

WORKPLACE VIOLENCE EXAMINED (PART II)

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Using the risk factors outlined in our September *Employment Law Reporter*, and with consideration to the various types of possible workplace violence and the nature of the employer's business, employers should establish various workplace security measures as part of an Injury and Illness Prevention Program ("IIPP"). Indeed, in California, employers at risk for the various types of violence are required by Cal/OSHA to include as part of their business's IIPP the following:

1. A system for ensuring that employees comply with safe and healthy work practices including ensuring that all employees comply with work practices designed to make the workplace more secure and do not engage in threats or physical actions which create a security hazard to other employees in the workplace;
2. A system for communicating with employees in a form readily understandable about workplace security hazards, including a means an employee can use to inform the employer of security hazards at the worksite without fear of reprisal;
3. Procedures for identifying workplace security hazards, including scheduled period inspections to identify unsafe conditions and work practices;
4. Procedures for investigating occupational injury or illness, including those arising from a workplace assault or threat of assault;
5. Procedures for correcting unsafe conditions, work practices and work procedures, including workplace security hazards, in a timely manner and based on the severity of the hazard and with attention to procedures for protecting employees from physical retaliation for reporting threats; and
6. Training and instruction about how to recognize workplace security hazards, measures to prevent workplace assaults and what to do when an assault occurs, including emergency action and post-emergency procedures.

PROFESSIONALS

Kelly O. Scott

PRACTICE AREAS

Employment

Additional measures may be required depending on the nature of the business. For example, late-night retail stores are encouraged to remove clutter or other obstructions and signs from windows so that an unobstructed view of the store is possible. Keeping the store and parking lot brightly lit is a good idea, as is mounting mirrors and surveillance cameras to allow monitoring of otherwise hidden corners of the establishment. Limiting the amount of cash available and posting an appropriate sign is a helpful deterrent to robbery as is training for employees on what to do in the event a robbery actually occurs.

For establishments at risk for Type II events, controlling physical access through the workplace is an important preventative measure. Barriers between clients and service providers may be required. Alarm systems or “panic buttons” may be appropriate. Further, it is advisable to train employees on escape routes and establishing a “buddy” system in the event of an actual emergency. The retention of security personnel should also be considered.

For Type III events, employers must monitor employees who have a history of assaults or who have exhibited belligerent, intimidating or threatening behavior. Cal/OSHA reports that an employer’s considerate and respectful management of its employees represents an effective strategy for preventing Type III events. Layoffs, reductions in workforce and disciplinary actions can be triggering events and should be carried out in a manner which is designed to minimize the potential for the person to perceive the treatment as unfair or abusive. In connection with Type II, III and IV events, employers should consider seeking a temporary restraining order and an injunction on behalf of the affected employee(s) where appropriate.

In specific cases of workplace violence or threats of violence, employers are encouraged to seek legal counsel to ensure that the offense is responded to properly and that employees’ safety is protected. In addition, employers should not hesitate to contact law enforcement when there has been an assault or serious threat of harm.

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Did you know...

That Assembly Bill 10 has been signed into law and will amend Labor Code Section 1182.12 to increase the minimum wage in California to \$9.00 an hour on July 1, 2014, and to \$10.00 an hour on January 1, 2016? The minimum wage hike represents a 25% increase over the current rate of \$8.00 an hour. Following the increases, California will have the highest minimum wage rate in America, assuming other states do provide for significant increases in the near future. California currently has the eighth highest minimum wage. The State of Washington has the highest minimum wage at \$9.19 an hour. Only 19 states and the District of Columbia have set minimum wages higher than the federal mandate of \$7.25 an hour.