



LOS ANGELES COUNTY
CONSUMER & BUSINESS AFFAIRS

Board of Supervisors

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August 30, 2021

To: Supervisor Hilda L. Solis, Chair
Supervisor Holly J. Mitchell
Supervisor Sheila Kuehl
Supervisor Janice Hahn
Supervisor Kathryn Barger

Director
Rafael Carbajal

From: Rafael Carbajal
Director

Chief of Staff
Joel Ayala

REPORT ON EXPANDING WORKER PROTECTIONS IN LOS ANGELES COUNTY (ITEM NO. 18, AGENDA OF SEPTEMBER 1, 2020)

On September 1, 2020, your Board directed the Department of Consumer and Business Affairs (DCBA), in coordination with the Chief Executive Officer, County Counsel, Workforce Development, Aging and Community Services, Department of Public Health, the Los Angeles County Workforce Development Board, and in consultation with relevant stakeholders—such as the Economic Development Boards—to report back to your Board within 60 days on how the County of Los Angeles (County) can improve and centralize efforts related to protecting and enforcing workers' rights, including, but not limited to, the establishment of an Office of Labor Equity (OLE).

On November 18, 2020, DCBA submitted an interim report that summarized preliminary research conducted by DCBA on relevant worker protections in the County and outlined best practices and other implementation proposals for an OLE that would be further explored in follow-up reports.

The attached report includes DCBA's recommended framework to establish an OLE and covers the following:

- New Research;
- Proposed framework for a County OLE;
- Recommendations; and
- Next Steps.



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RECOMMENDATIONS

The attached report outlines a proposed implementation framework for an OLE that builds upon the research conducted to-date and makes the following preliminary recommendations that can be adopted by your Board to launch the OLE and expand worker protections in the County:

1. Direct DCBA to launch the OLE with existing resources and to scale up operations as funding and other resources are identified and secured.
2. Direct DCBA and the OLE to work with the Chief Executive Office to identify and secure stable, long-term funding for the phased-in expansion of the new office.
3. Direct the new OLE to develop strategies, policies, and partnerships to protect vulnerable workers in three (3) initial target industries and to lay the groundwork for targeting additional priority industries and refining existing ones in subsequent phases of OLE implementation:
 - a. Private Households (domestic workers)
 - b. Personal and Laundry Services (hairdressers, manicurists, and massage therapists)
 - c. Food Service (fast food workers, cooks, food preparers)
4. Direct the OLE to begin building strategic partnerships with community-based organizations, worker advocacy organizations, worker unions, and employers in targeted industries to improve worker outreach/education and strengthen enforcement activities for vulnerable workers.
5. Authorize the Director of DCBA, or his designee, to enter into agreements with consultants, as needed, to carry out this initiative.

NEXT STEPS

DCBA will produce a final follow-up report within 90 of submitting the attached report that will build on the implementation framework outlined in this document and will present policy recommendations that will help drive the work of the newly formed OLE. More specifically, the final OLE report will contain the following:

1. A detailed evaluation and analysis of existing enforcement practices to produce a phased-in strategic enforcement transition plan;
2. A proposed budget and staffing plan for phasing-in the growth of the OLE through FY 2023-24; and
3. Policy recommendations to address the most pressing needs of vulnerable workers in the County with an emphasis on addressing issues for workers in the three initial targeted industries.

Each Supervisor
August 30, 2021
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Should you have any questions concerning this report, please contact me or Manuel Ruiz, Senior Policy Analyst, at mruiz@dcba.lacounty.org or (213) 808-7841.

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Enclosure

c: Executive Officer, Board of Supervisors
Chief Executive Office
County Counsel
Human Resources
Public Health
Workforce Development, Aging and Community Services



EXPANDING WORKER PROTECTIONS IN LOS ANGELES COUNTY

REPORT

August 30, 2021

Prepared by:

Los Angeles County Department of Consumer and Business Affairs
Rafael Carbajal, Director

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Introduction

The ongoing COVID-19 pandemic has highlighted and accelerated the need to provide more expansive worker protections to essential and other vulnerable workers in the region, who have taken on great personal burdens and health risks during the state of emergency to maintain economic stability at home. The County of Los Angeles (County) has taken various actions during the ongoing health emergency to strengthen worker protections for its most vulnerable and at-risk workers through the adoption of emergency orders and urgency ordinances, such as the Preventing Retaliation for Reporting Public Health and Hero Pay Ordinance Yet ,there is a need to implement a comprehensive strategy that builds on these efforts to tackle the broader worker protection issues that are prevalent in the region. The creation of a Los Angeles County Office of Labor Equity (OLE) under the purview of the County’s Department of Consumer and Business Affairs (DCBA) would consolidate and centralize the County’s existing labor law enforcement and worker protection functions and would drive a strategic and systematic approach to tackling the County’s most pressing worker protection issues. The following report outlines a proposed implementation framework for an OLE and makes preliminary recommendations that can be adopted by the County Board of Supervisors (Board) to expand worker protections in the County.

Background

The economic challenges brought on by the COVID-19 pandemic demonstrated that there is a need to examine the role the County can play in strengthening worker protections, especially for its most vulnerable and at-risk workers in industries where worker law violations are known to commonly occur laws. The ongoing health emergency is forcing essential and other vulnerable workers in the region, which are disproportionately Black and Latinx, to take on multiple jobs and/or risk their health in order to maintain economic stability at home. In addition, the ongoing pandemic has had a disproportionate economic impact on women workers due to school closures, lack of affordable childcare, and lack of paid parental leave, causing the world’s first “she-cession.”¹ In the long term, this puts Los Angeles County’s economic recovery at risk as low-wage and other vulnerable workers leave the regional market. According to the latest data from the California Employment Development Department, as of June 2021, the unemployment rate in Los Angeles County stood at 10.5 percent, nearly 3 percentage points higher than the state rate of 8 percent.² The increased scarcity of stable jobs, paired with the ongoing COVID-19 health emergency, create conditions that can facilitate labor law and County Health Officer Order (HOO) violations, which the County needs to mitigate to create healthier work environments and drive economic recovery in the region.

Various large jurisdictions across the country have created offices of labor standards, as a best practice, to centralize worker protection and enforcement efforts and become a regional hub for policy development. Cities, such as New York, Chicago, and Seattle, have demonstrated success at consolidating their worker protection and enforcement functions while driving partnerships with worker advocacy organizations, unions, industry organizations, and businesses to develop and promote new laws, policies, and standards that support their regional

¹ <https://www.nytimes.com/2021/05/28/us/shecession-america-europe-child-care.html>

² <https://www.labormarketinfo.edd.ca.gov/file/lfmonth/countyur-400c.pdf>

workforces and economies. The successful models implemented by these peer jurisdictions will be instrumental in informing the County as it seeks to develop its own OLE.

New Research

Study on County’s Minimum Wage Complaint Data

In February of 2021, the Center for Innovation in Worker Organization (CIWO) at Rutgers University, a national authority on labor standards enforcement research, partnered with DCBA to produce a study on the implementation of its Minimum Wage Ordinance, titled “*A Road Map for Strategic Enforcement Targeting: Complaints and Compliance with Los Angeles County’s Minimum Wage*” (see Appendix A). CIWO’s study analyzed minimum wage complaint data collected by DCBA to produce insights on how the County could improve implementation of its ordinance through strategic targeting of labor enforcement practices.

CIWO’s study highlighted differences in the number of expected minimum wage violations by industry in the County—estimated based on a methodology³ that utilized 2016-19 Current Population Survey (CPS) data—and the actual number of minimum wage complaints received by DCBA, sorted by industry. These variances demonstrated that there is a significant number of labor law violations potentially going unreported in the County and that there is an opportunity for DCBA to take steps to shift its traditional complaint-based model of enforcement to a more strategic model that focuses on industries with high numbers of vulnerable workers. CIWO’s study highlighted key industries where there are high expected minimum wage violation rates and low observed complaint rates. Appendix A, Table 4 highlights such key industries—see table below:

Appendix A, Table 4: Summaries of Select Industries, L.A. County

Industry	Estimated violation rate, LA County	Complaints (LA DCBA)	Estimated violations per complaint	Percent of total LA County employment
Private households	40.5%	0	2110	1.32%
Textile, apparel, and leather manufacturing	36.9%	2	1184	1.62%
Personal and laundry services	29.7%	2	957	1.63%
Food services and drinking places	28.8%	94	91	7.53%
Retail trade	21.0%	65	147	11.47%
Administrative and support services	20.5%	24	148	4.39%
Social assistance	19.7%	0	1953	2.50%
Health care	10.2%	15	307	11.39%

The CIWO study validated qualitative research gathered by DCBA from local labor experts and worker advocates on the vulnerability of certain worker populations within the County to

³ See Appendix A, Page xxii for a breakdown of CIWO’s use of CPS Merged Outgoing Rotation Groups data

experience wage theft and other labor law violations. While the analysis produced by CIWO could not solely focus on what's occurring in the unincorporated areas of the County—one of the major limitations of the study—it still provides a useful assessment of what industries a new OLE could choose to focus on as part of a targeted enforcement and outreach/education strategy that seeks to maximize the limited resources that would be at the disposal of the new office.

Based on CIWO's analysis⁴ of estimated minimum wage violation rates by industry versus the actual number of minimum wage violation complaints filed at DCBA by industry,⁵ the following types of workers face relatively high probabilities of experiencing a minimum wage violation in the County and are likely to not file a complaint to report such a violation, making them some of the most vulnerable groups of workers and high-priority⁶ targets for a strategic enforcement and outreach/education model to be implemented by an OLE:

- Domestic/Private Household (NAICS 814110)⁷
 - Occupation Examples:
 - Childcare worker/nanny (SOC 39-9011)⁸
 - Maid/Housekeeper (SOC 37-2012)
 - Cook (SOC 35-2013)
 - Chauffeur (SOC 53-3041)
 - Landscaper/groundskeeper (SOC 37-3011)
- Garment/Textile (NAICS 313, 314, 315, 316)
 - Occupation examples:
 - Tailor, dressmaker, and sewer (SOC 51-6050)
 - Textile machine setter, operator, and tender (SOC 51-6060)
 - Laborer and material mover (SOC 53-7060)
- Personal and Laundry Services (NAICS 812)
 - Occupation Examples:
 - Hairdresser, hairstylist, and cosmetologist (39-5012)
 - Manicurist and pedicurist (39-5092)
 - Massage therapist (31-9011)
- Home Care/Social Assistance (NAICS 624)
 - Occupation Examples:
 - Home health and personal care aide (SOC 31-1120)
 - Childcare worker (SOC 39-9011)
 - Preschool teacher (25-2011)

⁴ See Appendix A, Table 3 and Page ix for a breakdown of the methodology used to assess the relationship between violation and complaint rates for selected industries in L.A. County

⁵ See Appendix A, Tables 1, 2, and 4 for estimated minimum wage violation and actual complaint rates in L.A. County

⁶ While these types of workers may not represent a high percentage of total employment within the unincorporated areas of the County, they represent a contingent of especially vulnerable workers because of the underserved and marginalized communities that tend to be overrepresented in these types of occupations, such as immigrants, women, Latinx, Asian and Pacific Islander, and Black.

