



**Statement of Rachel Lyons
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Before

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Artificial intelligence (AI) is not a new subject for United Food and Commercial Workers International Union (UFCW), and our 1.2 million members in grocery stores, non-food retail stores, warehouses and meat and poultry processing plants. AI is just the latest iteration of companies trying to replace workers with robots and technology. UFCW members have been experiencing AI for years in the form of self-checkout, cashless stores, electronic surveillance and plant automation.

UFCW is the nation's largest private sector union, with members in every state and congressional district. UFCW members experience AI in their jobs every day. In grocery stores, cashiers are being replaced with self-checkout and their hours are determined by a centralized scheduling application that leaves no time for breaks or rest between shifts. In warehouses, pickers for online orders are monitored for their speed and time on task. In food delivery, workers are constantly monitored by the app and even disciplined for not meeting unrealistic and dangerous benchmarks. In meat processing, pigs are grown to a predetermined size and weight to fit in to the machines that kill and process them.

What frontline workers need from AI is a human to talk to, a job and a union. When workers have a union, they have a voice in how AI, automated management and surveillance are used and a process by which they can grieve any discipline or violations that result. Unions are one of the best policy solutions to regulate artificial intelligence's negative impact on workers.

Everybody hates self-checkout, customers and workers alike

In most states, more people work in food and non-food retail than any other sector. Salespersons and cashiers rank among the most common jobs in nearly every community. For years, these jobs offered a true career – not some temporary position. Fortunately, for many union members, these jobs do still allow a person to build a better life, but retail work itself has become increasingly unstable and insecure. A report by Cornerstone Capital Group concluded that nearly 50% of the 16 million jobs in retail could be replaced by automation and that was before the pandemic changed everything.¹ The loss of retail jobs would disproportionately affect women and people of color. The UFCW union family wants to shape progress and technology so that it makes our lives, jobs, and America better.

Self-checkout: Self-checkout machines at grocery stores are replacing good paying, sustainable, union jobs. Self-checkout machines don't do any labor themselves but instead shift the burden to the customer. A majority of shoppers have had issues with self-checkout.² In addition, self-checkout machines can make it easier for minors to purchase alcohol. UFCW supports requiring a worker to self-checkout ratio that retains essential grocery jobs.

¹ https://bpb-us-w2.wpmucdn.com/sites.udel.edu/dist/8/12944/files/2022/08/Retail-Automation_Stranded-Workers-Final-May-2017_final_rev.pdf

² <https://www.cbsnews.com/minnesota/news/survey-finds-67-of-shoppers-had-issues-with-self-checkout-last-year/>

Cashless stores: Amazon Go, Sweetgreen, and other retail companies are the first but not the last retailers to not accept cash to purchase goods and services. Cashless retail businesses will eliminate jobs and exclude millions of people from being able to shop at non-cash establishments. The expansion of cashless stores could eliminate about 2.3 million retail jobs, primarily jobs as cashiers that have helped countless families put food on the table for years.

It is also important for retail establishments to accept both cash and credit so that people will have equal access to purchase goods and services at retail stores. Cashless businesses discriminate against people that do not have credit or access to banking services. This could include young people who don't qualify for credit cards, senior citizens, immigrants, the unhoused, and low-income families. UFCW supports laws or regulations that prohibit retail establishments from refusing cash payment.

Automated Scheduling Means Fewer Hours and Less Money for Workers

Workers in the grocery industry are being squeezed by automated management. Workers are expected to do more with fewer hours. Schedules are dictated by a centralized scheduling system run by corporate computers that determine hours throughout the company and their subsidiaries. These systems schedule fewer workers for fewer hours which means that there is less money in the pockets of the workers and less money circulating within their communities.

These systems often cannot be altered by store managers or take the immediate needs of individuals into consideration. Schedules are set to maximize worker efficiency and they do not consider unforeseen events including weather, family emergencies and other unexpected circumstances which can lead to huge understaffing situations.

Grocery stores have had some of the most sophisticated equipment monitoring both workers and customers to ensure productivity and prevent theft. **Everyone in a grocery store is under constant surveillance, and workers are required to use devices that constantly monitor their movements.** Cashiers are monitored by the number of items they scan in an allotted amount of time. The pressure to achieve these benchmarks means workers often develop repetitive motion injuries.³ Time standards set by the company do not take best practices for injury protection into consideration. Pickers and stock crews are timed and measured on how quickly they can fill their stores shelves not how safely they can do their jobs. Department heads scanning their inventory have complained that time spent helping customers is not factored into the time allotted for them when using automated inventory systems. Workers feel compelled to maintain unattainable standards to avoid discipline even at the cost of their own health and safety.

