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By Fax: 416-326-4016

September 19, 2013

Hon. John Gerretsen
Attorney General
McMurtry-Scott Bldg - 11th Flr
720 Bay St
Toronto ON M7A2S9

Dear Attorney General:

I am writing to you to use your powers investigate the role of the Crown Attorney in the failure of the Greater Sudbury Police Service to bring criminal charges against Vale Canada in relation to the two deaths at the Vale Stobie Mine in June of 2011. Earlier this week the company plead guilty to charges under the Occupational Health and Safety Act (OHSA) and received one of the highest fines every imposed under that Act.

Our concern is that there was evidence revealed by the USW investigation which demonstrated that the company wilfully violated the OHSA and even ordered the removal of protective barriers.

Bill C-45, also known as the Westray Bill, amended the Criminal Code and brought in special criminal negligence provisions for companies that disregard the health and safety of workers. The intent was to hold employers criminally liable for the deaths of workers. In the years since the bill became law it has seen little use.

Police are trained to look into workplace fatalities from the perspective of ruling out foul play but few officers know about and therefore are not considering those sections of the Criminal Code which were amended by Bill C-45 to determine if the employer was criminally negligent in the death of the worker.

It is clear to us that the police investigation did not properly consider the Bill C-45 amendments to the criminal code.

We are concerned that Crown Attorney's have a lack of understanding and are not considering the Bill C-45 amendments of the criminal code and that this may have contributed to the failure of the police to lay charges against Vale Canada.

Every worker who is killed at work deserves to have their death investigated through the lens of Bill C-45. Their family deserves to know the police have done more than rule out foul play, that they have looked at criminal negligence by the employer as a possible cause. This type of investigation into a tragedy which killed four workers and severely injured a fifth worker occurred in Toronto in 2009. It resulted in the employer being convicted of criminal negligence and a significant fine against the company. That tragedy inspired me to

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launch the Kill a Worker Go to Jail campaign. Part of this campaign is to try to educate and encourage police to use the Bill C-45 provisions during investigations of workplace tragedies. We do this by mailing a package of material to the local police whenever we hear of a workplace death. The package consists of a memo from the Ministry of Community Safety and Correctional Services dated March 30, 2004 that went to every Chief of Police in Ontario as well as the OPP Commissioner. Attached to that memo is a copy of Bill C-45 as it was passed by the House of Commons as well as a plain language guide to Bill C-45. We sent this material Chief Elsner of the Greater Sudbury Police Service in June of 2011 following the tragedy at the Vale Stobie Mine. It appears to us that the information was not considered in the investigation.

The same week that we learned that Vale Canada will escape criminal charges, a [U.K. court set trial dates](#) for a Welsh mine boss and company charged with manslaughter and gross negligence for a 2011 flood in the Gleision mine that claimed the lives of four workers. We want to know why Vale Canada and the Canadian managers were not criminally charged for the deaths of the two miners.

When a company's negligence causes worker deaths, a crime has been committed, but when the judicial system fails to prosecute that company criminally, a second crime has been committed. In Ontario, an average of 80 workers are being killed on the job every year. It is time to recognize that this carnage in our workplaces will never stop until negligent bosses are marched from their executive suite to a prison cell.

Sincerely,



SID RYAN

President

Ontario Federation of Labour

The Ontario Federation of Labour (OFL) is Canada's largest provincial labour federation, representing 54 labour unions and over one million workers. Visit www.OFL.ca and follow the OFL on Facebook and Twitter @OFLabour

copy: Hon. Madeleine Meilleur, Minister of Community Safety and Correctional Services