

**TESTIMONY OF THE OFFICE OF THE CALIFORNIA ATTORNEY GENERAL
BEFORE THE LITTLE HOOVER COMMISSION**

“The Status of Labor Trafficking in the State of California”

May 28, 2020

The California Attorney General’s Office is pleased to submit this testimony to the Select Committee.

Section 13 of the California Constitution provides the Attorney General and the California Department of Justice with certain authority. The law states that;

Subject to the powers and duties of the Governor, the Attorney General shall be the chief law officer of the State. It shall be the duty of the Attorney General to see that the laws of the State are uniformly and adequately enforced. The Attorney General shall have direct supervision over every district attorney and sheriff and over such other law enforcement officers as may be designated by law, in all matters pertaining to the duties of their respective offices, and may require any of said officers to make reports concerning the investigation, detection, prosecution, and punishment of crime in their respective jurisdictions as to the Attorney General may seem advisable.

The Attorney General uses that authority to investigate and prosecute labor trafficking cases and assist other law enforcement agencies and district attorneys’ offices with doing the same. In addition to this work, the Attorney General combats human trafficking through enforcement of anti-trafficking legislation, including the human trafficking postings required by SB 1193 and the Supply Chain Transparency Act. The Attorney General also takes a leadership role in propelling important anti-trafficking initiatives such as the provision of trafficking education in California’s schools. The Attorney General completes this work with the assistance of the department’s Statewide Human Trafficking Coordinator, the Fraud and Prosecution section which prosecutes criminal cases, including human trafficking, two human trafficking investigation teams, and the Tax Recovery and Underground Economy (TRUE) task forces.

The Attorney General’s office has received approximately 17 reports of labor trafficking in the last three years. Currently, the office has one pending labor trafficking case and five ongoing labor trafficking investigations. The trafficking in these cases is alleged to have occurred at bars and restaurants, in communal living settings, and by an individual operating a janitorial service.

The labor trafficking cases that the Attorney General’s office handles as investigations and/or prosecutions typically come from either local law enforcement agencies, the Department of Justice public information line, local/state/federal administrative agencies, or as referrals from smaller jurisdiction’s district attorneys’ offices. Once a case is received the Department evaluates the specifics of each case in order to determine where placement with DOJ is appropriate. Factors that are evaluated include the prosecutors and investigators’ statewide jurisdiction, availability of specialized resources, the interests of the local prosecutorial agency, and whether investigators and prosecutors currently have room on their caseloads for new cases. Ultimately, the department’s goal is to make sure to use its finite resources effectively, handling cases where it can make the most impact. If a case is not retained by the department, either because the conduct does not rise to the level that warrants a criminal prosecution or because it

would be best pursued by another agency, it will be referred to a better suited investigative or prosecutorial agency. For example, if there is not adequate evidence to prove beyond a reasonable doubt that the trafficking has occurred, the Attorney General may refer the investigation to the Franchise Tax Board or EDD for consideration. Likewise, if a case comes to the Attorney General that is not multi-jurisdictional in nature, it may be referred to the district attorney's office in the jurisdiction where the conduct occurred for prosecution. These partner agencies play a critical role even when the department does keep a case for investigation and prosecution, as engaging state and local partner agencies allows us to take a holistic approach and identify and pursue all of the crimes that have been committed in the course of the trafficking.

Despite the Attorney General's and the state's best efforts to prevent trafficking through education and awareness, and investigate and prosecute offenders, there are barriers to our work. First, labor trafficking cases are both unique and resource intensive. They require that the investigators and prosecutors working on the cases are well-trained and have the time to devote to working their cases. Another barrier is that these complex investigations often require specialized investigative equipment as well as the staff knowledgeable in the use of the equipment. Enforcement efforts may be obstructed by a lack of information sharing among agencies without a memorandum of understanding (MOU), legislation or other order, and by the lack of accurate statistical data to inform and guide the work. More complete data regarding the scope and nature of the problem would allow for a more targeted enforcement approach.

The statewide labor trafficking conviction statistics indicate that many, if not most, other agencies are faced with these and other barriers. The arrest and conviction statistics for the state for the past several years are below:

PC 236.1(a)	2013	2014	2015	2016	2017	2018	2019
Arrests	164	172	143	149	116	135	110
Convictions	21	28	21	34	37	28	25

Notably, these conviction statistics do not reflect cases where an arrest was made for labor trafficking but the case was filed under a different charge, or where labor trafficking was charged but the defendant plead to a different crime as the result of a plea agreement, as the Attorney General does not currently receive this information from arresting or prosecuting agencies.

In order to overcome these barriers, and strengthen our response to labor trafficking, California should take a holistic approach to enforcement, with local, state, and federal criminal, civil and administrative agencies working collaboratively alongside governmental and non-governmental service providers. First, this should include better, more standardized coordination among federal, state and local agencies with human trafficking touchpoints. Second, we must collaborate with culturally sensitive advocacy and service providers who deeply understand vulnerable communities and can effectively liaise with individuals who have been, or are at risk of being, labor trafficking victims to assure that they understand their rights and are comfortable participating in the legal processes through which they can seek justice. In order for this approach to be effective, California should prioritize funding the staffing and training as well as the individualized resources each partner agency needs to successfully carry out its respective

role. DOJ's TRUE taskforce is a prime example of one place where funding should be prioritized. Last year, the TRUE program was permanently established in law. To support TRUE, the Governor's January budget proposed funding to ensure TRUE's two current investigative teams could effectively and efficiently investigate and prosecute crimes in the underground economy. Unfortunately, the proposed funding was withdrawn in the May Revise Budget. There are also key positions in the program set to expire next month. These circumstances place TRUE in serious jeopardy at a time when its work is most crucial to the state and the people who have been pushed into the underground economy.

The worldwide COVID-19 pandemic makes devoting adequate resources to combatting labor trafficking increasingly important. The worsening economy exacerbates the circumstances that make individuals vulnerable to trafficking and motivate traffickers to exploit the rights of others for their own financial gain. Specifically, individuals with few other prospects for employment are often trafficked after taking advantage of economic opportunities of last resort. Simultaneously, business owners are suffering and looking for ways to increase their profits by decreasing their overhead and expenses. This problem is further worsened by the fact that, as the global economy contracts, individuals who left their country of origin to seek employment in the United States are even less likely to want to return to their home countries, and more likely to take whatever work is available to them here.