

THREAT OF VIOLENCE ASSESSMENTS: WHAT THEY ARE, WHAT THEY ARE
NOT

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Bob, the Labor Relations Director for Abbott Tire Company, has a problem. The strike had been over for a year but the workforce continued to be in turmoil. The employees were a mixture of returning strikers, those hired during the strike, and those workers who had crossed the picket lines. Tensions remained high and, once again, there was a shoving match between two workers with verbal threats of violence. A quick investigation by the employees' supervisor resulted in one being labeled the aggressor and summarily fired. Bob looked, again, at the union's notice of protest which started the arduous, expensive, and ultimately, inadequate mechanism of adversarial arbitration. There needs to be another way to handle these kinds of situations he thought to himself. Then, sighing, he reached for the phone to schedule a meeting with the in-house counsel to discuss the apparently inevitable upcoming arbitration process.

Margaret, the Human Resources Director of Integrity Hospital, has a problem. Several months ago the 7th floor nursing supervisor had come to Margaret telling her of a nurse making threatening statements to two nurses on her shift. When the nursing supervisor first approached Margaret she thought she had devised a good plan--refer the offending nurse to the hospital's EAP counseling program and simultaneously transfer her to another floor. Margaret did not want to ruffle anyone's feathers and precipitate any type of adversarial process over some sort of personality clash. But now everything seemed to be falling apart. Because of confidentiality issues the EAP counselor couldn't share any information about the nurse, there were continuing complaints about the nurse making threatening statements, and finally, the nurse had filed a grievance and hired a lawyer. To top it all off, the 7th floor nursing supervisor had just reported that the two nurses who felt harassed by their former workmate were complaining that the

hospital's managers were not taking their safety seriously. They felt the managers were negligently supervising the verbally threatening nurse and were considering filing a grievance of their own as well as hiring their own attorney.

Both of the above scenarios are examples of crisis-prone organizational environments. Abbott Tire Company provides an illustration of the typical "hardball" school of management. Determine who is right and who is wrong, discipline or terminate the latter, and then get ready for the inevitable round of adversarial negotiation and deal making about the severity of the punishment. Unfortunately, with this approach no one really knows just how dangerous the situation is. No risk assessment was ever done, and it is unlikely, under the present circumstances, that one will ever be performed.

Integrity Hospital is an illustration of the "wimpy" school of management as well as an example of the classic misuse of EAP counseling services. In our litigious society some human resources managers, unfortunately, take an overly defensive posture towards their work. In other words, they seek to avoid action and proceed with a narrow, rigid view of the situation hoping to avoid attorneys and litigation. Too often, however, following this course just gives a problematic situation time to worsen.

Furthermore, there are several reasons why immediately referring a threatening employee to an organization's EAP counseling service is an inadequate response. First, the manager does not know whether or not counseling is warranted. Second, most EAP counselors are not trained to perform threat of violence assessments. Third, using the EAP counselors as threat of violence evaluators undermines the confidentiality that must exist between counselor and client. Finally, equating the assessment of dangerousness with counseling or medical expertise demonstrates a

fundamental error in logic. Threatening or violent behavior is not necessarily associated with illness of any type.

THE RIGHT WAY: THE MANAGER'S ROLE

What circumstances should trigger a risk of violence assessment? The manager should seek an assessment if (1) an employee has made a threat, either express or implied, (2) other employees report feeling threatened by the actions and behavior of a fellow employee, or (3) an employee demonstrates behavioral changes in circumstances that suggest significant life stress such as potential job loss or job related discipline.

Any report of a threat requires immediate attention. First, the human resources manager must determine whether or not there is a clear and present danger requiring emergency action. Such actions could include calling the police, securing the facility, and informing possible victims.

In those cases where the facts suggest no imminent threat the human resources manager still must determine what level of threat exists and develop a plan to manage the situation as it unfolds. What are the steps the human resources manager must take to find the answers to these key questions?

First, the human resources manager must approach the situation with common sense balancing the need for safety in the workplace with the need to respect all employees' right to dignity--in particular the person allegedly making the threats. The human resources manager must maintain control of the complete process and must include, from the outset, the threatening employee in that process. The bond between the threatening employee and the employer must not be broken.

How is this accomplished? It is important that an investigation into the situation be initiated as soon as possible. A team approach should be utilized. Members of the team should include the human resources manager, representatives from legal, health and safety, security, the union, the supervisor of the threatening employee, and the administrator of the organizational unit most impacted by the threat.

Simultaneous with the development of the team, the human resources manager must meet with the threatening employee along with the employee's supervisor. The employee should be told the reasons for the meeting. The employee should be asked to participate in the fact-finding process. As a part of that process the employee should be asked to meet with the threat of violence expert.

More specifically, the employee should be instructed that the threat of violence expert is an independent contractor whose job is to develop an unbiased opinion with respect to the situation and make recommendations. The employee should understand that there will be no confidentiality about what he or she tells the expert as it relates to the alleged threat, the risk of future harm, suitability for employment, or recommendations for treatment or changes in the person's employment situation. However, the employee should also be told that only those people with a need to know will have access to the information. Furthermore, the employee should be assured that no disciplinary action will be contemplated while the matter is being investigated. Finally, in most cases, it is best to put the employee on administrative leave, with pay, pending the outcome of the investigation. However, the employee should be assured that he or she is a part of the process and, as such, his supervisor and the human resources manager will be in contact on a regular basis.

