



Health and safety representation

WRITING THE WORKERS BACK IN





The authors give credit for our title phrase “writing the workers back in” to the 2005 article by Dr. Robert Storey, Director, School of Labour Studies, McMaster University, *Activism and the making of occupational health and safety law in Ontario, 1960s-1980* published in *Policy and Practice in Health and Safety* 3.1:41-68.

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To OPSEU's Health and Safety Activists:

7his book is dedicated to all of OPSEU's health and safety activists. Thank you for finding the time, the determination, and the dedication to stand up to all the challenges and forging the path towards better health and safety in your workplaces.

The Occupational Health and Safety Act has been the law since 1979. It was won in a time when workers stood up and said, "Our health is not for sale." A key event was the 1974, uranium miners strike, launched over health and safety conditions when miners began to recognize and sound the alarm over the high incidence of lung cancer and silicosis among their membership. It was because of that strike that the government appointed a Royal Commission led by James Ham to investigate health and safety in mines.

Another review was done by a government appointed panel led by Tony Dean following the 2009 Christmas Eve tragedy which killed four workers and critically injured one. The swing stage they were working on collapsed and the workers fell 13 stories in Toronto's most terrible workplace tragedy in decades. Since the Dean Panel report was released, there have been some minor improvements in health and safety, but no major changes. Existing laws are still weak for the hazards we face today—musculoskeletal injuries, workplace stress, and working alone to name a few. Therefore, your actions and involvement is really the key to making improvements. Health and safety will never be delivered to us. Today is the same as the past 100 years, nothing happens without worker action.

This booklet offers advice on the types of approaches that can help health and safety activists make the most impact in their workplaces. The guidance is based on research and experience of activists and was prepared by occupational health and safety specialists from unions, academia, the Workers Health & Safety Centre (WHSC), and the Occupational Health Clinics for Ontario Workers (OHCOW). Social science research by a core group of these experts revealed "Ten Operating Principles for Guiding Effective Participation" (see page 24). The following pages will explain the principles and use the success stories of health and safety activists to demonstrate how you might be able to apply these principles in your own workplaces to similar effect.

Your union is committed to help—we are pleased to offer this guide to assist you in your efforts.

Yours Truly



Warren (Smokey) Thomas
President

Health & safety representation

Writing the workers back in

Who we are

We, the authors of this Guide, come from different backgrounds. Some of us are union worker health and safety representatives – Laura, Nancy, Sari and Terri. Some of us are health and safety practitioners working in occupational health clinics – Syed and John. Alan and Wayne are university professors who study what makes health and safety work. Ellen and Andy work with worker representatives to promote and disseminate knowledge and training. What we share and why we came together is a desire to improve our health and safety at work. We call ourselves LOARC – Labour Occupational Health Clinics Academic Research Collaboration. More information about us can be found at the end of this Guide in the Resources section.

What we do matters

Taking action when safety or health is being threatened or compromised can be challenging, but as this story shows, quite possible and necessary.

Not too long ago the right to be safe and healthy at work was not an

expectation for nurses – the patient’s needs always came first, and safety for nurses was seen as unnecessary and stood in the way of timely and efficient patient care.

Laura’s story

I recall those days when, as a young nurse working at a small acute-care hospital, speaking up could and often did lead to discipline for not following direction in a very hierarchical system. I was expected to put myself in harm’s way in order to carry out my duties. This reached a crisis point during the eighth month of pregnancy with my first child when I was kicked in the stomach so hard by a patient coming down off of drugs that I was thrown against the wall where my shoulder left a mark. When I reported the incident, I was told as usual, that this was part of the job and the patient couldn’t help what he did. That was it for me – five years of nursing had been filled with assaults of many different kinds with the same response – something had to change.

The change happened not long afterwards when I realized unless my colleagues and I took the first

step, the cycle of assaults and other health and safety issues would never be broken. The hospital often held psychiatric patients waiting for transfer to other facilities for treatment, but there were no safety mechanisms or protocols for either the staff or the patients, despite repeated attempts by the staff to get them. The next time the staff was expected to care for a very aggressive patient that needed to be physically restrained, the police were called to assist. This provided the catalyst for the employer to engage with the staff in developing a safety protocol that protected both the staff and the patients. It also opened the door for other health and safety issues to be addressed.

How we got here

Where we began

Alan working with Anne Forest, Alan Sears and Niki Carlan at the University of Windsor published a study in 2006 based on in-depth interviews with 31 unionized worker health and safety reps. The research was designed to identify whether different approaches to worker representation were being used and which approach was most effective. What they found was that the worker reps tended to define their role in one of two ways – either in narrow technical and legalistic terms relying on rules and procedures or in broader political terms willing to challenge management’s assumption and even

mobilize support from co-workers. The political representatives were the more successful in making change. When the researchers looked more closely at this group, they identified a subgroup that developed strategies and tactics based on research and using external and independent knowledge about hazards. This subgroup – Knowledge Activists – was the most effective in addressing health and safety problems, achieving in some cases even hard to get changes, such as engineering improvements, work organization improvements and major work process modifications.

What we did

We did some further reading. We reviewed many published studies that looked at different factors associated with effective worker representation. These studies found the following factors were significant:

- the importance of training for workers
- the effectiveness of the role of joint committees
- access to information and training for worker representatives
- the attitudes and expertise of management regarding health and safety
- union representation
- the knowledge and militancy of front-line workers
- government enforcement
- firm size, sector and technology.

Research suggested unions have an impact on management commitment to health and safety. Without unions, differences between employers and workers are almost always resolved in favour of management. Unions support more participative approaches. In a non-union workplace, effective government monitoring, support and enforcement are critical to workers' ability to exercise their responsibilities and rights under health and safety law.

Workers in small business and sub-contracted workers face additional challenges, whether unionized or not, because there are fewer resources for training, a lack of time and capital to make changes and less flexible management.

