TOSHA INSTRUCTION

TENNESSEE DEPARTMENT OF LABOR & WORKFORCE DEVELOPMENT DIVISION OF OCCUPATIONAL SAFETY & HEALTH

DIRECTIVE NUMBER: CPL-TN 02-01-052	**EFFECTIVE DATE: 4 April 2012**
SUBJECT: Enforcement Procedures for Investigating or Inspecting Workplace Violence Incidents	

ABSTRACT

Purpose: This instruction establishes general policy guidance and procedures for field offices to apply when conducting inspections in response to incidents of workplace violence.

Scope: TOSHA-wide.

References: Guidelines for Preventing Workplace Violence for Health Care and Social Service Workers, OSHA Publication 3148, 2004.

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

Violence in the Workplace: Risk Factors and Prevention Strategies, NIOSH - Current Intelligence Bulletin 57, July 1996.

Workplace Violence Prevention Strategies and Research Needs, NIOSH Publication #2006-144, 2006.

BLS, Workplace Injuries, 2008.

OPM, Dealing with Workplace Violence: A Guide for Agency Planners; February 1998.

TOSHA Safety and Health Plan part V, Field Operations Manual (FOM), January 1, 2010.

Annals of Epidemiology: Volume 19, Issue 2, Pages 73-142, Hospital Employee Assault Rates Before and After Enactment of the California

Hospital Safety and Security Act, Casteel et al., February 2009.

Cancellations: None.

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

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

Originating Office: Directorate of Enforcement Programs, Office of Federal Agency Programs

Contact: Office of Standards & Procedures
220 French Landing Drive
Nashville, TN 37243
800-249-8510.

By and Under the Authority of

Steve Hawkins
Assistant Secretary

Executive Summary

This instruction establishes TOSHA general enforcement policies and procedures for field offices to apply when conducting inspections related to workplace violence. The instruction highlights the steps that should be taken in reviewing incidents of workplace violence when considering whether to initiate an inspection in industries that TOSHA has identified as susceptible to this hazard. The instruction is meant to provide guidance on both how a TOSHA workplace violence case is developed and which steps Area Offices should take to assist employers in addressing the issue of workplace violence.

Significant Changes

This is the first instruction on the enforcement procedures for investigations and inspections that occur as a result of workplace violence incident(s) and specifically at worksites in industries that TOSHA has identified as susceptible to workplace violence. It clarifies and expands the Agency's policies and procedures in this area.

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I. Purpose.

The purpose of this instruction is to provide general policies and procedures that apply when workplace violence is identified as a hazard while conducting an inspection under a national, regional or local emphasis program and when responding to incidents of workplace violence, especially when conducting inspections at worksites in industries with a high incidence of workplace violence.

II. Scope.

This instruction applies TOSHA-wide.

III. References.

A. OSHA, Publication 3148: Guidelines for Preventing Workplace Violence for Health Care and Social Service Workers, 2004.

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

C NIOSH, Current Intelligence Bulletin 57: Violence in the Workplace. Risk Factors and Prevention Strategies, July 1996.

D. NIOSH Publication #2006-144, Workplace Violence Prevention Strategies and Research Needs, 2006.

E. BLS, Workplace Injuries, 2008.

F. OPM, Dealing with Workplace Violence: A Guide for Agency Planners, February 1998.

G. TOSHA Safety and Health Plan part V, Field Operations Manual (FOM), January 1, 2010.

H. Annals of Epidemiology: Volume 19, Issue 2, Pages 73-142, Hospital Employee Assault Rates Before and After Enactment of the California Hospital Safety and Security Act, Casteel et al., February 2009.

I. Journal of Addictions Nursing: Volume 17, Number 1, Pages 13-19, *Violence Intervention Prevention*, Egell, D., Torino, T., 2006.

IV. Cancellations.

None.

V. Action Offices.

A. Responsible Office.

Directorate of Enforcement Programs, Office of Federal Agency Programs.

B. Action Offices.

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

C. Information Offices.

OSHA National and Regional Offices.

VI. Federal Program Change

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

States must submit a notice of intent indicating if the State has or will adopt policies and procedures for enforcement of workplace violence and if so, whether the State's policies and procedures are or will be identical to or different from the Federal. OSHA will post summary information on the State responses to this instruction on its website.

VII. Significant Changes.

This is the first instruction on the enforcement procedures for investigations and inspections that occur as a result of workplace violence incident(s).

VIII. Application.

This instruction applies to inspections or investigations conducted by TOSHA officials (i.e., Compliance Safety and Health Officers (CSHOs) and Central

Office Officials) who conduct inspections in response to a complaint of workplace violence or conduct programmed inspections at worksites that are in industries with a high incidence of workplace violence (e.g., healthcare, social service settings and late-night retail establishments). It is not intended to exclude other programmed inspections when workplace violence is uncovered and well-documented. Area Supervisors, TOSHA Managers, and TOSHA Administrators will ensure that the policies and procedures set forth in this instruction are followed.

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

Employers may be found in violation of the general duty clause if they fail to reduce or eliminate serious recognized hazards. Under this directive, inspectors should therefore gather evidence to demonstrate whether an employer recognized, either individually or through its industry, the existence of a potential workplace violence hazard affecting his or her employees. Furthermore, investigations should focus on the availability to employers of feasible means of preventing or minimizing such hazards.

IX. Background.

Workplace violence is recognized as an occupational hazard in some industries and environments which, like other safety issues, can be avoided or minimized if employers take appropriate precautions. At the same time, it continues to negatively impact the American workforce. Workplace violence has remained among the top four causes of death at work for over fifteen years, and it impacts thousands of workers and their families annually.

Research has identified factors that may increase the risk of violence at worksites. Such factors include working with the public or volatile, unstable people. Working alone or in isolated areas may also contribute to the potential for violence. Handling money and valuables, providing services and care, and working where alcohol is served may also impact the likelihood of violence. Additionally, time of day and location of work, such as working late at night or in areas with high crime rates, are also risk factors that should be considered when addressing issues of workplace violence.

Data on workplace violence provides information on the number and types of both fatal and non-fatal incidents of workplace violence. The Bureau of Labor Statistics' (BLS) Census of Fatal Occupational Injuries (CFOI) shows an average

of 590 homicides a year from 2000 through 2009, with homicides remaining one of the four most frequent work-related fatal injuries. Workplace homicides remained the number one cause of workplace death for women in 2009. While there was some fluctuation over this ten year period there was an overall decline, with the highest number of homicides occurring in 2000 (677) and the lowest number occurring in 2009 (521). During this same time period, the Department of Justice's, National Crime Victimization Survey showed an overall decline in the rate per 1,000 people of workplace nonfatal violence against employees, starting at 7.96 in 2000 and ending at 3.86 in 2009 [due to a methodological changes 2006 was not included in these calculations](Harrell, Erika. 2011. *Special Report: Workplace Violence 1993-2009*. U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics). This survey showed that from 2005 through 2009 the majority of non-fatal incidents were instigated by strangers. In addition, during the same time period, survey results showed that 19% of victims of workplace violence worked in law enforcement, 13% worked in retail and 10% worked in medical occupations.

Over the last several years, research has provided some frameworks for developing methods to prevent or minimize the likelihood of workplace violence. As more is learned about workplace violence, it has become apparent that workplace violence prevention is a concern spread across many responsible entities. In September 2006, NIOSH published "*Workplace Violence Prevention Strategies and Research Needs*" (NIOSH Publication No. 2006-144). In it, NIOSH noted that a multidisciplinary team approach to workplace violence prevention was needed: "The involvement of persons with diverse expertise and experience is especially critical due to the depth and complexity of [workplace violence] prevention. Such teamwork is crucial for planning, developing, and implementing programs..." This includes "management, union, human resources, safety and health, security, medical/psychology, legal, communications, and worker assistance."

