



TITLE OF PRESENTATION: PERSONAL SECURITY OF RAIL INDUSTRY WORKERS:
VIOLENCE, HARASSMENT AND BULLYING AT WORK¹

NAME OF PRESENTER: ROGER JOWETT

JOB TITLE: NATIONAL SECRETARY

COMPANY NAME: AUSTRALIAN RAIL TRAM AND BUS INDUSTRY UNION

Frontline employees are becoming scapegoats for late trains, delayed flights, bewildered people, long queues and cuts to services. Staff have been punched, kicked, bitten and spat on by people who are overwrought, strung out on alcohol or drugs, mentally unstable or just plain angry at the world (Robinson 2004).

Violence in the workplace is becoming an increasingly important issue. Violence can take a number of forms including physical, verbal and non-verbal communication, intimidation and bullying, exclusion, sexual harassment and stalking. As well as direct attacks, in the rail industry, workers can be exposed to witnessing attacks on passengers, and suicides as well as accidents involving co-workers and/or members of the general public.

This paper highlights the risks posed to rail workers by workplace violence, harassment and bullying. It is suggested that further research is required in the rail industry to identify the extent of these issues. Further, it is proposed that violence in railway workplaces needs to be unambiguously recognised as an occupational health and safety issue, rather than being treated as an external (police) responsibility. Further, the paper suggests a number of responses to reduce the exposure of rail industry workers to workplace violence. This includes the development of codes and conduct and agreements between employers, employees and their representatives, and recognition that cooperation is crucial in developing approaching responses to violence in railway workplaces.

Introduction

This paper first briefly details what constitutes violence, harassment and bullying in a workplace context. Second, various sources of violence, harassment and bullying are explored. It is suggested that, in the rail industry, workers are potentially exposed to all forms of workplace violence, in particular that which arises from working alone, working irregular hours of work, working with the public and working with valuables or money. Falling

¹ Roger Jowett, National Secretary and Kristin van Barneveld, National Industrial Officer, Australian Rail, Tram and Bus Industry Union.

service standards, and the consequent public frustration over waiting times and poor services has exacerbated anger amongst transport users. This anger translates into violence and harassment against rail workers.

As violence, harassment and bullying become recognised as a workplace problem rather than simply externalised as the responsibility of the police, evidence of the frequency and type of incidents has slowly increased. However, it must also be recognised that underreporting remains a significant concern and there is a need for appropriate legislative/regulatory reform to ensure adequate reporting by both employers and workers.

The third section of this paper outlines some of the evidence from RTBU members' experience of workplace violence, harassment and bullying. Fourth, the consequences for workers, government and employers are explored, with particular reference to two cases. The first where a joinery company and its directors were fined \$26,000 for failing to ensure a workplace was free from bullying, and the second where a \$50,000 fine was imposed on Ballarat Radio Pty Ltd for failing to address bullying. Both cases focussed on the employers' failure to provide a safe workplace under Occupational Health and Safety legislation, obligations which are discussed in section five of this paper. The role which could be played by Rail Safety legislation in strengthening employer and worker obligations in relation to workplace violence, harassment and bullying is also discussed in this section. The final section of the paper details possible union responses to the concerning problem of increasing workplace violence, harassment and bullying in the rail industry.

1. What is violence, harassment and bullying

Violence is broadly defined as *'a perceived or actual verbal or emotional threat or physical attack on an individual's person or property by another individual, group or organisation'*. Violence can take a number of forms including physical acts, abusive verbal and non-verbal communication, intimidation and bullying, exclusion, sexual harassment and stalking (ITF 2003:A1 taken from Essenberg 2003). In a workplace context, violence and harassment have been defined as *'incidents where persons are abused, threatened or assaulted in circumstances related to their work, involving an explicit or implicit challenge to their safety, well being and health'* (Wynne et al 1997 in Eurofound 2004:2).

Bullying or psychological violence is defined by the World Health Organisation as the *'intentional use of power against another person or group that can result in harm to physical, mental, spiritual, moral or social development'* (Eurofound 2004:3). Bullying is generally considered to be behaviour which is systematically repeated rather than a one-off incident (Vartia 2002, Thomas 2004), and is typified by a power imbalance either caused by organisational factors (ie supervisor/employee) or by previous incidents of bullying or interpersonal conflict. Although bullying is generally regarded as conflict between employees and/or management, it can also be caused by parties external to the workplace. Hence in the Australian context, bullying has been widely defined by the NSW Labor Council as *'repeated, unreasonable*

behaviour directed toward an employee, or group of employees that creates risk to health and safety' (Labor Council 2004b:1).

2. Sources of violence, harassment and bullying

Four key sources of workplace violence have been identified by the ILO: external violence, service-related violence, internal violence and organisational violence. These are discussed in turn below.

