



ISSN 1710-9477

**Legislative Assembly
of Ontario**

First Session, 39th Parliament

**Assemblée législative
de l'Ontario**

Première session, 39^e législature

**Official Report
of Debates
(Hansard)**

Monday 23 November 2009

**Journal
des débats
(Hansard)**

Lundi 23 novembre 2009

**Standing Committee on
Social Policy**

Occupational Health
and Safety Amendment Act
(Violence and Harassment
in the Workplace), 2009

**Comité permanent de
la politique sociale**

Loi de 2009 modifiant la Loi
sur la santé et la sécurité
au travail (violence et
harcèlement au travail)

Chair: Shafiq Qadri
Clerk: Katch Koch

Président : Shafiq Qadri
Greffier : Katch Koch

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

<http://www.ontla.on.ca/>

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Hansard Reporting and Interpretation Services
Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
SOCIAL POLICY**

**COMITÉ PERMANENT DE
LA POLITIQUE SOCIALE**

Monday 23 November 2009

Lundi 23 novembre 2009

The committee met at 1402 in committee room 1.

**OCCUPATIONAL HEALTH
AND SAFETY AMENDMENT ACT
(VIOLENCE AND HARASSMENT
IN THE WORKPLACE), 2009**

**LOI DE 2009 MODIFIANT LA LOI
SUR LA SANTÉ ET LA SÉCURITÉ
AU TRAVAIL (VIOLENCE ET
HARCÈLEMENT AU TRAVAIL)**

Consideration of Bill 168, An Act to amend the Occupational Health and Safety Act with respect to violence and harassment in the workplace and other matters / Projet de loi 168, Loi modifiant la Loi sur la santé et la sécurité au travail en ce qui concerne la violence et le harcèlement au travail et d'autres questions.

Le Président (M. Shafiq Qaadri): Chers collègues, je rappelle à l'ordre cette séance du Comité permanent de la politique sociale. I call to order this meeting of the Standing Committee on Social Policy.

As you know, we're here to consider Bill 168 and hear from Ontarians with reference to An Act to amend the Occupational Health and Safety Act with respect to violence and harassment in the workplace and other matters.

We have, of course, a number of presenters, a full house. I'd remind my colleagues and those listening that they will have 10 minutes in which to make their presentation, which, as I say, will be enforced with military precision. Any time remaining within those 10 minutes will be distributed evenly amongst the parties for questions, comments and cross-examination.

**STOP FAMILY VIOLENCE:
IT'S EVERYBODY'S BUSINESS**

The Chair (Mr. Shafiq Qaadri): I would therefore now invite His Worship the mayor of Pelham, Dave Augustyn, who represents the organization It's Everybody's Business. Welcome, sir. I'd invite you to please officially begin, and if you have any colleagues, please, if they do speak, have them introduce themselves for the purposes of Hansard permanent recording.

I invite you to begin now.

Mr. Dave Augustyn: Thank you very much, Mr. Chair. It's a real pleasure and honour to be here. As you mentioned, I'm the chair of Stop Family Violence: It's Everybody's Business, which is a Niagara regional task force charged with a Niagara solution to prevent the effects of domestic violence on the workplace.

With me today are some members of that task force. They include regional councillor Brian Baty, who is the chair of the government sector; Richard Cizek, who is a detective sergeant with the Niagara Regional Police Service for victims' services; John Swart, who is the chair of our business sector for this task force and a retired businessman; and Susan Speck, who is the project coordinator for the task force.

Before you today we have a slide show presentation—I'll go through rather quickly on this—that we would tend to use when we're talking to employers about the importance of preparing for domestic violence at the workplace. As I mentioned, Stop Family Violence: It's Everybody's Business is a made-in-Niagara solution run by volunteers. It's a joint project with the Niagara regional police and the two shelters in the Niagara region, along with the community. It is supportive of the provisions on domestic violence in Bill 168. The main reasons are because of the concentration on costs, and as you look through our presentation, that's what we're dealing with today. There are certainly costs to individuals, costs to society and business costs.

The first few slides talk about the impact in Niagara of family violence and domestic violence. The number of women and children who sought refuge at women's shelters in 2008 was 578. Another 183 were turned away because the shelters were full. Some 18,000 women and children have lived at Niagara shelters since 1977; 50% of them were children. Last year, 4,500 women called the women's shelter 24-hour crisis line because they were in crisis. And since 1997, there have been 17 homicides, leaving four children motherless as a result.

1410

It's said that women's shelters are the only safe emergency shelters for abused women and children in Niagara region, and that is extremely true. Some 20% of the family and children's services caseload in Niagara, which is the CAS, is due to domestic violence. We've calculated some of the costs to society for these types of services: \$3.2 million for shelter services, \$5.2 million on the regional side and \$20.8 million on the provincial side

are the estimated annual social services costs related to family violence that each of us is picking up, whether it's on the provincial tax base or the property tax base. Some 10% of the Niagara regional police budget of \$115 million is spent responding to domestic violence.

On page 7 of your slide deck, you'll see that domestic violence is on the rise in Niagara, unfortunately. Part of that, we think, is due to the economy, and certainly Detective Sergeant Ciszek will be able to answer any questions you have on that. It is estimated that the total cost for society is \$71 million for social services, education, criminal justice, labour and medical, and that's based on a study from 1995.

I think I'll run quickly through the next set of slides, which talks about abuse; I notice that you have other presenters here talking about that. Abuse is about power and control. The abuser slowly takes away the independence of the person that they are abusing, and often that goes into the workplace. That's why family violence is important in the workplace. Family abuse can be physical, sexual, psychological, financial or spiritual. Overwhelmingly, it's women and children that make up the victims of family violence. Sometimes, unfortunately, society blames the victim for that abuse.

The other thing about family violence is that it's learned behaviour. There are studies that show that 75% of children exposed to domestic violence have a tendency to become abusers themselves, and 75% of girls that are exposed to domestic violence have a tendency to become abused themselves. So family violence is not just a women's issue. That's why we say it's everybody's business that we deal with this issue. It's a community health and safety issue, and it's an education issue as well.

The costs are staggering, and that's the next cost that perhaps this committee can concentrate on a little bit—the hidden costs of family violence to employers: lower employee productivity because the employee can't focus on the job at hand or because the abuser is calling her constantly; higher rates of absenteeism for numerous reasons; lower employee morale; higher security and liability risks. These costs are hidden to the employer. So to those that say that to make the changes in this bill would be an added cost to employers, no, the costs are already there; they're just hidden and you don't see them. They're witnessed through the fact that employees aren't making their most productive work possible.

The next slide there, on page 14, talks about why employers should invest in family violence prevention: to improve the health and safety of employees; to protect profits and productivity; to stop crime; to improve the public perception of your organization; and to increase employee satisfaction. The risks are already there, and that's the pitch that we make when we go and John goes to talk to the business sector, or Brian goes and talks to the government sector—that those risks are already there and those costs are there and hidden.

What we suggest to employers in how they can make a difference is that they can learn to recognize, show

respect and offer support. They can develop supportive policies and practices in the workplace. They can keep up to date about family violence and community resources. Don't minimize the situation and ensure confidentiality.

We have some policy considerations here that we give to employers, and those are: develop an employee assistance program; develop anti-harassment policies; discuss family violence issues as part of new employee orientation; offer work-hour flexibility; and establish safety procedures.

Stop Family Violence: It's Everybody's Business goes to employers and works with employees to recognize and respond to family violence in the workplace. We've already done 400 introductions on the topic in Niagara and have 90 employers trained. Part of the reason that we've been so successful recently is because we can point to Bill 168—that it's impending legislation from the government, and it contains a section on domestic violence. We hope that that stays in the bill, and we're very pleased with that.

Before you, you have a tool kit that we would give to an employer that they can use, with sample policies, with information about our services and how an employer can create a positive workplace and can support that through policies, practices and programs.

In closing, the Stop Family Violence: It's Everybody's Business task force supports the domestic violence provisions in Bill 168 because of the costs to individuals, how it shatters lives—and this will help take that away—because of the costs to employers and because of the costs to society, and also because the risks are already there. This deals with the risks directly and it helps employers prepare for those risks.

Thank you very much, Mr. Chair. We'd be open to questions.

The Chair (Mr. Shafiq Qadri): Thank you, Mr. Augustyn. A brisk 40 seconds per side—Ms. Jones.

Ms. Sylvia Jones: How long have you been doing the tool kits for businesses?

Mr. Dave Augustyn: It started with a summit back in 2005, and it morphed into a task force working on this. The tool kit was developed, I think, about three years ago, but it was only through Susan coming on as the project coordinator that we were able to move ahead with things.

Ms. Sylvia Jones: I haven't read it, obviously, but it looks good.

Mr. Dave Augustyn: Yes, of course. It's mirrored on a tool kit that was developed in New Brunswick, and we adapted it for the Niagara region.

The Chair (Mr. Shafiq Qadri): Thank you, Ms. Jones. Ms. DiNovo?

Ms. Cheri DiNovo: We've heard a number of deputations, some from the family of Lori Dupont, for example, who feel this bill does not go far enough, that we need not only physical violence covered, but the escalating aspects of harassment and threats also in the bill. Would you agree with that?

Mr. Dave Augustyn: I haven't seen that. We were talking about that on the way up, actually, about how the bill is there to talk about, if an employer becomes reasonably aware and ought to be aware of this, taking every reasonable precaution within the circumstance for the protection of the worker. I think the answer to your question is, it depends on how it's effective—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. DiNovo. To the government side: Mr. Dhillon.

Mr. Vic Dhillon: Thank you for your presentation. That was quite concise and to the point. My question is, how do you see this bill being an effective tool in addressing violence in the workplace?

Mr. Dave Augustyn: We see it already as an effective tool because it's out there. I wonder if John can comment on that, Mr. Chair, please.

Mr. John Swart: I've experienced this in my own business, where we've had one of our employees as an abused woman, and it just destroys the morale in the business and makes the business very unproductive. And to bring consciousness and some regulation to that through this just gets an employer—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Dhillon. Thanks to you, Mayor Augustyn, Mr. Baty, Mr. Cizek, Mr. Swart and Ms. Speck for your deputation on behalf of It's Everybody's Business.

Mr. Dave Augustyn: Thank you for the opportunity, Mr. Chair.

ASSOCIATION FOR THE ADVANCEMENT OF SAFETY TECHNOLOGIES

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenter to please come forward: Braidy Parker of the Association for the Advancement of Safety Technologies. Welcome, Mr. Parker. As you've seen the protocol, you have 10 minutes, which begin now.

Mr. Braidy Parker: Good afternoon. My name is Braidy Parker. I'm here to represent AASTech: the Association for the Advancement of Safety Technologies. AASTech is a not-for-profit organization that assists Canadian entrepreneurs and organizations to find angel-level funding for their safety-related products in the public and private sector. So you can read into that: That's for first responders, such as fire and ambulance, that's for policing organizations, as well as on a military level, such as body armour and so forth.

AASTech also develops and researches into the area of workplace violence for Canadian organizations. One of the areas we've looked at fairly extensively is the private security area. Private security guards in the province of Ontario are now licensed or required to be licensed under Bill 159, and one of the issues we believe that needs to be seriously looked at under this particular piece of pending legislation is the employer's responsibility to the person that responds to the workplace violence incident, which, as a first responder, would mostly be the private security sector.

Just to touch on what the previous organization spoke to, many of these organizations, from my research, respond to domestic violence issues. They will receive information from somebody in management of one organization where the significant other of the party is going to come and do them harm. Oftentimes, the person called to deal with that particular problem is in fact the security guard.

Bill 168 proposes that, obviously, everybody under this legislation be protected. AASTECH feels that a specific amendment to that act or regulation concerning private security guards should be specifically addressed in it. In other words, what's going to be done to protect the person who turns up to protect you? It's pretty simple, pretty straightforward.

1420

From my research, and I also do a number of training levels in organizations, the response has been fairly minimal to protect that individual. Some organizations will issue body armour; some will not. Others feel it's an expense. I look at it as personal protection equipment. Just off the top of my head, earlier this year, in May, a security guard was stabbed in the head while trying to apprehend somebody stealing baby food. Again in May, a security guard was shot in the chest. The headline read "Saved by Body Armour"; that's personal protection or safety equipment. I think it's time, with the levels of violence that are reaching that particular sector, in which there are 65,000 registered individuals in this province alone who deal with theft on a daily basis, who deal with violence on a daily basis.

I haven't seen much in the way of organizations protecting that class of people. What AASTech would like to see would be an amendment to that, specifically detailing that the employer must do a threat analysis specific to the environment that particular guard works in and specific to that organization and take the necessary steps to protect that worker with personal protection equipment, whatever form that equipment takes.

The second one would be to list security guards as first responders, because in all reality, they are. They're the first person on the scene. They generally make a decision, and the police are called. The police are fantastic at getting there, but we're talking about when seconds count; we're not talking about minutes. These individuals have been stabbed, shot and beaten.

Mostly they are obviously just civilians, so they're not really listed as security guards; they're just people who've been hurt on the job. If you take an in-depth look, they face down people with firearms—not on a daily basis, but enough to make it a consideration. Edged weapons or anything that can cut, wound or lacerate are a significant consideration in this city and in other cities.

Gone are the days when individuals will take a one-on-one approach. We're looking at swarms. We're looking at wolf packs. We're looking at people who will surround an individual guard and physically beat them into the ground. This is a significant problem which I feel and AASTech feels needs to be addressed.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Parker. Generous time, about two minutes per side, beginning with Ms. DiNovo.

Ms. Cheri DiNovo: We heard a deputation the other day regarding security guards, and I think it's something that we do need to look at in terms of the writing of this bill. One of the things I said to that other deputant is, it sounds like security guards need a union and need to unionize. That was just really an observation, in and of itself.

I wanted to ask you, just in your experience, and you're clearly an experienced gentleman in terms of violence in the workplace. We see it, in the New Democratic Party, as an escalating action usually. Usually it starts with harassment, with calls, with bullying, that kind of thing, and escalates to physical violence. Yet there's nothing in this bill that deals with the non-physically violent nature of harassment. We would like to see that strengthened. Would you be in agreement with that?

Mr. Braidy Parker: I would. Certainly, from a security guard perspective, if I might speak on behalf of some of them, certainly not all of them, they're considered a food source. They are the object of ridicule and mockery on a daily basis. That can obviously wear down a person over time. They are called to solve problems but often aren't well trained to be able to solve the problem they've been called to handle.

There's a reasonable expectation from myself, when I am with my family in a public area but on private property, that my security be handled and theirs as well. Yes, there are definitely some people who would escalate that—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. DiNovo. To the government side.

Mr. Vic Dhillon: Thanks very much for your presentation. Do you think that policies and programs can address some of the concerns that you raised regarding the protection of security guards?

Mr. Braidy Parker: To a degree. I believe we need to hold employers more accountable for their actions as well as their inactions, at the end of the day.

Oftentimes, security is the last thing in the budget, it's the first thing that's cut in the budget, and anything associated with it is cut as well. Thus, training programs are cut. We see a number of valid training programs out there in terms of de-escalating problems, but I do not see them finding their way into that 65,000-person base that is required for the training.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Dhillon. To the PC side.

Ms. Sylvia Jones: Just so I'm clear, you're looking at a suggested amendment for 168 that would include security guards or list security guards as first responders?

Mr. Braidy Parker: That's correct.

Ms. Sylvia Jones: Okay, thank you.

The Chair (Mr. Shafiq Qaadri): Mr. Parker, just before you go, the Chair has to ask: Is it New South Wales or Queensland?

Mr. Braidy Parker: You know what? I was waiting for somebody to ask that, and you're in the wrong country.

The Chair (Mr. Shafiq Qaadri): Really?

Mr. Braidy Parker: Yes.

The Chair (Mr. Shafiq Qaadri): South Africa?

Mr. Braidy Parker: No. I'm from New Zealand.

The Chair (Mr. Shafiq Qaadri): Anyway, thanks for your attendance on behalf of the Association for the Advancement of Safety Technologies.

Mr. Braidy Parker: Thank you.

MIGUEL AVILA

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenter to come forward, please, and that's Mr. Miguel Avila. Buenas tardes, Señor.

Mr. Miguel Avila: Buenas tardes, Señor.

The Chair (Mr. Shafiq Qaadri): You have 10 minutes in which to make your presentation. I invite you to begin now.

