

## **Inside Cal/OSHA – First Person Narrative**

### **A moment sometimes captures the essence**

By Garrett Brown, January 2015

Sometimes an event captures the essence of an organization or leadership. Such is the case with the Department of Industrial Relations' December 15<sup>th</sup> closed-to-the-public event marking 100 years of workers compensation insurance and 41 years of Cal/OSHA in California. The event epitomized the behind-closed-doors, deal-making and influence-peddling *modus operandi* of the current leadership of DIR and Cal/OSHA.

The December 2014 event was the replacement for the December 2013 “40<sup>th</sup> Anniversary of Cal/OSHA” that was abruptly cancelled at the last minute, with no explanation why ever provided. The 2013 event program, personally designed by DIR Director Christine Baker, included more employer representatives (11) than worker reps (7), and featured not one but two speaking appearances by a representative of the California Chamber of Commerce, an organization that bitterly opposed the creation of OSHA and virtually every worker protection proposed since then.

The December 2014 event was refocused on workers compensation insurance, with Cal/OSHA taking a back seat. The day's speakers were primarily politicians and government functionaries, with only a handful of presenters in touch with the actual experience of workers.

But the most telling aspect of the event was that it was an invitation-only, closed to the public, “private event” where an invitation depended on being in the good graces of the DIR/DOSH officialdom. Despite being held in a public building during business hours with most speakers being public employees, the public was excluded from the event. Apparently the insurance industry footed the lion's share of the direct expenses, allowing it to be characterized as a “private event.” But employees in the DIR Office of the Director clearly worked on state time to organize the event and to staff it during the day.

It is not clear whether the news media was prohibited from attending; simply not invited; or invited only if they agreed not to cover the event. But there were no published articles, radio or TV stories after the event; not even from the *Cal/OSHA Reporter* that usually covers all things DOSH.

One reporter who did try to cover the event – Steve Zeltzer who has a regular show on KPFA radio in Berkeley – was prohibited from entering the auditorium of the Oakland State Building and was restricted to the lobby area in front of auditorium's doors. Zeltzer's 10-minute video of DIR's near-panic at his presence and efforts to get the CHP to remove him from the public building altogether makes for interesting viewing.

See: <https://www.youtube.com/watch?v=0M6m8S1OoH0&spfreload=10>

Even before this hand-picked audience, DIR/DOSH decided to prevent any possibility of an uncontrolled discussion of the issues by replacing the standard “question and answer” periods following the four panels of presentations with a “Trivial Pursuits”-style game in which participants were asked about arcane aspects of workers comp and Title 8 regulations. (See attached draft and final programs of the event.) All the better to avoid any inconvenient queries about problems with Baker’s signature worker comp law reform, or a Cal/OSHA weaker than it has been for decades.

The December 2014 event captured the essence of DIR’s management of Cal/OSHA:

- behind-closed-doors wheeling and dealing with selected stakeholders;
- a drive for total political and administrative control, including relentless public relations “spin control;”
- intolerance of any suggestions or criticism, no matter how polite or constructive; and
- an insatiable craving for sycophancy and submission from stakeholders.

These are the characteristics of political operators and cronyism, not occupational safety and health professionals or workers’ rights advocates. Welcome to DOSH in 2015.

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### **Adieu to the Cal/OSHA Advisory Committee?**

A rumor circulating in California’s occupational health and safety community at the end of 2014 was the possibility that DIR/DOSH may do away with the longstanding Cal/OSHA Advisory Committee and its public quarterly meetings in 2015.

The Advisory Committee – made up of equal numbers of employer, worker and public/OHS professional members – has been holding public meetings for two decades. DOSH has traditionally provided Committee members, plus any member of the public interested enough to attend the open meetings, with multiple charts, statistics and reports on all aspects of the Division’s functioning, as well as information from the independent Appeals and Standards Boards.

The meetings have allowed affected stakeholders and the public to get an idea of DOSH’s performance, direction and goals. While not always scintillating and illuminating discussions, the meetings have provided essential information about Cal/OSHA for years.

The word on the street is that the current DIR Director and DOSH Chief have found even the polite questions asked in the 2014 Committee meetings to be “hostile” and “attacks on the Administration.” They have reportedly also found the number of times they were unable to answer stakeholder questions to be “embarrassing.”

So – rumors have it – the Advisory Committee and its public meetings may be eased into history in 2015. These will be replaced by industrial sector committees (construction,

agricultural, health care, etc.) whose members will be hand-picked by DIR/DOSH and whose meetings will not be open to the public. Public access to the information and reports of the current Advisory Committee quarterly meetings will disappear.

This mode of functioning fits in well with DIR/DOSH's preferences – deals behind closed doors; hand-picked participants; controlled access to information; and the ability to discipline unruly stakeholders with the threat of the loss of their membership on the committees.

Even the polite questions of 2014 Advisory Committee meetings will go away as stakeholders will not want to jeopardize their access to committees and information, and the possibility of negotiating deals with DIR/DOSH's leadership where all the action takes place – behind closed doors.

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### **Adequate DOSH staffing – A long way to go.**

In December 2014, DOSH's six enforcement regions had 185 filled field inspector positions, and 16 vacant positions.

Two of these 185 Compliance Safety and Health Officers (CSHO) are actually working as "Acting District Managers," and therefore are not currently available for field inspections, so the real total would be 183 CSHOs in the field. Moreover, 13 of the 185 CSHOs are trainees who – depending on where they are in their training – do zero or few independent inspections.

In November 2014 – the latest statistics available from the California EDD – the civilian labor force in California was 18,822,200 workers. This means DOSH has an inspector to worker ratio of 1 inspector to 101,742 workers – worse than Fed OSHA's ratio of 1 to 66,000 and much worse than Washington state's 1 to 33,000 and Oregon's ratio of 1 to 28,000.

Even if the 16 acknowledged vacancies were filled – a promise made but not fulfilled – the total of 201 filled CSHO positions would only match what existed in year 2000, fifteen years ago. To match the number of California Fish & Game Wardens in the field (250 wardens), DOSH would still need another 50 CSHOs. To match the Fed OSHA inspector to worker ratio (285 CSHOs), DOSH would still need another 85 field inspectors.

Also attached is a file with selected vital statistics about DOSH's 2014 performance as reflected in DOSH Program Office and federal Bureau of Labor Statistics data.

On January 10<sup>th</sup>, Governor Jerry Brown provided the Legislature and the Legislative Analyst's Office with copies of his proposed 2015/16 fiscal year budget, which will start in July 2015. DIR has been promising "major hiring" next fiscal year – we'll have to see

whether those promises are fulfilled more than the “fill all vacancies” promises made by DIR for the current fiscal year.