

November 24, 2020

ATTORNEY GENERAL RAOUL RELEASES WORKER PROTECTION UNIT TASK FORCE REPORT

Report Details Workers' Challenges and Recommendations to Protect Workers' Rights

Chicago — Attorney General Kwame Raoul issued the [Worker Protection Unit Task Force \(Task Force\) report](#). Raoul submitted the report to Governor JB Pritzker and the General Assembly, which highlights the problems facing Illinois workers and the Task Force's recommendations to further protect workers' rights.

The Task Force was created under a law initiated by Attorney General Raoul that went into effect on Jan. 1, 2020. The Task Force, chaired by Raoul, is comprised of state's attorneys, as well as representatives from the Illinois Department of Labor, the Illinois Department of Employment Security, the Illinois Department of Human Rights, the Illinois Workers' Compensation Commission and the Attorney General's office. The goal of the Task Force is to allow agencies to more efficiently share information, facilitate cooperation with community stakeholders, and develop and implement best practices for identifying bad actors and combatting systemic discrimination, wage theft and other unfair and unlawful practices affecting Illinois workers.

"The Worker Protection Unit Task Force has helped define the challenges Illinois workers face daily, which have only been amplified by the COVID-19 pandemic," Raoul said. "Partnerships between government and prosecutors are key to fighting wage theft and other unlawful employment practices that harm employees and law-abiding businesses. We also must connect with community groups and organizations representing workers to create a bridge between vulnerable workers and the government. I am committed to utilizing these partnerships and working with Task Force members to implement these recommendations to improve our ability to secure fair compensation and safe workplaces in Illinois."

Throughout the past year, the Task Force held meetings that featured testimony from union representatives, workers, and workers' advocates about the ongoing challenges affecting Illinois workers. The report outlines the most pressing challenges faced by Illinois workers, such as dangerous working conditions for low-wage workers, wage theft, misclassification, erosion of employee protections and benefits, employers circumventing Illinois' prevailing wage law, harassment, and discrimination toward women and people of color. During 2020, the spread of COVID-19 has become one of the most pressing issues facing workers and has magnified the impact of persistent workplace violations, and front-line workers and representatives of the unions that represent them described the safety hazards workers continue to face. In addition, Task Force members explained the work their respective agencies are doing to protect workers during the pandemic.

The Task Force's report also highlights ongoing efforts to address these challenges and opportunities for government entities to continue to work together. Specifically, the Task Force offered recommendations to effectively collaborate on prevention and enforcement efforts by:

- **Creating subject matter enforcement working groups:** Persistent unlawful practices by employers require the attention of different governmental entities, depending on the subject area. By creating working groups to focus on specific issues, the agencies represented by task force members can work together to set priorities and draw on their respective tools and resources to most effectively take action against bad actors and prevent recurring unlawful practices.
- **Sharing data and information between agencies:** One obstacle to effective enforcement is that key information held by governmental entities often exists in "silos" and is not easily accessible by

other enforcement agencies. Identifying useful information that each respective agency holds and strategizing about how best to analyze and share this information is necessary to improve enforcement actions.


- **Committing to regular communications with stakeholders to share insight and information:** Part of any enforcement effort should include outreach to community and labor organizations that interact with workers. Establishing regular communication and collaboration can result in enforcement opportunities that may be missed by traditional government points-of-contact.

Attorney General Raoul has long fought unlawful employment practices, and has continued to do during the COVID-19 pandemic. Raoul has devoted resources to educate and obtain compliance from employers in protecting their workforces through adequate health and safety measures during the pandemic. Raoul also joined and led multistate efforts urging Amazon, Whole Foods and Walmart, to strengthen measures to protect the health and safety of their workers during the COVID-19 pandemic.

In August, Raoul filed a lawsuit against Voyant, a beauty packaging company in Cook County, and installed a monitor following complaints of sexual harassment and retaliation from workers. Raoul has also initiated a civil action against companies unlawfully conspiring to fix workers' wages and restrict their right to find better employment opportunities. Additionally, Raoul joined coalitions of attorneys general calling on the federal government to stop the implementation of a proposed rule that would strip workers of key protections provided under the Fair Labor Standards Act and the implementation of the U.S. Department of Labor's Joint Employer Rule, which would undermine important labor protections for workers.

The law creating the Task Force also codified a unit within the Attorney General's office that has clear legal authority to enforce violations of worker protection laws. Attorney General Raoul encourages workers who believe their rights have been violated to contact his Workplace Rights Bureau by calling 1-844-740-5076 or by visiting the [Attorney General's website](#).

Please see attached for statements from Task Force members.



**WORKER
PROTECTION
UNIT TASK
FORCE
REPORT**

2020

**Illinois Attorney General Kwame Raoul, Chairperson
Submitted to the Governor and General Assembly
November 23, 2020**

WORKER PROTECTION UNIT TASK FORCE REPORT

EXECUTIVE SUMMARY

The wealth of our state is in its workforce. Illinois' laws are designed to protect workers from a variety of unscrupulous practices by employers who try to cut corners at the expense of their workforce. These wage and labor laws not only protect the state's workforce but also affirm the practices of employers who do the right thing. While Illinois has strong statutes on the books to support workers and law-abiding businesses, vigilant enforcement is required for those laws to be effective.

The Worker Protection Unit Task Force ("Task Force") was created as part of a new law that formally establishes a Worker Protection Unit within the Office of the Attorney General ("OAG").¹ The membership of the Task Force consists of state agencies, designated county state's attorneys, and other stakeholders committed to enforcing workplace protections. This report describes the work of the Task Force and the OAG's Worker Protection Unit during the first year in which the new law has been in effect.

The first meeting of the Task Force took place on January 23, 2020. Before the next planned meeting in April 2020, the COVID-19 pandemic began to accelerate in the United States. As a result, this report reflects both a reality that existed for workers prior to the pandemic and a new reality ushered in by COVID-19. If anything, COVID-19 has magnified the pre-existing challenges faced by Illinois workers:

- Low-wage workers frequently confront dangerous working conditions that threaten their health and safety.
- Certain employers steal wages from workers by failing to pay them at the proper rate for work performed as determined by the state's minimum wage and prevailing wage laws.
- Unlawful deductions are taken from workers' paychecks.
- Industries misclassify their workforce in order to evade wage and labor laws.
- Employee protections and benefits have eroded due to an increasingly fissured workplace in which companies seek to avoid some of the costs and obligations placed on employers through the use of subcontractors and independent contractors.
- Women and people of color continue to be subjected to harassment and discrimination.

¹ Public Act 101-0527, <https://ilga.gov/legislation/publicacts/101/PDF/101-0527.pdf>.



These challenges facing workers in Illinois are not new, even if the COVID-19 pandemic has exacerbated them. The goal of this report is to highlight ongoing efforts to begin tackling these challenges and ways that government entities can work together to further address these issues. Specifically, the Task Force offers the following recommendations for the future to effectively collaborate on prevention and enforcement efforts:

- *Subject Matter-Focused Enforcement Working Groups* – Persistent unlawful practices by employers require the attention of different governmental entities, depending on the subject area. By creating working groups to focus on specific issues, the member entities can work together to set priorities and draw on their respective tools and resources to most effectively take actions against bad actors and prevent recurrent unlawful practices.
- *Sharing Data and Information Between Entities*– One obstacle to effective enforcement is that key information held by governmental entities often exists in “silos” and is not easily accessible by other enforcement entities. Identifying useful information that each respective entity holds and strategizing on how best to analyze and share this information between enforcement entities is necessary to bridge this divide.
- *Regular Communications with Stakeholders to Share Insight and Information* – Part of any enforcement effort should include reaching out to those in community and labor organizations who interact with workers facing the challenges identified in this report. Establishing regular communications and collaboration with these individuals and groups can bring to light opportunities for enforcement that may be missed by traditional government points-of-contact.

