



Workplace Violence Program

This program must be read in conjunction with the [Workplace Violence and Harassment Prevention Policy](#).

1. Preventing Workplace Violence

Risk Assessment

A [Workplace Violence Risk Assessment](#), has been conducted, assessing the risk level, whether any incidents or threats of violence had occurred in the last three years, existing controls and identifying any additional controls that may be required. Specifically, the following areas were assessed:

- the nature of the business
- the physical environment
- business travel

The risk assessment has been reviewed by the Joint Health and Safety Committee. Workers are able to view a copy of the [Risk Assessment in the Preventing Workplace Violence](#) binder which is located in the worker lunchroom or by link: [Workplace Violence Risk Assessment](#). This electronic copy is saved on Backstage in the Joint Health and Safety Committee folder.

The risk assessment will be reviewed on an annual basis (or earlier if there is a change in the environment or a determination that existing controls are insufficient). Workers are encouraged to review the risk assessment and discuss any concerns with an immediate supervisor or a Joint Health & Safety Committee member.

General Personal Safety

Workers are encouraged to be alert and aware of their surroundings at all times whether commuting to and from work, travelling on business and/or working in the office. Workers should use general personal safety and travel precautions including but not limited to:

- walking, parking and/or working in well-lit areas
- being aware of people, emergency exits, fire alarms and communication devices in the work area

- avoiding situations and/or environments that carry inherent risk (e.g. isolated, dark or unknown areas)
- if working after hours, ensuring that building security is aware of your presence

Domestic Violence

Any worker who is a victim of domestic violence and believes that such violence may occur in the workplace is required to share sufficient relevant information with the Human Resources Manager to enable the NJI to take all reasonable precautions to ensure their safety as well as that of its other workers. The same requirement exists of any worker who has knowledge of or has witnessed domestic violence against a co-worker and believes that such violence may occur in the workplace.

2. Responding to an Incident or Imminent Threat of Workplace Violence

Any worker who has been subjected to an imminent threat and/or act of workplace violence should seek immediate assistance from 911, but may also ask for assistance from the following, as may be appropriate in the circumstances:

- a) calling for in-person assistance from any co-worker or supervisor if located in office;
- b) calling building security at 613-563-4848;
- c) calling for in-person assistance from any person nearby.

Upon receipt of a complaint/concern, an immediate assessment of the circumstances must be undertaken to determine whether medical attention is required and if there is any further or continued immediate risk of violence to the complainant and/or any other worker, guest or client. If so, a Human Resources representative or Joint Health and Safety Committee (JHSC) member should be consulted immediately, and appropriate steps taken to ensure a safe work environment.

3. Reporting Procedures

1) Incident of Violence or Threat of Violence

Any worker who is a victim of or a witness to an incident of violence or a threat of violence in the workplace is required to report the conduct to their immediate supervisor. Where the worker's immediate supervisor is involved in the incident (directly or indirectly), the incident must be reported directly to the Human Resources Manager. If the Human Resources Manager is involved in the incident, the incident must be reported directly to the

Executive Director. If the Executive Director is involved in the incident, the incident must be reported directly to the designated Board of Governors member, through either the Human Resources Manager or a member of Senior Management.

The worker will be required to complete an *Accident/Near Miss form* setting out the details of the incident and any injury sustained as a result. In the event of a critical injury as defined in s.1, Reg. 834 made under the *Occupational Health and Safety Act*, the Human Resources Manager will be responsible for contacting the Ministry of Labour in accordance with the requirements of the Act.

In all cases, an investigation will be commenced, following the investigation process outlined below.

2) Perceived Risk of Violence

Any worker who believes that they are at risk of violence, including domestic violence, in the workplace is required to report the concern to the Human Resources Manager. If the Human Resources Manager is involved in the concern (directly or indirectly), the concern must be reported directly to the Executive Director. If the Executive Director is involved in the concern, the concern must be reported directly to the designated Board of Governors member, Professor Lorna Turnbull, through either the Human Resources Manager or a member of Senior Management.

The worker must provide sufficient information and detail to enable the NJI to take all reasonable precautions to ensure the safety of all of its workers.

In all cases, the Human Resources Manager (or the alternate set out above) will review control mechanisms in place and initiate any required changes, communication or other preventative measures.

4. Investigation Process

1) Assignment of Investigator

In some cases, a Human Resources representative will be the investigator, but, depending upon the circumstances and in consultation with the Executive Director, an alternate competent person may be appointed as investigator. The Institute may appoint an external investigator if appropriate in the circumstances.

