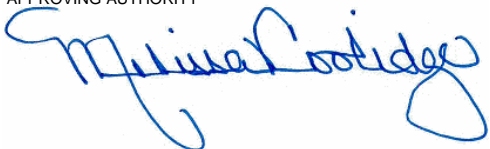
 <b>Corrections and Community Supervision</b>  <b>DIRECTIVE</b>	TITLE		NO. 2003
	<b>Domestic and Gender-Based Violence and the Workplace Policy</b>		DATE 03/27/2024
SUPERSEDES DIR #2003 Dtd. 12/22/22	DISTRIBUTION A	PAGES PAGE 1 OF 15	DATE LAST REVISED
REFERENCES (Include but are not limited to) Federal Civil Rights Act of 1964; Social Services Law § 459-a; Insurance Law § 2612; Labor Law §§ 196-b(4) & 593; Penal Law § 215.14; NYS Human Rights Law (Executive Law Article 15); Executive Order #17; Directives #2020, #2112, #2602	APPROVING AUTHORITY 		

**I. POLICY:** Domestic and gender-based violence permeate the lives and compromise the safety of thousands of New Yorkers each day, with tragic, destructive, and sometimes fatal results. The impacts of such violence are felt in the workplace, regardless of where the incidents are taking place, and have the potential to compromise the safety of victims, co-workers, and others, while resulting in lost productivity, increased health care costs, absenteeism, and employee turnover. Employers have both a moral and legal obligation to their employees who may be experiencing victimization.

New York State law recognizes that domestic and gender-based violence occurs within a wide spectrum of relationships; therefore, the Department of Corrections and Community Supervision (DOCCS) will take every appropriate measure to prevent and/or address domestic and gender-based violence, as they impact the workplace, while also recognizing the rights of victims to have self-determination and the need to respond in a survivor-centered, trauma-informed, and culturally responsive manner. All valid Orders of Protection (OOP) shall be enforced by DOCCS, and all protections of this policy shall apply. This policy shall apply to all victims of domestic and gender-based violence, regardless of where the incidents took place.

DOCCS, to the fullest extent possible without violating any existing rules, regulations, statutory requirements, contractual obligations, or collective bargaining agreements, designates and directs all management and supervisory staff to implement the following Domestic and Gender-Based Violence and the Workplace Policy. In accordance with Executive Order #17, any modification of this policy must be forwarded by the Bureau of Internal Controls to the Office for the Prevention of Domestic Violence (OPDV) for their review and approval.

**II. DEFINITIONS:** For the purposes of this policy, the following items will be defined as follows:

- A. **Domestic Violence:** A pattern of coercive behavior, including acts or threatened acts, that is used by a perpetrator to gain power and control over a victim, as defined in New York State Social Services Law § 459-a, including, but not limited to, physical, sexual, psychological, economic, and/or emotional abuse or the threat of any/all of the aforementioned acts.
- B. **Domestic Violence Agency Liaison (DVAL) or Designee:** A designated Agency employee(s) who has been trained by OPDV to assist victimized employees. The DVAL or designee will ensure Agency compliance with the Domestic and Gender-Based Violence and the Workplace Policy and will serve as the primary contact for OPDV.

