Tenant Screening and Legal Liabilities

What Every Landlord Needs to Know

As a landlord, the best way to protect against legal liability is to know your rights and obligations. Landlords must protect themselves from claims, which can range from negligence for the violent acts of one tenant against another, to discrimination in the rental process.

Screening applicants is one of the most important functions of a landlord. And while verifying information contained on a potential renter's application can be time-consuming, the process is necessary to protect the landlord's financial interests. Standard screening procedures should be in writing and consistently applied.

This article will address the kinds of information a landlord may legally obtain during the rental process, the different methods of verifying applicant information, guidelines and processes for properly rejecting an applicant, and the liability of a landlord for failing to obtain information that would have disclosed the foreseeable danger of a tenant.

WHAT INFORMATION CAN BE LEGALLY OBTAINED DURING THE RENTAL PROCESS?

The verification process of an applicant assists the landlord in substantiating an applicant's suitability for tenancy. Verifications should be conducted for the right reasons, and not violate State and Federal laws. An applicant's ability to pay rent, maintain the premise, and honor its rental terms are all within the landlord's right to discover.

State and federal laws prohibit discrimination against prospective tenants based on race, religion, color, national origin, sex, sexual orientation, handicap, age, ancestry, marital status, source of income, or because the person has children. Information that is reasonably related to the suitability of an applicant can be obtained, and considered, as long as the *exact same questions* are asked of each applicant and the same background information for each applicant is sought and considered.

An application should reveal the following information:

- Full name of applicant, including middle name, maiden name, and/or aliases
- Date of birth
- Driver's License Number and the state
- Social Security Number
- Name, date of birth, Social Security Number, and relationship to applicant of every person intending to reside on premises
- Employment history for the past several years, including the name of the supervisor, salary information, address, and phone number (Pay stubs are useful for verifying salary information.)
- Any additional source of income if the applicant's salary is not enough to meet the rent and other needs
- Bank references, including name, address, phone number, and account number

- Names, addresses, and telephone numbers of at least the past two landlords, thereby avoiding an undeserved favorable report from the current landlord whom may be attempting to get rid of a problem tenant.

Additional information can be requested on an application, such as criminal convictions or evictions; this information, however, needs to reasonably relate to the applicant's suitability as a tenant, and should be used for no greater purpose than to:

a) Identify the applicant as the person he or she is claiming to be;
b) Determine employment history and the applicant's ability to pay rent;
c) Determine whether the prospect paid previous landlords on time and whether the applicant caused any problems; and
d) Determine whether the applicant poses a danger to others.

HOW DOES A LANDLORD VERIFY APPLICANT INFORMATION?

There are certain actions that a landlord can take before conducting a formal background check. Remember that the screening process is designed to weed out undesirable applicants as early as possible. Therefore, it makes the most sense for the landlord to take the following steps before incurring the cost of obtaining a credit report and background check.

- Contact previous landlords of the applicant personally. Make sure the same inquiries are made of each and every applicant to avoid the appearance of discrimination.
- Compare the applicant's picture ID, such as a driver's license, to the application information.
- Independently verify the existence of the employer and request copies of tax returns for the last two years.

After completing the basic steps above, and finding nothing to suggest that a tenant is unsuitable, a landlord can further verify an applicant's information by obtaining certain reports (i.e. criminal record) on his or her own, or a through a "consumer reporting agency" (CRA). A consumer reporting agency is defined under the law as any person which, for monetary fees, dues or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating information on consumers for the purpose of furnishing consumer reports to third parties and which uses any means of interstate commerce for the purpose of preparing and furnishing reports.

Although the use of a CRA is an efficient way for a landlord to confirm the accuracy of statements made in applications, they are also subject to laws that dictate what information can be obtained, how it can be obtained, and what must be disclosed to the applicant.

A DISCUSSION OF THE FAIR CREDIT REPORTING ACT

Using Consumer Reports

No discussion of background checks is complete without addressing the Fair Credit Reporting Act (FCRA). The FCRA was designed to protect the privacy of consumer report information provided by CRAs and to ensure the accuracy of such information. The FCRA imposes certain consent and notice obligations upon a landlord when obtaining information from a CRA on how to proceed when using that information to reject an applicant.

