Los Angeles County Department of Health Services

Policy & Procedure Title:	DHS Just Culture Policy			
Category:	300-399 Operation Policy		**Policy No.:**	311.4
Originally Issued:	11/1/2010		**Update (U)/Revised (R):**	08/14/2017 (R)
DHS Division/Unit of Origin:	DHS Risk Management and Patient Safety			
Policy Contact – Employee Name, Title and DHS Division: Arun Patel, M.D., Director, Quality Improvement and Patient Safety				
Contact Phone Number(s):	(213) 240-8283			
Distribution: DHS-wide ☒	**If not DHS-wide, other distribution:**			

PURPOSE:

The Los Angeles County Health Agency, Department of Health Services (DHS) and their Labor Union partners are committed to building, maintaining, and supporting a Just Culture.

A Just Culture is one where accountability is fairly balanced between the DHS organization and the individual Workforce Members.

It is a culture in which Errors, Near Miss Events, Adverse Events, unsafe conditions, and system problems can be easily reported without retaliation, and are seen as a means to identify system and behavior changes that will improve the safety and quality of care and services we deliver.

A Just Culture environment will encourage and empower each Workforce Member to take part in improving the quality of care and services delivered by DHS.

DEFINITION(S):

Adverse Event - Any unintended event that interrupts services, causes, or has the potential to cause, an injury or illness and/or damage to persons, property, other assets and/or the natural environment.

Coaching – The process of providing constructive feedback about engaging in safer behavioral choices. Ongoing feedback and coaching is used to communicate about, and reinforce appropriate behavior, teach new skills, motivate high performance, and mentor Workforce Members so they understand their role in the organization.

Revision/Review Dates: 08/15/12r 10/01/12 01/01/17 08/14/2017
Department Head/Designee Approval:

<u>Consoling</u> – Expressing empathy and providing emotional support to someone in a time of grief or disappointment.

<u>Counseling</u> – Communication with an individual wherein a performance deficiency is identified and expectations for future performance are delineated. Counseling should be memorialized in writing by informal memo or confirmation e-mail, and placed in the department (local) personnel/area file, with a copy provided to the Workforce Member involved. The Workforce Member does not have to sign the document.

<u>Disciplinary Action</u> – Action taken to ensure adherence to acceptable and reasonable standards of performance and conduct – may include written warning, written reprimand, suspension, reduction/demotion, and discharge, applied in a progressive or non-progressive manner. Workforce Members may ask for a union representative or witness (as applicable) if he/she feels a meeting may lead to discipline.

<u>Human Error</u> – An event leading to an action not happening as it was intended, commonly described as a "slip," "lapse," or "mistake".

<u>Just Culture</u> – Just Culture is a guiding principle and practice that: recognizes adverse events are inevitable part of the human and professional experience; focuses on identifying and fixing systemic factors; and, strives to prevent harm fairly without placing inappropriate blame on individuals for system flaws.

<u>Just Culture Champion</u> – A Workforce Member or Labor Union partner who serves to promote Just Culture principles, train colleagues, and/or facilitate the application of the Just Culture System and Behavior Response Guide.

<u>Just Culture System and Behavior Response Guide (The Guide)</u> - The document that contains the Just Culture Algorithm and information about responses to behaviors; The Guide is the tool used to ensure systematic and consistent application of Just Culture principles.

<u>Near Miss Event</u> -- An incident or unsafe condition with the potential for injury, damage, or harm that is resolved before having actual impact. A near miss may also be considered a "close call." A near miss can involve privacy breach, interpersonal encounters, medication, treatment, or medical device usage.

<u>Safety</u> – Freedom from unjustified risk and preventable injury.

<u>Substitution Test</u> – Inquiry to determine if other individuals with comparable qualifications and experience would act in the same or similar manner under the same circumstances.

<u>System</u> – An organization's operational methods, processes or infrastructure.