- C. Gender-Based Violence: Violence or threats that happen because of someone's sex, gender, sexual orientation, gender identity or expression, or other related characteristics. Gender-based violence is an umbrella term that includes domestic violence, sex-based discrimination, sexual harassment, sexual assault, and sexual violence, and can also include stalking or human trafficking.
- D. Order of Protection (OOP) (Commonly referred to as a "Restraining Order," "Refrain from Order," or "Stay-Away Order"): An order issued by any court to limit the behavior of someone who harms or threatens to harm another person. OOPs may direct the offending party not to injure, threaten, or harass the victim, their family, or any other person(s) listed in the order and may include, but are not limited to, ordering them to stay away from the home, school, business, or place of employment of the victim; vacate a shared residence; abide by any active orders of custody and visitation; and surrender any firearms.
- E. Perpetrator or Abusive Partner or Person Who Causes Harm: A person who commits or threatens to commit coercive or violent acts, which may include, but is not limited to, physical, psychological, sexual, economic, and/or emotional abuse against a victim.
- F. Sexual Harassment: Consistent with the New York State Human Rights Law, unwelcome conduct which is either of a sexual nature or which is directed at an individual because of that individual's sex when:
1. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment;
  2. Such conduct is made either explicitly or implicitly a term or condition of employment; or
  3. Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment.
- G. Victim of Domestic Violence (New York State Social Services Law § 459-a)
1. Any person over the age of sixteen, any married person, or any parent accompanied by their minor child or children in situations in which such person or such person's child is a victim of an act which would constitute a violation of the Penal Law, including, but not limited to, acts constituting disorderly conduct, harassment, aggravated harassment, sexual misconduct, forcible touching, sexual abuse, stalking, criminal mischief, menacing, reckless endangerment, kidnapping, assault, attempted assault, attempted murder, criminal obstruction of breathing or blood circulation, strangulation, identity theft, grand larceny or coercion; and:
    - a. Such act or acts have resulted in actual physical or emotional injury or have created a substantial risk of physical or emotional harm to such person or such person's child.
    - b. Such act or acts are or alleged to have been committed by a family or household member.
  2. "Family or household members" mean the following individuals:
    - a. Persons related by consanguinity or affinity (blood or a person's relation to blood relatives of their spouse).

- b. Persons legally married to one another.
  - c. Persons formerly married to one another regardless of whether they still reside in the same household.
  - d. Persons who have a child in common regardless of whether such persons are married or have married or have lived together at any time.
  - e. Unrelated persons who are continually or at regular intervals living in the same household or who in the past continually or at regular intervals lived in the same household.
  - f. Persons who are not related by consanguinity or affinity and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time. Factors that may be considered in determining whether a relationship is an "intimate relationship" include, but are not limited to, the nature or type of relationship, regardless of whether the relationship is sexual in nature; the frequency or interaction between the persons; and the duration of the relationship. Neither a casual acquaintance nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute an "intimate relationship"
  - g. Any other category of individuals deemed to be a victim of domestic violence as defined by the Office of Children and Family Services (OCFS) in regulation.
3. "Parent" means a natural or adoptive parent or any individual lawfully charged with a minor child's care or custody.

H. Workplace: For the purposes of this policy, any permanent or temporary location away from the employee's domicile where an employee performs any work-related duty in the course of employment.

**III. PERSONS COVERED BY THIS POLICY:** This policy shall extend to all full, part-time, and temporary employees, volunteers, and interns engaged by DOCCS in any official workplace capacity. Whenever possible, this policy shall be extended to consultants, contractors, and other on-site providers.

**IV. STATEMENT OF CONFIDENTIALITY:** DOCCS recognizes and respects the employee's right to privacy and confidentiality. All information, including employee disclosures about victimization, shall be kept confidential to the extent permitted by law and Agency policy without the employee's written informed consent, unless doing so creates a substantial risk of imminent danger to the victimized employee, other employees, or worksite. Should that circumstance occur, the victimized employee will be given notice of what actions will be taken by DOCCS and information will be given to only those employees deemed necessary for securing the safety of the victim, other employees, or worksite. The information given to those employees will be as limited in scope as possible and employees may be required to sign an acknowledgement of confidentiality stating that any information that they have been given regarding the victimized employee must be used only for the intended purpose.

