

Chapter 11

Assessing the Risk of Violence: Know Your Questions!

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When there is a report of a threat, or someone raises a concern about violence, the employer faces a crisis, whether or not an actual risk of violence exists. Like any report of a safety risk, it requires immediate attention. Like any incident involving possible misconduct, such as a report of sexual harassment, it requires great care in the conduct of an investigation because it involves people's right to privacy. Slip ups and fumbles can be damaging and costly to individuals and to the company as a whole. Yet, as we saw in a number of our cases, employers regularly commit serious errors in the way that they attempt to answer the central questions: is this employee dangerous? If so, under what circumstances?

In fact, the process of determining if an employee poses a real danger to the workplace has presented one of the most troublesome challenges facing the employer. This chapter, therefore, is devoted to answering the following questions:

- When is it necessary to have a professional perform a violence risk assessment of an employee?
- What are the goals of the assessment, and how are they achieved?
- If my concern is that the employee may be dangerous, how can I involve him in the process of assessment?
- How do I find the right expert to perform the violence risk assessment?

WHEN IS A PROFESSIONAL RISK ASSESSMENT NECESSARY?

It may be necessary to have a professional perform a violence risk assessment of an employee when any of the following conditions exist:

- When it has been determined that a threat has been made.
- When others are threatened by employee's behavior when that behavior is related to violence, such as displaying a weapon or repeated references to violence
- When behavioral changes are observed when there is reason to think that someone is being pushed to violence, such as discipline, possible job loss, or other significant life stressors.

Having listed these conditions, it bears saying again that one must proceed with diligence, but also with caution. Although any of these conditions may provide a reason for requiring an assessment, they can all just as easily become the basis of a witch hunt!

There are no hard and fast rules or fool-proof guidelines for knowing the difference. The key is the process that you follow in responding to a report or a complaint. As an employer, your responsibility is two sided: one the one side, you must be diligent, consistent and prompt in responding to any possible danger. On the other, you must be careful to respect and protect the rights and dignity of an employee drawn into any actions that you take in response to a report. As described in the chapter on “The Legal Conundrum,” the two sides balance one another. This balance should be reflected in the policies and procedures that you have developed to ensure a fair, deliberate, and intelligent process of fact-finding and decision-making.

If you have determined that a risk exists, then you should have a professional evaluate the employee at risk. However, the assessment of violence risk is not limited to an examination of one employee to determine whether he or she presents a danger to others. In order to be useful, the assessment must take in a wider array of information and issues.

WHAT ARE THE GOALS OF THE ASSESSMENT?

If you have arranged it properly, the assessment will provide you with the following:

Determine if someone is a risk to himself or others. Answering this question is primarily the job of the violence expert, and it will rarely yield a “yes or no” answer. I often use the “traffic light” analogy to explain to employers how the question can be usefully answered with respect to the appropriate response. These classifications often do not come in pure form, but they are useful as guides to action.

- **Red light:** There is imminent danger that the individual will carry out a plan to harm others. This determination will usually be accompanied by a recommendation to contact law enforcement, arrange for surveillance, warn possible targets, and secure the facility.
- **Yellow light:** there is no immediate risk, but there is a clear potential for violence. It will be necessary to take steps to reduce or remove the risk. The assessment should at least begin to specify the cause of the risk and point to actions needed to reduce or remove the risk. The assessment will warn that if no such action is taken, the situation could worsen and become more acutely dangerous.
- **Green light:** There is no danger of violence. Some stressor or circumstance is causing this concern about violence, but there is no current risk and no indication that even a worsening of the situation would create a risk of violence. A green light situation is sometimes the result of a misunderstanding or a misperception of an employee’s behavior. Sometimes, it is the result of an error in judgement or a form of manipulative or dysfunctional behavior that verges on threat. This means that, even in the absence of an actual risk, the employer may still have to take action in response to unacceptable behavior on the part of the employee in question.

Determine the reason for the threatening or violent behavior. As we discussed in Chapter 3, violence results from the interaction of person, situation, and setting. To be

useful, the assessment process must go beyond looking at the individual alone, and explore the interpersonal, familial, and organizational context of the crisis. For example, while the assessment may indicate that the employee has a low flash point and a worrisome history of violent behavior, it may also point to poor labor relations that have raised tensions and thwarted communication and problem solving in that employee's unit. It may indicate that diversity-based conflict issues play a part in the eruption of violence or threat. It may uncover severe marital, health, or financial troubles that have driven the person past his ability to cope. Naturally, the results of these explorations will point to very different solutions and actions.

