WORKPLACE VIOLENCE IN NEW YORK STATE

Presented by: **New York Municipal Insurance Reciprocal**

TOWN OF HAMMOND

St. Lawrence County, New York

NYS WORKPLACE VIOLENCE PROTECTION ACT
(N.Y. LABOR L. 27-B)

Legislation enacted in 2006

Requires public employers to develop policies and programs to minimize and prevent workplace violence.

Includes political subdivisions, fire departments, government agencies, public authorities.

WORKPLACE VIOLENCE IN NY STATE

OSHA General Duty Clause

Employers must provide a place of employment free from recognized hazards likely to cause death or serious physical harm to employees

Kingston, NY - February 2014

Kingston (Daily Freeman News) – Shooting at NYC Department of Environmental Protection Agency

David Reese, 53 of Gilboa, accused of killing co-worker, Aron Thomas, 33 of Olivebridge, with a handgun, at 6:45am in their workplace.

Both men had been previously warned about their use of inappropriate language and actions in their workplace.

There was a history of animosity between the two men when they were assigned to working in the same area.

Reese was sentenced to 25 years to life in prison.

Oswego, NY - August 2014

– An Oswego County man was arrested after he allegedly threatened to shoot people at the Palermo Town Hall.

Oswego County Sheriff's Investigators say 77-year-old Jacob Heer threatened to bring his shotgun to the town hall and shoot people over his tax bill.

Town officials say Heer had paid the bill, however after they confirmed payment, he remained very hostile.

Heer was charged with making a terroristic threat, a class D felony. He was arraigned in Palermo Town Court and jailed.

NYS WORKPLACE VIOLENCE PREVENTION ACT

Purpose and Intent

To ensure that the risk of workplace assaults and homicides are evaluated by affected public employers and their employees. And that such public employers design and implement protection programs to minimize the hazard of workplace violence to employees.

1992-Watkins Glen -Triggered WPVP LAW

John T Miller, 50, of Ohio, who's paycheck was being garnished for child support payments for a daughter.

He threatened the Watkins Glen Child Support Collection office for 6 months, the employees asked for help and got none.

Staff asked their boss to put in a window or door or some safety mechanism, but nothing was done as he was not a local threat

He then took a job that brought him close to Watkins Glen.

He called the day before and warned he would no longer be paying child support.

- The Staff notified the local Sheriff
- The next day, man entered an office and shot Phyllis Caslin, 54, an investigator in the support unit.
- He then walked across the hall and shot three other women, Florence A. Pike, 50, the supervisor of the unit; Nancy J. Wheeler, 48, a senior account clerk, and Denise M. Van Amburg, 28 a part-time account clerk.
- All four women died immediately after being shot, Sheriff said.
- Sheriff heard shots and came running and met him in the stairwell, where he told them he he had killed everyone he had come to kill and put his gun to his own head and killed himself in front of the officers.

Workplace Violence Statistics

- According to the U.S. Bureau of Labor and Statistics (BLS):
- 392 Workplace Homicides in 2020
- 37,060 non-fatal injuries in the workplace resulting from an intentional injury by another person.
- Aggressive behavior is on the rise, from recent survey:
  - 58% indicated that the threat of physical harm is on the rise
  - 40% said they're more concerned about t

WHAT IS WORKPLACE VIOLENCE

Workplace violence is defined as any physical assault or act of aggressive behavior that occurs where a public employee performs any work-related duty in the course of their employment. This includes but is not limited to:

- An attempt or threat, whether verbal or physical, to inflict physical injury upon an employee.
- Any intentional display of force which would give an employee reason to fear or expect bodily harm.
- Intentional and wrongful physical contact with a person without his or her consent that entails some injury.
- Stalking an employee to cause fear of harm to the employee's physical safety and health when such stalking has arisen through and in the course of employment.
- This includes any location where work is being done - temporary or permanent, on-site or off-site, roads, recreation programs, etc.

SETTING UP A WORKPLACE VIOLENCE PREVENTION PROGRAM

What must be included in a workplace violence prevention program?

A: The workplace violence prevention program must include:

- the list of workplace violence risk factors identified in the risk evaluation.
- the safeguards your employer will use to reduce or eliminate the risk of workplace violence. For each risk factor identified in the risk evaluation you must implement a safeguard to reduce the risk of violence to employees.
- a ranking of the safeguards your workplace violence prevention program will use to reduce the risk of workplace violence from most effective to least effective.
- an outline or lesson plan for employee training on workplace violence.
- a description of your workplace violence reporting system.
- a plan to review workplace violence incidents report annually.
- a description of how information will be kept confidential for security reasons.

