



# Scenarios

How to review information, pose questions,  
and make strategic choices as a steward.

# Pre-Determination Scenario 1

It was discovered that there were numerous security Referrals and program referrals dating back years on the member's desk. Releases of information were also not scanned into the electronic health record and there's no documentation that they were sent out. The member was also observed shredding two boxes of documents prior to going out on leave.

# Pre-Determination Scenario 1

It was discovered that there were 1) numerous security Referrals and program referrals dating back years on the member's desk. 2) Releases of information were also not scanned into the electronic health record and there's no documentation that they were sent out. 3) The member was also observed shredding two boxes of documents prior to going out on leave.

# Suggestions



1) CHECK THE 'WHO' TO SEE 'WHY' REFERRALS MIGHT NOT HAVE BEEN SUBMITTED APPROPRIATELY. FIND CORROBORATIVE EVIDENCE TO SUPPORT A HYPOTHESIS.



2) AGAIN, CHECK 'WHO'S TO SEE 'WHY' RELEASES WERE NOT ENTERED INTO THE DATABASE. CHECK WITH STAFF TO CORROBORATE SCENARIO OR ALTERNATIVES (MAYBE RELEASES OF INFORMATION CAN BE ORALLY WITHDRAWN).



3) 'WHAT' IS THE ISSUE WITH SHREDDING DOCUMENTS? 'WHY' HAVE A SHREDDER IF AN EMPLOYEE IS UNDER SUSPICION FOR USING IT (SHREDDING DOCS MIGHT BE IN THE EMPLOYEE'S JOB DESCRIPTION).



THIS CASE MOST LIKELY FAILS THE JUST CAUSE PRINCIPLE OF OBTAINING SUBSTANTIAL EVIDENCE.

## Pre-Determination Scenario 2

A public safety member has been given notice the Department received information alleging the member was present at their residence while there were minors on the premises consuming alcohol. It is further alleged there were minors using marijuana in the garage. A criminal investigation was initiated but has been closed.

## Pre-Determination Scenario 2

A public safety member has been given notice the Department received information alleging the 1) member was present at their residence while there were minors on the premises consuming alcohol. 2) It is further alleged there were minors using marijuana in the garage.

3) A criminal investigation was initiated but has been closed.

# Suggestions

- **\*MAKE SURE GARRITY RIGHTS ARE INVOKED\*** This case has potential criminal liability even though it mentions a criminal investigation was closed.
- 1) 'Where' was the member? Are there mitigating factors like separate structures (Garage, Main House). Was the member aware of minors at the residence? Is the allegation based on hearsay?
- 2) Why did the member have minors at their residence? Do they have older children who can drink (and smoke legally)? These potential questions and 'why' the criminal investigation was closed could be key to creating reasonable doubt to protect the member.
- 3) Keep the member calm, the criminal investigation was closed without charges. So perhaps this interview is simply a requirement vs a hunt for information.
- Sometimes meetings are simply formalities to shield the employer from the potential of future liability. If they have nothing to hide, the truth will come out.



## Pre-Determination Scenario 3

It is alleged the member accessed the Child Support Services System for cases they had no business reason to be accessing. Specifically, it is alleged the member accessed case files on a secure database for a person who has a relationship with someone in the member's household.



## Pre-Determination Scenario 3

It is alleged the member 1) accessed the Child Support Services System for cases they had no business reason to be accessing. Specifically, it is alleged the member 2) accessed case files on a secure database for a person who has a relationship with someone in the member's household.

# Suggestions

- Sometimes when a member's family is involved it is important to reassure them that their honesty will be their best hope going forward. Keep them calm and remind them any disclosures will help.
- 1) Ask the member 'who' they might have been accessing on the database. Perhaps it was a coincidence (random) instead of intentional.
- 2) If the member isn't related to the individual identified. 'Who' in the household is? Maybe names have changed, or the relationship wasn't disclosed to the member from a previous relationship. Circumstances are often many and often relevant.
- Depending on the employer's case, this might be a situation where disciplinary action might fail the Just Cause principle of a thorough investigation because of coincidence. Your job as a steward is to investigate fully and find out if these circumstances might exist.



# SCENARIO 1

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- Archie is a CNA that provides direct care to patients at RANDOM Pioneer Home, INC. He is concerned about his safety because the employer is requiring masks of employees, but a few constantly take them down within an hour of the shift start, including a Supervisor.
- What steps should Archie take to ensure safety compliance at his worksite?

