
LOCAL

California worker died in a cement mixer. His case was dropped but is now heading to court

BY JOE RUBIN

JUNE 26, 2024 5:00 AM

[Listen to former Cal/OSHA criminal investigator describe backlog of cases](#)



00:00

02:49

Julio Alfaro, a former senior criminal investigator for the Cal/OSHA Bureau of Investigation, speaks in May 2024 about the problems he found at the agency due to staffing shortages.

BY PAUL KITAGAKI JR.

Chris Kuhns, a former senior criminal investigator for the worker protection agency

Cal-OSHA said he hopes the family of Jairo Ramirez, an El Salvadoran immigrant who lived near Watsonville and was crushed to death inside a cement mixer in 2021, may finally see justice.

Next month, Kristo Kristich, the president and CEO of Kristich-Monterey Pipe Company, which makes large 60-inch diameter concrete pipes, has a preliminary hearing on charges related to allegedly disconnecting a key safety device that would have prevented Ramirez's death.

Kristich could face prison time and a fine of up to \$1.5 million. [The Monterey County District Attorney's Office](#) filed charges in January.

A Sacramento Bee investigation found that the case came within hours of not being filed because of what Kuhns calls dysfunction at Cal-OSHA and a refusal for years on the part of the worker protection agency to hire more criminal investigators. Only after The Bee inquired about it was the case resurrected and the DA filed charges.

The agency only has [one criminal investigator](#) for the entire state. It is budgeted for eight. [According to a Sacramento Bee story in February](#), this level of staff puts laborers at risk.

READ NEXT

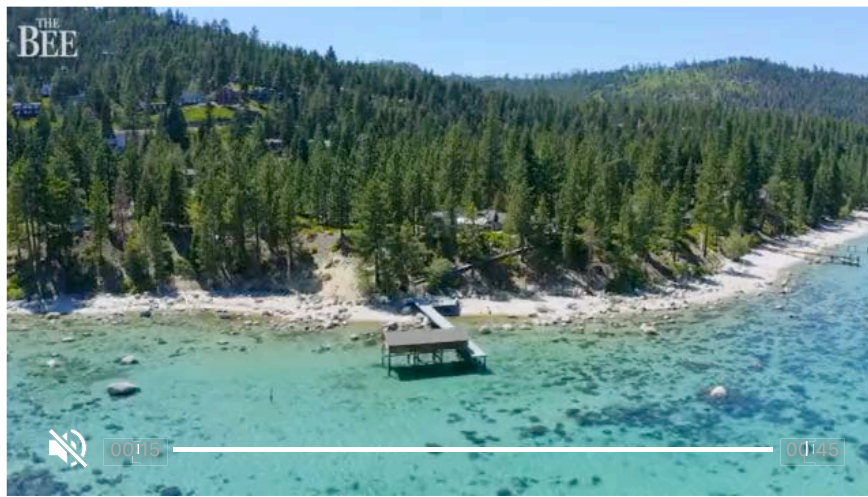
LOCAL

Staffing issues still plague the investigative unit at Cal-OSHA, imperiling workers

JUNE 23, 2024 5:00 AM

Kuhns was a 15-year veteran of Cal-OSHA's Bureau of Investigation, a small unit with a legislatively mandated task to investigate the roughly 400 worker deaths that occur annually, as well as other grievous injuries to determine if criminal charges should be recommended.

TOP VIDEOS



Former Cal-OSHA chief Ellen Widess, who was chief of Cal-OSHA from 2010-2012, said that what has happened at the BOI is “gut-wrenching and defies any logical explanation.”

