

LEMLE & KELLEHER, L.L.P.

MODERN MANAGEMENT

WORKPLACE VIOLENCE: Prevention and Response

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Introduction

Violence in the workplace continues to be a serious health and safety issue. The most extreme version of workplace violence, homicide, is the fourth leading cause of fatal occupational injury in the United States. According to statistics from the Bureau of Labor's Census of Fatal Occupational Injuries ("CFOI"), there were 564 workplace homicides in the United States, out of a total of 5,702 recorded fatal work injuries. The Census also revealed that half of employers with 1,000 or more employees reported an incident of workplace violence during the 12 month surveyed period.

Private industry most frequently reported addressing co-worker violence (82 percent); customer or client violence was the next most frequent subject of private industry policies or programs (71 percent); followed by criminal violence (53 percent) and domestic violence (44 percent).

Twenty percent of private industry establishments provided training on preventing workplace violence, while 32 percent of local government workplaces and 58 percent of state government workplaces provided this training. In total, only 4 percent of all establishments trained on domestic violence and its impact on the workplace.

Despite these startling statistics, over 70 percent of workplaces still have no formal program or policy which addresses workplace violence.

Workplace violence also has a strong economic impact on American industry. It is estimated that workplace violence costs over \$36 billion annually and affects more than 2 million Americans each year. Indeed, workplace violence has become one of the top security concerns facing American businesses.

Prevention of workplace violence has also proved difficult because of the unique set of facts involved with each discreet violent incident. Further confounding the issue is the fact that workplace violence has, for the most part, been non-discriminatory in nature, meaning that both employees and managers are subjected to the same risk. So what can be done to mitigate the threat and liability of violence in your workplace? Several warning signs have been identified: a consistency of the perpetrator profile, behavioral warning signs, and typical worker responses.

In this booklet we offer several steps and preventive measures to help manage the threat and reduce the likelihood of violent incidents in the workplace.

History of Violence in the Workplace

Although its prevalence has increased, violence in the workplace is neither a new phenomenon nor limited to certain industries. Terror attacks on the workplace and school and university campus violence have heightened our awareness and our vulnerability. For instance:

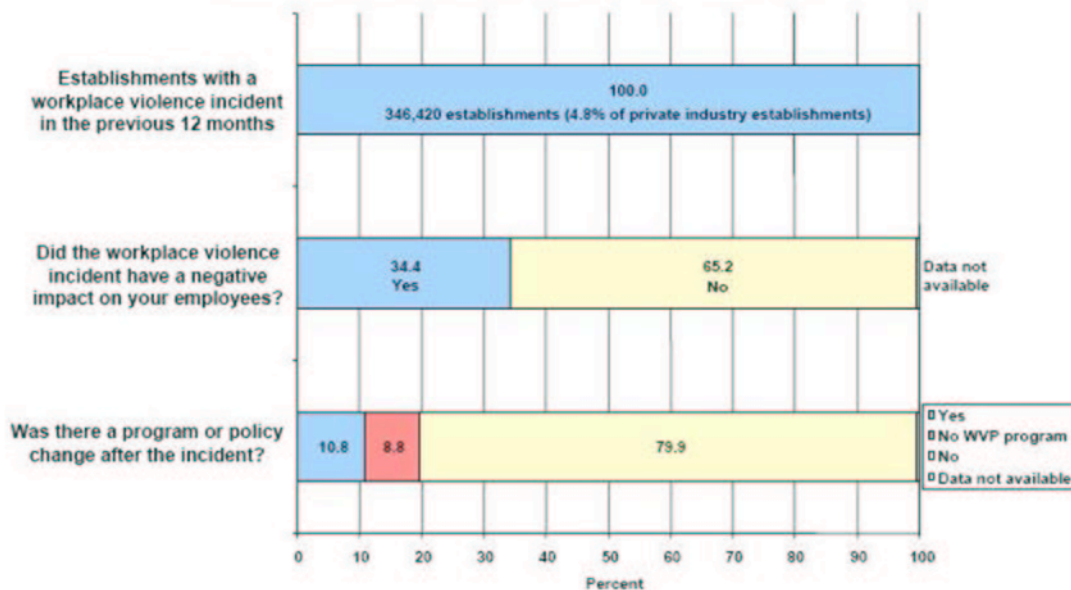
- 04/01/08—Following an argument in the plant's parking lot, a 25-year-old man killed a co-employee before fleeing an industrial plant in Virginia.
- 03/12/08—A man killed his ex-wife and then himself at a Mississippi bank where his ex-wife worked.
- 01/12/08—An applicant returned to a Maryland business to discuss an apparent problem with his application. The applicant then pulled out a revolver, shot the supervisor in the leg, and fled the scene.
- 04/21/07—A NASA contract worker brought a handgun inside an office building at the Johnson Space Center in Houston, Texas, and fatally shot an engineer before killing himself.
- 04/12/07—An armed gunman entered the CNN Center in Atlanta, Georgia, where he shot and killed his former girlfriend, a 22-year-old employee at the hotel.
- 12/19/07—An argument between two employees at an engineering company in Mississippi provoked one of the men to retrieve a gun from his car, re-enter the building and shoot the other employee.
- 08/30/07—A man walked into his former workplace in New York and opened fire on its employees, killing his ex-supervisor and wounding two other workers.
- 09/06/06—A cook who worked at a bed-and-breakfast in the Maine countryside killed and dismembered four people, including the owner of another bed-and-breakfast and the owner's daughter.
- 06/26/06—An employee busted into a north Denver warehouse with a handgun, gunned down five co-workers—one fatally—and injured a police officer before dying in a firefight with police.
- 04/21/06—Two weeks after being suspended, a man returned to his job at a poultry processing plant in Pine Bluff, Arkansas, with two pistols and shot a coworker.
- 01/31/06— In a late-night rampage, a former employee returned with a gun to a mail processing plant in Goleta, California, shooting five workers to death, and critically wounding another, before killing herself.

