “Best Practice in FMLA Administration,” Speaker, Council on Education in Management
- “Conducting Effective Investigations Into Employee Complaints,” Speaker, PUD and Municipal Attorneys Association
- “Cyberstalking: The Washington Employer’s Perspective,” Speaker, King County Bar Association
- “Workplace Investigations,” Speaker, Council on Education in Management
- “Email and the Internet – Legal Challenges for Employers,” Speaker, PUD and Municipal Attorneys Association

### **PROFESSIONAL BACKGROUND**

- Foster Pepper PLLC, Member, 2010-Present
- K&L Gates LLP (formerly Preston Gates & Ellis, LLP), Partner, 1998-2010
- Georgia-Pacific Corporation, Senior Counsel, 1996-1998
- Altheimer & Gray (Chicago, IL), Associate and Partner, 1986-1996
- Isham Lincoln & Beale (Chicago, IL), Associate, 1983-1986
- U.S. District Court for the Western District of Wisconsin, Law Clerk for Hon. John C. Shabaz, 1982-1983

### **ADMISSIONS**

- Washington, 1999
- Illinois, 1983 (Inactive)

## Steven R. Peltin (continued)

### EDUCATION

- J.D., Cornell Law School (*cum laude*), 1983
- B.A., University of Wisconsin-Madison (*with distinction*), 1978
  - Phi Beta Kappa



## Alicia M. Feichtmeir

### Associate

#### Seattle

T 206.447.8929

F 206.749.2003

[feica@foster.com](mailto:feica@foster.com)

#### **PRACTICES**

Litigation and Dispute Resolution

Employment and Labor Relations

#### **INDUSTRIES**

Transportation Industries

Media, Entertainment and Games

Emerging Companies and Venture Capital

Retail

Ports

Tax-Exempt Organizations

#### **PRACTICE OVERVIEW**

Alicia's litigation practice focuses on resolution of civil cases, including employment, commercial litigation, environmental and regulatory disputes. She counsels clients on all aspects of the litigation process, including case strategy, risk evaluation, discovery and trial planning.

In her employment practice, Alicia advises public and private employers on compliance with various federal, state and local employment laws including wage-and-hour, leave, and anti-discrimination regulations. She has defended employers in agency and court proceedings involving harassment and discrimination, whistleblower actions, wrongful discharge, trade secret misappropriation, and unemployment claims. She regularly assists employers in drafting and revising employee handbooks, management policies, and employment agreements, including talent and production agreements for local and national film projects.

#### **PROFESSIONAL/CIVIC ACTIVITIES**

- Federal Bar Association of the Western District of Washington, Website/Communications Committee Co-Chair, 2011-Present
- ArtsFund Associates Program, 2012-Present
- Foster Pepper Pro Bono
  - Featured in 2012 Foster Pepper Pro Bono Annual Report
  - Featured in 2011 Foster Pepper Pro Bono Annual Report
  - Featured in 2010 Foster Pepper Pro Bono Annual Report

#### **NEWS**

- "Judicial Candidates Pledge Ethical Campaigns," May 20, 2010

#### **PUBLICATIONS**

Alicia Feichtmeir is a contributor to Foster Pepper's Washington Workplace Law Blog. Read more at [www.washingtonworkplacelaw.com](http://www.washingtonworkplacelaw.com)

- "Advocating for the Native American Child: Comprehensive Overview of the Indian Child Welfare Act," Chapter Contributor, Native American Practice Group and CASA CLE Manual, November 2008

## Alicia M. Feichtmeir (continued)

### PRESENTATIONS

- "Employment Discrimination Law – Hear from the Agencies," Speaker, Foster Pepper Client Briefing, September 2013
- "Wage & Hour Compliance – Beyond the Basics (Part II)," Presenter, Seattle, WA – May 2013
- "Intellectual Property Ownership and Public Employment," Co-presenter, Association of Washington Cities, 33<sup>rd</sup> Annual AWC Labor Relations Institute, Yakima, WA, May 2013
- "Wage & Hour Compliance – Beyond the Basics (Part I)," Presenter, Seattle, WA, February 2013
- "Mandatory/Permissive Bargaining" and "Public Records/Information Disclosure," Speaker, Managing the Process of Labor Relations, Spokane, WA, October 2011

### PROFESSIONAL BACKGROUND

- Foster Pepper PLLC
  - Associate, 2010-Present
  - Summer Associate, 2008
- Solid Ground (Fremont Public Association), Legal Intern, 2007-2008
- Immigrant Families Advocacy Project, University of Washington School of Law, Volunteer Advocate, 2007-2009
- Seattle Art Museum, Community Campaign Coordinator, 2005-2006

### ADMISSIONS

- Washington, 2009
- Ninth Circuit Court of Appeals, 2012
- U.S. District Court
  - Western District of Washington, 2011
  - Eastern District of Washington, 2011

### EDUCATION

- J.D., University of Washington School of Law, 2009
  - *Washington Law Review*, Articles Editor
  - Law Women's Caucus, Alumnae Event Chair
- B.A., Wesleyan University, 2003

**Stephen G. White, Ph.D.**, is a psychologist and the President of Work Trauma Services Inc., a consulting group he founded in 1982 to assist employers with serious workplace crises. His extensive work in organizational trauma reduction led to his specializing, since 1989, in the assessment and management of workplace violence risk.

