



An Overview of OHS Compliance from a Provincial Regulatory Body

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Ministry of Labour,
Immigration, Training and
Skills Development

FAIR, SAFE AND HEALTHY WORKPLACES DIVISION



Our Vision

We envision an Ontario that is the most attractive place to work in the world because every employee is treated fairly and comes home safely.

Our Mission

We set, communicate and enforce legislation to help make Ontario workplaces fair, safe and healthy. Through our professionalism, innovation and collaboration, we earn and maintain the public trust.

Outline

- Occupational Health and Safety Section 21 Committee – Police
 - Guidance notes
 - Recommendations to minister
 - Advocate for occupational health and safety in policing
- Memoranda of understanding (MOUs) and information sharing agreements (ISAs)
- Multi-agency response and investigations
 - Eastway Explosion
- Questions & Discussion

Police Section 21 Committee

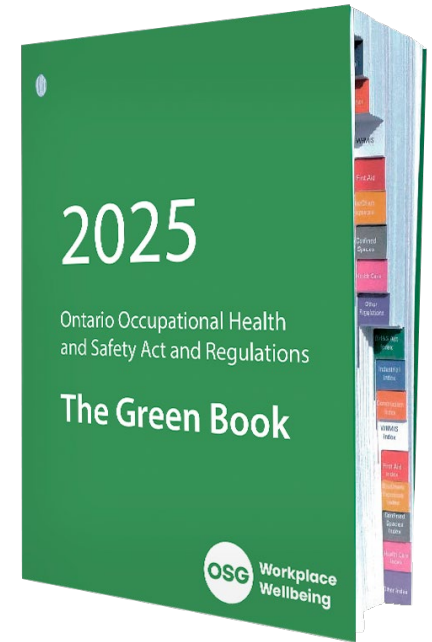


Section 21 Committees

Section 21 of the Occupational Health and Safety Act

The Minister may appoint committees or persons to assist or advise the Minister on any matter arising under this Act or to inquire into and report to the Minister on any matter that the Minister considers advisable.

Section 21 committees were formed because some industries have unique health and safety hazards not covered by existing health and safety regulations.



Section 21 Committees formed by the MLITSD

- Ontario Police Health and Safety Section 21 Committee
- Paramedic Services Section 21 Committee
- Fire Service Section 21 Advisory Committee
- Health Care Section 21 Advisory Committee
- Provincial Labour-Management Health and Safety Committee – Construction
- Provincial Labour-Management Safety Committee – Electrical & Utilities
- Mining Legislative Review Committee
- Film and Television Section 21 Advisory Committee

Ontario Police Health and Safety Section 21 Committee

Composition:

Co-chairs representing labour and management

Members include representatives from municipal and provincial police associations, Ontario Chiefs of Police, Indigenous Police Chiefs of Ontario

Observers include Ontario Police Health and Safety Association, Ministry of the Solicitor General, Public Services Health and Safety Association, Workers, Health and Safety Centre and Ontario Police college

Facilitator: MLITSD



Guidance Notes

#	Title	#	Title
1	Application of Police Section 21 Committee Guidance Notes	13	Working at Heights – Fall Protection
2	JHSC Structure and Functioning	14	Field Drug Testing
3	Sample OH & S Policy	15	Respiratory Protection Policy and Program
4	Worker – Information, Instruction and Training Formerly called - General OH & S Training Requirements	16	Musculoskeletal Disorder Prevention in Police Services
5	Personal Protective Equipment Formerly called PPE for Industrial, Mining, Construction and Health Care Environments	17	Infection Prevention and Control
6	Hazards in Clandestine Drug Labs and Illegal Marijuana Grow Operations	18	Role of the Safety Officer in the IMS
7	Searching Hazardous Environments	19	Motor Vehicle Safety for Police Service Workers
8	High Visibility Safety Apparel	20	Confined Space Safety
9	Workplace Violence and Harassment	21	Hybrid and Electric Vehicle Safety for Police Services
10	Health and Safety Requirements for X-ray Equipment used in Policing	22	Occupational Lead Exposure in Policing (In Approvals)
11	Water Safety	23	Noise Hazards in Policing (In Development)
12	Competent Supervision -Knowledge, Training and Experience		

Recommendations to the Minister



Hon. David Piccini
Minister of Labour,
Immigration, Training
and Skills
Development

Members have the firsthand knowledge, expertise and experience to identify emerging OH&S issues and hazards across the province that are unique to policing, such as:

- New technology introduced into police vehicles
- New weapons
- Injury and illness trends locally and across the province
- Experience of police in other jurisdictions
- New controls and best practices with consideration to requirements under Community Safety and Policing Act, 2019

Memoranda of Understanding (MOUs) and Information Sharing Agreements (ISAs)

MOUs

- The general purpose these MOUs is to provide a framework for the Ministry and Police Services to work together cooperatively, effectively and transparently within their respective but related areas of jurisdiction and expertise in respect of incidents that occur at a workplace
- It is recognized that both the Ministry and the Police Services have jurisdiction and a role to play in the investigation of, or otherwise in response to, incidents that occur at a workplace
- MLITSD has MOUs with over 80% of the police services in Ontario



Information Sharing Agreements (ISAs)

The ISAs provide for expeditious sharing of information during the investigation of a workplace incident where charges under the OHSA may be issued (charges must be laid within 2 years of the incident).

- Removes the requirement for either party to make a request under the *Freedom of Information and Protection of Privacy Act* (FIPPA) or the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA)

Authority to disclose information:

- ss. 63(4) of the OHSA provides that a Director may disclose information, material, statements or the result of a test acquired, furnished, obtained, made or received under the OHSA. The Police Service may make a written request for disclosure to the Ministry in the relevant region to which the Director of the region, or their designate, will respond.

