ADDRESSING VIOLENCE AND CREDIBLE THREATS OF VIOLENCE IN THE WORKPLACE: A GUIDE TO THE WORKPLACE VIOLENCE SAFETY ACT

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I. Introduction

A city staff member rushes into the city attorney's office and advises you that employees are afraid for their safety because of threats from an individual. The individual may be an irate city resident or, perhaps even more complicated, another city employee. What tools are available to you to protect the city employees? Will legal action prove effective? Does the city have a duty to respond?

Unfortunately, the issue of workplace violence is one that employers, including cities and other public agencies, and employees must grapple with on an all-too-regular basis. The U.S. Department of Justice estimates that in 2009 alone, approximately 572,000 nonfatal violent crimes occurred against persons while they were at work or on duty, and 521 people were killed in the workplace.[2]

This paper provides a step-by-step guide to at least one tool – the Workplace Violence Safety Act – that city attorneys can utilize when faced with such challenging situations. In particular, the paper discusses the legal standard that must be met in order to secure a temporary restraining order and permanent injunction against the threatening or violent individual. This paper also provides a brief overview of practical considerations and potential pitfalls that are unique to public agency employers. Additionally, the attached appendix provides Judicial Council forms that can be completed for the related legal action that can be taken, along with a list of resources available to public agency employers.

It is worth noting that while the temporary restraining order and permanent injunction available under the Workplace Violence Safety Act is one tool to address these situations, it is not the only tool. It is possible that the threats or actions by the aggressor constitute crimes,[3] or a criminal protective order may be sought.[4] When a situation arises threatening workplace safety, counsel should confer with administrators, law enforcement personnel and human resources personnel, to coordinate the appropriate response.

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[1] A version of this paper was previously published by the State Bar of California Public Law Section's *Public Law Journal*.

[2] U.S. Department of Justice, *Workplace Violence, 1993-2009* (March 29, 2011), available at http://www.bjs.gov/content/pub/pdf/wv09.pdf.

[3] Such possible crimes may include threatening or inflicting unlawful injury upon a public officer or employee (Pen. Code § 71), disruption of a public meeting (Pen. Code § 403), disturbing the peace (Pen. Code § 415), criminal threats (Pen. Code § 422).

[4] *See* Pen. Code §§ 136.2, 646.9(k); *see also* Judicial Council Forms CR-160 (Criminal Protective Order – Domestic Violence) and CR-161 (Criminal Protective Order – Other than Domestic Violence).

II. The Workplace Violence Safety Act

California Civil Procedure section 527.6 authorizes a person who has suffered harassment to seek a temporary restraining order and injunction prohibiting further harassment. In 1986, the Court of Appeal held that the term "person," as used in the statute, was limited to natural persons and did not include a business entity, even if that entity was the employer of the victim of the harassment.[5]

In response, in 1994 the Legislature adopted the Workplace Violence Safety Act ("Act"), allowing California employers, including public agencies, to obtain a temporary restraining order ("TRO") and permanent injunction on behalf of their employees, if the employees feel unsafe or threatened in the workplace. The Act is intended to address "the growing phenomenon in California of workplace violence by providing employers with injunctive relief so as to *prevent* such acts of workplace violence."[6]

Because not all employees have the resources available to pursue a legal action, the Act allows an employer to petition the court for a restraining order on behalf of its employees. The Act is distinguishable from other CCP sections which allow a person to seek a TRO on behalf *of themselves*.[7] If a restraining order (TRO or permanent injunction) is granted, the court can order that the restrained person stay away from the employee and not contact or otherwise harass the employee.[8] A person subject to a restraining order may not own, possess, purchase or receive a firearm or ammunition while the order is in effect, and must relinquish all firearms to law enforcement or a licensed gun dealer within 48 hours after receiving the order.[9]

The Act has been used by public agencies to address harassment in various situations. For example:

- By the County of San Bernardino Department of Children and Family Services, to protect "all employees and staff" of the Department from a mother who had threatened Department employees and social workers. The mother screamed obscenities at employees in the lobby of the Department's offices, lunged at a social worker on at least one occasion, made threatening phone calls to employees, stalked an employee, and told a therapist that she was going to kill a social worker at the Department's offices or at court.[10]

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[5] *City of L.A. v. Animal Defense League* (2006) 135 Cal.App.4th 606, 614, 625; *Diamond View Ltd. v. Herz* (1986) 180 Cal.App.3d 612.
[6] *Scripps Health v. Marin* (1999) 72 Cal.App.4th 324, 334 (emphasis in original).
[7] California Code of Civil Procedure ("CCP") §§ 527.6, 527.9 (2013). Unless otherwise stated all statutory references shall be to the CCP.
[8] § 527.8(b)(6); *In re M.B.* (2011) 201 Cal.App.4th 1057, 1063.
[9] § 527.8(r)(1), (2).
[10] *In re M.B.* (2011) 201 Cal.App.4th at 1060-64 (emphasis added).

