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Violence at work : how to safeguard your firm

Mark F. Murray

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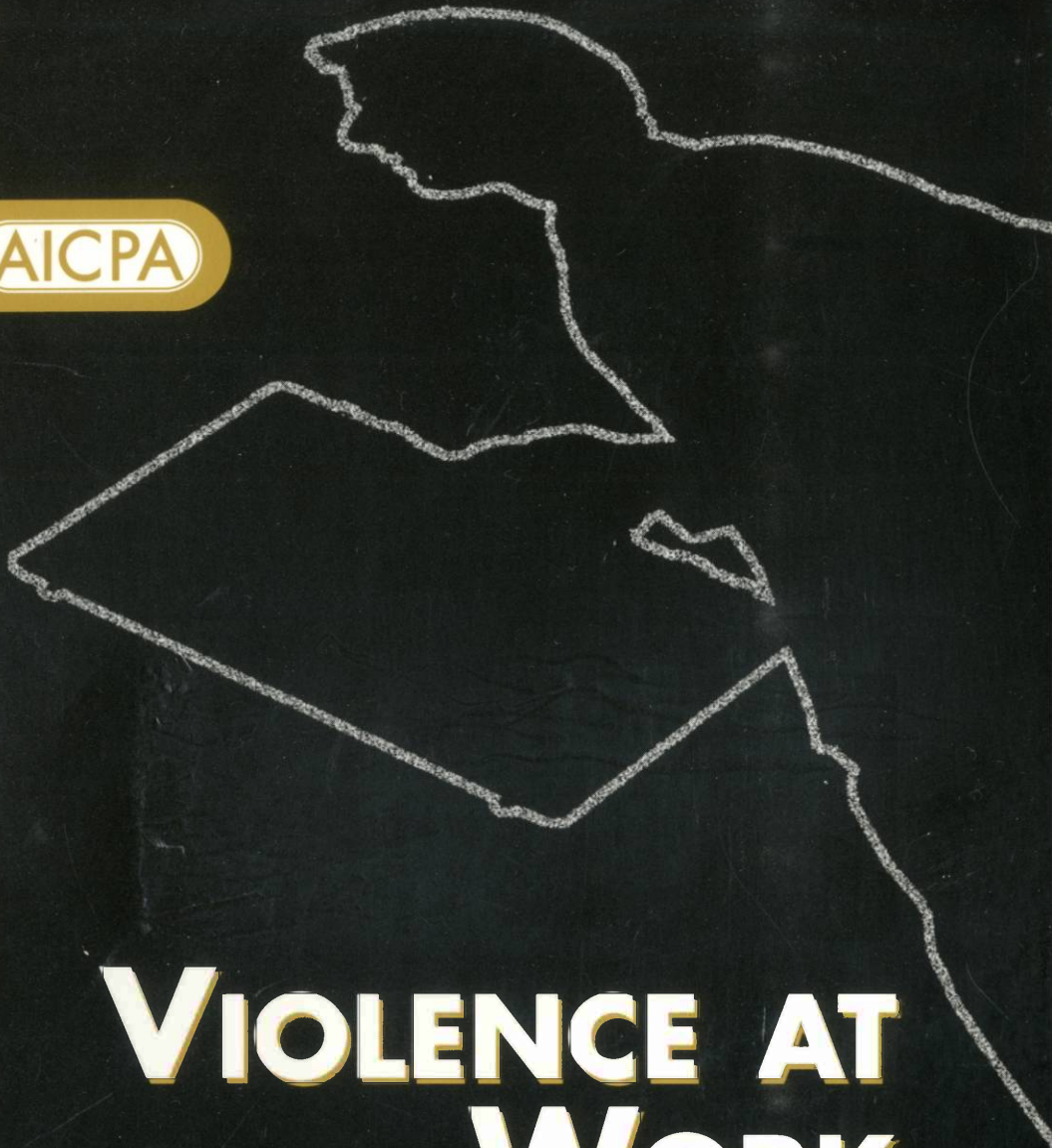
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VIOLENCE AT WORK

**How to Safeguard
Your Firm**

**Mark F. Murray, JD
with Andrew A. Chakeres, JD**

*Issued by the AICPA Management
of an Accounting Practice Committee*

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INTRODUCTION

Violence that was once prevalent only on the streets has crossed the threshold of American businesses. Companies spend billions of dollars annually on alarm and other security systems for homes, offices, and motor vehicles, rapidly turning the security business into a growth industry.

Businesspeople prefer not to discuss workplace security, believing that the problem exists only at other firms and focusing instead on other challenges facing the firm—such as expanding business, keeping pace with new technology, attracting and retaining talented staff, and keeping ahead of the competition. However, because of its alarming growth, the devastating effect it has on everyone it touches, and the negative impact it has on a firm's productivity, workplace violence is a management issue that commands the attention of all firms.

According to a recent study published by the National Institute for Occupational Safety and Health (NIOSH), on-the-job violence is at an all-time high. Although workplace violence has always been with us, in the last ten years it has grown at a disturbing rate, becoming one of the fastest growing crimes in the United States—and showing no sign of reversing itself. A 1996 survey performed by the Society for Human Resource Management (SHRM) revealed that nearly 50 percent of the respondents reported one or more violent incidents in their workplaces in the last two years. In a similar SHRM survey performed in 1993, 33 percent of respondents reported violent acts in the workplace in the previous five years. Government and private studies show that violence specifically directed against employers or former employers is the fastest growing category of workplace violence. According to the Occupational Safety and Health Administration (OSHA) homicide is the second leading cause of death in the workplace. A recent Gallup Poll showed that two-thirds of American workers do not feel safe at their jobs. This is understandable considering that studies by both the U. S. Centers for Disease Control (CDC) and the U.S. Department of Labor, Bureau of Labor Statistics, indicate that three people are now murdered at work each day. In addition to work-related homicides, more than 22,000 workers who were assaulted at work received injuries serious enough to require one or more days away from work. The National Crime Victimization Survey performed by the U.S. Department of Justice determined that—

- Victims who were working were as likely to face armed offenders as those individuals victimized while not working.
- Six out of ten incidents of workplace violence occurred in private companies.
- Incidents of employees killing their supervisors have doubled over the last decade. At present, two such cases occur each month in the United States.
- One in six violent crimes in the United States happens at work.

An American Management Association (AMA) survey indicated that the problem is not restricted to convenience stores and fast-food restaurants. More than one-third of private-sector respondents, including professional service firms, manufacturers, corporations, and sales offices, experienced on-the-job violence—many of them more than once. The problem hit close to home for professional service firms in 1993 when a client went on a rampage at a San Francisco law firm, killing eight employees and wounding six before turning the gun on himself. One year later, a man killed his brother and his brother's attorney in a Chicago law office during a bankruptcy proceeding.

Few people can say that they have never experienced a violent episode at their own firm or heard of an episode from a family member, friend, or colleague. Violence at work has become such an issue for managers that articles with such titles as "Front Desk Security," "Screening Applicants for a Safer Workplace," and "Is Your Firm Safe From Violence?" appear regularly in professional publications. Professional associations feature sessions on this subject at conferences and seminars. Law firms have reacted to the dramatic growth in workplace violence cases by creating task forces and specialty divisions focusing on violence, not only to represent injured parties, but also to help firms address violence issues in their own organizations.

Why is the workplace a more dangerous environment today? Psychologists, criminologists, and other commentators have identified reasons for the surge in workplace violence. Some possibilities include—

- Heavier workloads and longer hours.
- Wage and benefit cuts and the resulting financial pressure.
- More intense competition for jobs.
- Layoffs and the attendant career interruption.
- New technology.
- Stress from balancing work and family responsibilities.

These factors can all lead to heightened job ambiguity, anxiety, and insecurity. The employee who holds the firm responsible for work-related problems or stress may resent the firm or a specific member of it and retaliate violently. A recent ReliaStar Life Insurance Company survey indicates that Americans say alcohol or drug abuse, availability of firearms, and violence on television and in the movies are major causes of on-the-job violence. A recent development in the area, and a new challenge to managers, is the appearance of stalkers and the increased frequency of domestic or spouse-related homicides that take place in the workplace. A final cause can be traced to the new workforce. An alarming number of today's employees come from unstable families and an ineffective educational system and therefore are often less equipped to deal with job-related stress. Whatever the causes of workplace violence, it must be dealt with as a new and very real concern for businesses.

One of the major tragedies of workplace violence is that it does not have to be a problem of increasing proportions. Preventive action can reduce the risk of on-the-job violence. By applying some basic, low-cost efforts to your organization's management practices, you can minimize any episodes of violence and harassment in your firm. These steps enable you to better protect the health and well-being of your staff and avoid the tremendous toll such incidents take on your firm's productivity. Anyone in a management or supervisory position can benefit from reading this book. It shows managers how to reduce the likelihood of a violent incident from occurring, how to respond when an incident occurs, and how to create a work environment where staff is safe and secure and able to meet the firm's goals.



**EXTENT OF
WORKPLACE
VIOLENCE**

chapter **I**



FORMS OF WORKPLACE VIOLENCE

Acts of violence on the job are not limited to homicides or incidents that lead to headlines announcing “Fired Employee Goes On Rampage.” Rather, they take several forms that are less dramatic but no less damaging to your firm. Respondents to a recent American Management Association (AMA) survey were asked to profile the most recent threat or incident of actual violence their firms experienced. The table below illustrates responses from participants reporting threats only and from participants reporting actual incidents.

THREAT (%)	ACTUAL INCIDENT (%)	FORM
22.9	4.2	Harassment
56.6	31.6	Threat of violence
3.6	18.9	Fighting or hand-to-hand violence
0.0	5.3	Rape or sexual assault
4.8	18.9	Assault with a weapon
3.6	3.2	Explosive device
3.6	9.5	Other

Of those responding to the survey by the Society for Human Resources Management (SHRM)—

- 40 percent reported at least one occurrence of threats.
- 22 percent reported incidents of pushing or shoving.
- 13 percent reported fist fights.

Nonphysical assaults, such as veiled or direct threats of harm, can be just as damaging as an actual physical assault to the welfare, state-of-mind, and productivity of the threatened person and the firm. Suicides have a similar effect on staff. For every homicide there are approximately twelve suicides in the workplace, with an estimated 12,000 people committing suicide at work every year.

Which people are involved in incidents of on-the-job violence? In professional service firms or other office environments, it is often an employee or someone who has a professional or personal relationship with an employee.

The following findings of the SHRM survey revealed which parties are most likely to be involved in an episode:

PARTIES INVOLVED	AFFECTED (%)
Employee to employee	57
Employee to supervisor	17
Client to employee	6
Girlfriend or boyfriend to employee	4
Spouse to employee	3
Former employee to supervisor	2
Former spouse to employee	2
Supervisor to employee	2
Former employee to employee	1
Other	6



FEMALE STAFF CONSIDERATIONS

The forms of workplace violence and the parties involved in incidents are of special concern to women. Consider the following:

- Harassment is a leading form of workplace violence. Women reported a higher incidence of harassment on the job than men—23 percent for women and 16 percent for men (ReliaStar Life Insurance Company).
- Ten percent of the men who die at work in the United States are murdered; however, that rate exceeds 40 percent for women (U.S. Department of Labor, Bureau of Labor Statistics). This statistic is especially alarming because men comprise 54 percent of America’s workforce while women comprise only 46 percent and because men far outnumber women in the police and security forces, which are inherently dangerous occupations.
- Homicide is the leading cause of death for women in the workplace (U.S. Department of Labor).
- Twenty percent of the rapes committed by strangers occur either at work or while the victim is commuting (*Working Woman*, August 1996).

- Domestic violence is the single largest cause of injuries to women while on the job (*Working Woman*, August 1996).
- Rape and sexual assault account for 6 percent of all workplace violence (*Working Woman*, August 1996).

According to the U.S. Department of Justice, men who are victimized while working are more likely to be attacked by a stranger, but women are more likely to be attacked by someone they know. Consider the following:

VICTIM-OFFENDER RELATIONSHIP	VICTIMIZATIONS (%)	
	<i>Female</i>	<i>Male</i>
Stranger	40	58
Casual acquaintance	35	30
Well known	19	10
Relative	1	1
Intimate	5	1

How can this greater risk to women be explained? Some possible reasons include—

- Women are more likely than men to be sexually harassed, and there is a strong relationship between the more aggravated forms of workplace violence and sexual harassment.
- Women predominantly are the targets or victims of stalkers and domestic abuse, and these crimes often occur in the workplace. In a recent survey of security directors, 94 percent ranked domestic violence high on the scale of security problems, and 93 percent deemed domestic violence as a serious workplace security issue. Moreover, one out of twenty working women will be stalked at least once in their lifetime.

In light of these findings, keep the special concerns of your female staff in mind when creating your crisis management plan.



**IMPACT OF
WORKPLACE
VIOLENCE**

chapter **II**



MONETARY AND NONMONETARY COSTS

Workplace violence exacts a high price from firms every year, including inestimable harm to victims, their families, and other employees. Taking measures to avoid on-the-job violence protects the welfare of your staff and is a wise business decision. The Bureau of Labor Statistics found that violence in the workplace costs employers 1.75 million days of work each year, an average of 3.5 days per crime. Such crimes result in over \$55 million alone in lost wages annually, not including days covered by sick and annual leave. The annual cost of all quantifiable and unquantifiable factors to employers exceeds \$4 billion. Costs include—

- Decreased productivity, possibly for the long term, due to traumatized staff, diminished morale and job satisfaction, absenteeism, staff turnover, and diversion of resources as a result of responding to an incident.
- Tarnished reputation in the minds of clients, community members, and current and prospective employees.
- Lost business should the episode result in closing the office.
- Increased security expenses.
- Investigation expenses.
- Increased training and supervision expenses for replacement employees.

Employees cannot begin to work at optimum levels if they do not feel safe. The ReliaStar survey found that victims of violence, including harassment, are twenty times more likely to be less productive than other employees and ten times more likely to change jobs.

Responses to the survey by the American Management Association (AMA) on workplace violence confirmed the detrimental results of actual violent incidents and threatening conduct on firms and their employees:

THREAT (%)	ACTUAL INCIDENT (%)	EFFECT
43.4	45.3	Negative impact on morale
38.6	40.0	Negative impact on productivity
23.5	35.8	Negative impact on production or delivery of services
4.2	5.3	Loss of customers or clients
12.0	18.9	Employer-employee conflict
36.1	41.1	Increased security cost
10.2	25.3	Negative impact on firm image
7.8	14.7	Increase in disability or workers' compensation claims
10.2	10.5	Increase in litigation

In this survey fewer than 50 percent of the respondents who have experienced threats or incidents of workplace violence say they feel very secure at work, compared with 72 percent of those who reported no incidents of workplace violence.

Psychological trauma to victims can be as harmful as physical assault, with many psychological effects eventually manifesting themselves physically. The ReliaStar survey results indicated that victims of violence and harassment are twice as likely as nonvictims to suffer from stress-related conditions, including depression, insomnia, headaches, and ulcers. A violent incident frequently has a ripple effect throughout the firm, affecting other employees.

Additional costs of workplace violence to employers include legal expenses for defending lawsuits brought by injured parties and their families; funds paid to satisfy claims or satisfy judgments; and increased insurance premiums for workers' compensation, health, and general liability policies. One incident of workplace violence costs an employer an average of \$250,000 in assorted medical and legal expenses. Judgments for inadequate security average \$1.2 million nationwide, with settlements averaging \$600,000. Consult with your insurance agent to ensure that your firm has sufficient coverage for any settlement, judgment, or defense costs for potential claims.



EMPLOYER LIABILITY FOR WORKPLACE VIOLENCE

If you fail to deter preventable violence, liability is nearly certain. Lawsuits have been waged against firms for not sufficiently protecting employees. Some have resulted in million-dollar settlements. No employer would want to face a prosecutor who questions why, despite all the attention workplace violence has received over the last few years, the firm had no plan to prevent or reduce the likelihood of an incident. Liability for breaches in security made worldwide news in 1996 when tennis player Monica Seles, who was stabbed in the back by a crazed fan during the Citizens Cup tournament, filed a \$16 million lawsuit against the organizers of the tournament for failing to provide adequate security.

Employers must provide their employees with a safe and healthy workplace. This duty arises from both judicially created doctrines and legislative enactments. These doctrines and legislative enactments attempt to balance the employee's interests in working in a safe and healthy environment against the reality that an employer cannot always control the criminal activities of others. As will be discussed in detail below, the judicial doctrines and legislative enactments attempt to strike this balance by limiting an employer's liability to incidents where the employer knew or should have known that an employee was prone to violence and nevertheless took no preemptive actions. In other words, an employer may be held liable for its own actions or inaction.

