

Workplace Violence Can Put Your Company at Risk

By Teresa Long

Traditionally, the workplace has been thought of as a safe environment, the place where we often spend more time with our co-workers than our own families.

But that perception changed dramatically on a hot August day in 1986, when a postal worker in Edmund, Oklahoma walked into the post office with a mailbag containing the usual assortment of sales circulars and utility bills, right alongside three hand guns and 100 rounds of ammunition. Ten minutes later 17 co-workers were dead, the shooter had killed himself, and a workplace where the greatest danger up until that moment was probably a sore back from lifting a mailbag, was now the site of what has become an alarming trend across the country.

According to a study by the U.S. Institute for Occupational Health & Safety, 1,000,000 workers are assaulted and another 1,000 are murdered each year in the workplace. Most of them aren't the high-profile incidents that make the six o'clock news. Everyone remembers Columbine and Oklahoma City, but few recall the Fort Lauderdale beach worker who reacted to his firing by killing five of his co-workers or the refinery worker in Texas who killed his boss, his boss' wife, and three other workers because he was having a bad day.

Talk with employees after such an incident and they will almost always share a similar observation of the killer they may have worked side by side with for years. "There was something that didn't seem right," they say.

Chances are what that worker noticed were warning signs of a mental and/or physical short-circuit, which could include:

- a. Making verbal or physical threats
- b. Unexpected mood shifts
- c. Defensive and hostile attitudes
- d. Bouts of depression
- e. Suicide threats
- f. Being obsessed with weapons or carrying a weapon.

Once employers recognize the warning signs of impending workplace violence, and understand the potential triggers – domestic problems, drug and alcohol abuse,

termination or disciplinary actions – they need to put a plan into place to protect their employees.

Any plan should begin with educating employees, the ones most likely to interact on a day-to-day basis with a potentially hostile co-worker. Recognizing the red flags is a good start. But employees also need training to take their observations a step further.

If an employee notices a co-worker acting strangely, which may include some form of a verbal or physical threat against themselves or someone else in their workplace, it should be reported immediately to a supervisor, no matter how innocent it might seem.

It's the company's responsibility to protect their employees, not only from co-workers but also from non-employees, such as spouses or disgruntled customers. There should be a written policy stressing zero tolerance for workplace violence, meaning no violence and no threats, even in a joking manner. Pre-employment screening and preventive measures such as background checks should be an integral part of the hiring process.

Putting a plan into place not only helps create a safer environment for employees, but it also minimizes Workers' Compensation risks. While the Workers' Compensation costs arising as a result of workplace violence can be significant, traditionally employers have been protected from lawsuits, particularly if the violence could *not* have been reasonably predicted. However, increasingly courts are awarding settlements against employers due to negligence on their part in preventing acts of workplace violence.

A good example is the case in which the management of a Florida bank cut a guard position, even though it had prior knowledge that one of its employees was being harassed by someone coming into the bank. The employee even pleaded with her employer not to eliminate the guard position, as she feared for her life. The company dismissed the guard nonetheless, and shortly thereafter the teller was shot and killed by the harassing person.

Because the court ruled that the employer *knowingly* created an unsafe work environment by eliminating the guard's position, the teller's family not only received Workers' Compensation benefits, but successfully sued the employer in a general liability suit that cost the company a hefty settlement (and certainly more than they saved by eliminating the guard's salary.)

Employers should be aware that the adjudication system for Workers' Compensation nationwide is becoming more and more liberal in its interpretation of the "exclusive remedy" afforded to the employee injured on the job and the degree of negligence it takes to open the door for the injured employee to pursue an Employer's Liability claim. This is particularly true if it is known there was any form of "notice" or warning given (internal or external) and the company did not react properly to protect its employees.

Business owners can no longer ignore or pretend they "didn't know" when a tragedy occurs, because the ramifications could be severe. Beyond the loss of life and extreme emotional toll, workplace violence can generate significant legal costs. The National Safe Workplace Institute estimates that the average cost to employers of a single episode of workplace violence can amount to \$250,000 in lost work time and other expenses. But that is just the tip of the legal iceberg.

A case in California illustrates the legal impact of workplace violence on employers. On August 3, 1990, a 20-year-old woman was stabbed to death by a co-worker at a winery where they were both employed. The assailant had been fired from previous jobs due to poor work habits. He also had a criminal record indicating that he was a dangerous person, but the temporary agency that assigned him to the winery allegedly failed to check his work references. A jury awarded the victim's survivors \$5.5 million in damages against the temporary agency that had hired her murderer.

Employers need to always be aware and proactive when it comes to potentially unsafe conditions in their workplace. If they ignore the warning signs and there is a resulting incident of an employee being harmed or worse, aside from a Workers' Compensation claim, there could also be a much more expensive Employer's Liability claim looming on the horizon.

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