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A review and analysis of emerging developments in occupational safety and health law

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VIOLENCE IN THE WORKPLACE:
An Employer's Potential Liability and How to Reduce That Exposure

A discussion of violence in the workplace involves issues from multiple perspectives, including analyses of: (1) employer liability for acts of violence to employees; (2) employer liability for the actions of the employee-perpetrator against others (customer, visitor, etc.); (3) employer liability to potential or alleged employee-perpetrator; (4) employer duties to employees with disabilities; and (5) preventative measures, including identification of potentially dangerous employees. Violence in the workplace occurs in various contexts, including: an employee (or former employee) attacks a supervisor or co-worker; an employee attacks a customer; a customer attacks an employee; or a third party attacks an employee.

Ever since the National Institute for Occupational Safety and Health ("NIOSH"), the research sister agency to OSHA, focused its attention on violence in the workplace in 1993, employers have become increasingly aware of their vulnerability to lawsuits from injured employees, injured third parties and even perpetrators of violence. A NIOSH alert, released in late 1993, indicated that the following factors may increase a worker's risk of being a victim of occupationally related homicide: exchanging money with the public; working alone or in small numbers; working late at night or early in the morning hours; working in high crime areas; guarding valuable property or possessions; and working in community settings. U.S. Dept. of Health and Human Services, (NIOSH) Publication No. 93-109.

On July 24, 1994, the Department of Justice released a study indicating that, each year, nearly one million people are victims of violent crime while at the workplace.

According to the study, the one million workplace incidents account for 15% of the more than 6.5 million acts of violence experienced by individuals aged twelve or older. As a result of workplace violence, an estimated one-half million employees miss 1.8 million days of work each year, resulting in more than $55 million in lost wages, not including days covered by sick and annual leave. The study estimates that 8% of all rapes, 7% of all robberies and 16% of all assaults occur at work. Among women who are victims of workplace crimes, 40% are attacked by a stranger, 35% by a casual acquaintance, 19% by a well-known acquaintance, and 1% by a relative. About 5% of women are attacked by a husband, former husband, boyfriend, or former boyfriend. 24 O.S.H. Rep. (BNA) 387 (July 27, 1994).

According to a Bureau of Labor Statistics Study summary report released on August 8, 1996, the 1995 Census of Fatal Occupational Injuries reveals that most job-related acts of violence, and especially assaults, occur in service-producing industries, such as trucking firms, retailing and health care. Highway fatalities and homicides are the leading causes of these job-related fatalities. Although highway traffic incidents led, homicide was the second leading cause of job-related deaths, accounting for 16% of fatal injuries to workers. Workplace fatalities, nationwide, in 1995, totaled 6,210, or approximately 17 per day. 26 O.S.H. Rep. (BNA) 298 (August 14, 1996).

On June 28, 1996, OSHA issued draft advisory guidelines for workplace violence prevention programs for retail establishments that are open at night. The guidelines particularly apply to workers in convenience stores, liquor stores, and gasoline stations with grocery services. The advisory guidelines provide that management commitment to a violence prevention program should include concern both for employee emotional as well as physical safety. According to the guidelines, a violence control program should contain a work site hazard assessment, which involves records analysis and tracking, monitoring of trends, analysis of incidents, screening surveys, and a workplace security analysis. The guidelines also recommend use of engineering controls, such as video surveillance equipment and bullet-proof enclosures or barriers, to remove hazards from the workplace. The guidelines further recommend that workers be trained in awareness of potential security hazards and in methods to protect themselves and their co-workers. 26 O.S.H. Rep.

(BNA) 110-11 (May 3, 1996).

On March 14, 1996, OSHA issued guidelines for workplace violence prevention programs for health care workers in institutional and community settings. (Bureau of Labor Statistics data for 1995 showed that health care workers have the highest incidence of assault injuries.) The OSHA Guidelines offer a detailed analysis of the risk factors that health care workers confront. The guidelines call for the development of a violence prevention program, which should provide for employer training and education as well as recordkeeping and evaluation of the violence control program, itself. The OSHA Guidelines emphasize that both employers and employees need to be reminded that a safe, secure work environment enables both to achieve their goals. 96 O.S.H.A. 3148 (March 1996).

