

EMPLOYEE SAFETY

in the NYS Juvenile Justice System



A Report by

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*“A program cannot be safe for clients
unless it is simultaneously safe for staff and administrators.”*

– Sandra L. Bloom, founder of The Sanctuary
Institute, which trains the Sanctuary Model.

I. Executive Summary

The New York State Office of Children and Family Services (OCFS) operates the state’s juvenile justice residential facilities, reception centers and day placement centers and regulates the privately operated juvenile justice residential and community based programs where juvenile delinquents are also sent. Workplace injury rates at OCFS are among the highest of any state agency. Indeed, workers’ compensation incident rates at state operated residential facilities have increased by thirty-three percent in the last fiscal year and among those, indemnity claims caused by “assaults and violent acts by persons” have increased by forty-two percent in the last fiscal year.

OCFS has implemented new policies in an attempt to transform the juvenile justice system in New York State from an “adult correctional facility model” based on “custody and control” to a “sanctuary model” which recognizes juvenile detainees as victims of trauma. These reforms include proposals to create therapeutic approaches to changing youth behavior, increased emphasis on education and preparation for functioning upon release, as well as holding employees more accountable for misconduct towards residents and placing a greater reliance on community facilities for rehabilitating youth.¹

Unions representing workers at state-run residential facilities have expressed concern that this new policy has resulted in less control over residents, resulting in a greater risk to employee safety.

The shift to less secure, privately operated community-based programs raises its own workplace safety concerns. For example, in June 2009 a community residence worker, Renee Greco, was murdered by a youth placed by OCFS in a private residential center in Lockport, New York, which has since been closed. In January 2009 a police officer, Anthony DiPonzio, was shot in the head by a youth who went AWOL from a private residential community placement in Rochester, New York.² Additionally, it is estimated that up to one-third of youth placed in privately run residential placement

¹ Carrión, Gladys, *Background Briefing Memo: The Transformation of Juvenile Justice in New York State* (Revised August 18, 2009).

² *Task Force on Juvenile Justice Reform Seeks Answers from OCFS*, NewsLI.com (November 19, 2009). Available at: <http://www.newsli.com/2009/11/19/task-force-on-juvenile-justice-reform-seeks-answers-from-ocfs/> (last visited March 10, 2010).

programs by OCFS or Family Court are later sent to an OCFS run residential facility because they are either too dangerous for the community facility to handle or they need services which the community programs cannot provide.³

This report reviews the issue of workplace safety in OCFS facilities and in privately operated non-profit residential youth rehabilitation facilities overseen by OCFS.

The report concludes that while the sanctuary model and other reforms being implemented at OCFS have the potential to significantly improve workplace safety in the long term, this is only possible if workplace safety concerns are fully integrated into OCFS policymaking at both the agency and facility level. Currently, OCFS' reforms have insufficiently incorporated workplace safety concerns:

- 1) Workers' Compensation indemnity claims caused by "assaults and violent acts by persons" increased by forty-two percent between fiscal year 2007-2008 and fiscal year 2008-2009;
- 2) OCFS's finalization of a Workplace Violence Prevention Plan ("the WVP Plan") as required by law was significantly delayed at the same time the new sanctuary model policies were being rapidly implemented;
- 3) The facility-specific risk assessments required by the WVP Plan are delayed and have not been completed within the time required by the Plan itself;
- 4) The delay in completing the risk assessments has had a cascading effect in delaying the related safety training which OCFS is required to provide based on such risk assessments;
- 5) Interviews with ten employees at "non secure" and "limited secure" OCFS facilities indicate that employee injuries resulting from youth-on-youth and youth-on-staff violence have increased recently at these facilities;
- 6) The recently imposed policies restricting the use of restraints, coupled with a lack of adequate training in maintaining order without the use of restraints, has resulted in many OCFS employees feeling an acute lack of personal safety and security;
- 7) OCFS lacks an adequate support program for employees who have been assaulted and injured by residents; and
- 8) The significant percentage of juveniles being "bumped up" from privately operated community residential programs to more secure OCFS residential facilities raises concerns for the safety of non-state employees who are in such

³ Brynien, Kenneth, *Testimony of Kenneth Brynien, President of the Public Employee Federation to the Assembly Ways and Means and the Senate Finance Committees* (February 10, 2009).

community residential programs, who generally lack the training and tools necessary to provide the higher level of security these residents require.

These conclusions compel the following recommendations:

- 1) The facility-specific risk assessments required by the OCFS Workplace Violence Prevention Plan need to be completed immediately, and prior to any additional shift in OCFS policies toward the “sanctuary model”;⁴
- 2) Safety training must be narrowly tailored at the facility level to address the issues identified in these risk assessments, and should be completed prior to any additional shift in OCFS policies toward the “sanctuary model”;
- 3) In order to ensure that workplace violence considerations are completely integrated into OCFS planning and policies, workplace violence prevention should be more strongly incorporated into the management-employee run workplace safety committees at each facility;
- 4) OCFS should collaborate with staff members to develop an adequate support program for employees who have been assaulted and injured by residents; and
- 5) Both OCFS and the Office of Court Administration (OCA) need to improve assessments of offenders in order to reduce the number of juveniles being placed in community residential programs who later require removal to more secure OCFS facilities.

II. History of Reforms at OCFS

The juvenile justice system in New York serves individuals between the ages of seven and sixteen who commit a crime and are also found to be in need of supervision, treatment or confinement. Juvenile delinquents are tried in Family Court.⁵ They may either be discharged or sent home on probation, sent to an “alternative to detention” program not run by OCFS, to a detention OCFS non-secure or limited secure facility, or to a privately run non-profit institution overseen by the Office of Children and Family Services (OCFS).⁶

Under the administration of former governor George Pataki, OCFS sharply shifted its outlook toward a correctional model of operations.

⁴ Administrators of the Office of Children and Family Services report that as of April 20, 2010, all of its facilities have undergone facility specific risk assessments. Employee representatives on the other hand, contend that most risk assessments as of now have not been completed, indicating that there is a lack of management-staff collaboration in completing this risk assessments.

⁵ *Processing Juvenile Cases*, New York City Department of Juvenile Justice, Available at: <http://www.nyc.gov/html/djj/html/cases.html>. (Last visited March 10, 2010).

⁶ *A Need for Correction: Reforming New York’s Juvenile Justice System*, Child Welfare Watch, Vol. 8, Center for New York City Affairs, The New School Center for an Urban Future (Fall 2009).

As described by a retired youth counselor from Tryon Residential Center in Johnstown, New York (commonly referred to as “Tryon Boys”), a state run, “limited secure” residential facility, “the beginning of the end of the juvenile justice system in New York was when Governor Pataki took office in 1995.”⁷ Before 1995, the culture at Tryon Boys was nurturing. Youth counselors formed relationships with youth in facilities and in return, youth respected their counselors. In 1995 the Pataki administration instituted a new policy of custody and control in the juvenile justice system. As the policy was executed, barbed wire fences were planted surrounding facilities, and residents were forced to wear uniforms. Staff members were discouraged from forming bonds with youth, and staff was required to document activities and occurrences in great detail, to the point of taking time away from their rehabilitation work with youth.⁸

OCFS Commissioner Gladys Carrión assumed office in 2007 determined to transform OCFS from a correctional model based on custody and control to a sanctuary model that views juvenile delinquents as victims of trauma in need of therapy, education, and rehabilitation.⁹ These reforms were driven, in part, by recidivism rates of up to eighty percent, violence against youth in facilities, and the high costs to house juveniles in state operated residency facilities. This transformation is rooted in a growing national consensus among juvenile justice professionals that youth should not be treated like adult offenders because their “brains simply don’t have the capacity to make good decisions.”¹⁰

Governor Pataki’s overarching policy to discipline youth in facilities as adults was deeply institutionalized in OCFS culture when Commissioner Carrión took office and began instituting reforms. Indeed, violence among youth, youth attacks on staff, and staff’s use of excessive force at OCFS predates the current OCFS administration. For example, in October 2006 Human Rights Watch and the American Civil Liberties Union released a report accusing employees at Tryon Boys and the Lansing Residential Center in Tompkins County for using excessive force to discipline children in custody. In November 2006 two employees physically restrained a fourteen year old boy, restricting his airway and stopping him from breathing. The employees did not attempt to resuscitate the boy and he died, though a grand jury later ruled that the restraint did not contribute to his death. In December 2006 the New York State Inspector General and the Tompkins County District Attorney released the results of a ten-month investigation of Gossett Residential Center in Lansing, New York (now Finger Lakes Residential Center), finding “a near total-breakdown in the functioning of the Office of the Ombudsman, a mandated program intended to provide independent oversight of Gossett and other

⁷ Petit, Michael, *Personal Interview* (February 24, 2010). Mr. Petit worked for the Office of Children and Family Services for a total of thirty-one years, retiring in 2008. He served a wide variety of positions including youth counselor and administrator on duty of Tryon Boys, which was his position when he retired, and director of Gloversville Group Home, a satellite of Tryon Boys between 1994 and 1998.

⁸ Petit, Michael, *Personal Interview* (February 24, 2010).

⁹ Carrión, Gladys, *Background Briefing Memo: The Transformation of Juvenile Justice in New York State* (Revised August 18, 2009).

