
September 2020
Hosts

• **Tanya Goldman**
  – Senior Policy Analyst/Attorney at the Center for Law and Social Policy (CLASP)

• **Kathryn Zickuhr**
  – Labor Market Policy Analyst at the Washington Center for Equitable Growth

• **Janice Fine**
  – Research and Strategy Director at the Center for Innovation in Worker Organization (CIWO)
CIWO’s Strategic Labor Standards Enforcement (SLSE) Project

- Labor Standards Enforcement Toolbox and Research Papers
- Strategic Enforcement and Co-Enforcement 2-Day Training for Agencies
- Customized Workshops for Agencies
- Research Support
- Customized Workshops for Organizations
- Strategic Enforcement and Co-Enforcement 1-Day Training for Community, Worker and Legal Advocacy organizations
- One-on-one consultations on policy implementation and enforcement
- Webinars
- Communities of Practice
CIWO/CLASP Labor Standards Enforcement Toolbox

- **Tool 1: Complaints, Intake, and Triage**
- **Tool 2: Investigations**
- **Tool 3: Collections**
- **Tool 4: Introduction To Strategic Enforcement**
- **Tool 5: Addressing and Preventing Retaliation and Immigration-Based Threats to Workers**
- **Tool 6: Negotiations and Settlement Agreements**
- **Tool 7: Sharing Information with Community Organizations**
- **Tool 8: A Baker’s Dozen of Essential Enforcement Powers**
- **Tool 9: Assessing and Maximizing Labor Standards Enforcement Powers**

https://smlr.rutgers.edu/content/labor-standards-enforcement-toolbox
Poll
Agenda

• Introductions
• Findings from Study
• The Need for Strategic Enforcement and Co-Enforcement
• Response to and Implications of the Study
• Q&A
Our presenters:

- Daniel Galvin, Associate Professor of Political Science, Northwestern University CIWO Fellow
- Jenn Round, Senior Fellow, CIWO SLSE Project, Former Enforcement Manager, Seattle Office of Labor Standards
- David Weil, Dean of the Heller School at Brandeis, Former Administrator, US DOL Wage and Hour Division
- Michelle Holder, Assistant Professor of Economics, John Jay College of Criminal Justice, CUNY
Maintaining effective U.S. labor standards enforcement through the coronavirus recession

September 2020  By Janice Fine, Daniel J. Galvin, Jenn Round, and Hana Shepherd

RUTGERS
School of Management and Labor Relations
CENTER FOR INNOVATION IN WORKER ORGANIZATION
Empirical Analysis

- Great Recession (2008-2010), plus slow recovery (2011-2013)
The share of low-wage workers paid less than the minimum wage tracks the unemployment rate

The minimum wage violation rate by state and the unemployment rate by state, 2007-2013
The chances a U.S. worker will be paid less than the minimum wage rises with the unemployment rate

Probability of minimum wage violations as measured against state unemployment rates, 2007-2013
Immigrants, workers of color, and women are more vulnerable to wage theft

The demographics of workers and the probabilities of minimum wage violations (relative to reference group), all workers, 2008-2010

Noncitizen (vs. citizen)  114
Hispanic (vs. White)  84
Female (vs. male)  43
Black (vs. White)  41
Other Race (vs. White)  32
Complaint data supplied by the San Francisco Office of Labor Standards Enforcement
Minimum wage estimates generated using CPS-MORG data 2005-2018
Domestic workers and social assistance workers in San Francisco complain the least about wage theft by their employers relative to the number of violations.

San Francisco's industries ranked by the ratio of wage theft violations to wage theft complaints, 2005-2018

<table>
<thead>
<tr>
<th>Industry</th>
<th>Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>Private households</td>
<td>1327:1</td>
</tr>
<tr>
<td>Social assistance</td>
<td>811:1</td>
</tr>
<tr>
<td>Public administration</td>
<td>655:1</td>
</tr>
<tr>
<td>Finance</td>
<td>443:1</td>
</tr>
<tr>
<td>Waste management and remediation service</td>
<td>392:1</td>
</tr>
<tr>
<td>Educational services</td>
<td>372:1</td>
</tr>
<tr>
<td>Food manufacturing</td>
<td>293:1</td>
</tr>
<tr>
<td>Arts, entertainment, and recreation</td>
<td>210:1</td>
</tr>
<tr>
<td>Wholesale trade</td>
<td>160:1</td>
</tr>
<tr>
<td>Professional and technical services</td>
<td>159:1</td>
</tr>
<tr>
<td>Transportation and warehousing</td>
<td>152:1</td>
</tr>
<tr>
<td>Real estate</td>
<td>118:1</td>
</tr>
<tr>
<td>Rental and leasing services</td>
<td>101:1</td>
</tr>
</tbody>
</table>
U.S. industries in which low-wage workers saw the largest percentage point increase in minimum wage violations during the Great Recession

