

HANDOUT # 1

IS THERE A DIFFERENCE BETWEEN BULLYING AND HARASSMENT?

Acts of harassment usually centre around unwanted, offensive and intrusive behaviour with a sexual, racial, or physical component (often directed toward a person that falls under groups covered by human rights legislation). Definitions of traditional forms of harassment and bullying vary but there is much overlap.

Harassment	Workplace bullying
May have a strong physical component, e.g. contact and touch in all its forms, intrusion into personal space and possessions, damage to possessions including a person's work, etc.	Almost exclusively psychological (e.g. criticism), may become physical later
Tends to focus on the individual because of who they are (e.g. female, racialized, disabled, etc)	Anyone will do, especially if they are competent, popular and vulnerable
Harassment is usually linked to sex, race, prejudice, discrimination, etc. (human rights grounds)	Although bullies are deeply prejudiced, sex, race and gender may play only a small part; it's usually a response based on the perception of a person being a potential threat to the bully
Harassment may consist of a single incident or a few incidents or even many incidents	Bullying is rarely a single incident and tends to be an accumulation of many small incidents, each of which, when taken in isolation and out of context, seems trivial
The person who is being harassed because of race or sex knows almost straight away they are being harassed	The person being bullied may not realize they are being bullied for weeks or months - until there's a moment of enlightenment
Everyone can recognize harassment, especially if there's an assault, indecent assault or sexual assault	Few people recognize bullying

Harassment often reveals itself through use of recognized implicit or explicit offensive vocabulary	Workplace bullying tends to fixate on trivial criticisms and false allegations of underperformance; offensive words rarely appear, although swear words may be used when there are no witnesses
There's often an element of overt/obsessive control (e.g. as in stalking)	Phase 1 of bullying is control and suppression; when this fails, Phase 2 is public humiliation of the target
Traditional forms of harassment almost always have a strong clear focus (e.g. sex, race, disability, sexual orientation or identity, etc.)	The focus is on competence (threat) and popularity (envy/jealousy)
Harassment is sometimes used to seek peer approval or to elevate one's self, bravado, etc.	Tends to be initially secretive, done behind closed doors with no witnesses but usually escalates to include others (public display of power to gain affirmation from others)
Harassment takes place both in and out of work	The bullying takes place mostly at work
The harasser often perceives their target as inferior or easy, albeit sometimes a challenge	The target is seen as a threat who must first be controlled and subjugated, and if that doesn't work, eliminated
Traditional harassment is often domination for superiority	Bullying is for control of threat (of exposure of the bully's own inadequacy)
The harasser often lacks selfdiscipline	The bully is often very calculating and is driven by envy (of abilities) and jealousy (of relationships)



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Guide to Violence Prevention in the Work Place



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Guide to Violence Prevention in the Work Place

Notice to the Reader

Part II of the *Canada Labour Code* deals with occupational health and safety. Its purpose is to “prevent accidents and injury to health arising out of, linked with or occurring in the course of employment at federally regulated employers.” One of the issues covered by Part II of the Code and by the related *Canada Occupational Health and Safety Regulations* is the matter of violence in the work place.

This guide is designed to assist employers, members of a policy or work place committee, or health and safety representatives in preventing work place violence as prescribed by the requirements in Part XX of the *Canada Occupational Health and Safety Regulations*, also known as the “Violence Prevention in the Work Place Regulations” or “Violence Prevention Regulations.” The Guide suggests a simple, practical procedure for you to follow in implementing the prescribed steps for the prevention of violence in the work place, including employee education and training.

Under Part XX of the Regulations entitled *Violence Prevention in the Work Place*, employers are responsible for:

- developing a policy;
- identifying contributing factors;
- assessing those factors;
- choosing controls and prevention measures;
- responding to occurrences; and
- ensuring employee education and training.

The following pages contain guidance and sample work sheets to help you better understand these regulatory requirements. The work sheets illustrate certain steps in the violence prevention process. The guide and the work sheets **do not** form part of the Regulations and therefore their use is not mandatory.

1. Introduction

Protecting employees from violence in the work place is of critical importance across Canada. Although we do not normally go to work expecting it to occur, violence can happen at any work place and it can have a serious impact on those affected, their families, and the way employers do business. For this reason, paragraph 125(1)(z.16) of the *Canada Labour Code* requires employers under federal jurisdiction to “take the prescribed steps to prevent and protect against violence in the work place.” Part XX of the *Canada Occupational Health and Safety Regulations*, “Violence Prevention in the Work Place,” contains the prescribed steps that must be implemented.

The purpose of these Violence Prevention Regulations is to ensure that employers take measures to prevent or minimize the occurrence of violence in the work place and to protect employees against it, ensuring that they have access to assistance and a recourse if they happen to be exposed to it.

2. Definitions

The Violence Prevention Regulations only cover violence occurring in the course of employment over which the employer has control, whether this employment takes place within or outside the work place. Violence in the work place includes:

- acts between employees;
- acts between an employee and a non-employee.

2.1 Work place violence (WPV)

“Work place violence” is “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.”

2.2 Work place

“Work place” is defined in the *Canada Labour Code*, Part II to mean “any place where an employee is engaged in work for the employee’s employer.”

“Work place” includes any area where an employee is making a delivery for the employer, any location where an employee is providing a service under the employer’s direction, and any mode of transportation (e.g., train, plane) where the employee is traveling in the course of business.

It does not include parking lots not controlled by the employer, modes of transportation for employees travelling outside working hours (e.g., going to or from work) or locations hosting non-mandatory recreational activities that may be sponsored by the employer such as a company picnic or golf tournament.

Specific circumstances relating to a particular incident must be carefully considered in determining work-relatedness. An example would be the situation where an employee chooses to conduct work on a BlackBerry® during unpaid time and receives a threatening e-mail response back from another employee.

2.3 Person

The Code does not define the term “person.” This term is meant to include those individuals who work in the work place (i.e., co-workers) as well as individuals with whom the employee may come into contact while working, such as the general public.

2.4 Reasonably practicable

The Code does not define the term reasonably practicable. The word practicable is normally interpreted as “that which is performable, feasible, and possible”. Decisions on what measures to implement may only be taken if it is reasonably practicable. Please refer to the Interpretations, Policies and Guidelines (IPG) 920-IPG-055 “Criteria for Reasonably Practicable - General” available on the Labour Program website, or contact your local Labour Program district office for more information.

3. Guide to the regulatory requirements

3.1 Prevention of work place violence

The flow chart on the following page outlines the steps in the prevention of violence in the work place and is followed by an explanation of each step.

Prevention of Work Place Violence

STEP 1

Establish the framework for consultation with and the participation of the policy committee or, if there is no policy committee, the work place committee or the health and safety representative.

STEP 2

Develop and post at a place accessible to all employees a work place violence prevention policy.

STEP 3

Identify all factors that contribute to work place violence, taking into account 20.4(a) to (f) of Part XX of the Regulations entitled *Violence Prevention in the Work Place*.

STEP 4

Assess the potential for work place violence using the factors in 20.4 and taking into account 20.5(1) of Part XX of the Regulations entitled *Violence Prevention in the Work Place*.

STEP 5a

Implement systematic controls as soon as practicable, but not later than 90 days after assessment to eliminate or minimize the risk of work place violence.

STEP 5b

Establish and implement procedures for follow-up maintenance of corrective measures, including measures to respond to unforeseen risk of work place violence.

STEP 6

Review the effectiveness of the work place violence prevention measures and update them whenever there is a change that compromises the effectiveness of those measures, but at least every three years.

STEP 1: Consultation and Participation

In a healthy and safe work place, the employer works in cooperation with employee representatives to effectively address work place hazards. This cooperation is the foundation of the internal responsibility system and is what Part II of the *Canada Labour Code* and the *Canada Occupational Health and Safety Regulations* are based on.

This means that the employer must consult and involve the policy committee (or, if there is no policy committee, the work place committee or the health and safety representative) at each stage of work place violence prevention.

In striving for a violence-free work place, the members of the policy committee or health and safety committee or the representative should know what constitutes work place violence as well as the factors that may contribute to it. With this knowledge they will be more effective in taking part in the different steps towards the prevention of violence in the work place such as the development of policy, procedures, and controls. They will also be able to provide meaningful assistance during work place inspections, from which the information gathered will be considered during the various stages of violence prevention.

To effectively manage the different steps towards prevention and protection against violence in the work place, it is necessary that the committee members who participate in the process be given the training that will enable them to carry out their responsibilities proficiently.

The committee members need to:

- understand what constitutes work place violence;
- be able to identify the factors that may contribute to violence in the work place in order to participate in work place inspections and similar tasks;
- understand the issues of privacy and confidentiality related to the prevention of violence in the work place.

Once members of the committee have been trained in prevention of work place violence, the employer may then choose, where practicable, to deliver the general employee training on work place violence prevention as required under section 20.10 of Part XX of the Regulations, in collaboration with the committee members.

