

May 18, 2015

The Honorable Curren D. Price, Jr.  
Chair, Economic Development Committee

The Honorable Paul Krekorian  
Chair, Budget and Finance Committee

c/o Office of the City Clerk  
200 N. Spring St., Room 395  
Los Angeles, CA 90012

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BY \_\_\_\_\_  
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RE: Council File 14-1371-S1, Citywide Minimum Wage Ordinance/Creation of an OLSE and Support for Community Partnerships

Dear Chairperson Price and Chairperson Krekorian,

I write to strongly support the establishment of an Office of Labor Standards Enforcement along with providing contracts with community groups for education and outreach. The crisis of compliance in low wage industries will not be solved through enforcement initiatives undertaken by the government alone. Re-establishing a norm of compliance will require creative collaboration between government, workers, civil society organizations and high road firms. For the past several years I have studied labor standards enforcement strategies in low wage sectors across the country and the results of my research is unequivocal—organizational participation in enforcement makes an enormous difference.

Worker, community and legal aid organizations can enhance enforcement in three principal ways: detection of non-compliance through relationships with workers, outreach to workers in targeted sectors, and collection of evidence to facilitate enforcement actions. When they are grounded in communities and have relationships with workers, organizational capacity and make the choice to focus some of their resources on enforcement, organizations can enhance the work through: identification of non-compliance through relationships with workers, outreach to workers in targeted sectors, and the trust of workers so that when the organization vouches for the agency, workers are willing to come forward and file complaints. Organizations can provide inspectors with specialized knowledge of industry structures and the range of sub-contracting arrangements and employment practices as well as tips on employers who are not complying with wage and hour and occupational health and safety laws. They can help gather information about firm practices, encourage workers to file complaints with state and federal agencies and provide technical assistance to them in doing so including helping to assemble the information necessary to bringing cases, gathering testimony and documentation from workers about hours worked, deductions taken, safety conditions from workers.

Organizations can help identify the full scope of the subcontractor's operations and expand cases beyond initial complainants by identifying others who have been impacted. They can support inspectors and be a resource about specific ethnic communities including language interpretation, community institutions, neighborhoods, and leaders. They can work through worker networks to identify workers employed in targeted firms and industries in which inspectors are interested and provide a safe space, interpretation and facilitation for inspectors to meet with workers who might be intimidated about going to a government office can come to discuss their situations.

In a nutshell, agency leaders and investigators find that access to workers and their willingness to come forward greatly increase when they are in relationship with organizations the workers trusted. Likewise, when they feel they can trust organizations, government officials articulated strong advantages to working closely with them.

Here is some recent evidence from my research on the partnership between the San Francisco Office of Labor Standards Enforcement (OLSE) and the Collaborative of community organizations with which it partners. In 2006, the Board of Supervisors amended the Minimum Wage Ordinance to mandate the establishment of a community-based outreach program to "conduct education and outreach to employees."<sup>1</sup> Since 2007, OLSE has contracted with a collaborative of organizations to assist in reaching out to low wage, immigrant workers, which has included La Raza Centro Legal, Asian Law Caucus, Chinese Progressive Association (CPA), Filipino Community Center, Young Workers United, Pride at Work and Delores Street Day Laborers Center. Total annual funding has grown from just under \$200,000 per year to approximately half a million dollars.

Organizations in the collaborative sign yearly contracts<sup>2</sup> which require them to engage in a specific type and number of outreach activities per quarter in each "base community" Organizations are also required to provide at least eight hours per week of one-on-one counseling and referral services to workers with allegations of employer violations of SF labor laws, to screen complaints for validity and to attempt to mediate between the employee and employer or submit the complaint to OLSE staff. The contract requires each individual organization to resolve or refer to OLSE, at least 5 labor law complaints (MWO, PSLO or HCSO) each quarter. OLSE investigators are allowed to accept documentation about cases from the groups and to work cases jointly and are required to participate in quarterly meetings with all collaborative partners.

In late 2009, CPA was instrumental in uncovering a major wage theft case at Dick Lee Pastry, when a worker received a flier and came to the organization looking for help.<sup>3</sup> Seven workers had been working six days per week on shifts that ranged from 11-14 hours, receiving "semi-monthly" wages of approximately \$550, averaging between \$3.02-\$3.91 per hour. Charging that these actions constituted unfair and unlawful business practices in violation of California Business and Professions Code Section 17200, in July of 2011 SF City Attorney Dennis Herrera sued the company for more than \$440,000 in wages and interest and eventually recovered \$525,000 including penalties.<sup>4</sup> In another

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<sup>1</sup> San Francisco Administrative Code, Section 12R.25.

<sup>2</sup> Organizational contracts in possession of author were provided by OLSE staff.

<sup>3</sup> Donna Levitt interview, p. 11.

<sup>4</sup> Superior Court of the State of California, County of San Francisco, *City and County of San Francisco and the People of the State of California by and through Dennis J. Herrera, City Attorney for the City and County of San Francisco vs. Dick Lee Pastry Inc; Kwok Wing Yu aka Peter Yu; Ada Milin Chiu aka Ada M. Chu; and Doe One through Doe Ten, Inclusive, defendants*, July 12, 2011. "Wage theft lawsuit seeks to recover \$440K in back pay, interest for cheated workers" City Attorney Dennis Herrera News Release, July 12, 2011.

restaurant Yank Sing, investigators on an initial site visit had been unable to get workers to tell them the truth about not having been paid the minimum wage and were not able to conduct an accurate audit because payroll records had been falsified. CPA organizers went to work conducting house visits and one-on-one meetings and workers were persuaded to overcome their fears and come forward. The result of this joint work by CPA, OLSE and the state BOFE was a 4 million dollar settlement with back of the house workers collecting between \$30-60,000 each and a “workplace change agreement” that includes wage increases for kitchen workers, paid holidays, an increase in paid time off and sick leave, schedules provided with more advance notice, some recognition of seniority, a progressive discipline policy and 8 hours of worker rights training on paid time.<sup>5</sup>

