



Wiring a green tomorrow



Joint Safety Committee  
Oregon Pacific-Cascade Chapter, NECA  
IBEW Local 280  
Thursday March 28, 2024  
Meeting MINUTES

Roll call: meeting called to order, **Zoom only**  
Approval of previous Meeting Minutes

### **Communications**

Fallacies of Arc Flash and I gave a method of accident investigation using 5 whys?  
In addition we talked about assessing to see if we have a good safety culture. I will post PPT and a set of questions online for all to use.  
Also discussed some possible jobs to visit for May Safety Focus Walk

### **OSHA Injury/Incidents (July-December)**

#### Recordable

- 1.1 Back Injury lifting customer's 200lb AV 1.23
- 1.2 Finger poke screw through gloves 2.13
- 1.3 Wrist/arm rotating light pole 2-16
- 1.4 Foreign substance in eye unknown 2.21
- 1.5 Hand injury, laceration, using porta band 3.12

#### First Aid/Near-miss

- 1.6 Worker fell on a pipe when ladder slipped 1.10
- 1.7 Cut finger with porta band 1.31

### **Class Schedule-** Posted online

**Next Meeting** – April 25<sup>th</sup>, 2024

### **Adjournment**

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Vaughn Pugh  
Integrity Safety-Consultant

March 28, 2024



Wiring a green tomorrow



Joint Safety Committee  
Oregon Pacific-Cascade Chapter, NECA  
IBEW Local 280  
Thursday April 25<sup>th</sup>, 2024  
Meeting AGENDA

Roll call: meeting called to order, In-Person and Zoom  
Approval of previous Meeting Minutes

**1.0 Communications**

- 1.1 Jobs to visit for Safety Week May 8<sup>th</sup>.
- 1.2 How we doing on any needs you might have that I can help?

**2.0 New Business- (safety packets distributed)**

- 2.1 Securing loads and Ladder safety
- 2.2 Excerpt from Packet
- 2.3 Other items

**3.0 OSHA Injury/Incidents (January-June)**

Recordable

- 3.1 Back Injury lifting customer's 200lb AV 1.23
- 3.2 Finger poke screw through gloves 2.13
- 3.3 Wrist/arm rotating light pole 2-16
- 3.4 Foreign substance in eye unknown 2.21
- 3.5 Hand injury, laceration, using porta band 3.12

First Aid/Near-miss

- 3.6 Worker fell on a pipe when ladder slipped 1.10
- 3.7 Cut finger with porta band 1.31

**4.0 Class Schedule- Posted online**

*All NECA Contractors are reminded that work related accidents and incidents should be reported via the Accident/ Incident report to the NECA office for consideration by the committee. If you need a copy of the report, contact the Chapter office.*

***IMPORTANT REMINDER:** The variance granted to NECA/IBEW by OR-OSHA requires participation by both Labor and Management Representatives at the Joint Innovative Safety Committee. For the Committee to be viable and provide assistance to Contractors and IBEW Members we need to have consistent attendance of all committee members.*

