Just Defending Myself or Violence In the Workplace?

Joyce M. Beggs Edward Jernigan UNC Charlotte

Rachael Montgomery, a Certified Nursing Home Administrator, arrived at work at the Charlotte Nursing Home and noticed that things certainly did not look normal. The parking lot was full of police cars and upset neighbors from surrounding homes. The nursing home prided itself on being located on the "nice" side of town where incidents involving gunfire were not supposed to happen. The advertising brochure for the nursing home emphasized the "safe" location and the "prominence" of the neighborhood. Through talking with the police, Rachael discovered that an employee had been involved in an incident involving a gun being shot multiple times and carried into the nursing home.

From talking with the police, Rachael discovered what happened in the early morning hours. Mary Jackson, a manager over two departments at the nursing home, had parallel parked her car on a street adjacent to the facility. As she was getting out of her car, a young black man approached her car and grabbed the driver's door. He pointed a gun at her face and demanded her pocketbook. As Mary reached back into the car, the gunman thought she was getting her purse but instead she pulled out a 9mm handgun. She pointed it as his face and he continued to point his gun at her face. Both seemed shaken by this experience and ran in opposite directions. Mary ran toward the nursing home. As she reached the doors, shots rang out as the perpetrator fired several shots at her. She entered the building carrying the loaded gun, her pocketbook, and car keys.

INTRODUCTION

Rachael Montgomery, a Certified Nursing Home Administrator at the Charlotte Nursing Home, arrived at work on schedule. Pulling into the parking lot at approximately 8:00 a.m., she noticed that things certainly did not appear normal. The parking lot was full of police cars and of upset neighbors from surrounding homes. She felt her stomach tighten and her head pound as she counted the number of police vehicles. She quickly gathered her things, locked her car, and rushed into the facility. She did not know exactly what had happened but she did know that it was her job to handle it. All these police cars led her to believe that there must have

been an incident of violence in the workplace. This was something with which Rachael had never dealt.

As Rachael crossed the parking lot, she noticed several prominent, outspoken neighbors gathered who appeared both angry and distraught. She thought to herself, "I suppose I will get a visit from the Neighborhood Crime Watch." Entering the building, she could feel the panic and anxiety of the patients and the employees. She kept thinking, "What could have happened?" She first heard that a gunman had been shooting at random toward the nursing home. Later Rachael discovered that an employee had been involved in an incident involving a gun being fired multiple times and another gun being carried into the nursing home.

The nursing home was located off of Providence Road, on the south side of Charlotte. The nursing home prided itself for being located in the "nice" side of town where incidents involving gunfire were not supposed to happen. The advertising brochure for the nursing home emphasized the "safe" location and the "prominence" of the neighborhood. Patients at the facility paid a "premium" price for this environment and the prime location. Of course, Rachael understood why the neighbors were concerned and also knew that the Board of Directors of the nursing home would be upset by any "bad publicity." Her mind raced as she thought of the incident appearing on the nightly news.

Rachael instructed her Nursing Supervisor and Human Resources Manager to account for all the patients and employees immediately. She then agreed to meet with the Charlotte-Mecklenburg Police. Both the neighbors and the employees at the nursing home had called the police.

From talking with the police, Rachael discovered what had happened in the early morning hours. Mary Jackson, a manager over two departments at the nursing home, had parallel parked her car on a street adjacent to the facility. As she was getting out of her car, a young black man approached her car and grabbed the driver's door. He pointed a gun at her face and demanded her pocketbook. As Mary reached back into the car, the gunman thought she was getting her purse but instead she pulled out a 9mm handgun. As the gunman continued to point his gun at her face, Mary pointed her gun at his face. Both were so startled and shaken by this experience that they turned and ran in opposite directions. Mary ran toward the nursing home. As she reached the doors, shots rang out as the perpetrator fired several shots at her. She entered the building carrying her loaded gun, her pocketbook, and car keys.

BACKGROUND

Rachael realized that the handling of this situation could have serious implications for her career which was of utmost importance to her. Rachael described herself as a devoted career woman who was proud of her accomplishments. There had been many difficult personal choices and sacrifices to reach her present position. After earning both a Bachelor's and a Master's degree from a prestigious university, Rachael married at the age of thirty. While Rachael continued to pursue her career aspirations, her husband accepted a time consuming position as a NASCAR affiliate. Due to their career demands, the couple consciously decided to remain childless. Rachael decided to seek certification as a Nursing Home Administrator. Rachael had worked at the Charlotte Nursing Home for four years and found the job to be both challenging and rewarding.

