

How to Develop and Implement a Workplace Violence Prevention Program

June 12 2001

Start Time: 1:30 p.m.

Operator: Good afternoon, ladies and gentlemen. Welcome to the Health Care Health & Safety Association conference call on How to Develop and Implement a Workplace Violence Prevention Program. I would now like to turn the meeting over to Miss Patti Boucher. Please go ahead, Miss Boucher.

Patti Boucher: On behalf of the Health Care Health & Safety Association of Ontario, I would like to welcome all of our listeners to our teleconference today entitled How to Develop and Implement a Workplace Violence Prevention Program. We are fortunate to have with us a panel of experts in the field of workplace violence. Each of the presenters will speak for 15 minutes and following this, there will be a ten-minute question and answer period.

Our first presenter, Mr. Eric Roher, is a partner with the law firm Borden, Ladner Gervais. He practices in the areas of education law, labour relations and employment law. He is author of an educated guide to violence in schools and also author of Violence in the Workplace, a CLB special report, Carswell Publications (ph.) and he is the editor of the Borden Ladner Gervais education law news. Mr. Roher?

Eric Roher: Thanks, Patti, thank you very much. On August 17th, 1998, Immigration officers escorted a deportee on a flight from Toronto to London England and this individual was required to be -- the passenger was chained to his chair in order to subdue him following an attempted attack on a flight attendant. The passenger became violent after refusing alcohol service 45 minutes into the flight. He was arrested by the police in London and charged with assault and of course as many of you are aware, all the airlines have programs to train their staff on how to respond to incidences of air rage.

April 27th, 1998, a grade-10 student at a Toronto school calmly walked into a doorway, accessing the school pool and fired two shots from a pellet gun, striking a male teacher in the back and a female lifeguard in the leg. The student then calmly returned to his class and after being summoned by the principal over the intercom, the police charged the student with having a dangerous violent and a weapon. Well, you know, is your workplace reasonably safe? Is our workplaces across the province of Ontario safe and as you can appreciate, a teacher may have to respond to an abusive and threatening parent and if you ask, as Patti indicated from the outset, I act for a Toronto District School board among other school boards in the province and if you ask principals, they would say their No. 1 problem today is what we call parental harassment and it is a huge issue that requires a response.

An individual who works in the company's payroll department may come into contact with an employee with certain psychological problems, who acts in an aggressive and confrontation manner. Two individuals in a shipping / receiving department may have a personality conflict and break out into a physical fight. In fact, that actually happens in a recent case involving a client of mine. Rapid and dramatic changes in work across the province of Ontario such as, you know, the introduction of new technology, such as corporate downsizing, perhaps emanating from changing economic conditions, these have all had significant impacts in the level of stress in our workplace and there is a growing recognition that employees, in a wide range of work areas face a possible unsafe work environment and increasingly employers are responding with policies, with procedures in order to protect their employees or at least in order to set up a framework with respect to an understanding of how they are going to manage these situations and increasingly employees are responding that their employers, you provide protection and have a legal obligation to ensure that their workplaces are safe.

As you all are aware, in Ontario, employers have duties pursuant to both statute and we will get into some of the key statutes and common law to ensure that their employees are not exposed to undue risk when they venture to work each day. So the question often arises: what steps can an employer take to reduce potential legal liability and to ensure that there are safe working conditions for its employees. So from the outset, the first question we have to ask is what is workplace violence? It is not actually a term that we learn at law school and in determining the scope of violence that may be considered workplace violence, it is important not to be too narrow in defining the term. The scope of workplace violence should be determined in an inclusive manner in order to avoid the exclusion of a wide variety of acts which can negatively affect a person in a work environment.

So for example, any attempt to describe workplace violence must not be just be limited to physical assaults or threats of physical assault but in fact workplace violence has been defined as any action, act, omission or incident in which an employee or worker is abused, threatened, harmed, injured or assaulted, in circumstances arising out of his or her employment or work as a direct or indirect action or omission of another employee or worker. So you can appreciate, all of you out there in radio land, that this is a fairly broad definition encompassing a lot of different actions or threats. So it includes things like verbal threats, violence, it includes the application of force, so maybe with or without a weapon. It includes verbal or emotional abuse. It includes unwanted comments, inferences or suggestions. It may include inappropriate pranks and things, you know, the folks that initially say "Well, I was just joking around, this is just horseplay" but that such horseplay could in fact represent a form of workplace violence.

It includes the forms of intimidation and aggressive behaviour and it includes what we in the education context call bullying. Bullying is an attempt to undermine individuals through cruel or humiliating behaviour. Bullying is a power relationship. It is often the stronger personality picking on the weaker personality or another concept that we use in a school context called mobbing. The mobbing involves a collective effort to psychologically harass a person and we see mobbing where we have groups of parents meet each other at the local hockey arena or at the bowling alley and they may all conspire to have a particular teacher terminated or transferred and they get together and they put together petitions, they put together letters. They begin a sort of a collective process to harass and intimidate a particular school to have a teacher ousted and it could all evolve around the fact that one parent - one student got a C in geography and all of a sudden, there is a community uprising.

Let's talk about the legal issues in terms of common law liability. Claims for damages due to acts of violence can be brought in a civil action and that is generally called a "tort" and a tort is a legal concept to describe a wrong which law will redress, will be redressed by a form of damages and you should all be familiar with the term "vicarious liability" and vicarious liabilities are basically where employers are concerned about the liability or tort for their own actions and the actions of their employees and employers can be vicariously liable for actions of their employees that take place in the course of their employment.

So basically employees are acting in the course of their employment. Employees are like agents of their employers and technically, employers can be held liable for actions of their employees through this principle called vicarious liability.

