

Violence Prevention Program Manual

June 2018

Table of Contents

Violence Prevention Program Manual.....	1
Table of Contents.....	2
Chapter 1 - Introduction.....	5
§ 1 - Overview.....	5
Purpose.....	5
Applicability.....	5
Confidentiality.....	5
Training.....	5
New Employees.....	6
§ 2 - Program Responsibilities.....	7
Employee.....	7
Supervisor.....	7
Violence Program Managers (VPMs).....	7
Violence Program Staff of HRD.....	8
Chapter 2 - Prohibitions.....	9
Prohibited Behavior.....	9
Chapter 3 - Procedures.....	10
§ 1 - Reporting Procedures.....	10
Employees.....	10
Supervisors.....	10
VPMs.....	10
Reporting Protective or Restraining Orders.....	10
§ 2 - Response Procedures.....	11
Harassment.....	11
Assessment of Threats.....	11
Employees.....	11
Supervisors.....	11
VPMs.....	12
Determining the Threat Level.....	13
Incidents of Violence.....	14
Employees.....	14
Supervisors/VPM.....	14
Post-incident Response Procedures.....	14
Within One Hour.....	14
Within Two Hours.....	15
Within a Day.....	16
In Following Days.....	17
In Following Months.....	17
§ 3 - Investigation Procedures.....	18
Overview.....	18
Obtain and Document Facts.....	18
Interviewing.....	18
Overview.....	18
Note Taking.....	19
Questions.....	20
Hostile Witness.....	21
Credibility.....	21
Confidentiality.....	21
Conclusion of Investigation.....	22
Chapter 4 - Administrative and Disciplinary Actions.....	23

Table of Contents

§ 1 - Overview..... 23

§ 2 - Discipline..... 23

 Guidelines..... 23

§ 3 - Administrative 25

 Mandatory Referrals..... 25

 Before the Referral..... 25

 Making the Referral..... 26

 After the Referral..... 27

 Integration Into Workplace After Referral 27

§ 4 - Terminations 28

 Before the Termination..... 28

 During the Termination 28

 After the Termination 29

Chapter 5 - Right of Way Violence 30

 Overview 30

 Response to Right of Way Incidents..... 30

Chapter 6 - Domestic Violence 32

 Overview 32

 Recognizing Employee as a Victim..... 33

 Employee Seeking Assistance for Domestic Violence 34

 Employees Who Are Victims 35

 Employees Who Are Aggressors of Domestic Violence 36

 Leave 36

 Protective or Restraining Orders..... 37

Chapter 7 - Security 38

 Overview 38

 Security Measures..... 38

 Additional Security Measures..... 39

Chapter 8 - Employee Assistance Program 41

 § 1 - Overview..... 41

 Mandatory Referrals..... 41

 Treatment..... 41

 Initial 41

 Aftercare..... 41

 Completion of Treatment..... 42

 Return-to-Work Forms 42

 Leave for Appointments 42

 Mandatory Referral Limit..... 42

 § 2 - EAP Communications..... 43

 Overview 43

 Non-compliance..... 43

 Critical Incident Stress Debriefings (CISDs)..... 44

 Threats of Suicide..... 44

Appendix 45

 § 1 - Warning Signs 45

 Pre-Employment..... 45

 Characteristics of Aggressors..... 46

 Predictors of Violence 46

 Triggers for Violence 47

 Stability 47

 § 2 - Communication Strategies 48

Table of Contents

Confronting Prohibited Behaviors	48
Post-Incident Trauma.....	50
§ 3 - Legal Implications	51
ADA - Disability Discrimination.....	51
Background Checks	51
Detention of Employees	51
Disabilities as Defense Against Alleged Misconduct	51
Family and Medical Leave (FML).....	52
Privacy.....	52
Negligent Hiring and Retention.....	52
OSHA	53
Prohibited Harassment.....	53
Workers' Compensation	53
Weapons	53
§ 4 - Restraining and Protective Orders.....	54
Restraining Orders	54
Final Protective Orders	54
Obtaining an Order	54

Chapter 1 - Introduction

§ 1 - Overview

Purpose

To prevent loss of lives and injuries, limit financial losses and potential liability, the Texas Department of Transportation (TxDOT) instituted policies and procedures to prevent violence from occurring in its workplaces. TxDOT's workplace Violence Prevention policy serves to provide a safe work environment for all employees. The department does not allow, condone or tolerate harassment, threats of or physical aggression or endangerment, threats of or violence from employees while on duty, on TxDOT premises, or while operating a state vehicle. Reports of these behaviors is taken seriously and action taken accordingly.

This manual provides general guidelines and is not intended to cover every possible harassing, aggressive, threatening or violent situation. It is strongly advised to contact the Violence Program Staff of the Human Resources Division (HRD) to report any threat or incident of violence. See the [Violence Program Contact List](#) for Violence Program Staff contact numbers.

Applicability

The policies, procedures, and information found in this manual apply to all employees, full-time, part-time, regular, probationary or temporary appointment, that work for the department and encompasses all worksites.

Confidentiality

Violence Program Managers (VPMs) and supervisors must keep information relating to employees being mandatorily referred for violence to the Employees Assistance Program (EAP) confidential. All information pertaining to a mandatory referral should be maintained by the VPM in a locked file, separate from the employee's standard personnel file.

Never promise an employee that you may keep a report of workplace violence or threat of violence anonymous or confidential. Tell employees that information is shared only with others on a "need to know" basis.

Training

The Violence Program Staff of HRD will train the District/Division VPMs and alternate VPMs. VPMs will be trained on department policy, warning signs, and procedures for addressing prohibited behaviors. VPMs will provide similar training to supervisors in their District/Division.

Employees will receive information about the Violence Prevention policy and their responsibilities with regard to the policy.

New Employees

As a condition of employment, new employees must signify their awareness of the Violence Prevention policy when they complete Form [1833](#), “Employee Information.” New employees must take the online course DEV282, Violence Prevention, within 30 days of hire.

§ 2 - Program Responsibilities

The department is committed to working with its employees to maintain a workplace free from violence, threats of violence, threats of or physical aggression or endangerment, harassment, and other disruptive behaviors.

Employee

Employees are responsible for refraining from prohibited behaviors. They also must report all incidents.

Supervisor

Supervisors are responsible for ensuring adherence to program policy and procedures. Supervisors must take action to correct employees exhibiting harassing or violent behavior through counseling or discipline. Many problems are avoided by intervening and correcting harassing or violent behavior appropriately at every incident. Supervisors must take action to correct inappropriate behavior before it escalates.

Violence Program Managers (VPMs)

Each district has primary and alternate VPMs assigned by the Violence Program Staff of HRD. The director of the HR Central Operations section of HRD is the VPM for all divisions. See the [VPM Roster](#) for contact information. VPMs administer the Violence Prevention Program in coordination with the Violence Program Staff of HRD and Security Staff of Maintenance Division (MNT). VPMs will administer the Violence Prevention Program in conjunction with security, safety, human resources, and legal and management personnel within their District/Division.

VPM responsibilities include assessing potentially violent situations and making recommendations regarding:

- ◆ security issues,
- ◆ conducting investigations,
- ◆ administrative and disciplinary actions,
- ◆ mandatory referrals, and
- ◆ other actions which might require addressing a harassing, aggressive, threatening or violent situation.

In addition, VPMs are responsible for conducting supervisor training on violence prevention and assisting supervisors with assessing whether a Critical Incident Stress Debriefing (CISD) is conducted by the EAP following a violent incident.

Violence Program Staff of HRD

The [Violence Program Staff of HRD](#) has primary responsibility for administering the Violence Prevention Program. This program is administered in coordination with the Violence Prevention Management Team, which includes Security Staff of MNT, VPMS, the General Counsel Division (GCD), the Occupational Safety Division (OCC), and representatives from Alliance Work Partners, the EAP vendor.

The Violence Program Staff of HRD are responsible for:

- ◆ developing policies and procedures that pertain to the Violence Prevention Program
- ◆ conducting training for VPMS
- ◆ assisting the VPMS with assessing potentially violent situations
- ◆ making recommendations regarding security issues
- ◆ conducting investigations
- ◆ administrative and disciplinary actions
- ◆ mandatory referrals, and
- ◆ other actions that might be required to address a harassing, aggressive, threatening, or violent situation.

Chapter 2 - Prohibitions

Prohibited Behavior

The department prohibits all employees from engaging in any of the policy violations described below while on duty, on TxDOT premises, or while operating a state vehicle. Unacceptable behavior is not allowed by the department, even if meant as a joke.

Behavior	Descriptions
Harassment	<ul style="list-style-type: none"> ◆ Hostile or intimidating actions, including, but not limited to: <ul style="list-style-type: none"> ◆ abusive language ◆ shouting or swearing ◆ bullying ◆ frequent arguing, belligerence, or chronic uncooperative behaviors ◆ unwanted visual or written communication, or ◆ other disruptive behaviors.
Threats of Physical Aggression or Endangerment	<ul style="list-style-type: none"> ◆ Practical jokes that could result in harm to another person or property ◆ Threatening bodily injury or harm to another person
Physical Aggression or Endangerment	<ul style="list-style-type: none"> ◆ Hitting or damaging property while angry ◆ Practical jokes that result in harm to another person or property ◆ Holding, impeding, or blocking the movement of another person ◆ Pushing ◆ Chasing ◆ Hitting ◆ Kicking ◆ Physical fighting
Threats of Violence	<ul style="list-style-type: none"> ◆ Threatening serious bodily injury or harm to self or another person ◆ Threatening to use a weapon of any kind against another person ◆ Stalking
Violence	<ul style="list-style-type: none"> ◆ Violence causing serious property damage or bodily injury to another person ◆ Using a weapon against another person ◆ Committing criminal acts that harm another person or property

Chapter 3 - Procedures

§ 1 - Reporting Procedures

Employees

Employees will immediately report all incidents of harassment, threats of or physical aggression or endangerment, or threats of or violence to one of the following:

- ◆ their immediate supervisor
- ◆ the supervisor of those employees involved
- ◆ the next higher level of management, or
- ◆ the District/Division VPM who will immediately report to the DE/DDs.

Note: At any time, incidents may be reported directly to the Violence Program Staff of HRD or the Security Staff of MNT.

Employees who report an incident of workplace violence will not be subject to any form of retaliation or retribution. Any employee making retaliatory actions or remarks, directly or indirectly, will be subject to disciplinary action, up to and including termination.

Supervisors

Supervisors must ensure that every incident is reported as soon as possible to their VPM. In working with their VPM they will take immediate and appropriate action to restore the workplace to a non-hostile environment.

VPMs

VPMs are responsible for reporting incidents to the Violence Program Staff of HRD for guidance on policy and procedural issues. The VPM, upon notification of any prohibited act, will take immediate and appropriate action to restore the workplace to a non-hostile environment. In taking such action, the VPMs or DE/DDs may seek assistance from their [Substance Control Officer \(SCO\)](#) if the violence appears to be drug- or alcohol-related.

Call Security Staff of MNT at (512) 465-7357 to report immediate threats of violence, bomb threats, etc. Calls are received 24 hours a day, seven days a week.