We decided to build on this research in light of economic and political changes, which were making worker representation more challenging. We decided to ask a larger group of worker occupational health and safety (OHS) representatives and do detailed interviews with some. We would use the results to produce this guide to inform and encourage people to become more effective OHS representatives. Our proposal was funded by the Workplace Safety & Insurance Board (WSIB) in 2010.

We conducted a survey of 888 worker health and safety representatives from across Ontario and did detailed interviews

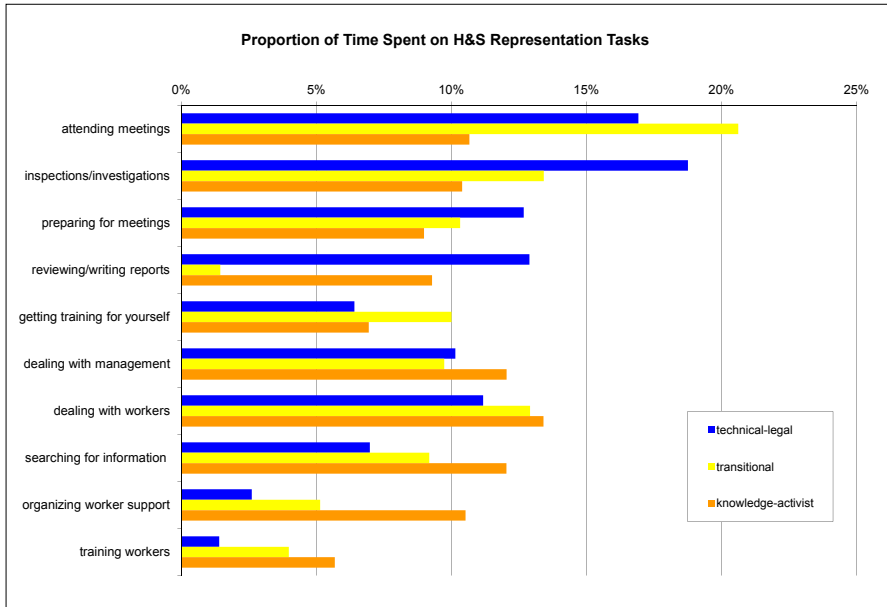
with 52 who were randomly selected based on whether they described themselves to be active and successful, active and less successful, or inactive. The responses to the survey were analyzed statistically. The interviews were transcribed and analyzed separately.

What we found

We organized the responses to the survey into categories based on the proportion of the time participants spent on ten typical health and safety rep functions. John used a statistical analysis called cluster analysis to analyze possible relationships which revealed three distinct groups. The Technical-Legal and the Knowledge Activist styles of representation found in the prior study were confirmed. However, there was no distinct group of political activists as was found in the prior study. A different third group emerged which fell somewhere in the middle ground between the other two groups. Since many in this middle group were relatively new representatives, we describe the group as transitional, with the potential to go either way. We suspect the disappearance of political activists and appearance of many in transition is in part the result of larger economic and social changes. The need to strengthen our knowledge activism seems clear.

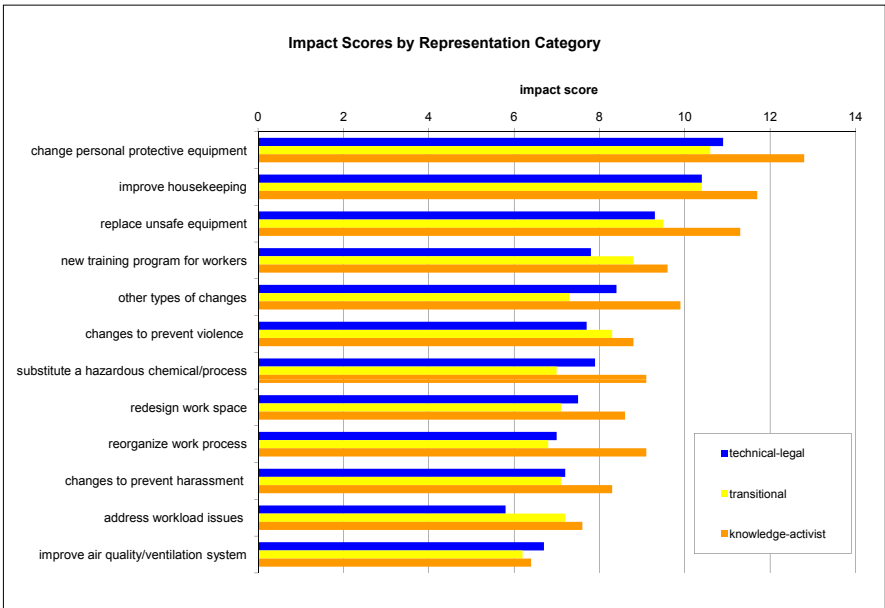
The contrast in approach between the Technical-Legal and the Knowledge Activist approaches were reinforced by our study. Those with a more Technical-Legal orientation spent a greater proportion of their

time on bureaucratic tasks. Those categorized as Knowledge Activists spent a greater proportion of their time collecting knowledge and networking.



These differences translated into different prevention activities. We found that Knowledge Activists were more active in everything from housekeeping to addressing workload issues. And when we asked respondents to rate their

effectiveness in making changes at their workplace, taking into account attempts and successes, Knowledge Activists had a statistically significant greater impact on eight of the 12 types of interventions.



When we looked at the factors which contributed the most to success we found:

- experience
- the amount of time spent training co-workers
- being paid time to perform health and safety rep duties
- being a co-chair of a Joint Health and Safety Committee (JHSC).

What's going on?

Today few people would dispute our right to healthy and safe work. When a factory explodes and workers are killed, there is universal condemnation whether it happens in Bangladesh or northern Ontario. One of the most

important developments in recent times to contribute to this was recognition that workers had the right to participate in identifying and correcting OHS problems at work. We are encouraged to know our rights and to exercise them.

