

**SUBMISSION
TO THE
MINISTRY OF LABOUR**

**CONSULTATION PAPER
ON
WORKPLACE VIOLENCE PREVENTION**

**BY THE
ONTARIO FEDERATION
OF LABOUR**

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The Ontario Federation of Labour (OFL) is the central labour organization in the province of Ontario. It has an affiliated union membership of over 700,000 members from all regions of the province. With most unions in Ontario affiliated, membership includes nearly every job category and occupations in every segment of the Ontario economy.

As a province-wide central labour body, the OFL works to develop and coordinate policies as passed at our conventions and by our executive bodies. One of the key roles of the OFL is to try to influence public policies that affect all working people, their families and communities.

INTRODUCTION

This is an issue that has been a priority for the OFL and its affiliates for many years. Labour has written and raised the issue with every Minister of Labour for a decade or more. We have called upon them to introduce legislation. Our staff and those of our affiliates have discussed this issue with Ministry staff. We have raised concerns over the Ministry interpretation that while workplace violence is a hazard covered under the Occupational Health and Safety Act that employers must address; it is not a condition of the workplace that allows workers to exercise their right to refuse. The MOL would treat any refusals as complaints. Four years ago, we told the Ministry that this was not only wrong but unethical and immoral.

The only movement we saw at the time was a promise that complaints involving violence would be given priority. A seemingly endless number of meetings organized by the OFL or the affiliates with a succession of Ministers and ministry staff have given case examples of nurses, and other health care workers, education workers, social service workers and others beaten, sexually assaulted or killed on the job. Recommendations made by Coroner's Inquest juries have gone unheeded.

The ministry has also tried to suggest that it is really a police matter and that the police should be notified. We have provided examples where our members have called the police and they have refused to act because the perpetrator was already confined to an institution.

We have given numerous examples of employers ignoring their duties and only recently has the ministry begun to write orders against employers to prepare violence programs and training.

Ontario has lagged behind other provinces and the Federal government to ensure that employers are protecting workers from violence in the workplace. It is tragic to consider the thousands who have been assaulted or psychologically damaged, those who have left their chosen profession and those who have been killed before this ministry decided to review this issue in depth.

We welcome the opportunity to comment on the Ministry of Labour's consultation paper on Workplace Violence Prevention.

General principles for legislation and regulation

We believe that changes are needed to the Occupational Health and Safety Act and that a specific violence in the workplace regulation should be developed.

The Occupational Health and Safety Act needs to make it clear that coverage includes:

- workplace violence from all sources including third party, ie. a client, student, patient, customer or person who receives service from the organization, someone who works at the workplace, and impacts of domestic violence
- all forms of violence in a comprehensive definition (including verbal, harassment, and bullying, all the way to physical incidents of violence)
- all workplaces in all provincial sectors

The Act needs to be amended so that violence is recognized as an occupational hazard. Harassment needs to be defined to include a single event.

The right to refuse provisions need to be amended to make it clear that all workers have the right to refuse for violence, i.e. because of a person and by referencing working environment.

The reprisal protection in the Act needs to be strengthened. We can have the best regulation in the world but unless it stops employers from intimidating workers to not report violence incidents, we will not have protected Ontario workers.

In keeping with the recommendations of the final report of the SARS Commission, the Act should be amended to include the precautionary principle in the Act and regulation.

A specific workplace regulation should set out:

- specific mention of meaningful consultation and participation with JHSC/health and safety representatives
- that employers must conduct hazard assessments (in consultation with H&S representatives/committees) to identify whether workplace violence is a potential hazard
- information must be provided to workers about potential violence and incidents of violence (i.e. information on "new clients" or "client history" is NOT a violation of privacy legislation, nor is providing information on incidents. Information does need to be communicated in a manner that is respectful to the privacy of individuals.)
- information and reporting to JHSCs and H&S Representatives plan needs to be specific to the workplace -- not just general