Employer Liability for Violence to Employees

OSHA has taken the view that it has authority to require employers to take measures to minimize the likelihood of workplace violence. To this end, OSHA has used the general duty clause to cite employers for failing to provide safe workplaces for their employees. The general duty clause is set forth in § 5(a)(1) of the OSH Act and requires that "[e]ach employer … furnish to each of his employees employment and a place of employment that are free from recognized hazards that are causing or are likely to cause death or serious physical harm …" 29 U.S.C. § 654(a)(1). Liability is determined on a case-by-case basis, with a fact-specific inquiry.

In the only workplace violence proceeding thus far to be tried under the OSH Act, an Occupational Safety and Health Review Commission Administrative Law Judge vacated a general duty citation issued against an employer for failing to protect its office employees at a large apartment complex from the hazard of being violently attacked by angry tenants. The Administrative Law Judge found that neither the employer who managed the complex nor the apartment management industry had the requisite knowledge of the hazard of workplace violence to be held liable. *Megawest Financial, Inc.*, No. 93-2879 (OSHRC May 19, 1995).

The 405-unit apartment complex had a history of violence against the office staff, mostly in the form of physical threats. On a few occasions, however, tenants became

physically violent. The staff's repeated requests for security and enforcement of lease provisions intended to sanction such conduct were denied. Nonetheless, the ALJ found that requisite employer knowledge had not been established. The ALJ noted both that the usual hazards addressed by the OSH Act typically relate to processes or materials that are inherent in the workplace rather than to the criminal and volitional acts of non-employees, and that an employer legitimately may not recognize that the potential for a specific violent incident exists. The ALJ noted at that time and in that context that such an employer reasonably may believe that the threat can be appropriately handled by the police.

Evidence that employees were fearful of violent attacks, that they had communicated that fear to the employer, and that there had been violence-related injuries was deemed insufficient. The ALJ also rejected the assertion that the apartment management industry recognized the hazard of violent attacks, noting that: the apartment management industry had not been identified as a high-risk employer; the employer's work policies met most of the suggestions offered in a recent NIOSH Alert on ways to avoid or diffuse workplace violence; and for an extended period, the apartment management industry reported no physical injuries from attacks on office staff by residents, except for the two attacks at the employer's site.

Despite the dearth of OSH Act litigation involving workplace violence, several employers have received citations in connection with workplace violence issues. Typically, such citations have sought the following by way of abatement, depending, of course, to some degree on the employer's industry:

1. Training for new employees that addresses aggressive behavior and risks during restraints and holds;

2. Allowing only properly trained staff, who wear badges that indicate they have completed the training, to respond to restraint/seclusion or "Code Yellow" incidents;

3. Using plastic utensils in the cafeteria and requiring adolescent patients to turn in their silverware to staff who account for all utensils;

4. Hiring staff members who share the patients' racial and ethnic backgrounds and bringing in a consulting firm to provide training regarding cultural and racial differences;

5. Establishing an interdisciplinary team to look at clients' records to determine who has a past tendency to act in a violent or aggressive manner in certain situations;

6. Providing worker training, including teaching workers how to protect themselves in a defensive manner, and semi-annual non-violent crisis intervention training;

7. Implementing office procedures for when a staff member is injured in a violent incident, *e.g.*, meeting with the injured worker to find out how the incident could have been handled differently to avoid injury and having departments immediately notify the transportation unit of any violent behavior;

8. Suspending those involved in serious incidents from transportation services until an interdisciplinary team reviews the case;

9. Reviewing all incidents and accident reports to determine how to avoid similar events in the future; and

10. Providing cordless phones for workers to use as a personal alarm system to summon immediate help when necessary.

Avoiding Negligent Hiring/Retention Litigation

Under Illinois law, employees ordinarily cannot bring negligent hiring/retention claims against their employer for injuries inflicted by a co-employee. Illinois courts have ruled that the only remedy available to employees who are victims of workplace violence by co-workers is workers' compensation. For example, in *Bercaw v. Domino's Pizza, Inc.*, 258 Ill. App. 3d 211, 630 N.E.2d 166 (2d Dist. 1994), a delivery man was strangled to death by strangers while trying to deliver pizza to a darkened house. The deliveryman's family sued Domino's and its franchisee. The court held that because the accident arose in the

course of employment, plaintiffs had no action against the decedent's employer for negligence, endangerment or recklessness unless the employer had a specific intent to injure. *Id*. at 215, 630 N.E.2d at 169.

