

2019-2020 THE BUREAU OF FIELD ENFORCEMENT FISCAL YEAR REPORT

CALIFORNIA LABOR COMMISSIONER'S OFFICE

DEPARTMENT OF INDUSTRIAL RELATIONS



Labor Code section 90.5(d) requires the Labor Commissioner to report annually to the Legislature concerning the effectiveness of the Bureau of Field Enforcement (the Bureau or BOFE). This report includes: (1) the enforcement plan adopted by the Labor Commissioner and the rationale for its priorities; (2) the number of establishments investigated by the Bureau and the number and types of violations found; (3) the amount of wages found to be unlawfully withheld from workers and the amount of unpaid wages recovered for workers; and (4) the amount of penalties and unpaid wages transferred to the General Fund as a result of the Bureau's efforts.

The Labor Commissioner's Office (also known as the Division of Labor Standards Enforcement or DLSE) is a division of the California Department of Industrial Relations. It consists of several units working together to provide a wide variety of essential services for California workers and employers, including adjudication of wage claims, inspections of workplaces, enforcement of prevailing wage rates and apprenticeship standards in public works projects, licensing and registration of businesses, investigations of retaliation complaints, criminal prosecution for wage theft, and education of the public on labor laws. The mission of the California Labor Commissioner's Office is to ensure a just day's pay in every workplace in the state and to promote economic justice through robust enforcement of labor laws. By combating wage theft, protecting workers from retaliation, and educating the public, the Division puts earned wages into workers' pockets and helps level the playing field for law-abiding employers.

One of the Division's key enforcement arms is BOFE, which investigates complaints and takes enforcement actions to ensure that employees are neither required nor permitted to work under unlawful conditions. Some of the actions taken by BOFE investigators include: the enforcement of minimum wage and overtime requirements, child labor laws, and employers' workers' compensation insurance requirement; audits of payroll records; collection of unpaid wages such as prevailing wages on public works jobs; issuance of citations for violations of any applicable Labor Code sections; confiscation of illegally manufactured garments; and injunctive relief to prevent further violations of the law.

BOFE focuses on major underground economy industries in California with the most rampant labor law violations, including agriculture, garment, construction, car wash, and restaurants. In the past few years, the BOFE has increased its focus on industries where wage theft has been particularly challenging to combat, such as janitorial work, residential care homes, and warehousing.

Strategic Enforcement Plan

In the past ten years, BOFE has reinforced the Labor Commissioner's core mission of collecting wages for California's wage earners and penalizing employers that participate in the underground economy. It is unacceptable for scofflaws that violate labor laws to gain a competitive advantage over law-abiding employers.

One of the key components of this administration's enforcement plan is strategic targeting of law-breaking employers. The Labor Commissioner has adopted an approach that uses active collaboration with key partners on the ground and improved data to target businesses that are intentionally cheating. The Labor Commissioner's Office has also devoted considerable resources to ensuring every tool at its disposal is used to prosecute these violators to the full extent of the law. This includes working in collaboration with sister state agencies, local law enforcement, and other government agencies, as well as nongovernmental stakeholders, from community-based organizations to industry associations. Those partnerships have resulted in better leads to uncover wage theft and strengthened the Division's ability to interview workers in a safe environment in order to uncover and understand the nature of violations in the workplace. Deputy Labor Commissioners interview witnesses off site and outside regular business hours to maximize their ability to gain worker trust and participation. The Bureau does not rely solely on complaint-based investigations but also engages in proactive, strategic enforcement based on leads obtained by organizations, associations, and industry representatives.

Over the past several years, legislative changes have increased BOFE's civil citation authority for violations that were once enforceable only through the Berman wage claim process or through private lawsuits. For example, the Bureau can issue citations for liquidated damages when minimum wage violations occur and for waiting-time

penalties under Labor Code section 203. These changes did not expand liability for employers breaking the law but streamlined the Division's ability to crack down on perpetrators of underground economy violations, protecting honest employers and resulting in a more efficient use of government resources. Other changes expanded liability, including the creation of a "client employer" definition that addresses violations created by entities that subcontract for labor by making those entities responsible for wage theft under certain circumstances.

As part of the Labor Commissioner's continued effort to fight wage theft, BOFE investigators not only focus on civil penalties but also conduct detailed audits for unpaid wages—in particular, minimum and overtime wages owed to workers. BOFE's efforts help ensure that workers are paid their lawful wages and legitimate employers are not forced out of business by those operating illegally in the underground economy. The Labor Commissioner's Office has hired more auditors for this purpose and has organized and conducted statewide training for deputies on wage auditing.