STEP 2: Work Place Violence Prevention Policy

Section 20.3 of the Regulations

The employer shall develop and post at a place accessible to all employees a work place violence prevention policy setting out, among other things, the following obligations of the employer:

- (a) to provide a safe, healthy and violence-free work place;*
- (b) to dedicate sufficient attention, resources and time to address factors that contribute to work place violence including, but not limited to, bullying, teasing, and abusive and other aggressive behaviour and to prevent and protect against it;*
- (c) to communicate to its employees information in its possession about factors contributing to work place violence; and*
- (d) to assist employees who have been exposed to work place violence.*

Explanation

The purpose of the work place violence prevention policy is for the employer to demonstrate to employees that the employer is committed to providing a violence-free work place and that assistance will be made available in cases where an employee has been exposed to work place violence. The policy will outline the responsibilities and accountabilities of work place parties in achieving a violence-free work place. This demonstration of commitment by the employer is a crucial step in preventing work place violence and in making violence prevention part of the work place culture.

Paragraphs 20.3(a) to (d) provide you with a list of items that must be included in this policy.

The employer must include procedures to assist employees who have been exposed to work place violence. These procedures will describe the assistance to be provided to victims and will list emergency numbers to contact. The policy should also state that when employees experience or observe an act of violence they have a duty to report it to the employer.

The employee subjected to work place violence can be negatively impacted in a number of ways, resulting in injury, anger, depression, guilt, anxiety and post traumatic stress. The consequences of work place violence can be just as serious for other workers, as they may not feel safe or comfortable at work. This will likely lead to decreased productivity, poorer work performance, and increased absenteeism and employee turnover. An employee who has been affected by work

place violence has a right to assistance, which could take various forms, such as an Employee Assistance Program (EAP) or counselling. The costs of such assistance should not be the responsibility of the employee.

Factors contributing to work place violence can include bullying, teasing, and abusive and aggressive behaviour. Progressive disciplinary action should be used to control intentional and unintentional conduct not suitable in the work place, even when it cannot be determined that the conduct could reasonably be expected to cause harm. It may be difficult to assess the anticipated harm, since a factor such as teasing is subjective and can be perceived as playful by some but harmful or malicious by others. This is where the reasonableness threshold included in the definition of work place violence comes into play.

Documents entitled “Work Place Violence (WPV) Prevention Policy Checklist” and “Generic Work Place Violence Prevention Policy” are provided in Appendix A to assist you in developing a WPV prevention policy.

Other sources of information

There are many documents, occupational health and safety organizations, and online tools that can be consulted to obtain relevant information about violence in the work place. Documents can include a generic WPV prevention policy, statistics on violence, and possible control measures. You can also find and compare other WPV prevention policies from similar businesses. Publications produced by the Canadian Centre for Occupational Health and Safety, the various provincial and territorial health and safety authorities, and trade union organizations can also be referred to for general guidance on violence prevention in the work place.

Customization to the type of work place

The policy should be customized, as the factors that can contribute to WPV may vary depending on the type of work place. For example, an office setting that operates between the hours of 9 a.m. and 5 p.m. and does not deal directly with the public will have some different WPV factors than an office setting operating from 10 a.m. to 8 p.m. that deals with the public face to face.

STEP 3: Identification of Factors that Contribute to Work Place Violence

Section 20.4 of the Regulations

The employer shall identify all factors that contribute to work place violence, by taking into account, at a minimum, the following:

- (a) its experience in dealing with those factors and with work place violence;*
- (b) the experience of employers in dealing with those factors and with violence in similar work places;*
- (c) the location and circumstances in which the work activities take place;*
- (d) the employees' reports of work place violence or the risk of work place violence;*
- (e) the employer's investigation of work place violence or the risk of work place violence; and*
- (f) the measures that are already in place to prevent and protect against work place violence.*

Explanation

The purpose of the factor identification step is to look at all the factors that may contribute to work place violence in your work place. Once you have done this, you can assess the factors and implement controls before these factors actually generate violence. Employees also have a responsibility to report potential situations or occurrences of WPV that they become aware of, as required by paragraphs 126.(1)(g) and (j) in the *Canada Labour Code*, Part II.

You may already have information on factors that can contribute to WPV. Start the identification process by carefully examining the risks that are known. Paragraphs 20.4 (a) to (f) provide you with the minimum list of items for this purpose. They include current measures you might already have in place for WPV that need to be taken into account. By reviewing current measures, you can effect continuous improvement and ensure new hazards or risks are not created in the work place.

The employees who work there and the location and circumstances in which the work activities take place are what make each work place unique. Factors such as face-to-face interaction with clients, working alone, working in remote locations, dealing with valuables, and working at night will likely increase the risk of WPV.

Common factors that contribute to work place violence include:

- threatening behaviour towards others, including threats made verbally or in writing (e.g., in emails);
- bullying;
- intentional harmful teasing;
- aggressive behaviour in the work place;
- intentional damage of property belonging to others.

Employers can learn from past experiences, such as incidents that may have occurred in similar work places, as well as from employee reports. It is vital to take these experiences into account in implementing proper controls.

STEP 4: Assessment

Section 20.5 of the Regulations

- (1) *The employer shall assess the potential for work place violence, using the factors identified under section 20.4, by taking into account, at a minimum, the following:*
 - (a) *the nature of the work activities;*
 - (b) *the working conditions;*
 - (c) *the design of the work activities and surrounding environment;*
 - (d) *the frequency of situations that present a risk of work place violence;*
 - (e) *the severity of the adverse consequences to the employee exposed to a risk of work place violence;*
 - (f) *the observations and recommendations of the policy committee or, if there is no policy committee, the work place committee or the health and safety representative, and of the employees; and*
 - (g) *the measures that are already in place to prevent and protect against work place violence.*
- (2) *The employer, when consulting with the policy committee or, if there is no policy committee, the work place committee or the health and safety representative, shall not disclose information whose disclosure is prohibited by law or could reasonably be expected to threaten the safety of individuals.*

Explanation

In the identification step you have made an inventory of all the factors that may contribute to the potential for WPV. These factors must be assessed to establish an order of priority. This way, employers can prioritize a work place's prevention measures **without losing sight of the final objective, which is to control all hazards.**

When assessing all the WPV factors, you must consider at least the following:

- **The nature of the work activities**, such as the type of work (handling valuables, including cash; dealing with clients face to face), the make-up of the staff, and the type of client group;
- **Working conditions**, such as working alone or in remote locations or locations/areas under the control of the client, and the neighbourhood or region, in which the work place is situated;
- **The design of the work activities and surrounding environment**, such as characteristics of the work area (noise, stuffiness, uncomfortable temperatures and other conditions that may make someone more irritable) and interpersonal dynamics (being part of the same group for a prolonged period of time; working in close proximity);
- **The frequency of situations that present a risk of work place violence;**
- **The severity of the adverse consequences to the employee exposed to a risk of work place violence;**
- **Observations and recommendations of the policy committee or, if there is no policy committee, the work place committee or the health and safety representative, and of the employees; and**
- **The measures that are already in place to prevent and protect against work place violence.**

It is important to make sure that everyone involved with a WPV situation is aware of privacy issues and the implications of subsection 20.5(2) of Part XX of the *Violence Prevention Regulations*. Affected individuals' identities must not be revealed without their consent. There are also laws that prohibit companies from divulging sensitive information that may endanger the health, safety or security of employees or the public.

STEPS 5a and 5b: Controls

Section 20.6 of the Regulations

- (1) Once an assessment of the potential for work place violence has been carried out under section 20.5, the employer shall develop and implement systematic controls to eliminate or minimize work place violence or a risk of work place violence to the extent reasonably practicable.*
- (2) The controls shall be developed and implemented as soon as practicable, but not later than 90 days after the day on which the risk of work place violence has been assessed.*
- (3) Once controls referred to in subsection (1) are implemented, the employer shall establish procedures for appropriate follow-up maintenance and corrective measures, including measures to promptly respond to unforeseen risks of work place violence.*
- (4) Any controls established to eliminate or minimize work place violence shall not create or increase the risk of work place violence.*

Explanation

Controls are all the practical measures you can take to prevent and protect against WPV. Once you have assessed the risk factors for violence in your work place, the next step is to develop and implement controls. Examples of controls are included in Appendix C.

First, try to eliminate the risk

Of all the possible prevention techniques, eliminating the risk altogether is the most effective. The goal is to remove the risk, condition or activity, and where necessary, replace it with another condition or activity that does not involve the risk.

If you cannot eliminate the risk, reduce it

If you cannot eliminate the risk, you can attempt to reduce it through control techniques that can help limit the severity if work place violence does occur. For example, having a security guard on the premises may decrease the risk of harm to an employee from a client acting aggressively or violently.

If this is not possible, protect yourself

Protection techniques make it possible to counter a WPV occurrence or diminish the scope of potential violence. There are two types of protection: group and individual. Group protection involves blocking potential aggressors or keeping them apart from the employees. For example, you can install access card readers

on doors to prevent unauthorized access to employee areas. Individual protection may involve implementing safe work procedures to safeguard employees working alone.

