



**ASSEMBLY COMMITTEE ON LABOR AND EMPLOYMENT**  
**ROGER HERNÁNDEZ, CHAIR**  
ASSEMBLYMEMBER, FORTY-EIGHTH DISTRICT

**INFORMATIONAL HEARING**

***"Latino Worker Health and Safety Issues:  
Exploring Causes and Potential Solutions"***

November 19, 2015 – 1:00 p.m. to 4:00 p.m.  
Ronald Reagan State Building, 300 S. Spring Street, Los Angeles

***POST-HEARING REPORT***



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**AGENDA**

**1. Opening Remarks**

**2. Panel 1 – Overview**

Deborah Berkowitz, Senior Fellow, National Employment Law Project

**3. Panel 2 – The California Perspective**

Amy Coombe, Chief of Staff, Department of Industrial Relations

**4. Panel 3A – Worker Advocate Perspectives**

Maria Elena Durazo, Vice President for Immigration, Diversity and Civil Rights, UNITE HERE

David Huerta, President, SEIU-USWW

Mark Ramos, President, UFCW Local 1428

Jim Smith, Political Coordinator and Organizing Director, Teamsters Local 396

Erica Lomeli, Civic Participation & Policy Director, UFW Foundation

Amber Novey, Field Coordinator, Laborers' International Union of North America

**5. Panel 3B – Worker Testimonies**

Georgina Hernández, Non-Union Janitor

Melvoy Ewing, Menzies Aviation Worker

Laura Lopez, Employee at Taylor Farms

Argelia Rico, Hotel Worker

**6. Panel 4 – Exploring Policy Solutions**

Kevin Riley, Director of Research, UCLA Labor Occupational Safety and Health Program

Nicole Marquez, Staff Attorney, Worksafe

Jorge Cabrera, Coordinator, Southern CA Coalition for Occupational Safety and Health

Laura Boatman, Project Coordinator, State Building and Construction Trades Council

**7. Public Comment**

**8. Closing Remarks**



## INTRODUCTION

Latino workers represent a growing proportion of the overall workforce in California. Currently, Latinos are the largest ethnic group in the California population, and comprised 36% of the state's labor force in 2013. Data shows that from 2009-2013, following the 2007-2009 recession, the Latino labor force increased at a higher rate with 13.4% growth compared to the non-Latino labor force (1%) and California's labor force overall (5.5%).

At the same time, data indicates that Latino (and particularly immigrant) workers are more likely to become sick or injured on the job, and are more likely than other workers to have a fatal workplace injury. Even though workplace injuries and fatalities overall are declining nationally, fatalities among immigrant workers, especially Latino workers, appear to be on the rise.

Some studies suggest that such workers face a greater risk of injury, illness and death because they are employed in more hazardous jobs. However, the experience of Latino workers may not be explained solely by the types of jobs they occupy. Several other factors, including immigration status, lack of training, language barriers, and the lack of health insurance, may compound the risks faced by Latino workers.

In light of these demographic trends in the California workforce, it is important for policymakers to explore these issues in depth. Therefore, on November 19, 2015, the Assembly Committee on Labor and Employment conducted an informational hearing in Los Angeles entitled, "Latino Worker Health and Safety Issues: Exploring Causes and Potential Solutions." A copy of the hearing agenda is included on the preceding page.

The hearing sought to explore some of the challenges experienced by Latino workers in greater detail. The hearing also sought to identify policy and other recommendations to address these concerns and improve workplace health and safety for Latino workers.

This post-hearing report will summarize the testimony presented at the hearing, including identifying potential policy solutions that were discussed at the hearing (A summary of which is found in Appendix A). For those witnesses that provided written testimony to the Committee, that written testimony is also included at the conclusion of this post-hearing report (Appendix B).

## TESTIMONY OF DEBORAH BERKOWITZ

Deborah Berkowitz is a Senior Fellow at the National Employment Law Project (NELP).

Ms. Berkowitz testified that the facts underscore the urgency of the current problem. Latino workers die at higher rates on the job overall compared to all other workers. In 2013, Latino workers had a fatality rate of 3.9 per 100,000 workers. This rate is fully 18 percent higher than the overall fatality rate for all other workers of 3.3 per 100,000 workers.

In 2013, the last full year that statistics are available from the Bureau of Labor Statistics (BLS), 4,585 workers died on the job. Of those, 817 were Latino workers, and approximately two thirds of these were immigrant workers. And in 2013, nearly one in four workplace fatalities among Latinos (24 percent) occurred in California, up from 18 percent in 2012, despite employment among Latinos remaining relatively stable during that time. The increase in workplace fatalities among Latino workers in California was concentrated in the Los Angeles area, where fatalities increased from 38 in 2012 to 66 in 2013.

The BLS has only reported preliminary numbers for 2014—the full and accurate count will be available next April. According to the preliminary reports, there was a slight drop in the total number of Latino workers who were fatally injured last year— but these numbers are preliminary and could rise. According to the preliminary numbers, 789 Latino workers were killed on the job last year. On average, this is more than 15 Latino worker deaths a week -- or two Latino workers killed every single day all year long. Though the numbers have gone down, Latino workers are still dying at higher rates. The preliminary BLS data indicates that Latino workers suffered a fatal work injury rate of 3.6 fatal work injuries per 100,000 workers in 2014 compared with the rate for all other workers at 3.3 per 100,000 workers.

Ms. Berkowitz testified that a closer look at the national data over the past few years reveals that the construction industry was responsible for the greatest number of Latino worker deaths, followed by transportation and material-moving, and then administrative and waste services, which includes landscaping. In California, in 2013, administrative and waste services overtook construction as the largest source of workplace fatalities among Latino workers—with the majority of fatalities occurring in the landscaping services industry.

In addition to high fatality rates, Latino workers also suffer high rates of work related injuries and illnesses. But, as the head of the Center for Disease Control's (CDC) National Institute for Occupational Safety and Health (NIOSH) said at a recent conference: "It is likely, that as bad as the reported injury statistics are for Latinos, non-fatal occupational injuries and illnesses are undercounted among Latino workers."

Ms. Berkowitz testified that the high rates of Latino workers killed and injured on the job are a result of a number of factors: the disproportional high participation rates for

Latino workers in very hazardous jobs; the lack of adequate safety training - especially the lack of training in a language and vocabulary that workers can understand; and workplace policies and practices that create a reluctance to report unsafe conditions and injuries for fear of retaliation from employers.

Ms. Berkowitz testified that, in order to address these occupational health and safety disparities, California must do the following:

- Develop and implement policies to ensure that Latino workers understand their rights under the law to a safe workplace.
- Expand Cal OSHA's work with and possible funding of worker centers, community groups, and faith based organizations, unions and other organizations that are trusted partners in the Latino community to provide training and education to empower workers to exercise their rights.
- Assure that Latino workers are provided required training in a language and vocabulary they understand. CAL OSHA should instruct all inspectors to assure that they have not only received required training but they understand it.
- California must protect a workers' right to report hazards and to report injuries. Government must protect a workers voice in the workplace. A paycheck is not payment for silence—it is not a license to endure pain. Workers in California are entitled to equivalent protection under the law as those under federal OSHA enforcement.
- Further, in those workplaces without union representation, Cal-OSHA should make sure that complaints about job hazards can be filed by worker centers and other organizations that represent the worker—as is Federal OSHA policy.
- Cal OSHA should conduct special targeted investigations into dangerous industries with a high concentration of low-wage immigrant workers such as landscaping, construction, warehousing, food processing, recycling, and other industries.

## TESTIMONY OF AMY COOMBE

Amy Coombe is Chief of Staff at the Department of Industrial Relations (DIR).

Ms. Coombe began her testimony by providing an overview of demographic information and recent data on Latino worker health and safety incomes. The testimony contains much detailed statistics, and a complete copy of Ms. Coombe's written testimony is included at the end of this report (together with other submitted written testimony). However, it is worth noting that her testimony stated that, as of July 2015, Latinos form the largest ethnic group on California (representing 39 percent of the populations), trailed by whites at 38 percent of the population. In addition, Latinos now comprise about 35 percent of the labor force (which far exceeds the national average of approximately 15 percent).

Next, Ms. Coombe outlined some of the underlying challenges that should be addressed to protect workers. Specifically, she stated the following:

"Education and literacy levels provide important context for the statistics and reveal challenges behind the experiences of certain subpopulations. In 2010, despite comprising 45 percent of the population age 18 to 24, Latinos received only 18 percent of the bachelor's degrees awarded by public colleges in California, according to California Postsecondary Education Commission data. Latinos also received 29 percent of the associate degrees awarded by California's community colleges.

According to the California Senate Office of Research, Latinos are more likely than the population at large to work in blue-collar (low-wage) occupations, such as manufacturing, construction, maintenance, and services. From 2006 to 2010, Latinos tended to earn less than Californians as a whole and were underrepresented in higher-income brackets, overrepresented in lower-income brackets, and more likely to live below the poverty line. For example, Latinos had a median household income of \$47,000, compared to a median household income of \$61,000 for all Californians. Similarly, while 14 percent of Californians lived below the poverty line, 20 percent of Latinos lived below the poverty line.

Overall health risks affect work-related health and safety issues. In May the U.S. Centers for Disease Control and Prevention (CDC) published their Vital Signs report on the health and causes of death of Latinos in the U.S. Using mortality figures and national health surveillance data, the report found that health outcomes of Latinos differed from those of all whites. While Latinos had a 24 percent lower risk of all-cause mortality and lower risks for cancer and heart disease, among others, serious issues that particularly affect the health of Latinos were noted. Deaths from diabetes, liver disease, and homicide were substantially higher among Latinos than all whites, as was the prevalence of obesity (in California, the rate of obesity among Latinos is 31 percent). According to the CDC, the costs of obesity are estimated to cost employers up to

\$93 billion per year in health insurance claims. Access to health care is a concern for Latinos nationwide, as more than 40 percent of individuals reported having no health insurance coverage."

Next, Ms. Coombe discussed actions and opportunities to improve outcomes and enhance California's productivity.

She stated that multilingual resources are vital for reaching workers in their own language to maximize understanding and effectiveness. Data from the U.S. Census Bureau's American Community Survey (five-year estimates for 2006-2010) indicated that 77 percent of Latinos in California spoke a language other than English at home, compared with 43 percent of the general population. In addition, 38 percent of Latinos in California self-identified as speaking English less than "very well," compared with 20 percent of the general population.

Ms. Coombe also testified that another short-term solution involves data: "Using predictive data analytics, efforts can be more effectively targeted in areas of evidence-based need. Collaboration across agencies and information sharing, specifically in the form of data matching to the extent permitted by law, has proven effective for targeted enforcement. This enables inspection resources to be wisely invested in identifying noncompliant employers. For example, by screening leads for workers' compensation insurance, one can predict the likelihood of proper licensing or payroll reporting. Serious violations of health and safety laws are also linked to employer coverage, as demonstrated by enforcement results from the Labor Enforcement Task Force. Smarter enforcement is a powerful tool for promoting compliance, with great benefits for workers."

In addition, Ms. Coombe testified that innovation in design provides opportunities to incorporate inherently safer practices and measures. When hazards cannot be eliminated, administrative controls such as training and changes in work practices can be implemented. Workplace health and safety programs offer effective, prevention-focused solutions. Cal/OSHA's Consultation Services Branch provides free voluntary assistance to employers and employee organizations to improve their health and safety programs. Longer-term interventions are also worth considering and initiating, even though the effects will take time to be visible.

Ms. Coombe noted that legislation offers solutions to address related issues. She identified recent bills relevant to the subject of the hearing as including:

- AB 1897 (Hernandez, 2014), which established specified liability for client employers that obtain workers from third-party labor contractors.
- AB 60 (Alejo, 2013) created the Safe and Responsible Driver Act, which enables any eligible California resident to apply for a driver's license, regardless of immigration status, beginning January 1, 2015.

- SB 4 (Lara, 2015) implements the \$40 million allocated in this year's budget to provide state-subsidized Medi-Cal coverage to 170,000 immigrant children age 18 and younger.
- AB 241 (Ammiano, 2013), which enacted the "Domestic Worker Bill of Rights" to provide labor protections to domestic work employees.
- AB 358 (Jackson 2015), which made various changes to the California Equal Pay Act related to gender wage inequality.

Ms. Coombe concluded her testimony by stating that, "These and other short- and long-term measures that focus on the whole worker, the entire labor force, and the population at large are opportunities for improving the quality of life for all Californians."

#### **TESTIMONY OF MARIA ELENA DURAZO**

Maria Elena Durazo is Vice President for Immigration, Diversity and Civil Rights at UNITE HERE.

Ms. Durazo testified that these issues are particularly pervasive in the hospitality and tourism industry, which is one of the largest industries in Southern California. She testified that 82 percent of hotel room cleaners are Latino, 79 percent of dishwashers are Latino, and 77 percent of cooks are Latinos.

