

September 26, 2023

Honorable Pedro Nava, Chairman  
Little Hoover Commission

**Written statement for the Labor Trafficking Report Implementation Status Hearing on Thursday, September 28, 2023 in Long Beach, California**

Joint Statement of the co-chairs of the Labor Trafficking Subcommittee of the Los Angeles Regional Human Trafficking Task Force (LTSC): Ryann Jorban, Deputy in Charge of the Labor Justice Unit and the Economic Justice Unit, Consumer Protection Division, Los Angeles County District Attorney's Office; and Joseph Mellis, Deputy County Counsel, Affirmative Litigation and Consumer Protection Division, Office of the Los Angeles County Counsel.

The speakers would like to thank Anh Truong for his leadership in this field and his ongoing willingness to provide support and guidance for those working in the labor trafficking field.

**Overview of the efforts of the LTSC to address Labor Trafficking**

Since 2020, when the Commission issued its three reports, the LTSC, until recently chaired by the Los Angeles City Attorney's Office, has pursued its mission of: (1) coalition building both between government agencies and between government and community-based organizations; (2) offering trainings to expand awareness of and alertness to labor trafficking; and (3) supporting the systematic detection of labor trafficking.

One of the hallmarks of the Committee is its dedication to providing a regular space for existing stakeholders as well as new potential partners from diverse backgrounds to contribute to the ongoing discussion of how to further the mission or reducing and eliminating labor trafficking. While the COVID pandemic had significant negative impacts on other aspects of work, one benefit of having to move towards a virtual meeting platform was that many more LTSC members could participate from across the country, as well as internationally.

In its coalition-building work, LTSC has connected with and provided requested assistance and training to other task forces, including the Asian Pacific Islander Human Trafficking Task Force, the Santa Barbara Human Trafficking Task Force, the Ventura County Human Trafficking Task Force, the Alameda County Task Force, the Tulare County Human Trafficking Task Force, the Contra Costa County Human Trafficking Task Force, and the Orange County Human Trafficking Task Force. This extends to task forces across the country including the Oregon Attorney General's Human Trafficking Task Force, the New England Coalition Against Trafficking, and the Cook County Human Trafficking Task Force.

With regard to training, LTSC both conducted trainings and facilitated the provision of trainings not only for traditional law enforcement such as the Los Angeles Police Department, but also for code inspectors, wage and hour inspectors, and other personnel from US Department of Labor, the County Department of Consumer and Business Affairs, the Los Angeles City Office of Wage

Standards, the California State Joint Enforcement Strike Force, the Immigrant Affairs Intergovernmental Work Group, Truckers Against Trafficking, and most recently, the U.S. Coast Guard of San Diego. Additionally, trainings by LTSC expanded to an online format through partnership with the Office of Community Oriented Policing.

LTSC extended its trainings to a wider general audience by partnering with iEmpathize on a series of labor trafficking training videos that are accessible to anyone with an internet connection: <https://iempathize.org/courses/labor-trafficking/>.

LTSC supported the City of Los Angeles and the County of Los Angeles with drafting and passing of their respective human trafficking posting ordinances under the authority of California Civil Code section 52.6(i).

As for furthering the systematic detection of labor trafficking, LTSC collaborated with academics and other stakeholders leading to a number of studies concerning various issues including supply chain monitoring, corporate responsibility, and the use of technology in the form of mobile apps and other online platforms for reporting:

- Labor Trafficking Cases 2008-2018: Data Analysis Report, <https://www.castla.org/wp-content/uploads/2019/11/CAST-NERA-Labor-Trafficking-Cases-Data-Analysis-Nov2019Report-Final.pdf>
- NERA – California Agriculture Labor Use by County (October 2019), modeled after the Buffett-McCain Institute Initiative to Combat Modern Slavery Mapping Agricultural Labor Trafficking in Texas.
- Shedding Light on Labor Trafficking: How Los Angeles can bring attention to a network that enslaves its invisible economy, UCLA Luskin School of Public Affairs, Chu-En Chi, Jonathan Kosaka, Meiyi Li, Michale Jung, Noreen Ahmed in partnership with the Los Angeles City Attorney’s Office (May 2020).
- Debt Bondage in Human Trafficking: US Agriculture and Thailand Fisheries Primed for Labour Exploitation, Panida Rzonca, Thai Community Development Center, Archives of Criminology, Vol. XLIII, Poland (2021). <https://czasopisma.inp.pan.pl/index.php/ak/issue/view/165/9>
- Understanding the role of transportation in combating human trafficking in California, Dr. Kezban Yagci Sokat: <https://www.sciencedirect.com/science/article/pii/S2590198222001336>
- Addressing forced labor in supply chains in California, Dr. Kezban Yagci Sokat: <https://www.sciencedirect.com/science/article/pii/S2590198222001956>

As the LTSC expanded its focus to the full spectrum of labor exploitation, with wage theft at one end and labor trafficking at the other, we identified a need to develop specialized targeted outreach to specific industries. In response, the Los Angeles District Attorney’s Office and Los Angeles County Counsel members have headed up separate working groups to cover wage theft, illicit cannabis operations, and the illicit massage industry.

### **Potential benefits or impacts of a statewide coordinating body:**

While the Subcommittee has made great strides in coordinating with those who have expressed interest in exploring how to address labor trafficking, this effort has been wholly organic and generally ad hoc, though sustained, focused efforts have also developed and persisted, such as the working groups mentioned above. We believe that a comprehensive, systemic approach, properly executed, could offer vast improvements to efforts within the County and throughout the state in terms of maximizing available resources, timely sharing of information, elimination of duplicative work, and much more. The establishment of a statewide coordinating body would ensure the elevation of labor trafficking to an explicit state-wide priority. Continuing to leave the problem to localities will keep the work subject to prevailing, frequently shifting, priorities and to the vicissitudes of the varying capacities of local agencies and municipalities.

**Relevance, implementation, and barriers to progress of LHC recommendations:**

The commission's recommendations remain entirely relevant and of the utmost import. In particular, the establishment of a statewide coordinating body would further facilitate the creation and dissemination of training, the tracking of enforcement activities, and the identification of best practices.

Additionally, while LTSC has participated in a number of public awareness campaigns such as the Truckers Against Trafficking Los Angeles Coalition Build, the UN World Day Against Trafficking in Persons, January Human Trafficking Awareness Month, US Department of Labor's Women's Bureau, Ensure Justice with the Global Center for Women and Justice, Intersect LA with USC School of Social Work and iEmpathize, and others in collaboration with its partners, it would be even more impactful to coordinate and launch statewide campaigns to ensure more comprehensive and sustained coverage.

***Ms. Jorban's separate statement on relevance, implementation, and barriers to progress from her perspective as a criminal prosecutor:***

Based on the last several years of working in this space with multi-focused working groups like LTSC and the LA County Wage Theft working group, I would like to highlight three recommendations. In doing so I am not discounting any of the recommendations set forth in the initial report as they all are integral to an effective state-wide campaign to combat and reduce labor exploitation and trafficking in our state.

Instead, I hope by pulling out these three recommendations I can show how they can, practically, provide an ongoing structural process that will allow us to address the spectrum of labor exploitation from wage theft to labor trafficking.

**1. Training officials from a broad cross-section of agencies to serve as first responders:**

Non-law enforcement personnel can be a force multiplier for wage theft reduction in a resource efficient fashion. Training and developing systems to combat labor exploitation for non-traditional agencies allows these employees to work within the range of the primary functions

of each agency while using their internal systems to provide support and enforce wage and worker laws at minimal cost.

Some examples where this has been successfully integrated into the work of a non-traditional agency include Colorado Springs, CO where business license requirements were changed for massage businesses resulting in a near elimination of illicit massage locations within the licensing area.

In Santa Clara, CA, their Office of Labor Standards Enforcement partnered with their public health office. A new local code now allows a food vendor's health permit to be suspended or revoked for a failure to pay wage judgments issued by the Labor Commissioner Office. In less than a year of enforcement this resulted in \$50,000 in back wages paid with 100% compliance by the effected businesses.