In addition, the Labor Commissioner's Office partners with other state agencies, community groups, industry associations, and other law enforcement agencies to enhance enforcement of labor laws. The Labor Commissioner's enforcement efforts generate substantial revenue for the state in the form of penalties paid by employers that violate the law. As a direct result of an enforcement plan that prizes quality over quantity, and in-depth investigations over quick "in-and-out" inspections BOFE has performed fewer inspections overall than in prior years, but has found more wages owed to workers in California than at any time in BOFE's history. Notably, the ratio of citations to inspections increased dramatically and continues to increase over time. In other words, better targeting leads fewer law-abiding employers to be inspected, more unpaid wages to be found, and more violations identified per employers inspected.

The Labor Commissioner's Office offers training, particularly on conducting wage audits to determine the extent of wage theft and to return wages to workers, as well as additional field enforcement training to give staff a better understanding of various schemes used by unscrupulous employers to avoid compliance with the law. This commitment to staff training enables BOFE to conduct deeper, substantive investigations.

The Labor Commissioner's Office publicizes the results of notable BOFE investigations through news releases. These news releases create a deterrent to wage theft and other labor law violations by highlighting the hefty penalties issued to employers for failing to comply with the law. An archive of news releases can be found here: https://www.dir.ca.gov/dlse/DLSE_whatsnew.htm

Enforcement Results

In fiscal year 2019-2020, BOFE conducted 1,050 inspections and issued citations for 1,680 violations.¹ The largest single source of violations and citations was once again employers' failure to carry workers' compensation insurance: 888 citations were issued for this violation, and a total of \$16,016,022 in penalties was assessed. The second-highest number of citations was for the failure to issue an itemized wage statement (297 violations), which also had the second-highest penalty assessment in its citation category, \$8,633,250. The following tables illustrate BOFE's performance, including its special programs, such as prevailing wage enforcement through the Public Works Unit and the collaborative efforts of the Labor Enforcement Task Force (LETF).

The amounts below do not include citations that were reduced or dismissed in fiscal year 2019-2020 due to settlement or for other reasons. In fiscal year 2019-2020, 452 violations were reduced or dismissed for a total reduction of \$18,850,611.70 in wages and penalties. These reduced or dismissed citations may have been assessed in prior fiscal years.

Table 1. Bureau Assessed Report (Including Public Works) FY 2019-2020, Results by Industry

Industry	# of Inspections	# of Penalty Violations	Penalties Assessed	Wages Assessed
Other	333	504	\$12,379,642.51	\$19,599,368.39
Agriculture	35	25	\$149,255.76	\$548,344.43
Auto Repair	125	198	\$1,439,030.15	\$325,875.35
Car Wash	31	72	\$2,150,360.09	\$2,224,056.15
Construction	111	130	\$990,334.31	\$7,610,608.02
Garment	36	78	\$1,688,048.35	\$443,766.41
Hotel	23	33	\$936,686.90	\$427,953.82
Janitorial	8	18	\$1,151,091.41	\$261,226.91
Nail Salon	30	69	\$434,184.93	\$40,295.07
Residential Care	9	18	\$566,373.41	\$9,047,748.60
Restaurant	247	454	\$8,094,084.70	\$22,568,964.78
Retail	56	77	\$1,033,948.87	\$451,829.96
Security Guard	4	4	\$512,946.13	
Warehouse	2			
Grand Total	1,050	1,680	\$31,525,987.52	\$63,550,037.89
Public Works	1,660	659 ^a	\$23,952,406.10 ^b	\$23,197,217.39
TOTALS	2,710	2,339	\$55,478,393.62	\$86,747,255.28

^a The Public Works Unit does not conduct inspections but, rather, measures performance based on cases opened for audit purposes. Thus, the data in this table should be understood as 1,660 audits conducted, with 659 civil wage and penalty assessments (CWPA's) issued (rather than the number of citations/violations). These measurements are included here to provide a full picture of the Division's performance.

^b Includes penalty assessments under Labor Code sections 1775, 1777.7, 1813, and 1776.

¹ The *total* number of inspections and citations and all statistics throughout this report comprises the performance of all BOFE programs, including the Labor Enforcement Task Force.

