



## Differing Opinions are Vital for the Safety Community.

Insights

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Most folks in the safety community know Jordan Barab, the former Obama era Deputy Assistant Secretary of Labor at OSHA from 2009 to 2017. You can read Jordan's take on OSHA, MSHA, safety and anything related to employees and politics on Twitter at @jbarab. His email is [confinedspace2017@gmail.com](mailto:confinedspace2017@gmail.com). I am unapologetically a Management Labor Lawyer and serve as an advocate for Employers, so it may surprise my readers that I am going to post his comments to one of my recent posts.

First, I boxed and fought full contact until I was 50. While I do not always hold temper in check, I did acquire a tough skin and an ability to ignore minor things such as insults and broken ribs. I like scrapping, but prefer to do so with my fists than by the anonymity of social media.

Second, it's fun to disagree with folks and debate back and forth ... preferably over a glass of wine or single malt scotch. And while my profession has a reputation for believing its own infallibility ... or convincing oneself of one's righteousness ... I'm not stupid enough to think that I'm always right. Hey, I've been married almost 34 years to a strong woman.

Third, my old-school WW II/Korean War/POW NCO dad raised me to respect manners. You can insult me as long as you are civil and do it with panache. Do an ad hominin attack and I'll consign you to the same category as Steve Bannon. Make me laugh and I'll buy you a drink.

**Fourth and most importantly**, the safety community does not focus on money – not solely – we are talking about sending workers home to their families each night and in one piece. I've sat with devastated CEOs and supervisors after they lost an employee.

- There is no conflict in seeking to maximize profits and in protecting one's workers.
- I'd argue based on experience that in the long run, a company with a robust safety culture and the related attention to detail will make more profits and more effectively compete in the workplace. This is not pie-in-the-sky pontification. Think about the mindset associated with thinking safety first, and then consider how those same attitudes affect one's sense of accountability, efficiency, and attention to detail.
- Moreover, employee morale is a major factor in competitiveness and nothing poisons morale as much as feeling as if your employer is oblivious to or doesn't care about your safety. Common sense.

## Jordan Barab's Comments.

Jordan sent the following Comments about my recent Post, End of the Year Whirlwind for Labor, Employment and OSHA Matters: Part I of III. I omitted the comments he made about me being a man among men and a towering intellect ... I can't wait to see Jordan's "observations" on this sentence ....

Otherwise, it's word-for-word with a few comments by me.

*Howard: Happy New Year. Hope you and your family are well.*

*I always enjoy reading your articles even though clearly we don't always agree with each other. Such is life. But just wanted to raise a couple of issues about your recent post: "End of the Year Whirlwind for Labor and OSHA Matters! Part I of III"*

My observation ... Jordan has as much temper as do I, and yet this is a polite email – one would have to be a jerk to be offended at the differences in opinion. For the fire breathers out there – if you want people on my side to take you seriously – spend the time being civil. Heck, I know how fiery Jordan can be, so I appreciate the professional courtesy ... and I will listen. And for the record I enjoy Jordan's posts as well. I Tweeted his recent piece on the increase in worker deaths because I agree with him that **we should personalize these statistics** – they are people, not numbers. I don't have to agree with him on every point in his Post. My earlier post on worker deaths agreed with many of his observations.

*Most of it I enjoyed one part where you recycle a common myth about the Obama administration: "Of course Scott will want to emphasize consultation and cooperative efforts, but the previous Administration decimated the consultation staff and OSHA is woefully underfunded and understaffed for even its core safety role."*

*We did not "decimate" the consultation staff. If you look at Compliance Assistance funding the federal Compliance Assistance line item went up from \$72,659,000 in 2009 to 76,355 in FY 2013. It was then cut during the sequestration year (FY 2013) and was one of two OSHA line items that never recovered (the other being state plans). But that was the doing of Congress, not the administration. We consistently asked for more money for compliance assistance, which was never provided by Congress (with the exception of one year). And the Administration's last budget request for FY 2017 would have finally raised the federal Compliance Assistance total back up to where it was in FY 2012. Consultation funding went up from \$54, 531 in FY 2009 to \$57,775 in FY 2016.*

Jordan and I agree that neither party has adequately funded the Agency. I understand the frustration of some Congressional Representatives and their constituents, but every fair analysis shows that OSHA needs more money, including for consultation.

*We were strong supporters of compliance assistance. Unfortunately, funding was clearly not enough to keep as many CAS's as we wanted, nor enough to expand VPP. In any case, we hardly decimated*

*it, and whatever contraction occurred was due to Appropriations, not administration efforts to cut back the program.*

*One other item. You write that "Sure, the punitive approach, public shaming of employers and shift of resources to whistleblower efforts at the expense of core safety enforcement ticked off many employers." First, we didn't "shift" resources to whistleblower. We created a whole new line item for whistleblower that hadn't been there before. It had formerly been part of the enforcement budget. Being as whistleblower has more bipartisan support than enforcement, for example, that item did enjoy some increases after 2010, but not "at the expense of" enforcement. Also, not sure how defending workers' rights to participate in safety and health activities without fear of retaliation is not a "core safety" item for OSHA that enhances the agency's enforcement efforts.*

### **I'd Like Some Input from Unions, Employee Advocates and Others on Practical Day-to-Day Safety Advice for Managers.**

I spend much of my time representing construction employers and many of those companies use union workers. Many of the crafts have outstanding safety programs and are valuable employer partners in the safety process. I will not pretend to have a similar attitude toward many unions or for every local – but the Crafts would point out that not every employer is the same.

So if you are a Union, Public Interest Group, or Government Reader, share your recommendations – what you would like to tell interested executives and managers – about creating a safety culture and on a day-to-day basis improving safety.

Howard