



LOS ANGELES COUNTY
CONSUMER & BUSINESS AFFAIRS

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January 31, 2023

To: Supervisor Janice Hahn, Chair
Supervisor Hilda L. Solis
Supervisor Holly J. Mitchell
Supervisor Lindsey P. Horvath
Supervisor Kathryn Barger

From: Rafael Carbajal,
Director

Director

Rafael Carbajal

Chief of Staff
Joel Ayala

**INTERIM REPORT ON THE PROGRESS OF EXPANDING AND
CENTRALIZING WORKER PROTECTIONS IN LOS ANEGLES COUNTY
(ITEM NO. 18, AGENDA OF NOVEMBER 30, 2021)**

On November 30, 2021 your Board adopted a motion¹, Expanding and Centralizing Worker Protections in Los Angeles County and directed the Department of Consumer and Business Affairs (DCBA) to implement a phased-in strategic enforcement plan for the establishment of the Office of Labor Equity (OLE). As authorized by this motion, DCBA engaged a consultant to analyze existing labor enforcement and worker protection systems and processes implemented by DCBA with the intention of developing and applying recommendations and best practices into the operations of the OLE.

The attached preliminary report (Attachment A), includes an initial analysis of labor law enforcement operations carried out by the OLE and covers the following topics:

- Current structure of the OLE;
- Recommended operational changes; and
- Recommended staffing

SUMMARY OF RECOMMENDATIONS

The attached preliminary report highlights progress to-date on the development of operational, staffing, and budgetary recommendations based on interviews conducted with OLE staff, labor enforcement experts, and a

¹ <http://file.lacounty.gov/SDSInter/bos/supdocs/163946.pdf>



synthesis of research collected by the consultant. This report also contains research on best practices implemented by peer jurisdictions across the country and analyses conducted by DCBA and its consultant on the feasibility and implications of implementing strategic enforcement practices into the operations of the OLE. Finally, this report will serve to inform and substantiate DCBA's 2023-24 staffing and budget request to support the recommended expansion of the OLE.

The following is a summary of the recommendations outlined in the preliminary report:

Update Policies, Procedures and Tools

1. Update the Wage Enforcement Program Policies, Procedures, and Training Manual with new operational procedures adopted since May of 2017, including any adopted from the consultant's final report
2. Develop and employ criteria and tools to create a prioritization system for cases to conduct strategic enforcement activities that will efficiently use limited OLE resources

Leveraging Partnerships and Community Engagement

3. Prioritize the development of informal and formal relationships with community-based organizations (CBO), worker unions, other governmental agencies, and businesses to conduct effective referrals, outreach, education, and co-enforcement activities

Intake and Triage

4. Implement specific changes to the OLE's intake and triage process:
 - a. Transfer initial intake processing from DCBA's Consumer Counseling Center to the OLE
 - b. Leverage strategic partnerships with CBOs to conduct effective and efficient intakes
 - c. Regularly rotate OLE staff to handle intake and counseling functions

Investigative Process and Enforcement

5. Implement specific changes to the OLE's investigations process:
 - a. Treat cases differently based on priority level
 - b. Limit site visits to certain types of investigations
 - c. Limit onsite worker interviews to certain types of investigations
 - d. Implement best practices for onsite interviews, including not permitting the employer to select interviewees; interviewing workers away from the influence of management; and interviewing enough workers to protect workers from being targeted for retaliation

- e. Implement best practices for worker interviews, including only requesting contact information that workers feel comfortable sharing; encouraging workers to share the details of investigations with each other instead of keeping them confidential; and conducting one-on-one interviews with workers instead of group interviews
- f. Implement best practices for recording worker interviews, including revising current procedures and practices to encompass the rule of evidence when preparing witness statements; and writing witness statements in first person narrative style to accurately record facts and information pertinent to the case
- g. Ensure that investigative reports are drafted to clearly track potential legal violations
- h. Use letters and subpoenas in certain types of investigations
- i. Incorporate community partners into the investigative process
- j. Serve correction orders via personal delivery by OLE staff only for certain types of cases
- k. Conduct second site visits only for high priority cases
- l. Conduct full workforce or multilocation audits only for high priority cases

Operational Structure and Budgetary Recommendations

- 6. Reorganize the structure of the OLE to include 27 permanent, full-time equivalent (FTE) positions, including a Deputy Director, two (2) Chiefs, two (2) Supervisors, and 22 subordinate investigators, researchers, auditors, and support staff to bring LA County in-line with other high functioning worker protection agencies.
- 7. Allocate \$1.75 million over two years for contracts with CBOs for outreach, education, and other services to low-wage workers
- 8. Allocate \$400,000 over two years for contracts with organizations that provide education and outreach to small businesses

Payment System

- 9. Implement a new payment system that will streamline the payment and tracking of fines owed to the County and to workers

NEXT STEPS

As part of the next and final report to your Board, DCBA will formally recommend the adoption of the aforementioned list of recommendations, in addition to any potentially new consultant recommendations, to improve the operations of the OLE and expand worker protections in the County. In the interim, DCBA will work on adopting any of the above recommendations that are actionable immediately and that do not require further action by your Board.

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The final consultant's report will be submitted within 90 days of filing this interim report and will outline potential laws and policies that could be implemented in the County to expand worker protections, as well as recommendations on specific best practices to conduct strategic enforcement of labor laws in the County.

Should you have any questions concerning this report, please contact me or Maggie Becerra, Deputy Director, at 213-712-5493 or MBecerra@dca.lacounty.gov.

RC:JA:CO
MR:RB:ev

Enclosure

C: Chief Executive Officer
Executive Office, Board of Supervisors
County Counsel

———— THE LAW OFFICES OF
JULIE R. ULMET

To: Manuel Ruiz, Acting Chief, Public Policy Unit
Rose Basmadzhyan, Chief, Worker Protection and Wage Enforcement Program
Alfred Beyruti, Administrative Deputy Director
Los Angeles County Department of Consumer and Business Affairs

From: Julie R. Ulmet, Consultant

Re: **Preliminary Consultant Report (Partial)**
Recommendations on Operations, Budget, and Staffing

Date: January 20, 2023

I. Executive Summary

This Memorandum contains my recommendations for certain changes in order for the Office of Labor Equity (“OLE”), housed in the L.A. County Department of Consumer and Business Affairs (“DCBA” or the “Department”) to move towards a strategic enforcement model. This is a preliminary report setting forth recommendations primarily concerning operations, budget, and staffing, though touching on many other areas; subsequent sections of my report will discuss the development of additional laws and policies as well as recommendations on specific strategies and best practices to conduct strategic enforcement of labor laws. I will submit to the Department additional sections of the Report in January 2023, and a final, complete Report on February 15, 2023.

This Report recommends a series of changes to OLE’s operations designed to preserve resources where possible, while also maximizing the impact of the OLE’s work. As to procedures for investigations, the general principle recommended in this Report is that not all investigations should be treated the same and that different tools should be used in different cases. Among the tools to be deployed strategically are site visits, workplace-wide audits, and onsite worker interviews.



While incorporating recommendations suggesting ways to preserve resources, I ultimately recommend that the Department add a number of permanent positions for a full complement of twenty-seven full-time, permanent staff. I recommend that the organizational structure of OLE be changed such that the OLE is led by a Deputy Director with responsibility solely for overseeing the OLE, with two chiefs reporting to the Deputy Director, a Strategic and Program Operations Chief and a Field Operations Chief. I also recommend that certain specialized positions be created reporting to each Chief, as illustrated in Appendix 2. This organizational structure and the increased staffing levels will ensure that the OLE is able to successfully carry out its mission of ensuring compliance with L.A. County's important worker protection laws.

This Report will also discuss other significant budget items for OLE; namely, contracts with community organizations and a payment system.

