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[California work fatalities and injuries on the rise while millions of dollars of enforcement resources are “left sitting on the table”](#)



Posted by [garrettbrown](#) on July 11, 2017

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At the end of two complete years when dozens of fully-funded field compliance positions went empty, reported workplace fatalities and injuries in California are on the rise. California’s Division of Occupational Safety and Health ([Cal/OSHA](#)) has had a monthly average of 34 vacant field enforcement positions since July 2015, which means that more than \$10 million in state-authorized funding was left unused.

Meanwhile, the U.S. Bureau of Labor Statistics’ latest available data shows that 388 workers were fatally injured on the job in California in 2015. On average, that is more than one worker a day who never went home again. The fatality rate in California [increased by 10%](#) from the year before, to 2.2 per 100,000 full-time workers.

The number of Latino workers killed on the job [jumped 40%](#) from 2014 to 2015, increasing from 127 to 178. Latinos made up 46% of all California work fatalities in 2015, much higher than their percentage of the total workforce.

It is true that California’s fatality rate is lower than other major industrial states such as Ohio, Pennsylvania or Texas, but this is about the only good news in the latest available data.

California workplace injuries and illnesses

California's injury statistics are significantly worse than the national incidence rates of non-fatal injuries and illnesses – both the “DART” rate for injuries involving days away from work, job transfer or restriction and the “Total Recordable Case” (TRC) rate.

California has a DART rate for all private and public sector workplaces that is [29% higher than the national rate](#). The private industry DART rate is 31% higher. Looking closer at the data: the rate for service industries is 33% higher; leisure and hospitality rates are 66% higher; and public administration is 45% higher.

For natural resources and mining industries, California's DART rate is 59% higher than the national average. This is at a time when Cal/OSHA's Mining & Tunneling Unit's field staff is half the size it was 15 years ago, but the M&T unit's work has grown significantly due to major tunnel and construction projects throughout the state.

In addition to a higher DART rate than other major industrial states, [California in 2015 had the highest “Total Recordable Case” \(TRC\) rate](#). The Golden State's rate of 3.8 cases per 100 workers was also 15% higher than the national rate of 3.3 cases.

California had more than [470,000 recordable injuries in 2015](#), including 144,000 that were serious enough to require days off from work – or 395 lost-time injuries every day of the year.

The number of injuries captured by the Bureau of Labor Statistics for California may, in fact, [be significantly underestimated](#). The BLS data for 2015 indicates 470,600 recordable cases (requiring medical treatment beyond first aid). The California Workers Compensation Information System, however, lists 606,792 workers reporting injuries for the year. That's a difference of 136,000 injury cases. Depending on which data source you use, between 1,290 to 1,660 workers on average are injured on the job every day in California.

Despite the lower fatality rate, the number of worker deaths, injuries and illnesses in California show that “our job is not done” in terms of workplace health and safety in the state.

What's needed is a strong enforcement agency with sufficient staffing and resources to ensure that effective safety programs are fully implemented by employers. The latest statistics show the need for more resources to reach out to and involve worker organizations (unions, worker centers, immigrant and community-based organizations) so that workers know the hazards, know what hazard controls are available, and what their rights are under the law. The stats show the need for a strong enforcement approach by Cal/OSHA that will be a deterrent to employees against cutting corners on safety, and to hold all employers accountable, including large employers with political connections.

Enforcement resources left untouched

Starting in July 2015, the California Legislature acted to provide some sorely needed additional resources. Cal/OSHA was fully funded to hire 245 field Compliance Safety and Health Officers (CSHO). (By way of comparison, the state employs 250 Fish & Game Wardens.)

However, between July 2015 and June 2017, there has been an average of 34 CSHO vacancies every month at Cal/OSHA. In June 2017, there were still [26 unfilled CSHO positions](#), representing a vacancy rate of 10.7%, with a total of 209.5 field-available compliance officers.

