



## Make It Our Business

# Guidelines for balancing safety and confidentiality in situations of workplace domestic violence

“We want employers to be caring and asking questions. Not to be prying into an individual’s personal life, but to be able to reach out and be part of a safety plan.” — Dr. Peter Jaffe

### New workplace responsibilities

All employers in Ontario are responsible for protecting workers when domestic violence follows them into the workplace. *Ontario’s Occupational Health and Safety Act* states, in section 32.0.4:

“If an employer becomes aware, or ought reasonably to be aware, that domestic violence that would likely expose a worker to physical injury may occur in the workplace, the employer shall take every precaution reasonable in the circumstances for the protection of the worker.”

As employers take on this new responsibility, they will grapple with questions of how to balance confidentiality and safety. The new legislation does not lay out how to prioritize safety and confidentiality. The suggestions here are based on best practice and standards for community response.

Employers have the final responsibility for ensuring a safe workplace. But employers can involve many people in many roles in the effort to keep everyone safe from workplace domestic violence. These people could include:

- supervisors and managers
- union and human resources representatives
- security personnel
- workplace violence response teams
- co-workers of the person experiencing domestic violence
- co-workers of the abuser
- the victim herself.

It is important that everyone understands when, how and why to disclose information about domestic violence, and when, how and why to respect confidentiality.

## Why there are limits to confidentiality when domestic violence is occurring

We all have personal lives and everyone deserves respect for their personal boundaries. Employers have a responsibility to maintain confidentiality and be discrete when they have sensitive information. They must use good judgment, and not unfairly label people. However, privacy is often used to cover up violence that occurs in intimate relationships. Privacy can be used as an excuse for “not getting involved” or “not wanting to interfere” when we suspect or even know that abuse is occurring.

Everyone **must** disclose information when there is a clear threat to safety. 32.0.5 (1)

It is not acceptable to keep back information that could prevent or minimize violence, or that could facilitate an effective response to violence.

Sometimes the best or the only way an employer can act to prevent domestic violence from occurring in the workplace is to share information about the situation with others. Without accurate and timely information, it will be difficult to ensure safety in the workplace. It will also be difficult to get the support that victims, co-workers, and managers need.

## Balancing safety and confidentiality

The Occupational Health and Safety Act has two clauses that directly address information sharing and limits to disclosing information:

### *Provision of information*

An employer's duty to provide information to a worker under clause 25 (2) (a) and a supervisor's duty to advise a worker under clause 27 (2) (a) include the duty to provide information, including personal information, related to a risk of workplace violence from a person with a history of violent behaviour if,

- (a) the worker can be expected to encounter that person in the course of his or her work; and
- (b) the risk of workplace violence is likely to expose the worker to physical injury. 32.0.5 (3)

### *Limit on disclosure*

No employer or supervisor shall disclose more personal information in the circumstances described in subsection (3) than is reasonably necessary to protect the worker from physical injury. 32.0.5 (4)

The Act also requires employees to report to his or her employer or supervisor the existence of any hazard of which he or she knows. 28.(1)(d) It also clarifies that workplace violence is considered a hazard. 32.0.5(1)

When developing policies and procedures to respond to domestic violence in the workplace, it is in an employer's best interests to make it clear that there are limits to confidentiality when a clear threat of danger exists. Safety can best be assured by sharing information:

- in emergency situations
- for threat assessment
- for safety planning
- for the effective implementation of protective orders

In these cases, privacy and confidentiality should be maintained to the extent possible. This means sharing information on **“a need to know basis,”** or as the legislation states, sharing only information that is “reasonably necessary.” Although there are limits to confidentiality when safety is at risk, everyone in the workplace must respect the dignity of others.

Early intervention can prevent an incident that could devastate the entire workplace. We all need to recognize the warning signs, respond appropriately, and take our concerns to the appropriate people.

## Guidelines for employers

If you become aware that one of your employees is experiencing domestic violence, ask, “Who needs to know and what do they need to know in order to provide safety and security?”

Develop a safety plan: To develop safety plans and to manage risk it is important to gather as much information as possible. You can get help with safety planning from:

- your local police service
- your local women’s shelter or Partner Assault Response program.
- the Assaulted Women’s Helpline, 1-866-863-0511/TTY 1-866-863-7868.

Communicate with your employees: Let your employees know, through policies, training, and clear communication, that they can’t always get absolute assurances of confidentiality and privacy. Tell them who they can consult with in the workplace. This might be:

- human resources staff
- managers or supervisors
- a union representative
- a workplace coordinator.

