OSHA INSTRUCTION

U.S. DEPARTMENT OF LABOR Occupational Safety and Health Administration

DIRECTIVE NUMBER: **CPL 02-01-058**	EFFECTIVE DATE: **01/10/2017**

SUBJECT: Enforcement Procedures and Scheduling for Occupational Exposure to Workplace Violence

ABSTRACT

Purpose: This Instruction provides policy guidance and procedures to be followed when conducting inspections and issuing citations related to occupational exposure to workplace violence.

Scope: OSHA-wide.

References: Bruening, R.A., Strazza, K., Nocera, M., Peek-Asa, C., Casteel, C. (2015, March). How to engage small retail businesses in workplace violence prevention: Perspectives from small businesses and influential organizations. *American Journal of Industrial Medicine, 58*, 668-678.

Burgel, B.J., Gillen, M., Castle, M. (2012, August). Health and safety strategies of urban taxi drivers. *Journal of Urban Health, 89(4)*, 717-722.

Centers for Disease Control (CDC) – National Institute of Occupational Safety and Health (NIOSH): NIOSH Current Intelligence Bulletin #57: Violence in the Workplace: Risk Factors and Prevention Strategies

CPL 02-00-160, Field Operations Manual (FOM), August 2, 2016.

Konda, S., Reichard A., Hartley, D. (2013). U.S. correctional officers killed or injured on the job. *Corrections Today, 75*(5) 122-125.

OSHA, Publication 3148: Guidelines for Preventing Workplace Violence for Healthcare and Social Service Workers, 2015.

OSHA, Publication 3153: Recommendations for Workplace Violence Prevention Programs in Late-Night Retail Establishments, 2009.

Section 5(a)(1) of the Occupational Safety and Health Act of 1970 (General Duty Clause) and 29 CFR 1960.8(a).

Cancellations: OSHA Instruction CPL 02-01-052, Enforcement Procedures for Investigating or Inspecting Workplace Violence Incidents (September 8, 2011).

State Impact: Federal Program Change, Notice of Intent Required, Adoption Encouraged. See Section VI.

Action Offices: OSHA National, Regional, Area/District, State Plan and State Consultation Offices.

Originating Office: Directorate of Enforcement Programs.

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By and Under the Authority of

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Executive Summary

This Instruction supersedes CPL 02-01-052, *Enforcement Procedures for Investigating or Inspecting Workplace Violence Incidents* (September 8, 2011) and updates OSHA general enforcement policies and procedures for field offices to apply when conducting inspections related to workplace violence. The Instruction:

- Explains the steps that should be taken in reviewing incidents of workplace violence when considering whether to initiate an inspection.
- Describes what is required to support the elements of a citation under the General Duty Clause, recognizing that different types of settings pose distinct hazards which have varying abatement solutions.
- Identifies the resources available to OSHA staff conducting inspections and developing citations.
- Highlights how Area Offices should assist employers in addressing the issue of workplace violence.

Significant Changes

This Instruction clarifies the different types of healthcare settings where workplace violence incidents are reasonably foreseeable; expands the OSHA recognized high-risk industries to include corrections and taxi driving; identifies more resources for OSHA inspectors; explains the review process for settlement agreements; and updates notification dates.

Table of Contents

I. Purpose.

The purpose of this Instruction is to provide compliance safety and health officers ("CSHOs") with general enforcement policies and procedures during inspections when workplace violence is identified as a hazard. The directive's coverage includes national, regional and local emphasis programs and guidance on responding to incidents of workplace violence, especially when conducting inspections at worksites in industries with a high incident rate.

II. Scope.

This Instruction applies OSHA-wide.

III. References.

A. Bruening, R.A., Strazza, K., Nocera, M., Peek-Asa, C., Casteel, C. (2015, March). How to engage small retail businesses in workplace violence prevention: Perspectives from small businesses and influential organizations. *American Journal of Industrial Medicine, 58,* 668-678.

B. Burgel, B.J., Gillen, M., Castle, M. (2012, August). Health and safety strategies of urban taxi drivers. *Journal of Urban Health, 89(4),* 717-722.

C. Centers for Disease Control and Prevention (CDC) – National Institute of Occupational Safety and Health (NIOSH): NIOSH Current Intelligence Bulletin #57: Violence in the Workplace: Risk Factors and Prevention Strategies.

D. CPL 02-00-160 Field Operations Manual (FOM), August 2, 2016.

E. CPL 02-02-072, Rules of agency practice and procedure concerning OSHA access to employee medical records, August 22, 2007.

F. Injury Prevention Research Center. 2001. Workplace violence: A report to the Nation. The University of Iowa.

G. Konda, S., Reichard A., Hartley, D. (2013). U.S. correctional officers killed or injured on the job. *Corrections Today, 75*(5) 122-125.

H. OSHA 3148-04R 2015 Guidelines for Preventing Workplace Violence for Healthcare and Social Service Workers.

I. OSHA 3153-12R 2009 Recommendations for Workplace Violence Prevention Programs in Late-Night Retail Establishments.

J. Section 5(a)(1) of the *Occupational Safety and Health Act of 1970* (OSH Act) (General Duty Clause) and 29 CFR 1960.8(a).

IV. Cancellations.

This Instruction cancels OSHA Instruction CPL 02-01-052, Enforcement Procedures for Investigating or Inspecting Workplace Violence Incidents (September 8, 2011).

V. Action Offices.

A. Responsible Office.

Directorate of Enforcement Programs, Office of Health Enforcement.

B. Action Office.

National, Regional, Area Offices, State Plan States and Consultation Offices.

C. Information Offices.

OSHA National and Regional Offices.

VI. Federal Program Change.

Federal Program Change, Notice of Intent Required, Adoption Encouraged.

This Instruction describes a federal program change which establishes policies and procedures for field offices to apply when conducting inspections in response to incidents of workplace violence. Workplace violence is an occupational hazard in some industries and environments that, like other safety issues, can be avoided or minimized if employers take appropriate precautions. States are strongly encouraged to adopt this Instruction for use with their general duty clause, state-specific workplace violence standard, or other applicable authority under state law. Although not required, State Plans for the most part have authority equivalent to the federal general duty provision of Section 5(a)(1) of the OSH Act. Where this authority exists, State Plans should utilize it in an "at least as effective" manner to address hazards in the workplace associated with workplace violence.

Within 60 days of the date of issuance of this Instruction, State Plans must submit a notice of intent indicating if the State Plan has or will adopt enforcement policies addressing workplace violence hazards and if so, whether the state's policies and procedures are or will be identical to or different from the Federal OSHA policies and procedures. If a State Plan indicates that it will adopt policies and procedures, either identical or different, adoption should occur within 6 months. If adopting identical, the State Plan must provide the date of adoption to OSHA within 60 days of adoption. If the State Plan adopts or maintains a partnership program that differs from the federal program described in this Instruction, the State Plan must either post its different policies on its State Plan website and provide a link to OSHA or provide OSHA with information

on how the public may obtain a copy. This action must occur within 60 days of the date of adoption. OSHA will post summary information of the State Plan responses to this Instruction on its website.

VII. Significant Changes.

This Instruction cancels and supersedes CPL 02-01-052 Enforcement Procedures for Investigation or Inspecting Workplace Violence Incidents (September 8, 2011).

This Instruction clarifies the different types of healthcare settings where workplace violent incidents are reasonably foreseeable; expands the OSHA recognized high-risk industries to include correctional facilities and taxi driving; identifies additional resources for OSHA inspectors; explains the review process for settlement agreements; and updates the guidance on hazard alert letters (HALs).

VIII. Actions Required.

OSHA Regional Administrators and Area Directors should use the guidelines in this Instruction to ensure that uniform inspection procedures are followed by compliance safety and health officers (CSHOs). Prior to conducting inspections in response to complaints of workplace violence, CSHOs are encouraged to consult with the regional workplace violence coordinators.

IX. Application.

This Instruction applies to inspections or investigations conducted by OSHA officials (i.e., CSHOs and Regional and National Office officials) in response to a complaint of workplace violence or conduct programmed inspections at worksites that are in industries with a high incidence of workplace violence (e.g., healthcare, social service settings, taxi driving, late-night retail establishments, and corrections establishments). It is not intended to exclude other programmed inspections when workplace violence is identified as a hazard to employees and well-documented. District Supervisors, Area Directors, Regional Administrators and National Office officials will ensure that the policies and procedures set forth in this Instruction are followed. Federal Agencies Executive Order 12196, Section 1-201 and 29 CFR 1960.8 and 1960.16 require Federal agencies to follow enforcement policies contained in this Instruction.

This Instruction is not intended to require an OSHA response to every complaint or fatality involving workplace violence or require that citations or notices be issued for every incident inspected or investigated. Instead, it provides general enforcement guidance to be applied in determining whether to make an initial response and/or to cite an employer. An instance of workplace violence is presumed to be work-related if it results from an event occurring in the workplace.

Employers may be found in violation of the General Duty Clause if they fail to reduce or eliminate serious recognized hazards. Under this Instruction, inspectors should therefore gather evidence to demonstrate whether an employer recognized, either individually or through its industry, the existence of a potential workplace violence hazard affecting his

or her employees. Furthermore, investigations should focus on whether feasible means of preventing or minimizing such hazards were available to employers.

Investigators should also consider referrals for potential whistleblower retaliation where workers have complained of workplace violence risks or have reported injuries resulting from actual workplace violence.

X. Background.

Workplace violence is recognized as an occupational hazard in some industries and environments that, like other safety issues, can be mitigated if employers take appropriate protective measures. The majority of workplace-related assaults have occurred in the healthcare and social service settings (OSHA, 2015). In addition, late-night retail workers (Bruening, 2015), taxi drivers (Burgel, 2012) and corrections officers (Konda, 2013) have high numbers of incidents of workplace violence. Increased research and state and local legislation over the last 20 years has helped to highlight potential worker protections against workplace violence. Yet, fatal and non-fatal injuries continue to impact thousands of workers. Bureau of Labor Statistics (BLS) data show that between 15,000 and 25,000 assaults, which resulted in days away from work have been reported annually over the last ten years. Two-thirds of these injures were in the healthcare setting each year. During the same time, workplace homicides have ranged from 400 to 600 annually.

