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Success is No Accident

Declining Workplace Safety
Among Federal Jurisdiction Employers

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Success is No Accident: Declining Workplace Safety Among Federal Jurisdiction Employers

Executive Summary

In Canada, there is a growing disparity between the workplace injuries and fatalities of provincially-regulated and federally-regulated workers. While workplace safety is primarily a provincial responsibility, the federal government has jurisdiction for certain types of cross-provincial companies, as well as federal government employees. These federally-regulated workplaces are inspected by Labour Affairs Officers (LAO) under the Labour Program at Human Resources and Skills Development Canada (HRSDC).

Over the past five years, many provinces have worked diligently to drive down the number of workplace injuries. Their efforts at targeting high risk workplaces and hiring more inspectors have largely been successful. The result has been an average decline in the provincial disabling injury rate of 25%. Federally-regulated workplaces are a completely different story, with the disabling injury rate actually rising 5% over the past five years.

While there are several reasons for this disturbing disparity, the key is that there are simply too few Labour Affairs Officers (LAOs) to do the job. In fact, over the past several years, the

average number of federal workers per LAO has actually risen. This has created a situation where high risk workplaces are not being sufficiently visited by LAO's, visits which by their very nature are designed to help prevent injuries and fatalities. LAOs are also at the very bottom of the safety inspectors' pay scale, whether compared to other federal government, provincial government or private-sector inspectors. HRSDC's poor support for LAOs and its push to have employers self-regulate are putting federal jurisdiction employees in harm's way.

Canada Post is perhaps the worst example of inaction on workplace injuries. Despite the fact that it is directly owned by the federal government, it has been permitted to stonewall LAOs who are trying to reduce its workplace injury rate. The trucking industry represents another sector where the disabling injury rate is unusually high. Trucking is notoriously difficult to regulate given the ever changing number of small operators.

Those on Native reserve are essentially without workplace safety inspections. They receive no health and safety support and LAOs are directed by HRSDC to avoid native reserves.

The following recommendations arise from the findings of the report:

1. *The federal government should immediately target high risk workplaces for increased inspection and support*
2. *HRSDC should strive to reduce the workplace injury rate by 20% within five years*
3. *All federal departments and crown corporations should comply with “best practices” standards for worker safety*
4. *HRSDC should hire more LAOs*
5. *LAO compensation levels should be appropriate*
6. *The federal government should develop a strategy for workplace safety on First Nations reserves*

Background

Many Canadians may not realize that the federal government has significant health and safety responsibilities. The federal jurisdiction for health and safety covers federal government employees, workers at federal crown corporations and private-company workplaces in sectors that operate across provincial boundaries. The latter would include trucking companies, railroads, banks and airlines. If a company or a government department falls under federal jurisdiction, it is governed by federal health and safety legislation, regardless of the province where it actually operates.

The federal jurisdiction is governed by Part II of the *Canada Labour Code*, which places responsibility for Canada’s occupational health and safety regulations in the hands of the Labour Program under Human Resources and Skills Development Canada (HRSDC). Part II of the code is meant to prevent workplace-related accidents and injuries, including occupational diseases.¹

In workplaces under federal jurisdiction, federal labour inspectors or Labour Affairs Officers (LAOs) are responsible for enforcing the

legislation. Two companies might be physically located right beside each other, but if one falls under federal jurisdiction, it will be inspected by federal inspectors while the provincial company will be inspected by provincial inspectors.

The number of workers that fall under federal jurisdiction is substantial. Over one million workers — approximately 8% of the Canadian labour force — are regulated by Part II of the *Canada Labour Code*.² These federal regulations are enforced by 128 LAOs in 2008 spread out across the country.

LAOs perform a variety of tasks, including investigating workplace fatalities in the federal jurisdiction and all serious injuries. They also become involved when employees under federal jurisdiction exercise their right to refuse dangerous work. When this happens, LAOs are called in to rule on whether work is indeed dangerous and what, if any, remedies should be taken. These are “reactive” assignments, where federal inspectors investigate workplace safety incidents, attempt to learn from prior mistakes and assign blame, if appropriate.

LAOs, however, also engage in “proactive” work that involves visiting workplaces before accidents or work refusals occur. These visits attempt to ensure that the workplace is generally safe, employees know their rights, health and safety committees are functioning adequately and employers understand their responsibilities. If violations are found, LAOs discuss these violations with employers to ensure that remedial steps are taken. By tackling workplace safety issues before injuries occur, those injuries are likely to be both less frequent and less severe.

Employees falling under the federal jurisdiction rely on LAOs both to catch potentially dangerous work environments and to make sure both employees and employers know their rights and responsibilities when it comes to workplace safety. It is the LAO’s job to ensure that employers are not shirking their duties and inadvertently causing injuries to workers in the process.

Recently, LAOs have been raising serious concerns about their ability to do their jobs properly. They feel that managerial challenges and undue interference in their work are undermining their ability to keep workers safe. As a result, workers in federally-regulated workplaces are not receiving the level of protection that they are entitled to under federal law.

Relying on extensive interviews with LAOs, this study examines the challenges faced by front-line health and safety enforcement employees in workplaces under federal jurisdiction. The LAOs interviewed represent 13% of all working LAOs at the time of writing.³ Their “on the ground” perspective of *Canada Labour Code* enforcement is an important early warning indicator that federal jurisdiction employees may be unnecessarily at risk.

To date, the federal government has not seen fit to allow an independent, outside evaluation of the workplace safety concerns expressed by LAOs. However, some outside reviews of specific safety-related matters have backed up LAO concerns. When LAOs evaluating the federal public service expressed serious concerns over the lack of basic fire safety in federal buildings, they were chastised by their managers. The inspectors persisted, concerned for the safety of public sector employees. The spring 2009 Auditor General’s report completely vindicated the LAOs’ concerns, noting that “this failure [of fire safety] is putting employees’ safety at risk.”⁴ Employees under federal jurisdiction should not have to wait for an outside observer to lambast the government before action is taken. The inspectors were right, clearly trying to prevent workers from being needlessly injured and killed on the job.

HRSDC Failure to Reduce Disabling Injuries

The work of LAOs is directly linked to preventing workplace injuries. The more preventative work that an LAO can do before injuries occur, the more likely workers are to remain injury free.

As such, statistics on workplace injuries compiled by Workers’ Compensation Boards present an early warning sign that LAOs are insufficiently resourced to reduce workplace injuries.

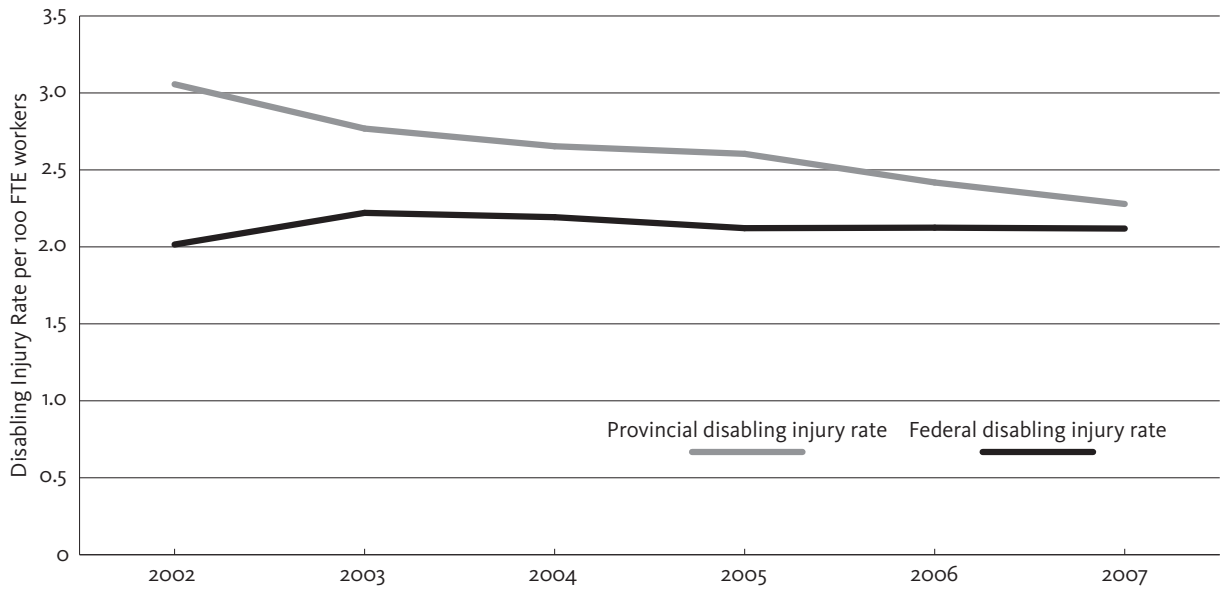
Compensation for federal jurisdiction employees who are injured on the job is paid through provincial Workers’ Compensation Boards (WCB). These provincial boards are then reimbursed by the federal Labour Program. Federal jurisdiction employees receive the same level of compensation and benefits for workplace injuries as other employees in the province where they work.

