

The Art of Termination

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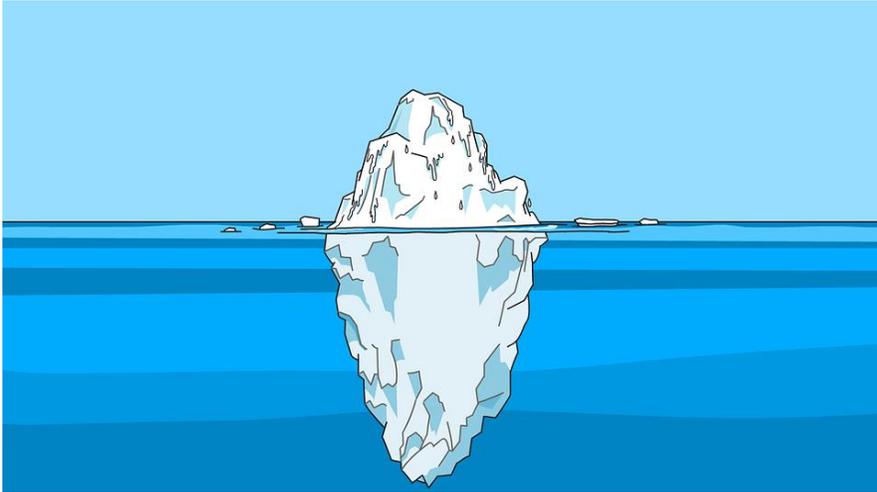
Introduction

- The views shared in this presentation do not necessarily represent the policies and procedures of any corporation or other legal entity.
- The information provided in this presentation **IS NOT** legal advice.
- These situations are complicated. Please do not use any of the ideas shared in this presentation without consulting:
 - Your HR team
 - Your Labor Relations Group
 - Your Legal Representative

It's an Art and Not a Science

- Termination is one of the most difficult tasks that managers and Human Resource professionals perform
- Because the process is so emotional and challenging, terminations are often rushed and hastily planned
- The consequences of a poorly handled termination can be substantial
 - **Harassment claim**
 - **Litigation**
 - **Injury or death**
 - **Suicide**
- All Terminations must be planned out in advance
- High Risk Terminations need special attention and must include the Threat Assessment Process

The Challenge



- Unresolved mental health issues
- Drug/Alcohol dependency
- Other addictions
- Anger management issues
- Health issues
- Domestic violence issues

- How much of an iceberg is above the water line?
- What is below the waterline in our employee population?

- Financial issues
- Medical insurance issues
- Supporting adult children or grandchildren
- Caregiver for elderly parents

Where to Start- Consider HEART

- Have a plan: Do you need Security? Can you call for help? Do other leaders and appropriate staff members know when and where this is to take place?
- Evaluate your Surroundings: Is the facility an appropriate venue for the undertaking? Is the room adequate to the task? Are there weapons in the room? What type of response is available? How will the employee be escorted or removed from the premises that will preserve their dignity?
- Assess the subject: What is below the water line? What is the work history? Criminal History? Social Media presence? Has the person demonstrated aggressive behavior? How will they respond to the news of being dismissed?
- Retreat Plan: Can you retreat? Are there obstacles in the room that may be useful to create distance between you and the terminated employee?
- Talk to the manager: What are the recent conflicted relationships at work? Does the manager know of serious financial, legal or health issues? Should the immediate supervisor be terminating the employee? Or should the manager one step above be delivering the notice?

Threat Assessment

- It is important to use the threat assessment process for terminations that involve employees who have made threats in the past or have displayed any indications that they would engage in workplace aggression. (High Risk Terminations)
 - **This could include employees who are under a great deal of stress due to personal issues**
 - **Do not ignore the intuition of those involved. If they believe the employee may become aggressive, use the threat assessment process**
- The threat assessment process includes discussions with some or all of the following personnel and the development of a termination plan.
 - **Business Unit Leadership**
 - **HR**
 - **Legal**
 - **Security**
 - **IT Security**
 - **Threat Assessment Professional (as needed)**
- The involved parties must reach consensus on the approach and sufficient time must be allotted to complete all of the steps in the plan before the termination notification is delivered
- The following slides outline items that should be considered while developing the termination plan

Creating a Soft Landing

- This is a risk mitigation strategy
 - We are trying to reduce the stress on the individual who is being terminated so that we do not have problematic interactions with the former employee in the future
 - Former employees have returned to the workplace and harmed their bosses or co-workers up to 6 years after the termination (Dr. Larry Barton)
- In discussions with the impacted business units, this may be a case of what is right vs who is right
 - Business Unit leaders may not want to “reward” someone who has stolen from the company or threatened fellow employees
 - Focus should be on successfully resolving the issue so the involved employees do not have to “look over their shoulders” for the rest of their lives
- We do not always know what stressors are present in someone’s life and the termination may be a tipping point- What is Below the Water Line?

Creating a Soft Landing-2

- What are the employee's major concerns?
 - **Company Benefits Continuation**
 - **Unemployment**
 - **References**
- Consider sending home with pay during the investigation
- Consider resignation in lieu of termination
- How close is the employee to retirement?
 - **Are they currently eligible?**
 - **Consider retirement in lieu of termination**
- While the employee may be eligible for COBRA benefits they will likely not be able to afford the added expense
 - **Can we provide additional coverage?**
 - **Can we structure the termination date to give them the standard benefit for an additional month?**
- Will we contest the unemployment?
- How will we respond to future employers who are asking for confirmation of work history or a reference?