¹⁰ *Ibid.*

facilities within the OCFS system, and serious deficiencies in mental health resources and substance abuse treatment provided to Gossett residents.”¹¹

OCFS reforms were based on criticisms of the system as it existed. Youth did not receive the mental health services they needed; there was not one full time psychiatrist hired in all of OCFS. Though the majority of children sent to residential facilities were from New York City, ninety percent of residential facilities resided in upstate New York, far away from residents’ families. OCFS took on a new outlook in 2007 seeking to include families in each youth’s rehabilitation process by keeping them closer to home, prevent physical restraints against residents for minor misbehaviors, and close underutilized facilities to save taxpayer money.¹²

In January 2007, OCFS mandated several changes in their facilities including limiting staff’s allowance to use restraints against youth, installing recording cameras throughout facilities, and creating a statewide computer database to track restraints (each restraint must be recorded immediately after it is used). The Office of the Ombudsman was rebuilt giving the Ombudsman the right to enter facilities unannounced and to tour all parts of the facilities without boundaries. Also, an Independent Review Board was established by the Commissioner to advise OCFS on matters pertaining to the Office of the Ombudsman on complaint and grievance processes for youth in care.¹³

OCFS’ reforms include prohibiting the use of physical restraints except (1) “To prevent a youth from harming him or herself, staff members or others,” (2) “To prevent an escape or AWOL by a youth,” or (3) “To escort a youth who is causing or threatening to cause an immediate serious disruption that threatens the safety of others by refusing to leave a place after being asked to leave.”¹⁴

In furtherance of this policy, all facility staff members must complete training in this new system and take part in at least two refresher classes a year. Staff members who do not meet the training requirements are not supposed to participate in any physical restraints. Additionally, all facilities were required to establish a Therapeutic Intervention Committee (TIC), composed of both supervisors and staff members, in order to establish strategies for lessening unnecessary restraints by increasing the use of therapeutic interventions.¹⁵

Also, several steps were taken to hold staff members accountable for their actions toward youth, including creating a central agency-wide computer database to track restraints, known as the Automated Restraint Tracking System, where every use of physical restraint is required to be entered into the tracking system as soon as they

¹¹ Carrión, Gladys, *Background Briefing Memo: The Transformation of Juvenile Justice in New York State* (Revised August 18, 2009).

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ *Ibid.*

¹⁵ *Ibid.*

occur,¹⁶ and widely installing cameras to record employee interaction with children in placement.¹⁷ A twenty-six member Independent Review Board was established to advise the Commissioner on matters relating to the complaint and grievance process for youth in OCFS' care. Finally, youth were granted greater access to the Office of the Ombudsman so that they could report abuse by staff members.¹⁸

Additionally, OCFS has reduced the number of youth admitted to state run residential programs. If a juvenile is determined not to be dangerous to society, OCFS tries to keep them at home to receive rehabilitative care within their communities. In addition, youth sent to OCFS facilities are kept for shorter periods of time with the ultimate goal of getting them back home to receive further services. Separate from OCFS' reform effort, Child Welfare Watch reports that "Family Court Judges are sending more juvenile delinquents to nonprofit-run residential treatment centers, with 813 such admissions in 2008, up from 539 in 2001."¹⁹ This shift in how youth are placed is reflected in the number of facilities that are still in operation. In 2007 New York's juvenile justice system was comprised of forty-seven public facilities, including thirty-three juvenile residential centers, six group homes and eight day placement programs. Since then, thirteen of the residential facilities have been closed and four have been downsized. This year, two more residential centers will close, including Tryon Boys.

Given that the cost per bed in New York State's juvenile residence facilities is \$140,000 to \$200,000 a year, while the average cost to send a child to a community based program (while living at home) is \$5,000, these closings and downsizings generated nearly \$30 million in savings, a portion of which has been reinvested in community-based alternatives to incarceration.²⁰

In a sense, New York is following the Missouri Model, which is widely regarded as a successful juvenile justice system. But Missouri, too, went through a difficult reform period. Missouri's system has proven successful with low recidivism rates of just nine percent of youth being rearrested three years after leaving the program, as compared to close to eighty percent in New York. Youth are moved to residential facilities that are located close to home. Missouri's system divides the state into five sections so youth arrested in their section are moved to facilities within that section. Each youth is placed in a "team" of ten to twelve other youths with one counselor and one teacher. Youth live in small cabins under close supervision and form meaningful relationships with counselors and teachers. Staff members do not perform restraints, rather youth are trained to restrain other youth if they are threatening their safety. The Director of Youth Services (DYS) in Missouri, Mark Steward claims that in the fifteen years he has been

¹⁶ Carrión, Gladys, *Background Briefing Memo: The Transformation of Juvenile Justice in New York State* (Revised August 18, 2009).

¹⁷ *Ibid.*

¹⁸ *Ibid.*

¹⁹ *A Need for Correction: Reforming New York's Juvenile Justice System*, Child Welfare Watch, Vol. 8, Center for New York City Affairs, The New School Center for an Urban Future (Fall 2009).

²⁰ *Ibid.*

leading DYS, “there has never been a serious injury during a restraint, never a lawsuit or a formal complaint filed by parents.”²¹

While the Missouri Model is an important one to follow to improve services for youth and creating a safe environment for youth and staff members, Missouri also saw a transformation in policy which was not easy to implement. Conditions in youth facilities in Missouri were problematic throughout the 1950s, 60s and 70s. For example, one residential facility called Boonville, which was later closed, was condemned for “its ‘quasi-penal-militaristic’ atmosphere particularly in the practice of banishing unruly youth to ‘the hole’ a dark, solitary confinement room.”²²

In the 1980s, Missouri began implementing a new method to reform youth “that relies on group process and personal development, rather than punishment and isolation.”²³ According to Gall Mumford who began working at DYS in 1983 and now serves as the division’s regional administrator for the northwest corner of the state, chaos described the facilities in the first few years. “‘It was really crazy’ said Mumford. ‘We didn’t know what we were doing. The boys ran us ragged (at first). They were acting up everyday, sometimes every hour.’”²⁴

Slowly, conditions in Missouri’s small facilities improved as DYS readjusted staffing patterns, investing in staff training, built case management and family counseling capabilities, and invested in community based services to monitor and support teams after they leave custody.²⁵ Missouri’s model is reflected in the OCFS operated Redhook Residential Center, a non-secure residential program where no employees are currently out on Workers’ Compensation as a result of workplace injuries, according to Edward Figueroa, the facility’s director. Redhook is a twenty-two bed facility, with bright colored walls and a cafeteria with a deli line. Mr. Figueroa has implemented a facility policy much like the ‘sanctuary model’ at Redhook since he assumed his position in 1994 so reforms have not had much of an impact on the facility’s recent operation. Employees always tried to work things out with youth verbally before using restraints.²⁶

OCFS reforms seek to change the culture in limited secure facilities to more reflect the culture of the Red Hook Facility. The challenge in implementing a Missouri Model/Sanctuary Model/Red Hook Facility model at limited secure facilities is that change takes time to be put in place, and the kids at Red Hook are deemed less dangerous than the kids in limited secure facilities.

²¹ *Small is Beautiful: The Missouri Division of Youth Services*, Annie E. Casey Foundation, Office of Communication Services, Baltimore, Maryland (2003). According to a representative from the Missouri Division of Youth Services’ Director’s Office, conditions for employees and residents in facilities are as safe in 2010 as they were in 2003 when this article was written. Missouri continues to hire individuals with degrees in social work and administer safe, therapeutic programs for residents.

²² *Small is Beautiful: The Missouri Division of Youth Services*, Annie E. Casey Foundation, Office of Communication Services, Baltimore Maryland (2003).

²³ *Ibid.*

²⁴ *Ibid.*

²⁵ *Ibid.*

²⁶ Visit to Redhook Residential Center (February 25, 2010).

III. Employee Injuries at OCFS

The period of chaos in Missouri's transformation reflects what staff members report is happening during New York's transformation in limited secure facilities. Staff members interviewed from limited secure residential programs throughout the state contend that youth in facilities are out of control, violence toward staff has increased and the increase of thirty-three percent in the Workers Compensation Claims Incident Rate at OCFS in the last two fiscal years is "at least ninety percent due to the implementation of reforms."²⁷

Workplace injury rates at OCFS are among the highest of any state agency. Indeed, in the midst of these reform efforts workers' compensation incident rates at state operated residential facilities have increased by thirty-three percent over the last fiscal year. The increase was from 14.7 compensable cases per hundred workers in FY 2007-2008 to 19.6 per hundred in FY 2008-2009. Among these incidents, incidents caused by "assaults and violent acts by persons" increased by forty-two percent between fiscal year 2007-2008 and fiscal year 2008-2009.²⁸ Direct workers compensation costs increased by \$1 million and the equivalent of seventy-two full time employees were lost for the entire year (15,930 lost work days). The cost of compensation and medical care combined was \$2.5 million compared to \$1.5 million the previous fiscal year. Indirect costs such as overtime, retraining and recruitment are estimated to be three to five times these direct costs.²⁹

²⁷ *Personal Interviews with Ten OCFS Employees* (February 25 through March 5 2010). Employees interviewed work at either limited-secure or non-secure facilities or are retired from working at limited-secure facilities. Employees interviewed work(ed) as Youth Counselors, Nurses, Teachers, and Principals.

²⁸ *Workers' Compensation Indemnity Claims for the Office of Children and Family Services FY 2007-2008 and FY 2008-2009*, Provided by the Workers' Compensation Board, March 5, 2010.

²⁹ *Personal Interviews with Ten OCFS Employees* (February 25 through March 5, 2010).

**Workers' Compensation Incident Rates at
Selected New York State Agencies For Fiscal Years 2007/2008 and 2008/2009³⁰**

Agency	Employees (2007/2008)	Employees (2008/2009)	Incidents (2007/2008)	Incidents (2008/2009)	Incident Rate (%) (2007/2008)	Incident Rate (%) (2008/2009)	Percent Change in Incident Rates (%)
Office of Children and Family Services	4,088	3,988	599	780	14.7	19.6	33
Office of Mental Health	17,207	17,361	2,384	2,914	13.9	16.8	21
Department of Correctional Services	32,565	31,827	4,283	4,824	13.2	15.2	15

**OCFS Employee Workers' Compensation Indemnity Incidents caused by "Assaults
and Violent Acts by Persons" Fiscal Years 2007 to 2008 and 2008 to 2009³¹**

	Fiscal Year 2007-2008	Fiscal Year 2008-2009
OCFS Employee Workers' Compensation Indemnity Incidents Caused by Assaults and Violent Acts by Persons (Total)	129	183

As shown in the table above, Workers' Compensation injury rates have increased at OCFS by thirty-three percent between fiscal year 2007-2008 to fiscal year 2008-2009. Though the number of staff members in OCFS decreased by one hundred employees, the number of workers' compensation reported incidents rose from 599 to 780.

