workplace as a humane, profitable, and stable institution in the face of the violence, desperation, and upheaval that are threatening the world around it.

III. UNION PERSPECTIVE

JORDAN BARAB*

At a hospital in Philadelphia, a maintenance worker requested a few days off to care for his daughter who was about to undergo surgery for a potentially life-threatening health problem. At the last minute, his supervisor withdrew the permission for vacation time and suspended him when he took it anyway. The worker took a gun to work, entered the supervisor's office, and ordered him to take off his clothes. Someone who had seen the worker enter the supervisor's office called the police and the SWAT team presently arrived. When the worker saw the SWAT team, he "woke up" and realized he was in big trouble. He called his steward, who arrived and managed to defuse the situation.

Early in 1996, a former employee of the City of Fort Lauderdale, Florida, entered his old workplace and killed his supervisor and four employees before fatally shooting himself. He had been fired from his job two years prior for poor work performance and belligerent comments to co-workers and the public. In the intervening years he had lost several jobs and most recently he had lost a job, his wife needed surgery, and his refrigerator was repossessed.

The Dilemma for the Union Representative

There is almost no more difficult a problem for a union steward to deal with than worker-on-worker violence, especially when assaults involve two members. The steward is often faced with serious problems and conflicting objectives. If a member is being disciplined for erratic, violent, or potentially violent behavior against either co-workers or supervisors, the steward's first duty is to represent that employee. This may involve negotiating to have the discipline reduced while providing help to the threatening employee through an employee assistance program (EAP) or other means.

*Assistant Director for Safety and Health, Department of Research and Collective Bargaining Services, American Federation of State, County and Municipal Employees, Washington, D.C.

Unfortunately, concurrent with defending the assaultive member, the steward often has to deal with the "victims" of the assaults, particularly their legitimate feelings that the assaultive or threatening co-worker not be returned to the job. And, of course, the steward has a legitimate duty to be concerned about the safety of other members as well. At some point, in fact, the steward may have to decide whether it is in the best interests of the members that a potentially violent member be suspended, transferred, or terminated. The initiation of the grievance process places the union representative in a difficult conflict between the duty of fair representation, on the one hand, and the duty to require the employer to provide a safe workplace, on the other. For this reason, unions have a strong interest in finding alternatives to the grievance process for dealing with situations of worker-on-worker violence.

However, unions are often accused of obstructing the grievance process in situations concerning worker-on-worker violence. They are accused of opposing such allegedly useful programs as profiling, psychological testing, zero-tolerance violence policies, and even anti-firearms policies. Further, unions are accused of obstructing management's sincere efforts to deal with violence-prone employees—efforts that would benefit the entire workplace—by manufacturing an inflammatory issue that can be used to fire up the membership against management and display the solidarity of the union.

The easy response to these accusations is that just as any person accused of a criminal offense is entitled to a public defender, a unionized worker is entitled to defense and due process under the grievance procedure. In fact, the "duty of fair representation" requires that the union provide representation to any worker who is disciplined. But the situation is much more complicated for the union representative than a simple reliance on the duty of fair representation. Union leaders often realize that resorting to a simple defense of an accused member is often not the best way to resolve a worker-on-worker violence problem. An alternative, less confrontational method of dealing with the problem is needed.

Union's Distrust of Management's Approaches to Worker-on-Worker Violence Issues

Unions often have a problem with management's responses to potential or real worker-on-worker violence because these re-

sponses often appear to attack the contract, the due process rights of individual workers, and the union itself. And no matter how "obviously guilty" a worker may be, the union will defend that member, like a lioness defends her cubs, if the union believes that the contract is being violated or the union is being weakened. Failure of a union representative to defend the contract and the basic principles of due process in any individual member's case puts the rights of all members at risk.

Why does distrust between the union and management often intensify with issues of worker-on-worker violence? What are the actions that management often takes that encourage this distrust?

Management Ignores the Real Problems

A primary reason that labor often does not trust management is that management often seems to be missing the point and chasing the wrong targets. *Real*workplace violence may exist in the form of threats or violent attacks by clients, patients, customers, or intruders, yet management policy (generally steered by the human relations office, rather than the health and safety department) ignores the existing problems and focuses exclusively on *potential* worker-on-worker violence.

