

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF CORRECTION

103 DOC 237

PREVENTION AND ELIMINATION
OF WORKPLACE VIOLENCE

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MASSACHUSETTS DEPARTMENT OF CORRECTION	DIVISION: Administrative Services Division
TITLE: THE PREVENTION AND ELIMINATION OF WORKPLACE VIOLENCE	NUMBER: 103 DOC 237

PURPOSE: To establish a Department of Correction ("Department") policy to prevent and eliminate workplace violence and to ensure that Department employees, contractual staff, and volunteers work in an atmosphere free from such violence. This policy does not apply to inmate violence, which is addressed by other Department policies.

REFERENCES: M.G.L. c. 124 § 1.

APPLICABILITY: Department Employees
Contractual Staff
Volunteers

PUBLIC ACCESS: Yes

LOCATION: Department's Central Policy File
Each Institution's Policy File
Internal Affairs Unit Policy File
Central Personnel Unit's Policy File
Each Regional Personnel Unit's Policy File

RESPONSIBLE STAFF FOR IMPLEMENTATION AND MONITORING OF POLICY:

- Deputy Commissioner, Administrative Services Division
- Assistant Deputy Commissioners
- Superintendents
- Chief of Internal Affairs Unit
- Division/Department Heads

EFFECTIVE DATE: 06/29/2015

CANCELLATION: 103 DOC 237 cancels all previous Department policies, procedures, directives, bulletins, orders, notices, rules and regulations regarding workplace violence that are inconsistent with this policy.

SEVERABILITY CLAUSE: If any part of 103 DOC 237 is, for any reason, held to be unconstitutional, contrary to statute or in excess of the authority of the Commissioner, such

decisions shall not affect any other part of this policy.

237.01 **POLICY**

It is the Department's policy to have zero tolerance for workplace violence in any form. Any use of work time or workplace facilities to commit or threaten to commit acts of workplace violence is cause for discipline, up to and including termination. All allegations and incidents of violence or threatened workplace violence shall be reported, reviewed and treated in a serious manner. Such reports shall remain confidential unless disclosure becomes necessary. This policy does not apply to inmate violence, which is addressed by other Department policies.

237.02 **DEFINITIONS**

Allegation - Any event that is said to have happened but which has not yet been verified. An allegation includes any and all rumors.

Workplace Violence - Includes, but is not limited to, the following:

- 1) Bullying, intimidation, harassment, stalking, concealment of or brandishing a weapon, or physical assault and/or battery;
- 2) Any behavior that communicates by any means (e.g., oral, written, electronic, gestures or expressions) a direct or indirect threat of physical harm, violence, harassment, or intimidation;
- 3) Any behavior that causes a reasonable person to be in fear of their own safety or that of another;
- 4) Any behavior that damages property that is owned or leased by the Commonwealth;
- 5) Any behavior that damages property that is owned or leased by others;

- 6) Any behavior that causes disruption of workplace productivity, as determined by the Commissioner, the applicable Superintendent, Division Head, or their designees; or
- 7) Any behavior that uses Commonwealth resources (e.g. fax machines, electronic mail, telephone, etc.) to perpetrate any of the acts/behaviors enumerated above in paragraphs 1-6.

Incidents of workplace violence may be acted out individually or take place between employees, contractors and volunteers, employees and contract employees, contractors and volunteers and the general public, employees and acquaintances/partners, and employees and their family members.

Workplace - 1) any property owned or leased by the Commonwealth; 2) any location where Commonwealth business is conducted; 3) any Commonwealth vehicle or private vehicle being used for Commonwealth business; 4) any location that the violence occurs if it is the result of an act(s) or decision made while conducting Commonwealth business; 5) any site where an employee is considered "on-duty;" or 6) any site where the Commissioner determines that the activities are in furtherance of Commonwealth business.

Employee - Any person employed either full-time or part-time by the Massachusetts Department of Correction.

Employer - The Commonwealth of Massachusetts Department of Correction.