While federal jurisdiction employees are compensated through WCBs, the Labour Program still does not have data-sharing agreements with the provinces. The data the federal Labour Program uses does not come from direct injury and fatality reports. Instead it comes from a self-reporting survey that federal jurisdiction employers submit annually called the Employer’s Annual Hazardous Occurrence Report (EAHOR). The survey, while purportedly mandatory, carries no penalties or fines for either late reporting or not reporting at all.

When trying to analyse various rates of workplace injuries, reports from the provincial WCB would be clearly be preferable to a self-reporting survey. However, HRSDC has not yet negotiated data-sharing agreements with the provincial WCBs despite ample evidence that they should do so. The 2001 Management Action Plan for the Labour Program recommended that the program sign data-sharing agreements with provincial WCBs. Unfortunately, the 2007 audit of the Labour Program revealed that this had still not been done and that Occupational Health and Safety (OHS) officials specified that “they are currently unaware of the status of these negotiations.”⁵

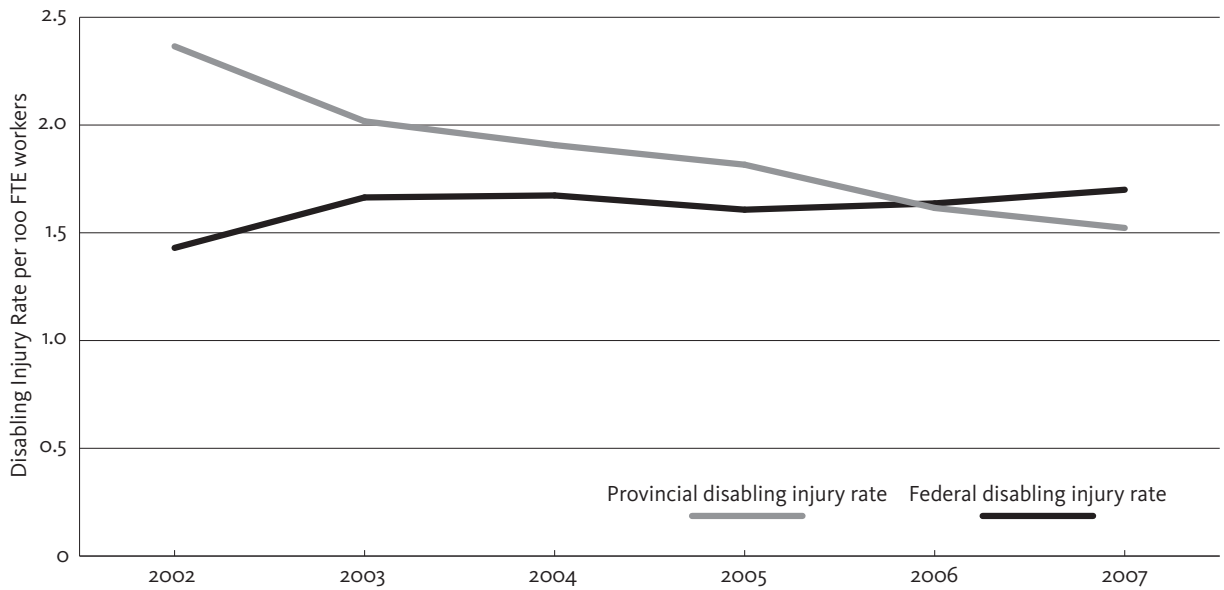
There are several problems associated with the existing reporting methods. LAOs note that it is “good employers” who regularly fill out their EAHOR and submit it on time. Recently incorporated federal jurisdiction employers may not even be aware that they need to submit this par-

FIGURE 1 Federal and Provincial Jurisdiction DIIR: Canada



SOURCE EAHOR, Association of Workers' Compensation Boards of Canada, HRSDC Department Performance Report, Authors Calculations⁹

FIGURE 2 Federal and Provincial Jurisdiction DIIR: Ontario



SOURCE EAHOR, Association of Workers' Compensation Boards of Canada

ticular form. In addition, employers that may be lax in workplace health and safety may also be lax in submitting government paper work. The result of relying on self-reporting information is that employers may be under-reporting federal jurisdiction injuries.

In contrast, the provincial WCB injury statistics are based on workers attempting to claim benefits and are much more likely to represent the true number of workplace injuries, particularly those that result in lost work time. Worker's Compensation Boards can also be more demanding when it comes to workplace reporting. As they are separate from the government, unlike HRSDC, the workplace safety boards can better enforce regulations with both crown corporations and federal departments. For instance, Worker's Compensation Boards can levy fines against provincial departments whereas at the federal level there is no penalty for reporting late or not reporting at all.

Injury statistics are grouped into injuries that result in lost work time or permanent impairment versus those that are minor. Federal and provincial jurisdiction definitions differ slightly.⁶ For the purposes of this paper, the federal jurisdiction terminology of "disabling injuries" will be used. The Disabling Injury Incidence Rate (DIIR) reflects the number of workers killed or injured at the workplace. Disabling injuries include those that result in lost work, the loss of a body member, loss of the utility of a body member or other type of permanent impairment.⁷ The Disabling Injury Incidence Rate is expressed as the number of disabling injuries and fatalities per 100 Full Time Equivalents (FTE).

The bias towards under-reporting is one of the keys to understanding federal DIIRS. The other is that two major sectors under federal jurisdiction workforce include banking and the federal government. These two sectors represent 49% of all federal jurisdiction employees.⁸ Of those employees, 76% work in an office setting, which generally has a lower disabling in-

jury rate. Overall, 57% of the federal jurisdiction workforce is working in an office environment, which may lead to a lower DIIR compared to provincial jurisdictions, the trend in disabling injury rates in the federal jurisdiction is disturbing. Figure 1 shows that despite a rapidly declining disabling injury rate at the provincial level, the federal jurisdiction disabling injury rate has stayed stubbornly constant. In fact, between 2002 and 2007 the federal DIIR actually increased 5% from 2.02 disabling injuries per 100 FTE workers to 2.12 in 2007.

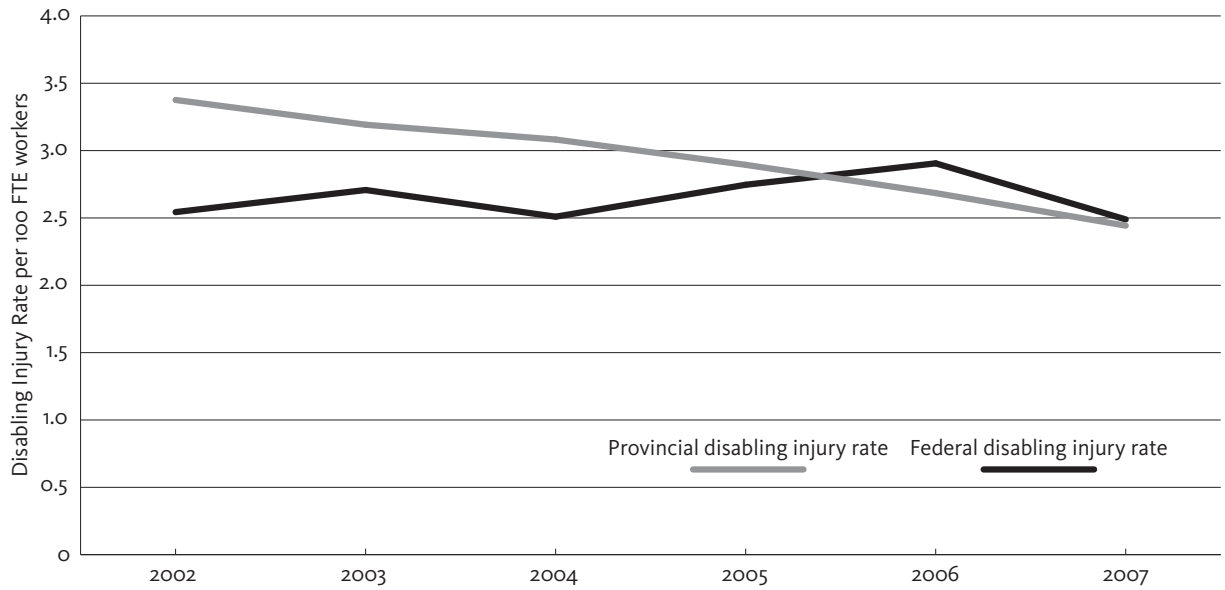
On the other hand, the provinces have managed the quite impressive feat of cutting disabling workplace injuries by 25% from 3.06 injuries per 100 workers in 2002 to 2.28 by 2007. Figure 1 clearly illustrates that if present trends continue, provincial jurisdiction DIIR will drop below the federal jurisdiction DIIR by 2008 or 2009. Unfortunately, these statistics are not yet available.

In province after province, workplace health and safety initiatives have managed to drive down disabling injury rates substantially.

