

All About Claims

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WAWCB Convention held in Denver **Economic Turndown Impacts Attendance By Western States**

The Western Association of Workers' Compensation Boards held its Annual Convention in May of this year at the Adam's Mark Hotel in Denver. Unanticipated events including the energy crisis impacting California, the Enron bankruptcy, shrinking state revenues and consumer confidence following the 9/11 terrorist assault, contributed to lower than expected attendance at the Colorado conference. We missed the input of many regular attendees. Even states with a history of strong participation such as California, Oregon and Arizona, were not represented at the conference due to restrictions on out-of-state travel, with some experiencing state-wide hiring freezes not unlike those impacting Colorado state government.

Nonetheless, attendees enjoyed an array of speakers on topics ranging from *Violence Comes to Workers' Compensation* (see article on page 2 by Bill Thoennes), to a fascinating presentation by Nurse Practitioner Jeanne Fleagle on *Limb Preservation*. Alan Weintraub, nationally renowned medical expert and Medical Director at Craig Hospital, mesmerized the audience with real life success stories involving techniques in *"Traumatic Brain Injury Rehabilitation."* Most of the audience agreed that one hour was too little time to appreciate the dramatic advances afforded in the treatment of brain injured individuals. Marguerite Stenquist talked about the four generations that comprise today's workforce and provided some surprising revelations on techniques for integrating and maximizing efforts from individuals who "think and operate from distinctly different values." Deborah Dale Brackney addressed the importance of emotional intelligence in the workplace--how to identify it, assess it, and link it to productivity.

On the legal side, we heard from John Criswell, Senior Judge of the Colorado Court of Appeals and fellow panelists, David Cain, Examiner with the Industrial Claim Appeals Office, and Michael Williams, Director of the Colorado Division of Administrative Hearings. Together, they presented their individual perspectives on *"The Role of an Administrative Law Judge."* Hall & Evans Attorney Timothy Nemecek, gave valuable insights into *"Interaction of Workers' Compensation and the ADA."* Out-of-state speakers included Kate Kimpan, Senior Policy Advisor for the U.S. Department of Energy, on implementation of the provisions of the Energy Employees Occupational Illness Compensation Act, and Navajo Tribal Court Advocate, Arita Yazzie, who gave us an insider's view into the Navajo Nation's workers' compensation system.

Colorado history was well served by the likes of Marcia Goldstein who, clothed in turn-of-the-century finery, took us on a tour of *"Laundry Girls, Lady Lobbyists, and Labor Unions: How Women Won the Eight Hour Day in Colorado, 1893-1914."* And noted historian Tom Noel ("Dr. Colorado"), introduced attendees to a host of colorful Coloradans from his archives of bars, brothels and bone yards. When the dust cleared, it was agreed that a good time was had by all.

COLORADO STATE WEBSITE
<http://www.colorado.gov/>
WORKERS' COMPENSATION HOME PAGE
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Violence Comes to Workers' Compensation

By Bill Thoennes

(The following information was taken from a presentation by Clinical/Police Psychologist John Nicoletti, Ph.D., at the 30th Annual Western Association of Workers' Compensation Board's Convention in Denver on May 13, 2002. It is re-printed with his permission).

There is no single off-the-shelf solution to the violence in our society says Dr. John Nicoletti, a nationally recognized expert on the subject. That's because violence is a kind of multi-headed beast and what works in battling one situation may not work at all in another.

Dr. Nicoletti compares violence to computer viruses. Just as there are many different strains of computer viruses -- the Melissa Virus, the Trojan Horse Virus -- violence in our society usually falls into one of several categories. There's domestic violence, street or predatory violence, bullying, gang violence, hate crimes, terrorist attacks, assassination, serial killings, "suicide by cop," and the type that is becoming more commonplace every year: school and workplace violence.

While the strains of violence are all similar to each other, each one is also unique. Consequently, the strategies that work in containing one form of violence may not work for

1. The Perpetrator Perceives Injustice Is Being Done

The violent employee perceives that he has been treated unfairly and begins talking to his supervisor and co-workers about his feelings.

