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Labor Commissioner discusses Targeted Industries Partnership Program's first year

The Targeted Industries Partnership Program (TIPP) is a joint enforcement and education program conceived by the federal Department of Labor and the state Departments of Industrial Relations and Employment Development to raise the level of voluntary compliance in selected industries.

Its objective, according to program documents, is "to maximize multi-agency enforcement efforts in California in those industries that have been identified as having a history of labor law violations and which regularly employ significant numbers of lower paid employees." Agriculture and the garment industry are the sectors that TIPP has chosen for its initial focus.

State Labor Commissioner Victoria L. Bradshaw has been a key player in TIPP since its inception in the fall of 1992. In November, she sat down with CIRS Executive Director Don Villarejo and Luis Magaña, head of Organización de Trabajadores Agrícolas de California (OTAC), to discuss the first year of this innovative program: its successes, obstacles and plans for the future.

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DV — I wonder if you'd describe, in your own words, the TIPP program — its first year of activities, how you see it, how many agencies are involved, to what degree people are really carrying forward in the vision you had, and what you've learned.

VB — The TIPP enforcement effort really started out as a result of the realization that there were going to be continuing budget cuts . . . So we came up with the idea that we could, in fact, increase or maintain our enforcement in light of continuing reductions in resources. We really were at the point that any further reductions would have a geometric impact on enforcement as opposed to just a proportional one . . . We began looking at who else was in enforcement in the workplace who could share information and resources and that's how it initially began . . . The first (agency) we talked to, of course, was the United States Department of Labor (DoL), Wage and Hour Division, and I would say initially they were kind of intrigued, but as you have probably realized, and as I found out with governmental



State Labor Commissioner,
Victoria L. Bradshaw

PHOTO/DON VILLAREJO

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agencies, everyone is really territorial... There has always been suspicion between the state Department of Labor and the federal Department of Labor... It wasn't just difficult to discuss with their policy people, but when you get down another level where (the employees) are actually (thinking), "I know

crews were moving and radioing us, and then we would move people to the locations. The first day when we had our pre-meeting, we were still kind of, "Uh, nobody's real sure this is going to work," but we got everybody teamed up, we had cellular phones, and we were out in the field — we were out at the border — at two-thirty in the morn-

— I mean, there's no use in having them stringing out for months on end wondering what's happening... When we were out in the field, the field investigator would arrange for the next day, or that afternoon, for (the employers) to bring their records into a central location — usually a hotel room — and then we would have people there ready to audit. And then we could show them what they were doing wrong, and that worked pretty well.

The thing I'm most happy about is the fact that people really are interested in sharing resources... So that has worked out fairly nicely, and people put aside a lot of their "I'm sorry I don't do windows" kind of mentality... It's really an overall, systemic issue that we need to deal with as opposed to just individual parts.

DV — It's a very valuable contribution to overcome the institutional inertia that comes from that division (of jurisdiction among agencies), which from the point of view of the worker is very discouraging. The average worker has no concept of which agency is responsible for each activity.

VB — I think it's important that we have a comprehensive effort so that a, we're consistent, and b, that we don't miss anything. For example... let's say we have a fairly significant minimum wage, overtime or cash pay problem with a farm labor contractor or whoever, and for whatever reason, we're not able to prosecute it — eyewitnesses have disappeared, they're scared, whatever it is — so we may not have a sufficient case when we know there is a problem. We will work with (EDD), and they'll go in and — because we find a very high correlation where if they don't

" It's really an overall, systemic issue that we need to deal with as opposed to just individual parts. "

you really want to take over my job, and I'm going to be sent to Montana or something." And we had the same problem with our people — you know, "If we get the DoL in here, in a year they're going to take over our jobs, and I'm going to be in EDD doing job referrals or something." We had to get beyond the fact that, no, we didn't want to replace anybody — what we wanted to do is make sure that we weren't duplicating our efforts, so each of us could then maximize what resources we had. For example, it probably does not make sense if both of us are doing payroll audits. Why doesn't just one of us do it, and then both of us share the information?...