Ms. Durazo testified that in the hospitality industry, it is all about the "personal touch." Therefore, the emphasis is on services that only workers can provide. As a result, labor is a big part of the industry's costs. Employers in turn try to cut labor costs in three major ways. First, workers are asked to do more work, such as lift heavier mattresses, clean more rooms, and provide more amenities. Second, employers expect the same amount of work to be performed by fewer workers. They combine jobs, increase workloads, and don't fill vacancies. Finally, employers subcontract hospitality work to temporary agencies or labor contractors where workers are provided little if any benefits. Workers obtained through subcontracting are seen as "disposable."

For example, Ms. Durazo testified that a non-union housekeeper at the Doubletree Hotel near the Ontario Airport is required to clean 35 rooms during an 8-hour shift. In comparison, a worker at a union hotel in San Pedro is required to clean only half that amount.

Ms. Durazo testified that a union contract is the best protection against overwork and workplace safety abuses. However, public policymakers have an important role to play. For example, a proposed ordinance is pending in Long Beach that would (1) limit the square footage that a worker is required to clean during a shift, and (2) provide greater protections and "teeth" against prohibitions against sexual assault and harassment. Paid sick days is another important policy issue that protects workers and ensures that they are able to care for their physical health when needed.



Ms. Durazo testified that Latino immigrants are particularly at risk for workplace safety abuses due to fears over retaliation. Federal efforts to legalize the status of immigrant workers are important and need to be continued. In addition, ICE should not be collaborating with employers (and vice versa) so that immigration status is not used as a weapon in workplace and labor disputes.

#### **TESTIMONY OF DAVID HUERTA**

David Huerta is President of the Service Employees International Union – United Service Workers West (SEIU-USWW). SEIU-USWW represents 45,000 workers in the janitorial, security, airport contracting, and related industries in California.

Mr. Huerta noted the importance of this topic and indicated that legislative attention can result in positive change for workers. For example, following the death last year of an airport worker, the Assembly Committee on Labor and Employment conducted a hearing on health and safety issues involving airport contract workers. As a result of that hearing, the contractor at issue, Menzies Aviation, agreed to recognize the union and agreed to the formation of joint-labor management committees to address workplace safety issues. Therefore, legislative oversight (such as this hearing) can highlight these issues and result in positive outcomes for workers.

Mr. Huerta's testimony placed a particular emphasis on workplace safety issues facing Latino women (such as janitors) who work in isolated workplaces, often in the shadowy underground economy. While wage theft is an issue for these workers, Mr. Huerta testified that wage theft is only the "tip of the iceberg" and that these women often experience severe sexual harassment and even sexual assault (due in large part to their vulnerability in working alone on isolated worksites). This issue was recently highlighted in a recent PBS Frontline documentary entitled, "Rape on the Night Shift."

Mr. Huerta testified that every night in California, tens of thousands of Latino women work in situations that make them prime targets for such abuse. Workers are beginning to speak out, and SEIU-USWW has begun a dialogue within its union about how best to protect such workers. Primarily, Mr. Huerta testified that we must expand our understanding of workplace health and safety to include sexual harassment and assault. In addition, we must acknowledge how certain workplaces and certain industries can create conditions that foster this kind of abuse.

In particular with respect to sexual harassment and assault, he proposed the following policy recommendations for consideration:

- Create a public awareness and education campaign.
- Make sure female workers understand their rights and have a safe way to report violations (such as a confidential hotline to DOSH, DLSE and DFEH).
- Establish greater accountability. Employers should be required to train supervisors on sexual harassment regardless of the size of the business.

- Employers should be required to train workers on sexual harassment and their rights in the workplace.
- Increase penalties (including criminal penalties) for violations of the law.
- Establish an administrative complaint procedure for employers that fail to provide required training to workers.
- Explore Cal/OSHA standards (such as the recent workplace violence prevention standard for health care workers) as ways to address non-traditional workplace safety issues that use to be seen as "just part of the job."

### **TESTIMONY OF MARK RAMOS**

Mark Ramos is President of United Food and Commercial Workers Union (UFCW) Local 1428.

Mr. Ramos testified that workplace health and safety issues (including repetitive motion industries) are a big issue in retail grocery stores and pharmacies. In particular, he cited several issues UFCW has had with El Super, which has 50 stores in California. Only 7 of these stores are unionized, and they represent the only 7 unionized Latino markets in California.

Mr. Ramos testified that fear is the biggest issue Latino workers face when it comes to workplace health and safety issues. Many workers are afraid to talk about or report safety issues, and are afraid to ask for safety equipment because management "does not want to be bothered." He highlighted the example of a worker who produced tortilla chips where the ventilation system was broken and the worker was breathing in hot, greasy air which resulted in respiratory issues. When asked why he continued working without ventilation, the worker responded that the manager told him "not to worry. That's just the way it is."

Mr. Ramos testified that legislation can enact positive change. For example, AB 263 (Roger Hernández) of 2013 was an important bill to protect immigrant workers. However, many unrepresented workers don't know about the law. Even some union workers are still afraid to report immigration retaliation to their union representatives.

Recently-proposed legislation related to fair scheduling practices is an example of how legislation that is not safety-related on its face can nevertheless improve workplace safety. Mr. Ramos testified that many workers do not report workplace safety issues because they are fearful of their schedules being changed and their hours cut.

Mr. Ramos identified the following policy recommendations that may improve workplace safety issues for Latino workers:

- Create an environment where workers are not afraid to stand up for themselves and report workplace safety violations.

- Create a registry of "bad actors" (including temporary agencies) so that workers and consumers know who these employers are.
- Explore Spanish-language radio ads to inform workers about their rights, including protections against retaliation.
- Higher penalties for bad actors that violate the law.
- Empower workers to unionize and work with other worker advocates to protect themselves.

### **TESTIMONY OF JIM SMITH**

Jim Smith is Political Coordinator and Organizing Director for Teamsters Local 396.

Although Teamsters Local 396 represents workers in a number of industries, Mr. Smith's testimony primarily focused on the solid waste and recycling industry, where approximately 90 percent of the workers are Latino, many are undocumented, and more than half of the workers are female. Many of these jobs (particularly in the non-union sector) are minimum-wage jobs and many workers have no other real options for employment. As a result, they are fearful of reprisals or losing their jobs (or being reported to ICE) if they report workplace safety issues.

While waste drivers experience workplace safety issues, Mr. Smith testified that workers processing waste at materials recovery facilities (MRFs) experience particular hazards. For example, waste at these facilities must be separated at hand on fast-moving conveyor belts. Workers experience sharps waste, other dangerous and sharp objects, and biological and medical waste. As a result, many of these workers experience high rates of hepatitis and other communicable diseases. Conveyor belts are often high off the ground, sometimes 2 or 3 stories high. Workers are also often asked to clear jams in the conveyor belts without proper lockout procedures to shut down the machinery. Mr. Smith noted that these concerns are particularly pervasive at non-union facilities where workers are not provided protections and are fearful of reporting unsafe conditions.

Mr. Smith identified the following policy recommendations to address these issues:

- Enforcement agencies are underfunded and understaffed. These agencies do good work with what they have, but with more resources they could provide greater protections to workers.
- Workers need to be educated about their rights on the job, particularly with respect to workplace safety and protections against retaliation.
- Unionization gives workers greater protections. Workers protected by a union contract are more likely to speak up and report dangerous working conditions.

### **TESTIMONY OF ERICA LOMELI**

Erica Lomeli is Civic Participation and Policy Director with the United Farm Workers (UFW) Foundation. She has been extensively involved with the UFW and the UFW Foundation's health awareness campaign over the last eight years.

Ms. Lomeli testified regarding some of the workplace health and safety issues facing farmworkers, of which there are approximately 400,000 in California. She testified that agriculture is one of the most dangerous occupations. Most of these workers live below the poverty line, do not speak English, and many are undocumented, all of which make these workers vulnerable to abuse.

Ms. Lomeli's testimony focused on three main areas of concern.

First, one of the major health and safety issues facing farmworkers in recent years has been concern over heat illness. Despite progress on this issue and a heat illness standard, she stated that too many employers continue to be negligent and take advantage of understaffing at Cal/OSHA. Ms. Lomeli testified that she is excited about the recent three-year partnership announced this summer between Cal/OSHA, UFW, and the UFW Foundation to improve enforcement of the heat illness standard (which was recently updated in May 2015).

Second, pesticide exposure continues to be an issue of concern for farmworkers and their families and surrounding communities. Ms. Lomeli testified that many union collective bargaining agreements contain some pesticide protection language because this is such an important issue. In September of 2015, the federal Environmental Protection Agency (EPA) announced important new pesticide protections. Among other things, these new rules will (1) require that pesticide applicators be over age 18, (2) establish new training requirements, (3) establish important whistleblower protections, and (4) facilitate worker access to health care records.

Third, echoing the testimony of David Huerta with SEIU-USWW, Ms. Lomeli testified that sexual harassment is a major workplace safety concern for farmworkers. She stated that approximately 28 percent of farmworkers are women, and that approximately 35-50 percent of these workers will experience sexual harassment on the job. She highlighted a UC Santa Cruz study from several years ago that documented the prevalence of sexual harassment in the fields, particularly for immigrant farmworkers.

Ms. Lomeli concluded that her overall experience is that often the laws "on the books" are not always the "laws in the fields."

### **TESTIMONY OF AMBER NOVEY**

Amber Novey is Field Coordinator with the Laborers' International Union of North America (LIUNA).

Ms. Novey testified that many immigrant workers are concerned that they will lose their job, so they work as quickly and often times tirelessly without making safety a priority. In addition, language barriers could be a common reason for fatalities on a jobsite. For this reason, LIUNA's apprenticeship program requires that each individual go through an extensive bootcamp training which includes a basic skill of the English language. In addition, LIUNA members go through a minimum of OSHA-10 training.

Ms. Novey concluded by stating that safety, education and training are a few of the key reasons why an organized Laborer stands out amongst the rest of the construction industry.

#### **TESTIMONY OF GEORGINA HERNÁNDEZ**

Georgina Hernández is a non-union janitorial employee.

Ms. Hernández testified that she has worked as a janitor for four years, and has suffered much and been through a lot during that time. She has largely been unaware of her rights on the job. If she ever said anything about workplace safety issues, she has been let go.

Ms. Hernández testified that the most trying experience she has suffered has been sexual harassment on the job. And this has not just happened to her, but to many other workers as well. In particular, Ms. Hernández testified that a supervisor told her that if she put up with the sexual harassment, she would be paid \$500 (which is much more than her weekly earnings). The supervisor stated, "All you have to do is go with me for one night in a hotel room." Ms. Hernández testified that that supervisor is still employed by the same contractor to this day, and has many other female workers that work under him.

#### **TESTIMONY OF MELVOY EWING**

Melvoy Ewing is an employee with Menzies Aviation at LAX. He has been employed with Menzies for eight years. Mr. Ewing testified that in February 2014, a co-worker (Cesar Valenzuela) was killed on the job in a workplace accident. Since that time, his union (SEIU-USWW) has worked hard to improve safety at LAX. Following a hearing this Committee conducted in 2014, his employer has formed a partnership with the union to improve workplace safety. The company and the union surveyed workers about safety issues and have adopted plans to remedy these issues. While things are not perfect, they have improved dramatically and now workers have a voice. He testified that this is an example of how workplace safety issues can be improved by empowering workers and through cooperation between the employer and the collective bargaining representative.

### **TESTIMONY OF LAURA LOPEZ**

Laura Lopez is an employee at Taylor Farms located in Tracy, California. Ms. Lopez testified about a recent chemical exposure that occurred at the workplace. When the event occurred, and workers expressed concerns, she reported that the supervisor ordered employees to return to work. As a result, approximately 20 employees were sickened and had to be hospitalized.

### **TESTIMONY OF ARGELIA RICO**

Argelia Rico is employed as a non-union housekeeper at the Embassy Suites in Irvine, California, where she has been employed for 7 years.

She testified that she works every day in pain. She is required to clean 15 suites (equivalent to 28 rooms) in an 8-hour shift. She is required to lift mattresses that weigh over 100 pounds, and has to use her left foot to lift them. She is also required to push a cart that weighs over 50 pounds. She cleans bathroom floors on her hands and knees. Both quality and quantity are demanded of her.

Ms. Rico testified that her back is now injured, and she has to work in constant pain. She stated that there are thousands of housekeepers who are similarly injured. They are kept in the shadows and 80 percent of hotel housekeepers are Latina. They are fearful of retaliation for speaking out, due to their immigration status.

Ms. Rico concluded, "We are in a Third World country. In the hotel industry, we live every day in modern day slavery."

### **TESTIMONY OF KEVIN RILEY**

Kevin Riley is Director of Research at the UCLA Labor Occupational Safety and Health Program (LOSH).