2. The Perpetrator Feels Victimized by the Organization

The employee begins feeling powerless and helpless. His anger and depression regarding his situation grows and more signals are sent to coworkers and supervisors about how he feels.

3. The Perpetrator Initiates a Resolution

The employee begins filing complaints and formal grievances. This is the stage at which he will likely begin "practicing" the behavior that will follow, issuing veiled threats and becoming increasingly confrontational.

4. The Perpetrator Sees Himself as an "Avenger"

This is the stage at which the employee becomes dangerous. Typical comments at this stage are, "You let me down," and "I tried to find a solution to this mess, but you wouldn't let me."

another. For instance, he says, a technique such as screaming may be very effective in stopping a street predator but it won't be effective in stopping workplace violence where screaming and chaos have absolutely no effect on the perpetrator.

But each category of violence *can* be controlled (with the possible exception of the "suicide by cop" in which the perpetrator is determined to die by gunfire) and, more importantly, in most cases, violence can be stopped before it erupts. What is needed is a full understanding of which strategies are effective in addressing workplace violence.

Recognizing the Warning Signals of the Perpetrators

When violence occurs in the workplace, the media arrives almost as soon as the police arrive. Newspapers and television stations want to know who did it and why. The most common response from coworkers regarding violent employees is "he just snapped."

The reality is, long before someone just "snaps," he will send many clear signals to coworkers that he is going to snap. Unfortunately, most employees haven't been trained or made aware of how to recognize ticking bomb behavior. There are four stages to violent behavior in the workplace.

Whatever you do, Dr. Nicoletti stresses, don't simply dismiss a coworker's aberrant behavior with remarks like, "Well, that's just Ed" or "Yeah, he's got a strange sense of humor, don't mind him."

It's critical to recognize and report the "practice behavior" that precedes an act of workplace violence. Long before a person becomes violent, he will "practice" by pushing other employees emotionally, by making angry or threatening statements and even by making veiled threats.

"Workplace violence is neither random nor unpredictable," Nicoletti says. "Kip Kinkel, a high school student who murdered his parents and went on a shooting spree at his school began his practicing behavior by talking to other students about his violent fantasies. He wrote a school paper describing a student much like himself who goes on a killing rampage. All of this practicing behavior was evident long before Kinkel showed up at his school with guns."

The Ingredients For Violence

Dr. Nicoletti has an acronym to help us remember the ingredients for violence: TOADS. It stands for Time, Opportunity, Ability, Desire and Stimulus.

Time and Opportunity -- The perpetrator plans the time and opportunity to strike and will often drop hints to coworkers regarding when it will happen. Many students at Columbine High School had heard that Eric Harris and Dylan Klebold were planning “something big” to take place on April 20. Eric Harris' website even posted the warning, “Preparin' for the big April 20! You will all be sorry that day!” Sadly, most students did not take the warnings seriously.

Ability -- The perpetrator will also tell co-workers about his ability to carry out his threats. He may describe how he would terrorize the place of business in seeking retribution. Employees need to listen for this ingredient and report it when they uncover it.

Desire -- The desire to create violence begins by the perpetrator "numbing" himself to the thought of murder. That begins by viewing the intended victim as less than human. The more the perpetrator is allowed to make derogatory remarks or threats, the easier it is for him to dehumanize his intended victim. Put up obstacles to such behavior.

Stimulus -- The stimulus is the triggering event. Some triggering events are unknown to the supervisor or manager, such as a divorce; others can be predicted, such as a disciplinary hearing or termination.

Frontline employees need to understand the importance of reporting threatening behavior. Direct threats need to be reported to the police immediately and “practice” behavior needs to be reported to ICE. Employees should be trained on how to recognize and respond to "practice behavior." Virtually 100% of all workplace violence begins with these clear signals.

Standardized reporting forms should be in place to make sure all pertinent information is captured. Employees filing the report need to be instructed to take their time so the threat can be reported verbatim. The more specific the threat, the more apt it is to be carried out.

Listen For Threatening Statements

The key to stopping workplace violence before it starts is to put up a “tree,” an obstacle to violent behavior while it is still in a practicing stage. Throwing up an obstacle to inappropriate behavior begins with questioning an employee’s statements. Stop an employee who says something like, “You’re going to be sorry” with a question: “What do you mean by that?”