**Next Meeting: May 23<sup>rd</sup>, 2024**



POWERFUL TRADITION ELECTRIFYING FUTURE  
OREGON PACIFIC-CASCADE CHAPTER

# **Safety Meeting Packet**

## **April 2024**

1040 Gateway Loop, Suite A ♦ Springfield, OR 97477

541-736-1443 Office ♦ 541-736-1449 Fax

**2024 LABOR HOURS RECAP  
ALL SIGNATORY CONTRACTORS**

Local#	Contract Type	Annual Total	Average Hrs/Mo	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
280	Inside	175,946	2	87,973	74,012	101,934									
280	Inside Appr.	45,663	2	22,832	18,960	26,703									
280	MAI	0	0	#DIV/0!	0	0									
280	Material	6,269	2	3,135	5,609	660									
280	Residential	18,853	2	9,427	6,746	12,107									
280	Resi. Appr.	8,518	2	4,259	3,512	5,006									
280	S & C	30,817	2	15,409	13,307	17,510									
280	S & C Appr.	8,560	2	4,280	3,633	4,927									
280	Support Tech/MOU	13,382	2	6,691	5,417	7,965									
	<b>TOTAL 280</b>	<b>308,008</b>	<b>2</b>	<b>154,004</b>	<b>131,196</b>	<b>176,812</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
	<b>Total NECA</b>	<b>274,789</b>	<b>2</b>	<b>137,395</b>	<b>114,608</b>	<b>160,181</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
	<b>% NECA</b>	<b>89.21%</b>	<b>2</b>		<b>87.36%</b>	<b>90.59%</b>	<b>#DIV/0!</b>	<b>#DIV/0!</b>	<b>#DIV/0!</b>	<b>#DIV/0!</b>	<b>#DIV/0!</b>	<b>#DIV/0!</b>	<b>#DIV/0!</b>	<b>#DIV/0!</b>	<b>#DIV/0!</b>
Local#	Contract Type	Annual Total	Average Hrs/Mo	Jan	Feb	March	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
659	Inside	33,010	2	16,505	14,003	19,007									
659	Inside Appr.	12,515	2	6,258	5,743	6,772									
659	Material	678	2	339	300	378									
659	Residential	773	2	387	381	392									
659	Resi. Appr.	698	2	349	366	332									
659	S & C	1,445	2	723	584	861									
659	S & C Appr.	0	0	#DIV/0!	0	0									
	<b>Total 659</b>	<b>49,119</b>	<b>2</b>	<b>24,560</b>	<b>21,377</b>	<b>27,742</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
	<b>Total NECA</b>	<b>36,313</b>	<b>2</b>	<b>18,157</b>	<b>15,350</b>	<b>20,963</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
	<b>% NECA</b>	<b>74%</b>	<b>2</b>		<b>72%</b>	<b>76%</b>	<b>#DIV/0!</b>	<b>#DIV/0!</b>	<b>#DIV/0!</b>	<b>#DIV/0!</b>	<b>#DIV/0!</b>	<b>#DIV/0!</b>	<b>#DIV/0!</b>	<b>#DIV/0!</b>	<b>#DIV/0!</b>
Local#	Contract Type	Annual Total	Average Hrs/Mo	Jan	Feb	March	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
932	Inside	21,683	2	10,842	10,071	11,612									
932	Inside Appr.	8,328	2	4,164	3,824	4,504									
932	Residential	327	1	327	0	327									
932	Resi. Appr.	923	2	462	378	545									
932	S & C	1,430	2	715	455	975									
932	S & C Appr.	184	1	184	0	184									
	<b>Total 932</b>	<b>32,875</b>	<b>2</b>	<b>16,438</b>	<b>14,728</b>	<b>18,147</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
	<b>Total NECA</b>	<b>25,414</b>	<b>2</b>	<b>12,707</b>	<b>11,471</b>	<b>13,943</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
	<b>% NECA</b>	<b>77%</b>	<b>2</b>		<b>78%</b>	<b>77%</b>	<b>#DIV/0!</b>	<b>#DIV/0!</b>	<b>#DIV/0!</b>	<b>#DIV/0!</b>	<b>#DIV/0!</b>	<b>#DIV/0!</b>	<b>#DIV/0!</b>	<b>#DIV/0!</b>	<b>#DIV/0!</b>
	<b>Grand Total</b>	<b>390,002</b>	<b>2</b>	<b>195,001</b>	<b>167,301</b>	<b>222,701</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
	<b>Total NECA</b>	<b>336,516</b>	<b>2</b>	<b>168,258</b>	<b>141,429</b>	<b>195,087</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
	<b>% NECA</b>	<b>86%</b>	<b>2</b>		<b>85%</b>	<b>88%</b>	<b>#DIV/0!</b>	<b>#DIV/0!</b>	<b>#DIV/0!</b>	<b>#DIV/0!</b>	<b>#DIV/0!</b>	<b>#DIV/0!</b>	<b>#DIV/0!</b>	<b>#DIV/0!</b>	<b>#DIV/0!</b>

## 2024 LABOR HOURS RECAP NECA MEMBERS

Local#	Contract Type	Annual Total		Average Hrs/Mo	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
280	Inside	155,245	2	77,623	64,139	91,106										
280	Inside Appr.	39,411	2	19,706	15,966	23,445										
280	MAI	0	0	#DIV/0!	0	0										
280	Material	11,255	2	5,628	5,160	6,095										
280	Residential	9,781	2	4,891	3,854	5,927										
280	Resi. Appr.	6,633	2	3,317	2,462	4,171										
280	S & C	30,265	2	15,133	13,048	17,217										
280	S & C Appr.	9,803	2	4,902	4,932	4,871										
280	Support Tech/MOU	12,396	2	6,198	5,047	7,349										
<b>Total 280</b>		<b>274,789</b>	<b>2</b>	<b>137,395</b>	<b>114,608</b>	<b>160,181</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

