

## **Workplace Violence**

### **By Karen Sutherland**

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### **LEGAL BACKGROUND**

Concern about workplace violence is on the upswing. New incidents can be found in the news on a weekly basis. In addition to the negative effect that workplace violence has on employees and the public, employers can also be legally liable for workplace violence under certain circumstances.

OSHA and WISHA require employers to provide a safe workplace. This includes preventing workplace violence if the employer knows or has reason to know about it. Additionally, employers can be liable for negligent hiring and negligent retention of employees with violent tendencies. Further, any harassment or violence that is because of or motivated by race, creed, color, religion, national origin, sex, veteran's status, disability or any other characteristics protected by law can also result in liability on the part of both the employer and the perpetrator.

### **PRACTICAL GUIDELINES**

What can be done to reduce the possibility of workplace violence? Working with Physicians for Social Responsibility, mental health professionals and human resources directors, Ogden Murphy Wallace, P.L.L.C., has developed some practical guidelines for employers. While there is no guarantee of success or foolproof way of stopping workplace violence, these guidelines may reduce the possibility of violence in your workplace:

- Adopt a policy against workplace violence that prohibits violent acts and threats, along with intimidating or fear-inducing conduct.
- Encourage co-workers to report any threats or acts of violence to their supervisors.
- Prohibit weapons in the workplace. If compliance with the no-weapons policy becomes a problem, consider using a metal detector.
- Phrase discipline and poor performance reviews in terms of the employee's conduct, not the employee's failings as a human being. Whenever possible, offer positive, concrete suggestions for improvement so that the employee does not feel hopeless.
- Be sensitive to the emotional needs of employees who are going through a divorce or have lost a loved one, or who are experiencing other emotional turmoil.
- Watch and listen for hints of potential violence, such as sympathy for alienated individuals who go on shooting sprees, references to how such a thing could happen in this workplace, or overt threats of violence.

- Adopt an EAP (employee assistance program) and publicize its availability to all employees.
- Make a list of people to call in case a violence issue arises. The list should include a mental health provider who can evaluate employees and provide suggestions on dealing with threats of violence, the local sheriff or police department, the name of a loved one or confidant or next of kin for each employee (along with current work and home telephone numbers), and an attorney familiar with violence in the workplace issues, such as the attorneys at Ogden Murphy Wallace, P.L.L.C.

An Ogden Murphy Wallace employment law attorney can draft a violence prevention policy tailored for your workplace and can provide guidance on ADA and other disability issues, union issues, the rights of threatened co-workers, and the employer's potential for liability should a violent incident occur. The attorney can also serve as a source for referrals to mental health professionals and other community resources.

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