Dr. White has consulted throughout the United States on over 4,000 threat cases for numerous Fortune 500 companies, private and public organizations, law firms and their clients, colleges and universities, and law enforcement and governmental agencies. He has designed and provided detailed employer and campus threat management team training for responding to a wide range of potential risk scenarios. Dr. White has testified before the California State Legislature on behalf of workplace violence prevention legislation, and has authored or co-authored peer-reviewed publications in the areas of stalking, workplace mass murder, violence risk assessment, and workplace trauma management.

Dr. White, in collaboration with Dr. Reid Meloy, developed and published in 2007 *The WAVR-21*, the first scientifically based structured professional guide for assessing workplace violence risk. He contributed a chapter on workplace violence in *The International Handbook of Threat Assessment*, published in 2013 by Oxford University Press.

Dr. White was among invited experts of both the FBI's National Center for the Analysis of Violent Crime and the American Society of Industrial Security to participate in their development of online and published guidelines for the prevention of workplace violence. He served as an expert panel member of the 2012 US Army-sponsored Workplace Violence in the Military Program, providing peer reviews of scientific proposals to study predictors of targeted violence across Department of Defense service areas.

In recent years his consultation and training has expanded internationally to meet the growing global needs of corporations, universities, and law enforcement agencies.

Dr. White is an Associate Clinical Professor in the Department of Psychiatry at the University of California, San Francisco, where he has co-facilitated professional development groups for medical students. He is a frequent guest lecturer at local, regional, and national forums for human resource, security, and mental health professionals, campus administrators, law enforcement agencies, and employment law attorneys.



**Lynn M. Van Male, Ph.D.**

Director, Behavioral Threat Management Program  
Veterans Health Administration (VHA) Central Office, Washington, D.C.  
Office of Public Health, Occupational Health Strategic Healthcare Group

Psychologist, Posttraumatic Stress Disorder Clinical Team (PCT)  
Portland VA Medical Center

Assistant Professor of Psychology  
OHSU Department of Psychiatry

Dr. Van Male is responsible for administering VHA's Behavioral Threat Management Program, the mission of which is to promote the use of evidence-based violence risk and threat assessment practices to inform appropriate violence mitigation interventions.

Dr. Van Male serves on international conference planning committees and scientific merit review boards, as well as numerous federal interagency work groups and technical advisory boards, addressing issues related to promoting a culture of safety in healthcare.

She is a certified national Master Trainer in VHA's Prevention and Management of Disruptive Behavior program, a front-line worker education program that trains personnel in the effective use of verbal de-escalation, physical safety, and therapeutic containment skills to address patient-generated disruptive and violent behavior.

She has served continuously on Portland VAMC's Disruptive Behavior Committee and Employee Threat Assessment Team since 1999. Dr. Van Male is the Vice President of the Association of Threat Assessment Professionals (ATAP), Northwest Chapter.

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# Additional Materials

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FOSTER PEPPER PLLC

# Elements of Successful Threat Management Programs



*Confidence in the program is built through cumulative successes*

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## Preventing and Addressing Workplace Bullying

Posted by [Alicia Feichtmeir](#) on March 21, 2012

What was once considered a playground problem has now become a concern for employers. As [awareness](#) of workplace bullying has grown, [academics](#), [advocacy organizations](#) and [business consultants](#) have focused their efforts on recognizing and addressing harmful and intimidating behavior.

Anti-bullying messages have even made their way into legislation. Earlier this year, a "[Healthy Workplace Bill](#)" was introduced in Washington State. The bill sought to amend the Washington Law Against Discrimination so that "subjecting an employee to an abusive work environment" would constitute an unfair practice. Although the [proposed law](#) was not enacted, it highlights the seriousness of issues facing employers as they seek to maintain a safe and productive workplace.

More employers are implementing policies and practices that recognize and remedy workplace bullying. The Washington State Department of Labor and Industries has issued a [report](#) intended to assist employers seeking to address these issues.

Some of the information in the Report is useful, while other portions are too vague and general to provide real guidance. The questions and answers below are taken from the L&I report, with our modifications and suggestions.

### What is workplace bullying?

- Workplace bullying is repeated and ongoing unreasonable actions toward one or more employees that is intended to intimidate, undermine, degrade, threaten, humiliate or harm the employees.
- Workplace bullying generally involves an abuse or misuse of power, verbally or in conduct. Bullying can also be corporate or institutional, for example where a company uses policies or practices to intimidate and demoralize its employees.

### What are some examples of workplace bullying?

- *Deliberately giving employees unrealistic and unmanageable deadlines, or placing unrealistic expectations on employees, where failure to meet expectations means making life unpleasant for the employees or dismissing those employees who might object.* Even high-pressure, high-production work environments ordinarily have an institutional standard for productivity and efficiency. When a manager or company goes well beyond this standard to "set employees up for failure," giving physically impossible assignments and deadlines, then criticizing employees for their inability to meet the unrealistic expectations, it might be a sign of workplace bullying
- *Excessive monitoring or micro-managing of employees.* All effective managers monitor their subordinates, but when monitoring is constant, invasive and oppressive and done without a legitimate purpose, it might be bullying behavior.