Illinois employers can be held liable when a negligently hired or retained employee injures a third party such as a customer, tenant or invitee. This liability, however, only arises "when a particular unfitness of an applicant creates a danger of harm to a third person which the employer knew, or should have known, when it hired and placed this applicant in employment where he could injure others." *Fallon v. Indian Trail School*, 148 Ill. App. 3d 931, 935, 500 N.E.2d 101, 103-04 (2d Dist. 1986).

By way of example, a South Carolina court held a hospital liable when a security guard sexually assaulted a "candy striper." *Doe v. Greenville Hosp. Sys.*, 448 S.E.2d 564 (S.C. App. 1994). A year prior to the assault, hospital supervisors were informed that the employee had kissed and inappropriately touched the volunteer. Thereafter, the employee was transferred to the hospital's security division. After his transfer, a second sexual encounter occurred between the employee and the candy striper. The court found that the hospital "knew or should have known of the necessity of controlling the employee prior to and during the term he was employed as a security guard," and thus held the hospital liable. *Id*. at 568.

Employers can minimize negligent hiring/retention claims by:

1. Making a reasonable, good faith effort to conduct background checks of the applicant's employment history before employment is offered.

2. Carefully monitoring the progress of employees who have been the subject of recent discipline or third party complaints, including the progress of any counseling.

3. Conducting employee seminars in handling stress when dealing with the public.

4. Conducting internal staff meetings to familiarize management with typical warning signs of aberrant behavior.

5. Conducting mandatory psychological, drug and alcohol testing, with on-going counseling and follow-up reports, to the extent the law permits.

6. Terminating employees where just cause exists; experience establishes that a disgruntled employee on "thin ice" poses a greater risk.

7. Taking steps to encourage customer and tenant feedback on employees.

8. Verifying that existing liability insurance policies cover negligent hiring/retention claims and that the policy limits are adequate.

9. Conducting your own periodic face-to-face discussions with your employees — you know your staff and are in a good position to sense the early stages of aberrant behavior.

Train management so that they become familiar with early warning signs, any combination of which *may* signal a risk, such as:

- increased use of alcohol/drugs
- paranoia — "everybody is against me"
- unexplained increase in absenteeism
- mood swings
- noticeable decrease in attention to appearance
- resistance and overreaction to policy changes
- unprovoked outbursts of anger
- repeated violations of company policies
- depression/withdrawal
- comments about weapons, violent crimes and empathy with individuals committing violence
- comments about "putting things in order"

- escalation of domestic, financial or other personal problems
- frequent, vague physical complaints

Of course, it ultimately is up to a jury to determine whether or not the employer used reasonable care in hiring or retaining the employee in question. A key question thus becomes: Would the ordinary juror, who probably never has been confronted with these complex employment decisions, likely conclude that the employer did everything that reasonably could be expected in evaluating the applicant or candidate before the employment offer, promotion or retention? The facts and circumstances of any particular case might suggest additional steps that a juror might expect an employer to take. As is often the case in these complex employment areas, experts are available, including workplace psychologists, attorneys and human resource professionals. Timely obtainment of such counsel might reduce risks of violence, liability, or costly litigation.

Claims Arising Under the Americans With Disabilities Act ("ADA") and Other Disability Statutes

The ADA prohibits discrimination against "a qualified individual with a disability because of the disability of such individual in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment." 42 U.S.C. § 12112(a). To be qualified, a person must be able to perform the essential functions of the job with or without reasonable accommodation. 42 U.S.C. § 12111(8). The ADA has a three-prong definition for what constitutes a disability. 42 U.S.C. § 12102(2). An individual has a disability under the ADA if that person: (1) has a physical or mental impairment that substantially limits one or more major life activities; (2) has "a record of" such a disability; or (3) is "regarded as" having such a disability. Emotional conditions such as anxiety and depression that could lead to workplace violence may qualify as disabilities under the ADA depending upon the circumstances. Thus, if an employer refuses to hire or fires a disabled individual because of a risk of physical harm to other employees, the employer may be subject to a lawsuit by an individual claiming a violation of ADA.

The ADA requires employers to provide "reasonable" accommodation to disabled individuals. Reasonable accommodations include modifications or adjustments that enable the qualified individual to perform the essential functions of the job. 42 U.S.C. § 12111(9). An employer may refuse to make an accommodation if it would impose an "undue hardship." 42 U.S.C. § 12112(b)(5)(A). The "undue hardship" defense is available when an accommodation would result in "significant difficulty or expense" to the operation of the employer's business.