Percentage point change in minimum wage violation rate among industries with above-average increases, 2005-2007 to 2008-2010

- Educational services
- Repair and maintenance
- Real estate
- Agriculture
- Construction
- Arts, entertainment, and recreation
- Personal and laundry services
- Food manufacturing
- Food services and drinking places
Many workers in California expect they won’t be paid if they were to get sick despite the state’s paid sick leave protections

Descriptive frequencies of reports of lack of paid sick leave, reduced hours and wages, and dangerous working conditions in a survey of working respondents who are registered California voters, April 16–20, 2020

**Percentage of working respondents who report... (weighted means)**

<table>
<thead>
<tr>
<th></th>
<th>...they would not be paid if they had to take 2 weeks off if sick with COVID-19</th>
<th>...lacking paid sick leave as a very serious problem</th>
<th>...reduced hours and wages as a very serious problem</th>
<th>...dangerous working conditions as a very serious problem</th>
<th>Observations (unweighted)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>All workers</strong></td>
<td>0.35</td>
<td>0.23</td>
<td>0.28</td>
<td>0.21</td>
<td>4860</td>
</tr>
<tr>
<td><strong>Race/ethnicity</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Latinx</td>
<td>0.38</td>
<td>0.38</td>
<td>0.43</td>
<td>0.34</td>
<td>990</td>
</tr>
<tr>
<td>White</td>
<td>0.35</td>
<td>0.16</td>
<td>0.20</td>
<td>0.14</td>
<td>2787</td>
</tr>
<tr>
<td>American Indian/Other</td>
<td>0.35</td>
<td>0.23</td>
<td>0.26</td>
<td>0.23</td>
<td>244</td>
</tr>
<tr>
<td>Black</td>
<td>0.34</td>
<td>0.31</td>
<td>0.37</td>
<td>0.23</td>
<td>189</td>
</tr>
<tr>
<td>Asian/Pacific Islander</td>
<td>0.32</td>
<td>0.24</td>
<td>0.33</td>
<td>0.26</td>
<td>602</td>
</tr>
<tr>
<td>Annual household income</td>
<td>0.52</td>
<td>0.45</td>
<td>0.50</td>
<td>0.41</td>
<td>631</td>
</tr>
<tr>
<td>-------------------------</td>
<td>------</td>
<td>------</td>
<td>------</td>
<td>------</td>
<td>-----</td>
</tr>
<tr>
<td>Less than 40,000</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Less than 60,000</td>
<td>0.49</td>
<td>0.40</td>
<td>0.44</td>
<td>0.35</td>
<td>1098</td>
</tr>
<tr>
<td>Less than 80,000</td>
<td>0.45</td>
<td>0.36</td>
<td>0.39</td>
<td>0.32</td>
<td>1703</td>
</tr>
<tr>
<td>Less than 100,000</td>
<td>0.43</td>
<td>0.32</td>
<td>0.37</td>
<td>0.29</td>
<td>2218</td>
</tr>
<tr>
<td>More than 150,000</td>
<td>0.23</td>
<td>0.10</td>
<td>0.16</td>
<td>0.10</td>
<td>1515</td>
</tr>
<tr>
<td>Union or family member in union</td>
<td>0.28</td>
<td>0.23</td>
<td>0.26</td>
<td>0.23</td>
<td>1186</td>
</tr>
<tr>
<td>Born outside of United States</td>
<td>0.37</td>
<td>0.35</td>
<td>0.39</td>
<td>0.32</td>
<td>1110</td>
</tr>
</tbody>
</table>
Maintaining effective U.S. labor standards enforcement through the coronavirus recession:

Strategic enforcement implications

David Weil, Brandeis University
September 2020
Complaint-based systems can send the wrong signals

San Francisco industries with some of the highest violation rates generate few worker complaints