Local#	Contract Type	Annual Total		Average Hrs/Mo	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
659	Inside	25,182	2	12,591	10,417	14,765										
659	Inside Appr.	8,754	2	4,377	3,956	4,798										
659	Material	320	2	160	112	208										
659	Residential	400	2	200	181	219										
659	Resi. Appr.	212	2	106	100	112										
659	S & C	1,445	2	723	584	861										
659	S & C Appr.	0	0	#DIV/0!	0	0										
<b>Total 659</b>		<b>36,313</b>	<b>2</b>	<b>18,157</b>	<b>15,350</b>	<b>20,963</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

Local#	Contract Type	Annual Total	0	Average Hrs/Mo	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
932	Inside	16,890	2	8,445	7,733	9,157										
932	Inside Appr.	6,887	2	3,444	3,173	3,714										
932	Residential	0	0	#DIV/0!	0	0										
932	Resi. Appr.	270	2	135	110	160										
932	S & C	1,151	2	576	455	696										
932	S & C Appr.	216	1	216	0	216										
<b>Total 932</b>		<b>25,414</b>	<b>2</b>	<b>12,707</b>	<b>11,471</b>	<b>13,943</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

<b>Grand Total</b>		<b>336,516</b>	<b>2</b>	<b>168,258</b>	<b>141,429</b>	<b>195,087</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
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# **Safety Talks**

May 2024

Workplace Violence

Behavioral Warning Signs

Dealing with Workplace Violence

Active Shooter & Workplace Violence

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# SAFETY TRAINING TOPIC

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## Workplace Violence

It is estimated that 15% of all crimes committed in the United States occur in the form of workplace violence. However, even though you immediately think of physical assaults and crimes against people as violent behavior there are a wide range of other activities that can fall into that category as well. It is important that you know what workplace violence is.

Workplace violence is defined as any act or threat of physical violence, harassment, intimidation, or other threatening disruptive behavior that occurs on the job. However, it can include:

- Beatings
- Stabbings
- Suicide
- Suicide-attempts
- Homicide
- Sexual Assaults
- Sexual Harassment
- Intimidation
- Vandalism
- Bullying
- Shootings
- Obscene Phone Calls
- Fights
- Verbal Abuse
- Stalking
- Psychological Traumas
- Physical Assaults
- Physical Threats

You should also understand who commits workplace violence. It is not always an employee. Sometimes it occurs when a criminal attempts to commit a crime on a jobsite, whether it is against a person or property. Other times you may encounter violence from customers or clients.

In other scenarios you or a colleague might be targeted by someone who doesn't work at your place of employment. This might occur when there is a personal relationship with an employee as a result of life outside of work. Finally, worker-on-worker violence does occur as well. You may observe this behavior from coworkers, supervisors or managers, or by a former employee.

There are some responsibilities and work environments that have higher risk factors for violent encounters. This may include tasks such as carrying or exchanging money or when working with volatile, unstable people. If you are required to work alone in isolated areas or low-lit areas or high-crime areas, you face a higher risk factor as well.

### REVIEW AND DISCUSSION

- Identify five forms of workplace violence.
- Who commits workplace violence?

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# SAFETY TRAINING TOPIC

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## Behavioral Warning Signs

There are five indicators or warning signs that are often pre-cursors to violent behavior in the workplace. By familiarizing yourself with them you may be able to mitigate a future incident and/or develop the appropriate response in each situation.

The five warning signs are as follows:

- Confusion
- Frustration
- Blame
- Anger
- Hostility

When a potentially violent person becomes confused, they seem distracted and are unsure of their next move. In the event that you are put into a scenario where you encounter a person in this state, you should listen to what they have to say and offer any factual information regarding their concerns that you can. You can also ask them clarifying questions as to why and what they are confused about.

The next level of escalation is frustration. If the individual is exhibiting the warning signs of frustration, they are resistant to information provided to them when confused. They may also be characterized as impatient at this point, and they may be feeling a sense of defeat. At this stage you may consider attempting to move them to a quiet setting, reassuring them that everything will be fine. You should also try to clarify any concerns that they have.

