

An Opportunity to Create Safer Work Places and Empower Survivors of Violence

Renewing Alberta's Occupational Health and Safety System



November 2017



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Alberta's OH&S system has not been materially reviewed since it was established in 1976. This was also the time period when the first two women's shelters opened in the province providing safe refuge for women and their children fleeing domestic violence. We've learned a lot since then about how prevalent domestic violence is, the dynamics of why it occurs, the resulting devastation for women and their children and how it impacts the world outside the family. In a Canadian survey, thirty three percent of employed women reported they have experienced domestic violence (Wathen, MacGregor & MacQuarrie, 2014).

Shards from the mosaic of evidence we've collected reflect the impact on workplaces: the detrimental impacts on the health and wellness of people living in abusive relationships and their ability to perform their jobs, the costs to businesses in the form of workplace resources used to control or perpetrate abuse and lost time, the threat to the safety of other employees present when an obsessive ex-spouse shows up at the workplace with a gun.

Domestic violence is a workplace hazard and lives are on the line.

Bill 168 in Ontario evolved in part after the 2005 domestic violence homicide of Lori DuPont at her workplace. ACWS' Domestic Violence and Your Workplace toolkit and program began with support from the Health Sciences Association of Alberta, shortly after the 2006 domestic violence homicide of Liana White, a unit clerk at the Royal Alexandra Hospital in Edmonton.

There were 84 critical events and missed opportunities prior to Lori DuPont's murder.

-Peter Jaffe, PhD at Ontario Fatality Inquiry

I was unaware of the staggering statistics. If only I had known the signs.

-Work colleague and friend of Liana White

In spite of early efforts, tragedies are still occurring. Unless changes are made at the legislative level and best prevention practices are modeled by our governments, organizations will continue to avoid addressing the signs and impacts of this hazard until tragedy strikes and they realize they "didn't know what they didn't know".

Domestic violence is a confidential matter and needs to be handled deftly, yet most employers don't understand it so they avoid it. It is a complex matter and each situation and worksite are unique, which often conflicts with organizations' need for standardized structures and responses. Our culture doesn't talk about domestic violence or sadly, assigns blame to the survivor when she courageously acknowledges that she is being abused.

It is not up to employers to be investigators, gathering proof of abuse; to be police, parking outside of homes at night; or to be counsellors. But it is up to employers to take measures to mitigate risks. For employees living with violence and abuse, having a job is a lifeline to economic empowerment and connections to community supports. Work places can be islands of hope.

The Alberta Council of Women's Shelters acknowledges that relationship abuse and violence happens to people of all genders, at the hands of all genders. Still, we choose to include the pronouns "she" and "her" when referring to survivors of domestic violence and "he" and "him" when referring to perpetrators of domestic violence. We do this because we know from the daily work of our members and the global evidence that it is overwhelmingly females who are victimized (with life-threatening stakes) by male intimate partners. To not include this reality in the conversation is to ignore a root cause of this social plague and never see its end.

Recommendation 1: Including and Defining

A workplace cannot address a hazard that it can't define. The new legislation needs to include domestic violence as a distinct workplace hazard, and should include the following definitions that encompass the full spectrum of domestic violence, including emotional and psychological abuse:

Domestic Violence: Is a pattern of behaviour used by one person to gain power and control over another. This pattern of behavior may include physical violence, sexual, emotional and psychological intimidation, financial, spiritual, verbal abuse, stalking and use of electronic devices to harass and control. (ACWS, 2015)

Domestic Violence in the Workplace: Domestic violence in the workplace occurs when an employee's safety and security within the workplace is threatened by the abusive behaviour of an intimate partner. (ACWS, 2015)

Recommendation 2: It is the role of the employer to take action

Just like any other workplace safety hazard, it is the role of the employer to take appropriate action to keep workplaces and workers safe.

Although Alberta employers already have a legal requirement to keep workplaces safe and mitigate risks, domestic violence is missed as a hazard because of a lack of public awareness, employer education and legal clarity. Once domestic violence is defined and included as a distinct workplace hazard in the legislation, the mandated actions that already exist in the Code will follow.