## **V. AGENCY RESPONSIBILITIES**

A. Agency:

1. DOCCS' Associate Commissioner/Chief of Staff is designated as the DVAL.

2. The Director of the Office of Victim Assistance for Central Office, the Deputy Superintendents for Administrative Services (DSA) for their respective facilities, and the Bureau Chiefs (BC) for their respective area offices, shall serve as the primary contact for victims of domestic and gender-based violence working in their office/facility/bureau as the DVAL's designees.
3. The current contact information for all DVALs and their supervisors must be communicated to OPDV by emailing: [workplace@opdv.ny.gov](mailto:workplace@opdv.ny.gov). Any updates to this information shall be provided within two weeks.
4. Employee Awareness
  - a. DOCCS will increase awareness around domestic and gender-based violence and create an informed workplace regarding available sources of assistance for those experiencing domestic or gender-based violence.
  - b. DOCCS will increase awareness around possible disciplinary practices that may be implemented in the event of retaliation or used with employees who perpetrate acts of domestic or gender-based violence.
  - c. DOCCS shall include this policy as part of the written materials that are provided to all new employees and shall provide this policy to all employees on an annual basis.
  - d. A detailed explanation of employees' rights under this policy shall be given during new employee orientation, including information for contacting the DVAL or their designee(s).
  - e. If DOCCS suspects that an employee is a victim of domestic and gender-based violence but the employee has not disclosed victimization, DOCCS shall refer the employee to:
    - (1) The DVAL or their designee(s).
    - (2) The Employee Assistance Program (EAP).
    - (3) The NYS Domestic and Sexual Violence Hotline (or the statewide hotline for workplace sexual harassment, as may be appropriate).
    - (4) Any local programs serving victims of domestic and sexual violence.
  - f. DOCCS shall post information on domestic and gender-based violence as outlined below, this policy, and any additional available resources at the DOCCS workplace. This information shall be posted in such places where employees are able to utilize the information without having to request it or be seen removing it, including on the DOCCS website, the DOCCS Training Icon, DOCCS Today, staff restrooms, kitchens, lounge areas, and any other frequently trafficked areas. Information must include sources of assistance, EAP information, and contact information for the DVAL and their designee(s), the NYS Domestic and Sexual Violence Hotline Number (1-800-942-6906), Chat and Text Line (1-844-997-2121), and contact information for local domestic violence programs.
  - g. The following referrals must be offered to anyone who discloses that they are a victim of domestic or gender-based violence:
    - (1) The DVAL or designee(s)

- (2) EAP
  - (3) The NYS Domestic and Sexual Violence Hotline (or the statewide hotline for workplace sexual harassment, as may be appropriate)
  - (4) Any local program serving victims of domestic and sexual violence
  - h. Additional referrals shall be made to the appropriate resources to best meet the employee's needs.
  - i. DOCCS shall consider conducting programs and activities throughout the year to increase awareness about domestic and gender-based violence such as:
    - (1) Supply drives for local domestic and gender-based violence programs.
    - (2) Brown bag lunch discussions.
    - (3) Presentations by local domestic and gender-based violence programs, the DVAL or their designees, or OPDV.
- B. Domestic Violence Agency Liaison (DVAL) and Designees
1. The DVAL or designee(s) will ensure agencywide implementation of and compliance with this Domestic and Gender-Based Violence and the Workplace Policy. The DVAL and designee(s) shall be responsible for implementation of this policy at their respective facility or office.
  2. The DVAL and each designee shall promote an agencywide workplace culture that is safe and supportive for anyone who has experienced domestic or gender-based violence by communicating that information and resources are available to victims and that abusive behavior by any employee will not be tolerated.
  3. The DVAL or designee(s) will ensure victimized employees are aware of and understand this policy and their rights.
  4. Upon notification that an employee is a victim of domestic or gender-based violence, the DVAL or designee(s) must provide the employee with confidential support services, including referrals to:
    - a. EAP.
    - b. The NYS Domestic and Sexual Violence Hotline (or the statewide hotline for workplace sexual harassment, as may be appropriate).
    - c. Any local programs serving victims of domestic and sexual violence.
  5. The DVAL or designee(s) will ensure that the victimized employee is informed of all possible options available to them, in accordance with any existing collective bargaining agreements, regulations, and Agency policy, such as the use of alternative scheduling or a change in work location and assisting the employee in identifying the best use of attendance and leave benefits.
  6. The DVAL or designee(s) will ensure that the victimized employee is aware of and receiving any necessary accommodations as outlined in Section VI of this policy and shall consult with the DOCCS Deputy Commissioner or Associate Commissioner with oversight over the employee's work area, Counsel's Office, and OPDV Counsel as appropriate, to address complex cases.
  7. The DVAL or designee(s) will ensure that all employees receive a copy of this policy annually, regularly receive information about how to contact the DVAL or their designee(s), and what supportive services are offered by the Agency.

8. The DVAL or designee(s) will conduct basic workplace safety strategizing with victimized employees.
9. The DVAL will serve as the primary contact for OPDV, including reporting bi-annual data. The DVAL's designees shall ensure that required data pertaining to their respective worksite is provided to the DVAL to facilitate bi-annual reporting.

