

DAVID MICHAELS, OSHA ADMINISTRATOR

JOHN HOWARD, NIOSH DIRECTOR



2013 National Worker Safety & Health Conference
Baltimore, Maryland

Transcript from: [National COSH Conference](#)

DAVID MICHAELS

Until January 2017, David Michaels served as the Assistant Secretary of Labor for the Occupational Safety and Health Administration (OSHA). Nominated by President Barack Obama and unanimously confirmed by the U.S. Senate, Michaels began serving in the post in December 2009 as OSHA's 12th Assistant Secretary. He is the longest serving Assistant Secretary in OSHA's history.



DR. JOHN HOWARD

John Howard is a physician, professor, and public health administrator. He served a 6-year term as the director of the National Institute for Occupational Safety and Health and was appointed to be a special coordinator to respond to the health effects of the September 11 attacks. In 2009, Howard was again appointed as director of NIOSH and as World Trade Center Programs coordinator for HHS. In 2016, he became the first person to be appointed to a third 6-year term as NIOSH director.

David Michaels, Assistant Secretary of Labor for OSHA



It's really great for me to be here on behalf of the federal government, on behalf of the Labor Department. You have the Obama administration to thank you for your great work. You play a vital role in ensuring that American workers are as protected as they are, and certainly we don't think they're protected enough, but the work that you do day in, day out, has a huge impact on workers, their families, their communities, and we greatly value that.

[00:56] You know, from the point of view of OSHA, we look at you as our closest allies. You are, on a daily basis, working with workers who we haven't reached, we can't reach, to make sure they're safe.

If I step back and talk about the OSHA law, OSHA's 43 years old and the OSHA law is very subjective. It says two things primarily: It says, one, **employers have the responsibility to provide a safe workplace**. In other words, it's the right of every worker to be able to work in a workplace free of hazards. And the other thing it says, is that **it's OSHA's responsibility to make sure employers provide that safe workplace**. And that's a huge challenge. Yeah, we're a small agency, we're underfunded but we're eager to work with groups like you, groups like the COSHs, because you're really on the front lines making sure those changes take place, making sure workers are protected.

“employers have the responsibility to provide a safe workplace”

[01:54] Now the workplace has changed a great deal in the United States since 1970. And everybody knows that but we often don't think what that means and how that sets us back, and how that makes it so much more challenging.

[02:07] In 1970, when most people went into their workplace, they received a check from the company's name who was on the door. Now, you go into a workplace and you could be working for someone who really has no relationship with the company that produces the product, that does that work. We have workers who are sent by staffing agencies and probably about three million people at any one time are temporary workers sent by a staffing agency to work in a different work place. We have contractors and subcontractors and with some subcontractors those workers have very little relationship to the company whose name is on the door and they pay a price for that. We don't think about what that means but it's very significant.

[02:55] A few years ago, in Texas City, there was a very well-known explosion of the BP oil refinery in which, I believe, 17 or 18 workers were killed and more than 100 injured. Not a single one of those workers killed actually was working for BP. They were working for various contractors.

[03:20] And then, of course, we have the issue of what we call misclassification. This is very common in the construction industry, where employers will claim that all the workers working for them are independent contractors. Which is really just a way to say, "I'm not going to pay taxes on them and I may not even pay them minimum wage. They're really their own contractors and they're just doing a certain task for me."

[03:43] What that means, though, is that we have to be creative and we need to think very differently about what's going on in the workplace. We have to reach out to workers who don't just speak English. Most workers in the United States in 1971-1972 spoke English, a lot more than now. Now we have workers who speak dozens of different languages across our workplaces. Many of them don't know what their rights are. Many of them are afraid to assert their rights because of something that happened to them or because of their documentation to be in the United States.

[04:12] These are gigantic challenges to make sure that workers are safe. But we know that **if any workers aren't safe, then no workers are safe**. That's because, we know, if employers can hire workers who they don't care about, who are not going to complain, who, if they are injured, will not ever apply for comp, they'll disappear... then that threatens every worker in the United States. Because if an employer knows they could save money by hiring this worker that doesn't speak English or isn't here legally or is sent by the temporary staffing agency, we know that means that the standards for all the workers will go down.

