

Guidelines

OSHA provides numerous resources that provide guidance for evaluating and controlling workplace violence. Utilizing these guidelines in your business will better ensure the safety of employees and help your organization be more compliant under the General Duty Clause.

The main guidelines every employer should be aware of are as follows:

- Establish a business-wide workplace violence prevention plan with procedures and policies that account for your specific industry and daily business activities.
- Provide safety education and training to employees for the purpose of (1) identifying suspicious behavior and (2) reacting to workplace violence or an active shooter scenario.
- Instruct employees not to enter locations that they feel are dangerous or unsafe.
- In dangerous situations or at night, establish a “buddy system” or provide an escort service or police assistance to deter potential workplace violence.
- Employees working in the field should always be equipped with a cellular phone and a hand-held alarm or noise device. Additionally, a detailed plan of your employee’s day should be crafted, allowing the employer to know the whereabouts of his/her employees at all times.
- During the late night or early morning (high-risk hours), if possible establishments should be closed.
- Establish identification badges, electronic keys, and security guards, to minimize non-employee access.
- High-risk areas should be made visible to more people.
- Install good external lighting, silent alarms, surveillance cameras, and bullet-proof barriers or enclosures.
- Depending upon your industry, minimize cash on hand.
- Increase the number of staff on duty.
- Have police or security check on workers routinely.
- Encourage employees to report and log all incidents and threats of workplace violence. These reports of violent incidents and threats should be brought before local police promptly.

To better understand and follow OSHA’s guidelines, [learn more here](#).

Original article can be found her<http://bit.ly/qespsN>.

What To Do, and What Not To Do

Although employers may lack specific insight into what they should be doing to prevent workplace violence, according to OSHA, we can gain understanding from the mistakes and successes of past employers and the employers who are currently working to rid the workplace of danger and violence.

OSHA ACT OF 1970 GENERAL DUTY CLAUSE *(UpDated by Presidential Executive Order)*

On September 8, 2011, OSHA issued a compliance directive on workplace violence that outlines enforcement procedures for OSHA field officers in determining whether and how to investigate employers for instances of alleged workplace violence.

Relying on OSHA's General Duty Clause (which requires employers to maintain workplaces "free from **recognized hazards** that are causing or are likely to cause death or serious physical harm)."

"Recognized Hazards"

In a workplace where risk of violence and serious personal injury are significant enough to be "*recognized hazards*", the general duty clause would require employers to take steps to minimize these hazards.

Failure could result in the finding of an OSH Act violation.

Recent court rulings relative to liability lawsuits have shown active shooter scenarios are now considered a "*recognizable hazard*" to employees.

OSHA may cite and fine employers for failing to provide workers with adequate safeguards against workplace violence after an investigation.

Liability & Probability

Courts are finding fault with employers.

(2013 court decision – Hennepin County, Minneapolis MN)

The court found fault with employer for negligence and failing to train their employees

“Liability is on the employer to train their employees to recognize the indicators of the potential active shooter and how to respond when they are faced with an actual active shooter incident”

OSHA’s directive focuses on two primary questions:

- Did the employer recognize potential hazards in the workplace?
- Are there feasible means of preventing or minimizing such hazards?

Train employees

- OSHA encourages employers to implement **training and notification programs/systems** to educate employees on the known risks for workplace violence and the steps that can be taken by employees to minimize the potential for workplace violence.
- Employers should inform employees what has been done to mitigate the risks and what mechanisms are available for reporting hazards or incidents that occur.
- Management and supervisors should be trained on how to effectively respond to workplace emergencies and employee complaints of workplace hazards.

Reassess hazards periodically

- An initial evaluation and implementation of precautions to minimize the risk of workplace violence is a critical first step; however, **OSHA says that employers should also periodically reassess the potential for workplace violence.** Employers may consider a **regularly scheduled evaluation of whether or not the mechanisms in place to reduce workplace violence** are effective and whether there are other mechanisms that can be introduced to further protect employees. **Trainings should be repeated periodically and updated based on any changes in procedure or risks**

In January 2011, OSHA cited a Maine hospital with a proposed \$6,300 fine for failing to provide adequate protection against workplace violence for its employees. The hospital experienced at least 115 incidents of workplace violence between 2008 and 2010 in its psychiatric hospital and clinic. OSHA issued a serious citation on the basis that death or physical harm was likely to result from hazards which the employer knew or should have known about. In addition, OSHA cited the hospital with \$5,400 in fines for other-than-serious recordkeeping violations. Employers in Massachusetts and New York faced similar citations in 2011.

The Directive identifies several broad categories of workplaces that OSHA says are prone to workplace violence, including sites where employees work with the public or volatile, unstable people, sites where employees work alone or in isolated areas, sites where employees handle money or valuables, and sites at which employees provide services and care. The Directive goes on to describe other factors that can create the likelihood of workplace violence, such as working late at night or working in areas with high crime rates.

OSHA's directive focuses on two primary questions to determine whether or not an investigation or citation is appropriate: (1) Did the employer recognize potential hazards in the workplace? and (2) Are there feasible means of preventing or minimizing such hazards?