A consumer report, as defined under the FCRA, contains information about a person's credit worthiness, character, general reputation, personal characteristics, or mode of living and lifestyle. A consumer report may also contain information of past evictions.[1] All of this information is designed to provide a good basis for a landlord to determine whether the applicant poses any potential risks, such as the inability to pay rent, or pose physical danger to others.

Generally, the FCRA requires notice to and consent by the person on whom the background check is to be conducted.. However, when addressing landlord/tenant applications, there are exceptions to the consent and notice requirements. For example, Landlords can obtain background checks through CRAs ***without*** notice if:

- The applicant has requested the report.
- The report is obtained in connection with an application initiated by the applicant (an actual availability must exist).
- The landlord is reviewing the credit of a past or present tenant who owes him money.
- The report is ordered to decide whether to renew a lease or otherwise continue the landlord/tenant relationship.

Landlords are not required to obtain consent in such situations because it has been legally determined that a rental agreement is not a credit transaction for the purposes of the FCRA.

Although authorizations are not legally required they are advisable in order to reduce the potential for liability when there is a question as to the purpose and use of the information. For example, a landlord can defend a claim of alleged discrimination by showing authorization to conduct a background check is requested from every potential tenant, regardless of age, race, sex, or any other protected class. Such authorization can be included in the application itself, but all reports obtained must be kept confidential.

[1] Under FCRA certain information cannot be obtained after a certain period. For example, criminal records more than 7 years old cannot be obtained. Landlords should consider these same time limitations to avoid claims of discrimination.

HOW DOES A LANDLORD PROPERLY REJECT AN APPLICANT?

If the background check was conducted solely by the landlord, without the use of a CRA, an applicant need only be advised that he or she did not meet the rental criteria of the landlord, though a letter with a clear statement of the reasons for rejection may avoid potential problems. If the rejection is based on information obtained from prior landlords or through personal references, the applicant has a right to request the reason, and should do so, in writing, within 60 days of the rejection. The landlord, by law, must then notify the applicant, in writing, why he or she does not meet the criteria, though no specific information on who provided the negative personal references should be given. Again, the landlord should keep the information confidential and in his or her file, in the event of a claim of discrimination by the applicant.

Under the FCRA, rejection based upon information contained in a consumer report is called adverse action.[2] If the landlord takes adverse action in response to a consumer report, he or she must provide:

- notice of the adverse action to the applicant
- the name, address, and telephone number of the CRA that furnished the report
- a statement that the CRA did not make the decision to take the adverse action

The CRA used by the landlord should have the necessary notices and forms to assist the landlord in complying with the law. Any disputes about the information contained in the consumer report must be addressed with the CRA.

A landlord is not required or permitted to give the applicant a copy of the credit report, but may discuss the contents that led to the rejection of the application. Failure to comply with the FCRA may expose a landlord to damages in federal court, including punitive damages and attorneys' fees. Additional state laws may also apply.

Although the law imposes certain duties upon a landlord to act in a non-discriminatory manner and to comply with the law, a landlord may reject any applicant for a justifiable, non-discriminatory reason. Some of these examples include, but are not limited to:

- Insufficient income or income history to meet rent
- An unfavorable credit report that shows a pattern of late payments or defaults
- A history of violence
- Untrue, vague, or inconsistent statements contained in the rental application
- Inability to verify information contained on application

While the law prohibits discrimination during the rental process, a landlord is allowed to reject an applicant for valid financial reasons and if the landlord believes the applicant poses a foreseeable risk to other tenants.

---

[2] Other types of adverse action may include requiring a co-signature, requiring a deposit (or a larger deposit) that would not apply to other applicants, and raising the rent to an amount that is higher than that of other applicants.

WHAT LIABILITY DOES A LANDLORD FACE FOR FAILING TO OBTAIN INFORMATION THAT WOULD HAVE DISCLOSED THE FORSEEABLE DANGER OF A TENANT?

The landlord-tenant relationship imposes certain duties upon the landlord with respect to a tenant and its invitees. Increasingly, tenants and invitees are filing suits against landlords for negligence in maintaining building security. Though no state has yet allowed a claim based on a theory of "negligent selection of tenants,"[3] all states recognize that a landlord owes a tenant a duty of care to protect against *unreasonable and foreseeable* harm from third persons, which the landlord knew or should have known posed a risk.

A landlord should also consider screening prospective tenants to make sure those approved for tenancy do not pose a security risk to other tenants. In addition to physical or property damage, a troublesome tenant may invite illegal activity on to property such as that associated with drug dealing.

