



Ontario Police Health and Safety Committee

Guidance Note #9

Workplace Violence and Harassment

This guidance note has been developed to provide information to employers, supervisors, workers, joint health and safety committees and health and safety representatives to raise awareness about workplace violence and harassment and to provide some suggested practices for the development of a policy and program to protect the health and safety of workers.

Introduction

The focus of this guidance note is to reinforce the requirements of the *Occupational Health and Safety Act (OHSA)* that apply for the protection of police service workers from workplace violence and workplace harassment. This includes violence or harassment that police service workers could experience in the course of their duties from members of the public, other workers or from persons who have a personal relationship with workers.

Workplace Violence

While it is recognized that workplace violence is inherent in the work of some police service workers (e.g. sworn officers), police service employers are still required under the *OHSA* to take every precaution reasonable in the circumstances for the protection of a worker. This applies with respect to workplace violence.

The *OHSA* defines workplace violence as 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, (b) an attempt to exercise physical force against a worker, in a workplace, that could cause physical injury to the worker, c) a statement or behaviour that it is reasonable for a worker to interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker.

Under the *OHSA*, a workplace means any land, premises, location or thing at, upon, in or near which a worker works. Police service workers work in many diverse environments and under a variety of conditions. The workplace is anywhere a police service worker is performing their work (e.g. police service station, police vehicles/vessels/aircraft, courthouse, mobile command units, the community).

Workplace violence may include:

- threatening to assault a worker or assaulting a worker
- sending threatening correspondence to a worker (e.g. electronic forms of communication, emails, letters)
- using or threatening to use a weapon to inflict harm on a worker (e.g. firearm, use of force option, a vehicle)
- sexual violence against a worker

Assess or Reassess the Risks of Workplace Violence

Under the *OHSA*, employers are required to assess the risks of workplace violence that may arise from:

- the nature of the workplace
- the type of work, or
- the conditions of work

The nature of the workplace refers to the physical aspects of the workplace and may include workplace lighting, lines of sight, depth of counters, entrances, exits, parking lots etc.

The type of work refers to the activities workers perform and the people with whom workers interact. In police work this includes assisting and protecting members of the public or dealing with suspects, accused and those in custody (e.g. in the patrol car, police service station, etc.). This would also include activities such as traffic enforcement, community policing or undercover operations.

The conditions of work refer to other aspects such as the time of work (e.g., late night hours); the work location; whether workers move from location to location; work alone or in isolation; and shift work.

In assessing the risks of workplace violence, police service employers must consider:

- circumstances common to similar workplaces (e.g. other police services)
- circumstances specific to the workplace (e.g. marine unit, remote detachment)

Police service employers should, in consultation with their Joint Health and Safety Committee or health and safety representative, if any, review workplace violence incidents and implement strategies to prevent similar incidents from happening in the future.

A reassessment of the risks of workplace violence is required as often as necessary to ensure that the related workplace violence policy under *OHSA* subsection 32.0.1(1) and the related program under *OHSA* subsection 32.0.2(1) continue to protect workers from workplace violence. The employer is also required to advise the Joint Health and Safety Committee (JHSC) or a health and safety representative, if any, of the results of a risk assessment or reassessment of workplace violence, and provide a copy if it is in writing. If there is no JHSC or health and safety representative, the employer is required to advise the workers of the results, and if the assessment or reassessment is in writing, provide copies on request or advise workers how to obtain copies.

Workplace Violence Policy and Program

The employer is required to prepare a written policy with respect to workplace violence and post it in a conspicuous place in the workplace. If fewer than six workers are regularly employed at the workplace, the policy does not necessarily have to be written and posted at a conspicuous place in the workplace, unless a Ministry of Labour (MOL) inspector orders otherwise. The employer is required to review the policy as often as necessary, but at least annually. The employer shall also develop and maintain a program to implement the policy that includes the following elements:

- measures and procedures to control the risks identified in the assessment
- measures and procedures to summon immediate assistance when workplace violence occurs or is likely to occur (e.g. panic alarms, emergency code via radio, Public Announcement (PA)/intercom system)
- measures and procedures for workers to report incidents to the employer or supervisor
- how the employer will investigate and deal with incidents or complaints

Measures and procedures that police service employers may wish to consider as part of a workplace violence prevention program may include but are not limited to:

- restricting areas that the public has access to
- installing barriers such as extra wide service counters, physical barriers, secured entries, etc.
- removing or securing items that can be used as a weapon
- ensuring that security, both inside and outside the workplace, is a regular part of workplace inspections
- improving communication systems, e.g., video cameras, signals, panic buttons, direct dial telephone buttons, etc.
- implementing emergency procedures for escape routes, calls for back-up and physical restraint
- a communication protocol to notify all workers on duty of violence or a threat of violence imminently impacting the police service work location or workers
- establishing facility threat levels and developing a response protocol for different threat levels outlining the roles and responsibilities of the responders
- developing and communicating protocols to shelter in place, hold and secure and lockdown
- ensuring adequate visibility (e.g., lighting, clear lines of sight, removing obstructions, etc.)
- having specific reporting mechanisms to deal with domestic violence that may occur in the workplace and worker to worker concerns/threats including circumstances that may involve superior/subordinate relationships
- promoting staff awareness and an understanding of the response protocols for incidents of workplace violence and workplace harassment in policing (Note: some incidents may be considered violations of the *Police Services Act* and/or Canada's *Criminal Code* and must be treated appropriately).
- ensuring there is system in place to evaluate the controls and identify any new risks that could arise from a review of workplace incidents, worker concerns or changes to the workplace

Other Employer Duties Related to Workplace Violence

Under *OHSA* clause 32.0.5(2)(a), an employer shall provide a worker with information and instruction that is appropriate for the worker on the contents of the workplace violence policy and program.

Police service employers should recognize the diversity and skill capacity of their work force (for example civilian workers, police officers) and their ability or not to respond to a violent incident.

Under *OHSA* subsection 32.0.5(3), an employer's duty to provide information to a worker under clause 25(2)(a) and a supervisor's duty to advise a worker under clause 27(2)(a) include the duty to provide workers with information, including personal information, related to a risk of workplace violence from a person with a history of violent behaviour if the worker can be expected to encounter the violent person in the course of his or her work and the risk of workplace violence is likely to expose the worker to physical injury. Police service employers also have a duty to provide information and instruction for example on the measures and procedures in place for the protection of police service workers.

Under *OHSA* subsection 32.0.5(4), no employer or supervisor shall disclose more personal information in the circumstances than is reasonably necessary to protect the worker from physical injury. Police service employers may want to establish criteria to limit disclosure of personal information to that which is reasonably necessary. Police service employers may need to seek independent legal advice with respect to application of the *OHSA*, including this provision, to the specific circumstances in their workplaces, as there are other laws that govern the use and disclosure of personal information that may apply.

The duties under *OHSA* section 25, 27 and 28 apply with respect to workplace violence. For example, an employer under *OHSA* clause 25(2)(h) and a supervisor under clause *OHSA* 27(2)(c) are required to take every precaution reasonable in the circumstances for the protection of a worker, including from workplace violence. An employer under *OHSA* clause 25(2)(a) is required to provide information, instruction and supervision to protect the health or safety of the worker. This could include, for example, information and instruction on recognizing and responding to hostile or violent encounters unique to the job.

Under *OHSA* clause 25(1)(b), employers are required to ensure all equipment, materials and protective devices provided by the employer are maintained in good condition (e.g. security systems, radios, alarms).

Under *OHSA* subsection 52(1) an employer shall report incidents where a person is disabled from doing his or her usual work or requires medical attention because of an incident of workplace violence to the JHSC or health and safety representative and to the police association.

Domestic Violence

Domestic violence is considered workplace violence when a person who has a personal relationship with a worker, such as a spouse or former spouse, current or former intimate partner or a family member, physically injures, or attempts or threatens to physically injure, a worker in the workplace.

Under the *OHSA* section 32.0.4, an employer must take every precaution reasonable in the circumstances for the protection of a worker if they become aware, or ought reasonably to be aware, that domestic violence may occur in the workplace and that it would likely expose a worker to physical injury. Reasonable precautions may include the measures and procedures set out in the employer's workplace violence program or an individual safety plan for the worker while he or she is at the workplace.

Workplace Harassment

The *OHSA* defines workplace harassment as 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 or workplace sexual harassment.

Workplace sexual harassment is defined under the *OHSA* as:

- engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, or
- making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know the solicitation or advance is unwelcome.

The definition of workplace harassment is broad enough to include harassment prohibited under *Ontario's Human Rights Code*. The *OHSA* explicitly states that reasonable action taken by an employer or supervisor relating to the management and direction of workers or the workplace is not workplace harassment. Some examples of the management and direction of workers or the workplace include changes in work assignments, scheduling, job assessment and evaluation, workplace inspections, implementation of dress codes and disciplinary action.

Workplace harassment could result from interactions with members of the public or from other workers. Unlike workplace violence, the *OHSA* does not require an assessment of the risks of workplace harassment.

As with workplace violence, the *OHSA* requires employers to prepare a written policy with respect to workplace harassment and post it in a conspicuous place in the workplace. If

fewer than six workers are regularly employed at the workplace, the policy does not necessarily have to be written and posted at a conspicuous place in the workplace, unless an MOL inspector orders otherwise. The employer is required to review the policy at least annually, or as often as necessary.

