



Expert Advisory Panel on Occupational Health and Safety

Report and Recommendations to the Minister of Labour

December 2010

Expert Advisory Panel on Occupational Health and Safety

Suite 1305
123 Edward Street
Toronto, ON M5G 1E2
416 326-7600

Comité consultatif d'experts de la santé et de la sécurité au travail

Bureau 1305
123, rue Edward
Toronto (Ontario) M5G 1E2
416 326-7600

December 10, 2010

The Honourable Peter Fonseca
Minister of Labour
400 University Avenue
Toronto, Ontario
M7A 1T7

Dear Minister Fonseca:

Earlier this year you asked the Expert Advisory Panel to conduct a comprehensive review of Ontario's occupational health and safety system. I am pleased to submit our report and recommendations.

If this report is fully implemented, every Ontario worker and supervisor will receive mandatory information about workplace rights and responsibilities before they start their job; every construction worker will receive entry-level training on construction site safety; there will be rigorous training standards for workers who work at heights and on other high-risk activities; there will be tougher penalties for those who place workers at risk of death or serious injury; employers will receive better support in understanding and meeting health and safety standards and greater recognition where these are exceeded; the needs and realities of operating small businesses will be accommodated in labour policies; there will be a renewed prevention organization with focused leadership heading a more integrated, efficient and accountable system; and there will be more information and better protection available for vulnerable workers. More open and transparent consultation with the workplace parties coupled with these and other recommendations in this report will assist you in promoting safer and healthier workplaces.

This was an important task completed in a tight time frame. Three things have made this possible:

First, the nine experts you appointed to work alongside me were inspired choices. They are highly experienced and skilled leaders and have worked together in a spirit of collaboration, mutual respect

and problem-solving. The full consensus reached on our recommendations is a testament to their hard work. If the quality and spirit of the Panel's conversations are sustained in the implementation of this report and in the work of the proposed Prevention Council, you will have set in place an important cultural shift that could not be achieved through any amount of regulation.

Second, we have benefited from a positive external environment in which unions, employers and health and safety leaders have stepped forward and given their best advice in the interests of making workplaces safer. We have engaged in a several-month long iterative and transparent discussion in which we have learned a great deal and shared our thinking as the review unfolded. This process was free of the public positioning, politics and lobbying that sometimes impedes progress in developing labour policy. The result is a better product that will favour workplace safety, workers and their families.

The Panel did its best to give justice to all the voices, ideas and convictions that it heard over the past months. The Panel's members want to take this opportunity to thank the workers, employers, unions, professional organizations, special interest groups and the many individuals who met with us, wrote submissions or responded to the consultation paper questions. They told us candidly about their experiences with and their expectations for Ontario's health and safety system. Their voices and ideas directly affected our deliberations and the new prevention framework that we are proposing. Ontario's health and safety system has a future of tremendous potential thanks to the highly committed and passionate people that we met with in the course of this review.

Third, in the course of our work, Panel members received reports prepared by special working groups formed to look at the major topics covered by this report. The working groups, comprised of managers and staff from each of the health and safety delivery organizations, researched their subject matter, met with various stakeholders, received input from experts in the occupational health and safety field, and met with groups and organizations who asked to be heard. The working groups' translation of what they heard, together with their research and analysis, are reflected in the pages of this report.

I want to extend our sincere appreciation to the managers and staff of the Ministry of Labour, Workplace Safety and Insurance Board, Health and Safety Associations, Institute for Work and Health and others who worked with us to bring this report to fruition in a short time frame. In particular, I'd like to thank the small, high-powered and exceptional secretariat led by John Vander Doelen, which supported me and the Panel throughout this process. The hard work of all of these committed professional public servants has been invaluable to the Panel.

On behalf of my colleagues on the Expert Advisory Panel, I thank you for the opportunity to be involved in this important undertaking.

Yours truly,



Tony Dean
Chair

Table of Contents

Executive Summary	4
Introduction.....	10
Supporting a Health and Safety Culture in Ontario.....	13
New Prevention Organization.....	14
Information and Resources	25
Measures to Support the Internal Responsibility System	28
Health and Safety Training in the Workplace.....	32
Combating the Underground Economy	36
Incentives	39
Enforcement and Penalties	42
Regulatory Approach	44
Better Protection for Vulnerable Workers	46
Improved Protection from Reprisals	49
Small Business	51
Opportunities for Government Ministries and Agencies to Cultivate Health and Safety in Ontario Culture and Workplaces	53
Additional Issues.....	57
Conclusion and Next Steps	60
References Cited	63
Supporting Resources	65
Recommendations	71
Working Groups	77

Executive Summary

Overview

Early in 2010, the Minister of Labour appointed an Advisory Panel on Occupational Health and Safety, chaired by Tony Dean, to conduct a review of Ontario's occupational health and safety (OHS) system. The Panel was comprised of health and safety experts representing labour and employers, together with specialist academics. It was asked to recommend structural, operational and policy improvements to Ontario's OHS system.

In launching the review, the Minister provided the Panel with an important opportunity to take a broad look at the OHS system from end to end. The system involves a complex and dynamic interplay of legislation, regulations, institutions, people and a variety of workplace cultures.

A Focus on Workplaces and the Highest Value Opportunities for Change

The Panel's review focused on areas of workplace health and safety that needed improvement. To ensure that there is real benefit to workplaces, the workplace parties must be actively engaged in the design and implementation of proposed improvements. Effective leadership coupled with the engagement of all the workplace stakeholders contributes to improved health and safety performance.

There are no single levers or changes the Panel could recommend that would effect significant improvements on their own. For this reason, the Panel made an effort to find the best mix of high-value opportunities for change. These opportunities touch on the continuum of prevention and enforcement activities from education in schools and proactive prevention initiatives, right through to the need for effective enforcement in situations where safety standards are breached. As part of this multi-faceted approach to its task, the Panel also recognized the importance of a strong organizational culture and commitment towards health and safety in workplaces, which is often driven from the very top of the most successful business enterprises.

In doing its work, the Panel has emphasized the importance of evidence-driven changes which should be implemented with the involvement of the workplace parties.

The Panel's proposals call for:

- Better methods of gathering and sharing information so that everyone involved in health and safety can better track the performance of workplaces and sectors and better identify current and emerging risk factors such as those in the underground economy. An important first step would be the development of a broadly accepted set of performance metrics.
- Providing recognition and incentives for high-performing employers and sharing best practices with other workplaces to bring them up to an appropriate level of health and safety. There is a particular focus on the characteristics and needs of smaller employers.
- Increasing the involvement of the workplace parties in making decisions about OHS system priorities, and earlier involvement in other decisions that affect them, such as the development

of regulations.

- Providing training to improve foundational knowledge on the rights and responsibilities of workers (existing and entry-level) and supervisors.
- Rigorous training requirements that set a minimum standard for high-risk activities such as working at heights in the construction industry, with tougher penalties where standards for training, supervision and the provision and use of safety equipment are not followed.
- Better approaches to reaching and protecting the most vulnerable workers in our economy who sometimes face challenges in understanding and exercising their rights and responsibilities.
- More collaboration and integration between agencies delivering health and safety services and a more flexible range of enforcement tools for health and safety inspectors.
- Extending business owner and CEO leadership in building a culture of health and safety and worker involvement. This includes leadership in the implementation of an effective health and safety management system and the support for the effective operation of Joint Health and Safety Committees and Health and Safety Representatives, along with better training for these representatives.
- Ensuring better accountability for spending and results. This will result in better performance measurement and transparent reporting on progress in priority areas.

Improving Workplace Safety in a Period of Economic Uncertainty

While we continue to make steady progress in workplace health and safety in Ontario, there is considerable room for accelerated improvement. Over the last five years, Ontario annual workplace fatalities have ranged from a low of 73 to a high of 101, with thousands more seriously injured. This review was preceded by the tragic collapse of a high-rise swing stage that resulted in four deaths and serious injuries to a fifth worker. Workplace fatalities have continued to occur throughout the course of this review, including some in confined spaces such as storage silos. All of these incidents arose in the course of activities that are known to involve a high degree of risk. The overall vision of Ontario's OHS system is the elimination of workplace fatalities. The Panel believes that its recommendations represent an opportunity for the system to take the next step toward achieving the worthy goal of zero workplace injuries and illness.

At the same time, the Panel's consultations revealed a broad recognition of today's economic environment. Canada's economy is improving, but that improvement is tenuous and operates in an increasingly competitive global context. Any further regulatory requirements should be focused on filling significant gaps and tackling demonstrated risks. It should also be cost effective and be well supported by the health and safety delivery organizations. Evidence-based changes must be made in a manner that helps achieve measurable improvements in the workplace, which, in turn, will improve competitiveness. Engaging employees in improving health and safety leads to better business results, and everyone from the CEO to workers can contribute to a safe work environment.

The Panel noted that upwards of \$220 million, funded by employers' insurance premiums, is currently being spent on the delivery of health and safety services in Ontario. While greater investments would

further improve prevention or enforcement, or both, the Panel believes that our recommendations can be fully funded within the current spending allocation. The Panel believes that, if implemented, these changes would support better health and safety outcomes in the workplace and improved value for the investment that employers make in prevention and enforcement.

Reinforcing the Importance of the Internal Responsibility System

In developing its recommendations, the Panel learned a lot from business owners and managers, workers, unions and from the professional staff who deliver health and safety services. There is a strong commitment to the Internal Responsibility System (IRS) that Dr. James Ham described when developing Ontario's first *Occupational Health and Safety Act* in the 1970s. Ham emphasized that, together with government as standard setter and enforcement services provider, the workplace parties — CEOs, unions, employers, workers and supervisors — play a significant role in promoting workplace health and safety. He emphasized that the role of each of these parties is proportional to the degree of control they exercise in the workplace. Ham also established three fundamental requirements of the IRS: the right of workers to know about workplace hazards, to participate in health and safety matters in the workplace, and to refuse work they consider to be unsafe.

There is a widespread view that Dr. Ham got it right: government can set standards, monitor performance and enforce regulations, but it can't be in every workplace. For that reason, it is important that all key participants in the workplace understand their rights and responsibilities under legislation and regulations. It is also vital that they are able to discharge those rights and responsibilities with support, and without fear of reprisal.

Major Gaps and Opportunities

The Panel heard about significant gaps in current approaches to workplace health and safety, and about opportunities to improve them. Some of its major conclusions and recommendations are described below. In each case, the Panel was guided by advice received in consultations as well as its understanding of Ontario's workplaces and health and safety delivery systems, and the context in which these operate today.

- A number of sophisticated business owners and CEOs understand that health and wellness in the workplace goes hand-in-hand with productivity, quality and profitability. The average cost of a lost-time injury (LTI) in Ontario is well over \$100,000 once the costs of re-hiring, re-training and lost productivity are factored in. Many employers understand this and consider it an incentive to meet or exceed regulated standards. These high-performing workplaces are not the main focus of this review and/or its major recommendations.

The Panel believes that exemplary employers can be models for other employers, and are well-positioned to encourage their business partners to achieve or exceed compliance with health and safety standards. For this reason, the Panel recommends an accreditation program for top-flight employers that encourages them to influence the health and safety performance of contractors in their supply chains.

Many employers do not fall into this high-performing category. Some do not fully understand

their rights and responsibilities; others would do better with improved guidance and support from health and safety delivery organizations on the most cost-effective means of achieving compliance in their sector or workplace. This is particularly the case for small workplaces. Several of the Panel's recommendations focus on these issues. For example, it is proposed that guidelines and codes of practice be developed to better advise employers of how regulations apply to their specific workplace.

- It is also important that the delivery system is efficient, aligned and responsive to the realities of workplaces and in particular, to running and working in a small business. Where new requirements are contemplated in this report, the Panel has made an effort to view these from the perspective of a small business owner, and to be sensitive to cost, while at the same time making them accessible and understandable for workers. In general, system resources should be focused on high-risk work and areas of conscious non-compliance. Where risk is low and employers would benefit from support, there should be an emphasis on supporting compliance, with enforcement coming into play only where necessary.
- Certain employers do engage in wilful non-compliance. They know that they are required to provide proper training, supervision and safety equipment to workers and to inform them of workplace hazards, but they actively avoid doing this. It is not unusual to find these employers operating in the underground economy. These workplaces, particularly those in which risks are high, should be the focus of integrated and targeted enforcement strategies. These strategies should be informed by better intelligence gathering and sharing; greater collaboration between delivery departments and agencies; and tougher, escalating, penalties for non-compliance.
- The nature of workplaces, work and the workforce has changed dramatically since the *Occupational Health and Safety Act* was enacted in the 1970s. Contract and part-time work is more common, and there are increasing numbers of non-English-speaking workers. Some of these workers start their journey to Canada by paying offshore employment brokers and consultants and often start working in Canada without appropriate documentation. They tend to work in the underground economy, in seasonal agricultural work or the construction industry and are highly vulnerable.

This has been a key area of focus for the Panel. Tackling the issues associated with this high degree of worker vulnerability requires a multi-pronged approach that includes: active outreach efforts to vulnerable worker communities; providing information in multiple languages and through simple and low-cost mechanisms such as posters, websites and call centers; co-ordination with the Government of Canada on temporary foreign worker issues; and an investigation into employment brokers who recruit undocumented workers to perform vulnerable underground jobs.

- During consultations, the Panel heard that workers sometimes experience reprisals for raising health or safety concerns. This places vulnerable workers in a particularly difficult position. While such reprisals are prohibited under Section 50 of the *Occupational Health and Safety Act*, there is no quick remedy available to workers who complain about this. The Panel recommends a new fast-track process for these cases. This would involve MOL inspectors working in close co-operation with the Ontario Labour Relations Board to achieve fast and meaningful redress for workers affected by the most serious reprisals.
- The IRS relies on key workplace parties to understand and exercise important health and

safety rights and responsibilities. This starts with CEOs, who are in the best position to influence and drive a culture that recognizes the importance and economic imperative of health and safety in their organizations. This is not happening in enough workplaces. Too many new and young workers start work without adequate training or a good understanding of their rights and responsibilities under the Act. Injury claim rates are almost double for new workers in their first several months on the job than for those with more experience. There are also gaps in supervisors' knowledge of their legal responsibilities, leading them to attract legal liabilities and to incur risks to workers.

Both of these areas require greater attention. The report recommends a more intensive focus on workplace health and safety in high schools, with foundational knowledge being a precondition for graduation. This upstream approach should also be reflected in colleges and universities, trade schools and apprenticeships, and in the curricula of engineering and business schools. The Panel recommends that, before starting work, all workers receive a brief primer on their rights and responsibilities in the area of health and safety. A similar recommendation is made with respect to supervisors.

The content of these primers would be provided to employers free of charge and in multiple formats and languages (in paper format and in downloads for viewing on computers or hand-held devices such as cell phones, smart phones and similar devices). Cost would not be an issue. Indeed, research tells us that there should be a productivity dividend because safe workplaces are more profitable workplaces. A short investment of time would be involved, and employers who already provide the same or better entry-level training would be unaffected by the new requirement.

- As a general principle, the Panel feels that as risks to workers increase, so should the requirements for standardized, accredited and rigorous training — and penalties for non-compliance. When a company owner, CEO, manager or supervisor sends workers into a highly hazardous situation without adequate training, supervision or safety equipment, thus putting the workers under threat of serious injury or death, there should be severe consequences, with the severity of penalties increasing as the degree of risk to workers increases. The Panel recommends that the same sort of mandatory, standardized and accredited training required in Ontario's mining and logging sectors be extended to the construction and other high-risk sectors.
- The current system of delivering health and safety services in Ontario is served by hard-working and passionate professionals. The system is nevertheless fragmented and would benefit from clearer lines of accountability and a single accountable executive responsible for oversight, strategy, prioritization, and performance measurement and reporting.

In response to numerous persuasive and compelling submissions, the Panel has concluded that the provincial prevention mandate should be realigned. It recommends that all prevention activities be more closely integrated, that roles be clearly defined and that there be stronger lines of accountability to a single and accountable Chief Executive responsible for prevention. The Chief Executive would head a prevention organization under the auspices of the Ministry of Labour, and would report directly to the Minister. This executive would work with the Deputy Minister of Labour and a competency-based multi-stakeholder Prevention Council to develop and execute an integrated occupational health and safety strategy for the province. The Chief Executive in concert with the

Council would be required to submit an annual report to the Minister of Labour on the performance of the integrated OHS system. The responsibilities of the Executive and the Council would be set out in the *Occupational Health and Safety Act*. The six Health and Safety Associations would continue to operate outside of the ministry structure, but would report to the proposed Chief Executive.

The Chief Executive would be required to develop a system-wide strategic plan, clear priorities and a transparent means of measuring and reporting on performance. In moving to a more integrated and accountable system, the right balance would need to be achieved between the development of more common standards across the delivery organizations, and the maintenance of a sector-sensitive and customer-focused approach to delivery. These proposals would fill a large accountability gap and are considered to be a precondition for success in driving recommendations in other areas of this review.

The Panel also makes recommendations on approaches to implementation, including critical early priorities for action within the first 12 months. This includes the creation of the proposed new prevention organization within the MOL. It is also recommended that an implementation team and an interim Prevention Council be established as soon as possible to work closely with labour and employer stakeholders to implement the critical early priorities.

If this report is fully implemented, every Ontario worker and supervisor will receive mandatory information about workplace rights and responsibilities before they start their job; every construction worker will receive entry-level training on construction site safety; there will be rigorous training standards for workers who work at heights and on other high-risk activities; there will be tougher penalties for those who place workers at risk of death or serious injury; employers will receive better support in understanding and meeting health and safety standards and greater recognition where these are exceeded; the needs and realities of operating small businesses will be accommodated in labour policies; there will be a renewed prevention organization with focused leadership heading a more integrated, efficient and accountable system; and there will be more information and better protection available for vulnerable workers. More open and transparent consultation with the workplace parties coupled with these and other recommendations in this report will assist in promoting safer and healthier workplaces.

Introduction

On January 27, 2010, the Minister of Labour appointed Tony Dean as Chair of the Expert Advisory Panel on Occupational Health and Safety (the Panel) to conduct a review of Ontario's OHS system. With the support of a panel of health and safety experts from labour groups, employers and academic institutes, the Chair was asked to recommend structural, operational and policy improvements to the OHS system.

Mandate of the Review

The Chair was to deliver recommendations to the Minister of Labour on how the OHS system partners and their activities could be best aligned and supported to achieve the common goal of safe and healthy workplaces. This goal is to achieve improved compliance and zero workplace injuries, illnesses, and fatalities.

Recommendations arising from the review should focus on potential areas of improvement that will help Ontario build upon its current position as a leader in workplace health and safety.

Scope of the Review

The review's aim was to generate recommendations that would strengthen Ontario's OHS system, with the goal of improving compliance and eliminating workplace injuries, illnesses and fatalities.

The Panel

The membership of the Panel was announced on March 18, 2010. The Panel's role was to assist the Chair in identifying issues, provide input on the stakeholder consultation process and discuss findings and potential policy options that would inform the Chair's final recommendations.

The Panel met eight times during the year, joined meetings with stakeholders and, where their schedules permitted, attended the public consultation meetings held around the province.

Academic	Employers	Labour
Joan Eakin Professor, Dalla Lana School of Public Health University of Toronto	Jattinder Dhillon VP Health, Safety, Wellness and Business Continuity Loblaw Companies Limited, Canada	Bud Calligan Retired Secretary-Treasurer Carpenters District Council of Ontario
H. Allan Hunt Senior Economist W.E. Upjohn Institute for Employment Research Michigan, U.S.	John A. Macnamara VP Health, Safety and Environment Hydro One	Vernon Edwards Director of Occupational Health, Safety and Environment Ontario Federation of Labour
Carolyn Tuohy Senior Fellow School of Public Policy & Governance University of Toronto	Domenic Mattina VP Sales and Estimates Mattina Mechanical Ltd.	Carmine Tiano Director, WSIB Advocacy & Occupational Services Provincial Building and Construction Trades Council of Ontario

Process

Five key principles guided the review: a focus on improving workplace health and safety, broad engagement of stakeholders, reliance on evidence-based research, collaboration and transparency.

