

JANITORS:

The Pandemic's Unseen Essential Workers



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About MCTF

The Maintenance Cooperation Trust Fund (MCTF) is a nationally recognized statewide watchdog that works to eliminate illegal and unfair business practices in the janitorial industry in California. MCTF is a non-profit joint labor-management cooperation committee established by unionized janitorial employers and United Service Workers-West (the largest union representing janitors in California) in 1999. MCTF believes that legal, responsible business practices provide the necessary stability to create sustainable upward mobility for all stakeholders. Our investigators, former janitors themselves, work with janitors to identify potential employment law violations and expose unlawful business practices. We partner with responsible janitorial contractors as well as local, state, and federal enforcement agencies to hold law-breaking employers accountable in the industry.

Acknowledgements

This report would not have been possible without the tireless work of the staff and investigators of the Maintenance Cooperation Trust Fund. We especially want to recognize the following MCTF staff members that spent countless hours reaching out to hundreds of janitors throughout California and recording their experiences in the pandemic: Guadalupe Aguayo, Ana Aldama, Victor Enriquez, Marisol Gonzalez, Beatriz Guillen, Jaime Hernandez, Marlene Herrera, Victoria Marquez, Sonia Perez, Norma Peñaloza, Raul Perales, Maricela Salinas, Denise Velasco and Rafael Ventura. MCTF's former and current legal experts; Renee Amador, Cassie Peabody and Elena Josway, deserve special mention for their technical assistance and support. We also thank Lucero Herrera with the UCLA Labor Center for her assistance with research on the janitorial industry. Lastly and most importantly, we acknowledge the hundreds of janitors who participated in our survey and had the courage to speak up so that the public can understand the stark realities of working in the shadows of California's cleaning industry.

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Executive Summary

Janitors are California's unseen essential workers. While grocery store workers, health care workers and delivery drivers receive much deserved attention as essential workers crucial for our wellbeing during the pandemic, janitors' contributions to Californians' health and safety remains invisible.

The cleaning industry, by its very nature, keeps janitors in the shadows. Most janitors work at night cleaning office buildings, grocery stores, and restaurants. In the morning, consumers expect these spaces to be clean, sanitary, and ready for the public's use without fully appreciating the plight of the janitors who work nightly to maintain these spaces.

Other janitors work during the day or in 24-hour facilities where there is contact with other groups of workers and the public. This is especially true in workplaces serving vulnerable populations, such as hospitals and senior facilities. Despite working in plain sight, these workers still are often neglected because they are employed by subcontractors under substandard conditions in comparison to their co-workers in the same workspace.

To understand the experience of these unseen workers during the pandemic, the Maintenance Cooperation Trust Fund conducted a survey of non-union janitors between July and August 2020. The janitors surveyed were from various work locations in California that included office buildings, grocery stores, restaurants, health care facilities and government buildings. In April 2021, MCTF returned to a group of those surveyed to conduct more in-depth interviews to uncover how workers fared through the 2020/2021 winter surge of COVID-19 cases in California. This is the first survey-based study focusing on the experience of this vulnerable group of workers during the pandemic.¹

MCTF's findings revealed:

- The majority of janitorial companies covered by the survey did not provide janitors with PPE or follow other occupational safety protections mandated by Cal/OSHA. This included companies who neglected to provide PPE after COVID-19 outbreaks among their employees and one company who continued to not provide PPE despite the death of one of its employees from COVID-19.
- Evidence that janitorial companies continued to disregard workplace safety requirements despite the winter surge in COVID-19 cases and the enactment of additional laws to protect workers from the pandemic.
- More than a quarter of respondents reported that they did not have any paid sick days, despite being entitled to them under the 2014 Healthy Workplace Healthy Families Act. In the case of one employer, janitors who tested positive for COVID-19 were threatened with termination if they did not work while they were sick with the virus. The employer also neglected to provide PPE to its workers.
- Cleaning chemicals can have serious health effects on janitors if not used properly, especially the more potent chemicals that some janitors have been asked to use since the beginning of the pandemic. However, more than half of all janitors surveyed and 30% of janitors using new cleaning chemicals reported not receiving any training on the use of cleaning chemicals. Janitors report headaches, difficulty breathing, and nausea caused by the cleaning chemicals they are using.
- More than half of janitors lost their jobs or had their hours reduced during the first six months of the pandemic (19% and 35% respectively).
- Janitors struggled to afford basic necessities, particularly if they lost their jobs or had their hours reduced. 62% of those who lost their jobs and 41% who had their hours reduced reported not being able to afford food or water.



The subcontracted nature of the janitorial industry fuels unfair competition and awards contracts to the bidder that can keep labor costs to a minimum and can give an irresponsible contractor an unfair advantage over responsible law-abiding contractors. Therefore, any effort to address these findings must take on a multi-layered approach that includes:

1. Expansion of workplace regulations, such as creating janitor specific safety standards.
2. Reform of current workplace protections in order to facilitate enforcement.
3. Sufficient pay and benefits so janitors can weather the effects of pandemic conditions and afford basic necessities such as food, water and health care.

Introduction

COVID-19 has caused a devastating impact on communities of color in California. Latino essential workers have been hit hard by COVID-19 with higher infection rates, higher death rates and a significant loss of employment. Latino workers in the janitorial industry have suffered greater hardships than many other types of low-wage or essential workers during the pandemic. The janitorial industry has several characteristics that make janitors an especially vulnerable workforce. These characteristics include:

- Work that largely takes place at night and out of the public sight;
- Illegal employment practices and insufficient enforcement;
- Low-wages, minimal benefits, and financial insecurity;
- A workforce that is predominantly composed of Latinos and other predominantly marginalized demographic groups.

Given these characteristics, it was important to understand how the pandemic has impacted janitors in California. The Maintenance Cooperation Trust Fund (MCTF) surveyed non-union janitors and found high rates of food insecurity, financial distress, lack of access to health care, and high-rates of employer non-compliance with COVID-19 specific workplace safety regulations. Follow-up interviews with survey respondents found evidence that recently adopted emergency standards have not translated into increased regulatory compliance. This report is the first of its kind in California to take a quantitative survey-based approach to studying the impact of COVID-19 on janitorial industry employees and employment practices.

The report will detail the various characteristics of the janitorial Industry that have made janitors especially vulnerable to the COVID-19 pandemic. Additionally, the report will describe how janitorial employers have frequently failed to comply with COVID-19 safety standards as well as other regulations that would have mitigated the impact of COVID-19 on their workers. It will show that this pattern of non-compliance is linked to practices and standards in the

industry prior to the pandemic. Therefore, these pre-existing characteristics of the janitorial industry need to be accounted for and addressed to successfully protect janitors from COVID-19 and other future pandemics.

