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Unregulated Work in Chicago

**The Breakdown of Workplace Protections
in the Low-Wage Labor Market**

Nik Theodore, Mirabai Auer, Ryan Hollon, and Sandra Morales-Mirque

With Annette Bernhardt, Ruth Milkman, Douglas Heckathorn, James DeFilippis,
Ana Luz González, Victor Narro, Jason Perelshteyn, Diana Polson, and Michael Spiller



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Acknowledgements

We incurred numerous debts in conducting this study. Most of all, we would like to thank the 1,140 workers who participated in our survey. We also are grateful to the members of our four advisory boards who assisted us at many stages in the project's development, and to the many organizations that provided space for us to conduct the surveys. In addition, our colleagues at Cornell University, the National Employment Law Project, Rutgers University, and the UCLA Institute for Research on Labor and Employment provided vital support for our efforts.

For their invaluable comments on earlier drafts of the national report, we thank Pablo Alvarado, Eileen Appelbaum, Ana Avendaño, Jennifer Gordon, Mark Handcock, Janet Herold, Jon Hiatt, Martin Iguchi, Saru Jayaraman, Raj Nayak, Chris Newman, Chris Owens, Manuel Pastor, and Cathy Ruckelshaus. We also benefited from the legal expertise of Nathan Barksdale, Laurie Burgess, Michael Ettlinger, Natalia Garcia, Tsedeye Gebreselassie, E. Tammy Kim, Kevin Kish, Samuel Krinsky, Sarah Leberstein, Becky Monroe, Raj Nayak, Oscar Ospino, Luis Perez, Cathy Ruckelshaus, Paul Sonn, Jennifer Sung, and Chris Williams, as well as the many lawyers who responded to our queries to NELP's National Wage and Hour Clearinghouse. For advice on the intricacies of workers' compensation we are grateful to Danielle Lucido, Jeremy Smith, and Tom Rankin. Thanks also go to Nina Martin, Jamie Peck, and Noah Zatz for their input on the survey design, and to Terri Zhu for her assistance at the analysis stage.

Acknowledgements continued...

Mark Handcock, Martin Iguchi, and Lawrence Ouellet offered helpful advice about the intricacies of RDS fielding and data analysis. Christine D’Onofrio, Michael Ettlinger, Mark Levitan, and Jeremy Reiss provided us expert advice about payroll tax deductions. On health and safety issues we relied heavily on Garrett Brown, Linda Delp, Eric Frumin, Danielle Lucido, Luis Mireles, Bruce Nissen, Jim Platner, Jackie Nowell, Joel Shufro, Scott Schneider, Fran Schreiber, and Juliann Sum. Jeffrey Passel and John Schmitt provided invaluable analysis of demographic and wage data from the Current Population Survey.

We would like to thank the people at St. Anthony’s in Cicero, St. Pascal’s in Portage Park, St. Sylvester’s in Logan Square, and World Relief in Albany Park, as well as Tim Bell, Tom Hansen, B. Loewe, Vinay Ravi, Reverend Sergio Solis, Ebonee Stevenson, Deborah Taylor, and Peggy Valdez for their contributions to the development and fielding of the Chicago survey. Anne Marie Castleman, Adam Kader, Alex Linares, and Chris Williams contributed their expertise to drafts of this report. We depended on Yibing Li for project administration during all phases of this study.

We relied on an extraordinary team of interviewers and translators in Chicago. Ryan Hollon directed the fielding of the survey with the help of Sandra Morales-Mirque. Both conducted interviews along with Reola Avant, Louisa Bigelow, Alison Dickson Quesada, Carlos Ginard, Hannaan Joplin, Kasia Kornecka, Tom McCormack, Meghan Mattingly, James Pfluecke, Kristi Sanford, Lucinda Scharbach, Lian Sze, Cecil Thomas, Tiffany Traylor, and Ada Utah. Martha Glas served as a Polish translator.

Madonna Camel, Yuteh Cheng, Jay Fraser, and Bob Lee of the Survey Research Center at the University of California, Berkeley provided expert assistance with interviewer training and the programming of the survey instrument. The survey instrument was translated into Spanish by Juanita Norori, and Alfredo Burgos created the pictographs we used in our recruitment documents.

This research was generously funded by the Ford Foundation, the John Randolph Haynes and Dora Haynes Foundation, the Institute for Policy and Civic Engagement of the University of Illinois at Chicago, the Joyce Foundation and the Russell Sage Foundation. We greatly appreciate the support we received from Whitney Smith, Diane Cornwell and Héctor Cordero-Guzmán, and Joseph Hoereth. We are especially indebted to Eric Wanner, Aixa Cintrón-Veléz and Katherine McFate, without whom this project would not have been possible. The views expressed in this report are solely those of the authors.

**Center for Urban Economic Development
University of Illinois at Chicago
400 S. Peoria St, Suite 2100 (M/C 345)
Chicago, IL 60607
312.996.6336
www.urbaneconomy.org**

About the Authors

Nik Theodore, Ph.D., is the Director of the Center for Urban Economic Development and Associate Professor in the Department of Urban Planning and Policy at the University of Illinois at Chicago. He has published widely on economic development, labor markets, and urban policy.

Mirabai Auer, M.U.P.P., is a Research Associate at the Center for Urban Economic Development at the University of Illinois at Chicago. Her interests include community economic development strategies and the informal economy.

Ryan Hollon is a doctoral student in Urban Planning at the University of Illinois at Chicago. His research explores the intersection of the labor market, urban education systems, and the criminal justice system.

Sandra Morales Mirque, M.U.P.P., is a Research Associate at the Center for Urban Economic Development. Her work involves applied research around immigrants and women's economic issues, and the informal economy. She also works closely with community organizations on capacity building and participatory research.

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Executive Summary

This report exposes a world of work in which core employment and labor laws are failing significant numbers of workers. These protections—the right to be paid at least the minimum wage, the right to be paid for overtime hours, the right to take meal breaks, access to workers’ compensation when injured, and the right to advocate for better working conditions—are being violated at alarming rates in the low-wage labor market. The sheer breadth of the problem, spanning key industries in the economy, as well as its profound impact on workers and their communities, entailing significant economic hardship, demands urgent attention.

In 2008, along with our colleagues in Los Angeles and New York City, we conducted a landmark survey of 4,387 workers in low-wage industries, 1,140 of whom are employed in Chicago and suburban Cook County. We used an innovative, rigorous methodology that allowed us to reach vulnerable workers who are often missed in standard surveys, such as unauthorized immigrants and those paid in cash. Our goal was to obtain accurate and statistically representative estimates of the prevalence of workplace violations. All findings are adjusted to be representative of front-line workers (i.e. excluding managers, professional or technical workers) in low-wage industries—a population of about 310,205 workers employed in Cook County.

Finding 1

Workplace violations are severe and widespread in the low-wage labor market

We found that employment and labor laws are regularly and systematically violated, impacting a significant part of the low-wage labor force in Chicago and suburban Cook County.

Minimum wage violations:

- ❑ Fully 26 percent of workers in our sample were paid less than the legally required minimum wage in the previous work week.
- ❑ Minimum wage violations were not trivial in magnitude: over 60 percent of workers were underpaid by more than \$1 per hour.

Overtime violations:

- ❑ One-quarter of our respondents worked more than 40 hours during the previous week. Of those, 67 percent were not paid the legally required overtime rate by their employers.
- ❑ Like minimum wage violations, overtime violations were of substantial magnitude. The average worker with a violation had put in 8 hours of overtime in the previous week—hours that were either underpaid or not paid at all.

“Off-the-clock” violations:

- ❑ Nearly one-quarter (23 percent) of the workers in our sample came in early and/or stayed late after their shift during the previous work week. Of these workers, 69 percent did not receive any pay at all for the work they performed outside of their regular shift.

Meal break violations:

- ❑ Three-quarters of our respondents worked enough consecutive hours to be legally entitled to at least one meal break during the previous week. Of these workers, 43 percent received no break at all, had their break shortened, were interrupted by their employer, or worked during the break—all of which constitute a violation of meal break law.

Pay stub violations and illegal deductions:

- ❑ In Illinois, workers are required to receive documentation of their earnings and deductions, regardless of whether they are paid in cash or by check. However, 45 percent of workers in our sample did not receive this mandatory documentation in the previous work week.
- ❑ Employers are generally not permitted to take deductions from a worker’s pay for damage or loss, work-related tools or materials or transportation. But 44 percent of respondents who reported deductions from their pay in the previous work week were subjected to these types of illegal deductions.

Tipped job violations:

- ❑ Of the tipped workers in our sample, 15 percent were not paid the tipped worker minimum wage (which in Illinois is lower than the regular state minimum wage).

Illegal employer retaliation:

We found that when workers complained about their working conditions or tried to organize a union, employers often responded by retaliating against them. Just as important, many workers never made complaints in the first place, often because they feared retaliation by their employer.

- ❑ Over one-quarter (26 percent) of workers in our sample reported that they had made a complaint to their employer or attempted to form a union in the last year. Of those, 35 percent experienced one or more forms of illegal retaliation from their employer or supervisor. For example, employers fired or suspended workers, threatened to call immigration authorities, or threatened to cut workers’ hours or pay.

- Another 15 percent of workers reported that they did not make a complaint to their employer during the past 12 months, even though they had experienced a serious problem such as dangerous working conditions or not being paid the minimum wage. Over half were afraid of losing their job, 12 percent were afraid they would have their hours or wages cut, and 36 percent thought it would not make a difference.

Workers' compensation violations:

We found that the workers' compensation system is not functioning for workers in the low-wage labor market.

- Of the workers in our sample who experienced a serious injury on the job, only 9 percent filed a workers' compensation claim.
- When workers told their employer about the injury, 20 percent experienced an illegal employer reaction—including firing the worker, calling immigration authorities, or instructing the worker not to file for workers' compensation.
- Nearly half of workers injured on the job had to pay their bills out-of-pocket (41 percent) or use their health insurance to cover the expenses (8 percent). Workers' compensation insurance paid (all or part) medical expenses for only 3 percent of the injured workers in our sample.

Finding 2

Job and employer characteristics are key to understanding workplace violations

Workplace violations are ultimately the result of decisions made by employers – whether to pay the minimum wage or overtime, whether to give workers meal breaks, and how to respond to complaints about working conditions. We found that workplace violation rates are strongly influenced by job and employer characteristics.

- Minimum wage violation rates varied significantly by industry. Violations were most common in private households and in personal and repair services, where more than 60 percent of workers were paid less than the minimum wage. Other high violation industries include, retail and drug stores, social assistance and education, and grocery stores.
- Minimum wage violation rates also varied by occupation. For example, child care workers, many of whom work in private households, had a violation rate of 75 percent. Sixty percent of personal services and repair workers also had a minimum wage violation. Other high-violation occupations include, building services and grounds workers; cashiers, retail salespersons and tellers and home healthcare workers.

- ❑ Workers who were paid a flat weekly rate or paid in cash had much higher violation rates than those paid a standard hourly rate or by company check.
- ❑ Workers at businesses with less than 100 employees were at greater risk of experiencing violations than those at larger businesses. But workers in big companies were not immune: nearly one in six had a minimum wage violation in the previous week, and of those who worked overtime, 52 percent were not paid time and a half.

Finding 3

All workers are at risk of workplace violations

Immigrants and people of color are disproportionately likely to be employed in low-wage industries, and therefore are at greater risk of workplace violations. But violations are not limited to immigrant workers or other vulnerable groups in the labor force—everyone is at risk, although to different degrees.

We found that a range of worker characteristics were correlated with higher minimum wage violation rates:

- ❑ Foreign-born workers were 1.5 times more likely than their U.S.-born counterparts to have a minimum wage violation.
- ❑ Among U.S.-born workers, there was a significant difference by race: the violation rate for African-American workers was triple that of their Latino counterparts and 27 times that of their white counterparts (who had by far the lowest violation rates in the sample).
- ❑ Higher levels of education and English proficiency (for immigrants) each offered some protection from minimum wage violations.
- ❑ Overtime, off-the-clock and meal break violations generally varied little by worker characteristics. On the whole, job and employer characteristics were more powerful predictors of the workplace violations considered in this study.

Finding 4

Wage theft

Wage theft not only depresses the already meager earnings of low-wage workers, but also adversely impacts their communities and the local economies of which they are a part.

- *Workers:* Nearly half (47 percent) of our sample experienced at least one pay-related violation in the previous work week. The average worker lost \$50, out of average weekly earnings of \$322. That translates into wage theft of 16 percent of earnings. Assuming a full-time, full-year work schedule, we estimate that these workers lost an average of \$2,595 annually due to workplace violations, out of total earnings of \$16,753.
- *Communities:* We estimate that in a given week, approximately 146,300 workers in Chicago and suburban Cook County have at least one pay-based violation. Extrapolating from this figure, front-line workers in low-wage industries lose more than \$7.3 million *per week* as a result of employment and labor law violations.

Strengthening worker protections

Everyone has a stake in addressing the problem of workplace violations. When impacted workers and their families struggle in poverty and constant economic insecurity, the strength and resiliency of local communities suffers. When unscrupulous employers violate the law, responsible employers are forced into unfair competition, setting off a race to the bottom that threatens to bring down standards throughout the labor market. And when significant numbers of workers are underpaid, tax revenues are lost.

Policy reforms are needed at the federal level, but state and local governments have a significant role to play as well. The policy agenda to protect the rights of workers in Illinois should be driven by two core principles:

Strengthen state and city enforcement of employment and labor laws: Illinois is well-placed to tackle the problem of workplace violations, given the state's commitment to enforcement and its energized community advocates. In recent years, state enforcement has been improved substantially through the use of proactive investigations and outreach to community groups, but recent budget cuts have strained resources and slowed progress. Illinois must recommit resources toward enforcement, institutionalize recent successes and enact new legislation to strengthen enforcement tools. City and county governments must do their part by enforcing the labor standards that fall under their authority, while also dedicating resources to public education campaigns and to support enforcement efforts by community-based organizations, worker centers and legal services providers.

Update legal standards for the 21st century labor market: Strong enforcement is important, but so are strong legal standards that recognize the changing organization of work in the United States. The strength of laws and the strength of their enforcement are deeply intertwined—weak employment and labor laws send the wrong signal, opening the door to low-road business strategies to cut labor costs. Raising the minimum wage, closing loopholes that exclude workers from key protections and ensuring state and city resources are used to create living-wage jobs are all key improvements that would raise compliance in the workplace and improve the competitive position of employers who play by the rules.

Introduction

Last year in Illinois, a large temporary staffing agency settled a class action lawsuit with over 25,000 workers, totaling \$11 million. For more than seven years, the agency had an unlawful vacation policy denying employees vested vacation time and pay. Workers were not allowed to accrue vacation time proportionally as they worked throughout the year; moreover, company policy stipulated that an employee need be on payroll in December in order to receive their vacation pay. The company also failed to provide workers with an itemized statement of earnings.¹

Another temporary staffing agency settled a class action suit with over 3,300 workers, totaling nearly half a million dollars. Usually hired by the day, workers were placed in minimum-wage jobs doing assembly, packaging and janitorial work. But when they accumulated more than 40 hours in a week working for different client companies, they didn't receive overtime—instead, the temp agency “split” their checks to avoid triggering mandatory overtime pay. Workers also reported that regardless of the actual amount of hours they worked in a given day, their time was rounded down to eight hours by the agency.²

And earlier this year, the owner of a small grocery store reached a settlement with a dozen workers, agreeing to a code of conduct after admitting to paying workers below the minimum wage and denying workers full overtime pay. Employees reported often working in excess of 60 hours a week for less than the minimum wage and no overtime.³

Unfortunately, these cases are not unusual, nor are they limited to small businesses or temp agencies. In 2008, for example, Wal-Mart announced it would settle 63 cases in 42 states charging that the company forced its employees to work “off the clock”—that is, requiring unpaid work after employees had clocked out at the end of their official shifts. The settlement totaled \$352 million in unpaid wages and involved hundreds of thousands of current and former employees.⁴



Increasingly, it is clear that there has been a breakdown in the enforcement of core employment and labor laws in the United States. These are laws that most of us consider absolute and inviolate, and that date back to the New Deal. Employers must pay workers at least the minimum wage, and time and a half for overtime. They must follow regulations to

protect workers' health and safety, and carry workers' compensation insurance to cover on-the-job injuries. They may not discriminate against workers on the basis of age, race, religion, national origin, gender, sexual orientation or disability. And they must respect workers' right to organize and bring complaints about working conditions. Yet there is growing evidence that employers are breaking these bedrock laws. The many workplace violations documented by community organizations and government agencies in recent years, as well as a growing body of research, suggest the need to take a closer look at the state of worker protections.

To date, very few studies have been able to look across a broad set of industries to estimate the proportion of workers experiencing workplace violations, or the proportion of employers committing them. As a result, we lack robust data on the extent of the problem, the industries that are the biggest offenders, or the workers who are most affected. The limited data, in turn, hamper effective policy responses to substandard employment conditions.

This report presents new research findings to fill this gap. Drawing on a survey of 4,387 workers in low-wage industries in the three largest U.S. cities—Chicago, Los Angeles, and New York—it focuses on the results for Chicago and suburban Cook County, where 1,140 workers were surveyed between January and June 2008. A national report on our findings, *Broken Laws, Unprotected Workers: Violations of Employment and Labor Laws in America's Cities*, combined data from all three cities and was released in 2009.⁵ Here, we present findings for Chicago and suburban Cook County, in order to document the extent to which employers in the Chicago area are complying with state and federal laws.

Using a rigorous survey methodology that allowed us to reach vulnerable workers who are often missed in standard surveys, we attempted to answer the following questions:

- How common are workplace violations, such as the percentage of workers earning less than the minimum wage or working overtime without pay?
- Which industries and occupations have especially high concentrations of violations?
- Who are the workers most affected?

