



WORKERS RISING

**ORGANIZING SERVICE JOBS
FOR SHARED PROSPERITY
IN NEW YORK CITY**

ACKNOWLEDGMENTS

Something unique has happened in New York: a wave of low-wage worker activity. As is clear from this report, New York City is at a critical turning point: will the City be one where all working families can find stable, living-wage employment? Or will the entrenched inequality of the City worsen still further? This report captures the inspiring stories of low-wage workers who have put these issues in the spotlight, organizing for improved conditions in industries ranging from car wash to fast food to retail and beyond. It is our hope that this report will help elevate the issues raised by these workers as New York prepares to elect a new City Council, a new Mayor, a new Public Advocate, and a new Comptroller to take office in 2014.

We would like to acknowledge first and foremost the courage and creativity of the workers leading these efforts. We would also like to acknowledge the many organizations who have supported these workers and have helped to bring their stories to a broader stage, including community groups such as Make the Road New York, New York Communities for Change, and the Retail Action Project. These nonprofit community-based organizations, with deep roots in low-wage working communities, provided critical support as workers organized for change. A broad network of others from the community, including faith leaders and labor leaders, likewise have lent important support to the workers' efforts. The Retail, Wholesale and Department Store Union, UFCW, for example, has been a leader in supporting low-wage workers who make the decision to unionize, including in grocery stores, in low-end retail outlets, and at car washes throughout the City. The Service Employees International Union, 32BJ and 1199 United Healthcare Workers East represent the collective voice of hundreds of thousands of low-wage service workers in industries throughout our economy.

These groups helped draw attention to the growing efforts of low-wage workers to organize and build the movement for change explored in this report. We recognize and thank all, for without their efforts, these critical issues would not be on the public's radar as the City prepares to hold municipal elections later this year.

ABOUT THE AUTHORS

UnitedNY is a grassroots community coalition that supports the efforts of working people and the unemployed who are calling for good jobs and to make corporations pay their fair share. UnitedNY stands up for a vision of New York City where everyone, not just a privileged few, has the opportunity to thrive and build a secure, dignified life for themselves and their families. For more information about UnitedNY, please visit www.unitedny.org.

The Center for Popular Democracy promotes equity, opportunity, and a dynamic democracy in partnership with innovative community-based organizations, and local, state, and national progressive networks across the country. CPD works to develop cutting-edge state & local policies that deliver tangible benefits to communities, and to help build stronger infrastructure and capacity to drive the fights for positive change locally. For more information about CPD, please visit www.populardemocracy.org



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EXECUTIVE SUMMARY

Although New York's economy has begun to recover from the Great Recession, working New Yorkers continue to face serious challenges. Despite the significant rise in workers' productivity over the past forty years, their wages have remained stagnant while those at the top of the economic pyramid have reaped nearly all of the benefits of our growing economy. When the recession hit in 2007, it exacerbated an already dire situation for working class and impoverished New Yorkers.

The City's unemployment rate nearly doubled, from 5.3 percent in 2007 to 9.7 percent today. Real median income in the City fell nearly 8 percent, from \$35,000 in 2008 to \$32,200 in 2011. The percentage of New Yorkers who are poor rose from 18 percent to a staggering 21 percent. And twice as many people now are homeless in the City as were in 1992. Most striking of all, this widespread economic misery takes place amid unheralded wealth: according to formal measures, Manhattan's inequality is higher than all but one other county in the nation and approximately equivalent to that of Bolivia.¹

As troubling, the growing sectors of the New York City economy, such as the growing service sector, feature low-wage, no-benefit jobs, with little hope for upward mobility.

This is a familiar narrative. But the next act is inspiring and a cause for hope: 2012 was a year of unprecedented activity by low-wage workers in the service industry, including strikes, rallies, marches, and union organizing. New York's service workers are rising and fighting back – as their predecessors did in the 1930s – against poor working conditions and poverty-level wages. Despite the real risk that speaking out may cost them their jobs, thousands of workers in New York City's lowest-wage industries are joining together to demand dignity on the job. At car washes from Elmhurst to So-Ho and Jamaica to Mott Haven, immigrant car washers have voted to unionize. At fast food restaurants from Times Square to Fulton Street in downtown Brooklyn, protesting workers have made national news by taking on and striking some of the biggest employers in America. At flagship Fifth Avenue retail stores, cashiers are calling for an end to the part-time poverty that plagues the industry. And at JFK Airport, the men and women who keep millions of travelers safe have united to demand better training, higher pay, and health insurance so their families can be healthy and safe as well. These workers' bold actions, sparked, we believe, by the energy and anger and

hope of the Occupy movement, have amplified the call for change - and broadened it to make clear that this is a fight for *all* New Yorkers.

In this report, we take a closer look at the growing worker movements that are throwing a spotlight on abuse on the job and at the need to build an economy typified by stable, living-wage, dignified jobs. We also highlight critical policy changes that elected officials could implement that would address the plight of low-wage workers in the City, helping to turn low-wage, dead-end jobs into stable middle class employment opportunities. Raising the minimum wage is perhaps the most important reform that legislators can enact this year to improve standards of living for working-class New Yorkers. That power—and that duty—lies with the New York State Legislature. Raising the minimum wage would result in higher pay for more than one million New York workers. Indexing the minimum wage to inflation will raise consumer spending, help strengthen the economy, and create thousands of new jobs. Although a good first step, the reforms currently under consideration are insufficient. An increase in the minimum wage to \$10 per hour would give full-time workers a salary of \$20,000 per year and help to reduce poverty in New York City. At the very least, the Legislature should expand New York City's home rule power so that it can create a City minimum wage that reflects the higher cost of living here, as compared to upstate.

The New York City Council also has the power to reshape our economy in meaningful ways. Improving the jobs and lives of low-wage workers is not only an issue of justice, but also an issue of good economics. If low-wage jobs were to be transformed into middle class jobs, workers' higher wages would allow them to spend more on local goods and services, giving a boost to the economy that our city's neighborhoods could desperately use.

In 2013, New York City voters will elect a new mayor and fill every seat on the New York City Council. Over the coming four years, these elected officials will make critical decisions impacting the lives of millions of people. But our future is not in their hands. It is the politicians' future that is in ours. Will our next mayor continue programs that deliver tax breaks and subsidies to large corporations that do not deliver on promised job creation? Will our next City Council finally pass key reforms - such as legislation to provide paid sick leave to the City's workforce - that can improve the lives of low-wage workers and their children? Will New

Yorkers and our elected officials build a City in which all working families can thrive? In large part, the answers will depend on the choices that elected officials and voters make over the coming year.

These are four sets of actions that the New York City government could take to improve life for low-wage workers:

- ➔ *First, the City should **raise standards** for low wage work by passing legislation to guarantee at least five days of paid sick leave for workers – such as the Earned Sick Leave Act – and to protect workers from erratic and unpredictable scheduling that keeps them in poverty – such as the Predictable Scheduling Act.*
- ➔ *Second, New York should **regulate high-violation industries** where wages are low and labor abuses are rampant by passing laws like the Car Wash Accountability Act and establishing an enhanced privilege permitting system at Port Authority airports. Such policies should impose new licensing or permitting requirements, tighten environmental and safety standards, and implement other tailored policies that increase oversight of the lowest-wage, highest-violation industries.*
- ➔ *Third, in order to ensure that these new rights make a meaningful difference in workers' lives, the City should **establish a Mayor's Office of Labor Standards** to educate employers about their obligations, investigate complaints by workers that employers are violating the law, and bring enforcement actions in particularly egregious cases.*
- ➔ *Fourth, New York City should pass a resolution urging the State to modify the City's **home rule** authority so that the City can set a minimum wage that is higher than the state minimum, reflecting the high cost of living here.*

Minimum standards in the workplace have always been resisted by much of the business community. One hundred years ago, opponents said that prohibitions on child labor and basic workplace safety laws would harm consumers. In the 1930s, they said that minimum wage and hour laws would cost jobs. And throughout the civil rights era, they said that anti-discrimination laws would destroy free enterprise and the autonomy of business owners. But today these laws are indelible and uncontroversial features of our economy. The same can be true of

paid sick leave, predictable and fair scheduling, and a living wage for everybody. When standards are raised and all businesses are required to take a higher road, New Yorkers will enjoy more broadly shared prosperity and a more just society.