<u>System Contributors</u> – Factor(s) in the system or its design in which an individual works that may contribute to or allow error or undesired behavioral choices to occur.

<u>Workforce Member</u> – All personnel working at all levels in DHS or one of its departments (e.g., employees, locum tenens, contractors, volunteers, trainees, and other persons, clinical and non-clinical).

POLICY:

A Just Culture recognizes that adverse events and unanticipated outcomes are often the result of human error, or system failures, rather than the result of reckless or intentionally malicious behavior, and that individuals are accountable for their individual actions, but generally not errors or problems in system design. To foster this culture, DHS, Labor Union partners, Just Culture Champions, and Workforce Members will utilize a fair and systematic approach that balances a non-punitive learning environment with the equally important need of accountability. This shall include evaluation for System Contributors that allow or encourage unwanted human error or behavioral choices and identification of system modifications that will prevent recurrence or minimize potential harm.

Just Culture principles will be applied whenever there is an opportunity to assess the behavior or performance of a Workforce Member.

Response to errors, Near Misses, and Adverse Events will be influenced by the individual's behavioral choices, not the outcome of the event.

Workforce Members will not be punished or retaliated against for reporting an error, near miss, Adverse Event, system problem, safety or quality concern.

When indicated, Workforce Members will be held accountable and appropriate corrective action taken. Actions will be consistent with Just Culture principles, AND with DHS Discipline Manual and Guidelines, County Civil Service Rules, and DHS policies and procedures. Workforce Members will not be held accountable for system flaws over which they have no control.

A Workforce Member may ask for a union representative or witness (as applicable) if he/she feels that a meeting may lead to discipline.

DHS will make reasonable efforts to work with staff and their Labor Union partners to redesign the system or its components to prevent and/or mitigate unintended risks or harm.

This policy does not replace existing County and DHS policies and procedures related to reporting, responding to, investigating, and documenting an observed or reported errors, near misses, adverse events, complaints, or safety or quality concerns, etc. DHS will adopt this policy as a Departmental policy.

PROCEDURE:

The table below and the attached <u>Just Culture System and Behavior Response Guide</u> (Attachment I) should be used to help ensure appropriate application of Just Culture principles

and aid in determining the right course of action when there has been an error, near miss, adverse event or unexpected outcome, or when a Workforce Member has otherwise not met his/her obligations to the organization.

Supervisors, managers, and Workforce Members may consult with departmental and facility patient safety, risk management, and human resources/performance management personnel, Just Culture champions, and Labor Union partners (as applicable) for guidance and support as needed in using the Just Culture System and Behaviors Guide (Attachment I).

ERROR AND BEHAVIORAL CHOICES	RESPONSE TO SYSTEMS AND INDIVIDUALS
Human Error (inadvertently doing other than what should have been done: a slip, lapse or mistake)	• Evaluate for system contributors (includes results of substitution test, presence of existing policies and procedures that promote expected behavior, and availability of resources, suitable education and training). • Determine the organization's tolerance to risks related to the Human Error. • Work with staff to redesign the system or its components to prevent and/or mitigate unintended risks or harm. • Coach and Console individual. • If there is history of similar human errors by the same individual, add Counseling and/or Remedial Action. • Repetitive Human Error may rise to the level of At-risk Behavior.
Justifiable Choice (*behavioral choice* that may be inconsistent with Departmental policy and expectations, but is justified in an effort to protect patients and/or Human and Departmental resources)	• Evaluate for system contributors (includes results of substitution test, presence of existing policies and procedures that promotes expected behavior, and availability of resources, suitable education and training). • Determine the organization's tolerance to risks related to the Justifiable Choice. • Work with staff to redesign the system or its components to prevent and/or mitigate unintended risks or harm. • Coach and Console individual. • If there is history of similar justifiable choice by the same individual, add Counseling and/or Remedial Action.

