

**What is
Workplace
Violence?**

**A Portrait of
Danger**

**Are You Liable?
On Your Guard**

Disarming the Workplace



PRESIDENT'S MESSAGE



Dear Readers,

It has been a tough year for everyone. As Americans and as Hawaii residents, we are burdened with a struggling economy plus the fear of the unknown. Stress levels for both employers and employees continue to run high. It is no wonder that amidst this turmoil, managers—now more than ever—need the skills to deal with aggressive, and sometimes even violent, behavior.

In anticipation of such a need, the State of Hawaii Attorney General's Office and the Hawaii Workplace Violence Working Group Committee published a free employer manual titled: "Workplace Violence: Prevention, Intervention and Recovery." Compiled by the state's leading experts in threat management, security, mental health, and other related disciplines, this manual is Hawaii's single most comprehensive resource on workplace violence prevention.

In other news, the Hawaii Supreme Court ruled in Iddings v. Mee Lee that a manager could be personally sued for injuries suffered on the job. This ruling emphasizes that supervisory personnel are responsible for both knowing about a potentially dangerous circumstance as well as taking appropriate and timely action to mitigate the situation.

At HEMIC, we strive to keep you abreast of the events that are changing our business climate. As always, we value your partnership in making Hawaii a safer place to live and work.

SINCERELY,

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QUESTIONS & COMMENTS

Are there questions and ideas you'd like to share? Please write us at HEMIC Connection P.O. Box 3376, Honolulu, Hawai'i 96801 or email us at info@hemic.com.

Threat or Conversation

Under the General Duty Clause, Section 5(a) of the Occupational Safety and Health Act (OSHA) of 1970, employers are required to provide their employees with a place of employment that "is free from recognizable hazards that are causing or likely to cause death or serious harm to employees." Simply put, employers have a moral and legal responsibility to provide employees with a safe environment in which to work.

According to the National Institute for Occupational Safety and Health (NIOSH), workplace violence is any physical assault, threatening behavior or verbal abuse occurring in the work setting. It includes, but is not limited to beatings, stabbings, suicides, shootings, rapes, near suicides, psychological traumas such as threats, obscene phone calls, an intimidating presence, and harassment of any nature such as being followed, sworn at or shouted at.

Although media attention primarily focuses on mass killings by disgruntled employees, these incidents are rare in comparison to the more subtle, but potentially devastating, acts of workplace intimidation. Under the guise of jokes and "harmless conversation," employees are threatened, harassed and victimized. Today's



managers need to be able to draw the line between "conversation" and abuse. Furthermore, managers need to be aware of how to respond so that verbal threats do not escalate into physical violence.

Workplace Violence: Prevention, Intervention and Recovery was created to help Hawaii employers develop and implement workplace violence prevention

and intervention programs. It contains policy and prevention strategies, extensive resources, case studies and practice exercises. By following the steps outlined in the manual, employers can learn to: 1) reduce the potential for dangerous behavior and, 2) identify when the danger has increased to the point that professional threat management assistance is required.

WORKPLACE VIOLENCE is Hawaii's first comprehensive manual that addresses workplace violence prevention, intervention, and recovery initiatives.

Limited hard copies are available for pick-up at two locations:

The Chamber of Commerce of Hawaii
1132 Bishop Street, Suite 402
Honolulu, Hawaii 96813
808 545-4300

Hawaii Community Foundation
900 Fort Street Mall, Suite 1300
Honolulu, Hawaii 96813
808 537-6333

CD-ROM copies of the manual are available by calling Safeguard Services at 808 526-2006.