Blame is the next warning sign for potentially violent behavior. During this stage the person will try to find fault with others for the way they are feeling. In fact, they may attempt to place blame directly on you. If this is the scenario, you should bring in a colleague or another person to help mitigate the situation as a team. You may consider using probing questions and relying on facts to help create a “yes” momentum.

In the event that the individual does not calm down after beginning to blame others for the situation, they are likely to become angry. This will become evident by a change in body posture and demeanor. They may begin pointing fingers and yelling, which can escalate quickly to a physical conflict. At this point you should not attempt to reason with them or argue with them. Prepare to remove yourself from the situation and contact supervisor and/or security immediately.

If you can isolate the person safely, you should do so. However, when all else fails and the individual becomes hostile and physical actions or threats appear imminent remove yourself from the situation and call 911 or other number used in your area for emergency assistance.

### REVIEW AND DISCUSSION

- What are the five warning signs of a potentially violent individual in the workplace?



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# SAFETY TRAINING TOPIC

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## Dealing with Workplace Violence

In the event that an individual or colleague does become violent there are some deliberate actions that you can take to mitigate the situation or help prevent these acts from occurring all together.

When encountering a potentially violent person, it is important to remain calm. When speaking to them, you should do so slowly, quietly and confidently. Avoid tones or mannerisms that could escalate the situation.

You should position yourself at a right angle instead of immediately in front of them. Try to not to encroach on the personal space of the individual. You should be standing at least 3 to 6 feet away from them, making sure to never put yourself between them and any means of exit for you or the individual.

When they are speaking try to be empathetic and acknowledge that you understand their feelings. It is important that you do not criticize, threaten or challenge the person in any way. You should also avoid any sudden movements as this can be seen as threatening and make the situation worse.

When the person is vocalizing specific reasons for their demeanor, be willing to accept criticisms. You might also consider asking them for possible solutions or recommendations to de-escalate the situation. However, do not promise anything to resolve the problem that you cannot deliver. Make sure you never immediately dismiss the individual's demands from the outset.

You may also attempt to reason with the person by breaking bigger problems into smaller, more manageable ones. Do not brush them off or behave in a condescending or impatient manner. Avoid making their problem seem less serious than it is.

You should also never point your finger at the person or make eye-contact for an extended period of time. Don't cross your arms or put your hands on your hips either. That can also come across as threatening.

In the event that the person cannot be reasoned with, call for help. Do not attempt to bargain with them or try to take sides. Explain to them potential consequences if their behavior persists. You can also ask for small favors, such as requesting that they go to a quieter area. You may also try to use delaying tactics until additional support can help resolve the disturbance. This may include offering the individual a glass of water.

### REVIEW AND DISCUSSION

- What manner should you speak to a potentially violent individual?
- How far away should you be standing from a potentially violent person when speaking to them?
- What would an example of a delaying tactic be?

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# SAFETY TRAINING TOPIC

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## Active Shooter & Workplace Violence

An active shooter is an individual actively engaged in killing or attempting to kill people in a confined and other populated area. In most cases, active shooters use firearms and there is no pattern or method to their selection of victims. Active shooter situations are unpredictable and evolve quickly. You should understand what to do if you are placed in such a situation.

If you are in harm's way, you will need to decide rapidly what the safest course of action is based on the scenario that is unfolding. You should follow these recommendations in order: 1) Evacuate, 2) Hide out, 3) Take action. However, you should only take action as a last resort, and if your life is in imminent danger, attempt to disrupt and/or incapacitate the active shooter attempting to move them to a quiet setting, reassuring them that everything will be fine.

The first recommended action is to evacuate. If there is an accessible escape path, attempt to evacuate the premises. When evacuating, have an escape route and plan in mind; leave your belongings behind; help others escape, if possible; evacuate regardless of whether others agree to follow; warn individuals not to enter an area where the active shooter may be; prevent individuals from entering an area where the active shooter may be; do not attempt to move wounded people; keep your hands visible; follow the instructions of any police officers; and call 911 when it is safe to do so.