The Charlotte Nursing Home is a subsidiary of one of the largest medical providers. Unlike most other medical facilities in Charlotte, a union represented the employees. The union had work rules and established protocols dealing with almost every situation including firearms. Rachel knew the first step was to contact the Director of Operations who was located in Arkansas.

The Director of Operations reminded her that there was a strict policy against any type of firearm on facility premises. He instructed her to follow company policies included in the Human Resources Management Policy and Procedures Manual (see Exhibit 1) and to keep him informed on the investigation. The Director said that Rachael's first priority was the safety of the patients and the employees. However, he expressed concern over any negative publicity caused by the media's insatiable appetite for stories regarding violence in the workplace.

Rachael knew the importance of handling this situation correctly and promptly. She reviewed the policy manual for guidance on the proper course of action (Exhibit 1). The manual included an explicit policy on weapons possession, use, or sale. "Associates are prohibited (including those licensed to carry concealed weapons) from using or selling weapons on the premises or while on working time." Also included in the manual were the five steps to implement the policy against threats and violence. Rachael was relieved to find a specific protocol pertaining to this incident.

THE INVESTIGATION

Rachael began to gather information on the details of the incident. Apparently, the police had been called by neighbors living around the nursing home and by several employees. After interviewing numerous employees, she received similar accounts of what happened. After hearing several "firecracker" sounds, employees saw Mary Jackson run into the facility holding a pistol. Many of the patients and early arriving

employees heard the shots as Mary entered the building. The witnesses were apprehensive about approaching Mary as she stood in the doorway clutching her pistol, pocketbook, and car keys. At the time the witnesses did not know what had happened outside the facility but thought Mary appeared to be in shock. The employees said that Mary looked quite scared and appeared to fear for her life. Some of the third shift employees also reported seeing a young black man walking around the facility and looking into the windows around 5:00 am.

Rachael then went to meet with Mary. Mary had fifteen years of experience in health care, and had been an employee at the Charlotte Nursing Home for three years as a manager of two departments. Rachael said, "Mary, I know you have had a difficult time this morning. However, it is required that I investigate what happened and file a report. Please help me by telling me exactly what happened."

Mary began, "It was still kind of dark when I arrived for work at 6:00 am for my shift that begins at 7:00 am. I always get here early and have breakfast in the cafeteria. I parallel parked on Dartmouth Avenue on a street adjacent to the company parking lot. As I was getting out of my car, a young black man approached my car and grabbed my car door. He pointed a gun at my face and said, 'Gimme your pocketbook and money and I won't shoot ya.' I said to him, 'Hold on, let me grab my pocketbook. It's right here in the floorboard.' Well, I had no intention of giving him my pocketbook; instead I instinctively pulled out my gun to protect my property. I held my gun in my right hand and my pocketbook and car keys in my left hand and exited the car. I put the gun in his face and surprised him. He expected me to give him my pocketbook instead he was facing a 9mm. We stared at each other with our guns pointed at each other's faces for what seemed like an eternity. Finally, he dropped his arm holding the gun and I guess I must have dropped mine. We then ran in opposite directions. I ran toward the safety of nursing home. As I reached the doors, I heard shots and realized that he had opened fire at me. Luckily, he missed me. I went into the building and locked the doors."

Rachael said, "Mary, you are a valued employee, but we are very concerned with the safety of our patients and our other employees. This is a very unusual situation, but you have put us in an awkward situation by bringing a loaded gun into the workplace."

Mary said, "Rachael, I realize that. My reaction to having a pistol pointed at me is just that-an instinctive reaction. I would not normally bring my gun inside. You must understand I was just protecting myself."

Rachael said, "I know you must have been very scared. However, you know that we have a strict policy regarding weapons. The Director of Operations has been

called and plans to come up from Arkansas to talk to you. He doesn't want to hear about the Charlotte Nursing Home on the six o'clock news."

Mary said, "I can't control what they report. The police had already been called before I realized what happened. In fact, I had already made a police report before you got here. I'm sorry but that is a matter of public record."

Rachael said, "I know you can't control what's reported. I think it is a good idea for us to keep this quiet. I don't want the other employees talking about it. I don't want the neighbors to get more upset." Rachael then reviewed the policy regarding weapons on the premises and emphasized the company's strict prohibition of weapons and the consequences of violating those policies.

