

**Cal/OSHA Advisory Meeting
Workplace Violence Prevention in General Industry
Thursday, January 12, 2017
Oakland, CA**

Welcome: Steve Smith, Principal Safety Engineer
Meeting Chairs: Kevin Graulich, Bob Nakamura, Steve Smith, Eric Berg
Notes: Grace Delizo, Susan Eckhardt

MEETING ATTENDEES

<u>NAME</u>	<u>AFFILIATION</u>
Art Aguilar	Amalgamated Transit Union (ATU) Local 1277
Mike Anderson	SMART Transportation Division Union (SMART TD)
Kevin Bland	Ogletree Deakins/CFCA/RCA/WSC
Mark Calub	PG&E
Enriqueta Castro	Bickmore Risk Management Consulting
Trina Caton	Keenan & Associates
Kate Crawford	Hensel Phelps Construction
Wayne Davis	AFSCME Local 3634
D'Jean Devolle	AFSCME Local 3634
Elena Dineen	Futures Without Violence
Jim Dunnegan	Varian Medical Systems
Marti Fisher	California Chamber of Commerce
Meleah Hall	Petitioner
Marley Hart	Occupational Safety & Health Standards Board
Gretchen Higgins	CalTrans
Cassie Hilaski	Nibbi Brothers General Contractors
Monica Hogan	Communications Workers of America (CWA) District 9
Kathy Hughes	SEIU Nurse Alliance of California
Kent Jorgensen	IATSE Entertainment Industry
Anne Katten	California Rural Legal Assistance Foundation (CRLAF)
Dan Leacox	National Elevator Association/California Rooftop Solar Installers
Bryan Little	California Farm Bureau Federation
Nicole Marquez	Worksafe
Mac McIlvenna	BSI
Michael Musser	California Teachers Association (CTA)
Charity Nicolas	BSI
Robert Ortiz	Nibbi Brothers General Contractors
Erica Pena	BSI
Steven Phillips	Hensel Phelps Construction/Associated General Contractors of California
Steven Pierre	Du All Safety
Perry Poff	Peterson Law Corporation
Eric Preston	Keenan and Associates
Lisa Prince	Walter and Prince
Kimberly Rosenberger	SEIU
Cindy Sato	Construction Employers' Association (CEA)
Mitch Seaman	California Labor Federation

Jeff Shaffer	ATU Local 1277
Mark Stowell	Deacon Corporation
Jane Thomason	National Nurses United/California Nurses Association
Kevin Thompson	Cal-OSHA Reporter
Elizabeth Treanor	Phylmar Regulatory Roundtable-OSH Forum
Jay Weir	AT&T
Frank Werbelow	DPR Construction
Bruce Wick	California Professional Association of Specialty Contractors (CALPASC)
Norman Wright	Contra Costa County

Steve Smith, Principal Safety Engineer, welcomed the attendees and introduced the Division team working on the rulemaking project – Senior Safety Engineers Kevin Graulich (lead), Bob Nakamura and note takers Grace Delizo and Susan Eckhardt. He also introduced Eric Berg, Deputy Chief for Health. This is a pre-rulemaking advisory meeting to get stakeholder input on issues of workplace violence prevention in general industry. We recently completed a rulemaking project to provide a new standard for the healthcare industry on workplace violence prevention, new section 3342. This is a follow-up to that rulemaking to address the rest of the workplaces in California. We're considering what types of workplace violence prevention measures should be considered for those industries not covered by 3342. This is in response to a petition we received a few years ago from Meleah Hall and the Teachers Union in support of expanding workplace violence prevention beyond health care. The purpose of the meeting is to gather information on that topic. Steve asked attendees to do self-introductions, and then briefly went over the agenda.

Kevin Graulich, Senior Safety Engineer, informed attendees that the Board's decision on Petition 542 is one of the handouts and the link on the agenda will take you to the file that has all the background to the petition - a copy of the petition itself and all of the responses that were drafted. He stated that the primary issue was that the petitioner was looking for the Division to promulgate some workplace violence prevention regulations in educational settings along with some other important issues. The Board's decision listed a couple of choices, one was to amend and expand the already in progress healthcare regulation, or to finish that and start on a new regulation for all industries to prevent slowing down the first standard that had to get done quickly under legislative mandate. It made more sense to put this off and do it as a separate rulemaking. The Board decided to push this to an advisory committee to look at not just educational settings, which the petition was asking for, but to look at all industries as a whole. We want feedback from stakeholders and your thoughts on which industries to include, and how to move forward with that.

The second item on the agenda for background was looking at some of the data. In preparing for this meeting, we looked at as much data we could find. Two of the prominent sources were the Bureau of Labor Statistics report and the Department of Justice report. Items 1-6 on the agenda are a list of some industries that from these reports appear to have an elevated risk, so that's a starting point we wanted to look at. We also want to get feedback as to whether there are other industries that should be separated out as having increased risk over others, who else should be involved, and how we want to address that. We're open to other data that you want to provide and we would be happy to look at that as well. Before we look at each of the individual industries, Bob will go over Section 3342 which is the new Workplace Violence Prevention in Healthcare standard and give the background on what that covers.