Mr. Riley shared findings from a recent study that UCLA LOSH conducted with support from the California Commission on Health and Safety and Workers' Compensation. The research examined patterns of work-related injury and common injury experiences of workers in the low-wage labor market. (The report is available online at [https://www.dir.ca.gov/chswc/Reports/2015/Patterns Work Related Injury.pdf](https://www.dir.ca.gov/chswc/Reports/2015/Patterns%20Work%20Related%20Injury.pdf).)

The data were drawn from a groundbreaking 2008 survey of nearly 4,400 low-wage workers in Los Angeles, New York, and Chicago. Participants included workers in restaurants and hotels, garment shops, food and furniture manufacturing, warehouses, building and security services, residential construction, home health care, and other industries. Nearly two thirds of the sample was Latino and 40% were undocumented immigrants.

The goal of UCLA LOSH was to examine more closely the responses given by a subset of 613 respondents who indicated they had been injured on the job within the previous three years. The data offered a rare and valuable window into the lived experiences of injured workers that too often remain hidden from official view.

According to Mr. Riley, the analysis revealed some striking patterns. Among workers who experienced injuries, only about 8% filed workers' compensation claims. One in ten respondents indicated they did not notify their employer of their work-related injury for fear of losing their job, not wanting to miss work, or not believing the injury was serious enough to report. Over half of respondents said their employer reacted negatively to the news of their injuries by pressuring them to work despite being injured, firing them shortly after the injury, or threatening them with firing or deportation. Only a small proportion of employers provided workers' compensation forms or told workers to file.

Mr. Riley testified that the research also highlighted some particular challenges for Latino and immigrant workers in this low-wage labor market:

- Latinos and immigrant workers experienced higher rates of work-related injury than other non-Latino and/or non-immigrant workers. This is consistent with state and national statistics on disparities in occupational.
- Latino immigrants were less likely to seek medical attention as a result of their injuries. This may reflect limited access to healthcare resources within this population, as well as fears of job loss that might result from time away from work.
- Latino immigrants were significantly more likely to experience negative reactions from employers following injury, and as a result were significantly less likely to file for workers' compensation.

Mr. Riley concluded that these findings underscore the challenges many Latino and immigrant workers in California and across the country face—not only in securing protections from workplace hazards but also in accessing necessary care and compensation when injuries and illnesses do occur. The data reveal a climate of fear and intimidation in the workplace that places out of reach government programs to which all workers are entitled.

#### **TESTIMONY OF NICOLE MARQUEZ**

Nicole Marquez is a Staff Attorney at Worksafe.

Ms. Marquez testified that recent tragedies remind us of the importance of the on-going struggle to prevent deaths such as these. In approaching this work, we have to first recognize that these deaths are representative of an epidemic that is disproportionately impacting the Latino community. Only then can we create solutions that not only address the problem, but that also empower Latino workers to address these issues.

Ms. Marquez stated that two primary things need to be done. First of all, Latino workers need to have a stronger voice to enforce their health and safety rights on the job. This alone, however, will not solve the problem. Thus, a necessary secondary component is that we need to ensure that state enforcement agencies have the requisite resources, capacity, and legislative support to engage in successful enforcement of workers' rights. Without enforcement mechanisms that actually work to deter retaliation, employers will continue to feel empowered to violate workers' rights.

Ms. Marquez identified the following recommendations to accomplish these main goals.

- **Strengthening Workers' Voices:**
  - End Retaliation - Despite the recent enactment of a new state immigration reform law and thus, the clear illegality of these threats, many low-wage, undocumented workers either still feel too afraid or are uninformed about the new laws to take action against their employers. Thus, more work is necessary to ensure that workers understand their new rights and that there are sufficient resources for worker advocates to assist workers.
  - New hires should be provided with basic health and safety information on the first day of employment.
  - California should expand health and safety rights to non-unionized Latino workers to increase their capacity to advocate for themselves. Specifically, the Legislature should also amend the law to define more broadly who can file a formal complaint, who can participate as a "walk-around" representative, and who can participate in the negotiations that take place after the inspection. This should include worker representatives such as those from worker centers where many non-unionized Latino workers congregate for assistance and non-legal service providers that primarily focus on serving low-wage and immigrant workers. Lastly, the Legislature should consider expanding the health and safety rights of other non-union Latino workers, such as domestic workers who are excluded from Cal/OSHA and workers' compensation protection, and day laborer, whose enforcement of workers' compensation rights are difficult.
  - California should strengthen the capacity of worker advocates at unions and worker centers to help Latino workers navigate the health and safety process.
- **Strengthening State Enforcement Agencies:**
  - Increase Numbers and Competency of Cal/OSHA Staff: The Legislature should support a budget that enables Cal/OSHA to do its job. California ranks near the bottom of all states regarding the number of inspectors per worker. DOSH is currently working to add several new positions over the next two years. But even when these positions are filled, it will still leave California ranked near the bottom of all states regarding number of



inspectors per worker. (As of September 2015, there were 240 authorized inspector positions: 190 were filled and 50 were vacant. This puts us at about the number of inspectors we had 20 years ago, when our workforce was much smaller). The Legislature also needs to support a budget that not only adds more inspectors, but also provides Cal/OSHA with support to build an administrative agency that is culturally and linguistically competent.

- Increase Number of Positions within the DLSE to help with Health and Safety Based Retaliation Cases: The Legislature should support a budget that creates more positions within the DLSE to help the agency with health and safety based retaliation cases.
- Create a Targeted Enforcement Program: The Legislature should consider a bill that directs DOSH to create a Special Emphasis Program (SEP) within Cal/OSHA. This SEP would run targeted enforcement of health and safety laws focusing on industries with a high concentration of low-wage immigrant workers – or within certain sectors, like janitorial, food processing, warehousing, waste recycling, car wash, etc.

Ms. Marquez also highlighted an issue that several panelists raised regarding confusion over which state agency is charged with investigating retaliation claims based on reporting workplace injuries. Specifically, she stated:

"Another barrier to reporting health and safety-based retaliation is confusion that is experienced among workers who experience retaliation for reporting a workplace injury. Specifically, when a worker is retaliated against for reporting an injury it is unclear in California as to whom a worker would report this claim: DWC or DLSE. Both of these agencies refer such cases back and forth to each other with the ultimate effect of the case never being fired.

At the heart of this discrepancy is the DLSE's failure to accept Occupational Health and Safety retaliation complaints based solely upon a worker experiencing retaliation for reporting a workplace injury. This is a fundamental right that has been protected under federal OSHA since its inception.

Rather, the DLSE claims that in such a situation, the worker needs to file a Labor Code 132a complaint with the DWC. The DWC, however, unlike the DLSE, **does not investigate** claims of retaliation like the DLSE. Moreover, the DWC tends to not accept Labor Code 132a claims unless a worker has also filed a claim for workers' compensation. In many of these cases, there is no such claim for workers' compensation because the worker has been retaliated (usually terminated) for just reporting the injury itself (let alone request medical benefits for it).

Under the current workers compensation law, if a worker attempts to request workers compensation **after** they have been terminated, it is considered a "Post-termination" workers' compensation claim, which has a different set of

requirements. Such claims are often dismissed unless they fit very narrow exceptions. The ultimate result is that currently, in California, workers who are retaliated against (fired, demoted, etc.) for reporting an injury have **no** remedy.

There needs to be clarity about the protected right of a worker to be protected from discrimination for reporting an injury. The DLSE claims that the law is not clear on this issue despite decades of federal policy. **If the solution requires fixing the law, then the Legislature should be poised to address this discrepancy by introducing a bill as soon as possible. The DIR administration should fully support and sponsor this bill to ensure its prompt passage and enactment."**

### **TESTIMONY OF JORGE CABRERA**

Jorge Cabrera is the Coordinator of the Southern California Coalition for Occupational Safety and Health (COSH).

Mr. Cabrera made the following policy recommendations:

- Cal/OSHA should hire more inspectors, preferably those who have the cultural and linguistic capacity to interact with the target population. An example of this is speaking Spanish and having previous experience working with Latino, immigrant and undocumented workers.
- The California State Personnel Board should update its hiring criteria so that Cal/OSHA is able to specifically demand the cultural and experience---based qualifications from new hires.
- Cal/OSHA should increase the number and frequency of agency inspections, both targeted and non-targeted, specifically in workplaces where workers are most at risk of dying and getting injured.
- Cal/OSHA and the California Legislature should increase the penalties and punishments for employers who are responsible for worker fatalities and injuries.
- Cal/OSHA and the California Legislature should increase funding for worker centers, community organizations, and other grassroots organizations providing direct services to undocumented, immigrant, and Latino workers.
- Cal/OSHA, the California Legislature, unions, and occupational safety and health experts, advocates and allies should expand and replicate Southern California strategies that have shown success in the past and that actively engage participation of non-union workers.

Mr. Cabrera also highlighted the need for support for occupational health and safety organizing and advocacy, which has been modeled in recent efforts in Los Angeles. He encouraged Cal/OSHA and the Legislature to make resources available for targeted training and capacity building for exclusive focus on health and safety issues for Latino workers and their rights under state law.

## **TESTIMONY OF LAURA BOATMAN**

Laura Boatman is Project Coordinator with the State Building and Construction Trades Council.

Ms. Boatman testified that keeping workers safe in the high-risk world of construction requires constant effort and diligence. The challenges faced by organized workers are many and for those workers who have no representation are even greater and more difficult.

The law clearly states that the employer is legally responsible for providing a safe, healthy workplace. However the mandate for safety is often inappropriately shifted to the worker, to the point where some workers believe it is their fault if something happens to them on-the-job and they do not report. This is not isolated to immigrant workers. Increasing resources in support of enforcing standards is critical for protecting all workers.

Another common thread among workers is that their top priority is to work and make a living. Often speaking-up for safety carries the possibility of being labeled a trouble-maker or complainer which is seen as a potential threat to steady work. Or workers are willing to accept more risk because they don't want to be the one who turns down work or stops the job because the scaffolding doesn't look safe or the trench looks too deep and unstable. More training and education programs, public awareness campaigns, organizing around workers' rights, and enforcement are needed to support workers and encourage them to stop work, report illegal activity and identify bad employers.

Ms. Boatman testified that pace of production remains one of the biggest challenges to safety. Competition and productivity drive the industry and workers feel the pressure. Keeping pace may lead to cutting corners which creates greater risk.

Ongoing training and education is essential. We cannot take for granted that employers or workers know how to recognize hazards and what to do to control them. Direct translation for construction terms, names of tools and safety equipment may not exist in an immigrant worker's native language. Here it is the law that safety signage and training must be provided in a language that workers understand. We need to be sure that's enforced.

Finally, Ms. Boatman testified that if we want to better protect all workers, we need policies that support and preserve the legacy and infrastructure that unions have fought to create for over a century. We need to increase organizing efforts so that workers have access to effective training, protection against safety violations and wage theft and the opportunity to have their voices heard.

# **APPENDIX A**

## **Summary of Recommendations**

## SUMMARY OF RECOMMENDATIONS

- Develop and implement policies to ensure that Latino workers understand their rights under the law to a safe workplace.
- Expand Cal OSHA's work with and possible funding of worker centers, community groups, and faith based organizations, unions and other organizations that are trusted partners in the Latino community to provide training and education to empower workers to exercise their rights.
- Assure that Latino workers are provided required training in a language and vocabulary they understand. CAL OSHA should instruct all inspectors to assure that they have not only received required training but they understand it.
- California must protect a workers' right to report hazards and to report injuries. Government must protect a workers voice in the workplace. A paycheck is not payment for silence—it is not a license to endure pain. Workers in California are entitled to equivalent protection under the law as those under federal OSHA enforcement.
- In those workplaces without union representation, Cal-OSHA should make sure that complaints about job hazards can be filed by worker centers and other organizations that represent the worker—as is Federal OSHA policy.
- Cal OSHA should conduct special targeted investigations into dangerous industries with a high concentration of low-wage immigrant workers such as landscaping, construction, warehousing, food processing, recycling, and other industries.
- Protect workers from abusive production standards that result in unsafe working conditions (such as the proposed Long Beach ordinance that limits the square footage that hotel housekeepers can be required to clean).
- Address immigration status issues by regularizing worker status and ensuring that immigration status is not used as a weapon by employers.
- Create an environment where workers are not afraid to stand up for themselves and report workplace safety violations.
- Create a registry of "bad actors" (including temporary agencies) so that workers and consumers know who these employers are.
- Explore Spanish-language radio ads to inform workers about their rights, including protections against retaliation.
- Higher penalties for bad actors that violate the law.
- Empower workers to unionize and work with other worker advocates to protect themselves.
- Expand our understanding of workplace health and safety to include issues of sexual assault and sexual harassment by doing the following:
  - Creating a public awareness and education campaign.

