

TWO GROUPS, ONE COMMUNITY:

***THE IMPACT OF WAGE THEFT AND OTHER
EMPLOYMENT VIOLATIONS ON NATIVE
AMERICAN AND LATINO IMMIGRANT
WORKERS IN GALLUP***

**CONDUCTED BY
THE MCKINLEY WORKER
JUSTICE COALITION**

Somos Gallup (an affiliate of Somos Un Pueblo Unido)

McKinley Collaborative for Health Equity

McKinley Community Health Alliance

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ASSESSING THE IMPACT OF WAGE THEFT AND WORKPLACE VIOLATIONS IN GALLUP

This report was compiled by the McKinley Worker Justice Coalition to explore how wage theft and other employment violations impact the economic security and health of workers and families in Gallup, New Mexico.

Dozens of Native American and immigrant community members shared their experiences with wage theft, health and safety violations and discrimination in the workplace. Using a Health Impact Assessment (HIA) framework as a tool to develop the report, the Coalition's objective was to elevate these stories and inform decision-makers, business leaders, and the general public about the extent of these workplace problems, as well as to propose community-based solutions.

The report can also help workers organize for stronger workplace protections and more effective enforcement mechanisms, which could significantly improve economic security, reduce stress, and ameliorate health inequities for low-wage workers in McKinley County.

*To find the full HIA report go to:
somosunpueblounido.org
or nmhep.org*

The McKinley Worker Justice Coalition was formed in September 2015 to bring organizations and community members together to strengthen workers' rights and improve workplace conditions. The coalition is made up of Somos Gallup (an affiliate of Somos Un Pueblo Unido), McKinley Collaborative for Health Equity, the McKinley Community Health Alliance, and local community members.



BACKGROUND

Several studies show that wage theft, discrimination, and health and safety violations in the workplace adversely affect the economic security and the health of workers and their families. Economic security means that families have a stable income to support their standard of living and a predictable future cash flow. Low wages, stagnant wages, or unforeseen decreases in income can lead to deterioration in living conditions, food insecurity, insufficient access to medical care, increased stress and limited ability to invest in educational resources for improved job opportunities in the future.

WAGE THEFT

While many studies have documented the impact of discrimination and health and safety related injuries on working families, few have been conducted on wage theft. The issue, however, is attracting more attention for a number of reasons. On a national level, there is a higher concentration of low-wage sector jobs where wage and hour violations are more prevalent. Union membership and influence have declined, leaving workers unprotected. And anemic administrative enforcement budgets at the local level have allowed employers who steal wages to go unchecked. In response, a proliferation of worker centers that service non-unionized, low-wage workers has emerged, and many have started to organize around wage enforcement issues.

DISCRIMINATION

Discrimination in the workplace is when an employer treats a worker differently because of the worker's race, color, religion, national origin, sex, pregnancy, gender identity, sexual orientation, age, disability or medical condition, or ancestry. Being treated differently can mean that an employee is harassed, not promoted, or paid less than other workers based on these factors.

HEALTH AND SAFETY

Under the federal law, all workers are entitled to a safe workplace. The law also ensures workers' rights include trainings in a language they understand. The law's mission is to assure safe and healthy workplaces by setting and enforcing standards, and by providing training, outreach, education and assistance. Employers must comply with all applicable standards set by the Occupational Safety and Health Administration (OSHA).

WHAT IS WAGE THEFT?

- *When workers are paid less than the minimum wage.*
- *Are not paid time and a half for overtime hours.*
- *Are misclassified as exempt employees or independent contractors.*
- *Are required to work off the clock.*
- *Or are denied their last paycheck.*

COMMUNITY VOICES

"Not getting paid hurt my family financially and the whole experience was so stressful that my wife's health deteriorated. She was diagnosed with high blood pressure and for the first time had to start taking medication." - Worker in McKinley County

BACKGROUND ON MCKINLEY COUNTY

McKinley County is located in northwestern New Mexico and has a population of 74,426 with the largest percentages being American Indian (74%) and Latino (13.4%). The City of Gallup is the largest municipality and considered a border town to the Navajo Nation and the Pueblo of Zuni. Gallup has a population of 23,240 with the primary percentage being American Indian (43.8%) and Latino (31.7%). Foreign born residents make up 2.3% of the population in the county and 5.2% in Gallup.

