

DYING FOR WORK IN MASSACHUSETTS

*Loss of Life and Limb
In Massachusetts Workplaces*



photo by Earl Dotter

Workers' Memorial Day

April 28th, 2008

Massachusetts AFL-CIO
389 Main Street
Malden, MA 02148
(718) 324-8230

MassCOSH
42 Charles Street
Dorchester, MA 02122
(617) 825-7233

Western MassCOSH
640 Page Boulevard
Springfield, MA 01104
(413) 731-0760

Remembering the Fire at Triangle Shirtwaist

Roberto in Milwaukee sizes me up, then sidles over
sideways, like a crab, asks if I've
heard about the woman ironworker from Kenosha.
It's no riddle. I read his eyes, pray he'll go mute.
There are two versions to the story,
he says, placing the bait. I bite, he tells.
*She was an apprentice, had two kids, fell from the steel
and died. They say it shows women can't
handle the business, but
guys fall, too.* He waits.

I ask for the other version, the one I see
itching at the soft flesh beneath his shell:
*She asked for a safety harness,
foreman said she didn't need one.*

And Seattle, the buzz about the new linewomen? Eager
to impress means easy
to fatigue. Send her up and down, up and down, up
down up the pole. Soon her arms
will just
let
go. Or,

unbuckle her belt, let her test her wings.

When Labor, at century's start,
bronzed those bales of flaming shirtwaist girls
cascading
out the ninth floor windows of Asch--
was that not a covenant
that the sky would stop

dropping

women?

-- Susan Eisenberg

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Introduction

The Massachusetts AFL-CIO, the Massachusetts Coalition for Occupational Safety and Health (MassCOSH) and the Western Massachusetts Coalition for Occupational Safety and Health (Western MassCOSH) collaborated to produce the 2007 *Dying for Work in Massachusetts: The Loss of Life and Limb in Massachusetts Workplaces*. The Massachusetts AFL-CIO is the umbrella organization for more than 750 local unions, joint boards and district councils in Massachusetts, representing working men and women across the Commonwealth. MassCOSH and Western MassCOSH are non-profit organizations whose members include workers, unions and health and legal professionals. MassCOSH and Western MassCOSH provide information, training, education, technical services and advocacy, aimed at helping to improve job safety and health conditions in workplaces throughout Massachusetts. MassCOSH provides services in Worcester and east and Western MassCOSH covers west of Worcester.

This report has been compiled to highlight the fact that work continues to kill and maim workers in epidemic and alarming numbers. The saddest aspect to this loss in lives and limbs is that work-related injuries and illnesses are *preventable*.

The authors of this 2008 Workers Memorial Day report are most grateful to all who assisted in collecting and reviewing data, writing and editing, conducting interviews, and providing photographs. This report would not have been possible without assistance from the following individuals and organizations: Letitia Davis, Michael Fiore, Kathleen Gratton, Jim Laing, Elise Pechter, Occupational Health Surveillance Program, Massachusetts Department of Public Health
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Rand Wilson, AFL-CIO
Angela Sanfilippo
Steve Falvey, New England Regional Council of Carpenters
Myles Calvey, IBEW Local 2222

The information gathered for this report was obtained from the following sources:

1. Massachusetts Department of Public Health (Bureau of Health Statistics, Research and Evaluation and the Cancer Registry)
2. Massachusetts Department of Industrial Accidents
3. Occupational Safety and Health Administration, Region 1 Office, Boston
4. Massachusetts Division of Occupational Safety
5. The AFL-CIO, Department of Occupational Safety and Health
6. Articles from newspapers throughout Massachusetts
7. The Professional Firefighters of Massachusetts
8. Massachusetts Coalition for Occupational Safety and Health
9. Bureau of Labor Statistics, U.S. Department of Labor
10. Council of State and Territorial Epidemiologists
11. Massachusetts Occupational Lead Poisoning Registry
12. United States Coast Guard
13. Harvard School of Public Health/Harvard Law School
14. University of Massachusetts at Lowell

Executive Summary

April 28, 2008 marks the 20th observance of Workers Memorial Day, when we remember workers who were killed, made ill or injured on their jobs. We reflect on the tragedies of the past year and renew our commitment to the fight for safe jobs.

Who Is Dying, Being Injured or Made Ill at work in Massachusetts?

Eighty workers in Massachusetts lost their lives on the job in 2007—most suffered fatal injuries at work. An average of 1.5 worker deaths occurred each week, making 2007 the worst year for workplace fatalities in Massachusetts since 2003. Included are seven firefighters who died from work-related cancer and heart disease.

For every worker killed on the job, ten more die from occupational disease. An estimated 800 workers died in 2007 in Massachusetts from occupational disease. An estimated 1,900 workers in Massachusetts were newly diagnosed with cancers caused by workplace exposures, and 50,000 more were seriously injured. This report also includes 20 servicemen and women from Massachusetts who died as a result of the War in Iraq in 2007, and 1 servicewoman who died in Afghanistan in 2007.

What are their ages and occupations?

The average age at death was 44 years old, with a range of 17 to 71 years. More than 1/3 of those who were fatally injured on the job were 40 years old or younger (28 fatalities / 35%). 17 of those who were fatally injured were under the age of 30, including two who were 17 years old.

While the largest contingent worked in the building trades (20 / 25%), workers from a wide range of industries suffered fatal injuries, such as transportation (13 / 16%), fishing (7 / 9%), utilities (5 / 6%), and auto repair (3 / 4%). Firefighters suffered 9 line of duty fatalities, which includes those who died from long term illnesses.

What is Killing Them?

- **Transportation** related accidents (including truck, car, rail and aviation) led all event categories. 25% (20 out of 80) of all occupational fatalities were transportation related. Eight of the twenty incidents involved a truck or auto crash. Seven of these fatalities involved workers from non-transportation industries who were in transport for their occupation.
- **Falls** were the cause of nearly one quarter (19 out of 80) of all occupational fatalities in Massachusetts in 2007. 68% of the falls occurred in the construction industry (13 out of 19).
- **Commercial fishing** claimed the lives of seven Massachusetts fishermen in 2007. From 2000 – 2007 commercial fishing has been the most dangerous single occupation in Massachusetts. 41 fishermen died on the job during the seven year period.
- **Six workers suffered heart attacks on the job following stressful events in 2007.** Three of the workplace fatalities involved firefighters, all of the same age, 38. All six workers were under the age of 54.
- **Four workers died of electrocution in 2007.** Two of the fatalities involved experienced electrical workers, while two others involved construction workers who came into contact with live electrical wires.

What Contributes to work-related fatalities?

On March 8, 2007, a worker was killed at a jobsite in Woburn after falling 48 feet down an elevator shaft. The shaft was under construction and was covered by a substandard, unmarked piece of OSB Board which broke in two when Oscar Pintado, a carpenter on the jobsite, walked over it.

OSHA lacks funding, staff and tools to deter violations. Fatal and serious workplace injuries in 2007 continued to occur because Massachusetts employers ignored OSHA regulations and failed to institute basic safety

measures such as fall protection and machine guarding. Strong government regulations and enforcement – including criminal prosecution – is essential, but often lacking.

- OSHA is still understaffed, underfunded and pursues penalties that are too little, too late:
- It would currently take 121 years for OSHA to inspect each workplace under its jurisdiction in Massachusetts.
- In Massachusetts in 2007, the average fine (based on final penalties) assessed to an employer with OSHA violations resulting in the death of a worker was \$5,383.
- 10 of the 12 penalized employers involved in settled OSHA cases in 2007 paid less than \$10,000, and 7 of those paid \$5,000 or under for violations resulting in fatalities. Unfortunately, too many employers determine it to be cheaper to violate OSHA regulations than to comply with them, ignoring the potential human costs.

Public sector workers lack OSHA protections

In January 2007, a teacher aide and student sustained burns resulting from the detonation of a highly flammable gas at a vocational high school. An investigation by the Massachusetts Division of Occupational Safety (DOS) found that the school had failed to take adequate precautions to prevent ignition. Had the employer been a private sector employer, these measures would have been required under federal regulations set forth by OSHA and this incident could have been prevented.

350,000 public sector workers in Massachusetts who work for the Commonwealth or its political subdivisions lack the protections afforded to their counterparts under the federal Occupational Safety and Health Act.

Employers prey upon immigrant workers who are seen as vulnerable

On August 31, 2007, Benedelson Ovalle Chavez, a 17 year old roofer from Lynn, MA, was killed when he fell more than 20 feet from the roof of the First Baptist Church of Salem. A teenager who spoke only Spanish and lived in the United States for just over a year, Benedelson performed the extremely dangerous work of nailing shingles on a high roof without training or fall protection. While the subcontractor was cited by OSHA, the general contractor, with a long history of labor and safety violations, remains free of any penalties.