Yet, employers' duties and obligations do not run only to the victim of the violence. Employers also owe limited duties toward a person who exhibits or is perceived as exhibiting a tendency toward violence. Employers, for example, have a duty to respect the privacy rights of employees by not making overly intrusive investigations into their personal affairs, to preserve the confidentiality of medical records, and to avoid making defamatory statements about their employees.

Occupational Safety and Health Act

Although most commonly associated with manufacturing and other labor-intensive industries, the Occupational Safety and Health Act of 1970—a federal law commonly known as OSHA—applies to any person or entity, including professional service firms, that employs more than one employee.

Most states also have their own occupational safety and health acts. Section 5 of OSHA requires every employer to furnish to each employee a workplace that is safe, healthy, and free from recognized hazards that cause or are likely to cause death or a serious bodily injury. OSHA imposes substantial civil and criminal penalties for violations of Section 5. Civil fines can be as high as \$70,000 per incident.

In an OSHA violation all of the following occur:

1. A condition or activity in the workplace presented a hazard to employees.
2. The employer or the employer's industry recognized the hazard.
3. The hazard was likely to cause death or serious physical harm.
4. The feasible means existed to eliminate or materially reduce the hazard.

The Occupational Safety and Health Review Committee—the administrative agency responsible for adjudicating OSHA claims—declared that an employer's failure to abate workplace violence can violate Section 5 of the Act. However, the Review Committee noted that violence is not the typical hazard associated with the workplace. Most hazards are the product of an instrument or process well within the control of an employer. An employer can abate the hazard by simply altering, changing, or abandoning the instrument or process. In contrast, violence is the product of unpredictable human behavior over which an employer has little, if any, control. The Review Committee noted that intentional acts of violence can circumvent even the best conceived and most rigorously enforced safety plans.

Recognizing the employer's inability to control human behavior, the Review Committee requires a high degree of proof before an employer can be liable for workplace violence. It is not enough that an employee may fear that he or she is subject to violent attacks, even if that fear is communicated to the employer. Nor is it sufficient that there has been a previous injury from a violent incident not involving the same individual. Rather, there must be proof that the employer knew or could reasonably anticipate the possibility that an employee would be subjected to workplace violence and failed to take preventative measures.

Whether an employer knows or can reasonably anticipate violent actions depends on the circumstances of each case. The focus of any inquiry will be on the employer's knowledge, the foreseeability of the violence, and the employer's actions to prevent the violence.

For example, an employer may know of an individual's reputation for acting violently or erratically. If the employer fails to take any action to prevent the employee from violent actions and the employee does in fact act violently, then the employer is held liable for the employee's violence. Even if the person does not have a general reputation for violence, a particular employee may exhibit tendencies toward violence, such as threatening people or throwing objects in fits of anger. Here, the employer cannot ignore the situation, thinking nothing can be done. Instead, the employer has an affirmative obligation to take certain remedial measures, such as enrolling the employee in an employee assistance program, disciplining the individual for misconduct, and, when necessary, terminating the employee.

Under OSHA, employers also have a duty to warn employees of a hazardous condition. In one case a court considered whether the duty to warn included warning employees about a coworker's propensity toward violent behavior. In this case a government agency hired an ex-convict with a record of committing sexual assault and violent crimes. The agency knew that the ex-convict was developing a romantic relationship with a coworker and did not warn her about the ex-convict's history toward sexual assault. The ex-convict subsequently assaulted and killed the woman. Her family then sued the government for failing to warn the woman about the ex-convict. The California court decided that her employer had a duty to warn her about the employee's dangerous behavior and stated that the government could be sued for breaching that duty.

The duty to warn employees about a person's violent tendencies places an employer in a quandary. A failure to warn employees subjects the employer to claims by the assaulted employee. Yet, if an employer makes negative representations or comments about an employee's behavior or past actions, that employee may sue the employer for defamation or invasion of privacy. This area of the law is in its fledgling stages. There are no clear-cut rules to follow. If presented with a situation in which the employer's duty to warn employees about another employee's behavior becomes an issue, the employer should consult with a lawyer who specializes in this area of the law before taking any further action.

Employer's Vicarious Liability

In addition to OSHA, a number of judicially created doctrines exist that impose liability on an employer for workplace violence. One such doctrine is the vicarious liability doctrine. Under this doctrine an employer is held

responsible for the actions of its employees and is subject to automatic liability for harm caused to a person by an employee. However, the doctrine applies only to limited situations where the employee's acts of violence are within the scope of his or her employment.

Because the injury-producing activity must be part of an employee's scope of employment, this form of liability is very limited and usually applies to occupations that will require the employee to exert some form of force or confront a potentially violent situation. Typically, this theory of liability applies to occupations such as police officer, security guard, or mental health orderly. For example, an employer is vicariously liable when its security guard uses excessive force to remove a person from an office or department store. However, employers have not been held vicariously liable for injuries sustained as a result of one office worker's assault on a coworker.

To hold an employer vicariously liable for an employee's actions, the victim must establish all of the following:

1. That there was an employment relationship between the employer and the person who committed the act of violence
2. That the employee committed the act of violence within the course and scope of his or her employment
3. That the employee's act of violence caused the victim's injuries

Applicability of vicarious liability usually depends on whether the employee's violent acts were performed within the course and scope of his or her employment. In layman's terms, the question is whether the employee's actions were part of his or her job. In determining the scope of employment, the courts usually focus on the purpose of the employee's violent activity. Similarly, if the employer encourages or ratifies the employee's conduct, the employer is held vicariously liable for the employee's violent acts. If the employee engaged in the activity primarily for personal reasons, then the activity is outside the scope of employment. But, when the employee engages in the violent activity to further the employer's interests and in the exercise of his or her job responsibilities, then the violent act would fall within the scope of his or her employment.

Professional service firms ordinarily do not hire employees whose job duty will require the exercise of force. Accordingly, such firms will rarely be subjected to vicarious liability. Nevertheless, they may face liability under two related judicial doctrines—negligent hiring and negligent retention of an employee.

Negligent Hiring

The courts base the tort of negligent hiring on the theory that an employer has a duty to make a reasonable investigation into a job applicant's character to ensure that the applicant will not, by reason of his or her temperament, habits, or nature, create a risk of injuring his or her coworkers. Under this theory the employer must take reasonable steps to investigate an employee's background and avoid hiring individuals who will subject coworkers to a risk of harm. Liability is imposed on an employer when its knowledge of an employee's past acts of violence or dysfunctional behavior is generally considered to be sufficient to forewarn the employer that the candidate may at some later time commit a violent act against a coworker.

To establish a claim for negligent hiring, the injured employee must prove all of the following:

1. That there was an employment relationship between the employer and the violent employee
2. That the employer was negligent in hiring the employee
3. That the violent employee caused injury to the employee
4. That the employer's negligence proximately caused the employee's injuries

The courts usually determine an employer's liability based on whether the employer was negligent in hiring the employee and whether such negligence caused the victim's injuries.

A victim can prove negligence in one of two ways. The victim can prove negligence by showing that the employer knew the job applicant had a propensity toward acting violently. Or the victim can prove negligence by showing that an employer's reasonable investigation into a job applicant's background should have uncovered the job applicant's propensity towards violence.

Under the first type of proof, the victim must show that at the time the employer hired the employee, the employer was aware that the employee had a reputation for or had previously engaged in the type of violent behavior that caused the victim's injuries. These cases are very rare.

The second type of proof requires the victim to show that if the employer had made a proper investigation, it would have discovered the applicant's propensity to engage in the type of conduct that caused the victim's injuries. Under this standard, the court looks at the type of information that an

employer would have gathered during a reasonable preemployment investigation and determines whether that information should have forewarned the employer that the employee was prone to commit a particular act of violence.

The scope of an employer's preemployment investigation will depend on a number of factors. First, the nature of the job will define the scope of the investigation. An employer can normally assume that candidates for jobs that do not ordinarily involve a danger to others are competent to perform the job. In contrast, when the job (for example, a police officer's position) presents a serious risk that someone else may be harmed if the candidate is unfit to perform the work, then the employer has a greater responsibility to investigate the candidate's background and character. Other factors influencing the scope of the examination include—

- Availability of information on the candidate.
- Cost and inconvenience of acquiring that information.
- Delay in obtaining the information.
- Whether certain negative indicators raise red flags.

Professional service firms usually hire employees for positions that do not present a substantial risk of harm to individuals in the public. Accordingly, employers usually can presume that the person will perform the job without risk to the safety of coworkers. However, professional service firms cannot blindly conduct job investigations, ignoring telltale signs of violent behavioral tendencies. Too often a routine investigation flashes warning signals about a candidate's predisposition toward violent conduct.

For example, suppose an employer fails to make any investigation into a person's reasons for leaving a previous job. If the firm had inquired, it would have discovered the candidate's history of committing violent acts in the workplace. This failure to make an otherwise routine investigation undoubtedly subjects the employer to liability for negligent hiring.

There are numerous other examples of when routine examinations could have uncovered a history of violent or dysfunctional behavior. The employer who investigates unexplained gaps in employment or educational history, or both, may also uncover evidence of violent tendencies. Similarly, the employer who fails to investigate may accept falsified applications or resumes and thereby leave other signs of violent tendencies unexamined.

Frequently, a firm hires employees through a job placement agency. The firm presumes that the placement service prescreens the applicant. However, an

employer may misplace its reliance on a placement service agency. In the rush to fill the opening, the agency may not thoroughly investigate a candidate's background and thus fail to discover evidence of behavioral problems. Since the job placement agency is an agent of the firm, the firm can be held liable for the agency's negligence. Accordingly, firms should take special care to learn what, if any, background investigation the agency performed and obtain indemnification commitments from the agency.

Never ignore or haphazardly perform prehire investigations. Your investigation should be thorough and complete. Currently, the scope and depth of an examination will depend on each case. Employers should at a minimum (1) call educational institutions and former employers to verify an individual's employment and educational background and (2) call job references. Job offers should be made contingent upon receiving a satisfactory job reference. Regular office positions such as professional, administrative, and staff employees will not require psychological or personality testing. If you do administer psychological or personality testing, you must be sure that tests and employment decisions resulting from the tests comply with the Americans with Disabilities Act of 1990 (see chapter V). Similarly, employers are not ordinarily obligated to check criminal records. Most employers, however, may want to check criminal records when position responsibilities include financial matters. Employment decisions based on an individual's criminal record, however, must be made in light of antidiscrimination law requirements. Whenever an investigation begins to indicate signs of behavioral problems, investigate further. You may even decide to remove the candidate from consideration.

Document the scope and results of an investigation as a first line of defense against a potential negligent hiring claim. Make certain you can show the steps taken to investigate an employee's background and the information derived from the investigation. Years may pass before you must produce this information and the passage of time can dim institutional knowledge and memory. Accordingly, contemporaneously prepare written records of the investigation steps and the information obtained from the investigation. This way the scope and results of an investigation are readily available and clearly documented.

Negligent Retention

The judicial doctrines of negligent hiring and negligent retention are closely related. Negligent hiring pertains to the employer's hiring practices and imposes liability on the employer who fails to adequately investigate a job

applicant's background, causing the victim to sustain injuries. Negligent retention pertains to an employer's firing practices and imposes liability on the employer who fails to take remedial action against a potentially violent employee.

The courts base the doctrine of negligent retention on the theory that once an employer knows or should know that an employee is volatile, abusive, or violent, the employer has an obligation to take steps to protect its other employees from violent conduct. To prove a case of negligent retention, the victim must prove all of the following:

1. That there was an employment relationship between the employer and the violent employee
2. That the employer was negligent in retaining the violent employee
3. That the violent employee harmed the victim, whether physically or mentally
4. That the employer's negligence proximately caused the victim's injuries

A negligent retention claim usually turns on what the employer knew or should have known about the employee's behavior and what, if anything, the employer could do to prevent harm in the workplace. The focus of the inquiry will center on what the employer knew about the employee, and what actions or inaction the employer took to prevent the harm from occurring.

Negligent retention cases are always examined with 20-20 hindsight, highlighting every past incident of the violent employee's dysfunctional behavior. What seemed at the time of the occurrence to be a minor incident is portrayed at trial as a prophetic warning of inevitably greater violence. The court closely scrutinizes the employer's response to these incidents. During this examination expert witnesses and jurors, benefiting from hindsight and sympathizing with the victim, frequently second-guess the employer's responses. For these reasons, an employer's reaction to even the slightest acts of dysfunctional behavior is critical.

The employer's liability depends on its swiftness and earnestness in preventing violence in its workplace. Accordingly, the employer must treat any complaint of dysfunctional behavior seriously, with a thorough investigation and appropriate remedial action. Employers must reprimand an employee

for inappropriate behavior and monitor that employee's subsequent actions. If the employee continues to exhibit questionable behavior, the employer must take additional action. Performing investigations is discussed in chapter VIII.

In these situations, an employer's first inclination may be to terminate the troublesome employee. Yet, such hasty reactions may also subject an employer to liability. As explained in later sections, an employer owes certain duties to the potentially violent employee as well. Reacting without considering these duties may also expose the employer to liability.

Sexual Harassment

Workplace violence includes what is now commonly referred to as sexual harassment. There are two forms of sexual harassment: quid pro quo harassment and the creation of a hostile environment. Quid pro quo harassment arises when a supervisor explicitly or implicitly conditions the terms of employment upon the receipt of sex. In other words, a person in a position to influence whether a subordinate will receive a job, promotion, job assignment, or pay raise demands or suggests sex as a condition of getting the job, promotion, or raise. A hostile environment arises when an act or pattern of conduct of a sexual nature is so severe that it creates a hostile or offensive workplace. Sexual harassment covers a wide variety of conduct, from acts of rape and sexual assault to displays of pornography, lewd jokes, groping, abusive behavior, and derogatory terms used to describe the victim. Federal and state laws require employers to monitor the workplace and abate sexual harassment conduct.

The courts have adopted different standards of employer liability for sexual harassment. A minority of courts holds an employer automatically liable when a supervisor creates a hostile environment but will not hold an employer to the same degree of responsibility for actions of coworkers or subordinates. For actions by coworkers and subordinates, these courts hold an employer liable only when the employer knew or should have known of the harassment and failed to take any actions to abate the situation. However, a majority of courts applies the "knew or should have known" standard of liability regardless of whether the harasser was a supervisor, coworker, or subordinate.

Under the "knew or should have known" standard of liability, an employer is liable for sexual harassment when it knew or should have known of the harassment and failed to take prompt, remedial measures. To avoid sexual harassment liability, employers, at minimum, must take the following preventive measures:

- Establish a written antidiscrimination and sexual harassment policy. The policy should state that acts of discrimination and sexual harassment are unacceptable and also create a system for reporting claims of discrimination and harassment. A sample policy is included in appendix A.
- Thoroughly and promptly investigate any complaint of harassment. During the investigation, minimize contact between the complainant and the alleged harasser. Any action with respect to the complainant (for example, placing on leave or transferring to another department) should not be made without first consulting the complainant and obtaining his or her consent to the employer's proposed action. Action taken toward the complainant may be construed as retaliation for filing a complaint and expose the employer to additional liability.
- Following the investigation, the employer should conclude whether the employee has committed harassment. If the employee has engaged in sexual harassment, the employer must take prompt effective remedial actions to abate the situation. These actions range from sending the harasser to sensitivity training to termination.

Employers can proactively avoid sexual harassment in the workplace by educating their employees about what is acceptable and unacceptable behavior in the workplace. Many employers sponsor workshops and seminars on sexual harassment. These programs educate managers on how to respond to incidents of sexual harassment and explain to employees which conduct is acceptable and which is unacceptable in the workplace. By strongly communicating to employees what type of behavior is unacceptable, many employers can avoid sexual harassment claims.

Landowner and Tenant Liability

Employers—whether they own or lease a piece of property or office space—have a duty to exercise reasonable care for the safety of persons on their premises. This duty becomes the focus of litigation when an employee is subject to criminal conduct while on the employers' premises. Employees who work late hours and are attacked, robbed, mugged, or raped on the employer's premises have sued, claiming their employers failed to take adequate measures to protect them from the criminal conduct of another person.

Professional organizations—whether they own or lease the office space—have certain obligations to protect people lawfully on their property from certain risks and hazards. Realistically, firms cannot absolutely ensure the safety of their employees from criminal conduct. However, the professional service firm will be held liable for injuries caused by criminal conduct if it knew or could reasonably anticipate that an employee might be harmed by criminal conduct.

