

## **Report and Recommendations**

### **Board of Scientific Counselors Work Group National Institute for Occupational Safety and Health**

#### **Structuring Labor-Management Participation in Research Partnerships: Request for Analysis and Recommendations**

**September 2013**

The National Institute for Occupational Safety and Health (NIOSH) conducts research in various work settings with differing labor-management structures. In some of those settings, workers are represented by a labor organization. Increasingly however, NIOSH conducts its research in nonunion workplaces. The differences in these labor-management relationships between organized and unorganized workplaces may impact the conduct of research and possibly introduce bias that can affect results. NIOSH is interested in measures to ensure the best possible research outcomes within the context of these labor-management structures.

In partnership with Toyota Motors Engineering & Manufacturing North America, Inc., NIOSH has initiated a research study to evaluate interventions to reduce the risk of shoulder injuries in overhead automotive assembly work. Workers at the Toyota facility are not represented by a labor organization. This research study, along with other research studies deemed appropriate, present an opportunity for case-study analysis by the Board of Scientific Counselors (BSC). The NIOSH Director has asked for the BSC to provide review and recommendations.

#### **BSC Charge:**

*The BSC is charged with providing analysis and recommendations to the NIOSH Director on how best to conduct participatory research in contemporary work settings where workers have a legal representative and those where workers do not. The NIOSH Director is especially interested in recommendations about how best to structure labor-management participation to obtain quality data. In addition, the NIOSH Director would welcome any recommendations that would further enhance the scientific quality of the planned intervention study while ensuring that worker participation in the study is entirely voluntary and that the results of the study pertaining to individual workers remain confidential. The BSC may form a work group to conduct the analysis. After developing initial recommendations, the BSC will present their recommendations to the Director in a public meeting.*

In response to the charge given to the BSC, a work group of volunteer BSC members was formed to conduct the analysis. The work group conferred by

teleconference on six separate occasions. The report and recommendations below are provided to the BSC for its consideration and adoption.

Following the initial teleconference meeting that included a review of the charge, a presentation from NIOSH researchers on the Toyota musculoskeletal intervention study, and a review of the NIOSH “Tripartite Review” policy document (designed to keep interested and affected government, labor, and management groups informed and engaged in field studies, including pre-study and post-study procedures and information on progress of a study), the work group adopted the following plan going forward:

*Use the Toyota study as an opportunity to build in process evaluation with focus on workers. We will not critique or focus on study design per se, but use this as an opportunity to improve our understanding of how we can best engage workers in NIOSH studies. The information learned from this study can help NIOSH improve their guidelines for joint labor/management participation protocols and procedures for researchers. Possible issues to focus on:*

- *What are the practical, effective and feasible methods to ensure worker involvement and get the study information out to those who can use it?*
- *What worked most effectively in the study to enhance and ensure worker participation?*
- *What was understood by the workers about study design?*
- *Was there any coercion involved?*
- *What are the mechanisms for protecting workers against potential adverse social/economic consequences?*
- *What benefits did workers see in being involved?*
- *Why did they participate in the study?*
- *Did they understand the results (and what did they understand)?*
- *What action would workers take based on the study?*
- *Did anything actually change on the shop floor as a result of the study?*
- *What methods were implemented to monitor the findings and possibly end the study before the end?*

During its deliberations, the work group discussed the issues identified in this plan outlined above, as well as other issues that arose in the discussions, received updates on the progress of the Toyota study from NIOSH researchers, and reviewed various relevant NIOSH documents and policy statements. In addition, we heard presentations from BSC member James Platner on issues related to employee involvement in occupational safety and health research and from members of the NIOSH Institutional Review Board (IRB) on the agency’s IRB process and makeup.

## Recommendations

Issue #1: Voluntary, non-coercive and confidential participation of workers in NIOSH field/intervention studies is essential in order to obtain quality data regardless of differing labor-management structures where the research is being conducted. In a unionized workplace, employees have legal representation and grievance/arbitration procedures that can protect workers from any adverse consequences an employer may impose when workers do not volunteer to participate, are coerced to participate or not participate, or where participant confidentiality is breached by the employer. In a non-union workplace, these protections do not exist for employees. In addition, communication of research findings to workers in non-union settings is more challenging, as workers do not have organizations through which NIOSH can communicate its findings. Where workers are represented, their union offers an avenue for communicating findings. The Toyota study, which is now underway in the field, is being conducted where workers are not represented by a union. The presence of any barriers to employee participation in this study and the extent and impact of the communication of research findings need to be explored.

### Recommendation:

**NIOSH researchers involved in the Toyota study should conduct a “follow-back” survey of workers at the completion of the project to obtain feedback on the issues of barriers to participation and communication of findings. For example, questions to consider include: Did workers believe their participation was voluntary? Were there barriers to participating and if so, what were those barriers? Did employees believe the information they provided to NIOSH to be held in confidence? Were there any adverse or positive actions taken by the employer for workers who participated – or for those who did not? Did NIOSH or the employer inform you of the results of the study? Did workers believe the study was valuable? Did any changes occur in the workplace as a result of the study? Were the changes beneficial? NIOSH researchers can use the recent follow back surveys of the Health Hazard Evaluation (HHE) program to assist them in crafting questions. A summary of the survey findings should be compiled, analyzed, and lessons learned developed and written that can be applied to future field/intervention projects, in both union and non-union workplaces, to help ensure voluntary participation, identify barriers to participation, confidentiality, and communication of research findings in future studies.**

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Issue #2: Beyond the Toyota study, NIOSH will continue to grapple with how best to conduct collaborative research in current work settings where workers have union representation and where workers do not. It is essential to understand the workforce and work environment in order to develop procedures that will encourage participation. The issue of ensuring voluntary, non-coercive and confidential participation of workers in NIOSH field/intervention studies in order to obtain quality data will continue to be a challenge as will the issue of NIOSH addressing any differences in achieving this objective between union and non-union workplaces. In some situations, NIOSH will conduct a study off-site in circumstances where employers are not cooperative or will meet with workers alone offsite. NIOSH also notifies workers that they may contact NIOSH staff for private conversations. Nevertheless, NIOSH needs to gather additional information in its field studies on situations and circumstances that create barriers to participation or where adverse consequences have occurred so that policies and approaches can be developed to prevent these occurrences from happening in future studies.

**Recommendation:**

**When necessary, NIOSH should continue to conduct study activities off-site in circumstances where employers are not cooperative and offer to meet with workers off-site to maintain confidentiality. In addition, NIOSH should conduct “follow-back” surveys in selected union and non-union field/intervention studies to collect information on the views of workers, and union representatives in workplaces where employees are represented. The surveys should focus on issues of voluntary of participation, barriers to participation, and whether any adverse consequences occurred to workers who participated or failed to participate. The findings of these surveys should be summarized and analyzed, with a focus on identifying barriers to voluntary participation and circumstances that may result in adverse consequences experienced by workers. NIOSH policies should be developed to address identified problems and successes**

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Issue #3: Workers who participate in studies often have helpful input on such things as how the study can be successfully integrated into their workplace, what types of incentives would be meaningful, and on how questions can be asked to be relevant to the work environment. Often, study protocols are finalized before the workplace is integrated into the study process.

**Recommendation:**

**In circumstances where NIOSH researchers believe it is appropriate, they should use worker-guided or worker-participatory research methods, which would entail some pre-study integration of representative workers and/or employers prior to finalization of study protocols. These approaches can help identify issues prior to study implementation so that they can be addressed in the design phase.**

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*Issue #4:* Institutional Review Boards (IRB), including the NIOSH IRB, typically address issues related to physical harm that may be connected to the proposed research project being reviewed. The NIOSH IRB also considers other types of harms, including whether there are any potential economic/social consequences that may be connected to its workplace studies, for example, whether medical information could impact health insurance of a worker. Under federal regulations regarding IRB membership, 45 CFR 46.107(c) states that *“Each IRB shall include at least one member whose primary concerns are in scientific areas and at least one member whose primary concerns are in nonscientific areas.”* The NIOSH IRB includes representatives from various disciplines and has the ability to call on outside expertise when needed. An IRB review of a research proposal is an important step early in the research process for identifying and correcting potential problems that may result in social or economic harm to workers. NIOSH needs to ensure that its IRB is sufficiently focused on assessing social/economic harm during its review of research proposals as an early means to protect workers against experiencing adverse consequences.

**Recommendation:**

**The NIOSH IRB is encouraged to continue, and strengthen, its evaluation of the potential economic and social consequences that may be connected to research proposals it reviews. Particular focus should include an examination of any barriers to participation in research and ensuring that confidentiality is upheld. The IRB is also encouraged to secure the expertise it needs to accomplish this objective.**

*Issue #5:* The National Labor Relations Act (NLRA) governs labor-management relationships and structures between employers, employees, and unions in workplaces where employees are represented. Section 8(a)(2) of the NLRA makes it illegal for an employer to "dominate or interfere with the formation or administration of any labor organization or to contribute financial or other support to it". A labor organization is broadly defined to include an employee representation committee in which employees participate for the purpose of dealing with employers over a range of issues, including conditions of work (such as safety and health). A violation of this Section can be committed where an employer dominates a safety and health committee in a unionized workplace or when an employer creates and dominates a safety and health committee in a non-union situation. NIOSH researchers may be involved or interacting with safety and health committees seeking employee participation in the course of their research or studies. NIOSH must be careful not to encourage employers to form, dominate, or interfere with a safety and health committee in any manner that violates Section 8(a)(2).

**Recommendation:**

**Where employee participation is sought in field/intervention studies, NIOSH researchers involved should be made aware of and receive education on the provisions of the National Labor Relations Act (NLRA) that govern labor-management relationships, including Section 8(a)(2) of the NLRA that prohibits an employer from dominating or interfering with the formation or administration of a labor organization.**

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*Issue #6:* NIOSH does not conduct studies involving treatment such as those of NIH that assess the efficacy of experimental drugs in clinical trials. Thus, NIOSH studies do not generally involve benefits/risks in the same manner that clinical trial treatment research entails, nor does NIOSH generally receive reports of adverse health events directly from study subjects. However, NIOSH does have a formal program for study project officers to contact the IRB office whenever an adverse event (anything outside the protocol) occurs and a formal process for categorizing and analyzing these adverse events or unanticipated risks to subjects. NIOSH does not have a formal process for systematically identifying adverse events to subjects while the study is in progress. NIOSH intervention studies, particularly randomized control study designs, could potentially result in subjects (workers) experiencing, during the course of a study, an intervention that is clearly superior to that of other interventions being evaluated or an intervention that clearly represents risks to the workers. In clinical trials, NIH sometimes establishes Data and Safety Monitoring Boards to ensure the safety of participants by

monitoring the results at specified interim time periods and, take action to continue the study unmodified, modify the protocol, or terminate the trial on the basis of the accumulating data on risk/benefit.

**Recommendation:**

**For intervention studies, including randomized control trial study designs, NIOSH researchers should consider mechanisms to monitor the progress of the study, including outside monitoring experts or a safety committee. Such a mechanism can help ensure the health and safety of participants and provide unbiased input when interim study data is examined, when assessing benefits and risks to participants, and to provide input on necessary actions to modify, terminate, or continue the study.**

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*Issue #7:* Informing employees and employers of the findings of NIOSH intervention studies, like the Toyota project, is a critical element of ensuring that the findings are used to address hazards and make workplaces safer. Effective interventions that are discovered and validated in NIOSH research are only useful in reducing exposures to the extent that they are fully communicated and implemented. In February 2013, NIOSH issued new policy documents involving communication of the results of epidemiological studies and environmental sampling/monitoring results (*“Risk Communication Policy for NIOSH Epidemiologic Studies”* and *“Notifying Workers of Individual Environmental Sampling and Monitoring Results”*). However, no equivalent NIOSH policy document exists that focuses on communicating the findings of NIOSH intervention studies.

**Recommendation:**

**NIOSH should develop a new policy or guideline document that addresses the communication of results of all studies where the research was conducted. The policy should include dissemination approaches for providing the information to employers, workers, and unions where employees are represented. NIOSH should also develop a communication/information strategy for more broadly disseminating the findings to relevant similar and affected industries and occupations.**

*Issue #8:* When NIOSH conducts field/intervention studies, typically an informal “letter of agreement” is prepared, prior to initiating the research, between the employer and NIOSH and submitted to the IRB. These letters are general in nature and are used to demonstrate the good intention of the employer to participate in the study. Other than showing a good intention to participate in the study, employers usually agree to nothing else. No specific details about the study are included in this letter and NIOSH has no criteria established for determining the minimum content of a letter of agreement.

**Recommendation:**

**NIOSH should consider developing some general criteria or guidelines for minimum elements that must be contained in a letter of agreement beyond that of an employer demonstrating its good intention to participate in the study. The letter might contain some additional elements, such as stating that employee participation will be voluntary, employees can withdraw from participation at any time during the study without reprisal, and that confidentiality will be maintained. Other issues specific to the particular study being conducted could also be included in the letter.**

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*Issue #9:* Addressing issues that impact research outcomes in differing labor-management structures to assure the best possible outcomes is an important undertaking. The Board of Scientific Counselors recommendations initiate a process that will hopefully begin to identify issues and potential problems and solutions that can impact the quality of results as well as determine the circumstances that provide assurances that employee participation will truly be voluntary, that confidentiality will be maintained, and that employees will not suffer reprisals for their participation or lack thereof. We see this effort as an ongoing process that NIOSH needs to evaluate on a periodic basis.

**Recommendation:**

**In one year from the adoption of these recommendations, we recommend that NIOSH report back to the Board of Scientific Counselors on the progress and findings of the recommendations and its response to addressing issues and problems that have been identified. NIOSH should also continue the process of identifying issues related to labor-management structures that impact outcomes and employee participation in the future and report back periodically to the Board.**

### **Work Group Members**

Robert Harrison, Co-Chair  
William Kojola, Co-Chair  
Bonnie Rogers, BSC Chair  
Corinne Peek-Asa, BSC Member  
Michael Larranaga, BSC Member  
Jackie Nowell, BSC Member

### **Designated Federal Official**

John A. Decker

The BSC members voted and approved this report unanimously on September 18, 2013.