C. Administration

1. Training Academy staff shall assist the DVAL to ensure that all employees who are required to attend training from OPDV pursuant to the policy complete the required training.
2. Human Resources staff at each worksite shall ensure that a copy of this policy is distributed to each employee upon hire as well as annually. Information about how to contact the DVAL or designee(s) and what supportive services are offered by the Agency shall be distributed with a copy of this policy.
3. Labor Relations staff shall assist supervisors and DOCCS to ensure that all employees who, after a full and fair investigation, are found to have committed a substantive violation of this policy are held accountable pursuant to the applicable disciplinary process as more fully set forth in Section IX.

D. Supervisors

1. Supervisors shall ensure that any employee who discloses being a victim of domestic or gender-based violence is aware of this policy and understands this policy and their rights, including the right to request accommodations or time off as discussed below.
2. If any employee discloses being a victim of domestic or gender-based violence, or if the supervisor suspects that the employee may be a victim of domestic or gender-based violence, the supervisor must refer the employee to:
  - a. The DVAL or designee(s).
  - b. EAP.
  - c. The NYS Domestic and Sexual Violence Hotline (or the statewide hotline for workplace sexual harassment, as may be appropriate).
  - d. Any local programs serving victims of domestic and sexual violence.
3. There is no mandatory reporting of domestic or gender-based violence, unless it may constitute sexual harassment as defined in Section II.

**VI. NON-DISCRIMINATION AND RESPONSIVE PERSONNEL POLICIES:** DOCCS endeavors to ensure that Agency policies and procedures are trauma-informed, survivor-centered, and culturally responsive to victims' needs, and are not discriminatory. Under the New York State Human Rights Law, all persons covered by this policy are protected from discrimination in the workplace on the basis of status as a victim of domestic violence, and on the basis of sex, sexual orientation, gender identity, and gender expression.

- A. Subdivision 34 of § 292 of the Executive Law of New York State establishes persons who qualify as a "victim of domestic violence."
- B. Victims of domestic violence are a protected class under the New York State Human Rights Law [Executive Law § 296(22)].

1. Employers may not refuse to hire or license and may not terminate someone solely based on their status as a victim of domestic violence.
  2. Employers may not discriminate against victims of domestic violence in compensation, terms, conditions, or privileges of employment.
  3. Employers must prohibit inquiries about an applicant's status as a current or past victim of domestic violence and may not make any employment decisions based on assumptions or actual knowledge about someone's status as a current or past victim of domestic violence. Employers may inquire about status as a victim of domestic violence in order to provide reasonable accommodations.
- C. Pursuant to Labor Law § 196-b(4), employers must allow any employee who has disclosed their status as a victim of domestic or gender-based violence (or disclosed that a family member is a victim of domestic or gender-based violence), and must be out of work for a reasonable time, to use accrued sick leave for the following purposes:
1. To obtain services from a domestic violence shelter, rape crisis center, or other services program.
  2. To participate in safety planning, temporarily or permanently relocate, or take other actions to increase the safety of the employee or employee's family members.
  3. To meet with an attorney or other social services provider to obtain information and advice on, and prepare for or participate in, any criminal or civil proceeding.
  4. To file a complaint or domestic incident report with law enforcement.
  5. To meet with a district attorney's office.
  6. To enroll children in a new school.
  7. To address issues relating to technology or financial abuse.
  8. To take any other actions necessary to ensure the health or safety of the employee or the employee's family member or to protect those who associate or work with the employee.
- D. Employees can choose to use appropriate leave accruals to cover any absences, if available. If the employee does not have adequate leave accruals to cover the absence or chooses not to charge leave accruals, the absence shall be treated as leave without pay.
- E. Any employee who must be absent from work to utilize accommodations in this Section is entitled to the continuation of any health insurance coverage provided by the employer to which the employee is otherwise entitled during any such absence, in accordance with existing contracts, collective bargaining unit agreements, statutes, regulations, and Agency policy.
- F. Employees who must be absent to utilize accommodations as listed in this Section shall provide their employer with reasonable advanced notice of the absence whenever possible.
- G. Pursuant to Penal Law § 215.14, employers are also required to grant time off, with prior day notification, and may not penalize any employee who, as a victim or witness of a criminal offense, is appearing as a witness; consulting with a district attorney; or exercising their rights as provided by law.

