

Labor Advisory Council Committee Minutes

January 31, 2022

1:00-2:30 p.m.

Hennepin County Government Center – Conference Room (C2350)

Attendees:

- Nicole Blissenbach
- Octavio Chung Bustamante
- John Choi (Co-Chair)
- Mike Christenson
- Susan Crumb
- Adam Duinick
- Jim Farrell
- Mike Freeman (Co-Chair)
- Chelsie Glaubitz Gabiou
- John Kelly
- Madeline Lohman
- Roy Magnuson
- Kyle Makarios
- Michael Martin
- Dan McConnell
- Tony McGarvey
- Joe Moenck
- Jonathan Moler
- Daniel Moore
- Michael Moore
- Don Mullin
- Merle Payne
- Kera Peterson
- Tim Sturdivant
- John Thorson
- Chris Tolbert
- Simon Trautman
- Mike Wilde

Agenda:

- I. Welcome – Mike Freeman (5 minutes)**
 - a. Introduction of Members
 - b. Approval of Agenda:
 - i. Prevalence report
 - ii. Hand-off process
 - iii. Investigator resources
- II. Introduction – John Choi (5 minutes)**
 - a. Review of Minutes
 - b. Workplan review
- III. Prevalence of Wage Theft – Kyle Makarios (15 minutes)**
 - a. Presentation of report: *Estimated Prevalence of Wage Theft in the Construction Industry in Hennepin and Ramsey Counties*
 - b. Discussion
 - c. Adoption of report
- IV. Hand-off Process – Mike Wilde (15 minutes)**
 - a. Presentation of hand-off process from civil to criminal investigators

- b. Discussion
- c. Adoption of report
- V. Investigator Resource – Mike Freeman (5 minutes)**
- VI. Ramsey County Update – John Choi (5 minutes)**
- VII. Next Steps – Mike Freeman (10 minutes)**
 - a. Review Cases
 - b. Review Progress

Discussion:

I. Welcome

- a. Hennepin County Attorney and co-chair Mike Freeman called the meeting to order. Freeman asked that the Council seek to finish within one hour and referred members to the revised agenda and materials.
- b. Freeman restated the goal of using members' time well, providing that members may always opt out when a meeting is not worthwhile, and emphasizing teamwork reflected in the work plan.
- c. Freeman then previewed agenda and complimented the presenters for their work products—the Prevalence of Wage Theft Report by Kyle Makarios and the investigative hand-off process plan by Mike Wilde and team.

II. Introduction

- a. Ramsey County Attorney and Co-chair John Choi reviewed the revised minutes and sought comments or further revisions. None were offered and Choi recommended the minutes to the Council as a roadmap for the workplan.
- b. Choi also announced the hire of Jacob Shawbock as the Ramsey County full-time investigator and Freeman announced that the Hennepin County Sheriff has committed to an increase in investigative resources and the designation of a representative for the Council.

III. Prevalence of Wage Theft

- a. Kyle Makarios presented his report on the prevalence of wage theft in Hennepin and Ramsey Counties.
 - i. First, he defined the terms of wage theft, misclassification, and payroll fraud.
 - ii. Second, Makarios explained the report's focus on the construction industry.
 - iii. Third, he explained the competitive advantages won by non-compliant contractors in wages and benefits stolen.

- iv. Fourth, existing national studies were reviewed, methodology explained, Minnesota and Wisconsin studies reviewed, and estimates provided for local conditions.
 - v. Makarios then concluded that almost 40,000 construction workers resident in Hennepin and Ramsey Counties were subject to wage theft, \$3 million in wages were stolen, and over \$11 million in shifts from unemployment and Social Security payments as a result.
- b. Freeman thanked Makarios for his report and asked that members circulate it through City Councils, County Boards, and labor councils.

IV. Hand-off Process

- a. Mike Wilde reported on the effort of a team which also included Susan Crumb, Jonathan Moler, John Kelly, Nicole Blissenbach, and Jim Farrell.
- i. Their report and diagram of a proposed hand-off process has been shared and approved by State and other investigative authorities. The hand-off protocol defines points of entry, the differences between criminal and civil investigation, the bias towards continuing civil investigations at the same time as criminal, referral from civil to criminal but not vice-versa, and the recommended hand-off protocol.

V. Approvals

- a. Co-chair Freeman sought Council approval for the Prevalence Report and the hand-off process. Both passed unanimously.
- b. Further discussion raised the problems of witnessing wage theft—recruiting and holding witnesses with fears of consequences like reporting to immigration agencies.
- i. Freeman asked the advocates to advise the group of best-practice programming for witness assurance.
 - ii. Dan McConnell asked about federal authority and Freeman promised to take up the Labor Advisory Council report with the new U.S. Attorney.
 - iii. Choi is also seeking more clarity for local agencies that must distinguish between civil and criminal matters.
 - iv. The hand-off report can be shared with these agencies, and Blissenbach provided further detail on state guidance around continuing civil investigations during criminal matters.

VI. Comments on Reports

- a. Merle Payne recommended a focus on witness assurance and lessons learned from cases now primed to travel through the protocol.

- b. Adam Duininck praised the prevalence report and sought Council engagement on circulating it.
- c. Madeline Lohman called the hand-off protocol a “dream come true” and sought name and contact information across the agencies listed in the document. She recommended that agencies and advocates push this out now.
- d. Freeman encouraged all to distribute Labor Advisory Council’s approved materials as useful. Freeman stated that the time to open the investigative pathways for wage theft is now, and the cases should thus begin.
- e. Simon Trautman praised the alignment of resources and the great vision of the Council in figuring out the right system interventions. He will be touching base with local governments and police chiefs and offered the view that no police officer will identify this behavior as criminal—so there’s outreach needed.
- f. Joe Moenck offered to reach out to licensing authorities as a point of contact.

VII. Investigative Resources

- a. Ramsey County’s full-time investigator is in place and Hennepin County Sheriff Hutchinson will be naming a counterpart soon, according to McConnell who formally requested that in Hennepin.
- b. The Labor Advisory Council has secured the investigative resources sought and Mike Martin has been designated by Sheriff Fletcher as the Office’s member to the Council.

VIII. Next Steps

- a. Freeman summarized the meeting and asked all members to circulate the protocol and prevalence report to their respective boards and councils. He also wondered about legislative agendas on wage theft.
- b. Crumb said the existing statutory regime is adequate for the cases we want to pursue. Blissenbach noted that the Senate may take up a bill which proposes changes to the statute or cut back protections, and her office is seeking funding for prevailing wage enforcement.
- c. Payne was invited by Freeman to lead an effort to capture best practices for witness assurance.
- d. Choi reminded the Council that the Minnesota Attorney General would again be seeking resources for a larger criminal prosecution division and urged support.

IX. Adjournment

- a. Co-chair Freeman announced the Council adjourned at 1:57 pm.

Respectfully submitted,

Jim Farrell
Committee staff