



STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES

DIRECTIVE

TITLE
**WORKPLACE VIOLENCE
PREVENTION PROGRAM**

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REFERENCES (Include but are not limited to)

NYS Labor Law, Section 27 b
12 NYCRR, Part 800.6

APPROVING AUTHORITY

- I. **PURPOSE:** In accordance with New York State Labor Law, Section 27-b, public employers are required to develop and implement programs to prevent, minimize and respond to incidents of Workplace Violence. The New York State Department of Labor (DOL) has outlined the specific program requirements for all affected employers in regulation 12 NYCRR Part 800.6.
- II. **POLICY:** The Department's core mission has always been to provide safe and secure facilities for staff, inmates and the general public. There are many directives and procedures currently in effect which all work together to create a strong and responsive Workplace Violence Prevention Program. The Department does not tolerate Workplace Violence.

The Department is committed to ensuring that any potential risk of workplace violence is evaluated by both the Department and Union Representatives as soon as possible. It remains the responsibility of all employees to report all threatening behavior and incidents of Workplace Violence, whether from an inmate, the general public or an employee, to supervisory staff immediately through existing reporting systems so appropriate evaluation and action can take place.

- III. **DEFINITIONS:** As used in or in connection with this Directive, the following terms are defined as indicated below:

- A. **Authorized Employee Representative:** An elected or designated representative of an employee organization recognized or certified to represent the employee pursuant to Article 14 of Civil Service Law. For the purposes of this directive, these individuals will be referred to as Union Representatives.
- B. **Retaliatory Action:** The discharge, suspension, demotion, penalization or discrimination against any employee, or other adverse employment action taken against an employee in the terms and conditions of employment.
- C. **Risk Evaluation and Determination:** An employer's inspection or examination of its' workplace with the participation of union representatives, to determine if factors exist that might place employees at risk of Workplace Violence. A risk evaluation shall include, but is not limited to, a review of previous workplace incidents, log of reported occupational injuries and illnesses, and monthly safety and environmental services inspections.
- D. **Supervisor:** Any person within the employer's organization who has the authority to direct and control the work performance of an employee, or who has the authority to take corrective action regarding the violation of a law, rule or regulation to which an employee submits written notice.
- E. **Imminent Danger:** Any conditions or practices in any place of employment which are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such can be eliminated through the enforcement of the procedures as outlined in this Directive.
- F. **Serious Violation:** A serious violation of the employer's Workplace Violence Prevention Program (WVPP) is the failure to:
 1. Develop and implement a program; or
 2. Address situations which could result in serious physical harm.
- G. **Workplace:** Any location, permanent or temporary, away from an employee's domicile where an employee performs any work-related duty in the course of his or her employment by an employer.

- H. **Workplace Violence:** Any physical assault or acts of aggressive behavior occurring where a public employee performs any work related duty in the course of his or her employment including but not limited to:
1. An attempt or threat, whether verbal or physical, to inflict physical injury upon an employee;
 2. Any intentional display of force which would give an employee reason to fear or expect bodily harm;
 3. Intentional and wrongful physical contact with a person without his or her consent that entails some injury; or
 4. Stalking an employee with the intent of causing fear of material harm to the physical safety and health of such employee when such stalking has arisen through and in the course of employment.
- I. **Workplace Violence Prevention Program Committee (WVPPC):** This committee is designated to review any incidents and reports of Workplace Violence. It shall be comprised of the facility Executive Team and Union Representatives from all of the unions represented at the facility.
- J. **Central Office and Satellite Location Workplace Violence Prevention Committee (COWVPC):** This committee is comprised of Department staff as determined by the Commissioner and union representatives as designated by each union. The committee shall review incidents of Workplace Violence and conduct an annual review of the Central Office and Satellite location Workplace Violence Prevention Program.
- K. **Statewide Workplace Violence Prevention Committee (SWVPC):** This committee is comprised of Department staff as determined by the Commissioner and Union Representatives as designated by each union. The main functions of this committee are to conduct an Annual Review of the Department's Workplace Violence Prevention Program and to review Workplace Violence Prevention Program related issues with statewide implications.

IV. **RISK EVALUATION AND DETERMINATION:** Due to the risks involved in the daily operation of correctional facilities, the Department continuously evaluates security risk issues through a variety of reporting mechanisms and inspection procedures as defined in numerous Departmental policies including those that address the safe and secure operation of workplaces that are not located within a correctional facility. Additionally, the Department will undertake periodic Risk Evaluations and Determinations.

