



THE DARK SIDE OF OREGON'S JANITORIAL INDUSTRY

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More than 24,800 janitors work in Oregon for 532 employers, according to estimates by state and federal agencies.¹ Many of these janitors are not hired by building owners and property managers directly, but by janitorial subcontractors.² These include a few well-known large employers, as well as many small companies. Unfortunately, some companies operate in the shadows of the law, and the multiple layers of contracting relationships can mean limited accountability when problems arise.

OVERVIEW



SEXUAL ASSAULT. Women in Oregon face the second highest frequency of sexual assault in the U.S., and an estimated eight percent of rapes nationwide occur while the victim is working.



WAGE THEFT.

In some cases, employers pay piece rates that do not add up to minimum wage, or "ghost employers" disappear when payday comes.



FAILURE TO PAY TAXES.

One janitorial company reportedly failed to pay the taxes it had withheld from its employees' paychecks, yet it managed to pay its two owners a combined \$178,000 annual salary.



HEALTH AND SAFETY PROBLEMS. In the last five years, Oregon OSHA found that 77 percent of the janitorial employers the agency inspected were in violation of safety and health regulations.

Sexual harassment and assault

Women in Oregon face the second highest frequency of reported rape and sexual assault in the U.S., according to the U.S. Centers for Disease Control and Prevention (CDC),³ and the federal Bureau of Justice Statistics has found that **eight percent of reported rapes in the U.S. occur while the victim is working.**⁴ A number of factors make janitors particularly vulnerable. Janitors often work alone, at night, in isolated locations. Many are immigrant women, who may face additional challenges and intimidation when reporting abuses.⁵

One such case of serious allegations comes from the Bank of America Financial Center in downtown Portland, according to allegations in a sexual harassment suit filed last year. According to five janitors who worked there, **a manager working for building owner Terrace Tower U.S.A. snapped janitors' bras, touched their hair, buttocks, and rubbed up against them, and made lewd comments about their bodies and his own anatomy.**⁶ One of the janitors says she began

locking the bathroom stalls behind her when she cleaned the toilets to prevent the supervisor from sneaking up behind her.

This case is being addressed in court, but too often, victims of workplace sexual violence choose not to report because of fears of not being believed or shamed by the people to which they report and concerns about confidentiality. Victims might reasonably choose to forego reporting so that they do not have to re-live, or even increase, the trauma of the sexual violence they experience, since reporting to an employer or taking legal action may require them to tell their stories many times, often with people not believing them. As a result, **more than 60 percent of workplace rape and sexual assault cases go unreported**, according to an estimate by the Bureau of Justice Statistics. That's the lowest reporting rate among all violent crimes in the workplace.⁷ For this reason, it is crucial that in high-risk industries, proactive measures are in place to deter workplace sexual violence, and to inform victims of their rights to report it.

Wage theft

Local media reporting on Cornerstone Janitorial Services provided a recent example of wage theft in Oregon's janitorial industry. Hired by major construction firms, the company cleaned construction sites. At least since Oct. 2014, Cornerstone's workers said the Hillsboro company was paying workers below the legally required prevailing wage for work on public construction contracts.⁸ Through a lengthy BOLI investigation and settlement, the owner admitted fault and began repaying nearly \$200,000, as reported by the *Oregonian*.⁸ Finally, BOLI announced in September of 2016 that Cornerstone Janitorial Services was banned for life from *public works* contracts. This ban, a measure BOLI had taken only once before in the agency's history, would not prevent the owner

from operating within the *private* property services sector.¹⁰

Northwest Workers Justice Project (NWJP) has documented other forms of wage theft reported by workers in Oregon's janitorial industry. In some cases, **employers pay piece rates that do not add up to minimum wage, or they do not pay for work "off the clock," such as during unpaid travel time between worksites.** Sometimes **"ghost employers" hire workers over the internet, meet only in public places, and when payday comes, they disappear** and no longer answer their phones. Workers have even reported to NWJP fake franchise agreements that make employees pay for the opportunity to work.

Failure to pay taxes

Willamette Week reported in 2013 that Diversified Abilities, a "Qualified Rehabilitation Facility" that employs workers with disabilities, won a no-bid contract at Portland State University despite having failed to fully pay employee withholding taxes since 2005.¹¹ **Diversified took money out of employees' paychecks to cover income taxes but then failed**

to pass those taxes on to the state, and carried \$34,000 in state tax liens and \$341,000 in federal liens. Diversified's owner, Ann Toth, acknowledged the company had had financial problems since its founding, yet *WW* reported **Toth and her husband managed to pay themselves a combined annual salary of \$178,000.**

Health and safety problems

Janitors are often unduly exposed to workplace health and safety hazards. In the last five years, **Oregon OSHA inspected 83 janitorial employers, and found that 77 percent of them to be in violation of safety and health regulations.**¹²

For example, some employers fail to provide training, gloves and other equipment to protect

workers from exposure to chemicals, according to investigations by the Northwest Workers Justice Project. Such training and equipment are essential in the janitorial industry, where **employees experience work-related skin disorders 2.5 times more often than the private-sector average,** according to the Bureau of Labor Statistics.¹³

