

D. UNREGULATED WORK IN THE BUILDING MAINTENANCE AND SECURITY INDUSTRY IN NEW YORK CITY

The defining feature of the building services industry is the contracting out of janitorial and security jobs, which has put downward pressure on job quality. Because cleaning and security contracts go to the lowest bidder, subcontractors cut wages and benefits and, increasingly, may decide to violate labor laws in order to compete. In the words of one industry analyst, “It became about who can provide bodies at the least cost per hour.” Unions have successfully organized the more established cleaning contractors, to the point that janitors in large buildings in New York City can earn good wages with benefits. Yet an unregulated world of janitors and security guards flourishes in small stores and residential buildings, especially in the outer boroughs.

SECURITY GUARDS

Until the 1980s, most security guards in the city were direct employees of the owners and managers of the buildings where they worked. But now, the majority of the roughly 60,000 security guards in the city are employed by security contractors. Working conditions depend largely on whether the building is large or small, and commercial or residential. According to industry experts, as recently as the mid-1990s it was not uncommon for security guards to be making \$14 per hour plus benefits. The shift to subcontracting has pushed starting wages down to near the minimum wage, and some contractors will dip even lower in order to secure a low-bid contract.

New York State law requires security guards to be licensed, a process that includes eight hours of classroom training, sixteen hours of on-the-job training, background checks and fingerprinting. However, mobility opportunities for guards are quite limited. “There’s no growth; that’s the frustrating thing. Maybe people get an increase when their probation ends after three months or six months but that’s it.” As a result, workers stay in the industry for only short stints: one report estimates the industry’s annual turnover at between 200 and 600%.

JANITORS & BUILDING MAINTENANCE

Janitorial jobs are structured much like security guard jobs – subcontractors are the main employers in the industry. But there is much higher union density among janitors: SEIU Local 32BJ represents over 80,000 janitors, doormen and porters in New York City, working for contractors that serve large residential and commercial buildings. In 2007, contract wages for union workers with several years of tenure were about \$18-\$19 per hour, plus full health insurance and pension.

Still, thousands of janitors currently work in non-unionized jobs in supermarkets, shopping malls, and small residential buildings throughout the five boroughs – and it is here that workplace violations are most pronounced. Workers may be hired directly by building managers and owners, or by small, fly-by-night firms that have contracts with low-end retail and residential clients. Janitors will often clean several buildings for different clients during overnight shifts. Supers who work in small residential buildings in the outer boroughs, most of which are non-union, will work for a combination of free housing (a room in the basement or an apartment) plus a low weekly wage; they are essentially on call round the clock, especially when caring for more than one building.

WORKPLACE VIOLATIONS

As shown in Table D, minimum wage violations are mainly committed by non-union janitorial contractors serving small residential buildings and low-end commercial clients. Workers are typically paid weekly, off-the-books, and hourly rates can work out to less than the minimum wage – as low as \$3.50 an hour. Supers are also at risk of being paid less than the minimum wage when, for example, a building owner provides a free room in the basement and pays nothing else (i.e. the market value of the room may not equal the minimum wage once hours worked per week are taken into account).

Among security contractors, minimum wage violations are less frequent but may occur among smaller contractors, whose primary business strategy is to cut wages when competing with their larger competitors. As a result, profit margins in the industry have declined significantly, to around 1-3%. Investigators have also found violations in the early weeks of security employment, when the cost of uniforms and equipment is deducted from workers' initial paychecks, bringing their wages below the minimum.

Overtime violations appear common for non-union janitors and security guards. For example, low-bid contracts are frequently based on a flat rate charged to the clients, which does not include time-and-a-half for overtime hours. In order to come in on budget, contractors may force their security guards to clock out after working forty hours (but stay on the job). Janitors report being paid under multiple names, so that no single "worker" is paid for more than forty hours in a week. And a common strategy is to treat each job site separately. One organizer often sees this scenario: "Since they send workers to various places, the contractor says that the worker doesn't accumulate enough hours at a certain place to claim overtime."

As another casualty of razor-thin contracts, both janitors and security guards report regularly working through

meal breaks. And one security guard reported, "Sometimes they make you do 'triples' [24 hours straight]. Nobody wants to but they can get away with it because they know you need the job. They tell you, you gotta stay, you can't go home."

Other violations include janitors being misclassified as "independent contractors" by subcontractors in order to avoid paying minimum wage and overtime, and retaliation for attempts to organize. And workers of color report discrimination in hiring. In the words of one industry analyst: "A lot of clients want GLWBs – good looking white boys."

There is also growing concern in the city about reports of janitors being locked inside supermarkets while cleaning stores overnight. This is a violation of OSHA regulations that stipulate that employees have access to an exit in the event of a fire. The workers at risk are almost all undocumented Latino immigrants who are employed by small contractors. The clients are usually small- and medium-sized supermarkets, located in working-class communities in the outer boroughs. The supermarkets do not have formal contracts with the employers; instead, they operate on an informal basis with recruiters or crew leaders who take responsibility for bringing enough workers to clean the supermarkets.

