

**Violence in the Workplace:
Preparation, Prevention and Response**

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LIST OF ABBREVIATIONS

CFR	Code of Federal Regulations
CIA	Central Intelligence Agency
DOL	Department of Labor
DOJ	Department of Justice
DPS	Department of Public Safety
EAP	Employee Assistance Plan
EE	Employee
EEOC	Equal Employment Opportunity Commission
ER	Employer
FBI	Federal Bureau of Investigations
HR	Human Resources
HRM	Human Resources Management
INS	Immigration and Naturalization Service
IPRC	Injury Prevention Research Center
NIOSH	National Institute for Occupational Safety and Health
OSHA	Occupational Safety and Health Administration
P & L	Profit and Loss Statement
SHRM	Society of Human Resource Management

CHAPTER 1

INTRODUCTION

“Workplace violence has emerged as an important safety and health issue in today’s workplace. In its most extreme form, homicide, workplace violence is the second leading cause of fatal occupational injury in the United States. Nearly 1,000 workers are murdered, and 1.5 million are assaulted in the workplace each year.”¹

Violence in the workplace can take on many different forms, ranging from subtle verbal harassment, to implied threats, to actual physical acts of violence committed by an internal employee, former employee, or the associate of a current staff member who does not work for the employer.

Although domestic violence and disgruntled coworkers make up the majority of internal based incidents, broader issues must be considered. Employers should look at the actual work done by the business. Is the organization environmentally, politically or religiously controversial? Are there other offices located in the same building that may be targeted by a person or organization? Is the product or service produced by the company perceived to be of value or interest to those who may commit a theft crime?

Finally, although little research to date has been published on this matter, another consideration when a business reviews its vulnerabilities to violence is that of terrorism. Is the physical business location in high profile area or building? Is the industry in which the business is in making it an inherent target? Additionally, is the

majority of the workforce or ownership's nationality one that would make it a potential target? The events of September 11, 2001 have forced us to examine these issues and accept the fact that some aspects of workplace violence may not be preventable, only responded to.

As such, there is not a business today that can say that it has no chance of becoming the victim of workplace violence. The threat is real and pervasive. The solutions are complex, requiring not only financial resources and planning, but also time and training. However, it is possible to dramatically reduce the risks of workplace violence. What is most critical is the preparation for such possibilities, and the construction of preplanned responses to the unthinkable.

Such preparation includes taking a comprehensive look at the work place, both the physical environment and human resources, and then creating a detailed and all-embracing workplace violence policy and procedure. This new plan must become a component of the organizational strategic design, while maintaining sensitivity to the culture and public image of the company. Persons whom may be appropriate to include are: owners or partners, senior management, human resources, risk management, and outside vendors such as the company EAP provider. A solid plan should be reviewed and offered for file with local law enforcement, fire prevention, and property management, if applicable.

Training and communication on this policy is central to its success. All employees should be aware of the policy, although the fine details of the preparation and response plan may be best left to those "who have a need to know". Finally, a

¹ US Department of Labor, *OSHA Priorities – Workplace Violence* (Washington D.C., 1999), 1.

review of the hiring and retention practices should be conducted relative to legal and risk management liabilities, ensuring all considerations have been addressed.

Goals of This Thesis

The main goal of this thesis is to identify the key components of an effective and comprehensive workplace violence policy. Ideally, this policy and its accompanying procedures will help businesses to prepare, prevent and respond to any and all types of workplace violence. This paper seeks to incorporate traditional and alternative methods available to employers, while keeping in mind the many fiscal limitations that exist in today's business community.

Through the exploration of low cost opportunities for the smaller business, and full-scale plans for large industries, especially those in high-risk locations or professions, this thesis should provide solutions that allow any organization to design and implement a workplace violence policy. Because financial constraints can be prohibitive, it is important to look at all the resources that may exist, and build partnerships with crisis response providers prior to an incident occurring. To this end, sample policies and procedures have been included in this thesis, and notable best practices are incorporated throughout the document.

Finally, this thesis will make a case for the fact that the responsibility for a workplace free from violence rests with each the line workers within the organization. Each employee's awareness of his/her surroundings, communication with company officials, and the willingness to get involved if they sense something is amiss, is the

cornerstone of a successful workplace violence program. Without complete participation at all levels, the question shifts from when will there be a workplace violence occurrence, to how severe will the incident be. It is important to remember that in all the cases of internal, or employee vs. employee/company violence, not a single case occurred in a vacuum. There are always warning signs. Unfortunately, these same signs that are so apparent after the event are frequently missed prior to the time of occurrence.

