

NEXO

VOL. XII, NO. 3

FALL 2009

The Official Newsletter of
The Julian Samora Research Institute
The Midwest's Premier Latino Research Center



HOUSEHOLD POVERTY Among Latinos in the Midwest

The Influence of Race/Ethnicity, Location, and Local Opportunity Structures

by Jean Kayitsinga, JSRI

Latinos are the second largest ethnic group (next to White Americans), the largest ethnic minority group, and the fastest growing population in the United States. In 2008, the Latino population was estimated at 46.9 million, representing 15.5% of the total U.S. population. The Latino population in the Midwest in 2008 was estimated at 4,263,987, representing 6.4% of the total population. Though one of the smallest regional concentrations in the country, Latinos in the Midwest increased by more than 1.1 million persons between 2000 and 2008, or by 35.2%. Latino population growth in the Midwest is primarily due to international immigration and in-migration from other regions of the United States, and is fueled by local labor market opportunities, particularly the shift of meatpacking industries from urban to rural areas. At the same time, a disproportionate number of communities in the Midwest have been losing their non-Latino population. These demographic changes have substantive implications for the communities experiencing them.

Restructuring of the Midwestern economies has created not only new structures of work, but it has also stressed and constrained choices available to workers in different labor markets and at home. These economic changes have been linked to the degradation of economic well-being of many families, race and gender inequality, increased poverty, a more polarized class structure, and a decline in employment opportunities (Tickamyer et al., 1993).

American ideology holds that individuals with lower levels of education and job experiences are employed in low-wage jobs and therefore likely to be in poverty. Alternatively, individuals with higher education and better job experiences should earn higher wages and hence are less likely to be poor. These views are used to explain why race/ethnic minorities, who tend to have lower levels of education, are in low-wage jobs. Human capital theorists tend to emphasize the same relationships (Becker, 1964; Lichter et al., 1993).

Continued on Page 4

MICHIGAN MIGRANT HOUSING INSPECTION PROGRAM IN CRISIS

by Elinor Jordan, Legal Research and Writing Scholar, JSRI & MSU College of Law

Migrant farmworkers play an important role in the agricultural industry and contribute significantly to the Michigan and U.S. economy. Each time we bite into an apple or serve blueberry muffins, we form a direct connection with the migrant farmworkers who last came into contact with that fruit. For decades, migrant workers' labor and human rights issues have been key concerns for labor advocates, policymakers and researchers.

Continued on Page 12



Migrant Housing

Continued from Page 1

Migrant housing conditions, in particular, are a continual concern. Because their pay is low and their work is scattered throughout various rural locations, most migrant farmworkers live in temporary housing provided by their employers (i.e., growers). In Michigan, the Migrant Labor Housing Program (MLHP) is the division of the state's Department of Agriculture (MDA) that is responsible for ensuring the quality and safety of these housing units. This May, the MLHP faced a severe funding crisis that, while temporarily averted, still looms. This article introduces the MLHP and outlines events leading to its financial predicament. Recommendations are made for ensuring the preservation of this important public program that protects the quality of life for thousands of state migrant workers, the productivity of Michigan's hand harvested crops, and Michigan's positive labor and human rights standards.

Michigan's Migrant Labor Housing Program

Before housing in temporary labor camps was regulated by the government, most migrant farmworkers lived in truly deplorable conditions. In 1966, the Michigan Legislature responded to these circumstances by creating a comprehensive system for licensing migrant labor camps to maintain an adequate supply of agricultural workers within the state, to maintain the safety of the food supply, and to protect the health and safety of migrant laborers and the general public (P.A. 289, 1965). This legislation created the Migrant Labor Housing Program (MLHP) to carry out housing inspections. Later, the Public Health Code Act 368 of 1978 mandated that the Michigan Department of Public Health (MDPH) annually inspect and license labor camps housing five or more migratory farmworkers.

In January, 1996, the Shelter Environment Program, which housed the MLHP, was transferred by Executive Order from the Department of Public Health to the newly formed Department of

Community Health [E.O. 1996-1(VIII)(1)(k)]. Then, just three months later, the Program was transferred again, this time to the Department of Agriculture (MDA) [E.O. 1996-2 (VII)(1)], where it remains today. Through these transfers, all of the power, responsibility, and funding for the Shelter Environment Program should have gone to the MDA [E.O. 1996-2 (VII)(4)(7)].