Data for this report was collected through a phone survey of 236 California janitors in workplaces not covered by collective-bargaining agreements.² Our survey pool covers a diverse variety of sectors, including commercial office buildings, grocery stores and other retail locations, restaurants, health care facilities, and government buildings. The survey period was from July 2020 to August 2020. The survey primarily focused on two topics: 1) the economic impact of Covid-19 on non-union janitors in California and 2) the degree to which non-union janitorial companies are following workplace safety and employment laws that ensure janitors can do their jobs safely and effectively. In April 2021, surveyors followed-up with a small number of survey respondents for more in-depth interviews to gather additional information about compliance with recently adopted COVID-19 safety measures and the continued impact of the pandemic on their lives and employment.

THE SURVEY FOCUSED ON TWO TOPICS:



The economic impact of COVID-19 on non-union janitors in CA



The degree to which non-union janitorial companies are following workplace safety and employment laws that ensure janitors can do their jobs safely and effectively.

Characteristics of the Janitorial Industry and Workforce

The janitorial industry is highly competitive, with low barriers to entry and thin profit margins. Labor costs make up a large majority of janitorial company expenditures.³ Generally, it is easier for janitorial companies to adjust labor costs versus other types of expenses such as cleaning chemicals and equipment.^{4&5}



Janitorial employers are under intense pressure to cut labor costs, particularly during the pandemic when clients are exerting pressure on janitorial companies to reduce overall costs. These factors create an incentive for janitorial companies to not just reduce wages and benefits as much as possible, but also to dodge their workplace safety responsibilities, such as providing workers with PPE, effective cleaning materials and training.

The janitorial industry is also characterized by complex and multiple layers of subcontractors that create additional pressure to violate employment and workplace safety protections. Pressure from the clients to cut costs pushes janitorial companies to exert pressure on their subcontractors. This intensifies the competitive nature of the industry as numerous small companies compete for pieces of larger contracts. Larger janitorial companies gain significant leverage over smaller janitorial companies to further reduce costs, while transferring all the responsibility for employee costs, cleaning chemicals and equipment to these companies. Under these conditions, many of the subcontractors choose to violate employment and workplace safety laws in order to stay in business.⁶

The subcontractors who are the actual employers of record are often exceedingly small, impermanent, and sometimes unlicensed off-the-books entities⁷ making it difficult for enforcement agencies to identify the entity that should be held liable for workplace violations. Even in situations where the employer of record is identified and held responsible for workplace violations, they are often under-resourced and unable to pay workers' the back wages, penalties and other incurred liabilities. The industry's low barriers to entry make it easy for owners to dissolve their companies and create a new company under a new name to avoid responsibility. Sometimes, these new successor entities created to avoid liability for workplace violations will contract to clean the same building as the previous entity that was liable for breaking the law.

Despite the intense competitive pressure around labor costs that characterizes the janitorial industry, improvements in employment practices are possible. Clients that have the ultimate decision-making authority over who cleans their buildings can use their power to hire responsible contractors. Instead, clients, such as building owners, property management firms and public sector institutions, use their leverage over janitorial firms to push costs down, often to a point where janitorial companies must choose between competing and complying with the law. These clients are able to avoid responsibility by contracting out the service to janitorial companies. Efforts to improve employment conditions in the industry should include holding responsible building owners and other entities who have actual control over the employment conditions of janitors.

California legislators have taken some steps to regulate subcontracted industries, prevent these abuses, and hold clients and larger contractors liable for the actions of their subcontractors. California Assembly Bill 1897 makes contractors and clients liable for certain workplace violations originating from their subcontractors. However, the full impact of this law is still unclear because it does not apply to all workplace protections such as the provision of training for appropriate use of the cleaning chemicals and personal protective equipment. In 2020, California also passed AB 3075 that expanded successor liability for labor code judgments and in combination with a recently created registry of janitorial companies should make it easier for enforcement agencies to identify janitorial operators who seek to evade liabilities by creating new entities. Regulations created by AB 3075 have not yet been implemented so its effectiveness is still unknown.

Some workplace safety laws operate differently from most other employment laws, and hold the entity directly controlling the conditions at issue in a Cal/OSHA complaint responsible for a violation. However, Cal/OSHA does not have janitor specific workplace safety laws. As a result, janitorial contractors and subcontractors are still held liable for workplace safety laws that are most relevant during the pandemic such as the provision of PPE, training and safe use of the cleaning chemicals, and most aspects of social distancing. Therefore,

without janitor-specific workplace safety laws, many of the same enforceability issues that exist with employment laws in general also exist for Cal/OSHA regulations.

Latinos make up more than two-thirds (67%) of the janitorial workforce in California. For contracted out janitors in California, the percentage is even greater 81%.⁸ According to National CDC data, Latinos are also at the greatest risk of contracting COVID-19. The Latino rate of infection is twice that of non-Hispanic whites.⁹ Furthermore, next to non-Hispanic American Indian or Alaskan Natives, Latinos are most at-risk of being hospitalized and dying from COVID-19 at 3 times and 2.3 times the rate of non-Hispanic whites, respectively.¹⁰ In California, increased mortality rates for Latinos relative to other racial and ethnic groups is even greater in younger, working-age populations.¹¹

These higher rates can be tied to the fact that Latinos have the highest rates of employment in essential frontline jobs, such as janitorial jobs, where there is a higher-risk of exposure to coronavirus. Specifically, 55% of California Latino residents work in such jobs, compared with 35% of non-Hispanic white residents.¹² Nationally Latino households have more wage earners per household (1.6), in comparison to their non-Hispanic white counterparts (1.2).¹³ These two factors combine to increase the risk of COVID-19 infection to Latino families as they have more people leaving the house each day and working in higher-risk jobs.

LATINOS AND THE JANITORIAL WORKFORCE DURING COVID-19

81%

of contracted out janitors in California are Latino.

Nationally, the COVID-19 infection rate for Latinos is **2X** that of non-Hispanic whites.

Nationally, Latinos are **3X** more likely to be hospitalized and **2.3X** more likely to die from COVID-19 than non-Hispanic Whites.

55% of California Latino residents work in essential front-line jobs such as janitorial jobs compared to **35%** of non-Hispanic white residents.

FINDINGS

Regulatory Non-Compliance in the Janitorial Industry

The highly competitive nature of the janitorial industry combined with competition based on labor costs and the ease of evading regulations creates an atmosphere of chronic non-compliance with employment laws. Not only are janitorial companies failing to abide by workplace safety laws specifically designed to protect workers from COVID-19 in the workplace, but they are also failing to abide by other laws such as minimum wage, paid sick leave and workers compensation that would have helped mitigate the impact of the pandemic on janitors and their families. This creates a dynamic where less scrupulous janitorial contractors can undercut law-abiding contractors when bidding on commercial cleaning contracts, pushing these more responsible contractors out of the market.