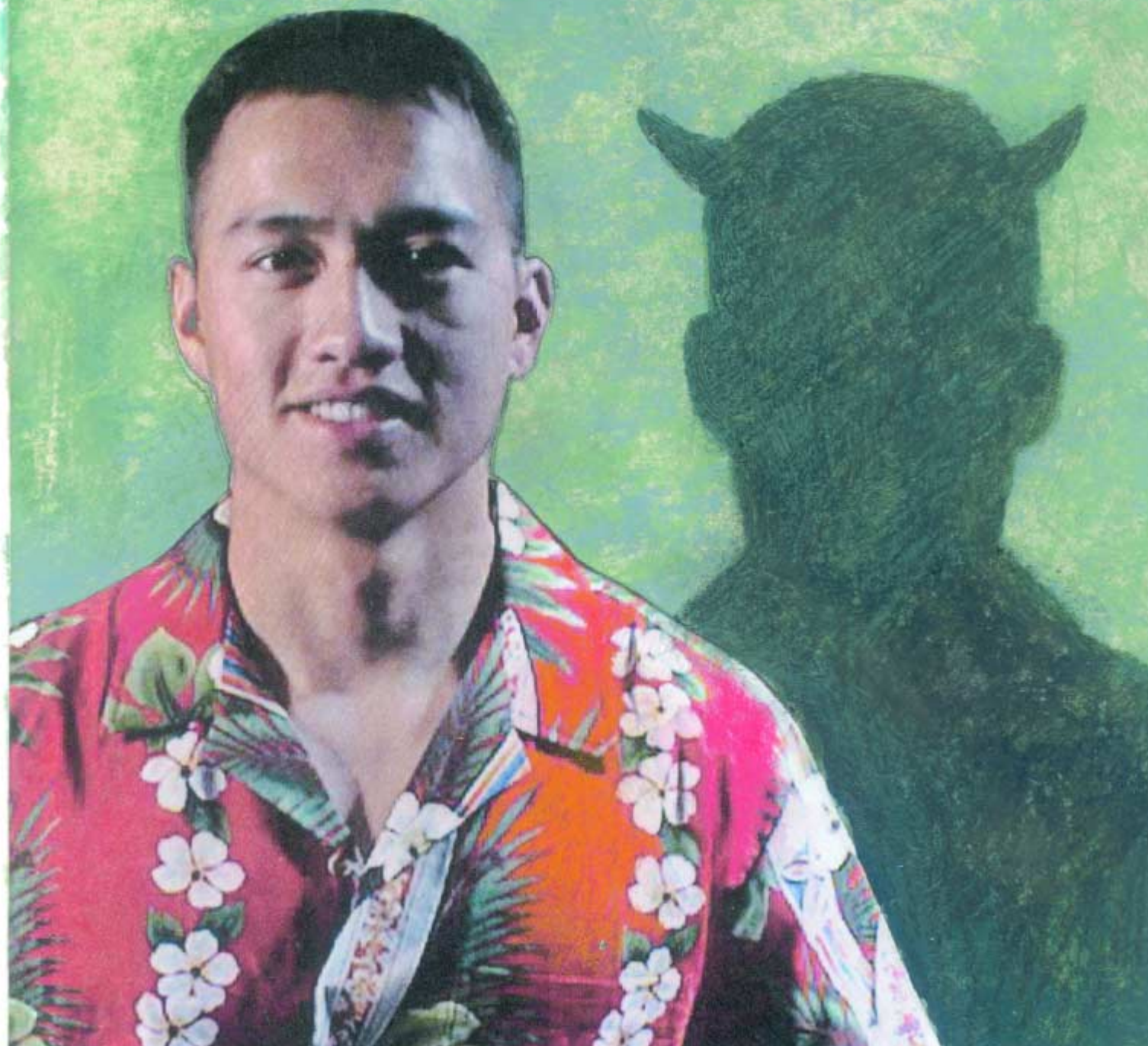
The manual can also be downloaded from <http://cpja.ag.state.hi.us/workplaceviolence>.

Reference copies are available at Hawaii State Library branches.

A Portrait of Danger

It's the stuff of old Hollywood movies and adventure novels. The caucasian male with angry eyes and military background whips out his machine gun and takes everyone out. That "look," or profile, was the old way of identifying potentially dangerous people.

The problem with profiling is that it unfairly singles out a type of person according to physical characteristics, while ignoring behaviors that can often indicate a propensity toward violence. The key to prevention is to intervene early when these indicators are first recognized.



Indicators of Potentially Violent Behavior

- Direct or veiled threats of harm, e.g., predicting that bad things are going to happen to a co-worker.
- Intimidating, belligerent, harassing, bullying, or other inappropriate and aggressive behaviors (physical or verbal).
- Numerous conflicts with supervisors and other employees.
- Brings a weapon to the workplace, makes inappropriate references to guns, or exhibits a fascination with weapons.
- Statements shows fascination with incidents of workplace violence, statements indicate approval of the use of violence in similar situations or the use of violence to resolve a problem.
- Statements indicate desperation (over family, financial, and other personal problems) to the point of contemplating suicide.
- Drug/alcohol abuse.
- Unusual or extreme changes in behavior.
- History of violent behavior (including post-employment).
- Paranoia and perception that individuals and/or everyone is "out to get the employee" or is against the employee.
- Inability to take criticism and/or responsibility for own problems, perceives that others are to blame and may verbalize the desire for revenge.
- Poor impulse control, displays anger and an escalating propensity to push the limits of normal conduct, with a disregard for the safety of coworkers.

Any words or conduct that may cause concern that a person may act out in a violent manner.

Personal life crisis, e.g., work-related circumstances such as termination, disciplinary action, financial problems, or relationship issues.

The more indicators an employee exhibits, the more concerned the supervisor should be in carefully evaluating the situation.