Workplace violence has become a popular subject. On the surface, it is not hard to see why. Headlines describe how fired employees come back to their former places of employment, semiautomatic rifles in hand, and kill their supervisors and other workers who were unlucky enough to be in the line of fire. Government statistics show that homicide is the second leading cause of death in the workplace and the leading cause of death for women.

Workplace violence also has become a popular subject for human relations consultants, many of whom hold seminars and publish materials that purport to educate employers about how to hire, discipline, and fire employees in such a manner that the affected employees do not return to kill them. The consultants provide profiles on how to "recognize" a potentially violent employee during the hiring process; how to identify current potentially violent employees; and how to survive discipline, firing, downsizing, or rightsizing without getting your head blown off.

The actual statistics put the issue of workplace violence in a different perspective. In reality, the average victim of a workplace homicide is not a supervisor or co-worker, nor is the average

perpetrator a mentally unstable gun nut. Rather, the typical homicide victim is a worker in an all-night convenience store, a taxi driver, or a security guard; the average perpetrator is a robber, armed with a handgun.[1]

Nevertheless, numerous articles begin by quoting the familiar National Institute for Occupational Safety and Health (NIOSH) statistics that state that homicide is the second leading cause of death in the workplace and then skip directly to describing the latest case of worker-on-worker violence.[2]

Reliable statistics on nonfatal violence are a bit harder to come by. The typical victim of a nonfatal assault is probably a health care worker in a mental health facility, nursing home, or emergency department, and the typical perpetrator is a patient, although family members have also been known to attack health care workers.[3] School bus drivers, the victims of assaults by students or parents, also rank high on the list. For management to ignore these actual incidents by focusing on potential worker-on-worker violence does not persuade the union that management has the workers' best interests at heart.

The Crazy Worker Theory vs. Work Organization

A second reason for the mistrust between labor and management is that employers and the media generally assume that mental health problems are the sole cause of worker-on-worker violence. This "crazy worker" theory ignores the organizational causes of the problem and focuses instead on methods that are useless, at best, and that may, at worst, undermine the rights of the union.

Several organizational sources of stress can be identified.

- *Physical work environment.* Noise, poor air quality, inadequate lighting, poorly designed equipment, untidy or dirty work area.
- *Work organization.* Shift work, understaffing, excessive overtime, favoritism, harassment or discrimination (racism and sexism), chronic labor-management disputes, frequent

[1]National Census of Fatal Occupational Injuries, 1994 (U.S. Dep't of Labor, Aug. 3, 1995).

[2]Duncan & Stanley, *Death in the Office: Workplace Homicides*, The FBI Law Enforcement Bulletin, Apr. 1995.

[3]Characteristics of Injuries and Illnesses Resulting in Absences From Work, 1994 (U.S. Dep't of Labor Bureau of Labor Statistics News May 8, 1996).

grievances filed by employees, an extraordinary number of injury claims (especially for stress-related complaints).

● *Work content and duties.* Lack of accountability of supervisors and managers, double standard of treatment between workers and managers, having little or no decision-making authority, being under constant surveillance, petty rules or regulations, poor communication between supervisor and workers, repetitive or monotonous work, lack of control over how a job is performed, threat of technology replacing jobs, dictatorial supervisors or managers.

● *Nonwork environment.* Problems at home such as financial or marital problems, drug or alcohol addiction, caring for an elderly or sick relative, child care concerns.

The hostile work environment is of special concern. As one who has had much experience with workplace violence and hostile environments, the health and safety director of the American Postal Workers Union has noted:

> When harassment, intimidation, and unjust discipline are embedded in a rigid management style, adversarial and stressful relationships between workers and managers result. Work environments in which these types of negative relationships endure have a higher risk of internecine workplace violence. . . . As with drug and alcohol abuse, internecine workplace violence may be another inappropriate response to coping with a stressful environment.[4]

If the cause is related to the workplace—overly stressful working conditions or an abusive supervisor, for example—the steward must take steps to get management to address the problem. In addition to possibly resolving the accused worker's problem, resolving such problems in the work organization may remedy the stressful workplace conditions that may be the cause of future violence in the workplace.