The next recommended action is to hide out. If safe evacuation is not possible, find a place to hide from the active shooter. The hiding place should be out of the active shooter's view; provide protection if shots are fired (for example, an office with a closed and locked door); and not restrict options for movement. To prevent an active shooter from entering a hiding place, lock the door; blockade the door with heavy furniture; and close, cover, and move away from any windows.

If the active shooter is nearby, take the following actions, lock the door; hide behind a large item (for example, a cabinet or desk); silence your cell phone and/or pager. (Even the vibrate setting can give away a hiding position.); and remain quiet.

Consider the difference between cover and concealment. Cover might protect a person from gunfire, while concealment will merely hide a person from the view of the shooter. If you are in an active shooter situation, you should quickly choose the best space that is available. Finding cover is preferable, but if cover is not available you should find a position of concealment.

When possible, provide the following information to law enforcement officers or 911 operators: location of the active shooter; number of shooters (if more than one); physical description of the shooter(s); number and type of weapons held by the shooter(s); number of potential victims at the location.

Finally, as an absolute last resort, and only if in imminent danger, attempt to disrupt and/or incapacitate the active shooter by acting as aggressively as possible, improvising weapons, throwing items, yelling and committing to your actions.

### REVIEW AND DISCUSSION

- What type of Personal Protective Equipment could have prevented this fatality?

# Report on fatal shooting of gas station clerk offers 6 tips to avoid workplace violence in retail



HAZARDS  
2 MINUTE ENGAGEMENT

by Merriell Moyer  
February 16, 2024

SHARE ON



When the topic of workplace violence arises, visions of a disgruntled former co-worker or a lone social worker on a house call may come to mind. However, armed robbery also falls under workplace violence.

Incidents of workplace violence often occur in [places where money is exchanged, in isolated work sites with few employees present, or at night with low visibility.](#)

A Feb. 5, 2024 [report by the Washington State Fatality Assessment & Control Evaluation \(FACE\) Program](#) on a lone gas station clerk who was shot and killed as two masked men robbed the business is a tragic example of this fact.

## Left alone to run gas station in rural area

The 30-year-old clerk worked in the gas station for his aunt and uncle who had owned the business for three years. He had been in the U.S. for about a year, having moved from his home country to learn how to run his own business. His aunt and uncle provided him with room, board and transportation.

The gas station was located in a rural area near an interstate highway. It was open daily from 8 a.m. to 8 p.m.

On May 3, 2023, the clerk worked with his uncle until 4 p.m. when the uncle had to leave to run some errands. The uncle returned but then received a call that required him to leave again. This meant that the clerk would be left alone to run the gas station until his uncle returned to pick him up when the store closed.

This wasn't the first time he'd been left alone to run the store, with his uncle feeling comfortable enough with the situation to allow him access to the store's safe where the cash till was placed at closing time.

## Clerk shot in the chest while struggling with gunman

At 8:45 p.m., the clerk was restocking shelves in the gas station's convenience store when two men wearing masks and gloves entered through the front door. One of the men held a [shotgun with an extended magazine](#) while the other had a bag and flex cuffs.

The man with the gun aimed it at the clerk, who was walking toward the cash register. At some point during his walk to the cash register, the clerk turned and attempted to wrestle the shotgun out of the gunman's hands. The other masked man joined the struggle for the gun, which eventually went off.

As the two men fled the store in a pickup truck, a passerby saw them fleeing and called 9-1-1. First responders found the clerk dead from a single shotgun wound to the chest. Multiple cameras inside and outside of the gas station recorded the incident.

Police caught the two robbers and an accomplice the next morning.

## Employer didn't have workplace violence prevention program

Investigators found that the employer:

- didn't have an accident prevention program or separate [workplace violence](#) prevention program policies or training, and
- had discussed robbery scenarios with the clerk and told him not to resist robbers.

The investigation also revealed that the gas station had never been robbed before.

## 6 ways to avoid similar incidents

To avoid a similar incident, FACE Program investigators recommended:

- developing a written workplace violence prevention program with store-specific standard operating procedures for emergencies and robberies
- ensuring that the workplace violence prevention program includes initial and refresher training as well as program assessment and enhancement requirements



- conducting a store security analysis to identify hazards, conditions, operations and situations that could lead to violence
- following OSHA's [recommendations for workplace violence prevention programs in late-night retail establishments](#)
- avoiding working alone, and
- improving store layout, access, lighting, video surveillance, cash limit signage, cash control methods and incident tracking.