Reporting Protective or Restraining Orders

Employees who apply for or obtain a protective or restraining order that lists a departmental location as a protected area must provide to their supervisors a copy of the protective or restraining order as soon as possible. Supervisors will notify the VPM, who in turn will notify security personnel and other appropriate personnel that the protective or restraining order exists. Employees given this information should not discuss or disseminate information unless there is a safety reason to do so.

§ 2 - Response Procedures

Harassment

When a complaint of harassment has been made, the supervisor should respond by obtaining a statement about the incidents of the alleged harassment. If necessary, notify the VPM of the incidents and review administrative and disciplinary guidelines for taking appropriate action on the prohibited behavior.

For inappropriate behavior to be categorized as harassment, the behavior must be chronic and disruptive to the workplace. Some examples of harassment could include a pattern of intimidation, abusive language, frequent arguing or belligerence, or unwanted visual or written communication.

Assessment of Threats

In order to make an informed judgment on whether someone who has made a threat is likely to carry it out, evaluations are made that may help differentiate between someone making a threat versus someone posing a threat. A threat assessment should have two parts:

- ◆ an evaluation of credibility and overall viability of an expression of intent to do harm, and,
- ◆ an evaluation of the employee making the threat.

If a threat of violence, physical aggression, or endangerment is observed or learned of, including domestic violence situations where protective orders or restraining orders have been reported, the following procedures are followed immediately:

Employees

Report threats immediately to a supervisor, supervisor of employees involved, next higher level of management, or VPM.

Supervisors

When an incident occurs:

- ◆ Report it to the VPM immediately advising them of the situation (VPM will advise the Violence Program Staff of HRD)
- ◆ Ensure the workplace is safe
- ◆ Separate the alleged victim and alleged aggressor (move each to an evacuation area or other safe location)
- ◆ Gather information from the alleged victim and alleged aggressor about the incident, and
- ◆ Communicate with co-workers who have witnessed or observed the incident. Make a statement to prevent exaggeration and rumors. Offer reassurance that immediate security issues have been addressed to alleviate fears.

VPMs

When an incident occurs:

- ◆ Work with supervisor to determine whether the threat is critical and life threatening (if in doubt, contact the Violence Program Staff of HRD or Security Staff of MNT for guidance)
- ◆ Analyze the following to begin the threat assessment process:
 - exact nature and context of the threat or threatening behavior
 - identified target (general or specific)
 - alleged aggressor's motivation
 - alleged aggressor's ability to carry out the threat, and
 - alleged aggressor's background, including work history, any known criminal record, mental health history, military history, and past job behavior.
- ◆ Work with supervisor to decide if matter is serious enough to necessitate a request for alleged aggressor to be placed on administrative leave with pay pending results of investigation
- ◆ If alleged aggressor has fled the area of the incident or cannot be located, locate a description and photo (if available), and
- ◆ Work with supervisor if you have knowledge this is a domestic violence situation which may involve a protective or restraining order.

If you are familiar with the alleged aggressor and have knowledge of their behavior prior to the threat, ask yourself questions about the behavior to help you assess the viability of the threat, such as:

- ◆ Why have they made threatening comments at this particular time? What is happening in their life that prompted this?
- ◆ How does alleged aggressor view themselves in relation to others? Do they feel wronged in some way?
- ◆ How do they accept responsibility for their actions? Do they blame others for failure?
- ◆ Do they feel like TxDOT is treating them unfairly? Are there problems with supervisors or management?
- ◆ Have they received unfavorable performance reviews or been disciplined recently?
- ◆ Is there evidence of substance abuse or mental illness/depression?
- ◆ Is there a preoccupation with violent themes or recently acquired weapons?
- ◆ Have they spoken of homicide or suicide?
- ◆ Have they mentioned giving away personal items or a willingness to die?
- ◆ Do they have a history of violent or criminal behavior?
- ◆ Do they have a plan? Does the plan make sense, is it reasonable, and is it specific?
- ◆ Does the alleged aggressor have the means and knowledge to carry out the plan?
- ◆ Does it appear more or less likely that they will commit the threatened act?

Your answers to these questions help determine the alleged aggressor's motivation and ability to carry out the threat. To protect the safety of individuals, consider each additional action listed below.

- ◆ Consider getting alleged aggressor out of the workplace pending conclusion of investigation. Put them on administrative leave with pay during investigation.
- ◆ Inform the DE/DD as soon as possible to alert them of the situation.
- ◆ Notify targeted employee(s) of any threat made directly against them by anyone.
- ◆ Consider additional security measures for any employee who has been threatened.
- ◆ Determine whether threatened employee should remain on-site or off-site.

Note: In a situation of domestic violence, a threat assessment is often more difficult since the aggressor may not be directly observed or interviewed and you will have to rely on statements by the alleged victim and other witnesses.

Determining the Threat Level

After initially responding and assessing a reported threat of violence, physical aggression or endangerment, it is important to determine the level of severity of the threat in order to take appropriate administrative and disciplinary action. The goal of the threat assessment is to place a threat somewhere on a hierarchy of dangerousness and on that basis, determine an intervention. The following are guidelines for determining the threat assessment level according to the behaviors:

Level of Threat	Examples of Behaviors
Low	<ul style="list-style-type: none"> ◆ Abusive language, belligerence ◆ Argumentative ◆ Chronic lack of cooperation or problems with authority ◆ Frequent displays of anger, blaming others ◆ Intimidating others to create fear or discomfort ◆ Unwanted written or visual communication including romantic obsessions ◆ Practical jokes that could result in harm to a person or property ◆ Refusing to follow instructions or adapt to changes ◆ Excessive complaints of stress at work
Moderate	<ul style="list-style-type: none"> ◆ Threats of physical aggression or endangerment ◆ Practical jokes that result in harm to a person or property ◆ Belief that others are conspiring against or persecuting them – paranoid behavior ◆ Expressed threats as a way to handle problems ◆ Hitting or damaging property ◆ Comments about weapons or stories of hurting others ◆ Increased arguing and ongoing conflicts with co-workers or supervisors ◆ Repeated violations of policies or other job performance problems ◆ Disregard for others safety
High to Severe	<ul style="list-style-type: none"> ◆ Physical aggression toward another person ◆ Destroying property ◆ Threatening serious bodily injury ◆ Engaging in stalking or other obsessive activities ◆ Recurrent suicidal threats ◆ Use of weapon against another person ◆ Engaging in serious bodily injury against another person

For more information on assessing the level of threats, see Appendix, [Warning Signs](#), or [Investigation Procedures](#) section of this chapter.

Incidents of Violence

Even though the Violence Prevention policies and procedures are developed to avoid the trauma and cost of a serious violent incident, we have to be prepared to restore the work environment back to normal as quickly as possible. Use the following as guidelines as a response to serious violent incidents:

Employees

- ◆ Leave the area and ensure your safety (do not try to control the violent person).
- ◆ Call 911.
- ◆ Notify co-workers in the area.
- ◆ Immediately report incident to a supervisor, supervisor of employees involved, next higher level of management, or VPM immediately.

Supervisors/VPM

- ◆ Call 911 or the appropriate law enforcement authorities.
- ◆ Contact local building security or Security Staff of MNT at (512) 465-7357.
- ◆ Assess safety of employees and others in the area as soon as possible.
- ◆ Quickly assess work area if it was disturbed or damaged during an incident, to determine if it is safe for employees to remain in the area. If the work area is not safe, determine the safest exit(s) for employees to use.
- ◆ Supervisors: contact the VPM immediately if not yet involved.
- ◆ VPMs: notify the DE/DD as soon as possible to alert them of the situation.
- ◆ VPMs: contact the Violence Program Staff of HRD or Security Staff of MNT to alert them of the situation and begin the investigation (See Investigation Procedures).

Post-incident Response Procedures

These additional procedures are to be followed during the hours, days and months after a serious violent incident has occurred in which there are serious injuries or loss of life.

Within One Hour

VPM

- ◆ Ensure law enforcement has secured the area and necessary medical assistance has been obtained.
- ◆ Ensure the DE/DD, Security Staff of MNT, Administration, and GCD have been notified of the incident.
- ◆ Ask emergency responders which hospitals injured employees are being transferred to.
- ◆ Document the names of injured employees and the hospitals where they were transported.

- ◆ Alert other employees to report to pre-determined site for emergencies, such as site used for fire drills. If using a different location, communicate instructions that are clear, simple, and direct in order to move others to a place of safety.
- ◆ While at safe site, remind all employees not to disclose details of incident, other than to law enforcement and/or internal investigators, until an investigation has been completed.
- ◆ Ask supervisors at incident site to account for all employees, customers, visitors and vendors at site at time of violence.
- ◆ Make all employees, customers, visitors and vendors present at worksite aware of the incident.
- ◆ Ask employees to ensure TxDOT property such as laptops, cash, etc. are secured before leaving worksite.
- ◆ Coordinate with human resources to obtain emergency contact information of the victims.

DE/DD

- ◆ Call Public Information Officer (PIO) and appoint an authority for communications to manage media relations.
- ◆ Appoint employee(s) to act as watchperson, to watch for police, emergency medical personnel and family members.
- ◆ Ensure appointed watchperson is aware of employees who have died or been injured. Watchperson should also direct family members of fatalities and injuries to separate, private room where they may be met by agency representatives.
- ◆ Direct families of hospitalized employees to another area and provide transportation to hospital.
- ◆ Direct families of employees who have not been injured to a family gathering area.
- ◆ Monitor presence of personnel in site.

Within Two Hours

DE/DD

- ◆ As quickly as possible, and in coordination with a victim advocate from law enforcement and/or a representative from the EAP, notify the victim's family members in person of the occurrence of an incident involving a family member. (Be sensitive to cultural or language issues.)
- ◆ Call the EAP and request that counselors be onsite for assisting employees.
- ◆ Provide victim's family members the EAP wallet card and brochure.
- ◆ Notify family members of a death after coroner has made the determination.
- ◆ Select a quiet and secure location for any further meetings with victim(s) family members.
- ◆ Ask family members if they wish to be escorted to selected location, where they will be informed of details of the incident.
- ◆ Coordinate or provide child care to enable the family to visit the hospital or to attend informational meetings regarding the event.
- ◆ Consider Administrative Leave for employees needing time to recover.

- ◆ Remain visible.

Within a Day

VPM

- ◆ After law enforcement has finished a preliminary investigation, arrange for thorough cleaning service provided from a contracted source.
- ◆ After family has been de-briefed, arrange for a Critical Incident Stress Debriefing (CISD) through the EAP, for family, employees involved in the notification of the family, and all employees in the workplace.
- ◆ Have supervisors monitor reactions of employees remaining on site. Ask them to look for signs of stress, including moodiness, isolation or irritability. Once identified, arrange for counseling for employees most visibly affected.