In its current form, the MLHP's five licensed sanitarians inspect housing for structural soundness, a safe water supply, washing and bathing facilities, proper heating and ventilation, and other basic health and safety issues (Johnson, 2009). While the staff and responsibilities of the MLHP were transferred from the former Department of Public Health to the MDA in 1996, no funding stream was evidently transferred with the program. This has forced the MDA to rely primarily on funding from the state's general fund. It is not surprising that, although this program is important to the health of Michigan's agricultural industry, its workers, and the overall food supply, it has been considered an "unfunded mandate" by the MDA. The result has been a consistent chipping away at the number of the program's inspectors.



In 2002, three "early out" retirements of licensed sanitarians reduced staff for the MLHP to just five inspectors statewide; these positions were not filled. As a result, the period 2001-2006 saw an 11% decrease in the number of licensed labor housing sites.

In addition, very limited discretionary staff time is available for inspectors to respond to complaints of unacceptable conditions in licensed labor camps or to investigate reports of unlicensed camps (Farmworker Legal Services, 2007). At best, inspectors are able to visit camps once during each year, generally pre-occupancy. Repeated visits are only carried out if a complaint is filed. This means that inspectors cannot check for overcrowding, which is a very common problem in migrant labor housing (Johnson, 2009).

In 2005, The Michigan Legislature created a fine protocol to censure unlicensed operators of migrant labor camps. The Public Health Code mandates annual inspection and licensing of labor camps and provides for a fine of \$1,000 per day to be levied

Continued on Page 13

Migrant Housing

Continued from Page 12

against employers who operate without a license, not to exceed \$10,000 [M.C.L. 333.12411(4)]. However, in the experience of farmworker advocates, these fines are very rarely assessed. Clearly, if growers do not believe that they will be fined for operating a migrant labor camp without a license, they are unlikely to seek licensing for their camps.

Since its inception, the MLHP has helped improve migrant labor housing. Unfortunately, the combination of insufficient inspectors and an under-utilized fine protocol has stalled improvements in the conditions of Michigan's migrant labor camps. Only 25% of the migrant labor camps in the state are within the licensing regime, leaving roughly 68,000 farmworkers and their families to live in housing that is not licensed by the state (Johnson, 2009). But even licensed housing may fall short of health and safety norms. When an inspector visits a camp pre-season, he may do one of three things: recommend a license, recommend a license with a list of repairs, or recommend that the premises not be licensed. In the second case, an inspector might recommend a license with a list of repairs only to return the next year and make the exact same list of repairs because there was no opportunity to follow up during the previous season. Moreover, when faced with the reality that they are unlikely to have the opportunity to return to a camp to follow up on issues of non-compliance, an inspector has little incentive to recommend that the premises not be licensed.

The Migrant Labor Housing Program in Crisis

In May of 2009, Executive Order 22 mandated budget cuts to the MDA, \$150,000 (or approximately 17.6%) of which were allocated by the Senate Fiscal Agency to the MLHP (E.O. 2009-22; Senate Fiscal Agency Summary of E.O. 2009-22). Just as the harvest season in Michigan was heating up, the

MDA announced that it would only be able to license about 50% of the remaining housing. Further, the MDA announced that it would randomly select those camps that would be inspected for licensing and then provide the list of camps that would not be reached to the growers (Swartz, 2009). As the stream of migrants coming to Michigan to pick strawberries and blueberries increased in early June, about 75 of the camps that they would live in were not slated to be inspected (MDA Camp Inspection Selection Status List, 2009). Moreover, the operators of those camps had been advised that no inspection would be taking place.

Many agencies mobilized in response to this funding crisis. The Interagency Migrant Services Council ("IMSC"), Department of Human Services ("DHS"), and Farmworker Legal Services ("FLS") were among those that cautioned about the severe consequences of neglecting the program further. These entities, among others, pressed the state government to fully fund the program. In late June, thanks to the cooperation and hard work, funds were allocated from the Department of Labor and Economic Growth to maintain the MLHP for the remainder of the 2009 fiscal year. However, the future of the MLHP still hangs in the balance.