I. The Worker Protection Unit Task Force

In 2019, the OAG worked extensively with the Illinois Department of Labor, legislators, and other interested parties to address the concerns raised in a prior version of the bill that became Public Act 101-0527. This collaboration resulted in a stronger piece of legislation. The resulting bill passed out of the legislature with bipartisan sponsorship and support.²

Public Act 101-0527, which became effective on January 1, 2020, gives clear enforcement authority to the OAG for certain labor statutes³ while simultaneously creating a Task Force to bring together each agency charged with protecting the state’s workers to strategize how to leverage their collective resources in the most efficient and effective manner.⁴ Adopting a coordinated approach across the state helps ensure that workers can count on the protections the law provides and that businesses can compete on a level playing field. The need to adopt a coordinated approach to protecting workers is even more important now in the face of the ongoing health and safety concerns posed by the COVID-19 pandemic.

A. The Task Force’s Statutory Requirements

The Task Force seeks to “promote statewide outreach and enforcement efforts to target businesses that violate the State’s worker protection laws.”⁵ The statutory goals of the Task Force are to:

- (1) create a coalition in Illinois dedicated to protecting the State’s workforce and law-abiding businesses;
- (2) facilitate the timely sharing of information between Task Force members relating to suspected worker exploitation;
- (3) improve targeting methods, implement best practices, and develop strategies to systemically investigate worker exploitation; and
- (4) work cooperatively with labor and community organizations, businesses and business coalitions, and other advocacy groups to increase public awareness on the underground economy in an effort to promote fairness, combat discrimination, and protect the welfare of the State.⁶

²See Senate Bill 161 as amended by Senate Amendment 1 (101st General Assembly) <https://www.ilga.gov/legislation/101/SB/PDF/10100SB0161sam001.pdf>. An earlier version of the legislation passed out of the legislature in the 100th General Assembly, but then-Governor Rauner vetoed the bill. See Senate Bill 193 (100th General Assembly) <https://ilga.gov/legislation/BillStatus.asp?GA=100&DocTypeID=SB&DocNum=193&GAID=14&SessionID=91&LegID=100108>.

³15 ILCS 205/6.3.

⁴15 ILCS 205/6.4(a).

⁵*Id.*

⁶*Id.*



The Task Force is chaired by the Attorney General and comprised of State’s Attorneys selected by the Attorney General and representatives from the OAG, the Illinois Department of Labor (“IDOL”), the Illinois Department of Employment Security (“IDES”), the Illinois Department of Human Rights (“IDHR”), and the Illinois Workers’ Compensation Committee (“IWCC”).⁷ The following individuals have been appointed to the Task Force:

Kwame Raoul, *Illinois Attorney General and Task Force Chairperson*

Alvar Ayala, *Workplace Rights Bureau Chief, Office of the Attorney General*

Robert Berlin, *DuPage County State’s Attorney*

Michael Brennan, *Chairman of the Illinois Workers’ Compensation Commission*

Kimberly Foxx, *Cook County State’s Attorney*

John Greenwood, *Special Prosecutions Bureau Chief, Office of the Attorney General*

James Gomric, *St. Clair County State’s Attorney*

Brent Harzman, *Manager, Charge Processing Division, Illinois Department of Human Rights*

Michael Kleinik, *Director of the Illinois Department of Labor*

John Waters, *Senior Policy Advisor, Illinois Department of Employment Security*

The statute requires the Task Force to submit a report “regarding its progress” to the Governor and General Assembly by December 1, 2020.⁸ This report is submitted to the Governor and the General Assembly in accordance with that statutory requirement.

B. Summary of the 2020 Task Force Meetings⁹

In 2020, the Task Force held three meetings—a schedule curtailed by the COVID-19 pandemic. Despite having to transition to a virtual format from the original plan of quarterly meetings at locations across Illinois, the Task Force’s three meetings (one in-person and two virtual) provided valuable insight into the ongoing challenges facing Illinois workers and a forum to establish connections between state and local governmental entities to address those challenges.

January 23, 2020 Meeting

On January 23, 2020, the Task Force held its first meeting in Chicago. During the meeting, the Task Force members elected Attorney General Raoul to serve as Chairperson of the Task Force.

Members of the Task Force listened to presentations from the following workers, labor organizations, and worker centers on the challenges facing Illinois workers: Tim Drea, President of the Illinois AFL-CIO; Mark Poulos, Executive Director of the Illinois-Indiana-Iowa Federation for Fair Contracting;

⁷ 15 ILCS 205/6.4(b).

⁸ 15 ILCS 205/6.4(d).

⁹ The meeting agendas and adopted minutes are attached to this Report.

Alison Howlett Walters, Executive Director of Chicago Laborers' District Council; Martin Unzueta, Executive Director of Chicago Community and Workers' Rights; Fernando Corona, a low-wage worker from the Little Village neighborhood in Chicago; Chris Williams, Director of National Legal Advocacy Network; and Daisy Corral, a former staffing agency worker liaison and whistleblower.

Mr. Drea spoke about the many ways that workers experience wage theft in Illinois, and shared insight on how the problem impacts workers in all types of industries from workers in construction to workers who rely on tips. Mr. Drea noted that part of the challenge in addressing wage theft is the risk of retaliation that workers face when they complain. The threat of retaliation falls particularly hard on vulnerable immigrant workers who are often afraid to seek assistance from state authorities.

The problem of wage theft and the risk of retaliation were further demonstrated by Mr. Unzueta and Mr. Corona. Mr. Corona narrated his own experience with wage theft having worked for weeks at a restaurant only to have his employer refuse to pay him his earned wages. When Mr. Corona demanded payment with the help of a worker center, Chicago Community and Workers' Rights, his employer threatened to call federal immigration authorities and get him deported. Mr. Corona was able to continue fighting for his wages with the support of his worker center. Mr. Unzueta highlighted the importance of worker centers, like his organization, which are deeply rooted in their communities, in protecting the most vulnerable workers in Illinois.

Similarly, Ms. Corrales and Mr. Williams spoke about the discrimination faced by low-wage workers in the temporary staffing industry. Ms. Corrales, who worked as a liaison between a temporary staffing agency and the company-clients it serviced, described how the agency's company-clients would turn away African American workers seeking work, and how the staffing agency would fulfill discriminatory requests for Latino workers and bans on African American workers. Ms. Corrales also noted how the company-clients would make gender-specific requests for laborers from the staffing agency using words like "heavy" as code for men and "light" as code for women. Mr. Williams noted that sexual harassment is another form of discrimination faced by temporary laborers. That discrimination is a very common challenge faced by women working as temporary laborers. As Mr. Williams noted, unscrupulous employers using temporary staffing agencies often abuse their power to terminate a worker's assignment to force workers to choose between keeping their jobs and enduring sexual harassment.

Ms. Howlett Walters and Mr. Poulos also spoke of the prevalence of misclassification in the construction industry. Ms. Howlett Walters spoke about how employers shirk key Illinois statutes like the Prevailing Wage Act to rob workers of their wages and benefits. Mr. Poulos also described how certain employers in the construction industry rely on misclassifying workers and ignoring Illinois employment and prevailing wage statutes to gain an unfair competitive advantage over law-abiding contractors. Both Ms. Howlett Walters and Mr. Poulos also noted successful efforts in states like New York to use criminal penalties to tackle wage theft and payroll falsification and send a powerful message of deterrence. Ms. Howlett Walters and Mr. Poulos shared that similar criminal penalties currently exist in Illinois law, and could also be used as a deterrent to combat these practices.