Mary became quite agitated and pointed out several factors that she thought complicated the situation. She said, "First, I am trained in the use of firearms and am licensed to carry a concealed weapon in the state of North Carolina. I did not intend to harm anyone in the workplace. I only intended to protect my property. Second, I was not parked in a nursing home parking lot. I parked on a public street. Whether I have a gun in my car on a public street should be of no concern to my employer. I did not intend to bring one on the premises. I only brought a gun on the premises when I was chased by gunfire. I think this should be considered. I was the victim. Third, the company provides insufficient parking. Employees are forced to park on the street unless they arrive at work late when the last shift is leaving. Fourth, the parking lot is dimly lit and unsafe. Fifth, there are no security guards in the parking lots. Sixth, the nursing home seems more concerned with beautiful landscaping and preserving the looks of the neighborhood than with the safety of the employees. I realize that in the south side of Charlotte, landscaping is important. The parking lot has large trees, large bushes, and tall hedges. Anything could happen in the lot and no one would know about it. Seventh, the nursing home is adjacent to a wooded lot where there is no lighting at all. Eighth, I did not shoot my gun. All the shots were fired by someone who was trying to rob or kill me."

Rachael asked Mary to complete the Associate Memorandum and provide the needed information for the Supervisor's Accident Investigation Report (see Exhibit 2 & 3). Rachael thought about what Mary had said. Some of the third shift employees had said that a suspicious man had been seen immediately before the incident. The employees did not know where the man had gone. Had he hidden in the bushes or by the trees? Rachael wondered whether she had done everything in her power to ensure the safety of her employees and her patients. Rachael also realized that a victim of a violent act had committed a weapon violation. Rachael

wondered what additional action should be taken and what she would learn from the Director of Operations.

The Director of Operations came from Arkansas to interview Mary. He said, "Ms. Jackson, you were involved in the handgun incident. I hope you will seek counseling. I am sure the experience was quite terrifying. However, I also wanted to mention our handgun policy. You know bringing weapons of any sort on the premises is prohibited. You are also a manager of two departments and serve as a role model for your employees. We don't want them to think that it is acceptable to bring weapons into the facility under any circumstances. I also wanted to remind you that the company has the right to inspect your personal belongings if we think you are violating the policy."

Mary said, "Yes, I am aware of the company's policies." Mary then added, "I wasn't even parked on the premises. Have you thought about what would have happened to me if I didn't have my pistol with me? I was just defending myself."

EXHIBIT 1 Human Resource Policy and Procedure

HR-710 Violence in the Workplace

	HUMAN RESOURCES MANAGEMENT POLICY AND PROCEDURES MANUAL	EFFECTIVE DATE supersedes
SECTION	SUBJECT	PAGE
7. Safety and Health	HR-710: Violence in the Workplace	1 OF 7

POLICY

It is spolicy to maintain a non-violent, and safe workplace for all associates. Intimidation, threats, and violent acts threaten the quality of our work and the safety of our associates and customers. The quality of our work and the safety of our associates and customers. The quality of our work and the safety of our associates and customers. The quality of our work and the safety of our associates and customers. The quality of our physical abuse; weapons possession (including those licensed to carry concealed weapons) or use; vandalism; arson; or any other coercive act against person or property while on property or on working time which management believes is inappropriate in the workplace. Jokes, making light of or offensive comments regarding violent acts or situations also will not be tolerated. Threats or acts of violence outside the facility, but related to the associate's employment, may also be a violation of this policy and result in disciplinary action up to and including discharge.

Application

associates.

Procedure

The following terms, as used in this policy, are defined as follows:

<u>Violence</u>

Exertion of physical force so as to injure, intimidate, or otherwise abuse person or property; vandalism; arson.

Threat

A direct, indirect, verbal or written expression, sign or warming of intent to do physical harm.

HR-710

Violence in the Workplace - (Continued)

Page 2

Weapon

Firearms, knives, clubs, explosives, or anything else that could be used as a means of physically harming or injuring a person or property.

"On the Job"

An associate is considered "on facility premises" or "on the job" whenever the associate is:

- · on facility property, including parking lots, at any time
- on working time, even if off facility premises (including paid lunch and rest periods)
- on the property and/or in the facilities of customers, clients, and/or vendors of the company while engaged in company business
- driving or riding as a passenger in a vehicle, or driving or riding as a passenger in a private or public conveyance for which reimburses expenses and on working time

Possession

Possession includes being physically held by a person or being in an area over which the associate has control (e.g., inside purses, pockets, lunch boxes, personal or automobiles, lockers, desks, and other limited-access work areas).