The table also shows an increase in Workers' Compensation Incident Rates in two comparable agencies: the Office of Mental Health (an increase of twenty-one percent) and the Department of Correctional Services (an increase of fifteen percent) during the same time period. Though these two agencies saw an increase in incidents, the incident rate and the percent increase was the greatest at OCFS.

³⁰ *Annual Report of New York State Government Employees' Workers' Compensation Claims*, Fiscal Year 2008-2009, Issued by the New York State Department of Civil Service, New York State Civil Service Law § 7 (2009).

³¹ *Workers' Compensation Indemnity Claims for the Office of Children and Family Services FY 2007-2008 and FY 2008-2009*, Provided by the Workers' Compensation Board, March 5, 2010.

Interviews with the Public Employees Federation (PEF), which represents social workers, counselors, teachers and other professional staff members at OCFS facilities, and the Civil Service Employees Association (CSEA), which represents youth aides, administrative and operational staff members at OCFS, indicate that the increase in Workers' Compensation Incidents is due to an increase in violence in facilities. Those interviewed report that Youth Development Aides, who have primary responsibility for securing the residents, often work double shifts three to four times a week, and that the reforms have not included any significant changes in staffing in mental health, education and counseling positions, or in the systems for reforming youth maladaptive behaviors. At the same time facility directors and staff members have been directed to reduce the use of restraints. This has led to a breakdown in discipline as staff members are fearful of retaliation if they enforce rules for youth discipline or use restraints on violent youth. Furthermore, staff members are afraid of being charged with child abuse if they discipline or restrain residents or even protect themselves.³²

Additionally, the agency does not have a program for providing support for employees who have been assaulted and injured, even though PEF and CSEA have advocated for the agency to develop a program. While agency officials have expressed support, they have not appointed anyone to lead the effort. Assaulted workers often experience acute trauma symptoms such as ideation about the assault, trouble sleeping and eating, overreaction to normal stimuli, or go into a state of numbness. Trauma response programs are designed to provide support to assaulted staff members to help them regain feelings of safety and control. Untreated, many staff members have developed post traumatic stress disorder. Untreated staff and youth trauma are likely to be factors in the youth and staff altercations.³³

Further confirmation of the loss of control in many of the facilities is the increase in youth-on-youth injuries. As an example, the most recent data from Tryon Girls Residential Center, a limited secure facility in Johnstown, New York, shows an estimated 300% increase in youth on youth injuries from 2007 to 2008.³⁴ At the Louis Gossett, Jr. Residential Center, a review of emergency radio calls showed thirty-six youth-on-youth incidents in the first five months of 2008 compared to six in all of 2007. A review of "push pin" calls (calls to other staff members calling for need of assistance because a staff member feels unsafe in their surroundings) at Gossett showed forty-nine calls for youth-on-staff incidents in the first five months of 2008, whereas there were only ten such incidents in that same time period in 2007.³⁵

When visiting Highland Residential Center, a limited secure facility in the Hudson Valley, Mikki Judge, the facility's Assistant Director, said that the change in

³² Rosen, Jonathan, Director of Safety and Health for the Public Employee Federation, *Personal Interview* (February 23, 2010).

³³ Rosen, Jonathan, Director of Safety and Health for the Public Employee Federation, *Personal Interview*, (February 23, 2010).

³⁴ Brynien, Kenneth, President, New York State Employees Federation, *Minority Report to the Governor's Taskforce on Transforming Juvenile Justice in New York State* (December 2009).

³⁵ *Ibid.*

OCFS policy to limit use of restraints has not significantly reduced the number of restraints used at the facility. Although staff is now prohibited from using physical restraints except in limited situations, overall restraint usage has not dramatically decreased because residents act more violently because they do not see consequences for their actions. Before the reforms, staff members could warn residents that if they acted violently, they could be kept in a facility for longer periods of time. Now residents feel like they can act as they please and they will still be released within six to eight months.³⁶

Staff members at the Tryon Residential facility report that they feel they were set up to fail in the reform of OCFS and felt extremely unsafe while reforms were being executed. They were trained in a short period of time to learn how to handle youth with developmental disabilities and mental health issues but they felt ill prepared once youth with such disabilities began arriving at Tryon. One staff member reported that a mental health training that was supposed to be three days long was done in only four hours. Staff members report that youth are out of control and often threaten to complain to the Ombudsman accusing staff members of child abuse. Youth roam freely in the halls, do not respond to directions, curse and spit at staff members and see no consequences for their actions.³⁷

On January 23-24, 2008, the University of Maryland conducted a series of meetings and focus groups at Tryon Boys and Girls Youth Residential facilities to gather data to be used by OCFS in the risk assessment process for the Workplace Violence Prevention Program and to serve as a template for similar assessments to be done with other groups of OCFS employees.³⁸ According to the study, staff members at these facilities reported a widespread belief that the overall environment is “out of control.” Specifically, staff members complained of no unified philosophy and practice in the agency; constant verbal abuse of youth toward staff members; and that youth are often released too quickly. One youth was cited as an example of someone who was discharged based on time served rather than actual readiness; he soon after stabbed someone in the community and was rearrested.³⁹

Staff members expressed numerous other concerns: being given very few tools or support with which to control youth behavior; increased limits on using restraints; that youth fight because staff members can't protect them and they do not feel safe; that teachers end up alone with groups of kids even when they are not supposed to; that staff members have no input into decisions being made by OCFS and facility administration; that new staff members lack on-site training; that evening shifts have a high concentration of new staff members (because staff members with less seniority have last pick at shifts); that staff members are often subjected to mandatory overtime which increases stress and the risk of workplace violence; that staff members are discouraged from forging close relationships with youth because kindness is viewed as a weakness;

³⁶ *Visit to Highland Residential Center* (February 25, 2010).

³⁷ *Personal Interviews with Ten OCFS Employees* (February 25 through March 5 2010).

³⁸ McPhaul, Kate, Jane Lipscomb, Matt London, *University of Maryland Case Studies and Findings*, University of Maryland School of Nursing (January 2008).

³⁹ *Ibid.*

that radios are cumbersome and often broken; that the police are allowed to use greater protections than OCFS employees when dealing with many of the same youth; that staff members' distress calls ("code white") are not taken seriously; that staff members are afraid to use physical restraints for the risk of being accused of abuse, particularly when "there are no consequences for false allegations against staff;"⁴⁰ and that staff is discouraged from pressing criminal charges against youth.⁴¹

The University of Maryland study offered a number of recommendations,⁴² but agency officials never met with the researchers, the unions or the facility staff members to discuss the recommendations or consider responses to them.

IV. Workplace Violence Prevention Law

The New York State Public Employer Workplace Violence Prevention Law, codified as section 27-B of the labor law, went into effect on March 4, 2007, with the final regulations going into effect on April 29, 2009. The law gave public employers until August 2009 to coordinate with public employee unions to establish plans to prevent violence in their respective workplaces. The plans are required to offer both training to staff members on the risks of occupational assaults as well as provide staff members with the knowledge they need to protect themselves in such situations. The Act also authorizes employees who believe that a serious violation of the Act or an imminent danger exists to request an inspection by the New York State Department of Labor.⁴³

The central piece of this law is the Workplace Violence Prevention Program. Each public employer with at least twenty full time permanent employees is required to develop a written program to prevent workplace violence, including (1) a list of the risk factors present in the workplace, such as "working in public settings ... working late night or early morning hours [or] uncontrolled access to the workplace,"⁴⁴ and (2) the methods that the employer will use "to prevent incidents of occupational assaults and homicides at such workplaces," such as "installing good external lighting and establishing and implementing reporting systems for incidents of aggressive behavior."⁴⁵

On January 6, 2010 OCFS released its Workplace Violence Prevention Program, five months after the plan was due. This plan includes annual risk evaluations, reporting and record keeping procedures, corrective action, training of employees, and a prohibition on retaliatory action for following one's rights under the Law.

This agency-wide program is put into action at juvenile facilities across the state by conducting risk assessments during site visits. As required by the regulations, OCFS required that risk assessments be performed at all facilities within sixty days of the

⁴⁰ McPhaul, Kate, Jane Lipscomb, Matt London, *University of Maryland Case Studies and Findings*, University of Maryland School of Nursing (January 2008).

⁴¹ *Ibid.*

⁴² *Ibid.*

⁴³ *New York State Workplace Violence Prevention Law*, 12 NYCRR Part 800.6.

⁴⁴ *New York State Labor Law §27-b(3)(a)*.

⁴⁵ *Ibid.*

program's issue date. OCFS has developed both a facility-based and an agency-based risk assessment tool to be utilized by facilities in assessing particular safety risks. These risk assessment tools reflect the interconnection between safety measures for both the workers and the youths in these facilities. For example, the facility assessment tool is broken down into categories that reflect the nature of a youth facility. Assessment questions focus on whether or not the grounds are adequately lit, the existence of secluded spaces, whether staff members are left with residents in isolation, and whether staff members are in radio contact with other staff members. There is a section devoted solely to "residents." This section includes questions about a staff member's training level in regards to the youths they work with, such as "are relevant staff informed of potential violence triggers of each youth... are therapeutic intervention committees held consistently... is there a consistent application of rules for youth discipline... is there additional training which can be provided to minimize the risk of physical conflict"⁴⁶

The Risk Assessment Tool has several components related to the reform effort. For example, the risk assessment asks whether Therapeutic Intervention Committees are held consistently.

Therapeutic Intervention Committees were a vital part of Commissioner Carrión's original reform efforts in January 2007. Based on the philosophy that children should not be subjected to physical force, Commissioner Carrión instituted a policy that only allows staff members to use physical force when youth pose a threat to themselves or to others. In an attempt to effectively train staff, all facilities were required to establish a "Therapeutic Intervention Committee" composed of administrators and staff members to identify and implement strategies for reducing unnecessary restraints through the increased use of therapeutic interventions.

