RESPONDING TO
EMPLOYEE CRIMINAL CONDUCT

At some point, most employers face the difficult situation of confronting an employee suspected of committing a work-related crime such as embezzlement or fraud. Before this happens to you, consider what steps you need to take to investigate, when to call the police, and how to minimize future misconduct.

If you suspect an employee has committed a crime, an internal investigation must be conducted. Rather than scrambling on the day an incident is discovered, it's best to have policies and procedures in place for handling an investigation. Your policy should (1) specify who will conduct the investigation, (2) define the scope of the investigation, and (3) describe how the results will be gathered and acted upon.

While the scope and procedure of every investigation will vary, generally, the purpose of the internal investigation should be to determine whether the suspicion of misconduct is sufficiently substantiated to warrant corrective action, dismissal, and/or police involvement. Some employers may opt to place the suspected individual on paid administrative leave while the investigation is conducted. Others may choose to avoid disclosing the existence of an investigation until completed. Both strategies have merit and depend on the circumstances.

Employers that contact the authorities should remember that they risk having their workplace temporarily disrupted by the presence of law enforcement officials conducting interviews and collecting evidence. The upside of reporting a suspected crime is that it will likely deter other potential workplace theft and also potentially lead to restitution and recovery. Every employer should be aware that attempts to cover up workplace crime could result in the employer facing separate criminal liability.

Often, employers can turn a bad situation into a positive long-term advantage. For example, the results of an internal investigation may reveal ways to reduce the risk of future loss. Changing internal operations that allowed the theft, such as lax accounting, open petty cash boxes, unmonitored access to company credit cards, or unmonitored record-keeping will be brought to light.

Proactive employers wishing to get serious about deterring misconduct may also want to conduct regular external audits to examine internal policies, procedures, and recordkeeping.

Rather than waiting for a problem to arise, employers should revisit their internal policies and procedures regularly to ensure that they are current, known by employees, observed, and enforced at all levels of the organization. If you'd like assistance creating or updating your internal standards, call the author or Aimee J. Jachym, 269.383.5841.

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