September 17, 2020 Meeting

Despite the new challenges posed by the pandemic, the Task Force virtually convened a second meeting via WebEx on September 17, 2020. During the second Task Force meeting, members had the opportunity to listen to accounts from front-line workers and the unions that represent them about the safety hazards workers have faced during the pandemic. The members themselves also explained the work their respective agencies have done to protect workers during the pandemic, which is explained in further detail below. At this second meeting, the Task Force heard presentations from: Bob O'Toole, President of United Food & Commercial Workers ("UFCW") Local 1546; Zach Koutsky, Legislative Director of UFCW Local 881; Brian Tarbill, a Walmart worker in Dixon, Illinois; Bob Schroeder, Business Manager for Laborers Local 231; Jake Moody, Business Representative for the Carpenters Union Local 277; and Isaura Martinez, a community organizer with the Chicago Workers' Collaborative and former temporary worker.

Mr. O'Toole spoke about the risks that workers in health care, retail, food packing and processing, and manufacturing have faced during the pandemic. Mr. O'Toole noted that while employers have enacted measures to improve the safety for workers in these sectors, some employers were slow to act, and more remains to be done. For example, not all workers are protected by plexiglass in these industries, and customers who refuse to wear masks put workers in retail, like grocery stores, at risk. Moreover, despite safety measures implemented in meat packing plants, COVID-19 continues to impact workers in these facilities. These workers, Mr. O'Toole noted, have to choose between feeding their families and risking their lives every day.

Mr. Koutsky also spoke about the challenges faced by workers in retail, food production, and health care. He noted how hundreds of Local 881's members have contracted COVID-19, but continue to show up for work every day to serve their communities. Mr. Koutsky also emphasized the need for legislative action to make sick leave available to workers in Illinois and protect workers from retaliation for taking leave when sick. Front-line workers, he noted, have oftentimes been retaliated against for quarantining despite current protections in the law. Moreover, workers often do not have the option to quarantine because they are not entitled to any paid leave under the existing patchwork of federal and state laws and regulations.

Mr. Tarbill gave first-hand accounts of the problems described by Mr. O'Toole and Mr. Koutsky. Mr. Tarbill described how the unfair expectations placed on Walmart workers who are sick and inadequate paid sick-leave policies are not new or unique to the current pandemic. Mr. Tarbill noted how workers often feel pressured to come to work even if they are sick because paid leave is not typically an option for them. Mr. Tarbill also described how Walmart is not adequately enforcing a requirement for customers to wear face coverings, and how front-line workers are tasked with attempting to enforce the requirement against sometimes belligerent customers.

Mr. Schoeder presented on the difficulties workers in the construction industry face in staying safe during the pandemic. The work that members of his union perform does not typically allow for adequate social distancing, making mask wearing essential to worker safety. Yet many contractors still do not require their employees to wear masks or face coverings. Mr. Schroeder also noted the

confusion created by the lack of consistency across federal and Illinois laws and guidelines when it comes to the availability of paid sick leave. Mr. Schroeder noted that employers need to ensure that sick workers have access to paid leave and can quarantine at home so other employees are safe.

In addition to highlighting the impacts of the pandemic, the presenters reminded the Task Force of challenges, like misclassification and sexual harassment, which continue to impact workers even during the pandemic. Mr. Moody emphasized that the practice by employers in the construction industry of misclassifying employees as independent contractors and paying these workers in cash results in Illinois losing millions of dollars in tax revenue and unemployment insurance contributions. Moreover, employers engaging in misclassification often flaunt overtime and minimum wage laws that are intended to protect employees in Illinois. Mr. Moody called for increased enforcement and presence in the field through audits to address this problem.

Finally, Ms. Martinez, a former temporary worker at Voyant, a beauty product packaging company, spoke about the sexual harassment that temporary workers often face as well as the psychological and physical impact of this abuse on workers. Ms. Martinez reported on a consent decree the OAG negotiated with Voyant that requires independent monitoring of the company. The oversight agreement aims to help address many of the challenges that workers face in protecting themselves against sexual harassment, including the fear of retaliation, the indifference of supervisors, and the burden of obtaining evidence on their own to substantiate their allegations. The abuse that workers at Voyant faced, she emphasized, is not unique to any one company but rather a common challenge for vulnerable low-wage workers.

November 10, 2020 Meeting

The Task Force virtually convened for its final meeting of the year on November 10, 2020, to approve this report to be submitted to the Governor and General Assembly by December 1, 2020.

II. The Impact of the COVID-19 Pandemic on Illinois Workers

The original purpose of the legislation that became Public Act 101-0527 was to empower the OAG to take enforcement action against employers that have committed widespread or particularly egregious violations of workers' rights and wage and labor laws, and to foster cooperation and collaboration between government agencies that have been tasked with protecting workers. When Governor Pritzker signed the law that created the Task Force on August 23, 2019, it was not anticipated that a global pandemic would become the most pressing issue facing workers in 2020, particularly as its impact magnified pre-existing shortcomings in workplace protections.

A. Workplace Safety Concerns About COVID-19

On March 11, 2020, the World Health Organization declared COVID-19 a global pandemic. As the number of confirmed COVID-19 cases in the United States climbed in March and April of this year, states across the country, including Illinois, declared a state of emergency. On March 20, 2020, Governor Pritzker issued an executive order that required Illinois residents to adhere to social distancing guidelines and to stay in their homes or places of residence, except to engage in essential activities, perform government functions, or to operate and work at essential businesses. The Governor's order also required non-essential businesses to cease all activities in the state, except to conduct minimum basic operations.

Ordinarily, the U.S. Department of Labor's Office of Occupational Safety and Health Administration ("federal OSHA") is the primary agency responsible for ensuring safety in the workplace for private sector employees in Illinois. However, workers and community organizations were reportedly informed by federal OSHA in March that while the Center for Disease Control and Prevention ("CDC") had issued guidance for employers to control the spread of COVID-19, this guidance would not be enforced by federal OSHA.

In mid-March, the OAG's Workplace Rights Bureau began receiving complaints from workers about employers failing to comply with the Governor's executive orders and Illinois safety guidelines related to COVID-19. The complaints the OAG received described how non-essential employers were forcing workers to continue reporting for work as normal. Additionally, many workers employed by essential businesses stated that they had to keep working shoulder-to-shoulder with their coworkers and could not maintain the required social distance in their workplace. Many workers were not receiving any masks or other protective equipment from their employers, and some employers were failing to implement adequate measures to disinfect their facilities and prevent the spread of COVID-19.

The OAG responded to the rising number of pandemic-related workplace complaints by dedicating a team of Assistant Attorneys General ("AAGs") to respond to these complaints. The Workplace Rights Bureau maintained a hotline dedicated to receiving calls about COVID-19-related safety concerns in the workplace. It was not long before the OAG began receiving hundreds of complaints each week. By April 15, 2020, the OAG's COVID-19 response team had grown to a total of 32 AAGs from multiple bureaus and divisions within the office. On June 1, 2020, the OAG also assigned

13 additional support staff, including bilingual paralegals and investigators, to the COVID-19 response team to assist with interviewing individuals complaining about employers failing to abide by the requirements in the Governor’s executive orders and related state safety guidance.

Since March, the OAG has contacted hundreds of employers in an effort to achieve their compliance with the Governor’s executive orders and state safety guidance related to the pandemic. The OAG has gathered information from workers to present to employers to ensure they know about and abide by their obligations to ensure a safe workplace. The compliance measures the OAG has advocated for include: increasing distance between workers along production lines as much as possible, increasing the availability and use of protective equipment, installing barriers between workers or between workers and customers, improving contact tracing, and following adequate sanitation procedures. As employers across the state struggled with the ever-evolving challenge of operating in a pandemic, these discussions also helped educate businesses that needed guidance on how to protect their workforce from the spread of COVID-19.