II. Brief Description of Current Legal Responsibilities, Operations and Procedures

A. Jurisdiction

The Office of Labor Equity enforces laws regulating more than 35,000 business sites employing more than 350,000 workers in unincorporated L.A. County, and based on agreements, currently enforces laws governing approximately 10,000 additional businesses employing around 80,000 additional employees in incorporated cities.² Of course, many workers in L.A. County do not know whether their employer is covered by the County's laws before seeking assistance from OLE, so OLE handles inquiries, conducts initial jurisdictional assessments, and makes appropriate referrals based on complaints received from workers in all parts of the County.

² See City of Santa Monica Business Climate, <https://www.santamonica.gov/business-climate>.



As set forth in detail in the Department’s August 30, 2021 Report (the “August 2021 Report”), the OLE currently has authority to enforce five L.A. County ordinances and two City of Santa Monica ordinances.

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

Additionally, the Board of Supervisors recently adopted a motion directing County Counsel, in collaboration with DCBA’s OLE and the Department of Economic Opportunity, to draft a fair workweek ordinance covering retail workers in the unincorporated areas of the County. In the future, the OLE may add responsibilities for enforcement of worker protection laws from additional incorporated cities, following the successful Santa Monica model. Further, a separate portion of my report will suggest additional ordinances I recommend the County enact: (1) a grant of authority to OLE to enforce state wage laws; (2) a hotel living wage, (3) paid sick and safe leave law; (4) the fair scheduling law contemplated by the December 20, 2022 Board Motion; and (5) a just-cause termination law.

The recommendations contained in this Report are based on the current set of laws enforced by L.A. County, but with an eye towards laying the groundwork for a potential subsequent expansion of the OLE’s enforcement work. Additional resources may be required if the County enacts the recommended new, most significantly in connection with a fair-scheduling law and just-cause termination law.

B. Staffing

Currently, the OLE is led by a Chief who reports to a Deputy Director who also oversees the Consumer and Worker Protection Division, which is composed of the OLE and the



Consumer Protection Unit, which is responsible for the Department’s investigations and enforcement involving price gouging, consumer frauds, real estate frauds, foster youth identity theft, and elder financial abuse. The OLE, in turn, is composed of the Wage Enforcement Program and a Worker Protection Unit, which oversees enforcement of anti-retaliation, human trafficking and all other non-wage laws. The Chief of the OLE is responsible for day-to-day supervision of all other OLE staff members, including a supervisor and an acting supervisor. In total, OLE has 26 positions, of which twelve are temporary, non-budgeted. *See Appendix A – Organizational Chart – Current OLE Structure.*

OLE has found it challenging to hire and retain properly-trained staff to fill the twelve temporary positions as candidates decline, and employees leave, for more stable, permanent positions with benefits elsewhere. The large number of temporary positions has also presented a challenge in carrying out OLE’s work given the significant amount of time needed to train investigators in the complex legal and investigative aspects of labor enforcement work, an investment which is lost when there is a high turnover rate.

As this Report will further explain, this organization and the current permanent staffing levels are far lower than at comparable agencies around the country and are insufficient to sustain a successful labor enforcement program.

C. Policies and Procedures

The policies and procedures that OLE staff currently use are generally set forth in the 2015 Wage Enforcement Program Policies, Procedures, and Training Manual (the “2015 Manual”), which was last revised in May 2017 (the “2017 Manual”). The 2017 Manual contains the policies and procedures used in OLE wage compliance investigations. The 2015 Manual also contains a section on wage counseling, but over time, initial intakes and counseling phone calls



have come to be handled primarily by the Counseling Center, rather than by OLE staff. I recommend that the Manual be updated with any new operational procedures adopted from the recommendations contained in the final consultant report.

III. Recommended Operational Changes

A. Prioritization of Cases and Strategic Enforcement Goals

1. General Principles of Strategic Enforcement

The purpose of strategic enforcement is to ensure that limited government resources are used strategically and effectively to encourage compliance with worker protection laws. As the Department previously explained, “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.” (August 2021 Report, p. 14).

During the Obama administration, the U.S. Department of Labor Wage and Hour Division (“WHD”) Administrator David Weil shepherded that agency’s transition to a strategic enforcement model. Professor Weil has defined strategic enforcement as seeking “to use the limited enforcement resources available to a regulatory agency to protect workers as proscribed by laws by changing employer behavior in a sustainable way.” David Weil, *Creating a Strategic Enforcement Approach to Address Wage Theft: One Academic's Journey in Organizational Change*, 60 J. of Indus. Rel. 437, 437-38 (2018). In practical terms, shifting to a strategic enforcement approach required WHD to “sometimes decide not to pursue complaints, thereby freeing investigator time to pursue proactive, directed investigations,” to refine “methods of triaging complaints” in order to prioritize certain complaints over others based on criteria such as whether incoming complaints “related to broader investigation priorities” and indicated the



presence of significant problems in a workplace. David Weil, “Preparing for the Future of Work Through Understanding the Present of Work: A Fissured Workplace Perspective,” Testimony before the U.S. House of Representatives, 13 (Oct. 23, 2019).

For state and local labor enforcement agencies that have implemented a strategic enforcement model, this has meant, in practice, “being proactive rather than waiting for complaints; focusing resources on key industries with high rates of violations; collaborating closely with community and worker organizations; use of criminal prosecutions; strategic use of publicity; using licensing to drive enforcement; and seeking up-chain joint employer liability.” Terri Gerstein, *State and Local Workers’ Rights Innovations: New Players, New Laws, New Methods of Enforcement*, 65 St. Louis U. L.J. 45, 83 (2020) (surveying approaches of state and local labor standards agencies around the country). The Seattle Office of Labor Standards Enforcement (“Seattle OLSE”) provides an illustration of this approach. That office clearly and publicly explains “Unfortunately, our office receives many more complaints than we can immediately resolve. To prioritize the most urgent and severe violations, and maximize the number of workers reached, we consider several factors when selecting which investigations to pursue.”³ “Seattle OLSE explains that in general terms, these factors “aim to reach and serve workers with the least resources, who are experiencing egregious labor standards violations, and who most need our agency’s support and investigative power.” The factors, communicated clearly to the public, include: complainant income, vulnerability of impacted workforce; severity of violations, number of impacted workers, potential to cause beneficial ripple effect in the industry, potential for community partner involvement and support, and alignment with strategic enforcement efforts.

³ See <https://www.seattle.gov/laborstandards/investigations/investigation-process>



A forthcoming section of my report will recommend specific criteria for OLE to consider in its prioritization of cases. For purposes of this Draft Report, it is important simply to understand that a strategic enforcement model will require treating different complaints and cases differently rather than using a one-size-fits-all approach and prioritizing cases on a first-in-first-out schedule. In a strategic enforcement model, some complaints may not be pursued at all, some will be handled with less resource-intensive investigative tools, and the highest-priority cases will be handled with the strongest and most impactful tools available to the OLE.

2. Outreach and Collaborations

Experts in strategic enforcement have emphasized the importance of critical partnerships: “Agencies can achieve better, more impactful outcomes by forging relationships with other government agencies, non-governmental agencies, worker centers, unions, the business community, and private plaintiffs’ attorneys.” Rutgers University School of Management and Labor Relations, Center for Innovation in Worker Organization, *Labor Standards Enforcement Toolbox* (hereinafter, “CIWO Toolbox”), *Tool 4: Introduction to Strategic Enforcement*, p. 5. As the Department explained, most recently in its June 10, 2022 Report, “workers often remain fearful and refuse to cooperate with government officials,” and thus collaborations and partnerships with community organizations, unions, and others will “broaden the reach of services and help drive enforcement efforts.” (p. 4). Such relationships may be formalized, and indeed, the Department has the authority to engage in formal partnerships governed by contract. Wage Enforcement Ordinance, 8.101.090(G).