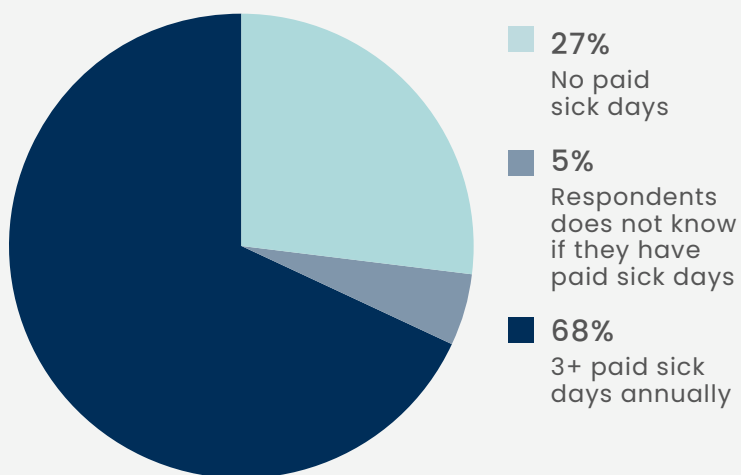
MISCLASSIFICATION

The misclassification of janitors as independent contractors by their employer is widespread in the industry. Some of the industry's largest employers such as Jani-King and Jan-Pro have been found guilty of systematically misclassifying their employees.^{14&15} MCTF itself has helped recover millions of dollars in unpaid wages because employers misclassify workers as independent contractors. Six percent of all California janitors and 17% of subcontracted janitors are classified as independent contractors.¹⁶ The majority of janitors who are independent contractors that MCTF investigators have encountered in the field have been

misclassified and illegally denied the rights of employees. In one recent case, MCTF found that a janitorial company had misclassified its employees as independent contractors and then charged these employees a fee for the right to clean facilities under contracts it had negotiated.

Janitorial companies misclassify their workers as independent contractors to reduce costs and increase flexibility. As independent contractors, workers do not qualify for many protections they would otherwise get as employees. These include paid sick leave, family and medical leave, unemployment insurance, workers compensation, and many types of workplace safety rules.¹⁷ Additionally, independent contractors are exempt from some COVID-19 worker protections such as 2021 COVID-19 Supplemental Paid Sick Leave (Labor Code Section 248.2).¹⁸ MCTF found numerous examples of janitors in its survey and follow-up interviews who were likely misclassified as independent contractors and denied basic worker protections such as paid sick days, workers compensation claims and overtime. California's recent passage of AB 5, legislation restricting the circumstances under which companies classify their workers as independent contractors, offers an opportunity to address the routine misclassification of employees under the previous less strict standards.

Chart 1
**PERCENTAGE WITHOUT
PAID SICK DAYS**



PAID SICK DAYS

Providing workers with paid sick days creates a benefit for both employers and workers. Especially in low-wage sectors such as the janitorial industry, paid sick days create stability among the workforce and reduce turnover rates.¹⁹ Paid sick days have become an especially important protection for janitors as essential workers during the pandemic.

Under California's Healthy Workplace Healthy Family Act of 2014 (AB 1522) full-time and part-time employees in California are entitled to paid sick leave.²⁰ However, MCTF's survey found that more than a quarter (27%) of non-union janitors reported not having any paid sick days. Another 5% reported not knowing whether they had paid sick days. Our follow-up interviews in April 2021 found incidences of janitorial companies denying paid time off to workers after testing positive for COVID-19. One janitor who works in a grocery store in the Southern California Inland Empire reported that there was an outbreak of COVID-19 among her co-workers. The employer made the janitors continue to work after testing positive for COVID-19, threatening to fire them if they took time off. The company also did not provide the workers with PPE such as face masks or opportunities to wash their hands, while requiring infected employees to continue at work.

The lack of sick days incentivizes workers to come to work even if they have COVID-19 symptoms. This is especially true for janitors because they work in a low-wage industry with little job security, partially the result of misclassification, and cannot afford to miss one or two paychecks due to illness. This is problematic for janitors who frequently work in spaces utilized by significant numbers of people, such as grocery stores (as in the example above), restaurants, retail, highly trafficked commercial office buildings and health care facilities.

California has enacted additional worker protections since the beginning of the pandemic that grant employees supplemental leave if they contract COVID-19. Examples include the Families First Coronavirus Act²¹ and California's 2021 COVID-19 Supplemental Paid Sick Leave (Labor Code Section 248.2)²², 2020 Supplemental Paid Sick Leave for Food Service Workers²³, as well as other regulations. However, the fact that almost a third of survey respondents reported either not having paid sick days or not knowing if they have paid sick days makes it doubtful that these workers are being granted supplemental paid time off by janitorial employers. A respondent to the follow-up interview said that despite having paid sick leave, she was still initially denied supplemental leave when she contracted COVID-19.

WORKPLACE SAFETY

COVID-19 created a heightened awareness of health and safety measures in workplaces, especially for essential workers who are unable to work from home. Even with the heightened awareness, the survey found that California’s non-union janitorial companies routinely disregard health and safety protocols that protect workers and clients from COVID-19. A large majority of janitors surveyed reported that the company they worked for failed to take one or more legally required steps to prevent the spread of the virus. Even more troubling, 15% of respondents reported a complete lack of both social distancing and company provided PPE in the workplace. Compounding the failure of California’s non-union janitorial industry to protect its workforce and clients from COVID-19, there exists a common fear among the industry’s janitors that they will be fired or otherwise retaliated against if they request additional safety measures or training.

PERSONAL PROTECTIVE EQUIPMENT

California regulations require janitorial companies to provide personal protective equipment, such as face masks, gloves, cleaning wipes, hand sanitizer and other protections to mitigate the impact of COVID-19 and other workplaces hazards. Employers are also required to train employees on how to effectively use such equipment.^{24, 25, 26, 27 & 28} However, one-in-five working janitors (20%) in the survey reported NOT receiving any PPE in the workplace. Of those janitors who reported receiving PPE, a majority (56%) said they did NOT receive any training on how to use

Table 1:
**PERCENTAGE OF WORKERS REPORTING
BEING PROVIDED WITH NO PPE**

Percentage of working respondents who reported NOT receiving PPE of any kind from employer	20%
Percentage of working respondents that received PPE, who reported NOT receiving training on how to use PPE to protect them from COVID-19	56%

Table 2:
**EMPLOYER PROVIDED PPE: FAILURE TO
PROVIDE GLOVES & MASKS**

Percentage of working janitors who reported that their employer did NOT provide them with:	
Not Provided Gloves	Not Provided Masks
22%	22%



A janitor at a grocery store described an outbreak in her workplace that killed one co-worker and gave another co-worker permanent heart damage. Despite this outbreak, her employer still does not provide workers with PPE.

the PPE to protect them from COVID-19. The follow-up interviews conducted in April 2021 did not find evidence of an increase in the provision of PPE since the summer of 2020, despite a severe spike in cases over the winter and new workplace safety regulations.²⁹ Specifically, of the janitors who reported not receiving any PPE over the summer, all were still not receiving any PPE in the April 2021 follow-up interview. Additionally, one respondent who reported receiving PPE over the summer, said in their April follow-up interview that their employer had since stopped providing PPE.

