

Labor Standards Enforcement Webinar Investigations

June 6, 2017



- Lindsay Moore, Dept. of Labor, Arkansas, and ILSA President
- Sara Ellstra, Labor Standards Unit, Minnesota
- Linshao Chin, Office of Labor Standards Enforcement, San Francisco
- Janice Fine, Center for Innovation in Worker Organization (CIWO)
- Liz Ben-Ishai, Center for Law and Social Policy (CLASP)

Participants in today's webinar

Cities and Counties (17)

Berkeley, CA
Chicago, IL
Flagstaff, AZ
Los Angeles County, CA
Los Angeles, CA
Minneapolis, MN
Montgomery County, MD
New York City
Oakland, CA
Philadelphia, PA
San Diego, CA
San Francisco, CA
Santa Fe, NM
Seattle, WA
St. Paul, MN
Tacoma, WA
Trenton, NJ

States (12)

California
Colorado
Manitoba
Maryland
Massachusetts
Michigan
Minnesota
Montana
North Carolina
Oregon
Vermont
Washington, D.C.

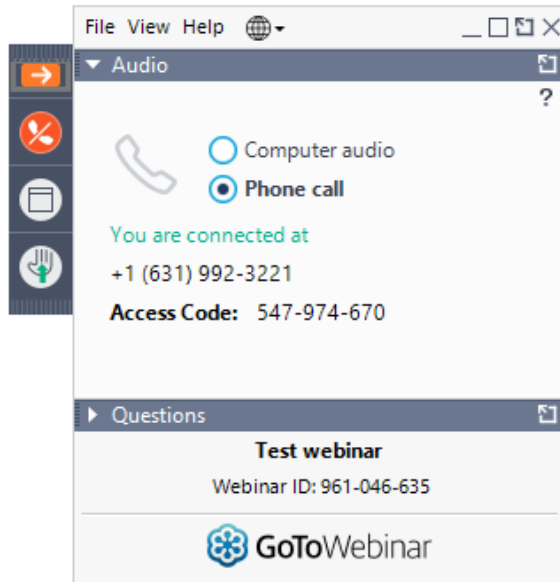
Advocacy, Labor, and Research Orgs (10)

Centro de Trabajadores Unidos en Lucha
Economic Policy Institute
Fair Contracting Foundation of MN
Interfaith Worker Justice
National Employment Law Center
National Partnership for Women and Families
Pacific Resource Partnership
United Brotherhood of Carpenters
Woods Fund Chicago
Working Partnerships USA

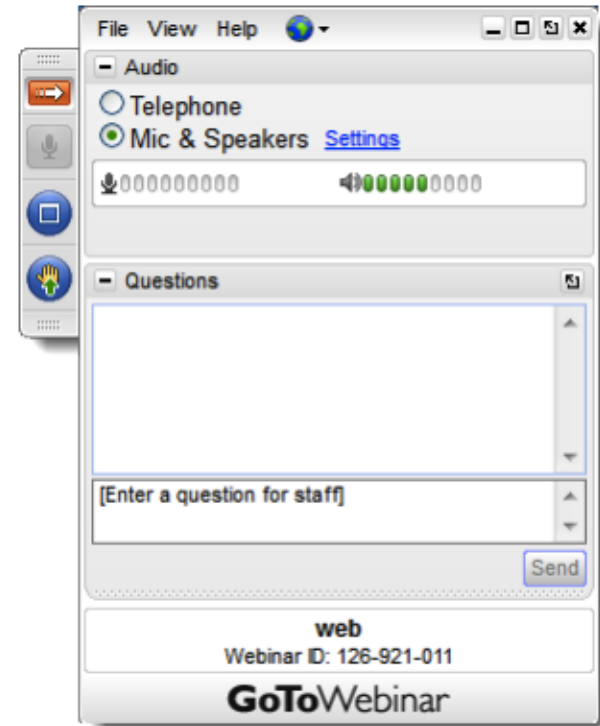
Ask us questions!

Raise your hand to be unmuted and ask a question verbally...

