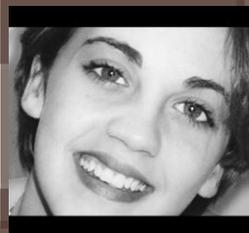
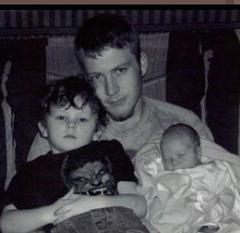




USMWF

The Family Bill of Rights, Volume 2



Raising Voices ~ Raising Awareness ~ Raising Standards

Because going to work shouldn't be a grave mistake!

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Teresa lost her daughter Raven Bianca Rose Marie Cole in October 2009. Raven was killed when she was pulled into an auger while working for Werner Construction in Neligh, Nebraska. She was 19 years old.

"You have no idea how it feels to know I could not give my little girl her last gift. I still can't afford a head stone for my baby. I can't go out and visit the grave because nothing is there."

Teresa

Adriana lost her husband Orestes Martinez in April 2009. Orestes was crushed to death installing a two-ton door at the M.D. Anderson Cancer Center, while working for J.T. Vaughn Enterprises in Houston, Texas. He was 26 years old.

"My husband died because Vaughn did not want to wait two days for a machine to move the door. He died to save the company a few dollars in wages." Adriana



USMWF

United Support & Memorial for Workplace Fatalities

OSHA LISTENS OSHA LISTENS OSHA LISTENS



**No one should have to be injured
or killed for a paycheck**

Because going

to work shouldn't be a grave mistake!

Workplace Injury, Illness and Death: The Facts

Each day millions of fathers, mothers, husbands, wives, sons, and daughters leave their homes for another day of work. They work in retail stores, restaurants, mines, hospitals, and countless other industries. They work to provide for their families, to save for the future, and to better society. Many of these workers and their loved ones have no idea that simply by going to work they may be jeopardizing life and limb.

In 2012 according to the US Department of Labor there were approximately 2,967,400 non-fatal injuries and illnesses reported in private industry. 4,383 US workers were fatally injured on the job.¹

Behind each one of these injured or killed workers is a family in mourning. These devastated families need answers, resources, and support.

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U.S. Bureau of Labor Statistics¹

FATAL INJURIES IN 2012*

Total fatal injuries: **4,383**

Roadway incidents: **1,044**

Falls, slips, and trips: **668**

Homicides: **463**

*Preliminary data, all sectors, as of
April 15, 2014

NON FATAL INJURIES and ILL- NESSES (private industry)

Total recorded cases: **2,967,400**

Cases requiring days away from
work:

905,700

Median days away from work: **8**

Sprains, strains, tears: **340,900**

Back injuries: **177,580**

Falls, slips, and trips: **219, 630**

The Impact of Occupational Tragedies on Victims' Families

Workplace fatalities and serious injuries have a tremendous impact on the communities of the affected workers. The families of the victims are devastated, and struggle to understand the unexpected death of their spouse, parent, or child. Coworkers and friends must also cope with the tragedy.

For many family members, it becomes imperative to understand the circumstances of the work-related fatality in a timely manner. They struggle with the loss of their loved one for their entire lives, but without answers, family members are unable to even begin to resolve their grief.

Unfortunately, when loved ones are injured or die on the job, families do not know where to turn for information. Occupational Health and Safety Administration (OSHA) and Mine Safety and Health Administration (MSHA) are complex and highly bureaucratic organizations. Workers' compensation systems are likewise extremely difficult to navigate.

In spite of their tremendous loss and overwhelming frustration with the workplace regulatory systems currently in place, family members of workers killed on the job are working together to advocate for safer work environments. These family members are committed to raising awareness not only to honor their deceased loved ones, but also to prevent other families from experiencing the pain and confusion associated with the aftermath of workplace injuries, illnesses, and deaths.

United Support & Memorial for Workplace Fatalities (USMWF)



When a workplace tragedy occurs there is a terrible sense of injustice, bewilderment, disbelief, and anger, combined with feelings of horror, loss and pain. It is extremely difficult to understand all these emotions, while trying to come to terms with the loss of a loved one. Often, the surviving family members feel that no one else can relate to the tragedy of a workplace death. The grief and loneliness can be overwhelming.

