

# OMH Multi-Union Health & Safety Committee Meeting Minutes

**09/14/2023**

10:00am – 12:30pm

Agenda Topic	Issues	Action/Follow Up <i>(Add due dates for each from notes)</i>
<p><b>Union Representatives: (list for each union)</b></p> <p><b>PEF:</b> Darlene Williams, Geraldine Stella, Dr Wanda Bates, Sha'ron Coleman, Gina Corona, Carl Ankrah, Kelly Lockwood</p> <p><b>PEF Guests:</b> Wayne Spence, Diane Jaulus, Donna Sherry-Cervantes, Leisa Abraham, Randi DiAntonio, Stephanie Champagne</p> <p><b>CSEA:</b> Lovette Mootry, Mark Stupano, Lisa Fairchild, Zakiya Rhymer</p> <p><b>NYSCOPBA:</b> Doug Trotter, Kristin Romano</p>	<p><b>Management Representatives:</b></p> <p><b>OMH:</b> Bryce Therrien, Kim Dilmore, Tim Lamitie, Jessica Wright, Shawn DesRoches, Mary LaPonte, Malcom Toffolo (new OMH H&amp;S chair)</p> <p><b>Justice Center:</b> Terry Ryan, Christa Book, Denise Miranda, Robert Miller Shannon Cantiello, Michele Rosello</p>	
<ul style="list-style-type: none"> <li>• <b>Committee Operations</b></li> <li>• <b>Special Agenda Item – Justice Center</b></li> </ul> <ol style="list-style-type: none"> <li>1. Presentation by the Justice Center (JC)</li> <li>2. Staff hesitancy to respond due to JC fears</li> <li>3. Q&amp;A:</li> </ol>	<ul style="list-style-type: none"> <li>• To be followed up with at next meeting</li> </ul> <p><b><u>Union Issues for Justice Center (JC):</u></b></p> <ul style="list-style-type: none"> <li>• How to handle 1:1 when an incident occurs</li> <li>• Members should be made aware they are allowed to protect themselves and others in situations that result in contact or violence.</li> <li>• Hesitancy to act during an incident due to JC involvement and potential punitive actions – loss of work, loss of job, censure.                             <ul style="list-style-type: none"> <li>○ Fear of job loss or loss of wages</li> <li>○ The presence of cameras in facilities leave members even more hesitant to act – not aware of who views this footage when.</li> </ul> </li> <li>○ By the time members attend meetings with the JC they are terrified of the JC process and potential consequences.</li> <li>○ Difficulties on the facility side during the investigation – staffing is already an issue, and when a subject is under investigation, they are not able to work. This process can be lengthy and put facilities and members at more risk.</li> </ul>	<ul style="list-style-type: none"> <li>•</li> <li>•</li> </ul>

- Members appear to be investigated regardless of if they assist in violent situations or if they do not. They are punished either way with an investigation.
- Lack of communication regarding JC policies, expectations, and processes
  - Members should be aware of the process ahead of time and what it means / how it impacts them (including the difference between the findings of the JC and if and punitive action is taken by the agency).
  - Members should be made aware of existing categories of substantiation – and that a facility can be found at fault during these cases.
  - Isolation due to PCs being run as their own appointing authority.
  - JC process is not discussed in detail during onboarding process or trainings, training times being cut from 4 to 2 weeks for new employees onboarding.
  - Instances of facilities racking up many complaints made by pt, causing staff and clinician burnout due to constantly having complaints and investigations against them. Also contributing to issues for patients not understanding why specific individuals are out.
- The unions wish to see an open and available line of communication that members and representatives can use to obtain more information about the process and what steps they can/should take.
  - PEF: Agency personnel managers / risk management teams articulate to the subject/witness what the JC is looking for, otherwise there is no communication with the member and JC directly. Members are unaware of the steps being taken/the process and what it means, creating an atmosphere of anxiety and fear around investigations.
  - CSEA: The union rep will typically go over the process and expectations with the member – including process, deadlines, time constraints, etc.
  - The unions gather their own information for incidents.
- The mission and function of the JC need to be shared more directly with OMH management and filtered down to employees.

**Union issues for OMH:**

- Facilities are extremely understaffed, and there seems to be little traction on fixing this issue.
- Training needs to be adjusted/updated to include situations without proper staffing levels available.
- OMH should better communicate the rights of members to protect themselves and others in violent situations.

