

## **OPD WORKPLACE VIOLENCE AND PREVENTION CONTROL PLAN**

### **I. PURPOSE**

This Plan is issued to notify all New Jersey Office of the Public Defender employees of the agency's policy concerning violence in the workplace. This policy is consistent with Executive Order No. 49 issued April 17, 1996 by Governor Whitman.

### **II. POLICY STATEMENT**

- A. The safety and security of all employees (including contracted workers), clients, visitors and all property of the New Jersey Office of the Public Defender is of the utmost importance. It is the policy of the Office that threats and threatening behavior, harassment and intimidation, physical acts of violence, and intentional property damage committed either on the property of the Office or in the performance of work duties outside the Office's premises will not be tolerated. In keeping with this "Zero Tolerance" policy, the Office will respond to all acts of workplace violence which are brought to the attention of management.
- B. Employees are expected to report to their supervisor any conditions and contacts wherein they expect the potential for violence to their supervisor.
- C. Violations of this policy by employees or the public will be immediately addressed through appropriate disciplinary, administrative and/or legal action.

### **III. DEFINITIONS**

The following definitions apply to this policy:

- A. Workplace violence includes, but is not limited to, the utterance of threats and/or the display of threatening behavior, harassment and intimidation, physical assault or intentional property damage.
- B. Threats or threatening behavior is the overt expression, verbal or nonverbal, of intent to cause physical or mental harm to others or to oneself. It is intended to instill fear in the recipient thereof. An expression constitutes a threat without regard to whether the party communicating it has the present ability to carry out the threat and without regard to whether the expression of harm is one of an immediate or future nature.
- C. Harassment or intimidation is behavior or communication designed or intended to intimidate, menace or frighten another person.
- D. Physical assault is unwanted or hostile physical contact including, but not limited to, hitting, fighting, pushing, shoving or throwing objects.

- E. Property damage is damage to property, which includes property owned or utilized by the State, employees, clients and visitors.

#### **IV. CONSEQUENCES FOR THOSE WHO COMMIT VIOLENT ACTS**

- A. The Office will immediately investigate any instance of violence in the workplace involving Office employees and appropriate action will be taken. This action may include, but is not limited to, criminal prosecution of the person or persons involved, fine or restitution, suspension, and/or termination of employment.
- B. Any instance of violence in the workplace involving individuals who are not employees of the Office will be immediately investigated and appropriate action taken. The Office reserves the right to refer these situations to the proper law enforcement agency for further action.
- C. Depending on the circumstances, worksite management may request law enforcement personnel to remove from the Office of the Public Defender premises as quickly as safety permits any employee (including contracted workers), client or visitor who makes threats, exhibits threatening behavior, harasses others, attempts to intimidate employees or clients, or intentionally damages property of the Office. The Office may require that said individual remain off the premises pending the outcome of an investigation. In the event that police are contacted, the local manager must notify Assistant Public Defender Janice Anderson as soon as practicable.
- D. Any person who engages in a physical assault while on Office of Public Defender premises shall be removed by law enforcement personnel as quickly as safety permits and shall remain off the premises pending the outcome of an investigation. If time permits, employees will advise the worksite manager who will contact law enforcement personnel to remove the perpetrator. If time does not permit, employees are authorized to make this contact. In the event that police are contacted, the local manager must notify Assistant Public Defender Janice Anderson as soon as practicable.
- E. Forfeiture of employment may be applicable as specified by the New Jersey Criminal Code when an employee is convicted of a 3rd degree crime or other offenses as set forth in *N.J.S.A. 2C:51-2*.

**V. POLICY CONCERNING WEAPONS IN THE WORKPLACE**

- A. Under no circumstances may an employee of this Office or member of the public (other than an appropriately licensed law enforcement or security officer) possess in an Office of Public Defender worksite any form of weapon such as a firearm, explosive device or knife not manifestly appropriate for its use on one's person or in one's vehicle at any time. In the event that an individual may have a permit to carry such type of weapon, this policy shall supersede that permit. In addition, use of or intent to use any other object as a weapon is also a violation of this policy.
- B. If the above situation exists, such individuals will be asked to remove any form of weapon from the worksite. Employees who become aware of the presence of a weapon should immediately report it to their supervisor or the worksite manager. If a supervisor is unsuccessful in obtaining voluntary consent to this request, law enforcement assistance should be sought and Assistant Public Defender Janice Anderson should be contacted.