⁷ North American Industry Classification System (NAICS) Code

⁸ Standard Occupational Classification (SOC) Code

The following types of workers face relatively high probabilities of experiencing a minimum wage violation in the County but have relatively high rates of filing complaints on such violations, also making them great targets for a strategic enforcement and outreach/education model that drives industry employer compliance rates higher. In addition, the types of businesses that employ these workers make up at least a fifth of total employment in the County,⁹ further strengthening the argument for an OLE to conduct targeted, strategic enforcement for these workers:

- Food Service (NAICS 722)
 - Occupation examples:
 - Fast food and counter worker (SOC 35-3023)
 - Waiter and waitress (SOC 35-3031)
 - Restaurant cook (SOC 35-2014)
 - Food preparation worker (SOC 35-2021)
- Retail (NAICS 44, 45)
 - Occupation examples:
 - Retail salesperson (SOC 41-2031)
 - Cashier (SOC 41-2010)
 - Laborer and material mover (SOC 53-7060)
- Janitorial/Administrative and Support Services (NAICS 561)
 - Occupation examples:
 - Janitor and cleaner, except maids and housekeeping cleaners (SOC 37-2011)
 - Security guard (SOC 33-9032)
 - Packer and packager (SOC 53-7064)
- Repair and Maintenance (NAICS 811)
 - Occupation examples:
 - Automotive service technicians and mechanics (SOC 49-3023)
 - Automotive body and related repairers (SOC 49-3021)
 - General maintenance and repair worker (SOC 49-9071)

Lastly, the following types of workers have relatively low probabilities of experiencing minimum wage violations in the County, based on CIWO's analysis, but are worth further exploring as potential target groups for OLE strategic enforcement activities because there are occupation types within some of the industries that employ these types of workers—such as day laborers in construction and maids and housekeepers in accommodation— and because those industries are some of the fastest growing in the County and offer some of the best opportunities for employment in quality, sustainable, and living wage jobs:

- Hospitality/Accommodation (NAICS 721)
- Construction (NAICS 23)
- Health Care (NAICS 621, 622, 623)
- Transportation and Warehousing (NAICS 48, 49)

Based on a synthesis of all the information presented in CIWO's study, interviews with national

⁹ See Appendix A, Table 4

and local experts in the field of worker protections, and an examination of the potential impact of targeting the work of the OLE in specific industries, DCBA believes the following three industries show the most promise for piloting strategic enforcement practices during the first phase of implementation of the OLE:

- Private Households (domestic workers)
- Personal and Laundry Services (hairdressers, manicurists, and massage therapists)
- Food Service (fast food workers, cooks, food preparers)

The following four industries also present considerable opportunities for piloting strategic enforcement practices in the County, but due to limited start-up resources for the OLE, can be targeted in a limited capacity during the first phase of implementation for the OLE or more comprehensively during subsequent phases of implementation:

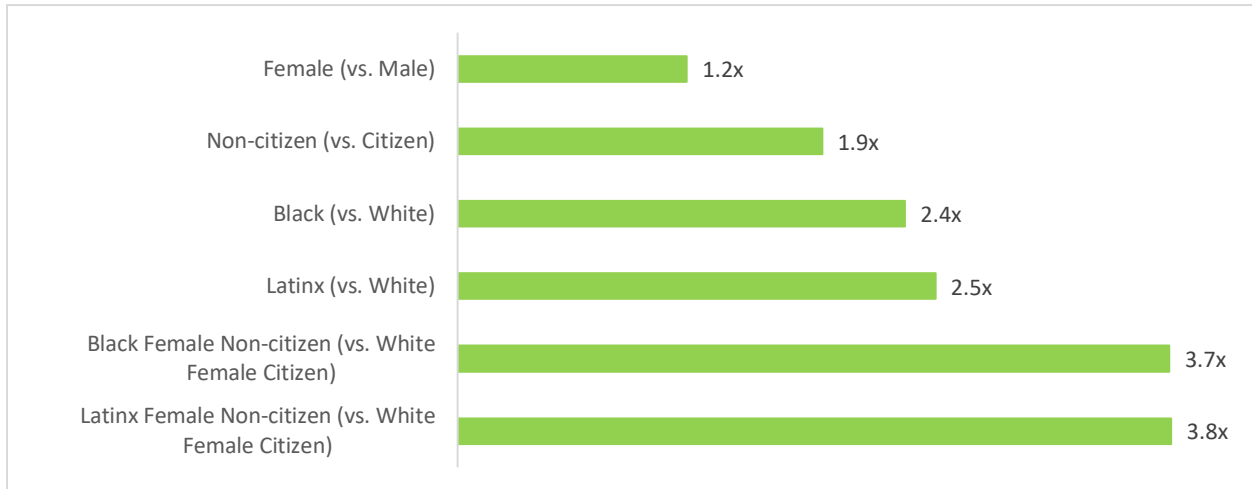
- Home Care and Social Assistance
- Garment/Textile
- Hospitality/Accommodation
- Transportation and Warehousing

Pay Equity for Vulnerable Workers

One primary set of objectives a newly formed County OLE would execute is the development and implementation of strategies to address issues of pay equity for vulnerable worker populations in the County. Certain demographic groups, such as Black, Latinx, Native American, Asian American and Pacific Islander, women, immigrants, individuals with disabilities, and justice-involved individuals are likely to experience higher levels of discrimination in the workplace, wage theft, and earn lower average wages, thus necessitating the development and implementation of targeted strategies to address these inequities. The CIWO study on minimum wage complaints in the County shed some light on the probability of specific demographic groups to experience wage violations relative to certain reference groups,¹⁰ further underscoring the need to target services to these and other groups of vulnerable workers:

¹⁰ Based on an analysis of CPS data; see Appendix A, Page vi

Appendix A, Chart 2: Probability of Minimum Wage Violation by Demographic Group in L.A. County (Relative to Reference Group), 2016-2019



One strategy an OLE could adopt to address issues of pay equity for vulnerable workers is to support local enforcement of the California Equal Pay Act, which prohibits private and public employers from paying employees less than employees of the opposite sex, or of a different race or ethnicity, for substantially similar work, when viewed as a composite of skill, effort, and responsibility, and performed under similar working conditions.¹¹ This State law allows workers that have experienced a violation under this statute with the right to file an action in court and/or a formal complaint with the State Labor Commissioner’s Office. A County OLE could implement an outreach and education campaign for both workers and employers on their rights and responsibilities pursuant to this law and train DCBA OLE staff on how to assist workers that wish to file an action in court and/or a formal complaint for an alleged violation of this law.

Another strategy an OLE could employ to address issues of pay equity in the County is to partner with the County’s formal workforce development system via the America’s Job Centers of California (AJCC), managed by Workforce Development, Aging and Community Services (WDACS), to provide vulnerable workers seeking employment with access to information and resources on labor laws and worker rights; workforce training and education programs; and linkages to “high-road”¹² employers that offer quality, sustainable, and living wage employment opportunities in high-growth industries.

Engagement with Economic & Workforce Development and Industry Specific Stakeholders

On February 9, 2021, the Board of Supervisors (Board) adopted a motion¹³ to implement recommendations identified in the *Pathways for Economic Resiliency* (Report),¹⁴ which details

¹¹ https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1197.5.&lawCode=LAB

¹² https://cwdb.ca.gov/wp-content/uploads/sites/43/2019/09/high-road-ecj-brief_updated-branding.pdf

¹³ <http://file.lacounty.gov/SDSInter/bos/supdocs/153725.pdf>

¹⁴ https://wdacs.lacounty.gov/wp-content/uploads/2021/02/pathways-for-economic-resiliency-condensed-report-final.pdf?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term=

COVID-19's employment and economic impacts and provides guidance for the County to assist those most impacted by the pandemic, such as essential and vulnerable workers. The recommendations outlined in the report focus on workforce training in key high-growth industries, displaced worker-specific employment programs, business attraction strategies, addressing the digital divide, land use strategies, increasing access to quality and affordable childcare, and reopening the economy safely, among other key areas for economic recovery.

The Board directed WDACS to convene a workgroup, consisting of various County departments, including DCBA, the Los Angeles County Workforce Development Board, and relevant industry stakeholders to develop a plan to implement the Report's recommendations, as well as an update on the County's review of the recommendations of the County's Economic Resiliency Task Force's Final Report.¹⁵ As part of this work, DCBA was assigned to lead a subgroup to develop strategies specifically to increase opportunities for employees facing barriers to enter or re-enter the workforce in the County (Priority #3) and to integrate and align the work of the forthcoming OLE to the objectives being outlined by WDACS and the workgroup.

Starting on April 30, 2021, DCBA convened six (6) subgroup meetings with the following County departments:

- WDACS
- Internal Services Department (ISD)
- Department of Public Health (DPH)
- Department of Human Resources (DHR)

During the subgroup meetings, DCBA and the partner departments developed recommendations that focused on three areas: 1) improving internal County hiring processes for vulnerable and historically marginalized workers; 2) expanding County contracting opportunities for minority and women-owned businesses; and 3) expanding access to County services for vulnerable and historically marginalized workers. The subgroup also discussed the need to engage with community stakeholders, industry and business associations, and worker advocacy organizations to develop more robust worker and employer education and outreach strategies, which tie directly to the future work of a County OLE. The results of the subgroup's work and recommended implementation plan will be outlined in a board report to be submitted to the Board by August 27, 2021.

Moving forward, DCBA will continue to work with WDACS and workgroup members to align the work of the OLE to the Pathways to Economic Resiliency initiative and to further engage community and industry stakeholders on ways to improve opportunities for workers in the County.

¹⁵<http://file.lacounty.gov/sdsinter/bos/supdocs/147342.pdf#search=%22%22economic%20resiliency%20task%20force%22%22>

Proposed Framework for a County Office of Labor Equity

DCBA has conducted extensive research on best-practices, including interviews with offices of labor standards, academic research institutions, worker advocacy organizations, and other key stakeholders, that will inform the County as it seeks to develop and implement an OLE. All the information gathered to-date has provided critical insights on how to best situate and structure an OLE within the County to best leverage existing infrastructure and resources and create operational and budgetary efficiencies that will lead to long term-sustainability and growth for the new office. The following subsections highlight key research, best practices, and potential recommendations that will inform the County as it seeks to launch an OLE in the near future.

Positioning & Conflicts of Interest

Interviews conducted with office of labor standards in New York City, Chicago, Philadelphia, Seattle, and Santa Clara County shed light on how effective offices of labor standards fit into their respective systems of government. A common practice observed by all the jurisdictions DCBA staff interviewed is the positioning of offices of labor standards within consumer affairs, worker/labor departments, or independent agencies or divisions of local government that are able to exercise the authority necessary to effectively enforce labor laws within the targeted jurisdiction(s). Consumer affairs and worker/labor agencies are generally well positioned to house the functions of offices of labor standards due to their specialization in assisting vulnerable demographic groups that face discrimination and experience widespread violations of labor and consumer laws.

Situating offices of labor standards within departments focused on consumer and/or worker issues also ensures that the office carries out effective enforcement and worker advocacy efforts without triggering conflicts of interest within its own organization if there are functions within the entity that are focused on business development and advocacy. When a department or agency is tasked with providing both businesses and workers with services, implementation of worker protection activities can be hindered or be at odds with the business development functions of the department. Keeping business development and worker protections services in separate departments can ensure that an office of labor standards can effectively wield its authority to investigate and conduct affirmative enforcement of labor laws unfettered by any potential conflicts of interest arising from serving businesses.

In the case of the County's OLE, housing the office within DCBA would leverage and consolidate various existing resources and infrastructure within the department dedicated to protecting vulnerable consumer and worker populations and would ensure that the future work of the OLE remains separate from the business development and advocacy functions that will be carried out by other departments in the near future. With the Office of Small Business (OSB) moving from DCBA to the forthcoming Economic and Workforce Development Department (EWDD) by the end of 2021, an OLE housed within DCBA would be free to pursue proactive and strategic enforcement of labor laws without the challenges that the current DCBA Minimum Wage Enforcement Program (WEP) faces because the department also functions as a small business advocate. In the past, DCBA's dual function as a small business and consumer advocate interfered with its ability to support consumer, tenant, immigrant, and worker protection

legislation and sometimes interfered with its ability to help certain businesses compete for County contracts because of ongoing WEP investigations that involved those businesses. With the parting of OSB to the new EWDD, DCBA and an OLE would avoid conflicts of interest and be able to better focus on the work of protecting vulnerable groups from unfair business practices.

Budget & Staffing

At launch, a County OLE would utilize existing DCBA WEP staff and resources to carry out the functions of the new office while phasing in new staff and securing additional funding as the office grows and expands its scope of work in subsequent stages of implementation. Currently, the WEP operates with a staffing structure that includes 25 full-time equivalents—14 filled positions and 11 pending hires—and an annual operating budget of \$2.65 million, which is composed of \$1.252 million in discretionary Net County Cost dollars, \$1.273 million in Wells Fargo Consumer Protections funds, and \$125,000 in contracted City of Santa Monica funds. During a first phase of OLE implementation, DCBA’s fiscal and administrative team would focus on sustaining existing staff, securing stable and long-term funding (WEP is currently funded almost entirely through discretionary and non-recurring sources), and establishing agreements to fund community-based organizations and consultants to assist DCBA in carrying out the work of the new office. Shortly after launch, DCBA would work with contracted consultants to conduct a detailed analysis of existing WEP practices, budget, and infrastructure to develop a phased-in, multi-year expansion plan for OLE that will be outlined in a future report-back.