We think of this survey as a “census of the invisible” because, from the standpoint of public policy, these jobs are all too often off the radar screen.

This report exposes significant, pervasive violations of core employment and labor laws in low-wage industries in the Chicago area. Workers are being paid less than the minimum wage and

are not receiving overtime pay. They are working off the clock without pay, and are not getting meal breaks. When workers are injured, they are not receiving workers' compensation. And when they try to assert their rights or attempt to organize, workers often face illegal retaliation from their employers.

These problems are not limited to the underground economy or to a few "bad apple" employers; rather, violations occur in a wide variety of industries that are the core of the regional economy. Nor are these abuses limited to a narrow segment of the labor force. Although immigrants and people of color are disproportionately affected by workplace violations, we found that all workers in the low-wage labor market are at risk of experiencing workplace violations. It must be noted, however, that not all employers violate the law. Our research suggests that, even within high-violation industries, there are responsible employers that manage to be competitive while complying with core employment and labor laws.⁶ Both those employers, and the workers who regularly experience workplace violations, urgently need a renewed commitment to the full enforcement of labor standards.

But better enforcement alone is not enough. Our system of employment and labor laws is badly out of date and riddled with weak standards. Some occupations and industries are either partly or completely exempted from coverage. Health and safety protections have not been substantially updated in years. And many employers are treating workers as independent contractors or hiring them through subcontractors, straining a legal framework predicated on a traditional employment relationship.

The high rates of workplace violations that we document in this report raise an urgent, resounding warning that even existing protections are failing workers in the Chicago area—and as the region struggles to emerge from a protracted economic downturn, there are reasons to believe that the conditions we document in this report have worsened. Community groups and legal assistance organizations are reporting that the recession has intensified workplace abuses, as employers are ever more focused on cost cutting and workers feel increased pressure to accept subminimum wages and unpaid overtime in the face of high unemployment rates.

Rebuilding our economy on the back of illegal working conditions is not only morally but also economically untenable. When unscrupulous employers break the law and drive down labor standards, they rob workers of hard-earned income needed to support their families. They rob communities of spending power. They rob state and local governments of vital tax revenues. And they rob Chicago, Cook County and Illinois of the good jobs and workplace standards needed to compete in the 21st century economy.

1. A Landmark Survey of the Low-Wage Labor Market

Studying violations of workplace laws is a challenging task. Employers are unlikely to admit that they are paying workers less than the minimum wage, denying workers meal breaks, or otherwise breaking the law. Businesses with the worst conditions may be operating underground and thus difficult to find. Workers who need to support their families are understandably reluctant to talk to researchers about their employers, because of fears of retaliation, worries about their immigration status, or because they are employed “off the books.” As a result, existing data are inadequate to assess the current state of employer compliance with employment and labor laws.

In this study, we build on an emerging body of research that has established the viability of gathering reliable data on workplace practices directly from workers.⁷ In 2008, we conducted a representative survey of low-wage workers in Chicago and suburban Cook County as part of the larger *2008 Unregulated Work Survey Project* (which consisted of coordinated surveys in Chicago, Los Angeles and New York City). We adopted two key methodological innovations to overcome the inadequacies of previous studies. First, we used a cutting-edge sampling methodology that allowed us to reach the full range of workers in the low-wage labor market, including unauthorized immigrants and workers who are employed “off the books.” Second, we developed an extensive questionnaire that allowed us to rigorously assess whether employment and labor laws were being broken, without relying on workers’ own knowledge of these laws. The result is a landmark survey that offers policymakers, regulatory agencies, community groups, legal services lawyers and researchers a window into the current state of worker protections in the low-wage labor markets of major U.S. cities.

The low-wage labor force

From January through June of 2008, we completed valid surveys of 1,140 workers in Chicago and suburban Cook County. To qualify for the survey, workers had to be:

- Age 18 or older.
- Currently working for an employer in Cook County, including having worked at least eight hours in the week before the interview.
- A “front-line” worker—that is, not a manager, professional or technical worker.
- Employed in a low-wage industry as their primary job (see Appendix A for the detailed list of eligible jobs).

We designed the survey to be broad enough to capture a range of industries and occupations across the urban economy, yet targeted enough to exclude upper-level occupations such as lawyers or stock brokers (most of which are not covered by many of the laws of interest here).

A note on timing: We fielded the survey at the start of the recession in 2008, when unemployment rates were still relatively low. Our assessment, therefore, is that the workplace violation rates documented in this study were not significantly influenced by the recession, and that they represent “business as usual” in the region’s low-wage industries.

Respondent-Driven Sampling (RDS)

Our goal was to obtain accurate, statistically representative estimates of the prevalence of workplace violations. One key challenge we faced was how to reach the workers. Surveys that rely on telephone interviews or Census-style home visits are unlikely to gain the participation of the full population of low-wage workers, many of whom are missing from official databases, vulnerable because of their immigration status, and/or reluctant to take part in a survey because of fear of retaliation by their employers. Trust is also an issue when asking for details about a worker’s job, the wages they receive, and whether or not they are paid off the books.

These problems have recently received significant attention from statisticians and social scientists. In this survey we use an innovative sampling strategy that was developed to overcome the barriers of surveying “hidden” or “hard-to-reach” populations: Respondent-Driven Sampling (RDS), originally developed by Cornell University sociologist and collaborator Douglas Heckathorn, and subsequently elaborated along with other scholars.

Appendix A provides a detailed description of the RDS method and how we implemented it in this survey, but the basic concept is straightforward: sampling is done through social networks. Recruiting started with a small number of workers who fit the study criteria. After they were interviewed they recruited other workers in their existing social networks; those workers completed the survey and then recruited others, and so on. Through successive waves of recruitment, the sample increased over time. A key advantage of this method is that workers are recruited by trusted friends and acquaintances who already have participated in the survey and can vouch for its confidentiality. This provides a powerful way to overcome the barriers of fear and disclosure.

We took several steps to ensure that our sample is representative of the larger population of front-line workers in low-wage industries. First, by collecting data on the social networks of the respondents, and in particular taking into account the size and interconnectivity of those

networks, RDS adjusts for the fact that some individuals have more social connections than others, and thus are more likely to be recruited into the survey. Second, RDS adjusts for the fact that different groups of workers have patterns of recruitment that vary both in the type of workers they recruit and in the effectiveness of their recruitment efforts. Finally, we also included an adjustment to ensure that the distribution of industries and occupations in our sample fully reflected the composition of the region's low-wage labor market.

Surveys were conducted at six sites in Chicago and suburban Cook County, including community-based organizations, churches, and a university. The same survey instrument was used at the various sites, and the RDS methodology was implemented in the same way, with detailed fielding protocols to ensure full comparability. All outreach materials were translated into multiple languages, and the surveys were conducted in English, Polish and Spanish. Including surveyors, translators, field coordinators and researchers, a total of 18 staff fielded this survey (see Appendix A for more details on the fielding and methodology). Interviews typically lasted between 60 and 90 minutes. In addition to the survey, we conducted 87 in-depth, semi-structured interviews with low-wage workers. In-depth interviews were used to better understand workers' experiences in the low-wage labor market.

Measuring workplace violations

The survey is unique in that it uses an original series of detailed, in-depth questions to measure a range of violations of employment and labor law. The survey instrument was designed to gather information that would allow us to detect violations of laws guaranteeing the minimum wage and overtime pay; full and timely payment of wages owed; provision of legally required meal and rest breaks; protection against retaliation by employers for complaints about working conditions or attempting to organize; and access to workers' compensation insurance in the case of an on-the-job injury.

The questionnaire did *not* rely on workers having any direct knowledge about their rights under employment and labor law, or about whether they had experienced a workplace violation. Instead, our strategy was to gather raw "inputs" from workers—the necessary data about their hours, earnings and working conditions, as well as relevant employer actions. We then used these data to determine whether or not a law had been violated.

For example, we did not ask workers whether they were being paid the minimum wage. Instead, we gathered day-by-day data on exactly how many hours the respondent worked the week before the survey, the amount of money he or she received, whether the employer made any deductions (e.g. for uniforms or meals), and whether the respondent worked off the clock.

We then calculated the worker's effective hourly wage, and determined whether or not it was below the minimum wage. This approach—gathering raw data and then calculating whether a workplace violation occurred—was used for the majority of the measures that we report. In calculating the various violation measures, we were careful never to double-count violations. For example, if a respondent worked five overtime hours but was not paid for those hours, we recorded an overtime violation; once these five hours were “tagged” as unpaid, they did not contribute to any other violation (for example, they could not also trigger a minimum wage violation).

Respondent characteristics

We close this section with an initial look at the 1,140 workers in our sample. Table 2.1 presents an overview of key demographic and employment characteristics. Like the low-wage workforce in cities across the United States, our sample has more women than men; significant numbers of persons of color, especially Latino workers;⁸ and a range of age groups and education levels. Consistent with recent trends in the low-wage labor market, immigrants comprise a large part of our sample—50 percent of the sample was U.S.-born, with the remainder comprised of naturalized citizens, and authorized and unauthorized immigrants. The sizeable number of the latter category in our sample is an indicator of our success in capturing this hard-to-reach part of the labor market.

Given that our focus was on employment practices in low-wage industries, it is not surprising that workers in our sample earned very low wages. The median wage (in 2008 dollars) for our sample was \$7.75 an hour, with few respondents earning significantly more than this amount: more than three-quarters of our sample earned less than \$10.00 an hour. The sample represents a range of industries (types of businesses) and occupations (job tasks or functions). Reflecting the larger economy, most workers in our sample are employed in the service sector—in industries such as restaurants, retail stores, and home health care—but there is also a sizable segment employed in residential construction, manufacturing and warehousing. Similarly, many of the occupations in our sample are service jobs, such as cashiers, cooks, childcare workers, waiters and sales workers, but construction laborers and factory workers are also well represented. In short, our sample represents a rich and diverse mix of the industries and occupations that comprise the regional economy. All of the workplace violation prevalence rates and other findings reported in the following sections have been weighted so that they are representative of the larger population of front-line workers in low-wage industries in Cook County in 2008. By our estimate, that population includes about 310,205 workers, which is 25 percent of all front-line workers and 12 percent of all workers in Cook County, a significant portion of the regional labor market (see Table A.2 in Appendix A).

Table 2.1: Characteristics of Workers in the 2008 Unregulated Work Survey, Chicago and Suburban Cook County

		Percent of workers
Gender	Male	38.2
	Female	61.8
Age	18-25	24.0
	26-35	34.4
	36-45	18.8
	46+	22.8
Race	Latino/Latina	56.7
	Black	26.1
	Asian/other	6.6
	White	10.6
Education	Less than high school, no GED	38.0
	High school graduate or GED	35.6
	Some college or higher	26.5
Nativity and legal status	U.S.-born citizen	50.3
	Foreign-born authorized (includes naturalized citizens)	18.8
	Foreign-born unauthorized	31.0
Main industry during previous work week	Other (finance & other health care)	2.8
	Home health care	3.0
	Residential construction	4.3
	Grocery stores	5.8
	Retail & drug stores	6.3
	Personal & repair services	7.8
	Security, building & grounds services	9.3
	Social assistance & education	9.6
	Private households	11.9
	Manufacturing, transportation & warehousing	18.9
	Restaurants & hotels	20.2
Main occupation during previous work week	Teacher assistants	0.7
	Security guards	2.6
	General construction	3.9
	Waiters, cafeteria workers & bartenders	4.1
	Stock & office clerks	4.5
	Home health care workers	4.8
	Maids & housekeepers	5.6
	Personal & repair services workers	6.6
	Cashiers, retail salespersons & tellers	11.3
	Building services & grounds workers	11.8
	Child care workers	12.8
	Cooks, dishwashers & food preparers	15.1
Factory & packaging workers	16.2	
Hourly wage during previous work week (2008\$)	Median hourly wage	\$7.75
Total number of workers in the sample		1,140

Source: Authors' analysis of 2008 Unregulated Work Survey.

3. The Prevalence of Workplace Violations

The American workplace is governed by a core set of employment and labor laws that establish minimum standards for wages, health and safety on the job, fair treatment, and the right to organize. But our findings show that these laws are systematically violated, significantly impacting the low-wage labor force in Chicago and suburban Cook County. As we show in the following pages, workers in low-wage industries regularly experience violations of laws mandating minimum wage and overtime pay, and they are frequently forced to work off the clock or during their breaks.

Table 3.1 summarizes the workplace violations experienced by survey respondents. We computed these violation rates using two distinct measures. The first is designed to specify what proportion of all workers in our survey sample who experienced a violation, whereas the second measure specifies the proportion of workers experiencing a violation who were “at risk” for that violation. For example, in the case of weekly overtime pay laws, a worker is only at risk of a violation if she or he works more than 40 hours in a week. Table 3.1 shows, in separate columns, both the percentage of all workers surveyed who experienced each violation and the percentage of “at risk” workers who experienced each violation. In this section, we present both violation measures; later sections focus on the risk-set measures alone.⁹

Raul and his wife Maribel lost their jobs when the factory where they worked for almost twenty years closed its doors. Raul says: “The company informed us about it one week before the closing. They said to us, ‘On Friday, when you’ve finished your job you’ll get paid and I’ll thank you for the work you’ve done.’” Maribel inquired about the vacation time workers had accrued: “We won’t pay it,” the manager responded, “We don’t have money.” Raul was surprised by the situation: “We didn’t know the company didn’t have any money because we had been working seven days a week.”

The employer had denied them due wages in the past as well. “They treated us poorly,” Raul says. “The supervisor would ask us to work overtime but the company wouldn’t pay that time. They would claim that the supervisor didn’t have the power to authorize overtime work.” Raul filed a complaint and the union sent a letter requesting the overtime payment. “The supervisor told me that he could fire me for having complained,” Raul says. “I told them, ‘if you think you can fire me for standing up for my rights, go ahead. I know my rights.’”

Table 3.1: Workplace Violation Rates		
Violation	Percent of workers with violations	
	All workers surveyed*	Workers at risk of a violation**
Minimum wage violations in week prior to survey		
Worker was paid below the minimum wage	25.5	same
Overtime violations in week prior to survey		
Worker had unpaid or underpaid overtime	15.3	67.1
Off-the-clock violations in week prior to survey		
Worker not paid for off-the-clock work	16.7	68.8
Meal break violations in week prior to survey		
Worker had any of the below meal break violations	28.3	43.0
Worker was denied meal break	12.0	17.3
Meal break was interrupted by employer or supervisor	8.1	13.6
Worker worked through meal break	10.1	17.3
Meal break was shorter than legally required	8.2	12.7
Other pay violations in week prior to survey		
Worker was paid late	3.0	same
Worker did not receive a paystub	44.8	same
Worker was subjected to an illegal pay deduction	3.3	43.9
Tips were stolen by employer or supervisor	0.6	4.6
Violations in the 12-month period prior to survey		
Worker had any of the below pay violations in last 12 months	45.2	same
Worked off-the-clock without pay in last 12 months	28.7	same
Paid late in last 12 months	22.9	same
Paid less than owed in last 12 months	16.9	same
Not paid at all in last 12 months	4.2	same
Regular and repeated verbal abuse on the basis of a protected category in last 12 months	2.0	same
Retaliation violations for most recent complaint or organizing effort		
Worker experienced retaliation by employer for making complaint or organizing a union	5.0	35.1
Workers' compensation violations for most recent on-the-job injury		
Worker experienced an illegal action by employer	2.1	19.6
Tipped worker minimum wage violations in week prior to survey		
Tipped worker did not receive the tipped minimum wage	2.4	15.2

Source: Authors' analysis of 2008 Unregulated Work Survey.

* Calculated as a percent of all workers in our sample.

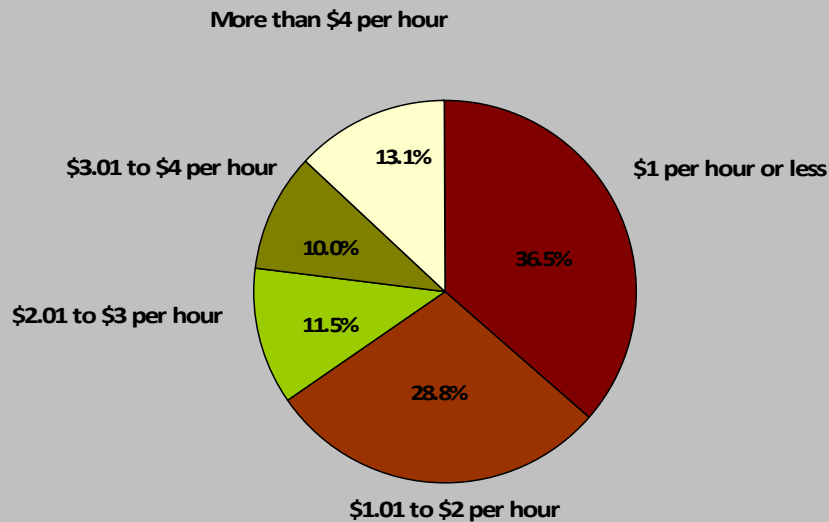
** Calculated as a percent of workers who were at risk of a violation.

Minimum wage violations

Minimum wage laws have been the basic standard of pay for front-line workers in the U.S. labor market since 1938, when the Fair Labor Standards Act was passed into law. Employers are required to pay covered workers at or above the minimum wage as set by federal or state law, whichever is higher.¹⁰ Minimum wage laws apply to workers regardless of whether they are employed full- or part-time, or whether they are paid by the hour, by the piece or in some other manner. Minimum wage laws also cover unauthorized immigrant workers, as do all of the other laws considered in this study. At the time of our survey, the Illinois minimum wage was \$7.50.