	• Repetitive Justifiable Choice may rise to the level of At-risk Behavior.
At-Risk Behavior (*behavioral choice* that increases risk where risk is not recognized, or mistakenly believed to be justified, may include repeated acts of similar human error and/or justifiable choice)	• Evaluate for system contributors (includes results of substitution test, presence of existing policies and procedures that promotes expected behavior, and availability of resources, suitable education and training). • Determine the organization's tolerance to risks related to the At-risk Behavior. • Work with staff to redesign the system or its components to prevent and/or mitigate unintended risks or harm. • Assess if there are incentives for At-Risk Behavior. • Establish clear expectations with the individual who made this behavioral choice which may include placing or changing incentives and consequences to discourage undesirable behavioral choices and encourage desirable behavioral choices. • Counsel and provide Remedial Action. • If there is history of similar At-risk Behavioral Choices by the same individual, add additional Remedial Actions and/or Disciplinary Action (as applicable). • Repetitive At-risk Behavior may rise to the level of Reckless Behavior.
Reckless Behavior (*behavioral choice* to consciously disregard: a substantial and unjustifiable risk; may include repeated acts of at-risk behavior)	• Take immediate steps to stop the individual from engaging in further Reckless Behavior. • Evaluate for system contributors (includes results of substitution test, presence of existing policies and procedures that promotes expected behavior, and availability of resources, suitable education and training). • Determine the organization's tolerance to risks related to Reckless Behavior. • Work with staff to redesign the system or its components to prevent and/or mitigate unintended risks or harm.

	• Assess if there are incentives in Reckless Behavior. • Establish clear expectations with the individual who made this behavioral choice which may include placing or changing incentives and consequences to discourage undesirable behavioral choices and encourage desirable behavioral choices. • Consult with management regarding the need for disciplinary action (as applicable).
Beyond Reckless (Malicious Action) (*behavioral choice* with deliberate intent to harm another individual. It is malevolent and motivated by wrongful, vicious, or mischievous purposes)	• May warrant legal action. • Assess system for necessary improvements to prevent intentional harm and mitigate risks.

ATTACHMENTS/FORMS:

Just Culture System and Behaviors Response Guide

REFERENCE(S)/AUTHORITY:

Dana-Farber Cancer Institute. (Retrieved September 8, 2005). *Principles of a Fair and Just Culture*. Available: http://www.dana-farber.org/abo/news/tools/justculture.asp.

Dekker, S. (2012) Just Culture: Balancing Safety and Accountability, 2nd Edition.

Global Aviation Information Network. (2004, September). *A Roadmap to a Just Culture: Enhancing the Safety Environment*. McClean, Virginia – Author.

Joint Commission on Accreditation of Healthcare Organizations. (2005, May). *Comprehensive Manual for Hospitals: The Official Handbook. Standard APR 17.* Oakbrook Terrace, Illinois, Joint Commission Resources.

Marx, D. (2007). *Just Culture Training for Healthcare Managers.* Outcome Engineering, Plano, Texas.

Frankel, A. & Leonard, M. (2012) The Fair Evaluation and Response Chart

Reason, J. (1997) Managing the Risks of Organizational Accidents. Hants, England, Ashgate Publishing Ltd.

National Patient Safety Foundation: Patient Safety Definitions List.

Joint Commission Accreditation Participation Standard (APR) 09.02.01.

Joint Commission Leadership Standards.

DHS Discipline Manual and Guidelines.

Health Agency Just Culture Policy.

Background information and advice on use of the

Just Culture System and Behaviors Response Guide:

What is Just Culture?

Just Culture is a guiding principle and practice that: recognizes adverse events that are an inevitable part of the human & professional experience; focuses on identifying and fixing systemic factors; and, strives to prevent harm fairly without placing inappropriate blame on individuals for system flaws.

What is "The Just Culture System and Behaviors Response Guide" (The Guide)?