PART 1
OVERVIEW

CHAPTER 2

DEFINITIONS

Before beginning, it is important to clarify some key terms and concepts that are related to this topic, and understand the driving factors behind them. Many state and federal laws play a part in the definition of, and response to, workplace violence scenarios. Federal agencies which may become involved in incidents of violence include the: DOJ, DOL, EEOC, INS, and federal law enforcement such as the CIA, DPS, and FBI. On the local level, state and city law enforcement agencies may also be party to any investigation of workplace violence.

Some legislature that governs the areas of workplace violence includes the Civil Rights Act of 1964, which includes Title VII. Title VII addresses discrimination and harassment, which includes quid pro quo and hostile work environment harassment. In many states there are laws regarding domestic violence and stalking. It is imperative that in a company's zeal to identify possible threats and prevent them, they do not cross the line and violate these laws through discriminatory hiring and retention practices. Finally, at the state and federal level, there are laws that govern the use of weapons and deadly force. The later laws obviously come into play after an incident has occurred.

Since September 11, 2001, additional legislation has been proposed that will effect the safety protection requirements in some industries, and provide guidelines to others that are not included in such legislation. Acts of war, especially random ones like terrorism, will be particularly difficult to plan for and address. The real concerns

of biological and chemical exposure in the workplace, take violence to a whole new level. Additionally, traditional business protection through insurance may not be available in the face of future terrorist attacks. For the purpose of this paper, acts of terrorism will not be directly addressed. The focus, instead, will be on employee/employer specific violence. Acts, such as mail threats and anthrax hoaxes, which may have the same type of aftermath effects on workplace survivors, will be given some consideration, at least from a response point of view.

Finally, considerations of the culture in the local community and the state play a significant role in workplace violence. For example, Arizona allows anyone to carry a weapon at any time, as long as it is not concealed, barring government offices and other businesses that clearly post no weapon policies. The culture in the state of Texas is one that an employee having a shot gun rack on the roof of the car, or in the truck of the SUV while parked in the company lot would not draw a reaction. We are a country which believes in the right to bear arms, cherishes our outdoor hunting sports, and makes gun control a mainstream topic by having the elected head of the National Rifle Association a respected celebrity. As such, a delicate balance between civil liberties and workplace safety must be continually straddled.

CHAPTER 2

Background of Workplace Violence

Elgar Corporation, San Diego, CA, 2 dead.
Quintessence Building Maintenance Company, 1 dead.
Gravure Corporation, Louisville, Kentucky, 7 dead and 15 wounded.
US Airlines, 43 dead.
General Dynamic, California, 2 dead.
McDonald's, San Ysidro, California, 21 dead.
United States Post Office, Edmond, Oklahoma. 14 dead and 6 wounded.

The United States Post Office is a private business that has a name forever linked with workplace violence. The coined term, “Going postal”, has become a buzzword for incidents of workplace violence. Recently, the Post Office has been hard hit by the real threat of biological warfare as thousands of hoax letters we sent to Planned Parenthood of America using their services. How does this business manage to maintain its customer base in the face of a public image nightmare? What do they do on a daily basis to ensure that employees feel safe, and customers are willing to use the product that they have to offer?

To begin with, we must look at the economy of scales. The Post Office employs hundreds of thousands of workers. As such, the incidence of workplace violence in this organization is actually in line with, if not below, the national average. Additionally, their product doesn't have any real competitors, at least not with which an “apple for apple” comparison can be made. After all, there is no other similarly priced way to send non-electronic mail. For the overwhelming majority of Americans, the mail service is the primary way of paying bills and receiving periodicals or

advertisements. As such, the impact, although notable, is not likely to put the Post Office out of business.

The costs associated with running this business are expected to rise as the need for more sophisticated scanning machines comes to the forefront, and potential law suits resulting from the death of Postal Workers who were exposed to Anthrax are filed. Rising costs mean decreased profitability, which may or may not be made up by a product price increase.

What about the business that does have competition for the product or service it sells? Consider the regional or local business for the moment. It is painfully clear that most would not survive the serious public image and consumer confidence problems that continue to fly in the face of the Postal Service. What can the small to medium business do to ensure survival if the unthinkable happens?

Take a look at another American institution, McDonald's. Although the branding could lead one to believe that they are one big company, McDonald's is actually made up of single store and multi-store franchises. If an incident of violence was to occur at a particular location, considering the increase in competition from vendors with similar product offerings, might not the average consumer opt for the Burger King across the street that didn't have a lobby shoot-out? Globalization of the market place and increasing consumer demands make even small incidents of workplace violence potential land mines for companies of all shapes and sizes.