We sit at a pivotal moment in New York City's history. And as low-wage workers across the City have made clear with their growing movement for change, we must take this unique opportunity to build a City that provides opportunity and economic security for all New Yorkers.

INTRODUCTION

PART I • NEW YORK CITY'S TROUBLING ECONOMY

“The rich got richer and the poor got poorer in New York City [in 2011] as the poverty rate reached its highest point in more than a decade, and the income gap in Manhattan, already wider than almost anywhere else in the country, rivaled disparities in sub-Saharan Africa.”

– NY TIMES¹

The economic forecast for working New Yorkers remains bad. While the City has begun to emerge from the recent economic downturn, the uptick has not been felt by average working families. Instead, workers continue to struggle to find work at all, much less to find a stable, full-time job with a living wage and benefits. Provided here is a snapshot both of the current state of New York City's economy, as well as the longer-term trends that exacerbate its entrenched inequality. This troubling backdrop sets the stage for understanding the innovative, creative campaigns that low-wage workers are leading to fundamentally alter our City's economy and build a new vision for our shared economic, social, and political future.

In 2011, the poverty rate in New York City was 21 percent – up from about 15 percent in 1970 and about 18-20 percent from 1980 through 2008 – which means that nearly 1.7 million City residents are trying to survive on the equivalent of less than \$18,530 a year for a family of three.² In 2008, prior to the full downturn, some 750,000 people subsisted on less than *half* that. Each night, more than 50,000 people, including 20,000 children, are homeless in New York City.³ This is up from fewer than 25,000 in 1992.

This widespread poverty results from a lack of stable, living-wage jobs. The City's unemployment rate remains shockingly high: 14.4 percent among blacks, 12.8 percent among Hispanics, over 10 percent among people without a college degree, and 17 percent among adults aged 18-24.⁴ For New Yorkers, the average duration of unemployment is 42 weeks.

Declining wages, paired with a lack of jobs, exacerbates the situation: median wage earnings in New York City *fell* from \$35,000 in 2008 to \$32,200 in 2011.⁵ The recession and the ensuing weak recovery have accelerated the long shift from stable middle class to low-wage jobs.

As the National Employment Law Project recently found with respect to the national picture: “During the recession (2008 Q1 to 2010 Q1), employment losses occurred throughout the economy, but were concentrated in mid-wage occupations. By contrast, during the recovery (2010 Q1 to 2012 Q1), employment gains have been concentrated in lower-wage occupations, which grew 2.7 times as fast as mid-wage and higher-wage occupations.”⁶

The same shift is happening in New York City: Since July 2008, New York City has lost 41,000 middle-wage jobs and 19,000 high-wage jobs, and has gained 130,000 low-wage jobs (those paying less than \$45,000 annually). Low-wage job growth has been led by restaurants (42,000 jobs gained) and retail trade (27,000).⁷

The picture is stark: New York City’s recovering economy is creating low-wage, insecure jobs – leaving working families struggling to support themselves, and countless others out of the workforce entirely.

Worse still, this is only the latest chapter in a long story. Since the 1970s, although workers’ average productivity has increased significantly – from \$29,000 in 1979 to \$47,000 in 2010 – their wages have remained stagnant. That is to say, the increased value of the goods and services produced by workers has translated into increased profits to business owners and *shrinking* income to workers.⁸

Why are these good jobs, and the middle class they support, disappearing? Progressive economists and scholars have identified the following seven factors as key:

- ❶ *The share of private-sector workers who are unionized has fallen from 23 percent in 1979 to 6.6 percent today;*
- ❷ *the inflation-adjusted value of the minimum wage today is 15 percent below what it was in 1979;*
- ❸ *deregulation has decreased the quality of jobs in big industries like telecommunications, airlines, and trucking;*
- ❹ *increased “free” trade has put Americans in competition with the world’s lowest-paid workers;*

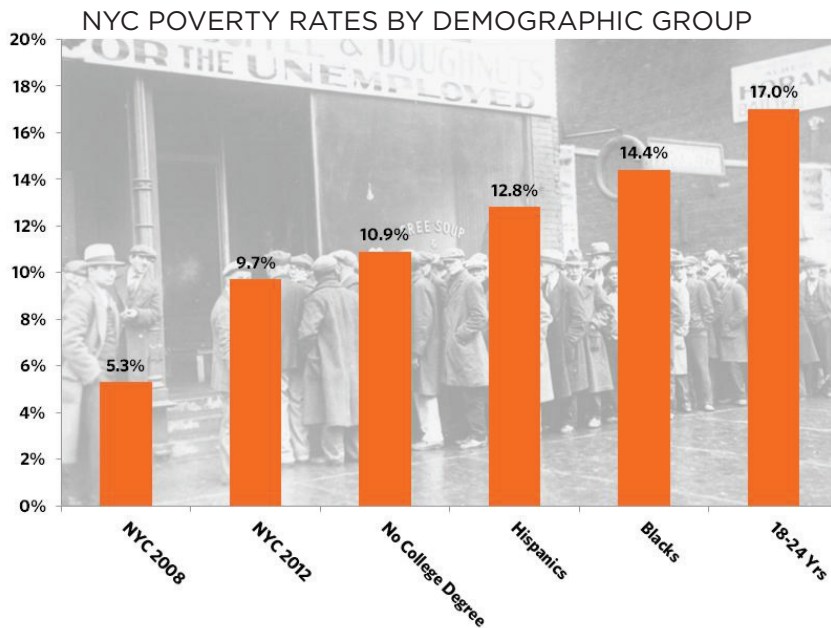
- ❺ *public sector jobs have been privatized and turned into bad jobs;*
- ❻ *our immigration system puts millions of workers at the mercy of their employers; and*
- ❼ *policymakers, including those at the Federal Reserve, have prioritized low inflation at the expense of full employment.*⁹

In addition, the basic labor law framework set up in the 1930s has failed to keep up with our changing economy, which now features widespread subcontracting and part-time work. This hollowing-out of middle-class jobs has led to tremendous inequality: “The top 1 percent of households have secured a very large share of all of the gains in income—59.9 percent of the gains from 1979–2007, while the top 0.1 percent seized an even more disproportionate share: 36 percent. In comparison, only 8.6 percent of income gains have gone to the bottom 90 percent.”¹⁰

This trend is reflected in the growth of top CEO pay rates. In 1980, CEO pay equaled about 42 times the average worker’s pay; in 2011, CEO pay had skyrocketed to 380 times the average worker’s pay.¹¹ At the 50 largest employers of low wage workers, annual executive compensation averaged \$9.4 million in 2011 and these firms have returned \$174.8 billion to shareholders in dividends or share buybacks over the past five years. These firms employed approximately 7.8 million workers and the dividends and share buybacks could have been used to pay \$22,000 in additional wages to each worker.¹²

THE RISING POVERTY RATE IN NYC





It is against this troubling backdrop that low-wage workers across the City have stood up to challenge abuse and demand decent wages, stable employment, and basic benefits. Detailed below is a look at some of the movements being built by low-wage workers across New York City, challenging abuse and exploitation on the job, and demanding that we build an economy typified by stable, middle-class jobs and opportunity for all New Yorkers. These workers' movements have also articulated key policy proposals, detailed in Part III, that if enacted would move

the City towards this vision.

These national figures are mirrored in New York State. From the late 1970s to the mid-2000s, inflation adjusted average household incomes did not grow *at all* in New York State for those in the bottom 20 percent. The State's minimum wage has lost 30 percent of its purchasing power since the early 1970s. And in the City, the top one percent's share of income increased from 12 percent in 1980 to a staggering 44 percent in 2007.¹³

In too many ways, we have entered a new Gilded Age. A thin sheen of wealth sits atop an economy of structural inequality and daily precarity. More than a century after Upton Sinclair stunned the nation with his depiction of daily toil in Chicago's meatpacking plants, life for millions of workers remains a *Jungle*: unfair, unstable, and dangerous.

the City towards this vision.

