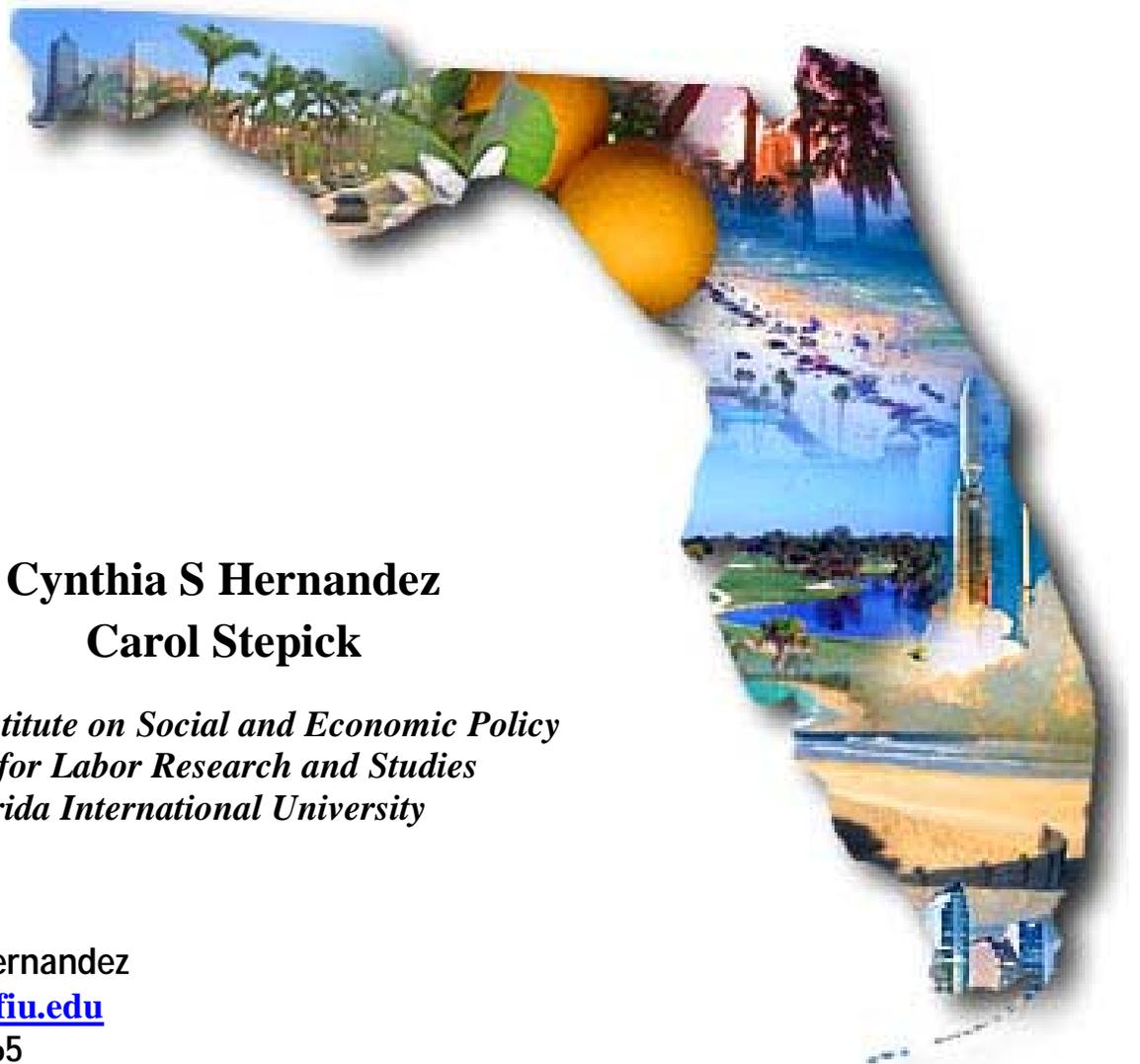


Wage Theft: An Economic Drain on Florida

How Millions of Dollars are Stolen from Florida's Workforce



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Executive Summary

This is the second in a series of reports monitoring the growing problem of wage theft in Florida. Using previously unanalyzed data from the U.S. Department of Labor's Wage and Hour Division and separate data from various community organizations, this report shows evidence of a widespread problem across a broad spectrum of industries in Florida. The industries especially impacted are those commonly thought of as the core of Florida's economy—tourism, retail trade, and construction. Moreover, it appears more likely to affect those workers who can least afford it. Workers who receive low wages seem to be more likely to have their wages stolen by employers and as demonstrated in this report this is a large number of people. But, even this data does not account for the full magnitude of the problem, as an unknown number of cases go unreported. Indeed, as data on wage theft accumulates, the more it becomes clear how widespread wage theft is in the state of Florida and throughout the state's industries.

Wage theft is defined as workers not receiving wages that they are legally owed. It occurs in different forms including unpaid overtime, not being paid at least the minimum wage, working during meal breaks, misclassification of employees as independent contractors, forcing employees to work off the clock, altering time cards or pay stubs, illegally deducting money from employees' pay checks, paying employees late, or simply not paying employees at all. Unfortunately, many employers know they can get away with wage theft and have little fear of sanction. Enforcement mechanisms are weak, due to lack of dedicated enforcement capacity at the state level, limited capacity of local branches of the Federal Department of Labor, and the gaps in U.S. labor laws that leave many employees unprotected.

The data from this report reveal that:

- **Over \$28 million of unpaid wages have been recovered** by the U.S. Department of Labor Wage and Hour Division in Florida, Miami-Dade's Wage Theft Ordinance and community groups throughout Florida.
- The primary pillars of Florida's economy are undermined by widespread theft of employees' wages. **Florida's key industries have the highest numbers of reported wage violations—tourism, retail trade and construction.**
- An average of **3,036 wage violations per year are reported** to the U.S. Department of Labor's Wage and Hour Division in Florida (DOL-WHD).
- In spite of ample evidence of widespread wage theft among low income workers, as of December 2011, the **Florida Attorney General had not brought one single civil action to enforce the state's minimum wage law** enacted in 2004.
- Since the full implementation of the Miami-Dade County Wage Theft Ordinance in September 2010, the Miami-Dade County's Small Business Development agency has recovered nearly **\$400,000 in unpaid wages for 313 workers** who unlawfully had their wages withheld from them.
- Out of the six counties we analyzed, **the largest number of cases were in Miami-Dade County followed by Hillsborough, Broward, Pinellas, Palm Beach and Orange counties** in that order.

Overall, the data suggest that the primary pillars of Florida's economy are undermined by widespread theft of employees' wages. Florida's key industries have the highest numbers of reported wage violations—tourism, retail trade and construction. Tourism, represented by *Accommodation and Food Services* in official data, has been a core focus of Florida's economy for nearly a century and it has the highest frequency of reported wage violations. Retail trade has been a growing generator of employment in Florida for decades. Jobs in both tourism and retail tend to pay relatively low wages. Thus, when there is theft from wages that are already relatively low, employees and their families are likely to suffer even more severely. The third industry plagued by wage theft, construction, does offer higher average wages than either tourism or retail trade, but the averages conceal considerable variation. While wages in the construction industry are higher on average than tourism or retail trade, much construction work is done through subcontracting with often only verbal agreements between a subcontractor and employees; and wages are often paid in cash. Under these conditions, it is relatively easy and common for subcontractors to not pay employees the wages they are due.

The wage theft stories collected by community based organizations offer a glimpse into the impact of wage theft on individual employees. They demonstrate the unscrupulous competitive advantage that some employers gain by ignoring the law and causing suffering most often among those who can least afford it. When we consider that many employees who lose wages to wage theft earn at or near minimum wage with no benefits like health insurance we can imagine that the loss of even a small amount of earnings imposes real hardship. In the six most populous Florida counties, the Department of Labor's Wage and Hour Division recovered wages just under \$16 million dollars. The average amount of recovered wages is \$651 per employee who made a claim, more than a full week's work for someone earning \$15 an hour, and more than two weeks work for someone earning the minimum wage. This average is a significant amount of money for an individual employee to lose over the course of a year. But, any loss of legitimately earned wages is a significant financial loss and a violation not only of the law but also of the social contract between employee and employer that is fundamental to a market economy.

This analysis of wage theft cases also raises the question of whether a county and state economy can be healthy and grow while tolerating an unjust business model that avoids contributing to tax revenues. The employers who fail to follow the laws concerning their employees create an unfair business environment that penalizes those who do follow the law. Maintaining a level playing field for businesses is critical to maintaining a competitive business environment and to economic growth. The dishonest business model of practicing wage theft puts law abiding employers at a competitive disadvantage and undermines Florida's efforts to attract business.

This report reveals that through the efforts of the U.S. Department of Labor's Wage and Hour Division, Miami-Dade County's Wage Theft Ordinance, and community organizations throughout Florida, millions of dollars of unpaid wages have been recovered. Yet, all indicators are that much more can be done by simply enforcing existing wage and hour laws and by creating a statewide process that address the problem, since Florida has no state equivalent to a Department of Labor to investigate wage and hour complaints and does not have staff to enforce its minimum wage law. The evidence accumulating of a spreading illegal and ultimately an anti-business practice raises serious questions for a state economy and local economies hoping to attract businesses and employees to grow.

Wage Theft: An Economic Drain to Florida

This is the second in a series of reports monitoring the growing problem of wage theft in Florida.¹ This report shows evidence of a widespread problem that affects a vast array of industries and a large number of Florida's workforce. The data in this report demonstrate the remarkable number and diversity of wage theft cases that have been reported to community organizations, Miami-Dade's Wage Theft Program, and of the U.S. Department of Labor's Wage and Hour Division of the Florida offices. But, even this does not account for the full magnitude of the problem, as an unknown number of cases go unreported. Wage theft affects seemingly all industries in Florida, but especially those that are commonly thought of as the core of Florida's economy—tourism, construction, and retail trade. Moreover, it appears more likely to affect those who can least afford it. Those employees who receive low wages seem to be more likely to have their wages stolen by employers.

Wage theft is defined as employees not receiving wages that they are legally owed. It occurs in different forms including unpaid overtime, not being paid at least the minimum wage, working during meal breaks, misclassification of employees as independent contractors, forcing employees to work off the clock, altering time cards or pay stubs, illegally deducting money from workers pay checks, paying workers late, or simply not paying employees at all. Unfortunately, many employers know they can get away with wage theft and have little fear of sanction. Enforcement mechanisms are weak, due to lack of dedicated enforcement capacity at the state level, limited capacity of local branches of the federal Department of Labor, and to the gaps in U.S. labor laws that leave some of Florida's workforce unprotected.

