

# Agriprocessors escapes big fines for violations

**INJURIES:** Hurt workers common; company failed to give protective gear

**PENALTIES:** State safety regulators regularly reduced fines by 25% to 75%



ARTURO FERNANDEZ/THE REGISTER

Wilson Junech, 26, of Postville lost his hand in a workplace accident at Agriprocessors Inc. in August 2005. He was among three workers at the Postville meat-processing plant who lost parts of their hands in machinery during a five-week period in 2005.

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Carlos Torrez was in the middle of a 60-hour workweek at the Agriprocessors Inc. meat-processing plant in Postville when the mechanical saw he was using to separate chicken parts severed one of his fingers.

It was July 2005, and Torrez had been working in the plant for three years. He was 26 years old, had four children at home and had logged 67 hours the week before the accident happened. His take-home pay, even with double-digit hours of overtime, totaled \$509.

Torrez staggered to "the laundry room" — an area where workers went for first-aid. A co-worker retrieved the severed finger from the floor.

Five weeks later, the state investigated the accident. By then, however, two more workers had lost parts of their hands in Agriprocessors' machinery.



Find a list of detainees, see video from the raid and read past coverage at [DesMoinesRegister.com/postvilleraid](http://DesMoinesRegister.com/postvilleraid).

Ultimately, the three amputations cost the nation's largest kosher meatpacking plant \$7,500 in state fines.

Agriprocessors' treatment of its workers — and state regulators' treatment of the company — have been a source of controversy since May 12, when 389 workers were detained by federal agents in the nation's largest immigration raid.

A Des Moines Register review of state records indicates that health and safety violations at Agriprocessors rarely result in large fines, although injuries are commonplace there.

The records show that:

- Company officials have repeatedly refused

## Raid in Postville

The Des Moines Register is presenting a series of reports on the aftermath of the arrests of 389 workers at the Agriprocessors meat-processing plant in Postville. It was the largest single-site workplace raid in U.S. history.

**FRIDAY:** Two supervisors at Agriprocessors Inc. in Postville were arrested on allegations that they helped illegal immigrant workers hide behind bogus Social Security and resident alien cards.

**SATURDAY:** The cost to taxpayers to jail 304 arrested workers in Iowa instead of deporting them is about \$590,000 a month.

**TODAY:** State records indicate that health and safety violations at Agriprocessors rarely result in substantial penalties, although injuries at the plant are commonplace.

## SAFETY

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to let state inspectors inside the plant without first obtaining a court warrant. In one incident, inspectors had to go to the courthouse in Waukon and obtain the document. By then, it was too late to return and make the inspection, so the state officials had to book a hotel room and spend the night. They entered the plant the next day, but the delay resulted in company officials getting 24 hours' notice of a planned inspection.

- Unsigned workplace-safety complaints are typically investigated by the state via telephone or fax, rather than by visiting the plant. In one case, inspectors drove to the Postville plant and were denied entry. After realizing the complaint was unsigned, the inspectors drove back to Des Moines without entering the plant.

- Fines for workplace safety violations in Iowa are typically cut by 25 percent to 75 percent from the amounts first proposed. In 2005, after the three amputation injuries at Agriprocessors, a state worker forgot to call company executives for a scheduled telephone conference about a proposed \$10,000 fine. After a 45-minute delay, the official told company executives their time was worth a reduction in the fine, and he cut the penalty to \$7,500.

- Company executives have failed to give workers protective gear to do certain jobs. For years, the plant didn't provide protective clothing to employees who worked with corrosive chemicals. Protective jackets, pants and boots were available, but they were treated by Agriprocessors as personal clothing that had to be purchased from the plant.

Elizabeth Billmeyer, the company's human resources manager, declined to discuss plant safety when contacted at home by the Register.

"If you'd like to talk with me, you can talk with me at work," she said. Billmeyer did not return several subsequent calls to her office. Company executives Shalom Rubashkin and Heshy Rubashkin also did not return a reporter's calls.

An Agriprocessors spokesman said "the company cannot respond to specific allegations" until a government investigation is complete and all pending legal issues are resolved.

### Plant has long history of safety violations

Three months ago, state officials cited Agriprocessors for 39 workplace safety violations — an unusually large number.

Federal and state records give conflicting information on fines against the company, but for the past few years Agriprocessors appears to have compiled one of the worst safety records of any meatpacking plant in Iowa.

Although detailed worker-injury reports since 2006 are not publicly available, the Register has reviewed Agriprocessors' reports for the three previous years.

In 2003, the company reported 83 employee injuries, including smashed ankles, lacerated tendons in hands, smashed arms, and amputated fingers.