Figure 2 compares the federal and provincial jurisdiction DIIRS in Ontario, which has been particularly successful in driving down disabling workplace injuries. The DIIR for the province dropped from 2.37 in 2002 to 1.52 in 2007 for a decline of 36%. Over the same period, employees at federal jurisdiction workplaces located in Ontario saw their disabling injury rate actually rise by 19% from 1.43 to 1.70. In 2002, provincial jurisdiction workers in Ontario were much more likely to have a disabling injury. By 2007, the tables had turned and federal jurisdiction employees became more likely to sustain a disabling injury.

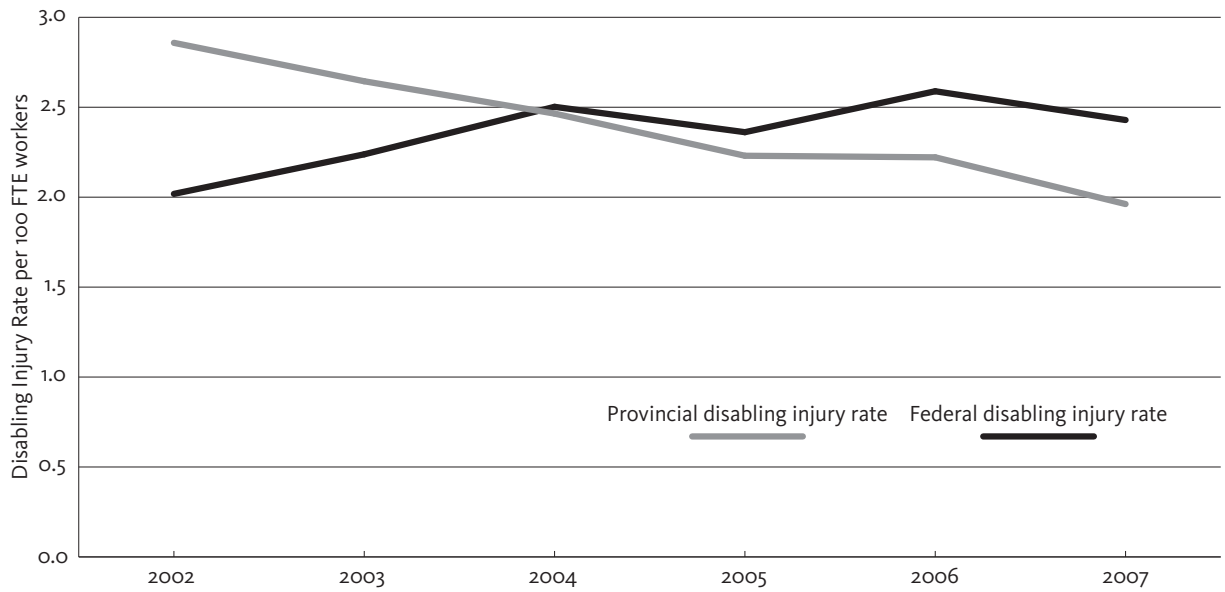
Dramatic reductions in disabling workplace injuries do not happen by chance. They occur through concerted government action. In July 2004, the Ontario provincial government announced its plans to reduce workplace injuries by 20% in four years.⁹ The goal was accomplished through a program that focused on high

FIGURE 3 Federal and Provincial Jurisdiction DIIR: Quebec



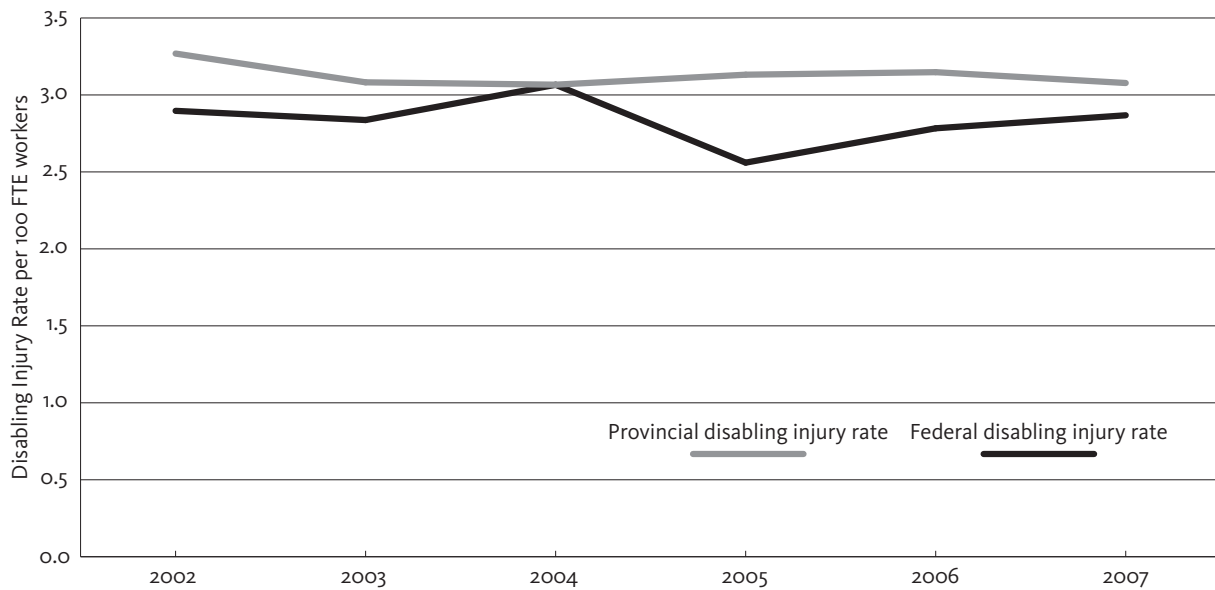
SOURCE EAHOR, Association of Workers' Compensation Boards of Canada

FIGURE 4 Federal and Provincial Jurisdiction DIIR: Alberta



SOURCE EAHOR, Association of Workers' Compensation Boards of Canada

FIGURE 5 Federal and Provincial Jurisdiction DIIR: British Columbia



SOURCE EAHOR, Association of Workers' Compensation Boards of Canada

risk workplaces. Ontario's 20% goal is double HRSDC's stated goal of a 10% reduction.¹⁰ Unlike HRSDC, the province of Ontario has been largely successful in reducing workplace injuries in its jurisdiction.

The situation in Quebec mirrors the national trend, with reductions nearly as dramatic as those found in Ontario. Figure 3 shows that Quebec has managed to reduce its DIIR by over 28%, from 3.38 disabling injuries per FTE in 2002 to 2.44 in 2007. During the same period, disabling injuries in the federal jurisdiction declined 1% within Quebec. As in Ontario, the federal jurisdiction in Quebec now has a disabling injury rate higher than that of the Quebec provincial jurisdiction, reversing the previous pattern.

Figure 4 shows the even more dramatic reversal in Alberta, where the federal jurisdiction DIIR has gone from being almost 31% lower than the provincial rate in 2002 to being 24% higher only five years later. At the same time that the

provincial jurisdiction disabling injury rate in Alberta fell 31% from 2.86 to 1.96, the federal jurisdiction rate exploded from 2.02 to 2.43 up 20%. Alberta is the only large province where the federal jurisdiction injury rate is significantly higher than the provincial jurisdiction.

The trends observed in other provinces are less evident in British Columbia. Both the provincial and federal jurisdiction injury rates have remained relatively static between 2002 and 2006. The federal jurisdiction disabling injury rate in BC has fallen by 1% between 2002 and 2007. Unlike other provinces, the British Columbian government has not managed to decrease its disabling injury rate in nearly as dramatic a fashion. Instead, the DIIR has declined only 6%, matching the decline in the federal jurisdiction. However, BC did have a significant reduction from above 4.0 to its current level of approximately 3.0 between 1999 and 2003. Since 2003,

TABLE 1 Estimated Disabling Injuries Difference Federal/Provincial jurisdictions

Year	% Change Federal Disabling Injury Rate	% Change Provincial Disabling Injury Rate	Provincial Injuries Saved Over 2002 DIIR
2003	10%	-9%	34,536
2004	-1%	-4%	48,733
2005	-3%	-2%	55,610
2006	0%	-7%	81,942
2007	0%	-6%	101,760
Total Change (2002-07)	5%	-25%	322,581

SOURCE EAHOR, Association of Workers' Compensation Boards of Canada, HRSDC Department Performance Report, Authors Calculations

TABLE 2 Employees per LAO in the Federal Jurisdiction

Year	Number of LAOs	Number of Federal Jurisdiction Employees Per LAO
2004	147	7156
2005	151	6607
2006	140	7229
2007	125	8057

SOURCE EAHOR, PSAC Membership Figures, authors' calculations

there has been little movement in the disabling workplace injuries rate.

Whether in Quebec with a relatively high DIIR or in Ontario with a relatively low one, most provinces have managed substantial reductions in workplace disabling injuries. Neither the geographic location nor the sectoral mix seems to have significantly impaired the provinces' ability to reduce the number of their workers that are being hurt or killed on the job.