237.03

WARNING SIGNS

The warning signs of a person's potential for workplace violence may include, but are not limited to, the following:

- Has a history of violence or violent behavior
- Speaks and/or complains loudly, using profanity or sexual comments

- Makes statements such as: he/she will lose control; there is "nothing to lose"; life is worthless without his/her job; life is unbearably stressful
- Challenges authority
- Appears to be under the influence of drugs or alcohol
- Verbalizes threats
- Tries to intimidate
- Paces or exhibits outward signs of anxiety, anger, or frustration
- Blames others for problems, errors, mistakes, or failures
- Responds negatively or fails to respond to constructive advice
- Verbalizes/demonstrates knowledge of weapons and ability to use them if provoked
- Has difficulty relating to co-workers
- Has attendance problems
- Exhibits decreased productivity
- Shows inconsistency in work patterns
- Has problems concentrating
- Demonstrates changes in personal hygiene
- Disregards workplace safety
- Shows obsessive interest in co-worker(s).

A person exhibiting any one of these warning signs may not necessarily be contemplating workplace violence. However, employees, volunteers and contractors should be alert to these signs and report them in accordance with this policy.

237.04 **REPORTING REQUIREMENTS**

All allegations, reports, incidents, or threats of workplace violence must be immediately reported to the Superintendent, Division Head, or designees verbally and followed up with a confidential incident report before the end of the shift. During non-business hours, these allegations shall be reported to the shift commander who shall ensure that the Superintendent or Division Head is immediately notified. If any employee, except for a victim of a threat or incident of workplace violence, has knowledge of such a threat or incident and fails to

report it, he/she may be subject to disciplinary action, up to and including termination. Failure of a volunteer or contractor, except for a victim, to report such a threat or incident may result in the contractor or volunteer being barred from all facilities.

The Superintendent or Division Head shall immediately notify his/her supervising manager of any incident of alleged workplace violence. If the Superintendent or Division Head determines it to be a serious workplace violence incident then an urgent matter should be completed within a twenty-four (24) hour period or the next business day if the allegations are received on a weekend or holiday. The Superintendent or Division Head shall exercise judgment whether an urgent matter is warranted. He/she shall also immediately notify the Internal Affairs Unit (IAU) duty officer via the Department Duty Station and follow up by completing the Workplace Violence Reporting Form. See Attachment 1. The duty officer shall immediately notify the Chief of the IAU. The respective Assistant Deputy Commissioner of the Northern or Southern Sector shall ensure that the Deputy Commissioner of the Administrative Services Division is immediately informed of any notifications under this policy. If the allegations involve a possible violation of state law, the Chief of Investigative Services must ensure that the respective District Attorney's office has been notified. M.G.L. c. 127, § 38C requires the Department to report a felony to the respective District Attorney's office.

Institution staff shall immediately secure any crime scene. Staff shall properly handle any evidence collected in order to preserve the integrity of the chain of evidence.

237.05 **INVESTIGATION**

The Chief of the IAU shall review and assess all reports, allegations, and incidents of workplace violence. Action shall be taken and documented on all reports and incidents of workplace violence. The Chief of the IAU shall initiate Department investigations of workplace violence utilizing

institution investigative staff, or where appropriate, IAU staff. The Chief of the IAU shall utilize all available means to fully investigate and address all allegations and incidents of workplace violence. To the extent feasible, and subject to change per the discretion of the Chief of IAU, investigations shall be conducted in accordance with Attachment 2 "Standard Operating Procedure for Workplace Violence Investigations." Failure to comply with the "Standard Operating Procedure for Workplace Violence," however, shall not alter the investigatory findings.

The Department may detach an employee alleged and/or implicated in workplace violence with pay pending an investigation of the matter. The Department may also temporarily reassign an employee until a final determination is made after the completion of the investigation. The Department may bar contractors who are implicated in workplace violence from entering any correctional institution until the investigation is completed. The Department shall bar any volunteer implicated in workplace violence from entering any correctional institution until the investigation is completed.

237.06 **AFTERMATH/RETALIATION**

Based on the findings and conclusion of the investigation, actions may include exonerating the employee, referring him/her to appropriate resources as stated in this policy such as anger management, referring him/her for a fitness for duty examination, and/or taking formal disciplinary action against the employee, up to and including termination. The employee's personnel file shall contain a copy of such results. In the case of a contractor or volunteer, such action may include sending a notification that said contractor or volunteer has been barred from all institutions and the reasons therefore.

If the employee, contractor or volunteer is exonerated, the Commissioner or his designee shall send a formal letter to the employee, contractor or volunteer notifying them of the results of the investigation.

If the investigation reveals that an employee has made false allegations or made a material statement that he/she, in good faith, could not have believed to be true, then the Department may take appropriate disciplinary action.