As Table 3.1 shows, 26 percent of the workers in our sample were paid less than the minimum wage in the previous work week. Moreover, these minimum wage violations were not trivial in magnitude: over 60 percent of workers in our sample were underpaid by more than \$1 per hour (Figure 3.1), and the median underpayment was \$1.45 below the State of Illinois minimum wage.

Figure 3.1: Amount Paid Below the Hourly Minimum Wage for Workers with a Minimum Wage Violation



Source: Authors' analysis of 2008 Unregulated Work Survey.

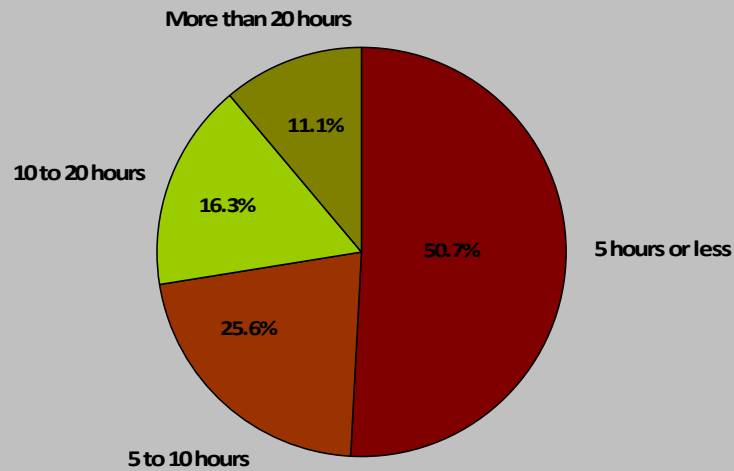
As noted in Section 2, we did not rely on our respondents' knowledge of employment and labor laws to measure the prevalence of workplace violations. Instead, we gathered detailed information from each worker regarding the work week immediately prior to his or her interview. We calculated each respondent's hourly wage rate for the job(s) in which he or she worked that week, dividing total weekly earnings by the number of hours worked, after taking into account bonuses, taxes, deductions and overtime pay. We then compared this calculated hourly wage rate to the Illinois minimum wage to determine whether or not there was a minimum wage violation.¹¹

Overtime violations

Federal law requires that covered employees must be paid "time and a half" (1.5 times their regular rate of pay) for all hours worked over 40 during each week for a single employer. One quarter of our respondents worked more than 40 hours during the previous work week for a single employer and therefore were eligible for overtime pay, and 67 percent of these "at risk" workers were not paid the legally required overtime rate by their employers (Table 3.1).¹²

Nonpayment or underpayment for overtime work takes a variety of forms. Sixty-three percent of respondents who had an overtime violation were paid only their regular hourly rate for the hours they worked over 40, another 30 percent were not paid at all for those hours, and 7 percent were paid less than their usual hourly rate or were promised "comp time" in lieu of overtime pay. Like minimum wage violations, overtime violations were far from trivial in magnitude. Among those workers with an overtime violation, the average respondent had worked eight overtime hours in the previous week, and 11 percent had worked more than 20 overtime hours (see Figure 3.2).

Figure 3.2: Number of Hours Worked Overtime (Beyond 40 Hours) for Workers with an Overtime Violation



Source: Authors' analysis of 2008 Unregulated Work Survey.

“Off-the-clock” violations: unpaid time before or after a regular shift

In addition to unpaid overtime, many front-line workers in the low-wage labor market perform work that is unpaid. This is “off the clock” work that takes place before or after a regularly scheduled shift and for which no pay is provided.¹³ Off-the-clock work is technically a type of minimum wage violation, but we chose to measure it separately in this study because it involves employees not being paid at all for time worked. By law, employees must be paid for all of the hours they work, and therefore any work performed before or after official start and end times must be compensated in accordance with minimum wage laws. In our survey, we asked workers whether they began work before their official shift was to begin or if they worked after their official ending time and, if so, whether or not they received payment for this time on the job. If workers came in early and/or stayed late *and* were not paid at all for work they performed during those time periods, they had experienced an off-the-clock violation.

Nearly one-quarter of workers surveyed (23 percent) stated that they had worked before and/or after their regular shifts in the previous work week. Of these “at risk” workers, 69 percent did not receive any pay at all for the work they performed outside of their regular shift. Respondents who experienced this violation typically worked an average of two hours per week without pay.

Meal break violations

Illinois law requires employers to provide workers an uninterrupted meal break during shifts of 7.5 hours or longer. The law does not require the employer to pay workers during the meal break, but if the employee works during the break, he or she must be compensated. We determined whether workers received all of their required meal breaks and if these breaks were of the required length.

Seventy-five percent of our respondents worked enough consecutive hours to be legally entitled to a meal break. However, as Table 3.1 indicates, 43 percent of these “at risk” workers experienced a meal break violation in the previous work week. Meal break violations took a variety of forms. One in six workers (17 percent) with this violation received no meal break at all at some point during the previous week, while 13 percent had a meal break that was shorter than required by law. Workers also reported being interrupted by their employer during their meal break (14 percent) and working during part of their meal break (17 percent).

Other pay violations

In addition to minimum wage, overtime, off-the-clock, and meal break violations, we collected data on several other pay-related violations. We asked workers if they had received a pay stub or other documentation of their earnings and deductions. According to Illinois law, all workers—regardless of whether they are paid in cash or by check—are required to receive documentation of their earnings and deductions. However, 45 percent of workers in our sample did not receive this mandatory documentation. We also asked about any deductions that were made during the previous work week. In Illinois, employers are generally not permitted to take deductions from a worker’s pay for damage or loss, work-related tools, materials or transportation, or uniforms.¹⁴ Among respondents who reported deductions from their pay, 44 percent were subjected to illegal deductions.

We also examined pay-related violations affecting tipped workers. Under Illinois law, there is a special provision for workers who receive tips as a regular part of their wages. In addition to the tips they receive from customers, tipped workers must be paid at least a minimum base wage by their employer for the hours they work; however, this base wage is less than the

minimum wage for non-tipped workers. We calculated the tipped minimum wage violation rate by comparing each tipped worker's base wage to the legally required wage rate. Fourteen percent of workers in our sample received tips in the previous week. These tipped workers were employed in a variety of jobs, the most common being restaurant workers, carwash workers, housekeepers, and other personal service workers. Of these tipped workers, 15 percent experienced violations of the tipped worker minimum wage. It is also illegal for employers or managers to appropriate any portion of the tips given by customers in restaurants or other businesses where tips are customary. Nevertheless, 5 percent of tipped workers in our sample reported such "tip stealing" during the previous work week.

Last year Evan worked in the restaurant industry as a waiter and experienced tip stealing. His employer stole tips from numerous paychecks. "I hated getting credit card tips because that's where she would take it," says Evan. "I calculated the percentage and I remember it was close to \$50 to \$100 dollars per paycheck."

"We actually confronted her about this at one point and she said that, when processing a credit card, there's usually a 2-3 percent fee that they pay. But she passed more than the fee on to us. I sat down with all of my credit card receipts at the end of the day, tallied it up, and was like 'well, this is more than 3 percent taken out of my paycheck for the month.' ... I think it was close to 10 percent. There were no excuses for her to take money out of my paycheck."

Workplace violations during the last 12 months

For all of the violation rates discussed so far, we calculated whether or not a violation occurred during the week prior to the interview, based on information collected about each worker's hours and earnings. In addition, we asked workers a series of questions about their experiences over the previous 12 months. The purpose of these questions was to measure the prevalence of workplace violations that occur relatively infrequently and thus might be missed by questions limited to a single work week.

Forty-five percent of respondents experienced at least one pay-related violation (off-the-clock work, late payment, being paid less than owed, or not being paid at all) in the 12-month period prior to their interview:

- 29 percent had worked off-the-clock without pay at least once in the last year. When workers experienced this violation, they did so frequently, on average 20 times in the last year.
- 23 percent of workers had been paid late at some point in the last year; on average, this group experienced four incidents of late payment over the year.

- 17 percent of workers had been paid less than they were owed by their employers at least once in the last 12 months; on average, this took place four times for those who experienced such underpayment.
- 4 percent of workers in our sample were not paid at all for work they had performed at least once in the previous year; among these workers, nonpayment of wages occurred an average of two times in the last year.

Illegal retaliation by employers

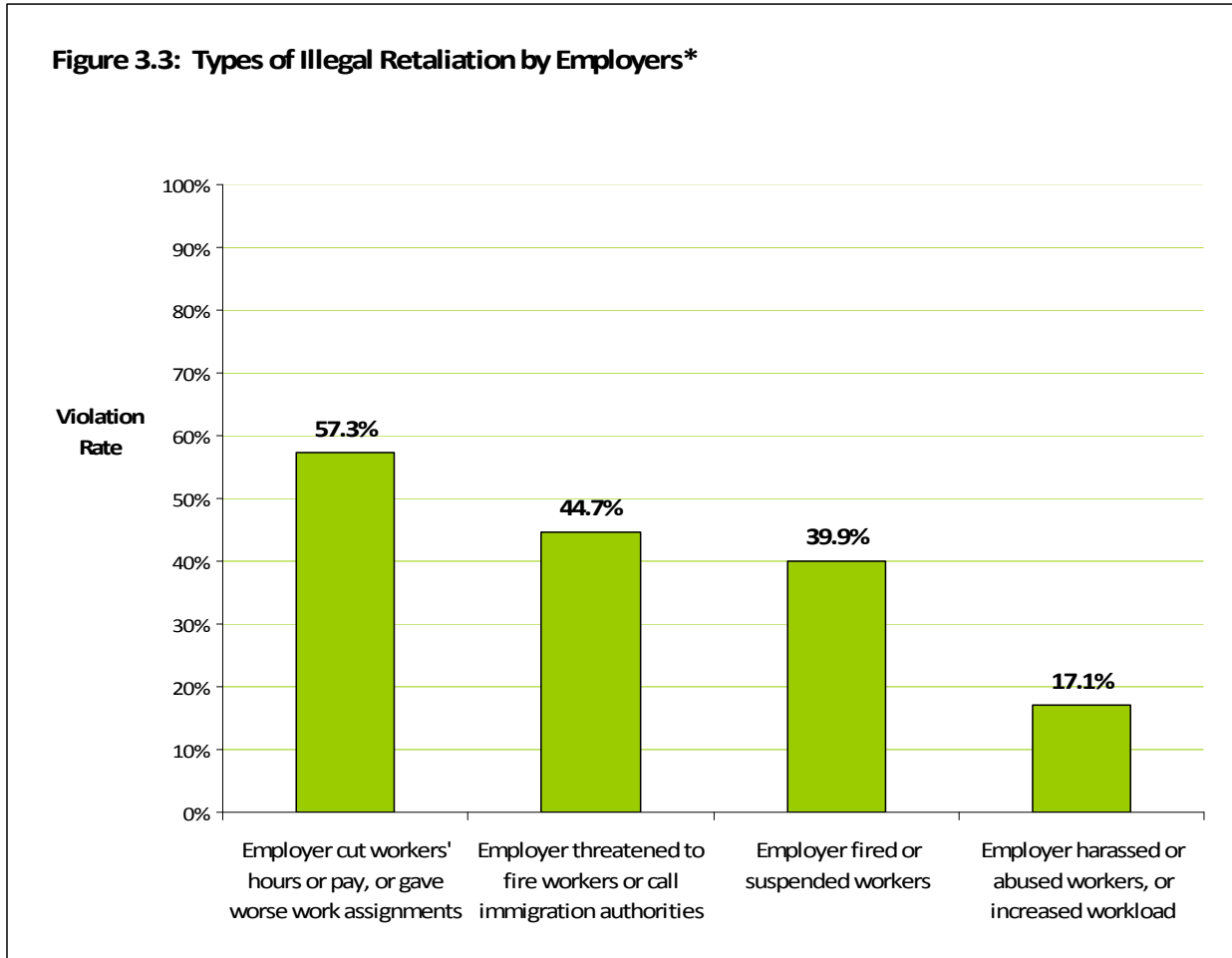
The law protects workers from employer retaliation if they complain to their employer or to a government agency about their working conditions; retaliation against workers who attempt to organize a union is also illegal.¹⁵ Threatening to fire a worker, actually firing or suspending workers, cutting hours or pay, harassing or abusing workers, or giving workers a worse work assignment—all are illegal forms of employer retaliation if they occur as a direct result of a complaint or union organizing effort.

We asked respondents whether they had made a complaint in the last year to their employer, to their supervisor or to a government agency. If they had, we then gathered information about the most recent complaint. If they had not complained, we asked if they had any problem(s) on the job and, if so, why they chose not to complain about the problem(s).

Overall, 25 percent of workers in our sample either made a complaint or attempted to form a union in the last year. Complaints were made regarding a number of workplace issues, including: dangerous working conditions (20 percent), not being paid for all hours worked (9 percent), being paid below the minimum wage (6 percent), not being paid on time (4 percent), and not being paid for overtime (1 percent). Of those workers who made a complaint, 35 percent reported experiencing retaliation from their employer or supervisor as a direct result of their most recent complaint or organizing effort. Figure 3.3 shows the various ways in which employers illegally retaliated against workers—including actions such as cutting workers' hours and pay, threatening to call immigration authorities, firing workers, and increasing workloads.

Despite the existence of legal protections from retaliation, many workers chose not to make complaints to their employers, even when they encountered substandard conditions in the workplace. In our sample, 15 percent of workers indicated that they did not make a complaint during the past 12 months even though they had experienced a serious problem such as dangerous working conditions, discrimination or not being paid the minimum wage. Over half (52 percent) of these workers indicated that they did not make a complaint because they were

afraid of losing their job, 12 percent were afraid they would have their hours or wages cut, and 36 percent thought it would not make any difference if they complained. Fear of retaliation and expectations of employer indifference, then, figure strongly in workers' decisions about whether or not to make a complaint.



Source: Authors' analysis of 2008 Unregulated Work Survey.

* Calculated only for workers who had experienced illegal retaliation for making a complaint or organizing a union during the year previous to the survey. Workers could report more than one type of retaliation.

Workers' compensation

With very few exceptions, workers' compensation law stipulates that employers are obligated to carry workers' compensation insurance in order to cover costs incurred when an employee is injured or becomes sick on the job for work-related reasons. These costs include medical bills as well as wages lost due to time away from work because of the injury or illness.

Fifteen percent of our respondents experienced a serious on-the-job injury¹⁶ during the previous three years of work. For these workers, we gathered information about the most recent work-related injury, and about the employer's response to that injury, in order to determine whether a violation of workers' compensation law had occurred. We found that the workers' compensation system is very rarely used by our respondents. Only 9 percent of the workers in our sample who experienced a serious injury during the previous three years had filed a workers' compensation claim for their most recent injury. This finding clearly indicates that the workers' compensation system is not functioning as intended for front-line workers in the low-wage labor market.

The survey data suggest that employers frequently fail to observe the requirements of workers' compensation law when responding to on-the-job injuries. Fully 38 percent of seriously injured respondents reported that they were required to work despite their injury; an additional 25 percent said their employer refused to help them with the injury; 18 percent were fired shortly after the injury; 8 percent said their employer made them come into work and just sit there all day; 5 percent were threatened with deportation or notification of immigration authorities; and 2 percent were told by their employers not to file a workers' compensation claim. Only 8 percent of employers instructed injured workers to file a workers' compensation claim.

Not all of the employer responses to on-the-job injuries reported above are illegal. Table 3.1 shows workers' compensation violation rates, but only for illegal employer actions such as: firing or threatening to fire an injured worker, calling immigration authorities in response to an on-the-job injury of an unauthorized worker, or instructing an injured worker not to file for workers' compensation insurance.¹⁷ Twenty percent of those respondents who suffered an injury in the past three years experienced a violation of workers' compensation law for their most recent injury.

We also gathered information on who paid for injured workers' medical expenses. Fifty-five percent of respondents who experienced a serious injury at work sought medical attention for that injury, but within this group, only 44 percent indicated that their employers paid for all or part of their medical bills. About half of the workers who sought medical attention after an on-the-job injury had to pay their bills out-of-pocket (41 percent) or used their health insurance to cover the expenses (8 percent). Workers' compensation insurance paid the medical expenses for only 3 percent of the workers in our sample who visited a doctor for an on-the-job injury or illness.

Ana worked for a cleaning company for five years, where she earned \$8 an hour and was paid regular time when she worked overtime. Ana comments: "One time I worked for 22 hours in a row and I got paid only \$120. My boss told me that was all he could give me." She is owed about \$1,800 from bounced checks, plus wages she should have received if her employer had abided by overtime laws.

She was fired from her cleaning job after she developed carpal tunnel syndrome. Ana says the debilitating illness was caused by the strenuous work she had been doing: "I got carpal tunnel in my hands from the repetitive motion. My sister had to help me do everything during that time. I went to Cook County Hospital and I covered my medical expenses. But I couldn't afford to go to therapy. I'm lucky because I live with my sister—that is how I have been able to survive. I fell behind on my school payments, and now I even owe the IRS because my employer was not deducting money from my check."

Summary

Front-line workers in Chicago and suburban Cook County frequently are paid below the minimum wage, not paid for overtime, work off-the-clock without pay, and have their meal breaks denied, interrupted or shortened. In fact, nearly half (47 percent) of the workers in our sample experienced at least one type of pay-related violation in their previous week of work.¹⁸ More than one-quarter of the workers in our sample were paid less than the minimum wage for their previous work week, and among workers who worked more than 40 hours in their previous work week, more than two-thirds were not paid the legally required overtime rate. Our data also show that employer retaliation is common: among those workers in our sample who made complaints or attempted to organize a union, 35 percent experienced retaliation from their employer or supervisor. In addition, we found that the workers' compensation system is not functioning for workers in the low-wage labor market. The system is very seldom used by injured workers and (likely not unrelated) many employers either directly or indirectly discourage workers from filing claims. In short, the core workplace laws established during the last century are being regularly violated by employers in the low-wage labor market. In the rest of this report we explore these violations in more detail, examining the industries and occupations in which they most often are found, as well as the workers who are most affected.