HRSDC's Failed Efforts

As opposed to the significant advances made by provinces as a whole, HRSDC efforts have yielded little fruit in the federal jurisdiction. The combined effect of a 5% *increase* in the DIIR for federal jurisdiction workers along with a 25% *decrease* for the provincial jurisdiction is that the large gap between federal and provincial DIIR

has almost closed. The data suggests that HRSDC has in fact been moving backwards in workplace safety since 2002.

If the provinces had not managed to reduce their DIIR at all from its 2002 level, an additional 322,600 injuries or workplace fatalities would have occurred between 2002 and 2007. It is hard to understate the importance of such a significant reduction. In 2007, workers in the provincial jurisdiction experienced just under 300,000 workplace injuries or fatalities. In essence, the workplace injuries and fatalities avoided between 2002 and 2007 due to provincial initiatives saved more than an entire year's worth of injuries. Workers in the provincial jurisdiction received the equivalent of more than one year free of workplace injuries due to provincial government efforts over the past five years.

In addition, employers in the provincial jurisdiction saved a significant amount of money

in lost time claims due to the reduction in workplace injuries. In 2007, the average current year benefit costs per lost time claim and workplace fatality was \$17,300.¹¹ That includes disability and survivorship benefits in addition to health care and rehabilitation costs. At the 2007 cost level, provincial jurisdiction employers collectively saved \$5.6 billion between 2002 and 2007 due to lower workplace injury rates.¹²

Employers would have realized these cost savings in lower premiums to their WCBs. Not only do workers benefit from being injured less on the job, but their employers benefit from lower WCB premiums. Unfortunately, federal jurisdiction employers, having seen a slight increase in their DIIR, will pay higher premiums.

Over the same period that provincial accomplishments completely outshone federal efforts in workplace safety, the number of LAOs was being cut back. In 2006 there were 140 LAOs, but by 2007 the number of active LAOs was down to 125.¹³ Moreover, as Table 2 illustrates, in 2004 there were slightly more than 7,000 federal jurisdiction employees per LAO, but by 2007 that figure had jumped 13% to over 8,000 employees for each LAO.

Put another way, as most of the provinces were making substantial gains against workplace injuries, HRSDC was increasing the number of federal jurisdiction employees each LAO needed to supervise, making the LAO's job harder. In essence, between 2004 and 2007, each LAO gained an additional 901 employees who relied on them for workplace safety, a 13% increase. While the provinces were cutting workplace injuries, HRSDC was making it harder for LAOs to keep up.

It is remarkable that despite a 13% increase in the number of employees each LAO was required to supervise that the federal jurisdiction DIIR stayed relatively constant between 2004 and 2007.

Political Interference in Workplace Safety

The significant underperformance of HRSDC in reducing workplace disabling injury rates has several underlying causes. However, research interviews with LAOs revealed that the malaise in enforcement attitudes, priorities and outcomes can be tied to an overarching push to shift responsibility for occupational health and safety from the government enforcement agency to the employer.

According to its front-line employees, HRSDC management tends to view the enforcement of OHS legislation as more of choice rather than a necessity. From low relative pay for LAOs to allowing crown corporations and federal departments to avoid AVCs, the federal government is choosing to selectively undercut health and safety regulations to the detriment of workers.

In interviews, LAOs pinpointed the change in attitude to the incorporation of what was formerly Labour Canada into the new HRSDC department in 1993. Before 1993, Labour Canada was a separate department. Since then, the policies of the larger HRSDC department have whittled away at the Labour Program. Labour Canada viewed its major responsibility as enforcing the labour law. HRSDC, on the other hand, is not generally guided by an enforcement philosophy or mandate. Instead, it manages programs in a "client-centered" way.

The differences between enforcement and "client-centered" program management are stark. On the "client-centered" side, clients and partners need to be attracted to a program in order to use it. The programs are there to utilize the capabilities of partners to deliver services to client. Government may be funding programs, but those programs should address client needs — otherwise the uptake will be insufficient. The federal government can set top-down policy, but if it wants that policy implemented, consultation with clients and local managers needs to occur.

The effective enforcement of regulations under this management style requires a much different approach than when enforcement is the highest priority. “Client-centered” management techniques may be somewhat useful in regards to occupational health and safety, since it is helpful if employers are on-side with government regulations. Unfortunately, they can also undermine the overall success of the program. At the end of the day the “clients” or employers must be legally obliged to adhere to the law. If they are not, worker safety is put at risk.

A strategy of trying to convince employers to voluntarily reduce workplace injuries may work to a certain extent, but it must be backed with a willingness to use more coercive techniques, such as prosecution, to assure workers’ safety. As well, pressing more responsibility onto the employer, particularly a high risk employer, can easily backfire and result in more, not less injuries. Client “buy-in” is not essential, and cannot always be relied upon when enforcing the law. Moreover, there is no substitute for an on-the-ground inspection of the situation and a first-hand interpretation of what needs to be done. Inspectors’ boots must be on the ground in the workplace, not in head office under a desk.

Without fundamental enforcement of OHS legislation, workers are being put at risk and disabling injury rates are higher than they should be. Viewing employers as “clients” that need to be enticed to adhere to occupational health and safety regulations is a recipe for increased rates of injury, particularly at high risk workplaces.

LAOs routinely complain that in recent years the pendulum has swung strongly to the “client-centered” program approach to workplace safety. Instead of coming down hard on repeat offenders, LAOs are encouraged instead to “coach” the employer on how to reduce injuries. In this role as safety “coach,” LAOs are asked to refrain from writing up employers for violations.

The situation has degenerated to the point where “telephone inspections” are now routine.

For instance, when a work refusal occurs, the LAO is encouraged to simply phone the workplace to get the details rather than visiting the site to get the full story first-hand. Obviously, a phone consultation can benefit the client-employer by reducing downtime due to a work stoppage. But the far more significant downside is that the failure to adequately investigate an incident at a potentially unsafe environment undermines workplace safety. Without first-hand, independent investigation of workplace safety incidents, evaluation is transferred to the employers and away from the regulator.

The trend towards deregulation or self-regulation under the Labour Program at HRSDC is in line with the broader trend of undermining national regulations.^{14,15} An announcement buried in the 2007 federal budget heralded more barriers to departments enacting necessary regulations on the private sector. Instead of utilizing the precautionary principle and attempting to avoid harm, regulators are now required to balance the harm that is being caused by the potential benefit of allowing companies to endanger workers’ bodies and lives. Balancing workers injuries and fatalities against potential profit allows employers to re-define the problem of injured workers as a cost of doing business. It is the regulators themselves advocating this balancing act, forcing the long-term costs of workplace injuries onto the employee.

Interviews with LAOs paint a picture of a department undergoing a subtle but fundamental shift. Instead of an organizational culture defined by vigilant, independent enforcement, HRSDC is characterized by overly close relationships with the employer/clients who are encouraged to regulate themselves. Reducing the number of LAOs, while encouraging a more passive role towards enforcement, has created an environment where disabling injuries remain high. Workers are paying for this experiment in both injuries and fatalities.

Labour Affairs Officers' Relative Pay

Nowhere is this changing role from safety enforcer to safety “coach” more evident than in LAOs' pay. As more responsibility is put on employers to provide workplace health and safety and away from LAOs to enforce it, the role that LAOs play is diluted. Their pay tracks this change in status.

In Canada, a dedicated body certifies Canadian Registered Safety Professionals (CRSP). Professionals certified with this designation work in both the public and private sectors as safety professionals. The designation is mandatory in some provincial jurisdictions. Although not mandatory for federal jurisdiction LAOs, certification is encouraged. Approximately 5% of LAOs are certified.¹⁶ While they may not have the CRSP designation, LAOs perform the types of work that the designation was meant to cover. It is not a stretch for LAOs to gain the designation if they wish to.

Every two years, the CRSP Board conducts a salary survey of the organization's members. While LAOs do not universally hold the CRSP designation, many of their provincial health and safety inspecting counterparts do. As such, the CRSP salary survey provides a reasonable estimate of what other LAO type health and safety professionals are making.

Compared to other safety professionals in the survey, all LAOs are in the bottom 9% of the pay range.¹⁷ Another way of saying this is that 91% of all safety professional make more than the best paid LAOs do. In fairness, public sector safety professionals make substantially less than those in the private sector generally, particularly at the high end. However, even compared to their colleagues that work in the non-federal public sector, LAOs are amongst the 12% worst-paid safety professionals. This means that 88% of safety professionals that work in the public sector make more than LAOs do.

When compared to more lucrative sectors such as natural resources, LAOs fare even worse.

In the natural resources sector, not a single safety professional reported being paid as little as the best-paid LAO. In fact, 36% of natural resource safety professionals make almost twice what the best paid LAO makes. This shocking disparity is occurring despite LAOs potentially regulating the very inspectors that can often make twice as much as they do.

It is a wonder that with such a pay disparity that HRSDC can keep LAOs on staff at all. Unfortunately, in many cases, HRSDC cannot. The lack of adequate compensation means that competition for LAO positions is scarce and those with little experience can often land the job. LAOs report that young graduates are using the Labour Affairs Officer position as a “stepping stone” to gain several years of experience before jumping to the private sector or to another level of government, where compensation levels are substantially higher. LAOs are also actively being recruited by other employers who can offer significantly higher pay.