Despite these widespread beliefs, many of us face hazards at work that are killing us slowly through constant strain, exposures and risks. When we ask to know why, we are told it is not our business. When we raise a concern, we are told it is our fault. When something goes wrong, we are blamed.

So what's going on and what needs to be done?

In our workplace

How did Internal Responsibility get turned into Individual Responsibility?

For over 40 years now our participation in protecting our health and safety at work has been recognized as a human right and a requirement of legal fairness. In Canada, Saskatchewan was the first province to adopt these rights. Ontario did after worker health and safety activism in mining led to a Royal Commission called the Ham Commission, named for its chair. Workers have these important rights at work: the right to know the hazards you face; the right to participate in identifying and eliminating hazards; and the right to refuse unsafe work. We call them the 3Rs. We are worried that these rights are being undermined. Bob Sass, who was the deputy minister in Saskatchewan when the first laws were adopted, now says the 3Rs have become 3Cs - collusion, corruption and criminality.

One reason is that individual responsibility over health and safety has replaced employer responsibility and accountability in the minds of many in government. This makes no sense. Those who run the company decide what is being done. The CEO determines what the manager tells the supervisor to do; the supervisor tells the worker what to do.

Too many employers focus on individual behaviour rather than taking the responsibility to make conditions better. Employers who focus on individual behaviour poorly resource joint approaches and sideline us from a significant role in health and safety. Joint committees might have meetings, share coffee and talk about health and safety, but workplace changes remain elusive. When we include co-workers in what we do and move forward with a shared objective, we take the focus off individuals and place the focus on changing the conditions in which we work.

New employer strategies to monitor health and safety in the workplace

Some employers create elaborate rules and programs about workplace health and safety that do not make any difference on the workplace floor. Employers who use these paper policies do so to show they have “due diligence” if someone is killed or injured. “We gave them rules,” these employers say. Many times these forms have a place for your signature to prove that you have read and understood the program.

If we are going to make a change, we need to make sure that measures and procedures make it safer and not be content with paper policies and plans. We need to remember that “It’s not what’s in the drawer, it’s what’s on the floor” that counts.

Some employers think that more surveillance will manage their health and safety programs. Surveillance means watching us, looking for mistakes. As if our mistakes are the problem. What is the benefit of providing rewards to those who report no injuries when in truth people simply go underground with their injuries so as not to disappoint their colleagues?

External and legal health and safety environment

Our health and safety is part of a globalized world

Our health and safety cannot be separated from what is happening to working people elsewhere in the world. The global drive for profits has a direct impact on the amount of effort we are expected to make every working day. The fear of losing our job undermines our courage to assert our health and safety rights. Seeking health and safety improvements is hampered by cost. Deciding what is safe and healthy, we are told, depends on your perspective. We are also told employers' and workers' goals are the same regarding health and safety.

Stop for a moment and think. Employers consider the cost of everything and weigh that against the severity of risks and injuries, likelihood of enforcement, and what other workplaces are doing, to name a few factors. We are concerned

about our minds and bodies as well as the paycheque. Health and safety representatives who see this broad picture can adopt strategies to operate more successfully within it. These reps understand that differing perspectives between workers and management about health and safety are the norm. Workers and managers have different roles and priorities in the workplace.

Ontario's system relies on self-regulation by workplace parties rather than laws and enforcement

The laws and inspector enforcement in Ontario are supposed to ensure the health and safety of Ontario workers. In reality, government relies on the people in the workplace to govern themselves. Government enforcement intervenes only when a problem arises. This hands-off approach doesn't work today, especially in non-unionized workplaces where workers have few resources to take part. Work and work arrangements are changing a lot, making workers more afraid to speak out about unsafe workplace conditions. Work is increasingly part-time, contract, short-term, temporary and casual, such that workers do not feel safe and secure enough in their jobs to speak out about workplace health and safety. Workload is increasing so workers have less and less time to address their concerns. Precarious work arrangements and lack of

unionization mute our voices in a system that assumes we can speak up and take action without fear in protecting our health and safety. To overcome these vulnerabilities, our fight for safer and healthier workplaces has to be seen as part of a broader struggle to stand up for human health and decency, the survival of our families and communities. There is more to our lives than our employer's profit.

Old laws require new strategies

When our health and safety laws were written, work was very different. There were no cell phones, no internet, not even personal computers. Law and enforcement reflect work hazards such as chemicals, physical materials and machinery. These old laws and enforcement strategies have not been effective in helping today's worker representatives approach problems such as stress, overload, violence, harassment and musculoskeletal hazards, to name a few. Knowledge Activists should not be stopped by old laws or a lack of regulations. We have successfully applied the health and safety laws' general duty provisions that mandate employers to take reasonable precautions for health and safety. This means that representatives can push their employers to relieve workloads, reorganize work, reduce sources of organizational stress and address other hazards not specifically

mentioned in health and safety law and regulations. Representatives need to choose their strategies carefully, knowing that the law is conservative and read narrowly by inspectors. Tools like the MSD Prevention Guideline in Ontario can be used by representatives to obtain workplace improvements that reduce the incidence of musculoskeletal disorders (MSDs), not mentioned in the law, but that make up almost half of reported claims in Ontario. Training and technical resources are also available to worker representatives. We need to rebuild worker support and develop collective strategies to achieve health and safety improvements. If we have a union, we bargain health and safety provisions into our collective bargaining agreements. We need to network with others to promote knowledge activism.

Our law requires every workplace with more than 20 employees to have a JHSC, where at least half is composed of worker health and safety representatives chosen by the workers. Every workplace with more than five and less than 20 employees should have a worker representative chosen by the workers. Our survey reached almost 1,000 worker reps. We want to reach many more of you to share our experiences and why we think Knowledge Activists are successful.

