

Employers Should Confront Threats of Workplace Violence

Legal Alert
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Workplace violence remains a serious issue for all employers. This article will summarize the background facts and propose a strategy for reducing the risk.

Background

The [pervasiveness of violence in the workplace](#) is daunting:

- Nearly 2 million American workers report having been victims of workplace violence each year, and more cases go unreported.
- Homicide is the fourth-leading cause of fatal occupational injuries in the United States, claiming 506 lives in 2010.
- Homicide is the leading cause of death for women in the workplace.

While all workplaces are vulnerable, research has identified [factors that increase the risk of violence](#):

- Working with the public or volatile, unstable people
- Working alone or in isolated areas
- Handling money and valuables
- Providing services and care
- Working where alcohol is served
- Working late at night or in areas with high crime rates

OSHA distinguishes four kinds of workplace violence:

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- *Criminal Intent*: Violent acts by people who enter the workplace to commit a robbery or other crime.
- *Customer/Client/Patients*: Violence directed at employees by customers, clients, patients, students, inmates or any others to whom the employer provides a service.
- *Co-worker*: Violence against co-workers, supervisors, or managers by a current or former employee, supervisor, or manager.
- *Personal*: Violence in the workplace by someone who does not work there, but who is known to, or has a personal relationship with, an employee.

Responding to the Threat

Eliminating all violence may be impossible, but employers can and should confront the problem in the following ways:

1. Take security precautions. Employers 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 cell phones. Employee training is particularly important. Government or private security professionals can assist in evaluating and upgrading security. Moreover, as we recently wrote, Washington employers can prohibit employees from bringing weapons to the workplace.

2. Screen applicants carefully. Consistent with [legal requirements](#), 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. Employers 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. The policy should be 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 authority 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 anti-harassment orders and other injunctions and may serve as liaison to prosecutors.
- *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.
- *Others:* 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 in turn train 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; anti-harassment 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 organization'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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If you have questions about addressing threats of violence in your workplace, contact the Foster Pepper Employment & Labor group.