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Cover Page Footnote

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ACCUSATION OF CRIME AND JOB RETENTION: A COOLING OFF PERIOD FOR ARRESTED EMPLOYEES*

*Daniel L. Skoler***

The job a person holds determines, to a large extent, the kind of life he leads. This is true not merely because work and income are directly related, but also because employment is a major factor in an individual's position in the eyes of others and indeed of himself.[1]

I. INTRODUCTION

Individuals who are arrested for crime and placed in jail have to cope with more than the justice system. If they are employed workers, they will be called to account for their absence from work and, as likely as not, may find their jobs in jeopardy. Indeed, a recent Department of Labor study[2] suggests that loss of employment is one of the great hazards confronting the criminal accused who holds a job. Where employment is actually severed, the matter of return to the labor market is often aggravated beyond the disruption stemming from a normal layoff or termination. This is unfortunate because under our system of criminal justice, the arrested defendant remains a presumptively innocent citizen until convicted. Where the net effect of criminal allegations is to deprive the worker of his or her livelihood, the defendant suffers an economic penalty of great consequence before he or she has had his or her day in court.

In the early days following arrest and jail detention, precipitate discharges are not infrequent, whether justified or not, and severe

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1. PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE, TASK FORCE REPORT: CORRECTIONS 32 (1967).

2. Of the 402 employed arrestees processed by the District of Columbia Bail Agency in April, 1977, over 45 percent had lost their jobs and could not find work six months after arrest and, conservatively estimated, the loss of employment was deemed attributable or bore a relationship to the arrest in a third of the cases, even though less than three percent of all arrestees were ultimately incarcerated. Final Report, Employment and Crime Project, American University Institute of Advanced Studies in Justice, June, 1978. U.S. Department of Labor ORD Grant 21-11-77-16.

breaches can arise between employer and employee. Since job retention is half the battle for the arrested employee who will in most cases return shortly to the labor market, whether acquitted or convicted, it is important that social policy avoid fostering breakdowns in communication that rupture job relationships when, with appropriate contact and counselling, such relationships can be preserved. This can often be done by professional and volunteer workers assigned to the task of seeing that employers are notified; giving appropriate explanations, and communicating the remorseful feelings of arrested defendants when they engage in the apparently senseless and defiant behavior of violating criminal laws. Our knowledge of the operation of pre-trial charging, arrest and detention procedures suggests that help of this kind might be enhanced by a grace period to bring employer and employee back together after the trauma of arrest and confinement. Yet, no system exists for insuring that the grace period will occur.

In the course of a mid-1977 meeting[3] on crime and employment issues such as this, the author speculated that it might be instructive to consider legislation requiring private and public employers, subject to reasonable exceptions, to honor a "cooling off" period during which they could not terminate employees accused of crime so that tempers might subside, alternatives be examined, and enough facts laid bare to make sure that discharge was the proper course. It is the purpose of this article to examine the legality and some of the operational implications of such a public policy initiative, that is, the feasibility of state or municipal laws which protect the employment position of the arrested defendant holding a job via a temporary period, for example, one month, during which the employer could suspend the employee and his salary payments, but not terminate employment.

The analysis will examine: (i) the legality of government interference with the employment contract and some of the complications; (ii) the labor union interests and ramifications of such action, *i.e.,* how it might affect collective bargaining agreements covering the arrestee's unit; and (iii) what kinds of features and provisions would be best calculated to avoid sensitive questions of legality or illegality or undue imposition on the employer's legitimate business interests. It is recognized that this effort to explore protection of arrestee employment status is uncharted legal territory and quite speculative. Nevertheless, a reasoned scrutiny of the concept would seem valuable, even if conclusions are negative, because of two factors. First, the concept

3. Advisory Board Meeting, Employment and Crime, *supra* note 2, July 29, 1978.

emphasizes the importance of extending our society's commitment to the presumption of innocence of accused persons to the real world of economic survival and not just court system processing.[4] Secondly, it reflects the desirability of a firm, automatic and official umbrella to protect the negotiation, counseling and employer-employee mediation that may often be needed to get the arrestee over his detention crisis.

First, a hypothetical system will be defined and then the issues will be examined against this norm with frequent side trips to examine special issues and variations on the primary concept.