- 11/23/05—A former employee shot two supervisors and then killed himself with a .38 caliber handgun at an office building in Glen Burnie, Maryland.
- 09/27/05—A former employee of a New York factory, who was fired after he was arrested on child pornography charges, shot the factory's two co-owners and manager, before killing himself.
- 09/16/05—After a work-related dispute, an employee entered the back door of an Illinois restaurant and shot and killed two of his co-workers.
- 05/09/05—A year after being fired from a mental health center in San Francisco, California, a man returned to his former place of employment armed with a shotgun and handgun and fatally shot a former co-worker.
- 02/21/05—An angry employee at a Mississippi shipyard opened fire with a 9mm handgun, shooting two supervisors.
- 11/22/04—A young man walked into an electronic store in St. Petersburg, Florida, and shot three people, killing two of them, before turning the gun on himself.
- 10/21/04—A former employee of a conveyor belt factory in Earth City, Utah, entered the building with a shotgun and shot at several employees, wounding one.
- 07/02/04—A disgruntled employee at a Kansas City, Missouri, meat packing plant shot eight fellow employees, killing five, before committing suicide.
- 05/24/04—A man shot and killed his estranged wife in the parking lot of her workplace in Utah, then took his own life.
- 08/27/03—A man with an arrest record for weapons and other violent offenses killed six people in a Chicago, Illinois, warehouse from which he was fired six months earlier.
- 07/08/03—An employee of a defense contractor in Meridian, Mississippi, shot fourteen fellow employees, killing six, before taking his own life.

Statistics, United States Private Industry

The CFOI program also collects statistical information regarding the impact that workplace violence incidents had on programs and employees in American private industry. As the bar graph below indicates, nearly 4.8 percent of all private industry establishments reported a workplace violence incident during the surveyed 12 month period. In addition, over 34 percent of all employers reporting an incident of workplace violence said that the incident significantly affected the fear level of its employees and the employees' morale. But, disturbingly, only 11 percent of the employers reporting an incident of workplace violence changed its policy after the incident.

