



INDUSTRY NEWS:

## **Open season on OSHA: *New York Times* series sparks outrage**

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OSHA is feeling the heat after a series of articles in the *New York Times* in late December documented the agency's meager efforts to prosecute willful violators of safety and health standards whose attitudes and actions resulted in deaths on the job.

In its report, the *Times* looked at 2,192 cases of willful violations of workplace safety laws that resulted in death. Two-thirds of these violations were investigated by OSHA, but the agency only referred 3.9 percent of the 1,242 cases it investigated to the Justice Department for criminal prosecution.

"This is an astounding record of failure," Sen. Frank Lautenberg (D-NJ) wrote in a letter to OSHA chief John Henshaw. "OSHA's gross negligence," said Lautenberg, warrants a "top-down review of agency policies."

Lautenberg promises to introduce a bill this month that will force OSHA to provide, within 60 days of the end of each month, a review of the number of deaths and injuries reported and all actions taken by OSHA to "punish" employers.

Henshaw defended his agency's record in a letter to the *Times*, writing that "many cases do not reach the high burden of evidence for successful criminal prosecution... the department does not refer cases that do not meet the higher burden of proof required for criminal prosecution by the Justice Department."

OSHA's critics are not appeased. "It is clear that federal OSHA has become a captive of the industries whose safety

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practices it is supposed to regulate," editorialized the *Modesto, (Calif.) Bee*. Cal-OSHA prosecutes 31 percent of willful violation cases resulting in fatalities. "The state's aggressive prosecution explains in part why California's workplace death rate is substantially lower than any other state's rate," said the newspaper.

Meanwhile, two worker-safety groups are pressing OSHA to file charges relating to the collapse of the Tropicana Casino and Resort garage in October that killed four workers and injured 20, according to the *Atlantic City Press*.

"OSHA has ignored these requests and not moved forward to make this a priority," said Joel Shufro, executive director of the New York Committee for Occupational Safety and Health, or NYCOSH. "OSHA is supposed to be an enforcement agency, a watchdog group — not a lap dog. It isn't an agency employers can fear. Unfortunately they get away with murder."

Shufro said the group has been calling for the criminal prosecution of egregious violators of OSHA law for more than ten years. NYCOSH is working with PhilaPosh, another group working for safety in the workplace, on the garage collapse investigation.

Shufro said OSHA has very minimal penalties for cases involving work-related deaths. "It is treated as a misdemeanor. It is less of a penalty than shooting a moose out of season," Shufro said, adding that an employer can face fines and as many as six months in jail.