Poor working conditions provided by unscrupulous employers continue to plague immigrant workers in Massachusetts. Language barriers, lack of training, employer exploitation, coupled with fear of retaliation and deportation for speaking out about hazards contributed to the workplace deaths among immigrant workers. Far too often, general contractors will set up sham companies or hire individuals that serve as “subcontractors”, in order to avoid workers compensation costs and/or liability when unsafe conditions result in injuries or deaths.

Employers increase hazards with work restructuring, then blame workers for resulting injuries

On October 26, 2007, Gary Gibbons, a Verizon splice service technician and member of IBEW Local 2322, was killed when the elevated bucket truck he was working in came into contact with electrical wires, causing an explosion. The fatality was the fifth within the past two years at Verizon. Many workers have reported that Verizon’s management stresses productivity over safety, to the point where five Verizon FiOS technicians were fired only days after Gibbons’ death for failing to meet production quotas.

Employers across all sectors on the economy continue to restructure work in ways that are harming workers and making jobs increasingly unsafe. Downsizing, understaffing, work overload, extended hours of work, job combinations, contracting out, lack of training and an overall push for production have been linked with increases in injuries, illnesses, stress and death. Many employers hide the resulting injuries and illnesses by implementing “blame-the-worker” safety programs (e.g. behavior-based safety and injury discipline policies) that discourage workers from reporting injuries and allow hazardous conditions to remain unaddressed. Workplace fatalities, however, are difficult to hide.

What is Needed?

There is much that continues to threaten the safety and health of workers. The Massachusetts AFL-CIO, MassCOSH and Western MassCOSH are part of a growing coalition seeking:

At the federal level:

- Strengthened OSHA regulations and enforcement, including use of criminal prosecution to deter employers who recklessly endanger workers' lives.
- Expanded efforts to protect immigrant workers, including increasing the number of bilingual investigators and strengthening whistleblower protections.

At the state level:

- OSHA protections extended to public employees in Massachusetts through the passage of Senate Bill 1088/House Bill 1866, and an Executive Order issued by Governor Patrick extending OSHA protections to state employees.
- Improvements in Massachusetts Workers Compensation to make it just and fair.
- The state must be more proactive in protecting temporary workers, both through its authority to license temporary agencies and establish regulations that strengthen protections for day laborers, and by passing Senate Bill 1062/House Bill 1829, which will require temporary agencies to provide workers with basic information about their jobs, including what types of hazards they will encounter, and pay for safety equipment.

At the worksite:

- Staffing levels, workloads and working hours that do not promote workplace injury, illness and death.
- Comprehensive worksite safety programs that focus on identifying and eliminating or reducing hazards.
- A strong, protected and collective voice of workers, through their unions, involved in all aspects of these comprehensive worksite health and safety programs.
- Our fight will continue until all workers are able to leave for work and return home with their lives, their limbs and their health intact.

In Memoriam

Following are the names of workers in Massachusetts who died from work-related causes in 2007 and through March 31, 2008. The towns and cities listed below are where the workers were injured or made ill. This list also includes firefighters who died from work-related cancer or heart disease in 2007. The majority of workers who died from occupational *disease* are not listed – no database collects their names. We estimate that for every worker who dies from an acute, traumatic on-the-job injury, ten more die from occupational diseases. We will never know most of their names and faces, but we honor them all. This year, we have once again included a list of servicemen and women from Massachusetts who lost their lives in 2007 as a result of the wars in Iraq and Afghanistan.

Christopher Macaulay, 30, Track Foreman, Woburn	1/09/07	Gregg Hartley, 54, Marine Services, Tyringham	7/09/07
James Zipps, 54, Track Foreman, Woburn	1/09/07	Timothy Ladd, 59, Mechanical Engineer, Tyringham	7/09/07
Edward Long, 36, Ironworker, Boston	1/11/07	Elizabeth Connolly, 20, Orientation Leader, Westfield	7/09/07
Donald Thulin Jr., 43, Roofer, Brookline	1/12/07	Edward Kipp, 48, Carnival Erector, Falmouth	7/14/07
Thomas Lassiter, 57, Firefighter, Chelsea	1/17/07	James Whittimore, 17, Construction Laborer, Marshfield	7/25/07
Jeffery Capuano, 48, Contractor, South Hadley	1/19/07	Richard Powers, 45, Ambulance Paramedic, Gloucester	7/30/07
David Karpinski, 55, Electrician, Barnstable	1/23/07	Kimberly Place, 43, Federal ATF Agent, West Springfield	8/01/07
Raymond Fenoff, 38, Framer, Medfield	1/24/07	Jonathan Allard, 35, Truck Driver, Quincy	8/06/07
Antonio Barroqueiro, 50, Fisherman, New Bedford	1/26/07	Paul Cahill, 55, Firefighter, Boston	8/29/07
Rogerio Ventura, 54, Fisherman, New Bedford	1/26/07	Warren Payne, 53, Firefighter, Boston	8/29/07
Mario Farinhas, 62, Fisherman, New Bedford	1/26/07	Jimmy Ramirez, 27, Truck Driver, Berkley	8/30/07
Jaoa DaSilva, 44, Fisherman, New Bedford	1/26/07	Benedelson Ovalle Chavez, 17, Roofer, Salem	8/31/07
Sean Cone, 24, Fisherman, Newburyport	2/01/07	Alan Peguero, 20, Convenience Store Clerk, Dorchester	9/04/07
Dan Miller, 21, Fisherman, Newburyport	2/01/07	Nesmith Ankeny, 59, Construction Project Mgr., Boston	9/11/07
Michael Milot, 23, Pilot, Dartmouth	2/02/07	Kelly Page, 38, Firefighter, Lowell	9/14/07
Peter Karoly, 53, Attorney, Dartmouth	2/02/07	Mark Vasa, 58, Radiation Oncologist, Brockton	10/15/07
Lauren Angstadt, 54, Endodontist, Dartmouth	2/02/07	Susan Plante, 59, Receptionist, Brockton	10/15/07
Charles McCormack, 36, Cable Technician, Lowell	2/15/07	Gary Gibbons, 53, Utility Worker, Plymouth	10/26/07
James Smith, 47, Carpenter, Raynham	2/16/07	Mark Walker, 46, Iron Worker, Gardner	11/01/07
Rafael Guevarez Sr., 45, Truck Driver, Westport	2/26/07	Mumin Manavoglu, 45, Pizza Shop Owner, Dorchester	11/02/07
Jack McPhail, 47, Truck Driver, Littleton	3/02/07	Mark Mansfield, 41, Mechanic Third Class, Salem	11/06/07
Oscar Pintado, 28, Carpenter, Woburn	3/08/07	Phillip Robinson, 56, Engineer Steam Operator, Salem	11/06/07
John Kenney, 48, Firefighter, Boston	3/09/07	Matthew Indeglia, 20, Boiler Fireman, Salem	11/06/07
David Rhodes, 38, Truck Driver, Hopkinton	3/12/07	Carter Reece, 52, Mechanic, Salisbury	11/21/07
Xiomara Robles, 20, Office Secretary, Lynn	3/14/07	Ronda Healey, 27, Waitress, Millbury	11/27/07
Karen Lachapelle, 43, Wellness Director, Hadley	3/21/07	Anthony Pingiaro, 45, Sheet Metal Mechanic, Wakefield	12/02/07
John Symonds, 64, Lobsterman, Gloucester	3/21/07	Robert Tomkinson, 20, Carpenter, Bourne	12/07/07
Leonard Delaney, 63, Firefighter, Cambridge	3/23/07	Marcos Landaverde, 22, Siding Installer, Lowell	12/08/07
Rejean Chicoine, 55, Painter, Amherst	3/28/07	Corey Lind, 20, Pizza Delivery Driver, Monson	12/09/07
John Watkins, 50, Mechanic, Melrose	3/30/07	Michael Leahy, 53, Massport Worker, Boston	12/21/07
Thomas Devlin, 51, Police Officer, Boston	4/06/07	Paul Harding, 59, Mechanic, Worcester	12/31/07
David Otterson, 71, Mechanic, Seekonk	4/08/07		
Paulo Costa, 30, Bricklayer, Revere	4/09/07	William McCarthy, 55, Firefighter, Boston	1/01/08
Thomas Wade, 64, Truck Driver, Hatfield	4/13/07	Vincent Russell, 54, Firefighter, Boston	1/09/08
Stephen Scothorne, 58, Truck Driver, Bridgewater	4/18/07	Michael Crawford, 47, Truck Driver, Freetown	1/10/08
Baldomero Villarreal, 45, Construction Laborer, Andover	4/23/07	Robert Glover, 36, Fisherman, New Bedford	1/22/08
Michael Latta, 21, EMT, Dunstable	4/26/07	Richard Besse, 61, Firefighter, Boston	1/22/08
Sy Tien Vo, 27, Security Guard, Lexington	4/27/07	Kenneth Thuestad, 48, Fisherman, New Bedford	1/23/08
Gilberto Aguirre, 63, Nursing Home Administrator, Chelsea	5/01/07	Kelly Brackley, 30, Secretary, Webster	1/28/08
Stephen Parker, 50, Train Conductor, Boston	5/03/07	Philip Huylar, 48, Business Owner/Operator, New Bedford	2/02/08
Chhun Chhoun, 49, Builder Construction, Lowell	5/05/07	Diruhi Mattian, 53, Psychotherapist, Lawrence	2/06/08
Alcides Baptista, 37, Painter, Middleboro	5/12/07	Norma Dorce Gilles, 37, Hairdresser, Malden	2/13/08
Peter Duhamel, 56, Truck Driver, Brockton	5/17/07	Edward Conley, 56, Cab Driver, Brockton	2/16/08
John Mineck, 54, Equipment Operator, Hingham	5/24/07	Rawlene Lizotte, 51, Nursing Assistant, Lowell	2/21/08
David Middleton, 38, Firefighter, Dorchester	5/29/07	David Gonzalez, 24, Machine Operator, Worcester	2/22/08
Walid Chahine, 45, Taxi Driver, Somerville	6/02/07	Thomas Vinas, 49, Truck Driver, Franklin	2/29/08
Kenneth Thomas, 58, Electrician, North Attleboro	6/06/07	Joseph Castanino, 43, Construction, Dorchester	3/05/08
Jimmy Young, 45, Firefighter, Boston	6/07/07	Robert Kilduff Sr., 60, Firefighter, Boston	3/13/08
Edwin Matos, 38, Firefighter, Holyoke	7/01/07	Aaron Staelens, 43, Truck Driver, Chicopee	3/28/08