The risk evaluation of the physical environment shall be carried out at correctional facilities by the Environmental Services Committees. In accordance with Directive #4066 "Facility Safety and Environmental Services Inspections," these committee members conduct monthly inspections of all areas of the facility. These inspections are documented on Form #2098, "Monthly Safety and Environmental Services Inspection Report" which includes Workplace Violence risk factors. These forms will be forwarded to the Deputy Superintendent for Security (DSS) when a Workplace Violence risk is identified for evaluation and appropriate action if necessary. This committee is composed of facility supervisory staff as well as Union Representatives and meets monthly to review the results of the inspections and ensure appropriate actions are taken in response to any reported deficiencies. (Also see section IV-D below).

A second major component of the Department's Risk Evaluation and Determination is the review of recordable accidents and illnesses. In accordance with Directive #4065 "Reporting Injuries and Occupational Illnesses," Worker's Compensation Law and Labor Law Section 27-a, all recordable employee accidents and illnesses are documented and investigated. The Fire and Safety Officer maintains these incident reports and also records them in corresponding logs. Additionally, recordable accidents and illnesses are maintained via the Department of Labor Form SH-900, "Log of Work Related Injuries and Illnesses" and the SH-900.1 "Summary of Work-Related Injuries and Illnesses". The SH-900 log and SH-900.1 report shall be reviewed annually by the WVPPC. The Fire and Safety Officer when maintaining the logs will forward any potential Workplace Violence-related reports to the DSS for review and appropriate action if necessary. The Central Office and satellite location liaison shall provide the COWVPC with the SH-900 log and SH-900.1 report for those locations.

Issues and incidents requiring immediate attention shall be addressed as they are identified. Additionally, the department has determined that the DSS or equivalent at each facility will collect reported Workplace Violence incidents for review by the Executive Team and Union Representatives (see section VII-B below), as a means to address correctable issues and ensure follow up action is taken if deemed necessary.

NOTE: For Central Office and satellite locations this function will be carried out by a liaison as designated by the Commissioner (Central Office Liaison). Risk evaluations at these locations shall be performed by Department staff and Union Representatives under the coordination of the Central Office Liaison.

Workplace Violence Risk Assessment Data

Workplace Violence related data is recorded and reviewed as part of established department reporting mechanisms. Examples of some of these data generating mechanisms and reporting procedures include:

- A. Unusual Incident Reporting System: Statewide electronic system utilized to categorize "Unusual Incidents" as defined in Department Directive #4004 "Unusual Incident Report." There are several categories of Unusual Incidents that fall under the definition of a Workplace Violence incident.
- B. Watch Commander's Log: In accordance with Directive #4008, "Watch Commander's Log," this logbook that is maintained by the designated Watch Commander to chronologically record all significant events as they occur during each tour and serves as a reference record for the Executive Team and supervisory staff.
- C. Labor management meeting minutes: Local labor management meetings (See Directive #2104 "Local Labor Management Committees") are a forum for management and labor to discuss issues of interest in an attempt to reach mutually acceptable resolutions and to foster good communications. It is the responsibility of Union Representatives from each bargaining unit to bring any employee reported incidents of Workplace Violence to the attention of the DSS or Executive Team to ensure that all reported Workplace Violence incidents are properly reviewed.
- D. Monthly Safety and Environmental Services Inspection Reports: In accordance with DOCS Directive #4066, "Facility Safety and Environmental Services Inspections," each facility has a committee that shall be composed of both managerial staff and union representatives. Each meeting shall continue to be a forum in which concerns and suggestions for improvement in workplace conditions can be resolved. Each month committee members tour designated areas of the facility and report their findings on the monthly inspection report, (Form #2098). These meetings allow for the review of conditions or practices that could lead to potential incidents of Workplace Violence.
- E. Inmate Disciplinary System: The Department's three tiered disciplinary system reports incidents of inmate misbehavior regarding a wide variety of rule violations including assaults and threats on staff. The hearing officer has the discretion to impose various confinement/loss of privileges sanctions.
- F. Population Management Committees: Comprised of facility personnel as designated by the First Deputy Superintendent or DSS. This committee monitors certain inmate activity and routinely assesses information which is obtained from all areas ensuring data is collected in one central area.
- G. Review of reported occupational accidents/injuries: In accordance with Directive #4065, "Reporting Injuries and Occupational Illnesses" recordable occupational injuries are investigated by the Facility Fire and Safety Officer and the area supervisor.
- H. Internal Audit Guides: In accordance with Directive #6920, "Internal Controls," every facility completes an Annual Internal Audit Guide that is a self audit tool with questions covering a broad range of facility policies and procedures from every major discipline. Negative responses require explanation and are followed up with appropriate Central Office staff.
- I. Departmental Correspondence: In accordance with Directive #0010, "Departmental Correspondence," correspondence which defines or interprets Department policy, discusses sensitive or controversial matters, concerns the welfare of inmates, or concerns institutional security will be sent to the Superintendent. All Workplace Violence-related correspondence, including employee/supervisory memorandums, is to be responded to as quickly as possible and, if deemed necessary, referred to appropriate Department Divisions (i.e., Office of the Inspector General, Office of Diversity Management, Bureau of Labor Relations, etc.) for response (See section VII-B-4 for reporting/recording procedures).