The Filipino Community Center (FCC) has also played an instrumental role in supporting home care workers, who were often the most difficult to reach because they were isolated in small care home facilities where they often lived as well as worked full-time. What FCC found when it began to dig into the working conditions was a shockingly under-regulated industry. Workers were responsible for washing, dressing, medicating and feeding multiple patients throughout the course of a day. Because they needed to be close by so that they could hear their patients, workers often slept on chairs or floors. They told of the challenges of working with patients with severe dementia and mental health problems who sometimes became violent, of taking care of multiple patients which meant they seldom were able to get more than a few hours of uninterrupted sleep and of the impossibility of being compensated for all the hours they worked. Recruiters, labor brokers and placement agencies were often part of an oppressive system that placed workers in facilities that were not paying the minimum wage. Initially, FCC focused on three labor laws: minimum wage, paid sick leave and the health security ordinance, but also found many violations of overtime and meal breaks. Illegal deductions for housing and food expenses were also commonplace.

Joining the collaborative and receiving OLSE funding enabled FCC to teach worker rights workshops, talk with care home workers about the issues they were facing and help them organize, advocate for changes in the programs and file wage claims. The organization has won many cases for caregivers, recovering over a million dollars in unpaid wages. In 2013, with the help of the FCC and OLSE, twenty-five Filipino caregivers from Sunset Gardens, Nacario’s Home of San Francisco (both Filipino owned) and Veal’s Residential Care Home, filed wage theft claims against their employers and received settlement agreements totaling more than \$800,000. It has a strong relationship with SF OLSE. “The Filipino Community Center has done fabulous work organizing the homecare workers...at this point we have done audits and recovered back wages in about ten residential care homes, most of them brought by FCC,” said Donna Levitt. “Their campaign has been very creative--from doing door-to-door outreach to holding community events like ballroom dancing... These are cases we would not have gotten for the most part and they build over time. When people have positive experiences they tell friends and family. ” By the close of FY 2013, OLSE had collected a total of \$6,573,572 in total back wages and interest for over 3,000 employees since the implementation of the MWO in 2004<sup>6</sup>.

There are other innovative examples of collaboration taking place around the country.

In Austin, Texas, the Workers Defense Project (WDP), a worker center focused on documenting and confronting problems faced by low wage Latino workers in the construction sector, and the Austin

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<sup>5</sup> Shawsan Liu interview,

<sup>6</sup> OLSE Minimum Wage Ordinance Annual Report, July 1, 2012-June 30, 2013.

Police Department (APD) have been working together for twelve years on enforcement of the Theft of Service section of the Texas Penal Code,<sup>7</sup> which empowers local law enforcement agencies across the state to investigate wage theft. When an “intent not to pay” criteria is satisfied, either WDP or APD calls the employer and attempts to negotiate payment with them. Although in most cases employers assure the detective from the APD that they will contact the worker and pay the back wages, most often it does not happen. If negotiations are unsuccessful, WDP sends a certified demand letter with return receipt notifying the employer that wages are owed, along with a memo from the APD explaining the theft of service law and the department’s commitment to enforcing it. If the employer does not pay the wages within ten days, an arrest warrant is filed with the APD.<sup>8</sup> APD lets WDP know when an arrest warrant has been signed by a judge and is in constant contact with the organization as the case moves forward. Once the warrant is written, it can be served either by sending a police unit out or when the employer is pulled over for another reason. Once arrested, the employer appears before a judge who will either make a ruling ordering them to pay or sending them to jail.

WDP organizers and leaders are visible in the community providing presentations on health and safety and wage and hour laws. The organization holds regular meetings at which workers can seek help for wage theft. According to representatives at the APD even when workers go to the police first, they are often sent to WDP. “If the worker comes to me first, I still gather the information and send them to WDP,” Chandra Ervin, a detective who spends 20-30% of her time investigating theft of service claims, told me. “I have a large caseload outside theft of service, so WDP has to obtain a lot of the information,” Ervin said. “They do a lot of the footwork that needs to be done and gather a lot of information. They do the demand letter, calculation of money owed and reach out to the suspect and try to mediate...they are a big help to me. Basically, they have done a large bulk of the investigative work.” ADP has the sole power to get arrest warrants signed by municipal judges, to serve them and to arrest the violators.

WDP and ADP work together closely on formulating and carrying out strategy. Ervin estimates that ADP is in contact with WDP concerning cases an estimated 3-4 times a week, either by phone or e-mail. ADP lets WDP know when an arrest warrant has been signed by a judge and is “in constant contact” with the organization as the case moves forward. The partnership has worked so well that the two organizations have continued to deepen their engagement, becoming more proactive, according to Ervin: “...We work together to get the word out to victims and employers who are not holding up their end of the bargain that we are working cases wholeheartedly. If you do hire someone to do something and you don’t pay them, there are consequences you have to face.” Most recently they have been working together on a template that will become routine protocol for APD when a potential theft of services call comes in, to ensure that officers know the right questions to ask in order to gather the most pertinent information.

Fundamentally, the success of collaboration depends upon strong relationships<sup>9</sup> between the state agency and workers, worker organizations and high road firms. Trust, adaptation, accountability and communication are key to these relationships. Organizations emphasize the necessity of collaboration and sharing as much information as possible as quickly as possible in order for them to maintain

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<sup>7</sup> Section 31.04 of the statute creates a presumption of intent to avoid payment if the employer fails to pay a laborer within ten days after receiving a notice demanding payment.