Experts have explained that a benefit of such formal arrangements is that they “create clear sets of rules and procedures to govern partnerships,” and can “alleviate concern on the part of state officials that close collaboration with civil society organizations (without official



structures) could lead to charges of cronyism or favoritism.” Janice Fine, *New Approaches to Enforcing Labor Standards: How Co-Enforcement Partnerships Between Government and Civil Society Are Showing the Way Forward*, 2017 U. Chi. Legal F. 143, 145 (2017). There is also tremendous value in relationships that are not formalized or governed by contract:

“Organizations and government can be in frequent communication, meet together, share information, and strategize without creating a structured agreement” based on “a shared interest in their value and some common organizational culture regarding collaboration.” *Id.*

A forthcoming section of my report will discuss in greater depth recommendations for the OLE to develop relationships with community organizations and other critical partners. Here, I will preview a few components of such partnerships that are discussed in this Draft Report as they relate to Operations and Staffing.

Community organizations, including worker centers and unions, can play a critical role in various stages of the OLE’s enforcement activities in either a formalized or non-formalized way.⁴ At the stage of setting enforcement priorities, community partners can assist the OLE with identifying industries with high rates of non-compliance and currently-prevalent non-compliant practices, as well as providing information about the operations and key players in those industries. At the case inception stage, community partners can refer specific cases and can connect the OLE with workers who are either unfamiliar with the agency or who are distrustful of government agencies. During the investigative stage, a community partner can identify workers willing to cooperate, and facilitate interviews by providing or identifying language translations services and identifying meeting locations that are convenient and comfortable for workers. During the investigation, the community partner can also support the investigative work

⁴ See, generally, *CIWO Toolbox, Tool 4: Introduction to Strategic Enforcement*, p. 5.



by providing information they have obtained through their own outreach, investigations, and research on the workplace, employer, or industry. Following a resolution, community partners can help amplify the message about the result in order to educate workers of their rights and encourage compliance among employers. In addition, they can provide information to the OLE about whether the employer remains in compliance and can assist with locating workers for distributions. Finally, community partners serve as valuable collaborators for outreach and education generally.

Thus, I recommend generally that the OLE prioritize developing such relationships, both formally and informally. This Draft Report will provide an estimated budget for formal partnerships, and a forthcoming section of my report will discuss best practices and more specific details concerning the development of both formal and informal relationships.

B. Recommended Policies and Procedures to Utilize Existing Authority and Best Preserve Resources

The Department has explained that agencies should assess their existing enforcement powers and ensure that they “maximize the enforcement tools” already at their disposal. (August 2021 Report, p. 15-16). Likewise, maximizing the use of the most powerful tools goes hand-in-hand with selectively using resources where they will have the most impact and using fewer resources on lower-priority matters.

This Report now applies that framework to recommend certain changes to OLE’s procedures at various of the investigative process.

1. Intakes and Triage

a) *Recommendation 1: Move Initial Intake from Consumer Counseling Center to the OLE*

The 2017 Manual sets forth detailed instructions and guidance for Wage Enforcement Program (WEP) staff to conduct initial intake and counseling. However, over time much of the initial intake and counseling work has moved to the Department’s Consumer Counseling Center.⁵

Moving these functions to OLE would achieve many strategic enforcement goals. First, the counselors managing these initial contacts with the public should be specialists in labor laws so that they may use this intake process as an opportunity to “provide information and education to complainants about their worker rights.” (Aug. 30, 2021 Report (citing *CIWO Toolbox*)). Not only will this educational opportunity be a service to the public, but it will ultimately preserve OLE resources because an OLE counselor will have the requisite expertise to identify complaints that are *not* within OLE’s jurisdiction and direct callers to appropriate agencies, whether based on the geographic limitations of the OLE’s authority or where a complaint concerns an issue enforced by another agency such as anti-discrimination laws or union organizing rights.

Second, the Department has correctly summarized the advice of experts as recommending that agencies “implement rigorous triage systems as part of their intake processes that sort and prioritize complaints based on meeting certain criteria” which determine how the complaint will be categorized and handled. August 2021 Report (citing *CIWO Toolbox, Tool 1: Complaints, Intake and Triage*). An OLE counselor will be well-versed in OLE’s triage and prioritization system and thus will know how to ask the right questions to facilitate a determination of priority level. This accomplishes two goals: first, identifying high-priority

⁵ Conversation with Christian Olmos, November 21, 2022.



intakes helps ensure that they are handled promptly and appropriately in order to be most impactful in egregious or urgent cases (such as quickly responding to a retaliation complaint) and identify potential statute of limitations deadlines, and second, identifying lower-priority matters will ultimately preserve resources by directing those cases to a lower resource track. Further, “By investing resources at the intake stage, the agency will ultimately be more effective as it will have the information it needs to properly prioritize and triage complaints, which are key aspects of strategic enforcement.” (*CIWO Toolbox, Tool 2: Investigations*, p. 3).

Finally, moving this initial intake function from the Consumer Counseling Center to the OLE will help achieve compliance and preserve Department resources by ensuring that the work that goes into an initial intake and counseling session facilitates the case-processing work of the OLE. This will include gathering and recording initial data collection about the complaint, complainant, and employer, as well as gathering and recording information that will facilitate OLE’s assessment of priority level.

b) Recommendation 2: Leverage Partnerships with Community Organizations for Effective and Resource-Efficient Intake

As the Department has previously explained, experts recommend that agencies “leverage their partnerships with community-based organizations to help conduct intake activities, where appropriate and policies permit.” (Aug. 30, 2021 Report (citing *CIWO Toolbox, Tool 1*)). There are a range of ways to “leverage” these partnerships, achieving multiple goals, and I recommend that the OLE take advantage of them in multiple ways.

Most formally, OLE can consider establishing a formal partnership with one or more CBOs in which the Department contracts with the CBOs to conduct clinics in strategically-located communities to take complaints, as further discussed below.



But more immediately, OLE can leverage informal partnerships with multiple community partners to identify and refer cases to OLE. Through regular communication and information-sharing, OLE staff can encourage community organizations and unions to bring complaints to the OLE and provide instruction how to bring complaints (e.g., to a particular staff member within the OLE). In these communications, OLE staff should explain to community partners its enforcement priorities and processes, and when a community partner refers a case that meets these criteria, OLE should consider prioritizing its treatment of that case. Indeed, a referral from a community partner may itself be a criterion for prioritizing a given complaint.

c) Recommendation 3: Rotate Staff to Handle Intake and Counseling Functions

I recommend handling intake via a rotation of staff, as is done in many offices. (see August 30, 2021 Report, p. 16). Staff should be trained in labor laws⁶, OLE policies, and counseling skills. I have observed important benefits to the rotation method (as compared to employing dedicated staff who only conduct intake and counseling). First, investigators can remain closely connected to the public and regularly hear a variety of concerns during their intake shifts. Second, as this is a critical function of an enforcement agency, maintaining a rotation ensures that there is not a staffing crisis in contrast or a complaint backlog in the event of turnover by a dedicated intake staff member. Third, handling initial intakes and counseling from workers can be an emotionally-draining process. Workers calling enforcement agencies are often in a state of crisis by the time they make such a call, and whether the worker's emotional state manifests as sadness, anger, or frustration, the investigator handling such a call will often experience a challenging conversation that may trigger their own emotions. For this reason, some agencies find it beneficial for staff to handle these duties as a rotation rather than a full-time role.

⁶ Please note that this training includes laws *not* enforced by the OLE in order to make appropriate referrals.



2. Investigative Process

a) Recommendation 1: Treat Cases Differently Based on Priority Level

As the Department understands, “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.” (August 2021 Report, p. 16). As the Department recognized, a strategic enforcement model will use a different investigative process depending on whether a case falls into an agency’s high-priority category or low-to-middle-priority category based on criteria the agency establishes. (*Id.*). While a forthcoming section of my report will recommend the specific criteria OLE can use in making such priority assessments, this section sets forth recommendations for procedures assuming the existence of such prioritization and categorizations.