Reasonable Suspicion

"Reasonable suspicion" exists if the associate's appearance, speech, or behavior indicates that the associate may be in violation of the Violence in the Workplace Policy, or it has other evidence such as reports from other associates or witnesses that the associate is in violation of the Violence in the Workplace Policy.

Prohibited Conduct

Weapons Possession, Use or Sale

Associates are prohibited from possessing (including those licensed to carry concealed weapons), using, or selling weapons on premises or while on working time.

EXHIBIT 1 (continued) Human Resource Policy and Procedure HR-710 iclence in the Workplace - (Continued) Page 3 Threats Threats of any kind will not be tolerated from any associate on the job. Violence Violent behavior is prohibited by any associate while on the job. Associates who have observed, been subjected to, and/or have knowledge of. Reporting Violent any of the conduct listed above are required to immediately report the incident Behavior to their immediate supervisor, group Human Resources, or any other member of company management. Complaints will be promptly investigated. If warranted, disciplinary action will be taken against the offender. not retaliate against an associate for filing a complaint and will not tolerate retaliation by management or other associates. See HR-410, Progressive Discipline. Desks, storage area, work areas, lockers, file cabinets, and company vehicles Searching Beverly are property and must be maintained according to this policy. All such areas are to be used only for work purposes. Theserves the right, at all Property times, and without prior notice, to inspect any and all property for the policy has been purpose of determining if this policy or any other violated. Such inspections may be conducted during or after business hours and in the presence or absence of the associate. When applicable, provide locks and keys for property. Searching All associate vehicles and containers, (including but not limited to bags, boxes. Associate purses, pockets, briefcases, lunch containers, etc.) brought onto property are subject to inspection by in the presence of the associate at Property has a reasonable suspicion that this policy has been violated and such an inspection is reasonably necessary in the investigation of such suspected violation(s). No inspection of associate property will be conducted without the consent of the associate, however, failure to give consent to such inspection will be cause for disciplinary action up to and including termination. There are five (5) steps a supervisor should take to properly implement our Avoiding policy against threats and violence. The first two (2) should be reviewed with Threats and staff at orientation and periodically at staff meetings. Violence continued on next page

HR-710 Page 4

Violence in the Workplace - (Continued)

STEP	ACTION
1	Advise associates about the inappropriateness of threatening, intimidating, and violent behavior and that such conduct will not be tolerated.
. 2	Instruct them about what action they should take if they observe inappropriate behavior.
3	Maintain an open door policy so your associates will feel comfortable coming forward if they have a complaint.
4	Enforce this and all policies. Do not dismiss any reports of violent or threatening behavior without first investigating the complaint.
5	Protect. Use name badges and sign-in sheets at the main entrance for visitors. Be aware of who is in the building at all times. Be sure to take keys from terminated associates and change security codes as necessary.

Handling a Complaint

Once a complaint is made, the immediate supervisor taking the complaint should immediately advise the Group Human Resources Manager of the complaint. The Group Human Resources Manager must be notified to assure that a proper investigation is promptly conducted. Incident and assessment forms can be found in the Safety and Loss Control Manual. The investigation should take the following steps:

STEP	ACTION						
1	Contact the appropriate law enforcement authorities if others appear to be in danger.						
2	Ask questions, get all the facts, take notes, and obtain written statements when possible, including who was involved, what happened, and what other associates might have knowledge of the events.						

Violence in the Workplace - (Continued)

HR-710 Pag€ 5

er,	If an associate is believed to be in violation of this policy but is not an immediate threat to the safety of others, interview the associate in a safe area, with a witness if possible. At the close of the interview, he or she may be removed in an appropriate manner from premises and put on suspension until representatives from management and Group Human Resources are able to assess the violation. The associate in violation will be notified as to the progress of these proceedings.
4	Once the investigatory team has thoroughly investigated the incident, based upon its findings, disciplinary action up to and including termination may be taken where warranted.

Further Action

Use the following decision table to determine which steps to take following the action's initial interview:

IF	THEN
The information provided does not indicate that violence occurred.	• Reaffirm to the parties involved that takes violence seriously and would discipline anyone who engages in violent, threatening, or intimidating behavior.
occurred,	• Provide additional training on violence to the staff as necessary, stating your expectations of conduct in the workplace.

HR-710 Page 6

Violence in the Workplace - (Continued)

The information
provided does
indicate that
violence
occurred.

- Allegation put in writing when possible.
- Alleged offender should be immediately and appropriately removed from the premises and placed on suspension until further notice.
- Group Human Resources Manager will conduct a further investigation of the allegation and interview others who have information concerning the alleged violence. Group Human Resources Manager should confer with Corporate Legal to obtain legal assistance as necessary.
- After a thorough investigation has been conducted, Group Human Resources Manager should determine what disciplinary action should be taken.
- The associate in violation should be advised of the results of the investigation and the action to be taken.