Recently, an Ontario OH&S Inspector recounted his response to a call where an employee was physically attacked on the front lawn of her worksite by her spouse. The Inspector reviewed the worksite's policy and verified that the policy included domestic violence as a worksite hazard as per legislative requirements. The Inspector then took no further action, as according to him, compliance with the requirements of the OH&S Act meant simply having a policy in place about domestic violence. Rather than determining if any safety planning had been done with the employee to address risks to the workplace and staff, he simply 'checked off the box' regarding Ontario's legislative requirement relating to domestic violence.

-Anecdotal Report

For example, the employer is already obligated to take the following actions:

Required Action	Alberta Occupational Health & Safety Code (2009), PART 2 “Hazard Assessment, Elimination and Control” & PART 27 “Violence”	Canada Occupational Health & Safety Regulations (Current to Sept 2017), PART 20 “Violence Prevention in the Workplace”
Establish Policy	Policy and Procedures 390 and Health and Safety Plan 11	Work Place Violence Prevention Policy 20.3 (a) through (d)
Identify Factors that Contribute		Identification of Factors that Contribute to Work Place Violence 20.4 (a) through (f)
Assessing Work Place for Hazard	Hazard Assessment 7 (1) through 7 (5) and Worker Participation 8 (1) through (2) and Hazard Assessment 389	Assessment 20.5 (1) through (2)
Establish Controls	Hazard Elimination and Control 9 (1) through (5) and Emergency control of hazard 10 (1) to (2)	Controls 20.6 (1) through (4)
Review	Hazard Assessment 7 (4)	Workplace Violence Prevention Review 20.7 (1) through (3)
Create Procedures	Policy and Procedures 390 and Health and Safety Plan 11	Procedures in Response to Work Place Violence 20.8 (1) through (5)
Plan for Response	Response to Incidents 392 (1) though (2)	Notification and Investigation 20.9 (1) through (6)
Implement Training	Instruction of Workers 391 (a) through (d)	Instruction of workers 20.10 (1) through (5)

Most of the actions listed above cover preventing and responding to domestic violence as a workplace hazard.

There are a few cautions to mandating action that require special consideration given the dynamics of domestic abuse:

“Hazard elimination and control” Alberta OH&S Code Part 2, 9 (1) through (5)

Actions to eliminate and control the hazard of domestic violence need to be worded so that terminating a survivor of violence is not the easiest means to comply. Connections to other legislation can offer guidance (i.e. Employment Standards and Human Rights Act as mentioned in Recommendation 6).

“Response to incidents” ” Alberta OH&S Code Part 27 392 (1) though (2)

As described in our third recommendation, domestic violence is frequently a pattern of abusive behaviors over time, and if employers wait for an incident prior to taking action, they may be too late. Including Emergency Response planning around possible incidents is important, but responses should also include the duty to safety plan and support an employee when they exhibit the signs of an abusive relationship, not just after there has already been an incident.

“Advised to consult a health professional of the worker’s choice” Alberta OH&S Code Part 27 392 (2)

When an incident occurs, and part of the response is for the employer to ensure that a worker is advised to consult available supports, the definition of appropriate supports should be expanded to include community-based social service experts, like women’s shelters.

“Worker Participation” Alberta OH&S Code Part 2, 8 (1) through (2)

Worker involvement in domestic violence hazard assessment and prevention is critical. This is detailed further in Recommendation #4. Any response plan that is created should include future check-ins with the survivor and the employer should ensure follow-through.

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Although an employer owes a duty “to see that the work atmosphere is conducive to the well-being of its employees” (Robinson v. the Canadian Mint), employees or employers should never place themselves at risk to protect the safety of the survivor.

Recommendation 3: Recognize that Domestic Violence is a Pattern of Behavior not an Incident

While the justice system is structured to respond to a specific violent incident, domestic violence death review committees frequently find that perpetrators of domestic violence homicide were motivated to try to gain control over their partners. These attempts to gain control tend to manifest themselves in a pattern of on-going abusive behaviors. 48% of domestic violence homicide cases reviewed between 2003 and 2015 in Ontario identified obsessive behavior by the perpetrator as a top risk factor (Domestic Violence Death Review Committee, 2015).