The types of workplace violence set forth in Section XI.A.3 of this Instruction, developed to describe the relationship of the perpetrator and the target of the workplace violence, have helped to frame how OSHA assesses complaints it receives. In addition, OSHA has relied on evidence-based research to identify steps employers can take to reduce the hazard of workplace violence. While the risk factors that NIOSH identified in its 1996 publication remain relevant in providing an overall list of possible predictors for workplace violence, more recent studies have refined risk factors and identified prevention programs to reduce incidents of workplace violence (see Appendix C). By assessing their worksites, employers can identify methods for reducing the likelihood of incidents occurring. OSHA believes that a well written and implemented workplace violence prevention program combined with engineering controls, administrative controls and training, can reduce the incidence of workplace violence.

XI. Inspection Scheduling and Scope.

A. Scope.

This Instruction is provided for initiating inspections when: (1) responding to a complaint, referral or a fatality or catastrophic event and (2) conducting a programmed inspection where a *reasonably foreseeable* workplace violence hazard has been identified.

An inspection shall be considered where there is a complaint, referral, or fatality and/or catastrophic event involving an incident of workplace violence,

particularly when it stems from a workplace in an industry identified by OSHA as having a potential for workplace violence. Such incidents could occur during a workers commute and are generally based on a workplace relationship. For the purpose of this Instruction, OSHA uses the NIOSH definition of workplace violence:

"Violent acts (including physical assaults and threats of assaults) directed toward persons at work or on duty." [Centers for Disease Control and Prevention, National Institute for Occupational Health (2002). *"Occupational Hazards in Hospitals."* DHHS (NIOSH) Pub. No. 2002-101 (http://www.cdc.gov/niosh/docs/2002-101/#5)]

1. Types of Inspections.

   a. Complaint/Referral/Fatality/Catastrophic Event.

      An inspection shall be considered where there is a complaint, referral or fatality and/or catastrophic event involving workplace violence, particularly when it takes place in an OSHA-identified, high-risk industry.

   b. Programmed Inspections.

      Programmed inspections that specifically highlight workplace violence as a potential hazard should include appropriate review of injury and illness records, any incident reports, and employee interviews. Compliance officers may also consider expanding an inspection to include an assessment of the potential for workplace violence when records and/or interviews suggest such hazards may be present.

   Note: ***In both types of inspections, CSHOs should make note of whether employees have experienced any retaliation from the employer for complaining of workplace violence or potential workplace violence or for reporting an injury resulting from workplace violence. Retaliatory acts investigators might identify include: workers having had their hours reduced, termination, denial of promotion or reassignment to a less desirable position or type of work, or other adverse personnel actions.***

2. OSHA-Identified, High-Risk Industries.

   a. Correctional Facilities.

      This category includes prisons, detention centers, and jails where OSHA has coverage under the Act.

b. Healthcare and Social Service Settings.

This category covers a broad spectrum of workers who provide healthcare and social services at a range of facilities. Five categories of facilities have been identified for the purpose of this Instruction and are further developed in OSHA's Guidelines for Preventing Workplace Violence for Healthcare and Social Service Workers.

- **Hospital** settings represent large institutional medical facilities.
- **Residential Treatment** settings include institutional facilities, such as nursing homes and other short and long-term care facilities.
- **Nonresidential Treatment Services** settings include small neighborhood clinics and mental health centers.
- **Community Care** settings include community-based residential facilities and group homes.
- **Field Work** settings include home healthcare workers or social workers who make visits to the home of clients.

c. Late-Night Retail.

This category includes workplaces such as convenience stores, liquor stores and gas stations. Factors that put late-night retail employees at risk include the exchange of money, being located in a high-crime area, 24-hour operations (time-of-day should not be considered the only factor), solo work, isolated worksites, the sale of alcohol, and poorly-lit stores and parking areas.

d. Taxi driving.

This category includes taxi and livery drivers. Factors that put taxi drivers at risk include working alone, late at night, in recognized high-crime areas where money is exchanged and customers may be under the influence of alcohol or other drugs.

Note: CSHOs should initially determine that an employer/employee relationship exists under the Act prior to continuing any investigation.

3. Most Common Types of Violence Covered by this Instruction.

Researchers often classify the types of workplace violence by examining the relationship between the perpetrator and the target of the workplace violence.

a. Type 1 – Criminal Intent.

This type of violence focuses on violent acts by people who enter the workplace to commit a robbery or other crime. OSHA may initiate inspections at late-night retail facilities that include this type of violence.

b. Type 2 – Customer/Client/Patients.

This type of violence is directed at employees by customers, clients, patients, students, inmates or any others to whom the employer provides a service. OSHA may initiate an inspection in response to these types of incidents, especially when they occur at healthcare, social service and prison and detention facility settings and during taxi transport.

c. Type 3 – Co-worker & Type 4 – Personal.

Type 3 violence is targeted toward co-workers, supervisors, or managers by a current or former employee, supervisor, or manager. Type 4 violence is violence by someone who is not an employee, but who knows or has a personal relationship with an employee at a workplace.

OSHA should generally **not** initiate an inspection in cases of co-worker or personal threats of violence. In cases of co-worker violence, the Area Office will evaluate whether an inspection is appropriate on a case-by-case basis. Among the factors to consider are: (1) whether the incident was foreseeable, that is whether the incidents of co-worker violence are ongoing and/or escalating and whether the employer has taken steps to address the hazard; and (2) if foreseeable, the severity of the incidents.

If an Area Director becomes aware of instances that could be classified as intimidation or bullying, they should consider referring the complainant to the appropriate government entity. Referrals could be made to the local police department, the Equal Employment Opportunity Commission, the National Labor Relations Board, or OSHA's Office of Whistleblower Protection. The Area Director may inform the employer if a referral is made. Area Directors should contact the National Workplace Violence Coordinator, in the Directorate of Enforcement, if they have any questions concerning referrals for these types of incidents.

B. Inspection Scheduling.

Inspections will generally be conducted in response to complaints and referrals or as part of a fatality and/or catastrophe investigation pursuant to FOM procedures

and where reasonable grounds exist during other inspections based on the criteria set forth below.

In addition to following procedures for formal complaints and referrals, Area Directors shall determine whether reasonable grounds exist to conduct an inspection by assessing whether there is evidence to support a General Duty Clause violation. This determination should be based on the known risk factors described below. A factual screening should be conducted (i.e., talking to the source of the complaint or referral) to assess whether the criteria have been met prior to initiating an inspection.

1. General Duty Clause Criteria.

   The criteria necessary to support a citation under the General Duty Clause of the OSH Act shall be followed in determining the evidence necessary to support a violation. CSHOs should also review the guidance set forth in Chapter 4, III of the FOM. The elements of a General Duty Clause violation, along with NIOSH's definition of workplace violence (violent acts, including physical assaults and threats of assaults, directed toward persons at work or on duty) must be examined to determine the existence of, or potential for, serious physical harm.

   a. The employer failed to keep the workplace free of a hazard to which employees of that employer were exposed;

      - Were the employer's own employees exposed to a foreseeable, hazardous workplace condition or practice?

   b. The hazard was recognized;

      - Did the incident occur in an OSHA-recognized high-risk industry?
      - Does the evidence suggest the employer or the employer's industry was aware of the hazard of workplace violence?

   c. The hazard was causing or was likely to cause death or serious physical harm;

      - Does the hazard cause or was it likely to cause death or serious physical harm? If an incident has occurred, did the injury/injuries result in an impairment of the body that would usually require medical treatment?

   d. And, there was a feasible and useful method to correct the hazard.

      - Are there means of abatement available to the employer to eliminate or materially reduce the likelihood of the hazard occurring? *See Appendix A for possible abatement methods.*

2. Known Risk Factors.

Below is a modified list of known risk factors from the NIOSH Current Intelligence Bulletin #57: Violence in the Workplace: Risk Factors and Prevention Strategies (1996). While each of these factors shall be considered in determining whether to inspect a worksite, none of them would individually trigger an inspection.

a. Contact with the public.

b. Exchange of money.

c. Delivery of passengers, goods, or services.

d. Having a mobile workplace such as a taxicab.

e. Working with persons in healthcare, social service, or criminal justice settings.

f. Working alone or in small numbers.

g. Working late at night or during early morning hours.

h. Working in high-crime areas.