McKinley is the poorest county in the state. According to the 2015 US Census American Community Survey, 37.5% of the population lives below the poverty level, compared to the overall rate of 20.7% in the state (below \$23, 834 annual income for family of four). The average unemployment rate in the county for 2016 was 8.8%, while in New Mexico it was 6.5%.

Gallup serves as one of the primary areas where businesses, services and other necessities are accessed for people living throughout the county. The main job sectors include but are not limited to retail trade, accommodation and food services, health care, social services, and agriculture. These industries mostly offer low-wage positions.

METHODOLOGY

In order to develop a snapshot of workers' experiences with employment violations, the McKinley Worker Justice Coalition surveyed 50 individuals—25 Native Americans and 25 Latino immigrants. Surveys were conducted in English and Spanish at the public library, flea market, Presbyterian Medical Services health clinic, the Mexican mobile consulate, churches and family gatherings.

The Coalition also held one focus group with 14 participants who had completed the survey and had indicated they were victims of wage theft. The focus group was a space for participants to elaborate on their wage theft, discrimination and workplace health and safety experiences. It was conducted in English and Spanish with professional interpretation.

COMMUNITY VOICES

"In the hotels, there is a lot of danger for housekeepers. When we do our cleaning, you find needles in the sheets, [and] blood...They don't give you gloves to protect you from all the chemicals that you have to use to clean." - Worker in McKinley County



KEY FINDINGS

1. Wage theft in McKinley County is pervasive among Latino immigrant and Native American workers.

70% of the workers (35 of 50) reported experiencing wage theft. Either they did not receive the minimum wage or last past check, they were required to work off the clock, or they were not paid time and a half for overtime hours.

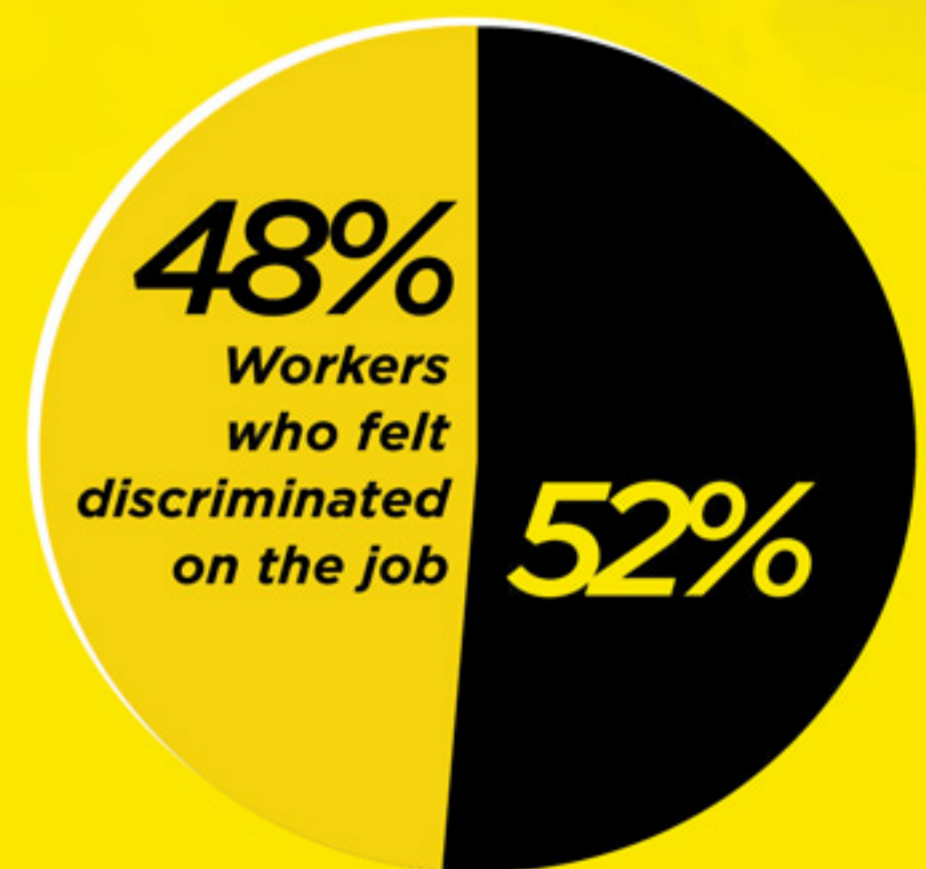
- 16% of respondents experienced two or more forms of wage theft (8).
- 48% of respondents said they were not paid overtime (24).
- 16% of respondents said they were paid less than the minimum wage (8).
- 22% reported that they were required to work off the clock (11).
- 14% reported that they were denied a last pay check (7).
- 36% of Latino immigrant workers (9) reported being paid in cash, while 8% of Native American workers (2) said they were paid in cash.