II. THE "COOLING OFF" LAW

The kind of legislation here contemplated is a statute which would prohibit public and private employers in the jurisdiction from discharging any employee who has been at work for a minimum period, *e.g.*, at least 6 months, or during a brief cooling off period following arrest and placement in pretrial detention, *e.g.*, 30 days or 3 days following release from detention, whichever is sooner. During this cooling off period, the employer could suspend the employee, and impose forfeiture of pay and benefits to the extent permissible under the contract of employment and existing benefit plans. Upon termination of the period, the employer could fire the employee for whatever grounds would have been legitimate at the time the suspension started, including behavior and actions involved in the arrest incident. During the suspension period, the employer would also be obliged to enter into at least minimal dialogue, one or two interviews, with duly designated court system personnel, such as counselors or paid or volunteer aides, to discuss the employee's work record and status; to explore the employer's willingness to keep the employee in his or her service; to generate information; and to encourage phone calls or even meetings with the employee or his family while the employee is in detention. The objective of this dialogue would be to facilitate a considered and calm decision and to ascertain what help or services the employer might need to avoid financial loss or competitive or operational disadvantage in holding the job open.

Other features of the plan might include:

(i) a provision that existing employment or collective bargaining agreements shall be deemed superseded or modified to the extent inconsistent with the "cooling off" law;

4. In this regard, note should be taken of federally supported standards which call on states to "enact legislation immediately to assure that no person is deprived of any license, permit, employment, [or] office . . . based solely on an accusation of criminal behavior." NATIONAL ADVISORY COMMISSION ON CRIMINAL JUSTICE STANDARDS AND GOALS, *Corrections Report*, Standard 2.10 (1973).

(ii) a provision for a short "cooling off" period such as 5-6 days, even for the employee who is arrested, booked and released without detention or perhaps with only an overnight or single day stay since, despite the absence of significant lost time in such situations, the disruption and trauma of the arrest event often generate misunderstanding, bad feelings and precipitate action in the immediate wake of the crisis;

(iii) a provision that in order to obtain suspension rights, employees must take some affirmative action to notify the employer of their situation, either personally or through family or justice system personnel, within a reasonable period after arrest and booking; and

(iv) consideration of differential treatment as between employees accused of crime against third parties and those arrested for crimes against the employer or fellow workers.

III. THE INTERFERENCE WITH EMPLOYMENT CONTRACT ISSUE

The employment contract represents a property interest protectable against undue governmental interference by constitutional guarantees of due process of law[5] but nevertheless subject to abridgment, limitation and regulation, not only in situations of emergency and compelling state interest,[6] such as the national defense, but also in favor of countervailing and reasonable notions of public policy, such as bias-free job opportunity in terms of race,[7] nationality,[8] sex,[9] age,[10] or physical handicap.[11] Thus, in terms of preservation or renewal of employment rights, the federal government in the Universal Military Training and Service Act of 1948,[12] mandated that employers rehire those employees who left work to undertake military service in jobs of like seniority, status, and pay. Just last year, the nation witnessed activation by executive order of the "cooling off" provision of the Taft-Hartley Act[13] requiring employees in the coal industry to suspend their clear and legitimate work stoppage rights in collective bargaining contract negotiations to return to work during the 80-day cooling off period. A bill introduced in the 95th Congress[14] would establish reemployment rights for workers who temporarily relinquish employ-

5. U.S. CONST. amend. V, amend. XIV.
6. Highland v. Russell Car & Snow Plow Co., 279 U.S. 253 (1929).
7. Civil Rights Act of 1964, 42 U.S.C. § 2000e (1976).
8. *Id.*
9. *Id.*
10. 29 U.S.C. § 623(a) (1976).
11. 29 U.S.C. §§ 793-94 (1976).
12. 50 U.S.C. app. § 459 (1976).
13. 29 U.S.C. §§ 178-79 (1976).
14. S. 2485, 95th Cong., 2d Sess., 124 CONG. REC. S. 1117 (1978).

ment for up to a five year period to pursue education or to bear and raise children. Since the mid-sixties, it has been unlawful to discriminate in the hiring or discharge of employees, regardless of employment contract provisions, because of race, color, religion, sex or national origin,[15] and similar provisions based on age[16] or union membership activity[17] are also on the federal law books.

