

WHAT ARE SOME WAYS TO REDUCE THE RISK OF DYING ON THE JOB?

INTRODUCTION[†]

The competitiveness of thousands of American businesses depends on the contributions of low-skilled workers. However, outdated labor protections, a dysfunctional immigration system, and weakened federal investment in workplace outreach and enforcement have left many low-skill workers vulnerable to exploitation by unscrupulous employers. Due to demographic and labor market shifts, Latinos* have emerged as the group most likely to hold jobs with low wages, insufficient benefits, and dangerous working conditions. The costs to worker well-being and job quality are immense, and Latinos—especially immigrants—are the workers most likely to pay with their lives.[‡]

LATINO WORKERS AT RISK

Violations of basic worker protection laws are common in many low-wage industries. The majority of the Latino workforce is employed in workplaces where regulations governing wages, benefits, and working conditions are not met. Latinos are overrepresented in the industries with the highest rates of fatal occupational injury, including construction (23.5%); agriculture, forestry, fishing, and hunting (20.3%); and transportation and warehousing (14.8%).¹ Appendix A describes the occupations with the highest Latino fatalities.

The percent of employers who knowingly violate occupational health and safety laws is on the rise. The Occupational Safety and Health Administration (OSHA) has documented a 6.4% rise in violations of standards and regulations since 2003, including a rise in “willful” violations in which employers knowingly violate the law.² OSHA attributes this increase to improved government investigations, resulting in an increase in the discovery of willful violations, but the rising toll of Latino worker deaths is likely also due to an increase in the incidence of willful violations.

Latino workers are more likely than White and Black workers to die from an injury at work. This fact is made clear in Figure 1. The Hispanic occupational fatality rate in 2007 was 21.1% higher than that of White workers and 17.9% higher than that of Black workers.

Two-thirds of Hispanic victims of fatal workplace injuries are immigrants and the vast majority is male. Of the reported 937 Latino fatal injuries in 2007, 634 (67.7%) were injuries to immigrants and 894 (95.4%) were male (see Figure 2).³

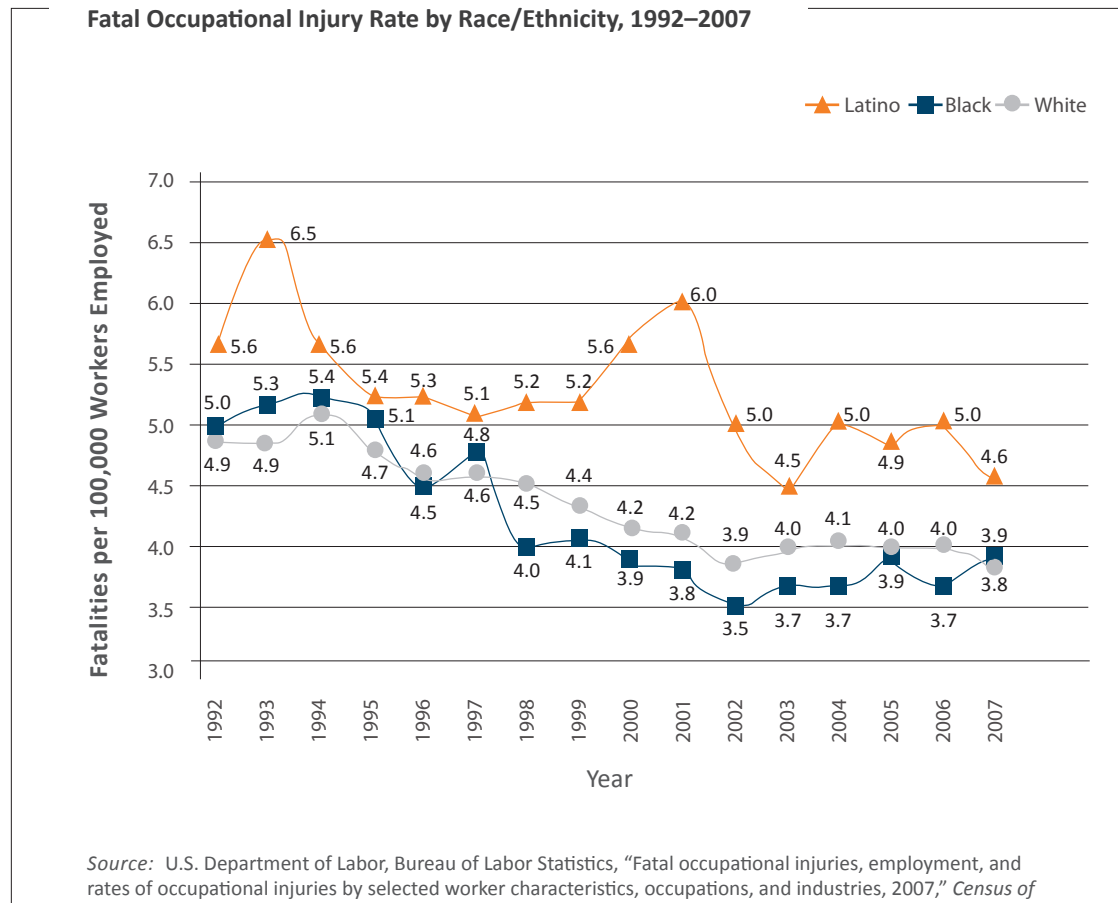
* The terms “Hispanic” and “Latino” are used interchangeably by the U.S. Census Bureau and throughout this document to refer to persons of Mexican, Puerto Rican, Cuban, Central and South American, Dominican, Spanish, and other Hispanic descent; they may be of any race.

