

Len Welsh
Acting Chief, Cal/OSHA
455 Golden Gate Avenue, 10th Floor
San Francisco, CA 94102

Vicky Heza
Deputy Chief, Cal/OSHA Enforcement
2100 East Katella Avenue, Suite 215
Anaheim, California 92806

CC: Cal/OSHA Advisory Committee

September 8, 2005

To: Cal/OSHA Division of Occupational Safety and Health, Mr. Len Welsh and Ms. Vicky Heza

From: Southern California Coalition for Occupational Safety and Health (SoCalCOSH)

In Collaboration: Legal Aid Foundation of Los Angeles
Sweatshop Watch
Institute of Popular Education of Southern California (IDEPSCA)

On behalf of Southern California Coalition for Occupational Safety and Health (SoCalCOSH), a coalition of community organizations and activists dedicated to eliminating hazardous working conditions, we urge Cal/OSHA to address the potential threat to labor law enforcement posed by the recent actions of the Department of Homeland Security/Immigration and Customs Enforcement (ICE) in North Carolina. On July 6, 2005, without informing federal or state OSHA officials, ICE agents used the pretense of an OSHA health and safety meeting to entrap immigrant workers. These workers were gathered at a meeting expecting to receive information about their health and safety rights, but instead were detained and placed in deportation proceedings (please see attached media coverage). We are deeply disturbed by this tactic which endangers the ability of federal and state OSHA officials to enforce occupational health and safety laws necessary to protect the lives of immigrant workers.

First, this tactic undermines the credibility of federal and state occupational health and safety agencies, which are already facing enormous challenges in reaching out to immigrant workers. By invoking OSHA (or any other labor enforcement agency) as they did in North Carolina, ICE may potentially unravel years of efforts by these agencies, by Cal/OSHA, and by community-based organizations to persuade immigrant workers to report health and safety violations in their workplaces. Once immigrant workers, who already are afraid of trusting government agencies, learn of this new tactic, they will become even more reluctant to report violations of these and other basic rights such as paid minimum wage and overtime. The strategy utilized in North Carolina, essentially pitting one government agency against another, **is shortsighted and counterproductive.**

Second, such a chilling effect comes with unacceptable human costs. Immigrant workers already are injured and killed on the job at higher rates than native born workers. They work in industries where predatory employers regularly violate serious health and safety protections, usually with impunity. In California, day laborers are rarely provided with personal protective equipment or training as they work, sometimes with dangerous equipment and at dangerous heights on construction sites; farm workers work long hours in the sun with inadequate rests or access to water; garment workers toil in small, unventilated rooms with blocked fire exits, and face constant and often disabling pain from repetitive motions in uncomfortable positions; restaurant workers face the threats of knives and boiling water as they are forced to move quickly; janitors develop respiratory and skin ailments from exposure to toxic chemicals. The vast majority of these workplaces will never be inspected, largely because immigrant workers are scared to speak up for fear of facing exactly the same betrayal that workers in North Carolina faced. **To cause workers to be more afraid of reporting violations is to give a green light to predatory employers to continue to threaten workers' health and lives.** The ICE tactic negatively impacts not just immigrant communities, but all communities; we should always keep in mind that the health and safety of one equals the health of all.

Third, the threat of deporting immigrant workers for reporting violations of basic labor law is contrary to our nation's commitment to require decent and humane working conditions for *all* of its workers. The guarantee of legal wages, freedom of association, equal opportunities, safe working conditions, freedom from discrimination and retaliation apply to all workers regardless of their immigration status. **This protection is rendered meaningless when workers who are already victims of labor law violations are deported instead of being granted the redress they deserve.**

We respectfully request that, in order to fulfill its statutory mandate to protect the health and safety of California's workers and prevent an incident locally similar to what occurred in North Carolina, Cal/OSHA:

- 1) Affirm and publicize to workers and the general public the Department of Industrial Relations (DIR) statement that "All California workers are entitled to workplace protection" regardless of legal status (please see attached, "Undocumented Workers Rights");
- 2) Provide assurance that a similar activity will not take place in California;
- 3) Raise the North Carolina incident at the next meeting of the OSHSPA to seek a unified statement affirming the health and safety rights of immigrant workers and the dangers to enforcement posed by ICE officials who pretend to represent labor agencies.
- 4) Publicly take a position and announce in a press release that labor law enforcement efforts are weakened when ICE officials represent to workers and the public that they are affiliated with labor enforcement agencies;
- 5) Issue a written request to ICE officials that, in the course of enforcing immigration laws, they not represent to workers that they are affiliated in any way with Cal/OSHA.

We are prepared to meet with you to further to discuss our concerns. We look forward to your response as soon as possible. Please call Suzan Luu, SoCalCOSH Coordinator, at (310) 825-0298 if you have any questions.

We look forward to your response and to continued community-Cal/OSHA collaboration to protect and ensure the occupational health and safety rights of immigrant workers.