

Workplace violence prevention: Practical steps employers can take

Workplace violence takes many forms. There are the headline-grabbing shootouts that have managers and workers alike wondering if it could happen to them. More often, it's two employees pushing each other during an argument. In between, there are petty thefts, serious fights and sexual assaults. Some industries are also more prone to workplace violence, sometimes coming from customers or even patients. But all these incidents have one thing in common. Employers need a robust workplace violence prevention program to minimize changes of serious harm to employees, customers and clients.

Fortunately, there are resources designed to help employers predict and prevent workplace violence. The Occupational Safety and Health Administration (OSHA), offers workplace safety guidance for employers on its website (www.osha.gov). OSHA also offers specific guidance for a few high-risk industries including hospitals, taxi drivers, and restaurants. Employers in those industries should consult the OSHA site.

Your obligation to prevent workplace violence

Employers have a legal obligation to protect employees from harm at work. State and federal laws require robust efforts to protect workers. Chief among these is the Occupational Safety and Health Act, which requires employers to provide a safe workplace generally.

Employers also have an obligation under the concept of *respondeat superior* to provide a safe workplace. That common law requirement includes protecting workers from harm inherent in the work being done *and* from other preventable harm. For example, in a retail setting where cash is present, the employer should have safeguards against robbery.

Employers can face liability for negligent hiring if an unperformed or ignored background check revealed a violent history. Employers who allow harassment or discrimination to occur against may create fertile ground for workplace violence. A sexual harasser, for example, may progress to sexual assault. Or the victim of blatant discrimination may fire back with violence.

Finally, when workers are let go, some may resort to workplace violence. While rare, employers must always consider the possibility when planning a discharge and in the aftermath. Active shooter incidents are perhaps most frightening. You should be aware of any restrictions on your right to prohibit the presence of guns on your premises. Some states have laws guaranteeing workers the right to carry guns in the workplace. Some restrict the right to parking lots and locked trunks. Check the laws in your state to determine what firearm restrictions you can put in place.

Types of violent incidents in the workplace

The National Institute for Occupational Safety and Health (NIOSH) has identified four distinct types of violent acts common to the workplace:

1. **Criminal Intent-** The perpetrator has no legitimate business relationship to the workplace and usually enters the affected workplace to commit a robbery or other criminal act.
2. **Customer or client-** The perpetrator is either the recipient or the object of a service provided by the affected workplace or the victim. The assailant may be a current or former client, patient, customer, passenger, criminal suspect, inmate, or prisoner.
3. **Co-worker-** The perpetrator has some employment-related involvement with the affected workplace. Usually this involves an assault by a current or former employee, supervisor or manager.
4. **Personal relationship** - The perpetrator is someone who does not work there but has or is known to have had a personal relationship with an employee.

Criminal Intent strategies

NIOSH suggests three types of interventions to address criminal intent violent acts. Environmental interventions such as controlling how cash is moved and guarded is one example. NIOSH also suggests providing adequate lighting and having control over facility entrances and exits. A robust surveillance system with adequate signage alerting criminals and employees alike to the cameras should discourage violence.

Specific employee training - what NIOSH calls behavioral interventions - can provide employees with tools to discourage criminal violence. Employees should be trained to respond to robberies when they occur. First, employees should get to safety, then alert authorities. Employees should also know how to operate safety equipment such as security systems and fire extinguishers. Finally, employees should know how to deal with aggressive, mentally ill and intoxicated people.

Company management can take steps to keep the workplace safe as well. Administrative interventions such as adjusting the hours of operation should help reduce risk. Employees are most vulnerable during opening and closing. Safety protocols should be in place to protect employees at these times. Finally, all employees should be familiar with safety procedures and should be continuously trained.

Protecting against the problem customer

Inadequate staffing levels can create customer frustration that could potentially escalate. A customer flow analysis should inform staffing decisions. Sometimes, clients bring their anger to your place of business. Good interpersonal skills can prevent potentially violent situations from escalating. Employees should also be trained to recognize cues that a person is about to become violent. In health care and other appropriate settings, employees should be trained in proper take-down and restraint techniques.

Co-worker violence

Sound hiring practices that include a background check can limit employer liability. Employees seldom become violent overnight. Often, a history emerges in the aftermath of violence showing a person with anger management issues. The background check may include a criminal background check. Make sure you understand any federal, state or local restrictions on when and how you can use past criminal convictions.

You should not, however, assume that an applicant with past or current mental health issues is a danger. Making that assumption without basis in fact violates the Americans with Disabilities Act (ADA).

Personal relationship violence

Unfortunately, domestic violence can spill over into the workplace, threatening not just the victim, but her co-workers as well. Employers may not discriminate against applicants or employees because they are enduring domestic violence. Such discrimination may run afoul of Title VII of the Civil Rights Act, the ADA, and other state or local laws.

Employees who fear their current or ex-partner should be encouraged to inform the employer of the threat. That way, the employer can prepare, work with local law enforcement, and improve workplace safety. All threats should be treated confidentially. The employer should refer the victim to community resources.

Managing to prevent workplace violence

OSHA workplace violence guidance suggests employers take the following actions to prevent and/or react to workplace violence.

- Adopt a policy statement regarding potential violence in the workplace that assigns oversight and prevention responsibilities.
- Conduct regular a workplace violence hazard assessment and security analysis.
- Implement a record-keeping system designed to report any violent incidents.
- Train employees on the company's workplace violence program.
- Develop procedures and assign roles in the event of a violent incident.
- Develop a response team to provide immediate care for victims, re-establish safe work areas and conduct debriefing sessions with victims and co-workers.

The policy statement for workplace violence

The policy should clearly define workplace violence. Does it include bullying? Physical intimidation including sexual harassment? Verbal or written threats? Every policy should bar assaults of any kind.

Like sexual harassment, employees should have two avenues open to report workplace violence, generally either the employee's immediate supervisor or human resources. However, all management personnel should know how to handle a report of workplace violence.

Zero tolerance policies

Some employers have adopted so-called "zero tolerance" policies toward workplace misbehavior. Employers who choose to have zero tolerance policies should explain that the term means all violations, in this case, workplace violence, will be punished appropriately. It does not mean that every workplace violence episode will result in the employee's firing.

Employers must exercise judgement. For example, a woman who defends herself from unwanted sexual touching may technically commit a violent act. Should she be fired? Obviously not. No policy should be so rigid that it cannot be enforced. Then the policy has stifled communication and potentially encouraged bullying behavior.

Assessing and analyzing

Workplace violence prevention plans should be regularly updated. Procedures change, facilities are remodeled, potential threats evolve. Failure to keep up endangers employees and customers.

Keep Records: Any threat or incident should be documented for several reasons. First, any employee discipline should be documented. Should the incident lead to litigation, the real-time documentation will be critical. Additionally, employers have an obligation to notify OSHA if an employee is injured.

Any violent incident could potentially reveal vulnerabilities to the company program. Documentation should be reviewed when the employer next assesses its violence prevention program.

Developing the plan, training, and putting the plan into action

When the plan is updated, employees must be trained. Employees will have specific responsibilities in violent situations. Consider it a fire drill for other types of threats.

Should the worst happen, employees must know how best to protect employees. In the case of an active shooter, employees should get out if possible. If not, go to the safest place available. Barricade the door with furniture and remain quiet. Alert the authorities if possible.