2. Latino immigrant workers experienced wage theft at a slightly higher rate than Native American workers.

72% of Latino immigrant respondents (18 of 25) reported a violation, while 68% of Native American respondents (17 of 25) experienced at least one form of wage theft in their employment history.

3. Close to nearly half of workers report feeling discrimination in the workplace, Native Americans at a greater rate than Latino immigrants.

48% of respondents (24 of 50) reported having experienced discrimination or harassment on the job. 56% of Native American workers (14 of 25) said they felt discriminated against, while 40% of Latino immigrant workers (10 of 25) reported experiencing this violation.

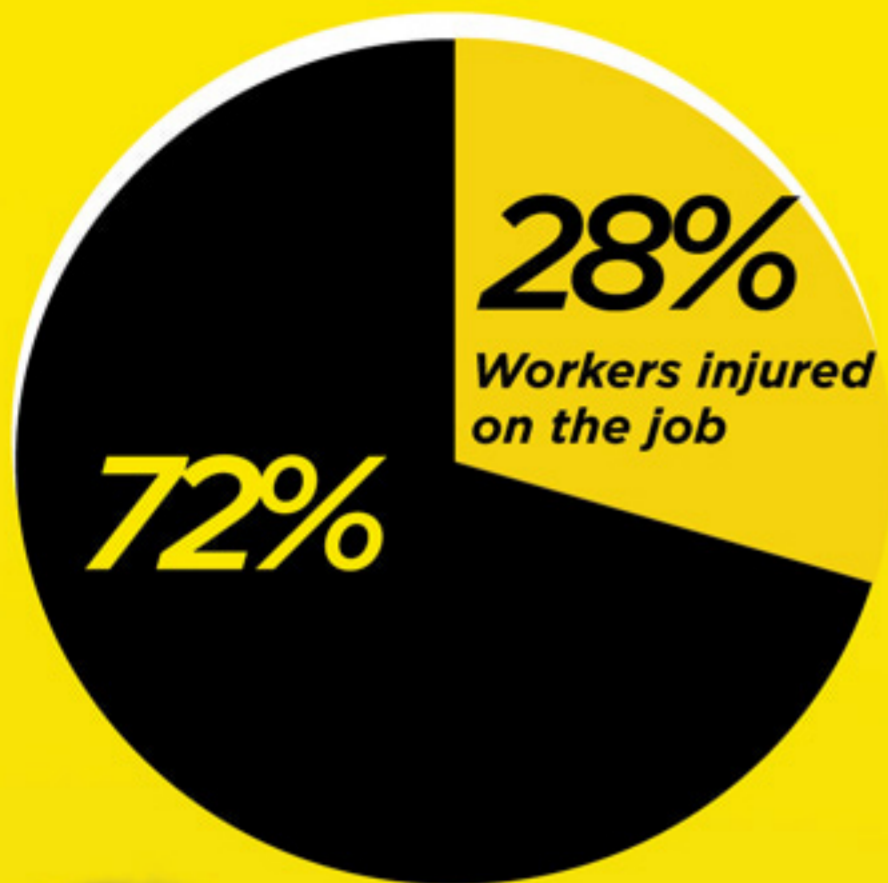


COMMUNITY VOICES

"In my job, they discriminate a lot against me because of my language and because I don't speak a lot of English. They are bothered by you. They tell you to go back to your country. They are always joking about the fact that you don't speak English, and make fun of you." - Worker in McKinley County

KEY FINDINGS

4. One out of four workers has been injured on the job, and nearly half say their work is dangerous.



- 40% (20 of 50) reported not having received any kind of health and safety training on the job.
- 44% (22 of 50) said they considered their job dangerous. Of the 22 workers who considered their job dangerous, only 13 received health and safety training.
- Of Native American respondents (8), 32% said they have been hurt on the job, while 24% of Latino immigrant workers (6) said they had been hurt.
- Latino immigrant workers reported receiving health and safety training at a much lower rate than Native Americans - 28% of immigrant workers (7 of 25) versus 52% of Native Americans (13 of 25).