Note: The ISA does not limit or prevent either parties from seeking legal advice to ensure the appropriate method to obtain and share information and evidence, or with respect to the appropriate scope of information to be shared, to ensure compliance with the law.

Multi-Agency Response and Concurrent Investigations

Powers of MLITSD Inspectors

Ministry health and safety inspectors have broad powers to:

- Enter a workplace without a warrant or notice
- Require that any equipment, machinery or process be operated or set in motion or that a system or procedure be carried out that may be relevant to an examination, inquiry or test
- Take away samples
- Question any person, either privately or in the presence of someone else
- Look at documents and records and take photographs
- Require expert testing of equipment or the workplace environment and the production of reports
- Require that any part of a workplace, or the entire workplace, not be disturbed for a reasonable period of time in order to conduct an examination, inspection or test



Role of the MLITSD during multi-agency response

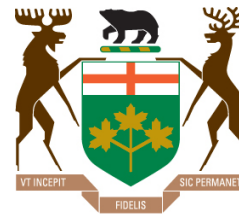
- MLITSD inspectors have jurisdiction if a person is killed or critically injured at a (provincially regulated) workplace
 - Typically, MLITSD inspectors do not begin their investigation until after the initial response is complete
 - Once the “first response/emergency” phase of the event is over, the MLITSD inspector takes over as lead at the site
- Even during an emergency, the OHSA and regulations apply.

Clause 7.2(8) states in the event of a conflict between this Act or an order made under subsection 7.0.2 (4) and the *Occupational Health and Safety Act* or a regulation made under it, the *Occupational Health and Safety Act* or the regulation made under it prevails.

First Responders:



NOT First Responders:



Ministry of Labour, Immigrations, Training and Skill Development Inspectors

Major Incident Response

Enforcement authority

- Inspectors will exercise their enforcement authority with appropriate discretion in the circumstances to ensure that the employers of first responders comply with their OHS responsibilities, including the duty to take all precautions reasonable in the circumstances to protect workers from imminent and immediate dangers.

Provide technical advice

- MLITSD Specialized Professional Services including physicians, engineers, hygienists and radiation specialists may provide expert technical advice to the person who has authority over the scene when responding to a major incident.

Inspection/investigation of the workplace/site at a major incident

- The inspector will only proceed with their inspection/investigation beyond the command post once the person in authority determines that it is safe for the inspector to do so.

MLITSD inspectors are not first responders

Eastway Explosion

Eastway Tank Pump & Meter Explosion

On January 3, 2022, an explosion ripped through a tanker truck manufacturing and repair business.

Six workers died as a result.



Matt Kearney



Etienne Mabila



Danny Beale



Kayla Ferguson



Russell McLellan



Rick Bastien



Suncor
Terminal

Via Rail line

Responding Agencies/Ministries

- Ottawa Fire Service
- Ottawa Police Service
- Ottawa Paramedic Service
- Ministry of Labour, Immigration, Training and Skills Development
- Ministry of the Environment, Conservation, and Parks
- Office of the Coroner
- Ontario Fire Marshal/Fire investigators (OFM)
- Via Rail & CN police
- Transport Canada
- Nav Canada
- Technical Standards and Safety Authority (TSSA)



Concurrent Investigations

- Ontario Fire Marshal (OFM)
- MLITSD
- Office of the Coroner
- Ottawa Police
- TSSA



Outcome of MLITSD Investigation

Convicted: Eastway Tank, Pump and Meter Limited and director, Neil Greene

Description of Offence:

Six workers were fatally injured, and one worker was critically injured, after an explosion. Eastway Tank, Pump and Meter Limited failed to take every precaution reasonable in the circumstances for the protection of workers, contrary to section 25(2)(h) of the Occupational Health and Safety Act. The company also failed to provide adequate information, instruction and supervision to workers to protect their health and safety, contrary to section 25(2)(a) of the Act. Neil Greene failed to take all reasonable care to ensure that the corporation complied with section 25(2)(h) of the Act, contrary to section 32 of the Act.

Penalty:

- Eastway Tank, Pump and Meter Limited - \$600,000 + 25% victim fine surcharge
- Neil Greene - \$80,000 + 25% victim fine surcharge

Ottawa Police Investigation – On-going

The investigation into whether criminal negligence causing death and bodily harm was committed is on-going.

Negligent Acts:

- Failing to ground and bond the truck that exploded – a standard recommended precaution that prevents sparks and dissipates static charge into the ground.
- Building the truck that exploded with some used parts that were not properly cleaned of flammable liquids, and that a lack of "clearly defined cleaning and verification protocols ... [caused] a reckless attitude toward safety."
- Lacking written procedures for various tests done.
- Using coloured diesel to flush out gasoline from tanks and using the colour to determine when gasoline was no longer present.
- Diluting tanks of diesel contaminated with gasoline by adding more diesel, instead of disposing of the contents of the tank.
- Monitoring contamination inconsistently.



Summary of Collaboration

Initial Notification & Response

- If Police are called to a fatality or critical injury at a workplace, they notify the MLITSD Contact Centre (Members of police services get priority routing when calling the contact centre)
- MLITSD inspector is dispatched to scene (typically after initial emergency response is complete)

Securing the Scene

- Police secure the scene
- MLITSD takes over scene upon arrival (when appropriate)

Investigation Roles

- Police investigate for criminal activity
- MLITSD determine compliance with the OHSA and regulations

Collaboration & Information Sharing

- Police & MLITSD may conduct concurrent/parallel investigations
- Share information as per MOUs/ISAs

Post Investigation

- If the police investigation determines that there has been criminal negligence, they may lay charges under the Criminal Code
- If the MLITSD investigation identifies non-compliance with the OHSA, they may issue orders, tickets or lay charges

THANK YOU