Follow-up maintenance

Regardless of the controls proposed, follow-up maintenance is mandatory. It will help you to determine whether further corrective action is needed to improve the controls that are already in place. Its main purpose is to prevent failure in the long term of structures, equipment, machinery and tools through routine inspections and the repair of worn parts. For example, planned inspections and maintenance of a security system to prevent unauthorized access are indispensable prevention measures.

Employers should draw up a maintenance schedule, describe the maintenance procedures, record the work completed, verify the progress of work and assess the effectiveness of the items being maintained.

Controls that are risk free

In taking a measure to control a present risk, a current working condition or an existing activity, you will need to make sure that the measure itself is not a source of risk before implementing it. For example, if you install a locked security door to prevent unauthorized access, you need to ensure that it meets the applicable fire protection requirements in case of an emergency.

A prevention measure must not create a new hazard. If a new hazard arises, it must be dealt with as soon as possible. For example, if you close off a customer service area with protective glass, there should be proper ventilation for the employee working in the closed-off area.

STEP 6: Work Place Violence Prevention Measures Review

Section 20.7 of the Regulations

- (1) The employer shall review the effectiveness of the work place violence prevention measures set out in section 20.3 to 20.6 and update them whenever there is a change that compromises the effectiveness of those measures, but at least every three years.*
- (2) The review shall include consideration of the following:*
 - (a) work place conditions and work locations and activities;*
 - (b) work place inspection reports;*
 - (c) the employees' reports and the employer's records of investigations into work place violence or the risk of work place violence;*
 - (d) work place health and safety evaluations;*
 - (e) data on work place violence or the risk of work place violence in the employees' work place or in similar work places;*
 - (f) the observations of the policy committee, or if there is no policy committee, the work place committee or the health and safety representative; and*
 - (g) other relevant information.*
- (3) The employer shall keep, for a period of three years, a written or electronic record of findings following the review of the work place violence prevention measures, and make it readily available for examination by a health and safety officer.*

Explanation

At least once every three years you must review the effectiveness of the work place violence prevention measures and update them when necessary. The review may take place more often if there is a change that compromises the effectiveness of the prevention measures. For example, if a client service counter was installed to act as a barrier but a WPV incident occurs when a client climbs over the counter, the prevention measures need to be reviewed and adjusted accordingly. A document entitled “Violence Prevention Program Review” is provided in Appendix D to assist you in reviewing your WPV prevention measures.

This review includes the study of reports in order to identify new hazards resulting from changes in the work place so that appropriate controls can be implemented to correct them.

Work place inspections can be used to regularly monitor the health and safety of your employees. For a work place inspection to be of value, the inspection should be conducted by those who are trained to recognize potential WPV situations. Inspection of prevention measures ensures they continue to be effective and current. Such inspections include checking that physical controls are in working order and that there are no signs of vandalism such as broken items or compromised barriers. These inspections should be part of routine work place inspection.

3.2 Incidents of Work Place Violence

Unfortunately, even after you have completed the identification and assessment steps and implemented controls, work place violence may still occur due to non-foreseeable factors and the nature of your industry. For example, given the unpredictability and increasing sophistication of criminals, a business dealing with valuables may continue to face risks. If you require assistance, Appendix E includes some “Tips for Preventing and Managing Incidents of Violence.”

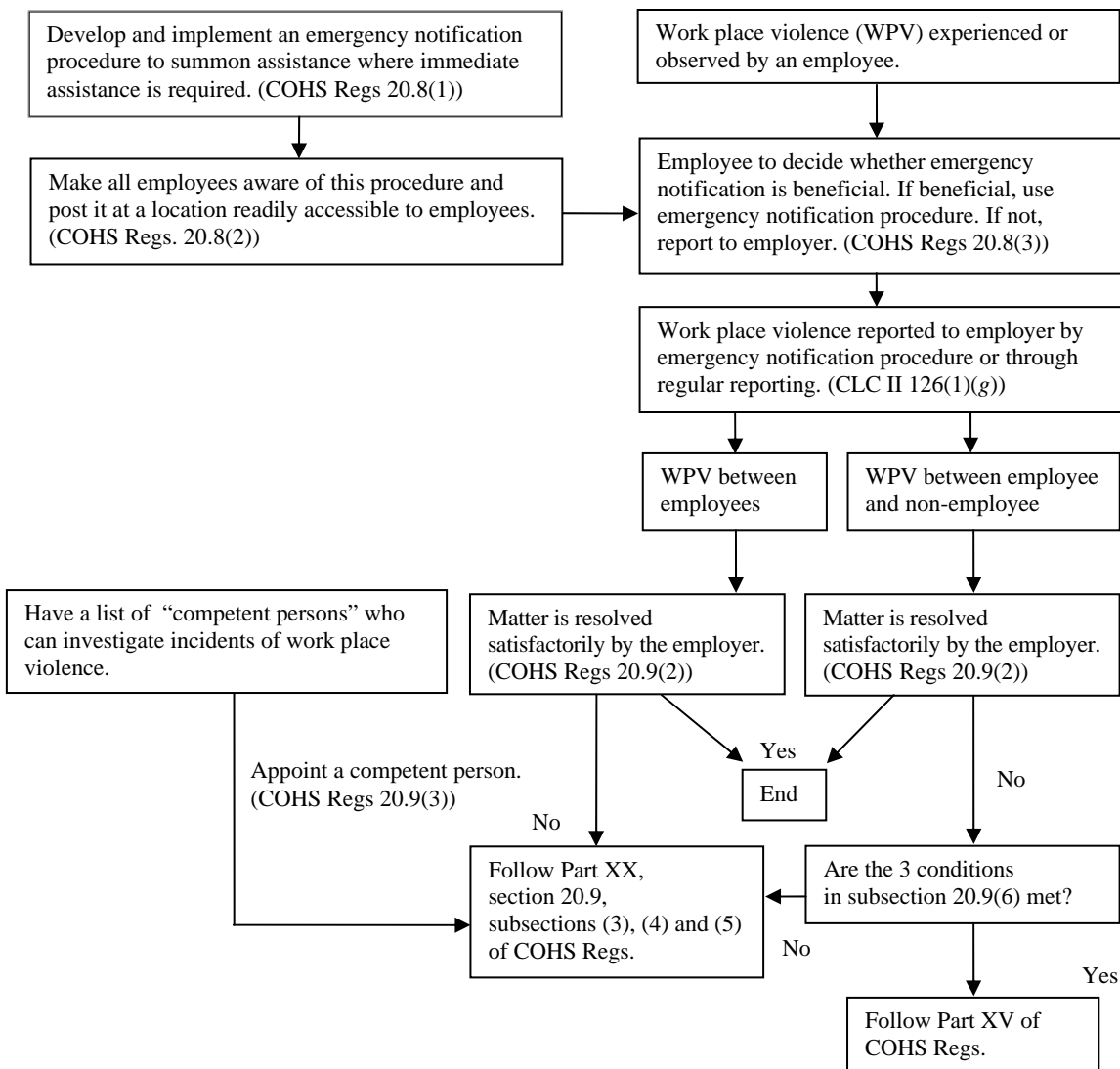
It is critical that procedures are in place so employees know what to do when an incident of work place violence occurs. Sections 20.7 and 20.8 of Part XX of the *Violence Prevention Regulations* outline the requirements. It is important to instruct each employee that they have an obligation under the *Canada Labour Code*, Part II, paragraphs 126(1)(g) and (j), to report any work place violence they are aware of, even though they may not be involved.

With the proper procedures in place, all the employees will have a way to report incidents and those adversely affected will have a method of accessing assistance provided by the employer. There will also be clear steps to take to attempt to resolve incidents with the employees involved, which may include an investigation.

The process followed subsequent to a work place violence incident will depend on a number of things, such as whether it was between two employees or between an employee and a member of the general public, the existing procedures and controls to address WPV, and whether engaging in the violent situation is a normal condition of employment.

The flow chart on the next page outlines the steps for pre-planning and for investigating violence in the work place:

Pre-Planning for and Investigation into Work Place Violence (WPV)



Procedures in Response to Work Place Violence

Section 20.8 of the Regulations

- (1) The employer shall develop in writing and implement emergency notification procedures to summon assistance where immediate assistance is required, in response to work place violence.*
- (2) The employer shall ensure that employees are made aware of the emergency notification procedures applicable to them and that the text of those procedures is posted at a location readily accessible to those employees.*
- (3) In the development and implementation of emergency notification procedures, the employer's decision of whether or not to notify the police shall take into account the nature of the work place violence and the concerns of employees who experienced the work place violence.*
- (4) If the police are investigating a violent occurrence, the work place committee or the health and safety representative shall be notified of their investigation, unless notification is prohibited by law.*
- (5) The employer shall develop and implement measures to assist employees who have experienced work place violence.*

Explanation

This section describes the response to the different types of violence that may occur, with a focus on incidents that may pose an imminent risk to the employee. Employees must be made aware of specific emergency notification procedures to summon assistance under such circumstances, and the procedures must be posted at a location where they can easily find and read them. The written procedures are important for information, for self-protection and to minimize the impact of incidents. They will be used to initiate action without delay for the protection of everyone at the work site.