Establishments with workplace violence incidents in the previous 12 months and their impact on programs and employees, United States private industry

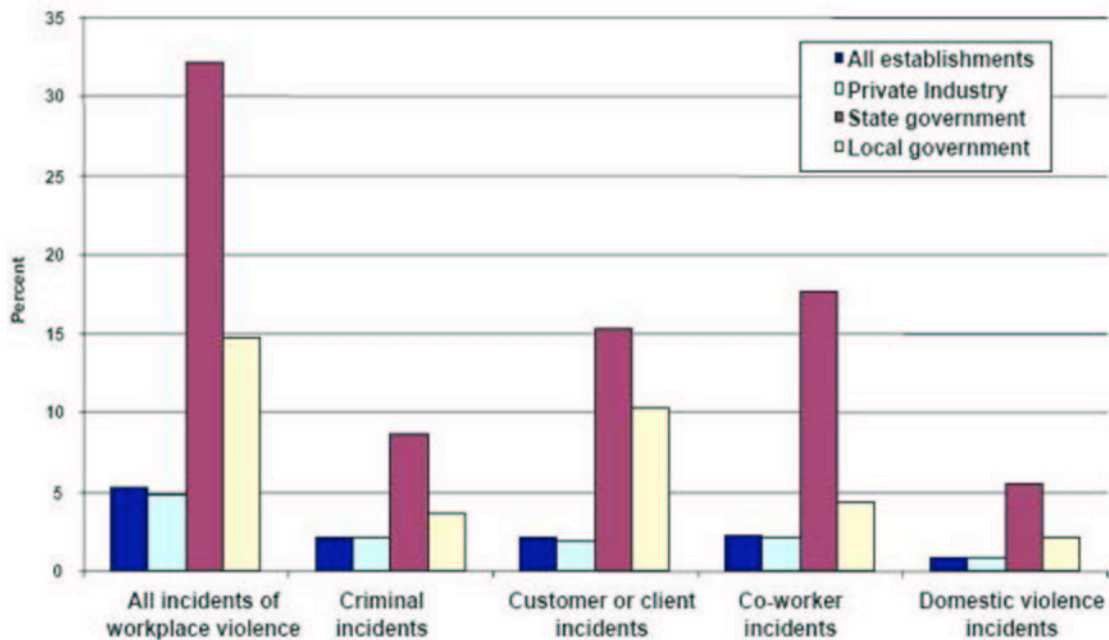


Nearly five percent of private industry establishments experienced an incident of workplace violence in the last year. While one-third reported a negative impact on employees, only 11 percent changed their policy after the incident; 9 percent had no program or policy.

Source: Bureau of Labor Statistics, Survey of Workplace Violence Prevention, 2005

The CFOI also compiled statistical data comparing the percentage of establishments that experienced an incident of workplace violence based on the type of incident and the type of ownership of the establishment. That data revealed overwhelmingly that state government establishments experienced higher percentages of all types of workplace violence than did local government or private industry establishments. Specifically, 32 percent of state government establishments experienced some form of workplace violence over the 12 month period.

Percent of establishments experiencing an incident of workplace violence by type of incident and ownership, United States



State governments experienced higher percentages of all types of workplace violence than did local governments or private industry. Thirty-two percent of State government establishments experienced some form of workplace violence in the previous 12 months.

Source: Bureau of Labor Statistics, Survey of Workplace Violence Prevention, 2005

A New Era, Post-911

Workplace violence in the United States has become a polarizing issue since the terrorist attacks on September 11, 2001. At every turn there are news reports and specials addressing violence in the workplace. Employers continually face new challenges in seeking to provide and maintain a safe work environment for employees. Evacuation strategy and alternative security measures are common employer concerns. Now, more than ever, it is paramount that employers develop a comprehensive workplace violence prevention program. Although there is no “one size fits all” template for coordinating and implementing such a plan, an employer should, at a minimum, be familiar with the following:

1. Sources of workplace violence;
2. Types of workplace violence;
3. Employer liability for workplace violence;
4. Statutory duties to provide a reasonably safe workplace; and
5. Indicators for identifying a potentially violent employee or situation.

Sources of Workplace Violence

Stressors

Experts believe that the modern corporate structure and culture has contributed to increased employee dissatisfaction. Competitive pressures, changing workforce demographics, the economy and domestic dysfunction are a few of the sources linked to violence in the workplace. Corporate stressors associated with the modern workplace, like company mergers, hostile take-overs, and mass layoffs, undoubtedly contribute to an employee's work anxiety and economic insecurity. The long-term consequences of such psychological stressors have been linked to bizarre workplace behavior, including hostility and violence.