Telling our stories

The best way we know to share our experiences is to share our stories. These are authentic stories of representatives' efforts, drawn from our interviews and from our research. Only some names and minor details have been changed to protect confidentiality.

Walter's story

In July 1997 over 200 firefighters fought a three-day fire at a Hamilton plastics recycling plant. Black smoke forced the evacuation of the neighbourhood and formed a smoke trail all the way to Niagara Falls. Walter was the health and safety rep for Local 188. Concerned about the long-term effects of plastic fumes exposure on his members, Walter visited all the fire halls involved and collected the stories of the firefighters who had fought the fire, meticulously documenting descriptions of their exposures and symptoms. Walter also collected all news reports, Ministry of Environment reports and looked for studies about plastics fires and the experience of other firefighters. Walter and the Hamilton Occupational Health Clinics for Ontario Workers (OHCOW) clinic then devised a questionnaire based on Walter's list of symptoms and exposure situations. Working with his local union executive, the international union and OHCOW, they proposed a program to monitor firefighter exposure and health. It was a long process but Walter persevered even when some of his co-workers

lost heart in the effort. He continued to lobby city councillors until the City of Hamilton finally accepted the Occupational Health and Exposure Program (OHEP), which began its work in 1999. Annual medicals are still provided for over 500 firefighters, along with group reports identifying trends and making prevention recommendations.

What did Walter teach us?

Research: Research was pivotal to Walter's success. He demonstrated that there was a legitimate basis for establishing a monitoring system, which had implications not only for workers' compensation but also for improvements in the way plastics fires are addressed.

More than just meetings: Walter worked with his union executive and the occupational physician associated with the international union and the medical and occupational hygiene folks at the local OHCOW clinic to develop the annual medical and exposure surveillance program. Walter understood as well that for this issue he needed to go outside the workplace to lobby city council.

Mobilize influence: It took almost two years of doggedly working with the local union, international union, OHCOW and city administration to get the program up and running, but Walter also visited every fire hall to listen to firefighter concerns and stories, and to encourage their active support for the initiative.

Listen to workers: Walter ensured the union negotiated a three-hour orientation presentation for all participants so they understood the reasons behind the program and understood its implications and limitations.

Elizabeth's story

Elizabeth is a registered nurse in an Intensive Care Unit in an Ontario hospital. Despite donning gloves and gowns to provide care to a patient who had a severe case of scabies, she and several of her colleagues contracted scabies. When infection control personnel asserted the gowns provided sufficient protection, Elizabeth, with the support of her manager and help of the JHSC, started researching isolation gowns. She looked at the size of particles/droplets that could penetrate gowns, compared that to mite size and gathered evidence and research from reputable resources to establish her case. She found that approved gowns designed to protect from urine, blood and other fluids have small enough holes to prevent mites from dropping

through. But the gowns she and her colleagues used were not approved for protection from fluids, let alone scabies. She cited relevant sections of the *Occupational Health and Safety Act (OHS Act)* to support the need for these approved gowns to protect workers from hazards. But it wasn't until she mentioned calling the Ministry of Labour (MOL) that the employer agreed to an emergency JHSC meeting, at the end of which, despite the increased cost, the employer endorsed the need for better gowns. Elizabeth was included in several additional meetings, then things started to stall. The hospital cited cost and supply issues for the delay. That's when Elizabeth decided to involve the CEO. When she told the CEO she preferred not to have to call the MOL, the gowns were obtained. Now Elizabeth advises others that persistence is needed when you feel you are right. If you have the gut feeling that something is not safe, check into it, do the research. Teamwork is needed, and know the law and help the employer understand it. Invite the MOL to assist in your efforts to convince the employer. And never, never, never give up.

What did Elizabeth teach us?

Research: When the infection control specialists dismissed her concerns, Elizabeth conducted considerable research to support her concerns.

Listen to Workers: Elizabeth collaborated first with her co-workers getting evidence of their illness then worked with worker JHSC members to present her concerns to her manager and CEO.

Address authority: Elizabeth didn't hesitate to present her case through the JHSC to the employer, and then to raise it to the CEO when needed.

Build trust: She secured the collaboration first of her manager, then worked collaboratively in several committees, developing plans to acquire improved protective equipment.

Be assertive: Elizabeth was assertive, reasoned and persistent without being hostile as she presented her case to her manager, the JHSC, committees and finally the CEO.

Build solutions: Elizabeth used her research to find solutions and present the employer with not only a problem, but also with the answer to that problem.

Use the law strategically: Elizabeth didn't cry wolf, but when progress stalled, she knew the law, pointed it out to the employer, and was confident and assertive in her right and intention to call for enforcement if the employer failed to see its obligations otherwise.

George's story

George is a JHSC worker representative at a dock facility. He learned from co-workers that the company removed a number of ladders that provided escape routes for workers. His management committee counterpart told him it was a security issue not a safety matter, but George raised the issue with management. When management dismissed his concerns, George conducted research and found out that the ladders were covered under docks and piers in federal legislation. At the next JHSC meeting, the employer side again asserted the removal was for security reasons, and George responded, "I don't really care what the reasons are, you are required by law to have them there." A couple of days later plant security refused to replace the ladders, and George again said they would have to either voluntarily put them back or be forced by the government. As George described it, "I took the legislation and literally handed it to the security management, plant management and their committee co-chair. I gave them a copy of the legislation, said here's where it's required and if there isn't a decision made in the next couple of days, I will bring in the authorities and have it forced." Finally, after management contacted their head office legal department, which George said they do with everything, the employer put the

ladders back on. George stressed that throughout he kept “a cool head, stayed calm” and was methodical and consistent. He also noted, as in this situation, that a representative has to be persistent, because “no for an answer is one of the biggest things that you’ll hear all the time. No, we can’t do that, no that’s not going to happen, no that’s not possible.” Persistence, he said, “and staying current with research and education, educating yourself [is] vitally important, that’s the only way you’ll have success.”