Several studies have shown that prevention programs can reduce incidents of workplace violence (See Appendix C). By assessing their worksites, employers can identify methods for reducing the likelihood of incidents occurring. OSHA believes that a well written and implemented Workplace Violence Prevention Program, combined with engineering controls, administrative controls and training can reduce the incidence of workplace violence in both the private sector and Federal workplaces. Classifications of workplace violence have been developed to describe the relationship between the perpetrator and the target of workplace violence (Injury Prevention Research Center. 2001. *Workplace Violence: A Report to the Nation.* The University of Iowa) and are set forth in Section X. B. of this instruction.

OSHA has developed several guidance documents to assist employers, some of which are listed in Appendices A and B of this instruction. In addition, Appendix

C provides research studies addressing different aspects of workplace violence prevention.

X. Key Terms and Definitions.

A. Workplace Violence.

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

B. Types of Workplace Violence.

Classifications of workplace violence that describe the relationship between the perpetrator and the target of workplace violence are:

1. Type 1—Criminal Intent

Violent acts by people who enter the workplace to commit a robbery or other crime—or current or former employees who enter the workplace with the intent to commit a crime.

2. Type 2—Customer/Client/Patients

Violence directed at employees by customers, clients, patients, students, inmates or any others to whom the employer provides a service.

3. Type 3—Co-worker

Violence against co-workers, supervisors, or managers by a current or former employee, supervisor, or manager.

4. Type 4—Personal

Violence in the workplace by someone who does not work there, but who is known to, or has a personal relationship with, an employee.

C. OSHA-Identified High-Risk Industries.

1. Healthcare and Social Service Settings

This category covers a broad spectrum of workers who provide healthcare and social services in psychiatric facilities, hospital

emergency departments, community mental health clinics, drug abuse treatment clinics, pharmacies, community-care facilities, residential facilities and long-term care facilities. Workers in these fields include physicians, registered nurses, pharmacists, nurse practitioners, physicians' assistants, nurses' aides, therapists, technicians, public health nurses, home healthcare workers, social and welfare workers, security personnel, maintenance personnel and emergency medical care personnel.

2. Late-Night Retail Settings

This includes entities such as convenience stores, liquor stores and gas stations. Factors that put late-night retail employees at risk include the exchange of money, twenty-four hour operation, solo work, isolated worksites, the sale of alcohol and poorly-lit stores and parking areas.

D. Catastrophic Event.

The hospitalization of three or more employees resulting from a work-related incident or exposure, in general, from an incident caused by a workplace hazard.

E. Fatality.

An employee death resulting from a work-related incident or exposure, in general, from an incident caused by a workplace hazard.

XI. OSHA's Response Efforts and Outreach.

OSHA has developed guidance and recommendations on workplace violence prevention for late-night retail and healthcare settings. These resources, along with other research listed in the appendices of this instruction, can be used by TOSHA personnel to inform employers about developing a workplace violence prevention program. The TOSHA Administrator may choose to disseminate this information through stakeholder meetings, targeted training programs or presentations to employers, labor unions, trade or professional associations, educational institutions and government agencies. Area Offices can also work with Alliance Program participants to help provide outreach. TOSHA's On-site Consultation Program is available on request to employers requesting help on workplace violence prevention. The Consultation Program includes an appraisal of the work practices and occupational safety and health hazards of the workplace. In addition, the service offers assistance to employers in developing and implementing an effective safety and health program.

XII. Inspection Scope and Scheduling.

A. Scope.

This instruction is provided for initiating inspections when: (1) responding to a complaint, referral, or a fatality or catastrophic event; and (2) conducting a programmed inspection where workplace violence is identified as an issue.

1. An inspection shall be considered where there is a complaint, referral, or fatality and/or catastrophic event involving an incident of workplace violence, particularly when it stems from a workplace in industries identified by TOSHA as having a potential for workplace violence. These industries include, among others, healthcare and social service settings and late-night retail establishments.

2. An inspection shall be considered during programmed inspections where there is recognition of the potential for workplace violence in that industry or where the hazard is identified as existing.

3. An inspection generally shall not be considered in response to co-worker or personal threats of violence. If an Area Supervisor becomes aware of instances that could be classified as intimidation or bullying, they should consider referring the issue to the appropriate government entity. Referrals could be made to the local police department, the Equal Employment Opportunity Commission, the National Labor Relations Board or OSHA's Office of Whistleblower Protection. The Area Supervisor may inform the employer if a referral is made. Area Directors should contact the TOSHA Central Office if they have any questions concerning referrals for these types of incidents.

B. Inspection Scheduling.

Inspections will generally be conducted in response to complaints and referrals or as part of a fatality and/or catastrophe investigation pursuant to FOM procedures *and* where reasonable grounds exist after an evaluation of the criteria set forth below.

1. Workplace Violence Complaints and Referrals.

   a. Area Offices shall refer to procedures set forth in FOM Chapter 9 (Complaint and Referral Processing) for handling complaints and referrals. Where it is determined that a complaint meets the criteria for a formal complaint or a referral is generated from one of the sources identified in the FOM as a referral agency, an on-site inspection shall be considered. Where the inspection criteria for formal

complaints and referrals in the FOM are not met, non-formal complaint procedures shall be followed.

b. In addition to following procedures for formal complaints and referrals, Area Supervisors shall determine if reasonable grounds exist to conduct an inspection by using the following criteria. A factual screening should be conducted (i.e., talking to the source of the complaint or referral) to assess whether the criteria have been met prior to initiating an inspection.

2. Criteria for Initiating Inspections.

a. Known risk factors to consider, listed by NIOSH in its report *NIOSH Current Intelligence Bulletin #57: Violence in the Workplace: Risk Factors and Prevention Strategies* (1996). (While each of these factors shall be considered, they would not individually trigger an inspection.)

- Working with unstable or volatile persons in certain healthcare, social service or criminal justice settings.
- Working alone or in small numbers.
- Working late at night or during early morning hours.
- Working in high-crime areas.
- Guarding valuable property or possessions.
- Working in community-based settings, such as community mental health clinics, drug abuse treatment clinics, pharmacies, community-care facilities and long-term care facilities.
- Exchanging money in certain financial institutions.
- Delivering passengers, goods or services.
- Having a mobile workplace such as a taxicab.

b. Evidence of employer and/or industry recognition of the potential for workplace violence in OSHA-identified high

risk industries, such as healthcare and social service settings and late night retail (See Section X, C, 1&2.).

c. Feasible abatement methods exist to address the hazard(s).

Below are four examples applying these criteria to various types of situations. The first example presents facts where TOSHA would investigate, the second is a case where TOSHA would not investigate and the final two are examples requiring Area Director discretion.

Example 1 – Inspection to be conducted

A patient in the psychiatric ward attacks a nurse at a local hospital.

- Known risk factor – YES

  - Working with unstable or volatile persons in healthcare.

- Industry and/or Employer Recognition – YES

  - Large body of studies on the existence of potential workplace violence in these types of healthcare settings. Previous incidents reported to employer.

- Existence of feasible means of abatement – YES

  - Large body of work on feasible means of abatement available to address workplace violence in these types of healthcare settings (e.g., having two or more employees present when unstable clients are at the facility).

Example 2 – No inspection conducted

A disgruntled acquaintance stabs an employee of a bookstore at work.

- Known risk factor – NO

  - The incident covers only some of the risk factors, and the hazard could not have been reasonably anticipated.

  - The bookstore was not in a high crime area.

  - The incident occurred at 10 a.m. in a store with five employees present.

  - The only employer knowledge was that the employee and acquaintance appeared to argue prior to the stabbing.

- Industry and/or Employer Recognition – NO

  - No industry history of violence at bookstores and no reason for the employer to anticipate such an incident.