Pointing toward a course of action. These discoveries are just as important as those involving the qualities in the person that predispose to violence, because they will point specifically to the action or actions to be taken, whether they involve changes at the workplace or interventions to address the non work-related issues, and whether they are related to violence risk at all. It will, for example, help the employer decide between solutions such as moving the employee to another work location, correcting management practices, arranging for a medical or disability leave, a retirement, discipline or termination, or some combination of these. A comprehensive assessment will thus first determine the level of violence risk, uncover the causes for the violence or the crisis itself, and finally point to the appropriate action to be taken.

WHAT IS THE PROCESS?

The Threat of Violence assessment is a process of information gathering and decision making. The process proceeds by steps, depending on the information developed at each step:

Determination of risk. When a possible threat is brought to your attention, the first question that needs to be answered is: Is anyone in immediate danger? The employer must immediately gather facts that apply to this question, which include: has a weapon been displayed? Has a clear intent or plan been expressed? Does he have the means to do it? How imminent is the threat? If there is an immediate danger, emergency measures must be taken to ensure safety. This may include actions such as contacting law enforcement, securing the facility, notifying potential targets, and arranging for surveillance of the employee who has made threat.

When no immediate danger exists, a crucial task still remains for the employer. A concern about violence has been raised: therefore, you must (1) determine what, if any, level of risk exists, and (2) determine how to respond to the worrisome or possibly unacceptable behavior.

Administrative handling of the employee. Standard modes of discipline and health assessment will not help you here. A number of the cases in this book show clearly how simply suspending the threatening person can seriously disrupt the process of fact finding and ultimate resolution. In order for the crucial assessment step to be successful, it is

essential that the bond between the employer and employee be preserved. With respect to discipline, therefore, it is generally preferable to defer decisions about possible disciplinary actions, and to simply remove the employee from the workplace with pay while your investigation is underway. This avoids immediate disputes about fairness, as well as any formal dispute process if a union is present. As an employer, you are making no guarantees about what you will do ultimately about discipline or other administrative actions. You are simply establishing a "time out" period in which all parties can engage in fact finding and decision making. This was a crucial component in helping the Postal Service establish effective methods of responding to violence issues. For that employer in particular, deferring formal discipline allowed the union to participate with management in fact finding, rather than being forced to oppose management by disputing the disciplinary action (a course which proved disastrous in several cases). The approach which is still most common in our workplaces -- suspension pending examination by a doctor -- also tends to make the employee feel that he is "fighting for his job." Feeling threatened and embattled, the employee will comply, but he will not be honest about what is really going on for him. The use of an interim, non-punitive administrative status allows the employee to engage in the process as a participant rather than as an adversary.

Involvement of the employee. It is crucial that the employer maintain the maximum connection to the employee who is threatening or whose behavior is of concern. The majority of cases will involve reports or allegations of threats rather than an acute violent outbreak or imminent risk. It will involve asking questions and investigating rather than reacting quickly to neutralize a dangerous situation. You don't want to lose him by overreacting and making assumptions. As soon as the situation comes to your attention, include him in the process of assessing the level of risk.

If the employer arranges the assessment correctly, the process itself will de-escalate the danger. The employee himself should feel himself to be an active, willing participant in the process of violence risk assessment. The most serious -- and most common -- mistake employers make in these cases is to distance the employee by "sending him" for an assessment by a doctor outside of the work environment. This is done mostly out of a fear, almost always mistaken, that confronting the employee directly will "push him over the edge" and will escalate the crisis. Nothing could be further from the truth. As discussed in Chapter 3, the person threatening violence is usually someone who has been frustrated in his attempts to make himself visible and establish contact with others. He craves contact and a hearing above all else.