- J. Workplace Violence Incident Log: A manual log that will be maintained by the DSS at each facility and the Central Office or satellite location liaison to record incidents of Workplace Violence that are not captured by other automated reporting systems. Workplace Violence incidents or issues that are reported via correspondence or memorandum shall be recorded in this log (See section VII-B-4 for reporting/recording procedures).

NOTE: Workplace Violence incident reporting is not limited to these processes. The expectation is that facility administration and Union Representatives at each facility have an intimate knowledge of their facility layout, areas and policies that could impact the risk evaluation component.

V. WRITTEN WORKPLACE VIOLENCE PREVENTION PROGRAM

Each Superintendent and the Liaison for Central Office and Satellite Locations shall institute a Workplace Violence Prevention Program that shall include the following:

- A. A procedure whereby, at the time of their initial assignment, and annually thereafter, each employee will be informed and trained on the risks of potential Workplace Violence. (See section VIII for training program details.)
- B. The requirement that the WVPPC and COWVPC will meet at least annually or as necessary to review reported incidents of Workplace Violence.
- C. All staff that generate or review incidents that may be Workplace Violence-related shall receive training to ensure that all incidents of Workplace Violence are forwarded to the DSS for appropriate action.
- D. Continued utilization and implementation of all DOCS Directives which encompass the Department's core mission, which shall include: identifying, reporting, investigating and mitigating if necessary any Workplace Violence-related issues. Applicable Directives include, but are not limited to:
1. Directive #0700, "Office of the Inspector General"
 2. Directive #2003, "Domestic Violence Policy"
 3. Directive #2602, "Diversity Management Complaints"
 4. Directive #2605, "Sexual Harassment in the Workplace"
 5. Directive #4004, "Unusual Incident Report"
 6. Directive #4006, "Reporting Inmate Attitude and Behavior"
 7. Directive #4008, "Watch Commander's Log"
 8. Directive #4018, "Security Classification Guidelines"
 9. Directive #4026, "Critical Incident Stress Management Plan"
 10. Directive #4064, "Facility Safety"
 11. Directive #4065, "Reporting Injuries and Occupational Illnesses"
 12. Directive #4066, "Facility Safety and Environmental Services Inspections"
 13. Directive #4091, "Log Books"
 14. Directive #4803, "Inmate Program Placement"
 15. Directive #4910, "Control of & Search for Contraband"
 16. Directive #4930, "Tool Control"
 17. Directive #4932, "Chapter V, Standards Behavior and Allowances"
 18. Directive #4936, "Search of DOCS Employees"
 19. Directive #6910, "Criminal Prosecution of Inmates"
 20. Directive #6920, "Internal Controls"
- E. Incidents that may require criminal prosecution shall be referred to the appropriate law enforcement agencies in accordance with Department policy.

- F. A Statewide Workplace Violence Prevention Program Committee comprised of key department staff as designated by the Commissioner and union representation shall be established. This committee shall meet at least annually or as necessary to review Workplace Violence issues of statewide significance and to conduct a review of the Department's Workplace Violence Prevention Program policy.

VI. STATEMENT OF CONFIDENTIALITY: Nothing in this directive shall require the disclosure of personal information otherwise kept confidential for security reasons except as may be necessary to implement the provisions of this directive.