Profiling and Zero-Tolerance Policies

The labor representative may have to deal with employer overreaction to the national frenzy over workplace violence, which often manifests itself in recommended "profiles" of potentially violent workers, "zero-tolerance" violence policies, "violence prevention committees" with no union representation, and the psy-

---

[4]Cabral, *Policies for Developing Workplace Violence Prevention Strategies,* 11 Occupational Medicine 2 (April–June 1996) at 304.

chological testing of potentially violent employees. These approaches are often justifiably seen as an attempt on the employer's part to undermine the rights of individual workers and the union.

For example, profiles of potentially violent employees can be very seductive for an employer. In retrospect, almost every perpetrator of a violent incident in the workplace fits into one of these profiles, but, of course, so do millions of others who, while perhaps being irritating, would never commit a violent act.

In fact, some commentators have noted that profiles of potentially violent employees often include characteristics of what many would consider to be an active union representative. An employer who really is "out to get" someone can easily find ways to match him or her with these warning signs. Some examples from a section on "warning signs" from a university violence policy include the following:[5]

- *Boundary crossing*, or pushing the limits of acceptable workplace behavior and continual testing of established rules. In a workplace where there is a major labor-management conflict occurring, there may be deliberate pushing of limits. Who defines what is "acceptable" workplace behavior and who determines if such behavior has been violated?

- *Inconsistent work patterns and attendance problems.* In a workplace plagued with labor-management problems, a good steward may be beleaguered by union-related activities at the expense of his or her regular work.

- *Obsession with job or finds identity with job.* How does one distinguish between job obsession and a healthy interest in the job? Indeed, one could say, for example, that Bill Gates, Ross Perot, and, according to popular psychology, most men find their identities in their work.

- *Pathological "blamers,"* or persons who cannot take responsibility for their own actions. They will not admit wrongdoing, even for minor mistakes, and are always blaming other people, the organization, or the system. This may, in fact, be a workplace where a lot of things are going wrong, and the fault may legitimately be with management and/or the organization.

- *Personal stress*, which may result in excessive personal phone calls, desk pounding or throwing of objects, crying, lapses in

---

[5]Sonoma State University Workplace Violence Prevention and Response Program.

attention, and general frustration with the surrounding environment. This may be a profile of a good steward having a bad day.

- *Safety issues* like recklessness and a sudden increase in accident rate reveal lapses in concentration and disregard for personal/co-worker safety. The law states that management is responsible for safe working conditions. A "sudden increase in the accident rate" may reveal "lapses in concentration," but it may also indicate management attempting to cut costs by cutting corners on safety.
- *Paranoia*: irrational fears of being "set up." Just because you are paranoid does not mean they are not out to get you.
- *History of conflict with co-workers, supervisors, or both*. This may indicate that there is a problem, but who has the problem?

Labor's position is that an employee's behavior should be dealt with only if the employee has exhibited threatening behavior that has a potential for violence, not because a supervisor may think that the employee fits 8 out of 10 points of a profile.

Psychological testing of employees also can be seductive. There is an understandable urge that everything be resolved through some kind of test—whether it be a drug test or a psychological test or profile. Beyond obvious confidentiality issues, theses tests are not completely reliable.

So-called "zero-tolerance" policies are also flawed. There have been policies that completely ignore the contract or circumvent the principle of progressive discipline. Often, they completely ignore cultural differences as well as differing senses of humor. What may seem to be threatening behavior in one ethnic group may be considered normal discourse in another. An offhand comment about a supervisor such as "Sometimes he makes me so mad I feel like killing him," can be taken as a reason for immediate dismissal.

Unions have been accused of such outrageous behavior as daring to defend a member who has, against explicit or implicit rules, brought a gun to work. Although I personally would be fully supportive of a "no guns at work policy," there are certainly situations where the act of bringing a gun to work may have a reasonable defense. For example, shortly after a food-stamp worker in Baltimore was stabbed to death a few years ago by an unhappy food stamp recipient who did not want to wait for his stamps, the workplace installed metal detectors. The first days following

installation resulted in an enormous number of confiscated weapons—from clients as well as employees. It quickly became clear, however, that these weapons had to be returned to their owners when they left because they needed them to get into and out of their neighborhood safely.

In addition, the growing number of laws that allow people to carry concealed weapons make it more likely that someone could legitimately overlook a handgun left in a purse or backpack. Under a strict zero-tolerance policy, this person would be out on the street without a hearing, although common sense and due process would allow a defense.