The Guide is a tool to help ensure that leaders, managers, and supervisors act consistently with Just Culture principles when working with staff, so that people are held accountable when appropriate, but not unfairly blamed when they are not. The Guide also helps ensure that front-line staff know what is expected of them and their managers, and have a framework to ask questions if they think they are treated unfairly when errors or adverse events occur. The Guide is our tool to help ensure that people are treated fairly and that system issues are reviewed.

What should "The Guide" be used for?

The Guide applies to clinical and non-clinical situations and all workforce members at all levels. It is particularly designed to use in analyzing an error or adverse event and managing employee behaviors. Although it promotes good management practice, it is NOT specifically designed for use in other situations, such as poor general performance. However, it will still be helpful in ensuring that Just Culture principles are considered.

If more than one workforce member is involved, it is essential to work through The Guide separately for each individual involved. The guide is not limited to use between front-line staff and their supervisors. Workforce members at every level are accountable for their actions and choices. This means that managers and leaders are also expected to apply Just Culture when dealing with errors or adverse events. It also means that Just Culture may be considered at multiple levels for the same event.

When should the "The Guide" be used?

Ideally, it should be used as soon as possible after an error or adverse event, while facts are still fresh in people's minds. However, this is not always possible and it can be used at any point during the review process.

How "The Guide" Works

"The Guide" goes through a series of questions (the "Algorithm") intended to help understand an individual's actions, motives, and choices at the time of a problem or adverse event. The questions are grouped into four "tests" so that users can more easily recognize what they are trying to understand at any time:

> Deliberate Harm Test
>
> Incapacity Test
>
> Foresight Test
>
> Repetition Test

Working through each test in turn, possible reasons for the individual's actions are reviewed and the most likely explanation identified. Responses lead to a list of recommended actions/options for consideration. Because the questions build on one another, it's important to go through the Algorithm from the beginning, and not just start in the middle.

Using the guide effectively requires one to be open-minded about why people do things a certain way, how the "system" around them might allow or encourage unwanted Human Errors or Behavioral Choices, and what changes can be made to the system to prevent recurrent or minimize potential harm. It also requires repeated consideration of why things happened or people acted the way they did, so you will have to ask a lot of questions to gather detailed facts. When evaluating the system, users should:

> Consider whether others in the same situation would do the same thing. (The "Substitution Test" in the Algorithm)
>
> Assess if existing policies and procedures promote the expected behavior
>
> Check if appropriate resources are available
>
> Examine if suitable education/training is available
>
> Consider how the organization wants to balance use of resources with risk related to Human Error and/or Behavioral Choices.

In many situations, failure of the system or component of a system turns out to be the cause of the incident. If the system contributed to the error or incident, work with staff to redesign the system or its components to prevent and/or mitigate unintended risks or harm

If most problems are system problems, why does the Algorithm start with asking if there was intentional harm or drug use?

The Algorithm starts with these questions because they are the least likely situations, so it works best to get them out of the way early in order to concentrate on understanding why something happened.   V 08.09.17