As noted, such restrictive regulation ranges from emergency situations such as the crippling national coal strike, to the facilitation of defense policy as in military service reemployment, to the implementation of important social values, including pursuit of education, child care goals, and non-discrimination in employment. Employment contract regulation to preserve arrestee status for a limited period would probably fall under the third category, implementation of important social values. There is little case precedent or legal doctrine to suggest that a limited "cooling off" period such as here proposed could not properly be imposed by federal or state statute.[18]

IV. NORMAL DISCHARGE RIGHTS AND CRIMINAL ARRESTS

A common law contract of employment, in the absence of specific written provision to the contrary or reliance on published employer policies or established practice, is considered terminable-at-will where no express term of employment is specified. Thus, in such a case, prompt discharge or termination for arrest, conviction or any other behavior deemed improper is fully discretionary with the employer. Even in such cases, the power to discharge may be and often is limited by applicable provisions of federal and state labor relations law or legislation dealing with discrimination in employment or perhaps health and safety laws.[19]

15. Civil Rights Act of 1964, 42 U.S.C. § 2000e (1976).
16. 29 U.S.C. § 623(a) (1976).
17. *Id.* at § 158(a).
18. A local law or municipal ordinance might present a different situation since criminal law administration and rule-making is traditionally a federal and state function—but not necessarily. The cooling off period does not directly interfere with the criminal justice process. *See* 56 AM. JUR. 2d *Municipal Corporations* § 207 (preeminent activity of state in criminal enforcement) and §§ 471-75 (broad "police power" to impose reasonable regulation on business and commercial activities) (1971).
19. *See* Note, *Employment at Will—Limitations on Employer's Freedom to Terminate*, 35 LA. L. REV. 710 (1975). There does exist case law suggesting that employers will be held liable for discharges in bad faith or motivated by reasons which contravene public policy even under at-will contracts. *See* Monge v. Beebe Rubber Co., 114 N.H. 130, 316 A.2d 549 (1974) (married female employee dismissed because she failed to go out with foreman); Frampton v. Central Indiana Gas Co., 260 Ind. 249, 297 N.E.2d 425 (1973) (retaliatory firing when employee exercised right to workmen's compensation benefits); Petermann v. Teamsters Local 396, 166 Cal. App.2d 766, 334 P.2d 25 (1959) (discharge when employee refused to commit perjury at insistence of employer).

Some very early case law[20] held the employment relation sacrosanct against governmental imposition of even "due process" type notice provisions in discharge cases. It was not long, however, before the courts began to validate statutes which required such safeguards as a letter of dismissal explaining reasons when an employer fired a worker.[21] Such restrictions could go to prohibitions on the very act of termination or discharge itself, such as in the federal Consumer Credit Protection Act of 1968[22] where, under an economic stabilization rationale, employers are prohibited, under criminal penalty, from discharging an employee because his or her earnings have been subjected to garnishment for a single indebtedness.[23]

This state of affairs means that the employee whose work is governed by an informal or oral contract, as opposed to one protected by a collective bargaining or other written agreement, may face undue and perhaps inequitable exposure to summary dismissal for being arrested and detained in jail although his presumption of innocence status is no different from that of the union employee. Unless there is some equal employment opportunity or non-discrimination policy operative, there will be little recourse for the oral contract employee.[24]

V. EFFECT OF COLLECTIVE BARGAINING AGREEMENTS

Most collective bargaining agreements have little to say about discharge or suspension of arrested employees or, indeed, employees convicted of crimes.[25] The typical discharge and discipline provision is

20. *E.g., In re* Opinion of the Justices, 220 Mass. 627, 108 N.E. 807 (1915) (court advised that the state legislature could not constitutionally require railroad corporations to give employees a chance to answer charges when being fired for misconduct).

21. *See, e.g.,* Prudential Ins. Co. v. Cheek, 259 U.S. 530 (1922) and Terminal Railroad Ass'n v. Hughes, 350 Mo. 869, 169 S.W.2d 328 (1943).

22. 15 U.S.C. § 1674 (1976).

23. *Id.* Private civil damages and reinstatement have been held to be remedies under this law as well as criminal penalties. *See* Stewart v. Traveler Corp., 503 F.2d 108 (9th Cir. 1974) (private action) and Nunn v. City of Paducah, 367 F. Supp. 957 (W.D. Ky. 1973) (reinstatement).

24. To illustrate the effect of anti-discrimination laws, the Equal Employment Opportunity Commission has found that an employer's discharge of an incarcerated arrestee violated the equal employment provisions of Title VII of the Civil Rights Act because the practice tended to discriminate against minority employees. EEOC Decision No. 73-0257, 5 FCC Case 953 (1972). Several federal cases confirm that use of arrest data as job criteria in hiring employees violates Title VII by improperly screening out minority persons. *See* Skoler, *Minorities in Correction,* 20 CRIME AND DELINQUENCY 339, 343 (1974).

