

OHS PROGRAM: 8 Workplace Violence Dos & Don'ts



It wasn't that long ago that the OHS laws focused only on 'traditional' safety hazards, such as dangerous chemicals, pinchpoints in machinery, falls from heights, etc. But the scope of these laws has expanded to include threats that weren't traditionally considered safety hazards, most notably workplace violence. Now, employers across Canada are expected to take reasonable steps to protect workers from violence on the job. So here are eight dos and don'ts to help you comply with workplace violence requirements under the OHS laws and adequately protect your workers.

WORKPLACE VIOLENCE 101

Canadian jurisdictions take two basic approaches to workplace violence under the OHS laws:

Specific duty. The OHS laws of most Canadian jurisdictions now impose a specific duty on employers to take steps to address workplace violence. In some jurisdictions, these requirements apply to all workplaces, while, in others, they apply only to employers in certain high-risk industries, such as schools, healthcare facilities, banks, retail stores and correctional facilities. Note that Qu bec's workplace violence requirements aren't contained in its OHS law but in the *Labour Standards Act*, which requires employers to prevent 'workplace psychological harassment,' defined as including unwanted conduct, verbal comments, actions or gestures that affect a worker's 'physical integrity.'

Implied duty. Although the remaining jurisdictions don't specifically address workplace violence in their OHS laws, the OHS statute in each has a general duty clause that requires employers to provide a reasonably safe workplace and protect workers from foreseeable hazards that can cause serious injury or death. And this general duty most likely requires employers to protect their workers from workplace violence. In fact, some jurisdictions have suggested as much. For example, New Brunswick's OHS laws don't include specific workplace violence requirements. But a [young worker orientation checklist](#) from SafeWorkNB recommends that such an orientation cover the measures to reduce the risk of violence in the workplace and procedures for dealing with violent situations.

8 DOS & DON'TS

Here are eight examples of things you should'and shouldn't'do when it comes to violence in your workplace and involving your workers.

[learn_more caption="û Assess Workplace for the Risk of Violence"]

Workplace violence should be treated just like any other safety hazard. That is, you should assess the workplace for the risk of violence and then implement appropriate safety measures depending on the results of your assessment. To assess your workplace for the potential for workplace violence, consider the following factors:

- The nature of the work activities;
- The working conditions;
- The design of the work activities and surrounding environment;
- The frequency of situations that present a risk of workplace violence;
- Prior incidents involving workplace violence;
- The severity of the adverse consequences to the worker exposed to a risk of workplace violence;
- The observations and recommendations of the JHSC and the workers; and
- The measures that are already in place to prevent and protect against workplace violence.

The results of your assessment will determine the nature and extent of the safety measures you should implement to eliminate or at least minimize the risk of violence. Some workplaces are more vulnerable to violence and so may need to implement more rigorous protections. For example, workplaces that may have a high risk of violence include those that handle valuables, money or drugs or which involve regular contact with the public. But regardless of the results of your assessment, all workplaces face *some* risk of violence simply because they're inhabited by human beings who may violently snap or lash out at any moment. So *all* workplaces should have, at a minimum, a policy on workplace violence.[/learn_more]

[learn_more caption="X Don't Focus Solely on Violence Within the Workplace"]

Workplace violence can occur not only within the confines of the workplace but also outside of your facilities. For example, two workers could get into a fistfight at a company softball game or a worker could get punched by someone while attending an off-site business conference or at a client's office. So ensure that your workplace violence policy specifies that any actions covered by your definition of 'workplace violence' (discussed more below) are barred whether they occur on company property, in company facilities, off-site (such as at meetings or conferences) or at workers' homes if the actions may impact the workplace (such as if they involve two workers).[/learn_more]

[learn_more caption="û Define Violence Broadly"]

In your policies, you should define 'workplace violence' broadly. Why? The jurisdictions that specifically address workplace violence in their OHS laws generally define it broadly to include not only physical actions, such as punches and kicks, but also verbal threats of violence. For example, federal OHS regulations define 'workplace violence' as 'any action, conduct, threat or gesture of a person towards an employee in his/her workplace that can reasonably be expected to cause harm, injury or illness to that employee.' You can also define 'workplace violence' to include so-called 'bullying,' which often

includes physical intimidation without actual physical contact, such as getting into someone's face or looming over an individual.