4. The Role of Job and Employer Characteristics

Workplace violations ultimately are the result of decisions made by employers—whether to pay the minimum wage or overtime, whether to give workers meal breaks, or how to respond to complaints about working conditions. For this reason, we explore some key characteristics of our respondents’ employers in this section of the report, asking: Which types of businesses tend to violate employment and labor laws the most? Which occupations are hardest hit? Do violation rates vary by the size of the business? And are there specific employer practices that are associated with or enable workplace violations? This section examines workplace violations through the lens of job and employer characteristics, analyzing differences in workplace violation rates by industry, occupation, company size, as well as by pay arrangement (Table 4.1).¹⁹

		Percent of workers with violations			
		Minimum wage violation rate	Overtime violation rate*	Off-the-clock violation rate*	Meal break violation rate*
Pay Type	Hourly	16.4	58.5	60.0	35.3
	Non-hourly	53.1	82.1	91.0	64.6
Pay Method	Cash	42.5	70.1	70.8	54.1
	Company check	15.8	60.1	68.2	36.3
Company Size	Less than 100 employees	33.1	84.5	73.9	54.0
	100 employees or more	15.5	52.0	64.3	29.1

Source: Authors' analysis of 2008 Unregulated Work Survey.

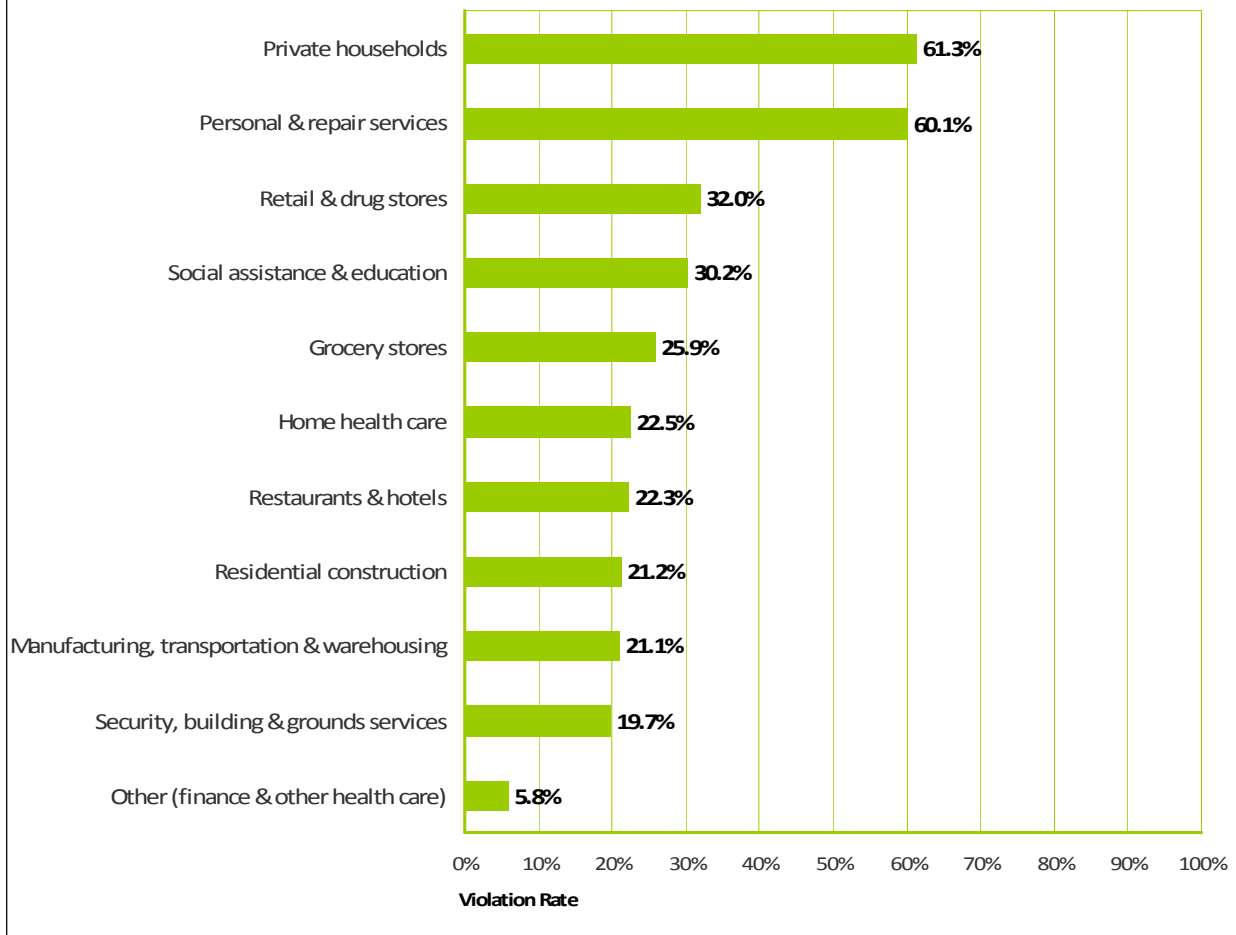
*Calculated as a percentage of all workers who were at risk for a violation during the previous work week.

Minimum wage violations

Minimum wage violation rates vary significantly by industry, as shown in Figure 4.1.²⁰

Violations were most common in private households and in personal and repair services, where more than 60 percent of workers were paid less than the minimum wage. Other high violation industries include, retail and drug stores, social assistance and education, and grocery stores.²¹

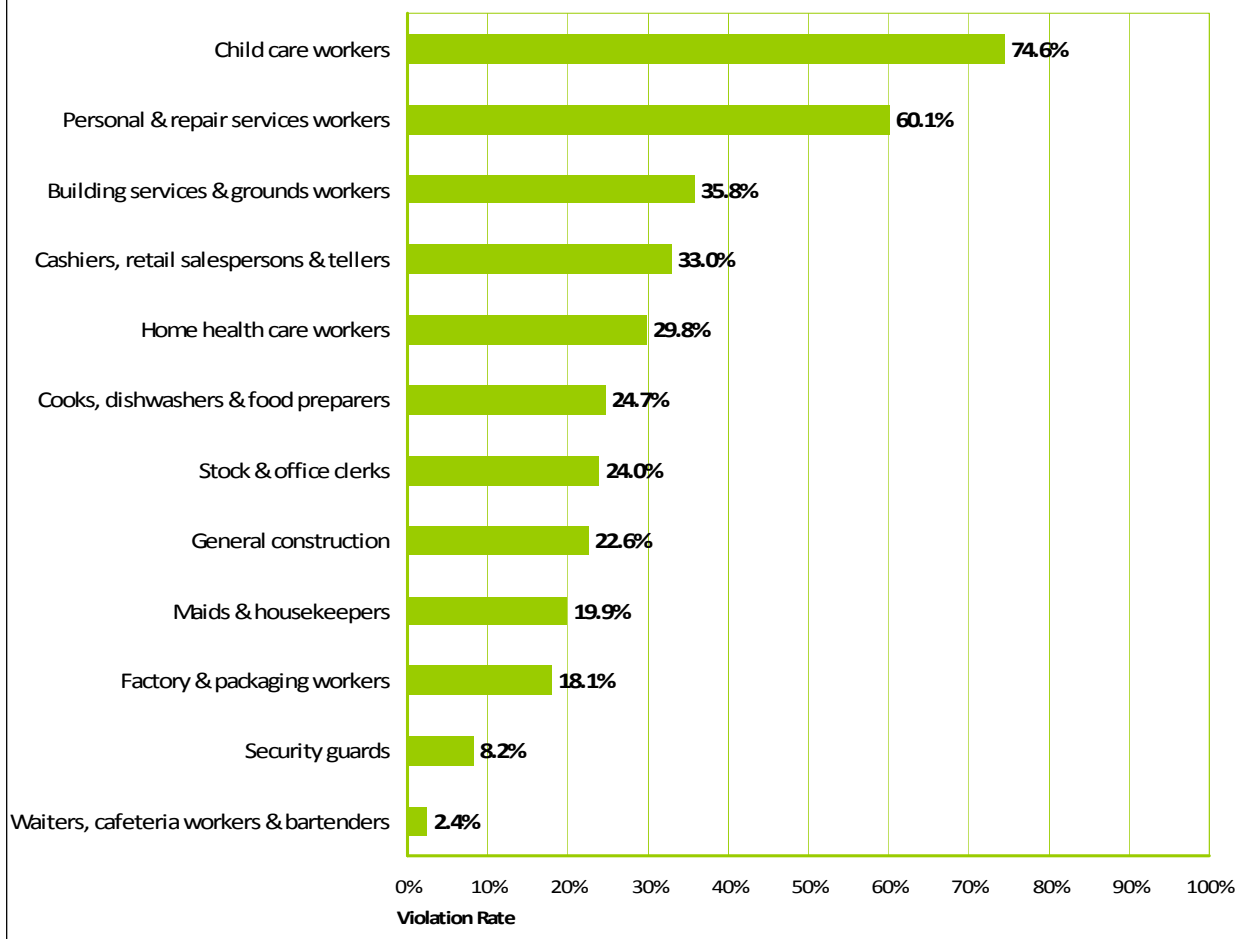
Figure 4.1: Minimum Wage Violation Rates by Industry



Source: Authors' analysis of 2008 Unregulated Work Survey.

As Figure 4.2 shows, minimum wage violation rates also vary by occupation. Child care workers, many of whom work in private households, had a violation rate of 75 percent. Sixty percent of personal services and repair workers also had a minimum wage violation. Other high-violation occupations include, building services and grounds workers; cashiers, retail salespersons and tellers; and home healthcare workers.

Figure 4.2: Minimum Wage Violation Rates by Occupation



Source: Authors' analysis of 2008 Unregulated Work Survey.

Although many employers in low-wage industries pay their workers a regular hourly wage, others use weekly, daily or other pay types.²² Many workers are paid on a flat weekly basis, so that their pay does not increase with the number of hours they work. A prep cook, for example, might be paid \$300 weekly and be expected to work between 35 and 50 hours each week, depending on how busy the restaurant is and how the manager schedules work shifts. Other workers are paid on a flat daily basis. In the residential construction industry, a day laborer might receive \$80 for a day's work, regardless of the number of hours involved. In apparel and textile manufacturing, workers are often paid by the piece—for example, a garment worker might be paid seven cents for each shirt sleeve she sews. Overall, 74 percent of our sample was paid an hourly wage; of the remaining 26 percent, most were paid either a flat weekly or a flat daily amount.

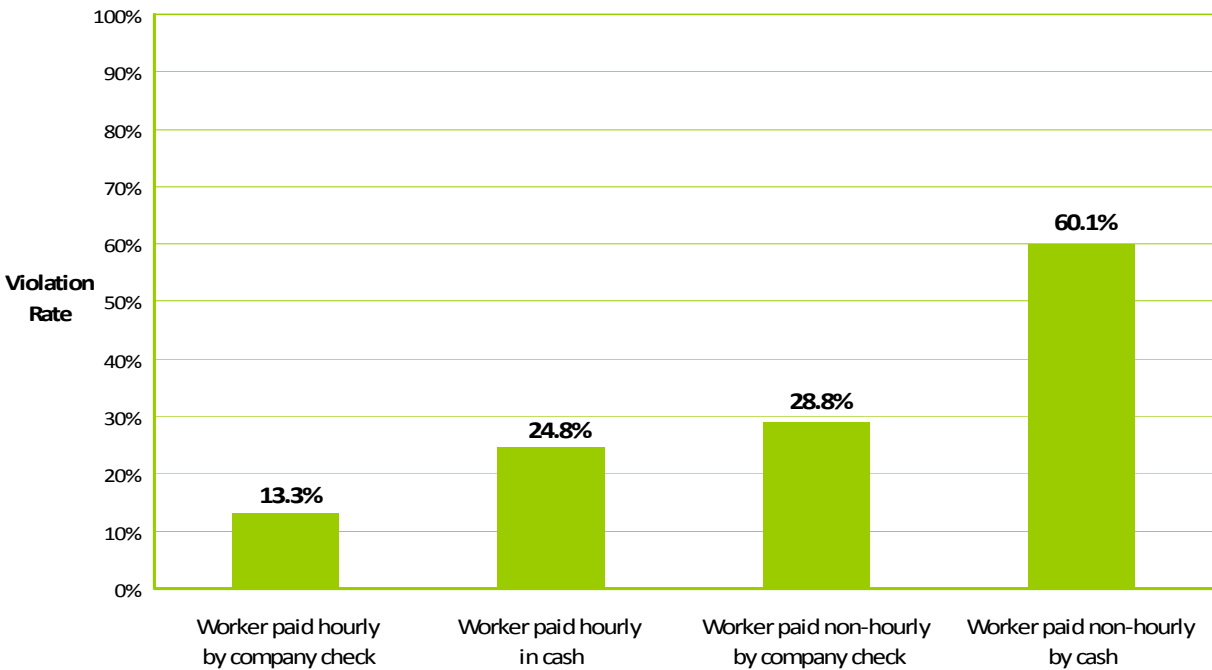
As Table 4.1 shows, workers in our sample who had non-hourly pay types had substantially higher minimum wage violation rates (53 percent) than those who were paid an hourly wage (16 percent). This is not surprising, since when employers use non-hourly pay types, workers' wages are only loosely tied to the number of hours they work and any increase in hours can result in wages falling below the legal minimum. In our sample, higher minimum wage violation rates for non-hourly workers are evident within (as well as across) industries and occupations.

Minimum wage violation rates also vary sharply depending on whether workers are paid in cash or by company check.²³ Although it is not illegal for employers to pay employees in cash, the law requires that employees be provided an itemized statement of earnings and deductions for each pay period. As noted in the previous section, 45 percent of workers in our sample did not receive the required statement from their employer—and among workers who were paid in cash, fully 94 percent did not receive such a statement. Without the transparency afforded by pay statements, workers often are unable to determine whether they have received the wages they are due. As Table 4.1 shows, workers who were paid in cash had nearly triple the minimum wage violation rate of those paid by company check (43 percent and 16 percent, respectively).

Pay type (hourly versus non-hourly) and pay method (cash versus company check) are related but not the same. One might expect that workers who were paid a regular hourly wage would generally be paid by company check, but nearly one-quarter of hourly workers in our sample were paid in cash. That said, when both pay type and pay method were nonstandard, minimum wage violations were especially high for workers in our sample. As Figure 4.3 shows, workers who were paid on an hourly basis and by company check had the lowest minimum wage violation rate, at 13 percent. By contrast non-hourly workers who were paid in cash had a violation rate over four times this level (60 percent).

Finally, company size has a significant relationship to minimum wage violation rates. As Table 4.1 shows, workers employed in companies with less than 100 employees had a violation rate more than double that of workers in larger companies (33 percent and 16 percent, respectively).

Figure 4.3: Minimum Wage Violation Rates by Pay Arrangement



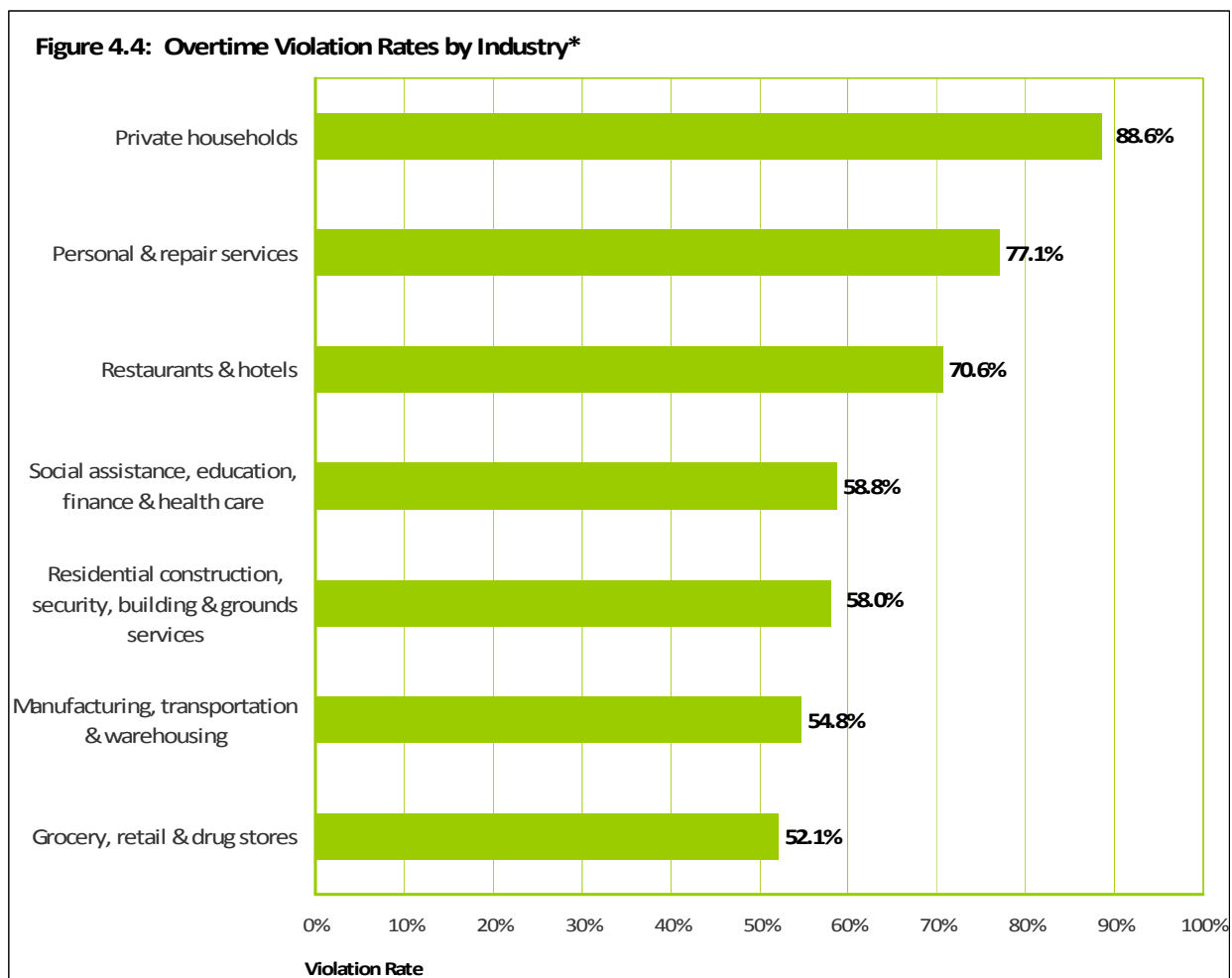
Source: Authors' analysis of 2008 Unregulated Work Survey.