It is not only new recruits that are feeling the lure of greater pay with fewer responsibilities elsewhere. Interviewees were keen to point out that health and safety professionals in other federal departments are often better paid than LAOs, even though LAOs have the responsibility of regulating them. According to LAOs, a recent health and safety posting in another federal government department drew applications from over half the LAOs in Quebec. The potential of increased pay with fewer responsibilities was too good to pass up.

The pay disparity between LAOs and those they regulate should be concerning for federal policy makers. With regulators making so much less than those being regulated, there is a clear incentive for better employees to migrate away from HRSDC, creating retention challenges. As well, significantly higher pay elsewhere means LAO recruitment will only interest health and safety professionals with less experience and education.

Structure of Inspections

LAOs can perform a variety of inspections and visits to a worksite. Some visits are proactive and attempt to educate both employers and employees regarding their rights and the procedures needed to assure a safe workplace. Others are reactive and respond to violations of the federal *Canada Labour Code*. In the latter instance, four basic steps, or levels of enforcement, are followed to ensure compliance with the law.

If an LAO sees a workplace safety violation, an Assurance of Voluntary Compliance (AVC) will be written. The AVC describes the violation and the steps that the employer has agreed to take to remedy the situation. The employer and the LAO sign the AVC which commits the employer to taking the remedial steps. The AVC has no legal implication and does not require the employer to do anything. As the name suggests, the employer is “volunteering” to take remedial action on an issue that the LAO has identified.

The second step towards compliance is that the LAO returns after a set period of time to evaluate whether the employer has in fact taken the steps laid out in the AVC. If the steps taken satisfy the LAO, then the issue is considered closed. When discussing where the system breaks down due to lack of resources, LAOs most often point to this step. While an LAO might write AVCs, there is often insufficient time to actually follow up on them to make sure the employer is doing what they agreed to do.

If the employer has not taken sufficient actions as laid out in the AVC, then the LAO will issue a Direction, which is the third level. Unlike the AVC, a Direction is a legally binding order that requires the employers by law to take certain remedial actions. The decision to issue a Direction is a more difficult one for LAOs, as Directions require more preparation. Because issuing a Direction is a legal act that can then be followed by the final step, prosecution, the

Direction needs to be rigorous enough to stand up in court.

In HRSDC departmental performance reporting, writing a Direction is seen as a failure of the system. In the eyes of HRSDC, the more issues that are resolved without writing a Direction the better. LAOs that move quickly to the Direction-writing step are often seen as failing in their work, as it reflects badly on the department’s own performance measures. Instead, further AVCs may be written if the first one was not complied with, so as to minimise the number of Directions.

The final step is prosecution for non-compliance with a Direction. It is at this stage where an employer is taken to court to potentially pay for damages or serve jail time, as well as being forced to make the workplace safe. Moving from one level to the next, the process becomes more time consuming. As one would expect, prosecuting employers is the most time consuming of all the steps.

In cases where a serious injury or a fatality has resulted from a workplace accident and an employer is likely at fault, LAOs can move directly to prosecution without any of the intervening steps. The early steps in the process are meant to be a less coercive and time-consuming method of achieving compliance with employers who are breaking the law and would be otherwise liable for prosecution.

LAOs find themselves needing to pay special attention as to whether they have the full support of HRSDC when it comes to prosecution. Even if an LAO determines, in their professional opinion, that a workplace is unsafe, a prosecution can be a poor career move if HRSDC deems a case unworthy of pursuit. An LAO pushing for workplace safety against the wishes of HRSDC will quickly find a lack of government support in the ensuing prosecution for non-compliance. Furthermore, LAOs with too strong a penchant for workplace safety are sometimes transferred to other branches — such as fire safety or labour

TABLE 3 Percentage of Recommended Visits to High Risk Workplaces

Area	# of worksites	% received minimum visits 2004–05	% received minimum visits 2005–06	% received minimum visits 2006–07
Very High Risk Worksites	156	18%	9%	16%
High Risk Worksites	12,321	10%	10%	10%

SOURCE Audit of Occupational Health and Safety: 2007

standards — thereby having their promotional opportunities limited.

Lack of Adequate Inspections

Low pay relative to their colleagues is one challenge to attracting and retaining LAOs. However, an insufficient number of LAOs to do the job of keeping over one million Canadian federal jurisdiction workers safe is another often-mentioned frustration. With only 128 LAOs covering over a million Canadians, it is little wonder that there are concerns about insufficient resources to do the job.

One LAO mentioned that on a recent workplace inspection, employees remarked that they thought that LAOs were an “urban legend” because they had never seen one before. While some federal jurisdiction companies are rarely if ever visited, sometimes the department is not even aware of the very existence of others. The method by which HRSDC updates their workplace database is not based on a complete list of all federal jurisdiction workplaces. Instead, new workplaces are added in a reactive way, usually when something goes wrong and a worker is injured.

An RCMP program involving the notoriously dangerous trucking industry referred problem trucking companies to the HRSDC Labour Program for further investigation. Some truckers, for example, were storing explosives incorrectly and had little training on the correct procedures. To the LAOs’ surprise, many of the problem companies that were reported and fell under federal jurisdiction were not recorded in the HRSDC

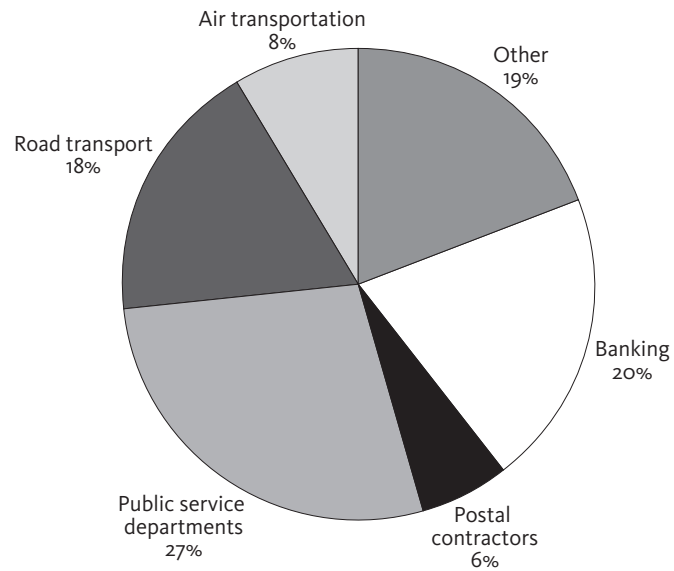
workplace database. Some companies that had been having problems with the RCMP were not even being inspected by LAOs because they didn’t know that the companies existed. One LAO noted that new companies are generally “met by accident,” that is, only after an accident has already occurred.

The 2007 audit of the Labour Program found an appalling record in the inspection of high and very high risk workplaces.¹⁸ The shockingly few inspections, particularly at high-risk workplaces, makes it a minor miracle that the small number of LAOs have managed to hold the disabling injury rate in the federal jurisdiction at a 5% increase since 2002.

Table 3 reproduces the conclusions of the 2007 audit of HRSDC’s record on targeting high risk workplaces. Labour Program guidelines specify that Very High Risk workplaces should be visited at least twice a year. High risk workplaces should be visited at least once a year. Those proactive visits should verify that employers are complying with AVCS and that new safety issues are not developing.

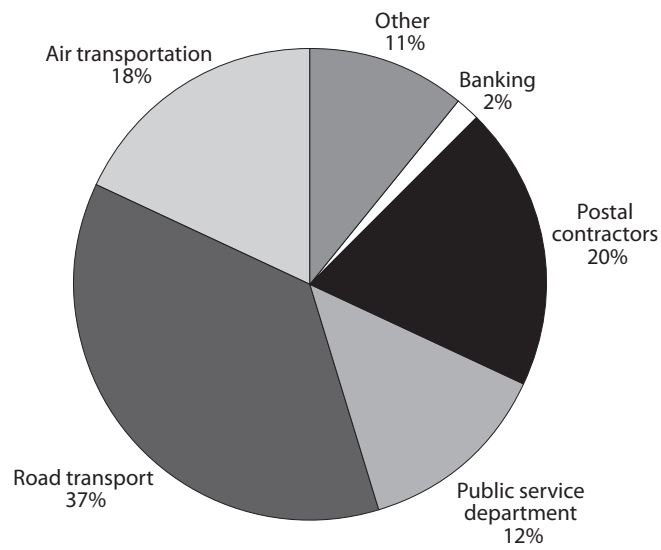
Despite the relatively small number of “Very High” risk workplaces (approximately one per LAO), the workload is too heavy for LAOs to visit them anywhere near twice a year. In fact, the visitation record is atrocious and shows no signs of improving. In 2006–07, the most recent year of data for the audit, only 16% of the riskiest workplaces had received their requisite two visits a year by an LAO. The situation is even worse at the “high” risk tier, where only 10% of

FIGURE 6 Federal Jurisdiction Workers, FTEs by Sector



SOURCE EAHOR

FIGURE 7 Federal Jurisdiction Workers, Disabling Injuries by Sector



SOURCE EAHOR

the workplace had received even their requisite one visit per year.