### Merriell Moyer

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Merriell researches and writes about occupational health and safety. He was an investigative and breaking news reporter for the Lebanon Daily News - part of the USA Today Network.



# Worker traumatized during active shooter drill can't pursue lawsuit against employer



LEGAL  
3 MINUTE ENGAGEMENT

by Merriell Moyer  
December 28, 2023

SHARE ON



An office worker who claimed she was injured and emotionally traumatized during a realistic surprise active shooter drill at work can't pursue a lawsuit against her employer.

[The Nebraska Supreme Court found](#) that the worker's sole remedy for her injuries was workers' compensation and upheld a lower court decision preventing her from suing the organization she worked for.

## Drill's realism caused physical, emotional injuries

In May 2022, Sandra Lopez was employed by the Catholic Charities of the Archdiocese of Omaha. At that time, the executive director, chief of operations and chief of community engagement conducted an [active shooter](#) drill at the office.

Lopez claimed she had no advance notice about the realistic drill that was carried out. She testified that she reacted in fear after hearing loud bangs on the door to her office and being urged by the chief of community engagement to get out.

When Lopez followed other employees toward the exits, the executive director told her a shooting was taking place. Lopez heard gunshots and saw a co-worker lying outside on the ground with what looked like blood on her hand.

After experiencing all of this, Lopez ran away from the building toward a nearby shopping plaza. In doing so, she [jumped off of a retaining wall](#) and hurt her back as she landed.

Later, the organization's chief of operations told Lopez's son that the whole thing was "play acting and a safety drill" to see how employees would react. Lopez claimed that she went into counseling the day after the drill and has required treatment ever since. She also claimed that she required ongoing treatment for her back injury.

## Lawsuit claims employer intentionally injured her

Lopez filed a lawsuit against the Catholic Charities, arguing that the organization was liable for assault and intentional infliction of emotional distress. Her suit said that the organization intentionally terrorized her and caused her to fear for her life.

The lawsuit sought:

- damages for mental and physical injuries
- past and future medical expenses
- permanent disability
- the loss of earnings, and
- the impairment of future earning capacity.

A lower court dismissed the lawsuit, finding that Lopez's exclusive remedy was [workers' compensation](#) because her injuries were work-related. The court rejected Lopez's claim that her employer acted specifically with the intent to injure her.

## State Supreme Court refuses to adopt intentional tort exception

Lopez filed an appeal with the state's Supreme Court, arguing that the lower court erred by dismissing her lawsuit.

In asking the Supreme Court to allow her lawsuit to move forward, Lopez was essentially asking the court to adopt an intentional tort exception to the state's Workers' Compensation Act.

However, the court refused to adopt such an exception, stating that "under our precedent, an injury occurs by accident and is therefore compensable under the Act if it is unexpected or unforeseen to the person suffering the injury."

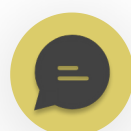
That meant that even if Lopez's employer intended to cause her injury during the active shooter drill, her exclusive remedy was still workers' compensation.

The court upheld the lower court decision, finding that employees covered by the Nebraska Workers' Compensation Act "surrender ... their rights to any other method, form or amount of compensation or determination thereof" whether an employer intended to cause injury or not.



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## 4 important things to consider when making a workplace violence prevention plan

Violence has become a major hazard to employees in many workplaces, from hospitals and schools to delivery vehicles and warehouses.

While federal OSHA is working on a standard to address workplace violence in health care, what can safety professionals in other industries do to mitigate this growing threat?

First, it helps to understand the hazard.

“What happens in the workplace is a reflection of what is happening in the community,” said Eva Glosson, an industrial hygienist with the Washington State Department of Labor and Industries, during a presentation at the [2023 American Industrial Hygiene Conference & Expo](#) in Phoenix, Arizona.

Unfortunately, violent crime in the U.S. is currently on an upswing and that translates to more violence in the workplace, according to Glosson.

### OSHA, NIOSH have slightly different definitions

Workplace violence is defined by OSHA as the act or threat of physical violence, harassment, intimidation or other threatening disruptive behavior that occurs at the worksite such as threats, verbal abuse, physical assault and homicide.

The National Institute for Occupational Safety and Health (NIOSH) differs slightly from OSHA with its definition of the term, saying that any of these acts or threats count as workplace violence when an employee is on duty, not just at the worksite.