For example, an employee of a hospital was abducted from her employer’s parking garage, then raped and murdered. The parking lot was poorly lit at night. Prior to the employee’s abduction there were several incidents of vandalism and the employer had inadequate security patrolling the garage. The court found that the employer breached its duty to protect the employee from criminal attacks and that the employer’s failure to maintain proper lighting as well as security in the garage breached that duty. The court went on to rule that the employer was liable to the employee and her survivors for injuries sustained as a result of the abduction and rape. *Small v. McKennan Hospital*, 437 N.W.2d 194 (S. Ct. South Dakota, 1989)

Other examples of incidents leading to employer liability include a failure to install or maintain locks or security alarms, and a failure to preclude unauthorized persons from entering the workplace.

Premises security is discussed in chapter IV.

Workers’ Compensation

Many employers turn to the workers’ compensation laws for relief from liability for workplace violence. Workers’ compensation laws seek to balance the employee’s interest in obtaining quick and relatively easy compensation for work-related injuries and the employer’s interest in limiting its exposure to tort claims by its employees. To this end, the workers’ compensation laws serve dual purposes:

1. To guarantee prompt, limited compensation for an employee’s work-related injury regardless of the employer’s fault
2. To immunize the employer from tort-related damage claims and to limit an employer’s liability

Each state has its own workers’ compensation law. Despite their lack of uniformity, each state’s workers’ compensation law has certain common characteristics. In particular, these laws uniformly hold an employer strictly

liable for work-related injuries. In other words the employer is held automatically liable to the employee regardless of its degree of fault in causing the workplace injury.

Despite imposition of strict liability, most employers welcome the workers' compensation laws due to their limits on employer liability. The workers' compensation laws create a *limited* and *exclusive* remedy for employees who suffer work-related injuries. The laws limit an employee's remedy to compensation for lost wages and medical expenses incurred as a result of the injury. The laws also make the employee's remedy exclusive—that is, they preclude employees from asserting a tort-based claim against their employers.

Many employers who are sued by an employee injured as a result of workplace violence successfully assert the workers' compensation laws as a defense. The employer argues that the workers' compensation laws preclude an employee from asserting a tort claim (such as a claim for negligent retention) against the employer.

Employees have taken advantage of a loophole in the workers' compensation laws. Workers' compensation laws are limited to *work-related* injuries. Not all injuries resulting from workplace violence are deemed work-related. Whether an injury is deemed work-related for purposes of the workers' compensation laws depends on whether the job by its very nature exposes the employee to potentially violent situations. For example, it is foreseeable that a security guard will be exposed to violent conduct. In these situations, injuries resulting from workplace violence are work-related.

Injuries resulting from strictly personal animosity or ill will completely unrelated to the duties of one's position are not work-related. Most workplace violence incidents occurring in firms fall within this category.



CRISIS

MANAGEMENT

chapter

III



CRISIS MANAGEMENT PLAN

Because it is difficult to predict on-the-job violence, you must develop a strategy for responding to situations before actual incidents occur. Begin by creating a crisis management plan—a realistic, cost-effective way to deal with the problem. The ReliaStar survey, offering guidance on preventing workplace violence, revealed that employees who worked for employers with effective grievance, harassment, and security programs reported lower rates of workplace violence and lower levels of job dissatisfaction, burnout, and stress-related illnesses.

Assume a team approach so that your plan reflects a firm-wide perspective. Because a plan can be a legal minefield if created improperly, involve an attorney experienced in labor law in all aspects of plan development. Include in your plan the necessary policies and procedures both to prevent an incident from occurring and to respond to any actual or potential violent episodes. An American Management Association (AMA) survey revealed employers have been behind the curve in creating such policies and procedures. They tend to be reactive to violent incidents rather than proactive in putting plans, policies, and procedures in place before an incident occurs. According to the survey, firms that have experienced threatening behavior or violent incidents are nearly twice as likely as others to write policies and more than three times as likely to train employees in response measures.

Respond to on-the-job violence as a serious health, safety, and management issue by developing a crisis management plan. Although creating a foolproof plan is impossible, you can take preventive measures both to reduce the likelihood of an incident from occurring and to manage a crisis should one occur. Make preventive measures a part of your general policy, designing these measures to reflect the firm's culture and remaining within the firm's resources. An effective plan does not require a substantial investment of resources but does require time, imagination, and, in some cases, persuasion. Any investment you make will be returned with a lower incidence of all forms of violence and a stronger defense should a claim result from an episode, as well as a healthier, more harmonious, and more productive work environment.

See the following sections for a discussion on the key elements to a successful plan. Although your goal is to create as effective a plan as possible, the extent to which you can implement each recommendation depends greatly on your firm's size, resources, and type of facility. You are the expert in your firm's culture and know best how your staff's behavior can be modified. If

necessary, contact the local police or fire department, your insurance company, or security consultant for additional assistance.



CRISIS MANAGEMENT TEAM

Because it is difficult to predict a person's potential for violence and when an incident will occur with any degree of certainty, it is important to have a crisis management team ready to respond immediately to any potential or actual incidents. Although the size and composition of your firm will influence your selection of team members, firms usually include a partner, firm administrator, human resources staff member, attorney, building security staff member, and other people as appropriate, such as a representative from your employee assistance plan (EAP). See chapter VI for a discussion of EAPs. Team responsibilities include—

- Drafting a violence prevention policy.
- Creating procedures for reporting threats.
- Identifying potential security risks.
- Communicating the violence prevention policy and reporting procedures to staff.
- Receiving reports and investigating actual or potential incidents.
- Responding to reports with solutions and performing any necessary follow-up.



CRISIS MANAGEMENT POLICY

Your next step in creating a plan for your firm is to prepare a violence prevention policy. Firms are doing this with increased frequency. According to a U.S. Department of Justice survey, 59 percent of firms reported having a written policy addressing violent acts in the workplace. This percentage is expected to increase every year.

Similar to your sexual harassment and discrimination policies, your workplace security policy plays an integral role in firm planning and a prominent role in your staff's quality of life and bottom-line productivity. Write and enforce a policy conveying that the firm does not tolerate harassment and intimidation by or against employees. Your policy should explicitly prohibit threats of violence, intimidating acts, and other abusive behavior by staff against other staff, clients, visitors, and any other individual doing business with the firm.

Avoid using vague or ambiguous language in your policy. Make the objective and terms clear and easily understood, stating what constitutes unacceptable behavior and what the consequences are for violations. A comprehensive, consistently enforced policy helps prevent incidents from occurring and helps diffuse an incident before it escalates into serious injury or death. Draft your policy so that the firm has as much authority as is legally possible. As with other aspects of your crisis management plan, have a labor attorney review the policy.

Features of an effective policy include—

- The firm's objective in creating the policy.
- The individuals bound by its terms.
- The listing of prohibited conduct.
- The listing of items not allowed on firm premises.
- The requirement that all staff notify a member of the crisis management team, their supervisor, a human resources representative, or a partner of any actual or potential violent incidents or questionable behavior involving coworkers, clients, visitors, and others.
- The assurance of confidentiality for the staff member making the report in good faith.
- The firm's right to investigate complaints, such as the right to inspect offices for suspected contraband and to monitor e-mail and voice-mail systems.
- The firm's right to have volatile employees examined by a physician or psychiatrist to determine his or her fitness to work.
- The description of disciplinary actions taken, including termination, when anyone violates policy terms.

All employees must know of the existence of the policy and its terms. Distribute the policy to all staff, provide a copy to each new employee, and include it in your employee handbook with other policies and procedures. Reinforce your message by periodically including your policy in your internal newsletter, staff meetings, and posters hung in the areas of the firm where employees congregate, such as coffee and break rooms. Assume as positive an approach as possible when communicating your policy to staff. Avoid any alarmist

overtone. Remind staff that security has become a significant issue for everyone and that the firm is doing all it can to prevent violence from entering its work environment.

Keep management visibly involved in enforcing your policy. Employees are more likely to adhere to the policy if they know it is universally supported. These efforts send a message to employees that violence of any sort is strictly prohibited and that a secure workplace is a high priority for the firm.

A sample violence prevention policy is included in appendix B.



EDUCATION AND TRAINING

Educate and train staff, particularly those in managerial and supervisory positions, and if necessary those on your crisis management team in the following subjects:

- Stress management
- Conflict resolution
- Performance evaluation
- Termination techniques
- Working with difficult people
- Workplace diversity
- Change management
- Effective communication and listening skills
- Diffusing crisis situations
- Referring employees to an EAP or similar treatment
- Identifying signs of a potentially volatile employee
- Dealing with intruders and thieves

Many organizations, such as the American Management Association, the American Society for Training and Development, and the Society for Human Resource Management, offer conferences, seminars, publications, and videotapes and audiotapes addressing these subjects. See appendix C for the addresses and telephone numbers of these and other organizations. Your employee assistance plan (EAP) provider is an additional resource.

Employees can be made more aware of possible danger and less vulnerable if they know the essentials of self-defense. Offer staff safety awareness training courses or a basic self-defense program that can be completed in a few

meetings. It may not make those who participate experts but it will make them aware of basic measures they can take to make themselves less vulnerable. Contact your local police or fire department for available courses.

Train staff in how to respond to a crisis situation. Conduct evacuation drills every three to four months. Your firm administrator and human resources staff can provide training and oversee drills. Once employees have been trained in preventive and responsive measures, keep them updated on changes in the firm's plan. Responding to a crisis situation is discussed in further detail in chapter VIII.



WORK

ENVIRONMENT

chapter **IV**



MANAGEMENT STYLE

Because even the most stable person can become violent in a highly stressful work environment, you must recognize the characteristics of a hostile work environment and create and foster a positive one. Promote a firm-wide culture of mutual respect. You can create a more positive work environment, and thereby decrease the opportunity for violence, by practicing the following:

- Hold regular staff meetings not only to exchange ideas, review progress, and establish goals, but to listen to staff and observe their body language. You can more easily identify any problems staff have with their responsibilities or with their coworkers.
- Treat employees consistently and let them know what management expects of them.
- Remain visible by regularly moving about the firm and conversing with staff. You will appear more approachable and be in a better position to gauge employee behavior, body language, and the general dynamics of the firm.
- Encourage employees to use personal days and sick days, or take a leave of absence if necessary, to recharge themselves if they begin to feel over-stressed.
- Encourage employees to balance their professional lives with time spent with family and friends.
- Implement an employee assistance program (EAP) to help employees and their families address problems stemming from the workplace or their personal lives.
- Empower staff by considering their input, whenever possible, when assigning responsibilities. Keep them informed of changes in their responsibilities.
- Assume a team approach in as many matters as possible. Whenever possible, share with staff the reasons for making major decisions.
- Recognize accomplishments on all staff levels.
- Build positive relationships with your employees and clients. Perform annual surveys of staff and clients or hold focus groups to solicit their feedback. If you make the effort to learn how your employees feel about their work environment and how your

clients feel about the quality of service, you are more likely to detect any dissatisfaction, criticism, or anger that could eventually manifest itself into a violent episode. Be prepared to take some action to institute necessary changes as a result of the surveys. If you cannot or will not make any recommended changes, explain the reasons for your decision to staff. Failing to respond to survey responses may render future surveys meaningless and damage partner credibility. See appendix D for a sample staff satisfaction survey and appendix E for a sample client satisfaction survey.

- Ask employees to explain during evaluations the positive and negative aspects of their jobs and how the firm can create a more positive work environment.
- Treat your employees as you would like to be treated—with fairness and dignity.

Although perpetrators of workplace violence are responsible for their actions, poor working conditions can contribute to a violent incident. Many disgruntled workers interviewed after committing violent acts in the workplace have said that they acted out not necessarily because of disagreements over compensation, work schedules, or an unfavorable firm decision, such as termination or loss of a promotion, but because of an actual or perceived work environment where policies, procedures, and decisions were made without compassion and concern for staff.

To avoid a hostile work environment, identify and address any stressors that may trigger an incident. Characteristics that consistently emerge from such environments, and should serve as red flags to management, include—

- Rigid, authoritarian management style.
- Unreasonably high workloads and constant requests for overtime.
- Large number of work-related physical injuries or psychological complaints, such as depression, workers' compensation claims, and general grievances by employees.
- Frequent disputes between staff and their supervisors or managers.
- Unreasonably close supervision of staff, depriving them of control over their work.
- Failure to recognize staff contributions or to follow an equitable promotion policy.

- Absence of or improperly enforced sexual harassment policy.
- Ineffective grievance procedures.
- Poor internal communication channels.

Based on survey responses, ReliaStar developed the following list of ways to prevent violence in the workplace:

- Promote harmony in work groups
- Allow employees adequate control in how they performed their jobs
- Support employees
- Encourage teamwork and supportiveness among coworkers
- Handle grievances effectively
- Protect employees from harassment
- Provide effective security

The dangerous combination of a hostile work environment and an employee stressed to the breaking point increases your chances of a crisis situation occurring at your firm. Job stress can be both a cause and effect of many forms of workplace violence. According to ReliaStar's survey, highly stressed employees experienced twice the rate of violence and harassment as less stressed employees. In turn, threats of violence in the workplace were linked to higher job burnout rates. These findings suggest that as employee stress increases, violence, harassment, and fear in the workplace are likely to escalate as well.

A related issue concerns problem supervisors who push stressed employees to their breaking point, resulting in a violent episode. Use human relations skills as a criterion when selecting and evaluating managerial and supervisory staff. Train them to perform accurate, honest performance evaluations. Keep employee biases, both favorable and unfavorable, out of the evaluation process. Senior firm management needs to be as conscientious in evaluating the human relations skills of supervisory staff as supervisory staff is when evaluating their own employees. Apply disciplinary actions when supervisory staff's identified developmental needs are not improved. Staff training as part of your crisis prevention plan is discussed in chapter III.

The violent consequences of a hostile work environment have not been overlooked by the legal profession. Law firms that defend individuals charged with committing a violent act in the workplace are asserting as a defense the hostile nature of the work environment.

In addition to reducing the likelihood of violence and bolstering your position should litigation result from an episode, your efforts to create a more harmonious work environment are likely to result in a more productive firm.



PREMISES SECURITY

Your goal of providing staff with a positive work environment extends to premises security. One of the most obvious ways to protect your employees from harm is to create a safe work environment. When creating policies and procedures for safeguarding the premises, consider any nonstandard work hours and the possibly differing needs of your staff. You can gauge the safety of your offices and surrounding areas by performing an annual *safety audit*. Your local police and fire departments, and in some cases your insurance company, can make recommendations to enhance security. Some firms interview two or three security companies before selecting one to install a system designed for their individual security needs. Make staff aware of all security policies and procedures. Your goal is to provide a safe workplace without overemphasizing security measures. A bunker mentality will only cause your employees to feel stress, fear, and uncertainty.

Firms in any type of facility can benefit from the following inexpensive practical measures. Consider the recommendations in light of your firm's particular physical configuration.

Access

Everyone does not have a right to enter your firm. Your first step in premises security begins at the front door. Restrict the access of outsiders, such as former staff, messengers, vendors, and friends visiting staff. With the recent recession and downsizings, disgruntled former employees should never be overlooked when implementing your security plan. If yours is a larger firm in which all employees do not know one another, issue identification badges to all employees. Badges should include an employee photograph, date of hire, and any expiration date. Use your own discretion when deciding whether staff should wear their badges during working hours; however, they should always be required to carry their identification badges while in the office or away from the office on firm business. Retrieve badges when employment is terminated.

Refer all visitors to the reception area before allowing them entry into internal offices. When they arrive at the reception area, have your receptionist get

clearance by announcing their arrival to the firm member being visited. Ask visitors to enter their name and nature of business into a sign-in log at the receptionist's desk. Have all visitors wear badges indicating their name, the date, and visitor status. Have visitors wait for a staff person to arrive and escort them to their final destination. Escort visitors to the reception area at the conclusion of their visit and have them return their badges to the receptionist. Under no circumstances should any visitor be allowed to walk unescorted through the firm without the proper clearance. Exercise some discretion and sensitivity when implementing this policy to avoid offending visitors. This can be accomplished by communicating and implementing the procedure as personalized attention rather than as a blatant security measure. Your receptionist should pay close attention to all visitors to become familiar with regular visitors. In addition to making a positive impact on clients, the receptionist can also identify unusual or suspicious individuals. Ask employees to report any unauthorized persons, or any other security breaks, to security, human resources, or their supervisor. Evaluate access authorization procedures annually.

An increasing number of firms are improving security by limiting access. In the 1996 survey performed by the Society for Human Resource Management (SHRM), approximately 75 percent of the respondents confirmed limiting access, compared to 61 percent responding to the 1993 survey.

Facility

Every January or at the end of your fiscal year, survey facilities to identify structural risks. Perform a similar assessment immediately after any construction or renovation. If you are the owner and sole occupant of the building, repair, or have a contractor repair, anything necessary to correct a lapse in security. Immediately fix broken doors, windows, locks, latches, and similar items. If you practice in a multioffice building, report any breaches in security to the building owner or building security. Follow up on your report to make sure the repairs are made.