Employees can choose to use appropriate leave accruals to cover any absences, if available. If the employee does not have adequate leave accruals to cover the absence or chooses not to charge leave accruals, the absence shall be treated as leave without pay. Any questions regarding leave that must be granted to victims or subpoenaed witnesses should be directed to the Agency's Personnel Office or the Attendance and Leave Unit at the Department of Civil Service.

- H. Employers should be aware that there may be occurrences when an employee is absent due to incidents of domestic or gender-based violence where they are unable to follow Agency protocol to report the absence. In that situation, the employee may lack documentation, may be unable to obtain documentation, or may not want to share documentation containing confidential information. An employer may not require the disclosure of confidential information relating to an absence from work due to domestic violence, a sexual offense, stalking, or human trafficking, as a condition of providing sick leave.
- I. Employees who are victims of domestic violence or gender-based violence who separate from a covered family member due to an incident or incidents of domestic or gender-based violence shall be allowed to make reasonable changes in benefits at any time during the calendar year, where possible, and in accordance with existing contracts, collective bargaining unit agreements, statutes, regulations, and Agency policy.
- J. DOCCS recognizes that victims of domestic and gender-based violence may experience temporary work performance difficulties or be unable to complete certain job aspects because of safety reasons. (Examples include overnight travel, "off" hour shifts, etc.) If it is found that the employee's work performance is being affected as a result of being a victim of domestic or gender-based violence, DOCCS will work with the employee to try to create a satisfactory resolution, including, but not limited to, specific work plans, the ability to take leave, provision of reasonable accommodations, referrals to the DVAL, EAP, and/or the local domestic violence service provider. OPDV is available for case-specific technical assistance as needed. Employees will be given clear information of performance expectations, priorities, and performance evaluations. Employees should be made aware that not all employee requests for resolutions can be accommodated. If a disciplinary process is initiated, special care should be taken to consider all aspects of the victimized employee's situation, and all available options in trying to resolve the performance problems should be exhausted, including making a referral to the DVAL, EAP, domestic violence program, or other relevant services, consistent with existing contracts, collective bargaining unit agreements, statutes, regulations, and Agency policy.
- K. If all reasonable measures have been exhausted to resolve related performance problems of employees who are victims of domestic or gender-based violence, but the performance problems persist and the employee is terminated or voluntarily separates from employment, the employee shall be informed of their potential eligibility for unemployment insurance and DOCCS shall respond quickly to any requests for information that may be needed in the claims process. New York State Labor Law § 593(1)(b)(i) provides that a victim of domestic violence who voluntarily separates from employment may, under certain circumstances, be eligible for unemployment insurance benefits.



- L. New York State Insurance Law § 2612 prohibits insurance companies and health maintenance organizations from discriminating against domestic violence victims by prohibiting status as a domestic violence victim to be considered a “pre-existing condition.” Insurance companies may not deny or cancel an insurance policy or require a higher premium or payment because the insured party is a current or former victim of domestic violence.
- M. Sex, sexual orientation, gender identity, and gender expression are all protected classes under the New York State Human Rights Law. Sexual harassment is a form of sex discrimination and is unlawful under the New York State Human Rights Law § 296.1, Human Rights Law § 296-c (for interns), and Human Rights Law § 296-d (for non-employees working in the workplace), and Title VII of the Federal Civil Rights Act of 1964. Sexual harassment includes harassment based on sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender (see Section II for the definition of sexual harassment). Gender-based violence may constitute sexual harassment when it subjects an individual to inferior terms, conditions, or privileges of employment (refer to Directive #2602, “Employee Discrimination Complaints,” for DOCCS’ sexual harassment and discrimination policy).
- N. For all forms of discrimination and harassment, if an employee, including an intern or contractor working in a State workplace, experiences sexual harassment or discrimination on the basis of their status as a victim of domestic or other gender-based violence, or observes discrimination in the workplace, the employee may file a complaint with the Office of Employee Relations via the New York State Employee Discrimination Complaint form located at <https://oer.ny.gov>, or by contacting an equal employment officer.