Moreover, the increase in ethnic, cultural and gender diversity in the workplace has contributed to the relative influx of violence in the workplace. Research survey results show that many minorities tend to agree with the negative stereotypes of other minority groups, even though they share similar difficulties associated with discrimination by the majority.

Another major source of workplace violence likely stems from domestic ills, such as domestic discord, family economic pressures, and alcohol and drug abuse. More recently, the United States Department of Agriculture ("USDA") in its Handbook on Workplace Violence has identified road rage as an additional stressor brought into the workplace. (USDA Handbook on Workplace Violence Prevention and Response, www.usda.gov/news/pubs/violence/wpv.htm.) An abusive domestic environment seems to be more of a liability to female workers. Although employers often terminate an employee to eliminate disruption in the workplace by the employee's domestic partner that terrifies co-workers, the better course of action is to take steps to insulate workers from such abusive and disruptive behavior. This can include enhanced internal security measures as well as reliance on the cooperation with outside authorities. Terminating the victim will seldom solve the problem and may in fact escalate it while losing a good employee and decreasing employee morale.

Types of Workplace Violence

Workplace Violence Defined

As defined by the National Institute for Occupational Safety and Health ("NIOSH"), "workplace violence" is any physical assault, threatening behavior or verbal abuse occurring in the work setting. It can occur at or outside the workplace. This definition includes: beatings; suicides; shootings; rapes; near suicides; vandalism; and psychological traumas such as threats, obscene phone calls, abusive language, intimidating presence, bullying and harassment of any nature.

Workplace violence has been categorized as:

- Violence by a disgruntled employee;
- Crimes by unknown assailants;
- Displaced domestic violence and stalking;
- Displaced road rage; or
- Sexual and other forms of illegal harassment.

It is important for employers to have a firm understanding of each type of workplace violence in order to protect its employees, as well as decrease the legal risks resulting from such incidents.

The Disgruntled Employee

Violence by the disgruntled employee typically involves a worker who perceives that he or she has been mistreated by their supervisor, co-employees or their employer. This employee could be closely compared to the stereotypical description of the "postal" employee. Violence from this employee is often caused by a "triggering event." A key to preventing this type of violence is spotting and reporting abnormal employee behavior or identifying situations where an employee is being singled out by other employees or supervisors.

An Unknown Assailant

This type of workplace violence is committed by a person other than an employee or an employer and, typically, occurs at the victim's place of employment. These crimes often happen at businesses that are open late and have minimal security, such as convenience stores and 24-hour gas stations. Because of the arbitrary nature of this type of violence, prevention is difficult; however, competent security measures have been shown to reduce its likelihood.

The United States Department of Labor, Occupational Health and Safety Administration ("OSHA") has identified those workers that are at an increased risk. They include: "workers who exchange money with the public; deliver passengers, goods or services; or work alone or in a small groups, during late night or early morning hours, in high crime areas or in community settings and homes where they have extensive contact with the public," (OSHA Fact Sheet on Workplace Violence is available at www.osha.gov.) The Health Care Industry has been identified particularly vulnerable by OSHA and the Federal Bureau of Investigation as. *Workplace Violence: Issues in Response, Federal Bureau of Investigation (FBI), (2004, March 1).*

Displaced Domestic Violence

This type of workplace violence is a by-product of a violent and abusive domestic life. Once domestic violence begins to occur in the workplace, the safety of the targeted victim, as well as other employees, is a concern. To reduce the likelihood of employees being victimized at work, employers must work toward preventing abusers from entering the workplace. As the statistics indicate, domestic violence occurs at an alarming rate in the United States.

According to the most recent surveys, every 15 seconds a woman is battered by her husband, boyfriend, or live-in partner. Domestic violence is now the leading cause of injury to women between the ages of 15 to 44. Seventy-four percent of employed women suffering from domestic violence are battered and harassed at work, either by telephone or in person.

Displaced Road Rage

Road rage has been identified as an additional external factor entering the workplace.

Sexual and Other Harassment

Sexual and other harassment by a co-worker or supervisor may also lead to workplace violence. A strong anti-discrimination and anti-harassment prevention policy and process can help preempt this type of workplace violence.

