



Oct. 8, 2021

## What to do if you receive threats or harassment

### **Threatening emails or other communications**

If an employee receives an email or other communication that threatens them, the employee or their employer should notify the police. The police can charge the sender of a threatening email. The Criminal Code states that it is a criminal offence to intentionally threaten another person with causing their death or bodily harm or to intentionally threaten to cause damage to a person's property or animals. In practice, whether the police will charge a person with uttering such a threat will depend on whether there is evidence and will depend as well on details such as the nature of the threat, the relationship between the persons involved, whether there are aggravating circumstances, whether there is a history of threats, etc.

### **Communications that promote hatred against an “identifiable group”**

If an employee is the target of tweets or other social media posts or group emails that incite hatred against the employee as a member of an identifiable group or that promotes hatred against an identifiable group, the employee or their employer should notify the police.

The Criminal Code makes it a criminal offence to publicly incite hatred or willfully promote hatred against an “identifiable group.” Identifiable group is defined as any group distinguished by race, religion, colour, national or ethnic origin, age, sex, sexual orientation or mental or physical disability. These Criminal Code provisions do not apply to private communications. They prohibit the public distribution of hate propaganda, such as social media and other online communications that willfully promote or incite hatred. Among other things, the Code empowers judges with the authority to order the removal of hate propaganda from any computer system located in Canada that is available to the public.

If an employee receives an email that is just to them that incites hatred against the employee as a member of an identifiable group or that promotes hatred against an identifiable group, this would almost certainly be considered a private communication, and it is highly unlikely that the police would take any action in response as it would not be a criminal offence to send such a private email.

### **The employer's obligations**

Occupational health and safety legislation requires an employer to provide its employees with a safe and healthy workplace. If an employee reports to their employer that they have received a threatening email, the employer should take action to assist the employee. This could mean that the employer would contact the police and assist the police with their investigation. It could also mean that the employer would assist the employee with blocking further emails from the sender.

If an employee receives an email that is vile and sexist or racist or otherwise hateful but it is just to them and therefore can be seen as a private communication, they should nevertheless report this to their employer, and consistent with the employer's obligation to provide a safe and healthy workplace, the employer should assist the employee. This could again mean that the employer would assist the employee with blocking further emails from the sender. It could also mean that the employer would respond as the employer to the sender, or, if the employee desires, the employer would reassign the employee in some way. If the sender of the email is another employee or manager of the employer, the employer should take corrective action, including possibly disciplining or terminating the employment of the employee or manager.

As well, occupational health and safety legislation requires employers to establish health and safety committees. If employees are receiving hateful emails, this is an issue that should be brought to and discussed by the health and safety committee, with policies and processes considered on how to address the problem.

### **Bill C-36**

In June 2021, the federal government introduced amendments to the Criminal Code, the Canadian Human Rights Act, and the Youth Criminal Justice Act that had the stated aim of "creating a safe online environment that protects all Canadians from hate speech and hate crimes". This Bill did not become law before the election was called and so died on the order paper. Among other things, the Bill proposed to:

- expand the definition of "hatred" in section 319 of the Criminal Code to include "the emotion that involves detestation or vilification and that is stronger than dislike or disdain."
- provide individuals with additional remedies to address hate speech including establishing a new peace bond in the Criminal Code designed to prevent hate propaganda offences and hate crimes from being committed

It is possible that the bill will be re-introduced in the next session of Parliament.