One must also consider the indirect business partners and associates in the work environment, such as office building property management companies, who must be part of the preparation and response to violence for all tenants in the facility

they over see. An incident in one tenant's office may have the effect of reduced lease renewals with other tenants. This partnership between the individual office or company and the property manager is one that should not be overlooked during the preparation and response planning phases of a program.

The Workplace Violence report created by the University of Iowa Injury Prevention Research Center, in conjunction with the Workplace Violence Intervention Research Workshop in Washington, D.C., divided types of workplace violence into four categories. They are: "Criminal Intent, Customer/Client, Worker-on-Worker, and Personal Relationships."² For the purpose of this paper, Personal Relationships will be discussed as a component of domestic violence, and will be referenced as such.

Finally, when evaluating the different categories of workplace violence, it is prudent to consider the impact on morale, productivity, and profits. "Employers affected by incidents of workplace violence lose significantly in tangible (costs) and intangible ways. The impact on morale may require extensive intervention through crisis teams as well as ongoing counseling sessions (individual and group) through EAP or private sources. Health care costs will be impacted as employees use counseling and outpatient services to return to normalcy. Invariably, attitudes toward productivity, creativity, and teamwork require reenergizing. It is critical to monitor events, culture, and individuals for breakdowns, trends and gaps requiring action."³

² University of Iowa, Workplace Violence – A Report to the Nation (Washington, D.C. 2001). 4

³ Pete Fornal, "Coping with Workplace Violence: A Checklist for Action," *SHRM White Paper*, Reviewed April 1999; available from <http://www.shrm.org/whitepapers/documents.default.asp?page=61885.asp>; Internet.

CHAPTER 2

Criminal Intent

One definition of criminal intent is “the perpetrator has no legitimate relationship to the business or its employees, and is usually committing a crime in conjunction with the violence.”⁴ Such crimes are often considered robbery or theft related, and make up eighty percent of all workplace homicides, according to OSHA. “Almost half of workplace homicides occur in the retail industry, where those working late are particularly vulnerable.”⁵

OSHA released the following factors that may increase a worker’s risk to workplace assault and violence:

1. Contact with the public
2. Exchange of money
3. Delivery of passengers, goods, or services
4. Working with unstable or volatile persons in health care, social services, or criminal justice settings
5. Working alone, or in small numbers
6. Working late at night or during early morning hours
7. Working in high-crime areas
8. Guarding valuable property or possessions
9. Working in community-based settings

Based upon these risk factors, it is not a surprise that Table 1 indicates the following risk rates of violence for various occupations:

⁴ Ibid, 4.

⁵ Press Conference releasing the Recommendations for the Night Retail Workers, Workers Memorial Day, April 28, 1998, OSHA.

Police Officer	306
Private Security Guard	218
Taxi Driver	184
Prison Guard	117
Bartenders	91
Mental Health Professionals	80
Gas Stations Attendants	79
Convenience, Liquor Store Clerks	68
Mental Health Custodial Workers	63
Junior High/Middle School Teachers	57
Bus Drivers	45
Special Education Teachers	41
High School Teachers	29
Elementary School Teachers	16
College Teachers	3

What does this mean to this business owner? Many of the positions above are part Federal, State or Local government, or a subsidiary there of. Based on that observance, a false sense of comfort may ensue for the business owner who determines that since they do not own a retail establishment or a public entity, their workforce is not at risk. Although true in theory, it is probable that an indirect relationship with these services exists. Perhaps the business owner is a vendor, an advertiser, a financial services provider, or even the business next door. When viewed from this perspective it is obvious that the impact is real, and must be considered.

For those who are part of the above industries, direct costs that affect the bottom line are: increased Workers Compensation insurance rates, increased health insurance cost due to higher the average utilization, increased turnover which in turns

⁶ OSHA (2001, July 22). *OHRA Priorities – Workplace Violence*. Retrieved July 22, 2001 from the World Wide Web: <http://www.osha.gov/oshinfo/priorities/violence.html>.

causes higher employee retention costs, decreased customer satisfaction due to increased turnover, and higher than average general liability and EPLI insurance costs (if such a policy can even be underwritten). Because many insurance rates are based on aggregate risk of industry and location/zip code, just being near a business that falls on the above chart can have a dramatic affect your bottom line.

CHAPTER 2

Customer/Client vs. Employee Violence

This type of workplace violence is defined as a circumstance during which “the perpetrator is generally a customer or client who becomes violent in the course of a normal transaction.”⁷ What could be a trigger for such an offender is difficult to predict, the frightening part of this definition is the phrase “in the course of a normal transaction”. How can the business owner predict which time the normal transaction will become the abnormal? What would be the cause for such change in behavior by this customer, compared to those who are law abiding and mean no harm? In the case law enforcement or the mental health professional, frequently the perpetrator is mentally unstable due to mental health problems or a substance induced state.

