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Becca Rainey (00:00)

Welcome to The FP5, Five Things for Your 9-to-5. We help employers make sense of the fast-moving world of workplace law and compliance by breaking down topics into five parts. I'm Becca Rainey from the Fisher Phillips Content team.

April is Workplace Violence Prevention Month, and today we're sharing five things you need to know to maintain a safe work environment.

Joining me is Kristen White. Kristen is a partner at FP in our Denver office and co-chairs the firm's Workplace Safety Practice Group. Kristen, tell us a little about your practice and how did you get involved in this kind of law?

Kristin White (00:40)

Sure. So my practice includes both OSHA and MSHA workplace safety. So, you know, what that means is helping employers in all industries comply with their regulatory obligations when it comes to safety and health issues and, you know, it spans from construction to mining to manufacturing, you know, to just get everyday businesses as we found during COVID when everyone had to deal with workplace safety issues.

And so as part of that practice, I've kind of grown an advice and counsel practice around injured workers. I do a lot of crisis management, so if clients have a serious incident or an accident, responding to those, helping them get through it. It's hard to say what my favorite part of my practice is because it's such a hard time for clients, but I think I'm good in a crisis. And so I bring that kind of calm perspective, "let's slow everything down," you know, and help clients kind of work through each of the issues and how we do that.

Yeah, so that's kind of what has grown out of workplace safety. I started just doing workplace safety when I was an associate with a partner who, that was all of his practice and he needed help and I volunteered and, you know, here I am over 20 years later. Sometimes, it's who you work with and they introduce you to what they're doing and you end up liking it.

Becca Rainey (02:03)

Something that I've always thought about when it comes to workplace safety and health is you kind of just mentioned it, is that every workplace has some sort of workplace safety and health issue or item that they need to keep in mind.

Kristin White (02:20)

Yeah, so pre-COVID, I think we were really mainly in demand with kind of blue-collar industry workers, as you would think about, as I mentioned: construction, manufacturing, mining. You know, with COVID really brought to light that all businesses have safety concerns, depending on what they are. And so now, yeah, we work across the gamut, which kind of with this workplace violence topic you know, is something that has affected a lot of businesses.

Becca Rainey (02:55)

Yeah, so all right, well, let's move on to our five main questions here. So first thing, to get a sense of the scope here, this data point really stood out to me. "Violent acts are the third leading cause of injuries in the workplace."

The Bureau of Labor Statistics also found that nearly half of all hospitality worker fatalities in 2023 were caused by workplace violence.” Workplace violence risks are broader and more common than many employers assume. So what does workplace violence look like and how should employers understand the scope of these risks?

Kristin White (03:35)

I think what I would say workplace violence looks like is probably broader than most clients think about. And I say that because where the cases that I've dealt with and I've got partners across the country that do a lot of this work as well in the Workplace Safety Group is that it comes from customers, so you see that in the hospitality realm. Unfortunately we see that if you fly in an airport, people lose their temper quickly. So you see the customers, but then it also comes internally. know, so we've had, when we've had active shooter situations at clients, it is, you know, we've had love triangles where they, you know, it turns into a workplace violence situation. What I'm getting at is it comes externally and internally.

We've had domestic violence cases where an employee is an office worker, but what her supervisor doesn't know is she's in a relationship with domestic violence and her spouse shows up at the office. And so, I don't think any workplace is immune and yeah, and I think because the issues can come up internally or externally, you have to be prepared for kind of all of those scenarios.

Becca Rainey (04:58)

And a common thread that from some of the examples you gave is there are some industries that maybe have higher risk than others. Like you mentioned in the airport, that's front-facing folks who are dealing with ticket counters or trying to get folks in. So that's people interacting with customers. What are other key factors that can increase exposure to workplace violence?

Kristin White (05:26)

So you're right, mean, you mentioned it with the customer-facing positions. I think nighttime workers, you know, that tends to be one, if you have people working at night, you know, you think about convenience stores where you have money handling, which is, why hospitality all comes in, restaurants, right? You have money changing hands, you have nighttime, you have alcohol in the mix many times.

I mean, like a convenience store, you may only have one or two people that are working at night. How do you protect them? So, yeah, those would be the ones I think that would come up when it's kind of thinking about the kind of external workplace violence issues.

Becca Rainey (06:10)

Right, and I know another one that is very common would be healthcare, right?

Kristin White (06:15)

Mm-hmm. Yeah, absolutely. Now, I'm glad you mentioned that. So yeah, that's really where, too, we've seen kind of the state legislation is around the healthcare industry, particularly with nursing homes and retirement centers. And some of that is not because the elderly are prone to violence, right? You run into kind of dementia issues, and so you can have increased violence concerns.

Becca Rainey (06:42)

Right, and people taking different medications and that sort of thing.

