

WORKPLACE VIOLENCE IN THE NEWS: HOW TO RESPOND IF A WORKER IS SERVED WITH A RESTRAINING ORDER

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After yet another incident of workplace violence in the news, we have to consider that any employee served with a restraining order should be treated as a reason to take workplace security precautions. The shooter in the most recent workplace mass shooting, which took place in Kansas in late February 2016, started his shooting spree immediately after he was served with a restraining order while at the workplace. It is unknown whether the shooter had issues at work, or if the restraining order triggered his rampage and the workers were merely convenient targets.

While you cannot accurately predict everyone who may present a risk of workplace violence, perhaps you can anticipate and head off some incidents. Many workplace violence episodes are related to non-work issues and may include family or marital conflict, divorces, and child custody disputes. And if served with legal process while at work, an employee may use violence to take out such frustrations towards bosses and colleagues simply because coworkers are nearby.

Rather than take a reactive approach to workplace violence, you should consider acting proactively in an effort to stop these incidents. We recommend implementing a pre-mortem analysis of "what could go wrong" instead of waiting for a "what went wrong" review after the fact.

Consider adopting some of the following measures to protect employees from irate coworkers and others.

Related People



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1. Pay Attention If An Employee Is Served With Legal Process

If a sheriff arrives to serve legal process on an employee, watch for red flags. If the employee becomes irate, consider trying to talk individually and calm the employee. Alert your security team if the employee makes threats. Hopefully a manager can avoid escalation, but you may have to ask security to escort the employee to an isolated area where he or she can meet with management.

You may want to ask the employee if he or she desires counseling, although this may be an inflammatory move – you will be the best judge of that. Offer administrative leave if a cooling-off period is appropriate. If the employee is especially antagonistic or you have heard reports of possible violent behavior, you may have to involve outside security or law enforcement from the outset.

If the employee storms off prior to an opportunity to meet with him or her, ensure that any on-site security is aware of the situation. If you receive any threats, call the police in advance. Don't wait for the irate employee to return. If necessary, you should consider retaining a private armed security service. Unfortunately, your local law enforcement department is often limited in how it can respond to threats and bad behavior. The prudent course may be to retain security for a certain period of time until things have cooled down.

2. Request Information From Employees Who Seek Protective Orders

You must thoughtfully consider whether you should encourage employees to tell you when they are involved in a dispute where violence may be a risk. This is especially the case when the employee has requested a restraining order.

If an employee has requested a protective order, ask for a photograph of the recipient of the legal process. Provide the photo to any on-site security, reception employees, and management. If the individual arrives at your workplace for any reason, have the designated company representative approach the individual in a calm manner, isolate the individual in a designated area, and request that security respond to the situation.

Don't offer to provide security to employees when off duty. This may establish a legal duty to protect the employee where none otherwise exists. Instead, you should encourage

the employee to call the police if they feel threatened while off duty.

In any of these situations, you should obtain guidance from law enforcement and security professionals who can tailor their advice to your specific workplace. In order to have such advice available, you should establish relationships with professional security advisors now.

3. Recognize Your Responsibility

Before you ask or require employees to alert you to requests for restraining orders or concerns about domestic violence, remember that once you ask for this information, you are taking on a duty to respond to this knowledge. A Missouri court recently found an employer liable because it was on notice of threats from an employee's ex-boyfriend and offered to form ad hoc groups of employees to walk her to her car instead of using professional security ([read more here](#)). An incompetent or incomplete response to workplace violence concerns or to an active shooter may be used as evidence that you failed to meet your duty.

4. Educate And Train Your Employees

Experts tell us that there are two types of training: preparing for what could happen, and responding once something bad has already happened. Most employers have done neither.

Any training program should require every worker to at least view the Department of Homeland Security's "*Run, Hide, Fight*" video about surviving an active shooter situation. However, you should evaluate your individual workplace for exposure and devise specific solutions as you would for any potential safety hazard.

While there are no guaranteed signs that an employee is going to engage in violent acts, there are signs of unacceptable behavior that you can train your workforce to address.

We recommend you develop specific training based on your work setting, location, and security layout, as well as general situational awareness. Analyze situations involving employee travel, working alone, or working at a customer's home or business. Consider professional instruction by an active shooter expert who can provide on-site, simulation-based training.

Meanwhile, you can beef up your policies about professional behavior, bullying, and workplace rage. Educate your employees to recognize unacceptable behavior, and train your supervisors to address it before it advances to actual violence.

5. Revise Your Emergency Action Plan (EAP)

If you have more than 10 employees, you must develop a written Emergency Action Plan (EAP) when another OSHA Standard triggers the requirement to have an EAP. In addition, if fire extinguishers are available in your workplace, and if anyone will be evacuating during a fire or other emergency, you must have an EAP.

At a minimum, the EAP must include the following elements: the means of reporting fires and other emergencies; evacuation procedures and emergency escape route assignments; procedures for employees who remain to operate critical plant operations before they evacuate; accounting for all employees after an emergency evacuation has been completed; rescue and medical duties for employees performing them; and names or job titles of persons who can be contacted.

Now is the time to ensure your EAP is broad enough to cover management of an active shooter situation or respond to an irate worker served with legal process. Do employees know what to do if such an emergency arose? Who calls the police? Where do the employees go? Do you have an on-site security presence? How do they respond? Have you rehearsed your response to such a situation?

Workplace shootings continue to occur at an alarming rate and yet many employers have not addressed this concern in their safety training programs. No perfect response is currently available, but you should begin taking steps to avoid these situations and minimize the risk to your workplace.

A version of this article originally appeared at the Fisher Phillips Workplace Safety and Health Law blog, which can be found by clicking [here](#) or visiting workplacesafetyandhealthlaw.com.

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