DE/DD

- ◆ After police have received witness statements, begin de-escalation meetings with employees.
- ◆ Acknowledge significance of crisis.
- ◆ Provide appropriate, current information.
- ◆ Reconstruct facts and elicit input.
- ◆ Stabilize and calm employees, educate about potential stress reactions, dispel rumors.
- ◆ Inform employees what will happen next day back at work. If possible, instruct everyone to come to work, instead of isolating at home.
- ◆ Establish a buddy system and ask that they make meaningful contact by phone for next few days.
- ◆ Advise supervisors and managers to come early the following day to be briefed.
- ◆ Arrange transportation for anyone who requests it or appears too distraught to drive.
- ◆ Remain afterward to speak with anyone who still has questions.
- ◆ Debrief employees involved in contacting family members of the victim(s).
- ◆ Determine whether to close site and for how long. Determine how employees in affected areas will perform their jobs in the interim. (It may be counterintuitive, but it's often better for workers to get back to work soon after traumatic incidents. Management should understand employees will initially not be 100 percent productive. Acknowledge this, show compassion as you evolve back into full productivity.)
- ◆ Coordinate with administration and PIO to provide accurate information to media and all department employees. Consider setting up information line or sending email notification.
- ◆ Coordinate flowers, cards, donations, visits to recovering victims and/or family members.
- ◆ Provide transportation to employees for funeral(s) or other memorial services.
- ◆ Consider whether employees will be given paid or unpaid time off to attend funerals.
- ◆ Beware of employee's and families desires to establish shrines and memorials on the property. Consider placing a memorial wreath of flowers in a central location until the time of the funeral and planting a tree on the property.

- ◆ Decide for need for additional security, (i.e. off duty law enforcement officer) at central incident location for a period of time.

In Following Days

VPM

- ◆ Forward any litigation issues to GCD.
- ◆ Ask OCC and HRD representatives to be available for affected employees to provide assistance in the processing of Workers' Compensation, payroll, and insurance paperwork.
- ◆ Conduct an after incident meeting among supervisors and affected employees, for purpose of reviewing and documenting facts prior to, during and following incident, in a safe location. Look for possible triggering events such as recent litigation or financial issues.
- ◆ Convene Violence Prevention Management Team. Debrief critical incident with OCC, Security Staff of MNT, GCD, and HRD. Debrief critical incident and events preceding and leading up to incident. Develop follow-up summary describing incident and improvements in the Violence Prevention policies and procedures.
- ◆ Provide all information collected to DE/DD for reporting to other offices. Include incident report forms, witness statements, copies of written threats, police reports, corrective/disciplinary actions, records of convictions of crimes and copies of communication releases to employees and written statements regarding the incident by the alleged aggressor.
- ◆ After a critical incident, workplace security will be of utmost importance. The VPM and/or Security Staff of MNT, should send a reminder to all employees:
 - wear and display badges prominently
 - visitors must enter through public entrances, and employees must not provide access into restricted areas to unknown persons
 - lock all building entrances other than public entrance
 - report all suspicious activity to security, and
 - report areas for improvement such as lighting, malfunctioning locks, overgrown shrubs, damaged gates or fences, to security.

In Following Months

VPM

- ◆ Prepare plans to schedule a “Day to Remember” on the anniversary of the incident and the birthday of the victim(s).
- ◆ Forward any litigation issues to GCD.
- ◆ Continue to monitor employee(s) response in the workplace for signs of stress, such as: moodiness, isolation, irritability, deterioration in work, chronic lateness, absenteeism or excessive use of sick leave.

§ 3 - Investigation Procedures

Overview

Supervisors and employees must have a clear understanding that they are required to report threatening or violent behavior and that when threatening or violent behavior is reported, the VPM will respond accordingly. What happens following the report of a threatening behavior is crucial to the success of the violence prevention program.

An investigation is not always needed to make a decision or reach a conclusion. The issue may be resolved by witness statements obtained if they are consistent, credible, corroborated, and conclusive. If more information is needed than was provided in witness statements or other evidence is lacking, an investigation is warranted.

In addition, investigation and appropriate follow-up may contribute to or improve employee morale, reduce grievances, and possibly help avoid expensive liability.

It is important that a timeline be maintained or a record of activities during the review of any violent incident. This section includes guidelines for obtaining witness statements, conducting investigations, and summarizing results of investigation for action.

Obtain and Document Facts

Immediately obtain a signed statement from anyone who has information about the threat or incident (complainant, alleged victim, alleged aggressor and witnesses).

Statements should include a detailed account of incident including names of employees, date, time and location, and potential reason for the incident to occur.

Interviewing

Overview

Interviews are conducted when there are discrepancies or deficiencies in witness statements and should be conducted as soon as possible. Balance the need for preparation with the need to expedite the process. Do not interview anyone as a character witness.

Prior to interview the VPM determines specific issues to address and who will conduct interviews. This may be a single person or a team. Interviewers should be:

- ◆ unbiased
- ◆ outside of the chain of command of alleged victim or alleged aggressor
- ◆ trained in conducting investigations, and
- ◆ knowledgeable of applicable policies, procedures, and laws.

When interviews are necessary, the alleged victim should be interviewed first, followed by the alleged aggressor, and then witnesses. This order may be changed if a witness is unavailable, or if it is appropriate to interview witnesses before interviewing alleged aggressor. Contact each witness to schedule a meeting to discuss the threat or incident (do not contact employees on Family Medical Leave). Use telephone interviews only for minor witnesses when an in-person interview is not possible.

The [Witness Statement](#) form should be used as the questioning outline when conducting the interview. The form has been created to assist in obtaining such information as what happened, who was involved in the incident, where and when did it happen, how did it happen and why did the incident happen.

Helpful tips for interviewing:

- ◆ Arrange seating to ensure doorway is accessible to all participants, if possible, with possible exception of alleged aggressor.
- ◆ Conduct individual, not group interviews.
- ◆ Do not become judgmental when disagreeable conduct or information is disclosed.
- ◆ Differentiate fact from opinion. Ask how they know what they have stated.
- ◆ Stop the interview if you feel threatened.
- ◆ Set up a private interview in a neutral setting where distractions are limited.
- ◆ Tell them the general nature and purpose of interview and document. (This may protect TxDOT if the employee later claims not all issues were investigated and may determine if the employee's story changes over time.)
- ◆ Set tone by explaining you are on a fact-finding mission, and reiterate our violence policy, if needed.
- ◆ Resist drifting from topic of concern.
- ◆ Give each witness time to respond and ask them to list all individuals who have knowledge of any of the events.
- ◆ Consider recruiting a note taker so you can concentrate on observing employee during the meeting. (Having a note taker also ensures note taking will not become focus of attention.)
- ◆ Provide a list of questions for employee to answer in writing, if you are unable to calm an employee being interviewed. Ask the employee for their written response of the questions within a specific timeframe.

Note Taking

Establish a rapport with the individual and tell them you or a separate individual will be taking notes during the course of the interview. Ensure notes are legible, accurate, and free of grammatical errors and misspellings on the Witness Statement form. If possible, make a copy and have interviewee review and sign notes.

Notes may be subject to disclosure during litigation.

Questions

The Witness Statement form should be used as the main outline of questioning during the interview. The following are tips for asking additional questions.

- ◆ Use different types of questioning techniques throughout the interview. For example:
 - Open-ended questions are used to elicit a narrative response.
 - Direct questions are used when covering background data. For example, “Who told you he had made a threat?” or “When did you notice he had a weapon?”
 - Non-direct questions are useful when needing more latitude in their response. For example, “What was your reaction?” or “What made that unusual?”
 - Ask “yes” or “no” questions only when you want to verify statements.
 - Summarize questions when you want to give the employee a summary of what you heard, for example, “In other words, it was not what he said, but the tone of his voice?” or “You’re telling me you were only joking when you said you were going to blow up the office?” Reflect that confirmation in the notes.
- ◆ Ask every witness if they have any personal knowledge about relevant evidence or documents related to the subject of the investigation.
- ◆ Follow up on answers provided by witness that need clarification or additional information with additional questions. Do not interrupt a witness unless absolutely necessary.
- ◆ Ask additional questions to corroborate or refute information provided by other witnesses or evidence, without disclosing the source if possible.
- ◆ Do not use threats, coercion or intimidation when questioning. Also, do not hesitate to ask difficult or embarrassing questions.
- ◆ Come back to questions that weren’t answered sufficiently when originally asked. Exhaust the topic.

Most importantly, be sure to listen carefully to each response, not just listen for an answer. Employees may signal a problem with answering by not responding immediately to a question.

After the interview is complete, be sure to have the interviewee sign the Witness Statement form.

See the Appendix, [Communication Strategies](#), for effectively communicating and working with employees who have engaged in prohibited behaviors.

Hostile Witness

Immediately stop interviewing if you feel threatened by the person being interviewed. Do not attempt to interview anyone if you suspect there is a weapon or possibility of a physical altercation and consider contacting the local police, sheriff's office, and the district's safety officer and security officer. If the employee uses intimidating behavior consider conducting the interview with a supervisor present.

Follow these guidelines if you encounter a hostile witness:

- ◆ Restate the purpose of the interview, remind them you have full authority to conduct the interview and they are required to cooperate.
- ◆ Remember to use non-confrontational approaches such as lowering your voice when employee raises their voice.
- ◆ Remind the witness that Chapter 8, *Conduct and Problem Resolution*, in the *Human Resources Policy Manual* states an employee must not knowingly falsify or destroy department information or make a false statement or representation when acting as a representative of the department.
- ◆ If the witness requests an additional person be present, tell them TxDOT is not required to allow employees to be represented or accompanied at investigative interviews. This rule is based on a review of case law by GCD.
- ◆ Remind employee that retaliation against anyone involved in the investigation is prohibited by the department.

Credibility

Make credibility assessments as you conduct the interviews. Consider the witness' opportunity and capacity to observe the event, any witness' bias, the contradiction of witnesses' version of events, or its consistency with other evidence. Do not conclude a witness is not credible simply because they did not make eye contact.

For each witness review:

- ◆ What is the source of the witness' knowledge (be wary of hearsay)?
- ◆ Was the witness present when the incident occurred?
- ◆ Is the information provided by the witness first hand or from a third party?

Confidentiality

Remind all witnesses interviewed to maintain confidentiality about their testimony and all aspects of the investigation, without exception.

If during an interview medical information is disclosed, reported or otherwise evidenced, you must maintain that information in a file separate from any other personnel documentation. Special precautions must be taken with medical information to ensure confidentiality. (See [Medical Information](#) in the *Human Resources Policy Manual*.)

Try to protect the anonymity of person(s) providing information about the threat or incident. However, NEVER promise to keep what they say confidential. The information will only be shared with individuals on a need to know basis. Persons who may need to know about the investigation may include:

- ◆ the identified alleged victim and alleged aggressor
- ◆ supervisors or managers who will make disciplinary or other decisions relating to the matter, or
- ◆ the DE/DD who needs to know and/or approve any disciplinary or corrective action, as appropriate.

Conclusion of Investigation

Once the investigation has been completed, the [Summary of Incident](#) form should be completed. Attach any witness statements, documentary evidence and any hand written statements to the form.