Coercive controlling violence involves patterns of power and control seeking behavior by one partner over the other that are used to dominate the partner physically, sexually, emotionally, financially and spiritually. In other words, the violence is intentional (ACWS 2015).

Thus, the new OH&S code should require that workplace prevention, intervention and enforcement measures examine and address domestic violence as patterns of behavior over time. The degree to which an employer is compliant should focus on what an employer does to regularly educate themselves and their staff, how they respond when an employee exhibits the signs, and all the workplace does to prevent incidents in an on-going way. This can be reinforced with the selection of the definitions as listed in Recommendation 1.

Recommendation 4: Empowering Survivors & Communicating Limits to Confidentiality

Unhealthy workplace cultures filled with bullying and gossip are not conducive to encouraging safety planning with survivors, nor for protecting the confidentiality of survivors, perpetrators and their families. The OH&S legislation should draw the connection to anti-bullying legislation for workplaces and an assessment of the health of a workplace culture should be a metric for prevention and compliance.

Given the nature of domestic violence, and the likelihood that the survivor has experienced a gradual weakening or virtual elimination of her autonomy, involving the survivor as much as is pragmatic in the workplace's response is critical. Communicate what is happening, who's been told and what they've been told to avoid re-traumatizing the survivor by further stripping her of control over her own safety.

However, employer decisions around maintaining confidentiality will often need to shift from privacy towards safety as the level of risk is continually reassessed with the very real possibility of risk escalating. This limit to confidentiality needs to be communicated upfront when speaking to an employee who exhibits the signs of domestic violence, and should be clear in any policies and staff training.

There are some circumstances (ACWS, 2015) in which it is necessary to report domestic violence and related risks even if the survivor is not willing to self-report. Employers need to be clear that they are to contact police and the organization's designated contact person, if:

- The abuser has made an explicit threat to harm or kill her (or others) at the workplace;
- The abuser has committed an act of violence at the workplace; or
- The abuser has made a threat to harm a child or has committed an act of abuse toward a child. The law requires reporting of child abuse. Reports of abuse of children must be made to the Child Abuse Hotline (1-800-387-KIDS).

Recommendation 5: Make Training on Domestic Violence in the Workplace Mandatory

In most cases, family, friends and coworkers did not have the information or skills they needed to help. (Fawcett, 2010) 13 year U.S. study of domestic violence related fatalities in the U.S.

Domestic violence is an unpredictable and complex workplace hazard and thus, training is the best means of appropriately responding to this safety risk.

Mandatory training for Alberta employers should be delivered by the Alberta Council of Women's Shelters' Domestic Violence and Your Workplace program, in partnership with member shelters throughout the province and other ACWS facilitators trained in Leading Change (Preventing Gender Based Violence). ACWS should deliver this training to Alberta employers because:

- The evidence tells us that to be successful all programming relating to domestic violence— delivered by government or in the community – must be accountable to women and involve service providers who work with women and children.
- The curriculum should be designed and delivered by a non-government entity less encumbered by internal agendas and pressures, which at times can be quite polarizing;

- Frontline connections to ACWS members means that the content is relevant to Albertans and the needs of families living in violence;
- ACWS members as representatives of the provincial network can provide support and consultation to employers across the province; and
- Our work is built on and continually informed by Alberta-specific evidence and more than a decade of experience.

Violence against women occurs within social and political contexts. ACWS’s prevention programming includes a strength-based, oppression-informed approach that seeks to equip bystanders to take safe and appropriate actions. Our customizable training includes a train-the-trainer curriculum, responder training and a general awareness workshop for all staff.

If the training cannot be provided by ACWS, any other program that is endorsed as compliant should be minimally audited by ACWS to ensure it is victim-centered, trauma-informed, includes the Alberta context, is evidence-based, understands the importance of a gendered analysis, etc.