Consider this scenario, you are standing in line at a toy store, and it is two days before Christmas. There is a parent in line in front of you who is agitated because he was trying to purchase a special gift for his/her child. He starts to yell at the store clerk and asks her how she can have gall to offer a rain check so close to the holiday. He then starts to rant, “Ha! A rain check won’t put Susie’s gift under the tree, how could you be so insensitive to suggest such a thing ...” The escalation continues from there. Such a scenario is not that hard to imagine, and the ordinary can quickly become the unusual in relation to workplace tensions and potential violence.

Each person has his or her own agenda and goal when conducting an activity. When this is interfered with by someone else’s goals and agendas, or when another

⁷ *Workplace Violence – A Report to the Nation*, 5

person doesn't agree with the information provided in response, things can quickly spiral out of control. Deadlines, missed budgets, over-promised and under-delivered products or services are frequently found as commonalities to such customer aggressions in the workplace.

When reviewing the impact such events has on the business bottom line, consider the impact on a customer driven industry. What about the denied a bid in competitive environments such a construction or development because of prior history of bad publicity relative to a workplace violence incident. Will you business be unofficially "black-listed" because of such events?

If you are the employer/owner of a business that has a customer or client step out of line while conducting a business transaction and the employee reacts violently, what is the ramification for you? Consider the liabilities from a legal perspective. If the employee becomes violent, could you be held responsible for negligent hiring? If this same employee has behaved in a similar way in the past, what about your liability for negligent retention? It is very easy to see how exposure to litigation and liability grows when dealing with workplace violence, and clear that as an employer you have an affirmative responsibility to protect both your employees and customers.

CHAPTER 2

Employee vs. Employee Violence

This is probably what most people think of when they hear that an incident of workplace violence has occurred. In reality, Employee vs. Employee Violence “accounts for 7% of all workplace homicides. There does not appear to be any kinds of occupations that are more or less prone to this type of violence. Because some of these incidents appear to be motivated by disputes, managers and others who supervise workers may be at greater risk of being victimized.”⁸

There are a host of reasons that one employee could be aggressive against another employee. Although commonly it is the supervisor or member of human resources who is the target of aggression because of a discipline warning that was given, job termination, lay-off, or some other impact on the employee sense of self. However, there are many cases where the employee goes after a coworker of equal rank within the organization.

Consider the small manufacturing plant just outside of town. It is a stormy morning, and only one parking spot is left near the main entrance. Two employees pull into the lot at the same time, from different entrances. The first employee sees the spot, but before he could turn down the aisle, the second employee pulls in. Later that afternoon during the lunch break, the first employee approaches the second employee and becomes aggressive because “his” parking spot was taken. The second employee thinks his coworker is just giving him a hard time, so he laughs and walks away. The

⁸ Ibid, 9.

next morning when the employee gets to work, his coworker approaches him in the parking lot and says, “You thing that taking my spot was funny, I’ll show you funny,” and shots the employee with a shotgun.

Although the above story was factitious, stories similar to this one are played out at hundreds businesses, both big a small, all around the United States. According to a 1995 study by the Workplace Violence Research Institute, “every workday, and estimated 16,400 threats are made, 723 workers are attacked, and 43,800 are harassed.”⁹

⁹ Steve Kauffer, CPP and Jurg W. Mattman, CCP, *Workplace Violence: A Employer’s Guide*, Retrieved (12/15/01) from the World Wide Web: <http://www.workviolence.com>.

CHAPTER 2

Domestic Violence

“A 1995 survey of 248 company security directors in 27 states found that domestic violence that spills over into the workplace ranked high on the list of security concerns, and 93% of those surveyed said domestic violence is an increasing corporate issues.”¹⁰

The effect of this type of workplace violence has a greater immediate impact on the employer than the other types do. “Domestic Violence in the workplace may appear as high absenteeism and low productivity on the part of a worker who is enduring abuse or threats, or the sudden, prolonged absence of the employee who is fleeing abuse.”¹¹

Imagine if a key team member on a project, the only member who had the most practical application experience, was suddenly absent. What if this person’s knowledge was not available from any other person in the organization? Consider this same employee who returns to work the next day with a broken arm, claiming a fall down her stairs, and is now unable to perform the essential functions of her job until the injury heals. This is what the impact of domestic violence is like, day in and day out, for hundreds of businesses across the United States.

This type of violence is also one of the most challenging to prepare for, and respond to. Best business practices suggest a policy of keeping employee’s personal lives out of the workplace, and most employers work very hard to maintain this

¹⁰ Ibid.

¹¹ *Workplace Violence – A Report to the Nation*, 11