2) Role of Investigator

The investigator shall be responsible for the collection and analysis of all facts, information and evidence relating to the alleged incident and for making a finding, within the context of the *Workplace Violence and Harassment Prevention Policy* and the provisions of the *Occupational Health and Safety Act*.

3) Investigation Process

The investigation will be fair, respectful, timely and address all relevant issues.

Some matters will not require a complicated investigation. Other matters may be more complex and require a more extensive investigation. Unless unusually complex, an investigation should be completed within 90 days.

The worker who allegedly experienced workplace violence may rely on a support person during the investigation, including interviews. In order to ensure the integrity of the investigation, the support person should not be a person who witnessed, or was otherwise involved in, the alleged incident.

Any investigation will adhere to the following:

- a) The investigator must ensure the investigation is kept confidential and identifying information is not disclosed unless necessary to conduct the investigation. The investigator should remind the parties and witnesses of this confidentiality obligation at the beginning of the investigation.
- b) The investigator must interview the worker who allegedly experienced workplace violence and the person who allegedly engaged in workplace violence, if the latter is a worker of the employer. If the person who allegedly engaged in workplace violence is not a worker of the employer, the investigator should make reasonable efforts to interview the person, if possible and appropriate.
- c) If the person who allegedly engaged in workplace violence is a worker of the employer, he or she must be given the opportunity to respond to the specific allegations raised by the worker. If the person who allegedly engaged in workplace violence is not a worker of the employer, the investigator should give the person the opportunity to respond to the specific allegations raised by the worker, if possible and appropriate. In some circumstances, the worker who allegedly experienced the workplace violence should be given a reasonable opportunity to reply.

- d) The investigator must interview any relevant witnesses employed by the employer who may be identified by either the worker who allegedly experienced the workplace violence, the person who allegedly engaged in workplace violence, or as necessary to conduct a thorough investigation. The investigator must make reasonable efforts to interview any relevant witnesses who are not employed by the employer if there are any identified, if possible and appropriate.
- e) The investigator must collect and review any relevant documents.
- f) The investigator must take appropriate notes or statements during interviews with the worker who allegedly experienced workplace violence, the person who allegedly engaged in workplace violence, and any witnesses.
- g) The investigator must prepare a written report summarizing the steps taken during the investigation, the complaint, the allegations of the worker who allegedly experienced the workplace violence, the response from the person who allegedly engaged in workplace violence, any reply provided by the worker who allegedly experienced the workplace violence, the evidence of any witnesses, and the evidence gathered. The report must set out findings of fact and come to a conclusion about whether workplace violence was found to have occurred or not.
- h) The report is confidential and will be provided to the Executive Director or, if the Executive Director is the person who allegedly engaged in workplace violence, to the designated Board of Governors member.

4) Results of the Investigation

After concluding the investigation:

- a) The Executive Director (or, if the Executive Director is the person who allegedly engaged in workplace violence, the designated Board of Governors member), the Human Resources Manager (unless the Human Resources representative is the person who allegedly engaged in workplace violence) and appropriate Senior Management Director (unless the Director is the person who allegedly engaged in workplace violence) shall meet to discuss appropriate disposition where a finding of workplace violence has been made.
- b) The worker who allegedly experienced workplace violence will be informed in writing about the results of a workplace violence investigation and of any corrective action that has been or that will be taken as a result of the investigation.

- c) This information must also be provided to the person who allegedly engaged in workplace violence, if he or she works for the Institute.
- d) Where violence is found to have occurred and the person who engaged in workplace violence works for the Institute, any remedial or disciplinary action shall be recorded in the worker's personnel file and form part of their employment record.
- e) Where there is reasonable cause to believe that a complaint was made in bad faith, an investigation will be commenced following an investigative process which follows as closely as possible the process set out above.

5. Handling Complaints

Upon receiving information concerning alleged workplace violence, including during an investigation into alleged workplace violence, the Executive Director may take interim measures, appropriate to the circumstances, to protect a worker from further alleged workplace violence.

Corrective actions are actions taken to try to prevent a reoccurrence of workplace violence.

Where workplace violence by a worker or supervisor is found to have occurred, corrective action may be taken. Corrective action in respect of the worker or supervisor who is found to have engaged in workplace violence could include termination or a complaint to the police.

Where workplace violence by a person external to the Institute (including program faculty and planners, visitors, domestic or intimate partners, and clients) is found to have occurred, appropriate corrective action will be taken. This could include a refusal of service or a complaint to the police.