The Occupational Health and Safety System Review Consultation Paper was released in April 2010. The paper identified the stakeholders to be consulted and some of the issues the Panel would include in its review:

- The roles and responsibilities of the OHS system partners – Ministry of Labour (MOL), Workplace Safety and Insurance Board (WSIB) and the Health and Safety Associations (HSAs)
- The impact of the underground economy on workplace health and safety
- The protection of vulnerable workers
- The use of incentives to motivate superior health and safety performance
- Linking the procurement of goods and services to health and safety performance
- The role of joint health and safety committees
- The impact of advancements in technology/innovation on health and safety
- Mandatory entry-level health and safety training

Stakeholders and interested parties responded to the questions posed in the consultation paper.

Approximately 250 electronic responses were received.

Seven regional consultation meetings were held in London, Windsor, Ottawa, Sudbury, Thunder Bay and two in Toronto. The Chair and members of the Panel attended and heard over 80 verbal presentations. Everyone who registered to speak at the meetings was heard. More than 200 individuals were also present at these meetings and, with the exception of the heavily attended final meeting in Toronto, everyone attending was given an opportunity to share their experience and ideas, and many did.

Over 100 formal written submissions were received from various stakeholders, professional organizations and individuals. The Chair and/or the Policy Secretariat staff attended approximately 50 bilateral meetings.

The Panel and its Chair are very appreciative of all those stakeholders who contributed their time and ideas to this review. We'd like to express particular appreciation to the:

- Ontario Federation of Labour and its affiliates
- Business Council on Occupational Health and Safety
- Ontario Chamber of Commerce
- Canadian Manufacturers and Exporters
- Ontario General Contractors Association
- Provincial Building and Construction Trades Council of Ontario
- Ontario Mining Association
- Council of Ontario Construction Associations
- Canadian Federation of Independent Business
- Ministry of Labour
- Workplace Safety and Insurance Board Prevention Division
- Health and Safety Associations

Without the insight their input provided, the Panel would not be as well informed to be able to confidently make its recommendations.

Support to the Panel

A Policy Secretariat made up of a Director, four Policy Advisors (from the MOL, the WSIB and HSAs) and a part-time Administrative Assistant provided support to the Panel in all aspects of its work. They co-ordinated issue-specific working groups and analysed stakeholder input.

Eight working groups composed of staff from the Policy Secretariat, the MOL, the WSIB, HSAs and other ministries/agencies (Ministries of Revenue; Citizenship and Immigration; Government Services; Training, Colleges and Universities, Institute for Work and Health) conducted research, sought input from stakeholders and prepared reports on the specific issues being examined in the Review. The

working group findings, including options and recommendations, were presented to the Panel for their review and consideration.

The Panel formed a subcommittee in response to stakeholder concerns regarding issues affecting small business. The subcommittee reviewed scientific research as well as health and safety programs targeted at small business in Ontario and presented a report to the Panel.

The Institute for Work and Health (IWH) examined both Canadian and international occupational health and safety organizations, programs, service delivery and best practices in jurisdictions relevant to the Ontario experience. Their findings were reported to the Panel and were made public on the review website. The IWH also supported the information-gathering activities of the working groups and made presentations on key research findings to several working groups.

Supporting a Health and Safety Culture in Ontario

Many of the submissions the Panel received support the view that improved workplace health and safety requires strong societal support. Beliefs, attitudes and behaviours about the value and protection of human life apply equally to family, community, school and the workplace. The perceptions and values of managers and workers can result in actions that promote health and reduce injuries. A culture of safety is complex and influenced in many ways throughout society.

Effective leadership clearly contributes to the positive health of an organization. Throughout the consultations, participants stressed the importance of the attitudes and behaviours of owners, employers, managers and supervisors in defining the safety culture of a company. Preparing the next generation to be good leaders is an important responsibility. The Chair of the Panel met with a number of individuals extensively involved in influencing the future generation of citizens, workers and workplace leaders. The Panel is particularly appreciative of this work and of the specific suggestions made by Paul Kells, Rob Ellis and Shirley Hickman regarding community awareness of injury prevention, health and safety education in schools and training for employers, workers and supervisors. Entities such as Safe Communities Canada, My Safe Work / Our Youth At Work and Threads of Life are non-government organizations working to create awareness and sustainable change in society.

The role of government organizations is also a crucial one, particularly in terms of education. The continuum of education and training begins in the education system, where a foundation of knowledge is provided, and flows into the workplace, where training and learning continue. Cultivating positive community norms around health and safety — whether at home, in the community or in the workplace — establishes a safety culture in Ontario.

Another key role of government in society lies in crafting and enforcing legislation. Enforcing the *Occupational Health and Safety Act* is a vital element of a comprehensive approach to setting and supporting acceptable societal behaviour and norms.

As Ontario continues to experience significant population growth from immigration, many new immigrants and new workers have not had the benefit of emerging from the Ontario education system.

As a result, we need to ensure that information is available at literacy levels and in languages that can be understood by our emerging workforce. Community leaders and community linkages through social, religious and private organizations become even more important. Through these channels, health and safety values and information can be shared with new immigrants, increasing their knowledge and employability.

A number of recommendations described later in the report are framed in the context of fostering and supporting a culture of health and safety in Ontario at the societal and workplace levels. This can be achieved in the school systems; through community organizations; by government policies, practices and programs; and by reinforcing health and safety in workplaces through legislation and enforcement. In this way, the Ministry of Labour and workplace health and safety organizations are not alone in contributing to the creation of safer and healthier workplaces.

New Prevention Organization

Ontario's OHS system is complex, and its system of delivery is distributed through different organizations with distinct cultures. This has been further complicated by gradual changes in the locus of responsibility for the delivery of some important services.

While the enforcement role carried out by the Ministry of Labour has been relatively consistent over time, the structure that supports the delivery of prevention services has evolved over the years. The following chronology illustrates this evolution.

- 1914: The Workmen's Compensation Act was enacted, creating the Workmen's Compensation Board, and permitting the establishment by employers of sector-specific safety associations.
- 1915: The first association (Electrical Utilities Safety Association) was formed. Over the next half-century, several additional industry-specific safety associations were formed and received funding from the Workers'/Workmen's Compensation Board (WCB), but the mandate of these associations was not explicitly outlined in the *Workers'/Workmen's Compensation Act (WCA)*.
- 1964: The WCA was amended to explicitly identify "education in accident prevention" as the purpose of the safety associations. While this clarified the primary purpose of the associations, no explicit recognition of the WCB's role in governing prevention was enshrined in legislation.
- 1965: The WCB established the Safety Education Department to integrate resources and coordinate the programs of the associations.
- 1984: The Department was succeeded by the Occupational Health & Safety Education Authority (OHSEA), a tripartite oversight body for the safety associations.
- 1990: Bill 208 created the Workplace Health and Safety Agency and outlined its explicit prevention mandate in the *Occupational Health and Safety Act*. The OHSEA was disbanded, and responsibility for the safety associations was transferred from the WCB to the WHSA. The Agency's prevention responsibilities, codified in Bill 208, included the establishment of standards regarding certification, development and delivery of education and training;

the funding of occupational health and safety research; and the oversight and funding of designated entities (the industry-specific safety associations, training centre, and medical clinic).

- 1997: Bill 99 (the *Workplace Safety and Insurance Act, 1997*) abolished the WHSA and transferred the prevention function (including responsibility for the HSAs) to the prevention division of the newly created Workplace Safety and Insurance Board as of January 1, 1998.

Since 1998, the province's OHS system has been centred on the dual authority of the WSIB (responsible for prevention, including oversight of the HSAs) and the MOL (responsible for inspection, investigation and enforcement).

A number of stakeholders, both internal and external, have advised the Panel that the current structure no longer meets the needs of the province or of individual workplaces. Issues most commonly raised include role clarity, accountability, and integration.

Role Clarity

All of the organizations involved in delivery are working hard and achieving results. There has been no criticism of the capacity, commitment or performance of any organization. The majority of comments about delivery involved the relationships between the organizations, role clarity and the need for greater integration.

There is considerable lack of clarity regarding the roles and services provided by the system partners, particularly in the area of prevention. Workplace engagement by multiple system partners would not, in itself, be a concern if it were planned and orchestrated towards common goals or clearly identified priorities. However, this does not always appear to be the case, leading to internal tension between delivery partners and confusion in both the business and labour communities as to who is providing what services.

Improving role clarity will be an important driver of a more connected system, leading to the provision of better support, training and enforcement services. This is especially true for Ontario's small-business community, which often does not have the time or resources to interpret and navigate the mostly unconnected services provided by several delivery organizations.

Stakeholders and staff of the delivery organizations frequently cited several concerns about role clarity:

- There is insufficient knowledge within the delivery organizations of the roles performed by their counterparts.
- Employers and unions do not have a sufficient understanding of the roles of the delivery organizations; this is particularly true where workplace audits overlap with workplace inspections.

The WSIB's Workwell audit program was frequently mentioned as an example; many stakeholders believe Workwell to be overly prescriptive and involved in evaluating occupational

health and safety compliance (and issuing administrative penalties). This is viewed as being in conflict with the clear responsibility of MOL inspectors to evaluate occupational health and safety compliance.

- The Panel heard about inconsistent advice and approaches being provided by partner organizations in responding to the same workplace incident.
- Approaches to service delivery and key business processes across the prevention organizations are also inconsistent (for example, in charges for services and the length and content of training programs).

While sector-specific sensitivity to client needs is important, so is a commitment to achieving clearly defined system-wide priorities and core programs. There must be an appropriate balance between these two priorities.

- There was a view that while the roles of MOL inspectors' are clear, their mandate to inspect, investigate and enforce should be supplemented with an ability to consult and advise employers on approaches to compliance.

Some employers and inspectors support this broader role; employers have told the Panel that it would help to receive advice on approaches to compliance while an inspector is on site and has perhaps issued an order.

- There was a view that inspectors should play a more active role in the process of addressing complaints about alleged employer reprisals where workers have raised health and safety concerns. This is considered in detail under the "Improved Protection from Reprisals" section of this report.
- With respect to the overall prevention function, there is a strong and widespread belief that the responsibility should be removed from WSIB.

Employer and labour stakeholders contend that the Board's insurance functions and challenges posed by the unfunded liability detract from a focus on prevention, arguing that prevention services should therefore be consolidated into a separate organizational management structure. Some suggested establishing a separate entity dedicated to prevention, while others favoured the idea of transferring prevention to the Ministry of Labour. There are examples of both of these models elsewhere in Canada.

System Integration

Like many other widely distributed delivery systems, the current delivery organizations have developed distinct, and in some cases, sector-specific cultures, and some have legacies that stretch back for decades. While there is some recognition, at all organizational levels, that each organization is part of a "system," there is not a strong culture or tradition of collaboration across boundaries.

The OHS system currently lacks a singular authority to drive and be accountable for integration and direction, though efforts have been made in recent years to develop common strategies. These efforts are outlined below.

- In 1999, the Occupational Health and Safety Council of Ontario was established as a forum for senior executives to meet regularly and provide collective leadership and strategic direction for the OHS system.
- The recent realignment and consolidation of the HSAs from 14 associations down to 6 was undertaken in the spirit of improving integration and performance, and focused on reducing administrative expenses and redirecting them to increased staff presence in the field.
- The system partners have successfully collaborated with employers and labour unions on many joint initiatives. For example, following the December 2009 amendments to the OHSA to address violence and harassment in the workplace, the system partners collaborated to create guidance material and a “toolbox” for employers.

Notwithstanding these individual collaborative efforts, the system partners and stakeholders recognize that further significant improvement can only come with a clearer accountability framework and better integration. To that end, a series of fundamental principles were identified as essential for an optimal OHS system. These key principles include:

- A system-wide occupational health and safety strategy led by a central authority.
- A formal, inclusive, transparent and meaningful consultation process with employers and unions on the system strategy, with the central authority ultimately responsible for its content and implementation.
- Sectoral and regional input on how priorities are to be implemented.
- A commitment to achieving a level of performance that exceeds basic compliance with legislation and regulations.
- Greater attention to cross-sector priorities (for example, vulnerable workers and small business).
- A commitment to minimizing duplication and improving co-ordination of workplace interventions, with greater transparency for stakeholders about the roles of partners and about the models they use to target such interventions.
- Efficient use of resources.
- Improved sharing of data, information and solutions across the system, to help identify appropriate interventions for particular workplace circumstances and worker needs.
- Links to organizations outside the system that can contribute to improvements in occupational health and safety.

System Structure

In considering alternative options for delivering prevention services, the Panel identified the following necessary governance and operational features as critical elements of an optimal model, regardless of its location:

- The creation of a chief executive position, responsible for the effective integration, operation and performance of the prevention system. This position and its key responsibilities would be

enshrined in the OHSA. The Chief Executive would report to the Minister.

- An annual report to the Minister from the Chief Executive on OHS system performance regarding priorities, objectives and targets. This report would also be made available to the public.
- A single, integrated, strategic plan with one set of priorities for the OHS system partners.
- High-level involvement of employers, labour and other major stakeholders through a new Prevention Council.
- A unit responsible for co-ordinating central prevention functions, including
 - data management and standardization
 - performance measurement
 - knowledge management
 - reporting and communication
 - evaluation of workplace health and safety practices to support WSIB incentive programs
 - establishing standards for
 - the certification of persons for the purposes of the *Occupational Health and Safety Act*
 - first aid training
 - occupational health and safety training programs and providers
 - the operation of safe workplace associations, the training centre, and the occupational health clinic
 - the accreditation of employers who implement successful workplace health and safety management systems

Having regard to these key elements of an optimal delivery structure, and the benefits of a model that would maximize integration, communication and collaboration, the Panel concluded that the responsibility for both prevention and enforcement should be located within one organization. Moving this responsibility to the Ministry of Labour, with an appropriate governance framework, would accomplish these goals and would also avoid the costs and time involved in building a new stand-alone prevention organization.

Recommendation 1

A new prevention organization should be created within the Ministry of Labour.

The new organization would be headed by a Chief Prevention Executive, and would feature a multi-stakeholder Prevention Council; each would have specific powers explicitly defined in the *Occupational Health and Safety Act*.

The Chief Prevention Executive would be appointed for a five-year term, would report to the Minister of Labour, and would have a status effectively equivalent to that of the Deputy Minister of Labour.

Members of the Prevention Council would also be appointed for a fixed term, and appointments would be staggered to ensure continuity of the council membership from year to year. Members could also be reappointed at the Minister’s discretion.

A key function of the Chief Prevention Executive, to be enshrined in law, would be to provide an annual report to the Minister on the performance of the integrated OHS system. This report would also be made available to the public.

The Council would provide input and advice to the Chief Prevention Executive as the new prevention organization and functions are being developed, as well as on major matters of planning, standard setting, strategy and implementation. Additional proposed functions of the Chief Prevention Executive and the Council members are illustrated in the following table.

	Accountabilities	Functions
Chief Prevention Executive	<ul style="list-style-type: none"> Appointed by the Minister of Labour for a five-year term Directly accountable to the Minister of Labour, with a status effectively equivalent to the Deputy Minister of Labour Accountability to the Deputy Minister would be limited to administrative matters (for example, compliance with provincial government Directives) 	<ul style="list-style-type: none"> Leader of the prevention organization; accountable for OHS system integration and performance Collaborates with the Deputy Minister on an integrated occupational health and safety strategy, and executes the prevention elements of the integrated strategy Develops key performance indicators Develops standards, and accredits organizations that meet those standards Oversees service delivery, including the Health and Safety Associations (HSA CEOs would report directly to the Chief Prevention Executive) Manages central prevention functions Submits the annual report to the Minister detailing OHS system performance and progress against established targets
Council members	<ul style="list-style-type: none"> Appointed by the Minister of Labour, with input from stakeholders Council Chair would be selected by the appointed members 	<ul style="list-style-type: none"> Advises the Minister regarding recruitment of the Chief Prevention Executive Involved in <ul style="list-style-type: none"> setting priorities for the purposes of the integrated strategic plan reviewing the annual business plan setting key performance indicators and standards development of annual report Endorses and advises on significant proposed changes to the prevention system design, funding and delivery model

This organization would be funded by combining the WSIB prevention and HSA budget allocations in place at the time that the Panel was appointed; however, the combined budget would now be managed through the office of the Chief Prevention Executive.

These proposed changes are designed to eliminate or minimize duplication between the prevention and enforcement pillars of the OHS system, and are intended to build on the WSIB-led effort to consolidate and realign the HSAs. With these changes, Ontario workplaces will ultimately benefit from an increased focus on core prevention activities, within a better-integrated OHS system.

Training Standards

Creating, Implementing and Auditing Training Standards

The new prevention organization will be responsible for ensuring effective and efficient development and delivery of occupational health and safety (OHS) training. Many stakeholders identified the need for consistent content, quality and cost; these issues could be addressed by having one organization responsible for developing non-sector-specific material. Much of this training will relate to common content across programs, while other training will be sector-specific. This report makes a number of recommendations about the development of new training programs, the specific need for standards-related content, the quality of training including delivery, evaluation and auditing. There needs to be greater communication and co-ordination between organizations that have a mandate to deliver health and safety education.

In designing the role of the new prevention organization consideration should be given to the Australian National Training Framework as a very comprehensive quality assurance training model. Key features of the Australian model include focusing on quality of services and outcomes for clients; the portability of qualifications, so that employers can expect the workers they hire to have the same skills, no matter where they were trained; and having simple, transparent standards that are clear to all workplace parties.

Recommendation 2

The new prevention organization should create, implement and audit training standards that would apply to training required by the *Occupational Health and Safety Act* and regulations.

The prevention organization should involve stakeholders, including management and labour, and should have the authority to do the following:

- Develop standards for overarching development, design and quality of training
- Develop standards to define training to meet statutory requirements (competent, adequate, etc.)
- Develop, review and update standards for training curriculum (content, duration, methodologies, evaluation, etc.) that provide for equivalency for programs that meet or exceed standards

- Identify and approve training programs
- Develop standards for and accreditation of training providers and training delivery agents
- Develop mandatory training standards for instructors/trainers
- Determine technology standards required for effective delivery of training
- Audit training compliance against standard
- Determine training records to be included in a central data base

The progression and level of the prescriptive nature of standards established by this body would vary according to individual program objectives.

OHS Awareness and Training Strategy

Recommendation 3

The new prevention organization should work with other ministries and training organizations to develop a graduated occupational health and safety Awareness and Training Strategy to establish Ontario as a jurisdictional leader in OHS continual learning and training.

- An enhanced standard of awareness and training has the potential, over time, to raise the health and safety knowledge and skills of all workplace parties and to build support for an effective IRS. Positive campaigns championing the corporate and societal benefits of healthy and safe workplaces would build public awareness, encourage employers to adopt workplace prevention measures and foster support for prevention-focused public policy.
- The strategy, to be phased in on a priority basis, would consist of public awareness campaigns focused on positive social norms.
- Embedded OHS awareness information in school curricula beyond primary and secondary schools; adding to curriculum for private schools; work with post-secondary institutions on curriculum for disciplines including teaching, medicine, nursing, engineering and various vocational programs in colleges.
- There would be mandatory training for various workplace parties and for identified high-hazard sectors and jobs.
- The strategy would also make use of community-based and bridging programs to ensure these workers have greater occupational health and safety knowledge as they enter the workforce.

