

Violence in the Workplace: Active Shooter Awareness and Preparation

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Prevention

- ◆ Occupational Safety and Health Administration regulations

- ◆ OSHA ACT OF 1970 GENERAL DUTY CLAUSE (Updated by Presidential Executive Order), § 5 Duties

- ◆ Each employer:

- ◆ Shall furnish to each of his employees employment and a place of employment, which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees;

- ◆ Shall comply with occupational safety and health standards promulgated under this Act.

- ◆ Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this Act, which are applicable to his own actions and conduct.

Prevention

◆ Four types of workplace violence

1. Criminal Intent
2. Customer/Clients/Patients
3. Co-Worker
4. Personal

◆ High-Risk Industries

- ◆ Healthcare and social services
- ◆ Late-night retail settings

Prevention

- ◆ OSHA's suggested program for Violence Prevention
 - ◆ Management commitment and employee participation
 - ◆ Worksite analysis
 - ◆ Hazard prevention and control
 - ◆ Safety and health training
 - ◆ Recordkeeping and program evaluation

Prevention

- ◆ Department of Homeland Security
 - ◆ Run, Hide, Fight
 - ◆ Resource Materials and Preparedness Video
 - ◆ Active Shooter Course through FEMA
 - ◆ Steps for creating an Emergency Action Plan (EAP)
 - ◆ Violence Indicators from within and outside the office

Prevention

◆ Emergency Action Plan

- ◆ Plan should be created by a team of individuals from within your office from various departments, including local law enforcement

◆ Should include

- ◆ A notification system for an emergency
- ◆ Contact information for employees
- ◆ Escape routes and procedures
- ◆ System of reporting events to outside agencies
- ◆ Emergency responder information

Prevention

◆ Violence Indicators

◆ Within the Office

- ◆ Increased use of alcohol/drugs
- ◆ Increased absences
- ◆ Marked mood changes or overreaction to changes within the office
- ◆ Suicidal comments, paranoia, unstable and/or extreme emotional responses
- ◆ Comments regarding violence or problems at home

◆ Outside the Office

- ◆ Increased loitering
- ◆ Increased complaints or threats of violence by phone or other electronic communication
- ◆ Suspicious bags, packages, unseasonably heavy clothing

Prevention

- ◆ Inter-Agency Policies and Guidelines
 - ◆ Training
 - ◆ Employment Screening
 - ◆ Vigilance with Visitors and Walk-Ins
 - ◆ Employee responsibility
 - ◆ Alert systems

Cases

- ◆ McLean v. Pine Eagle School District, 3:15-cv-00654-SI, 2016 WL 3574017
- ◆ An teacher filed a federal lawsuit over an active shooter drill at an elementary school in the Pine Eagle School District in Halfway, Oregon.
- ◆ Four federal violations were alleged:
 - ◆ Violation of Substantive Due Process
 - ◆ Violation of Procedural Due Process
 - ◆ Unreasonable Seizure
 - ◆ Failure to Train
- ◆ Two state law violations were alleged:
 - ◆ Intentional Infliction of Emotional Distress
 - ◆ Assault

Cases

◆ DeLorenzo v. U.S., 8:13-cv-3048-RAL-EAJ

- ◆ In 2013, Aaron Alexis opened fire at a Navy Shipyard, killing twelve and wounding several others.
- ◆ One of the victims' family brought suit in federal court, making several claims against the Department of the Navy, Veteran's Affairs, and two government contractors the shooter worked for.
- ◆ The family sued under two theories: negligence (4 counts) and violation of due process
 - ◆ Negligence—Duty to Keep Safe, Duty to Warn, Duty to Hire/Supervise/Train
 - ◆ Duty to Maintain a safe workplace
 - ◆ Foreseeable risk of violence in general
 - ◆ Foreseeable risk of violence by shooter Alexis
 - ◆ Due Process/Deprivation of Constitutional Rights
 - ◆ Individual constitutional right to life and liberty
 - ◆ Government proximately caused the victim's death due to their negligence

Cases

- ◆ White v. LeMacks, 1:98-cv-02063-CAM, 183 F.3d 1253
 - ◆ The estates of two jail nurses brought federal and state claims against a Georgia county, and its Sheriff and Deputy Sheriff, over injuries they sustained during an attack by an inmate.
 - ◆ The estates asserted several federal claims: Due Process under the 5th Amendment and Equal Protection under the 14th Amendment, along with various Georgia state claims.
 - ◆ After a motion to dismiss, the final amended complaint contained only Equal Protection violations:
 - ◆ Duty to protect from third-party known workplace violence
 - ◆ Duty to provide a safe workplace

Cases

- ◇ Broaders v. Polk County School Board, 8:10-cv-02411-JDW-EAJ, 2011 WL 2604793
 - ◇ Mother of a 7th-grade, learning disabled, minority student brought a federal lawsuit on behalf of her son against a Florida School Board.
 - ◇ The child had been bullied and ended up with an injury the mother claimed was avoidable had the school board properly protected her special needs child.
 - ◇ Three federal claims:
 - ◇ Violations of the child's Due Process and Equal Protection rights through inadequate training of employees, inadequate investigation of complaints, failing to protect minority and disabled students, and allowing discrimination against those students.
 - ◇ Negligent training and supervision of employees and well as negligent supervision/discipline/control of students
 - ◇ Negligent infliction of emotional distress

Resources

◆ Options

- ◆ Local Sheriff's Office/Police Department
- ◆ Nationwide Companies
 - ◆ TacOne Consulting
 - ◆ CGPGMG, LLC

◆ Why?

- ◆ Cost effective
- ◆ Trained staff
- ◆ Approved curriculum
- ◆ Opt-out/observation options