Mr. Miguel Avila: Thank you. Good afternoon, members of the social policy committee. It gives me great pleasure to participate on this day to share my thoughts on Bill 168, which has passed second reading and is currently being debated in this committee today.

I followed the debates and actively participated with my submission to the Minister of Labour, Mr. Peter Fonseca, in his consultation paper on workplace violence prevention of October 2008.

Bill 168 appears not to be responsive, but instead a PR exercise that will increase costs to businesses and achieve little.

I am motivated to come today to share my painful experience of workplace violence. Long before the Lori Dupont case hit the news, in 2003 my wife lost a baby and suffered a miscarriage due to an earlier argument due to an abuse of power carried out by a manager at her workplace.

She did not feel well for the rest of the day and left work because she could not stand the harassment at work any longer and felt depressed. It was not the first time she encountered violence in the workplace. She was three months' pregnant and the incidents were documented with her union of the employer's harassment, the University of Toronto.

That night, she woke up screaming in pain. I had to carry my bleeding wife to the hospital emergency along with my three-year-old child. The university gave my wife time to heal, and because she feared more reprisals and needed a job, she hoped that one day the laws would change and kept silent. As for me, I had a good job with a steady company, but in a sudden change of ownership, my employer sold the building in 2004, and those employees who had less seniority were laid off permanently, including myself.

I applied for school and started working for the Toronto Zoo in 2006. Little did I know, until later, that

this job had a toxic work environment, and I became a victim of workplace violence for the first time in Canada.

I'm a former refugee from Peru, and I know first-hand of violence in the form of torture and killing. I endured six months of probation, in which I was psychologically and verbally abused by a female co-worker who had authority over me, directed by the Toronto Zoo management, in the form of a letter to me. She was a lead hand, grade 4, who had some perceived authority entitlements, like a middle-management position in the collective agreement, as I later found out.

This time my wife and I were expecting our third baby, and I needed so badly to keep this job to support my growing family. Since I could not stand the abuse of this female co-worker any longer, I gathered courage, because I know my case is a very isolated one in terms of complaining against a female.

I followed the internal response system to deal with harassment. My complaint was dismissed by upper management as frivolous and vexatious. I had nine documented incidents; however, in other words, they could not expect a female worker to harass a man. This is the logic in their minds. If a man harasses a woman, the odds would be against me; I would be fired and charged by the police.

I pressed on with the union to have a chance to deal with the matter in a labour board court, but in the middle of the process, management found a way to shut me out. Although my supervisor and I had a good relationship, all of a sudden he turned against me and he found little things to make my job a living hell. The situation was aggravated, since I had no alternative but to file an internal complaint against my supervisor. I had three documented cases of abuse of power, and things got nastier.

1430

From that point on, Toronto Zoo management looked at me as a troublemaker, not as a victim who needed their unconditional assistance as part of the Occupational Health and Safety Act of 1997. Toronto Zoo management once again dismissed my complaint as frivolous and vexatious. I investigated the internal response system and discovered that a senior manager handled the case and reached a decision after interviewing the aggressor.

My health started to deteriorate, and I took a medical leave of absence. Presently, I am disabled, but my spirit to fight to seek the truth has not ended.

In Ontario today, if you want to fight workplace harassment, you must submit a complaint to the Ontario Human Rights Tribunal at great legal expense, especially after the Ontario government abolished the investigations and advocacy wing.

I returned to work, and my employer again had some more secrets under their belt. I got more proactive and outspoken. My case was not dealt with properly by upper management at the Toronto Zoo. I attended courses and workshops on workplace violence sponsored by the union, since the employer-owned training programs were biased and unreliable.

I was suspended from work because I published a newsletter, appendix 1, and in it described how important it was for the employees to be aware of their rights and changes in the law. Finally, I got terminated from work because I sought out the attention of the city of Toronto, as I believed they owned the zoo.

One of my last achievements, made after being terminated, was to compel members of the joint health and safety committee not to agree with zoo management to introduce changes to the internal zoo policy on harassment. I wrote letters to the union and zoo management, saying that a new law should be in place that addresses the real meaning of workplace violence.

I also have copies of health and safety reports for the committee's review and study. Each and every time, zoo management silenced my activities for being proactive and fearless. Please note that I also became a shop steward, and even then, zoo management did not care about my opinions.

It sounds good on paper, but in reality it's not. Based on my personal experience with the Toronto Zoo, I noticed that the greatest enemy is management itself.

How can we improve the above situation? Here are some suggestions that I presented to Mr. Fonseca, Ontario's Minister of Labour, in the consultation paper on workplace violence prevention. First, allow and protect whistle-blowers in the workplace whenever they witness cover-ups by employers that hide and encourage a toxic work environment. Second, allow independent investigators to conduct a neutral and unbiased investigation.

My experience at the Toronto Zoo and the death of my child awoke a fighting spirit within me. In honour of my lost baby, I am here today without fear to speak out on my experience of violence in the workplace. I have no problem speaking out against the Toronto Zoo and the University of Toronto.

I hope that this committee can learn from my experiences and add changes to Bill 168. Please do not be afraid to ask Ms. Andrea Horwath, MPP, for her good points introduced in Bill 29. In the end, you will have a better law to protect Ontarians.

I am not an angry person. I am on a mission to seek the truth and ensure Ontarians are heard and get proper legislation dealing with workplace issues. I will be monitoring the progress of this committee with great interest. Thank you.

The Chair (Mr. Shafiq Qadri): Thank you, Mr. Avila. We'll start with the government side: Mr. Dhillon.

Mr. Vic Dhillon: Thank you very much for your presentation. This bill requires employers to deal with such issues as threats as well, not just physical violence and the higher end of harassment. Considering that things such as threats are covered in the definition of this bill, do you think that it goes a long way in terms of helping address harassment in the workplace?

Mr. Miguel Avila: The answer to that question is very simple, sir. This bill is making baby steps, but we are not in a time to make baby steps. We have to make some mature steps to ensure we don't have to lose any family members at the end.

The Chair (Mr. Shafiq Qaadri): Ms. Jones or Mr. Hillier, as you wish.

Ms. Sylvia Jones: Just a quick question: You say, “If you want to fight workplace harassment, one must submit a complaint to the Ontario Human Rights Tribunal at great legal expense.”

Mr. Miguel Avila: If your case is challenged by the employer, you must hire a lawyer or a consultant to help you out. In the case of the city of Toronto, they have the facility—they have the citizens’ purse to spend thousands of dollars in money. You know very well that the city of Toronto spends \$1 million on one case. I’ll give you an example: When they fought a blind man who wanted to introduce changes to the TTC for calling subway stops, they spent almost \$1 million in legal expenses. This case was reported in the human rights code. Does that answer your question?

Ms. Sylvia Jones: Sort of.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones. Ms. DiNovo.

Ms. Cheri DiNovo: Thank you for the mention of Bill 29 by Andrea Horwath, leader of the NDP. Certainly what I’m doing here is trying to make this bill as strong as that one was. Thank you for your submission. I’m so sorry for your loss, and our prayers are with you.

Mr. Miguel Avila: You’re welcome.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. DiNovo, and thanks to you, Mr. Avila, for coming forward with your deputation and written submission.

CATHERINE KEDZIORA

The Chair (Mr. Shafiq Qaadri): I now invite our next presenter to please come forward: Ms. Catherine Kedziora. Welcome. I invite you to please begin now.

Ms. Catherine Kedziora: Good afternoon. I’m the daughter of Theresa Vince, and I’m here today to speak to you on my mother’s behalf. She was murdered by her boss at the Sears store in Chatham on June 2, 1996. It has been 13 years since her brutal workplace murder, and for 11 of those years I’ve spent my time working and trying to educate, raise awareness and bring about reform to the province of Ontario. So I need to begin by saying how happy I am that this day has finally come and how vitally important it is that we ensure that this bill be passed as the best bill offering the best possible protection under the law for the workers of this province.

Having said this, as it is written, I do not believe that Bill 168 meets those criteria. Furthermore, as it stands today, it would not have helped keep my mother alive. We all have the right to go to a workplace that is free from bullying, sexual harassment and harassing behaviour of any type, regardless if it is psychological or physical in nature. One of the things that I have learned since my mother’s murder at Sears is that her experience is more common among working women than I had imagined. That’s why it’s imperative that the province’s workplace legislation needs to recognize the continuum of violence so that it can effectively address and ulti-

mately prevent it. I am sure that this may sound idealistic and maybe even unrealistic to some of you, but by being a voice for my mother, I hope that I can make it real.

With only 10 minutes, it’s impossible for me to impart to you all the things that I have learned over the last 13 years, but I am hopeful, however, that I will be able to open your eyes enough that I can lead your consciences to do the right thing. I’m not alone in this hope because I have come here to be a voice also not just for my mother but for my father, my brother, my sisters and my mother’s grandchildren, who all want the same thing: to make sure that my mother, Theresa Vince, did not die in vain.

This is what a continuum of violence looked like in my mother’s case. It began with unwanted compliments. Then it went to unwanted attention, moving on to unwanted gifts that she would return. If she did try and return them, things became difficult for her. Then it escalated to staring and leering, to the point where it was unbearable to even get her work done. She couldn’t even go to the bathroom. He began calling her incessantly, 20 times or more in an eight-hour day. Then it escalated to calling her into his office that many times in a day. After that wasn’t enough, he began calling her at home on her day off incessantly.

She was forced to go to coffee with him. He would make unwanted comments about her appearance and the sound of her breath. After calling her into his office one time, he removed his shirt to show her his tan. Even after all of that, she was still forced to travel alone with him in a car to meetings out of town.

1440

He made a comment one time that if she were his wife, he would buy her a dishwasher. And because my mother rejected his advances, he began piling on extra work, keeping her late, longer hours.

He was unreasonable. At one time in 24 years of work, he was upset with her, and her raise reflected that. He gave her a penny for her loyalty and for her hard work.

He would be miserable and impossible to please. In fact, coworkers used to tease her about sending her in there so that he would get in a good mood.

He had unreasonable expectations and deadlines and demands of her.

My mother reported her harassment to upper management nearly a year and a half before she was killed. I think that her experience is a true and clear example of why the continuum of violence must be recognized in workplace legislation and why harassment must carry the same degree of importance in the act as physical violence. My mother’s workplace was unsafe for her, but she did not have the right to refuse because the risk to her health and safety was intangible. I must say here that the right to refuse in Bill 168 is far too narrow.

For my mother, the dangerous circumstances in her workplace were the sexual harassment and the poisoned environment she faced every day for two years from her boss, and the longer his behaviour was overlooked and left unchecked, the more dangerous it became for my

mother to go to work. Without the right to refuse her unsafe working conditions, my mother brilliantly employed numerous strategies to try and protect herself from the risks she faced, but the dangerous circumstances and the danger were not removed for her.

Let me tell you about some of those strategies my mother employed in an effort to reduce the risks to her safety. She enlisted the help of some coworkers to move her desk as far away as she could possibly get her desk from his office door. She enlisted the help of other employees to intercept his phone calls on her behalf. She had some coworkers line up to follow her if he insisted that she go for coffee with him so she would not have to be alone. She would sneak off to have coffee.

Even the lowliest stock boy and the truck drivers who came to the back door with the freight knew of this harassing behaviour, and still nothing was done. The effects of this psychological violence on the safety, health and well-being of my mother robbed her of her esteem, her sense of security, her happiness, her income and her life, and it took her away from her family.

She started losing weight, and for a woman who had always smiled, had a kind word for others and took pride in her appearance, she changed before our eyes. She stopped wearing make-up. She would wear the baggiest and most unattractive outfits, not caring about how she looked. She would complain that she had nothing better in her closet, which we all knew was not the case; she had some very lovely outfits. We never understood why. She became consumed with self-doubt and she looked haggard and defeated. She even questioned her own goodness.

When she no longer could take it, she did what 99% of women do: She decided to leave her job. She got help in order to arrange an early retirement so he couldn't find out until it was all done and there was nothing he could do to stop it. When he did find out, approximately a month before she was to retire, he told her that he would not allow her to leave unless she promised to see him. She refused. Then, on June 2, 1996, my mother's last Sunday to work before she retired, her boss went into the Sears store on his day off with two guns and 100 rounds of ammunition in a Taco Bell bag, and he shot my mother to death.

The violent act of her murder was not where it began; it is where it ended. That is why the definition of "workplace violence" must be broadened to include not only physical but psychological violence as well.

In closing, I would like to add one more thing just to give you some food for thought. Had the province, under the previous government, utilized and acted upon what we learned at my mother's inquest, there is a possibility that Lori Dupont would not have lost her life nine years after my mother, in 2005.

I implore you to get this right. We need this bill, but we need this bill to be the best possible bill it can be so there is never another Theresa Vince or Lori Dupont. We know what we need to do, and there are no excuses anymore. Thank you.

The Chair (Mr. Shafiq Qadri): Thank you, Ms. Kedziora. I think I'd just intervene on behalf of all committee members in thanking you for sharing that very painful and traumatic story, especially in honour of your mother, Ms. Vince. Thank you for your deputation today.

Ms. Catherine Kedziora: You're welcome.

DOMENIC SGUEGLIA

The Chair (Mr. Shafiq Qadri): I invite now our next presenter to please come forward: Mr. Domenic Sgueglia. Welcome, sir. You've seen the protocol. I'd respectfully invite you to begin now.

Mr. Domenic Sgueglia: Thank you, Mr. Chair. I'd like to thank the committee for this opportunity. I'd like to begin by saying that workplace bullying and harassment destroys individuals and their families.

As already mentioned, my name is Domenic Sgueglia. I was a victim of workplace bullying and harassment for 16 and a half years. My employer was William W. Creighton Youth Services, a secure-custody facility for young offenders in Thunder Bay. Due to the long-term exposure to violence in the workplace, I found I was always concerned for my safety and the safety of others. I was repeatedly directed by my manager to work with the most violent, threatening and out-of-control youth in our care. Whenever I found myself in situations following a verbal and/or physical attack by a youth, my employer refused to support my decision to pursue charges against the youth. My manager advised me that charging youth in custody was strongly discouraged.

In staff meetings, other employees were encouraged and supported by supervisors to share their concerns, whereas I was not allowed to do so because my opinion didn't matter to management.

Following my performance evaluations, the notes taken by my supervisor during our meeting did not accurately reflect the discussions held. When I attempted to address my concerns with my supervisor, I was told that no changes would be made and that my supervision would remain as is. I approached the union on numerous occasions to express my concerns, but my concerns were never addressed.

Following violent and traumatic situations that involved serious injury to staff, no meaningful debriefings ever took place—debriefings facilitated by a trauma team consisting of a psychologist, psychiatrist, social worker and support person—in order to assist the worker in dealing with the aftermath of the trauma.

Creighton Youth Services offered me no support after my house was targeted by an ex-client. Coincidentally, the house next door was broken into a few days later in broad daylight. At this time, I felt as though my entire family was at risk of being harmed, so I was forced to sell my home and move. Creighton offered me no support whatsoever. Soon after, I began disconnecting from my wife, my daughter and extended family members because I was no longer able to manage the stress of the work environment.

A year after I began working at the Creighton centre, I was diagnosed with ulcerative colitis, a stress-related illness. I attempted to access mental health services through both my family doctor and the employee assistance program, but I was placed on a waiting list. I also attempted to file a claim through WSIB for traumatic mental stress, but my claim was denied because I did not meet the criteria.

On June 21, I reached my breaking point. I could no longer fight with the agency and my employer. As a result, I was forced to resign under duress from my 16-and-a-half-year residential worker position.

I quickly went from being a health care provider making \$27 an hour to taking any job and making \$10 an hour. Because presenting to you today is so important to me, I paid \$500 to be here and travelled over 12 hours.

As a result of the long-term exposure to violence and bullying in the workplace, I continue to struggle in terms of a loss of self, loss of dignity, loss of respect and loss of financial security.

In closing, I believe this bill will provide a voice and become a valuable resource to those victims of workplace violence and harassment. This bill will also provide the added hope employees need to be able to advocate for themselves in providing a fair and respectful process. Thank you.

1450

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Sgueglia. You have about two minutes per side, beginning with Ms. DiNovo.

Ms. Cheri DiNovo: Thank you, sir, for coming. Again, my condolences for all that you've gone through.

You know that corrections workers are exempt or not covered by this bill. You're aware of that, right?