Unfortunately, when these processes are not in place, the system can result in not just wage theft, but far worse labor exploitation and human suffering. In a recent New York Times Magazine article, [The Kids on the Night Shift](#) by Hannah Dreier (September 18, 2023), the writer discusses the maiming of an unaccompanied immigrant minor at a Purdue chicken processing plant in Virginia. This business, like many others, hired recently arrived children for the dangerous and illegal work of cleaning their processing plant.

Interviewees for the article included a U.S.D.A. investigator whose job was to ensure the plant was cleaned properly to ensure food safety:

“She notices children like Emilio [the maimed child] but has decided not to report them because her job is to ensure that the country's food-safety laws are followed, not its labor laws.” [She went on to say,] “It's not my place to say anything, and anyway, they have no one here,” she says. “They have to work to at least pay rent.” She adds, “I see these kids, and they're only 13, 14 years old. I do feel bad for them.”

By cross-training officials throughout the regulatory agencies we can uncover labor exploitation consistently and efficiently. The agencies would use their expertise in their respective areas of responsibility to uncover the issue, and their powers to fight the problem.

Labor exploitation is an unfair business practice; therefore, a fair marketplace can only be maintained for businesses when trafficking businesses are not allowed to enter the marketplace. Business licensing and regulatory agencies, with proper training, can use licensing and on-going inspections to ensure that non-compliant businesses are identified and lose their legal right to operate if they are utilizing labor exploitation to increase profits.

Labor exploitation is also a public health and social service issue as it affects the safety of workers and their families as well as increasing the need to provide social services for working families to ensure housing and food security. Public health inspections should include trained observations and reviews of the labor force in relevant industries including restaurants, food processing, health care settings, and spa settings; all industries with a high level of human trafficking and all industries that cannot function without a public health license.

Finally, labor exploitation is a taxation issue. Millions of dollars are lost from income tax revenue by employers who underpay or do not withdraw and submit appropriate taxes and withholdings from their employee's paychecks. The development of programs designed to cross-reference taxes, withholding amounts, worker's compensation levels, etc. would allow the various agencies to automatically flag suspicious employers and target them for investigations.

Through consistent training and coordinated systemic inter-agency communication, each relevant layer of government protection and oversight could be engaged to identify the red flags of labor exploitation in their areas of expertise. With such a whole of government approach, large amounts of these losses could be reduced or eliminated with resources and systems that already exist to combat these types of malfeasance.

In August of this year Los Angeles County started this process. In a collaborative event the Department of Cannabis Control, Law Enforcement Division, LA County Office of Immigrant Affairs, LA County District Attorney's Office Economic Justice Unit, AEquitas, and Thai CDC provided a training on labor exploitation and trafficking recognition and investigation for 40 sworn and unsworn personnel from a variety of federal, state, and local agencies including EEOC, Cannabis Control, Fish and Wildlife, LASD, Code Enforcement, and CDTFA.

More than half of the attendees were assigned to roles where trafficking was not part of their job responsibilities. Their roles within their organizations, however, bring them into regular contact with situations that could include trafficking within the cannabis industry. For an investment of two days, five thousand dollars, and the labor of six trainers, the number of trained labor exploitation investigators was increased by forty people.

## **2. Empowering more state agencies to investigate labor trafficking cases:**

The labor exploitation spectrum begins with wage theft and ends with labor trafficking. As the Commission's own reports repeatedly reflected, a trafficking case can be extremely difficult and resource intensive to prove, especially when looking at the case holistically to include all the co-occurring criminality that surrounds a human trafficking case. Empowering more agencies to investigate trafficking will assist in reducing this difficulty as will recognizing that "lesser" criminal labor exploitation, such as wage theft, extortion, intimidation, insurance fraud, and tax evasion, where factually appropriate, must be enforced and prosecuted as a crime, not just civilly.