- *Interference or sabotaging actions that intentionally prevent an employee from completing required work.* Examples of interference might include deliberately preventing access to information (such as a key memo or data) that an employee needs to complete a task, or constantly interrupting the employee with a barrage of unrelated menial tasks so that he or she cannot complete the required work. Such behaviors could be considered bullying.
- *Providing unwarranted, invalid and excessive criticism of employees or blaming employees without factual justification.* Criticism and discipline should be based on concrete actions or behaviors that need correcting. Falsely accusing an employee of errors, or consistently commenting on past errors without a constructive reason, could be considered bullying.
- *Berating or humiliating employees.* Feedback and criticism should be communicated in a respectful manner, as the goal is to elicit improved performance, not to personally attack an employee for his or her failures. Yelling, shouting and insults could be viewed as workplace bullying.
- *Deliberate exclusion or social isolation of employees.* Some examples of isolating actions might include: refusing to invite an employee to a meeting in which he/she would normally participate, refusing to include an employee in social, team-building events where the rest of a group has been invited, or moving an employee's workspace far from the rest of his or her team. Such behaviors could be considered workplace bullying.

### **What is the difference between workplace bullying and harassment?**

- **Harassment** is a type of illegal discrimination defined as offensive and unwelcome conduct serious enough to adversely affect the terms and conditions of a person's employment. A harassment claim arises out of the employee's status as member of a protected class, such as race, sex or disability.
- **Bullying**, on the other hand, might not be overt or serious enough to adversely affect the terms and conditions of employment, and the target of a workplace bully might not be a member of a protected class. Bullying might be covert, through indirect, constant criticism, unrealistic expectations or deadlines, or actions that force a person to feel demeaned or isolated from a group. Unlike harassment, bullying is ordinarily not illegal.

### **How can employers demand top performance or impose discipline without bullying?**

- Employers should not be dissuaded from direct and sometimes critical feedback, evaluations and discipline. Respectful communications are key. Prudent employers train managers on effectively and sensitively managing their subordinates and correct overly-aggressive or hostile behavior promptly. Similarly, managers should treat reports of bullying with sensitivity.

### **How can employers address and prevent workplace bullying?**

- Understand the behaviors that constitute bullying.
- Consider an anti-bullying (or respectful workplace) policy as part of the wider commitment to a safe and productive workplace.
- Consider workplace training and awareness so employees and managers can recognize and understand bullying.
- Address and investigate bullying behavior promptly, including situations where there are allegations of institutional/corporate bullying.
- Consider reassignment of the bullying individual(s) to another group as necessary.
- Structure the work environment to allow employees some level of autonomy, create clear expectations of how tasks should be performed, provide constructive criticism and feedback to employees on how to improve performance, and include employees in decision making processes as appropriate.
- Adopt and encourage open door policies.
- Regularly evaluate the effectiveness of the foregoing policies.

For more information on workplace bullying or assistance implementing anti-bullying measures, contact [Foster Pepper's Employment and Labor Relations](#) group.



## CEO ADVISER

By Steven R. Peltin and Gregg O. McCrary

# Hidden Threats

*There are steps you can take to prevent violence in the workplace*

**M**ore than 70 percent of workplaces in the United States have no formal program or policy to address workplace violence. Yet, as the Occupational Safety and Health Administration (OSHA) estimates, 2 million people each year are victims of workplace violence. Eliminating all such violence may be impossible, but employers can and should confront the problem in the following ways:

**1. Take security precautions.** Companies may deter violent acts by making changes to the workplace or to workplace procedures. If the perpetrator cannot enter the workplace or is intercepted before reaching the intended target, violence may be averted. Precautions could include controlled access to the workplace, enhanced lighting and visibility, alarms, closed-circuit cameras and cellular phones. Employee training is particularly important. Government or private security professionals can assist in evaluating and upgrading security.

**2. Screen applicants carefully.** Employers should try to exclude candidates with a history of violence or other unsuitable behavior.

**3. Adopt and enforce a “zero tolerance” policy for violence or threats of violence.** Companies should create a clear policy so the entire organization understands the commitment to proper workplace behavior and the protocol to follow in case of threats or violent conduct. Companies should ensure that the policy is enforced rigorously. Violence or threats in the workplace should lead to termination of employment or exclusion of visitors from the workplace.

**4. Create and train a response team.** Even smaller employers should have an experienced team to confront threats of violence – and to deal with the aftermath of actual violence. Team members should be available to confer on short notice and have the au-

thority to implement the group’s decisions. The team should include as many of the following disciplines as possible:

- **Human resources:** A human resources specialist would know workplace policies and procedures and have experience in dealing with troubled employees.
- **Legal:** An in-house or outside lawyer can help to identify options, keep decisions within the law and, if appropriate, help to shield deliberations with privilege. The lawyer could arrange for antiharassment orders and other injunctions and may serve as liaison to prosecutors.

### ELIMINATING ALL VIOLENCE

MAY BE IMPOSSIBLE, BUT

EMPLOYERS CAN AND SHOULD

CONFRONT THE PROBLEM.

- **Security:** A full-time security professional naturally would be a team member. In smaller organizations, this function may be assumed by a safety manager, HR manager, office manager or outside consultant. This person often is the liaison to the police department.
- **Mental health:** An expert on emotional and/or psychological problems should be available on a consulting basis. This expert could advise the team or, if appropriate, intervene directly in defusing potential violence.

Company executives also may be on the team. With serious threats or incidents, public relations or media relations professionals may be helpful. Team members should be trained in recognizing and responding to potentially violent behavior, and they may serve as trainers for other employees.