- Make sure female workers understand their rights and have a safe way to report violations (such as a confidential hotline to DOSH, DLSE and DFEH).
- Establish greater accountability. Employers should be required to train supervisors on sexual harassment regardless of the size of the business.
- Employers should be required to train workers on sexual harassment and their rights in the workplace.
- Increase penalties (including criminal penalties) for violations of the law.
- Establish an administrative complaint procedure for employers that fail to provide required training to workers.
- Explore Cal/OSHA standards (such as the recent workplace violence prevention standard for health care workers) as ways to address non-traditional workplace safety issues that use to be seen as "just part of the job."
- Strengthening Workers' Voices:
  - End Retaliation - Despite the recent enactment of a new state immigration reform law and thus, the clear illegality of these threats, many low-wage, undocumented workers either still feel too afraid or are uninformed about the new laws to take action against their employers. Thus, more work is necessary to ensure that workers understand their new rights and that there are sufficient resources for worker advocates to assist workers.
  - New hires should be provided with basic health and safety information on the first day of employment.
  - California should expand health and safety rights to non-unionized Latino workers to increase their capacity to advocate for themselves. Specifically, the Legislature should also amend the law to define more broadly who can file a formal complaint, who can participate as a "walk-around" representative, and who can participate in the negotiations that take place after the inspection. This should include worker representatives such as those from worker centers where many non-unionized Latino workers congregate for assistance and non-legal service providers that primarily focus on serving low-wage and immigrant workers. Lastly, the Legislature should consider expanding the health and safety rights of other non-union Latino workers, such as domestic workers who are excluded from Cal/OSHA and workers' compensation protection, and day laborer, whose enforcement of workers' compensation rights are difficult.
  - California should strengthen the capacity of worker advocates at unions and worker centers to help Latino workers navigate the health and safety process.
- Strengthening State Enforcement Agencies:
  - Increase Numbers and Competency of Cal/OSHA Staff: The Legislature should support a budget that enables Cal/OSHA to do its job. California ranks near the bottom of all states regarding the number of inspectors per worker. DOSH is currently working to add several new positions over

the next two years. But even when these positions are filled, it will still leave California ranked near the bottom of all states regarding number of inspectors per worker. (As of September 2015, there were 240 authorized inspector positions: 190 were filled and 50 were vacant. This puts us at about the number of inspectors we had 20 years ago, when our workforce was much smaller). The Legislature also needs to support a budget that not only adds more inspectors, but also provides Cal/OSHA with support to build an administrative agency that is culturally and linguistically competent.

- Increase Number of Positions within the DLSE to help with Health and Safety Based Retaliation Cases: The Legislature should support a budget that creates more positions within the DLSE to help the agency with health and safety based retaliation cases.
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- Cal/OSHA should hire more inspectors, preferably those who have the cultural and linguistic capacity to interact with the target population. An example of this is speaking Spanish and having previous experience working with Latino, immigrant and undocumented workers.
  - The California State Personnel Board should update its hiring criteria so that Cal/OSHA is able to specifically demand the cultural and experience---based qualifications from new hires.
  - Cal/OSHA should increase the number and frequency of agency inspections, both targeted and non-targeted, specifically in workplaces where workers are most at risk of dying and getting injured.
  - Cal/OSHA and the California Legislature should increase the penalties and punishments for employers who are responsible for worker fatalities and injuries.
  - Cal/OSHA and the California Legislature should increase funding for worker centers, community organizations, and other grassroots organizations providing direct services to undocumented, immigrant, and Latino workers.
  - Cal/OSHA, the California Legislature, unions, and occupational safety and health experts, advocates and allies should expand and replicate Southern California strategies that have shown success in the past and that actively engage participation of non-union workers.

- Increase resources to support enforcement of current standards so that the mandate for responsibility for workplace safety is not inappropriately shifted to the worker.
- More training and education programs, public awareness campaigns, and enforcement are needed to support workers and encourage them to stop work, report illegal activity and identify bad employers.
- Pace of production remains one of the biggest challenges to safety.
- Ongoing training and education is essential. Direct translation for construction terms, names of tools and safety equipment may not exist in an immigrant worker's native language.
- We need policies that support and preserve the legacy and infrastructure that unions have fought to create for over a century. We need to increase organizing efforts so that workers have access to effective training, protection against safety violations and wage theft and the opportunity to have their voices heard.



# **APPENDIX B**

## **Written Testimony**

## **Testimony of Deborah Berkowitz**

National Employment Law Project

### **Before the California Assembly Committee on Labor and Employment Hearing on Latino Worker Health and Safety Issues: Exploring Challenges and Seeking Solutions**

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November 19, 2015  
Los Angeles, California

**Deborah Berkowitz**  
Senior Fellow

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Mr. Chairmen and members of the committee, thank you for inviting me to testify at this hearing on Latino Worker Health and Safety Issues: Exploring Challenges and Seeking Solutions. I just recently joined the National Employment Law Project (NELP) as a Senior Fellow on Worker Safety and Health after spending six years in the US Department of Labor's Occupational Safety and Health Administration (OSHA) as both the Chief of Staff and the Senior Policy Advisor. NELP is a non-profit, non-partisan research, education and advocacy organization that for more than 45 years has sought to ensure that the basic workplace protections guaranteed by our nation's labor and employment laws and social insurance programs extend to all workers, especially those that because of low wages, immigration status, race or gender, are particularly vulnerable to workplace exploitation or abuse. NELP has offices in New York, Washington DC, Seattle and Oakland. We partner with federal, state, and local allies, including policy makers, on a wide range of workforce issues. Here in California NELP has been an active supporter of efforts to improve workplace safety and health for low wage immigrant workers. We applaud you for conducting this hearing to seek solutions to better protect Latino workers in California.

The high rate of work-related deaths and injuries among Latino workers is a tragedy that must be addressed. But these deaths and injuries are not only tragic, as you will hear, they are preventable. No worker in this day and age should have to sacrifice their health or life to earn a paycheck.

The facts underscore the urgency of the problem. Latino workers die at higher rates on the job overall compared to all other workers. In 2013, Latino workers had a fatality rate of 3.9 per 100,000 workers. This rate is fully 18 percent higher than the overall fatality rate for all other workers of 3.3 per 100,000 workers.

In 2013, the last full year that statistics are available from the Bureau of Labor Statistics (BLS), 4,585 workers died on the job. Of those, 817 were Latino workers, and approximately two thirds of these were immigrant workers. And in 2013, nearly one in four workplace fatalities among Latinos (24 percent) occurred in California, up from 18 percent in 2012, despite employment among Latinos remaining relatively stable during that time. The increase in workplace fatalities among Latino workers in California was concentrated in the Los Angeles area, where fatalities increased from 38 in 2012 to 66 in 2013.

The BLS has only reported preliminary numbers for 2014—the full and accurate count will be available next April. According to the preliminary reports, there was a slight drop in the total number of Latino workers who were fatally injured last year— but these numbers are preliminary and could rise. According to the preliminary numbers, 789 Latino workers

were killed on the job last year. On average, this is more than 15 Latino worker deaths a week -- or two Latino workers killed every single day all year long. Though the numbers have gone down, Latino workers are still dying at higher rates. The preliminary BLS data indicates that Latino workers suffered a fatal work injury rate of 3.6 fatal work injuries per 100,000 workers in 2014 compared with the rate for all other workers at 3.3 per 100,000 workers.

A closer look at the national data over the past few years reveals that the construction industry was responsible for the greatest number of Latino worker deaths, followed by transportation and material-moving, and then administrative and waste services, which includes landscaping. In California, in 2013, administrative and waste services overtook construction as the largest source of workplace fatalities among Latino workers—with the majority of fatalities occurring in the landscaping services industry.

In addition to high fatality rates, Latino workers also suffer high rates of work related injuries and illnesses. But, as the head of the Center for Disease Control's (CDC) National Institute for Occupational Safety and Health (NIOSH) said at a recent conference: "It is likely, that as bad as the reported injury statistics are for Latinos, non-fatal occupational injuries and illnesses are undercounted among Latino workers."

The high rates of Latino workers killed and injured on the job are a result of a number of factors: the disproportional high participation rates for Latino workers in very hazardous jobs; the lack of adequate safety training - especially the lack of training in a language and vocabulary that workers can understand; and workplace policies and practices that create a reluctance to report unsafe conditions and injuries for fear of retaliation from employers. I will address each of these.

**Disproportionate representation of Latino workers in hazardous jobs.** Latino workers are more likely to work in low wage occupations and in the more hazardous jobs. In the construction industry, for instance, Latinos represent 25.5 percent of construction workers, compared to only 15.6 percent of the overall workforce. However, Latinos make up more than 40 percent of construction laborers, an occupation with a fatality rate of 18 per 100,000 workers – five times the average for all industries.

Further, according to estimates based on the National Health Interview Survey conducted by the CDC in 2013 and other surveys, a significant portion of Latino immigrant workers work for small businesses with ten or fewer employees. Here in California, a recent report by the National Council of LA Raza (NCLR) notes that nearly half (49.4 percent) of Latinos work for a firm with fewer than 100 employees and 23.8 percent work for a firm with ten or fewer employees. According to NIOSH and others, smaller businesses experience a disproportionate share of occupational injuries, illnesses and fatalities. In fact numerous studies report a linear inverse relationship between organization size (business size) and reports of work related injury, illness and fatalities.

**Inadequate or lack of safety training.** Safety training for workers is critical to preventing injuries and illnesses - which is why many OSHA standards require specific training. Only with training will workers understand the dangers on the job, learn what steps need to be taken to prevent injuries while working around dangerous machines and hazards, and understand how to use the safety equipment provided whether it be ear plugs -- to dampen noise levels that will cause hearing loss -- or fall protection equipment such as safety harnesses and lines. But studies consistently find that immigrant workers frequently report not receiving any safety training on the job or receiving poor quality training. If there is training, the studies also point to language differences between workers and supervisors as contributing to barriers to safety. Further, it is well documented that small business, where many Latino workers are employed, lack occupational safety and health resources to provide required safety training.

**Fear of retaliation.** It is also well documented that Latino workers fear retaliation if they speak up about safety or report an injury. This is especially true with day laborers and other temporary workers— who may not report hazards or their injuries for fear of jeopardizing future employment opportunities. If workers don't feel free to report hazards, or to report an injury, then worker safety is compromised. A recent report "Bending Toward Justice," written collectively by Rutgers University in New Jersey, the worker center New Labor, and the Center for Construction Research and Training, underscored this fear and stated that virtually all workers coming to New Labor had been injured on the job or knew someone who had been injured. The report found that economically desperate workers frequently accept jobs they know are unsafe in order to survive and have money for their families. Few of them knew they had a right to a safe workplace and none of them understood how job hazards can be prevented.

NELP issued a report in 2013 and has been very supportive of California's work to strengthen protections for immigrant workers against retaliation, and is proud to be a partner in the passage of the new labor code protections against retaliation.

**Federal Initiatives to address Latino worker death and injuries.** Since 2010, Federal OSHA has launched a number of initiatives to reduce injuries and fatalities among Latino workers by enhancing knowledge of their workplace rights and empowering workers to use their rights. I would like to quickly review these initiatives because I think it will help inform the committee as you investigate strategies and policies to increase worker protection.

**Expanded federal outreach.** Six years ago OSHA implemented a robust outreach strategy to collaborate with hundreds of community- and faith-based organizations, unions, employers, consulates and many other nonprofit organizations at the local, regional, and national levels to reach Latino workers in high-risk jobs with education and training about their rights and to provide assistance and support to help them exercise their rights. OSHA launched this effort in 2010 at its National Action Summit on Latino Worker Health and Safety that brought together 1,000 participants in Houston and followed it up with regional summits around the country, including one here in LA three years ago.

At the groundbreaking National Latino Summit, federal OSHA implemented a strong policy, followed with robust enforcement, requiring that workers must receive training and education in a language and vocabulary that they understand. Now, when federal OSHA conducts an inspection, the compliance officer interviews and questions workers on the training they received and whether they understand the training. It is no longer good enough for the employer to just hand the investigator a copy of any training materials or logs that show that workers attended a training session.

Further, OSHA engaged in a multi-year effort to develop materials and campaigns to reach Latino workers with information about their rights and job hazards. OSHA's campaign to prevent heat related illness and deaths and the outreach campaign to prevent fatal falls was specifically focused on reaching Latino workers. Since falls are the leading cause of death in construction -- reaching Latino workers with information on their rights and the requirements that employers provide protection from falls is vital to their safety.

Federal OSHA also developed other materials in Spanish for limited-English proficiency Latino workers, such as its publication on landscaping hazards. The OSHA homepage features a short video on worker rights in English and Spanish and a special message for Latino workers emphasizing the rights that all workers have under OSHA.

Federal OSHA also has a **small grant program** that is among the most effective resources for providing hands-on training and education to vulnerable workers and small businesses. This program, the **Susan Harwood Grant program**, provides funds to nonprofit organizations, including community organizations, faith based organizations, employers, unions, universities and others to reach vulnerable workers with information, training and technical assistance on their rights under the law, education about the hazards they face on the job and the protective measures required under the law. The program is focused on reaching Latino and other vulnerable workers in high risk jobs who may have never received any other safety or health training.