What did George teach us?

Research: When management tried to define the problem as a security rather than a safety issue, George did research to find support for his argument and discovered that it was a safety issue regulated in federal law.

More than just meetings: In this case the committee did not address his concerns. He understood he had to act outside the committee interacting directly with different levels of local and corporate management.

Listen to workers: George listened to co-workers’ concerns and communicated with them at every step.

Address authority: George didn’t hesitate to present his case to the manager, the JHSC, and ultimately the senior executives in the parent company.

Be assertive: George was assertive, reasoned and persistent while keeping his cool through the process in the JHSC and in dealing with management.

Use the law strategically: While George normally deals with the provincial legislation, this section of his workplace was covered under different federal law relating specifically to docks. He consulted the relevant sections of law, pointed them out to his management audiences and didn’t hesitate to suggest reporting the incident to the federal authorities when management continued to insist the ladder removal was a security issue.

Pierre’s story

Pierre works in a service operation where there was a very serious fire with five critical injuries in the workplace. The JHSC investigated but Pierre noted they hadn’t received the proper training or experience to initiate critical injury investigations in the workplace. As Pierre put it, “We did our best based on our limited resources and the employer really didn’t want us to do it.” He said there was considerable “push back” on the worker investigators. Management kept refusing to allow time or financial support but they finished and presented the report to more push back. Pierre characterized management as poorly educated in health and safety, approaching

every issue according to the “five Ds – deflect, defer, distract, dissuade and deter.” The representatives realized they needed to keep communicating their concerns to management, their co-workers and even workers outside the company. But Pierre realized they needed more substantiation and the workers realized they needed to challenge the management version of events by collecting their own information. As Pierre described it, “management went and did their own critical injury investigation prior to our involvement and they came back to our Committee and provided a report and said, ‘this is the report.’ We read through it and realized they didn’t interview one person at the scene and there were 50 there or maybe 100. They never interviewed one person.” So Pierre and his colleagues took it upon themselves to interview 50 witnesses, most of whom were workers. They researched how to conduct investigation interviews and closely followed an industry-approved process. The worker investigation substantiated a continuous breach of process, lack of training and lack of knowledge at the management level. The worker representatives succeeded in forcing management to accept key elements of their report.

What did Pierre and his colleagues teach us?

Research: Pierre and his colleagues had received inadequate training so they trained and educated themselves. They learned how to do proper

investigative interviewing and how to write an effective report.

More than just meetings: The joint committee was not functioning and was largely a bottleneck point for action. Pierre understood they had to act outside the committee, going directly to the workers to help verify their arguments.

Listen to workers: Pierre and the other worker representatives gave voice to co-workers’ interpretations and concerns and ensured through their report and ongoing communications that they built political support for pressuring management to accept their findings and to take action on them.

Address authority: Once Pierre realized that management was preventing change from occurring, he confronted them by collecting information and mobilizing worker support to counter the employer’s questionable findings.

Be assertive: Pierre was persistent despite what he felt was strong management resistance and push back. In particular, they did not let the management roadblocks stop them from doing the investigation that was needed.

Use inspections and minutes: Beware management’s efforts to use the committee and formal procedures like investigations to

blame workers and delay and deflect concerns. Pierre admitted that it took him some time to realize how management was using the committee and the accident investigation process to pin blame on workers and avoid management responsibility. But once he understood the game they were playing, he realized the need to challenge them directly in and outside the committee.

Tatia's story

Tatia works for a power plant which offloads coal from ships. One night she got a call at two o'clock in the morning that management wanted the bulldozer operator to level off the top of the coal pile in the dark. This was to happen while running the stacker machine, another much larger piece of equipment for piling coal, with its cab about 140 feet above the ground. If the stacker operator didn't see the bulldozer, he could literally bury the bulldozer in a matter of two seconds. It was raining and the bulldozer operator said, "I'm not going up there because I believe if the operator in the stacker doesn't see me I'll be buried in the coal pile." The manager insisted the job was safe. So Tatia had a conference call with the operator and the manager. Valuing the ordinarily good relationship with management, her preference was to mediate, but she thought the task was unsafe and would call

MOL if necessary, absolutely sure of what the inspector would say. Speaking first to the manager, he maintained the job had to be done. "That's not what I asked you," she said. "Does it have to be done right at this moment, because if it does, then I'm going to suggest to you that you shut down the reclaim stacker, let him [bulldozer operator] complete the job on top of the coal pile, and when that job is complete we start the reclaim stacker." The manager feared delaying the ship at the dock, but Tatia persisted. "Can you do that or can it wait till tomorrow?" After hesitating, the manager agreed it could wait. Tatia then spoke to the bulldozer operator telling him he could wait till daylight. She reassured him that management could not force him and told him to call her back if they asked again. The work refusal was resolved without all the conflict that goes with them. As Tatia told us, you have to have "very, very strong problem-solving skills because you have to look for solutions. And if you can't come to a solution then you also have to have the knowledge to know that okay, we have to remove the employee and put him in a safe place and investigate properly."

What did Tatia teach us?

Listen to workers: Tatia carefully listened to the worker's concerns and communicated with him and reassured him.

Address authority: Tatia didn't hesitate to deal with the manager to get his perspective. While sticking to her basic position that the worker would not be doing the job under these conditions, she was not threatening, instead approaching the issue as a negotiation of a resolution.

Build trust: Tatia recognized the broader significance of seeking a mediated or negotiated settlement of conflicts as a way of building and maintaining a working relationship with management and trust with workers, while always having in mind her bottom line regarding the protection of the worker.

Be assertive: Tatia was assertive but also well reasoned, presenting herself as a mediator trying to solve the problem through discussion.

Build solutions: Tatia could have simply let the work refusal follow a formal course. Knowing the problems this can create, she saw it as her role to find a more effective solution, which protected the worker and supported her capacity to work with management on other issues.