- Existence of feasible means of abatement – NO

  - No known prevention measures for random acts of violence in this type of workplace setting.

Example 3 – Area Supervisor discretion required

A shooting was reported at a local grocery store.

- Known risk factor – Unknown

  Evidence to be considered:

  - Is the store in a high-crime area?

  - Have there been past threats or acts of violence and is there a pattern of violence against employees at the store?

  - What time of day or night did the incident occur?

  - How many times have police responded to disturbances at this location?

  - How many employees were working at the time?

  - Was the incident a robbery?

- Industry and/or Employee Recognition – Unknown

  - Answers to the above questions will help determine if the local grocery store may be considered a late-night retail establishment for which there may be industry knowledge of the potential for workplace violence.

  - Information should be gathered on any safety precautions taken by the employer and a review should be conducted of injury and illness logs to determine whether the employer recognized the potential for violence or knew of past incidents.

- Existence of feasible means of abatement – Unknown

  - Determine if there are feasible means of abatement available to the local grocery store to eliminate or reduce the possibility of future incidents.

Example 4 – Area Supervisor discretion required

Employees at a financial institution were shot.

- Known risk factor – YES

  - Exchange of money. However, information needs to be gathered regarding the type of workplace where the incident occurred (i.e., a stand-alone bank, a credit union in an office building, a quick loans or check cashing storefront).

  - Was the establishment in a high crime area?

  - Was the financial institution held up?

  - What were the circumstances surrounding the violent incident?

  - Was the perpetrator an acquaintance of any of the employees?

  - What interactions occurred between the perpetrator and employees?

- Industry and/or Employer Recognition – YES

  - Studies exist on the potential for armed robberies at financial institutions.

  - Were there any engineering controls in place to address incidents of workplace violence, such as bulletproof glass and buzz-in entries?

- Existence of effective abatement methods – Unknown

  - Are there feasible abatement methods available to reduce or eliminate the possibility of future incidents?

  - Feasible abatement methods would depend on the type of incident that occurred and the institution.

3. Fatality/Catastrophe.

   An inspection will generally be conducted where there is a death of one or more employees or hospitalization of three or more employees. If the Area Supervisor determines, after assessing the facts and applying the criteria above, that it is not appropriate to initiate an inspection for a workplace violence fatality, they shall document the reasons on the OSHA 36.

NOTE: CSHOs should not conduct their own inspections at the same time as other law enforcement personnel. If a CSHO arrives during a police investigation, they should stop their investigation, contact the law enforcement commander and request to be notified once the on-site police investigation is complete.

4. Programmed Inspection.

A CSHO may pursue an investigation for workplace violence during programmed inspections where there is recognition of the potential for workplace violence in that industry or where the hazard is identified as existing.

XIII. Inspection Procedures.

This section outlines procedures for conducting inspections and issuing citations or notices for workplace violence hazards. The procedures in FOM Chapter 3 (Inspection Procedures) shall be followed, except as modified below. Compliance Officers should consult any OSHA directives, TOSHA Directives, appendices and other references cited in this instruction for further guidance.

CSHOs who are conducting inspections for a local, regional or national emphasis program and who identify incidents or workplace violence, through observations, employee interviews and/or injury and illness records, may expand the scope of the inspection to address these safety and health hazards.

A. Opening Conference.

1. CSHOs are to explain the reason for the inspection to the employer, including the incident that prompted the investigation.

NOTE: CSHO may provide employers with a copy of OSHA's Guidelines for Preventing Workplace Violence for Health Care & Social Service Workers, Recommendations for Workplace Violence Prevention Programs in Late-Night Retail Establishments or other appropriate guidance.

2. CSHOs should request information on any hazard assessments performed and incident reviews at the facility concerning issues of workplace violence.

3. At the opening conference, CSHOs shall identify all employees who are in charge of security and/or responsible for the workplace violence prevention program (if any).

4. CSHOs shall initially determine whether the employer has a workplace violence prevention program.

a. Conduct interviews and request relevant documents to determine whether the employer has considered or implemented a hierarchy of controls for worker protection against potential acts of workplace violence (e.g., engineering or administrative controls, work practices and personal protective equipment).

b. The evaluation of an employer's workplace violence prevention program should be based on any written safety programs and recordkeeping for injury and illness data. In addition, other information to be reviewed includes medical records related to incidents of workplace violence, police incident reports, actions taken to prevent future incidents and any other information deemed appropriate by the CSHO.

5. CSHOs should request all information regarding worker training programs and other methods used to inform workers of the potential for, and prevention of, workplace violence. Where appropriate, CSHOs should also request any discipline records related to violence or aggression shown at the workplace.

B. Walkaround and Records Review.

CSHOs should use professional judgment in determining which areas of the facility will be inspected. Documenting resident or patient handling activities by videotaping or photography requires the resident's informed, written consent. Family members or guardians may give consent for those residents who are incapable of giving informed consent (See Appendix F). CSHOs should identify jobs or locations with the greatest potential for workplace violence, as well as any processes and procedures that put workers at risk, including: building layout, interior and exterior lighting, communication systems and absence of security systems.

CSHOs shall interview all employees on all work shifts (if available) who observed or experienced any acts of workplace violence. CSHOs should also interview first responders, police officers, managers and any others who observed the incident or its aftermath.

1. Access to employee medical records.

In situations where the CSHO determines that medical records should be reviewed, an administrative subpoena should be obtained and served on the employer concurrently with the Medical Access Order (For guidance see CPL 02-02-072, Rules of Agency Practice and Procedure Concerning OSHA Access to

Employee Medical Records (August 22, 2007)). CSHOs may also consider obtaining specific written consent from an employee pursuant to 29 CFR 1910.1020(e)(2)(ii)(B) and should ensure that the agency or agency employee receiving the information is listed on the consent form as the designated representative.

2. Injury/Illness Records.

CSHOs should review the employer's injury and illness records from five years prior to identify any workers with recorded injuries associated with workplace violence and identify the frequency and severity of incidents to establish any existing trends. If there is evidence that a particular work-related incident that meets the recordkeeping criteria has not been recorded by the employer, a citation for violation of TDLWD Rule 0800-01-03 may be issued.

3. Other Records.

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

a. Workers' Compensation Records.

b. Insurance Records.

c. Police Reports.

d. Security Reports.

e. First-Aid Logs.

f. Accident or near-miss logs.

C. Citation and Notice Procedures.

Prior to issuing a citation or notice, Area Supervisors shall ensure a thorough evidentiary development/documentation of the case file.

The following requirements shall be cited as appropriate for employee exposure to workplace violence incidents. This list is not intended to be comprehensive.

TDLWD 0800-01-03	General Duty Clause; Recording and Reporting Occupational Injuries and

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

NOTE: Language used in the citations should focus on the hazard and in no way stigmatize groups of persons as being prone to violent behavior. Additional guidance on writing citations addressing workplace violence will be provided during CSHO training.

1. TCA 50-3-105(1).

   CSHOs must consult, at a minimum, the information on the OSHA Safety and Health Topics page for Workplace Violence and the NIOSH Safety and Health Topics page to determine if a workplace violence hazard is recognized by the relevant industry. The following are the types of evidence or documentation necessary to establish each element of a general duty clause violation. Reference materials in Appendices B, C and E should be reviewed to support information presented in the citation or notice.

   a. A serious workplace violence hazard exists and the employer failed to keep its workplace free of hazards to which employees were exposed. Documentation to meet this element should include:

      - OSHA 300 (Injury/Illness) logs and 301 forms documenting injuries from workplace violence for the prior five years.

      - Injury reports specific to instances of workplace violence, including any reports generated as part of the Joint Commission (formerly JCAHO—Joint Commission on Accreditation of Healthcare Organizations) accreditation/certification for healthcare settings.

      - Past complaints or grievances noting the particular hazard.