# SCENARIO

## 2

- Betty has been with the state for 15 years. She had to abruptly take FMLA to attend to an ailing family member in emergency care. She notified her direct supervisor that this was her intention, but did not receive official approval by her Supervisor.
- Upon her return, she was notified of a Pre-Determination meeting that she had several no-call, no shows because of the lack of approval. The employer had tried, but not contacted her successfully.
- She potentially faces non-retention as a result of her actions.

# SCENARIO 3



Veronica contacts her Union Steward in another town over to report an unsafe work environment at the town of SEADOCK, ALASKA. Her accusation is that management running the ferry boats have ignored, but claimed, maintenance for years.



Other employees know about this but are afraid to come forward for fear of losing their jobs in the small town of SEADOCK.



What steps would you take to prepare this case?



## SCENARIO 4

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- Reggie has been with the department for 7 years. He is pro-union and known for talking being public about his support in his workplace.
- He caught wind that his Supervisor was actively encouraging employees to drop their dues, to which he openly challenged his supervisor to “STOP, or i’ll notify my union” in front of the office.
- He is now faced with a Predetermination meeting to decide discipline, and it is suspected his Supervisor will push for his termination.
- How do you prepare Reggie for his Predetermination meeting?



# Additional Scenarios 1.

1. **Buck works as a tech in the Workers' Compensation Division. He meets an attractive barrista in a coffee kiosk during a break in a meeting on the other side of town. He really enjoys his talk with her, and believes she must be working an afternoon shift. For several weeks following this he takes his afternoon break, and drives across town to get a latte and chat. He gives her larger and larger tips. When he tells her where he works, she mentions she had developed tendonitis from "pulling shots" on the espresso machine and had filed an injury report. She eventually tells Buck her name is "Suzy." Buck is trying to find an opportunity to ask her to go with him to dinner or a movie, but the moment never presents itself. He eventually looks through the Workers' Compensation database, finding a Susan Krumholtz who reported work-related tendinitis when working for Espresso Yourself in town; the date of birth seems about right. Taking a chance, mid-morning the following day he calls Ms. Krumholtz's home telephone number and hears Suzy's voice answer. He feigns surprise, saying he is an Investigator for the agency and was following up on a pattern of injury reports coming from coffee kiosks in town, and was planning to interview some of the injured workers, but recognizes her voice from his coffee breaks. Suzy sounds confused, then irritated. She says her phone number is unlisted because she was coming out of an abusive relationship, and wants to know how he got her number. Buck responds she gave her number in the Injury Report, but he was certainly saddened to hear of her troubles, and said he would see that this number was not used by his agency again.**
- **Buck comes to you first thing the next morning, saying his supervisor had received a complaint from the public about a call from their office from a "Buck," and that HR was scheduling a meeting with him tomorrow afternoon, He hadn't received a written Notice, as yet.**
  - **What do you ask him? What do you advise him? What provisions of the contract might apply?**





# NEXT STEPS

## Questions for Buck:

- What is the whole story?
- What is the State's policy on access to the confidential Workers' Compensation Injury online records?
- What is the State's policy on the use of those records?
- Does Buck have any investigatory duties in his PD? If, so, what is the scope of those duties?
- Does Buck have any prior discipline, Letters of Instruction, counseling, etc.? If so, what?
- Does Buck know anything more about the complaint?
- Is Buck certain it is Suzy (as opposed to someone else) making the complaint?
- Did Buck say anything about this incident to his supervisor or any co-worker?
- Was there anything true in what he said to Suzy on the telephone?

## Advice to Buck:

- Don't attempt to contact Suzy again.
- Don't talk to anyone about the incident.
- In the meeting only answer the questions specifically asked.
- Answer all questions in the meeting truthfully.
- For the moment just keep your head down and ears open.
- Talk to a BA about this one immediately. Talk only with your union rep (or attorney, if the matter triggers possible civil or criminal actions).
- If you hear anything about this matter, report it to your steward and/or BA immediately.
- Perhaps it's time to get your coffee somewhere else

## Explain to Buck:

- Explain the Just Cause standard: the burden is on the employer to accuse you of violating the rules, and the burden is on the employer to ask you questions.
- Explain that if he receives a Notice for the meeting, immediately request union representation. Explain that he is in trouble for this.