- strong language for worker training i.e. PowerPoint presentation to be read is not training
- training developed, delivered, reviewed regularly in consultation with JHSC/H&S representatives -- to new employees and refreshers to existing employees
- recognition that violence prevention includes measures and procedures (not just a policy), such as work practices, design and organization of work, procedure for chain of command reporting, investigation and response. Language from Sections 8 and 9 of the *Regulation for Health Care and Residential Facilities* would be useful)
- employers must develop (and annually review) a comprehensive violence policy and program that includes:
 - commitment statement
 - definition of workplace violence
 - sources of violence
 - recognition of workplace violence as an occupational hazard
 - hazard assessment a mandatory step
 - how and what information to -- report to workers, report to JHSC/H&S representatives
 - responsibilities and roles of employer, supervisors, JHSC/H&S representatives and workers
 - mechanism and process to report, respond to, investigate, violence incidents/hazards, provide follow-up to workers and consultation and follow-up to JHSC/H&S representatives
 - provisions for how information and reporting goes up the chain of command
 - recognition that violence prevention includes measures and procedures as well as a policy, such as design and organization of work
 - that the JHSC/H&S representative and workers be consulted in the development and review and the JHSC/H&S representative's recommendations given meaningful consideration
 - support mechanisms for workers
 - a process for follow-up that includes recommendations from JHSC/representatives, reporting
 - reporting to WSIB
 - Section 51, 52 reporting obligations

- Section 9 (31) entitlements to investigate critical injuries and fatalities
- record keeping and tracking/analysis of incident/accidents/injuries/illnesses

With some revisions the new federal regulation could be used as a basis for a new regulation. For instance the definition would need rewriting; Section 20.4 and 20.5 would be acceptable if they included a provision requiring the consideration of the isolation of the place of employment and the need to work alone; Section 20.6 dealing with controls needs work and will need to include provisions addressing working alone or in isolation; all of paragraph (6) in Section 20.9 would need to be deleted. Labour likes the points covered in Sections 20.7, 20.8 and 20.10 dealing with the measures review, procedures and training.

The OFL and its' affiliates are prepared to meet with the MOL to discuss this in more detail.

Cyber-bullying

The growth of social networking websites allows people and organizations to connect and communicate in many useful ways. Unfortunately some individuals use the technology to cause harm to others. There has been much discussion in the media about students cyber-bullying other students. Children are not the only victims of this abuse. Workers can also be the victim of cyber-bullying. While anyone can become victimized, it is a serious problem in sectors where workers are dealing with the public, students, patients, clients, etc. Teachers and other education workers can be victimized by students. Workers in health care can be victimized by patients, clients or irate family members.

Where a worker is a victim of cyber-bullying as a result of their work the employer has a duty to complain to the owners/operators of the website with the view of having the offending material deleted. All the social networking sites the OFL has reviewed have policies regarding abusive and harassing content. They make it clear that they can remove inappropriate content. Many site operators will scan their sites for content of a pornographic nature but rely on complaints to deal with cyber-bullying. Similar policies exist for Internet Service Providers. Where the abuse is taking place with e-mails the ISP should be contacted.

Technology allows the bullying to reach beyond the workplace. E-mail allows those outside the workplace to reach into the workplace and abuse workers. There are no boundaries or borders to confine the abuse. The audience is not limited to the school yard or workplace. For cyber-bullying that takes place with the social networking sites the audience is global.

Work is being done to address this issue. Unions and some employers are struggling to deal with the abuse. Websites have been established to provide assistance and information for those trying to address the issue or deal with specific cases. Two examples the OFL is aware of are provided below. There is information on these sites on how to track the source of the abuse when fake names or some information in an e-mail is forged in an attempt to hide where it came from.

<http://www.cyberbullying.ca/>

<http://www.abuse.net/>

The MOL needs to ensure that the regulation will capture work related bullying which takes place with the use of technology. It should be reasonable to expect that where a worker is being abused through this technology that the employer will have policies and procedures for contacting the internet service provider or the operators of the website involved.

Domestic Violence in the Workplace

In addition to the health and safety protection, the Ministry of Labour should be amending the employment standards legislation to protect the jobs of workers who need to take time off work to address the problem.

Respectfully submitted,

Ontario Federation of Labour