      - Meeting minutes where workplace violence issues were discussed.

      - Workers' compensation records documenting injuries from workplace violence.

- Medical records regarding workplace violence incidents.
- Police and security records documenting incidents of workplace violence.
- Employee interviews, which include information on any previous incidents of violence.
- Actual or potential employee exposure to workplace violence.
- Documentation that the workplace violence hazard was *reasonably foreseeable* by the employer.

NOTE: Cite the specific hazard employees are exposed to, not the events that led to the incident or the lack of a particular abatement method.

b. Industry and Employer Recognition.

Where present, CSHOs should document the existence of industry and/or employer recognition of the hazard.

(1) Industry Recognition

- Documentation from the business groups and associations (including the Joint Commission for healthcare facilities) affiliated with the employer identifying the problem of workplace violence.
- Journal articles and research showing the existence of workplace violence in the given industry.
- NIOSH and OSHA publications.
- National consensus standards.
- State and local laws that address workplace violence in specific industries, such as healthcare facilities or late-night retail.

(2) Employer Recognition

- Documentation of any employees informing the employer of the hazard or related inspections of the employer.

- Employer awareness of any prior incidents, injuries or close calls related to workplace violence.

- Any precautions/protective measures taken by the employer to prevent or minimize workplace violence.

- Documentation of how the employer currently addresses workplace violence including a security plan, training plan, presence of a preventative plan and other safety documents.

- Interviews of management, including the person responsible for certifying the OSHA 300 logs.

- Employee interviews.
- Union complaints.
- Employer awareness of local and state laws, i.e., state or municipal licensing or accrediting regulations. (See Appendix A for a partial list.)

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

- Documentation that the workplace violence *hazard* caused or was likely to cause serious physical harm. Examples include employee interviews, injury and illness logs and police reports.

- Evidence of actual instances where employees were threatened with physical harm or seriously injured or killed as a result of workplace violence.

d. There are feasible abatement methods available to address the hazard.

CSHOs should document any feasible abatement methods and an explanation of how they would materially reduce the hazard. (Appendix B includes information on types of feasible abatement methods. See Appendix C for

information on studies and abatement methods for healthcare and retail settings.) In certain cases, an expert knowledgeable in the industry may need to be retained to show that the proposed abatement measures are feasible and recognized within that industry. Area Directors should consult with the Regional Solicitors in such situations.

NOTE: See Appendix E for an example of a memorandum to the Assistant Secretary that contains sample case file documentation and Alleged Violations Description citation language to support a general duty clause violation.

2. Observation of Hazards.

If potential workplace violence hazards noted by a CSHO during an inspection are not covered by a particular standard and do not rise to the level of a general duty clause violation, a hazard alert letter recommending the implementation of protective measures that address identified hazards shall be considered. (See Appendix D for a sample hazard alert letter.)

D. Closing Conference—Abatement Methods.

In workplaces where a potential for violence against employees has been identified, the employer should be encouraged to develop and implement a workplace violence prevention program. CSHOs should discuss with the employer potential controls for these types of hazards. However, it is the employer's responsibility to employ the most effective feasible controls available to protect its employees from acts of workplace violence.

The selection of abatement methods should be based on specific hazards identified in a workplace analysis of the facility/place of employment, temporary duty locations and workers' travel routes while on duty. (For examples of industry-specific abatement methods, see Appendix B.)

E. Training.

Area Supervisors shall ensure that Compliance Officers performing workplace violence inspections are familiar with the most recent guidelines on the subject and are adequately trained on workplace violence prevention, recognition of high-risk situations, and ways to defuse hostile situations. Training should also include instruction on potential workplace risk factors, types of workplace violence, and abatement measures available to address the hazard. CSHOs are also encouraged to review training materials developed by the NIOSH, FBI,

and USDA (See Appendix A). This training is intended to assist CSHOs to understand specific workplace violence incidents, to identify hazard exposure and to assist the employer in abating the hazard.

F. IMIS Coding.

The OSHA-170 and "Immlang" questionnaire shall be completed for any inspection of workplace violence resulting in a fatality or catastrophe.

OSHA-1 Block 42

Type = N ID = 16 Value = Violence

OSHA-7 Item 46

When an OSHA-7 is completed and the complaint alleges employee exposure to workplace violence, CSHOs should enter the code "N-16-Violence" in optional information.

The "N-16-Violence" code applies to the following forms: OSHA-1, OSHA-7, OSHA-36, OSHA-90, and OSHA-55.

XIV. Consultation.

Whenever a consultation visit is made in response to this instruction, use N-16-Violence in item 18 on Form-20 and in item 22 on Form-30.

Appendix A - Additional Resources

Many Federal, state and local agencies; private industry employers; universities and schools have workplace violence prevention programs or policies that include hazard analysis and controls and may include disciplinary procedures for work rule violations.

OSHA

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

Guidelines for Preventing Workplace Violence for Health Care and Social Service Workers. OSHA 3148-01R, 2004.

OSHA Safety and Health Topics Workplace Violence. [https://www.osha.gov/SLTC/workplaceviolence/index.html]

Preventing Violence against Taxi and For-Hire Drivers. OSHA Fact Sheet, 2010.

Additional resources are listed on OSHA's Workplace Violence Topic Page under Possible Solutions and Additional Information.

National Institute for Occupational Safety and Health (NIOSH)

NIOSH has a workplace violence web page that lists publications pertaining to workplace violence and other resources. These references include additional controls/abatement methods for workplace violence hazards.

NIOSH Safety and Health Topic: Occupational Violence. [http://www.cdc.gov/niosh/topics/violence].

Center for Disease Control and Prevention, National Institute for Occupational Health. (2002). "Occupational Hazards in Hospitals." DHHS (NIOSH) Pub. No. 2002-101. [http://www.cdc.gov/niosh/docs/2002-101/#5]

Federal Bureau of Investigation

The FBI has several documents addressing workplace violence and recommendations for reducing the risk. For more information visit the FBI web site at: [http://www.fbi.gov]

FBI [2010]. Law Enforcement Bulletin: Workplace and Campus Safety. [http://www.fbi.gov/stats-services/publications/law-enforcement-bulletin/february-2010/title-1].

FBI [No Date]. Workplace Violence, Issues in Response. [http://www.fbi.gov/stats-services/publications/workplace-violence].

States Laws and Programs to Address Workplace Violence
Several states have laws that address workplace violence. Maine's Department of Labor created a 2007 Labor Report, which provided a summary of existing state laws (*Report of the Task Force on Workplace Violence and Safety to the Joint Standing Committee on Labor*). CSHOs should always check state laws and guidance prior to conducting an inspection to ensure that they are aware of the most current regulations and guidance.

In addition, some states have created websites that address workplace violence. Below is a sampling of such websites.

California
The state of California has Guidelines for Security and Safety of Health Care and Community Service Workers, which provides information and guidance to employers and employees in healthcare and community service settings about workplace security issues It also has Guidelines for Workplace Security.

Delaware
The State of Delaware has a Workplace Violence Policy document that employers can use as a guideline for a written workplace violence program. This document is available at: [http://www.delawarepersonnel.com/policies/docs/workplace_violence.pdf].

Iowa
Iowa OSHA created a PowerPoint presentation describing workplace violence risk factors and steps employers and employees can take to help reduce the occurrence of workplace violence. The Iowa Department of Administrative Services has a section of its MS Manual entitled "Violence-Free Workplace Guidelines," which applies to executive branch employees.

Minnesota
According to the Minnesota Department of Labor & Industry's Workplace Violence Prevention website, the department "works with employers and employees to increase their understanding of workplace violence in a way that emphasizes prevention and voluntary compliance."