Timing

- Slow the process down
 - Time is on our side, slowing things down will help diffuse volatile situations
 - Slowing the process allows time to get the team together
 - Slowing the process allows everyone to consider all of the issues
 - Slowing the process allows for proper planning
 - The Business Unit leaders may push back because psychologically they have made their decision and want to move on
 - Consider sending the person home if there is a fear that they will be disruptive
- When is the best time to terminate?
 - There is no definitive answer
 - Some advocate for Friday while others advocate for earlier in the week so that the employee can immediately begin working on a job search and filing for unemployment benefits
 - If termination occurs in Friday there will be no one available over the weekend to answer benefit issues
 - Be aware of holidays, employment anniversaries and days that are important to the employee
 - There is no consensus on the best time of day to terminate employment
 - Some indicate that terminating someone at the end of the day can be viewed as a slap in the face by the employee who believes that management wanted to get that last ounce of work effort before the termination
 - Some advocate for earlier in the day
 - The key is to ensure that the employee can leave without the walk of shame in front of their peers

How Do We Notify the Employee?

- Letter? Telephone? In Person?
- There is much debate over the most effective way to terminate an employee. Some argue that using the phone or a letter is much safer and can avoid a nasty confrontation.
- You may avoid a confrontation during the termination but create a visit to the office by a very upset former employee at a later date
- A letter may be warranted if we can not locate the employee or the employee is in jail

How Do We Notify the Employee?-2

- When considering the notification method, the threat assessment team should ask: How will the employee feel when notified through this method?
 - **A long tenured employee may feel disrespected if terminated over the phone or by letter**
 - **The termination itself will be a stressor, the method used could further aggravate the situation**
- Even if the employee has been sent home pending the outcome of the investigation it may be beneficial to have a face to face meeting to deliver the termination notification
 - **May be able to gain insights through the employees face to face reaction**
- The Cardinal Rule is: Treat the employee with dignity and respect

Where Do We Conduct the Termination Meeting?

- A Neutral Location at the workplace
 - **A conference room works well**
- Consider an offsite location
 - **Hotel conference room**
 - **Should not be a public place with distractions**
- Set up the room
 - **Ensure there are no items in the room that can be used as a weapon**
 - **Ensure there is an easy exit**
 - Do not block the employee's exit
 - Best case scenario is a room with 2 exits

Who Should Conduct the Termination?

- Both HR and the Business Unit should be present
- Consider any past relationship issues between the terminated employee and others in management
 - **It may be best to use a manager that was not directly involved in the issues**
- Most communication is non-verbal so it is important for the body language to be as neutral as possible
- A script may help the manager stay on point
 - **Allow the manager to rehearse the script**
 - **Coach the manager on tone, inflection and the speed with which they deliver the message**
 - **Lower volume forces the employee to listen and can reduce their frustration**
 - **The goal is to slow the employee down and diffuse any anger or resentment that they harbor**

Surveillance

- Field surveillance is very difficult
 - Often requires multiple resources
 - Must have support in place at the location of concern
 - Must have communication between the surveillance team and the support personnel
- Reward vs Risk
 - Reward: can help develop the profile on the individual
 - Risk: may inflame the individual if he sees people following him (Dr. Jim Cawood)
- Consider counter-surveillance
 - Must have support in place in case the individual arrives at the location of concern
- Contact Social Media coordinator for support

Off Duty Law Enforcement Support

- Off duty law enforcement provides better support than an unarmed security officer
 - **The law enforcement officer is well trained and is armed**
 - **The law enforcement officer can effect an arrest if warranted**
 - **The law enforcement officer will have immediate support from their agency if there is a confrontation**
- Instances where off duty law enforcement can help
 - **In plain clothes in the area of the actual termination**
 - Ensure that you have a cover story for the officer if they will be seen by the terminated employee
 - **Uniform and marked car at the work location of the terminated employee**
 - **Uniform and marked car at the work location of involved managers or HR team members**
 - **Uniform and marked car at the residence of involved managers or HR team members**

The Plan

- Notify the threat assessment team
- Review Social Media and Criminal Records
- Gather all available information on the employee
- Create the soft landing if possible
- Determine the date and time of the termination
- Who will be involved in the termination?
- How will the employee be notified?
- Write a script for the terminating manager
- Where will the termination be conducted?
- When will you terminate cyber and physical access?

The Plan-2

- How will you obtain company property including badge and keys?
- What do you do if they drive a company vehicle?
- How will you return the employee's property to them?
- What will you tell the employee about returning to the work site or contacting the company?
- What will you tell other employees at the work site?
- Will you use surveillance?
- Will you use off duty law enforcement support?
- Who is responsible for follow up?

Follow Up

- Notify the security team at the facility
 - **Photo and vehicle description**
- Support for terminating manager
- Communication to workforce
- How long do you leave the law enforcement support and surveillance in place
 - **The former employee is most likely to act out within the first 72 hours after the termination (Dr. Larry Barton)**
- Follow up with the former employees co-workers

Questions?