

Teenager's death highlights terrible toll in Australian workplaces

Terry Cook**18 November 2003**

The tragic death of 16-year-old Joel Exner on a construction site in Sydney's western suburbs has again focused attention on the high rate of industrial deaths and accidents in Australia. The teenager died on October 15 when he fell 15 metres from the roof of a building on an Australand project.

Building workers regard working on roofs as highly dangerous—something that should be undertaken only by those with considerable experience. But Joel Exner, employed by subcontractor Gary Denson Metal Roofing, had been just three days on the job and was not wearing a safety harness.

The circumstances that led to his death are neither exceptional nor accidental. They are the direct outcome of deregulatory policies pursued over the past 20 years by governments at all levels, both state and federal, Liberal and Labor. Aiming to create an "investment friendly" climate for big business, governments have ensured that extreme leniency is shown toward employers whose negligence causes workplace deaths and injuries. Compensation rights for injured workers have been eroded to shield companies from claims, including common law actions for lump sum settlements.

At the same time, driven by increasingly fierce competition, employers, large and small, have sought to boost profits by slashing costs, downsizing their workforces and implementing speed-ups. Safety precautions, traditionally viewed by business as an unacceptably costly outlay, have been systematically undermined.

Companies now regularly ignore even the most basic safety requirements, including training and induction for new and inexperienced workers and the provision of elementary safety equipment. In the productivity-driven hothouse atmosphere, with ever-tighter deadlines and output demands, workers, both young and old, are constantly pressured to cut corners to save time and money. Various statistics record the gruesome outcome.

According to an *ACTU Worksite* fact sheet, there are about 440 traumatic work-related deaths in Australia every year, or about nine per week. And this is only the tip of the iceberg. This figure does not include the equally tragic deaths that result from workplace-related diseases, such as asbestosis, mesothelioma and lung cancer, which claim over 2,300 lives each year.

In the state of New South Wales, 10,000 building workers took to the streets following Joel Exner's death to demand the state Labor government introduce industrial manslaughter laws. Workplace deaths in the state currently stand at a four-year high.

Figures provided at the end of last month by NSW Industrial Relations Minister John Della Bosca to the *Daily Telegraph* show traumatic workplace fatalities stood at 68 in 2002, 47 in 2001, 64 in 2000 and 61 in 1999.

The figures selected by Della Bosca, however, downplay the real situation. They are drawn from the WorkCover workers compensation scheme and ignore cases where no compensation claim is made. These include fatalities among self-employed people and federal employees, and cases in which there are no dependants to collect death benefits. Moreover, deaths related to dust diseases, except for those that occur in coal mines, are not counted, nor are deaths arising out of road accidents. Of the 181 industrial deaths in 1999-2000 in NSW reported by WorkCover, only 35.4 percent or 64 occurred in an actual workplace. Another 8.3 percent involved traffic accidents, 33.7 percent were from work-related commuting accidents and 22 percent arose from industrial diseases.

In Victoria, according to that state's WorkCover Authority, there are around 34 workplace deaths annually. Again, certain categories of fatalities are not counted, including deaths caused by industrial diseases. The fact that the number of deaths is lower than in NSW is more the result of good luck than good management. A spokesman for the Authority admitted the death rate could be much higher. "For every death or serious injury, there are at least 10 near misses," he said.

The ongoing destruction of permanent full-time jobs and their replacement with casual, part-time and contract labor has contributed to the escalating number of fatal accidents.

Contract workers brought onto the job for short periods—lacking familiarity with safety procedures and the general environment—are prime candidates for injuries and death. Generally, the host company takes little responsibility for these workers and makes no investment to train them. If injured or killed, they are simply replaced through a quick phone call to any of the myriad body-hire companies.

A NSW Labor Council *Unionsafe* bulletin on August 23 this year noted that the injury rate for labour-hire workers was generally far higher than among permanent workers. According to the bulletin: "In comparison to direct hire employees, the injuries to on-hire workers occur more often, occur early on in the placement with the host employer, are more severe and the on-hire worker is off work longer".

Under conditions of high unemployment, employers can take

advantage of an army of desperate young workers like Joel Exner. Out of fear of losing hard-to-find jobs, or out of sheer inexperience, they undertake hazardous tasks without proper instruction or safety equipment.

