

## Plans to prevent workplace violence urged

By Gabrielle Banks February 11, 2013

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A few years ago, a Harrisburg lawyer was leading an onsite training on violence prevention in the workplace when a stranger barged into the room, headed straight for the lawyer and threatened: "I have a gun."

The attorney, Shaun D. Henry, a partner at McNeese Wallace & Nurick, took a moment to note that the executives in the session looked shaken as they sat, frozen in their places. Then he broke character and explained the assailant was actually his colleague and the exercise was meant to draw attention to their lack of a contingency plan.

But it was not merely a stunt to keep their attention.

While homicides at work are statistically rare, they do happen. In all, 358 employees were killed or injured on the job by gunfire in 2011, the latest year data is available from the Bureau of Labor Statistics. Fifteen fatal workplace shootings occurred in Pennsylvania, and three -- out of a total of 29 workplace fatalities -- happened in Pittsburgh.

The motivations for these events vary. About two-thirds of workplace homicides result from robberies; the rest stem from conflicts between employees, between employees (or ex-employees) and management, between employees and their relatives, or as a result of murder-suicides.

PG graphic: Firearm homicides in the workplace are rare

(Click image for larger version)

The majority of workplace shootings occur in the private sector, often in retail establishments. Four out of five workplace victims are male. Whereas men are more frequently killed at work by a robber, nearly 40 percent of women who are killed on duty are slain by a domestic partner or relative.

Like the trainees in Harrisburg, most employees have not been properly prepped for a violent incident. Only 30 percent of employers had a violence prevention policy in place, according to a 2006 Bureau of Labor Statistics study.

Therefore, in the 49 states in which the concealed carrying of weapons is legal, Mr. Henry and other violence prevention experts recommend employers conduct preemptive threat assessments and clearly state their policies about whether weapons are permitted at work.

An epidemiology study in the American Journal of Public Health found workplaces where guns were specifically allowed were 6.8 percent more likely -- or five to seven times more likely, depending on how you read the numbers -- to experience an employee homicide than workplaces that banned weapons. The study examined workplaces in North Carolina.

Paul McCauley, an emeritus professor of criminology at Indiana University of Pennsylvania who studies workplace violence, said mom-and-pop shops generally don't have any weapons policy, although larger businesses such as convenience store chains typically do: "They don't want employees in there fighting for money."

The national associations of jewelers and convenience store owners have stated that they believe armed employees only exacerbate a robbery. But workers in high-exposure professions such as taxi drivers and pizza delivery drivers may not check with higher-ups before stashing a handgun in the glove compartment.

The National Rifle Association leadership maintains the surest means to preventing a bad guy with a gun is a good guy with a gun.

Shira Goodman, of CeaseFirePA, disagreed: "We don't believe the solution to the problem in Newtown is more guns and arming more people." In Newtown, Conn., in December, elementary school students and educators were killed by an armed intruder.

A 2006 study by the Society for Human Resource Management found that 85 percent of employers surveyed believed businesses should be allowed to restrict firearms in the workplace.

That gets complicated in the 16 states (Alaska, Arizona, Florida, Georgia, Idaho, Indiana, Kansas, Kentucky, Louisiana, Maine, Minnesota, Mississippi, North Dakota, Oklahoma, Texas and Utah) that have passed laws protecting workers' right to keep a legally purchased gun locked in their cars in the company parking lot.

For Steve Albrecht, a former police officer who has run violence prevention trainings since the early '90s, these parking lot exceptions "send a mixed message to employees ... that it's OK to bring your gun to work and bring that gun back inside to protect yourself in the case of an active shooter."

Even when policies are unclear, employees seldom bring their weapons inside a work facility, Mr. Henry said.

But during hunting season, a night shift worker may have a rifle that he used that morning in the trunk or visible in a gun rack in the employer's parking lot, he said. "And the employer says, 'Hey, that's against our policy.' "

In the private sector, a company may set a no-guns policy as a condition of employment or a condition of entering its property, just as it may require protective goggles or prohibit drug use, said Ilya Shapiro, a senior fellow in constitutional studies and editor-in-chief of the Cato Institute's Supreme Court Review.

"They can say we don't want you to carry a gun. It's a basic property right," he said.

The public sector is sometimes subject to different rules. For example, in Colorado, Mississippi, Oregon, Utah and Wisconsin, individuals may carry concealed weapons on public college campuses -- including at disciplinary hearings, faculty meetings, job performance evaluations and in dormitories. Information about who on campus might have a concealed carry permit is not publicly available.

Mr. Shapiro said he would argue, from a libertarian perspective, that public employers in right-to-carry states should be required to show a need to prohibit firearms.

"Not every government space is a sensitive space. There's a cost," he said.

In 2008, the Supreme Court in *Columbia v. Heller* ruled that the D.C. handgun ban was unconstitutional because it violated the right to bear arms on private property under the Second Amendment. Since then, the courts have been backlogged with cases testing whether the Second Amendment applies on public property.

Hammering out policies regarding personal weapons is often a balancing act.

On the one hand, employers must look out for the common good, upholding their duty to maintain a workplace "free from recognized hazards," as the Occupational Safety Health Act requires.

Workers' compensation law holds employers responsible for injuries to their employees. And civil rights provisions require employers to protect workers from several forms of harassment, including threats or violence.

In addition, employers may face civil suits for negligently hiring a dangerous person or for failing to provide adequate onsite safety, supervision or training.

On the other hand, employers must heed employees' individual rights -- the right to seek employment, the right to privacy. They might hang onto problematic employees to avoid wrongful termination, civil rights, Americans with Disabilities Act or anti-defamation suits.

Even where there is no confidentiality agreement, concern over liability for defamation or privacy infringement can make employers hesitant to warn others about a possibly dangerous past or present employee.

Employers must weigh costs and benefits and run their policies by their legal counsel.

"Whether it's a personal liability -- that you're going to later feel horrible -- or a financial liability, you have got to consider your environment and what steps you're going to take. We do suggest you look at it on a case-by-case basis," Mr. Henry said.

In the end, there's no simple answer. The majority of employee fatalities are perpetrated by a robber, with the next largest group of cases involving "high-risk terminations" perpetrated by a co-worker, former co-workers or contractor, followed by domestic violence shootings.

The least common group of assailants are the ones that generate the most attention: suicidal mass murderers. Because the ultimate objective is suicide, Mr. Albrecht said, these shootings are the most difficult to avert.

Read more: <http://www.post-gazette.com/stories/business/legal/plans-to-prevent-workplace-violence-urged-674296/#ixzz2KbmgMMvS>