

Workplace Violence and Its Effects on Your Firm



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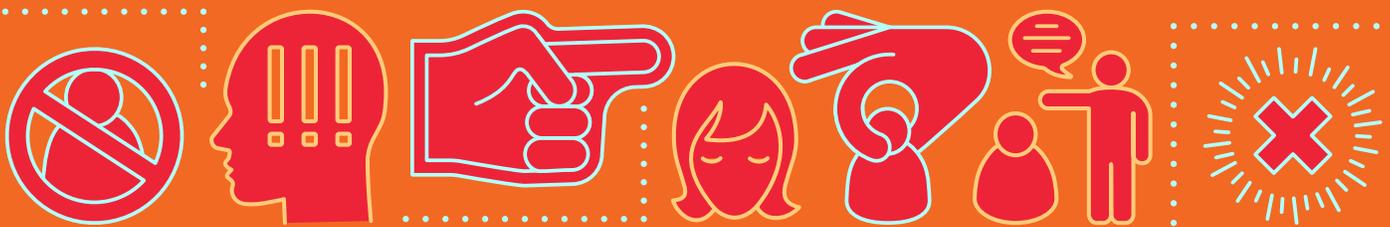


COMMUNICATIONS AND
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Workplace Violence and Its Effects on Your Firm: The Need for Change and the Steps to Prevention



INTRODUCTION



By **Kathryn N. Scourby**, CBCP
KNS Consulting, LLC

Could workplace violence happen in your firm? You think such an incident could never happen. After all, you've done all the right things in the hiring process, conducting a thorough vetting of the lawyers and staff with detailed interviews and background checks. Unfortunately, the statistics show otherwise: workplace violence is increasing and active intruder/shooter incidents seem to happen nearly every day.

To stem the tide of these events, at least in the United States, many experts advocate for stricter gun control, for greater awareness of mental health issues and improved access to resources, or for policies that combine those two angles. Whatever side of this debate you fall on, it is clear that a cultural shift also needs to occur. Business leaders — and specifically for this discussion, leaders of law firms — need to become well-versed in the types of workplace violence that exist, as well as the preventive measures that can be taken to mitigate the chance of a workplace violence incident taking place.

Above and beyond the preventive measures described herein, there needs to be a proactive shift in awareness for all lawyers and staff to embrace a culture of caring — one where it is OK to be mindful and concerned about the well-being of coworkers. Employees must feel comfortable reporting concerns or signs of any potential workplace violence to the appropriate leaders in the firm.

BACKGROUND

Statistics

Each year, an average of nearly 2 million U.S. workers report having been a victim of violence at work, according to the Occupational Safety and Health Administration (OSHA). Furthermore, the U.S. Bureau of Labor Statistics puts the number of annual workplace homicides at more than 500 per year since 2016. The FBI has stated that workplace violence in which someone is killed is the fastest growing type of homicide in the United States. Although not all active shooter incidents involve workplace shootings, in 2018 there were 27 active shooter incidents in 16 states.

The following infographic about those incidents shows that 41 people were killed and 61 wounded in events that happened in a business environment:ⁱ

WORKPLACE VIOLENCE PREVENTION

2018 Statistics



To frame this discussion of workplace violence prevention, it is helpful to define exactly what constitutes an act of violence in the workplace. According to OSHA, workplace violence can be defined as:

“[A]ny act or threat of physical violence, harassment, intimidation, or other threatening disruptive behavior that occurs at the work site. It ranges from threats and verbal abuse to physical assaults and even homicide. It can affect and involve employees, clients, customers and visitors.”ⁱⁱ

The interesting part of this definition is that workplace violence does not have to be a physical assault — it can also be a threat or perceived threat by an employee. Workplace violence may also include acts that results in damage to an organization’s resources or capabilities.ⁱⁱⁱ

There are four types of workplace violence:

1. **Criminal Intent:** Violent acts by criminals who have no real connection to the firm.
2. **Customer/Client:** Violence directed at employees by clients or anyone to whom the firm provides services.
3. **Coworker:** Violence against coworkers, supervisors or managers by a current or former employee.
4. **Personal Relationship:** Violence committed in the workplace by someone who has or had a personal relationship with an employee.^{iv}

In looking at the documented history of current and former employees who have committed workplace violence, there are behavioral, cognitive and attitudinal red flags that can be seen in those who might be prone to such acts. These signs include:

- History of violent behavior
- Fascination with weapons
- Someone who tends to be a loner
- History of family or financial problems
- Someone who has experienced stress in the workplace in dealing with layoffs or downsizing
- History of substance abuse
- Someone who holds a grudge and does not tolerate constructive feedback well
- Someone who perceives they are being treated unfairly in the workplace

The Solutions section of this white paper includes policies and guidelines your firm should have in place to handle troubled and/or disruptive employees and clients.

