



*2024 EMPLOYMENT LAW Conference

Off to work we go!

A Review of California's New Workplace Violence Law (SB 553) and Cal/OSHA's Expected Enforcement





Welcome

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Agenda

SB 553's Legislative and Rulemaking History

SB 553's Application and Requirements

Compliance Resources and Next Steps



How SB 553 Came to Be

- In 2014, a schoolteacher petitioned Cal/OSHA's Standards Board to adopt a general industry workplace violence standard (i.e., beyond healthcare.)
- The Standards Board held two Advisory Committee meetings and issued three versions of a draft rule (the most recent draft rule was published in May 2022.)
- The general industry workplace violence standard was put on hold while the Standards Board focused on COVID-19 related rulemaking.
- In 2023, the California legislature stepped in and passed a Workplace Violence Prevention Law (SB 553), before Cal/OSHA's rulemaking process could be completed.

SB 553's General Requirements

- Beginning **July 1, 2024**, all California employers will be required to “***establish, implement and maintain***” a workplace violence prevention plan in accordance with Labor Code section 6401.9.
- The plan *must* be:
 - In **writing**,
 - Easily **accessible** at all times to all employees and their unions,
 - In effect **at all times** and in **all work areas**,
 - **Specific to the hazards and corrective measures for each work area and operation.**
- The plan *may* be a stand-alone section of the employer’s injury and illness prevention program or *may* be a separate document.

SB 553's Broad Application

The new law applies to “all employers, employees, places of employment and employer-provided housing”

But there are some exemptions...



SB 553's Notable Exemptions

- Healthcare facilities already covered by Cal/OSHA's existing Workplace Violence in Healthcare Standard.
 - Example, skilled nursing is not covered by SB 553, but assisted living facilities are.
- Places of employment where there are fewer than 10 employees working at any given time and that is not "accessible to the public."
 - The place must otherwise be "in compliance" with Cal/OSHA's Injury and Illness Prevention Program Standard.
- Employees teleworking from a location of the employee's choice, which is not under the employer's control.

What Is Workplace Violence?

- Any ***act of violence*** or ***threat of violence*** that occurs in a place of employment including:
 - ***Threat or use of physical force*** against employee that results in, or has high likelihood of resulting in, injury, psychological trauma, or stress, regardless of whether the employee sustains an injury.
 - Incident involving a ***threat or use of firearm or other dangerous weapon***, including the use of common objects as weapons, regardless of whether the employee sustains an injury.
- Workplace violence does **not** include lawful acts of self-defense or defense of others.



Types of Workplace Violence?

Type 1 Violence: workplace violence committed by a person who has no legitimate business at the worksite.

- Includes violent acts by anyone who enters the workplace or approaches workers with the intent to commit a crime.

Types of Workplace Violence?

Type 2 Violence: workplace violence directed at employees by customers, clients, patients, students, inmates, or visitors



Types of Workplace Violence?

Type 3 Violence: workplace violence against an employee by a present or former employee, supervisor, or manager.

Types of Workplace Violence?

Type 4 Violence: workplace violence committed in the workplace by a person who does not work there but has or is known to have had a personal relationship with an employee.



What Does it Mean to Establish, Implement and Maintain the Plan?

- Employer's written Plan must contain ***procedures*** on various workplace-safety related elements.
- Employer must then ***“implement”*** the Plan by, for example:
 - Completing inspections/hazard assessments for workplace violence hazards,
 - Communicating with employees on such hazards,
 - Conducting employee training.

WVPP Administrator(s)

- The plan must identify the names or job titles of the individuals responsible for implementing the Plan.
- If multiple individuals are responsible for implementing the Plan, ***each individual's role*** must be ***clearly described*** in the Plan.

Employee Participation

- The plan must describe how employees and unions will be involved in developing and implementing the plan.
- Employee participation includes, but is not limited to:
 - **Identifying, evaluating, and correcting** workplace violence hazards,
 - **Designing and implementing training,**
 - **Reporting and investigating** incidents of workplace violence .



Coordination with Other Employers

- The plan must include **methods** the employer will use to ***coordinate implementation of the plan with other employers***, when applicable, ensuring:
 - The other employers and their employees understand their roles under the plan.
 - The other employers' employees are provided with necessary training to comply with the Plan and all workplace violence incidents are reported, investigated and recorded.

Accepting/Responding to Reports of Workplace Violence

The plan must include effective procedures for the employer to ***accept and respond to reports of workplace violence.***

- And prohibit retaliation against any employee who makes such a report.