One out of five janitors surveyed (22%) reported that they were not provided gloves at work (Table 2). The provision of gloves to janitors was a health and safety requirement prior to the pandemic, in order to prevent negative health effects from the cleaning chemicals they use for work. It is concerning that such a large proportion of janitors are reporting they are not getting gloves during the COVID-19 pandemic, when it is more urgent to

wear them. This demonstrates that janitorial companies' non-compliance with safety standards preceded the pandemic, so it is not surprising that janitorial companies have ignored additional safety standards enacted because of the pandemic.

The same percentage of janitors (22%) reported not being provided with masks at work.³⁰ This number is alarming given that masks are required in all California workplaces. In some cases, employers have refused to provide masks to employees even after there have been workplace outbreaks. A janitor at a grocery store described an outbreak in her workplace that killed one co-worker and gave another co-worker permanent heart damage. Despite this outbreak, her employer still does not provide workers with PPE. Instead, many buy their own because they are afraid of getting infected with COVID-19 at work, incurring additional personal costs while experiencing increased economic hardship to provide basic necessities.

CLEANING CHEMICALS

If used incorrectly without the right kinds of protections, cleaning chemicals can cause a broad range of negative health effects for janitors. This is especially true for some of the more potent cleaning chemicals that have been introduced since the beginning of the pandemic.

OSHA's Hazard Communication Standard (29 CFR 1910.1200) requires janitorial employers to educate employees on the hazards posed by these chemicals and enact appropriate safety measures necessary to use these chemicals safely and effectively.³¹ MCTF's survey found that

less than half of working janitors in our survey had received such training. The lack of training and the failure of janitorial companies to provide workers with standard materials to protect them from cleaning chemicals, such as disposable gloves, shows that workers are not just at-risk from COVID-19 but also at-risk from the cleaning chemicals that are an integral part of their job.

Similar to the provision of PPE, the follow-up interviews MCTF conducted in April 2021 did not find any evidence that employers had begun to comply with regulations requiring the training of janitors on the cleaning chemicals they are using. Of the janitors that reported not receiving training in the summer, none reported receiving training in the April 2021 interviews. One worker reported that their employer stopped providing training to its employees in the period between the survey and the follow-up interview.

The lack of training and protections is especially concerning because some janitorial companies have started requiring their employees to use unfamiliar harsher chemicals because of the pandemic. Of the janitors who started using new cleaning chemicals since the beginning pandemic, 30% reported not receiving the required safety training. Therefore, it is not surprising that some janitors report negative health effects from the cleaning chemicals they are using, including headaches, severe nausea, and difficulty breathing.



One worker reported that their employer stopped providing training to its employees in the period between the survey and the follow-up interview.

SOCIAL DISTANCING

Social distancing is considered one of the primary ways to prevent the spread of COVID-19. However, close to 40% of janitors reported the absence of any kind of social distancing protocols in their workplace.³² Janitors who worked in public-facing workplaces such as grocery stores or outpatient health care facilities did not report any social distancing measures. Only about half of janitors reported receiving education about the importance of social distancing in the workplace, such as using additional caution in high traffic areas or limiting congregations with co-workers.

NOTIFICATION OF EXPOSURE TO COVID-19 AND PROVISION OF FREE TESTING

Under California Code Title 8 Section 3203 and the California COVID-19 Emergency Temporary Standards, employers are required to notify workers if they may have been exposed to COVID-19. Only one of the janitors interviewed reported that they were informed by their employer of potential exposure. Instead, janitors reported hearing about it from their co-workers. The failure of employers to notify their employees of potential exposure to COVID-19 is significant because it makes it hard for employees to take precautions to protect themselves, which endangers them and their families. The importance of this is exemplified by the fact that in all but one of these cases where employees were not notified, multiple co-workers contracted COVID-19.

RETALIATION

Employers in California are prohibited from retaliating against employees for exercising their right to a safe workplace. Yet almost one-in-four janitors in our survey said they fear retaliation from their employer if they asked for additional health and safety measures. More than half of janitors said their employers were not doing enough to protect them from COVID-19. There are several sections of the labor code that could

Table 3:
PERCENTAGE OF JANITORS REPORTING FEAR OF RETALIATION FOR REQUESTING ADDITIONAL HEALTH AND SAFETY MEASURES

PERCENTAGE	
Yes	23%
No	72%
Do Not Know	4%

be utilized to protect workers who are exercising their right to a safe workplace.³³ Based on the findings of this survey, these protections are insufficient to allow janitors to freely speak out against chronic workplace safety violations by their employers.

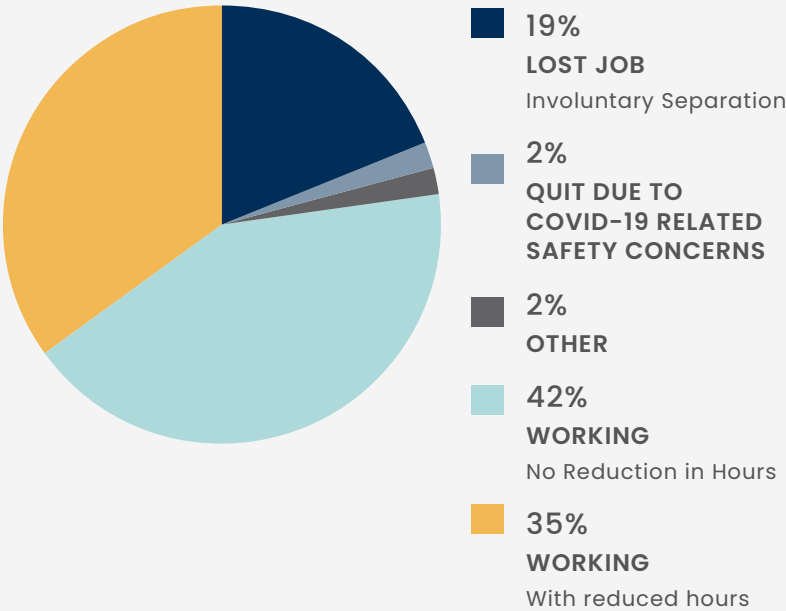
FINDINGS

Financial Characteristics of Janitorial Workforce

The janitorial workforce in California is characterized by low-wages, financial insecurity, and lack of access to health care. The pandemic has exacerbated these factors with increases in job loss and the reduction of wages. Although the majority of non-union janitors do not receive health insurance through their employer, the loss of employment can still impact their ability to afford medical care. In an industry characterized by low-wages, workers have little opportunity to set aside savings to weather financial losses and breaks in employment. MCTF’s survey found evidence



Chart 2:
CHANGE IN EMPLOYMENT STATUS SINCE THE BEGINNING OF PANDEMIC



that an increasing number of janitors struggle to afford basic necessities like food and water, medical expenses, and monthly bills due to the pandemic.