<sup>8</sup> Rita J. Verga, *An Advocate's Toolkit: Using Criminal Theft of Service Laws to Enforce Workers' Right to Be Paid*, 8 N.Y. CITY L. REV. 283 (2005), 13.

<sup>9</sup> See O'Rourke on the importance of social and political connections or linkages among state agencies and between state officials and civil society actors as well as firms. P. 225.

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credibility with workers and to continue to expand cases. Government agencies emphasize that worker centers and unions need to understand and adapt to the pressures and constraints government must operate within and have the capacity to add real value to investigations. Maintaining support for the collaboration requires both state regulators and worker organizations to accept each other's limitations and modulate the demands each makes on the other.

A broad attack on the problem of noncompliance in low-wage work requires a robust role for workers, workers' organizations and high road firms in government enforcement efforts. Routine, institutionalized collaborations between these organizations and federal, state and local Departments of Labor has the potential to address many of the gaps identified in government efforts to enforce labor standards in the low-wage context.

Thank you for your consideration,

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Christine L. Owens  
Executive Director

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**RE: Council File 14-1371-S1, Citywide Minimum Wage Ordinance /Include Language Addressing and Funding Community Partnerships to Address Wage Theft**

Dear Chairman Price and Chairman Krekorian,

On behalf of the National Employment Law Project (NELP), I write to strongly support the inclusion and robust funding of community-based partnerships as your committees consider enacting a city-wide minimum wage and adopting the FY16 budget. Such partnerships are essential to the enforcement of the City's new minimum wage law.

NELP is a non-profit, non-partisan legal advocacy and research organization specializing in employment policy which partners with federal, state and local lawmakers on a wide range of workforce issues. We have worked with dozens of state and local legislatures across the country on measures to raise job standards and ensure enforcement of these standards.

In any given week in Los Angeles, 8 out of 10 low-wage workers experience wage theft.<sup>1</sup> Nearly half of those who take steps to enforce their rights experience retaliation as a result.<sup>2</sup> As the City moves to adopt a higher local minimum wage, preventing wage violations requires targeted efforts in the communities, neighborhoods and industries where wage theft is most likely to occur, and where workers are especially vulnerable to retaliation.

Adequately funded community-based partnerships are essential to this effort. Enforcing labor rights is impossible when workers do not know their

<sup>1</sup> Milkman, Ruth, Ana Luz Gonzalez and Victor Narrow. 2010. "Wage Theft and Workplace Violations in Los Angeles: The Failure of Employment and Labor Law for Low-Wage Workers." UCLA Institute for Research on Labor and Employment.

<sup>2</sup> Id.

rights, do not know who to turn to when their rights have been violated, and/or are afraid of employer retaliation when raising complaints. Community-based partnerships take advantage of the competencies of the city and of community groups. The city has the power to file complaints, assess penalties, direct investigations, and go to court if necessary. But even the best-trained investigators cannot be in all places at all times, and may not be able to reach the most vulnerable workers. As detailed below, community partnerships – which have been tried and tested in other cities – can fill this gap and strengthen investigation and enforcement of labor standards. **These community-based partnerships are not a luxury – they are a necessity for successful implementation and enforcement.**

**Community groups can help the city reach the most vulnerable workers.**

- While most businesses can learn about the City of Los Angeles' new minimum wage through public service announcements, written fact sheets, webinars, and web-based materials, among other means, the most vulnerable workers in the City do not have access to these mediums. Community organizations with extensive ties in local communities, foreign-language ability, and skills in popular education can fill this education and outreach role in partnership with the city. These organizations understand the language, cultures, and industries that operate in Los Angeles, and can help get the word out to employers and employees alike about the new minimum wage requirements, and where to turn to file complaints.

**Community groups have contact with working people every day, and can help the city efficiently use its resources.**

- Community organizations hear from workers every day about violations occurring in the workplace, and can help the City direct its resources to employers who are violating the law. Community groups can offer support to workers who have been victimized by wage violations, since workers fearing retaliation, especially undocumented workers, may not want to make a complaint directly to a city official. They can interview workers in a safe atmosphere to gather facts and documents that would help the City in its investigative efforts.

**Community contracts are necessary on Day 1, in order to ensure that the public is informed and investigators receive claims in a timely manner.**

- City enforcement officials may not have the relationships in the private sector to quickly get the word out to employers and employees about the City's new minimum wage requirements. Community groups do – and can assist City enforcement officials by quickly identifying community members whose wage rights are being violated and employers who are breaking the law.

**The experience of other cities shows that adequate funding for community contracts improves compliance efforts.**

- The City of San Jose, which currently enforces higher minimum wages in the cities of San Jose, Sunnyvale and Mountain View, found that without funding to community groups for outreach and education, few workers reported minimum wage violations, and even fewer investigations panned out. City officials in San Jose have thus stressed the need for community-led outreach and education to help workers understand their rights, feel comfortable raising complaints, and cooperate with investigators.<sup>3</sup>
- In San Francisco, approximately 30 percent of the complaints received by the city's Office of Labor Standards Enforcement (OLSE) come from community groups with whom the OLSE has contracted. These groups, which provide education and outreach, and consultation and referral services, have proven instrumental in helping the City's outreach, investigative and enforcement efforts. In fact, while the initial monetary allocation to fund San Francisco's community contracts was just \$186,500 in 2007, the San Francisco Board of Supervisors more than doubled the amount of funding available for community outreach on labor laws in 2013.<sup>4</sup> In February 2013, the OLSE issued a request for proposals to expand the Wage Theft Prevention Education and Outreach Program, reporting that it was "now working to build a dynamic partnership with a collaborative of six community-based organizations and educate San Francisco workers about their rights and identify labor law violations."<sup>5</sup>

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<sup>3</sup> Tia Koonse, Juan Torres, Aaron Noffe, Kerry Sakimoto, Katherine Herrera, Michael Russo. 2015. "More than Minimum Wage: Recommendations for Comprehensive Labor Protections in the City of Los Angeles." UCLA Labor Center and the Advancement Project.