- A. Such personal information may include information which, if disclosed:

1. Would interfere with law enforcement investigations or judicial proceedings;
2. Would deprive a person of a right to a fair trial or impartial adjudication;
3. Would identify a confidential source or disclose confidential information relating to a criminal investigation;
4. Would reveal criminal investigative techniques or procedures, except routine techniques and procedures; or
5. Would endanger the life or safety of any person.

- B. If the case is a "privacy concern case" as defined below, the employer shall still be liable for reporting the Workplace Violence incident. However, before sharing a copy of the incident report with any party other than the Commissioner of Labor, the employer shall remove the name of the employee who was the victim of the Workplace Violence and shall instead enter "PRIVACY CONCERN CASE" in the space normally used for the employee's name.

1. The employer shall treat incidents involving the following injuries or illnesses as privacy concern cases:
 - a. An injury or illness to an intimate body part or the reproductive system;
 - b. An injury or illness resulting from a sexual assault;
 - c. Mental illness;
 - d. HIV infection;
 - e. Needle stick injuries and cuts from sharp objects that are or may be contaminated with another person's blood or other potentially infectious material; or
 - f. Other injuries or illnesses, if the employee independently and voluntarily requests that his or her name not be entered on the report.

VII. REPORTING REQUIREMENTS

- A. Each employee who believes that he or she is the victim of Workplace Violence is to submit a written report (i.e. memorandum) to his or her immediate supervisor, or to the Superintendent or Union Representative. It remains the responsibility of all employees to report all threatening behavior, whether from an inmate, the general public or an employee, to supervisory staff immediately so appropriate action can take place.

Note: Instances of inmate misbehavior shall continue to be reported via Form #2171, "Inmate Misbehavior Report" in accordance with Directive #4006, "Reporting Inmate Attitude and Behavior."

1. The memorandum shall provide all necessary details (i.e., date, time, location, description, injuries, witnesses, etc.) regarding the incident including the names (or descriptions) of those involved.
2. The Supervisor must take appropriate action if necessary and then forward the memorandum to the Superintendent's Office to ensure it is documented in the Workplace Violence Incident Log.
3. The Department recognizes that the input of its' employees is an important component of this program. Therefore, retaliatory action against any employee that submits a report of Workplace Violence will not be tolerated.

4. Employees are also encouraged to provide suggestions that may improve working conditions with the goal of preventing any future Workplace Violence incidents.
- B. A record of all reported incidents of Workplace Violence will be forwarded to the DSS or to the Liaison for Central Office and Satellite Locations. The DSS will collect the reports as described below to be maintained for internal review and or inspection by DOL inspectors and for presentation to the WVPPC.
1. Unusual Incident Reports: Unusual Incident Reports which depict an incident of workplace violence as defined in this policy shall be identified upon review of the final report and forwarded to the DSS. In conjunction, an automated monthly report will be generated monthly and forwarded to the DSS at each facility.
 2. Facility Inmate Disciplinary System: Inmate misbehavior reports that contain incidents of Workplace Violence will be identified. An automated report will be generated monthly and forwarded to the DSS at each facility.
 3. Population Management Committees: Information reported by this committee is a critical component for risk assessment and determination. This committee reviews trends and reports from various areas of the facility to mitigate potential problems and to take corrective action when necessary. The DSS is responsible to ensure that appropriate information from this committee is reviewed by the WVPPC. However, it should be noted that the DSS has the discretion to withhold confidential security information or personal information described in section VI-A, information which, if disclosed could compromise the secure and orderly operation of the facility.
 4. Departmental correspondence: In accordance with Directive #0010, any correspondence (including memorandum) received from an employee, supervisor or union representative that involves an incident of Workplace Violence shall be evaluated. If it is determined that a reported incident meets the criteria for an Unusual Incident or Misbehavior Report and neither has been filed, then such reports shall be immediately prepared. Reported incidents that do not meet the criteria of an Unusual Incident or Misbehavior Report shall be forwarded to the DSS for entry into the Workplace Violence Incident Log (i.e., traditional bound logbook, electronic record/file, etc.) which shall contain at a minimum: the specific incident location (See Directive #4004, "Unusual Incident Report", Form #2105.3 Attachment B), the time of day/shift, the date, a description of the incident/issue, the action taken, names and titles of involved employees, name or other identifier of the individuals involved, nature and extent of injuries and names of any witnesses.
- NOTE: If a reported incident of Workplace Violence has been documented as an Unusual Incident Report or Inmate Misbehavior Report, no additional reporting is required.
5. The Facility Executive Team will ensure that follow up action has been taken if deemed necessary, which may include referral to areas such as: the Office of Diversity Management, Office of the Inspector General, Bureau of Personnel or Bureau of Labor Relations, Employee Assistance Program, etc.
- C. Unresolved issues raised by the WVPPC shall be forwarded to the SWVPPC.