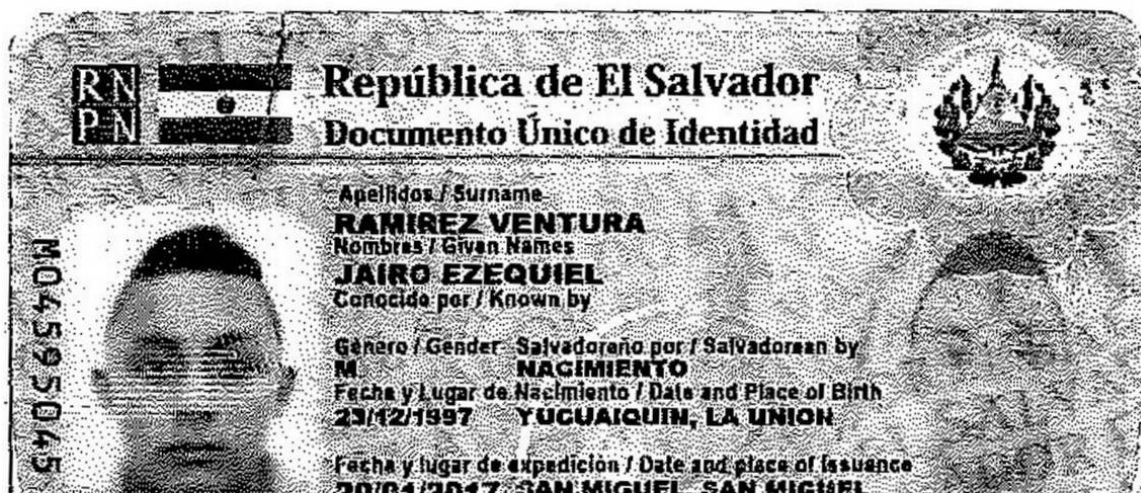
“To have only one inspector for 19 million workers, over a million workplaces in this state, is outrageous. It should be a well-supported unit.”

Under Widess, referrals to prosecutors involving worker deaths were 10 times higher. In 2022 the BOI referred three cases. In Widess’ last year, 2012, the BOI referred 29.

“We put bad actors in prison, that’s a real deterrent,” she said.

THE BROTHER A KEY WITNESS

The majority of Cal-OSHA cases involve civil penalties. Kuhns’ job was to decide which cases met the extraordinary bar of rising to the level of criminal negligence.





Identification card for Jairo Ramirez, a former employee at Kristich Monterey Pipe Company in Watsonville. Ramirez died after the cement mixer he was cleaning turned on with him inside.
Courtesy of Todd Johnson

A key witness in the Kristich case is Jairo's older brother Nilson.

The company mixes tons of cement daily, and doing so efficiently is key to profits. Every time the machine is run it needs to be scraped clean. It was grueling and, at Kristich, a dangerous job.

According to a draft investigative report authored by Kuhns in April 2023, Nilson had refused to clean the machine.

“He was too afraid to enter it because of the large blades,” the report states.

And he was reluctant because he knew that the safety interlock device had been altered so Kristich could turn on the machine remotely from a computer inside the plant, according to the report.

The cement mixer was outside, out of sight from where Kristich routinely turned the machine on and off, according to the report.

“Think of it like a clothes dryer, if the door is open and you try and start it won't work,” Kuhns said. “The cement mixer had the same type of device.”

“I've discussed this with our client and at this time we cannot comment on this pending legal matter,” Kristich's attorney Christopher Panetta said.

Kristich fired Nilson for refusing, but took him back, according to Kuhns' report. He was valuable, because he worked 100 plus hours per week, 3 a.m. to 7:30 p.m., six days per week without overtime, according to the report.

×

“Everyone knew that the boss could turn on the machine with the door open, we saw it happen,” Nilson said.

After Jairo made the journey from El Salvador and joined his brother at the plant, the “machine scared him too,” his brother said.

“My brother had a bad feeling,” he said. “But he had a 4-year-old boy back in El Salvador, Saul de Jesus, and he felt like he had no choice. He needed the money. We prayed it would be OK.”

On Jan. 21, 2021, Jairo climbed into the machine and Nilson's nightmare came true. Jairo was eviscerated in seconds, with his brother about a hundred yards away and helpless.

Kuhns report recommended manslaughter charges. In theory, that should have made criminal charges an almost certainty.

×

Jonathan Raven, the CEO of the [California District Attorneys Association](#) and a former senior DA in Yolo County, said that the BOI plays a crucial role in California's criminal justice system.

“The BOI's investigative reports are critical in guiding district attorneys across California in determining whether or not to file criminal charges against employers in workplace deaths or injuries,” he said.

MANSLAUGHTER CHARGES RECOMMENDED

But Kuhns' report didn't make it to the Monterey District Attorney's office at first.

Instead, the case was closed by Cal-OSHA and all of Kuhns investigative files were deleted, according to Kuhns and multiple Cal-OSHA sources.

Kuhns said continuing lack of support from top officials at Cal-OSHA for the BOI caused him to leave a job he loved.

