



Broken Laws, Unprotected Workers

By Annette Bernhardt, Ruth Milkman and Nik Theodore | September 21, 2009

Last February, a chain of gourmet groceries in New York City paid nearly \$1.5 million in wages owed to 550 workers. In the same month, the Los Angeles city attorney charged two owners and a manager of several car washes with paying workers a flat daily rate of \$35 to \$40 for shifts that lasted eight hours or longer. Also this year, a Chicago-area temp agency settled a class-action suit for nearly half a million dollars; when workers accumulated more than 40 hours a week at different client companies, the agency "split" their checks to avoid triggering mandatory overtime pay.

These cases are part of a growing stream of abuses reported by community organizers, unions, legal-services offices, and even government agencies. But until now it has been impossible to know the scale of the problem. Are violations of workplace laws confined to a few peripheral employers affecting small numbers of workers -- or a larger trend reshaping the American workplace?

To find out, we and our colleagues undertook a systematic study to measure the prevalence of employment- and labor-law violations. Using an innovative methodology designed to reach people often missed in conventional surveys (including unauthorized immigrants and people working for cash), we interviewed 4,387 workers in low-wage industries in Chicago, Los Angeles, and New York City.

We think of this landmark 2008 survey as a census of the invisible, because from the standpoint of public policy and government regulation, these jobs and workers too often are off the radar screen. Our findings describe a world of work where core protections that many Americans take for granted are failing significant numbers of workers:

- ❑ More than one-fourth of the workers in our sample (26 percent) were paid less than the minimum wage.
- ❑ Of those who worked more than 40 hours in a week, 76 percent were not paid the legally required overtime.

- ❑ Of workers asked to report early or stay late, 70 percent had an "off the clock" violation -- they received no pay for work they performed outside their regular shift.
- ❑ Of those entitled to a meal break, 69 percent received no break at all, were interrupted by their employer, or worked during the break -- all violations of meal-break laws.
- ❑ Over half (57 percent) of all workers in our sample did not receive the legally required statement of their earnings and deductions.
- ❑ Altogether, 68 percent experienced a pay-related violation in the week prior to the survey.

Other illegalities ranged from tip stealing by employers to illegal pay deductions to workers' compensation violations. When workers complained or tried to organize a union, 43 percent experienced illegal retaliation (such as being fired or having their hours cut).

These problems are not limited to unauthorized immigrants. All workers are at risk, although women, immigrants, and workers of color had especially high violation rates.

The best predictors of violations were industry and occupation. Minimum-wage and overtime violations were especially common in garment manufacturing, nail salons, and domestic work, but we also found them in construction, retail, restaurants, warehousing, and home health care. We found more violations in small companies, but even in big companies (with 100 employees or more) nearly one worker in six had a minimum-wage violation in the previous week.

Responsible employers still do exist in the low-wage labor market -- violations were much lower in firms that offered their workers health coverage and paid vacations, for example. But such employers are becoming an endangered species, increasingly unable to compete with firms whose business model depends on systematically violating the law.

The sheer breadth of the violations we documented is a national call to action. We estimate that every week, about 1.1 million workers in Chicago, Los Angeles, and New York City experience a minimum-wage, overtime, or other pay violation, resulting in more than \$56.4 million in wage theft. Rebuilding our economy on the back of these illegal working conditions is morally untenable -- and it is bad economics. Unscrupulous employers who break the law rob families of badly needed money to put food on the table. They rob communities of spending power. They rob state and local governments of vital tax revenues. And they rob the nation of the good jobs and workplace standards needed to compete in the global economy.

The full report, Broken Laws, Unprotected Workers: Violations of Employment and Labor Laws in America's Cities, is co-authored with Douglas Heckathorn, Mirabai Auer, James DeFilippis, Ana Luz Gonzalez, Victor Narro, Jason Perelshteyn, Diana Polson, and Michael Spiller, and is available at www.unprotectedworkers.org.