New Mexico
The New Mexico Environmental Improvement Board, which issues occupational safety and health standards, issued a regulation (11.5.6) that requires convenience stores open between the hours of 11:00 p.m. and 5:00 a.m. either to have two workers on duty, or one clerk and a security guard, or to install bulletproof glass or other safety features to limit access to store personnel. See http://www.nmcpr.state.nm.us/nmac/parts/title11/11.005.0006.htm for more information.

New York
According to the New York State Department of Labor Workplace Violence Prevention Information website, the "New York State Public Employer Workplace Violence Prevention Law" was enacted to ensure that public workplaces are evaluated and that effective response and prevention strategies are implemented to prevent and minimize workplace violence.

Oregon
Oregon OSHA has published a "concise guide to preventing aggression" in the workplace entitled, "Can It Happen Here?" to assist employers in evaluating risks and implementing a policy against workplace violence.

Washington
According to Washington's Department of Labor and Industries, several existing provisions of the Washington Administrative Code may apply to the hazards of violence in the workplace. See http://lni.wa.gov/Safety/Rules/Policies/PDFs/WRD505.pdf for more information.

Wyoming
Wyoming created a sample Workplace Violence and Prevention Program for employers to use when drafting their company's own program.

Other Resources.

Canadian Center for Occupational Safety and Health (CCOHS) topic page: *Violence in the Workplace* is available at [http://www.ccohs.ca/oshanswers/psychosocial/violence.html].

Florida State University: [http://www.vpfa.fsu.edu/Employee-Assitance-Program/Workplace-Violence].

Michigan State University Criminal Justice Resources: *Workplace Violence* is available at: http://staff.lib.msu.edu/harris23/crimjust/workplac.htm. This website lists online publications and articles, books and other sources of information pertaining to workplace violence.

Appendix B – Potential Abatement Methods

The employer may use any one or combination of the following abatement methods, or other abatements not listed, to materially reduce or eliminate the hazard of workplace violence. Other references should also be reviewed to determine the most effective methods applicable to the workplace.

General recommendations for all industries and administrative workplaces:

- Conduct a workplace violence hazard analysis (this includes analyzing vehicles used to transport clients).
- Assess any plans for new construction or physical changes to the facility or workplace to eliminate or reduce security hazards.
- Provide employees with training on workplace violence.

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

- Implement Administrative Controls—to change work practices and management policies in order to reduce exposure to hazards. Such controls include:
  - Establish liaisons with local police and state prosecutors. Report all incidents of violence. Give police physical layouts of facilities to expedite investigations.
  - Require employees to report all assaults or threats to a supervisor or manager (in addition, address concerns where the perpetrator is the manager). Keep log books and reports of such incidents to help determine any necessary actions to prevent recurrences.
  - Advise employees of company procedures for requesting police assistance or filing charges when assaulted and help them do so, if necessary.
- Provide management support during emergencies. Respond promptly to all complaints.
  - Set up a trained response team to respond to emergencies.

- Use properly trained security officers to deal with aggressive behavior. Follow written security procedures.

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

Retail Industry. (See OSHA publication 3153)

The employer may use any one or combination of the following abatement methods, or other abatements not listed, to materially reduce or eliminate the hazard of workplace violence. Other references should also be reviewed to determine the most effective methods applicable to the workplace.

Minimizing Risk through Engineering Controls and Workplace Adaptations

- Limit window signs to low or high locations and keep shelving low so that workers can see incoming customers and so that police can observe what is occurring from the outside of the store.
- Ensure that the customer service and cash register areas are visible from outside of the establishment.
- Place curved mirrors at hallway intersections or concealed areas.
- Maintain adequate lighting inside and outside the establishment.
- Install video surveillance equipment and closed-circuit TV to increase the likelihood of identification of perpetrators.
- Use door detectors so that workers are alerted when someone enters the store.
- Have height markers on exit doors to help witnesses provide more accurate descriptions of assailants.
- Install and regularly maintain alarm systems and other security devices, panic buttons, handheld alarms or noise devices, cellular phones and private channel radios where risk is apparent or may be anticipated.
- Arrange for a reliable response system when an alarm is triggered.
- Install fences and other structures to direct the flow of customer traffic into and around the store.
- Control access to the store with door entry (buzzer) systems.
- Install physical barriers between customers and workers, such as bullet-resistant enclosures with pass-through windows.
- Use drop safes to limit the availability of cash to cashiers and post signs stating that cashiers have limited access to cash.
- Use a panic button and responsive staff or other system that can be used to call for back-up assistance, when needed in an emergency.
- Use an x-ray or other security screening to detect and prevent weapons from being brought into the facility.
- Post signs prohibiting weapons from be brought on premise

Minimizing Risk through Administrative and Work Practice Controls

- Integrate violence prevention activities into daily procedures, such as checking lighting, locks and security cameras to help maintain a secure worksite.
- Require workers to use the drop safes and keep a minimal amount of cash in each

register.

- Develop and implement procedures for the correct use of physical barriers, such as enclosures and pass-through windows.
- Establish a policy of when doors should be locked. Require workers to keep doors locked before and after official business hours.
- Require workers to lock unlocked doors when not in use.
- Develop and implement emergency procedures for workers to use in case of a robbery or security breach, such as calling the police or triggering an alarm.
- Train all staff to recognize and defuse verbal abuse that can escalate to physically combative behavior.

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

The employer may use any one or combination of the following abatement methods, or other abatements not listed, to materially reduce or eliminate the hazard of workplace violence. Other references should also be reviewed to determine the most effective methods applicable to the workplace.

Engineering Controls and Workplace Adaptations to Minimize Risk

- Enclose nurses' stations and install deep service counters or bullet-resistant, shatter-proof glass in reception, triage and admitting areas or client service rooms.
- Establish "time-out" or seclusion areas with high ceilings without grids for patients who "act out" and establish separate rooms for criminal patients in compliance with current applicable State and Federal guidelines.
- Provide comfortable waiting rooms (client or patient) designed to minimize stress.
- Provide counseling or patient care rooms with two exits where feasible and warranted.
- Lock doors to staff counseling rooms and treatment rooms to limit access when feasible and warranted.
- Arrange furniture to prevent entrapment of staff.
- Use minimal furniture in interview rooms or crisis treatment areas and ensure that it is lightweight, without sharp corners or edges and affixed to the floor, if possible. Limit the number of pictures, vases, ashtrays or other items that can be used as weapons when feasible and warranted.
- Provide lockable and secure bathrooms for staff members separate from patient/client and visitor facilities.
- Install partitions in transport vehicles to protect drivers from aggressive patients or clients when feasible and warranted.

Administrative and Work Practice Controls to Minimize Risk

- State clearly to patients, clients and employees that violence is not permitted or tolerated.
- Provide adequate and properly trained staff to restrain patients or clients, if necessary and in compliance with current applicable State and Federal guidelines.
- Provide sensitive and timely information to people waiting in line or in waiting rooms. Adopt measures to decrease waiting time.
- Ensure that adequate and qualified staff is available at all times. The times of greatest risk occur during patient transfers, emergency responses, mealtimes and at night. Areas with the greatest risk include admission units and crisis or acute care units.
- Institute a sign-in procedure with passes for visitors, especially in a newborn nursery or pediatric department. Enforce visitor hours and procedures when feasible and warranted.
- Establish a list of "restricted visitors" for patients with a history of violence or gang activity. Make copies available at security checkpoints, nurses' stations and visitor sign-in areas.