Mr. Domenic Sgueglia: I understand that.

Ms. Cheri DiNovo: So I'm not sure that it would have helped you the way it's currently written. That's number one.

Did you want to respond to that?

Mr. Domenic Sgueglia: Just to make mention that I was not a corrections worker. I was part of child and family services.

Ms. Cheri DiNovo: Okay, so you were not part of corrections. But I wanted to make that clear.

Part of the issue here—in a sense it's another issue. I'm bringing forth a private member's bill—I've already announced that I'm tabling it—to cover post-traumatic stress disorder for front-line workers, which would have covered you in terms of your dealings with the WSIB. It's kind of a tricky area right now.

But again, I'll ask you what I've asked the other deputants, which is—obviously, violence is the end of the road here; it's not the beginning of the road. Bullying, harassment and that kind of behaviour, if that were in the bill itself, would it help strengthen the bill, in your sense, rather than just “violence”?

Mr. Domenic Sgueglia: Yes, rather than just physical violence, including psychological violence, which has already been mentioned.

Ms. Cheri DiNovo: Okay, wonderful. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. DiNovo. The government side?

Mr. Vic Dhillon: Thank you very much. I'm very sorry to hear about all that you've been through. Thank you for your courage in creating more awareness of this issue.

I just wanted to clarify. Ms. DiNovo stated that correctional officers were not covered, and I've just been informed that they are covered under OHSA and this bill. I just wanted to clarify that.

With respect to your presentation, other forms of harassment such as bullying, not just physical violence, will be included in the definition of this bill. Do you feel that will help to address the harassment-in-the-workplace issue?

Mr. Domenic Sgueglia: Yes, sir, I would.

Mr. Vic Dhillon: Thank you very much.

The Chair (Mr. Shafiq Qaadri): Mr. Hillier.

Mr. Randy Hillier: Thank you very much for being here. I'd like to just get some brief comments from you. You were working in an environment that was violent and threatening to begin with. That's the nature of the job.

Mr. Domenic Sgueglia: Yes, sir.

Mr. Randy Hillier: I'm just wondering how you can square knowing that factor, knowing that you are dealing with those people, and society has put a demand that those people are dealt with in some fashion. Your difficulties and your troubles were not with management; they were with the residents, I guess.

Mr. Domenic Sgueglia: No, sir, that's incorrect.

Mr. Randy Hillier: Oh.

Mr. Domenic Sgueglia: My difficulties were with management—

Mr. Randy Hillier: With management.

Mr. Domenic Sgueglia: Yes—where management offered me no support as far as doing my job.

Mr. Randy Hillier: But was the violence and the harassment from management or from the residents?

Mr. Domenic Sgueglia: I experienced violence by witnessing traumatic incidents, being involved in traumatic incidents with residents, but the harassment and bullying came directly from my employer.

Mr. Randy Hillier: From the employer. Okay. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Hillier, and thanks to you, Mr. Sgueglia, for coming forward for your deputation.

ONTARIO PUBLIC SERVICE EMPLOYEES UNION

The Chair (Mr. Shafiq Qaadri): I invite now our next presenters to please come forward: president Thomas of OPSEU, the Ontario Public Service Employees Union, and colleagues. Welcome, Mr. Thomas, to you and your colleagues. I invite you to please have them introduced as well, and I invite you to begin now.

Mr. Warren Thomas: Thank you. With me today I'm honoured to have Lisa McCaskell, who is a health and safety officer expert with OPSEU, and Lynn Orzel. Lynn is on our executive board. She represents the executive board on health and safety matters and has taught health and safety for years.

You have our presentation. I'm just going to whiz through it real quick, because I've heard a lot, in the previous submissions, of what we're going to say.

Again, thank you for the opportunity to present. I'd like to start by saying that we commend the Ministry of Labour and the government for taking this important step to amend the Occupational Health and Safety Act to clarify that workplace violence and harassment are hazards that must be addressed by employers and other workplace parties. We recognize that, and we think that's a very good thing you're doing.

However, even though Bill 168 goes a long way toward clarifying the roles of workplace parties and will guide them as they assess risk and develop programs to reduce the risk of violence that affects all workplace parties—it's our view that the overall direction of the amendment is positive and will lead to safer workplaces. However, we'd like to draw your attention to a few specific areas which we believe should be improved and clarified.

Most importantly, we believe the definition of "workplace violence," as set out in Bill 168, should be amended to include threats which give a worker reasonable cause to believe that she or he is at risk. It should also be clarified that the use of physical force endangering a worker may initially be directed at a non-worker. For example, in long-term-care facilities and institutions, the violence could be resident-to-resident, and workers are placed at risk by having to intervene. I have had lots of personal experience with that in my former life.

Although Bill 168 does address the employers' duties to address threats of violence, we find it confusing and problematic that the threats are not captured in the definition. We believe that they should be captured in the definition.

The other area that we believe should be amended is in the employer consultation with the joint health and safety committee and/or health and safety representative, when preparing policies to address workplace violence and harassment, when developing a program to implement the policy with respect to workplace violence. We think there's some danger in the act here that that might get lost, and we recommend that it be firmed up.

I'll just close by saying that we would like to commend the government for introducing this much-needed amendment to the Occupational Health and Safety Act. As you know, our members in every sector face problems with violence and/or harassment and have been asking for our assistance. We know that the hazards of workplace violence and harassment will not simply disappear because the law has been changed, but we believe that the change will assist employers, workers, unions and the Ministry of Labour itself to work more effectively for violence- and harassment-free workplaces.

I'll just close my remarks by saying that our labour inspectors are members, and they could certainly use these changes and use their working life to have the tools in their toolbox to address threats and intimidation. I'd just like to say that the personal testimony we heard before us is in the extreme. However, it's not uncommon. The threats and all that kind of thing: If you change this legislation, I think someone needs to be charged with the task of training employers, and I mean training employers on what inappropriate behaviour is, what stalking is, what harassment is and what bullying is. We represent 130,000 workers and we spend a lot of time representing workers in situations like this. It is extremely, extremely hard on the person who's being harassed or stalked and it's almost always a female who's experiencing it. It tears workplaces apart and it ruins families. I had a case a few years back where a pillar of a community was a manager. Literally, it should have been an inquest but it wasn't, and it was directly tied to three suicides. Three women who worked for him committed suicide. So it's long overdue. We commend you for taking it on. But in our submission here we made some suggestions for changes that come from front-line workers, from our experts who do the work, that we think you'd find beneficial if you were to include them. Thank you.

The Chair (Mr. Shafiq Qadri): Thank you, Mr. Thomas. About 90 seconds per side, beginning with the government.

Mrs. Carol Mitchell: Thank you very much for your presentation. I just want to clarify: You have two points that you would like added or changed, amended, in the proposed legislation. I just want to give you the opportunity to do that and expand a bit on the training of the employers because I think that's linked to the second point.

Mr. Warren Thomas: I'm a big believer in educating labour and management together, the same way. I pursue that all of the time. But when it comes to this kind of stuff, people really don't know how to handle it, because you're taking on authority. Someone who's in a subordinate position is reaching out for help and, really, it's been my experience that a lot of people don't want to get involved because they're afraid to, because then they become the target of that affection or the bullying and stuff.

If you could train the stewards and managers the same way on the changes to the act, what the definitions are and what's appropriate and not appropriate, then the minute someone files a complaint, there should be an immediate investigation and there should be no reprisals for exercising your right to feel safe at work as well as be safe.

1500

Mrs. Carol Mitchell: And that's part of mandatory consultation. That's what you're talking about as well?

Mr. Warren Thomas: Yes. Union and management should work—

Mrs. Carol Mitchell: And the other is the definition of workplace violence—you want to see an expansion of that. You want to see a definition—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Mitchell. To Mr. Hillier.

Mr. Randy Hillier: I want to get your comments on the privacy part of this act and if it causes you any concern. I'm sure you're aware that employers or supervisors or managers who know of personal conditions or ought to reasonably know about these conditions must share them also with people who may be affected in the workplace if there are domestic disputes or any personal problems that that employee is facing. Does that cause you any concern? How do you see that playing out in the workplace?

Ms. Lisa McCaskell: I could take that. You're talking about the duty to warn of a hazard, basically. We've looked at it quite carefully and have talked with our labour colleagues from across the labour movement about this, and we don't anticipate it as a problem. It's on a need-to-know basis. So it's not that we—

The Chair (Mr. Shafiq Qaadri): Sorry, I need you to identify yourself.

Ms. Lisa McCaskell: Lisa McCaskell, health and safety officer from OPSEU.

It's on a need-to-know basis. So if there's a hazard, just like any other hazard in the workplace, the employer has a duty to warn. So if they become aware of the possibility of—let's say it's domestic violence, which I think you're talking about—

Mr. Randy Hillier: What about the part, though, where if somebody knows or ought to have reasonably known that there was something in the personal life of an employee, does that cause you any—

Ms. Lisa McCaskell: No, it doesn't. "Ought to reasonably have known" should mean that the employee has reported it to their employer, that they're afraid that their spouse or ex-spouse is stalking them, or that other people in the workplace perhaps have reported it. But it's not a case—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Hillier. Ms. DiNovo.

Ms. Cheri DiNovo: Thank you, Mr. Thomas. In the NDP, we plan on putting forward those amendments, certainly both of the ones that you've asked for.

A further question that I've asked all the deputants: We don't think the bill is strong enough as it's currently written, because physical violence is the end of a story, as you heard earlier, not the beginning. So we'd like to see it extended to harassment and psychological violence, in other words. Would you be in agreement with that?

Mr. Warren Thomas: Couldn't agree more, Cheri.

Ms. Cheri DiNovo: Thank you.

The Chair (Mr. Shafiq Qaadri): Thanks, Mr. Thomas, to you and your colleagues for your deputation on behalf of the Ontario Public Service Employees Union, OPSEU.

As my colleagues can see, there is a vote in Parliament. If it is a 30-minute, then we'll actually continue with our presentations. So we are awaiting information.

Interjection.

The Chair (Mr. Shafiq Qaadri): All right, so we do have 28 minutes. I'll probably adjourn about 20 minutes or so from now.

WENDY HO

The Chair (Mr. Shafiq Qaadri): I would invite our next presenters to please come forward, if they're present: Ms. Sanson, counsel for Sanson Law Office. Are you present, Ms. Sanson? If not, is Ms. Ho present, Wendy Ho? Thank you, Ms. Ho. I will invite you to please come forward. You're 10 minutes earlier than stated, perhaps even more. I'd invite you to please begin now.

Ms. Wendy Ho: Good afternoon, Chair and committee members and also the participants. My name is Wendy Ho. I was a registered nurse, and I'm representing myself to give some information with recommendations regarding Bill 168, the Occupational Health and Safety Amendment Act (Violence and Harassment in the Workplace) 2009.

In regard to Bill 168, the clauses do not consist of effective legislation to provide access for investigation on a justice basis. It formulates an arbitrary process to settle the needs of the workers of this province. As there is no access to evidence for the victims' representatives, the governing authority can deliberately end up with a denied decision for complaints, as preferred.

I've read the debate record from MPP Andrea Horwath, where she has said, "We are anticipating the potential for violence, for harassment, for bullying; so that we are not waiting until workers have to deal with these incidents where their very lives are put at risk because we did not foresee circumstances brewing in the workplace that will likely end up creating a situation where someone is going to be hurt, either physically or mentally." Then she added: "What they could get it in is in Bill 29, legislation that I brought forward several months ago—in fact, well over a year ago. That includes strong powers of investigation for designated Ministry of Labour staff. It exercises the precautionary principle to the fullest. It covers all workers, but not only workers; any other person within the workplace is covered in Bill 29...."

Also, I read a letter from the chief commissioner of the Ontario Human Rights Commission, Ms. Barbara Hall. She wrote:

"And while the bill would require employers to assess the risk of workplace violence, there is, however, no similar provision for assessing risk for harassment.

"In our experience, violence is often the culmination of ongoing acts of harassment. Moreover, harassment and violence are not necessarily always physical; they can also take the form of psychological/emotional harm. Risk assessment, prevention and protection effects should account for these interrelated dimensions of harassment and violence. The ministry may wish to consider broadening the bill in this regard."

Coming from me, I had the experience that when complaints go to the related governing boards, the board

misleads the public on providing information, which stops the filing of applications of complaint. Namely, the Ontario Labour Relations Board publicized no statutory time limit for filing a section 74 application. However, applications filed over 13 months from a reported incident have been denied for delay.

Also, commissioners had no jurisdiction on public service categories due to the provincial government's border control, and then handled submissions with a denial of a decision, without investigation, or pushed the duty among authorities. Namely, in early 2000, the Ontario Ombudsman was appointed by the provincial government, but he has no jurisdiction on health care and the post-secondary education system. The Health Professions Appeal and Review Board pushed the duty around between them and the Ontario Human Rights Commission. Premier Dalton McGuinty did not look into the problems reported since 2003.

Harassment in the workplace persists due to no effective legislation to protect employees. A poisoned environment endangers employees' survival and thus discourages employees from carrying out necessary services to the public. The recurrence of the problem results in subsequent serious damage to Ontarians.

In here, I recommend that in regard to Bill 18, the Health Care Accountability and Patients Bill of Rights Act, 1999, schedule 2, it states that "every resident of Ontario" has "the right to receive all necessary health care services in a health care system" which "recognizes that every provider of health care services is a valued member of a multidisciplinary health care team." In order to ensure Ontario residents have such a right, we need an amended act to comply with the law. The protection of care providers from harassment while providing necessary health care services for Ontario residents is mandatory. Thus, when the affected health care providers' or the workers' representative or inspector needs to access Ontario residents' records for evidence which directly relates to the services that the worker has provided, it would not be violating the privacy act, provided the inspector or victims' representative ensures that no identifying information about the individual is disclosed as a result of the investigation activities. These are carried out within the Health Professions Appeal and Review Board, but not through any other authorities or any victims' representatives yet.

Finally, I conclude that the provincial government needs to make an effective amendment act, as in Bill 29, to enable employees to be responsible to the public. Simultaneously, the amendment act can repair the infringement of employees' rights to fundamental justice.

Thank you for the opportunity to present.

1510

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Ho. About a minute or so per side, with Ms. DiNovo beginning.

Ms. Cheri DiNovo: Thank you very much, Ms. Ho. Thank you for your deputation. I couldn't agree more with some of the points you made. I'm just asking

deputants if you agree with the extension of this bill from actual physical violence to psychological violence and harassment, because we in the NDP feel that that will give it more strength and make it a closer approximation to Andrea Horwath's Bill 29 than it is now.

Ms. Wendy Ho: The most important thing in Bill 29 is that it also mentioned the investigation process. That will be very important because if no evidence is presented, then nobody can determine whether the complaint can be denied.

Ms. Cheri DiNovo: Absolutely; I couldn't agree more with that as well. Thank you very much.

The Chair (Mr. Shafiq Qaadri): To the government side: Mr. Dhillon.

Mr. Vic Dhillon: Thank you, Ms. Ho, for your presentation.

Interjection.

The Chair (Mr. Shafiq Qaadri): Ms. Ho, you still have the floor.

Mr. Vic Dhillon: Thank you so much for your presentation. With the changes in this bill to cover threats and bullying as forms of harassment, do you think that would address some of the concerns you have?

Ms. Wendy Ho: Yes, absolutely. If this kind of harassment exists in the workplace and the workers just work for their pay and they become deaf and blind—whatever they see and whatever they hear, they just ignore it because they don't want to be intimidated afterwards—that will directly affect public safety. They will have litigation following, but the point is, the public won't get justice because the insurance company and the hospital, the employer, will—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Dhillon. To the PC side: Ms. Jones.

Ms. Sylvia Jones: Thank you for your presentation.

The Chair (Mr. Shafiq Qaadri): Thanks to you, Ms. Ho, for your deputation and presence today.

First of all, I'd just go back and ask: Is Ms. Sanson of Sanson Law Office present? If not, we'll move forward if our next presenters are here.

HUMAN RESOURCES PROFESSIONALS ASSOCIATION

The Chair (Mr. Shafiq Qaadri): Mr. Allinson and Claude Balthazard of the Human Resources Professionals Association: Gentlemen, welcome. We'll break after this presentation for the vote. I invite you to come forward. Please introduce yourselves. Please begin.