The problem of wage theft is gaining attention around the nation, and evidence suggests it occurs in all industries and to employees of all wage levels. A study by the National Employment Law Project in 2008 surveyed 4,387 workers in the three largest U.S. cities—Chicago, Los Angeles, and New York, and

Examples of Recent Florida Wage Theft Cases

"In May 2010, my brother worked for a month, Monday to Saturday, from 7am until 7pm. His job was at a commercial construction site of a major supermarket in the southern region. The manager on the site never paid him time and time again. The manager eventually left for Orlando and the workers never got their money." -Jonathan, West Palm Beach County

"One of my co-workers has worked up to a month without pay; he is told by the subcontractor that he won't get paid until the contractor pays him. They've even changed their telephone numbers as to not be found." -James, Delray Beach

"I was working for a telemarketing company. There were several instances, at least 3, in which my check bounced when I tried to deposit it into my account." -Martha, Lake Worth

"I know that other businesses in this area are not paying their workers their full wages. This makes it very difficult for me to stay in business because I'm not cutting down on labor costs." -Ian, Miami-Dade

found that 68% of those surveyed had experienced at least one pay-related violation in the previous work week. The average worker lost an average of \$2,634 annually, which translated into wage theft of 15% of their earnings, or an estimated combined loss of more than \$56.4 million dollars per week due to wage theft.² Wage theft is not a phenomenon isolated to remote sectors of either the United State’s economy or geography. The issue can be found in large and mid-sized American cities as well as in suburban and rural areas.³

The lack of data on wage theft in Florida has kept wage theft in the shadows until recently. This report presents data from the Federal Department of Labor Wage and Hour Division branches in Florida, the Miami-Dade Wage Theft Program, and local Florida community based organizations that track incidences of wage theft among their members and community residents. Through the efforts of community based organizations detailed in this report, we see growing evidence that the number of unreported cases may be very large. Many cases are never reported to any agency because employees are unaware of their rights or afraid to come forward for fear of retribution. In addition, large numbers of cases are not recorded by any government agency because the employee’s occupation or the employer’s business fall outside the jurisdiction of U.S. laws to protect employees. This means that the true impact of wage theft in Florida is unknown but is likely very large. The data from this report reveals that over \$28 million dollars have been recovered by efforts to secure proper payment of wage theft cases in Florida in just two and a half years. If this is the amount that was recovered from cases that were reported to the relatively unknown agencies who work on wage theft cases, we hypothesize that the number of actual unpaid wages is significantly more because most people are unlikely to report their claims or know where to go to make a report. This means that employees, families, and their communities are losing millions of dollars that are vital to their economic health.

The true extent of wage theft in Florida remains unknown because many workers do not file complaints.

Since 2006, the Research Institute on Social and Economic Policy (RISEP)⁴ at Florida International University has been working with the Florida Wage Theft Task Force (WTTF)⁵ to create a database of wage violations collected by community organizations throughout Miami-Dade County. The database has grown to include cases reported by other organizations from other counties in Florida. The purpose of the database is to document the extent of wage theft, to quantify how much lost wages have been recovered, and to see which industries in Florida are most affected by the problem.

In the first report released in November 2010, we presented data on wage theft cases brought to We Count! and El Sol, two community organizations in Miami-Dade County and Palm Beach County respectively, and we also included data reported by the U.S. Department of Labor Wage and Hour Division (WHD) offices in these two counties. That report revealed that nearly 4,000 wage violations had occurred and over \$3 million dollars had been recovered in unpaid wages, from September 2006 through March 2010 in those two counties. The data in the first report showed that wage theft happened primarily in low-wage industries, for example in restaurants and hotels, but that it was also happening in professional and higher salary businesses, such as

legal services, and architecture and accounting firms, public and private schools, and medical professional and para-professional services.⁶

This report presents previously unanalyzed data on wage theft in Florida. The first focus is on two and a half years of enforcement data reported by the Wage and Hour Division (WHD) of the U.S. Department of Labor (DOL) for the entire state and for Miami-Dade, Palm Beach, Broward, Orange, Hillsborough and Pinellas Counties. We also analyze data on wage theft cases collected from six community organizations in three counties for different time periods, and data from the Miami-Dade County Small Business Development Agency (SBD), which oversees Miami-Dade County's Wage Theft Ordinance, for the period from March 2010 just after when the ordinance was first passed until January 6, 2011. The community organizations' data reflect wage theft cases not reported to WHD, either because they are cases that do not fall under WHD's jurisdiction-- meaning that the WHD was unable to help workers because they were not covered under federal labor laws, or the victims did not know about or were afraid to approach WHD.

The number of reported cases demonstrates the magnitude of the problem in various parts of the state. At the same time because we know that many employees simply do not file complaints for unpaid wages thus, the sheer number of wage theft cases presented in this report by the DOL's Wage and Hour Division, Miami-Dade's SBD, and by community organizations may be only a fraction of the true magnitude of wage theft in Florida.

The implications for the economic well-being of workers, the honest competition among businesses, and the potential for a negative impact on attracting new enterprise and workers to Florida are undeniably serious.

Wage and Hour Laws and Their Enforcement

Existing Federal Laws

America's workplace laws are failing to protect the nation's workforce.⁷ The Fair Labor Standards Act (FLSA) was signed into law in 1938. It requires, among other things, that employers pay their employees at least a federal minimum wage (currently \$7.25 per hour), and pay overtime for hours worked more than a standard work week (currently 1.5 times the regular wage for over 40 hours worked per week). It also restricts child labor and requires employers to maintain accurate records of all hours worked and wages paid to employees. However, FLSA applies only to employers who: "engage in interstate commerce, produce goods for interstate commerce, or handle, sell, or work on goods or materials that have been moved in or produced for interstate commerce," generally above a \$500,000 per year threshold.⁸ It does not cover hospital, school, or government workers or workers at small, local firms, including contractors for larger companies. Other federal labor laws such as the Agricultural Worker Protection Act,⁹ the Davis-Bacon Act,¹⁰ and others also contain exemptions that exclude millions of workers in the U.S. from wage and hour protections.

Limited Enforcement of Existing Laws

Recent government and policy reports have noted that across the country, enforcement of labor laws have been inadequate, resulting in an increase in workplace violations such as wage theft.¹¹ Although the Obama Administration launched a major national campaign to address wage theft and has increased the budget and the number of investigators in the U.S. Department of Labor's Wage and Hour Division, the number of investigators is still grossly inadequate compared to the American workforce. A report by a non-partisan research institute in Ohio found that for every 146,000 U.S. workers, there is one Wage and Hour Division investigator.¹² The Wage and Hour Division does not have sufficient capacity to deal with all the cases of wage theft or other workplace violations that occur across our country.

Nationally, there is one Wage and Hour Division investigator for every 146,000 workers. In Florida there are 1.2 million workers for every WHD investigator, over eight times the national average.

With only six investigators for the entire state of Florida, it is safe to say the capacity of the WHD offices is limited.¹³ In fact, in December 2010, in Florida there were 1.2 million workers for every WHD investigator, over eight times as many as the national average.¹⁴ A June 2009 report released by the Government Accountability Office (GAO) found that Miami's Wage and Hour – Department of Labor (WHD-DOL) office failed to return multiple phone calls and record all cases in its database. The Miami WHD-DOL investigator told an undercover GAO researcher that because of the office's backlog it would take eight to ten months to start an investigation of a new case.¹⁵

The majority of the wage theft cases documented by Miami-Dade's Small Business Development Agency and community organizations, and presented in this report show that the WHD-DOL could not accept their cases, often because workers were not covered under federal labor laws. The WHD-DOL lacks the jurisdiction to help many workers recover their unpaid wages. In an interview with a newly hired Wage and Hour investigator, the frustration of not being able to help all workers was apparent. "It's so frustrating at times because I wish I had more jurisdiction to help people who are not covered by federal laws."¹⁶

The lack of resources within the WHD-DOL in Florida has created a major backlog of cases. This is a cause of concern, given that the Fair Labor Standards Act has a two-year statute of limitations, except in the case of a willful violation, in which case a 3-year statute applies. In other words, unless the violations are willful, back wages may only be recovered within two years of when the violations occurred. This means that employees only have two years to collect their unpaid wages from the time the violation took place.¹⁷ Consequently, every day that the WHD delays an investigation, the claimants risk of becoming ineligible to collect unpaid wages increases.

In 2000, the Florida legislature voted on an initiative of then governor Jeb Bush to dismantle the state's Department of Labor and Employment Security (DOLES). The state reorganized DOLES' functions and established the not-for profit corporation Workforce Florida and the Agency for Workforce Innovation (AWI). AWI handles several of the former DOLES' responsibilities, but not wage and hour complaints. Currently, Florida has no state equivalent to a Department of Labor to investigate wage and hour complaints and does not have staff to enforce its minimum wage law (currently set at the rate of \$7.67 per hour).¹⁸ As of December 2011, the Florida Attorney General had not brought one single civil action to enforce the state's minimum wage law enacted in 2004.¹⁹

As of December 2011, the Florida Attorney General had not brought one single civil action to enforce the state's minimum wage law enacted in 2004.

State wage and hour enforcement is an important protection for Florida's workforce. Employers also benefit from enforcement, since it levels the playing field and keeps those employers who do not follow the law and pay the full wages due to their employees from gaining an advantage over those who do.²⁰ Federal and state minimum wage laws have numerous exemptions that exclude millions of workers in Florida from protections against employers who withhold their earnings.²¹ For those employees who are not covered under federal and state labor laws there are very few avenues for redress.²² The combination of exemptions and inadequate enforcement for those who are covered leaves Florida's workforce vulnerable to wage theft and other forms of labor violations.

Very recently one Florida County responded to the federal and state deficiencies and enacted an effective enforcement mechanism. The Miami-Dade County Ordinance, overseen by the county Small Business Development Agency, is filling an important gap by taking cases that cannot be resolved elsewhere. The Wage Theft Ordinance is an effective enforcement mechanism and an exception to the lack of recourse faced by many victims of wage theft.

Responses to Wage Theft

The Miami-Dade Wage Theft Ordinance

In 2006, several community-based organizations whose clients and members were experiencing wage theft came together to address the problem and create solutions.

Coordinated by the Florida Immigrant Coalition (FLIC),²³

these community organizations coalesced into the South Florida Wage Theft Task Force. Since then, more organizations including labor unions, faith based, immigrant rights, legal advocates, and university groups across three counties joined the task force and renamed it the Florida Wage Theft Task Force (WTTF). The task force's mission is to create solutions to remedy wage theft.

Need to File a Wage Theft Claim?

Visit Miami-Dade's

Small Business Development Agency at:

<http://www.miamidade.gov/sba/home.asp>

Miami-Dade County's Wage Theft Ordinance has recovered nearly \$400,000 in unpaid wages for 313 employees whose wages were unlawfully withheld from them.

On February 18, 2010, Miami-Dade county commissioners voted 10 to 0 for the passage of the first county wide Wage Theft Ordinance in Florida. This law established a policy of intolerance for wage theft and seeks to recover lost wages and punish employers who choose to break the law. To accomplish these goals, the ordinance provided for the creation of a readily accessible mechanism that allows county residents to report employers who have not paid all of the wages legally earned to their employees.

The Small Business Development Agency (SBD) was designated to administer and oversee the Wage Theft Ordinance. The SBD is also charged with overseeing and enforcing the county's Living Wage Ordinance. Under the Wage Theft Ordinance, the SBD established a review and implementation process that first attempts to conciliate any claims by notifying the employer of the filed claim and asking both parties to provide supporting documents. The employer must provide payment records. If they fail to do so they have violated federal labor laws. Should SBD staff be unable to reconcile a claim, the case is sent to a hearing examiner.²⁴ If a hearing examiner finds an employer guilty of violating the Wage Theft Ordinance, the employer becomes liable for the original wage owed, plus an additional amount equal to two times the wages owed as compensation to the employee.²⁵ Additionally, the employer will be liable to the county for the cost of the hearing examiner and administrative fees. The threshold for filing a claim is \$60 of unpaid wages and there is no cost for filing. The Miami-Dade Wage Theft Ordinance covers all employees in the county, including those who are not covered under the federal or state laws.