- Review and revise visitor check systems, when necessary. Limit information given to outsiders about hospitalized victims of violence.
- Supervise the movement of psychiatric clients and patients throughout the facility in compliance with current applicable State and Federal guidelines.
- Control access to facilities other than waiting rooms, particularly drug storage or pharmacy areas.
- Prohibit employees from working alone in emergency areas or walk-in clinics, particularly at night or when assistance is unavailable. Do not allow employees to enter seclusion rooms alone.
- Establish policies and procedures for secured areas and emergency evacuations.
- Determine the behavioral history of new and transferred patients to learn about any past violent or assaultive behaviors when feasible and warranted.
- Establish a system, or plan of care—such as chart tags, log books or verbal census reports—to identify patients and clients with assaultive behavior problems. Keep in mind patient confidentiality and worker safety issues. Update as needed. Review any workplace violence incidents from the previous shift during change-in-shift meetings.
- Use case management conferences with coworkers and supervisors to discuss ways to effectively treat potentially violent patients.
- Prepare contingency plans to treat clients who are "acting out" or making verbal or physical attacks or threats. Consider using certified employee assistance professionals or in-house social service or occupational health service staff to help diffuse patient or client anger.
- Transfer assaultive clients to acute care units, criminal units or other more restrictive settings in accordance with applicable State and Federal guidelines.
- Ensure that nurses, physicians and other clinicians are not alone when performing intimate physical examinations of patients when feasible and warranted.
- Discourage employees from wearing necklaces or chains to help prevent possible strangulation in confrontational situations. Urge community workers to carry only required identification and money.
- Survey the facility periodically to remove items that could be used inappropriately by patients.
- Provide staff with identification badges to readily verify employment.
- Secure keys, pens or other items that could be used as weapons when warranted by the nature of the patient population and when feasible and warranted.
- Provide staff members with security escorts to parking areas in evening or late hours. Ensure that parking areas are highly visible, well lit and safely accessible to the building.
- Use the "buddy system," especially when personal safety may be threatened. Encourage home healthcare providers, social service workers and others to avoid threatening situations.
- Advise staff to exercise extra care in elevators, stairwells and unfamiliar residences; leave the premises immediately if there is a hazardous situation; or request police escort, if needed.
- Develop policies and procedures covering home healthcare providers, such as contracts

on how visits will be conducted, the presence of others in the home during the visits and the refusal to provide services in a clearly hazardous situation.
- Establish a daily work plan for field staff to keep a designated contact person informed about their whereabouts throughout the workday. Have the contact person follow up if an employee does not report in as expected.

Taxi Drivers. (See OSHA fact sheet, Preventing Violence against Taxi and For-Hire Drivers)

The employer may use any one or combination of the following abatement methods, or other abatements not listed, to materially reduce or eliminate the hazard of workplace violence. Other references should also be reviewed to determine the most effective methods applicable to the workplace.

- Use automatic vehicle location or global positioning systems (GPS) to locate drivers in distress.
- Use caller ID to help trace the location of fares.
- Provide first-aid kits for use in emergencies.
- Install in-car surveillance cameras to aid in apprehending perpetrators.
- Install partitions or shields to protect drivers from would-be perpetrators. These must be used properly to work effectively.
- Coordinate with police—taxi owners and police need to track high-crime locations and perpetrator profiles.
- Use radios to communicate in case of emergency (e.g., "open mike switch").
- Provide safety training to teach protective measures to drivers, dispatchers and company owners.
- Use silent alarms to alert others in the event of danger (e.g., "bandit lights").
- Install cashless fare systems (i.e., debit/credit cards) to discourage robbers.

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Appendix C - Studies of Workplace Violence Abatement Methods

General / Combined Studies.

Bibliography of studies looking at the effectiveness of workplace violence prevention in different settings.

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Healthcare and Social Services.

Bibliography of studies looking at the effectiveness of workplace violence controls in the healthcare setting:

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Retail.

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Appendix D - Sample 5(a)(1) Hazard Alert Letters

Note: The letters below are sample hazard alert letters, which may be customized to the specific incident and/or industry that have been inspected.

LATE NIGHT RETAIL

[Date]

Best One Gas Station
100 Orange Lane
Middle, IA 33333

Attention: Thomas Brown, General Manager

Dear Mr. Brown:

An inspection of your workplace at ***[street address, city and state]***, on ***[date]***, revealed that employees were exposed to hazards associated with workplace violence. The Tennessee Occupational Safety and Health Administration (OSHA) regards workplace violence as a serious safety and health hazard. The purpose of this letter is to bring your attention to this hazard and to encourage you to address it within your establishment.

Our inspection found that you have not developed or implemented measures to protect workers from assaults or other forms of physical violence in your workplace. On several occasions, ***[list examples, e.g., the police have responded to your establishment regarding several robberies where two employees were shot and there have been other assaults involving firearms]***.

Since no OSHA standard specifically addresses workplace violence, we do not consider it appropriate at this time to invoke the General Duty Clause, TCA 50-3-105(1). No citation will be issued for the presence of this workplace ***[hazard or risk]***. In the interest of workplace safety and health, however, I recommend that you voluntarily take the necessary steps ***[appropriate abatement action, e.g., as outlined in Recommendations for Workplace Violence Prevention Programs in Late-Night Retail Establishments (OSHA pub. # 3153-12R, 2009)]***. These recommendations may help to eliminate or materially reduce your employees' exposure to the risk factors listed above.

Feasible methods to protect employees from the hazard of physical assault may include, but are not limited to, the following: ***[List appropriate abatement actions]***.

(1) Develop a coordinated plan covering work practices and training to prevent/mitigate employee exposure to assault(s).

(2) Develop work schedules that would ensure that employees are not working alone.
(3) Provide reliable means of communication to employees who may need to summon assistance.
(4) Where work must be conducted on the night shift, coordinate with local law enforcement to have officers on site clear work stations of all patrons when changing shifts.

For additional guidance, please refer to ***[OSHA or industry-specific publications, e.g., Recommendations for Workplace Violence Prevention Programs in Late-Night Retail Establishments (OSHA pub. # 3153-12R, 2009)]***.

Under OSHA's current inspection procedures, we may return to your work site in approximately ***[recommended time period, e.g., one year]*** to further examine the conditions noted above.

Attached is a list of available resources that may be of assistance to you in preventing work-related injuries due to workplace violence.

If you have any questions, please feel free to contact the ***[Area Office]*** at ***[phone number]***.

Sincerely,

[Name]
Area Director

Attachments ***[(#)]***
OSHA's Internet web page on Workplace Violence.
OSHA Publication #3153 - Recommendations for Workplace Violence Prevention Programs in Late-Night Retail Establishments.
Free consultation, including on-site visits, from OSHA's 24(d) on-site consultation program.

HEALTHCARE AND SOCIAL SERVICES

[Date]

General Hospital
200 Main Street.
Springfield, OR 88888

Attention: Jane Smith, President

Dear Ms. Smith:

An inspection of your workplace at ***[street address, city, and state]***, on ***[date]***, revealed that employees were exposed to hazardous conditions associated with workplace violence. The Occupational Safety and Health Administration (OSHA) regards workplace violence as a serious safety and health hazard. The purpose of this letter is to bring your attention to this hazard and to encourage you to address it in your hospital.

Our inspection found that you have not developed or implemented measures to protect workers from assaults at your workplace. ***Two employees over the past two years report being assaulted by a client, but neither of these incidents had been reported to the employer.***

We do not consider it appropriate at this time to invoke the General Duty Clause, TCA 50-3-105(1). No citation(s) will be issued at this time for the presence of this workplace violence ***[hazard or risk]***. In the interest of workplace safety and health, however, I recommend that you voluntarily take the necessary steps to eliminate or materially reduce your employees' exposure to the risk factors stated above.

Feasible methods to protect employees from workplace violence may be obtained from ***[list appropriate reference(s), e.g., OSHA publication, Guidelines for Preventing Workplace Violence for Health Care & Social Service Workers (Pub # 3148-11R, 2004)]***. Listed below are some of those methods: ***[List appropriate abatement action(s)]***.