External violence includes acts done by intruders to the workplace who have no legitimate relationship with the workplace. In the rail industry, this includes vandalism and other acts of trespass onto railway property. External violence has been exacerbated by technological change. As automatic ticket machines, computers, video cameras and other automated systems replace workers on stations and on trains, *'potential troublemakers have fewer uniformed staff watching them and, when trouble does break out, there are fewer employees available to deal with the problem or to alert the police'*.

Service-related violence refers to 'aggressive acts by customers' and typifies the type of violence perpetrated against workers in the rail industry by passengers. According to the ILO, the key features of the transport industry which expose workers to potential service-related violence are public frustration over waiting times and poor services, and members of the public whose behaviour can be erratic and unpredictable (ILO 2003). This includes people who are intoxicated through drugs or alcohol.

Internal violence describes acts done by management, employees, former employees or those with an employment based connection to the workplace. This includes bullying. Internal violence can take many forms including:

- 'Slander, gossip and rumours',
- Social isolation and keeping people uninformed,
- Giving a person too few or overly simple work tasks,
- Continuous criticism of people's work and its results,
- Threats or acts of physical violence,
- Insinuations about a person's mental state (Vartia 2002:22).
- Being required to perform work tasks without proper training or instruction,
- Unreasonable overtime, unfair rostering, unfair allocation of work or being asked to perform non-work related activities,
- Excessive supervision,
- Damage or interference with personal belongings, sabotage or undermining of work,
- The use of loud, abusive, threatening or derogatory language, usually in front of other workers,
- Threat (explicit or implied) of termination of employment.
- Inappropriate use of performance management tools (Labor Council 2004b).

In male dominated industries, including some parts of the public transport industry, gender-based bullying has occurred as female employees increasingly work in what have been typically considered male occupations. In the rail industry this includes female workers being employed as train drivers, guards and transit officers. However, as seen in the examples in the next section, bullying is not simply a gendered problem.

Finally, organisational violence is where the employer places employees in dangerous or violent situations or does not address a climate of workplace bullying or harassment (Essenberg 2003:7). In terms of organisational violence, the International Labour Organisation (ILO) suggests that specific situations which may enhance the risk of exposure to violence include working alone, working with the public, and working with valuables or money (ITF 2003:A4). For rail workers, the effects of violence can be compounded because of the work location. For example, train guards, on-board services staff and drivers cannot necessarily escape a violent situation if they are unable to leave the train (ILO 2003, ITF 2003). Similarly, station staff may be placed in a situation where they cannot easily leave a station. In these circumstances, the stress caused by threatened or actual violence can be compounded. As discussed later, in the rail industry a significant cause of these situations is employer failure to adequately address occupational health and safety obligations to provide a safe workplace.

The triggers and causes of all forms of workplace violence (service-related, internal, external and organisational), are according to the ILO, *'controlled and exacerbated by management policy. ... Profit maximisation and cost minimisation appear to take priority over the safety and health of employees'* (Essenberg 2003:8). This has been the case in the Australian public transport industry where staff cuts have led to un-staffed or minimally staffed stations. In response to the detrimental safety effects of organisational policies which are focussed on cost reduction at the expense of employee safety, the RTBU in Victoria has recently worked with the Police Association to demand increased staffing of stations. In Melbourne in 2003, 130 of 209 stations were un-staffed (Parris 2003:25). By September 2004, the RTBU Victorian Secretary of the Rail Operations Division advised that 30 of the 130 stations had become permanently staffed. A further 20 stations were now staffed during the afternoon peak period, and one hundred additional Safe Travel Staff had been employed to patrol both trains and the remaining un-staffed stations. The campaign to have all stations staffed was ongoing.

3. Evidence of workplace violence, harassment and bullying

Recent years have witnessed a burgeoning of the seriousness of workplace violence and stress, and its placement onto the global agenda. Trade unions ... and other key stakeholders have ... expressed disquiet regarding the perceived magnitude and consequences of the phenomenon (Essenberg 2003:3).

Threats of violence at work are of increasing concern for workers in a range of industries. For example, the UK Union of Shop, Distributive and Allied

Workers began a campaign in 2003 called 'Freedom from Fear'. The campaign highlighted that in 2002, 16,200 shop workers were assaulted, 48,600 were threatened and 70,000 were verbally abused (USDAW 2004). Incredibly, this high number of assaults was identified in an industry which has not been recognised as one where workers were *most likely* to be exposed to physical workplace violence. A longitudinal survey by Eurofound (2004) revealed that the top four industries where workers were most likely to be exposed to *physical* violence were: health and education; public administration and defence, hotels/restaurants and transportation.

