Confronting Blame-the-Worker Safety Programs

In a Missouri food warehouse, 150 workers load and unload trucks, lift boxes, drive fork trucks, and move endless pallets. Each month that no one reports an injury, all workers receive prizes, such as $50 gift certificates. If someone reports an injury, no prizes are given that month.

In 2009, management added a new element to this “safety incentive” program: if a worker reported an injury, not only would co-workers forgo monthly prizes but the injured worker had to wear a fluorescent orange vest for a week. The vest identified the worker as a safety problem, and alerted co-workers: he/she lost you your prizes.

Blame-the-worker programs like this are flourishing, and they are harmful for workplace health and safety. Why are employers implementing them?

For decades, employers have brought in work-restructuring programs – some with names such as Lean, Six Sigma, and kaizen/continuous improvement. The result has been too few people doing too much work: understaffing, work overload, long hours, job combinations, and therefore increased stress, repetitive strain, and other job injuries and illnesses.

Increased injury rates brought higher legal and/or compensation costs, and could mean closer government scrutiny of an employer’s health and safety conditions. Supervisors lost bonuses, and facilities faced the loss of prestigious safety awards that sometimes helped them win investments and contracts.

But instead of rethinking work restructuring that brought worker injury and illness, and sometimes catastrophes, employers came up with a different plan: hide the injuries. Enter “behavior-based safety.”

KNOW THE ENEMY: PROGRAMS THAT BLAME WORKERS

Behavior-based safety programs and practices focus on worker behavior rather than on workplace hazards as the cause of injuries and illnesses:

• Safety incentive programs, where workers receive prizes or rewards when they don’t report work-related injuries

• Injury discipline policies, where workers are threatened with or receive discipline (including termination) when they do report injuries

• Post-injury drug testing, where workers are automatically drug-tested when they report an injury
• Workplace signs that track the number of hours or days without a lost-time or recordable injury, which encourages numbers games

• Other posters or signs, such as those stuck to washroom mirrors stating, “You are looking at the person most responsible for your safety.”

• Programs where workers observe co-workers and record their “safe behaviors” or “unsafe acts.” This focuses attention away from hazards and reinforces the myth that injuries result from workers’ bad behavior rather than hazardous conditions.

HIDING HAZARDS

In order for there to be a workplace injury or illness, there must be a hazard. All injuries and illnesses on the job are caused by workers’ exposure to hazards. There are no exceptions. A union approach to reducing injuries and illnesses is to identify, eliminate, reduce, and prevent hazards. Hazards can include toxic chemicals, unsafe machinery, poor ergonomic job design, understaffing, production pressures, extended hours/days of work, inattention to process safety management and much more.

A behavior-based approach, on the other hand, blames workers themselves for job injuries and illnesses, and drives both injury reporting and hazard reporting underground. If injuries aren’t reported, the hazards contributing to those injuries go unidentified and unaddressed. It’s hard enough to get hazards fixed that we know about; it’s impossible to fix hazards we don’t know about.

Injured workers may not get the care they need, and medical costs get shifted from employer costs to workers’ health insurance (where workers can get saddled with increased costs).

In addition, if a worker is trained to observe and identify fellow workers’ “unsafe acts,” he or she will report “you’re not lifting properly” rather than “the job needs to be redesigned to eliminate lifting.”

Many behavioral safety programs also harm solidarity. When workers lose prizes if a co-worker reports an injury, peer pressure comes into play. Observing and recording co-workers’ behaviors can also pit worker against worker. Even if no discipline is attached to recorded “unsafe acts,” solidarity can be harmed.

Employers tout low injury rates as an indicator of safety, when the reality can be disastrously different. One employer with a safety incentive program and an injury discipline policy won an award from the Massachusetts Safety Council for having zero recordable injuries; the next year a worker was crushed to death in a machine. Minor injuries had occurred on this machine but were never reported, and the hazard was never corrected.

Behavioral safety programs hide injuries, but they can’t cover up fatalities. In 2005 BP was touting an OSHA injury rate many times below the national average at its Texas City facility, when an explosion there took the lives of 15 workers and injured 180. More recently, BP (whose
oil rig Deepwater Horizon exploded in the Gulf of Mexico on April 20, 2010 killing 11 and causing untold damage in the Gulf; Massey Energy (whose Upper Big Branch Mine exploded on April 5, 2010, taking the lives of 29 miners); and Tesoro (whose refinery in Anacortes, Washington exploded on April 2, 2010, killing seven refinery workers), have all been recipients of safety awards for having low recorded injury rates in their facilities.

**TAKING THEM ON**

The first step is educating members about these programs and building solidarity around the need to end or prevent them.

Unions whose employers are covered by the NLRA or similar labor law can use their bargaining rights to block employers’ unilateral implementation of these programs, as health and safety is a mandatory subject of bargaining.

Incentive programs that promise prizes for not reporting injuries are hazards in disguise. If an employer proposes such a program, counter with a proposal for rewards to be provided when workers identify and report safety or health hazards, and/or recommend ways to eliminate or reduce hazards.

Unions whose employers are covered by OSHA can use a provision in OSHA’s Recordkeeping Rule: it is an OSHA violation to discriminate against workers for exercising their right to report injuries. When workers lose prizes or receive automatic discipline for reporting injuries, this can be illegal discrimination under 29 CFR 1904.36 and Section 11(c) of the OSH Act.

One example of using this approach was at Alcoa in Iowa: the names of everyone who didn’t report an injury went into a hat, and periodically there was a drawing for a big screen TV. Those who suffered a recordable injury were not eligible to enter the drawing. USW Local 105 filed an OSHA complaint, and OSHA made Alcoa cease and desist.

In another case, an employer called in 17 members of USW Local 880 in Massachusetts and told them they had too many injuries—one more and they could face termination. Several workers filed 11(c) discrimination complaints with OSHA, which resulted in a call to the employer from OSHA informing management that this was illegal discrimination.

In March, 2012 OSHA issued a new policy memorandum titled “Employer Safety Incentive and Disincentive Policies and Practices” that states, “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.” The memorandum identifies four types of employer practices that could be illegal, depending on the specifics of the program/practice: injury discipline, discipline for ‘untimely’ reporting of injuries, discipline for ‘violating a safety rule’, and certain types of safety incentive programs. Violations could be of OSHA 11(c), FRSA or other whistleblower program; or OSHA’s Recordkeeping Rule.
GETTING CREATIVE, BUILDING SOLIDARITY

Unions can respond to the employer’s signs announcing how long the workplace has gone without an injury with our own signs or leaflets that track how long it takes for the employer to address a particular hazard: “It’s been 14 days since the union asked management to fix [a problem], and they still haven’t corrected it!”

Pictures of the CEO can be slipped under the mirror magnets that say, “You are looking at the person most responsible for your safety.”

Any checklist used in a behavioral observation program can be turned into its opposite: instead of recording co-workers’ “unsafe acts,” observers record only hazards: “guard missing on Machine #3,” “understaffing in the Emergency Department,” “implement positive train control,” “increase crew size” in a particular area or on a particular job, etc.

At the food warehouse in Missouri written about in the beginning of this article, the members of Steelworkers Local 11-500 approved the purchase of fluorescent orange vests for every member. These vests would each bear the USW’s sticker “Fix the Hazards—Don’t Blame the Victims.” Before this solidarity action was implemented, the employer “voluntarily” discontinued its orange-vest policy.

For more information on confronting behavior-based safety programs, see http://www.hazards.org/bs/

Different versions of this article by Nancy Lessin, USW/Tony Mazzocchi Center for Health, Safety and Environmental Education have been published in various print and on-line media since 2010.