Table 2. BOFE (Including Public Works) FY 2019-2020 Amounts Collected by Industry

Employer Industry	Wages Collected ^a	Penalties Collected	Interest Collected	Total Collected
Other	\$2,755,690.16	\$1,806,310.00	\$85,122.45	\$4,647,122.61
Agriculture	\$260,982.76	\$112,595.62	\$29,049.78	\$402,628.16
Auto Repair	\$135,536.50	\$375,857.41	\$10,105.01	\$521,498.92
Car Wash	\$124,828.23	\$374,444.14	\$44,198.13	\$543,470.50
Construction	\$847,430.47	\$367,804.83	\$30,635.60	\$1,245,870.90
Garment	\$22,489.66	\$73,921.38	\$1,001.78	\$97,412.82
Hotel	\$141,127.24	\$205,727.57		\$346,854.81
Janitorial	\$15,308.00	\$292,851.38	\$28,431.24	\$336,590.62
Nail Salon	\$1,150.00	\$281,924.35		\$283,074.35
Residential Care	\$543,966.45	\$53,610.00	\$28,083.77	\$625,660.22
Restaurant	\$2,756,458.37	\$1,669,558.48	\$146,693.19	\$4,572,710.04
Retail	\$401,748.70	\$230,534.29	\$9,864.41	\$642,147.40
Security Guard		\$2,400.00	\$26.68	\$2,426.68
BOFE Total	\$8,006,716.54	\$5,847,539.45	\$413,212.04	\$14,267,468.03^b
Public Works Total	\$10,746,511.29	\$5,691,813.69 ^c		\$16,438,324.98
Grand Total Collected	\$18,753,227.83	\$11,539,353.14	\$413,212.04	\$30,705,793.01^d

^a Because of the ongoing nature of BOFE investigations and collections from employers, these amounts might include what is later determined to be penalties, instead of wages. As a result, some of these amounts continue to be allocated by the Labor Commissioner's Office.

^b Penalties and wages collected in fiscal year 2019-2020 might include the collection of wages assessed in earlier reporting periods. This statistic also includes wages collected as a result of Bureau-assisted employer self-audits as well as actions taken by the Legal Unit, such as litigation, settlements, and Legal Unit-assisted employer self-audits, all of which were initiated by BOFE.

^c Includes penalty collections under Labor Code sections 1775, 1777.7, 1813, and 1776.

^d Penalties and wages collected in fiscal year 2019-2020 may include collection of penalties and wages found due in earlier reporting periods. This statistic also includes wages collected as the result of Bureau-assisted employer self-audits as well as actions taken by the Legal Unit, such as litigation, settlements, and Legal Unit-assisted employer self-audits, all of which were initiated by BOFE.

Table 3. BOFE (including Public Works) FY 2019-2020, Results by Violation Category

Violation Category	# of	Penalties	Wages
	Violations	Assessed	Assessed
Workers' Compensation	888	\$16,016,021.74	
Child Labor	66	\$162,000.00	
Itemized Statement (L.C. 226)	297	\$8,633,250.00	\$5,565,799.97
Minimum Wage	141	\$1,511,750.00	\$28,182,627.48
Overtime	102	\$665,700.00	\$8,523,972.70
Garment	27	\$135,000.00	
Garment Registration	9	\$24,060.33	
Janitorial Registration	8	\$72,600.00	
Car Wash Registration	23	\$168,600.00	
Unlicensed Construction Contractor	17	\$341,800.00	
Rest and Meal Period	74	\$628,950.00	\$3,693,262.99
Misclassification	9	\$1,605,000.00	
Unlicensed Farm Labor Contractor	1	\$10,000.00	
Violation of Payment of Wages Provision (L.C. 204)	12	\$1,540,305.45	
Reimbursable Business Expenses	2	\$9,300.00	\$12,611.34
Violation of Reporting Time	1	\$150.00	\$105.49
Failure to maintain records	3	\$1,500.00	
Contract Wages Above Minimum Wage			\$7,296,228.65
Waiting Time Penalties			\$10,275,429.27
Total	1,680	\$31,525,987.52	\$63,550,037.89
Public Work Totals	659^a	\$23,952,406.10^b	\$23,197,217.39
GRAND TOTALS	2,339	\$55,478,393.62	\$86,747,255.28

^a The Public Works Unit does not conduct inspections but, rather, measures performance based on cases opened for audit purposes. Thus, the data in this table should be understood as 1,660 audits conducted, with 659 civil wage and penalty assessments (CWPA's) issued (rather than the number of citations/violations). These measurements are included here to provide a full picture of the Division's performance.

^b Includes penalty collections under Labor Code sections 1775, 1777.7, 1813, and 1776.