U.S. Troops from Massachusetts who Died as a Result of the War in Iraq in 2007 and through March 31, 2008

Spc. Christine M. Ndururi, 21, U.S. Army, Dracut	11/6/07
Pfc. Kenneth J. Iwasinski, 22, U.S. Army, West Springfield	10/14/07
Cpl. Jeremy P. Bouffard, 21, U.S. Army, Middlefield	8/22/07
Staff Sgt. Robert R. Pirelli, 29, U.S. Army, Franklin	8/15/07
Staff Sgt. Joan J. Duran, 24, U.S. Army, Roxbury	8/10/07
Staff Sgt. Alicia A. Birchett, 29, U.S. Army, Mashpee	8/9/07
Staff Sgt. Robb L. Roling, 29, U.S. Army, Milton	6/30/07
Staff Sgt. Daniel A. Newsome, 27, U.S. Army, Chicopee	6/27/07
Pfc. Matthew A. Bean, 22, U.S. Army, Pembroke	5/31/07
1st Lt. Andrew J. Bacevich, 27, U.S. Army, Walpole	5/13/07
Lance Cpl. Walter K. O'Haire, 20, U.S. Marine Corps, Lynn	5/9/07
Spc. Kyle A. Little, 20, U.S. Army, West Boylston	5/8/07
1st Lt. Ryan P. Jones, 23, U.S. Army, Westminster	5/2/07
Sgt. William J. Callahan, 28, U.S. Marine Corps, South Easton	4/27/07
Sgt. Adam P. Kennedy, 25, U.S. Army, Norfolk	4/8/07
Capt. Anthony Palermo, 26, U.S. Army, Brockton	4/6/07
Pfc. John F. Landry Jr., 20, U.S. Army, Lowell	3/17/07
Capt. Jennifer J. Harris, 28, U.S. Marine Corps, Swampscott	2/7/07
Sgt. Alexander H. Fuller, 21, U.S. Army, Centerville	1/25/07
Sgt. Gregroy A. Wright, 28, U.S. Army, Boston	1/13/07

U.S. Troops from Massachusetts who Died as a Result of the War in Afghanistan in 2007 and through March 31, 2008

Spc. Ciara M. Durkin, 30, Army National Guard, Quincy	9/28/07
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Death Highlights Unsafe Conditions at Verizon



Gary Gibbons

On October 26, 2007, Gary Gibbons, a 53 year-old splice service technician, died on the job while attempting to repair a problem on Verizon's lines. A member of IBEW Local 2322 (Middleboro, MA), Gibbons was killed when the elevated bucket he was in came into contact with high voltage electrical wires, causing an explosion.

Gibbons, who grew up in South Weymouth, had worked 34 years for Verizon. "He was a loving, honest and very generous man," Gibbons' wife told the Patriot Ledger. "Anyone who had him as a friend was lucky. He would go to the nth degree, no matter what, to help someone."

Gibbons' death -- the fifth Verizon workplace fatality in 2 years -- unfortunately epitomizes persistent safety concerns raised by workers at the huge telecommunications company. Two of the fatalities were in Massachusetts and one was in Rhode Island.

"It's no surprise there has been so many serious accidents and fatalities," said Gene McLaughlin, business manager of Local 2322 and plant chairman of System Council T-6 that covers Verizon's New England operations. "Management has begun stressing productivity over safety by pushing unreasonable increases in productivity on their employees."

None of the company's truck buckets are insulated, a safety feature that could have been a factor in saving Gibbons's life. New hires are often dispatched to the field without proper safety training and employees are sometimes denied safety devices they requested.

"These tragedies were preventable. We are doing everything we can to educate our members about safety so that this never happens again."

But even a workplace fatality won't change Verizon's push for unattainable production quotas that are putting workers and the public at risk. Just days after Gibbons's death, Verizon fired five IBEW FiOS technicians for failing to meet production quotas. The "FiOS Five" were new hires with less than 12 months on the job, just short of the one-year service requirement that would have called for a neutral arbitrator to decide on the merits of their dismissals.

"These tragedies were preventable. Yet management continues to maximize profit at the expense of safety to satisfy the corporate greed of the top brass and their Wall Street investors," added McLaughlin. "We are doing everything we can to educate our members about safety so that this never happens again."

Misclassification and Mistreatment in Massachusetts

Benedelson Ovalle Chavez, a 17 year old Lynn resident, fell 20 feet to his death on August 30, 2007, while fixing the roof of a Salem church. According to the family members, Chavez was standing on a ladder, passing materials to co-workers and carrying 60-80 pounds of shingles to the peak of the roof. Employed by the company for just two months, he had received no training nor fall protection. A recent immigrant from Guatemala, Chavez spoke no English and, eager to earn money for his family, was given work that was extremely dangerous even for a well-trained and equipped adult.

Benedelson's employer, B.C. Construction, was fined \$22,400 by the US Occupational Safety and Health Administration for, among other violations, a repeat violation of fall protection requirements. Benedelson was not wearing a fall arrest harness when he fell. The Attorney General has the authority to investigate Child Labor violations, but had not announced any citations as of the date of publication.

The General Contractor, Olympic Painting and Roofing Company, a company with a long history of labor and safety violations, remains free of any charges. According to a Globe article in 2007 focusing on Olympics' history of worker misclassification, Olympic has been under investigation by the Massachusetts Attorney General for paying workers who would then write personal checks to other workers who were not on the books.

Misclassification: saving money, injuring workers

Misclassification of employees is when employers treat employees, who would be otherwise waged or salaried employees, as independent contractors. Olympic's business approach is a growing trend in an effort for some companies to avoid large worker's compensation insurance bills, Social Security and other payroll taxes. This method allows employers who use this scheme to underbid the companies who treat their employees fairly.

A 2004 Harvard report examining the Massachusetts construction industry found that the misclassification of workers was increasing annually. Between 2001 – 2003, an estimated one in seven, 14%, of MA construction employers misclassified workers as independent contractors. Across all industries, they estimate 13% to have misclassified employees, an estimated 26,000 employers statewide.¹

FedEx, for example, boasts on its website of 260,000 "employees, contractors and team members" yet many delivery drivers are treated as independent contractors. Independent contractors supply their own trucks, insurance, buy their own gasoline, and pay their own expenses and forgo benefits such as health insurance, overtime pay, holidays and vacation. Courts in California, Massachusetts, and other states have begun issuing rulings declaring that the true relationship is that of employer /employee. Massachusetts Attorney General Martha Coakley recently ordered the company to pay a \$190,000 fine as well as restitution to 13 drivers. The company is also in the midst of a multi-state federal class-action lawsuit brought by its independent contractors.

A New York Times article recently wrote, "Common sense tells you that low wage workers are employees, but we are increasingly seeing that employers misclassify them as independent contractors, whether it's janitors, day laborers, delivery drivers or bathroom attendants.'

What's needed

Efforts are needed at the local, state and federal level to deter employers from choosing misclassification as a way of doing business. Both state and federal labor agencies must take action against general contractors who establish subcontractors in order to avoid workers compensation and labor and safety requirements.

The state must be more proactive in protecting temporary workers and day laborers, both through its authority to license temporary agencies and by passing the Temp Worker Right to Know Bill. The state's new Underground Economy and Employee Misclassification Task Force is an important step to engage a wide range of agencies in addressing this problem. As it embarks on efforts of the task force, the state must also ensure that vulnerable workers who report employer violations are protected from retaliation.