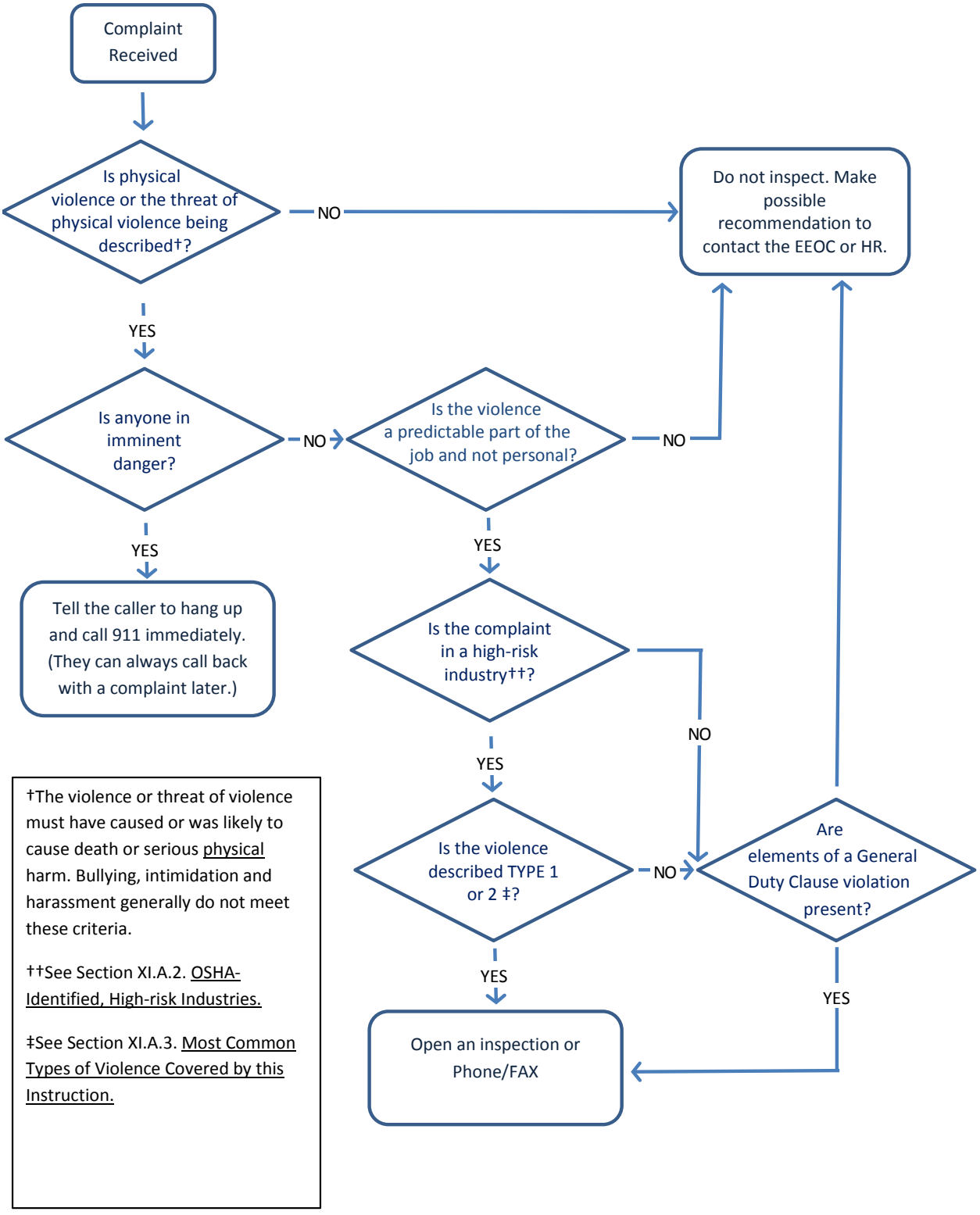
i. Guarding valuable property or possessions.

j. Working in community-based settings, such as drug rehabilitation centers and group homes.

3. Criteria for Initiating Complaint Inspections.

The following flowchart and four examples provide criteria used to review the complaint and determine whether an inspection should be conducted. Making a determination to conduct an inspection does not necessarily mean that a citation will be issued.

Decision-making flowchart for opening an inspection in response to a workplace violence complaint



†The violence or threat of violence must have caused or was likely to cause death or serious physical harm. Bullying, intimidation and harassment generally do not meet these criteria.

††See Section XI.A.2. OSHA-Identified, High-risk Industries.

‡See Section XI.A.3. Most Common Types of Violence Covered by this Instruction.

EXAMPLE 1 – **Decision to Inspect**

COMPLAINT:

A nurse working in an Emergency Department (ED) complains that many staff members have been brutally attacked by patients coming into the ED and no preventive measures have been taken.

EMPLOYEE EXPOSURE? **YES**

- Complainant reported several colleagues being brutally attacked and sustaining serious injuries.

INDUSTRY/EMPLOYER KNOWLEDGE? **YES**

- The complaint comes from an identified high-risk industry.

HAZARD LIKELY TO CAUSE DEATH/SERIOUS HARM? **YES**

- Evidence suggests that the hazard could cause death or serious harm.

EXISTENCE OF FEASIBLE MEANS OF ABATEMENT? **YES**

- A large body of work on feasible means of abatement is available to address workplace violence in healthcare settings (e.g., create secure areas for staff away from incoming patients).

KNOWN RISK FACTOR? **YES**

- Working with persons in healthcare.

EXAMPLE 2 **– Decision not to inspect**

COMPLAINT:

A disgruntled acquaintance stabs an employee at the bookstore where he works.

EMPLOYEE EXPOSURE? **YES**

- According to the complaint, one employee was exposed.

INDUSTRY/EMPLOYER KNOWLEDGE? **NO**

- No industry knowledge.
- Employer had no previous experiences with the occurrence of such an incident.

HAZARD LIKELY TO CAUSE DEATH/SERIOUS HARM? **YES**

- Employee was stabbed and hospitalized.

EXISTENCE OF FEASIBLE MEANS OF ABATEMENT? **NO**

- There are no known prevention measures for random acts of violence in this type of workplace setting.

KNOWN RISK FACTOR? **NO**

- The store is not in a high-crime area.
- The incident occurred at 10 a.m. in a store with five employees present.

EXAMPLE 3 – **Area Director discretion required.**

COMPLAINT:

A shooting was reported at a local grocery store.

EMPLOYEE EXPOSURE? **YES**

- Employees were at the store at the time of the shooting.

INDUSTRY/EMPLOYER KNOWLEDGE? **UNKNOWN**

- Answers to the questions below (Known Risk Factors) will help determine if the store may be considered a late-night retail establishment or whether such an incident is reasonably foreseeable.
- Information should be gathered on any safety precautions taken by the employer and a review should be conducted of injury and illness logs to determine whether the employer recognized the potential for violence or knew of past incidents.

HAZARD LIKELY TO CAUSE DEATH/SERIOUS HARM?

YES

- One person was confirmed shot and several others received serious injuries as well.

EXISTENCE OF FEASIBLE MEANS OF ABATEMENT?

UNKNOWN

- Conducting an assessment regarding details of the operation/configuration of a workplace will help determine what specific feasible means of abatement would be appropriate.

KNOWN RISK FACTOR? **UNKNOWN**

- Is the store in a high-crime area?
- Have there been past incidents at the store?
- What time did the incident occur?
- How many times have the police responded to disturbances at this location?
- How many employees were working at the time?

EXAMPLE 4 – **Decision to conduct a phone/FAX**

COMPLAINT:

An employee at a late-night retail establishment in a high-crime

neighborhood complains that her employer is not providing enough protection, and that some staff members have been threatened by customers.
EMPLOYEE EXPOSURE? **YES** • Complainant reported colleagues being threatened.
INDUSTRY/EMPLOYER KNOWLEDGE? **YES** • The complaint comes from a high-risk industry.
HAZARD LIKELY TO CAUSE DEATH/SERIOUS HARM? **UNKNOWN** • Complainant did not provide detailed information on the type of threats present.
EXISTENCE OF FEASIBLE MEANS OF ABATEMENT? **YES** • Large body of work on feasible means of abatement available to address workplace violence in late-night retail **but unclear what the employer has done to date**.
KNOWN RISK FACTOR? **YES** • Working in high-crime area. • Working late at night. • Exchanging money.

4. Criteria for Initiating a Fatality/Catastrophe Inspection.

An inspection will generally be conducted where there is a death or hospitalization of one or more employees. If the Area Director (AD) determines, after assessing the facts and applying the criteria above, that it is not appropriate to initiate an inspection for workplace violence, the AD shall document the reasons on the Unprogrammed Activity Report.

NOTE: ***CSHOs should not conduct their own inspections at the same time other law enforcement personnel are conducting their investigation. If a CSHO arrives during a police investigation, the***

CSHO should stop his/her inspection, contact the law enforcement commander and request to be notified once the on-site investigation is complete.

5. Criteria for Investigating Workplace Violence during a Programmed Inspection.

A CSHO may pursue an investigation for workplace violence hazards during programmed inspections where there is recognition of the potential for workplace violence in that industry or where a hazard exists (as determined through employee interviews, a review of injury and illness logs or incident reports) and meets the criteria above.

XII. CSHO Training.

A. CSHO.

Area Directors and Regional Training Coordinators shall ensure that Compliance Officers performing workplace violence inspections are familiar with the most recent guidelines on the subject and are adequately trained on workplace violence prevention, recognition of high-risk situations, and ways to defuse hostile situations.

B. CSHO Knowledge on Workplace Violence.

1. Resources and References.

Training should also include instruction on potential workplace risk factors, types of workplace violence, high risk industries/workers, collecting sufficient documentation, and abatement measures available to address the hazard. CSHOs are also encouraged to review resources and references listed in Appendix C. These resources and references are intended to help CSHOs understand specific workplace violence incidents, to identify hazard exposure and to help the employer abate the hazard.

CSHOs should also check with their regional workplace violence coordinators for the most current research on effective abatement methods.

2. State Laws Addressing Workplace Violence.

Several states have laws that address workplace violence. CSHOs should always check state laws prior to conducting an inspection to ensure that they are aware of the most current regulations and guidance. If such laws exist, CSHOs should determine if they should make a referral to a state agency. In addition, such laws can help CSHOs establish employer/industry knowledge if a citation is pursued.

XIII. Inspection and Inquiry Procedures.

This section outlines procedures for conducting inspections and phone/FAX investigations for hazards associated with occupational exposure to workplace violence. CSHOs shall follow the general inspection procedures in the FOM, Chapters 3 and 9 for responding to informal complaints. CSHOs shall also consult appendices, and other references cited in this Instruction for further guidance as needed.

CSHOs should contact their regional coordinators for assistance in developing checklists they can use while conducting inspections.

A. Records Review for Inspections and Phone/Fax.

1. Workplace violence prevention program.
All inspections related to occupational exposure to workplace violence should include a review of the employer's written plan to protect employees from workplace violence. If a written plan does not exist, a review of policies and procedures shall be conducted, along with interviews and site observations.