Table 4. BOFE (including Public Works) FY 2019-2020, Amounted Collected by Violation Category

Employer Industry	Wages Collected ^a	Penalties Collected	Interest Collected	Total Collected
Workers' Compensation		\$3,527,182.97	\$228,925.81	\$3,756,108.78
Child Labor		\$85,530.00	\$827.76	\$86,357.76
Itemized Statement	\$591,359.64	\$1,525,724.42	\$94,068.76	\$2,211,152.82
Contract Rate	\$465,292.51		\$0.00	\$465,292.51
Minimum Wage	\$1,353,033.39	\$130,698.57	\$8,166.04	\$1,491,898.00
Split Shift	\$87,332.32	\$13,889.32	\$13.46	\$101,235.10
Liquidated Damage	\$1,506,502.85		\$15,388.26	\$1,521,891.11
Overtime	\$1,722,658.37	\$131,998.41	\$37,002.35	\$1,891,659.13
Garment		\$8,220.76	\$141.78	\$8,362.54
Garment Registration		\$7,472.09	\$0.00	\$7,472.09
Car Wash Registration		\$254,290.22	\$24,595.81	\$278,886.03
Unlicensed Construction Contractor		\$76,148.98	\$400.79	\$76,549.77
Rest and Meal Period	\$1,283,193.66	\$69,281.07	\$0.00	\$1,352,474.73
Misclassification		\$5,600.00	\$829.14	\$6,429.14
Violation of Janitorial Registration Provision		\$9,952.64	\$0.00	\$9,952.64
Tips	\$22,100.67		\$0.00	\$22,100.67
Reimbursable Business Expenses	\$7,956.00		\$0.00	\$7,956.00
Violation of Reporting Time	\$454.65	\$1,050.00	\$0.00	\$1,504.65
Failure to Maintain Required Records	\$0.00	\$500.00	\$0.00	\$500.00
Waiting Time Penalties	\$966,832.48		\$2,852.08	\$969,684.56
BOFE Total	\$8,006,716.54	\$5,847,539.45	\$413,212.04	\$14,267,468.03
Public Works Total	\$10,746,511.29	\$5,691,813.69^b		\$16,438,324.98
Grand Total				\$30,705,793.01^c

^a Because of the ongoing nature of BOFE investigations and collections from employers, these amounts include those that might later be determined to be penalties. As a result, some of these amounts continue to be allocated by the Labor Commissioner's Office.

^b Includes penalty collections under Labor Code sections 1775, 1777.7, 1813, and 1776.

^c Penalties and wages collected in fiscal year 2019-2020 may include collection of penalties and wages found due in earlier reporting periods. This statistic also includes wages collected as the result of Bureau-assisted employer self-audits as well as actions taken by the Legal Unit, such as litigation, settlements, and Legal Unit-assisted employer self-audits, all of which were initiated by BOFE.

Audits

The Labor Commissioner's Office continued to train staff to uncover issues involving the nonpayment of wages, which resulted in more audits of employers' payroll records. The Bureau also continued its program for employers to conduct self-initiated audits to augment the investigations conducted in response to specific complaints. If employers are unable or unwilling to complete the self-audit, the Bureau conducts a thorough investigation and audit to discover unpaid wages. A sampling of notable outcomes of payroll audits performed under the supervision and direction of the Bureau staff, which resulted in the assessment of wages due to employees (shown in the statistics above), includes:

April 2020

- A residential care facility, Sky River View Inc. located in Thousand Oaks was cited \$5.4 million for multiple wage theft violations.

March 2020

- Genwa Korean BBQ Restaurant, with two locations in Los Angeles and Beverly Hills, cited \$2.1 million for multiple wage theft and labor law violations affecting 325 servers, dishwashers and cooks.

December 2019

- Brea-based restaurant Fuji Investment Group, Inc. was cited \$1,763,634.56 for wage theft violations affecting 30 employees

November 2019

- Anaheim-based Inventory Professionals Inc. was cited \$1,651,627 for wage theft violations affecting 64 workers.
- City of Industry-based RVR Construction, Inc. was cited \$4,287,820.15 for wage theft violations affecting 359 employees.

October 2019

- San Jose-based Restaurant, Spice Route LLC Supreme Cuisine, cited \$6.1 million for multiple wage theft and labor law violations affecting 317 employees.

Strategic Enforcement Outcomes

The Bureau's Strategic Enforcement approach has proven effective in proactively targeting egregious violators in low wage industries. This approach involves aggressive outreach and media efforts with the goal of identifying leads that would otherwise not be uncovered and deterring bad actors throughout California as we amplify the payment of unpaid wages.