As a former restaurant and cleaning services employee, Mercedes has experienced wage theft numerous times. In both industries she worked long hours for little pay. Mercedes says: "I took my last job at a restaurant because I had a great economic need. The employer offered to pay me \$300 for six days of work, working 12 hours every day. I worked from 11 a.m. to 11 p.m. At work we couldn't eat or we would have to eat standing, there was not time...there was too much work to be done." The employer also withheld three days of wages from Mercedes as a deposit when she began working, which she never recovered. "They never paid me the three days of work that they kept as deposit when I started working. They never paid me minimum wage or overtime. They owe me \$10,000 not including the three days of deposit," she says.

Mercedes quit her job at the restaurant and found another job at a cleaning company. "At first, the guy in charge told me that there were no set wages, and that they divided the money they made equally among everyone in the team and that they paid monthly," says Mercedes. "I decided to give it a try because, again, I needed to work. The first time I got paid was for a week worth of work. I got paid \$250 for nine days working 12 hours a day! I asked him about it and he tried to explain. He gave me some mumble-jumble that didn't make any sense. We agreed that from then on he was going to pay me \$30 a day, and when we had fewer people in the team he would pay me \$50. I worked 22 days and received \$500. I was expecting at least \$700. Although it doesn't sound like much, I need that money. I'm not making enough money to pay my bills right now, and I have debts to pay. All this time I've been turning to friends to borrow money to be able to pay rent."

Overtime violations

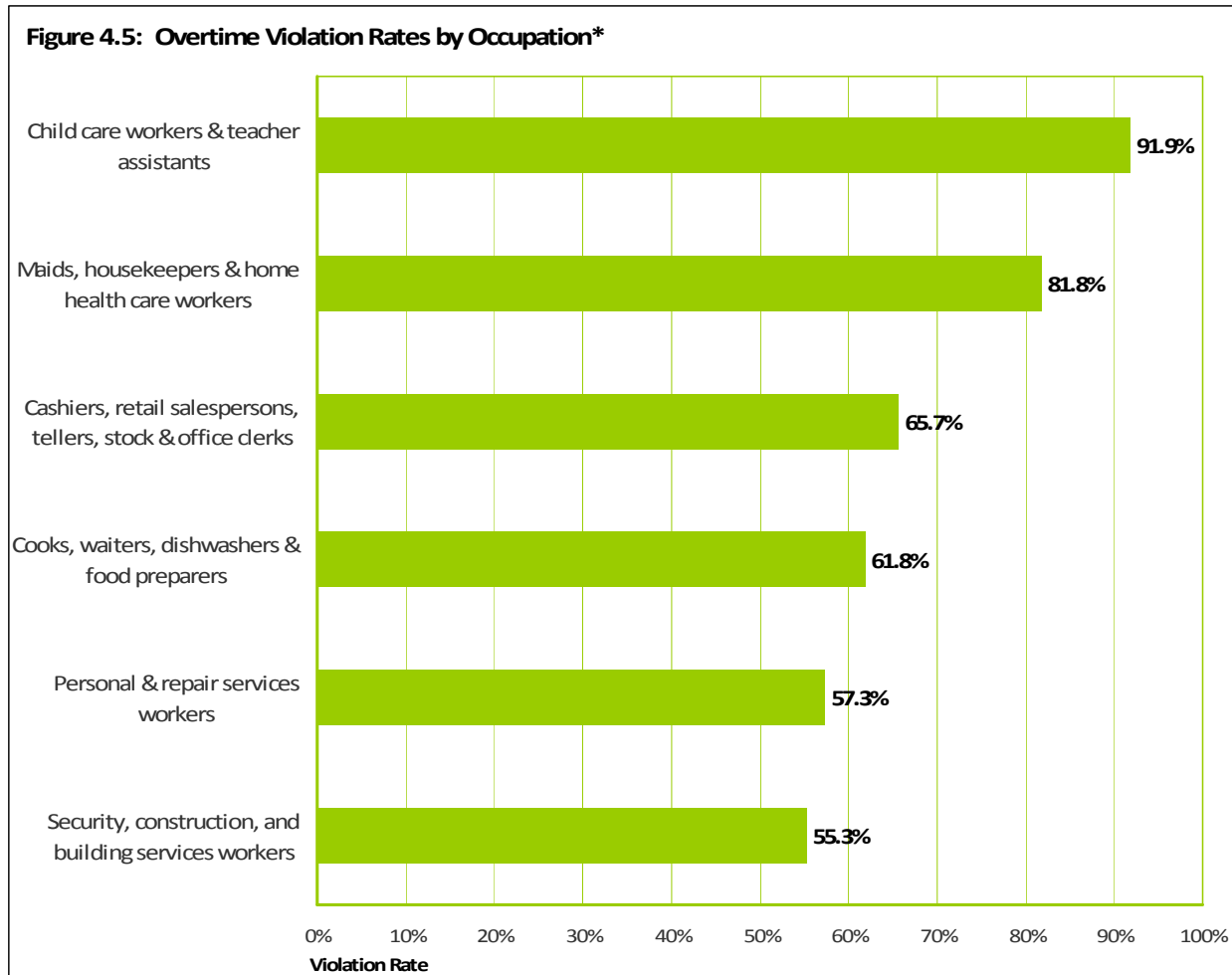
Overtime violations can occur in a number of ways.²⁴ Some employers only pay workers their regular hourly rate—or “straight time”—for overtime hours, rather than the time-and-a-half rate required by law. Other employers fail to pay employees anything at all for their overtime hours. For example, a full-time child care worker might be paid \$400 a week to care for small children and to perform various light housekeeping duties. She routinely may be expected to extend those hours beyond the 40-hour threshold when family members return home late, though her salary remains the same. Still other employers may give workers small amounts of pay for overtime—say, an extra \$20 for five additional hours on Saturday, after a full week’s work. As we saw in the previous section, 67 percent of respondents in our sample who worked more than 40 hours during the previous work week for a single employer did not get paid for overtime as required by law. Figure 4.4 shows that overtime violation rates are high across all the industries in our sample, ranging from 52 percent in the grocery, retail, and drug store industry, to 89 percent for workers in the private household industry.



Source: Authors' analysis of 2008 Unregulated Work Survey.

*Calculated as a percent of workers who worked more than 40 hours for a single employer during the previous work week.

Figure 4.5 shows that overtime violation rates are high across all the occupations in our sample, but there also is substantial variation in violation rates. Rates are particularly high for child care workers and teacher assistants, with a violation rate of fully 92 percent among those who worked more than 40 hours during the previous work week.



Source: Authors' analysis of 2008 Unregulated Work Survey.

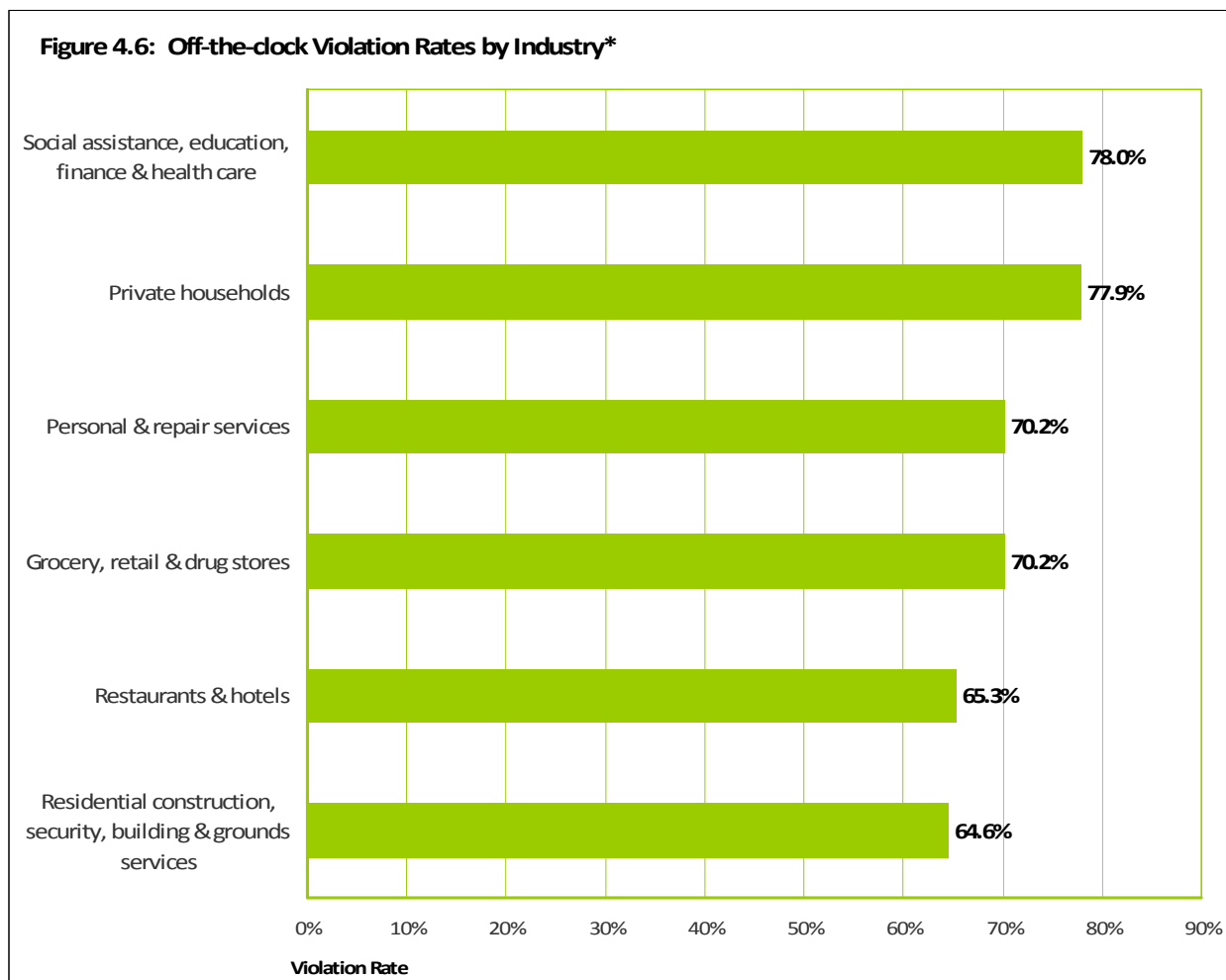
*Calculated as a percent of workers who worked more than 40 hours for a single employer during the previous work week.

Table 4.1 shows the relationship between pay type and overtime violations. As was the case for minimum wage violations, non-hourly workers in our sample experienced disproportionately high overtime violation rates. Among those who worked more than 40 hours during the previous work week for a single employer, 82 percent of non-hourly workers had an overtime pay violation. This high violation rate is not surprising, since flat weekly or flat daily pay rates, by definition, do not vary with hours worked. But hourly workers also face very high overtime violation rates: 59 percent were not paid or were underpaid for their overtime hours in the

previous work week. Overtime violation rates also vary with company size. As Table 4.1 shows, front-line workers in companies with less than 100 employees had an overtime violation rate of 85 percent.²⁵ By contrast, workers in companies with 100 or more employees had a violation rate of 52 percent.

Off-the-clock violations

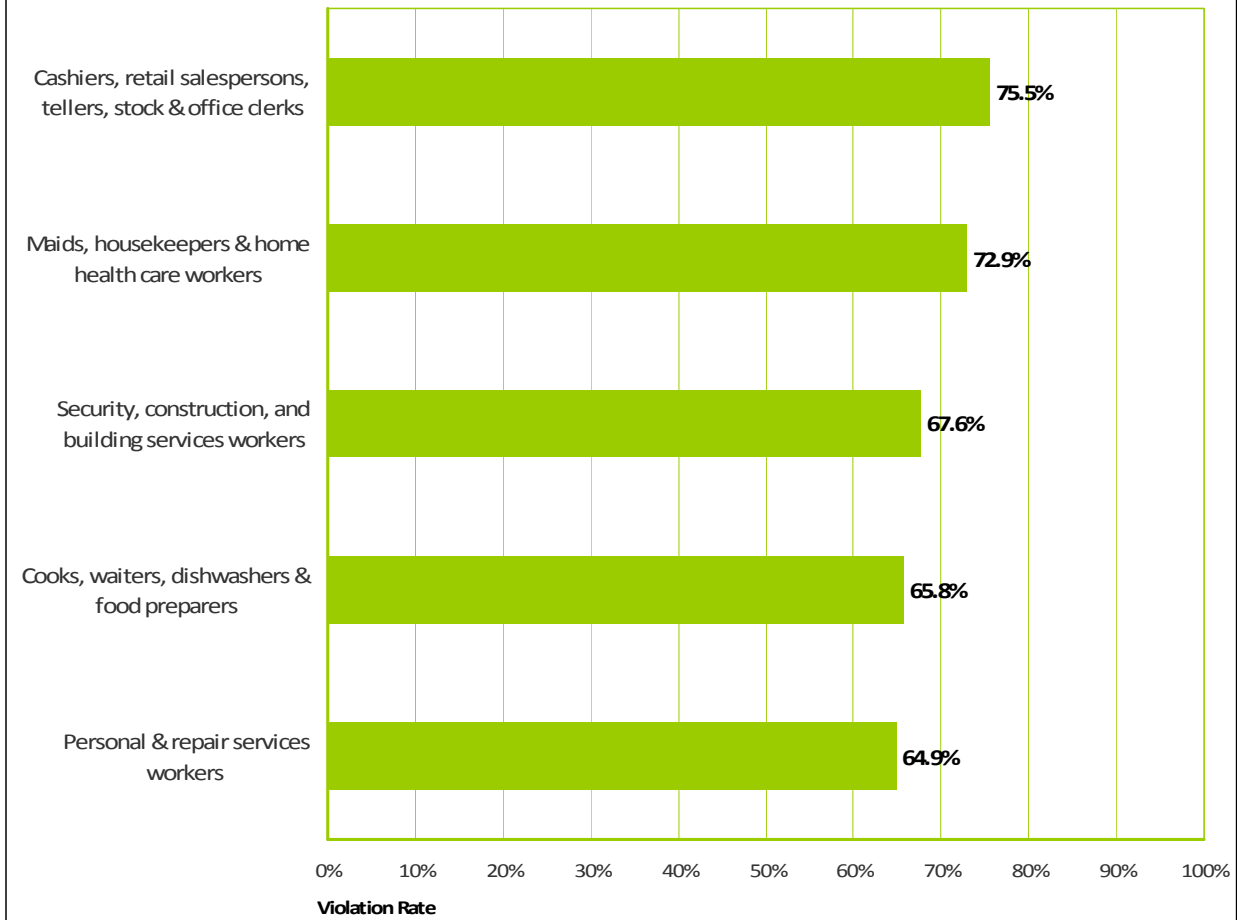
A large majority (69 percent) of workers in our sample who worked before and/or after their shift in the previous work week were not paid for that part of their working time. Figures 4.6 and 4.7 show these off-the-clock violation rates by industry and occupation.



Source: Authors' analysis of 2008 Unregulated Work Survey.

* Calculated as a percent of workers who worked before or after their official shift during the previous work week.

Figure 4.7: Off-the-clock Violation Rates by Occupation*



Source: Authors' analysis of 2008 Unregulated Work Survey.

* Calculated as a percent of workers who worked before or after their official shift during the previous work week.