Social Awareness

As indicated earlier, social attitudes toward health and safety have a significant effect on behaviour. In addition to increasing health and safety knowledge in the education system, social marketing is another way to encourage positive health and safety attitudes. Social marketing has played an important role in influencing attitudes about seat belt use, not drinking and driving and smoking behaviour. However, attitudes do not change quickly and most effective messaging techniques vary according to target audience, issue and various other factors.

In the past, the WSIB has undertaken various social marketing campaigns with different target audiences and media delivery approaches. Creating longitudinal, financially supported public awareness strategies has proven effective in shifting other societal behaviours. Communication coupled with enforcement strategies has been successful in shifting societal beliefs, attitudes and behaviours. The prevention organization should aim to shift norms of tolerance around health and safety, with the ultimate goal of eliminating workplace injury, illness and fatalities.

Recommendation 4

The new prevention organization should develop a multi-year social awareness strategy that will significantly reduce public tolerance of workplace injuries, illnesses and fatalities and shift attitudes, beliefs and behaviours around occupational health and safety.

Resources should be allocated to research the current perceptions and norms that shape the attitudes and beliefs of employers, workers and the public regarding workplace health and safety in Ontario. Using the baseline data derived from the research, a multi-year campaign would be designed to foster social norms that significantly reduce public tolerance for workplace injuries, illnesses and fatalities. Funds should be protected for a social awareness strategy that is implemented over the course of several years to allow for the necessary societal change to be measured. Research indicates that it could take up to 10 years to shift public perceptions and norms in a sustainable way.

Health and Safety Research

Currently, the WSIB funds occupational health and safety research. The Research Advisory Council (RAC) oversees the WSIB's research grants program and advises the WSIB Board of Directors on research initiatives and on the allocation of research grants. The Council is made up of representatives from the employer, worker, and research communities, the HSAs, and the WSIB. Research priorities are aligned to the strategic priorities of Ontario's prevention system and funding decisions are guided by expert peer review assessment of quality and excellence. The RAC is an indispensable component of Ontario's occupational health and safety research network. It generates tested, relevant knowledge not just in prevention but in each of the three broad areas of occupational health and safety – prevention, compensation, recovery.

In addition to funding research projects directly, the WSIB provides financial support to a number of entities involved in conducting research and disseminating research findings. The Institute for Work and Health (IWH) is the most prominent organization, but a number of Centres of Research Expertise (CREs) have been formed in the past few years to focus specifically on certain health and safety hazards (for example, occupational disease and musculoskeletal disorders). Through the CREs, the RAC has been highly successful in developing networks of researchers and in working across disciplinary and organizational boundaries.

Research is an important tool that supports innovation. It functions as a conduit to new ideas and concepts. It can also help deal with ongoing problems, identify new issues and identify solutions. Research priorities should be informed by ongoing dialogue with leaders of the prevention system.

Throughout the public consultation process there was a call for more participatory research projects involving stakeholders and workplace parties to evaluate workplace interventions and to explore new and emerging concerns.

Recommendation 5

The responsibility for research funding, and the resources to support it, should be transferred to the Chief Prevention Executive, and the Research Advisory Council mechanism for advising on the funding of research should be retained.

Assigning responsibility for administration of research funding (primary, secondary, and applied research related to prevention, compensation and recovery) to the prevention organization would allow for greater integration and alignment of research with the priorities established by the OHS system and the knowledge needed to address those priorities. It is the Panel's intent that the current funding allocations for research be sustained.

Research with an applied focus can have direct application to workplaces while other research contributes to knowledge generation that precedes work leading to practical application. Both forms of research would benefit from a close relationship with knowledge management collection and provision functions created within the new prevention organization.

Data and Performance Measurement

The OHS system does currently benefit from the ability to collect and access relevant data from a variety of sources. In particular, each of the MOL, the WSIB, and the HSAs collect extensive data from individual employers and workers on injuries, illnesses and workplace exposures.

However, stakeholders have expressed concerns about the information collected. Several issues have been raised with respect to the suitability and integrity of occupational health and safety data:

- Stakeholders question the reliability and validity of certain measures as predictive indicators of occupational health and safety performance. Lagging indicators (for example, injury/illness frequency and costs) predominate, and the identification of valid leading indicators has been a challenge.
- The databases maintained by each of the system partners are not universally accessible by all partners, or by stakeholders; furthermore, current information-sharing agreements between partners, if they exist, are limited in scope.
- Because the system databases lack a common identifier — such as a federal Business Number — data collected by the system partners is not easily linked.
- Existing databases do not link to data sources from organizations external to the system (for example, Statistics Canada, Environment Canada, the Electrical Safety Authority) that may provide meaningful information on occupational health and safety.
- Many of the system partners' data-collection processes are still paper-based, manually intensive and reliant on a number of voluntary data fields, which could further impact reliability

and validity.

- Public visibility of and access to the data are limited.

Without addressing these concerns, efforts to reliably measure and predict occupational health and safety performance at the workplace or system levels will be futile.

The Panel has acknowledged that occupational health and safety performance could be measured with much greater accuracy with an improved data collection and sharing framework. However, as an initial step, the Panel believes that greater standardization of existing data elements and processes would significantly improve the reliability and validity of data collected.

Concerns about the reliability and validity of different data elements are often the result of differing mandates and jurisdiction of organizations. This is evident in fatality statistics, where WSIB and MOL figures differ because they relate to different populations of workers, due to differences in legislative coverage. Data on non-fatal lost-time injuries may be even less reliable as an indicator, due to the potential for misrepresentation of the actual incident through claims management. Furthermore, because injury data are lagging, they are not predictive; that is, a figure of zero injuries does not necessarily indicate zero or low risk of injury.

The measurement of leading indicators is more complex and depends heavily upon developing a shared vision of success and the measurement of the factors that will predict this success. In recent years, individual system partners have committed resources to developing leading indicators that would ideally complement the extensive (and primarily lagging) statistical data currently collected. There is still, however, a need to align these initiatives in the context of a common vision.

Recommendation 6

The new prevention organization, in conjunction with the Ministry of Labour and stakeholders, should develop a common database that can be used for planning and evaluation purposes. The system partners, in collaboration with stakeholders, should:

- **develop a common vision of success, and the data needed to determine it;**
- **review the occupational health and safety data currently collected, to improve its reliability and validity for the purpose of performance measurement;**
- **identify additional information on workers and employers that could be collected and shared, subject to any legislative limitations or restrictions; and**
- **review, and where appropriate, consolidate existing leading-indicator initiatives under the new prevention organization.**

Once the appropriate OHS data has been identified and standardized, the OHS system can turn its attention to increasing the effectiveness and usage of this data. In doing so, the following key principles must be considered:

- The system should identify a central authority responsible for the validation, analysis, reporting and dissemination of data.
- System partners should be obliged to share relevant data with all partners, and commit to making standardized, reliable OHS data accessible to stakeholders and the general public. Stakeholders should be consulted to determine what data is of a confidential nature, and access to this data should be limited.

Recommendation 7

The new prevention organization should establish a business centre to carry out the following functions:

- **standardize, manage and disseminate OHS data;**
- **retain and share information on system partner interactions with employers;**
- **provide analytical expertise regarding provincial OHS data; and**
- **manage and authorize stakeholder and public access to data.**

Standardization and management: The proposed centre's database would be populated with the data currently residing in each of the system partners' existing databases. It would be responsible for ensuring the accuracy, currency and completeness of the data, as well as for standardizing the data for dissemination.

Sharing information on system partner interactions: Having detailed, real-time information on engagements with employers available online would help the system partners identify appropriate interventions and reduce instances of unplanned duplication of services.

Analytical expertise: An authoritative source of data and information can inform the public of operational and policy decisions by system partners and stakeholders regarding prevention activities. By establishing this centre as the single authoritative source for provincial OHS data, the partners are unified with respect to analysis and interpretation.

Access to data: Stakeholders have expressed interest in having enhanced access to OHS data online, either updated in real time, or as up-to-date as possible. This centre would establish the necessary processes for increased online access to data, while recognizing the need to appropriately protect employer and worker privacy and confidentiality.

Information and Resources

Despite the abundance of health and safety and prevention information, stakeholders often found it very difficult to locate. Furthermore, there is overlap and duplication, it is not consistent and it is not organized, it is frequently out of date and not presented in an intuitive manner. Stakeholders repeatedly identified the need for high quality, consistent and accessible information resources and services.

The MOL, the WSIB and the HSAs all produce various pamphlets, guides, fact sheets and other resource materials. While there has been close collaboration on some of these products, they tend to be developed independently with little review or input from the partner organizations. The Panel heard much about the duplication and inconsistency of resource material content and the inconsistency in cost and access across these organizations. In recent years, access to resource materials has been expanded through the Internet. Work is currently underway to develop a single portal to access this information or to link various organizations' websites, but access is still cumbersome and incomplete.

The new prevention organization should work with other external organizations like the Canadian Centre for Occupational Health and Safety (CCOHS) which produces and disseminates a wide range of credible and relevant tools and resources to improve workplace health and safety programs. CCOHS is a federal organization governed by a tripartite council with representatives from government, employers and labour.

There is also a significant number of local, national and international websites that include information supporting prevention, innovation and technology vis-à-vis health and safety in the workplace. Efforts should be made to build upon existing sources within Ontario, Canada and internationally.

Stakeholders also told the Panel that information about health and safety innovations in workplaces are not being systematically captured and shared. Stakeholders encouraged the health and safety prevention system to find ways to support the sharing of innovative practices and emerging technology in a way that advances healthier and safer work environments. OHS system staff are exposed to new and innovative health and safety practices on a daily basis. They know what works and what doesn't, and have creative ideas on improving situations and solving problems. It is important that there be ways to gather and share this knowledge.

Each of the partner organizations operate contact centres that provide basic health and safety information related to the *Occupational Health and Safety Act* as well as some technical assistance. The majority of this contact currently takes the form of phone calls to the various organizations. The MOL operates a call centre that has staff trained in the OHS, regulations and MOL policies and procedures and answer routine questions about rights and responsibilities in the workplace. The WSIB's Prevention Contact Centre is the main point of contact for employers and/or their representatives requiring assistance relating to health and safety and prevention incentive programs, such as: Safe Communities Incentive Program (SCIP); Safety Groups; experience rating programs (NEER, MAP, CAD-7); certification compliance, young worker programs and social core campaigns, SafeJob Hotline – 1-866-723-3562, as well as cost and firm allocation enquiries. Each of the HSAs also have resources dedicated to responding to telephone inquires from employers, workers, the general public and prevention system staff about training programs (certification and first aid), prevention system incentive programs and general health and safety issues.

Recommendation 8

The new prevention organization should be given responsibility for knowledge management and should create a leadership position to oversee this responsibility.

Consolidating responsibility will create a unified system-wide vision and approach to knowledge management. This will lead to a more efficient use of resources, and the end result will be improved support and service to the workplace parties: faster access to knowledge; faster problem solving; more efficient question/problem handling; consistency, uniformity and elimination of duplication.

Creating a single knowledge base of innovative health and safety practices will allow for consistently high-quality information. Furthermore, it will be easier to determine what is included and will be more readily accessible to staff in the OHS system and to external stakeholders.

The collection of information should be:

- a collaborative effort;
- reviewed for relevance and where necessary validated;
- organized in a central repository;
- made available to the workplace parties in a way that is easily accessible; and
- perceived by users as neutral, secure and authoritative.

Recommendation 9

The new prevention organization should work with the Ministry of Labour, the Workplace Safety and Insurance Board and Health and Safety Associations to review the current inventory of health and safety information and resource products. This should lead to the development of a strategy to consolidate materials, increase the consistency of content and improve availability.

Such a review and rationalization of products will increase the quality and availability of information and products while eliminating duplication, thereby freeing up resources to develop new products. The Panel heard consistently that workers and employers, particularly small business, need high-quality resource information that was easy to understand and helped them achieve compliance. Such materials must be available in languages other than English and French and must consider literacy issues.

The prevention system would benefit from establishing partnerships with organizations such as CCOHS to provide greater availability of high quality resources and contribute to further maximizing resource sharing.

Recommendation 10

The Ministry of Labour should work with the new prevention organization to create a health and safety poster that explains the key rights and responsibilities of the workplace parties, including how to obtain additional health and safety information and how to contact a Ministry of Labour inspector. It should be mandatory to post this in the workplace.

The Panel heard quite consistently that many workers had little to no understanding of the

Occupational Health and Safety Act or their rights as workers or the obligations of employers. This was particularly the case with vulnerable workers. A health and safety poster should be available in multiple languages so that the poster displayed in the workplace is in the majority language of the workplace. If a poster is not available in the majority language of the workplace, an English poster must be posted.

Measures to Support the Internal Responsibility System

All workplace parties are responsible for health and safety under the *Occupational Health and Safety Act* (OHSA). The greatest responsibility generally falls upon the employer, as they control the workplace, but supervisors and workers also share responsibility. The concept behind this structure, coined by Dr. James Ham as the Internal Responsibility System (IRS), is the foundation of the OHSA. MOL inspectors cannot be in all workplaces at all times, so workplace parties need to take responsibility for health and safety hazards to the extent that they can control them. It was confirmed during the review that this remains the right approach to take in legislation and that generally, the responsibilities are placed correctly. However, stakeholders did raise concerns that without adequate knowledge of health and safety, and with fear of reprisal, workers are impeded from fully participating in the IRS. Recommendations regarding concerns about education, training and reprisal are contained elsewhere in the report.

Since the Ham Commission and the introduction of the OHSA, the world of work and nature of work has changed in society. New work relationships have emerged making the concepts of employers, supervisors and workers less clear in some circumstances. Arrangements with independent contractors, temporary agency employers and workers, and transient workplaces have become more common, blurring the lines of responsibility as described within OHSA. Workplace parties need to develop a shared understanding of the new responsibilities that come with these arrangements, which were not as common when the OHSA was developed. Updated guidance on the placement and acceptance of responsibility for health and safety that flow from these new work arrangements would benefit all the parties.

In addition to placing responsibilities on individuals for health and safety, the OHSA establishes requirements for Joint Health and Safety Committees (JHSCs) or Health and Safety Representatives (HSRs), depending on the number of workers in the workplace. JHSCs are required in workplaces where 20 or more workers are regularly employed or where designated substances are present. They consist of, at minimum, a worker member chosen by workers and an employer member chosen by the employer. Section 9 of the OHSA assigns a variety of responsibilities to the JHSC, including workplace inspections and meetings to address health and safety issues. Workplaces with 6–19 regularly employed workers are required to have an HSR who is chosen by the workers. Section 8 of the OHSA assigns similar responsibilities to the HSR, as does section 9 to JHSCs.

The Panel heard frequently that effectively functioning JHSCs and HSRs are essential to an effectively functioning internal responsibility system. However, some employers do not comply with these requirements, delay the replacement of individuals, or do not support the work of the committee or member. The issue of enforcement related to non-compliance is addressed in a later section of this report. Section 9 of the OHSA requires that employers respond in writing within 21 days to a written

recommendation made jointly by the employer and worker co-chairs. A concern frequently expressed to the Panel was that if an issue is unresolved at the committee, the worker member is stymied from escalating the issue formally with management.

Recommendation 11

The Ministry of Labour should update the Guide to the Occupational Health and Safety Act and the Guide for Joint Health and Safety Committees and Representatives in the Workplace to address changes in the workplace and workplace relationships with particular emphasis on a small business lens, covering the following issues:

- **roles and responsibilities of workplace parties;**
- **temporary employment agencies; and**
- **functions of JHSC and Health and Safety Representative.**

Roles and Responsibilities of Workplace Parties

The nature of work and workplace relationships has changed dramatically since the OHSA was first developed. The effect of these relationships on responsibilities under the OHSA is often not clearly defined or understood. Some of the roles, and their corresponding responsibilities, that must be clarified are:

- Supervisor
- Constructor
- Broker
- Project owner
- Independent contractors
- Construction vs. Maintenance

Temporary Employment Agencies

The temporary staffing industry in Ontario is extensive and services a diverse variety of workplaces in the public and private sectors. The OHSA recognizes both the temporary employment agency and the client as the employer of temporary workers. As such, both employers — the temporary agency and the client with whom the agency has contracted to supply labour — are subject to duties and responsibilities as set out under the OHSA. Shared responsibilities can be a source of confusion and uncertainty and can result in neglect. The area of training is prone to this confusion; therefore, the Guides should include a section to clarify the training obligation between the temporary employment agency and client as the employer of temporary workers.

The Function of the JHSC

Many stakeholders believe that the role of multi-workplace JHSCs needs clarification. A multi-workplace JHSC is established and maintained by one constructor or one employer for more than one workplace or parts thereof. Multi-workplace JHSCs help geographically diverse employers meet their legislative requirements while at the same time ensuring alignment with the underlying principles of JHSCs. The Panel recommends that the Guides include a section explaining how multi-workplace JHSCs can function, including how knowledge sharing among covered workplaces can improve their effectiveness.

A number of submissions raised the issue that, despite it being the function of the JHSC to make recommendations, the need for consensus within the JHSC is sometimes used as a means to block the furtherance of recommendations. The Panel believes that either co-chair should be allowed to make a recommendation directly to the employer. Where efforts to resolve an issue are unsuccessful, a remedy such as this would ensure that the employer is made aware of the concern and has the opportunity to address the issue.

Recommendation 12

The *Occupational Health and Safety Act* should be amended to allow a co-chair of the Joint Health and Safety Committee to submit a written recommendation to the employer if an issue is unresolved following repeated attempts to reach consensus.

This recommendation would trigger Section 9(20), requiring the employer to respond to recommendations within 21 days in writing. This documentation will help the inspector assess whether due consideration has been given to recommendations made by the committee and co-chairs.

Certification Training for JHSC Members

The *Occupational Health and Safety Act* requires that at least one worker member and one employer member of the JHSC be trained or certified to help them fulfil their duties as committee members. Under the *Workplace Safety and Insurance Act*, the WSIB has the authority to develop standards for certification training and to approve trainers.

The current certification training program has been in place for over ten years. It has two parts — basic certification, which provides overall knowledge on occupational health and safety topics applicable to any workplace, and workplace-specific hazard training, which focuses on the major hazards of the particular workplace. The Panel heard consistently that certification training is important, but that its content and delivery have eroded over time.

In early 2009, the WSIB began a review of the certification training program and standards. The main objectives of the review were to:

- develop recommendations for improvements to ensure the highest quality training is being delivered;
- reach out to stakeholders by forming the Certification Review Committee and a formal consultation process; and

- review current technologies used by the certification program and provide guidance for future enhancements that would improve the delivery and administration of the program, and the training of participants and their employers.

The review was concluded in 2010 and the WSIB is expected to announce the outcome and recommendations imminently. Panel members support the continuation of the certification training program and the WSIB's review process, which involved extensive consultations with stakeholders. The Panel has no specific recommendations related to the content or any required changes to the program.

Recommendation 13

The Ministry of Labour should create a mandatory requirement for training of Health and Safety Representatives.

Workplaces with 6–19 regularly employed workers are required to have an HSR who is chosen by the workers. Section 8 of the OHSA assigns responsibilities to the HSR, as does section 9 to JHSCs. However, while mandatory training is required for JHSC members, no such training is required for HSRs.

In consultation with stakeholders, the prevention organization should develop a standard to establish the criteria for the development, delivery and evaluation of HSR training requirements. The prevention organization should manage that standard. It should take into consideration the literacy and language challenges present in the diverse workforce population of Ontario. The program should have multi-modal/modular delivery options (e-learning, blended, self-paced, on CD/DVD, hard copy, classroom, etc.) and be multilingual, as required. The duration of this training would be less than for certified members, but more than for entry-level workers. The HSR training should be flexible, accessible and available for a nominal fee to employers, and should include refresher training. Equivalency would be available to employers, and the employer would be responsible for record keeping.