Employers can take steps prior to any incidents to keep their employees safe and minimize the risk of investigations or citations by OSHA:

1. Analyze potential workplace hazards.

A significant portion of the OSHA directive encourages field officers to investigate the employer's recognition of the risk for workplace violence. Employers are encouraged to conduct assessments of the risk of workplace violence at their job sites. A simple walk-through of a workplace can reveal potential workplace hazards. For example, employers should look for items such as burnt out lights in an isolated parking lot or a broken door lock.

OSHA says that employers should be aware of potential workplace hazards because of specific past incidents, characteristics of the employer's facility, or general industry-wide knowledge of the potential of workplace violence. Employers in the health care, social services, and late-night retail industries should pay particular attention to potential risks, as OSHA will likely deem these industries to be on notice of the potential for workplace violence in light of OSHA's published guidance. Employers will also be deemed to know that a workplace is prone to violence if multiple incidents of violence have occurred in the past. The directive instructs field officers to look beyond OSHA-reported events. **Field officers are encouraged to evaluate workers' compensation records, insurance reports, police reports, security reports, first-aid logs, and accident logs in order to determine whether or not an employer had notice that violence was a hazard of the workplace. Additionally, employee complaints may cause OSHA to conclude that the employer knew of potential hazards at the workplace. Employers should note employees' concerns about workplace violence and analyze whether or not a complaint presents a legitimate risk that the employer should seek to remedy.**

2. Implement reasonable safety mechanisms.

Once an employer has completed an analysis of the potential hazards related to workplace violence, OSHA posits that the employer should take reasonable steps to implement safety mechanisms to minimize or eliminate those risks. Determine whether there are simple changes that can be made to minimize potential risks, such as adding lighting or replacing light bulbs in dimly lit areas. For workplaces in high crime areas, consider limiting access to facilities by adding locks to doors or installing security alarm systems. Employers should take care to document the potential hazards and the steps that were taken to minimize the risk of such hazards.

Employers should also consider whether or not a formal workplace violence prevention program is appropriate (Violence prevention programs are not mandated by federal law, but California, Illinois, Maine, New Jersey, New York, Oregon, Washington, and West Virginia all require various forms of such programs for all or certain kinds of employers.) Illinois law, for example, requires health care workplaces to adopt and implement a violence prevention plan which addresses potential hazards in the specific workplace. The OSHA directive outlines several items it analyzes in looking at workplace directives: a description of the potential violence, identification of those with prevention responsibilities, documented hazard assessment, a documented record-keeping system, a training program with written lesson plans and training materials, a mechanism for periodic review of the prevention program, and an identified response team. A formal violence prevention program may not be practical for all workplaces; however, employers should consider whether a simple version could be implemented in their organization.

3. Train employees.

OSHA recognizes that many hazards of workplace violence cannot be completely eliminated. Employers are encouraged to implement training programs to educate employees on the known risks for workplace violence and the steps that can be taken by employees to minimize the potential for workplace violence. Employers should make employees aware of the known risks that an employer has identified in the workplace and instruct employees on the procedures and mechanisms in place to help them diminish risk and the appropriate response should an incident occur. Employers should inform employees what has been done to mitigate the risks and what mechanisms are available for reporting hazards or incidents that occur. Management and supervisors should be trained on how to effectively respond to workplace emergencies and employee complaints of workplace hazards.

4. Develop record-keeping practices.

If an employer is subject to an OSHA investigation based on workplace violence, an employer's documentation will be a key factor in OSHA's determination of whether to cite and fine the employer. Employers should ensure that workers' compensation records, insurance reports, police reports, security reports, first-aid logs, and accident logs are complete and, where appropriate, match OSHA incident logs. **Employers should also introduce mechanisms for ensuring that all incidents of workplace violence are properly recorded.** Additionally, employers should document any analysis of potential workplace hazards and the steps taken to minimize the risk associated with those hazards. Records should be kept of the dates employee trainings were conducted, the individuals in attendance, and the materials used in the training. Strong documentation can be crucial in demonstrating to OSHA that an employer has taken proper steps to identify and reduce the risk of workplace violence.

5. Reassess hazards periodically.

An initial evaluation and implementation of precautions to minimize the risk of workplace violence is a critical first step; however, OSHA says that employers should also periodically reassess the potential for workplace violence. Employers may consider a regularly scheduled evaluation of whether or not the mechanisms in place to reduce workplace violence are effective and whether there are other mechanisms that can be introduced to further protect employees. Training should be repeated periodically and updated based on any changes in procedure or risks.

- Average cost of a single workplace homicide incident: \$800,000 (National Institute for Occupational Safety and Health)
- About 500,000 victims of violent crime in the workplace lose an estimated 1.8 million work days each year. (Source: Bureau of Justice Statistics)

The average cost to American businesses each year is estimated to be \$36 billion dollars. (Source: Bureau of Justice Statistics)

Employers who fail to protect their employees may be liable. Jury awards for inadequate security suits average \$1.2 million nationwide and settlements average \$600,000. (Source: Family Violence Prevention Fund- Seven Reasons Employers Should Address Domestic Violence)