- By the City of San Jose, to protect a deputy city clerk from a resident who threatened the clerk and said he would "take matters into my own hands." The resident had a history of threatening conduct towards employees and made regular appearances at city hall.[11]
- By the City of Palo Alto, to protect an employee and members of his family from a former employee in the City's utilities department. The former employee, who had been reprimanded and disciplined for various incidents, threatened to shoot a co-worker, his wife and their new baby if he lost his job.[12]

III. The Legal Standard

The Act is codified at Code of Civil Procedure ("CCP") Section 527.8. Subdivision (a) of that section reads: "Any employer whose employee has suffered unlawful violence or a credible threat of violence from any individual that can reasonably be construed to be carried out or have been carried out at the workplace, may seek a temporary restraining order and an injunction on behalf of the employee…"[13] Counsel should carefully evaluate the Act's legal standard before commencing a petition for a restraining order.

a. "Any employer…"

The Act states that "any employer" may seek a TRO on behalf of their "employee."[14] An "employer" includes public agencies and private corporations.[15] If a legal action is filed, the city or public agency serves as the petitioner which, as noted above, distinguishes the Act from other restraining orders filed under CCP section 527.6.

b. "… whose employee …"

The Act expansively defines "employee" to include members of boards of directors of private, public, and quasi-public corporations, elected and appointed public officers, volunteers and independent contractors.[16] The broad definition of "employee" underscores the Act's intent to protect *all persons* who work or volunteer at the public agency, regardless of their employment status. This would include members of the city council and city commissions who may not be compensated for their service.

The Act expressly provides that a restraining order may be sought on behalf of "any number of other employees."[17] All employees seeking protection should be listed by name in the petition. If a large group of employees seek protection, the court may allow a specific category of employees to be listed in the petition, such as "All Human Resources Department

[11] *City of San Jose v. Garbett* (2010) 190 Cal.App.4th 526, 530-33.
[12] *City of Palo Alto v. Service Employees Internat. Union* (1999) 77 Cal.App.4th 327, 331-33.
[13] § 527.8(a).
[14] § 527.8(a).
[15] § 527.8(b)(3).
[16] § 527.8(b)(3).
[17] § 527.8(a).

employees." The Act allows the employer to seek protection for "additional protected persons," such as the employee's "family or household members."[18]

c. "…has suffered unlawful violence or a credible threat of violence…"

The employee must have suffered (i) unlawful violence or (ii) a "credible threat of violence" before a TRO may be sought by the employer.[19] "Unlawful violence" includes any assault, battery, or stalking, but does not include lawful acts by the individual, such as self-defense or defense of others.[20]

In many situations, however, actual "unlawful violence" has probably not occurred, and the employee has instead been subjected to perceived threats by the individual. Because not all threats are criminal and, therefore, not subject to law enforcement intervention and prosecution, the Act provides an alternative tool for employers to respond to such threats. If a threat has been made, public agency counsel must closely evaluate whether a "credible threat of violence" as defined by the Act, has occurred; that is, "a knowing and willful statement or course of conduct that would place a reasonable person in fear for his or her safety, or the safety of his or her immediate family, and that serves no legitimate purpose."[21] The Act further defines "course of conduct" as "a pattern of conduct composed over a series of acts over a period of time, *however short*, evidencing a continuity of purpose," such as stalking, or making repeated telephone calls.[22] Importantly, such a pattern of conduct may be "short," implying that the Act does not require a minimum number of incidents occur before a petition may be filed.