An example of a very broad definition of 'workplace violence' that includes bullying is actual, threatened or attempted conduct intended or likely to cause injury to, harass, threaten, intimidate, bully or otherwise harm another person, including, but not limited to:

- Engaging in physically abusive or aggressive behaviour, such as pushing, shoving, elbowing, hitting, kicking, spitting, finger pointing, aggressively invading a worker's space and other acts of physical intimidation or contact;
- Harsh and excessive criticism of a personal and non-constructive nature;
- Spreading rumours designed to harm a person's reputation or put the person in a negative light;
- Spying or stalking;
- Tampering with a person's desk, workspace, tools or belongings;
- Ridiculing a person on the basis of physical appearance, beliefs or personal characteristics;
- Name calling and teasing; and
- Unwelcome practical jokes.[/learn_more]

[learn_more caption="X Don't Ignore Domestic Violence"]

Domestic or family violence isn't just a private matter; it can also impact the workplace. Sadly, instances in which domestic violence has spilled over into a workplace happen too often and may result in tragedy for the targeted employees and their co-workers. Here are just a few examples from Canada and the US of domestic violence directly impacting a workplace:

- In 2005, nurse Lori Dupont was murdered by her ex-boyfriend, a doctor at the Ontario hospital where she worked. Senior hospital administrators knew about the ex-boyfriend's unstable behaviour and that he'd threatened Dupont. But on the day she was murdered, administrators had scheduled them to work together.
- A 24-year-old newspaper worker in BC died at her desk when her estranged husband came into the office and attacked her with an axe. A male co-worker who tried to save her was also injured in the incident.
- In Albuquerque, New Mexico, a man who was angry about a child custody dispute with his girlfriend shot her outside the manufacturing plant where she worked. He then forced his way inside and killed two workers before turning the gun on himself. Four others were wounded.
- In Oct. 2012, a former Marine opened fire in a Wisconsin spa where his estranged wife worked. He killed her and two co-workers, and wounded four other women. He then killed himself.

So you should either have a stand-alone domestic violence policy or integrate domestic violence into your general workplace violence policy. In either case, the policy should include:

- A statement of the company's commitment to a workplace free from violence, including domestic violence;
- Resources available to workers who are the victims of domestic violence, such as the employee assistance program;
- Steps the company will take to assist such workers, such as enforcing

- orders of protection, creating safety plans, and changing work schedules, parking spaces and/or job assignments;
- Signs that someone may be the victim of domestic violence;
- Procedures for reporting domestic violence by workers who are the victims and others who suspect that a co-worker may be a victim; and
- The training you'll provide related to domestic violence.

Insider Says: For more on handling domestic violence in the workplace, see '[Workplace Violence: 5 Strategies for Addressing Domestic Violence in the Workplace](#)' and this [recorded webinar](#) by Glenn French, President and CEO of the Canadian Initiative on Workplace Violence. You can also download and adapt this [model workplace family violence policy](#).[\[/learn_more\]](#)

[\[learn_more caption="Consider Creating a Violence Threat Assessment Team"\]](#)

Considering creating a team within your workplace specifically to assess any targeted threats of violence to determine the risk level the threat poses and the appropriate steps to take based on that risk level. For example, suppose your company has decided to fire a worker with a hot temper and a history of angry outbursts. [A threat assessment team](#) could assess the risk that this worker will become violent when he learns that he's been fired and, if so, the appropriate steps to take to protect other workers, such as having security escort him from the premises or even alerting the police.

Not every workplace needs a threat assessment team. But if your workplace has a high general risk of violence or prior incidents involving violence, having one might be prudent. In addition, although the OHS laws don't specifically require the creation of a threat assessment team, establishing one is a reasonable step if your general assessment concludes that there's a high risk of violence in the workplace.

Such as a team may include members of the HR, workplace safety, corporate security and legal departments as well as outsiders, such as consultants or mental health professionals. The team members should get specialized training on their roles, conducting risk assessments of threats and planning a response to a threat.

THREAT ASSESSMENT TOOLS: Download [a checklist](#) your team can use to assess threats of workplace violence and [a form](#) it can use to report the results of its assessment.[\[/learn_more\]](#)

[\[learn_more caption="X Don't Overreact to Threats of Violence by Workers"\]](#)

If a worker violates your workplace violence policies by engaging in a fistfight, spitting on a client or threatening his supervisor, you should discipline him.