25. The observations in this section are based upon examination of a representative sampling of current collective bargaining agreements from a variety of industries, *i.e.,* Chrysler and General Motors/U.A.W.; Sylvania/IAM, United Parcel/Teamsters; Chicago Hotels/Restaurant & Bartenders International; Colgate-Palmolive/ILWU; Woodward and Lathrop/Company Union; Dravo/Marine & Shipbuilding Workers; Truck Associations/AFL-CIO Mechanics; and CBS/Electrical Workers.

quite broad, indicating that employees may be discharged, disciplined, or suspended for "good cause," "just cause," or "sufficient cause," and that any employee aggrieved by discharge or disciplinary action may register a complaint which is typically processed pursuant to the normal grievance procedure established in the contract. There are, of course, variations on these two basic themes. For example, occasionally the agreement will specify what grounds constitute "good cause," including insubordination, drunkeness, drug abuse, theft, and failure to observe plant rules. Sometimes, there is a provision for advance notice by the employer to the employee and/or to the union, with an opportunity for a hearing or to answer charges before final discharge action is taken. On occasion, certain misconduct will be listed as suitable for immediate discharge. It seems quite rare, as indicated in one contract examined, to provide for a right to discharge any employee "who is convicted of a crime involving moral turpitude," with forfeiture of bail or collateral deemed a conviction, but the possibility exists that shop rules or company policies may include specific prohibitions on conduct which fill out the more general "good cause" standard in most formal labor contracts.

A second kind of collective bargaining provision may even have more relevance to the arrested and detained employee than the discharge and discipline provisions. It seems typical, in seniority clauses, to provide for forfeiture of seniority when an employee is absent or fails to report for work for some specified period of days, 3-10 days typically, without proper notification to management or without "reasonable cause" or "good cause." Thus, an arrested employee who is placed in jail and fails to notify his employer within the required time faces loss of seniority and can readily be discharged even as a non-disciplinary matter. This is also true of the arrested employee who notifies the employer but is kept in jail for an extended period awaiting trial.

Sometimes the unexplained absence or "AWOL" provision is included in the discharge and discipline clauses but even more often it is part of the seniority rules. It is especially significant because collective bargaining agreements do not explicitly treat arrest and criminal conviction as grounds for discharge and, by this omission, suggest that arrest and detention for an offense unconnected with work or the employer is not normally a "just cause" ground for firing. Unless the alleged criminal activity deals with such conduct as assault on a foreman or supervisor or theft from the employer, or other activity relating to the employer's business,[26] there seems to be a presumption

26. Indeed, a crime against the employer has been regarded in common law legal theory as a repudiation of the contract of employment, thereby subjecting the

that discharge is not warranted, although on occasion, an employer's community posture and business interest in employees who are regarded as honest and law-abiding has been used to justify discharge for "outside" or unconnected criminal activity. Thus, a discharge based on off-duty shoplifting by a maid employed in a hospital was sustained in a 1972 arbitration award because it reflected on the employee's ability to do her work and created bad relations with co-workers.[27] A "plant rule" treating a criminal conviction as punishable by discharge was upheld when asserted against an employee whose off-company property crime (marijuana possession) amounted only to a misdemeanor.[28] In another Labor Arbitration case,[29] the discharge of an employee found guilty of incest was upheld because of the adverse publicity and damage to public image suffered by the employer, a public utility.

Given the foregoing, the impact of collective bargaining agreements on the situation of the arrested and detained employee appears to be as follows. Arrest for a crime is generally not deemed "good cause" for discharge or severe disciplinary action,[30] unless perpetuated against the employer or fellow workers on company property, in which case the act can be handled as a violation of plant or employer rules. Arrest does not normally invoke discharge on "AWOL" grounds where prompt and proper employer notification is provided.[31] Finally, prolonged detention can lead to loss of seniority and thereby, vulnerability to discharge and discharge action, particularly where detention is not seen as an adequate reason for absence from work.

The foregoing is confirmed by authorities in the law of labor management relations and collective bargaining,[32] who question the

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employee to damages and summary dismissal even where the contract may have a specified notice period for termination. *See* Kloss, *Criminal Employees*, 125 NEW L.J. 450 (1975).