Listed below are other practical measures to consider.

- Lock all unused doors to limit access. Never leave those doors allowing the public access to your firm propped open. Instead, install doors with an automatic locking mechanism that locks whenever the door closes. Such mechanisms are especially useful for delivery and service entrances.

- Allow for two exits from your offices. This provides a secondary means of escape should the main exit become blocked or otherwise impassable.
- Arrange furniture and maintain shrubbery so that they do not obstruct an exit in an emergency.
- Post emergency exit signs throughout the firm. Discuss exit locations when informing visitors of other important areas of the firm, such as the rest room, file room, and coffee room. (When working at clients' offices, know where their emergency exits are located.)
- Install and maintain an alarm system. Test the system every six months.
- Install surveillance cameras in building elevators, the reception area, and parking garages.
- Hire trained, uniformed security personnel.
- Establish a good rapport with the local police.
- Place curved mirrors at hallway intersections, elevators, and in concealed areas.
- Use bright and effective lighting. Immediately replace burned-out lights.
- If your firm shares a rest room with other businesses on your floor, install locks on the rest room doors to restrict access to those working on your floor and their authorized visitors. Asking to use the rest room is a ruse used frequently by trespassers to enter a building.
- Designate one room in the firm, such as a conference room, as a *safe room* where staff can retreat in the event of a crisis. This alternative can be used in the event that exits are barred. Install a strong lock, a telephone with emergency telephone numbers in easy reach—perhaps on speed dial—and an alarm. When selecting a safe room try to choose a room with a window so that you can make a quick and safe exit.

Extend your security efforts beyond the physical confines of your office to include areas in close proximity to it, such as landscaped areas, parking lots, and parking garages. These are areas where employees are also vulnerable to assault. Keep parking lots and parking garages well-lit. Replace light bulbs as soon as they burn out or begin to dim. Use motion-sensitive lighting

for external doorways and parking areas. Keep trees and shrubbery from becoming overgrown; they can camouflage an assailant.

Encourage any staff that arrives at work during early morning hours, such as before 7:30 a.m., to arrange arrival schedules with coworkers so that they can avoid walking alone in a deserted parking lot or working alone in the office. After hours, staff should try to leave the office and walk to their cars or public transportation together or, if especially late, with a security guard. Consider using a car service or providing taxis for staff who work before 7:30 a.m. and after 8:00 p.m. This issue is more pronounced during tax season when hours are longer or for those who work in a high crime area. Remember, there is safety in numbers.

Receptionist

Position your receptionist's desk in a central location. Install a silent buzzer at the receptionist's desk to alert building security, the local police department, or the human resources department of any actual or potential problems. Keep telephone numbers for the human resources director, firm administrator, building security, and police and fire departments at the receptionist's desk for immediate reference in case of an emergency. Put some or all of these telephone numbers on speed dial. The receptionist should never leave the front desk to escort visitors or deliver packages or messages.

Because your receptionist is your first line of defense in screening out unwanted individuals, include as a job responsibility knowing the firm's security policies and procedures, including how to respond to a crisis situation.

The receptionist's prominent role in averting on-the-job violence is illustrated in a case where a college student, despondent over poor grades, told a receptionist at the university that he planned to kill the president of the university. The receptionist acted immediately and called security. Security subdued the student as he drew a revolver outside the president's office. The receptionist knowing how to respond to a threatening situation successfully avoided a crisis situation.

Key System

Provide all employees with keys to the firm. Retrieve keys when employment is terminated. If a former employee does not return keys, change the locks and issue new keys to the staff. As an incentive to staff to safeguard their keys, charge a \$10 or \$15 fee for replacing keys.

An alternative to the traditional lock-and-key system is a coded card-key system whereby authorized persons can enter the firm by swiping a card, which is programmed with the employee's personal authorization code, through a grid alongside all locked doors. A card-key system has some advantages over other systems. Suppose a staff member's employment is terminated or an individual is no longer authorized to enter the firm. With a traditional lock-and-key system, you had to spend time and money changing the locks and issuing new keys to staff, particularly when the individual departed the firm under less than positive circumstances. This effort needed to be made regardless of whether the keys were returned because copies can easily be made. With a card key system, regardless of whether the individual returns the card key, you can quickly and inexpensively bar access of formerly authorized individuals by canceling the cardholders' access codes.

Another advantage of card-key systems is that they enable you to issue cards with varying degrees of access to staff. With these systems, you can restrict access to specific areas of the firm and restrict the day and time of access as well as identify the staff member using the card, the date and time of entry, and the area entered.

Using the card-key system to control who enters your offices, when they enter, and what areas of the firm they enter is a practical, low cost, and significant step toward protecting the value and integrity of firm property and avoiding a crisis situation.

Communication System

Maintain an internal communication system, in the form of an easy-to-use telephone or public address system, that enables someone either to contact security or the appropriate staff member or to make an announcement to the entire staff in the case of an emergency. Reinforce your effective communication system by teaching staff how to respond to evacuation drills and crisis situations. Tragically, disturbed people have walked through offices firing weapons at firms that lacked safe, organized plans to warn staff and evacuate.

Mail and Packages

Train mailroom employees to watch for suspicious-looking envelopes and packages. Signs of dangerous mail include the following:

- Absence of a return address
- Notation such as "personal" or "confidential" on the package

- Stained or discolored envelope or packaging
- Excessive postage
- Any obvious signs of an incendiary device, such as powder stains, toxic odors, or wires
- Poorly typed or handwritten address

Obviously, your firm may receive mail that exhibits some of these characteristics and poses no danger. But given the potential lethal effects of tampered mail, encourage mail handlers who are even remotely suspicious of a piece of mail to avoid further contact with it, warn other mail handlers to clear the area, and immediately notify their supervisor, security, and the police department.

Report to building security or the police department any untended, suspicious-looking suitcases, luggage, bags, or packages. Do not attempt to move them yourself.

Do not admit messengers into the office after 5:00 p.m. Place signs on the doors indicating where to leave packages.

Other Efforts to Safeguard Staff

The following guidelines offer additional safety measures.

- Employees leaving their offices to use the rest room, run an errand, see a client or vendor, or visit a coworker's office should inform another employee where they are going and when they plan to return.
- Employees should keep their personal valuables, including pocket-books, in their desks or in cabinets, and should lock them when leaving the area for an extended period of time. Advise men to keep their wallets in their trouser pockets—not in suit jackets hanging on the door or draped over a chair. Employees should lock all small valuables in desks when leaving for the day.
- Employees must trust their instincts. If a situation appears even remotely dangerous, such as when a suspicious person is in the parking lot or elevator car, employees must act cautiously. Never enter parking lots and elevator cars without first reporting any suspicions to building security, police department, your supervisor, or a human resources representative. Investigating situations alone could result in substantial danger. Failing to report them could result in injury or loss of life.



**HIRING AND
TERMINATING
STAFF**

chapter **V**

Your best opportunity to determine an employee's potential for violence is during the hiring process. Screening out job applicants who have violent tendencies or a history of violent behavior can deter a violent incident from occurring at your firm. Of those responding to the Society for Human Resource Management (SHRM) survey, 66 percent said their organizations thoroughly investigate the backgrounds of potential employees. Only 6 percent require psychological testing as a standard part of the hiring process for all potential employees. However, many employers are faced with conflicting duties. On the one hand, an employer owes its existing employees a duty to make a reasonable investigation into a job candidate's background before bringing that person into the workplace. Employers also have an obligation to terminate employees who pose unreasonable risks to their coworkers. Yet, various laws regulate and limit the scope of an employer's action. As discussed below, laws limit the scope of preemployment investigations and may qualify your ability to terminate an employee.



OBLIGATIONS OWED TO POTENTIALLY VIOLENT EMPLOYEES

Preemployment Investigations of Criminal Records

Federal and state antidiscrimination laws regulate employers' preemployment investigations. These laws prohibit, among other things, employers from establishing hiring standards that are not significantly related to the successful performance of the job and that subject members of a protected minority group to a higher disqualification rate than Caucasian applicants.

In the past, the courts ruled that inquiries into an applicant's arrest and/or conviction record have had a discriminatory effect on certain minority groups. Consequently, the courts now limit the employer's right to investigate an applicant's criminal record to inquiries concerning convictions and not arrests. Also, employers may make conviction inquiries only when such information may evidence an applicant's ability to perform a particular job. Conviction inquiries have been permitted for security-sensitive positions such as security details, watch guards, cashiers, and other cash-handling positions.

The existence of a conviction cannot automatically disqualify an individual from a particular position. Instead, the employer must consider all relevant facts and circumstances, including the nature of the crime, the time since the conviction, and the applicant's immediate employment history, in deciding

whether to hire the individual. The applicant for an office manager position who was convicted twenty years ago for participating in a sit-in at the dean's office of a university during a Vietnam War protest does not pose the same security risk as an applicant with several recent convictions for embezzlement.

Preemployment Investigations Into an Applicant's Psychological Profile

The Americans with Disabilities Act of 1990 (ADA or Act) and comparable state laws also circumscribe an employer's ability to investigate an applicant's psychological and physical well-being. The scope of an investigation varies depending on the stage in each job selection process. Before making a job offer, an employer cannot inquire into a person's medical background. An employer's inquiry is limited to describing the requirements of the position and then asking the applicant whether he or she can perform the job with or without reasonable accommodation. If the applicant states that he or she can perform the position, the employer can make no further inquiry.

However, an employer can make a job offer contingent upon the person's satisfactorily passing a medical examination. At this stage, an employer has wide latitude in testing the person's physical and mental conditions. The employer may request the person to take both physical and psychological tests. The results of the tests can form the basis for withdrawing the employment offer *only when* there is a real, substantial basis for concluding that the person cannot perform the essential functions of the position with or without reasonable accommodation.

Preemployment Investigations and Invasion of Privacy

Preemployment investigations can expose an employer to other forms of liability. In particular, an applicant may raise a claim for invasion of privacy, which occurs when an employer makes an overly intrusive inquiry into a personal, confidential aspect of an individual's life. An example of an overly intrusive inquiry would be a prospective employer who investigates whether a female job candidate has ever had an abortion. The inquiry pertains to a deeply personal subject that bears no legitimate relationship to whether the employee is capable of performing the job.

To avoid invasion of privacy claims, require a job candidate to sign a written consent form. Write the consent form in layperson's language. Consent forms should—

- Define the scope of the preemployment investigation.
- Explain which type of information the employer is seeking.
- State clearly and conspicuously that the applicant is giving the employer permission to make such inquiry.

You are able to ask applicants to explain any gaps in their employment histories. When you contact former employers to verify dates of employment and positions, ask whether the applicant is “eligible for rehire.” However, the former employer may not answer the question. Remember to document all efforts to check references.

Problematic Employees and the Americans With Disabilities Act

An employer's natural initial reaction to any employee who is perceived as potentially violent is to terminate the employee immediately. That reaction may, however, subject the employer to liability under the ADA and comparable state statutes.

The ADA applies to all employers with fifteen or more employees. It prohibits employers from discriminating against otherwise qualified individuals because they have, have had, or are perceived as having a disability. In other words, an employer cannot base its decision to hire, fire, promote, or discipline an employee or job applicant on the basis of an actual or perceived disability. The ADA further provides that all employers must make reasonable accommodation for a known disability.

To be eligible for ADA protection, an employee must suffer from a physical or mental impairment that precludes him or her from being able to perform a daily life activity such as working, walking, breathing, or hearing. The ADA deems mental impairments that cause anxiety, nervous disorders, or behavioral problems as disabilities that are thus protected by the Act.

A person is entitled to ADA protection if he or she is “otherwise qualified to perform the essential functions of the position.” In other words, the employee must have the appropriate level of educational or work-related experience for the position. The person must also be physically capable, mentally capable, or both, of performing the essential functions of the position with or without

reasonable accommodation. The essential functions of a position are those skills and responsibilities needed to perform the requirements of a job. For example, the ability to see is an essential function for a truck driver. The ability to type is an essential function for a secretarial position.

The ADA specifically excludes from its protection persons unlawfully using illegal or prescriptive drugs. The Act also excludes persons who have a disability that, with or without accommodation, presents a realistic health or safety risk to themselves or to others.

An employer's reaction to and handling of a potentially violent employee is subject to ADA standards. Accordingly, the employer must carefully navigate a narrow path, taking into consideration a number of barriers and obstacles.

First, the ADA does not exclude an employee from protection simply because an employer declares its belief that the employee manifests violent tendencies and therefore is a safety risk. Rather, the employer must base its determination on either a valid medical opinion or on information from the individual with the disability regarding his or her prior experiences. In determining whether an individual poses a direct threat, an employer may consider several factors, including the following:

- Duration of the risk
- Nature and severity of the potential harm
- Likelihood that potential harm will occur
- Imminence of the potential harm

Even if a person's condition may pose a threat of violence, the employer must still determine if a reasonable accommodation would either eliminate or reduce the threat. What constitutes reasonable accommodation varies depending on each circumstance. If and only if reasonable accommodation will not eliminate or reduce the risk, does the employer have the right to terminate or discipline the employee.

When disciplining an employee for workplace misconduct, the employer's focus should be on the employee's conduct, not on his or her disability. For example, an employee who brandishes a weapon in the workplace should be disciplined for violating the employer's policy against weapons in the workplace, not because he or she is viewed as having a "problem." Similarly, a supervisor with an abusive personality should be fired for failing to fulfill a requirement of his or her position (such as working well with subordinates) and not because the employer believes that he or she has a mental imbalance.



EMPLOYEE TERMINATION GUIDELINES*

Whether involved in a firm-wide downsizing or in terminating a single employee, the termination process is one of the most difficult decisions anyone in a managerial or supervisory position will ever have to make. Because terminations can trigger workplace violence, they need to be carefully approached. Violence by employees or former employees typically results after a sequence of events, usually beginning with several minor events—such as being overlooked for a sought-after assignment or receiving a poor performance evaluation, or receiving disciplinary action—or with a singular traumatic event, such as termination. After dwelling on the situation, a volatile employee commits or attempts to commit a violent act.

Every day firms terminate employees for a wide variety of reasons, and in the overwhelming majority of cases termination does not result in a violent episode. However, when violence does occur, the consequences are usually devastating to the firm and its employees. Problems that arise in the termination process stem from the underlying reasons for termination and the manner in which the termination was performed. Because violent reactions to terminations are usually prompted by an employee's perception of mistreatment, ensure that terminations not only *are* fair, but *look* fair.

Sometimes the employer's termination methods are not in the best interests of the firm and its employees. Invest as much time and consideration in disciplining and terminating staff as you do in hiring them. When properly performed, terminations result in removing an unproductive employee without substantially damaging morale or negatively impacting productivity. Although no guaranteed successful termination process exists, you are more likely to perform terminations that are humane, fair, and, most importantly, safe, if you include the following features in your termination procedures.

*Much of the guidance in this section also applies to disciplinary actions.

DO'S AND DON'TS OF EMPLOYEE TERMINATIONS

Do

- ✓ Clearly communicate the grounds for discipline, including any termination and appeals procedures, at the beginning of a person's employment.
- ✓ Consult a labor attorney to review your firm's termination policies and decisions before communicating them to the employee. Ensure that all terminations are legitimate and exhaustively documented.
- ✓ Strictly adhere to your written termination policies and procedures. Following them to the letter will serve you well in the event of litigation. An employee exit checklist is included in appendix F.
- ✓ Assess the risk of violence in every termination. Select a room that is private yet situated in a well-traveled part of the firm. Perform a *safety audit* of the room where the termination will take place and remove any objects that could be used to cause injury, such as rulers, scissors, calculators, and glass ashtrays. Those communicating termination decisions should sit closest to the door.
- ✓ Terminate an employee in a face-to-face meeting. Never terminate by a letter sent to the employee's home or allow an employee to hear of his or her impending termination through the office grapevine.
- ✓ Use a calm, nonprovocative tone during the meeting. Appear supportive and understanding without deviating from the true reasons for the meeting.
- ✓ Answer questions concerning the reason(s) for the termination. Listen closely to what the employee has to say and respond to termination-related questions succinctly. Have all relevant facts at hand and make no responses that are not supported by documentation.
- ✓ Offer terminated employees outplacement services, severance packages, paid education and skills building courses, and extended access to employee assistance programs (EAPs). Inform the employee of work-related finances and available options, including COBRA costs, 401(k) and pension plans, and unused vacation.