Example: A worker was upset at how a manager treated a co-worker. She told the manager that if the manager ever did that to her, she'd go home, get her boyfriend's gun and bring it to the store (she was dating a police officer at the time). The store fired her and an arbitrator upheld this decision. The worker had a disciplinary record that showed she was assertive, used profanity and was disrespectful. She repeatedly denied ever making the threat. And in today's climate where any threat is serious and given her disciplinary record, termination wasn't excessive, concluded the arbitrator [*Overwaitea Food Group v.*

United Food and Commercial Workers, Local 1518 (FS Grievance), [2012] B.C.C.A.A.A. No. 119, Sept. 5, 2012].

But although it's important to take violence and threats of violence seriously, you shouldn't overreact. For example, in an argument, it's easy for an upset worker to yell, 'I could just kill you!' However, in most cases, that threat is an empty one and just the result of the worker's anger or frustration. So it's important to consider the context in which a threat is made and all of the surrounding circumstances before determining the appropriate discipline, such as suspending rather than firing the worker who made the threat.

Example: A machinist and a co-worker got into an argument over tools. The co-worker swore and said that if the machinist hit him, he'd be put away for life. The machinist laughed and said, 'I guess I'd have to kill you.' He then returned to work. The company called the police, who escorted the machinist off the premises. The next day, the company fired him for wilful misconduct. The machinist filed a complaint for termination pay. The Labour Relations Board found that although his comment was very serious, it didn't constitute wilful 'misconduct. The machinist was provoked by the co-worker's refusing to return his tool and then swearing at him. In addition, in the context in which the comment was said, it wasn't reasonable to interpret it as a viable threat. And because the comment didn't constitute wilful misconduct, the worker was entitled to termination pay [*Harriott v. 1145365 Ontario Ltd.*, [2015] CanLII 79586 (ON LRB), Nov. 27, 2015].[\[/learn_more\]](#)

[\[learn_more caption="û Bar Weapons from the Workplace"\]](#)

Include language in your company's workplace violence policy that expressly bars workers'and visitors'from bringing weapons to work and from possessing and using weapons in your workplace. The policy should also include a broad definition of 'weapon' that covers items such as knives, hand guns, stun guns, rifles, box cutters and police-type batons. And make sure to post signs at entrances to the workplace as well as inside stating that weapons are banned.

Banning weapons won't eliminate the risk of workplace violence, of course. Workers who intend to commit premeditated acts of violence are unlikely to be deterred by a rule saying they can't bring weapons to the workplace. And workers who lose their temper at work don't need a weapon to commit an act of violence. But a weapons ban can help minimize the harm posed by spontaneous attacks and prevent angry confrontations from escalating into deadly encounters. For example, an irate worker could still punch his supervisor or even use a handy object, such as a wrench, stapler or even a chair, as a make-shift weapon. However, such incidents would be much worse if the attacker had brought a 'real' weapon to work.[\[/learn_more\]](#)

[\[learn_more caption="û Train Staff on Workplace Violence Policies"\]](#)

As with all safety hazards, you should train all staff, including workers and supervisors, on your workplace violence policies. Such training should cover, at a minimum:

- The definition of 'workplace violence' and examples of the conduct it covers;
- What to do if they observe or are the victims of violence;
- Ways to resolves disputes without resorting to violence;

- How to identify signs that a co-worker may be the victim of domestic violence and what to do in that event; and
- Any specific types of violence or threats that may be a risk in your particular workplace and how to respond to them. For example, if you believe your workplace could be vulnerable to an active shooter, train workers on what to do if an armed gunman appeared in the workplace.[/learn_more]

BOTTOM LINE

Recent events in Paris and San Bernardino, California illustrate how vulnerable workplaces can be to violence. In Paris, the victims included restaurant employees who were simply doing their jobs. And of the 14 people killed in San Bernardino, 10 were environmental health specialists at a holiday party. The reality is that despite your best efforts, you may not be able to prevent all forms of violence from erupting in or impacting your workplace and your employees. But following these dos and don'ts will help you minimize the risk, protect workers and prepare them in the event they're faced with a violent situation.