The majority of the employees who have filed wage complaints with the SBD were not covered by the federal and state minimum wage laws, meaning that the WHD of the DOL could not take their cases. In fact, the SBD estimates that 60 to 80 percent of its incoming cases have been referred from the Wage and Hour Division in Miami. Since the full implementation of the Miami-Dade County Wage Theft Ordinance in September 2010, the SBD has recovered nearly \$400,000 in unpaid wages for 131 workers who unlawfully had their wages withheld from them.²⁶

In November 2010, an employee was able to recover \$7,000 for 3 months worth of unpaid wages under Miami-Dade County's Wage Theft Ordinance. The employer initially refused to pay but later conciliated with the Small Business Development Agency that oversees the Ordinance. The employee sought help at the Department of Labor's Wage and Hour Office, but after weeks of trying to submit a claim, she was finally informed that they could not help her because she was not covered under the Fair Labor Standards Act. *"Thanks to the Miami-Dade Ordinance, I was able to recover the money that I earned. I know of many other workers who have suffered from this type of abuse and the county needs to protect workers against employers who do not pay their employees,"* she stated.¹

The Miami-Dade Ordinance fills a gap by handling cases that the Federal Department of Labor cannot. In a Miami Herald article, Will Garnitz, director of the Miami office of the U.S. Department of Labor states, “federal labor law only applies to those business connected directly or indirectly to interstate or foreign commerce. For those people who work in places where the federal law doesn’t apply, where are they supposed to go?” he asked.²⁷

It is still too early to evaluate how much of a deterrent to wage theft the Ordinance will be. In the meantime, it is an accessible and effective enforcement mechanism for employees without other recourse, to recuperate wages owed, but not paid.²⁸

Florida’s U.S. Department of Labor Wage & Hour Division (WHD)

Although Miami-Dade’s Wage Theft Ordinance has helped and continues to help workers in Miami-Dade County recover wages owed to them, wage theft is a problem that affects the entire state of Florida. In this section we present data reported the Wage and Hour Division (WHD) of the U.S. Department of Labor in Florida from September 2008 to January 2011. The WHD publicly reports the raw data on their website which includes: names and addresses of businesses that have violated FLSA, number of employees affected by the violation, the number of case violations, the wages employers agreed to pay, the number of employees paid, and the North American Industry Classification (NAICS) industry code for each offending business. The WHD does not record data on cases for which employers refuse to pay wages that are owed, does not report amounts claimed to be owed by employees, nor cases that fall outside of their jurisdiction. In this report, we analyzed the WHD data using SPSS²⁹ to quantify the number of wage violations, the number of employees who were employed in the violations, the industries in which the wage violations occurred, and the money that was agreed to be paid by the violating employers to the affected employees.

Table 1 lists the cases in different industries that have been reported by the WHD from September 2008 to January 2011, for the entire state of Florida. The industries are listed in descending order from the industry with the largest number of wage violations to the industry with the least number of wage violations. It shows that the total number of reported wage violations in the state of Florida between September 2008 and January of 2011, was 9,109, an average of 3,036 wage violations per year. Overall, the data suggest that the primary industrial pillars of Florida’s economy are undermined by widespread theft of employees’ wages.

Table 1 demonstrates that Florida’s key industries have the highest numbers of reported wage violations—*Accommodation and Food Services*, *Retail Trade* and *Construction*. *Accommodation and Food Services* have been a core focus of Florida’s economy for nearly a century and it has the highest frequency of wage violations. This industry includes: hotels, restaurants, bars, casinos, food service caterers, and other food serving establishments. Together these businesses employ a large proportion of Florida’s workforce and are fundamental to Florida’s tourism trade. Moreover, these businesses tend to pay relatively low wages. Thus, when there is wage theft from wages that are already relatively low, workers are likely to suffer even more severely. The *Construction* industry on which Florida’s recurring housing booms has been based had the third largest number of violations. While wages in the *Construction* industry are higher on average than some other industries, much work is done through subcontracting with often only verbal

agreements between a subcontractor and workers; and wages are often paid in cash. Under these conditions, it is relatively easy and common for subcontractors to not pay workers the wages they are due. Because construction jobs nose-dived when the housing bubble burst, wage theft violations have probably also decreased. Table 1, however, reports wage theft violations **after** the housing bubble burst.

Table 1. WHD-DOL Wage Theft Cases in Florida Sept 2008-Jan 2001	
Industry	Number of Wage Theft Cases
Accommodation and Food Services	1,680
Retail Trade	904
Construction	870
Healthcare and Social Assistances	825
Administrative Support & Waste Management & Remediation Services	810
Agriculture, Forestry, Fishing & Hunting	504
Other services (except public administration)	466
Manufacturing	456
Transportation & Warehousing	408
Educational Services	385
Professional, Scientific & Technical Services	363
Investigation & Security Services	271
Real Estate & Rental & Leasing	214
Finance & Insurance	209
Information	181
Public Administration	163
Wholesale Trade	162
Art, Entertainment and Receptions	138
Utilities	38
Missing Info*	24
Mining	17
Private Household	13
Management of Companies & Enterprises	8
Total	9,109
Source: U.S. Department of Labor, Wage and Hour enforcement data analyzed by RISEP	
* The Wage and Hour enforcement data provides the North American Industry Classification System (NAICS) code for each case. However, we could not locate the industries using the codes provided by the WHD for these cases.	

In between Florida’s construction booms and busts, retail trade remains a relatively stable and increasing component of Florida’s economy. Yet, it, too, contains considerable wage theft. In *Retail Trade*, wage theft violations are likely to consist of not paying employees time and a half for overtime or asking employees to begin work before clocking in at the beginning of the day and continuing to work after clocking out at the end of the day. As with the *Accommodation and Food Services* industry, the *Retail Trade* industry pays relatively low wages and employees losing wages due to them is likely to cause undue suffering.

The industries with the smallest number of reported wage violations were *Private Households* with 13 cases. One of the occupations under the *Private Household* industry represent domestic workers who work as cooks, maids, chauffeurs, gardeners, and nannies. Emerging research, including the community organizations’ data presented below, shows that domestic workers employed in the

Private Households industry may be among the most abused workforce in terms of wage violations, but because they are among the most isolated and vulnerable workers and are often not covered by federal or state laws, they are simply not reporting their cases or the WHD–DOL is unable to take their cases because of limited or lack of jurisdiction.

For example, live-in domestic workers are excluded from overtime pay and home care workers are completely excluded from both overtime pay and minimum wage provisions.³⁰

Table 2 presents the amount of unpaid wages recovered in each industry for all cases reported by the WHD-DOL in Florida, from September of 2008 to January 2011. The total amount of money recovered in Florida in 2 ½ years was \$28 million dollars. The types of wage violations and amounts included are described below.

Table 2. WHD-DOL Recovered Wages Reported by Industry In Florida Sept 2008 to Jan 2011			
Industry	Total Recovered Wages by Industry	Number of Wage Theft Cases	Average Amount Recovered Per Employee
Accommodation and Food Services	\$4,275,053	1,680	\$2,545
Administrative Support & Waste Management & Remediation Services	\$4,166,846	810	\$5,144
Construction	\$3,750,299	870	\$4,311
Healthcare and Social Assistances	\$2,495,817	825	\$3,025
Retail Trade	\$1,855,967	904	\$2,053
Manufacturing	\$1,691,324	456	\$3,709
Professional, Scientific & Technical Services	\$1,492,536	363	\$4,112
Transportation & Warehousing	\$1,189,379	408	\$2,915
Other services (except public administration)	\$1,167,725	466	\$2,506
Investigation & Security Services	\$875,350	271	\$3,230
Information	\$829,915	181	\$4,585
Educational Services	\$795,116	385	\$2,065
Art, Entertainment and Receptions	\$682,189	138	\$4,943
Real Estate & Rental & Leasing	\$654,092	214	\$3,057
Agriculture, Forestry, Fishing & Hunting	\$592,458	504	\$1,176
Finance & Insurance	\$496,032	209	\$2,373
Wholesale Trade	\$469,643	162	\$2,899
Public Administration	\$407,500	163	\$2,500
Utilities	\$218,775	38	\$5,757
Missing Info	\$97,321	24	\$4,055
Mining	\$33,099	17	\$1,947
Management of Companies & Enterprises	\$17,774	8	\$2,222
Private Household	\$8,884	13	\$683
Total	\$28,263,094	9,109	\$3,103

Source: U.S. Department of Labor, Wage and Hour enforcement data analyzed by RISEP

Accommodation and Food Services, the industry with the most documented wage violations, is also the industry with the largest amount of recovered unpaid wages, over \$4 million dollars, an average of \$2,545 of recovered wages for every one of the 1,680 affected employees working in this industry. Workers in the *Administrative Support and Waste Management and Remediation Service* industry received the second largest amount of recovered wages. The average amount of recovered wages per affected worker employed in this industry was \$5,144. This is more than double what a worker in the *Accommodation and Food Service* industry recovered and is because workers in this industry earn nearly double the annual wages of workers in the *Accommodation and Food Service* industry.³¹

The largest average amount of recovered back wages per employee at \$5,757 dollars was reported for the *Utilities* industry. We hypothesize that this may be due to the wage structure of the utilities industries where workers are more likely to earn higher wages, and as a result, recover more money when unpaid wages are awarded. The second largest average amount of recovered back wages per affected worker at \$4,943 dollars was reported for the *Art, Entertainment and Recreation* industry. Workers in this industry are employed as writers, musicians, theatre performers, athletes, or agents and managers.

The smallest amount of money recovered both in terms of the industry and per affected worker was in *Private Households*. Domestic workers clearly are not reporting wage abuse to the WHD and for those who do only a very few cases are falling within the agency's jurisdiction. As a consequence across the entire state only \$8,884 was recovered for the total industry. This represents an average of \$683 in recovered wages per worker whose cases were reported. From Table 2 we can see that the average amount of wages recovered by the 9,109 workers who filed a wage violation claim is \$3,103 dollars per employee.

While millions of dollars have been recovered for Florida workers through the Wage and Hour Division of the U.S. Department of Labor in just the last 2 ½ years, it is important to note that not all workers who have experienced wage theft are covered under the agency's jurisdiction nor do all workers come forth to report this abuse. We know from previous research and the organizations that serve different worker groups that the majority of workers who have experienced wage violations are not likely to report their complaints because they fear retaliation from their employers. They believe they will lose their jobs, and they fear harassment and discrimination, including threats of being reported for deportation.



The total amount of money recovered in unpaid wages in Florida in just under 2½ years was over \$28 million dollars.

Examples of Successfully Resolved Cases Mediated by WHD-DOL

Off the Clock Work Still Counts:

In August 2010, the WHD recovered \$433,819 dollars in back wages owed to 69 employees of Walt Disney Parks and Resorts in Orange County, Florida. Disney agreed to pay their employees following an investigation that uncovered violations of the Fair Labor Standards Act. These violations included requiring employees to work off the clock and not paying them for that time, and having employees work through their meal times. Wage and Hour Deputy Administrator Nancy Leppink said, "While Walt Disney has specific rules regarding off-clock work, an investigation conducted by the Department of Labor's Wage and Hour Division found that managers within the company were not adhering to those important policies. It is not enough to have policies. Management must also ensure that all supervisors are implementing them."¹

Not Paying for Overtime:

In February 2011, WHD-DOL recovered \$60,000 in back wages from Los Avina Mexican Restaurants in Alachua and Levy Counties. In violation of the Fair Labor Standards Act (FLSA), the owner failed to pay the minimum wage and overtime compensation to five of its employees. The owner also failed to keep complete and accurate records of employees' work hours and wages, as required by FLSA.

Stiffing Employees:

In August 2009, after not being paid a month's worth of wages, 49 employees of Miami manufacturer Hoover Industries received \$44,485 in back wages from the company. The company agreed to pay their employees following an investigation by the WHD. The director of the Miami WHD office stated, "We are pleased that after explaining the FLSA rules to the company and our intention to prevent them from shipping their production to their customers, the company agreed to meet its legal obligations to its employees. These actions have enabled us to seek justice for these vulnerable workers."