It is hard to understate the importance of regular visits to high risk employers. A visible and forceful presence is an important part of keeping high risk employers focused on their health and safety responsibilities. Employers have many responsibilities and the most pressing of those will often get the most attention. If the most pressing is rapidly delivering a product, corners may be cut in terms of safety. The lack of pressure on the worst workplace health and safety risks has inevitably led to continued high rates of workplace injuries.

By having insufficient number of LAOs to adequately visit and enforce the law at high risk employers, HRSDC is sending out a clear message — that occupational health and safety is not a priority.

Federal Jurisdiction Sectors are Not Created Equal⁹

While there are general challenges that affect all federal jurisdiction workers, not all workers face the same disabling injury rates. Some federal jurisdiction sectors are much more dangerous than others.

Figure 6 illustrates the percentage of Full Time Equivalent (FTEs) in each major federal jurisdiction sector. The Public Service with 27% makes up the largest single sector under the federal jurisdiction. It is followed closely by the Banking sector which maintains 20% of the FTEs in the federal jurisdiction. Road transportation (the trucking and warehousing industry) comes in third place with 18% of all FTEs in the federal jurisdiction.

“Postal Contractors,” or those working for the crown corporation Canada Post, make up only 6% of the FTEs. For its part, Air Transportation makes up slightly more at 8% of all FTEs in the federal jurisdiction.

When it comes to disabling injuries however, the situation is very different. Figure 7 shows the breakdown of disabling injuries by sector. While Banking is a significant employer in the federal jurisdiction, it has very few disabling injuries (2%) for its size. Essentially all banking sector employees are employed in an office environment significantly reducing their injuries. The public service is in a somewhat similar situation. Although it contains 27% of the FTEs in the federal jurisdiction it only represents 12% of the injuries. The Public Service is made up of 62% office workers, which is likely largely explains why it is underrepresented in disabling injuries.

While Banking and the Public Service are underrepresented in the injury statistics, Postal Contractors are massively over represented. Making up only 6% of the FTE labour force, Canada Post employees make up almost 20% of all disabling injuries. The DIIR for postal workers stands at 3.5 times the average for the federal jurisdiction.

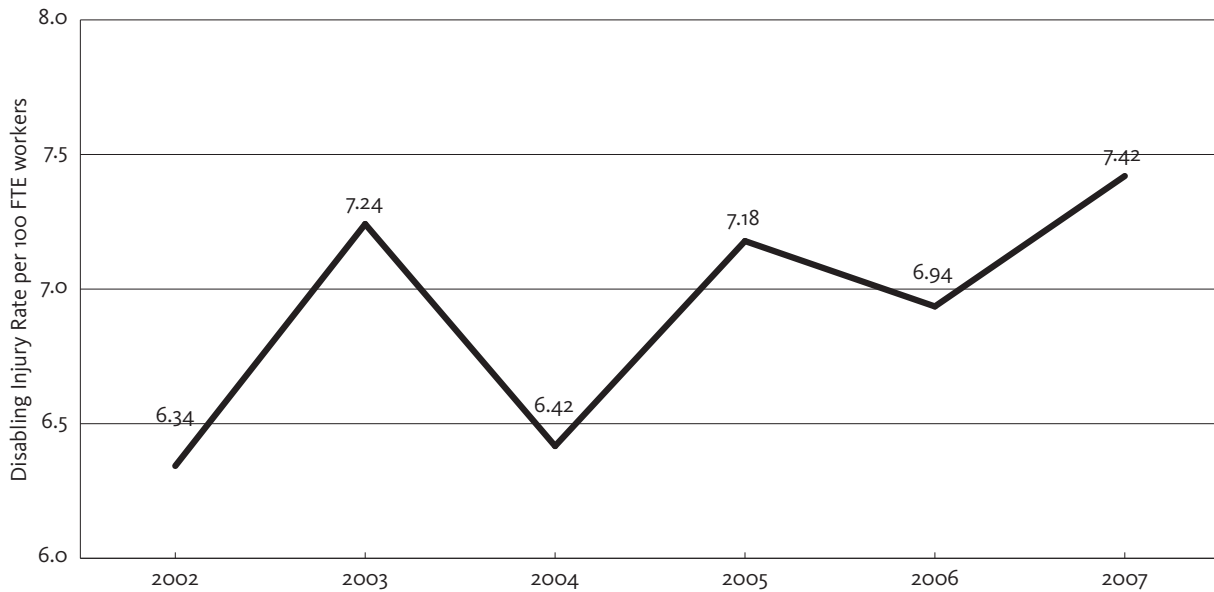
Both Road and Air Transport are also heavily overrepresented. Road transportation represents only 18% of the FTEs but makes up 37% of the disabling injuries in the public sector. Similarly, Air Transport, while only representing 8% of the FTEs accounts for 18% of the disabling injuries. Both of these two sectors are overrepresented in disabling injuries by a factor of 2.

Disabling Injuries at Canada Post

Of all the sectors under federal jurisdiction, Canada Post has by far the worst overrepresentation of disabling injuries. The combination of the highest DIIR of any sector at 7.42 injuries per 100 FTE along with a large percentage of the employees in the federal jurisdiction makes Canada Post one of the prime actors in reducing federal jurisdiction workplace injuries.

The DIIR at Canada Post has marched upwards between 2002 and 2007 as illustrated in Figure 8. As of 2007, the Canada Post DIIR is up 17% from its 2002 low. There are no signs

FIGURE 8 Canada Post DIIR



SOURCE EAHOR

that the significant reductions seen in the provincial jurisdictions are being reflected in this the worst-performing federal jurisdiction sector. Instead, the high DIIR at Canada Post appears to be continuing year after year.

LAOs have observed a disturbing trend within federal departments and crown corporations. It started with the RCMP, which began to refuse to sign Assurances of Voluntary Compliance (AVC) for health and safety violations. The RCMP reasoning was that if a local manager signed an AVC but that AVC had larger implications, the local manager might have inadvertently agreed to much more than the RCMP was willing to do. Whatever the original rationale, the RCMP has made it a policy not to sign AVCs.

Canada Post mirrored the approach and argued that if it signed an AVC, it was admitting guilt in some way, instead of committing to fix a problem as the AVC was intended. To date, LAOs do not report any private sector companies refusing to sign AVCs for similar reasons.

Although Canada Post does attempt to rectify the issue identified by the unsigned AVC, it has provided general direction to all its managers not to sign AVCs.

The policy of stonewalling the first tool LAOs use to protect workers now appears to be spreading to the Canadian Border Services Agency, where AVCs are selectively left unsigned. There is concern among LAOs that Corrections Canada will be next.

It is particularly concerning that the federal government, which should be setting the standard for the private sector, is instead pioneering ways to circumvent the system. Surprisingly, central government agencies like the Treasury Board Secretariat have not intervened and forced departments and crown corporations to play ball in attempting to improve workplace safety. Treasury Board plays the blame game by arguing that they are not the employer and so it is not their responsibility.

This disturbing trend is seen by LAOs as “testing the waters”, where departments and crown corporations see how far they can push HRSDC. The departments that are pushing this obstructionist approach are also the departments that have significant numbers of work refusals due to employees exercising their rights not to engage in dangerous work. As such, the workplaces that employees perceive as higher risk are largely the same workplaces that are attempting to obstruct the LAO’s tools to protect the worker.

In some cases, LAOs have observed that Canada Post and other departments actually press labour inspectors to move directly to the issuance of a Direction instead of an AVC. These crown employers are aware that a Direction is a comprehensive document requiring additional work and increased support from HRSDC. More importantly, it requires HRSDC’s commitment that it will prosecute another government department or crown corporation if the Direction is not followed. The experience of LAOs is that there is little willingness on HRSDC’s behalf to put other federal departments’ feet to the fire. Under these circumstances, the best LAOs can do is write unsigned AVCs and hope that departments and crown corporations comply.

In response to this new practice, the HRSDC policy is simply to issue the AVC and accept that it will be left unsigned. The whole process is unnerving LAOs as they see high injury employers like Canada Post pushing back against health and safety inspections. The move also reveals a general unwillingness of HRSDC to hold government departments and crown corporations to account.

For its part, HRSDC seems willing to accept this obstructionist approach and has refrained from either increasing LAO attention or seeking solutions through higher level channels. Indeed, allowing more leeway for employers is at the heart of many of the recent HRSDC directives to LAOs. In the case of Canada Post, that

additional leeway has merely allowed serious workplace safety issues to continue unabated.

Canada Post also encounters a uniquely political type of interference that further hampers the implementation of health and safety in the workplace. Postal delivery, particularly in rural areas, is a hot button political issue. Any suggestion that mail delivery may be affected sets off a political firestorm.

