Stop the BS!
Confronting Behavior-Based Safety/Blame-the-Worker Safety Programs

United Steelworkers’ Health, Safety and Environment Department

safety@usw.org
412-562-2581
Behavior-Based Safety/Blame-the-Worker Programs, Policies and Practices

- Safety Incentive Programs
- Injury Discipline Policies
  - (e.g. Accident Repeater Programs)
- Post-injury Drug Testing
- Signs tracking lost-time or recordable injuries
- Behavioral Observation Programs
“The fact is, it is not easy for an individual to have a serious injury in today’s workplace.”

David Bradford,
American Society of Safety Engineers,
Behavioral Safety Symposium 2001
88% of all injuries on the job are caused by workers’ unsafe acts

- Originated from H.W. Heinrich
- Insurance investigator (Travelers Insurance Company)
- Studied supervisor accident reports (1931)
- Drew conclusions from supervisor-recommended corrective actions

1930’s Safety Theory – now called “leading edge”

It’s a trap!
1930’s Safety Theory -- BST & DuPont call this “Cutting-Edge Technology” - we call it folk lore or BS!
BBS is Based on Two Flawed and Discredited Theories

• **H.W. Heinrich** - 88% of job injuries caused by unsafe acts
  (See “Reviewing Heinrich: Dislodging Two Myths from the Practice of Safety” by Fred Manuele, P.E., C.S.P., Professional Safety, Oct. 2011)

• **B.F. Skinner** - Reinforcement Theory derived from experiments with rats, pigeons and other vermin and then applied to human beings)
  (see Alfie Kohn’s book “Punished by Rewards”)
(Dis)incentives to Reporting Injuries and Illnesses

• Awards (prizes and money) for not having a recordable or lost time case (or having a low rate)
• Discipline and/or counseling when workers are injured
• Drug testing after every injury
• Peer pressure
INJURY DISCIPLINE
(“Situational Awareness”)

“Our manager likes to give out written warnings for employees who get hurt. The usual reason is ‘not aware of your surroundings.’

The latest one came for an employee who received a laceration on the finger while moving a piece of equipment. He had all of the required PPE.

Even after a management investigation revealed that they did not have the proper device to make this equipment move -

He received a written warning for ‘not properly evaluating the situation.’ ”
Common Behavioral Observation Program Elements

- Critical behavior lists
- Workers observe workers
- Frequent observations of workers to identify at unsafe behaviors
- Heavy emphasis on PPE, “body position” and “line of fire”
- Commitment of resources
• The implication is that it is not hazards on the job that cause injuries and illnesses - it is the behavior of those exposed to the hazards (victims) that cause injuries and illnesses.

• BS Theory:
  – Workers are the problem, not the solution.
  – Change the worker, not the hazard.
ACCIDENT REPORT from a USW-represented Workplace

The Accident: Worker was stung by a bee

Question #22 on Employer’s Accident Report Form:

“What did the affected employee do or not do that contributed to the accident? Why do you feel their actions contributed to the accident?”

The Answer:

“The employee should have been aware that a bee had landed on his shirt and taken the appropriate steps to remove the bee without being stung.”

Behavioral Safety Blames the Worker
In order to have an “at-risk” or “unsafe” behavior, what must be present?

A HAZARD
All work-related injuries and illnesses are the result of exposure to hazards.

There are no exceptions!
Union View

- A hazard is a condition or set of circumstances that can cause harm

Identify Hazards
What are your hazards?

- Crushing
- Shearing
- Noise, vibration
- Chemical, gases, fumes, mists, dusts
- Entanglement
- Pinch point
- High pressure
- Electrical
- Ergonomics-posture, force, repetition
- Lifting
- Slips, Trips, Fall
- Fire
- Radiation
- Excessive hours of work
- Inadequate staffing
- Production pressures
Health and Safety Process Model

Identification → Evaluation → Control

Data Analysis
- Injury/Illness Logs
- Medical Visits

Surveys and Questionnaires
Interviews
Worker Complaints
Government Regulations
Inspections/Audits

Prioritize Hazards
Risk Analysis

Select Controls Based Upon Hierarchy
Hierarchy of Controls

Most Effective

1) Elimination or Substitution

2) Engineering Controls
   (Safeguarding Technology)

3) Warnings

4) Training and Procedures
   (Administrative Controls)

5) Personal Protective Equipment

Least Effective
Behavior Based Process Model

Identification → Evaluation → Duck!

Data Analysis
Worker Observations
Interviews
Inspections/Audits

Risk Analysis

Duck
Dodge
Jump Out of the Way
Lift Safely
Wear PPE
Avoid “Line of Fire”
Eyes on task
Hierarchy of Health and Safety Controls

Most Effective

Elimination/Substitution

Engineering Controls

Warnings

Training and Procedures

Personal Protective Equipment

Least Effective
Consequences Of A Behavior Based Program Is To Turn The Hierarchy Upside Down

They Say, “Most Effective”

Not even up for discussion…

Personal Protective Equipment

Training and Procedures

Warnings

Engineering Controls

Elimination &/or Substitution
“Staying out of the line of fire” replaces effective safeguarding and design.

“Proper body position” has become a replacement for a good ergonomics program and well designed work stations.

And “Personal Protective Equipment” becomes a substitute for noise control, chemical enclosures, ventilation, and toxic use reduction.
WORK RULE #24

“You must work carefully.”
Safety Pay$??????

Excerpt from a movie produced by a company called “Safety Pays”. They are selling a bingo game to employers as a way to reduce workers comp costs. (Time: 3 min 7 sec)
Ending/Preventing Behavior-Based Safety/“Blame the Worker” Safety Programs, Policies and Practices
Hazardous situations that we know about can be difficult to correct.