Click here to "raise your hand"



...or type in your question



Speakers

Lindsay Moore, Labor Standards Administrator, Arkansas Department of Labor, and 2017 President, ILSA

Sara Ellstra, Labor Standards Supervisor, Minnesota Department of Labor and Industry

Linshao Chin, Compliance Officer, San Francisco Office of Labor Standards Enforcement

Janice Fine, Associate Professor, Rutgers School of Management and Labor Relations and Center for Innovation in Worker Organization

Liz Ben-Ishai, Senior Policy Analyst, CLASP

Outline of today's webinar

1. Introduction
2. Variation in investigative approaches
3. Training investigators
4. Gathering information for a case
5. Onsite investigations
6. Q&A

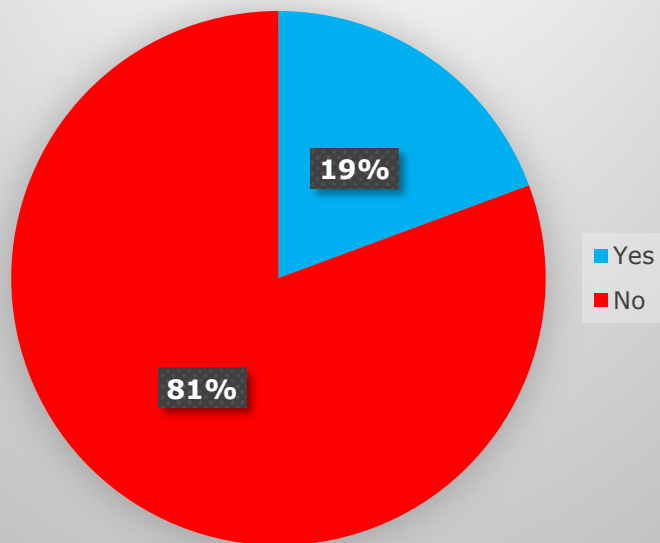
My survey of states and localities where minimum wage, wage theft or paid sick time passed in last 4 years

- El Cerrito
- Emeryville
- Los Angeles
- Los Angeles County
- Oakland, Berkeley
- Palo Alto, Mountain View
- Richmond
- San Francisco
- San Jose
- Santa Monica, Sacramento
- Johnson Co, IA
- Seatac, WA
- Seattle
- Chelsea, MA
- Minneapolis
- Philadelphia
- Pinellas Co, Miami Beach,
- St Petersburg, FL
- Portland, ME
- Tacoma, WA
- Santa Fe, Las Cruces, NM
- Montgomery Co, MD
- St. Louis, MO, Lexington, KY
- Washington DC, Flagstaff, AZ
- Alaska
- Arkansas
- Colorado, Oregon
- Georgia
- Hawaii
- Maryland, New Hampshire
- Michigan, Nebraska
- Minnesota, Illinois, Massachusetts
- New Jersey, Ohio, Montana, Oklahoma
- North Dakota, Wisconsin, Wyoming
- Pennsylvania, California, Connecticut
- South Dakota, Utah, Rhode Island
- Vermont, Washington, West Virginia

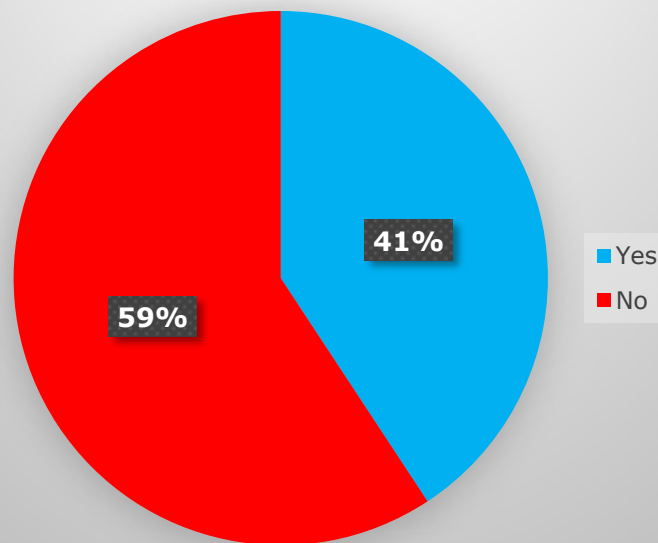
Modalities of Investigation

- Phone
- Mail
- On-site
- Off-site reconnaissance and meetings with workers
- What else?

