



*Fair, safe and productive workplaces*

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## **Violence Prevention in the Work Place Regulatory Requirements**

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## Agenda

- Work place violence incident and coroner's inquest
- Definition of Violence and Harassment
- Overview of Regulations
- A process for implementing the regulatory requirements
- Discussion
- Resources
- Summary

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## Work Place Violence Incident

- April 6, 1999 – A former transit employee entered an OC Transport service garage and killed 4 men and then himself with a hunting rifle.
- As a result of an inquest, the jury made 77 recommendations.
  - Federal and Provincial governments create legislation and requirements dealing with workplace violence

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## Definition of work place

“Work place” means any place where an employee is engaged in work for the employee’s employer.

- Does not include social functions where employees are not required to be there

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## **20.2 Definition of Work Place Violence (WPV)**

“Work Place Violence” – Constitutes any action, conduct, threat or gesture of a person towards an employee in their work place that can reasonably be expected to cause harm, injury or illness to that employee.

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## Definitions in other jurisdictions

- WCB in BC

Violence means the attempted or actual exercise by a person, other than a worker, of any physical force so as to cause injury to a worker, and includes any threatening statement or behaviour which gives a worker reasonable cause to believe that he or she is at risk of injury

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## Definitions in other jurisdictions (*con't*)

- PEI – OHS regs

Violence means threatened, attempted or actual exercise of any physical force by a person other than a worker that can cause, or that causes, injury to a worker and includes any threatening statement or behaviour that gives a worker reasonable cause to believe that he or she is at risk of injury.

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## Definitions in other jurisdictions (*con't*)

- Alberta - OHS Code

Violence whether at a work site or work related, means the threatened attempted or actual conduct of a person that causes or is likely to cause physical injury



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## Definitions in other jurisdictions (*con't*)

- Nova Scotia - OHS regs

Violence means any of the following:

- Threats, including a threatening statement or threatening behaviour that gives an employee reasonable cause to believe that the employee is at risk of physical injury,
- Conduct or attempted conduct of a person that endangers the physical health or physical safety of an employee

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## Definitions in other jurisdictions (*con't*)

- Manitoba OHS regs

Violence – The attempted or actual exercise of physical force against a person and any threatening statement or behaviour that gives a person reasonable cause to believe that physical force will be used against the person.

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## Definitions in other jurisdictions (*con't*)

- Manitoba OHS regs
  - “Harassment” means any objectionable conduct, comment or display by a person that
  - (a) Is directed at a worker in a workplace
  - (b) Is made on the basis of race, creed, religion colour sex, sexual orientation, gender, determined characteristics, political beliefs, political association or political activity, marital status, family status, source of income, disability, physical size or weight, age, nationality, ancestry or place of origin; and
  - (c) Creates a risk to the health of the worker

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## Definitions in other jurisdictions (*con't*)

- Saskatchewan OHS regs

Violence means the attempted, threatened or actual conduct of a person that causes or is likely to cause injury, and includes any threatening statement or behaviour that gives a worker reasonable cause to believe that the worker is at risk of injury.

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## Definitions in other jurisdictions (*con't*)

- Saskatchewan OHS regs

“Harassment” is any inappropriate conduct, comment, display, action or gesture based on race, creed, religion, colour, sex, sexual orientation (or other listed grounds) that adversely affects the worker’s psychological or physical well-being;

or constitutes a threat to the worker’s health or safety. Must be repeated conduct, or single incident causing lasting harmful effect.

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## Definitions in other jurisdictions (*con't*)

- MOL – Operational Policy

Workplace violence – the attempted or actual exercise, by a person, of any intentional physical force that causes or may cause injury to a worker, and includes any threats which give a worker reasonable cause to believe he or she is at risk of physical injury

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## Definitions in other jurisdictions (*con't*)

- MOL – proposed bill 168

“Workplace harassment” means engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome;

“Workplace violence” means,

(a) The exercise of physical force by a person against a worker in a workplace that causes or could cause physical injury to the worker

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## Definitions in other jurisdictions (*con't*)

- Quebec – Labour Standards

“Psychological harassment” means any vexatious behaviour in the form of repeated and hostile or unwanted conduct, verbal comments, actions or gestures, that affects an employee’s dignity or psychological or physical integrity and that results in a harmful work environment for the employee.