Canada Post is constantly on guard for LAO rulings that it thinks may have “national implications.” When work refusals or fatalities occur on rural mail routes, it is not uncommon for the HRSDC minister to require daily progress updates on the investigation. Even rulings that are directed at quite specific dangerous situations are sometimes fought tooth and nail by Canada Post to avoid any possible “national implications” that might disrupt nation-wide mail delivery. LAOs report that this additional pressure from both Canada Post and HRSDC makes their job all the more challenging when attempting to decrease risks for individual letter carriers.

Canada Post is, reportedly, not alone in attracting political interference with LAOs trying to do their jobs. One LAO recalls a case where two MPs and an MLA were given the LAO’s home phone number. All three proceeded to call the LAO’s home after hours and request that a particular employer under investigation be prosecuted. Another LAO recalls HRSDC being unhappy with a ruling against another government department. Instead of backing the LAO, HRSDC had that LAO replaced with another person who rubberstamped the decision in favour of the employer. After the experience, the LAO noted “I have no faith in HRSDC to do the right thing.”

In conflicts that pit HRSDC against other government departments and crown corporations, it is not unusual for HRSDC to pull support for a case, usually in spite of the investigating LAO’s professional opinion. In cases that proceeded without HRSDC approval, LAOs reported that colleagues pursuing those cases were left twist-

ing in the wind. Often it is public sector unions that are the primary force pushing for health and safety of workers once the rug is pulled out from under LAOs.

When LAOs find fault with other federal government departments, the Justice Department lawyers are put in an awkward position. They have to choose to either represent the LAO or defend the department that may have broken the labour laws. In several cases, Justice Department lawyers reviewed and signed off on Directions. However, when those same cases went to court, the Justice Department switched sides, now defending the offending department with LAOs left to defend themselves without legal representation.²⁰

HRSDCs lack of support for politically unpopular rulings, despite potential danger in the workplace, is having what one LAO describes as a “chilling effect.” LAOs are getting the message that if you uncover a federal department or crown corporation that has dangerous conditions your professional opinion is not enough for action. LAOs are concerned that the ruling must align with HRSDC priorities.

As political considerations interfere with the implementation of the law, it is postal workers and others in the federal public service that are paying the price with an injury rate far out of proportion to the number of workers.

Trucking: “Canada’s Sweatshop Sector”

Although Canada Post represents the largest misalignment between the number FTEs and the number of disabling injuries, the trucking industry still represents the largest number of such injuries at 37%. Since trucking only makes up 18% of the federal jurisdiction workforce, trucking and warehousing is over-represented by a factor of two.

While Canada Post has its own challenges with political interference, the trucking industry is a high-pressure sector that often cuts cor-

ners to deliver shipments on time. The trucking industry has what one LAO describes as a “macho culture” that often compromises health and safety procedures to complete a shipment. One LAO described it as “Canada’s Sweatshop Sector” because of its lax safety standards.

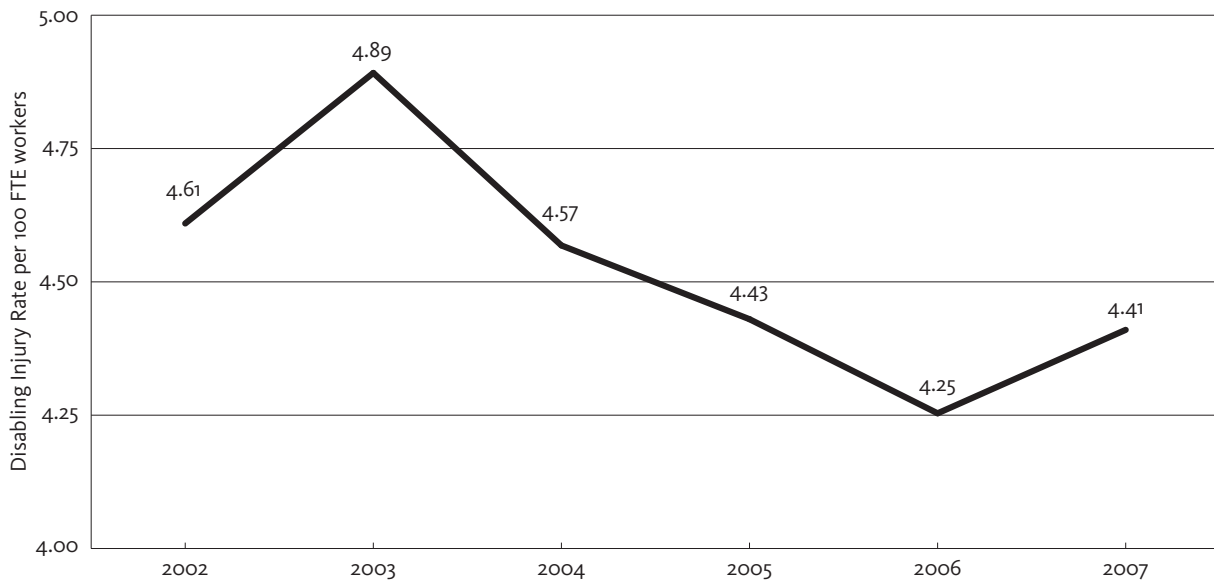
Figure 9 illustrates the industry’s DIIR, which stands at twice the overall federal jurisdiction’s. Between 2002 and 2007 the trucking industry DIIR declined 4% although there does not appear to be anywhere near the downward pressure that the provinces exerted on their disabling injury rates. Instead, Figure 9 shows a high rate of injury that has been fairly consistent over time.

The constant DIIR masks significant growth in the trucking workforce, which grew from 136,000 FTEs in 2002 to 177,000 in 2007.²¹ So while the DIIR may have gone down the number of disabling injuries actually increased as the size of the workforce increased. While there were 6,200 injuries in 2002, that total grew to 7,700 disabling injuries by 2007, an increase of 24%.²²

LAOs are quick to note that the trucking industry is attractive to small businesses that often have little more than a basement desk and a cell phone. Contract and temporary workers make up the workforce of these small owner-operators. Moving shipments quickly with low overhead is their primary goal and workplace safety is a distant priority. The web of contractors and temporary workers often leads to pointing fingers when injuries do occur. Owners blame the temp agency for not providing enough training or argue that because work is contracted, the workers are not even part of the federal jurisdiction.

As the blame circulates, LAOs recognize that small trucking companies stand little chance of being caught for health and safety violations. There are simply too few LAOs to adequately monitor the industry. As well, the LAO database for federal jurisdiction employers is not regularly updated. Trucking companies can operate for years without LAOs even knowing they are in business — until an accident is reported. Most

FIGURE 9 Trucking Industry DIIR



SOURCE EAHOR

Canadian trucking companies are located in and around Toronto and the GTA. LAOs jointly agree that even if the Toronto LAOs regulated only the trucking industry, they would still have insufficient resources.

In an industry such as trucking, where the lack of resources for proactive engagement is exacerbated by the shifting of health and safety responsibility to the company, workers are left to pay the price. Without proper tracking to identify new trucking companies, let alone sufficient numbers of LAOs to inspect them, it is far too easy for small trucking businesses to fall through the cracks. If companies are not engaged early, or in some cases at all, it may mean that basic health and safety procedures are never put in place.

As small operators slip through the cracks and are allowed to cut costs by avoiding safety precautions, more established operators feel the pinch. With lower costs coming from small trucking companies, medium and large size com-

panies will also feel the pressure to reduce their own safety procedures to beat the competition. Without more LAOs to meet this growing threat to truckers' safety, there will be a perpetually losing race for workplace safety as it is traded for reduced costs.

Health and Safety Enforcement on First Nations Reserves

While trucking, Canada Post, and other federal jurisdiction sectors may have insufficient LAOs, some controversial areas such as First Nations reserves are considered off-limits. One LAO notes "it's the old family secret" that reserves receive essentially no occupational health and safety regulation from LAOs, despite the fact that they fall under federal jurisdiction. LAOs are expressly discouraged by their managers from engaging in proactive workplace inspections on reserves.

Proactive inspections generally involve informing employees of their rights and helping them to form workplace safety boards. Inspections may also result in AVC warnings if workplace safety is substandard. Without a basic knowledge of their rights, employees have little recourse if they believe that they are functioning in an unsafe working environment.

While they are periodically called in to reserves for serious injuries, LAOs are discouraged from going to workplaces to inspect them and educate workers and employers on their rights and responsibilities. If you work on reserve, you are essentially abandoned by HRSDC, which is meant to regulate your workplace health and safety. One LAO who works near reserves remarked “LAOs are encouraged to ignore reserves completely. It’s appalling.”

One reason that First Nations reserves are for the most part off limits that, as with Canada Post, the presumed implications of strong health and safety enforcement appear to be politically unpalatable. In the case of First Nation reserves, the lack of basic health and safety procedures is so advanced that a blitz by LAOs would quickly lead through the AVC stage to issuing Directions. In order to give Directions teeth, HRSDC would inevitably have to prosecute a certain number of cases against First Nations businesses or band councils.