Bob Nakamura, Senior Safety Engineer, stated that some may wonder why we're considering certain types of healthcare listed on the agenda. There were two petitions from two different unions, California Nurses Association and Service Employees International Union. One addressed healthcare workers specifically in hospitals and the other allowed us to look at healthcare workers in general. One thing we learned early on from looking at the statistics involved with patterns of workplace violence is that often the BLS data included healthcare workers with social workers. We couldn't distinguish between the data to get a good count or good feel of what we could do with social workers. That was one of the reasons we put that off to consider with general industry. Another thing was the enabling legislation (SB 1299) that prompted a certain schedule and deadline for adopting the workplace violence standard delineated mostly hospitals to be the focus of the standard but allowed the Board leeway to address the other types of settings. We did entertain testimony about what kinds of violence existed in others closely related to healthcare but are somewhat of a crossover because it's hard to draw a line between some facets of healthcare, education and social work. The other thing that happened over the course of doing the five advisory meetings was we had a very broad scope that we started with and by the time we completed rulemaking some of the scope was narrowed down. We have some carryover with the types of settings, mostly clinics that may have to get addressed in this consideration of rulemaking. Part of the issue that was raised at our advisory meeting is that people seemed to think we were doing first aid, which actually we weren't, but that became an issue that managed to exclude certain things. So there were a number of issues that might be carried over into our discussions and we want to see what stakeholders have to say about that.

Bryan Little, California Farm Bureau Federation, asked whether employer-operated clinics are covered under Section 3342 and Bob Nakamura replied that those are not covered.

Enriqueta Castro, Bickmore Risk Management Consulting, asked if emergency medical technicians and paramedics are covered under 3342 and Bob Nakamura replied that they are covered.

Kevin Graulich went over the list of industries with elevated rates of violence on agenda item 2b. Items 1 and 2 were what Bob talked about and are the carry-over from medical and mental health not covered under 3342. Item 3 is listed as teaching but also includes support staff in educational facilities, so think beyond the word teaching if you're commenting on that section. Likewise with item 4 - law enforcement, we're also considering security, correctional officers and other enforcement type entities. The others are self-explanatory, item 5 - retail sales, we're looking at what the statistics show as having higher incident rates (liquor stores, convenience stores, gas stations, late night service operations) and item 6 - transportation (busses, taxis, other newer transportation services where there's been a lot of discussion about whether they're even employees). We want your feedback on other industries like construction or any other industry not specifically listed here. The scope is wide open at this point and we want to hear back from you what should all be included in that.

Mitch Seaman, California Labor Federation, asked if the research on retail workers includes traditional grocery stores, general retail like Walmart or is it more specific to the kinds of stores listed on item 5. Kevin replied that it depends on which set of data you look at. Some are broken down in a little more detail and some of it is lumped together. We are opening up to get feedback on all those categories but these were the ones that were singled out as having higher risk so far.

Katherine Hughes, RN, SEIU Nurse Alliance of California, stated that one of the things they talked about with DIR was excluding outpatient services that weren't licensed under an acute care hospital and field operations. One of the compromises that they offered to save some of that scope was if field operations offered something greater than first aid so that first aid stations would not be part of the healthcare reg. So that would be something that SEIU would like to see included (medical offices, outpatient clinics, field operations that provide more than first aid, and mental health facilities that were excluded from 3342).

Michael Musser, California Teachers Association (CTA), stated that they have a variety of settings such as educators in the classrooms, which could be a teacher, classified employee or paraprofessional. Then they have an entire campus, whether they have individuals in an office, maintenance individuals on the campus, district offices, etc. They have a variety of areas where violence can happen whether it's a student, coworker, administrator, parent or community member off the street. He is conducting a survey of their 330,000 members and it's a challenge to get their members to stand up and speak for themselves. They get hurt on the job every day and they just say it's part of their job. He will share stories where they have seen injuries, and have seen individuals not even being able to return to their job because of the violence they've experienced on the job.

Meleah Hall, Petitioner, stated that she is thankful that individuals from the public can write a petition and can change lives and positively impact employees. She thanked Eric Berg because when she was calling her school district and many organizations trying to get support for the violence that was occurring in her classroom and many other classrooms across the state, she kept getting closed doors. She had been a teacher in continuation schools and also a special education teacher. Mr. Berg told her about the petition process. The reason that teachers don't stand up is because of retaliation. When her school district first got an OSHA citation, they immediately called her union and told them she wasn't allowed on any campus in the school district. She was knocked unconscious in the classroom and there are other teachers who have been kicked in the head and knocked unconscious as well since she was injured and in the same small school. She's concerned about paraprofessionals and believes they are assaulted more often than teachers because they're the first line of addressing concerns with students when they're having a tantrum or violent outburst. She's also concerned about documentation because when violence happens, lawyers and insurance companies get involved and things get covered up. If things are covered up and there is not an appropriate investigation, we can't have foresight, and we can't work together as a team to address the concerns and try to prevent those things from happening again. Ms. Hall stated that often teachers and paraprofessionals go into a classroom with students that have a history of violence and they haven't been trained. They can go 3-7 years without being trained. The best practice she's seen is before an employee begins they actually receive Crisis Prevention Intervention (CPI) training. That includes individuals like secretaries, security officers. Secretaries have had to help restrain students that are sent to the office and if they're not trained it can lead to injuries. She also believes that school districts don't have to fill out the Log 300 and she's concerned that there's not adequate data collected about how much violence is occurring especially in special education school settings.

