



Issue No. 7 February 27, 2006

In this Issue:

- **CLINIC to Create Labor Rights Manual for Gulf Coast Workers**
- **New Materials for Advocates Available Now**
- **ICE Meets with Worker Advocates Regarding 2006 Priorities, Including Operations in the Gulf Coast**
- **The Department of Labor Meets with Worker Advocates**

CLINIC to Create Labor Rights Manual for Gulf Coast Workers

CLINIC is in the beginning stages of preparing a worker rights manual for immigrants working in reconstruction along the hurricane ravaged Gulf Coast. The manual will focus on assisting immigrants and their advocates to help workers with wage and safety issues as they work to repair the Gulf Coast.

Please contact Laurie Joyce at: lauriejoyce@comcast.net if you have issues on this topic you would like covered in the manual. Also, if you have worked with helpful local or federal government agencies or independent agencies on hurricane assistance, please send the agency contact information to Laurie Joyce, so that it may be included in the manual.

New Materials for Advocates Available Now

CLINIC has created a new flyer on disaster assistance for immigrants that explains how the acceptance of such benefits does not render an immigrant a “public charge” for immigration purposes. These materials are available in both English and Spanish and can be accessed on CLINIC’s website at: <http://www.cliniclegal.org/katrina.shtml>.

ICE Meets with Worker Advocates Regarding 2006 Priorities, Including Operations in the Gulf Coast

By Karen A. Herrling

CLINIC joined other worker advocate groups in a recent meeting with officials from the U.S. Immigration and Customs Enforcement (ICE) to talk about worksite enforcement. ICE is the investigative arm of the Department of Homeland Security (DHS). The purpose of the gathering

was to meet the individuals at ICE headquarters involved with worksite enforcement and to learn more about the agency's priorities for 2006.

A large contingent of Government officials were present at the meeting including, staff from Assistant Secretary Julie Myers office, staff from Worksite Enforcement Division, staff from the Compliance Division, an attorney with the Office of the Principal Legal Advisor, an attorney with the Office of Civil Rights and Civil Liberties at DHS, and two community outreach coordinators.

The former Worksite Enforcement Unit Chief, Bill Riley, provided an overview of worksite enforcement. His successor, John Connolly, was present. However, because Mr. Connolly has been in his present role for less than four weeks, Mr. Riley served as the principal spokesperson for the Worksite Enforcement Unit.

Mr. Riley began by highlighting the agency's priorities for 2006. He reported that ICE will continue to focus on employer investigations related to critical infrastructure, national security and employers who engage in egregious criminal violations. According to ICE, it pursues these investigations because unauthorized workers employed in sensitive security sites and critical infrastructure facilities – airports, nuclear power and chemical plants, and defense contractors – are vulnerable to exploitation by terrorist, smugglers, traffickers and other criminals. He also explained that ICE takes an interest in employers that are part of the food chain (i.e. beef and poultry industries) and considers them part of their national security focus because they produce food that feed our nation.

As noted above, ICE also targets “criminal employers.” According to ICE, employers who commit criminal violations related to document fraud, smuggling, harboring and worker exploitation are high priority targets. In the case of identity fraud, ICE usually works in conjunction with the Social Security Administration (SSA). Many of these types of cases come to their attention through other unrelated on-going investigations and when individuals report identity fraud to the SSA.

Mr. Riley mentioned that ICE also will continue to perform I-9 audits of employers and issue citations and fines in appropriate circumstances. The agency targets employers for audits based on leads from other government agencies and the public along with information gleaned from other on-going investigations. ICE evaluates this information and prioritizes its targets based upon national security and public safety criterion.

In addition, Mr. Riley mentioned that in 2006 ICE will reach out to employers to educate them on their responsibilities to hire only employment authorized individuals, verify each applicant's identify and work status, and maintain I-9 records. The agency also will educate employers on “best practices,” and how to avoid discriminatory practices. One of the best practices that will be touted is the Basic Pilot verification system.