[04:48] OSHA is very much focused on the most vulnerable workers because we have to raise up the floor. We have to make sure everybody has reasonably good working conditions and that their temporary status, their documentation of the United States, their lack of English, is not taken advantage of.

**“if any workers aren't safe,
then no workers are safe”**

[05:12] I think people know some of what OSHA does here. We have inspectors around the country. We do a relatively small number of inspections given the size of the American workforce. With our state partners **we do about 90,000 inspections but there are between seven and eight million workplaces United States and 130 million workers**. So, we try to do everything we can.

[05:34] I think the OSHA staff are really remarkable. And, actually, if you don't know the OSHA staff closest to you, you should.

[06:30] Together, we are trying to work out how to do inspections better, so we have a bigger impact. How we get information out to employers, because there are a lot of employers who want to do the right thing. And how we work with groups like yours and how we reach out to workers. Because we can't just rely on employers to do the right thing. There are certainly many, many employers who recognize that not only is it important, not just on the human rights level, to make sure workers aren't injured, but they actually recognize that **if they run their business in a safe way they will be more productive, they will have a more productive work force, they will be a more profitable company**. And there are many employers who will assert this and there's very good evidence. **But for some reason not all employers get this**. And there's a race to the bottom, a race to pay workers less, and not to fix the working conditions that are causing them to be injured or to be killed. We know that we have to make sure that workers know what their rights are and that they feel comfortable asserting their rights or else they won't be protected.

[08:10] Or some of you may have heard me talk about Lawrence “Day” Davis, who was a 21-year old from Jacksonville, Florida, who was sent by a staffing agency to the Bacardi bottle incorporation facility in Jacksonville. They have a machine there called “the palletizer” and it puts the pallets together of the bottles of rum, because it’s Bacardi. There's a lot of glass on the ground. There’s a machine that says in big letters, the picture is DANGER DO NOT ENTER. It’s your first day on the job and the foreman gives you a broom and says, “Clean up the glass underneath that machine.” What are you going to do? Well, Davis went to clean up that glass. That was the last thing he did. He was crushed by that machine.

[08:54] We get reports like this, as I said, on a weekly basis. All summer long, we are getting reports of workers sent by a staffing agency to help do an outside job...several of them were working for companies that do garbage collection. And the job, of course, is to run alongside the garbage truck, pick up the garbage, put it in the truck, and keep running. And without acclimatization, without training, you just can’t do that on a hot day in Houston. We had fatalities on the first day of work this summer doing that, and we had more and more of them.

Bacardi Bottling had failed to train temporary employees on using locks and tags to prevent the accidental startup of machines and to ensure its own employees utilized lock-out/tag-out procedures.

Federal OSHA cited Bacardi Bottling with 12 safety violations in the incident – two “willful,” nine “serious,” and one “other-than-serious.” The company was fined \$192,000.

According to a statement from Bacardi Bottling, the company has addressed or put in place plans to resolve all safety and health matters identified by OSHA.

Day left behind his fiancée, Alicia, who was expecting their first child.

“temporary workers are particularly vulnerable”