CHANGE IN EMPLOYMENT

While some janitors have been determined to be essential employees and continue to work during the pandemic, others have lost their jobs or had their hours reduced. A loss of work or hours can be devastating for janitors and their families. More than half

(54%) of the janitors in our survey had either lost their jobs and been unable to find other employment or had their hours reduced.³⁴ Of the respondents who were employed as janitors as of March 1st, 2020, 19% have lost their jobs, and 35% have had their hours reduced. Two percent (2%) of those surveyed quit their jobs due to COVID-19 related workplace safety concerns.³⁵

LOW-WAGES

The janitorial industry is marked by low-wage jobs. Of the janitorial jobs in California, 77% of jobs pay less than two-thirds of the state median wage. This is a higher percentage than almost every other common type of low-wage essential job, such as cashiers, personal care aides, food preparation workers, stockers, and order fillers.³⁶ Furthermore, 36% percent of California janitors live in that fall below 200% of the federal poverty level, a common benchmark of economic distress. For subcontracted California janitors, the rate is higher at 46%.³⁷

There are numerous cases where janitorial companies have been caught paying less than minimum wage, suggesting a pattern in the industry. A 2010 report found that 32% of workers in Los Angeles County's property services industry were not paid minimum wage and 80% did not receive overtime when they worked more than 40 hours in a week.³⁸ In the past few years, MCTF has investigated numerous cases involving janitorial companies failing to pay their workers' legally required wages. In a 2018 case, the Cheesecake Factory and its janitorial contractors were found jointly liable for wage theft violations totaling \$4.2 million.³⁹

77%

of California janitorial jobs pay less than 2/3 of the state median wage

46%

of subcontracted janitors in California live in households that fall below 200% of the federal poverty level, a common benchmark of economic distress³⁷

A 2010 report found that **32%** of workers in Los Angeles County's property services industry were not paid minimum wage and **80%** did not receive overtime when they worked more than 40 hours in a week.³⁷

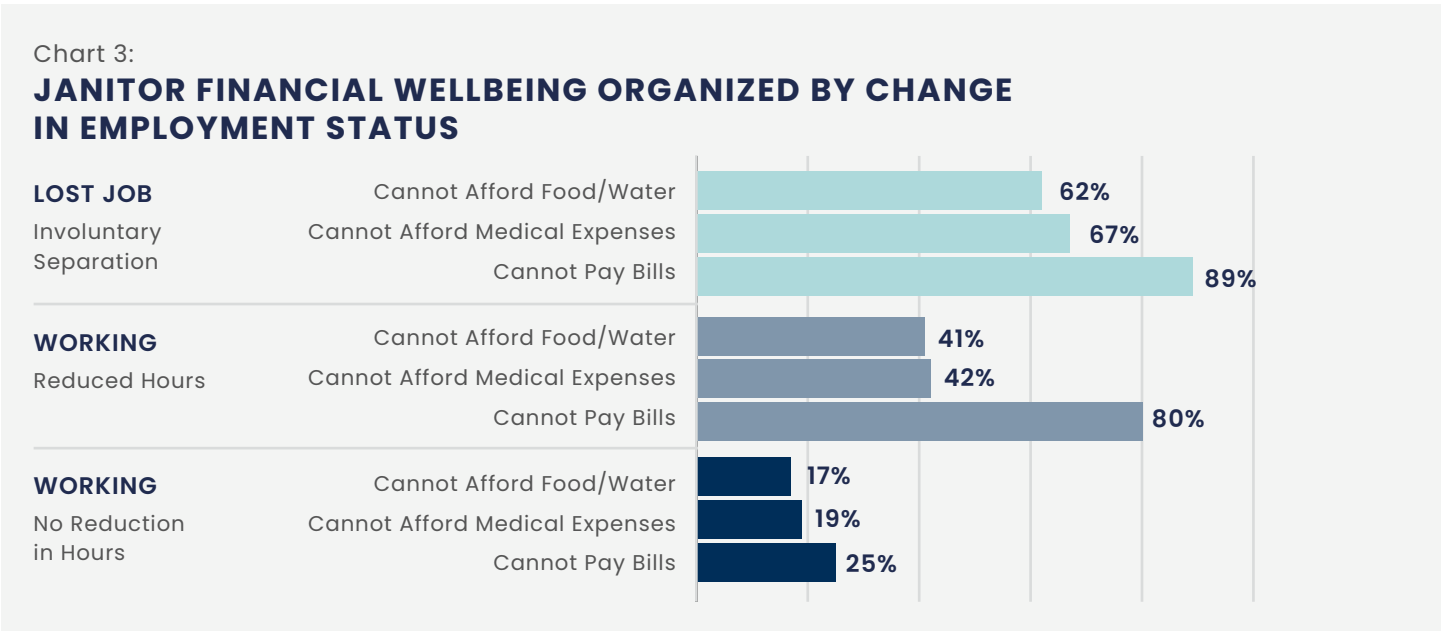


IMPACT OF COVID-19 ON FINANCIAL WELL BEING OF JANITORS

The low-wage minimal benefit nature of the janitorial industry has caused significant hardships for janitors who have not lost their jobs or had their hours reduced because of the pandemic. As shown in Chart 3 below, of the janitors who were still working without a reduction in hours, 17% reported they could not afford food or water, 19% reported they could not afford medical expenses and 25% reported they could not pay their bills. Since these workers had not lost their jobs or had their hours reduced because of the pandemic, this provides evidence that these types of hardships plagued janitors before the pandemic.

The low-wage minimal benefit nature of the janitorial industry has caused significant hardships for janitors who have not lost their jobs or had their hours reduced because of the pandemic.

Due to their vulnerable financial position, the economic challenges associated with COVID-19 hit janitors especially hard. For workers who lost their janitorial jobs and were unable to find new jobs, 62% reported they could not afford food or water, 67% reported they could not afford medical expenses, and 89% reported they could not afford to pay their bills. For janitors who retained their jobs through the pandemic, but had their hours reduced, the numbers were still significantly higher than those who had maintained their hours: 41% report they could not afford food or water, 42% reported they could not afford medical expenses and 80% reported they could not pay their bills.



HEALTH INSURANCE COVERAGE

Paying for medical insurance is simply out of reach for janitors already struggling to cover the basic necessities. Therefore, it is not surprising that janitors, regardless of employment status, often have no medical insurance. Of the respondents in MCTF’s survey, less than half (45%) who said they were working without a reduction in hours since the beginning of pandemic reported having insurance. Of those who lost their janitorial jobs and were unable to obtain new jobs, only 14% reported that they had health insurance and only a third (33%) of those who were working reduced hours reported having health insurance.

It should be noted that janitors covered by collective bargaining agreements earn higher wages⁴¹ and are more likely to have employer sponsored health coverage as well as other benefits.⁴² Janitors normally lack access to the enforcement agencies to report employer violations.⁴³ This is especially important during the current pandemic where regulatory compliance can prevent life-threatening outbreaks. In such circumstances, a union presence in the workplace can increase the likelihood that such safety issues are addressed, either through the additional worker protections provided by a collective bargaining agreement or the presence of a union representative with the expertise to be an advocate alongside janitors.