Employers should ensure that they are (or an incident response team is) prepared to assist supervisors and other employees in dealing with such situations.

According to John Tsukayama, Director of Pacific Threat Management, one of the most serious errors an employer can make is to deny a problem exists. If employees are afraid of an individual, respect their fear and investigate. "No one just blows up. There are always warning signs," says Tsukayama.

Source: Workplace Violence: Prevention, Intervention and Recovery, page 21 -22.

Prevention, Policies & Preparation

"The farther upstream you can address the problem, the greater your chances for a peaceful outcome," says Tsukayama. "When a CEO of a company calls me at two in the morning afraid for his life, I know there were steps that should have been taken earlier to prevent the situation from escalating to this point..." Tsukayama stresses "Too often people call us in for a 'last minute fix.' They're going to fire someone that morning and they'd like a security guard. Instead of following a plan, they react in fear."

Three Steps for a Safer Workplace

Conduct background checks. The best way to prevent violence is at the time of hire. Check all references. The initial cost will save you tremendous grief and money by helping you avoid potential problems.

Set policies regarding workplace violence. Establish and enforce consistent rules regarding fighting, harassment and violence on all levels. (See Workplace Violence for sample policies.)

Are your discipline proceedings fair and consistent?

Are there fair grievance opportunities?

Do your supervisors promote a respectful workplace?

Are your supervisors attuned to potential warning signs?

Do you have a threat management plan?

You may want to consult a threat management and assessment specialist. A protection professional can help you craft policy and assist with the training of supervisory personnel. When you uncover a dangerous situation, don't try to handle it by yourself. It is safer to hire a threat management professional to intervene on your behalf.

Be a good listener

Did something happen on the job that changed a person's point of view? Is something going on in an employee's private life that is affecting that individual's attitude? Listen to the grapevine. If other employees become afraid of an individual, take note and take action.

Are You Liable?



Targeted violence is the result of an escalating process that can be influenced once a proper assessment is conducted.

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What does this mean to you? Supervisors and employers who do not appropriately identify, assess and address a potentially violent situation may be held responsible for the outcome.

Violence does not occur in a vacuum. If you suspect a problem, the sooner the situation can be addressed by experienced individuals,

the better the chances for a peaceful resolution.

Manager personal liability.

In *Iddings v. Mee Lee*, the Hawaii Supreme Court laid out the basis under which an employee could sue a manager for injuries suffered on the job. The three main tests for personal liability in the wake of such injuries are:

Was the manager aware of a dangerous situation?

Was that situation probably going to result in injury if not addressed?

Did the manager consciously fail to act to prevent the probable harm?

Example: A dangerous dog is brought into a kennel. The dog-owner's veterinarian warns the kennel operator that the dog is likely to bite if not kept muzzled. The kennel manager does not inform her employees of the risk and does not require employees to take precautions. As a result, the dog lunges at a kennel employee causing severe injuries.

In the example above, the manager failed to act responsibly to protect the well-being of the employee, and may be liable.

Note: In some jurisdictions, the normal workers' compensation exclusive remedy statute may not prevent suit against the individual manager. It is also unlikely that a manager's homeowners' insurance policy would cover work-related liability.

(This document is not intended to provide legal advice, Please contact a licensed attorney for specific legal counsel relating to the ramifications of *Iddings v. Mee Lee* in individual situations.)

Stop. Before you plan your response to potentially violent situations, there are two recent developments that you should be aware of.

Violent outcomes can be influenced.

Groundbreaking studies by the National Institute of Justice, US Bureau of Prisons, and the Secret Service have been combined with the cumulative experience of specialized threat management firms such as Gavin de Becker, Inc. One over-riding view emerged:

On Your Guard

Do armed guards mean you're safer? Not necessarily, says Albert "Spike" Denis, President of Safeguard Services, Inc. "For example, if a bank robber sees an armed guard, his priority switches from making a clean getaway to "taking out the guard." As a result, the presence of the armed guard may escalate the violence, rather than reduce it."

"The key to effective security," says Denis, "is to conduct an extensive analysis of the property." Security services evaluate the client's incident history against the "standard of care" for that type of business. This information provides a guideline as to the number and caliber of guards needed to protect a specific property size and tenant mix.

Do all businesses adhere to the standard? Denis warns that companies that choose to under-protect (do not take reasonable steps to protect their customers) run the risk of higher liability when incidents occur.

How to choose a security service:

Research the experience and quality of the guards (as well as the service). Find out how much the guards are being paid and what their hiring requirements are. Are the guards trained to handle dangerous

situations? Are they reliable observers who will hold up in court?

Ask your guard service for a list of clients and contacts. Call references. Make sure their security ability matches your needs.