NOTES

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2. Census Historical Poverty Table CPH-L-185; Cindy Rodriguez, NYC's Poverty Rate Goes Up for 3rd Straight Year, WNYC (Sept. 20, 2012).
3. Basic Facts, Coalition for the Homeless, at <http://www.coalitionforthehomeless.org/pages/basic-facts>.
4. Fiscal Policy Institute, State of Working New York (2012).
5. Fiscal Policy Institute, NYC's Rising Poverty and Falling Incomes Since the Great Recession (Sept. 27, 2012).
6. National Employment Law Project, The Low-Wage Recovery and Growing Economic Inequality (Aug. 2012).
7. Fiscal Policy Institute, The State of Working New York 2012: Disappointingly Weak Recovery (Sept. 2, 2012).
8. John Schmitt and Janelle Jones, Where Have All the Good Jobs Gone? Center for Economic and Policy Research (July 2012). Graph from Lawrence Mishel, The Wedges Between Productivity and Median Compensation Growth, Economic Policy Institute (2012).
9. Schmitt and Jones.
10. Mishel.
11. CEO-to-worker pay gap, Executive Paywatch, at <http://www.afcio.org/Corporate-Watch/CEO-Pay-and-the-99/CEO-to-Worker-Pay-Gap>.
12. National Employment Law Project, Big Business, Corporate Profits, and the Minimum Wage (July 2012).
13. Fiscal Policy Institute, Grow Together or Pull Further Apart? Income Concentration Trends in New York (Dec. 13, 2010).

'LABOR'S DECLINE & WAGE INEQUALITY'

FROM STEVEN GREENHOUSE, NY TIMES (AUG. 4, 2011)

[A study in the American Sociological Review in 2011,] "Unions, Norms and the Rise in U.S. Wage Inequality," found that the decline in union power and density since 1973 explained a third of the increase in wage inequality among men since then and a fifth of the increased inequality among women.

The study noted that from 1973 to 2007, union membership in the private sector dropped to 8 per-

cent from 34 percent among men and to 6 percent from 16 percent among women. During that time, wage inequality in the private sector increased by more than 40 percent, the study found.

The two professors found that the decline of organized labor held down wages in union and nonunion workplaces alike. Many nonunion employers — especially decades ago, when unions represented more than 30 percent of the private sector work force — raised wages to help avert the threat of union organizing.

WAGE THEFT

Even when workers are employed, they often don't get paid the wages that they have earned. The numbers are staggering: A seminal 2010 study by the National Employment Law Project on wage theft in New York City found that for the week studied one in five low wage workers were paid less than the minimum wage, and that 77 percent of employees who worked more than 40 hours in the previous week were not paid the legally required overtime rate.¹ Additionally, ninety-three percent of workers who earned it did not receive the one-hour bonus pay guaranteed by New York Law for working more than ten hours in a day. Sixty-nine percent of workers were not paid for off-the-clock work. Seventy percent of workers legally entitled to meal breaks did not receive them; 37 percent of tipped workers did not receive the appropriate minimum wage; 55 percent of workers did not get a legally-mandated pay stub. All told, low-wage workers in New York City have nearly \$1 billion in wages stolen from them every year.

Why has wage theft reached epidemic proportions? Why do employers routinely flout

minimum wage and overtime laws? First, workers (reasonably) fear retaliation if they speak up to demand their wages. The study found that while only 23 percent of all the workers surveyed reported that they had made a complaint to their employer or attempted to organize a union in the past year, fully 42 percent of these workers experienced one or more forms of illegal retaliation by their employer or supervisor such as firing or suspending workers, threatening to call immigration authorities, or cutting pay. Second, city, state, and federal governments simply have not dedicated enough resources to enforcement. There are only 1,000 United States Department of Labor investigators responsible for ensuring compliance in 7 million workplaces. The average employer has just a 0.001% chance of being investigated by the USDOL Wage and Hour Division or the Occupational Safety and Health Administration in any given year. And the odds are no better at the state level. According to a nationwide survey, states have the equivalent of one inspector for every 146,000 workers.²

When breaking the law carries so few consequences, there is little incentive to comply with it.

Workers are fighting to end the epidemic of wage theft. In 2010, in response to a campaign led by Make the Road New York, the New York Legislature passed the Wage Theft Prevention Act, which amended the state's labor law to significantly increase penalties for wage theft and retaliation, provide more transparency and disclosure to workers about their wages and their rights, and improve the administrative processes for levying penalties and collecting unpaid wages. Now New York's labor laws are the strongest in the country and a model for other states. In recent years, advocates in dozens of states from Florida to Washington and California to Maine have pushed legislation to eliminate wage theft, and their fights continue today.

NOTES

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2. NELP, *Winning Wage Justice: Talking Points on the Need for Stronger Anti-Wage Theft Laws* (2012).

WORKERS RISING 2012

PART II • SOMETHING'S HAPPENING HERE: LOW-WAGE WORKERS ARE FIGHTING FOR CHANGE

“Our economy has become an economy of mostly low wage service jobs. It was the same thing when they were organizing factories in the early 1900s. Workers organized their factories and lifted an entire segment of the population into the middle class. This could happen here. We could lift an entire segment of the US population out of poverty and into the middle class.”

— JONATHAN WESTIN, EXECUTIVE DIRECTOR,
NEW YORK COMMUNITIES FOR CHANGE.

Although conditions are incredibly difficult for New York City’s low-wage workers, over the past year they have been fighting back in inspiring, creative ways – demanding an end to violations and standing up for decent wages and dignity and respect on the job. To better understand the challenges facing working families in New York City and the task of the City’s next mayor and City Council, we look here at conditions in four key sectors of the City’s economy, at the workers’ campaigns to improve conditions, and at the policy solutions that New York City government should enact to promote dignity for all New York City workers. The industries profiled below are instructive, not simply because workers in them are fighting back against exploitation, but because they typify the stable and growing sectors of our economy.

THE CAR WASH INDUSTRY

“I came to this ‘land of opportunity’ with so many hopes, but I have become disillusioned about being able to help my family. The treatment we receive makes us feel powerless. They yell at us, they disrespect us, and they treat us as if we are not even human beings.”

– A NEW YORK CITY CAR WASH WORKER

There are approximately 5,000 workers in New York City’s car wash industry and 8,000 in the metro area.² The hours are long and the pay is extremely low. A survey of 89 car wash workers from 29 car washes across the City found over 71 percent of workers are on the job more than 60 hours a week, but 75 percent of workers do not receive legally-mandated overtime pay. There is rampant violation of minimum wage and overtime laws: the survey found that two-thirds of workers make less than the state minimum wage of

JOHN LAGE: CAR WASH KING

In New York City, there are approximately 200 car washes employing about 5,000 workers. Although the industry in New York City is fragmented, two major players control nearly 20 percent of the car washes and a larger portion of the revenue. John Lage is known as the “car wash king.” He owns 23 establishments in the City - including a prime outlet in Manhattan’s SoHo neighborhood. Many of his car washes in the Bronx, Queens, and Harlem are branded LMC Car Wash and Lube.

Notably, between the two

of them, Lage and his business partner Fernando Magalhaes are the chief executive officers of more than 40 active New York State corporations and they formerly controlled over a dozen corporations that are now inactive.¹ These companies, many of which share the same corporate headquarters, constitute a complex network of interlocking entities.

Lage has an egregious history: between 2005 and 2009, he settled multiple U.S. Department of Labor wage and hour lawsuits, agreeing to pay over \$4.7 million in back wages, damages, and interest to more than 1,300 employees.² Lage agreed not to violate the law as part of his settlements.

Nevertheless, in March 2012, Crains reported that employees at Lage’s East Harlem car wash say they work up to 72 hours a week without overtime, are paid as little as \$5.25 per hour, and don’t make enough in tips to get above the legal minimum wage of \$7.25.³

NOTES

1. New York State Department of State business records.
2. Dep’t of Labor Press Release, New York City area car washes agree to pay employees \$3.4 million in back wages and damages to resolve U.S. Labor Department lawsuit (June 30, 2009).
3. Daniel Massey, Car Wash Workers Pick New Target, Crain’s New York Business (March 16, 2012).