A number of OCFS facilities have been issued notices of violation for not complying with the Workplace Violence Prevention Law and for not completing the risk assessment process within the required time. To date, while OCFS states that all of its facility directors have conducted the risk evaluations and determinations, employee representatives are unaware of such assessments having been conducted, and state that facility specific training based on such assessments has not been undertaken. By failing to conduct risk assessments in a timely manner, violence prevention training that is supposed to reflect the results of the risk assessment has not been conducted.⁴⁷

V. Community Based Programs Employee Concerns

Another way the juvenile justice system is changing in New York State is that more youth are being treated from home in so-called "alternative to placement" programs or in privately run residential facilities near their homes. The shift to less secure, privately run residential programs raises its own workplace safety concerns. As

⁴⁶ New York State Office of Children and Family Services, *Facility Workplace Violence Assessment Tool* (January 6, 2010).

⁴⁷ Rosen, Jonathan, Director of Safety and Health for the Public Employee Federation, *Personal Interview* (February 23, 2010).

referenced above, in June 2009, community residence worker Renee Greco was murdered by a youth placed in a private residential center by OCFS in Lockport, New York and in January 2009 police officer Anthony DiPonzio was shot in the head by a youth who went AWOL from a private residential community placement in Rochester, New York.⁴⁸

The Taskforce on Reforming Juvenile Justice in New York State recommends investing in alternative-to-placement programs.⁴⁹ According to Task Force member and PEF President Kenneth Brynien, the Task Force’s recommendation to “reduce reliance on institutionalization, close underused facilities, and reinvest the savings in the community” conflicts with other recommendations of the taskforce, such as the recommendation to “fund and provide services and programs, including education and mental health treatment, which prepare youth for release.” Mr. Brynien writes that by diverting services to alternative to placement programs, OCFS operated facilities will have fewer tools to successfully rehabilitate residents.⁵⁰

OCFS does not have a mechanism for determining dangerousness, and given the common practice of reducing the charge when a youth is adjudicated, many youth who have committed violent acts may end up in the community with inadequate supervision.⁵¹ Currently, one-third of youth sent to community based programs are subsequently redirected to OCFS residential facilities by OCFS because they either prove to be too dangerous for private facilities to handle or private facilities do not have the tools to rehabilitate the youth.⁵²

VI. Department of Justice Review of Facilities

In August 2009, in the midst of the OCFS reform effort, the U.S. Department of Justice (DoJ), released a report of its investigation of four New York State juvenile detention centers in 2008: The Lansing Residential Center, Louis Gossett, Jr. Residential Center, Tryon Residential Center, and Tryon Girls Center.⁵³

In visiting these facilities, DoJ concluded that staff members used excessive force against residents and that adequate professional mental health and substance abuse

⁴⁸ *Task Force on Juvenile Justice Reform Seeks Answers from OCFS*, NewsLI.com (November 19, 2009). Available at:

<http://www.newsli.com/2009/11/19/task-force-on-juvenile-justice-reform-seeks-answers-from-ocfs/>. (Last visited March 10, 2010).

⁴⁹ Governor Paterson’s Taskforce on Transforming Juvenile Justice, *Charting a New Course: A Blueprint for Transforming Juvenile Justice in New York State*, GHP Media Inc. (December 2009). Available at: <http://www.vera.org/download?file=2944/Charting-a-new-course-A-blueprint-for-transforming-juvenile-justice-in-New-York-State.pdf> (Last visited March 10, 2010).

⁵⁰ Brynien, Kenneth, President, New York State Employees Federation, *Minority Report to the Governor’s Taskforce on Transforming Juvenile Justice in New York State* (December 2009).

⁵¹ Brynien, Kenneth, President, New York State Employees Federation, *Minority Report to the Governor’s Taskforce on Transforming Juvenile Justice in New York State* (December 2009).

⁵² Brynien, Kenneth, *Testimony of Kenneth Brynien, President of the Public Employee Federation to the Assembly Ways and Means and the Senate Finance Committees* (February 10, 2010).

⁵³ *Investigation of the Lansing Residential Center, Louis Gossett, Jr. Residential Center, Tryon Residential Center, and the Tryon Girls Center*, US Department of Justice Civil Rights Division (August 14, 2009).

services were not being provided for youth. DoJ made several demands of OCFS and threatened to take control of the facilities unless these demands were met. In general DoJ demanded that OCFS only allow employees to restrain residents in very limited situations, that all incidents of abuse are immediately reported to appropriate authorities, that training of staff is improved and that appropriate staffing and protocols are implemented to address the mental health needs of residents. Employee safety was scantily addressed as an issue other than the need for higher staffing ratios and more hired mental health specialists. There was little emphasis on staff safety in DoJ's report.⁵⁴

PEF responded to the DoJ report by writing a formal letter to Governor Paterson suggesting that OCFS improve education, mental health, and alcohol and drug treatment programs for youth. PEF asked that OCFS include employee representatives in reform efforts in response to the DoJ report; that more training be offered to teach staff members the non-violent techniques necessary and desirable to maintain order in each facility; that staff be taught "de-escalation techniques and skills;" that more mental health staff be hired to better tend to each resident's individual needs; and that youth undergo remedial amends processes if they injure another inmate or staff person. PEF would like these changes to be evaluated, and the changes that prove effective should be applied throughout the Division of Juvenile Justice and Opportunities for Youth.⁵⁵ These suggestions are all included in the Workplace Violence Prevention Plan and risk assessment, but the facilities each have to follow through with the plan in order for it to be successful.

CSEA responded to the DoJ report in a press release stating that they believe the juvenile justice system in New York needs to be reformed, and emphasize that the staff is not entirely at fault for the current state of the system. CSEA is concerned that the effort to move juveniles out of secure facilities into more personal, smaller home based facilities not obscure the need for secure juvenile justice facilities for those juveniles who require that level of security, and who commit serious crimes.⁵⁶

VII. New York State Task Force on Transforming Juvenile Justice

The Task Force on Transforming Juvenile Justice, appointed by Governor David Paterson in September 2008 submitted a final report in December 2009 offering twenty recommendations for improving the juvenile justice system in New York State. However, only one of these (Recommendation 11) arguably addresses the issue of workplace safety, and then only indirectly in the form of a directive to "support and invest in staff"

⁵⁴ *Ibid.*

⁵⁵ *Letter to Governor Paterson regarding DOJ Report*, Public Employee Federation (September 9, 2009). Available at: <http://www.thecommunicator.org/ocfsletters09/Bryniem%20Paterson%20letter%20DOJ.pdf> (Last visited March 10, 2010).

⁵⁶ *Press Release Regarding DOJ Report*, Civil Service Employee Association (August 27, 2009).

- Recommendation 11: Support and invest in staff
- Strategy 11-1: Train all facilities' staff in cultural competency, positive youth development, and relevant treatment approaches and philosophies
- Strategy 11-2: Provide funding to ensure that all placement facilities are adequately staffed to serve youth needs
- Strategy 11-3 Ensure that OCFS's Voluntary Agency Services unit has adequate staff and resources to monitor the needs of youth in private facilities
- Strategy 11-4: Recruit and retain professional workforce
- Strategy 11-5 Make salaries for hard-to-recruit positions competitive with salaries for similar positions in other agencies⁵⁷

In Kenneth Brynien's minority report, he offered several additional recommendations concerning staff safety, emphasizing the majority's purpose to improve services for youth while considering violence prevention techniques. Each of the Minority Report's recommendations is generally addressed in the Workplace Violence Prevention Plan:

Minority Report Recommendation Related to Worker Safety	How this is addressed in the Workplace Violence Prevention Plan
1) Review all rules and disciplinary procedures for enforcing youth rules and discipline to eliminate actions that escalate youth agitation while maintaining structure, expectations, and reasonable consequences for rule violations	The risk assessment committee may recommend a review of relevant policies as they may affect the risk of workplace violence.
2) Revamping crisis prevention and management to focus on recognizing early warning signs of agitation and learning de-escalation techniques and skills; eliminate the use of prone restraints.	All employees shall receive training on workplace violence prevention. Such training shall include information on the risk factors and controls specific to each work location.
3) Develop systems to assess the risk, causes and solutions when youth engage in threatening, violent behavior towards other youth or staff	The information to be reviewed in the risk assessment shall include annual and quarterly rates of various types of workplace violence incidents, including but not limited to, physical assaults. Additional trend analysis may

⁵⁷ Governor Paterson's Taskforce on Transforming Juvenile Justice, *Charting a New Course: A Blueprint for Transforming Juvenile Justice in New York State*, GHP Media Inc (December 2009). Available at: <http://www.vera.org/download?file=2944/Charting-a-new-course-A-blueprint-for-transforming-juvenile-justice-in-New-York-State.pdf>. (Last Visited March 10, 2010.)

	include reviewing location, time of incidents, associated activities, and if certain youth have a history or pattern of repeat offenses.
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If OCFS follows through with the Workplace Violence Prevention Program, including performing a risk assessment at each facility in collaboration with staff members, and develops training based on the risk assessment, the worker safety concerns of the Minority Report should be met.

VIII. John F. v. Carrión

On January 26, 2010 the State Supreme Court in Manhattan, in a case brought by the Legal Aid Society on behalf of a youth detained at Tryon Residential Center, who was brought to court in shackles without first determining his dangerousness, ordered OCFS not to shackle youth in court or while being transported from or to limited-secure and non-secure facilities unless a risk assessment is performed and the youth is determined dangerous. Additionally OCFS was prohibited from joining a juvenile’s hands and feet under any circumstances.⁵⁸

OCFS took this ruling further by ordering personnel to only handcuff youths with their arms in front of them, not behind them.⁵⁹ PEF has expressed concern that allowing youth to keep their arms in front of them enables their handcuffs to be used as a weapon.⁶⁰

IX. 2010-11 Executive Budget

The Governor’s 2010-2011 Executive Budget includes \$18.2 million in additional funds to OCFS to be spent on 169 new permanent positions for the juvenile justice division, including funds for thirteen community re-entry positions. The proposed budget would eliminate 180 beds and 251 permanent positions in the youth facilities program due to a decrease in census in OCFS facilities. The budget proposal will invest in 169 additional direct care and mental health staff in the facilities investigated by DoJ which remain open. The state also plans to invest in additional staffing at facilities which remain open that were not investigated by DoJ, in future years. While OCFS has stated that staff members in facilities that will close, will be reallocated throughout OCFS and other state agencies to avoid layoffs,⁶¹ the budget indicates that 79 positions will be

⁵⁸ *John F. v. Carrión*. (January 26, 2010). Available at: http://www.legal-aid.org/media/129971/skmbt_c45110012612200.pdf. (Last Visited March 10, 2010).