Authority & Program Oversight

A new County OLE would be authorized with enforcement of four active L.A. County ordinances, two City of Santa Monica ordinances, and one forthcoming L.A. County ordinance:

1. L.A. County Minimum Wage Ordinance¹⁶
2. City of Santa Monica Minimum Wage Ordinance¹⁷
3. Preventing Retaliation for Reporting Public Health Violations Ordinance¹⁸
4. L.A. County Temporary Hero Pay Ordinance¹⁹
5. City of Santa Monica Temporary Hero Pay Ordinance²⁰
6. Employee Paid Leave for Expanded Vaccine Access Ordinance²¹
7. Prevention of Human Trafficking Ordinance²²

¹⁶https://library.municode.com/ca/los_angeles_county/codes/code_of_ordinances?nodeid=tit8coprbuware_div4ware_ch8.100miwa

¹⁷ http://qcode.us/codes/santamonica/view.php?topic=4-4_62&showAll=1&frames=on

¹⁸ <http://file.lacounty.gov/SDSInter/bos/supdocs/150742.pdf>

¹⁹ <http://file.lacounty.gov/SDSInter/bos/supdocs/153999.pdf>

²⁰

https://www.santamonica.gov/Media/Default/Minimum_Wage/City%20of_SM_Hero_Pay_Required_Legal_Notice.pdf

²¹ <http://file.lacounty.gov/SDSInter/bos/supdocs/158362.pdf>

²² <http://file.lacounty.gov/SDSInter/bos/supdocs/159650.pdf>

In addition, the OLE would work with DCBA's Office of Immigrant Affairs (OIA) to integrate the work of their L.A. Immigrant Essential Workers Initiative into the program portfolio of the OLE.

Minimum Wage Ordinances

Since July 1, 2016, DCBA's WEP has enforced the County's Minimum Wage Ordinance and the City of Santa Monica's Minimum Wage Ordinance. DCBA conducts investigations on employers who fail to pay the required minimum wage, provide paid sick leave, and/or retaliate against employees that participate in WEP's investigation process or that report potential violations.

Authority: Title 8 of the Los Angeles County Code (LACC), Section 8.101.090(A), authorizes DCBA to take any appropriate actions to enforce the County's Minimum Wage Ordinance outlined in Chapter 8.100; and contract authority²³ from the City of Santa Monica to deliver enforcement, outreach, and other services to assist the City with implementation of the Santa Monica Minimum Wage Ordinance (Santa Monica Municipal Code, Chapter 4.62).

Applicability/Jurisdiction: Any employee that performs at least two hours of work within the unincorporated areas of the County or the City of Santa Monica and is entitled to a minimum wage from an employer (as defined in section 18 of the California Labor Code) under the California Minimum Wage Law.

Preventing Retaliation for Reporting Public Health Violations Ordinance

On November 24, 2020, the Board approved the Preventing Retaliation for Reporting Public Health Violations Ordinance, which enacted anti-retaliation protections for workers in the County that report employer violations of Health Officer Orders (HOO), participate in Public Health Councils (PHC), discuss or inform other workers of their rights under the ordinance, or exercise their rights under the ordinance.

Authority: Title 11 of the LACC, Section 11.01.040 (B) designates DCBA as an agent of the Department of Public Health (DPH) to investigate any complaints of retaliation under the Chapter and impose penalties for verified violations. The complaints must be lodged at DPH or its designees or agents.

Applicability/Jurisdiction: Any employee that performs work within the geographic boundaries of the County, with exceptions for those municipalities that have their own Health Officers (Pasadena and Long Beach).

Temporary Hero Pay Ordinances

The L.A. County Hero Pay Ordinance (approved on February 23, 2021 and expired on June 26, 2021) and the City of Santa Monica Hero Pay Ordinance (approved on March 9, 2021 and expired on July 9, 2021) require grocery and drug retail employers to provide an additional \$5 per hour hazard pay to workers in frontline positions that face elevated health risks during the

²³ <http://file.lacounty.gov/SDSinter/bos/supdocs/140013.pdf>

COVID-19 pandemic. The County ordinance includes a 3-year statute of limitations (from the date an alleged violation occurred) that grants aggrieved workers the right to file an action in court against an employer that allegedly violated the ordinance.

Authority: Title 8 of the LACC, Section 8.204.110(A) authorizes DCBA to investigate complaints of alleged violations of the Chapter and to enforce the requirements of the Chapter in the same manner, and subject to the same procedures and appeals, as set forth in Chapter 8.101, the Los Angeles County Wage Enforcement Ordinance; and contract authority from the City of Santa Monica to investigate complaints of alleged violations of the City of Santa Monica Hero Pay Ordinance (Santa Monica Municipal Code, Chapter 4.65.5).

Applicability/Jurisdiction: Any employee that is physically present for work in a retail grocery or drug store within the unincorporated areas of the County or the City of Santa Monica and is entitled to a minimum wage from an employer under the California Minimum Wage Law.

Employee Paid Leave for Expanded Vaccine Access Ordinance

On May 18, 2021, the Board approved an Urgency Employee Paid Leave for Expanded Vaccine Access Ordinance that requires employers in the unincorporated areas of the County to provide paid leave for workers to receive a COVID-19 vaccination. This temporary ordinance expires August 31, 2021.

Authority: Title 8 of the LACC, Section 8.205.080 authorizes DCBA to investigate complaints of alleged violation of the Chapter, enforce the provisions as set therein, issue administrative citations, and conform to the due process requirements as set forth in LACC 1.25.

Applicability/ Jurisdiction: Private employers in the unincorporated areas of the County.

Prevention of Human Trafficking Ordinance

On July 27, 2021, 2021, the Board approved the Prevention of Human Trafficking Ordinance that declares the use of a building or place for human trafficking unlawful and a public nuisance and would encourage employees to report suspected human trafficking by protecting them from retaliation.

Authority: Title 13, Section 13.110.100(A) authorizes DCBA to take appropriate steps to enforce this Chapter, including conducting investigations of possible violations by an employer or other person, issuing subpoenas, and issuing administrative citations

Applicability/Jurisdiction: Private employers in the unincorporated areas of the County.

L.A. Immigrant Essential Workers Initiative

In May 2020, DCBA's Office of Immigrant Affairs (OIA) presented the L.A. Immigrant Essential Workers Initiative (LAIEWI)²⁴ to the economic development policy leads advising the County Board of Supervisors. The LAIEWI lifted up the fact that between 40 and 60 percent of workers in the County's essential industries are immigrants; despite keeping the County economy going during the pandemic, our immigrant essential workers were falling through the social safety net due to restrictions on federal and state relief dollars based on immigration status. The OIA launched the LAIEWI to raise awareness about the pandemic's disproportionately negative impacts on its immigrant workforce and to advocate for an inclusive, equitable economic recovery that specifically addresses our immigrant essential workers.

As part of this effort, the OIA is preparing for the launch of "Your Home is Someone's Workplace" in August. The focus of this initiative is on the County's 115,000 domestic workers, over 90 percent of whom are immigrant women of color. A new microsite on the OIA website, as well as media campaigns coordinated with key domestic worker organizations, will provide resources to private households on how they can be fair and responsible employers of domestic workers, e.g., nannies, elder caregivers, and house cleaners. This campaign will provide the foundations for the kind of industry-specific, strategic co-enforcement proposed for the Office of Labor Equity.

Strategic Labor Law Enforcement: Best Practices

Overview

Rutgers University CIWO, in partnership with the Center for Law and Social Policy (CLASP), has published a series of online briefs on labor standards enforcement best practices (collectively known as the Labor Standards Enforcement Toolbox) that serves as an invaluable resource for state and local agencies looking to implement effective and proven labor enforcement strategies.²⁵ As DCBA conducted research on best practices that would inform the creation of the OLE, it relied heavily on the information collected and published by CIWO and CLASP and on the guidance provided by Dr. Janice Fine and the rest of the CIWO team. DCBA also partnered with CIWO—through their Strengthening Labor Standards Enforcement Program—to produce a study on the County's minimum wage enforcement efforts (see Appendix A) that would supplement the best practices research being conducted and help DCBA construct a strategic enforcement roadmap that the OLE could follow to implement and operationalize key best practices identified through the research. The following summarizes key best practices gathered from the Labor Standards Enforcement Toolbox that are pertinent to the establishment of an effective OLE.

²⁴ <https://oia.lacounty.gov/domestic-work/>

²⁵ <https://smlr.rutgers.edu/faculty-research-engagement/education-employment-research-center-eerc/eerc-programs/strengthening-0>

Key Strategies & Essential Enforcement Powers

In order for a County OLE to be as effective as possible in enforcing the set of ordinances under its purview, DCBA will need to transition from its traditional, complaint-based system of labor standards enforcement to a strategic, proactive model that prioritizes how and where it utilizes its limited resources. Employing a strategic approach to enforcement will allow the OLE to direct resources and services to the most vulnerable populations of workers in the County while attempting to create a strong culture of compliance for employers within industries where labor law violation rates are the highest. In addition, implementing an effective strategic enforcement model will require the fostering of new collaborations and partnerships with other governmental agencies, non-profit organizations, worker centers, labor unions, and business associations that will broaden the reach of services and help drive enforcement efforts.

CIWO and CLASP, through their Labor Standards Enforcement Toolbox, have identified several key tenets²⁶ of strategic enforcement that will guide the County's efforts at establishing a strategic OLE:

- Identify priority industries where data show wage violations are most likely to occur and where workers are least likely to exercise their rights and report labor law violations
- Conduct directed and proactive investigations to engender a strong culture of compliance and deterrence
- Use all enforcement tools at the disposal of the agency, including employer and worker education, formal correspondences, investigations, and assessment of penalties and fines
- Conduct strategic outreach and communications, which includes producing know-your-rights literature in multiple languages, conducting workshops, and publicizing major judgements against employers and worker testimonials
- Conduct complaint resolutions that include diverse and creative strategies to promote ongoing compliance from employers
- Build a strong culture of planning, evaluation, and review, which includes building the agency's capacity to conduct analyses of enforcement data and regional economic and statistical studies that will inform enforcement, outreach, and policy making
- Partner with community stakeholders and other agencies to broaden the reach of worker outreach and education efforts; identify non-compliant industries and employers; collaborate on investigations; refer cases; and implement co-enforcement strategies

In addition, CIWO has identified 13 "Essential Enforcement Powers"²⁷ that effective labor standards offices need to have in order to maximize their effectiveness:

1. Power to say no to complaints and provide referrals (i.e., power of investigative discretion)
2. Power to use alternative enforcement tools when a complaint does not warrant an investigation (e.g., employer education and employer correspondences requesting compliance)

²⁶https://smlr.rutgers.edu/sites/default/files/documents/centers/ciwo/2018_introductiontostrategicenforcement.pdf

²⁷<https://smlr.rutgers.edu/sites/default/files/Documents/Centers/CIWO/Tool%20%20ABakersDozen.pdf>

3. Power to initiate directed and complaint-based company wide investigations in industries where data indicate high worker vulnerability (i.e., ability to widen scope of investigation beyond an individual cases)
4. Power to name and hold all employers accountable (i.e., power to hold joint employers, franchisors, and other “up-the-chain” corporate entities accountable)
5. Power to compel information during investigations via the utilization of deadlines, subpoenas, in-person communications, and assessment of penalties
6. Power to settle and incorporate a range of terms into a settlement (e.g., back wages, liquidated damages, interest, additional sick leave, and mandatory employer education)
7. Power to remedy worker retaliation and implement strong retaliation prevention strategies (e.g., strong worker protections against retaliation and severe penalties for employers violating anti-retaliation laws)
8. Power to provide increased remedies to workers (e.g., ability to assess interest, liquidated damages, penalties, fines, and civil penalties to employers)
9. Power to impact non-compliant employers’ ability to operate (e.g., suspending business licenses and issuing stop work orders to employers in violation)
10. Power to implement diverse and comprehensive collections strategies that include the leveraging of debtor laws, wage liens, wage bonds, and warrants
11. Power to implement dynamic press strategies and proactively share accomplishments via media outlets (i.e., power to shape media reputation)
12. Power to preclude employers from using frivolous appeals or other tactics to circumvent administrative investigation processes or to avoid payments/penalties
13. Power to implement co-enforcement strategies with unions, worker centers, and non-profit organizations

DCBA has already undertaken steps to assess which of the above broad strategies and enforcement powers it already employs and which ones it can incorporate as part of the implementation of the OLE. For example, DCBA has identified some preliminary target industries through an analysis of CIWO’s study on the County’s minimum wage data (Appendix A) and is recommending, as part of this report, Private Households, Personal and Laundry Services, and Food Service as three industries that the OLE can target during its first phases of implementation. As a next step, DCBA will need to conduct a more systematic assessment of its current enforcement practices and create a plan to operationalize the most pertinent and feasible strategies identified by CIWO and CLASP in their Labor Standards Enforcement Toolbox.