Wage and Hour Division Data by County

In this section we examine six of Florida's most populous and economically important counties where we see that the numbers of reported cases are extremely high, but have differing patterns. The data presented is from the WHD-DOL in Miami-Dade, Palm Beach, Hillsborough, Pinellas and Orange Counties (highlighted in Figure 1).



As can be seen in Table 3, the largest amounts of wages were recovered in Miami-Dade County with \$5,920,338, respectively it was the county with the largest number of employees affected by wage theft, at 7,641. While the smallest amount of recovered wages for the six counties reported in this section, was in Orange County with \$1,028,290. Orange County had the smallest amounts of recovered wages, yet it had 221 more wage theft cases than Palm Beach County.

Table 3 also shows the average amount that each employee recovered in wages. Comparing Tables 2 and 3, we see that recovered wages are much higher on average statewide than they are in the most populous counties. We unfortunately do not know if that is because the fewer cases outside of the larger counties are more egregious or if it is more difficult to recover wages in the largest counties. Among the five most populous counties, the largest average amount of wage recovery per worker with \$775 was reported for employees in Miami-Dade, followed by Hillsborough with \$694 per worker. The lowest amount was in Orange County with \$428 in average wages recovered per employee.

Table 3 Wages and Number of Employees with Wage Theft Cases in Six Florida Counties Sep 2008 to Jan 2011			
County	Total Wages Recovered	Number of Employees with Wage Theft Cases	Average Wages Recovered Per Employee
Miami-Dade	\$5,920,338	7,641	\$775
Hillsborough	\$3,266,775	4,705	\$694
Broward	\$2,246,687	3,894	\$577
Pinellas	\$1,874,978	3,615	\$519
Palm Beach	\$1,578,701	2,181	\$724
Orange	\$1,028,290	2,402	\$428

Source: U.S. Department of Labor, Wage and Hour enforcement data analyzed by RISEP

The variation in cases among these six counties is still unexplained. These differences may be due to several factors including levels of awareness about wage theft as an illegal and dishonest practice among workers and employers, levels of awareness about where to go to for help and to report wage theft, different concentrations of businesses and industries practicing wage theft, different socio-economic and cultural profiles of the workforces, and different degrees of worker organization in different industries in different counties. As more local governments and community based organizations become involved in addressing wage theft and public education and awareness about wage theft increases locally, the patterns of cases reported for each of these counties may change.

In Table 4 we continue our analysis of the six counties by looking at the total amount recovered in wages by industry. The table is color-coded to highlight those industries in each of the six counties that had the highest rates of wage theft recovered by the WHD-DOL in Florida. As mentioned above, the largest total amount of wages recovered, at \$5,920,338, was reported in Miami-Dade County, while the smallest amount at \$1,028,290 was reported in Orange County. The largest total amount of wages recovered was from the *Accommodation and Food Service* industry due to the very large amounts reported for that industry in Miami-Dade (\$1,104,568), Hillsborough (\$643,183), Broward (\$506,228), and Palm Beach (\$300,856) counties.

As cited earlier in this report, the WHD reports wage violations most frequently in the *Accommodation and Food Service* industry; and it is in this industry that the largest total of recovered wages for all six counties was reported, reaching close to \$3 million dollars over two and a half years.

High levels of wage violations were also reported by the WHD for workers in the *Construction* industry in Miami-Dade, Hillsborough, Broward, Pinellas, and Palm Beach counties. This industry had the second largest total of recovered wages at just under \$2 million dollars. Total recovered wages for workers in the *Administrative Support, and Waste Management, and Remediation Service* was also high at over \$1.5 million dollars. The amount of total recovered wages in this industry was highest in Miami-Dade, Hillsborough, and Orange Counties.

Table 4
Wages Recovered by Industry by County
Sept 2008 to Jan 2011

Industry	Miami-Dade	Hillsborough	Broward	Pinellas	Palm Beach	Orange	Total
Accommodation and Food Services	\$1,104,568	\$634,183	\$506,228	\$284,444	\$300,856	\$63,649	\$2,893,928
Administrative Support & Waste Management & Remediation Services	\$670,636	\$499,785	\$72,441	\$126,600	\$22,578	\$139,306	\$1,531,346
Agriculture, Forestry, Fishing & Hunting	\$35,986	\$19,792	\$0	\$0	\$5,758	\$20	\$61,556
Art, Entertainment and Recreations	\$271,944	\$21,201	\$983	\$16,416	\$151,363	\$4,407	\$466,313
Construction	\$689,493	\$371,708	\$385,672	\$302,007	\$170,974	\$18,344	\$1,938,199
Educational Services	\$116,135	\$71,550	\$53,120	\$23,940	\$17,191	\$16,150	\$298,086
Finance & Insurance	\$33,844	\$26,038	\$40,797	\$115,883	\$2,036	\$8,607	\$227,206
Healthcare and Social Assistances	\$499,083	\$314,027	\$177,149	\$325,378	\$92,268	\$88,136	\$1,496,041
Information	\$371,946	\$126,256	\$22,708	\$54,274	\$68,084	\$8,960	\$652,227
Investigation & Security Services	\$259,137	\$157,641	\$19,327	\$3,146	\$145,602	\$158,872	\$743,724
Management of Companies & Enterprises	\$0	\$664	\$0	\$0	\$0	\$14,289	\$14,953
Manufacturing	\$521,145	\$76,418	\$138,725	\$286,701	\$24,913	\$8,119	\$1,056,022
Mining	\$1,395	\$464	\$1,050	\$0	\$810	\$708	\$4,427
Missing Info	\$280	\$218	\$0	----	\$0	\$0	\$1,132
Other services (except Public admin)	\$400,383	\$126,158	\$102,649	\$27,443	\$89,105	\$57,213	\$802,953
Private Household	\$1,557	\$0	\$0	\$0	\$3,864	\$0	\$5,422
Professional, Scientific & Technical Services	\$347,190	\$150,786	\$245,984	\$53,068	\$13,272	\$194,682	\$1,004,983
Public Administration	\$33,371	\$28,928	\$2,742	\$5,499	\$8,240	\$24,456	\$103,235
Real Estate & Rental & Leasing	\$51,534	\$53,897	\$83,328	\$25,450	\$247,261	\$41,296	\$502,767
Retail Trade	\$279,000	\$341,275	\$55,393	\$142,807	\$68,622	\$110,670	\$997,766
Transportation & Warehousing	\$154,665	\$68,731	\$170,830	\$65,883	\$60,561	\$67,943	\$588,612
Utilities	\$0	\$121,931	\$0	\$1,311	\$5,190	\$1,441	\$129,873
Wholesale Trade	\$77,047	\$55,124	\$167,562	\$14,092	\$80,154	\$1,019	\$394,999
Total	\$5,920,338	\$3,266,774	\$2,246,688	\$1,874,978	\$1,578,702	\$1,028,290	\$15,915,77

Source: U.S. Department of Labor, Wage and Hour enforcement data analyzed by RISEP

Color Legend:

- Red—industry with largest amount of recovered wages
- Green—industry with 2nd largest amount of recovered wages
- Blue—industry with 3rd largest amount of recovered wages

In Pinellas County, the patterns of recovered wages by industry varied from the patterns in the other counties. There workers in the *Healthcare and Social Assistances* (\$325,378) and *Manufacturing* (\$286,701) industries along with construction workers (\$302,007) recovered the highest amounts of wages. This differed from the patterns of wages recovered for workers in other counties where the *Accommodation and Food Services* and *Administrative Support, and Waste Management, and Remediation Service* industries accounted for the largest amounts of recovered wages. Among the industries accounting for the largest amounts of recovered wages the pattern in Orange County varied distinctly. There the industry from which the largest amount of wages were recovered was *Professional, Scientific, and Technical Services* (\$194,682) followed by the *Investigation and Security Service* industry (\$158,872).

In Palm Beach County the *Real Estate, and Rental, and Leasing* industry represented the second largest category of recovered wages (\$247,261), Further demonstrating that wage theft is not confined to the low wage industries the *Professional, Scientific, and Technical Services* industry was in the top three industries where the highest amounts of wages were recovered in Broward and Orange Counties.

The total amount of recovered wages in all of the industries combined for all six counties was just under \$16 million dollars. If we divide this amount by the total number of workers who were reported by the WHD as having experienced wage violations for the six counties (from Table 3), the average amount of recovered wages is \$651 per employee, more than a full week's work for someone earning \$15 an hour and more than two weeks work for someone earning the minimum wage. This average is a significant amount of money for an individual employee to lose over the course of a year. But, any loss of legitimately earned wages is a significant financial loss and a violation not only of law but also of the social contract between employee and employer that is fundamental to a market economy.

Community Organizations Combat Wage Theft

The wage theft cases reported by the Wage and Hour Division of the DOL presented in the previous sections of this report may be just “the tip of the iceberg.” In this next section we present information on wage theft cases that were not reported to the WHD-DOL or Miami-Dade's Wage Theft Program.³² As such, they provide complementary data to that of WHD-DOL and indicate how wage theft is truly widespread. These wage theft cases were collected by several community-based organizations in Miami-Dade, Palm Beach, and Hillsborough Counties.

The organizations in Miami-Dade are all founding members of the Florida Wage Theft Task Force and have worked over the years to document wage theft cases and collect back wages owed to their members. These organizations are We Count!, The Farmworkers Association of Florida, The American Friends Service Committee, and Americans for Immigrant Justice, formerly known as the Florida Immigrant Advocacy Center.

In Palm Beach County, El Sol Neighborhood Resource Center and People Engaged in Active Community Efforts have been collecting wage theft stories. These community organizations have been meeting with county commissioners for over a year in an effort to create a local county ordinance that would address the issue of wage theft in Palm Beach County.

The Florida Institute on Community Studies in Hillsborough County began to document wage theft case in January 2011. Each organization started systematically collecting case information and joined the wage theft database project at different times, and each has differing capacity for data collection tasks. Recently, most of these organizations started using a standardized intake form and with the help of RISEP are systematically entering their cases into a collaborative database.³³ Participation in the database will continue to expand as more organizations throughout the state join it.

Each organization in the three counties has unique information to contribute that is slightly different from the data reported by the WHD and Miami-Dade's SBD office, but which illustrates the wage abuses experienced by the workforce that fall outside the WHD jurisdiction or are not reported to WHD or the SBD. Because each organization's data is from different time periods and reported in different ways, we could not combine it all into one comprehensive table.

Nevertheless, some trends do emerge from their experiences. First, as with the WHD data, wage theft is not confined to a single or just a few industries. It is a widespread practice visible wherever anyone gathers data on it. *Construction* still stands out as an industry that is always among the most plagued by wage theft and the *Accommodation and Food Services* industry is nearly as frequent. Complaints from workers in private domestic service, which like for the *Accommodation and Food Services* industry is considered low skilled and low paid work, emerge more prominently in the reports from community organizations than in the WHD data. This leads us to hypothesize that wage theft in this sector is more widespread than available data indicate.

Wage theft does appear to be more common, although not unique to industries that have lower average wages. Thus, workers who earn the least and are likely to suffer the most if they are cheated out of their wages are the ones most likely to suffer wage theft.

We Count!