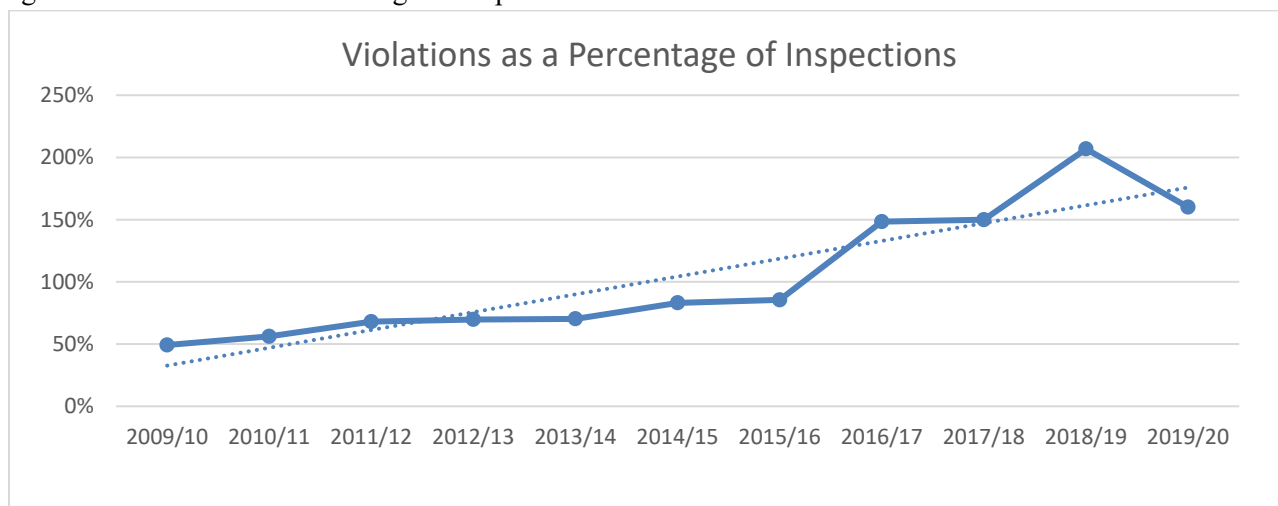
At the beginning of the COVID-19 pandemic, the Bureau and the Public Works Unit went into remote operation. Toward the latter part of 2020, these units resumed field operations, but the pandemic conditions contributed to delays in conducting investigations throughout the year.

The Bureau has entered into strategic partnerships with key stakeholders, including community organizations, associations, and industry representatives. The Bureau has successful partnerships in the agriculture, car wash, construction, garment, janitorial, restaurant, and warehouse industries. Through these partnerships, the Bureau has been able to take on cases of far greater magnitude and consequently increased impact in the respective industries.

The Bureau conducts complex investigations involving client-employer liability, holding every member of the chain responsible for labor violations committed by a contractor, discouraging bad actors, and leveling the playing field for law-abiding, compliant employers.

This approach has been successful in producing high quality, in-depth investigations that have uncovered more violations per investigation and assessed more wages owed to workers than at any other time in the history of BOFE. In fiscal year 2014-2015, 83%; in 2015-2016, 85%; 2016-2017, 148%; 2017-2018, 150%; 2018-2019, 207%; and in 2019-2020, 160% (see Figure 1).²