Assessing the Current Enforcement Context in L.A. County

CIWO’s Labor Standards Enforcement Toolbox includes an assessment tool²⁸ that DCBA and the OLE can utilize to inventory the enforcement powers currently at its disposal and to assess which powers it needs to better maximize and/or begin implementing. The assessment will help the OLE take a practical, systematic approach to evaluating whether the office is implementing strategies that are reinforcing outdated practices or taking narrow interpretations of existing

²⁸<https://smlr.rutgers.edu/sites/default/files/Documents/Centers/CIWO/Tool%20%20AssessingandMaximizing.pdf>

powers that may be undermining its ability to maximize the enforcement tools at its disposal. As part of undertaking CIWO's assessment exercise, the OLE will need to answer some key questions that will help it identify essential enforcement powers that it should expand, cultivate, and/or implement for the first time. A list of such questions is identified in Appendix B of this report. The OLE will need to seek expert consultants in the field of labor standards enforcement to assist it in conducting its internal assessments and to help it operationalize the best practices that are suited for implementation at the local level.

Complaints, Intake, & Triage

The Labor Standards Enforcement Toolbox emphasizes the importance of carefully processing and triaging complaints to maximize the use of an agency's limited resources. The following are some key best practices outlined in CIWO's *Tool #1: Complaints, Intake, & Triage*²⁹ that the OLE should consider in the areas of intake and triage:

1. Complaint/intake processes should be widely accessible to both individual workers as well as worker advocates, worker centers, and other third parties that assist or file complaints on behalf of the complainant
2. Complaint forms should be written in simple language and should be accessible in multiple languages
3. Agencies should use the intake process to provide information and education to complainants about their worker rights and to make referrals to external organizations, when necessary
4. Agencies should use intake forms to collect basic information for each type of complaint they investigate and should conduct intake interviews with the complainant to collect more detailed information on the complaint
5. Agencies should adequately and sustainably staff intake systems with dedicated or rotating staff to drive investigations
6. Agencies should implement rigorous triage systems as part of their intake processes that sort and prioritize complaints based on meeting certain criteria and that facilitate the type of action or referrals the agency needs to make based on how the complaint is categorized
7. Agencies should leverage their partnerships with community-based organizations to help conduct intake activities, where appropriate and policies permit

Investigations

The OLE's ability to carry out thorough and effective investigations of complaints that have met appropriate thresholds for action will be at the core of the success of the new office. CIWO's *Tool #2: Investigations*³⁰ goes into great detail on a host of effective strategies labor enforcement agencies successfully implement and that the OLE can look to implement locally.

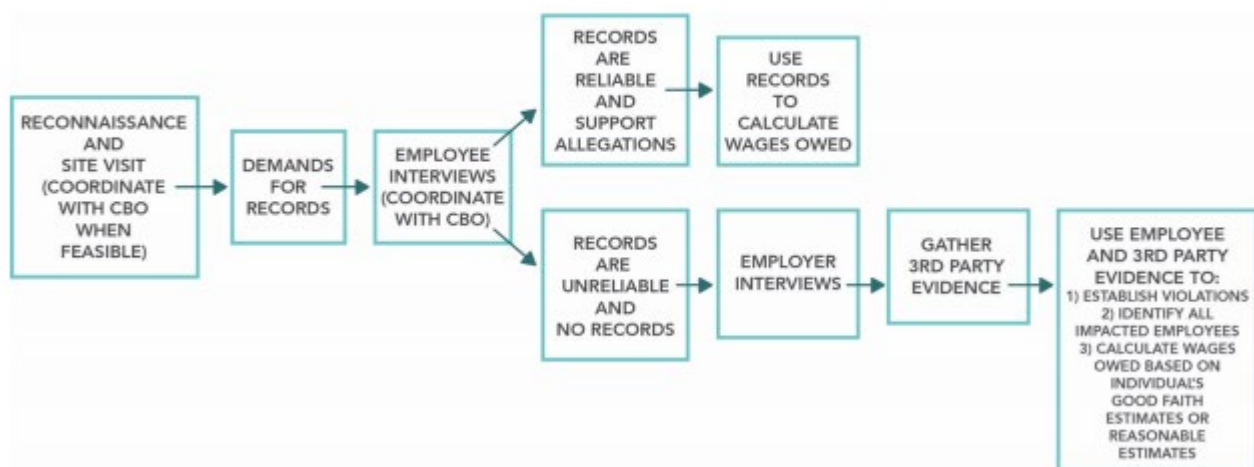
²⁹ https://smlr.rutgers.edu/sites/default/files/Documents/Centers/CIWO/2018_complaintsintakeandtriage.pdf

³⁰ https://smlr.rutgers.edu/sites/default/files/Documents/Centers/CIWO/2018_investigations.pdf

CIWO states that the primary objective of any investigations process should be to “gather documentary and testimonial evidence to answer four fundamental questions: 1) did a violation occur?; 2) who was impacted by the violation; what are the impacted employees owed in back wages, interest, and other damages?; and 4) how could this investigation contribute to improving overall compliance among businesses in this industry?” To collect this evidence, effective agencies conduct investigations through a variety of methods to facilitate cooperation from all types of workers, including mail, email, telephone, in-person, and/or a hybrid of these methods. Also, effective agencies leverage their partnerships with community-based organizations, worker centers, and unions to assist in the investigations process as these types of organizations possess the rapport and cultural competency to facilitate communication with and cooperation from vulnerable workers when collecting evidence.

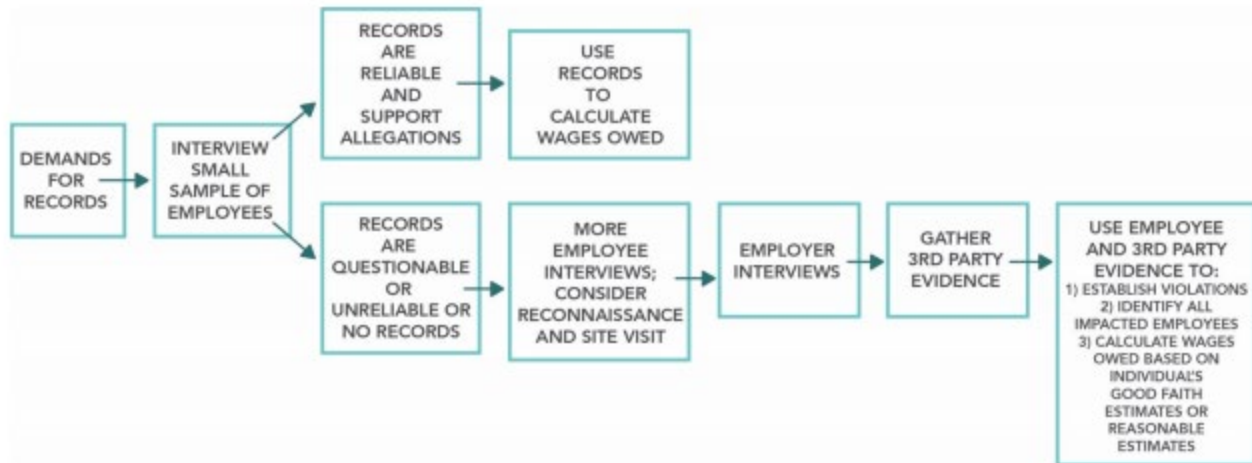
After conducting a robust intake process that gathers all the necessary information to validate the complaint and to categorize it based on the agency’s criteria for prioritization, the next critical step would be to accurately identify the legal entity employing the complainant—and their legal address—in order to begin conducting the formal investigation process. Proper identification of employer is essential to serve the employer with investigative documents and to take the appropriate legal action against them, if necessary. Once proper employer identification has occurred and the complaint has been assigned a priority type, the agency can move on to conducting reconnaissance/site visits (when necessary); demanding records/information; conducting employee interviews; reviewing and auditing collected information; conducting employer interviews (when necessary); gathering third party evidence; use all collected evidence to establish all violations, identify all impacted employees, calculate wages and penalties to be assessed. The figures below, taken from *Tool #2: Investigations*,³¹ visualize the process flows for high priority and low/middle priority investigation types:

STRATEGIC ENFORCEMENT: HIGH PRIORITY INVESTIGATION



³¹ https://smlr.rutgers.edu/sites/default/files/Documents/Centers/CIWO/2018_investigations.pdf

STRATEGIC ENFORCEMENT: LOW TO MIDDLE PRIORITY INVESTIGATION



Tool #2 also provides detailed strategies for conducting other critical investigative functions: conducting effective site visits; requesting documents and information; detecting inaccurate or falsified information; reviewing collected information and documents; compelling unresponsive employers to respond to demands for information; and conducting and memorializing employee and employer interviews. As the OLE assesses the effectiveness of its existing investigation practices and develops improvements, Tool #2 will serve as one of the most invaluable references for maximizing the impact of its investigative functions.

Collections

In *Tool #3: Collections*,³² CIWO references the results of a 2018 POLITICO survey of 15 states that found that enforcement agencies only recover about 59 percent of wages from employers that have been ordered to pay back wages to workers.³³ The success of collections processes that seek to recover money owed to workers are very dependent on the types of tools the agency has at its disposal and how they wield those tools. Effective enforcement agencies fully utilize a variety of creative collection tools and leverage their partnerships with community-based organizations and other external organizations to compel employers to pay back wages owed.

The types of collection tools an enforcement agency can wield are categorized by CIWO into two broad types: pre-judgement and post-judgement enforcement mechanisms. Pre-judgement enforcement mechanisms are tools used prior to the conclusion of an investigation or other enforcement action and are some of the most effective tools at creating negotiation leverage during settlements or to compel employers to voluntarily pay back wages. For example, pre-judgement wage liens can ensure that workers are full paid for back wages owed in the case a

³² https://smlr.rutgers.edu/sites/default/files/Documents/Centers/CIWO/2018_collections.pdf

³³ <https://www.politico.com/story/2018/02/18/minimum-wage-not-enforced-investigation-409644>

business is undergoing a bankruptcy or is attempting to transfer assets to lessen its liabilities to workers. Post-judgment enforcement mechanisms, such as liens and levies, are used after an investigation has led to a determination against an employer and when an employer is refusing to workers despite formal orders to pay. These types of tools are less effective at compelling employers to pay back wages when they are not wielded in tandem with pre-enforcement mechanisms.

Tool #3 outlines four strategies that labor enforcement agencies can implement to collect damages for workers should collections through settlements and voluntary payments fail after the agency has made a determination at the conclusion of an investigation:

- Penalize the employer through treble (triple) damages, fines, and criminal penalties (low-success rate with bad-faith employers)
- Seize sufficient funds or assets to satisfy the amount owed through liens and levies
- Redirect collection efforts to another person or entity that shares responsibility to pay the debt
- Leverage partnerships with other state and local agencies to apply pressure to the employer to comply

The figure below, taken from *Tool #3*, overlays the four strategies highlighted above with examples of commonly used collection tools:

	PENALIZE	SEIZE	REDIRECT	LEVERAGE
PRE-JUDGMENT		<u>MECHANICS' LIEN</u>		
PRE OR POST-JUDGMENT (DEPENDING ON HOW THE LAW IS WRITTEN)		<u>WRIT OF ATTACHMENT</u> <u>WAGE LIEN</u> <u>LIEN ON REAL PROPERTY</u> <u>ESCROW CLAIMS UNDER THE BULK SALES ACT</u> <u>BANKRUPTCY PROOF OF CLAIM</u>	<u>WAGE BOND</u> <u>RESTITUTION BOND</u> <u>FRAUDULENT CONVEYANCE RECIPIENT LIABILITY</u>	

POST- JUDGMENT	TREBLE DAMAGES	LEVY AN ASSET (E.G. BANK ACCOUNT OR WAGES)	SUSPEND, REVOKE, OR DO NOT RENEW BUSINESS LICENSE
	CRIMINAL PENALTIES		SUSPEND, REVOKE, OR DO NOT RENEW PROFESSIONAL OR SPECIALTY LICENSE OR CERTIFICATE OF ANY BUSINESS OR INDIVIDUAL LICENSEE
	CIVIL PENALTIES	INTERCEPT OR OFFSET TAX REFUNDS	SUSPEND INDIVIDUALS' DRIVER'S LICENSES
	FINES		SUSPEND INDIVIDUALS' AUTOMOBILE REGISTRATIONS
			PUBLICLY DISCLOSE INDIVIDUALS' NAMES
			STOP ORDERS

Lastly, *Tool #3* outlines a process agencies can follow to assess the types of collections tools it has at its disposal, what types of tools it needs to employ, and how it can use those tools:

- Assess available tools in the agency’s jurisdiction based on existing law
- Learn the process for using each tool based on applicable laws
- Increase the number of available tools by building relationships with other agencies to partner on collections
- Plan ahead and decide which tools should be used in which situations
- Evaluate whether laws can be amended to include stronger enforcement tools

As the OLE conducts its general enforcement practices assessment, it should keep in mind these assessment recommendations to improve its collections processes.