⁵⁹ Burrel, Joyce, Facility Deputy Commissioner, Division of Juvenile Justice and Opportunities for Youth, *Use of Mechanical Restraints in Transport* (February 1, 2010).

⁶⁰ Confessore, Nicholas, *Officials Bar Shackling of Juvenile Offenders*, The New York Times (February 03, 2010). Available at: <http://www.nytimes.com/2010/02/04/nyregion/04juvenile.html>. (Last visited March 10, 2010).

⁶² Carrión, Gladys, *Commissioner Gladys Carrión Testimony to the New York State Legislature’s Joint Budget Committee* (February 10, 2010).

abolished, and OCFS has indicated that a layoff process will be implemented in August 2010 if all staff members are not reallocated.⁶²

PEF opposes the closures and downsizing of facilities because of potential layoffs and also because youth may be sent to community based programs which are ill-equipped to handle their needs, thereby creating a dangerous environment for youth, participants and staff members. PEF argues that the budget should follow the Task Force's recommendations and hire more staff members for OCFS operated residential facilities in order to increase staffing ratios as well as hire more staff members with degrees in mental health so they may attend to the needs of residents.⁶³

CSEA is concerned that facilities are being closed for ideological and monetary reasons rather than due to a decline in serious youth crime. Like PEF, CSEA fears that the privately run facilities and their staff members are not prepared to handle the youth that will be sent there as opposed to a state run residential program, and this threatens the safety and well-being of both youth and staff members. Additionally, CSEA believes that OCFS lacks a sufficient oversight and support plan for the community based programs and that such a plan should be in place before more down-sizing occurs.⁶⁴

X. Conclusions & Recommendations

Though the sanctuary model and other reforms being implemented at OCFS have the potential to significantly improve workplace safety in the long term, this is so only if workplace safety concerns are fully integrated into OCFS policymaking at both the agency and facility level. Currently, there is an insufficient focus on improving workplace safety as part of OCFS' reform efforts:

- 1) Workers' Compensation indemnity claims caused by "assaults and violent acts by persons" increased by forty-two percent between fiscal year 2007-2008 and fiscal year 2008-2009
- 2) OCFS's finalization of a Workplace Violence Prevention Plan ("the WVP Plan") as required by law was significantly delayed at the same time the new sanctuary model policies were being rapidly implemented;
- 3) The facility-specific risk assessments required by the WVP Plan are delayed and have not been completed within the time required by the Plan itself;
- 4) The delay in completing the risk assessments has had a cascading effect in delaying the related safety training which OCFS is required to provide based on such risk assessments;

⁶³ Brynien, Kenneth, *Testimony of Kenneth Brynien, President of the Public Employee Federation to the Assembly Ways and Means and the Senate Finance Committees* (February 10, 2010).

⁶⁴ Turner, Fran, *CSEA Testimony on 2010-2011 Budget Proposal-Workforce* (February 10, 2010).

- 5) Interviews with ten employees at “non secure” and “limited secure” OCFS facilities indicate that employee injuries resulting from youth-on-youth and youth-on-staff violence have increased recently at these facilities;
- 6) The recently imposed policies restricting the use of restraints, coupled with a lack of adequate training in maintaining order without the use of restraints, has resulted in many OCFS employees feeling an acute lack of personal safety and security;
- 7) OCFS lacks an adequate support program for employees who have been assaulted and injured by residents; and
- 8) The significant percentage of juveniles being “bumped up” from privately operated community residential programs to more secure OCFS residential facilities raises concerns for the safety of workers in such community residential programs, who generally lack the training and tools necessary to provide the higher level of security these residents require.

These conclusions compel the following recommendations:

- 1) The facility-specific risk assessments required by the OCFS Workplace Violence Prevention Plan need to be completed immediately, and prior to any additional shift in OCFS policies toward the “sanctuary model”;⁶⁵
- 2) Safety training must be narrowly tailored at the facility level to address the issues identified in these risk assessments, and should be completed prior to any additional shift in OCFS policies toward the “sanctuary model”;
- 3) In order to ensure that workplace violence considerations are completely integrated into OCFS planning and policies, workplace violence prevention should be more strongly incorporated into the management-employee run workplace safety committees at each facility;
- 4) OCFS should collaborate with staff members to develop an adequate support program for employees who have been assaulted and injured by residents; and
- 5) Both OCFS and the Office of Court Administration (OCA) need to improve assessments of offenders in order to reduce the number of juveniles being placed in community residential programs who later require removal to more secure OCFS facilities.

⁶⁵ Administrators of the Office of Children and Family Services report that as of April 20, 2010 all facilities have undergone facility specific risk assessments. Employee representatives on the other hand, contend that most risk assessments as of now have not been completed, indicating that there is a lack of management-staff collaboration in completing this risk assessments.

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Appendix A: Facilities in New York State⁶⁶

(i) Secure Facilities	
Albany	6
Erie	15
Monroe	21
Nassau	24
New York City	27
Onondaga	39
Suffolk	49
Westchester	53
(ii) 48 Hour Secure Holdover Facilities	
Dutchess	14
Suffolk	49
(iii) Group Care Facilities	
Albany	7
Broome	9
Cayuga	10
Columbia	12
Dutchess	13
Erie	16
Jefferson	19
Monroe	22
Nassau	25
New York City	30

⁶⁶ *County Directory of Juvenile Detention Facilities in New York State*, Office of Children and Family Services (Revised April 2008). Available at: http://www.ocfs.state.ny.us/main/publications/detention_directory.pdf. (Last visited March 10, 2010).

Niagara	37
Oneida	38
Oneida	38
Onondaga	40
Ontario	41
Orange	42
Rensselaer	46
Steuben	48
Suffolk	51
Westchester	54
(iv) Agency Operated Boarding Care Facilities	
Chautauqua	11
Nassau	25
Rockland	47
Warren	52
(v) Foster Boarding Care Facilities	
Essex	18
Lewis	20
Oswego	44

Appendix B: Related Bills Status as of April 23, 2010

A. 2023/S. 3710

A. 2023 John (MS); Same as S. 3710 Volker
Penal Law; Title....Adds assaults against certain employees of state and local government agencies as an assault in the second degree
01/15/09 Referred to Codes
01/06/10 Referred to Codes

S 3710 Volker; Same as A. 2023 John (MS)
03/30/09 Referred to Codes
01/06/10 Referred to Codes

Description: Any person who intends to cause physical injury to an employee of New York State or any of its political subdivisions or of a public authority or a public benefit corporation and causes physical injury to such employee while such employee is performing his or her duties will be guilty of assault in the second degree.

A. 7872/ S. 5378

A. 7872 Scarborough (MS); Same as **S 5378** Montgomery
Title...Relates to funding for alternative-to-detention and alternative-to-placement programs for juveniles; repealer
04/27/09 Referred to Children and Families
01/06/10 Referred to Children and Families

S 5378 Montgomery; Same as Uni. A. 7872 Scarborough (MS)
04/27/09 Referred to Children and Families
01/06/10 Referred to Children and Families

Description: To create a fund to provide counties with reimbursements for investing money into "alternative to detention plans." The bill would create a 65/35 reimbursement mechanism for counties that reduce their usage of detention and incarceration facilities for juveniles by twenty-five percent. The bill also requires the implementation of outcome and accountability measures that ensure only successful alternative programs will be funded through the alternative-to-detention per diem account.

In addition, the bill creates the alternative-to-detention program per diem account and requires that half of the savings from counties, who use alternative-to-detention programs, will be directed into this account. Funds from this account will be used for reinvestment in community-based alternative programs, community-based prevention and early prevention programs.

A. 8104/ S. 5268

A. 8104 Scarborough (MS); Same as S. 5268 Montgomery
Education Law; Title....Requires schools to accept credits for educational programs at
OCFS facilities as transfer credits
05/04/09 Referred to Education
01/06/10 Referred to Education

S 5268 Montgomery; Same as A. 8104 Scarborough (MS)
04/27/09 Referred to Education
01/06/10 Referred to Education

Description: Credits awarded by educational programs provided by facilities operated by
OCFS shall be accepted as transfer credits by any school in New York State.

A.3233/ S. 4790

A. 3233-A Clark (MS) Same as S. 4790-A Montgomery
Executive Law; Title... Establishes the office of the child advocate to ensure the
protection and promotion of legal rights for youth in programs and facilities under OCFS.
01/23/09 Referred to Children and Families
04/06/09 Reported referred to Codes
04/21/09 Reported referred to Ways and Means
05/14/09 Amend and recommit to Ways and Means
05/14/09 Print number 3233a
06/08/09 Reported referred to Rules
06/22/09 Reported
06/22/09 Rules report cal.636
06/22/09 Ordered to third reading rules cal.636
06/22/09 Passed Assembly
06/22/09 Delivered to Senate
06/22/09 Referred to Rules
01/06/10 Died in Senate
01/06/10 Returned to Assembly
01/06/10 Ordered to third reading cal.254
01/12/10 Amended on third reading (t) 3233b
02/09/10 Passed Assembly
02/09/10 Delivered to Senate
02/09/10 Referred to Children and Families

S 4790-A Montgomery Same as A 3233-A Clark (MS)
02/19/10 Referred to Children and Families
03/09/10 Reported and Committed to Finance

Description: The Office of the Child Advocate would report to the governor and legislature on suggested statutory, regulatory or policy changes aimed at improving outcomes and services for children and families in New York State. The Child Advocate would also inform the governor and legislature of the number and types of review or evaluations conducted by the Office of the Child Advocate.

A.3472-A/S. 5996

A3472-A Scarborough (MS) Same as S. 5996 Duane

Social Services Law; Title...Relates to the rights of youth in detention and residential programs for youth; creates youth advisory boards within secure and non-secure facilities to assist in the development of policies affecting youth in such facilities.