Figure 1. Violations as a Percentage of Inspections

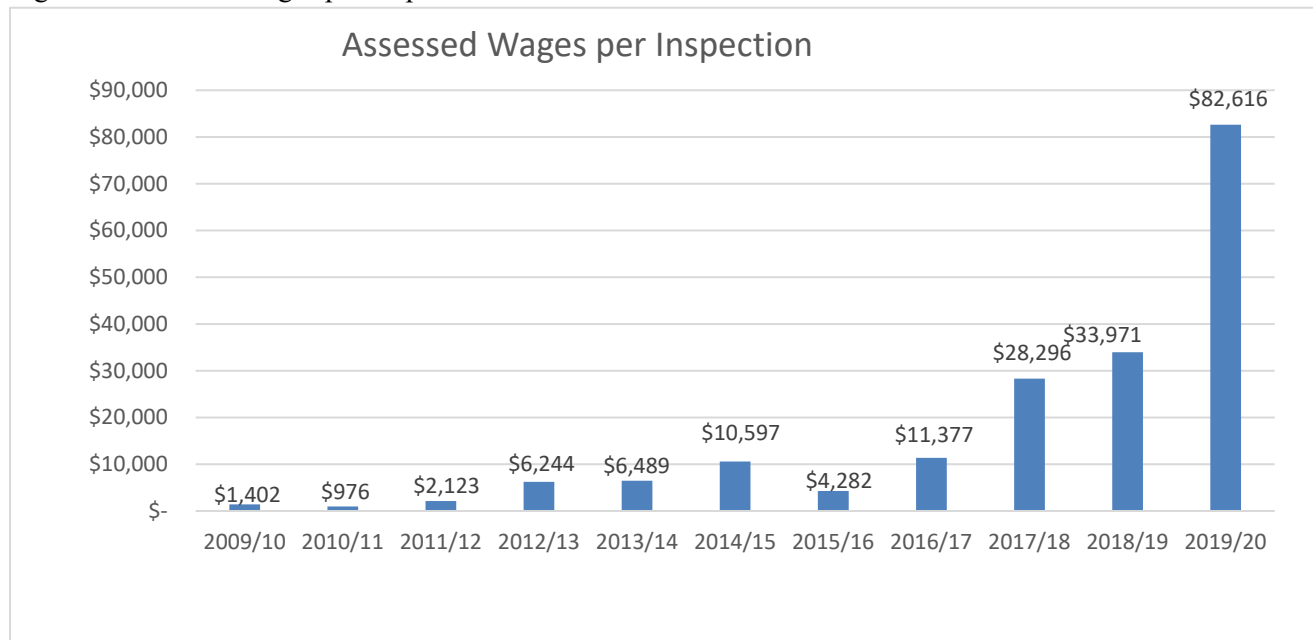


Although there were fewer inspections in 2019-2020 than in 2018-2019, the assessed wages per inspection have increased steadily and dramatically. In 2010, the total was \$1,402; in 2016-2017, \$11,377; 2017-2018, \$28,296; 2018-2019, \$33,971; and in 2019-2020 \$82,616 (see Figure 2).³

² Past reports on the effectiveness of the Bureau have included data related to Public Works in this graph. The Public Works unit investigates complaints arising from violations of prevailing wage and apprenticeship laws. For a clearer look at the impacts of strategic field enforcement, Public Works data has been excluded from the graph.

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Figure 2. Assessed Wages per Inspection



Enforcement Program Targets Unlawfully Uninsured Employers

As previously mentioned, the lack of workers' compensation insurance remains the violation most often identified in the Bureau's investigations. As a result of the passage of Senate Bill 869 (Chapter 662) in 2008, the Bureau began a data-sharing partnership with the Employment Development Department (EDD), the Division of Workers' Compensation, and the Workers' Compensation Insurance Rating Bureau to proactively identify employers that might be unlawfully uninsured. In fiscal year 2019-2020, BOFE issued citations for 94 violations and assessed \$3,682,767 in penalties and \$7,107,653 in wages arising from these efforts. The process and the results of the Senate Bill 869 enforcement activities are detailed in a separate legislative report.

Car Washing and Polishing Businesses

On January 1, 2007, BOFE began a concerted enforcement effort to ensure compliance with the registration requirements for car washing and polishing businesses (Labor Code sections 2050-2067 and California Code of Regulations, Title 8, division 1, chapter 6, subchapter 11, sections 13680–13693). Staff continue to receive training to better identify wage-audit issues and uncover wage theft, while building on their previous training in the car washing industry, to enable them to go beyond looking only at registration when suspicion arises that other labor laws are being violated. In fiscal year 2019-2020, 31 inspections were conducted, and citations were issued for 72 violations, which led to assessments of \$2,150,360 for violations of various labor laws, including nonregistration and penalties. In addition, BOFE assessed \$2,224,056 in wages. The results of inspections of car washing and polishing establishments, including re-inspections, in these statistics, are shown in Table 5.

Table 5. Car Washing and Polishing Businesses FY 2019-2020 Results by Citation Category*

Citation Category	# of Violations	Penalties Assessed	Wages Assessed
Workers' Compensation	26	\$934,472.00	
Child Labor	2	\$1,000.00	
Car Wash Registration	23	\$168,600.00	
Itemized Statement	9	\$432,750.00	\$262,750.00
Rest and Meal Period	3	\$80,800.00	\$413,412.13
Minimum Wage	3	\$115,400.00	\$492,571.42
Contract Rate	0		\$170,793.46

Violation of payment of wages Provision	1	\$309,988.09	
Waiting Time Penalties	0		\$151,132.80
Liquidated Damages	0		\$588,978.57
Overtime	3	\$34,250.00	\$142,056.56
Misclassification	1	\$70,000.00	
Split Shift	1	\$3,100.00	\$2,361.21
TOTAL	72	\$2,150,360.09	\$2,224,056.15

* The statistics reported here are included in the overall results of the Bureau summarized earlier in this report.