Negotiations and Settlement

In *Tool #6: Negotiations and Settlement Agreements*,³⁴ CIWO underscores the critical role settlements play to support the implementation of strategic enforcement practices: “when used strategically, settlement agreements are a powerful tool to bring an employer into compliance, ensure high collections rates, recover money quickly for employees, minimize litigation, and order creative, tailored remedies.” To drive successful settlements, agencies need to conduct

³⁴ https://smlr.rutgers.edu/sites/default/files/Documents/Centers/CIWO/2019_negotiationsandsettlementagreements.pdf

well-structured negotiation processes that involve sufficient preparation; clearly outline non-negotiable and negotiable terms; and are framed within a clear process for resolution. CIWO contends that effective negotiations processes are guided by three principles:

1. All affected workers must receive, at minimum, full back wages and interest to rectify the harm caused by the violation
2. The agreement should be structured to ensure ongoing, long term compliance by the employer
3. The egregiousness of the violations committed should dictate the level of resources and remedies invested into the settlement (i.e., the more serious and intentional the violation, the higher the level of resources invested)

CIWO also suggests that agencies should develop agency-wide policies for baseline nonnegotiable settlement terms for cases where a violation has been established and negotiable settlement terms that provide concessions to the employer in exchange for their cooperation. Examples of nonnegotiable settlement terms are the following:

- An acknowledgement in the agreement that the employer violated the law
- A statement in the agreement that the employer will not retaliate against the employee
- Clear descriptions of what the employer needs to do to correct the violations and to maintain compliance in the future
- Language that require the employer to provide documentation supporting compliance
- Include liquidated damages in the agreement, if local laws permit
- Include terms that allow the enforcement agency to publicize the outcomes of investigations via press releases and other communications media

Examples of negotiable settlement terms are as follows:

- Reduced penalties in exchange for the employer's cooperation
- Allowing the employer to pay fines and penalties in installments instead of all at once
- Softening the violation admission language in the agreement
- Reducing the frequency and intensiveness of compliance monitoring by the enforcement agency

Lastly, enforcement agencies should consult with their community-based partners before and during negotiations processes, whenever possible, to ensure that settlement terms are appropriate for the type of employer and the workers and that they adequately address the violations. Consulting with community partners during negotiations processes is particularly helpful because these types of organizations are better aware of the issues at the ground level and can provide critical insights on how to achieve successful outcomes as a result of a settlement agreement.

Strategic Partnerships & Communications

CIWO notes in *Tool #7: Sharing Information With Community Organizations*³⁵ that “labor standards violations disproportionately affect society’s lowest paid and most vulnerable workers, but these workers are not filing complaints at a rate anywhere close to the number of violations [that are actually taking place]” and that labor enforcement agencies “need community and worker organizations to help them improve compliance in industries most rife with violations.” Community-based and worker advocacy organizations possess industry specific expertise, cultural competency, and rapport with communities of workers that make them invaluable partners in driving the implementation of effective enforcement strategies and worker outreach and education efforts. Through the implementation of strategic partnerships, it becomes possible for an agency to conduct co-enforcement of labor laws in collaboration with key partners to drive highly effective and far-reaching intake, triage, investigations, collections, settlements, and other enforcement practices.

As is true of the strongest partnerships, communication is key to creating healthy and long-lasting collaborations. CIWO posits that information sharing, both formal—where parameters are codified into some type of a written agreement or service contract—and informal, needs to be bidirectional in nature and well-articulated to ensure that legal, confidentiality, and other concerns don’t become barriers to accomplishing the objectives of the partnership. It’s paramount that enforcement agencies and their partners openly share information and figure out solutions to any legal or administrative barriers that may limit the sharing of case information, formal policies and procedures, important information.

Finally, labor enforcement agencies that engage in strategic communications with media outlets to inform the public of local enforcement successes are more effective at creating a strong culture of deterrence and compliance than agencies that don’t engage in such practices. The Harvard Law School Labor and Worklife Program and CLASP in June of 2020 published an online toolkit titled *Protecting Workers Through Publicity...Promoting Workplace Law Compliance Through Strategic Communication*³⁶ that outlines effective communication strategies and tools that labor enforcement entities can wield to “multiply an agency’s impact and inform workers of [their] rights.” The toolkit provides critical insights on the significant impact strategic communications can have on legal compliance by employers and on the need for strategic communications to be a key component of an effective labor enforcement strategy. As the OLE gets off the ground, it will need to incorporate strategic communications best practices into its broader work to create synergies other enforcement practices.

Recommendations

Based on a synthesis of the information highlighted in this report, DCBA recommends that the Board of Supervisors take the following actions to implement a new OLE:

- Officially launch the OLE in September of 2021 with existing DCBA resources and direct DCBA to take a phased-in approach to building and growing the work of the new office

³⁵ https://smlr.rutgers.edu/sites/default/files/Documents/Centers/CIWO/2019_sharinginformation.pdf

³⁶ https://lwp.law.harvard.edu/files/lwp/files/protecting_workers_through_publicity_gerstein_goldman.pdf

- as funding and other resources become available
- Direct DCBA and the OLE to work with the Chief Executive Office to identify and secure stable, long-term funding for the phased-in expansion of the new office
 - Direct the new OLE to develop strategies, policies, and partnerships to protect vulnerable workers in three (3) initial target industries and to lay the groundwork for targeting additional priority industries and refining existing ones in subsequent phases of OLE implementation:
 - Private Households (domestic workers)
 - Personal and Laundry Services (hairdressers, manicurists, and massage therapists)
 - Food Service (fast food workers, cooks, food preparers)
 - Direct the OLE to work with consultants to help the new office conduct a rigorous, systematic assessment of the County's current enforcement practices with the aim of producing a plan to operationalize the best practices identified in this report in subsequent phases of OLE implementation
 - Direct the OLE to begin building strategic partnerships with community-based organizations, worker advocacy organizations, worker unions, and employers in targeted industries to improve worker outreach/education and strengthen enforcement activities for vulnerable workers

Next Steps

DCBA will produce a final follow-up report within 90 days of submitting this report that will build on the implementation framework outlined in this document and will present policy recommendations that will help drive the work of the newly formed OLE. More specifically, the final OLE report will contain the following:

1. A detailed evaluation and analysis of existing enforcement practices to produce a phased-in strategic enforcement transition and implementation plan
2. A proposed budget and staffing plan for phasing-in the growth of the OLE through FY 2023-24
3. Feasible policy recommendations to address the most pressing needs of vulnerable workers in the County with an emphasis on addressing issues for workers in the three initial targeted industries

Appendix A: Rutgers CIWO Study



Center for Innovation in Worker Organization
DATA BRIEF | February 2021

A Road map for Strategic Enforcement Targeting: Complaints and Compliance with Los Angeles County's Minimum Wage

Report by Jacob Barnes • Janice Fine • Daniel J. Galvin • Jenn Round

Introduction

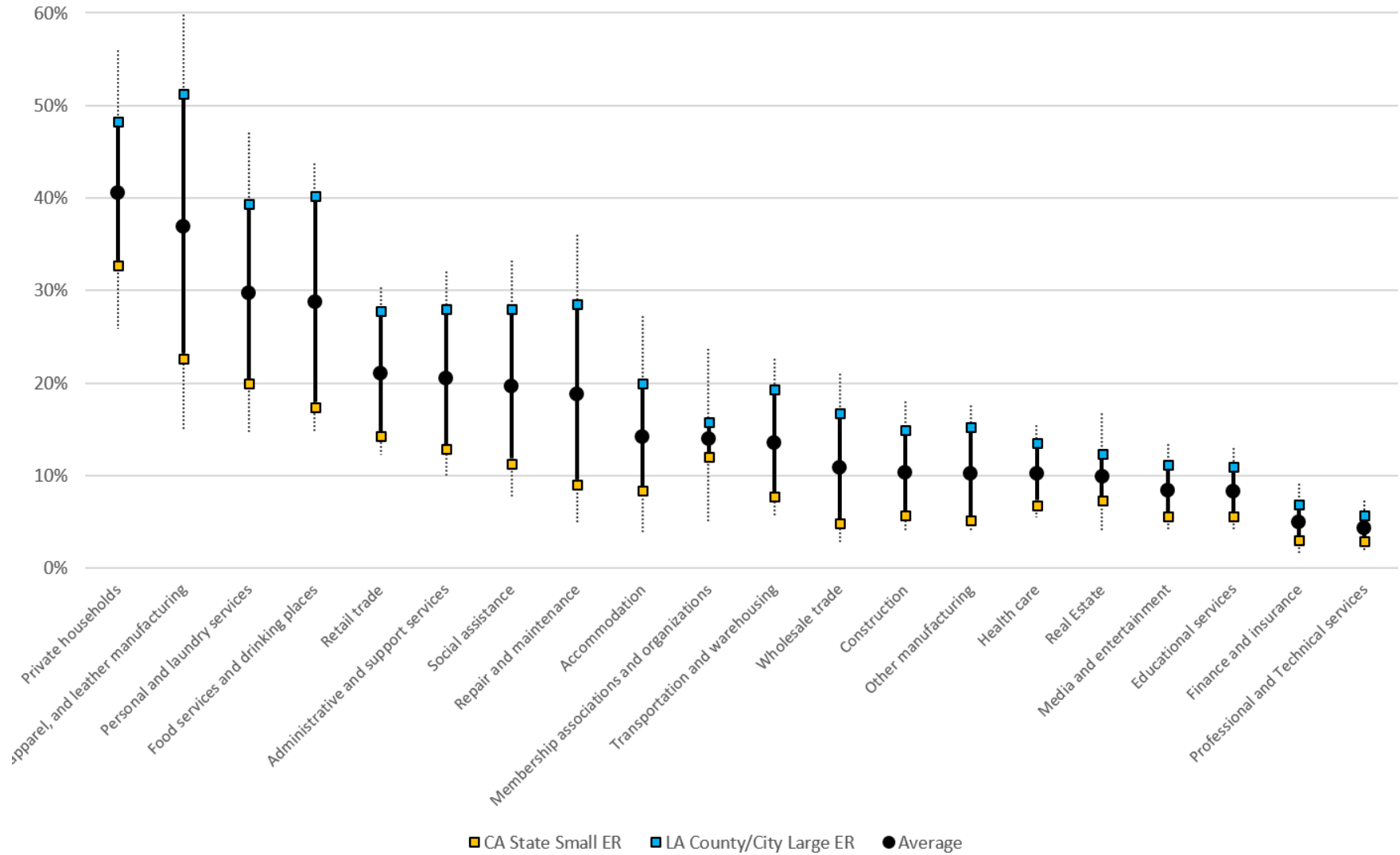
In 2015, Los Angeles County passed legislation to increase the minimum wage for workers in unincorporated parts of the county to \$15 by 2021. The Los Angeles County Department of Consumer and Business Affairs (LA DCBA) was subsequently tasked with implementing and enforcing the new county minimum wage. In the years since the law went into effect, the Department has relied on a complaint-based enforcement approach. However, studies have increasingly demonstrated that there is a mismatch between industries with the highest underlying rates of labor standards violations and complaint rates.¹ This research demonstrates that traditional complaint-based models of enforcement are often ineffective for vulnerable workers who fear retaliation.

In order to determine the degree to which complaints made to the LA DCBA match overall industry violation rates, this memo analyzes the relationship between minimum wage complaints (LA DCBA complaint data) and estimates of minimum wage violations (using CPS-MORG data) in Los Angeles County. *Our most important finding is that significant numbers of violations of Los Angeles County's minimum wage ordinance are in fact going unreported.* Several industries with the highest estimated violation rates have among the lowest complaint rates according to LA DCBA data.²

It is important to note that the minimum wage violation estimates presented here are for the entirety of Los Angeles (LA) County, including both incorporated and unincorporated areas. It is unfortunately impossible to isolate unincorporated areas using government data sources such as the CPS and QCEW. It is also not possible within these data to determine the size of the employer for which each respondent worked. In order to provide the most meaningful information possible using available resources, we have chosen to calculate minimum wage violation estimates using an “upper/lower bound” method, using the lowest applicable minimum wage within certain incorporated areas of the county—i.e., the California state minimum wage rate for small businesses—and the highest applicable minimum wage, i.e., the LA County/LA City/Santa Monica minimum wage rate for large businesses. By deriving both estimates, we can create a potential range of estimated violations for each industry group for which we may be confident the true number of violations falls somewhere within.³ This method still reveals important variance in estimated violation rates across industries that may begin to inform proactive enforcement strategies and investigatory efforts. We hope that these findings serve as a helpful guide for the LA DCBA as it seeks to optimize resources and maximize impact.