¹ [The Social and Economic Costs of Employee Misclassification in Construction](#), Harvard School of Public Health and Harvard Law School.

Heart Attacks following Stress-related Events

Over the past year several Massachusetts workers died following highly stressful work events. An EMT and a snowplow operator died from heart attacks following long work shifts with little rest. Two firefighters in excellent physical condition died from heart attacks following busy duty shifts. A railroad signalman died similarly after a train stuck a work vehicle on the tracks. Even if the victims had health conditions that may have contributed to the deaths, stressful work conditions appear to be contributing to, or are the primary cause of worker deaths.

Workers who suffered heart attacks following known stressful events

On 5/3/2007 Stephen M. Parker, 50, an Amtrak signal flagman suffered a heart attack after witnessing an Amtrak train collide with a construction forklift on the tracks near South Station. No one else was injured, but Parker who had allowed the forklift onto the tracks was pronounced dead at New England Medical Center.

On 7/30/2007 Richard Powers, 45, a Gloucester based Beauport Ambulance company paramedic collapsed and was found dead after returning from a call near the end of working his second 24-hour shift in a row.

On 12/14/2007 Michael Leahy, 53, a snowplow driver at Massport's Logan International Airport, suffered a heart attack after a long period on duty plowing during a major December snowstorm. Leahy passed away one week later on 12/21/2007. Coworkers at Massport recounted how Michael Leahy had worked approximately 72 hours prior to his heart attack with as little as four hours rest.

In 2007, three fire fighters of the same age, 38, died from heart attacks in the line of duty:

On May 28, 2008, Boston firefighter David Middleton completed his shift that had responded to two fires. Middleton, who was in excellent physical shape and renowned for his healthy eating habits, complained that he was not feeling well at the end of his shift, went home and expired from a heart attack.

On July 1, 2007 Holyoke firefighter Edwin R. Matos died from a heart attack.

On September 14, 2007 Lowell fire fighter Kelly L. Page was working a busy shift having already responded to medical emergencies, downed power lines, fire alarms, and a basement fire when he died at the fire house. Page was a fitness buff who was known for his strength.

Contributing factors and impact

Too often in an effort to reduce production costs, employers cut staffing, which often leads to job overload or compulsory overtime. Several reports estimate that up to 23 percent of heart disease related deaths per year nationally could be prevented if the levels of job strain in the most stressful occupations were reduced to average levels seen in other occupations (Karasek and Theorell, 1990; Landsbergis et al, 1993).¹

Aside from contributing to heart attacks, excessive work load has been shown to result in workplace violence and suicide. Work overload also contributes to increased fatigue and decreased concentration that can lead to errors – errors that have resulted in accidents, injuries, and in too many cases, death.

What's Needed

Employers must provide sufficient levels of staffing and establish work schedules that ensure that workers are safe and healthy. OSHA should issue willful citations to employers who create dangerous conditions through unsafe work schedules, insufficient staffing and/or unsafe production schedules. The Commonwealth should intervene to promote safe staffing in industries where they provide oversight or funding, such as nursing (HB2059) and medical residents (S1247). Rather than accepting the lowest bidder, government procurement should involve a careful review of a bidder's staffing levels and history of health and safety violations.

¹ Work stress and cardiovascular disease: a summary of evidence and strategies for prevention, University of Massachusetts at Lowell

Commercial Fishing Fatalities

Angela Sanfilippo knows too well about the dangers in commercial fishing. Her family has always made their living from fishing and she married a fisherman. She also knows that instituting basic safety measures can be the difference between life and death. “Two weeks before going out to sea, my husband went to a Coast Guard dockside exam. He was asked if he would be fishing alone – and where his survival suit was. His suit was in the bunker. The Coast Guard trainer asked how he would be able to get from the pilot house to the bunker in an emergency. He immediately put his survival suit under his seat. Two weeks later, he was fishing alone and he saw smoke. He lived because he was able to put on his survival suit and was able to evacuate the boat.” Since then Sanfilippo and her husband have been telling his story and helped launch a new voluntary safety program. According to Sanfilippo, while training and implementing safety measures are critical, addressing federal days at sea regulations that penalize fishermen who return to port to avoid bad weather is also essential to saving lives.

In 2007, seven Massachusetts-based fishermen died at sea. Fishing claimed the lives of more workers in Massachusetts during 2000 - 2007 than any other single occupation. During this period, 41 Massachusetts fishers were fatally injured on the job.¹

Commercial fishing has been found to be the most dangerous industry in the country. Nationally, between 2003-2006, an average of 47 fishers were fatally injured on the job each year, and the fatal occupational injury rate in 2006 was close to 142 fatalities per 100,000 fishers, more than 36 times the average rate for all industries.² During the same period, Massachusetts and Florida were second only to Alaska in the number of fishers fatally injured at work.

Recent fatalities

Four fishers were killed at sea on January 26, 2007 when the 75 foot Lady of Grace, a well-maintained ground fishing dragger out of New Bedford, sank in Nantucket Sound. Very high winds, low water temperatures and four to seven foot waves created the perfect condition for ice build-up on all surfaces and rigging. A Coast Guard report indicates that the vessel had complied with Coast Guard safety and integrity regulations and that the captain and crew had maintained their safety training. The USCG report attributes the cause of the sinking as the loss of stability under heavy icing conditions.

Two fishermen, ages 24 and 21, died when Lady Luck out of Newburyport sank off the Isles of Shoals (NH). The USCG determination regarding the cause was inconclusive, but states “the most likely cause was capsized due to water on deck or flooding.” Furthermore, based on pictures taken by an underwater remotely operated vehicle (ROV), the life raft was still connected to the vessel, raising the issue of safety gear failure as a possible cause of this casualty.

Immediate causes of death:

Vessel sinking or capsizing accounted for the majority (22 of 41) of Massachusetts-based fishing fatalities between 2001 and 2007. Three fishers fell overboard and two died as a result of fire. The remaining 14 died from collision hydrogen sulfide exposure, winch entanglement, falls, and other causes.

Most fishing fatalities occurred during fall and winter seasons. During the period 2001-2007, seven in 10 of all fishing fatalities and 55% of the fatalities due to capsized occurred between October and April.

¹ Dying for Work, MassCOSH, Massachusetts AFL-CIO, Western MassCOSH and US Coast Guard reports

² National Census of Fatal Occupational Injuries in 2006, www.bls.gov/news.release/pdf/cfoi.pdf, Bureau of Labor Statistics, U.S. Dept. of Labor, 2007.

Preventing work-related fatalities among commercial fishers

Loss of vessel stability is a major problem and can result from heavy load (fish, ice, bait), flooding below decks, excessive water on deck, and icing. Prevention includes maintaining hull integrity, engaging in safe fishing practices (hauling and loading), returning to port in bad weather, advocating for fishery management regulations that don't penalize fishermen for making the safe choice, and undergoing a stability evaluation if the vessel is 50 feet or more in length.

Training, especially hands-on training for captain and crew, is critical to safe fishing operations. Knowing how to stow and don a survival suit, how to plug a hull hole, dewater a boat, abandon ship, respond to a fire or medical emergency, make a Mayday call and conduct on-board drills are just a few of the risk reduction strategies fishermen need.

Cold water, and rapid weather changes are characteristic of North Atlantic fishing conditions. A survival suit for each crew member *that fits* is essential. Personal flotation devices (PFDs) should be worn during on-deck work. Non-bulky PFDs with a hydrostatic CO₂ cartridge are now available and make working while wearing easy. A study by NIOSH reports that 63% of fishers who fell overboard while wearing PFDs survived while only 12% of those who did not wear a PFD survived.

What should be done?

Fishermen should schedule a voluntary dockside exam with the US Coast Guard to help ensure vessel integrity and compliance with applicable regulations in the Commercial Fishing Industry Vessel Safety Act. Scholarship support should be available for fishermen to attend trainings that cover the use and maintenance of safety gear such as life rafts, immersion suits, EPIRBs, and that cover response to emergencies such as flooding, fire, and capsizing. Safety concerns should be factored into fishing quotas and days at sea set by the National Marine Fisheries Service to avoid requiring fishermen to make a choice between their catch and their safety.

References

- Occupational Health Surveillance Program, Massachusetts Department of Public Health, "Fatal Occupational Injuries in Massachusetts 1991-1999", 2002
- Stevens, Lorelie. "Coast Guard accounts of fishing vessel tragedies: Lady of Grace casualty report blames icing." Commercial Fisheries News, March 2008. pp 1C, 6C.
- Heinz, Hailey. "Search widens for fishing boat, crew: Reports of debris south of Cape Cod." The Boston Globe, January 28 2007.
- Centers for Disease Control and Prevention, NIOSH, Preventing Drowning of Commercial Fishermen, Alert, April 1994
- United States Coast Guard. Report of investigation into the sinking and the loss of four crew members aboard the Commercial Fishing Vessel Lady of Grace in Nantucket Sound on January 26, 2007.

