

EXECUTIVE ORDER NO. 2 of 2003

WHEREAS, citizens and employees of the County of Westchester have a basic right to be safe and free from intimidation, threats, and injury, both at home and in the workplace; and

WHEREAS, domestic violence is abusive behavior whereby a person intends to establish and maintain power and control over a person with whom he or she has, or has had, a significant personal relationship; and

WHEREAS, this power and control are exerted through physical, sexual, psychological and or economic means; and

WHEREAS, domestic violence instills fear and harms victims and families and must not be tolerated; and

WHEREAS, domestic violence is criminal activity that statistics show affects everyone regardless of race, income, or age; occurs in every community; and destroys relationships, families, and lives; and

WHEREAS, domestic violence is not a private family matter but rather follows victims to their places of employment, and deprives victims and their co-workers of a safe and productive workplace; and

WHEREAS, domestic violence costs American businesses an estimated 3 to 5 billion dollars each year in absenteeism or tardiness, lost productivity when abusers harass victims at work or when victims must handle personal situations, and increased insurance and medical costs; and

WHEREAS, the County of Westchester as an employer is not exempt from these costs; and

WHEREAS, employed victims of domestic violence typically do not ask co-workers or supervisors for help, out of shame or for fear of losing their jobs; and

WHEREAS, co-workers and supervisors may not know the signs of domestic violence, and may not know what to do if they suspect a co-worker is being abused;

WHEREAS, the County of Westchester, as an employer, desires to provide needed support and assistance to employees who are victims of domestic violence; and

WHEREAS, I have determined that it is in the best interests of the County to formally enact policies and procedures to address this important issue; and

NOW THEREFORE, I, ANDREW J. SPANO, County Executive of the County of Westchester, in light of the aforementioned and in accordance with my statutory duties, do hereby order that: (1) the following Domestic Violence in the Workplace Policy be implemented; (2) the policies and procedures set forth therein be complied with; (3) the Domestic Violence in the Workplace Policy be posted and disseminated to all County officers and employees; and (4) the County's policy take effect immediately.

COUNTY OF WESTCHESTER
DOMESTIC VIOLENCE IN THE WORKPLACE POLICY

A. Policy Statement

Domestic violence permeates the lives and compromises the safety of hundreds of Westchester County residents, including Westchester County employees each day, with tragic, destructive, and sometimes fatal results. Domestic violence occurs within a wide spectrum of relationships, including married and formerly married couples, couples with children in common, and couples who live together or have lived together. Inter-generational violence in families, including child abuse and abuse of dependent elderly, are also considered domestic violence.

Domestic violence is defined as a pattern of coercive tactics which can include physical, psychological, sexual, economic and emotional abuse perpetrated by one person against a family or household member, with the goal of establishing and maintaining power and control over the victim. It is not a private matter. In addition to exacting a tremendous toll from the individuals it directly affects, domestic violence often spills over into the workplace, compromising the safety of both victims and co-workers and resulting in lost productivity, increased health care costs, increased absenteeism, and increased employee turnover.

Therefore, Westchester County, to the fullest extent possible without violating any existing rules, regulations, statutory requirements, contractual obligations or collective bargaining agreements, designates and directs appropriate management, supervisory, and/or human resources staff to implement the following guidelines.

B. Definitions

For purposes of this policy, the following terms will be defined as follows.

Domestic Violence: A pattern of coercive tactics, which can include physical, psychological, sexual, economic and emotional abuse, perpetrated by one person against a family or household member, with the goal of establishing or maintaining power and control over the victim.

Family or Household Member: Includes persons related by blood or marriage; persons legally married to one another; persons formerly married to one another; persons who have a child in common, regardless of whether such persons are married or have lived together at any time, and unrelated persons who are continually or at regular intervals living in the same household or who have in the past continually or at regular intervals lived in the same household.

Abuser: A person who perpetrates a pattern of coercive tactics which can include physical, psychological, sexual, economic, and emotional abuse against a family or household member, with the goal of establishing or maintaining power and control over the victim.

Victim: The person against whom an abuser directs coercive and violent acts.

Domestic Violence Service Provider: Agency or staff member of an agency that primarily or exclusively provides comprehensive services to victims of domestic violence, including residential programs licensed by the New York State Office of Children and Family Services.

C. **Guidelines**

I. *Employee Awareness*

It is the goal of Westchester County to increase awareness of domestic violence and inform employees of available sources of assistance. To do this the County will:

- A. Have each Department post information on domestic violence and available resources in all work sites in places where employees can obtain it without having to request it or be seen removing it, such as employee rest rooms, on the County electronic media (Intra-net) or lounge areas. Such information shall include available sources of assistance such as Employee Assistance Programs (EAP), local domestic violence service providers, and/or human resources personnel who are trained and available to serve as confidential sources of information, support, and referral. Information shall be made available on employee bulletin boards and included in employee newsletters, as appropriate.
- B. Include information on domestic violence awareness and services in new employees' benefits packages and as part of new employee orientation.
- C. Conduct domestic violence awareness activities such as "brown bag" lunch programs and other health and wellness programs.
- D. Inform employees that New York State law prohibits insurance companies and health maintenance organizations from discriminating against domestic violence victims. The law prohibits designation of domestic violence as a preexisting condition. An insurance company cannot deny or cancel an insurance policy or require a higher premium or payment because the insured is or has been a domestic violence victim. [Section 2612 of the New York State Insurance Law.]
- E. Integrate information on domestic violence into existing materials and literature, policies, protocols, and procedures, as appropriate. The Office for Women shall be responsible for the provision of this material.