\$7.25.³ Most workers make less than \$400 a week. Indeed, in 2008 the New York State Department of Labor found that 78 percent of the City’s car wash operators were guilty of wage and hour violations, and that the city’s car washes had deprived workers of \$6.5 million in wages.⁴

The economic insecurity caused by low wages and long hours is exacerbated by erratic and unpredictable scheduling. Car wash bosses routinely send workers home when the weather turns bad or business slows down. The workers spend many hours commuting back and forth to work, but are sometimes sent home with little or no pay at all.

Often, after workers get sent home, the weather improves or business picks up. The workers who remain are then responsible for multiple jobs at once, with no increase in pay but possibly serious increases in safety risks.

In addition, many workers have complained of tip stealing by managers and that the cost of a stained carpet or scratched mirror has been unlawfully deducted from their wages. The insecurity of low

pay and uncertain hours is devastating. With annual incomes of \$15,000-\$20,000, workers spend their days washing cars that cost more than they make all year - and then go home to families struggling to make ends meet.

UNSAFE CONDITIONS

Beyond the low pay, car wash workers are regularly exposed to dangerous conditions. Most egregiously, they often are required to use harsh chemicals and cleaning products but are not given even basic protective gear such as gloves, masks, or goggles. Although federal law requires that workers be given protective equipment when necessary, less than one in four workers interviewed in the recent survey said that their employer did so; and those workers who were given gloves say that they are often weak and tear.

Workers complain of significant physical risks on the jobs. Some experience stinging lungs and throats and itching and burning skin from the harsh chemicals. Others have reported problems with their vision or



chronic back pain. Because essentially no car wash workers have paid sick leave, they lose pay if they ever need to stay home sick. And because few employers offer medical insurance, medical problems can create extreme financial hardship.

2012

"The bosses will respect us better now, and see us as people."

— CAR WASH WORKER FRANCISCO LÓPEZ, ON WINNING UNION REPRESENTATION IN 2012⁵

In the fall of 2012, workers at five car washes took a bold step by voting to unionize with the Retail, Wholesale and Department Store Union, UFCW through official National Labor Relations Board elections, despite campaigns of retaliation and intimidation of union supporters by management. The first successful unionization vote was in Elmhurst on September 8, when workers voted 21-5 in favor of unionization. Workers in the Bronx, Manhattan, and Queens quickly followed suit – all voting by similar margins in favor of the union. Notably, workers at three locations owned by John Lage [see side box] stood up against poor conditions and poverty wages, voting to unionize and sending a message to the whole industry. These

"Car wash workers across the city are seeing the strength of the campaign and it is giving them hope. It is a powerful message that by standing together they can make things better."

— RWDSU ORGANIZER JOSEPH DORISMOND

workers' victories are truly historic, representing the first union votes in the history of the New York City car wash industry.

"This is a time for immigrant workers to earn a voice through their union to speak up to their bosses," said Ernesto Salazar, a worker at the Webster carwash in the Bronx, which voted to unionize. "The union will support us in pushing to raise wages. You can't afford to live here on the amount they pay us."⁶

The unionization votes had an immediate impact. Francisco López, who works at the Webster car wash, told the *Daily News* that "For a long time we were getting \$5.50 an hour, but three months ago they began to pay us \$6.25 because management realized we were talking about joining a union." (The minimum wage is \$7.25 per hour, although employers who comply with certain regulations can sometimes take a credit for tips.) López told the *News* that he works 12 hours per day, five days per week. He added that although conditions have improved slightly, there is still a long way to go: "Right now, if you get sick or have an accident they fire you on the spot. That's not fair. We want a work contract, to be paid minimum wage and overtime, sick days, holidays and vacation. We hope to get there little by little."⁷

On November 11, workers at Sunny Day Car Wash in the Bronx walked off the job after not being paid for three weeks. "We're tired of this. We're working in the cold. We need money to pay our rent," said Nelson Aquino, 28, who told the *Daily News* that he earned only \$5.50 an hour plus tips drying cars when he was being paid.⁸ The workers had organized themselves after hearing about the campaign at Webster. The *Daily News* reported that after they walked out, their boss fired them – via text message.

In response to the retaliation the workers began a picket outside the car wash. They were joined by State Senator Gustavo Rivera and City Councilmember Melissa Mark-Viverito, who demanded that the owners give the workers their jobs back.⁹ On December 11, the workers voted to unionize in an NLRB election, and, according to the RWDSU, the owner made an unconditional offer of reinstatement to the striking

workers on February 4. continue to fight to win their jobs back.¹⁰

And the car wash workers are fighting for more than just improved conditions on the job. Seeing first-hand the environmental risks posed to surrounding communities from the harsh chemicals used every day, and the often inadequate waste-water disposal systems, workers are now pushing for comprehensive environmental and business regulation of the industry. (See Policy Box #2, the Car Wash Accountability Act.) Says Deborah Axt, Co-Executive Director of Make the Road New York, "It is truly inspiring to see these workers, who were previously ignored or invisible in the City, fight for better conditions for themselves at work, but also fight to protect customers and the public at large from the damage done by this industry."

POLICY SOLUTION #1

The Earned Sick Time Act

Many workers are forced to go to work sick because they cannot afford to lose pay or risk losing their jobs. Lack of paid sick time is an especially severe problem for low-wage workers: According to a poll of over 1,400 adult residents in the New York City area, sixty-three percent of low-income workers and 45 percent of moderate-income workers cannot take paid time off. This reality threatens the health of all New Yorkers: low-wage workers handle food and provide care for children and the elderly, so forcing them to work while sick creates a serious risk of spreading illness to others. Sick commuters also infect other people on subways and buses and sick kids infect their classmates.

The proposed Earned Sick Time Act would rectify this problem. If enacted, it would provide a critical health and economic security net to workers struggling to stay employed and provide for their families. The Act would guarantee most workers the right to take at least five days of paid leave every year to care for themselves or a sick family member. Employers with fewer than

five employees would not have to provide paid sick leave, but they would be prohibited from dissuading or retaliating against workers who take up to five unpaid days off a year.

The New York proposal is modeled after laws in San Francisco, Washington, DC, Seattle, and Connecticut. The experience in San Francisco, which was the first jurisdiction to guarantee workers the right to paid sick leave, shows that the policy will significantly improve life for low-wage workers without harming the economy or hurting business. Studies have shown that following implementation of the law in 2007, businesses and jobs did not fare worse there than in surrounding counties without a sick time law and employer profitability did not suffer. Indeed, even the San Francisco Chamber of Commerce acknowledges that the burden has been minimal and the issue is not on employers' minds.

The Earned Sick Time Act has been co-sponsored by 37 of the New York City Council's 52 members, but it still has not received an up-or-down vote on the floor.

POLICY SOLUTION #2

The Car Wash Accountability Act

In response to widespread charges of labor law violations, reports of a failure to respond to reports of consumer complaints about damage to vehicles, and reports of environmental hazards, including extensive groundwater discharge involving dangerous chemicals, New York City Councilwoman Melissa Mark-Viverito has introduced the Car Wash Accountability Act, which by January 2013 had the support of 30 of the City Council's 52 members. If enacted, the bill will require that car wash operators – just like auto towing companies, car garages, and dozens of other businesses – obtain a license from the City to operate; provide the City information about their ownership structure; certify compliance with city, state, and federal laws; and obtain a surety bond to cover unpaid fines and penalties to the City as well as unpaid damages owed to customers, suppliers, and workers. As in other licensed industries, the Commissioner of the Department of Consumer Affairs would evaluate the fitness of an applicant to operate a

car wash, weighing factors such as prior criminal actions in the industry, violations of related laws, and failure to pay taxes.¹

The New York car wash industry is beginning to respond. "Operators in New York City are facing the prospect of tough legislation regulating carwashing," Walt Hartl, the president of the New York State Car Wash Association (NYSCWA), told its members in his Fall 2012 newsletter column.² In its legislative update, entitled "Compliance is the law!" NYSCWA warned: "The message can't be any clearer for carwash operators — if you have not already [done so], immediately take action to ensure that you are in compliance with all labor law, workers' compensation and unemployment insurance requirements. Your records need to be detailed, meticulous and available for inspection. Poor recordkeeping makes your business a target."³

NOTES

1. Int. 0852-2012, Car Wash Accountability Act.
2. NYSCWA President's Column (Fall 2012).
3. NYSCWA Legislative Update (Fall 2012).