**5. Use the response team:** If management

becomes aware of a troubled employee or other person who poses a risk of harm to others, or if there is a threat of violence, the team should:

- **Gather and share the facts:** First reports may be inaccurate. Team members should quickly learn as many details as possible.
- **Assess the risk:** Once initial facts are gathered, the difficult deliberations begin. Is the potential assailant merely blowing off steam, or is there a credible threat of real violence? Someone who makes a threat may not pose a threat, and someone who makes no threat may pose a substantial risk. What steps are necessary to prevent harm? What warnings should be sent and by whom?

- **Create and implement an action plan:** Elements of the plan could include security measures at the workplace or at the homes of potential victims; police or other law enforcement intervention; antiharassment orders or injunctions; communications with the potential assailant, possibly including offers of drug/alcohol rehabilitation or psychiatric counseling; and communications with employees, unions and others.

- **Monitor progress:** After the immediate crisis abates, the team should ensure that the same person does not make future threats or otherwise act inappropriately. The team also should periodically review and assess the company’s response to similar incidents and update workplace security, training, and policies and procedures.

- **Maintain documentation:** Documentation helps to ensure accuracy of information, preserve the group’s collective memory, and defend against legal claims.

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*Steven Peltin is a partner at K&L Gates in Seattle, specializing in employment law. Gregg McCrary, formerly with the FBI, is a senior analyst with the Threat Assessment Group.*

# **WORKPLACE VIOLENCE: THE CHALLENGE TO “CONNECT THE DOTS”**

**Prepared for PLI, March 2010**

**Stephen G. White, Ph.D.**

Work Trauma Services, Inc., and  
Department of Psychiatry, University of California, San Francisco

## **Introduction**

Workplace violence typically conjures images of mass murder by disgruntled employees. Although rare, the potential for these catastrophes cannot be ignored, and the disruption otherwise caused by threat scenarios is common and costly. Homicidal violence in the workplace gained notoriety in the 1980s with a series of shootings at US Postal Service sites and various other and diverse workplaces. College and University campuses share the same exposures. Although other campus incidents preceded it, the horrific rampage shootings by a psychotic, vengeful student at Virginia Tech in 2007 was a turning point for college administrators, leaving none unaware of the need to protect their institutions of higher learning. In the aftermath the state’s governor commissioned the Virginia Tech Review Panel to investigate the incident and make recommendations. Among the panel’s findings was that various departments, agencies, and key professionals who had contact with the perpetrator, Seung-Hui Cho, failed to communicate and collaborate with each other as serious warning signs of violence emerged during the months and weeks leading up to the murder of 32 members of the campus. “Passivity” characterized the institution’s reactions, as well as confusion about privacy and other laws. As the panel stated, “No one knew all the information and no one connected all the dots” (Virginia Tech Review Panel, 2007).

This is a common finding in such inquiries – a sense of risk being present, but no knowledge-based, multi-faceted and pro-active protocol in place to identify, assess, and respond to individuals of concern. In fairness, employers and campus officials are faced with many competing priorities in the midst of increasingly stretched resources, making the maintenance of programs to prevent low probability catastrophic events as challenging as ever.

Workplace violence and similar public tragedies have spurred a great deal of study and research over the last two to three decades. Much has been learned about individuals at risk for these forms of violence, how to identify them early enough, and the organizational contexts and triggering events that contribute to workplace violence. Multi-disciplinary “threat management” models have emerged to mitigate harm and manage related issues. The author’s perspective is that of a psychologist who assists employers, campus officials, their legal representatives, and threat management teams in assessing and managing violence risk scenarios.

## **Definitions, Statistics, and Motives**

Definitions of workplace violence include other forms of aggression besides homicide, and a range of severity: threats, yelling and angry outbursts, bizarre communications, bullying, stalking, assaults, sabotage, disturbing cyber activity, and property damage. Other impacts of workplace violence besides death and physical harm include fear and trauma, disruption and lost productivity, and employer or institutional liability.

The U.S. Department of Labor, Occupational Safety & Health Administration (OSHA) distinguishes four categories of workplace violence: violence by strangers, violence by customers or clients, violence by co-workers, and violence by personal relations. Homicide in the workplace has never been an “epidemic” as some accounts have portrayed it. Workplace violent crime declined 44% from 1993 to 1999, as compared to a 40% decrease in the overall rate of violent crime. Although 7,062 people were murdered at work between 1997 and 2007 (Bureau of Labor Statistics, 2008), homicides represent less than 1% of all workplace violent crimes. Assaults are much more frequent. Simple and aggravated assaults account for 94% of workplace victimization, and rape and sexual assault account for 2% (Duhart, 2001). Those most at risk for assault include law enforcement officers, mental health workers, and sales employees. From 2000 to 2006 the annual number of workplace homicides from all causes declined slightly each year, from 677 in 2000, to 516 in 2006. However, in 2007 the number rose to 610 (Bureau of Labor Statistics, 2008).

Two broad categories of workplace homicide exist from the perspective of the perpetrator’s motive. The first, and statistically more common, accounting for 5,439 victims or 77% of the total between 1997 and 2007 is violence associated with the commission of other crimes, usually robbery (Bureau of Labor Statistics, 2008). Typically committed by offenders who are *strangers* to the victims, and motivated for profit, these crimes occur in cash-transaction businesses and work settings with high exposure to the public. This also includes most fatalities of law enforcement personnel.