The introduction of mandatory training for all health and safety representatives should be adapted to businesses with multiple locations and high turnover as well as for short duration workplaces. The Panel notes that small, short term construction projects could be particularly affected by this recommendation in that the composition of the workforce could be regularly changing. An employer would be assigning workers on the basis of skills needed for the particular work and the assignment of a trained HSR to a crew could be difficult, particularly if the work was of short duration. The OHSA currently allows multiple workplaces to be represented by one multi-workplace JHSC. A similar provision to allow a health and safety representative to cover more than one workplace of an employer for construction projects may address such an issue.

Health and Safety Training in the Workplace

As previously mentioned, Ontario's 1976 *Royal Commission on the Health and Safety of Workers in Mines* (Ham Report) developed the term Internal Responsibility System (IRS). This report further identified the need for individual and collective rights and responsibilities of workplace parties paralleling their level of control. To carry out its roles, it is critical that each party have access to information about working conditions. *The Occupational Health and Safety Act* defines the roles and responsibilities of various workplace parties in establishing and maintaining a safe and healthy workplace. If the workplace parties are not aware of, or do not understand these roles and responsibilities, the IRS's ability to function is compromised. In certain small workplaces that are without the most basic knowledge, workplace parties are limited in their ability to identify and discuss hazards and remedies.

One of the ways in which employers meet legal obligations to impart health and safety information to protect workers is through training. A recent systematic review by the Institute for Work & Health (IWH) concluded workplace training and education have a positive impact on the health and safety practices of workers (Robson *et al*, IWH, 2010). There was, however, insufficient evidence that training on its own reduced injury rates. These findings support the multi-faceted approach set out in the recommendations of the Panel: filling gaps in training requirements, promoting key elements of OHS performance such as management commitment, encouraging worker participation, influencing societal norms, and creating processes to identify and remove hazards. To make significant improvements to workplace health and safety, all of these elements are necessary.

The public consultations revealed that there is a lack of foundational, basic information among workers about the existence of "the green book"; that Ontario has an *Occupational Health and Safety Act*; and that owners, employers, supervisors and workers all have rights and responsibilities. In the view of the Panel, everyone needs to be aware of these rights and responsibilities, regardless of their role within the workplace.

Throughout the public consultations, the Panel heard how pivotal the supervisory role is in setting the tone of health and safety in a workplace or on a job site. Supervisors are instrumental in reinforcing safe work procedures and in establishing a culture of safety. However, the Panel also heard that, due to an absence of information and training, many supervisors are not prepared for this responsibility. It is imperative that supervisors have, at a minimum, a basic understanding of workplace health and safety and of their responsibilities under the legislation. The Panel also heard that supervisors cannot always fulfil their health and safety role if the employers and owners they report to are not sufficiently committed to occupational health and safety. The Panel has emphasized the importance of leadership throughout the report, and later in the report makes a recommendation to raise health and safety awareness among new business owners.

Research points to the elevated risk of occupational injury among workers who are new to their jobs and in firms that are newly established (Breslin, Smith, 2006). This is compounded if they do not have foundational health and safety knowledge or an awareness of job hazards, if they lack the ability to learn safe-work procedures, or if they do not know about other prevention measures before starting work.

Recommendation 14

The Ministry of Labour should require mandatory health and safety awareness training for all workers.

A standard should be developed to establish a health and safety awareness program for all workers. It should be a requirement that workers receive this information at the entry level, prior to being exposed to workplace hazards. The content for such a standard exists within many of the programs that health and safety associations have developed and within the programs of many employers. Labour and employer stakeholders should be consulted in the development of this standard and regarding the content of a specific program.

Development should take into consideration the needs of small business and the literacy and language challenges present in the diverse workforce of Ontario. The program should be available in multiple formats (web-based, CD/DVD, hard copy, classroom, smart phones, etc.) to allow for various delivery options inside and outside the workplace. To have the broadest reach into the community, the program should be accessible to all employers and workers, through non-traditional venues (settlement offices, Employment Ontario, community programs). The awareness program should be developed and maintained by the prevention system and be free to workers and employers.

This program should include:

- the rights and responsibilities of workers and supervisors;
- the roles of workplace parties, including HSRs and JHSCs;
- the role of the MOL, HSAs and the WSIB;
- the definition of a hazard;
- the right to be informed of hazards in the workplace;
- the Workplace Hazardous Materials Information System as a cornerstone of understanding chemical hazards; and
- the introduction of occupational disease and the concept of latency and illnesses.

Equivalency should be available to employers who already have an entry-level program that covers the content set out in the standard. The training standard would allow employers to compare it to their own programs to determine equivalency. The employer would be responsible for record-keeping and there would be no refresher requirement.

The MOL should consult with employer and labour stakeholders to determine the time required to develop the standard and a model program, as well as the time workplaces would require for providing it to workers who have not previously received such information.

Recommendation 15

The Ministry of Labour should require mandatory health and safety awareness training for all supervisors who are responsible for frontline workers.

The OHSA requires employers to appoint competent persons as supervisors. A supervisor is deemed competent if they are qualified by knowledge, training and experience in the work they oversee; are familiar with the OHSA and regulations that apply to their workplace; and have knowledge of actual or potential workplace hazards and advise workers about these hazards. This training will contribute to ensuring that individuals appointed as supervisors are competent.

A standard should be developed to establish a health and safety awareness program for all supervisors who are responsible for frontline workers. While the definition of supervisor under the OHSA is broad, the Panel feels that this training requirement should initially be directed at those who supervise frontline workers who are generally exposed to the greatest health and safety hazards. Supervisors should have to receive this information upon being appointed to a position. The content for such a standard exists within many of the programs that health and safety associations have developed as well as those of many others. Labour and employer stakeholders should be consulted in the development of this standard and in the content of a specific program for supervisors.

Development should take into consideration the needs of small business and the literacy and language challenges present in the diverse workforce of Ontario. The program should be available in multiple formats (web based, CD/DVD, hard copy, classroom, smart phone, etc.) to allow for various delivery options inside and outside the workplace. To have the broadest reach into the community, the program should be accessible to all employers and workers through non-traditional venues (settlement offices, Employment Ontario, community programs). The awareness program should be developed and maintained by the prevention system and be free to supervisors and employers.

This program should include:

- the rights and responsibilities of workers and supervisors;
- the IRS and the roles of workplace parties including HSRs and JHSCs;
- the role of the MOL, HSAs and the WSIB;
- the recognition, assessment, control and elimination of hazards in the workplace; and
- where resources and assistance are available.

Equivalency should be available to employers who already have a program for supervisors that covers the content set out in the standard. The training standard would allow employers to compare it to their own programs to determine equivalency. The employer would be responsible for record-keeping. Since supervisors frequently stay in their jobs for a long time, there would be a need to keep up with new legislation and the introduction of new chemicals or processes in the workplace through additional or refresher training.

The MOL should consult with employer and labour stakeholders to determine the time required to develop the standard and a model program, as well as the time workplaces would require for providing it to supervisors who have not previously received such information.

Recommendation 16

The Ministry of Labour and new prevention organization should develop mandatory entry-level training for construction workers as a priority and consult with stakeholders to determine other sectors that should be subject to mandatory training for workers.

Recommendation 17

The Ministry of Labour and new prevention organization should develop mandatory fall protection training for workers working at heights as a priority and consult with stakeholders to determine additional high-hazard activities that should be subject to mandatory training for workers.

The Panel has taken the view of risk and the escalation of risk very seriously in framing its recommendations. When an employer sends a worker into a highly hazardous situation without adequate supervision, training or safety equipment, that worker is put under serious threat of injury, illness or death. Some sectors and work activities are more hazardous by their nature; therefore, the training and preparation to undertake such high-hazard work must be more rigorous, standardized, accredited and subject to audit.

Ontario has experience in the mining and forestry sectors through the Ministry of Training, Colleges and Universities' modular programs, which can be used to inform how to enhance and advance these types of training programs in other sectors or high-hazard activities.

Development of such a comprehensive sector- or activity-wide program requires the commitment and involvement of stakeholders. Submissions from the construction sector highlighted a desire and need for the construction sector to be the next sector to embrace a comprehensive mandatory minimum training standard. Fatalities in the construction sector over the last five years have ranged from a high of 27 deaths per year to a low of 16, the highest of any sector. As of November 16, 2010, there were 22 fatalities in the construction sector, of which 15, or 68.2%, were caused by falls. Improved and standardized fall protection training is a priority, as falls from heights continue to be the number-one source of fatalities in construction.

In pursuing construction-sector mandatory training, guidance may be found in the Australian National OHS Construction Induction Training program; the US Occupational Safety & Health Administration's Outreach Training Program for Construction, and Quebec's ASP Construction program. These programs were identified during a jurisdictional review to inform the Panel of leading practices in this sector.

While a centralized database is under consideration and development, a portable proof of training record is needed to support the mobility of construction workers. Consideration should be given to

using a “passport” such as those currently being used by the United Brotherhood of Carpenters and Joiners of America. Any training record developed must be an accurate and secure record of training to provide reliable evidence to an employer, supervisor or inspector.

Combating the Underground Economy

In 2004, the Ontario government first committed to targeting the underground economy in the construction industry. To fulfil this commitment, many ministries and agencies have worked together to identify underground activity and address the many aspects of non-compliance that go along with it. In spite of these efforts, the underground economy remains a serious challenge. It is a major source of revenue loss to both government and the workers’ compensation system, it threatens the competitiveness of legitimate businesses, it compromises the health and safety of workers and the public, and it undermines employment standards and apprenticeship programs.

A number of specific initiatives to combat the underground economy in construction are currently underway or being planned. Some key participants in these activities include the Ministries of Labour; Revenue; Training, Colleges and Universities; Municipal Affairs and Housing; Government Services; the Canada Revenue Agency; the Workplace Safety and Insurance Board; Tarion Warranty Corporation; and the Electrical Safety Authority. A concern expressed to the Panel was that the government’s efforts to reduce the underground economy, although promising, are proceeding without a central point of oversight, and without co-ordination.

A common element of the current initiatives is the sharing of information among regulators about the compliance of employers with laws related to taxation, occupational health and safety, business registration, employment standards, workers’ compensation and trades’ qualifications. Such information sharing is critical to the identification and deterrence of underground operators, but there are challenges related to data compatibility, protection of privacy and co-ordinating efforts.

In 2007, the Ontario government passed the *Regulatory Modernization Act* (RMA) to make it easier for regulators to share and publish compliance-related information; to collaborate on enforcement activities; and, for officers and inspectors enforcing provincial legislation to share field observations (give one another a “heads up”). The RMA generally applies to provincial legislation that has been prescribed in the Designations Regulation. The Panel believes that regulators should identify additional opportunities to share information, carry out multi-ministry/agency enforcement activities, and make better use of the “heads up” provision.

The Panel heard of the importance of legitimate employers becoming further engaged in combating underground business practices. In the Incentives section of this report, the Panel recommends financial rewards for employers who qualify suppliers on the basis of their health and safety performance. If such rewards were also tied to doing business with suppliers who operate legitimate companies, it would be seen as an important contributor to reducing underground activity.

The Panel’s recommendations focus on establishing dedicated leadership of the government’s current multi-agency strategy, better intelligence gathering and sharing, and targeted interventions designed to disrupt illegal and unsafe activities.

Recommendation 18

The government should make a single provincial entity responsible for overseeing and co-ordinating a province-wide strategy to address the underground economy. This strategy could include links to federal and municipal initiatives.

Dedicated leadership and the co-ordination of a province-wide strategy to address the underground economy would maximize the effectiveness of individual initiatives currently underway, as well as their collective impact. The transition from local pilot projects to province-wide activities would be easier, as would the building of new partnerships for future initiatives, within Ontario and across jurisdictions and other levels of government.

Under a province-wide strategy, regulators would use the experience gained from current multi-ministry/agency compliance initiatives to collectively develop and carry out new ones. In the short term, these initiatives would continue to focus on the underground economy in the construction sector. In the longer term, enforcement campaigns would also target other sectors. Stakeholders have reported underground activity, including the presence of undocumented workers, in other industries, for example, restaurant, transportation, building cleaning services, farming and the garment trade.

From the Panel's perspective, another important means of fighting the underground economy lies in influencing consumer behaviour. The Panel recommends periodic, province-wide campaigns to raise public awareness of the negative impact of the underground economy in the home renovation industry and the personal liability risks of hiring an underground contractor. The government could approach local homebuilders' associations, home renovators' councils and the building supply industry to help promote the message. Municipalities could be engaged to provide applicants for building permits, especially homeowners, an information package about underground contractors, and about general health and safety obligations.

Recommendation 19

The entity overseeing a province-wide strategy on the underground economy should consult regulators and the Ministry of Economic Development and Trade on expansion of the Designations Regulation under the *Regulatory Modernization Act, 2007* in order to enhance the capacity of regulators to detect and combat underground activity.

Implementing this recommendation would involve a collective review by regulatory ministries to identify relevant statutes, provisions of statutes, or regulations that could be designated under the RMA. The Panel supports maximizing the potential of the RMA and proposes that government consider designating selected provisions of the *Workplace Safety and Insurance Act, 1997* for the purposes of the "information sharing" and "multiple authorizations" provisions.

Recommendation 20

The Ministry of Labour, in collaboration with other regulators and levels of government, should take steps to acquire information and data that health and safety inspectors would use to identify and reduce underground economic activity.

The Panel supports making more information about construction projects and contractors available to the MOL, other regulators and the public. Specific steps the MOL could take include, for example, making amendments to the Regulation for Construction Projects that would require a constructor to:

- post the Notice of Project (NOP) in a conspicuous place at the project;
- file the registration form (Form 1000) describing subcontractors at a project electronically with the MOL, and keep it up to date;
- in a place visible to the general public, if the project is a home renovation, post the name and WSIB registration number of the constructor, and the hotline number (1-877-202-0008) to report concerns to the MOL.

Requiring that the NOP be posted would ensure that specific information about the constructor (for example, master business licence number; WSIB account number) is visible to all parties on site, including enforcement staff of other regulators likely to be at the project from time to time, such as municipal building inspectors or Electrical Safety Authority staff. This, in turn, makes it easier to ensure that a constructor is complying with requirements to notify the MOL of a project, and is operating a legitimate business.

Mandatory electronic filing of registration information (Form 1000) with the MOL would permit inspectors to verify company registrations under other statutes, such as the WSIA, and then alert other regulators to violations that could be linked to underground practices or that otherwise compromise health and safety. (Full implementation would depend upon the MOL having the capacity to maintain an appropriate database.) Engaging the public would increase the likelihood of detecting unregistered and unsafe residential construction work, and reinforce efforts to change societal attitudes about workplace accidents and underground business practices.

The Panel recognizes that to effectively enforce the proposed amendments to the Regulation for Construction Projects, MOL inspectors need to be able to do more than issue orders. Therefore, the Panel recommends that inspectors have the ability to issue tickets to a constructor for non-compliance with requirements to post and/or submit the NOP to the MOL; registration requirements; and requirements to post other information at a project, as prescribed.

The ability of MOL inspectors to enforce occupational health and safety requirements on construction projects and to detect underground practices may also be strengthened by giving them access to information recorded on building permits issued by municipal authorities. Inspectors have advised the Panel that underground operators often do obtain a building permit but fail to submit the required notice of a project to the MOL. The MOL and Ministry of Municipal Affairs and Housing are currently developing a pilot project under which a few large municipalities would share such information with the MOL.

Following completion of the pilot project, if an evaluation reveals that building permit data are of significant value to MOL inspectors, and that information-sharing agreements with municipalities are not an effective means of giving inspectors this data, the Panel would support amendments to the *Building Code Act* as a way to ensure consistent, province-wide access to building permit information for the MOL.

Recommendation 21

The Ministry of Labour should target workplaces and sectors operating in the underground economy for proactive inspections after normal working hours.

The Panel heard much about underground work being conducted on evenings and weekends to avoid detection by inspectors. The MOL's current policies and procedures to enforce the OHSA should include proactive inspections on evenings and weekends. This would increase the probability of detecting employers operating in the underground economy, and is also likely to be one of the few ways to directly improve working conditions for vulnerable workers, especially those who are undocumented or refugees, and generally known to work in the underground economy. Identifying specific workplaces may be a challenge, but could be achieved, at least in part, through active outreach to organizations that support vulnerable subgroups of the general workforce.

Incentives

Workplaces in Ontario are responsible for ensuring that they are in compliance with both the OHSA and WSIA, but minimum compliance alone will not allow us to realize Ontario's vision of zero workplace injuries, illnesses, and fatalities. Workplaces therefore need encouragement to go beyond minimum compliance in order for the province to build a strong health and safety culture.

To achieve this goal, the OHS system should provide appropriate incentives and disincentives to employers and, where appropriate, other workplace parties. Currently, the MOL applies enforcement-based disincentives to motivate behaviour, while the WSIB administers direct financial incentives (rebates, premium rate reductions) and disincentives (surcharges, withholding of rebates). In addition, some HSAs are involved with incentives, either in co-operation with WSIB, or through offering their own sector-specific recognition programs for superior performers.

Exclusive reliance on the OHS system's financial incentive and disincentive programs, however, will not sufficiently motivate every workplace to improve its health and safety performance. In addition to providing these direct incentives, the system can adopt or promote other strategies to motivate health and safety performance, such as:

- **Accreditation:** Currently, the *Workplace Safety and Insurance Act, 1997* gives the WSIB the authority "[t]o develop standards for the accreditation of employers who adopt health and safety policies and operate successful health and safety programs."
- **Supply chain relationships:** Some employers take the initiative to link health and safety performance to preferential supply chain relationships. Employers may require potential

bidders to incorporate health and safety into the design stage of a project or, alternatively, may make eligibility conditional on meeting minimum standards of health and safety performance.

- **Non-monetary recognition:** Some stakeholders have indicated that meaningful recognition of health and safety leaders can motivate employers to improve health and safety, and several stakeholder submissions included proposals for non-monetary incentives. The Panel did not reach consensus on what constitutes meaningful non-monetary recognition, but acknowledges that there is an opportunity for the OHS system to work with stakeholders to define and establish a meaningful recognition program.

Financial Incentives

The WSIB currently administers two types of financial incentives:

- Practice programs, which include the Safe Communities Incentive Program (SCIP) and the Safety Groups Program, are voluntary; participants must implement prescribed health and safety improvements in their workplaces to receive a rebate.
- Performance programs, which apply to employers that pay a minimum of \$1,000 in annual premiums; rebates or surcharges are issued based on an employer's "experience rating" (a calculation of claims costs and/or frequency over a specified period). Performance programs include the New Experimental Experience Rating (NEER) program, the Council Amended Draft 7 (CAD-7) plan for large construction employers, and the Merit Adjusted Premium (MAP) program for small employers.

With the exception of SCIP, all of the current programs are either partially or entirely based on claims experience, with particular emphasis on lost-time injury (LTI) claims. This reliance on LTI figures has resulted in criticism from stakeholders who suggest that experience rating does not contribute to positive health and safety outcomes. A 2008 Morneau Sobeco report commissioned by the WSIB echoes this criticism, suggesting that experience rating programs can encourage cost-minimizing behaviours and claims management practices, rather than promoting investment in long-term health and safety in the workplace.

The WSIB has, in recent years, been reviewing its experience rating programs with a view to better aligning incentives with demonstrated improvement in workplace health and safety practices. With that in mind, the Panel strongly believes that financial incentives should not simply be tied to claims experience. An ideal incentive program should reduce emphasis on measures such as LTI by taking into account evidence of OHS practice improvements in the workplace, and reward employers for those improvements.

The Panel also supports the development of appropriate incentives for self-insuring Schedule 2 employers. Since Schedule 2 employers are charged for every dollar of every claim (plus an administration charge), self-insurance does act as an incentive to reduce claims and costs. However, the limitations of relying on LTI and costs as an incentive apply equally for Schedule 2 employers.