† This fact sheet was prepared by the National Council of La Raza (NCLR), the largest national Hispanic civil rights and advocacy organization in the United States.

‡ Unless otherwise noted, all statistical information herein was derived by NCLR. For more information on these and related data, please see Catherine Singley, *Fractures in the Foundation: The Latino Worker's Experience in an Era of Declining Job Quality* (Washington, DC: National Council of La Raza, 2009), www.nclr.org/content/publications/detail/59227 (accessed March 2010).

Latino workers and their employers appear more likely to underreport workplace injuries and illnesses. Compared to the dismal profile of workplace deaths, government records of serious injuries and illnesses are conspicuously low for Latinos. Investigations reveal that underreporting is especially prominent in areas of the labor market where Latinos are employed in high numbers, including construction, poultry processing, and agriculture.⁴

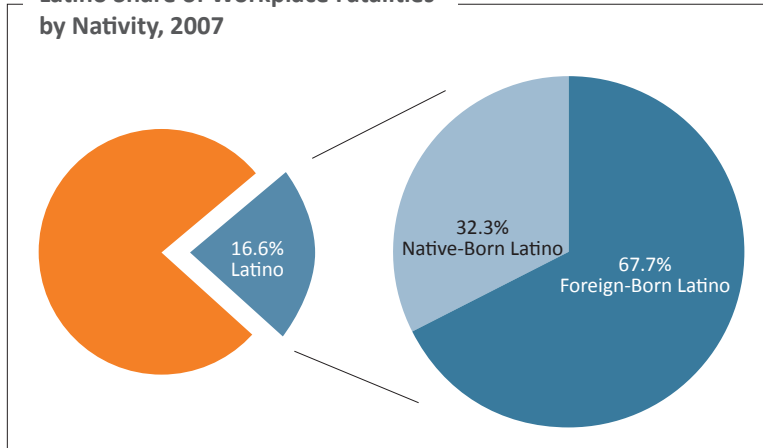
FIGURE 1
Fatal Occupational Injury Rate by Race/Ethnicity, 1992–2007



Source: U.S. Department of Labor, Bureau of Labor Statistics, “Fatal occupational injuries, employment, and rates of occupational injuries by selected worker characteristics, occupations, and industries, 2007,” *Census of Fatal Occupational Injuries, 2007*. Washington, DC, 2009, http://www.bls.gov/iif/oshwc/cfoi/cfoi_rates_2007.pdf (accessed June 2008).

* Data from 2001 do not include fatalities from the September 11 terrorist attacks.

FIGURE 2
Latino Share of Workplace Fatalities
by Nativity, 2007



Source: U.S. Department of Labor, Bureau of Labor Statistics, "Fatal occupational injuries, employment, and rates of occupational injuries by selected worker characteristics, occupations, and industries, 2007," *Census of Fatal Occupational Injuries, 2007*. Washington, DC, 2009, http://www.bls.gov/iif/oshwc/cfoi/cfoi_rates_2007.pdf (accessed June 2008); U.S. Department of Labor, Bureau of Labor Statistics, "Fatal occupational injuries to foreign-born Hispanic or Latino workers by selected characteristics, 2003–2007," *Census of Fatal Occupational Injuries*, unpublished data.