Mr. Scott Allinson: Good afternoon. My name is Scott Allinson. I am the director of government and external relations for the Human Resources Professionals Association. I'm joined today by my colleague to the right, Claude Balthazard, who is the director of HR excellence and the registrar. We are pleased to have this opportunity to come before the Standing Committee on Social Policy to speak on behalf of our members on Bill 168.

HRPA's mission is to be a global leader in advancing the human resources profession as the essential driver of business strategy and organizational success. The association has over 18,000 members representing approximately 7,500 organizations in every industrial sector, employing more than two million Ontario workers.

For more than 70 years, the association has guided the evolution of the human resources profession in Ontario. Through the Human Resources Professionals Act of 1990, HRPA was granted responsibility for the regulation of the professional practice of members and certification of their competence as HR practitioners through the certified human resources professional designation.

Our members contribute to the organization's mission, vision, goals and strategies. They specialize in organizational effectiveness, staffing, employee and labour relations, total compensation, organizational learning, training and development and, of course, occupational health, safety and wellness.

Overall, our members support in principle the government's policy to prevent violence in the workplace. Recently, we surveyed our members regarding the proposed legislation and received very comprehensive responses from about 1,500 members representing 20 employment sectors in the province.

What we saw was that 75% of those who responded supported the legislation, which would require all employers to develop and implement a violence prevention program, and 81% stated that their organization already has a violence and harassment policy in the workplace.

However, the survey revealed through their comments—120 pages' worth—that they have serious reservations about certain areas of the proposed legislation, specifically privacy concerns for employees who have had a history of violent behaviour and the government's expectations from employers regarding prevention of domestic violence in the workplace.

The comments we received from our members indicate that they have serious reservations about privacy issues and circumstances that would require employers to disclose personal information on employees who have had a history of violent behaviour. The key message here is to make sure that the proposed legislation achieves the proper balance for employers and protection of employees.

For example, one member stated in the survey: "The workplace and the employer cannot and should not be made to 'police' everything about their employees. It is incumbent that employers take reasonable and responsible actions and have similar policies in place to ... ensure the safety of its employees, but an employer cannot become psychiatrist, marital counsellor, policeman/woman, judge and jury for everyone that they employ."

The provision in the proposed act regarding personal information about a worker with a violent history has to be handled very carefully. One would not want to see an employee who committed an offence 20 years ago and never exhibited the behaviour again be labelled as violent.

However, some of our members stress that if employers must take responsibility and reasonable action to prevent violence in the workplace, employers should not be penalized when it results in termination. Termination should be one of the allowable consequences if employees perform violent acts.

The association is very concerned with the possible consequences in the workplace of a requirement to advise others of an employee with a history of violent behaviour. Again, there needs to be balance between operating a business and having appropriate standards in place to protect employees.

In regard to the section that the legislation requires employers to take reasonable precautions to protect an employee from domestic violence in the workplace, 69% of respondents supported the statement, but again expressed major concerns about the government's expectations of employers. The majority of respondents' comments clearly stated that they do not believe that employers are, or could ever be, appropriately equipped to comply with the government's expectation to deal with domestic violence in the workplace.

Here is a sample of respondents' comments regarding this section in the proposed legislation: "For an employer to take all reasonable precautions to protect an employee from domestic violence in the workplace doesn't seem practical."

This places an increased onus on the employer to be involved in an employee's personal life and makes employers reliant on an employee to communicate such information. Employees are very reluctant to share information to that degree. How can an employer be held responsible in these circumstances?

Another member echoed this statement: "I think it will be difficult to enforce domestic violence precautions in the workplace when many would either deny or hide domestic violence at home. I do agree that if a situation has been brought to management's attention then it is their responsibility to ensure the safety of the individual and all employees in case domestic violence comes into the workplace."

Again, our members overall support the section regarding the prevention of domestic violence in the workplace, but clear language in the proposed act and consistent communication with employers from the Ministry of Labour must be provided to ensure that employers can reasonably guarantee that workers in these situations can be protected without jeopardizing the productivity of the whole workplace.

In conclusion, I'd like to reiterate that HRPA and its members support the intention of Bill 168; however, we feel the government needs to review these sections in the proposed legislation to find a proper balance that will ensure that HR professionals can meet their commitment to a fair, equitable and productive workplace for employers and workers.

Thank you for the opportunity to address you today. We would be pleased to answer any questions you may have.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Allinson. We have about a minute per side, beginning with the government: Mr. Dhillon.

Just to inform my colleagues, we have 12 minutes to the vote.

Mr. Vic Dhillon: Thank you very much for your presentation. With respect to your concern about what's expected of employers in addressing workplace violence, do you think that could be clarified if guidance materials etc. were provided?

Mr. Scott Allinson: Absolutely. What we found in the survey was that they're looking for direction from the ministry in regard to steps to be taken, language, what have you. So, basically, promotional material—

Mr. Vic Dhillon: And you have been in contact with ministry staff?

Mr. Scott Allinson: We have brought that to their attention, yes.

The Chair (Mr. Shafiq Qaadri): To the PC side: Mr. Hillier.

Mr. Randy Hillier: I just have a few comments on two subjects. It's unfortunate that the Liberal government only allowed us 10 minutes for each delegation because there's really room for thoughtful discussion.

The first is about flexible or mobile workplaces: How do you see this legislation affecting that?

The other component is, I think it's important to not build a trap for our employers with this good intent. In the termination aspect, if you do have somebody who has a known history, if there's termination just on that cause, then you're subject to human rights actions or other actions.

So, those two components: flexible workplaces and how you deal with it; and some more thoughts on the termination side.

Mr. Scott Allinson: I'll defer that to my colleague, Claude Balthazard, to answer.

Mr. Claude Balthazard: There are many different ways a workplace can be flexible. I think that flexibility is not so much the issue as—

Mr. Randy Hillier: I mean location, not time—drivers, construction sites, different places.

Mr. Claude Balthazard: Right, and also workers who work from home and all sorts of things. I guess it's within the clarification of the responsibilities of the employer—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Hillier. Ms. DiNovo.

Ms. Cheri DiNovo: We heard some profoundly moving testimony today from the daughter of Theresa Vince, who was murdered. We heard some profoundly moving testimony from Lori Dupont's family as well. In both instances, pretty typical violence in the workplace, where domestic hits workplace: harassment, bullying, phone calls, escalating psychological violence resulting in physical violence at the end, and death in those particular instances.

I guess my question to you is: This seems to be a pretty generalized pattern. What would the concern of

your members be, then, about this bill in terms of responding to that pattern? Presumably, it's pretty direct. Any manager who sees this happening should be acting, should they not, in that instance to curtail this or to act in some way, shape or form to keep their employees safe?

Mr. Claude Balthazard: The issue is not so much about the extremes or the black-and-whites; it's the greys. The idea is to be clear, to minimize the grey zones. But, yes, sometimes it's very clear.

Ms. Cheri DiNovo: One of the suggestions by OPSEU—Mr. Thomas—was that more educational work be done by the government for employers and that—

The Chair (Mr. Shafiq Qaadri): I'll need to intervene there, Ms. DiNovo.

Ms. Cheri DiNovo: Certainly we would support—

The Chair (Mr. Shafiq Qaadri): I'd like to thank you, Mr. Allinson and Mr. Balthazard, for your deputation.

The committee is recessed pending that vote and outcome, and if the government does not fall.

The committee recessed from 1518 to 1545.

SUSAN HOUSTON

EVA GUTA

The Chair (Mr. Shafiq Qaadri): Colleagues, we reconvene after this series of votes, and I believe we are now going to invite Ms. Houston and Ms. Guta to please come forward. You've seen the protocol. There may be further votes, depending upon how the day evolves, but I invite you to please begin now.

Ms. Susan Houston: Thank you. Committee, I'd like to draw your attention to section 32.0.4 of the act, in particular that if an employer is aware or ought to be aware that domestic violence that is likely to expose a worker to physical injury may occur in the workplace, the employer must take every reasonable precaution to protect the worker.

My name is Susan Houston and I'm from General Motors of Canada. My job is as a national coordinator for employment equity for the Canadian Auto Workers, and one of my key assignments, as well as human rights, is to assist any equity-seeking groups. In this particular case and with regard to this bill, I will be advocating for women workers as well as lesbian, gay, bisexual and transgender workers.

One of the things I'd like to say is that this is very doable. We've been doing it since 1993 in workplaces. Additionally, one of my other roles that I do is training workplace women's advocates. These advocates hold a specialized role in the workplace. They are trained to create a supportive work environment, effective intervention with women experiencing intimate violence. They're trained on steps to follow when helping an abused woman, what not to say to an employee, and questions not to ask a woman. Currently, we have 140 women's advocates in workplaces, in manufacturing, health care. My co-presenter Eva Guta's position is as one of those

140 women's advocates in the workplace whose role is to assist women who are in intimately violent relationships.

The point that we'd like to hone in on in this bill is the addition of the language around domestic violence. First of all, we'd like to say "well done" on this addition, on this particular language. As an equity coordinator, I would like to bring to your attention the terminology of "domestic violence" as being a bit archaic. The term that's used largely today is "intimate-partner violence." If you were to go on the website of Shelters, for example, which is the Canadian website for shelters, you wouldn't find the terms "domestic violence" or "spousal abuse" anymore. It would be preferable to have the bill read, "If an employer is aware of intimate-partner violence, then they should take every reasonable precaution for the safety of the worker."

In Canada, we have same-sex marriage, and violence happens in all sorts of relationships. The term "domestic" brings to mind the home or the domicile and heterosexual couples, and this is not always the case.

Eva?

Ms. Eva Guta: As a workplace women's advocate who deals with violence, it is important to know that the negotiation of this position could not have come soon enough. This process is in place so that employees can get confidential support where personal choices, autonomy and decisions are respected. We have successfully created this space by speaking out, putting up posters and negotiating contract language to assist women. At Lear Whitby, where I work, the language was negotiated for the first time in 2002, and I've been a women's advocate and a harassment investigator since 2005.

This is not at my workplace, but unfortunately we are aware of cases where women have been fired for showing up at work with a black eye, with the employer stating that they didn't meet the key deliverables. With this law, it would be good to ensure that no retaliation is taken against those who report abuse or raise safety concerns. Intimate-partner abuse spills over into our work lives and workplaces. To be in a violent intimate relationship can be horrendous. To have assistance at work, sometimes the only place you are allowed to go, can be of tremendous help. If someone chooses to disclose abuse or intimate-partner violence, the response of the employer or union should be one of support and assistance on how to address safety considerations.

On another note, as a women's advocate I have seen violence manifest itself even in dating. Picture two coworkers just beginning a relationship. At its early stage, violence can take different disguises. Let's just say that one partner decides to end the intimate relationship; the other is not very happy with the decision and chooses to slash the other one's tires or that kind of behaviour. Since they don't live together, this is not what everyone would see as domestic violence, but it would be clear if it was to be called "intimate-partner violence."

In closing, I would like to thank the committee for allowing us to speak. This bill is a really good step toward addressing violence in the workplace.

I would recommend also, just like Sue said, adding the equality component to it by replacing the term "domestic violence" and naming the issue "intimate-partner violence."

Do you have any questions?

The Chair (Mr. Shafiq Qadri): Thank you, Ms. Houston and Ms. Guta. To the PC side: about 90 seconds or so. Ms. Jones.

Ms. Sylvia Jones: Thanks for your presentation.

A quick question. To just reconfirm, your concern with the proposed legislation, as it stands, is the definition? That's the change you're proposing to the committee, to change it from "domestic partner" to—

Ms. Eva Guta: Intimate partner.

Ms. Sylvia Jones: "Intimate-partner violence"?

Ms. Susan Houston: Intimate partner, yes.

Ms. Sylvia Jones: Okay. Thank you.

The Chair (Mr. Shafiq Qadri): Ms. DiNovo.

1550

Ms. Cheri DiNovo: We in the NDP would like to see the bill strengthened considerably, beyond just a definitional change. It doesn't include physical or psychological harassment or bullying—both the Vince and Dupont families have called for that—and also that the definition of "worker" be changed to "person," because often it's not the worker, but it can be client-to-client violence that the worker gets caught up in.

Would you be in support of those changes as well?

Ms. Susan Houston: Yes.

Ms. Cheri DiNovo: Thank you.

The Chair (Mr. Shafiq Qadri): To the government side.

Mr. Vic Dhillon: Thank you very much for your presentation.

Do you feel that additional language in the bill to cover domestic violence in the workplace would have a positive impact on your members?

Ms. Susan Houston: Absolutely.

Mr. Vic Dhillon: Thank you.

The Chair (Mr. Shafiq Qadri): Thank you, Ms. Guta and Ms. Houston, for your deputation.

LISA BARROW

The Chair (Mr. Shafiq Qadri): I would now invite Dr. Lisa Barrow to please come forward. Welcome. I invite you to please begin now.

Dr. Lisa Barrow: Good afternoon. My name is Dr. Lisa Barrow. I am a healthy-workplace consultant and owner of LMSB Consulting in Port Colborne, Ontario. LMSB Consulting specializes in creating healthier and more respectful workplace communities through training and policy development and implementation. Workplace bullying and leadership research are the two areas that I am involved in. I'm the author of *In Darkness Light Dawns: Exposing Workplace Bullying*, and the book *Hope for a Healthy Workplace*.

I am here today in support of the passage of Bill 168, which would protect employees from the terror of workplace violence and harassment. I am here to speak

for those who cannot speak for themselves, to ensure justice for all employees. I am here to speak for those who cannot speak for themselves because they have been paralyzed by fear stemming from workplace violence and harassment. Such individuals may not have the courage to speak up for themselves, and so I am here to speak on their behalf.

The employment relationship is a relationship that should be built on trust and respect rather than intimidation and disrespect. It is a psychological contract between employers and employees in which each agrees to uphold the value of each other. However, this contract has been breached by some individuals who have chosen to bully others in the workplace.

Employees did not agree to give up their rights to be treated with dignity and respect. They did not agree to become targets of individuals bent on devaluing and destroying them. They did not agree to have their dignity stripped and their voices silenced. Yet many employees in Ontario find themselves in this situation and are feeling helpless and hopeless.

Workplace bullying is repetitive abusive behaviour that devalues and harms other people on the job. The intent of bullying is to intimidate and torment, stripping a person of his or her dignity and self-esteem. Workplace bullying doesn't involve physical violence, but relies instead on the formidable weapons of hostile actions and words. However, if left unaddressed, workplace bullying can lead to workplace violence.

1600

Workplace bullying is epidemic in all market sectors. Wherever people come together to earn a living, workplace bullying exists and is slowly robbing employees of their dignity, well-being and, in some instances, their lives. Clearly, workplace bullying has flown under the radar for too long. We must wake up to it as the true menace it represents to our collective health, wellness and prosperity.

The targeted employee experiences what a prisoner of war experiences when being water-tortured. At first, the drops of water falling upon the prisoner's forehead may appear to be innocuous. The prisoner may initially believe that he can tolerate the act. However, the longer the prisoner is subjected to this repetitive and abusive act, he begins to emotionally, physically and mentally break down.

A bullied employee, just as the prisoner, eventually breaks down and is no longer able to perform the tasks assigned to him. He will typically experience severe emotional trauma, along with diverse physical symptoms caused by stress. The targeted person becomes less and less able to concentrate on tasks, hampering his performance at work. Eventually his earning power is reduced and his ability to make a living jeopardized.

No two experiences of workplace bullying are the same. According to researchers Rayner and Hoel, there are five categories of workplace bullying:

The first category is the threat to professional status; for example, being publicly humiliated by a boss or colleague.

The second category is threat to personal standing, which includes teasing or intimidating a person.

The third category is isolation, which is preventing access to opportunities, or isolating the person physically or socially.

The fourth category is overwork, which includes imposing undue pressure to produce work, and setting impossible deadlines.

And finally, destabilization, which is failing to give credit where it is due, assigning meaningless tasks, or setting up the employee for failure.

I direct your attention to the handout, which reflects the findings of my research related to these bullying categories.

Of the 355 Canadian and American employees surveyed, 47% were publicly humiliated, and if we apply the statistic to Ontario employees, that would be approximately three million employees in Ontario; 42% were teased, and applying it to Ontario employees, it will be approximately 2.7 million; 18% were intimidated by either bosses or colleagues, which would be approximately 1.1 million employees in Ontario; and 33% were ostracized, which would be approximately 2.1 million Ontario employees.