We Count!³⁴ is a founding member of the Florida Wage Theft Task Force. It is a multi-ethnic organization based in Homestead, the southern region of Miami Dade County. Staff and members are devoted to obtaining social and economic justice for immigrants and working people through learning about their civil and worker rights, supporting each other, developing leadership, and taking action to improve their lives. Over the past five years We Count! has helped workers recover unpaid wages, and launched a campaign called “Mi Trabajo Vale!” (My Work is Valuable!) to encourage immigrant workers in the region to speak up about wage theft. At the time the data for this report was collected, We Count! had one full time staff and seven part-time member volunteers who assisted workers in recovering unpaid wages from employers. A pro-bono attorney from Florida Legal Services also assisted with wage theft cases.

In this report, we present cases collected by We Count! from August 2006 to January 2011. These are not cases reported by the WHD or the SBD, although We Count! has started referring more and more cases to the SBD.³⁵ Table 5 presents the wage theft cases reported by We Count! by industry. Over 62% of these cases were in the *Construction* industry, followed by cases in the *Agriculture* industry (29%). These figures correlate with the workforce population of We Count!’s membership, many of whom are day laborers working for construction or landscaping and plant nursery businesses. Homestead is home to the largest concentration of plant nurseries in the state; thus the industry relies heavily on experienced agricultural workers, many of whom are cross-trained as landscapers and plant nursery workers.³⁶ The *Administrative Support and Waste Management, and Remediation Services* industry, which includes workers in cleaning and pest control occupations, comprised 5% of their cases (n=10), and 4% (n= 8) of their total wage theft cases were working in the *Accommodation and Food Services* industry.

Table 5	
We Count!’s Wage Theft Cases by Industry	
Aug 2006 to Jan 2011	
Industry	Number of Cases
Construction	131
Agriculture	61
Administrative Support and Waste Management and Remediation Services	10
Accommodation and Food Services	8
Total	210

Source: We Count! Wage Theft Cases, data analyzed by RISEP

Table 6 shows the number of wage theft cases and range of unpaid wages claimed by workers seeking help from We Count! between August 2006 to January 2011.³⁷ The largest percentage of the workers (34.3%) claimed they were owed between \$60 and \$499, while 32.9% of the workers were owed between \$1,000 and \$4,999 dollars. Two workers were owed more than \$10,000 in unpaid wages. For workers earning at or close to the minimum wage any loss of earned wages is a serious loss with significant impact on individual and family well-being

Table 6	
Amounts of Unpaid Wages Claimed by Workers	
Aug 2006 to Jan 2011	
Amount Owed	Number of Cases
\$0-\$59	2
\$60-\$499	72
\$500-\$999	49
\$1,000-\$4,999	69
\$5,000-\$9,999	8
\$10,000+	2
Missing info*	8
Total	210
Source: We Count! Wage Theft Cases, data analyzed by RISEP	
*We Count! had 8 cases that did not report amount owed.	

Staff and member volunteers at We Count! actively work on recovering unpaid wages. As seen in Table 6, We Count! documented a total of 210 wage theft cases during this time period. An additional 12 cases were referred to Miami-Dade County’s Small Business Development Agency for reconciliation under the Wage Theft Ordinance, and are not included in this table.

Table 7		
Unpaid Wages, Amount Recovered and Amount Owed to Workers		
WeCount!		
Aug 2006 to Jan 2011		
Total Amount Owed in Unpaid Wages	Amount Recovered	Amount Still Owed
\$267,409	\$68,607	\$198,802
Source: We Count! Wage Theft Cases, data analyzed by RISEP		

As Table 7 shows, the total amount owed to all of the workers reporting their cases to We Count! was \$267,409, while the total amount recovered was \$68,607. The amount recovered thus far, is 26% of the total amount claimed. The amount of wages still claimed by workers as owed to them is \$198,802. We Count! data suggest that only about one-quarter of lost wages are recuperated for those workers who report their claims. No analysis yet has been done on the ratio of claimed to recovered wages among cases addressed by the SBD or the WHD-DOL.

Dealing with wage theft is extremely challenging for community based organizations. When asked for this report what were the challenges in recovering unpaid wages We Count’s full-time staff member assigned to this task responded,

The hardest challenges are when offending employers do not keep records on their employees. An employer will negate that a particular employee worked for him [or her]. Another challenge is when workers, particularly day laborers, who are hired for a day or two worth of work do not obtain

information from the employer hiring them. This makes the case very difficult because we have very little information to go on.³⁸

Lack of accurate record keeping by businesses is important not only because of wage theft but because businesses that do not keep accurate records on their workers and payroll, are also not maintaining accurate records for taxation.

The Farmworkers Association of Florida

The Farmworkers Association of Florida (FWAF) is a community organization that has offices in diverse agricultural communities and organizes and reaches out to farmworkers in 15 different counties in the state. The Florida City office in the southern region of Miami-Dade County has been actively engaged on the issue of wage theft for several years. FWAF is also a member of the Florida Wage Theft Task Force. As its name implies FWAF serves the agricultural workforce that is so important to the overall state economy and to various regions within the state. The mission of FWAF is to build the capacity among farmworkers and rural low-income communities to respond to and gain control over the social, political, economic, workplace, health and environmental justice issues that impact their lives.³⁹

FWAF's Florida City office has been helping workers on wage theft cases since 2006 and began systematically documenting cases in March 2009. The cases presented in this report were reported to FWAF's Florida City office from March 2009 through December 2010. These cases are neither part of the data reported by the U.S. DOL Wage and Hour Division, nor part of the cases referred to the SBD under the Miami-Dade County anti-wage theft ordinance.

From March 2009 until December 2009, FWAF's Florida City office had received 8 reports of unpaid wages. By the end of December 2010, the same office had documented 97 more cases. FWAF attributes the surge in cases starting in 2010 to the growing awareness of wage theft precipitated by the media coverage of the Florida Wage Theft Task Force's efforts. Following a press conference after the passage of the Miami-Dade Wage Theft Ordinance, in which FWAF publicly announced its services, their office in south Miami Dade County began receiving calls and reports from workers all over the county. FWAF both independently helps workers and employers reconcile cases, and refers other cases to Miami-Dade's Small Business Development Agency.

Table 8 shows FWAF's total number of unpaid wage cases and the amount owed as well as the industries relevant to the reported cases. Workers in the *Construction* industry reported 40% (n=42) of the total cases and 29% of the total amount of unpaid wages owed. The average amount owed each employee in this industry was \$1,579. Thirteen workers (12% of all cases) in the *Accommodation and Food Services* industry reported the highest amount of wages owed per employee (\$4,488).

Table 8
Wage Theft Cases and Amount Owed Reported by
The Farmworkers Association of Florida
Mar 2009 to Dec 2010

Industry	Number of Wage Theft Cases	Amount Owed in Unpaid Wages	Average Wages Owed per Employee
Construction	42	\$66,321	\$1,579
Missing Info	17	\$31,024	\$1,825
Accommodation & Food Services	13	\$58,345	\$4,488
Agriculture	9	\$16,853	\$1,873
Transportation & Warehousing	6	\$24,677	\$4,113
Private Household	5	\$19,400	\$3,880
Health Care and Social Assistance	4	\$3,388	\$847
Administrative Support & Waste Management & Remediation Services	3	\$952	\$317
Educational Services	2	\$3,400	\$1,700
Retail Trade	2	\$1,129	\$565
Professional, Scientific, & Technical Services	1	\$465	\$465
Utilities	1	\$700	\$700
Total	105	\$226,652	\$2,159

Source: Farmworkers Association of Florida's cases, data analyzed by RISEP

Wages lost by workers in the *Transportation and Warehousing* industry accounted for the second largest average amount owed per employee with \$4, 113, yet only six cases were reported to FWAF. The cases reported under the *Private Household* industry were five domestic workers who claimed to be owed a total of \$19,400 in unpaid wages. The average wage owed to the five domestic workers was \$3,380 per person. The cases in the *Health Care and Social Assistance* industry were four caregivers working in nursing home facilities. The total reported owed for all four cases was \$3,388 in unpaid wages. The *Educational Services* industry accounted for two cases but the average amount owed per employee was \$1,700. One worker in the *Professional, Scientific and Technical Services* and another worker in the *Utilities* industries reported their cases to FWAF.

The total amount owed for all 105 cases was \$226,652 in unpaid wages.⁴⁰ This averages to \$2,159 in unpaid wages per employee who filed a wage theft claim with FWAF's South Florida office. From this data we can see that the majority of wage theft victims coming to FWAF for assistance were not farmworkers, but rather workers in various industries. In FWAF's data we see a few domestic workers, one of the most isolated and vulnerable workforce populations in Florida. Because their contact information was prominently listed in publicity surrounding passage of the Miami-Dade county ordinance individuals from all over the county contacted FWAF's Florida City office. This may have been because some workers believed they would be

addressed in Spanish by FWAF staff, but only in English if they contacted the SBD. Some individuals may have felt more secure contacting an office known to serve immigrant workers than calling a government agency. Whatever the reason, the responses from workers in industries as diverse as Construction and Educational Services show how wage theft is not confined to the lowest income groups of workers, but is a business model that victimizes workers across industries and wage levels.

The American Friends Service Committee

The American Friends Service Committee (AFSC) is a Quaker organization that includes people of various faiths who are committed to social justice, peace and humanitarian services.⁴¹ AFSC has offices across the U.S. and abroad. The information presented in this section was collected by AFSC's Miami and Florida City- based offices. AFSC collaborates with local communities and other community-based organizations, to increase awareness of the rights of immigrants and to promote economic development among them. AFSC has a long history of working among Miami-Dade County farm workers and other low income immigrant workers.

The American Friends Service Committee in Miami was one of the founding members of the Florida Wage Theft Task Force, and was the first organization in the area to work on wage theft cases. In 2005, AFSC received reports on dozens of wage theft cases from day laborers working in the *Agriculture* industry. Since then, AFSC has provided assistance to workers seeking to recover their unpaid wages.

The data on wage theft reported by the American Friends Service Committee was collected from August 2009 until June 2010.⁴² Starting in August 2009 AFSC began to use a standardized information intake process and by the end of June 2010, they had documented a total of 96 wage theft cases.

Table 9 shows AFSC's total number of cases, the total amount that was owed to workers by industry, and the percent of the total amount of wages owed by industry. The American Friends Service Committee reported a total of \$252,594 in unpaid wages for the 96 workers. Each worker who reported a wage theft claim was owed an average of \$2,631.⁴³ Nearly half (49%) of the total number of cases reported by the AFSC were workers with wage theft claims in the *Construction* industry. The total amount owed to construction workers was \$107,136 dollars in unpaid wages, or 42% of the total amount that was owed for all 96 cases.

Table 9
Number of Wage Theft Cases and Amount Owed
Reported by the American Friends Service Committee
Aug 2009-Jun 2010

Industry	Number of Cases	Amount Owed in Unpaid Wages	Average Wages Owed per Employee
Construction	47	\$107,136	\$2,279
Missing Info	13	\$24,350	\$1,873
Agriculture	10	\$21,880	\$2,188
Accommodation & Food Services	9	\$25,796	\$2,866
Private Household	7	\$36,376	\$5,197
Transportation & Warehousing	5	\$15,625	\$3,125
Investigation & Security Services	2	\$11,131	\$5,566
Retail Trade	2	\$7,800	\$3,900
Health Care & Social Assistance	1	\$2,500	\$2,500
Total	96	\$252,594	\$2,631

Source: American Friends Service Committee's cases, data analyzed by RISEP

Although the seven workers in the *Private Household* industry represented only about 7% of the total cases reporting to the AFSC, the total amount owed to these seven workers was 14% of the total owed to all workers. The workers in this industry claimed the second largest amount owed of all the industries listed (\$36,376 in unpaid wages), and was also the second largest in terms of the average wage owed per employee, at \$5,197 per worker.