2. Injury and illness records.
CSHOs should review the employer's injury and illness records from five years prior to identify any workers with recorded injuries associated with workplace violence and the frequency and severity of associated incidents to establish any existing trends. If there is evidence that a particular work-related incident that meets the recordkeeping criteria has not been recorded by the employer, a citation for violation of 29 CFR 1904.4(a) may be issued.

3. Training records.
CSHOs should request information on any training that workers receive, and the schedule for the training that is being provided.

4. Other records.
Whenever possible, CSHOs should review the following types of records to determine if other incidents of workplace violence occurred and were undocumented in the OSHA log. As with the injury and illness records, CSHOs should identify the frequency and severity of the incidents.

a. Workers' Compensation Records.

b. Insurance Records.

c. Police Reports.

d. Security Reports.

e. First-Aid Logs.

f. Accident or Near-miss Logs.

g. Hazard Assessments for Workplace Violence.

h. Safety and Health Meeting Minutes.

5. Access to employee medical records.
In situations where the CSHO determines that medical records should be reviewed, an administrative subpoena should be obtained and served on the employer concurrently with Medical Access Order (See CPL 02-02-072, Rules of agency practice and procedure concerning OSHA access to employee medical records, August 22, 2007). CSHOs may also consider obtaining specific written consent from an employee pursuant to 29 CFR 1910.1020(e)(2)(ii)(B) and should ensure that the agency or agency employee receiving the information is listed on the consent form as the designated representative. As noted below in Section XIII(D)(3), OSHA's Office of Occupational Medicine and Nursing (OOMN) should be consulted to allow them to review files protected by the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

B. Interviews.
Interviews shall be conducted to determine the existence of workplace violence hazards, and all facts about specific incidents that have occurred shall be documented. Interviews should also be used to verify the implementation of an existing workplace violence program and the adequacy of any training that employees receive. CSHOs shall interview all employees on all work shifts (if available) who observed or experienced any acts of workplace violence. CSHOs should also interview managers and any others who observed or recorded any incidents of violence or their aftermath.

As noted below in Section XIII(D)(3), OOMN is also available to conduct interviews with medical staff at a facility.

C. Photographing or Videotaping.
Where practical, photographing or videotaping shall be used for case documentation. Under no circumstances will CSHOs photograph or videotape patients, residents, inmates and prisoners. CSHOs must also take all necessary precautions to protect patient confidentiality.

D. Coordination with Regional and National OSHA.

1. Regional and National Workplace Violence Coordinators.
The Area Director should contact the Regional Workplace Violence Coordinator within 10 working days after an inspection has been opened. The National Workplace Violence Coordinator should be informed by email *within four weeks of the inspection being opened*. The email should contain the name of the company, the inspection number, the inspection opening date and the potential violations.

CSHOs should continue to update the Regional Coordinator throughout the inspection and solicit assistance from both the Regional and National Coordinator.

2. Regional Solicitor.
The Area Director shall contact the Regional Solicitor as soon as possible when a citation is expected to be issued, *but no later than four months into the investigation,* to ensure their input regarding any evidentiary or expert witness issues.

3. Office of Occupational Medicine and Nursing.
CSHOs should consult with the OOMN for technical/medical support as needed, including when accessing and analyzing employee medical records and other health information, obtaining a Medical Access order, and consulting with or interviewing physicians and other healthcare professionals.

XIV. Citations and Violations.

At least three weeks prior to issuing a citation or notice, Area Directors shall ensure that the Directorate of Enforcement Programs is provided the most current template(s) for the Notification of Novel Enforcement Action memos provided by OSHA's Directorate of Enforcement Programs. *See Appendix B for Information to include in the National Office memo.*

Note: ***The Area Office shall not issue a citation without approval from the National Office.***

The following requirements, while not all-inclusive, shall be considered as appropriate prior to issuance of a citation for employee exposure to workplace violence hazards.

Section 5(a)(1)	General Duty Clause of the Occupational Safety and Health Act.
29 CFR 1960.8(a)	Executive Order 12196, Section 1-201(a) for federal facilities (the General Duty Clause for federal facilities).
29 CFR 1904	Recording and Reporting of Occupational Injuries and Illnesses.

29 CFR 1910.151 Medical Services and First Aid.
29 CFR 1926.23 First Aid and Medical Attention.
29 CFR 1926.35 Employee Emergency Action Plans.

Note: ***Citation language should focus on the description of the specific hazardous condition or practice existing at a workplace prior to the incident occurring. The investigation should not focus solely on the occurrence of an incident or the lack or deficiency of abatement measures. In drafting the citation, care should be taken to not describe groups of persons (such as clients or residents) as being prone to violent behavior.***

A. General Duty Clause Violations.
CSHOs should refer to Chapter 4 in the FOM for general guidance in developing a 5(a)(1) citation.

1. Citing the Hazard.
As noted in the FOM, in a Section 5(a)(1) citation, a "hazard" is defined as a *workplace condition* or *practice* to which employees are exposed, creating the *potential for death or serious physical harm* to employees.

- **Citation language** should identify the specific hazardous condition and/or practice that expose employees to death or serious physical harm.

  - Lack of particular abatement measures shall not be cited as the hazardous condition.

EXAMPLE:
The employer did not furnish employment and a place of employment free from recognized hazards that were causing or likely to cause death or serious physical harm to employees in that employees are exposed to the hazard of being physically assaulted by store patrons using violent means during robberies.

Note: ***The language does not note the lack of security in the store or poor lighting as the hazard, but rather the conditions existing in the store.***

  - The intent of the perpetrator shall not be considered in determining whether a hazard exists.

EXAMPLE:

The employer did not furnish each of his employees with employment and a place of employment free from recognized hazards that were causing or likely to cause death or serious physical harm, in that medical ward employees were exposed to the hazard of physical assaults by clients exhibiting violent behavior during medical evaluations and examinations.

Note: ***The violent behavior of clients during medical evaluations is the hazardous condition; it is irrelevant whether those clients had the intent to harm someone.***

2. Hazard Recognition.
Employer and/or Industry Recognition must be established. Where present, CSHOs should document the existence of both kinds of hazard recognition.

a. Employer Recognition.
CSHOs can establish employer recognition through:

- Staff interviews establishing that the employer was aware that employees were being assaulted through complaints or first-hand witness accounts of violent incidents.

- Management interviews, including the person responsible for the OSHA 300 logs in which workplace violence incidents were recorded.

- Safety committee meeting minutes recording the review of workplace violent incidents.

- Employer injury records that show a pattern of injuries from incidents of workplace violence.

- Corrective actions that an employer has taken to address workplace violence (i.e., workplace violence prevention program, training on the hazard or security plan).

- Employer awareness of local and state laws (i.e., state and municipal licensing or accrediting regulations).

- Receipt of previous citations or a hazard alert letter issued by OSHA or a State Plan.

b. Industry Recognition.
As noted above OSHA's identification of industries with a high occurrence of workplace violence is based on research data, state and local legislation, and statements by industry representatives.

CSHOs may establish industry recognition through:

- NIOSH/BLS/academic publications concerning violence in healthcare, late-night retail and transportation industries.
- Industry publications addressing the protection of workers from violence.
- State and local laws requiring employers to address workplace violence hazards in specific sectors such as late-night retail and healthcare settings.

3. The hazard caused or was likely to cause death or serious physical harm.

a. Existing Injuries and Fatalities.
CSHOs can use existing injury and illness logs and employer and employee reports to determine whether workplace violence incidents have caused death or serious physical harm.

EXAMPLE:
An employee, working alone at an all-night convenience store, was stabbed by a store patron and hospitalized for three days.

EXAMPLE:
An emergency room nurse's arm was broken while trying to restrain an aggressive patient in a dementia facility.

b. Potential Injuries and Fatalities.
CSHOs should assess whether the conditions and/or practices create an environment that is likely to cause death or serious harm. Determining whether threats of physical harm reach the criteria of a serious hazard under 5(a)(1) should be based on a range of investigative evidence, including incident reports/past events, interviews, and existing policies and procedures.

EXAMPLE:
Several drivers, employed by a taxi company and working the overnight shift driving customers in and out of high-crime areas,

have been physically threatened by passengers who refused to pay. The drivers sustained no injuries but are concerned that they may in the future.

