

# WHAT'S GROWING IN THE CORPORATE CULTURE?

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Most experts on occupational violence agree that the success of a workplace violence prevention program depends to a large extent on the executive committee set up to establish and oversee the program. The primary function of this committee, which includes the heads of all critical departments as well as labor representatives, is to formulate policies and implement and administer the workplace violence program. But first the committee must assess every facet of the organization's existing workplace environment, operations, and strategies. The assessment can be conducted by qualified in-house staff or by outside consultants, as long as management ensures that the review is thorough and unbiased. An experienced, independent consulting team may be the better choice if management suspects that an in-house team will find it difficult to pass judgment on coworkers. The assessment should address the following categories: risk identification; existing policies, procedures, and regulations; management climate; stress and the work environment; competence of supervisors and managers; training programs; trends; and security and safety measures.

## Risk Identification

Persons who commit acts of violence in the workplace fall into three distinct categories; a particular occupation or workplace may be subject to more than one type.

- Type I. The offender has no legitimate relationship to the workplace or the victim and enters the workplace to commit a criminal act, such as a robbery. Likely victims of these offenders are taxi drivers and employees of small, late-night restaurants, convenience stores, liquor stores, and gas stations. More than half of the workers killed die at the hand of these offenders.
- Type II. This perpetrator is either the recipient or the object of a service provided by the affected workplace or victim, such as a current or former patient or customer.
- Type III. The offender has an employment-related involvement with the workplace. This relationship may be direct or indirect. It usually involves a current or former employee, supervisor, manager, or executive; or a current or former spouse, lover, relative, or

friend.

## Existing Policies

In determining the appropriateness of workplace-violence-related policies, procedures, and regulations, the assessment team should review how the company handles incidents. Is there a policy manual? If so, the assessment team should review it. It should compare those procedures to what actually occurs in each office or department. Is the policy rational and enforceable? If it is not being followed, is it because the procedures are not well conceived or because employees have not been trained? Other issues to be addressed regarding the review of policies and procedures include the following:

Is there an overall policy that commits the company or agency to provide its employees with a safe and secure work environment, free of violence, threats, intimidation, and any form of harassment?

What is the head of security's position within the management structure? Management's view of security is of critical importance since the employees' attitude towards security staff members is a clear reflection of management's attitude.

The assessment team should focus primarily on security and safety measures that relate to the prevention or reduction of attacks on company personnel by insiders or outsiders. However, occupational hazards should not be overlooked since they often contribute to workplace stress, which in turn has been found to be a contributor to workplace violence.

Among the security and safety measures to be examined would be: the safety of parking areas (adequacy of lighting, the presence of video surveillance, security patrols, past incidents); access control and identification policies regarding employees and visitors; fire, panic, and intrusion alarms; cash handling procedures; and loss prevention measures.

Another concern would be corporate policies on workplace conduct and possessions. Does the company prohibit employees from bringing onto company property specified items, such as firearms? Is the policy enforced? (Local customs may dictate a certain amount of discretion in this area, but the assessment team is not making recommendations; it is merely recording the status quo so that the executive committee may devise a policy based on an informed view of current conditions.)

What is the company's policy regarding drug and alcohol use and possession on company property? Does it conduct tests or searches? What happens if an employee comes back from lunch inebriated? Are the policies implemented as intended?

Does the company have contingency plans and a crisis management team? Do the plans address workplace violence incidents specifically? Are crisis management team members and employees in general educated and trained with regard to the plan? Has it ever been tested? If so, were analyses conducted and changes made as recommended to address any weaknesses in the plan?

Does the company have assistance

agreements with local law enforcement agencies? Does it keep lines of communications open through liaisons?

With regard to human resources, employment application screening should be thoroughly reviewed, including the company's approach to drug testing, background investigations, and psychological testing. For current employees, the team should review policies concerning minimum standards of conduct, sexual harassment, tolerance to infractions, and disciplinary actions. Specific attention should be given to recording whether these policies are enforced in an appropriate and consistent manner.

The team should also assess termination procedures and post-termination policies. For example, does the company pay for the terminated employee to receive out placement service? Such a post-termination service can help the ex-employee and show that the employer cares. It also gives the company some knowledge of how the former employee is doing.

Among the other questions to be addressed are the company's in-house medical capabilities and access to nearby private or public medical facilities; its public relations strategy; and its legal department's performance regarding issues such as negligent hiring, training, and compliance with federal health and safety rules.