Management Excludes the Union From Developing Workplace Violence Policies or Participation on Committees

Worker-on-worker violence policies are often developed without the input of the union. Without such input, the policies stand little chance of targeting the real problems or having any credibility with the employees.

Management Exclusion From Workplace Violence Policies

Violence prevention policies and threat assessment teams often do not apply equally to management and nonmanagement employees. As workers often have violence-related problems with their supervisors, these policies may have little credibility with employees.

Management Refuses to Take Responsibility

Finally, even when the union is willing to handle a violent member, management sometimes refuses to take responsibility for dealing effectively with the employee. Whether because of fear of consequences, an attempt to divide the union, or because they are at a loss as to what to do, management is sometimes left being asked by the union to enforce its own workplace rules.

For these reasons, where the union representative feels that the members' rights are being abridged or where workplace violence policies target only nonmanagerial employees, the union will generally oppose management's attempts to deal with a potential workplace violence problem. Where these are the only approaches that management takes, it is unlikely that the workplace violence

issues will be characterized by cooperation or that potentially violent incidents will be addressed constructively.

On the other hand, the union representative clearly has no interest in preventing a necessary response to a troubled employee who may present a danger not only to him- or herself, but also to co-workers. The union needs to be involved in such a response, and that response needs to be structured so as to provide needed assistance to the troubled employee, to address any workplace factors that may be aggravating the individual's problem, to protect the health and safety of the other employees, while simultaneously not undermining the rights of individual workers or the union.

An Alternative Approach

I have spent most of my time today in an attempt to help you understand the union's dilemma. Without going into great detail, there are some principles that we recommend:

1. Demand that management provide a safe and secure workplace, safe from intruders, assaults from clients, patients, customers, family members, supervisors, and, if necessary, co-workers.
2. Identify the causes of workplace stress and urge management to change the work organization to abate such causes of stress. Depending on the job, stress reduction and conflict resolution classes for workers, managers, and supervisors also may be necessary. Special emphasis should be placed on efforts to improve relations between labor and management.
3. Provide a confidential Employee Assistance Plan (EAP) that has the ability to address workplace violence issues. Where employees may need professional assistance beyond the scope of EAP services, encourage management to make outside counseling services available.
4. Have a *written* emergency response plan available at every workplace, and provide a copy to every worker. If it is felt that a violence prevention program is needed, it should be jointly agreed upon by management and the union, and it should be written and distributed to all employees.
5. Where it is felt that some kind of crisis intervention team is necessary, include a union representative and a mental health professional on the team. Strive to cooperatively develop the ground rules.

6. If a potentially dangerous situation arises, professional psychiatrists, psychologists, or counselors should be relied on for crisis intervention. Although training in how to diffuse a potentially violent situation is useful for union activists, where a potential for violence clearly exists, union representatives should not attempt to resolve the problem themselves.

7. Recognize the existing legal or contractual rights of employees, such as a collective bargaining agreement, employment discrimination laws, and any other due process rights that employees may have, when responding to workplace violence.

Worker-on-worker violence issues are never easy for a union representative to deal with—either within the union or between labor and management. The reasons have to do with the conflicting responsibilities of the union representative, as well as management approaches that do not encourage open and productive labor-management relations. To develop a labor-management relationship that fosters resolution of worker-on-worker violence issues with a minimum of labor-management conflict, it is necessary for management to understand the union's responsibilities and concerns, as well as to recognize that the union also has a sincere wish to resolve these problems for everyone's benefit. Labor and management must work together to find a nonconfrontational process that resolves workplace violence problems without ignoring the individual or collective rights of workers or the union, and without undermining the contractual, due process, and legal protections.

IV. WORKPLACE VIOLENCE—THE PROPER ROLE
FOR ARBITRATION

KENNETH P. SWAN*

Canadians have a disconcerting attitude toward stories of violence—especially those involving the use of firearms—in the United States. We say "Canada is different—we have gun control, a more peaceful society, and a cultural disinclination to blow each other away." At least in respect to workplace violence, our smugness may be misplaced. Canada may indeed be different, but not because we

*Member, National Academy of Arbitrators, Toronto, Ontario. This paper was prepared with the able assistance of Celia Harte.