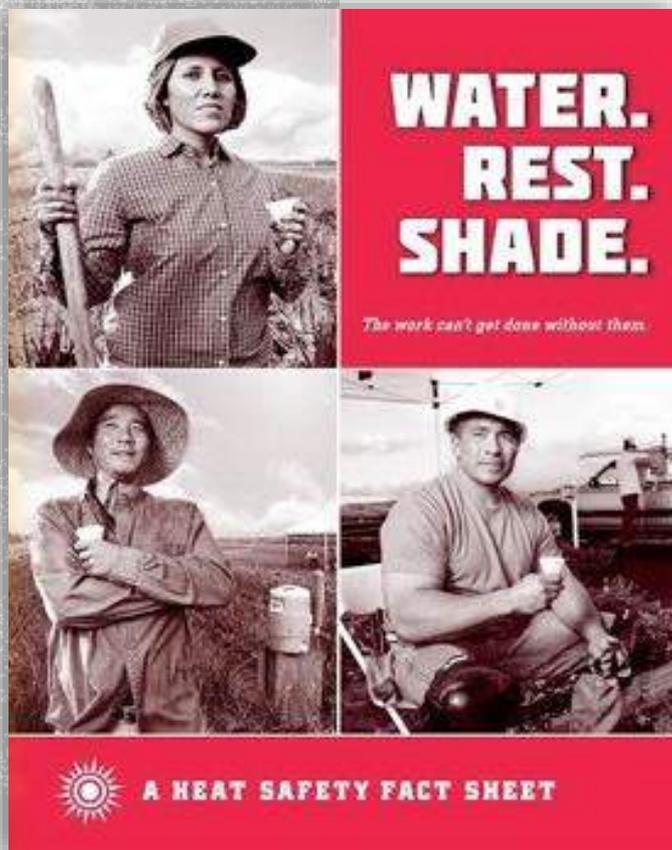
[09:29] We recognize that temporary workers are particularly vulnerable. And again, this is no surprise. There've been studies for 100 years showing that workers in their first month at work are three or four times more likely to be injured than the workers who have been working for a year. And a temporary worker can be a NEW worker six or eight times a year. And when you talk to your employers, they say, “Well, of course I make sure my workers are protected.” But you can imagine, an employer brings in a temporary worker who's not going to be there for very long. Maybe they hired them because they know they don't want to pay the higher workers compensation premiums. The temporary agencies have low premiums because they aren't thought of as dangerous employers. So, you bring in a temporary worker, you aren't going to do the training. You aren't going to do the education that's necessary to make sure that worker is safe. Well, OSHA's position is every worker has that same right to a safe workplace. **There is no distinction between a temporary worker, a contract worker or a full-time worker.** The employer is responsible and we think actually both employers are jointly responsible for making workers safe.

[10:42] But to do this we need your help. We need to know where temporary workers are who are exposed to these hazards and to help us reach out to them, both to tell them what their rights are but to tell us where to go, tell us who to reach out to, where to go to do inspections where people aren't safe. And I recognize that injured workers, in many cases, don't even apply for workers compensation because they're afraid to. And so, there's an injury that broke their back, they hurt their hand... They might not be able to work for a week or two but they think that's a normal price to pay than reporting the injury and then losing their job. We need to hear about those cases. We obviously don't want to jeopardize anyone's position but we need to pursue that with them. We've got to identify those low rung employers who aren't giving workers safe workplaces or who are just retaliating against them for reporting injuries and we need to go after them, and we need your help to do that.

[11:39] Another of OSHA's important programs is whistleblower protection. You know, the OSHA law is very clear, it says that workers shouldn't be retaliated against for raising a safety health concern: not just with OSHA but with the employer. **If you say, "This is hazardous, can you fix it?" That worker should suffer no retaliation.** But it's unfortunate, that, too often, that worker is retaliated against. I wish I could say that OSHA will step in immediately and do everything they can to protect that worker, but the law's weak and we don't have enough tools to do that. We hope to change that.

[12:25] But again, we still do want to work with you to identify cases and you have to get them to us very quickly because these cases have a 30-day limit. If we don't hear about it within 30 days for retaliation you can do nothing. I see a lot of people nodding their heads. I hope they haven't learned this from the unfortunate experience where the worker calls us 35, 40 days after they've been fired. That's too late and there's nothing we can do. But this is a very important issue and we want your help on that.

[12:53] Another area that we've been very successful with making progress on and something we've been doing for a number of years now, is the question of incentive programs that give bonuses or give material benefits to groups of workers when they have low injury rates or they have no injuries. It's very common. The employer will say, "If no one's injured for a certain period of time, at the end of that period everybody gets..." It could be a raffle for a pickup truck to just sharing a pizza. That has a very powerful impact on workers. What it does, is it tells workers to use peer pressure on their co-workers not to report injury because every worker is impacted by that one injury being reported. As a result of that, we've seen too many times injuries not being reported. And as a result of that, there's nothing done to prevent the next injury from occurring. We've made it very clear that we think programs like that are not acceptable. For those employers who are in the programs that we run, like our voluntary protection program, they can't have incentive programs like that. Hundreds of employers actually have dropped those programs we are very gratified that that's happened.