<sup>4</sup> San Francisco Office of Labor Standards Enforcement Minimum Wage Ordinance Annual Report FY2012-2013.

<sup>5</sup> Id.

**To be effective in Los Angeles, community partnerships must be adequately funded.**

- Small grants that only fund a fraction of a full time equivalent employee do not allow community groups to offer a full range of services. Grants that are limited to one population or one group likewise do not sufficiently extend the reach of the City's outreach services to the many languages, cultures, neighborhoods and industries that make up Los Angeles.
- For Los Angeles's community contracts to reach all low-wage workers, the funding for contracts would need to be substantially higher than that of San Francisco's, San Jose's or Seattle's.
- San Francisco allocates \$482,125 in community contracts (roughly matching the \$500,000 it spends on investigator salaries).<sup>6</sup> Los Angeles, however, is a much larger city – to match San Francisco's ratio of community contract dollars to number of workers, Los Angeles would have to allocate \$1.4 million to community contracts. Even San Francisco's allocation, while important, funds just six groups representing a handful of the industries and languages that make up that city.

Thank you for the opportunity to provide feedback on this vital piece of legislation. We applaud the City of Los Angeles for its visionary steps to raise pay for more than half a million workers, and urge the City to maximize the positive effects this new law will have by funding community partnerships to strengthen compliance and enforcement.

Please do not hesitate to contact me at [tgebreselassie@nelp.org](mailto:tgebreselassie@nelp.org) or at 212-285-3025/x314 with any questions.

Sincerely,



Tsedeye Gebreselassie  
Senior Staff Attorney  
National Employment Law Project

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<sup>6</sup> Rebecca Smith. 2015. "Delivering 15: Community-Centered Wage and Hour Enforcement in Seattle." National Employment Law Project.



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# More than Minimum Wage: Recommendations for Comprehensive Labor Protections in the City of Los Angeles

## *Policy Brief* May, 2015

UCLA Labor Center:  
Tia Koonse, Juan Torres, Aaron Noffe, Kerry Sakimoto, Katherine Herrera

Advancement Project:  
Michael Russo

### **I. Los Angeles needs its own Office of Labor Standards Enforcement to enforce basic labor protections**

All eight cities in California who have raised their minimum wage have designated or created a city agency to enforce that wage.<sup>i</sup> In California, local enforcement is necessary for many reasons.

First, the California Division of Labor Standards Enforcement (“DLSE”), the agency responsible for enforcing wage and hour laws, *cannot cite employers for violations of local minimum wages.*<sup>ii</sup>

Second, evidence shows that *city wage enforcement succeeds at far higher rates than state wage enforcement.* San Francisco’s Office of Labor Standards Enforcement recovered 90.5 percent of wages and interest owed to workers between 2003 and 2013, compared to 48 percent recovered by the DLSE’s Bureau of Field Enforcement between 2009 and 2013.<sup>iii</sup>

Finally, designating a city office creates *a centralized place to administer claims, educate the public, and create effective partnerships that maximize the capacity of chronically under-funded city departments and state enforcement agencies.*<sup>iv</sup> This centralization yields powerful results. For example, in San Francisco, joint investigations between OLSE and the state’s Bureau of Field Enforcement (BOFE) allow both agencies to share resources and staff. This enables swift responses to extreme cases where workers have not been paid for many months, a business is shutting down, or an employer is deemed a flight risk.<sup>v</sup> In 2014, this partnership yielded a record \$4 million settlement on behalf of 280 workers with high-end dim sum restaurant Yank Sing.<sup>vi</sup>

In Los Angeles, rates of wage theft are 20 percent higher than the nationwide average. In any given week, one in every three low-wage workers makes less than the minimum wage. Fear of retaliation chills enforcement, as low-wage workers in L.A. who take steps to enforce their wage

rights stand a nearly 50-50 chance of experiencing retaliation.<sup>vii</sup> Immigrants, women, and workers of color are disproportionately impacted by low wages, wage theft, and discrimination. For example, immigrants are more than twice as likely as their U.S.-born counterparts to make less than minimum wage;<sup>viii</sup> 50 percent of Black workers in Los Angeles are un- and under-employed (making less than \$12.00 an hour);<sup>ix</sup> and in growth sectors such as the public construction industry, Black workers comprise just 3 percent of the workforce.<sup>x</sup> *Centralized, comprehensive labor standards enforcement is especially important to lift workers in Los Angeles out of poverty.*

An agency authorized to investigate claims for unpaid wages, retaliation, and discrimination must have the tools available to enforce its findings. Briefly stated, that agency should:

- receive, investigate, and, where possible, adjudicate claims for wage theft, discrimination, and retaliation;
- issue and collect penalty citations for violations of wage theft and retaliation;
- file liens on employer property on behalf of workers to prevent employers from “hiding” assets and frustrating collections;
- contract with community-based organizations to conduct targeted outreach and education; and
- partner with other City departments, the City Attorney, EEOC, DFEH, and the DOL to aid prosecution and advance civil claims.

Table 1 demonstrates consensus across California cities around a set of best practices to enforce labor standards. Lengthier publications address these provisions in detail; this brief addresses the costs and benefits of implementing these provisions through an Office of Labor Standards Enforcement in Los Angeles.