It is important to look at how workplace bullying affects targeted employees. Referring to the handout again, 32% of the people in my survey had experienced physical ailments, and using this statistic and applying it to Ontario employees would equate to two million employees; 28% experienced depression, and if you apply this to Ontario employees, it would be 1.8 million employees; 29% experienced anxiety, and if you apply this to Ontario employees, it would be 1.8 million employees; and 22% felt helpless, and if you apply this to Ontario employees, 1.4 million employees in Ontario would experience this.

Targeted employees responded to the bullying in several ways: 10% of the respondents were involved in harmful activities such as recreational drugs, smoking and alcohol—if you apply this to Ontario employees, it would be approximately 652,510 employees; 12% avoided work, and if you apply this to Ontario employees, it would be 783,012 employees; and 24% tolerated the bullying because they were afraid of losing their jobs, and applying this to Ontario employees, it would be approximately 1.5 million employees.

Finally, the most devastating statistic: 7% of the people who responded to the survey had considered suicide or workplace violence. If you apply this percentage to employees in Ontario, we would come up with a number of 456,757 employees.

As you can see by these statistics, workplace bullying is rampant in our workplaces and can no longer be ignored. These seemingly harmless acts are taking a toll on employees and putting a strain on society. My research confirms that bullying damages employees' health and wellness in a powerful way. In recent months I have been contacted by individuals who were considering suicide because they could no longer endure the bullying they

were experiencing. A mother called me and said that she was going to commit suicide after she exhausted her savings, because she was being bullied in the workplace. A 31-year-old mother did indeed commit suicide because she could no longer face her bully in the workplace.

Ladies and gentlemen, you may not receive the phone calls and e-mails from distraught employees and grieving family members, but I do. I feel their pain. I see their hopelessness. I see them crying out for help, for a solution to this problem. You have the solution. You have the power to bring hope to millions of employees who are silently suffering in Ontario. Ladies and gentlemen, no life should be harmed or lost as a result of the antics of a psychological harasser or bully.

Bill 168 would literally save lives, as targeted employees would have an avenue to take to protect themselves from workplace bullies. It is imperative that Bill 168 be passed. I implore you to pass Bill 168 so that mothers, fathers, grandparents, siblings, aunts, uncles and children do not have to mourn the loss of a loved one who has taken his or her life because he or she could no longer endure the feeling of helplessness, pain and stress associated with psychological harassment. Let employees in Ontario know that their voices have been heard by you. Let employees in the rest of Canada and the world know that you are willing to lead the way for creating healthier, respectful and bully-free workplaces. Let those who have lost loved ones or who have been harmed by workplace violence and bullying know that you care and that you are willing to do something to stop the pain.

Thank you on behalf of employees in Ontario.

The Chair (Mr. Shafiq Qaadri): Dr. Barrow, I'd like to thank you on behalf of all the members of the committee for your presentation and the materials that you have submitted today.

ELEMENTARY TEACHERS' FEDERATION OF ONTARIO

The Chair (Mr. Shafiq Qaadri): I would now respectfully like to invite our next presenters to please come forward: Ms. Watkins and Ms. Thede of the Elementary Teachers' Federation of Ontario and colleagues. Please do introduce yourselves, particularly if you're speaking, as we need to attribute the remarks correctly. I invite you to please take your places. Please begin.

Ms. Hilda Watkins: Good afternoon. My name is Hilda Watkins. I'm vice-president with the Elementary Teachers' Federation of Ontario. With me today is executive assistant Susan Thede, who works in our protective services department. I'm pleased to have the opportunity today to speak to Bill 168 on behalf of the 73,000 teachers and education support personnel employed in the public elementary schools across Ontario.

The policy changes proposed by Bill 168 are long overdue. I have a personal connection to the primary genesis of this bill: the unfortunate murder of Lori Dupont. I am from Windsor and I can tell you that the Dupont story shook our community. I was president of

our local at that time. Not long after the Dupont murder, one of our young teachers was forced to contact the police to intervene in a situation of serious harassment by a parent. She had to contact the police herself because her principal failed to take the situation seriously. Had Bill 168 been in effect, there would have been school board protocols for what to do to protect that teacher.

ETFO is concerned about all aspects of violence in the workplace. Workplace violence includes physical violence aimed at teachers and educational professionals by students, some of whom have been identified of having special needs or behavioural issues. We have been seeing a disturbing increase in weapon-based violence and a significant rise in bullying of all types, including cyber-bullying, in elementary schools. At ETFO, we receive regular reports of physical harm to our members. This violence can range from bruising and broken noses to being menaced with weapons. Frequently teachers and educational professionals are also threatened with violence by students or other members of the education community, including parents.

1610

The definition of "workplace harassment" in Bill 168 is very broad, broader than "harassment" as defined in the Human Rights Code. It is not grounds-based, so workplace harassment under Bill 168 may include conduct that is related to a prohibited ground of discrimination. This definition would likely capture bullying and cyber-bullying. Accordingly, ETFO supports this broad definition.

The definition of "workplace violence" only deals with actual or attempted physical force that causes or could cause physical injury. It does not include the threat of physical force and does not sufficiently anticipate the potential for violence. This is a significant issue for our members in terms of students who threaten or in terms of students our members know have the potential to be violent. The definition also limits workplace violence to acts that cause or could cause physical injury. This may preclude acts of violence that could cause psychological injury such as post-traumatic stress disorder, anxiety, depression and other conditions that arguably are not captured by the term "physical injury."

The example we would use is that of the grade 4 teacher who is threatened by a student with a gun. The gun may turn out not to be real, but the teacher's psychological distress may be acute. Her resulting psychological state should be recognized as an injury, but under the legislation currently as written, it likely would not be.

The definition of "workplace violence" addresses physical force against a worker per se and does not address violence in the workplace experienced generally. Accordingly, student-on-student violence and physical force against students or other persons on school property would not fall under the definition of "worker." Student violence or threat of student violence, for example, may escalate or spill over to teachers and educational workers directly and put them at risk of injury and harm, and student violence or threats may be a precursor to subsequent violence directed at teachers.

I refer you to our proposed amendments to the definitions that are outlined, beginning at the bottom of page 4 of our brief. ETFO supports the provisions of Bill 168 that require employers to prepare workplace violence policies, provide training and review their effectiveness annually. The workplace harassment program must also include procedures for reporting and investigating incidents of workplace harassment.

The threat of physical force is contemplated in the clause relating to implementation programs. ETFO supports these proposals.

In the education sector, many legislative efforts have imposed obligations on school boards to draft and implement policy and to train workers on these policies. Various policy and program memoranda from the Ministry of Education require policy implementation on student-based violence in schools by local school boards. Unfortunately, these obligations have not been met in a sufficient or consistent way.

This bill is deficient with respect to workers' participation in the development of the policies, timelines for completion and resources for development and training. I refer you to five recommendations at the bottom of page 6 that we're making to address these issues.

ETFO supports the bill's provisions that require employers to conduct risk assessments for workplace violence and to advise workplace health and safety committees on their findings. Bill 168 requires employers to take every precaution reasonable in the circumstances to protect workers from domestic violence that would likely cause physical injury to the workers in the workplace. The bill, however, fails to define domestic violence. ETFO is concerned that the lack of definition reinforces the false dichotomy between work and home and between public and private life. Also, the language of the bill only addresses physical injury, not such conduct as harassment, stalking and psychological and emotional abuse. These are real. They cause real injury and in fact may be precursors to physical violence. The bill should be drafted so as to protect workers from this harm to the extent possible.

I refer you to two recommendations on the top of page 8 of our brief that suggest amendments to address these concerns. Subsection 32.0.5(3) of Bill 168 requires employers and supervisors to provide information, including personal information, to a worker about a person with "a history of violent behaviour" in two circumstances: (a) if the worker could be expected to encounter that person in the course of his/her work, and (b) if there is a risk of workplace violence likely to expose the worker to physical injury.

ETFO has sought this policy change for many years. It is the federation's interpretation that this section will obligate school boards to document incidents of violent student behaviour on the Ontario student record through violent incident reports or other similar procedures. Bill 168, however, does not specify how to determine whether a person has reached the threshold of having "a history of violent behaviour."

ETFO makes the following recommendations: that what constitutes a history of violent behaviour be clarified and that regulations, specifically for the education sector, be developed to align with the Education Act on the question of documentation on student files.

Bill 168 obligates employers to notify the union, the joint health and safety committee and the Ministry of Labour when a person is disabled from performing work or—

The Chair (Mr. Shafiq Qaadri): You have 30 seconds left, Ms. Watkins.

Ms. Hilda Watkins: —requires medical attention because of the act of workplace violence. Harassment causes a teacher or educational worker to require medical attention: This should also be part of the notice provision.

In conclusion, we believe that with minor amendments, Bill 168 will bring Ontario in line with other jurisdictions that have introduced progressive measures—

The Chair (Mr. Shafiq Qaadri): I'll need to intervene there, with apologies to you, Ms. Watkins, and Ms. Thede. Thank you, on behalf of the committee, for your deputation on behalf of the Elementary Teachers' Federation of Ontario.

MARY NAIDU

The Chair (Mr. Shafiq Qaadri): I invite now Dr. Mary Naidu, psychiatrist, and her colleague Mr. Bohdan Sirant. Welcome. I invite you to please begin now.

Dr. Mary Naidu: My name is Dr. Mary Naidu. My presentation is entitled "Workplace Harassment, Violence, and Psychopathy in Ontario Public Hospitals: What the Province of Ontario Should Do About It." A brief resumé of my qualifications is included in appendix A on page 27 of my submission.

I am a psychiatrist with 30 years of experience, most of it treating people who are severely mentally ill. As you may appreciate, the severely mentally ill are amongst the most vulnerable members of society and often victims of bullying. They also suffer when workplace harassment leads to degraded health care for them.

I have for many years personally experienced and witnessed workplace harassment by physicians of other physicians at a major Ontario psychiatric hospital. I have, as a former representative of the Association of Ontario Physicians and Dentists in Public Service, defended physicians who were being harassed by a physician in chief and his accomplices. I know of many cases, which I have learned about from other physicians and mental health professionals, of harassment at various Ontario public hospitals. I have also, in my private practice, treated patients who have suffered mental and physical illnesses such as post-traumatic stress disorder, PTSD, resulting from harassment at work.

I also study psychopathy, which is strongly associated with, and in many cases is at the root of, instrumental aggression; violence, including murder; criminal recidivism; spousal abuse; and white-collar crime.

1620

Workplace harassment in Ontario's hospitals is a systemic problem and certainly results in millions of dollars of lost productivity and lower quality of care. Unfortunately, this blight is grossly underreported and does not get the attention from the province that it deserves. Worst of all, some of these bullies are protected by the hospitals at the expense of the Ontario taxpayer.

The victims of workplace harassment often have to fight for their rights alone and bear the huge emotional and financial costs of doing so.

Workplace bullying is a marker for psychopathy. The traits most associated with psychopaths are listed in appendix B on page 28. To highlight, these include lack of empathy; callousness; lack of remorse or guilt; and a grandiose sense of self-worth—traits often seen in bullies.

Psychopathy is strongly associated with criminal versatility. This should include corporate crimes such as fraud. Thus, if the province ignores harassment, it may also be ignoring a telltale sign of corruption, of white-collar crime such as fraud, in Ontario's hospital system. This kind of white-collar crime by psychopaths has been described in *Snakes in Suits*, a book by Dr. Paul Babiak and Dr. Robert Hare. I'm providing each member of the committee with a copy for their libraries.

Workplace harassment, which is sometimes trivialized by terms such as incivility, disrespect and ill-treatment, includes many concepts such as bullying, camouflaged aggression, disruptive physician behaviour, mobbing, rankism and scapegoating, all of which are defined on pages 3 through 6 of my submission.

Workplace harassment, if unchecked, often escalates to violence, including murder, as in the tragic case of Lori Dupont. I have read the heart-wrenching testimony of Barb Dupont, Lori Dupont's mother, and it saddens me greatly that so many instances of harassment were ignored by the Ontario hospital system.

Harassment may easily escalate or be stepped up to workplace violence. It may be instigated by the bully or orchestrated by mobbers. Harassment may also trigger reactive aggression and violence against the harassers and bullies. This may be a factor in the recent Fort Hood incident, in which an American army psychiatrist murdered fellow soldiers.

Any hospital that has a higher degree of workplace harassment is more likely to have a higher degree of corruption and white-collar crime and more likely to have violence. Unfortunately, harassment has been tolerated in the medical culture, not only in Ontario but abroad, and I discuss the roots of this phenomenon on pages 7 through 9.

Unfortunately, harassment in the medical profession is underreported for various reasons, which I have listed on pages 8 and 9, including the belief that nothing would be done about it and fear of reprisals.

I have witnessed harassment of many doctors at a hospital where I worked for many years. This harassment resulted in numerous resignations and a high turnover of

physician staff; lost productivity; disruptions to continuity of care; reductions in quality of care; legal settlements; and danger. One can only imagine how many millions of dollars were wasted at that hospital.

I would like to give you a recent example. A hospital clerk reported to me that a physician bullied her because she would not schedule and book his private practice patients during scheduled hospital hours, for which he was already being paid to treat hospital patients. This physician may have also been given free paid time off at another hospital to do this sessional work.

She claimed she was bullied because she refused to participate in that physician's attempt to defraud the hospital. In her opinion, the physician's bullying was a reprisal against her for having behaved with integrity. The physician lobbied senior management to have her fired.

This kind of fraud is referred to by physicians who know about it as double- or triple-dipping. OHIP may not address it in their auditing.

This case points out the fact that those professionals who harass are also predisposed to other anti-social acts. Unfortunately, many cases of harassment remain a secret because certain Ontario hospitals are paying the victims to be quiet by means of silence-for-money clauses in their termination contracts or legal settlements. The toxicity of workplace bullying is more pervasive than some people realize, and this has been recognized by certain institutions, such as the US joint commission, which has put out advisories against harassment. I've discussed this on pages 12 to 15 in my submission.

I now come to the topic of psychopathy in the workplace. Dr. Robert Hare, professor emeritus of the University of British Columbia and the foremost psychopathy researcher in the world, provides a definition. I'm not going to read the whole definition. Just to highlight: "Psychopathy is a personality disorder that includes a cluster of interpersonal, affective, antisocial and lifestyle traits." There's "a range of unethical and anti-social behaviours, not necessarily criminal. Among the most devastating features of criminal psychopathy are a callous disregard for the rights of others and high risk for a variety of predatory and aggressive behaviours."

These psychopaths are enabled to succeed in today's large corporations and institutions, especially where regulation and oversight are weak. I discuss the issue of psychopaths and the risks they pose in the Ontario health system on pages 15 to 18.

It's worth pointing out that many Canadian researchers, such as Dr. Robert Hare, and institutions, like the Mental Health Centre Penetanguishene, have provided an incredible amount of research that has been internationally recognized and has contributed to the current knowledge about psychopathy. Their research can be applied to Ontario's hospitals to make them safer and higher-integrity institutions.

Ontario hospitals also need to use a benchmark for best hiring. I refer to the world-renowned Mayo Clinic. The Mayo Clinic places great emphasis not only on

hiring but also screening out persons whose values are incompatible with their core values, which include mutual respect and integrity and a high standard of personal and professional conduct. They have careful screening processes for their candidates because if wrong persons such as psychopaths are hired, then they can do a lot of irreversible and costly damage before they are discovered and removed.

The Chair (Mr. Shafiq Qaadri): You have about 30 seconds left, Dr. Naidu.

Dr. Mary Naidu: I discuss the Mayo Clinic model for controlling harassment on pages 18 to 21.

My nine recommendations are given on pages 22 to 23. I think that victims should be provided some support. They face hurdles. PTSD carries a stigma, especially for physicians. It's difficult to prove and attribute to harassment. The current process is perceived as involving a lot of runaround for the victims—

The Chair (Mr. Shafiq Qaadri): With respect, Dr. Naidu, I will need to intervene there. I would, first of all, congratulate you for your deputation, for the hardcover book and the very thorough presentation. Thank you, as well, on behalf of the committee. We continue to hope that the good people of Etobicoke and environs are served well by you.