In order to obtain a restraining order under the Act, the threat does not need to name the particular employee seeking protection.[23] For example, the Court of Appeal upheld a trial court's granting of a permanent injunction to protect a supervisor, even though the employee made "generalized threats" and made no direct threats towards the supervisor.[24]

Further, the Act does not require the aggressor to *intend* his or her conduct to be an actionable credible threat. The standard is whether a "reasonable person" would be placed in fear for his or her safety.[25] An employee may overreact to a single statement made by an irate resident, and therefore his or her fear may be unreasonable. Or an employee may be upset by an individual's conduct or statements, but the employee may not be afraid for his or her safety. In

[18] § 527.8(d).
[19] § 527.8(a).
[20] § 527.8(b)(7).
[21] § 527.8(b)(3).
[22] § 527.8(b)(1).
[23] *USS-Posco Industries v. Edwards* (2003) 111 Cal.App.4th 436, 442-43.
[24] *Id.* at 441, 443. The generalized threats included a threat that the employee would bring a gun into the workplace and shoot employees against whom he harbored a grudge (not including the supervisor), and that the employee carried a gun in his car. *Id.*
[25] § 527.8(b)(2); *see also City of San Jose*, *supra*, 190 Cal.App.4th at 538-39.

these situations, a credible threat as defined by the statute has not occurred, and the legal standard has not been met.

d. "… from any individual…"

Courts have interpreted this language of the Act as limited to natural persons, so that an injunction under the Act may not be issued against corporate entities, groups or associations.[26]

e. "… that can reasonably be construed to be carried out or have been carried out at the workplace..."

There must be a finding by the court that a threat exists *in the workplace* for the Act to apply.[27] Indeed, one court has described this as a "required nexus" that distinguishes the Act from CCP Section 527.6.[28] Once it is established that the employee needs protection in the workplace, the court may also order the respondent to stay away from the employee's home, school, and the school of the employee's children. For situations where the employee has been the subject of threats or violence only outside the workplace, the appropriate course of action is for the employee him or herself to seek a restraining order pursuant to CCP Section 527.6.

IV. The Steps in the Process

a. Investigation

Counsel should determine from the employee what specific statements or course of conduct have occurred, and how long the threats or violence have been occurring. If an act of physical violence has taken place, or a specific and credible threat of violence has been made against the employee, law enforcement should be contacted immediately. If no physical violence has occurred and only threats have been made, a question to ask the employee is, "Do you feel afraid for your safety here at work?" If the answer is "yes," seeking a TRO pursuant to the Act may be proper.

During your interview with the subject-employee, a question to keep in mind is whether the employee's version of the event is credible. That is, could the event have occurred as the employee has described? Also determine if the subject-employee is aware of any other witnesses to the event or whether any physical evidence supports the occurrence of the incident.

Counsel should be attentive to the fear and anxiety of the employees involved in the process. The employees will likely have many questions and counsel should keep the employees informed as the investigation progresses and, if a petition is filed, at each stage of the legal action.

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[26] *City of L.A., supra,* 135 Cal.App.4th at 623-24.
[27] § 527.8(a).
[28] *City of L.A., supra,* 135 Cal.App.4th at 627.

b. Preparing, Filing and Serving the Petition

Next, if the Act's legal standard has been met, counsel should prepare the petition based on evidence to support the application, such as police reports and declarations from the appropriate employee(s) and witnesses.

While interviewing the subject-employee, determine if he or she is aware of any tangible evidence which may exist that supports or refutes the employee's narrative about what happened. For example, was the incident witnessed by other employees or by members of the public? Was the incident captured on a cell phone camera? Did a security surveillance camera capture the incident? Is there a recording of a telephone call which captured the threatening statements, or a threatening email? Did the incident warrant a call to law enforcement? If so, was an incident report prepared? Did the police prepare a threat assessment of the aggressor? Presuming any of the above exists, if it tends to support the employee's recitation of the event then it should be considered evidence to be presented to the court when the petition is filed.

The employee(s) may be hesitant to complete a declaration that will be served on the aggressor, let alone testify in court. Without the declaration it is possible that a judge may not grant the application seeking the TRO. Public agency counsel must find a balance between presenting a strong case while addressing the legitimate employee concerns.

The petition typically consists of the following Judicial Council forms, which are mandatory in such an action[29]:

- WV-100 Petition for Order to Stop Workplace Violence
- WV-102 CLETS Information
- WV-109 Notice of Court Hearing
- WV-110 Temporary Restraining Order (TRO), if desired
- WV-130 Restraining Order After Hearing to Stop Workplace Violence
- WV-200 Proof of Personal Service

Prior to filing the petition with the appropriate court, counsel will need to determine whether a TRO which limits the conduct of the aggressor will be sought.[30] These temporary orders subject the aggressor to arrest if he/she engages in any act of violence or threatening conduct towards the subject-employee. If a TRO is sought, form WV-110 will need to be completed and submitted with the petition. If it appears reasonable that further contact between the aggressor and the subject-employee could occur, counsel should include the WV-110 as part of the petition. The TRO may include other named family or household members, or other persons employed at the employee's workplace.[31]

[29] § 527.8(u)(1).
[30] § 527.8(e).
[31] § 527.8(d).