Table 1: Wage Enforcement across California Cities

City	Enforcement Agency	Revoke Licenses, Permits, Contracts	Liens	Posting & Payroll Access	Fines & Penalties	Private Right of Action	Retaliation Protection	Outreach & Education
Berkeley	Y	Y		Y	Y	Y	Y	Y
Oakland	Y	Y		Y	Y	Y	Y	Y
Mountain View	Y	Y		Y	Y	Y	Y	
Richmond	Y	Y		Y	Y	Y	Y	
San Diego <sup>†</sup>	Y				Y	Y	Y	Y
San Francisco	Y	Y	Y	Y	Y	Y	Y	Y
San Jose	Y	Y		Y	Y	Y	Y	
Santa Clara <sup>*</sup>	Y	Y			Y			
Sunnyvale	Y	Y		Y	Y	Y	Y	

For a complete list of provisions, see Flaming et al., “Los Angeles Rising: A City that Works for Everyone,” Chapter VII Appendices, pp. 151-162 (2010).

<sup>†</sup> The San Diego ordinance will be implemented if voters approve it on a referendum in June 2015.

<sup>\*</sup> Wage theft language contained in city contracts regardless of higher local minimum wages.

**II. Experience shows Los Angeles needs between 15 and 25 investigators to enforce basic labor protections**

Other cities, including San Jose, Seattle, and San Diego, have looked to San Francisco to determine appropriate levels of staffing and funding to community organizations to conduct targeted outreach and education. These cities have pegged the size of their enforcement agencies to roughly approximate San Francisco’s. To enforce its minimum wage and paid sick leave laws for 611,000 workers, San Francisco has 5.5 investigators and issues \$482,000 to community groups to conduct targeted outreach and education.<sup>xi</sup>

**a. Benchmarking against San Francisco: 15 Investigators**

At 1,877,072 workers as of May, 2015, Los Angeles’ workforce is roughly three times San Francisco’s.<sup>xii</sup> To keep pace with San Francisco, Los Angeles’ OLSE requires 15 investigators and \$1.5 million in community contracts for targeted outreach and education. We estimate the total salary and contract cost would be \$3.5 million.<sup>xiii</sup> We predict an additional \$722,000 in overhead expenses necessary to support an Office of Labor Standards Enforcement with a staff of 17, including a clerk and a supervisor.<sup>xiv</sup> *In total, salaries, overhead and community contracts would cost \$4.3 million.*

**b. The UC Berkeley Recommendation: 25 Investigators**

UC Berkeley argues that San Francisco’s metric is inadequate even for San Francisco, where 5.5 investigators for 611,000 workers translates to approximately one investigator per 110,000 worker. Taking into account Los Angeles’ unrivaled wage theft and high rates of employment in low-wage industries, UC Berkeley recommends that Los Angeles hire 25 investigators.<sup>xv</sup> We estimate the cost of 25 investigators to be \$2.89 million in salaries, for a total cost of \$4.4 million in investigator salaries and community contracts. At an additional \$1.16 million in overhead expenses, *total estimated cost for 25 investigator salaries, community contracts, and overhead amounts to \$5.5 million.*

*Los Angeles should strive to match or exceed San Francisco’s enforcement benchmark of 110,000 workers to each investigator.* Table 2 displays at a glance the cost, number of investigators, and amount designated for community contracts for outreach and education across large cities nationwide.

Table 2: Cost of Wage Enforcement across Large Cities

City	Cost*	Investigators	Community Contracts
<b>San Francisco</b>	\$1.8 Million	5.5	\$482,125
<b>Los Angeles</b>	\$4.3 – 5.5 Million	15 - 25	\$1.5 Million
<b>San Jose<sup>xvi</sup></b>	\$1M-\$2M	4.5 (currently 1)	None
<b>Seattle<sup>xvii</sup></b>	\$1.2 Million	4	\$700,000

<b>Washington, D.C.</b> <sup>xviii</sup>	<b>\$1.5 Million</b>	<b>11</b>	<b>None</b>
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\* Includes staff salaries, overhead, and community contracts.

#### a. Overcoming Challenges: The Need for Outreach and Education

Enforcing labor rights is impossible in a climate of ignorance and fear. Workers and businesses who don't know the law can't comply with it; likewise, workers afraid of retaliation are unlikely to cooperate with investigations or file complaints on their own.<sup>xix</sup> San Francisco,<sup>xx</sup> Seattle,<sup>xxi</sup> Oakland,<sup>xxii</sup> and San Diego<sup>xxiii</sup> recognize the value of contracting with community groups to conduct targeted outreach and education to assist with compliance and referrals.

Adequate funding for these community contracts improves compliance and engenders the trust of workers and businesses, which in turn leads to successful investigations that bring in fees and fines to help fund enforcement. The experience of other cities in California helps identify potential challenges here in Los Angeles. San Jose currently enforces higher minimum wages in the city of San Jose, Sunnyvale, and Mountain View. Adopting San Francisco's ratio of investigators to workers, city officials estimated that 4.5 investigator positions were necessary to adequately enforce its minimum wage. However, without funding to community groups for outreach and education, the city found that few workers reported minimum wage violations, and even fewer investigations panned out. City officials there stressed the need for community-led outreach and education to generate interest and cooperation with investigators. The city of San Jose reduced to a single position staff dedicated to enforcing minimum wage and has recovered very little of the unpaid wages found due.<sup>xxiv</sup>

## II. Enforcement Makes Financial Sense

### a. Decreased Spending and Lost Tax Revenue

The landmark study *Broken Laws, Unprotected Workers*, found that 88 percent of low-wage workers in Los Angeles experience at least one type of wage theft each week, losing an estimated total of \$26.2 million per week in L.A. County alone. Though we cannot calculate with certainty, we can safely assume that much of this money goes missing from the local economy. This is because low-wage workers spend a greater proportion of their income than other workers in the local economy, most commonly on housing, food, and utilities.<sup>xxv</sup> In total, each year, these violations amount to \$1.3 billion— enough to hire 19,000 teachers,<sup>xxvi</sup> 33,000 nurses,<sup>xxvii</sup> or 13,000 firefighters<sup>xxviii</sup> in Los Angeles County.

