



Attorney Presses Shops to Take the Steps They Can to Help Prevent Workplace Violence

The mass shooting in San Bernardino, CA, in December in which a health department employee (along with his wife) shot and killed 14 of his co-workers at a holiday party occurred just 80 miles from business attorney **Cory King's** law firm. So a month later when he was scheduled to discuss human resource issues at the quarterly Collision Industry Conference (CIC), King knew workplace violence was a logical if unpleasant topic on which to focus.

"It's a new topic for CIC, but it's an unfortunate reality of our society today," King said.

He offered a number of steps employers can take in order to help avoid violence in the workplace. The first, he said, is a good written policy that prohibits fighting, verbal threats, threatening conduct, horseplay (arm-wrestling, strength contests, etc.) or the possession of any weapon or ammunition on company property.

"That has been a strict policy we have espoused even though I am a card-carrying lifetime member of the NRA," King said. "Typically, at least in the past, the best way to stay safe in a workplace has been to prohibit weapons in the workplace."

Even horseplay, he said – "slap-fights" or someone pretending to drive toward another employee with a car to scare them – can start out as fun but can escalate quickly.

Written Policy Is Not Enough

The next step is consistent strict enforcement of that policy, he said. Make it clear both in the policy and in your interactions with employees that anyone found to have been engaged in any of those activities is subject to discipline, up to and including termination.

Such consistency includes not excusing the employee with a gun in his vehicle because you know he's leaving for a hunting trip after work, King cited as an example.

"Or don't just think: 'Oh, that's Johnny; he has to blow off steam every once in a while. We're just going to let that go,'" King said. "If you're being inconsistent in these policies, you're not going to have credibility."

Does that mean a no-weapons policy applies to company owners as well?

King said it does, but some companies have shifted to a policy that allows employees who are legally-authorized concealed-carry permit holders to carry firearms at work. The policy just needs to be consistent for owners and employees, and consistently-enforced.

But as he does each time he speaks at CIC, King cautioned that his presentations are not legal advice and that it's always important to understand your particular state's laws. In terms of this topic, for instance, he said some states that allow concealed or even open-carry of firearms now have laws prohibiting employers from having no-weapon policies at the workplace.

Take Every Threat Seriously

Another key step to working to prevent workplace violence, King said, is treating every threat seriously.

"It's like being at the airport. You don't joke about bombs when you're going through the [security] line," King said. "Same thing in your workplace. You take it seriously. You would rather make the mistake of embarrassing somebody than having someone end up dead on your watch."

He said businesses also should work to establish a good relationship with local law enforcement to help ensure they respond if you make a "keep-the-peace" request.

"If you have a volatile employee, and you know that when you fire or discipline them, that they are going to have a problem with it, that they may get angry or violent, don't wait for that to happen," King counseled. "Call the police and say, 'Look, we are terminating Johnny at 2 p.m. today. Johnny has a violent temper. We will take our appropriate precautions on our end to make sure we keep the situation calm, and we're going to escort him from the premises, but just in case, can you have an officer onsite in case Johnny has a problem and it escalates?' I've yet to hear of a local law enforcement agency that would not say, 'Of course we will have someone there. Thank you for letting us know.' They would

rather deal with that than have to deal with a really bad situation."

If warranted, King said, a restraining order also can be obtained against a potential violent employee. Certain conditions have to be met in order to get a court to do this, however, he said. There has to be an imminent threat of serious bodily injury or harm to an individual, and the person must have immediate access to a weapon of some kind.

"You need to be willing to put that in a sworn declaration," King said. "But if it's bad enough that you are truly fearing for your life or the life of someone else, and that person has made threats directly or indirectly and has the ability to imminently carry out that threat, you can and should talk to a lawyer about your options for getting a restraining order."

Such restraining orders will be served on the person by the local sheriff, he said, and usual involve confiscation of firearms by law enforcement until a hearing can held 21 days later.

Remain Vigilant

Lastly, King said, the other step shop owners can take to help prevent workplace violence is what he called "situational awareness" or "constant vigilance." He said shop owners should think about, for example, how well they control access to the building or property.

"Do you have 15 doors to the shop all of which are open all the time and anyone can just walk in from the back alley without you even knowing they are there," King asked shop owners to consider.

"Always be aware of what's going on in your shop," he said. "Know how your employees are getting along. Find out if someone is being a bully or threatening people. Don't let the first time this type of situation comes up be the first time you've given some serious thought about what it is you are going to do. You have an obligation to do so in order to protect your employees."



Cory King

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