Only two employees in the *Investigation and Security Services* industry filed cases with AFSC, yet this industry had the largest amount owed per worker at \$5,566 each. One worker in the *Health Care and Social Assistance* industry filed a wage theft claim for \$2,500.

The AFSC staff continues to negotiate and conciliate cases with employers before using the SBD as a final mechanism to recuperate unpaid wages.

Americans for Immigrant Justice / Florida Immigrant Advocacy Center

Americans for Immigrant Justice, previously named, The Florida Immigrant Advocacy Center (FIAC) located in Miami, Florida, is a not-for-profit legal assistance organization dedicated to protecting and promoting the basic human rights of immigrants of all nationalities.⁴⁴ In 2007, Americans for Immigrant Justice (AIJ) created the Workplace Justice Project (WJP) to empower low-income immigrant women. The WJP litigates cases of wage violations and human trafficking. The WJP also works closely with private attorneys and government agencies, such as Miami's office of the WHD-DOL, and often refers cases to them when AIJ cannot conciliate cases.

AIJ is a founding member of the Florida Wage Theft Task Force. Through its WJP, it has trained former clients who have worked as domestic workers and have experienced wage theft to be part of an advocacy team, reaching out to other marginalized and vulnerable domestic workers.

Americans for Immigrant Justice’s WJP data presented in this section were collected by AIJ staff, the WJP advocacy team, and law student interns and recorded in 2009 and 2010. Although AIJ collected information on about 75 wage theft cases, only 27 of these were fully complete and reported to RISEP for this report.⁴⁵ Table 10 shows that the *Private Household* industry represented 44% of all of AIJ-WJP’s documented wage theft cases. These individuals were working as nannies, maids, cooks, or taking care of elders.

Table 10 Unpaid Wage Theft Cases by Industry Americans for Immigrant Justice- Workplace Justice Project 2009-2010	
Industry	Number of Cases
Private Household	12
Accommodation and Food Services	6
Construction	3
Administrative Support & Waste Management & Remediation Services	2
Investigation & Security Services	2
Transportation & Warehousing	2
Total	27
Source: Florida Immigrant Advocacy-WJP’s cases, data analyzed by RISEP	

AIJ-WJP’s collected details from those who suffered wage theft and which reveal the difficulties workers face in receiving wages owed them. A female domestic worker had been brought to Florida from Peru on a B1 Domestic Worker Visa. She signed an employment contract, which was presented to the U.S. Embassy in Peru as part of the visa process. In the contract, the employer promised she would work reasonable hours, receive minimum wage, receive benefits, and have her travel and visa costs paid by the employer. When she arrived in the U.S., she was told by her employer she would work seven days per week, 14-hour-plus days, and would receive only \$300 per month, from which \$50 would be deducted to repay the employer for travel and visa costs. AIJ brought the case to the Miami office of the WHD-DOL to investigate the case. The employer refused to pay the owed wages and the WHD chose not to take legal actions on the employer. The employer retaliated and threatened to have the worker arrested and deported, even after she had stopped working for the employer. As of this writing, her case is unresolved.

The employer of a woman, who had worked as a hotel housekeeper, denied her and her co-workers time and a half pay rate for overtime work. With the help of AIJ, she joined her co-workers in a class-action lawsuit to recover \$2,330 in unpaid overtime and \$318.75 in unpaid minimum wage. The lawsuit is still pending.

A business owner of a small construction company had been hired to provide labor for a restoration project as a sub-contractor to other larger construction companies. The sub-contractor hired approximately 50 workers to work on the project which took nearly a year to complete. Toward the end of the project the contractor failed to pay the sub-contractor \$30,000 for the work that had been completed by his work crew. Finally, the sub-contractor had to let go all but 17 of his crew because he could not pay them. AIJ referred the business owner to a private attorney and the outcome is still not determined.

A clerical office worker for a small labor supply company realized after she started working that she was earning only \$5 per hour, \$2.25 below the state's minimum wage. Before leaving her job, she asked her employer for the \$210 difference between what she had been paid and what she should have earned at the minimum wage. The employer delayed payment of the owed wages and came up with a series of excuses for why he would not pay her. Eventually the woman found AIJ, and with the help from law school interns at Florida International University's Human Rights Clinic, the employer agreed to pay the full amount he owed to his former employee.

A security guard worked for a small company that repaired tractor trailers. The employer continuously paid his employee late and would not pay the full amount that the employee had earned. Subsequently, the employer fired the security guard, yet the employer still owed him \$18,645 in unpaid back wages. AIJ initially sent a letter to the company, made visits to the business and called the employer repeatedly to resolve the matter. However, the employer refused to pay. AIJ then contacted Miami's WHD-DOL, but that office determined that they could not establish jurisdiction because the employer's business was too small to be covered by the Federal Labor Standards Act and investigators declined to take the case. The case remains unresolved and no monies have been recovered for the security guard worker. These stories are typical of the thousands of individuals victimized by wage theft. Only two of these cases were resolved with restoration of wages earned.

The wage theft cases documented in Miami-Dade County are examples of employees who because they work in occupations or for businesses outside the jurisdiction of the WHD-DOL have no recourse to recuperate wages owed to them. The community organizations along with the Small Business Development Agency, that oversees Miami-Dade's Wage Theft Ordinance, have been able to assist employees who would otherwise have no other recourse when their employer illegally withholds wages.

Wage theft has been a hidden problem; however two local studies in Miami-Dade County have systematically investigated wage theft in two different and important industries, the plant nursery industry and the restaurant industry. These studies reached workers who were unaware of their rights or too intimidated to report their cases, as well as those not covered by FLSA provisions. They add to the growing evidence of how widespread and insidious wage theft has become. Because wage theft is not only a problem confronted by workers, but also constitute unfair competition to honest employers, these studies included interviews with employers to obtain their perspective on the issue.

Restaurant Opportunities Center

On March 2011, the Restaurant Opportunities Center United (ROC) and the Miami-Dade Restaurant Industry Coalition released a study report showing that nearly half of the 580 Miami restaurant workers surveyed had experienced overtime wage violations. Additionally, 21.8% of the restaurant workers surveyed had experienced minimum wage violations, 27.1% had worked off the clock without being paid, and 15.5% reported that management took a share of their tips.⁴⁶ Interviews with employers revealed some employers were practicing wage theft because it was profitable. A restaurant manager with over 15 year in the industry described the restaurant's tip distribution scheme in which the restaurant owner illegally was taking almost a third of the tips pooled by the restaurant employees: "There is a point system [for distributing tips]--10 dollars for the waiter, 5 for the owner, and 3.50 for busboy. So if the waiter makes \$100, the owner makes \$50 and the busboy \$35."⁴⁷

Research Institute on Social and Economic Policy

In 2007, the Research Institute on Social and Economic Policy (RISEP) at Florida International University conducted interviews with employers in the plant nursery industry and found that three of the 15 interviewed employers admitted to knowingly committing wage theft because they knew there were no enforcement mechanisms and they could thus "get away with it." The other 12 employers explained how they were put at competitive disadvantage because they paid their employees their earned wages. One employer commented,

"I know that other businesses in this area are not paying their workers their full wages. This makes it very difficult for me stay in business because I'm not cutting down on labor costs."⁴⁸

Two employers were ignorant of the actual state minimum wage. One employer responded:

"I'm not sure what the current minimum wage rate is. I think it just went up, but I don't pay my employees whatever amount that is because they are willing to work for a lot less. Besides if you pay them the minimum wage then you will be putting them out of a job because then all the jobs will be sent to Mexico."⁴⁹

One employer admitted to ignoring laws that businesses are required to follow:

"In order to be in this business [plant nursery industry], you have to lie and cheat when it comes to dealing with the government. It is too hard to stay in business if you follow all the laws. I can't be paying them time and half if they [workers] work more than forty hours per week. -
- If the government was actually enforcing these laws then they could just shut your business down."⁵⁰

Certainly more research is needed to better understand employers' perspectives. However, underpaying the minimum wage or not paying workers at all might be rationalizations for other poor business practices that honest employers are not using. The RISEP study found that employers practicing wage theft also admitted to circumventing other laws protecting the health and safety of workers and economic reporting to government agencies. These studies were conducted only in Miami-Dade County. No research has yet been conducted on wage theft in other Florida counties. However, mounting evidence of wage theft in other regions is starting to accumulate from looking at WHD-DOL data by county and from reports from community based organizations.

Palm Beach County Organizations

Two community organizations, El Sol Neighborhood Resource Center (El Sol), a worker center in Jupiter, and People Engaged in Active Community Efforts (P.E.A.C.E), a faith-based organization joined efforts in early 2010 to address the issue of how the problem of wage theft negatively impacts their members and communities in Palm Beach County. These two community organizations are actively working to pass a local countywide wage theft ordinance, similar to the Wage Theft Ordinance passed in Miami Dade County. While the Ordinance passed on the first hearing, the public hearing was reschedule for March of 2012. In its place, the Legal Aid Society of Palm Beach County was asked to handle wage theft cases as a pilot project.⁵¹

In a recent comparative study by P.E.A.C.E, which compared how wage theft cases were being handled in Palm Beach County by the Legal Aid Society of Palm Beach in comparison to Miami-Dade's Wage Theft Program under the Wage Theft Ordinance, the findings were that Miami Dade County had a recovery rate of 46 % compared to only 2.5% of the Legal Aid in Palm Beach County. The report conclude that having an actual county ordinance that addressed wage theft rather than through pro bono attorneys was much more effective in recovering unpaid wages for employees.⁵²

El Sol Neighborhood Resource Center

El Sol was founded in 2006, out of the need to raise the voice of the immigrant population in Jupiter, Palm Beach County. Per an agreement with the town of Jupiter, El Sol can only offer their services to Jupiter's residents. El Sol's core service is it's Day Labor Program, in which workers come to the center in search of jobs. El Sol registers and categorizes the workers by skill levels. This model provides safe and efficient solutions to unemployed workers in need of employment, and to contractors and business owners in need of workers. El Sol is trusted in the community by both workers and business owners.

Since 2006, workers have come forward with complaints of not being paid their wages. Many of the workers reporting their complaints to El Sol of not being paid their wages were not asserting their right to overtime pay, but were simply trying to recover what had been promised to them as a wage.

During the early stages of their wage recovery experience, El Sol tested different remedies to recover unpaid wages, from using small claims court, to referring cases to the Legal Aid Society of Palm Beach County, visiting the State Attorney, and seeking assistance from the Jupiter Police to help recover unpaid wages. At that time, both the Legal Aid Society and the Jupiter Police declined to take on any of El Sol's wage theft cases.⁵³ The other methods proved to be either too costly or lengthy, or simply led to dead ends.⁵⁴ Some of the larger cases of at least \$300 or more were referred to private attorneys because most attorneys will not take cases involving smaller amounts. Currently, most of El Sol's wage theft cases have been handled by El Sol's pro-bono legal clinic, which tries to recover wages through calls and letters to non-paying employers.

Between August 2006 and August 2010, El Sol reported 148 cases of wage theft.⁵⁵ The total amount of wages owed from these cases was \$153,650 dollars. Recently El Sol has experienced an upsurge in wage theft cases reported to them by their members, and it is estimated that on average they receive one wage theft case per week due to the current economic downturn.

One recent case illustrates some of what is happening under current economic conditions. Three young men were hired by a contractor whose business is cleaning foreclosed homes. The contractor promised to pay \$100 a day to the three employees, but often the employees worked more than 13 hours per day. For the first couple of months after being hired the employees were paid regularly, although they never received overtime pay. In addition to not receiving overtime pay, the contractor failed to pay the employees during their last month of employment. At the end of the month, the contractor insisted that he would pay them, but the employees are still owed their earned wages and their unpaid overtime. The contractor has not returned any of their telephone calls.