The report of a possible threat presents the employer with an important opportunity to establish direct contact with the employee. In fact, the first person or persons the employee should meet in this process is not a doctor but his own manager, perhaps along with a middle manager or a human resources staff member. At this meeting, the employee should be informed specifically why he is there and how the process will unfold. If there is to be an assessment of violence risk by a professional, the contact with the professional should be explained and demystified, and the ground rules set out. Once the employee is reassured that no decision about discipline or other actions will be made

until the conclusion of fact-finding and assessment, the process of assessment should be explained to him. This will include a full disclosure about how the assessment will be used and the limits of confidentiality (see the “Sample Policy for Specialized Assessments” in Appendix B).

The employer who follows these guidelines wins on several counts. If you approach the employee in a firm but collaborative way, communicate an "innocent before proven guilty" attitude, and do not move immediately to discipline, the employee will feel trusting enough to enter into an assessment. His first contact in this process is with you, the employer, at the worksite, rather than in an unfamiliar medical or office setting removed from you and from the decision-making process. He will feel that he is participating in a neutral and open investigation process of which his meeting with a professional is but one part. In this way, the bond between employer and employee is not broken: in fact, it may be reinforced through this process. This may be true even when the ultimate result is the employee's separation from the workplace! (See chapter X.)

SPECIALIZED ASSESSMENT MODEL

It is crucial for the success of any response to a threat of violence crisis that the process not be "given over" to an outside professional, but that it be fully owned by the employer. It is crucial that when an employee threatens violence, or when there is a concern about possible violence, that the employer maintain complete control over the process at every step. Several steps will ensure this:

Team action. Through a team approach, make decisions about each step based on information from a range of sources. The professional assessment is an important source, but only one among others. Depending on the nature of the situation, there will be an ongoing need for coordination and teamwork between Human Resources, Security, Legal, Health & Safety, the manager of the employee in question, and management of the affected or potentially affected work units.

Finding the right professional. Not any mental health professional will do. Here is an all-too-common scenario: Imagine that you have a report of a threat and an employee ready for an assessment. You call up Dr. Smith, a local psychologist with a good reputation, who says, in response to your request, “Sure, send him over to my office, I’ll meet with him and then give you my opinion.” Keep looking! This is not the expert you want!. The violence assessment is accomplished through the gathering of information from multiple sources.

Some of this information will come directly from the workplace. One of the necessary qualifications for the professional is his understanding of workplace issues, and his willingness and ability to deal with people in the context of their work environment. It is crucial that he or she work closely with you in the process of information gathering. The expert you do want will ask to talk with you and with other employees in the work setting who may have relevant information. He will ask to see medical and personnel records.

He will be willing to come on site if that facilitates his access to records and his meetings with you and other staff. He will understand that his work will be incomplete and not useful unless this collateral information is part of his data gathering. He will also understand the need to obtain informed consent from the employee so that information can be shared in a legal and consensual fashion.

Do not wait until the crisis is upon you to begin your search for the expert who can provide this service. Find someone who is open to working with you, and who understands and agrees on the methods and the ground rules concerning information gathering and information sharing. The expert you are looking for will most likely be a psychologist or a psychiatrist. He or she may have credentials as a forensic specialist, which indicates experience with legal matters involving criminal behavior or competency to stand trial. These credentials may be relevant to your needs, but do not rely on them exclusively in your search for an expert to help you with these situations. Familiarity with violence is an important qualification, but familiarity, comfort and expertise with workplace-related issues is just as critical. In fact, mental health professionals called upon by employers in threat of violence cases are not helpful when they apply traditional models that are not suited to the assessment of violence risk in a workplace context.

THE LIMITS OF STANDARD MENTAL HEALTH AND OCCUPATIONAL MEDICINE APPROACHES FOR THE ASSESSMENT OF VIOLENCE RISK

There are several standard occupational health approaches that are most typically applied in cases of threat of violence or suspicion of violent potential. It will be useful to look at these standard mental health assessment approaches, because each brings its own problems, limitations and risks when applied to the issue of threat of violence.