WHAT DOES THE WORKPLACE VIOLENCE RISK EVALUATION HAVE TO INCLUDE?

The risk evaluation must include: an examination of any records of workplace violence incidents throughout the previous year; an assessment of any relevant policies, work practices, and work procedures that may impact employee's risk of workplace violence; and an evaluation of the physical workplace to determine what factors are present that could put employees at risk of workplace violence

CATEGORIES OF WORKPLACE VIOLENCE

- **TYPE 1** – Violent acts by criminals who have no other connection with the work place, but enter to commit robbery or other crime.
- **TYPE 2** – Violence directed at employees by customers, the public, patients, students, inmates, or any others for whom your municipality provides services.
- TYPE 3 – Violence against coworkers, supervisors, or managers by a present or former employee.
- TYPE 4 – Violence committed in the workplace by someone who doesn't work there, but has or had a personal relationship with an employee – an abusive spouse or domestic partner.

WORKPLACE VIOLENCE POLICY

Board-adopted policy statement (posted at all sites)

Risk Evaluations (security assessments)

Formal written program - Mandatory for public employers with at least 20 full-time permanent employees, and must include:

- ✓Risk factors identified from a review of workplace evaluations and employee surveys
- ✓Methods to prevent incidents of occupational assaults and homicides
- ✓A system for reporting and investigating and following up on incidents

Staff Training on policy, risk factors, prevention measures

Documentation and maintenance records of WPV incidents

WORKPLACE RISK EVALUATIONS

Response Team must inspect/assess or examine the workplace.

Evaluation should include:

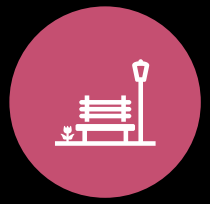
- Physical Plant Inspections – entrances, public access, public interaction, exterior lighting, emergency systems, etc.
- Employee Input – surveys, interviews, on-going/ever-present hazard identification and reporting, focus groups and union involvement
- Review previous incident/accident reports and occupational injury and illness logs- (SH 900, C-2, etc.)

WORKPLACE EXPOSURES

Exposures Vary by Department, Locations, Work Duties, etc.

Office Exposures – Dealing with public, "soft-targets", open buildings

Highway/DPW Exposures – away from garage, over-the-road issues (road rage, work zone anger)



Recreation Programs – parks, pools, etc.

Public Libraries – open to the public, limited security controls

WHO MUST BE TRAINED

- **<u>All</u> Employees MUST be trained**
  - Full-time
  - Part-time
  - Seasonal-Recreation Employees
  - Volunteers, including Fire Services, Senior Center personnel, Elected/Appointed Officials…
  - **Anyone whose actions are directed by the Municipality.**

EMPLOYEE TRAINING AND EDUCATION

The Workplace Violence Prevention Act

Location and details of WPV Policy/Program

- Note: WPV Program can be a component of a formal, comprehensive Safety & Health Program

Risk Factors to Staff – *discuss by department/location*

Protective Measures – *discuss by department/location*

Employer-initiated Prevention Measures

How to report a WPV Incident

RISK FACTORS

- Contact with the public/community- based settings
- Uncontrolled access to the workplace ***"Soft Targets"***
- Working alone, in small numbers, at night
- Handling money/guarding valuable property
- Delivery of passengers, goods & services
- Poor outdoor lighting
- High crime areas/prevalence of handguns
- Lack of training in recognizing and managing hostile, aggressive behavior
- ***Many More – discuss with each department!!***

PROTECTIVE MEASURES

- Strength In Numbers – *best rule for employee safety*
- Securing/Controlling Public Access
- Minimize Cash on Hand – *daily bank deposits*
- Avoid working alone – *secure facility when you can*
- Training – De-escalation techniques
- Training - Conflict Resolution
- Availability of local law enforcement
- Engineering Controls – redesign work space, panic alarms, video surveillance, magnetometers, etc.
- Improve Facility Protections – *lighting, barriers, egress, etc.*
- *Many More – discuss with your department!!*

PREPLANNING & PREPARATION

- Escape routes?
- Shelter in Place?
- Improvised weapons for self protection

INCIDENT REPORTING PROCEDURES

- WPV Incidents – should be in writing
- Reports should be completed by appropriate supervisors (department or administrative)
- Reviewed with employees
- Investigation completed
- **Confidentiality stressed**
- **Retaliation Prohibited**

INCIDENT REPORT

What details should be recorded after an incident occurs?”