Falls from Heights

In 2007, nearly one-quarter of all Massachusetts workers (nineteen out of 80) died from a fall – with fourteen dying as a result of falling from a higher level to a lower level. Between 2000 and 2007, 89 workers died as a result of falling from a higher level to a lower level. Of these 89 fatalities, 36 involved workers falling from a ladder, scaffold, or girder. Construction workers had the highest number of workers killed, 63 from 2000 – 2007.¹

Workers who lost their lives falling from a height

On 2/1/2007, Charles McCormack, 36, a television cable installer, fell while working by himself from a ladder placed against an utility pole. An OSHA investigation determined that the ladder base was placed on an uneven road surface.

On 3/8/2007, Oscar Pintado, 28, a carpenter on a large Woburn residential building site, fell 48 feet down an elevator shaft after a piece temporary strand board which was covering a hole broke in half. OSHA issued five fines indicating a range of violations including failure to provide adequate fall protection and fall safety training.

On 5/12/2007, Alcides Baptista, 37, a painter, fell to his death at a factory when he tripped on the top of movable stairs and fell 12 feet to a cement floor. Both the painting company that employed the victim and the factory where the fall occurred have been fined for failure to provide adequate fall protection.

Hazards and Prevention

Without the proper selection and worker training in the use of ladders, scaffolding, fall protection and other equipment that involves work at heights, workers are at risk of a fall. In the case of ladders, numerous factors contribute to falls including improper setup, ladder slip (top or bottom), overreaching, user slipping on rungs/steps, defective equipment, and improper selection for a given task. There are appropriate uses for stepladders and for extension ladders, but the choice of the wrong ladder for a particular job can put the user at risk for a fall. Important factors to be considered before using or climbing a ladder are placement, securing or tying down, climbing style, angle of inclination, three-point contact, and tasks to be performed.²

What's Needed

Employers must provide workers with the proper equipment, safety training in recognizing the hazards of dangerous work, designate competent persons with control over safety, and allow sufficient time to test equipment and to practice safety procedures. OSHA must be strengthened to expand its efforts to target these dangerous activities that result in falls, and have the capacity to sufficiently penalize employers who require workers to work at an increased, unsafe pace, and to forgo safety measures in order to complete the jobs on an unsafe timetable.

¹ Dying for Work in Massachusetts - 2001, 2002, 2003, 2004, 2005, 2006, 2007, Mass. AFL-CIO, MassCOSH and Western MassCOSH,

² Falls from Ladders – Safety Alert for Employers and Employees in Massachusetts, Occupational Health Surveillance Program, Massachusetts Department of Public Health

Public Sector Workplace Injuries and Fatalities

They pick up our trash, put out our fires, care for our disabled and provide needed services for the state, in cities and towns or counties. Each year 10 – 15% of workers in Massachusetts killed on the job are public sector workers. Thousands more are injured or become ill - **but only private sector workers are covered under the federal Occupational Safety and Health Act (OSHA).**

An injury that Could Have Been Prevented

In January of 2007, a teacher aide and student sustained burns resulting from the detonation of a highly flammable gas at a vocational high school. An investigation by the MA Division of Occupational Safety (DOS) found that the school had failed to take adequate precautions to prevent ignition by ensuring that flammable gases were stored in safe location; that all personnel were properly trained; and that compressed gas cylinders had devices for immediate closure of valves in case of emergency. Had the employer been a private sector employer, these measures would have been required under federal regulations set forth by OSHA and this incident could have been prevented.

Common Hazards

State Worker Occupation	Hazard	OSHA Standard	Public Sector Regulation
Electrical	Electrical Current	Lock /Tag out 1910.147(c)(1)	None
Water and Sewer MWRA & Massport	Crawl space, Manhole, contaminated air	Confined Space 1910.146 1910.146 (c)	None
Maintenance Workers	Fall from heights	Fall Protection 1910.95	None
Airport Ramp Workers	Noise /Hearing loss	Hearing Conservation 1910.95	None
Construction workers	Construction Hazards	Construction Standard 1926	None
Turnpike toll booth	Diesel Exhaust fumes	1910.1000	None
Longshoring, Massport	Fork Lift Trucks	1910.178, 1915, 1915.1000.	None
Mass Highway/Turnpike	Asphalt fumes	PPE 1910.132	None
Inspectors, engineers	Chemical exposures	Hazwoper Standard 1910.120	None

What's Needed

Workers and unions across the Commonwealth are actively seeking to extend OSHA protections to public employees through legislation (Senate Bill 1088/House Bill 1866) as well as calling upon Governor Patrick to issue an executive order extending OSHA protections to state employees.

Occupational Injuries and Illnesses in Massachusetts

Work-related fatalities are just the most tragic tip of the iceberg. It is hard to document the true extent of work-related injuries and illnesses. In many cases, there are no databases collecting this information; in other cases, the data that is collected is far from complete. What we *do* know, however, is cause for much concern.

Occupational Injuries and Illnesses

The Bureau of Labor Statistics (BLS) collects annual statistics on occupational injuries and illnesses in Massachusetts, based on employer records. Studies have shown that these employer injury and illness logs seriously underestimate the extent of job injury and illness. In addition, the BLS data does not include job injuries and illnesses suffered by public sector workers or the self-employed in Massachusetts – thousands of workers who are at high risk for on-the-job injuries and illnesses. All of this notwithstanding, in 2006, BLS data indicated that close to 88,000 private sector workers in Massachusetts – close to 4 out of every 100 – suffered an on-the-job injury or illness. Over 35,000 of these workers lost time from work; and close to 15,000 lost more than 10 days of work.

Occupational Disease

It is even more difficult to document the true scope of work-related disease. Many occupational diseases are never diagnosed as work-related for a variety of reasons, including the fact that the on-set of the illness may be many years after exposure to the substance/hazard. There are several tracking systems in Massachusetts that collect data on certain occupational diseases:

Mesothelioma is a rare and highly fatal cancer of the lining of the lung and abdomen. The only known cause of mesothelioma is exposure to asbestos; the majority of mesothelioma cancers are due to exposure to asbestos in the workplace. The rate of mesothelioma in Massachusetts is almost twice that for the US as a whole. In 2004 (the latest year for which statistics are available), 92 Massachusetts residents were diagnosed with mesothelioma.

Occupational Cancer: In 2004 (again, the latest year for which Massachusetts statistics are available), there were 34,907 newly-diagnosed cancer cases in Massachusetts. Occupational exposures contribute substantially to the burden of cancer, and thousands of cancer cases could be prevented each year in Massachusetts if workers' exposures to cancer-causing agents such as asbestos, silica, the dry-cleaning solvent "perc" or x-rays, were eliminated or reduced. Recently, the International Agency for Research on Cancer (IARC) recognized the link between overnight shift work and cancer and classified this type of work as a "probable human carcinogen." With a conservative estimate of 4-6% of these cancers caused by work – at least 1,922 were cases of occupational (work-related) cancer.

Lead poisoning: Lead can cause serious health problems in adults as well as in children. Workers in a number of Massachusetts workplaces and industries continue to be exposed to dangerous levels of lead. In 2007, 184 adults with high blood lead levels (greater than or equal to 25 mcg/dl) were reported to the Massachusetts Occupational Lead Poisoning Registry. Many more may be affected, but, particularly those in small businesses such as radiator repair, are never tested for lead. The majority of Massachusetts workers with high lead levels work in construction (primarily housepainters and de-leaders). Hispanic workers are at high risk for occupational lead poisoning, and immigrant and minority workers continue to be at increased risk as well.

Work-related asthma: More than 300 chemicals used in workplaces today can cause asthma, and 15-30% of asthma in adults is believed to be work-related. Based on findings from a statewide survey in Massachusetts, an estimated 27,000 adults in Massachusetts have been told by their doctors that their asthma was related to work. Many doctors never ask their asthma patients about workplace exposures, so the actual number of occupational asthma cases is much higher.

The Massachusetts Department of Public Health (MDPH) tracks cases of work-related asthma. While only a small fraction of all cases are reported to MDPH, the information collected underscores problems that need to be addressed. Between 1993-2006, health care work in Massachusetts was the most frequently reported occupation among people with job-related asthma; those who work in schools had the second highest. Commonly reported exposures linked with asthma included poor indoor air quality, cleaning products, dust, mold, smoke, formaldehyde, latex, and isocyanates.