Beyond one-on-one conversations with employers who were subject to complaints or submitted inquires, several member agencies developed written guidance, on their own or along with other agencies. The IDHR, in consultation with the OAG, published an “FAQ for Businesses Concerning the Use of Face-Coverings During COVID-19.”¹⁰ The Governor’s Office, IDOL, IDES, and IDPH, in consultation with the OAG, developed “Guidance for Employers and Employees on Workers’ Rights and Safety.”¹¹ The OAG developed “Guidance on Employment Leave During the COVID-19 Pandemic.”¹²

While some businesses have been able to re-open in some capacity, the pandemic is ongoing and agencies must anticipate new issues that may arise. For example, according to IDHR, it is monitoring several considerations to protect workers from potential COVID-19-related discrimination in the workplace. First, whether COVID-19 by itself – or the resulting medical conditions – qualify as a “disability” under the Illinois Human Rights Act (“IHRA”) will depend on the facts of each case, and therefore, the IDHR will make individualized assessments. Until the legislature or courts determine otherwise, the IDHR will continue to process COVID-19 related charges under the definition of “disability,” and/or “perception of a disability and/or “history” of a disability. Further, the IHRA does not cover association with a person who has a disability – for example, a spouse or dependent. The IDHR is considering legislation to include this protection. Second, the IDHR anticipates receiving charges involving requests for accommodation. These could include accommodations based on disability for an existing condition or a condition that may result from having become infected with COVID-19, or based on religious practices that are in tension with requirements for the use of personal protective equipment. Third, for inactive workers – individuals who have been laid off or furloughed due to their workplace temporarily closing – the IDHR anticipates receiving charges alleging that employers are selectively returning some staff to work on a discriminatory basis. Finally, media reports have documented various potential hate crimes

¹⁰https://www2.illinois.gov/dhr/Documents/IDHR_FAQ_for_Businesses_Concerning_Use_of_Face-Coverings_During_COVID-19_Ver_2020511b%20copy.pdf

¹¹<http://www.dph.illinois.gov/COVID19/community-guidance/workplace-health-and-safety-guidance/employee-employer-rights-and-safety>

¹²https://illinoisattorneygeneral.gov/rights/WRB_Paid_Sick_Leave_FAQ.pdf



and acts of discrimination against Asian Americans related to COVID-19. This type of harassment occurring in the workplace, housing, or a public accommodation would fall within the scope of the IHRA.

Further, the spread of COVID-19 has highlighted that access to affordable health care is now more important than ever. The CCSAO, on behalf of Cook County, is currently working with the cities of San Francisco and Oakland to author a Ninth Circuit local government amicus brief. The brief supports the City of Seattle, which is defending a worker protection ordinance against a challenge by a hospitality service group. Specifically, the Ordinance requires large hotel employers and ancillary hotel businesses to make “health expenditures” on behalf of covered employees, with the goal of improving low-wage hospital employees’ access to high quality, affordable health care coverage. The brief argues, for example, that improving low-wage workers’ access to affordable health care benefits not only workers, but also entire communities and local government health care systems.

B. Inter-Agency Collaboration Regarding COVID-19 Workplace Safety Concerns

The last time the United States faced a health crisis of this magnitude occurred over a century ago when influenza swept across the country in 1918. When COVID-19 arrived in Illinois, no one agency alone had the tools to respond to such a once-in-century challenge. Early on, the OAG sought to collaborate with traditional partners, like state agencies and the Governor’s Office, and to develop new partnerships with local health departments to better respond to the pandemic.

The OAG collaborated closely with the Governor’s Office and executive agencies to fight the spread of COVID-19 at a statewide level by participating in biweekly inter-agency calls convened by Governor’s Office to discuss statewide guidance as well as opportunities to collaborate in responding to COVID-19-related complaints and issues. The inter-agency collaboration allowed agencies to exchange information about reported cases and tap into the expertise housed within each respective agency. The Department of Commerce and Economic Opportunity (“DCEO”), the Department of Public Health (“IDPH”), the Illinois State Police (“ISP”), and counsel from the Governor’s Office regularly joined these calls. This inter-agency collaboration provided a mechanism to readily exchange information about reported cases and to tap into the expertise housed within each respective agency when developing guidance to employers and the public. It also allowed agencies to coordinate enforcement efforts and establish referral mechanisms to direct Illinois residents to the agency best suited to address their COVID-19-related concerns.

In one example, the OAG coordinated with IDOL to re-direct complaints regarding public sector employees to IDOL, which is the state agency charged with enforcing workplace safety standards for public sector employees in Illinois. According to IDOL, the enforcement and consultation federal grants require the IDOL to staff a total of 32 positions in the Illinois Occupational Safety and Health Administration (“Illinois OSHA”) division. At the beginning of 2015, there were 25 staffed positions with seven vacancies to be filled. By the end of 2018, the vacancies increased to 18, leaving only 14 staffed positions. From January 2019 to September 2020, the IDOL implemented a hiring

plan which increased staff from 14 to 22. The agency has extended offers for 5 of the remaining 10 positions and is actively recruiting for the remaining vacancies. Once all 32 positions filled, the IDOL will have reached its highest staffing level in the OSHA division since it was created.

Turning to collaboration at the local level, local health departments were well-positioned to provide needed information from health experts to address workers' concerns. Given the high volume of complaints the OAG was receiving, the OAG worked to strategically identify and notify local health departments of complaints covering large numbers of workers at increased risk of infection because of their employer's failure to follow safety guidelines. Local health departments were able to perform on-site inspections of the employer's facility, record working conditions, and make specific recommendations where necessary. This allowed the OAG to gain real-time insight into conditions in specific workplaces to aid the OAG in bringing employers into compliance with COVID-19 safety requirements. The OAG also assisted local health departments in obtaining employers' collaboration with contact tracing. As the pandemic progressed, contact tracing became an increasingly important task for local health departments. When some employers expressed reluctance to providing local health departments with important information needed for contact tracing, the OAG was able to assist in obtaining this information. The OAG's collaboration with local health departments generated multiple successes and also spurred collaboration between the OAG and State's Attorneys' Offices in multiple counties.

C. The Pandemic Is Changing the Way Agencies Serve the Public

The onset of the COVID-19 pandemic has caused all governmental entities to revise and rethink their office procedures in order to protect their employees and the public they serve. Members of the Task Force shared some of their successes in adapting their prior service delivery methods to meet the needs of the public during the COVID-19 pandemic.

Record numbers of Illinois workers have become unemployed as a result of the COVID-19 pandemic. During the first six months of the COVID-19 pandemic, the IDES received more claims than the previous four years combined. Furthermore, from March 1 to October 1, the IDES received over 2.3 million total initial claims across all programs. IDES responded to this unprecedented volume by modernizing their systems, introducing innovative technology, and collaborating with other agencies and front-line providers to serve more claimants. Through the end of September, IDES paid out more than \$16 billion in benefits to Illinoisans (inclusive of new federal programs and state Extended Benefits). It has also been the state agency charged with implementing new federal benefit programs introduced by the federal CARES Act, including: Pandemic Unemployment Assistance, which provides unemployment benefits to individuals who are not typically eligible, such as independent contractors and self-proprietors; Pandemic Emergency Unemployment Compensation, which provides 13 additional weeks of unemployment benefits to individuals who exhausted their regular benefits; Federal Pandemic Unemployment Compensation, which provides an additional \$600 per week to individuals who are receiving regular unemployment benefits or benefits under one of the new programs; and Lost Wages Assistance, which provides an additional \$300 a week in unemployment benefits to eligible individuals.