**Justice Center Responses:**

- It is not the position of the JC to suggest employees watch WV incidents and stand by. If in a 1:1 setting, a caregiver should consider the needs of their charge and the situation around them.
- The JC does not dictate administrative leave.
- Only 1/3 of the cases involving self-defense are substantiated. 75% if cases are category 3, which is the lowest level.
- The JC is required to investigate several types of issues, especially concerning injury.
  - An investigation is inevitable, and the outcome should reflect what was happening around the subject of the investigation. The JC will focus on the outcome of a situation.
  - In the case of an injury, JC needs to investigate the injury itself as well as the actions of the staff. This is done to provide an explanation to the family members as well as figuring out who is responsible for the incident.
  - When WV incidents occur: In any situation like this, staff should feel confident to assist their fellows, use their common sense in their response, and be able to 1) list their actions and 2) explain their actions after the incident is over. The Justice Center does take mitigating factors into account while investigating and making a deliberation.
  - Facilities can be held responsible as well as employees: category 4 cases.
    - These are shared with the agency, the State Oversight Agency (SOA), and the Prevention Quality Improvement dept – they will work with the provider to implement plans moving forward for improvement.
  - The JC will look at trends and focus on facilities having high numbers of WV cases. Investigations will center

around the circumstances of the incidents – are members being set up to fail.

- It may not be clear in the early parts of the investigation who the subject is. If it is determined that someone is no longer a subject in an investigation, the JC has mechanisms in place to move them into a witness category or to be removed altogether.
- Common sense will be used when considering cases of WV
  - The JC is aware of staffing issues and will take these considerations into account. Many people working with the JC have previously worked as caregivers and understand the problems with staffing and many of the issues caregivers currently face.
- The JC does not set the standard for restraint – that is the job of the state. The textbook responses are set with full staffing in mind, which is not relevant with current staffing levels and issues.
- Members under investigation will be notified by the JC with a letter. When members reach the sit-down phase with the JC, the discussion is centered around the process, not the potential outcomes of the case.
- It is possible to expedite cases in certain circumstances to alleviate members being off of work.
- Frequent Reporters (patients): Facilities with frequent callers will be flagged for review by a 3-business day unit.
  - If a facility is flagged by the call center, it will be sent to this unit. The JC reaches out to provider to obtain the information regarding staffing, patient plans, and any video available. The information is reviewed within three business days before the JC goes into the field to potentially re-classify the case as a non-JC incident. They see about 1800 cases per year. The agency with the highest amount of reclassified cases is OMH. If it is shown there is no evidence the allegation occurred the case is closed quickly.
- Once a determination is made:
  - The JC does not make determinations regarding leave or punitive action unless it is a category 1 finding, or if it is a state-operated facility. Many OMH facilities are more likely to be state operated.
- The JC does have attorneys that fall into a disciplinary unit. If there is a case where the JC is involved in disciplinary

<ul style="list-style-type: none"> <li>• Workplace Violence and Injury/Illness Data             <ol style="list-style-type: none"> <li>1. CDPC Incident update                 <ol style="list-style-type: none"> <li>i. Dr Sherry: Update</li> <li>ii. Creedmoor Incident</li> </ol> </li> <li>2. Facility Local Law Enforcement MOUs                 <ol style="list-style-type: none"> <li>i. Please provide the MOUs from each facility that has one</li> </ol> </li> <li>3. RA on changes to therapeutic treatments as PRN                 <ol style="list-style-type: none"> <li>i. ADD medication shortages</li> </ol> </li> <li>4. Residential and Transitional Living Centers (LM, KR)</li> </ol> </li> </ul>	<p>action, they do not choose the actual disciplinary action, rather they represent the State Oversight Agency in an Article 33 hearing. This is done with an arbitrator present.</p> <p><b>Conclusions:</b></p> <ul style="list-style-type: none"> <li>• The JC would like to open communications about the process and questions the unions may have by doing the following:             <ul style="list-style-type: none"> <li>○ Creating a factsheet about the JC and the determination process to pass to each union and its members to clear up misunderstandings regarding the role of the JC and how it functions.</li> <li>○ Speaking directly to members</li> <li>○ Reviewing previous cases that the unions think the substantiation was incorrect.</li> </ul> </li> <li>• The JC asks to be informed if there are many situations happening like being in a 1:1 and being punished for either leaving post or hesitating to leave post.             <ul style="list-style-type: none"> <li>○ Cases can be looked at again if there are specific ones the unions believe were substantiated incorrectly.</li> </ul> </li> <li>• The unions will be sharing the JC perspective and functionality with their members.</li> <li>• The unions requested the percentages of substantiated / unsubstantiated cases, the percentages of cases found to be category 4 where the facility is found responsible, as well as recommendations and changes that were made.</li> </ul>	
	<ul style="list-style-type: none"> <li>• CSEA: Presentation of data provided by OMH, focusing on trends of WV incidents and lost time due to both patient and non-patient related injuries.             <ul style="list-style-type: none"> <li>○ OMH is not able to provide this data broken out by union, agencies / facilities would have this info based off accident/injury reports.                 <ul style="list-style-type: none"> <li>▪ CBOs will address these numbers by facility. These numbers are also reviewed in EOCs.</li> <li>▪ The unions are concerned the information on a WV report will be murky depending on who fills the report out</li> <li>▪ OMH will have all the details included on an accident injury report or a WV report. When OMH is notified about an injury they follow up with the active chief (especially for new employees) to ensure the process is being followed on behalf of the employee.</li> </ul> </li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Unions will add outpatient facilities to the agenda as an item for discussion</li> <li>• Unions will send Dr Sherry's list of concerns for CDPC to OMH for response</li> </ul>