4. Feasible means of abatement.

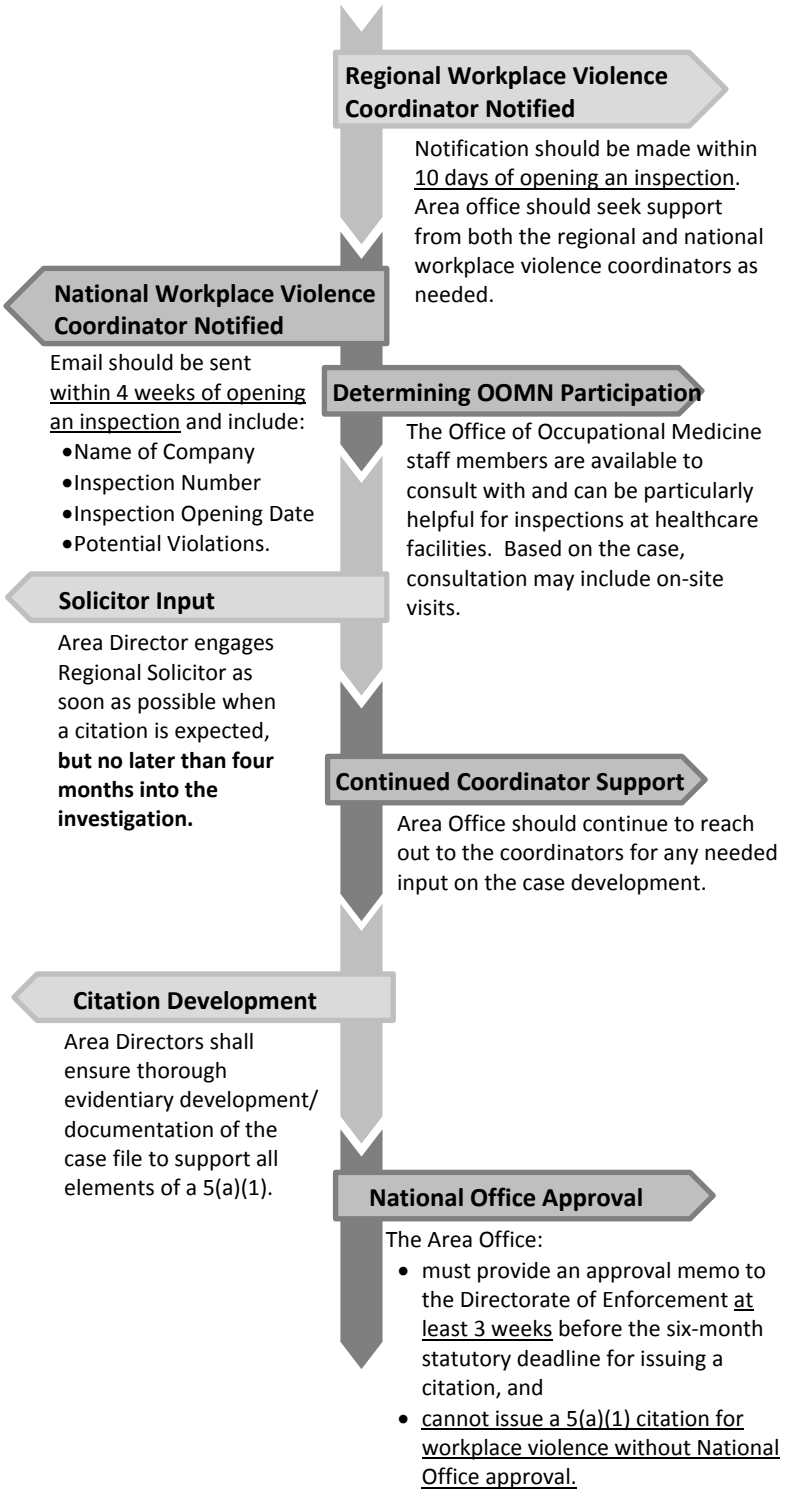
CSHOs should document known potential feasible methods to abate the hazard(s). Any proposed abatement plan should be site- and industry-specific, and may include improvements to existing corrective measures that have been ineffectively implemented.

Notification of Novel Enforcement Action memos to the National Office should provide an explanation of how any proposed abatement measures would materially reduce or eliminate the hazard. The memos should also describe how such measures would reduce the likelihood of employees being exposed to workplace violence hazards.

CSHOs should initially consult with the Regional and National Workplace Violence Coordinator to identify the most current recommended abatement methods that may be applicable to the facts of their case. In some cases, the Regional Offices in consultation with DEP, may need to identify an expert pre-citation to assist in identifying appropriate abatement measures.

B. Timeline for developing a citation.

Six-month Timeline for Issuing a Citation



XV. Expert Witnesses.

The National Workplace Violence Coordinator can help identify expert assistance when 5(a)(1) citations or notices under 29 CFR 1960.8(a) are being considered. In some cases, consultation with an expert witness may be needed pre-citation. Some issues that experts may be consulted on include:

A. Employee Risk.
The expert should be able to explain how employees in the given case were or may be exposed to the hazard of workplace violence.

B. Hazard Recognition.
The expert may assist in explaining how the hazard is recognized within a particular industry and/or was recognized by the employer.

C. Abatement Measures.
Experts may be consulted regarding what feasible means of abatement are appropriate in a given case, and explain how the proposed measures would materially eliminate or reduce exposure to workplace violence at a specific site.

XVI. OSHA Information System (OIS) Coding.

All enforcement activities (inspections, complaints, and referrals) and compliance assistance interventions conducted under this Instruction must be coded "N-16 Violence" in the appropriate OIS field on the OIS form.

Whenever a consultation visit is made in response to this Instruction, select Additional Code N-16-Violence under the Emphasis tab at the Visit level.

XVII. Hazard Alert Letter (HAL).

If potential workplace hazards noted by a CSHO during an inspection are not covered by a particular standard and do not rise to the level of a 5(a)(1) General Duty Clause violation, a HAL recommending the implementation of certain protective measures addressing identified hazards shall be considered. As with any citation, CSHOs should only consider a HAL if a hazard has been identified.

The HAL should include a timeframe, no longer than a month, for responding to the letter, with an explanation that if OSHA does not receive a response within the designated time, or the abatement described is deemed insufficient, a follow-up inspection/investigation may occur within the year. *See Appendix D for a sample HAL.*

The Area Office **should upload HALs in OIS** and document any follow-up that occurs.

XVIII. Settlements.

The Area Director and Regional Workplace Violence Coordinator shall contact DEP in the National Office in cases where the employer seeks a settlement. All settlements must be reviewed and approved by the National Office.

Appendix A – Possible Abatement Methods

CSHOs should identify abatement methods based on the hazards identified during the inspection. Besides the list of abatement methods listed below, CSHOs, in consultation with workplace violence coordinators and potential experts, should review other references to determine the most effective methods applicable to the hazards identified at the workplace.

General recommendations for all industries and administrative workplaces:

Implement Engineering Controls, such as:

- Assess any plans for new construction or physical changes to the facility or workplace to eliminate or reduce security hazards.
- Install and regularly maintain alarm systems and other security devices, panic buttons, hand-held alarms or noise devices, cellular phones and private channel radios where risk is apparent or may be anticipated. Arrange for a reliable response system when an alarm is triggered.
- Provide metal detectors—installed or hand-held, where appropriate—to detect guns, knives or other weapons, according to the recommendations of security consultants.
- Use a closed-circuit recording on a 24-hour basis for high-risk areas.
- Place curved mirrors at hallway intersections or concealed areas.
- Lock all unused doors to limit access, in accordance with local fire codes.
- Install bright, effective lighting, both indoors and outdoors.
- Replace burned-out lights and broken windows and locks.
- Keep automobiles well maintained if they are used in the field.
- Lock automobiles at all times.

Implement Administrative Controls to change work practices and management policies in order to reduce exposure to hazards. Such controls include:

- Conduct a workplace violence hazard analysis (this includes analyzing vehicles used to transport clients).
- Provide employees with training on workplace violence.
- Establish liaisons with local police and state prosecutors. Report all incidents of violence. Give police physical layouts of facilities to expedite investigations.
- Require employees to report all assaults or threats to a supervisor or manager (in addition, address concerns where the perpetrator is the manager). Keep log books and reports of such incidents to help determine any necessary actions to prevent recurrences.
- Advise employees of company procedures for requesting police assistance or filing charges when assaulted and help them do so, if necessary.
- Provide management support during emergencies. Respond promptly to all complaints.
    - Set up a trained response team to respond to emergencies.
    - Use properly trained security officers to deal with aggressive behavior. Follow written security procedures.
- Develop, or improve upon a preexisting, written, comprehensive workplace violence

prevention program, which should include:

- A policy statement regarding potential violence in the workplace and assignment of oversight and prevention responsibilities.
- A workplace violence hazard assessment and security analysis, including a list of the risk factors identified in the assessment and how the employer will address the specific hazards identified.
- Development of workplace violence controls, including implementation of engineering and administrative controls and methods used to prevent potential workplace violence incidents.
- A recordkeeping system designed to report any violent incidents. Additionally, the employer shall address each specific hazard identified in the workplace evaluation. The reports must be in writing and maintained for review after each incident and at least annually to analyze incident trends.
- Development of a workplace violence training program that includes a written outline or lesson plan.
- Annual review of the workplace violence prevention program, which should be updated as necessary. Such review and updates shall set forth any mitigating steps taken in response to any workplace violence incidents.
- Development of procedures and responsibilities to be taken in the event of a violent incident in the workplace.
- Development of a response team responsible for immediate care of victims, re-establishment of work areas and processes and providing debriefing sessions with victims and coworkers. Employee assistance programs, human resource professionals and local mental health and emergency service personnel should be contacted for input in developing these strategies.

Correctional Facilities **(See National Institute of Justice publication, Managing Risks in Jails.)**

Engineering controls

- Locking mechanisms on cells are fully functional and maintained
- Metal detectors to screen for contraband weapons are installed and maintained
- Monitoring systems are in place and maintained
- Ensure emergency power sources to maintain vital systems.

Administrative controls

- Staff training that covers specific and recurring hazards.
- System to share information on inmates' classification with custody staff
- Housing rival inmates separately
- Establishing and training on security and communications systems/protocols
- Development and implementation of staffing plan based on facility and inmate population
- Inmate orientation conveying rules and expectations.