Another graphic case is that of 18-year-old Anthony Carrick, who was killed on November 12, 1998, on his first day on the job in Melbourne. His death also provoked a series of demonstrations by workers demanding industrial manslaughter laws. Anthony and a friend were employed by a labour-hire company, which simply dropped them off at a bulk livestock feed storehouse. The employer did not inspect the site and failed to give them safety instruction or equipment.

As they were sweeping the floor, a 5.5-tonne unrestrained cement slab toppled on them, killing Anthony and permanently injuring his friend, whose pelvis, legs and back were crushed. The storehouse management knew the slabs, which had been put in place to protect the shed walls, were unstable and that passing traffic caused them to sway and wobble. Yet it did not inform the young workers.

Similar stories of employer negligence, resulting in injuries to young workers, are commonplace. The NSW Labor Council's *YouthSafe* site provides several examples.

A 17-year-old was told to work on a machine that he had never operated. He was given no induction except some "vague instructions" from a 19-year-old "supervisor". The machine had no safety guards. His hand and wrist were dragged into the machine and badly mangled. A portion of his hipbone had to be removed to rebuild his wrist.

The arm of a 22-year-old untrained worker was trapped in an agitator he been told to clean. A surgical team had to amputate it on the spot to release him. He had never cleaned the machine before, and had not been given any instructions as to how to proceed.

A 21-year-old girl was severely burnt when she mistakenly emptied boiling hot oil from a bacon fryer and steaming unit into a large container of hot water. The resulting explosion showered her with scalding hot liquid. She had received only "vague instructions" on the work and should not have been handling boiling oil.

Many families of dead and injured workers have expressed anger at the leniency of the fines that have been handed out to negligent employers, who receive what can only be described as a slap on the wrist.

The highest fine imposed in the three incidents cited above was \$65,000 in the case of the worker who lost his arm. Even more incredible was the fine imposed for the death of Anthony Carrick. The company was fined just \$50,000, its managing director \$10,000, and the job supervisor \$5,000. The company avoided paying a cent by declaring bankruptcy.

In NSW, the maximum fine faced by an individual employer causing an industrial accident through negligence is \$55,000 for the first offence and \$82,500 for subsequent offences. For corporations, the fines are \$550,000 for the first offence and \$825,000 for subsequent offences.

Such potential penalties not only display contempt for the value of the lives lost; they represent a pittance for major companies. But

in reality most fines are far less. In 23 percent of cases, defendants were fined only 5 percent of the maximum penalty and in 48 percent of cases, just 10 percent. No individual or corporation has ever been fined more than 80 percent.

Continuing industrial deaths of young workers such as Carrick and Exner have provoked widespread anger among working people. As a result, the trade unions, which for the past 20 years have collaborated with governments and employers to undermine working conditions and fundamentally restructure the workplace, have been forced to conduct limited campaigns demanding tougher laws.

These mostly involve calling nominal demonstrations to let off steam. Workers are then diverted into pleading with Labor state governments to impose larger penalties.

Locked in competition with each other to attract corporations and investment, these governments have no intention of enacting laws that will in anyway hamper the exploitation of labour and the extraction of profit. The record of the Victorian Labor government headed by Premier Steve Bracks is particularly revealing.

In 2002, in the lead-up to the state election, Bracks introduced the Workplace Deaths and Serious Injury Bill. The legislation introduced tougher penalties for employers causing fatalities, including heavier fines and imprisonment for up to five years for industrial manslaughter. While parliament's lower house passed the bill, Bracks knew it would be defeated in the upper house, where the opposition Liberal and National parties held the majority.

After the state election gave Labor control of both houses—with the promised industrial manslaughter laws playing no small part in the outcome—Bracks refused to reintroduce the defeated bill, declaring: "Our mandate is not for one sectional group, our mandate is for all Victorians." What he actually meant was that, like his Labor counterparts in other states, he would act, at all times, to defend corporate interests.

At the end of last month, taking its cue from Bracks, the NSW Labor government, unmoved by the appeals of the dead workers' families, also ruled out the introduction of industrial manslaughter legislation.



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