Consequences Following a Workplace Violence Event

If workplace violence has occurred at your firm — which this paper has established is sadly less than unthinkable — what are the next steps? How do you help your lawyers and staff recover from this trauma and crisis?

Following any type of workplace violence incident, trauma experienced by employees can certainly cost a firm or business in a variety of ways. Firms should ask themselves the following to determine the possible human consequences of a crisis or disaster:

- » Did the employees witness or experience a sudden, stressful or unusual event in the workplace?
- » Were any of the employees in danger during this situation? Did anyone get hurt? Did they believe they might be in danger?

- » Did anyone in the firm die? Did anyone die either accidentally or by suicide?
- » Did law enforcement or first responders have to respond to the workplace?
- » Has the event been called a “crisis” or “disaster”?
- » Has there been media coverage of the event?^v

It is well-documented that, following a crisis event, employees who had never before missed a day of work may call in sick regularly and that productivity and overall morale may sink to an all-time low. Employees may be anxious and fearful and no longer feel safe and secure at their office. If such a crisis event was witnessed by employees, it can produce larger-scale reactions, including loss of control, flashbacks, nightmares, sleep disruptions and emotional numbness. Reactions such as these can manifest cognitively in the workplace as memory problems, inability to concentrate and difficulties in accomplishing tasks and solving problems.

Other documented statistics include:

- Up to 50% decrease in productivity in the 6-18 weeks following a workplace violence incident.
- Employee turnover can escalate to 20%-40%.
- The cumulative cost of a single workplace homicide averages between \$250,000 and \$1 million.
- Because of workplace violence, 500,000 employees miss 1.8 million days of work annually.
- The average out-of-court settlement for a workplace violence-related lawsuit is nearly \$500,000.
- The cost of negligence lawsuit has increased from \$800,000 per case in 1995 to nearly \$2 million now.^{vi}

If disruptions in the workplace are not addressed, they can seriously impair a firm’s ability to deliver services and meet client needs. Plus, it can ultimately affect the firm’s reputation and profitability.

It’s important to have plans in place for dealing with trauma issues. Many firms have employee assistance programs (EAPs) to provide skilled and confidential support to lawyers and staff as they deal with their varying levels of trauma and stress response. Beyond these programs, ongoing internal communications in the months following an event and targeted HR resources are critical to the identification and mitigation of long-term effects of a traumatic experience.

These measures can be part of an overall business continuity plan, which can help ensure your firm experiences the least amount of interruptions and recovery-related expenses possible. A documented plan will provide instructions for assessing and restoring damage, crisis communications, logistics and more.

DRAFTING EFFECTIVE WRITTEN BUSINESS CONTINUITY PLANS CHECKLIST 2019



Incident Management Plan	Completed	Needs Work	Notes
Life Safety Procedures			
Key Contacts (responsible for managing incident)			
Emergency Operations Center information (if necessary)			
Specific Documents and Data (resource needs assessment)			
Damage Assessment Information			
Restoration and Salvage Information			
Insurance Considerations			
Crisis Communications Plan	Completed	Needs Work	Notes
Identify Crisis Management Team			
Moving from Crisis to Business Continuity Procedures			
Building/Landlord Communication Procedures			
Firm Crisis Notification System Procedures			
Identify Crisis Communications Team (PR and Media)			
Recovery Site Plan	Completed	Needs Work	Notes
Alerting Procedures for Move to Alternate Location			
Declaration of Move to Alternate Location Procedures			
Administration of Move to Alternate Location			
Logistics of Move to Alternate Location			
Operational Recovery Plan	Completed	Needs Work	Notes
Procurement of Vital Records and Data (external contacts and suppliers)			
Business Impact Assessment Information (BIAs)			
Prioritization Structure for Critical Business Functions			
Information Technology (IT) Recovery Plan	Completed	Needs Work	Notes
Determine IT Recovery Teams			
Procedures for All Data Resources (hardware, software, etc.)			
Data Redundancy Procedures			
Procedures for Redirecting Phones			
Procedures for Cybersecurity Breach Declaration			
Appendices	Completed	Needs Work	Notes
Firm Organizational Charts			
Contact Information for All Personnel and External Suppliers			
Business Impact Assessments			

SOLUTIONS

Mitigating the Effects of Traumatic Events

The time it may take to return to a place of normalcy will vary for each individual in the workplace affected by a traumatic event. It depends on the degree of loss and the ability of that individual to cope with this specific event and others they might have already experienced.