In Australia there is little empirical evidence of the incidence of workplace violence, harassment and bullying. The Australian Council of Trade Unions (ACTU), the State Trades and Labor Councils and individual unions have begun campaigning against workplace violence, and gathering data as to its extent. In Victoria for example, the Trades Hall conducted a survey between October 2003 and March 2004 collecting the experiences of women in relation to workplace violence. The survey was developed in recognition that there had been no significant research conducted into the prevalence and effects of women's experience of workplace violence (VTHC 2004). The VTHC Women's and Equity officer Ellen Kleimaker was quoted as saying "*We know that it is happening but we don't know the differences between industries and we don't know who the perpetrators are*" (ACTU 2003). This comment highlights the embryonic stage of research in this area and the need for further research to better identify appropriate responses to workplace violence.

In New South Wales, the Labor Council has moved beyond data collection and developed a *Dignity and Respect in the Workplace Charter*. The Charter is designed for employers to sign and display in their workplace to demonstrate their commitment to a workplace that provides dignity and respect to all employees. The Charter states employer responsibilities and employee rights under occupational health and safety legislation and outlines five steps to promoting a bully free workplace. These are: workplace consultation, workplace awareness campaigns, training and development, procedures to deal with complaints and, consultation and feedback.

Similar to the work undertaken by the UK Union of Shop, Distributive and Allied Workers, industry specific initiatives are beginning to appear in some Australian industries where workplace violence has received significant media attention as a result of union campaigning. For example, in Victoria, a Taskforce on Violence in Nursing was established at the start of 2004 to address the issue of occupational violence in that industry. The Taskforce comprises representatives from trade unions, employees, employers, government, the police, academics and training providers and is to report in March 2005. The experience of transport workers is discussed below.

3.1. Evidence from the Transport Industry

In the European transport industry, 4.5 per cent of workers surveyed in 2000 reported that they had been subject to physical violence. This compared to 2.5 per cent of employees reporting physical violence in 1996 (Eurofound 2004:5). The survey also revealed that in 2000, 12 per cent of workers in the transport

industry experienced intimidation. This was up from 8 per cent in 1996 (Eurofound 2004:6). Not surprisingly, research on physical violence in a number of European countries concluded that violence between co-workers was rare – most often, violence came from customers. Bullying however mostly happened inside the workplace, coming from fellow workers (Eurofound 2004).

Although there is some specific data on the extent of workplace violence in other industries, (including the transport industry more broadly), in the rail industry, the extent of the problem remains relatively unknown. This is because of poor data collection by employers, significant underreporting and a lack of research on the incidence of workplace violence, bullying and harassment in rail. For example, research by the British Rail Safety Standards Board (RSSB) confirmed that violence was significantly underreported by railway employees. Half of the 4,000 front line staff surveyed did not bother to report assaults because of a belief that nothing would be done. Nearly one third of front line staff did not report assaults because they did not believe the type of assault was serious enough and another 30 per cent reported that they believed assault was part of the job (Modern Railways 2004:34).

Despite the poor reporting, available figures on the incidence of workplace violence in the British railway system are startling. In the three years to the end of March 1999, approximately 1,000 injuries resulting from workplace violence were reported to the Health and Safety Executive (HSE). Considering that the events which are reported tend to be more 'serious' attacks which result in significant injury, it is alarming to consider the possible number of minor attacks which go unreported (Essenberg 2003:17). More recent data from the UK Railway Safety and Standards Board show that in 2002/3, assaults, including verbal assaults and threats, against railway employees increased by 24 per cent on the 2001/2 year. Even if the increase can be partly explained by improved reporting standards, the sheer number of incidents recorded (3090) highlights there is a significant problem (Parris 2003:23).

In Australia, there is some data which suggests workplace violence is a significant problem in the rail industry. For example, in New South Wales, the State Rail Annual Report of 2002/03 revealed that there were 33 fatalities that financial year resulting from either trespass, suicide, falls from trains or natural causes while travelling. A further 7 people died in accidents due to train operations (SRA 2003:23). Unpublished data from the NSW Bureau of Crime Statistics and Research show that in the twelve months to the end of June 2004, there were 4,179 reported instances of assault, sexual offences, robbery, stealing from a person or malicious damage on railway premises (which include stations, rail buildings, railway sidings, railway terminals and railway car parks). Of those offences, 1,328 were assaults on a train or railway premises and 1,207 were stealing from a person who were either on a train or railway premises (BCSR 2004). In Victoria, in the month of June 2003, there were 36 incidents of assault and abuse on Victorian public transport. The Victorian Secretary of the RTBU was quoted as saying that *"our members are constantly being harassed just for doing their job ... Ask people for their*

ticket or tell them to take their feet off the seat and they get angry, even violent” (quoted in Robinson 2004).

Although detailed data is scarce, some recent comments from RTBU officials and members highlight the experience of Australian railway workers in relation to workplace violence.

Workplace Violence: Australian Rail Workers Experiences

“On a daily basis, train guard members are spat on, especially more recently because of crew shortages; station staff are continually shoved and spat at; there have been cases of a female Transit Officer being pushed towards the track, and a male Transit Officer was actually thrown onto the tracks”
(President, Rail Operations Division, RTBU NSW Branch, September 2004).