Applying this principle to the OLE’s current practices, I recommend that the OLE use certain tools only in high-priority cases and/or in situations where they are specifically warranted, including site inspections, onsite interviews, full workplace audits, personal service of Correction Orders, and reinspection or follow-up site visits. These tools are each discussed in more detail below.

b) Recommendation 2: Not all Investigations Should Include a Site Visit

The OLE’s current Policy and Procedures call for a site visit (or “inspection”) in every case. (2017 Manual, Section 7.2, 7.5). However, experts in labor standards strategic enforcement have observed, “Site visits are resource intensive, so while every investigation will likely not require a site visit, they should be used for high priority investigations, especially those involving bad faith employers, employers with vulnerable workers, or employers who refuse to cooperate in the investigation.” (*CIWO Toolbox, Tool 2: Investigations*, p. 7).



I recommend that OLE revise its practices so that a site visit is not used in every case, but continue to deploy this important tool (which OLE staff have mastered the use of) in high-priority cases in which the use of this tool is strategically appropriate. As experts have noted, a site visit, especially unannounced, can be tremendously useful in very particular situations in which there is a risk that an employer will not turn over records voluntarily or may destroy or fabricate records. (*CIWO Toolbox, Tool 2: Investigations*, p. 6-7). Indications that an employer might fabricate records include allegations of fraud, cash payments, or evidence of threats and intimidation. As an example, enforcement agencies have found it useful to conduct a site visit at the appointed time that an employer is expected to be distributing cash payments to workers in order to obtain the envelopes containing money and employer handwriting prior to their distribution.⁷

Additionally, an unannounced site visit can also be useful in situations where there is reason to believe that, once the employer has knowledge of the investigation, it will be able to intimidate vulnerable workers and coerce them into not cooperating with OLE investigators. In such cases, an early site visit can include onsite worker interviews before the employer has a chance to intimidate such workers. In cases where OLE investigators are able to speak with workers prior to surfacing to an employer—especially where a community partner assists with organizing cooperating workers and facilitating interviews—a site visit may not be necessary.

c) Recommendation 3: Not all Investigations should Include Onsite Worker Interviews

The OLE’s current Policy and Procedures call for every investigation to include onsite worker interviews (during the onsite inspection). But as the CIWO Toolbox explains, “onsite

⁷ Interview with Terri Gerstein, Director, State and Local Enforcement Project, Harvard Law School Labor and Worklife Program (Nov. 21, 2022).



interviews are not always ideal, as employees are more likely to be afraid of retaliation or assume the investigator is associated with the employer.” *CIWO Toolbox, Tool 2: Investigations*, p. 6. Thus, investigators should first attempt to schedule offsite interviews by either working with a community partner to try to schedule offsite interviews, or, if that is not feasible, by trying to call employees during off hours to request interviews.

A commendable practice that OLE investigators have previously used is that when they encounter workers during a site visit, they have provided them with a “business card and retaliation notice.”⁸ I would recommend expanding this practice and being prepared to distribute such materials to all workers present at the facility during a site visit.

d) Recommendation 4: Best Practices for Onsite Worker Interviews

However, there are some cases where onsite interviews are appropriate or may be the only way an investigator will be able to speak with employees. In some situations, there are advantages to onsite interviews. First, “when the site visit is unannounced, the employer is unlikely to have had the opportunity to threaten or coach workers prior to the interviews.” *CIWO Toolbox, Tool 2: Investigations*, p. 6-7. Second, “onsite interviews do give the investigator an opportunity to interview a large number of employees.” *Id.*

When OLE staff determine that it is appropriate to conduct onsite worker interviews, I recommend that OLE staff follow certain best practices. First, do not permit the employer to select the employee interviewees, be sure to interview employees in a place where management cannot hear or see the interview, and interview a sufficient number of employees such that the employer cannot identify which witnesses provided information to the OLE.

⁸ Case Notes, Tommy’s Original Hamburger (September 5, 2019).



e) Recommendation 5: Best Practices for All Worker Interviews

I recommend that OLE adopt certain practices to facilitate worker trust and participation in the investigation and to conduct the most robust investigation possible.

First, the Policies and Procedures call for investigators to request a witness's identification or driver's license. However, such information is not sufficiently necessary to an investigation to warrant the fear such a request may cause to immigrant workers with status or documentation issues. Instead, investigators should ask for any identifying and contact information workers are comfortable providing, while informing them of the reasons for the request: to facilitate future contact both for investigative purposes and in the event that the Department collects monies owed to workers and needs to reach them for distribution of these funds.

Second, the Policies and Procedures currently call for investigators to direct workers to maintain confidentiality. Instead, I recommend changing this directive because workers should be permitted and even encouraged to discuss the existence of the investigation with each other to facilitate identifying additional worker-witnesses willing to participate in the investigation and to provide support to each other.⁹ However, the investigator may instruct witnesses that they should not discuss with each other the specifics of any testimony they provided in their witness statement in order to maximize the credibility of each person's testimony during the investigation and in connection with any future litigation.

However, on the flip side of the confidentiality issue, the OLE investigator should provide assurances to the witnesses that the OLE will maintain confidentiality. In particular, I recommend adding a directive that OLE investigators assure the witness that the OLE will not

⁹ Permitting such conversation is also in keeping with the spirit of federal labor law's protection for workers providing each other with "mutual aid and protection." 29 U.S.C. § 157.



share their identity or the fact that they spoke with OLE to the employer, and that the written statement will be considered a confidential law enforcement record that will not be disclosed unless it becomes legally required to do so.

As a final best practice for witness interviews, I recommend directing investigators to conduct interviews of witnesses one-on-one, rather than in group settings, in order to maximize the credibility of each person's testimony.

f) Recommendation 6: Best Practices for Recording Witness Statements

I am recommending some revisions to the 2017 Manual in order to better reflect the Rules of Evidence in the preparation of investigative witness statements in anticipation of future litigation, while also ensuring that non-admissible facts are retained in other form. Investigators should record statements that are relevant and facts for which the witness has personal knowledge. In the event that the witness possesses pertinent information which they heard about second hand, this may be recorded in the statement if they learned the fact from an employer representative, but should be recorded in the investigator's notes (and not the witness statement) if they heard the information from another employee.

In preparing a statement, the OLE investigator should use simple narrative style, and write in first person in the voice of the witness; include facts showing why the witness is qualified to make the statement based on their position, experience in, and knowledge of the company; include only facts and information relevant to the issues in the investigation; present the facts in chronological order; and narrate the facts in the words of the witness to the extent possible, although the statement need not be verbatim and investigators may, for example, use phrasing and chronology that clarifies the witness's exact words.



g) Recommendation 7: Ensure that the Investigative Report is Drafted to Clearly Track Potential Legal Violations

I am recommending some revisions to the WEP Policies and Procedures to facilitate the OLE's assessment of whether the investigation uncovered violations of the law and facilitate next steps in the enforcement process. Investigators should: (1) structure the report such that, for each violation, they set forth the requirements of the law followed by facts that provide evidence of each element of the violation; (2) clearly identify all potential violations, with reference and citation to the applicable law, observed during the inspection or evaluated prior to the report write-up, and for each potential violation, set forth the requirements of the regulation followed by facts that provide evidence of each element of the violation; and (3) provide a complete and detailed description of all items gathered (*i.e.*, photographs, copies of records, business license, etc.), citing the documents and materials which provide evidence of the alleged violations.

h) Recommendation 8: Use Letters and Subpoenas in Some Investigations

In cases where the site visit is eliminated, the OLE should use letters, for now, and use subpoenas if and when the Department receives delegated authority to use subpoenas. There should not be any real debate that employers are required to provide to comply with such requests. The County's Minimum Wage Enforcement Ordinance requires employers to maintain payroll records and provide the Department with "access" to those records (8.101.070(C)) and the Department's authority includes the power to "review document and records" *in addition to* "site inspections." (8.101.110).¹⁰ Sending these requests in writing in appropriate cases will greatly preserve resources for those cases where they are most strategically deployed.