In deciding whether to notify the police, the employer must consider the nature of the WPV and the concerns of employees who are involved. It is recommended that procedures include a statement that any physical assault in the work place is to be reported to the police. The employer should call the police in case of uncertainty and the police will then decide whether the incident is a matter for them to handle. It is important to note that even if the employees involved do not wish the police to be contacted, it remains the responsibility of the employer to make the final decision regarding police involvement to address the incident. However, if the employees involved request to have the police notified, the employer must do so.

Section 20.9 of the Regulations

- (1) *In this section, “competent person” means a person who:*
 - (a) *is impartial and is seen by the parties to be impartial;*
 - (b) *has knowledge, training and experience in issues relating to work place violence; and*
 - (c) *has knowledge of relevant legislation.*
- (2) *If an employer becomes aware of work place violence or alleged work place violence, the employer shall try to resolve the matter with the employee as soon as possible.*
- (3) *If the matter is unresolved, the employer shall appoint a competent person to investigate the work place violence and provide that person with any relevant information whose disclosure is not prohibited by law and that would not reveal the identity of persons involved without their consent.*
- (4) *The competent person shall investigate the work place violence and at the completion of the investigation provide to the employer a written report with conclusions and recommendations.*
- (5) *The employer shall, on completion of the investigation into the work place violence:*
 - (a) *keep a record of the report from the competent person;*
 - (b) *provide the work place committee or the health and safety representative, as the case may be, with the report of the competent person, providing information whose disclosure is not prohibited by law and that would not reveal the identity of persons involved without their consent; and*
 - (c) *adapt or implement, as the case may be, controls referred to in subsection 20.6(1) to prevent a recurrence of the work place violence.*
- (6) *Subsection (3) to (5) do not apply if:*
 - (a) *the work place violence was caused by a person other than an employee;*
 - (b) *it is reasonable to consider that engaging in the violent situation is a normal condition of employment; and*
 - (c) *the employer has effective procedures and controls in place involving employees to address work place violence.*

Explanation

Whenever the employer becomes aware of an incident of WPV, the employer must try and resolve the situation between the parties involved. However, a formal investigation by a “competent person” must take place if the employer cannot resolve the matter to the satisfaction of the employees involved. This person can be an employee of the same work place or can be from outside the work place. It is important the affected parties accept this person as an impartial investigator.

The competent person must have knowledge, training and experience in issues relating to work place violence, and must have knowledge of “relevant legislation,” which means Part II of the *Canada Labour Code* and the *Canada Occupational Health and Safety Regulations* made pursuant to the Code. They are not expected to have knowledge beyond the scope of the Code.

A work place may choose to have a list or pool of competent persons who are available to provide this service and are acceptable to the employer and employees of that work place as competent persons.

Violence in the work place can occur between employees or between an employee and a non-employee. The challenge is determining whether a person knows or should know that the behaviour would be considered undesirable or inappropriate by the employee against whom it is directed.

Once the employer is aware of an incident of work place violence, the employer must address and try to resolve the issue with the parties involved. This allows people who have a vested interest and are more knowledgeable about the business and its employees to resolve various issues internally.

If the incident cannot be resolved, then a competent person appointed by the employer will conduct an investigation. However, the employer can address the situation without a competent person if **all three** of the following criteria are met:

1. A non-employee, such as a client, caused the work place violence; AND
2. It is reasonable to consider that the possibility of intervening in violent situations is a normal condition of employment; AND
3. The employer has effective procedures and controls in place, involving employees to address work place violence.

An example of a situation where all three criteria may be met is the case of a police officer who is subjected to WPV while trying to apprehend a person who is drunk and disorderly. First, the person is a non-employee. Second, due to the nature of the occupation of the police officer, engaging in violent situations is a normal condition of employment. Third, the employer has effective controls in place that were

developed in consultation with the employees. These controls include safe work procedures for arresting a disorderly person, equipment to subdue the person, and calling for assistance if the level of violence escalates beyond what the officer is capable of handling.

Failure to respect privacy and confidentiality could compromise an investigation, making it less effective. The individuals investigating the incident must not reveal any information whose disclosure is prohibited by law. The employer will provide the work place committee or the health and safety representative, as the case may be, with the report from the competent person revealing only the information whose disclosure is not prohibited by law. For example, if the violent occurrence involved a human rights violation such as sexual harassment, this would not be disclosed. The identity of the persons involved will be revealed to the committee or the health and safety representative only with the consent of those persons involved. Employees, too, should be encouraged to avoid gossiping as it can have a negative impact on the individuals involved and on the investigation.

3.3 Training

Section 20.10 of the Regulations

- (1) The employer shall provide information, instruction and training on the factors that contribute to work place violence that are appropriate to the work place of each employee exposed to work place violence or a risk of work place violence.*
- (2) The employer shall provide information, instruction and training:*
 - (a) before assigning to an employee any new activity for which a risk of work place violence has been identified;*
 - (b) when new information on work place violence becomes available; and*
 - (c) at least every three years.*
- (3) The information, instruction and training shall include the following:*
 - (a) the nature and extent of work place violence and how employees may be exposed to it;*
 - (b) the communication system established by the employer to inform employees about work place violence;*
 - (c) information on what constitutes work place violence and on the means of identifying the factors that contribute to work place violence;*
 - (d) the work place violence prevention measures that have been developed under sections 20.3 to 20.6; and*
 - (e) the employer's procedures for reporting on work place violence or the risk of work place violence.*
- (4) At least once every three years and in either of the following circumstances, the employer shall review and update, if necessary, the information, instruction and training provided:*
 - (a) when there is a change in respect of the risk of work place violence; or*
 - (b) when new information on the risk of work place violence becomes available.*
- (5) The employer shall maintain signed records, in paper or electronic form, on the information, instruction and training provided to each employee for a period of two years after the date on which an employee ceases to perform an activity that has a risk of work place violence associated with it.*

Explanation

This section involves the transfer of knowledge and skills. The employer has to gather all the information on the factors that contribute to WPV that are appropriate to the work place and transfer that information to the employees through guidelines to enhance their knowledge on WPV. If there are any skills that employees must learn to prevent or avoid WPV, they must be trained in these skills.

The employer must provide the information, guidelines and training every three years, and it should include, at a minimum, the contents of the work place violence policy. The employer must monitor for new hazards and their impact on employees, and provide appropriate information, guidelines and training to employees as soon as new information becomes available. Identification of training needs is key in preventing violence in the work place.

Training is essential when striving for a violence-free work place as it raises awareness and educates employees. With increased awareness and knowledge, employees will know what to do if involved in violence in the work place and can contribute to preventing it from occurring. Prevention is especially important, as there are often warning signs leading up to incidents of WPV. If the employees cannot be trained all at once, the priority should go to training for employees who are considered to face a higher risk of work place violence.

A sample employee survey that may be used to obtain basic information on the employees' understanding of the violence prevention program in their work place is provided in Appendix B.

Confirmation of training

Whenever information, guidelines and training is provided, **the employer must acknowledge in writing that it took place, and employees must also acknowledge in writing that they have received it.** In many cases, a simple report such as the one presented on the next page is all that is required.

Training Report

Course title:		Conflict resolution		
Brief course description:		Resolving client complaints and diffusing aggressive conflicts		
No.	Name	Signature	PIN	Department/Section
1	Thomas Fisher		234	Warehouse
2	Kim Hasley		40	Administration
3	Paul Duchesneau		119	Shop
4				
5				
6				
7				
8				
9				
Signature of the person responsible for training: William Brown			Date:	03/04/09
			Date of training:	03/04/09

Work Place Violence (WPV) Prevention Policy Checklist

This checklist is not mandatory; however it may be used as a guide when creating or reviewing your work place violence prevention policy. It is the employer's responsibility to ensure that its WPV prevention policy meets the requirements of Part XX of the *Canada Occupational Health and Safety Regulations*.

Action Required	Completed	Completed by
The purpose of this policy . . . – 20.3(a)		
Definitions: Work Place Violence – 20.3(a)		
Statement of commitment and obligation to provide a safe, healthy and violence-free work place – 20.3(a)		
Statement of commitment to provide resources and attention to the prevention of violence in the work place – 20.3(b)		
Disciplinary action to be taken with those who commit or contribute to work place violence		
Commitment to provide information, guidelines and training to employees on the identified factors that may contribute to work place violence, and on prevention measures – 20.3(b) and 20.3(c)		
Procedure for employees during a work place violence incident – 20.3(d)		
Procedures to investigate and follow up on any reported incidents if they cannot be resolved internally		
Procedures to assist employees who have been exposed to work place violence – 20.3(d)		
Policy is posted in a place accessible to all employees – 20.3		
Policy is reviewed on a regular basis to ensure it is relevant to the work place (date of review is noted) – 20.7		

Generic Work Place Violence Prevention Policy

This sample may be used as a guide when creating your work place violence prevention policy and is derived from several sources including the Canadian Centre for Occupational Health and Safety (CCOHS) and the Law Society of Alberta.