Table 4:
HEALTH INSURANCE COVERAGE

	HAVE HEALTH INSURANCE	NO HEALTH INSURANCE
CURRENTLY WORKING No Reduction in Hours	45%	55%
CURRENTLY WORKING With Reduced Hours	33%	67%
JANITORS FIRED/ LET GO and Unable to Find New Work	14%	86%



CONCLUSION

Recommendations to Improve Janitors' Standard of Living

This study exposed the significant hardships that non-union janitors in California faced prior to the pandemic and that were further worsened by the economic and health crisis brought on by COVID-19. Irresponsible janitorial employers' negligence with regard to workplace safety and other employment laws follow a pattern of exploitation and non-compliance that preceded the pandemic, contributing to California's underground economy. Prior to the pandemic, janitorial employers routinely flouted paid sick day laws, so it was entirely predictable that they would continue to do so during the pandemic, even when workers contracted COVID-19. The same is true for other workplace safety regulations such as providing workers with the tools and materials necessary to do their jobs safely and effectively. While there have been numerous legislative efforts to prevent unfair competition in the janitorial industry, more needs to be done.

Even in California, one of the wealthiest states in the nation, there are significant numbers of janitors who cannot afford basic necessities like food and water. Efforts to address this crisis in the janitorial industry must take a multi-layered approach that includes:

1. Stronger Enforcement of Workplace Protections

MCTF found that there was continued non-compliance with many workplace protections. Irresponsible janitorial employers fail to provide workers with PPE or paid sick days and routinely misclassify them as independent contractors to reduce costs. Failure to adopt basic workplace protections is widespread in the industry and places those companies who choose to be responsible businesses at a significant competitive disadvantage. This signals the need for stronger workplace enforcement, so janitorial companies do not feel pressured to break the law in order to compete on a level playing field. MCTF participates in a successful model of co-enforcement with the State Labor Commissioner's Office that facilitates worker outreach, education

and investigations. The complaint process can be long, confusing and intimidating for workers. Working with Labor Deputies, MCTF investigators are better able to support workers through the process. Partnerships like this one offer an important model that can be expanded to other areas of enforcement like Cal/OSHA and other enforcement agencies in the state.⁴⁴

Furthermore, heightened vigilance and enforcement needs to be done to protect workers from retaliation when janitors exercise their rights to benefits and protections such as paid sick days and PPE. This could include additional penalties for employees who violate current retaliation laws and increased protections for employees who report violations. These protections should be easily accessible to workers even those with less financial resources from marginalized communities.

2. Expand workplace regulations holding clients and contractors responsible for subcontractor violations.

The janitorial industry is characterized by a competitive dynamic where clients and large cleaning companies exert a significant amount of control over the labor and employment practices of their subcontractors. However, they are also shielded from any liability for illegal workplace practices by this subcontracting relationship. Therefore, more California laws designed to protect workers need to take this power dynamic into account. Some suggested reforms include expanding the scope of AB 1897 and AB 3075 to include additional types of violations that janitors are experiencing in their workplaces. Also, janitorial-specific workplace safety rules could be adopted that consider this power dynamic. These rules should include tools for employees to address any deficiencies in employers' injury and illness prevention plans, including those that allow for third-party advocacy organizations to become involved.



3. Higher Wages and Benefits

Prior to the pandemic, janitors were already in a poor position to deal with any form of adversity. Janitors are some of the lowest paid workers in California and their jobs generally provide only minimal benefits if any at all. Employers often do not even comply with legally mandated minimums such as paying workers minimum wage and workers' compensation. This means that workers have little opportunity and lack the resources to prepare for an emergency such as the pandemic.

The state should consider additional legislation that will increase penalties and further protect janitors from employer abuses such as misclassification and wage theft, which rob them of their ability to earn enough to support themselves and their families. In February of this year Assemblywoman Lorena Gonzalez introduced a new bill (AB 1003) that would make wage theft of more than \$950 punishable as grand theft. This legislation would be one way to help make non-union janitors less vulnerable in the future.

Most of the hardships that janitors faced during the COVID-19 pandemic can be traced to problems that existed in the non-union janitorial industry before the pandemic. For example, janitorial employers that do not permit their employees to take the sick days they were entitled to before the pandemic are unlikely to allow the employees to take the supplemental paid sick days they are entitled to during the pandemic. Non-union janitorial employers did not protect their employees from the harmful side effects of cleaning chemicals before the pandemic and they continued to do so during the pandemic. Compounding this issue are the low-wages and lack of benefits that dominate the non-union janitorial industry that are also partially the result of employer non-compliance with employment and occupational safety laws. This is the result of a regulatory safety-net that failed janitors before the pandemic and continues to do so during the pandemic. This failure will endure unless regulatory steps such as those described above are enacted to prevent employer abuses in the future.

APPENDIX 1


Methodology

Data for this report was gathered through a survey of non-union janitors that took place in July and August of 2020. Subsequently, in April 2021, follow-up in-depth interviews were conducted with a limited number of randomly selected respondents to the larger survey.

The surveys were conducted over the phone by bilingual (English/Spanish) MCTF staff, between July 1st and August 31st, 2020. Almost all the surveyors are former janitors, employed by MCTF to investigate labor and employment violations within the non-union janitorial industry in California. Therefore, the surveyors had substantial knowledge of the topics covered, prior to conducting the survey.

In cases where a survey respondent had two janitorial jobs, they were given the survey twice (once for each job). In these cases, information about each workplace is given a unique identifier to reflect the fact that they are from different employers. However, personal information collected about the worker (not related to the workplace) was combined to reflect the fact that they are from a single respondent.

MCTF contacted 278 janitors for the survey, covering 284 workplace experiences. The difference between the two numbers is explained by six workers having two janitorial jobs. Of these 278 janitors, MCTF was able to use information from 236 respondents covering 241 different workplace experiences. We were unable to use responses from 27 respondents because they had not worked as janitors since March 1st, 2020. Other surveys were not used because they were incomplete or there were inconsistencies in how they were filled out. This analysis uses March 1st, 2020 as a rough approximation for the beginning of the pandemic in California.




MCTF used a snowball sampling technique to identify interviewees for this survey. MCTF built on a network of contacts it had developed through its history as a watch dog and advocate for workers in California’s non-union janitorial industry. This is a sampling technique used by researchers in studies of difficult-to-reach populations. Workers in California’s non-union janitorial industry meet these criteria for such a population due to the characteristics of the industry listed below:

1. Janitorial companies frequently do not register with regulatory bodies as required.⁴⁵
2. Workers are frequently employed off the books or misclassified as independent contractors.⁴⁶
3. Employment relationships (formal and informal) have a high degree of impermanence, with high rates of turnover amongst janitors and janitorial companies.
4. Many workers in the industry are undocumented.

As a result, a significant proportion of California’s non-union janitorial industry can be described as part of the underground economy. Furthermore, there is significant anecdotal evidence that the underground portion of the state’s non-union janitorial industry differs demographically and in terms of employment conditions from the portion that is above-ground.