All the existing hazards in grocery and retail stores are compounded by the problems of automated scheduling. Previous scheduling systems allowed for moments of "down time" throughout the day where the work slowed but the number of employees working did not change. This provided natural rest periods where even though workers are on the clock and working there is significantly less strain on their body. With more precise scheduling designed to eliminate all down time, workers are in more frequent unnatural movement, exposing them to greater risk of injury.

UFCW supports legislation that would ensure that workers have access to a fair and transparent scheduling process. In addition, fair scheduling legislation ensures that workers have predictable, consistent schedules. Such predictability and/or notice allows workers the flexibility and stability they need to take care of themselves and their families.

³ <https://www.cdpb.ca.gov/Programs/CCDPHP/DEODC/OHB/HESIS/CDPH%20Document%20Library/cashiers.pdf>

Adding Insult to Injury: Automated Scheduling Led to Historic Wage Theft

In 2022, Kroger instituted a new centralized time keeping and payroll system called “My Time” that has been a complete disaster and has led to unfair labor practices, class action lawsuits, and class action grievances.⁴ Kroger workers have reported not getting contractual overtime pay, being overcharged for insurance premiums, and going weeks without any paycheck.

UFCW Local 876 in Michigan filed a class action grievance for over 500 workers. Among these cases, there was a member who was not paid for over three months, which factored into their decision to leave the company. The local resolved many of these grievance issues by working with Kroger to do an audit and get members the pay they earned. There are still issues with this system, so the local set up a special reporting system just to deal with these types of problems.

UFCW Local 951, also in Michigan experienced similar problems and had so many grievances filed because of “My Time” that they had to set up a special hotline to address them all. In Ohio, UFCW Local 75 had a class action grievance representing over one hundred workers. The local also noticed that the system was not processing vacation requests accurately.

In Virginia, UFCW Local 400 has filed a class action lawsuit alleging that the company engaged in wage theft.⁵ Members claims varied from missing an entire paycheck to being overcharged for insurance premiums.

In the past when such problems occurred and were caught, workers and their union representatives had the ability to address these issues at the store level with managers who had the ability to correct these mistakes and make workers whole for any losses. Now, members go months without pay while this issue is addressed in courtrooms, NLRB hearings, and arbitrations.

Misclassified Gig Workers Are Not Just Employees – But Constantly Surveilled and Managed by Automated Software

Maria Crawford, a gig worker from California, shared her experience with automated management and surveillance.

“My phone will alert me when a customer places an order, giving me the opportunity to review it on my screen before I accept it. Sometimes I’m not told where to deliver the groceries to until after I accept the batch. I’m only told where to purchase groceries from and how far the delivery is from that store...Since I get dinged for passing on too many orders, I am often pressured into taking jobs that pay me very little money and in some extreme cases may even COST me money after factoring in things like fuel and wear and tear on my car.

I then rush through my grocery store as fast as I can, since my time is monitored. If the customer orders an item that is out of stock, I have to message them about an adequate replacement item and hope that they respond in an adequate amount of time. If they take too long to respond, my delivery could be late, which could negatively impact my customer rating....

The app on my phone dictates my ability to take orders. It constantly tracks me. It sets my pay. It times my work. It has the ability to discipline me. While there is a way to appeal discipline, I fear retaliation as the process is vague and inconsistent. I feel as though I

⁴ <https://www.ufcw.org/press-releases/ufcw-international-statement-on-letter-from-u-s-senators-demanding-answers-on-continued-kroger-payroll-issues/>

⁵ <https://www.wvntv.com/top-stories/kroger-union-members-file-class-action-lawsuit-alleging-wage-theft/>

have less control over my work now, than in my previous job when my employer rightly classified me as an employee!"

Maria Crawford's experience represents the struggles of many app delivery drivers who face the challenges and safety hazards of constant computer surveillance. In addition, she is misclassified as an independent contractor rather than an employee so lacks the protections of our federal labor laws like minimum wage and overtime protections. Misclassified gig workers like Ms. Crawford are unable to enforce health and safety standards since she technically has no employer, and she cannot even legally join a union to collectively bargain the "contract" by which she is employed.

