

**United States Government
National Labor Relations Board
OFFICE OF THE GENERAL COUNSEL**

Advice Memorandum

DATE: August 28, 2003

TO : Peter B. Hoffman, Regional Director
Jonathan B. Kreisberg, Regional Attorney
John S. Cotter, Assistant to the Regional Director
Region 34

FROM : Barry J. Kearney, Associate General Counsel
Division of Advice

SUBJECT: Yale-New Haven Hospital
Case 34-CA-10428

This case, involving threats of physical violence by an employer agent while evicting handbillers from private property, was resubmitted for further consideration. The facts are more fully set forth in our previous memorandum in this case.¹ We concluded there that it would not effectuate the purposes and policies of the Act to allege that Yale-New Haven Hospital ("Hospital") violated Section 8(a)(1) when a Hospital police officer threatened an employee and two nonemployees with violence and physical harm, in the presence of employee witnesses, while ejecting them from the Hospital's private, exterior property. Contrary to the statement in our previous memorandum that this conduct was "isolated," it now appears that Hospital police officers had previously made unlawful threats to handbillers. Accordingly, we authorize the Region to issue complaint, absent settlement, alleging that the Hospital violated Section 8(a)(1) by such conduct.²

B.J.K.

¹ Yale University and Yale New Haven Hospital, Cases 34-CA-10404, et al., Advice Memorandum dated August 6, 2003, at pp. 14, 28.

² Miron & Sons Laundry, 338 NLRB No. 2, slip op. at 9-10 (2002) (employer entitled to demand that nonemployee union representative leave its premises, but was not privileged to resort to threats of physical violence, in the presence of employees, to obtain that objective). See also New Life Bakery, 301 NLRB 421, 428 (1991) ("[f]ew actions have a more direct tendency to coerce employees in the exercise of their statutory rights than threats of physical harm and genuine acts of physical violence"), enfd. mem. 980 F.2d 738 (9th Cir. 1992).