USMWF is a support group comprising of families who have lost a loved one in a workplace incident. We have suffered the devastation of mind, body, and soul, that follows the death of a loved one. We have experienced the emotions that accompany the loss of a family member due to a workplace incident. We understand the difficulty and confusion of navigating the investigations and bureaucracy that follow these extremely personal losses.

It is important to families to know their loved one is not forgotten, but are in the hearts and minds of many.

USMWF offers support, guidance and resources to those affected by preventable work-related deaths or serious injuries.

USMWF is largely a volunteer organization comprised of individuals who have lost loved ones from workplace hazards.

Family Bill of Rights, Volume 1

There is no 'acceptable risk'

No family should have to experience the loss of a loved one due to an unsafe workplace.

When did we start putting a value on someone's life? It is unacceptable for that to be a tolerated risk. We cannot eliminate all risk, but we can put controls in place to make the risk as low as possible. We owe that to our workforce. When we don't, moms, dads, sisters, brothers, and husbands don't come home at the end of the day. That is not acceptable!

~Katherine Rodriguez

In 2007 family members of workplace victims put together the first **Family Bill of Rights** and later the **Golden Rules** detailing the egregious way they were treated during the OSHA investigation process.^{2,3} Family members of workplace fatalities from across the United States felt they should be provided several fundamental privileges during the OSHA investigation process.

These family members tried to gain these basic rights with the Protecting American Workers Act (PAWA) during two congressional sessions and were unsuccessful. They turned to OSHA to advocate for some of those rights to be included within the agency's operating policy. After two years of efforts, OSHA released a new directive, *Communicating OSHA Fatality Inspection Procedures to a Victim's Family*, which provides instructions to OSHA officials for keeping family members of workplace victims informed during incident investigations.⁴ The guide directs OSHA representatives to speak to the victim's family early in the inspection process, establish a point of contact and maintain an ongoing relationship.

Family Bill of Rights, Volume 2

The second formulation of the "Bill of Rights" as presented in this document proposes regulations and policies that should be the fundamental rights of workplace victims and their families. We share true stories of victims and their families to illustrate the importance of each of the proposed changes.

We hope that by giving the lost workers a face, and their families a voice, we can raise awareness and educate workers, employers, and our government about the unseen tragedies endured by the families of the victims after a workplace death.

The proposed changes address regulations and policies within the following organizations and programs:

- U.S. Department of Labor (DOL) Office of the Solicitor (SOL);
- OSHA and MSHA;
- Federal legislation; and
- Workers Compensation



1. SOL staff should communicate with the victim's family

The SOL should develop and implement a national policy for staff on communicating with family members of workplace fatalities. The policy should mirror existing federal OSHA policy. DOL SOL should acknowledge that since in contested cases SOL staff have first-hand knowledge about the status of a case, they should be responsible for keeping families informed.

Steven Michael Lillicrap, age 21

Diane Lillicrap lost her son, Steven, to an injury on the job while working for Ben Hur Construction in St. Louis, Missouri, in February 2009. Steven was a crane operator apprentice disassembling a 100 ton crane when his harness got caught up in a cable.



Photo Source - Diane Lillicrap

OSHA investigated the incident and imposed an \$84,000 penalty for two 'serious' violations and one 'willful' violation. The employer contested the OSHA findings and the case was therefore assigned to an administrative law judge to be handled by the Regional SOL office.

When Diane was informed about the hearing, she was eager to attend it as she felt it would give her an opportunity to learn about the circumstances leading to her son's death. While at the hearing she was shocked to learn about the existence of a video of her son's last moments, which was entered into evidence at that time. The employer brought forward witnesses to defend their claims. However, the SOL did not present a single witness to support their case. At the time of Steven's death, there were several employees working at that location who had witnessed the events firsthand, and yet none of those employees were called forward to testify. The Lillicraps have several family members who are crane operators, including Steven's father. These family members not only have a wealth of technical information about crane operations but also could have directed the SOL to other experts. None of them were interviewed or called to testify.

Eventually, Diane heard from local OSHA staff that the case against Ben Hur Construction had been dismissed by the administrative judge. The judge dropped all citations and penalties. The SOL staff never contacted the Lillicrap family with this information. They provided no explanation for the ruling, even though it directly contradicted the OSHA investigation findings.