In general, ICE sets worksite enforcement priorities at the national level. However, local offices have some discretion in deciding where to focus scarce resources. For instance, the Special Agent in Charge (SAC) looks at community needs in carrying out enforcement priorities and submits suggestions for approval to headquarters. As an example, in Phoenix the SAC may focus more on employers that smuggle and harbor workers given its proximity to the border while the SAC in the Gulf Coast may focus more on the petroleum refineries and ports.

ICE also mentioned that the local SAC works with other government agencies like the U.S. Department of Labor and the Assistant United States Attorney's Office to carry out the agencies' priorities. ICE noted that "bad" employers usually violate multiple laws so that it is not unusual for the employers they investigate to violate the wage and hour law as well as immigration law.

While ICE's budget has increased for 2006, Mr. Riley admitted that they have not seen any real evidence of the budget increase to date. They do have a more robust headquarters staff with 14 individuals working on worksite enforcement. In addition, they are reviewing the Field Guidance Manual and planning more training for field investigators and staff.

Throughout out the meeting, Mr. Riley responded to advocates questions, including questions regarding current operations in the Gulf Coast. Advocates learned that while ICE does have ongoing investigations in the Gulf Coast (related to critical infrastructure and national security) there has not been a substantial increase in operations since Hurricane Katrina. Additionally, ICE noted that operations at shelters only take place if they relate to worksite enforcement. ICE voiced concern about reports from advocates that employers are paying substandard wages and committing health and safety violations. ICE encouraged advocates to contact them if there was nexus between the violations and employer worksite enforcement.

Additionally, ICE and advocates openly discussed their positions about the operation that occurred in North Carolina where ICE investigators used a ruse of an Occupational Safety and Health (OSHA) meeting to arrest unsuspecting unauthorized workers. Advocates voiced their strong disapproval of this type of tactic. ICE officials defended this operation as a legitimate law enforcement tool. While ICE would not agree to ban this tactic, it seemed likely (from the language being used) that ICE would probably not use an OSHA ruse in the future.

Other information that advocates learned include: ICE routinely does not act based on anonymous tips alone and a SSA no-match letter does not in and of itself put the employer on notice that a worker is unauthorized, it merely puts the employer on notice that something is wrong.

Please contact Karen Herrling at kherrling@cliniclegal.org or (202) 635-7410 if you have any questions or comments about the meeting with ICE.

The Department of Labor Meets with Worker Advocates

By Karen A. Herrling

In early February, CLINIC staff joined other advocates at a meeting with government officials from the Wage and Hour Division at the U.S. Department of Labor (DOL). The main purpose of the meeting was to learn what the DOL is doing in the Gulf Region to assist workers whose rights are being violated and to share with them what advocates have witnessed in the Gulf Coast.

A number of officials from the Wage and Hour Division as well as from the Secretary's Office were present at the meeting. Advocates included both national organizations and local organizations with staff on the ground in Mississippi and Louisiana.

At the meeting, advocates effectively set out the need for more DOL involvement and resources. They discussed, among other things, the overwhelming number of wage and hour violations that continue to occur, intimidation tactics used by unscrupulous employers, safety and health violations that occur on a daily basis, and the refusal of contractors or subcontractors to ensure that employees are being paid. In addition, while they praised the work of the DOL investigators

that currently work in the region, they noted DOL's lack of additional resources that were needed to curb the abuses being perpetrated against workers that are trying to rebuild the Gulf Coast. (DOL had not increased its staff or its resources in the Gulf Region following Hurricane Katrina. While it did send five investigators to the area after the Hurricane, these individuals stayed for just one week.)

The meeting, while contentious and frustrating at times, most likely helped focus DOL's attention on the great need in the region. Indeed, DOL officials traveled to Louisiana during the middle of February to meet with advocates and talk with workers. Advocates remain hopeful that DOL will send more investigators to the region to help workers, deter further abuses, and bolster the efforts of Loyola Law School, the Hispanic Apostolate, the Mississippi Immigrant Rights Association, the Southern Poverty Law Center, and other committed advocates and groups working in the Gulf Coast.

Please contact Karen Herrling at kherrling@cliniclegal.org or (202) 635-7410 if you have any questions or comments about the meeting with DOL.

To sign up to receive this electronic newsletter, contact Maura Collins at mcollins@cliniclegal.org or visit clinic.kintera.org/katrina to subscribe online.