Legislative hearing on Latino Worker Health and Safety, November 19, 2015

Background

Convened by Roger Hernández (D-Los Angeles), Chair of the Assembly Labor and Employment Committee

Response to recent data that Latino workers in California suffer a disproportionately high rate of workplace injuries and fatalities. A big spike in the number of Latinos killed on the job in Los Angeles in 2013 (the last year with complete data) drew national attention, although preliminary data for 2014 shows a decline.

Testimony

1. Deborah Berkowitz, Senior Fellow with the National Employment Law Project (NELP) and a former high-ranking federal OSHA official

Provided an overview of the recent data on the high rates of Latino injuries and deaths. She then identified several contributing factors, such as disproportionate representation of Latino workers in hazardous jobs, lack of adequate safety training (especially in workers’ native languages), and employer policies or practices that create fear, discouraging workers from reporting injuries or hazards and leaving unsafe conditions in place.

Reviewed federal OSHA policies on this issue:

—Increased outreach (e.g. National Latino Summit in 2010)

—Federal OSHA investigators now ask whether workers received information and training in a language they understand

—New campaigns and materials such as heat illness prevention, fall protection, landscaping hazards, video on their webpage saying all workers have rights

—Harwood grants

—Increased resources and staff for whistleblower program

—Memo against discrimination (which includes safety incentive programs)
—Temp worker initiative (data coded on temp workers in the workplace; temp workers asked if received training in their language)

Recommendations

- 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

Quote: A paycheck is not payment for silence—it is not a license to endure pain.

2. Amy Coombs, Department of Industrial Relations
   Lots of statistics about health outcomes of Latinos (fertility rates, diabetes, etc.)
Latinos have lower education outcomes, concentrated in low wage jobs, low health insurance
Men, “newer” employees more at risk

**Interventions suggested:**

Short-term:
—Multi-lingual resources (but no interpretation at hearing)- website stuff on website, bilingual call center, customized campaigns
—Share data among DIR agencies to find violators
—Ergonomics – well-designed working environments
—Cal OSHA consultation

Longer term:
—Universal design (like curb cut-outs), take into account broad range of population for inclusive
—Drug formulary for workers’ comp- improves drug delivery
—New legislation: AB 1897 Liability for employers of temp workers, AB 60 licenses for immigrants, SB4 state subsidized Medical coverage for children, AB 241 Domestic Worker Bill of Rights, AB 358 Equal Pay act for gender inequality

Sen. Hernandez asked about retaliation claims- which agency handles it (DWC versus DLSE). She answered that DIR does as an umbrella organization- “all agencies collaborate, shared.”

Worker advocates

3. **Maria Elena Durazo, Vice President for Immigration, Diversity, and Civil Rights, SEIU**
—Hospitality industry- high concentration of Latino workers
—Workload leads to injuries (non-union housecleaners to twice as much as unionized)
—Subcontracting/temp workers- workers seen as replaceable
—Looking for local ordinance (Long Beach) to limit the square footage housecleaners cover and teeth in enforcement for sexual harassment
—Paid sick time  
—No ICE collaboration with employers

4. **Mark Ramos, President UFCW Local 1428**

—Focus on retail groceries- repetitive motions, lifting, meatcutters-machines with no guards and no metal gloves, ventilators for kitchens, fear of reporting, 60% turnover at El Super- many of them because of injuries  
—Scheduling bill important because supervisors use schedule to retaliate  
—Registry for bad actors  
—Radio ad about retaliation on foreign language stations  
—higher penalties for violators  
—grants so unions can train not just their staff, members, but surrounding community

5. **David Huerta, President, SEIU-USWW**

—Problems: death of worker at LAX, underground economy, fear, sexual harassment (“Rape on the Nightshift” - documentary)

Suggests:  
—public awareness campaign  
—confidential hotline for all agencies  
—more accountability for employers- requirement to educate supervisors on sexual harassment, higher penalties  
—Workplace violence protection for all industries

**Question for all union panelists:** If could choose one solution?  
Maria Elena: Unionize all workplaces  
David Huerta: Criminal charges for workplace violence
Ramos: Overcoming fear- highlight workers who stand up and make them heroes to their co-workers

6. **Jim Smith**, Political Coordinator, Teamsters Local 396
   - Focus in recycling facility- 95% Latino
   - Hazards- reaching into trash, no PPE, moving belts, no lockout/tag out, falling in high structures, trucks in bad conditions

   Solutions
   - More funding for CalOSHA
   - Educate workers about the laws and tools at their disposal
   - Unionization to protect from retaliation, have a voice

7. **Erica Lomeli**, Civic Participation and Policy director, UFW Foundation

   - Health awareness campaign
   - Immigration reform
   - Partnership between Cal OSHA and UFW, UFW Foundation- 3 year partnership (find out more! Involve Cal OSHA “fastrack” for UFW claims, also UFW has an “oversight role” on how claims are handled)
   - Need for low-literacy materials
   - Pesticides- new EPA rules- pesticide applicators need to be 18 years old, requires more training and institutes whistleblower protections, also they cross over the fields etc.
   - Heat illness prevention
   - Sexual harassment (UC Santa Cruz study from 2 years ago shows high rates of sexual harassment) “laws on the books are not the laws in the fields” 35-50% of these women will experience sexual harassment on the job

8. **Amber Novey**, Field Coordinator, Laborer’s International Union of North America

   - Focus on construction- language barriers, no training
—Laborers apprenticeship program boot camp- OSHA 10 training and minimum language (what about non unionized???)