Recommendation 22

The Workplace Safety and Insurance Board, in conjunction with the new prevention organization and stakeholders, should review and revise existing financial incentive programs, with a particular focus on reducing their emphasis on claims costs and frequency.

In view of the Panel's recommendation to shift the prevention function out of the WSIB, it must be noted that the WSIB will retain the responsibility to calculate and evaluate claims costs, and set or adjust premium rates accordingly. To that end, the WSIB recently initiated a comprehensive funding review, the scope of which will include a review of existing employer incentive programs. Nonetheless, the Panel also recognizes that the new prevention organization and the WSIB must collaborate on the administration of future incentive programs. Co-operation between the two authorities will be necessary to ensure that these programs consider evidence of health and safety improvements in the workplace, as opposed to strict reliance on claims experience alone.

Accreditation

The Panel was advised of the WSIB's efforts in the past two years to develop a pilot accreditation program based on the Canadian Standards Association's Z1000 standard for health and safety management systems. Prior to the current WSIB initiative, a multi-stakeholder working group developed an accreditation framework in June 2006 for the WSIB's consideration.

Though the Panel does not explicitly endorse either of these programs, it does recognize that accreditation should be a responsibility of the new prevention organization, and that an accreditation program should be developed — with participation of both employer and labour stakeholders — to reward employers who implement successful occupational health and safety management systems. Consideration should include how accreditation might apply to small business.

Recommendation 23

The new prevention organization, in conjunction with stakeholders, should develop an accreditation program that recognizes employers who successfully implement health and safety management systems.

Supply Chain

The Panel recognizes that while larger employers may be better equipped to evaluate the health and safety of suppliers, smaller employers may be precluded from doing so. Therefore, the new prevention organization, in conjunction with stakeholders, should develop appropriate standards and guidance material to encourage employers to incorporate health and safety qualification into their supply chain relationships. Employers that incorporate such a process could then be eligible for a financial incentive from the WSIB.

Recommendation 24

Concurrent with the proposed review of financial incentives, the new prevention organization should work with the Workplace Safety and Insurance Board to develop appropriate financial incentives that reward employers who qualify suppliers based on their health and safety performance.

Enforcement and Penalties

Enforcement

The MOL is currently responsible for enforcing the OHS Act and its regulations. This is generally performed by inspectors dedicated to specific sectors such as construction, health care, mining, industrial, and so on. Inspectors visit workplaces in response to complaints or incidents of injury or death or as proactive inspections. While at a workplace, inspectors will generally review the functioning of the JHSC, any outstanding or unresolved issues and perform a walk-through inspection of some or all of the workplace. Proactive inspections are guided by sector strategy plans based upon which sectors and workplaces have greater hazards or injury experience.

The OHS Act provides inspectors with a number of enforcement tools to obtain compliance with health and safety requirements. They start with compliance orders, which describe actions the employer is obliged to take to become compliant with specific legal requirements. Where there is immediate risk of injury to a worker, a “stop work” order is issued to prevent work from continuing until compliance is achieved. In addition to orders, inspectors can issue tickets or initiate prosecution for non-compliance (these are described in a subsequent section of this report). The Panel heard from stakeholders that the Ministry has in recent years placed an emphasis on enforcement by inspectors and left compliance assistance to staff of the health and safety associations. This has reportedly been done to provide for role clarity and effective use of resources between the two entities.

Employers, in particular small business, have expressed a concern that this division of responsibility does not serve them well in their efforts to comply with health and safety. In their words, “We are required to make a change by an inspector and then we have to go somewhere else to find out what it is or how to do it.” While employers accept that an inspector cannot or should not become involved in determining complex solutions, employers expressed support for an approach that would point them in the direction of a solution, or “compliance assistance”.

Employer stakeholders were also concerned about the inconsistent application of the various enforcement tools available to an inspector, which, for the same contravention, could range from a simple discussion of required changes to the issuance of orders all the way to tickets or prosecution. Employers generally accepted that strong enforcement was appropriate for high-hazard and serious contraventions, particularly where there were repeat occurrences. They did feel, however, that where there was not an egregious contravention and the employer was either unaware of a minor contravention or needed help in understanding how to comply, that a more supportive approach from inspectors was appropriate.

MOL inspectors indicated that such a compliance assistance approach was more prevalent in the past. They did indicate that should there be a return to such practice, they need a clear operational policy framework to guide their work as well as guidance and resource material to support such efforts. They expressed concern that in the absence of such support, they may be subject to regulatory negligence action should an incident occur after an employer follows an inspector's advice.

Labour stakeholders expressed concerns that inspectors did not sufficiently focus enforcement action on some specific areas of non-compliance. They identified the areas of training and compliance with JHSC and Health and Safety Representative sections of the Act as requiring consistent enforcement.

Recommendation 25

The Ministry of Labour should review its current enforcement policy and supports for inspectors with a view to creating a consistent approach of tough enforcement for serious and wilful contraventions, as well as compliance assistance where guidance and support for employers help achieve compliance.

The Panel believes that such an approach will be supportive of small business in particular, while still creating sufficient deterrence for non-compliance in high-hazard situations. In reviewing this issue, the Panel was presented with information from other jurisdictions, such as British Columbia and Australia, which have sought to find a balance between tough enforcement and compliance assistance. Such an approach still provides Health and Safety Associations with a significant role in supporting compliance in complex or extensive health and safety requirements, while also providing more immediate assistance where this is possible or appropriate.

Penalties

In accordance with the *Provincial Offences Act*, MOL inspectors have the authority to issue a ticket or summons for minor OHS violations, and may also initiate prosecutions for certain violations. Currently, the maximum fine resulting from a ticket or summons is \$1,000, though most violations of this nature are subject to a set fine, which generally do not exceed \$300. A successful prosecution, though, may result in more severe penalties; individuals may be subject to a fine of \$25,000 or imprisonment, while corporations may be fined up to \$500,000.

The Panel heard from some stakeholders that the existing penalties applicable for a ticket or summons do not sufficiently deter non-compliance, particularly as the set fines have not been amended in years to account for inflation. Others have suggested that tickets should be used for a broader range of contraventions including non-compliance with administrative requirements.

British Columbia and Nova Scotia currently use administrative monetary penalties (AMPs) for OHS contraventions. Offences are prescribed by regulation with fixed fine amounts set as penalties. Labour stakeholders and some MOL inspectors have expressed support for AMPs as an intermediate enforcement tool to be applied to offences for which a relatively small fine would not provide sufficient deterrence. Employers view the current system of tickets and prosecution as adequate and are concerned that AMPs will not be consistently applied.

As a potential alternative to financial penalties and/or imprisonment, some stakeholders have proposed “creative sentencing” to link punitive measures to improved health and safety outcomes. This concept is discussed more extensively in the Additional Issues section of this report.

Recommendation 26

The Ministry of Labour should review the offences for which tickets can be used for enforcement, and request that the Attorney General review and revise the existing set fines for *Occupational Health and Safety Act* offences.

Tickets can be an effective immediate deterrent for non-compliance with OHSA requirements if the associated fines are adequate. A number of administrative requirements of the OHSA, such as having JHSCs or performing workplace inspections, are essential for supporting the IRS. Currently, MOL inspectors issue orders for such contraventions, but without a financial penalty, such orders may not prevent repeat occurrences; tickets, however, would provide stronger deterrence.

The MOL should consult with stakeholders regarding the nature of contraventions for which tickets should be applied.

Recommendation 27

The Ministry of Labour should enhance the current legislative provisions for penalties by adding administrative monetary penalties as an enforcement tool, and should develop policies and procedures that govern their use.

The Panel generally believes that AMPs, if used, should be applied primarily for wilful or repeat offences that immediately place workers at serious risk. An approach modelled on the AMPs used by the Ministry of the Environment, where decisions are ultimately the responsibility of a director, would provide for consistency of use. The notice to apply an AMP and the appeal process provide an opportunity for employers to challenge an AMP if they believe they are not in contravention.

The MOL should consult stakeholders on which high-risk contraventions should be initially selected for the use of AMPs. The use of these AMPs should be evaluated after a period of time to determine their effectiveness in obtaining compliance.

Regulatory Approach

Stakeholder feedback consistently suggested that the current process for reviewing and updating regulations is not responsive to the rapid change in work practices and workplaces. The Panel heard that the legislation and regulations must keep up with changes in technology and work design; that greater use of Codes of Practice, standards and guidelines would support compliance; that common hazards need to be addressed by common regulatory requirements regardless of the sector and the introduction of new technology; and that new work processes require adequate planning, assessment at the design stage and post-installation evaluation.

Different types of regulations are needed for different situations. A good regulation must be flexible, recognize that one size does not fit all, consider the possibility of changing circumstances and find a good balance between ensuring safety and enhancing innovation. Some workplace situations are more suitable to performance-based regulation, while others lend themselves to a more prescriptive approach. MOL health and safety regulations are already a mix of performance-based and prescriptive requirements.

Prescriptive regulations state or describe what must be done and how work is to be carried out. The prescriptive regulation approach emphasises a known degree of risk mitigation but can become dated with changes in work practices and/or equipment. In situations where the work is especially hazardous due to the environment or equipment used, prescriptive regulations are most appropriate.

Performance-based regulations can provide flexibility in compliance because they focus on outcomes rather than on the precise factors to be controlled or the means of controlling them. A Code of Practice is a tool that can be used to augment performance-based health and safety regulations. Codes tend to apply to specific types of work or equipment and are designed to provide practical guidance on how to achieve compliance. Codes can be developed with labour and industry involvement to provide a plain-language description of roles, expectations and outcomes that can be easily understood by all parties. This is particularly important for small business owners.

Ontario needs harmonized requirements for high-hazard situations across all sectors, compliance requirements that are supported and promoted through information tools, and an OHS system that proactively responds to the needs of its stakeholders. The world of work is changing quickly and Ontario's health and safety regulations must keep pace with these changes.

Recommendation 28

The Ministry of Labour should institute a regulatory review approach that ensures regulations are current, consistent and provide compliance flexibility and support.

Establishing evidence-based (claims, orders, research, etc.) priorities for regulation review would confirm the regulation's continued need (or lack thereof) and ensure that it is reflective of the current work environment and work practices. By adopting a standard and transparent process for the regular review and updating of regulations, the Ministry would be proactive and responsive to the needs of stakeholders.

Complex, highly technical workplace situations would benefit from a mandatory review by a competent individual such as an engineer or other professional prior to use. Such reviews, which are currently required in limited circumstances, would provide a proactive evaluation of health and safety and confirmation of compliance.

Where appropriate, supporting performance-based regulations with approved Codes of Practice (industry-developed standards, Canadian/International Standards and/or other Codes) would clarify requirements and intents, provide greater workplace flexibility and respond more effectively

to innovation. Since compliance with a Code of Practice is one way to achieve the performance standard, this could give employers flexibility while at the same time giving small business the help it often requires. Employers choosing to comply with the Code in an alternate way would be allowed to do so, but would need to demonstrate that the alternate approach achieves equal or greater safety.

Consolidating requirements for key hazards (e.g., personal protective equipment, ladders, guarding, confined spaces, noise) would ensure consistent coverage across all sectors and eliminate inconsistencies and duplication. It would also be effective in addressing common problems and efficient in maximizing benefits to the workplace. The objective would be to assist employers and workers in understanding and complying with essential occupational health and safety requirements.

The key is for stakeholders to continue to work together to identify the most appropriate regulatory approach for specific situations. With employers, workers, unions, industry associations and the government working together, useful/relevant regulations and flexible approaches can be developed.

Better Protection for Vulnerable Workers

Vulnerable workers, in the context of the OHS system review, are those who have a greater exposure than most workers to conditions hazardous to health or safety and who lack the power to alter those conditions. During the course of this review, stakeholders identified a number of subgroups of the general workforce as being vulnerable. The Panel heard most often about young workers; recent immigrants; workers new to their jobs or in new firms; foreign workers hired to address temporary or seasonal labour shortages, and employed primarily in agriculture, the hotel/hospitality and construction sectors; workers with very low wages holding multiple part-time jobs; and workers in the temporary staffing industry.

Worker vulnerability arises for various reasons: not knowing one's rights under the OHSA, such as the right to refuse unsafe work; having no work experience or training that is job- or hazard-specific; and being unable to exercise rights or raise health and safety concerns for fear of losing one's job, or in some cases, being deported.

Several of the Panel's recommendations in other sections of this report would improve the health and safety of all workers but especially those who are vulnerable. If implemented, recommendations for mandatory health and safety awareness training before starting work and for hazard-specific training would help address the higher rate of injuries known to occur among new workers, and also benefit young workers and recent immigrants who tend to be disproportionately employed in physically demanding or hazardous jobs. Requiring that supervisors be trained would help ensure that they understand their additional responsibilities regarding workers in hazardous jobs, especially those who are young, new or temporary. Similarly, recommendations to strengthen protection from reprisals are critical to enabling vulnerable workers to exercise their rights and speak up about health and safety concerns.

In 2000, the OHS system made young workers a priority. Since then, efforts to protect them (including education, aggressive public awareness campaigns and targeted enforcement) have brought about significant and measurable improvements: a 45 per cent decline in the lost-time injury rate for

teenagers by 2008. In general, however, protecting vulnerable workers, especially those who do not have English as a first language, presents challenges to the OHS system. These challenges relate to outreach, identifying where they work, providing meaningful information and services and enforcing legislation. There are many public and private organizations that support vulnerable members of society and that the OHS system could use as valuable points of access or influence.

In this section of the report, the Panel makes recommendations on advising the Minister of Labour of issues pertaining to vulnerable workers, targeted enforcement, raising awareness and protecting farm workers. Some other issues regarding vulnerable workers, which are not the subject of recommendations, are described in a later section, Additional Issues, for future consideration.

Recommendation 29

The Minister of Labour should appoint a committee under Section 21 of the *Occupational Health and Safety Act* to provide advice on matters related to the occupational health and safety of vulnerable workers.

An advisory committee appointed under Section 21 of the OHS Act would improve the OHS system's ability to respond to the needs of vulnerable workers. It would be a standing forum for consulting parties who are knowledgeable about vulnerable workers and have a role in protecting them. Such a committee could include representatives of labour and employer groups from sectors with precarious employment; immigrant and refugee support agencies; community and social service agencies; legal clinics; other ministries; and federal and municipal programs. Specific matters about which the committee could provide advice include implementing the Panel's recommendations, improving enforcement strategies and developing and distributing awareness materials.

Recommendation 30

The Ministry of Labour should carry out more proactive inspections and periodic enforcement campaigns at workplaces and in sectors where vulnerable workers are concentrated.

To be effective, outreach and awareness initiatives must be supported by proactive follow-up or enforcement. Successful implementation of this recommendation will depend upon the MOL having access to current and reliable information on vulnerable workers. To inform its enforcement strategies regarding workplaces and sectors where vulnerable workers are concentrated, the MOL should solicit the advice of the Section 21 committee, if established, and should consult stakeholders and cultivate potential sources of information outside the OHS system.

Recommendation 31

The occupational health and safety system should develop information products in multiple languages and formats for distribution through various media and organizations to raise awareness of occupational health and safety among vulnerable workers.

To raise awareness of occupational health and safety among vulnerable workers, information products

could be aimed at the workplace, the community and at specific subgroups of the general workforce.

The Panel notes that Section 25(2)(i) of the OHSA requires the employer to post a copy of the Act in the workplace and “any explanatory material prepared by the Ministry, both in English and the majority language of the workplace, outlining the rights, responsibilities and duties of workers.” The Panel recommends that the MOL develop explanatory material in the form of a poster translated into multiple languages and available at no or low cost (further described in the Information and Resources section of this report). Mandatory posting would raise awareness of the OHSA among all workers but would benefit vulnerable workers in particular.

To further raise awareness of workplace health and safety issues, the Panel recommends that the OHS system develop basic information on both the OHSA and the WSIA in multiple languages and formats and distribute it in ways that will reach vulnerable workers at the community level. Many options exist for distribution through public and private organizations: at settlement and service agencies for newcomers; on government websites aimed at prospective immigrants; through federal administrators and offshore recruiters of temporary foreign workers; at consulates; in ethnic newspaper, radio and television ads; in public places like libraries, buses/subways and community centres; at legal aid clinics; as part of the curriculum in English or French as a Second Language courses; and through the school system, recognizing that children will take information home to their parents. Such efforts would be an effective way to reach people with poor language or literacy skills as well as those who may be reluctant to visit government offices.

Recommendation 32

The Ministry of Labour should develop regulations in consultation with stakeholders in the farming community to control the key hazards associated with farm work.

Farming is generally recognized as a dangerous occupation. A recent report from the Canadian Agricultural Injury Surveillance Program (CAISP) stated that agriculture ranks as the third most hazardous industry in Canada with respect to fatality rates. CAISP data show recurrent patterns of agricultural injury; for example, between 1990 and 2005, about 71 per cent of fatalities on farms involved some type of machinery.

In Ontario, the OHSA was extended to farms in 2006, with some conditions. One of these conditions is that farms are exempt from most of the regulations under the OHSA, including the regulations that automatically apply to any workplace covered by the OHSA. Instead, guidelines developed by the OHS system are used to address specific hazards related to tractors, mechanical equipment, animal handling, hazardous atmospheres, confined spaces, falls, lockout procedures and occupational disease. These guidelines can be enforced under the general duty of employers to take all reasonable precautions for the protection of workers.

The Panel supports stronger health and safety protection for farm workers. This could be achieved by extending some existing regulations under the OHSA — for example, the Workplace Hazardous Materials Information System (WHMIS) Regulation — to farms and/or by developing new regulatory provisions specific to farms to govern key hazards that are currently the subject of guidelines. Any new regulations to require mandatory training for workers and supervisors, as recommended in this report, should also apply to farms.

Improved Protection from Reprisals

Section 50 of the OHS Act prohibits employers from dismissing, disciplining or otherwise penalizing a worker for acting in compliance with the Act, regulations or orders, or for seeking enforcement of the legislation. It also sets out a process for resolving a worker's complaint of unfair employer discipline: the worker may have the matter dealt with by arbitration under a collective agreement, if any, or file a complaint with the Ontario Labour Relations Board (OLRB). Section 50 is intended to enable workers to freely raise health and safety concerns and to fully exercise their rights under the OHS Act, such as refusing unsafe work, without fear of reprisal.

Currently, the MOL and the OLRB have distinct roles when responding to a reprisal complaint. MOL inspectors will visit the workplace and investigate any health and safety issue related to the complaint and will issue orders for contraventions of the OHS Act or regulations. They will also inform the workplace parties of their rights and duties under Section 50 and refer the worker to the OLRB. Inspectors typically do not investigate whether a reprisal has in fact occurred, nor do they take enforcement action related to the alleged reprisal.

Section 50 authorises the OLRB to inquire into a worker's complaint and to remove or change any penalty imposed. In doing so, the Board's primary goal is to mediate a settlement between the workplace parties. It generally takes from 8 to 12 weeks for mediation to begin. If a settlement cannot be reached, an adjudicator will hold a hearing. It can take up to six months for a hearing to be scheduled, and it is held in Toronto. The OLRB receives about 100 reprisal complaints a year. About 20 to 30 per cent are from unionized workers and the rest are from unrepresented workers.

Concerns have been raised that the way in which Section 50 is currently administered discourages many workers from exercising their rights under the OHS Act and does not adequately protect from reprisals those who do exercise their rights. The Panel heard some key criticisms:

- MOL inspectors have no role in investigating reprisal allegations.
- The OLRB procedures are complex and take a long time, and travelling to Toronto for a hearing is expensive.
- The MOL rarely prosecutes employers for violating Section 50.

Several serious reprisals came to the attention of the Panel Chair in the course of this review. In addition, information was provided to the Panel that described 30 alleged reprisals over a 26-month period. In 28 of these cases, the alleged reprisal was termination of employment. In 29 of the cases, the Ministry of Labour issued orders on health and safety infractions. Labour stakeholders stated that for every reprisal complaint made, many more go unreported.