Tips for completing the Summary of Incident form include:

- ◆ The preponderance of evidence (more likely than not) is the most appropriate standard to use when making a determination regarding an investigation. The investigator should make a reasonable finding indicating “evidence shows that ...”, “there is no evidence that...”, “there is inconclusive evidence that...” or “there is insufficient evidence that...”
- ◆ Ask yourself the following questions regarding the summary:
 - Does it give all necessary information?
 - Does it answer all questions?
 - Does it contain only essential facts?
 - Is the sentence structure clear?
 - Are the ideas presented in the best order?
 - Is the information accurate?
 - Is the writing free of grammatical and spelling errors?
- ◆ The investigator should not make any recommendation for corrective or remedial action related to the investigation in this summary.

The summary should be provided to the person who requested and/or authorized the investigation. Discuss and coordinate action steps with the Violence Program Staff of HRD, GCD, and the DE/DD.

Final approval of action is made by DE/DD who will consider the course of action to include:

- ◆ disciplinary steps up to and including termination
- ◆ mandatory referral to EAP, and/or
- ◆ Critical Incident Stress Debriefing (CISD).

Chapter 4 - Administrative and Disciplinary Actions

§ 1 - Overview

The department does not allow, condone or tolerate any of the prohibited behaviors described in [Chapter 2 - Prohibitions](#). The department is not concerned with an employee's intent or whether or not they were provoked. The department will treat all statements seriously, including those that may have been intended to be a joke. Employees who violate the prohibitions described in the Violence Prevention policy will be disciplined, up to and including termination.

It is strongly recommended that when threats or incidents are reported that the VPM call the Violence Program Staff of HRD for guidance on the administrative and disciplinary action to take. This may or may not include a mandatory referral; however, the Violence Program Staff of HRD must approve all mandatory referrals to the EAP (See [Chapter 8 - Employee Assistance Program](#), for more information about mandatory referrals to the EAP).

§ 2 - Discipline

Guidelines

The following table describes the categories of prohibited behaviors covered by the Violence Prevention policy, the seriousness of the incident and appropriate administrative and disciplinary action.

The Violence Program Staff of HRD will assist with all administrative and disciplinary actions taken for this policy.

<p>IMPORTANT: All threats or incidents of violence, and agency response, will be handled on a case-by-case basis. In some instances, circumstances will call for different administrative or disciplinary actions than those listed in the following guidelines. Please consult with the Violence Program Staff of HRD for guidance.</p>

**Harassment Behaviors
Supervisor/HR Disciplinary Process**

Harassment Practical Joke	Counsel	Written Reprimand	Probation	Extend Probation and Suspend Without Pay	Terminate
--------------------------------------	----------------	------------------------------	------------------	---	------------------

No Threat	Low Threat	Moderate Threat	High Threat	Severe Threat
----------------------	-------------------	----------------------------	--------------------	----------------------

Repeated Behaviors

**VPM/HR/Supervisor Assess Threat Level & Investigate
Complete Violence Reporting Form**

Threats of Physical Harm	Counsel	Written Reprimand	Probation	Extend Probation and Suspend Without Pay	Terminate
Dangerous Practical Jokes					
Hitting Property					
Physical Action Toward Another Person or Hitting/ Damaging Property					
Threatens Serious Bodily Injury					
Threatens to use a Weapon Against Another Person					
Engages in Stalking					
Use of Weapon					

§ 3 - Administrative

Mandatory Referrals

VPMs must have concurrence from the Violence Program Staff of HRD prior to mandatorily referring an employee for violating the Violence Prevention policy. If the employee refuses to be mandatorily referred or engages in behaviors that impede the mandatory referral process, they will be terminated.

Before the Referral

VPM and supervisor will:

#	Action
1	◆ Have all the facts about the incident documented on the Summary of Incident form.
2	◆ Prepare a script for relaying specific, detailed information about the incident to the employee.
3	◆ Complete the Mandatory Referral Letter which includes a description of the incident.
4	◆ Know which insurance plan the employee is covered by and the amount of personal leave the employee has accrued.
5	◆ Consult with the Violence Program Staff of HRD if the employee has exhausted all accrued leave. Since this type of referral requires the employee to be taken out of the workplace after the referral, other leave may be granted for a limited time period. However, HRD will authorize this leave being granted.
6	◆ Have a copy of the Violence Prevention policy on hand.
7	◆ Plan to arrange for DPS to send an armed, plain-clothes officer to the work site and to be in an adjoining room during the mandatory referral process, if necessary.
8	◆ Arrange the room so that you may exit easily if the need arises and so that furniture or cabinets are not blocking the exit door.

Making the Referral

VPM will:

#	Action
1	◆ Choose a private area where you will not be interrupted.
2	◆ Have security or other management personnel “on notice” if not “on guard.”
3	◆ Meet with the supervisor and the employee and give him or her a copy of the Mandatory Referral Letter .
4	◆ Advise the employee that they are being mandatorily referred to the EAP and the reason for the referral.
5	◆ Read the Mandatory Referral Letter to the employee.
6	◆ Advise the employee that they must comply with the mandatory referral process and any treatment recommendations made by the EAP counselor, psychiatrist or any other treatment provider, including aftercare.
7	◆ Advise the employee that they will be responsible for any additional expenses that are incurred as a result of the referral.
8	◆ Advise the employee that if they fail to do any of these things, they will be terminated.
9	◆ Remind the employee that there is only one mandatory referral permitted for workplace violence.
10	◆ Give the employee a copy of the Violence Prevention policy.
11	◆ Tell the employee that they will be taken out of the workplace and will not be allowed to return to the workplace until a completed return-to-work form is provided by the EAP. Advise the employee they may use all eligible sick leave, vacation leave or compensatory time during the time they are out of the workplace or other leave if approved by HRD.
12	◆ Be sure the employee understands they are responsible for working with their Primary Care Physician (PCP) or treatment provider to ensure receiving a completed return-to-work form in a timely manner so they may return to the workplace. Remind the employee they are responsible for any charges associated with obtaining a completed return-to-work form, even if they have to pay for it themselves, if necessary.
13	◆ Have the employee sign the Mandatory Referral Letter and give them a copy.
14	<p>◆ Call 1-866-34TXDOT (866-348-9368). Inform the counselor that you are making a TxDOT mandatory referral, the employee’s name, employee’s job title, the reason for the referral, and any other information requested by the counselor.</p> <p>◆ Note: It is suggested to make a pre-referral telephone call to the EAP in violence cases to initiate the case. Employees will not make the initial call to arrange their first appointment when they are being mandatorily referred. This process must be initiated by the VPM or the EAP will treat the referral as a self-referral.</p>
15	◆ Have the employee talk to the EAP counselor in private. Initial appointments will be available within three workdays of this contact.
16	<p>◆ Direct the employee to leave the workplace immediately.</p> <p>◆ Note: Take security measures to be sure the employee will not have access to reenter the workplace (i.e., access badge, building keys, etc.). Also ensure that computer access has been suspended.</p>
17	◆ Fax a copy of the Mandatory Referral Letter , the employee’s job description, and a copy of the Summary of Incident form, to the EAP AND to the Violence Program Staff of HRD as soon as possible after the referral call is made.

Note: If the supervisor is the employee who has been threatened, the next higher level of management should make the mandatory referral to the EAP.

After the Referral

EAP will:

#	Action
1	<ul style="list-style-type: none"> ◆ Refer the employee to a treatment provider. ◆ Whenever possible, the EAP counselor will refer the employee to a treatment provider that is covered by their insurance. However, the employee will be responsible for any additional expenses that are incurred as a result of the referral.
2	<ul style="list-style-type: none"> ◆ Coordinate the employee’s completed return-to-work form.
3	<ul style="list-style-type: none"> ◆ Notify the VPM and the Violence Program Staff of HRD: <ul style="list-style-type: none"> ◆ whether the employee is compliant with the EAP’s treatment recommendations, including aftercare, on a monthly basis. If the employee is not compliant, why they are non-compliant; ◆ when the employee completes the initial phase of treatment and when the employee begins aftercare (the EAP will provide a completed return-to-work form at this time); and ◆ when the employee completes all treatment recommendations, including aftercare.
4	<ul style="list-style-type: none"> ◆ Ensure that successful completion of treatment, including aftercare, is provided in writing to the VPM.

VPM will:

Coordinate with the EAP, as needed, to ensure that supervisors are aware of an employee’s compliance with a mandatory referral, when the employee may return to the workplace and when the employee has successfully completed all treatment requirements.

Integration Into Workplace After Referral

When an employee returns to the workplace after a violence referral there may be apprehension about the possibility of reoccurrence of violence. In addition, employees may experience other feelings such as anger, fear, or irritability toward the co-worker returning.

Supervisors and VPMs may host an informal meeting to assist the work group in understanding the process of violence referrals. Remind employees that employees are not returned to the workplace until they have been assessed by a licensed psychiatrist. Remember no medical information is to be shared with employees.

It may be beneficial for the supervisor to have employees talk about the incident. Discussion of the incident with others is an important element of recovery. A small number of employees may require more assistance, and should be reminded of resources available through the EAP.

In addition, the supervisor should reiterate the responsibility to report prohibited behavior if another incident occurs, and that retaliation is not tolerated.

§ 4 - Terminations

An employee be may terminated under this policy if they violate any of the prohibitions covered under this policy that are considered serious enough to warrant termination, refuse to be mandatorily referred, fail to comply with the mandatory referral requirements or require a second mandatory referral.

Before the Termination

Supervisor and VPM will:

1. Arrange the room so that you may exit easily if the need arises and so that furniture or cabinets are not blocking the exit door.
2. Arrange for DPS to send an armed, plainclothes officer to come to work site and to be in adjoining room, **if necessary**.
3. Take security measures to be sure employee will not have access to the workplace (i.e., building access, computer access, etc.).
4. Schedule meeting for the end of the day or when no other employees will be around.

During the Termination

Supervisor and VPM will:

1. Obtain a time sheet; all benefit information and termination paperwork from the Human Resources Officer.
2. Present the reasons for termination in a factual, non-emotional, caring manner. (Do not dwell on the reasons for your decision.)
3. Do not debate, argue or negotiate with the employee – your decision is final.
4. Retrieve all keys, access cards and badges.
5. Have security or other personnel escort the person to clear out their work area.
6. If having the employee clear out their work area at that time is not feasible, allow them to return during work hours with security present or pack their belongings for them to be retrieved at a later date (make an inventory list of the belongings and have the recipient sign the list of items when they retrieve them).
7. In rare cases, the department may prohibit employees who have been terminated from returning to the workplace, however, IT IS NOT STANDARD PRACTICE.
8. Employees who have been terminated for behaviors covered under this policy may be allowed to return to the workplace to conduct work-related business.

After the Termination

In the case of an employee who continues to pose a threat or returns to the workplace and displays more unacceptable behavior after termination, the employee will be mailed (regular and certified) a letter stating that they may not return to the premises without written permission to do so.

If an employee who has been terminated returns to the workplace after being told they are prohibited from being on TxDOT property, the supervisor and VPM will:

1. Call 911 or local law enforcement.
2. Wait for the police to arrive before confronting the employee.
3. Once the police have the employee in custody, remind the employee they are not allowed on TxDOT property.