The Lillicrap family was aghast. Diane, when she recalls the hearing, is still in disbelief that the SOL never informed her of the existence of the video.

"When I attended the hearing I couldn't believe there was a video of my son. No one ever told me there was a tape of my son's last moments." Diane Lillicrap

2. Families should be able to provide impact statements to the SOL

Family members of victims should be able to provide an impact statement during the informal conferences conducted by the SOL during appeals proceedings.

Vicente Enrique Rodriguez, age 20



Photo Source - Marychris Rodriguez

Marychris Rodriguez lost her son, Vicente, on the job while working for Hollywood Theatre MGM in Las Vegas, Nevada, in May 2009. Vicente, who was an apprentice rigger, was called in on his day off and instructed to work on a make-shift scaffolding, using abandoned 9 inch wide planks as a walkway above a false ceiling.

Nevada-OSHA investigated the incident and proposed a \$38,700 penalty for six 'serious' violations and one 'other-than-serious' violation. The company contested the fines. The review board dropped three of the serious violations, and reduced the penalty to \$19,800.

For Vicente, rigging was a job that could put him through college. However, he had four relatives in the same town who were high riggers. Vicente's mother toured with the family's aerial act most of her young adult life and comes from a long line of high riggers and performers. His father is a very experienced rigger himself. Often, the family members of victims have pertinent knowledge of the case at hand simply because they themselves have been working in the same place of employment or similar field for a long time. In small communities where specialized work is hard to come by, certain vocations provide employment to many in the community. These communities assume that their loved ones will be cared for and will come home after a hard days work because of the rules that protect them.

When that is not the case, and tragedy occurs, these family and community members should be allowed to testify and provide their input during informal conferences in which the employer is allowed to fully participate.

“ I didn't send him to war. He wasn't a bull fighter. He wasn't a policeman, with a gun, chasing the bad guys. The worst thing that can possibly happen to me... already has...”
Marychris Rodriguez

Linda Clanton McCardle ~

“For the safety and lives it affects. If these workers are willing to work then the companies should do everything possible to protect them and held accountable if they do not.”

3. OSHA should not reduce penalties for cases with fatalities

OSHA should revise its policies related to proposed penalty amounts for fatality cases. The maximum possible penalty should be applied for any violation that directly contributed to a fatality. This is currently \$7,000 for a 'serious' violation and \$70,000 for a 'willful and repeat' violation.⁵ These penalties should not be reduced on appeal.

Sherman Holmes, age 55

Sisters Danielle Dole and Nicole Boone lost their father, Sherman, while on the job working for K&K Forest Products in Evart, Michigan, in February 2011. He was trimming a felled tree while his co-worker was felling the larger tree that fatally stuck him.



Photo Source - The Holmes Family

Michigan OSHA levied a penalty of \$1,525 for three 'serious' violations which directly contributed to his death., less than 10% of the maximum possible penalty of \$21,000 that could have been imposed for the three 'serious' violations.

A penalty of \$1,525 for safety violations leading to a worker's death are hardly adequate punishment for anyone. These paltry fines, rather than serving as deterrents for unsafe working conditions become mere "business expenses". The grief experienced by the family of the deceased worker is compounded by this injustice.

Danielle sobs as she relates the OSHA penalties imposed on her father's employer.

“ My fathers life was worth more than this. I miss him . I should have done things with him because I took time with him for granted. They should not be able to negotiate penalties or citations when someone has been killed. [A worker's death] is the worst thing that could happen.” Danielle Dole

Wendy Shurelds ~

“Why should workplace hazards be eliminated or at least effectively controlled? In my opinion in life we are all held accountable for whatever we do! As parents if we are not doing our jobs properly by placing our children in harms way/endangering our children. The state will come in to remove the children out of the home to ensure their safety! Working on jobs aren't any different! Employers need to make sure they are creating a work safe environment, as well as ensure their workers are safe at all times no matter what! If not just like the state remove the children from the home, the state need to shut the employer down/ or enforce the safety laws until the work place is safe in order for the employees to be able to return to work! You can't expect to have a place of business and not be held accountable for the safety of your workers bottom-line!”

4. Employers should not be allowed to delay emergency responders

Employers should not be allowed to delay emergency dispatch such as EMT (Emergency Medical Technician), Fire Departments, Police Departments, or (HAZMAT) (Hazardous Materials and items Technicians.) Employers should face harsh penalties for any delays in notifying emergency responders.