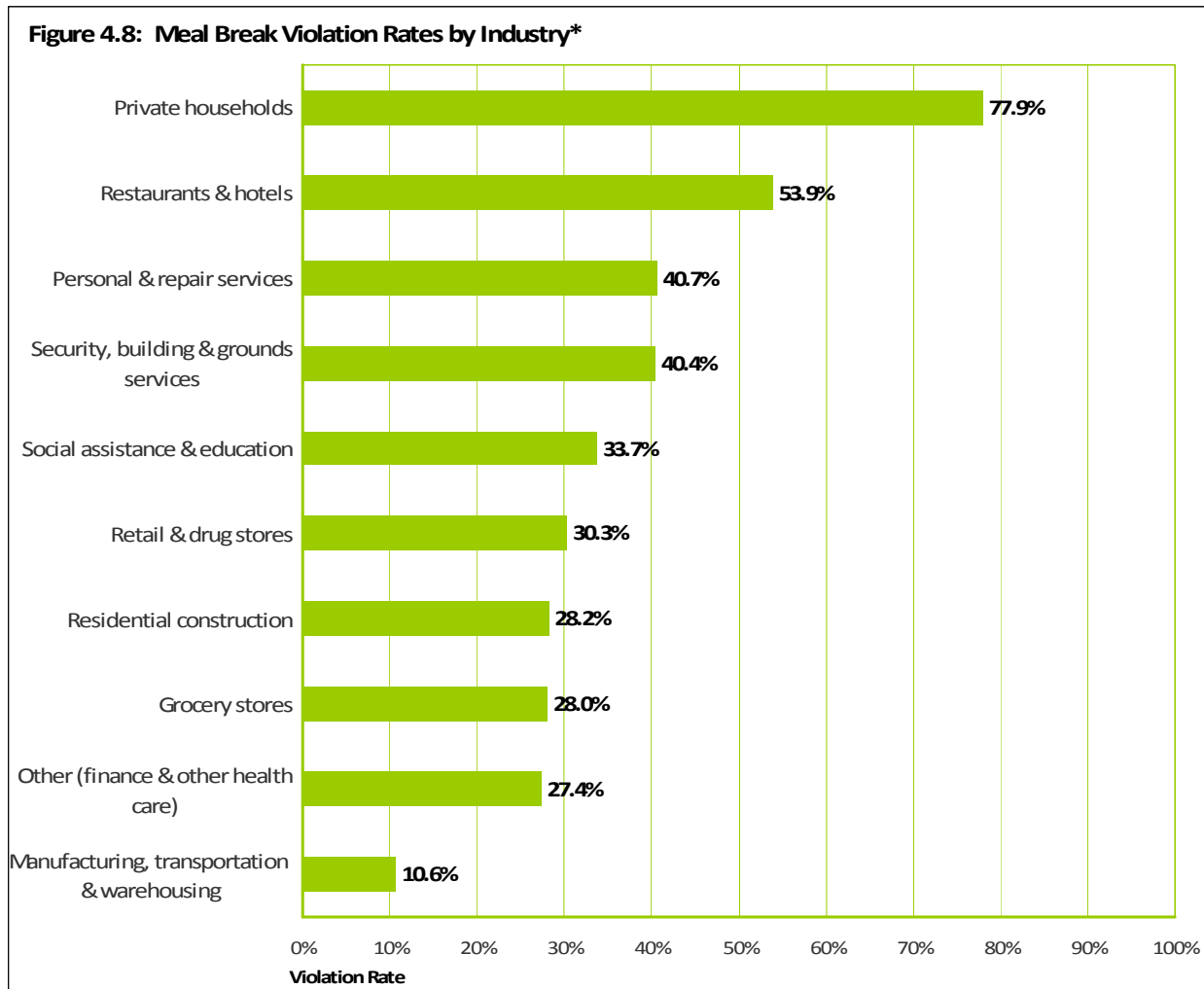
As Table 4.1 shows, workers with non-hourly pay type (such as flat daily or weekly pay) had higher off-the-clock pay violation rates than those paid by the hour.

Three years ago Eduardo joined the staff of a newly-opened restaurant on the North Side of Chicago. He was offered a weekly pay rate of \$750 and worked five days a week from 3 p.m. to midnight. He was in charge of the kitchen and responsible for opening the restaurant. Eduardo says: "Everything was going well at the beginning but after about eight months my checks began to bounce. When we confronted the employer she would say 'I don't have money,' and she would ask us to wait until the next pay period. And every time she would replace the check that had bounced but she kept on staying behind on the new payment. She also began to pay us with personal checks and was no longer deducting taxes."

He also accrued substantial amounts of off-the-clock time. "I prepared the food and I even went shopping for the products with her (employer) at 7 or 8 a.m. I didn't get paid for those hours. My responsibilities and my hours increased. ... I was working 12 or 13 hours, seven days a week. I didn't have any time for my family. I felt bad because I didn't have money to take the kids out, or even to buy them shoes and winter jackets."

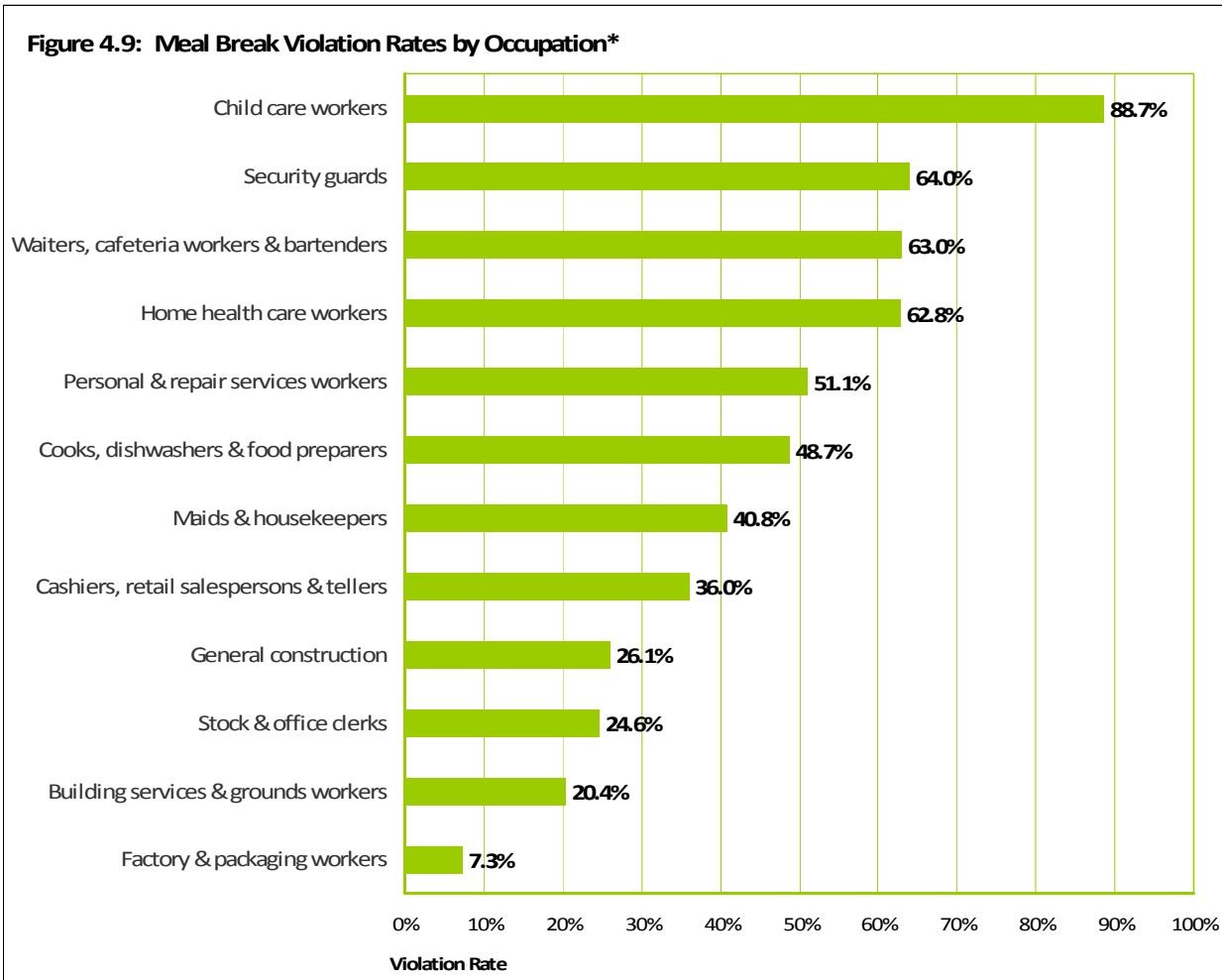
Meal break violations

Figures 4.8 and 4.9 show meal break violation rates by industry and occupation. Among respondents who worked enough hours to qualify for a meal break, 43 percent had their breaks denied, shortened or interrupted. Violation rates were especially high for workers in care-giving industries and occupations (private households and child care workers).



Source: Authors' analysis of 2008 Unregulated Work Survey.

* Calculated as a percent of workers who were legally entitled to at least one meal break during the previous work week.



Source: Authors' analysis of 2008 Unregulated Work Survey.

* Calculated as a percent of workers who were legally entitled to at least one meal break during the previous work week.

Finally, Table 4.1 shows that meal break violations rates vary by pay arrangement. Sixty-five percent of non-hourly workers and 54 percent of workers paid in cash reported a meal break violation.

Violation rates also vary by company size. Over half of those employed by companies with less than 100 workers had a meal break violation, compared with less than one third of those employed by larger companies.

Summary

Job and employer characteristics are strong determinants of workplace violations—and in fact, have a much greater impact on violation rates than do worker characteristics, as we will see in Section 6 below. Specifically:

- Workplace violation rates vary significantly by industry and occupation. For example, minimum wage violation rates ranged from as little as 6 percent in some industries to as much as 61 percent in others, and the range across occupations is similarly wide.
- Some industries and occupations are rife with multiple violations, suggesting that non-compliance with employment and labor laws may have become a standard business practice. For example, over 60 percent of all personal and repair services workers in our sample had a minimum wage violation and 77 percent had an overtime violation. High violation rates were also typical of the private household industry.
- Employers can disguise pay-related violations by using non-hourly pay arrangements and/or paying workers in cash without providing a statement of earnings and deductions. Workers paid a flat weekly rate or paid in cash had much higher violation rates than those paid a standard hourly rate and paid by company check. Informal pay systems may facilitate minimum wage and other violations, while making it harder for workers to claim their rights under the law.
- Workers employed by companies with less than 100 employees were at greater risk of experiencing violations than those employed by larger companies. But the problem of workplace violations is by no means limited to small firms. In our sample, nearly one out of six workers at large companies had a minimum wage violation in the previous week, and among those who worked overtime, over half were underpaid or not paid at all for the extra hours.

5. The Role of Worker Characteristics

Workplace violations are not evenly distributed throughout the low-wage labor market, as we have seen, but vary with industry, occupation and other job and employer characteristics. These variations have a demographic dimension as well. Worker characteristics play a role in two important ways: some groups of workers are more likely to hold jobs in the low-wage labor market than others (e.g. women, immigrants and people of color), and within the low-wage labor market, some groups of workers are more likely to experience violations than others, as we will see in this section. Specifically, we examine workplace violations in relation to gender, race/ethnicity, education, age and nativity; and among the foreign-born, by date of arrival in the U.S., English-language proficiency and immigration status.

Minimum wage violations

As Table 5.1 shows, minimum wage violation rates varied with race and ethnicity: 35 percent of black and 30 percent of Latino workers in our sample experienced minimum wage violations, compared to 5 percent of white respondents. Nativity is also a salient factor here: 31 percent of foreign-born workers had minimum wage violations, compared to 20 percent for their U.S.-born counterparts. We did not find statistically significant differences in minimum-wage violation rates between women and men.²⁶

U.S.-born workers in our sample had lower minimum-wage violation rates than foreign-born workers. But here too the story is more nuanced, as shown in Table 5.1. For example, foreign-born Latinos had an especially high minimum-wage violation rate of 32 percent, nearly triple the rate of U.S.-born Latinos and more than 24 times the rate of U.S.-born whites. And race plays an important role among U.S.-born respondents, where African-American workers had a violation rate 27 times that of white workers (and triple that of U.S.-born Latino workers).

Education plays an important role in predicting minimum wage violation rates. Workers without a high-school degree or GED have violation rates that are significantly higher than those of workers with a high-school degree or who have attended college (see Table 5.1). That said, higher education does not completely insulate workers from minimum wage violations. In addition, violation rates are lower for workers who had vocational training. This suggests that training and placement providers have been successful in placing workers into “better” jobs where labor standards are, in general, higher.

Table 5.1: Minimum Wage Violation Rates by Worker Characteristics				
		Percent of workers with violations		
		All workers	U.S.-born	Foreign-born
All respondents		25.5	20.3	30.8
Gender	Male	18.8	17.7	20.0
	Female	28.1	22.3	34.0
Race/ethnicity	Latino/Latina	30.0	11.8	31.8
	Black	34.7	34.8	N/A
	Asian/other	15.2	17.3	N/A
	White	4.5	1.3	N/A
Education	Less than high school, no GED	37.7	28.1	47.4
	High school graduate or GED	21.5	20.5	22.5
	Some college or higher	13.3	12.4	14.2
Age	18-25	27.2	24.5	29.9
	26-35	24.4	11.3	37.7
	36-45	21.8	18.8	24.9
	46+	24.7	23.9	25.6
Vocational training	None	28.7	23.1	34.3
	Completed training program	18.0	16.0	19.9
Job tenure	Less than 3 years	28.7	24.7	32.8
	3-4 years	16.2	10.2	22.2
	5+ years	20.5	11.4	29.7
Foreign-born respondents				
Legal status	Authorized			28.9
	Unauthorized			38.1
Years since arrival in the U.S.	Less than 6 years			28.0
	6+ years			32.8
English proficiency	Speaks very well or well			13.3
	Speaks not well or not at all			34.2

Source: Authors' analysis of 2008 Unregulated Work Survey.

N/A indicates that the data were insufficient to permit reliable estimates.

Immigrants who speak English “well” or “very well” (as self-reported) had significantly lower minimum wage violation rates than those who speak “not well” or “not at all” (see Table 5.1). Table 5.1 also shows that foreign-born respondents who had lived in the U.S. six or more years at the time of the survey had a minimum wage violation rate similar to that of newcomers.

Job tenure and age are often strong predictors of labor market outcomes, such as higher wages, benefits, promotions, and the like. But in our sample of workers, neither variable was a good predictor of violation rates (see Table 5.1).²⁷

Overtime violations

Overtime violations vary much less among demographic groups than do minimum wage violations. For respondents who worked more than 40 hours for a single employer during the previous work week, the prevalence of overtime violations is very high across virtually all demographic groups, as Table 5.2 shows.

		Percent of workers with violations*		
		All workers	U.S.-born	Foreign-born
All respondents		67.1	61.4	72.9
Gender				
	Male	64.4	60.2	68.5
	Female	71.6	69.5	73.7
Race/ethnicity				
	Latino/Latina	68.8	N/A	69.3
	Black	58.7	58.8	N/A
	Asian/other	N/A	N/A	N/A
	White	N/A	N/A	N/A
Education				
	Less than high school, no GED	76.8	49.3	83.8
	High school graduate or GED	69.4	63.9	76.0
	Some college or higher	63.5	64.9	63.4
Age				
	18-25	54.9	53.8	56.1
	26-35	67.8	62.8	72.8
	36-45	67.1	62.8	N/A
	46+	73.5	71.9	N/A
Vocational training				
	None	64.4	57.6	71.2
	Completed training program	72.9	66.4	N/A
Job tenure				
	Less than 3 years	65.8	66.2	65.3
	3-4 years	54.7	52.9	N/A
	5+ years	73.2	N/A	N/A
Foreign-born respondents				
Legal status				
	Authorized			73.5
	Unauthorized			66.2
Years since arrival in the U.S.				
	Less than 6 years			75.2
	6+ years			68.4
English proficiency				
	Speaks very well or well			67.2
	Speaks not well or not at all			73.8

Source: Authors' analysis of 2008 Unregulated Work Survey.

* Calculated as a percent of workers who worked more than 40 hours for a single employer during the previous work week.

N/A indicates that the data were insufficient to permit reliable estimates.

Off-the-clock violations

The patterns for off-the-clock violations are similar to those for overtime, as Table 5.3 shows, with off-the-clock violation rates varying little across demographic groups.

		Percent of workers with violations*		
		All workers	U.S.-born	Foreign-born
All respondents		68.8	68.8	68.9
Gender	Male	60.2	67.9	52.4
	Female	69.2	69.4	69.0
Race/ethnicity	Latino/Latina	68.2	N/A	N/A
	Black	75.5	N/A	N/A
	Asian/other	N/A	N/A	N/A
	White	N/A	N/A	N/A
Education	Less than high school, no GED	79.9	85.7	73.9
	High school graduate or GED	56.9	52.9	61.0
	Some college or higher	75.4	74.9	75.9
Age	18-25	53.3	68.0	38.5
	26-35	61.2	43.1	79.5
	36-45	72.3	82.9	N/A
	46+	76.5	87.9	N/A
Vocational training	None	68.0	67.1	68.9
	Completed training program	70.1	70.5	68.3
Job tenure	Less than 3 years	64.7	70.4	58.9
	3-4 years	84.3	80.7	N/A
	5+ years	73.3	N/A	N/A
Foreign-born respondents				
Legal status	Authorized			71.2
	Unauthorized			59.9
Years since arrival in the U.S.	Less than 6 years			65.6
	6+ years			72.0
English proficiency	Speaks very well or well			57.7
	Speaks not well or not at all			72.4

Source: Authors' analysis of 2008 Unregulated Work Survey.

* Calculated as a percent of workers who worked before or after their official shift during the previous work week.

N/A indicates that the data were insufficient to permit reliable estimates.

Meal break violations

Meal break violations also show very limited variation across demographic categories. Meal break violation rates were higher for whites than for Latinos, and for unauthorized immigrant workers than for authorized immigrant workers, as Table 5.4 shows. There were no other statistically significant differences among demographic groups for this violation.