The second category of homicidal violence – and the subject of this document – is acts motivated primarily by revenge. These incidents stem from real or perceived disputes, personal rejections, job and other losses, strongly held grudges, or extreme beliefs and attractions rooted in mental illness. Increasingly referred to as *targeted violence*, a term coined by the behavioral scientists of the US Secret Service (Borum, Fein, Vossekuil, & Berglund, 1999), these acts accounted for 1,623 homicide victims between 1997 and 2007, or 23% of the total. In 2007 there were 178 victims, or 30% of the total in this category. The perpetrators are usually employees, former employees, adult students, domestic or intimate partners of employees, acquaintances, clients, patients, or other individuals outside the workplace who most often have a real or *perceived* relationship with someone inside the organization. Perpetrators are predominantly males. Understanding what motivates these acts, and in general, what is at stake from the perspective of the individual making or posing a threat of violence, is helpful to threat management teams navigating cases.

Broadly speaking, targeted workplace violence often begins with a felt grievance or sense of being wronged, and the perpetrator escalating up a “pathway to violence” to achieve his or her definition of justice (Calhoun & Weston, 2003; White & Meloy, 2007). These individuals usually perceive themselves as victims and that non-violent alternatives to differences are not available, not satisfactory, or untrustworthy. Violence as an alternative is rationalized and may psychologically serve to diminish intolerable feelings of shame and powerlessness. A setback such as a job termination, academic failure, or rejection by an intimate partner may also trigger these feelings and the subsequent violence in an at-risk individual. At such a juncture the person may feel that he or she cannot passively withdraw without “losing face” to a catastrophic degree. These perpetrators more or less lack the capacity for feelings that would inhibit violence: empathy, guilt, love, gratitude, or concern for what happens to them and others. They are often noteworthy for their striking sense of entitlement, and relative inability to grieve and integrate

losses and disappointments. Rather, they convert feelings of pain, sadness, powerlessness, and shame to rage. This rage fuels a *decision* to take violent action, but is unlikely to be felt at the moment of the violence, as the attacks are planned and not impulsive (White & Meloy, 2007).

Clinically speaking the violence may be understood as rooted in an extreme sensitivity to *narcissistic injury* – a felt insult to one’s sense of self or identity. Such a wound goes beyond the normal range of angry feelings experienced by more resilient employees following a job or career setback (Feldmann & Johnson, 1996). Angry remarks such as, “This job is my whole life”, or, “I’ve given you everything!” may be rooted in this deeply felt position. A student may believe he has no future as a professional, now “destroyed” by the committee rejecting his graduate thesis. Perpetrators are willing to sacrifice their physical self to preserve their psychological self and thus have the last word, and the ultimate, destructive control over despised or envied others.

In approximately half the cases delusional or paranoid psychotic states provide the primary motivation to attack one’s perceived persecutors, or are at least contributory. Depression and its accompanying hopelessness may also play a major role. Suicide at the conclusion of a workplace or campus mass murder is more typical than not, either directly or in a suicide-by-cop scenario. Inherent in a perpetrator’s thinking is a “nothing to lose” mindset. For angry, despairing, socially excluded individuals, death may be welcome if it brings fame, power and “payback” for rejection and humiliation (Mullen, 2004). Perpetrators who survive most often surrender without concern for escape, nor attempting to deny their culpability.

### **Risk Factors for Workplace Violence**

Although the most salient risk factors for workplace targeted violence have been identified (White & Meloy, 2007), this does not translate into a static “profile” of the potentially violent employee. Most cases raising concern about homicide risk are false positives: many individuals who make threats and reveal other warning sign and violence risk factors will never advance along the “pathway” to pre-attack planning and climactic attacks. Others with various issues relating to hypersensitivity and poor self-control may engage in impulsive displays of aggression, such as temper outbursts, throwing objects, and yelling. However less serious in appearance, these too should be appropriately addressed.

Based on their review of the research and literature, White and Meloy (2007) identified the risk factors for workplace homicidal targeted violence and organized them into the first “structured guide” for professionals conducting workplace violence risk assessments. This instrument, the WAVR-21 (Workplace Assessment of Violence Risk) consists of a 21-item coding grid for organizing case information toward reaching judgments of violence risk. The state of the science does not suggest that risk factors be added together in some quantitative or actuarial probability of risk. Judgment is still necessary and grows with experience. Some scenarios are easily dismissible as posing no or little risk, while a small subset can readily be seen as very serious by any observer. A variety of problematic cases exist in between these end points. Useful questions that may guide an initial inquiry include:

- What is the subject doing or saying that raises concern about violence?
- What is an apparent explanation for the subject’s behavior? (his “grievance”, motive, goal, problematic or bizarre thinking or perceptions, etc.)
- To what extent does the subject see violence as a means to resolve his or her situation?
- Does he or she have the weapons/means and capacity to act violently?

- What might trigger him or her to be violent?
- What actions might reduce the likelihood of violence?
- What information should be pursued, how and by whom?

Threat management teams should have a comprehensive but practical format for identifying potentially dangerous cases. For instance, a shorter version of the WAVR-21, free of technical and mental health jargon, may be used by non-clinicians on threat management teams to better organize their data, screen cases for violence risk, and communicate with risk assessment professionals. The WAVR-21 Short Form consists of 12 risk parameters that spell the acronym “Violence Risk”. Their descriptions follow:

**V: Violence Preoccupation:** Reveals violent ideas, fantasies; identification with violent perpetrators; sees violence as justified.