Photo Source - Center for Public Integrity

Carlos Centeno Sr., age 50

Carlos Centeno Jr. lost his father, Carlos Sr., to a workplace injury at Raani Corporation in Bedford Park, Illinois, in December 2011. Carlos Sr. died three weeks after he was scalded by a 185 degree solution of water and citric acid, while cleaning a 500 gallon chemical tank.

Federal OSHA investigated the incident and levied a \$473,000 penalty for seven ‘serious’ violations, six ‘willful’ violations and one ‘other-than-serious’ violation. Raani Corporation is contesting the penalties and citations. *When a company contests OSHA’s citations, it is no longer obligated to correct any deficiencies that contributed to a death, until the appeal is resolved.*

Carlos Sr. was in excruciating agony after he was rained upon by 185 degree solution of water and citric acid. His skin began to peel, and he had uncontrollable shakes. Not only did Ranni management fail to put Carlos Sr. under the standard safety shower to wash the chemicals off, they chose not to call 9-1-1. Instead, they instructed an employee to transport Carlos Sr. to a clinic. Though Carlos Sr. screamed “hurry” in agony, over and over, at least 38 minutes went by before they reached the closest medical facility, an ill-equipped clinic where the staff, unable to provide any treatment, called 9-1-1. Carlos Sr. waited over an hour-and-a-half before he finally arrived at a facility where he could receive morphine to ease his pain.

“It’s just wrong, what happened,” “They were not thinking of him as a human being. He was in pain and nobody did nothing to help him.” Carlos Jr.

Congressional report: Bayer blast “could have eclipsed” Bhopal

In 2008 an explosion at the Bayer CropScience Institute killed two workers and injured eight. Six of those workers were critically injured. Bayer refused to share the location of the blast site with emergency responders. Bayer destroyed the protective woven metal tank blanket before investigators could assess it. Later it was learnt that devices meant to detect releases of the chemical, methyl isocyanate (MIC) had been disabled, and video cameras had been disconnected.⁶

5. Employers must notify OSHA of deaths in a timely manner

OSHA should revise its reporting policy so that it mirrors that of MSHA. MSHA requires employers to report deaths no later than 15 minutes.⁷ OSHA allows employers up to 8 hours before they are required to report an incident involving a death.⁸



Photo Source - Kari Smith

Billy Smith, age 34

Kari Smith lost her husband, Billy, on the job while working for Wynnewood Refining Company (CVR Energy Inc.-owned plant) in Wynnewood, Oklahoma, in September 2012. Bill was killed performing maintenance on a boiler when it exploded. Russell Mann, age 45, was killed in the same incident.

Kari was scrolling through Facebook when she noticed that there had been an explosion at the CVR refinery at 6:17pm. The explosion occurred as operators were restarting a boiler that had been temporarily shut down as part of the refinery's turnaround process.⁹

The mayor on Wynnewood called CVR and ordered them to shut the plant down. CVR management heard that the county sheriff was on his way to Kari's home, and called the sheriff to request that he refrain from informing Kari and they wanted to inform her themselves. CVR managers finally went to Billy's mother's home and informed her of her son's death after 10 om that night. Kari never heard from anyone at CVR or any of the authorities that she had lost her husband.

Kari, most unfortunately, is not alone in this horrendous experience. Many families suffer delays in being informed of the injuries and deaths of loved ones.

“I would have settled for ‘we don’t know his status but he is in the hospital’ or some type of alert letting the families know there was an incident. Instead I waited, wandered and hoped it was not Billy” Kari Smith

Genevia Mann-Haley ~

*"I lost my brother simply because fixing a dangerous boiler was in cvr's 5 year plan. Yet that boiler had been in operation since 1959. We lost a great man because they didnt want to spend the money to fix it. There should be no acceptable risk in the workplace.
Russell Mann 1967-2012."*

6. OSHA regulations should apply to all workers, nationwide

OSHA regulations should apply to all workers. Currently, approximately half of public sector workers in the United States do not have protections under OSHA or a similar plan. Many of those workplace deaths in never investigated. The twenty-three states in need of OSHA protections include Texas, Alabama, and Missouri.¹⁰