**Cultivate a culture of open communication:** Victims and witnesses of workplace domestic violence will be reluctant to disclose information if they fear being treated in an insensitive or indiscrete way. Create a work environment where people feel confident they can reveal their need for support. Build policies, processes, and training that are seen by workers as credible and effective.

**Clarify the values that govern disclosure** and confidentiality of information in your workplace. Here are some examples of values:

- Maintain respect and dignity for individuals.
- Act in an accountable and timely manner to ensure the safety of individuals and the work environment.
- Fulfill the employer’s duty to prevent physical injury due to domestic violence in the workplace.

**Explain the process:** Let employees know what will happen if they report or disclose domestic violence. Put a policy and protocol on confidentiality in place. This might be a section within your Domestic Violence Policy or Workplace Violence Policy. The policy should:

- Clarify the process and the person to go to for reporting incidents or seeking help.
- Assure employees there will be no reprisal or retaliation against those who report any incident of domestic violence in good faith.
- Emphasize the importance of confidentiality as well as limits to confidentiality.
- Assure employees that confidentiality will be maintained to the extent possible and that information will be shared on a need to know basis only.
- Outline some examples of when and how information might be shared.
- Explain that confidentiality will be maintained “to the extent possible.” This means doing everything possible to avoid gossip and rumours, but may mean sharing information with experts or key people in the workplace.

**Create a climate of trust and safeguards:** Victims of domestic violence often fear that by disclosing they will jeopardize their job, be seen as not being able to do their job, or be considered “trouble”. Reassure those who are victimized by domestic violence that they have done the right thing by coming forward. Unless there is a crisis or emergency situation, let the employee who is experiencing domestic violence be the key person to decide if, when, how and to whom she will disclose information. Clarify how the responsibility to warn other employees of potential risks will be communicated and the confidentiality protections that will be used.

**Share information appropriately:** Do not over-react to concerns by needlessly broadcasting sensitive personal information to people who have no need to know. On the other hand, do not under-react by minimizing or denying the warning signs. Consult with experts if you need help to provide an appropriate response. Discuss with the employee who has a need to know, what they need to know, and when they need to know it. Involve the employee in safety planning and other decisions to manage risk. Learn more about having this discussion in *Communicating with Employees at Risk of Workplace Domestic Violence*.

**Ask the employee if she has a protection order:** This is also called a peace bond or restraining order. Ask if the workplace is covered in the order. Ask her to provide information about anyone who is named in it. This includes the name, birth date, a description and, preferably, a photograph, as well as an e-mail address and phone number. Learn more about protective orders in *Domestic Violence: Is There a Risk of Death?*

**Safeguard the information you share:** Ask anyone you provide with sensitive or private information to maintain confidentiality to the extent possible by sharing information only on a need to know basis. Ask them what they need to know in order to help you, what they will do with the information you give them, how they will protect the information you have disclosed (or will disclose), and who else needs to know. Feel free to discuss this thoroughly with them until you are satisfied they will deal appropriately with your disclosure.

## Guidelines for co-workers

Domestic violence occurs between people who are or have been in an intimate relationship, but it is not a private matter. Violence does not draw boundaries between the private and the public, between home and the workplace.

While this may be a sensitive issue, we can all recognize, respond, and refer when there is a risk of workplace domestic violence. We all have a role to play. The safe, smart and right thing to do is take action. If, by telling someone, you can keep yourself and others safe, then you need to disclose that information.

Sometimes this means telling others information that is personal, sensitive or private. This does not mean gossiping or spreading rumours. Disclose behaviour you have witnessed or know about that you regard as threatening, violent or potentially violent, even if no actual threat was made.

Read *Talking to Abusive Men* to learn more about how to talk to a co-worker about his behaviour. If you are comfortable and feel safe with someone who is using abusive behaviour, let them know that help is available. Refer them to the local Partner Assault Response program. Remember that it is not your role to be a therapist or to 'fix' the situation. Reaching out and showing concern can make a big difference.

Each workplace should designate people to hold responsibility for receiving and responding to reports of known or suspected domestic violence. If you are unsure of how to report concerns, seek help from the local women's shelter or call the Assaulted Women's Helpline at 1-866-863-0511/TTY 1-866-863-7868 1-866-863-7868 for consultation or referral to local services.

The Assaulted Women's Helpline at offers a 24-hour telephone and TTY crisis line for abused women in Ontario. Helpline staff will also provide consultation and referrals for neighbours, friends, family members, co-workers, or employers. The service is anonymous and confidential. It is provided in up to 154 languages. For more information, visit [www.awhl.org](http://www.awhl.org).

