

# WORKPLACE VIOLENCE

## Part 1 of 2

In Wakefield, Massachusetts, an employee who was distraught over a wage garnishment order and other financial problems opened fire on co-workers and killed seven employees, including the HR director. In Sacramento, California, a security guard suspended for vandalizing his girlfriend's car returned to shoot three co-workers (one of whom was his girlfriend), a city employee, his supervisor, and then himself. Unfortunately, those are just two of many examples.

In an era of heightened security, employers are taking a closer look at their own workplaces. They have good reason to be concerned. Each year, according to the Occupational Safety and Health Administration, more than 1,000 U.S. workers are murdered at work. A recent report by the University of Iowa Injury Prevention Research Center concludes that two million American workers are victims of workplace violence or intimidation each year, including threats, inappropriate communication, stalking, rape, and physical assault. Furthermore, according to the report, workplace violence continues to cost employers billions of dollars a year in losses, litigation expenses, and security measures.

Against that backdrop, you can't remain passive. Your company has a common-law duty to exercise reasonable care when hiring individuals who may present a threat of injury to the public. Likewise, you have a duty to protect your employees, customers, clients, and visitors from employees that you know (or should know) pose a risk.

If your company fails to do so, the consequences could be painful — and costly. For example, a jury awarded \$3.5 million against a railroad corporation that failed to warn a supervisor of a subordinate's known violent propensities. Another jury awarded \$2.5 million against a municipality for failing to evaluate a utility worker's past criminal record. Companies have been held liable for the:

- **negligent hiring** of employees who are unqualified to perform the job or have criminal records;
- **negligent retention** of drivers who had previously shown a pattern of drug and alcohol abuse;
- **negligent supervision** of unsafe or dangerous employees; and
- **negligent failure to warn** employees or supervisors of other employees' known or suspected dangerous propensities.

Yes, it's a scary world out there, but that doesn't mean that you, your employees, or your customers have to be sitting ducks. While not foolproof, there are things you can do to diminish the probability of becoming a statistic and lessen your chances of liability.

### *Start with these seven precautions*

1. Conduct a thorough pre-employment screening. Check a prospective employee's references thoroughly, including his complete employment history, gaps in employment, criminal record history, and driving record (where applicable).

## **WORK PLACE VIOLENCE**

### **Part 2 of 2**

Institute a policy for non-employees entering the building.

Institute a workplace search policy to solidify your company's right of access to all areas of your facilities. Such a policy can be effective in detecting weapons and illegal drugs in the workplace.

- Implement a "duty to warn" policy whereby employees must warn superiors, security personnel, and human resources representatives about suspicious workplace activity or problematic incidents or situations.
- Train employees to recognize and report suspicious activity, and inform them about whom to notify in the event of an emergency.
- Conduct safety drills, and inform employees how to act if someone has a weapon in the workplace.
- As part of your overall emergency preparedness plan, determine in advance who will provide or arrange for emergency treatment to victims in the event of a violent incident. Decide who will notify the authorities, speak to the media, and conduct an investigation.

#### ***Watch for these 11 telltale signs of troubled employees***

OK, you have now implemented some screening and security measures. Is your job done? Not quite. As we know all too well, the employee who shows up to work isn't always the wonderful person who sat across from you at the interview. Or, as frequently happens, employees "turn" after certain life events. If recognized, the following behaviors may help you detect, and possibly help, a troubled employee before the employee resorts to violent activity:

1. bragging about owning or being proficient in the use of weapons;
2. threatening co-employees or exhibiting an "everyone is against me" attitude;
3. talking about past incidents of violence;
4. increased mood swings;
5. increasing signs of alcohol or drug abuse;
6. poor workplace relationships;
7. decreasing productivity or inconsistency in work performance, *e.g.*, alternating periods of high and low productivity;
8. excessive tardiness or use of sick leave;
9. repeatedly violating company rules or policies;
10. concentration problems or becoming more accident-prone; or
11. showing poor health or hygiene.

### ***Benefits for you***

There's no way you can avoid a few bad hires and occasional problems in the workplace. Implementing appropriate screening and security procedures, however, can substantially reduce the headaches and heartache of dealing with problem employees and problems in the workplace. Although you may never know whether your EAP plan, security measures, or screening prevented a tragedy in the workplace, few things could be worse than dealing with the aftermath of a workplace incident knowing that some minor proactive step may have helped avoid the situation.

Detective Sergeant Richard R. O'Connor

2. Conduct drug testing to screen out individuals who are current users of illegal drugs.
3. Implement a written policy that addresses what happens to employees who threaten co- employees or others.
4. Maintain good communications with your employees. Establish a confidential "hot line" for employees to report concerns and troubling incidents observed in the workplace. Implement an "open-door" policy, and schedule meetings where employees can air their grievances. Conduct opinion and attitude surveys to learn how employees feel about the work environment and company programs.
5. Establish an employee assistance program (EAP) to help employees deal with stress and other problems. Your health insurance carrier may be able to help you with that.
6. Formulate a policy to ensure that terminated employees are treated in a humane and dignified manner. Provide outplacement counseling and severance pay to help them while they're seeking other employment. Such counseling can calm anger that might otherwise be directed at the company, former supervisors, or colleagues.
7. Consider contacting local law enforcement before terminations if you believe a person may raise security concerns.

Sounds clear-cut, right? It's not. There are legal restrictions that you must be aware of before proceeding. For example, when conducting background checks, you should be aware that you need to comply with the authorization and disclosure requirements of the Fair Credit Reporting Act before conducting certain types of background checks. Additionally, under State Statutes, you can't reject a person based on a prior conviction unless there's a direct relationship between the prior criminal offense and the employment sought or the hiring would involve an unreasonable risk to property or to the safety of specific individuals or the general public. Employers with a unionized workforce should note that drug testing may be limited in some instances by collective bargaining agreements. Numerous other examples exist, but the existence of those restrictions shouldn't cause you to forgo screening. Just be sure to consult with counsel and deal with reputable contractors who perform these services.

***Then take these nine security measures***

In addition to the preventive actions noted above, you should consider security measures that you can take to provide a safer and more secure work environment. The following security measures can help minimize incidents of workplace violence:

1. Establish procedures for barring terminated employees, changing passwords, collecting keys, and voiding security passes.
2. Conduct a security audit to determine whether additional locks, alarms, or surveillance cameras would enhance workplace protection.
3. Require all employees, regardless of their position with the company, to show picture identification *each and every time* they enter the building.

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