The Panel recognizes that some of its recommendations in other areas — namely, for mandatory training, raising awareness and targeted enforcement — would likely result in more workers raising concerns related to workplace health and safety in the short term but that these as well as improvements to Section 50 processes would likely result in fewer reprisals in the future.

Recommendation 33

The Ministry of Labour and the Ontario Labour Relations Board should work together to develop a process to expedite the resolution of reprisal complaints under the *Occupational Health and Safety Act*.

To expedite the resolution of reprisal complaints, the Panel supports a process that would see an expanded role for MOL inspectors with direct referral of egregious reprisals to the OLRB, and new procedures at the Board to ensure a prompt response to a referral.

MOL inspectors, in addition to investigating health and safety issues related to an alleged reprisal, would interview workplace parties involved in the allegation, as well as any witnesses, in order to document observations and accounts of the event. With the worker's agreement, an inspector would refer to the OLRB any clear and obvious act of reprisal involving firing of the worker, and would submit records of the interviews. A copy of the records would be given to the employer. The OLRB would act quickly on referrals by offering timely access to mediation and adjudication, with the possibility of holding hearings outside Toronto, closer to the workplace parties' community. The Board could also order interim reinstatement of the worker.

A new process to address serious reprisals involving worker dismissal would have significant benefits: an early and accurate recording of the event; a proactive response from the OLRB without the worker having to file a separate complaint with the Board; and, most important, it would enable workers to raise health and safety concerns without the fear of being fired, which may ultimately prevent injuries and fatalities.

Recommendation 34

The Ministry of Labour should review its prosecution policy and develop guidance for inspectors on when to lay charges for a contravention of Section 50 of the *Occupational Health and Safety Act*.

Historically, the MOL has not taken enforcement action against employers where there has been a contravention of Section 50. Although current operational policy contemplates prosecution for "exceptional cases", virtually no prosecutions have been commenced in recent years. To strengthen deterrence, the Panel supports enhanced enforcement under the OHS Act to address egregious or repeated contraventions of Section 50.

Recommendation 35

A worker or employer involved in a reprisal complaint should have access to information and support from an independent, third-party organization, such as the Office of the Worker Adviser or Office of the Employer Adviser.

Where an MOL inspector does not refer a reprisal allegation directly to the OLRB, the worker would be able to file the complaint, which would then be addressed under the Board's current procedures. A common criticism of the current process is that it is too complicated. Many workers cannot

understand the paperwork involved and simply give up. This may be particularly true for workers who face language or literacy barriers.

The Panel recognizes that many workers need help pursuing a reprisal complaint through the OLRB's process but that little support is available. Currently, only the Toronto Workers' Health and Safety Legal Clinic provides advice and representation to non-unionized, low wage workers. For this reason, the Panel recommends that an independent, third party provide free information and services to workers wanting to file a reprisal complaint. The Panel also recognizes that many employers, especially those in small businesses, may need help responding to a reprisal complaint, and therefore recommends that similar support services be provided to them. Inspectors could refer workers and employers to such support services.

The Office of the Worker Adviser (OWA) and the Office of the Employer Adviser (OEA) are independent agencies of the MOL, set up to help the workplace parties navigate complex legal processes under the WSIA. With additional resources, the OWA and OEA would be well-placed to expand their mandates and provide similar support and advocacy services to workers and employers engaged in reprisal complaints.

Small Business

Small businesses have long been identified as presenting unique challenges to the effective and efficient implementation of occupational health and safety in the workplace. From the other end of the telescope, government regulation has long been identified as presenting challenges for small business owners. A number of factors have been identified in research as contributing to this, but two important factors are the limited human resource capacity of the owner to apply time and effort to it and the absence of guidance and support materials that are relevant to the language, culture and business/organizational situation of small businesses. The infrequent occurrence of worker injury in a small business (estimated to be one injury every 7 to 10 years) can lead the employer to conclude that adequate measures and precautions are in place. The Panel recognizes that while the focus of small business considerations is generally directed towards owners, effective support for the health and safety of workers in small businesses is needed.

In response to submissions from stakeholders regarding issues affecting small business, as well as a formal presentation to the Panel by the Canadian Federation of Independent Business (CFIB), the Panel formed a subcommittee to further research the issues. The subcommittee reviewed the information provided by the CFIB and gathered scientific research and information on health and safety programs targeted at small business in Ontario. This information was subsequently considered by the Panel in formulating these recommendations.

Panel members agreed to view possible recommendations through a small business lens when considering their feasibility and implementation impact on small business. For example, recommendations in the report related to training and educational resource materials have considered cost, availability and relevance for small business owners and workers. These factors have been identified where applicable in the recommendations below.

Recommendation 36

The Minister of Labour should create a small business Section 21 committee and appoint members that can represent the needs and interests of employers and workers in small businesses.

The issues affecting small business are consistently identified in research and management literature as being different from medium or large businesses. These issues also frequently change as a result of economic and technological changes. A concern raised by small business advocates is that government doesn't understand or try to understand the needs of owners and workers in small business. A small business advisory committee appointed under Section 21 of the OHSA would provide a mechanism for the government to get a better understanding of these needs on a regular and ongoing basis.

A number of Section 21 committees currently exist in various sectors and are generally composed of labour and employer members. Their activities include preparing guidance material, identifying emerging health and safety issues, and advising on the development of regulation and enforcement strategies. All these activities would appear relevant for a small business advisory committee. Special effort will be needed to bring into this forum the voice of unrepresented workers employed in small business.

Recommendation 37

The occupational health and safety system should intensify support for small business compliance through the creation of focused and integrated programs with dedicated resources.

Small businesses' needs, and when and how they fulfil those needs, are different from those of medium and large businesses. A small business Section 21 committee can provide advice on many of these issues, but effective support is still dependant upon delivery by people and organizations that understand small business needs. Those who interact with small business on the front line require specific skills and knowledge of the nature and functioning of small work organizations. This knowledge and experience needs to be built up over time and can be quite a challenge for individuals who spend time with all sizes of employers.

The assignment of staff dedicated to enforcement and prevention activities for the small business sector allows for closer collaboration and co-operation in the development of programs and services for small business. Such staff would better relate to small business but would also have greater credibility in the sector. This credibility is likely, in the long term, to be as important in supporting small business as any specific program or content of such program. It provides for relationship-building with individual employers and workers as well as with the sector as a whole. It also supports the acquisition and transfer of knowledge about the sector and provides for long-term continuity and commitment in this area beyond what periodic initiatives can attain. As noted elsewhere in this report, where the degree of risk is low and employers are actively looking for support in achieving compliance, they should be supported to the extent possible.

Recommendation 38

Ministry of Labour inspectors should incorporate compliance assistance in their approach to enforcing the *Occupational Health and Safety Act* and its regulations.

The primary role of MOL inspectors is to conduct inspections and investigations to determine compliance with the OHSA. This tends to result in inspectors focussing on contraventions and referring the employer to other organizations to get assistance in taking the corrective action needed. Numerous stakeholders, including small business representatives, say that deferring assistance can produce delays in achieving compliance as well as unnecessary costs, particularly where the required changes may be straightforward. Stakeholders also stated that compliance discussions with inspectors can result in greater confidence that changes made will meet the legal requirements.

Some inspectors say that a singular focus on enforcement places them in an adversarial relationship with employers and that this results in an unhealthy situation in the long run. Many employers feel they would benefit from an open and non-confrontational relationship with inspectors. However, an increased role in compliance assistance for inspectors should not interfere with the inspector's duty to enforce the law. Where assertive enforcement is needed to achieve compliance, inspectors should take the appropriate enforcement steps necessary. Any move towards inspectors providing greater compliance assistance should balance these considerations.

The availability of guidance material, codes of practice and other compliance support tools from inspectors on key health and safety issues at the time of inspection is seen as one way to accomplish this. Properly developed materials reviewed for accuracy and clarity could provide greater certainty for compliance and reduce the risk of negligence concerns should something go wrong. Developing a compliance assistance policy for inspectors would provide greater consistency in advice and greater certainty for inspectors on what issues they should provide assistance. Such a policy would demonstrate organizational support for inspectors and would help balance resource capacity between inspection activity and compliance support

Opportunities for Government Ministries and Agencies to Cultivate Health and Safety in Ontario Culture and Workplaces

Much of this report has focused on the improvement of worker safety through actions and activities under the leadership of the Ministry of Labour and the proposed prevention organization. As previously discussed, there are many levers for change and opportunities to increase education and awareness. One such lever for change is to align government decisions with improving and supporting occupational health and safety in Ontario. The following recommendations focus on other government ministries that have key roles to play in cultivating and supporting a health and safety culture in the province.

Education and Training

A prevailing view in submissions to the Panel holds that attitudes toward safety are established very early in life. While many stakeholders were aware of the health and safety content added to

primary and secondary school curriculum in Ontario in recent years, they were concerned that it is not consistently taught across schools and school boards. In addition, those familiar with the content believed that it needed to be updated and expanded. Updating and increasing the availability of teacher resource material to support teaching health and safety was seen as necessary to improving the quality and consistency of the education that students receive in this area. The Panel heard that while the current teacher resource material has been made available through the public school system, private schools have not received this material.

Primary and secondary education

Recommendation 39

The Ministry of Education should work with school boards, private schools and teacher organizations to expand the health and safety content of primary and secondary school curricula and update teacher resource material to allow them to effectively teach these curricula.

It is also recognized that health and safety expertise does not necessarily reside within the Ministry of Education; partnering with the MOL or the new prevention organization to facilitate the sharing of expertise and resources would expedite the development and updating of resource materials.

Recommendation 40

The Ministry of Education should make high school graduation dependent upon demonstration of knowledge of occupational health and safety.

The Ministry of Education should consider enhancing health and safety curricula by introducing a mandatory graduating course or health and safety awareness test similar to the literacy test diploma requirement.

Post-secondary and vocational trades programs

Many stakeholders also felt that more needs to be done to incorporate health and safety into post-secondary and trade school training. While some gains have been made in incorporating health and safety material into engineering programs, more needs to be done. The Minerva organization is a leader in this area. Graduates from other programs, such as business and the sciences, will be our future workers, supervisors and employers and it is essential that their education and training also include occupational health and safety to prepare them for their leadership positions. At the same time, workers graduating from trades programs are often exposed to some of the highest-risk workplaces. Their education and training must prepare them for working safely as well as competently.

The leadership of the Ministry of Training, Colleges and Universities (MTCU) could prompt broader opportunities in post-secondary education to build occupational health and safety into the curricula of diploma and degree programs in engineering, commerce, business, and so on.

Recommendation 41

The Ministry of Training, Colleges and Universities should work with post-secondary institutions and trade schools to incorporate health and safety content into their programs for both future workers and employers/senior executives.

As MTCU programs and services are primarily focused on employment and skills training, it is appropriate for them to ensure that clients are aware of their rights and responsibilities as workers and trainees in relation to occupational health and safety.

There are two key areas for the MTCU to become involved in OHS processes: first, by instituting workplace-based (apprenticeship and modular) training standards that respond to the goals of occupational health and safety; and secondly, by enhancing OHS awareness and training that takes place at MTCU employment and training programs, such as Employment Services, Second Career, Job Creation Partnerships, Targeted Initiative For Older Workers, Summer Jobs Service, Literacy and Basic Skills, Workplace Literacy, Ontario Youth Apprenticeship Program, Co-op Diploma Apprenticeship Program, Pre-Apprenticeship Training Program, and Apprenticeship In-School Training.

Government Contracts and Grants as a Means to Support Health and Safety

Government can significantly influence support for health and safety in the manner that it awards contracts and grants to public and private sector organizations. Two significant examples have been identified by the Panel.

Supply chain relationships

The Ontario Government and its agencies are some of the largest purchasers of supplies and services in Ontario. The Panel was presented with examples of private sector employers who have established supply chain relationships that require the vendor have a high standard of health and safety performance. These requirements appear most prevalent for construction-related services. Some stakeholders indicated that the supply of services is most often relatively local and therefore it is more feasible to evaluate suppliers of services than suppliers of goods, where suppliers could be from around the globe. The issue of complying with trade agreements may also be more complex for goods than services.

Recommendation 42

The Ontario Government should develop procurement policies that consider the occupational health and safety performance of suppliers in order to motivate a high level of performance. The initial focus could be on the purchasing of services.

Furthermore, to demonstrate its commitment to enhancing health and safety performance throughout the supply chain, the government must ensure that such provisions are included in the procurement policies and procedures of the Health and Safety Associations that the new prevention organization will oversee.

Stimulating innovation

The Ministry of Economic Development and Trade and the Ontario Centres for Excellence support Ontario business with innovation and financial incentives. Proposals for such funding are not currently reviewed against OHS criteria or benefit. There is an opportunity for these organizations to work more closely with the OHS system to promote the inclusion of a health and safety component in the evaluation criteria of funding applications. The Danish government has developed one such cross-ministry collaboration to stimulate innovation. MindLab, a cross-ministerial innovation unit, involves citizens and businesses in creating new solutions for society. MindLab works with three government departments: the Ministry of Economic and Business Affairs, the Ministry of Taxation and the Ministry of Employment. It acts as a catalyst for innovative thinking across its parent government departments and has worked on a diverse range of issues — from understanding and reducing the red tape businesses face to reducing workplace injuries. The program has received attention from a number of countries including France, China, Australia, the United States and the United Kingdom.

Recommendation 43

The Ministry of Economic Development and Trade and the Ontario Centres for Excellence should work with the Ministry of Labour and the new prevention organization to develop health and safety criteria for inclusion in funding considerations related to innovation.

Making Health and Safety Information Available to New Business Owners

Stakeholders consistently expressed the view that they believe business owners want to provide healthy and safe working conditions for their workers. To do this, owners require helpful information on compliance expectations. Sections of this report focus on what is needed and how it can be provided by the health and safety partners. However, one means of creating greater awareness of health and safety would be to make more information available to businesses during their start-up. Consultations reinforced this approach. Information should be actively supplied to everyone registering a business.

The Ministry of Government Services/Service Ontario currently provides online business registration. Health and safety information is available through the same portal but is not actively linked to the registration process. In fact, the health and safety information is difficult to locate. Some have suggested that upon registering a business, owners should receive a prompt asking whether they will be employing workers. Where this is the case, they would be linked to information on occupational health and safety, workers' compensation and employment standards. Prospective owners would be encouraged to review or bookmark the information for future use and then they could proceed with the business registration. A second, more active approach would be to automatically e-mail this information to the prospective owner upon completing the registration. Basic health and safety information could be supplemented with sector- or hazard-specific information if the business registration includes information related to the nature of the business or sector.

Recommendation 44

The Ministry of Government Services/Service Ontario should amend the business registration process to include an active link to health and safety information, and should work with the occupational health and safety system to provide relevant information for new business owners.

Recommendation 45

The Workplace Safety and Insurance Board should amend its registration process to include an active link to health and safety information, and should continue to work with the occupational health and safety system to provide relevant information for new business owners.

Additional Issues

Some stakeholders raised issues during the consultation that they believed impact health and safety issues that were not the focus of this review. In addition, some issues emerged during the deliberations of the Panel or its research of issues. Some panel members believe that these issues may merit future consideration, however it was agreed that it is not appropriate that they be the subject of recommendations given that they were not consulted upon or that they are considered to be outside the scope of this review.

Creation of an Occupational Health and Safety Tribunal

Some stakeholders expressed support for the creation of a tribunal that would deal exclusively with matters arising under the OHSA, such as appeals of inspectors' orders, prosecutions and allegations of reprisals, and appeals of administrative monetary penalties, if these are developed. Stakeholders felt that such a tribunal would develop expertise related to occupational health and safety, which would generally improve the quality of judgements, especially on technical matters. This is an important consideration for the MOL as well as employers and labour since decisions of OLRB adjudicators (and courts) can influence the development of occupational health and safety policy and legislation. Creating an occupational health and safety tribunal was not extensively discussed in either the public consultations or during the Panel's deliberations. Therefore, the Panel is not making a specific recommendation but suggests that the concept is worth further evaluation.

Specific Vulnerable Workers

Taxi drivers

In 2007, Statistics Canada reported that between 2001 and 2005, taxi driving was the most dangerous job in Canada. The Panel heard from representatives of taxi drivers about frequent exposure to harassment and violence and received recommendations for mandatory shields in cabs and prepaid fares at night. Addressing the drivers' concerns is not straightforward. Complex and variable

employment relationships in the taxi industry can make it difficult to identify which party has the duties of the employer under the OHSA. Many drivers are self-employed or independent operators who contract for the use of a vehicle, licence and dispatch service. In addition, both municipal and provincial laws apply to the industry. The Panel recognizes the need to better protect the health and safety of taxi drivers and believes the Ministry of Labour should explore options for doing so.

Domestic workers employed in private residences

The OHSA does not apply to work performed in the private home by an owner or occupant, or a “servant of the owner or occupant” (Section 3(1)). As such, live-in caregivers and other domestic workers directly engaged by a homeowner are not covered by the OHSA. This is inconsistent with current approaches under the *Employment Standards Act* and the WSIA, which cover domestic workers to some extent, and with aspects of the *Employment Protection for Foreign Nationals Act (Live-in Caregivers and Others)*, 2009. The Panel supports a review of the exemption of “a servant” from the OHSA.

Determination of WSIB Cost Assessments Between Temporary Agency and Contracting Employer

The Panel heard frequently of the value of education, enforcement and incentives in improving health and safety performance. The emergence of employment relationships such as independent operators and temporary workers engaged through agencies has resulted in uncertainty as to which party is the employer and what responsibilities the employer carries. While this report addresses some of these issues, it does not make recommendations on the issue of WSIB premium rates for agencies and employers who engage temporary worker . The Panel heard that some employers in high-risk sectors or with high-risk work use employment agency workers to perform such work and thereby avoid the higher WSIB premium rates normally attached to such employers since the premiums for such workers are paid by the agency. There is a related concern that some agencies are not correctly classified for the type of work their workers perform. Since this issue relates to the authority of the WSIB to determine policy on setting the premium rate, the Panel has not made a recommendation in this area.

Coverage Under the *Workplace Safety and Insurance Act, 1997*

While it was recognized that WSIA coverage was not considered to be within the Panel’s scope, this issue was raised on several occasions by stakeholders during the consultation. The Panel heard that an estimated 38% of the Ontario workforce is not covered by the WSIA. It was argued that because the OHS system is funded through WSIB premiums, many employers are not paying their share for prevention and enforcement.

Creative Sentencing

Some of the recommendations in this report support changes to the financial penalties for contravention of the OHSA and its regulations. Some stakeholders noted that other jurisdictions also use non-financial penalties and suggested that Ontario should consider these. For example, Nova

Scotia's *Occupational Health and Safety Act* provides courts with the ability to impose penalties such as community service or financial contributions to public education in occupational health and safety. The *Criminal Code* currently allows probation orders to be applied to organizations; potential conditions could include:

- restitution for loss or damage resulting from an offence;
- establishing policies, standards and procedures to reduce the likelihood of committing a similar offence in the future;
- communicating and reporting with respect to implementation of, and accountability for, such policies, standards and procedures; and
- publicizing any measures the organization is taking to prevent the offender from committing another offence or to remedy the harm committed.

A “duty of care” concept currently exists in law with respect to certain regulated professions (e.g. doctors, nurses) that must meet basic standards of care for the people they serve. It was suggested that a similar “duty of care” standard be applied to employers in respect of their workers, and that punitive measures specific to violation of this type of standard be developed.

The concept of creative sentencing was not extensively discussed in either the public consultations or during the Panel's deliberations. Therefore, the Panel is not making a specific recommendation with respect to adopting creative sentencing but suggests that the concept is worth further evaluation.