Enriqueta Castro stated that she hopes that private institutions and special needs institutions will be included because a lot of their clients are non-profit and their exposure to workplace violence is daily. They do ProAct and CPI but those crisis intervention programs are typically for the highly trained employee but the employees that work with them every day may not get that specialized training and may not even be trained before they've worked for six months. She asked if the intent is to identify specific industries or to identify risk factors within industries

where, if those risk factors apply, they would be included in the general industry regulation. Kevin answered yes, at this point we're trying to gather as much information as you're all willing to give us. Enriqueta replied that the cities and counties they work with have multiple exposure to violence especially at the customer service counters working with mental illness and even exposure over the phone that may not be textbook retail sales but they're dealing with money, they're dealing with security and she wants those factors to be considered as well.

D'Jean Devolle, AFSCME Local 3634, stated that coming from a transportation agency, the violence committed against their operators operating busses in the field a number of things have happened from being physically assaulted, having human feces thrown on them while operating the bus and a whole range of uncomfortable situations. Identifying violence as it is opposed to outside factors is pretty easy and straight forward. His concern as a union representative is how are you identifying violence from an inside standpoint, employee to employee, and he asked does this board recommending disciplinary action or procedures to these type of entities that may or may not conflict with current bargaining agreements?

Mitch Seaman stated that while they think it's a valuable step in the process to look at some of the industries that are most directly affected by this issue based on what the data shows, he wants to raise the general point that as we go through these six specific industries highlighted in this list, it's important to remember that one of the reasons we're having this meeting today is to recognize that this is an issue that affects all industries. So as we go through these industries and identify specific sources of concern within each industry, it's important that the implication not develop that an industry that's not mentioned here today is one that isn't affected or one that doesn't need to be covered by this standard. Raising the issue of different kinds of violence is a really key one, looking at education and your first thought is this must be high school teachers with violent students, a 200 pound linebacker that comes in and you can't control. While that may be the first inclination as far as what the problem is, it's much broader than that. It's employee to employee, supervisor to employee, aggrieved husbands coming in. There are all sorts of different kinds of violence that workers in all these different situations face. The same thing happens with transportation. There's the assumption that all the time it's some crazy guy gets on the bus and he's armed and that's part of it but there are a whole lot of other elements to it as well. The healthcare violence standard provides a good set of guiding principles for what the eventual standard looks like and will hopefully to some degree covers everyone because it identifies the different types of workplace violence. Just reading through this list it makes you think that I didn't think about that, but it is a big issue. In some industries, supervisor to employee is the big one and that's what we really need to focus on. At a minimum, it needs to at least touch on all of these for everyone. Maybe the eventual standard will get more specifically into those that are listed as these six. We want to make the case that when we approve this list hopefully we don't come to the conclusion that we'll do something for these six and then problem solved. Not only does the problem exist in industries beyond these six and really cover everyone but the kinds of violence within each of these industries is probably a lot more broad and a lot more pervasive and affects us in a lot more different ways than we realize at first.

Steve Pierre, Du All Safety, has been a workplace violence instructor for about 30 years. One of the issues he has seen is when he consults with his clients about workplace violence, there's mandated training - confined space, fall protection, excavation, but to tell an employer who has a whole menu of OSHA training classes they must comply with, that workplace violence is a suggestion under 3203, and that it's not mandatory that becomes an issue. He recommends making workplace violence training mandatory for individuals who have been assessed as being at risk or a hazard. Right now, it's a best management practice which is great if people have the time and money to do it but they may not have the incentive. But like healthcare settings, initial

training is mandatory and this should be across the board. 85% of workplace murders are at the commission of a robbery. We hear on the news about school shootings and the mass shootings understandably, but we don't hear about a taxi driver was shot and killed at 3:00 AM for \$20 and workplace murder is the number one cause of death on the job. If it was mandatory, assessed, you'd get more traction. It's the education, awareness and from there you develop a plan based on a group discussion from that.

Michael Musser hopes that there will be someone in the room that has expertise in a particular area on the agenda and hopes that we are also all here for the safety of all employees in the state. He does not want to exclude any other employees.

Anne Katten, California Rural Legal Assistance Foundation (CRLAF), recognizes that the industries that are highlighted have particular problems that need to be addressed but points out that violence is also a significant problem in agricultural work where it's predominately the type 3 work supervisor-perpetrated type of violence, sexual harassment or assault, sometimes retaliation or intimidation. This has been documented in journalistic investigative reports on sexual violence in the field and it is a clearly underreported problem given the nature of the workforce and the type of violence involved. Agricultural workers need to be included. There was a law passed several years ago that requires sexual harassment training for farm labor contractors and prohibits licensing if there's a record of recent harassment or hiring harassers. That's the first step but it doesn't go far enough.