COMMUNICATIONS ENERGY AND PAPERWORKERS UNION OF CANADA

The Chair (Mr. Shafiq Qaadri): I would now like to invite our next presenter to please come forward if they are present: Ms. Dolan, of Communications Energy and Paperworkers Union of Canada, and colleague. You are here, so we are pleased. We invite you to please come forward. As you've seen the protocol, I'd like you to please begin now.

Ms. Barb Dolan: Thank you. My name is Barb Dolan, administrative vice-president for the Communications Energy and Paperworkers Union of Canada. I'm joined today by Keith McMillan, national representative responsible for health and safety with CEP.

The Communications Energy and Paperworkers Union of Canada was formed in 1992 by a merger of three major unions in Canada. CEP represents 150,000 workers across Canada, with approximately 50,000 women and men in over 500 bargaining units in Ontario. Violence in the workplace is of vital importance to us, and we welcome this opportunity to make our comments.

CEP members are exposed each and every day to various forms of workplace violence. These incidents range from verbal assault or isolation to physical harm, including death. CEP membership works with the public, with clients and, of course, with co-workers. CEP membership works alone and often in odd hours and remote locations. Our membership often deals with employers who have little care for the violent aspects of their workplaces. Workers do not have control over the workplace design and are often discriminated against, especially in the case of women workers.

1630

Statistics Canada reports that from 2001 to 2005, 69 homicides occurred as a result of victims' legal employment while on the job. As noted in the Ministry of Labour's Consultation Paper on Workplace Violence Prevention, 2008, more than 356,000 incidents of workplace violence were reported in 2004 alone, including sexual assault, robbery and physical assault. Of these, nearly 75,000 injuries were documented. Many sensible recommendations were made at the Theresa Vince and Lori Dupont inquests. These recommendations, most yet to be implemented, speak to the scope and depth of the problem.

We will address our issues with the bill, as proposed, and close our comments with CEP's position on the legislation and regulation of violence in the workplace.

Mr. Keith McMillan: On the definitions of violence and harassment in the workplace: Harassment is violent behaviour; however, in this bill we find separate definitions for "violence" and "harassment." CEP believes that physical and psychological violence, i.e. harassment in the workplace, are both occupational hazards of a violent nature and should be clearly defined as such in legislation under one singular definition. The definition for "violence" as proposed excludes a wide range of aggressive workplace behaviour such as all forms of harassment, verbal assault, bullying and intimidation. By definition in this bill, harassment is simply "vexatious" and not considered to be violence upon a person simply because it's not physical. You will note that in every recent case of physical violence causing death in the workplace in this province, a pattern of harassing behaviour was the precursor to the final acts that led to the deaths of these workers. Harassing behaviour can lead to physical harm and should be treated as such.

By providing a separate definition for "harassment," a separate remedy is called upon from employers, a remedy which carries lesser precautions than the remedy for physical forms of violence. To be explicit, for forms of violence such as harassment, the employer does not need to perform a hazard assessment nor identify measures and procedures that arise from that assessment. Since the only language in the bill that empowers joint health and safety committees' right to know is around assessments, joint committees have no involvement whatever in the proposed harassment policy and program. This is a major omission in terms of consultation with affected parties. In fact, the lack of joint committee involvement throughout this bill will be discussed later.

In the view of CEP, the definition of "violence" which should be used in this bill should be much closer to that used in the European jurisdiction: "Incidents where persons are abused, threatened or assaulted, in circumstances occurring at or related to their work, involving an explicit or implicit challenge to their safety, well-being or health."

To turn to the issue of joint health and safety committee involvement, while the bill requires that joint committees and representatives be advised of the results of initial assessments and subsequent reassessments, this isn't good enough. Joint committees should be consulted

in a meaningful fashion throughout the process of assessing the workplace, from the planning to the results stages. Similar to provisions that entitle joint committees to be present at the beginning of testing, representatives may be able to ensure that the assessment covers the proper ground, is not superficial and is effective for the employer and workers alike.

As the bill is presently written, the joint committee is merely advised of the results, presumably, at that point, to empower the committee to comment and make recommendations to the employer.

The problem is that at that point, consultation is after the fact, and the joint committee is often ignored by the employer. Once the assessment has taken place, the employer is always reluctant to go back to correct errors, especially errors in the scope of the assessment, which could result in costly rework. This causes unnecessary fights between the joint committee and the employer, unnecessary strain for the Ministry of Labour inspectorate, and often there remains a strained relationship between the joint committee and the employer. This is all on top of the obvious risk of using a flawed assessment for the policy and program to prevent violence.

In terms of domestic violence in the workplace, we are very pleased to support provisions which require employers to deal with potential domestic violence. However, on the issue of work refusals, we are pleased to support the provisions that are put forth in situations which may involve violence. We are also supportive of the language to seek safe havens in a place that may not necessarily be the workplace.

However, CEP feels that there is a need to be explicit in the act that a refusal to work that involves violence extends for the entire period of the time that the worker must refuse in order to protect themselves, and that the employer covers the entire refusal period. There is also a need to be explicit that WSIB legislation covers lost wages and benefits tied to any periods when the worker is unable to attend work as a result of an incident of workplace violence or harassment.

Moving to sector-specific requirements: As outlined in our introduction, CEP represents workers in virtually every sector of the Canadian economy. This being the case, we know that there are many specific requirements that should be in place in terms of violence for many sectors. We see that there are too few dealt with in the act itself. These requirements should be captured firmly in regulation. For instance, the public service sector should enjoy administrative protections such as never having to work alone. Workers who work at night should never have to access or egress from a workplace that is dark or without appropriate security. Workers should never be without a reaction procedure specific to the nature of their work that may be implemented when violence becomes an imminent hazard. We are of the hope that regulations will capture these particular shortcomings in the act.

Ms. Barb Dolan: CEP's position on legislation and regulation of violence in the workplace is that the workplace violence coverage should:

- cover all forms of violence in a comprehensive definition, including verbal, harassment, sexism, racism, rankism, bullying and psychological and physical incidents of violence;

- specific recognition in the Occupational Health and Safety Act that violence, both physical and psychological, is an occupational hazard;

- reprisal protection should be strengthened. We can have the best regulation in the world, but unless it stops employers from intimidating workers into not reporting incidents of violence, we will not have protected Ontario workers;

- include the precautionary principle in the act and regulation as espoused by Justice Archie Campbell; and

- include recommendations from the Theresa Vince and Lori Dupont inquests.

Any specific workplace regulation should set out:

- specific mention of meaningful consultation and participation with health and safety representatives;

- that employers must conduct hazard assessments in full participative consultation with health and safety representatives and committees to identify whether workplace violence is a potential hazard;

- that information must be provided to workers about potential for violence and incidents of violence. Information on new clients or client history is not a violation of privacy legislation, nor is providing information on incidents. Information does need to be communicated in a manner that is respectful—

The Chair (Mr. Shafiq Qadri): You have a minute left, Ms. Dolan.

Ms. Barb Dolan: Thank you. Further through our document, you'll see further recommendations that CEP is proposing. We thank you for the opportunity to present today and would look forward to any questions that you might have.

The Chair (Mr. Shafiq Qadri): There are 20 seconds. Ms. DiNovo?

Ms. Cheri DiNovo: Thank you very much. We in the NDP agree with your recommendations and will be putting forward amendments to this bill.

The Chair (Mr. Shafiq Qadri): To the government side: Ms. Mitchell.

Mrs. Carol Mitchell: Thank you very much for your presentation. We certainly will read the end of your presentation. We understand that it is difficult to—

The Chair (Mr. Shafiq Qadri): Thank you, Ms. Mitchell. Mr. Hillier?

Mr. Randy Hillier: Yes, quickly: My question is, which European jurisdiction are you referring to on page 2, and if there's a specific statute that—

Mr. Keith McMillan: I couldn't quote the statute, but it's my understanding that it's out of the European Union.

Mr. Randy Hillier: The European Union.

Mr. Keith McMillan: Yes.

Mr. Randy Hillier: Thank you.

The Chair (Mr. Shafiq Qadri): Thanks to you, Ms. Dolan and Mr. McMillan, for your deputation on behalf

of the Communications, Energy and Paperworkers Union of Canada.

ONTARIO PUBLIC TRANSIT ASSOCIATION
CANADIAN URBAN TRANSIT
ASSOCIATION

The Chair (Mr. Shafiq Qaadri): We now move to our next presenters: Mr. Cheesman and Mr. Leck of the Ontario Public Transit Association. Welcome, gentlemen, and I would invite you to please begin now.

Mr. Norman Cheesman: All right; thank you very much, Mr. Chair. I know we want to move quickly today. On my right is Brian Leck, the general counsel for the Toronto Transit Commission, representing OPTA. Our brief today is also a joint brief with our federal counterpart, the Canadian Urban Transit Association. We represent providers of urban transit, both conventional and specialized transit, as well as the suppliers of those services.

Just by way of background, we were involved with this legislation prior to its introduction in the spring, in discussion with officials at the Ministry of Labour. We've been following this very closely, and we're very pleased to be here today to have an opportunity to present to you.

The transit industry, as Brian is going to explain in his remarks, is a unique industry. It has mobile and static work environments, which have some interesting implications. We address in our letter—and I understand that the brief was made available to staff. I don't know whether you have copies here or not.

1640

We're going to talk about the right to refuse work, the issue of the provision of personal information, and then, finally, the issue around domestic or intimate partner violence, however you choose to define that.

Brian?

Mr. Brian Leck: You really do need to be a fast-talking lawyer here.

What I'd like to touch on are three points, very quickly, that affect public transit. As Norm has said, public transit is unique. It's not a factory; it's not an office setting; it's not a building. But it's not just a vehicle and moving workplace, so to speak; it's a moving workplace that has absolutely open access to all members of the public, and it has carriage and responsibility for their safety. That brings with it certain implications.

One of the points that bothers us in this legislation is the work refusal provision. What it allows, in effect, is an absolute carte blanche, a subjective right on the part of a worker, to simply refuse to work because they believe, or they have reason to believe, in their own mind, allegedly, that there is some safety issue, an issue that involves their safety. That could, in a labour strife situation, in a situation where someone either wanted to misuse or wanted to abuse the situation, treat someone looking at him in an unusual way as a threat to their safety. Under this bill, the

way it's drafted, that would be an adequate basis to refuse work.

Our request is that you take a look at that and essentially replace it with a reasonable-person test. Implement a test that at least requires that there be reasonable and probable grounds of imminent danger to the worker. That way, there is some objectivity brought to bear on a situation that is otherwise really a very subjective situation. It's behaviour. It's not a machine breaking down. It's not a device that's at issue. It's behaviour, it's credibility, and it involves issues where people's lives and their safety is at issue.

One of the concerns we have is, for example, late at night, if a worker refuses to work, that vehicle is disabled; it's parked. It could be a streetcar. It's going to be blocking traffic and it's going to be leaving people, potentially late at night, without access to another vehicle for some time.

There are already, in our view, sufficient means and resources to address those types of problems, via the police, supervisors, special constables and other resources that exist in our society. It is simply not an issue, in the context of public transit, that needs to be addressed in the current legislative format.

I would also point out that in other provinces—Alberta, British Columbia, PEI, Nova Scotia—there is a general requirement for a reasonable-person test for any refusal to work, be it equipment or other types of refusals. So at the very least, we would request that you review that provision.

Likewise, with respect to domestic violence, we have a number of concerns. One of those in particular is, what does that mean? Does it mean boyfriend, girlfriend, extended family?

The word "person" is used in the legislation. Are we supposed to, as an employer, somehow monitor what is going on between spouses—employee and non-employee spouses—and then somehow deny access to public vehicles? What role is the employer to take in the case where there is rumour and gossip of domestic violence? Is there an obligation to investigate, to get the details, to get at the truth, whatever that is?

The big danger with all of this is that in hindsight, everyone is going to be very nervous. In hindsight, something looks very different than it does when there are rumours circulating around an office environment or amongst employees.

So it's very unclear what domestic violence covers, what the obligations of the employer are to investigate, and what the employer is to do, in the context of public transit and our operators, when it has wind that there might be some domestic violence between a boyfriend and girlfriend who are living together. What are we to do to exercise reasonable precaution?

Finally, the point I'd like to touch on deals with the whole issue of personal information and how we handle that, again, in the context of public transit. This deals with persons, so if the TTC is aware that certain people in the public sector, for example, have a history of some

assaults, what steps are reasonable to take, if that person lives in Scarborough or North York and uses public transit, to protect the operator? To take the legislation, the bill, literally and to apply it, what are we to do? Post pictures? Call in all the operators on a daily basis and have a briefing? Those are implications that, frankly, I don't think have been thought through fully.

Likewise, there are issues, again, in the workplace. If you have a situation where there is someone who's had some issues of violence, what is the obligation to investigate that? Is it a domestic situation? Is it a situation where there is a disturbance, a fight in a bar with some friends? What effect does that have in terms of communicating that to employees in the workplace and the rumours and the gossip that may start from that communication? So it's not just the communication that's necessary within Bill 168 but what the effect on morale is. What is the effect on the employee who is at risk here because of all of the almost harassing behaviour that this legislation could be generating as a result of not placing proper parameters on some of these points? Those are just some things to consider and think about.

Public transit, in the end, is different. It is fundamentally different than other types of workplaces, and it needs to be treated differently. If it isn't, then there are going to be unforeseen consequences that could actually jeopardize the safety and welfare of both our employees and the public.

The Chair (Mr. Shafiq Qaadri): Thank you, gentlemen. About 40 seconds per side—Mr. Dhillon.

Mr. Vic Dhillon: Thank you for your presentation. Do you think that your concerns with work refusal can be addressed through guidance or other support type of material?

Mr. Brian Leck: I think that would be helpful. We would request that the legislation be amended to create a reasonable-person test. That at least brings some objectivity to the situation so it's not open to abuse, so it's not open to improper use, which, again, has a much greater effect than it would, for example, in a factory situation.

The Chair (Mr. Shafiq Qaadri): Mr. Hillier.

Mr. Randy Hillier: Thank you very much for your presentation today. It's clear to me that this legislation was drafted with the perspective that everybody works in a static, clerical, white-collar job. There hasn't been a lot of thought given to any other employment outside of that and the difficulties and the creation of problems in other workplaces. I want to thank you for your presentation. You have some other views, and it's very good to hear those other thoughts.

The Chair (Mr. Shafiq Qaadri): Ms. DiNovo.

Ms. Cheri DiNovo: I can't help but think that "reasonable" has never been defined by women, particularly when they complain about things like phone calls, buying coffee, gifts. These are all the incidents that led up to Theresa Vince's death and Lori Dupont—incidents that would never have been defined by men as reasonable grounds on which to refuse to work. The

reality is that it's all of these little things that lead up to the violent act at the end. I can't help but think that TTC operators, particularly women alone in a car, when their domestic abuse partner or intimate partner who is targeting them sits next to them and rides with them, wouldn't be of huge concern for your organization. I would welcome an exemption—

The Chair (Mr. Shafiq Qaadri): With respect, Ms. DiNovo, I'll need to intervene there. I thank Mr. Cheesman and Mr. Leck for your presentation on behalf of the Ontario Public Transit Association.

WINDSOR OCCUPATIONAL HEALTH INFORMATION SERVICE

The Chair (Mr. Shafiq Qaadri): I now invite our next presenter to please come forward: Ms. Hamilton of the Windsor Occupational Health Information Service, and any colleagues you may have. Welcome, Ms. Hamilton. I invite you to please begin now.

Ms. Joy Hamilton: Good afternoon. I'm Joy Hamilton. I've worked in a unique occupational health and safety library and information referral service for 14 years, providing information to Windsor-Essex county residents who contact my place of work.

Most people think of violence as physical assault or murder. Workplace violence, though, has a much broader scope. The International Labour Organization defines workplace violence as "any action, incident or behaviour that departs from reasonable conduct in which a person is assaulted, threatened, harmed, injured in the course of, or as a direct result of, his or her work."

1650

In recent years, new evidence has emerged on the harm caused by non-physical violence, often referred to as psychological violence. Psychological violence includes bullying, mobbing, verbal insults, sexual or racial harassment and intimidation. Bullying is usually seen as acts of verbal comment that could mentally hurt or isolate a person in the workplace. Bullying usually involves repeated incidents or a pattern of behaviour that is intended to offend, degrade or humiliate a particular person or group of people. This includes engaging in gossip, spreading false information, deliberately impeding a person's work or tampering with a person's personal belongings or work equipment. Bullying has also been described as the assertion of power through aggression.