Massachusetts Workers Suffer Higher Rates of Musculoskeletal Disorders

Musculoskeletal disorders (MSDs), which include back injuries, strain and repetitive strain injuries involving days away from work, are the nation’s biggest job safety problem. Bureau of Labor Statistics (BLS) national data in 2006 documented over 357,000 MSD cases that resulted in workers losing days from work, which is nearly one-third (30%) of all reported injury and illness cases. A recent study published in the April, 2006 *Journal of Occupational and Environmental Medicine (Vol. 48 Issue 4)* concluded that BLS data miss approximately two-thirds of work-related injuries and illnesses. Thus, the true number of serious MSD cases is likely to be closer to 1,071,000. These injuries are painful, disabling, expensive and preventable.

The **incidence rates for serious musculoskeletal disorders are significantly higher in Massachusetts than for the United States as a whole.**

Rate of Musculoskeletal Disorders with Days Away from Work, 2006 By Industry		
<i>Bureau of Labor Statistics, U.S. Department of Labor</i>		
Industry Sector	Massachusetts*	United States*
All Private Industries	57.3	38.6
Transportation & Warehousing	160.6	89.7
Health Care and Social Assistance	116.1	60.5
Agriculture, Forestry, Fishing & Hunting	93.4	28.1
Construction	82.3	49.5
Retail Trade	78.5	47.5
Wholesale Trade	67.2	44.4
Other Services	63.7	26.6
Manufacturing	51.4	45.5
Utilities	44.0	34.3
Real Estate and Rental, Leasing	41.9	27.5
Leisure and Hospitality	32.6	22.5
Education Services	29.8	13.8
Information	23.4	19.2
Professional and Business Services	18.1	16.5
Finance & Insurance	2.9	5.1
Mining	not reported **	30.2
* Rates are expressed per 10,000 full-time workers.		
** Indicates data does not meet BLS publication guidelines.		

Six years ago, on March 20, 2001, President Bush – in his first major legislative action – signed legislation repealing OSHA’s ergonomics standard. This important worker safeguard was ten years in the making and would have prevented hundreds of thousands of workplace injuries each year.

Workers and unions in Massachusetts and across the country are actively seeking the protections we need to halt the epidemic of work-related MSDs. Strategies around the U.S. have included:

- Pursuing state ergonomics regulations to protect workers from these disabling injuries.
- Bargaining strong workplace ergonomics protections in contract language.
- Demanding that OSHA use its “general duty clause” to cite and fine employers who are injuring and crippling workers, until there is a federal OSHA ergonomics standard.
- Educating workers about ergonomic hazards and control measures so that they can act collectively to take action.

Job Deaths Investigated by OSHA (January 1 – December 31, 2007)

(City and town names indicate where fatality took place)

	Proposed	Actual
1/11/2007 Prime Steel Erecting, Inc. , Boston Edward Long, 36, fell 60 feet from a scaffold.	\$5,600	\$5,600
1/23/2007 Hyannis Marina, Inc. , Barnstable David Karpinski, 55, was crushed between a boom lift and a roof while performing electrical work.	\$11,400	Employer contesting fine
1/24/2007 Annapolis Valley Development, Llc , Medfield Raymond Fenoff, 38, fell 19 feet from a scaffold.	\$13,300	\$9,300
2/15/2007 J&L Cable TV Services Inc. , Lowell Charles McCormack, 36, fell from a ladder.	\$2,500	Employer contesting fine
3/8/2007 Caballero Construction Company , Woburn Oscar Pintado, 28, fell 48 feet down an elevator shaft when the manhole cover over the shaft broke.	\$14,000	\$14,000
3/28/2007 Fine Painting Co. , Amherst Rejean Chicoine, 55, was crushed between an aerial lift and the overhead beam that he was painting.	\$8,400	Employer contesting fine
3/30/2007 Curly Customs, Llc , Melrose John Watkins, 50, was struck by rebar.	\$3,000	\$2,100
4/8/2007 K&M Equipment Repair, Inc. , Seekonk David Otterson, 71, fell from a dump truck.	\$1,500	\$1,500
4/9/2007 MJM Masonry , Revere Paulo Costa, 30, was struck and run over by a forklift.	\$4,200	\$2,940

4/23/2007 Lambert Roofing , Andover Baldomero Villareal, 45, died of an infection resulting from trauma suffered after a fall from a height.	\$1,500	\$1,500
5/12/2007 Certarpo Commercial Painting , Middleboro Alcides Baptista, 37, fell from an elevated work platform.	\$13,200	\$10,560
5/17/2007 United Parcel Service, Inc. , Brockton Peter Duhamel, 56, was run over by a truck.	No fine – no OSHA violations identified	
5/24/2007 The Boston Golf Club , Hingham John Mineck, 54, was operating a vibratory compactor which rolled over as it went down an embankment.	No fine – no OSHA violations identified	
6/6/2007 Fisher & George Electrical Company, Inc. , North Attleboro Kenneth Thomas, 58, was electrocuted as he was disconnecting electrical wires.	\$9,800	\$4,000
7/25/2007 Whittemore Construction, Inc. , Marshfield James Whittemore, 17, was electrocuted when an aluminum pole struck and overhead power line.	\$5,100	\$5,100
8/31/2007 BC Construction East Corp. , Salem Bendelson Ovalle Chavez, 17, fell 23 feet from a roof.	\$22,400	Employer Contesting fine
9/11/2007 Atlantic Heating & Air Conditioning Company Inc. , Boston Nesmith Ankeny, 59, tripped over an extension ladder while carrying a condenser coil and hit his head on the floor.	\$3,500	\$3,500 (case not closed)
10/26/2007 Verizon , Plymouth Gary Gibbons, 52, was electrocuted when the elevated bucket truck he was working in came into contact with electrical wires.	OSHA has until 4/08 to determine possible citation and fines	

<p>11/1/2007 Zichelle Steel Erectors, Inc., Gardner Mark Walker, 46, died from long term complications suffered after a fall from a height.</p>	<p>\$3,000</p>	<p>\$3,000</p>
<p>11/6/2007 Dominion Energy New England, Salem Mark Mansfield, 41, Philip Robinson, 56, and Matthew Indeglia, 20, were killed when a boiler exploded.</p>	<p>OSHA has until 5/08 to determine possible citation and fines</p>	
<p>11/21/2007 Markland Welding, Inc., Salisbury Carter Reece, 52, was crushed by a boom truck.</p>	<p>\$7,000</p>	<p>\$5,000</p>
<p>12/2/2007 Lasalle Crane Service, Wakefield Anthony Pingiaro, 45, fell from a suspended piece of equipment.</p>	<p>OSHA has until 6/08 to determine possible citation and fines</p>	
<p>12/7/2007 Mark T. Mahoney, Inc., Bourne Robert Tomkinson, 20, fell from a roof.</p>	<p>OSHA has until 6/08 to determine possible citation and fines</p>	
<p>12/8/2007 Dave's Construction, Lowell Marcos Landaverde, 22, was electrocuted when a pole struck an overhead power line.</p>	<p>OSHA has until 6/08 to determine possible citation and fines</p>	
<p>12/9/2007 Domino's Pizza, Boston Corey Lind, 20, was the victim of a homicide.</p>	<p>OSHA has until 6/08 to determine possible citation and fines</p>	
<p>12/31/2007 Intransit Container, Inc., Worcester Paul Harding, 59, was struck by a tire and rim which exploded off of a vehicle.</p>	<p>OSHA has until 6/08 to determine possible citation and fines</p>	

Why OSHA Must Be Strengthened: Examples of Employers Who Knowingly and/or Repeatedly Risked Workers' Lives in Massachusetts

Note: the following are but a few examples of OSHA enforcement actions in 2007 representing cases of egregious employer misconduct in Massachusetts

Five Massachusetts Employers Hit with OSHA Fines Due to Cave-in Hazards

Trenching and excavation is recognized as one of the most hazardous operations in the construction industry. According to OSHA, the fatality rate for excavation work is 112% higher than the rate for general construction. Cave-ins are perhaps the most feared trenching and excavation hazard, and several employers in Massachusetts were issued citations and proposed fines for failing to protect their employees from this hazard. The proposed fines ranged from \$27,000 to \$57,000, with **Liddell Brothers Inc.**, a contractor from Halifax, MA facing the largest fine.

Liddell Brothers was operating at a jobsite located on Route 3 northbound in Braintree. The inspection of the company began when an OSHA Inspector driving by the jobsite observed an employee working in what looked to be an unprotected excavation. The OSHA inspection found that the eight-foot deep excavation lacked any protective system to prevent a collapse of its sidewalls. OSHA standards require that all excavations five feet or deeper must be protected against cave-ins since their walls can collapse suddenly and with great force, crushing and burying workers beneath soil and debris.

As a result of the inspection, OSHA determined the violation to be willful, meaning that Liddell committed it with "plan indifference to or intentional disregard for employee safety and health." In addition to this willful citation which carries a fine of \$42,000, Liddell was also issued five other serious citations totaling \$15,000. Serious citations are issued when "death or serious physical harm is likely to result from a hazard about which the employer knew or should have known."