THE RETAIL INDUSTRY

"After working as a cashier at Abercrombie & Fitch for over a year, I ended up with an average of just 10 hours per week. That's not enough to live on and go to school. I never knew how much my paycheck would be week to week. The company's scheduling policies require us to be on-call instead of giving predictable hours. I have a second job and it's incredibly difficult to balance that with school and not knowing when you have to work until just a few hours before a shift. That's why we launched the Just Hours campaign in front of the 5th Avenue store; this problem is happening to all retail workers."

– BINTOU KAMARA, WORKER, ABERCROMBIE & FITCH

The retail industry employs more than ten percent of workers in the United States and is expected to account for another two million jobs nationally by

2020.¹¹ The industry is a true powerhouse in New York City: excluding groceries, it employs 242,000 workers, one in seven of the City's low-wage workers and one in ten of all workers.¹² Retail sales in the City in the fashion industry alone exceed \$15 billion each year, the highest for any city in the U.S.¹³ These jobs – selling clothes and home furnishings, cosmetics and office supply, electronics and books – exist in every one of the City's neighborhoods, ranging from the nation's biggest chain stores to the tiniest mom and pop shops.

Between 2010 and 2012, retail sales nationally accounted for more new jobs than any other occupation. The jobs are low-quality, paying a median of only \$10.97 per hour.¹⁴ Even if a worker were scheduled for full time hours, that wage would only come to \$22,000 per year. Based on Census Bureau data, NELP has reported that 36.5 percent of retail



WHO ARE NEW YORK'S RETAIL WORKERS?

There is a perception that low wages in the industry are acceptable because retail workers are primarily teenagers or students. But that perception is wrong. Approximately 78 percent of all retail workers in New York City are 25 and older, and half are 35 or older. Retail workers contribute 60 percent of their families' income and over one-third are their families' sole providers. More than 90,000 New York City children have parents who work in retail.

As of 2006, approximately 31 percent of NYC retail workers were white non-Hispanic, 25 percent were black non-Hispanic, and 25 percent were Hispanic. Forty-nine percent of workers were foreign born.¹

1. Low Wages, No Bargain.

workers are paid less than \$10 per hour.¹⁵ As in many other industries, race and gender matter: women make approximately 13 percent less than men; white workers make 20 percent more and black workers make 11 percent more than Hispanic workers.¹⁶ Latina workers are particularly disadvantaged: 77 percent of them make less than \$10 per hour.

Retail was once a middle-class profession. Fair commissions on sales meant that employees could depend on increased earnings as they honed customer service skills that built a clientele and enhanced sales and their incomes.¹⁷ But the elimination of many commission systems is eroding workers' earnings. Commission workers at higher-end stores have organized with RWDSU to preserve their fair share of corporate earnings. Most recently, workers at stores like Cole Hahn and Bloomingdale's have pushed back against management's 'work for less' demands.

Gone too are benefits to help support a family. According to *Discounted Jobs*, a 2012 survey by Stephanie Luce of the CUNY Murphy Institute and the Retail Action Project (RAP), only 29 percent of retail

workers in New York received health insurance through their employer. Twenty-four percent of workers depended on the government for their insurance and nearly 18 percent had no health insurance.¹⁸

PART-TIME WORK, FULL-TIME POVERTY

"Corporate retailers' abusive part-time scheduling practices are causing a crisis of underemployment for retail workers. Unpredictable scheduling practices affect how much retail workers take home in pay, whether or not they receive health benefits, and workers' ability to balance life and work. Between being expected to have open availability, waiting by the phone for on-call shifts, being sent home early, we're getting short changed by this growing industry."

- THE RETAIL ACTION PROJECT'S
JUST HOURS NEW YORK CAMPAIGN

Exacerbating the decline in wages is the industry-wide shift from stable, full-time jobs to part-time, on-call work that leaves workers unsure what they may earn week to week. To avoid paying benefits



"I work 32-45 hours a week, but they classify me as 'part time' to avoid giving me any benefits. The only people considered 'full time' employees are managers. Sales associates like me aren't eligible for paid time off, health benefits, or even paid sick days. So when I am forced to call in sick, I lose out on my paycheck. Since my employer doesn't provide me with health benefits I have to rely on Medicaid."

- HARTLEY, SALES ASSOCIATE, BATH & BODY WORKS

reserved for "full-time" employees, discourage solidarity and unionization, and maintain maximum flexibility, many retailers now make full-time work the exception, reserved only for management. Indeed, the right to work additional hours has become a "bonus" reserved only for the employees with the highest hourly sales. From 2006 to 2010, the number of involuntary part-time retail workers increased by a staggering 144 percent, from 644,000 workers to 1,573,000 workers.²⁰ RAP points out that because the federal Affordable Care Act only mandates that firms provide health insurance coverage to their full time employees (those who work more than 30 hours a week), it will further incentivize this shift. Similarly, unemployment insurance and the Family and Medical Leave Act exclude part-time workers with insufficient

hours. Our labor laws are out of date; they have failed to keep up with the changing economy.

The *Discounted Jobs* research found that 53 percent of workers are hired as part-time and 49 percent of workers are scheduled for fewer hours than they would like. The \$8-\$12 per hour that the majority of workers make constitutes a poverty or near-poverty wage for a family of 3 even at 40

hours a week; it barely permits survival at the 20-30 hours a week that is increasingly common in the industry. Involuntary "underemployment" not only creates poverty but is a waste of human capital and pushes many workers onto government supports like Medicaid and food stamps.

According to *Discounted Jobs*, as an element of its move to a part-time paradigm, the retail industry in recent years has widely adopted "just-in-time" scheduling. Using sophisticated software that is intended to predict and respond to the flow of customers, retailers keep their employees' schedules in constant flux: workers must regularly call in to find out whether they should come in to work. While there is no guarantee of work, they must be available and

THE FIGHT FOR LIVING WAGES

Workers, community groups, faith organizations, civil rights activists, and labor joined together in a two year campaign to enact living wage legislation in New York City. They fought to establish the principle that when public money goes to

private developers, the public should get something in return - good jobs that build communities, rather than jobs that keep people in poverty. On June 28, 2012 the Fair Wages for New Yorkers Act was passed requiring that developers who receive public

support pay a living wage of \$10.00 an hour with benefits or \$11.50 an hour without benefits. Unfortunately, Mayor Bloomberg has launched a legal challenge to this law that workers' advocates are vigorously defending.

are subjected to discipline or termination if they are not. Only 17 percent of workers have a fixed schedule, over half know their schedule only a week or less in advance, and a fifth learn of it with three or fewer days notice.²¹ Women, black, and Hispanic workers are disproportionately subjected to these practices: they are paid lower wages, given fewer hours, lower benefits, and have less opportunity for raises and promotions than white and male workers.²²

“Even though I was a top seller at Aveda and had open availability, I was only given four hours per week at \$10/hr. I’m a single mom, so how can I provide for my two kids on that kind of schedule?”

— TAMARA GREEN, SALES PERSON, AVEDA

This uncertain scheduling wreaks havoc with workers’ lives. They cannot adequately plan ahead to schedule child or elder care; students miss class or work; workers cannot take a second job to make up for the shortage of hours at their retail position.

As in the car wash industry, many retail workers report coming into work only to be sent home early. Although New York State law requires that employees be paid for at least a four hour shift when sent home early, only 15 percent of surveyed retail workers say they receive those legally-mandated wages.²³

The retail industry attempts to cast its use of part-time workers in a positive light. The National Retail Federation says that “[r]etailing provides employment opportunities for individuals who prefer to, or must, work part-time. This is particularly significant for women, who account for over 60 percent of the retail industry’s part-time workforce.”²⁴

The truth is that these part-time jobs are poverty jobs; it is primarily employers that benefit from the “flexible” scheduling, not employees. As the National Retail Federation acknowledges, its workers quit their jobs regularly: “Almost one-fourth (24.6 percent) of all retail employees quit a job in 2010, well above the national average of 16.4 percent. The retail industry faces the second-highest quit rate, behind only the leisure and hospitality industry, which includes restaurants and dining establishments.” Although they often talk about wanting to reduce turnover, retailers have put in place wage, scheduling, and incentive schemes that encourage it.