Any complaint of potential discrimination, whether verbal or written, must be investigated. Furthermore, any supervisory or managerial employee who observes or otherwise becomes aware of conduct of a sexually harassing nature must report such conduct so that it can be investigated. DOCCS shall maintain the confidentiality of the complainant to the extent practical.

## **VII. NON-RETIALIATION POLICY**

- A. DOCCS shall not engage in any retaliatory practices against any employee that discloses they are a victim of domestic or gender-based violence, or any employee seeking accommodations or to exercise their rights under this policy.
- B. DOCCS will not retaliate, tolerate retaliation by any superiors, terminate, or discipline any employees for reporting information about alleged incidents of domestic or gender-based violence that may have been committed by an employee, including those in management positions.
  - 1. Retaliatory practices may include, but are not limited to, fewer promotions, inappropriate jokes, snide comments, excluding employee from conversations, etc., and may be carried out by everyone, not just the original perpetrator. Retaliation includes commencing discipline against victimized employees for actions taken to promote their safety.

2. Any employee or agency engaging in retaliatory practices may be subject to disciplinary actions. If you believe you have been subject to retaliatory practices, please see Section XIII.

## VIII. WORKPLACE SAFETY PLANS

- A. DOCCS shall comply and assist with enforcement of all known OOPs. If requested by the victim, or by law enforcement, DOCCS will provide any relevant information regarding an alleged OOP violation. If these circumstances apply to Departmental employees working at the same location, the Director of Human Resources shall be consulted to assist in the facilitation of the enforcement of the OOP.
- B. Employees are encouraged to disclose any active OOPs to the DVAL or designee(s). Copies of OOPs will be maintained in a locked, confidential location, separately from the employee's personnel file. In the event of an emergency or that the OOP needs to be presented to law enforcement, the DVAL or designee(s), other designated staff member, or a member of Executive staff shall retrieve and present the OOP. Employees should be made aware that they are responsible for notifying the DVAL or designee(s) in the event of a relevant modification or revocation of the OOP.
  1. The DVAL shall establish a confidential locked cabinet in Central Office where OOPs will be kept. The DVAL, members of the Commissioner's Executive Team or their designee(s), the Assistant Commissioner for the Office of Special Investigations, and the Director of Operations for the Office of Special Investigations may obtain access to an OOP or direct production to law enforcement for the purpose of facilitating an individual workplace safety plan. Central Office employees are encouraged to bring their OOPs to the attention of the DVAL or their designee, and the Director of the Office of Victim Assistance.
  2. The DSA shall maintain a confidential locked cabinet in their office where OOPs will be kept. The DSA's alternate to access the locked cabinet containing the OOPs will be the Deputy Superintendent for Security (DSS). Facility employees are encouraged to bring their OOPs to the attention of the DSA or the DSS as an alternate.
  3. The BC shall maintain a confidential locked cabinet in their office where OOPs will be kept. The BC's alternate to access the locked cabinet will be the Regional Director. Area office employees are encouraged to bring their OOPs to the BC or the Regional Director as an alternate.
  4. The employee is responsible to notify the DSA or BC if there are any changes to the OOP.
- C. When requested by the victim, the DVAL or designee(s), upon consultation with the Director of Human Resources and/or the Director of the Office of Victim Assistance as appropriate, will work with the employee to develop a plan for how best to increase safety for the victim, other employees, and the workplace. Options may include, but are not limited to:
  1. Providing front desk security or reception staff with a copy of the OOP with a photo of the perpetrator.
  2. Blocking the perpetrator from entrance into the building.
  3. Protocols for reporting to law enforcement.

4. Allowing the employee to work staggered hours, an “off shift”, or move to a different work location, either temporarily or permanently, in line with existing collective bargaining agreements and related procedures.
5. Temporary reassignment of certain duties, such as overnight travel.
6. Reassignment of parking space.
7. Providing employees an escort for entry and exit from the worksite.
8. Allowing security to escort the perpetrator out of the building and off the worksite premises.
9. Working with the employee to address any identified concerns about the use of technology.
  - a. Assigning a new email account or phone number if the perpetrator has been able to access the existing accounts.
  - b. Creating a personalized safety plan in consultation with the local domestic or sexual violence program.
  - c. Allowing the employee to work from an alternate worksite until further action is taken if the employee works directly with the perpetrator.
  - d. If an OOP is in place and has been violated (i.e., by perpetrator showing up at the workplace of victim), requiring security to report the violation to law enforcement.
- D. If the circumstances indicate a need for the Department to take steps to increase safety for the victim, other employees, and the workplace, the Department should follow the Domestic and Gender-Based Violence and the Workplace Policy.