¹⁰ That said, it may prove useful to amend the Minimum Wage Enforcement Ordinance to explicitly grant subpoena authority to the Department and I will discuss this recommendation in a forthcoming portion of the Report.



i) Recommendation 9: Incorporate Community Partners into Investigative Process

As the CIWO Toolbox outlines, community partners can assist the OLE in investigations by using their resources, relationships, and networks to find workers; allay workers' fears about speaking with government investigators; provide information about the OLE's practices and policies regarding retaliation protections and not asking about or collecting immigration information; explain the potential benefits of cooperating in an investigation for both the individual worker and how their participation may help the entire workforce; work with the OLE and the employee to choose an interview location and time; and accompany the employee to the interview (and potentially in the interview for representation and translation). *CIWO Toolbox, Tool 2: Investigations*, p. 5.

j) Recommendation 10: OLE Staff Should Personally Serve the Correction Order Only in Certain Cases

The Policies and Procedures currently require OLE investigators to serve the correction order by personal service in all cases as "the first option." While personal service is indeed the most reliable method of service, having the investigator travel to the site location will not be an appropriate use of resources in many cases. Instead, OLE policy should be to serve the correction order by personal service in high-priority cases in which there is reason to believe that a bad-faith employer might deny or refuse to accept mail service. In low-and middle-priority cases, OLE staff should effectuate service of the correction order by mail service.

k) Recommendation 11: OLE Staff Need Not Conduct a Second Site Visit in Most Cases

The Policies and Procedures currently require an OLE investigator to conduct a second visit to a worksite subsequent to issuance of the Correction Order. However, consistent with the above discussion of site visits generally, a second site visit will not be an appropriate use of



resources in most cases. First, second visits should not be used in middle-and-low-priority cases. But even in high priority cases, there will be situations where OLE resources need not be expended on a second visit. In some high-priority cases, OLE investigators can speak with worker witnesses and community partners to learn whether the employer has come into compliance or continues to engage in non-compliant conduct. OLE staff should also use discretion to determine whether an employer's compliance may be verified through documentary evidence provided by the employer. Of course, this method should not be used where OLE has reason to believe that the employer might fabricate records.

l) Recommendation 12: OLE staff need not conduct a full workforce or multilocation audit in certain cases

The current practice of OLE is, upon receipt of a complaint, to audit the payroll records for all employees in a workplace and to audit all work locations of a employer within OLE's jurisdiction. While use of this tool is important for uncovering potential widespread non-compliance in many cases, this will not be an appropriate use of resources in every case. In low-priority cases in which a complainant describes a practice that appears situation-specific, isolated, or a minor (low dollar-value) violation, OLE can preserve resources by foregoing this expanded audit.

IV. Recommended Staffing

I recommend that certain organizational changes be made, and staffing levels increase, such that OLE is led by a senior leader with oversight responsibility solely for OLE, that additional managers be added to the OLE team, and that the OLE have staff that includes full-time permanent investigators and additional specialized positions, in order to ensure that OLE can successfully carry out its appointed mission of ensuring compliance with L.A. County's



worker protection laws. *See* Appendix A – Organizational Chart for Recommended OLE Staffing.

As David Weil explained to Congress, “Providing resources to enforcement agencies to have a sufficient number of investigators in the field and the tools they need to do their work is fundamental and essential to assure compliance with workplace and labor laws.” David Weil, “Preparing for the Future of Work Through Understanding the Present of Work: A Fissured Workplace Perspective,” Testimony before the U.S. House of Representatives, 13 (Oct. 23, 2019).

A look at comparable municipal labor enforcement agencies demonstrates that the most well-regarded agencies around the country operate with staffing levels of at least twenty-five FTEs, and in many cases with more than thirty. In contrast, some municipal labor enforcement agencies operate with lower staffing numbers, such as Chicago (8 FTEs), Philadelphia (9 FTEs), and Santa Clara County (5 FTEs). It appears that these agencies generally do not achieve the same results as the ones operating with larger staffs. For example, in 2021 (or fiscal year 2020-21), Chicago collected \$1 million in restitution and \$236,000 in fines and Santa Clara County collected less than \$10,000 in unpaid wage restitution, while among larger offices, San Francisco collected \$10 million in restitution and \$2 million in penalties and New York collected \$4 million in restitution (without even enforcing a minimum wage law). Observers have also remarked on the disappointing results of some of the smaller agencies. Philadelphia’s agency, created following the passage of 2016 minimum wage laws, got off to a “sputtering start” according to a media report, and suffered from a “lack of resources” even according to the city’s



own deputy mayor for labor.¹¹ Scholars have observed that Chicago has “vastly under-resourc[ed] OLS,” and thus “risks hobbling its new enforcement agency.”¹²

The following chart shows the staffing numbers and other information concerning a selection of highly-regarded municipal labor enforcement agencies around the country.¹³

Office	FTEs	Population Served ¹⁴	Date Created	Laws Enforced (not comprehensive)
Denver	25	711,000	2019	Minimum wage, prevailing wage, living wage
Los Angeles City	30	3.8 million	2015	Minimum wage, paid sick leave, fair chance hiring
New York City	33	8.5 million	2016	Paid sick and safe leave, fair workweek, just cause termination, freelancer protection law
San Francisco	30	815,000	2001	Minimum wage, paid sick leave, fair chance employment, scheduling laws
Seattle	35	734,000	2015	Minimum wage, paid sick and safe leave, fair chance employment, secure scheduling domestic worker protection, and independent contractor protections

In terms of specific positions, these agencies employ investigators as well as various levels of managers and certain specialized positions. For example, Seattle OLSE employs a director, deputy director, and communications manager, as well as seven staff responsible for outreach and four staff responsible for policy-focused work. For its enforcement work, Seattle

¹¹ Juliana Feliciano Reyes, *How Philly’s office to protect workers is changing after a sputtering start*, Phila. Inq. (Mar. 20, 2019), avail. at <https://www.inquirer.com/news/fair-workweek-enforcement-philadelphia-office-of-labor-standards-20190320.html#loaded>.

¹² Fine and Round, *Federal, State, and Local Models of Strategic Enforcement and Co-Enforcement Across the U.S.*, p. 35.

¹³ Except as otherwise noted, information in table below is derived from Terri Gerstein and LiJia Gong, *The Role of Local Government in Protecting Workers’ Rights*, 7-10 (June 2022).

¹⁴ Census data available at [United States Census Bureau Quick Facts](#) (numbers have been rounded to the nearest hundred thousand). These figures, based on residential population of the jurisdiction, likely undercount the numbers of employees who travel into the jurisdiction to perform work for employers over which the relevant agency has enforcement jurisdiction.



OLSE employs twelve investigators and four other staff members reporting to the Enforcement Manager, who in turn reports to the Director. Denver Labor also employs full-time community education staff in order to implement an annual outreach and education plan. New York City's Office of Labor Policy and Standards ("OLPS") employs thirteen investigators, ten lawyers, four researchers, and additional staff responsible for intake, outreach, and other duties.¹⁵

As to the leadership of these similar agencies, New York City's OLPS is led by a Deputy Commissioner who reports directly to the Commissioner of the Department of Consumer and Worker Protection ("DCWP").¹⁶ Reporting to the Deputy Commissioner are managers sharing supervisory responsibility for investigations, litigation, research, and policy. In Seattle, the Director of the OLSE reports directly to the Mayor and serves as a member of the Mayor's Cabinet.¹⁷ Likewise, San Francisco's Office of Labor Standards Enforcement is led by a Director appointed by the Mayor.¹⁸

In comparing the staffing levels of these offices, it should be emphasized that New York City's OLPS lacks any authority to enforce minimum wage and related laws and thus the staffing numbers are almost certainly lower than would be necessary if wage-and-hour laws were among its mandate. Through enforcement of its paid sick leave and other laws, in 2021, OLPS assessed approximately \$4 million in restitution owed to approximately 8,000 workers. As a point of

¹⁵ New York City Department of Consumer and Worker Protection, Fifth Annual Report on the State of Workers' Rights in NYC, p. 22 (2022), available at <https://www.nyc.gov/assets/dca/downloads/pdf/workers/StateofWorkersRights-Report-2022.pdf>

¹⁶ DCWP adopted its current name in 2019, changing the prior name Department of Consumer Affairs in order to convey the agency's focus on workers as well as consumers. Press Release, January 10, 2019, available at <https://www.nyc.gov/office-of-the-mayor/news/021-19/mayor-de-blasio-delivering-our-promise-make-new-york-city-fairest-big-city-america#/0>

¹⁷ See Posting, Director, Seattle OLSE (2020).