01/27/09 Referred to Children and Families

06/03/09 Reported Referred to Ways and Means

06/10/09 Amend (t) and recommit to Ways and Means

06/10/09 Print number 3472a

06/15/09 Reported referred to Rules

06/15/09 Reported

06/15/09 Rules report cal.270

06/15/09 Ordered to third reading rules cal.270

01/06/10 Referred to Children and Families

S.5996 Duane

06/19/09 Referred to Rules

01/06/10 Referred to Children and Families

03/09/10 Reported and Committed to Codes

Description: This bill aims to protect the rights of youth in detention and residential care. The bill creates a bill of rights for youth in secure and non-secure residential care including but not limited to prohibiting staff members from taking necessary items away from juveniles as a form of punishment including nutrition, hydration, sleep and exercise. The bill also prohibits physical restraint, seclusion, and exclusion from social interaction except as otherwise authorized by law and regulation.

The bill also establishes youth advisory boards within each residential facility, appointed by the Commissioner of OCFS. Each youth advisory board shall assist in the development of policies affecting youth in care, have input on the delivery of services provided at residential facilities, and communicate their recommendation to the existing resources necessary to communicate such recommendations.

Appendix C: OCFS Workplace Violence Prevention Program



Workplace Violence Prevention Program (2615.00)

Approved By: <i>Gladys Carrión (signed)</i> Gladys Carrión, Commissioner	Date Issued: January 6, 2010	Number of Pages: 9	Appendix Pages: N/A
Related Laws: NYS Labor Law Section 27B	Division/Office: Administration	Contact Office/Bureau/Unit: Labor Relations	
Supporting Regulations: NYS Department of Labor Regulations Title 12 Section 800.6	American Correctional Association Standards (ACA):		
Regulatory Bulletins & Directives:	Related Policies: Employee Assistance Program (2383.00) Guidelines for Department of Labor Inspections (1011.00) Guidelines for Emergency or Unexpected Situations (2080.00) Ready Emergency Databook (3246.00) Reporting Crimes (1810.00) Staff Training (2800.00) Sexual Harassment Prevention (2152.00) Traumatic Incident Response (2607.00)	Supersedes: Employee Reporting of Personal Threats (2613.00)	

SUMMARY:

The Office of Children and Family Services (OCFS) is committed to the prevention of workplace violence and has developed this policy in conjunction with the Civil Service Employees Association (CSEA) and the Public Employees Federation (PEF). It is the goal of OCFS to prevent workplace violence or to minimize the risk of violence in the workplace.

I. POLICY

The OCFS Workplace Violence Prevention Program consists of annual and periodic risk assessments to be conducted at each worksite, implementation of measures to prevent and minimize workplace violence, a process for reporting incidents, and annual training for all staff. This policy will comply with Section 27-b of the Labor Law.

The Facility Director in the Division of Juvenile Justice and Opportunities for Youth (DJJOY) facilities and the Facility Control Director in other OCFS work locations is responsible for clearly communicating health and safety policies and procedures involving workplace violence so that they are understood by all employees.

All OCFS employees are responsible for assisting in maintaining safety and security in the work environment by utilizing safe work practices, fostering mutual respect and following all policies, procedures and program requirements. This includes completing required training and refresher courses, and any and all supplemental training they may require.

In order to provide a workplace environment that promotes employee and union participation in the Workplace Violence Prevention Program, Labor and Management will participate in Health and Safety Committees and the risk assessment process.

OCFS recognizes that communication is essential to maintaining safety and security in the workplace. OCFS will encourage communication to allow a continuous flow of information regarding safety, health and security between management and employees.

II. DEFINITIONS

- A. Facility Control Director: The manager in a work location, other than a DJJOY residential facility, who has overall responsibility in emergency situations and who is responsible for health and safety issues at the work location.
- B. Imminent Danger: Any conditions or practices that exist in the workplace which could reasonably be expected to cause death or serious physical harm.
- C. Privacy Concern: An injury or illness to the reproductive organs or resulting from a sexual assault, mental illness or HIV infection.
- D. Retaliatory Action: The discharge, suspension, demotion, penalization or discrimination against any employee or other adverse employment action taken against an employee in the terms and conditions of employment.
- E. Risk Evaluation and Determination (Risk Assessment): An inspection or examination of the workplace which includes patterns of injury in particular areas of the workplace or incidents which involve specific operations or specific individuals, to determine if

- existing or potential hazards are present that might place employees at risk of workplace violence.
- F. Serious Physical Harm: Physical injury which creates a substantial risk of death, or which causes death or serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ or a sexual offense as defined by Article 130 of the Penal Law.
- G. Supervisor: Any person within the employer's organization who has the authority to direct and control the work performance of an employee, or who has the authority to take corrective action regarding the violation of a law, rule or regulation to which an employee submits written notice.
- H. Workplace: Any location (permanent or temporary) away from an employee's domicile where an employee performs any work related duty in the course of his or her employment.
- I. Workplace Violence: Any physical assault, or acts of aggressive behavior occurring in the workplace.
- J. Workplace Violence Incident: A workplace violence incident is one or more of the following:
1. An attempt or threat, whether verbal or physical, to inflict injury upon an employee;
 2. Any intentional display of force which would give an employee reason to fear or expect bodily harm;
 3. Intentional and wrongful physical contact with a person without his or her consent. Offensive touching which constitutes sexual harassment should be dealt with pursuant to PPM 2152.00 Sexual Harassment Prevention;
 4. Stalking a person with the intent of causing fear of bodily harm when such stalking has arisen through or in the course of employment.
- K. Workplace Violence Types:
1. Criminal Intent: Violent acts by perpetrators who have no legitimate connection with the workplace but who enter to commit a robbery or other crime against an OCFS employee or at an OCFS workplace. An example would be the mugging of an OCFS employee who is traveling to conduct a home visit.
 2. Customer/Client/Patient: Violence directed at employees by customers, clients, or any other person who receives services from OCFS.
 3. Co-Worker: Violence against co-workers, supervisors, or managers by a present or former employee.
 4. Personal: Violence in the workplace by someone who has a personal relationship with an employee. This refers to domestic violence situations that take place while the employee is at work.

III. PROCEDURE

Risk Evaluation and Determination

The workplace violence prevention risk evaluation and determination is intended to assess the presence of workplace violence risk factors. Identification and assessment of risk factors in a structured and systematic way will enable OCFS to develop measures to reduce workplace violence.

- A. Risk Assessments for each work location shall be conducted as follows:
 - i. An initial Risk Assessment shall be conducted utilizing the applicable assessment tools. Such assessment is to be conducted no more than sixty days from the issuance of this policy. An initial assessment shall be conducted for a new work location prior to move in or no more than sixty days after occupancy.
 - ii. Thereafter, an annual Risk Assessment of each work location shall be conducted utilizing the applicable assessment tools appended to this policy.
 - iii. A Post Incident Assessment of a reported Risk(s) shall be conducted using the Employee Report of Workplace Violence Incident form (OCFS 4762).
 - iv. Assessments may be conducted where an employee has a concern about a risk of workplace violence and brings it to a supervisor.

- B. Responsibility for conducting Risk Assessments and Determinations:
 - i. In DJJOY Residential facilities, Risk Assessments are to be conducted by the Facility Director or designee in conjunction with the PEF and CSEA Health and Safety Committee Chairs or their respective designees.
 - ii. In all other work locations the Risk Assessments are to be conducted by the Facility Control Director or designee and the PEF and CSEA Health and Safety Committee Chairs or their respective designees.

- C. Each workplace Risk Assessment shall be reviewed to identify trends and opportunities to minimize risks as follows:
 1. Data Review
 - a. The data review consists of evaluating injury and workers' compensation data. Public employers in New York State are required to maintain DOL form SH 900 Log of Injuries and Illnesses. In OCFS, this data is available through the Employee Benefits Unit. Incident report data is obtained via the Office of Human Resources. OCFS's Bureau of Personnel will provide an annual summary of workers' compensation experience in the first quarter of the calendar year.
 - b. The information to be reviewed shall include annual and quarterly rates of various types of workplace violence incidents, including, but not limited to, physical assaults. In addition, lost work time case rates and severity rates are to be reviewed. Rates are determined by dividing the number of cases by the number of employees (FTE's = full time equivalents) and multiplying by 100. This allows for the comparison of injury experience among worksites of

varying employee populations. Workers' compensation costs will be obtained (if available) and analyzed.

- c. Additional trend analysis may include reviewing location, time of incidents, associated activities, and if certain youth have a history or pattern of repeat offenses.
 2. A physical inspection of the workplace will be performed utilizing a Risk Determination and Evaluation Checklist(s) (Risk Assessment) for the initial and annual evaluations.
 3. The Risk Assessment committee may recommend a review of relevant policies as they may affect the risk of workplace violence.
 4. OCFS may conduct periodic surveys to obtain information from staff relative to workplace violence.
 5. The risk evaluation processes and results shall be discussed by each local Health and Safety Committee, Facility Director or Facility Control Director. This will provide appropriate union and management collaboration in the identification of risks and the evaluation of potential interventions.
 6. In assessing and reporting on risk factors, the health and safety committees and Facility Director or Facility Control Director shall consider all of the data in the risk evaluation as follows:
 - a. Identify each risk
 - b. Evaluate the risk
 - c. Prioritize the risk
 - d. Suggest an action plan to mitigate/eliminate the risk
 - e. Identify technical assistance needed to address the risk
 7. If a local Health and Safety Committee and Facility Director or Facility Control Director are unable to reach consensus regarding actions that may be necessary based on the risk evaluation, the issue will be referred to the agency level Health and Safety Committee, Chair or designees, and appropriate Deputy Commissioner(s) for review.
 8. Where an action plan is warranted, the Facility Director in DJJOY facilities or the Facility Control Director in other OCFS work locations shall take the necessary steps following agency protocols. In the event that there is imminent danger, the risk will be immediately evaluated and addressed.
- D. Assessment Reporting
- Once the risk evaluation and determination has been completed, a report identifying potential risks and solutions shall be forwarded to each Deputy Commissioner or

equivalent with employees at the subject work location and to the Office of Management and Support Services and the Bureau of Labor Relations.