We did our first inspections in (Imperial County)... We brought almost 30 people into El Centro in November (1992) — ... there were eight different jurisdictions that participated in the sweep. (Joining the four primary agencies were) the California Highway Patrol, the City Attorney, and the Border Patrol — the INS was not part of the program. The Border Patrol was very helpful, because they were flying reconnaissance, (spotting) where the

ing, doing interviews and inspections with day haulers. We had our first wrap-up meeting that afternoon. Everybody knew (TIPP) was going to work, because the people actually liked working with each other. And in fact you could make things happen, when you couldn't make them happen before. For example, if you find somebody who is paying in cash, you just get on the phone and call EDD and arrange a tax audit. If you have a child labor situation that DoL found but couldn't (write up a citation) because they didn't have jurisdiction — we were there. If we found some really incredible health and safety problems, but we didn't have a Cal-OSHA inspector on our team, they were (available) and we simply directed them to where we were so it was like, one-stop shopping. (TIPP) refined itself as we went along. We had up to twelve different agencies at any given point in time.

We meet regularly every six weeks or so — based on what we've learned the previous six weeks, how do we want to change the program? ... We want to bring resolution not only for the employees, (especially) if there are back wages owed, but also for the employers

pay their employees, they don't pay their taxes — look at it from a tax perspective, and prosecute it as a tax action.

DV — Do you have any summary statistics on how many actions your effort has brought so far?

VB — Well, here we are compared to the last two years. One of the things we are trying to do is we're trying to focus our enforcement on the employer who we anticipate is a problem. We do random inspections also, because you have to have Plan B... But we're really going after the people who, either because of their past history or because of whatever information we have from all different kinds of agencies, (signify to) us there's a problem... As you can see, the results are somewhat interesting... We've issued 279 citations. And look at the criminal (citations). You can see what we issued the years before (see chart below).

DV — That's very impressive.

VB — So what we're trying to do is get quality inspections that are focused on the people that we anticipate are the problems.

DV — What has surprised you the most during your field visits? And we commend you for being out there in the field. It makes an important difference, I think, to your staff to know that you're out there on the ground with them.

VB — I actually love doing inspections... I particularly like agriculture. We've tried to combine enforcement with education... Some of the laws we're enforcing are sixty years old — it's not as if all of a sudden there's all these new laws out there. But we, this year — in agriculture alone — we've done over sixty educational seminars. What we're trying to do is to get people to understand it's not unbusinesslike, it's not a threat to business to be in compliance

with the law. The employer who doesn't pay taxes, doesn't pay employees and doesn't pay workers comp is not a friend of the rest of the employers because it's very easy to undercut the competition.

What I think has been most rewarding is, a year and a half ago we had meetings with perhaps two or three growers and three farm labor contractors coming in; now we get hundreds, hundreds. I think obviously we've gotten their attention, and now we need to convert it to voluntary compliance...

I think a lot of child labor stems from a child care problem. We need to find something that is unique as the answer to that problem. I mean, we've got children out there who's entire futures are at stake, and to say "I don't have an answer" is not an acceptable answer.

DV — It's interesting that you should raise that because Baldemar Velasquez who is the president of the Farm Labor

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ENFORCEMENT ACTIVITY IN AGRICULTURE (DIVISION OF LABOR STANDARDS ENFORCEMENT)

YEAR	Inspections Conducted	Citations Child Labor	Citations Workers Comp	Citations Cash Pay	Citations Minimum Wage	Total Civil Citations	Total Criminal Citations	Total Penalties Assessed ¹	Total Penalties Collected
1984	440	19	11	4	2	36	24	\$18,300	\$1,800
1985	220	25	12	11	6	54	40	\$35,050	\$17,700
1986	199	23	10	12	1	46	16	\$38,700	\$18,700
1987	262	32	7	9	1	49	41	\$17,410	\$45,300
1988	400	51	22	10	2	85	13	\$74,900	\$32,100
1989	790	44	40	6	4	94	97	\$60,800	\$31,500
1990	434	41	39	10	4	94	43	\$262,400	\$45,200
1991	178	7	10	6	3	26	13	\$159,425	\$34,825
1992	668	11	24	0	2	37	13	\$415,450	\$68,350
1993 ²	635	152	98	19	10	279	144	\$1,593,550	N/A

¹ Assessed at time of inspection

² TIPP information, January through October, 1993; includes citations issued

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Organizing Committee in Ohio, and one of the more prominent national figures in Washington D.C. on farm labor issues, has been arguing that for years — that the only real solution is child care. Do you have any thoughts on how to move forward on the child care issue?