Don't

- ✗ Allow members of your firm to terminate employees until they have been educated and trained in how to accomplish it legally and safely. Instead, see a labor attorney for legal guidelines. The American Management Association and the Society for Human Resource Management offer valuable seminars, training, and publications on the subject. Advice can also be obtained from members of the firm who are knowledgeable of and experienced in termination matters.
- ✗ Terminate an employee alone. Rather, have two people meet with the employee—usually the person to whom the employee reports and a member of human resources. The second person serves as a neutralizing presence and rarely, if at all, participates in the termination meeting.
- ✗ Surprise an employee with termination. Instead use an effective performance evaluation system and document attempts to remedy performance problems so that the employee is not only prepared for termination but also expects it.
- ✗ Terminate an employee on a Friday or before a holiday. An employee's anger will likely build during a time when he or she has little or no opportunity to talk to coworkers about the situation, obtain more information regarding the termination, or begin a job search. Receiving bad news during a time when most other people relax and celebrate is likely to make the employee feel more hostile and isolated.
- ✗ Terminate staff for economic reasons immediately before or after announcing that senior or other members of the firm are receiving bonuses or other monetary perks, that the firm's office will undergo a costly renovation, or that the firm will be making anything other than necessary expenditures over the next several months.
- ✗ Fire an employee in a public place, such as in a restaurant or in front of peers and subordinates. Instead, perform terminations in a conference room for the best results.

DO'S AND DON'TS OF EMPLOYEE TERMINATIONS *(continued)***Do**

- ✓ Have a system in place to quickly communicate with other staff, building security, or local police in case of a crisis situation.
- ✓ Recognize that violence resulting from termination does not always occur during the actual termination meeting. Days, weeks, or months can pass before a terminated employee responds violently. This point supports the high priority of premises security.
- ✓ Allow the employee to leave with as much pride and self-respect as possible. Avoid any conduct that would unnecessarily humiliate the employee.

Don't

- ✗ Assume the role of best friend or say anything that the employee could misconstrue. Instead, remember that you are conveying a message based on long-standing behavior and conduct. If the employee asks who will complete a project he or she has been working on, respond that the firm will handle it from this point on.
- ✗ Escort the employee from the premises in front of other staff. In most cases, allow the nonviolent employee to clean out his or her office without being monitored. If you suspect theft or sabotage, then safeguard firm property subtly: lock the employee's computer system, covertly watch as the employee cleans out his or her office, and have a nonthreatening coworker assist the employee rather than human resources or security staff.
- ✗ Follow the employee to his or her home to reclaim firm property without first asking the employee to return it.

Regardless of how argumentative the employee may become during the termination meeting, remain calm and in control. Reschedule the meeting if the employee becomes emotionally overwrought. If necessary have the employee meet with a psychologist from your EAP to resolve any anger before the next meeting. If you suspect the employee may either become violent to himself or herself or others, or overly confrontational, ask either a psychologist from your EAP or another mental health professional for advice on how to communicate the termination decision to the employee. As a last resort, have the mental health professional or someone from security remain near the conference room or attend the meeting if necessary. If the employee asks why others are present, respond by saying that you want to avoid any possible hostile confrontation. In most cases use security subtly because a uniformed or armed presence may further anger a distressed employee.

After the termination meeting, have the employee leave the premises as soon as possible. The employee's continued presence at the firm will only hurt morale and create an uncomfortable and possibly dangerous environment. If the terminated employee refuses to leave, ask security or the police department to escort the employee from the premises.

If terminations are not performance-related but rather are due to financial setbacks, give staff as much advance notice as possible. This will remove the

element of surprise and enable staff to prepare for a job search. Communicate clearly and candidly to staff that performance was not a factor in making termination decisions, if that is the case. Consider offering these employees letters of reference and, if possible, the opportunity to perform their job search from the office for a designated period of time, such as three to four weeks. Once all terminated employees have left the premises, hold meetings for remaining staff to appease any remaining anxiety and to answer any questions they may have.

The more compassion you show when terminating employees the more likely it will be that they will leave your firm without residual anger.



EMPLOYEE

ASSISTANCE

PROGRAMS

chapter

VI



PROGRAM OVERVIEW

Employees' personal problems can have an adverse effect on their well-being and job performance, and can potentially lead to a crisis situation at work. Rather than tolerating poor performance, firing the employee, or running the risk of keeping a volatile employee on staff, many firms establish internal or select external employee assistance programs (EAPs). Providing early intervention counseling and referral services to help staff and their families overcome personal problems, EAPs are outlets for employees who may otherwise resort to violence as a way of coping with everyday stress and the stress of actual or perceived grievances.

The EAP provider analyzes the employee's particular problem and refers the employee, family members, or both to the appropriate organization for help. The EAP provider holds all discussions of personal problems in confidence and exclusively maintains the employee's records. The program assures employees that requests for treatment or assistance will not jeopardize their job security, promotional opportunities, or reputation. Only the employee or family member can request or accept assistance through an EAP. In addition to recognizing the detrimental effect of personal problems on staff productivity, employers with effective policies recognize that with professional help, employers can resolve personal problems. Such policies stress treatment, not punishment. However, employers should address continual performance or attendance problems under the customary disciplinary process.

According to a recent Towers Perrin Work/Life survey, 88 percent of the respondents have instituted EAPs. The survey also indicated that EAPs are the most common program offered by employers to help their staff resolve personal problems. In a recent International Facility Management Association survey, 43 percent of senior managers reported a violent incident in the workplace in the three years preceding the survey, and 93 percent of them subsequently implemented an EAP for their employees. As a way to prevent violence from occurring in the first place, 54 percent of respondents to the Society for Human Resource Management (SHRM) survey said they refer potentially violent employees to an EAP.



PROBLEMS TREATED

EAPs are directed toward the following job-related and nonjob-related problems, all of which can trigger workplace violence:

- Physical, emotional, or behavioral illnesses or stress
- Alcohol or drug abuse
- Family, marital, legal, and financial problems



PROGRAM SERVICES

To obtain the full benefits of an EAP, learn how they operate and what they can accomplish. Although the design and implementation of an EAP depends upon the particular needs of each firm, most programs provide—

- A system of communicating program features to employees and their families during orientation or firm meetings (done by EAP staff, firm employees, or both).
- Education of management and supervisory staff in recognizing troubled employees and directing such employees to the EAP for assistance.
- Professional evaluation of troubled employees and their families and the formulation of a plan to resolve the problem. Successful treatment may be provided by the EAP's own counselors or by referral to outside resources.
- Confidentiality in reporting the results of treatment. The firm will only receive statistics about the number of employees using the program and the types of problems being treated. Individual EAP records are not disclosed to anyone—including the employer—without the written consent of the employee or family member receiving treatment. It is against the law for a provider to release the names of people receiving assistance. Participants seeking counseling can remain anonymous even to the EAP when being assisted by telephone or during an initial office visit. However, when an outside referral is made, the EAP will obviously learn the name of the person being treated. If the employer refers the employee to outside treatment, the EAP can provide information to the employer pertaining to

whether follow-up treatment was provided but cannot inform the employer of the diagnosis. However, where state law permits, EAPs should retain the right to inform the employer or other involved parties if the employee seeking treatment presents a real danger to others. Consult with your attorney when drafting the appropriate disclaimer language in your EAP publications, employment documents, and personnel manuals.



PROGRAM SELECTION

Most firms do not have enough employees to warrant their own internal program. They contract with an external EAP provider to refer distressed staff—either as outpatients or inpatients—to hospitals, community agencies, and programs that are staffed with professionals in the field and that are equipped to deal with the problem. Some firms using an external EAP establish a steering committee composed of firm employees to help implement the plan and answer any plan-related questions. In selecting an external provider, ask all candidates to provide details of their program, including cost. Personally interview your final candidates, including their counseling staff. Other considerations include—

- Quality of services. Ask for at least three references from each provider you are considering.
- Coordination with your firm's insurance company. Determine if the providers' services are covered by your insurance policy.
- Geographic area covered by the plan. Since treatment extends beyond staff to include family members who may live outside your geographic area, select a provider that has a nationwide network.
- Number of appointments the provider gives participants before an outside referral is made. Determine when a referral is made. Most providers allow three appointments before the person is referred to outside treatment.
- Counseling options. Determine if the provider offers telephone counseling in addition to office visits.
- Resource referral services. Look for a provider that offers wide-ranging services, such as information regarding child care or elder care.

When you select an external EAP, firm and EAP representatives should meet periodically to discuss the firm's formal and informal procedures and management structure. All of your firm's leaders, including the human resources staff, should participate in planning the program because they are the people who most often respond to problems.



PROGRAM PARTICIPATION AND PROCEDURES

Generally, individuals begin EAP services in one of three ways:

1. An employee may request services.
2. A family member may request services.
3. A supervisor may make a formal referral because of performance, attendance, or behavioral problems.

Even when a formal referral is made, participation is always voluntary and any services provided are confidential.

Upon referral to the outside professional resources, the normal and customary charges for such service are usually reimbursed to the extent provided under the firm's medical benefits plan. Most EAP vendors base their retainer fees on the firm's size and geographic location and the particular program selected. Monthly fees range from \$1.50 to \$4.00 per employee. Smaller firms, with generally less than fifty employees, may find it more reasonable to utilize a program on an as-needed basis. Most vendors charge rates of \$50 to \$150 per hour for these services. The EAP provider's professional staff assists the employee or family member in developing an effective treatment plan based on insurance coverage and that person's ability to pay any out-of-pocket expenses. The provider can also negotiate fees, seek sliding-fee-scale services, and provide free services for individuals in financial distress or for family members who are without medical coverage. Any expense your firm incurs in an EAP is well worth it. An EAP assists in restoring staff to health and productivity, prevents firms from losing the valuable skills of experienced employees, and prevents employees' personal problems from erupting into a catastrophe.

Write a description of services available through your firm's EAP and distribute it to all staff so that the program can be effectively implemented and used. Give the summary to new employees during orientation and to current employees at staff meetings. Ongoing communication is important to keep staff aware of the program's availability. Include all EAP-related issues in your human resources policies and disciplinary procedure. To maintain confidentiality, consider mailing EAP-related materials to employees' homes.



CASE STUDY

Consider the approach assumed by a fifteen-person CPA firm as described by its managing partner:

When we become aware of an employee who is emotionally distressed over work-related matters or a personal problem, a partner to whom he or she reports or a partner with whom he or she has a positive relationship will meet with the employee, advise him or her that we have noticed a change in behavior or work performance, and ask if there is anything they would like to discuss.

If the employee identifies a problem, we usually recommend that he or she meet with a trained professional, usually a clinical psychologist, to discuss the problem. The employee selects the psychologist from a four-person list created by the firm. We invest a great deal of effort to create a list of psychologists who have good reputations and different areas of expertise. We then indicate to the employee that we will pay for a specific number of visits. The number of visits paid for by the firm will depend on the particular situation. This payment is the cost over and above what the employee's medical insurance pays. Obviously, if we see progress being made and additional visits are needed, we will usually continue to pay for the visits.

Very often the partner or I will offer to call the psychologist to schedule the appointment. Our experience has been that the employee is usually hesitant or uncomfortable making the telephone call to schedule the first appointment. The employee is in the office with me when I make the call. This keeps the employee involved in the process and lessens the employee's paranoia. After the call is made, we let the employee know the date and time of the appointment and the address of the psychologist's office. In our firm's experience, treatment usually consists of an average of five visits; however, this is not necessarily indicative of future experiences because we take each case on an individual basis. The entire process is kept strictly confidential. We have had excellent results using this approach. It allows us to use psychologists that meet the firm's high standards to treat our employees, yet keeps costs under control by allowing the firm to decide the number of visits it will pay for.

In a similar vein, our partners will occasionally consult with a psychologist for recommendations in dealing with a particular employee's behavior or attitude. We have found that the psychologist's advice has been useful and has, in the long run, saved us time and money.

Contact the Employee Assistance Professional Association (EAPA) in Arlington, Virginia for a list of independent consultants experienced in human resources issues who can advise you about program design, provider selection, and program administration and implementation.



**PROFILE OF A
PERPETRATOR**

chapter

VII

Often the final act in a chain of events, on-the-job violence by an employee or former employee usually stems from the employee's desperation and the employer's poor communication channels. Rarely does an employee suddenly and without warning act violently in the workplace. By identifying potentially violent employees when their behavior first becomes problematic, you can intervene early enough to avoid serious harm to your staff and your firm's reputation. However, identifying which employees will commit aggressive acts on the job is difficult. For example, compare the characteristics of the individuals who you believe are capable of workplace violence with those of actual perpetrators. This approach is not foolproof and is not an exact science. You cannot possibly identify all likely perpetrators, and even when you know what characteristics to look for there are always exceptions. If performed without the requisite confidentiality and discretion, this method can damage the reputation of innocent people and expose the firm to liability for defamation. Profiling efforts may identify employees who possess several of the profile characteristics, but such employees may never create a violent incident. Use profiling to identify staff who may be troublesome and warrant closer scrutiny. Keep in mind that a likely perpetrator will probably act alone (90 percent do), and there is a one-in-four chance he or she will kill himself or herself after assaulting others.



PROFILE CHARACTERISTICS

A distinct profile of likely perpetrators has emerged from the growing number of violent outbreaks in the workplace, and the profile is not as unusual as you may think. Ask all staff, particularly those in hiring, supervisory, and managerial positions, to remain alert and document sudden and unexplained changes in their staff's performance, attitude, attendance, and physical appearance. Train them to recognize the external signs of a volatile employee.

The typical profile of a likely perpetrator of workplace violence is someone who—

- Is a Caucasian male, 25 to 40 years of age.
- Is dissatisfied with present career status.
- Is a loner who may have been sociable at one time, but who has now socially withdrawn from other employees. This person has poor interpersonal skills.
- Has had a number of short-term jobs.

- Bases identity and self-esteem on a job. Although socially isolated at work, this person depends on the workplace for social and emotional satisfaction. The workplace is where the employee believes he or she belongs.
- Resents authority and repeatedly violates firm policies and procedures; is frequently insubordinate and involved in disagreements with supervisors; reacts poorly to discipline, particularly from female staff in positions of authority; and perceives himself or herself as a victim.
- Is paranoid and perceives mistreatment by the firm, a spouse, or the government. This person fears demotion, termination, or other reprimand.
- Has low self-esteem and is intensely jealous of others, yet has an inflated opinion of himself or herself; talks about committing suicide; and is overly emotional.
- Has a dysfunctional home life that provides little, if any, support system. This person may be experiencing private stress, such as a divorce or the breakup of a relationship, trouble with a teenage child, illness or death of a family member, or financial problems.
- Is hostile. This person blames others for a lack of success and for problems in his or her personal and professional lives. This person has no healthy outlets for anger.
- Has difficulty controlling temper. This person intimidates other staff and has a history of sexual or other harassment, including harassment by telephone and e-mail.
- Has requested but never received a leave of absence or counseling, such as from an EAP.
- Has a history of aggression. This person hints, announces, and in some instances boasts about harming another in response to perceived mistreatment by another employee or by the firm in general. Rarely does a violent employee act out in the workplace without exhibiting any violent propensities.
- Shows a sudden decline in performance and a deterioration in physical appearance. This person has increased absenteeism, decreased productivity and concentration, and memory lapses.
- Demonstrates unusual interest in or preoccupation with reports of workplace violence, the military, and weapons. This person is

a possible veteran or former law enforcement employee who owns a gun(s) and brings a weapon(s) to work.

- Files grievances continually over trivial matters and complains about management's lack of concern with the physical and psychological demands of the job, yet frequently fails to follow up on the grievance or complaint.
- Files a large number of injury claims, usually for stress-related disorders. This person is likely to be accident-prone.
- Engages in self-destructive behavior, such as alcohol and drug abuse.
- Expresses extreme opinions, specifically on religious and political issues. This person may be a member of or may associate with hate or extremist organizations.
- Is obsessed with a coworker. It is usually, but not always, a romantic obsession.




PROFILE STATISTICS

According to the Society for Human Resource Management (SHRM) survey, men committed 77 percent of violent acts and women committed 23 percent. The following table sets forth the reasons for the perpetrators' conduct.

PERCENTAGE OF INCIDENTS (%)	REASON
62	Personality conflict
27	Work-related stress
27	Family or marital problems
25	Emotional problems or mental illness
16	Termination
16	Drug or alcohol abuse

The results of the American Management Association (AMA) survey provide insight into the instigators of threatened and actual incidents, as indicated below.

