

The Role of Attorneys in Workplace Violence Prevention
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Incidents of workplace violence are, unfortunately, becoming increasingly common and employers are being forced to contact subject matter experts in violence along with legal consultation in order to balance protecting their employees from potential violence while at the same time not creating a legal liability. Legal counsel is now becoming a critical asset in: 1) assisting employers in creating workplace violence policies for their organization in an effort to proactively protect against acts of violence, 2) seeking protection orders against or prosecuting those that have already been identified as a threat to the organization, and 3) providing guidance in termination and disciplinary actions. The focus of this article will be to outline, for legal professionals, what steps they can take with employers to prevent workplace violence from occurring.

Creating a zero-tolerance policy that explains an organization's position on intimidating, threatening, or violent behavior is critically important; however, many organizations do not have clear workplace violence prevention policies in place. Creating such policies is certainly an area in which legal counsel is necessary. As with most important employee relations' issues, a workplace violence policy requires careful analysis and review before implementation and should only include standards that can be enforced consistently. Key elements of any workplace violence prevention policy include: 1) a strong statement of the employer's position prohibiting workplace intimidation, threats, or violent acts 2) training for supervisors on identifying and managing disruptive behaviors, 3) commitment from top management to develop and enforce the policy 4) communication with all employees explaining the organization's reporting procedures, and 5) clearly outlined consequences for employees found to have violated the policy. Creating workplace violence prevention policies takes a great deal of investment of resources on the part of an organization; however, with the assistance of a well-informed legal representative and other trained experts on workplace violence, an organization can make great strides towards better protecting both their employees and customers.

Unfortunately, even with the best policies in place, an individual may still become a real threat to an organization. The threat may come from what is called an "insider". Insider violence originates from an identifiable source. For example, the threat may come from a current or former employee, the spouse or partner of an employee, or perhaps a citizen who feels wronged by the organization. Insider violence can be disrupted because the individual typically will broadcast their intent to someone either in written format (e.g., posting on a social media site or blog) or verbally (e.g., to friends, family, colleagues, etc.) before an attack. Oftentimes, the threat is overlooked or the threat is dismissed with comments such as, "they were just kidding" or "s/he just needed to blow off steam." It is important that employers learn to recognize the importance of taking all threats seriously and follow through

with their violence prevention policy to determine the level of threat, rather than assume they can make these decisions unilaterally.

Once an individual is determined to be a high risk for violence and low-level disruptors have been unsuccessful, it may be necessary for an employer to request the court's assistance by obtaining a civil protection order. Protection orders are more commonly recognized by the general public as being used to protect citizens, most often in cases of domestic violence. However, protection orders can also be utilized to protect an organization from a potential threat. A high profile example of workplace violence and the use of a protection order is that of the Discovery Channel shooting in September of 2010. A radical environmentalist, identified as James Lee, took three hostages at the Discovery Channel headquarters before being killed by police after four hours of negotiations. All three hostages were found unharmed. Although many more employees were in the building at the time of the incident, workers received a bulletin from the building's security asking employees to seek protection in a locked office. This message was sent via email and was also read over the public address system, which illustrates a workplace violence policy that was already in place and utilized appropriately, protecting additional employees from harm. Lee, during the two years prior to the incident, had been protesting against the company and, in 2008, was arrested and found guilty of disorderly conduct outside of the Discovery Channel's headquarters. Following this incident, a protection order directed Lee to stay away from the headquarters; however, the restraining order expired two weeks before his attack.

This leads to another important point. Protection orders can certainly be beneficial; however, once a threat has been identified, an organization must remain vigilant and aware of the ongoing potential for violence. In other words, once an individual is on the radar of an organization, they must always remain on the radar. To this end, attorneys should be an integral part of Threat and Violence Assessment Teams (TVATs) that are charged, in part, with keeping tabs on potential threats. TVATs have a dual responsibility of notifying potential targets along with developing countermeasures for disrupting a violence progression. TVATs should also monitor any known Internet sites belonging to potential threats, such as social media pages, blog sites, etc. Lee had posted a "manifesto" in July 2010, which espoused his radical philosophy and specifically called on the channel to cease certain types of programming. His continued focus on the Discovery Channel for two years certainly identified him as a high risk for continued disruption even before the attack.

Employers must prepare for workplace violence in order to proactively respond to potential threats. To help avoid tragedies and maintain a safe environment for employees and customers alike, preventative steps and intervention strategies must be implemented to defuse the likelihood of violence occurring. While attempting to provide a safe workplace, employers can find themselves liable for taking certain actions or failing to take others; therefore, it is critically important that those providing legal support to organizations have a clear understanding of workplace

violence prevention so that they can assist their clients in making every reasonable attempt to prevent violence from occurring at work.