Meanwhile, contracts negotiated by the RWDSU

have shown that corporate retailers can boost profits and lower the costs of turnover while respecting the right of employees to have some predictability in their work schedules. According to RWDSU, collective bargaining agreements with national

retailers like Macy’s allow workers to request days off in advance and can allow workers to select preferred shifts up to six months in advance. These hard-won provisions are especially friendly to parents and caregivers who juggle family responsibilities with

their work schedule.

“The vast majority of retail labor hours are predictable weeks and months in advance,” says Susan Lambert, an associate professor at the University of Chicago who studies national retailers. “Instead of delivering this stability in scheduling to their employees, a growing number of large employers are focusing on the slim margin of variation that isn’t captured by computer modeling. This growing trend creates an unnecessary level of stress for workers and their families. Improving workplace norms is essential to achieving gender equality and there is a clear need to update the labor standards developed in the 1930s. Retailers are capable of scheduling with more predictability and stability. All people deserve to know in advance when they are expected to work – the *Just Hours* campaign is making real strides to make this a fundamental right.”

2012

Nationally, the fight against Walmart is perhaps the most high-profile frontier in the campaign to improve working conditions in the retail industry. In 2010, the retail giant announced plans to open its first store in New York City. But after a two-year fight by Walmart Free NYC – a coalition of workers, small business owners, community leaders, clergy, elected officials, community organizations, and labor unions – the retail giant announced on September 14, 2012, that it was ending its bid.²⁵ In the fall of 2012, the fight against Walmart burst onto the national scene: workers organized protests at approximately

1,000 stores in 46 states on Black Friday, the biggest shopping day of the year.²⁶

But the campaign against Walmart is only one element of the fight. A growing movement among

retail workers in New York City is focusing attention on the problems in the growing retail sector in the City. In August 2012, retail workers from across the industry led a Scheduling Town Hall at which they identified problems with corporate retail scheduling practices and developed a consensus set of solutions. On October 17, 2012, workers launched the *Just Hours New York* campaign with a rally in front of Abercrombie & Fitch's flagship 5th Avenue store. Workers, clergy, elected officials, the RWDSU, and others gathered to demand higher wages and an end to "on-call" scheduling and part-time poverty. Abercrombie workers along with fellow RAP members delivered a petition against abusive on-call scheduling signed by thousands of supporters to Abercrombie's CEO Mike Jeffries, who made \$48 million last year. Workers then marched down 5th Avenue delivering "underemployment claims" to retailers like Urban Outfitters and Uniqlo for excessive part-time scheduling.

Workers have demanded that retailers change abusive scheduling practices and adopt measures outlined in a Code of Conduct, designed by retail workers themselves, to improve standards in the industry.

Carrie Gleason, director of RAP, says that the workers' campaign is a direct descendent of the mobilization that led to the New Deal and the federal minimum wage and hour laws. "It took workers – many of them young and immigrant women in NYC's leading department stores – organizing and sitting-in to win a 40-hour workweek in the 1930s. The law changed only after the labor movement won on the shop floor. Retail workers are once again struggling – under-employed and desperate for more work even as company sales rise. With the *Just Hours* campaign, the fight for a fair workweek has returned."

JUST HOURS NEW YORK: RESTORING THE FAIR WORKWEEK

Retail workers came together with the Retail Action Project to develop an innovative Code of Conduct to change standards in the industry. Workers are now engaged in workplace-based campaigns to implement the Code in stores across New York City.

WE ARE COMING TOGETHER TO DEMAND A FAIR WORKWEEK. WE SHOULD HAVE THE RIGHT TO:

- ➔ **Stability in hours** ▪ Guaranteed weekly hours without mandatory on-call shifts
- ➔ **Predictability in schedules** ▪ Advanced notification of weekly schedules and changes
- ➔ **Family-Sustaining Hours** ▪ Full-time schedules without fluctuations in weekly income
- ➔ **Care for our families, school, and communities** ▪ Reasonable scheduling availability instead of mandated open availability ▪ The right to request time off ▪ Paid sick days
- ➔ **Work without discrimination** ▪ Equal wages, benefits, promotions, schedules for women, workers of color, and LGBT workers ▪ Work free of discrimination based on pregnancy or parenting status
- ➔ **Access affordable benefits** ▪ Equal wages, benefits, and promotions for part time workers ▪ Work full-time hours without exclusion from full-time benefits due to part-time misclassification.

POLICY SOLUTION #3

Predictable Scheduling Act

In addition to the Just Hours campaign to pressure stores to adopt livable work schedules, RAP members, with the support of lawyers at the National Employment Law Project and A Better Balance have crafted a City bill that addresses the endemic problem of scheduling changes and uncertainty in hours. The bill – called the Predictable Scheduling Act – would apply to large retail employers operating in the New York City market. These companies would be required to provide weekly schedules with advanced notice before the workweek begins, would require workers' consent for scheduling changes, and would give workers the right to make scheduling requests. Workers would have the ability to voluntarily assume additional hours, but could not be disciplined or otherwise retaliated against if they declined a request to work unscheduled shifts.

This common-sense reform would provide badly needed predictability for retail workers while still allowing employers flexibility in meeting their staffing needs. Studies of the retail industry show that most labor needs can be forecasted up a year in advance based on past sales patterns and other metrics. The experiences of unionized employers such as Macy's show that letting workers choose their schedules up to six months in advance can help retain a productive workforce. And many major retailers such as H&M, Costco, and the Container Store provide schedules to their workers with at least a week's advance notice, highlighting that just-in-time scheduling and on-call work are not essential to the industry. Businesses have the ability to provide schedules in advance and should strive for greater predictability – which benefits workers, employers and consumers.

AIRLINE INDUSTRY

The region's three major airports of JFK, LaGuardia, and Newark are operated by the Port Authority, an entity established in 1921 through an interstate compact between New York and New Jersey. (JFK and LaGuardia are owned by New York City and leased to the Port Authority through 2050). The airports, which together handle approximately 107 million passengers a year, are crucial to New York's status as the economic hub of the eastern United States.

Of the 67,000 workers employed at the three airports, approximately 15,000 are employed by contractors hired by the airlines to provide passenger services. These workers form a key element of security at the airports, and include security officers and screeners, wheelchair attendants, baggage handlers, skycaps, ticket checkers, cabin cleaners and janitors, ramp agents, and dispatchers.²⁷ But they make significantly less money than the employees who work for the Port Authority's contractors.

Although data is difficult to collect, a 2011 survey

conducted by NYU of 300 airline-contracted passenger service employees found that they are paid a median of only \$8.00 per hour, barely above the minimum wage. Only 17 percent of the workers received employer-subsidized health insurance, and only 32 percent receive any kind of paid sick leave.

Prince Jackson, a security guard who works at JFK, told the *Village Voice* that he got a severe stomach flu in 2011 and had to miss work. "When I came back the next week, I brought a doctor's note, so they didn't fire me. But we don't get sick days, so I didn't get paid. That really put me in the hole. I'm still behind on my rent."

The cost of this low compensation is borne both by the workers and their families – who struggle to pay their monthly bills and to keep their children healthy – as well as by taxpayers. Twenty-three percent of the workers were on government-sponsored health insurance and close to 20 percent of the workers received food stamps.²⁸

Almost all of these workers are ethnic minorities: of the 300 surveyed, 54 percent were black, 32 percent



Hispanic, 12 percent Asian, and 2 percent white. About three-quarters were men. Most of the workers live within 5 miles of the airport where they work.²⁹

Airlines have used a low-bid contracting system, which has driven wages and benefits down to these minimal levels. Without minimum standards, low-road contractors win the business at the expense of workers and customer service. As explained in the NYU survey report, “Contracts between the Port Authority and contractors... include minimum hourly wage requirements that are 25 percent to 50 percent higher than the median wages reported by workers” who work for employers that contract with the airlines.³⁰

Workers are particularly concerned about security lapses at the airports. The workers – security guards who monitor doorways and perform secondary screenings of some passengers – are demanding better training: too often, they say, new hires are given cursory instructions and then assigned responsibility for ensuring airline travelers’ safety. “The security of the traveling public is very important to me,” said Shah Rahman, a security worker. Workers have joined together to speak out about these problems.