APPENDIX A

Chart 1. Estimated Minimum Wage Violation Rates by Industry, LA County, 2016-2019



APPENDIX A

Violation Rates by Industry

Chart 1 above shows estimated minimum wage violation rates for each industry group for which estimates could be derived (see Appendix II for full estimates and Appendix III for details on the CPS-MORG data from which the estimates were obtained). Industries with the highest violation rates include private households (40.5%); textile, apparel, and leather manufacturing (36.9%); personal and laundry services (29.7%); food services and drinking places (28.8%); and retail trade (21%).

To put these numbers into perspective, we estimate that over two in five LA County workers employed in private households—i.e., domestic workers—have experienced a minimum wage violation. While domestic work has a history of exemption from labor standards after being left out of major New Deal labor and employment legislation,⁴ these workers are covered under the state and LA County’s minimum wage laws. Likewise, nearly two in five LA workers employed within textile, apparel, and leather manufacturing or personal and laundry services have experienced minimum wage violations. The garment industry in LA County has long been characterized by sweatshop conditions and wage theft.⁵ The personal and laundry services industry includes a number of low-wage service occupations that have been previously identified as having high levels of wage theft,⁶ including but not limited to: manicurists and pedicurists; laundry and dry-cleaning workers; hairdressers, hairstylists, and cosmetologists; and parking attendants (see Appendix IV and [here](#) for further examples). These estimates suggest that three in ten of these workers have experienced minimum wage violations within LA County. A similar share of LA County food service workers have experienced minimum wage violations, including fast food workers, waiters and waitresses, cooks, bartenders, dishwashers, hosts and hostesses, and other workers involved in food preparation and delivery.

Over one in five workers in the retail sector—including customer service representatives, cashiers, laborers and movers, stockers and order fillers, and the like—are facing minimum wage violations. According to data from the US Bureau of Labor Statistics (BLS), these two industry sectors combined account for nearly 20 percent of employment in LA County; food service and retail together employ over four times as many workers as private households, apparel manufacturing, and personal and laundry services *combined*.

Those with the lowest estimated violation rates include professional and technical services (4.3%); finance and insurance (5%); educational services (8.3%); media and entertainment (8.3%); and real estate (9.9%).

Complaint Rates by Industry

The following tables compare the minimum wage violation estimates presented in Chart 1 above with relative complaints to the LA DCBA (i.e., complaints per 10,000 industry workers in unincorporated LA County).⁷ **Table 1** compares industries with the *highest* levels of complaints to those with the highest estimated violation rates. Industries with the highest levels of relative complaints include food services and drinking places; repair and maintenance; accommodation; retail trade; and administrative and support services.

APPENDIX A

Table 1. Highest Complaint and Violation Rates by Industry, 2016-2020

Industry	Complaints per 10,000 workers	Industry	Estimated violations per 10,000 workers
Food services and drinking places	32	Private households	4052
Repair and maintenance	27	Textile, apparel, and leather manufacturing	3695
Accommodation	19	Personal and laundry services	2970
Retail trade	14	Food services and drinking places	2880
Administrative and support services	14	Retail trade	2104
Other manufacturing	11	Administrative and support services	2048
Wholesale trade	5	Social assistance	1967
Transportation and warehousing	4	Repair and maintenance	1876

Table 2. Lowest Complaint and Violation Rates by Industry, 2016-2020

Industry	Complaints per 10,000 workers	Industry	Estimated violations per 10,000 workers
Professional and Technical services	0	Professional and Technical services	432
Finance and insurance	0	Finance and insurance	496
Educational services	0	Educational services	831
Membership associations and organizations	0	Media and entertainment	835
Real estate	0	Real estate	986
Social assistance	0	Health care	1018
Private households	0	Other manufacturing	1021
Construction	1	Construction	1036
Media and entertainment	2	Wholesale trade	1080
Personal and laundry services	3	Transportation and warehousing	1354
Textile, apparel, and leather manufacturing	3	Membership associations and organizations	1392
Health care	3	Accommodation	1417

APPENDIX A

Table 2 meanwhile compares industries with the *lowest* levels of complaints to those with the lowest estimated violation rates. There were no complaints from seven of the twenty industry groups: professional and technical services; finance and insurance; educational services; real estate; membership associations and organizations; social assistance; and most notably, private households, which also has the highest estimated wage violation rate.

Comparing Violation and Complaint rates

Using the above violation estimates and complaint data, we can begin to fill in the 2 x 2 matrix in **Table 3** below. The most “dysfunctional” industries are listed in quadrant 2; these are the industries that, while having relatively high estimated levels of minimum wage violations, have registered a low number of complaints to the LA DCBA. These industries include social assistance; personal and laundry services; textile, apparel, and leather manufacturing; and private households. The estimates presented here suggest that the LA DCBA currently receives one complaint for roughly every 960 violations occurring in the personal and laundry services industry and 1,180 violations in the apparel manufacturing industry within unincorporated LA County. While we estimate that over two in five domestic workers employed in LA County have faced minimum wage violations—meaning around 2,110 domestic workers facing violations within unincorporated areas—not a single one has submitted a complaint to the LA DCBA.

Table 3. Complaint/Compliance Matrix, L.A. County

		High noncompliance	Low noncompliance
High complaint rate	Quadrant 1	<ul style="list-style-type: none"> • Food services and drinking places • Retail trade • Administrative and support services 	Quadrant 3
Low complaint rate	Quadrant 2	<ul style="list-style-type: none"> • Private households • Textile, apparel, and leather manufacturing • Personal and laundry services • Social assistance 	Quadrant 4
		<ul style="list-style-type: none"> • Other manufacturing 	<ul style="list-style-type: none"> • Professional and technical services • Finance and insurance • Educational services • Real estate • Health care

Health care and social assistance should also be highlighted in this sense. Each of these industries notably include home health care and personal aids, both one of the fastest growing occupations in recent years and one that is frequently noted as having high rates of wage theft. While the violation rate in health care is estimated to be among the lowest across industries, the size of the sector and relatively low number of complaints still lead to an estimated 307 wage violations for every complaint to the LA DCBA. And in social assistance—a relatively large industry with above average estimated violation rates—we estimate that nearly 2,000 workers in unincorporated LA have faced wage violations,

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without a single complaint to the LA DCBA yet.

Also important to note are the industries that have high estimated wage violation rates and relatively high levels of complaints (i.e., quadrant 1). These industries include food services and drinking places, retail trade, and administrative and support services (including, e.g., janitors, groundskeepers, and security guards). Given the size of these sectors as noted above and the high levels of estimated violations, it is important that these workers continue to be a key focus of the LA DCBA’s enforcement efforts in addition to the “dysfunctional” industries mentioned above. Although these industries together represent well over half of all complaints that have been received by the LA DCBA to date, these estimates suggest that there are still roughly 90 violations per complaint in food services; 147 in retail trade; and 148 in administrative and support services within unincorporated LA County.

Table 4. Summaries of Select Industries, LA County

Industry	Estimated violation rate, LA County	Complaints (LA DCBA)	Estimated violations per complaint	Percent of total LA County employment
Private households	40.5%	0	2110	1.32%
Textile, apparel, and leather manufacturing	36.9%	2	1184	1.62%
Personal and laundry services	29.7%	2	957	1.63%
Food services and drinking places	28.8%	94	91	7.53%
Retail trade	21.0%	65	147	11.47%
Administrative and support services	20.5%	24	148	4.39%
Social assistance	19.7%	0	1953	2.50%
Health care	10.2%	15	307	11.39%

Importance of Demographic Factors

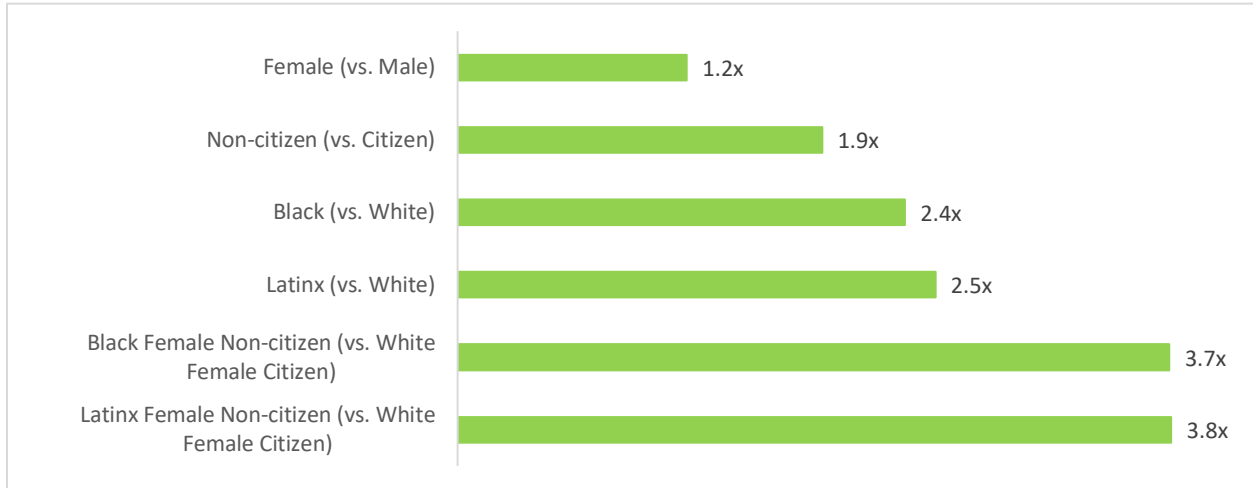
These data do not tell us exactly *why* some industries have more or fewer complaints and violations. Still, it is worth noting that the industries with the highest estimated violation rates and relatively low complaints tend to employ many women, Blacks, Latinx and immigrant workers, while industries with lower violation rates often employ more men and/or historically have been more unionized.

Chart 2 below shows the relative probabilities of demographic groups facing minimum wage violations based on analysis of the CPS-MORG data.⁸ As shown, female workers in LA County are roughly 20 percent more likely than male workers to face a minimum wage violation, while non-citizens are nearly twice as likely to face violations as citizens. Black and Latinx workers in LA County are over twice as likely as White workers to face minimum wage violations. The bottom two categories in Chart 2 show the importance of intersectionality to the experience of wage theft; Black, female noncitizen workers in LA County are 3.7 times more likely than White female citizens and Latinx female noncitizens

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are 3.8 times as likely than White female citizens to face minimum wage violations.

Chart 2. Probability of Minimum Wage Violation by Demographic Group in LA County (Relative to Reference Group), 2016-2019



In sum, comparing complaint data from the LA DCBA with minimum wage violation estimates derived from the CPS-MORG data leads to our conclusion that minimum wage violations continue to go under-reported across LA County. This issue is particularly vital to address in industries such as domestic work, apparel manufacturing, and other low-wage service industries where wage theft is pervasive and complaints are few.

Data Notes

- Complaint data was provided by the LA DCBA to Jenn Round.
- Minimum wage violations and industry employment are estimated using the Current Population Survey's Merged Outgoing Rotation Groups (CPS-MORG) data, 2016-2019, including employees working in Los Angeles County (stfips == 6, county == 37).
- To better illustrate how violations by industry and occupation overlap, the table in Appendix III provides examples of high risk occupations employed at the highest levels and/or concentration in each sector.

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About the Authors

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About CIWO

The Center for Innovation in Worker Organization (CIWO) is a “think and do tank” launched in 2014 and housed at Rutgers SMLR. CIWO's mission is to promote strong workers' organizations and shift the balance of power towards greater economic and social equity. CIWO leverages the resources of a highly respected research university to create a centralized go-to institution for strategic and organizational development. CIWO's primary objectives are to facilitate the generation and dissemination of ideas, strategies, and programs for worker centers, community organizations, labor unions and their local, state and national networks.