In addition to the direct effect of lost income for low-wage workers, the State of California, as well as the City and the County of Los Angeles, lose money in the form of unpaid tax revenue. We estimate wage theft in L.A. County produces the following range of tax losses annually:

- \$1.3 million in lost income tax;
- \$42 million - \$92 million in lost sales tax revenue, \$11.7 million - \$25.5 million from the City and County of Los Angeles; and
- Lost contributions to California's Unemployment Insurance (UI) fund, Employment Training Tax (EET), and State Disability Insurance (SDI), totaling about \$60 million.<sup>xxix</sup>

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*In total, wage theft in Los Angeles alone costs local and state governments \$103,300,000 - \$153,000,000 annually in lost tax revenue.*

b. Quantifying the Costs of Discrimination, Wage Theft, and Retaliation to Communities of Color

Enforcement of anti-discrimination and retaliation laws likewise makes financial sense. Racial discrimination costs communities of color millions of dollars annually. For example, on the Wilshire Grand Hotel project Downtown, fewer than 5 percent of the construction hours have been performed by Black workers. Failing to bring this number up to even just 10 percent will cost Black workers in Los Angeles over \$8.5 million over the course of this five year project.<sup>xxx</sup>

Adequately enforcing labor standards is a critical equity issue for communities of color, even beyond direct employment discrimination. Black workers in LA experience violations of minimum wage at twice the rate of white workers.<sup>xxxi</sup> Because unscrupulous employers may take advantage of workers with limited English proficiency or who are undocumented, immigrant workers are especially vulnerable as well. For example, Latinos face the highest rates of minimum wage and meal break violations at 38% and 83%, respectively. Asian American workers experience the highest rates of off-the-clock and overtime violations, at 84% and 82% respectively.<sup>xxxii</sup>

Racial discrimination shuts workers and families out of middle class jobs. Rigorous enforcement of antidiscrimination and wage standards can help low-income communities of color access the middle class.

c. Strong Enforcement Helps Pay for Itself

We estimate the cost of 25 investigators to be a few million dollars, an investment more than reasonable compared to the size of the problem. This is particularly true because good enforcement helps pay for itself through administrative fees and fines that can offset or recuperate the costs of investigation. San Francisco, for example, the city with the longest history of investigating and recovering stolen wages, recovered penalties of \$57,289 in 2010; \$92,002 in 2011; and \$153,828 in 2012—roughly 8 percent of total operating costs.<sup>xxxiii</sup>

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<sup>i</sup> Daniel Flaming et al. 2015. “Los Angeles Rising: A City that Works for Everyone.” Table 7.3, p. 101.

<sup>ii</sup> Cal.Labor Code Sec. 1197.1. Balter, Tia, interview by Tia Koonse. 2015. *Staff Counsel, Labor Commissioner*, February 25, 2015.

<sup>iii</sup> San Francisco Office of Labor Standards Enforcement. 2013. “Minimum Wage Ordinance Annual Report, 2013-2013.” Author’s analysis of the rate of collection of unpaid wages found due by the DLSE Bureau of Field Enforcement (“BOFE”) reported in Fiscal Year Report on the Effectiveness of the Bureau of Field Enforcement, average of four years, 2009-2013.

<sup>iv</sup> Reich, Michael, Ken Jacobs, Annette Bernhardt and Ian Perry. 2015. “The Proposed Minimum Wage Law for Los Angeles: Economic Impacts and Policy Options.”

<sup>v</sup> San Francisco Office of Labor Standards Enforcement. 2013. "Minimum Wage Ordinance Annual Report, 2013-2013."

<sup>vi</sup> Hsu, Tiffany and Marc Lifsher. "Restaurants are feeling the heat in crackdown on wage theft." *The Los Angeles Times*, November 18, 2014.

<sup>vii</sup> Milkman, Ruth, Ana Luz Gonzalez and Victor Narro. 2010. "Wage Theft and Workplace Violations in Los Angeles: The Failure of Employment and Labor Law for Low-Wage Workers." UCLA Institute for Research on Labor and Employment.

<sup>viii</sup> Ibid.

<sup>ix</sup> UC Berkeley Labor Center. 2014. "Data Brief: Black Employment and Unemployment, December 2013." [http://laborcenter.berkeley.edu/pdf/monthly/bwreport\\_2014-01-10\\_69.pdf](http://laborcenter.berkeley.edu/pdf/monthly/bwreport_2014-01-10_69.pdf)

<sup>x</sup> Denissen, Amy and Anita Yuan. 2009. "Improving Access to Skilled Jobs: A Study of the Los Angeles Community and Faith-Based Construction Initiative."

<sup>xi</sup> San Francisco Office of Labor Standards Enforcement. 2013. "Minimum Wage Ordinance Annual Report, 2013-2013."

<sup>xii</sup> UCLA Anderson Employment Forecast. <https://performance.lacity.org/en/stat/goals/8ya7-fqzd/tpjh-8a6z/55ym-huhy>. (Accessed May 4, 2015.)

<sup>xiii</sup> Estimate assumes the unit will require one Contract Compliance Manager I, compensated at an average of \$157,562.82; one Clerk, compensated at an average of \$59,964; and investigators classified as Management Analyst I, compensated at an average of \$103,055.33. Choi, Hannah. Interview conducted by Juan Torres. Program Manager, Bureau of Contracts Administration, February 11, 2015.