Recommendation 6: Synergies with Other Legislation

Connect the new legislation to other applicable legislation and codes to strengthen it. For example, OH&S regulation identifying domestic violence as a workplace hazard should include connections to relevant regulatory frameworks like:

- Children First Act (e.g. Service providers sharing information to better aid children at risk)
- Child, Youth and Family Enhancement Act (e.g. Those that put children at risk are accountable)
- Protection Against Family Violence Act (e.g., Emergency Protection Orders, Family Violence Death Review Committee recommendations)
- Alberta Employment Standards Code (e.g. Unpaid leave for survivors of domestic violence)
- Alberta Human Rights Act (e.g. equal pay, complaints against Act)
- Criminal Code of Canada (Failure to take all reasonable care for the protection of workers is defined as criminal negligence)

Recommendation 7: Measures for perpetrators

A recent study in Ontario (Scott, Lim, Kelly, Holmes, MacQuarrie, Wathen, MacGregor, 2017) focusing on the experiences of perpetrators of abuse revealed that close to half the respondents (45%) reported that domestic violence issues “sometimes”, “often” or “very often” negatively affected their job performance. Most found themselves distracted by domestic violence-related messages, tired due to sleep deprivation induced by their domestic violence situation, or feeling unwell, experiencing anxiety and/or depression related to domestic violence issues.

Many workplaces have policies related to not tolerating violent behavior between coworkers at the workplace. Policies also need to include the consequences for staff found to be abusing workplace resources to perpetrate spousal abuse; or procedures for those who are under EPO orders by police, etc., as another tool to better support survivors and create a culture of safety.

Employers can also connect with their local shelter for information on programs and resources available to support perpetrators of abuse.

Recommendation 8: Language

“Victim” vs. “Survivor”

The Alberta Council of Women’s Shelters advocates for the use of the term “survivor” over “victim” – because in all likelihood the individual has endured many incidents of abuse and violence up to the point you become aware of her story and what she has survived.

The term “victim” tends to connote a singular instance of violence or abuse and contributes to the feeling of powerlessness of those who have been impacted.

The term “survivor” recognizes the individual’s strength and agency and imparts a sense of forward motion and reclamation.

Recommendation 9: Public Awareness that domestic violence is a workplace hazard

Now that domestic violence has been clearly defined as a hazard –people need to be aware that it is a hazard and that they have a responsibility to educate themselves and take action.

We strongly recommend that resources be allocated to conduct public awareness campaigns informing employers that:

- Domestic violence is already impacting their workplaces whether they know it or not (and is already costing them)
- Domestic Violence is an Occupational Health and Safety concern as well as how it shows up at worksites
- Employers have a responsibility to take action to keep employees safe and where they can go to receive training and support to take action.

* * *

The Alberta Council of Women’s Shelters knows that domestic violence, domestic violence homicide, sexual violence, street harassment, online misogyny, and pay inequity are all symptoms of the same cultural problem of violence against women. We also know that we can dramatically reduce forms of gender-based violence and abuse all along the spectrum when we create change at the levels where we have influence.

We would be happy to meet with the Minister or her designate to discuss these recommendations further.

Our Experience

The Alberta Council of Women’s Shelters began presentations on domestic violence as a workplace hazard in the 1990’s. In 2007, we partnered with the Health Sciences Association of Alberta (HSAA) to develop the Domestic Violence and Your Workplace Toolkit. The HSAA contracted with ACWS to help organizations understand their responsibility on this issue and give them practical ways to protect worksites and promote positive change – proactively.

As part of this work ACWS undertook a root cause analysis, involving business, academics and government; carried out an extensive literature review; conducted the first provincial Violence in the Workplace Survey with Leger Marketing (ACWS, 2009); worked with Butler Business Solutions to develop a business case for employers to take action on domestic violence (Butler Business Solutions, 2010); as well as piloting, testing, evaluating and updating our toolkit materials.

The Workplace program resides within the Leading Change call to action to end violence against women. All our prevention work is benchmarked against the Alberta Men's Attitudes Survey and the growing body of evidence from our public education work.

The Alberta Council of Women's Shelters organized the first World Conference of Women's Shelters in 2008, from which was born the Global Network of Women's Shelters and the Canadian Women's Shelter Network (now named Women's Shelters Canada). ACWS has been invited to speak at national and international events about our expertise in Domestic Violence and the Workplace, shelter practice and engaging men and boys in prevention.

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