CAL/OSHA UPDATE ON WORKPLACE VIOLENCE PREVENTION FOR GENERAL INDUSTRY

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Because You're Different

ASPEN RISK MANAGEMENT GROUP A TRISTAR COMPANY

A LITTLE ABOUT YOURSELF

HOW WOULD YOU RATE YOUR WORKPLACE VIOLENCE PREVENTION KNOWLEDGE RELATING TO THE CA STANDARD?

WORKPLACE VIOLENCE FATALITIES (CALIFORNIA 2023 – MOST RECENT DATA)

Total workplace fatalities: 439

Violent acts (95):

- **Homicides (53)** – 44 shootings, 9 other causes
- **Suicides (42)** – 24 hangings, 12 firearms, 3 jumps, 3 other

HOMICIDES AT WORK (53 TOTAL)

Mechanisms:

- 44 shootings
- 9 other (stab, beating, other)

High-risk work contexts:

- **Retail/service:** robbery, public disputes
- **Security/protective service:** confrontations, armed conflict
- **Agriculture/remote:** coworker violence in isolated worksites
- **Domestic disputes:** spilling into workplaces

SUICIDES AT WORK (42 TOTAL)

Methods:

- Hanging/strangulation: 24
- Firearm (self-inflicted): 12
- Jump from building/structure: 3
- Other mechanisms: 3

WHERE THESE EVENTS HAPPEN (WORK SETTINGS)

Elevated-risk workplaces in CA (2023):

- **Retail/food service:** public access, cash handling, late shifts
- **Security/protection:** high exposure to confrontation, armed risk
- **Agriculture/remote sites:** coworker disputes, communal housing, isolation
- **Lone workers/field staff:** isolated, no backup, public exposure

WHERE IT APPLIES

- All employers, employees, places of employment, and employer-provided housing
- Exemptions
  - Most health care, service categories, and operations (CCR T8 3342)
  - Department of Corrections and Rehabilitation (if compliance w/3203)
  - Law enforcement (Title 11 if compliance with POST)
  - EEs teleworking from the location of the EE's choice (not under control ER)
  - <10 employees and not accessible to the public

HOW WOULD YOU RANK WORKPLACE VIOLENCE AS A THREAT TO YOUR ORGANIZATION?

BACKGROUND AND UPDATES

- **Type 1 violence** – Workplace violence committed by a person who has no legitimate business at the worksite, and includes violent acts by anyone who enters the workplace or approaches workers with the intent to commit a crime.
- **Type 2 violence** – Workplace violence directed at employees by customers, clients, patients, students, inmates, or visitors. *Patrons or similar.*
- **Type 3 violence** – Workplace violence against an employee by a present or former employee, supervisor, or manager.
- **Type 4 violence** – Workplace violence committed in the workplace by a person who does not work there, but has or is known to have had a personal relationship with an employee.

BACKGROUND AND UPDATES

- SB 553 signed 9/30/2023: California's Workplace Violence Prevention (Labor Code §6401.9)
- Applies to most employers in California; **exemptions**: law enforcement /correctional, less than 10EEs (no public access), & health care
- Written Workplace Violence Prevention Plan (WVPP) **July 1, 2024**
- SB 428 (effective 1/1/2025) expanded ER ability to seek **Workplace Violence Temporary Restraining Orders (TROs)** to cover certain harassment (non-violent) conduct
- Cal/OSHA directed to develop (Title 8, proposed §3343) — began in 2024, Major revisions May 2025, public comment closed July 2025
- **By 12/31/2025:** Cal/OSHA required to complete standard
- **2026:** The Occupational Health and Safety Standards Board expected to adopt the final standard

DRAFT UPDATES - APPLICABILITY & EXEMPTIONS

- Exemption applies **only if BOTH are true:**
  → Fewer than **10 total employees (company-wide)**
  → **No direct public contact** by any employee
- **Any public interaction = covered by WVPP**
- Example:
  - Warehouse with 8 staff, no customers = may be exempt
  - Coffee shop with 6 staff, serving customers = covered

CONFRONTATION LANGUAGE

- Draft **removes blanket ban** on confrontation
- Employers may require confrontation **only by trained/security staff**
- All other employees: observe, report, disengage
- Employees protected from **retaliation** for lawful self-defense

Sample statement from WVPP: Enforcing policies against confronting violent individuals.