Retaliation for reporting incidents of workplace violence, assisting in making such a report, or for cooperating in the investigation of such a complaint regardless of the merits or disposition of the complaint is prohibited. Any such occurrence is a very serious matter that may result in discipline up to and including termination.

237.07

TRACKING

Superintendents or Division Heads shall complete the Workplace Violence Reporting Form, and forward the form to the Chief of the IAU, within twenty-four (24) hours or the next business day if the allegations are received on a weekend or holiday. This form shall specify the critical details of the allegations including the date; time of alleged incident, shift, alleged victim(s), alleged perpetrator(s), location of alleged incident and other critical data (see Attachment 1).

The Office of Technology and Information Services shall establish a computerized database to number and track all incidents of workplace violence within the Department utilizing the aforementioned form.

The Chief of the IAU shall ensure entry of data into the workplace violence database to number and track all incidents of workplace violence within the Department utilizing the aforementioned form. All allegations and incidents of workplace violence shall be cross checked against this database to determine any common themes including institution, shifts, alleged victim(s) and/or alleged perpetrator(s). A report shall be generated by the Chief of the IAU on an annual basis and submitted to the Commissioner on common themes discovered upon analysis of this data.

237.08 **EMPLOYEE TRAINING**

All Department of Correction employees, contractors and volunteers shall receive pre-service training in Prevention and Elimination of Workplace Violence.

At a minimum, the pre-service training shall include definition of workplace violence, warning signs, reporting requirements, and a review of Department policies related to workplace violence.

237.09 **OPERATIONAL ISSUES**

The issue of workplace violence shall be taken seriously and Superintendents and Division Heads are mandated to review operational concerns related to this matter. It is important that Superintendents and Division Heads identify and eliminate potential areas within their institutions or divisions that might be conducive to this type of behavior. These areas may be eliminated by either the use of modern technology (i.e., cameras) or a change in operational protocols.

237.10 **RESOURCES**

The Department has many resources to assist employees in maintaining a safe work environment and to help prevent workplace violence. These resources include the following:

Employee Assistance Unit - Norfolk	(508) 660-5948
Bridgewater	(508) 279-6425
Shirley	(978) 514-6774

Domestic Violence Office* (978) 514-6589

Office of Diversity and
Equal Opportunity (508) 850-7790

*See Attachments B and C to the Department's Domestic Violence Policy, 103 DOC 238, for a list of agencies that assist battered individuals and provide counseling and treatment for batterers.

For additional resources, including alcohol and substance abuse, anger management and other counseling

services, you may contact the Department's Employee Assistance Services Unit.

WORKPLACE VIOLENCE REPORTING FORM

(If any of the space provided below is not sufficient, attach additional information to this form).

Reporting Institution or Division:

Date of Report:

Alleged victim(s):

_____ *(Include complete name)*

Alleged perpetrator(s):

_____ *(Include complete name and title)*

List any potential witnesses to the alleged incident:

Date & time of alleged incident:

Shift and location where incident is alleged to have occurred:

How did the allegation surface?

Provide a detailed account of the allegation:

Action taken to this point:

Report completed by:

Superintendent/Division Head's name & signature:

STANDARD OPERATING PROCEDURE
FOR WORKPLACE VIOLENCE INVESTIGATIONS

NOTIFICATION AND RESPONSE

The following notifications are in addition to requirements of 103 DOC 105, Department Duty Officer.

In the event of information and/or allegations concerning alleged workplace violence the following shall occur:

The shift commander shall:

- Notify the Superintendent;
- Ensure that the reporting employee(s) submit clear concise reports prior to the completion of their tour of duty and that they remain on site if necessary;
- Establish a crime scene if appropriate.

The Superintendent or Division Head shall:

- Notify the IAU duty officer;
- Notify his/her supervising manager;
- Ensure, if warranted, that all proper notifications are made to appropriate State Police and/or District Attorney's Office;
- Ensure that all related evidence is secured;
- Ensure the establishment of crime scene, if appropriate; and
- File an Urgent Matter Report within twenty-four (24) hours or the next business day if the allegations occur on a weekend or holiday, if appropriate;
- Fill out the Workplace Violence Reporting Form and forward to the Chief of the IAU within twenty-four (24) hours or the next business day if the allegations are received on a weekend or holiday;
- Consider referring the individual to training, programs, or counseling available through the Department or outside agencies.

