

In March 2020, local governments across the United States began instituting stay at home orders to curb the spread of COVID-19. Key to these orders were exceptions for “essential workers,” expected to continue reporting to work in person, where they encountered a range of interventions—social distancing and masking, but also temperature scans and contact tracing. While the exact mandates varied greatly from state to state, many of these interventions relied on the introduction of public health surveillance into the workplace. How invasive was this surveillance, and how was the health data collected from essential workers handled by employers?

Drawing on interviews with 50 workers in manufacturing, meatpacking, warehousing, and grocery stores, our research shows that, with few exceptions, essential workplaces did not use the pandemic to justify new, invasive forms of surveillance. Data was collected, but most often in haphazard ways, and the results were most often kept for the benefit of the employer and rarely made available to workers. In many cases, the regulations meant to preserve worker privacy prevented workers from gaining the information needed to stay safe.

The *Essentially Unprotected* report highlights how employees lived and worked in the context of these new interventions. We heard firsthand from workers how they adapted to radically altered workplaces to share information and keep themselves and their families safe. Below are the highlights from the report.

### **Essential workers were compelled to work without clear data about infection risk.**

- Faced with a potentially life-threatening illness, and sometimes managing multiple layers of vulnerability like immigration status or chronic health conditions, many essential workers had no choice but to continue reporting to work.
- Many essential workers lacked time off and feared retaliation and losing their jobs.
- Even after the federal expansion of COVID-19 sick leave in 2020, many essential workers did not know about, or use, this allowance.

## Employers collected a lot of health data about workers as a part of an expanded regime of worker surveillance during the pandemic.

- Employers concentrated their data collection to either control entrance to the workplace (with temperature scans and health surveys), or limit the spread of infection once inside (with social distance monitoring or retroactive contact tracing).
- The data collected wasn't always accurate and introduced frustrating changes rather than a sense of safety for many workers.
- Many surveillance systems in workplaces were expanded or repurposed for health monitoring. Along with other devices, cameras were used for contact tracing and became a way to document and enforce compliance with mandated health practices like mask-wearing and social distancing.
- Data about worker health practices was at times used retroactively and even punitively.
- Amazon's data practices were a notable exception to other workplaces in this study. This included a more intense and systemic data collection of workers in the service of worker surveillance and productivity maximization for Amazon, rather than for the benefit of the worker.

## But this information wasn't shared with workers, leaving them with huge gaps in information.

- Workers experienced enormous stress with the knowledge that infection was present in their workplace, but not the specific information about who was ill. Without it, they could not assess their own risk and adjust their own protective practices.
- To mitigate the risk of getting infected, workers relied on relationships with colleagues as well as their own observations and research to learn how closely they were connected to positive cases at their worksite.

## Regulations—born out of a desire to protect worker privacy—led companies to withhold information about the infection status of specific workers from their colleagues.

- Health data privacy protections in the Americans with Disabilities Act (ADA) allowed employers to collect health data but did not mandate it be shared with workers.
- Data about health examinations (temperature checks), or the results of tests mandated by the employer could be, and were shared with the employer, and were required to be held private. Data about movements or air quality in the workplace was less clearly defined as “health data” and as such fell in a gray area for privacy—though most employers in our study did not share this data, either.

- The ADA rules came into direct conflict with the needs of workers trying to navigate their own safety in a deadly respiratory pandemic—highlighting a tension between privacy and worker health.

### Workers relied on relationships with coworkers and their own research skills to mitigate and work around this information imbalance in the workplace.

- Workers connected and shared information through informal channels to learn more about who was sick and to better assess their own risk of infection.
- Workplace reorganizations, like rearranging of space and shifts to keep workers further apart, impacted the ability of workers to connect with one another.
- Workplaces with high levels of turnover and temporary employees struggled to create these information channels that workplaces with stronger employee relationships deployed more easily. Consequently, workers in transient workplaces had greater levels of concern.
- Some union representatives mediated communication about COVID-19 infections in the workplace, advocated for vaccinations, and communicated workplace health best practices to employees and employers.

### Workers wanted changes to the precarity of work and more access to information.

- **Paid time off.** Workers said they needed paid time off to manage illness or care for family, something many workers, especially in essential roles, have been denied. This includes sick leave, as well as access to affordable, meaningful health insurance.
- **Hazard pay.** Workers want financial acknowledgment and compensation for the risks they took to do their jobs during the pandemic.
- **Increase in minimum wage.** The federal minimum wage, last raised in 2009, has stagnated at \$7.25—workers want this national pay floor increased.
- **Clarity about infection and contact tracing.** Workers understand the need to protect people's privacy around health. They felt the severity of the pandemic and the illness and injuries it produced required more concern be paid to the safety of other workers and wanted more clear information about their own exposure and risk.
- **Respect for workers' physical and mental well-being.** Fundamentally workers wanted employers to respect them and their humanity, and to start by improving pay and working conditions.

## Several changes to public health regulation could help.

- **Worker health committees.** Across multiple state pilot projects, public health and government agencies are facilitating the creation of worker health committees that give workers an opportunity to work together to improve health conditions.
- **Revision to ADA.** Additional guidance is required, that better balances worker needs for health privacy with worker needs for safety—especially around airborne infectious illness.
- **Increased funding for OSHA.** The pandemic has shifted worker safety from a general focus mostly on injury prevention, to one that now encompasses a greater focus on infectious disease. OSHA must be funded—as a corrective to chronic underfunding—and to enable ramp up to better protect workers in an era with ongoing COVID-19, influenza, and other respiratory viruses in circulation. Without a private right of action, workers rely on OSHA to hold employers accountable for negligence and injury.
- **Contact tracing devices that preserve privacy and worker autonomy.** Investment in contact tracing devices for use during outbreaks, and regulations to limit data collection to a narrow use case, can help walk-the-line between worker data privacy and safety.

These findings are captured in our new report, *Essentially Unprotected: Health Data and Surveillance of Essential Workers During the COVID-19 Pandemic*. We interviewed 50 workers across the United States who worked in meatpacking and food processing, warehouses, grocery stores, and manufacturing about their experiences with health monitoring and surveillance at work during the pandemic. We did interviews online via Zoom in English and Spanish. Support for this research was provided by a grant from the Robert Wood Johnson Foundation. The views expressed here do not necessarily reflect the views of the Foundation.

Report authors: Livia Garofalo, Amanda Lenhart, Ireliolu Akinrinade, and Joan Mukogosi

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