

National Police Federation

WorkPlace Harassment and Violence

Nov 3rd, 2021



New Terms & Definitions:

"Designated Recipient (DR)" is the work unit in a work place or person that is designated under the *Work Place Harassment and Violence Prevention Regulations* by the Commissioner to receive notices of occurrence.

"Independent Centre for Harassment Resolution (ICHR)" means the office of the RCMP that is responsible for administrative matters relating to the resolution of harassment and violence occurrences

"Investigator" means a person trained in investigative techniques, with knowledge, training and experience relevant to harassment and violence in the work place, and with knowledge of the *Canada Labour Code*, the *Canadian Human Rights Act* and any other legislation that is relevant to harassment and violence in the work place. An investigator may not have been employed by the RCMP in any capacity within the preceding five (5) years.

"Notice of occurrence (NO)" means a harassment and violence complaint filed by a Principal Party or a witness, in writing or orally, and provided to the employer or Designated Recipient, including a complaint alleging reprisal.

"Principal Party (PP)" means the person who is the alleged victim of harassment and violence, regardless of whether they personally filed the notice of occurrence.

"Responding Party (RP)" means a person who is alleged to be responsible for the occurrence in a notice of an occurrence.



AIM:

Shared aims of this MOU are:

- i. to supplement the obligations of the employer under Part II of the *Canada Labour Code* and the *Work Place Harassment and Violence Prevention Regulations* in respect of work place harassment and violence, where the Responding Party is a Member of the bargaining unit represented by the NPF;
- ii. to acknowledge and provide a meaningful response to the recommendations in the Bastarache Report;
- iii. to implement a transparent, robust, and procedurally fair process to investigate and resolve harassment and violence in the work place;
- iv. to eliminate work place harassment and violence and to promote a harmonious work environment that is safe, non-discriminatory and inclusive;
- v. to implement an investigation process independent of the RCMP;
- vi. to remove the perception of bias from investigations and decisions related to harassment and violence in the work place;
- vii. to enhance and support a robust framework to address and remedy incidents of harassment and violence in the work place;
- viii. to rebuild the Membership's trust in the investigation and resolution of harassment and violence in the work place; and
- ix. to ensure a consistent and procedurally fair process for principal and responding parties to a notice of occurrence.



Definition of WP Violence/Harassment:

Definition

The *Canada Labour Code* defines harassment and violence at subsection 122(1) as *“any action, conduct or comment, including of a sexual nature that can reasonably be expected to cause offence, humiliation or other physical or psychological injury or illness to an employee, including any prescribed action, conduct or comment.”*

Context

AM Ch. 2.1.3. (General – Context)

- itemizes a very broad interpretation of what may be considered to constitute the basis of a notice of occurrence



Filing a “Notice of Occurrence”

Article 5 of MOU

- A Member, who is a Principal Party, may file a notice of occurrence under this MOU in writing or orally and provide the notice of occurrence to the Designated Recipient established by the RCMP.
- Any employee of the RCMP, who is not a Principal Party, but who observes an occurrence, or who reasonably believes that a Member has either committed or been a victim of an act of harassment and violence, may file a notice of occurrence.
- Commissioned officers and Conduct Authorities must file a third-party notice of occurrence when they have a reasonable belief that a Member has been the victim of harassment and violence.

AM – Ch. 2.1.8 Reporting

Use updated 3919

Bill C65, changes to CLC, ICHR, Policy – this is a **PP driven system**



Timelines:

- NO timeline in relation to a historical NO

- DR must close NO within 15 days if:
 - Impossible to identify PP
 - Made by an external party to the RCMP
 - Former employee outside 90 days
- Within 7 days from DR receiving NO contacts PP & witnesses and the Decision Maker (division where it occurred)
- No hard time for DR or ICHR to advise RP (see investigation below)
 - Unless RCMP required to take action that will impact RP rights
- Informal resolution
 - Begin no later than 45 days since NO
 - 1 year maximum from NO
 - Can be informal up to the point investigator files report (normal IR processes –without prejudice/confidential – only fact of resolution reached released to Conduct Authority for a CoC)
- Upon ICHR having NO and assigning an investigator the PP and RP will be immediately advised and have 7 days to file an objection to the assigned investigator
 - Once investigator approved 14 days to review NO – evaluate basic validity and if conforms to criteria
- Before final Investigation Report is prepared the PP & RP will be provided an opportunity to comment on a summary of evidence received to date – 10 days to reply
- DR to provide Investigation Report to PP & RP within 21 day after receiving it



Investigative Report:

- The ICHR investigator will make a determination as to whether or not the NO is substantiated
- Copy of final Investigative Report (IR) to the DR, PP, RP, CO (decision maker)
- If substantiated the IR will include recommendations intended to ensure a safe work place for the future
- If substantiated the DM must commence a CoC - Article 41 of MOU
 - They can disagree but must provide rationale
 - This is also why they are seeking alternative Conduct Authority for CoC investigation as DM has now been biased by this process



Issues / Concerns:

- ICHR is not truly independent it is still funded and managed via the RCMP
- Legislation and policies written in a manner that in some cases minimize or do not recognize RP Charter Rights
- Upon receipt of NO
 - ICHR is the priority process not CoC except in most egregious cases, there is no parallel investigation
 - Impact of delays on CoC charges – 1year from aware of incident
- We (RCMP & NPF) failed to identify an appeal process in relation to removal of PP or RP from work place
 - default is Part III Grievance (being reviewed by legal for faster options)
- Decision Maker / Conduct Authority
 - Will not be the same person but not yet determined how this will occur still