(1) Establish a comprehensive program of medical and psychological counseling and debriefing for employees experiencing or witnessing assaults and other violent incidents.
(2) Develop work schedules that would ensure that employees are not working alone.
(3) Provide reliable means of communication to employees who may need to summon assistance. One possible means of communication is the use of two-way radios.
(4) The team coordinator should periodically inspect the workplace and evaluate employees' tasks to identify hazards, conditions, operations and situations that could lead to violence.
(5) Identify potential places of safety and shelter at each work location.

(6) Conduct mandatory training for employees to learn, at a minimum, the following items: (a) How to recognize the earliest stages of a possible assault; (b) How to avoid or mitigate potential violent encounters (including some words that non-English speakers may use to help de-escalate an assault; (c) How to seek refuge/assistance if violence appears imminent; and (d) How to use restraint and/or release techniques.
(7) Place curved mirrors at hallway intersections or concealed areas.

Under OSHA's current inspection procedures, we may return to your work site in approximately ***[recommended time period, e.g., one year]*** to further examine the conditions noted above.

Attached is a list of available resources that may be of assistance to you in preventing work-related injuries due to workplace violence.

If you have any questions, please feel free to call the [Area Office] at [phone number].

Sincerely,

[Name]
Area Director

Attachments ***[(#)]***
OSHA's Internet web page on Workplace Violence.
Free consultation, including on-site visits, from OSHA's 24(d) on-site consultation program.
Free publications on Workplace violence - Guidelines for Preventing Workplace Violence for Health Care & Social Service Workers (Pub. # 3148-11R, 2004).

Appendix E – Notification Memo Template for the National Office

MEMORANDUM FOR: DAVID MICHAELS, PhD, MPH
Assistant Secretary

THROUGH: RICHARD E. FAIRFAX
Deputy Assistant Secretary

FROM: THOMAS GALASSIS, Director
Directorate of Enforcement Programs

SUBJECT: Notification of Workplace Violence 5(a)(1) Activity
Gala Hospital
Harper, Texas
Inspection #999999983
Total Penalty: $3,500

ISSUE:
This memorandum is to notify you of Region IV's intention to issue a citation with a penalty of $3,500 to Gala Hospital. The six-month statute of limitations for issuing these citations expires on September 3, 2010. The Ames Area Office will issue the citations upon National Office approval.

COMPANY BACKGROUND

Gala Hospital is a 455-bed regional medical center that employs approximately 3,000 employees, 50 of whom work in the psychiatric ward located on the 4th and 5th floors of the South wing. The nurses at this location are represented by the ABC Nurses' Union, Unit 23, Local 675.

OSHA INSPECTION HISTORY:

Beginning in 1993, OSHA had inspected Gala Hospital eight times, resulting in the issuance of 14 serious violations and 16 other-than-serious violations. An inspection in 1999 was based on a complaint regarding a violent incident, which had taken place on the psychiatric unit of the hospital between a nurse and a patient. OSHA issued a letter of significant findings (a 5(a)(1) letter), which provided recommendations for the enhancement of policies that the hospital had designated as its workplace violence program. Information provided by OSHA covered the following areas: worksite analysis, engineering controls, administrative controls, work practice controls, recordkeeping, training and education, and evaluation of the program.

REASON FOR INSPECTION:

On January 3, 2010 OSHA's Area Office received a formal complaint from the President of the Gala's Nurses' Union. The complaint alleged that five nurses were assaulted while working at the Gala Hospital's In-patient Psychiatric Unit located on the 4/5 South floor of the hospital. Additionally, the complaint alleged that the employer had failed to put effective work practices in place and had not made any security changes to reduce worker exposure to the hazards associated with workplace violence. Utilizing OSHA's non-formal complaint process, the employer was contacted regarding the allegations. The employer responded to the allegations in a January 28, 2010 letter. The complainant received a copy of the response from the employer and on February 15, 2010, the Area Office received a letter from the complainant disputing the employer's response to the complaint. This resulted in the initiation of a March 3, 2010 inspection.

INSPECTION SUMMARY:

The current inspection was opened on March 3, 2010 and conducted by Assistant Area Director (AAD) Madeline May. AAD May returned to the facility on March 20th, 27th and April 3rd to complete the inspection. The sixth-month date following this inspection is September 3, 2010.

The basis of the inspection is a complaint that alleges that employees at the facility are exposed to the hazard of physical assaults by patients in the psychiatric ward and in other areas of the hospital, such as the Emergency Room and Outpatient Drug Treatment Clinic. The initial complaint listed five instances in 2009 when nurses were attacked while working in the 4/5 South Psychiatric Unit. During the course of this inspection, a nurse working on 8th West was shot two times by a young patient who had brought a gun into the hospital. Employee interviews conducted during the inspection revealed that the hospital was clearly aware that its employees were exposed to hazards associated with workplace violence. While Gala Hospital has some components of a workplace violence prevention program in place, it has failed to provide a cohesive and comprehensive prevention program to address these hazards. In addition to the incidents listed in the complaint, AAD May uncovered additional incidents of workplace violence that had occurred within the last three years.

On or about October 23, 2007, a patient waiting in the Emergency Room attempted to punch a nurse in the face, after first throwing a chair. The nurse who was almost hit had not been told about the chair incident.

On or about July 3, 2008, a technician called in sick to the Psychiatric Ward, 4/5 South and her duties were distributed to the remaining staff. During the day one patient complained that he was in pain and wanted to leave the ward. When a nurse tried to give the patient his medication, he knocked her unconscious, causing her to fall and break her leg. When interviewed, the nurse noted that the patient had broken a phone two days earlier but that it had not been noted in his chart.

On or about February 2, 2009, a security guard was trying to assist a patient at the Outpatient Drug Clinic when the patient attacked the guard. When the guard fell, the patient continued his attack.

On or about March 15, 2010, a nurse was shot two times by a young patient on 8 South within the general medical facility. The patient had been admitted on March 14, 2010 for severe stomach pains and was also showing signs of paranoia. A psychiatrist, who was called to evaluate her, stated that she was showing good behavioral control but prescribed some medications. Prior to the shooting, the patient did not show any outward signs of violence. On March 15th, a nurse went into the room to check on the patient. When the nurse left, the patient followed the nurse into the hall and pointed a gun at the nurse and other staff members. The Assistant Nurse Manager observed what was happening and attempted to grab the gun. A struggle ensued and the Assistant Nurse Manager sustained gunshot wounds to her hand and left jaw. A security guard was then shot in the leg when he arrived at the scene and scuffled with the patient. The Assistant Nurse Manager spent four days in the hospital and had surgery on her jaw.

On or about March 28, 2010, a nurse on the psychiatric ward was kicked by a patient while security was trying to hold the patient down. The unit requested two security guards but only one showed up, stating that the other guards were busy.

During interviews with staff, one of the main concerns raised by all employees was the two-floor layout of the psychiatric ward and the danger they thought it posed for transporting patients on the stairs. Patients who could not travel up and down stairs had to be taken out of the locked unit into the public areas of the hospital to be transported on the elevators, where nurses were alone with the patients. Concern was also raised because there was no full-time security presence on the ward. If there was an incident, staff called security, but response time varied anywhere between five and fifteen minutes and sometimes took as long as thirty minutes. If there were a full-time security presence, staff felt the response time would be seconds.

Patients were not screened or searched unless they showed outward signs of aggression. Employee interviews indicated that patients and visitors are not informed about the hospital's policy concerning workplace violence. During the employee interviews, almost no one could state exactly where the workplace violence prevention program was located or what information it contained. The majority of the employees stated that there was no guidance on how to deal with workplace violence and they were instructed to use their own judgment. Some employees stated that when they reported an incident to their supervisor, they were told to just deal with it and focus on making the client happy. In the psychiatric ward, several employees stated that when they reported an incident to their supervisor, the supervisor would say that the employee had done something wrong and caused the incident. Some employees indicated that they were concerned about possible retaliation.