II. *Management/Supervisory Responsibility*

- A. Each department shall have a compliance officer who shall be responsible for implementation of this Policy.

- B. All Department Heads and Supervisors will be trained by the Office for Women on the issue of domestic violence.
- C. All Department Heads/Supervisors shall set a tone communicating that domestic violence is behavior that will not be tolerated and that the Department will actively provide information and support to employees who are victims of such abuse.
- D. All Department Heads/Supervisors shall follow the policy and procedures set forth in this Policy.
- E. All Department Heads/Supervisors shall disseminate copies of the *County Domestic Violence in the Workplace Policy* to all employees upon implementation and to all new employees.

III. Non-Discriminatory and Responsive Personnel Policies for Victimized Employees

It is the goal of Westchester County to ensure that personnel policies and procedures do not discriminate against victims of domestic violence and are responsive to the needs of victims of domestic violence.

- A. New York State law makes it a crime for employers to penalize an employee who, as a victim or witness of a criminal offense, is appearing as a witness, consulting with a district attorney, or exercising his/her rights as provided in the New York State Criminal Procedure Law, the New York State Family Court Act, and the New York State Executive Law. This law requires employers, with prior day notification, to allow time off for victims or witnesses to pursue legal action related to domestic violence. [Section 214.15 of the New York State Penal Law]
- B. When an employee needs to be absent from work as a result of being a victim of domestic violence, County Departments will assist the employee in determining the best use of her/his attendance and leave benefits, taking into consideration the employee's particular situation.
- C. When Department policies require an employee to submit documentation to justify absences, Departments should be aware that victims of domestic violence may initially lack documentation or may have difficulty obtaining documentation without compromising their safety. Therefore, Departments should consult with the employee to identify what documentation she/he might have, or be able to obtain, that will not compromise his/her safety-related needs and will satisfactorily meet the documentation requirement of the employer.
- D. Employees who are victims of domestic violence and who separate from a spouse (or terminate a relationship with a domestic partner, if covered), shall be allowed to make reasonable changes in benefits at any time during the calendar year where possible, in accordance with statute, regulation, contract and policy.

- E. Westchester County shall prohibit inquiries about a job applicant's current or past exposure to domestic violence, and prohibit staffing decisions from being based on any assumptions about or knowledge of such exposure.
- F. In cases in which it is identified that an employee's work performance difficulties are a result of being a victim of domestic violence, said employee shall be afforded all of the proactive measures outlined in this Policy, and shall be provided clear information about performance expectations, priorities, and performance evaluation. If a disciplinary process is initiated, Departments should take special care to consider all aspects of the victimized employee's situation, and exhaust all available options in trying to resolve the performance problems, including making a referral to the Employee Assistance Program (EAP), consistent with existing collective bargaining unit agreements, statutes, regulations and Department policy.
- G. If reasonable measures have been taken to resolve domestic violence-related performance problems of victimized employees, but the performance problems persist and the employee is terminated or voluntarily separates from employment, the Department Head/Supervisor shall inform the employee of his or her potential eligibility for unemployment insurance and respond quickly to any requests for information that may be needed in the claims process. New York State law provides that a victim of domestic violence who voluntarily separates from employment may, under certain circumstances, be eligible for unemployment insurance benefits. [Section 593 of New York State Labor Law.]

IV. *Workplace Safety Plans*

In cooperation with the Office for Women, the Department of Public Safety, the Department of Human Resources, on-site security personnel, and other appropriate departments, Department Heads, supervisors, and human resources personnel must develop and have in place workplace safety response plans. Department Heads, supervisors, and human resources personnel must provide reasonable means to assist victimized employees, consistent with existing collective bargaining agreements, statutes and regulations. The Office for Women will be available to assist in the development of individualized safety plans for victimized employees.

A workplace domestic violence safety response plan might include:

- A. Facilitating the enforcement of all known court orders, particularly orders in which abusers have been ordered to stay away from the work site. Note: The County cannot enforce orders of which it has not officially been notified.
- B. Assisting the victim in enforcement of an existing order, including gathering and providing evidence relating to whether a violation of an order has occurred.

- C. Having an emergency security plan in place, including:
- procedures for contacting the appropriate law enforcement agency, and
 - providing employees with clear instructions about what to do and who to contact if they observe anyone engaging in threatening behavior.

Such a plan will allow appropriate actions to be taken if an abuser gains unauthorized access to the work site, or if an abuser engages in any acts that threaten the safety of employees or clients.