27. Fairmont Gen. Hosp., 58 Lab. Arb. 1293 (1972) (Dybeck, Arb).

28. National Flour Products Co., 58 Lab. Arb. 1015 (1972) (Eyraud, Arb.).

29. Lone Star Gas Co., 56 Lab. Arb. 1221 (1971) (Johannes, Arb.).

30. Even suspension pending outcome of criminal charges has been held improper where the case is ultimately dismissed or the employee is acquitted. *See* General Portland Inc., 62 Lab. Arb. 709 (1974) (Autrey, Arb.); Brown & Williamson Tobacco Co., 62 Lab. Arb. 1211 (1974) (Davis, Arb.); Westinghouse Air Brake Co., 55 Lab. Arb. 996 (1970) (Luskin, Arb.).

31. But AWOL or "absence without notification" rules have been upheld for discharges of jailed employees serving short sentences. C.F. Industries, 57 Lab. Arb. 721 (1971) (Howlett, Arb.); Buckeye Forging Co., 42 Lab. Arb. 1151 (1964) (Klein, Arb.). At least one case has ruled that pretrial detention cannot flatly be interpreted as violating "absence without justification" rules where the arrested worker is later found innocent. Capitol Mfg. Co., 48 Lab. Arb. 243 (1967) (Klein, Arb.).

32. Interviews with Professor Donald Rothschild, George Washington University National Law Center, Washington, D.C.; Ray Andrus, Department of Community Ser-

assumption that many employees are discharged for arrest and detention based on allegations of off-duty or outside criminal conduct. In such cases, unions will often undertake affirmative efforts to get detained employees out of jail and back to work pending disposition of criminal charges.[33] This may even include posting bail bonds or urging and offering special assurances for release on personal recognizance. In situations where employees must remain incarcerated awaiting trial, the frequent practice seems to be placement on suspension with discharge or other final disciplinary imposition postponed until conviction and sentence.

This protective framework for the accused employee does not negate that arrest and detention may be deemed the "straw that breaks the camel's back" in the case of workers regarded as unreliable, insubordinate, untrustworthy, and with histories of poor work attendance. Indeed, it is this type of employee who is frequently involved in a jail situation, thereby triggering, on the employer's part, a desire to use the occasion as a justifiable means of severing the employment relationship. Any consideration of the "cooling off" period proposal must therefore address the employer's legitimate concerns, and need to deal with marginal employees of this kind.

VI. PUBLIC EMPLOYEES

With more than one out of every six work force participants employed by governmental and public agencies[34], a few special observations about this group would seem in order. Indeed, some[35] might contend that government employees have a special susceptibility to discharge for criminal conduct after arrest and before trial and conviction, at least in the federal sector. This is because the basic federal legislation on disciplinary actions against civil service employees permits removal or suspension "for such cause as will promote the efficiency of the service."[36] Even where criminal charges have resulted in acquittal, federal courts have upheld "efficiency of the service"

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vices, AFL-CIO; William J. Mahannah, American Federation of Government Employees, Paul Wagner, International Union, United Auto Workers; and Lou Poulton, International Association of Machinists and Aerospace Workers (March, 1978).

33. *Id.*

34. Bureau of Labor Statistics, U.S. Department of Labor, "Employment and Earnings-1978," Table A-1 (total labor force of 102.8 million) and Table B-1 (total public employee force of 15.8 million).

35. *See* Comment, *Arnett v. Kennedy-Dubious Approbation of Adverse Action Procedures,* 16 WM. & MARY L. REV. 153; Magers, *A Practical Guide to Federal Civilian Employee Disciplinary Actions,* 77 MIL. L. REV. 65, 75 (1977) [hereinafter cited as Magers].

36. 5 U.S.C. § 7512 (1976).

discharges resulting from agency investigations and hearings on the questioned conduct and conclusions about adverse publicity and impairment of the worker's continuing fitness to perform assigned duties.[37]

At the state and municipal level, civil service legislation varies considerably, with rather frequent provision for discharge based on conviction of serious crime. Virtually none of the legislation explicitly refers to arrest and detention. It generally contains a broad and ambiguous area for disciplinary action in response to criminal-type acts such as assaults, thefts and fraud, which might be deemed to fit general removal categories such as "reasonable cause," "immorality," "corruption," and "gross misconduct."[38]