Bortolotti Construction Inc., a contractor from Marston Mills, MA, was cited for similar cave-in hazards at two separate jobsites on Cape Cod between March and October of 2007. The first citation came in March when OSHA determined that Bortolotti did not have proper cave-in protection at a jobsite in Mashpee. In October, a separate OSHA inspection at a jobsite on the island of Nantucket found employees installing a water line in a trench that lacked any protective system to prevent a cave-in, and had excavated material piled at the edge of the trench, which increased the danger of a cave-in. The employees also lacked head protection, and a ladder or other safe means to exit the trench. OSHA proposed fines of \$34,200 for the repeat violations.

Willful citations were also issued to **D'Alessandro Corp.** and **Otis Eastern Services**, with proposed fines totaling \$52,000 and \$46,500, respectively. Each contractor had employees working in a six foot deep straight-walled trench with no protection against a cave-in. Another willful citation was issued to **Atlantic Drain Service Co. Inc.** of Walpole, MA, due to an OSHA inspection which found Atlantic employees working in a twelve-foot trench with no cave-in protection, and several other serious citations were found, bringing the proposed fines to a total of \$27,000.

Two Massachusetts Employers Face Penalties for Failure to Provide Fall Protection

During a year in which nineteen workers lost their lives as a result of a fall from a height, two Massachusetts employers were issued citations and proposed fines for failing to provide adequate fall protection to their employees. Fortunately for these workers, OSHA inspections revealed these violations before similar tragedies could take place. According to OSHA, falls are the leading cause of death in construction work. Proposed fines of \$109,000 were issued to **Miranda Construction Co. Inc.**, a contractor with a history of failing to provide fall protection, and \$60,000 to **D&M Concrete Floor Co.** Both contractors are based in Fall River, MA.

Miranda, a contractor with a history of 17 fall and scaffolding violations in Massachusetts and Rhode Island dating back to 1995, was cited in June, 2007 for violations at a Newport, Rhode Island residential construction site. The OSHA inspection revealed seven willful, repeat and serious violations. Employees were exposed to falls of up to 12 feet from an unguarded roof, and up to 27 feet from an unsecured pump jack scaffold and an unsecured ladder. Additionally, employees working underneath the scaffold lacked protective headgear.

D&M Concrete Floor was issued proposed fines of \$60,000 after OSHA issued a willful citation for two employees working without fall protection on an unprotected section of concrete deck located 15 feet, 8 inches above the ground. A serious citation was also issued for failing to train employees to recognize and avoid fall hazards.

Michael Bianco Inc. of New Bedford Faces Fines for 15 Health and Safety Violations

Michael Bianco, Inc., a leather goods manufacturing company located in New Bedford, MA was cited for 15 serious violations of workplace health and safety standards, resulting in \$45,000 in proposed fines after an OSHA inspection that began on March 15, 2007.

The inspection revealed chemical, electrical and mechanical hazards that exposed employees to “lacerations, amputation, burns, electrocution, eye and face injuries, and to being caught in moving machine parts or stuck in machinery,” according to OSHA. The company had not determined what types of personal protective equipment were needed for employees, and had not supplied them with the required eye, hand and face protection to protect them from hazardous chemicals and flying particles from machinery.

The inspection also found that machinery and electrical wiring and equipment was not properly guarded, and that operators of pallet-jack trucks were not properly trained. Employees also lacked proper training on hazardous chemicals and machinery. Many machines also had not received required periodic inspections.

The OSHA inspection occurred less than two weeks after an Immigration and Customs Enforcement (ICE) raid resulted in the detention of over 350 immigrant workers who were accused of being in the country illegally. In the aftermath of the highly publicized raid, the company’s exploitation of the largely immigrant workforce came to light. In addition to the numerous health and safety violations, labor law violations such as substandard wages, non-payment of overtime, and docked pay for bathroom breaks were also uncovered.

The poor working conditions at the New Bedford plant speak to the greater problem of the willful exploitation of a vulnerable immigrant workforce. The enforcement of strong OSHA standards is one necessary step towards eliminating general worker mistreatment for workers in all industries, regardless of immigration status.

Why OSHA is Not Being Strengthened: Budget and Staffing Decreases Put Lives at Risk

At a time when OSHA clearly needs to be strengthened, data from the past several years shows that in terms of budget, staffing and enforcement, the agency has actually been weakened. Budget levels have steadily decreased in real terms since 2001, and staffing has decreased in four out of the past six years.¹ Staffing and overall budget decreases have resulted in a drop in inspection activity and enforcement budget; a fact that is raising cries among worker safety advocates, but not among the agency's leadership.

	FY'2001	FY'2002	FY'2003	FY'2004	FY'2005	FY'2006	FY'2007
OSHA Budget	425,886,000	443,651,000	453,256,000	457,500,000	464,224,000	472,427,000	485,074,000
OSHA staffing	2,370	2,313	2,313	2,236	2,208	2,173	2,173
Inspections	35,941	37,565	39,884	39,246	38,783	38,589	39,379

What's contributing to the problem

The weakening of OSHA over the past seven years has represented an ideological shift, reflected in the views of the current OSHA chief Edwin Foulke, who was appointed as the agency head despite having a long history of opposing OSHA regulations. Before becoming the Assistant Secretary of Labor for OSHA, Edwin Foulke was a partner with the union-busting law firm Jackson Lewis, and was well known for lobbying against the OSHA ergonomics standards established during the 1990's, which President Bush repealed as one of his first acts in office.

Both before his appointment as OSHA chief, and throughout his tenure, Foulke has been a proponent of voluntary OSHA compliance programs: agreements where industry associations and companies commit to policing worker safety themselves. There is relatively little data available on the effectiveness of this small government approach to worker safety, and less than 1 percent of the U.S. workforce covered by OSHA standards currently work for employers who agree to voluntary compliance programs. Under Foulke's leadership though, dedication to this untested ideology has resulted in a weakened capacity to enforce existing OSHA standards in all industries, while the vast majority of U.S. companies have no intention of voluntary compliance.

Early in his tenure at OSHA, Foulke took a surprisingly lighthearted approach to worker safety during a speech titled "Adults Do the Darndest Things," using as visuals posters that show workers' making blatant and dangerous safety errors, which Foulke described as "humorous and horrible."² Aside from the attempt at humor being in questionable taste, it more seriously represents a view that attributes injuries and fatalities to worker carelessness, rather than putting the onus on the employer to properly train employees and follow safety standards.

The weakening of OSHA goes beyond the ideology within the agency itself, and can be traced to the same ideology within the Executive Branch. Many political appointees to industry oversight boards and commissions are former officials of the industry that they now oversee. Since George Bush became President, OSHA has only issued one significant health standard, and the agency has killed many others. OSHA has also delayed adopting standards that address identified health hazards such as silica dust and construction noise, meaning that safeguards are not required despite proven harmful effects, such as lung cancer in the case of silica dust.²

What's needed

The only way for OSHA to be strengthened so as to prevent the type of workplace injuries and fatalities documented in this report is for the President, the Congress, and OSHA's leadership to truly subscribe to the agency's mission: setting and enforcing standards that assure the health and safety of America's workers.

¹ "Workers Threatened by Decline in OSHA Budget, Enforcement Activity," OMB Watch, January 23, 2008. http://www.ombwatch.org/article/articleprint/4143/-1/{category_id}

² "OSHA Leaves Worker Safety in Hands of Industry," The New York Times, April 25, 2007

How Much is a Worker's Life Worth?

OSHA Penalties Issued For Employers of Workers Who Died on the Job in Massachusetts 1/1/2007 – 12/31/2007

Year	Number of Settled Cases	Average Proposed Penalty	Average Final Penalty	Percent Reduction in Penalties
2007	12	\$6,766	\$5,383	20%

Note: The dollar amount in the “average proposed penalty” and the “average final penalty” categories do not include cases that are not yet settled, in which employers are contesting their OSHA citations/fines, or are in the 15 day period during which they must decide whether to pay or contest their OSHA citations/fines.

Source: OSHA data from OSHA Region I

What Your Body Is Worth According To the State Workers Compensation System*

Loss of hearing
In one ear: \$30,262.66
In both ears: \$80,352.58

Loss of major arm: \$44,872.22

Minor arm: \$40,698.06

Loss of both arms: \$100,179.84

Loss of leg: \$40,698.06

Loss of foot: \$30,262.66



Loss of sight
In one eye: \$40,698.06
In both eyes: \$100,179.84

Loss of taste: \$16,696.64

Loss of major hand:
\$35,480.36

Loss of sexual function:
\$10,435.40

10" scar on your leg: \$0

*The rates quoted apply to losses following a work-related
Injury occurring after October 1, 2007
Source: Massachusetts Department of Industrial Accidents (DIA)

Deaths from Workplace Injuries in Massachusetts (1986-2007)

During the 21-year period, 1986-2007, 299 out of the Commonwealth's 351 cities and towns have had a worker killed on the job from acute traumatic injuries. This represents over three-quarters of all communities in our Commonwealth.