Give employee a **copy** of the trespassing letter that was mailed to them stating that they may not return to the premises without written permission to do so.

Chapter 5 - Right of Way Violence

Overview

This chapter provides general guidelines on dealing with violent actions by the general public directed against employees working in, or in close proximity to, the right of way of roadways.

By nature of their work, employees are often in contact with the general public. Many times this contact is in situations (e.g. construction sites) which result in traffic delays, congestion or other inconveniencing conditions. Employees are often seen as the personification of the problem and may be subject to harassment, abuse, threats of or violence from contractors and the traveling public.

The majority of violent actions by the public towards employees involve employees who are performing traffic control duties to either slow or stop traffic and road closures. Employees are most often subjected to verbal abuse. These situations are most commonly resolved by talking and reasoning.

As a public servant, an employee's first priority is to avoid confrontation with the public. Employees must ensure that no actions or remarks are made that would further inflame the situation, and should make every effort to remove themselves from the situation.

Response to Right of Way Incidents

In general, employees working alone and away from the office should prepare daily work plans and keep a contact person informed of their locations throughout their day. When necessary and feasible, implement a "buddy system" or provide for back-up, such as police assistance, so employees do not enter a potentially dangerous situation alone.

Members of the traveling public, who commit acts against employees, such as name calling, obscene gesturing and shouting, usually have no desire to follow through with their threats. Individuals who stop and confront employees are usually looking for the employee to follow through with a verbal or physical response. Employees must recognize this fact and display no reaction.

Employees should respond to these situations by:

- ◆ introducing themselves, identifying their title and that they work for TxDOT
- ◆ providing a business card
- ◆ asking for the opportunity to take their name and phone number
- ◆ practicing the "rules" of active listening including making eye contact (empathize with their situation, and if necessary ask questions for clarification and then paraphrase their answers to check for understanding.)
- ◆ diffusing situations by not getting drawn into arguments
- ◆ creating a "comfort zone" – don't crowd
- ◆ offering suggestions, not promises
- ◆ not blaming others,
- ◆ leaving the area; often aggressors will become frustrated and leave also,

- ◆ if aggressor makes demands to get off their land or stop whatever the employee is doing, the employee should do so and attempt to provide the aggressor with a phone number for calling in a complaint
- ◆ calling for assistance (If other TxDOT employees are in the immediate area ask for their help. The presence of more than one employee will often cause the aggressor to cease his/her actions), and
- ◆ using a passive defense; do not touch the aggressor.

If the employee is in immediate danger, do one of the following:

- ◆ protect your head and neck area
- ◆ get into a vehicle and lock the doors and if other TxDOT employees are in the immediate area ask for their help
- ◆ if necessary, call 911 for assistance
- ◆ use an active defense if no other option is available, such as knocking a weapon out of an assailant's hand, and
- ◆ obtain medical treatment immediately if necessary.

Employees must not engage in any action that may be construed as harassing, violent or abusive regardless of circumstances. This includes responding to actions by contractors or the general public with gestures or verbal comments. Any retaliatory action by or towards an employee will subject the employee to disciplinary action, up to and including termination of employment.

If an employee is the victim of physical violence, and, during the course of the incident, uses physical force to protect him/herself, the following actions will take place:

- ◆ employee will be placed on administrative leave with pay
- ◆ thorough investigation of the incident will be conducted
- ◆ if it is determined the employee used unnecessary force to protect themselves, appropriate disciplinary action will be taken,
- ◆ if it is determined the employee did not use unnecessary force, the employee will be returned to duty.

IMPORTANT: All threats or incidents of violence will be handled on a case-by-case basis. In some instances, circumstances will call for different administrative or disciplinary actions than those listed in Chapter 3, *Administrative or Disciplinary Actions*. Please consult with the Violence Program Staff of HRD for guidance.

Chapter 6 - Domestic Violence

Overview

The objective of this chapter is to heighten awareness and address the occurrence of domestic violence, its effects in the workplace, and to provide guidance and support for employees and management.

The effects of domestic violence may be the key to awareness for supervisors, VPMs, and coworkers, that something is wrong. However, behaviors consistent with domestic violence are difficult to recognize.

The following are behaviors commonly exhibited by victims of domestic violence:

- ◆ changes in work performance, lack of concentration, preoccupation, increased mistakes
- ◆ attendance problems, unexplained absences or chronic tardiness
- ◆ frequent court dates, divorce, or child custody problems
- ◆ intense startled reactions, exhaustion, uncharacteristic mood changes
- ◆ frequent financial problems indicating a lack of access to money
- ◆ increased medical assistance to the victim and insurance claims
- ◆ unexplained bruises and injuries
- ◆ withdrawal from co-workers
- ◆ on-the-job harassment by the abuser, including unwelcome visits, and threatening and multiple phone calls, messages
- ◆ faxes, e-mails, unexplained delivery of flowers/gifts
- ◆ vandalism or threats, or
- ◆ potential physical violence against the victim or others that may occur in the workplace.

Domestic violence impacts the workplace due to:

- ◆ increased turnover
- ◆ lost productivity
- ◆ negative publicity
- ◆ use of department time and resources
- ◆ increased accidents and workers' compensation claims, and
- ◆ costs of additional security measures taken.

TxDOT will provide support to employees who are victims of domestic violence which may include confidential means for coming forward for help, resource information, additional security at the workplace, work schedule adjustment or leave to be taken for medical, or other matters related to the domestic violence. TxDOT will respect confidentiality and autonomy of the employee to direct their life to the fullest extent. The department also provides counseling resources through the EAP and encourages employees to use their resources to resolve issues associated with domestic violence. The employer's role is not to diagnose or counsel the employee, but to refer the employee to appropriate resources.

Employees are expected to abide by the laws prohibiting domestic violence, sexual assault and stalking crimes, whether committed in the home, at work, or any other location.

Recognizing Employee as a Victim

Do not ignore the situation. The workplace may be the only resource an employee has left, especially if the abuser has cut off all other sources of support for the victim. TxDOT will provide a safe work environment and protect others from the aggressor in responding to a threat of domestic violence in the workplace. Intervening early may reduce the risk of an occurrence of violence. It is appropriate for a supervisor or co-worker to show concern for an employee who seems seriously distressed, and to support the employee in getting professional help.

The threat of domestic violence should be investigated and given the same evaluation procedure as any other violent threat. The purpose of this threat assessment is to estimate the likelihood of violence and determine the best means of intervention. VPMs should advise local law enforcement of the circumstances when criminal violations of law occur.

The following guidelines should be used when approaching an employee you suspect is a victim of domestic violence. Always remember to be responsive, respect personal choices and maintain confidentiality.

Supervisors/VPMs

- ◆ Address your concerns with the employee using a non-threatening tone of voice, discussing what you have observed. Be sensitive and respectful. For example, say “You have always arrived a few minutes before your work schedule is to begin. I have noticed that you have been late several times this month and have appeared very upset when you arrived. I’m concerned about you.”
- ◆ Make a statement of support. If the employee confirms that they are being abused, say “You are not to blame” or “No one deserves to be hurt.” Refer to information in the next section on how to handle an employee who comes forward with information on domestic violence.
- ◆ Do not ask any further questions if the employee chooses not to disclose. Express your commitment to assist at any time in the future. An employee may not be disclosing abuse due to the fear of repercussions and retaliation to their personal safety by the aggressor.
- ◆ Remind employee that assistance and information about domestic violence is available through the EAP.
- ◆ Be clear about your role. DO NOT offer specific advice or direction about what they should do. Your role is to inform them that there are resources in the community offering counseling and safety planning services to victims of domestic violence. Let the experts (i.e., domestic violence advocates) figure out what course of action is best for them.
- ◆ Continue to be alert to signs of abuse. Monitor the victim’s work behavior and appearance, watch for signs which may indicate an increase in abuse has occurred.
- ◆ Let the employee know that your observations along with what they have disclosed will be kept strictly confidential. However, also explain that in the case of a possible threat to the workplace, you are obliged to notify the VPM, the Violence Program Staff of HRD, Security Staff of MNT, and the DE/DD of the situation.
- ◆ Notify the Violence Program Staff of HRD, Security Staff of MNT, and DE/DD if you believe there is a viable threat to the workplace.

Employee Seeking Assistance for Domestic Violence

The following are some guidelines and expectations for supervisors, VPMs, and Human Resource Professionals on assisting employees who come forward and ask for help with a domestic violence situation.

Supervisors/VPMs/Human Resource Professionals

- ◆ Be sensitive and respectful when an employee who is either a victim or aggressor of domestic violence asks for help. Ask what assistance TxDOT may give, if any. Do not tell the employee what to do or make assumptions. Respect the employee's boundaries and privacy, even if you disagree with the decisions they are making regarding the relationship.
- ◆ Refer employees to the resources available from the EAP and information on other resources available, such as:
 - The National Domestic Violence Hotline, 1-800-799-7233 (SAFE), is available 24 hours a day for immediate crisis intervention, referrals, and information. The hotline will refer callers directly to the appropriate kind of help in their communities, including emergency services, outreach counseling, and shelters. Web link: <http://www.thehotline.org/>
 - The Texas Department of Human Services, Family Violence Shelters contact information, web site: <https://hhs.texas.gov/services/safety/protective-services/family-violence-program>. The shelter centers provide temporary shelter and nonresident services for victims of family violence and their children. To be eligible for services, a client must be physically, emotionally, or sexually abused by a partner, former partner, or another family or household member.
 - The Texas Council on Family Violence web site information: <http://tcfv.org/>. The site includes a list of shelters and other resources, such as how to obtain free protective orders and waivers for utility deposits in Texas for victims of domestic violence who are planning to move.
- ◆ Provide employees with the Personal and Workplace Safety Plans developed by TxDOT. Work with the employee to complete the Workplace and Personal Safety Plans. Ask them what changes, if any, could be made at their workplace to make them feel safer. See Chapter 7, *Security* for a more extensive list of safety precautions available.
- ◆ Ask the employee to submit a recent photo of the abuser so the aggressor may be identified if they appear at the workplace.
- ◆ Ask if any threats were made against them, including if any threats were made regarding the workplace. If the employee provides information regarding a threat, ask specific questions about the type of threat. For example, "I'm going to hurt you" or "If 'xyz' happens, you can bet I will retaliate" or "I can see you getting hurt".
- ◆ Ask if the victim if they know the alleged aggressor may be, or has in the past, abused alcohol or drugs and if they own any weapons.
- ◆ Review their available vacation, sick, and compensation leave. Consider providing a leave without pay absence to allow the employee to make necessary arrangements to create a safe situation for themselves.
- ◆ Be alert to signs of abuse. Continue to monitor the victim's work behavior and appearance, watch for signs which may indicate an increase in abuse is or has occurred.

- ◆ Notify the Violence Program Staff of HRD, Security Staff of MNT, and DE/DD if you believe there is a viable threat to the workplace.
- ◆ Let the employee know that your observations along with what they have disclosed will be kept confidential. However, also explain that in the case of a possible threat to the workplace, you are obliged to notify the VPM, the Violence Program Staff of HRD, Security Staff of MNT, and the DE/DD of the situation.