People Engaged in Active Community Efforts

People Engaged in Active Community Efforts (P.E.A.C.E) is comprised of 24 member faith congregations charged with the mission of effectively fighting injustices in Palm Beach County. Each year, P.E.A.C.E. organizations conduct a "listening process" with their members to uncover problems facing their communities. Wage theft was a notable problem that surfaced from home visits with members. According to a report written by P.E.A.C.E in 2010, wage theft was prominently mentioned in 54 of the approximately 90 house visits that they conducted across Palm Beach County in the preceding year.⁵⁶ In this section, we present direct quotes collected by P.E.A.C.E members during these home visits, from workers who experienced wage theft. Their names have been changed in this report to protect confidentiality.

Wage Theft Is Happening to All Kinds of Floridians

"In May 2010, my brother worked for a month, Monday to Saturday, from 7am until 7pm. His job was at a commercial construction site of a major supermarket in the southern region. The manager on the site never paid him time and time again. The manager eventually left for Orlando and the workers never got their money."

-Jonathan, Holy Name of Jesus Catholic Church, West Palm Beach County

"I worked an extra shift at a convenience store and never got paid. When I asked what had happened, I was told that all I would receive was my regular paycheck and no overtime."

-Fran, Our Lady Queen of Peace Catholic Church, Delray Beach

"I am familiar with several gardeners having agreed to purchase plants and trees for a landscaping project. The job was finished and there was no one there to pay them. The employer got away with not paying them for their work and owing them the purchase of the plants and trees."

-Maria, Unitarian Universalist of Boca Raton

"My career expertise is in the accounting and auditing field. I have witnessed several evidences of wage theft on various levels."

-Peter, Holy Name of Jesus Catholic Church, West Palm Beach County

"I've had wage theft happen to me several times. I work and don't get paid, or I work and get paid less than what was agreed upon. I feel powerless."

-Alberto, Our Lady Queen of Peace Catholic Church, Delray Beach

"I was working for a telemarketing company. There were several instances, at least three, in which my check bounced when I tried to deposit it into my account."

-Chris, St. Andrew Episcopal Church, Lake Worth

"I got a job at an ice cream store. I got under the minimum wage without being aware of it until I was finally given my pay check. The owner thought it was ok to do what he did."

-Lucia, Unitarian Universalists of Boca Raton

In the following section we introduce an organization from Hillsborough County which had reconciled a few wage theft cases in 2003; it was not until this year that they began to formally document wage theft cases and joined the Florida Wage Theft Task Force.

Hillsborough County

Florida Institute for Community Studies

In November 2010, the Florida Immigrant Coalition (FLIC) included in their annual statewide congress a workshop on “Wage Theft” which focused on the successful passage of the Miami-Dade Wage Theft Ordinance. At the end of the workshop several organizations from Hillsborough and Pinellas Counties expressed interest in learning more about wage theft. In early January 2011, the Florida Wage Theft Task Force joined these organizations for a meeting in Tampa organized by the Florida Institute for Community Studies (FICS) to explore the issue in their region of the state.

The Florida Institute for Community Studies⁵⁷ was created in 2002 to form strategic partnerships with communities across Florida. Founded by a combination of activists and scholars, FICS works with community partners to conduct research, work on programs and participate in trainings and education. FICS’s staff and volunteer community advisors write strategic plans following a social development model that builds on identified strengths to address the community’s needs. Wage theft was an issue that FICS came across as they worked on topics as apparently disparate as health and afterschool programs. In spite of limited resources to focus on wage theft as a central project, FICS began to systematically document wage theft cases starting in January 2011.

In a recent interview with FICS’ director, she states:

“We know wage theft is an issue in our communities. As we start to probe more with our members, we are learning that our members are not getting paid for their work and this is a real problem. We have probably had at least 30 cases across the different industries - construction workers to farmworkers and restaurant employees - who were owed thousands of dollars. I estimate that nearly 70% of the people we work with have probably experienced wage theft.”⁵⁸

FICS staff was unaware of the Wage and Hour Division of the DOL and is sure the people they work with are unaware of any recourse when an employer illegally withholds wages

Conclusion

This report compiles and describes data from various sources showing that wage theft is widespread and increasing throughout the state and across industries. The more we look, the more wage theft cases we find.

This report reveals that millions of dollars of unpaid wages have been recovered and because we know that a large percentage of Florida's workforce is not covered by federal or state laws, the number of cases that go unreported and the amount of unpaid wages is likely to be two to three times what we report on. This implies that nearly \$60 to \$90 million dollars are lost and never recovered.

The wage theft stories collected by community based organizations offer a glimpse into the impact of wage theft on individual workers. When we consider that many workers who lose wages to wage theft earn at or near minimum wage with no benefits like health insurance we can imagine that the loss of even a small amount of earnings imposes real hardship.

The evidence accumulating of a spreading anti-legal and ultimately an anti-business practice raises serious questions for a state economy and local economies hoping to attract businesses and workforce to grow. What are the actual impacts on individual employee, honest employers, local budgets and the state's economy? Why does Florida withhold adequate funding for enforcement of existing labor laws? It also raises the question of can a county and state economy be healthy and grow while tolerating such an unjust business model that avoids contributing to tax revenues?

Questions about the cost of doing business in Florida and the risks of working in the state will also increase as more evidence of a climate of tolerance for wage theft and its impact on employees and honest employers becomes more widely known. Why do some industries appear more prone to the practice than others, especially those reliant on lower skilled, lower paid employees. Why are higher-skilled, higher paid employees also being victimized? Why do some jobs within industry sectors appear to make employees more vulnerable? We think it is because many of those employees are not protected by our labor laws and because there is no statewide mechanism to address the glaring problem of wage theft. We challenge policy makers to consider the ramifications of Florida becoming a glaring example of a state that tolerates and even encourages wage theft.

These same employers are with impunity breaking laws that not only protect employees, but also are critical to maintaining a fairly competitive business environment so critical in a capitalist society. They also serve to account for tax revenues that many employers practicing wage theft on their employees are circumventing. This dishonest business model puts law abiding employers at a competitive disadvantage.

Endnotes

¹ To read the first report please see: Hernandez, Cynthia S. 2010. *Wage Theft in Florida: A Real Problem with Real Solutions*. Read report at: <http://www.risep-fiu.org/2010/11/wage-theft-in-florida-a-real-problem-with-real-solutions-2/>

⁵ Bernhardt, Milkman et al., 2010. Broken Laws, Unprotected Workers. Read report at: <http://www.nelp.org/page/-/brokenlaws/BrokenLawsReport2009.pdf?nocdn=1>

³ Angee A. and Hernandez, C. *Planting Seeds of Justice: Combating Wage Theft among South Florida's Plant Nursery Workers* (2007). Read report at: <http://www.risep-fiu.org/2007/10/planting-seeds-of-justice/>

⁴ RISEP studies issues of concern to working families and low-income communities in Florida. At Florida International University we are a resource and a model for the University community by conducting problem solving research together with local communities that provides the tools for those directly affected to participate more fully in the public debate. Found at www.risep-fiu.org

⁵ The Florida Wage Theft Task Force members include: Florida Immigrant Coalition, We Count!, South Florida Inter-Faith Worker Justice, Florida Legal Services, Inc, Florida Immigrant Advocacy Center, Unite-Here, Restaurant Opportunity Center-Miami, Women's Fund of Miami-Dade, South Florida AFL-CIO, Florida Farm Worker Association, South Florida Jobs with Justice, Service Employees International Union, American Friends Service Committee, Florida Institute for Community Studies, El Sol- Worker Resource Center, and the Research Institute on Social and Economic Policy.

⁶ See Hernandez, Cynthia S. 2010. *Wage Theft in Florida: A Real Problem with Real Solutions*. Read report at: <http://www.risep-fiu.org/2010/11/wage-theft-in-florida-a-real-problem-with-real-solutions-2/>

⁷ Ibid.

⁸ United States Department of Labor, "Elaws - Employment Law Guide A Companion to the FirstStep Employment Law Advisor," Sept. 2009.

⁹ The Agricultural Worker Protection Act applies only to agricultural workers. It does not set a minimum wage, but provides for notice of terms and conditions of employment, transportation and housing safety, and payment of wages when due. 29 U.S.C. statute 1801 et. seq.

¹⁰ Read more on the Davis-Bacon Act at: <http://www.dol.gov/whd/contracts/dbra.htm>

¹¹ See, for example: Government Accountability Office, Report to the Committee on Education and Labor, House of Representatives (June 2009).

¹² Schiller and DeCarlo. *Investigating Wage Theft: A Survey of the States*. Policy Matters Ohio (2010). Read report at: <http://www.policymattersohio.org/pdf/InvestigatingWageTheft2010.pdf>

¹³ Government Accountability Office, Report to the Committee on Education and Labor, House of Representatives. June 2009.

¹⁴ We divided the December 2010 figures for non-agricultural employment estimates from the Agency for Workforce Innovation by the number of DOL Wage and Hour investigators. Employment estimates for Florida can be found at: <http://www.labormarketinfo.com/>

¹⁵ Government Accountability Office, Report to the Committee on Education and Labor, House of Representatives. June 2009.

¹⁶ Phone interview with Cynthia S Hernandez. 12 Jan. 2011 Interviewee's name has been omitted to protect confidentiality.

¹⁷ The Federal Labor Standards Act, statute of limitations Read more at: <http://www.dol.gov/elaws/esa/flsa/screen74.asp>

¹⁸ The Florida Department of Business and Professional Regulation has six investigators who enforce the state's child labor law. The department has 16 investigators who enforce Florida's farm labor registration act, whose requirements include that workers be paid on a timely basis, that wage statements are provided and payroll records be maintained. Found at: www.myfloridalicense.com/dbpr/reg/farmLabor.html. Two of these 16 also enforce the child labor law.

¹⁹ Analysis of Florida House Bill 241 Fact Sheet. National Employment Law Project (March 2011).

²⁰ Schiller and DeCarlo. *Investigating Wage Theft: A Survey of the States*. Policy Matters Ohio (2010). Read report at: <http://www.policymattersohio.org/pdf/InvestigatingWageTheft2010.pdf>

²¹ Analysis of Florida House Bill 241 Fact Sheet. National Employment Law Project (March 2011).

²² In this report, we do not elaborate on the complexity of employment and labor laws. For a more detailed summary of Florida's lack of enforcement or remedies for wage theft, please read the Amicus Curiae Brief. *Florida Retail Federation, Inc vs. Miami-Dade County, Florida*, No.104-42326 CA 30, 2010 (11th Cir. Florida. Dec. 3, 2010). Found at: http://www.floridalegal.org/cjp/documents/101203_19_ACB.pdf

²³ The Florida Immigrant Coalition (FLIC) is a statewide immigrant rights organization. FLIC seeks equal rights for immigrants and integration into the civic and cultural life of Florida communities. The Coalition believes in the empowerment of immigrants and the unification of immigrant communities to develop an amplified voice for immigrant rights. The Coalition fulfills this vision by uniting urban, rural, religious, legal, and community-based organizations to advance our mission. Found at: <http://www.floridaimmigrant.org/default.asp?PageNum=57>

²⁴ The SBD has a pool of retired judges who have been designated as hearing officers.