Nicole Marquez, Worksafe, urged the advisory committee to be comprehensive in their data collection including studies that demonstrate the disproportionate impacts of workplace violence against immigrants and low-income wage workers such as the janitorial sector. There were studies on sexual assault against farm workers in the Central Valley, so she encourages that we are more comprehensive in the data and underreporting in those industries. She suggested that we be mindful that certain circumstances create a situation where people are not going to come forward because they're afraid of retaliation and afraid of immigration consequences. Other sources of data can be workers' comp. The BLS statistics look at the fatality of certain industries which are the worst case scenarios of workplace violence but she wants to make sure we're looking at the whole spectrum – sexual assault, injuries that occur because of workplace violence, etc. She agrees that the workplace violence prevention standard in healthcare is a good model and one that we can expand on to include sexual assault as part of workplace violence. She also suggests being mindful that there may be other laws that intersect with what we're doing so we should make sure we're building off those laws, such as the education code and Title 15.

Kevin Graulich stated that we've jumped around a little bit and are touching on all categories so he opened up the discussion to other industries or work type that anyone wanted to talk about that's not specifically listed.

Bruce Wick, California Professional Association of Specialty Contractors (CALPASC), recognizes that workplace violence is a very serious thing and pervasive in some industries. A lot of time was spent on workplace violence in the healthcare industry, rightly so, and a very detailed regulation was developed based on a lot of interaction within that industry. He doesn't know what goes on in agriculture but in the janitorial industry you have people with an exposure and an environment that may need some detailed regulations. But then you have other industries such as construction. He stated that a lot of their members in the early 90s voluntarily when Consultation put their workplace violence information out and they looked at what's in construction and just a few things make a clean environment for workers in construction. If you

start with the healthcare regulation and try to fit people into that, we have a whole lot of industries like construction where exposures are minimal and don't need anything quite like that. But if the view is we're going to try and bring in all industries into that large regulation, then it's going to be a mess. Then we would say how can we bring that lesser. Early on in this process we need to say are there industries where exposure is low and have a small regulation on a few things and then, if construction is one of those and he feels that it should be, then they can step out of the way and industries like education, there's a lot to talk about there and how to get a regulation that works. That's a big part of what should be focused on, but if all the other industries are brought in and we have a one size fits all, all of us have to be involved in that and then it really bogs down the discussion. He suggests that we look at that difference in what industries have minimal exposure, and the data could lean that way, and think of a minimal thing we can do. And then we can deal with multiple industries (e.g. transportation) and spend the time with those.

Mac McIlvenna, BSI Solutions, suggested keeping in mind the training component and the mandate of the training component because history has shown that if the mandate is not there, it will not occur.

Steven Phillips, Hensel Phelps Construction/Associated General Contractors of California, stated that anyplace, anytime it can happen to anyone in our workplace. The summary outlines the challenges that we have in trying to bring all these groups together all over the state, private sector, labor, government agencies are all represented, and the petitioner who is a victim. We are all invested in this morally and personally because it can happen to us and we don't want it to happen to our companies and organizations. He applauded the fact that we are doing this and looking to move forward. His company has jobsites that can be in the city, in rural areas, and have offices like any other office place that a laid off, former employee who's disgruntled and wants to get even can come in and actually do just that. Regarding the types of standards (performance, prescriptive, and process-based), he stated that it needs to be a combination of the three to address each of the specific industries. He wants to see the word construction in the new standard so that would trigger them to do something because right now there's a need to do something. He looks forward to continuing to participate in this process as we move ahead because it's extremely critical for all of us.

Charity Nicolas, BSI, has seen that violence can happen in any industry and she's been involved in Cal/OSHA inspections on workplace violence. She asked whether we need a new regulation for this. She's done this under the auspices of Section 3203 and what she's seen is that workplace violence is not part of the hazard assessment process. They're usually looking at physical, biological, all different types of exposures and workplace violence prevention doesn't really get into that mix unless someone brings it to the table. She's worked with education industries and public agencies where there are areas with gang violence. Or there are people who got upset when they got a citation or a fine and they lash out because they're upset. There's also domestic violence that comes into play. The question is whether you need a new regulation for this or you should consider pouring resources into Consultation and doing more education about workplace violence prevention before you start a whole new regulation. She stated that having a new regulation that will fit all industries is going to be very difficult and very messy because when you get into specifics and there is no one size fits all regulation that will address workplace violence. She's been into all different types of worksites and the program, training has to be flexible. The Cal/OSHA publication is from 1995 and things have changed. She has worked with agencies that have used 3203 as a template for workplace violence, instituting a program, doing training, doing assessments and reviewing the program to find out if it's really working.

Kimberly Rosenberger, SEIU, stated that she's fresh off the workplace violence prevention in healthcare and it was a several year long process. You're seeing the same stories resonate in different industries, but she's apprehensive of this large scale workplace violence prevention plan. They are here to support you and make sure we are coming up with the best regulation or way of implementing prevention plans. They represent paraeducators for classified employees and know this is something they are interested in and would want to contribute to as well as transportation workers, janitors, etc. She's apprehensive but ready to work with the advisory committee and very supportive of the work to be undertaken. She cautioned against doing a plan that will undermine other prevention plans in place or be not strong enough that it would be ineffective in the long run. We need to make sure we have some kind of prevention plan that has in-person training because training is key to making sure that people know this beforehand but also covering the breadths of the different jobs. She wants to make sure there's something we can do where it works for every industry.

