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Opposite Views Arise on Farm Labor Fines

Agriculture: To workers, data show lax enforcement. Growers say drop in sanctions marks better compliance.

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California's main program for enforcing fair wages and working conditions in the farm industry imposed the lowest total fines in its history last year. The program alleged just 11 minimum-wage violations statewide. Only three dozen times did its inspectors charge the state's farms and ranches with illegally hiring children, one-quarter the number of citations for underage workers issued six years earlier.

The statistics might mark a watershed in the treatment of up to 1 million laborers in California's \$25.9-billion-a-year agricultural industry. But what do the numbers mean?

Farm workers and their advocates say that the limited sanctions in 1999 prove, once again, that field hands are inadequately protected. They cite the numbers as part of a campaign to hold growers and ranchers more responsible for abuses that occur on their land.

Agricultural industry leaders, in contrast, say that the decrease in fines and citations confirms what they have been saying for some time: They are doing a better job of ensuring fair pay and working conditions for field hands.

Those dueling interpretations will take center stage as the debate moves to the Legislature, where a bill was introduced last week that seeks to make growers and ranchers liable for substandard pay and poor working conditions, even when the workers have been provided by a labor contractor. The legislation is designed to ensure that such middlemen are not left to shoulder that burden alone.

"I would like to see the [government inspectors] out there much more. Things can be very corrupted in the fields. . . . It has gotten much worse with the contractors," said one farm worker, a 70-year-old man, as he waited for work before dawn recently in the border town of Calexico. "People who don't have any [immigration] papers, in particular, feel they can't complain. They are being abused."

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George Daniels, executive vice president of the Farm Employers Labor Service, countered that workers have more than adequate protections already.

"The real message [in the enforcement statistics] is that, because of the stepped-up enforcement over the years and the greater awareness in the grower community, there is greater compliance. We are doing a much better job. Why not give credit where credit is due?"

The long-unresolved issue of how to enforce work rules in the fields looked as if it might be resolved in 1993, when the state created a joint task force of federal and state agencies to police the agricultural industry. The initiative is called the Targeted Industries Partnership Program.

In 1999, the program's agents conducted more inspections at farms and ranches than at any other time in its seven-year history. But with 914 inspections, double the number three years before, the inspectors issued their lowest-ever number of citations for failure to pay the minimum wage and for the use of underage labor--just 11 and 36 citations, respectively.

The task force assessed \$368,000 in penalties in 1999, another low and well behind the 1993 peak of \$1.6 million (although penalty collections actually increased). Civil and criminal citations initiated in 1999 also were close to the lowest levels in the program's existence.

"Nobody sees any enforcement out there," said Marc Grossman, counsel to the United Farm Workers of America. "When [the state] does a raid in one part of the state, it is generally once a year with no follow-up, and the other 51 weeks of the year the growers know they are safe." **Workers Claim Widespread Abuses**

Farm worker advocates contend that abuses are widespread and far beyond the reach of the 19 employees for the state Division of Labor Standards Enforcement who are assigned full time to inspect the fields. As one proof of the scope of the problem, they cite a 1998 U.S. Department of Labor survey of the state's grape industry. The survey found that half of the labor contractors and 20% of farmers sometimes failed to pay the federal minimum wage of \$5.15 an hour.

On a recent day, workers in Calexico waiting for buses to transport them to the fields voiced other complaints about enforcement efforts. They said that when inspectors do arrive in the fields, they often are not as thorough as they could be. Some inspectors seem to focus solely on the availability of portable toilets and water facilities, while not inquiring about whether workers were paid for all the hours they worked, the field hands said.

Workers added that inspectors often are insensitive to their fears that they will be targeted as snitches. One woman standing along Calexico's main street recounted what happened to her when she spoke to a deputy labor commissioner last year in the fields.

"I complained last year in the onions about working 10 hours and only getting paid for nine. That contractor won't give me work anymore," said the middle-aged woman, who declined to give her name.

Advocates have recommended that inspectors visit workers at home or in

the community, away from the eyes of their supervisors.

Renee, another Calexico worker, shrouded against the coming sun with a straw hat and green scarf, said the government needs to keep its sweeps a better secret.

"The contractor will say, 'The labor commissioner is coming today,' and they take care of things for a while," she said. "Then it goes back to normal"--with toilets no longer cleaned and harvesters cranked up to much higher speeds.

One former deputy for the state labor commissioner confirmed that growers did seem to know when a compliance sweep was in the offing.

"Ostensibly, they were surprise inspections, but often we would get calls from the growers saying, 'We know when and where you are going to be,' " said Alex Correa, who left government service and now is an agent for an engineers union in Fresno. "It became something of a joke."

Farmers say that all the complaints are an attempt to divert attention from what the simple statistics reveal: Inspectors are looking more but finding fewer cases in which farmhands are mistreated.

"I know we are in compliance here, probably even more than any other part of the state," said one Imperial Valley lettuce grower, who spoke on condition of anonymity, saying that he feared being targeted for extra scrutiny. "The vast majority of growers do a good job."

The head of the targeted industries program conceded that there could be some improvements in inspections but said he believes that working conditions have gotten better for field hands.

"We have been out there for several years now, and there is recognition by employers we are going to be checking," said Roger Miller, head of field enforcement for the Division of Labor Standards Enforcement. "We would like to think they are attempting to comply more."

But the program in recent years has been spread thinner as the Legislature sought to focus on other low-wage industries. A 1995 raid on an El Monte garment sweatshop that held women in virtual slavery spurred calls for even more inspectors in that industry. Last year janitors were placed under the program's purview after sustained publicity about the Justice for Janitors movement in Los Angeles.

While the number of agricultural inspectors has grown incrementally, there has been no special appropriation in recent years for a larger expansion, Miller said.