What we have in a legal concept, the most common form of action would be an action, a claim in negligence and there is a range of possible negligence claims that can be brought against an employer and that could be initiated by an employer's own employee or that can be initiated by a third party who has been harmed. It can be initiated by someone who has just walked into the plant as a volunteer or a customer or a visitor to a hospital who may be assaulted by a patient or may be assaulted by a staff member and they could initiate an action in negligence.

So what we get are actions, legal actions that are effectively "torts", that are indicating that the employer, whether it be a hospital or a school board, acted in a manner that is negligent, that is reckless and that is careless and you know, and the victim of this violence could allege that the employer has failed to discharge certain duties and this includes the failure to warn of reasonably foreseeable conduct or a risk, failure to maintain a safe workplace, perhaps an action alleging that the employer was negligent in hiring a person with violent propensities or negligent in supervising such an individual.

A review of the case law indicates that the measure of an employer's liability in negligence rests on an awareness of events in its workplace and whether the employer has responded reasonably based on that knowledge. So keep in mind the concept of foreseeability because that is a key point. In other words, was it foreseeable that this individual who has violent propensities, who has a history of violence, who has been warned two or three times about their violent conduct, was it foreseeable that in fact they may have assaulted an individual in the workplace?

The concept of foreseeability of an injury is key to a determination of whether an employer has a legal responsibility to take action to prevent an incident and in considering foreseeability, it is not only what an employer knew which is important, but it is also what it ought to have known or what it reasonably should have known that is considered important by a court. So under this intent scrutiny, an employer must be able to

demonstrate that under the given circumstances, it had reasonable awareness of its work environment and correspondingly it had taken reasonably steps to reduce the risk of violence and those are two critical points.

I want to talk briefly about the duty to warn and there is a basic duty, where you have reasonable grounds to believe that an individual may have violent propensities. There is a duty to warn for example in a school setting. There may be a duty to warn a staff member, students, parents or a visitor to the school if school authorities are aware of the violent propensities of a student or even a staff member. In the context of sentencing a young offender who recently engaged in sexual misconduct in preschool, the judge remarked, he said and I quote, "I'm disturbed to hear that since the assault before me, that although the student was expelled from the high school where the assaults occurred, he has moved to another high school and the teachers were not aware of his history." So the whole point is that there is an obligation, a duty to warn, a duty to inform staff and individuals on a need-to-know basis where there is a foreseeable risk of injury.

I have got very little time, I have got one minute. Let me simply say that there is other areas under the Occupation Health and Safety Act where there is currently statutory law that requires your attention and an employer in that context has to, by law, take every reasonable precaution in the circumstances for the protection of an employee and it has to, when appointing the supervisor, there is a legal obligation to appoint a competent person and at the very end, let me say that there is under the Occupational Health and Safety Act in Ontario, there is a right to refuse unsafe work and a work may be refused where the worker believes that the work or workplace is likely to endanger himself or herself or another worker and there is a whole process under the Occupational Health and Safety Act where you can refuse work, but keep in mind, you have got to consider the nature of the job, you have got to consider the nature of the task. For example, in a hospital context where you are treating patients and there is clearly an understanding that this type of perhaps, you know, a small scale type of assault may be contemplated at the start of employment, that it may be reasonably foreseeable and one can argue that that small scale type of assault in some perhaps psychiatric patients have become a usual and inherent risk in the health profession.

Gerry is going to deal with how to avoid incidences and categories of traumatic impact but let me conclude by saying this. In a recent book called *Leading Change*, a professor at the Harvard Law School, a guy named John Cotters set out a process to accomplish organizational changes and he said that the first stage of achieving change is to establish a sense of urgency and he observed that creating a strong sense of urgency usually demands bold and even risky actions that we normally associated with good leadership and what I'm saying here today is that what we have to do in our workplace is develop a sense of urgency that a violence-free workplace is essential, that in our rapid changing work environment, we have to respond effectively to the growing concern of violence and organizations must establish a sense of urgency regarding the growing importance of a safe work environment.

So I suggest that organizations such as airlines, hospitals, schools, banks and other employers develop an appropriate vision and strategy that Gerry will outline and map out regarding creating a safe work environment. Thanks.

Patti Boucher: Thank you, Mr. Roher, very interesting. Our next presenter is Gerry Smith. He is vice-president of Specialty Services for Warren Sheppell Consultants, Canada's largest provider of employee assistance programs. He is author of the recently published best-seller entitled *Work Rage - Identify the problems, Implement Solutions*. Mr. Smith?

Gerry Smith: Thanks, Patti and thank you, Eric, for setting me up. The first thing you can tell about me, listeners, is I come from downtown Toronto and all the statistical evidence I'm going to give you today comes from probably mostly the area around Toronto and the kind of local area of Ontario.

I'm going to stay a few minutes on statistical basis for violence in the workplace. First and foremost, I would ask a question if I could get you all to participate - is Canada a safe country in which to work? Is Ontario a safe province in which to work? Now if I were to ask you to show your hands, I'm sure most of you would have your hands up right now saying yes, it is a very safe place in which to work. However, there was a report published two years ago by the International Labour Organization that states that Canada, believe it or not, is No. 4 in the world for workplace violence, five places ahead of our cousins south of the border in the U.S.A. They came in at No. 9 in the world and when I saw that report, I said it is not true and Canada, we are a country of peace loving complacent quiet individuals, we never complain, we never make a fuss, we just go about our business and do our jobs nicely.

So I didn't really believe the report and then I started looking at the statistics that we collect within Warren Shepell and over the past seven years, I was actually kind of surprised myself because unbeknownst to me, the numbers of workplace violence that we have been responding to has grown dramatically over the past seven years, in the time that I have worked for the company. When I first started there in 1994, we had two or three episodes of violence per month that we responded in workplaces around the country.