¹⁸ See <https://sf.gov/profile/patrick-mulligan>.



comparison, through enforcement of minimum wage and other laws, in 2021, the Seattle OLSE assessed approximately \$12 million in restitution owed to approximately 22,000 workers.¹⁹

A. [Ideal structure given current laws.](#)

OLE's current staffing levels and organization are currently inadequate to effectively enforce L.A. County's worker protection laws since many positions are not permanently budgeted and thus hard to fill with appropriately trained staff, there is an absence of staff specialized in important areas, and the office is not led by a high-level manager with labor expertise. My recommended structure and organization are as follows, and the listed positions are intended be viewed as inclusive of current staff. My recommendations call for a full complement of 27 full-time, permanent staff in OLE: a deputy director with two direct reports: a Program Operations Chief and a Field Operations Chief. The Program Operations Chief would have five direct reports: a Community Engagement Director, a Communications Director, two Researchers, and a Program Manager. The Field Operations Chief would supervise two first-line supervisory investigators, and directly or indirectly, three auditors, twelve investigators, and two clerks. Among the twelve investigators, four would specialize in human trafficking, the domestic work industry, and the massage industry, and eight would be generalists. This organizational structure, and these staffing levels, will bring L.A. County's labor enforcement office more in line with the leading municipal labor enforcement agencies around the county.

While it is certainly possible (and likely necessary) to phase in these recommended staffing levels over time, the County should be mindful of the types of work that need to be conducted in a successful labor standards enforcement agency and create a growth plan that spreads the work to appropriate staff people while preparing for hiring the full complement of

¹⁹ <https://www.seattle.gov/laborstandards/ols-data-/data-interactive-dashboards/financial-remedies-dashboard>



positions and staff. Further, it is essential that all OLE positions are permanently-funded, budgeted positions. The enforcement work performed by OLE investigators requires training and specialization developed over years on the job, including an understanding of local and state labor laws, analysis and evaluation of payroll records and other evidence, and strong skills in building rapport with witnesses from vulnerable communities to build a case.

It is clear that levels of full-time, permanent staff are too low and the organizational structure does not permit effective leadership; as just one data point, large investigations appear to take a matter of years to reach resolution. L.A. County should demonstrate its commitment to protecting workers' rights and ensuring compliance with labor standards by budgeting for permanent, rather than temporary staff, and appointing a senior leader to have responsibility for and a sole focus on leading the Office of Labor Equity.

1. Leadership – Deputy Director and Two Chiefs

a) Deputy Director

I recommend that the head of the OLE serve in the position of Deputy Director, reporting to the Chief Deputy and with responsibility solely for oversight of the OLE.

The Deputy Director's responsibilities will include (1) overseeing OLE's field operations, investigations, and case resolutions, including developing generally-applicable policies and procedures to govern investigations and supporting the analysis and strategy needed to resolve complex problems in specific cases; (2) leading OLE's program operations in order to improve protections for vulnerable workers, address evolving business practices that violate workers' rights; and create a culture of compliance in the County with current laws, (3) lead and supervise OLE's relationships in the Department and external relationships with community groups, unions, the business community, and local, state, and federal government partners; (4)



oversee outreach and education, and (5) supervise all internal management matters within OLE, including budget, personnel, strategic planning, and operational.

This position should be filled by an experienced leader with a demonstrated commitment to workers' rights and social justice. The ideal candidate will have a law degree and expertise in labor and employment law, which is important in order to oversee investigations, deal effectively with opposing counsel, and prepare investigations for possible litigation; however, a non-lawyer with extensive experience in labor enforcement work may also be a strong candidate. The Deputy Director should have strong operational and management skills, interpersonal and communications skills, and analytical skills. Also essential are experience working with vulnerable populations, working with community groups, and building strategic coalitions.

b) Two Chiefs

I am recommending that two chiefs report to the Deputy Director. One chief will be responsible for overseeing all field work and investigations (the "Field Operations Chief") and the second chief will be responsible for overseeing matters relating to the operations of the labor equity program more broadly (the "Strategic and Program Operations Chief").

The Field Operations Chief will supervise the day-to-day work of investigators, through two direct supervisors, making decisions about complex and difficult issues that arise, ensuring that policies and procedures are followed and investigations meet target deadlines, reviewing Correction Notices, Wage Enforcement Orders, and other key documents, and generally managing the OLE's investigative work.

The Strategic and Program Operations Chief will assist the Deputy Director with community engagement, policy, outreach, communications, and the overall operations of the labor equity program. This work includes managing the bureau's external relationships through outreach, contracts and relationships with community organizations, dealing with partner



agencies, overseeing communications and education, and preparing for and attending board meetings. The Strategic and Program Operations Chief will also assist the Deputy Director with oversight of the labor equity program by developing priorities and strategic enforcement practices, managing implementation of new ordinances, and drafting internal rules and policies.

As explained below, the Field Operations and Strategic and Program Operations Chiefs will share supervision of the remaining staff.

2. Positions Reporting to Strategic and Program Operations Chief

a) Community Engagement Director

This position would be responsible for multiple aspects of the OLE's relationships with community partners, including conducting strategic outreach and building relationships with community partners as well administering grants and contracts with community partners. This position would collaborate with the communications, policy, and enforcement teams in order to best serve as a liaison between OLE and community partners.

This position would share with the Communications Director responsibility for outreach, with primary responsibility for coordinating outreach activities with community organizations.

b) Communications Director

This position would be responsible for multiple aspects of the OLE's communications strategies, including drafting and issuing press releases and engaging with members of the media, as well as producing know-your-rights and other educational materials for distribution to the public, community groups, and industry groups. Experience with Spanish or other "ethnic" media and communications would be an asset and may be a requirement.

This position would share with the Community Engagement Director responsibility for outreach, with primary responsibility for preparing materials for outreach and coordinating outreach activities with the business and employer community.



c) Two Researchers

I am recommending that the OLE add two researcher positions to support both the Field and Program Operations teams with research into specific businesses and into industries more generally. In any given investigation, researchers can use specific tools and skills to map out corporate ownership and relationships, and more generally, researchers can support strategic enforcement by conducting research into the players and practices in any given industry. Such research can help identify which industries the OLE should prioritize, and within an industry, which enforcement targets are likely to be the most impactful in bringing about industry-wide compliance. Other enforcement agencies have found candidates with useful skills sets by hiring data analysts from unions that have in-house research departments, where researchers have developed the skills to research industry structures and their impact on workers.

While the work of the researchers may often directly support an investigation, the Strategic and Program Operations Chief should have day-to-day supervisory responsibility for the Researchers and ensure that their time is utilized strategically to best support the initiatives and casework of the OLE.

d) Program Manager

In addition to the specialized positions set forth above, I am recommending that the OLE add a program manager position to broadly support the work of the Strategic and Program Operations Team. The program manager can assist the Strategic and Program Operations Chief with responding to board motions, drafting report backs, and legislative proposals and tracking, and can provide assistance to the Communications Director and Community Engagement Director with drafting of outreach and educational materials and conducting outreach. The program manager can also assist with internal operations such as overseeing implementation of new programs, drafting rules, and drafting policies and procedures. In addition, the program



manager can assist with responding to public records requests, tracking case outcomes, and generally assist the Deputy Director and Strategic and Program Operations Chief and all other matters related to program operations.