2012

In the spring of 2012, over 300 security officers engaged in pray-ins and silent marches at JFK and Newark airports. Then, in the summer, security officers began raising concerns regarding safety problems and working conditions at JFK. Those at one of the companies went through the proper chain of command – requesting meetings, signing

petitions, and even sending faxes. But, by August, frustrated at the complete lack of response, the workers filed a complaint with the Transportation Security Administration. The complaint, which was supported by workers’ hand-written and signed narratives, documents how the company has failed to provide adequate on-the-job training to its employees or provide them with properly functioning equipment. Because these workers check passenger identification, conduct passenger screenings, and monitor doorways, the complaint asserts that the lack of training is a safety risk.

In September, security officers at another airline contractor followed suit. These workers secure aircraft arriving from abroad, monitor the access of cleaners onto the planes, ensure that food and equipment being loaded onto planes is properly sealed, perform final security checks of aircraft, and guard baggage areas. However, as the workers explained to their managers and subsequently in their complaint to the TSA, their employer has hired insufficient staff to perform the duties – so security agents are encouraged to rush and cut corners. “Sometimes, on some big aircraft, such as the 747, which can hold four hundred to six hundred passengers, we get five minutes to search with two agents,” the complaint said. “We don’t always have time to search the overhead compartments, side panels, galleys, or bathrooms.” In addition, workers often lack functioning equipment, are not given proper training, and are not timely relieved of duty when they become ill.

Following the complaints, both companies maintained policies that illegally prohibited the

EXPERIENCES AT SAN FRANCISCO INTERNATIONAL AIRPORT

The Quality Standards Program, established in 2000 by the San Francisco International Airport (SFO), serves as an excellent model for a high-road employment policy at New York's airports.¹ The Program established minimum wages for all employees who work in the airfield operations area or are involved in passenger or facility security. Covered employees' wages, which rise with inflation, are set at \$12.93 per hour for 2013.² Employees who do not work in security jobs or in secure locations are guaranteed a minimum wage of at least \$12.43 per hour. All employees must receive health insurance, 12 days per year of paid leave, and 10 days per year of unpaid leave. There are minimum training standards and enforcement mechanisms to ensure compliance with the program.

According to a rigorous study by University of California economists, SFO's policies led to direct wage increases for 5,400 workers and spillover wage increases for another 2,600 workers.³ Security screeners, for example, saw

their compensation rise from \$13,400 with no benefits to \$20,800 with benefits. And the cost was minimal: "The cost of the [programs] to airlines and airport travelers amounted to about \$1.42 per passenger,"⁴ or 0.7 percent of annual fare revenue. The changes led to \$6.8 million in increased federal tax revenue.

After the adoption of the policies, employee turnover at SFO fell dramatically: "34 percent among all surveyed firms and 60 percent among firms that experienced average wage increases of 10 percent or more. The greatest reduction in turnover occurred among airport security screeners, from 94.7 percent a year in April 2000 to 18.7 percent fifteen months later, an 80 percent decrease. Cabin cleaning firms reported a 44 percent reduction in turnover, and ramp workers a 25 percent reduction."

NOTES

1. San Francisco International Airport, Quality Standards Program, available at <http://www.flysfo.com/web/export/sites/default/download/about/rules/pdf/QSP.pdf>.
2. City and County of San Francisco, Labor Standards Enforcement, at <http://sfgsa.org/index.aspx?page=403>.
3. Michael Reich, et al, Living Wages and Economic Performance: The San Francisco Airport Model (2003).
4. Living Wages and Economic Performance at 9.

POLICY SOLUTION #4

The Port Authority should adopt a quality control program so that all contractors who provide services to the airlines at JFK, LaGuardia, and Newark are ensuring safe and stable operations. The Authority should set minimum staffing levels and training requirements, standards for functioning equipment, and procedures for oversight and accountability. Such requirements – many of which are already in place for the Authority's own contractors – would enhance safety at the airport, improve customer satisfaction, and bring standardization and stability to a currently out-of-control

contracting system. Like in San Francisco and Los Angeles, the program should also set minimum standards for wages, health insurance, and paid leave. Improving the quality of jobs at the airport will reduce turnover and attract experienced and skilled workers. Minimum standards will encourage bids from high-road contractors, improve the quality of passenger services, and improve security for travelers.

security officers from highlighting their working conditions to the public. Fed up with both the illegal policies and their enforcement, on December 13 and 14, employees of both companies voted to authorize a strike in the middle of the holiday travel season. The strike was to begin seven days later, on December

20. With the strike clock ticking, the Port Authority requested that employees negotiate a resolution and not disrupt holiday travel. The workers agreed to call off the strike in exchange for the companies' commitment to enter immediate discussions over their grievances.³¹

"You have people going to the airport, where the peripheral security that the Port Authority controls is at one standard," said Rob Hill, the organizing director for 32BJ. But once inside the terminal, "it's still low bid, whatever contractor will do it the cheapest and therefore pay their workers the least with the least benefits. I don't know if the public knows that for the officers, it's still a poverty job at the airport, where you'd think security would be the highest priority. You can't make change working on one contractor at a time, because the airlines just change contractors. You need to get everyone to agree to a new standard, so all contractors are competing on an even field."

It is clear that there need to be policies in place that set minimum standards for these workers.

AIRPORT BILL OF RIGHTS

Workers across the three airports are mobilizing behind what they call an Airport Workers Bill of Rights.

FOR OUR FAMILIES, FOR OUR COMMUNITIES, FOR OUR FUTURES: TOGETHER WE RISE

We are the subcontracted passenger service workers at the Port Authority of NY and NJ airports. We are the skycaps who check you in, the baggage handlers who get your bag to its destination, the document checkers who keep lines moving, the security officers who keep the airports safe, the cleaners who keep the terminals and aircraft clean, the wheelchair attendants who assist disabled passengers, and many others who work hard to keep the airports running efficiently and safely. We affirm that we have the right to:

- ➔ **A living wage that sustains our families and our communities;**
- ➔ **Access to affordable healthcare for ourselves and our families;**
- ➔ **Benefits that show respect for our basic human needs such as paid sick days;**
- ➔ **Appropriate training, adequate equipment, and the necessary resources to provide passengers with quality service;**
- ➔ **A workplace free of harassment and discrimination;**
- ➔ **Organize for better standards and join a labor organization without interference from employers.**

THE FAST FOOD INDUSTRY

"Saavedra Jantuah, who works at a Burger King on 34th St. in Manhattan, explained that the \$7.30 she makes per hour after two years on the job doesn't pay her enough to support her son. 'I'm doing it for him, I'm going on strike so I can bring my family together underneath one household,' she said. 'A union can help us get to where we can make it in New York.'"

- THE ATLANTIC, NOVEMBER 29, 2012³²

McDonald's and Yum! Brands, which owns Pizza Hut, Taco Bell, and KFC, each employ more low-wage workers than any other company in the country, save Walmart.³³ In New York City, the fast food industry has grown by 55 percent since 2000 - 19 times faster than private sector employment overall.³⁴

Even including management, 57 percent of the industry's jobs pay less than \$10 per hour.³⁵ In the New York metropolitan area in 2011, there were 70,000 workers, largely at fast food restaurants, whose job involved a combination of preparing food and serving customers. Their median hourly wage was just \$8.83 - the lowest median wages of any category of workers in the City. An additional 6,850 New York fast food cooks had a median wage of \$9.93 per hour.³⁶

As journalist Sarah Jaffe notes in *The Atlantic*, “the term ‘McJob’ has come to epitomize all that’s wrong with the low-wage service industry jobs that are a growing part of the U.S economy. ‘It beats flipping burgers,’ the cliché goes, because no matter what your job might be, it’s assumed to be better than working in a fast-food restaurant.”³⁷

Although the stereotypical fast food employee may be a teenager earning some spending money, the reality is very different. Nationally, the average age of a fast food employee is 29.5, up from 22 in 2000. And among women – who make up two-thirds of the industry – the median is over 32.³⁸