## When children are involved

If you are afraid for a child's safety because of violence in the home, the law is clear about what you must do: contact the Children's Aid Society in your community right away. Children suffer emotional harm when they are exposed to domestic violence. This includes witnessing, overhearing, and dealing with the aftermath of violence. They can also be injured accidentally or purposefully if they are present during a violent incident. Children can show emotional trauma through anxious behaviour, depression, and poor academic performance.

## If you are experiencing domestic violence

When you need support at work, tell someone you trust or someone who has responsibility for addressing workplace domestic violence. Ask for advice on what to do to keep yourself and others safe and supported.

Disclose any protective orders (also called a restraining order or peace bond) that you have received or applied for, especially if they cover your workplace. If the appropriate people in the workplace do not know about the protective order, it may be difficult – or impossible – to implement it effectively. Give a copy of the protective order to your employer. If you do not know who to contact, talk to your manager, Human Resources, Security, or your union representative.

If you speak with an Employee Assistance Program counsellors, they will maintain confidentiality. A counsellor's professional code of ethics requires that they keep what you share with them confidential. No information is given to your employer (or others, such as your spouse or the authorities) without your permission. The only exceptions to this are when:

- the information is court ordered
- there is a risk of harm to you or others.

If there are safety concerns, the counsellor will talk with you about your options and how to find the help you need.

If you do not have confidence in the resources at your workplace, contact your local women's shelter for advice or call the Assaulted Women's Helpline at 1-866-863-0511/TTY 1-866-863-7868 1-866-863-7868 for consultation or referral to local services.

To learn more on how and why to disclose information about domestic violence you are experiencing, read *At Risk at Work*

**Remember: When you have immediate concerns about safety, call the police at 911.**

## Examples of sharing information to ensure safety

There is no simple formula for sharing information or respecting confidentiality when domestic violence concerns arise in the workplace. Each case can be guided by the question, "Who needs to know what in order to ensure safety in the workplace?"

The actions taken and the people informed will depend on a number of factors, including the imminence of the threat, the structure of the workplace, and the resources available.

Here are some examples that illustrate how information would be shared in different workplace situations.

- An employee discusses support or safety concerns with a supervisor, a union rep, someone in human resources, or a member of her workplace's Workplace Violence Team.

**Who needs to know:** This does not necessarily mean that her identity – or in some instances, the specifics of issues she has raised need to be disclosed to others in management, the union, human resources or the WVT. They may be able to develop a safety plan for the workplace by sharing general information. But keep in mind, if there is a clear threat to the employee's safety or the safety of the workplace, then there will be a need to inform security or others who can protect all members of the workplace.

- An employer becomes aware that one of his employees has obtained a restraining order. He asks her to provide the name, birth date, a description and, preferably, a photograph of her ex-partner, as well as his e-mail address and phone number.

**Who needs to know:** It may be relevant for just a key person (or persons) in security to know this information.

- An employee fears for her safety and has a restraining order against an abusive ex-partner. The conditions of the restraining order include a provision that the ex-partner stay away from her place of employment, including no phone calls, letters, or messages through relatives, friends or co-workers.

**Who needs to know:** This information is relevant for the supervisor and one or two key co-workers to know, as well as reception and security. Because she wants support from her union, the union rep needs to know.

- An employee tells her employer that she wants to change shifts because “this guy I don’t know very well is stalking me.”

**Who needs to know:** The employer asks more questions about who is stalking her, including whether or not he is another employee. He uses this information to make decisions about who needs to know in order to ensure her safety.

- An employee tells his manager that one of his co-workers is thinking of separating from her husband, a man who has been violent in the past and has expressed jealousy of his wife’s male co-workers.

**Who needs to know:** The manager will talk with the woman to gather more information about the situation and to develop a safety plan. Who else needs to know will depend on the circumstances and the structure of the workplace.

- An employee hears a co-worker being threatened in the parking lot. She’s not sure, but she thinks it is her co-worker’s boyfriend who was picking her up.

**Who needs to know:** The employee consults her workplace violence policy to learn who she can turn to in the workplace to discuss her concerns.

- A co-worker tells another employee that he has a gun in the trunk of his car and he “won’t take ---- anymore” from his wife. His wife works in another department of the company.

**Who needs to know:** The employee immediately informs his manager and the police are called.



T. 519.661.2111 x87486

[www.makeitourbusiness.com](http://www.makeitourbusiness.com)

The views expressed in this campaign are those of The Centre for Research & Education on Violence against Women & Children, Faculty of Education, The University of Western Ontario. They do not necessarily reflect the views of the Government of Ontario.

© Centre for Research & Education on Violence against Women & Children, 2010

Funded by:

