

Workplace Safety Review Episode Fifteen

[Mike Taylor](#)

Hello everybody. This is Mike Taylor and Adam Roseman at Greenberg Traurig. I'm the chair of the Greenberg Traurig OSHA practice group. I'm based out of our Washington, DC and our Northern Virginia offices. My colleague, Adam, is based out of our Philadelphia office and he's also a member of our OSHA practice group. To learn more about me, Adam, and/or our practice group, go to www.gtlaw.com and you will find our information there.

[Mike Taylor](#)

Today, our special guest is Mr. Mark Catlin of MDC Consulting and Training in Columbia, Maryland. Mark has 40 years of experience in industrial hygiene, providing technical, policy and training assistance on occupational and environmental health and safety issues for labor unions, employers, universities, and federal and state agencies in the healthcare service, construction, manufacturing, and environmental sectors. Welcome, Mark.

[Mark Catlin](#)

Thanks Mike. Thanks for the invitation.

[Mike Taylor](#)

Hey, we're so excited that you're here with us today. Going through some of your background, one thing I did notice that you had the experience with which I'm interested in, and I know probably a lot of our listeners will be, is your work regarding the 1989 Exxon Valdez oil spill cleanup. You were part of that cleanup, is that right?

[Mark Catlin](#)

I was. I was, but not in the way most people think about involvement in that sort of event. I was actually assisting the laborers' union, which is one of the largest construction unions in Alaska. I'd been assisting them on health and safety and training issues for a couple of years before this spill occurred. When the spill occurred, a large number of the cleanup workers were their members, and so that's how I got pulled into health and safety issues on the oil spill cleanup, because of that.

[Mike Taylor](#)

That's very interesting. Were you dealing with a lot of HAZWOPER type issues? Is that what was going on?

[Mark Catlin](#)

Yeah. Work had started a couple of years before when I moved to Alaska assisting them with asbestos training issues because there was a lot of work. Then the laborers' union saw both the potential for work in the HAZWOPER remediation area in Alaska and also the value of this HAZWOPER training, which is very broad. If you think back to those days, most workers had very

little training. HazCom had just come into effect recently. We actually did, not a 40-hour HazCom. We did an 80-hour HAZWOPER class, and so we had a lot of time for both in-class and hands-on practice.

[Mark Catlin](#)

We started training shortly after the standard went into effect, the first standard in '87, and so we had been doing training about a year, a year and a half, when the oil spill hit. A number of the early cleanup workers who went out to the site in the Prince William Sound had been through this HAZWOPER training, so they had good backgrounds and were prepared to ask questions and report back what they saw.

[Mike Taylor](#)

That's very interesting. You have any interesting stories to tell about the spill? How long was it? Or, was the union involved in making sure that workers were safe in the cleanup?

[Mark Catlin](#)

Yeah. Yeah. Well, it's really interesting in a number of areas. First of all, the Exxon Valdez oil spill cleanup in Alaska, that started in middle of March of 1989. The major cleanup took place over about the next six months. It then was suspended for the winter because it was too dangerous to work in those waters in the winter, and then it was restarted the next year to finish up what they were going to do.

[Mark Catlin](#)

That was actually the first time that an OSHA agency, in this case, Alaska OSHA State Plan, went into voluntary compliance mode as far as I can tell. They were so overwhelmed with the size of the spill and the thousands and thousands of people involved, and the incredible geographic distance, that the state OSHA program went into voluntary compliance. As far as I know, that had never happened before, and now it's become pretty routine with OSHA during emergencies and disasters to go into voluntary compliance mode.

[Mark Catlin](#)

Then beyond that, the other issues that really happened in that oil spill was we had recently had ... As I said, the HazCom standard had come into effect. HAZWOPER, the final standard had just gone into effect a few months before and was determined that it applied to oil spills and oil releases. Then the updated benzene standard had just gone into effect a year or so before.

[Mark Catlin](#)

Those are all issues that impacted health and safety, especially health issues around an oil spill cleanup, which oil spill cleanups had been happening for a long time ever since OSHA began and before, but a lot of things all came together at that point to suddenly focus attention on safety and health. I think the training of the early cleanup workers from the laborers' union that we had

done, had heightened their both understanding of health and safety issues and asking questions.

[Mark Catlin](#)

Then they knew they could call back to their union and they had a way to do something with whatever they thought were problems, they could get help.

[Adam Roseman](#)

Hey, Mark, this is Adam Roseman. I want to just go back to something you said, because maybe our listeners may not fully understand. When you said it was the first time that Alaska OSHA went into voluntary compliance mode, can you help us understand what that means? Especially as it relates to a big disaster like this, right? This isn't your run-of-the-mill OSHA enforcement issue.

[Mark Catlin](#)

Right. Right. Well, because of the enormity of the scope, and because of the legal and paperwork and administrative issues of issuing citations, the decision was made to just go out and try to do voluntary compliance and help contractors. The state at that point probably had less than 20 inspectors for the entire [inaudible 00:07:08] state, much less adding in for the spill. Federal OSHA picked that up.

[Mark Catlin](#)

The World Trade Center, they were in voluntary compliance, cleanup after Hurricane Katrina, and many of the other disasters. That's become almost common at federal OSHA in many state plans as early on they go into just trying to help with compliance and not issuing citations.

[Adam Roseman](#)

Hey, Mark, if you don't mind, I'd like to bring you down to maybe the lower 48 states for the moment, and ask you, because we're tracking your career here, right? I want to ask you a little bit about something we saw that you helped lead a successful campaign with Cal/OSHA to create its aerosol transmission disease standard. We don't need to obviously explain why that's an important standard these days, given we're all doing this virtually in a pandemic.

[Adam Roseman](#)

Talk to us what your role was in that campaign, what the union's role was, and what that standard is. Right? Because obviously federal OSHA doesn't have that exact standard.

[Mark Catlin](#)

Right. That standard it may be the model for what OSHA might come out with, with an ETS for healthcare or whatever. Well, that actually is a standard that came out of an industry request of the hospital industry to Cal/OSHA. I was at the time on the health and safety staff of the Service Employees International

Union. We represented over half a million members in California in healthcare, public sector and some other types of worksites.

[Mark Catlin](#)

We got a call from one of our union reps in California. He had been invited to a meeting with Cal/OSHA where they were doing their initial stakeholder meeting to see if the industry request could lead to a new standard. What the industry had wanted then ... And it's just a complicated history. The industry had gotten a reprieve from doing respirator fit testing under OSHA's 1998 updated respirator standard, because OSHA was working on a TB standard.

[Mark Catlin](#)

OSHA in the early 2000s abandoned that TB standard, which meant that the hospital industry now had to comply with the respirator standard and couldn't do any fit testing. The hospitals in California who had had some experience with Cal/OSHA on bloodborne pathogen and needlestick safety, and some other issues, went to the state and said, "Could we get relief from annual fit testing? It's really hard for us in healthcare."

[Mark Catlin](#)

The state regulators, to their credit, didn't say like, "No, we can't do that." What they said was, "We could do it, but it had to be as part of a comprehensive standard where we could make sure that protections were there." We got a call about whether SEIU as a union wanted to participate as stakeholders and help work on the development of that.

[Mark Catlin](#)

I have to say, our initial response was skeptical, because at that time there was a federal writer on federal OSHA's budget around the issue of fit testing and tuberculosis, and we had been fighting hard to get rid of the writer. We weren't sure we wanted to be involved in something that would give industry a break on fit testing.

[Mark Catlin](#)

It was sort of a political issue for us, but we decided the potential positive benefit was worth at least being in stakeholder meetings, which lasted for several years before the standard was passed in May of 2009.

[Adam Roseman](#)

Interesting.

[Mark Catlin](#)

It's actually industry endorsed the standard, or the industry asked for the standard. They were partners in the whole stakeholder process. Then everybody at the standards board meeting in May 21st, 2009, everybody, labor, management professionals, everybody voted for the standard, which was really quite amazing. Not only that, but the Cal/OSHA staff who wrote this

standard got a standing ovation from everyone in the room because they had done such an outstanding job of outreach and negotiation.

[Mark Catlin](#)

Now, that was also at the beginning of H1N1, when no one knew how bad that pandemic was going to get. I think in some ways we got lucky. Yeah.

[Adam Roseman](#)

Right. Right.

[Mike Taylor](#)

Speaking of H1N1, this is somewhat near and dear to my heart because my daughter got it and was in the hospital and almost died.

[Mark Catlin](#)

Wow.

[Mike Taylor](#)

She was in the hospital for 30 days and lost a third of her body weight and had to learn how to walk again. I'll never forget, the lung doctor looked at me and he said, "Mike, 15 years ago, I wouldn't have thought to have put a chest tube in a three-year-old." Because she had gotten bacterial pneumonia, which was what was happening at the time with H1N1, my understanding is that it was compromising people's immune systems so bad that they were catching really nasty diseases along with it.

[Mike Taylor](#)

He explained to me that his theory was that general practitioners were overprescribing antibiotics. I know the H1N1 is always at the back of my mind. Kind of interesting story to tell that. My daughter is a major swimmer now.

[Mark Catlin](#)

Oh, good. Great.

[Mike Taylor](#)

Yeah. She came out of it and now she swims competitively all over the U.S.. It's kind of interesting. With H1N1, I know that you were involved in terms of providing occupational health, technical and policy support to the Service Employees International Union associated with the pandemic. Is that right?

[Mark Catlin](#)

Well, I worked for them almost 15 years and did that in lots of issues, but certainly during the H1N1 pandemic and then Ebola after that. Yeah.

[Mike Taylor](#)

Right. What did we learn about H1N1, and how did we drop the ball and not be prepared, to be blunt, with the coronavirus?

[Mark Catlin](#)

Yeah. I mean, I've thought about that often after this pandemic began because we had learned lessons in terms of occupational safety and health from H1N1, the experience in California with the ATD standard. Then the

experience with the initial SARS virus in Ontario and other parts of the world where healthcare issues and the healthcare exposures were an issue. Yeah. I mean, I think what happened as I think back is I know in California after the H1N1, they were suffering enormous budgetary problems.

[Mark Catlin](#)

I remember the staff of Cal/OSHA who helped write the ATD standard, there was a hope that there would be a debriefing, a lesson learned and then follow-up training and education. It turned out they were furloughed often, and so there was just no time for that staff to do that. Then by the time that got resolved and they came back to work, then Ebola hit a couple of years later. Then that took up the attention. I think we've had these missed opportunities.

[Mark Catlin](#)

I mean, some of the issues that we're seeing now that were highlighted back then were the issues of, how are these respiratory viruses spread? Or the California standard takes this aerosol approach which combines airborne and droplet spread from the traditional paradigm of infection control. That may not seem like a big deal, except that in terms of occupational health, it's a huge deal of whether it's droplet spread or airborne spread, right? Because now you're talking about ventilation and respirators and all that.

[Mark Catlin](#)

In terms of our work, it's a huge difference of where you start from and what you do based on where you think transmission is occurring. It's been a tough transition, I think, in the healthcare sector, in the infection control sector to adapt to, I think, the future paradigm, which is the growing evidence we're seeing around this pandemic.

[Mark Catlin](#)

Other exposures of this of not a dichotomy of airborne or droplet, but really it's a gray area where there's small and large droplets where people can be exposed through both routes and so we have to deal with both routes. That's how I think it was a lesson that wasn't learned 10 years ago over in H1N1 and we're still working our way through it now.

[Mike Taylor](#)

Yeah. Well, hopefully we figure out the lessons that we're learning from COVID and apply them going forward for worker safety and just human health.

[Mark Catlin](#)

Yeah. One of the things that really strikes me from this pandemic compared to H1N1 is the asymptomatic spread. That was something ... I don't recall in all our stakeholder meetings and discussions, which were extensive, did we ever talk about an illness that would be asymptotically spread? Again, that has

made this that much harder. Yeah. In the development of the standard, there was discussion about, what if there is a major pandemic?

[Mark Catlin](#)

But there was a lot of pandemic flu planning back then, and it was really, I think, hard to really wrap your head around what that was going to mean. It'd be easier now because we've all lived through it, but back then, it was hard to imagine how tough this could really be to deal with.

[Adam Roseman](#)

Hey, Mark, is there anything ... Because we saw you're doing some work with the National Education Association, the NEA, helping them ... Again, don't know what the scope of the relationship is. Can you talk to us ... Gosh, I mean, if you have school-aged children, this is always top of mind, right? Getting kids back to school, but just what's the scope of your engagement?

[Adam Roseman](#)

Have you learned any lessons that you've taken from the H1N1 stuff that you did or even Ebola, although that's a little different, that you've tried to put into practice with this pandemic and the consulting you're doing there?

[Mark Catlin](#)

Yeah. That's been real interesting work in school settings because I hadn't done much work in school settings. A lot of my work had been in the healthcare setting. I think that's another difference with H1N1. We didn't have such a large focus of everybody. There was more focus, which also makes it hard. It's interesting trying to think about doing occupational health and infection control with worksites where there's not that experience.

[Mark Catlin](#)

Healthcare worksites, have these debates and talk about some of these control issues. It's with staff and management that have some experience, but in a school setting. There's some history of indoor air pollution in the past and certainly asbestos issues, but not this infectious disease issue. I think a big part of it is trying to connect up the transmission issues with the controls. For example, what I often hear in talking with employers at school districts it's like, "Well, we're concerned about airborne exposure."

[Mark Catlin](#)

They'll talk about what they might be doing for ... or what they can't do for ventilation because the system doesn't work. They'll say, "But we're doing extra cleaning." Say, "Well, but you can't substitute one control for one transmission for another." That's really difficult. It's just difficult to get across to people, I think, because it's not how people are used to thinking. I think a big part of this, outside of healthcare, is the real lack of experience and thinking about infection control that is not easy.

[Mark Catlin](#)

This is incredibly complex, difficult stuff. You see lots of folks who want to do temperature screening and symptom screening, which is not a bad idea, except with asymptomatic spread, then you can't guarantee that you're keeping out people that might have illness. It just makes all this that much harder.

[Adam Roseman](#)

Yeah. No. That's interesting. Gosh, I have to imagine you've been a busy man through all this, especially with your wealth of experience in this. Mike, if you don't mind, I do want to ask one question, more of a wonkier question, which is, you've been involved in a lot of union negotiations, I assume. Do you sit here and say, "There's a suite of safety and health-related things that are must-haves in union negotiations." How do you go about trying to get those? Right?

[Mark Catlin](#)

Well, yeah, I mean, I think that thinking about it as ... I've been union staff. I'm not an elected official. I'm not the final decision-maker. I'm the staff providing the technical advice. I think something to step back and ... So if I'm an elected union official at local level, state, federal level, I actually have a number of legal responsibilities to represent my members. Safety and health is actually one of those under the requirements.

[Mark Catlin](#)

Those union reps also have rights both under OSHA standard and under labor law, depending on how they're covered. As a health and safety technical person, my role is to try to help those labor leaders understand what tools are available and how to use those. Give them the advice and encourage them to hopefully do what they think will fit best in that work setting. It's hard to come up with one absolute because so much of the bargaining is site-specific, company-specific.

[Mark Catlin](#)

But for example, things like rights to information, I mean, we would always want to get that into collective bargaining agreements, even though it's under the OSHA rules, workers and unions have rights to the OSHA 300 logs and lots of other information. To put it in a collective bargain agreement makes it a lot easier to access it, or requirements where it's automatically provided like quarterly so that the union gets it.

[Mark Catlin](#)

Then the other one is the role of union labor management mechanisms to deal with issues and problems. Like safety and health committees, joint committees, or just other labor management committees where safety and health is recognized as a part of that and that that's a place where these issues can be raised and fought over and solved.

[Adam Roseman](#)

Right. Right. That makes sense. That makes sense.

[Mike Taylor](#)

How do you get access to the site? Is that something that's put ... Let's say, I don't know, workers start complaining about an airborne contaminant in the workplace. Is there typically something in the collective bargaining agreement that allows you, so to speak, to access the worksite to see what's really going on?

[Mark Catlin](#)

Yeah. A lot of contract language has different types of language that says union reps have right of access to represent members and to investigate problems. That could be how I might be brought out. Often it's done pretty informally where the union has some relationship with their employer, and they just say, "Hey, we have our expert we'd like to bring in." They negotiate how that's going to go and then I come in.

[Mark Catlin](#)

I rarely have the opportunity to do any quantitative work so I'm not usually taking any samples, but my work is more qualitative and observational and interviews. We might use that to then request that certain types of sampling or testing be done.

[Adam Roseman](#)

I heard you mention, Mark, safety committees. Do you find in your experience, union side, technical guide, that safety committees, while it obviously sounds really nice, do you find that they are indeed the most effective way to root out and try to solve safety issues? Because I've certainly heard employers speak skeptically about it.

[Mark Catlin](#)

Yeah. I think, as you say, they can be a really positive tool if they're structured right and you had the right people on the committee and they have support. There are good examples of excellent safety and health committees but what it requires is a proper structure so you have equal voting and you have all the basics to how you run a good meeting and problem-solving. Then you also need to have the members on the committee.

[Mark Catlin](#)

From the labor side, the problem we often saw was the labor members, they only had time off to attend the meetings. There was no built-in time for them to actually plan or do anything to prepare, unless they did it on their own time, which many union members would do that. Then there's the issue of needing the support because the management side typically has their health and safety staff or consultants, but the unions often don't have anyone who's technical on their side.

[Mark Catlin](#)

So one of the problems that I see where I've come in to support a safety and health committee that may be ongoing when I was at SEIU or some other unions, is the union members didn't have support and they would rely up on the technical expertise of the management, say, industrial hygienist. Now, that doesn't mean that's bad.

[Mark Catlin](#)

It could be fine, but I would often see where the management industrial hygienist wasn't really doing the job I would have thought they would have done, because they didn't really see that ... They're reporting to their management and not their union. On the other hand when I come in and help, I'm reporting to the leaders of the union representing their members. It's a different perspective.

[Mark Catlin](#)

The other perspective we often see different is a lot of times these committees fall into looking at really small issues, or they look at issues that involve the reverse of a hierarchy of control. They're looking at protective gear and not engineering controls because that's cheaper and easier to do.

[Mark Catlin](#)

Then the final problem I see that's always disappointing is I'll see the safety and health committee become a health promotion committee, where suddenly the committee focuses on smoking cessation or obesity or some other issue, which is important issues and unions work on those issues with their members, but it's not occupational safety and health. It's not really doing the job it should. When a committee is structured well, supported well, I think committees can do marvelous work on both small issues and large. Yeah.

[Adam Roseman](#)

For sure. For sure. No, that's helpful.

[Mike Taylor](#)

Yeah. Mark, I noticed in looking at your bio that during your tenure working with the Washington Committee for Occupational Safety and Health in Seattle, you were dealing with workplace violence way back in the early to mid-90s. Is that right?

[Mark Catlin](#)

Yeah. Yeah. Yeah.

[Mike Taylor](#)

How is workplace violence, from a worker safety perspective, changed from then to now? I'll tell you, I've been involved in a couple really interesting cases dealing with workplace violence. One was in Waco, Texas, where there was a biker shootout if you remember that a few-

[Mark Catlin](#)

I do. Yeah.

[Mike Taylor](#)

Probably one of the most interesting cases I've been involved in. Then there was another one I was involved in, in representing a client in Cincinnati where a shooter just was going around shooting up people in a bank. How has that changed in terms of the viewpoint about the need to address this from the 90s where we are today? Because it just seems like OSHA takes the view that only certain industries or certain places where you may be doing business, you should develop a workplace violence prevention program.

[Mike Taylor](#)

But with more mass shootings and things like that, it seems to me that it's more prevalent these days. Just trying to get your take on, what was the viewpoint in the 90s and how has that changed today?

[Mark Catlin](#)

Yeah. Yeah. No. It's interesting. I was working in Washington State then, as you said, and I remember in the early 90s reading my first scientific article in the public health journals about workplace violence. I'd say my first reaction was, "Workplace violence is not occupational health. That's law enforcement." Until I read the article and then I went, "Oh, no, this is occupational health and the controls are public health controls just like we do with chemical hazards or anything else." I had this initial skepticism but I quickly saw how wrong that was.

[Mark Catlin](#)

In Washington State at the time, they had passed a late-night retail regulation under their state OSHA program so that did some things to require employers to take efforts to prevent late-night retail robberies and shootings. We were starting to hear then about the problem of workplace violence in both healthcare and then beyond. I think comparing then to now is we've seen it become that much of a greater issue. It's one of the major reasons that women die on the job.

[Mark Catlin](#)

It's a major reason for injuries in a lot of sectors like in healthcare. I think we now know that there's a lot that can be done to try to identify potential hazards and correct them. When I was at SEIU, I used to do a lot of talks at conferences and meetings about workplace violence with healthcare workers. I remember asking, "How many people have had a violent incident in the last year?" It'd be a room full of a hundred nurses and half of them would raise their hand.

[Mark Catlin](#)

I would say, "How many of you have been threatened, punched, spit on, bitten?" They'd all raise their hand. They go, "Well, that happens all the time."

It was just heartbreaking to hear the stories. I remember one state public sector employees said, "We plan for a week, a year where we're injured, where we're going to be out for work and we don't go on workers' comp. The state has a program. They pay us our full wages so we won't get too upset about being off for a week. Then we go back to work."

[Mark Catlin](#)

I don't know how those people went back to work to face that level of violence and assault and injury. I think there are many, many more employers who recognize this problem outside of healthcare, but even within healthcare. There are some really amazing, wonderful programs that are in healthcare that I've seen that I think they're effective, but they're also very respectful of patients, because in healthcare, a lot of the violence comes from patients that might have mental illness, or they might be under drugs or there's other reasons.

[Mark Catlin](#)

The healthcare workers are often faced with, "I'm trying to take care of a patient, but that patient may be violent, but I still want to do my job to care for the patient." It becomes this real, in some cases, difficult issue to get ... It's easier now, but it was hard to get some healthcare workers to really take this as seriously as it needed to be taken, because they saw it as an obstacle to patient care.

[Mark Catlin](#)

I think that's mostly over now because there's been such a rise in the past five years or so of violent incidents in healthcare. [crosstalk 00:32:00]-

[Mike Taylor](#)

Yeah. It'll be interesting to see if under the new administration, whether they make an effort to promulgate a workplace violence prevention program standard in and of itself.

[Mark Catlin](#)

Yeah. There was a standard proposed petition by a number of the unions under the Obama administration, and SEIU was part of that effort. We were part of that effort and so, yeah, I'm hoping that something like that will happen. We did get a workplace violence regulation, it was pretty comprehensive, passed in California. It was starting to go into effect and we were hoping to start to see some the benefits and the prevention of that, but then COVID hit, so not much has happened on that, I don't think, until we get through this pandemic.

[Mike Taylor](#)

Well, that's good to know. It's good to know. One last question, Mark. I know you've been in this field for over 40 years, and recently, last year was OSHA's 50th birthday, if you will. Aside from COVID-19, what key worker safety and

health issues do you see that need to be addressed either by unions or the government or both, in the next 10 years?

[Mark Catlin](#)

Wow. Well, yeah, that's an enormous question. I mean, I think that there are certainly issues like heat stress that I think that are out there and going to become more significant problems in the future. As an industrial hygienist the problem with the OSHA PELs and how outdated those are, and OSHA's seeming inability to update those in any way that's going to be effective, is something that needs to be addressed.

[Mark Catlin](#)

I know Dr. Michaels in the Obama administration, pushed hard for health and safety program standard so that OSHA would have to less rely on specific standards, but rely on employers overall looking at the issues, identifying hazards, and then coming up with ways to control those. Those are all issues, I think, that'll be helpful over the next 10 years to try to move safety and health forward.

[Mark Catlin](#)

There's probably things we've not even thought about yet that we're going to run into.

[Mike Taylor](#)

Right. Exactly. Exactly. Well, hey, Mark, we really appreciate you being on our show. It's been an honor and a privilege and we've learned a lot, so thank you.

[Adam Roseman](#)

Thank you.

[Mark Catlin](#)

Thank you so much. Yeah.

[Mike Taylor](#)

Stay tuned for the next episode of the Workplace Safety Review podcast.