Individual states and employers may have different interpretations of workplace violence that goes above and beyond the definitions provided by OSHA and NIOSH.

### The 4 types of workplace violence

There are four types of workplace violence. These are based on the relationship the perpetrator has to the workplace:

- Type One involves the perpetrator having no legitimate business relationship, meaning they enter the workplace with criminal intent. For example, a convenience store with someone entering

the business for the sole purpose of armed robbery.

- Type Two is a customer or client as the perpetrator. This also applies to individuals in the custody of the business, such as a passenger on a bus or a student in a school.
- Type Three is peer-to-peer violence. A co-worker to a co-worker or a supervisor to a direct-report, for example.
- Type Four involves a known person, which typically means a dispute with a current or former intimate partner that gets brought into the workplace. However, this type doesn't have to involve an intimate partner. Instead, it could involve a parent, sibling or even a neighbor.

Type Four is the leading cause of death for women when it comes to workplace violence and Type One is the leading cause of death for men.

## 'Pre-de-escalation'

When it comes to tools and workplace violence prevention, there's a lot of discussion about de-escalation, but de-escalation means something has already happened. Someone is already in a state of excitement at that point.

What safety professionals need to think about is what Glosson calls "pre-de-escalation." What is being done to ensure people aren't getting into a state of violence and aggression in the first place.

When it comes to written safety programs, workplace violence specific to the individual jobsite needs to be addressed. For example, if the jobsite is a retail store, then it's important that employees know about crime prevention and the hazards associated with Type One and Type Two violence.

When coming up with this part of the written safety program, it's important to look at what other employers in the industry are doing and use that for benchmarking.

It's also important to consider these four things:

## 1. Prevention through design

In Type One workplace violence, there is a theory on crime prevention through environmental design. This is something a lot of late-night retail workplaces are based on. It asks the question, "Does your physical environment invite crime or violence?"

This is the kind of mindset you need to have when looking at your own jobsite for workplace violence prevention, regardless of industry.

## 2. Risk analysis focused on violence

Just like with any other hazard, another important thing to do is perform a risk analysis to understand your high-risk tasks. What tasks do your employees do that could put them at risk of workplace violence? What are other members of your specific industry dealing with? Is that something your workers also have to worry about?

These are the types of things you need to build your workplace violence policies around. The risk analysis could also help to



inform where and how to place engineering controls, such as alarms and PPE, if applicable.

### 3. Enforcement of HR harassment policies

When it comes to peer-to-peer violence, communication is extremely important to prevention. If a co-worker is talking about performing a violent act in the workplace, it needs to be taken seriously. In many cases, mass shooters have communicated their intentions to others, making these incidents entirely preventable.

This is also where human resources policies come into play. Enforcement of policies that are meant to prevent bullying and harassment are a key component to preventing workplace violence. Remember, it's all about pre-de-escalation, and these policies are meant to keep employees from becoming aggressive toward one another.

### 4. Creating a policy for Type Four Violence

Type Four violence is very personal in nature, which means it can be very difficult to talk about. That's why having a written policy specifically addressing it is extremely important.

If a co-worker is going through a messy break up with a significant other and this results in stalking, threats and restraining orders, you don't want that co-worker wondering if they should share this information, how to go about doing so, and who they should share it with.

Having a written policy in place that employees are aware of can help make the sharing of this information with an employer a little less uncomfortable. It will also make the employee feel much more comfortable sharing the information in the first place, making for a safer workplace.



# Was company's safety disciplinary policy too strict? Court decides

*Guess the outcome:* A worker was fired after two disciplinary infractions – one of which was breaking a safety rule that led to an injury. The worker filed an OSHA retaliation complaint. What did the court say?

It was nearly 100 degrees one Thursday morning when Safety Manager Pete Travers got back into the office from lunch.

*Gonna have to re-schedule that landscaping work, for sure, Pete thought as he walked inside.*

"Hey, Pete," said Attorney John Jenkins, who lingered by his office. "You got a second?"

"What's up?" Pete asked.

"It's about Craig Young," John said. "He filed a retaliation complaint with OSHA. Can you tell me what happened?"

## Strict injury reporting policy

"Oh, boy," Pete said. "We fired Craig a few months ago. He failed to timely report an injury, and he hurt his ankle. Poor Craig."