It is alarming to hear her talk about being rushed to complete her work – however sadly it is not surprising. According to the Bureau of Labor Statistics (BLS), food delivery and ride-hailing services are among the deadliest places to work in the U.S.⁶ Delivery drivers including those who work for gig employers account for 1,005 out of all 5,553 workplace deaths.⁷ This means that delivery drivers are at greater risk for injury or death than construction workers or police officers.⁸

Delivery drivers are also at greater risk of assault than other workers.⁹ There have been 80 murders of gig workers reported between 2017 – 2022.¹⁰ A Pew Research Center poll found in 2021 that 35 percent of gig workers have felt unsafe on a job, while 19 percent experienced unwanted sexual advances.¹¹ **The constant surveillance workers endured while on the job ONLY exists to ensure their productivity – and is not utilized to guarantee their safety.**

Amazon – Warehouses of the Future, Worker Safety and Union Busting Standards of the Past

There is no company that does a better job of illustrating the risk to workers of "just-in-time" lean scheduling and AI technology to punitively monitor workers than Amazon. Amazon has mastered eliminating any sort of down time with their now infamous "time off task" metric, even monitoring worker bathroom breaks.¹² Amazon warehouse workers have said they don't have insight into how "time off task" is calculated therefore they skip water and bathroom breaks because they fear being disciplined and terminated. Amazon uses surveillance footage to corroborate employees' claims about their whereabouts and uses their scanners to monitor minute by minute activity. The result of this push for machine monitored productivity over worker safety has led to many OSHA violations and high injury rates.¹³ Amazon has injury rates more than twice that of other warehouse workers.¹⁴ The company faced criticism for widespread allegations of workers urinating in bottles to avoid discipline.¹⁵

Unions Are the Most Effective Solution Against AI Management and Surveillance

Too often "technological improvements" are bad for both workers and customers. To most companies, increased automation is a way for them to maximize profit by eliminating labor costs. UFCW understands

⁶ <https://fortune.com/2023/05/01/gig-workers-delivery-drivers-attacks-violence/>

⁷ <https://www.bls.gov/news.release/pdf/cfoi.pdf>

⁸ <https://www.hanningsacchetto.com/blog-post/why-pizza-delivery-drivers-are-at-a-higher-risk-of-injury-and-death-than-construction-workers-or-police-officers/>

⁹ <https://fortune.com/2023/05/01/gig-workers-delivery-drivers-attacks-violence/>

¹⁰ <https://www.gigsafetynow.com/>

¹¹ <https://fortune.com/2023/05/01/gig-workers-delivery-drivers-attacks-violence/>

¹² <https://www.vice.com/en/article/5dgn73/internal-documents-show-amazons-dystopian-system-for-tracking-workers-every-minute-of-their-shifts>

¹³ <https://www.reuters.com/technology/amazon-again-cited-by-us-regulators-over-worker-safety-2023-08-04/#:~:text=Since%20January%2C%20OSHA%20has%20levied,other%20warehouses%20across%20the%20country>

¹⁴ <https://www.cnbc.com/2023/04/12/study-amazon-workers-seriously-hurt-at-twice-rate-of-other-warehouses.html>

¹⁵ <https://www.theverge.com/2021/3/25/22350337/amazon-peeing-in-bottles-workers-exploitation-twitter-response-evidence>

that addressing the rise of AI and automation will prove to be an immense policy and political challenge and that is why we applaud the Senators here today for hosting this forum.

In addition to fair scheduling, cashless stores, staffing ratios and the right to join a union, we much think creatively about how to ensure that the new technology supports workers. Do we tax AI that harms jobs or workers, much like we did with cigarettes that harm our health? Do we establish a minimum number of jobs that employers must have, much like we established a minimum wage? Do we set a rule that for every job lost to AI, that employer must continue to pay a payroll tax? Do we break up some of the largest and most powerful tech companies in America to ensure more competition? Do we place regulations and workplace limits on automation, like the limits we placed on companies being able to hire children during the early part of the 20th century? All this and more must be on the table.

UFCW and its members have been experiencing AI and automated management for years, and every year there is more of it. It is important to know, however, that when workers have a union, they have a voice in how AI, automated management and surveillance is used. In addition, they have a process by which they can grieve any violations of the contract or of the law and ensure they are fully paid and made whole. Workers without unions, especially those misclassified gig workers, do not have that voice. Unions like UFCW are the best balance to unfair and unjust automated worker surveillance and management.