**I: Intent and Threats:** Expressed intentions, threats, motives, or plans to harm others or self (spoken, written, electronic, gestures, symbols)

**O: Others are Concerned:** Concern or fear exists among potential targets or those who know the subject that he or she may act violently.

**L: Losses Recent or Impending:** Recent or likely job or other significant loss: relationship, financial, status, family or significant-other death; school failure; strong denial or poor coping with losses.

**E: Entitlement and Negative Attitudes:** Very self-centered, defensive, or demanding; lacks any concern for and/or blames others; habitual lying; perceives management or other’s position as “great injustice” to self.

**N: Non-compliant or Menacing Behaviors:** stalking, harassment, bullying, vindictive actions; security breaches; defiance of workplace rules.

**C: Capacity and Actions Preparatory for Violence:** First interest in or additional acquisition of weapons in troubled context; increased practice or planning behaviors; weapons at worksite; has or seeks access to targets.

**E: Extreme Moods:** Angry outbursts; very gloomy or agitated; extreme or sudden mood swings; suicidal feelings; notable isolation.

**R: Real Provocations or Destabilizers:** Situational factors, such as others in or out of workplace are provoking or supporting subject’s volatility; highly stressful workplace; insufficient management attention to risk potential.

**I: Irrational Thinking:** Bizarre or highly suspicious beliefs, especially if they include violent ideas or fears of violence; makes highly irrational accusations, especially toward management or coworkers.

**S: Substance Abuse:** Use of amphetamines or other stimulants; abuse of alcohol; evidence of misconduct or violence while under influence.

**K: Known History of Violence, Criminality, or Conflict:** Violent history, especially if recent or frequent, including domestic/intimate partner violence; pattern of litigiousness or persistent conflict, especially in work contexts.

## **Who Should Assess Violence Risk?**

There is no clear line between non-professional and “expert” risk assessment. With practice threat team members from any discipline can become relatively adept at sorting through risk scenarios, gaining confidence through experience. This essentially serves as a screening function, so that serious cases do not “fall through the cracks”, and that inordinate time and resources are not wasted on much less serious matters. It is most prudent that everyone engaged in this endeavor, including the “experts”, remember this tenet: “When in doubt, confer.” Clinical risk assessment specialists are particularly helpful evaluating complex cases, especially those involving subjects with mental disorders, including personality disorders – individuals whose behavioral patterns, defenses and reactions are particularly troublesome and confusing to managers, interveners and administrators. Employers may also want a formal assessment process and expert opinion to strengthen the basis for any violence-risk related employment status decisions.

At times an employer may request a “fitness for duty” exam when what they are actually referring to is a violence risk assessment. A risk assessment conducted by a qualified mental health professional is not the equivalent of a fitness for duty examination. The latter, conducted by a professional with different technical qualifications, attempts to evaluate the impact of clinical conditions on job-related functioning, and whether an employee is fit to perform the essential functions of his or her job, with or without an accommodation.

## **Prevention Strategies**

As previously stated, workplace or campus targeted violence is foreseeable and preventable in the vast majority of cases. A violence prevention program reduces denial as well as dampens panic, and the tendency toward counterproductive responses. Embedded in the program, along with a policy and training for supervisors and employees to promote awareness and reporting expectations, should be a rational threat assessment protocol. This consists of:

- 1.) A data driven process of assessing the risk of violence posed by a subject to a particular targeted individual, group, or place, and
- 2.) Intervention strategies for interrupting or defusing escalation, reducing risk, target hardening and security measures, redirecting management focus for non-risk situations, and managing the anxiety and disruption of involved others.

Interventions may be viewed as falling along a continuum, from more confrontational, e.g., civil protective orders, detention and arrest, and involuntary hospitalizations, to (and more frequent by practice and advisability) “softer”, less confrontational strategies, such as defusing and problem solving conversations, benevolent severance agreements, and facilitating the disturbed and willing individual to get professional help. Not responding to certain threat scenarios, at least initially (and usually involving a non-employee subject), is also recognized as a strategic option.

A core principle in responding to a possible risk is striving to protect the individual’s stability and fragile sense of dignity so he or she is less motivated to act out. A sample case management flow chart is shown in Figure 1. It indicates various response options, all of which require discussion as to the pros and cons of their application in a particular case (The author provided an adaptation of this graphic to the American Society of Industrial Security for their online document, “Workplace Violence Prevention and Response Guideline.” The ASIS

document may be retrieved at [asisonline.org/guidelines/guidelines.htm](http://asisonline.org/guidelines/guidelines.htm)).