Table 5.4: Meal Break Violation Rates by Worker Characteristics				
		Percent of workers with violations*		
		All workers	U.S.-born	Foreign-born
All respondents		43.0	47.6	38.3
Gender				
	Male	38.7	42.3	35.0
	Female	47.5	55.1	39.7
Race/ethnicity				
	Latino/Latina	35.1	N/A	N/A
	Black	43.1	N/A	N/A
	Asian/other	36.7	N/A	N/A
	White	64.4	N/A	N/A
Education				
	Less than high school, no GED	46.7	54.1	39.3
	High school graduate or GED	48.4	52.9	43.8
	Some college or higher	35.7	39.1	32.3
Age				
	18-25	42.4	49.0	35.8
	26-35	51.8	63.3	40.2
	36-45	38.4	39.7	37.2
	46+	36.1	33.8	38.4
Vocational training				
	None	45.4	50.0	40.8
	Completed training program	38.0	43.2	32.7
Job tenure				
	Less than 3 years	44.2	50.1	38.1
	3-4 years	47.6	47.3	48.0
	5+ years	37.1	37.0	37.3
Foreign-born respondents				
Legal status				
	Authorized			53.6
	Unauthorized			25.8
Years since arrival in the U.S.				
	Less than 6 years			28.9
	6+ years			N/A
English proficiency				
	Speaks very well or well			50.2
	Speaks not well or not at all			34.9

Source: Authors' analysis of 2008 Unregulated Work Survey.

* Calculated as a percent of workers who were legally entitled to at least one meal break during the previous work week.

N/A indicates that the data were insufficient to permit reliable estimates.

Summary

Nativity, race and ethnicity each play a role in shaping the patterns of workplace violations reported here. But these dimensions are deeply intertwined, and need to be examined together in order to understand which groups of workers are most at risk of a violation.

- Foreign-born workers were more likely than their U.S.-born counterparts to have a minimum-wage violation.
- Among U.S.-born workers, there was a significant difference by race: the violation rate for African-American workers was triple that of their Latino counterparts and 27 times that of their white counterparts (who had by far the lowest violation rates in the sample).
- Higher levels of education and proficiency in English (for immigrants) were each associated with lower minimum-wage violation rates. That said, even college-educated workers and those who had been with their employers for five or more years were still at significant risk of a violation.
- Two factors had a surprisingly weak impact on violation rates: the worker's age and, for immigrants, number of years in the U.S.
- In contrast to minimum wage violations, overtime, off-the-clock, and meal break violations varied little across the various demographic categories.

6. Wage Theft in Chicago

In this report, we have documented that violations of core employment and labor laws are pervasive in Chicago and suburban Cook County. Minimum wage, overtime, meal break and other violations are not confined to the periphery of the economy or to marginal employers. On the contrary, violations are prevalent in key industries and occupations that are at the heart of Chicago's regional economy.

Assessing the role of job and worker characteristics

As we have seen, a range of job and worker characteristics are correlated with workplace violations. Further analysis (see Appendix A for details) reveals that job and worker characteristics have *independent effects* on the violations we have documented in this report. Both matter, but they are not of equal importance. In the low-wage industries examined here, job and employer characteristics are far more powerful predictors of violation rates than are worker characteristics—especially when it comes to minimum wage, overtime and meal break violations. Our findings suggest that employers' business strategies shape their decisions about whether or not to comply with the law.

The high cost of workplace violations

The extensive violations of employment and labor laws documented in this report directly impact the earnings of low-wage workers. The various forms of nonpayment and underpayment of wages take a heavy monetary toll on these workers and their families. For the workers in our sample who experienced a pay-based violation in the previous week, the average amount of lost wages was \$50, out of average weekly earnings of \$322. That amounts to wage theft of 16 percent. Assuming a full-year work schedule, we estimate that these workers lost an average of \$2,595 annually due to workplace violations, out of total annual earnings of just \$16,753.

Furthermore, we estimate that in a given week, approximately 146,300 workers in Chicago and suburban Cook County experience at least one pay-based violation. Extrapolating from this figure, front-line workers in low-wage industries lose more than \$7.3 million *per week* as a result of employment and labor law violations. The largest portion of these lost wages is due to minimum wage violations (71 percent), followed by overtime violations (16 percent), and off-the-clock violations (9 percent).

Wage theft not only depresses the already meager earnings of low-wage workers, it also adversely impacts their communities and the local economies of which they are part. Low-income families spend the large majority of their earnings on basic necessities, such as food, clothing and housing. Their expenditures circulate through local economies, supporting businesses and jobs. Wage theft robs local communities of this spending, and ultimately limits economic growth.

Ramon and his son work in the construction industry. Last summer they worked for a contractor who offered an hourly rate of \$25 to Ramon and \$14 to his son. After the first two weeks of work, they received payment only after demanding it. However, the contractor refused to pay for the following two weeks of work. Ramon and his son are owed \$3,550.

This is not the only incident of wage theft that Ramon and his son have experienced. A few months later, they worked for a different employer who failed to pay them \$800 for work completed. Both employers cited family illness as the reason for non-payment.

"We feel like thirsty people begging for water. We need that money so badly," says Ramon. "Everything is so difficult these days; everything has been affected at home. We eat only because our daughter (who had to quit school) is working. They should not employ workers if they know that they are in a bad situation or can't pay ... [but] they know they can get away with it."

Jim works in the construction industry. He has been trying to recover wages for a job he completed last year. Although he worked from March through September, his employer refused to pay him for his last month of work. "He was late for the first payment but then he was paying on time. It wasn't until the last month that he decided not to pay," comments Jim. "I asked him to give me at least enough money to pay rent." The employer sent him a partial payment, only \$500 out of \$2,100 that he was owed. Jim has yet to recover the remaining \$1,600.

Jim filed a lawsuit against the employer and is waiting for a decision on the case. Jim is not optimistic that he'll be able to recover the money and doesn't know what to do if the court doesn't help. "This is not an isolated case (of wage theft). I hear stories from the workers everyday," says Jim.

Jim's two children, ages 3 and 13, live in the Ukraine with his parents. They rely on Jim and his wife, for financial help, but extra money is scarce these days. Because of his financial needs, Jim continues to go to a day labor corner everyday hoping to be picked up for work. "That's life. You don't know what is going to happen to you. One day you can fall off the ladder. I can only hope for the best," he says.

7. Strengthening worker protections

This report exposes a world of work in which the core protections that many Americans take for granted—the right to be paid at least the minimum wage, the right to be paid for overtime hours, the right to take meal breaks, access to workers’ compensation when injured, the right to advocate for better working conditions—are failing significant numbers of workers. The sheer breadth of the problem, spanning key industries, as well as its profound impact on workers, entailing significant economic hardship, demands urgent attention and action.

What, then, can be done? Our starting point is that everyone has a stake in addressing the problem of workplace violations. When low-wage workers and their families struggle in poverty and face constant economic insecurity, the strength and resilience of local communities suffers. When responsible employers are forced to compete with unscrupulous employers who violate core workplace laws by paying subminimum wages or cost-cutting on worker safety, the result is a race to the bottom that threatens to bring down standards throughout the labor market. And when significant numbers of workers are illegally underpaid, tax revenues are lost to the wider community.

In short, public policy has a fundamental role to play in protecting the rights of workers. Drawing on our own study as well as research and policy analysis by other organizations working in this area, we have identified three key principles that should drive the development of a strong policy agenda at the federal, state and local levels.²⁸

1. Strengthen Government Enforcement of Employment and Labor Laws

Government enforcement is the cornerstone of any viable response to workplace violations. Policymakers must recognize the significant resources that reside with the various agencies responsible for enforcing wage and hour, health and safety, prevailing wage, anti-discrimination, and right-to-organize laws. Tapping the often unrealized potential of these agencies will require additional funding to increase staffing, but even more important, a new set of strategies to address the reality that workplace violations are becoming standard practice in many low-wage industries.²⁹ Government enforcement agencies should:

- ❑ **Move toward proactive, “investigation-driven” enforcement in low-wage industries, rather than simply reacting to complaints.** This means identifying industries where violations are systemic, conducting strategic, repeated and well-publicized workplace

audits, and cracking down on employers who are repeat offenders as well as those who misclassify their workers. The goal should be to send industry-wide signals that the government will pursue violations, and that the likelihood of inspection is tangible. Data such as those contained in this report on the industries and occupations most at risk of violations can help agencies in targeting their proactive enforcement efforts.³⁰

- ❑ **Increase the reach and effectiveness of enforcement by partnering with immigrant worker centers, labor unions, social service providers, legal advocates and, where possible, responsible employers.**³¹ Government alone will never have enough staff and resources to monitor every workplace in the country on a regular basis. Community partnerships can provide the vital information about where workplace violations are most concentrated, as exemplified by recent innovative state-level collaborations with community organizations.³²
- ❑ **Restore funding levels for enforcement agencies to increase the number of investigators and other staff.** Between 1980 and 2007, the number of inspectors enforcing federal minimum wage and overtime laws declined by 31 percent, even as the labor force grew by 52 percent.³³ Similarly, the budget of the U.S. Occupational Safety and Health Administration has been cut by \$25 million in real dollar terms between 2001 and 2007; at its current staffing and inspection levels, it would take the agency 133 years to inspect each workplace just once.³⁴ While the U.S Department of Labor has recently added investigator staff, significantly more are needed to match the growth in the number of workplaces that has occurred over the past several decades. The State of Illinois, too, should increase its funding to the Illinois Department of Labor so that the agency can expand its enforcement efforts in high-violation industries.
- ❑ **Strengthen penalties for violations.** Currently, penalties for many workplace violations are so modest that they fail to deter many employers. For example, the savings to employers from paying their workers less than the minimum wage often outweighs the costs, even for those few who are apprehended. Enforcement agencies therefore need to fully pursue existing penalties for violations of wage and hour laws, health and safety regulations, and other established legal standards. But even more important, those penalties require significant strengthening and updating, to better ensure compliance and more effective deterrence.

2. Update Legal Standards for the 21st Century Workplace

Strong enforcement is important, but so are strong legal standards that recognize the changing organization of work in the United States. Specifically, changes are needed on three fronts:

- ❑ **Strengthen legal standards.** The strength of laws and the strength of their enforcement are deeply intertwined: weak employment and labor laws send the wrong signal, opening the door to low-road business strategies to cut labor costs by violating employment and labor laws. When the bar is set too low, employers have little or no incentive to comply. Raising the minimum wage, updating health and safety standards, expanding overtime coverage, and strengthening the right of workers to organize through labor law reform—all are key improvements that will raise compliance in the workplace and improve the competitive position of employers who play by the rules.
- ❑ **Close coverage gaps.** Some employers exploit historical “coverage gaps” that exclude certain categories of workers from protection; these gaps must be closed once and for all. For example, home health care and domestic workers are not fully covered by employment and labor laws.
- ❑ **Hold employers responsible for their workers.** Employment and labor laws must be updated when unscrupulous employers devise new strategies for evading their legal obligations—such as misclassifying workers as independent contractors and subcontracting work to fly-by-night operators who break the law. The principle should be that employers are responsible for the workplace standards they control, whether directly or indirectly.

3. Establish Equal Status for Immigrants in the Workplace

The best inoculation against workplace violations is workers who know their rights, have full status under the law to assert them, have access to sufficient legal resources, and do not fear exposure or retaliation when bringing claims against their employers. Achieving this is always a substantial challenge, but for unauthorized immigrant workers, it can be a near impossibility. While in theory, unauthorized immigrants are covered by most employment and labor laws, in practice, they are effectively disenfranchised in the workplace, by the lack of legal status, fear of deportation, and the willingness of all too many employers to exploit their vulnerability. The result is the high prevalence of workplace violations among unauthorized immigrants that we

document in this report. Any policy initiative to reduce workplace violations must therefore act on two fronts:

❑ **Prioritize equal protection and equal status in national immigration reform.**

Immigration reform legislation without close attention to labor market impacts and workers' rights threatens to push more workers into the informal economy, leading to greater insecurity for immigrant families and less economic integration. A guiding principle for reform must be that immigrant workers receive equal protection and equal status in the workplace. Any immigration reform that creates a second class of workers will only worsen the problems exposed in this report, ultimately hurting all U.S. workers.

- ❑ **Ensure status-blind enforcement of employment and labor laws by maintaining a strong firewall between workplace and immigration inspections.** Agencies enforcing minimum wage, prevailing wage, overtime, and other workplace laws can and should create a firewall between themselves and immigration authorities, so that workers do not fear deportation when bringing a wage claim or workplace grievance. Without this protection, unauthorized workers will be driven further underground, too fearful to claim their rights to workplace protections.



Government enforcement is only part of the solution. Just as important is that public policy helps to foster the efforts of immigrant worker centers and unions to represent and organize low-wage workers, enhances the capacity of legal services organizations to support workers in claiming their rights, and facilitates the efforts of private attorneys to advance strategic litigation. Public policies also need to support responsible employers. Above all, strong, vibrant employment and labor laws must be integrated into the broader policy agenda to rebuild good jobs and economic opportunity in 21st century America.

A group of six workers who performed electrical work for a single-room-occupancy hotel were denied wages for the hours they worked (both regular and overtime hours). The workers were owed back pay for between six to 13 weeks of work. The project they worked on included public financing. Not only were they underpaid, but the workers were also not provided proper health and safety information or training. In addition, the workers were told to report to city inspectors that they were unionized, when, in fact, they were not. The workers joined ARISE Chicago! (a worker center) and arranged a series of meetings with city and state officials as well as the project's general contractor. The workers' testimony, along with the assistance of ARISE Chicago!, pressured the contractor to pay the wages and they recovered over \$21,000 in unpaid wages.

Appendix A: Data and Methods

An exhaustive, in-depth technical report describing the methods used in this study is available upon request from the authors. In this appendix we give a non-technical overview of our survey methodology.

Defining the survey population

Our goal in this study was to survey workers in low-wage industries in Cook County.³⁵ More precisely, in order to be included in our study, workers had to be:

- a. age 18 or older, and currently working for an employer within the limits of Cook County (Chicago);
- b. “front-line” workers, i.e. not managers, professionals or technical workers (many of these groups are not covered by key laws such as those regarding minimum wage and overtime); and
- c. working in a low-wage industry as their primary job.

To determine which industries to include in our sampling universe, we used an analysis of the 2006 Current Population Survey (CPS) conducted by the Center for Economic Policy Research, to identify the median hourly wage for all workers age 18 or older who were not self-employed. In Chicago the median was \$14.85 (in 2006 dollars). We then defined “low-wage industries” as those whose median wage for front-line workers was less than 85 percent of the median wage, which corresponded to an hourly wage of \$12.62 (in 2006 dollars). This 85 percent threshold is one of several commonly used measures used to identify low-wage industries or jobs.³⁶

The sample size used in the CPS is too small to allow estimates of median wages at the detailed industry level. We therefore used 2000 Census data to generate a list of industries that fell below 85 percent of the median hourly wage; the resulting industry and occupation distribution for our sample is shown in Table 2.1.

Sampling methodology

As described in Section 2, standard surveying techniques, such as phone interviews or Census-style door-to-door interviews, rarely are able to fully capture the population that we are most interested in: low-wage workers who may be hard to identify from official databases, who may be vulnerable because of their immigration status, or who are reluctant to take part in a survey because they fear retaliation from their employers. Trust is also an issue when asking for the

details about a worker's job, the wages they receive, whether they are paid off the books or not, and their personal background.

In light of these difficulties, we adopted an innovative sampling method that operates through respondents' own social networks. All of the workers in the low-wage worker population have friends, family, or co-workers that they come into regular contact with and rely on for support; thus our approach relied on a system in which survey respondents recruited people they already knew into the survey, a recruitment technique known as chain-referral sampling. The best known sampling method using this form of recruitment is snowball sampling, an approach that yields only convenience samples which are not representative of the target population. Snowball sampling cannot replicate the desirable properties of probability sampling methods that allow one to make inferences about the population based on sample data. This method therefore would not have fulfilled the aims of our study. To overcome this limitation, we adopted a newer form of chain-referral sampling, developed by co-author Douglas Heckathorn in the late 1990s.³⁷ This method was subsequently further developed in collaboration with other scholars. Called *Respondent-Driven Sampling* (RDS), it is based on a mathematical model of the social networks that connect survey respondents. Since some individuals or groups tend to have more social connections than others, they are more likely to be recruited into a survey. To make the results of an RDS-based survey representative of the whole population (and not just workers with large social networks), we weighted our data based on respondents' social network size—that is, based on their probability of being captured by our survey technique—as well as other features of the network which can affect the sampling process.

In addition, RDS features an important difference from snowball and other traditional chain-referral methods: it employs a dual-incentive structure. This approach involves compensating respondents not only for the time they spend responding to the survey, but also for each eligible population member they recruit into the sample. To increase the breadth of the social network captured by the sample (and to prevent a cottage industry of survey recruitment), the number of recruitments that each respondent can make is limited through a coupon-based quota system.

Our RDS survey began with an initial set of population members to be surveyed, which we located through our contacts in Cook County. These “seeds” were then given a fixed number of uniquely numbered dollar-bill sized coupons to pass on to other eligible population members. These recruits then brought the coupons to one of several survey sites, where the number on the coupon was recorded, the recruit was surveyed, and then the respondent was given a fixed number of coupons with which to recruit other workers.³⁸ This process was repeated over a

period of several months, yielding large numbers of respondents (see Table A.1). As the recruitment progressed, the sample became increasingly diverse, eventually becoming independent of the initial sample of “seeds.”

	Chicago
Fielding period	January—June 2008
Number of sites	6
Number of interviewers, translators and researchers on staff	18
Monetary incentive for being surveyed	\$30
Number of valid surveys completed	1,140

Source: Authors' analysis of 2008 Unregulated Work Survey.

An important part of the RDS method is clearly communicating to recruiters which types of workers are eligible for the survey. We converted the list of industries being sampled into simple job titles to use as criteria for recruitment into the survey. This information was communicated to respondents with flyers in multiple languages that included drawings of the target jobs that were distributed to all recruiters along with their coupons.

Respondent-driven sampling in the field

The research team identified interview sites that were well recognized and welcoming to low-wage workers. Our sites included spaces in community-based organizations, churches, and a university—spaces that offered privacy and anonymity to workers. As shown in Table A.1, Chicago entered the field in January 2008 and exited at the end of June 2008. This was a firm deadline since Illinois increased its state minimum wage on July 1, 2008; we wanted to avoid having our survey straddle a minimum wage increase, since many of our core violation measures are linked to that legal standard. We completed 1,140 surveys.