## Relevant Articles: 4 & 14

## Additional Scenarios 2

1. **Cassandra is, frankly, pretty difficult and unpleasant toward her co-workers and supervisors. However, she has been in her position as an Admin Assistant II for seven years, with no history of counseling or discipline. The Regional Manager is Lisa Harbiss (Cassandra refers to her as “Lisa Hard B\*\*\*\*” with acquaintances outside work). Ms. Harbiss is completely reorganizing the layout of the offices and cubicles of the agency headquarters where Cassandra works. Cassandra hears that she is being assigned a room with no windows and a chair that flushes.**
- **Cassandra comes to you purple in the face and sputtering. She wants the union to “sue” Ms, Harbiss, and claims she is being targeted by Harbiss because Cassandra’s Dues payments are supporting the union’s work and thwarting Ms. Harbiss’ authority.**
  - **What do you ask her? What do you advise her? What provisions of the contract might apply?**

# NEXT STEPS

## **Questions for Cassandra:**

- Is there a history here you want to discuss with me?
- Where did you hear of your office assignment? Would that person actually know?
- Is anyone else being assigned to similar quarters?
- When would this be taking place?

## **Advice to Cassandra:**

- Politely ask your immediate supervisor about any plans for your office assignment.
- Don't assume the rumor is actually true and over-react.
- Don't talk to co-workers about the rumor, at least for now
- Talk to a BA about this rumor, and ask the BA to look into it with the folks doing the overall planning.

## **Explain to Cassandra:**

- Explain management rights under Article 4: that the State can assign offices, but it can't exercise its authority unreasonably.
- Explain other remedies (e.g. Alaska OSH rules) may be available, but that the GGU Contract does provide that employees can file Complaints under Article 15 for disputes not specifically covered by the contract.
- Explain that if the employer fails to treat her with generally accepted standards of courtesy and dignity, the union may file a Dignity Clause Complaint under Art. 6.03

## **Relevant Articles: 4, 6, & 15**

# Additional Scenarios 3

1. After closing up the Division office for the evening in the dark of mid-January, Buck is counting out the small bills of the day's cash receipts from the public. He hears the front door rattle, then two figures come through the entryway, silhouetted against the dark entrance. Buck believes the public is aware his office has cash in its strong box; he also believes no-one with an office key should be there at that time of the evening. Buck draws his .40 caliber semi-automatic pistol, and shouts at them to stop. It turns out to be one of his co-workers and a friend. Buck re-holsters the gun under his belt.
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- Buck comes to you first thing the next morning, talking fast about the 2<sup>nd</sup> amendment, and how he held the gun at 45 degrees as he had been trained, not pointing directly at them, about his right to self-defense, and about how he was really looking out for his employer's interest. He hasn't heard anything from his supervisors yet.
- What do you ask him? What do you advise him? What provisions of the contract might apply?



# NEXT STEPS

## Questions for Buck:

- Do you know if the employer has a policy concerning guns in the workplace?
- If so, did you follow the policy?
- Did you talk with your co-worker and his/her friend?
- Did they say anything about the gun?
- Has anyone else said anything about the incident?

## Advice to Buck:

- Stop talking about the 2<sup>nd</sup> amendment.
- Stop talking about how you were trained to deploy your weapon.
- Stop talking about how you were looking out for the employer's best interest.
- Stop talking about your right to defend yourself.
- Stop talking.
- For the moment just keep your head down and ears open.
- Talk to a BA about this one immediately. Talk only with your union rep (or attorney, if the matter triggers criminal investigation).
- If you hear anything about this matter, report it to your steward and/or BA immediately.
- If Buck is still packing heat, he may want to go put it in his car for the time being.

## Explain to Buck:

- When at work, your employer's rules may prevent you from doing what otherwise might be legal.
- Whenever you pull a gun on someone, criminal law may be involved, so make certain Buck understands the right to have an attorney for criminal issues, and that the union can't represent him on any criminal aspects of the incident.
- Explain the Just Cause standard: the burden is on the employer to accuse you of violating the rules, and the burden is on the employer to ask you questions.
- If Management wants to talk to you about the incident, it is reasonable to assume discipline may potentially result. immediately request union representation.
- Once represented, tell the truth when questioned by the employer.

## Relevant Articles: 4 & 14