VB — There has to be not only a partnership between the enforcement agencies, there has to be a partnership with the industry because if the industry goes kicking and screaming it makes the process much more difficult. So I think the thing that has been the most disappointing to me is the lack of cooperation and support we've gotten from the (farm worker) advocates. And I find that really frustrating. I find it frustrating to be painted as anti-enforcement when in fact I don't see good employer relations and good business as mutually exclusive . . .

(On the child care issue) I have to show you my pictures first . . . This is Maria. Maria is nine. It was 105 that day. She has a grape knife in her hand. There were no field toilets so she wet her pants. The water that she was drinking was from an anti-freeze container . . .

(You could require that your high school) juniors and seniors do maybe 20 hours of volunteer work in order to graduate, make that part of the curriculum, and make the schools available . . . You get the kids out of the fields into the environment where you want them to be, but even as importantly, you get the children who are not in the fields to understand that these are just little kids that have all the same kind of hopes, desires and dreams as all the other little kids . . . But I think we're going to have to start doing much more of a partnering between schools and communities, in order to (solve) the child care problem.

LM — How will TIPP implement the linkage, the relationship with the workers or secure the cooperation of groups of farm workers? How will you do that with the TIPP program?

VB — Well, we tried working through some of the advocate groups, and there was some success. Jenny Rodriguez was instrumental in helping us come up with Mixteco translators so each of our teams (in Fresno County) traveled with Mixtec translators. We try ahead of time to meet with certain groups to find out where the problems are. In some cases we even went out the week before and went with some of the workers so we could identify where the land was, who was responsible for the land, and who was the farm labor contractor, so we could do some research ahead of time. Part of the emphasis this upcoming year is to strengthen those ties . . . So any suggestions you have in terms of increasing the participation (of farm workers), we would greatly, greatly appreciate.

LM — Do the workers know that this is an effort, and they have to respond, to cooperate with TIPP? Are you seeking that kind of cooperation?

VB — I think some are very suspicious at first. Lots of times in enforcement, they think we're the INS . . . In fact, we used to have green cars, and we got rid of the green cars because the INS has green cars . . .

LM — You work with the new migrants and others who do not speak Spanish. That means that this is a good effort, a serious effort, to work directly with the new migrants, such as Mixtecos.

VB — We are finding as we go along that

there's a whole series of Hmong employees and employers in the Fresno Valley that obviously need some attention also, so we've been working with them and they're very skeptical of what we're doing. We've got some cultural issues we have to overcome, we've got language issues that we have to overcome, we have local issues that we have to overcome, but we're willing to at least address those issues. We're obviously not going to make the problems go away.

LM — So you're at least aware about the diversity of farm workers?

VB — Oh yes, absolutely . . . Realistically we can't provide the same kind of outreach or educational effort to every single dialect that we would like to do. It's unrealistic, that's why we look to other agencies — EDD, which has a whole outreach program . . . We can call on the other departments and say, "Here's what we need to do." I mean, Mixtecos were a great example. If you would have asked me five months ago, were we going to be able to find translators, I never would have expected to find them, but we did. It definitely wasn't easy, but it sure saved a lot of problems during the process . . .

DV — Some people might say the striking evidence that supports the need for AB 90 is the kind of evidence that you generated out of the first year of the TIPP program. Is that an accurate characterization? How do you feel about that?

VB — Well actually, that's assuming that enforcement is against farm labor contractors, and in fact we found that about 60-65 percent (of the ag employers cited) across the entire year have been the growers as opposed to the farm labor contractors. I think AB 90 overlooks one

issue: you can have joint liability (between growers and farm labor contractors), but that doesn't necessarily mean that you're going to get the problem resolved because you have to have enforcement out there . . . I think the bigger issue is not the joint liability, but whether or not you have the ability to go out and analyze and determine where the problems are and then go after those problems . . . AB 90 doesn't provide for any of that. The only thing it really provides for is in the event that a lawsuit is filed, that there is attorney's fees for some of the advocates. But it doesn't provide for increased enforcement.