Please note that each employer has an obligation to assess its work place and develop its policy accordingly.

1. Introduction

ABC Company is committed to providing a violence-free work place where any act of violence is unacceptable and will not be tolerated. This policy applies in the “work place” which is defined in the *Canada Labour Code*, Part II to mean “any place where an employee is engaged in work for the employee’s employer.”

Acts of violence may occur as a single incident such as a physical attack or as an event resulting from a series of exposures to factors such as teasing and bullying. All factors that may contribute to violence in the work place that we are made aware of or that are reported will be investigated and any deliberate acts of violence in the work place will be subject to discipline.

2. Purpose

The purpose of this policy is to ensure that:

- Employees and management understand that disciplinary action will be taken with those who commit or contribute to work place violence.
- Those who are subjected to violence in the work place understand there are procedures for recourse and that assistance/counselling is available.
- Employees and management understand that everyone has a responsibility to report any factors that may contribute to violence in the work place and that all incidents of work place violence must be reported.

3. Commitment

ABC Company is committed to:

- Resolving work place violence situations to the best of our ability and, if they cannot be resolved, having a competent person conduct an investigation to arrive at conclusions and recommendations for corrective action.

-
- Using the necessary amount of resources to prevent and to respond to incidents of work place violence.
 - Providing support for employees affected by work place violence.
 - Doing what is reasonably practicable to achieve a violence-free work place.

4. Prohibited conduct

No employee shall subject any other person to work place violence or intentionally use any of the known factors that contribute to violence in the work place.

Prohibited conduct includes, but is not limited to:

- Intentionally causing physical injury to another person.
- Intentionally causing damage to property of another.
- Threatening remarks directed at another person (written or oral).
- Possessing, during work, a dangerous weapon that is prohibited or not provided by the employer.
- Bullying or intentional harmful teasing (written or verbal).
- Displaying or exhibiting extreme anger or hostility.

An employee who subjects another to violence in the work place will be subject to disciplinary action appropriate to the severity of the incident, up to and including dismissal.

5. Management responsibilities

Under this policy managers and supervisors have the following responsibilities:

- To treat individuals at the work place with respect.
- To develop work place arrangements that minimize work place violence.
- Address and resolve incidents involving employees.
- To promote a violence-free work place.
- To ensure that all employees are aware of the policy and that the policy is posted and available.
- To report any incidents of violence in the work place to the employer and, if necessary, to the police.

NOTE: All physical assaults are to be reported to the police.

- When applicable, to ensure the privacy and safety of all parties involved in a work place violence incident.

6. Employee responsibilities

Under this policy employees have the following responsibilities:

- To treat individuals at the work place with respect.
- To report any incidents of work place violence, experienced or observed, to the employer.
- To report any factor not yet identified that may contribute to work place violence.
- To co-operate in the investigation and resolution of matters involving work place violence.

7. Complaint procedure for persons who have experienced work place violence

- Inform the person inflicting the behaviour that it is an unwanted/unwelcome behaviour.

NOTE: A manager, supervisor or employee representative may be asked to assist with this.

- Document all events, including time, date, and names.
- Fill out a complaint form and report the incident to the manager or supervisor.
- Request support/assistance, if required.

Intentional false complaints will not be tolerated and will be subject to progressive discipline.

8. Confidentiality/privacy

Confidentiality/privacy is needed to properly investigate a work place violence incident and to offer proper support to those adversely affected. Any individual who becomes aware of a work place violence incident should not disclose any information to a third party without consulting the complainant/person directly involved. Those with questions or concerns regarding a work place violence incident should contact _____ .

9. Non-retaliation

Employees will not be penalized or disciplined for making a complaint in good faith.

Disciplinary action will be taken against any person who takes any reprisal against a person who reports an incident of work place violence.

10. Investigation

Upon receiving a formal complaint, the employer will decide whether to contact the police or will contact the police if requested by the employee involved. The employer will then address and resolve the complaint between the parties involved. If the matter can be resolved, the employer will assess and implement controls to prevent the WPV from happening again.

The identities of the people involved will not be disclosed without their consent.

If the complaint cannot be resolved internally, the employer will appoint a competent person to investigate the complaint and submit a written report to the employer. The employer can conduct an investigation without using a competent person if these three criteria are met:

- The work place violence was caused by a person other than an employee.
- It is reasonable to consider that the possibility of intervening in violent situations is a normal condition of employment.
- The employer has effective procedures and controls in place to address work place violence, the development of which involved the employees.

Upon receipt of the report, the employer will provide a copy to the health and safety committee (or the health and safety representative) and will implement controls to prevent a recurrence of the work place violence.

11. Disciplinary action

The employer may consider the following factors when deciding on disciplinary action based on a WPV incident:

- The severity of the incident.
- Whether there was intent to injure or harm.
- Events leading up to the incident that indicated the WPV was likely going to occur.
- The prior history of the employee involved in causing the WPV.
- Whether the complaint was made in good faith.

The resulting disciplinary action may include:

- An apology.
- Progressive discipline such as written warning, suspension.
- Training.
- Referral to an assistance program.
- Dismissal.

12. Record keeping

The written or electronic documents related to the findings of the review of the work place violence prevention measures will be kept by the employer for three years and be readily available for examination by a health and safety officer.

The report from an investigation into a work place violence incident conducted by a competent person will be kept by the employer and be readily available for examination by a health and safety officer.

Signed records in paper or electronic form on the information, guidelines and training provided to each employee will be kept for two years after the date the employee ceases to perform an activity that has a risk of work place violence associated with it.

13. Assistance

If requested, the employer will provide assistance for an employee who was involved in a work place violence incident. This assistance may include:

- Employee Assistance Program.
- Counselling.

14. Policy review

To ensure this policy remains current and up to date it will be reviewed and updated at least once every three years. The date of the last review will be indicated in the policy.

The employee survey may be used to obtain basic information on employees' understanding of the violence prevention program in their work place. **The survey is optional, and the responses are to be considered in light of the information and requirements in Part XX of the *Canada Occupational Health and Safety Regulations*.**

Employee Survey

		Yes	No	Not applicable	I don't know
1	My employer has a written violence prevention policy.				
2	My work place has clearly established procedures and expectations for violence prevention.				
3	My work place has the violence prevention policy posted in a place accessible to all employees.				
4	I have received formal training in the area of work place violence.				
5	I know what constitutes work place violence.				
6	I know the factors that can contribute to violence in my work place.				
7	I know the disciplinary action that can be taken against me if I cause a work place violence incident.				
8	I know what to do when I witness or am involved in a work place violence incident.				
9	I am aware of the controls and safety procedures implemented in the work place to protect me from work place violence.				
10	If I am involved in a work place violence incident and I request assistance, it will be provided to me by the employer.				
COMMENTS:					

Examples of Work Place Violence Controls

The following practical suggestions are from the Canadian Centre for Occupational Health and Safety (CCOHS) internet website titled “Violence in the Workplace”.

Workplace design includes factors such as workplace lay-out, use of signs, locks or physical barriers, lighting, and electronic surveillance. Building security is one example where workplace design issues are very important. For example, you should consider:

- Positioning the reception area or sales or service counter so that it is visible to fellow employees or members of the public passing by.
- Positioning office furniture so that the employee is closer to a door or exit than the client and so that the employee cannot be cornered.
- Installing physical barriers, e.g. pass-through windows or bullet-proof enclosures.
- Minimizing the number of entrances to your workplace.
- Using coded cards or keys to control access to the building or certain areas within the building.
- Using adequate exterior lighting around the workplace and near entrances.
- Strategically placing fences to control access to the workplace.

Administrative practices are decisions you make about how you do business. For example, certain administrative practices can reduce the risks involved in handling cash. You should consider:

- Keeping cash register funds to a minimum.
- Using electronic payment systems to reduce the amount of cash available.
- Varying the time of day that you empty or reduce funds in the cash register.
- Installing and using a locked drop safe.
- Arranging for regular cash collection by a licensed security firm.

Work practices include all the things you do while you are doing the job. People who work away from a traditional office setting can adopt many different work practices that will reduce their risk. For example:

- Prepare a daily work plan, so that you and others know where and when you are expected somewhere.
- Identify a designated contact at the office and a back-up.
- Keep your designated contact informed of your location and consistently adhere to the call-in schedule.
- Check the credentials of clients.
- Use the “buddy system”, especially when you feel your personal safety may be threatened.
- **DO NOT** enter any situation or location where you feel threatened or unsafe.