The statewide agency closest to having the expertise to do this, the Labor Commissioner's Office has, at this time, only two sworn criminal investigators for the entire state of California. Per California's Employment Development Division, there are over 18 million people over the age of 16 employed in the state and there were over 19,000 complaints made to the Labor Commissioner's Office (LCO) just last year. If even 1 percent of those complaints were criminally liable that would be almost 100 investigations per sworn officer per year just from the complaint-based cases.

These numbers, however, do not truly reflect the daily mistreatment of workers that occurs in our state and is unlikely to reflect those workers who are most vulnerable and most in danger. The majority of those who labor in the underground economy and are most likely to be

trafficked are undocumented, people of color, unhoused, minors without support, and other communities who have few resources and even fewer choices. These workers are not likely to complain or reach out to an agency for assistance even though they are likely to be those who are being the most abused.

Additionally, although incredibly dedicated, competent, and hardworking, the investigative staff of the LCO does not have the training, resources, or access to the investigative tools needed to uncover and criminally prove the full spectrum of labor exploitation and its concurrent crimes. Most criminal level labor exploitation and trafficking includes crimes of violence, identity theft, and financial fraud and the current resources and staffing of the LCO criminal unit does not allow for them to fully investigate these crimes.

The reality is that there is no state agency with sufficient resources to investigate the spectrum of labor exploitation from wage theft to trafficking. Additionally, due to the sheer inhumanity, cruelty, and violence of trafficking cases, any investigation of these cases should, at least at the outset, be considered for criminal charges and investigated at that level.

Local law enforcement typically is under-resourced to lead these investigations as well. On September 6<sup>th</sup>, the LA County District Attorney's Office announced the formation of the Labor Justice Unit and assigned a sworn LA County District Attorney Investigator to the Unit. She is the sole law enforcement officer focused on criminal labor exploitation in the entire County.

Anecdotal experiences indicate this is an issue for local law enforcement throughout the state. A recurring discussion in our state-wide Prosecutors' Wage Theft working group is how to find criminally trained and experienced peace officers to investigate the numerous complaints of labor exploitation we receive.

When looking for a model for a statewide expansion into a more comprehensive and fully resourced investigation team for criminal labor exploitation and trafficking, the California Department of Insurance (CDI) merits consideration.

Per the CDI website:

The Fraud Division celebrates over 42 years as being the premiere insurance fraud investigative agency in the world with over 236 sworn officers operating in nine regional offices throughout the State of California...[i]n Fiscal Year 2020-21, the Fraud Division received 23,846 suspected fraud claims, assigned 1,278 new cases, made 610 arrests, obtained 386 convictions, and referred 803 cases for criminal filings to prosecuting authorities with a potential loss amounting to \$1,129,329,362.

In addition, the Enforcement Branch administers five grant programs that provide funding to county district attorney offices to assist with their efforts to investigate and prosecute insurance fraud. In fiscal year 2021-22, 36 counties received funding totaling \$48,442,512. During the same time frame, district attorneys prosecuted 1,277 cases with 1,445 defendants, resulting in 293 convictions. Restitution of \$75,842,876 was

ordered in connection with these convictions and \$16,755,917 was collected. The total chargeable fraud was \$2,031,330,087 representing only a small portion of actual fraud since so many fraudulent activities remain to be identified or investigated.

The costs of wage theft far outweigh the costs of insurance fraud to the state of California and its taxpayers: workers who are victims of wage theft are three times more likely to live in poverty than those who do not, are at increased risk for food and housing insecurity requiring increased social services, and 30% of these workers qualify and receive public assistance such as Medi-Cal or food stamps. In addition, wage theft reduces tax revenue, creates unfair competition for responsible employers, and means workers have less money to spend in their communities.

Staffing a statewide labor exploitation law enforcement group modeled on CDI has the potential to provide similar results for California's workers as it has for insurance companies. Like the self-funding systems in CDI there is potential to have this newly empowered agency be self-sustaining through criminal fines and civil penalties for employers who violate to the law and, less directly, through the resulting increase in income taxes from workers earning their legal wages, as well as likely concomitant decreases in the need for social services.