In the spring, the Illinois legislature passed a new law which creates a rebuttable presumption of workers' compensation coverage, under the Illinois Occupational Diseases Act, for all first responders and essential workers, who are exposed to and contract COVID-19.¹³ At an operational level, the IWCC, the state agency charged with resolving all workers' compensation claims between injured workers and their employers, created Special Circumstance Procedures to allow the agency to continue to operate safely during the pandemic. These procedures allow for the monthly status calls and pre-trial conferences to be conducted virtually, thus eliminating the need for large number of attorneys and other personnel to gather at IWCC hearing sites across Illinois. The IDHR has also made changes to reduce the necessity for in-person filings, and in March, published FAQ for procedures implemented in response to the pandemic.¹⁴

The duration of the COVID-19 pandemic remains unknown so it is also vital for government entities to plan for ongoing changes to service delivery. Building on its prior efforts before the pandemic to move to a paperless filing system, IWCC is implementing another phase of CompFile, a system that will replace the current paper-based filing process for cases filed by injured workers. This will allow for the filing of all documents and pleadings through the IWCC portal and will further reduce in-person traffic at IWCC. Similarly, the Illinois Human Rights Commission began to allow for electronic filing. On July 10, 2020, the IDHR published an emergency rulemaking to change three regulations to facilitate both service and filing of documents via electronic means (56 Ill. Adm. Code Ch. II, Sec. 2520.30 and 2520.40), and to allow complainants to file the charge under oath and affirmation rather than requiring notarization for non-housing charges (56 Ill. Adm. Code Ch. II, Sec. 2520.330). IDES is developing a COVID-19 Response Plan and a Continuous Operations Plan and continues to engage staff to improve its service delivery to the public in response to an unprecedented number of filed claims for unemployment assistance. It also plans to contribute to the state's economic recovery by providing programs, services, and economic analyses to employers.

¹³ [Public Act 101-0633, https://ilga.gov/legislation/publicacts/101/PDF/101-0633.pdf](https://ilga.gov/legislation/publicacts/101/PDF/101-0633.pdf).

¹⁴ <https://www2.illinois.gov/dhr/Pages/COVID-19-Alerts.aspx>

III. The Task Force Presents an Opportunity for Ongoing Inter-Agency Collaboration

Responding to the COVID-19 pandemic has required a substantial shift in focus and resources by many agencies represented on the Task Force. Nonetheless, unlawful practices that harm workers existed before COVID-19 and have only been magnified due to the current public health and economic crisis. There is a continued duty to hold irresponsible employers accountable when they violate worker protection laws by engaging in: misclassification, wage theft, failure to pay prevailing wage, systemic discrimination, and anti-competitive practices limiting workers' mobility, such as no-poach agreements. While these practices harm workers, they also harm law-abiding businesses, taxpayers, and the state at large. These are practices that concern each agency in the Task Force. Moreover, each agency in the Task Force possesses unique tools and knowledge that can be used to combat these practices. Just as COVID-19 presented an opportunity for increased inter-agency cooperation, eradicating these practices in Illinois likewise presents an opportunity for inter-agency cooperation between Task Force members.

A. Misclassification

Misclassification occurs when a worker who meets the legal definition of an "employee" under Illinois wage and hour statutes like the Illinois Minimum Wage Law ("IMWL"),¹⁵ the Illinois Wage Payment and Collection Act ("IWPCA"),¹⁶ and the Illinois Employee Classification Act ("ECA"),¹⁷ is classified or treated by their employer as something other than an employee, thereby stripping them of the benefits and protections of employment. The most common form of misclassification occurs when employees are mislabeled as independent contractors.¹⁸ This unlawful practice is common in the construction and logistics industries. The practice has also become increasingly common in the gig economy.

The incentives to misclassify workers are clear. Employees are entitled to minimum wages for all time worked, and overtime wages when they work in excess of forty hours per week. The Illinois minimum wage increased when Governor Pritzker signed into law Public Act 101-1 in 2019, which led to two minimum wage increases that have taken effect thus far: to \$9.25 on January 1, 2020, and to \$10 on July 1, 2020. IDOL has worked to ensure the increase in the state's minimum wage was communicated and enforced this year, but independent contractors are not entitled to a minimum wage or overtime wages. Employers who misclassify their workers as independent contractors usually subject workers to long work weeks while paying them subminimum wages.

Employers also have engaged in misclassification to unlawfully lower their premiums for workers' compensation insurance. Schemes to misclassify employees - either by number of employees or job category (e.g. identifying riskier jobs as something safer like clerical work) - are often discovered when there is an accident and a worker files a workers' compensation claim, but the worker

¹⁵ 820 ILCS 105/1 et seq.

¹⁶ 820 ILCS 115/1 et seq.

¹⁷ 820 ILCS 185/a et seq.

¹⁸ Misclassification can also take forms other than employees being labeled independent contractors, such as employees being treated as franchisees.

was not properly classified for benefits. Such cases have been prosecuted by the OAG's Special Prosecutions Bureau with information from the IWCC. Other misclassification schemes involve employers' failure to pay contributions to Illinois' unemployment insurance fund. This means that misclassified workers are more likely to burden state resources when they are injured at work or become unemployed. Finally, employers engaging in misclassification avoid paying any payroll taxes by passing this expense, along with every other cost of doing business, to their vulnerable workers.

Further, misclassification is often used as a means to circumvent the Illinois Prevailing Wage Act ("IPWA"). Contractors that circumvent the law underbid law-abiding contractors by relying on laborers that they misclassify and pay "off the books." These workers are often paid in cash and are not reported on contractors' certified payroll to IDOL. Such laborers are typically not paid at the mandated prevailing rate of pay, and are not paid any overtime wages for the hours they work in excess of forty per week.

IDOL and the OAG have worked together to identify actors engaging in misclassification and to collaborate around enforcement strategies. Indeed, misclassification is a particularly ripe area for further inter-agency collaboration. For example, the OAG supports IDOL's pending rulemaking that codifies long-standing principles around "joint employment."¹⁹ IDOL's proposed rule will protect workers against businesses that attempt to circumvent the Illinois Minimum Wage Law through schemes where workers perform work for the benefit of a primary company while employed on paper by a subcontractor. These schemes subject workers to misclassification and wage theft while the primary employer who controls the job and receives the benefits of the work performed is not legally liable to the worker. IDOL's rulemaking ensures that workers and employers have clear guidance on joint employers' obligations to their workforce.

In addition, the Illinois Unemployment Insurance Act sets a three-factor test to determine whether a worker is properly labeled as an independent contractor, including: a) whether the worker is free of the alleged employer's control; b) whether his or her services are outside the employer's usual course of business; and c) whether the worker is engaged in an independently established trade.²⁰ It is particularly difficult for employers seeking to misclassify employees to circumvent the requirements of this test. Using the Unemployment Insurance Act to combat misclassification presents a clear opportunity for strategic collaboration between the agencies on this Task Force.

Increasing communication and sharing of information between the agencies on this Task Force would expand tools available to combat misclassification and its effects on low-wage workers. Misclassification often goes hand-in-hand with wage theft and failure to pay prevailing wage. For example, fly-by-night contractors in the construction industry often employ vulnerable workers whom they misclassify as independent contractors. Typically, these workers are not paid any minimum or overtime wages. Too often these workers are not paid at all for entire work weeks. Illinois' wage and hour statutes, including the ECA, the IMWL, and the IWPCA, carry criminal penalties for certain violations of these the laws.²¹ Similarly, the IPWA makes failure to maintain

¹⁹ See proposed amendment 56 Ill. Admin. Code 210.115.

²⁰ 820 ILCS 405/100 et seq.