“I’ve been a guard for 25 years and have experienced violence numerous times. It used to be late on a Thursday and Friday night, taking the drunks home, but now it can happen any time, Monday lunchtime, anytime. I’ve had beer bottles thrown at me, been threatened, spat on, I’ve had to break up knife fights on the train ... It used to only be the drunks but the young ones are a lot more violent now” (Train Guard, September 2004).

“I’ve been doing it for a long time. I make sure I am not in a position where I put myself in a dangerous situation – it’s something that you pick up over the years. You have to judge people’s body language and be constantly looking over your shoulder. Anyone dealing with the public gets these skills with experience. Putting up with workplace violence is part of the job, but it shouldn’t be” (Train Guard, September 2004).

“I’ve seen situations where people have spat at guards when they have shut the door as the train is departing. We regularly get abused through the train control room window by people who have missed their train or when the indicators are wrong. They bang on the window and ask you to step outside so they can either abuse you more or assault you. They are normally drunk”
(Customer Service Attendant, September 2004).

“I have been a Transit Officer for about 18 months. There is a lot of abuse in the job. In a lot of the instances, the abuse is verbal, and most people can be talked down in these cases. When it goes to pushing and shoving, most people stop when they are threatened with arrest. I have had my ankle broken during an arrest. We were removing a drunk male off a train and a scuffle broke out when his girlfriend got involved. During the push and shove, everyone landed on my ankle and it snapped. Last week I had an incident with two men on a train involving a ticketing offence. After getting off the train, one man, who I went to arrest, pushed me out of the way, towards the track. My partner caught me, just in time by the arm, as I fell towards the track. It is a blokey environment but generally there is not much abuse between co-workers, it mainly comes from passengers. Workplace violence is part of the job but it is not acceptable by any standard” (Transit Officer, September 2004).

A range of studies have asked employees whether they have observed someone at their workplace being exposed to bullying. These studies estimate that between 30% and 70% of employees have observed instances of bullying

(Vartia 2002:19). More precisely, the European Union has estimated that 9 per cent of the workforce each year is subject to bullying, but underreporting means that the incidence of bullying could be much higher – some studies estimate as high as 38 per cent of the workforce is subject to bullying in any year (Marles 2003).

In Australia, the ACTU estimates that ‘350,000 workers are subjected to long term bullying ... while 2.5 million experience some aspect of bullying over the course of their working lives’ (ACTU 2003b). The Labor Council of NSW puts the figure somewhat higher, with its survey conducted in 2004 finding that 74 per cent of workers had experienced bullying at their workplace during their working life (Labor Council 2004).

A survey conducted by the ACTU in 2000 identified that almost 70 per cent of employees who were bullied had been bullied by a manager or supervisor (Marles 2003). Further, 54 per cent of workers believed that their workplace had a bullying culture (Labor Council 2004). The key ways in which workers felt bullying was manifest were intimidation, threatening behaviour, harassment, pressure, abuse of power and isolation. Interestingly, in 44 per cent of cases, workers had taken time off due to bullying, but in only 4 per cent of cases, a workers’ compensation claim had been made.

Bullying is increasingly becoming recognised as a problem in the Australian rail industry. At a recent Women’s Conference organised by the NSW Branch of the RTBU, significant discussion occurred around the issue of bullying. The Human Resource Manager for a large suburban rail passenger transport provider, Railcorp, flagged bullying as a key issue going forward. Railcorp recognised that a response was needed particularly given the examples provided by RTBU women members. Some examples are provided in the boxes below.

Workplace Bullying: The Experience of a Female Suburban Train Driver September 2004

“I started my holidays in early July, and had only been away 1 or 2 days when another female driver found an A4 piece of paper which I had put up on the noticeboard advertising a retirement dinner for one of the drivers. Someone had crossed my name off it and put ‘depot fuck’. The female driver who took it down was quite distressed and handed it to one of the union guys. Then about one week later, a photograph of me turned up with the same thing written on it. I think I know who it is and at first I thought ‘what the hell’ but then I became really distressed about it. So I reported it to the employer and said I wanted it taken further. I really didn’t want to go back to work after my leave but I have a mortgage so I had no choice but to go back. The issue is ongoing and I am at the point of saying that if it is not seen to adequately by management, I will take it outside to an anti-discrimination board.”

]I think the harassment is partly because I am a woman. But it is also because I have been here a long time (18 years), I do a lot in the depot and I am more senior than the person who I have had trouble with. This employee has been pulled into line by other union members in the past, and recently got caught by other employees doing something stupid. That day I was speaking to management about a separate issue and he saw me talking to them. When he was told off two hours later, he thought it was because I had spoken with management about him, so he started attacking me.