**Increased federal protection of worker voice in the workplace.** As noted, Latino and other vulnerable workers are often the least likely to speak up for their rights. It is simply not enough for them to learn about hazards and the protections they must be provided, they must also be able to exercise their voice.

In my years as a senior official at OSHA, I learned from enforcement investigations and heard first hand from workers about employer practices that retaliate against workers for reporting an injury or a job hazard. Under the OSHA law, workers have the guaranteed right to report workplace hazards as well as workplace injuries free from discrimination or retaliation.

To better assure that worker voice is protected in the workplace—especially the voice of vulnerable immigrant workers—federal OSHA strengthened its whistleblower protection program that seeks to protect workers that have been illegally retaliated against for

exercising their rights under the law. Federal OSHA dramatically increased program staffing and launched an ongoing effort to increase training of investigators.

Further, over a decade ago, federal OSHA made clear in its policies and procedures manual that to better protect workers from retaliation when filing a health and safety complaint with the agency – such complaints could be filed by not just the worker, an attorney or their union, but also “by any other person acting in a bona fide representative capacity, including, but not limited to, members of the clergy, social workers, spouses and other family members, and government officials or nonprofit groups and organizations acting upon specific complaints and injuries from individuals who are employees.” This allowed worker centers and community and faith based organizations to file complaints alleging a workplace hazard on behalf of those workers that are not part of a union – to better protect workers from retaliation. It is important to make sure that Cal-OSHA also follows these important worker protection policies.

In addition to protecting a worker's right to file a complaint or raise a safety hazard, Federal OSHA also focused on protecting a worker's right to report an injury. Some employers have implemented policies and practices that actively discourage workers from reporting an injury, for example giving workers demerits or points for reporting an injury, and firing them if they accumulate enough points.

In 2012, federal OSHA issued a memo that made it clear that Section 11 (C) of the OSH Act prohibits discriminating against an employee because the employee reports an injury or illness. The memo states:

“Reporting a work related injury or illness is a core employee right, and retaliating against a worker for reporting an injury or illness is illegal discrimination under section 11 (C). If employees do not feel free to report injuries or illnesses, the employer's entire workforce is put at risk. Employers do not learn of and correct dangerous conditions that have resulted in injuries, and injured employees may not receive the proper medical attention, or the workers' compensation benefits to which they are entitled. Ensuring that employees can report injuries or illnesses without fear of retaliation is therefore crucial to protecting worker safety and health.”

It is critical that these rights are upheld with vigorous enforcement, not just by federal OSHA but in states with their own OSHA, such as California. Workers in California are entitled to equivalent protection under the law as those under federal OSHA enforcement.

**Federal action on protecting temporary workers.** Another area where strong enforcement is necessary to protect Latino workers, is in the temporary work force. A few years ago, federal OSHA launched a concerted outreach and enforcement effort to ensure that temporary workers get the protections and training they need.

The number of U.S. workers in temporary help jobs has reached an all-time high. Fully 2.8 million Americans are currently employed in temporary help services, which constitute the

majority of staffing industry jobs. Staffing agencies often hire the most vulnerable workers. Latinos make up 16 percent of employed workers, and account for 20 percent of the staffing industry.

A growing body of research shows that temporary workers are at a greater risk of workplace injuries and illness than non-temps. The research points to a range of factors for the increased risk. The two leading factors are:

1. Lack of job information and safety training for temps increasingly employed in dangerous occupations, and
2. Employer financial and performance incentives to minimize workers' compensation and other benefits.

The term "temporary help agency workers" is defined by BLS as workers who are paid by a temporary help agency, whether or not their job is temporary. For the purposes of OSHA's initiative, "temporary workers" are those supplied to a host employer and paid by a staffing agency.

As part of the OSHA initiative, federal OSHA sent a memorandum to all its Regional Administrators underscoring the importance of assessing whether employers who use temporary workers are complying with their responsibilities under the OSHA law. As all of you are well aware, under the OSHA law, this nation's workers *all* have the right to safe working conditions, and employers have the duty to provide necessary safety and health training to all workers for workplace hazards—whether directly employed by a company or provided by a staffing agency.

Federal OSHA inspectors have been informed of the importance of ensuring that employers who use temporary workers are complying with their responsibilities under the OSH Act; inspectors now code the information in their records to denote when temporary workers are exposed to safety and health violations; and OSHA inspectors assess whether any temporary workers at an inspected job sight received required training in a language and vocabulary they could understand.

**Use of targeted federal enforcement.** Both Federal and Cal-OSHA have limited inspection resources. In California, for example, it would take Cal-OSHA over 130 years to inspect every workplace in the state. Therefore it is important to target those scarce resources to make sure the agency is protecting vulnerable workers in dangerous industries. To better target inspection resources, OSHA launched national and local targeted inspection programs in industries with high injury rates where Latino and other vulnerable workers are employed. These include construction, landscaping, food processing and others.

## RECOMMENDATIONS

Latino workers are being killed on the job at higher rates than all other workers—and they are injured at high rates. Yes, over the last decade the job fatality rate among Latino workers has been significantly reduced. But as you will hear today, there is much more



work to be done. The high rates and numbers of Latino workers killed and injured on the job is a preventable tragedy. Worker injuries and deaths are preventable—they are caused by unsafe conditions that can be corrected.

It is clear that to address these occupational health and safety disparities, California must at a minimum:

- Develop and implement policies to ensure Latino workers understand their rights under the law to a safe workplace.
- Expand Cal OSHA's work with and possible funding of worker centers, community groups, and faith based organizations, unions and other organizations that are trusted partners in the Latino community to provide training and education to empower workers to exercise their rights.
- Assure that Latino workers are provided required training in a language and vocabulary they understand. CAL OSHA should instruct all inspectors to assure that they have not only received required training but they understand it.
- California must protect a workers' right to report hazards and to report injuries. Government must protect a workers voice in the workplace. A paycheck is not payment for silence—it is not a license to endure pain. Workers in California are entitled to equivalent protection under the law as those under federal OSHA enforcement.

Further, in those workplaces without union representation, Cal-OSHA should make sure that complaints about job hazards can be filed by worker centers and other organizations that represent the worker—as is Federal OSHA policy.

- Cal OSHA should conduct special targeted investigations into dangerous industries with a high concentration of low-wage immigrant workers such as landscaping, construction, warehousing, food processing, recycling, and other industries.

All workers deserve the right to come home at the end of every work day. There is no reason that any worker should be injured or killed on the job just to earn a paycheck.

Thank you for the opportunity to be here today.

California Department of Industrial Relations  
"The California Perspective on Latino Worker Health and Safety Issues:  
Exploring Causes and Potential Solutions"  
Before the Assembly Committee on Labor and Employment  
November 19, 2015

Chairman Hernandez and distinguished members of the Assembly Committee on Labor and Employment, thank you for inviting the Department of Industrial Relations to testify at this important hearing. We are pleased to provide the California Perspective on Latino Worker Health and Safety Issues and have divided comments into four sections. The first provides an overview of demographics. The second discusses recent data on Latino worker health and safety outcomes. The third outlines the underlying challenges that should be addressed to protect workers. The fourth discusses actions and opportunities to improve outcomes and enhance California's productivity.

**1. Demographics in California**

As of July 2015, Latinos form the largest ethnic group in California, representing 39 percent of the population, and whites trail closely at 38 percent of the population. Approximately 15 million Latinos live in California today, compared with 2.4 million in 1970 and 7.7 million in 1990. The Pew Research Center reported that, in 2010, Latinos had the highest birth rate—80 births per 1,000 women of childbearing age, compared with 64 for blacks, 59 for whites, and 56 for Asians. State demographers project that, by 2060, Latinos will account for nearly half of Californians.

The Latino population is relatively young, with a median age of 29, while the white population has a median age of 45. Census figures show that in California, 32 percent of Latinos are younger than 18, compared with only 19 percent of other residents. According to the U.S. Census Bureau, Imperial County has the highest proportion of Latinos (82 percent) and Los Angeles County has the highest number of Latinos, nearly 4.9 million.

Data from the Bureau of Labor Statistics (BLS) reveal that over the past six years the rate of Latinos in the California labor force has been increasing, such that it now comprises about 35 percent. This far exceeds the national average of approximately 15 percent.

Although the recent recession had an impact on all workers, Pew reported that the unemployment rate among Latinos peaked at 12.3 percent in 2010, compared with 8.9 percent among non-Latinos. The unemployment rate for Latinos has steadily fallen since then (8.9 percent in 2013), but remains above pre-recession levels (4.9 percent in 2006).

**2. Work-Related Fatalities: An Occupational Trend**

With this background on demographic shifts, we turn to workplace trends for Latino workers in California. In April 2015, the Department of Industrial Relations published a report examining fatal occupational injury trends among Latinos from 2009 to 2013. Data from the Census of Fatal Occupational Injuries (CFOI) were used in the report. CFOI is conducted annually by the department in

conjunction with the U.S. BLS. CFOI produces comprehensive, accurate, and timely counts of fatal work injuries. This Federal-State cooperative program was initiated in all 50 states and the District of Columbia in 1992.

Preliminary CFOI data reflect a total of 334 fatal work injuries statewide in 2014, a decrease of 16 percent over the 396 workplace deaths reflected in the final 2013 data. Deaths for Latino workers also decreased 35 percent, from 194 in 2013 to 127 in 2014. Preliminary data for the United States show an increase of 2 percent, from 4,585 in 2013 to 4,769 in 2014. Fatal workplace injuries among Latino workers represent 38 percent of all cases identified in 2014, compared with 49 percent counted in final data the year before.

In 2013 an observable spike took place in work-related fatalities reported for Latino workers. In the years leading up to this, work in construction, agriculture and manufacturing increased due to the steady economic recovery from the recession. This contributed to a growing need for low-wage workers in industries that experienced the most growth.

California was not alone. According to the BLS, work-related fatalities increased among workers of all ethnic backgrounds in 2013. Nationally, fatalities increased in construction by 6 percent, agriculture by 14 percent, mining by 17 percent, and factory jobs, such as those in food manufacturing and textiles, by 9 percent.

Fatality rates in the California labor force overall declined slightly between 2009 and 2014 (preliminary data). For Latino workers, this is also true with the exception of 2013, which now appears to be a departure from the multiyear trend. Over the same period, the worker fatality rate per full-time equivalent (FTE) is slightly higher for Latinos than for the total labor force in California and the U.S.

Gender differences in fatality rates in California between 2011 and 2014 showed men consistently experienced occupational fatalities at five times the rate of women. This is not surprising, as men are traditionally engaged in high-hazard occupations with an increased risk of injury and illness at a higher rate than women. The rate among Latinos is similar to that of the total labor force, with the exception of 2013, when Latino men had a considerably higher fatality rate than men overall. Rates declined across genders and returned to comparable rates in 2014.

Trends across age groups showed that the work-related fatality rate was lowest for workers age 20 to 34 but higher among workers age 65 and older. The aging workforce and how issues related to workplace injuries and illnesses may be compounded by the effects of aging in general are the subjects of a great deal of discussion. More empirical research in this area is needed and is currently being conducted by the Commission on Health and Safety and Workers' Compensation.

Events and exposures that caused workplace fatalities were examined more closely to determine whether any trends emerged for Latino workers. In California, leading events and exposures were attributed to contact with objects and equipment, followed closely by falls, slips, and trips. Nationally,

the leading causes of workplace fatalities for Latino workers included falls, slips, and trips, followed by exposure to harmful substances or environments.

Another source from the BLS is the data from the Survey of Occupational Injury and Illness (SOII). While SOII reflects underreporting estimated at 40 percent, the aggregate trends can be helpful to monitor. Race or ethnic origin is reported in approximately 60 percent of surveyed cases of lost work time. In 2013, construction, natural resources, manufacturing, and transportation jobs accounted for the highest rate of reported nonfatal occupational injuries among all races, totaling 33,600, slightly higher than in 2012. In 2013, 16,620 Latino workers reported injuries, while all other races combined totaled 12,710, compared to 2012, when 20,040 Latino workers reported injuries, while all other races combined reported 12,240. Data on occupational injuries and illnesses divided by ethnicity for 2014, now available, show a decline for all workers in California. Of reported cases in the private sector, Latino workers comprise 59 percent of the total lost time, while whites comprise 27 percent and Asian and black workers 7 percent and 6 percent, respectively. In construction, manufacturing, mining, and natural resources, Latino workers comprise 75 percent of the total lost time, and in trade, transportation, utilities, information, and financial services, Latino workers comprise half the lost time.

The concerns over occupational injury and illness are not exclusive to Latinos. The root cause is systemic with regard to occupational injury and fatalities among low-wage workers. Work-related injuries and illnesses need to be addressed through broader policy and education and outreach to employers and workers in low-skilled and low-wage industries that have the greatest risk.