Migrant Farmworkers and Public Health

Although other state and federal agencies bear some responsibility for protecting the health and safety of migrant farmworkers, the MLHP is the first, and primary, line of defense to protect migrant laborers from unsafe and unsanitary housing, and to protect the public from the health threats created when hand harvesters live in crowded, unsanitary conditions. Due to over-crowding in several blueberry camps in Southwestern Michigan this summer, public health authorities from Van Buren and Allegan Counties administered emergency supplies of "TAMIFLU" in order to combat a localized outbreak of the H1N1 virus ("swine flu") among migrant worker families (Intercare Migrant Health Clinic, 2009).

In order to effectively ensure safe and healthy housing for Michigan's migrant farmworkers, its inspection regime should be improved in several



Migrant Housing

Continued from Page 13

ways. First, inspections of migrant labor camps should take place both pre-season and post-occupancy in order to maximize compliance with occupancy and upkeep standards. Second, enforcement of state and federal standards for migrant labor housing should be carried out with a focus on previous “bad actors.” Third, the MLHP should inspect the housing of those camps that house fewer than five workers in addition to larger camps. Additionally, those employers who choose to operate camps without a license should be fined immediately, and sufficient staffing should be available to provide for follow-up visits to enforce recommended repairs and monitor occupancy requirements. It would be necessary to restore staffing of the MLHP to at least pre-2002 levels in order to implement these improvements.

Recently, the MDA has explored one possible solution to the MLHP’s funding crisis – the initiation of a fee system that would charge those who seek a license. There are concerns, however, that a fee based system will not bring in sufficient resources to maintain the already inadequate status quo, much less allow the MLHP to become a more robust entity that is capable of protecting workers and the public. Also, imposing an “application fee” would increase the unintended incentive for operators to forego the licensing process all together (Johnson, 2009). Another compelling argument against the fee-based funding approach is the danger of “agency capture” – the situation that occurs when an industry controls and influences government agencies that are supposed to regulate it. If growers, represented by the Michigan Farm Bureau and Commodities Representatives, provide the financing behind the MLHP, it is very likely that these entities will gain further influence over the operation of the program. In order to carry out its essential functions, the autonomy of MLHP must be maintained and safeguarded, otherwise it is likely to be diminished if a fee based system were implemented to fund the program (Martinez, 2009).

An alternative response to the need for funding is encapsulated in the Michigan Occupational Health

and Safety Administration (MIOSHA) “State Plan” which authorizes the State of Michigan to implement certain obligations of the federal Occupational Safety and Health Act (OSHA), pursuant to Act 154 of P.A. 1974. Michigan’s State Plan for implementation of the OSHA provides for “the full-time administrative and field staff of 8.5 persons supplemented seasonally with part-time employees to conduct field inspections at all migrant labor camps on a statewide basis. Inspections are conducted annually before the agricultural labor season starts to ensure that all camps meet minimum standards” (Occupational Safety and Health Administration, MIOSHA “State Plan,” 1974-75). If the MDA’s current MLHP is essentially the same as the program formerly housed in the MDPH and described in the “Migrant Labor Camp Program” section of the State Plan, it would follow that the current USDOL/OSHA federal contribution should include funds that are, or could be, attributed to Michigan’s implementation of this program described in the State Plan.



Conclusion

For over a decade, the MLHP’s importance has been overlooked and its effectiveness systematically reduced. The funding crisis this summer has brought to light the important role this program plays in ensuring the safety and health of Michigan’s migrant farmworkers. From a human rights perspective, these workers deserve safe and comfortable living conditions. From an economic perspective, the quality of their living conditions contributes to their productivity and ultimately that of the agricultural industry and the state economy. At this point, protecting and strengthening the MLHP appears to be a costly and challenging undertaking. The federal government may be a potential resource in funding this endeavor. However, given that food security and a productive work force are of the utmost importance to Michigan agriculture, it is in the state’s interest to improve and preserve the MLHP.

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