- D. Consulting with victimized employees to develop and implement individualized workplace safety plans, which may include, when possible and appropriate:
- advising co-workers and the employee's bargaining representative of the situation;
 - setting up procedures for alerting work site security and/or the police;
 - temporary relocation of the victim to a secure area;
 - options for voluntary transfer or permanent relocation to a new work site;
 - reassignment of parking space;
 - escort for entry to and exit from the building;
 - dealing with telephone, fax, e-mail or mail harassment; and
 - keeping a photograph of the abuser and/or a copy of any existing court orders in a confidential on-site location and providing copies to security personnel.
- E. Having Department Heads, supervisors, human resources personnel, and security staff inform victims of any confidentiality limitations that may exist (such as the appropriate sharing of information through the supervisory chain of command). Information related to an employee being a victim of domestic violence shall not be divulged without the express written consent of the victimized employee, unless it is determined that maintaining said confidentiality puts the victim or other employees at risk of physical harm. In these cases, where possible, Department Heads, supervisors, human resources personnel, and security staff shall give prior notification to the victimized employee of the intent to provide information to other parties.

V. *Accountability for Employees Who Are Offenders*

Westchester County shall hold accountable employees who engage in the following behavior: (1) misusing County resources to commit an act of domestic violence; (2) committing an act of domestic violence from or at the workplace or from any other location while on official County business or on County time; or (3) misusing his/her job-related authority and/or County resources in order to negatively affect victims and/or to assist offenders in locating a victim and/or to commit an act of domestic violence.

- a. Westchester County will take corrective or disciplinary action in accordance with existing collective bargaining unit agreements, statutes and regulations against any employee who is found to have committed an act of domestic violence as defined in this Policy, using County authority, resources, or time.

- b. In cases in which a Department has verification that an employee has committed a domestic violence-related offense, or is enjoined by a temporary or permanent order of protection as a result of domestic violence, and where said employee has job functions that include the authority to take actions that may directly impact victims of domestic violence and/or protect abusers from appropriate consequences for their behavior **, Department Heads, supervisors, and/or human resources personnel, shall determine if corrective action is warranted, in accordance with existing collective bargaining unit agreements, statutes and regulations.

- c. In cases in which an employee intentionally misuses his/her job-related authority and/or intentionally misuses County resources in order to negatively impact a victim of domestic violence, assist an abuser in locating a victim, assist an abuser in committing acts of domestic violence as defined in this Policy, or protect an abuser from appropriate consequences for his/her behavior**, said employee shall be subject to corrective or disciplinary action, in accordance with existing collective bargaining unit agreements, statutes and regulations.

*** Examples of "actions that may protect abusers from appropriate consequences for their behavior" include, but are not limited to, withholding from or providing false information to supervisors or other authorities; destroying or tampering with evidence or documentation of an abuser's act(s) of domestic violence; assisting an abuser in filing false claims against the victim; and failing to report violations of employer policy or of the law.*

VI. Firearms (Note: only for applicable departments)

Pursuant to New York State and federal law, a person convicted of a domestic violence-related crime or subject to an order of protection, under certain circumstances, forfeits the right to legally possess a firearm or long gun. Additionally, federal law contains prohibitions relating to shipping, transportation, or receiving firearms or ammunition.

- a. In addition to complying with these laws, Westchester County employees who are authorized to carry a firearm as part of their job responsibilities are required to notify their Department if they are arrested and/or convicted on a domestic violence-related offense and/or are served with an order of protection. Under certain circumstances, such employees are responsible for surrendering their firearms to the issuing Department or to the appropriate police agency.

- b. Should an employee fail to comply with the requirements set forth in Section VI.a., said employee shall be subject to corrective or disciplinary action, in accordance with existing collective bargaining unit agreements, statutes or regulations. In addition, the appropriate law enforcement agency shall be notified for possible criminal action.

VII. Training

The Office for Women shall regularly make available training on domestic violence and its impact on the workplace for all Department Heads, supervisors, employee assistance professionals, human resources personnel, and security staff. This training is mandatory. It will also be made available to union and labor representatives.

- a. Training curricula shall be developed and provided by the Office for Women. When possible, training can be integrated into existing union and management training programs, Department training programs, EAP training, etc.
- b. Training shall prepare staff to identify possible cues and indicators of victimization; make appropriate referrals; work with professionals to assist identified victims in safety planning; and develop individualized responses in recognition of the physical, social, and cultural realities that may affect an individual victim's situation. Training shall also include information on the ways in which domestic violence impacts the workplace, including the potential impact on worker productivity, and the safety risks to on-site personnel and visitors.

D. Policy Consistent with Collective Bargaining Agreements


This Executive Order is intended to be consistent with, and not to modify, any and all County agreements made with the collective bargaining units.

E. More Stringent County Department Domestic Violence Policy Will Govern

Whenever the provisions of a Domestic Violence Policy promulgated by a County Department are more stringent or impose higher standards than are required by this Executive Order, such County Department policy shall govern and prevail.

F. Effective Date

This Executive Order shall take effect immediately and shall remain in effect until otherwise superseded or revoked.



Andrew J. Spano
County Executive

Dated: February 24, 2003
White Plains, New York