So how far must a landlord go in checking the background of an applicant in order to reduce its liability for "negligent selection"?

When a landlord fails to conduct an appropriate background check that could have revealed the foreseeable danger of a tenant, it may be exposed to liability if injury results to another tenant or invitee.[4] On the other hand, a background check that reveals no prior criminal or violent history and shows favorable references will reduce the potential for a landlord to be considered negligent or to have breached its duty of care.[5]

What is foreseeable will depend upon all of the facts and circumstances, including what a background check would have revealed or what information a landlord possessed.[6] The following example illustrates how a court may view the liability of a landlord:

> *One tenant attacks another tenant. The injured tenant sues the landlord claiming that the landlord knew or should have known of the dangerous propensity of the co-tenant because the attacker was convicted of DUI.*
>
> It was found that immediately upon the completion of the application the landlord had actually conducted a thorough background check on the attacker, knew that the attacker had a DUI, and had, otherwise, received favorable reports from all other references. The attacker had no history of reported violence.[7]

---

[3] See DeLeon v. Creely, 972 S.W. 2d 808 (Tex. App. 1998)

[4] See Lambert v. Doe, 453 So. 2d 844 (Fla. 1st DCA 1984) (The landlord assured the plaintiff the apartment complex was a very nice, safe place to live for her family, knowing that a co-tenant was victimizing minor children at the time of the statement. The landlord was liable to the plaintiff for a later attack by the co-tenant.)

[5] See Gill v. New York City Hous. Auth., 130 A.D. 256 (N.Y. App. Div 1987). In this case the court held that a landlord could not have foreseen the dangerous propensity of a mentally ill tenant, as the tenant had no history of violence.

[6] See Fields v. Moore, 953 S.W. 2d 523 (Tex. App. 1997).

[7] In Fields, the court held that the co-tenant attacker's history of drug use and DWI did not automatically constitute a foreseeable propensity to commit violent assault-related crimes.

In order to prevail on a claim against the landlord, the injured tenant must prove that the landlord breached the duty of care owed. In this case, the landlord conducted a proper background check and it would appear there was no reason to foresee the attacker's propensity to commit violence. Thus, the landlord should prevail.

Even in a case where the landlord breaches its duty of care and fails to conduct a proper background check, a claim by an injured tenant would not necessarily be successful if such a check would not have placed the landlord on notice of the potential for violence of the co-tenant.

For example, if a check conducted after an incident revealed a good credit history, no criminal record, good financial background and no history of violence, the breach of duty in failing to conduct the background check would not be deemed a cause of loss. Although the landlord may have owed a duty to the injured tenant to conduct this background check prior to the rental, the check, clearly, would not have provided the landlord any indications of the potential for violence.

CONCLUSION

Tenant screening is a critical and necessary element of a landlord's operations. Such screenings should be conducted in accordance with federal and state laws. Screening should be done on all tenants and in a uniform and consistent manner to avoid claims of discrimination as well as claims of negligence.

WV-100-INFO How Do I Get an Order to Prohibit Workplace Violence?

These instructions cannot cover all of the questions that may arise in a particular case. If you do not know what to do to protect your rights, you should see a lawyer.

What is a workplace violence protective order?

Under California law (Code Civ. Proc., § 527.8), courts can make orders to protect an employee from suffering unlawful violence or credible threats of violence at the workplace.

The court can order a person not to:

- Harass or threaten the employee;
- Contact or go near the employee; and
- Have a gun.

These orders will be enforced by law enforcement agencies.

Who can get a workplace violence protective order?

Employers can obtain court orders prohibiting unlawful violence or credible threats of violence against their employees. To get an order under this law, the petitioner **must** be an employer. An employer is defined as:

- Every person engaged in any business or enterprise in this state that has one or more persons in service under any appointment, contract of hire, or apprenticeship, express or implied, oral or written, irrespective of whether such person is the owner of the business or is operating on a concessionaire or other basis. (Lab. Code, § 350(a).)
- A federal, state, or local public agency; a city, county, district, or public corporation. (Code Civ. Proc., § 527.8(b)(3).)

Before completing the forms needed to obtain court orders under this statute, make certain you meet the definition of "employer" as defined above.