- Address violence in OHS under general duty clause



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## Definition Differences

- Federal Requirements is all inclusive
- Other Canadian jurisdictions
  - All include physical violence and threats;
  - A few include psychological harassment
  - A few consider violence between two employees
  - Most only cover non-employee violent acts against an employee

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## A variety of behaviours

- ◆ Homicide
  - ◆ Rape
  - ◆ Robbery
  - ◆ Wounding
  - ◆ Battering
  - ◆ Physical attacks
  - ◆ Kicking
  - ◆ Biting
  - ◆ Punching
  - ◆ Spitting
  - ◆ Scratching
  - ◆ Squeezing, pinching
  - ◆ Stalking
  - ◆ Harassment, including sexual and racial
  - ◆ Bullying
  - ◆ Mobbing
  - ◆ Victimizing
  - ◆ Intimidation
  - ◆ Threats
  - ◆ Ostracism
  - ◆ Leaving offensive messages
  - ◆ Aggressive posturing
  - ◆ Rude gestures
  - ◆ Interfering with work tools and equipment
  - ◆ Hostile behaviour
  - ◆ Swearing
  - ◆ Shouting
  - ◆ Name-calling
  - ◆ Innuendo
  - ◆ Deliberate silence
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## Statistics

- 2004 Statistics Canada Study – Criminal Victimization in the workplace
  - examined physical assault, sexual assault, and robbery
  - 365,000 violent incidents in the workplace in 10 provinces (all workplaces)
    - 71% - physical assaults

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## **Benefits of Violence Prevention in the work place**

- Decreased risk of a lawsuit
- Decreased lost time Injuries and absenteeism
- Increase in morale
- Increase in productivity
- Decreased turnover

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## Canada Labour Code Part II

- 125(1)(z.16) take the prescribed steps to prevent and protect against violence in the work place.
- COHS Regulations Amended on May 8, 2008 to include Part XX Violence Prevention in the Work Place.

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## 20.1 Interpretation

- Consultation and participation with policy committee or, if there is no policy committee, the work place committee or the health and safety representative

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## 20.3 Work Place Violence Prevention Policy

- Develop and post WPVP policy that must include obligation of employer to:
  - Provide a safe, healthy and violence-free work place;
  - Dedicate attention, resources and time to address factors that contribute to work place violence including:
    - bullying, teasing, and abusive and other aggressive behaviour and to prevent and protect against it

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## **20.3 Work Place Violence Prevention Policy (con't)**

- Assist employees who have been exposed to work place violence



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## 20.4 Identification of Factors that Contribute to Work Place Violence

- Take into account the following:
  - Its experience in dealing with those factors and with work place violence;
  - Experience of employers in dealing with those factors and with violence in similar work places;
  - The location and circumstances in which the work activities take place

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## 20.4 Identification of Factors that Contribute to Work Place Violence (*con't*)

- The employees' reports of work place violence or the risk of work place violence
- The employer's investigation of work place violence or the risk of work place violence
- The measures that are already in place to prevent and protect against work place violence.

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## 20.5 Assessment

- Assess using factors from 20.4 and taking in account the following:
  - Nature of the work activities;
  - Working conditions;
  - Design of the work activities and surrounding environment;
  - Frequency of situations

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## 20.5 Assessment (*con't*)

- Severity of the adverse consequences to the employee;
- Observations and recommendations of the policy committee, or if there is no policy committee, the work place committee or health and safety rep, and of the employees; and
- Measures already in place

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## 20.5 Assessment (*con't*)

- When consulting with policy committee or, if there is no policy committee, the work place committee or health and safety representative, the employer shall not disclose information whose disclosure is prohibited by law or could reasonably be expected to threaten the safety of individuals.

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## 20.6 Controls

- Assessment has been completed
- Develop and implement systematic controls to the extent reasonably practicable
  - Not later than 90 days after the day on which the risk of work place violence has been assessed

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## 20.6 Controls (*con't*)

- Establish procedures for follow-up maintenance and corrective measures including measures to promptly respond to unforeseen risk of work place violence
- Established controls shall not create or increase the risk of work place violence

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## Types of Control Measures

- Training – 20.10
- Open Communication – can greatly reduce tension by removing silence
  - One on one meeting
  - Information sessions
  - Team meetings
  - Included in problem solving



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## Control measure examples (*con't*)

- Surrounding Environment
  - General (increase stress)– noise level, ventilation, temperature
  - Specific protection – screen around bus driver, location of cash room from main entrance, counter locations, and cameras

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## Control measure examples (*con't*)

- Design of Work Activities and job design
  - Appropriate staffing level
  - Excessive hours worked
  - Keep waiting times to minimum
  - Reduce face to face interaction with public
    - Implementing automated solutions
    - Job rotation

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## **20.7 Work Place Violence Prevention Measures Review**

- Employer shall review the effectiveness of the work place violence prevention measures and update them when there is a change that compromises the effectiveness of those measures, but at least every three years.