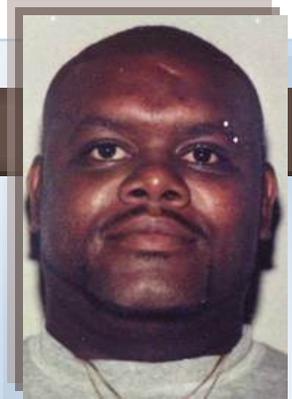


Photo Source - Eileen Zaffiro-Kean

Clyde Jones, age 40

Casey Jones lost her husband, Clyde, to injuries he sustained on the job while working for Bethune Point Wastewater Treatment Plant, Daytona Beach, Florida, in January 2006. Clyde was operating a crane while two workers in a cherry picker used cutting torches to remove a metal canopy over a methanol tank. The sparks ignited methanol vapors and Clyde was caught in the fireball. He was rushed to the hospital with third degree burns to over 90% of his body, and died the next day. Eric Johnson, age 59, also died from injuries sustained in that same incident. Michael Martin, age 43, survived with extensive burns.

This incident was not even investigated. As a public program, it was not within OSHA's jurisdiction. There were no citations or penalties for the lack of training of the employees, who were working in hazardous surroundings. There had never been any safety training at this plant. There was not even a safety officer at the facility.

In 1999, lawmakers overhauled state labor programs and eliminated the requirement for state and local government agencies to meet OSHA standards. Public sector workers have no protections under OSHA regulations. These workers include government employees such as Department of Transportation (DOT) workers, sanitation workers, and park and recreation workers, amongst many others. They have no protections.

"I just don't know what to do with myself some days. I don't really have anything good to say about the city. They killed two gentlemen, and they get away with it because of sovereign immunity." Casey Jones

Jennifer Prokopis ~

"Dallas was moving traffic barrels and due to miscommunication between workers the road closer was opened for traffic. A dump truck came through and hit my husband. He was taken to the hospital and after five days we had to take him off life support, he sustained severe head trauma and a lot of broken bones. I was 8 months pregnant with our third son when he died. Every day is a struggle for me I miss him so much! I love you Dallas Always and Forever. "

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7. OSHA should ensure that evidence is preserved

OSHA regulations should require that all evidence related to an incident causing injury or death is secured in a tamper-resistant environment. Family members should have the right to view all physical evidence. Destruction of evidence should be severely punished.

Shawn Boone, age 33

Hope Mock lost her son, Shawn, to injuries he sustained on the job while working for Hayes Lemmerz Int. in Huntington, Indiana, in October 2003. He was in an aluminum dust explosion that injured him critically, and he was taken off of life support the next day.



Photo Source - Hope Mock

Indiana OSHA investigated the incident and levied a \$42,000 penalty for six 'serious' violations.

Shawn was being transported to the hospital when his family received a call from a friend. All the friend knew was that there had been an explosion and that Shawn was being transported to a Fort Wayne hospital about 45 minutes away. Shawn's family members scrambled to find out where Shawn had been taken. No one from Shawn's family received a call with information about the incident or which hospital Shawn had been taken to. They began calling the regional hospitals to try to locate him. They finally got hold of the facility where critically injured men had been brought in, St Joseph Hospital. One man's family was on their way. The other, Shawn, had not been identified.

During this time when Shawn's family was suffering unimaginable panic and chaos, Hayes Lemmerz was scrambling to get their facility cleaned and running again. They issued a mandatory call to all available employees to clean up the scene and the facility. They disposed off all physical evidence with impunity, knowing they would go unpunished.

"We drove five hours hoping the man lying in the bed was not my brother, not that we would wish it on anyone. Shawn was left alone and untreated while the company was allowed to clean up the evidence." Tammy Miser

Holly Snyder Shaw-Hollis ~

"Workplace hazards are just that—a danger to workers. As someone who has lost a loved one because of a lack of oversight of the dangers at a job, I don't want any other family to have to go through the hurt, the grief, and the frustration that I have experienced, and still do feel, every day.

Companies should be held accountable when they deny the right of their workers to be safe. Every worker should be able to go to work, and go home that day to their loved ones. If companies don't comply with safety rules, they should be fined harshly enough that they understand the severity of their ignorance."

8. Grandfather clauses should be repealed

All grandfather clauses should be lifted. Some of those clauses are 70 years old. Currently there is a 20 year limit on ...¹¹ 20 years is a sufficient period of time for a company or employer to adopt to a new regulation.

