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# Dealing with a Hostile Employee

**A medical health professional's threat assessment frequently can corroborate the employer's own assessment that the threat is indeed credible.**

by Mark A. Lies II

Unfortunately, many employers eventually will have to deal with a hostile employee who may threaten co-employees with verbal and non-verbal conduct. There are a number of actions the employer should consider to protect the employees at the workplace, as well as the physical security of the facility.

## Acknowledge Co-Workers' Complaints

While many employers do not have a formal workplace violence prevention policy (although they should have a stand-alone policy or combine it with a general anti-harassment policy), in a majority of situations, co-employees eventually come forward to report threatening or hostile behavior directed toward them or to co-workers. These complaints cannot be ignored and must be promptly investigated. If not, a tragedy could occur.

## Commence an Investigation

The employer must rapidly develop an investigation strategy to determine whether the reported threatening or hostile behavior is credible, and if so, what action should be taken. Initially, the investigators should have familiarity with employment law, an ability to conduct a competent inquiry to seek the underlying factual information necessary to make an assessment, and, equally important, the ability to maintain confidentiality.

At the outset, the employees who come forward with information should be told that the employer will take all necessary action to protect them against retaliation and that the investigation will be maintained as confidentially as is possible, subject to disclosure in a court or administrative proceeding.

## Interim Protection

While the investigation is proceeding, the employer should consider whether to temporarily suspend (with or without pay) the employee against whom the complaint has been made. This step should be seriously considered when the threats are specific in nature as to the action that is articulated (e.g., "I'm going to come in here and shoot the entire mailroom") or directed at specific individuals by name or groups of indi-

viduals by description (e.g., "I'm going to kill Jane Doe or all of the employees from \_\_\_\_\_ [country, religious, ethnic group]").

Removal of the employee during this period prevents the occurrence of an incident, it is hoped. The hostile employee should be told not to return to the workplace or to communicate with anyone at the workplace until he or she is authorized to return or engage in such communications.

## Police Involvement

As the investigation continues and if credible threat information is received, the employer should seriously consider involving the local police authorities at the earliest opportunity. There is a well-recognized legal privilege to

communicate with law enforcement authorities as long as such communication is truthful and made in good faith. In many instances, the police authorities may launch their own investigation and intervene directly to deal with the hostile employee.

During the investigation, the employer should inform the employees involved (particularly the "target" employees) that they are free to contact the police if they believe it is appropriate and that there will be no adverse action for making out a report.

## Reaching a Conclusion

Assuming the investigation identifies credible information of threatening behavior, the employer must timely conclude its investigation and decide the action to be taken, including:

- verbal warning
- written warning
- extended suspension
- termination

The investigation information should be documented and preserved, in the event that litigation arises.

The hostile employee should be told not to return to the workplace or to communicate with anyone at the workplace until he or she is authorized to return or engage in such communications.

## Threat Assessment

To buttress its decision, the employer may wish to engage a medical health professional who is experienced in threat assessment and qualified to provide forensic testimony. A threat assessment frequently can corroborate the employer's own assessment that the threat is indeed credible. The medical opinion also can undercut a subsequent contention that the employer's assessment was based upon stereotypes of mental or emotional disabilities and was an unlawful motivation for an employment decision.

## Termination Scenario

Assuming the decision is made to terminate, the employer may wish to seriously consider

termination by telephone (confirmed in writing) or by letter. There is no requirement to terminate an employee in person, particularly where the individual may threaten or harm the person who conducts the termination or get loose within the workplace to retaliate against the employees whom the hostile employee suspects to have

any employee at the workplace.

The letter also should identify a contact person at the company for completing any benefit documentation (e.g., COBRA insurance coverage). Finally, the employee should be told that any personal property will be returned to his or her residence by common carrier.

## The employer should consider enhancing work site security after the termination.

made the complaints.

If the termination is done by letter, the employee should be informed in the letter that the investigation is complete, that it has revealed violations of company policies (identify them), and that the employer must regretfully terminate the employment relationship. The employee also should be told not to return to the premises or to communicate, directly or indirectly, with

At the same time the termination correspondence is being sent to the employee, the employer may wish to notify the police authorities that the termination is occurring and that additional patrols in the workplace neighborhood would be appreciated.

### Hardening the Work Site

The employer should consider enhancing work site security after the termination, in-

cluding restructuring access to the work site, changing security access codes, and hiring outside security or off-duty police for a short period after the termination to reassure the remaining employees and provide rapid response capability if the terminated employee returns to the site, seeking to retaliate.

### Conclusion

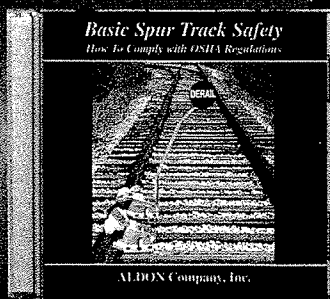
There is no one guaranteed process to deal with a hostile employee. If the employer follows the guidelines outlined above, it should substantially reduce its liability for an incident resulting from the termination of a hostile employee. ■

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