The petition may be supplemented by the subject-employee's declaration, which will detail any incidents involving the aggressor. Supplemental declarations by witnesses which support the subject-employee's testimony may be submitted, in addition to any supplemental declarations which may authenticate any physical evidence presented to the court in support of the petition. Examples of evidence which may require authentication may include videos, photographs, reports, and other writings regarding the incident(s).

Once the petition and supporting documents are complete, they should be filed in the county courthouse which has jurisdiction over the area where the alleged violence or threats have taken place. Consult with the court clerk to determine if the petition needs to be filed with the criminal division or the civil division. The court must grant or deny the TRO no later than the next court day after the petition has been submitted to the court.[32]

If the court issues the TRO, counsel should obtain an executed copy, since the court may order the employer or counsel to deliver the executed order to the appropriate law enforcement agency "by the close of the business day."[33] Counsel should confirm that law enforcement immediately enters the TRO into the California Restraining and Protective Orders System (CARPOS) through the California Law Enforcement Telecommunications System (CLETS). Generally, the TRO will remain in effect until the hearing on the petition.[34]

After receiving the conformed copy of the petition back from the court, the respondent must be personally served with a copy of the petition, TRO (if granted), notice of hearing of the petition, and any supplemental declarations at least five days prior to the hearing date.[35] It is important to note that form WV-102 "CLETS Information" is not served upon the respondent. It contains confidential information about the subject-employee and is only filed with the court.

c. Noticed Hearing / Trial

At the court hearing, a judge will review the petition and any response prepared by the respondent, and will determine if an injunction against the respondent is warranted. The hearing is a bench trial, not a jury trial, and is decided by the "clear and convincing" standard of proof.[36] The hearing "need not proceed as a 'full-fledged evidentiary hearing with oral testimony from all sides'"; the court may also consider "*all* relevant evidence," including hearsay evidence such as declarations and affidavits.[37] On the day of the hearing, public agency counsel should bring a completed Form WV-130 (Workplace Violence Restraining Order After Hearing), so that the court can execute the order the same day. Since the TRO will automatically expire the day of the hearing, public agency counsel should obtain the executed order immediately after the hearing

[32] § 527.8(f).
[33] § 527.8(q)(2).
[34] § 527.8(g).
[35] § 527.8(m).
[36] *Kaiser Foundation Hospitals v. Wilson* (2011) 201 Cal.App.4th 550, 557.
[37] *Id.* (emphasis in original).

and deliver it to the appropriate law enforcement agency, similar to the TRO (discussed above). If granted, a permanent restraining order issued may be effective for up to three years.[38]

If either party needs or intends to request that the court continue the hearing, the public agency counsel should complete Form WV-115 (Request to Continue Court Hearing and to Reissue Temporary Restraining Order) in advance of the hearing. This enables the court to keep the TRO in place until the continued hearing occurs.

d. Post-hearing and the Permanent Injunction is Granted

The judge, after the hearing, has the authority to grant, deny or modify the petition. If the petition is granted, even in part, and the respondent was present at the hearing to personally hear the terms of the ruling, then the Act provides that no additional proof of service is required for the enforcement of the order.[39] Nevertheless, good practice would dictate that a copy of the order be served upon the respondent, at least by first-class mail. Further, if the respondent is personally served with a TRO and notice of hearing but fails to appear at the hearing and the injunction is granted, the terms and conditions of the TRO issued at the hearing will become the order if they are not modified by the judge and may be served upon the respondent by first-class mail.[40]

Public agency counsel should be mindful of certain special considerations. If either the TRO or permanent injunction is granted, the court may impose a "stay away" or "do not contact" order on the respondent. If the respondent is a resident of the city, however, the respondent may have a legitimate need to access the city's facilities (e.g., for paying a water bill, applying for public benefits, or seeking redress with elected officials). Public agency counsel may want to draft the proposed order to allow *limited* access to the city's public facilities. For instance, counsel could insist that the respondent stay away from the agency's building, but still allow respondent to mail or call the agency for *legitimate* agency business. A sample of such an order is provided in the appendix.