**VI. ACTIONS TO BE TAKEN REPORTING AND INVESTIGATING WORKPLACE VIOLENCE INCIDENTS**

**A. ACTIONS TO BE TAKEN**

The following procedure will be followed when an incident of workplace violence is in progress or has already occurred:

Employee Responsibilities

- 1. All Office personnel are responsible for notifying the management person in charge of the worksite of any incident of workplace violence, including any threats which they have witnessed or received. If the worksite manager is the perpetrator of the violence, the incident should be reported to his/her immediate supervisor.
- 2. Employees shall adhere to any and all instructions given to them by management including in some instances the maintenance of confidentiality.

Management Responsibilities

- 1. The worksite manager or designated person in charge shall immediately assess whether intervention by management is appropriate or if law enforcement authorities should be notified.

2. Intervention by worksite manager shall include actions to:
  - a. diffuse the situation (if law enforcement intervention is not needed)
  - b. ensure safety of employees
  - c. seek medical attention if necessary
3. If law enforcement intervention is necessary, the worksite manager will notify the appropriate law enforcement authorities.

## **B. REPORTING**

All incidents shall be reported in accordance with the following reporting procedures.

1. In all cases of a physical assault, Assistant Public Defender Janice Anderson will be contacted by telephone (609-292-7087) by the worksite manager as soon as safety permits.
2. For all reported incidents of workplace violence, the worksite manager will complete Initial Incident Report Form and fax (609-777-1795) or mail to Assistant Public Defender Janice Anderson of the incident or report of the incident.
3. Pursuant to the Public Employee's Occupational Safety and Health Act, all job related employee fatalities or in-patient hospitalizations must be reported by telephone by worksite management to the Office's Human Resources Staff at (609-292-8353). Consistent with Office policy, all occupational injuries or illnesses must be documented on the Employer's First Report of Accidental Injury or Occupational Illness Form (RM-2) and sent to Office of Human Resources Services.

## **C. INVESTIGATING**

### Employee Responsibility

All employees shall cooperate with any investigation of workplace violence. Employees may be asked to provide statements regarding an incident of workplace violence to which they were a witness.

### Management Responsibility

1. Investigation of reported incidents of workplace violence shall be conducted initially by the worksite manager. The investigation shall be conducted on an immediate, priority basis and in a manner consistent with concepts of confidentiality, fairness, impartiality, attorney-client privilege and due process. Known or suspected evidence should never be recovered or touched without law enforcement guidance.
2. As part of its investigation, the worksite manager, if appropriate, will obtain statements from the principals involved in the incident and from any witnesses.
3. Worksite managers are encouraged to contact their own management staff and/or staff from the Public Defender Human Resources Services (609-292-8353) for advice and guidance.
4. Worksite managers shall submit the Supplemental Incident Report Form which will contain their findings, actions taken and any recommendations to Assistant Public Defender Janice Anderson within 10 days of the incident.

### **VII. ASSISTANT PUBLIC DEFENDER**

Based on the details and severity of the incident as reported in the Initial or Supplemental Incident Report Form, Assistant Public Defender Janice Anderson will take one or more of the following actions:

1. Take appropriate action to assist management in responding to an incident in progress.
2. Make recommendations for further action(s) which need to be taken by worksite management.
3. Consider the matter closed based upon the extent of the worksite manager's action(s).
4. Direct the maintenance of all records pertaining to reported workplace violence incidents.

## **VIII. UTILIZATION OF EMPLOYEE ADVISORY SERVICE PERSONNEL**

- A. In situations considered to be potentially volatile or where an employee's fitness for duty is of concern, management should contact the Office's Human Resources Services at (609-292-8353) in order for a decision to be made regarding referral to the Department of Personnel's Employee Advisory Service (EAS). If personnel are not available, or for other appropriate reasons, Human Resources Services may utilize qualified departmental personnel or outside assistance in such matters.
- B. Depending on the circumstances, the Office of the Public Defender will also utilize EAS personnel, qualified departmental personnel or outside assistance to ensure the safety, psychological comfort and support of the victims of violence and their coworkers in the workplace.

## **IX. EMPLOYEE EDUCATION AND TRAINING**

- A. The Office recognizes the importance of employee education and training for a successful violence in the workplace prevention program. Such education and training as appropriate will be developed and implemented as part of this policy.
- B. Every Office of Public Defender employee will participate in an education and training program that includes such topics as recognition of potential workplace violence situations, diffusing conflict, the duty and procedures to report incidents, and disciplinary procedures and consequences for those who commit acts of workplace violence. Periodic refresher courses will be provided and informational literature/posters made available as needed.

## **X. RECORDS AND RECORDKEEPING**

Human Resources Services will maintain records and periodically report on the operation of this policy. The Office will also provide data on incidents of workplace violence in a manner that is or may be prescribed by current or future rules, regulations or policies.