Fiduciary Duty

The question of whether the concept of fiduciary duty includes occupational health and safety factors was raised by labour members of the Panel. Fiduciary duty is usually considered in terms of maximizing financial outcomes or prudent spending. A view was provided to the Panel suggesting that fiduciary responsibility should also incorporate environmental, social and governance factors, with occupational health and safety categorized as one of the social factors.

This issue was not a focus of consultations with stakeholders, and time constraints prevented the Panel from exploring this further. Therefore, the Panel is not making a specific recommendation with respect to fiduciary duty, but suggests that the concept is worth further evaluation.

Contact Centres

The Information and Resources section of this report identified that the current OHS system partners operate contact centres to provide information on their specific programs and services, as well as general health and safety information. The Panel was not able to evaluate the scope and range of these information services, but noted that some common elements exist while other elements relate specifically to the programs and services of each organization. While the Panel has no recommendation in this area, it notes that some potential exists for expansion of service and improvements in quality and consistency of information provided and therefore merits further review.

Training Tax Credits for Small Business

Small business representatives have told the Panel that small employers provide a significant amount of health and safety training to workers, placing a considerable financial burden on them. They state that the recommended introduction of new mandatory training for all workers would create further financial and compliance challenges. To recognize and encourage a continued commitment by small employers to invest in OHS training, stakeholders have suggested the introduction of a small business training tax credit.

The development of tax credits was not discussed with the Ministry of Revenue, and was not proposed during the public consultations or during the subsequent meetings of the Panel. Consequently, the Panel is not in a position to make a specific recommendation on this issue.

Mobility of HSA Staff

During the review, the boards and staff of two health and safety system organizations alerted the Chair to the absence of pension plan coverage for managers and staff in two of the six HSA's. They made the case that this was anomalous and that it also inhibited job mobility in the health and safety system. This matter was not directly within the scope of this review and was not fully discussed or examined. It is suggested that this is a matter that is better reviewed by the current or new executive with responsibility for Prevention.

Conclusion and Next Steps

This review has involved extensive consultation with stakeholders on a wide range of issues impacting health and safety outcomes in Ontario workplaces. In addition, extensive research of prevention and enforcement activity in other provincial and international jurisdictions as well as specific topics by policy working groups has supported the Panel in its deliberations. The Panel believes that the implementation of these recommendations would usher in a new era of collaboration in reducing the number of workers who become injured, ill or are killed because of their work. Many of these recommendations would increase the integration of occupational health and safety into business decision making processes which is seen as contributing to a culture that constantly reinforces health and safety in the workplace.

Priorities for Implementation

Recommendation 46

The Panel recommends that an implementation team and an interim Prevention Council be established as soon as possible to work closely with labour and employer stakeholders to implement these as priorities over the next twelve months:

1. A new prevention organization should be created within the Ministry of Labour. The new organization would be headed by a Chief Prevention Executive, and would feature a multi-stakeholder Prevention Council; each would have specific powers explicitly defined in the *Occupational Health and Safety Act*. (Recommendation 1)
2. The Ministry of Labour should work with the new prevention organization to create a health and safety poster that explains the key rights and responsibilities of the workplace parties, including how to obtain additional health and safety information and how to contact a Ministry of Labour inspector. It should be mandatory to post this in the workplace. (Recommendation 10)
3. The Ministry of Labour should create a mandatory requirement for training of Health and Safety Representatives. (Recommendation 13)
4. The Ministry of Labour should require mandatory health and safety awareness training for all workers. (Recommendation 14)
5. The Ministry of Labour should require mandatory health and safety awareness training for all supervisors who are responsible for frontline workers. (Recommendation 15)
6. The Ministry of Labour and new prevention organization should develop mandatory entry-level training for construction workers as a priority and consult with stakeholders to determine other sectors that should be subject to mandatory training for workers. (Recommendation 16)
7. The Ministry of Labour and new prevention organization should develop mandatory fall protection training for workers working at heights as a priority and consult with stakeholders to determine additional high-hazard activities that should be subject to mandatory training for workers. (Recommendation 17)
8. The Minister of Labour should appoint a committee under Section 21 of the *Occupational Health and Safety Act* to provide advice on matters related to the occupational health and safety of vulnerable workers. (Recommendation 29)
9. The Ministry of Labour and the Ontario Labour Relations Board should work together to develop a process to expedite the resolution of reprisal complaints under the *Occupational Health and Safety Act*. (Recommendation 33)
10. A worker or employer involved in a reprisal complaint should have access to information and support from an independent, third-party organization, such as the Office of the Worker Adviser or Office of the Employer Adviser. (Recommendation 35)
11. The Minister of Labour should create a small business Section 21 committee and appoint members that can represent the needs and interests of employers and workers in small businesses. (Recommendation 36)

The successful implementation of these recommendations will be dependent on the continued participation of labour and employer stakeholders, which was a key to the Panel's success in achieving consensus on these recommendations. Implementation should also be guided by the Panel's reflections and the research conducted by the working groups.

This should assist in ensuring that implementation is aligned with the spirit and intent of the Panel's work and the recommendations flowing from it.

References Cited

Australian Safety and Compensation Council, *Guidelines for Integrating OHS into National Industry Training Packages*, **Commonwealth of Australia**, Canberra, Australian Capital Territory, 2008. [Online]. Available: <http://www.safeworkaustralia.gov.au/NR/rdonlyres/05EFF2F8-A0F8-4B12-9A80-1300E5E3ADF4/0/GuidelinesforintegratingOHS.pdf>

Australian Quality Training Framework (AQTF), *Audit Handbook*, **Commonwealth of Australia**, Canberra, Australia, 2010. [Online]. Available: http://www.training.com.au/documents/Dezem_100610_AQTF_Audit_Handbook_FINAL_FOR_WEBSITE_25_June.pdf

Australian Safety and Compensation Council (ASCC), *National Code of Practice For Induction for Construction Work*, **Australian Government Website**, Canberra, Australia, 2007. [Online Resource Only]. Available: http://www.safeworkaustralia.gov.au/NR/rdonlyres/FBD41330-5268-479D-B459-B997B268D988/0/Induction_Code_of_Practice_complete.pdf

Breslin, FC, Smith, P. 2006. Trial by fire: a multivariate examination of the relation between job tenure and work injuries. *Occupational and Environmental Medicine*. 63.

Canadian Agricultural Injury Surveillance Program: Agricultural Fatalities and Hospitalizations in Ontario 1990-2004.

Ham, James M. (1976). Report of the Royal Commission on the Health and Safety of Workers in Mines. Ministry of the Attorney General, Toronto, Canada.

MindLab [Online] <http://www.mind-lab.dk/en>

Ministry of Economic Development and Trade, May 2010, Snapshot of Ontario's Small and Medium Enterprises Available: ontario.ca/economy

Ministry of Training, Colleges and Universities, *Guidelines for the Forestry Pit and Road Construction Equipment Operator Training Program #600100*, **Ministry of Training Colleges and Universities**, Toronto Ontario, 2009 [Online]. Available: <http://www.ofswa.on.ca/training/Certification%20Training%20Guidelines/FPRCEO%20Program%20GUIDELINES%20Effective%2001%20April%2009.pdf>

Ministry of Training, Colleges and Universities, *Modular Training Standards: Common Core for First Line Underground Mine Supervisor --Underground Hard Rock Mining Program #770121*, Publication # 230342, **Service Ontario Publications**, Toronto Ontario, 2004 [Online]. Available for Order: <https://www.publications.serviceontario.ca/ecom/Servlet/GetItemDetailsHandler?iN=230342&qty=1&viewMode=3&loggedIN=false&JavaScript=y>

Morneau Sobeco, *Recommendations For Experience Rating*, 2008.

Robson, L et al. 2010. A systematic review of the effectiveness of training and education for the protection of workers. Toronto: Institute for Work & Health; Cincinnati, OH: National Institute for Occupational Safety and Health. Available at www.iwh.on.ca/sys-reviews/training-and-education-programs.

Statistics Canada: Criminal Victimization in the Workplace, 2007
Catalogue no. 85F0033MIE — No. 013

United States Department of Labor, Occupational Safety and Health Administration (OSHA), Directorate of Training and Education, *Outreach Training Program Guidelines*, **OSHA Website**, Arlington Heights, Illinois, 2009. [Online Resource Only]. Available: http://www.osha.gov/dte/outreach/construction_generalindustry/guidelines.html

United States Department of Labor, Occupational Safety and Health Administration (OSHA), Directorate of Training and Education, *Outreach Training Program Guidelines Construction Industry Safety and Health*, **OSHA Website**, Arlington Heights, Illinois, 2009. [Online Resource Only]. Available: http://www.osha.gov/dte/outreach/construction_generalindustry/construction.html

Supporting Resources

To inform their discussions and the written reports to the Panel, the Working Groups reviewed submissions from stakeholders, information prepared by the IWH on practices in other jurisdictions, and many research papers and articles. A selection of these supporting papers and articles is listed below.

Joint Health and Safety Committees / Internal Responsibility System

Campbell A. SARS Commission Report: Spring of Fear - Volume 1. Ottawa, Canada, 2006. http://www.health.gov.on.ca/english/public/pub/ministry_reports/campbell06/online_rep/

Downie J, Lahey W, Ford D, Gibson E, Thomson M, Ward T, McDonald F and Shea A. Patient Safety Law: From Silos to Systems. Appendix 3: Sector Reports and Occupational Health and Safety. Ottawa, Canada: Health Policy Research Program, Health Canada, 2006.

Eaton and Nocerino. The effectiveness of health and safety committees: Results of a survey of public-sector workplaces, *Industrial Relations*; 39(2):265-90; 2000.

Frick, K. and D. Walters: Worker representation on health and safety in small enterprises: Lessons from a Swedish approach. *International Labour Review*, vol 137, No.3, 367-389.

ILO, Guidelines on Occupational Safety and Health Management Systems, Safe Work <http://www.ilo.org/wcmsp5/groups/public>

Institute for Work & Health, Behaviour-based Safety, August 2010

Internal Responsibility: The Challenge and the Crisis; Labour OHCOW Academic Research Collaboration (LOARC) IRS Review 2010.

Lewchuk W, Robb A and Walters V. The Effectiveness of Bill 70 and Joint Health and Safety Committees in Reducing Injuries in the Workplace: The Case of Ontario. *Canadian Public Policy*; 22:225-243. 1996

Nichol K, Kudla I, Manno M, McCaskell L, Sikorski J and Holness DL. Form and function of joint health and safety committees in Ontario acute care hospitals. *Healthcare Quarterly* 2009;12(2):86-93.

Nova Scotia Department of Labour and Workforce Development. (2008). *Joint Occupational Health and Safety Committees: A Practical Guide for Single Employer Workplaces*. Retrieved September 14, 2010, from Nova Scotia Labour and Workforce Development: <http://www.gov.ns.ca/lwd/healthandsafety/docs/JOHCommitteeSingEmployer.pdf>

O'Grady J. The Role of Joint Committees in Workplace Health and Safety: A Review of the Legislation and Previous Studies. Royal Commission on Workers' Compensation in British Columbia, Canada, 1998.

Ontario Federation of Labour, Labour's Program for an Effective Enforcement System, 1997.

Plummer IM, Strahlendorf PW, Holliday MG. The Internal Responsibility System in Ontario Mines. 2000.

Shannon, H., Walters, V., Lewchuck, W., Richardson, J., Verma, d., Haines, T., et al. (1992). *Health and Safety Approaches in the Workplace*. Toronto: McMaster University.

Shannon HS, Walters V, Lewchuk W, Richardson J, Moran LA, Haines T, Verma D. Workplace organizational correlates of lost-time accident rates in manufacturing. *Am J Ind Med* 1996;29:258-68.

Shearn, P. (2005). *Workforce Participation in the Management of Occupational Health and Safety*. Sheffield: Health and Safety Laboratory.

SPR and Associates, Inc. Highlights of the 1994 Ontario Survey of Occupational Health and Safety and Joint Health and Safety Committees. Toronto, Canada: SPR and Associates and Workplace Health and Safety Agency, 1994.

Tuohy C and Simard M. The Impact of Joint Health and Safety Committees in Ontario and Quebec. Canadian Association of Administrators of Labour Legislation. Quebec, Canada, 1992.

UK Health and Safety Executive <http://www.hse.gov.uk/research/rrhtm/rr144.htm>

Walters, D., Nichols, T., Connor, J., Tasiran, A., & Cam, S. (2005). *The role and effectiveness of safety representatives in influencing workplace health and safety*. Cardiff: Health and Safety Executive. <http://www.hse.gov.uk/research/rrpdf/rr363.pdf>

Workers' Compensation Board of British Columbia, Finding Solutions Program November, 1997, The Effectiveness of Joint Health and Safety Committees (JHSCs) and Safety Training in Reducing Fatalities and Injuries in British Columbia Forest Product Mills; Richmond, BC

WorkSafe BC. (2010). *Workers Compensation Act - Excerpts and Summaries*. <http://www2.worksafebc.com/Publications/OHSRegulation/WorkersCompensationAct.asp#SectionNumber:Part3Dvision4>

Social Marketing / Awareness

Andreasen, A. and Kotler, P. (2002). *Strategic marketing for nonprofit organizations* (6th ed.). Prentice Hall.

Basu, Kaushik. (1998). 'Social Norms and the Law', Peter Newman, ed., *The New Palgrave Dictionary of Economics and Law*. London: Macmillan.

Brennan, Geoffrey and Philip Pettit. (2004). *The Economy of Esteem: An Essay on Civil and Political*

Society. Oxford, UK: Oxford University Press.

Caws, Peter. (1984). *Sartre*. London: Routledge & Kegan Paul.

Fell, James C. and Voas, Robert B., (2006). "Mothers Against Drunk Driving (MADD): The First 25 Years". *Traffic Injury Prevention*. UK.

Lavack, Magnuson, Deshpande, Basil, Mintz, Basil (2006). "Using Social Marketing to Improve Workplace Safety". University of Regina.

Neiger, Thackeray, Barnes, Mackenzie, (2003). "Positioning Social Marketing as a Planning Process for Health Education". *American Journal of Health Studies*. Silver Spring, MD.

O'Donnell, Patrick S., Department of Philosophy, Santa Barbara City College. "Social Norms & Law". *Theory & Science*, 2007. Athabasca University, Athabasca Alberta.

Perkins, H. W. & Craig, D. W. (2006). "A successful social norms campaign to reduce alcohol misuse among college student-athletes". *Journal of Studies on Alcohol*, Rutgers University, New Jersey

Pettit, Philip. (2002). *Rules, Reasons, and Norms*. New York: Oxford University Press.

Rothschild, Michael R. (1999). "Carrots, Sticks and Promises: A Conceptual Framework for the Management of Public Health and Social Issue Behaviours". *Journal of Marketing*, October 1999. Chicago.

Royal Society (1992). *Risk: Analysis, Perception and Management*. Royal Society, London.

Williamson, Julian and Weyman, Andrew (2005). "Review of the Public Perception of Risk, and Stakeholder Engagement" *Health and Safety Laboratory*. Buxton, England.

Training

Barling, Julian, Kelloway, Kevin E and Loughlin, Catherine. *Development and Test of a Model Linking Safety-Specific Transformational Leadership and Occupational Safety*, *Journal of Applied Psychology*, Volume 87, Issue 3, 2002.

Burke, Michael J, et al. *Relative Effectiveness of Worker Safety and Health Training Methods* *American Journal of Public Health*, Volume 96, No. 2, February 2006, pp. 315-324.

Canadian Manufacturers and Exporters, *Business Results Through Essential Skills and Literacy*, Canadian Manufacturers and Exporters – Ontario Division and Human Resources and Skills Development Canada, Ottawa, Ontario, 2009.

Conference Board of Canada, *Strength from Within – Overcoming the Barriers to Workplace Literacy Development*, April 2003

Conference Board of Canada, All signs Point to Yes – Literacy Impact on Workplace Health and Safety, September 2008

Conference Board of Canada, What You Don't Know Can Hurt You – Literacy's Impact on Workplace Health and Safety, July 2010

European Agency for Safety and Health at Work, *Mainstreaming OSH into business management*. 06.07.2010. European Agency for Safety and Health at Work, [Online]. Available: http://osha.europa.eu/en/publications/reports/mainstreaming_osh_business/view

Fitzpatrick, J. L., Sanders, J. R., & Worthen, B. R. (2004). *Program evaluation: Alternative approaches and practical guidelines*. San Francisco, CA: Pearson.

Gowen, Doug. *Making a difference: The impact of trade union education on Britain's workplaces – a union representatives' survey*, UnionLearn, TUC Education, Trade Union Congress, London, England, 2009.

Health and Safety Executive, *Involving your workforce in health and safety: Good practices for all workplaces*, Health and Safety Executive, Surrey, England, 2008

Kirkpatrick, D. L., & Kirkpatrick, J. D. (2006). *Evaluating training programs: The four levels*. San Francisco, CA: Berrett-Koehler Publishers Inc.

Livingstone, DW and Raykov, M. *Union influence on worker education and training in Canada in tough times*, Just Labour, Volume 5, Winter 2005.

Machin, MA and Treloar, CA. (2004). *Predictors of motivation to learn when training is mandatory*. In M. Katsikitis (Ed.), *Proceedings of the 39th APS Annual Conference*. pp. 157-161. Melbourne: Australian Psychological Society. [Online]. Available: <http://www.usq.edu.au/users/machin/Machin%20&%20Treloar,%202004.pdf>

McVittie, DJ and Vi, P. *Research Report: The effect of supervisory training on lost-time injury rates in construction*, Construction Safety Association of Ontario, Toronto, Ontario, 2009.

Ministry of Advanced Education, Employment and Labour, *Young Worker Readiness Certificate Course, Instructions for Completing the Course*, Ministry of Advanced Education, Employment and Labour, Saskatchewan, Canada, October 2009. [Online]. Available: <http://www.aeei.gov.sk.ca/young-worker-readiness-certificate-instructions>

Moore, Gary S; Perlow, Audrey; Judge, Christine and Koh, Howard. *Using blended learning in training the public health workforce in emergency preparedness*. Public Health Reports, Volume 121, Issue 2, March-April 2006,

Neal, Andrew and Griffin, Mark A. *A Study of the Lagged Relationships Among Safety Climate, Safety*

Motivation, Safety Behaviour, and Accidents at the Individual and Group Levels, Journal of Applied Psychology, Volume 91, Issue 4, 2006.

Occupational Health and Safety Agency for Healthcare in B.C. *Success Factors for Occupational Health and Safety Training: A Review of the Literature*, Occupational Health and Safety for Healthcare in B.C., Vancouver, British Columbia, 2003.

Tragardh, Bjorn. *The role of health and safety representatives in Sweden – The implementation of EEC Directive 89/391*, Working paper in Studies of Organization and Society, Department of Business Administration, School of Business, Economics and Law, University of Gothenburg, Gothenburg, Sweden, 2008.

Workplace Safety and Insurance Board, *Certification Standards*, WSIB Website, Toronto, Ontario, 2007. [Online Resource Only]. Available: [http://www.wsib.on.ca/wsib/wsibobj.nsf/LookupFiles/PreventionCertificationStandards/\\$File/CertStandards5002A.pdf](http://www.wsib.on.ca/wsib/wsibobj.nsf/LookupFiles/PreventionCertificationStandards/$File/CertStandards5002A.pdf)

Workplace Safety and Insurance Board, *Guidelines for Workplace-Specific Hazard Training of Certified Members*, WSIB Website, Toronto, Ontario, 2000. [Online Resource Only]. Available: [http://www.wsib.on.ca/wsib/wsibsite.nsf/LookupFiles/DownloadableFileWSHTGuidelines/\\$File/WSHTGuidelines.pdf](http://www.wsib.on.ca/wsib/wsibsite.nsf/LookupFiles/DownloadableFileWSHTGuidelines/$File/WSHTGuidelines.pdf)

Underground Economy

Armstrong, T.E., O’Grady, J. (2004) *Attacking the Underground Economy in the ICI Sector of Ontario’s Construction Industry*. (Commissioned by: Ontario Construction Secretariat)

Ontario Construction Secretariat, *Underground Economy in Construction – It Costs Us All*, April 2008 and July 2010

Incentives / Supply Chain

Tompa E, Trevithick S, McLeod C. 2007. Systematic review of the prevention incentives of insurance and regulatory mechanisms for occupational health and safety. *Scandinavian Journal of Work Environment and Health*. 33(2).