Violence Prevention Program Review

Violence Prevention Policy and Standards	Yes	Date to be completed	Completed by
My work place has a written violence prevention policy developed by management in consultation with and with the participation of the policy committee or, if there is no policy committee, the work place committee or the health and safety representative.			
My work place has clearly established procedures and expectations for violence prevention.			
My work place has posted the violence prevention policy in a place accessible to all employees.			
Risk Assessment	Yes	Date to be completed	Completed by
I have reviewed records and reports (e.g., employee incident reports, work place inspection reports, investigation reports or other related records).			
I have reviewed factors at my work place that may contribute to a risk of violence (e.g., contact with the public, exchange of money, working alone or at night).			
I have asked workers if they have concerns about work practices, public interactions or any other violence-related issues.			
I have researched the history of violence in work places similar to mine.			
I have reviewed my legal responsibilities pursuant to the Violence Prevention Regulations (e.g., privacy issues, when to call the police).			
Controls	Yes	Date to be completed	Completed by
I have reviewed work place design to minimize the risk of violence (e.g., use of signs, locks, physical barriers, lighting and electronic surveillance).			
I have considered improvements such as placing the reception area in view of other workers, improving lighting in the parking lot or using fences to control access to the work place.			
I have reviewed work practices such as keeping cash on hand to a minimum, varying the time of day that the cash register is emptied, checking the credentials of clients or using a “buddy system”.			

Training	Yes	Date to be completed	Completed by
Information, guidelines and training are provided to workers so they are aware of potential violence risks and procedures for controlling them.			
Signed records are kept on the information, guidelines and training provided to each employee.			
Work Place Inspection and Review of Work Place Violence Prevention Measures	Yes	Date to be completed	Completed by
I regularly inspect my work place and look for signs of violence such as broken items or holes in walls.			
I inspect my work place and check that controls (e.g., video surveillance, locks on doors) are functioning properly and do not require any changes.			
I conduct a review of the violence prevention program whenever there is a change in work procedures that compromises the effectiveness of the prevention measures or at least every three years and revise it where needed.			
The written or electronic findings of the review are kept for a period of three years.			

Tips for Preventing and Managing Incidents of Violence

There are steps that you can take to reduce such incidents in your work place. The following practical suggestions are from a guide entitled “Violence in the Workplace” from the Canadian Centre for Occupational Health and Safety (1999).

Dealing with a potentially violent person

1. Tips for verbal communication:

- Focus your attention on the other person to let them know you are interested in what they have to say.
- Do not glare or stare, which may be perceived as a challenge.
- Remain calm and try to calm the other person. Do not allow the other person’s anger to become your anger.
- Remain conscious of how you are delivering your words.
- Speak slowly, quietly and confidently.
- Speak simply.
- Avoid communicating a lot of technical and complicated information when emotions are high.
- Listen carefully. Do not interrupt or offer unsolicited advice or criticism.
- Encourage the person to talk. Do not tell the person to relax or calm down.
- Remain open-minded and objective.
- Use silence as a calming tool.
- Acknowledge the person’s feelings. Indicate that you can see he or she is upset.

2. Tips for non-verbal behaviour and communication:

- Use calm body language – relaxed posture with hands unclenched, attentive expression.
- Arrange yourself so that your exit is not blocked.
- Position yourself at a right angle rather than directly in front of the other person.
- Give the person enough physical space... this varies by culture, but normally 1–2 metres is considered an adequate distance.

-
- Get on the other person's physical level. If they are seated try kneeling or bending over, rather than standing over them. Do not pose a challenging stance.

Such as:

- o standing directly opposite someone;
- o putting your hands on your hips;
- o waving your arms;
- o crossing your arms.
- Do not make sudden movements which can be seen as threatening.
- Do not fight. Walk or run away. Get assistance from security or police.

Responding to a physical attack

If you are attacked:

- Make a scene, yell or scream as loudly as possible. Try shouting words like **STOP** or **HELP**.
- If you are being pulled along or dragged, fall to the ground and roll.
- Blow a whistle, activate your personal security alarm or push the security alarm.
- Give bystanders specific instructions to help you. Single someone out and send them for help. For example, "You in the yellow shirt, call the police."
- If someone grabs your purse, briefcase or other belongings, do not resist;
 - o throw the item on the ground several feet away from the thief and run in the opposite direction, yelling "Stop or help".
- Do not chase a thief.
- Run to the nearest safe place, a safe office or an open store.
- Inform your supervisors or the authorities at your work place.
- If agreed, call the police immediately after the incident.
- File an incident report.

When you are in unfamiliar premises

- Check for escape routes and position yourself near an escape route.
- Take control of the seating arrangements. If possible, seat yourself near the door.

-
- Be well prepared for an appointment. Review the available information about the individual(s) you are meeting.
 - Terminate the appointment in a non-confrontational manner if the individual appears to be:
 - o intoxicated;
 - o under the influence of drugs;
 - o emotionally disturbed and threatening or out of control.

DO NOT allow yourself to be backed into a corner. Leave a clear path to the exit.

DO NOT venture too far into the premises e.g., remain near an exit.

DO NOT turn your back on the person or enter a room first.

Terminating a potentially violent interaction

- Interrupt the conversation firmly but politely.
- Tell the person that you:
 - o do not like the tone of the conversation;
 - o will not accept such treatment;
 - o will end the conversation if necessary.
- If the behaviour persists, end the conversation.
- Tell the person that you will ask them to leave the building, or that you will leave (if working off-site).
- If the person does not agree to leave, remove yourself from the scene and inform your manager or supervisor immediately.
- Advise other staff and have them leave the immediate area.
- Have the manager or supervisor call security or police.
- File an incident report.

HANDOUT #3

Psychological Impact of Workplace Violence

Workplace bullying can cause a whole range of health problems, some manifesting themselves as physical symptoms and others as psychological effects. What follows is by no means an exhaustive list - just some of the most common effects.

- forgetfulness or intermittently functioning memory
- difficulty in learning new information
- poor concentration; indecision
- hypersensitivity; hyper vigilance; hyperawareness
- emotional numbness and lack of enthusiasm of life in general
- sense of isolation; lack of usual social contact
- withdrawal from those you love and trust (self-imposed)
- sense of confusion and bewilderment
- excessive guilt and/or feelings of shame and embarrassment
- an unusual degree of fear, sometimes for no known reason
- feelings of insecurity and/or desperation
- unexplainable (or explainable but uncontrollable) angry outbursts
- sullenness and high levels of constant frustration
- mood swings, including mania and/or depression
- tearfulness; irritability; loss of humour
- obsessiveness; unusual thoughts, such as a need to count things or "tune out" to control anger fear and shame
- inability to take care of yourself or others in your care
- inability to trust others, especially people at work or new people to your environment
- need to "escape" in activities that help you "veg" out and keep you from having to think
- need for "retail therapy" or "comfort" spending
- flashbacks and replays (sometimes part of Complex Post Traumatic Stress Disorder symptoms)
- new phobias
- shattered self-confidence and self-esteem, low self-image, loss of self-worth and self-love
- stress; anxiety; panic attacks; thoughts of suicide

Physical Impact of Workplace Violence

Workplace bullying can cause a whole range of health problems, some manifesting themselves as physical symptoms and others as psychological effects. What follows is by no means an exhaustive list - just some of the most common symptoms.

- sleeplessness and fatigue (including Chronic Fatigue Syndrome and insomnia)
- sleep disturbances (such as sleeping by day and/or an inability to sleep or waking up at night)
- intense desire to sleep doing routine tasks (such as driving along familiar routes)
- occasional bursts of energy, followed by exhaustion and sometimes pain
- back pain; unexplainable joint/muscle pain
- chest pains, angina, and/or high blood pressure
- headaches and migraines
- excessive sweating
- palpitations and trembling
- disturbance of balance
- unusual clumsiness (such as an inability to grasp small objects, separate sheets of paper or tendency to drop cups, etc.)
- physical numbness (especially in toes, fingers, and lips)
- hormonal problems (disturbed menstrual cycle, dysmenorrhoea, loss of libido, impotence)
- irritable bowel syndrome
- thyroid problems and/or inability to control body temperature
- skin irritations, rashes and skin disorders (e.g.: athlete's foot, eczema, psoriasis, shingles, internal and external ulcers, etc)
- scratching; tics
- weight loss or gain - a change - of appetite
- excessive or abnormal thirst
- development of new allergies
- reduced immunity to infection leading to frequent colds, coughs, flu etc.

- sense imbalances or altering of senses (such as in sight loss, hearing sensitivities, touch, smell, taste and appetite sensitivities)
- eye problems, such as new prescriptions needed "virtually overnight"
 - dislike of loud noises and bright lights
- ringing in the ears
- intense dislike of high pitched sounds of fluorescent lights at malls, etc.
- reactive vomiting before, during or after meetings (or at the site of a "triggering" incident, person, place or thing or from just the thought of going to certain locations)
- excessive need to bite or teeth grinding
- increased reliance on drugs such as caffeine, nicotine, alcohol, sleeping pills

NOTES:

Exercise - Duties and Powers

Read each one of the following duties/powers carefully. They can be found in **sections 134.1 and 135** of the Canada Labour Code.