This list is not all inclusive, but it provides some sense of the manner in which the assessment team must record and evaluate policies and procedures. No department or policy field should be left unexamined.

### **Management Climate**

Management's commitment to specific programs and its attitude towards a variety of related issues has a great impact on the effectiveness of the workplace violence prevention program and the degree of participation and involvement by the organization's employees. It is, therefore, important to identify, evaluate, and promote the commitments and attitudes.

At a minimum, the following issues should be addressed during the work site assessment:

- Management style
- Organizational roles and responsibilities with regard to the workplace violence prevention program if one already exists
- Management's attitude and involvement regarding employee assistance programs and employee training.
- Management's approach to performance evaluations, promotions, and rewards
- Management's philosophy regarding teamwork - does management set itself apart from the work force? To what extent to company policies treat all employees the same?
- What is the company's experience and management's attitude regarding interdepartmental cooperation? Lateral and vertical communications?

### **Stress**

Stress, whether caused by on-the-job or external factors, is a major contributor to workplace violence. Naturally, the causes of stress vary greatly among organizations. Following is a list of stress related issues the assessment team should review.

Does the work environment emphasize common goals and cooperation or competition? When employees must carry out tedious and boring tasks, does management address the effect the repetition of this type of work may have on morale? Does the company offer employee-friendly schedules, such as flexible days off?

Are employees well suited to the job and adequately compensated for their skill level and market segment? Are they treated professionally?

Do employees have reasonable work accommodations or must they tolerate noise, bad air, cramped quarters, poor equipment, and other irritants?

Do employees have concerns about job

security? Are they given support through programs such as employee assistance, counseling, and stress management programs?

### **Supervisory Competence**

In most of America's large and mid-sized companies, a promotion to supervisor or manager involves hours of training in subjects such as interpersonal relations, conflict resolution, stress management, and communications.

Unfortunately, many more employees assume supervisory positions without the benefit of such training. This situation is particularly true in operations that require minimal skills, such as fast-food establishments, warehousing, packaging and distribution, and non-technical assembly lines. Assessors should identify these deficiencies. For example, do they have communication and conflict resolution skills? Is there a clear chain of communication in the event of a problem; for example, is there an 800 number an employee can call to report workplace concerns? The following are some issues that require examination:

- Communications skills including the ability to speak the language of the supervised employees
- Awareness of cultural and ethnic differences
- Competence in stress management
- Competence in effective conflict resolution
- Ability to carry out objective performance evaluations

### **Training**

Task-related training improves productivity and employee job satisfaction. The complexity of today's working environment requires a host of employment-related instructions. Employees have to have at least a working knowledge of many of the laws affecting the organization or industry. What is and what is not permissible is frequently a mystery to employees and only clarification in the classroom will remedy the situation.

### **Trends**

Trends are frequently important indicators of how well or how poorly a company manages its work force. Trends in absenteeism, tardiness, accident rates, volunteerism, and attendance at company functions identify strengths or weaknesses in employee morale, loyalty, and job satisfaction.

The assessor should not only compare the organization's current performance to its past performance but also the organization's own performance to that of other businesses of similar type, size and employee demographics.

Among the indicators that should be examined are productivity; employee turnover (including reasons given by the employees); terminations for cause, suspensions, and other disciplinary actions; absenteeism and the reasons given; on-the-job accidents and their causes; other security and safety issues; employee complaints about working conditions; lawsuits filed against the company by employees, clients, and others (and reasons).

### **Gathering the Data**

An accurate assessment of the work environment cannot be made without candid input from employees at all levels. Unfortunately, employees may be reluctant to speak honestly for fear of reprisal.

For the assessment to succeed, senior management must communicate to each employee that total honesty during the interview is not only desirable but also essential. A management style that makes staff worry about "informers" is counterproductive. Employees must further be assured that comments will be given in confidence and with anonymity. Findings will not be associated with any one employee's remarks. Employees must never face repercussions for voicing their opinions.

The assessor may choose to select employees at random for face-to-face interviews or use other criteria for the selection process, such as employee

suggestions, performance evaluations, or absentee and sick-leave records.

These interviews demand exceptional skills on the part of the assessor. The assessor should have basic investigative skills. For example, he or she should be able to put the interviewee at ease, ask open-ended questions, and convey to the interviewee that the interviewer relates to their concerns.

If the work force includes significant numbers of non-English speaking employees, an assessor with at least a working knowledge of such languages should conduct the interviews. Coworkers should never be used as interpreters. Where translations are needed, an interpreter from a professional translation service should be retained.