## Sample Threat Management Reporting and Response Process

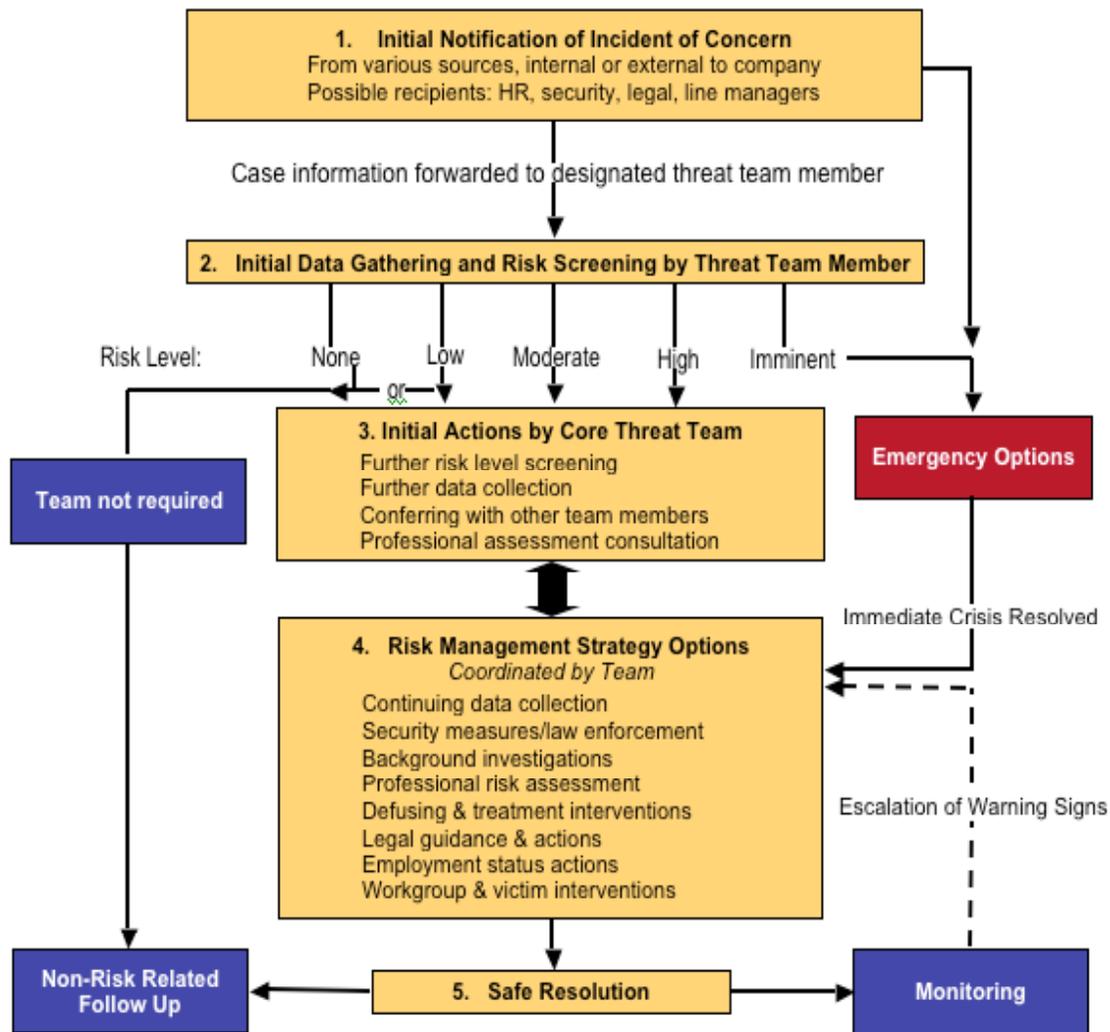


Figure 1

### Multi-disciplinary Teams

Multi-disciplinary incident management teams typically consist of security, human resource, and legal professionals, and with links to assessment professionals and law enforcement. Depending on the organization, others may be included, such as on-campus law enforcement, deans of student affairs, mental health professionals or ombuds persons.

Teams should be trained to investigate and manage cases to resolution, with a genuine spirit of collaboration, and the readiness and flexibility to import the skill sets and expertise they do not possess internally. Regular practice – with case vignettes, tabletop exercises, and

debriefing their own cases and responses – is the most productive way for teams to improve their effectiveness and efficiency. Such drills and reviews also make evident the dynamic interplay of assessment, safety, legal, communication, and other strategic issues typical of cases, and the degree to which the exercise of judgment and balancing obligations are a core necessity for successful teams. A “cookbook” approach to threat management does not work, especially as cases become more complex.

Crucial to case management success is that the incident management team members stay in control of the process of data gathering and intervention to the point of resolution. Crucial to program success is guarding against denial. Any of the invested parties are susceptible to the human tendency to assume a more comfortable, and less time-consuming position, whether conscious or not, of, “No news is good news.” Losing threat management team members through reassignment and shifting employer priorities may also threaten program integrity. In the current and foreseeable future of very difficult economic times, employers and administrators must be efficient in their efforts to identify and screen cases, but avoid dangerous shortcuts.

A common temptation in responding to threat scenarios is to “assess” them only superficially, and to quickly distance the threatening employee from the organization – that is, to summarily terminate him or her. Such reactions may be understandable, and more than likely justifiable from a misconduct standpoint. But hasty measures fail to recognize the potential such actions possess as humiliating *trigger events* for the at-risk individual – someone harboring strong resentments who is “looking for an excuse” to act on violent impulses. This is not to argue against separation from the organization when justified, but that the process of managing an individual of concern be guided by an ongoing assessment and safety-first strategy. Seasoned threat management professionals are aware of the “intervention dilemma”: any response intended to prevent violence can, in fact, have three possible outcomes. It may deter violence, have no effect on whether an individual acts violently or not, or it can increase the possibility of violence.

Intervention strategies should be based on the best assessment information attainable at the time, however incomplete it may be. It is not always possible, and at times neither necessary nor advisable to conduct a formal clinical risk assessment of a subject of concern. But a team should have available to it an experienced threat assessment professional, and one who is familiar with organizational dynamics and culture, workplace investigative processes, and the relevance of employment law and other legal considerations.