Statistics released by Ontario's Workplace Safety and Insurance Board show lost time claims for assault, violent acts and harassment have increased by 40% from 1996 to 2005. We believe that number has increased again from 2005 to the present. We know the number of inquiries that we have been receiving regarding workplace violence is increasing: At least on a weekly basis, we receive requests for information about workplace violence.

While I was writing this statement, we received two inquiries regarding violence in the workplace, one from an employer eager to find information to assist in training

the workers regarding violence in the workplace. The other inquiry came from a frustrated worker who read the article in our local newspaper about last Tuesday's hearings regarding Bill 168. She felt compelled to call and report that she had been a victim of violence in the workplace in the past. She reported that a rape attempt at her workplace had left her afraid to return. After struggling for an answer, she decided she must quit her job. She had hopes for a different future at her new workplace but was subjected to psychological harassment in the form of swearing, threats and intimidation. What was she to do, quit another job? She decided to educate herself and now counsels women suffering from the devastating effects of workplace violence.

Last night at a restaurant, I observed the owner swearing at three wait staff. The owner used abusive language in a raised voice. The restaurant was very busy and parents were trying to quickly usher their four young children out the door, trying to shield them from the owner's disturbing behaviour.

The Workers Health and Safety Centre says, "All workers are at risk from workplace violence but workers who work with the public are at greater risk of physical assault. Women face increased risk of violence while on the job, primarily because the workforce in high-risk occupations such as retail, social service or health care is predominantly female. Workers, of either sex, in any occupation are equally at risk of being victimized by psychological violence."

WOHIS questions the exemption from posting written policies at a workplace of five or less employees. From the teenaged worker in the video store to the worker in the factory; from the nurse in the hospital to the MPPs in the room, we all need protection from violence in the workplace, but we need to remember that the focus should be on prevention first and foremost. Recognizing violence as a health and safety issue is the first step, but legislation on the books is only part of the answer. As with other health and safety hazards such as noise or asbestos, enforcement of this new legislation will be fundamental to ensure that workers' health and safety is protected. Violence in the workplace is a health and safety hazard that must be prevented and eliminated because violence in any form is not part of the job.

Thank you for this opportunity.

The Chair (Mr. Shafiq Qaadri): Thank you very much. We'll begin with the PC Party: about 90 seconds per side.

Ms. Sylvia Jones: Thank you for your presentation. I don't have any additional questions.

Ms. Joy Hamilton: Thank you.

The Chair (Mr. Shafiq Qaadri): Ms. DiNovo.

Ms. Cheri DiNovo: I couldn't agree more. Thank you for your presentation.

Just as I've asked the other deputants: We're looking to introduce an amendment that would extend the definition of violence to include bullying and psychological violence as well. Would you be in favour of that?

Ms. Joy Hamilton: Definitely.

Ms. Cheri DiNovo: Thank you.

The Chair (Mr. Shafiq Qaadri): To the government side. Mr. Dhillon?

Mr. Vic Dhillon: Thank you for your presentation.

Ms. Joy Hamilton: You're welcome.

Mr. Vic Dhillon: The current definition is meant to cover violence in terms of higher-end violent behaviour. With this bill, the definition is intended to cover bullying and most types of harassment. Do you feel that this would answer some of your concerns?

Ms. Joy Hamilton: I think it will answer some concerns. I hope it can be made stronger.

Mr. Vic Dhillon: Thank you.

The Chair (Mr. Shafiq Qaadri): Thanks to you, Ms. Hamilton, for your deputation and presence on behalf of the Windsor Occupational Health Information Service.

INQUEST ACTION GROUP

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenter to please come forward: Ms. Smedick of the Inquest Action Group. Welcome, and I'd invite you to please begin now.

Ms. Lois Smedick: Good afternoon. My name is Lois Smedick and today I'm representing the Inquest Action Group of Windsor, Ontario. The Inquest Action Group was formed to monitor and address compliance with the recommendations of the inquest into the death of Lori Dupont at Hôtel-Dieu Grace Hospital in Windsor, Ontario, on November 12, 2005, four years ago. The Inquest Action Group has met regularly for that purpose between January 2006 and the present, November 2009.

Since the release of Bill 168, the Inquest Action Group has studied the text of the bill; consulted with persons who have specialized expertise in sexual violence and violence in the workplace, especially violence against women; and listened to the debate in the Ontario Legislature concerning the bill.

Workplace harassment and workplace violence endanger the health and safety of workers as surely as unsafe equipment does and as surely as other workplace hazards do. Further, endangerment of the psychological health or safety of a worker can have consequences as lethal as immediate endangerment of the physical body can. Psychological harassment—making a coworker miserable or afraid—can be an end in itself or it can be a precursor of other kinds of assaults, some of them murderous, on a worker.

It should be self-evident that a woman who is stalked in her place of employment, a man who is taunted beyond endurance in his workplace, or any worker who is threatened by word or deed to the point where the worker has reasonable cause to believe that physical injury is likely to occur—such persons, such workers, are enduring real harm that can escalate to the point of dangerous risk to themselves and to others.

Workers are entitled to a safe workplace, a place that legislation endeavours to make as secure as reasonably possible against danger, whether the danger resides in

some “equipment, machine, device or thing,” to quote the Occupational Health and Safety Act, or the danger is posed by a human being. Psychological as well as physical violence is a real threat to health and safety, and must be legislated against as such.

The Inquest Action Group has faithfully monitored compliance with the recommendations made by the jury in the inquest into Lori Dupont’s murder in her workplace four years ago. We are a group of women of different backgrounds, occupations and stages of life, but we have found one voice in this cause.

1700

Bill 168 must incorporate clauses that recognize fully and bring public authority and conscience to bear upon the problem of endangerment to psychological health and safety as well as physical and health and safety of a worker.

We, the concerned public, can help prevent workplace harassment. We can help prevent workplace violence. We can help prevent endangerment of the physical and psychological health and safety of workers. We can help prevent threatening statements and behaviour that give workers reasonable cause to believe that they are at risk of physical injury.

With the help of workers, risk can be assessed, worker safety can be protected, and we can do more than simply say to a grieving mother or father, sister or brother, daughter or son, “Never again.”

Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Smedick. We’ll begin with NDP and Ms. DiNovo. About 90 seconds per side.

Ms. Cheri DiNovo: Thank you so much for this, and thank you for being one of those unreasonable women who don’t put up with what they’re dished out and continue to fight for the rights and safety of women.

Thank you in particular for this emphasis on the psychological violence that can manifest, as we saw in Lori’s case and in Theresa’s case, in very subtle things that don’t look unreasonable to somebody looking in from the outside, but feel very scary to the victim.

So thank you again. As I have said before, we’ll put forward an amendment that I hope reflects your concerns.

Ms. Lois Smedick: Thank you.

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon?

Mr. Vic Dhillon: Thank you very much for your presentation. As well, thank you for bringing awareness to this issue.

Given that this bill has a harassment definition meant to address all forms, from bullying to psychological harassment at the workplace, and that employers are required to have programs to address violence and harassment, would you agree that this would go a long way in addressing problems that you mentioned in your presentation?

Ms. Lois Smedick: I think it will go a long way. We just have to keep at it and make sure we do everything we possibly can do to prevent these terrible things from happening.

Mr. Vic Dhillon: Thank you very much.

The Chair (Mr. Shafiq Qaadri): Mr. Hillier.

Mr. Randy Hillier: Thank you very much for offering up these recommendations.

I want to just get your comment, because we see as a bit of a failing in this bill not changing things to allow for getting restraining orders on a 24/7 basis, 365 days a year, as that would be a significant help to prevent violence and workplace harassment. Any comments on restraining orders and being able to get them?

Ms. Lois Smedick: I think any kinds of measures that can be taken—it’s all together. They’re incremental to try to achieve this end. But we’ve heard before—I’ve heard this afternoon—about education and training in recognizing signs, intervening when it is appropriate to intervene. I was just thinking of the 44 times, coming up to the murder of Lori Dupont, when there was an opportunity to intervene and nothing was done.

Mr. Randy Hillier: But that was one of the problems as well, the lengthy process to get a restraining order. If that had been done in an expeditious manner, to have that legal tool, as well as the education and training available—

Ms. Lois Smedick: It’s certainly one thing, but only one thing.

Mr. Randy Hillier: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Hillier, and thanks to you, Ms. Smedick, for your deposition on behalf of the Inquest Action Group.

I’d now invite our next presenter to please come forward: Mr. Van Beek of the Service Employees International Union.

ONTARIO ENGLISH CATHOLIC TEACHERS’ ASSOCIATION

The Chair (Mr. Shafiq Qaadri): Okay, do we have Mr. Ryan and Mr. DiCiocco present from the Ontario English Catholic Teachers’ Association? I’d invite you to please come forward and take your place, then.

Maybe you might just inform Mr. Van Beek that he’ll be put on immediately following.

Welcome, gentlemen. I’d invite you to please begin. Do introduce yourselves. Go ahead.

Mr. James Ryan: Thank you. My name is James Ryan. I’m the president of the Ontario English Catholic Teachers’ Association. We represent the men and women in Ontario’s publicly funded Catholic schools.

Let me first of all state that it’s a pleasure to appear before the committee, and we’d like to commend this committee and the entire Legislative Assembly for what we see as a very positive step forward in terms of adding workplace harassment and bullying to the Occupational Health and Safety Act. I think that Ontario has long been behind provinces like Saskatchewan, Manitoba and Quebec in this category, and indeed, behind the federal government, and I think it’s high time that Ontario joined those provinces in recognizing that this is a critical part

of the workplace and that employees need to be protected from these things.

Indeed, I said I represented teachers in Catholic schools. Most of those teachers are women, and certainly, the actions that happened to Lori Dupont were of grave concern to all of them. I think that while it was very tragic that that did occur, perhaps a positive outcome for this will be real changes to the Occupational Health and Safety Act. Also, I would like to thank all of you that we met with during our lobby day last year, in which we talked about changes to the Occupational Health and Safety Act, and we'd like to recognize many of those changes that are in this legislation.

We see this as part of a greater issue of addressing our ongoing difficulties with creating safe schools in this province. We see this as part of that solution to ensuring that we have safe schools, not just for our employees but for all of the children of this province in publicly funded education.

You've been handed our brief, which I'm not going to read to you, but I would like to highlight a couple of sections of the brief. Specifically, I would like you to turn—well, you don't have to turn to it, but I'd like to highlight section 1.07 of the brief. Section 1.07 can be found on page 2. Again, I will concentrate on a couple of issues here.

We really would like to see the bill expanded to include some of these areas under the act, and specifically, those areas include: psychological harassment; verbal threats; intimidation; stalking; bullying, including cyber-bullying; and teasing. The reasons for this are that we think that physical violence and physical actions are important, but in many of the actions our members report to us—and we have surveyed our members on the issue of bullying, both from other adults and from, obviously, children and students in our case—psychological forms of violence are an even greater danger to our members, as they are to the other children in the classroom that they work with. But of course, the Occupational Health and Safety Act can't address that; we'll have to save that for another committee meeting. The working conditions that our members face are also the learning conditions for our children. When our members are physically harassed, I think that means that children also are capable of being harassed. So I think we have to consider that.

We do take the government's word that these will be understood to be in the act, and we will hold the government to that, I assure you; however, we do worry about our school boards in that some of our school boards will often say, "Well, it's not in there, so it can't be there. It doesn't matter what understanding you have with the Ministry of Labour or the provincial government; it's not in there." That will force us, often, when we represent the member, to use the grievance process, whereas if it was included in the legislation, that would be unnecessary because it would be black and white and it would be in there. I think that's a better way to go. If it has to go through other means, it would delay justice for the member who is being harassed, and also it will add

costs—costs to the school boards, costs to ourselves, of course—and I don't think that's a desired outcome.

1710

The other section I'd like to refer to is section 1.11 of the brief. That can be found, I believe, on page 4. That's the involvement of the joint occupational health and safety committees. Our feeling is, there has to be a much greater involvement of the committees in this process. Specifically, I say this with reference to hazard assessment—and I do like the term "hazard assessment" better than "risk assessment," because these are hazards. If we want to have safe workplaces, it is good to include all of the employees who work in that environment to help bring about that safe working environment, and not just management. I think that would be of real benefit to the act.

By the way, I forgot to mention that the gentleman sitting beside me is Gino DiCiocco, who is an executive assistant with the Ontario English Catholic Teachers' Association and is our resident expert, who, if you have any questions, will certainly be able to answer them.

Lastly, and I'm just going to touch on this briefly, I want to mention the issue of domestic violence and, basically, injuries that are caused by third parties in this case. We certainly have a sensitivity when it comes to children. Our teachers are always on the lookout for if a child is abused in any way. I think we need to do that too with other adults, to look at them and try to ensure that they too are not victims of violence at home. I think that is important, and we do speak to that in our brief.

I guess I will leave it at that. I'm not sure how much time there is for questions, Mr. Chair.

The Chair (Mr. Shafiq Qadri): There are 40 seconds a side. Mr. Dhillon.

Mr. Vic Dhillon: Thank you for your presentation. The definition of violence in this bill is meant to capture physical violence and the higher end of harassment—the definition of harassment listed on page 2 of your brief. If I understand you correctly, would clarifying this address your concerns?

Mr. James Ryan: I think a clarification would really go a long way to helping. It would address our concerns if we were to include those areas.

I'm actually going to ask Gino to comment further on that.

Mr. Gino DiCiocco: Thank you. Mr. Dhillon—

The Chair (Mr. Shafiq Qadri): Sorry, I'll need to intervene there. Ms. Jones.

Ms. Sylvia Jones: Thank you. With 40 seconds, I'm not going to attempt to formulate a question. But you've had some specific recommendations you'll leave with us, so thank you for your presentation.

The Chair (Mr. Shafiq Qadri): Thank you, Ms. Jones. Ms. DiNovo.

Ms. Cheri DiNovo: Yes, thank you, Mr. Ryan. Thank you both for coming. Certainly we in the NDP agree, and we will be putting forward amendments that match your own.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. DiNovo, and thanks to you, Mr. Ryan and Mr.—

Mr. Gino DiCiocco: DiCiocco.

The Chair (Mr. Shafiq Qaadri): —DiCiocco. Thank you.

SERVICE EMPLOYEES INTERNATIONAL UNION

The Chair (Mr. Shafiq Qaadri): I would now invite our next presenter. First of all, is Mr. Van Beek present? Welcome. We'd invite you to begin your presentation on behalf of the Service Employees International Union. I'd invite you to begin now, please.

Mr. John Van Beek: Thank you very much. I'm John Van Beek and with me is Brenda Snider, who is our WSIB rep. We represent, in Local 1 Canada of SEIU, about 50,000 health care workers across the province. What our members have experienced in terms of workplace violence from patients, residents and clients—they face it every day of their working lives.

One of the things that we want to concentrate on in our presentation—and you'll notice that we also have specific amendments in our brief that we want addressed, but we want to particularly concentrate on section 43, which is up for discussion quite a bit in terms of the right to refuse. Health care workers do not have the right to refuse. They are very much in a vulnerable situation in the sense that they work alone. They're obviously always afraid of employer reprisals for anything that they may do to exercise any of their rights. We were going to bring a member here today, but again, they're even threatened with employer reprisals in terms of trying to say what goes on in certain nursing homes, retirement homes or particularly home care workers where it's always a one-on-one working relationship.

We're going to give a couple of examples, and I'm going to turn it over to Brenda to give you some sort of a flavour of what health care workers are up against without the right to refuse any unsafe, violent act that happens to them by a resident, a patient or a client in the health care sector.

Ms. Brenda Snider: The following violent attack occurred in one of our nursing homes. It happened in the early morning at the end of a night shift in March 2008; this is when workplaces operate with the least amount of staff. An RPN was viciously assaulted not once but twice by a resident in the workplace. The assault consisted of punches to the arms and hands as the worker tried to block punches to her face. The attacker repeatedly tried to hit the worker in the face. She suffered scratches to both arms and was also hit in the chest, back and shoulder. Her hands and fingers were squeezed, twisted and bent. There were also injuries and bruises to the left leg, foot and upper thigh/groin area. The resident still held onto the worker's hand and fingers while she was falling. The worker, while preventing herself from falling on top of the resident, injured her lower back. She was

also pushed back against the desk and around the nursing station. The chart rack was also pushed into her.