**WATER.
REST.
SHADE.**

The work can't get done without them.



A HEAT SAFETY FACT SHEET

[14:23] We have campaigns that I think many of you are involved in. Every summer we're really focused on HEAT. Dozens of workers are killed every year from heat. This is not complicated, we know how to prevent heat stroke. You know how to prevent people dying from heat. They need water, rest and shade. CAL-OSHA started this, started a great program and now we're pushing it very hard. Trying to reach out to employers saying, "This is what workers' rights are. This is what you must do." But also, to reach out to workers, giving them tools to protect themselves. One thing we've done with some success: we have a smartphone app. If you haven't seen it, you should download it, because it says *this is what OSHA says*: if the temperature is a certain temperature, and the humidity will actually tell you what that is, OSHA says this is how often to take a take a break, this is how often to get shade and workers use that to show their Foreman and say that, "This is what OSHA says, this is what you should do."

[15:16] Similarly, with fall protection we've got some great tools. We are working closely with NIOSH, the National Institute for Occupational Safety and Health, and folks from CPWR, to get the word out on falls.

[15:35] You know, we can talk about a lot of the initiatives and the specific reasons people are getting hurt but there's a larger social issue. It really disturbs me. I'm hoping this is something we can work on together. **There is no outrage in the United States when a worker is killed.** The exception are coal miners and I don't begrudge them in this at all. If two coal miners are caught in an underground mine or six or even more, that usually makes the news. And there's sometimes a rescue and that goes on and the country cares about them and that's a wonderful thing. But **every day, twelve workers are killed on the job.** Most of them are alone and sometimes they make the local press. But, often what's said, is "that's a hazard of the job." This phrase, *occupational hazard*, which you may have heard, that assumes it's okay, that's a risk that comes with the job. But if you read the articles in the newspaper, it follows most every fatality, because fatalities do make the newspaper. It will usually say well, such and such a worker, died on the job, was killed on the job, the fell from the roof, they were crushed by a machine, they were electrocuted... and they will often say, well, the police investigated and "it was an accident." And that's the end of it. In other words, what those reporters really are saying, though they don't understand it so clearly, is that it wasn't an intentional homicide. No one tried to kill that worker overtly.

[17:19] But **these deaths are not accidents**. There's nothing accidental, there's nothing random about those deaths. They are absolutely predictable and they're absolutely preventable. They are the result of a choice that was made, or a series of choices that were made, or not made, by the employer. Just as much as a homicide is the result of a choice made by the individual who ends up killing that person.

“there is no outrage in the United States when a worker is killed”

Now, it's not overt, no one said, “I want to kill this person, I want to kill this person who fell off the roof.” But, the decision not to provide fall protection led to that fatality. And we can't allow that to go on. Not only can we not allow the fatalities to go on, but the lack of outrage, the acceptance of worker fatalities as just occupational hazards, you know, it's just a fact of life, we shouldn't let that go on. We should be raising that over and over again. “Why was that acceptable?”

[18:25] The thing that really makes this feel worse is, you know we've found the literature very carefully on what's going on in a lot of different industries, and right now, in the food industry, there's a tremendous amount of discussion about the humane treatment of animals. In fact, someone just sent me the new issue of *Rolling Stone*, which has a long piece about beef slaughterhouses and the humane treatment of cows and what's going on in those. Tyson now has a new program for the humane treatment of animals. What's missing in that phrase, of course, is "before they are slaughtered." Butterball has a program for the humane treatment of turkeys before they are slaughtered. And this is being driven, not only by the companies, but by consumers. If you walk into your supermarket, there are signs now saying: *this is where you can buy free-range chicken or the cage-free eggs.*

**“every day 12 workers are
killed on the job”**

“these deaths are not accidents”