Last year, in the year 2000, we had somewhere between 35 and 45 episodes per month and the episodes that we respond to are not simple episodes of people pushing and shoving. They are the real serious episodes of people making death threats, actual homicides, murder-suicide, real serious assaults, rape, stabbing, shooting, all those kind of things. So it is a growing problem from our perspective, although we may not see too much of it in our own workplace, but let me tell you, just because you don't see it in your own workplace does not mean to say it doesn't exist.

In Canada, there are 60 workplace homicides every year, one every week and most of those are committed by spouses / partners and significant others, believe it or not, that come to the workplace to do some harm. If we compare that to the States, the States have roughly three workplace homicides every single day of the year. Now if we expect, you know, the normal stats in Canada are that we are 10% of the States, we would expect maybe therefore 105 so the fact is the homicide rate in Canada in the workplace is much much lower, but it seems to be that the assault rate and other types of violence in the workplace in Canada are higher than you would expect from a country of peace loving people.

Are the statistics true? The trouble is we don't really have enough evidence. It is very very difficult to get companies to tell us about the episodes of violence that happen. I can give you an example. A few weeks ago, I was dealing with a situation in a Toronto downtown hospital where three nurses got into, I was going to say a stand-up fight, but that would be untrue. It was really a floor fight, rolling about the floor, kicking and pushing and assaulting and battering and using the most foul language, watched by their partners, their colleagues, consultants, patients and visitors passing through the hospital. They had all gathered in a circle and none of them intervened to stop these three ladies from fighting together and it started by one of them saying to the other, "Why don't you go back to the country you came from?" so that kind of situation does exist in health care, but it is not just that kind of example. We have examples of patients assaulting staff, with a social worker in a large emergency Toronto hospital who was slashed across the neck with a knife a number of months ago from one end of her throat to the other. Basically she was left with a very serious scar, another downtown Toronto hospital where a patient went on a rampage with a knife and chased the staff around the hospital for about 20 minutes.

We have all types of evidence that it is happening within health care and not just in the hospitals, also in dental offices, in doctor's offices. It happens everywhere. (Inaudible) perpetrators though in your workplaces around the province. First and foremost I would like to pinpoint strangers because hospitals have so many entrances and exits that it is very very difficult to know who is coming and who is going and strangers are a big difficulty. You can't have great security. So you have to look out for strangers in hospital settings and the health care settings and generally they come to the workplace to do some damage. They want to rob people mostly. So if you have any facilities within your workplace that are handling money, then they are at danger of violence from strangers.

The second area would be the people who use your health care facilities. So patients, visitors, members of families and their intent really is to - if they are not happy with the service they are getting which I have heard more and more regularly, I was dealing with a situation in southeastern Ontario not so long ago where a family threatened to kill emergency care workers in ICU because they had decided not to offer life support because this old lady who was in her late 90s had made it very very clear that she did not want to be resuscitated again, that she wanted to die peacefully with dignity and so the workers and the unit were slapped with a lawsuit for murder when they allowed the patient to die with dignity.

So sometimes the customers, sometimes the customers, the family members, the clients will actually cause damage in terms of their abusive behaviour if they are not receiving the type of service that they feel they are due in health care at this present moment in time.

A third area would be personal relations of staff members. People who come to the workplace to continue disputes to happen in the home and I'm thinking here of situations of divorce and separation where sometimes the only time to really cause problems for the spouse is to come to the workplace and it is usually an argument over custody or access or finances. Those kinds of things and you find that that happens more and more nowadays where the spouse knows that they can get their employee into trouble by coming to the workplace and by causing a scene and that happen very very regularly, let me tell you. We deal with that almost like four or five times every month.

The final group is obviously the co-worker. How do you know your co-worker is not some kind of psychopathic maniac who is going to shoot you? Now the likelihood of that happening is very very low, let me tell you. In Canada, it is very low. In the States, it is much higher because they have much more access to guns and weapons in the States, but there is a predictability in certain people among your coworkers who would have a propensity for violent behaviour and let me just give you a quick snapshot of what that person looks like.

If you could see me, you would understand, he looks like me. He is aged between 35 and 45 years old and he is a white Anglo-Saxon male with a definite sense of paranoia in his behaviour. He is paranoid about his workers, about what people think of him, he is always looking over his shoulder, he has a history of confrontational behaviour at work, he is known to have the loudest mouth and the biggest negative voice in the workplace and it was interesting listening to Eric talking about changing the workplace because that is one of the things that this guy does not like. He likes routine, he likes stability, he likes continuity, he likes being able to know that when he comes in to work, he can sit and read his newspaper in quiet and not do any work.

So the personnel or the co-worker, there are some predictable factors to look out for and if I had another five hours to talk to you, I could probably go into much more details but since I only have a few minutes, I just wanted to touch on it very very quickly.

I want to talk about the impact of violence at work because that is one of the areas that I'm most obviously involved with in my work in employee assistance. When there is an incident of violence, you have to think of the impact that has not just on the business, but on the people who actually work there and if you are involved in any way in trying to make your workplace as safe and trying to prevent violence, then you have to think of how the organization reacts to a situation of violence.

So five things I ask people to look out for in the workplace when you are looking at setting up a violence prevention program. First and foremost, look at the severity of events that you have experienced in the past already. How severe have they been? Have you only had episodes that have been mainly such as pushing and shoving or shouting or swearing or have you had real episodes of threatening behaviour where employees have threatened real serious abuse to one another because the more severe the episodes, the more the traumatic impact will be on members of the staff and the more productivity will be lost, the more absenteeism will rise.