3. Positions Reporting to Field Operations Chief

a) Two Supervisors

Two front-line supervisors should continue to oversee the day-to-day work of the investigative staff, including by assigning cases, ensuring that investigators follow applicable policies and procedures, and answering questions and resolving issues that arise during investigations.

b) Three Auditors

I recommend that OLE employ three staff members with expertise in accounting, auditing, and/or data analysis. These staff members will be responsible for analyzing the data collected and calculating backpay and fines owed. While investigators will still conduct some of this work, the Audit Team will be responsible for conducting such analyses in high-priority, large, and complex cases, and will provide guidance to investigators conducting such audits in smaller cases.

c) Twelve Investigators

I recommend that the OLE employ twelve investigators, including four specialized in human trafficking, the domestic work industry, and the massage industry, and eight general investigators.

(1) General Investigators

Under my recommended framework, with some of the responsibility for research and audits shifted to new, specialized positions, investigators can focus much of their time on fieldwork. Under this new model, investigators will be responsible for site inspections, speaking



with employer representatives at site inspections and during ongoing negotiations about the provision of documents to OLE, interviewing and communicating with workers and their advocates, and generally overseeing the progress of an investigation. In addition, investigators will be responsible for preparing Correction Notices, Wage Enforcement Orders, and internal case reports, and in cases not involving site visits, drafting letters and/or subpoenas to targets. Investigators will also be responsible for audits and backpay calculations in smaller cases. Investigators should also assist with OLE's compliance, collections, and distributions work.

Within the team of general labor investigators, I recommend that OLE consider assigning some investigators to specialize in certain industries in order to build their expertise and institutional knowledge in areas that are priorities for the OLE, such as the restaurant industry.

(2) Four Specialist Investigators: Domestic Workers, Massage Parlors, and Human Trafficking

The OLE's work enforcing wage laws in the domestic work and massage parlor industries, and enforcing the human trafficking ordinance generally, require investigators with specialized skills and experience, including (1) experience working with vulnerable immigrant populations and especially women, including proficiency in a non-English language, (2) experience collaborating with community-based organizations, (3) experience with human trafficking issues, enforcement, victims, and/or perpetrators; and (4) experience with domestic work and/or massage industries and workers. The appropriate candidates for these positions should be able to satisfy some combination of this set of prerequisites.

I am recommending that four investigator positions specialize in these areas given that these are priority areas for the OLE and that they are all resource intensive. I have grouped them together as there are overlapping skills so the appropriate staff/candidates can share responsibilities for these areas of OLE's work. Investigations of human trafficking, or in



industries where human trafficking may be present, requires special training in the factual and legal issues, expertise in working with witnesses who may have experienced trauma, and the ability to identify other crimes carried out in connection with the labor violations within OLE's jurisdiction in order to make appropriate referrals to prosecutors. These investigators must also be specially trained to identify whether such witnesses, depending on their immigration status and the nature of any related crime of which they were a victim, may be eligible for U and T visas which are available to the victims of certain crimes.²⁰

Further, OLE staff have already seen that enforcement in the massage industry is time-consuming and resource-intensive given the complex business structures in that industry, transience of workers, and common use of fraudulent business tactics. (These investigators will be supported by researchers, discussed above.) Enforcement in the personal care/domestic work industry is highly time-intensive because each workplace typically employs only one worker and pays that worker off the books, so each investigation is individualized and cannot be scaled or automated the way that investigations in other industries can be. Investigators' enforcement work consequently requires extensive one-on-one interviews and rapport-building with the domestic worker-witness in the case, as well as time-consuming audits and backpay calculations when payments have been in cash and relevant figures must be entered manually.

Accordingly, this team will benefit from having four investigators. While the Field Operations Chief, through subordinate first-line supervisors, will directly oversee the team members' day-to-day work on specific investigations, the Strategic and Program Operations Chief will play a significant role in ensuring that this team is properly trained in human

²⁰ See Department of Homeland Security, U and T Visa Law Enforcement Resources, available at <https://www.dhs.gov/publication/u-visa-law-enforcement-certification-resource-guide>.



trafficking and industry-specific issues and that the team’s general strategies and practices utilize the best practices for enforcement in these areas.

d) Two Clerks

I recommend that the OLE employ at least two support staff FTEs to provide support to investigators and the rest of the team for matters such as tracking payments of wages and fines, assisting with the distributions of wages and fines to employees, providing administrative support in issuing and serving citations and other documents, and assisting with calendaring and tracking deadlines and important dates. Employing clerks or support staff in these roles will ensure these essential administrative tasks are correctly handled while also freeing up investigators’ time to focus on the more substantive aspects of investigations.

V. Additional Budget Items

A. Contracts with Community-Organization Partners

I recommend that the Department budget \$1.75 million over two years for contracts with community groups to provide outreach, education, and other services to low-wage workers, and \$400,000 over two years for contracts with organizations to provide outreach and education to small businesses.

Community organizations do not substitute for Department staff; this is not a recommendation to privatize government functions. Rather, formalizing relationships with community groups facilitates “co-enforcement”²¹ by capitalizing on the unique strengths of such

²¹ See, e.g., Janice Fine, *New Approaches to Enforcing Labor Standards: How Co-Enforcement Partnerships Between Government and Civil Society Are Showing the Way Forward*, 2017 U. Chi. Legal F. 143, 145-46 (in a co-enforcement model, “unions, worker centers and other community-based non-profit organizations and high-road firms . . . help educate workers on their rights and patrol their labor markets to identify businesses engaged in unethical and illegal practices;” “co-enforcement is intended to complement rather than replace government enforcement capacity”).



groups, as explained by former California Labor Commissioner Julie Su: “[community-based organizations already have the trust of the workers, speak the language of workers, understand how violations occur and are often masked, and are willing to collaborate with [government enforcement agencies] by giving us leads and helping to bridge the trust gap between workers and law enforcement.”²²

A subsequent portion of this Report will recommend best practices for such relationships, but here I will set forth the basic framework and estimated cost.

One relevant reference point for the cost is the Department’s prior contract with community groups.²³ In 2016, the Board approved a \$1 million, four-year contract between the Department and the Koreatown Immigrant Workers Alliance (“KIWA”) to assist the Department in educating workers and employers about the then-new minimum wage ordinance (the “2016 KIWA contract”). The contract provided that KIWA, with its own staff and through eleven community-group subcontractors, would provide a list of services to the Department:

- (1) outreach to workers;
- (2) outreach to employers;
- (3) worker training and education;
- (4) counseling and consultation to workers;
- (5) claims evaluation, gathering of worker documents, and claims resolution;
- (6) referral services;
- (7) translation and distribution of the Department’s outreach materials;
- (8) publication of success stories;
- (9) collections assistance;
- and (10) assistance to the Department with translations, counseling, interviews, and other work.

The contract required the community organizations to provide services to workers from multiple

²² Janice Fine and Jenn Round, *Federal, State, and Local Models of Strategic Enforcement and Co-Enforcement across the U.S.*, p. 22 (2021), avail. at <https://workercenterlibrary.org/product/federal-state-and-local-models-of-strategic-enforcement-and-co-enforcement-across-the-u-s/?amp=1>.

²³ The Department’s agreement with the Legal Aid Foundation of Los Angeles for eviction defense services in connection with the Stay Housed LA Program provides a useful model for such contracts. It will be analyzed in depth in a later portion of this Report, while this portion focuses on labor-related contracts as a reference simply for estimated costs.



language and cultural communities, including in six specified languages. Under the contract, the contractors and subcontractors attended quarterly meetings with Department staff.