The Equal Employment Opportunity Commission (“EEOC”) has successfully prosecuted harassment actions against employers, specifically those directly or indirectly employing immigrants under Title VII. Many have involved immigrant workers and claims of sexual harassment. Most recently, the United States Court of Appeals in California affirmed a jury verdict in favor of the EEOC and farm worker Olivia Tamayo in a sexual harassment and retaliation suit against Harris Farms, one of the largest integrated farming operations in California. Tamayo was awarded over one million dollars with attorney’s fee. Tamayo was a Mexican immigrant who began picking crops for Harris Farms in the early 1980s. She testified that her supervisor raped her several times and threatened her with a gun or knife to ensure her compliance. He also subjected her to verbal sexual abuse and condoned her co-worker’s sexually threatening and offensive language toward her. She was suspended by Harris Foods immediately after she filed an EEOC charge and was told she would be fired if more problems occurred. Tamayo ultimately quit.

This enforcement by the EEOC of the abuse of immigrant workers in the United States, along with its Youth-at-Work initiative designed toward protecting youth from abuse and harassment in the workforce primarily in the retail and food service industries, has resulted in EEOC enforcement actions and consent decrees often addressing and providing relief to a class of workers.

Employer Liability

An employer has a legal and ethical duty to protect its employees. Laws such as Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (“ADA”), and the Age Discrimination in Employment Act (“ADEA”), prohibit discrimination and harassment based on certain protected characteristics such as race, sex, disability and age. Moreover, many states have anti-discrimination statutes protecting against harassment of persons in protected categories. There are also criminal statutes, state and federal, for assault and battery as well as state civil liability statutes and common law claims for torts. Courts have extended employer liability to cover the violent acts of its employees on third parties based on negligent hiring, negligent retention and negligent supervision. A claim against an employer for the wrongdoing of an employee based on the employer's alleged direct negligence in hiring, retaining, or supervising the employee is governed by the same duty-risk analysis used generally for negligence cases. One court has noted: "When an employer hires an employee who in the performance of his duties will have a unique opportunity to commit a tort against a third party, he has a duty to exercise reasonable care in the selection of that employee." The same would hold true for the training, retention and supervision of that employee.

Negligent Hiring

A claim for negligent hiring arises out of an employer's alleged failure to adequately screen an individual prior to hiring. This theory is based on the premise that an employer—whose employees are brought into contact with members of the public in the course of their employment—is responsible for exercising a duty of reasonable care in the selection of its employees. It therefore follows that if an employer hires an individual who is incompetent or unfit for the job, and that employer either knew or should have known (learned through reasonable diligence) that the employee was unfit, the employer may be liable to third parties for damages resulting from injuries caused by the employer's direct negligence.

To sustain a claim of negligent hiring a person making a claim must prove that:

1. The employer employed the offender (versus the offender being an independent contractor);
2. The employer knew, or should have known through a reasonable investigation, that the employee was unfit for the position;
3. A third party was injured;
4. The employer owed a duty to the person injured;
5. The injury was foreseeable; and
6. The injury was caused by the employee.

An employer who fails to make a reasonable inquiry may be charged by a court with constructive knowledge of the employee's dangerous tendencies which a reasonable inquiry would have uncovered.

Negligent Retention and Supervision

A claim based on negligent retention requires proof that the employer either knew or should have known after an individual was hired that the employee was unfit for employment, and yet, decided to retain that employee who subsequently injures a third party in an employment related event. For example, an employer may incur liability if it learns that an employee has a criminal record for a crime against a person, such as an armed robbery, and fails to investigate further to determine if the employee poses a risk.

Negligent supervision is commonly pursued with negligent retention. It often involves knowledge by management or a supervisor of an employee's violent or inappropriate behavior or of repeated threats along with a failure to take action in training, reassigning or disciplining that employee.

A good example of these kinds of situations is a case in which a Louisiana Appellate Court upheld a jury verdict against Kmart, finding it directly liable for negligent retention and supervision of an employee. The employee caused emotional damage to a patron, and emotional and physical damage to her daughter, when he shot an air pistol in the direction of the mother and daughter and then shot it on the daughter's chest. The daughter had a pacemaker that was damaged by the shot. This inappropriate behavior by the Kmart employee was in response to a request for a price check on an item in the store's sporting goods department. The court determined that Kmart failed to provide training to its employee in the handling of weapons he was responsible for selling and in appropriate behavior with customers with regard to guns. The court also went on to find liability on the part of Kmart as well, stating that the shooting of the air pistol at both patrons, and on the chest of one of the patrons, was within both the "course and scope" of his employment thus making Kmart 100 percent liable for the damages awarded by the jury.