## **IX. ACCOUNTABILITY FOR EMPLOYEES WHO PERPETRATE ACTS OF DOMESTIC OR GENDER-BASED VIOLENCE**

- A. DOCCS will hold accountable any employee who is found to have engaged in behaviors including but not limited to:
  1. Used State resources, including time, to commit an act of domestic or gender-based violence.
  2. Committed an act of domestic or gender-based violence from or at the workplace, or from any location conducting State business, except for locations where employees are telecommuting.
  3. Used their job-related authority and/or State resources in order to negatively affect victims of domestic or gender-based violence and/or assisted perpetrators in locating a victim and/or in perpetrating an act of domestic or gender-based violence.
  4. Acts of domestic or gender-based violence that occur outside of the workplace can subject a person to administrative and/or disciplinary action.

- B. If the Department has found that an employee has committed any act of domestic or gender-based violence, including making threats or harassment at or from the workplace using any State resources such as work time, State-owned telephones or cell phones, email, or by any other means; the supervisor, in conjunction with Human Resources and Labor Relations, shall take any and all steps necessary to hold the employee accountable through administrative and/or disciplinary action in accordance with existing collective bargaining agreements, applicable statutes, and/or regulations. This should include referrals to Accountability Programs for Persons Who Cause Harm.
- C. Corrective or disciplinary actions may include, but are not limited to:
1. Administrative leave.
  2. Cease and desist memo.
  3. Removing/modifying chain of supervision pending an official report.
  4. Relocation of the alleged employee perpetrator to another worksite.
  5. Surrender of work cell phone, laptop, etc.
  6. Revocation of permanent employment status (reverting to contingent or probationary status).
  7. Mandated participation in an Accountability Program for Persons Who Cause Harm.
  8. Termination.
- D. The Department shall determine if corrective action or disciplinary action is warranted, in accordance with existing collective bargaining agreements, relevant statutes, and regulation if the Agency has received verification that an employee is responsible for any domestic or gender-based violence related offense, or is the respondent on any OOPs, including temporary, final, and/or out-of-state orders because of a gender-based violence related offense, and said employee has any job functions that include:
1. The authority to take actions that directly impact victims of domestic or gender-based violence.
  2. The authority to take actions which may protect perpetrators from appropriate consequences for their behavior.
- E. Any employee who intentionally uses the authority of their employment and/or misuses any State resources in order to:
1. Negatively impact any victim of gender-based violence;
  2. Assist a perpetrator in locating a victim;
  3. Assist a perpetrator in perpetrating any act of gender-based violence; or
  4. Protect a perpetrator from receiving appropriate consequences;
- shall be subject to corrective or disciplinary action, in accordance with existing collective bargaining agreements, applicable statutes, and regulations.
- F. An employee shall notify the Department (Board of Parole Chairperson, Superintendent, Division Head, BC, or Regional Director) if they are arrested on a domestic or gender-based violence-related offense and/or served with an OOP. All reports will be processed in accordance with Directive #2112, "Report of Criminal Charges."

- G. Any employee who would like to report information about an alleged act of domestic or gender-based violence committed by an employee may do so by contacting the DOCCS Office of Special Investigations (including by phone 1-844-OSI-4NYS [1-844-674-4697], email [[OSIComplaint@doccs.ny.gov](mailto:OSIComplaint@doccs.ny.gov)], or online at <https://doccs.ny.gov/file-complaint>), the Anti-Discrimination Investigations Division (ADID) at the NYS Office for Employee Relations (<https://antidiscrimination.oer.ny.gov/>) or the NYS Inspector General's Office by calling the toll-free hotline at 1-800-367-4448 where trained staff will discuss the specifics of your complaint.