Robert Fitch (uncle Bobby), age 51

Tonya Ford lost her uncle Robert Fitch (uncle Bobby) on the job while working for Archer Daniels Midland (ADM) Company in Lincoln, Nebraska, in January 2009. He died when he fell 80ft to his death from a belt-operated man-lift.



Photo Source - Tonya Ford

Federal OSHA investigated the incident and levied a \$12,500 penalty for three 'serious' violations. In an informal settlement the citations were reduced to one 'other-than-serious' violation and the penalty was reduced to \$2,500.

Although there was a small fine, a whole slew of potential citations and penalties for violations that had contributed to uncle Bobby's death were not even reported in the OSHA findings. This was because of a grandfather clause. Although there are regulations banning many types of man-lifts, previous regulations included grandfather clauses excluding certain older structures from the newer regulations. These loopholes allow companies to purchase structures with unsafe equipment and machinery and be exempt from regulations.

Under OSHA's agreement ADM could no longer to use this specific lift. While ADM replaced the lift uncle Bobby had died from, there still remained approximately 5 other similar man-lifts in use in this same facility. ADM will face no consequences for continuing to utilize those.

"Recently ADM's representative stated that they became a multi-billion dollar company because they pinched their penny's and dimes together.....but I ask why on the expense of my Uncle's life and the safety of their employees. Why should they save money by not creating a safe workplace. By purchasing a facility that was built prior to the OSHA Act they are protected by grandfather clause. They save a dime but take a life.....not right.." Tonya Ford

Cordonna Jones ~

"We all miss him more and more each day, wishing and imagining his presence. Throughout the healing process I've learned to "Live One Day At A Time". No one will ever replace our loving father, husband and friend."

9. Safety officers should have appropriate training and credentials

Safety professionals should be required to be certified in occupational health and safety. They should be required to have health and safety education and site specific training at regular intervals.



The Real Cost of Workplace Incidents

OSHA provides information on worker rights, regulations, enforcement and training, but has missed a very important aspect of safety. There are *no requirements* for safety professionals. An employer can hire a person with no credentials at all in occupational safety to run a safety program. During investigations of serious injuries and deaths, it is repeatedly discovered that the company being investigated did not have appropriate safety protocols in place. Safety should be a concern of every single person employed by a company, but it is difficult to imagine how safe working conditions could be established if the person in charge of safety has little or no training in that field.

Each company has a legal and moral obligation to protect its employees. Even if ethical reasons were put aside (though they should not be), the overall costs of an injury or death far out weigh the costs associated with training a manager in occupational safety.

Costs Of Accidents

Work injury costs:

Total cost in 2011.....	\$188.9 billion
Cost per worker.....	\$1,340
Cost per death.....	\$1,390,000
Cost per medically consulted injury.....	\$37,000

Time Lost Due to Work-Related Injuries:

Total time lost in 2011.....	95,000,000 days
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Source: National Safety Counsel (NSC) Injury Facts 2013 Edition.¹²

“Losing a loved one in a preventable workplace accident is devastating and changes your life forever. Even though I have made it through the early stages of grief, the numb feeling is always there.” Carolyn Conway Snider

10. Families should be compensated for expenses incurred (1)

Family members should be compensated for the time and expenses incurred because of a work--related fatality or serious injury. In cases where the deceased or seriously injured worker has no spouse or dependent children, a parent of the worker should be compensated for funeral costs, travel, and lost wages.

Christopher Andrew Doughty, age 18

Kenneth Doughty and Loraine Gonzalez lost their son, Christopher on the job while working for Intech in Antonio, Texas, in February 2007. He was killed when caught in auger.



Photo Source - Loraine Gonzalez

Federal OSHA investigated the incident and levied a penalty of \$7,250. In an informal settlement the penalty was reduced to \$3,500.

Christopher was pulled into an auger when his jacket got caught in the machinery. The auger did not have an automatic emergency shutoff. Christopher lost his life to a senseless, completely preventable incident.

While Christopher's parents were facing the unimaginable trauma of losing a child, they had to worry about funeral costs. Current workers' compensation laws deny parents any financial assistance after the loss of a child, except for a pre-determined amount for burial expenses. Kenneth received \$6,000 from workers' compensation for burial expenses. He was forced to pay the remainder of the \$20,000 from his savings.