These features of California’s non-union janitorial industry make quantitative analysis of workers in the industry especially difficult. Data from standard sources such as the California Employment Development Department, U.S. Census Bureau, and the United States Bureau of Labor Statistics, frequently do not account for misclassified workers or workers paid off the books by entities who fail to register with the appropriate regulatory bodies. Therefore, it is impossible to use these sources to approximate a population mean for non-union janitors in California and utilize standard survey methods to find statistically valid correlations between a survey sample and this group of workers. Under these conditions, alternative strategies need to be applied, such as the snowball sampling technique.



The snowball sampling technique does have some disadvantages, such as community bias, that limit this survey's generalizability. For example, the race/ethnicity breakdown of our survey pool is 100% Latinx/Hispanic. While the non-union janitorial industry in California is predominantly Latinx/Hispanic, other racial or ethnic groups are present in this industry and are not represented in this survey.⁴⁷ However, given the difficulties inherent in studying workers in the non-union janitorial industry, many standard research methods for finding statistically valid correlations within a target group of workers are infeasible and secondary data sources, as discussed earlier, are not representative.

MCTF also conducted twelve follow-up interviews with survey respondents in April 2021. Due to the limited number of interviewees, these interviews were only used for qualitative analysis. There was considerable difficulty contacting respondents to the initial survey, so the interviewees were largely selected based on their willingness to participate in the follow-up interviews. This creates the potential for self-selection bias. Therefore, the interviews are primarily used as anecdotal evidence, in support of evidence from the survey or third-party sources such as the US Census Bureau American Community Survey.

Characteristics of Sample

Table 5:
GENDER OF SAMPLE

FEMALE		MALE		TRANSGENDER		TOTAL RESPONDENTS*
Number	Percentage	Number	Percentage	Number	Percentage	
171	73%	62	26%	1	0.4%	234

All the respondents were Latinx or Hispanic and 73.1% were female.
The geographic locations of the respondents are shown in the table below:

Table 6:
GEOGRAPHIC REGION OF WORKPLACES

REGION	NUMBER	PERCENTAGE
Alameda County & East Bay	21	9%
Los Angeles County	35	15%
Orange County	38	16%
Riverside/San Bernardino County	16	7%
Sacramento (Incl. Metro Area)	28	12%
San Diego County	50	21%
Santa Clara County	34	14%
San Francisco County	4	2%
San Mateo County	14	6%
Ventura County	1	0.4%
Total	241	-

ENDNOTES

¹ See Appendix I Methodology for a detailed explanation of the methodology used for the survey.

² The surveys were conducted over the phone by bilingual (English/Spanish) employees of MCTF. Almost all the surveyors are former janitors employed by MCTF to investigate labor and employment violations within the non-union janitorial industry in California. It is common for janitors to have multiple jobs, resulting in a greater number of jobs than respondents. For more information on data and methods, see Appendix I: Methodology.

³ Hinkley, Bernhardt, and Thomason, "Race to the Bottom." Ruckelshaus, C., Smith, R., Leberstein, S., & Cho, E. "Who's The Boss: Restoring Accountability for Labor Standards in Outsourced Work."

⁴ Sara Hinkley, Annette Bernhardt, and Sarah Thomason, (2016) "Race to the Bottom: How Low: Road Subcontracting Affects Working Conditions in California's Property Services Industry" (Center for Labor Research and Education, University of California, Berkeley), <https://laborcenter.berkeley.edu/pdf/2016/Race-to-the-Bottom.pdf>

⁵ Ruckelshaus, C., Smith, R., Leberstein, S., & Cho, E. (2014). Who's The Boss: Restoring Accountability for Labor Standards in Outsourced Work. National Employment Law Project. <https://www.nelp.org/wp-content/uploads/2015/02/Whos-the-Boss-Restoring-Accountability-Labor-Standards-Outsourced-Work-Report.pdf>

⁶ Hinkley, Bernhardt, and Thomason, "Race to the Bottom."

⁷ Kirkham, C. (2015, September 4). Few wage theft victims ever get their back pay. Los Angeles Times. Retrieved from <http://www.latimes.com/business/la-fi-wage-theft-20150904-story.html>

⁸ Authors' analysis of 2014–2019 IPUMS American Community Survey (ACS) data.

Note: Includes workers whose occupation is "Janitors and building cleaners" and industry is "Services to buildings and dwellings (except cleaning during construction and immediately after construction

⁹ Centers for Disease Control and Prevention (2021) Risk for COVID-19 Infection, Hospitalization, and Death by Race/Ethnicity. <https://www.cdc.gov/coronavirus/2019-ncov/covid-data/investigations-discovery/hospitalization-death-by-race-ethnicity.html> Accessed on 4/20/2021

¹⁰ Centers for Disease Control and Prevention (2021) Risk for COVID-19 Infection, Hospitalization, and Death by Race/Ethnicity. <https://www.cdc.gov/coronavirus/2019-ncov/covid-data/investigations-discovery/hospitalization-death-by-race-ethnicity.html> Accessed on 4/20/2021

¹¹ Erika Garcia, Sandrah P. Eckel, Zhanghua Chen, Kenan Li, Frank D. Gilliland, (2021) COVID-19 mortality in California based on death certificates: disproportionate impacts across racial/ethnic groups and nativity, Annals of Epidemiology, Volume 58, 2021, Pages 69–75, ISSN 1047–2797, <https://doi.org/10.1016/j.annepidem.2021.03.006>.

¹² Sarah Thomason and Annette Bernhardt "Front-line Essential Jobs in California: A Profile of Job and Worker Characteristics.

¹³ David E Hayes-Bautista, Paul Hsu, & Giselle Hernandez "COVID-19 Punishes Latinos for Hard Work and Larger Families" (UCLA Center for the Study of Latino Health and Culture) https://www.uclahealth.org/ceslac/workfiles/Research/COVID19/Report-12_CESLAC_COVID-19-Punishes-Latinos-for-Hard-Work-and-Larger-Families_January282021.pdf Accessed on 4-26-2021.

¹⁴ Williams v. Jani-King of Philadelphia Inc, No. 15–2049 (3d Cir. 2016)

¹⁵ Vazquez v. Jan-Pro Franchising International, Inc., 923 F.3d 575 (9th Cir. May 2, 2019)

¹⁶ Authors' analysis of 2014–2019 IPUMS American Community Survey (ACS) data.