An employer, however, is not required to employ a disabled individual when to do so would pose a "direct threat" to that person's own health or safety, 29 C.F.R. § 1630.2(r), or the health or safety of others. ADA § 103 (b), 42 U.S.C. § 12113(b). The term "direct threat" is defined as a significant risk of substantial harm that cannot be eliminated by reasonable accommodation. 42 U.S.C. § 12111(3); 29 C.F.R. § 1630.2(r).

The determination of whether or not an individual poses a "direct threat" must be based upon a careful review of the individual's current, actual condition and not upon generalizations or stereotypes about the disability. 56 Fed. Reg. 35,745 (1991), codified at 29 C.F.R. pt. 1630. This determination must be based on the current ability of the applicant or employee to perform safely in the position and not upon the likelihood that the risk might increase with the passage of time. H. R. No. 101-485, pt. 3, at 45-46 (1990), reprinted in 1990 CSC CAN 445, 468. The assessment must be based on a "reasonable medical judgment that relies on the most current medical knowledge and/or the best available objective evidence." 29 C.F.R. § 1630.2(r). In addition, before making an adverse employment decision based on a disabled individual's safety threat due to an impairment, the employer must consider whether a reasonable accommodation would eliminate the risk or reduce it to acceptable levels. 56 Fed. Reg. 35,745 (1991), codified at 29 C.F.R. pt. 1630.

The ADA Regulations provide a list of factors to be considered in determining whether an individual would pose a direct threat. These factors include: (a) the duration of the risk; (b) the nature and severity of the potential harm; (c) the likelihood that the harm will occur; and (d) the imminence of that harm. 29 C.F.R. § 1630.2(r).

Recent cases highlight the difficulties that employers confront when they decide whether or not to take adverse employment action against potential perpetrators of violence. A federal district court held that the United States Postal Service violated the Rehabilitation Act of 1973 when it terminated a postal worker who was being treated for Post Traumatic Stress Disorder (PTSD) because it feared that the employee might become violent. *Lussier v. Runyon*, 3 A.D. Cas. 223 (D. Me. 1994), *remanded on other grounds*, 50 F.3d 1103 (1st Cir. 1995). The employer's immediate supervisor and some of his subordinates described him as emotionally volatile. The supervisor feared the employee was capable of a shooting spree. Nevertheless, the court found that the employee was coping appropriately with his stress and was otherwise qualified for his job. The court further found that the employee was dismissed solely because of his employer's subjective fear that he could be violent. Because this fear was based upon his employer's subjective understanding of the employee's mental health rather than upon any objective medical evidence, the court concluded that his employer's fear that he might become violent was not a legitimate reason for firing him.

A contrary result was reached in *Gordon v. Runyon*. 3 A.D. Cas. 284 (E.D. Pa., *aff'd*, 43 F.3d 1461 (3d Cir. 1994). The plaintiff was fired from his job as a part-time mail handler at the post office after he verbally assaulted a company nurse, acted in a threatening manner, and was found to possess mace and a stun gun while on postal property. Gordon sued his employer under the Rehabilitation Act for wrongful discharge. The court granted the employer's motion for summary judgment because the employer successfully established that it could not reasonably accommodate the employee's mental disability without compromising safety in the workplace.

The court agreed with the employer that Gordon was fired, not because of his mental disability, but because of his disruptive conduct and because he possessed a concealed, dangerous weapon in violation of federal law and postal regulations. The court found that Gordon presented an "increased potential threat to the safety of postal employees" by carrying the mace and the stun gun. The court also agreed with the employer that it would be unduly burdensome to accommodate Gordon's disability in light of his history of abusive and potentially threatening conduct toward supervisors and co-workers. In the past,

Gordon hit his supervisor on the head with a parcel tub, used abusive language, and engaged in physically threatening behavior toward co-workers. Thus, the court concluded that Gordon could not perform his job as a mail handler. (Under the ADA, the employer also would have had the "direct threat" defense available to it.)