TABLE D.
CHARACTERISTICS OF UNREGULATED WORK IN THE BUILDING SERVICES INDUSTRY
IN NEW YORK CITY

INDUSTRY SEGMENTS WHERE WORKPLACE VIOLATIONS ARE COMMON	
Industry segments	<ol style="list-style-type: none"> 1. Non-union contractors providing janitors and security guards to small residential buildings and low-end commercial clients such as retailers and supermarkets. 2. Small residential and low-end commercial buildings that hire workers directly (mostly supers, handymen and janitors). 3. There are also some violations among non-union contractors serving larger commercial and residential clients.
Union density	<p>Security guards: Low union density (currently about 5,000 guards are unionized).</p> <p>Janitors: Low union density in segments where violations are common (i.e. small residential building), but high union density in large commercial and residential buildings.</p>
THE JOBS WHERE WORKPLACE VIOLATIONS ARE COMMON	
Occupations	Violations are common for non-union security guards and janitors, and allied jobs such as supers, porters, handymen, and doormen. Some violations are reported for concierges and elevator operators.
Typical wages	<p>Security guards: Hourly wages for non-union guards generally average \$9-\$10 per hour, and can fall as low as minimum wage.</p> <p>Janitors: Wages for non-union janitors generally range from the minimum wage up to \$9 per hour. Workers can also be paid weekly, averaging \$300-\$350 per week.</p>
Typical hours	Hours range from 40-70 hours per week, depending on number of days worked. Janitors in unregulated segments regularly work 70 hours per week, usually on night shifts.
Payment method	Workers are usually on the books in commercial and large residential buildings, and off the books in smaller residential buildings (especially for janitors).
Benefits	Health benefits are rare in non-union jobs, as are paid vacation and sick days.
THE WORKERS MOST AFFECTED BY WORKPLACE VIOLATIONS	
Demographics	<p>Security guards: Almost all male. Predominantly African Americans, Latino, Caribbean immigrants (from Trinidad, Haiti, and Jamaica), and South Asian immigrants.</p> <p>Janitors: More evenly split between men and women. Predominantly Latino immigrants.</p>
Immigration status	<p>Security guards: Most are documented, especially those licensed with the state.</p> <p>Janitors: Significant presence of undocumented immigrants.</p>
INTERMEDIARIES PLACING WORKERS IN UNREGULATED JOBS	
For security guards, intermediaries include (1) temp agencies that charge the employer one week of pay, or a percentage of the hourly rate, and (2) job agencies and recruiters that specialize in the security industry. Janitors may find jobs through storefront employment agencies.	
INDUSTRY-SPECIFIC LAWS AND REGULATIONS	
<p>Building services workers are generally covered by workplace regulations. Industry-specific laws include:</p> <ol style="list-style-type: none"> 1. For residential janitors provided free housing, employers may count the cost of housing toward the minimum wage. 2. New York State's 1992 Security Guard Act requires security guards to be licensed through the state and establishes training requirements (8 hours of classroom training and 16 hours of on-the-job training). Individuals with criminal convictions can potentially be denied security guard licenses. 	

COMMON WORKPLACE VIOLATIONS

Minimum wage and overtime	<p>Minimum wage: Violations are most common for janitors employed by small non-union contractors (where hourly wages can fall as low as \$3.50 an hour), and for supers hired directly by building owners or managers; violations are less frequent for security guards.</p> <p>Overtime: Violations appear common for non-union janitors and security guards, who can work up to 70 hours per week without overtime pay. Residential supers are often asked to perform duties outside normal working hours, without additional pay.</p>
Meal breaks	In unregulated segments, security guards report working many hours without being able to take a meal break. Janitors have to clean a certain number of buildings in a shift, and time may not allow for sufficient meal breaks.
Employer taxes	Small residential managers or owners commonly pay off-the-books and do not pay required taxes. Non-union janitors are frequently paid off-the-books, with the contractor failing to pay taxes.
Misclassification	Cleaning subcontractors will assign janitors to multiple worksites in one shift, and then use this fact to claim that the workers are independent contractors when wage and hour claims are brought.
Non-payment of wages	Overnight janitors in supermarkets are often not paid the full wages due to them.
OSHA	Janitors in small- and medium-size chain supermarkets work overnight and are sometimes locked inside the building in violation of OSHA and the fire code. Janitors in unregulated segments are also exposed to hazardous cleaning materials and not provided with protective gloves and clothing.
Discrimination	For security guards, employers may seek to accommodate high-end clients (hotels, retail, residential) who express preference for white men.
Retaliation & the right to organize	Organizing is active in both the security and janitorial sector, and retaliation, including firing, is not uncommon.
Industry-specific regulations	Security guards in unregulated segments usually have received no training, or less than the amount required by state regulations. Many small employers hire security guards who are not licensed with the state.

Note: All violations were assessed using legal standards in effect when interviews were conducted, and in particular, wage rates are from 2004 to 2006.

Sources: Original data gathered by authors during fieldwork from 2003 through 2006 in New York City, as well as the following secondary sources: Casey-Bolanos (1999), Cleeland (2000), Fiscal Policy Institute (2003b), Gotbaum (2005), Greenhouse (2004e), Greenhouse (2005a), Greenhouse (2005b), Herzlich (2001), Maher (2005), McMillian (2005), New York State Department of Labor (2007b), New York State Department of Labor (2007c), New York State Office of the State Comptroller (2003), Rankin and Levitan (2006), SEIU Local 32-BJ (2004), US Department of Labor (1997).