THREAT(S) ONLY (%)	ACTUAL INCIDENTS (%)	INSTIGATOR
45.8	49.5	Employee at time of incident
21.7	8.4	Former employee
3.0	0.0	Job seeker
1.2	0.0	Former job seeker
9.6	12.6	Client, customer, or supplier
6.6	16.8	Outsider with no prior connection to the firm



**RESPONSES TO
POTENTIAL AND
ACTUAL INCIDENTS**

chapter

VIII



COMPLAINT PROCEDURES AND INVESTIGATIONS FOR POTENTIAL INCIDENTS

A crisis management plan must have operational procedures for responding to potential incidents, specifically an effective grievance reporting procedure. For purposes of this discussion, “grievance” refers both to employee complaints as well as threats to safety and security. An easy-to-follow and smoothly operating grievance reporting procedure helps resolve a volatile situation in its early stages—before it can erupt into a full-blown crisis. The attentive manager who, following a crisis management plan, finds the time to identify and confront a problem in its early stages rarely has to invest additional time and firm resources as a defendant in a court of law when it is too late to remedy a situation.

In most cases, individuals who have committed violent acts in the workplace have expressed their dissatisfaction with how the firm treated them. Often, they have warned coworkers of their hostility or left other clues of their intentions. For this reason, employees should be encouraged to report, as soon as possible, their own personal grievances, the threatening behavior of others, and breaches in building security. They also must know your firm’s reporting channels. On the other hand, management should be prepared for the possibility that the investigation of an initial report may uncover a more serious, widespread problem.

Effective grievance procedures serve a twofold purpose:

1. As a preventive device used by employees to report grievances and threatening behavior
2. As a means for disgruntled employees to voice their opinions and concerns

Employees should report a noncrisis situation relating to a security issue, disciplinary action, or other complaint, such as being overlooked for a promotion, by first filing a grievance form. However, in emergency situations, that is in cases where a person is in imminent danger, the employee should immediately and verbally inform a member of your crisis management team, his or her supervisor, or a human resources representative. Completing the grievance form may provide an employee the opportunity to vent any hostility before it builds. To record a complete overview of the problem, provide a form that is sufficiently detailed yet brief enough so as not to discourage people from using it and not to lose valuable time completing it. See appendix G for a sample form.

After receiving a notice of a grievance, strictly adhere to your grievance procedures. Grievance procedures that include the following features send a message to staff, and to any parties involved in future litigation, that you place a high priority on the welfare of your employees.

Receiving Reports

Begin with the understanding that employees will want to file reports for a gamut of reasons—from a direct threat of violence or discrimination to a manager's poor human relations skills or a personality conflict. Select two members of your crisis management team to receive reports. Include a human resources representative as one of these people to resolve staff conflicts and disputes. Also, a two-person approach gives staff a choice when making reports. Some employees may feel uncomfortable making a report to their supervisor, to someone they do not get along well with, or to someone who enjoys a positive relationship with the person being reported. Also, assigning this responsibility to two team members heightens staff awareness of your plan and of team member accountability.

Because you cannot investigate and attempt to resolve problems you do not know about, you should receive notice of problems as soon as they arise. Employees need to understand procedures for reporting grievances, to feel comfortable reporting any and all situations that they believe are cause for concern, and to remain sure that the crisis management team will follow procedures in a timely and confidential fashion. Create an understanding in your employees' minds that they not only have a right to report situations—involving employees, clients, vendors, or others—but that such reporting is part of their obligation to create a safe and productive work environment. Although circumstances may make reporting some situations uncomfortable or even embarrassing, the overriding risk of not reporting unacceptable behavior is too great. Avoid a policy of anonymity in making reports since anonymity may increase the possibility of unfounded allegations. Staff will feel comfortable using the system if they know that—

- Good-faith reports will not jeopardize their jobs or damage their reputations.
- Reports and investigations will be kept confidential.
- Termination or other disciplinary actions will not be imposed on the person being reported unless warranted by the findings of a complete investigation.

When encouraging staff to report likely perpetrators, remember that individuals being reported are not always going to be other coworkers, clients, or vendors. In some situations, perpetrators may come from your employees' personal life. The discord or violence in your employees' outside personal relationships does not always remain confined to their lives outside the firm. Such relationships can, and frequently do, cross over into the work environment. According to *Working Woman* (August 1996 issue), 20 percent of all workplace incidents that involve physical injury can be attributed to some type of romantic entanglement.

As in handling sexual harassment claims, treat seriously and investigate any threats promptly, regardless of circumstances. Never promise to investigate and then not follow through. Do not minimize the problem by telling the grievance filer not to take the alleged perpetrator seriously. Never blame the victim by saying he or she is overly sensitive or overreacting. Keep in mind that violence to others is a real possibility.

Investigating Complaints

Never let more than eight hours pass between receiving a report and beginning your investigation. The devastating results possible from an inadequate investigation are nowhere more evident than in a recent case where an employee, working as a receptionist, reported to her employer that she was being harassed by another employee. The employer failed to respond. After the employee subsequently killed the receptionist, the employer paid the receptionist's family a multimillion dollar settlement because it failed to investigate the complaint and act accordingly.

If an employee reports a direct threat and imminent harm is likely, respond immediately and contact security, the police, or both. Do not wait until the direct threat becomes actual. Use as much finesse and tact as possible to remove the threatening employee from the workplace. Termination is the only answer for an employee who makes a clear threat of violence that endangers the safety of another person. Advise the employee that termination is due to his or her threat in violation of the firm's violence prevention policy.

If the report does not reveal a direct threat and does not indicate an immediate danger to the safety of others, begin your investigation. Either the team member who took the initial report or the team member with the most expertise in handling the specific problem can conduct the preliminary investigation. Start by reviewing the contents of the perpetrator's human resources file as well as any medical records. Medical records may also hold

relevant information which an investigator may need to review. Since the Americans with Disabilities Act and other pertinent laws limit access to medical records, consult your attorney before performing such a review. In some circumstances, it may be advisable for the company to obtain the person's consent before reviewing any medical information.

Obtain as much detailed information as possible from the person making the report, any witnesses, and anyone else who would likely know the person being charged or be familiar with the incident, such as supervisors and other employees. Use an outside expert if necessary. Question involved parties concerning—

- The specific threats or misconduct, and specifically where threats or misconduct has occurred (home, work, public areas).
- The employee's response and the perpetrator's subsequent conduct, such as concern or regret.
- The time span of the situation.
- The possible reasons for the reported conduct, regardless of how irrational or illegitimate they may seem.
- The identity of any other employees that the perpetrator has harassed or threatened.
- The perpetrator's history of unprofessional conduct or violence.
- The perpetrator's knowledge of the employee's home telephone number and address; of his or her work and social schedule; and of the names, addresses, and telephone numbers of his or her friends and family.
- The perpetrator's use of alcohol or drugs.
- The names of other individuals who know about the situation, including coworkers, friends, family, and the police department.
- The steps the employee has taken toward protection, such as changing work and social schedules, obtaining an unlisted telephone number, purchasing a home or automobile security system, and obtaining a restraining order or injunction.

If your preliminary investigation reveals that the situation could escalate, involve the entire team in gathering any additional information and planning a course of action. If you prefer, you can retain a trained professional, such as an outside attorney specializing in labor law, a security consultant, a professional investigator, or a licensed psychiatrist or other mental health

professional. Regardless of how you perform your investigation, it should be overseen by a human resources representative and your attorney. If you decide to retain a security consultant to perform your investigation, be very selective. To retain the consultant best suited for the job, rely on your own professional contacts or recommendations from a reputable labor attorney. Perform an in-depth interview for each consultant and check references.

Keep your investigation, and all steps that follow, as confidential as possible, providing information solely on a need-to-know basis. In addition to protecting the person filing the report, maintaining confidentiality prevents any liability for libel and slander, avoids further angering a potentially volatile employee, and protects the reputation of someone unjustly accused.

Document all complaints, conversations, and actions taken as part of your investigation using as much detail and accuracy as possible. Include your rationale for all judgments. When creating any documents, first consider their impact before a judge or jury should litigation result from an incident. Complete documentation can bolster your defense. Look for a pattern of repeated, hostile behavior directed toward a staff member or particular type of person. Balance a timely response and investigation with the need to avoid acting prematurely.

Determining Action

At the conclusion of your investigation, prepare a report documenting all findings. Use this report as a base of reference when meeting with the volatile employee. Include input from all team members and outside experts involved in the investigation. Follow up with the employee who filed the report and inform him or her of your conclusions and any follow-up measures. If your investigation concludes that there are insufficient grounds to support the grievance, proceed no further. However, you may need to work with the employee who filed the grievance to attempt to alleviate any remaining concerns. If your investigation indicates that the grievance is legitimate, then you need to proceed to the next step and meet with the employee against whom the report was made. You will need to act quickly but cautiously once a crisis situation has been identified.

Meeting the Volatile Employee

If you even remotely suspect the perpetrator may be dangerous, do not meet with him or her alone. Base the extent of your safety measures on the degree

of possible danger. Additional parties that should be consulted and possibly present at any meeting with an employee who presents potential danger to himself or herself or others are a human resources representative, an EAP counselor, security personnel, or the police department.

In situations where danger is not imminent, have a member of your crisis management team and the employee's supervisor attend the meeting with the employee against whom the claim was made. Inform the employee of the nature of the report, the findings of your investigation, and the identity of the person(s) who filed the grievance. Advise the employee that his or her behavior is inappropriate and cannot be tolerated by the firm. In any discussions with the employee, avoid threatening to contact the police or psychoanalyzing him or her. Inform the employee that termination is possible only if it is a real possibility.

Acting on Your Investigation Findings

If your investigation uncovers a legitimate though not life-threatening problem, it will likely be one of two varieties. Grievances often stem from a personality conflict or an ill-fitting match of employee and position. You can usually resolve such problems by moving the employees to different work areas, changing reporting relationships, or changing job responsibilities, if feasible. However, do monitor the parties involved to be sure that the separation has indeed alleviated the problem and also to prevent a new situation from developing with a different employee.

Other cases will challenge your managerial skills and demand a more substantial response, including referring the employee to counseling or treatment, or probation or termination. You will need to resolve the issue without substantially reducing firm productivity and without violating the rights of your staff member. Involve mental health and legal professionals when discipline alone cannot eliminate the risk of harm. In the case of referrals to counseling or treatment, consult with your EAP provider or other mental health professional to determine whether an examination, follow-up treatment, or both is necessary, and for assistance when selecting a psychologist, social worker, counselor, or psychiatrist. EAPs are discussed in chapter VI.

In some situations, the employee can continue working while receiving treatment. Other situations may require the person to receive treatment while on disability or on a leave of absence. Consider the circumstances surrounding the problem and a mental health professional's recommendations to determine which approach to take. Once an employee begins counseling or treatment,

monitor his or her condition until it stabilizes and the employee no longer presents a problem.

It can be uncomfortable referring an employee to treatment to resolve a problem that is affecting job performance; such a confrontation may make the employee more agitated and possibly expose the firm to liability for violating the employee's right to privacy or for libel and slander. Also, many firms do not know which types of behavior warrant such a referral.

To overcome obstacles—

- Understand that unchecked violent behavior usually accelerates in frequency and severity over time.
- Work with the appropriate individuals, including your human resources staff, firm administrator, attorney, and contracted health professional, to create unambiguous procedures that are uniformly applied at all employee levels and to address all stages of the process: investigation, referral, treatment, and return-to-work.
- Establish specific guidelines delineating unacceptable behavior that results in a referral, that is, any kind of physical assault—regardless of how minor—and direct threats.

If the incident resulting in treatment was especially serious and obvious to all staff, yet sufficiently treatable so that the employee can return to work, you, and possibly a representative from your EAP, may need to meet with your staff to discuss how the problem was resolved and answer any questions they may have. This approach can lessen any lingering hostility or appease any fears. To avoid any possible claims by the returning employee for libel and slander, remain sensitive to the returning employee's position and within legal boundaries in all communications pertaining to the incident and follow-up treatment. Ask your attorney for assistance before making any communications to staff.

Terminating the employee is your only option if your investigation reveals that he or she presents a real danger to members of your firm. See chapter V for a discussion of termination procedures.

Protecting Potential Targets

Provide any necessary protection to endangered employees, clients, vendors, or others, both male and female, who may be at risk. Protection should begin when the grievance is filed, and continue until the problem is resolved,

and in some cases should extend after the termination of the dangerous employee. If any employees are unaware of a potential danger, notify them as discreetly as possible. Do not create unnecessary panic in the office. In serious situations, collaborate with the police department.

Regardless of your protective measures, no method guarantees safety. However, for little or no additional cost or effort, your protective measures can reduce the likelihood of harm, provide the employee with a greater sense of security, and strengthen any defense in a violence-related claim against the firm.

In addition to securing your office as discussed in chapter IV, you can take the following steps to protect an at-risk employee:

- Move the employee to another work area, such as to an area within the range of a security camera or in a busy, nonisolated part of the firm.
- Install a silent alarm at the employee's desk.
- Provide the employee with flexible work hours so that travel time to and from the office will occur at busy times of the day and not be at consistently the same time every day.
- Provide the employee with a work-at-home schedule until you resolve the situation.
- Encourage the employee to seek counseling from the police or an attorney on whether it would be advisable to obtain a restraining order or an injunction or to file criminal charges against the perpetrator for further protection. Carefully contemplate the perpetrator's state of mind when making these types of decisions. In some cases these measures trigger a more violent response from the perpetrator when enforced.
- Warn building security and any other appropriate staff members of the situation, especially your receptionist. Those who are already crisis management team members and who have been involved in the situation from the start will already know of the situation. Provide appropriate staff and security with a photograph or physical description of the perpetrator and instruct them to deny that person access to the firm.

Employers have been held liable for failing to take measures to protect at-risk employees who sought protection. For example, a woman and several coworkers were shot at their office by the woman's husband, who had made

threats for months before the attack. The woman had notified her employer of the threats, but the employer and the building management made no effort to protect her. After suing for negligence, the woman and injured coworkers recovered a multimillion dollar award from the employer and the building management.



NOTIFICATION OF THREATENING PERSONS

As stressed earlier, encourage any member of your firm who is harassed or stalked to report the incident to his or her supervisor and to a human resources representative, regardless of whether the perpetrator is employed by the firm or from the employee's personal life.

Instruct staff, particularly receptionists and other telephone operators, to report to their supervisors telephone stalkers and others who make harassing telephone calls or visits. Provide staff with a list of people from whom they should not accept telephone calls and visits. Ask staff to record the time, date, and details of any messages left or visits attempted by anyone from that list. A periodic review of the log will determine when and if you should file a report with the telephone company or police department.



RESPONSE TO AN ACTUAL INCIDENT

Immediately respond to any violent act or threat that is so direct that the person can reasonably expect harm. Train human resources staff and those in supervisory or managerial positions to respond to a violent incident so that they can diffuse the perpetrator's anger, protect innocent persons and firm property, and isolate the perpetrator.

Consider the following guidelines, all of which your crisis management plan should comprise, when a violent or potentially violent individual confronts you or any member of your staff. Although *employee* is used in this section, the guidelines apply equally to clients, vendors, visitors, or anyone else in the workplace.

When an Episode Occurs

- If you are engaged in another activity when a possible incident begins to emerge, stop what you are doing and give the employee your full attention.

- Stay seated and encourage the employee to do the same. By remaining seated you are less likely to startle the employee and he or she is easier to subdue, if necessary.
- Stay calm and in control, and keep your emotions in check. An antagonistic response will only inflame the situation. Make the employee feel respected. Provide the employee with the opportunity to voice his or her opinion.
- Look the employee in the eye and project confidence, not bravado.
- Listen carefully to the employee and show interest in his or her concerns. Ignore verbal attacks. Attempt to understand the employee's perspective.
- Let the employee know, in as polite a tone as possible, that other options are available to resolve the problem.
- Use caution when attempting to comfort the employee with an embrace or by holding his or her hand. To an agitated and often paranoid employee, such physical displays can cause a violent reaction.
- Ask the employee open-ended questions to determine his or her true feelings. Encourage the employee to be as specific as possible in his or her opinions. Shift the focus from personality conflicts and emotional undertones to actual facts. Achieve this by saying to the employee, in a nonconfrontational manner, "Give me an example," or "Tell me more about it," or "Why do you really feel this way?" Summarize the employee's remarks to be sure that you understand his or her position. Be sympathetic but avoid apologizing for the situation.
- Keep the employee talking specifically about what upsets him or her. Stress builds during silent periods.
- Call security or the police department as soon as you sense danger. You should have your list of telephone numbers prepared beforehand. Do not make any attempts at heroism.
- Contact your EAP or local mental health facility if the employee is more upset than violent. Arrange for a counselor to come to the firm or to talk to the employee by telephone until one can arrive. Afterwards, meet with relevant staff to discuss how to proceed further.

- Evacuate the office as rehearsed in your evacuation drills if the incident constitutes a risk to employees, making sure to account for all employees.