<sup>xiv</sup> Salaries accounted for roughly 60 percent of the departmental budget, while general administration support, departmental expenses, and related and indirect costs (pension payments, rent, etc.) altogether came to about 40%. Authors' analysis of the past three years of Bureau of Contract Administration budget.

<sup>xv</sup> Reich et al., "The Mayor of Los Angeles' Proposed City Minimum Wage Policy: A Prospective Impact Study," 2015, p. 44.

<sup>xvi</sup> Hickey, Chris, Interview conducted by Juan Torres. 2015. *Contract Compliance Specialist, San Jose Office of Equality Assurance*, March 15, 2015.

<sup>xvii</sup> Bull, Karina. Interview conducted by Juan Torres. 2015. *Director, Seattle Office of Labor Standards*, April 9, 2015.

<sup>xviii</sup> San Diego Office of the Independent Budget Analyst. 2014. "Estimated Cost of Enforcing Proposed New Minimum Wage and Earned Sick Leave Laws."

<sup>xix</sup> Dietz et al., 2014, "Enforcement of Labor Standards." In Michael Reich, Ken Jacobs and Miranda Dietz (eds.) *When Mandates Work: Raising Labor Standards at the Local Level*. Berkeley: University of California Press.

<sup>xx</sup> S.F., Cal., Mun. Code Sec. 12R.25, requiring the OLSE to establish a community-based outreach program to conduct education and outreach to employees and to partner with community-based groups to develop outreach materials for workers in key industries.

<sup>xxi</sup> Seattle, Wash., Mun. Code Ch. 14.19.060(1)(10), establishing worker and employer outreach and education programs through contracts with 501(c)3 community-based organizations and business associations.

<sup>xxii</sup> An estimated \$178,000 has been earmarked for outreach to employers and employees. Oakland Office of the City Auditor. 2014. "City Auditor's Impartial Financial Analysis of Measure FF."

<sup>xxiii</sup> Reservation of funding recommended to allow contracts with community-based organizations for outreach and education to low-wage workers. San Diego Office of the Independent Budget Analyst. 2014. Report No. 14-26, "Estimated Cost of Enforcing Proposed new Minimum Wage and Earned Sick Leave Laws."

<sup>xxiv</sup> Hickey, Chris, Interview conducted by Juan Torres. 2015. *Contract Compliance Specialist, San Jose Office of Equality Assurance*, March 15, 2015.

<sup>xxv</sup> Ewalt et al. "How Americans Make and Spend Their Money." *Forbes*, July 19, 2006. [http://www.forbes.com/2006/07/19/spending-income-level\\_cx\\_lh\\_de\\_0719spending.html](http://www.forbes.com/2006/07/19/spending-income-level_cx_lh_de_0719spending.html).

<sup>xxvi</sup> Authors' calculation assumes an average salary of \$70,000 per year for teachers in L.A. County. Los Angeles Unified School District. September 8, 2014. "Statement Regarding LAUSD Teacher Salaries." <http://home.lausd.net/apps/news/article/398613>. Accessed on May 4, 2015.

<sup>xxvii</sup> Authors' calculation assumes an average salary of \$40,000 per year for nurses in L.A. County. Transparent California. <http://transparentcalifornia.com/salaries>. Accessed on May 4, 2015.

<sup>xxviii</sup> Authors' calculation assumes an average annual salary of \$100,000 for firefighters in L.A. County. Los Angeles City Controller. Control Panel L.A., <https://controllerdata.lacity.org/Payroll/2013-Employee-Compensation-Breakdown-AS/frdf-sbdv>. Accessed on May 4, 2015.

<sup>xxix</sup> To calculate the tax impact, authors relied on the methodology proposed in the 2014 study "Wage Nonpayment in Colorado: Workers Lose \$750 million per year" by the Colorado Fiscal Institute. See

<http://www.coloradofiscal.org/wp-content/uploads/2014/03/Wage-Nonpayment-in-Colorado-Final-1.pdf>.

<sup>xxx</sup> Orians, Kelly. 2015. "Los Angeles Can Lead the Way in Anti-Discrimination Enforcement." Orians' calculation based upon wage information from Turner Construction and demographic data from monthly utilization reports from the project in 2014.

<sup>xxxi</sup> Milkman, Ruth, Ana Luz Gonzalez and Victor Narro. 2010. "Wage Theft and Workplace Violations in Los Angeles: The Failure of Employment and Labor Law for Low-Wage Workers." UCLA Institute for Research on Labor and Employment.

<sup>xxxii</sup> Ibid.

<sup>xxxiii</sup> San Francisco Office of Labor Standards Enforcement. 2013. "Minimum Wage Ordinance Annual Report, 2013-2013."

# COMPREHENSIVE WAGE ENFORCEMENT AND ANTI-DISCRIMINATION ENFORCEMENT PROVISIONS

The Office of Labor Standards and Enforcement will level the playing field for businesses that follow the law. LA needs an Office of Labor Standards & Enforcement: a city bureau dedicated to following through on pro-worker legislation, with a promise and a mandate to COLLECT, PROTECT, ENFORCE, and INCLUDE.

## COLLECT:

Create easy, simple, and efficient tools for workers to collect the wages they have earned.

## PROTECT:

Stop employers from retaliating against workers who speak up about wage theft and discrimination on the job.

## ENFORCE:

Level the playing field for responsible businesses by providing the City the means and authority to enforce wage theft, and anti-discrimination measures.

## INCLUDE:

Anti-Discrimination Enforcement: Protect current employees and applicants from discrimination through co-enforcement models with community based worker organization and organized labor.