Healthcare and Social Services Facilities. (See OSHA publication 3148)

Engineering Controls

Security/ silenced alarm systems	Hospital	Residential Treatment	Non-residential Treatment/Service	Community Care	Field Workers (Home Healthcare, Social Service)
	• Panic buttons or paging system at workstations or personal alarm devices worn by employees			• Paging system • GPS tracking • Cell phones	
	• Security/silenced alarm systems should be regularly maintained and managers and staff should fully understand the range and limitations of the system.				
Exit routes	Hospital	Residential Treatment	Non-residential Treatment/Service	Community Care	Field workers (Home Healthcare, Social Service)
	• Where possible, rooms should have two exits • Provide employee 'safe room' for emergencies • Arrange furniture so workers have a clear exit route		• Where possible, counseling rooms should have two exits • Arrange furniture so workers have a clear exit route	• Managers and workers should assess homes for exit routes	
	• Workers should be familiar with a site and identify the different exit routes available.				
Metal detectors – hand-held or installed	Hospital	Residential Treatment	Non-residential Treatment/Service	Community Care	Field workers (Home Healthcare, Social Service)
	• Employers and workers will have to determine the appropriate balance of creating the suitable atmosphere for services being provided and the types of barriers put in place. • Metal detectors should be regularly maintained and assessed for effectiveness in reducing the weapons brought into a facility. • Staff should be appropriately assigned, and trained to use the equipment and remove weapons.				
Monitoring systems & natural surveillance	Hospital	Residential Treatment	Non-residential Treatment/Service	Community Care	Field workers (Home Healthcare, Social Service)
	• Closed-circuit video – inside and outside • Curved mirrors • Proper placement of nurses' stations to allow visual scanning of areas • Glass panels in doors/walls for better monitoring		• Closed-circuit video – inside and outside • Curved mirrors • Glass panels in doors for better monitoring		
	• Employers and workers will have to determine the appropriate balance of creating the suitable atmosphere for services being provided and the types of barriers put in place. • Staff should know if video monitoring is in use or not and whether someone is always monitoring the video or not.				
Barrier protection	Hospital	Residential Treatment	Non-residential Treatment/Service	Community Care	Field Workers (Home Healthcare, Social Service)
	• Enclosed receptionist desk with bulletproof	• Deep counters in offices • Provide lockable	• Deep counters • Provide lockable (or keyless door		

	glass • Deep counters at nurses' stations • Lock doors to staff counseling and treatment rooms • Provide lockable (or keyless door systems) and secure bathrooms for staff members (with locks on the inside)—separated from patient/client and visitor facilities • Lock all unused doors to limit access, in accord with local fire codes	(or keyless door systems) and secure bathrooms for staff members (with locks on the inside)—separated from patient/client and visitor facilities • Lock all unused doors to limit access, in accord with local fire codes	systems) and secure bathrooms for staff members (with locks on the inside)—separated from patient/client and visitor facilities		
	• Employers and workers will have to determine the appropriate balance of creating the suitable atmosphere for the services being provided and the types of barriers put in place.				
	Hospital	Residential Treatment	Non-residential Treatment/Service	Community Care	Field Workers (Home Healthcare, Social Service)
Patient/client areas	• Establish areas for patients/clients to de-escalate • Provide comfortable waiting areas to reduce stress • Divide waiting areas to limit the spreading of agitation among clients/visitors	• Establish areas for patients/clients to de-escalate • Provide comfortable waiting areas to reduce stress • Assess staff rotations in facilities where clients become agitated by unfamiliar staff	• Provide comfortable waiting areas to reduce stress	• Establish areas for patients/ clients to de-escalate	• Establish areas for patients/ clients to de-escalate
	• **Employers and workers will have to determine the appropriate balance of creating the suitable atmosphere for the services being provided and the types of barriers put in place.**				
	Hospital	Residential Treatment	Non-residential Treatment/Service	Community Care	Field Workers (Home Healthcare, Social Service)
Furniture, materials & maintenance	• Secure furniture and other items that could be used as weapons • Replace open hinges on doors with continuous hinges to reduce pinching hazards • Ensure cabinets and syringe drawers have working locks • Pad or replace sharp edged objects (such as metal table frames) • Consider changing or adding materials to reduce noise in certain areas • Recess any hand rails, drinking fountains and any other protrusions • Smooth down or cover any sharp surfaces			• When feasible, secure furniture or other items that could be used as weapons • Ensure cabinets and syringe drawers have working locks	• Ensure carrying equipment for medical equipment, medicines and valuables have working locks

				• Pad or replace sharp-edged objects (such as metal table frames) • Ensure carrying equipment for medical equipment, medicines and valuables have working locks	
	• Employers and workers will have to determine the appropriate balance of creating the appropriate atmosphere for the services being provided when securing furniture.				
Lighting	Hospital	Residential Treatment	Non-residential Treatment/Service	Community Care	Field Workers (Home Healthcare, Social Service)
	• Install bright, effective lighting—both indoors and outdoors on the grounds, in parking areas and walkways.			• Ensure lighting is adequate in both the indoor and outdoor areas	• Work with client to ensure lighting is adequate in both the indoor and outdoor areas
	• Ensure burned out lights are replaced immediately. • While lighting should be effective it should not be harsh or cause undue glare.				
	Hospital	Residential Treatment	Non-residential Treatment/Service	Community Care	Field Workers (Home Healthcare, Social Service)
Travel vehicles	• Ensure vehicles are properly maintained • Where appropriate, consider physical barrier between driver and patients			• Ensure vehicles are properly maintained	

Administrative Controls

Workplace violence response policy	Hospital	Residential Treatment	Non-residential Treatment/Service	Community Care	Field Workers (Home Healthcare, Social Service)
	• Clearly state to patients, clients, visitors and workers that violence is not permitted and will not be tolerated. Such a policy makes it clear to workers that assaults are not considered part of the job or acceptable behavior.				
Tracking workers	Hospital	Residential Treatment	Non-residential Treatment/Service	Community Care	Field Workers (Home Healthcare, Social Service)
		Traveling workers should: • have specific log-in and log-out procedures • be required to contact the office after each visit and managers		Workers should: • have specific log-in and log-out procedures • be required to contact the office after each visit and managers should have procedures to follow-up if workers fail to do so • be given discretion as to whether or not they begin or continue a visit if they feel	

		should have procedures to follow-up if workers fail to do so		threatened or unsafe	
	• Log-in/log-out procedures should include: o the name and address of client visited; o the scheduled time and duration of visit; o a contact number; o a code word used to inform someone of an incident/threat; o worker's vehicle description and license plate number; o details of any travel plans with client; o contacting office/supervisor with any changes.				
	Hospital	Residential Treatment	Non-residential Treatment/Service	Community Care	Field Workers (Home Healthcare, Social Service)
Tracking clients with a known history of violence	• Supervise the movement of patients throughout the facility • Update staff in shift report about violent history or incident		• Update staff in shift report about violent history or incident	• Report all violent incidents to employer	
	• Determine the behavioral history of new and transferred patients and clients to learn about any past violent or assaultive behaviors. o Identify any event triggers for clients, such as certain dates or visitors. o Identify the type of violence including severity, pattern and intended purpose. o Information gained should be used to formulate individualized plans for early identification and prevention of future violence. • Establish a system—such as chart tags, log books or verbal census reports—to identify patients and clients with a history of violence and identify triggers and the best responses and means of de-escalation. • Ensure workers know and follow procedures for updates to patients' and clients' behavior. • Ensure patient and client confidentiality is maintained. • Update as needed. • If stalking is suspected, consider varying check-in and check-out times for affected workers and plan different travel routes for those workers.				
	Hospital	Residential Treatment	Non-residential Treatment/Service	Community Care	Field workers (Home Healthcare, Social Service)
Working alone or in secure areas	• Treat and interview aggressive or agitated clients in relatively open areas that still maintain privacy and confidentiality • Ensure workers are not alone when performing intimate physical examinations of patients • Advise staff to exercise extra care in elevators and stairwells • Provide staff members with security escorts to parking areas during evening/ late hours— Ensure these areas are well lit and highly visible		• Advise staff to exercise extra care in elevators, stairwells • Provide staff members with security escorts to parking areas during evening/ late hours. Ensure these areas are well lit and highly visible	• Ensure workers have means of communication—either cell phones or panic buttons • Develop policy to determine when a buddy system should be implemented	• Advise staff to exercise extra care in unfamiliar residences • Workers should be given discretion to receive backup assistance by another worker or law enforcement officer • Workers should be given

					discretion as to whether or not they begin or continue a visit if they feel threatened or unsafe • Ensure workers have means of communication—either cell phones or panic buttons
	• Limit workers from working alone in emergency areas or walk-in clinics, particularly at night or when assistance is unavailable. • Establish policies and procedures for secured areas and emergency evacuations. • Use the "buddy system," especially when personal safety may be threatened.				
Reporting	Hospital	Residential Treatment	Non-residential Treatment/Service	Community Care	Field Workers (Home Healthcare, Social Service)
	• Require workers to report all assaults or threats to a supervisor or manager (for example, through a confidential interview). Keep logbooks and reports of such incidents to help determine any necessary actions to prevent recurrences. • Establish a liaison with local police, service providers who can assist (e.g., counselors) and state prosecutors. • When needed, give police physical layouts of facilities to expedite investigations.				
Entry procedures	Hospital	Residential Treatment	Non-residential Treatment/Service	Community Care	Field Workers (Home Healthcare, Social Service)
	• Provide responsive, timely information to those waiting; adopt measures to reduce waiting times • Institute sign-in procedures and visitor passes • Enforce visitor hours and procedures for being in the hospital • Have a "restricted visitors" list for patients with a history of violence/gang activity; make copies available to security,	• Institute sign-in procedures with passes for visitors • Enforce visitor hours and procedures • Establish a list of "restricted visitors" for patients with a history of violence or gang activity; make copies available at security checkpoints, nurses' stations and visitor sign-in areas	• Provide responsive, timely information to those waiting; adopt measures to reduce waiting times	• Ensure workers determine how best to enter facilities	• Ensure workers determine how best to enter clients' homes