Just Culture System and Behaviors Response Guide

(Applies to clinical and non-clinical situations and all workforce members at all levels. This Guide is to be used in conjunction with the Health Agency Just Culture Policy.)
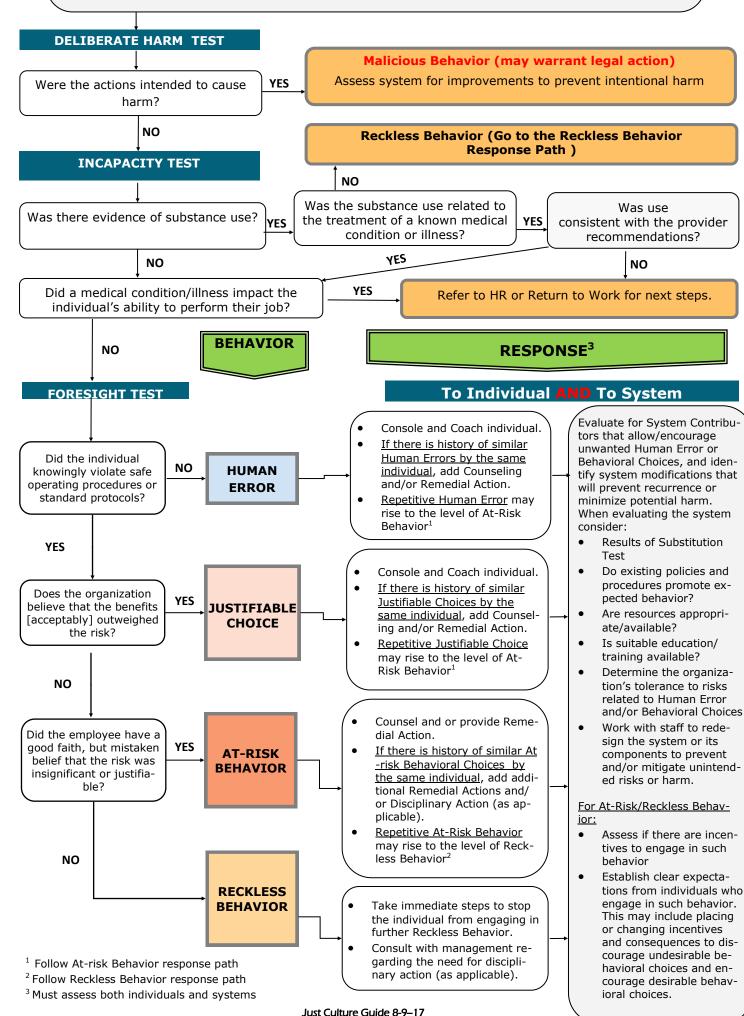
START

It is essential to remember the importance of evaluating for System Contributors that allow/encourage unwanted Human Error or Behavioral Choices, and identifying system modifications that can help prevent recurrence or minimize potential harm. When evaluating the system consider:

- Results of Substitution Test (Would other in similar situation do the same thing)
- Do existing policies and procedures promote expected behavior?
- Are appropriate resources available?
- Is suitable education/training available?
- How does the organization balance use of resources with risk related to Human Error and/or Behavioral Choices?
- Work with staff to redesign the system or its components to prevent and/or mitigate unintended risks or harm.

DELIBERATE HARM TEST

Were the actions intended to cause harm? **YES** →

Malicious Behavior (may warrant legal action)
Assess system for improvements to prevent intentional harm

NO ↓

INCAPACITY TEST

Was there evidence of substance use? **YES** →

Was the substance use related to the treatment of a known medical condition or illness? **YES** →

Was use consistent with the provider recommendations?

NO ↑ → **Reckless Behavior (Go to the Reckless Behavior Response Path)**

YES → Refer to HR or Return to Work for next steps.

NO ↓ → Refer to HR or Return to Work for next steps.

NO ↓ (from substance use)

Did a medical condition/illness impact the individual's ability to perform their job? **YES** → Refer to HR or Return to Work for next steps.

NO ↓

BEHAVIOR   RESPONSE[3]

FORESIGHT TEST   To Individual AND To System

Did the individual knowingly violate safe operating procedures or standard protocols? **NO** → **HUMAN ERROR**

- Console and Coach individual.
- If there is history of similar Human Errors by the same individual, add Counseling and/or Remedial Action.
- Repetitive Human Error may rise to the level of At-Risk Behavior[1]

YES ↓

Does the organization believe that the benefits [acceptably] outweighed the risk? **YES** → **JUSTIFIABLE CHOICE**

- Console and Coach individual.
- If there is history of similar Justifiable Choices by the same individual, add Counseling and/or Remedial Action.
- Repetitive Justifiable Choice may rise to the level of At-Risk Behavior[1]

NO ↓

Did the employee have a good faith, but mistaken belief that the risk was insignificant or justifiable? **YES** → **AT-RISK BEHAVIOR**

- Counsel and or provide Remedial Action.
- If there is history of similar At-risk Behavioral Choices by the same individual, add additional Remedial Actions and/or Disciplinary Action (as applicable).
- Repetitive At-Risk Behavior may rise to the level of Reckless Behavior[2]

NO ↓

RECKLESS BEHAVIOR

- Take immediate steps to stop the individual from engaging in further Reckless Behavior.
- Consult with management regarding the need for disciplinary action (as applicable).