Kevin Bland, Ogletree Deakins/CFCA/RCA/WSC, sees scope as a growing issue. When you think of all the hazards they deal with in construction on a day to day basis – confined space, respiratory protection, etc. At some point they talk about hazard assessment, go through the assessment and look at the big ticket items and at the things that are important to people's survival and going home safe every day and you can see how this could get diluted by trying to apply this to construction industry or others. You're looking at all of the industries as a whole and may actually, based on the data he sees, be an easier scope to say these are the target industries because this is where the higher risk is. You can have a comprehensive, effective regulation that can be enforced and complied with and save lives by focusing on the large ticket items; the list looks like a pretty good start. He hopes that the scope will be narrowed so it can be more effective. He stated that for any rulemaking you need necessity and if you look at some of these industries, you may not even reach that threshold based on the data and especially for construction.

Elizabeth Treanor, Phylmar Regulatory Roundtable-OSH Forum, commented that she has been at many Standards Board meetings and was shocked to hear some of the situations that some of the employees were reporting that they faced in the workplace. She stated that employees should not need to worry about their physical safety when they're at work from people either from their customers or at the job. Expanding the scope of the standard brings up many issues. In preparation of the meeting, she spoke with many companies and also looked internationally. Canada has a requirement since 2010 as well as EU. One of the issues that some of the companies she spoke with said that within a company there are a variety of workplace violence risk factors depending upon the nature of the facility and operation. They said to try and develop a standard that's going to have prescriptive points for every single industry similar to what Cal/OSHA did in healthcare is going to be mammoth and very difficult. Their recommendation, if it's decided not to limit the scope to specific industries, is that we start with something more generic like the IIPP, the model program, that would require every employer to look at all of their workplaces and then develop what would be appropriate for them that they would then have to implement – providing training, prior to the job assignment, etc. some of these essential items that are deemed necessary. They would develop a draft that they would share if interested. They urged not to go industry by industry with specific protections for those industries because there will so many different parts that it will end up being mired down in details and may not accomplish the overall objective.

Steve Pierre stated, in response to earlier comments, that it's not that we need a new regulation. We have to enforce the regulation that's kind of currently hidden under 3203. By

law, Cal/OSHA has the right to cite an employer for failure to have a workplace violence program. One of the cities was cited because a supervisor threatened an employee and the employee filed a complaint and Cal/OSHA investigated and found the city had no workplace violence program which was a violation of 3203 and that should have been assessed. It should be broad enough for all industries, whether you're in the mining industry, general industry or construction that an assessment needs to be done by the employer, identify the potential risks to all the employees. From there they can determine the specifics they want to do to try to mitigate or minimize those hazards. To dictate to an employer that you have to have armed guards or whatever the situation that might be, that's up to the employer to decide. But there has to be some form of enforcement of failure to recognize that employees are either going to their cars alone at night when there are no lights in the parking lot. Homicide is the second or third cause of death on the job in this country. Now is the time to have some comprehensive enforcement rule, maybe give people a year of a buffer to say here's the new rules, you want to assess, before you start cracking down on people to give them citations like you did with the Aerosol Transmissible Disease standard or the Heat Illness Prevention standard. Give people a chance to catch up. Enforce 3203 and say this is a serious hazard and force employers to actually assess those hazards and then come up with a plan on their own.

Art Aguilar, Amalgamated Transit Union (ATU) Local 1277, represents operators, mechanics, servicers. He has seen drivers get assaulted and it's hard to protect them. In the shop, you work a minimum of 40 hours per week, side by side with one hundred other guys where personalities come into play, where banter may start and it leads to another level. Their companies have policies in place but they need more rules and need them stronger. Disciplining someone according to their contract doesn't resolve the issue; that's just punitive damage. They are trying to educate their members and all their employees as far as how workplace violence starts, how it can be prevented. They want a mechanism that's going to take care of them and help them to learn how not to go to that level. He wants transportation to be looked at. He also has paratransit drivers who go through special needs and have a lot more issues.

Kevin Bland commented on Steve Pierre's statement that homicides were flipped back and forth on falls for deaths and he wants to make sure that he sees that data and that we're not talking about homicides across all industry versus falls in construction. He's talking about falls in construction and statistics in construction versus overall. He wants to be careful as we're throwing data around here and that we're not mixing apples and oranges and that the data is accurate and there's something to support that.

Lisa Prince, Walter and Prince, commented that what she's hearing is that the scope is going to be a big issue. One thing that comes to mind on the list is the convenience store and the smaller retail establishment. Going forward we have to keep in mind that anything we do in this regard is going to also cover the very small employers and she wants to make sure we're considering that the corner deli and the small mom and pop operations need this information and reiterated that outreach and education being the big focus instead of requiring things they need to do that they won't be able to do as a very small operation. She asked how we are defining risk and how do employers know what their risks are. She also asked if we can consider something similar to what was done in the ergonomics regulation where some requirements are triggered when there's been an incident. She knows that's not ideal because you want to prevent all things but that might be a way of looking at this where focusing on the risk factors because we have some specific evidence there, and then action is required instead of trying to do a one size fits all situation.