“It not only gives you information, it also lets the employee know you’re watching him,” Nicoletti says. “Unfortunately, people are often afraid to throw a ‘tree’ in front of such statements.”

Threatening behavior usually begins with one of the following three types of statements:

Conditional Threats: Listen for the words “if” and “or” in the statements. “If you fire me ...” and “Either I get an apology or ...” are examples of conditional threatening statements. These individuals are setting up a predetermined triggering event for the violence they are considering.

Veiled Threats: These statements are often difficult to deal with because the employee can deny that the remark was meant to threaten. Examples of veiled threats include, “What goes around comes around,” and “I’m under such stress, I don’t know what I’m capable of doing,” and “I had a dream about you the other night,” accompanied by a description of a violent fantasy.

Personal Threats: Listen for personal comments in a threat, something that touches your personal life — your children, where you live, where you shop. These personal remarks suggest that the person making them may have been stalking you.

Don’t be afraid to confront employees making what you perceive to be a veiled threat. And you must be prepared to take the confrontation to further levels if the employee does not back down. Verify it, document it, report it.

Managers must also learn techniques to get their message across to employees who deny that a veiled threat was made. An employee who denies having made an inappropriate remark should be told, “Well, it’s good you didn’t say it because if you had, we would have to take it very seriously.”

Questioning the threatening statements is just the first step to stopping it. If it doesn’t work, the effective manager has to be prepared to confront the employee and stop the behavior cold. Finally, you have to be prepared to explain the consequences of such behavior and, if they don’t cease, to implement those consequences.

When Violence Occurs In Your Workplace

Sometimes, even after every attempt has been made to control or contain it, violence still erupts in a workplace. The “event threshold,” the moment the employee enters your building with a gun, is a critical moment and employee should be instructed what to do if they see an armed and dangerous individual on the premises. Knowing what to do during the chaos of workplace violence is critical for survival. After calling 911, there are four steps employees can take to increase their chances of survival. They are:

Get Out/Get Out Of The Way -- Key to being able to escape before the gunman can get to employees is a public address system. Companies should not attempt to announce the crisis in code (“A level 3 situation is occurring in Tower 2, Suite 400.”) Most employees will simply be confused. The notification needs to be direct: “Shots Fired in Tower 2, Suite 400. Evacuate the building immediately!” It’s good to have a predetermined staging area as well, a place where all employees should gather so law enforcement can determine if anyone is missing.

Barricade Yourself -- If you cannot get out of the building in time and have access to an office with a door, lock yourself in the office. If there isn't a lock, push file cabinets and desks in front of the door. Most shooters will not bother trying to get through a barricaded door. They will move on, looking for easier killing opportunities.

Conceal Yourself -- If you cannot get behind a door, hide as quickly as possible. Studies have shown that most gunmen spray bullets in an upward arc and are looking at eye level for people to shoot. The lower you can hide yourself, the better your chances.

Play Dead – It really does work. Several years ago, when an employee at the Colorado Department of Transportation pulled a gun and opened fire during his disciplinary hearing, he immediately killed one of the two women in

the room with him. The second woman attempted to grab his gun. He shot her through the hand but she fell backwards and played dead. The perpetrator did not examine her wound or shoot her a second time. Playing dead saved her life.

A New Level of Awareness

Too often, our hearts are in the right place Dr. Nicoletti says, but we aren’t providing the real solutions. “Here’s an example. An office manager who has an employee facing the possibility of domestic violence may think that escorting her to her car every evening is providing her with security. In actual fact, this strategy is not useful if the manager has no training in how to disarm a gunman. In all likelihood, the manager is simply placing himself at risk.”

Finding the right strategies to control workplace violence requires an organization to understand that security comes with a tradeoff. It may inconvenience employees, it may cost money, it may even take some liberties away. Each organization has to determine for itself the measures it will go to in ensuring the safety of its workers.

Dr. John Nicoletti is an expert in issues related to violence and has investigated and provided consultation in numerous school and workplace violence incidents including the fatal shooting at the Colorado Department of Transportation and the murders at Columbine High School.

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