

Legal Exposure From Workplace Violence

Perpetrators are not always held solely responsible for acts of violence. Generally speaking, if supervisors or managers had reasonable cause to suspect that an act of violence would occur and did not take appropriate action to prevent harm to workers, vendors, customers or visitors, the company bears some responsibility for the results of the violence. US Code 1900 (OSHA), Section 5(a)(1), states that employers provide “a safe and healthful work environment for all workers.”

The Occupational Safety and Health Administration says that failure to prevent workplace violence can violate federal law if an employer knows or could reasonably anticipate that a worker is subject to violence and does nothing to prevent it. In one California case, an employer was found liable for a female worker's death because it failed to tell her that a co-worker with whom she became romantically involved was an ex-convict with a record of sexual assault and violent crimes.

Employers are becoming much more proactive in preventing violence. There are proven policies, procedures and corrective methods that can prevent and help mitigate the effects of violence in the workplace.

- **Assemble a Threat Management Team** – The TMT is a group of workers who assess and respond to any potential for violence. Provide special training for the Threat Management Team, conducted by a competent professional in preventing workplace violence. The TMT is appropriate for all worksites, no matter how large or small.
- **Employee Training** -This has proven to be an important counter measure for preventing violent acts. Providing supervisory training on: How to identify and refer people with problems; conflict resolution; perpetrator profiles; warning signs; intervention techniques and termination procedures. Training can be brief, concise, comprehensive, inexpensive and even fun.
- **Conduct a Security/Risk Assessment** – This is an assessment that evaluates physical layout, security practices and engineering, and administrative controls. This survey will assess furniture placement, lighting, visibility, barriers, alarm systems, code words, emergency procedures, and review established procedures with local law enforcement.
- **Employee Assistance Programs** - Providing EAP services to workers and dependents 24 hours per day to be of help during critical times. The EAP should also be extended to workers and family members for a period of time after termination.
- **Effective Screening** – Providing “post offer” drug screens and conducting effective background checks on all new hires.
- **Post Trauma Crisis Counseling** – This may be provided after a robbery, assault, accident or threat but should also be considered after events such as any unexpected death of a worker or dependent.
- **Policies and Procedures** – Develop written policies and procedures that clearly state the organization’s commitment to protecting people and property. The policies should clearly delineate operating procedures as well as assurance that all reports will be investigated.

When you think you've done everything right, continue to evaluate your organization for improvement. Any workplace can be made safer. If, in spite of all efforts, there is a violent act, employers can establish an *affirmative defense* to protect them from liability by showing they have taken all reasonable steps to protect people and property.

First Sun organizational consultants are available to assist with this and many other subjects that could affect your workplace. We also provide interactive training to help managers and workers understand policies and help prevent workplace violence. Just give us a call, toll free **800-968-8143** or in Greater Columbia **803-376-2668**.