A Department of Labor study from nine years ago found that California lost 14 million dollars in state income taxes from minimum wage losses alone; this figure does not include losses for overtime and other forms of unpaid wages.<sup>1</sup>

The potential deterrent effect of a robust and sizable enforcement agency should not be discounted. An analysis of five years of the Labor Commissioner's public data from 2017 through 2021 by CalMatters revealed that only 9% of court judgments were recorded as satisfied, or paid in full with a mere 16% of the judgments paid in part or in installments, leaving 75% of workers receiving no payments on the judgments made in their favor.

As the only deterrence to employers are judgments or injunctions which can be violated with few consequences, there is little to discourage unethical employers from using labor exploitation to their advantage.

"Some companies are doing a cost-benefit analysis and realize it's cheaper to violate the law, even if you get caught," said Jenn Round, a labor standards enforcement fellow at the Center for Innovation in Worker Organization at Rutgers University.

By increasing civil and criminal investigations as well as civil and criminal prosecutions of recidivist employers, the cost-benefit analysis for these employers shifts.

### **3. Tracking enforcement activities (criminal, civil, and administrative remedies):**

It is key to the success of any program to track the relevant data and understand which systems within the program result in desired outcomes. Tracking the source of complaints, the number of investigations initiated from those complaints, the route each investigation takes

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<sup>1</sup> The Social and Economic Effects of Wage Violations: Estimates for California and New York, Eastern Research Group, Inc. (ERG) for the U.S. Department of Labor, December 2014.

(administrative, civil, criminal), the investigation outcome, and any remedies is vital to creating realistic expectations, best practices, and meaningful insight into the effect of various programs on the desired outcome: workers who are paid fairly and treated with dignity.

The lack of this data currently makes it difficult to assess needs, fund programming, and focus resources on the most effective processes.

Additionally, the lack of data hampers the ability to show how a focus on the spectrum of labor exploitation, from wage theft all the way to human trafficking, can be extremely valuable in this struggle.

By focusing enforcement on red flag crimes, including wage theft, various types of insurance fraud, and tax evasion, we can combat human trafficking more quickly and economically. Disruption techniques such as licensing controls; charging of lesser crimes, such as wage theft or tax evasion; and civil prosecution of businesses that commit labor exploitation all take less time than focusing solely on outright labor trafficking and paying little to no attention to these adjacent violations.

(End of Ms. Jorban's separate statement)

***Mr. Mellis's separate statement on relevance, implementation, and barriers to progress from his perspective as a civil prosecutor:***

To be sure, all of the LHC recommendations remain relevant, partly because almost across the board they either haven't been tried, or efforts at following them have not had time to ripen. While for each recommendation there are substantive and particularized, fact-based reasons for why substantial progress hasn't been made, overall the main barrier to progress is a lack of a unified and unifying approach to the problem. The work to abate the scourge of labor trafficking in the state would benefit from a new paradigm that resonates for all the relevant constituencies and stakeholders, including the migrant communities that traffickers target, the community-based organizations that exist to try to help those communities and those who have been victimized, law enforcement, regulatory agencies, and policy-makers.

As Ms. Jorban points out in her comments, the exploitation of labor - on the spectrum from wage theft to labor trafficking - is a public health issue.<sup>2</sup> Indeed, as one of our most stalwart colleagues in this work has pointed out, it is a public health disaster. While this is a grim statement, it contains the answer to the riddle of how to come at the problem in a way that puts all the organizations and agencies who work in such good faith to combat labor exploitation on a footing to push in the same direction: the approach to the problem must be grounded in the fundamental principles of public health. Those principles are fourfold: intervention,

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<sup>2</sup> Sprang G, Stoklosa H, Greenbaum J. The Public Health Response to Human Trafficking: A Look Back and a Step Forward. Public Health Reports. 2022.



prevention, education, and evidence-based action, all of which are predicated on a sustained and robust program of community outreach.<sup>3</sup>

To be sure, law enforcement is a core element in a public health-centered paradigm for abating labor trafficking. After all, there can be no doubt that those who engage in the taking of a fellow human being's labor by force, fraud, or coercion are, as a matter of law, engaged in criminal activity.