Also quite recently, I was asked to help someone from a completely different department who had been sexually harassed. This 21 year old woman was propositioned by a male employee and told that if she had flashed her boobs in the interview and worn a shorter skirt, she would have got the promotion. She told him that she didn't like being spoken to like that and although she is as equally qualified as the three other people who applied for the job, she didn't get it. She still has to work in the same area as the guy who sexually harassed her.

I hear other instances of not just women but men who get bullied. It is pretty widespread and it is not something which has been squashed, it is something which is serious and ongoing. One of the male drivers told me today that he had heard a comment about him having an affair with another employee – and he took the person aside who made the comment and told him not to start rumours like that or he would take action.”

Workplace Bullying: The Experience of a Female Freight Train Driver September 2004

“Often the type of bullying that goes on comes from supervisors and management. For example, in the past we had a letter from a manager which said that there had been too many incidents in the last few months, and that if there were any more in the future, there would be job losses as retribution. Because there is a blame culture in rail, whenever management wants to change something at work, they will always remind you that the discipline code is there, and that they are not afraid to use it. They can find anything wrong with you at any time and use it to regress you, put it on your record, or give you some kind of warning: all to try to get you to do what they want you to do.

Teasing is part of the culture working in a blokey industry like rail. You just get used to lewd and crude remarks – and it is always a judgement call as to what you are offended by.”

As the quotes above suggest, bullying has not been restricted to gender based attacks and in the rail industry comes from both co-workers and management. To date, employers have done little to address the issues, partly because of an unwillingness to recognise that workplace violence, harassment and bullying is a significant problem in the rail industry and partly because employers do not recognise their obligations under various legislation, including their duty to provide a safe workplace. The consequences of workplace violence, harassment and bullying are discussed in the following section.

4. Consequences of workplace violence, harassment and bullying

According to the literature, the impact of fatalities, accidents and assaults which involve workers is stress, fear, anxiety, feelings of hopelessness, guilt and a fear of returning to work (Essenberg 2003:14). Similarly, studies suggest that workplace bullying leads to increased stress, depression, suicidal tendencies, anxiety and psychosomatic health complaints, aggressiveness and other negative mental health symptoms including those similar to post-traumatic stress disorder (Vartia 2002, Marles 2003, Labor Council 2004c). Physical manifestations can include stomach disorders, skin rashes, lethargy and sleep disturbance (Labour Council 2004c). The effects of bullying are significant with recent research in Victoria finding that up to 75 per cent of victims of long term bullying developed symptoms similar to post-traumatic stress disorder (Thomas 2004).

In a non-medical sense, bullying can affect the reputation of the victim, their performance of work tasks, their communication with co-workers and their social life (Vartia 2002:11). From an organisational perspective, bullying can lead to increased absenteeism levels, low levels of job performance and high labour turnover. This can affect not only the victim of the activity but others in their work unit (Vartia 2002, Labor Council 2004c, Thomas 2004). While estimates of the cost of bullying are difficult to make, the cost in Australia varies from \$3 billion annually (Marles 2003) to between \$6 billion and \$13 billion a year (Queensland Bullying Taskforce 2001 figure quoted in Thomas 2004).

5. Employer and government obligations regarding violence, harassment and bullying

The human suffering that results from this level of violence at work should not be underestimated. Employers have a legal duty to protect the health and safety of workers and this includes the risk of foreseeable violence at work and putting controls into place to protect workers from it (Malcolm David, Head of Psychological Policy at HSE quoted in Essenberg 2003:28).

Although workplace violence, harassment and bullying are increasingly being recognised as a problem, there remains a lack of evidence as to the extent of the problem. This stems from a number of factors, not least inadequate reporting mechanisms, and a perceived lack of requirement by employers and

workers to report incidents. As suggested by the Victorian Trades Hall, the first step to eliminating workplace violence, harassment and bullying is to identify the extent of the problem. In the rail industry, this could be achieved by amending the Rail Safety legislation of the States to require all occurrences of workplace violence to be notifiable. There is currently a review of Rail Safety legislation being undertaken by the National Transport Commission and this review provides the perfect opportunity for consideration of these issues.

Often employers assume that workplace violence is the responsibility of police. This belief possibly stems from the fact that, besides the criminal law which deals with offences such as assault, there is no *specific* legislation in Australia which *directly* addresses workplace bullying, harassment and violence. However there is a range of legislative requirements make behaviour unlawful which offends, humiliates or intimidates someone, or puts their health, safety or welfare (including psychological) at risk (Labour Council 2004d).