The Assistant Deputy Commissioner of the Northern or Southern Sector shall:

- Inform the Deputy Commissioner of Administrative Services of all notifications received under this policy.

STANDARD OPERATING PROCEDURE
FOR WORKPLACE VIOLENCE INVESTIGATIONS (cont'd)

The IAU Duty Officer shall:

- Notify the Chief of IAU; and
- Confirm all notifications, if necessary, to outside law enforcement agencies, including the district attorney for the respective county.

The Chief of Internal Affairs shall:

- Provide oversight and monitor the collection of critical information;
- Monitor deadlines to ensure all reports are prepared within appropriate time frames;
- Assist in the coordination and the introduction of outside law enforcement agencies;
- Establish if investigation is to be conducted as a criminal or an administrative investigation;
- Assign an investigator;
- Coordinate all formal and informal briefings for executive staff; and
- Coordinate the introduction of available outside resources if warranted.

The Investigator shall:

- At all times conduct the investigation in a manner that shall not compromise any criminal prosecution;
- Identify resources that potentially may be used;
- Identify all potential individuals to be interviewed;
- Develop strategies on how the investigation shall proceed;
- Establish the anticipated time frame of the investigation; and
- Manage, coordinate, conduct and assign interviews.

STANDARD OPERATING PROCEDURE
FOR WORKPLACE VIOLENCE INVESTIGATIONS (cont'd)

PROTOCOL FOR INVESTIGATIONS

Protocol for workplace violence investigations shall include, but not be limited to, the following:

The investigator should determine whether the allegations are true, and if so, whether they constitute a violation of law, a violation of the rules and regulations governing all employees and contractual staff of the department of correction or a violation of Department policy or procedure.

Ensure the protection of the employee, contractor or volunteer who is making the allegations.

INTERVIEWS

If there is a potential for criminal charges against the employee being interviewed they must be advised of their rights under the 5th Amendment to the U.S. Constitution and Article 12 of the Massachusetts Declaration of Rights.

Employees who are members of a bargaining unit are, entitled to union representation during any interview that could lead to administrative discipline of the employee, if the employee requests this representation.

If there is no potential for criminal charges, the employee can be compelled to testify at an investigative interview per section 19c of the Rules and Regulations Governing All Employees of the Department of Correction.

Only the Attorney General and the respective District Attorneys can grant immunity.

When interviewing an employee, contractor or volunteer, fully explain what the allegations are and explain that this is his/her opportunity to respond. Ensure that you obtain a detailed statement and read the statement back to the employee, contractor or volunteer to ensure the accuracy of the report. If at all possible have another

STANDARD OPERATING PROCEDURE
FOR WORKPLACE VIOLENCE INVESTIGATIONS (cont'd)

Investigator present for this interview. Furthermore, ensure that no promises are given or implied. After the interview, if warranted, instruct the employee, contractor or volunteer to write a detailed report on what was discussed during the interview. This report should be submitted prior to the interviewee leaving. Also advise the employee, contractor or volunteer that this interview is confidential and is not to be discussed with anyone.

When interviewing an employee, contractor or volunteer who is not the focus of the investigation, if warranted, instruct him/her to write a detailed report of his/her knowledge of the incident in question. This report should be submitted prior to the interviewee leaving. Also advise the employee, contractor or volunteer that this interview is confidential and is not to be discussed with anyone.

At no time shall any interview of employees be referenced as an "Investigative Hearing".

INTERVIEW REPORT

1. An interview package shall be submitted within one hundred and eighty (180) days of the conclusion of interviews unless the time is extended as outlined in the Investigation Section above.

2. When determining findings keep in mind the following:
 - The finding "unfounded" is made if there is no evidence that the alleged infraction took place;
 - The finding "not sustained" is made if the infraction may have taken place but there is insufficient evidence to conclude that the infraction was committed; and
 - The finding "sustained" is made if and when there is sufficient evidence that an infraction was committed.
 - The finding of "exonerated" is made if and when evidence demonstrates that the behavior did not constitute a violation of Department policy, rules and regulations, post order, or federal, state or local laws.

MEMORANDUM To All Employees
Re: Policy for the Prevention and Elimination of
Violence in the Workplace.

NOT ON INTRANET