

Brief Your JHSC on What Safety Culture Is & Why You Need It



The JHSC plays a key role in promoting a positive workplace safety culture.

Could this have happened to us'

A worker in Ontario uses a chainsaw to cut down a tree. Because the felling procedures are so lax, the crew loses control of the tree, which falls into an energized power line causing it to come crashing down on a worker. The victim suffers severe burns, along with the amputation of both legs, one arm and a finger. The company and its owner plead guilty to OHS charges and get fined \$331,000. The worker is also charged but blames the incident on the company. The court agrees that the company's lack of 'a safe workplace culture' was a key cause but still holds the worker responsible for contributing to the incident. **Result:** The worker is sentenced to 18 months' probation [*R. v. Campbell*, [2004] O.J. No. 129, Jan. 15, 2004; Sentencing: [2004] O.J. No. 1144, March 12, 2004].

What's At Stake

Why should you care about a case in which a worker was convicted of a safety offence' The answer is simple: The case illustrates the legal impact of something over which you and

your fellow JHSC members have influence, namely, the company's 'safety culture.' The term 'safety culture' gets tossed around a lot but doesn't have anything like a precise definition. Even so, the concept is extremely important for managing injury and liability risks.

How Safety Culture Affects OHS Liability

It might surprise you to know that OHS laws don't expressly require companies to establish a safety culture; in fact, they don't even use the term 'safety culture.' But creating the right safety culture is an implied duty. As the *Campbell* court illustrates, courts are aware of the importance of safety culture in promoting a safe workplace and consider the absence or presence of a safety culture a factor in deciding whether to hold a company liable for a safety offence. The company in *Campbell* was probably wise to plead guilty; if it hadn't, it would almost certainly have been convicted of an OHS offence because of its failure to establish a 'safe working culture.'

The opposite of a safe working culture is what's sometimes called a 'culture of discretion' where it's generally understood that the safety rules are there for show and won't be enforced. Example: A different Ontario court held a company responsible for a miner's fatal fall even though the miner had deliberately failed to tie off his fall arrest equipment in violation of company policy. The company knew that workers weren't tying off and did nothing about it. Promoting a 'culture of discretion' made the company guilty of an OHS violation, the court ruled [*R. v. Moran Mining & Tunnelling*, [2004] O.J. No. 5592].

What Exactly Is a Safety Culture'

A safety culture is first and foremost a mindset, a set of

shared values among all the people at a company. It's a way of looking at the workplace and making management of its safety a priority. Experience and research studies show, you can when a strong safety culture exists because it means that everyone at every level of the company places enduring value and a priority on safety and:

- Is committed to personal responsibility for safety;
- Acts to preserve, enhance and communicate safety concerns;
- Strives to actively learn, adapt and modify their behaviour based on lessons learned from safety errors and incidents; and
- Is rewarded in a manner consistent with these values.

Role of the JHSC in Establishing a Workplace Safety Culture

Developing a proper safety culture starts at the top. As the court in *Campbell* said, 'the employer has primary control over the workplace culture,' and is expected to use that control 'to create a safe workplace environment.' But while you need upper management commitment, support and buy-in, you should never underestimate the role you and your fellow JHSC members make in your company's safety culture. Even though you may lack the authority to create OHS policies, procedures and protocols and select actual controls, your recommendations can be vital to the critical safety decisions that management must make.

Where an active safety culture exists, the JHSC is recognized as the bridge between not only workers and management but also workers and company safety culture. Because you represent the workers, you can command firsthand knowledge of the hazards the workplace contains, the effectiveness'or lack thereof'of the measures being taken to address them and the improvements that can be made to ensure everybody goes home healthy and in

one piece after their shifts end. Because you also represent management, you can express your views and knowledge directly to the decision makers and hear their perspective on the challenges. If the dialog is open and people are willing and capable of working together, you can actually solve challenges in a way that makes sense for your company and its resources.

Specifically, the role of the JHSC is not simply to recommend solutions but to make sure:

- Workers are made aware of the controls in place to safeguard their health and safety;
- Workers are properly trained in how to implement these controls effectively;
- Controls are actually being implemented;
- Safety policies are actually enforced including, where necessary, via the imposition of discipline against those who commit dangerous infractions; and
- Workers understand that they'll be held accountable for compliance with OHS rules, including in the form of positive feedback like rewards and recognition for safe behaviour.