For firm leaders, some practical steps may include:



Agree to be more flexible with employees. Work around or rearrange deadlines if possible, or ask other employees who are handling the traumatic situation better to take over some responsibilities.



Lighten up on any restrictive office rules, such as strict hours, the dress code or any prohibition on personal phone calls. Allow employees more time to deal with personal family matters.



Encourage employees to talk about their fears in an open setting among others or in a closed setting with a crisis counselor. Everyone affected by the trauma will handle this decision differently. Remind everyone about your EAP and other available community resource programs.



If you are not used to holding many meetings, change that culture and create situations where employees can come together in team or group settings so that they can bond and feel part of a more close-knit work community.



Be hypervigilant and aware of employees who are showing signs that they might need more professional help. If you notice an employee showing signs of mood swings, isolation, tearfulness, anger, depression or even suicide ideation, do not ignore them. Arrange to spend more time just talking to this individual and encourage them to be proactive in their own health and well-being.



Encourage everyone to come together in a group effort to assist the families of anyone who may have been affected by the trauma in your office. This gives those who experienced the trauma a purpose or drive to return to some sort of normalcy.

Confronting Workplace Violence: Preventive Steps and a Cultural Shift

Parkland, Las Vegas, Pittsburgh, Thousand Oaks, Virginia Beach — these are sites of significant active shooter events in the last few years. More recently, the United States faced another set of tragedies with the mass shootings in El Paso, Texas; Dayton, Ohio; and Midland and Odessa, Texas. These incidents have left Americans feeling uneasy and in need of a response that would prepare them in the event such a tragedy strikes their workplace.

It's important that your firm is prepared for the threat of workplace violence or an actual incident. As a start, honestly answer the following questions:

- » Does your firm have a training program in place with a written violence prevention policy that includes information about the importance of a healthy and safe workplace as well as bullying and abusive conduct prevention?
- » If so, does the policy include procedures for reporting workplace violence concerns and annual, mandatory training for lawyers and staff?
- » Does the policy make it clear that it encourages lawyers and staff to bring concerns to the appropriate individuals (human resources, firm management, general counsel) and emphasizes there will be no reprisals to anyone who brings forth a concern?
- » Do your lawyers and staff know the protocol and how to react (run, hide, fight) should an assailant enter your workplace?
- » Does firm management have a clear understanding of how local police and building management would respond to an active threat situation?
- » Has your firm created a threat analysis team that is responsible for reviewing any complaints or potential concerns that have been brought forward?

The protection of lawyers, staff, clients and anyone who enters the door of a law firm is paramount. Documented procedures and practical training — including real-time tabletop scenarios and plan testing — are key to establishing and maintaining the level of preparedness necessary to mitigate personal injury and possible loss of life. Leaders of law firms need to be thoughtful and vigilant about the best practices and policies that fit their law firm and its specific culture.



CONCLUSION

Sadly, it seems unlikely that workplace violence will suddenly stop occurring in today's world. Thus, law firms can no longer avoid these circumstances and pretend that nothing bad will happen to them. Firms must be prepared to respond both quickly and effectively to any type of actual or potential workplace violence situation.

From policies, threat analysis and communications teams, active threat training, employee assistance programs and awareness campaigns, firms need to plan and prepare. Comprehensive planning, policy design and implementation are all components of a well-written and documented business continuity plan. Steps to creating a comprehensive business continuity plan (as documented in the "checklist" on page 5), include ensuring your firm has documented information on incident management, crisis communication, recovery site (alternate workplace strategies), operational recovery and IT disaster recovery in the event of a threat that materializes. Continuity plans that also include transparent communication, workplace violence prevention training and annual testing are highly effective in mitigating both the tangible and intangible costs of disasters. Having such a plan in place just might be the key to your firm's survival.

ENDNOTES

- i. U.S. Department of Justice, Federal Bureau of Investigation, Active Shooter Incidents in the United States in 2018.
- ii. U.S. Department of Labor, OSHA - Workplace Violence.
- iii. National Institute for Occupational Safety and Health (NIOSH).
- iv. "Understanding Workplace Violence Prevention and Response," Society for Human Resource Management (SHRM).
- v. Optum - Responding to the human side of crises in the workplace - *optum.com*.
- vi. Onsolve - Workplace 911 - Planning to Preempt and Prevail over Workplace Violence, from the National Institute for the Prevention of Workplace Violence.