Observing Employee Rights and Protections

Due to various statutory, case law and constitutional protections and rights of employees, employers should be careful when minimizing their liability for workplace violence without violating employee rights and protections, such as privacy and anti-discrimination.

For example, the ADA prohibits employers from inquiring about past drug use or treatment for drug addiction or alcoholism, because the ADA protects people with such addictions who have been successfully rehabilitated.

The ADA also prohibits questions prior to a job offer dealing with mental conditions. However, an employer may ask an applicant if he or she is able to perform the essential functions of the job and conduct medical examinations after a conditional offer of employment has been made. If the employer finds that the medical evaluation uncovers a significant risk and the risk cannot be reduced or eliminated with reasonable

accommodation, then the employer's refusal to hire the employee will not violate the ADA.

Many employers have job applicants sign releases authorizing their former employers to disclose all information in their personnel files. Additionally, releases must usually be obtained under various laws (including the Federal Fair Credit Act) to allow the employer access to criminal, financial, and driving records, if applicable to the job to provide a comprehensive background check.

Employers should also be mindful of other employee protections found in state and federal anti-discrimination laws in establishing their policies and programs to avoid and address workplace violence.

Other Legal Duties to Provide a Safe Workplace

OSHA requires an employer to provide a safe workplace for its employees. The general duty clause of OSHA states that an employer "shall furnish to each of his employees employment and a place of employment which are free from recognized hazards."

To find a violation under the general duty clause, OSHA must establish:

1. The existence of a hazard;
2. That the employer, or the rest of the industry, recognized this hazard;
3. That the hazard was likely to cause death or serious physical harm; and
4. That a feasible abatement method existed to eliminate, or materially reduce, the hazard.

Employers who do not take reasonable steps to prevent or abate a recognized violence hazard in the workplace can be cited by OSHA under the general duty clause of OSHA and such could result in stiff penalties. It is for that reason that most employers have policies prohibiting anyone from possessing weapons on the work premises or during working time.

Indicators of a Potentially Violent Employee

The National Institute for the Prevention of Workplace Violence, Inc., whose mission is to educate employers, unions and employees about the growing threat of violence in the workplace and how to effectively deal with it, provides advice on identifying a hostile or violent employee. The following are excerpts oriented to a manager's view from its educational program.

In addition to the behavioral warning signs which are so often associated with a potentially violent employee, there are other indicators available to supervisors and managers. These indicators are oriented to a manager's view of employee behavior and

may be more easily utilized than some of the specific behavioral warning signs discussed previously.

An employee exhibiting these indicators is not necessarily an individual who is prone to violence; however, violence is always a possibility when these warning signs are evident. These indicators are typical of an employee in difficulty; they strongly suggest that some kind of immediate intervention is needed:

1. **Excessive tardiness or absences.** Beyond simply missing work, an employee may also reduce his or her workday by leaving early, departing the work site without authorization, or presenting numerous excuses for otherwise shortening the workday. This is a particularly significant indicator if it occurs in an individual who has been typically prompt and committed to a full work day.
2. **Increased need for supervision.** An employee typically requires less supervision as he or she becomes more proficient at their work. An employee who exhibits an increased need for supervision, or with whom the supervisor must spend an inordinate amount of time, may be an individual who is signaling a need for help. Managers should be alert to such a change and consider offering professional intervention if the situation so warrants.
3. **Reduced productivity.** If a previously efficient and productive employee experiences a sudden or sustained drop in performance, there is reason for concern. This is a classic warning sign of dissatisfaction and the manager should meet with the employee to determine a mutually beneficial course of action.
4. **Inconsistency.** As in the case of reduced productivity, an employee exhibiting inconsistent work habits may be in need of intervention. Employees are typically quite consistent in their work habits and, should this change; the manager has reason to suspect the individual is in need of assistance.
5. **Strained workplace relationships.** Many of the classic behavioral warning signs may be identified under this category. Should a worker begin to display disruptive behavior in the workplace it is imperative that the manager intervene as quickly as possible to diffuse a potentially violent situation. This indicator should be taken quite seriously. A worker who exhibits disruptive behavior is in need of immediate counseling and, if appropriate, professional employee assistance.
6. **Inability to concentrate.** This may indicate a worker who is distracted and in trouble. Employee counseling is indicated.
7. **Violation of safety procedures.** This behavior may be due to carelessness, insufficient training or stress. If an employee who has traditionally adhered to safety procedures is suddenly involved in accidents or safety violations, stress may be indicated. This may be a serious situation which requires the intervention of professional employee assistance personnel. Stress is a significant contributor to