**Worker Panel**

9. **Georgina Hernández**, non-union janitor
   —Fell, fired
   —Offered money to go to hotel with him, many other victims, still working there
   —All supervisors are the same

10. **Melroy Ewing**, a Menzies Aviation employee at LAX
    —Colleague died, SEIU-USWW major health and safety improvements made
    —workers filed out surveys on what improvements want
    —joint plans with management

    - trying to provide “culture of safety”

11. **Laura Lopez**, temp employee, Taylor Farms produce processing plant in Tracy
    —slippery floors
    —undocumented, afraid to speak up
    —doctor says they are fine, and then get fired
    —chemical spill, people fainted, vomited blood, 20 people when to hospital (including 2 pregnant women), some people still have symptoms
    —immigrants are the ones that do the hardest work, worst paid, no benefits, no voice

12. **Argelia Ricos**, UNITE HERE Embassy Suites housekeeper, non union
    —Pain from cleaning 15 suites which is same as 28 rooms, in 8 hours
    —100 pound mattresses, have to push 50 pound cart
—mangers don’t always speak English
—already lost a hand, “I can do the work and keep up, but it’s at the cost of my health”

13. **Kevin Riley**, Director of Research and Evaluation, UCLA Labor Occupational Safety and Health Program (LOSH)

—Study of low wage immigrants 3 cities including L.A.
—Latinos- more likely to get hurt, less likely to report, less likely to report, more likely to face retaliation
—Shared results from a recent study LOSH conducted about what happens when low-wage Latino workers are hurt on the job: many didn’t report the injury for fear of losing their job.
—Of those that did report, over half said their employers responded negatively by pressuring them to continue working, firing them, or threatening them with deportation.
—Only 8% of those seriously injured filed for workers’ compensation benefits
—Those who got health and safety training more likely to report, less retaliation, more likely to file workers comp and get health care

14. **Nicole Marquez, Staff Attorney, Worksafe**

• Ensure that retaliation protections for California workers who report job hazards or work-related injuries are as strong as federal OSHA, and that the Labor Commissioner’s office has the resources it needs to conduct prompt and thorough investigations of worker complaints

• Create stronger disincentives, including increased penalties found in similar statutes, so employers will be deterred from for violating health and safety retaliation laws;

• Require that all new hires be provided basic safety and health information;
• Broaden the scope of who can be an authorized worker representative, so that non-union workers can become more active participants in Cal/OSHA investigations; and

• Create a new program to expand training and technical assistance to labor, legal aid, and community organizations that support Latino workers.

In addition, we need to make sure that Cal/OSHA is able to hire many more bilingual (and bicultural inspectors that come from the communities they serve) and to target those enforcement resources on industries and occupations with the highest injury, illness, and fatality rates.

15. Jorge Cabrera, SoCalCOSH

— LA County workforce 6.6 million workers, 60% of CA workforce, 1 million low wage workers, mostly Latino undocumented (18 mill workers in CA total)
— Fatalities- one recent fall from construction site
— Low ration of inspectors in S. CA 1 for 162,000 workers (worse than statewide ration, much worse than federal level)

Recommendations:
— Hire more inspectors who are culturally competent and reflect the demographics of the workforce- may need State Personnel Board to change criteria so Cal OSHA can hire for those people
— More funding to CalOSHA
— More money for prevention
— Worker centers do training, go on inspections, monitor hazard abatement, participation in appeals hearing (Clean Carwash Campaign, Warehouse Workers United, recycling, airport). Workers need to be empowered to be involved.
— Many workers not affiliated with worker centers- we always have a full room of people asking for more to be done
16. **Laura Boatman**, State Building and Construction Trades Council of California

— Health and safety training from Harwood grants- important program
— Partner with LOHP to develop curricula

Common to all workers:
— Pace of production (for example fall protection)
— Many workers do not report- unionized or not
— Workers want to work and fear of being troublemaker, complainer, risk to their job, don’t want to be the ones that stop work
— “No such thing as too much training- everyone has something to learn”

Train large contractors to day labor- big contrast:
— Immigrant workers fear deportation
— Need public education campaign, training, organizing
— Day laborers didn’t know what hearing protection was for- for ears or the nose
— Need Spanish language, low literacy, hard for them to take the time for unpaid training, scared just to be in a classroom
— Need effective training, protection, organizing, opportunity for voices to be heard

17. **Alejandra Domenzain**, LOHP, public comment

— Fear. Cal OSHA inspectors not there, may not have linguistic or cultural competency—needs to change

— In the meantime need to work with intermediaries- partnerships like CRLA or UFW, statewide funding like Harwood, they have the trust

— Invest in outreach- public information campaign

— If people come forward, need to solve problem of who handles claims of retaliation
—Cost to worker- pay with their health, their lives; their family; good employers face unfair competition; society (social security, disability etc.)

—Workers’ lives should not be a cost of doing business

Common themes:

1. Need for public campaigns, outreach, education
2. Need for multi-lingual materials, low literacy, multi-lingual AND culturally competent staff
3. More funding/staff
4. More penalties- registry, criminal charges, etc.
5. Need to partner with intermediaries- partnerships, file claims, monitor claims
6. Worker voice
7. Retaliation