In 2004, the number of injuries jumped 45 percent, to 120, with workers being treated for chemical burns to their eyes and feet, third-degree burns, hand lacerations and broken ribs.

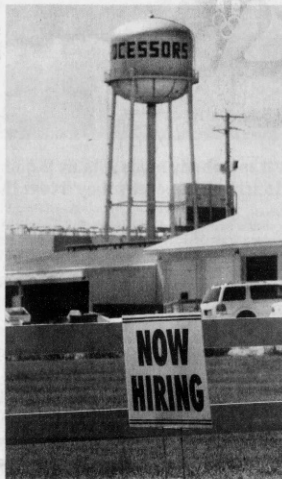
In 2005, the number of injuries dropped to 103. They included hearing losses, smashed fingers and severed fingers.

The 2005 reports include the three amputations that began with Carlos Torrez's loss of a finger.

State records indicate that four weeks after that accident, Adolfo Lopez, 26, was working on a machine



Wilson Junech, 26, of Postville lost his hand in an accident while working at the Agriprocessors plant in August 2005. He had been clearing debris from inside a machine when a supervisor unwittingly turned the device on.



Immigration agents raided Agriprocessors Inc. in Postville in May, arresting 389 workers. Federal records indicate the company chose not to take part in a voluntary government program that enables employers to quickly verify applicants' Social Security numbers.

called "the foot masher." Witnesses said they heard Lopez screaming about 5:30 a.m. He had been clearing debris from inside the machine when a supervisor unwittingly turned on the device, crushing Lopez's left hand.

"I saw (Lopez) caught up in the gears, the teeth of the foot masher," maintenance worker Dean Branish told officials. "His left hand was stuck all the way to the wrist."

Ten days after that incident, plant sanitation manager Jeff Bohr was at home when a co-worker called to tell him Eduardo Santos, 25, was in the laundry room with a severe hand injury.

Bohr went to the plant, examined Santos' right hand, and called an ambulance. Then he looked into the machine Santos had been working on and saw pieces of two work gloves.

There were also pieces of skin and bone," Bohr wrote in his report.

Company records indicate Santos lost two fingers and a thumb. The remainder of his hand was crushed.

Adolfo Lopez, who now goes by the name of Wilson Junech, continued to work at Agriprocessors after recovering from his injury, although the loss of his hand required him to move to a cleaning crew and a job that entails moving empty boxes.

He says that when he returned to work after the accident, the supervisor who had inadvertently switched on the machine with his hand inside smiled and laughed.

After the accident, Junech said he was switched to a

the three amputations, state inspectors proposed a fine of \$10,000.

A few months later, Jens Nissen, an executive officer with Iowa's Occupational Safety and Health Administration, set up an informal telephone conference with company officials to discuss a settlement in the case. Nissen was supposed to call Agriprocessors at 3 p.m., but he forgot. He called at 3:45 p.m. instead.

His handwritten notes told what happened next: "They graciously proceeded with the informal conference, despite my tardiness. I told them that their time was worth a reduction in penalty. They have taken various steps since the inspection to abate the hazard. ... They asked if they could send information on what they have done and get a penalty reduction based on that information. I said, 'Sure.' We ended our phone conversation."

The next day, the \$10,000 fine was cut by 25 percent to \$7,500.

Asked about that decision, Nissen said: "It was just a matter of quibbling over a couple hundred bucks. That's all."

He said it is not unusual for companies to challenge proposed fines and for the state to settle the matter by reducing the fines in exchange for the company's promise to do better.

The alternative, he said, is holding a hearing, a process that can take years to complete with no assurance that OSHA inspectors will prevail.

Reducing the size of fines results in speedier compliance, he said, and frees money for companies to spend on safety equipment and training.

The company has had annual revenue of \$250 million.

As for Agriprocessors' refusal to let state inspectors inside the plant without a court-issued warrant, Nissen said that occurs with other companies, too.

"It's the employer's right to deny us entry," he said. "It's not something that's unusual, but, then again, it's not something that's routine."

Across the nation, manufacturers and meatpackers have had the right to turn away safety inspectors since 1978. That's when the U.S. Supreme Court ruled that inspections without court warrants violated the Fourth Amendment rights of companies that are not "closely regulated" by the government. Meatpacking plants are not considered closely regulated.

### Workers must pay for safety equipment

After the fines were reduced at Agriprocessors, lack of compliance with safety regulations became an even bigger issue at the Postville plant.