Kristin White (06:45)

Yeah, exactly.

Becca Rainey (06:53)

Moving on to the second thing, our insight points to a growing patchwork of legal obligations around workplace safety and violence prevention. Is there currently a federal standard on the horizon and what laws and regulations should employers be paying attention to?

Kristin White (07:09)

Right now, I would say there's not a federal regulation on the horizon. I know that David Keeling has said that he would be interested in looking at a workplace violence standard for health care. That's something that's been on OSHA's kind of long-term agenda for a while now. But I would be surprised if we would see that in the current term right now.

My recommendation to employers would be to just be paying attention to their state laws. States are becoming much more active in this area because they anticipate that federal OSHA is not going to be putting out a standard and so paying attention to their states.

The other I think, the other point I'd make on that would be, if you're in a state plan like California, obviously they already have their own standards. So we are seeing state plan OSHA states start to push out their own, you know, that may be a place where we see more workplace violence standards coming out on the safety side as opposed to state legislation.

Becca Rainey (08:08)

Right, right. And just to break that down for our non-OSHA nerds out there, states have the option to run their own safety and health regime for getting partial funding from the federal government. And then states who choose not to do that, it's all up to the federal OSHA to oversee workplace safety and health in those jurisdictions.

But it's important to remember that if your business is subject to federal OSHA's oversight, even though there isn't currently a rule, businesses must still ensure they provide a safe workplace under OSHA's general duty clause. In other words, if you're not taking steps to ensure that your work site is free of safety risks, you could still be cited under this clause that was enacted under the OSH Act. Did I explain that correctly?

Kristin White (08:59)

You did no, exactly right.

Becca Rainey (09:01)

Great. Yeah. So Kristen, you mentioned California. Can you tell us a little bit more about what those rules look like?

Kristin White (09:11)

Yeah. Well, and I think, you know, my, one of my partners, I'll give him a shout out here, Andrew Sommer in California. He's been really active in this area because you're right. And California has put together, you know, the workplace violence standard. We expect to see a lot more enforcement around that. I mean, it was, it was new,

now it's on the books. And so, it's basically requiring employers to create and maintain a workplace violence prevention program. They've got to maintain violent incident law requirements. It has some training requirements, so very detailed. And I know that we've had put together even some sample programs that employers could purchase, I think doing things on a flat fee basis.

But yeah, it's a very detailed plan and I think is now that it's a year or two on the books, we're going to start seeing a lot more enforcement around that within California.

Becca Rainey (10:10)

Right, right. And I feel like those in the workplace and employment space always look to California because other states that have a similar political leaning tend to emulate what that state does when it comes to certain labor and employment laws.

Kristin White (10:30)

Mm-hmm. No, very true.

Becca Rainey (10:37)

Third in our discussion today, I'm sensing a theme here around proactive planning rather than reactive responses. So what questions should employers be asking themselves when building or evaluating workplace violence prevention policies?

Kristin White (10:52)

Where I would recommend starting from would be first, where could our threats come from? Are we an office environment and our doors are locked, so it's going to be primarily internal issues? Or do we have the members of the public coming in? Are we more hospitality or health care issues? And then, starting to assess, "Okay, well then where are our gaps? Where are we vulnerable?" You know, we call it in the safety world like a hazard assessment. It's kind of a fancy term for just "Where are our weaknesses? Where are our hazards? You know, what have we not thought of?" And that's where you start to put your plan together of, okay, "Our doors lock at six o'clock at night, but our receptionist leaves at four o'clock at night. There's a gap, right? We've got a two-hour spot where even though we're in office, we're unlocked and no one's manning the front door." So that would be how we do a hazard assessment. So I think I'd say those two questions of just "where could our threats come from" and then "where are we vulnerable?"

Becca Rainey (11:54)

And then once you kind of identify those unique things that could present risk to your workers from there, you kind of put together your workplace violence prevention program. Am I understanding that correctly?

So what are some key aspects of a workplace violence prevention plan that we would see? You've mentioned it already, maybe making sure that doors are locking at the same time employees are leaving. But for those industries with the unique risks that we talked about earlier, what are some things that you can do? Like, I'm thinking maybe a cashier having a camera behind them or a panic button in case something happens. What are some things that employers can do to protect their employees in those situations?

Kristin White (12:41)

Yeah, so I think from the plan perspective, starting with “How are we implementing the safety precautions that we've identified we need?” So, you know, kind of “who's responsible for that, but what are our methods to implement that plan?” Like you said, you if we're going to make sure we have cameras, because then we need someone who's responsible that's going to check and periodically, however we set that timing, who's gonna go in and check for that plan.