IV. REPORTING PROCEDURE

A. Identification of possible workplace violence concerns:

Responsibility	Action
Employee	<ol style="list-style-type: none"> 1. Notifies a supervisor of a condition that may be mitigated to protect employees against possible workplace violence. 2. (Optional) Completes agency form "Employee Report of Potential Workplace Violence Concern" (OCFS 4763) specifying the situation and gives it to the supervisor.
Immediate Supervisor	<ol style="list-style-type: none"> 3. Assesses the situation and mitigates it if appropriate and feasible. 4. To the extent relevant, conducts a review to determine whether or not the employee has completed the required training and any required refreshers or supplemental training. 5. Gives the above form with assessment and other comments to program management.
Management/Administrative	<ol style="list-style-type: none"> 6. Assesses the situation and mitigates the problem, if feasible. Provides completed form to either the Office of Human Resources or, if necessary, to the Office of Management and Support Services.

B. Incidents of workplace violence occurring on agency premises during business hours:

Responsibility	Action
Employee	<ol style="list-style-type: none"> 1. Notifies a supervisor of the incident as soon as possible after taking appropriate action. Note: In some instances, the situation may be considered of a sufficiently urgent nature that the employee should contact the appropriate law enforcement agency/emergency medical services and then inform the supervisor.
Immediate Supervisor	<ol style="list-style-type: none"> 2. Assesses the incident described and takes appropriate action, up to and including notifying the appropriate law enforcement agency if not already done by the employee.

3. Assists the employee in obtaining necessary medical care if applicable.
 4. Informs employee of the services offered by the Agency's Employee Assistance Program.
 5. To the extent relevant, conducts a review to determine whether or not the employee has completed the required training and any required refresher or supplemental training.
 6. Notifies the appropriate higher level management/administrative staff person. (The "appropriate" management staff person is the top management/administrative staff person at each location who is on duty at the time.)
- Employee
7. Follows-up the verbal report by completing the form "Employee Report of Workplace Violence Incident" (OCFS 4762) and submitting it to a supervisor within 24 hours. If the incident is a privacy concern case, the employee should check the box. The employee's name will be kept confidential as far as possible.
- Immediate Supervisor
8. Upon receipt of the Report, or if the employee is unavailable, completes the appropriate section for supervisor on the form and forwards it to the appropriate top management/administrative staff person.
- Management/Administrative Representative
9. Completes the appropriate section of the report and submits it to the Director of the Bureau of Labor Relations within two (2) workdays of the incident.
 10. Initiates an investigation into the incident or contacts appropriate bureaus (Special Investigations Unit, Labor Relations, program area) to proceed with the investigation.

C. Work-Related Incidents Occurring Off Agency Premises

It is recognized that an employee might be confronted with a work-related threatening situation while off premises (e.g., during lunchtime, in field status, at home). In such instances, the employee should initiate the following:

Responsibility

Employee

Action

1. In some instances (at the discretion of the employee) contacts the appropriate local law enforcement agency, makes a formal complaint, and follows the instructions given by the law enforcement officials.
2. Contacts a supervisor immediately or as soon as possible, but no later than the return to the workplace. The supervisor initiates the process described in “B” above.

V. RECORD KEEPING

The Office of Management and Support Services (OMS) shall maintain a written record of all reports of potential physical plant conditions that may be instrumental in workplace violence and necessary corrective actions. The Office of Human Resources shall maintain a written record of all reports of workplace violence and reports of concerns regarding non-physical plant conditions. Risk assessments and reports of incidents will be maintained per Department of Labor regulations site 12 NYCRR, Part 800.6.

VI. CORRECTIVE ACTION

If an imminent danger situation is reported, appropriate immediate action will be taken. The agency shall be responsible for reviewing written reports of workplace conditions that may create a danger of violence. The identified problem should be mitigated to the extent possible.

If, after a reasonable period of time, the matter has not been resolved and the employee or the employee representative still believes that a serious violation exists, the employee may request an inspection of the workplace by giving notice to the Commissioner of Labor, Public Employee’s Safety & Health.

VII. TRAINING

1. All employees shall receive training on workplace violence prevention. Such training shall include information on the risk factors and controls specific to each work location.
2. All new employees shall receive training on the essentials of the OCFS workplace violence prevention plan as part of the New Employee Orientation Program. The facility director or office head shall direct that work location specific training shall be conducted after an employee reports to work.
3. Annual refresher training will be provided for all employees.
4. Training will be provided for the worksite teams that will conduct the risk assessment.

5. The training programs will be coordinated by the Workplace Violence Prevention Program Coordinator and supported through the Bureau of Training.

VIII. RETALIATION

NYS OCFS will not take retaliatory action against any employee because the employee exercises his/her rights under NYS Labor Law Section 27B.

Appendix D: OCFS Facility Workplace Violence Risk Assessment Tool

NEW YORK STATE
OFFICE OF CHILDREN AND FAMILY SERVICES
FACILITY WORKPLACE VIOLENCE RISK ASSESSMENT TOOL

COMPLETED BY:	CHECK ONE: <input type="checkbox"/> Management <input type="checkbox"/> CSEA <input type="checkbox"/> PEF	DATE : / /	(Check One): <input type="checkbox"/> Initial <input type="checkbox"/> Annual
COMPLETED BY:	CHECK ONE: <input type="checkbox"/> Management <input type="checkbox"/> CSEA <input type="checkbox"/> PEF	DATE : / /	(Check One): <input type="checkbox"/> Initial <input type="checkbox"/> Annual
COMPLETED BY:	CHECK ONE: <input type="checkbox"/> Management <input type="checkbox"/> CSEA <input type="checkbox"/> PEF	DATE : / /	(Check One): <input type="checkbox"/> Initial <input type="checkbox"/> Annual

I. GENERAL INFORMATION

SITE NAME:		CONTACT PERSON:	
TITLE:		PHONE NUMBER:	
COMMUNITY CRIME RATE:	<input type="checkbox"/> HIGH <input type="checkbox"/> MEDIUM <input type="checkbox"/> LOW	FACILITY TYPE:	<input type="checkbox"/> SECURE <input type="checkbox"/> LIMITED SECURE <input type="checkbox"/> NON-SECURE <input type="checkbox"/> COMMUNITY BASED
PHYSICAL PLANT:	<input type="checkbox"/> MULTIPLE PROGRAM BUILDING <input type="checkbox"/> SINGLE PROGRAM BUILDING <input type="checkbox"/> ONE FLOOR <input type="checkbox"/> MORE THAN ONE FLOOR	HOURS OF OPERATION:	<input type="checkbox"/> DAYSHIFT <input type="checkbox"/> 24/7 <input type="checkbox"/> OTHER (Specify) _____
		PUBLIC ACCESS:	<input type="checkbox"/> LIMITED <input type="checkbox"/> OPEN
NUMBER OF RESIDENTS:	<input type="checkbox"/> 1-30 <input type="checkbox"/> 31-50 <input type="checkbox"/> 51-75 <input type="checkbox"/> 76-100 <input type="checkbox"/> 101+	NUMBER OF EMPLOYEES:	<input type="checkbox"/> LESS THAN 20 <input type="checkbox"/> 20-75 <input type="checkbox"/> 76-100 <input type="checkbox"/> 101+

II. POLICY AND PROCEDURES

1. Are the procedures in the Workplace Violence Policy implemented?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
2. Are staff trained in these procedures?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
3. Are there response teams in place?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
4. Do they respond effectively?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
5. Are security/perimeter inspections conducted as per policy?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
6. Are routine area searches conducted as per policy?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
7. Are there any changes to the facility workplace violence procedures that would make the workplace safer? <i>If Yes, complete page 5</i>	<input type="checkbox"/> NO	<input type="checkbox"/> YES

III. BUILDINGS & GROUNDS

A. Physical Assessment

BUILDINGS:

1. Are exterior doors kept locked to prevent unauthorized entrance?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
2. Are there adequate inside night lights to enhance security?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
3. Can windows be secured?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
4. Are there vision panels in doors where appropriate?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
5. Are the vision panels in doors clear and unobstructed where appropriate?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
6. Are signs posted directing visitors to registration area if appropriate?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
7. Are switch and control/utility panels locked to prevent unauthorized access?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
8. Are items/objects that can be used as weapons secured or disposed of?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
9. Are there any issues with the physical Plant/Building security that should be addressed to promote a safer, more secure workplace? <i>If Yes, complete page 5</i>	<input type="checkbox"/> NO	<input type="checkbox"/> YES

GROUNDS:

1. Is there adequate outside lighting to enhance security?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
2. Are shrubs and foliage trimmed to allow for good line of sight?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
3. Are items/objects that can be used as weapons secured or disposed of?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
4. Are there any issues with the grounds that should be addressed to promote a safer, more secure workplace? <i>If Yes, complete page 5</i>	<input type="checkbox"/> NO	<input type="checkbox"/> YES

B. Safety Enhancements		
1. Are security camera systems installed and operational? <i>If "NO", go to section C</i>	<input type="checkbox"/> NO	<input type="checkbox"/> YES
2. Are recordings of significant incidents reviewed and potential hazards identified?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
3. Are the monitoring areas secured?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
4. Are recordings of proper quality for intended use?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
5. Is the surveillance system properly maintained?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
6. Are there any safety enhancement needs that should be addressed to promote a safer more secure workplace? <i>If Yes, complete page 5</i>	<input type="checkbox"/> NO	<input type="checkbox"/> YES
C. Office Areas		
Location of Office:		
1. Do office areas have alternate escape routes?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
2. Do staff have the means to call for help in a crisis?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
3. Are offices isolated?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
4. Do direct care staff meet with residents alone away from other staff?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
5. Do office staff meet with residents alone in isolated areas?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
6. Are potential weapons secured and accounted for when residents are in the room?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
7. Are there any issues regarding office space that should be addressed to promote a safer, more secure workplace? <i>If Yes, complete page 5</i>	<input type="checkbox"/> NO	<input type="checkbox"/> YES
D. Youth Visitation Areas (where applicable)		
1. Are staff appropriately deployed?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
2. Are relief staff provided if posted staff leave the area?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
3. Is access to this area controlled?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
4. Is this area under surveillance?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
5. Does this area have an alternate exit?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
6. Can co-workers observe this area?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
7. Are there any issues in this area that should be addressed to promote a safer, more secure workplace? <i>If Yes, complete page 5</i>	<input type="checkbox"/> NO	<input type="checkbox"/> YES
E. Public Reception Areas (where applicable)		
1. Are staff appropriately deployed?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
2. Are relief staff provided if posted staff leave the area?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
3. Is access to this area controlled?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
4. Is access from this area controlled?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
5. Is this area under surveillance?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
6. Does this area have an alternate exit?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
7. Can co-workers observe the area?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
8. Do staff have visual access to arriving visitors?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
9. Do staff have a means to alert others to a problem?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
10. Do staff have a means to call for assistance?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
11. Is there a procedure in place in case of a crisis or disruptive individual?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
12. Are there any issues in the reception area or youth visitation area that should be addressed to promote a safer more secure workplace? <i>If Yes, complete page 5</i>	<input type="checkbox"/> NO	<input type="checkbox"/> YES
F. Classroom Areas		
1. Can classrooms/education offices be locked from the interior?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
2. Do classrooms/education offices have operable 2-way communications?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
3. Do classrooms/offices have secondary exits?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
4. Are classrooms under security camera surveillance?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
5. Are classrooms arranged for effective supervision?	<input type="checkbox"/> NO	<input type="checkbox"/> YES