Then you have to look at the duration of any kind of episode of violence or how long you have had an aggressive atmosphere in your workplace. For example if you have had years and years of working under what Eric described as a bully, then the likelihood is that people will be intimidated and will be afraid to speak out and challenge and confront and contest abusive behaviour when they see it. So look at the duration, how long have particular situations of violence been going on in the workplace? Have you been expecting it? That is one we are trying to get you to look at. Do you expect it in your workplace? If you expect it, then you probably won't get it. If you don't expect it, then when it happens, it will be sudden and out of the blue and people will be very very overwhelmed and I think that is the third area we have to look at. How sudden are the episodes that happened? Are they coming from people who are predictably unpleasant people, abusive people, that are always getting into confrontational behaviour or is it sudden and out of the blue? Because if it is sudden and out of the blue, the traumatic impact for staff is going to be much much more severe. If it is expected, if people get into the way of saying that is the way he is, we get used to it, then the likelihood of the psychological damage is less when it actually happens.

The fourth thing is you have to look at the meaning people see in traumatic events or violent events. What do they see? How do they understand it? How do they integrate individual episodes of aggressive behaviour into their own working life? The first thing is you have to look at their own stability at this point in time. What is the stability of the workforce like? Is there change? Is there - is there lots of constant turmoil? Is it a high-pace work environment? If there is instability in the background of employees, then the likelihood is when an episode of

violence happens, then the traumatic impact is going to be much much more severe and it is going to require much more in terms of psychological support.

So when the times comes, when you want to get to crisis intervention, you should involve a lot of people in your health care environment. First and foremost, you have to involve managers and supervisors in a prevention program. You have to involve human resources. You have to involve occupational health and safety. You have to involve security people. You have to involve your legal people to look at the legal aspects of the liability. You have to involve your public relations people because there is an impact. Just look at that drastic episode of violence in St-Mike's Hospital in downtown Toronto last year where a man was shot and killed because he had a gun and he pulled out the gun. Look at how the media responded to that, swarmed the hospital and you have to be ready to respond to the media. You have to be ready to respond to legal opinion. You have to be ready and that means you should have a crisis response team set up within your workplace to tackle head on any kind of episodic violence that appears at work.

A final thing, of course, is if you are lucky enough to have an employee assistance program, then make sure you use them. People in the EAP tend to be fairly professional in their work environment. They know how to respond to difficult situations. You have access to go therapists. You probably have access to people like me who are professionals in response to violence. You use them. Don't be afraid to use them, don't be afraid to turn to your employee assistance program for help and support in terms of policy formulation, in terms of anger management for individual people, in terms of individual counseling, in terms of helping you to train managers in how to deal with challenging and difficult people and in terms of raising employee awareness about the ever-present difficulty of workplace violence.

That is where I leave over to Patti and she will continue the conversation.

Patti Boucher: Thank you, Mr. Smith. I'm the third presenter and my name is Patti Boucher. I'm in the Central West Ontario Consultant with the Health Care Health & Safety Association of Ontario. I have spent several years in active nursing. I'm a registered nurse. I have also spent several years in occupational health nursing and several years as a health and safety professional. I have authored Health care Health & Safety Association's most recent document entitled *Workplace Violence Prevention Program*.

Just before talking about the six elements to an effective workplace violence prevention program, I would like to touch on a few examples of the statistics and the incidence of workplace violence in our health care and community care settings. Hewlett & Lebbon (ph.) in 1997 found that assault rates for residential care and nursing and personal care workers is more than ten times the rates in that of private non-health care industry. Younger clinicians and nurses are often more the targets of client aggression due to their inexperience, lack of training in college and universities and they are more often the front line staff such as in emergency rooms. A study conducted in British Columbia in 1995 by Boyd suggested that health care workers face a similar level of risk to that of police.

Risk factors specific to the community and health care setting include we are often working alone, especially at night. We are interacting with violent clients. We are dealing with public complaints. We are providing care, advice and information that impact directly on the client's life and often, some of us are handling money or medication and narcotics. High-risk health care settings include drug abuse clinics, detox centres, mental health clinics, family planning clinics, emergency and urgent care centres and psycho-geriatric units.

There are also various associated risks with physiological and psychological conditions of clients that we face every day. They include systemic disorders such as (inaudible) imbalance, anemia, thyroid disorders, diabetes, (inaudible) disorders, neurological disorders, epilepsy, degenerative diseases and these all can contribute to aggressive behaviour, as well toxic levels of medication, especially barbiturates in the elderly, psychiatric conditions where there are psychotic symptoms and paranoia, psycho-geriatric illness and with substance abusers.

There are certain environmental ergonomic and administrative risk factors and they include crowded noisy environments in stressful situations such emergency rooms or clinics, overcrowded client and patient areas, understaffing in busy clinics or emergency rooms with long waits, lack of staff education and training and

awareness, lack of security control, assigning staff to work alone, working in remote locations and/or in high-crime areas, understaffing, lack of worker experience, contributing to quality issues. However research states that the only reliable and consistent predictor of violence is a history of violent behaviour in an individual and that is why it is so important that there needs to be expert communication among caregivers that consistently document a client's behaviour as is recognizing triggers and modifying them before problems escalate.

So now, I'm going to briefly outline the six elements to an effective workplace violence prevention program, taken largely from the Ministry of Labour guidelines on a workplace violence prevention program, taken in their recommendation paper in 1999. Participants may reference Health Care Health & Safety Association's Developing a Workplace Violence Prevention Program either at our web site or on our latest version of our CD resource for expanding on the various elements of violence prevention program.

The first step is getting management commitment and employee involvement and it is the key foundation of an effective program. Without the commitment, the program won't work. Management workers should work together and I truly believe a multi-disciplinary committee is the best approach to design, implement and evaluate a program. The joint occupational health and safety committee should be involved to review and make recommendations.