Most importantly, and as suggested by the quote at the start of this section, health and safety legislation is generally broad enough to include an employer responsibility to minimise exposure to risk of bullying, abuse and assault by workmates and the general public. In Australia, for example, legislation states that:

- *'An employer shall provide and maintain so far as is practicable for employees a working environment that is safe and without risks to health'* (Victorian Occupational Health and Safety Act 1985).
- In Western Australia, *'an employer shall, so far as is practicable, provide and maintain a working environment in which his employees are not exposed to hazards...'* (Western Australian Occupational Safety and Health Act 1984).
- Similarly, the objectives of the NSW Occupational Health and Safety Act state that the legislation is to *'promote a safe and healthy environment for people at work that protects them from injury and illness and that is adapted to their physiological and psychological needs'* (NSW Occupational Health and Safety Act 2000, s3(c)). Workplace violence is specifically mentioned in the *Occupational Health and Safety Regulation 2001* which requires employers to identify hazards which may arise from 'the potential for workplace violence' (s9(j)). The NSW Labor Council notes that under the health and safety legislative requirements, employers *'must remove risks from the workplace that may cause harm or injury to workers. This includes workplace violence, bullying and harassment that expose employees to health or safety risks. It also includes taking practical steps to identify, assess and control reasonably foreseeable psychological risks'* (Labour Council 2004d).

The Courts have recently demonstrated a willingness to extend the definitions above to encompass an employer obligation to eliminate workplace violence

and bullying. The first case involved the 'initiation' of a 16 year old labourer at a joinery factory. Five co-workers *'used a cling wrapping machine to wrap him from his feet to his neck. They secured him to a trolley and pushed it to the edge of an access penetration (which was) 4.2 metres above ground level. The workers proceeded to shove sawdust and glue into the mouth of the labourer, who was asthmatic and become unable to breathe. The workers continued to squirt glue and a fire hose into his mouth, with the entire incident lasting about half an hour until a contracted site foreman cut the labourer free'* (Gadens Lawyers 2004). In handing down a \$24,000 fine for the company and a \$1,000 fine to each of the directors, the Chief Industrial Magistrate noted that *'what started out as a simple episode of bullying got out of control, leading to serious physical threat to the worker's health and safety'*. He stated that while bullying is *"...often seen as a bit of fun at the expense of someone else"*, it is *"a culture that needs to be stamped out"*. (Gadens Lawyers 2004).

The second important case is a recent unpublished decision of the Victorian Magistrates Court. In this case, *'WorkSafe Victoria claimed that between February 2000 and October 2003, an announcer at the station had verbally and physically abused other employees'* (Workplace Express 2004). In August 2004, Ballarat Radio Pty Ltd was fined *'\$50,000 for failing to provide a safe workplace and failing to provide instruction, training and supervision on bullying'* (Workplace Express 2004). In the case, Magistrate Coburn *'found the company had no system in place for complaints to be made and dealt with and should have stopped the bullying when they became aware of it'*. Victorian WorkSafe Director, John Merritt commented that *"the decision showed the courts perceived that psychological bullying was as unacceptable as physical bullying ... and there are consequences for failing to manage it"* (WorkCover Victoria 2004).

Other legislation also provides redress for employees if the harassment is related to one of the grounds prohibited under legislation such as age, sexual preference, political opinion, social origin, medical records, criminal record, trade union activities and religion (*Human Rights and Equal Opportunity Commission Act 1986*), race, colour and nationality (*Racial Discrimination Act 1975*), sex, marital status and pregnancy (*Sex Discrimination Act 1984*), and, disability and impairment (*Disability Discrimination Act 1992*).

Employees in Australia can also access workers' compensation for physical or psychological injury which results from stress related causes – this includes workplace violence or bullying. Importantly, under legislation such as the *NSW Workers Compensation and Injury Management Act 2000*, the workplace need not be the dominant cause of the psychological injury. Compensation is also available if workplace violence, harassment or bullying contribute to or aggravate an existing injury (Labour Council 2004d). However, despite these broad provisions, the data presented earlier suggests that workers' compensation for stress and injury related to workplace violence and bullying is rarely accessed (Marles 2003).

6. What can unions do?

At the international level, the ITF has been raising violence in the transport industry for some time as a key issue and questions why little progress has been made to address it. The ITF suggests that perhaps it is because less than half of the workforce is concerned about the possibility of violence at work. According to the ITF, the challenge is to alter the general perception to one where violence at work is an unacceptable practice rather than a serious problem affecting just a minority (ITF 2003:3). In Australia, WorkCover has recognised the need for increased awareness that workplace violence and bullying is an unacceptable problem, and has highlighted the need for appropriate training to help raise awareness of the issues (Thomas 2004).

As well as increasing awareness about the unacceptability of workplace violence, the ITF notes that *'many central trade union organisations are also pursuing policies seeking commitments from politicians and employers to strengthen the law to allow improved protection and enforcement policies, more proactive attitudes towards the introduction of security measures in the workplace, encouragement for changes in behavioural attitudes in the workplace and requiring employers to take responsibility for the health and safety of employees'*. (ITF 2003:2). Reflecting this increased focus on workplace violence and bullying, the ILO released a *Code of Practice on Workplace Violence in Services Sectors and Measures to Combat this Phenomenon* in August 2004. As the name suggests, the Code is designed to provide general guidance to government, workers and their representatives, employers and other concerned stakeholders in addressing the problem of workplace violence in the service sectors. The Code addresses key action areas including:

- Policy,
- Hazard identification,
- Risk assessment,
- Prevention and control,
- Training,
- Management and mitigation of the impact,
- Care and support of workers affected, and
- Monitoring and evaluation.