VIII. EMPLOYEE INFORMATION AND TRAINING

Each Superintendent and the Central Office Liaison shall provide his or her employees with the following information and training on the risks of Workplace Violence in their workplace or workplaces at the time of their initial assignment and annually thereafter:

- A. Employee Workplace Violence Prevention training shall include:
 1. An initial training component for all employees that provides a comprehensive overview of the Department's Workplace Violence Prevention Program.
 2. An annual refresher component
 - a. A training bulletin for review by each employee that will provide a refresher on the goals and objectives of the Department's Workplace Violence Prevention Program.

- b. The measures employees can take to protect themselves from Workplace Violence risks as identified by the Risk Evaluation. This may include specific procedures the employer has implemented to protect employees such as appropriate work practices or emergency procedures that are specific to the work area/location.
3. This Directive shall be reviewed with each new employee as part of his or her initial Orientation Package and shall be provided to employees upon request.

B. Related Training

1. All new employees are provided with the Orientation Handbook, "Correctional Dynamics" which outlines potential risks employees may encounter in the workplace and the means to address them.
2. All employees (both security and civilian staff) receive routine training that outlines risks and potentially dangerous situations that can arise in their specific work areas and the methods and techniques for staff to implement to avoid and or deal with such risks/situations.

IX. DEPARTMENT OF LABOR REFERRAL

- A. Any employee or Union Representative who believes that a Serious Violation of the Workplace Violence Protection Program exists or that an Imminent Danger exists shall bring such matter to the attention of their immediate supervisor in the form of a written notice and shall afford the Superintendent (or Central Office and Satellite location Liaison) a reasonable opportunity to correct such activity, policy or practice. Written notice to an employer shall not be required where Imminent Danger or a threat exists to the safety of a specific employee or employees, and the reporting employee reasonably believes in good faith that reporting to a supervisor would not result in corrective action.
- B. If, after following a referral of such matter to the employee's supervisor's attention and after a reasonable opportunity to correct such activity, policy or practice, the matter has not been resolved and the employee or Union Representative still believes that a Serious Violation of the Workplace Violence Prevention Program remains, or that an Imminent Danger exists, such employee or Union Representative may request an inspection by giving notice to the Commissioner of the Department of Labor or designee of such violation or danger.

Such notice and request shall be in writing, shall set forth with reasonable particularity the grounds for the notice, shall be signed by such employee or union representative, and a copy shall be provided by the Commissioner of Labor or designee to the employer or the person in charge no later than the time of inspection, except that on the request of the person giving such notice, such person's name and the names of individual employees or union representative shall be withheld. Such inspection shall be made forthwith.
- C. The Superintendent or designee and Union Representative shall be given the opportunity to accompany the Commissioner of Labor or designee during an inspection for the purpose of aiding such inspection. Where there is no Union Representative, the Commissioner of Labor or designee shall consult with a reasonable number of employees concerning matters of safety in the workplace.
- D. The authority of the Commissioner of Labor or designee to inspect premises pursuant to such an employee complaint shall not be limited to the alleged violation contained in such complaint. The Commissioner of Labor or designee may inspect any other area of the premises in which he or she has reason to believe that a Serious Violation of this directive exists.
- E. No employer shall take retaliatory action against any employee or Union Representative because they do any of the following:
 1. Makes an application pursuant to Section IX-A above;
 2. Requests an inspection as authorized in Section IX-B above; or
 3. Accompanies the Commissioner of Labor or designee as authorized in Section IX- C above.

- F. The Commissioner of Labor or designee may, upon his or her own initiative, conduct an inspection of any premises occupied by an employer if he or she has reason to believe that a violation of this section has occurred or if he or she has a general administrative plan for the enforcement of this section, including a general schedule of inspections, which provides a rational administrative basis for such inspections.