MAJOR REASONS FOR THE HIGH LATINO FATALITY RATE

Weak civil and monetary penalties. Beyond the obligation to pay an employee's salary, many employers are required by law to provide workers with personal protective equipment and safety training.⁵ In many cases, however, the civil penalties for violating these laws are too weak to compel employers to fulfill their legal obligations. Fines for OSHA violations have been stagnant for nearly two decades. Certain pervasive practices, such as misclassifying regular employees as independent contractors to avoid the responsibility and costs of employing workers, are difficult to combat due to legal loopholes that hold employers harmless.⁶

Employee intimidation and underreporting. Abnormally high rates of injury or illness can drive up an employer's workers' compensation premiums and can affect a business' chance of winning certain government contracts.⁷ These considerations can cause employers to actively discourage employees from reporting serious incidents. This practice distorts the accuracy of official injury reports and blocks workers from accessing the workers' compensation process. Ultimately, a mistaken understanding of vulnerable populations and high-risk industries directs scarce federal resources away from where they are needed most.

Poor delivery and content of health and safety training. Several investigations into cases of Hispanic worker deaths have concluded that inadequate training is a major cause of preventable deaths. Non-Spanish-speaking employers often fail to provide culturally and linguistically appropriate training to Spanish-speaking workers, violating their legal obligation to provide quality training.⁸ OSHA has developed extensive compliance assistance resources in Spanish. However, public health models have shown that the effectiveness of these materials rests on the quality of delivery of information.

Lack of resources for federal outreach and enforcement. Federal divestment in OSHA and the Wage and Hour Division of the Department of Labor (DOL) is the primary barrier to effective outreach and enforcement activities. For example, the average OSHA employee today is responsible for 4,057 establishments, nearly four times the caseload of employees in 1975.⁹ Only recently has DOL begun to grow the ranks of its compliance officers and investigators.

Inaccessible grievance process. Even with adequate information and training, a significant portion of the Hispanic workforce does not have full access to the complaint-driven process that governs the workplace. For instance, legal recourse for workers who are victims of unlawful employer retaliation can be an unrealistic option for Latinos with limited access to culturally and linguistically appropriate and affordable legal resources.¹⁰ Membership in labor unions, which are uniquely poised to act on behalf of concerned workers, is relatively low for Latinos; slightly more than one in ten (10.2%) Latino workers belonged to a union in 2009, compared to 12.3% of the workforce overall.¹¹

Conflicts with immigration enforcement activities. Over the past decade, there have been several cases in which federal immigration raids in workplaces have disrupted ongoing labor law investigations by removing potential witnesses through the swift detention and prosecution of undocumented workers (and in some cases, U.S. citizens). Among the many consequences of immigration raids are the heightened distrust of government officials and fear among immigrant workers to report even serious employer violations to the government.

RECOMMENDATIONS FOR REBUILDING JOB QUALITY

Make the punishment fit the crime for employers who break the law. Quite simply, the penalties must reflect the true costs of breaking the law: workers' lives. An employer whose "willful" violation results in a worker's death should be charged with a felony rather than a misdemeanor. Not only would this stronger penalty be more consequential for employers charged with violating health and safety laws, it would function as a warning to other businesses by increasing the likelihood that prosecutors would take up worker fatality cases.¹²

Support community-based organizing structures for nonunionized and nontraditional workers. The shift from traditional single-site workplaces with long-term employees to multiple worksites, nontraditional arrangements, and contingent work—all of which are especially common among Hispanic workers—demands new ways of organizing workers. Strategies range from organizing workers by specific occupations, to entire production or subcontracting chains, to neighborhoods.¹³ In nearly all of these examples, community-based organizations play a central role.

Actively protect all whistleblowers, regardless of immigration status. Federal agencies must send a strong signal to immigrant workers and their employers that the enforcement of immigration laws should never undermine the enforcement of labor laws. DOL and U.S. Immigration and Customs Enforcement should publicly reaffirm their commitment to keep their operations separate and bolster oversight of field offices to ensure that this guidance is followed in all communities.

Level the playing field for all workers through comprehensive immigration reform. By any measure, the largest and most vulnerable group of marginalized workers is the undocumented population, which increased from 4.3% to 5.4% between 2003 and 2008 alone.¹⁴ Yet immigrants are not the only workers who suffer at the hands of unscrupulous employers. As long as immigrants are prevented from fully exercising their rights in the workplace, and as long as some employers escape punishment for actively subverting workers' complaints, job quality declines for *all* workers. Comprehensive immigration reform should require undocumented workers to register, legalize, pay taxes, and learn English. This kind of reform will make new taxpayers and equal citizens out of undocumented immigrants and remove the incentive for abusive employers to hire them, undercut honest employers, and depress the job quality of all workers.