6. Are potential weapons secured and accounted for when residents are in the room?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
7. Are staff appropriately deployed?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
8. Are there any issues in the classrooms that should be addressed to promote a safer more secure workplace? <i>If Yes, complete page 5</i>	<input type="checkbox"/> NO	<input type="checkbox"/> YES
G. Resident Living Areas		
1. Are staff appropriately deployed?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
2. Is gang involvement addressed adequately in this area?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
3. Does emergency response arrive in a timely manner?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
4. Do sufficient staff respond?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
5. Are there any problems in the living areas that should be addressed to promote a safer, more secure workplace? <i>If Yes, complete page 5</i>	<input type="checkbox"/> NO	<input type="checkbox"/> YES
H. Common Areas/Gymnasiums/Cafeteria, etc.		
1. Are staff appropriately deployed?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
2. Are safety procedures followed consistently in this area?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
3. Are potential weapons secured and accounted for when residents are in the room area?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
4. Are there any issues in this specific physical area that should be addressed to promote a Safer, more secure workplace? <i>If Yes, complete page 5</i>	<input type="checkbox"/> NO	<input type="checkbox"/> YES
IV. VISITORS/VENDORS/VOLUNTEERS/CONTRACTORS		
1. Is there a search policy in place for visitors/vendors/volunteers/contractors?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
2. Is the policy regarding escorting and processing visitors/vendors/contractors enforced?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
3. Are visitors/vendors/volunteers/contractors supervised?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
4. Are visitors/vendors/volunteers/contractors required to register on entry?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
5. Are visitors/vendors/volunteers/contractors required to wear identification?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
6. Are vendor/contractor tools, supplies and equipment monitored during usage?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
7. Are vendor/contractor/volunteer tools, supplies and equipment removed or secured at the end of the work day?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
8. Do facility staff inspect the area for contraband or potential weapons at the end of the work day?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
9. Are contractor guidelines established and reviewed with the contractors?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
10. Are staff aware of persons not permitted access to the facility?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
11. Is there a functioning metal screening device in place at this location?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
12. Is it used in accordance with policy?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
13. Are there any problems/needs that should be addressed to promote a safer, more secure workplace? <i>If Yes, complete page 5</i>	<input type="checkbox"/> NO	<input type="checkbox"/> YES
V. RESIDENTS		
1. Are relevant staff informed of potential violence triggers of each youth?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
2. Are relevant staff trained to work with youth with Mental Health issues?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
3. Are staff aware of individual treatment strategies for each youth?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
4. Are therapeutic intervention committees held consistently?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
5. Are there effective means of communication so that staff are aware of resident problems throughout the course of the day?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
6. (FOR SANCTUARY FACILITIES) Are red flag meetings held consistently?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
7. Is there a consistent application of rules for youth discipline?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
8. Does the student council meet consistently?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
9. Is there additional training which can be provided to minimize the risk of physical conflict? <i>If Yes, complete page 5</i>	<input type="checkbox"/> NO	<input type="checkbox"/> YES
10. Are there any problems/needs that should be addressed to promote a safer, more secure workplace? <i>If Yes, complete page 5.</i>	<input type="checkbox"/> NO	<input type="checkbox"/> YES

VI. OTHER**A. Phone Assessment**

1. Are phones in good working order?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
2. Are procedures to access outside lines posted by each phone?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
3. Are backup systems available if the main phone system is inoperable?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
4. If applicable, is the 911 system tested periodically?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
5. Are there any issues with the current phone system that should be addressed to promote a safer more secure workplace? <i>If Yes, complete page 5</i>	<input type="checkbox"/> NO	<input type="checkbox"/> YES

B. Two-Way Radio System

1. Does this facility have an adequate number of functioning two-way radios?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
2. Are the radios available in an emergency?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
3. Is there an adequate number for daily use?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
4. Do the radios work effectively?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
5. Are radios tested regularly?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
6. Are there adequate working batteries?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
7. Are there any radio problems/needs that should be addressed to promote a safer more secure workplace? <i>If Yes, complete page 5</i>	<input type="checkbox"/> NO	<input type="checkbox"/> YES

C. Miscellaneous

1. Do staff supervise youth in areas secluded from other staff?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
2. If yes, do these staff have radios?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
3. Are tools and equipment secured and accounted for?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
4. Are work orders on potential workplace violence safety related matters handled as Priorities?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
5. Is there a procedure for informing maintenance of potential workplace safety priorities?	<input type="checkbox"/> NO	<input type="checkbox"/> YES
6. Are there any other problems/needs that should be addressed to promote a safer more secure workplace? <i>If Yes, complete page 5</i>	<input type="checkbox"/> NO	<input type="checkbox"/> YES

COMPLETE THE SECTION BELOW IF POTENTIAL WORKPLACE VIOLENCE PROBLEMS WERE IDENTIFIED BY THE SURVEY. PROVIDE SUFFICIENT DETAIL SO THAT THE PROBLEMS CAN BE RESOLVED. (LIST EACH PROBLEM SEPARATELY, USING ADDITIONAL PAPER IF NECESSARY).

SECTION:	NUMBER:
----------	---------

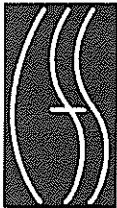
PROBLEM:

LOCATION:

SUGGESTED SOLUTIONS:

PRIORITY: NEEDS IMMEDIATE ATTENTION NEEDS ATTENTION BUT NOT IMMEDIATE

Appendix E : OCFS Response to Report



**New York State
Office of
Children & Family
Services**

www.ocfs.state.ny.us

David A. Paterson
Governor

Gladys Carrión, Esq.
Commissioner

Capital View Office Park
52 Washington Street
Rensselaer, NY 12144

April 23, 2010

Honorable Susan John
Chair, Assembly Labor Committee
Legislative Office Building
Room 522
Albany, New York 12248

Honorable Rory I. Lancman
Chair, Assembly Subcommittee on Workplace Safety
Legislative Office Building
Room 549
Albany, New York 12248

Dear Assembly members John and Lancman:

In following up to our meeting, I would like to take this opportunity to address some of the concerns identified in the report entitled "Employee Safety in New York's Juvenile Justice System". We recognize that the employees within our Division of Juvenile Justice and Opportunities for Youth (DJJOY) are the front line in providing youth placed in our custody with the treatment, education and guidance we are statutorily bound to provide them to help them obtain a second chance at success. Our staff are a critical asset and partner in our endeavor at reforming New York's Juvenile Justice System from a correctional to therapeutic mode of treatment. We hear their concerns about safety in the facilities and are working closely with our union partners to address these issues.

One of the report's recommendations is that our agency immediately complete the statutorily mandated Workplace Violence Prevention Program – Risk Assessment Tool. I am pleased to report that all 25 Juvenile Justice Residential Centers have submitted their risk assessments to the Central Office. Please note we have also conducted 1,800 training sessions on Workplace Violence as required under the Workplace Violence Prevention Act.

The report also suggests that the agency establish joint management-staff workplace violence prevention committees at each residential facility. There are several committees on the facility level which have been in place for a number of years that address workplace safety issues. For example each facility has a Health and Safety (H&S) Committee, which meets quarterly, to provide labor and management the opportunity to address a variety of issues including workplace safety. In order to better frame the discussion for these H&S meetings, we are creating a standard committee agenda that will cover the following topics: Physical Plant, Workplace Safety, Staffing, and review of quarterly Workers Compensation caseload statistics. Under this new



format, minutes from the H&S facility meeting will be transmitted to DJJOY administrative staff and the Labor Relations unit at OCFS Central Office to provide a formal process for keeping them apprised of the issues being discussed at each facility. Holding these meetings more frequently is also being considered as part of this effort.

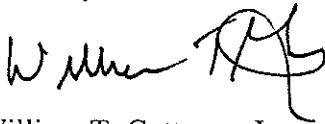
I would be remiss, if I also did not mention the agency's commitment, in this very difficult fiscal environment, to the hiring of 169 permanent unionized positions to provide for the continued reform of the juvenile justice system. The proposal is supported with an \$18.2 million appropriation in the 2010-2011 Executive Budget.

We value the dedicated staff here at OCFS and their efforts at making a positive difference for the children and families throughout New York State. They care deeply for the youth placed in our care by the State's court system. They also are committed to working diligently, with management to effectuate the practice of the Sanctuary Model® and the New York Model, both of which aim to provide a culture of engagement and sensitivity to the issues of trauma and adversity so often experienced in the lives of the youth for whom we care.

I have enclosed some statistical information regarding our juvenile justice system that may be of interest to you.

I appreciate your interest in this critically important topic and look forward to working with the both of you and our represented staff as we move forward in creating a more therapeutic and safer environment in our juvenile justice facilities for the youth and the staff who serve them.

Sincerely,

A handwritten signature in black ink, appearing to read "William T. Gettman, Jr.", with a stylized flourish at the end.

William T. Gettman, Jr.
Executive Deputy Commissioner

Enclosure