### **The Legal Context for Workplace Threat Management**

Workplace violence risk management must and can be conducted within a framework of legal requirements and any constraints imposed by applicable employer policies or guidelines. A discussion of legal issues falls outside the scope of this document. Suffice to say, during the incident management process, team members typically will find themselves needing to navigate through significant legal issues. As they address the employer’s primary obligation to maintain a safe workplace, responders must be mindful of the need for due process, and to evaluate issues of privacy, discrimination, and protections under the Americans with Disabilities Act that will commonly occur in assessing and resolving threat scenarios.

Threat management teams require legal consultation and participation. Ideally, especially for large employers and organizations who have a higher frequency of incidents of concern, the employer designates a legal representative to be an active member of its incident management team. That representative should know the other team members, the expertise they offer, and

recognize the advantages of multi-disciplinary collaboration in threat assessment and threat management.

### **Case Example**

The following case example illustrates the potential issues, strategic choices, and multidisciplinary interplay in threat management practice.

A female employee comes forward to HR, with great anxiety and fear, and states that she has been having an affair with her manager. The manager is married and his subordinate is trying to get out of their intimate relationship. He has threatened her that, “If I can’t have you, nobody can.” She states she knows he has firearms, and has physically abused his wife in the past. Some of the coworkers in the workgroup are aware of the personal relationship between the two. Some fear for her safety as well as their own, and some resent her for their perception of “favours” the manager has extended her. The manager is rumored to be a “bully” who may have driven his previous boss to quit, and who has never been consistently disciplined. The woman states, “He told me if he loses his job over this, he’ll kill me. He’ll have nothing left. Please don’t tell him I came forward. He uses drugs and I think his life is falling apart. I hope I don’t lose *my* job over this.”

The case is obviously complicated and raises a host of safety, legal, and HR issues. Warning signs of violence risk are more than apparent (or at least alleged). The woman’s report raises two common challenges: she doesn’t want to be identified, and she fears that any action the employer takes will trigger the manager to respond violently. But something must be done and a knowledgeable team would convene promptly.

An investigation must be conducted, safety and security being assured along the way. The team must sufficiently evaluate the risk and monitor for changes in the manager and others who might provoke him (targeted violence risk assessment is an ongoing, *dynamic* process). Sensitive information must be managed, and obligations balanced. Initial and continuing discussions will be necessary as the team considers its next steps. Managers responsible for the involved employees would typically be apprised of the safety concern and investigation being undertaken (as well as interviewed for relevant information they may have).

Important to understand is that the terrified and embarrassed employee is privy to a great deal of information that will be helpful in assessing the risk to her and others in the workplace. It is prudent that a skilled and respectful team member or a risk assessment professional (or both) interview her. She should be expected to cooperate with any safety investigation. Assuming she does, the team should strive for a collaborative relationship with her, and avoid increasing her feelings of shame and self-blame. She most likely will need to be removed from the workplace for an unspecified period of time, for her safety and to reduce her anxiety. A difficult issue is how much responsibility to assume for her safety. Should it just be at the workplace, or after hours and in non-work settings? (These points would also generally apply to an employee who was being threatened by her disgruntled ex-spouse or partner, an outsider who was focusing on her workplace and threatening to do harm to her or others who worked there.)

Coworkers as well have useful information, but witnesses may fear retaliation by their manager, physical or otherwise. How communications are framed to involved-others is also a

sensitive matter, where privacy is balanced with legal or ethical duties to warn and protect.

At the center of the case is the manager and whether he poses an actual risk of violence, now or at some other point in time. At the proper time, depending on the apparent urgency of the case, and after developing pertinent collateral information, he would ideally be directly assessed for violence risk; his threats are considered to reveal possible intent (the ultimate risk factor) by credible informants. He is also entitled to his “day in court,” and an assessment professional would absolutely want to hear the manager’s version of the facts, his point of view, and perspective on the various allegations. Individuals-of-concern may lie, deny, and minimize, but they always reveal themselves in clinical evaluations. Sometimes there are surprises and/or individuals are being scapegoated. As in any inquiry, the better the information, the more informed the employer’s decisions, especially when safety is the foremost concern.

Important assessment questions would include, among others: Do his threats indicate intent, or are they just more bullying or attempts to control the woman? What does he perceive he has to lose? Does he have a history of violence, and of what nature? Should a background investigation of his criminal and civil records be conducted? Can he see a positive future beyond his current job? What are any buffers that would suggest risk mitigation, such as his seeking legal help? Can he leave and save face? Are security measures and protective orders advisable and/or necessary in this case? How would his alleged substance abuse and mood states influence his being violent? These are only some of the questions and strategic options that a threat team would consider. Assuming the female employee to be credible and that the manager is judged to have engaged in serious misconduct, it is highly unlikely he would remain an employee, but his departure must be handled delicately as well as firmly.

Legal input is essential throughout this process that is otherwise largely informed by knowledge of the motives, thinking, perceptions, and behavior of individuals who may or may not pose a violence risk to a workplace. Dynamic threat management has many success stories. For those with the temperament and passion to engage in it – and a proper attitude of humility – the outcomes can be very gratifying. Supportive policies, campus awareness, training, teams in place, and protocols for the variety of possibilities will allow employers to “connect the dots”, early and effectively. Among the results are safety, comfort, and fairness in the workplace.

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