- i. Hazard assessment and control recommendations
  - ii. Request for copies of residential agreements for each campus
5. WV Reports and Data Review
- i. Creedmoor data review
6. Injury and Illness Data: (MS/GS/KR)
- i. Review OIRS data (MS)
  - ii. Proposal of a project advisory group (PAG) to discuss health and safety data
7. Annual Training
- i. Discussion of recommendation to return to an in-person component to annual WPV training

- o PEF: If there is no visual injury at the time of the incident and the person receives a diagnosis later stemming from the original incident, are those numbers tracked?
  - OMH: The employee can report at any time. It will be tracked from the date of the incident, not the date of the report. However, the person will need to file a report and include the date of the original incident.
- o Unions: Can this data be digitized and real-time data be made available?
  - OMH: Data collection frequency has recently increased from yearly to every 6 months.
  - However, spikes in reports are being analyzed. There are 24 OMH facilities, a few with increased injury rates, such as Creedmore, which has some patients that are repeatedly a problem. The OMH H&S director will visit locations with these issues.
- **OMH Central Office Responses to WV/Data Collection:**
  - o Inpatient Facilities should have significant cooperation between the director of operations and the clinical lead to analyze workplace violence events.
  - o Outpatient Facilities are a separate issue due to the way issues are reported and the transitional nature of the operation. Most workplace violence incidents are reported from inpatient facilities.
  - o Central Office will not be directly involved with every incident. If a staff member needed medical attention beyond basic first aid or was assaulted, this would be reported, as well as sexual assault (always reported). The facility is responsible for responding to these incidents, not central office. Regulations would drive the response.
- **Environment of Care (EOC) vs. H&S Committees**
  - o OMH: Issues are being addressed via multiple committees in each facility. OMH tries to get member participation at the EOC meetings but are concerned about maximizing their time. Information from committee meetings is shared on the intranet and shared openly with unions.
  - o PEF: EOCs and H&S committees have different form and function. Per the PEF and CSEA contracts every location is required to have a labor and management H&S committee. The best communication happens at the local level, it is important to get both labor and management involved in the

discussions. The focus of the upcoming PEF H&S Conference will be building and strengthening H&S Committees.

- **Union Letter with Questions Regarding Creedmore Incident**

- Incident was not reported as sexual assault by the employee, and is currently going through normal investigation process.
- PEF: The facility would not answer questions in the letter, stated they needed to speak with central office (which they had done).
- OMH will respond to the questions that are appropriate – regarding the investigation process and incident trends in the facility, but not hyper-specific patient related questions. The letter contained both process questions and patient-related questions, these were inappropriate to be included in the same format. Mixing the two will make directors of facilities concerned about answering any questions.
- OMH Central Office was contacted by the director of this facility regarding the letter – they had stated that there would be a response, but it would take a while. Unions request a phone call in the future, OMH says they are always available to speak to if there are questions.
- UNIONS: The unions were concerned that there were three incidents, in conjunction with rising incident/injury rates, as well as the difference in classification of what constitutes a sexual assault.
- OMH does not arrest patients as a general rule, but will encourage staff to call police if they feel it appropriate to the situation.