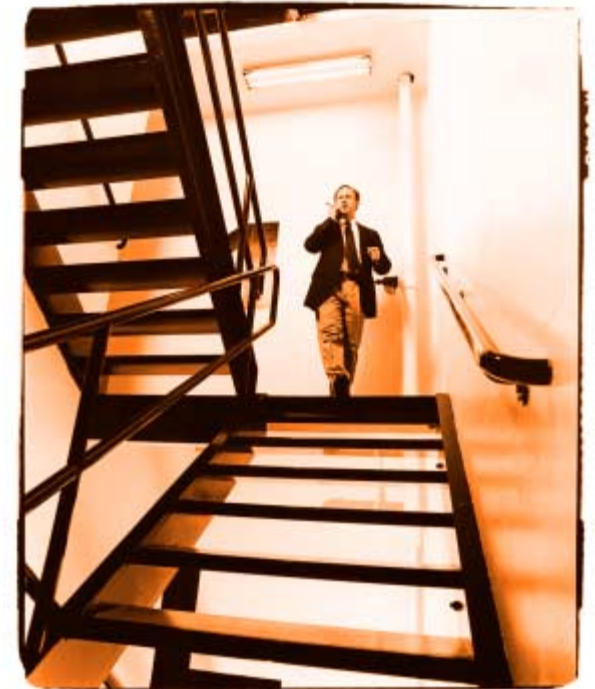
Once you've chosen your security service, ask for a comprehensive plan. How will the guards integrate with your parking personnel? Will guards rotate or will they be assigned to your building? Guards who are alert to patterns are more apt to notice if something is amiss.

What makes security guards effective?

Deterrent to a crime—Guards at the door of retail outlets, walking in parking lots and patrolling commercial buildings help to discourage illegal activity.

Reliable witnesses—Guards who are trained in observation skills provide key testimony in the apprehension and prosecution of criminals.

Your eyes and ears—Guards who are familiar with your premises and employees will alert you to unusual activity.



HEMIC would like to thank the following for their contributions to this newsletter:

John K. Tsukayama, Certified Protection Professional, Certified Fraud Examiner
John Tsukayama is the Executive Vice President of Safeguard Services, Inc., and the Director of Safeguard's Pacific Threat Management division. Tsukayama served as a protection consultant for Workplace Violence: Prevention, Intervention and Recovery.

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HEMIC FRAUD HOTLINE

If you suspect an employee or co-worker is receiving workers' compensation benefits due to a fraudulent claim, call the hotline today. All calls are strictly confidential.

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522-5279**

**Neighbor Islands Toll Free
1-888-522-5295**



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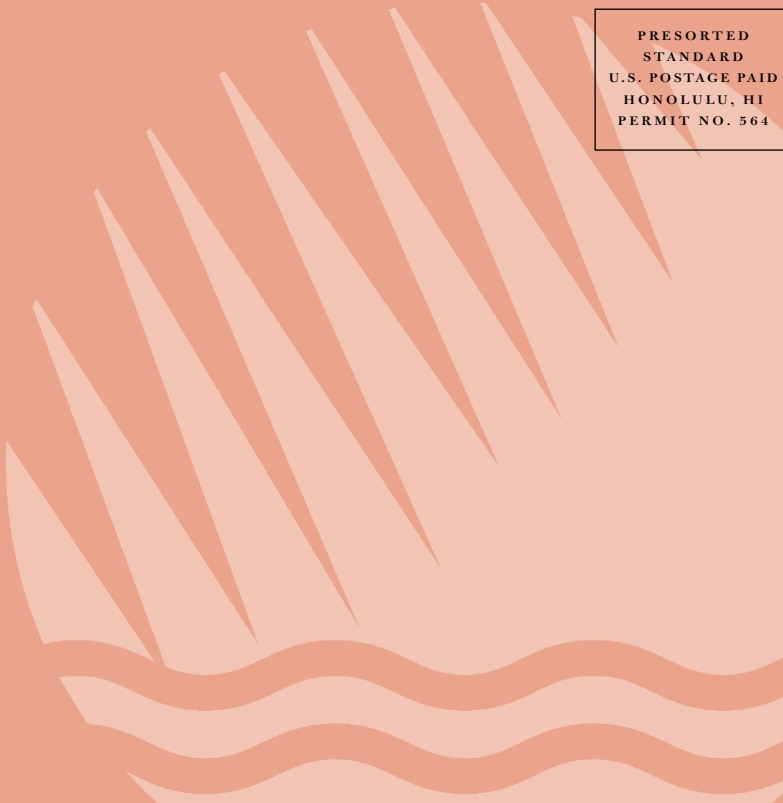
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