A WSIB claim was filed and our member was off work for some time. The employer offered modified work in the same unit she had been attacked in—hardly a place safe from further assault.

In another nursing home in downtown Toronto whose clientele is a younger disabled population, workers are assaulted every day. A personal support worker walks the fence line outside full-time so that drugs and alcohol are not passed through. The doors are locked, and staff have been told they cannot leave the building once they have entered for their shift. This is because a worker was attacked and punched by a resident trying to get out of the building. This same resident had assaulted another worker just previously that evening. This was just recently this year.

A resident who had not bathed in some time and had head lice was admitted to the facility. The employer instructed the workers to struggle to bathe this new resident. It has been reported to SEIU that it took five employees to bathe him. They were kicked, punched, scratched and even bitten. The workers received not only physical abuse but verbal as well. One of the workers was kicked so hard in the stomach when attempting to give care that it knocked her backwards and left significant bruising to the stomach. She was off work for a few weeks. This was in the fall of last year.

At another workplace, workers are assaulted and told by their supervisors to suck it up, that it's part of the job.

Violent patients: They know exactly where to hit. In our hospital, we had a member who was slammed against a wall and injured her back. She was off for two weeks. It became a dance. HR explained that it was the nature of her work in dealing with sick people. The union representative said to call the police and lay charges. These are hard decisions to make as a member. We need a protocol to follow so that the employers, nursing associations, unions, government etc. protect the workers instead of paying lip service to what a member or employee needs to do.

As in our everyday society, it falls under the umbrella: Can you prove it? All the feasible measures are in place. Security walks to the parking lot, investigating but careful about accusing. At the end of it, we have a member who is made to feel threatened, not just in her workplace but in her everyday life.

Violent families: We need training for our members who are not nurses. They are out of their element when dealing with escalating clients or families.

A resident was found with blood and a contusion of three centimetres by three centimetres on the occipital region of the head. She was in her wheelchair and wasn't able to get in or out without assistance. It was never determined how she was injured.

Mr. John Van Beek: I just want to comment that if, indeed, our nursing home workers, for example, are assaulted by a resident, possibly with dementia or whatever other condition, and the police are called, the police

are very reluctant to get involved in those kinds of situations and do not try to lay charges because of the issue in terms of very old people. Nevertheless, our member has suffered the injury and has to deal with the WSIB, and then in terms of if there is accommodation to work, as Brenda points out, they're generally placed on the same ward as the violent resident. We haven't addressed those kinds of issues in any of our legislation as far as the new Nursing Homes Act is concerned or any of that sort of thing. Here's an opportunity to strengthen those kinds of provisions under this act, and we would hope that the committee would look at it.

1720

We have some very, very specific recommendations in terms of the wording in our legislation. I just want to reiterate that clearly, the joint health and safety committee is going to need to take a very active role. There's no indication in the amendments that the joint health and safety committee is involved in the violence procedure. Your amendments now as they stand currently say that the employer has to take a responsibility. We suggest that in terms of the way the workplace structures are organized now, there is a dual responsibility, and we want to make sure that that dual responsibility also extends to the workplace parties when it comes to violence.

In addition, the employer will appoint the coordinator in this act, the violence coordinator specifically. We suggest very strongly that that be done through the joint health and safety committee so that everybody in the workplace has ownership of that.

I think I'll leave it there. As I say, we do have quite a few specific amendments, but you can take a look at them at your leisure.

The Chair (Mr. Shafiq Qaadri): Forty seconds per side, beginning with Mr. Hillier or Ms. Jones.

Mr. Randy Hillier: This is where we run into a bit of a problem, when the nature of the workplace can indeed be violent. That may be the nature of you dealing with people with dementia or whatever. We've heard lots of examples of nursing home violence in the past. How do you actually see that, in practical terms, being dealt with?

Mr. John Van Beek: First of all, you simply make it a staffing standard that is adequate, that ensures that patients and residents receive adequate care. If there is adequate care, the level of violence may go down very significantly.

Mr. Randy Hillier: The level of violence may go down if there's more staffing? Is that—

Mr. John Van Beek: Yes, absolutely.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Hillier. Ms. DiNovo.

Ms. Cheri DiNovo: Yes, absolutely: The level of patient care, as far as the NDP is concerned, is not nearly adequate. We've been fighting for this for a number of years, as you know—that the level of care per client per day go up.

Just one quick note on the joint health and safety committees: I heard on another committee that fewer than half of all workplaces that are mandated to have them

actually do have them. That's another issue which is a WSIB issue, but it's something that needs to be noted and recorded.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. DiNovo. Mr. Dhillon.

Mr. Vic Dhillon: Thank you very much for your presentation. Just a point of clarification about something you mentioned, that the health care workers have a limited right to refuse: Under this bill, they will continue to have that right and the reprisal provisions under OHSA would apply to these workers as well under Bill 168. I just wanted to make a—

Mr. John Van Beek: No. You've absolutely wrong. The problem is that in terms of dealing with violent clients, residents and that sort of thing, if they need care then the worker does not have a right to refuse because they have to take care of the resident, patient or client. That is the significant issue. We have to know for sure, in terms of risk assessments, what kind of people we're dealing with out there.

The Chair (Mr. Shafiq Qaadri): Mr. Van Beek, I'll need to intervene there. I'd like to thank you for your deputation, Mr. Van Beek and Ms. Snider, on behalf of the Service Employees International Union.

THE RAISING AWARENESS CENTRE FOR BULLYING PREVENTION

The Chair (Mr. Shafiq Qaadri): I would now invite our final presenter of the day, Ms. Monaghan, director of TRAC, and I'll let you explain that. Welcome. Please begin.

Ms. Angela Monaghan: I appreciate this opportunity to address the standing committee on Bill 168. My name is Angela Monaghan and I'm the chairperson of the board of directors for the Raising Awareness Centre for Bullying Prevention. The acronym is On TRAC for Bullying Prevention. I'm an educator with the Ontario College of Teachers and a counsellor with the Ontario Association of Counsellors, Consultants, Psychometrists and Psychotherapists. This is mentioned to explain my background and perspective regarding the programs that On TRAC for Bullying Prevention runs and the message I share with you today.

In 2003, I started a support group for adults experiencing bullying in the workplace and was surprised by the immense need. The organization has since expanded, and a brief summary of the various programs offered are in your handout. Several organizations have come before you and given you a variety of statistics, so I don't feel the need to deliver those again. Rather, because I work directly with those involved in the bullying experience, I feel I can bring to you a perspective that is theirs. Any of the personal experiences I share come with the permission of the individual involved, without any identifying features, and it's for the sole purpose of helping you understand the need for Bill 168 and the proposed amendments.

The province of Ontario and its legislators need to be congratulated for their desire and efforts to bring about positive change in the workplace. Bill 168 is an attempt to do such; however, the wording lacks necessary strength to be truly effective. Bill 29 is better.

It is essential that employers create valid policies to prevent physical and psychological violence. It's also essential employers and employees collaborate to ensure the processes meant to resolve issues actually resolve issues, that they are designed to solve problems, not manage them through institutional bullying strategies. Employer policies are most definitely needed, but they are not enough if it is the employer who develops, implements and enforces the policy.

There is also a lack of consistency when each individual employer is responsible for the policies and there isn't an effective government body overseeing the implementation of the policy. When the creator and implementer of a policy is the same body who ensures it is followed, the path is cleared for institutional bullying.

It is important that employers, particularly large employers, have their own internal investigators that act in supportive and impartial ways. At the same time, there needs to be an external body for monitoring and assistive purposes. An employee should have an option to have their issues resolved, either through the internal or external body. This option needs to be present to safeguard against the few unethical employers who manipulate the internal body.

An example of this is a target who suffered incredible bullying from his supervisor. When this man filed his complaint with HR, an internal investigation began. This man had the support of many of his colleagues and they were willing to be questioned regarding the abuse. However, of the list of colleagues the target submitted to HR, only four were questioned. Of these four, two of the colleagues were contacted the day before questioning, threatened by the supervisor and instructed how to respond to the questions.

Upon completion of the internal investigation, this man was told there were no grounds for his complaints, as all of the colleagues questioned validated the supervisor's actions. This target was instructed that the consequences of speaking about the issue, both inside and outside of the organization, would result in dismissal. He did so anyway and asked the colleagues what happened in the investigation.

He has signed affidavits from the colleagues who received threats from the supervisor, outlining the threats. He also has signed affidavits from the other colleagues stating they in no way supported the supervisor, even though HR concluded they did.

When this man approached HR about the poor manner in which the internal investigation was conducted, he was offered a negotiated departure with an accompanying gag order. Seeking justice, he consulted a lawyer, who advised him to take the money and run.

This target's experience is not an isolated event. I've dealt with many targets with similar experiences, whether

represented by a union or not. Unfortunately, Bill 168 currently ignores essential components in order to make it effective. Sections 32.0.2 and 32.0.3 place all accountability upon the employer and indicate it is the employee's responsibility to report and follow up to ensure complaints are legitimately dealt with.

This allows corruption and secrecy to thrive. This means traumatized employees find themselves further traumatized by a bullying institution that loops into itself so many times, employees quickly realize that an unsafe working environment, rife with physical and psychological threats, is paradise in comparison to the process designed to silence anyone who dares request justice.

One example of this is a woman whose employer has insinuated that if she completes WSIB incident reports, she will be thrust into the same resolution process her former colleagues endured. This woman is experiencing a physically unsafe work environment and feels threatened against reporting it; thus she is being psychologically harmed as well. Because she needs her job, she feels there is little that can be done.

This is only an example of a workplace that is physically unsafe, but in trying to rectify the situation, the workplace became psychologically unsafe as well. Unfortunately, the processes in place to resolve issues in the workplace are adversarial in nature. Many have reported that the process is crueller than the problem it was supposed to solve.

This applies to the stages of victimization that are outlined in your handout. The bullying behaviour is the first stage of victimization. Inadequate processes that are intended to resolve issues but instead loop inside of themselves and are so impersonal and prolonged that they end up bringing on the second stage of victimization—Bill 168 needs to address this, otherwise the target naturally moves into the third stage of victimization, where psychological and physical ailments ensue. It is from this stage that healing is an arduous and lengthy process. It is in this stage that incalculable health care dollars are spent and human potential is lost.

I have been contacted by many union representatives and some employers who are struggling to deal with workplace bullying. Psychological violence is difficult to prove in a drawn-out and adversarial system. Thus, the definition of "workplace violence" needs to include the phrases that define all forms of violence. In your handouts, you will find some examples of psychological violence. Inclusion of these phrases is essential if Bill 168 is to be an effective tool in preventing workplace violence or in dealing with it when it arises. Without clear and effective wording, the door is open for numerous complaints that, although they are not groundless, may be difficult to prove, thus causing more harm to employee and employer.

The human rights definition of harassment is too narrow in that it can only occur towards someone of protected status. However, the code does accurately describe it as vexatious conduct and comment "that is known or ought reasonably to be known to be unwelcome." This is

good, and it's hoped that Bill 168 will expand upon this definition and include key terms, particularly "abuse of authority."

It should also acknowledge the escalation of bullying behaviours or the culminating effects of ongoing psychological abuse, including covert threats and isolation. An ounce of prevention is always better than a pound of cure. Bill 168 needs to encompass both the encouragement of prevention and policies for the cure.

Also in your handouts are some guidelines for a healthy workplace environment, successful prevention policy components and a list of qualities that unhealthy and healthy organizations possess. This list was included in a presentation I made at the 2008 international workplace bullying conference.

An additional difficulty with investigations is the standard accompanying gag order. This means there is no transparency or guarantee of consistency in the manner in which investigations are handled. It is hoped that an external investigator could address this problem. On a practical level, this means that a serial bully in the workplace who has had a number of complaints made against him or her is able to be investigated each time as if the bullying behaviour is new. When each complaint is investigated, it is viewed in isolation rather than as a repeated pattern, which is a part of the definition of bullying. Without the acknowledgement of the pattern, the bullying cannot be adequately resolved and is at risk of being perpetuated.

Unfortunately, these gag orders also tend to come with a negotiated departure, in many cases robbing the target

of their career. Switching jobs is not easy at the best of times, let alone during hard economic times. The problem with lengthy processes is that they benefit those with deep pockets, not those necessarily in the right. Additionally, the target feels vulnerable due to the destabilization caused by bullying behaviours. It's important that the process to resolve issues does not increase the target's vulnerability.

The Chair (Mr. Shafiq Qadri): About 30 seconds left.

Ms. Angela Monaghan: Health care and education are the most common fields where workplace bullying occurs. If these two institutions are considered the safe ones in our society, then we have a problem. Workplace bullying in a school setting not only impairs student education; it teaches children that bullying is the path to success. Student bullying is reinforced when adult bullying exists in a school.

Psychological harassment is a health and safety hazard. The longer this fact is ignored and evidence of it is swept under the rug of indifference and feigned lack of knowledge, the more unseen costs to health care and loss of valuable human contributions arise.

The Chair (Mr. Shafiq Qadri): Thank you, Ms. Monaghan, for your deputation and written submission on behalf of the Raising Awareness Centre for Bullying Prevention, TRAC, as you've mentioned.

If there's no further business before the committee, we are adjourned until 4 p.m. tomorrow in this room. Thank you.

The committee adjourned at 1730.

STANDING COMMITTEE ON SOCIAL POLICY

Chair / Président

Mr. Shafiq Qadri (Etobicoke North / Etobicoke-Nord L)

Vice-Chair / Vice-Président

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Ms. Sophia Aggelonitis (Hamilton Mountain L)

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Ms. Cheri DiNovo (Parkdale–High Park ND)

Mrs. Linda Jeffrey (Brampton–Springdale L)

Ms. Sylvia Jones (Dufferin–Caledon PC)

Mr. Jean-Marc Lalonde (Glengarry–Prescott–Russell L)

Mrs. Carol Mitchell (Huron–Bruce L)

Mr. Shafiq Qadri (Etobicoke North / Etobicoke-Nord L)

Mrs. Elizabeth Witmer (Kitchener–Waterloo PC)

Substitutions / Membres remplaçants

Mr. Randy Hillier (Lanark–Frontenac–Lennox and Addington PC)

Clerk / Greffier

Mr. Katch Koch

Staff / Personnel

Mr. Avrum Fenson, research officer,
Legislative Research Service

CONTENTS

Monday 23 November 2009

Occupational Health and Safety Amendment Act (Violence and Harassment in the Workplace), 2009, Bill 168 <i>Mr. Fonseca / Loi de 2009 modifiant la Loi sur la santé et la sécurité au travail (violence et harcèlement au travail), projet de loi 168, M. Fonseca</i>	SP-957
Stop Family Violence: It's Everybody's Business.....	SP-957
Mr. Dave Augustyn Mr. John Swart	
Association for the Advancement of Safety Technologies	SP-959
Mr. Braidy Parker	
Mr. Miguel Avila.....	SP-960
Ms. Catherine Kedziora	SP-962
Mr. Domenic Sgueglia	SP-963
Ontario Public Service Employees Union	SP-964
Mr. Warren Thomas Ms. Lisa McCaskell	
Ms. Wendy Ho	SP-966
Human Resources Professionals Association.....	SP-967
Mr. Scott Allinson Mr. Claude Balthazard	
Ms. Susan Houston; Ms. Eva Guta.....	SP-969
Dr. Lisa Barrow	SP-970
Elementary Teachers' Federation of Ontario	SP-972
Ms. Hilda Watkins	
Dr. Mary Naidu.....	SP-973
Communications, Energy and Paperworkers Union of Canada.....	SP-975
Ms. Barb Dolan Mr. Keith McMillan	
Ontario Public Transit Association; Canadian Urban Transit Association.....	SP-977
Mr. Norman Cheesman Mr. Brian Leck	
Windsor Occupational Health Information Service	SP-978
Ms. Joy Hamilton	
Inquest Action Group.....	SP-979
Ms. Lois Smedick	
Ontario English Catholic Teachers' Association.....	SP-980
Mr. James Ryan Mr. Gino DiCiocco	
Service Employees International Union	SP-982
Mr. John Van Beek Ms. Brenda Snider	
The Raising Awareness Centre for Bullying Prevention	SP-983
Ms. Angela Monaghan	