After an Episode

- Provide transportation to employees' homes or to hospitals if an ambulance is not necessary. Consider using taxis if the police department needs to check employees' automobiles in the event the employee may have tampered with any automobiles.
- Notify the families of all involved. Your attorney can advise you about what information to divulge.
- When it is safe to return to the office, verify that your computer system and files were not destroyed, sabotaged, or otherwise compromised by the employee. If the incident resulted in physical damage to the premises, make repairs as soon as possible, preferably before employees return to work, so that staff will not be further reminded of the incident.
- Arrange for time off for traumatized staff. Periods of time off depend upon the severity of the crisis. To avoid closing the office for long periods of time, have employees take alternate days off during their recovery period. You may want to close the office to allow employees to attend any funeral or memorial service for any former staff.
- Provide immediate posttrauma care to employees who have experienced a serious incident. Employees will want to talk about the impact the incident has had on their lives. Many EAPs provide on-site bereavement counseling to employees affected by a work-related tragedy. Depending on the seriousness of the incident, form a support group within the firm or retain the services of a psychologist or counselor trained and experienced in critical incident stress to counsel staff, and, if necessary, their families.
- Because the effects of a violent incident on staff are not limited to working hours, have a counselor available by telephone during the evenings and weekends. Counseling, either by support groups or outside professionals, can last up to six months and often reduces the damaging effects of an incident on employees

and their families. Staff who receive timely, comprehensive treatment following an incident are more productive and less likely to file a claim against the firm.

- Reassure staff that management is addressing the situation and keeping them as fully informed as possible.
- Inform your attorney of the incident and discuss the circumstances leading up to it. You will need to work together in notifying your insurance company, responding to any civil or criminal investigations or claims brought by victims or their families, and drafting any complaint against the perpetrator.
- To maintain consistency in your statements, select one person, such as your managing partner, human resources director, or attorney, to serve as the firm liaison with the police, insurance company representatives, or other investigative parties. This employee, after discussing questions with the appropriate members of the firm and the firm's attorney, will provide background information on the perpetrator, the circumstances leading up to the incident, and what actually happened. Temper this policy with the need for the police and insurance company representatives to interview some employees as part of conducting an investigation into the incident.
- Perform a complete investigation of the incident to determine how and why it happened. Members of your crisis management team will likely work closely with the police department. Use your findings to prevent, to the extent possible, a similar incident from occurring in the future. Keep staff informed of the progress of your investigation and findings.
- Have your managing partner, attorney, or, if necessary, a public relations professional, answer questions from clients and the media. Emphasize that all such inquiries, without exception, should be referred to the spokesperson. Work with relevant employees and your attorney in drafting a letter to notify clients of any delays in service caused by the incident. Some clients, such as those whose records were destroyed or those who are somehow more dramatically affected by the incident, may require a personal visit.

- Should you hire a public relations professional, retain an agency that specializes in crisis communications for professional service firms.
- Exercise extreme care when releasing statements to clients and the media. If improperly handled, such statements can present problems for the firm in terms of liability exposure and damage to the firm's reputation. On the other hand, resist the temptation to overlook or minimize the incident and its effect on staff and clients. The crisis did occur and denying it does not make it go away. If circumstances warrant, hold a news conference to keep the media up to date. This helps you control the information being released. By delivering anything less than an honest, forthright, and well-worded statement, as well as a well-conceived response to clients and the media, you run the risk of appearing uncaring and self-interested. Besides, efforts to keep violent incidents quiet are usually futile because such incidents ultimately become news.



**SAFETY ON
THE ROAD**

chapter **IX**

Traveling to meetings and conferences is a major part of professional life. Diversifying your usual routine by traveling to new cities, staying in hotels, and meeting new people can be personally and professionally stimulating. It is a great way to make new clients, enhance existing client relationships, network with other professionals, and fulfill educational requirements. However, security is an issue that must remain foremost in your mind while traveling. When you are on the road, do not forego the usual safety precautions you take at home. No city or type of accommodation is immune. Too often, travelers are victimized in “safe” neighborhoods and in luxury hotels. For women, security is a special concern. In a recent *Conde Nast Traveler* survey, 77 percent of female travelers—both business and leisure travelers—responded that they feel less safe traveling alone than with a companion, compared with 45 percent of male respondents. Female travelers also responded that they select hotels, restaurants, and times of travel based on security considerations. Most traveling professionals are an easy mark for criminals. They often look prosperous, carry large amounts of cash, and forego security measures. Criminals find watches, jewelry, cellular telephones, cameras, and laptop computers too tempting to pass up. Identifying perpetrators before they strike is tricky because they do not all fit the criminal stereotype. Many of them dress in business attire and make every effort to blend in with the crowd. They often work in teams—one creates a distraction while the other steals your valuables. What safeguards can you take while on the road? Although there are no guarantees of safety when traveling, stick to the following guidelines to minimize your chances of becoming a victim of crime and to keep your travel productive, educational, pleasurable, and most important, safe.



GENERAL DO'S AND DON'TS

- Travel with an emergency contact card listing local emergency telephone numbers, and the names and telephone numbers of two people to contact in the case of an emergency.
- Carry a card describing any medical conditions or allergies to drugs.
- Take a minimum amount of cash. Use credit cards and travelers checks for purchases and hotel charges.
- Use automatic teller machines (ATMs) that have wide-angled mirrors and are located in well-lit, busy locations, such as in supermarkets. Avoid using machines surrounded by shrubbery.

ATMs situated on street corners or next to driveways give criminals an easy approach and getaway.

- Carry plenty of quarters in the event you need to use a public telephone. If you use a telephone calling card be careful when keying in your code numbers. Some criminals in airports are skilled at observing and recording codes.
- Leave expensive jewelry and ostentatious clothing at home. They will only draw a criminal's attention to you. If you must wear a specific piece of jewelry, such as a wedding or engagement ring, turn the stone around so it is not visible, particularly when you are in high traffic areas, such as in airports or at taxi, shuttle, or bus stations.
- Keep your wallet in your front pocket or drape your purse strap across your chest.
- Arrange for staff to travel together whenever possible.
- Avoid displaying large amounts of money when paying cab fare or when leaving tips.
- Keep expensive equipment, such as laptop computers and cellular telephones, in suitcases or carry-on bags and out of sight whenever possible.
- Carry a cellular telephone if you travel frequently or to isolated or dangerous areas.
- Remain cautious and alert and keep a safe distance when being asked for directions or solicited by street vendors.
- Use a luggage cart that allows you to keep one hand free.
- Walk to meetings, parking lots, and destinations outside the hotel with another person whenever possible.
- Avoid taking shortcuts unless you know exactly where they lead and that they are as well-lit and well-traveled as usual routes.
- Stay focused and confident, and walk with purpose. Look like you belong. Victims of crime often appear confused, lost, distracted, or unsure.
- Contact the U.S. State Department's Office of Overseas Citizens Services in Washington, D.C. if you are traveling abroad to learn of any travel advisory issued for a country or region you plan

to visit. The U.S. State Department's Overseas Security Advisory Council publishes books that prepare employees for international travel.

- Don't leave any luggage or carry-on bags unattended at the terminal, taxi or shuttle bus station, in the airplane or train, or hotel lobby. Thieves know carry-on bags usually contain valuables. Instead, keep all luggage directly in front of you and in sight at all times. Don't put laptop case, purse, or other valuable items on the ground while picking up a piece of luggage. To store carry-on luggage, place it beneath your seat or in the overhead bin directly above your seat.
- Don't use your home address and telephone number on your luggage tag. Instead, use your business address and telephone number.
- Avoid districts known for drugs, prostitution, or pornography. They are usually situated in high crime areas.



HOTEL DO'S AND DON'TS

- Store valuables in the hotel safe deposit box.
- Have a bellhop accompany you to your room. Ask the bellhop to inspect the room, including closets and shower stalls, to make sure no one is there. If there is no bellhop, check the room yourself. Use a chair to keep the door open while you inspect the room. It will allow a quick escape if necessary.
- Check your bags with the front desk if your room is not ready when you arrive at the hotel.
- Check the integrity of *all* locks on the door to your room, adjoining rooms, and any balcony. Use them whenever you leave your room, even if you will only be gone momentarily, such as when walking down the hall for ice. Use all locks when you are in your room, including the chain lock. Remember, the chain lock is the only lock that does not have a master key. For added security, wedge a rubber door stop under the door.
- Take all keys with you when you leave the room, including your car keys.

- Ask the concierge which areas to avoid when inquiring about restaurants, tourist attractions, and other points of interest.
- Learn the locations of fire exits.
- If upon returning to your room, the door is ajar or anything in the room appears to have been disturbed, report to the front desk or hotel security immediately. Do not enter or remain in the room or use the telephone in your room. The perpetrator may still be present.
- Lock your bags even if they are empty to prevent someone from using your luggage to carry your valuables.
- Avoid a room on the ground floor or in isolated locations, such as at the end of a corridor, when making hotel reservations. Such rooms are prime targets for criminals. Instead, reserve a room near the elevator and between the second and eighth floors—generally, fire apparatus cannot reach beyond the eighth floor.
- Be especially careful when mentioning your room number in confined spaces where it is easy for someone to eavesdrop, such as in hotel elevators, bars, and restaurants. If hotel staff announces your room number loudly enough for others to hear, request another room.
- If you sign for food or drinks to be billed to your room, avoid displaying your room number by turning the check face down or handing it to the waiter.
- Don't leave your room key where someone can easily take it, such as at poolside or on a restaurant or bar table. If your room number appears on the key, keep it out of sight until you arrive at the door to your room.
- Be cautious when entering an elevator. Glance up at the curved mirror to see if someone is in the corner. If a passenger appears suspicious, wait for the next elevator. If you are alone in the elevator, stay near the door so you can exit quickly before the doors close if a suspicious person enters.
- Don't open your door to any hotel staff you did not call until they are cleared by the front desk, including room service. Use your peephole before opening the door to admit people you have called.

- If you suspect someone is following you, pass your room, proceed to the lobby, and inform hotel staff of your concern.
- Don't leave the hotel or convention center for breaks, meals, or sightseeing with conference badges and session materials visible. They announce your visitor status and likely unfamiliarity with the area.
- Don't hire street guides for sightseeing. Ask the concierge to recommend a tour guide.



AUTOMOBILE DO'S AND DON'TS

- Have your automobile inspected by your mechanic before beginning a road trip of any distance.
- Avoid driving an expensive automobile and using limousines whenever possible. Taxis are less likely to attract the attention of criminals or to convey an immediate message of wealth to criminals.
- Plan your travel route, carry all appropriate road maps, and keep your fuel tank at least half full.
- Make sure, if you are renting an automobile, that nothing obviously identifies it as a rental, marking you as a tourist. Remove any stickers and place your rental agreement and similar papers in the glove compartment.
- Have your keys in your hand before arriving at your automobile.
- Keep doors locked and windows rolled at least three-quarters of the way up while driving, especially during the evening, when in isolated or dangerous areas, and in stop-and-go traffic.
- Leave all luggage, valuables, and wrapped packages in the trunk.
- Drive to a police station if you suspect you are being followed. If one is not nearby, or you do not know where the nearest one is, pull over to the nearest well-lit, well-populated area and sound your horn.
- Pull over and stop for another motorist *only* if it is an authorized police vehicle flashing red, blue, or red and blue lights.
- As you approach your automobile in a parking lot, look underneath it. If someone is there, go to a safe place and call security

or the police department. Also, inspect the front and back seats before you enter your automobile.

- Don't open your window or door to anyone but police if you experience car trouble. Instead, after raising the hood, return to your car, lock your doors, and close your windows. Situations like this demonstrate the importance of traveling with a cellular telephone.
- Don't stop if another motorist warns you that something is wrong with your car. The same applies when rear-ended by another car. These are ploys frequently used by carjackers. Instead, drive to the nearest well-lit, busy section of the road to inspect your car and call the police if necessary.
- Don't pick up hitchhikers under any circumstances.
- Be cautious when asking for directions. Drive to the nearest service station, restaurant, or hotel for assistance.
- Don't park in poorly lit or isolated areas. Instead, park as close to the street or attendant's station as possible. Consider how the parking lot will appear when you return to your car, particularly on days when you expect to work long hours. Although the lot may appear safe when you arrive at 8:00 a.m., it may be dark and empty when you return at 9:00 p.m. If you know you will leave after dark, return to the lot later in the day as it empties out to move your car to a safer, more visible space. Use valet parking whenever possible. Make sure the person accepting the keys to your car is an authorized valet.



appendixes

APPENDIX A: SAMPLE SEXUAL HARASSMENT POLICY*

A fundamental policy of the firm is that the workplace is for work. Our firm is committed to a workplace free from sexual harassment. Sexual harassment is a violation of Title VII of the Civil Rights Act of 1964 and the Civil Rights Act of 1991, as well as of state discrimination laws and municipal statutes. Such misconduct is prohibited by the firm. This policy applies to all firm members as well as to clients and others who come into contact with the firm. Reprisals against those who file complaints under this policy will not be tolerated. If the firm determines that harassment has occurred, appropriate relief for the person bringing the complaint and appropriate disciplinary action against the harasser, up to and including discharge, will follow. Any firm member functioning in a supervisory or management position will also be subject to discipline, including dismissal.

Occasional compliments of a socially acceptable manner or statements or acts that are acceptable to all elements of society are not sexual harassment. Sexual harassment is statements or acts that are offensive to some people. What may constitute sexual harassment may differ from person to person.

Definitions

Sexual harassment is unwelcome sexual advances, requests for sexual favors, or verbal or physical contact of a nature when—

- Submission to such conduct is either implied or stated to be a term or condition of employment or a factor in the evaluation of the employee's performance, salary, promotability, or any other component of employment.
 - Such conduct interferes, either directly or indirectly, with an employee's work performance by creating a hostile, offensive, or intimidating working environment.

Verbal harassment is sexually vulgar language, jokes of an offensive sexual nature, sexual propositions or threats, remarks about an individual's anatomy, or derogatory comments about gender.

Nonverbal harassment is distribution of written or graphic sexual material, sexually-oriented magazines or posters, displays of nude pictures, or other words or depictions of a sexual nature.

*Consult with your attorney for specific state and local issues that should also be addressed in a sexual harassment policy statement.

Physical harassment is touching in a sexual manner or invading personal privacy, especially the intentional touching of breasts and genital areas or buttocks, or threats to take such actions.

Responsibilities

Employees. An employee who feels sexually harassed by a superior, manager, coworker, subordinate, client, or other person should proceed as follows:

- Tell the offending individual(s) to stop the conduct. State your objection to the action and the specific behavior to which you object. Have a witness present if possible. Also note the time and date of the discussion and write a summary of what you said and how the offender responded.

If uncomfortable with a discussion with the harassing individual(s), state your objections in writing and keep a copy. In any sexual harassment case, documentation will help support contentions of harassment. Keep a log of the specifics of the actions to which you object. Record dates, times, and any witnesses. Keep copies of any notes.

- An individual who does not feel comfortable confronting the offending party in person or in writing may proceed directly to this step, but should still keep a log of occurrences. If the first step does not resolve the problem, or if you fear reprisals will result from a complaint, immediately make a complaint to your supervisor, the firm's personnel manager, a partner, or any other supervisor. This complaint should be made in writing. You have a right to discuss your complaint with a superior with whom you feel comfortable. All complaints will be handled in a timely fashion with a prompt and thorough investigation. Your complaint and all the details of the investigation will be treated as discreetly as possible. The firm will attempt to do the utmost to protect the privacy of the complainant and will also attempt to protect the integrity of anyone who may have been wrongfully accused of sexual harassment.
- An individual who receives a complaint will contact the personnel officer (or the person who will conduct the investigation). The alleged harasser and named witnesses will be contacted. The investigators will determine guilt or innocence and recommend any disciplinary action to the managing partner(s). Any partner involved in the harassment will be excluded from the decision-making process on the penalty to be imposed. Both the victim and the alleged harasser will receive copies of the investigator's findings. While the investigation should be thorough and complete, only in the most unusual circumstances will it take longer than 10 days.
- Throughout the investigation and after the determination of penalty, if any, the complainant will be assured there will be no reprisals from any

firm member. A complainant's career will not be adversely affected by the outcome of the investigation.

- Appeals of the investigator's findings may be made to the managing partner(s). Any managing partner involved in the harassment is excluded from the appeal decision process.
- Details of the investigation will be released only in the event of a court proceeding or as otherwise required by law.

Management. All management personnel within the firm have the following responsibilities:

- Refrain from all forms of discrimination or harassment at all times.
 - If observing sexually harassing conduct, ask the offending individual(s) to stop immediately, explaining what the conduct is and how it offends.
 - If the conduct continues or recurs, file an official complaint with the appropriate person.