The recommendations in DIR's April report are still relevant and merit action: specialized, language-appropriate training for workers prior to performing hazardous work is essential for improving workplace health and safety. Over a quarter of reported work injuries in private industry in California were experienced by workers with less than a year of tenure. Nearly a third of injuries in goods-producing firms occurred within a year of being hired, and 46 percent of injuries happened within a year of being hired in the natural resources and mining sector. Effective training for workers new to the job is essential.

In addition to monitoring trends in data, it is helpful to offer some context to the workforce trends as interventions are considered.

### **3. Relevant Workforce Context to Consider**

Education and literacy levels provide important context for the statistics and reveal challenges behind the experiences of certain subpopulations. In 2010, despite comprising 45 percent of the population age 18 to 24, Latinos received only 18 percent of the bachelor's degrees awarded by public colleges in California, according to California Postsecondary Education Commission data. Latinos also received 29 percent of the associate degrees awarded by California's community colleges.

According to the California Senate Office of Research, Latinos are more likely than the population at large to work in blue-collar (low-wage) occupations, such as manufacturing, construction, maintenance,

and services. From 2006 to 2010, Latinos tended to earn less than Californians as a whole and were underrepresented in higher-income brackets, overrepresented in lower-income brackets, and more likely to live below the poverty line. For example, Latinos had a median household income of \$47,000, compared to a median household income of \$61,000 for all Californians. Similarly, while 14 percent of Californians lived below the poverty line, 20 percent of Latinos lived below the poverty line.

Overall health risks affect work-related health and safety issues. In May the U.S. Centers for Disease Control and Prevention (CDC) published their Vital Signs report on the health and causes of death of Latinos in the U.S. Using mortality figures and national health surveillance data, the report found that health outcomes of Latinos differed from those of all whites. While Latinos had a 24 percent lower risk of all-cause mortality and lower risks for cancer and heart disease, among others, serious issues that particularly affect the health of Latinos were noted. Deaths from diabetes, liver disease, and homicide were substantially higher among Latinos than all whites, as was the prevalence of obesity (in California, the rate of obesity among Latinos is 31 percent). According to the CDC, the costs of obesity are estimated to cost employers up to \$93 billion per year in health insurance claims. Access to health care is a concern for Latinos nationwide, as more than 40 percent of individuals reported having no health insurance coverage.

#### **4. Opportunities and Interventions**

Short-term interventions are available and offer methods to address immediate needs. Longer-term interventions merit consideration and are offered in this final section of our testimony.

Multilingual resources are vital for reaching workers in their own language to maximize understanding and effectiveness. Data from the U.S. Census Bureau's American Community Survey (five-year estimates for 2006-2010) indicated that 77 percent of Latinos in California spoke a language other than English at home, compared with 43 percent of the general population. In addition, 38 percent of Latinos in California self-identified as speaking English less than "very well," compared with 20 percent of the general population.

Informational materials for workers and employers as well as the content for several websites that have been translated into Spanish and other languages are available on the DIR website. A bilingual call center is also available to assist the public with questions on California labor law. Customized campaigns available in Spanish and other languages have proven successful, such as the heat illness prevention program conducted by Cal/OSHA and the Labor Commissioner's wage theft campaign.

Another short-term solution involves data. Using predictive data analytics, efforts can be more effectively targeted in areas of evidence-based need. Collaboration across agencies and information sharing, specifically in the form of data matching to the extent permitted by law, has proven effective for targeted enforcement. This enables inspection resources to be wisely invested in identifying noncompliant employers. For example, by screening leads for workers' compensation insurance, one can predict the likelihood of proper licensing or payroll reporting. Serious violations of health and safety laws are also linked to employer coverage, as demonstrated by enforcement results from the Labor

Enforcement Task Force. Smarter enforcement is a powerful tool for promoting compliance, with great benefits for workers.

Innovation in design provides opportunities to incorporate inherently safer practices and measures. Ergonomics is one area of innovation. It offers preventive measures for workplace safety and promotes efficiency, production, and earnings. According to the American Industrial Hygiene Association, well-designed working environments reduce medical claims and permanent disability by accommodating the variety of human capabilities and limitations. When hazards cannot be eliminated, administrative controls such as training and changes in work practices can be implemented. Workplace health and safety programs offer effective, prevention-focused solutions. Cal/OSHA's Consultation Services Branch provides free voluntary assistance to employers and employee organizations to improve their health and safety programs.

Longer-term interventions are also worth considering and initiating, even though the effects will take time to be visible. An innovative option that is gaining attention is universal design, which is a strategy for making products, environments, operating systems, and services welcoming and usable to the most diverse range of people possible. Simplicity, flexibility, and efficiency are the key principles, and most of us benefit from universal design on a daily basis. Think of the curb cut-outs that accommodate wheelchairs, strollers, dollies, and other things on wheels. These innovations increase ease of access to products, places, and services for multiple, diverse populations. Using universal design means that facilities, programs, and services take into account the broad range of abilities, ages, reading levels, learning styles, languages, and cultures in their diverse workforce and customer base. This offers a valuable approach to evolving workplaces into accommodating, inclusive environments.

In the interim, other measures to ensure appropriate care are moving forward. An example is the drug formulary being established for the workers' compensation system, which aims to improve the delivery of medicine for injured workers to enable them to return to work and remain productive.

Legislation offers solutions to address related issues. Recent bills that are relevant to today's hearing include:

- AB 1897 (Hernandez, 2014), which established specified liability for client employers that obtain workers from third-party labor contractors.
- AB 60 (Alejo, 2013) created the Safe and Responsible Driver Act, which enables any eligible California resident to apply for a driver's license, regardless of immigration status, beginning January 1, 2015.
- SB 4 (Lara, 2015) implements the \$40 million allocated in this year's budget to provide state-subsidized Medi-Cal coverage to 170,000 immigrant children age 18 and younger.
- AB 241 (Ammiano, 2013), which enacted the "Domestic Worker Bill of Rights" to provide labor protections to domestic work employees.
- AB 358 (Jackson 2015), which made various changes to the California Equal Pay Act related to gender wage inequality.

These and other short- and long-term measures that focus on the whole worker, the entire labor force, and the population at large are opportunities for improving the quality of life for all Californians.

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**Testimony of Kevin Riley, Director of Research  
UCLA Labor Occupational Safety and Health Program  
Before the California Assembly Committee on Labor and Employment  
November 19, 2015  
Hearing on Latino Worker Health and Safety Issues**

Thank you Mr. Chairman and members of this subcommittee for inviting me to speak on the critical challenges facing Latino workers when it comes to injuries and illnesses sustained on the job.

I am Director of Research at the Labor Occupational Safety and Health Program at UCLA. LOSH is a nationally recognized program that promotes safe workplaces through training and education, research, and policy advocacy. For nearly 38 years, LOSH has served as a resource for underserved workers in Southern California, particularly minority, immigrant, and non-English speaking workers in low-wage jobs. We frequently collaborate with labor unions, workers centers, and other worker advocacy organizations to achieve our mission. Given the demographics of Southern California, many of our outreach and training activities are conducted in Spanish and targeted to Latino workers across a wide variety of industries.

Related to the theme of today's hearing, I wanted to share findings from a recent study we conducted with support from the California Commission on Health and Safety and Workers' Compensation. The research examined patterns of work-related injury and common injury experiences of workers in the low-wage labor market. (The report is available online at [https://www.dir.ca.gov/chswc/Reports/2015/Patterns\\_Work\\_Related\\_Injury.pdf](https://www.dir.ca.gov/chswc/Reports/2015/Patterns_Work_Related_Injury.pdf).)

Our data were drawn from a groundbreaking 2008 survey of nearly 4,400 low-wage workers in Los Angeles, New York, and Chicago. Participants included workers in restaurants and hotels, garment shops, food and furniture manufacturing, warehouses, building and security services, residential construction, home health care, and other industries. Nearly two thirds of the sample was Latino and 40% were undocumented immigrants.

The original study team sought to estimate prevalence of labor law violations—including wage theft and workers' compensation violations—within the low-wage labor market across the three cities. Our goal was to examine more closely the responses given by a subset 613 respondents who indicated they had been injured on the job within the previous three years. The data offered a rare and valuable window into the lived experiences of injured workers that too often remain hidden from official view.

Our analysis revealed some striking patterns. Among workers who experienced injuries, only about 8% filed workers' compensation claims. One in ten respondents indicated they did *not* notify their employer of their work-related injury for fear of losing their job, not wanting to miss work, or not believing the injury was serious enough to report. Over half of respondents said their employer reacted negatively to the news of their injuries by pressuring them to work

despite being injured, firing them shortly after the injury, or threatening them with firing or deportation. Only a small proportion of employers provided workers' compensation forms or told workers to file.

These patterns were as true in Los Angeles as in the other survey cities, although workers in Los Angeles were somewhat more likely than those in New York or Chicago to avoid notifying employers due to fear of losing their job or not wanting to miss work. And Los Angeles was the only city where respondents indicated they had not notified employers because they were unaware they could receive benefits.

Our research also highlighted some particular challenges for Latino and immigrant workers in this low-wage labor market:

- Latinos and immigrant workers experienced higher rates of work-related injury than other non-Latino and/or non-immigrant workers. This is consistent with the state and national statistics on disparities in occupational injuries that we have heard from Deborah Berkowitz and other speakers here today.
- Latino immigrants were less likely to seek medical attention as a result of their injuries. I suspect this reflects limited access to healthcare resources within this population, as well as fears of job loss that might result from time away from work.
- Latino immigrants were significantly more likely to experience negative reactions from employers following injury, and as a result were significantly less likely to file for workers' compensation.

These findings underscore the challenges many Latino and immigrant workers in California and across the country face—not only in securing protections from workplace hazards but also in accessing necessary care and compensation when injuries and illnesses do occur. The data reveal a climate of fear and intimidation in the workplace that places out of reach government programs to which all workers are entitled. And they shine light on factors likely fueling widespread underreporting of work-related illnesses and injuries among Latino and immigrant workers—that is, the problems we've been discussing today are likely greater than we even realize.

The results from this research are also consistent with what we at LOSH know from our outreach and training activities on the ground in Southern California. Many workers in our H&S courses face persistent economic insecurity and the need for a daily paycheck. This puts them in a vulnerable position, willing to take on more hazardous jobs and sensitive to even the most subtle forms of threat and intimidation from employers. Unfortunately, too many employers are willing to exploit these vulnerabilities. As a result, presentations about workplace hazards in our training courses frequently veer into broader discussions about balancing safety and health on the job with other pressing concerns around both economic need and employer relations.

Finally, it's worth noting that our analysis of data from this low-wage worker survey found that those who had received health and safety training on the job were more likely to notify their employers of their injury, less likely to report negative reactions, more likely to seek medical attention, and more likely to file for workers' compensation. The reasons for these results are not entirely clear. It is possible that trained workers have a better sense of resources available to them when they are injured, and that employers who hire trained workers or who see that employees are trained are also more likely to provide a safer workplace and support when injuries occur. Regardless of the reasons, the strength of these findings suggest that expanding health and safety training resources—particularly for Latino and immigrant workers—can serve as one tool for protecting workers and reducing occupational health disparities within this workforce.

Thank you again for this opportunity to speak this afternoon and to share our work. We hope this research can contribute to policies to improve health and safety for Latinos and other vulnerable workers in our state.

# **WORKSAFE**

safety, health, and justice for workers  
seguridad, salud, y justicia para los trabajadores

Assembly Labor and Employment Committee  
Worksafe's Testimony: Solutions for Workplace Health and Safety  
Issues Impacting Latino Workers

November 19, 2015

Nicole Marquez, Worksafe Staff Attorney

Thank you, members of the committee, for the opportunity to speak with you today. I am Nicole Marquez, Staff Attorney with Worksafe, an Oakland-based statewide organization that focuses on advocating on behalf of workers' rights with respect to health and safety in the workplace. As a legal services support center, we train legal aid advocates on how to support and advocate for injured workers rights, workers who are trying to improve their workplace conditions or workers who experience retaliation for exercising their health and safety rights. We also advocate for protective worker health and safety laws and effective remedies for injured workers, and engage in campaigns in coalition with unions, worker centers, community, environmental and legal organizations, and scientists to eliminate hazards and toxic chemicals from the workplace.

I'd like to begin with a couple important introductory stories to support the need and urgency in coming together to find legislative solutions to address the workplace health and safety issues impacting the Latino community.

Eduardo Lopez, a 29-years old construction worker in San Diego, was crushed to death by falling rebar on May 20, 2014.

Elias Vera, a 54-years old construction worker in San Mateo, was killed in an industrial fall on May 21, 2014.

Victorino Campos-Tovar, a 48 years old construction worker in San Jose, was killed in an industrial fall on May 21, 2014.