“I don’t think we can afford to write off fast food anymore as simply a sector that offers transitional jobs for teenagers,” says Annette Bernhardt, policy co-director at NELP. “Increasingly working families are depending on this industry, and unless we confront the serious problem of low wages in the fast food industry, we’re not going to solve the job quality problem for the labor market as a whole.”³⁹

The low wages are particularly egregious because the industry leaders – McDonald’s and Yum! Brands – remain exceptionally profitable. *Bloomberg* reported that McDonald’s profits rose 135 percent from 2007 to 2011; its CEO made \$8.8 million and it paid \$6.0 billion in dividends and stock buy-backs in 2011. Similarly, Yum! Brands’ profits rose 45 percent from 2007 to 2011; its CEO made \$20.4 million and it paid out \$1.2 billion in dividends and stock buy-backs.⁴⁰

As a reporter for *Bloomberg News* noted, a 20-year veteran employee of McDonald’s who still makes \$8.25 per hour “would need about a million hours of work – or more than a century on the clock – to earn the \$8.75 million” that McDonald’s paid its CEO in 2011.⁴¹

2012

“The biggest wave of job actions in the history of America’s fast-food industry began at 6:30 a.m. on Thursday at a McDonald’s at Madison Avenue and 40th Street, with several dozen protesters chanting: ‘Hey, hey, what do you say? We demand fair pay.’”

— THE NEW YORK TIMES, NOV 29, 2012

Despite the low wages and poor conditions of fast food jobs, there has never before been a concerted

POLICY SOLUTION #5

Create the Mayor’s Office of Labor Standards

Too often, rights that are codified into law go ignored in practice. For workers and the broader community to benefit from laws such as the proposed paid sick leave act, sustainable scheduling, and car wash legislation, New York City must facilitate effective and aggressive enforcement on the ground. In order to ensure that these laws make a meaningful difference in low-wage workers’ lives, New York City should establish a Mayor’s Office of Labor Standards that would be a central enforcement hub for the policies aimed at regulating problem industries or elevating standards for workers.

The office would be a key advocate for low-wage workers: educating employers about their obligations under the laws, investigating complaints of illegal behavior or retaliation, and bringing actions – in either administrative tribunals or courts – against egregious violators. In addition to enforcing NYC’s employment laws, the office could act as a powerful legal aid department for workers who have suffered violations of federal and state employment law: after conducting investigations and encouraging settlements, it could refer important cases to the appropriate federal or state agencies for enforcement proceedings.

Such an office could also establish strategic enforcement partnerships with legal aid offices and community based organizations to improve compliance with the laws in high-violation industries. And, by collecting fines from violators and fees from regulated entities, the office could be made revenue neutral – it wouldn’t cost taxpayers a cent, but it would help ensure that the City’s economy is working for all New Yorkers

organizing effort by fast food workers. That's finally changing. On November 29, the nation's television stations, newspapers, and websites were filled with stories about the industry's low wages because workers at restaurants across New York City were walking off the job, demanding change.

As the *New York Times* reported, "[The Madison Avenue] demonstration kicked off a day of walkouts and rallies at dozens of Burger King, Taco Bell, Wendy's, McDonald's and other fast-food restaurants in New York City, organizers said. They said 14 of the 17 employees scheduled to work the morning shift at the McDonald's on Madison Avenue did not — part of what they said were 200 fast-food workers who went on strike in the city."⁴²

In a few short sentences, CNN gave its readers the full picture: "Pamela Waldron makes \$7.75 an hour as a cashier at the KFC in New York's Penn Station, where she has worked for eight years. That's just 50 cents above the New York state minimum wage. The 26-year old nursing student, and mother of two, says she has asked for a raise but her pleas have gone unheeded for weeks. Finally, on Thursday, around lunchtime she joined a protest of about 40 fast food workers who walked out of their shifts, carrying placards and shouting slogans to bring attention to their cause of fighting for higher wages and the right to unionize."⁴³

Under the banner Fast Food Forward, the workers are demanding a \$15 hourly wage and the right to organize for improved conditions free from employer intimidation.⁴⁴ The day after the first strikes, although the vast majority of employees returned to work without incident, one worker returned to her job at the Wendy's on Fulton Street in Brooklyn only to be told by her boss that she was fired for absenteeism. But after activists, community leaders, and a member of the City Council occupied and picketed the store, the Wendy's manager backed down and permitted the woman to return to work. *Salon* reported that "Joshua Williams, who works at the same store, said that when his co-worker was told she was fired, 'I was upset, but I had to come to reality, like, Yo, this isn't going to happen like this, they can't fire you.' When her job was restored soon after, he said, his reaction was, 'If this can happen, then this change that we're trying to make, I know it's going to definitely happen.'"⁴⁵

NOTES

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POLICY PROPOSALS

PART III

The real engine of change comes from workers building their own movement, taking action in their workplaces and in the streets, and generating broader public pressure for change. But as the workers have highlighted, government has an important role to play as well. To begin with, New York State should raise the minimum wage and authorize the City to set its own higher minimum wage by amending the home rule law. In addition to state policies, New York City's next Mayor and City Council can support the City's low-wage workers in their fight for dignity, respect, and decent wages by taking several concrete steps. The new administration that takes office in 2014 should enact policies that will lift standards for working families, ensure broad compliance in industries known to flout the law, and shine the spotlight on corporate behavior so New Yorkers can make informed choices about where to take their business. These policy recommendations should not be seen as a replacement for the innovative organizing workers themselves are engaged in, but as critical policy solutions that support all New Yorkers in the fight to create a just, livable City for all working families.

RAISE THE STANDARDS:

New York City should create minimum standards to improve the quality of jobs and encourage high-road employment.

- *FIRST, by passing the Earned Sick Leave Act, the City Council would ensure that all workers can stay home when they are sick or to take care of a sick family member. Too often sick workers must choose either to go without treatment or to risk losing their jobs or a day's pay in order to take time off to see the doctor. Not only will the Act improve life for one million New Yorkers who currently have no paid sick time, but it will improve public health by keeping sick people from spreading illness to co-workers, other commuters, school children, and the broader community.*
- *SECOND, NYC should enact the Predictable Scheduling Act. As explained above, the Act will give retail employees a minimal level of predictability in their schedule and permit them to plan for child and elder care, classes, second jobs, doctor's visits, and other crucial aspects of daily life.*

- ➔ *THIRD, there should be a defined set of minimum standards that employers of passenger service workers must meet in relation to wages and benefits before being permitted to perform work on airport premises.*
- ➔ *FOURTH, New York City should pass a resolution urging the State to modify the City's home rule authority so that the City can set a minimum wage that is higher than the state minimum, reflecting the higher cost of living in the City.*

MONITOR PROBLEM INDUSTRIES:

- ➔ *FIFTH, in the industries most plagued by violations of law, New York City should enact regulations like the Car Wash Accountability Act to ensure that workers are paid properly, consumers are protected from fraud, and the public is protected from environmental and other harms.*
- ➔ *SIXTH, New York City should establish a Mayor's Office of Labor Standards to help enforce the new employment laws passed by the City Council and to advocate on behalf of low-wage workers who have been deprived of their rights under federal, state, or local law.*

CONCLUSION

New York City's working families continue to face serious challenges: entrenched inequality is worsening and the growing sectors of the City's economy are hallmarked by low-wage, insecure jobs without benefits. But despite the bleak economic picture, workers have begun fighting in unprecedented numbers for a new vision of the City. From car washes to fast food restaurants to retail outlets to JFK, workers are joining together to win stable jobs, living wages, and critical benefits.

In the 1930s, in response to the Great Depression and nationwide worker organizing, the American government passed sweeping reforms that raised labor standards, increased consumers' purchasing power, and set the stage for forty years of broadly-shared economic prosperity. In 2013, in response to this era's Great Recession and the exciting worker organizing throughout New York City, it is time for New York's elected officials to once again enact policies that expand the middle class and permit all workers to support their families with dignity and security. As the inspiring worker-led efforts make clear, we are at a critical turning point. It is in the interest of all New Yorkers that we build a just, equitable, and diverse City for years to come.