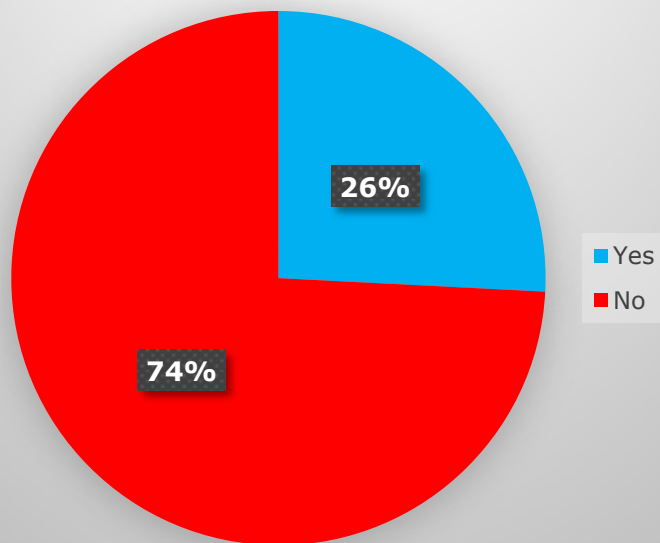
How many cities do investigations just by mail?



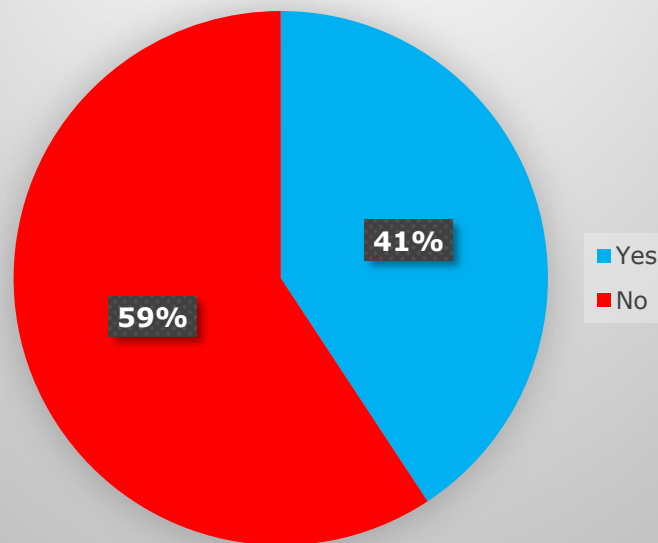
How many states do investigations just by mail?



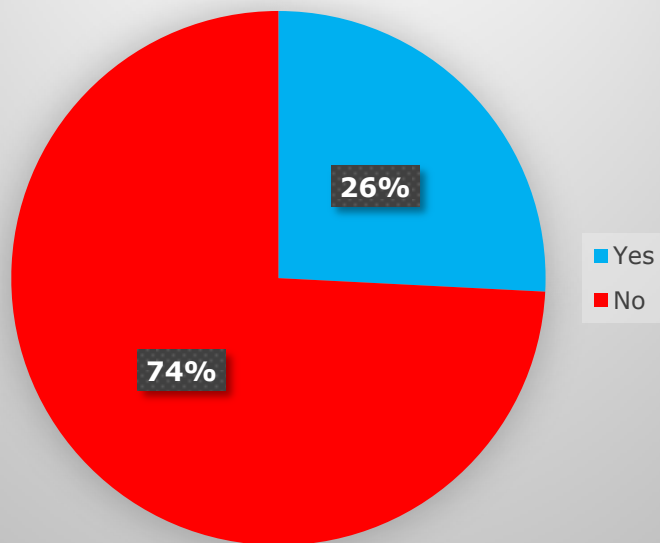
How many cities do investigations just by phone?



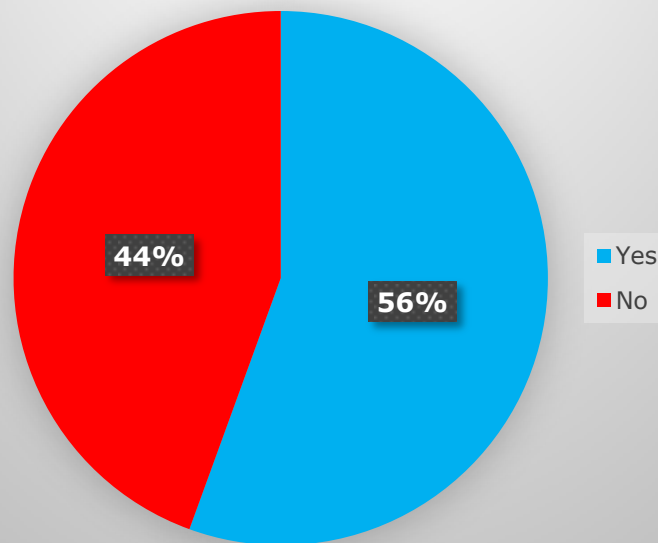
How many states do investigations just by phone?