Increase funding for OSHA and the Wage and Hour Division, with special emphasis on hiring bilingual personnel. Federal budget allocations for DOL must be restored to adequacy in order to more effectively tackle the growing complexities of the labor market. Within a general funding increase, policymakers should target resources toward hiring and training inspectors who can communicate with workers whose primary language is not English. Bilingual investigators should be required to be present during an investigation in a workplace in which a majority of employees are limited-English-proficient.

Devote at least half of OSHA and Wage and Hour resources to targeting high-risk industries and work arrangements. At least 50% of OSHA and Wage and Hour resources should be devoted to planned initial and follow-up inspections in workplaces in high-risk industries, including agriculture, construction, leisure and hospitality, retail trade, and manufacturing.¹⁵ Employers who employ workers in nontraditional and multisite arrangements should also be scrutinized.

Work with community-based organizations to identify high-risk workplaces and repeat violators. Compliance data based on industry classifications may be too broad for effective targeting of specific tasks, employers, and occupations.¹⁶ DOL should strengthen its engagement with community-based organizations that can assist the Department in narrowing its focus. As trusted institutions providing education and resources to empower communities, community-based organizations have a unique “insider” perspective that qualifies them to serve as the voice for underrepresented workers.

Invest in innovative worker outreach and education models. OSHA’s community-wide outreach events should be supplemented by specialized outreach campaigns that empower community members to educate their peers in a manner that is comfortable, convenient, and culturally and linguistically appropriate. For instance, lay health educators, or *promotores de salud*, have successfully raised awareness in Latino communities about topics such as diabetes and heart disease.¹⁷ Some community-based groups have applied a similar model in an occupational health and safety context.¹⁸ These pilot efforts warrant additional investment for evaluation and expansion.

Appendix A: Descriptions of Occupations with the Highest Latino Fatalities, 2007

Occupation	Tasks*	Work Environment	Education and Training Requirements	Median Weekly Earnings†
Construction Laborers	<p>Removal, cleaning, loading, digging</p> <p>Operating equipment</p> <p>Most workers do not specialize in a task</p> <p>Local competition gives preference to high-skilled workers with the ability to relocate</p>	<p>Repetitive motion</p> <p>Weather conditions</p> <p>Schedule varies depending on employer, weather, and opportunities for work</p> <p>Hazards: heights, exposure to harmful substances, machinery, noises, and odors (especially in confined spaces)</p>	<p>Entry-level, on-the-job training</p> <p>Some employers require trade-specific classroom instruction</p> <p>Formal apprenticeships</p> <p>Occupational Safety and Health Administration (OSHA) safety training</p>	<p>\$514</p> <p>The middle 50% earn between \$9.95 and \$17.31 per hour‡</p>
Driver/Sales Workers and Truck Drivers	<p>Driving heavy trucks and tractor-trailers</p> <p>Driving light/delivery vehicles</p> <p>Workers may travel long distances, help unload, and sell goods</p>	<p>Some may engage in physical labor</p> <p>Long hours</p> <p>Hazards: fatigue, other drivers, and obstacles</p>	<p>Driver's license for all trucks</p> <p>Commercial driver's license required for large trucks</p> <p>Some states require additional training</p>	<p>\$665</p> <p>Median hourly earnings vary based on type of truck; restaurant drivers earn \$7.11 per hour, while general freight truckers earn \$18.38 per hour§</p>
Miscellaneous Agricultural Workers	<p>Varies widely</p> <p>Farmworkers: tending to crops, nurseries, greenhouses, ranch animals</p> <p>Operating equipment</p> <p>Grading and sorting</p>	<p>Repetitive motion (bending, stooping, lifting)</p> <p>Mostly outdoors</p> <p>Time pressures, especially during planting and harvest seasons</p> <p>Many seasonal and migrant workers</p> <p>Hazards: exposure to harmful substances (e.g., pesticides), machinery, animals; limited access to sanitation and drinking water; muscle strain</p>	<p>Most jobs require little education, short on-the-job training, especially in the crop production sector</p>	<p>\$546</p> <p>Median hourly earnings vary greatly; farmworkers earn a median of \$7.95 per hour while agricultural inspectors earn a median of \$18.32 per hour</p>

* U.S. Department of Labor, *Occupational Outlook Handbook, 2008-09 Edition*, <http://www.bls.gov/oco> (accessed May 2009).