²¹ See 820 ILCS 185/45(d); 820 ILCS 115/14(a)-(c); 820 ILCS 105/11.

the records required under the Act and the knowing submission of false certified payroll a Class A misdemeanor. Strategic enforcement of criminal penalties in Illinois wage statutes to deter wage theft also presents an opportunity for increased collaboration between State's Attorneys' offices, the OAG, and other agencies on this Task Force.

B. Wage Theft and “Off the Books” Payroll Practices

As noted above, certain employers prey on vulnerable employees who they can subject to long hours of work without paying them minimum or overtime wages. These employers often pay these vulnerable workers in cash for a number of reasons. First, employers seek to avoid paying payroll taxes through this practice. Second, employers seek to avoid leaving any trace of their unlawful activities and to make it difficult for workers to recover owed wages from them. This practice often occurs in conjunction with misclassification. Employers engaging in these practices are stealing money from workers and their families as well as from Illinois taxpayers. Employers engaging in these practices are also gaining an unfair competitive advantage over law-abiding employers.

In recent years, IDOL has obtained significant success through enforcement of the Wage Payment and Collection Act. IDOL's Wage Claims Unit in its Fair Labor Standards Division helped recover \$3.9 million in back wages for workers and processed 3,800 complaints with a team of 5 staff in fiscal year 2020. The Wage Claims Unit recovered \$3.3 million in back wages for workers and processed 3,768 claims in fiscal year 2019, with most of the wages (\$1,750,527) recovered from January to June of 2019 after the change in gubernatorial administration. According to IDOL, returning money to workers that should have been paid to them is one of the agency's proudest accomplishments.

Tackling wage theft also presents an opportunity for inter-agency collaboration. For example, it is likely that employers that pay their workers “off the books” do not carry workers' compensation insurance. Part of the IWCC's responsibilities include investigating employers who do not maintain workers' compensation insurance. Earlier this year, the IWCC and the OAG worked together to successfully hold accountable an employer for failing to maintain workers' compensation insurance for a period of ten years for his trucking company. The IWCC discovered he had failed to obtain workers' compensation insurance even after taking reimbursement for the insurance from the U.S. Postal Service (“USPS”). Cooperation between the IWCC investigators and USPS found that the employer defrauded the USPS of over \$1.9 million. Working together, the OAG's Special Prosecutions Bureau sought to hold the employer criminally liable, and he pled guilty on August 21, 2020, to a Class 1 felony for theft by deception and was sentenced to six years in prison.²²

Alternatively, employers also commit insurance fraud by misrepresenting the number of workers they employ when applying to workers' compensation insurance. Needless to say, employers that engage in these practices also fail to pay any unemployment insurance contributions. As such, the problem, as noted above, goes beyond unpaid wages. Increased inter-agency collaboration and information-sharing would allow the Task Force members to address the ills associated with employers paying workers “off the books” in a more holistic fashion.

²²https://illinoisattorneygeneral.gov/pressroom/2020_08/20200821.html



C. Discrimination in the Workplace

Unscrupulous employers continue to subject Illinois workers to systemic discrimination. This discrimination takes many forms. Sometimes workers are denied the opportunity to work at all based on an immutable and protected characteristic, such as their race or gender. This kind of discrimination marginalizes communities of color by robbing workers and their families of the opportunity to earn a living. At other times, discrimination takes the form of sexual harassment. Irresponsible employers too often tolerate or promote a culture in their workplace where workers are subjected to unwelcome sexual comments, vulgar looks and gestures, physical touching and groping, and other forms of sexual harassment. Working in this kind of environment is, at a minimum, emotionally and psychologically damaging to anyone that must endure it. Tolerating these abusive work environments can escalate the situation and lead to serious crimes like sexual assault. No worker should have to balance their need to earn a living with the physical and mental harm caused by sexual harassment.

Illinois has made recent changes to its anti-discrimination and anti-sexual harassment laws in order to better protect more workers. The Illinois Human Rights Act (“IHRA”) prohibits employers from discriminating with respect to not only hiring, discipline, and discharge, but also in the terms, privileges, or conditions of employment, including the payment of unequal wages and scheduling of unequal hours on a work schedule. The IHRA also prohibits employers and their employees from engaging in sexual harassment and harassment based on a protected category. The IHRA has been amended in recent years to: expand the definition of “unlawful discrimination” to include “actual or perceived” to all protected categories (effective January 1, 2020); add a definition of “harassment” and clarify that harassment on the basis of any protected category constitutes a civil rights violation; expand protection from harassment to “nonemployees”;²³ and effective July 1, 2020, amend the definition of “employer” to include any person employing one or more employees within Illinois.²⁴ This latest amendment lowered the minimum number of employees required under the IHRA from the previous standard of 15 or more employees for most protected categories.

The OAG has sought to send a message to employers that sexual harassment in the workplace and retaliation against those who complain about sexual harassment will not be tolerated. For example, on August 24, 2020, the OAG simultaneously filed a lawsuit and a consent decree requiring Voyant, a beauty packaging facility near Chicago, to ensure the company’s practice of tolerating sexual harassment and retaliating against employees that complain about sexual harassment comes to an end. The consent decree required the company to pay a civil penalty and to subject itself to two years of independent monitoring. The OAG’s investigation was initiated soon after workers who alleged they had complained about sexual harassment at Voyant for years organized a protest. Voyant also received a petition signed by 50 workers calling for corrective action. The workers who organized this protest alleged that they were retaliated against soon afterwards. Indeed, most of them were allegedly terminated, only to be reinstated soon after the OAG initiated its

²³ Public Act 101-0221, <https://ilga.gov/legislation/publicacts/101/PDF/101-0221.pdf>.

²⁴ Public Act 101-0430, <https://ilga.gov/legislation/publicacts/101/PDF/101-0430.pdf>.

investigation. The OAG's consent decree will ensure that this culture of sexual harassment and retaliation at Voyant ends.²⁵

The women who organized themselves and complained about sexual harassment as a group in the above referenced matter showed exceptional courage and unity. Such public denouncement of sexual harassment is rare, however, which is why it is important for the agencies in this Task Force to remain vigilant and connected to the communities they serve, if this problem is to be rooted out. The same is true of other forms of systemic discrimination. The IDHR and the OAG routinely collaborate on the enforcement of the IHRA, particularly when patterns and practices of violations are identified. There is ample opportunity for continued strategic collaboration between the OAG, IDHR, and other agencies in combating workplace discrimination and harassment.

D. No-Poach Agreements, Non-Competes, and Other Anti-Competitive Practices

Anti-competitive practices like no-poach agreements and non-competes have become an increasingly common way to trap workers into low paying jobs and limit their ability to advance by seeking better employment opportunities. Recently, however, irresponsible employers have sought to use burdensome non-compete agreements in employment contracts with low-wage workers when no such legitimate interest is at stake but to erode workers' mobility and ability to seek better wages or benefits from a new employer. Non-compete clauses are frequently used in employment agreements and limit or prevent an employee's ability to work for a competitor or start their own business when they leave a job. Agreements not to compete must be reasonably crafted to protect a legitimate interest to pass muster under the law. Such agreements, for example, have long been used as a way to protect against competitors and employees stealing trade secrets or client lists from employers. The OAG has used its authority to end the abusive of non-compete clauses in several fast food franchises, pay-day loan businesses, and other low-wage, low-skill occupations.

The Affirmative & Impact Litigation Section of the Cook County State's Attorney's Office ("CCSAO") has also engaged in work to oppose non-compete clauses. On March 11, 2020, the CCSAO served as the lead author on a public comment, written on behalf of local governments, in response to a Federal Trade Commission proposed rule limiting non-compete agreements. The County's comment detailed, for example: (1) the effect of non-compete agreements on low-wage workers, particularly those already vulnerable to workplace harassment and discrimination, ie. women and minorities; (2) how non-competes can harm local law enforcement agencies, including state's attorneys' offices, by impeding their efforts to investigate workplace crimes and violations; and (3) how overly broad non-competes drain local economies of revenue, new businesses, and jobs. The cities of Baltimore, Chicago, New York, and Seattle joined the CCSAO by signing on to the comment.