Matrix of wage-theft complaints and levels of compliance, by industry, 2005–2018

<table>
<thead>
<tr>
<th>High noncompliance</th>
<th>Low noncompliance</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Quadrant 1</strong></td>
<td><strong>Quadrant 3</strong></td>
</tr>
<tr>
<td>Food services and drinking places</td>
<td>Repair and maintenance</td>
</tr>
<tr>
<td>Personal and laundry services</td>
<td>Construction</td>
</tr>
<tr>
<td>Rental and leasing services</td>
<td></td>
</tr>
<tr>
<td>Retail trade</td>
<td></td>
</tr>
<tr>
<td><strong>Quadrant 2</strong></td>
<td><strong>Quadrant 4</strong></td>
</tr>
<tr>
<td>Private households</td>
<td>Publishing industries</td>
</tr>
<tr>
<td>Social assistance</td>
<td>Professional and technical services</td>
</tr>
<tr>
<td>Food manufacturing</td>
<td>Finance</td>
</tr>
<tr>
<td></td>
<td>Educational services</td>
</tr>
<tr>
<td></td>
<td>Wholesale trade</td>
</tr>
<tr>
<td></td>
<td>Public administration</td>
</tr>
</tbody>
</table>

Source: Fine, Galvin, Round & Shepherd, 2020
What is strategic enforcement?

• The objective of strategic enforcement is to use the limited enforcement resources available to a regulatory agency proactively to protect workers as prescribed by laws by changing employer behavior in a sustainable way.
Elements of strategic enforcement?

- Moving to a proactive approach
- Setting enforcement priorities
- Using all enforcement tools
- Improving outreach to workers and worker advocates
- Improving outreach to business and regulated organizations
- Creating strategic communications
- Crafting sustainable regulatory agreements
- Building a culture of planning, evaluation, review, and continuing improvement
Strategic enforcement at the WHD

% Directed Investigations; Complaint No Violation Rate; Directed No Violation Rate

(Source: Weil 2018)
Strategic enforcement at the WHD

WHD Strategic Enforcement: 2009-2018

Back Wages per Employee--Directed Investigations

- Complaint No Violation Investigations
- Directed No Violation Investigations
- % Directed Investigations
Incorporating the strategic enforcement of labor standards at every stage of the case

Unlike individual complaint-based enforcement, strategic enforcement is a form of systemic regulation that targets enforcement resources to high violation industries and seeks to effect improvements across firms in an industry.

- **Pre-investigation/intake**
  - Strategic outreach • set priority industries • sectoral mapping • proactive investigations • preliminary interviews • triage • pre-judgment
  - wage liens • bonds • asset assessment • allow 3rd party and anonymous complaints • ER and industry research • contact CBUs • surveillance • investigative plan • determine whether ER is prior violator • identify other agencies that have leverage over employer

- **Post-investigation**
  - Compliance monitoring • publicizing the results/naming and shaming • work with CBUs

- **Investigation**
  - Company-wide investigations • directed investigations • site visits • surveillance • offsite EE interviews • retaliation • joint employment • misclassification • community partnerships • up-the-chain liability • subpoenas • burden shifting when no records

- **Judgment enforcement and collections**
  - Levy assets • intercept tax refunds • mechanics' liens • liens • license suspension/revocation • wage bonds • fraudulent conveyance • stop order • individual liability • work with CBUs

- **Citation/settlements**
  - Full back wages • interest • liquidated damages • employer and employee training • compliant policies (e.g. rest break policy) • proof of compliance • work with CBUs • ER funding for compliance monitoring

Source: Based on authors' analysis.
Comments on CIWO Report

Michelle Holder, Ph.D.
September 30, 2020
Impressions of Report

• My research areas as a labor economist

• What I learned in this report

• How what I learned in this report is relevant to my research areas
Recessions and Vulnerable Worker Populations

• Recessions are periods of generalized worker vulnerability

• With regard to labor market outcomes, groups who have been historically the most vulnerable include black (men and women), Latinx (men and women), and low-wage workers (men and women)

• The reasons for this include occupational and industrial crowding
Effects on Wages

• Depression of wages by industry has a ripple effect

• Low-wage workers in many different sectors are already not earning a “living wage”

• Income “maldistribution” and income inequality in the U.S.
Aggregate Losses to Communities

• Research on the “double gap” in wages

• While it feels like wage theft is experienced by individual workers there is an aggregate loss to the communities these workers come from

• Women of color and wage theft
Question and Answer

Please type any questions you may have in the chat box along with your name and agency/organization.