

Six Tips for Evaluating and Responding to Workplace Violence

Employers increasingly are concerned about violent behavior in the workplace by employees and former employees. However, media pronouncements on this subject are somewhat misleading. Studies by the Bureau of Labor Statistics (BLS) indicate that the number of workplace homicides has consistently declined since 1994 and that very few workplace homicides are committed by work associates, customers, or clients. Instead, the vast majority of workplace violence is related to robberies committed by unknown assailants. Predictably, most of the violence occurs in high-risk occupations. According to the BLS, the industries at highest risk for workplace homicides are those that involve the exchange of money and contact with the public, including retail trade, grocery stores, eating and drinking establishments, taxicabs, police, and gasoline and service stations.

Still, employers are legitimately concerned about workplace violence because of its serious consequences and legal implications. Incidents of workplace violence can be devastating to employees who have to deal with the loss of coworkers and the fear of future occurrences. In addition, employers can be held liable for the actions of their employees under theories of negligent hiring, negligent retention, and respondent superior (a legal doctrine under which employers are liable for the acts of their employees committed in the course of employment). Furthermore, organizations are responsible for providing a safe workplace under the "general duty clause" of the Occupational Safety and Health Act.

The Occupational Safety and Health Administration (OSHA) takes the position that employers may be liable for violence that occurs at work under the general duty clause. This clause requires employers to provide employees with employment and a place of employment free from recognized hazards that cause or are likely to cause death or serious physical harm. In addition, OSHA has issued industry-specific guidelines to prevent workplace violence for late-night retail establishments and for health care and social service employers. OSHA issued these guidelines in response to statistics showing that these employees have an increased risk of work-related assaults, committed primarily by customers or patients, respectively. The guidelines for night retail establishments apply to convenience stores, liquor stores, gas stations, and other 24-hour retail establishments. The guidelines for health care and social service employers include community care facilities, emergency rooms, long-term care facilities, mental health clinics, pharmacies, and psychiatric facilities. These OSHA guidelines are voluntary and failure to follow them is not, by itself, considered a violation of the general duty clause. However, covered employers that implement the guidelines may be able to avoid OSHA citations for incidents of violence. The guidelines are available on OSHA's Web site at <http://www.osha-slc.gov/SLTC/workplaceviolence/index.html>. OSHA also provides general information on workplace violence at that same address.

To help minimize the potential for incidents of workplace violence, you should take the following steps to evaluate risks and to respond to safety and security concerns:

1. Analyze the work environment for specific security risks and take basic security precautions. In particular, consider the type of industry; location (urban or high crime area versus suburban or rural); hours of operation (24-hours, days, evenings); the availability of cash or valuable items; and accessibility to nonemployees (such as customers, vendors, and the public).

2. Check references when hiring. Ask about gaps in employment and consider conducting in-depth background investigations that include credit and criminal checks.
3. Develop and enforce discipline and work rules policies. Work rules or policies should prohibit: assault of coworkers or customers; direct threats; the use of profanity or abusive language; sexual or other forms of harassment; theft, destruction, defacement, or misuse of the employer's property; insubordination; the possession of firearms or other weapons in the workplace; and reporting to work under the influence of alcohol or illegal drugs or the use, sale, dispensing, or possession of them on the employer's property. Communicate the policies to all employees. Then enforce them, using appropriate discipline, up to and including termination.
4. Train employees to report suspicious, harassing, or threatening behavior, since extreme violence by an employee is often preceded by lesser offenses such as insubordination, challenges to authority, and harassing comments.
5. Train supervisors and managers to detect and react appropriately to problem behaviors.
6. Create a crisis management plan for the worst-case scenario, including a response team (with representatives from human resources, security, and legal departments); contacts with local law enforcement agencies; a communications system to disseminate information during and after a crisis; contacts with local hospitals and emergency care facilities; and employee training.

The underlying individual statistics for workplace homicides indicate the trend is improving even while a few horrible mass killings grab the headlines. As an employer, you are best advised to assess your own industry, location, and legal risk factors and then tailor your response accordingly. The problem of workplace violence must be taken seriously, but a panic or a "one size fits all" response is not the best approach.