The statute differs from other California laws that allow victims of unlawful violence or credible threats of violence to ask the court for these orders **themselves.** If anyone other than the employer wishes to apply to the court for an order prohibiting harassment, see *Can a Civil Harassment Restraining Order Help Me (Form CH-100-INFO)?*.

Who can an employer protect under this law?

Under this statute, an employer can obtain a court order that lasts up to three years on behalf of an employee. The order can also protect certain family or household members of the employee and other employees at the employee's workplace or at other workplaces of the employer.

California law defines "employees" as:

- Every person, including aliens and minors, rendering actual service in any business for an employer, whether gratuitously or for wages or pay; whether the wages or pay are measured by the standard of time, piece, task, commission, or other method of calculation; and whether the service is rendered on a commission, concessionaire, or other basis. (Lab. Code, § 350(b).)
- Members of boards of directors and public officers.
- Volunteers or independent contractors who perform services for the employer at the employer's work site.

The "respondent" is the person against whom the employer is requesting the protective order.

An employer may seek protection under this law if:

1. An employee has suffered unlawful violence or a credible threat of violence from any individual;
2. The unlawful violence was carried out in the workplace, or the threat of violence can reasonably be construed to be carried out in the workplace;
3. The respondent's conduct is not allowable as part of a legitimate labor dispute as permitted by Code of Civil Procedure section 527.3; and
4. The respondent is not engaged in constitutionally protected activity.

What forms must be used to get the order?

1. *Petition for Orders Workplace Violence Restraining Orders* **(Petition)** (Form WV-100). This form tells the judge the facts of the petitioner's case and what orders the petitioner and employee want the court to make.
2. *Confidential CLETS Information* (Form CLETS-001). This form will provide law enforcement agencies with the information needed to enforce any orders that are granted.
3. *Notice of Court Hearing* (Form WV-109). This form tells the parties when the hearing on the petition will be held.

4. *Temporary Restraining Order* **(TRO)** (Form WV-110). A TRO can be issued to provide protection to the employee until the hearing is held. It can be issued by the judge either with or without notice to the respondent.

5. *Workplace Violence Restraining Order After Hearing* **(Order)** (Form WV-130). This is the form signed by the court following the hearing. The order can last for up to three years depending on what the judge rules.

   These forms are all **mandatory**—that is, they must be used in the workplace violence prevention proceeding.

6. *Proof of Personal Service* (Form WV-200). This form is used to show that the other party has been **served** with the petition and other forms as required by law.

Where can I get these forms?

You can get the forms from legal publishers or on the Internet at *www.courts.ca.gov*. You also may be able to find them at your local courthouse or county law library.

Do I need a lawyer?

The employer may be represented by a lawyer, but one is not required by law unless the employer is a corporation. Because the employer's lawyer will generally be representing the interests of the employee, the employee usually does not need his or her own lawyer. Whether or not the employer has a lawyer, the respondent may have one.

What steps are needed to get the court orders?

1. Fill in the **Petition** (Form WV-100) completely and fill in items 1–3 of the *Notice of Court Hearing* (Form WV-109). If you are seeking a **TRO,** also fill out Form WV-110.

2. If you are seeking orders based on information from your employee and others and not based on what you have personally observed, you **must** have each of those persons complete a declaration to attach to the **Petition** (Form WV-100) . You may use Form MC-031, *Attached Declaration.*

3. Fill in *Confidential CLETS Information (Form CLETS-001)* with as much information as you know. If the judge grants the order, the information on this form will be entered into a statewide protective-order database that will be available to law enforcement agencies if the order needs to be enforced.

4. If you are applying for a **TRO,** fill out Form WV-110 completely. The petition and the declarations must give the details of the recent acts of violence or credible threats of violence and the problems they have caused your employee.

   To obtain a **TRO,** you must notify the respondent of the request for the temporary order unless both of the following requirements are satisfied:

   a. It appears from facts shown on the petition that great or irreparable injury will result before the matter can be heard on notice; and

   b. You or your attorney certifies one of the following to the court under oath:

      (1) That within a reasonable time before presenting the petition to the court to ask for a TRO, you informed the respondent or the respondent's attorney when and where the request for a TRO would be made;

      (2) That you in good faith attempted but were unable to inform the respondent and the respondent's attorney, specifying the efforts made to contact them; or

      (3) That for reasons specified, you should not be required to inform the respondent or the respondent's attorney.