† Median weekly earnings listed are for 2007. U.S. Department of Labor, "39. Median weekly earnings of full-time wage and salary workers by detailed occupation and sex." *Current Population Survey*. Conducted by the Bureau of the Census for the Bureau of Labor Statistics. Washington, DC, 2007, <ftp://ftp.bls.gov/pub/special.requests/lf/aa2007/aat39.txt> (accessed September 2008).

‡ Hourly earnings are for 2006. U.S. Department of Labor, Bureau of Labor Statistics, "Occupational Outlook Handbook, 2008-09 Edition," <http://www.bls.gov/oco> (accessed May 2009).

§ Median hourly earnings are for 2006.

Occupation	Tasks	Work Environment	Education and Training Requirements	Median Weekly Earnings
Grounds Maintenance Workers	Landscaping Grounds keeping Handling pesticides Trimming trees and pruning bushes	Repetitive motion (lifting, shoveling) Time pressures Often seasonal Usually outdoors Hazards: muscle strain and fatigue	Entry-level, on-the-job training Most workers have a high school education or less	\$420 Median hourly earnings range from \$9.82 for general workers to \$17.93 for supervisors
Hand Laborers and Freight, Stock, and Material Movers	Moving and loading freight, stock, and other materials onto docks, vehicles, ships, containers, and between work areas	Repetitive motion May be seasonal Some shifts are overnight Hazards: heights, weather conditions, harmful fumes, noises, materials, substances, and machinery	Mostly on-the-job training OSHA safety training	\$474 Median hourly earnings of \$10.20 per hour
Roofers	Mostly repairing roofs and reroofing	Repetitive motion (lifting, climbing, bending) Seasonal in northern states Time pressures, especially before bad weather Hazards: slips, falls, burns, and extreme heat	Informal on-the-job training High school education helpful Formal education may include apprenticeships OSHA safety training	\$550 The middle 50% earn between \$12.12 and \$20.79 per hour
Installation, Maintenance, and Repair Workers	Varies widely Repairing machines and appliances Maintenance Installing lines	Shift work is common Some workers on call Some long-distance travel Hazards: electrical shock, burns, and muscle strain	Much informal on-the-job training but some require technical training as well (e.g., heating, air conditioning, and refrigeration repair)	\$618 Median hourly wage varies greatly; equipment wholesalers earn \$20.53 per hour while vending machine operators earn \$12.94 per hour
Carpenters	New construction Installation Repair 32% of workers are self-employed Workers may specialize in one or two tasks	Repetitive motion (climbing, bending, kneeling) May be exposed to weather conditions Time pressures Hazards: contact with tools and equipment, falls, muscle strain, and fatigue	Informal on-the-job training Formal training may require three to four years of on-site and classroom instruction Apprenticeships usually limited to union members and employees of commercial and industrial building contractors	\$615 The middle 50% earn between \$13.55 and \$23.85 per hour

Endnotes

¹ U.S. Department of Labor, "Table 18. Employed persons by detailed industry, sex, race, and Hispanic or Latino ethnicity." *Current Population Survey*. Conducted by the Bureau of the Census for the Bureau of Labor Statistics. Washington, DC, 2010, <ftp://ftp.bls.gov/pub/special.requests/lf/aat18.txt> (accessed April 2010).

² U.S. Department of Labor, "OSHA Enforcement: Striving for Safe and Healthy Workplaces," Occupational Safety and Health Administration, http://www.osha.gov/dep/enforcement/enforcement_results_07.html (accessed January 2009).

³ U.S. Department of Labor, Bureau of Labor Statistics, "Fatal occupational injuries to foreign-born Hispanic or Latino workers by selected characteristics, 2003–2007," *Census of Fatal Occupational Injuries*, unpublished data.

⁴ Lenore S. Azaroff, Charles Levenstein, and David H. Wegman, "Occupational Injury and Illness Surveillance: Conceptual Filters Explain Underreporting," *American Journal of Public Health* 92 (2002): 1421–1429, <http://www.ajph.org/cgi/reprint/92/9/1421.pdf> (accessed June 2008).