Why, then, shouldn't combating trafficking remain centered on law enforcement? Because by definition, law enforcement comes after the fact of the law being broken; the very structure of the approach necessitates waiting for criminal conduct to occur. Ironically, in a very real sense, this approach is fundamentally passive. First, the scale of the problem, second, the fact that despite the best and most laudable efforts of law enforcement, the problem of trafficking – in Los Angeles County, in California, in the United States, and around the world – has only gotten worse over the last twenty years that this approach has been used, and, third, the corrosive effect of trafficking on the entirety of civil society all support a shift to a much more, as it were, hands-on approach, the essence of the public health paradigm.<sup>4</sup>

Rather than devoting the bulk of our resources to waiting and monitoring for bad acts to manifest and then investigating, the public health paradigm calls on us to go out into the field and meet the various communities where they gather and live their lives: places such as community centers, markets, festivals, churches, schools, parks, and local centers of commerce. And not just to go out in a desultory fashion, once or twice a year, but monthly, weekly, and even daily. Indeed, in Los Angeles we are working on the concept of workers' resource centers with a focus on providing offramps from the cycle of trafficking for migrant workers.

The pilot group would be Chinese migrant workers, many of whom are present in the United States under the invisible cloak of human traffickers, in the heart of Monterey Park. The vision is for a center that will be open to all, staffed by survivors from the migrant Chinese community, and administered by a Chinese-centered community-based organization. If the pilot succeeds, the model will be duplicated in other communities with concentrations of migrant workers, such as La Puente for Guatemalan migrants, Glendale for Armenian migrants, and MacArthur Park for Mexican migrants.

Along with community engagement for prevention of, intervention in, and education regarding labor trafficking and worker exploitation, another utterly critical component of a public health paradigm is the fundamental and ongoing need for the gathering, processing, and analysis of data. No legitimate public health work exists in a vacuum of information; simply put, one does not become healthy except by identifying that element or those elements which have caused the the sickness. "At its roots, public health aims to identify potential harms to populations and

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<sup>3</sup> "Because human trafficking is a public health issue, intervention and prevention efforts must be founded on a strong evidence base and informed by affected populations, including those with lived experience, and by using an equity lens." Ibid.

<sup>4</sup> "Besides its profound impact on the health of individuals, human trafficking impacts the health and well-being of families and communities." Greenbaum J. The Public Health Approach to Human Trafficking Prevention, 36 GA. St. U. L. REV. 1059 (2020).

move upstream to identify the causes of these harms and prevent the harms from occurring in the first place."<sup>5</sup>

(End of Mr. Mellis's separate statement)

### **Contributions of the Commission's labor trafficking reports to raising awareness and addressing labor trafficking:**

The reports have provided context and visibility to the issues and prevalence of labor trafficking, allowing those of us working in this field to clarify and quantify the problems faced in the struggle against labor trafficking while making it clear that there is a robust need for more enforcement and for a systemic change in how we approach the problem. Additionally, the reports were a *sine qua non* in the now well accepted and fully proven necessity of starting all discussions of human trafficking in Los Angeles County from a basis of being trauma-informed and victim-centered.

### **Conclusion**

The work this Commission did in labor trafficking has helped drive a growing focus on how much labor exploitation costs us in dollars and human potential in our State. Our past failures to pursue violations of a workers' rights to be paid, to be safe, and to be free in their workplaces has cost us billions of dollars and continues to waste the power and potential of our residents and our communities. We have an absolute obligation to fight labor exploitation in California and should use these reports and their recommendations as a foundation for a new state-wide emphasis in the fight against the spectrum of exploitation: from wage theft to human trafficking.

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<sup>5</sup> Todres J, Moving Upstream: The Merits of a Public Health Law Approach to Human Trafficking, 89 N.C. L. Rev. 447 (2011).