5. Take your original completed forms and copies to the clerk's office at the court. You will need at least three copies: one for you, one for the employee, and one to serve on the respondent. If there are other persons to be protected by the order, you will need additional copies of the **TRO.** A protected person will need a copy of the **TRO** if it is necessary to call the police. The clerk will file the originals, assign a case number, and return the copies "file-stamped" to you. The clerk will write your hearing date on the *Notice of Court Hearing* (Form WV-109).

6. If you are seeking a **TRO** (Form WV-110), the clerk will tell you where and how to present your proposed order to a judge for consideration and signature. The court will decide within 24 hours whether or not to make the order. Sometimes the court decides right away. Ask the clerk if you should wait or come back later. If your request for a **TRO** is granted while you are still at the court, take the signed original back to the clerk to be filed.

7. If a **TRO** has been issued, ask the clerk whether you or your lawyer will need to deliver a file-stamped copy of the **TRO** to each law enforcement agency (police, marshal, or sheriff's office) that might be called on to enforce the order. If so, do so immediately.

   If the court issues a TRO, it will last until the hearing date.

8. If the employee does not speak English, when you file your papers, ask the clerk if a court interpreter will be available for the hearing. You may have to pay a fee for the interpreter. If an interpreter will not be provided, you should ask someone who is not listed as a person to be protected on your Petition and who is over age 18 to interpret.

9. Have the respondent personally **served** with copies of the **Petition** (Form WV-100), the *Notice of Court Hearing* (Form WV-109), the **TRO** (Form WV-110) (if issued), a blank **Response** (Form WV-120), and a blank *Proof of Service of Response by Mail* (Form WV-250). You **cannot** serve the respondent yourself. Service may be made by a licensed process server, the sheriff's department, or any person 18 years of age or older, other than you, the employee, or anyone to be protected by the order. For help with service, ask the court clerk for Form WV-200-INFO, *What Is "Proof of Personal Service"?*.

   Service is essential. It tells the respondent about the order and the hearing. Without it, there cannot be a court hearing, and your temporary orders will no longer be good unless they are extended by the court. The respondent should be personally served immediately after the orders are signed by the judge, unless the court specifies a different time for service.

10. After the respondent has been personally **served,** the person who served the respondent must complete and sign the original *Proof of Personal Service* (Form WV-200). Take the signed original and copies back to the court clerk. The clerk will file the original and return "file-stamped" copies to you. Ask the clerk whether you should take a file-stamped copy to each law enforcement agency that might be called on to enforce the order. If so, do so immediately.

11. Go to court on the date shown at item 4 on the *Notice of Court Hearing* (Form WV-109). You do not need to bring any witnesses, but it helps to have more proof of the violence or threats than just one person's word.

    You can bring to the hearing:

    - Witnesses
    - Written statements from witnesses made under oath
    - Photos
    - Medical or police reports
    - Damaged property
    - Threatening letters, e-mails, or telephone messages

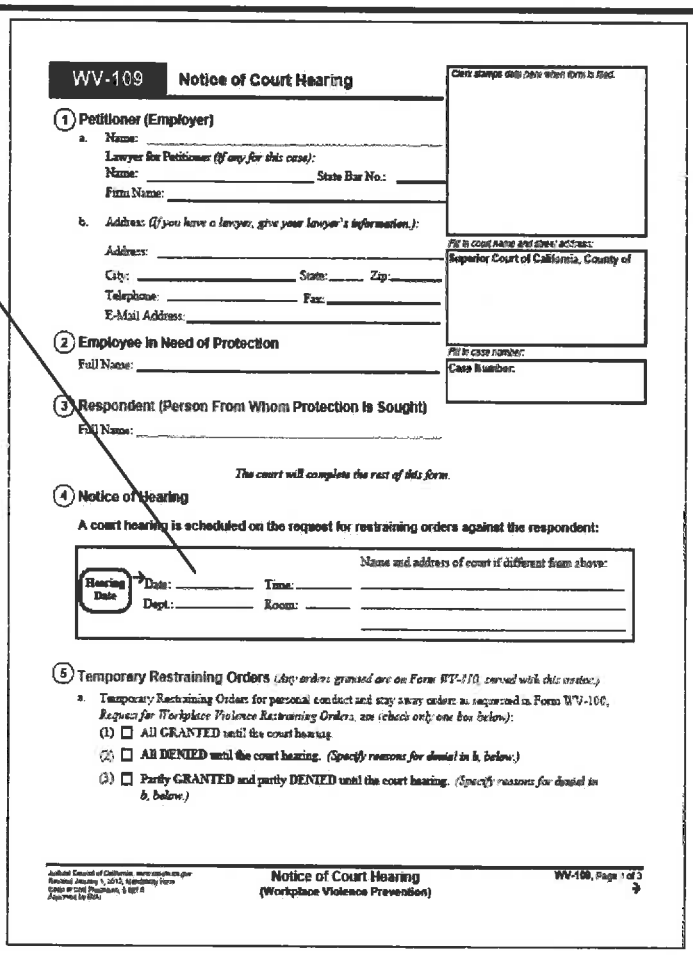
    The court may or may not let witnesses speak at the hearing. So, if possible, you should bring their written statements under oath to the hearing. (You can use Form MC-030, *Declaration*.)