Miller insisted that enforcement citations are down for another reason--investigations now go far beyond their old practice of simply reiterating workers' allegations. The result is that more citations are sustained by administrative law judges, leading to a record \$233,000 in penalties collected by the targeted industries program in 1999, Miller said.

The enforcement program has faced criticism almost since its inception in 1992.

Gov. Pete Wilson backed the joint enforcement effort by state and federal labor officials only after vetoing an alternative, supported by farm workers, that would have established offices in each county to enforce farm labor standards.

But the joint effort lagged as federal labor officers frequently bickered with employees from three California agencies--the Division of Labor Standards Enforcement, the Division of Occupational Safety and Health (Cal/OSHA) and the Employment Development Department.

The number of inspectors assigned to the targeted industries program has doubled since 1992, to 43. But workers are spread thin as they seek to patrol several other low-wage industries--garment manufacturing, restaurants, construction work and janitorial services--at the Legislature's request.

"If you add responsibilities without additional staffing then we are going to have to take that enforcement from somewhere else," Miller said. Labor Contractors' Role at Issue

In Calexico and the rest of the state, workers say that problems more often arise with farm labor contractors than with growers themselves.

The 70-year-old in Calexico said the best of his 40 years in the fields were when he worked directly for a grower. He once even received health insurance. "But now all the money goes to the labor contractors, and that has ruined everything," said the man, who declined to give his name.

Advocates for farm workers say that the biggest improvements will come when growers and ranchers are forced to take responsibility for the treatment of their workers. The bill by Assemblywoman Gloria Romero (D-Los Angeles), introduced last week, would make farmers responsible for all the employees on their land, even those hired by middlemen.

Farmers say that they need contractors to hire the huge volume of workers they employ for just a few weeks or months each year. Increasing efforts have been made to ensure that working conditions and pay meet state standards, regardless of who does the hiring, the growers said.

But farm workers and their representatives say that farmers use the contractors to shield themselves from responsibility for poor pay and working conditions.

"Right now we have a legal fiction that the grower is not the employer of these people," said Mark Schacht, a lobbyist for the California Rural Legal Assistance Foundation. "We need this administration to be willing to look at new approaches, ones that aim at those who are truly responsible for the conditions in the fields--the growers, who hire the labor contractors."

Previous attempts to require "joint liability"--making farm owners the ultimate guarantors of fair wages and working conditions--have died in the Legislature. The same issue has been hotly contested for garment workers and will be debated this year for janitors--other low-wage industries in which contractors dominate.

Advocates for farm workers said they have high hopes for the new legislation, with the governor's office now occupied by Democrat Gray

Davis, who received strong support from the United Farm Workers of America. They found more encouragement last month when the state Supreme Court ruled that fieldworkers must be paid for the time they spend being transported in employer-owned buses.

But farmers argue that they are unfairly being targeted for labor enforcement. They say farm workers already have many alternatives if they are mistreated--including filing complaints with Cal/OSHA, the state labor commissioner or the federal Department of Labor.

"We want to have the workers treated fairly," said Daniels of the farm industry organization. "But to make the grower liable for contractors, people who he doesn't have control over, is not really fair." **Watching Out for Farm Workers**

The Targeted Industries Partnership Program is the state's primary means of policing wages and working conditions among California farm workers. The program conducted a record number of inspections in 1999. Although penalty collections have increased, citations and penalty assessments have declined, fueling a debate about the campaign's effectiveness.

1999

Inspections Conducted: 914

Citations for Child Labor Violations: 36

Citations for Failure to Provide Workers Comp: 44

Minimum-Wage Violations: 11

Criminal Citations*: 27

Penalties: \$368,475

Penalties Collected: \$233,086

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1998

Inspections Conducted: 811

Citations for Child Labor Violations: 72

Citations for Failure to Provide Workers Comp: 54

Minimum-Wage Violations: 17

Criminal Citations*: 47

Penalties: \$552,100

Penalties Collected: \$157,988

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1997

Inspections Conducted: 455

Citations for Child Labor Violations: 39

Citations for Failure to Provide Workers Comp: 26

Minimum-Wage Violations: 31

Criminal Citations*: 15

Penalties: \$631,200

Penalties Collected: \$122,376

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1996

Inspections Conducted: 449

Citations for Child Labor Violations: 65

Citations for Failure to Provide Workers Comp: 59

Minimum-Wage Violations: 19

Criminal Citations*: 45

Penalties: \$786,200

Penalties Collected: \$139,575

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1995

Inspections Conducted: 362

Citations for Child Labor Violations: 64

Citations for Failure to Provide Workers Comp: 23

Minimum-Wage Violations: 15

Criminal Citations*: 28

Penalties: \$659,000

Penalties Collected: \$135,546

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1994

Inspections Conducted: 589

Citations for Child Labor Violations: 74

Citations for Failure to Provide Workers Comp: 62

Minimum-Wage Violations: 18

Criminal Citations*: 87

Penalties: \$998,300

Penalties Collected: \$97,108

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1993

Inspections Conducted: 647

Citations for Child Labor Violations: 153

Citations for Failure to Provide Workers Comp: 99

Minimum-Wage Violations: 11

Criminal Citations*: 144

Penalties: \$1.6 million

Penalties Collected: \$142,302

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* Growers can face a charge of criminal wrongdoing for failure to provide adequate pay or proper working conditions.

Source: Targeted Industries Partnership Program of California Division of Labor Standards Enforcement

GRAPHIC-TABLE: Watching Out for Farm Workers, Los Angeles Times
Descriptors: CALIFORNIA -- AGRICULTURE; FARM LABOR -- CALIFORNIA; FARM LABOR -- WAGES AND SALARIES; MINIMUM WAGE; LABOR CODE VIOLATIONS; INVESTIGATIONS;

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