More detail of the Code is in Attachment 1.

In Australia, workplace violence is an increasingly important issue which has not received adequate attention by unions, government and employers. This is despite other human factors such as fatigue and drug and alcohol management being increasingly recognised as key factors which can impact on both organisational efficiency and employee wellbeing. The RTBU highlights the need for more research to be conducted to identify the extent of violence, bullying and harassment in the industry and proposes that the ILO code be adapted to suit the Australian rail industry through consultation between unions, government and employers. Additionally, Occupational Health and Safety and Rail Safety legislations need to be strengthened to

explicitly recognise the obligations of employers and workers to eliminate workplace violence, harassment and bullying.

References:

ACTU (2003) *Survey Targets Women and Workplace Violence*, ACTU News, 2 October 2003, http://www.actu.asn.au/public/news/1065684819_2115.html, date accessed 22 September 2004.

ACTU (2003b) *Workers' Helpline Reaching Out to New Employees*, ACTU News, 20 August 2003, http://www.actu.asn.au/public/news/1061424413_30605.html date accessed 22 September 2004.

BCSR (2004) *NSW Monthly Recorded Crime Statistics January 2002 to June 2004*, NSW Bureau of Crime Statistics and Research, Sydney.

De Graaff K (2001) 'Drivers' training to respond to uncivil behaviour', *Innovation in Road Public Transport*, UITP International Conference, Maastricht 7-9 February.

Essenberg B (2003) *Violence and Stress at work in the Transport Sector*, Sectoral Activities Program Working Paper 205, International Labour Office, Geneva.

Eurofound (2004) *Violence, Bullying and Harassment in the Workplace*, European Foundation for the Improvement of Living and Working Conditions, Dublin.

Gadens Lawyers (2004) 'Bullying in the workplace', National Workplace Relations Update, August.

ILO (2003) *Transport: Sector-specific information on violence and stress*, <http://www.ilo.org>, date accessed, 8 June 2004.

ILO (2004) *ILO Code of Practice: Workplace Violence in Services Sectors and Measures to Combat this Phenomenon*, International Labour Organisation, Geneva.

ITF (2003) Urban Transport Committee Meeting: Agenda Item 2: Violence at Work, *International Transport Workers' Federation*, London, 19th and 20th November.

Labor Council (2004) *Results of UnionSafe Survey on Workplace Bullying*, presented at Labor Council of NSW Conference Wednesday 8th September, Sydney.

Labor Council (2004b) *Bullying Fact Sheet 1 – What is Bullying?* Labor Council of NSW, Sydney.

Labor Council (2004c) *Bullying Fact Sheet 2 – The effects of Bullying?* Labor Council of NSW, Sydney.

Labor Council (2004d) *Bullying Fact Sheet 5 – Is Bullying Legal?* Labor Council of NSW, Sydney.

Marles R (2003) 'Occupational Bullying in Australia', speech by the Assistant Secretary of the ACTU to the *LHMU Bullying and Harassment Seminar*, Holmesglen TAFE, Moorabbin, 12 November, Victoria.

Modern Railways (2004) 'Taking the lead on personal security', *Modern Railways*, July, p.34.

Paoli P and Merllie D (2001) *Third European Survey on Working Conditions in the European Union*, European Foundation for the Improvement of Living and Working Conditions, Office for the Official Publications of the European Communities, Luxemburg.

Parris K (2003) 'Measure for Measure' *Transport International*, Vol.4, Journal of the ITF, www.itf.org.uk, pp.23-25.

Robinson P (2004) 'Violence at work all the rage', *The Age*, Saturday May 29, Victoria.

Splinter C (2001) 'On-board cameras, a tool to improve security', *Innovation in Road Public Transport*, UITP International Conference, Maastricht 7-9 February.

SRA (2003) *State Rail Authority of New South Wales 2002-2003 Annual Report*, www.railcorp.nsw.gov.au.

Thomas J (2004) 'Preventing Workplace Bullying', WorkCover NSW Presentation to NSW Labor Council *Conference on Workplace Bullying*, 8 September, Sydney.

USDAW (2004) *Freedom from Fear Campaign*, date accessed 11 June [http://www.usdaw.org.uk/campaigns/freedom from fear/](http://www.usdaw.org.uk/campaigns/freedom_from_fear/).

Vartia M (2002) *Workplace bullying – a study on the work environment, well-being and health*, People and Work Research Reports 56, Finnish Institute of Occupational Health, Helsinki, December.

VTHC (2004) *Violence Against Women in the Workplace Survey*, <http://www.vthc.org.au/women/indexviol.html>, date accessed 22 September.