Another useful reference are the similar contracts entered into by other municipal labor enforcement agencies. The San Francisco OLSE entered into a \$1,980,000 three-year contract with seven organizations providing services to workers in certain ethnic and language communities, with a focus on employees in low-wage industries. Fine and Round, *Federal, State, and Local Models of Strategic Enforcement and Co-Enforcement across the U.S.*, p. 27. The services included outreach, one-on-one counseling, provision of information and referrals, assisting with complaint resolution, tracking, and attending quarterly meetings. *Id.* Likewise, the Seattle OLS currently budgets \$3 million for two-year contracts with community organizations that provide assistance with worker education and outreach,²⁴ and an additional \$500,000 to contract with organizations that assist with “outreach to small businesses owned by low-income and historically disenfranchised communities . . . to increase awareness and compliance with Seattle’s labor standards.”²⁵ These current figures represent a significant increase from the budget allocations five years earlier when Seattle’s community outreach program was getting off the ground.: in 2016, OLSE allocated \$1 million to contracts with community groups, and in 2017, OLSE had a \$5.3 million overall budget and allocated \$1.5 million to contracts with community groups. Fine and Round, *Federal, State, and Local Models of Strategic Enforcement and Co-Enforcement across the U.S.*, p. 32.

²⁴ See <https://www.seattle.gov/laborstandards/funding/community-outreach-and-education-fund/coef-current-recipients>.

²⁵ See <https://www.seattle.gov/laborstandards/funding/business-outreach-and-education-fund/boef-current-recipients>.



Taken together, I recommend that the OLE largely model such partnerships on the 2016 KIWA Contract, but budget more than it did at that time for formal partnerships with community organizations in order to bring it closer in line with the municipal labor organizations that have more experience with such partnerships. The 2016 KIWA Contract's format of a two-year contract with the right to renew is a sound format in order to give the relationships time to grow and develop. However, the 2016 KIWA Contract's \$250,000 annual allocation is significantly lower than San Francisco's more than \$600,000 annual expenditure and Seattle's current \$1.5 million expenditure. Thus, I recommend that the Department allocate \$750,000 for the first year and \$1 million for the second year of the contract, and re-evaluate whether that amount should be increased in any contract extensions.

For the work covered by the contract, I recommend the following, which is based on the 2016 KIWA Contract with certain changes and additions:

- (1) conduct outreach to workers via educational workshops, know-your-rights trainings, and distribution of educational materials
- (2) conduct regular intake clinics in order to provide counseling and consultation to workers and assist workers with filing claims with OLE;
- (3) develop potential cases prior to filing with OLE, including making an initial assessment of the factual and legal strength of workers' claims, gather worker documents, identify and speak with additional workers from the same workplace, and provide initial assessments of prioritization of case within OLE's strategic enforcement priorities;
- (4) assist OLE with initial investigation by assisting with coordination of worker interviews, identifying and providing interview locations, providing culturally-competent language interpretation services, scheduling workers for interviews, and discussing the interview and investigation process with workers to facilitate their trust and comfort with the OLE investigators;
- (5) providing culturally-competent translation of the Department's outreach materials;
- (6) assisting with publication of success stories;



- (7) providing legal services to witnesses, particularly where worker-witnesses require independent immigration counsel;
- (8) track data on workers contacted to highlight the effectiveness of the outreach and what demographic groups and geographies are reached; and
- (9) attend regular meetings with OLE.

As in the 2016 KIWA Contract, the contractor (including through any subcontractors) should be required to provide services in specified language, ethnic, and demographic communities. Multiple community organizations will likely need to participate as contractors or subcontractors in order to meet the needs of all demographic populations most likely to occupy low-wage jobs and experience workplace violations in L.A. County.

In addition, I recommend that the Department, following Seattle's model, budget additional money for community organizations to assist with "outreach to small businesses owned by low-income and historically disenfranchised communities." While Seattle currently budgets \$500,000 for this program, as a similar program gets off the ground in L.A. County, I recommend that the Department budget \$150,000 for the first year and \$250,000 for the second year of a two-year contract. The work covered by such contracts would largely consist of conducting outreach to employers via educational workshops, trainings, and distribution of educational materials. The contracting parties would be able to provide such services in specified language, ethnic, and demographic communities.

As noted, this discussion is intended to assist the Department in developing an appropriate budget; as noted, additional portions of this Report will include more discussion of best practices in strategically managing such relationships.

B. Payment System

OLE staff have identified a need for a payment system that will facilitate and streamline the payment of fines owed to the County and to workers and the tracking of payment of such



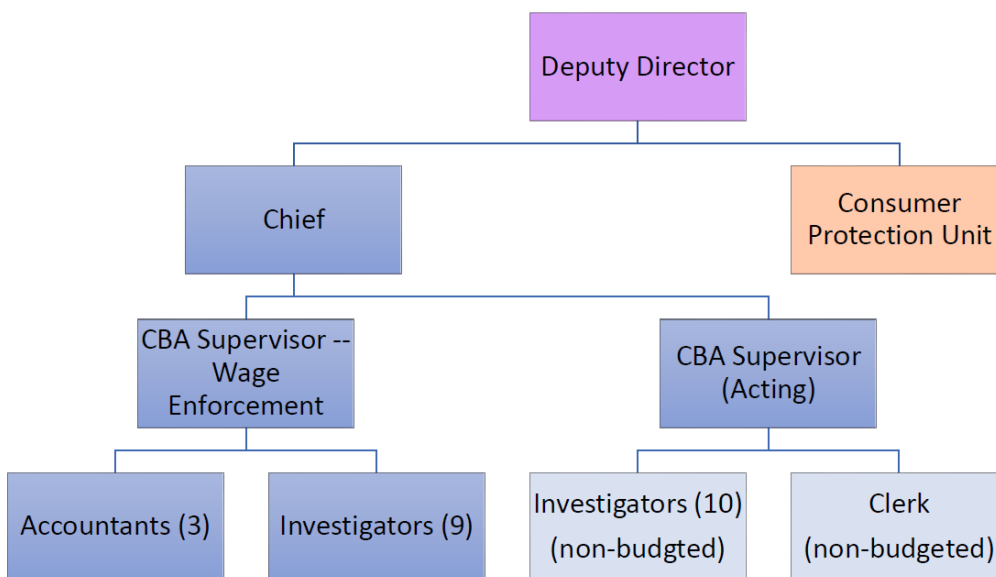
finances. Currently, the OLE does not have any means to allow for payment by credit cards and, in many cases, must rely on case resolutions involving long-term monthly payment plans, even where an employer is willing to make an upfront payment via credit card. Such payment plans result in delayed payment of fines, and over time, an employer may cease complying with its obligations under a payment plan, causing a collections challenge for the County. It may make the most sense for OLE to accept payment via a county-wide payment processing program²⁶, rather than administer its own program with its attendant risks.²⁷ The Department budget should account for the costs of OLE's participation in an available payment processing program. It would also be helpful to OLE staff for the payment system to automatically track debts owed and payments made to the County where there are payment plans requiring multiple payments over time.

²⁶ It appears that multiple L.A. County agencies currently accept payment for services and fees online. *See* <https://lacounty.gov/services/pay/>. Based on the direction of the various links on this page, it appears that the most analogous of such payment programs (business license, property taxes, collections) are currently administered by the Treasurer and Tax Collector.

²⁷ *See, e.g.*, New York State Office of the Comptroller, Local Government Management Guide: Cash Management Technology (Dec. 2021) (discussing benefits of using cash management technology alongside the need for internal controls, financial costs associated with credit card transactions, and risks of computer security problems and fraud).

APPENDIX A

Appendix A – Organizational Chart – Current OLE Structure



APPENDIX B

Appendix B – Organizational Chart for Recommended OLE Staffing