Kent Jorgensen, IATSE Entertainment Industry, wants to be considered when employees have harder job tasks to intercede when the public or someone else's violence is going on. You have workers who work at amusement parks, the public starts a fight, they may be in the middle of having to go and break it up. Teachers and bus drivers have the same kind of problem. So something is needed for training and planning when they're part of preventing the violence or dealing with violence.

Meleah Hall stated that she believes that we need a new standard. From her own experience as a teacher it hasn't been robust enough. Her workplace was cited because of not following the Injury and Illness Prevention Program and since then other teachers have been knocked unconscious. The beauty of rulemaking is that industry can benefit from safety engineers' expertise and also from experts in the field who come from different perspectives. She encourages us to consider a new rule and believes that the rule that was created for healthcare is going to make it a safer workplace for them and because it's so robust it's going to prevent injuries.

Steve Smith moved the discussion to the next part of the agenda that's there to talk about. Considering the compelling data and considering the issues that have been raised, what are the steps we need to take to move forward with rulemaking? What we provided here is basically a couple of overarching explanations of how we do rulemaking in Cal/OSHA. He referred to the handout that describes the process in Cal/OSHA as to how we develop rulemaking and it's a 20-step process. We're at step one and it gives you the flavor of how many steps we went through to produce the healthcare regulation. Besides the five advisory meetings, we had to craft the need and the proposed language and then we moved it on to the various other steps of rulemaking. We try to address the issues as best as we can here in step one at advisory meetings, getting stakeholder input and determining what needs there are for crafting the regulation and how extensive such a regulation will be. The other part of this was talking about the types of regulations and some of the comments we've had already have touched on that; should a regulation be performance oriented or prescriptive or process oriented. As some of the commenters said there could be elements of all of them. The healthcare regulation was a little bit of each. It is process oriented because we were trying to focus on a particular industry and a particular set of concerns or processes and how to deal with that. But it was still performance oriented in that it tried to set out goals similar to how our Injury and Illness Prevention standard is today, where it says you need to do this and that to address the unique hazards of your workplace. How you do that is up to you but these are the basic goals or performance needs that have to be done. Before we get into some of the last steps of considering where our current Injury and Illness Prevention standard is and how that may need to be supplemented here or adapted similar to how we did that for healthcare. When you look at 3342 you see a more complex standard but essentially it's still based on 3203 types of approaches and still has a lot of those same elements there; it's just called out more specificity for the issues that are unique to that industry and the hazard that we're trying to address.

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Steve Smith recapped the morning's discussion. We went over the background and petition that brought us here. We talked about the data on workplace violence and previous guidance on workplace violence. We had a lot of good input on whether some of that data is appropriate or not appropriate, how some industries should or shouldn't be covered. He recapped at the end on our process for rulemaking and the steps that would be needed to move forward with the rulemaking process. The last part of the agenda is to talk a little about possible approaches to a

proposal or to rulemaking. Our skeleton we put on the agenda is how 3203 is focused and the different parts of 3203 because that's how we essentially address workplace violence today. We've had these model IIPP programs for workplace violence for twenty years. We were one of the first in the nation to put out such guidance and our chief at the time has moved on to NIOSH and put out similar guidance from NIOSH as well on how to prevent or address workplace violence prevention through a comprehensive health and safety program approach. What we provided here is the skeleton of some of those steps or some of those components and we wanted to get your feedback on are these components, something that is appropriate to address workplace violence prevention. Even though 3342 for healthcare is along these same lines, it's more flushed out and more process oriented towards that industry and those hazards that they encounter. We can go step by step here for the different components or just provide your input on these various components and how you see this fitting issues that you talked to us about this morning. Are these solutions to some of the issues and what other issues or solutions could there be? He opened up the discussion on agenda item 4 to provide us guidance on an effective plan, identifying and evaluating the risk factors.

Mitch Seaman said that the list seems like a great starting point and was something that was arrived at through a lot of different and very valuable input through the healthcare workplace violence prevention advisory committee groups. It's hard to see the system working without any of these on the list and they seem to complement each other.

Michael Musser stated that some school districts already have regulations for workplace violence. They may not be very extensive and he thinks they would benefit from the work done together in this advisory meeting. He is doubtful that there is training for the individual employee or manager so it would be great to continue the process and get feedback from all stakeholders and utilize it. He also said he would share what the school districts already have in place so we would avoid re-inventing the wheel and move along more rapidly.

Anne Katten stated she's not sure if logging and viewing/reporting incidents fall under post-incident response. We should have detailed procedures, have employers identify someone who isn't an immediate supervisor to report incidents to especially if it's an incident caused by the supervisor. OSHA should develop a specific form to use for reporting that includes how to report to a law enforcement agency, also need multi-lingual capacity, e.g. a phone service for translation.

Enriqueta Castro recommended for the different types of workplace violence, consider adding into the procedures an active shooter response scenario because it's not really a robbery and doesn't fit into the other types.