The subject-employee should also be provided with a certified copy of the order. In the event that law enforcement is called upon to enforce the terms of the injunction and/or stay-away order, ideally the affected employee should be able to provide an endorsed copy of such to the responding officer.[41] If the employee does not have a copy of the order, law enforcement must attempt to verify the existence of the order. Additionally, security staff and the employee's supervisors should also be advised that an injunction and/or temporary restraining order is granted and be provided a copy of any such order.

[38] § 527.8(k)(1).
[39] § 527.8(p)(1).
[40] § 527.8(p)(2).
[41] § 527.8(q)(6).

The orders against the respondent may last for up to three years.[42] The orders may be renewed *even without* a showing of any further violence or threats of violence since the issuance of the original order.[43] But a party must apply for renewal within three months prior to expiration of the original order.[44]

Lastly, as noted above, a person subject to a restraining order may not own, possess, purchase or receive a firearm or ammunition while the order is in effect, and must relinquish all firearms to law enforcement or a licensed gun dealer within 48 hours after receiving the order.[45]

e. Post-hearing and if the Permanent Injunction is Not Granted

It is always possible that the court will not grant the permanent injunction, even if the court previously granted the TRO. Throughout the process, counsel should confer with administrators and law enforcement personnel to develop an alternative plan to ensure the employee(s) safety. As discussed below, cities have a duty to take reasonable steps to address credible threats of violence.[46] Such reasonable steps may include moving the subject-employee's workstation to a more secure area of city hall, or installing partitions to protect the employees from the general public.

If the restraining order is not granted, counsel may want to alert the local law enforcement agency and may want to request extra police or security patrols or presence, as necessary. The employee, as well as those in his/her chain-of-command should be notified and advised to further monitor any future contact with the respondent. Should further conduct involving physical violence or threats occur, counsel should consider another filing with the court pursuant to Section 527.8.

It is worth noting that unsuccessful Section 527.8 petitions are not subject to malicious prosecution claims.[47] The courts have observed that the potential for malicious prosecution claims would frustrate the Act's streamlined procedure, and also would dissuade victims of harassment from seeking relief.[48]

V. Additional Considerations for Public Agency Employers

a. Free Speech and other Constitutionally Protected Activities

The First Amendment of the U.S. Constitution, along with the California Constitution, protect expression that engages in some fashion in public dialogue, seeking to persuade or taking

[42] § 527.8(k)(1).
[43] § 527.8(k)(1).
[44] § 527.8(k)(1).
[45] § 527.8(r)(1), (2).
[46] *Franklin v. Monadnock Co.* (2007) 151 Cal.App.4th 252, 259; *City of Palo Alto*, *supra*, 77 Cal.App.4th at 336-37.
[47] *Robinzine v. Vicory* (2006) 143 Cal.App.4th 1416, 1421-23.
[48] *Robinzine*, *supra*, 143 Cal.App.4th at 1423.

action on the basis of one's beliefs.[49] For this reason, the Act specifically provides that a TRO or injunction may not be sought "prohibiting speech or other activities that are constitutionally protected," or any "cases involving or growing out of a labor dispute."[50] There is, of course, no constitutional protection for threats or "fighting words," so counsel will need to carefully evaluate the nature of the speech.

For example, in *City of Los Angeles v. Animal Defense League*, the city filed three Section 527.8 petitions seeking workplace violence protective orders on behalf of employees of the city's animal services department. The petitions were filed in response to protests organized by the Animal Defense League which took place in front of the employees' homes. The Court of Appeal found that the Animal Defense League's "[d]emonstrations, leafleting and publication of articles on the Internet to criticize government policy regarding the alleged mistreatment of City-run animal shelters … constitute a classic exercise of the constitutional rights of petition and free speech in connection with a public issue."[51] For this reason, the court held that the city's petitions under the Act were subject to anti-SLAPP (strategic lawsuit against public participation) motions.[52]

In cases involving free speech or other constitutionally protected activities, public agency counsel may therefore need to find a solution that will work for both the respondent and the court. In one Southern California city, for example, a protestor regularly picketed outside the police department. The protestor identified himself as a 9-11 "truther" and would sometimes shout and curse at police department employees as they walked to and from the building. The protestor would occasionally wave a box cutter. Several employees felt unsafe as they walked to and from the department and, at an *ex parte* hearing, the court granted the city's application for a TRO. However, when the city pursued a permanent injunction protecting the employees, the court, mindful of both the protestor's Free Speech rights and the employees' safety concerns, ordered the parties to prepare a mutually-agreeable plan allowing the protestor to protest in a designated zone across the street from the police department. Thus, the protestor avoided a permanent injunction being issued and the local agency kept the protestor a safe distance away from police personnel.[53]

b. Agency's Duty to Warn Employees and Take Reasonable Steps to Address Threats

In evaluating the agency's options when faced with violence or threats of violence, the Act expressly provides that it does not seek to expand or modify a duty of an employer to