Another interesting case involving employee possession of firearms is *Hindman v. GTE Data Service, Inc.* 3 A.D. Cas. 641 (M.D. Fla. 1994). In *Hindman*, the plaintiff was fired for unauthorized possession of a firearm at work. Pursuant to the ADA, Hindman claimed that he was fired for being "disabled" because he suffered from a chemical imbalance that resulted in a mental, psychological and physiological disorder. The Florida district court denied the employer's motion for summary judgment, rejecting the employer's argument that, as a matter of law, Hindman merely exercised poor judgment in bringing the gun to work and that poor judgment was not a disability within the meaning of the ADA. The court reasoned that personality traits, such as poor judgment, are considered disabilities when they are symptomatic of a mental or psychological disorder that is a disability under the ADA. The court held that the question as to whether or not Hindman's misconduct (bringing a gun to work) was caused by his disability was a question of fact to be decided at trial. For summary judgment purposes, the court also rejected the employer's argument that Hindman was not qualified for his job because he posed a "direct threat" to the health and safety of others. The court noted that in order to succeed under a "direct threat" defense, the employer must show that Hindman posed "a significant risk as opposed to a slightly increased risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by reasonable accommodation." 29 C.F.R. § 1630.2(r). The court concluded that whether Hindman posed a "direct threat" also was a factual issue for a jury to determine.

The case proceeded to trial. After the plaintiff presented his evidence, the court granted judgment for the employer because there was no legally sufficient basis for a reasonable jury to find that the employer violated the ADA. *Hindman v. GTE Data Services, Inc.*, 4 A.D. Cas. 182 (M.D. Fla. 1995). The court relied on the fact that despite plaintiff's claim that he suffered from a chemical imbalance, he violated his employer's work rules by bringing a firearm onto his employer's premises.

Moreover, the court noted that his employer did not know of his alleged disability until after it decided to discharge him.

Defamation

In Illinois, an employer is protected by an absolute privilege against defamation claims when it communicates possible wrongdoing to appropriate governmental authorities. *Layne v. Builders Plumbing Supply Co.*, 210 Ill. App. 3d 966, 569 N.E.2d 1104 (2d Dist. 1991). Communications of employee or former employee wrongdoing to other third parties is protected only by a qualified privilege. *Zeinfeld v. Hayes Freight Lines, Inc.*, 41 Ill.2d 345, 243 N.E.2d 217 (Ill. 1968). Under Illinois law, the employer abuses the qualified privilege if it has a "direct intention to injure another, or a reckless disregard of [the defamed party's] rights and of the consequences that may result to him." *Kuwik v. Starmark Star Mktg. and Admin., Inc.*, 156 Ill.2d 16, 30, 619 N.E.2d 129, 135 (1993). "[A]n abuse of qualified privilege may consist of any reckless act which shows a disregard for the defamed party's rights, including the failure to properly investigate the truth of the matter, limit the scope of the material, or send the material to only the proper parties." *Id*. at 30, 619 N.E.2d at 136.

To prevail in a defamation suit, a former employee must prove that the employer lacked good faith in its negative reference. Thus, as long as there is no intent to disregard the former employee's rights, statements made in good faith should be protected by the qualified privilege. Disregard for the former employee's rights, however, is easily alleged and becomes a question of fact to be decided by the jury.

The recently enacted Employment Record Disclosure Act also affords employers with some protection from defamation claims. *See* 745 ILCS 46/1 *et seq.* An employer or its authorized employee or agent who, when responding to an inquiry from a prospective employer, provides "truthful written or verbal information, or information that it believes in good faith is truthful about a current or former employee's job performance is presumed to be acting in good faith and is immune from civil liability for the disclosure and the consequences of the disclosure." 745 ILCS 46/10. The presumption of good faith may be rebutted, however, if the "information

disclosed was knowingly false or in violation of a civil right of the employee or former employee." *Id*. Employers who wish to be covered by the Act should confine their responses to "job performance" and avoid responses unrelated to the employee's work.

Preventive Measures

To minimize employer exposure to workplace violence liability, an employer must be able to show that it exercised reasonable care in hiring or retaining an employee who committed a violent act. An employer can do this by taking steps to screen out unfit applicants during the hiring process and by putting into place a system for identifying current employees who pose an unreasonable risk or "direct threat" to their co-workers or members of the public. Such a system need not be complex. Indeed, as to the health care industry, Illinois law requires health care employers to conduct criminal background checks on all employees and prospective employees who provide direct or personal care. Health Care Worker Background Check Act, Public Act 89-197, codified at 225 ILCS 46/1-46/65. The Illinois Department of Public Health regulations require hospitals to maintain complete personnel records for "each hospital employee." 77 Ill. Admin. Code. § 250.420(a). Personnel records must contain an "[a] pplication form and/or resume with current and background information sufficient to justify the initial and continuing employment of the individual." *Id.* at § 250.420 (b)(1) (Personnel Records).