The employer has taken several measures to reduce employee exposure to violent activities (see employer recognition in the 5(a)(1) justification below). However, the staff believed these measures were not effective and that additional efforts were needed to reduce injuries in the workplace.

GENERAL DUTY CLAUSE JUSTIFICATION:

Citation 1, Item 1: Section 5(a)(1) - The employer did not furnish employment and a place of employment that were free from recognized hazards that were causing or likely to cause death or serious physical harm to employees in that employees were exposed to the hazard of being assaulted by violent patients causing fatal or serious physical injuries while working in the psychiatric ward, emergency department's behavioral care unit and the general medical floors.

(a) The employer failed to keep the workplace free of a hazard to which employees were exposed:

Employees are exposed to violent behavior by patients that results in verbal threats and assaults to staff. Within the past five years, there have been approximately 20 cases that have resulted in 212 restricted duty days and 399 days away from work, as well as 106 non-recordable cases as a result of gunshot wounds; serious fractures; contusions; bites; head injuries; being punched in the face and being hit and kicked by violent patients in the psychiatric ward, emergency department and the general medical floors. Out of the 20 cases of restricted duty or days away from work, five of these cases occurred on the psychiatric ward. Some of the contraband patients have been successful in bringing into the hospital include: a gun, box cutters, knives, razor blades, lighters and drug paraphernalia.

Employees are exposed to violent patient behavior during the transportation of patients up and down the set of stairs in between the psychiatric floors of 4 and 5 South. When a staff member is transporting a patient, one nurse may sometimes be left alone on the floor with the remaining patients. There is no full-time security presence on the ward, and the response times when they have been called for can run between 5-30 minutes.

Fourteen employees were interviewed in the course of the inspection. Most could not explain the details of the hospital's workplace violence prevention program, nor could most describe the location of such a program. Management employees could give more information than non-management employees regarding the workplace violence prevention program at the facility.

Violence in the workplace entries reflected on the OSHA 300 logs for 2005 included 6 entries; in 2006, there were 4 entries; in 2007, there were 2 entries; in 2008, there were 3 entries, and in 2009, there were 5 entries. These entries included multiple strains, sprains, contusions, fractures, gunshot wounds and bites. In 2010, there were 12 incidents involving agitated patients, with 2 recordable entries.

(b) The hazard was recognized:

Industry Recognition:

(1) Joint Commission requirements, Sentinel Event Alert, (Issue 45, June 3, 2010), "Preventing Violence in the Health Care Setting"

(2) HR Magazine (March 1995, Vol. 40, page 51) "Preventing violence against health-care workers"

(3) NIOSH Publication No. 2002-101, Violence: Occupational Hazards in Hospitals

(4) The Online Journal of Issues in Nursing (September 30, 2004)

(5) Hospitals and Health Networks (September, 2006, Vol. 80, page 56) "Stopping ED violence before it happens"

(6) The Health Care Manager (Oct.-Dec. 2008, Vol. 27, page 357) "Hidden workplace violence: What your nurses may not be telling you"

(7) Security Management (November 2009, Vol. 53, page 22) "Protecting Caregivers"

Employer Recognition:

(1) On October 20, 1993, the OSHA Area Office received a formal complaint regarding a violent incident that occurred in the psychiatric unit of the hospital. The complaint had Sandra Gold, president and CEO of Gala Hospital, listed as the management official. An inspection was conducted and a hazard alert letter was sent to the hospital concerning workplace violence.

(2) Following this complaint and the recommendations included in the hazard alert letter, all employees of the psychiatric ward carry a pendent-type wireless personal emergency assistance alarm; all employees in the psychiatric ward and most nurses in the hospital carry a cordless phone in case of an emergency.

(3) In the hospital's Security Management Plan, there are chapters that address workplace violence: Violent Patients (2333-5.15); Assault of Hospital Employees or Medical Staff (2333-5.16); Armed Intruders (2333-5.26); Suggestions for Managing Code Blue Situations (security emergencies and disturbances).

(4) Sandra Gold, the president and CEO of Gala Hospital, had signed all of the OSHA 300A summaries, which captured the 20 cases that had resulted in restricted and/or lost work days due to incidents of workplace violence.

(5) The Vice President of Quality and Patient Safety admitted in an interview that workplace violence was a hazard in the hospital.

(6) On January 3, 2010, the OSHA Area Office received a complaint alleging that five nurses were assaulted while working in the hospital's in-patient psychiatric unit located on 4/5 South floors of the hospital. The complaint also alleged that the employer had failed to put effective work practices in place and had not made any security changes to reduce worker exposure to the hazards associated with workplace violence. The

employer responded to the allegations in a letter dated January 28, 2010.

(c) The hazard was causing or was likely to cause death or serious physical harm:

There have been approximately 20 cases, in the past five years, of restricted duty and/or days away from work, as well as 106 non-recordable cases because of injuries such as gunshot wounds, serious fractures, contusions, bites, head injuries, punches to the face and hits and kicks by violent patients in the psychiatric ward, emergency department and the general medical floors. These injuries resulted in 212 restricted work days and 399 days away from work.

(d) There was a feasible and useful method to correct the hazard:

Among other methods, feasible and acceptable means to abate the hazard of workplace violence in Gala Hospital include:

(1) Ensure that all patients who receive a psychiatric consultation are screened for a potential history of violence before being admitted to the hospital. In addition, consider using hand-held metal detecting wands to detect weapons that may be concealed by the patient.

(2) Ensure that security staff members are readily and immediately available to render assistance in the event of an incident of workplace violence and that security has had specialized training to deal with aggressive behavior.

(3) Make the psychiatric ward a one-floor unit so that employees are not alone with patients on the floor. In lieu of creating a one-floor unit, administrative controls should be put in place to prevent employees from being alone with patients. In particular, employees should not be transporting potentially violent patients alone in stairwells or in elevators. Security should be present and available immediately in the event of an incident of violence.

(4) Use a system to flag a patient's chart anytime there is a history or act of violence and train staff to understand the flagging system. Put procedures in place that would allow communication of any incident of workplace violence to the staff that might come in contact with that patient so that employees who might not have access to a patient's chart would be aware of a previous act of aggression or violence.

(5) Conduct more extensive training so that all employees are aware of what the hospital's workplace violence policy is and where that information can be found. In addition, train all employees to state clearly to patients, clients and employees that violence is not permitted or tolerated. Train all employees on recognizing when a patient is exhibiting aggressive behavior and techniques for de-escalating that behavior.

(6) Create a stand-alone written Workplace Violence Prevention Program for the entire hospital that includes the following elements:

- A workplace violence policy statement that includes responsibilities of all staff
- Hazard/threat assessment including records review, inspection of the worksite and employee survey
- Implementation of workplace controls and prevention strategies
- Training and education of all staff
- Incident reporting and investigation
- Periodic review of the program
- Specific procedures employees are to take for an incident of workplace violence in the hospital, as well as the proper procedures to report those incidents.

Appendix F – Informed Consent Form Example

Release and Consent

I hereby consent and release to the Tennessee Department of Labor and Workforce Development, Division of Occupational Safety and Health (TOSHA), the right to use my picture and sound being videotaped or photographed during an OSHA inspection of _____ (name of facility) commenced on _____ (date). I understand that this videotape or photograph will be used solely to document employee safety and health conditions at the facility, and may be used as evidence in legal proceedings related to those conditions.

_____ _____
Signature of Resident Date

In the event that there has been a medical or legal determination that a resident cannot give informed consent to be videotaped or photographed, the following shall be used:

On behalf of _____ (name of resident), I hereby grant to the Tennessee Department of Labor and Workforce Development, Division of Occupational Safety and Health, the right stated above.

_____ _____
Signature of person authorized to give informed consent on resident's behalf Date

_____ _____
Signature of Witness Date