Lorraine, too, has suffered not only emotionally and physically since Christopher's death, but also financially. The cost of hospitalizations and medications needed for her to cope with the loss of her son have left Lorraine with thousands in medical bills.

Family members of workplace victims should be compensated for the various expenses incurred after a death or serious injury. Financial assistance cannot lessen their loss, however, if an appropriate amount is provided to defray funeral costs it will at least allay the worries associated with immediate financial need. The average cost of a funeral and burial in 2012 ranged from \$13,296 to \$30,428.¹³ Workers' compensation typically offers between \$5,000– \$10,000.

Kristy Bragg ~

"Work should be a safe environment and no one should have to experience what we all have had to."

10. Families should be compensated for expenses incurred (2)

Family members should be compensated for lost wages due to bereavement and for mental health services. Any individual who experiences a tragic, unexpected and sudden death of a loved one can develop depression, anxiety, and post traumatic stress disorder (PTSD). There should be provisions to compensate victims' families for costs of counseling, medications, and lost wages.

Walter J. Lubanty, age 43

Karen Lubanty lost her husband, Walter, while on the job while working for Tilcon, Inc. in Wharton, New Jersey, in October 2006. He was crushed to death by 75 tons of steel.

Public Employees Occupational Safety and Health (PEOSH) investigated the incident and levied a \$12,500 penalty for two 'serious' violations and one 'willful' violation. In an informal settlement the penalty was reduced to \$7,500.

Eight years later, Karen still finds it difficult to deal with the circumstances of Walter's death. Karen struggled in raising her daughter Elizabeth without a father. She was unable to work for most of those years and is still struggling to become wholly functional and to work. She sobs uncontrollably as she recounts her struggles.

Karen has been diagnosed with Post Traumatic Stress Disorder (PTSD), severe depression and severe anxiety. She sees a psychiatrist, psychologist and takes three separate medications costing her \$300.00 a month. The odds are she will have to for the rest of her life.

Workers' compensation should include provisions to pay for the costs of mental health services and counseling for immediate family members after a loved one's death.

***"They think a pill can fix a broken heart."* Karen Lubanty**

Tabetha Dailey DuPriest ~

"All companies should be responsible and held accountable at all levels. Why should some be exempt from liability through layers of contractors? ...They can push rigorous deadlines but not rigorous training. They expect the bottom lower lying companies to foot the bill when tragedy occurs. Sad thing is most of those companies end up going out of business, all while the corporate entity continues business as usual. There needs to be better stricter laws that go all the way up the ladder in some of these cases. I think harsher punishments as well. In most cases companies simply get a slap on the wrist and a promise to fix the problem. That is until the next death..."



Photo Source - Karen Lubanty

Common Misconceptions

Workplace deaths rarely happen.

4,609 workers lost their lives on the job in 2011. An average of 88.6 worker deaths occurred each week.

The estimate for the number of people who die from occupational injuries or illnesses in the United States ranges from 20,000 to 65,000 people annually.¹⁴ A widely accepted figure for the number of workers who die each year as a direct result of work-related diseases or illnesses is 50,000.

What else can you expect? It is a dangerous job.

Simple measures can prevent all workplace incidents.¹⁵ Proper training can prevent most workplace deaths. Often, the safety lapse or deficiency that kills a worker is one that the workplace has already been cited for previously.

OSHA conducts a thorough investigation and levies harsh penalties when a worker dies on the job.

OSHA investigators only inspect the site of the incident, rather than the entire workplace where the incident occurred, and therefore many violations are missed. Sometimes the violations caught were based on regulations that were grandfathered in and therefore those violations are not cited. Often the citations are much less severe than they can be, and are reduced further or completely dropped based on the employer's appeal.

Families are always taken care of. Families can sue the employer for financial recompense.

While struggling with the loss of a loved one, families can find themselves also struggling with great financial difficulty. A workplace incident resulting in injury or death is compensated for under workers compensation which covers loss of wages depending on the level of disability or death. However, that compensation has not kept up with the cost of living. In cases of death, the funeral expenses paid under workers compensation are often insufficient to cover the actual costs of a funeral. A family cannot sue their deceased loved one's employer for pain, suffering, or loss. It is extremely rare that a family can sue a third party for product liability in cases involving workplace incidents. Even when a lawsuit is possible, those typically take years to resolve and in the meantime the family of the deceased worker lacks adequate financial support.