	nurses, and sign-in clerk				
Incident response/high-risk activities	Hospital	Residential Treatment	Non-residential Treatment/Service	Community Care	Field Workers (Home Healthcare, Social Service)
	• Use properly trained security officers and counselors to respond to aggressive behavior; follow written security procedures • Ensure that adequate and qualified staff members are available at all times, especially during high-risk times such as patient transfers, emergency responses, mealtimes and at night • Ensure that adequate and qualified staff members are available to disarm and de-escalate patients if necessary • Assess changing client routines and activities to reduce or eliminate the possibility of violent outbursts		• Use properly trained security officers and counselors to respond to aggressive behavior; follow written security procedures		• Ensure assistance if children will be removed from the home
	• Advise workers of company procedures for requesting police assistance or filing charges when assaulted—and assist them in doing so if necessary. • Provide management support during emergencies. Respond promptly to all complaints. • Ensure that adequately trained staff members and counselors are available to de-escalate a situation and counsel patients. • Prepare contingency plans to treat clients who are "acting out" or making verbal or physical attacks or threats. • Emergency action plans should be developed to ensure that workers know how to call for help or medical assistance.				
Employee uniforms/dress	Hospital	Residential Treatment	Non-residential Treatment/Service	Community Care	Field Workers (Home Healthcare, Social Service)
	• Provide staff with identification badges, preferably without last names, to readily verify employment. • Discourage workers from wearing necklaces or chains to help prevent possible strangulation in confrontational situations. • Discourage workers from wearing expensive jewelry or carrying large sums of money. • Discourage workers from carrying keys or other items that could be used as weapons. • Encourage the use of head netting/cap so hair cannot be grabbed and used to pull or shove workers.				
Facility & work procedures	Hospital	Residential Treatment	Non-residential Treatment/Service	Community Care	Field Workers (Home Healthcare, Social Service)
	• Survey facility periodically to remove tools or possessions left by visitors or staff that could be used inappropriately by patients • Survey facilities regularly to ensure doors that should be locked are locked—smoking policies should not allow these		• Survey facility periodically to remove tools or possessions left by visitors or staff that could be used	• Survey facility periodically to remove tools or possessions left by visitors or staff that could be used	• Have clear contracts on how home visits will be conducted, the presence of others in the home during

	doors to be propped open • Keep desks and work areas free of items, including extra pens and pencils, glass photo frames, etc.		inappropriately by patients • Keep desks and work areas free of items, including extra pens and pencils, glass photo frames, etc.	inappropriately by patients • Establish daily work plans to keep a designated contact person informed about employees' whereabouts throughout the workday; have a contact person follow up if an employee does not report in as expected	visits and the refusal to provide services in clearly hazardous situations • Establish daily work plans to keep a designated contact person informed about employees' whereabouts throughout the workday; have a contact person follow up if an employee does not report in as expected
	Hospital	Residential Treatment	Non-residential Treatment/Service	Community Care	Field Workers (Home Healthcare, Social Service)
Transportation procedures	• Develop safety procedures that specifically address the transport of patients. • Ensure that workers transporting patients have an effective and reliable means of communicating with their home office.			• Develop safety procedures that specifically address the transport of patients. • Ensure that workers transporting patients have an effective and reliable means of communicating with their home office.	

Retail Industry (See OSHA publication 3153)

Minimizing Risk through Engineering Controls and Workplace Adaptations

- Limit window signs to low or high locations and keep shelving low so that workers can see incoming customers and police can observe what is occurring from the outside of the store.
- Ensure that the customer service and cash register areas are visible from outside of the establishment.
- Place curved mirrors at hallway intersections or concealed areas.
- Maintain adequate lighting inside and outside the establishment.
- Install video surveillance equipment and closed-circuit TV to increase the likelihood of identification of perpetrators.
- Use door detectors so that workers are alerted when someone enters the store.
- Have height markers on exit doors to help witnesses provide more accurate descriptions of assailants.
- Install and regularly maintain alarm systems and other security devices, panic buttons,

handheld alarms or noise devices, cellular phones and private channel radios where risk is apparent or may be anticipated.
- Arrange for a reliable response system when an alarm is triggered.
- Install fences and other structures to direct the flow of customer traffic into and around the store.
- Control access to the store with door entry (buzzer) systems.
- Install physical barriers between customers and workers, such as bullet-resistant enclosures with pass-through windows.
- Use drop safes to limit the availability of cash to cashiers and post signs stating that cashiers have limited access to cash.
- Use a panic button and responsive staff or other system that can be used to call for back-up assistance, when needed in an emergency.
- Use an x-ray or other security screening to detect and prevent weapons from being brought into the facility.

Minimizing Risk through Administrative and Work Practice Controls

- Integrate violence prevention activities into daily procedures, such as checking lighting, locks and security cameras to help maintain a secure worksite.
- Require workers to use the drop safes and keep a minimal amount of cash in each register.
- Develop and implement procedures for the correct use of physical barriers, such as enclosures and pass-through windows.
- Establish a policy of when doors should be locked. Require workers to keep doors locked before and after official business hours.
- Require workers to lock unlocked doors when not in use.
- Require that deliveries be made during normal daytime operations.
- Develop and implement emergency procedures for workers to use in case of a robbery or security breach, such as calling the police or triggering an alarm.
- Train all staff to recognize and defuse verbal abuse that can escalate to physically combative behavior.
- Train all staff and practice drills for physically restraining combative patients or clients, including the use of physical restraints and medication, when appropriate.

Taxi Drivers. (See OSHA Fact Sheet, Preventing Violence against Taxi and For-Hire Drivers)

- Use automatic vehicle location or global positioning systems (GPS) to locate drivers in distress.
- Use caller ID to help trace the location of fares.
- Provide first-aid kits for use in emergencies.
- Install in-car surveillance cameras to aid in apprehending perpetrators.
- Install partitions or shields to protect drivers from would-be perpetrators. These must be

used properly to work effectively.

- Coordinate with police—taxi owners and police need to track high-crime locations and perpetrator profiles.
- Use radios to communicate in case of emergency (e.g., “open mike switch”).
- Provide safety training to teach protective measures to drivers, dispatchers and company owners.
- Use silent alarms to alert others in the event of danger (e.g., “bandit lights”).
- Install cashless fare systems (i.e., debit/credit cards) to discourage robbers.

Appendix B – Information to include in the National Office memo

CSHOs should follow the layout for the memo, as set forth in the Procedures for Significant and Novel Enforcement Cases. The following provides guidance on what information concerning workplace violence should be included.

Provide reason for inspection

On September 18, 2015, the Fairland Area Office received a complaint from the XYZ Union, Local 1354, alleging that the employer failed to ensure a safe working environment for hospital employees and reported an incident which occurred on September 16, 2015. On this date two employees were injured by a violent psychiatric client in Fairview Hospital's Adult Unit. The injuries sustained by one of the assaulted employees did not result in treatable injuries while the other employee sustained multiple injuries including facial bruising, neck abrasions, and nerve damage. This employee has yet to return to work.

Identify when inspection was open and when the incident occurred that led to the inspection.

Defining the hazard

The employer failed to keep the workplace free of a recognized hazard to which employees of that employer were exposed. Healthcare workers interacting with clients who are known to pose a risk to themselves or others were exposed to workplace violence hazards when they interacted with these clients--especially when engaging with clients with a history of escalating behavior. Employees have suffered puncture wounds, lacerations, concussions and/or contusions from hits to the skull, and injuries to the knee, wrist, eyes, neck, arms, legs and back, when working with clients in the classroom or residential areas, as the clients become combative (including, but not limited to, stabbing, pulling, pushing, punching, biting, scratching and kicking). This has resulted in workplace violence that is likely to cause death and/or serious physical harm. The employer had not developed and/or implemented adequate measures to protect its employees from this hazard. While OSHA's inspection was ongoing, an employee was seriously beaten by a client; the injuries sustained in this attack will require the employee to be away from work for more than 180 days.

Clearly define the hazard with as much detail as possible.

Describe the injuries that were incurred as a result of the hazard.

Describing how the hazard was recognized

Employer knowledge

The workplace violence policy specifically states that "Client behavior that is a direct result of a client's condition is not considered physical abuse or threatening behavior and therefore not considered workplace violence." The workplace violence policy in place addressed employee against employee violence, but not clients acting out and injuring other clients or employees.

Identify any policies in place that address workplace violence.

The employer also maintains logs of all injuries sustained by employees in an electronic tracking system. The system is used to "manage quality and performance data for submission to state and national healthcare initiatives including the Joint Commission." In 2015 data in the system recorded fifty-three violent incidents and another nineteen ergonomic injuries suffered when employees responded to reports of violence. In 2014 data recorded included more than forty-six violent incidents and eight ergonomic injuries. Of these forty incidents, sixteen rose to recordability on the OSHA 300 log with ten of the sixteen being related to workplace violence and an additional three involving ergonomic issues sustained while responding as staff assists during violent situations. These cases resulted in a total of 106 days away.

Describe any injury logs or incident tracking systems. Provide information on the number and severity of incidents.

Describe if a system is used to track the violence of clients.

The acuity system in use at the hospital rates the client's potential for violence, any actual violence and doctor's orders. Ratings are given by the nurse supervisor based on staff nurse observations twice a day. The acuity rating for the aggressive client did not change on the day of the event.

<u>Industry knowledge</u>

The facility is a psychiatric and substance abuse hospital. This industry has long recognized the hazard of patient on employee violence. Examples of literature published on the issue include, but are not limited to, the following:

- Hader, Richard, RN, CHE, CPHQ, NE, BC PhD, FAAN, Nursing Management, July 2008 – Volume 39 – Issue 7 – p. 13-19, Workplace Violence Survey 2008: Unsettling Findings.
- Joint Commission Sentinel Event Alert, Issue 40, July 8, 2008, "Behaviors that Undermine a Culture of Safety".
- Joint Commission Sentinel Event Alert, Issue 45, June 3, 2010, "Preventing Violence in the Health Care Setting".

Provide examples of academic research and/or industry publications on workplace violence.

Additionally, injury rates also reveal that healthcare and social service workers are at a high risk of violent assault at work. BLS rates measure the number of events per 10,000 full-time workers. Incident rates (non-fatal injury/illnesses involving days away) for NAICS code 6222 (Psychiatric & substance abuse hospitals) for the event of "Violence and other injures" were 124.1 in 2011 and 119.1 in 2012. This compares to an overall private sector injury rate of 4.0 for private industry.
The total recordable case rate (days away, restriction and other recordable cases) for NAICS 622 in 2012 was 8.4 cases. This compares to a private sector rate of 3.4 cases.