Employees Who Are Victims

- ◆ Ask for help – call for law enforcement if you are in immediate danger.
- ◆ Contact EAP for confidential consultation.
- ◆ Notify your supervisor, VPM, the Violence Program Staff of HRD, DE/DD, or a member of management of the situation and possible need to be absent or other potential needs to keep you safe at work. If you are going to be absent, maintain communications with your supervisor and be clear about when you will return to work.
- ◆ Discuss leave and workplace safety options available to you with your supervisor and human resources.
- ◆ Complete a Workplace Safety Plan and a Personal Safety Plan. Keep both documents in a secure place that only you and a trusted confidant have access to. Follow the guidelines you set forth in your safety plans.
- ◆ Tell your supervisor or VPM how much information you want co-workers to know about your situation and whether you have a protective or restraining order. Do consider the safety of co-workers. Be sure to list departmental locations on any protective or restraining order you obtain.
- ◆ Provide a copy of protective or restraining orders you obtain to your supervisor, VPM, or to the Violence Program Staff of HRD. The Violence Program Staff of HRD will forward to the Security Staff of MNT and the GCD.
- ◆ If you don't have a protective order and would like to obtain one, contact the [Texas Council on Family Violence](#) for consultation on how to obtain one at no cost.
- ◆ Ask your supervisor, human resources or your VPM for help finding resources about local domestic violence centers and other resources.
- ◆ Submit a recent photo of the abuser to your supervisor, your VPM or the Violence Program Staff of HRD and Security Staff of MNT, so the aggressor may be identified if they appear at your workplace.
- ◆ Realize your own role in maintaining the confidentiality of the situation.

Employees Who Are Aggressors of Domestic Violence

If an employee comes forward and admits being an aggressor of domestic violence follow these guidelines:

- ◆ Provide them with information regarding the resources available through the EAP.
- ◆ Be sensitive and respectful. Ask how TxDOT may help. Do not tell the employee what to do or make assumptions.
- ◆ Remind the employee they may be subject to administrative or disciplinary actions. (For example, if the employee is using state time, vehicles or equipment to carry out the violence.)
- ◆ Observe the employee for signs that the violence has escalated and is a problem in the workplace.

Leave

Discuss with your DE/DD the victim's need for time off work or flexible scheduling. Reasonable flexibility with regard to a victim's needs to attend to issues such as child care and court appearances may enable him or her to find solutions to a difficult situation.

Employees and supervisors are encouraged to explore whether paid options may be arranged to help the employee cope with a domestic violence situation.

Depending on the circumstances, some options may include:

- ◆ Arrange flexible work hours so the employee may handle matters related to the domestic violence, such as court appearances, housing and children. Consider leave options for the employee in order to obtain a protective or restraining order.
- ◆ Consider sick, vacation, or compensatory time, if requests are for relatively short periods and medical attention is being sought.
- ◆ If an employee cannot establish a definite return to work date, consider a specific leave of absence or leave without pay.

Reasons for Leave: Employees may request unpaid leave, at their sole option, for any of the following reasons, or for any additional reasons required by applicable laws or ordinances:

- ◆ To obtain and receive medical and/or dental assistance for a medical and/or dental problem resulting from domestic violence, including obtaining such services for dependent children.
- ◆ To obtain and receive legal assistance relating to domestic violence, including but not limited to obtaining protective or restraining orders, divorce, custody of children, and child support.
- ◆ To attend counseling or support services, including those for dependent children.
- ◆ To take any steps necessary to provide for their own safety and well-being with regard to domestic violence.

Supervisors are encouraged to consider different leave options. See the [Leave](#) policy for additional guidance on leave issues.

Protective or Restraining Orders

Restraining and protective orders are documents issued by the courts to try to prevent future harmful actions. Employees who apply for or obtain a protective or restraining order that lists a departmental location as being a protected area must provide a copy of the protective or restraining order as soon as possible to their supervisor. Supervisors should notify the VPM who will notify security personnel and other appropriate personnel that the protective or restraining order exists. Supervisors, VPMs, Security Staff of MNT, and employees who are aware of any restraining or protective orders must not discuss or disseminate the information unless there is a safety reason to do so.

Also see the Appendix, [Restraining and Protective Orders](#).

Chapter 7 - Security

Overview

TxDOT security personnel in each District/Division will be available to assist supervisors and VPMs with handling harassing, aggressive, threatening or violent situations. In locations where security personnel are not employed by the department, DE/DDs may contact outside providers (security vendor or law enforcement) to provide short-term security services.

Security personnel may provide services such as escorting employees out of the workplace, and preventing terminated employees from reentering the workplace or other potentially violent individuals from entering the workplace.

Once security measures have been implemented, VPMs and security should continue to monitor the situation for a reasonable time period to cover any reoccurrence, escalation and resolution. A reasonable period for routine monitoring may be one to three months with the decision to continue beyond that initial period based on the persons involved and assessment of the situation.

Security Measures

The Security Staff of MNT are available to conduct security awareness classes/briefings to employees upon request. Training may range from implementing security measures for domestic violence to workplace violence prevention.

District monitoring services are available upon request through the Security Staff of MNT. They monitor compatible burglar and fire alarms and will perform surveys of facilities and provide recommendations to improve security 24 hours a day, 7 days a week. Contact security at (512) 465-7931 for more information on this service.

Security measures to take in order to keep the workplace safe may include:

- ◆ securing all entries into the building
- ◆ limiting access to buildings by ensuring that all non-public entrances are kept closed and locked, and that signs are posted where necessary directing clients to public entrances
- ◆ monitoring other persons entering the building and requiring visitors to check in
- ◆ removing building card access from employees who are presenting a threat to workplace safety
- ◆ checking exterior lighting, especially in areas where employees walk to their cars (parking lots are common places that workplace violence occurs)
- ◆ if necessary, asking grounds maintenance to prune landscaping to eliminate hiding places near entrances, walkways, and parking areas
- ◆ offering parking spaces close to building entrance
- ◆ developing or revising an evacuation plan for all employees to leave the building if the aggressor enters or returns to the building, or
- ◆ if feasible, proposing changes to the work area at risk in an attempt to keep threatened employees away from easily accessible entries into the building.

Additional Security Measures

In situations where threats have been made by or against an employee, it may be necessary to institute additional security measures. These measures may include stricter enforcement of existing security procedures, installing monitoring systems or alarms, or making structural changes such as protecting a receptionist area, or changing the physical layout of an area.

In coordination with the Violence Program Staff of HRD, Security Staff of MNT, VPM and the supervisor, conduct an assessment of the situation surrounding the threat or incident and determine whether additional security measures need to be taken.

DE/DDs are authorized to incorporate these types of security measures, as appropriate, in an effort to protect the safety of department employees:

- ◆ Hire armed security guard.
- ◆ Control access to work locations through one guarded door.
- ◆ Install a camera to monitor people coming in building entrances.
- ◆ Install silent panic alarm for direct access to security, law enforcement near threatened employee and/or at the reception area.
- ◆ Notify and communicate threatening situation to all employees in areas at risk.
- ◆ Establish a code word to alert co-workers and supervisors of a potentially violent situation.
- ◆ Reaffirm TxDOT's policy on weapons that are not tolerated in the workplace (see [Weapons and Handguns](#) in Chapter 8, *Conduct and Problem Resolution*, in the *Human Resources Policy Manual*).
- ◆ Distribute a Security Alert Bulletin with a picture of the threatening individual to security guards, receptionists and threatened individuals (The Security Staff of MNT may also provide a flyer with a picture if requested).
- ◆ Notify the nearest local law enforcement of potentially violent situations.
- ◆ Screen incoming calls or transfer harassing calls to Security Staff of MNT.
- ◆ Relocate employee to a different work area.
- ◆ Offer to escort employees to and from their vehicles.

Reviewing and completing the Workplace and Personal Safety Plans with employees is a helpful tool for preparing themselves against the threat and gives them planning and safety tips.

It is also important to consider additional security precautions when planning termination or disciplinary meetings.

- ◆ Use the buddy system – have another person in the room with you or in the next room where they may overhear and summon help if needed.
- ◆ Have security or law enforcement in area or in room depending on potential threat.
- ◆ Position yourself for safety. Ensure you are closest to the door and always have an escape route. Don't let your desk trap you and never turn your back on someone who is agitated or angry.
- ◆ Ensure you are further than arm's length away from the individual
- ◆ Take a mental inventory of potential weapons. Not all weapons are guns or knives. Everyday items like pens, scissors or staplers can be used as weapons.
- ◆ Practice strategic visualization. Visualize the person, the weapon, possible exits and escape routes and how you might negotiate.
- ◆ Trust your instincts. Listen to internal warning signs. If something seems off, it probably is.
- ◆ Always ask for assistance from the Violence Program Staff of HRD, the Security Staff of MNT, and legal and management personnel. Also consult with [Substance Control Officers](#) (SCOs) if the incident may be drug or alcohol related.

Chapter 8 - Employee Assistance Program

§ 1 - Overview

The department provides an Employee Assistance Program (EAP) through Alliance Work Partners and encourages employees to voluntarily use the services of the EAP to resolve issues associated with harassing, aggressive, threatening, or violent behavior before they affect the workplace. Supervisors may also contact the EAP at any time to seek assistance when handling an employee's violent behavior.

Mandatory Referrals

Although employees may seek assistance from the EAP with violent behavior, any employee who violates the prohibited behaviors described in the Violence Prevention policy in the workplace will be mandatorily referred to the EAP for assessment and treatment. Because TxDOT relies on our EAP vendor to provide these services, it is not appropriate for a VPM or supervisor to disregard or question treatment decisions made by the EAP.

Treatment

The cost of treatment, counseling or rehabilitation resulting from an EAP referral mandated by TxDOT, is the responsibility of the employee. The EAP counselor will work with the employee's existing medical coverage, if possible, and assist the employee in determining how rehabilitation costs may be paid.

Initial

Initial treatment is the first phase of treatment and begins once the employee has been referred. The EAP counselor will conduct an assessment and recommend the type of treatment for the violent behavior. This includes the period of time during the assessment and treatment and prior to the employee being allowed to return to workplace.

Aftercare

Aftercare is the second phase in the EAP treatment process following the initial phase. VPMs will be informed when the employee begins aftercare by means of the completed return-to-work form. The employee's EAP counselor sets up the aftercare plan. An employee has not successfully completed treatment until all aftercare requirements have been completed and a letter verifying successful completion has been provided to the VPM.

Completion of Treatment

Employees who are mandatorily referred to the EAP will be terminated from the department if they fail to successfully complete treatment. In order to successfully complete treatment, the following requirements must be met:

- ◆ employee must comply with all treatment recommendations, including aftercare, made by the EAP or any provider to which they are referred;
- ◆ a completed return-to-work form must be provided when the employee has completed the initial phase of treatment and before returning to the workplace; and
- ◆ a letter verifying successful completion of treatment from the EAP to the VPM and Violence Program Staff of HRD before the employee is considered to have successfully completed all treatment recommendations.