Workplace Express (2004) '\$50,000 OHS fine for employer for workplace bullying', Monday 16th August, www.workplaceexpress.com.au.

WorkCover Victoria (2004) *Landmark court decision sees radio station convicted and fined \$50,000 over bullying*, August 13, 2004.

Attachment 1



International
Labour
Office
Geneva



VIOLENCE

A photograph of a sign with the word 'VIOLENCE' written on it. Above the word is a dark, irregular splatter, resembling blood. The sign is mounted on a wall, and there are some overlapping rectangular boxes on the left side of the image.

**Workplace violence
in services sectors
and measures
to combat
this phenomenon**

Preface

'The Governing Body of the ILO agreed at its 279th Session in November 2000 that a meeting of experts should be held in 2003 to develop a code of practice on violence and stress in services sectors. At the 284th Session of the Governing Body, in June 2002, it was agreed that the Meeting of Experts should be held from 8 to 15 October 2003, and that the Meeting would have the following composition: 12 experts nominated by Governments (Algeria, Canada, Denmark, Germany, Japan, Malaysia, Mauritius, Peru, Philippines, South Africa, United Kingdom and United States), 12 experts nominated after consultations with the Employers' group of the Governing Body and 12 experts nominated after consultations with the Workers' group of the Governing Body. It was also decided that the purpose of the Meeting should be: to consider and review a draft and to adopt a code of practice on violence and stress at work in services sectors: A threat to productivity and decent work. A draft text was developed by the ILO for circulation to member States for comments in May 2003, before the Meeting of Experts, and those comments were collated and summarized for the experts in September 2003.

The present code of practice on workplace violence in services sectors and measures to combat this phenomenon was drawn up by a Meeting of Experts held in Geneva from 8 to 15 October 2003. In accordance with the aforementioned decision of June 2002, the Meeting was composed of 12 experts nominated by Governments, 12 experts nominated by the Employers and 12 experts nominated by the Workers. On the authorization of the Governing Body, all other ILO member States were invited as observers, and the following countries attended: Ireland, Kuwait, Luxembourg, Norway, Poland, Sweden, Switzerland and Zimbabwe.

This code is not a legally binding instrument and is not intended to replace national laws and regulations. The practical recommendations of this publication have been designed to provide guidance to ILO constituents and all those responsible for addressing workplace violence in services sectors. It is based on an analysis of the extent, nature and causes of workplace violence in public and private services. It identifies the roles and responsibilities of governments, employers and workers. The code promotes a proactive approach to prevention, based on occupational safety and health management systems.

It is intended that the provisions of the code will assist in reducing or eliminating violence at workplaces in services sectors.'

1. General provisions

- 1.1. Purpose and use of the code of practice
 - 1.1.1. Purpose
 - 1.1.2. Use
- 1.2. Scope
- 1.3. Definitions
 - 1.3.1. Workplace violence
 - 1.3.2. Services sectors
 - 1.3.3. Other relevant defined terms
- 1.4. Guiding principles

2. Policy against workplace violence

- 2.1. Policies
- 2.2. Policy values
- 2.3. Core issues
- 2.4. Allocation of policy responsibilities.
- 2.5. Social dialogue

3. Organizing

- 3.1. Roles and responsibilities
 - 3.1.1. Governments
 - 3.1.2. Employers
 - 3.1.3. Workers
 - 3.1.4. General public, customers and clients
- 3.2. Competence, information and training.
 - 3.2.1. Training for workers.
 - 3.2.2. Training for supervisors and managers
 - 3.2.3. Information
- 3.3. Recording and notification at the workplace
- 3.4. Communication

4. Planning and implementation

- 4.1. Review
 - 4.1.1. Current situation
 - 4.1.2. Risk assessment
 - 4.1.3. Recording acts of violence at the workplace level.
 - 4.1.4. Recording at sectoral, national and inter-national levels
- 4.2. Implementation
- 4.3. Control measures: Strategies for preventing, reducing, managing and coping with violence
 - 4.3.1. Developing strategies to combat violence at the workplace
 - 4.3.2. Awareness-raising and cooperation on combating workplace violence
- 4.4. Organizational preventive measures
 - 4.4.1. Communication
 - 4.4.2. Work practices
- 4.5. Improving the work environment
 - 4.5.1. Physical environment.
 - 4.5.2. Workplace security issues

- 4.6. Incident preparedness and response
 - 4.6.1. Response plans
 - 4.6.2. Management support
- 4.7. Focusing on the individual: Medical and other interventions
 - 4.7.1. Medical treatment
 - 4.7.2. Support
 - 4.7.3. Debriefing
 - 4.7.4. Mitigation
- 4.8. Grievance and disciplinary procedures
- 4.9. Privacy and confidentiality

5. Monitoring and review

- 5.1. Monitoring and evaluation of workplace violence prevention policies
- 5.2. Organizational learning on issues related to violence.