### Based on our findings, the LA BWC recommends the following best practices:

- 1) Establish a robust city enforcement entity charged with enforcing federal, state, and local wage and anti-discrimination laws that guarantee that all workers have equal workplace access and opportunity. Any minimum wage or wage theft policy should establish an Office of Labor Standards and Enforcement within the Bureau of Contract Administration, in collaboration with the LA City Attorney's office, to vigorously enforce federal, state, and local anti-discrimination laws.
- 2) Conduct regular audit studies. Collecting data on workforce demographics and conduct regular audit studies of problematic industries and imposing city level penalties against employers that break the law. The OLSE should develop a discrimination and equal opportunity audit program for particularly problematic industries in order to assess the prevalence of discrimination and progress in enforcement efforts, and make recommendations for reform. In audit or correspondence studies, fictitious individuals who are identical except for race, sex, or ethnicity apply for jobs. Group differences in outcomes are widely viewed as providing evidence on discrimination and U.S. courts allow organizations that conduct audit or correspondence studies to file claims of discrimination based on the evidence they collect.
- 3) Develop a system of co-enforcement. Enforce anti-discrimination protections for current employees and applicants through a co-enforcement model with community based worker organization and organized labor. Unions and community-based worker organizations representing underrepresented workers of color, female workers, and workers from a diverse array of industries should be given a formal role in the regulatory process. For example, the San Francisco OLSE established contracts with qualified community and labor organizations to enforce OLSE provisions.
- 4) Investigation and adjudication of claims of discrimination over which the City Attorney has jurisdiction; while assisting state and federal agencies in outreach, investigation, and mediation of claims of discrimination that violate state and federal statutes. A report study of San Francisco's OLSE found that a crucial step for improving EEO enforcement further is increasing the number of EEO prosecutions. A good working relationship with state and federal enforcement agencies can make it more likely a city enforcement entity is collecting the information necessary for state and federal enforcement.



The OLSE will be funded in part through work share agreements with state and federal agencies, co-enforcement community partnerships, and by implementing penalties and collection of fines and fees from employers that break the law.

As the City of Los Angeles considers a historic policy to lift families out of poverty with an increase in the minimum wage, and another proposal to empower the City to detect and prosecute wage-theft, we face an opportunity to also address the ultimate form of wage theft - employment exclusion. Employment discrimination remains a prevalent and dangerous workplace law violation; it contributes to the underrepresentation, exclusion and unlawful treatment of workers based on skin color, gender, disability or criminal history. Los Angeles is ranked eight out of ten U.S. cities with the highest Black populations, and Black workers continue to face startling levels of discrimination. Black unemployment and underemployment (people making less than \$12.00 an hour) in Los Angeles is at 50%. In growth sectors such as the public construction industry, Black workers represent 10 percent of trained apprentices but make up less than three percent of the workforce. In the private construction industry specifically, Black workers make up only three percent of the workforce.

Los Angeles should leverage the momentum created by the Mayor's proposal for an increased minimum wage and the work of the Coalition to End Wage Theft to create a world-class Office of Labor Standards and Enforcement (OLSE) that will enforce anti-discrimination laws and provide justice and economic opportunity for all Angelinos. By creating an OLSE Los Angeles would join at least 10 other cities across the country that have created city level offices to protect workers. These offices vary in scope of responsibilities, however several themes are consistent: Enforcing proactive requirements on employers who do business in their city (e.g. trainings of workers and employers); Outreach and investigation of claims made by workers against employers; Partnerships with federal & state agencies (e.g. Equal Employment Opportunity Commission, Department of Fair Housing and Employment), as well as with community based organizations (e.g. workers centers); And enforcing penalties against employers that break the law, anti-discrimination protections for workers in Los Angeles.



## LOS ANGELES BLACK WORKER CENTER

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The Los Angeles Black Worker Center believes that when community members and organized labor unite, together we can put an end to the Black jobs crisis. Every day we develop Black worker leaders to build power to increase access in quality jobs, reduce employment discrimination, and take action.

**Roughly half of all Black workers** in Los Angeles County are unemployed or underemployed, making \$12/ hour or less. Black workers have a hard time finding a stable place to live, to put food on the table, to afford healthcare, and to access a quality education. Stand with us to call for quality jobs, justice and dignity.

### WHO WE ARE

The LA BWC is a grassroots action center that contests the destabilizing LA Black Jobs Crisis of severe unemployment and underemployment.

The mission of the Los Angeles Black Worker Center is to increase access to quality jobs; reduce employment discrimination; and improve industries that employ Black workers through action and unionization.

The LA Black Worker Center is an active member of the Raise the Wage Coalition and the LA Coalition to End Wage Theft.

### OUR WORK

**DEVELOP BLACK WORKER LEADERS.** The Los Angeles Black Worker Center develops authentic leadership among Black workers and organizes their communities to reverse unemployment and underemployment in Los Angeles. The center helps workers build skills through worker rights training, free math tutoring, and peer-mentoring networks.

**INFLUENCE POLICY.** The LA Black Worker Center conducts cutting-edge policy research and builds multi-sector coalitions to lead the fight for quality jobs. We promote economic and racial justice for all of Los Angeles by developing policies and corporate practices that perpetuate equality in the labor market.

**BUILD COMMUNITY.** The LA Black Worker Center is a cultural and educational space for workers to build relationships and trust, and to develop a vision for who we are and what we believe. This is done through discussions, film screenings, mixers, and a host of other events.

### COALITION PARTNERS

- Dignity and Power Now
- Black Community, Clergy and Labor Alliance (BCCLA)
- Asians American Advancing Justice – Los Angeles
- LA Community Action Network (LA CAN)
- Strategic Concepts In Organizing and Policy in Education (SCOPE)
- Community Coalition
- NAACP
- Southern Christian Leadership Conference
- National Action Network

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