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Appendix I. Analytical approach

We replicate the analytic approach used by former Department of Labor (DOL) Wage and Hour Division Administrator David Weil and Amanda Pyles in their 2005 article “Why Complain?”.⁹ As they explain, regulators typically want to know that the workers who complain are voicing genuine grievances and that the workers who are not being paid what they are legally owed are complaining. That is, regulators wish to minimize both false positives (complaints without violations) and false negatives (violations that go unreported). False negatives are, of course, the most worrisome in complaint-driven regulatory systems, as they likely include the most vulnerable and exploited workers who are fearful of complaining or are unable to complain, and are therefore falling through the cracks. *Quiet* industries should be *compliant* industries, not industries where workers are suffering silently.

Following Weil and Pyles (2005), we conceptualize the relationship between compliance and complaints as a 2 x 2 matrix (**Figure 1**).

Figure 1. Complaint/Compliance Matrix

	High noncompliance	Low noncompliance
High complaint rate	<i>Quadrant 1</i> High complaints High violations	<i>Quadrant 3</i> High complaints Low violations
Low complaint rate	<i>Quadrant 2</i> Low complaints High violations	<i>Quadrant 4</i> Low complaints Low violations

Ideally, all workers will be found in quadrants 1 and 4. Those working in industries with high violation rates should have unimpeded access to the complaint process, and complaint rates should be commensurate with violation rates. Likewise, in industries with low violation rates, complaint rates should be equally low. In those two ideal-type quadrants, OLSE’s enforcement resources will be well-applied.

Ideally, no workers will be found in quadrant 2—low-complaint industries that are rife with violations—and few workers will be found in quadrant 3—high complaints despite low violations. The existence of workers in quadrants 2 and 3 would indicate “significant problems in terms of enforcement resources reaching the right workplaces” (Weil and Pyles).

Using the DCBA complaint data in conjunction with estimates generated using CPS-MORG data, we can begin to fill out the 2 x 2 matrix and answer the following questions: “Are

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industries with the most frequent and severe violations also those that show the highest frequency of worker complaints? Are there industries that we know to be serious violators that [the LA DCBA is] not hearing from? Do investigators spend a disproportionate amount of time on industries that are less egregious violators?" (Weil and Pyles).

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Appendix II. Estimated Minimum Wage Violations Rates by Industry, LA County, 2016-2019

Industry	CA State Small ER (95% CI)	LA County/City Large ER (95% CI)
Private households	32.7% (25.9, 40.0)	48.3% (40.6, 56.0)
Textile, apparel, and leather manufacturing	22.6% (14.9, 30.3)	51.3% (42.7, 60.0)
Personal and laundry services	20.0% (14.5, 25.5)	39.4% (31.8, 47.1)
Food services and drinking places	17.4% (14.7, 20.1)	40.2% (36.7, 43.8)
Retail trade	14.3% (12.3, 16.4)	27.8% (25.2, 30.3)
Administrative and support services	12.9% (9.9, 16.0)	28.0% (24.0, 32.1)
Social assistance	11.3% (7.7, 14.9)	28.1% (22.8, 33.3)
Repair and maintenance	9.0% (4.8, 13.3)	28.5% (21.0, 36.1)
Accommodation	8.4% (3.9, 13.0)	19.9% (12.6, 27.3)
Membership associations and organizations	12.1% (4.9, 19.2)	15.8% (7.8, 23.7)
Transportation and warehousing	7.8% (5.6, 9.9)	19.3% (16.0, 22.6)
Wholesale trade	4.9% (2.6, 7.1)	16.8% (12.5, 21.1)
Construction	5.8% (4.0, 7.5)	15.0% (11.9, 18.0)
Other manufacturing	5.2% (3.8, 6.6)	15.2% (12.8, 17.6)
Health care	6.8% (5.5, 8.2)	13.5% (11.6, 15.4)
Real Estate	7.3% (3.9, 10.8)	12.4% (8.0, 16.8)
Media and entertainment	5.6% (4.0, 7.2)	11.1% (8.8, 13.5)
Educational services	5.6% (4.2, 7.0)	11.0% (9.0, 13.0)
Finance and insurance	3.0% (1.5, 4.5)	6.9% (4.7, 9.2)
Professional and Technical services	3.0% (1.8, 4.1)	5.7% (4.1, 7.3)

Appendix III. CPS data

The actual number of minimum wage violations is unknown. Employer-provided data is not reliable, and state agency data on complaint- and agency-initiated investigations are not necessarily representative of the actual violation rate. Minimum wage violations must therefore be estimated using survey data.

Most useful is the Current Population Survey's Merged Outgoing Rotation Groups (CPS MORG) data, which the WHD uses to identify "priority industries" for investigations and which remains the top choice of every social scientist who has sought to develop national or industry-specific estimates of FLSA noncompliance since the 1970s.^x

The CPS-MORG data has many advantages: it is gathered via extensive interviews with around 60,000 households per month; it is representative at the state and national levels (unlike other survey data, such as the Survey of Income and Program Participation [SIPP]); and its individual-level responses permit us to estimate earnings and minimum wage violations relatively easily. The biggest downside is measurement error, as with any survey.

It is important to note that these estimates are for the entirety of Los Angeles (LA) County, including both incorporated and unincorporated areas. It is unfortunately impossible to isolate unincorporated areas using government data sources such as the CPS and QCEW. It is also not possible within these data to determine the size of the employer for which each respondent worked. In order to provide the most meaningful information possible using available resources, we have chosen to calculate minimum wage violation estimates using an "upper/lower bound" method, using the lowest applicable minimum wage within certain incorporated areas of the county—i.e., the California state minimum wage rate for small businesses—and the highest applicable minimum wage, i.e., the LA County/LA City/Santa Monica minimum wage rate for large businesses. By deriving both estimates, we can create a potential range of estimated violations for each industry group for which we may be confident the true number of violations falls somewhere within. We believe this method still reveals important variance in estimated violation rates across industries that may begin to inform proactive enforcement strategies and investigatory efforts. The point estimates reported throughout the study are averages of these two estimates.

The methodological approach I have employed here is fully consistent with previous research.^{xi} A few key methodological points to keep in mind:

First, I calculate hourly wages using the National Bureau of Economic Research (NBER)'s "earnwke" variable, which includes overtime, tips, and commissions (OTC) for both hourly and nonhourly workers.^{xii} Wage estimates are therefore conservative over-estimates that effectively downward-bias the estimated minimum wage violation rates. This is preferable to the alternative, however, which excludes OTC for hourly workers while including it for nonhourly workers (for whom different sources of wages are not distinguished). Efforts to estimate and subtract OTC from nonhourly workers adds unknown quantities of additional measurement error to this key variable, and is not recommended.^{xiii}

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Minimum wage violations are dichotomous measures of whether an individual's estimated hourly wage was lower than the applicable legal minimum. As discussed above, I obtained two sets of estimates using (a) the LA County/City minimum wage for large employers and (b) the California state minimum wage for small employers. These estimates amount to an upper and lower bound, respectively, of the range within which true levels of minimum wage violations for each industry lie.

CPS-MORG data from the years 2016 through 2019 were used to develop the minimum wage violation estimates (data for 2020 is not yet available). Rather than limit the pool of workers to "low-wage" workers as in Galvin (2016), I use all covered, non-exempt workers here for the sake of precision and ease of interpretation. Reported estimates thus reflect the overall violation rate in the entire workforce.

To correct for measurement error, I follow ERG (2014), Galvin (2016), and Cooper and Kroeger (2017) and exclude all observations of workers not specifying hourly/nonhourly status or usual hours worked, observations of nonhourly workers with weekly earnings less than \$10, and all observations of workers with hourly wages less than \$1.

Estimates were unable to be obtained for several industries due to lack of available data, including: utilities; telecommunications; internet service providers and data processing services; other information services; rental and leasing services; waste management and remediation services; agriculture; forestry, logging, fishing, hunting, and trapping; and mining. According to population estimates derived from the CPS-MORG data, these industries together amount to 1.95 percent of overall employment within LA County. Estimates for public administration and armed forces also were not collected for the purposes of the current study.

Finally, a note on measurement error in the CPS data. There is reason to believe that the measurement error in the CPS may actually bias *downward* the estimates of minimum wage violations reported below.^{xiv} First, despite going to great lengths to reach them, both Latinx households and undocumented immigrants are underrepresented in the CPS.^{xv} Because workers in these groups are at higher risk of experiencing minimum wage violations, the estimates of violations reported here should in this sense be considered conservative estimates.^{xvi} Second, in Bollinger's study of measurement error in the CPS, he finds a "high overreporting of income for low-income men" driven by "about 10% of the reporters who grossly overreport their income," thus potentially biasing estimates downward even further.^{xvii} Third, CPS data have a shortage of low-wage workers and an excess of high-wage workers relative to comparable survey data like SIPP; one effect of this imbalance could be to underestimate minimum wage violations.^{xviii} Roemer does find that the CPS reaches more "underground" workers than other large-scale surveys and is less biased than alternatives.^{xix} These considerations notwithstanding, the fact that measurement error surely exists recommends using caution when working with the point estimates reported.

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Appendix IV. Industry groups and examples of highly represented occupations^{xx}

Industry	Occupation examples (Occupation code)
Construction (NAICS 23)	<ol style="list-style-type: none"> 1. Pipelayers, plumbers, pipefitters, and steamfitters (47-2150) 2. Construction equipment operators (47-2070) 3. Helpers, construction trades (47-3010) 4. Painters and paperhangers (47-2140) 5. Cement masons, concrete finishers, and terrazzo workers (47-2050) 6. Secretaries and administrative assistants (43-6010) 7. Driver/sales workers and truck drivers (53-3030)
Textile, apparel, and leather manufacturing (NAICS 313, 314, 315, 316)	<ol style="list-style-type: none"> 8. Textile machine setters, operators, and tenders (51-6060) 9. Laborers and material movers (53-7060) 10. Miscellaneous textile, apparel, and furnishings workers (51-6090) 11. Designers (27-1020) 12. Sales representatives (41-4010) 13. Tailors, dressmakers, and sewers (51-6050)
Other manufacturing (NAICS 31-33, except 313, 314, 315, 316)	<ol style="list-style-type: none"> 14. Miscellaneous assemblers and fabricators (51-2090) 15. Laborers and material movers (53-7060) 16. Miscellaneous production workers (51-9190) 17. Welding, soldering, and brazing workers (51-4120) 18. Machine tool cutting setters, operators, and tenders, metal and plastic (51-4030) 19. Sales representatives (41-4010)
Wholesale trade (NAICS 42)	<ol style="list-style-type: none"> 20. Sales representatives (41-4010) 21. Laborers and material movers (53-7060) 22. Driver/sales workers and truck drivers (53-3030)
Retail trade (NAICS 44, 45)	<ol style="list-style-type: none"> 23. Retail salespersons (41-2031) 24. Cashiers (41-2010) 25. Laborers and material movers (53-7060) 26. Stockers and order fillers (53-7065) 27. Driver/sales workers and truck drivers (53-3030) 28. Counter and rental clerks and parts salespersons (41-2020) 29. Customer service representatives (43-4051)

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Transportation and warehousing (NAICS 48,49)	<ul style="list-style-type: none"> 30. Heavy and tractor-trailer truck drivers (53-3032) 31. Laborers and freight, stock, and material movers, hand (53-7062) 32. Postal service mail carriers (43-5052) 33. Light truck drivers (53-3033) 34. Passenger vehicle drivers, except bus drivers, transit and intercity (53-3058) 35. Industrial truck and tractor operators (53-7051) 36. Stockers and order fillers (53-7065) 37. Flight attendants (53-2031)
Media and entertainment (NAICS 511, 512, 515, 71)	<ul style="list-style-type: none"> 38. Actors, producers, and directors (27-2010) 39. Television, video, and film camera operators and editors (27-4030) 40. Artists and related workers (27-1010) 41. Editors (27-3041) 42. Broadcast announcers and radio disc jockeys (27-3011) 43. Advertising sales agents (41-3011) 44. Customer service representatives (43-4051) 45. News analysts, reporters, and journalists (27-3023) 46. Exercise trainers and group fitness instructors (39-9031) 47. Amusement and recreation attendants (39-3091) 48. Grounds maintenance workers (37-3010) 49. Building cleaning workers (37-2010)
Finance and insurance (NAICS 52)	<ul style="list-style-type: none"> 50. Customer service representatives (43-4051) 51. Tellers (43-3071) 52. Securities, commodities, and financial services sales agents (41-3031) 53. Insurance sales agents (41-3021) 54. Loan officers (13-2072) 55. Insurance claims and policy processing clerks (43-9041) 56. Claims adjusters, appraisers, examiners, and investigators (13-1030) 57. Secretaries and administrative assistants (43-6010)
Real estate (NAICS 531)	<ul style="list-style-type: none"> 58. Real estate brokers and sales agents (41-9020) 59. Property, real estate, and community association managers (11-9141) 60. Office clerks (43-9061) 61. Secretaries and administrative assistants (43-6014)
Professional and technical services (NAICS 54)	<ul style="list-style-type: none"> 62. Software developers and software quality assurance analysts and testers (15-1256) 63. Accountants and auditors (13-2011) 64. Lawyers (23-1011)