⁵ One basic cost of hiring a traditional wage-and-salary employee is the employer's share of the tax burden. Both the employer and the employee are required to split the Federal Insurance Contribution Act (FICA) tax of 15.3%. In cases where personal protective equipment is required on the job, OSHA rules deem employers responsible for purchasing that equipment. U.S. Department of Labor, "Employer Payment for Personal Protective Equipment; Final Rule – 72:64341-64430," OSHA, http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_id=20094&p_table=FEDERAL_REGISTER (accessed January 2008).

⁶ While many employers hire legitimate independent contractors, misclassification of regular employees as independent contractors is a practice that is spreading; a study commissioned by the U.S. Department of Labor estimated in 2000 that 30% of businesses misclassify their workers as independent contractors. Workers who are misclassified face a host of potential problems that tend to surface only when they seek to exercise their rights as legitimate employees. Lalith de Silva et al., *Independent Contractors: Prevalence and Implications for Unemployment Insurance Programs* (Rockville, MD: Planmatics, Inc. for the U.S. Department of Labor, Employment and Training Division, 2000), <http://wdr.doleta.gov/owsdrr/00-5/00-5.pdf> (accessed November 2008).

⁷ Lenore S. Azaroff, Charles Levenstein, and David H. Wegman, "Occupational Injury and Illness Surveillance: Conceptual Filters Explain Underreporting," *American Journal of Public Health* 92 (2002): 1421–1429, <http://www.ajph.org/cgi/reprint/92/9/1421.pdf> (accessed June 2008).

⁸ Committee on Communicating Occupational Safety and Health Information to Spanish-speaking Workers et al., *Safety is Seguridad: A Workshop Summary* (Washington, DC: National Academies Press, 2003), http://books.nap.edu/openbook.php?record_id=10641&page=R1 (accessed January 2008).

⁹ AFL-CIO, "Number of U.S. Establishments and Employees Covered Per OSHA Full Time Equivalent (FTE) Staff, 1975-2007," *Death on the Job: The Toll of Neglect* (Washington, DC: AFL-CIO, 2009), http://www.aflcio.org/issues/safety/memorial/upload/_29.pdf (accessed April 2009), 59.

¹⁰ *Death on the Job*, 6; Abel Valenzuela Jr. et al., *On the Corner: Day Labor in the United States* (Los Angeles, CA: UCLA Center for the Study of Urban Poverty, 2006), http://www.sscnet.ucla.edu/issr/csup/uploaded_files/Natl_DayLabor-On_the_Corner1.pdf (accessed September 2007).

¹¹ U.S. Department of Labor, "40. Union affiliation of employed wage and salary workers by selected characteristics." *Current Population Survey*. Conducted by the Bureau of the Census for the Bureau of Labor Statistics. Washington, DC, 2009, <http://www.bls.gov/cps/cpsaat40.pdf> (accessed April 2010).

¹² David Barstow, "U.S. Rarely Seeks Charges for Deaths in Workplace," *New York Times*, December 22, 2003.

¹³ Edna Bonacich and Fernando Gapasin, "Organizing the Unorganizable," in *The State of California Labor*, ed. Paul M. Ong and James R. Lincoln (Los Angeles, CA: Institute of Industrial Relations, 2001), <http://www.irla.ucla.edu/research/scl/pdf01/scl2001ch15.pdf> (accessed June 2008).

¹⁴ Jeffrey Passel and D'Vera Cohn, *A Portrait of Unauthorized Immigrants in the United States* (Washington, DC: Pew Hispanic Center, 2009), 15, <http://pewhispanic.org/files/reports/107.pdf> (accessed April 2009).

¹⁵ Testimony of Kim Bobo before the U.S. House of Representatives Committee on Education and Labor, *Is the Department of Labor Effectively Enforcing Our Wage and Hour Laws?*, 110th Cong., 2nd sess., 2008, <http://edlabor.house.gov/testimony/2008-07-15-KimBobo.pdf> (accessed July 2008).

¹⁶ Committee on Communicating Occupational Safety and Health Information to Spanish-speaking Workers et al., *Safety is Seguridad: A Workshop Summary*.

¹⁷ Liany Elba Arroyo, "Assessing a *Promotores de Salud* Approach to Increase Awareness, Knowledge, and Actions Relating to Depression in Hispanic Communities" (Washington, DC: National Council of La Raza, 2006), <http://www.nclr.org/content/publications/detail/42651> (accessed September 2007).

¹⁸ For example, see the Poultry Worker Project of the Center for Community Change at <http://www.communitychange.org/our-projects/waje/poultry-worker-project/?searchterm=None> (accessed September 2008).