

20 Years Later: A Look Back at the Westray Mining Tragedy



Fatal safety incidents happen too often. Most don't even make the news or do so in a merely trivial way. But sometimes a safety tragedy raises public awareness and changes the landscape of workplace safety. The Christmas Eve scaffolding collapse in Ontario that drove the ongoing Ontario OHS reform movement is a recent example. The Westray mining disaster in Nova Scotia is an older example. May 9th marks the 20th anniversary of Westray. Here's a look back at this tragedy and its impact on workplace safety across Canada.

THE CASE

The Incident: On May 9, 1992 at 5:20 am, methane gas and then coal dust exploded in a Nova Scotia coal mine, killing 26 workers. For several days, mine rescuers searched for survivors in extremely dangerous conditions. After they discovered the bodies of 15 miners, the search and rescue mission was changed to a search and recovery operation. But when underground conditions worsened, they were forced to abandon recovery efforts, entombing the bodies of 11 miners deep in the mine.

The Investigation: The Nova Scotia government conducted a Royal Commission of Inquiry into the Westray disaster and the related safety issues. The Commission found that the explosions were caused by sparks struck by the cutting bits of the continuous miner working in one section of the mine. But the Commission noted that the conditions at Westray were of greater significance to what happened than was the source of ignition. It concluded that had there been adequate ventilation, treatment of coal dust and training as well as "an appreciation by management for a safety ethic, those sparks would have faded harmlessly." The inquiry's 1998 report included numerous recommendations on, among other things, training, the role of the mine's JHSC, incentive programs, ventilation, dealing with methane and coal dust, and mine rescue procedures.

The Charges: The mining company was charged with 52 OHS violations, 34 of which were later dismissed by the court. In 1993, prosecutors dismissed the remaining safety charges out of concern that they might jeopardize future criminal charges. In fact, two of the mine's managers were charged with 26 accounts of

manslaughter and criminal negligence causing death. But almost four years after the disaster, these charges were stayed by the trial judge because prosecutors had deliberately failed to disclose key evidence to the defence. The Nova Scotia Court of Appeal ordered a new trial, which was upheld by the Supreme Court of Canada. However, prosecutors dropped the charges, claiming there wasn't enough evidence to secure convictions.

The Aftermath: Because of the failure to successfully prosecute the mine's owners and managers and in light of the Commission's recommendations, the government passed Bill C-45, which amended the *Canadian Criminal Code* to make it easier to hold companies and corporate managers and directors liable for criminal negligence for failing to protect a person doing work if this failure was the result of wanton or reckless disregard for life or safety and caused death or serious bodily harm to the worker or a person affected by the work.

ANALYSIS

Frédéric Le Play, a French sociologist and inspector general of mines of France, once said, "The most important thing to come out of a mine is the miner." It would be great if all mining companies shared this perspective but that's not the case. There have been other mining tragedies in Canada since Westray, although none have had as many victims. But incidents in mines elsewhere have been as bad—or worse. For example, in China, 172 miners died in a coal mine flood in 2007 and a mine blast killed 214 miners in 2005. And in the US, an explosion in a West Virginia coal mine killed 29 workers in 2010.

We recently asked if you thought the Westray tragedy had a positive impact on workplace safety in Canada:

- 39% said yes, it had a long-term impact
- 30% said yes, but it had only a short-term impact
- 15% said they weren't sure
- 10% didn't believe it had any impact outside of Nova Scotia
- 6% said it had no impact at all.

Arguably, mining in Canada has gotten safer since Westray. For example, the BC mining industry hasn't experienced a mine operations fatality since Sept. 2009, the longest period of time without fatalities since 1898.

Are these improvements tied to changes made in mining since Westray? It's unclear. But what is clear is that improvements in workplace safety shouldn't be driven by horrible tragedies. Companies must be proactive and take steps to prevent disasters like Westray from ever occurring. And safety professionals should be leading the way.