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	<p>65. Management analysts (13-1111) 66. Paralegals and legal assistants (23-2011) 67. Computer systems analysts (15-1211) 68. Bookkeeping, accounting, and auditing clerks (43-3031) 69. Civil engineers (17-2051)</p>
Administrative and support services (NAICS 561)	<p>70. Janitors and cleaners, except maids and housekeeping cleaners (37-2011) 71. Security guards (33-9032) 72. Laborers and freight, stock, and material movers, hand (53-7062) 73. Landscaping and groundskeeping workers (37-3011) 74. Customer service representatives (43-4051) 75. Office clerks (43-9061) 76. Packers and packagers (53-7064)</p>
Educational services (NAICS 61)	<p>77. Elementary and middle school teachers (25-2020) 78. Teaching assistants (25-9040) 79. Secondary school teachers (25-2030) 80. Secretaries and administrative assistants (43-6010) 81. Special education teachers (25-2050) 82. Education and childcare administrators (11-9030)</p>
Health care (NAICS 621, 622, 623)	<p>83. Registered nurses (29-1141) 84. Nursing assistants (31-1131) 85. Medical assistants (31-9092) 86. Home health and personal care aides (31-1120) 87. Medical secretaries and administrative assistants (43-6013) 88. Dental assistants (31-9091)</p>
Social assistance (NAICS 624)	<p>89. Home health and personal care aides (31-1120) 90. Preschool teachers (25-2011) 91. Childcare workers (39-9011) 92. Social and human service assistants (21-1093) 93. Teaching assistants, except postsecondary (25-9045) 94. Child, family, and school social workers (21-1021)</p>
Accommodation (NAICS 721)	<p>95. Maids and housekeeping cleaners (37-2012) 96. Hotel, motel, and resort desk clerks (43-4081) 97. Waiters and waitresses (35-3031) 98. Maintenance and repair workers, general (49-9071) 99. Cooks (35-2014) 100. Gambling dealers (39-3011)</p>
Food services and drinking places	<p>101. Fast food and counter workers (35-3023)</p>

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(NAICS 722)	<ul style="list-style-type: none"> 102. Waiters and waitresses (35-3031) 103. Cooks (35-2014) 104. Food preparation workers (35-2021) 105. Bartenders (35-3011) 106. Dishwashers (35-9021) 107. Hosts and hostesses (35-9031) 108. Cashiers (41-2011) 109. Dining room and cafeteria attendants and bartender helpers (35-9011) 110. Driver/sales workers (53-3031)
Repair and maintenance (NAICS 811)	<ul style="list-style-type: none"> 111. Automotive service technicians and mechanics (49-3023) 112. Cleaners of vehicles and equipment (53-7061) 113. Automotive body and related repairers (49-3021)
Personal and laundry services (NAICS 812)	<ul style="list-style-type: none"> 114. Hairdressers, hairstylists, and cosmetologists (39-5012) 115. Manicurists and pedicurists (39-5092) 116. Laundry and dry-cleaning workers (51-6011) 117. Animal caretakers (39-2021) 118. Parking attendants (53-6021) 119. Receptionists and information clerks (43-4171) 120. Massage therapists (31-9011) 121. Counter and rental clerks (41-2021) 122. Skincare specialists (39-5094) 123. Funeral attendants (39-4021) 124. Morticians, undertakers, and funeral arrangers (39-4031)
Membership associations and organizations (NAICS 813)	<ul style="list-style-type: none"> 125. Labor relations specialists (13-1075) 126. Secretaries and administrative assistants, except legal, medical, and executive (43-6014) 127. Office clerks (43-9061) 128. General and operations managers (11-1021)

Endnotes

¹ See David Weil and Amanda Pyles, "Why Complain?: Complaints, Compliance, and the Problem of Enforcement in the Us Workplace," *Comp. Lab. L. & Pol'y. J.* 27 (2005).

² See Appendix I for more on our analytical approach.

³ The point estimates reported throughout the study are averages of these two estimates.

⁴ See Sean Farhang and Ira Katznelson, "The Southern Imposition: Congress and Labor in the New Deal and Fair Deal," *Studies in American Political Development* 19, no. 1 (2005): 1-30.

⁵ See Edna Bonacich and Richard Appelbaum, *Behind the Label: Inequality in the Los Angeles Apparel Industry* (Berkeley: University of California Press, 2000) and Jill Esbenshade, *Monitoring Sweatshops: Workers, Consumers, and the Global Apparel Industry* (Philadelphia: Temple University Press, 2004).

⁶ See, e.g., Sarah Maslin Nir, "The Price of Nice Nails," *New York Times*, May 7, 2015,

<https://www.nytimes.com/2015/05/10/nyregion/at-nail-salons-in-nyc-manicurists-are-underpaid-and-unprotected.html>;

Fabrice Robinet, "\$7 an Hour, 72 Hours a Week: Why Laundry Workers Have Had Enough," *New York Times*, August 23, 2019, <https://www.nytimes.com/2019/08/23/nyregion/nyc-laundry-workers-unionizing.html>; New York Nail Salon Workers Association, *Race to the Bottom: Low Prices & Stolen Wages in NY's Nail Salon Industry* (New York: Workers United, February 2020).

⁷ Complaints per 10,000 workers is calculated by, for each industry (1) scaling average annual employment per industry by the percentage of total LA County population residing in unincorporated areas (i.e., 10.5%, according to lacounty.gov); (2) dividing total industry complaints to the LA DCBA by the scaled average annual industry employment; and (3) multiplying the calculated complaint rate by 10,000. While this assumes that industry composition in unincorporated areas is equivalent to that of the entire county, we believe it is the closest and most reasonable approximation we have to industry employment totals in unincorporated areas given data constraints. The comparison of CPS estimates to LA DCBA complaints must therefore be interpreted cautiously and in this light.

⁸ These probabilities reflect the average of estimated probabilities based on both the LA County/City/SM large employer minimum wage rate and California State small employer minimum wage rate, consistent with the reported minimum wage estimates in Chart 1.

⁹ David Weil and Amanda Pyles, "Why Complain?: Complaints, Compliance, and the Problem of Enforcement in the Us Workplace," *Comp. Lab. L. & Pol'y. J.* 27 (2005).

^x Orley Ashenfelter and Robert S. Smith, "Compliance with the Minimum Wage Law," *Journal of Political Economy* 87, no. 2 (1979); Ronald G. Ehrenberg and Paul L. Schumann, "Compliance with the overtime pay provisions of the Fair Labor Standards Act," *The Journal of Law and Economics* 25, no. 1 (1982); Brigitte Sellekaerts and Stephen W. Welch, "Noncompliance with the Fair Labor Standards Act: Evidence and Policy Implications," *Labor Studies Journal* 8 (1984); Stephen Trejo, "The effects of overtime pay regulation on worker compensation," *American Economic Review* 81, no. 4 (1991); Stephen Trejo, "Overtime pay, overtime hours, and labor unions," *Journal of Labor Economics* 11, no. 2 (1993); Weil and Pyles 2005; Eastern Research Group, *The Social and Economic Effects of Wage Violations: Estimates for California and New York*, Prepared for the U.S. Department of Labor (Lexington: Eastern Research Group, 2014); Daniel J. Galvin, "Deterring Wage Theft: Alt-Labor, State Politics, and the Policy Determinants of Minimum Wage Compliance," *Perspectives on Politics* 14, no. 2 (2016); David Cooper and Teresa Kroeger, "Employers steal billions from workers' paychecks each year," *Economic Policy Institute*, May 10, 2017, <https://www.epi.org/publication/employers-steal-billions-from-workers-paychecks-each-year/>.

^{xi} In particular, Galvin (2016); Eastern Research Group (2014); and Cooper and Kroeger (2017).

^{xii} See National Bureau of Economic Research (NBER) CPS Labor Extracts 1979-2006, <https://data.nber.org/morg/docs/cpsx.pdf>. See also Cooper and Kroeger (2017)'s preference for this method of estimating wages.

^{xiii} Eastern Research Group (2014).

^{xiv} For an excellent discussion of the advantages and limitations of using the CPS data to estimate minimum wage violations given the existence of measurement error and other issues, see Eastern Research Group (2014), Appendix B.

^{xv} As Bernhardt et al. (2009) write: ". . . standard surveying techniques—phone interviews or census-style door-to-door interviews—rarely are able to fully capture the population that we are most interested in: low-wage workers who may be hard to identify from official databases, who may be vulnerable because of their immigration status, or who are reluctant to

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take part in a survey because they fear retaliation from their employers. Trust is also an issue when asking for the details about a worker's job, the wages they receive, whether they are paid off the books or not, and their personal background." Annette Bernhardt et al., *Broken Laws, Unprotected Workers: Violations of Employment and Labor Laws in America's Cities* (New York: National Employment Law Project), 56.

^{xvi} Bernhardt et al. (2009); Eastern Research Group (2014).

^{xvii} Christopher R. Bollinger, "Measurement error in the Current Population Survey: A nonparametric look," *Journal of Labor Economics* 16, no. 3 (1998).

^{xviii} Marc Roemer, *Using administrative earnings records to assess wage data quality in the March Current Population Survey and the Survey of Income and Program Participation* (Washington, DC: Center for Economic Studies, US Census Bureau, 2002); Eastern Research Group (2014).

^{xix} Roemer 2002.

^{xx} Information obtained from the U.S. Bureau of Labor Statistics' Occupational Employment Statistics database: <https://www.bls.gov/oes/current/oesrci.htm>.

APPENDIX B

Appendix B: Key Assessment Questions

The L.A. County Department of Consumer and Business Affairs (DCBA) and its proposed Office of Labor Equity (OLE) would need to conduct a detailed assessment of its enforcement powers and practices in order to develop and put into action a transition plan that will see the County shift from implementing a traditional enforcement model to a strategic one. The following questions, outlined by Rutgers University's Center for Innovation Worker Organization (CIWO) via their Labor Enforcement Toolbox¹, will help it identify essential enforcement powers that it should expand, cultivate, and/or implement for the first time:

- What powers does DCBA/OLE rarely use or not use at all—and that it currently has at its disposal—that it needs to start using regularly?
- Are there powers DCBA/OLE is unsure it has at its disposal that would make it more effective?
- What are DCBA's biggest enforcement needs and challenges?
 - Where are delays or obstacles in the current enforcement process?
 - Are there tools the department could implement to improve the existing process?
- What solutions/strategies can be implemented to address the needs and challenges identified for each of the enforcement powers the office wishes to expand or implement for the first time?
 - Do new processes need to be developed?
 - What are the staffing or logistical implications?
 - What are the entities and partners that need to be involved to implement the proposed solutions?
 - What are feasible timelines for implementing each of the proposed solutions/strategies?

In addition to systematically assessing its enforcement powers, the OLE will need tackle some general enforcement questions/challenges as it seeks to fully transition from a traditional enforcement model into a strategic one over the course of the next several years:

- What labor law and enforcement issues will the OLE receive complaints on?
 - What are the issues that the department currently does not receive complaints on that it wants to begin addressing?
 - Pay equity for vulnerable populations
 - Living and prevailing wage
 - Paid time off
 - Overtime
 - Fair scheduling
 - Worker misclassification
 - Fair chance employment

¹ <https://smlr.rutgers.edu/sites/default/files/Documents/Ciwo/Tool%20%20AssessingandMaximizing.pdf>

APPENDIX B

- How will the OLE best target enforcement resources to priority industries and vulnerable workers?
- How will the OLE implement strategic enforcement practices to create a strong culture of compliance?
 - Implementing and leveraging essential enforcement powers
 - Revamping existing complaints, investigations, collections, and other enforcement processes
 - Conducting outreach and education
 - Creating strategic partnerships
 - Engaging in strategic communications with various media platforms
 - Engaging in policy analysis and development
- How will the OLE structure and grow the office and its staffing to carry out new strategic enforcement practices?
 - Phasing in the growth of the office
 - Bringing in additional resources