Harassment by Clients

Firm policy prohibits sexual harassment from any source. The above procedure will be followed in cases of alleged harassment by clients or suppliers. If the investigation substantiates the charge, the managing partner will take prompt remedial action and the firm will make follow-up inquiries to ensure that the harassment has not resumed. Possible remedial steps range from letters of objection to the accused to refusal to continue the business relationship. Individuals filing complaints against clients should be aware of the limits of the firm's ability to control client behavior.

Posting of Policy

A copy of our firm's Sexual Harassment Policy is posted where all employees have access to and can read the policy.

APPENDIX B: SAMPLE WORKPLACE VIOLENCE POLICY*

OBJECTIVE: This policy is intended to ensure the highest standard of health and safety for all employees, clients, vendors, contractors, and any other individual doing business with the firm, and to provide for the efficient and effective operation of the firm.

POLICY: No employee—including supervisors, managers, or partners—shall be allowed to harass any employee, client, vendor, contractor, or the general public by exhibiting behavior including, but not limited to, the following:

- *Verbal Harassment.* Verbal threats toward persons or property; the use of vulgar or profane language toward others; disparaging or derogatory comments or slurs; offensive flirtations and propositions; verbal intimidation, exaggerated criticism, or name-calling.
 - *Physical Harassment.* Any physical assault such as hitting, pushing, kicking, holding, impeding, or blocking the movement of another person.
 - *Visual Harassment.* Derogatory or offensive posters, cartoons, publications, or drawings.

PROHIBITED ITEMS ON FIRM PROPERTY. Under no circumstances are the following items permitted on firm property, including parking areas: all types of firearms; switchblade or other types of knives; dangerous chemicals; explosive or blasting caps; chains and other objects carried for the purpose of injury or intimidation.

REPORT AND INVESTIGATION. Report any actual or potential violent incidents or questionable behavior to a member of the firm's crisis management team, your supervisor, the firm's human resources manager, or a partner. Your report will be treated as confidentially as possible. The firm will make every effort to protect the privacy of the complainant, and will also attempt to protect the integrity of anyone who may have been wrongfully accused of workplace violence.

FIRM'S RIGHTS. The firm reserves the right to—

- Inspect desks and offices and monitor e-mail and voice-mail systems as part of its investigation.

*A portion of this policy was adapted from the Workplace Violence Research Institute, Laguna Beach, CA. Consult with your attorney for specific state and local issues that should also be addressed in a workplace violence policy statement.

- Refer any employee to a physician, psychiatrist, or other mental health professional to determine the employee's fitness to work.
- Take any necessary disciplinary action against anyone violating the terms of this policy, up to and including termination.

A copy of our firm's Workplace Violence Policy is posted where all employees have access to and can read the policy.

APPENDIX C: ADDITIONAL RESOURCES

The following organizations provide publications, surveys, and conferences that address workplace violence and other security issues.

American Management Association
1601 Broadway
New York, NY 10019
(212) 586-8100

American Society for Training and
Development
1640 King Street
Box 1443
Alexandria, VA 22313
(703) 683-8100

Employee Assistance Professional
Association
2101 Wilson Boulevard
Arlington, VA 22201
(703) 522-6272

National Institute for Occupational
Safety and Health
HHH Building, Room 317-B
200 Independence Avenue, SW
Washington, DC 20201
(202) 401-0721

National Safe Workplace Institute
2201 Coronation Boulevard, Suite 145
Charlotte, NC 28227
(704) 841-1175

ReliaStar Life Insurance Company
20 Washington Avenue South
Minneapolis, MN 55401
(612) 372-5432

Society for Human Resource Management
1800 Duke Street
Alexandria, VA 22314
(703) 548-3440

United States Department of Justice
Bureau of Justice Statistics
633 Indiana Avenue, NW
Washington, DC 20531
(202) 616-3494

United States Department of Labor
Bureau of Labor Statistics
Two Massachusetts Avenue, NE
Postal Square Building
Washington, DC 20212
(202) 606-6378

United States Department of Labor
Occupational Safety and Health
Administration
200 Constitution Avenue, NW
Washington, DC 20210
(202) 219-5000

United States Department of Labor
Women's Bureau
200 Constitution Avenue, NW
Washington, DC 20210
(202) 219-6665

United States Department of State
Overseas Security Advisory Council
SA 10
Washington, DC 20522-1003
(202) 663-0869

Workplace Violence Research
Institute
465 Forest Avenue
Laguna Beach, CA 92652-4077
(800) 230-7302

APPENDIX D: SAMPLE STAFF SATISFACTION SURVEY

Office: _____

Name (optional): _____

Area of practice: _____

Number of years as a partner: _____

Position (if nonpartner): _____

Number of years in current position: _____

Number of years with the firm: _____

Return to: _____ on or before: _____

	<u>Yes</u>	<u>No</u>	<u>Not Sure</u>
1. Do you feel proud when you tell people you work for this firm?	_____	_____	_____
2. Do you think most employees are satisfied to be working here?	_____	_____	_____
3. Are you satisfied with the appearance of the firm's office?	_____	_____	_____
4. Do you feel that you are a part of the firm?	_____	_____	_____
5. Are employees treated with respect?	_____	_____	_____
6. Do you believe the firm offers you the chance to have the kind of position that you want five years from now?	_____	_____	_____
7. Do you understand how your performance is judged?	_____	_____	_____
8. Do you believe you are evaluated fairly?	_____	_____	_____
9. Are you satisfied with the manner in which your work is supervised?	_____	_____	_____
10. Do you have a clear idea of the results expected of you on the job?	_____	_____	_____
11. Does your supervisor set a good example by his or her own work habits?	_____	_____	_____
12. Does your supervisor possess the necessary technical ability and human relations skills?	_____	_____	_____

	<u>Yes</u>	<u>No</u>	<u>Not Sure</u>
13. When you want information or assistance on a difficult problem, do you receive the help you need?	_____	_____	_____
14. Are the people who work at the firm a positive factor in the work environment?	_____	_____	_____
15. Do you find the work assigned to you challenging and interesting?	_____	_____	_____
16. Are you provided with the resources necessary to perform your job well?	_____	_____	_____
17. Are you satisfied with the number of hours you work each week?	_____	_____	_____
18. Are you encouraged to offer ideas and suggestions?	_____	_____	_____
19. Do you believe you have made satisfactory progress within the firm?	_____	_____	_____
20. Do you believe you are being compensated fairly?	_____	_____	_____
21. Is your work load reasonable?	_____	_____	_____
22. Does the firm know which staff members are best qualified for promotion to higher positions?	_____	_____	_____
23. If you were to make a suggestion for a new or better way to perform a job, would you be likely to get credit for it?	_____	_____	_____
24. Would you feel comfortable reporting a grievance against another employee, client, or vendor?	_____	_____	_____
25. Do you feel comfortable discussing problems with your supervisor?			
a. Professional problems	_____	_____	_____
b. Personal problems	_____	_____	_____
26. Do you believe that it is likely that you would lose a merited promotion because of the limited openings at higher job classification levels?	_____	_____	_____
27. Have you ever been criticized in front of other employees by your supervisor?	_____	_____	_____
28. Are you corrected in a professional and constructive way?	_____	_____	_____
29. Are you told promptly and regularly whether your work is satisfactory?	_____	_____	_____

	<u>Yes</u>	<u>No</u>	<u>Not Sure</u>
30. If an employee is doing unsatisfactory work, will he or she be warned and given an opportunity to improve before being terminated?	_____	_____	_____
31. Does your spouse or others in your personal life regularly express resentment because of the amount of time you spend at work?	_____	_____	_____
32. Are the following benefits satisfactory?			
a. Vacation	_____	_____	_____
b. Holiday	_____	_____	_____
c. Sick leave	_____	_____	_____
d. Parental leave	_____	_____	_____
e. Group insurance	_____	_____	_____
f. Automobile allowances	_____	_____	_____
g. Pension and retirement	_____	_____	_____
h. Fees and expenses to attend conferences and membership programs	_____	_____	_____
i. Continuing education	_____	_____	_____
j. Tuition reimbursement	_____	_____	_____
33. When you were being interviewed for employment, did the people who talked with you about the firm, and the opportunities within it, describe it accurately?	_____	_____	_____
34. When you are given new duties and responsibilities, are they adequately explained?	_____	_____	_____
35. Do you believe the firm's staff is offered sufficient training programs?	_____	_____	_____
36. Do you believe the firm's staff training programs are beneficial?	_____	_____	_____
37. Do you believe the firm keeps you informed regarding its activities and plans?	_____	_____	_____
38. When you began with the firm, were the firm's professional and human resources policies adequately explained to you?	_____	_____	_____
39. Has there been a sufficient amount of authority delegated to you?	_____	_____	_____
40. If you were to start again, would you join this firm?	_____	_____	_____
41. Do you believe the firm will make changes based on this survey?	_____	_____	_____

Comments:

42. What do you like best about the firm?

43. What do you like least about the firm?

44. Please use this space to elaborate on any survey responses.

APPENDIX E: SAMPLE CLIENT SATISFACTION SURVEY

Client name (optional): _____

Number of years as a client of the firm: _____

1. What services does our firm currently perform for you or your organization?

Check all that apply.

- Financial statements
- Accounting and bookkeeping
- Auditing
- Compilation or review services
- Tax returns
- Tax planning
- Business counseling and advice
- Special project consulting
- Computer services
- Fringe benefit planning
- Estate and financial planning
- Litigation support
- Other (please describe) _____

2. In planning for the future of our firm, it is important that we know what factors are most significant to you in your relationship with us. Please review the following list and rate the factors from 1 (very important) to 4 (unimportant), or not applicable (NA).

The last item has been left blank so you can add any important factor you believe we have left out.

- 1 2 3 4 NA Reputation
- 1 2 3 4 NA Amount of contact with partner
- 1 2 3 4 NA Timely completion of work
- 1 2 3 4 NA Availability for calls and conferences
- 1 2 3 4 NA Aggressiveness of tax advice
- 1 2 3 4 NA Tax advice that is safe from challenge
- 1 2 3 4 NA Taking initiative in tax planning
- 1 2 3 4 NA Conformance of audits, reviews, and compilations to professional standards

- 1 2 3 4 NA Continuity of staff and partner
 - 1 2 3 4 NA Specialist in my industry
 - 1 2 3 4 NA Understanding of my personal goals as a business owner
 - 1 2 3 4 NA Understanding of my business history, pand problems
 - 1 2 3 4 NA Taking initiative in providing business advice
 - 1 2 3 4 NA Availability of broad range of business and tax planning services
 - Other _____
-

3. The following is a list of some of the specialized services offered by our firm. Please rate the likelihood that your firm may need these services in the future and your willingness to use our firm. Rate these services from 1 if you are most likely to talk to our firm first, to 4 if you are unlikely to need the service.

- 1 2 3 4 NA Computer system selection, installment, and management
- 1 2 3 4 NA Personal financial planning and estate planning
- 1 2 3 4 NA Management consulting
- 1 2 3 4 NA Business valuations
- 1 2 3 4 NA Litigation support
- 1 2 3 4 NA Human resources administration and compensation systems
- 1 2 3 4 NA Executive search
- 1 2 3 4 NA Planning for future of business
- 1 2 3 4 NA Structuring and supporting financing
- 1 2 3 4 NA Retirement plan design and administration
- 1 2 3 4 NA Employee benefit program design and administration
- 1 2 3 4 NA Market planning and research

4. Please read the following statements pertaining to the service we provide, and then circle the letter that most closely describes your view.

	<u>Agree Strongly</u>	<u>Agree Somewhat</u>	<u>Disagree Somewhat</u>	<u>Disagree Strongly</u>
a. Provides promised services on a timely basis.	A	B	C	D
b. Provides accurate advice, recommendations, and suggestions.	A	B	C	D
c. Keeps pace with current trends in the financial community.	A	B	C	D

	<u>Agree Strongly</u>	<u>Agree Somewhat</u>	<u>Disagree Somewhat</u>	<u>Disagree Strongly</u>
d. Is well-recognized in the community.	A	B	C	D
e. Personnel are available for calls and conferences when needed.	A	B	C	D
f. Understands and exceeds all my expectations in providing service.	A	B	C	D
g. Has a clear understanding of my industry.	A	B	C	D
h. Understands the operation of my business.	A	B	C	D
i. Has ensured smooth service.	A	B	C	D
j. Takes the initiative to keep me informed of accounting, tax, and other changes affecting my business.	A	B	C	D
k. Helps assess and define significant needs of my business.	A	B	C	D
l. Brings new ideas to my organization.	A	B	C	D
m. I am satisfied that we receive full value in services for the fees we pay.	A	B	C	D
n. My primary contact has taken the time necessary to develop a thorough understanding of any expectations of the relationship.	A	B	C	D

5. Have any of our personnel provided particularly noteworthy or valuable service to you in the past year? Yes_____ No_____

If yes, please note who provided this type of service and briefly describe the service.

If no, what information would you have wanted to receive?

6. What do you believe are our two greatest strengths?

7. List two opportunities for improvement in our services to you.

a.

b.

8. Have you ever recommended our firm to anyone? Yes ___ No ___

9. Please add any suggestions that would help us improve our service to you.

We appreciate your cooperation in providing us with your opinions about our firm.

Signature (optional) _____

PLEASE ENCLOSE THE COMPLETED SURVEY IN THE POSTAGE-PAID ENVELOPE PROVIDED.

APPENDIX F: SAMPLE EMPLOYEE EXIT CHECKLIST*

Employee: _____ Employee #: _____ Position: _____
Date of Hire: _____ Date of Separation: _____

- Action Form
 - Bookkeeping (update records to reflect separation date)
- Final Paycheck
 - Include: Accrued overtime pay, compensatory time bank pay, vacation pay, and expenses, as applicable
- Group Insurance
 - Inform employee of conversion privileges on insurance and time limits, if applicable
 - Supply appropriate forms
 - Notify insurance company of cancellation date or COBRA authorization
- Forwarding Address
 - Verify most current mailing address for W-2 mailing and other personnel purposes
- Firm Property. The following items should be returned if in the employee's possession:
 - Final timesheet
 - All office or building keys or access card
 - Identification cards
 - Calculator
 - Computer equipment (eliminate password or access code from computer network)
 - Audit bag
 - Audit/quality control manual
 - Department policies and procedures handbook
 - Other firm property (such as library materials, software tutorials)
 - Client list

*Reprinted courtesy of J.E. Osborne, President of Administrative Strategies, Nutley, NJ.

- Desk
 - Have employee remove personal belongings
- Notification of Separation
 - Delete name from employee daily roster
 - Delete employee data from employee mailing list
 - Cancel registrations for any seminars or conferences the individual was to attend
 - Direct subscriptions and direct mail pieces the individual received to the appropriate person until publishers and vendors can update their list with the new employee's name
 - Update records in the personnel file to indicate date of termination, and attach copies of written resignation or documentation of steps leading to discharge
 - Perform exit interview (conducted by administrator)

**APPENDIX G:
SAMPLE
GRIEVANCE FORM**

Name: _____

Name of Supervisor: _____

Department: _____

Today's date: _____

1. Description of incident (include all relevant dates): _____

2. Description of your response to the offensive behavior (attach any documentation):

No response has been made.

3. Names, addresses, and telephone numbers of any witnesses:

*Can we contact
them directly?*

Yes No

A. _____

B. _____

C. _____

D. _____

There are no witnesses.

ABOUT THE AUTHORS

Mark F. Murray writes on management issues for the AICPA and is the author of *Organizational Documents: A Guide for Partnerships and Professional Corporations*, *Managing the Malpractice Maze*, *International Business*, and *Management Review Guide: A Do-It-Yourself Practice Analysis*. He is also the managing editor of the AICPA *Management of an Accounting Practice Handbook*. Mr. Murray's work has appeared in such publications as *Inc.*, *Journal of Accountancy*, *Money*, *National Law Journal*, *Nation's Business*, and *Practical Lawyer*. His books have also been featured in Canadian and British publications, including *CA Magazine* and *Accountancy Age*. Prior to joining the AICPA staff, Mr. Murray practiced law and managed an insurance company's professional liability program.

Andrew A. Chakeres, an attorney with the Washington, D.C. firm of Galland, Kharasch & Garfinkle, P.C., specializes in employment law. He writes a monthly employment column for *Small Business News*, is a contributing author to the AICPA's *Management of an Accounting Practice Handbook*, and writes frequently on employment law issues. Mr. Chakeres speaks for a number of national and regional organizations, including the American Institute of Certified Public Accountants, the District of Columbia Bar Association, and the Virginia Employment Advisory Board.