The second step is policy development. A zero-tolerance policy is recommended as this raises the awareness of violence in the organization. Acceptable standards of behaviour should be established and the policy should explicitly state that sexism, racism, harassment and other forms of violence will not be tolerated. The policy should support the prosecution of assailants and provision of legal assistance to assaulted workers. This should apply to everybody in the organization, managers, employees, clients, contractors, contracted workers and services, volunteers and anyone who has a relationship in the organization.

The third step is conducting a workplace risk assessment. The purpose of this risk assessment is to identify risk factors specific to your organization so that you can custom-tailor your control program. There are four phases of a risk assessment. The first phase involves examination of community and workplace history. Consult with your local police, look at your geographical areas, consult with other health care organizations in your setting, what is the incidence of violence in your specific geographical setting? Also what is the issue of violence within your organization? There should be a thorough analysis of documents such as incident reports, security reports, unusual occurrence reports, patient/visitor reports, to look at the specific issues in incidence of violence.

As well, this should be followed by a site inspection and this is perhaps where you can involve your joint occupational health and safety committee members. An actual physical inspection of your workplace, looking for key indicators where your security may be breached or where there are areas where doors are left open, windows unlocked, looking at lighting in the parking lot, your underground parking lot, looking at all the specific issues to your organization.

The last item in the risk assessment is actually conducting a staff survey. What is the staff's perception of violence in the workplace? What is their understanding of what is going on in their workplace? Is there perceived fear? Do they feel safe at work? What are some of their fears?

The fourth step is to develop and implement a program that addresses all the risks identified for the risk assessment. Your program should include three key areas: hazard prevention and controls, reporting and investigation processes and emergency response measures. Beginning with the hazard prevention and controls, this would include building security, site design and environment such as lighting, furniture, entrances in hallways, looking at reception areas. Are there mirrors present? Looking at your waiting room, is the furniture and the lighting and the colours conducive to a calming atmosphere? Looking at your nursing stations, looking at the grounds, the parking lots. Administrative and work practices is also included in this section. Look at your general staffing level, looking at staffing levels during meal breaks, are there appropriate number of staff available to look at your clients and to make sure that the clients are well care for, to look at visitors and public, client care, working alone, working in isolated areas and also work related travel is included.

The next stage would be looking at a reporting and investigation process and to ensure that there are specific procedures, documented procedures and forms for the recording of all incidents of violence, either real or

threatened, including verbal or written abuse, harassment or acts of physical violence. There should be investigation procedures and forms for the investigation of all incidents and the staff, this should be communicated to all staff in the organization and there should be procedures for calling the police.

The response measures should include responding to the stages of aggressive behaviour, responding to potentially violent situations, responding to threats, having an emergency response plan or crisis intervention team so that people can respond to staff members who need their help and assistance and also this focuses on the area of post-incident response, facilitating medical attention for anybody directly or indirectly involved in the violent situation, having informal debriefing sessions, critical incident debriefing, a team meeting to talk about some of the indicators that happened or provoked the situation and then work accommodation or reassignment of that worker if required.

The fifth part of the program development is education and training and this should include both general and job specific training. This should be offered to all staff including physicians, professional and support staff, contracted workers and services, volunteers, students. It should be made mandatory in the organization beginning with an orientation for all new workers and contracted workers and services and regular as an annual educational session.

The last point is very important. It is program evaluation and this is critical to ensure the effectiveness of the program and provide the opportunity for any program enhancements. The program should be reviewed annually by the committee and senior management, managers, supervisors, employees and by the joint occupational health and safety committee. The efficiency should be identified and the program adjusted accordingly.

Possible indicators are evaluation components to include are a review of your incident report, injuries statistics, investigation report, security, code white, unusual occurrence report, workplace inspection, joint occupational health and safety committee minutes, staff surveys, emergency response team reports. The development and implementation of a comprehensive workplace violence prevention program may appear a bit overwhelming but remember, take simple baby steps, be realistic, put a plan together. It may take a year and a half to two years to get a comprehensive program in place. Share the load by the way of multidisciplinary committee and contact the expert in the field for assistance. That concludes my presentation and I would like to invite questions from our listeners.

Operator: If there are any questions from the phone line, please press 1. Once again if anyone on the phone lines has a question, please press 1. Our first question comes from Peter Williams with the Centre of Addiction. Please go ahead.

Question: Hi, my name is Peter Williams. I'm with the Workplace Consulting Services with the Centre for Addiction and Mental Health and I just have a question for Mr. Roher regarding a couple of things. One, the sharing of information between organizations, you mentioned about the example of the student that had sexually assaulted someone and then went to another school and there wasn't sharing and I'm just wondering in terms of the whole privacy act, how that - how much one employer can share that with another and also in terms of police checks, whether an employer has the right to mandate a police check to prevent possible violence?

Eric Roher: Excellent questions. Let me address the first question - the second question first and that is the police check question. You can as an employer, when you are hiring an employee, you can make it conditional on hiring an employee to say, look, we are offering you a position but it is conditional on you successful passing a police check and what we will do is we will do a police screening process and there is no problem in doing that whatsoever. School boards as you all appreciate do that all the time and in fact now, there is recent guidelines set up by the Ministry of Education that all employees who work in schools across the province of Ontario will have to do police checks. So provided, provided you make it a condition up front when you are hiring someone, you make it and you indicate look, upon successful completion of your police check, we are offering you a position. It shouldn't be a problem.