Similarly, no-poach agreements also limit workers' ability to move between different employers and restrict competition in the labor market. No-poach agreements occur when employers enter into agreements not to hire each other's employees. This has an intuitive wage suppressive effect

²⁵ https://illinoisattorneygeneral.gov/pressroom/2020_08/20200824.html.



because an employer has little incentive to give an employee a raise or treat them better when they have no fear that a competitor will hire them away. While not all no-poach or no-hire agreements are unlawful, such clauses lend themselves to abuse by irresponsible employers and are particularly suspect when applied to low-wage workers as they can hide conspiracies to fix wages. The OAG has sought to use its authority to curb the use of unlawful non-competes, no-poach agreements and other restraints on trade. For example, on July 29, 2020, the OAG filed a lawsuit against three staffing agencies (Elite Staffing, Metro Staff, and Midway Staffing) and their shared client, Colony, a display and manufacturing company, alleging that they had an unlawful agreement not to solicit or hire each other's employees and to fix the wages paid to their employees.

While individual agencies have tools to tackle these unlawful practices, vigilance and teamwork from all Task Force members can go even farther to root out these violations.

E. Emerging Issues Impacting Gig Economy Workers

The rise of the gig economy has accelerated the erosion of a traditional economy where workers have access to full time employment and benefits. The flexibility that is often touted as the hallmark of the gig economy has come at the price of stability for workers. Gig workers find themselves classified as independent contractors without access to overtime or a guaranteed minimum wage, often working long hours without access to any kind of safety net. By classifying workers as independent contractors and entrepreneurs, gig economy employers like Uber, Lyft, Amazon, and a growing host of companies are increasing their profits by transferring all of the costs of doing business to their workers.

Late last year, the CCSAO began monitoring reports that gig-economy employers— particularly rideshare companies such as Uber—were building payday lending plans. CCSAO is concerned that these loans are likely to create a predatory cycle of debt for drivers. For example, Uber sent out an in-app message to some of its drivers explaining that it is “building a new financial product” to help Uber drivers with their finances “in a time of need” and asked, for example, whether drivers “have taken out a small loan in the past three years” and “if Uber provided loans, what amount are you most likely to request.” Based upon these questions, along with the lending systems already rolled out by Uber in India and Brazil, it appears likely that ridesharing companies will create payday loan programs in which they will offer drivers short-term credit of up to \$500 or more, and drivers then would repay these debts by driving for Uber. Given the history of both payday loans and ridesharing business models, the CCSAO identified this potential lending program as a system ripe for a modern form of indentured servitude in which workers are compelled to work in order to pay off debts to their employers. And although Uber and other companies have not yet launched their payday lending programs, the CCSAO is actively monitoring any progress with local government and non-profit colleagues across the country, and have received positive feedback from partners about joint enforcement efforts. Task Force partnerships can be used to monitor and curb these and other emerging issues that impact workers in the gig economy.

IV. Recommendations for Further Action

The unlawful practices harming Illinois workers discussed in this report present an opportunity for increased collaboration between the agencies appointed to this Task Force. Each member of the Task Force has expressed the need and willingness for the agencies to continue to collaborate on prevention and enforcement efforts. Illinois' response to COVID-19 exemplifies how strategic collaboration between agencies can render better results for Illinois workers. In line with these principles, the Task Force issues the following recommendations.

- **Subject Matter Focused Enforcement Working Groups**

This report has identified specific practices by unscrupulous employers that require a response by more than one agency on this Task Force. Each governmental entity has its respective legal authority, access to relevant information, and specific expertise. Strategically bringing these tools together and setting shared priorities can result in more impactful enforcement actions against bad actors and problematic industries. Strategic collaboration can include not only enforcement efforts, but partnerships on public comments to proposed regulatory changes and amicus curiae briefs in important court cases. The OAG and IDOL currently meet on a monthly basis to coordinate enforcement strategies and identify specific areas for collaboration. This model can be replicated with other agencies in the Task Force. For instance, IDOL, IDES, IWCC, the State's Attorneys, and the OAG could form a working group to discuss collaborative enforcement around misclassification, wage theft, and failure to pay prevailing wage. By setting up this working group, the participants may share information, exchange best practices, and perform joint investigations rather than one agency going it alone. The ability to aggregate resources allows for more efficient planning, as well as better field operations. Similarly, the OAG, IDOL, and State's Attorneys could form another working group to discuss enforcement of criminal penalties in Illinois' wage theft statutes. Yet another working group could consist of the IWCC, IDOL, and OAG to target fraudulent practices involving workers' compensation insurance.

- **Sharing Data and Information Between Governmental Entities**

Each government entity collects and retains information to assist in its respective regulatory and enforcement efforts, but that information is not always easily sharable with other enforcement partners. To enable the sharing of information necessary for the agencies in this Task Force to coordinate strategic enforcement efforts effectively, the Task Force working groups should identify the categories of information or documents that each respective entity may retain that could be fruitful for inter-agency enforcement efforts and how that information could be shared (particularly in light of technology hurdles). Governmental entities should enter into Inter-Agency Agreements where the law may not otherwise contemplate the sharing of information between entities. The shared information can be used to identify patterns and widespread, recurrent issues and to inform prevention and enforcement efforts. In addition, Task Force members should continue discussions about how to analyze the information at their disposal to help prioritize enforcement efforts. For example, analyses of the following categories



will help inform where government entities should be focusing their attention: (a) the estimated cost to the state of misclassification in the form of lost payroll taxes or other income; (b) data regarding industries where wage theft and misclassification are most prevalent; (c) data on industries where worker injury rates are highest; and (d) data on industries where failure to carry workers' compensation insurance is the highest.

- **Regular Communications with Stakeholders to Share Insight and Information**

A significant challenge to government's ability to combat the unlawful practices described in this report is that vulnerable workers who suffer from these practices may not be in the habit of reaching out to government agencies for assistance or may fear retaliation for doing so. For this reason, it is of critical importance for Task Force members to maintain communications with community stakeholders like legal aid organizations, worker centers, and other community organizations. Continued communications with labor organizations are also essential. These stakeholders often have deeper roots in the community and workforce than government agencies and can help create a bridge between vulnerable workers and government. Such stakeholders also have useful insight into the very unlawful practices that this Task Force seeks to address and can be very helpful in focusing Task Force members' strategic enforcement efforts. In addition, maintaining multi-lingual staff and translating forms and outreach materials will improve the government's communications with individuals and communities across the state.

V. Conclusion

The increased coordination across different agencies to protect workers' safety during the COVID-19 pandemic highlighted the benefits of inter-agency collaboration in addressing a shared challenge. This inter-agency collaboration will remain essential to continue protecting workers' safety throughout the pandemic as it will be in addressing the other persisting problems facing workers discussed in this report and can be facilitated through the Task Force members. This report's recommendations will further the Task Force's statutory goals of facilitating the timely sharing of information across agencies, and cooperating with community and union stakeholders to develop and implement best practices to identify bad actors and combat systemic discrimination, wage theft and other unlawful practices impacting Illinois workers and law-abiding employers.

MEETING AGENDAS AND MINUTES

OFFICE OF THE ATTORNEY GENERAL

**Worker Protection Unit Task Force
AGENDA**

Regular Meeting - Thursday, January 23, 2020 at 1:00 p.m.