Oregon can bring janitorial subcontractors out of the shadows

The problems described above fall heavily on the workers who clean our offices, schools, retail stores, and other buildings. These problems have a disproportionate impact on women, immigrants, and people of color, who make up much of the workforce. Some janitors may have limited knowledge of who they ultimately work for and how

to address problems that need fixing. The complex layers of subcontracting can impede problem solving and holding companies accountable for repeated or egregious workplace problems. **Legislation can ensure a measure of accountability and transparency for all janitorial companies around out state.**

ENDNOTES

- 1 The number of janitors, not necessarily FTE, is based on May 2015 data from U.S. Dept. of Labor, Bureau of Labor Statistics, Occupational Employment Statistics Query System, <https://data.bls.gov/oes/>, accessed Jan. 30, 2017.
Number of employers from State of Oregon Employment Department, www.qualityinfo.org, accessed Jan. 30, 2017
- 2 For a detailed discussion of janitorial subcontracting in a neighboring state, see Hinkley, Sara, Annette Bernhardt, and Sarah Thomason. "Race to the Bottom: How Low Road Subcontracting Affects Working Conditions in California's Property Services Industry." Berkeley, CA: U.C. Berkeley Center for Labor Research and Education, March 8, 2016. <http://laborcenter.berkeley.edu/pdf/2016/Race-to-the-Bottom.pdf>.
- 3 U.S. Centers for Disease Control and Prevention, "National Intimate Partner Sexual Violence Survey," https://www.cdc.gov/violenceprevention/pdf/nisvs_report2010-a.pdf, accessed January 13, 2017, pp. 68-69.
And according to the Women's Foundation of Oregon, "An extrapolation of Oregon survey data from the Centers for Disease Control indicates that perpetrators have sexually assaulted over 1 million women and girls in Oregon—more than half of the state's female population."
"Count Her In: A Report About Women and Girls in Oregon." Women's Foundation of Oregon, September 2016. <https://womensfoundationoforegon.org/uploads/CountHerInreport.pdf>.
- 4 Duhart, D. (2001). Violence in the Workplace, 1993-99. Bureau of Justice Statistics. Available at <http://bjs.ojp.usdoj.gov/content/pub/pdf/vw99.pdf>.
- 5 "Rape on the Night Shift." *FRONTLINE*. PBS, June 23, 2015. <http://www.pbs.org/wgbh/frontline/film/rape-on-the-night-shift/>.
- 6 Green, Aimee. "5 Downtown Janitors Sue for \$4.5 Million, Say Supervisor Snapped Bras, Slapped Buttocks | OregonLive.com." *OregonLive.com*, April 27, 2016. http://www.oregonlive.com/portland/index.ssf/2016/04/five_downtown_janitors_sue_for.html.
- 7 Harrell, Erika. "Workplace Violence, 1993-2009." U.S. Dept. of Justice, Bureau of Justice Statistics, March 29, 2011. <https://www.bjs.gov/index.cfm?ty=pbdetail&iid=2377>.
- 8 Swart, Cornelius. "Local Company Pockets Worker's Wages, Tax Dollars, Whistleblowers Say." *GoLocalPDX*, October 27, 2014. <http://www.golocalpdx.com/news/local-company-pockets-workers-wages-tax-dollars-whistleblowers-say>.
- 9 Hammill, Luke. "Oregon Now Investigating Hillsboro Company Accused in Report of Underpaying Undocumented Immigrants." *OregonLive.com*, November 5, 2014. http://www.oregonlive.com/hillsboro/index.ssf/2014/11/oregon_now_investigating_hills.html.
Rede, George. "State Recovers Nearly \$200K in Wages for Employees of Hillsboro Janitorial Company." *OregonLive.com*, November 25, 2015. http://www.oregonlive.com/business/index.ssf/2015/11/state_recovers_nearly_200k_in.html.
- 10 "BOLI Announces Major Wage Theft Settlement in Cornerstone Janitorial Case." Oregon Bureau of Labor and Industries, September 28, 2016. <https://www.oregon.gov/boli/SiteAssets/pages/press/9.28.16%20BOLI%20announces%20major%20wage%20theft%20settlement%20in%20Cornerstone%20Janitorial%20case.pdf>.
- 11 Jaquiss, Nigel. "Janitorial Mess." *Willamette Week*, June 25, 2013. <http://www.wweek.com/portland/article-20830-janitorial-mess.html>.
- 12 In 2012-2016, Oregon OSHA investigated 83 janitorial employers, and found violations of safety and health standards in 77 percent of those inspections, according to an SEIU Local 49 analysis of data available online from federal OSHA. Query of <https://www.osha.gov/pls/imis/industry.html>, using NAICS code 561720.
- 13 While 2.3 percent of all workers in all private industry occupations reported work-related skin disorders in 2015, that rate was 8.1 in Janitorial Services. Bureau of Labor Statistics U.S. Department of Labor, "Number and rate of nonfatal occupational injuries and illnesses by selected industry, All U.S., private industry, 2015," table from <https://data.bls.gov/qat/ProfileYears>, accessed March 22, 2017.