Note: Includes workers whose occupation is "Janitors and building cleaners" and industry is "Services

to buildings and dwellings (except cleaning during construction and immediately after construction)

¹⁷ Ratna Sinroja, Sarah Thomason and Ken Jacobs (2019) "Misclassification in California: A Snapshot of Janitorial Services, Construction, and Trucking Industries" (Center for Labor Research and Education, University of California, Berkeley) <https://laborcenter.berkeley.edu/pdf/2019/Misclassification-in-CA-Fact-Sheet.pdf>

¹⁸ California Department of Industrial Relations (2021) "2021 COVID-19 Supplemental Paid Sick Leave FAQs [Labor Code Section 248.])" <https://www.dir.ca.gov/dlse/COVID19Resources/FAQ-for-SPSL-2021.html>

¹⁹ National Partnership for Women and Families (2020) "Paid Sick Days Are Good for Business" <https://www.nationalpartnership.org/our-work/resources/economic-justice/paid-sick-days/paid-sick-days-good-for-business-and-workers.pdf>

²⁰ California Department of Industrial Relations (2017) "California Paid Sick Leave: Frequently Asked Questions Updated New Questions Concerning the Paid Sick Leave Law Updated March 29th, 2017" https://www.dir.ca.gov/dlse/paid_sick_leave.htm

²¹ United States Dept of Labor (2020) "Employee Rights: Paid Sick Leave and Expanded Family and Medical Leave Under the Families First Coronavirus Response Act" https://www.dol.gov/sites/dolgov/files/WHD/posters/FFCRA_Poster_WHI422_Non-Federal.pdf

²² California Department of Industrial Relations "2021 COVID-19 Supplemental Paid Sick Leave FAQs"

²³ California Department of Industrial Relations (2020) "CA COVID-19 Supplemental Paid Sick Leave for Food Sector Workers" <https://www.dir.ca.gov/dlse/COVID-19-Food-Sector-Workers-poster.pdf>

²⁴ California Code of Regulations Title 8 Section 3203, Injury and Illness Prevention Program [https://www.dir.ca.gov/title8/3203.html#:~:text=\(a\)%20Effective%20July%201%2C,responsibility%20for%20implementing%20the%20Program](https://www.dir.ca.gov/title8/3203.html#:~:text=(a)%20Effective%20July%201%2C,responsibility%20for%20implementing%20the%20Program).

²⁵ California Department of Industrial Relations (2020) "Cal/OSHA Interim Guidelines on Protecting Workers from COVID-19" <https://www.dir.ca.gov/dosh/Coronavirus/General-Industry.html>

²⁶ Aerosol Transmissible Diseases (ATD) Standard (California Code of Regulations, title 8, section 5199) <https://www.dir.ca.gov/title8/5199.html>

²⁷ California Department of Public Health (2020) "Guidance for the Use of Face Coverings – Revised on June 29, 2020 to clarify that children under two years old are exempt from wearing face coverings due to risk of suffocation." https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/guidance-for-face-coverings_06-18-2020.aspx

²⁸ California Department of Industrial Relations (2017) "California Paid Sick Leave: Frequently Asked Questions Updated New Questions Concerning the Paid Sick Leave Law Updated March 29th, 2017" https://www.dir.ca.gov/dlse/paid_sick_leave.htm

²⁹ 2021 COVID-19 Emergency Temporary Standards (ETS) <https://www.dir.ca.gov/Title8/sb7intro.html>

³⁰ There is a great degree, but not total, overlap in the groups of janitors not receiving masks, gloves, and other types of PPE. This suggests that there may be a pattern in the industry of certain employers failing to abide by any type of occupational safety standard.

³¹ OSHA/NIOSH (2012) "Protecting Workers Who Use Cleaning Chemicals" <https://www.osha.gov/sites/default/files/publications/OSHA3512.pdf>

³² This number does not include janitors who said they were working by themselves or solely with members of their household.

³³ California Department of Industrial Relations (2021) "Guide to COVID-19 Related Frequently Asked Questions" <https://www.dir.ca.gov/dlse/COVID19resources/FAQs.html>

³⁴ This analysis uses March 1st 2020 as the approximate date that the COVID-19 pandemic closures started in California.

³⁵ The 2% of janitors in the “Other” category are either on FMLA, separated from their jobs for childcare issues unrelated to school closures, on an unpaid leave of absence or on long term disability leave.

³⁶ Sarah Thomason and Annette Bernhardt (2020) “Front-line Essential Jobs in California: A Profile of Job and Worker Characteristics” UC Berkeley Labor Center <https://laborcenter.berkeley.edu/front-line-essential-jobs-in-california-a-profile-of-job-and-worker-characteristics/>

³⁷ Authors’ analysis of 2014–2019 IPUMS American Community Survey (ACS) data.

Note: Includes workers whose occupation is “Janitors and building cleaners” and industry is “Services to buildings and dwellings (except cleaning during construction and immediately after construction)”.

³⁸ Ruth Milkman, Ana Luz Gonzalez, & Victor Narro (2010) “Wage Theft and Workplace Violations in Los Angeles: The Failure of Employment and Labor Law for Low-Wage Workers” Institute for Research on Labor and Employment, University of California, Los Angeles <https://irle.ucla.edu/old/publications/documents/LAwagetheft-Milkman-Narro-110.pdf>

³⁹ Samantha Masunaga (June 11th, 2018) “Cheesecake Factory held jointly liable with contractor for \$4.2 million in Janitorial wage theft care” Los Angeles Times <https://www.latimes.com/business/la-fi-cheesecake-factory-20180611-story.html>

⁴⁰ Authors’ analysis of 2014–2019 IPUMS American Community Survey (ACS) data.

Note: Includes workers whose occupation is “Janitors and building cleaners” and industry is “Services to buildings and dwellings (except cleaning during construction and immediately after construction)”.

⁴¹ Bureau of Labor Statistics, US Department of Labor, Economic News Release “Median weekly earnings of full-time wage and salary workers by union affiliation, occupation and industry” <https://www.bls.gov/news.release/union2.t04.htm>

⁴² Ken Jacobs, Sarah Thomason (2018) “The Union Effect in California #1: Wages, Benefits and the Use of Public Safety Net Programs” UC Berkeley Labor Center <https://laborcenter.berkeley.edu/union-effect-in-california-1/>

⁴³ Sara Hinkley, Annette Bernhardt, and Sarah Thomason, (2016) “Race to the Bottom: How Low: Road Subcontracting Affects Working Conditions in California’s Property Services Industry” (Center for Labor Research and Education, University of California, Berkeley), <https://laborcenter.berkeley.edu/pdf/2016/Race-to-the-Bottom.pdf>

⁴⁴ Janice Fine, Daniel Galvin, Jenn Round, Hana Shepherd (2021) “Strategic Enforcement and co-enforcement of U.S. labor standards are needed to protect workers through the coronavirus recession” Washington Center for Equitable Growth <https://equitablegrowth.org/strategic-enforcement-and-co-enforcement-of-u-s-labor-standards-are-needed-to-protect-workers-through-the-coronavirus-recession/>

⁴⁵ For example, between July 2016 and January 2020 MCTF looked up a total of 203 janitorial employers on the California Employment Development Department website. Of these, only 91 (45%) were registered.

⁴⁶ Through its investigative field work, MCTF frequently identifies numbers of workers at a particular employer being much larger than what is registered with the California Employment Development Department.

⁴⁷ Authors’ analysis of 2014–2019 IPUMS American Community Survey (ACS) data.