Nicole Marquez stated that all the requirements work really well in conjunction and definitely apply in various types of industries and understand that an employer would be required to do a hazard assessment that would reveal certain types of hazards in that industry that could lead to having an employer do a more robust training or more robust workplace violence prevention plan. It's not a cookie cutter approach that's going to be dependent on an employer's workplace hazard assessment that would link to what exactly they would be required to do under this type of standard. Under "Effective written plan to prevent WPV-related injuries," it would be important to have employers give employees access to the plan but also require employers to give a copy of the plan to employees at the beginning of employment, so they are informed about their rights around workplace violence and are aware of the workplace violence hazards, especially subcontracted or temporary employees. An effective plan should also have language around multi-employer situations, specifically what an employer's responsibilities are. With

respect to “procedures to correct WPV hazards,” there should be a specific timeframe by which an employer needs to abate the hazard. As far as training, make sure the training is effective and interactive and takes into consideration workers’ language and literacy levels. It’s not enough to have a sign-in sheet. Procedures to involve employees and their representatives also need to be taken under consideration. Under reporting, there needs to be some type of mechanism for reporting workplace violence incidents even when there are no missed days at work. Under the log 300 there are certain injuries/illnesses that need to be reported and this would be separate and different.

Lisa Prince agrees that a one size fits all would be a very difficult proposition and maybe with the procedures for the identification and evaluation of risks, may be a requirement that if an employer does not identify any risk or identifies more risk, the action required related to those would be different similar to a decision tree. Maybe if we’re in a position where an employer is not identifying any risk or foreseeable risk that they would be an opt-out for different procedures because we’re talking about general industry applying to all and an opt-out may make sense for some employers that don’t have or can foresee these situations. The language to have an effective written plan to prevent incidents is dangerous because the internal information that she’s aware of is that there is no absolute way to prevent all these incidents and we have to acknowledge that and not hold employers accountable to some kind of liability for failure to prevent something that would not be foreseeable. A written plan is something but an effective plan that’s going to prevent everything is completely different and creates a standard that’s impossible to return compliance on.

Michael Musser commented on the log 300 and the partially exempt industries in California. In education, there are elementary and secondary schools, junior colleges, colleges, universities, professional schools, business schools, computer and management training, technical and trade schools, other schools and education and support services. They are partially exempt at this time. We may want to consider recording of workplace violence and having that not exempt.

D’Jean Devolle stated that external perceived violence is easier to identify than internal perceived violence. He believes that education and training would be paramount in how we achieve that level of safety. He agrees with a previous commenter that a sign-in sheet won’t achieve what we need, but maybe something more substantive and possibly even web-based training. We need to take a little more time to make sure that people are trained fully and understand what workplace violence is. A sign in sheet is not going to make anybody more safe.

Art Aguilar stated that during lunch he got a phone call about a scenario at one of their locations where there are procedures to be followed. The supervisor and an employee, who didn’t want to do what the supervisor said and the supervisor didn’t want to hear it, got engaged. At their shops they do tailgate meetings and have everyone sign in about what they’re going to talk about because they have to do it, but it’s not taken seriously. They are more focused on providing the service, getting the busses out, getting the trains rolling. It isn’t until something happens that they do something about it. He suggests adding to the procedures that they are taking the time to put in a mechanism in place where they pull all the employees out, sit them down, and resolve an issue. If this is not done, it escalates and gets really bad and someone may get hurt.

Anne Katten stated that she’s not sure this would go under procedures or under scope of a plan, but in situations which do not apply to all industries or all workers where there is employer-controlled transportation or employer-controlled housing, those should be included in the violence prevention plan and procedures. In agriculture, incidents occur on both the transit

busses and sometimes in the employer-controlled housing, which could be a labor camp or farm labor contractor that's taking their crew around and they're staying at motels.

Charity Nicolas stated that if we go forward with a new regulation, which she does not agree with, we would need a definition section. Other than Types I-IV and active shooter, you also have precursors to violence – cyberbullying, and so many other realms that lead up to a violent situation. So you would have to consider those factors, precursors to what would create a violent act. When you're looking at risk factors, you can't prevent every violent situation from happening. You can look at it and assess it, but if you're expecting employers to put in all the controls they can find (surveillance cameras, locked doors, security reception lobbies), it's going to be impossible. So you have to look at highest risk factors for what would create an exposure. Do you expect if someone finds a risk factor such as an employee working in the field and working in a high crime area, what are they going to do to protect themselves other than working at different hours? Do they have to have a security guard present? You really have to think of all those expectations you're going to have for an employer.

Enriqueta Castro commented that one of the hardest things to do is to identify an employee that might be a threat. Everybody sees a sign and knows that something's off. What do they do with that information and how do they report it? If they report it, is the employer legally allowed to talk to that employee? Are there human resources requirements? Unless something has been done from the employee standpoint, how do we help in advance? She's had a couple of situations like that. So many employees knew that one employee had anger problems and they reported it but management and supervisors didn't know what to do about it because nothing had been done yet. Even when the workplace violence standard is adopted, how do we make that happen without potential retaliation or legal action or where people can actually report something that they observe?