Post-stratification adjustments to the data

One feature of the RDS methodology is the ability to conduct detailed tracking of recruitment patterns throughout the entire sampling period, in order to identify and adjust for deviations from pure random recruitment from respondents' social networks. For example, recruitment might be driven by strong social identities, such as race, ethnicity or age, so that respondents recruit disproportionately within their own group. The RDS methodology anticipates that personal networks are not randomly distributed, and therefore adjusts for small to moderate levels of network clustering (people having ties to others like them), in the form of post-sampling weights. For example, if the sample contained more members of a given group than

would be expected under purely random sampling, then cases in that group are given less weight in analyses of the data. However, if network clustering becomes pronounced on one or more dimensions, then it is necessary to use additional, external sources of data in order to weight the final sample to be representative of the intended population.

In our study, we identified high levels of non-random recruitment among several racial/ethnic groups, as well as between US-born and foreign-born workers. (We did not find high levels of non-random recruitment on other dimensions, such as the workers’ industry and occupation, employer, or most important, the experience of workplace violations). This meant that RDS generated representative samples *within* the various race/ethnic/nativity groups, but not across the sampling universe as a whole – in effect, our study generated multiple sub-samples. To address this problem, we generated RDS violation rate estimates within each of the sub-samples (which are representative), and then recombined them using a weighting system based on estimates of the relative sizes of the race/ethnic/nativity groups in order to generate an overall estimate. Specifically, we adjusted the sample to match the racial/ethnic and nativity distribution of the 2007 American Community Survey (ACS), with one modification.³⁹ Since standard government surveys tend to undersample unauthorized immigrants,⁴⁰ we developed an adjustment to the ACS race/ethnicity/nativity distribution drawing on estimates of the number of unauthorized workers in Illinois in 2005.⁴¹ These adjustments, combined with the success of the RDS methodology in capturing hard-to-reach populations, are designed to ensure that our sample is representative of front-line workers in low-wage industries in Chicago and suburban Cook County. Such post-stratification adjustments are standard in complex social surveys; all surveys are subject to sampling error, and thus are almost universally adjusted using demographic distributions generated by the Census or other large surveys. This is a mechanism to enable the extra information available in supplementary surveys (in our case the ACS) to be incorporated in the estimates, improving accuracy.

In Table A.2, we summarize our estimates of the number of workers that our sample represents—approximately 310,205 workers, or roughly 25 percent of the front-line labor force, and 12 percent of all workers in Cook County.

Table A.2: City Profile	
	Chicago
Estimated number of front-line workers in low-wage industries	310,205
Percentage of all front-line workers	25.1
Percentage of all workers	12.2

Source: Authors' analysis of 2008 Unregulated Work Survey.

Modeling the impact of worker and job characteristics on violation rates

In Section 6, we discussed the relative importance of job/employer characteristics compared to worker characteristics in accounting for the overall variation in workplace violation rates. That discussion is based on a series of logistic regression models we used to estimate the effects of selected independent variables on minimum wage, overtime, off-the-clock, and meal break violation rates. Specifically, we considered two sets of independent variables. The job characteristics group consisted of industry, occupation, pay arrangement, company size, whether or not the employer was a temp agency, and whether or not the worker belonged to a union. The worker characteristics group consisted of gender, race, nativity, documentation status, education, age, job tenure, and whether or not the worker had received vocational training.

Our strategy was to estimate (a) the unique contribution of the group of job characteristics variables, above and beyond the impact of worker characteristics, and (b) the unique contribution of the group of worker characteristics variables, above and beyond the job characteristics. Both groups of variables were generally significant.⁴² But the strength of their impact differed substantially. Job characteristics were 3.0 times stronger than worker characteristics in predicting minimum wage violation rates; 4.6 times stronger in predicting overtime violation rates; 1.9 times stronger in predicting off-the-clock violation rates; and 4.2 times stronger in predicting meal break violation rates.⁴³

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Endnotes

¹ United States District Court (2007, 2009).

² Illinois Circuit Court (2009).

³ Associated Press (2009, 2010).

⁴ Greenhouse and Rosenbloom (2008).

⁵ Portions of this report are adapted from the national report. See Broken Laws, Unprotected Workers: Violations of Employment and Labor Laws in America's Cities, available at <http://www.unprotectedworkers.org>.

⁶ Bernhardt et al. (2009).

⁷ See Asian American Legal Defense and Education Fund and YKASEC (2006), Bernhardt et al. (2008), Bernhardt, McGrath and DeFilippis (2007), Bobo (2008), Cordero-Guzmán, Smith and Grosfoguel (2001), Domestic Workers United & Datacenter (2006), Fiscal Policy Institute (2007), Flaming, Haydamack and Joassart (2005), Gordon (2005), Greenhouse (2008), Hale and Wills (2005), Hondagneu-Sotelo (2001), Levin and Ginsburg (2000), Make the Road by Walking and Retail, Wholesale, and Department Store Union (2005), McGrath (2005), Mehta et al. (2002), Milkman (2006), Ness (2005), New York Taxi Workers Alliance (2003), Restaurant Opportunities Center of New York and New York City Restaurant Industry Coalition (2005, 2006, 2009), Southern Poverty Law Center (2009), Theodore, Valenzuela and Meléndez (2006), Valenzuela et al. (2006), Weil and Pyles (2005, 2007), and Workers Defense Project (2009).

⁸ Respondents self-identified their race/ethnicity to the interviewers, and could choose multiple races/ethnicities. All respondents who listed Latino/Latina in combination with other races/ethnicities were coded as Latino/Latina; therefore, the remaining categories are all non-Hispanic. In addition, because our sample includes only small numbers of Pacific Islanders, American Indians, Native Hawaiians, Alaska Natives, and people of mixed race, we included these groups, along with self-identified Asians, in the "Asian/other" category shown in the table.

⁹ All of the violation rates reported in this section are statistically significant, meaning they are significantly different from zero. In the RDS method, the level of significance is determined using a special form of bootstrapping process (see Heckathorn (2002) and Salganik (2006)).

¹⁰ Employers are legally required to pay their non-exempt workers at least the minimum wage. Not all workers are covered, and some aspects of coverage vary by state. For example, Illinois' minimum wage law exempts domestic workers, but they are covered by the federal minimum

wage. For more details on exemptions from the minimum wage, see the Unregulated Work Survey Technical Report (available upon request from the authors).

¹¹ Nearly every worker we surveyed was at risk of a minimum wage violation, with the exception of child care workers who work in their own homes.

¹² If workers worked more than 40 hours in the previous week, we asked how much they were paid for those hours. If the stated amount was less than time and a half their regular wage, they were counted as having an overtime violation. For more details on the laws governing overtime, see the Unregulated Work Survey Technical Report (available upon request from the authors).

¹³ Off-the-clock work can be defined more broadly than how we have defined it here, and can happen during the middle of a workday when workers are instructed to “punch out” but continue to work. Our survey only captures off-the-clock work that occurred before or after a shift.

¹⁴ For more details about deductions, see the Unregulated Work Survey Technical Report (available upon request from the authors).

¹⁵ Legal protections vary depending on the subject of a worker’s complaint and whether they complained alone or with co-workers. For more details about retaliation law and our measures, see the Unregulated Work Survey Technical Report (available upon request from the authors).

¹⁶ We defined a serious injury as one that needed medical attention, whether or not the worker actually received such attention.

¹⁷ For more information, see the Unregulated Work Survey Technical Report (available upon request from the authors).

¹⁸ This measure includes the following violations: minimum wage, tipped minimum wage, overtime, off-the-clock, being paid in tips only, illegal deductions and rest-break violations.

¹⁹ This study is not able to provide an accurate estimate of the impact of unionization on the prevalence of workplace violations. Many unionized industries were excluded from our sample because they had median wages that were higher than our low-wage threshold, and were therefore not included in our sample from the outset (see Appendix A for details on our sampling universe). In addition, the small number of unionized workers who made it into our sample were concentrated in a very small set of industries, which resulted in a skewed industry distribution. Therefore, any analysis of differences in violation rates between unionized and non-union workers in our sample would yield statistically biased results that could not be used to infer conclusions about the impact of unionization on workplace violations.

²⁰ When interpreting estimates in the tables and graphs in this section, the reader should refer to the text for guidance regarding which differences are statistically significant. In particular,

the reader should be aware that differences of a few percentage points are very likely not statistically significant, and instead may result from stochastic variation in the sampling process. In the RDS method, the level of significance is determined using a special form of bootstrapping process (see Heckathorn (2002) and Salganik (2006)). As is customary, we interpret differences in violation rates between two or more groups or categories as statistically significant when $p \leq 0.05$. In such cases, the estimates' 95 percent confidence intervals fail to overlap, a procedure that is equivalent to a Student's *t*-test. For Figures 4.1, 4.2, 4.4, 4.5, 4.6, 4.7, 4.8 and 4.9, we only showed results for industries and occupations whose sample size was greater than or equal to 50.

²¹ In order to obtain a large enough sample size for analysis, two versions of the industry and occupation variables were created. A less-collapsed version of the variables was used in the analysis of minimum wage and meal break violation rates, for which we had larger risk sets. A more-collapsed version of the variables was used in the analysis of overtime and off-the-clock violation rates, for which we had smaller risk sets.

²² See Bernhardt, McGrath and DeFilippis (2007), Hondagneu-Sotelo (2001), New York Jobs with Justice and Queens College Labor Resource Center (2005), and Valenzuela et al. (2006).

²³ The cash category also includes those paid by personal check and those paid in both cash and by check. The company check category also includes those paid by direct deposit. Both categories contain small numbers of workers who reported being paid by other methods.

²⁴ For example, see the detailed industry profiles in Bernhardt, McGrath and DeFilippis (2007).

²⁵ This difference is not explained entirely by the pay types used by these firms. Although small firms are more likely to pay non-hourly, pay type explains only part of the discrepancy between the violation rates of small and large firms.

²⁶ When interpreting estimates in the tables and graphs in this section, the reader should refer to the text for guidance regarding which differences are statistically significant. In particular, the reader should be aware that differences of a few percentage points are very likely not significant, and instead may result from stochastic variation in the sampling process. In the RDS method, the level of significance is determined using a special form of bootstrapping process (see Heckathorn (2002) and Salganik (2006)). As is customary, we interpret differences in violation rates between two or more groups or categories as statistically significant when $p \leq 0.05$. In such cases, the estimates' 95 percent confidence intervals fail to overlap, a procedure that is equivalent to a Student's *t*-test.

²⁷ This may be partly because workers who do advance in the labor market as they get older leave our sampling universe, which only includes low-wage jobs. However, in other parts of the labor market, age is often a good predictor of better outcomes, even for workers who remain in front-line occupations for their entire careers.

²⁸ Pieces of this section are adapted from Bernhardt, McGrath and DeFilippis (2007) and National Employment Law Project (2008). It also draws on Ruckelshaus (2008).

²⁹ For in-depth analyses of public enforcement, see [Wial \(1999\)](#), [Weil \(2005, 2007\)](#), and [Weil and Pyles \(2005, 2007\)](#).

³⁰ In addition, agencies such as the U.S. Department of Labor should institute annual compliance surveys for the full range of low-wage industries. Such surveys were conducted by the U.S. Department of Labor in the late 1990s, testing for violations of minimum wage and overtime laws, and still constitute some of the most robust data available. For example, in 1999 only 35 percent of apparel plants in New York City were in compliance with wage and hour laws; in Chicago, only 42 percent of restaurants were in compliance; in Los Angeles, only 43 percent of grocery stores were in compliance; and nationally, only 43 percent of residential care establishments were in compliance (United States Department of Labor 2001).

³¹ For in-depth analyses of immigrant worker centers, see Fine (2006), Gordon (2005), Jayaraman and Ness (2005), Martin, Morales and Theodore (2007), Ness (2005), Narro (2005, 2009), and Theodore, Valenzuela and Meléndez (2009).

³² In a similar vein, government agencies that enforce workers' rights need to better coordinate their efforts to achieve maximum impact, given that unscrupulous employers often violate multiple laws.

³³ National Employment Law Project (2008).

³⁴ The American Federation of Labor and Congress of Industrial Organizations (2007).

³⁵ We wrestled with the question of whether or not to include independent contractors such as taxi drivers and street vendors in our survey. In the end we decided to constrain the sample to include employees only; opening the sampling frame to any type of independent contractor would have made it almost impossible to construct a manageable questionnaire (that is, one that would work for both employees with wage income, as well as independent contractors, who we would need to ask detailed questions about both business income and costs). However, we hope that future surveys will focus on low-wage independent contractors, such as taxi drivers and port truckers, who are effectively in an employment relationship and whose working conditions are very similar to the population of workers we surveyed here.

³⁶ The Organisation for Economic Co-operation and Development has used both the measure of 85 percent of the median wage (Organisation for Economic Co-operation and Development 1994) and the measure of two-thirds of the median wage (Organisation for Economic Co-operation and Development 1996); see also Freeman and Schettkat (2000), who use two-thirds of the mean wage.

³⁷ Heckathorn (1997, 2007).

³⁸ The number of coupons given to respondents varied over the course of the survey; on average, respondents recruited two other workers into the sample.

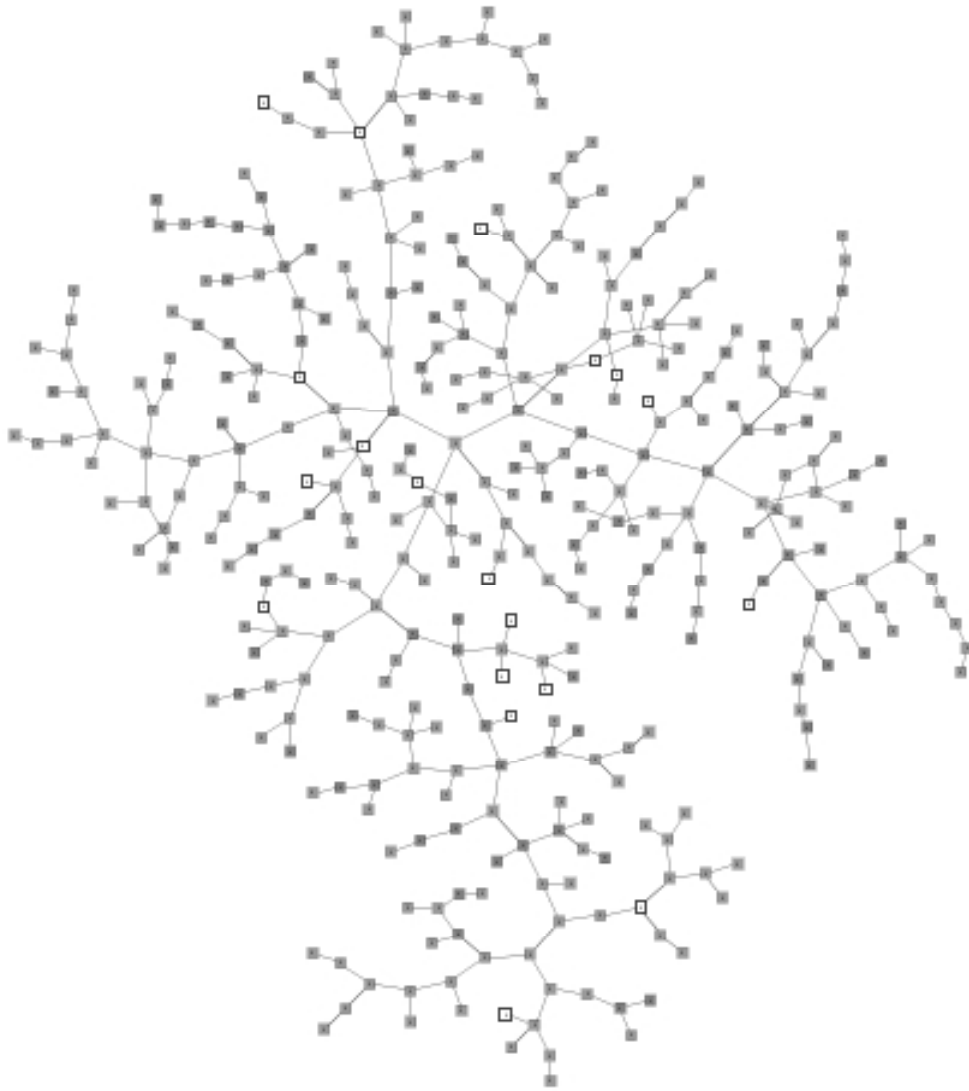
³⁹ These adjustments were made within major occupation groups, in order to ensure a high level of accuracy in the weighting.

⁴⁰ For example, see Hoefler, Rytina and Baker (2008), who estimate a nonimmigrant undercount rate of 10 percent.

⁴¹ Data on the number and characteristics of unauthorized immigrants in our three cities were generously provided by Jeffrey Passel of the Pew Center for Hispanic Research.

⁴² The one exception is that worker characteristics as a group were not significant in predicting overtime violations.

⁴³ We measured the significance and the size of the effect of each group of variables by recording the change in the deviance statistic (-2 log likelihood measure) when a group of variables was added into the models. We assessed significance at the .05 level using a chi-square test. We assessed the relative strength of the effects of the two groups of variables by forming the ratio of the change in deviance. Full results are available upon request from the authors.



UIC Center for Urban
UNIVERSITY OF ILLINOIS
AT CHICAGO Economic Development
COLLEGE OF URBAN PLANNING & PUBLIC AFFAIRS

Center for Urban Economic Development
University of Illinois at Chicago
400 S. Peoria St. (M/C 345)
Chicago, IL 60607
312.996.6336
www.urbaneconomy.org