If possible provide statistics on industry injury rates due to workplace violence.

Describing how the hazard was likely to cause death or serious physical harm

On September 16, 2015, a healthcare worker was brutally attacked by a client with a known history of violence. The patient was 6 feet 4 inches tall, 371 pounds. The attack lasted approximately 20-30 minutes and ended when five other health workers were finally able to remove the client from the staff employee. One of the nurses reported that this patient had been on site for approximately 120 days and had had become physically agitated on a number of occasions, was acting unfocused, and appeared preoccupied. The employee sustained serious injuries to the head, arms, torso, back and legs. The employee is expected to remain out of work on doctor's orders for more than 180 days. Physical assaults by other patients have caused other severe injuries, including sprains, strains, abrasions and contusions. In 2015, ten of the twelve entries on the OSHA 300 related to workplace violence resulted in a loss of 106 days away from work. (Note: this number will rise to over 265 as only 9 of the 180 days from the September event have been counted to date).

Describe incidents that caused serious physical harm or death. Describe threats that could have led to such incidents.

Describe feasible means of abatement that are linked to the hazard described

Among other methods, a feasible and acceptable method of abatement to eliminate or materially reduce this hazard includes, but is not limited to:

(1) Ensure Fairview Hospital, Inc. reviews its policies, such as the Workplace Violence Prevention Policy, to ensure that the following elements are integrated into a comprehensive workplace violence prevention program that addresses:

(a) A Workplace Violence Policy Statement, including responsibilities of all staff for workplace violence addressing accountability elements of management performance, hazard assessment, prevention, data review of incidents and injuries which is shared with staff and clients;

(b) Recognize assaultive behavior by clients toward employees within the Workplace Violence Prevention Policy;

(c) A Hazard/Threat/Security assessment including records review of incidents, inspection of the worksite, and employee survey;

(d) Implementation of workplace controls and prevention strategies, including procedures that maximize safety and minimize the likelihood of assaultive behavior;

(e) Review incidents and ensure that staff are trained on the personal safety skills to break out of holds applied by clients or to prevent biting injuries, as currently occur;

(f) Clarify the written policy for contacting law enforcement and communicate that policy to staff.

Describe the development of a comprehensive workplace violence program. If the employer has a program in place, describe where the program needs to be improved.

(2) Assign the duties of an overall workplace violence prevention program to a specific position (individual) as soon as possible; ensure the position includes overall coordination of the campus' Workplace Violence Prevention program and the responsibility of conducting thorough incident investigations with assistance from the workplace violence prevention management team.
(3) At least annually, review and update the facility's Workplace Violence Policies to ensure that procedures are in place for managing worst-case scenarios in which staff are unable to control or contain an incident, and to ensure that these policies allow staff to impose physical control measures in accordance with treatment plans determined by mental health physicians when necessary to ensure their own safety. Ensure that the restraint policy is adequately addressed, communicated, and that training is provided to employees.

Highlight the need to continually review and assess how a program is working.

(4) Use the injury tracking system in place to track reports of workplace violence. Perform root cause analysis for each reported incident of assaultive behaviors, such as, but not limited to, hair pulls, bites, scratches, punches, kicks, etc. Root cause analysis should include, among other items, a hazard identification process, such as identification of clients with a tendency toward 'predatory' violence or 'affective violence.' Ensure that personnel performing incident investigations are suitably trained in how to perform root cause analyses.

Identify how existing injury logs/tracking systems can be better utilized to mitigate the hazard.

(5) Conduct new hire and refresher training to ensure affected employees are aware of what the company's workplace violence policy is, where it can be found, and what the expectations are of the company for dealing with workplace violence hazards. Training should be conducted in a manner in which employees can easily understand the terminology and should incorporate hands-on exercises and practice drills to improve staff skill and confidence levels. Training should also include the company policies and requirements for recording and documenting on the daily chart when a client is exhibiting aggressive or violent behaviors. Train employees on the best ways to deal with and de-escalate clients. Also, provide training on what to do in an emergency, such as an incident when an employee is incapacitated by a patient and when to call 911.
(6) Implement assault prevention/control measures for direct care workers to employ when de-escalation techniques are inadequate. Clarify purpose of post-incident debriefing with employees to determine lessons learned vs. reprimanding.
(7) Set up a trained response team to respond to emergencies. Ensure that adequate numbers of properly trained designated responders are available for each shift who are ready and immediately available to render assistance in the event of an incident of aggressive and/or violent behavior, and ensure that the designated responders are not assigned to a

Identify specific measures that address the hazard described.

one-to-one client so that they can quickly respond if summoned, without leaving their client without the required supervision. The designated responders for any given shift should be personnel who have specialized training to deal with aggressive and violent behaviors.
(8) Provide staff with a reliable way to rapidly summon assistance when needed, such as an electronic alarm or a pendant-type wireless personal emergency assistance alarm. Ensure equipment coverage for each direct care worker on each shift. Arrange for a reliable response system when the alarm is triggered.
(9) Ensure adequate staff for coverage on all shifts so that direct care staff can deliver the required level of supervision for clients without putting themselves at risk by taking on additional clients, and so that direct care staff who are assigned one-to-one clients are not also required to be designated responders, which could hinder assistance to another staff member summoning help.
(10) Ensure that clients, client's relatives, and employees are informed that violence or threats are not permitted and will be investigated. Advise all patients and visitors that violence, verbal and nonverbal threats and related behavior will not be tolerated.
(11) Use security personnel or metal detectors to screen patients and visitors for guns, knives or other weapons. Ensure that video surveillance is monitored.

Identify how employers staffing protocols have been compromised by workplace violence.

Note: The Alleged Violation Description (AVD) language provided in the memo to the National Office should be <u>exactly the same language used in the citation</u>.

Appendix C – Resources and References

General resources

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As the FOM states: If a standard does not apply and all criteria for issuing a Section 5(a)(1) citation are not met, yet the Area Director determines that the hazard warrants some type of notification, a Hazard Alert Letter shall be sent to the employer and employee representative describing the hazard and suggesting corrective action.

January 5, 2016

Ms. Jane Doe, CEO
ABC Hospital
111 First Street
Springfield, TX 11111

Re: Inspection # 99999999

Dear Ms. Doe:

OSHA received a formal complaint alleging that ABC Hospital does not adequately protect its employees from workplace violence hazards. An inspection, begun at your facility located at 1111 First Street on August 3, 2015, revealed that employees of ABC Hospital are exposed to hazards of workplace violence that includes assaults. During routine interactions with patients, employees (such as but not limited to, nurses, technical assistants, and physical therapists) were exposed to incidents of violent behavior from your patients, such as:

Describe the hazard.

- On July 3, 2015 a nurse was physically assaulted by a patient after she asked the patient to put on his hospital gown. The patient shoved the nurse against the wall, pushed her to the ground and kicked her in the stomach.

Provide specific examples of the violence at the site.

- On July 18, 2015 a technical assistant was punched in the face when delivering lunch, and suffered an eye injury.

- On September 4, 2015 a physical therapist was bitten and kicked while assisting a patient with an exercise.

After reviewing relevant facts pertaining to this case, OSHA will not issue ABC Hospital a citation at this time for failing to protect employees from workplace violence which is a hazard that would be addressed under the General Duty Clause of the OSH Act. However, in the interest of workplace safety and health, I recommend that you voluntarily take reasonable steps to address the issue.

While I understand that ABC Hospital has Active Shooter training and initial training on aggressive patients for new employees, the inspection revealed that ABC Hospital

Acknowledge existing trainings but highlight what more should be done.

did not have a comprehensive workplace violence prevention program. Feasible methods to protect employees from workplace violence may be obtained from the OSHA publication *Guidelines for Preventing Workplace Violence for Healthcare and Social Service Workers*. This publication and other helpful resources can be found on the OSHA website for Workplace Violence: www.osha.gov/SLTC/workplaceviolence.

Provide resources and general guidance.

These resources will provide the steps you can take to develop a comprehensive, written workplace violence prevention program and will include:

- Management Commitment & Employee Involvement
- Worksite Analysis
- Records Analysis and Tracking
- Hazard Prevention and Control
- Post Incident Procedures and Services
- Safety and Health Training

An effective program will require that ABC Hospital:

- Follow up to confirm the controls developed are being used and maintained properly.
- Evaluate the effectiveness of controls at lease annually, and improve, expand or update them as needed.
- Develop and implement mandatory reporting procedures for all incidents and train employees on those procedures.
- Ensure that employees who report or experience workplace violence do not face retaliation.
- Implement yearly training for employees exposed to workplace violence and ensure that training occurs when policies and procedures are changed.

Highlight the need for continual improvement.

The above are recommended abatement measures to address the potential workplace hazard at your workplace(s). Alternatively, you may institute other measures that would be equally effective in materially reducing or eliminating the hazard. OSHA makes available a free on-site consultation service that may identify other measures or, if you are not eligible for that service, we recommend you hire a consultant with expertise in workplace violence prevention.

Recommend hiring an expert.

To evaluate your efforts in reducing these hazards, please send me a letter detailing the actions you have taken, or plan to institute, to address our concerns by ***February 5, 2016.*** We will review the response to determine if the XXX Area Office will follow up at a later date to evaluate any newly implemented or enhanced engineering controls, administrative controls, policies, procedures, training or other measures taken to address the hazards identified above. Under

Require a response a month after the letter is sent. Explain the response will be assessed. A decision to re-inspect will be in part dependent on the response received.

OSHA's current inspection procedures, we may return to your work site within a year to further examine the conditions noted above.

We appreciate your attention to these areas of concern. If you have any questions, please feel free to contact the XXX Area Office at 111-111-1111.

Respectfully,

Area Director