Meleah Hall commented that some other requirements to consider are access to records when there's a violent act. She requested that and wasn't able to get access to her records. The district told her that it was only for chemical exposures. She suggested protection against retaliation because retaliation is a large part of reporting incidents and not wanting to say anything and that reduces the numbers. Ms. Hall also talked about the need to document incidents. D'Jean mentioned that transportation workers are sometimes exposed to bodily fluids and that also happens in special education. Special education teachers are sometimes exposed to needles. There are regulations that crisscross so if there are already regulations in healthcare industry that may benefit others that are exposed to it.

Bruce Wick commented that it took a couple of years to work on the workplace violence in healthcare regulation that takes effect April 1st. There are six different industries on the list that are going to have their own individual things to walk through. He suggested updating the Consultation publication and education while this is in the regulatory process and that can happen quickly. There are a lot of personal risk factors and environments to avoid, things that are common whether you're an employee or a member of the public. We can have that kind of training and there are so many platforms for getting that information out to people (e.g. social media) where we can get it out across California within not that many months and have everybody understand the basics about workplace violence whether you're a customer, employee, supervisor or worker. That would make a real difference. While the six industries you listed there are serious things, there are exposures that are consistent that could be addressed. For those with far less exposures, like construction and others, they can be set aside. If there's data or other information to pull in other industries, let's talk about that, but if we add a bunch of other industries we're just going to bog this process down.

Cassie Hilaski, Nibbi Brothers General Contractors, disagrees that a sign-in sheet for training means nothing and that there is no way you can guarantee that employees are trained. If an employee turns off his mind, you cannot turn it on even if you test him or quiz him or provide web-based training. She cautioned against trying to come up with a failsafe method of making employers guarantee that employees are retaining the training. They train and do their best and some guys are just not going to retain it. She asked if the company houses superintendents for the week, is that employer-controlled housing because she would be hard-pressed to be responsible for her superintendents 24 hours a day because the company pays for his hotel or apartment during the week. When employers aren't following regulations, it doesn't mean we need more regulations. It means we need more enforcement of the current regulations. For the first time, she had to deal with a shooting in a rough neighborhood with gang violence. Her company addressed it through the IIPP because they identified a hazard and wrote a policy into the IIPP, provided training to their employees and came up with site-specific procedures. She said that maybe a new regulation is needed for the high hazard industries listed but not for industries like construction. She also agreed with a previous commenter about not being able to prevent it from happening because there are a lot of uncontrollables. When crafting workplace violence into the IIPP, it's been about how you identify a behavior that tips you off that it might happen, but ultimately you can't guarantee anything. During the first 15 minutes of one of their training sessions, the trainer pulled out weapons from his clothing to demonstrate that he looked like a normal guy and he could have been very dangerous, but there was no way for you to know that. Regarding verbiage to prevent, can we really prevent workplace violence entirely or can we do our best to deal with it and have rules about how to deal with it instead of creating some sort of expectation that they can control the public, for example. Workplace violence comes from the public, irate pedestrians or gang members, and they can't control those individuals. They can do their due diligence to train and educate workers as much as possible but they can't control uncontrollable factors.

Steve Smith summarized the comments/suggestions – log, reporting, definitions, other types of issues. He asked for any other final comments on these procedures or what stakeholders anticipate from us. Someone asked if there was a date for the next meeting and Steve replied that there wasn't. Michael Musser asked if it was okay to contact the Division to send thoughts and Steve replied in the affirmative.

Kathy Hughes highlighted some points from the healthcare regulation – definition of workplace violence that includes the four typologies, definition around threats of violence. What isn't a cookie cutter approach is that when you do your assessment, your plan is going to be as exhaustive as your hazards are. So if you have a really low hazard industry, your plan isn't going to be as robust as retail (late night shops). If you really look at it, there are some parts that would be really helpful. For education the 300 logs don't apply, so there has to be some kind of recordkeeping. What we didn't really hear, which is her favorite part of the reg, is that the employees are actually involved in the entire process. It's important because the front line workers in education, for example, are going to know where the threats are and what they're going to need. When you're addressing the hazards, there aren't any specific requirements (e.g. metal detectors, cameras). You identify controls that are going to be specific to what you think you need. If you identify low lighting during your assessment you're going to realize that's going to have to be fixed. It doesn't have to be super exhaustive for every industry and it doesn't have to be the same across the board. The six high risk areas that are identified from the data are good and there are a few they would like to include. Maybe there is another way to address all the other industries. All the healthcare employers said the same thing that they're never going to make this work, but a lot of what they do they already have in place and it's just not effective

enough. This regulation was to make it enforceable so that their employers have to address it. Her workplace violence training was a 15-minute video that did nothing and wasn't helpful at all. The regulation allows electronic or web-based training, provided that questions are answered within a workday. The healthcare regulation has a lot in it that can be useful. She thinks this petition is valid and there are some industries that we need a new reg for, maybe it isn't every industry.

Steve Smith outlined the next steps. The Division would like any industry-specific data you wish to provide, suggestions on how to approach issues, or any other ideas that come to you after the meeting to be sent to Kevin Graulich by the end of January. We will develop our meeting minutes and get back to you as what our next steps are – if there will be another meeting and when, and what will become of this from what we've heard and what we should do in response to it.

Dan Leacox asked if the minutes would be available by the end of January and Steve replied that we don't anticipate that the minutes would be ready by then. Steve thanked the attendees for their participation and adjourned the meeting.