In early 2006, state officials cited the company

for failing to provide protective jackets and boots to workers who used high-pressure hoses to spray corrosive chemicals and scalding water inside the plant as part of the sanitation process.

During an on-site inspection, an executive asked a state inspector whether she would recommend protective "rain suits" for the workers. "Yes," she said.

She asked the company's operations manager and plant engineer whether they would want rain suits if they had to spray caustic chemicals. According to the inspector's report, both men said, "Absolutely."

But company records indicate that workers had long been forced to either do without the protective gear or purchase it themselves from the company. And because some workers allegedly had no lockers at the plant, they often took their chemical-soaked rain suits home with them at the end of their shift.

Company Vice President Shalom Rubashkin, in a September 2000 memo to all employees, included an "equipment price list" that identifies rain pants and jackets, as well as "wrist wraps" and "back support," as "personal clothing-type equipment," rather than mandatory, company-issued safety equipment.

For at least six years, workers were being charged \$30 for the pants and \$30 for the jackets. Boots were \$20.85. At those prices, 100 rain suits would have generated \$8,000 in revenue for the company.

By comparison, the state fine for this serious safety violation was \$1,000.

In December 2006, a commission appointed by the United Synagogue of Conservative Judaism found significant health and safety concerns at the Postville plant, including unsafe chemical use and "inadequate or nonexistent safety training."

OSHA cited the company for more violations, and federal investigators launched a wide-ranging investigation into allegations of people in the United States illegally who were hired there, of child-labor law violations and of workplace safety issues.

Court records show that in January 2008, federal authorities equipped an informant with a hidden device to record a safety briefing for new employees. During the briefing, employees were allegedly told that their pay would be docked \$2 per week to pay for gloves and shoes that they were required to wear.

That informant, and another, made broader allegations, too. One told authorities a plant supervisor had put duct tape over the eyes of a Guatemalan worker and then beat the worker with a meat hook. Another told authorities that some workers were

paid less than minimum wage and were paid in cash. Several informants alleged that the Postville work force was rife with illegal immigrants.

In April, Eric Frumin of the Change To Win labor organization testified before a U.S. Senate subcommittee that was investigating workplace safety. He told senators that Agriprocessors had just been cited for 39 additional violations of health and safety regulations that carried potential fines totaling \$182,000.

"For perspective," he testified, "in 2007, Iowa OSHA issued 19 violations for all meatpacking plants in Iowa, with fines totaling over \$120,000."

What Frumin didn't realize was that the Iowa OSHA office had already agreed to cut Agriprocessors' fines. The agreement would not be made public for several weeks, but when it was, it showed the state had cut the proposed \$182,000 fine to \$42,750.

### Raid shines light on other probe, warnings

On April 11, a week after Frumin testified in Washington, an informant who worked at the Postville plant told U.S. Immigration and Customs Enforcement agents that word of the impending immigration raid had leaked. Employees were openly discussing the matter, he said.

ICE's plans for a raid put the agency on a collision course with other state and federal officials who were conducting a separate investigation into allegations of child-labor law violations at Agriprocessors.

Leaders of the United Food and Commercial Workers union, who were trying to organize Postville workers, were concerned a raid would derail the child-labor investigation. On May 2, the union's Mark Lauritsen asked ICE to refrain from raiding the plant until the labor-law investigation was completed.

Ten days later, however, federal officers descended on Postville. They detained more than a third of Agriprocessors' work force — 389 people, including 12 juveniles — and issued arrest warrants for 307 other employees.

Company founder Aaron Rubashkin told the Jewish news agency JTA that he had no idea his workers were not in the U.S. legally.

"People coming there looking for jobs. They bring ID with a photo, with a number," he said. "Nine-teen million illegals here? I don't bring 'em here. I pay taxes, and the government is supposed to control the stuff."

Agriprocessors issued a statement saying, "Our company takes the immigration laws seriously."

But federal records indicate the company chose not to participate in the government's voluntary program that enables employers to quickly verify the Social Security numbers of job applicants.

Court records indicate the Social Security Administration repeatedly warned Agriprocessors that hundreds of its employees — perhaps as much as 78 percent of the work force — appeared to be using fraudulent Social Security numbers or names.

Between 2002 and 2006, the company allegedly received 12 separate, written notices from the Social Security Administration highlighting hundreds of discrepancies in Social Security numbers and employee names.

No criminal charges have been filed against the plant's owners.

But on Thursday, immigration officials arrested two Agriprocessors supervisors, Martin De La Rosa-Loera and Juan Carlos Guerrero-Espinoza, for allegedly aiding and abetting the possession and use of fraudulent identification by their workers.