THE THREAT ASSESSMENT

A risk of violence assessment is not counseling. It is not a fitness for duty evaluation. Neither is it a psychological or psychiatric examination for diagnostic and treatment purposes. The client of the violence consultant is the employer not the employee. Both the human resources manager and the consultant need to make this clear to the threatening employee at the outset, preferably in writing. Obtaining informed consent is vital.

The training and experience of the threat of violence consultant is crucial. It is important that the consultant demonstrate proven knowledge and expertise in employment law, personality assessment, scientific research on violence issues, and forensic psychological examinations.

A risk of violence assessment is a multi-method, multi-source investigation designed, primarily, to address the following referral question--what is the risk that the employee will demonstrate violent physical and/or verbal aggression toward fellow employees in the near future. Other referral questions may also be investigated, such as (1) what is the employee's current mental state? (2) Is there any psychological reason that would preclude the employee from resuming his duties as an employee of ABC Company? (3) What psychological recommendations may be helpful to the employee? Nevertheless, the central question remains what is the risk of violence.

There are several important concepts to remember. First, the evaluation requires data from four domains--interviews, observations, psychological tests, and collateral sources. It is to be expected that the consultant will want to interview more than just the alleged threatening employee. Likewise, the threat of violence consultant will want to review the employee's personnel file, may want to view the work site, and should seek release of information authorization to obtain relevant past medical and psychological records.

Threat of violence consultants do not predict who will or who will not engage in violence in the future. Rather, consultants offer risk estimates based upon a logical analysis of dispositional, historical, contextual, and clinical risk factors that research has shown to be related to such estimates. A risk estimate specifies how great the risk, for what, and within what time period, but leaves the determination of what to do about the risk to the relevant decision-maker(s), although recommendations should be provided.

Let's look at this in more detail. First, the consultant defines the type of violence that is of concern. For example, is the threat of violence under consideration primarily physical assault or verbal assault? If the former, does it entail use of weapons or not? If weapons are an issue, what type of weapons? Next, the consultant determines the time frame within which the assessment is most valid. In other words, for what time period does the assessment of risk pertain, i.e., three-months, six-months, one year? Research indicates the longer the time period under consideration the less accurate the estimate. Next, violence-related risk factors are investigated, weighed, and analyzed. These factors include the employee's gender, age, presence of psychopathy, arrest history, history of delinquency, history of past violence, weapons availability, social support, victim availability, substance abuse, presence of mental disorders, personality traits, and the context of the work/social environment at the place of employment. Finally, the violence consultant arrives at an opinion. For example, that opinion could be expressed as a statement, such as--the risk of Mr. Smith physically assaulting fellow employees in his unit, in particular Mr. Jones, over the next year is relatively high.

The risk estimate is usually described as high, moderate, or low. These descriptors can be analogized to a traffic light. Red light means stop, there is an emergency, take immediate decisive action to ensure protection of potential victims and the facility. Yellow light means

caution. There is no emergency yet. However a significant problem exists which must be dealt with. Green light means go, there is little danger of violence. However, in such circumstances inappropriate behavior may still be occurring that requires personnel action.

Besides providing an opinion regarding the risk of violence, the violence consultant should provide some guidance as to what to do. This is particularly true in those Yellow Light situations. Recommendations, of course, depend on the circumstances of each case. However, in those cases where the employee is not going to be fired but a problem exists, management suggestions can include such things as requiring substance abuse treatment, becoming involved in anger management training, and/or requiring follow-up risk assessment/monitoring sessions with the violence consultant for a period of months. The conditions set for the employee must be explicit. Finally, the results of the threat of violence evaluation should be shared with the employee.

THE IMPACT OF THE A.D.A.

With the advent of the Americans with Disabilities Act a new wrinkle has been added to the risk of violence assessment. Employees who threaten or commit acts of violence may seek protection under this law because of psychological handicaps that lead to violence. However, the laws do not shield employees from the consequences of violent behavior. Employees must be qualified to perform the basic functions of the job, and in most cases violent behavior will be disqualifying.

Nevertheless, an employee may only be discharged where (1) that individual poses a direct threat to the health and safety of others; and (2) the direct threat cannot be reduced or eliminated by a reasonable accommodation without undue hardship. A direct threat of violence is generally understood to mean a specific and significant risk of violence coupled with a high

probability of substantial harm. It is determined on a case by case basis. Once it is determined that an individual poses a direct threat to the safety of others, the employer must then determine whether a reasonable accommodation can eliminate or reduce the threat without undue hardship to the organization. The violence consultant should provide detailed information on these issues.

In conclusion, the human resources manager must quickly confront threats of violence. By following the suggestions discussed above the human resources manager will have accomplished three important goals: (1) the threatening employee will become a part of the assessment process, (2) the human resources manager will have immediate and legal access to information about dangerousness, and (3) the human resources manager will have developed a legally defensible management plan for dealing with the situation.