Evaluate for System Contributors that allow/encourage unwanted Human Error or Behavioral Choices, and identify system modifications that will prevent recurrence or minimize potential harm. When evaluating the system consider:

- Results of Substitution Test
- Do existing policies and procedures promote expected behavior?
- Are resources appropriate/available?
- Is suitable education/training available?
- Determine the organization's tolerance to risks related to Human Error and/or Behavioral Choices
- Work with staff to redesign the system or its components to prevent and/or mitigate unintended risks or harm.

For At-Risk/Reckless Behavior:

- Assess if there are incentives to engage in such behavior
- Establish clear expectations from individuals who engage in such behavior. This may include placing or changing incentives and consequences to discourage undesirable behavioral choices and encourage desirable behavioral choices.

[1] Follow At-risk Behavior response path
[2] Follow Reckless Behavior response path
[3] Must assess both individuals and systems

Just Culture Guide 8-9–17

BEHAVIOR CATEGORY	DEFINITIONS
HUMAN ERROR:	Inadvertently doing other than what should have been done: slip, lapse or mistake.
JUSTIFIABLE CHOICE:	Behavioral choice that may be inconsistent with Departmental policy and expectations, but is justified in an effort to protect patients and/or Human and Departmental resources.
AT-RISK BEHAVIOR:	Behavioral choice that increases risk where risk is not recognized, or is mistakenly believed to be justified, may include repeated acts of similar human error and/or justifiable choice.
REPETITIVE HUMAN ERROR **REPETITIVE JUSTIFIABLE CHOICE** **REPETITIVE AT-RISK BEHAVIOR**	Similar repetitive behaviors within a reasonable timeframe, as determined by the circumstances, that could demonstrate workforce member inability to fulfill the work requirements and/or assigned job duties/responsibilities.
RECKLESS BEHAVIOR	Behavioral choice to consciously disregard a substantial and unjustifiable risk, may include repeated acts of similar at-risk behavior.
MALICIOUS BEHAVIOR	Behavioral choice with deliberate intent to harm another individual. It is malevolent and motivated by wrongful, vicious, or mischievous purposes.

DEFINITIONS

CONSOLING:
Expressing empathy and providing emotional support to someone in a time of grief or disappointment.

COACHING:
A process of providing constructive feedback about engaging in safer behavioral choices. Ongoing feedback and coaching is used to communicate about, and reinforce appropriate behavior, teach new skills, motivate high performance, and mentor Workforce Members so they understand their role in the organization.

COUNSELING:
Communication with an individual wherein a performance deficiency is identified and expectations for future performance are delineated. Counseling should be memorialized in writing by informal memo or confirmation e-mail, and placed in the department (local) personnel/area file, with a copy provided to Workforce Member involved. The Workforce Member does not have to sign the document.

REMEDIAL ACTION:
Action taken to aid workforce member in performance or competence, including education, training, or reassignment to a task appropriate to his/her knowledge and skill.

DISCIPLINARY ACTION:
Action taken to ensure adherence to acceptable and reasonable standards of performance and conduct- may include written warning, written reprimand, suspension, reduction/demotion, and discharge, applied in a progressive or non-progressive manner. Workforce Member may ask for a union representative or witness (as applicable) if he/she feels a meeting may lead to discipline.

SYSTEM CONTRIBUTORS: Factor(s) in the system or its design in which an individual(s) works that may contribute to or allow error or undesired behavioral choices to occur.

SUBSTITUTION TEST: Inquiry to determine if other individuals with comparable qualifications and experience would act at in the same or similar manner under the same circumstances.