Return-to-Work Forms

For employees who have been mandatorily referred to the EAP, the EAP case manager will facilitate getting the completed return-to-work form from the provider to the department once the employee has been determined ready to return to the workplace. Completed return-to-work forms will be faxed to the VPM who will provide it to the employee's supervisor.

Employees must not be allowed to return to the workplace until a completed return-to-work form is provided.

Note: The EAP does not perform return-to-work evaluations. The EAP's role in this step is to coordinate getting the return-to-work form to the treatment provider for their signature and providing it to the VPM and the Violence Program Staff of HRD.

Leave for Appointments

Employees may use sick leave, annual leave, or compensatory time during the time they are in initial treatment and out of the workplace before receiving their completed return-to-work form or to attend EAP appointments while in aftercare. Leave without pay may also be used if all other leave is exhausted. It is appropriate to encourage an employee to attend a meeting after work, if an appointment is available, but supervisors should not attempt to prohibit employees from attending appointments during work hours. If the VPM or a supervisor suspect an employee is not attending treatment, the VPM may contact the EAP case manager for verification.

Mandatory Referral Limit

Employees are limited to only one mandatory referral to the EAP for harassing, aggressive, threatening or violent behavior. If an employee violates any of the prohibitions of the Violence Prevention policy that would warrant another mandatory referral to the EAP, the employee will be terminated.

§ 2 - EAP Communications

Overview

The EAP provides the VPM with the following information on all mandatory referrals:

- ◆ If employee contacted the EAP and was referred by an EAP clinician for a psychiatric evaluation
- ◆ The time off work needed and/or specific duties involved in the employee's EAP appointments, evaluations, and treatment
- ◆ If employee is compliant with the EAP's treatment recommendations, including aftercare, on a monthly basis
- ◆ If the employee is not compliant, why they are non-compliant
- ◆ When employee completes initial treatment and when they begin aftercare (the EAP will provide a completed return-to-work form at this time), and
- ◆ When employee completes all treatment requirements, including aftercare.

The VPM should share information received from the EAP with the referred employee's supervisor as soon as possible after it is received.

Non-compliance

Non-compliance means an employee is not properly following the prescribed treatment plan. This subjects the employee to immediate termination for failure to successfully complete treatment. The EAP is fully aware of the consequences involved if an employee does not complete treatment. Therefore, they make every effort to keep employees in compliance with their treatment program.

If an employee is on the verge of non-compliance, the EAP will:

- ◆ attempt to contact the employee several times to try and get them in for appointments
- ◆ review the case to be sure every effort is being made to keep the employee in compliance, and
- ◆ send the employee a warning letter by regular mail and certified mail.

The employee will be told to contact the EAP within 48 hours or a non-compliance letter will be sent to the employer. The warning letter to the employee will remind them that non-compliance will result in termination from the department.

If none of these attempts are successful, and the employee does not contact the EAP within the allotted time period, a letter will be sent to the employee's VPM advising of the employee's non-compliance. The reasons for non-compliance will also be stated in this letter. The Violence Program Staff of HRD will receive a copy of the warning letter with a copy of the certified receipt and a copy of the non-compliance letter.

There are valid reasons why an employee is unable to attend a scheduled treatment appointment. In these instances, it is the employee's responsibility to call the EAP to discuss the problem. It is not up to a VPM, a supervisor, or the Violence Program Staff of HRD to determine what excuses are acceptable, or to ignore an employee's non-compliance because the employee appears to have a "good excuse." If the EAP reports they are non-

compliant, the department must terminate the employee for failing to successfully complete treatment.

Critical Incident Stress Debriefings (CISDs)

To assist employees who are affected by a workplace violence incident, Critical Incident Stress Debriefing (CISD) sessions may be conducted by the EAP. These sessions are group meetings designed to assist employees in minimizing the stressful effects of trauma. The EAP's professionally trained counselors will help employees express their feelings, understand the traumatic incident, and help them recognize many of the common reactions to trauma. They will also teach survival skills for managing post-trauma stress. These debriefings typically occur within 24 to 72 hours of the incident and last 30 minutes to an hour, or longer, depending on the circumstances.

If a critical incident occurs and you would like to schedule a Critical Incident Stress Debriefing (CISD) session for your employees, please call the Violence Program Staff of HRD.

Threats of Suicide

If an employee threatens suicide, supervisors or VPMs may offer to make an appointment with an EAP counselor for the employee:

- ◆ Assist the employee in calling the EAP at 1-866-348-9368 (1-866-34TXDOT).
- ◆ Provide the employee the U.S. Department of Health and Human Services, National Suicide Prevention Lifeline number 1-800-273-TALK (8255)--([SAMHSA](#), National Suicide Prevention).

The Violence Program Staff of HRD may also assist VPMs and supervisors with making EAP appointments for employees. If the supervisor thinks that a suicide attempt is imminent, the employee may be driven to and from an appointment during work hours so that the employee does not have an opportunity to attempt suicide. A family member should also be contacted.

A mandatory referral to the EAP is not appropriate for a suicidal employee.

Appendix

§ 1 - Warning Signs

People resorting to violence don't just "snap" – they leave warning signs along the way. In some cases they are hoping to get caught or may even be crying out for help. It is up to everyone to recognize and report individuals who exhibit hostility and openly threaten others or the organization.

To prevent workplace violence from occurring, it is critical to be able to identify some of the behaviors that could indicate there is a problem. The unacceptable behaviors exhibited by employees usually develop a pattern and continue to elevate in severity.

Pre-Employment

The best way to reduce violence by employees is to not hire potentially violent employees in the first place. There are a series of questions you can ask during pre-employment interviews that may reveal attitudes about managers and management.

- ◆ Ask applicants to "describe the best supervisor you ever had and describe the worst supervisor you've ever had." If the applicant speaks briefly about his or her best supervisor but continues on about the worst, this is telling. Listen for responses such as if they ridicule their former boss to determine if the applicant takes responsibility for their part.
- ◆ Ask applicants "What are some of the things your last employer could have done to be more successful?" If the applicant offers a long list of items and appears to feel he or she could have run things better, they may have a problem. Listen for constructive or angry comments.

In addition, asking general questions such as "How do you go about solving problems at work?" will give you information regarding how well he or she works with others. Good answers include that he or she would consult with others, weigh all points of view, and discuss them with involved parties. Unfavorable answers would contain a theme of confrontation (e.g. "I go right to the man in charge and lay it on the line."). Another bad answer is that he or she didn't do anything to resolve problems, saying "Nothing ever changes anyway."

Statements made in an interview that appear to be favorable may actually mask unfavorable characteristics. "I am very, very organized" may sometimes be offered by applicants who will later be revealed as inflexible and territorial. Territorialism (my desk, my area, my assignment) is not necessarily a desirable attribute.

Positive behavioral traits to look for at pre-employment interviews include the applicant's ability to function under stress, ability to complete tasks, ability to be honest, admit and learn from their mistakes.

Characteristics of Aggressors

Research has revealed that the characteristics of aggressors who commit violent acts in the workplace will on average have these traits:

- ◆ Males in their 30s and 40s
- ◆ Find identity in their job
- ◆ Is a loner
- ◆ History of depression, paranoia and violence
- ◆ Changes jobs frequently/problematic job history
- ◆ Takes criticism poorly
- ◆ History of substance abuse
- ◆ Fascination with weapons and violence
- ◆ Sleeping problems
- ◆ Concentration and memory problems
- ◆ Lack of a social support system
- ◆ Low frustration tolerance
- ◆ Difficulty with authority
- ◆ Unwarranted sense of entitlement
- ◆ Chronically disgruntled

Predictors of Violence

The following are examples of behaviors that should raise awareness and alert us that the employee may engage in more serious aggressive behavior in the future:

- ◆ Belligerence
- ◆ Chronically acting out their anger in the workplace
- ◆ Making any type of threats
- ◆ Ongoing conflicts with co-workers or supervisors (may include gossiping)
- ◆ Job performance problems (tardiness, absenteeism)
- ◆ Diverting blame to others (co-workers, supervisors, etc.) for work performance problems
- ◆ Refusing to follow instructions or adapt to changes occurring in the workplace
- ◆ Sudden unexplained changes in behavior including being very withdrawn, obsessive, controlling, rigid and overreacting
- ◆ Obsessed with one person or idea
- ◆ Evidence of substance abuse
- ◆ Persistent discussions or fixation on weapons or publicized workplace violence incidents
- ◆ Expresses desperation over recent family, financial or personal problems
- ◆ Disregard for the safety of co-workers
- ◆ Romantic obsession with co-worker who does not share the same interest
- ◆ Displaying paranoid behavior – thinking the whole world is against them

- ◆ Intimidating others to create fear or discomfort
- ◆ Poor communication skills
- ◆ Obscene or vulgar communications
- ◆ Excessive complaints of heightened stress at work
- ◆ Talk of suicide as how to handle their problems
- ◆ Making repeated statements such as “I can’t take it anymore” or “I think I’m going to explode”
- ◆ Feels powerless
- ◆ Repeatedly violates company rules and policies
- ◆ Increasingly irritable and impatient
- ◆ Deterioration in appearance, personal hygiene
- ◆ Feels victimized
- ◆ Other extremely odd or bizarre behaviors

Triggers for Violence

These potential life-stressing events, which can cause feelings of hopelessness, humiliation, and rejection, may cause employees to engage in violent behaviors:

- ◆ Poor performance evaluation
- ◆ Fear of losing job or perceives they will soon
- ◆ Terminated in an insensitive manner
- ◆ Loss of a romantic relationship
- ◆ Problems at home
- ◆ Financial difficulties
- ◆ Legal problems
- ◆ Being under the influence of drugs or alcohol
- ◆ Disciplinary actions or involuntary job changes
- ◆ Conflict with others at work

Stability

Employees who are more likely to perform an act of violence usually lack coping skills in order to manage their anger and stress levels. The following characteristics are important for employees to be able to handle their problems in a healthy manner:

- ◆ Form and maintain relationships
- ◆ Develop interests outside of work
- ◆ Consistent work performance
- ◆ Stable family structure
- ◆ Achievement and pursuit of educational and career goals
- ◆ Religious or spiritual affiliation

§ 2 - Communication Strategies

These strategies are for communicating with employees on TxDOT's Violence Prevention policy as well as confronting and addressing prohibited behaviors and handling post-incident trauma.

Confronting Prohibited Behaviors

The following tips can be used when intervening or confronting behaviors that are warning signs that a problem could be developing:

DO...