Vulnerable Workers

Breslin FC. 2010. *Assessing Occupational Health and Safety of Young Workers Who Use Youth Employment Centres*. Prepared for submission to *American Journal of Industrial Medicine*.

MacEachen, E. Lippel, K. , Kosny, A., Saunders, R., Edney, D., Ferrier, S., Pugliese, D. , Submission to the Expert Advisory Panel on Occupational Health and Safety Vulnerable Workers Working Group: *“Early findings from the study: Understanding the Management of Prevention and Return to Work in Temporary Work Agencies”*. Institute for Work & Health. August 3, 2010.

Marshall, K. 2003. "Benefits of the job." *Perspectives on Labour and Income*. 4:5, 5-12.

McCutchen, B. 2009. *Culture of Fear, a Report on the Status of Reprisal Protection for Workers under the Occupational Health and Safety Act*, prepared for the Ontario Federation of Labour

Smith, CK et al. 2010. "Temporary Workers in Washington State." *American Journal of Industrial Medicine* 53:135-145

Smith, P, Mustard, C. 2010. The unequal distribution of occupational health and safety risks among immigrants to Canada compared to Canadian-born labour market participants, 1993 to 2005. *Safety Science*. 48(10).

Smith, P, Mustard, C. 2009. Comparing the risk of work-related injuries between immigrants to Canada and Canadian-born labour market participants. *Occupational and Environmental Medicine*. 66.

Smith, P, Mustard, C. 2007. "How many employees receive safety training during the first year of a new job?" *Injury Prevention*. 13: 37-41.

Thomas, D. 2010. Foreign Nationals Working Temporarily in Canada. *Canadian Social Trends*, Statistics Canada – catalogue no. 11-008

Tompa, E, Fang M. 2008. The impact of experience rating and firm size dynamics on occupational health and safety performance. Institute for Work & Health manuscript.

Tucker E, Sargeant M. 2009. Layers of vulnerability in occupational health and safety for migrant workers: case studies from Canada and the United Kingdom. *CLPE Research Paper*. 5(2).

Vosko, L, Cranford, C., and N. Zukewich. 2003. "Precarious Jobs? A New Typology of Employment." *Perspectives on Labour and Income*. 4:10, 16-26.

Small Businesses

Eakin, Joan M; Champoux, Daniele and MacEachen, Ellen. *Health and Safety in Small Workplaces: Refocusing Upstream*, Canadian Journal of Public Health, Volume 101, Supplement 1, 2010.

Eakin, J., Lamm, F., & Limborg, H. (2000). International Perspectives on the Promotion of Health and Safety in Small Workplaces. In J. Frick, P. Jensen, M. Quinlan, & T. Wilthagen, *Systematic Occupational Health and Safety Management* (pp. 227-248). Oxford: Pergamon, an Imprint of Elsevier Science

European Agency for Safety and Health at Work, *Good practice in reducing safety and health risks: Promoting health and safety in European Small and Medium-sized Enterprises (SMEs)*, SME funding scheme, Luxembourg, Grand Duchy of Luxembourg, 2005.

Recommendations

New Prevention Organization

1. A new prevention organization should be created within the Ministry of Labour. The new organization would be headed by a Chief Prevention Executive, and would feature a multi-stakeholder Prevention Council; each would have specific powers explicitly defined in the *Occupational Health and Safety Act*.
2. The new prevention organization should create, implement and audit training standards that would apply to training required by the *Occupational Health and Safety Act* and regulations.
3. The new prevention organization should work with other ministries and training organizations to develop a graduated occupational health and safety Awareness and Training Strategy to establish Ontario as a jurisdictional leader in OHS continual learning and training.
4. The new prevention organization should develop a multi-year social awareness strategy that will significantly reduce public tolerance of workplace injuries, illnesses and fatalities and shift attitudes, beliefs and behaviours around occupational health and safety.
5. The responsibility for research funding, and the resources to support it, should be transferred to the Chief Prevention Executive, and the Research Advisory Council mechanism for advising on the funding of research should be retained.
6. The new prevention organization, in conjunction with the Ministry of Labour and stakeholders, should develop a common database that can be used for planning and evaluation purposes. The system partners, in collaboration with stakeholders, should:
 - develop a common vision of success, and the data needed to determine it;
 - review the occupational health and safety data currently collected, to improve its reliability and validity for the purpose of performance measurement;
 - identify additional information on workers and employers that could be collected and shared, subject to any legislative limitations or restrictions; and
 - review, and where appropriate, consolidate existing leading-indicator initiatives under the new prevention organization.
7. The new prevention organization should establish a business centre to carry out the following functions:
 - standardize, manage and disseminate OHS data;
 - retain and share information on system partner interactions with employers;
 - provide analytical expertise regarding provincial OHS data; and
 - manage and authorize stakeholder and public access to data.
8. The new prevention organization should be given responsibility for knowledge management and should create a leadership position to oversee this responsibility.

9. The new prevention organization should work with the Ministry of Labour, the Workplace Safety and Insurance Board and Health and Safety Associations to review the current inventory of health and safety information and resource products. This should lead to the development of a strategy to consolidate materials, increase the consistency of content and improve availability.
10. The Ministry of Labour should work with the new prevention organization to create a health and safety poster that explains the key rights and responsibilities of the workplace parties, including how to obtain additional health and safety information and how to contact an Ministry of Labour inspector. It should be mandatory to post this in the workplace.

Measures to Support the Internal Responsibility System

11. The Ministry of Labour should update the *Guide to the Occupational Health and Safety Act* and the Guide for Joint Health and Safety Committees and Representatives in the Workplace to address changes in the workplace and workplace relationships with particular emphasis on a small business lens, covering the following issues:
 - roles and responsibilities of workplace parties;
 - temporary employment agencies; and
 - functions of JHSC and Health and Safety Representative.
12. *The Occupational Health and Safety Act* should be amended to allow a co-chair of the Joint Health and Safety Committee to submit a written recommendation to the employer if an issue is unresolved following repeated attempts to reach consensus.
13. The Ministry of Labour should create a mandatory requirement for training of Health and Safety Representatives.
14. The Ministry of Labour should require mandatory health and safety awareness training for all workers.
15. The Ministry of Labour should require mandatory health and safety awareness training for all supervisors who are responsible for frontline workers.
16. The Ministry of Labour and new prevention organization should develop mandatory entry-level training for construction workers as a priority and consult with stakeholders to determine other sectors that should be subject to mandatory training for workers.
17. The Ministry of Labour and new prevention organization should develop mandatory fall protection training for workers working at heights as a priority and consult with stakeholders to determine additional high-hazard activities that should be subject to mandatory training for workers.

Combating the Underground Economy

18. The government should make a single provincial entity responsible for overseeing and coordinating a province-wide strategy to address the underground economy. This strategy could include links to federal and municipal initiatives.
19. The entity overseeing a province-wide strategy on the underground economy should consult regulators and the Ministry of Economic Development and Trade on expansion of the Designations Regulation under the *Regulatory Modernization Act, 2007* in order to enhance the capacity of regulators to detect and combat underground activity.
20. The Ministry of Labour, in collaboration with other regulators and levels of government, should take steps to acquire information and data that health and safety inspectors would use to identify and reduce underground economic activity.
21. The Ministry of Labour should target workplaces and sectors operating in the underground economy for proactive inspections after normal working hours.

Incentives

22. The Workplace Safety and Insurance Board, in conjunction with the new prevention organization and stakeholders, should review and revise existing financial incentive programs, with a particular focus on reducing their emphasis on claims costs and frequency.
23. The new prevention organization, in conjunction with stakeholders, should develop an accreditation program that recognizes employers who successfully implement health and safety management systems.
24. Concurrent with the proposed review of financial incentives, the new prevention organization should work with the Workplace Safety and Insurance Board to develop appropriate financial incentives that reward employers who qualify suppliers based on their health and safety performance.

Enforcement and Penalties

25. The Ministry of Labour should review its current enforcement policy and supports for inspectors with a view to creating a consistent approach of tough enforcement for serious and wilful contraventions, as well as compliance assistance where guidance and support for employers help achieve compliance.
26. The Ministry of Labour should review the offences for which tickets can be used for enforcement, and request that the Attorney General review and revise the existing set fines for *Occupational Health and Safety Act* offences.

27. The Ministry of Labour should enhance the current legislative provisions for penalties by adding administrative monetary penalties as an enforcement tool, and should develop policies and procedures that govern their use.

Regulatory Approach

28. The Ministry of Labour should institute a regulatory review approach that ensures regulations are current, consistent and provide compliance flexibility and support.

Better Protection for Vulnerable Workers

29. The Minister of Labour should appoint a committee under Section 21 of the *Occupational Health and Safety Act* to provide advice on matters related to the occupational health and safety of vulnerable workers.
30. The Ministry of Labour should carry out more proactive inspections and periodic enforcement campaigns at workplaces and in sectors where vulnerable workers are concentrated.
31. The occupational health and safety system should develop information products in multiple languages and formats for distribution through various media and organizations to raise awareness of occupational health and safety among vulnerable workers.
32. The Ministry of Labour should develop regulations in consultation with stakeholders in the farming community to control the key hazards associated with farm work.

Improved Protection from Reprisals

33. The Ministry of Labour and the Ontario Labour Relations Board should work together to develop a process to expedite the resolution of reprisal complaints under the *Occupational Health and Safety Act*.
34. The Ministry of Labour should review its prosecution policy and develop guidance for inspectors on when to lay charges for a contravention of Section 50 of the *Occupational Health and Safety Act*.
35. A worker or employer involved in a reprisal complaint should have access to information and support from an independent, third-party organization, such as the Office of the Worker Adviser or Office of the Employer Adviser.

Small Business

36. The Minister of Labour should create a small business Section 21 committee and appoint members that can represent the needs and interests of employers and workers in small businesses.

37. The occupational health and safety system should intensify support for small business compliance through the creation of focused and integrated programs with dedicated resources.
38. Ministry of Labour inspectors should incorporate compliance assistance in their approach to enforcing the *Occupational Health and Safety Act* and its regulations.

Opportunities for Government Ministries and Agencies

39. The Ministry of Education should work with school boards, private schools and teacher organizations to expand the health and safety content of primary and secondary school curricula and update teacher resource material to allow them to effectively teach these curricula.
40. The Ministry of Education should make high school graduation dependent upon demonstration of knowledge of occupational health and safety.
41. The Ministry of Training, Colleges and Universities should work with post-secondary institutions and trade schools to incorporate health and safety content into their programs for both future workers and employers/senior executives.
42. The Ontario Government should develop procurement policies that consider the occupational health and safety performance of suppliers in order to motivate a high level of performance. The initial focus could be on the purchasing of services.
43. The Ministry of Economic Development and Trade and the Ontario Centres for Excellence should work with the Ministry of Labour and the new prevention organization to develop health and safety criteria for inclusion in funding considerations related to innovation.
44. The Ministry of Government Services/Service Ontario should amend the business registration process to include an active link to health and safety information, and should work with the occupational health and safety system to provide relevant information for new business owners.
45. The Workplace Safety and Insurance Board should amend its registration process to include an active link to health and safety information, and should continue to work with the occupational health and safety system to provide relevant information for new business owners.

Next Steps

46. The Panel recommends that an implementation team and an interim Prevention Council be established as soon as possible to work closely with labour and employer stakeholders to implement these as priorities over the next twelve months:
 1. A new prevention organization should be created within the Ministry of Labour. The new organization would be headed by a Chief Prevention Executive, and would feature a multi-stakeholder Prevention Council; each would have specific powers explicitly defined in the *Occupational Health and Safety Act*. (Recommendation 1)

2. The Ministry of Labour should work with the new prevention organization to create a health and safety poster that explains the key rights and responsibilities of the workplace parties, including how to obtain additional health and safety information and how to contact a Ministry of Labour inspector. It should be mandatory to post this in the workplace. (Recommendation 10)
3. The Ministry of Labour should create a mandatory requirement for training of Health and Safety Representatives. (Recommendation 13)
4. The Ministry of Labour should require mandatory health and safety awareness training for all workers. (Recommendation 14)
5. The Ministry of Labour should require mandatory health and safety awareness training for all supervisors who are responsible for frontline workers. (Recommendation 15)
6. The Ministry of Labour and new prevention organization should develop mandatory entry level training for construction workers as a priority and consult with stakeholders to determine other sectors that should be subject to mandatory training for workers. (Recommendation 16)
7. The Ministry of Labour and new prevention organization should develop mandatory fall protection training for workers working at heights as a priority and consult with stakeholders to determine additional high hazard activities that should be subject to mandatory training for workers. (Recommendation 17)
8. The Minister of Labour should appoint a committee under Section 21 of the *Occupational Health and Safety Act* to provide advice on matters related to the occupational health and safety of vulnerable workers. (Recommendation 29)
9. The Ministry of Labour and the Ontario Labour Relations Board should work together to develop a process to expedite the resolution of reprisal complaints under Section 50 of the *Occupational Health and Safety Act*. (Recommendation 33)
10. A worker or employer involved in a reprisal complaint should have access to information and support from an independent, third-party organization, for example, the Office of the Worker Adviser or Office of the Employer Adviser. (Recommendation 35)
11. The Minister of Labour should create a small business Section 21 committee and appoint members that can represent the needs and interests of employers and workers in small businesses. (Recommendation 36)

Working Groups

Eight working groups supported the Expert Advisory Panel and the Project Secretariat. Listed below are the members of each group, their positions and the organizations they represented. The following acronyms are used.

IHSA	Infrastructure Health and Safety Association
IWH	Institute for Work and Health
MCI	Ministry of Citizenship and Immigration
MGS	Ministry of Government Services
MOL	Ministry of Labour
MOR	Ministry of Revenue
MTCU	Ministry of Training, Colleges and Universities
OHCOW	Occupational Health Clinics for Ontario Workers
PSHSA	Public Services Health and Safety Association
WHSC	Workers Health and Safety Centre
WSIB	Workplace Safety and Insurance Board
WSN	Workplace Safety North
WSPS	Workplace Safety and Prevention Services

1. Roles of the System Partners

- Candys Ballanger-Michaud, CEO, WSN
- Tom Beegan, Chief Prevention Officer, WSIB
- Michael Delisle, CEO, IHSA
- Sophie Dennis, Assistant Deputy Minister, Operations Division, MOL
- Alec Farquhar, Managing Director, OHCOW
- Dave Killham, Executive Director, WHSC
- Louise Logan, President and CEO, PSHSA
- Elizabeth Mills, President and CEO, WSPS
- Kevin Wilson, Assistant Deputy Minister, Policy, Program Development and Dispute Resolution Services Division, MOL
- Tony Dean, Chair, Expert Advisory Panel

2. Data / Performance Measurement

- Lella Conte, Manager, Business Analytics-Workplace Injuries, WSIB
- Doug McVittie, Vice President, Technical Services, IHSA
- Carolyn Murphy, Director, Business Analytics-Workplace Injuries, WSIB
- Dawna Nighbor, Evaluation Specialist, WSN

- John Oudyk, Occupational Hygienist, OHCOW
- Michael Ray, Project Manager, Occupational Health and Safety Branch, MOL
- Nick Robins, Manager, Health and Safety Policy and Program Development Branch, MOL
- Mel Simon, Director, Information Technology, WSPS
- Peter Smith, Scientist, IWH
- Paul Bonfigli, Policy Advisor, Project Secretariat

3. Joint Health and Safety Committees / Internal Responsibility System

- Murray Baker, Regional Program Co-ordinator, MOL
- Cristina Campanelli, Senior Prevention Program Specialist, WSIB
- John Levesque, Program Development Coordinator, WSN
- Kathryn Nichol, Program Specialist, PSHSA
- Anukta Phillips, Regional Manager, Toronto East, WSPS
- Ross Riddell, Training Services Representative, WHSC
- Sandra Miller, Policy Advisor, Project Secretariat

4. Training

- Al Beattie, Interim President and CEO, IHSA
- Alain Chenard, Director, Prevention Services East, PSHSA
- John Kreppner, Senior Policy Advisor, MTCU
- Doug McBride, Regional Program Co-ordinator, MOL
- Kathryn Nichol, Program Specialist, PSHSA
- Patti Redmond, Director, Programs Branch, MTCU
- Diane Scott, Program/Training Specialist, WSN
- Ellen Simmons, Information Officer, WHSC
- Jeremy Smith, Senior Program Design & Development Analyst, MTCU
- Sandra Miller, Policy Advisor, Project Secretariat

5. Underground Economy

- John Andersen, Assistant Deputy Minister, Compliance Programs Division, MOR
- Enzo Garritano, Manager, Technical Services and Program Development, IHSA
- Mike Johnston, Executive Director, Regulatory Services Division, WSIB
- Linda Jones, Manager, Standards and Assessment, MTCU
- Bob Onyschuk, Director, Jobs Protection Office, MOL

- Bonnie Suhr, Associate Director, Operations Division, MOL
- Jody Young, Associate Director, Occupational Health and Safety Branch, MOL
- Yvonne Slupinski, Policy Advisor, Project Secretariat

6. Incentives /Supply Chain

- Michael Burke, Vice President, Client Services, IHSA
- Paul Casey, Director, Standards and Incentives, WSIB
- Tricia Clausen, Area Manager, Municipal Team, PSHSA
- Bob Onyschuk, Director, Jobs Protection Office, MOL
- Carol Sackville-Duyvelshoff, Program Manager, Operations Division, MOL
- Bill Sisler, Area Manager, Municipal Team, PSHSA
- Robyn Wilson, Senior Procurement Consultant, MGS
- Paul Bonfigli, Policy Advisor, Project Secretariat

7. Innovation / Technology

- Rhonda Bridger, Assistant Director, Intelligence and Innovation Branch, WSIB
- Renzo Dalla Via, Senior Strategy Advisor, Technology, WSPS
- Enzo Garritano, Manager, Technical Services and Program Development, IHSA
- Gaston Lafleur, Manager, Business Solutions and Infrastructure Management, MOL
- Kathleen Therriault, Manager, Health and Safety Policy and Program Development Branch, MOL
- Suzanne Campbell, Policy Advisor, Project Secretariat

8. Vulnerable Workers

- Dean Anderson, Regional Director, WSPS
- Sheila Bello, Policy Advisor, MCI
- Gerry Culina, Director, Education Prevention Services, PSHSA
- Ahsan Khan, Assistant Director, Employer Service Centre, WSIB
- Kathryn Nichol, Program Specialist, PSHSA
- Laura Pascoe, Program Development Officer, WHSC
- Leslie Piekarz, Executive Director, OHCOW
- Bonnie Suhr, Associate Director, Operations Division, MOL
- Benita Swarbrick, Senior Policy Advisor, MOL
- Yvonne Slupinski, Policy Advisor, Project Secretariat

Small Business Subcommittee

A subcommittee of the Panel, supported by staff of the Project Secretariat and the IWH, examined issues of particular importance to small businesses.

- Joan Eakin, Academic Representative, Expert Advisory Panel
- Vernon Edwards, Labour Representative, Expert Advisory Panel
- Dominic Mattina, Employer Representative, Expert Advisory Panel
- Ron Saunders, Senior Scientist, IWH
- John Vander Doelen, Director, Project Secretariat
- Sandra Miller, Policy Advisor, Project Secretariat