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## 20.7 Work Place Violence Prevention Measures Review (*con't*)

- Review shall include consideration of the following:
  - Work place conditions and work locations and activities;
  - Work place inspection reports;
  - Employees' reports and the employer's records of investigations into work place violence or the risk of work place violence;

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## 20.7 Work Place Violence Prevention Measures Review (*con't*)

- Work place health and safety evaluations;
- Data on work place violence or the risk of work place violence in the employee' work place or in similar work places;
- Observations of the policy committee, or if there is no policy committee, the work place committee or the health and safety rep; and
- Other relevant information

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## 20.7 Work Place Violence Prevention Measures Review (*con't*)

- Employer shall keep the records of the findings following the review for three years and make it readily available for examination by HSO.

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## **20.8 Procedures in Response to Work Place Violence**

- Develop in writing and implement emergency notification procedures to summon assistance where immediate assistance is required
- Emergency notification procedures shall be posted and made readily accessible to employees and that they are aware of these procedures

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## 20.8 Procedures in Response to Work Place Violence (*con't*)

- Employer's decision of whether or not to notify the police shall take into account the nature of the WPV and concerns of employee who experienced the WPV.
- If police are investigating, the work place committee or health and safety rep shall be notified, unless prohibited by law
- Develop and implement measures to assist employees who experienced WPV



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## 20.9 Notification and Investigation

- Competent person:
  - Impartial and is seen by the parties to be impartial;
  - Has knowledge, training and experience in issues relating to work place violence; and
  - Has knowledge of relevant legislation

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## 20.9 Notification and Investigation (*con't*)

- Employer becomes aware of WPV incident, he/she must try to resolve the matter with the employee as soon as possible.
- If matter is unresolved, employer appoints a competent person to investigate and provides any relevant information whose disclosure is not prohibited by law and that would not reveal the identity of persons without their consent

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## 20.9 Notification and Investigation (*con't*)

- Competent person shall investigate the WPV and provide completed report with conclusions and recommendations to employer
- Employer must keep the report
  - Provided report to work place committee or health and safety rep, providing disclosure of information is not prohibited by law and would not reveal the identity of persons involved without their consent

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## 20.9 Notification and Investigation (*con't*)

- Adapt or implement controls to prevent a recurrence of the work place violence
- Competent person not required if all of the following are met:
  - WPV was caused by a person other than an employee;
  - It is reasonable to consider that engaging in the violent situation is a normal condition of employment; and
  - Employer has effective procedures and controls in place

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## Hazardous Occurrence Reporting

- 15.8(1) – H.O reporting requirements
  - Disabling injury to employee
  - Implementation of rescue, revival or other similar emergency procedures; or
  - A fire or an explosion
  
- Access to Information and Privacy (ATIP)

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## 20.10 Training

- Employer – provide information, instruction and training on factors that contribute to WPV that are appropriate to the work place of each employee exposed to WPV or a risk of WPV
  - Before assigning to an employee any new activity for which a risk of WPV has been identified
  - When new information on WPV becomes available
  - At least every 3 years

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## 20.10 Training (*con't*)

- Information, instruction and training includes:
  - Nature and extent of WPV and how employees may be exposed to it;
  - Communication system to inform employees about WPV
  - Information on what constitutes WPV and on the means of identifying factors that contribute to WPV
  - WPV measures that have been developed
  - Procedures for reporting WPV and risk of WPV

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## 20.10 Training (*con't*)

- Review and update the information, instruction and training
  - At least once every three years
  - When there is a change in the risk of WPV
  - When new information on risk of WPV becomes available
- Maintain signed records on information, instruction and training provided for two years after the date the employee stops performing the activity that has the risk of WPV



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## Guide to Violence Prevention in the Work Place

- Breaks down Part XX of COHS regs in to 6 steps (page 5)
- Pre-planning for and Investigation into WPV flow chart (page 17)
- WPV prevention policy checklist (page 25)
- Generic WPV prevention policy (page 26)

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## **Guide to Violence Prevention in the Work Place (*con't*)**

- Employee survey (page 31)
- Example of control measures (Page 32)
- Violence Prevention Review checklist (Page 34)
- Tips for preventing and managing WPV incidents (page 36)

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## Discussion

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## Resources

- CCOHS – Free e-course on Violence in the Workplace Awareness (20 minutes)
- Internet search ‘workplace violence’

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## Summary

- WPV incident has to occur at work place
- Privacy/confidentiality
- Police involvement
- CLC III – Requirement for sexual harassment policy
- ATIP
- Canadian Human Rights Commission
- Tools provided are optional