REPORTING CHANNELS

- Must provide **multiple ways to report** workplace violence
- **Non-supervisory pathway required** (for Type 3 – employee-on-employee)
- Anonymous & third-party reports must be accepted

- Create a short, simple internal method (paper or digital):
  - Date, time, location of the incident
  - Individuals involved (if known)
  - Type of violence (Type 1–4)
  - Description of what happened (including digital threats if applicable)
  - Whether law enforcement/security was contacted
  - Immediate needs or follow-up requested

POST-INCIDENT INVESTIGATIONS

- Investigations must follow **defined timelines & content**
- Must include:
  - Incident details & participants
  - Contributing factors
  - Corrective actions taken
  - Verification of effectiveness

Violent Incident Investigation Form - 2025

MULTI-EMPLOYER COORDINATION

- Shared worksites (construction, malls, offices):
  - Employers must **coordinate training**
  - **Share reporting processes**
  - **Cooperate in investigations**

Coordination with Other Employers

RECORDKEEPING REQUIREMENTS

- Violent incident logs & investigations: **retain 5 years**
- Training records: **retain at least 1 year** **(probably good idea to limit to one year)**
- Applies to all covered employers

MESSAGING & SOCIAL MEDIA CARVE-OUT

- Employers not responsible for private threats **unless made aware (no duty to monitor social media or other)**
- Once aware, must treat as a report and investigate

SUMMARY OF DRAFT UPDATES TO STANDARD

- Exemption narrowed: few employers truly exempt
- Confrontation limited to trained/security roles
- Stronger reporting channels required
- Investigations must be structured & timely
- Coordination duties for multi-employer sites
- Longer retention of records
- Digital threats covered once employer is aware

RESTRAINING ORDERS

EXPANSION OF LEGAL PROTECTION

Current law allows employers to seek protection for employees facing violence at work

Jan 2025 Changes

* Adds union/collective bargaining representatives
* EEs have choice to be named in the protection order
* Even if EE opts out, protection can be sought
* Harassment included in addition to violence

SB 428 OVERVIEW

- Effective: **January 1, 2025**
- Expands Temporary Restraining Orders (TROs) to cover **harassment**, not just violence or credible threats
- Based on **California Code of Civil Procedure §527.8**

WHO CAN FILE A TRO

- **Employers**: Always have authority to protect employees.
- **Collective Bargaining Representatives**: Can file if representing employees in labor/employment matters.
- **Non-union workplaces**: Union reps cannot file without employee authorization.

HARASSMENT DEFINED & LEGISLATIVE INTENT

- Harassment is a **knowing and willful course of conduct** that:
  - Seriously alarms, annoys, or harasses the employee
  - Serves no legitimate purpose
  - Would cause a reasonable person to suffer substantial emotional distress
  - Actually causes substantial emotional distress
- Includes **stalking, persistent unwanted contact, or threatening behaviors**

EXAMPLE

- 65-year-old man obsessed with a 24-year-old employee
- Repeatedly visited business and called up to 100 times/day for months
- Initially **non-violent**, but escalated to threats of violence
- Employer and employee initially felt helpless
- SB 428 allows employers to act **before threats become violent**

EMPLOYER ACTIONS & TECHNOLOGY INTEGRATION

- Update workplace policies to include **SB 428 protections**
- Train HR and management on **filing TROs, identifying harassment, and early intervention**
- Document incidents thoroughly (logs, communications, employee statements)
- Consult legal counsel before filing
- Leverage technology:
  - **Anonymous reporting apps**
  - **Safety timers/check-ins**
  - **Panic buttons**
  - **Mass notifications for threats**

PRE – POST 2025

- **Key Differences: Pre-2025 vs. Post-2025**
- **1. Who Can File a WVRO**
- **Pre-2025:** Only employers could file a WVRO to protect employees from violence or credible threats of violence occurring at the workplace.
- **Post-2025 (SB 428):** Employers can now file a WVRO for harassment, even if the conduct does not involve violence or threats of violence. This expansion allows employers to seek protection for employees experiencing harassment that causes substantial emotional distress.