Use the law strategically: Tatia knew the law and how to use it, but she also knew to use it selectively and strategically as necessary. If there was an option where she could find the solution on her own, she saved the big stick for when she really needs it.

Lucy's story

Lucy is a registered practical nurse (RPN) in a nursing organization that visits patients in different locations across an Ontario city. New managers increased each nurse's number of patients and reduced time with each to 30 minutes, including travel time. Managers also made nurses work faster and forced overtime, but did not always pay for it. The managers implemented new procedures, increased paperwork, altered nurses' time sheets after submission, bullied nurses to take additional patients at the end of the day, increased shifts from 7 ½ to 11 hours and responded with discipline to nurses' complaints. The workplace became toxic with absenteeism and increased turnover, and some trainees quit before completion of the orientation training. Nurses were encouraged to blame each other and to inform management of co-worker errors. Lucy's co-workers were afraid to speak up and management resisted her efforts to discuss concerns. Lucy convinced her co-workers of the value and safety of collective action and worked out a three-pronged strategy with her union. First, 46 workers signed an omnibus harassment complaint under the employer's harassment policy, prompting the employer to engage an outside consultant to investigate. All the workers also signed a group grievance objecting to the workplace practices. Finally Lucy organized a local survey to give the members

an opportunity to participate in identifying a way forward and to have an anonymous way to express their feelings. The survey data would also provide information to support the harassment complaint and the grievance. Over 80 per cent of the workers filled out the Copenhagen Psychosocial Questionnaire (COPSOQ), which identified the workplace factors most related to the workers' health symptoms. Lucy convened two well-attended sessions to present survey findings and involve the workers in brainstorming a way forward. JHSC members presented the survey results to management, and pointed out that despite the negative results in many areas, the survey showed the extreme commitment and dedication of the nurses, which was a starting place for moving forward. A number of changes ensued. Groups of nurses were assigned geographic areas and hours were reduced. Management set a goal of no overtime and agreed to hire more nurses. Management agreed to work with the JHSC to find good health and safety solutions and to build a respectful workplace culture. A couple of months later, Lucy described the change in the workplace: "Even the air is better here now."

What did Lucy teach us?

Mobilize influence: Lucy created a plan where workers acted collectively on a few activities pointed at the same goal. The

JHSC played a role, but did not stand alone because the harassment complaint and the group grievance helped support the JHSC's work to seek changes. Acting collectively was effective and can work in both unionized and non-unionized workplaces.

Listen to workers: Lucy used the survey to provide an outlet for the workers to communicate their concerns anonymously, and then planned two meetings so that they could collectively brainstorm next steps together and be part of the process to change things. Therefore, all of the workers invested in the process that ultimately did make things better.

Build trust: Lucy was concerned about the lack of involvement, retreat and fear of her colleagues and had a burning desire to repair the relationship damage that the new work practices were doing to people. Lucy worked with the union to develop strategies that she and other representatives led in the workplace that made sure to involve other workers and the worker members of the JHSC.

Build solutions: Lucy kept her focus on the issues and away from personal feelings. Even though she had felt targeted, Lucy focused on the desired outcome rather than on looking backwards. She coordinated the three processes through various

phases (filing, evidence-gathering and resolution), presented the survey results to the employer, and followed through to negotiate the new geographic model of work and how it would operate.

Sandra's story

Sandra works in a social services office on the basement floor which had regular water leaks. Building management did some work to fix the water seeping in through the foundation. They brought a consultant in to do mould testing and the report came back saying there was no problem. However, Sandra's co-workers kept complaining of eye, nose and throat symptoms along with fatigue and headaches. Sandra raised these issues at the JHSC but the response was that the mould tests came back okay. At a Workers Health & Safety Centre (WHSC) training session, Sandra found out about OHCOW and contacted the local clinic to help. She asked the JHSC to request the clinic's help. Management sent the clinic a copy of the mould testing report and after some interaction decided the clinic's services weren't needed. A few months later a worker in the basement developed a very serious lung condition that was thought to be mould-related. At Sandra's insistence, the JHSC re-visited the offer of the clinic's services and invited OHCOW in to help them with the concerns. An occupational physician and an occupational

hygienist from OHCOW met with the committee and the worker with the health concerns. In reviewing the previous mould report, OHCOW found that the consultant had misinterpreted the results – they actually provided evidence of a mould problem (possibly the same mould as was causing the worker's health issues). A questionnaire about symptoms and environmental concerns was conducted among all the workers in the work area of concern, and the results showed concerns related to allergic and asthmatic symptoms. Long-term air quality measurements (previous investigations had only looked at spot measurements) showed the ventilation system was not functioning according to standards. The clinic's report convinced management to re-evaluate the mould in the building, using OHCOW's help to make sure the results were properly interpreted this time.

What did Sandra teach us?

Research: Sandra was not satisfied with what management and the consultant was telling her. Her co-workers' experience suggested there was a problem so she contacted the clinic for a third-party opinion and was able to access the help of an occupational physician and hygienist.

Listen to workers: Sandra listened to workers' concerns and health complaints and advocated for them at the JHSC.

Be assertive: Sandra kept bringing the issue up at the JHSC and did not give up when the request was first turned down.

*A story about
a group of workers*

A new plant safety manager brought new ideas to the workplace about how to improve the safety culture. He introduced the safety incentive program by giving everyone a team jacket. This was followed by other prizes such as pizza lunches and movie tickets all given to change the behaviour of workers. Throughout the plant, the various departments competed to reach the goal of least injuries. The JHSC worker members objected to the program, however the manager maintained that he was within his rights to introduce policies which benefited the company’s vision. The JHSC worker members began their own campaign to build awareness and support among the membership. They published newsletter articles about the disadvantages of a behaviour-based safety program and the real need to identify hazards and policies and procedures to eliminate them. The program came to a head when a department manager called all the workers to a meeting to give out the movie passes. All except one group of workers received them. That group had reported an injury for the month. The membership saw the unfairness of the program and its divisive effect

on their work environment. All the movie pass recipients donated their tickets to a women’s shelter and collectively decided to no longer participate in the incentive program. The workers soon realized that reporting all injuries or unsafe conditions was of greater benefit than receiving a bribe of free pizza or movie tickets.