"Why was he fired?" John asked.

"Our disciplinary and injury reporting policies are pretty strict," Pete replied. "It's a shame Craig got hurt, but we discovered the injury was because of an unsafe act.

"The policy is a points system, and Craig accumulated enough disciplinary points where we simply had to let him go," Pete finished.

"Hmm," John said. "Well, he complained to OSHA, and now the agency is suing us.

"OSHA says our policy is illegal because it punished Craig for reporting injuries," John said.

*OSHA sued Pete's company on Craig's behalf for retaliating against him for reporting injuries. The company tried to have the case dismissed. Did it succeed?*

## The Decision

No. The court denied the company's claim, and the court battle will continue in front of a jury.

Craig was fired for failing to timely report an injury and for committing an unsafe act that led to his ankle sprain.

The worker filed a retaliation complaint with OSHA, arguing the company's disciplinary policy was illegal because it punished him

for reporting injuries.

Pete's company denied it retaliated against Craig. It said he was properly terminated and that it was simply following its disciplinary policy.

The court said the company's strict policy was, in fact, a violation of OSHA standards.

The policy deterred workers from reporting injuries because they were caught in a catch-22: If they got hurt, they had to report the injury and likely face discipline. And if they got hurt and didn't report the injury, they would also face discipline.

## Analysis: Consistent discipline is key

OSHA requires you to have "reasonable" policies for workers to report injuries. However, companies are free to develop their own rules, which has led to confusion.

Companies are caught in a bind: A worker gets hurt, but he's hurt because he broke a rule. Can you discipline him?

OSHA says you can, but the key is to be consistent with discipline, i.e., workers who haven't been injured face sanctions for breaking that rule, too.

**Cite:** *Acosta v. Dura-Fibre LLC*, U.S. District Court, Eastern District of Wisconsin, No. 17-C-589, 5/30/18. This case has been dramatized for effect.



# OSHA's proposed workplace violence in health care rule takes one step forward



OSHA  
2 MINUTE ENGAGEMENT

by Merriell Moyer  
March 20, 2023

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OSHA's proposed Prevention of Workplace Violence in Health Care and Social Assistance rule has been submitted to the Small Business Advocacy Review (SBAR) Panel.

The SBAR Panel received the proposed rule on March 1, which marks yet another step OSHA has taken "in developing a programmatic approach for the prevention of workplace violence in the healthcare and social assistance industries," [according to law firm Littler Mendelson](#).

## Panel analyzes rule's financial impact on small businesses

OSHA and other agencies are required to convene a SBAR Panel before publishing a proposed rule that could have significant economic impact on a substantial number of small business entities.

The panel consists of members of OSHA, the Small Business Administration's Office of Advocacy, and the Office of Management and Budget's Office of Information and Regulatory Affairs. This panel will listen to comments from small entity representatives, including small businesses, non-profit organizations and governmental jurisdictions that could be affected by the proposed rule. The panel will also review the draft proposed rule.

Once convened, the panel has 60 days to submit a written report to OSHA. OSHA will then review the report, make revisions and publish a proposed rule in the Federal Register.

# What's included in the rule?

OSHA says [workplace violence](#) is “any act or threat of physical violence, harassment, intimidation or other threatening disruptive behavior that occurs at the work site.” That can include threats and verbal abuse along with physical assaults or even [homicide](#), Littler Mendelson states.

The law firm feels [the rule](#) would apply to facilities such as:

- hospitals, including emergency departments
- psychiatric hospitals and residential behavioral health facilities
- ambulatory mental healthcare and substance abuse treatment centers
- freestanding emergency centers
- residential care facilities
- home healthcare
- emergency medical services, and
- social assistance, excluding child day care centers.

While the proposed rule hasn't been published yet, OSHA has given hints as to what is in the standard, including:

- a workplace violence prevention program
- [hazard assessments](#)
- implementation of control measures with added control requirements in high-risk areas
- training
- incident investigation and maintenance of a workplace violence log, and
- an anti-retaliation policy to encourage employee reporting of workplace violence incidents.

Littler Mendelson states that this is similar to the workplace violence prevention regulation that California implemented in April 2017.

Thanks to data from the California rule, the total cost to implement the standard is estimated to be \$1.22 billion per year. The rule would cover 14 million employees working at more than 300,000 establishments.



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