PRE – POST 2025

- **Scope of Protection**
- **Pre-2025:** WVROs were limited to situations involving actual or threatened violence at the workplace.
- **Post-2025 (SB 428):** Employers can seek protection for employees who have suffered harassment, as defined by the law, which includes a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, or harasses the person, and that serves no legitimate purpose.

OUR WORKPLACE VIOLENCE PREVENTION PLAN IS…

DO YOUR MANAGERS KNOW HOW TO HANDLE WORKPLACE VIOLENCE INCIDENTS?

BIG PICTURE OVERVIEW

- Written plan
  - Easily accessible to EEs, authorized EE representatives, and Cal/OSHA "at all times"
- No shut-off time (always on)
- Specific to hazards and corrective measures
- Standalone versus integrated with IIPP (WARNING)
- Templates from Cal/OSHA

13 CORE ELEMENTS

- **Responsibility**
- **Employee Involvement**
- **Coordination with Other Employers**
- **Reporting and Anti-Retaliation Procedures**
- **Employee Compliance**
- **Communication Procedures**
- **Emergency Response Procedures**
- **Training**
- **Hazard Identification & Evaluation**
- **Hazard Correction**
- **Post-Incident Response & Investigation**
- **Plan Review & Revision**
- **Additional Procedures (as required by Cal/OSHA or Standards Board)**

1-4

1. **Responsible parties** – names **or** job titles

2. **Active involvement of EEs** and authorized reps **(possible Survey)**
   - Developing and implementing the plan and training
   - Hazard identification, evaluating, and correcting WV hazards
   - Reporting and investigating

3. **Coordination with other employers** (Multi-Employer Worksite)
   - Roles, responsibilities, reporting, investigating, and reporting
   - Violent Incident Log responsibilities

4. **Accept and respond** to workplace violence reports
   - No retaliation for reporting

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5. **Compliance**
   - Method in place to ensure compliance for all employees

6. **Communication (with EEs)**
   - Reporting procedures (for violent incidents, threat, or other WV) to ER or LE
   - How concerns are investigated, followed-up, and corrective action

7. **Emergency Response**
   - Actual or potential
   - Effective means to alert EEs of the presence, location, and nature of WV emergencies
   - How to get help from ER/staff (if any), security (if any) and LE

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8. **Training**
   - Match literacy and language understood by EEs
   - Must be interactive
   - First established, annual refresher, and when new/recognized hazard
   - Includes:
     - Location of plan and how to participate in development and implementation
     - Reporting procedures
     - Workplace violence hazards
     - Violent Incident log and how to obtain

9. **Hazard Assessment/Inspection (Hazard ID Checklist)**
   - Procedures to identify and evaluate WV hazards
   - Periodic inspections to ID unsafe conditions and work practices, & EE reports and concerns
   - Inspection when
     - Plan is first established
     - After each WV incident
     - New/unrecognized hazard emerges

Workplace Violence Hazard Assessment Inspection Checklist

10-11

10. **Hazard Correction**
    - Corrected in a timely manner based on the severity of WV hazard, including when
        - Hazard is observed or as soon as discovered
        - Imminent hazard exists
        - There are EE reports and concerns

11. **Post-Incident Response and Investigation**
    - Provide immediate medical care or first aid to EEs who have been injured in the incident
    - Conduct a comprehensive investigation to include
        - Review of any specific risk factors and risk reduction measures
    - Identify all employees involved in the incident
    - Make available individual trauma counseling to all EEs affected by the incident
    - Conduct a post-incident debriefing as soon as possible after the incident with all EEs, supervisors, security, and others involved in the incident
    - Reviewing whether appropriate corrective measures developed under the Plan - such as adequate staffing, provision, and use of alarms or other means of summoning assistance, and response by staff or law enforcement - were effectively implemented
    - Soliciting from the injured EE and other personnel involved in the incident their opinions regarding the cause of the incident, and whether any measure would have prevented the injury