- ◆ Express your concern for the employee.
- ◆ Explain your observations of their behavior using non-threatening tones and words.
- ◆ Remember: Body language is equally important. Remember to keep your distance. Personal space generally consists of the 18 to 30 inch area around our body. Moving in closer can feel intrusive. Also, be aware of the inflection of your voice in tone, volume and pacing. An employee may feel belittled not by what you said, but how you said it.
- ◆ Listen carefully for their response to your observations by allowing them to express their feelings without interrupting them.
- ◆ When an employee makes a threat in your presence, respond by saying something like "We all say things when we're upset; I know that I do; what do you mean by that?" This may defuse the employee and allow him or her to back away from it.
- ◆ Acknowledge the person's feelings by telling them that you understand they are angry/upset/depressed, etc.
- ◆ Address their concerns; reassure them through identifying choices for resolving the problem. Also try breaking up the problems into smaller, more manageable issues.
- ◆ Encourage and work with the employee to seek solutions. This may be done by asking questions that invoke a positive response from the employee.
- ◆ Ask questions such as "What do you need?" or "What do you want?" Asking these simple questions may help the employee begin to generate solutions. Once you have some possible solutions you may have a point of negotiation. Although often what an employee proposes is not feasible, you may again break their solution into smaller parts which can be individually addressed.
- ◆ Instead of telling an employee "No" immediately to requests, tell the employee that you will get back to them at a certain time. This allows time to cool off before you have to be specific about whether or not you can accommodate the requests. Find out if there are any parts of the request you are able to grant. If possible offer an alternative if you can't offer exactly what they are asking for. Always follow through with what you propose.
- ◆ Provide information on the confidential assistance available through the EAP.
- ◆ Utilize the conflict resolution process including scheduling a facilitated discussion with involved employees. Contact the [Collaborative Resolution Center](#) of HRD to schedule.
- ◆ Work with supervisor/VPM/HR personnel on following up, to include coaching and providing feedback on performance and behaviors.
- ◆ Recommend employee to attend relevant training to resolve behavior problems.

DO NOT...

- ◆ Use phrases that escalate anger such as “What’s your problem?”
- ◆ Belittle the employee’s problems.
- ◆ Diagnose their problem.
- ◆ Reject all of the employee’s ideas for resolving the problem from the start.
- ◆ Make promises or statements that you cannot keep.
- ◆ Forget safety.

The following are additional guidelines that may help deter aggression or violence during the mandatory referral or termination process:

- ◆ State the facts in a neutral, non-emotional tone and caring manner.
- ◆ Be specific, firm and clear about statements.
- ◆ Be sincere and listen – do not argue with the employee.
- ◆ Don’t be distracted by excuses.
- ◆ Restate the problem. Reaffirm the policy.
- ◆ Use such phrases as “This is the report I have...” If the problem has been addressed before, say things like “You agreed not to...and I know that you are a person who keeps your word”. This instills the idea that you are counting on the employee to honor a promise.
- ◆ Take whatever time is necessary to go through the process thoroughly.

Post-Incident Trauma

Trauma affects people differently but there are common reactions, both physically and emotionally, that affect productivity. Trauma resulting from a workplace violence incident may begin to affect employees immediately, or days and weeks later.

Some common responses employees may have to traumatic events are:	
Physical Reactions	Emotional Reactions
Insomnia	Flashbacks or “reliving” the event
Fatigue, Hyperactivity or “nervous energy”	Excessive jumpiness or tendency to be startled
Pain in the neck or back	Irritability
Headaches	Anger

Effects on Productivity	
Inability to concentrate	Lapses of memory
Increased incidence of errors	Tendency to overwork

These reactions are normal and the signs will lessen with time. Remind employees of the resources available through the EAP if their reactions are interfering with the ability to carry on with normal life.

Listed below are some activities the EAP recommends to employees to help lessen the stress after a critical incident has occurred.

- ◆ Physical exercise alternated with relaxation may help reduce some of the physical reactions.
- ◆ Talk to people; talking is the most healing medicine.
- ◆ Resist tendency to isolate.
- ◆ Give yourself permission to feel rotten and share your feelings with others.
- ◆ Don't make major life changes.
- ◆ Do make as many daily decisions as possible, which will give you a feeling of control over your life.
- ◆ Keep a journal; write your way through sleepless nights.
- ◆ Get plenty of rest and eat regular meals, even if you don't feel like it.
- ◆ Recurring thoughts, dreams or flashbacks are normal. Don't try to fight them. They will decrease over time and become less painful.
- ◆ Don't take stress reactions experience by others (anger, irritability) personally.

§ 3 - Legal Implications

Another cost of workplace violence is liability for the injuries suffered by victims and/or liability claims in negligent or wrongful deaths occurring on the job. Third parties assaulted and/or seriously injured in the workplace have won awards in suits against businesses or others with responsibility in the workplace that were found to be negligent in this area. Employers may also be held liable for negligence in hiring, training, retention, and supervision. Below some specific implications of workplace violence are addressed.

ADA - Disability Discrimination

ADA protects an individual who has a physical or mental impairment that substantially limits one or more of the individual's major life activities, a history of such impairment or is regarded as having such impairment. However, certain conditions such as current illegal drug use and/or quick temper are not covered. In addition, exceptions can be made if employing the individual poses a direct threat to the health and safety of others in the workplace.

Background Checks

The use of background checks by employers to pre-screen job applicants stems from the growth of negligent hiring or retention of employees who subsequently engage in workplace violence. The use is not only a means to prevent violence, but is also a defense to liability if violence occurs. Information gathering should begin at the receipt of an employment application. Employers may contact former employers or other persons who know the applicant and/or employee to ask questions when conducting a background check.

Detention of Employees

Do not hold, retain, or detain employees. Police should be notified immediately if an employee is suspected of violence or causing imminent danger. Retaining or detaining employees against their will may be viewed as a threat in the employment relationship and could constitute false imprisonment.

Disabilities as Defense Against Alleged Misconduct

The Equal Employment Opportunity Commission (EEOC) has issued guidance that addresses potentially violent misconduct by employees with disabilities. Although this guidance deals specifically with psychiatric disabilities, it applies in general to other disabling medical conditions. It advises that an agency may discipline an employee with a disability who has violated a rule (written or unwritten) that is job-related and consistent with business necessity, even if the misconduct is the result of the disability, as long as the agency would impose the same discipline on an employee without a disability. The guidance specifically states that nothing in the Rehabilitation Act prevents an employer from maintaining a workplace free of violence or threats of violence. The guidance specifically states that reasonable accommodation is always prospective. Thus, an agency is never required to excuse past misconduct as a reasonable accommodation.

Family and Medical Leave (FML)

FML allows employees time off from work for certain covered reasons if they have at least 12 months of state service (need not be continuous) and have worked 1,250 hours for the state during the 12 months before the start of the leave. Employees who have been referred to the Employee Assistance Program are protected under FML only for the time spent in counseling sessions. Other time spent out of the office may not qualify for FML.

Privacy

The *Human Resources Policy Manual* states “Computer files, including e-mail, telephone records, and personnel records of state employees are considered public information, and Department employees should hold no expectation of privacy except when explicitly protected by federal or state law.” . This means that all computer files and telephone records are subject to requests for public information (“open records requests”) and discovery in litigation. TxDOT retains the right to investigate misconduct, violence, or threats of violence. All information related to workplace violence will be maintained in strict confidence and shared on a need to know basis only.

Negligent Hiring and Retention

Employers may be subjected to liability for workplace violence acts based on a number of negligence theories such as negligent hiring, supervision, retention, etc. Basically, employers have a duty to use reasonable care in selecting and retaining only competent, safe employees. Liability may be incurred if that duty is breached by permitting or failing to prevent negligent conduct of its employees upon its premises or other areas under its control.

Negligent hiring occurs when an employer does not perceive an applicant’s violent tendencies at hiring. Five steps to protect yourself against negligent hiring are:

1. Review all employment applications carefully
2. Question any gaps in employment history
3. Contact prior employers for employment dates
4. Ask questions about reliability, honesty, and tendency to violence, and
5. Document all screening efforts and advise applicants that omissions or falsifications will result in termination of employment.

OSHA

Currently there are no specific Federal OSHA standards that address violent employee behavior. However, the Federal Occupational Safety and Health Act (OSH Act), in Section 5(a)(1), does provide that “each employer shall furnish to each of their employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to their employees.”

That OSHA General Duty Clause requires employers to take “feasible” steps to minimize risks of violence and serious personal injury in the workplace if the risks are significant enough to be recognized hazards. The guidelines note that “employers can be cited for violating the General Duty Clause if there is a recognized hazard of workplace violence in their establishments and they do nothing to prevent or abate it.” Conversely, acts of violence which are not recognized as characteristic of employment and would be considered random antisocial acts which may occur anywhere would not subject the employer to a citation for a violation of the OSH Act.

According to OSHA, whether or not an employer can be cited for a violation of Section 5(a)(1) is entirely dependent upon the specific facts, which will be unique in each situation. The recognizability and foreseeability of the hazard and the feasibility of the means of abatement are some of the critical factors considered. The most reliable way to avoid liability under OSHA is to address workplace security issues and provide employee training on prevention and reporting of workplace violence.

Prohibited Harassment

Title VII of the Federal Civil Rights Act prohibits an employee’s offensive remarks, threats, or conduct that is physically threatening or humiliating based on membership in a protected class. Employers may be liable for either engaging in or allowing harassment that creates a hostile or abusive work environment.

Workers’ Compensation

Workers’ compensation is an employee’s remedy for work-related injuries or death. The right to a civil action for workplace injuries or death is relinquished, quid pro quo, for a guaranteed worker’s compensation payment. The Act also includes a “personal animosity” exception that states an injury is not compensable if it arises “out of an act of a third person intended to injure the employee because of personal reasons and not directed at the employee as an employee or because of employment.”

Weapons

Chapter 8, *Conduct and Problem Resolution*, of the *Human Resources Policy Manual* contains a [Weapons and Handguns](#) policy that sets forth prohibitions against weapons except as permitted by law (i.e., those with a license to carry a handgun). Employees and visitors must abide by all applicable state and federal laws relating to carry of a handgun. Any violation of any law concerning handguns will be referred to law enforcement authorities.

§ 4 - Restraining and Protective Orders

Restraining Orders

Restraining orders can prevent an individual from any activity that might harm, including emptying bank accounts, selling property, canceling credit cards, harassing telephone calls, diverting mail and other similar activities. Restraining orders are only issued with some type of civil suit and are intended to keep the status quo until the civil suit is heard by the court. This type of order is most commonly issued during a divorce and can only be obtained by seeking private legal assistance.

Final Protective Orders

Final protective orders are intended to prevent violence by a member of a family or household. This includes non-marital situations such as in-laws, parent abuse, grandparent abuse, same sex abuse, and other violent or threatening situations involving any member or former member of the same household, extended family relationships, or of dating relationships.

They make it a criminal offense for the respondent to go within a certain distance of the protected person's home, work or school, or to communicate in a harassing manner. The final protective order may be effective for a period of up to two years and can include civil remedies such as child support and visitation schedules depending on the county or judge issuing the order.

Obtaining an Order

To find out how to apply for a protective order, contact the local domestic violence service provider in your area, the local county attorney's office, or refer to the Texas Council on Family Violence. The Texas Council on Family Violence has protective order forms, with instructions, that are available at their [website](#).

Usually, there are no fees to an applicant of a protective order and an employee can complete the process without the services of an attorney. However, if a private attorney is employed, they may charge the employee a fee for any legal services they provide in obtaining the order.