- **Facility relationships with local law enforcement agencies**

- OMH: In-patient facilities – are encouraged to build relationships with local law enforcement agencies. It can be difficult to build these relationships. Not prepared to discuss out-patient facilities at this time – it needs more discussion.
- Facilities encourage staff to file police reports -if a patient has 3 filed against them, they are transferred.

**Union Issues: Safety Issues at CDPC** (Guest presentation: CSEA Local President Zakiya Rhymmer and PEF council leader Dr. Sherry-Cervantes)

- Staff and security shortages

	<ul style="list-style-type: none"> <li>• Security officers are unarmed.</li> <li>• Clientele is becoming more dangerous as indicated by increased injury and illness rates, and increased severity, as well as staff reporting.</li> <li>• PALs (Personal Alarm Systems) <ul style="list-style-type: none"> <li>o PALs are unsupported system <ul style="list-style-type: none"> <li>▪ Server systems not in sync, people and records being dropped from the system</li> <li>▪ PALs not working – need replacement or batteries</li> <li>▪ PALs not being recognized when pressed</li> <li>▪ Penalizing members for not testing PALs, but</li> </ul> </li> <li>o Shortages of availability of PALs</li> </ul> </li> <li>• Difficulties getting patients transferred with multiple, recurring issues</li> <li>• OT hours are high. CSEA requests OMH take this into consideration during root cause analyses of WV incidents.</li> </ul> <p>The unions have questions and concerns – a document will be drafted by the unions and sent to OMH to provide answers.</p>	
<ul style="list-style-type: none"> <li>• <b>USP800</b></li> </ul>	<ul style="list-style-type: none"> <li>• Will be handled on a separate call</li> <li>• The unions would like to receive a copy of the USP800.</li> <li>• OMH (Bryce) will send this document and set up a meeting to answer questions.</li> </ul>	<ul style="list-style-type: none"> <li>• OMH will email unions a copy of the USP800 and set up meetings for union questions.</li> </ul>
<ul style="list-style-type: none"> <li>• <b>Infectious Diseases</b></li> </ul>	<ul style="list-style-type: none"> <li>• Written Report</li> </ul>	<ul style="list-style-type: none"> <li>• Written report to be sent by OMH</li> </ul>
<ul style="list-style-type: none"> <li>• <b>Training</b></li> </ul>	<ul style="list-style-type: none"> <li>• Written Report from Lillie and Johney</li> </ul>	<ul style="list-style-type: none"> <li>• To be sent by OMH</li> </ul>
<ul style="list-style-type: none"> <li>• <b>Security Response to Codes</b></li> </ul>	<ul style="list-style-type: none"> <li>• OMH sent the 3000 Policy on August 21 for review by unions.</li> <li>• OMH is in the process of setting up a call with NYSCOPBA.</li> <li>• For PEF and CSEA: This policy memorializes safety officers are not first response.</li> </ul>	<ul style="list-style-type: none"> <li>•</li> </ul>
<ul style="list-style-type: none"> <li>• <b>PESH Inspections</b></li> </ul>	<ul style="list-style-type: none"> <li>• Written Reports</li> <li>• No updates</li> </ul>	<ul style="list-style-type: none"> <li>•</li> </ul>
<ul style="list-style-type: none"> <li>• <b>Wrap Up</b></li> </ul>	<ul style="list-style-type: none"> <li>•</li> </ul>	<ul style="list-style-type: none"> <li>•</li> </ul>
<ul style="list-style-type: none"> <li>• <b>Next Meeting Dates:</b></li> <li>1. Dates for 2023</li> <li>2. Meeting dates (10 – 12:30) <ul style="list-style-type: none"> <li>i. December 7</li> </ul> </li> <li>3. Prep dates (notice): (9:30-12:30)</li> </ul>		<ul style="list-style-type: none"> <li>•</li> </ul>



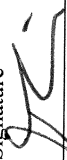
i. November 1

Minutes Approved and accepted by:

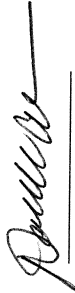
Date: 12/7/23  
K. Romano  
For NYSCOPBA

Signature:   
Kristin Romano


Date: 12/7/23  
For OMH

Signature:   
Bryce Therrien

Date: 12/7/2023  
For PEF

Signature:   
Darlene  
Williams

Date: 12-7-23  
For CSEA

Signature:   
Lovette Mooty