Ensuring Employee Compliance

- The plan must include effective procedures to ensure that supervisory and nonsupervisory employees comply with the Plan.
- Employee compliance includes:
 - Recognizing employees who follow safe and healthful work practices,
 - Training and retraining programs,
 - Disciplinary actions,
 - Any other means that ensures employees comply with safe work practices.

Communication with Employees

The plan must include effective procedures for ***communicating with employees regarding workplace violence matters***, including how:

- Employees can report a violent incident, threat, or other workplace violence concern to the employer or law enforcement without fear of retaliation,
- Employees' concerns' will be investigated as part of the employer's responsibility to have procedures in place for identifying and evaluating workplace violence hazards,
- Employees will be informed of results of investigations and any corrective actions to be taken as part of the employer's responsibility to have procedures in place to timely correct identified workplace violence hazards.



Emergency Response

The plan must include effective procedures for responding to actual or potential workplace violence emergencies, including, but not limited to, the following:

- (1) Effective means to alert employees of presence, location, and nature of workplace violence emergencies.
- (2) Evacuation or sheltering plans appropriate and feasible for the worksite.
- (3) How to obtain help from staff assigned to respond to workplace violence emergencies, security personnel, and law enforcement.

Training Procedures

- Employers must provide employees “**effective training**,” and training materials used must be “**appropriate**” in content and vocabulary level, literacy, and language of employees.”
- The training must be conducted when the Plan is first established and annually thereafter.
 - But additional training is required when a new or previously unrecognized WV hazard has been identified or changes are made to the Plan.
- Training must include discussion of:
 - The Plan, how it is accessed, and how to participate in the development/implementation of the Plan
 - SB 553’s definitions and requirements.



Training Procedures (Cont'd)

- Training must also include:
 - How to report incidents of workplace violence to the employer or law enforcement without fear of retaliation.
 - ***Workplace violence hazards specific to the employees' jobs***, the corrective measures the employer has implemented, how to seek assistance to prevent or respond to violence, and strategies to avoid physical harm.
 - The violent incident log required to record every workplace violence incident.
 - ***Opportunity for interactive questions and answers with “the person knowledgeable about the employer’s plan.”***

Hazard Identification/Evaluation

- The plan must include procedures to identify and evaluate workplace violence hazards.
 - Including scheduled periodic inspections to identify unsafe work conditions and employee reports and concerns.
- Inspections must be conducted:
 - When the plan is first established.
 - After each incident of workplace violence
 - Whenever the employer is made aware of a new or previously unrecognized hazard.

Hazard Correction

- The plan must include procedures for ***timely correcting*** workplace violence hazards, based on the severity of the hazard.
- Hazards identified and evaluated from inspections or otherwise must be corrected.



Post-Incident Response and Investigation

- Plan must include procedures for post-incident response and investigation.
 - May depend on the nature of the incident, whether that be active shooter, or employee threat of violence or actual violence.

Periodic Review of Plan

- Employers must review effectiveness of the Plan and revise the plan as needed, including:
 - Annually
 - When a deficiency is observed or becomes apparent
 - After an incident of workplace violence



Violent Incident Logs

- Employer must create violent incident log for every incident of workplace violence.
- Log must be based on information solicited from employees who experienced the workplace violence, on witness statements, and on investigation findings.
- Log must ***exclude personal identifying information*** for any person involved in violent incident, such as the person's name, home address, email, phone number, social security number, or other information that could reveal the person's identity.
- Log must be reviewed during periodic reviews of the Plan.

Recordkeeping

- Employers **MUST** maintain records of workplace violence hazard identification, evaluation and corrective for a **minimum of FIVE years**.
- Training records must be maintained for a **minimum of ONE year** and include:
 - Training date
 - Contents or summary of training
 - Names and qualifications of the person conducting the training
 - Names and job titles of all persons attending the training
- Violent incident logs must be maintained for a **minimum of FIVE years**.

Recordkeeping and Access

- Records of workplace violence incident investigations must be maintained for a **minimum of FIVE years**
 - Note: such records cannot contain “medical information.”
- The following records must be made available without cost **within 15 calendar days of any request by employees and “their representatives.”**
 - Records of hazard identification/evaluation/correction
 - Employee training records
 - Violent incident logs

Compliance and Next Steps

We've got you covered....