Michael A. Bilandic Building, 160 N. LaSalle St., Room C-500, Chicago 60601

- I. Roll Call
- II. Opening remarks
- III. Election of chairperson
- IV. Adoption of rules
- V. Presentations to the Task Force regarding worker protection issues, including wage theft, misclassification, prevailing wage, worker discrimination, and the fractured workplace
- VI. Public Comments
- VII. Adjournment

OFFICE OF THE ATTORNEY GENERAL

**Worker Protection Unit Task Force
MEETING MINUTES**

Thursday, January 23, 2020

The Worker Protection Unit Task Force met in public session on **Thursday, January 23, 2020**, in the Michael A. Bilandic Building, 160 N. LaSalle St., Room C-500, pursuant to notice.

Kwame Raoul, Attorney General called the meeting to order at 1:09 p.m.

ROLL CALL

Board Members Present (10/10)

Chicago: Alvar Ayala, Office of the Illinois Attorney General
Robert Berlin, DuPage County State's Attorney (present via speakerphone)
Michael Brennan, Illinois Workers Compensation Commission
Kimberly Foxx, Cook County State's Attorney
John Greenwood, Office of the Illinois Attorney General
James Gomric, St. Clair County State's Attorney
Brent Harzman, Illinois Department of Human Rights
Michael Kleinik, Illinois Department of Labor
Kwame Raoul, Illinois Attorney General
John Waters, Illinois Department of Employment Security

Introductory Remarks:

Attorney General Kwame Raoul calls the meeting to order at 1:09 p.m. A quorum is present.

The Attorney General gave opening remarks and recognized Robert Berlin as being present by speakerphone.

New Business:

- **Election of Chairperson:** Michael Kleinik moved to elect AG, Kwame Raoul as Chairperson of the Task Force. James Gomric seconded the motion. The motion carried by the following voice vote:

Yeas:

Alvar Ayala
Robert Berlin

Michael Brennan
Kimberly Foxx
John Greenwood
James Gomric
Brent Harzman
Michael Kleinik
John Waters

- **Adoption of Rules:** John Greenwood read the proposed rules to the Task Force. The Open Meetings Act governs the Rules. Michael Kleinik moved to adopt the rules, James Gomric seconded the motion. The motion carried by the following voice vote:

Yeas:

Alvar Ayala
Robert Berlin
Michael Brennan
Kimberly Foxx
John Greenwood
James Gomric
Brent Harzman
Michael Kleinik
Kwame Raoul
John Waters

The following gave presentations to the Task Force regarding worker protection issues, including wage theft, misclassification, prevailing wage, worker discrimination, and the fractured workplace.

Tim Drea, President, AFL-CIO

Mark Poulos, Executive Director, III FCC, Local 150

Alison Howlett Walters, Executive Director of Chicago District Council.

Martin Unzueta.

Fernando Corona (Translated by Lydia Colunga-Merchant, Deputy Bureau Chief, Workplace Rights Bureau)

Chris Williams, Director of Legal Advocacy Network

Daisy Corral, former staffing agency liaison, whistleblower

The Task Force took comments from the public.

Adjournment: Having no further business to discuss, Kwame Raoul moved to adjourn the meeting, the motion was seconded by Michael Kleinik and James Gomric. The motion carried by the following voice vote:

Yeas:

Alvar Ayala
Robert Berlin
Michael Brennan
Kimberly Foxx
John Greenwood
James Gomric
Brent Harzman
Michael Kleinik
Kwame Raoul
John Waters

The meeting adjourned at 2:20 p.m. Next meeting date to be determined.

OFFICE OF THE ATTORNEY GENERAL

**Worker Protection Unit Task Force
AGENDA**

Regular Meeting - Thursday, September 17, 2020 at 10:30 a.m.
Via WebEx

- I. Roll Call
- II. Opening remarks
- III. Adoption of minutes from the January 23, 2020 meeting
- IV. Presentations to the Task Force regarding worker protection issues, focusing on issues that have arisen during the COVID-19 pandemic and ongoing workplace rights violations
- V. Presentations from Task Force members regarding how their offices have been addressing worker protection issues and ideas for agency collaboration
- VI. Public Comments
- VII. Adjournment

OFFICE OF THE ATTORNEY GENERAL

**Worker Protection Unit Task Force
MEETING MINUTES**

Thursday, September 17, 2020

The Worker Protection Unit Task Force met in public session on **Thursday, September 17, 2020**, via WebEx, pursuant to notice. The full meeting was recorded.

Kwame Raoul, Attorney General, called the meeting to order at 10:34 a.m.

ROLL CALL

Task Force Members Present (10/10)

Via WebEx: Alvar Ayala, Office of the Illinois Attorney General
Robert Berlin, DuPage County State's Attorney
Michael Brennan, Illinois Workers Compensation Commission
Kimberly Foxx, Cook County State's Attorney
John Greenwood, Office of the Illinois Attorney General
James Gomric, St. Clair County State's Attorney
Brent Harzman, Illinois Department of Human Rights
Michael Kleinik, Illinois Department of Labor
Kwame Raoul, Illinois Attorney General
John Waters, Illinois Department of Employment Security

Introductory Remarks:

Attorney General Kwame Raoul calls the meeting to order at 10:34 a.m. A quorum is present.

The Attorney General gave opening remarks

New Business:

- **Adoption of minutes from January 23, 2020 meeting:** Michael Kleinik moved to adopt the meeting minutes, Robert Berlin seconded the motion. The motion carried by the following voice vote:

Yeas:

Alvar Ayala
Robert Berlin
Michael Brennan

John Greenwood
James Gomric
Brent Harzman
Michael Kleinik
John Waters
Kwame Raoul

(Kimberly Foxx joined the meeting after the motion to adopt the minutes)

The following gave presentations to the Task Force regarding worker protection issues, including dealing with the spread of COVID-19 in meatpacking and processing plants, retail establishments, and trades, and ongoing issues with misclassification, prevailing wage, and sexual harassment

Bob O'Toole, President of UFCW Local 1546

Zach Koutsky, Legislative Director UFCW Local 881

Brian Tarbill, worker from Walmart

Bob Schroeder, Business manager, Laborers' Local 231

Jake Moody, Business Representative, Carpenters 237

Isaura Martinez, organizer/temp worker, Chicago Workers Collaborative (translated by Alvar Ayala)

The following Task Force members gave presentations/comments about their agencies work to protect workers during the pandemic

Michael Brennan, Chairman, Workers Compensation Commission

Brent Harzman, Charge Processing Division Manager, Illinois Department of Human Rights

Michael Kleinik, Director, Illinois Department of Labor

John Waters, Manager, Senior Policy Advisor, Illinois Department of Employment Security

Cook County State's Attorney Kim Foxx

DuPage County State's Attorney Robert Berlin

St. Clair County State's Attorney Jim Gomric

Alvar Ayala, Bureau, Workplace Rights Bureau, Illinois Attorney General's Office

No members of the public sought to give public comment

Adjournment: Having no further business to discuss, Kimberly Foxx moved to adjourn the meeting, and the motion was seconded by Michael Kleinik. The motion carried by the following voice vote:

Yeas:

Alvar Ayala
Robert Berlin
Michael Brennan
Kimberly Foxx
John Greenwood
James Gomric
Brent Harzman
Michael Kleinik
Kwame Raoul
John Waters

The meeting adjourned at 12:20 pm. Next meeting date to be determined.

OFFICE OF THE ATTORNEY GENERAL

**Worker Protection Unit Task Force
AGENDA**

Regular Meeting – Tuesday, November 10, 2020 at 10:30 a.m.
Via WebEx

- I. Roll Call
- II. Opening remarks
- III. Adoption of minutes from the September 17, 2020 meeting
- IV. Approval of status report to be submitted to the Governor and General Assembly by December 1, 2020
- V. Public Comments
- VI. Adjournment