The “counseling” approach. Often, the mental health consultant, psychologist, or Employee Assistance provider receives the following request: “Our employee has been making threatening statements of late. He seems unhappy with his job and we think he is under too much stress. Can you give him some counseling?” Whenever I hear this, I ask, “What makes you think he needs counseling?” It is possible that some form of mental health intervention may be required or helpful at some point. However, the first step must be to understand what is going on in the context of the job environment. It is pointless, for example, to offer supportive counseling to someone when part of the problem is that he has never before been confronted with the unacceptability of his bullying or intimidating behavior. Appropriate limit setting might have solved the problem a long time ago, and it might solve it now. It is useful and wise for an employer to facilitate access to mental health counseling for employees. However, in the case of threat of violence, safety, not treatment, this is the first job of the employer. It is just as unfair and potentially injurious to the possible offender for the employer to ignore or tolerate unacceptable or potentially dangerous behavior, as it would be to discriminate against him because of a mental or behavioral disability. If a person is at risk for injurious behavior, limiting the response to a referral for counseling, for example through the Employee Assistance Program, could be considered an insufficient and even negligent response. Similarly, it is pointless, wrong, and potentially costly to suggest to

an employee that she be treated for stress when she is being abused by her supervisor or if she is struggling with unacceptable working conditions. It is the employer's job to first determine whether there are causes underlying the threat that may be the responsibility of the workplace and under its control.

Employers commonly make the mistake of automatically turning to the Employee Assistance Program to assist in the assessment of a threat of violence. Many EAPs are not equipped or skilled to provide this service. Furthermore, involvement in this process may compromise the role and image of the EAP as a confidential counseling service completely removed from disciplinary or other administrative functions of the employer. EAPs do have an important role in the overall violence prevention program, however. If there is an EAP service, the counselor should be involved as a team member in program planning and in helping the employer to identify specialists with the needed skills. EAP professionals can also be involved in initial information gathering and decision-making when a behavioral or possible situation is reported. Fundamentally, however, confusing the assessment of dangerousness with a counseling or mental health function is a form of "medicalizing" the problem. Threatening or violent behavior is not necessarily indicative of mental illness. We grant the mental health professional too much power when we assume that he or she can handle this kind of problem simply through the exercise of his or her professional expertise.

The Fitness for Duty" Approach ("FFD"). When illness or injury forces someone to leave the workplace, the employer requires a "Fitness For Duty" (FFD) evaluation to determine when someone has recovered sufficiently to return to work. Typically, the FFD is a medical assessment, carried out by company medical staff or an outside contractor, to determine a return to work date and to specify temporary or permanent limitations on future work functioning. Employers also use the procedure to evaluate someone's psychological fitness in the case of mental illness or problems related to emotional stress when this interferes with job performance, and this is an appropriate use of the process. However, the FFD is increasingly being called into service to determine if someone suspected of dangerous or threatening behavior can safely remain in the workplace or return to work after being removed because of threatening behavior. The FFD is not appropriate or useful for this purpose. In cases of threat of violence, job performance is not the question. Rather, the question is the far more complex and high-stakes issue of whether the person is a danger to himself or others. When you ask for a FFD, that is what you get: an opinion about a person's ability to work. That is not the question that is being asked when violence is the issue.

The process of information-gathering and decision-making also differ radically between a threat of violence and a standard work injury or illness situation. As we discussed above, to assess the risk of violence you must go beyond an examination of the individual and into the collection of several kinds of collateral information. The employer must be sure to gather enough information from a wide enough range of sources to ensure that he understands not only the situation of the individual, but the total context in which the presumed threat has happened. In contrast, the FFD is an administrative procedure which

has bearing on the employment status of an individual. It is governed by standard policies governing benefits (how a person is compensated for time off the job), discipline if it is a matter of having broken the rules, job accommodation if a temporary or permanent disability is involved, or reimbursement from a third party (i.e., an insurance company) for medical treatment. Some of these issues may become important eventually, but they must not be allowed to structure the initial response to the threat. It is inappropriate, for example, given the urgency of the situation and the context of the assessment, to pursue reimbursement from a third party for the expenses of a threat assessment. The prudent employer who wishes to obtain accurate information through a neutral process, will suspend questions of fitness and employment status until the circumstances of the alleged threat are determined. In short, one must not mix questions of occupational health, disability, job status and reimbursement with the need to assess a possible threat of violence.