“Those who want to reap the benefits of this great nation must bear the fatigue of supporting it.” Thomas Paine

Wanda Morillo ~

“Grief freezes you in place; it freezes your emotions, and it can become so bad that you are trapped in a prison of your own making.”

References

1. U.S. Bureau of Labor Statistics. Injuries, illnesses, and fatalities latest numbers. Available at: http://www.bls.gov/feed/iif_latest.rss Accessed: April 17, 2014.
2. USMWF, Workplace Tragedy - Family Bill of Rights, 2007. Available at: <http://www.usmwf.org/family/Family%20Bill%20of%20Rights%20-%2010%2011%2007.pdf>. Accessed: April 17, 2014
3. USMWF, Golden Rules Available at: http://www.usmwf.org/pdf/New_Folder/Golden%20Rules.pdf. Accessed: April 17, 2014
4. U.S. Department of Labor Occupational Safety and health, Directive Number: CPL 02-00-153 Effective Date: April 17, 2012 Subject: Communicating OSHA Fatality Inspection Procedures to a Victim's Family. Available at: http://www.osha.gov/OshDoc/Directive_pdf/CPL_02-00-153.pdf. Accessed: April 17, 2014
5. Virginia OSHA Field Operations Manual, Chapter 11, page 16, section I.B.10.e. Available at: http://townhall.virginia.gov/L/GetFile.cfm?File=C:\TownHall\docroot\GuidanceDocs\181\GDoc_DOLI_5354_v1.pdf. Accessed: April 17, 2014
6. House Committee. Bayer blast "could have eclipsed Bhopal". The Charleston Gazette, March 2009. Available at: <http://www.cbgnetwork.org/2877.html>. Accessed: April 17, 2014
7. U.S. Department of Labor | Mine Safety and Health Administration (MSHA), Immediately Reportable Accidents and Injuries. Available at: <http://www.msha.gov/codeaphone/ReportableInjury.asp>. Accessed: April 17, 2014
8. U.S. Department of Labor Occupational Safety and Health, Regulations: Section: 1904.39(a): Reporting fatalities and multiple hospitalization incidents to OSHA. Available at: http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=STANDARDS&p_id=12783. Accessed: April 17, 2014
9. CVR Energy Provides Update on Wynnewood Refinery Boiler Explosion by Charles Gross September 30, 2012. Available at: <http://www.benzinga.com/news/12/09/2952970/cvr-energy-provides-update-on-wynnewood-refinery-boiler-explosion#ixzz2pCQ38wKN>. Accessed: April 17, 2014
10. United State Department of Labor, OSHA State Plans. Available at: <http://www.osha.gov/dcsp/osp/index.html>. Accessed April 16, 2014.
11. U.S. Department of Labor Occupational Safety and Health, Regulations: Section: 1910.147(c)(2)(iii): The control of hazardous energy (lockout/tagout). Available at: https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_id=9804&p_table=STANDARDS. Accessed: April 17, 2014
12. National Safety Counsel (NSC) Injury Facts 2013 Edition. Available at: <http://www.mhi.org/downloads/industrygroups/ease/technicalpapers/2013-National-Safety-Council-Injury-Facts.pdf>. Accessed: April 17, 2014
13. Funeral planning information and tools. Available at: http://www.thefuneralsite.com/ResourceCenters/Costs/How_much.html Accessed: April 17, 2014
14. Statement of Senator Murray; April 28, 2009. Committee on Health, Education, Labor, and Pensions - United States Senate- 111th Congress- First Session on Examining Introducing Meaningful Incentives for Safe Workplaces and Meaningful roles for victims and their families. Available at: <http://www.gpo.gov/fdsys/pkg/CHRG-111shrg49461/html/CHRG-111shrg49461.htm>. Accessed: April 17, 2014
15. Wyoming official: some workers killed in 2012 due to lax, ignored training. Available at: http://trib.com/business/energy/wyoming-official-some-workers-killed-in-due-to-lax-ignored/article_3d26cdba-0fe9-5fe4-9478-ec64f61c81e1.html. Accessed: April 17, 2014