And then it becomes procedures for the employees on if something does happen, how do we respond to that? So what are the procedures if we do have a irate customer that comes in, making sure that the plan talks about it, but then also that training piece that's so important, which I think we're going to talk about today as well. But I think it's just, yeah the plan having in, what are our procedures that we're going to implement? What are we putting in place? And then how do people respond if something does go wrong in the workplace?

Becca Rainey (13:49)

Right, I feel like when talking about prevention topics, I always like to reference a fire drill. It's kind of just knowing exactly where to go when something bad happens. So just knowing how to respond is, I feel like, so key, just in case, you know, bad things do happen.

Kristin White (14:09)

No, exactly. You're exactly right.

Becca Rainey (14:16)

This is the FP5. I'm Becca Rainey. We're here with Kristen White. Kristen is a partner at Fisher Phillips in the Denver office and co-chairs our Workplace Safety Practice Group.

Fourth thing. So we've established that employers should proactively identify risks and establish clear policies. But for their response to be effective, managers and employees also need training to identify and respond to incidents. Can you tell us more about why workplace violence prevention training is so critical?

Kristin White (14:47)

I'd see it kind of in two buckets. So the first would be so employees know how to respond if something happens. With workplace violence in the sense of if we end up with an active shooter, know, one of the techniques that is taught many times is “run, hide, fight,” right and there's different variations of that.

But it's training your employees on how do we handle the various scenarios, and what is our policy of what we want you to do. Rarely do we want the cashier to be jumping over the counter to chase someone, right? And so it's that training on how they're supposed to handle those situations.

The other bucket to me would be manager training on not just how they handle incidents, but when they should engage an employee that they think is displaying strange work behaviors, you know, because one of the things we'll hear from managers is, well, I didn't want to pry, I don't know how much I can ask, but I noticed this person was really withdrawn and they were, they started acting strange and it may be just training the managers that if they've witnessed that they should take it, they should take it back to HR, right? Or they should alert HR and let HR handle it. But whatever it's going to be, making sure the managers know what to do if they start to notice signs in their employees of just a change in behavior that has them concerned, what they should do at that point.

Becca Rainey (16:19)

Right, and knowing the chain of command to who to raise this issue to, sounds like.

Yeah, and can you give us some examples of what this training might look like? You talked about education on run, fight, height, or run, fight, hide. I think if I'm saying that right?

Kristin White (16:37)

Run, hide, fight.

Becca Rainey (16:41)

Run, hide, fight, almost had it. You talked about that, but what are some other examples of how you can prepare employees for these kinds of situations?

Kristin White (16:49)

Yeah, so I have a friend of mine who we used to do a lot of training together. He does like de-escalation training. And so, you know, that's something else, especially for managers that can be important, you know, is de-escalation techniques. Because usually that kind of training also includes what to do when you're noticing concerns in an employee, how to address that. And then if it turns know, sideways, how to de-escalate. So that would probably be the other part I'm thinking about.

Becca Rainey (17:20)

And I think another aspect of training that some people forget is that it also gives, I feel like, managers confidence and also your employees a sense of safety as well, knowing that, okay, if something bad happens, I know exactly how to deal with this situation, or maybe not exactly, but the basic steps that you should take if you're dealing with an agitated customer.

Kristin White (17:46)

I think the reason it helps make employees more comfortable if they have this training is that they all know what to do in those first couple steps to take. Once someone knows the first step or the second step that they take when a crisis happens or is happening, it seems to help the process go smoother. We do, as part of our crisis management training, we'll write plans for employers and we include what's called a first-hour checklist, which is to just what you do in that first hour after a crisis happens. And a lot of employers have liked that because it ensures the rest of the process goes much smoother when everybody knows what their roles are in that first hour.

Becca Rainey (18:27)

Right. And sometimes people forget that just having, you know, a guide in those situations where you're maybe in shock or you're under a lot of pressure, just having something to tell you what to do is so helpful because no one really knows what to do when these unthinkable situations happen.

Kristin White (18:47)

No, you're exactly right. And that's where, like you said, you know, like the fire drills and doing drills and training is really important because then it reminds people, yeah, I know what to do, right? We all know what to do when there's a fire drill because we have to practice it every so often. So similarly, you know, practice your plans, practice what people are going to do if something would happen.

Becca Rainey (19:13)

And finally, the fifth thing, let's review everything we've talked about so far. So what are the practical steps organizations can take today to strengthen their prevention strategies and ensure they are better prepared for potential incidents?

Kristin White (19:27)

I would recommend making that hazard assessment that we've talked about and then putting together even a basic plan that you can train your employees on. We've given the example of a fire drill, treating it in a similar manner so your employees feel comfortable that they're safe at work and they know how to address those incidents. So it doesn't have to be a 10-page, 20-page plan. It can be, here's our top few threats. Here's how we're going to address it. And let's train everyone so they feel comfortable on what to do.