Summary List of Cities/Towns and Number of Deaths

Abington:	1	Burlington	4	Great Barrington:	5
Acton:	3	Brookfield:	1	Granville	1
Acushnet:	5	Cambridge:	30	Granby:	3
Adams:	1	Canton:	4	Greenfield:	3
Agawam:	5	Carver:	1	Groton:	2
Amesbury:	1	Centerville:	1	Hadley:	3
Amherst	1	Charlton:	8	Halifax:	1
Andover:	7	Chatham:	10	Hamilton:	1
Arlington:	3	Chelmsford:	6	Hancock:	1
Ashburnham:	3	Chelsea:	13	Hanover:	2
Ashland	1	Cheshire:	1	Hanson:	1
Ashby	1	Chester:	1	Hampden:	1
Assonet	1	Chicopee:	10	Harvard:	1
Athol:	4	Chilmark	1	Harwich:	1
Attleboro:	8	Clarksburg:	2	Hatfield	1
Auburn:	3	Clinton:	3	Haverhill:	8
Avon:	1	Cohasset:	3	Hingham:	4
Barnstable:	8	Colrain:	1	Hinsdale:	3
Barre:	2	Concord:	5	Holbrook:	4
Beckett:	1	Cummington:	1	Holden:	4
Bedford:	8	Dalton:	2	Holland:	1
Belchertown:	3	Danvers:	7	Holliston:	2
Bellingham:	4	Dartmouth:	6	Holyoke:	14
Belmont	1	Dedham:	1	Hopedale:	3
Berkley:	2	Deerfield:	4	Hopkinton:	3
Berlin	1	Dennis:	1	Hudson:	4
Bernardston:	1	Dighton:	5	Hull:	2
Beverly:	7	Dracut:	5	Huntington:	2
Billerica:	5	Dunstable	1	Hyannis:	9
Blackstone	2	Duxbury:	4	Hyde Park	1
Boston *:	206	E. Bridgewater:	1	Ipswich:	4
Allston:	4	E. Longmeadow:	1	Kingston:	3
Charlestown:	4	Easton:	1	Lakeville:	3
Dorchester:	25	Eastham:	1	Lancaster	1
East Boston**:	71	Edgartown:	3	Lawrence:	6
Jamaica Plain:	1	Egremont:	1	Lee:	3
Roslindale:	2	Erving:	2	Leicester:	2
Roxbury:	9	Everett:	10	Leominster:	14
South Boston:	9	Fairhaven:	7	Leyden:	1
W. Roxbury:	1	Fall River:	23	Lexington:	8
Bourne:	7	Falmouth:	9	Lincoln:	5
Boxford:	2	Fitchburg:	9	Littleton:	5
Boxborough:	3	Florida:	1	Longmeadow	2
Braintree:	10	Foxboro:	3	Lowell:	15
Brewster	2	Framingham:	7	Ludlow:	6
Bridgewater:	8	Franklin:	6	Lunenburg:	1
Brighton:	1	Freetown:	3	Lynn:	16
Brimfield:	2	Gardner:	3	Malden:	6
Brockton:	21	Gay Head:	1	Manchester:	2
Brookline:	13	Gloucester:	26	Mansfield:	7
		Grafton:	2		

Marblehead	1	Oxford:	2	Taunton:	9
Marlborough:	12	Palmer:	7	Templeton	1
Marshfield:	3	Paxton:	1	Tewksbury:	6
Martha's Vineyard:	1	Peabody:	4	Tisbury:	1
Mashpee:	1	Pembroke	4	Townsend:	2
Mattapoisett:	2	Pepperell:	1	Tyringham	3
Medford:	7	Petersham:	2	Upton:	1
Medfield	1	Pittsfield:	10	Wakefield:	17
Medway:	2	Plainville:	3	Walpole:	9
Melrose	2	Plymouth:	22	Waltham:	9
Mendon:	2	Princeton:	1	Ware:	2
Methuen:	7	Provincetown:	7	Wareham:	6
Middelboro:	1	Quincy:	12	Warren	1
Middlebury:	1	Randolph:	4	Watertown:	2
Middlesex	1	Raynham:	3	Wayland:	3
Middleton:	1	Reading:	2	Webster:	3
Milford:	4	Rehoboth:	4	Wellesley:	4
Millbury:	4	Revere:	7	Wellfleet:	1
Millis:	2	Rochester:	4	Wenham:	1
Monson:	1	Rockport:	2	West Bridgewater:	4
Monterey:	1	Rowley	1	West Brookfield	1
Nahant *:	1	Rutland	1	West Chatham:	1
Nantucket:	18	Russell:	1	West Falmouth:	2
Natick	2	Salem:	16	West Springfield:	10
Needham:	3	Salisbury:	3	West Stockbridge:	1
New Bedford*	41	Sandwich:	1	West Wareham	1
Newbury:	2	Saugus:	5	Westborough:	4
Newburyport:	6	Saxonville:	1	Westfield:	11
Newton:	22	Scituate:	5	Westford:	5
Norfolk:	1	Seekonk:	4	Westminster:	5
North Adams:	9	Sharon:	3	Westport*:	6
North Attleboro:	6	Shelburne:	1	Weston:	3
North Andover:	5	Shirley:	1	Westwood:	5
North Billerica:	3	Shrewsbury:	10	Weymouth:	3
North Chelmsford:	1	Somerville:	16	Whately:	2
North Dartmouth:	1	South Dartmouth:	1	Whitman:	1
North Dighton:	1	South Hadley:	4	Wilbraham:	3
North Grafton:	1	South Lee:	1	Williamsburg:	2
North Reading	3	Southborough:	2	Williamstown:	7
Northampton:	6	Southbridge:	3	Wilmington:	2
Northboro:	2	Southwick:	1	Winchester:	3
Northbridge:	1	Spencer:	5	Windsor:	3
Northfield:	1	Springfield:	23	Winthrop:	2
Northington:	2	Sterling:	1	Woburn:	16
Norton:	4	Stockbridge:	2	Worcester:	48
Norwell:	1	Stoneham:	2	Woods Hole:	3
Norwood:	2	Stoughton:	4	Wrentham:	5
Oak Bluff:	1	Sturbridge:	2	Yarmouth:	7
Orange:	2	Sudbury:	2	Unknown Homeport	8
Orleans:	1	Sutton:	2	Blank Death Cert.	3
Otis:	1	Swampscott:	1		
Oxbridge:	2	Swansea:	5		

*Some of the fisherman deaths had these cities as home ports. **65 of the 71 deaths from East Boston are attributed to workers who died as part of the 9/11/01 terrorist attacks. Sources: Mass Department of Public Health, OSHA, and newspaper articles.

Summary OF OSHA 11(c) Complaints (Anti-discrimination/retaliation Complaints) Filed in Massachusetts for Calendar Years 1998-2006

[Note: Workers file OSHA 11(c) complaints when they have been discriminated against, disciplined or fired for raising health and safety concerns, calling OSHA and/or for exercising other legal rights covered by the Occupational Safety and Health Act. Section 11(c) of the Occupational Safety and Health Act is supposed to protect workers who have suffered such illegal discrimination.]

	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>
Total number of OSHA 11(c) complaints filed in Massachusetts:	58	51	56	66	38	47	43	32	24	25
Number of these complaints that involved job loss:	46	36	34	48	37	44	42	28	23	21
Number of these complaints dismissed by OSHA as not having merit:	31	35	23	35	30	36	30	22	13	12
Number of these complaints withdrawn by complainant:	4	5	7	5	4	4	4	0	1	2
Number of these complaints determined by OSHA to have merit:	3	10	9	14	3	10	4	3	4	0
Number of these complaints involving job loss which were settled by OSHA:	2	2	8	10	4	9	9	6	7	12
Number of these complaints where complainant sought job reinstatement:	na	na	2	12	24	22	28	13	12	9
Number of settlements involving job reinstatement and back pay:	0	1	0	0	1	2	2	2	0	3
Number of settlements involving back pay but no reinstatement:	2	3	7	9	3	6	3	3	8	6
Number of 11(c) complaints in which the Solicitor of Labor sought punitive damages:	na	na	2	0	0	0	1	0	0	0
Number of OSHA staff in Massachusetts in devoted to investigating 11(c) complaints:	2	2	3	3.25	3	3	3	3	4	2.5

Source: OSHA Region I Office



Massachusetts AFL-CIO

The Massachusetts AFL-CIO empowers and supports workers in their effort to promote justice, educate the public about the value of unions, and improve the economic stability and security of working families and communities throughout the Commonwealth.



MassCOSH and Western MassCOSH

MassCOSH and Western MassCOSH (Coalitions for Occupational Safety and Health) bring together workers, unions, community groups, and health, safety and environmental activists to organize and advocate for safe, healthful jobs.