The sharing of information of course is a very complex and sensitive issue. Let me break it down into two aspects. First confidential documents or records and clearly documents are protected and in the province of Ontario, if you are working for a government agency or a government department, the Freedom of Information Act, the Freedom

of Information and Protection of Privacy Act will have an impact or if you are working in a school board or power commission in a municipal, the municipal Freedom of Information and Protection of Privacy Act will have an impact and that is of course that you cannot disclose personal information that is recorded information without the consent of that individual.

You have to be very very careful about any kind of recorded information. You won't be able to disclose it or produce it. However that being said, if someone calls you, if someone - if someone calls you about the status of a particular employee and you know that there are violent tendencies, I mean you cannot - I encourage you to be frank, I encourage you to tell the truth. At the very least, what you can say is "the employee started on X date, these were his duties and responsibilities. He departed the workplace on Y date" but if the employer asks you, "Well, did the employee perform well?" you have to be honest and - or you don't answer the question and then what we call an adverse inference is drawn.

With respect to the organization itself where you are supplying let's say information within the organization, my view is that you supply the information on a need-to-know basis. So where a student is transferring from one school to another and the school has - the student you know has violent tendencies, the school - the student has been suspended two or three times for pulling out a knife or a weapon, what you would do in my view is you could inform the receiving principal of that student, of that student's problems or history and that principal will be forewarned and will be able to inform staff on a need-to-know basis, but you would do it with a great deal of sensitivity and recognizing that, you know, the student has a right to confidentiality.

Sorry, about that long answer.

Question: No, thank you.

Operator: Thank you. The next question comes from Susan Smith of Mary Berglund Community Hospital. Please go ahead.

Question: Good afternoon. I found the presentations very interesting. My one question is we are governed by a board of directors. Does the sort of the same principle apply to them in regards to workplace - or excuse me, is being part of an identified group that could actually abuse if you wish verbally employees?

Gerry Smith: I would - it is Gerry here, I would immediately jump in and say yes. A board of directors can be - I have actually known a board of directors to be abusive towards employees and they are still required to follow any kind of policy and procedure that the employer institutes for the safety and well-being of employees. So yes, the board of directors would be covered and in fact, they should be the role models of any kind of policy and procedure for the entire organization. So if you have a board member who is a bully, then you more than likely find that bullying is standard within that organization.

Question: Thank you.

Operator: Thank you. Our next question comes from Joan Arruda of Thomcliff Neighbour. Please go ahead.

Question: Yes, my questions have to do with training staff in handling difficult clients. We have a lot of walk-in clientele and occasionally my front receptionist has to deal with abusive clients and I need to get some training for her in how to deescalate a situation, anger in a situation and I was wondering in the city of Toronto where I could access that?

Patti Boucher: I will answer that. Health Care Health and Safety Association does offer training in violence in the workplace for program development as well as looking at crisis intervention. So you can contact our organization directly.

Question: Okay, alright, thank you.

Operator: Thank you. The next question comes from Jill Pascoe of Wilson Memorial General. Please go ahead.

Question: Hi, good afternoon, very good teleconference. What we have here in our facilities, we do have a policy dealing with harassment and violence in the workplace. It was developed in conjunction with our union and yet it seems they won't enact it because we did have an individual that did make a threat and they are the first ones to grieve.

Eric Roher: Sorry, so the individual filed a grievance?

Question: Correct. He had uttered a threat in the workplace and we developed a zero-tolerance and all our unions were involved in the development of that program. So of course he did this threat and we disciplined accordingly and grieving is going on to arbitration.

Eric Roher: Why? So the arbitration hasn't been heard yet?

Question: It has not been heard yet.

Eric Roher: Yes and I think it is part of what Patti stated. I mean we have to make it very clear as part of our policies and procedures that where you are involved in an abusive conduct or a threat or a form of harassment, you will be subject to disciplinary action even in a union context and if I was the organization, provided you had appropriate witnesses and people heard the threat and people felt threatened, then I would carry through and sometimes, you have to send a message throughout the organization that you are serious and that zero - this is a zero-tolerance with respect to violence and this type of conduct will not and cannot be condoned and so I would advise you, not that I'm giving you legal advice but...

Question: No, no, I understand.

Eric Roher: I'm in situations like this all the time and sometimes we say, I mean we cannot give into bullies even who may be filing grievances and we have to go to an arbitration hearing and allow an arbitrator to make a determination, but you have to make it of course a part of your success in your arbitration hearing and as Patti indicated, I do labour and employment law as part of my full-time job. What you have to do is make it clear as part of your policies that you can be reprimanded and disciplined up to an including possible termination and if you make that - and a person contravenes, then they have to understand that they will suffer certain consequences.

Question: Correct. Also part of our workplace safety environment, a few years back, because we are a very small facility and we have just a few numbers of people on the night shift, we had actually purchased beepers for staff, if they found themselves in a situation, they could beep directly to the police department. We did enact that and what we are finding now is our staff don't want to wear the beepers.

Patti Boucher: Why is it that staff don't want to wear the beepers?

Question: They find them very cumbersome with everything else that they have to carry on themselves in their pockets. It seems that - however we do want to make it a mandatory thing.

Patti Boucher: I would encourage too for the employer to make that mandatory. It is a reasonable control. Workers are working alone, especially at night and may need to access this. So I would enforce that, include that as one of the controls in your prevention program of policies and workers would be expected to follow your policy procedures.

Eric Roher: Yes and along those lines, we have had situations at industrial places where workers have refused to wear safety glasses, workers refused to wear safety boots, workers refused to wear, you know, proper protection devices and I totally agree with Patti. You have got to say, "Look, this is for your own safety and if you don't wear the safety glasses or have this beeper, we as an organization could be liable. We could legally - we could be legally liable for negligence or carelessness or recklessness." So I mean you have got to indicate that, "We really have no choice but you have got to wear the proper safety equipment or apparatus."