12-13

12. **Plan Review**
    - At least annually and as needed
        - Deficiency observed / apparent
        - After WV incident

13. **Recordkeeping and Documentation (Sample)**
    - Violent Incident Log **
        - Every WV incident is recorded
        - Omit any element of personal identifying information sufficient to allow identification of any person involved in a violent incident, such as the person's name, address, electronic mail address, telephone number, social security number, or other information that, alone or in combination with other publicly available information, reveals the person's identity
        - Review log when conducting a review of the Plan

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13. Recordkeeping and Documentation (continued)

- Five years
  - Records of hazard ID, evaluation, and correction
  - Violent Incident Log
  - Investigation (*remember, no medical information*)

- One year
  - Training records
    - Dates, summary, name/qualifications of instructor, names & job titles of attendees

- Note: Records of hazard ID, evaluation, and correction, training records, and Violent Incident Logs shall be made available to EEs and their representatives without cost within 15 days. *No listed requirement for access to investigations.*

VIOLENCE INCIDENT LOG

1. Date of Incident
2. Time of Incident
3. Location of Incident
4. Workplace Violence Incident Type
5. Description of Incident
6. Classification - Who Committed Violence
7. Employee Circumstances
8. Location Circumstances
9. Type of Incident
10. Consequences of Incident
11. Name of Person Completing Log Entry
12. Job Title of Person Completing Log Entry
13. Date of Log Entry

CONSIDER

1. **Injury and Illness Prevention Program (IIPP)**
2. **Emergency Action Plan**
3. **Security Measures**
4. **Crisis Management Plan**
5. **Employee Assistance Program (EAP)**

WORKAROUNDS

Interactive training

- **"Training not given in person shall provide for interactive questions to be answered within one business day"**

Employee plan involvement

- **"…reviewed at least annually in conjunction with employees, and…**
- **"EEs from designated areas and *union representatives* will be invited to attend meetings with representatives of… raise and discuss issues pertaining to workplace violence prevention"**

Threat Assessment

- **Add to inspection checklist**

THE MINI ACTIONABLE CHECKLIST

- Do you have a **written WVPP** accessible to employees? (Yes/No)
- Is a responsible person named, with contact info listed? (Yes/No)
- Have employees received **WVPP training** (documented)? (Yes/No + date)
- Is a **violent incident log** maintained and accessible? (Yes/No)
- Are there procedures to **accept reports** via multiple channels and protect against retaliation? (Yes/No)
- Are **post-incident investigations** documented (what, who, timeline, corrective actions)? (Yes/No)
- Is the plan reviewed **annually and after incidents**? (Yes/No)
- For multi-employer worksites, is there documented **coordination** with other employers? (Yes/No)
- Have you considered **SB 428 TROs** as a response option? (Yes/No)
- Do you retain training records (1 year) and violent incident logs (5 years)? (Yes/No)

RECOMMENDATIONS & NEXT STEPS

- Conduct Workplace Violence Hazard Assessment (or do your annual review and assessment)
- Create Incident Log and track events
- Assign a WVPP owner who is accountable and can answer inspector questions.
- Use the Cal/OSHA model plan (not a great plan) or other resources as a baseline but **document site-specific hazards** and controls. **Use work-arounds for your specific industry**
- Consider legal counsel for TROs (SB 428) and to understand privacy/employment law implications.
- Establish a **quarterly mini-review** process to capture incidents and update the plan.

Q & A

AT LEAST ONE TAKEAWAY

RESOURCES

RESOURCES

- Presentation
- Violent Incident Log (in Excel)
- Threat Assessment Checklist
- Multi-employer Checklist
- Violent Incident Investigation Form
- OSHSB https://www.dir.ca.gov/oshsb/oshsb.html
- Cal/OSHA template: https://www.dir.ca.gov/dosh/dosh_publications/Model-WPV-Plan-General-Industry.docx
- Cal/OSHA FAQ: https://www.dir.ca.gov/dosh/Workplace-Violence/FAQ.html

Stay Vigilant!

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