In addition, the union negotiated language that gives them an active role in writing the company’s policies to ensure it is about eliminating hazards and creating a safe and healthy workplace, not providing incentives to hide the real problems.

What did this group teach us?

Mobilize influence: The JHSC worker members knew that they needed co-worker support to resist the employer’s attempt to divide them. Knowledge is power, and they spread information to their co-workers that moved them to action.

Listen to workers: The JHSC worker members needed to make their co-workers understand the employer’s agenda to download safety on individual workers. The JHSC members worked methodically to produce, publish and circulate information that would educate their co-workers so they could make informed decisions about whether to accept employer incentives.

Address authority: This group resisted the new manager’s tactics at their outset. While not initially successful, they took strategic measures to continue and escalate their resistance to employer power.

Why our stories are important?

Being an effective worker health and safety representative is not easy. It takes hard work, persistence, education and a willingness

to challenge management on the things that matter. In many workplaces, your actions may even place your employment at risk. When you ask Knowledge Activists why they do it, one thing comes up again and again: the sense of accomplishment, of doing something of great importance to workers by helping to prevent injuries, disease and disability. As one representative in the education field put it:

“*I love working on health and safety. I found it to be one of the most frustrating things for a while, but once I got the drift of what was going on, I was prepared to roll up my sleeves and work. And it’s been great to see the improvements. It’s really been great to work with the other people who have the same dedication and, it’s certainly in my opinion a very worthwhile endeavor for anyone to get into because I do feel like I am making a difference for people.*”

Ten operating principles for guiding effective participation

From the survey and stories, we started to see similarities in the elements that made knowledge activist representatives more effective and successful. We were able to summarize them:

1. **Research:** Strategically conduct and use research to make claims, present solutions, and build legitimacy and trust.
2. **More than just meetings:** Emphasize the importance of working with and outside committees. Effective representation requires an activist approach.
3. **Mobilize your influence:** Recognize and understand the challenges and consequences of representation. Know how to mobilize influence using knowledge, the law and worker support. Be prepared for push back from some in management.
4. **Listen to workers:** Making change requires listening to and acknowledging concerns of other workers. Build from their experience and engage them with education that is needed. Train co-workers in health and safety. Engage them in the monitoring and change process.
5. **Address authority:** Understand that influencing management requires an ongoing effort to educate and influence their way of seeing things (e.g. constantly reinforce messages like health and safety pays).
6. **Build trust:** Recognize the importance of building relationships in the committee and in the workplace and build trust, mutual respect and legitimacy.
7. **Be assertive:** Be assertive, persistent and keep your cool. Be diplomatic. Figure out how to move forward over the long term if there is resistance. If you draw a bottom line, have a strategy to defend that bottom line.
8. **Build solutions:** Don't just identify the problem. Provide and work with management to develop solutions that address the source of the hazard.
9. **Use inspections and minutes:** Recognize the value of inspections, reports and minutes but do not define your role just in these terms. Beware management efforts to confine your activities to a technocratic or bureaucratic box (i.e. keeping reps busy with reports, imposing long drawn out processes for decision-making, responding to numerous minor issues and limiting access to shop-floor or workers).
10. **Use the law strategically:** Recognize the limitations of the law but know and use the law and regulations where they provide leverage. Develop a relationship of trust with local MOL inspectors and use that relationship tactically and strategically.

Protecting ourselves

The law provides some protection for worker OHS representatives who find themselves frustrated or disciplined by their employer when they raise legitimate health and safety concerns. In this section, we explore the kinds of protection the law provides and how to best protect yourself.

The law protects worker OHS representatives in four ways:

1. Your employer has a legal duty to afford assistance and co-operation when you are carrying your duties on the committee or as a representative (s 25(2)(e)).
2. Your employer may not dismiss, discipline, penalize, intimidate or coerce you or any worker when you raise a concern and request action under the OHSA (s50(1)).
3. No person may knowingly interfere with your work as an OHS worker representative or give you false information. (s62(5)).
4. No one can sue you for your actions carried out in good faith as an OHS worker representative under the OHSA (s65(1)(d)).

The key question you must know the answer to in protecting yourself is, “what is the health and safety concern that I am raising?” Your protection and the protection of your co-workers depends on you making clearly the case – at every stage

and to every person - that you and they are concerned about health and safety.

In many cases, your concerns will be straightforward – equipment does not work properly, toxic fumes are polluting the air. In other cases, your concerns may be less clear because they result from repetition and duration, speed or demands. In these cases, it can be more complicated to get across the underlying hazard that you want to address. Following these few basic practices and networking may help you.

The need to document. Is there a joint committee or worker representative?

If your workplace has a committee or worker representative, then it has a formal record keeping system for making health and safety complaints. Working within the system to make sure that your concerns are recorded in the minutes is important support for your activities.

It is important to keep your own set of notes as well. Document incidents and how they created a hazard for

you and/or other workers. When you are concerned about a series of events, what is it about the series that concerns you? If the leak continues, an explosion may happen. If that supervisor keeps on harassing you, what might happen to you? Get advice from trusted sources.

A special note about harassment:

Under the OSHA, workplace harassment is defined as “engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome.” Recent amendments to the OSHA require your employer to establish a policy to address workplace harassment and to treat your complaints seriously under the policy. You should not be disciplined for seeking the application of your employer’s policy. However, these amendments do not guarantee a harassment free workplace or require your employer to establish a specific process or result.