**How many cities do
investigations on-
site?**



**How many states do
investigations on-
site?**



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Liz Ben-Ishai, Senior Policy Analyst, CLASP

Training investigators



Lindsay Moore
Arkansas Department of Labor/ILSA



Minnesota

● ● ● **Labor Standards** ● ● ●

Division



CLASP Webinar
June 6, 2017

Overview:

Gathering Information for Investigations

- Information gathered at the start
- Demand for Records
- Issues with getting records
- Ability to use documents we have
- Onsite
- Outcomes

Information gathered at the start



- Correct registered business name/address/owner (using MN secretary of state website)
- Online resources: Reference USA, Manta, Facebook
- Intake with complainant (when applicable)
- Unemployment data from our Department of Employment and Economic Development

Demand for Records



- The name, last known address, phone number, social security number, occupation, rate of pay, and dates of employment for each employee;
- All time cards or time sheets.
- All check stubs, registers, or receipts for the payment of wages, including cash.
- Tip statements (when applicable)
- An itemized list of any direct or indirect deductions, or both, made from wages and each employee's written authorizations for the deductions
- Any employee handbook, policy, or other written description of the conditions of employment
- Photocopies of Employer's most recent four quarters of completed tax returns;

Demand for Records (con't)



- Establishment Information form:
 - Name and contact information for business
 - Federal tax ID
 - Type of business
 - Gross annual revenue
 - Business structure (LLC, Inc., sole practitioner, etc)
 - Number of employees
 - Whether involved in interstate commerce
 - 7-day workweek

Onsites



Useful for:

- Speaking with employees
- Observing work being done
- Getting records without delay or giving employer time to forge, or not respond

Challenges:

- Resource heavy
- Not always fruitful



Issues with getting records

- Business moves/closes
- Business ignores demand
- Business refuses
- Provides partial response

Actions DLI can take:

- Penalties
- Compel in court
- Continue demands and penalties

Ability to use documents we have



If the employer's records are not provided, or insufficient to do calculations, DLI has the ability to use information collected through investigation to make its own determination as to what back wages are due.

(M.S. § 177.27, subd 3.)

Conclusion



MNDLI GOAL:

Collect as much information as we can from the start.

Gathering information from various sources is helpful: complainants, employees, employer, and third party resources. This helps to ensure we are aware of any relevant facts from the start and helps us avoid wasting resources on litigation whenever possible.

Yank Sing Restaurant



- **Violations:** Minimum Wage, Paid Sick Leave, Tips
- **Enforcement agencies:**
SF Office of Labor Standards Enforcement (OLSE) &
CA Bureau of Field Enforcement (BOFE)
- **Community Partners:** Asian Law Caucus &
Chinese Progressive Association

Initial intake / Surveillance

- Intake: OLSE and BOFE met with claimants at the Chinese Progressive Association
- 2 OLSE staff ate at the restaurant to see get a general layout of restaurant – timecards, entrances, exits
- Surveillance – OLSE and BOFE staff covered different exits, entrances, notes and photos of workers coming in and leaving (both in the morning and at night)

Site Visit

- 2 restaurant locations, simultaneous site visits - 2 teams of OLSE & BOFE investigators
- Investigators have different roles on site visit
- Photograph evidence – time records!
- BOFE subpoenaed records from Yank Sing (OLSE requested additional information for Paid Sick Leave claim through subpoena)
- In OLSE cases, an OLSE audit letter requests contact information for workers. We may decide to send everyone a claim form, or maybe a letter explaining there is an open investigation and ask the worker to call the investigator.

Chinese Progressive Association

- CPA organizers went to work conducting house visits and one-on-one meetings and developing relationships with workers in the front and back of the house, and workers were persuaded to overcome their fears and come forward.

Asian Law Caucus

- Provided legal support, worked with DLSE lawyers
- Organized bilingual volunteers to help with intake
- Negotiated workplace change agreement
- Organized and supported worker meetings with CPA

Settlement

- The result of this joint work by CPA, ALC, OLSE and BOFE was a 4 million dollar settlement for 286 workers.
- CPA and ALC negotiated a “workplace change agreement” that includes wage increases for kitchen workers, paid holidays, an increase in paid time off and sick leave, schedules provided with more advance notice, some recognition of seniority, a progressive discipline policy and 8 hours of worker rights training on paid time.



QUESTIONS • COMMENTS • IDEAS