## X. TRAINING

- A. Domestic Violence Agency Liaisons (DVAL) or Designee(s)
1. The DVAL or designee(s) shall complete a Gender-Based Violence and the Workplace training provided by OPDV.
  2. The DVAL or designee(s) shall complete an initial one-day training provided by OPDV.
  3. The DVAL or designee(s) shall attend quarterly meetings hosted by OPDV, which will provide ongoing training and technical assistance to them.
  4. Appropriate managers, supervisors, EAP staff, Human Resources personnel, union and labor representatives, and security staff may also attend the OPDV DVAL one-day or quarterly trainings.
- B. Employee Assistance Program (EAP) Staff: All employees who function as EAP coordinators must participate in annual training provided by OPDV on Gender-Based Violence and the Workplace.
- C. Human Resources: All employees who are employed in human resources positions must participate in two annual trainings provided by OPDV:
1. Gender-Based Violence and the Workplace
  2. Gender-Based Violence Workplace Safety Planning
- D. Supervisors: All employees who are supervisors must participate in an annual Gender-Based Violence and the Workplace training provided by OPDV.
- E. All Employees: DOCCS may utilize the Gender-Based Violence and the Workplace training developed by OPDV as part of the required training for DOCCS employees. DOCCS will include such trainings within the Annual Planning Guide as deemed appropriate.

## XI. DATA COLLECTION AND REPORTING TO OPDV

- A. Information regarding employees who are victims of domestic or gender-based violence, as well as those who are disciplined for violating this policy, shall be maintained by the DVAL or designee(s) and reported to OPDV by the DVAL or designee(s) on a bi-annual basis, and at any time, upon request from OPDV. Reporting to OPDV shall be done in aggregate form without any personally identifying information. Data from January through June will be due no later than July 30, and data from July through December will be due no later than January 30.

**B. The Following Information Shall Be Collected:**

1. All incidents of domestic and gender-based violence that take place at a workplace, or while the employee is on Agency time, shall be documented to the best of the Agency's ability, consistent with applicable law and Agency policy, categorized by domestic violence and sexual violence.
2. The general nature of the incidents that occurred in the workplace.
3. The number of employees who report being a victim of current or past domestic violence.
4. The number of employees who contact the DVAL or designee(s) with concerns that a co-worker is experiencing domestic violence or gender-based violence.
5. The number of employees who are referred for discipline as a result of violating Section IX of this policy.
6. The number of employees who contact the DVAL or designee(s) to request information on domestic violence services.
7. The number of referrals made to domestic violence service providers, EAP, or other applicable services.
8. The number of OOPs that are reported to the Agency.

**XII. FIREARMS**

- A. Pursuant to NYS and federal law, any person convicted of a domestic violence related crime, or who is subject to any OOP, forfeits the right to legally possess a firearm or long gun under certain circumstances. Additionally, federal law contains prohibitions relating to shipping, transportation, or receiving firearms or ammunition.
- B. In addition to complying with state and federal law, employees who are authorized to carry a firearm as part of their job-related duties are required to notify the Agency (Superintendent, Division Head, BC, or Regional Director) if they are arrested for a domestic violence or gender-based violence related offense and/or are served with an OOP. Under certain circumstances, such employees are responsible for surrendering their firearms to DOCCS or the appropriate police agency pursuant to Departmental policy, Directive #2020, "Firearms Controls."
- C. Should an employee fail to comply with the requirements set forth in subsection XII-B, said employee shall be subject to corrective or disciplinary action in accordance with existing collective bargaining unit agreements, statute, or regulations. In addition, law enforcement may be notified for possible criminal action.

**XIII. VIOLATIONS OF POLICY**

- A. Any employee who would like to report any alleged violations of this policy may do so by contacting OPDV, the Department's Office of Special Investigations (including by phone 1-844-OSI-4NYS [1-844-674-4697], email [OSIComplaint@doccs.ny.gov](mailto:OSIComplaint@doccs.ny.gov)), or online at <https://doccs.ny.gov/file-complaint>), or the NYS Inspector General's Office by calling the toll-free hotline at 1-800-367-4448 where trained staff will discuss the specifics of your complaint.

- B. For complaints of workplace discrimination, an employee may contact the Anti-Discrimination Investigations Division (ADID) at the NYS Office for Employee Relations (<https://antidiscrimination.oer.ny.gov/>). This includes complaints related to denials of reasonable accommodations.