Discipline

Any associate who is suspected by management of having violated any part of this policy will be removed immediately from the premises and will be subject to suspension pending investigation by management of the suspected violation. Any associate who is suspected of a violation of this policy will be interviewed, where feasible, and will be notified of the outcome of the investigation. Depending on the outcome of the investigation, disciplinary action up to and including termination, may be taken (Progressive Discipline HR-410).

The following conduct may be cause for disciplinary action:

- any violation of this Violence in the Workplace policy
- · refusal to submit to searches conducted under this policy
- conviction of a criminal weapon possession violation, homicide or any
 other violent criminal behavior. Any associate arrested for violation of a
 criminal weapon possession charge or any violent criminal act will be
 suspended from employment without pay for the duration of the criminal
 legal proceedings

Violence in the	Workplace - (Continued) HR-710 Page 7
	When has reason to believe that federal, state, or local law is being violated, may refer such activities to appropriate law enforcement or administrative agencies.
Posting Policy	A statement should be posted in a prominent and accessible location with the following information concerning threats and violence:
	• policy and procedures
	disciplinary action that may be taken
9	contact person at the place of employment to report workplace violence
Management Responsibility	It is the responsibility of all management to adhere to this policy and to make certain that all functions and associates are managed in accordance with this policy.
Associate Responsibility	A complaint-resolution procedure has been designed to encourage victims of threats and violence to come forward and report violence to the facility Executive Director or Group Human Resources Manager.
Orientation	All new associates will be made aware of this policy as part of the general orientation process.

EXHIBIT 2 Supervisor's Accident Investigation Report ASSOCIATE ENTERPRISES SUBSIDIARY **MEMORANDUM** Department and Job Title Facility Number/Name Associate's Name Date of Hire 0060 ☐ CATEGORY I VIOLATION (Check if appropriate.) ☐ Suspension Pending Investigation begins _____/___/____/ Category I Violation No. _____ Description of violation: _____ Any previous Category I violation? ☐ No ☐ Yes If yes, describe: ___ After investigation is completed: Discharge effective ____/____, or Reinstatement ☐ CATEGORY II VIOLATION (Check if appropriate.) Personnel files should be reviewed by the immediate supervisor to determine the appropriate step. If this is the Associate's 3rd written warning (Step 3), the Associate is hereby reminded that four disciplinary infractions within a twelve month period is cause for discharge. Check one: Step 1 Violation Category II Violation No. 2. 6. Description of violation: VIOLATION List all other disciplinary actions in past year

BE 806 (8/95)

Explain:

Suspension begins: ____/__/_

WHITE — PERSONNEL FILE CANARY — ASSOCIATE

After investigation is completed:

Discharge effective ____/____, or
Reinstatement

If this is a Step 4 suspension pending investigation, complete the following:

EXHIBIT 2 (continued) Supervisor's Accident Investigation Report

Complete the following for both Category I and Category II violations:
SUPERVISOR'S COMMENTS
ASSOCIATE'S COMMENTS
I was scared when I was approached by
A MAN who had a GUN and WAS insisting I
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AND FAN to SAtely of the building to get AWAY
CORRECTIVE ACTION TO BE TAKEN
State what corrective action the associate is to take.
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to breig weapons on Ficelety Fromary.
1.00
Associate Date
Associate's signature indicates that he/she had an opportunity to review this form and to comment or explain and also that the corrective action was discussed. The associate's signature does not necessarily indicate that he/she agrees with the action taken.
The total
Supervisor Date Administrator Approval Date
If this memorandum involves a suspension or discharge, the Administrator must approve. Otherwise, the associate's immediate supervisor may issue progressive discipline without prior approval of a higher authority. In either case, the associate's immediate supervisor should meet with and discuss this memorandum with the associate.

EXHIBIT 3 Supervisor's Accident Investigation Report

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H	15	Associate	1		0	5 Fai	i from elevation		-	20	Coccyx/buttocks	
H	16	Elevator	1		0	6 Sin	uck by			21	Internal organ	
\vdash	17	Boller/pressure vesse'	1		0	7 Str	uck against			22	Other	
H	18	Motor vehicle	1	Г	0	B Pul	lling			01	Burn	
-	19	Cart			0	9 Pu	shing			02	Bruise, contusion, abrasion	
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