workplace violence; it is of sufficient magnitude that the topic has been given special attention elsewhere in this study.

8. **Changes in health or hygiene.** *An employee who suddenly disregards personal health or grooming may be signaling for help.*
9. **Unusual behavior.** *As mentioned previously, a sustained change in behavior is often an indication of an employee in difficulty. Common sense is the best judge of this issue. Workers are typically quite familiar with the personalities of their peers and are often quick to notice significant changes. The work environment should be managed in such a way as to ensure trust and open communication so that workers undergoing a difficult period may be offered prompt assistance.*
10. **Fascination with weapons.** *This is a classic behavioral warning sign that should be easily recognized by coworkers and managers.*
11. **Substance abuse.** *This is such a prevalent problem in the American workplace that it has been given separate consideration in this study. It is important that every organization have some methodology in place to identify and assist an employee who has become the victim of drug or alcohol abuse.*
12. **Stress.** *As discussed elsewhere in this study, stress is a serious and widespread problem in the workplace. As with substance abuse, an organization should have procedures in place to identify workers who are victims of stress and provide an effective intervention program. The implementation of stress mitigation and personal wellness programs should also be considered by employers.*
13. **Excuses and blaming.** *This is a classic behavioral warning sign that is often easy to identify but just as often ignored by managers. A worker who engages in this behavior is often signaling for assistance, requires counseling and, possibly, professional intervention.*
14. **Depression.** *Depression is a common ailment in America but not all individuals suffering from depression are prone to violence. If, however, the depression is evident for a sustained period of time, professional intervention is recommended because a violent outcome is always a possibility.*

A manager will often be aware of these indicators through experience and instinct. Experience and instinct are invaluable components of good management and should not be underestimated or ignored. An employee who exhibits any of these indicators should be assumed to be in need of assistance or intervention. Managers must be alert to these indirect pleas for help and provide a positive, timely response to ensure a safe work environment.

Workplace Violence Prevention

There are no guaranteed actions an employer can take to prevent workplace violence. Every employer, however, should establish a workplace violence policy to solidify its commitment to zero tolerance of such behavior and to the eradication of workplace violence. Employers should establish violence prevention and response programs, including training, to demonstrate to employees that management will not tolerate threats, intimidation or assaults. It is critical that all employees know the policy and understand that all claims of workplace violence will be investigated and remedial action taken promptly. Although an employer who takes decisive action may have to defend a wrongful termination or discrimination claim, an employer who fails to act could face greater economic liability from a lawsuit for injuries incurred.

Establish and Promulgate Policies

There are a number of recommended policies. First, an employer should have a clear zero tolerance workplace violence policy prohibiting all forms of workplace violence, including threats, verbal abuses, disruptive behavior and bullying and providing reporting, investigation and remedial action, including disciplinary action. Harassment issues should be covered specifically and address verbal and physical abuse.

Next, an employer should establish security and safety policies that cover evacuations, fires, searches, surveillance, weapons and explosives, fighting and threats, trespass, interference with lawful employment, and cooperation in investigations. Depending on your business and facility setup, there are a variety of ways to help ensure safety, such as employee photo identification badges, guard services, key cards or codes for access to buildings, facilities or offices. Of course, different measures may be appropriate for different locations and work settings.

Finally, these policies should be communicated to all employees and training should be conducted. Extra training should be conducted with managers and supervisors on how to identify potential behavior and handle situations.

Risk Management Plans

Another pro-active approach to prevent workplace violence would be to establish a risk management plan. This could include a work site analysis that starts with a review of safety records, a walk-through inspection, a review of past incidents to identify patterns, a review of workplace stressors and employee surveys or interviews. Management should be mindful of areas of increased risk, such as situations where employees work alone or in small groups, late at night or early in the morning, in high crime areas, and situations where there is an exchange of money.