Question: Okay, thank you very much.

Operator: Thank you. The next question comes from Audrey Landon of Hotel-Dieu Grace Hospital. Please go ahead.

Question: (Inaudible)

Patti Boucher: My apologies, I'm sorry, we can't hear you.

Eric Roher: Yes, Audrey, is there any way that you can come closer to the speakerphone.

Gerry Smith: Audrey is from North Bay.

Question: Sorry, no, we are from Windsor. It is an environmental aspect question, okay. The area that was newly designed for our psychiatric intensive observation unit is - unfortunately we are finding it quite crowded, it gets noisy at times and it is supposedly a high-risk factor for acting out and overcrowded client/patient areas. Those first two factors are a big problem for us and we are just wondering if you would have any suggestion on how to work around that since this is a newly designed and you know, we are not about to redesign it. It wouldn't be possible to do that. How do we work within that limitation?

Patti Boucher: It is too bad that the environmental aspect wasn't looked at during the building and decorating of the facility. However, there are some measures in the developing of workplace violence prevention program manual that you can actually refer to look at the furniture, colours to make it more conducive and relaxing, use of music in the area for a more calming effect. So I welcome you to either download the resource off the Internet. It is free of charge or if you don't have access to that information, you can call our 1-800 number and we can send that on to you.

Operator: Thank you. Our next question comes from Lenore Ison of St. Christopher House. Please go ahead.

Question: Thanks. I wanted to come back to the issue of sharing confidential information in regard to somebody who has a history of violence. It is not that unusual for us to be working with folks who have that in their history. I'm talking about clients right now and we have internal policies about how we deal with confidential information and when I think about the idea of somehow sharing information with everybody in the building about somebody who has the potential for violence, it seems unmanageable and so I'm just wondering about some suggestions for how to manage that issue?

Eric Roher: Well, what we do, what I recommend is if you have a patient of client with certain violent tendencies or a violent history, what we recommend is informing people on a sensitive - on a confidential need-to-know basis, so for example you wouldn't have to inform everyone in the building but if the person sees a certain counselor, that counselor should have a picture of that individual's history. The court said very clearly that there is a duty to warn, a duty to inform and that counselor should be monitoring that person's conduct.

Question: Okay.

Eric Roher: And it is the same situation in a school context, a context - we don't necessarily say that it is a student with the violent history, you put the student's picture up in the staff room and say, you know, this person is dangerous, but you inform that person, a home room teacher and perhaps other relevant - one or two relevant teachers about that student's history and you perhaps share the history with them so they are aware of the background and you try as best you can to monitor them and that may include having them meet with a guidance counselor or social worker on a regular basis or even a vice-principal who is in charge of discipline, so you are on top of their situation and you are monitoring.

The courts want to show that you have taken due diligence, that you have taken reasonable care to protect the safety of your workplace. So you have to be proactive. You just can't let a dangerous person sort of wander around and not do anything. You have got to be seen to at least taking some preventive steps and providing basic information to the people that need to know.

Question: So none of you are suggesting that this sort of information become public information, that it is shared among staff, especially the staff that are working with the individual?

Eric Roher: Each case is going to be different and there may be some cases in which you may, in a very sensitive way, may be want to inform staff and it is - I'm taking a school context where you have ...

Question: It is a community, a community-based agency.

Eric Roher: But in other cases where perhaps an isolated incident, if it happened once, you have a concern about an incident, you may just want to speak to the individual's counselor or the individual's social worker, the person who has the most closest contact. Every case is going to be different. What we can do here is simply set out a framework for you, the rules or things that you have to take reasonable care and show due diligence in ensuring that people have a reasonable amount of information. Do you remember, there is one case that comes to mind. It is not directly on point but the legal principle applies, it is that Jane Doe case that the police were involved in a number of years ago and we were actually acting for the police in that case and of course the word had gotten out that women were being sexually assaulted in a certain Toronto community and the police were not telling anyone and in fact allowing this fellow to wander around on people's balcony and they were waiting until an incident took place and a woman named Jane Doe came forward and sued the police and in her decision, Madam Justice McFarlane said, "No, you have got a duty to warn, you have the duty to inform people and let them know about the dangers of someone so preventive steps can be taken."

Question: Right.

Eric Roher: So I mean, like you have got to do in a sensitive way and you can't create hysteria in the workplace, you can't create a mob mentality where people say, "Well, let's go and beat that person up because they beat us up". The other thing to be concerned about is a possible action in defamation and you are probably concerned about anything that will tarnish a person's reputation. You can indicate things that are truthful, so if a person has been charged with an assault, you can say that, the person has been found guilty, you know, of assault or of criminal harassment. You can say things that are factual but I would, you know, avoid rumor, innuendo, mind reading because that can be dangerous. You don't want to be in a situation where you are spreading rumors that are unfounded about this individual in the community.

Question: Thank you very much.

Operator: Thank you. Our next question comes from Mary Lake of Fairmount Homes. Please go ahead.

Question: It is okay, my question was about the confidentiality issue as well. So I think we discussed that pretty good. Thank you.

Operator: Thank you. Our next question comes from Susan Johnston of Hamilton Wentworth. Please go ahead.

Question: I think we have also addressed about the confidentiality issue.

Operator: Thank you. Our next question comes from Marlene McBride of Community Nursing Hospital. Please go ahead.

Question: I wondered, you talked about a survey to gather perceptions of violence and I wondered if you would have had a prepared survey that you could share with us? We certainly would like to incorporate that in our program as a manner of starting?