In consultation with the Joint Health and Safety Committee or health and safety representative, if any, the employer must develop and maintain a written program to implement the workplace harassment policy. The program must include the following elements:

- measures and procedures for workers to report incidents of workplace harassment to the employer or supervisor, or to another person if the employer or supervisor is the alleged harasser
- how incidents or complaints of workplace harassment will be investigated and dealt with
- how information obtained about an incident or complaint of workplace harassment, including identifying information about any individuals involved, will not be disclosed, unless necessary for the purposes of investigating the incident or complaint, or for taking corrective action, or is otherwise required by law
- how certain workers will be informed of the results of the investigation and of any corrective action that has been taken or that will be taken as a result of the investigation.

Employers must provide workers with information and instruction that is appropriate for the worker on the contents of the policy and program with respect to workplace harassment.

Workplace violence and workplace harassment policies may be prepared separately, or combined or integrated into the broader occupational health and safety policy that is required under clause 25(2)(j) of the *OHS*A.

Additional Employer Duties Regarding Workplace Harassment

In order to protect a worker from workplace harassment, the *OHS*A requires that employers:

- ensure that an investigation is conducted into incidents and complaints of workplace harassment that is appropriate in the circumstances;
- ensure that the worker who allegedly experienced workplace harassment, and the alleged harasser (if he or she is also worker of the employer), are informed in writing of the results of a workplace harassment investigation and of any corrective action that has been or that will be taken as a result of the investigation; and,
- review the workplace harassment program as often as necessary, but at least annually, to ensure that it adequately implements the workplace harassment policy.

Subsection 55.3(1) of the *OHSA* enables an MOL inspector to order an employer to have an investigation into an incident or complaint of workplace harassment carried out by “an impartial person possessing such knowledge, experience or qualifications as are specified by the inspector” and to obtain a written report by that person, at the expense of the employer.

The *OHSA* requirements for violence and harassment in the workplace establish minimum standards and set out the rights and duties of all those who have a role in dealing with workplace violence and harassment.

The *Criminal Code of Canada* deals with a number of acts or behaviours which could constitute criminal harassment, the police should be contacted in these situations. It should also be noted that harassment may also be a matter that falls under the *Ontario Human Rights Code* if based on an enumerated ground under the *Code*.

Advancing a culture of health and safety

Everyone should be able to work in a healthy and safe workplace. Police service employers, supervisors, workers and joint health and safety committees should work collaboratively to address workplace violence and workplace harassment.

Acknowledgements

The Ontario Police Health and Safety Committee is made up of professionals in police services from across the province with representatives from the Police Association of Ontario, Ontario Provincial Police, Ontario Provincial Police Association, Toronto Police Service, Toronto Police Association, Ontario Association of Chiefs of Police, Ontario Association of Police Services Boards, Ministry of Community Safety and Correctional Services, Ministry of Labour, Ontario Police College, Ontario Police Health and Safety Association, Ontario Senior Officers' Police Association and Public Services Health and Safety Association. The committee also receives input from experts in the police sector. The Ministry of Labour would like to thank the committee for their help in making this guidance note possible.

Resources

For additional information on the requirements of the legislation, refer to the [Occupational Health and Safety Act](#) (OHSA).

General information on [Workplace Violence and Harassment](#).

MOL guidance [Workplace Violence and Harassment: Understanding the Law](#).

MOL [Code of Practice to Address Workplace Harassment](#).

[Health and Safety System Partners](#)

[Canadian Centre for Occupational Health and Safety](#)

Additional Resources:

The Policing Standards Manual 2000

Police service employers may wish to refer to the following:

Guideline AI-003 Equal Opportunity, Discrimination and Workplace Harassment
Guideline AI-016 Workplace Violence Prevention

This document should be shared with the workplace Joint Health and Safety Committee or health and safety representative, incorporated into the workplace occupational health and safety policy and program and posted on the police service's intranet.

The Public Services Health and Safety Association may be contacted for assistance in the development and implementation of an occupational health and safety program, training and specialized services <http://www.pshsa.ca>

For more information, contact the Ministry of Labour Health & Safety Contact Centre toll free at 1-877-202-0008.

This guidance note has been prepared to assist the workplace parties in understanding some of their obligations under the *Occupational Health and Safety Act* (OHSA) and the regulations. It is not intended to replace the OHSA or the regulations and reference should always be made to the official version of the legislation.

It is the responsibility of the workplace parties to ensure compliance with the legislation. This guidance note does not constitute legal advice. If you require assistance with respect to the interpretation of the legislation and its potential application in specific circumstances, please contact your legal counsel.

While this guidance note will also be available to Ministry of Labour inspectors, they will apply and enforce the OHSA and its regulations based on the facts as they may find them in the workplace. This guidance note does not affect their enforcement discretion in any way.