Some tips for risk management plans follow:

- Check hiring and interview procedures;
- Establish pre-employment and post-offer screening techniques and procedures;
- Conduct background and reference checks;
- Don't take any threat or statement lightly;
- Establish a policy on how to handle workplace violence. communicate it to employees and train all employees;
- Communicate to employees the absolute policy against weapons;
- Investigate and take appropriate action;
- Establish a relationship with local law enforcement and seek their assistance and advice routinely;
- Develop security guidelines for different situations;
- Be prepared to deal with workplace trauma or crisis;
- Be aware—know employees well enough to spot problem trends and aberrant behavior;
- Avoid work environmental or situational stressors—understaffing, crowded or cramped worked spaces;
- Train supervisors to recognize and respond to circumstances of aberrant behavior and aggressive acts, and in techniques of non-violent conflict resolution; and
- Establish/maintain an Employee Assistance Program.

Termination Guidelines

The termination of employment is a hot spot of personnel management which poses a potential for violence. Firings and lay-offs can be some of the most traumatic events of life, and callousness can only heighten the stress and anger associated with the event. Policies and procedures should be designed to assist those responsible for carrying out such tasks. Procedures may vary, but the following considerations apply to terminations in most business arenas:

1. Terminate at the beginning or the end of the shift.
2. Do not allow the employee to return to his/her work area.
3. Make the firing a statement of fact, not a discussion or debate.
4. The act of termination and all associated paperwork and other activities including counseling and/or outplacement should take place in the same locale.
5. The terminated employee's dignity must be preserved.
6. If a violent reaction can be reasonably anticipated, notify security, and ask them to be available and on standby.

General Recommendations

To help minimize potentially dangerous situations in the workplace:

- Emphasize in the form of stated policy, from the highest level in your organization that no form of workplace violence will be tolerated;
- Ensure that dignity is made part of all human interactions;
- Formulate a team of employees to develop policies and procedures for the awareness and prevention of workplace violence;
- Educate employees on workplace violence awareness, early warning signs, emergency procedures and prevention;
- Provide your employees with training sufficient to improve their "survivability" skills in the event of an incident of workplace violence;
- Develop policies for the proper hiring, training, supervision, discipline and retention of employees with an emphasis on workplace safety and violence prevention;
- Designate a management representative to take workplace violence reports and encourage employees to report all threats or incidents of workplace violence;
- Establish employee assistance and peer support programs and encourage employees to seek help when needed and to assist employees who have already experienced workplace violence;
- Employ conflict resolution to address problems between employees;
- Take immediate action against all forms of workplace violence;
- Establish a working relationship with local law enforcement and be prepared to assist them in the event of emergency;
- Employ legal remedies to address the issues of workplace violence, such as obtaining restraining orders or assisting employees with obtaining them;
- Employ the highest practical level of physical security in your workplace; and
- Continually evaluate your operation for improvement.

Conclusion

Violence is a fact of life in the workplace today. As businesses down-size, reorganize, re-engineer, and demand more of each employee, stress levels escalate. The ease with which weapons can be obtained, graphic violence in all forms of media, language and ethnic differences among workers, and the general acceptance of violence as a form of communication and conflict resolution are all at play in our society and spill over to the workplace. Ignoring the early warning signs of hostile or threatening behavior can lead to tragedy. For employers, the economic consequences are astounding. Establish a policy, educate personnel, encourage employees to communicate their problems and concerns, and actively address issues in the workplace to avoid becoming a statistic.

The material contained in this pamphlet raises numerous and complex issues. If you have specific questions, please contact a labor and employment attorney at Lemle & Kelleher, L.L.P.

About Lemle & Kelleher, L.L.P.

Lemle & Kelleher is one of the oldest major law firms in Louisiana, tracing its origins to the late 19th century when New Orleans was experiencing a boom as the shipping and commercial center of the South. Building on that genesis, we have diversified and expanded our capabilities for more than 100 years to meet the growing needs of our clients regionally and nationally. Today, Lemle & Kelleher offers responsive, innovative, and experienced legal representation covering a broad range of practice areas. For more information please visit www.lemle.com.

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