If the investigation of an incident or complaint finds that there were shortcomings in the workplace violence policy or program, corrective action could include revising the policy or program.

The *Workplace Violence and Harassment Prevention Policy* and the *Occupational Health and Safety Act* prohibits reprisals against individuals acting in good faith who report incidents of workplace violence or act as witnesses. A "reprisal" is defined as any act of retaliation, either direct or indirect.

6. Persons with a History of Violent Behaviour

The *Occupational Health and Safety Act* requires that workers be provided with information, including personal information, about a person with a history of violent behaviour if they can expect to encounter that person in the course of their work **and** they may be at risk of physical injury. Employers are limited, however, to only releasing information that is reasonably necessary to protect workers from physical injury.

The legislation does not define what constitutes a “history of violent behaviour” and, as such, the National Judicial Institute has implemented a panel consisting of the Executive Director, Director of Operations and the Human Resources Manager to review each situation and make an appropriate determination based on the following criteria:

- Has the individual committed one or more acts of violence in the last three years?
- Has the individual’s conduct in any or all incidents of violent behaviour resulted in a person being physically injured?
- Did the individual’s conduct in any or all incidents of violent behaviour involve the use or threat of use of a weapon that he/she had in his/her possession?
- Does an assessment of the information gathered above give reasonable cause to believe that contact with this individual through the course of work may result in physical injury for workers?

It is acknowledged that an individual may be determined to be a “person with a history of violent behaviour” for the purposes of the Act following a single incident of violence where the assessment of facts gives reasonable cause to believe that contact with this individual poses a risk of physical injury to any worker of the NJI.

7. Refusal to Work

The amendment to the *Occupational Health and Safety Act* extends a worker’s right to refuse unsafe work to include situations where “workplace violence is likely to endanger” a worker. In order to implement a work refusal the worker must:

- a) Report the concern to his/her immediate supervisor who will investigate in the presence of the worker and, if available, a Joint Health and Safety Committee representative. In the event that a representative is not available, the worker may request that any other worker with the training, experience and knowledge be present;

- b) Where, after completion of the investigation and/or any steps taken to resolve the situation, the worker has reasonable grounds to believe that workplace violence continues to be likely to endanger him or herself, the worker will cause a Ministry of Labour inspector to be called in to investigate and make a determination;
- c) During the investigation process, the worker is required to remain in a safe place that is as close as possible to their work station and available to the supervisor for the purposes of the investigation.

For additional details regarding work refusals, please see Part V, s. 43-46 of the *Occupational Health and Safety Act*.

8. Confidentiality

Information about reports of perceived risks of violence and incidents of workplace violence shall be kept confidential to the fullest extent possible. Information obtained about perceived risks of violence and incidents of workplace violence, including identifying information about any individuals involved, will not be disclosed unless disclosure is necessary to protect workers, to investigate the complaint or incident, to take corrective action, or otherwise as required by law.

While an investigation is ongoing, the worker who has allegedly experienced workplace violence, the worker who allegedly engaged in workplace violence, and any witnesses should not discuss the incident or complaint or the investigation with each other or other workers or witnesses.

For greater clarity, this program does not limit a worker's right to report violence to the police, to pursue other legal remedies available to the worker, or to seek legal or other professional advice.

9. Record-keeping

Human Resources will keep records of any investigation including:

- a) a copy of the completed Accident/Near Miss form setting out the details of the incident and any injury sustained as a result;
- b) a record of the investigation, including notes;
- c) a copy of the investigation report;

- d) a summary of the results of the investigation that was provided to the worker who allegedly experienced the workplace violence and the person who allegedly engaged in workplace violence, if a worker of the employer;
- e) a copy of any corrective action taken to address the complaint or incident of workplace violence.

Records of the incident and investigation will be kept for 10 years following the conclusion of the investigation. For greater clarity, corrective action taken regarding a worker remains a permanent part of the worker's record of employment.

Human Resources will keep records of reports of perceived risks of violence, as well as any measures taken to address the risk, until 10 years after the perceived risk of violence has abated.

Conclusion

The National Judicial Institute is proud of its climate of respect and professionalism and remains committed to ensuring the safety of its workers. All concerns will be addressed in a fair, respectful, and timely manner as outlined in this program.

The policy, program and all of its components will be reviewed annually. Workers with questions, feedback or suggestions are invited to speak with the Human Resources representative or a member of the Joint Health and Safety Committee.

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