The union advantage

If you are a member of a union, you likely have access to resources, training and support. Make inquiries. Talk to a union representative. If you are not a member of a union, you still have access to resources in the community. Both OHCOW and WHSC have resources and staff to help you identify, assess and resolve your health and safety problems. (See Resources section.)

The challenge with co-workers

Not everyone is willing to put their hand up at work and admit there is a problem. Some may agree with you in private but are afraid to be singled out in front of the boss, especially in smaller workplaces. Some think you have to just “tough it out” and accept what you get. Helping your co-workers understand the issues, strategizing with them and seeking their perspectives can be challenging. Outside resources such as the occupational health and safety clinics can help you with this. (See Resources section).

Remember, when you are a committee member or worker OHS representative, you are doing a job required by legislation to help protect people at work. You are not a cop, a supervisor, a nurse or a boss. You are there to help and encourage, support and engage. You are a voice for others, not just yourself.

Calling the inspector

If you are unable to convince your employer to address your health and safety concern, or your joint committee if there is one has not been successful, or if the hazard is imminent and further delay would put people at risk, you may consider exercising your right to call an inspector.

An inspector is contacted by calling 1-877-202-0008 or 911 in an emergency.

Most employers react negatively to both the threat to call an inspector and when an inspector comes to a workplace. It is wisest to avoid using a threat to call an inspector when negotiating with your employer.

You can request that the inspector treat your information in confidence.

Dealing with discipline

Your right to contact an inspector about a legitimate health and safety concern is protected under the OHSA.

What is a legitimate health and safety concern? An honest belief that a set of conditions you face at work are or will have a negative impact on your health or safety. A set of conditions that cause a negative impact on health or safety are called hazards. The law imposes a general duty on your employer to take every reasonable precaution to protect your health and safety from hazards at work.

If you are disciplined by your employer for raising health and safety concerns, if you haven't already, call an inspector to investigate the health and safety concern. You should ask for his help to initiate an application to the Ontario Labour Relations Board (OLRB).

Making a formal complaint

If you are wrongly disciplined by your employer for pursuing a legitimate health and safety concern, you have the right to make a complaint to the OLRB. The OLRB requires that you fill out certain forms to make the complaint and provide “particulars” or details about your complaint within a short time frame. These forms and time lines are very important.

If you are a union member, you have an additional option. Your union can make a grievance under your collective agreement. There are limited circumstances where you can switch processes if you have started down one path and change your mind. If you go to arbitration the OLRB will not hear your application. Make sure to discuss this with your union representative.

If you are not a union member, you can get assistance from the Office of the Worker Adviser and the Toronto Workers' Health & Safety Legal Clinic. (See Resources section.)

It is important that you take steps quickly. Time delays may act against you.

Making a complaint is often a four-step process. Getting experienced help from the beginning is a good idea.

Resources

Throughout this Guide, we have made references to organizations, training and resources available to assist workers address health and safety problems. This section provides you contact information.

Labour OHCOW Academic Research Collaboration (LOARC)

We are an association of worker health and safety representatives, practitioners and researchers working together to support effective worker participation in health and safety. You can find out more about us at www.opseu.org/hands/loarc.htm. Reports of our research and other activities mentioned in this guide can be found there. LOARC members involved in this research project were:

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[Terri Aversa](mailto:taversa@opseu.org) taversa@opseu.org

OPSEU, Health and Safety Officer www.opseu.org

[Wayne Lewchuk](mailto:lewchuk@mcmaster.ca) lewchuk@mcmaster.ca

McMaster University, Professor www.mcmaster.ca

Labour Council

Check in on the labour council in your community. Union health and safety activists have a lot of experience and advice to share.

www.canadianlabour.ca/home/links

Ministry of Labour (MOL)

It is responsible for prevention and enforcing the OHSA. To call an inspector:
1-877-202-0008

www.labour.gov.on.ca

Occupational Health Clinics for Ontario Workers (OHCOW)

There are six clinics throughout the province (Hamilton, Sarnia, Sudbury, Thunder Bay, Toronto and Windsor) along with a provincial office in Toronto. The clinics are available to worker representatives to provide information, tools and advice dealing with occupational health hazards in the workplace. The clinics have occupational physicians, nurses, ergonomists and hygienists to provide expert advice, opinions and services to representatives and to the JHSC (if invited on site by the co-chairs). There is also a clinical service available to individual workers who want to know whether their health conditions/concerns are work-related.

1-877-817-0336

www.ohcow.on.ca

Office of the Worker Adviser (OWA)

OWA provides free legal assistance with compensation and reprisal claims for workers who are not members of a union.

www.owa.gov.on.ca

Ontario Network of Injured Workers Groups (ONIWG)

This is a provincial network of local groups of injured workers who work together to improve workers compensation in Ontario. It provides more information about injured workers compensation and injured workers groups.

www.injuredworkersonline.org

Toronto Workers' Health & Safety Legal Clinic (TWH&SLC)

The Toronto Workers' Health & Safety Legal Clinic is part of a network of legal clinics across Ontario. You can access their assistance directly at their Toronto office or through your local community legal clinic.

416-971-8832

www.workers-safety.ca

Workers' Action Centre (WAC)

This centre is organizing for fair employment, decent pay and decent work.
416-531-0778

www.workersactioncentre.org

Workers Health & Safety Centre (WHSC)

As Ontario's labour-endorsed, government-designated health and safety training centre, the WHSC provides training for workers, their representatives and employers from every sector and region of the province.

1-888-869-7950

www.whsc.on.ca



Feedback

Thanks to all those who contributed to this Guide by completing surveys and sharing stories. Through your voice and by your example you help inform and inspire the work of health and safety representatives everywhere.

We encourage and welcome your comments, suggestions and additional stories.

Contact LOARC at agrking@hotmail.com.



**We encourage knowledge activism
to improve
our health and safety at work.**