²⁵ Miami-Dade Wage Theft Ordinance. Chapter 22 of the Code of Miami-Dade County, Florida; Prohibiting Wage Theft. Found at <http://www.miamidade.gov/govaction/matter.asp?matter=093228&file=true&yearFolder=Y2009>

²⁶ As of January 6, 2012, enforcement of the Wage Theft Ordinance has secured \$398,045.90 in unpaid wages for 131 workers. This information was obtained from the Small Business Development Agency of Miami-Dade County.

²⁷ Sanchez, Melissa. (2011, August 8). County budget woes threaten worker advocate. *The Miami Herald*.

²⁸ Smith, Jeanette. Victory in Miami-Dade County (2010). Wage Theft Toolkit found at: <http://wagetheft.org/>

²⁹ Statistical Package for the Social Sciences is a computer program used for statistical analysis.

³⁰ For coverage of the Fair Labor Standards Act read more at, 29 USC §201 et seq.; 29 CFR Parts 510 to 794 or found at: <http://www.dol.gov/compliance/guide/minwage.htm>

³¹ According to the Quarterly Census of Employment and Wages for 2009, the annual average wage for workers in the Administrative Support and Waste Management and Remediation Service was \$31,410, while workers in the Accommodation and Food Services industry were earning \$18,379. Found at: <http://www.labormarketinfo.com/Library/OCEW.htm>

³² For coverage of the Fair Labor Standards Act read more at: <http://www.dol.gov/compliance/guide/minwage.htm>. See exemptions listed at 29 U.S.C. Statues 203, 206, and 213.

³³ If you are part of an organization that might be interested in participating in the wage theft database or would like more information about it, please contact Cynthia S Hernandez, RISEP research associate, at Cynthia.Hernandez1@fiu.edu or (305)348-2614 and (786) 301-6665.

³⁴ We Count! is a multiethnic organization in the area of Homestead, Florida that works to achieve social and economic justice by bringing immigrants, students and working people together to inform themselves about their rights, support each other, develop their leadership, and take action to improve their lives. Found at: <http://www.we-count.org/>

³⁵ Some of We Count!'s same data was presented in the previous report and cases between September 2010 and January 2011 have been added to that data in this report.

³⁶ Angee A. and Hernandez, C. *Planting Seeds of Justice: Combating Wage Theft among South Florida's Plant Nursery Workers* (2007). Read report at: <http://www.risep-fiu.org/2007/10/planting-seeds-of-justice/>

³⁷ WeCount's data are for the amounts of wages claimed by workers whereas the Wage and Hour Division of the U.S. DOL enforcement data is for the amounts employers agreed to pay back in settlements arbitrated by the WHD.

³⁸ Personal interview with We Count! organizer and Cynthia S Hernandez. December 2010.

³⁹ The Farmworker Association of Florida was founded in 1983 in response to devastating freezes decimating the citrus crop in Central Florida and impacting farmworkers' livelihoods. The organization incorporated in 1986 and expanded statewide in 1992. FWF's policy change efforts over the years have improved living and working conditions for Florida's estimated 300,000 farmworkers, and include passage of the historic Florida Right to Know Act, among other successes. Their programs include: Pesticide Health and Safety Trainings for Farmworkers, Pesticide Exposure Recognition, Diagnosis and Treatment Trainings for Health Care Providers at Migrant Clinics, Advocacy for Policy Change to Improve Farmworkers Living and Working Conditions, Community-based participatory research projects on farmworker health, Immigrants' and Workers' Rights Advocacy, Vocational Rehabilitation for Farmworkers, Education and Peer Support for Pregnant and Post-partum low-income, minority women, Disaster Preparedness and Relief, Youth Empowerment Program, HIV/AIDS Education and Prevention for Hispanic and Haitian Youth, Education and Empowerment for Latino Small Farmers, Leadership Development Outreach, and Collaboration with Student and Youth groups to raise awareness about farmworker issues. Found at: <http://www.floridafarmworkers.org/>

⁴⁰ Although Farmworkers Association of Florida has helped workers recover their unpaid wages, we could not report on this amount because they do not keep track of this information.

⁴¹ The American Friends Service Committee was founded in 1917 during World War I. In accordance with their Quaker faith, the new organization gave young conscientious objectors ways to serve without enlisting in the military or taking lives. They drove ambulances, ministered to the wounded and stayed on in Europe after the armistice to rebuild war-ravaged communities. In 1947, AFSC was a co-recipient of the Nobel Peace Prize. Found at: <http://www.afsc.org/office/miami-fl>

⁴² Prior to August 2009, the American Friends Service Committee did not systematically document wage theft cases. Because of the lack of information available for the cases that AFSC worked from 2006 until August of 2009, those cases cannot be presented in this report.

⁴³ The American Friends Service Committee did not keep records on how much is recovered.

⁴⁴ Florida Immigrant Advocacy Center (FIAC) was founded in 1996 because of pending restrictions and funding cuts to Legal Services Corporation (LSC) funded agencies, which prevented many organizations in the state of Florida from serving the immigrant population. Sweeping changes in immigration law and welfare reform also increased the demand for services from FIAC. Since its inception, FIAC has met many challenges faced by immigrants, not only by representing individual clients with difficult cases, but also by influencing policy decisions, encouraging favorable clarifications of rulings, participating in effective and ongoing dialogue with senior immigration officials in Washington, and litigating or otherwise challenging patterns and practices of abuse. Since its founding, FIAC has closed nearly 75,000 cases and has become a national trendsetter in the immigration field. FIAC has grown from ten employees and a \$400,000 budget to a staff of more than fifty and a budget approaching \$4 million. FIAC's Workplace Justice Project (WJP) also supports innovative community economic development by providing advice to immigrant-led social entrepreneurial projects, such as a co-operative catering business founded and run by some of FIAC's former domestic worker clients. By confronting abuses, empowering grassroots leaders, and expanding opportunities, the WJP helps domestic workers transform their lives and their community. Found at :<http://www.fiacfla.org/aboutus.html>

⁴⁵ Law interns are currently working on writing up case summaries which we will include in future wage theft reports.

⁴⁶ The Restaurant Opportunities Center of Miami. *Behind the Kitchen Door: The Social Impact of Inequality in Miami's Growing Restaurant Industry* (2011). Read report at: http://www.rocunited.org/files/1101_BKD_MIAMI_final.pdf

⁴⁷ Ibid.

⁴⁸ Interview with Cynthia S Hernandez. August 2007. 2011 Interviewee's name has been omitted to protect confidentiality.

⁴⁹ Interview with Cynthia S Hernandez and Alejandro Angee. August 2007. 2011 Interviewee's name has been omitted to protect confidentiality.

⁵⁰ Interview with Cynthia S Hernandez and Alejandro Angee. August 2007. 2011 Interviewee's name has been omitted to protect confidentiality.

⁵¹ Boothe, J. and DMello J. A Comparative Study of the Wage Theft Project of Legal Aid Society of Palm Beach County with Miami-Dade's Wage Theft Program. (2011).

⁵² Ibid.

⁵³ Jill Hanson, Letter to Palm Beach County Commissioners (February 2011).

⁵⁴ Litigation is rarely an option for low-wage workers because filing lawsuits are an added expense that they cannot afford. The amount recovered in most cases is relatively low to the amount that they would have to pay in attorneys' fees or other expenses in filing lawsuits. And even if a worker wins judgment, they still have to collect wages and this can be an added expense.

⁵⁵ See Hernandez, Cynthia S. *Wage Theft in Florida: A Real Problem with Real Solutions* (2010). Read report at: <http://www.risep-fiu.org/2010/11/wage-theft-in-florida-a-real-problem-with-real-solutions-2/>

⁵⁶ People Engaged in Active Community Efforts (P.E.A.C.E) Report on Wage Theft in Palm Beach County. This unpublished report was presented to the Palm Beach County Commission (2010).

⁵⁷ The Florida Institute for Community Studies (FICS) offers programs for parents and youth. FICS believes that community-based participatory research is integral to their mission. Based on their research, community advisory boards write strategic plans that build on the identified strengths to reduce the identified risks through consensus. Found at: <http://www.ficsinc.org/>

⁶⁷ Personal interview with Cynthia S Hernandez. February 2010.

⁶⁸ See the Florida Agency for Workforce Innovation website at www.floridajobs.org/minimumwage for more information on how Florida's minimum wage is determined each year.

References

Angee, Alejandro and Cynthia S Hernandez. 2007. "Planting Seeds of Justice: Combating Wage Theft among South Florida's Plant Nursery Workers." The Research Institute on Social and Economic Policy at Florida International University. Found at: <http://www.risep-fiu.org/2007/10/planting-seeds-of-justice/>

Bernhardt, Milkman et al. 2009. "Broken Laws, Unprotected Workers. Violations of Employment and Labor Laws in America's Cities." National Employment Law Project. Found at: <http://www.nelp.org/page/-/brokenlaws/BrokenLawsReport2009.pdf?nocdn=1>

Bobo, Kim. 2008. *Wage Theft in America: Why Millions of Working Americans Are Not Getting Paid--and What We Can Do about It*. New York: New Press

Florida Retail Federation, Inc vs. Miami-Dade County, Florida, No.104-42326 CA 30, 2010 (11th Cir. Florida. Dec. 3, 2010).
Found at: http://www.floridalegal.org/cjp/documents/101203_19_ACB.pdf

Hernandez, Cynthia S. 2010. "Wage Theft in Florida: A Real Problem with Real Solutions" The Research Institute on Social and Economic Policy at Florida International University. Found at: <http://www.risep-fiu.org/2010/11/wage-theft-in-florida-a-real-problem-with-real-solutions-2/>

Hernandez, Cynthia S. 2009. "An Analysis of We Count!'s Wage Theft Cases. The Research Institute on Social and Economic Policy at Florida International University. Found at: <http://www.risep-fiu.org/2009/03/an-analysis-of-we-counts-wage-theft-cases/>

Housden, Jessica. 2010. "Reducing Wage Theft in South Florida: A Problem We Can Solve." Frank Batten School of Leadership and Public Policy. University of Virginia.

People Engaged in Active Community Efforts (P.E.A.C.E) 2010. "Wage Theft in Palm Beach County."

Schiller, Zach and Sarah DeCarlo.2010. "Investigating Wage Theft: A Survey of the States." Policy Matters Ohio. <http://www.policymattersohio.org/pdf/InvestigatingWageTheft2010.pdf>

Smith, Jeanette. 2010. *Victory in Miami-Dade County*. Wage Theft Toolkit found at: <http://wagetheft.org/>

--2009. United States Department of Labor, "Elaws - Employment Law Guide A Companion to the FirstStep Employment Law Advisor."

--2009. United States, Government Accountability Office, *Department of Labor: Wage and Hour Division Needs Improved Investigative Processes and Ability to Suspend Statute of Limitations to Better Protect Workers Against Wage Theft*, 2.

--2010. "Just Pay: Improving Wage and Hour Enforcement at the United States Department of Labor." The national Employment Law Project. Found at: <http://www.nelp.org/page/-/Justice/2010/JustPayReport2010.pdf?nocdn=1>

--2010. "Wage Theft Stories in South Florida." The Research Institute on Social and Economic Policy at Florida International University. Found at: <http://www.risep-fiu.org/2010/01/wage-theft-stories/>

--2011. "Behind the Kitchen Door: The Social Impact of Inequality in Miami's Growing Restaurant Industry." The Restaurant Opportunities Center of Miami, Restaurant Opportunities Centers United, and the Miami-Dade Restaurant Industry Coalition. Found at: http://www.rocunited.org/files/1101_BKD_MIAMI_final.pdf

--2011. "Fact Sheet: An Analysis of Florida House Bill 241." National Employment Law Project