Patti Boucher: Yes, actually we do. In the workplace violence prevention program document, there is a sample staff survey form and just a few words on that. When you see the survey form, it is interesting, you see the same survey for subsequent surveys, to see that there has been any improvements in your workplace violence prevention program. Perhaps you will see some new incidents or concerns expressed in the second survey, but again it is included in the appendix in the workplace violence prevention program document.

Question: Okay, well, thank you very much. We would be pleased to have that shared with us. Great, thanks.

Operator: Thank you. Our next question comes from Catherine Richards of Smooth Rock Falls. Please go ahead.

Question: Yes, in a nursing home environment, you have a lot of cognitively impaired residents and we would like to know what we can do legally when they assault staff?

Eric Roher: Well, as I said earlier, that is a very difficult issue, it is a very complex issue because you know the people are acting in the course of their duties, the people recognize that if you say these individuals have certain difficult medical conditions, they have got different cognitive limitations and so they know that commencing their employment, there are inherent risks in the job. So there are going to be - Catherine, there is going to be the natural type of risks you see on a daily basis. Okay, there is going to be likely a client or a patient that strikes out, that you see in a normal routine regular basis and there is not much you can do about that because that is inherent to the job and those are part of the risks.

However that being said, where you have someone applying excessive force, where you have something that is unusual where someone pulls out a weapon, a knife, a BB gun, we have had in schools, kids are pulling out these BB guns that are air-pressured, where you have someone who physically assaults someone and we had a case in a recent school where a student bent down to drink in a water fountain, the teacher said, "Move on", the student said, "No, drop dead", the teacher said, "Please move on" and then the teacher kicked that student with excessive force. That teacher was charged with assault. Where you have the excessive situation that is out of the norm, then you could go and report it to the police. The police will do an investigation. The police will decide themselves whether the incident warrants charges being laid.

I strongly advise you allow the police do an investigation and let them come to a conclusion as to whether the assault warrants the charge. They know what the rules are and they know what they can prosecute. I strongly advise that you not have the employee lay what is call a private information. They will not be happy, it is a long process and if they lay their own assault charge, the crown and the police will not be, sort of you know, in line. It is far better to have the police doing the investigation and if they believe that an assault charge is warranted, then they can lay a charge.

The other thing is that where you believe a person is repeatedly dangerous, then you can of course exclude them from your program. I mean you could simply say, "They are refusing to serve you" and we can do that in a school context and we can have students excluded, we can have parents excluded and we have different recourses under the same school or the property act, we can have people removed from the property.

In addition, in a criminal context, you can have a peace-bond issued or what is called a recognizance issued and you can basically have - you can go to court and you can get certain terms. This is, Catherine, in the most extreme situations where we can say, in the most extreme situations, look, you can have - this person is dangerous and there are certain terms. They cannot come within 200 meters of the nursing home, they cannot come within a certain distance from individual employees, but what I'm saying to you is in the normal day-to-day situations, there are going to be certain assaults that you have to except because these people have certain severe limitations and problems. On the other hand, in the extreme situation, you can take action and there are certain ways that you can exclude people or as I say, contact the police.

Question: Yes, because sometimes you will get residents who will assault other residents. So I mean you have to protect the resident that is being assaulted but then you can only go so far.

Patti Boucher: You are right, Catherine, but I think it is important that the employer have a control program in place identifying all of the potential hazards, making sure that the staff are educated to recognize escalating behaviour and then diffuse escalating behaviour, thorough documentation on the care plan with communications between the caregivers is essential and the employers that have procedures for calling the police and there have been charges laid against clients in long-term care organizations. So I think it is important for you to know that and the employer must court the worker.

Question: Okay, thank you.

Patti Boucher: Okay, one more question.

Operator: Thank you. The next question then will come from Marcy Desroches of Children's Aid Society. Please go ahead.

Question: Thank you, good afternoon. This question is for Eric and it is about the criminal record check. Just how accurate are these police checks?

Eric Roher: Well, it is a good question and first of all, what you do is you go to the local police station. They usually cost between \$40 and \$50 and you get a police check. The problem is, I mean this is fraught with complexity in terms of requiring for everyone in your organization. The police checks, what they do is they will give you a record of someone's criminal convictions. They won't tell you whether an individual has been charged, they won't tell you if someone has been charged and later acquitted, that goes beyond that.

The only thing that you will find is whether there has been a conviction but it is fraught with complexity because and I will give you an example. You may have an individual who is applying for a job as a social worker or as a teacher and they may be 35 years of age and they may have an exemplary employment record and there is a criminal police check done and at the age of 19, they were stealing, they stole someone's 8-track stereo and they were charged and found guilty of theft. Well, that will be on their record. So the issue has - now you have this information, what do you do with it and it could be very problematic because the person can have an exemplary work record and it wouldn't affect their ability to perform their duties but it is out there and you now know about it. So it is very difficult.

The other big problem is if you are running a school board in the province of Ontario let's say, I know you are with CAS, but if you are running - or if you are operating with CAS and you have an employee who is already working in your organization and that employee has been there for 20 years and you do a police check and you find out that ten years, they were convicted of impaired driving. What do you do with the information? Do you then turn around and discipline them? I mean I don't think so. So it cuts both ways. It is helpful to have the information where you are dealing with new employees, because that can be very revealing particularly in a CAS situation but it can be problematic because sometimes, you don't know what to do with the information and it could inhibit you hiring a very good employee, but to answer your question, all it tells you is criminal convictions. It won't tell you if someone has been charged or if someone has been acquitted of something.

Question: Great, thank you very much.

Patti Boucher: I would like to take this opportunity to thank our presenters and our listeners and I hope this session has provided you with some insight into the issue of workplace violence and prevention strategies. I wish you and your organization success in establishing an effective workplace violence prevention program.

Eric Roher: Thank you very much.

Gerry Smith: Thank you.