- Location
- Time of Day
- Incident Details
- Staff Involved
- Nature/Extent of Injuries
- Names of Witnesses

INCIDENT REPORT

Report forms should be available to all employees in all municipal buildings and on all work shifts

[INSERT EMPLOYER NAME]

APPENDIX 5

Sample Workplace Violence Incident Report

1. Date of Incident:

2. Time of day/shift when the incident occurred:

3. Workplace location where incident occurred:

4. Provide a detailed description of the incident below.
Note: If the case is a "privacy concern case," remove the name of the employee who was the victim of the workplace violence and enter "PRIVACY CONCERN CASE" in the space normally used for the employee's name. Privacy concern cases include cases involving:

- Injury or illness to an intimate body part or the reproductive system;
- Injury or illness resulting from a sexual assault;
- Mental illness;
- HIV infection;
- Needle stick injuries and cuts from sharp objects that are or may be contaminated with another person's blood or other potentially infectious material; and
- Other injuries or illnesses, if the employee independently and voluntarily requests that his or her name not be entered on the report.

DESCRIPTION (include the following):
Name of employee reporting the incident (unless a "privacy concern case");
Names and job titles of involved employees;
Name or other identifier of other individuals involved;
Nature and extent of injuries arising from the incident;
Names of witnesses; and
Events leading up to the incident and how the incident ended

ANNUAL

- OSHA/PESH Logs
- Incident Reports
- C-2 & SH 900 Reports
- Police Reports
- Employee/Union Grievances
- Records of Threats

NYS WORKPLACE VIOLENCE PREVENTION ACT

THE 4 TYPES OF WORKPLACE VIOLENCE ARE COMMITTED BY:

Strangers: 31% of violent incidents committed by robbery.

Customers or clients: 20% of workplace homicides.

Co-workers: Roughly 15% of workplace homicides. Revenge is the most common cause.

Personal relationships: 7% of workplace homicides. Women are at greater risk for victimization than men.

June 2012-Buffalo, NY

Domestic Violence-Spills over to the Workplace

Dr. Timothy V. Jorden, 49, killed his one-time lover, Jackie Wisniewski, 33, a nursing student who died on the floor of the Erie County Medical Center.

Ms. Wisniewski had reported being afraid of Jorden and had broken off their relationship.

Dr. Jorden was later found dead at his own home from a self-inflicted gun shot wound.

WORKPLACE VIOLENCE IS NOT ALWAYS ABOUT WORK

It's easy to assume "disgruntled workers" are usually to blame. But that's not necessarily the case.

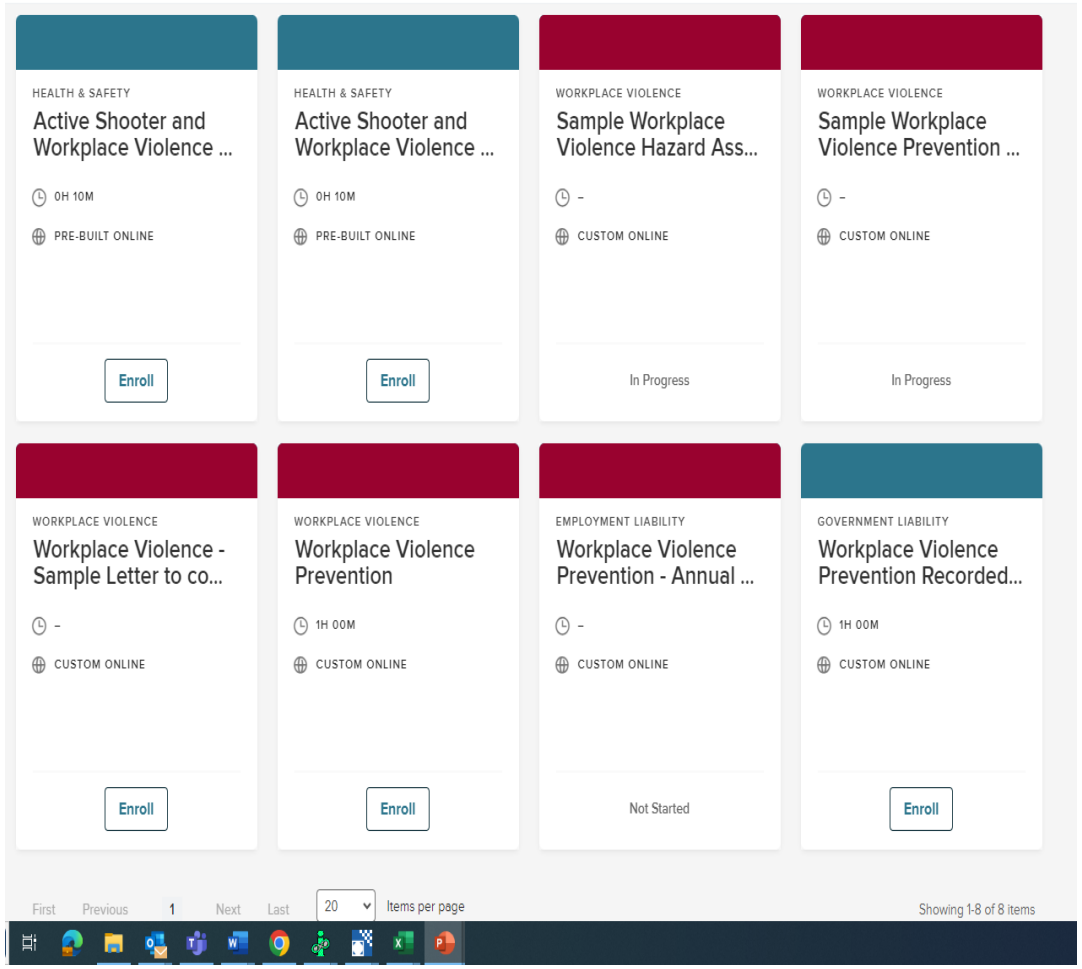
In two-thirds of workplace homicides, the assailant has no known personal relationship with the victims, according to the Bureau of Labor Statistics.