LM — How can we support your efforts at enforcement?

VB — I think you probably know we got

visited from six different legislators and congressmen during our enforcement effort in Fresno (who had received complaints about TIPP from growers in their districts) . . . I would like to try to get a meeting together with you and whoever else to see how we can, in the upcoming year, draw more on the direct line with actual farm workers throughout the state, not just in certain locations, because our access sometimes is filtered through how we get it, and I think you could be a tremendous help to us on that . . . Our mission should be to make sure this becomes an ongoing effort that sustains itself beyond whatever administration — 12 years from now, 15 years from now, we should be sitting down saying, "OK, now how can we refine it further?" . . . The people who are most at risk are the people who are in the fields and the employers that are obeying the law.

Those interests are the ones we need to be the most vocal around. ♦

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Mexico or the United States in search of work, so we find increasing numbers of indigenous migrants working in our fields.

The major weakness of the survey is that it totally ignores both the immigration status of the people who were surveyed as well as basic demographic information such as their state or country of origin. How many are recent immigrants? How many are from Oaxaca or Chiapas? Where are their home villages? And what would these findings say about the continuing dynamics of immigration to the U.S.? ♦

LUCHA, cont. from page 3

Los recuerdos de mi infancia fue crecer sin el cariño del padre, o tener un padre solo por breves temporadas porque nos abandonaba para venir contratado como trabajador agrícola a los valles agrícolas de California. Nosotros nos quedábamos con nuestra madre en espera de una carta y con la esperanza que llegara con unos dolares para poder comer y quizá, si sobraba un poco dinero, para comprar unos guaraches y tirar los viejos de correas rotas para seguir llendo a la escuela del pueblo.

En ocasiones me preguntaba porque ese llamado 'norte' nos arrebatava el cariño de nuestro padre. Pensaba que ese sistema de vida no era justo, pero ¿que podía hacer para cambiar la situación?

En 1970, ya mi padre habia legalizado mis documentos de migración. Llegé a California, creyendo que aquí hay justicia para todos y con la ilusión de seguir estudiando y ya reunida la

familia, creí que los problemas se terminarían y que sería un niño normal como todos. Vivíamos en los campamentos para las familias migratorias en French Camp donde asistí a la escuela. En esa escuela mis ilusiones de estudiar se esfumaron cuando como niños migrantes y sin hablar inglés, éramos apartado a la esquina del salón de clases, vistos con indiferencia y tratados con discriminación por los maestros y alumnos anglos. Otra vez me preguntaba con desesperación de como cambiar la situación.

Esa situación y la de tener que emigrar cada seis meses a México, y estar regresando, me obligó a abandonar la escuela primaria por completo y mejor, me integre con mis padres y hermanos en las labores agrícolas. Así me convertí en un trabajador agrícola desde niño. Pero la vida del trabajador del campo, es difícil y dura. Los abusos, maltratos, los salarios bajos y el despotismo por parte de los contratistas agrícolas y sus mayordomos junto con la indiferencia de los agricul-

tores para con nosotros los trabajadores, me hizo otra vez volver a preguntarme: esto no es justo, y dije ¡basta! al comenzar a organizarnos en los campos agrícolas y en nuestra comunidad. Y fue como me rebelé contra este sistema de explotación y injusticia con los trabajadores del campo, el mismo que me arrebató a mi padre en la infancia, el que cuando niño, me discriminó, me expulsó de las escuelas, y el que sin derecho me nego trabajo en el campo solo por exigir el respeto a nuestros derechos laborales y humanos."

"Y por eso estoy aquí," dije esa noche cuando recibí el reconocimiento, "por una necesidad de lucha, y que con el apoyo y solidaridad de fundaciones como la Shalan, el Instituto para Estudios Rurales de California y otros, seguiremos avanzando en nuestra meta de hacer justicia al trabajador del campo."

— Luis Magaña