[49] *USS-Posco Industries*, *supra*, 111 Cal.App.4th at 445-46.
[50] § 527.3, 527.8(c).
[51] *City of L.A.*, *supra*, 135 Cal.App.4th at 620.
[52] *Id.* at 618-19. The city argued that the petitions were exempt from anti-SLAPP motions pursuant to CCP Section 426.16(d), which exempts enforcement actions brought by city attorneys acting as public prosecutors. However, the court found that because the petitions were filed by the city as an "employer," the petitions were not in fact filed by the city as "public prosecutor." *Id.* at 619.
[53] *City of Pomona v. Muhammad Abdullah* (L.A. Sup. Court Case No. KS 013546).

provide a safe workplace for employees.[54] Although an agency must provide a place of employment which is safe and healthful for employees, these statutes are typically limited to physical working conditions and do not extend to threats posed by third parties.[55] Indeed, courts have noted that "[t]here is a certain risk of crime in any workplace to which the general public has access" and "unless crime in the workplace is highly foreseeable, employers cannot reasonably be expected to insure against it."[56] Thus, an employer is not required to take all conceivable steps to ensure safety.[57]

Employers do, however, have a duty to implement injury prevention programs, which includes training employees, keeping appropriate records, and adopting regulations.[58] Employers also have a general duty to warn employees if there is a predictable threat to the employee.[59]

In addition, the Act, along with other statutory provisions including Labor Code section 6400 *et seq*., establishes "an explicit public policy requiring employers to … take reasonable steps to address credible threats of workplace violence."[60] If the aggressor is an employee, such a policy may require the city to place an employee on administrative leave where the city has reasonable proof that the employee made a credible threat of violence. Threats of violence by an employee, however, do not obligate the city to automatically fire the employee "regardless of the procedural guarantees secured by collective bargaining and set forth in a memorandum of understanding between a union and a city."[61]

Lastly, because the courts have established a public policy that employers address potential workplace safety, employers may not retaliate against employees who report such harassment. Otherwise, the employer may be subject to a cause of action for wrongful termination of employment under the whistleblower statute.[62]

VI. Conclusion

The potential for workplace violence is an ongoing issue that many agencies will likely face in the future. To help counsel prepare for such "worst case" scenarios, attached to this paper are the Judicial Council forms that make up a petition, along with a sample proposed order. Also attached is a list of resources available to public agencies. As discussed above, while the

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[54] § 527.8(t).
[55] Lab. Code § 6400.
[56] *Muller v. Automobile Club of So. Cal.* (1998) 61 Cal.App.4th 431, 452 (holding that employee's anxiety disorder as a result of customer's harassment was not evidence that workplace was unsafe within meaning of Labor Code).
[57] *Cal. Correctional Sup. Org. v. Dept. of Corrections* (2002) 96 Cal.App.4th 824.
[58] Lab. Code § 6401.7(a)-(l); *see also City of Palo Alto, supra,* 77 Cal.App.4th at 334-35.
[59] Lab. Code § 6408(a)-(e); *see also Duffy v. City of Oceanside* (1986) 179 Cal.App.3d 666, 675 (finding that whether the city was negligent in not warning an employee of a co-worker's status as a parolee, when the co-worker later kidnapped and murdered the employee, was a question of fact).
[60] *Franklin , supra*, 151 Cal.App.4th at 259, citing *City of Palo Alto, supra*, 77 Cal.App.4th at 336-37.
[61] *City of Palo Alto, supra*, 77 Cal.App.4th at 337.
[62] *See Franklin, supra,* 151 Cal.App.4th 252; *Collier v. Superior Court* (1991) 228 Cal.App.3d 1117.

Workplace Violence Safety Act is one tool to address threatening situations, a criminal complaint, a criminal protective order, or a Section 527.6 petition may also be appropriate remedies. Public agency counsel should confer with administrators, law enforcement personnel and human resources personnel, to coordinate the appropriate response.