When perpetrators of workplace violence are employees, they may not have taken the action because they're unhappy on the job.

"Sometimes they commit workplace violence because of something else going on in their lives,"

"there are a lot of unhappy employees, but most aren't going to shoot anyone.“

Encouraging employees to use the EAP programs and/or seek help when needed can significantly reduce risks for everyone.



SAMPLE POLICY, LETTERS, TRAINING, ASSESSMENTS

RECOGNIZING THE LEVELS OF VIOLENCE AND RESPONSE

LEVEL ONE

(Early Warning Signs)

The person is:

- intimidating/bullying
- Discourteous/disrespectful
- Uncooperative
- Verbally abusive

LEVEL 2

ESCALATION OF THE SITUATION

THE INDIVIDUAL MAY

- argue with customers, vendors, co-workers, and management;
- refuse to obey agency policies and procedures;
- sabotage equipment and steals property for revenge;
- verbalize wishes to hurt co-workers and/or management;
- send threatening note(s) to co-worker(s) and/or management; and/or
- see self as victimized by management (me against them).

LEVEL 3
FURTHER ESCALATION – USUALLY RESULTING IN AN EMERGENCY RESONS

The person displays intense anger resulting in:

suicidal threats;

Physical fights, display of extreme rage and/or utilization of weapons to harm others

Destruction of property

DEALING WITH VIOLENT SITUATIONS

Do be	Do be interested in what the person has to say and let the person speak his or her mind.
Do remain	Do remain relaxed and project a state of calmness. Position yourself at a right angle to the individual with seeing the exit.
Do practice	Do practice empathetic listening
Do establish	If unreasonable behavior persists, do establish ground rules. Calmly describe the consequences of violent behavior.
Do use	Do use delaying tactics that will give the person time to calm down.
Do accept	Do accept criticism in a positive way and when the person is correct, acknowledge him or her. If the criticism is unwarranted, ask clarifying questions.

DEALING WITH VIOLENT SITUATIONS

Don't reject	Don't reject all of the person's demands from the start.
Don't use	Don't use styles of communication that will turn the person off, such as brush-offs, coldness, or the run-around.
Don't stand in	Don't stand in challenging positions, such as crossing arms or hands on hips.
Avoid	Avoid physical contact, finger pointing, or long periods of sustained eye contact.
Don't make	Don't make sudden or threatening movements.
Steady	Steady the tone, volume and rate of your speech.
Don't challenge, threaten, or dare	Don't challenge, threaten, or dare the person.
Don't attempt	Don't attempt to bargain with a threatening person. Never make false statements or promises that you can't keep.
Don't try	Don't try to make the situation seem less serious than it is.

QUESTIONS

Your Town Compliance Reps–OR-

NYMIR MEMBER SERVICES

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