Identify which committee is assigned these duties and powers by indicating beside each one, the following:

- P** - Policy Committee
 - W** - Workplace Committee
 - B** - Both
-

1. Participates in the development of health and safety policies and programs.
2. Participates in inquiries, investigations, studies and inspections pertaining to occupational health and safety.
3. Considers and expeditiously disposes of complaints relating to the health and safety of the employees.
4. Considers and expeditiously disposes of matters concerning health and safety raised by members of the committee or referred to it by a workplace committee or health and safety representative.
5. Cooperates with the Minister of Labour (Delegated authority to the Health and Safety Officers).

6. Ensures that adequate records are maintained on work accidents, injuries and health hazards related to the health and safety of employees and regularly monitor data relating to those accidents, injuries and hazards.

7. Participates in the implementation of changes that may affect occupational health and safety, including work processes and procedures.

8. May request from an employer any information that the committee considers necessary to identify existing or potential hazards with respect to materials, processes, equipment or activities.

9. Shall have full access to all government and employer reports, studies and tests relating to the health and safety of the employees in the workplace, or to the parts of those reports, studies and tests that relate to the health and safety of employees, but shall not have access to the medical records of any person except with the person's consent.

10. Inspects each month all or part of the workplace, so that every part of the workplace is inspected at least once each year.

11. Participates in the development and monitoring of a program for prevention of hazards in the workplace, that also provides for the education of employees in health and safety matters.

Answer Sheet - Duties and Powers:

- P** - Policy Committee
W - Workplace Committee
B - Both
-

1. Participates in the development of health and safety policies and programs.

P - Section 134.1(4)(a)

2. Participates in inquiries, investigations, studies and inspections pertaining to occupational health and safety.

B - Sections 134.1(4)(d) & 135.(7)(e)

3. Considers and expeditiously disposes of complaints relating to the health and safety of the employees.

W - Section 135.(7)(a)

4. Considers and expeditiously disposes of matters concerning health and safety raised by members of the committee or referred to it by a workplace committee or health and safety representative.

P - Section 134.1(4)(b)

5. Cooperates with the Minister of Labour (Delegated authority to the Health and Safety Officers).

B - Sections 134.1(4)(f) & 135.(7)(g)

6. Ensures that adequate records are maintained on work accidents, injuries and health hazards related to the health and safety of employees and regularly monitor data relating to those accidents, injuries and hazards.

W - Section 135.(7)(g)

7. Participates in the implementation of changes that may affect occupational health and safety, including work processes and procedures.

B - Sections 134.1(4)(h) & 135.(7)(i)

8. May request from an employer any information that the committee considers necessary to identify existing or potential hazards with respect to materials, processes, equipment or activities.

B - Sections 134.1(5) & 135.(8)

9. Shall have full access to all government and employer reports, studies and tests relating to the health and safety of the employees in the workplace, or to the parts of those reports, studies and tests that relate to the health and safety of employees, but shall not have access to the medical records of any person except with the person's consent.

B - Sections 134.1(6) & 135.(9)

10. Inspects each month all or part of the workplace, so that every part of the workplace is inspected at least once each year.

W - Section 135.(7)(k)

11. Participates in the development and monitoring of a program for prevention of hazards in the workplace, that also provides for the education of employees in health and safety matters

P - 134.1(4)(c)

* also note provision in section 135.(7)(d) for Workplace Committee - where no Policy Committee exists.

Some background information about

Layered workplace mapping

Layered workplace maps integrate how people look at their workplace. Developed to better "see" occupational health and safety issues, it became clear that they can be used for any topic about which workers need to organise in their workplace and/or community.

Technically, the tool builds on two types of workplace maps and the methods used in geographic information systems to layer information categories.

"Risk mapping" was first used during the 1960s "Italian Workers' Movement". The Italians used homogenous groups of workers, collective questionnaires about health hazards and their effects, and the phrase "our health is not for sale", to emphasise that workers cannot delegate decisions about their health to anyone.

Since then, it has been adapted by workers, unions, and those working with them, in Latin America, Africa and North America.

"Risk maps" are maps of a workplace on which people mark where hazards appear or where workers can be or exposed to hazards. ("Exposure" means the substance is able to get in your body; a hazard simply "being there" is not the same thing.)

But the maps tend to be static and two-dimensional. They also leave out important information about the people who face the

hazards and the social relations that are so important in understanding how their work is organised and what stressors that brings.

Social relations are harder to "see". Sociometry is one "mapping" tool that helps make them visible. (Joseph Moreno is the "father" of this sociological approach about how people do and should relate to each other. He advocated using psycho- and socio-drama to figure out solutions to problems that emerged. Socio-drama is similar to Augusto Boal's popular/forum theatre.)

As a TDU (Teamsters for a Democratic Union) organiser in the 1980s, Rick Smith used this approach to do "social maps" that make organising easier. His maps are particularly useful to identify workplace leaders friendly to the union and individuals who are union-friendly or not. In his current work as an SEIU organiser in Florida, he has refined the method to include secondary networks of leaders who are key to workers' decision-making.

Layered workplace maps integrate social, demographic information and health and safety issues. The layers add information in a way that better describes the complexity of a workplace. Once something is visible, it's hard to ignore the issue or situation. People talk about "seeing the workplace with new eyes".

SEEKING GOVERNMENT ENFORCEMENT VIOLENCE PREVENTION IN THE WORKPLACE REGULATIONS CANADA LABOUR CODE - PART II

Legislative authority

The main purpose of the Canada Labour Code, Part II is to prevent accidents and injury. This legislation is the minimum standard of protection awarded to all federal jurisdiction workers. Knowledge and understanding of worker rights are key to fully exercising them.

The most important tool for exercising worker rights is the Policy and Workplace Health and Safety Committees. Union involvement on these committees has a direct impact on the health and safety of all workers.

The specific duties of the employer are very significant and are not restricted to workplaces controlled by the employer. They also apply to every work activity carried out by a worker in a workplace that is not controlled by the employer, to the extent that the employer controls the activity. Activities performed outside of the workplace and third party premises are also covered.

Section 125(1) states:

(...) Every employer shall, in respect of every work place controlled by the employer and, in respect of every work activity carried out by an employee in a work place that is not controlled by the employer, to the extent that the employer controls the activity

Of special interest is section 125(1)(z.16) that call for a violence prevention program.

Section 125(1)(z.16) states:

(Every employer shall) take the prescribed steps to prevent and protect against violence in the work place.

Regulatory Requirements

Regulations actually specify the legal requirements imposed by section 125(1)(z.16). The Violence Prevention in the Work Place (Part XX) of the Canada Occupational Health and Safety (COHS) Regulations establishes a process for workplace parties in dealing with violence in the workplace hazards before an injury or illness occurs. The regulations also addresses specific training needs for all workers.

The purpose of these Violence Prevention Regulations is to ensure that employers take measures to prevent or minimize the occurrence of violence in the workplace

and to ensure that employees are protected against workplace violence and that they have a recourse and can find assistance if they happen to be exposed to it.

Under Part XX of the Regulations, employers are responsible for:

- developing a policy;
- identifying contributing factors;
- assessing those factors;
- choosing controls and prevention measures;
- responding to occurrences;
- ensuring employee education and training

Participation of the Policy and Workplace Committees (Sections 134.1(4) and 135(7))

In a healthy and safe workplace, the employer works in cooperation with worker representatives to effectively address workplace hazards. This cooperation is the foundation of the internal responsibility system and is what Part II of the Canada Labour Code and the Canada Occupational Health and Safety Regulations are based on.

This means that the employer must consult and involve the policy committee (or, if there is no policy committee, the work place committee or the health and safety representative) at each stage of workplace violence prevention.

In striving for a violence-free workplace, the members of the policy committee or health and safety committee or the representative should know what constitutes workplace violence as well as the factors that may contribute to it. With this knowledge they will be more effective in taking part in the different steps towards the prevention of violence in the workplace such as the development of policy, procedures, and controls. They will also be able to provide meaningful assistance during workplace inspections, from which the information gathered will be considered during the various stages of violence prevention.

To effectively manage the different steps towards prevention and protection against violence in the workplace, it is necessary that the committee members who participate in the process be given the training that will enable them to carry out their responsibilities proficiently.

The committee members need to:

- understand what constitutes workplace violence;
- be able to identify the factors that may contribute to violence in the workplace in order to participate in workplace inspections and similar tasks;
- understand the issues of privacy and confidentiality related to the prevention of violence in the workplace.

Once members of the committee have been trained in prevention of workplace violence, the employer may then choose to deliver the general worker training on workplace violence prevention as required under section 20.10 of the Regulations in collaboration with the committee members.

Seeking Enforcement

Employment and Social Development Canada (ESDC), through its Labour Program are responsible for the enforcement of the Canada Labour Code, Part II and all its Regulations. It is important to note that the workplace parties must first attempt to resolve the complaint through the internal complaint resolution process set out in the Code (section 127.1). A complaint cannot be handled if this internal resolution process has not been followed.