These were all Latino workers whose deaths occurred within a span of two days: May 20<sup>th</sup> and May 21<sup>st</sup> of 2014. They are representative of an alarming number of Latino workers that are killed at work every day.

It's important to remember that all three of these men were much more than simply workers who were killed at work. They were someone's parent, child, sibling, spouse...and what they left behind was so much more than just their occupation. They left behind people that loved and cared for them and people whom they, in turn, loved and supported.

These tragedies remind us of the importance of the on-going struggle to prevent deaths such as these. In approaching this work, we have to first recognize that these deaths are representative of an epidemic that is disproportionately impacting the Latino community. Only then can we create solutions that not only address the problem, but that also empower Latino workers to address these issues.

What is to be done?

Two things: First, Latino workers need to have a stronger voice to enforce their health and safety rights on the job. This alone, however, will not solve the problem. Thus, a necessary secondary component is that we need to ensure that state enforcement agencies have the requisite resources, capacity, and legislative support to engage in successful

enforcement of workers' rights. Without enforcement mechanisms that actually work to deter retaliation, employers will continue to feel empowered to violate workers' rights.

### **STRENGTHEN WORKERS' VOICES**

While there are many attributes to strengthening workers' voices, I will focus on four key areas. Latino workers need to be able to:

- (1) Speak up about hazards and get them fixed without the fear of retaliation or experiencing retaliation;
- (2) Receive basic health and safety information about their job in a language that they understand – a critical time to do this is when they have just been hired for a job;
- (3) Exercise their rights even if they are not in a union. This requires expansion of current Cal/OSHA health and safety rights so that non-unionized Latino workers can better protect themselves;
- (4) Access strong and capable worker centers and unions who work with Latino workers. This requires a conscious effort by the state to help build the capacity of worker advocates at unions and worker centers to help Latinos and other vulnerable workers navigate the health and safety process.

#### **1.) End Retaliation:**

Speaking up for safe and healthy working conditions and being a whistleblower is a difficult task. These difficulties increase exponentially for minorities and disenfranchised populations such as Latino workers – particularly if they are undocumented workers.

It is well known that one barrier to reporting health and safety hazards is a fear of employer threats regarding immigration issues. For example, some years ago, Worksafe had to assist a group of primarily undocumented workers who were arrested by their employer for “trespassing” shortly after requesting OSHA Log 300s, which they are entitled to receive under the law. Similarly, workers and worker advocates have shared stories with Worksafe of employers incorrectly informing workers that they were not covered by workers' compensation because they were undocumented or of employers threatening to contact ICE if the worker reports their workplace injuries.

Despite the recent enactment of a new state immigration reform law and thus, the clear illegality of these threats, many low-wage, undocumented workers either still feel too afraid or are uninformed about the new laws to take action against their employers. Thus, more work is necessary to ensure that workers understand their new rights and that there are sufficient resources for worker advocates to assist workers.

**Moreover, as it is still unclear to what extent the recent reforms encompass health and safety rights, Worksafe believes the Legislature should conduct more exploration around the new laws, in the regulations that will be enacted that provide clarity on their applicability to worker health and safety rights.**

Another barrier to reporting health and safety-based retaliation is confusion that is experienced among workers who experience retaliation for reporting a workplace injury. Specifically, when a worker is retaliated against for reporting an injury it is unclear in California as to whom a worker would report this claim: DWC or DLSE. Both of these agencies refer such cases back and forth to each other with the ultimate effect of the case never being fired.

At the heart of this discrepancy is the DLSE's failure to accept Occupational Health and Safety retaliation complaints based solely upon a worker experiencing retaliation for reporting a workplace injury. This is a fundamental right that has been protected under federal OSHA since its inception.

Rather, the DLSE claims that in such a situation, the worker needs to file a Labor Code 132a complaint with the DWC. The DWC, however, unlike the DLSE, *does not investigate* claims of retaliation like the DLSE. Moreover, the DWC tends to not accept Labor Code 132a claims unless a worker has also filed a claim for workers' compensation. In many of these cases, there is no such claim for workers' compensation because the worker has been retaliated (usually terminated) for just reporting the injury itself (let alone request medical benefits for it).

Under the current workers compensation law, if a worker attempts to request workers compensation *after* they have been terminated, it is considered a "Post-termination" workers' compensation claim, which has a different set of requirements. Such claims are often dismissed unless they fit very narrow exceptions. The ultimate result is that currently, in California, workers who are retaliated against (fired, demoted, etc.) for reporting an injury have *no* remedy.

There needs to be clarity about the protected right of a worker to be protected from discrimination for reporting an injury. The DLSE claims that the law is not clear on this issue despite decades of federal policy. **If the solution requires fixing the law, then the Legislature should be poised to address this discrepancy by introducing a bill as soon as possible. The DIR administration should fully support and sponsor this bill to ensure its prompt passage and enactment.**

Finally, the current penalties available to the DLSE to enforce workers' rights leave much to be desired, resulting in little deterrence to employers. Unscrupulous employers will retaliate against an employee because they know the worse that can happen to them is that they have to reinstate the worker with back wages – and those who are undocumented get nothing. Thus, as hundreds of advocates acknowledged recently at Worksafe's Occupational Safety and Health Anti-Retaliation State-wide Summit, California needs stronger penalties that actually serve to deter employers for violating health and safety rights.

The recent Legislative changes that allow for a \$10,000 penalty to an employee for violation of whistleblower rights and engaging in egregious immigration based

retaliation, is a good start. We believe that more can be done. We have seen such improvements to the penalty structure for wage theft.

**The Legislature should support a bill which creates a stronger set of financial disincentives so employers will be deterred from engaging in retaliation when a worker reports health and safety issues.** Federal OSHA, for example, has a mechanism that allows for the awarding of punitive damages in egregious OSH whistleblower cases. We have seen successful cases come out of California for workers under federal jurisdiction. The Legislature should update our state law to enable the DLSE to take similar action in health and safety based retaliation cases.

## **2.) Basic health and safety information to all new hires:**

We know that Latino workers are dying at an alarmingly disproportionate rate. We know that contributing to these unfortunate statistics is the over-representation of Latino workers in some of the more high-hazard and dangerous industries. But we also know that these deaths could have been prevented with adequate on-the-job health and safety training designed to assist workers in safely performing their job. This is especially true for new or temporary workers.

Studies show that new or temporary workers are more likely to be injured or killed because they were not provided with the health and safety training that is required by law or basic training on how to perform their job.<sup>1</sup> Frequent and adequate training is extremely important to all workers especially those with unique employee-employer relationships such as temp workers who often labor in dual and multi-employer sites.

**Therefore, the Legislature should consider introducing a bill similar to the Massachusetts' temp bill that would require all new employees to get a set of basic information on their first day of a new job.** This information could include basic wage and hour information as well as basic health and safety information. The training must be in the language and at the literacy level appropriate for the target group of workers. This law should apply to all workers: those hired into traditional employee-employer relationships, temporary and contract workers who start work at a new location, or day laborers who change job sites frequently.

## **3.) Expansion of health and safety rights to non-unionized Latino workers to increase their capacity to advocate for themselves:**

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<sup>1</sup> Grabell, Michael, Olga Pierce, and Jeff Larson, "Temporary Work, Lasting Harm." *Pro Publica*, December 18, 2013, <http://www.propublica.org/article/temporary-work-lasting-harm> (found that in California, temporary workers had about a 50 percent greater risk of being injured on the job than traditional direct-hire employees. Also found that over the past five years, the injury claim rates of temporary workers have increased in California, while those of direct hire workers has held steady or fallen).



When Cal/OSHA was enacted in 1973, it gave unions specific rights to engage and participate in the walk-around and post inspection activities. However, with the decline of union representation, and more non-unionized Latino workers being exposed to serious hazards and dying at work, the Cal/OSHA act should be amended to expand the right to file formal complaints and participate in walk-arounds during inspections to non-unionized workers and their advocates.

Limiting those rights to only those in unions no longer makes sense in a world where close to 90% in the private sector are non-unionized. Federal OSHA has broader policies on this issue than California has currently – but we think California, with its large immigrant and Latino population, needs an even more expansive view of worker’s OSH rights.

**The Legislature should also amend the law to define more broadly who can file a formal complaint,<sup>2</sup> who can participate as a “walk-around”<sup>3</sup> representative, and who can participate in the negotiations that take place after the inspection.** This should include worker representatives such as those from worker centers where many non-unionized Latino workers congregate for assistance and non-legal service providers that primarily focus on serving low-wage and immigrant workers.

**Lastly, the Legislature should consider expanding the health and safety rights of other non-union Latino workers, such as domestic workers who are excluded from Cal/OSHA<sup>4</sup> and workers’ compensation protection, and day laborer, whose enforcement of workers’ compensation rights are difficult.<sup>5</sup>**

#### **4.) Strengthen the capacity of worker advocates at unions and worker centers to help Latino workers navigate the health and safety process:**

Employers are required to meet all of their legal obligations with respect to providing training to workers. We all know, however, that not all employers comply with the law. Even when they do comply, Worksafe has regularly received complaints of insufficient trainings that fail to provide important jobsite and health and safety information to workers. What training employers do provide is typically focused exclusively on hazards and work practices, with almost no attention given to informing workers of their rights under Cal/OSHA. In fact, inaccurate information is often provided, such as the employer’s duty to pay for all necessary PPE or fit-test respirators or provide fall protection. That is why there needs to be an independent source of information and training to supplement employer-based training.

Thus, we believe that, in order to best empower marginalized communities, basic training on workers’ OSH rights and how to use these rights is oftentimes best provided by

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<sup>2</sup> Lab Code §6309; See also P & P C-7, page 5 which also needs to be amended to coincide with any legislative changes.

<sup>3</sup> Lab. Code §6314, subd. (d)

<sup>4</sup> Lab. Code § 6303, subd. (b)

<sup>5</sup> Lab. Code § 3352, subd.(h)

worker advocates from within the community rather than the employer. Of course, site-specific hazard training will still need to be done by the on-site employer.

For example, however, if worker advocates train vulnerable Latino workers to understand and be aware of the training responsibilities and duties of employers in dual or multi-employer settings, workers will be fortified with knowledge, power and support from the center to understand their right to receive training, whom they should receive this training from, and thus, whom they should demand such a training from. This, in turn, leads to their ability to hopefully also tackle a workplace hazard that they may encounter.

**The Legislature could support advocate-centered training by adding and funding a new program within the Commission on Health and Safety and Workers' Compensation (CHSWC), which currently funds a number of worker training and education activities.**<sup>6</sup> Since this requires new funds, it may be appropriate to initiate a regional pilot program in an area with a high concentration of Latino workers. A pilot project such as this will be similar to the national OSHA Harwood worker training and capacity building grants which funds health and safety training throughout the country for vulnerable workers.

### **STRENGTHEN STATE ENFORCEMENT AGENCIES**

Years of experience and countless state and national assessments have confirmed, however, that workers' voices alone, without strong state agencies support, is insufficient to improve workplace conditions. Thus, unless workers have strong, well-funded, and culturally and linguistically competent state agencies such as Cal/OSHA and the DLSE who can enforce their rights, they might as well have no rights.

Worksafe believes the Legislature can adopt three key policies to strengthen state agencies:

**(1) Increase Numbers and Competency of Cal/OSHA Staff:** The Legislature should support a budget that enables Cal/OSHA to do its job. California ranks near the bottom of all states regarding the number of inspectors per worker. DOSH is currently working to add several new positions over the next two years. But even when these positions are filled, it will still leave California ranked near the bottom of all states regarding number of inspectors per worker. (As of September 2015, there were 240 authorized inspector positions: 190 were filled and 50 were vacant. This puts us at about the number of inspectors we had 20 years ago, when our workforce was much smaller).

Cal/OSHA has more standards to enforce compared to other states or federal OSHA. Examples include the heat illness prevention standard, the Injury and Illness and Prevention Plan standard, and construction permits for hazardous operations such as entering confined spaces – all standards critical to protecting Latino workers. This means California needs more inspectors per capita to enforce these laws so as to ensure the protection of Latino workers.

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<sup>6</sup> Lab. Code § 6354.7, subd. (e)

**The Legislature also needs to support a budget that not only adds more inspectors, but also provides Cal/OSHA with support to build an administrative agency that is culturally and linguistically competent.** Cal/OSHA inspectors must understand cultural and language issues relevant to serving the Latino workforce. This could be done through inviting members of the community to participate in inspectors' education.

Another way to improve Cal/OSHA's cultural and language capacity is to enable Cal/OSHA to include bilingual capacity as a preferable job requirement and give it considerable weight in the hiring process of inspectors. We understand that this would require DOSH working with the state personnel board to overcome a particular hurdle that now exists – and they may need the help of this assembly committee to do this. Currently the job title “safety engineer” is used by several state agencies and many of these jobs don’t require speaking a second language, so it may not be deemed relevant in the initial screening of applications before they are sent over to DOSH. But DOSH clearly needs to increase is language capability among inspectors. Therefore, we need to bring together the decision-makers in the agencies to work to modify the job description of the DOSH safety engineers to include "bilingual" capacity as a factor to be considered for these inspectors. Similarly, we need more inspectors qualified to do health inspections.