It is a little known fact that Cal/OSHA's budget and personnel hiring are entirely controlled by the [Department of Industrial Relations](#) (DIR). This means that it is DIR Director Christine Baker – not Cal/OSHA Headquarters – who decides the level of protection provided by Cal/OSHA to California workers.

Each CSHO position involves \$150,000 a year in salary, benefits and operating expenses. With an average of 34 vacancies each month, \$10.2 million in enforcement resources has been “left on the table” by DIR at a time when hundreds of workers have been killed and thousands injured and made ill on the job over the two years since July 2015.

Adverse impact on Cal/OSHA and California workers

In addition to the Mining & Tunneling Unit, Cal/OSHA's Elevator Unit also has been put on a starvation diet since 2015. It's resulted in a backlog of expired elevator permits, with more than 30% of the state's elevators behind on the legally-required annual inspection. As of June 2017, the Elevator Unit has 14 vacancies for field inspectors, with 11 of the 14 in the agency's San Francisco, Oakland and San Jose offices.

DIR – despite the inspector vacancies and the backlog of permit inspections – declared an inspection “fee holiday” for building owners in 2015. A “fee holiday” means the elevator owners and operators are relieved of paying the fees required by state law for inspections. In 2017, DIR declared a permanent 25% reduction in fees.

The chronic understaffing of Cal/OSHA field enforcement personnel has significant adverse consequences for protecting workers in California:

- It takes Cal/OSHA longer to open inspections of worker complaints, and then longer to close these inspections (which is when required hazard corrections are triggered) than allowed by state law and federal OSHA guidelines;
- Cal/OSHA cannot conduct all of the required “follow-up” inspections. Under state law, Cal/OSHA must conduct a follow-up inspection whenever a previous one resulted in “serious” citations that which were not corrected during the course of the initial inspection;
- Cal/OSHA cannot meet the requirement under state law to inspect tunnels under construction at least six times a year (every two months); and
- Cal/OSHA is unable to meet the requirements of its own Policies & Procedures to inspect 10% of the worksites where permits have been issued for work involving asbestos or lead, digging trenches, or demolishing buildings.

Moreover, the lack of field enforcement personnel weakens worker protections in California in other ways. Fewer field inspections are done overall,

fewer worker complaints are investigated because accident investigations take priority, and fewer planned or “programmed” inspections of high-hazard industries and workplaces are conducted.

When inspections *are* done, they are less thorough and narrower in scope so as to close them as rapidly as possible to deal with the ever-growing backlog of complaints and accidents. Time-consuming “health” inspections of worker exposures to chemicals, noise, infectious agents and ergonomic (repetitive motion) hazards are done less frequently, if at all. Rushed, incomplete inspections mean that harmful exposures to noise or chemicals are not evaluated, and control measures to eliminate or reduce these exposures are not implemented.

The lack of sufficient enforcement personnel and resources means that uncontrolled exposures to safety and health hazards will lead to both acute and chronic injuries, illnesses and fatalities. California’s experience over the last several years reflects this reality.

Hiring CSHOs within California’s inflexible, cumbersome civil service system is not an easy task. This, combined with the wave of “baby boomer” retirements that has hit Cal/OSHA, means filling the vacancies requires determination. These obstacles could be overcome if there was sufficient political will and a “number one priority” approach to fill these fully-funded enforcement positions. “Where there is a will, there is a way,” as the saying goes.

In the meantime, it is not right that California’s workers and their families have to pay the price in blood and tears. The lack of political will at DIR and in the Governor’s office is resulting in a chronically understaffed workplace safety agency leaving millions of dollars of enforcement resources untouched. Surely the workers of California deserve the same level of protection that the state’s Fish & Game Wardens provide California wildlife.

Garrett Brown is a certified industrial hygienist who worked for Cal/OSHA for 20 years as a field Compliance Safety and Health Officer and then served as Special Assistant to the Chief of the Division before retiring in 2014. He has also been the volunteer Coordinator of the Maquiladora Health & Safety Support Network since 1993 and has coordinated projects in Bangladesh, Central America, China, Dominican Republic, Indonesia, Mexico and Vietnam.

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