    The respondent has the right to attend the hearing, but he or she does not have the right to speak to the employee or to any other person seeking protection. If anyone is afraid, tell the court officer.

12. If the judge signs the **Order** (Form WV-130), ask the clerk to provide you with a file-stamped copy for each person to be protected. Ask the clerk whether you or your attorney will need to deliver a file-stamped copy of the **Order** to each law enforcement agency that might be called on to enforce the order. If so, do so immediately.

13. If the respondent attended the hearing and heard the terms of the **Order** from the court, no additional proof of service is necessary. If the respondent did not attend the hearing, but the **Order** issued is the same as the TRO (except for the termination date), the **Order** may be served on the respondent by mail. File Form WV-260, *Proof of Service of Order After Hearing by Mail*. If the respondent did not attend the hearing and the **Order** differs from the TRO, arrange to have him or her personally **served** with a copy of the **Order.** File the completed *Proof of Personal Service* (Form WV-200) with the court. Give a file-stamped copy of the **Order** and proof of service to your employee and to each other protected person. Keep at least one copy for yourself.

14. Once the order is issued, only the judge can change or cancel it. You or the respondent would have to file a request with the court to cancel the order.



WV-109 Notice of Court Hearing

(1) Petitioner (Employer)
a. Name:
Lawyer for Petitioner (if any for this case):
Name: State Bar No.:
Firm Name:
b. Address: (If you have a lawyer, give your lawyer's information.):
Address:
City: State: Zip:
Telephone: Fax:
E-Mail Address:

(2) Employee in Need of Protection
Full Name:

(3) Respondent (Person From Whom Protection Is Sought)
Full Name:

Clerk stamps date here when form is filed.

Fill in court name and street address:
Superior Court of California, County of

Fill in case number:
Case Number:

The court will complete the rest of this form.

(4) Notice of Hearing
A court hearing is scheduled on the request for restraining orders against the respondent:

Hearing Date → Date: Time: Dept.: Room:
Name and address of court if different from above:

(5) Temporary Restraining Orders *(Any orders granted are on Form WV-110, served with this notice.)*
a. Temporary Restraining Order for personal conduct and stay away orders as requested in Form WV-100, *Request for Workplace Violence Restraining Orders*, are (check only one box below):
(1) ☐ All GRANTED until the court hearing.
(2) ☐ All DENIED until the court hearing. *(Specify reasons for denial in b, below.)*
(3) ☐ Partly GRANTED and partly DENIED until the court hearing. *(Specify reasons for denial in b, below.)*

Notice of Court Hearing
(Workplace Violence Prevention)
WV-109, Page 1 of 3

15. If the respondent does not obey the order, call the police. The respondent can be arrested and charged with a crime.

Request for Accommodations

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five court days before the hearing. Contact the clerk's office or go to *www.courts.ca.gov/forms* for *Request for Accommodations by Persons with Disabilities and Response* (Form MC-410). (Civ. Code, § 54.8.)

For help in your area, contact:
[Local information may be inserted.]

OSHA FACT Sheet

Workplace Violence

What is workplace violence?

Workplace violence is violence or the threat of violence against workers. It can occur at or outside the workplace and can range from threats and verbal abuse to physical assaults and homicide, one of the leading causes of job-related deaths. However it manifests itself, workplace violence is a growing concern for employers and employees nationwide.

Who is vulnerable?