“It's gratifying when you can try and get justice for families, and send a message that there are real consequences for being careless with someone's life,” he said. “But the DIR (Department of Industrial Relations which oversees Cal-OSHA) made that impossible.”

×

Kuhns left the BOI in June 2023, taking a job with the much better-staffed Cal Recycle as a criminal investigator. There he is one of 30 investigators who investigate fraud and other issues.

On his last day on the job, he emailed DIR Director Katie Hagen telling her that the situation at the BOI was desperate.

“It is clear that the organization does not care about the important work that BOI does in making the workplace safe for California,” he wrote. “A unit that had been staffed with nine investigators, with a need to expand at that time, is down to two remaining investigators for the entire state of California. One of which is also

heading for the door. When that occurs, the BOI will be staffed with a single Investigator and a Supervisor. Don't be surprised when you are called before the Legislature to answer some difficult questions.”

Hagen did not respond to the email and DIR had no comment when asked about Kuhns' email.

Following the Bee's February story about staffing shortages, Cal-OSHA said it was hiring for eight positions at the BOI.

“We recently received nearly 100 applications and conducted nearly 50 interviews for vacant Bureau of Investigations (BOI) positions, “ spokesperson Peter Melton said.

Kuhns left behind the report and his investigative files.

“I hoped they would refer it,” he said. “But it was out of my control.”

In October, Kuhns learned the case had been closed.

“I was gone at that point, so I can't speak to exactly what happened,” he said. “But the reason I believe is the lack of proper staffing. There was some additional work to be done on that case. And they just didn't have the staff.”

As was standard practice at the BOI, all the investigative files of closed cases were deleted, according to Kuhns and multiple other sources at Cal-OSHA.

In response to a question about the files being deleted, Melton said: “DIR and Cal-OSHA's record retention policy was and is to maintain records in all cases referred and non-referred. We expect this policy to be followed and will take steps to train staff on these procedures and monitor for compliance.”

Kritsich was fined \$61,000 for the accident by Cal-OSHA, according to online accident reports posted by OSHA. Because he is appealing the fines, the owner has yet to pay.

Julio Alfaro, another senior criminal investigator who left the organization in March, said he remembers when the Kristich case was dropped sometime in the fall.

“The official reason is always the same, dismissed ‘for lack of evidence,’” he said. “That’s what we always said. But the real reason was that the two investigators left at that time, we each had a backlog of over 120 cases. No one had time to finish the job. And the statute of limitations clock was ticking, so they just dropped it. ”

Melton said that the BOI had referred the case and was assisting the DA. Melton did

[Read today's Edition](#)

[NEWS](#) [SPORTS](#) [POLITICS](#) [RESTAURANTS](#) [OPINION](#) [OBITUARIES](#) [FINANCE](#) [CLASSIFIEDS](#) [SACRAMENTO'S BEST](#)

85°F

Nilson has moved on to another job. He said he has had a difficult time recovering from the tragedy and feels a lot of guilt. “I have nightmares all the time,” he said.

When The Bee first spoke to Nilson in December, a criminal trial seemed a remote possibility. The case had been dropped by Cal-OSHA and the extensive interview that Kuhns conducted with Nilson deleted, according to Kuhns.

After The Bee inquiries, the DA got in touch with Kuhns and the BOI, according to a source at the DA’s office, who was not authorized to speak publicly about it. Kuhns’ original report was recovered by the BOI. He said had emailed it to someone within Cal-OSHA, preserving an electronic record. But the audio recordings had been permanently deleted.

Kuhns discovered he still had the files on a USB drive.

“It was lucky I had that,” he said. “I had no idea.”

Charges were filed with hours to go before the statute of limitations expired on Jan. 21, three years to the date after the accident.





Jairo Ramirez, an immigrant from El Salvador, was killed in a cement mixer at work in California.
Nilson Ramirez

Informed of the criminal charges, Nilson paused.

“I don’t understand how this happened,” he said. “But I’m happy. My brother deserves justice.”



JOE RUBIN



916-321-1006

Joe Rubin, an Emmy award-winning investigative reporter for The Sacramento Bee, unpacks complex systems with an eye toward holding power to account. Rubin’s reporting for the San Francisco Chronicle, NPR and Capital & Main has led to state laws protecting workers from lead poisoning and has exposed wasteful spending.