

LEFT OF BOOM

MONTHLY NEWSLETTER OF CLINICAL SECURITY SOLUTIONS



DO YOU NEED A PROTECTIVE ORDER?

Jerry was once the model employee. He was frequently recognized as employee of the month and was considered a key member of his workgroup. Due to some internal restructuring, Jerry was reassigned to a different team with a new manager. **That's when things started to change.**

The new manager noticed that Jerry had difficulty adapting to his new assignment and his performance on the job began to suffer. Jerry appeared to be increasingly agitated and would frequently get into verbal altercations with his coworkers. **He did not respond well to input from his new manager, and he became increasingly hostile and combative during counseling sessions.** The new manager worked with human resources and developed a performance improvement plan for Jerry but that only seemed to make matters worse.

After a very contentious meeting with human resources and the new manager, **Jerry made violent threats against the manager and several of his coworkers.** The organization maintained a zero-tolerance policy and the decision was made to terminate Jerry's employment. The organization engaged their threat management team and terminated Jerry in accordance with their protocols for high-risk terminations. Jerry was fired, company property was retrieved, and he was escorted from the property.

Everyone breathed a sigh of relief -- the process worked. But the story doesn't end there.

Many organizations at this point would now think their interaction with Jerry was done. In fact, they were entering the most difficult portion of threat management. **How does the organization ensure that they are not targeted by Jerry after his termination?**

One of the responsibilities of a threat management team is to consider **post-termination precautions.** In this case, Jerry continued to make threats on social media against the organization. He also continued to socialize with former coworkers and was described as increasingly violent regarding the circumstances of his termination. Members of the organization's security force reported observing Jerry and his vehicle parked in the vicinity. Jerry's former manager reported he had received threatening phone calls. This matter was brought to the attention of the threat management team. **What should they do?**



PROTECTIVE ORDERS

Using legal processes can be an essential tool in managing threats in the workplace. Known by various names in different jurisdictions, these can be **protective orders, restraining orders, or peace orders**.

Threat management teams should consider several factors before making a recommendation to seek such an order.

Do the facts of the case support the issuance of such an order?

- Threat management teams should be aware of the legal requirements for such orders in their jurisdictions.

Has the person been the subject of such an order in the past? If so, how did that person react when served with such an order?

- If the person has been subject to such orders in the past and has not complied, a new order may be of limited value.
- However, if past protective orders improved behavior, the threat of prosecution may deter the individual from making additional threats.

Will the potential victim cooperate with this effort and record and report any possible violations of the order?

- The protected person or person must fully support seeking search in order. They must report all violations failure to do so may only convince the person making the threats that such an order is meaningless and unenforceable.
- In some cases, the issuance of such an order will only continue to enrage the person making the threats to escalate their threatening behavior towards the protective person.
- Threat management teams should consider the impact on the potential victim when considering a recommendation for such an order. In such cases, having a third party obtain the order serves to insulate the threatened person from any backlash.

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In many jurisdictions, the target of the threat is the **only person** with legal standing to seek such an order. However, **recently some states have enacted laws that allow third parties, specifically employers, to file requests on behalf of a threatened employee.**

The reasoning for the change is that threats are rarely limited to one specific person. Any threats towards employees can expose the organization and other employees to risk violence. Thirteen states now grant employers legal standing to file requests for workplace violence protective orders and several others have considered legislation to grant such authority. Typically, employers are even granted immunity from liability when requesting such an order, except in cases of gross negligence.

Example:

Maryland recently enacted a law that allows **an employer to seek a restraining order on behalf of the employee** and any other employees or animals at the workplace if the employee has suffered from unlawful violence or a credible threat of violence that could be carried out at the workplace.

This new law provides Maryland employers with **immunity from civil liability** that may result from the failure to seek orders on behalf of their employees. Interestingly, **the immunity provision will "sunset" (be repealed) in two years** unless an amendment is adopted by the General Assembly that eliminates the "sunset" or extends it. If such immunity is not extended, **employers in Maryland could be held liable for failing to seek protection orders when they are aware of a potential threat.**

Threat management teams must familiarize themselves with current laws and pending legislation regarding workplace violence and protective orders. Organizations should pay special attention to any provisions limiting immunity from liability regarding workplace violence protective orders.

WE CAN HELP

Don't have a team? We can help you form and train a team, or serve as your team with our Virtual Threat Manager® retainer program.

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