- **WVPP Written Plan, including the following:**
 - Compliance checklist
 - Workplace violence hazard assessment checklist
 - Inspection checklist
 - Violent incident log
 - Investigation report
 - Notices to union and multi-employer sites
- **WVPP Training Program**
- **Add-On Services:**
 - Security assessments
 - Active shooter training
 - On-site training



Give Permission:

- Remove barrier to action
- Remove the cheapest room in the house “***FEAR***”
- Encourage holistic ownership by all

Be Informed: Knowledge is Power

- “Safety is all our responsibilities”

Action

“You have permission to **SURVIVE**”

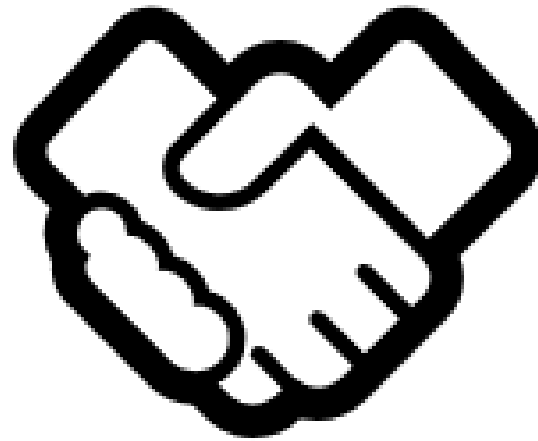
Respond , *DON'T* React

“Building Capacity”

“Security and Safety Belong to ALL”

“A Crisis Reveals One’s Leadership”

WE



US

(THIS) FAMILY

Why is this important?

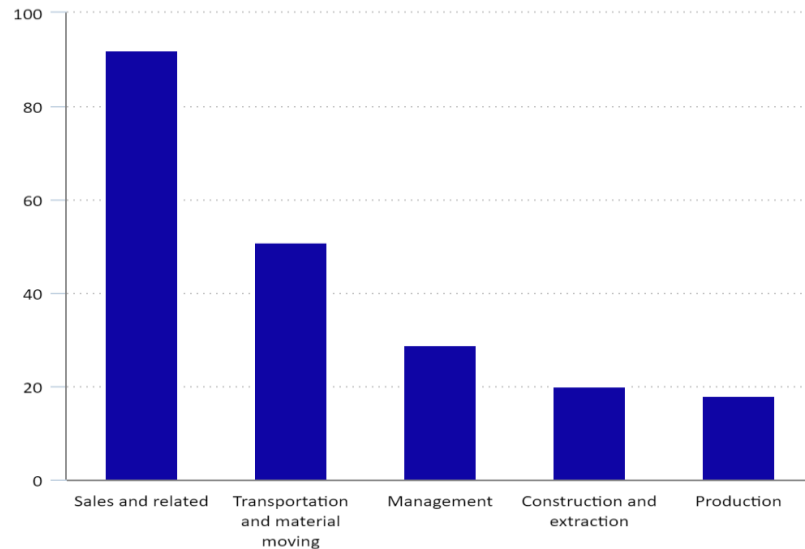
- One of the big statistics in a critical incident response is that if we are able to ***secure and stabilize*** the scene within minutes, the incident has an ***85 percent*** chance of being resolved without further injury or loss of life.

Statistics

U.S Bureau of Labor Statistics

- 392 Workplace Homicides in 2020
- Sales and related occupations - 23.5% of Homicides in 2020

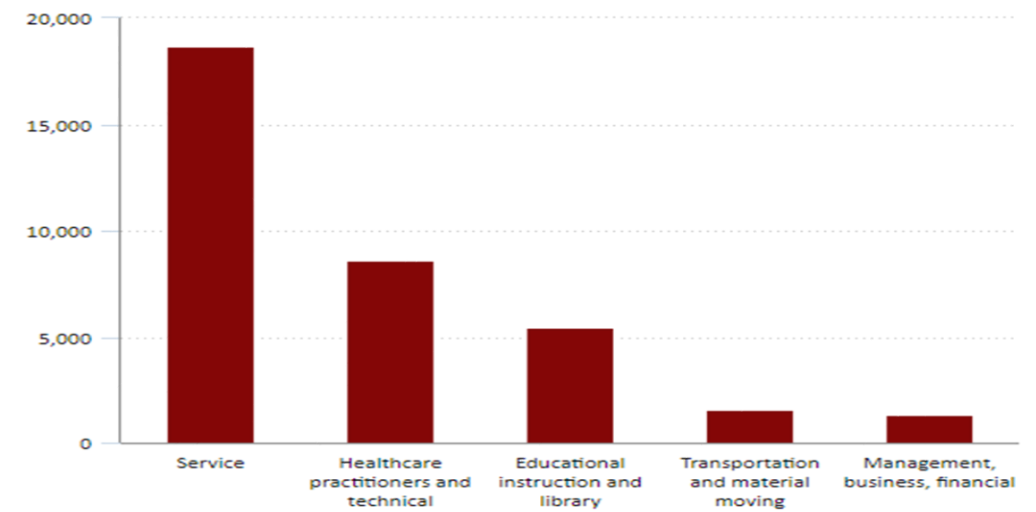
Workplace homicides by selected occupational group, 2020



U.S Bureau of Labor Statistics

- In 2020, service jobs made up about half of all nonfatal intentional injuries requiring a day off work.