Hazardous situations that we don’t know about are impossible to correct.
Government Accountability Office Report, 2009:

- More than 2/3’s of occupational health practitioners (many of them company doctors and nurses) observed workers fearing disciplinary action or job loss for reporting their job injuries.

- Over ½ of occupational health practitioners said they were pressured by employers to downplay an injury to avoid it being an OSHA recordable.

- 1/3 of occupational health practitioners said they were pressured by employers to provide insufficient treatment to injured workers.

Educate Union Leaders and Members:

Behavior-Based Safety is a Hazard – it must be Eliminated!
Resources to fight B.S. programs

- Mid-Term Bargaining Rights
  - Labor Law
  - Contract Language
- OSHA Recordkeeping Rule
- OSHA Memorandum on Disincentive Programs
- Worker Solidarity Actions
Labor Law and Bargaining

– The employer may not refuse to bargain over certain subjects with the employees' representative.

– Those are called mandatory subjects of bargaining, include wages, hours, and other terms and conditions of employment, including safety and health and BS programs.
Laws for Mandatory Subjects

– NYS Civil Service Law:
  • Taylor Law
  • Public Sector Employees

– The National Labor Relations Act:
  • NLRA
  • Private Sector Employees
S&H as a Mandatory Subject

– Employers cannot make unilateral changes that are “substantial” or “significant” in health and safety:
  • (e.g. start a prize program related to injury reporting,
  • start post-injury drug testing or implement an “accident repeaters program”)

– Without doing two things:
  ✓ Notify the Union (usually in writing) about the new or changed policy, program, practice, etc.
  ✓ Provide a MEANINGFUL opportunity for the Union to bargain
H&S as a Mandatory Subject

• It’s on the union to PROMPTLY request bargaining!
  – Immediately upon hearing from management that it wants to implement or change a health and safety policy, program or practice,
  – In writing is best
  – Also submit information requests about the proposed new or changed policy, practice or program.
Contract Language that Waived Bargaining Rights
(these two sections taken together)

16.01 The Employer and the Union will cooperate in the continuing objective to eliminate accidents and health hazards. The Employer shall continue to make reasonable provisions for the safety and health of its employees at the Plant during the hours of their employment.

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16.05 The Employer and the Union agree to cooperate in the maintenance of the Employer’s safety program and in the enforcement of such reasonable safety and health rules as may from time to time be established by the Employer.
Negotiate Provisions in Collective Bargaining Agreements

“The employer shall not discriminate or retaliate in any way against an employee who reports a work-related injury or illness; reports a safety or health problem; files a health or safety complaint; requests access to health or safety records; violates a safety rule, absent malice or reckless intent; and/or otherwise exercises any other health or safety right afforded by local, state or federal law and/or by this collective bargaining agreement.”
New OSHA Recordkeeping Rule:

• § 1904.36 Prohibition against discrimination:
  - Section 11(c) of the Act prohibits you from discriminating against an employee for reporting a work-related fatality, injury or illness.
  - 11(c) also protects the employee who files a safety and health complaint, asks for access to the Part 1904 records, or otherwise exercises any rights afforded by the OSH Act.
“Reporting a work-related injury or illness is a core employee right, and retaliating against a worker for reporting an injury or illness is illegal discrimination.”

Which Employer Policies/Practices Could be Illegal?

- Injury Discipline
- Discipline for “Untimely” Reporting of Injuries
- Discipline for “Violating a Safety Rule”
- Safety Incentive Programs

Violations can be of OSHA 11(c) or other whistleblower programs (e.g. FRSA); or OSHA’s Recordkeeping Rule [29 CFR 1904.35(b)]
The “Right to Bargain” isn’t the same as “The Right to Win” –

To build power, consider implementing a member-involving, “continuous bargaining” campaign.
Use a “Continuous Bargaining” Approach & Campaign and Worker Solidarity Actions
Exercising Leverage/Involving Members

• Distribute Stickers/Buttons/T-shirts

• Observe **HAZARDS** – Make and use your own checklist

• Use Safety & Health Complaint form booklets

• Use “Specifically Observe Bosses” Form
Real Measures of Success

• How many hazards/hazardous conditions have been identified?
• How many hazards/hazardous conditions have been eliminated?
• How many hazards/hazardous conditions have been reduced (using the Hierarchy of Controls)
• How long did it take from when the hazard was identified and when it got addressed?
The ORANGE VEST Strategy
• Had just completed (and posted a sign) 5,000,000 hours without a lost time injury

• Explosion and fire

• 23 dead

• 232 injured
Unions Must Post Their Own Signs

It has been 14 days since Local xxx told management to fix [insert name/description of hazard] and they still have not addressed this problem...
Why Not Accept Systems with Behavior-Based Safety (BBS)?

1. BBS is not about safety

2. BBS is about shifting blame and focus -- from employers (& hazardous conditions) to workers (& unsafe acts)

3. BBS is about power and control (management will allow “freedom within fences”)

4. There is no room for unions’ collective thinking & approach in BBS

5. BBS is a long-term union-busting strategy
Caution – Behavioral Safety/“Blame the Worker” Programs Are Hazardous to Health & Safety and to Solidarity!
Union Resources

- **CSEA, Inc. Occupational Safety & Health**
  - https://cseany.org/osh

- **AFSCME Health & Safety Issues**
  - http://www.afscme.org/issues/health-safety

- **NYS Public Employees Federation (PEF)**
  - www.pef.org

- **USW – Health, Safety & Environment**

- **AFL-CIO**
  - http://www.aflcio.org/
Additional Resources:

www.usw.org
(under “Resources” find Health, Safety and Environment)

www.uswtmc.org
(USW Tony Mazzocchi Center)

www.hazards.org/bs
(a trade union health and safety publication in the UK called “Hazards Magazine”)
THANK YOU