

## You Raise the Issue

JASON SCHLOTTER

### **Question: Could I as an employer be liable if there is an incident between employees in my workplace?**

The short answer is yes. In fact, not only do you have responsibilities with respect to violence between employees, but also if one of your customers is involved, or a member of the general public, such as the spouse of an employee.

As an employer, it is your responsibility to provide a safe workplace. In Alberta, the source of this obligation can be found in more than one piece of legislation. Examples include health and safety legislation, the Workers' Compensation Act, human rights legislation, the Occupier's Liability Act, a collective agreement (if your workforce is unionized), or civilly under the common law.

This is a current issue, given the Alberta Legislature's recent announcement of a new *Occupational Health and Safety Code*, scheduled to come into effect on April 30, 2004. The new Code brings together 11 separate regulations, which should make it easier for employers and workers to use. The new Code specifically addresses workplace violence, which is the first time that workplace violence has been included in any Alberta health and safety regulation.

### **Question: What are my obligations as an employer under the new *Occupational Health and Safety Code*?**

The new Code is quite detailed, and cannot be discussed in more than a cursory manner here. However, some of the highlights include the following:

As discussed more fully in our feature article, employers must conduct a hazard assessment, which is an identification of real and potential hazards. The Code requires that employers include the possibility of injury to workers from physical violence as a potential hazard.

Employers must develop a written policy covering workplace violence. The policy should include a commitment to a workplace free from violence, ongoing support to achieve that goal and a commitment to investigate and follow-up reported incidents.

Workers must receive instruction and training in: how to recognize workplace violence; the employer's policy and procedures; the appropriate response to incidents; and the procedures for reporting, investigating and documenting incidents of workplace violence.

If an incident of workplace violence does occur, the employer must investigate, prepare a report, keep that report on file for two years from the date of the incident and have the reports available for inspection by an Occupational Health and Safety Officer.

Workers who have been victims of workplace violence must be debriefed after the incident. The employer is required to advise the victim and other exposed workers to consult a health professional for treatment.



Jason Schlotter

2000, 10235 - 101 STREET  
EDMONTON, AB T5J 3G1  
PH: 780.423.3003

400 THE LOUGHEED BUILDING  
604 1 STREET SW  
CALGARY, AB T2P 1M7  
PH: 403.260.8500

201, 5120 - 49TH STREET  
YELLOWKNIFE, NT X1A 1P8  
PH: 867.920.4542

www.fieldlaw.com

The above is just a highlight of what is contained in the new Code regarding workplace violence. However, this is a very important matter for employers to consider, as a first offence under the Code carries a maximum fine of \$500,000 (an increase from \$150,000) and/or six months imprisonment.

**DISCLAIMER** this article should not be interpreted as providing legal advice. Consult your legal adviser before acting on any of the information contained in it. Questions, comments, suggestions and address updates are most appreciated and should be directed to:

The Labour and Employment Group  
Edmonton 780-423-3003  
Calgary 403-260-8500

**REPRINTS**

Our policy is that readers may reprint an article or articles on the condition that credit is given to the author and the firm. Please advise us, by telephone or e-mail, of your intention to do so.