Nonfatal workplace intentional injuries by another person that required at least a day away from work, selected occupational groups, 2020





“Action is the foundational key to all success.” Pablo Picasso

It's not what's
said it's How it's
said!

Safety is a
People
Conversation!

Leadership Matters

Word Choice

Language is Gold!

CALL 911 WHEN IT IS SAFE TO DO SO



“Be creative about your survival, you’re in control!” - JP

		
RUN	HIDE	FIGHT
When there is an active threat. Once you are safe, call 911	If escape is not possible, hide. 1. Block the door 2. Avoid Windows 3. Silence your cell	Only as a last resort and if your life is in danger.

“You have permission to survive.” - JP

Partnership

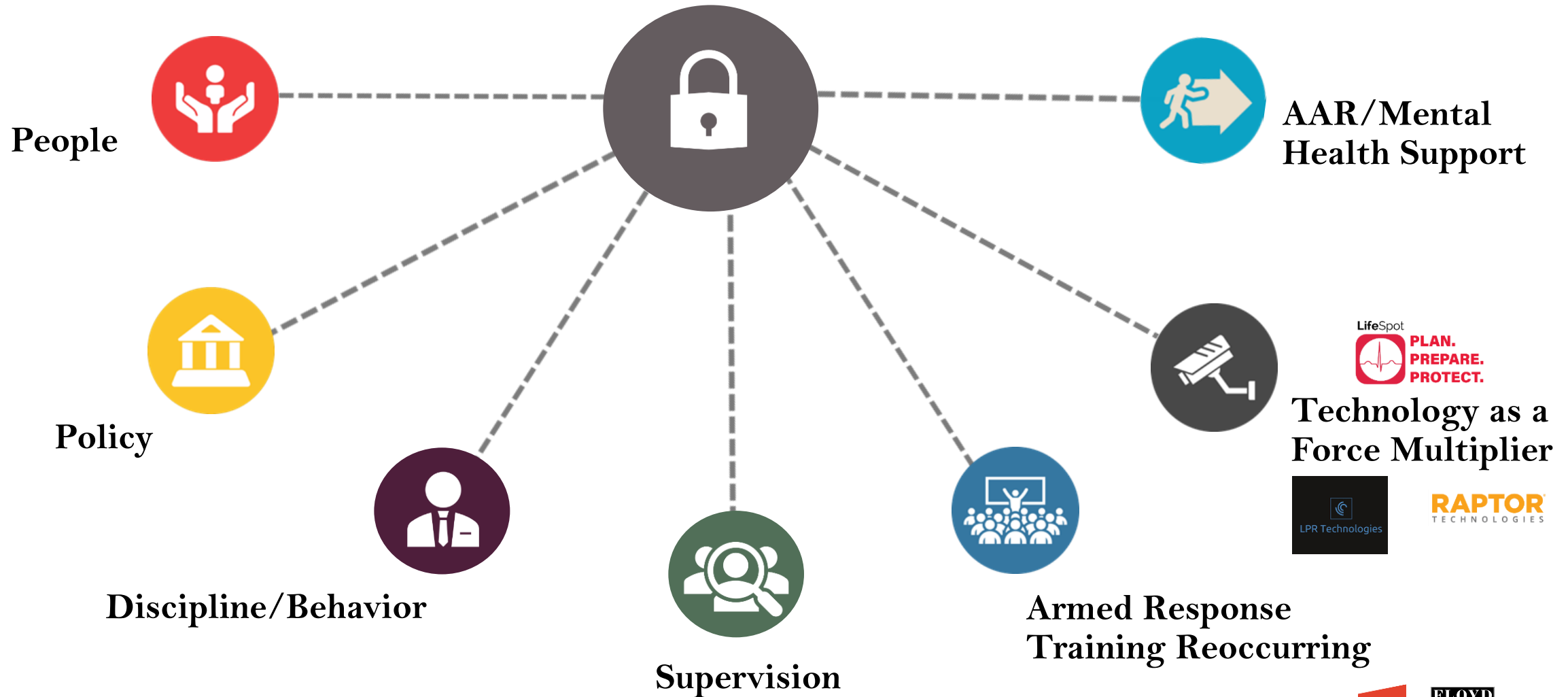
*"I can do things you cannot,
you can do things I cannot;
together we can do great
things."*

Mother Teresa



Future Impact

Future Impact





QUESTIONS?



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THANK YOU