Some 2 million American workers are victims of workplace violence each year. Workplace violence can strike anywhere, and no one is immune. Some workers, however, are at increased risk. Among them are workers who exchange money with the public; deliver passengers, goods, or services; or work alone or in small groups, during late night or early morning hours, in high-crime areas, or in community settings and homes where they have extensive contact with the public. This group includes health-care and social service workers such as visiting nurses, psychiatric evaluators, and probation officers; community workers such as gas and water utility employees, phone and cable TV installers, and letter carriers; retail workers; and taxi drivers.

What can these employers do to help protect these employees?

The best protection employers can offer is to establish a zero-tolerance policy toward workplace violence against or by their employees. The employer should establish a workplace violence prevention program or incorporate the information into an existing accident prevention program, employee handbook, or manual of standard operating procedures. It is critical to ensure that all employees know the policy and understand that all claims of workplace violence will be investigated and remedied promptly. In addition, employers can offer additional protections such as the following:

- Provide safety education for employees so they know what conduct is not acceptable, what to do if they witness or are subjected to workplace violence, and how to protect themselves.
- Secure the workplace. Where appropriate to the business, install video surveillance, extra lighting, and alarm systems and minimize access by outsiders through identification badges, electronic keys, and guards.
- Provide drop safes to limit the amount of cash on hand. Keep a minimal amount of cash in registers during evenings and late-night hours.
- Equip field staff with cellular phones and hand-held alarms or noise devices, and require them to prepare a daily work plan and keep a contact person informed of their location throughout the day. Keep employer-provided vehicles properly maintained.
- Instruct employees not to enter any location where they feel unsafe. Introduce a "buddy system" or provide an escort service or police assistance in potentially dangerous situations or at night.
- Develop policies and procedures covering visits by home health-care providers. Address the conduct of home visits, the presence of others in the home during visits, and the worker's right to refuse to provide services in a clearly hazardous situation.

How can the employees protect themselves?

Nothing can guarantee that an employee will not become a victim of workplace violence. These steps, however, can help reduce the odds:

- Learn how to recognize, avoid, or diffuse potentially violent situations by attending personal safety training programs.
- Alert supervisors to any concerns about safety or security and report all incidents immediately in writing.

Workplace Violence

- Avoid traveling alone into unfamiliar locations or situations whenever possible.
- Carry only minimal money and required identification into community settings.

What should employers do following an incident of workplace violence?

- Encourage employees to report and log all incidents and threats of workplace violence.
- Provide prompt medical evaluation and treatment after the incident.
- Report violent incidents to the local police promptly.
- Inform victims of their legal right to prosecute perpetrators.
- Discuss the circumstances of the incident with staff members. Encourage employees to share information about ways to avoid similar situations in the future.
- Offer stress debriefing sessions and post-traumatic counseling services to help workers recover from a violent incident.
- Investigate all violent incidents and threats, monitor trends in violent incidents by type or circumstance, and institute corrective actions.
- Discuss changes in the program during regular employee meetings.

What protections does OSHA offer?

The *Occupational Safety and Health Act's (OSH Act)* General Duty Clause requires employers to provide a safe and healthful workplace for all workers covered by the *OSH Act.* Employers who do not take reasonable steps to prevent or abate a recognized violence hazard in the workplace can be cited. Failure to implement suggestions in this fact sheet, however, is not in itself a violation of the General Duty Clause.

How can you get more information?

OSHA has various publications, standards, technical assistance, and compliance tools to help you, and offers extensive assistance through its many safety and health programs: workplace consultation, voluntary protection programs, grants, strategic partnerships, state plans, training, and education. Guidance such as *OSHA's Safety and Health Management Program Guidelines* identify elements that are critical to the development of a successful safety and health management system. This and other information are available on OSHA's website at **www.osha.gov**.

- For a free copy of OSHA publications, send a self-addressed mailing label to this address: OSHA Publications Office, P.O. Box 37535, Washington, DC 20013-7535; or send a request to our fax at (202) 693-2498, or call us at (202) 693-1888.
- To file a complaint by phone, report an emergency, or get OSHA advice, assistance, or products, contact your nearest OSHA office under the "U.S. Department of Labor" listing in your phone book, or call us toll-free at **(800) 321-OSHA (6742)**. The teletypewriter (TTY) number is (877) 889-5627.
- To file a complaint online or obtain more information on OSHA federal and state programs, visit OSHA's website.

U.S. Department of Labor
Occupational Safety and Health Administration
2002