[19:22] But we know what’s going on in those slaughterhouses for workers. The folks at NIOSH just did a very important health hazard evaluation at a chicken plant in South Carolina. This is a big plant. And what they did is they looked at, first they looked at the OSHA logs and said, what’s being reported in terms of hand pain, which is a big issue for us because people are doing repetitive motion, over and over again, many times a minute, slicing chickens. Last year there were no cases of hand pain reported and the previous year there were like a dozen. This is a plant with many hundreds of workers. But, when they brought in the equipment and the physicians and they looked at carpal tunnel, they found that the prevalence of carpal tunnel syndrome in these poultry workers was 42 percent. Almost one out of two have carpal tunnel syndrome. And yet there's no outrage about that. And so while we care about the chickens and we all want them to have a good life before we eat them, what I’m telling you is that we have to convince America, we have to convince the media, we have to convince our political leaders, we have to convince our neighbors that we have to care as much about the workers there as we do about the chickens.

John Howard, Director of NIOSH



[22:54] It's really my privilege to be here with you today. I wanted to reiterate what David said, when he started out his presentation, thank you, all of you, each and every one of you, for being the legs and the arms and the speaking voice of government. Government is supposed to, by law, protect all workers, and obviously there are limitations to that. But what you're doing, every day, largely quietly and silently, is doing exactly what the law intends. So, thank you very, very much for what you do.

[23:29] We're here to help you. Our primary job at the National Institute, as the Occupational Safety and Health Act tells us, is that we are to support OSHA, we are to support the Mine Safety and Health Administration, in generating new knowledge that can be used by government agencies and by academia and by you all to make the workplace safer. We try to do this in a lot of creative ways but we're always open to new ideas. Largely, our scientists generate this knowledge scientifically, which as Max said, is really boring to read. So, we have to translate it into ways that it can be taken up by you all and used effectively. So, we're always open to new ideas.

[24:15] We have a lot of tools on our website that I'm sure many of you are familiar with, but I wanted to emphasize a couple today. First of all, there are actually 18 NIOSH's. We sponsor education and research centers (ERC) throughout the United States and some of you are here today representing those ERCs. Those individuals who work in those centers carry out the mission of The Institute in their regional areas. Please, if you do not know who those people are, be sure you find out where your closest ERC is, what resources they can offer, and what partnerships you can develop with them.

[25:00] The second tool I wanted to talk about is our health hazard evaluation program. A lot of the things they do here that are discovered in workplaces stimulated by people like you, who say, "I need to have a health hazard evaluation done on this particular workplace." Please become familiar with how that program can be used by you.

[26:06] Unlike OSHA, we spend a lot of time and a lot of taxpayer investment in the agricultural safety and health area. We actually fund 11 agricultural safety and health centers throughout the United States. Some extremely prominent like at UC Davis, in New York and other places. These are centers devoted solely to agricultural safety and health issues.



“NIOSH survives by interaction”

[26:44] NIOSH does a bunch of other things, and in fact, I think we all can probably say, quite honestly, that when the Congress doesn't know where to put something, but it's related to worker safety and health, they often give it to NIOSH. So, we actually have programs in workers compensation for the department of energy for the atomic weapons employees and we have also recently been able to host the World Trade Center health program, which is a health program working with the Department of Justice in the September 11th victims' compensation fund.

[27:18] So, NIOSH spans a large scope of work, but primarily it's here to serve workers and to serve worker advocates, to serve labor unions, to serve employers, to serve practitioners. So, please get acquainted with our website, you can go to niosh.gov and download all of our materials. Get to know your ERCs. Get to know the Health Hazard Evaluation Program.

[29:55] NIOSH survives scientifically by interaction. And we can't get it right unless we hear from you and from everybody else. [END]

Credit to [laborvideo](#) for recording and publishing this video. To watch the original video on YouTube, visit [David Michaels of OSHA and John Howard of NIOSH Speak at National COSH Conference](#).

- To learn more about David Michaels and his tenure as OSHA's longest-serving administrator, visit [Long run: An interview with OSHA's David Michaels](#).
- To read more about John Howard's career, including his work with NIOSH and as administrator of the World Trade Center Health Program, visit [Wikipedia: John Howard \(NIOSH Director\)](#).

For more information and resources on worker safety, visit [weeklysafety.com](#) and [blog.weeklysafety.com](#).

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