5. Most victims do not report wage and hour violations nor do they try to recuperate their stolen wages for fear of retaliation.

Of the 35 workers who said they experienced wage theft, only 8 (23%) tried to report the violation or recuperate their stolen wages.

- 50% of victims said they did not report the violation (56% of Native Americans, 44% of Latino immigrant workers).
- 20% of victims said they did not report it because they didn't know how to file a complaint.
- 31% of victims said they did not report it because they were afraid of retaliation - losing hours, getting fired, etc.

6. One out of three workers who complain experience retaliation.

38% of workers (15 of 40) who said they were victims of wage theft and/or discrimination tried to report the violations and experienced retaliation as a result. Retaliation came in the form of losing hours, being subjected to a hostile work environment, or getting fired.



7. Wage theft impacts the health and ability of workers to pay for basic needs and keep up with bills.

- 40% of wage theft victims (14 of 35) reported that the violation affected their health.
- 40% said that they (14 of 35) had to obtain a loan to make ends meet after not being paid what they were owed by employers.
- 11% (4 of 35) said they couldn't pay for educational programs.
- 14% (5) said they couldn't pay for home repairs.
- 20% (7) said they couldn't keep up with loan payments.

CONCLUSION & RECOMMENDATIONS

According to several studies, workplace violations tend to cluster. Employers who violate one labor law are often willing to violate others. All three types of workplace violations--wage theft, discrimination, and health and safety--are strongly linked to low-wage industries where people of color and immigrants primarily work. These violations tend to go unchecked in communities that are poor and economically unstable like McKinley County where jobs are scarce.

These abuses adversely impact economic security for working families already struggling to make ends meet and consequently, important health indicators for these communities.

When workers who are already vulnerable are short changed, injured on the job, or denied promotions and pay raises as a result of discrimination, their short-term and long-term economic security is at risk. These circumstances often lead to stress and illness, and low-wage earners are less able than their higher wage counterparts to adequately address the health problems that arise. Moreover, chronic stress and illness can result directly from singular and repeated incidences of wage theft, discrimination, and injuries related to health and safety issues in the workplace.

Although these violations are for the most part illegal and protections and remedies exist for workers, the full report also identified several barriers to workers being able to report the violations. Lack of language appropriate and culturally competent know-your-rights education, fear of retaliation, scarcity of available jobs—these all contribute to not being able to access those remedies.

When individuals have limited resources, it is challenging to self-advocate for rights and remedies especially in McKinley County where state and federal agencies have minimal presence. And even when workers overcome these barriers, it does not mean they will be able to successfully recoup stolen or lost wages. Several wage theft claimants in New Mexico, for example, filed a lawsuit in 2017 against the Department of Workforce Solutions' Wage and Hour Bureau for refusing to implement key aspects of the state Minimum Wage Act and for not providing language appropriate services.

It is incumbent on local leaders, governments, and community groups to do more to fill in the gaps. Community-wide education about workplace protections, as well as stronger enforcement mechanisms to hold employers accountable and afford workers practical access to remedies, would greatly benefit the economic and health of low-wage working families in McKinley County. To that end, the McKinley Worker Justice Coalition, gleaned important insights from the information shared by survey and focus group participants, identified the following recommendations for city and county officials:

1. City and county governments are urged to provide more extensive community education for workers and employers regarding workplace protections and remedies.
2. Given the distance between rural communities and administrative enforcement agencies, decision makers should garner support for more mobile or permanent investigators to assist people with filing wage theft and other workplace complaints.
3. Local community leaders and governments should establish ongoing working relationships with state and federal enforcement agencies such as the New Mexico Human Rights Bureau, the U.S. Department of Labor, the Occupational, Health and Safety Administration (OSHA), as well as the Navajo Nation Human Rights Commission to maximize enforcement resources in rural communities and to increase worker's rights awareness.
4. Local governments are encouraged to secure additional funding to improve access to worker's rights enforcement in rural communities, such as establishing a local office in the county to inform workers on protections, enforcement and remedies under state and federal laws.
5. City and county governments should also explore local ordinances and policies requiring business owners who are renewing or obtaining new licenses to self-certify that they are following wage and hour laws with penalties if they are not in compliance.

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