The Standard Psychiatric Exam. Like the FFD, a standard psychiatric examination is a general procedure designed to address a broad spectrum of questions about emotional and cognitive functioning. Asked to examine an individual, a psychiatrist or other mental health professional such as a psychologist or clinical social worker will take a “snapshot” intended to quickly answer a handful of crucial questions, including: is the person capable of functioning adequately in the world with respect to his or her thinking and their emotional control? Is he in touch with reality (for example, does he think he is a famous figure, or is he hearing voices commanding him to commit certain acts)? Is he so depressed or anxious that he cannot carry on everyday tasks at home and at work? Is he organized enough in his thinking to be able to care for himself on an everyday basis, and, finally and most important, is he a danger to himself or others?

The psychiatrist has a limited amount of time. If he is confronted with an individual sent by an employer, he will attempt to get those immediate questions answered, and report his results. He may go beyond that if the employer is asking more specific questions because of what has happened. For example, if the employer says: “This man has threatened his supervisor, and we want to know if he is dangerous,” the psychiatrist will be sure to ask the employee about his violent feelings or intentions. He will try to determine if the employee has an actual plan to hurt his supervisor, and if he has the means to carry out his plan. He will determine if there is a history of violence. He will attempt to understand why he might be motivated to be violent, and to determine if this a person who impulsively acts out physically, or if he rather is someone who can think about consequences, control himself, and find other ways to deal with frustration or anger. He may try to determine if this is someone with a firm sense of right and wrong, or, if he is someone who readily tramples on the rights and safety of others. All these are important, relevant questions for a psychiatrist to address when confronted with the task of evaluating someone suspected of violence potential, and the competent professional will attempt to answer them. But he or she is operating within the context of the standard, medical model clinical interview. This limits him in several crucial ways.

1. The context of the examination. The practitioner’s findings are based only on the what the employee reports, and on his observations of the employee. Both will be

influenced by the context. How is the doctor perceived by the employee who is being examined? Is he seen as someone there to help, or as being in league with the company that is trying to persecute the employee? Is this examination seen as a test which he must pass in order to clear his name and save his job? Failing any alternative arrangements or understandings, this is the context in which the examination will occur, and it will limit the value of the information that the practitioner can glean. The employee will most likely defend his actions or completely deny the allegations. Most important, he will omit or minimize the actual distress that he may be suffering: no one wants a sick, overstressed employee! Further complicating the picture, whenever there is an issue of questionable or problematic supervision or management practices, many employees will be quite forthcoming with their complaints. The doctor, hearing this tale of woe, will humanely “take the side” of the employee, as did the psychiatrist in the case of the mechanic in Chapter 6. But what is needed here is an objective evaluator, not an advocate for an employee who may have been wronged. The psychiatrist or psychologist’s ability to be helpful is severely compromised when he or she is drawn into the struggle between the employee and the employer. However, without adequate information from the employer about the total context of the situation, this becomes a real risk. I have seen this happen too many times.

2. Information. No matter how skilled the practitioner, he is limited by these factors in determining the risk, because he does not have information that tells him about the context in which the alleged threat has occurred. He has not spoken to other employees about the employee or his alleged threats. He has not consulted with the employer or looked at employment records. He has no sense about what is going on in the workplace with respect to changes, stressors, or other relevant conditions. Behavior takes place in a context. A snapshot of the person’s mental functioning is just that, and only that.

3. Agreements and understandings about exchange of information. Standard medical and mental health practice is governed by laws of privacy as well as professional ethics involving patient-doctor confidentiality. These all limit, even to the point of prohibiting, the communication of the results of examinations to anyone besides the patient. Much confusion and misunderstanding exists about this when it is a case of an employer acting to preserve workplace safety. Many employers, with an almost naive timidity, assume that their access to information is limited because that is what they are used to. In the absence of prior and specific agreements worked out for these kinds of situations with practitioners, these standard confidentiality practices will prevail. They will seriously handicap the effort to answer the crucial question: is there danger here?

KNOW YOUR QUESTIONS

Evaluation is the first order of business when violence is in question. Important questions must be addressed in order to understand the history and context of the problem at hand, for example: Where is the record of discipline for past problems? Where is the documentation of performance problems, or claims for medical disability? What is the history of changes, morale issues, or complaints in the work unit? What do you know about what else may be going on in his life? In other words, what is the total

administrative and psychosocial context of this behavior? Until these questions are addressed, no violence risk assessment can be considered complete or reliable, and any treatment prescription, intervention, or decision about administrative action is premature. Assemble your team, know your expert, involve your employee, and proceed with compassion and caution.