The interview is not intended to be highly structured. The assessor should encourage the employee to comment on any work-related topic. If the employee needs some guidance, however, the assessor may address any or all of the following issues:

- Working conditions
- Co-workers and supervisors
- Corporate culture
- Management style
- Quality of supervision
- Policies and regulations
- Training

### **Final Report**

Experienced assessors perform their task with a minimal amount of disruption to the company's daily operations. When they have completed their work, they should provide a report to management containing a detailed discussion of their findings, including distinctions between factual determinations (such as whether alarms work), and alleged but unsubstantiated deficiencies. For example, during employee interviews, several employees may say that the only way to get promoted is by drinking with the boss and his buddies, claiming essentially that it's just an old-boy network. That assertion may or may not be true. The assessor should

attempt to verify the allegation and should note his or her findings in the final report.

The primary purpose of the assessment is to identify conditions as they are, not to make recommendations. Therefore, unless requested by management, the assessor should leave the choice of solutions to the executive committee. If solutions are requested the assessment

team should place the recommendations in a separate section of the final report apart from the findings regarding existing conditions.

The assessor's report should contain an executive summary giving senior management a concise overview of the findings. The report should then address each item examined and the findings in detail.

Management's perception of the workplace can be far from reality even in the best of organizations. By obtaining a thorough workplace assessment before taking action, the executive committee is more likely to succeed in its efforts to prevent incidents of workplace violence.

*For more information, see the Workplace Violence Research Website*

## CORPORATE LIABILITY: SHARING THE BLAME FOR WORKPLACE VIOLENCE

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A furniture store advertised for a delivery man, then hired a large, muscular man whose application indicated a history of delivering furniture. The store hired him without checking the information on his application. Later, the man raped a customer in her home when he came to deliver furniture. The woman sued the store, charging negligent hiring because it failed to check out the man's past. Had it checked, it would have found that the man was fired from his last delivery job because he made suggestive remarks to a female customer. And, he was fired from the job before that because he touched a female customer in an inappropriate manner. Those incidents would have sent up a red flag had the last store owner taken the time to look.

Change the scenario a bit. Consider that the store hired the man, then received complaints about him. But the store owner decided to keep him on despite the fact that a problem might be brewing. The man later attacked the customer in her home. The store would then be open to a negligent retention lawsuit. In either case, the customer would likely win a huge award.

### Legal Consequences

Negligent hiring and negligent retention are fodder for lawsuits when store management fails to screen the applicants it employs. The difference between the two is in the time the employer becomes aware that the employee is unfit for the job.

These kinds of cases have legal precedents dating back to 1911, while most such tort cases filed since the early 1980s have resulted in an average out-of-court settlement of \$500,000 and a \$3 million jury verdict, according to a 1993 study by liability expert Norman D. Bates.

Negligent hiring occurs when, prior to hiring, the employer knew or should have known that a particular applicant was not fit for the job. Failure to adequately screen applicants results in a liability for the employer. Negligent retention occurs when an employer becomes aware of an employee's unsuitability - or should be aware of it - and fails to act on that knowledge.

At least two other theories of law may become involved. They are "respondeat superior" and "negligent entrustment." Respondeat superior is the notion that a master/servant relationship exists between the employer and the employee, in which the employer may become liable for the behavior of an employee acting as the employer's agent. Negligent entrustment is particularly pointed at guard firms. It generally involves the improper use of a weapon. The plaintiff must prove that the employer knew the employee or officer was incompetent or inexperienced in the use of the weapon, but failed to provide training to offset the employee's lack of knowledge.

A business may face challenges from more than one of these theories if involved in litigation.

Unlike the theory of respondeat superior, negligent hiring and retention allows the employer to be held liable for actions of employees outside the scope of their duties. It is only necessary to prove that the employer was negligent in hiring and retention practices.

Hiring and retention suits are not limited to employees who injure customers. Violence against fellow employees may also result in litigation. While such violence by a disgruntled worker may be viewed as a random, unpreventable act, the employer's failure to foresee the potential of that act may be called into play in a lawsuit. According to "Duty of Care Standards," an employer has a responsibility to provide a safe work environment.

In the landmark case *Tarasoff v. Regent of University of California* in 1976, the court identified the factors necessary for Duty of Care Standards to apply. These include: (1) foreseeability of harm; (2) connection between the incident and the injury sustained; (3) degree of injury; (4) blame attached to the defendant's conduct; and (5) policy of preventing future harm.

Foreseeability - an employer's knowledge of the potential for threats of violence - is an integral part of the