VII. OPERATIONAL PROBLEMS FOR THE EMPLOYER

As shown previously, automatic or prompt firing when an employee is arrested and detained is not ordinarily permitted nor is it usual practice in businesses and industries governed by collective bargaining agreements except, perhaps, where the employer is the victim of the criminal act. Thus, many employers have learned to live with a state of affairs not greatly different from the statutory suspension period proposed here for all employers in relation to arrested employees. Nevertheless, a "cooling off" period does create operational problems that might be less pressing if the employer were able to take prompt discharge action. Many issues arise in this context. These include: whether the employee continues to accrue seniority while detained; whether the employee continues to draw pay while detained; whether the employee still accrues or can claim sick leave, vacation, pension, medical and life insurance benefits while detained; and whether the employer can get substitute help during the suspension period when it cannot offer a permanent job until the period ends.

The proposed "cooling off" law would not, of itself, require the employer to do anything or provide anything to the employee during the 30-day waiting period. However, union obligations, group insurance policies, and federal and state laws may require the continued accrual of costs with respect to a person who retains the technical status of employee, albeit inactive.

In view of the short duration of the mandatory suspension period, 30 days, it seems unlikely that this would impose a significant burden.

37. *See* Finfer v. Caplin, 344 F.2d 83 (2d Cir. 1965), *cert. denied,* 382 U.S. 883 (1965) (bribery allegations); Wathen v. United States, 527 F.2d 1191 (Ct. Cl. 1975), *cert. denied*, 429 U.S. 821 (1976) (homicide allegations with insanity defense acquittal). For general guidance, see Magers, *supra,* note 35.

38. 63 AM. JUR. 2d *Public Officers and Employees* §§ 189-201 (1972).

First, even if the employee were discharged, group coverages such as medical, life and accident insurance tend to run for an additional 30 days. Second, since the employee in jail is not at work, he would either be using up accrued vacation or personal leave, and drawing legitimate pay therefor, if consistent with employer rules or, if absent without such entitlement, would be ineligible for compensation. Of course, benefit plan and insurance policy provisions cannot always be readily adjusted to new restrictions such as the continuance of the employment relationship proposed here. Indeed, there may well be some additional economic cost to the employer as a result of the "cooling off" law. Nevertheless, it does not seem substantial and the fact that large firms under collective bargaining agreements live with substantially the same arrangement, via advance warning and "due process" hearing procedures in terminations, suggests that the concept would not be unduly intrusive.

The problem of substitute help for a small employer who cannot operate with an employee in detention or who must replace the lost manpower is a real one. Nevertheless, it is not as crippling as it might appear. There is always the possibility of temporary help and even if the suspension period prevents the employer from promising full employment status for 30 days to a temporary replacement, the employer can indicate that this would be his intent if he cannot be persuaded to keep the arrested employee.

VII. CONCLUSION

In a series of articles appearing a few years ago in a British legal periodical,[39] an English attorney explored the legal, practical and moral problems arising in cases of criminal activity by an employee. One of the major conclusions reached was that when an employee was accused of crime but guilt remained to be established,

> [t]he best solution is not to dismiss the employee, but to suspend him during the investigation . . . . It is good practice for the employer to establish disciplinary procedures for these circumstances before the problem arises, and to make them clearly known to each individual employee.[40]

The proposed "cooling off" law seeks to take precisely this kind of action as a matter of statutory law and social policy, but in the context of a temporary 30 day suspension, so as to permit mediation and dialogue rather than a much longer suspension through the period of

39. Kloss, *Criminal Employees*, 125 NEW L. J. 405 (1975).
40. *Id.*

investigation, trial and ultimate conviction or acquittal which in most United States jurisdictions could run several months. As such, it offers no more than many large enterprises and collective bargaining agreements already provide, perhaps for a shorter period, but has the merit of extending this kind of employee justice to all engaged in the employment relationship without disadvantage to those working with no union protection or under informal contracts.

It is suggested that the idea would not be an undue intrusion on the freedom of the large or small employer, that is would not cause severe loss, risk or disadvantage to the employer, and that it would add economic reality and support to our democratic presumption of innocence for those accused of criminal conduct. Perhaps some jurisdiction will take up this banner on behalf of the working person as it has on behalf of other causes such as non-discrimination for minorities and the handicapped, reemployment rights for those who serve the nation's defense, and protection against garnishment or dissolution of the employment arrangement for workers in debt. Experimentation such as this may inure to the benefit of both the justice system and work force stability which ultimately benefits employer and employee alike. Hopefully, some state or urban center will try to make or unmake the case.