There would likely be a political firestorm if HRSDC prosecuted First Nations business owners or band council members based on federal rules as applied to a reserve. In order to avoid this backlash, HRSDC has apparently made it a policy to actively discourage proactive inspections on reserve. One LAO reported that in 20 years of working he had never seen or heard of a proactive inspection on a reserve. While there are clear jurisdictional issues involving First Nations persons living on reserve, simply ignoring workplace safety is hardly a preferable solution.

The lack of a workable solution that protects First Nations persons at work amounts to little

more than HRSDC sticking its head in the sand. “It is intentional and active discrimination against First Nations that proactive inspections are discouraged” notes one LAO. With income inequality and unemployment among Native Canadians higher than the national average, any threat to basic workplace safety while on reserve further stacks the deck against First Nations workers.

Instead of the “all or nothing” approach to workplace safety adopted by HRSDC, a more respectful engagement might yield both better results on reserves and better relationships between the federal and First Nations governments. While some First Nations communities may be unlikely to accept any jurisdictional intrusions from the federal government, many might welcome the encouragement of higher workplace safety standards. However, this process is unlikely to be successful unless HRSDC genuinely partners with First Nations communities on reserve to find workable solutions.

Hiring First Nations inspectors specifically for reserves or training and funding health and safety inspectors on reserves might allow HRSDC to encourage workplace safety while respecting jurisdictional boundaries. More innovative approaches require more resources to be sure, but they might allow for many First Nations communities to raise workplace health and safety standards while maintaining their jurisdictional independence.

Another potential result of HRSDC negotiating to have some type of labour inspector on reserves is that the Department of Indian and Northern Affairs Canada (INAC) may be held to account for its poor safety record. The Fall 2009 Auditor General’s report found that native reserves were lacking in adequate regulation of certain environmental threats, largely due to INAC’s inaction.²³ While the Auditor General’s report focused on environmental regulations, several problem areas such as safe handling of propane and hazardous waste disposal would likely overlap into workplace safety.

Without an effective workplace safety regime on reserves that respects First Nations sovereignty, these threats to workplace safety might remain unresolved. However, more thorough inspections of workplace safety on reserves might pit HRSDC against INAC. LAOs observe that HRSDC is keen to avoid calling other departments to account, no matter the risk to Canadian workers.

Without more engagement with First Nations governments on reserves, HRSDC is not discharging its workplace safety responsibilities. Clearly, jurisdictional issues make “all or nothing” enforcement of federal laws untenable. Proactive engagement could likely provide much of the benefit of workplace health and safety education without the jurisdictional wrangling. Until then, many First Nations workers are being left in the lurch with little workplace health and safety protection.

Conclusion and Recommendations

Many provinces have made concerted efforts to reduce workplace injuries by targeting high risk workplaces and hiring substantially more inspectors to keep offending employers in line. Unfortunately for federal jurisdiction workers, particularly those working in trucking, at Canada Post or on reserves, HRSDC continues to pay its inspectors relatively low wages and provides them with little support.

The substantial lead that federal jurisdiction workers had over their provincial counterparts in workplace injuries has now been whittled away. Without HRSDC getting serious about workplace injuries, it will soon be more dangerous to work in the federal jurisdiction despite the high proportion of office workers.

In order to join the provinces in reducing disabling injury rates, HRSDC must emulate their approach. In particular, this report recommends the following actions be taken:

1. *High-risk workplaces should be targeted:* Workplaces with high disabling injury rates, particularly trucking, must be targeted to make measurable improvements, with repeat offenders receiving significantly more proactive visits. Currently, even minimum standards are not being met for visits to high-risk workplaces.

2. *HRSDC should strive to reduce the workplace injury rate by 20% within five years:* Though it sounds ambitious, this agenda would send a clear message that HRSDC is serious about reducing the disabling workplace injury rate.²⁴ Clear goals must be set with appropriate staffing put in place to meet them.

3. *All federal departments and crown corporations should comply with “best practices” standards for worker safety:* Organizations under the federal government’s control should be setting the standard for strong workplace safety protocols. Instead, they are lowering the bar by employing political interference and non-compliance with the spirit of safety legislation.

4. *HRSDC should hire more LAOs:* Additional LAOs are critical to an effort of targeting high-risk workplaces. LAOs consistently report that there are far too few of them to even maintain the minimum standard at high risk workplaces.

5. *LAO compensation levels should be appropriate:* Present LAO compensation makes it extremely difficult to retain inspectors when comparable jobs provide much higher pay with much less responsibility.

6. *Develop a strategy for workplace safety on First Nations reserves:* Discouraging LAO’s from inspecting workplaces on First Nations reserves due to jurisdictional issues is not a responsible approach to workplace safety. Instead, negotiations should be undertaken with band councils to ensure that First Nation’s workers do not become casualties of the rocky Federal Government — First Nations relationship.

Acronyms

AVC Assurance of Voluntary Compliance

DIIR Disabling Injury Incidence Rate: Number of injuries involving lost work time, loss of body member, loss of functionality or fatalities per 100 Full Time Equivalents.

EAHOR Employer's Annual Hazardous Occurrence Report

FTE Full Time Equivalent

HRSDC Department of Human Resources and Skills Development Canada

INAC Department of Indian and Northern Affairs Canada.

LAO Labour Affairs Officer

OHS Occupational Health and Safety

WCB Workers' Compensation Board

Notes

1 Part I of the labour code involves labour relations and Part III minimum labour standards.

2 HRSDC, 2007–08 Department Performance Report, pg 78

3 These interviews were conducted with 17 LAOs in both individual and group interviews between September 2009 and November 2009.

4 Office of the Auditor General of Canada, *Report of the Auditor General to the House of Commons: Chapter 3 Health and Safety in Federal Office Buildings*, Spring 2009.

5 HRSDC: Internal Audit Services, *Audit of Occupational Health and Safety*, November 2007

6 Provincial WCB focus on Lost-Time Claims whereas federal jurisdiction stats calculate “disabling” injuries, which include fatalities.

7 In order to adjust the provincial WCB statistics to match the federal jurisdiction ones, provincial “Total Lost-Time Claims” are added to fatalities to arrive at a proxy for the federal “Disabling Injuries.” As well, provincial WCB statistics contain federal jurisdiction injuries. Throughout this report federal jurisdiction injuries are subtracted from provincial WCB statistics to isolate provincial jurisdiction injuries.

8 HRSDC, *Occupational Injuries Among Canadian Federal Jurisdiction Employers: 2002–2007*.

9 <http://www.labour.gov.on.ca/index.php?/english/news/2006/06-96b.html>

10 HRSDC 2008–09 Department Performance Report, pg 61

11 The Key Statistical Measures from the Association of Workers’ Compensation Boards of Canada reports that the Current Year Benefit Costs for 2007 were \$5,066,953,000 with the number of new lost-time claims 291,871 and number of fatalities 1,055. <http://www.awcbc.org/common/assets/ksms/2007ksms.pdf>

12 The average benefit cost for a killed or injured worker X number of injuries/fatalities saved in the provincial jurisdiction between 2002 and 2007.

13 The most current figure for active LAOs is 128 for 2008. Unfortunately, the EAHOR figures end in 2007 making the 2008 comparison impossible.

14 Marc Lee, *Canada’s Regulatory Obstacle Course: The Cabinet Directive on Streamlining Regulation and the Public Interest*, Canadian Centre For Policy Alternatives, April 2010.

- 15** Marc Lee and Bruce Campbell, September 2006, *Putting Canadians at Risk*, Canadian Center for Policy Alternatives.
- 16** As estimated by interviewed LAOs.
- 17** Board of Canadian Registered Salary Professionals, *Report on the 2009 Salary Survey*, July 2009 and Based on LAO June 30, 2007 contract and adjusted for subsequent scheduled pay increases according to the Public Service Alliance of Canada.
- 18** HRSDC: Internal Audit Services, *Audit of Occupational Health and Safety*, November 2007
- 19** Statistics for this section are calculated using figures reported in HRSDC, *Occupational Injuries among Canadian Federal Jurisdiction Employers: 2002–2007*, pg. 19–21.
- 20** Except that representation that was provided either personally or by their union.
- 21** HRSDC, *Occupational Injuries among Canadian Federal Jurisdiction Employers: 2002–2007*, pg. 20.
- 22** HRSDC, *Occupational Injuries among Canadian Federal Jurisdiction Employers: 2002–2007*, pg. 20.
- 23** Office of the Auditor General of Canada *Chapter 6: Land Management and Environmental Protections on Reserves*, Fall 2009.
- 24** The stated HRSDC goal is a 10% reduction between 2003 and 2008 from HRSDC, *2008–2009 Estimates: Departmental Performance Report*, pg 61. Achieving this goal would be deceptive as the base year (2003) saw an unusually high DIIR of 2.22. The year previous (2002) it was only 2.02. As such, HRSDC could achieve its goal of a 10% reduction in 2008, from 2.22 to 2.02, but that would simply leave the DIIR at the same level it was in 2002. A real reduction would be to use the DIIR in 2002 of 2.02 as the base.

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