Becca Rainey (19:57)

You mentioned that FP has put together templates to help for at least California's workplace violence prevention plans. But what are good ways that employers can start putting one of these plans together, whether it be working with the partners we have here at Fisher Phillips, or are there other good guidance places online for employers to go?

Kristin White (20:22)

You know, the California plan and the templates there really could be used anywhere in the country. You could decide that if you're not in California that we're not going to have as detailed a plan as that regulation requires. But, you know, there's a lot of good information out there, like you said, at FP or even through the state of California on what to have in these types of plans that you could use elsewhere.

Becca Rainey (20:47)

We've hit this point a couple times, but it's key that every workplace has some sort of prevention plan, right?

Kristin White (20:56)

Yes, I agree. I think so. I mean, sadly, in this day and age, I think it makes sense for every workplace to have at least assessed where their risks are and who needs to be trained depending on the type of your workplace. But yeah, I would think in this day and age, every workplace would have some type of plan.

Becca Rainey (21:21)

We've been chatting about some heavy topics, so let's change it up with a few lighthearted questions before we sign off so our listeners can get to know you better. You ready?

Okay, so what do you do to de-stress after thinking and writing about these topics?

Kristin White (21:38)

So I recently started playing pickleball because I'm turning 50 this year and that's kind what you do in your 50s. Yeah, so that's what I've been doing, a lot more pickleball. It's actually a lot of fun.

Becca Rainey (21:51)

It's a lot of fun. I actually played it with my fiancé last summer and it's very addicting and it's very easy to pick up if listeners haven't, so would recommend it.

Next question. If you weren't a lawyer, what would you be?

Kristin White (22:09)

That's easy because I already had my plan B if I didn't pass the bar exam, which was to be a wedding planner. Yeah, absolutely.

Becca Rainey (22:18)

So much fun and like, a godsend to someone who's getting married later this year, it's a very lucrative job.

Kristin White (22:27)

Yeah, my niece is getting married next year and I was like, please let me like, she's like, I need a person the day of to like, have my, you know, vendors and boss everyone around. I was like, "Absolutely sign me up."

Becca Rainey (22:39)

Right, right. It's like six months out for me and it's very, very stressful. So God bless all those wedding planners. Okay, next question. It's 2028 and you've just won the Nobel Prize in what category?

Kristin White (22:56)

Goodness. That's a hard one. You know, I would say, so that's two more years. So I'm going to say like in teenage raising, because I have two teenagers and there should be like manuals on raising teenagers.

So yeah, that's what I'm going to put it in. Because my daughter will be halfway through high school, my son in college. So yeah, that's what I would call it. I'm surviving it right now.

Becca Rainey (23:20)

Well, as someone who's on the other end of that, I am starting to grow up and realize how appreciative I was of my parents during that time and how patient they were with me. It's kind of like, wow, I wish I didn't say some of those things I did when I was growing up, but I kind of realized what reality is. So, very wholesome.

Next question. Where did you grow up and what is it like there?

Kristin White (23:48)

Yes, sure. So I grew up in northeast Oklahoma, in a small town that if you see it on paper, looks like "Miami," but you pronounce it "My-am-ah". A lot of lakes, a lot of hills, very green. So a very pretty part of the country, actually.

Becca Rainey (24:06)

Love that. No, I would definitely be one to mispronounce that, but I will use that as a flex next time I stay in Oklahoma. I'll be like, "I'm a local."

And then last question: What is one word that your team at FP would use to describe you?

Kristin White (24:24)

Hmm, let me think about that one for a minute. I guess I would hope they would use the word supportive.

Becca Rainey (24:31)

Yeah, and why is that?

Kristin White (24:33)

I just really like supporting other people in their work efforts, whether that be where do you want to grow your business? What kind of work do you like? Getting you involved in workplace safety, how do we do that?

I try to be available when people need to talk to them about whatever they would need. So yeah, maybe available maybe doesn't send the right signal. So I'd say supportive.

Becca Rainey (25:00)

No, absolutely. And when it gets to a point, too, when you're working on a team, very much like the culture we have here at FP, you know, other peoples' success really kind of feels like your own success. You know, it's a great way to be.

Kristin White (25:16)

Yeah, no, I'm with you. I feel like that's one reason I've really liked being at FP now for, goodness, seven years, over seven years, because it is such a supportive environment. And people are each other's champion. And yeah, I really value that.

Becca Rainey (25:33)

Yeah, yeah.

That's all the time we have for now. Thanks again for being on the show, Kristen.

Kristin White (25:40)

Thank you for having me, I appreciate it.

Becca Rainey (25:44)

Thank you for listening to the FP5. For other insights from Fisher Phillips, visit fisherphillips.com. For more on workplace violence prevention, check out the insights we've linked to in our show notes.

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