**(2) Increase Number of Positions within the DLSE to help with Health and Safety Based Retaliation Cases:** The Legislature should support a budget that creates more positions within the DLSE to help the agency with health and safety based retaliation cases. We know there is widespread fear among low-wage Latino workers to report injuries and many are fired when they do report. The DLSE needs more support to help address its backlog of cases, noted by OSHA in its annual FAME audit.

**(3) Create a Targeted Enforcement Program:** The Legislature should consider a bill that directs DOSH to create a Special Emphasis Program (SEP) within Cal/OSHA. This SEP would run targeted enforcement of health and safety laws focusing on industries with a high concentration of low-wage immigrant workers – or within certain sectors, like janitorial, food processing, warehousing, waste recycling, car wash, etc.

There are many more ways to help support Latino workers. But the Legislature could make huge strides by starting with enfranchising Latino workers with a stronger voice to enforce their health and safety rights on the job and building up Cal/OSHA and DLSEs' resources, staffing and cultural and language capacity.

Thank you for your consideration.

Sincerely,

Nicole Marquez  
Staff Attorney, Worksafe



Assembly Labor and Employment Committee Hearing:  
"Latino Worker Health and Safety Issues: Exploring Causes and Potential Solutions"  
SoCalCOSH's Written Comments

November 19, 2015  
Jorge Cabrera, Director, SoCalCOSH

Good morning and thank you for the opportunity to weigh in on this issue of utmost importance to our constituency and us. My name is Jorge Cabrera and I am the Director of the Southern California Coalition for Occupational Safety and Health (hereafter SoCalCOSH). We are a regional coalition and we educate, advocate, and mobilize workers and policymakers to create safe and healthy workplaces in Southern California and beyond. We do this through trainings, advocacy, research, and organizing at the local, state and federal levels. We are affiliated with the National Council for Occupational Safety and Health.

I would like to start off by putting into context the demographics of the workforce of Los Angeles County. We are home to 6.6 million workers. This figure translates into 60% of the entire workforce in California. Out of these 6.6 million workers, one million of them work in highly precarious and hazardous jobs day in and day out. They are overwhelmingly Latino, immigrant, and undocumented.

We have some particular challenges related to Latino worker H&S here in Southern California. For instance, we have seen higher number of workplace fatalities among Latino workers in Los Angeles in recent years. In fact, just three days ago, we had another fatality in our area. Mr. Oswaldo Mineros Jr fell to his death at a construction site in the Westlake neighborhood of Los Angeles. Mr Mineros's death represents the problem we are trying to comprehend and solve: the work-related harms faced by Latino workers in California.

In addition to the above, we have also seen limits to Cal/OSHA's enforcement efforts in Southern California. First, we have lower ratio of health and safety inspectors than in other parts of the state and the United States. For instance, the Federal OSHA inspector to worker ratio is 1 to 59,999. Here in California, the ratio is 1 to 100,000. Here in Southern California, this ratio is worse, currently at 1 to 162,240. This current staffing ratio at the Government Agency tasked with the responsibility of keeping workers safe adds to the causes of Latino immigrant workers dying unnecessarily. In addition, we would like to point out two important factors. First, California OSHA, as a state OSHA program, is supposed to perform equally, or preferably better than Federal OSHA. Second these statistics are accurate as of September of 2015, roughly two months ago.

#### Recommendations:

Based on the facts and figures mentioned in the section above, we make the following recommendations that will help keep all workers safe, including those most vulnerable, including those who are Latino, immigrant and undocumented.

- Cal/OSHA should hire more inspectors, preferably those who have the cultural and linguistic capacity to interact with the target population. An example of this is speaking Spanish and having previous experience working with Latino, immigrant and undocumented workers.
- The California State Personnel Board should update its hiring criteria so that Cal/OSHA is able to specifically demand the cultural and experience-based qualifications from new hires.
- Cal/OSHA should increase the number and frequency of agency inspections, both targeted and non-targeted, specifically in workplaces where workers are most at risk of dying and getting injured.

- Cal/OSHA and the California legislature should increase the penalties and punishments for employers who are responsible for worker fatalities and injuries.
- Cal/OSHA and the California legislature increase funding for worker centers, community organizations, and other grassroots organizations providing direct services to undocumented, immigrant, and Latino workers.
- Cal/OSHA, California Legislature, Unions, and Occupational Safety and Health experts, advocates and allies should expand and replicate Southern California strategies that have shown success in the past and that actively engage participation of non-union workers

Regarding the last recommendation, we would like to point out that we have had previous success in partner with worker centers and advocates in Southern California to support non-union workers in doing the following:

- 1) Identifying H&S violations in their workplaces
- 2) Providing information to Cal/OSHA inspectors during worksite investigations
- 3) Monitoring hazard abatement, and (in some cases) participating in appeals hearings

These partnerships have been in industries with high concentration of Latino workers, such as carwashes in Los Angeles, warehouses in Santa Barbara and Riverside Counties, airport services at LAX, and waste recycling facilities throughout the region. They were successful in part because of supportive Cal/OSHA inspectors at the local level and also because workers were empowered with knowledge and tools to learn and exercise their rights. We encourage Cal/OSHA to formalize mechanisms statewide for deputizing worker center representatives to participate in the enforcement process. We also encourage Cal/OSHA, the California Legislature and other decision makers to equip grassroots and community-based organizations with funding to do this type of work.

### **Need and Support for Occupational Health and Safety Organizing and Advocacy**

For many years, SoCalCOSH has convened quarterly Southern California OSH Activist Meetings to bring together individuals from labor unions and worker centers conducting Health & Safety campaigns or otherwise focused on Health & Safety issues. On average, we have between 20 and 30 people participating in these meetings from various organizations in Southern California. Many if not all of these organizations engage with largely Latino workforces. In addition, we would like to point out that these meetings have also included participation from local Cal/OSHA officials, which as helped spark interest, discussion and feedback from workers and their advocates. These meetings, as well as the numerous trainings we conduct demonstrate a clear need for information and support around Health and Safety issues at the local level, which is an area that is vastly underfunded, understaffed, and most vulnerable to injury and fatality.

Based on the above, we encourage Cal/OSHA and the California Legislature to make resources available for targeted training and capacity building for exclusive focus on Health and Safety issues for Latino workers and their rights under state law. Such models have shown success in the past. For instance from 2011-2013 Cal/OSHA supported a heat illness prevention campaign to reach community organizations and small businesses impacted by the Cal/OSHA Heat Illness Standard. This campaign had an immediate and long lasting effect, as DLSE is currently conducting a similar style campaign around enforcement of wage theft laws in Los Angeles. It would be very valuable to replicate that model statewide with a broader focus on Health & Safety for Latino workers

To conclude we would like to point out that workplace fatalities and injuries are preventable with the right approach and right amount of resources.

On behalf of the workers and their families, we thank you Assemblymember Roger Hernández, Mr. Ben Ebbinks and everybody for their time and resources paid to this urgent matter.

Sincerely,

Jorge Cabrera

SoCalCOSH

***Testimony from Laura Boatman, Project Coordinator, State Building and Construction Trades Council of CA for Assembly Hearing on Latino Worker Health and Safety Issues, November 19, 2015.***

Mr. Chairman and members of the Assembly Labor and Employment committee. My name is Laura Boatman and I am here on behalf of the State Building and Construction Trades Council of California. We are a council of unions representing 400,000 workers in the heavy industrial/commercial sector of construction throughout California. While our primary constituents are union members, we are concerned about the health and safety of all workers throughout our industry.

I am a project coordinator. My primary responsibility for the past 15 years has been to organize and deliver safety and health training to unions, joint labor/management apprenticeship programs, contractors and workers. This effort has been funded by Susan Harwood grants from federal OSHA which were mentioned earlier. I appreciate the opportunity to join this exploration of Latino safety issues. As this hearing has demonstrated, getting to the root cause of why Latino workers are dying at higher rates in job accidents is a complex issue. The observations I'm going to share come from my experience as a trainer.

I have trained a broad, multi-craft cross-section of the industry ranging from large general contractor safety managers to Latino immigrant day workers; experienced union leaders to newly hired apprentices. We have partnered with the UC Berkeley Labor Occupational Health Program to develop safety curricula on several topics in both English and Spanish. While the majority of our training is performed within the union sector we have also built relationships with day worker organizations in the San Francisco Bay Area and Los Angeles where we have delivered our training directly to workers in Spanish.

Keeping workers safe in the high-risk world of construction requires constant effort and diligence. The challenges faced by organized workers are many and for those workers who have no representation are even greater and more difficult. It is hard for us to grasp what it must be like for Latino workers, immigrants, foreign-born, non-English-speaking, undocumented and untrained to be



navigating our world of construction. One way to unravel this and try to find policy solutions is to look at what we hold in common and where we diverge. What do some groups have that others do not?

The law clearly states that the employer is legally responsible for providing a safe, healthy workplace. However the mandate for safety is often inappropriately shifted to the worker, to the point where some workers believe it is their fault if something happens to them on-the-job and they do not report. This is not isolated to immigrant workers. Increasing resources in support of enforcing standards is critical for protecting all workers.

Another common thread among workers is that their top priority is to work and make a living. Often speaking-up for safety carries the possibility of being labeled a trouble-maker or complainer which is seen as a potential threat to steady work. Or workers are willing to accept more risk because they don't want to be the one who turns down work or stops the job because the scaffolding doesn't look safe or the trench looks too deep and unstable . I've heard this from union and non-union workers alike. While the fear of retaliation can be found within all sectors, the stakes are higher for Latinos who have no union protections and can face deportation. More training and education programs, public awareness campaigns, organizing around workers' rights, and enforcement are needed to support workers and encourage them to stop work, report illegal activity and identify bad employers.

Pace of production remains one of the biggest challenges to safety. I have heard this from all groups including management. Competition and productivity drive the industry and workers feel the pressure. Keeping pace may lead to cutting corners which creates greater risk. An example is fall prevention when workers are required to wear body harnesses but there are no anchor points installed to tie-off to. Or crews will be told that it will take longer to set-up the fall prevention system than it will to do the job, so just go in, do it, get out and don't get hurt.

Ongoing training and education is essential. I can attest to the fact that there is no such thing as too much safety training. Everyone who attends our trainings learns something new, whether they are a highly trained safety professional or an

immigrant day worker. We cannot take for granted that employers or workers know how to recognize hazards and what to do to control them. Some examples from my own training experiences are typical of the struggles we face in the field. This common foam ear plug found on most construction sites was unfamiliar to one non-English speaking Latino immigrant. He honestly wasn't sure if it was respiratory protection or hearing protection, for use in the nose or the ear. He thought it might help keep dust out of his nose. When translating our curriculum on preventing musculoskeletal injuries we discovered that there is no word for ergonomics in Spanish. Direct translation for construction terms, names of tools and safety equipment may not exist in an immigrant worker's native language. Here it is the law that safety signage and training must be provided in a language that workers understand. We need to be sure that's enforced.

I'd like to describe for you the scene at one of our training sessions at a day worker center. The hiring hall doubles as the training room and is bustling with activity like a one-room school house. Workers come and go; phones ring constantly; a tough construction worker jumps up to open the door for a mother who parts the crowded class with her baby stroller as she comes to pick up donated food for her family. She is intrigued in what we're teaching and decides to stay because she's concerned about her husband who works construction; maybe she can pass something on. Our audience is a diverse mix, predominantly male, from all parts of Mexico, Central and South America, crossing a wide age span. They represent an assortment of different cultures and spoken dialects and their education levels range from college to none. When an employer arrives everyone is distracted until the two or three workers are chosen and leave the class with the stranger to work. Some workers apologize that they cannot stay for the safety information, but they have to take the work. Many cannot read the words on the sign-in roster but they participate in lively discussion and want to know if we're giving away any of the equipment we brought to demonstrate. At a different training we brought Spanish-speaking union and day workers together at the roofers apprenticeship school. When we noticed one of the older day workers physically shaking in his seat, we asked if he was OK. He told us he was very nervous because he had never before in his life been in a classroom and it

was scary. These are not numbers, these are real people who left their homeland to work and find a better living here. Some know a skilled trade others just know they are strong enough to do the work. Depending on the craft it takes union workers 2-5 years to work their way through apprenticeship and become journeymen. To learn their rights and the rules of safety. Spanish-speaking workers entering a union program would be encouraged to learn English right away through ESL classes and they would receive needed safety training in Spanish until they were proficient enough in English. If we want to better protect all workers, we need policies that support and preserve the legacy and infrastructure that unions have fought to create for over a century. We need to increase organizing efforts so that workers have access to effective training, protection against safety violations and wage theft and the opportunity to have their voices heard.