Hiring — The Employment Application

From a negligent hiring perspective, the application process should provide the employer with the information it needs to conduct a reasonably thorough investigation of the applicant's fitness for the position and to make an informed hiring decision. At the same time, the application form, like the rest of the application process, should not unnecessarily elicit information about the applicant's membership in a protected class (*e.g.*, race, sex or marital status information) or other information that is not job-related. In addition, Illinois law and federal law made it very risky for an employer to inquire into the arrest record of a job applicant; inquiries, however, into relevant convictions are permissible. *See* 775 ILCS 5/2-103.

Applicant Interviews

- safety and health consulting and litigation avoidance;
- safety and health auditing;
- defense of workplace safety and health criminal liability matters; and
- safety and health training and lecturing.

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Individuals responsible for interviewing applicants should inquire into the reasons for any gaps in an applicant's employment history, as well as about any prior discipline. If the applicant has a conviction that may be relevant to the job for which he/she is being considered, the applicant should be asked for further details about the underlying crime and how recent it was. Although applicants ordinarily should not be rejected solely because of a criminal record, if the type of crime indicates that the applicant, if hired, would pose an unreasonable risk or "direct threat" to co-workers or members of the public because of the nature of the job, the employer should not hire the applicant. In making this determination, the nature of the crime, the length of time that has passed since the commission of the crime, as well as the applicant's interim work record (if any), should be considered. Note that ordinarily, only convictions, not arrests, may be considered in making employment decisions. *See* 775 ILCS 5/2-103.

The recently issued EEOC Policy Guidance on pre-employment inquiries and medical examinations under the ADA states that it is not permissible to ask an applicant either in an interview or on an application form whether the applicant: (1) has a disability or the nature, severity or prognosis for such a disability (42 U.S.C. § 12112(d)(2)(A)); (2) has received medical treatment for any injury or illness within a given period; or (3) has previously filed a workers' compensation claim, even if the applicant states during the interview that he/she will require reasonable accommodation. Once a conditional job offer is made, however, the employer may require medical examinations and make disability-related inquiries. If the examination or inquiry screens out an individual due to a disability, the employer must be able to demonstrate that the exclusionary criterion is job-related and consistent with business necessity. The employer must also be prepared to show that the applicant could not, with reasonable accommodation, satisfy the criterion and perform the essential functions of the job.

Background Checks and Verification of Employment History

Reasonable efforts should be made to contact prospective employees' most recent employers by telephone to verify the information provided on the application, including the reason given for employment termination. A standard

form should be used to record the questions asked, the information provided, and the dates and times that the employer attempted to contact the former employer. This log should be kept with, or attached to, the application. Employers should also check the Department of Motor Vehicles ("DMV") record on all drivers before they are hired.

Retention

An employer should consider adopting a work rule requiring employees to promptly notify it of any criminal convictions (including pleas of guilty or no contest) for anything other than minor traffic violations. Although a conviction should not automatically bar continued employment, the nature of the conviction and the employee's job should be considered in determining whether the conviction indicates that the employee's retention poses an unreasonable risk to co-workers or members of the public. Employers also should consider periodically checking the DMV records of current drivers, such as once a year on the anniversary date of their employment, as well as conducting post-accident tests for drug and alcohol use. Documentation should also be made in all instances of aberrant behavior.

Another preventive measure can be the development of a crisis plan for dealing with workplace violence. The crisis plan should call for the training of all management personnel to: (1) evaluate any indications of potential workplace violence and identify problems before they occur; (2) require employees to report all threats; and (3) investigate all reported threats and effectively respond to threats and violence when they do occur.

Additional steps an employer should consider include:

- Inform all employees that threats and violence are grounds for discharge under employer rules.
- Create a policy to deal with unresponsive or uncooperative employees.
- Evaluate the factors or situations in the workplace that might place employees at risk for workplace violence.
- Provide adequate security-alarms, surveillance and

security personnel.

- Install good external lighting and make high-risk areas visible to more people.

Conclusion

In conclusion, employers must be aware of and confront the inherent danger of workplace violence. Mechanisms such as prudent hiring and retention policies, effective rules and disciplinary procedures, and crisis management and prevention work hand-in-hand to reduce the risks and consequences of this danger. As always, seeking appropriate counsel from those well-versed in these issues may avoid both workplace violence and subsequent litigation.

- Return to: OSHA Observer Index
- Return to the Vedder Price: Publications Page.
- Return to: Top of Page.

Home | Legal Services | Attorneys | **Publications** | Recruiting | Seminars | Speakers | Alumni | Contact Us | Search
Top of Page