Employment and Social Development Canada can be reached using the toll-free number: **1-800-641-4049**. You can also check the ESDC-Labour Web Site to find an ESDC regional office.

- Not having a Workplace Violence Prevention Policy in your workplace is a contravention
- Not having procedures to adequately respond to workplace violence in your workplace is a contravention
- Not providing health and safety training to health and safety committee members is also a contravention
- Not providing health and safety training to employees is also a contravention
- Not keeping adequate records of any health and safety education provided to employees is also a contravention
- Not providing the committee with a copy of the employer's Workplace Violence Prevention Measures Review evaluating the program's effectiveness is also a contravention

Under section 126(1)(j) of the Canada Labour Code Part II, every worker must report to the employer any situation that he/she believes to be a contravention of Part II of the Code by the employer, another worker or any other person.

Section 126(1)(g) further requires that every worker must report to the employer any thing or circumstance in a work place that is likely to be hazardous to the health or safety of the employee, or that of the other employees or other persons granted access to the work place by the employer;

The employee's right to complain is limited only by the need to have "reasonable grounds" for the belief.

The employer is required to respond to these reports as mandated in section 125(1)(z.02) of the Code. Worker complaints must be responded to and, more importantly, acted upon.

An internal complaint resolution process is established in section 127.1. This internal occupational health and safety complaint resolution process has to be used before other recourses available under Part II of the Code, except for the right to refuse dangerous work and the right of pregnant or nursing workers to temporarily withdraw from dangerous work. The process will include the following main steps:

The Internal Complaint Resolution Process

Step 1 - Complaint to supervisor

A worker who believes on reasonable grounds that there has been a contravention to the Code or that there is likely to be an accident or injury to health makes a complaint to the supervisor (section 127.1(1));

Step 2 - Resolve complaint

The worker and the supervisor must attempt to resolve the complaint between themselves as soon as possible (section 127.1(2));

Step 3 - Investigation of complaint

Referral of an unresolved complaint on the initiative of either of them to a chairperson of the workplace committee to be investigated jointly (section 127.1(3));

Step 4 - Notice

The persons who investigate the complaint must inform the worker and the employer in writing of the results of the investigation (section 127.1(4));

Step 5 - Recommendations

The persons who investigate the complaint may make recommendations to the employer with respect to the situation that gave rise to the complaint, whether or not they conclude that the complaint is justified (section 127.1(5));

Step 6 - Employer's duty

If the complaint is found to be justified, the employer must in writing and without delay inform the persons who investigated of how and when it will resolve the matter and must take appropriate action (section 127.1(6));

Step 7 Referral to the Minister

The worker or employer may refer a complaint to the Minister in the following circumstances (section 127.1(8)):

(a) the employer does not agree with the results of the investigation;

- (b) the employer has failed to take action to resolve the matter or to inform the persons who investigated the complaint of how and when it intends to proceed;
- or
- (c) the persons who investigated the complaint do not agree as to whether the complaint is justified.

Step 8 - Investigation

The Minister must investigate the complaint (section 127.1(9));

Step 9 – Duty and Power of Minister

After the investigation, the Minister (section 127.1(10)):

- (a) can issue directions to an employer or worker;
- (b) can recommend that the employer and worker resolve the matter between themselves; or
- (c) if the Minister concludes that a danger exists, he/she must issue directions.

Any failure in following this process by an employer is also a contravention. If the employer fails to initiate this process, the Minister must be called immediately asked to intervene immediately.

To ensure better communications, there is also a requirement on the Minister to provide the employer and the workplace committee with a copy of the report within ten days after completing a written report on the findings of an inquiry or investigation (section 141(6)).

National Joint Council Agreements – Health and Safety

The NJC Occupational Health and Safety Directive contain enhancements to the Canada Labour Code Part II. The Code and its pursuant applicable regulations (version in force on April 1, 2008) are incorporated in the Directive to ensure that we do not lose any rights incorporated in legislation should the Government of Canada decide to eliminate specific legal requirements in the future. In other words, if the law is significantly amended as to reduce the legal protection to all workers in the federal jurisdiction, we would still be able to retain our rights with our present inclusion of the Code and all its Regulations within our NJC Collective Agreement.

NJC Grievance Procedure

The NJC grievance procedure can be used to file a grievance for any collective agreement language that provides additional protection to the Canada Labour Code, Part II. It cannot be used if any alternative administrative procedure for redress is available under the Code.

There exists a fundamental problem with an adjudicator's jurisdiction to hear a grievance where there is an "administrative procedure for redress". Subsection 208(2) of the Public Service Labour Relations Act says:

“An employee may not present an individual grievance in respect of which an administrative procedure for redress is provided under any Act of Parliament, other than the Canadian Human Rights Act.”

It has been decided by the Board that - where such a procedure exists - the Board has no jurisdiction and, indeed, you can't even file the grievance in the first place.

This applies even where there is a hook in our collective agreement (i.e. an NJC Directive incorporated the Canada Labour Code into our collective agreement).

The NJC OHS Directives should be read in concert with the appropriate sections of the Canada Labour Code, Part II, and the Regulations.

The CLC, Part II is the most appropriate mechanism for addressing the health and safety concerns of employees and it also provides the most effective way to ensure early resolution of such matters. Health and safety committees and representatives, in particular, ensure that health and safety concerns are addressed in the workplace.

Denis St-Jean
National Health and Safety Officer
June 4, 2015

Violence/Bullying Prevention in the Workplace Exercises

Office bullying?

Jane and Marc have worked together as colleagues for several years in the same office at Environment Canada in Gatineau. Both employees have always been very competitive as both of them hoped to replace their boss eventually. When the office supervisor left in 2014, both of them applied for her job since they felt they knew the job well. In the end, it was Jane who became the new office manager, which created some resentment from Marc.

After a few weeks, Marc advised Jane that he would start looking elsewhere for another job as he was seeking a promotion.

At the next Monday morning staff meeting, Jane made a humiliating comment to Marc in front of other staff. A couple of days later Marc was told by another staff member that Jane had said that Marc wanted to leave because he could not work under a woman's supervision.

Marc did not raise this with Jane but he did notice a pattern of behaviour from Jane towards him that included the loss of certain duties, not answering his requests for training and withholding necessary information which was required for his job.

Marc decides to take some time off on sick leave.

In your groups:

1. What should happen now?
2. Should an investigation take place?
3. If an investigation takes place who should investigate?
4. How should this person be selected?
5. What advice and assistance should you offer to the affected member?
6. What should be the role of the workplace Health and Safety Committee upon the conclusion of the investigation?

Violence at the Counter?

Shelina has worked at the passport office in Vancouver for the last five years.

The work is routine but she likes to work with the public. She has noticed, over the last two years, an increase in negative incidents with the public, mostly because of cutbacks which have drastically increased the waiting time for people in line as well as the time it takes to deliver passports. Over the last months, her colleagues have been insulted on a regular basis from impatient clients.

Last Monday afternoon, Shelina was serving a client who did not have all the necessary documentation to renew his passport. She advised him that he would need to return with the missing document at which time he took his old passport and threw it in her face and made a racist comment. He then left the passport office.

Shelina was shocked by this aggressive behaviour.

In your groups:

1. What should happen now?
2. Should an investigation take place?
3. If an investigation takes place who should investigate?
4. How should this person be selected?
5. What advice and assistance should you offer to the affected member?
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Marc decides to take some time off on sick leave.

In your groups: (suggested answers)

1. What should happen now?

- A complaint should be filed under regulation XX of the Canada Labour Code as well as a grievance and complaint to the employer under his policy

2. Should an investigation take place? Yes

3. If an investigation takes place who should investigate?

- A competent person:

20.9 (1) In this section, “*competent person*” means a person who

- (a) is impartial and is seen by the parties to be impartial;
- (b) has knowledge, training and experience in issues relating to work place violence; and
- (c) has knowledge of relevant legislation

4. How should this person be selected?

- Should be acceptable to both parties, should be impartial
- There should be a list of names already created.

5. What advice and assistance should you offer to the affected member?

- Help member with registering XX complaint
- Health and Safety Committee should be involved
- Help with worker’s compensation claim

6. What should be the role of the workplace Health and Safety Committee upon the conclusion of the investigation?

- Ensure application of recommendations of competent person’s report.

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In your groups: (same answers as previous scenario)

1. What should happen now?

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5. What advice and assistance should you offer to the affected member?

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- Health and Safety Committee should be involved
- Help with worker’s compensation claim

6. What should be the role of the workplace Health and Safety Committee upon the conclusion of the investigation?

- Employer needs a policy to prevent these incidents (zero tolerance on violence, including racists comments)
- Needs to communicate policy to public

- Employees need a mechanism when confronted by actions or comments
- Committee will investigate to see what preventive measures employer had in place to prevent and report incidents (so Committee can make recommendations on existing and new control measures)