Units within the Labor Commissioner's Bureau of Field Enforcement

Public Works

The Bureau's Public Works Unit investigates complaints arising from violations of the state's prevailing wage and apprenticeship laws and conducts audits on behalf of workers for back wages owed. As a result of SB 1038, on July 1, 2012, the Bureau began enforcing Labor Code section 1777.5, which was previously enforced by the Division of Apprenticeship Standards. Labor Code section 1777.7 assessments are issued by Bureau investigators for up to \$300 per calendar day when contractors violate apprenticeship law, pursuant to Labor Code section 1777.5.

Table 6. Public Works, FY 2019-2020 Activities

Cases Opened	1,660
Cases Closed	1,483
Civil Wage and Penalty Assessments (CWPA) Issued	659
Settlements	493

Table 7. Public Works, FY 2019-2020 Assessed and Collected Report

	Assessed	Collected
Prevailing Wages	\$22,633,267.25	\$10,448,042.15
Training Funds	\$563,950.14	\$298,469.14
Total Wages	\$23,197,217.39	\$10,746,511.29^a
Penalties per Labor Code sections 1775/1813/1776	\$19,185,488.99	\$3,302,552.26
Penalties per Labor Code section 1777.7	\$4,766,917.11	\$2,389,261.43
Total Penalties	\$23,952,406.10	\$5,691,813.69^b

^a Wages recovered may include monies found due in earlier reporting periods.

^b Penalties collected may include monies found due in earlier reporting periods.

In fiscal year 2019-2020, the Labor Commissioner signed orders of debarment for one construction company and individual. The maximum statutory debarment period is three years, rendering individuals and legal entities ineligible to bid on or be awarded public works contracts or to perform work on a public works project as a subcontractor or an employee. The debarment orders can be accessed at: <http://www.dir.ca.gov/dlse/debar.html>.

Judgment Enforcement Unit

Despite the challenges caused by the pandemic, the Labor Commissioner's Judgment Enforcement Unit continued to recover significant amounts owed to workers and the state pursuant to BOFE citations and wage judgments. The Judgment Enforcement Unit's work contributed to the collection of at least \$11,178,135.29 in citations and unpaid wages in the 2019-2020 fiscal year.

The Judgment Enforcement Unit filed judgments for BOFE and assisted in various judgment enforcement activities. These activities included: investigating, serving and enforcing stop-work orders against businesses that

fail to pay wage judgments; issuing levies, liens and other judgment enforcement documents; seeking suspension of various licenses held by businesses that fail to pay Labor Commissioner judgments; negotiating and arranging payment plans with employers; investigating and gathering evidence to support litigation against businesses that engage in fraudulent transfer of assets and other schemes to evade liability for Labor Commissioner citations and judgments; and helping train and support BOFE deputies in asset investigation and other matters related to effective enforcement of claims against business debtors.

In fiscal year 2019-2020, the Judgment Enforcement Unit processed 907 judgments for the Bureau and filed 733 liens, including 90 mechanic's liens. In addition, the unit issued 658 levies on bank accounts and other funds controlled by businesses that failed to pay final judgments. In fiscal year 2019-2020, the unit maintained over 190 in-depth investigations of defendants and assets, including investigations of fraudulent transfers, corporate shell games, and Labor Code section 238 investigations (stop-work orders for businesses' failure to comply with wage judgments).

Legal Unit

The Labor Commissioner's Legal Unit continued and enhanced its support for BOFE's enforcement efforts in fiscal year 2019-2020. The unit continued its traditional work of representing the Labor Commissioner's office in Superior Court in defense of penalty citation awards in writ of administrative mandamus challenges, prosecution of public works Civil Wage and Penalty Assessments (CWPAs) in administrative hearings, enforcement of investigative subpoenas, and conducting investigative depositions, obtaining tolling agreements, negotiating settlement agreements, and advising BOFE in application of the law to its field investigation planning. The unit also assumed responsibility for prosecution of some select citation appeals before hearing officers in cases with complex legal or factual components and cases with large wage restitution amounts associated with the expanded authority provided by the Legislature for BOFE to assess minimum wages and liquidated damages through citations.⁴ Some examples of the unit's work in 2019-2020 include:

Administrative Enforcement Proceedings

- **Cinnabar Equestrian:** BOFE Legal successfully defended a citation award for \$257,777.28 in wages for 16 workers and penalties against an equestrian ranch and boarding facility in a writ of mandamus proceeding in Orange County Superior Court. Recovered \$181,115.28 from the wage bond. Remaining wages paid in full by the employer in October 2019.
- **Dispatch Delivery Systems:** Successfully defended a wage and penalty citations issued to Dispatch Delivery Systems and SNP Pharmacy as a client employer under Labor Code §2810.3 for Dispatch Delivery System's failure to properly compensate delivery drivers for all hours worked. Wages, liquidated damages, meal period premiums affirmed in the amount of \$1,146,441.50, reimbursable expenses affirmed in the amount of \$599,472.88 for 78 affected workers. Findings issued March 2020. An action for fraudulent transfer of assets has been filed to collect this judgment.
- **Techcrete Construction:** BOFE Legal obtained an inspection warrant to secure the employer's payroll records and deposed the company's owner, and obtained sufficient evidence to support citations against the company and CEO for the failure to pay overtime and meal period premiums to its mostly non-English-speaking low wage workers. Additionally, BOFE legal successfully defended the citations at an administrative hearing where the hearing officer affirmed the wage, penalties, and interest reflected in the citations in the Findings and Order which amounted to over \$188,000.00 in wages, liquidated damages, waiting time penalties and interest paid to 40 employees, and approximately \$80,000.00 in civil penalties. Over \$270,000.00 was collected and distributed to the workers and the state.

⁴ The resulting penalties and/or wages collected are included in the Bureau's statistics, depending on the process used to achieve the end results.

- **Happy Transport, et al:** The Labor Commissioner successfully obtained judgment against two principals and a successor entity for over \$87,000 through litigation of a fraudulent transfer of assets lawsuit. Collection on this judgment is pending.
- **Elmore Motors:** After investigation, the Labor Commissioner issued citations to Elmore Motors, an automobile sales and repair company. The citations covered about 80 employees and were for unpaid minimum and overtime wages owed to employees totaling \$1,375,880.71, liquidated damages owed to employees totaling \$13,670.51, premiums owed to employees for failures to provide meal periods totaling \$3,074.40, waiting time penalties owed to former employees totaling \$846,187.20, and civil penalties to the State totaling \$708,800.00. Following extensive settlement discussions, due to the financial condition of the employer and lack of established case law, the case settled for payment of wages to employees and former employees of \$466,843.94 and \$40,009.27 as penalties to the State.
- **Anthony Squared, Inc.:** PAGA legal assisted in the investigation of a car wash. After investigation, the Labor Commissioner issued citations to Anthony Squared, Inc., which was operating a car wash employing low-wage, mostly non-English-speaking workers. The citations were for unpaid minimum and overtime wages in the amount of \$329,749.46, liquidated damages in the amount of \$353,079.85, meal period premiums of \$45,804.37, rest period premiums of \$204,433.59, reporting time pay of \$343,643, waiting time penalties of \$195,235.20 and damages for wage statement violations of \$141,200.00, all of which were owed to employees. In addition, the citations were for civil penalties owed to the State of \$651,068.19. After prevailing at a hearing, the Labor Commissioner secured a judgment for \$1,713,140.71 against Anthony Squared, Inc. Of this amount, \$1,383,966.59 is owed to the approximately 160 affected employees, and \$407,750.00 is owed as penalties to the State.
- **Emelia Ion, dba Flora Care Home:** BOFE Legal assisted in the investigation of a residential care facility, brought an action to enforce an investigatory subpoena, and obtained full collection of citations issued for \$46,746.23 in civil penalties (the bulk of which was for workers' compensation violations) and \$36,542.53 in wages for violations of minimum wage, overtime, rest periods, and wage statement violations covering six workers.

Superior Court Litigation

- **Inspection Warrants:** Two inspection warrants obtained for BOFE deputies. Employers denied access to places of labor in violation of Labor Code §90. Inspection warrants issued by Superior Court granting access, which allowed field deputies to complete inspection and investigation of employers for workplace violations.
- **Motions to Compel Production:** Three actions were filed against a farm labor contractor, a residential care provider, and a solar company to compel production of time and payroll records. All petitions to compel production were granted by the superior courts and BOFE obtained necessary documents to continue their investigation and assessments against the employers.
- **DLSE v. California-Nevada Methodist Homes:** After an investigation triggered pursuant to the Private Attorneys General Act, a lawsuit was filed and settled for \$98,639.17 in recovery of wages and penalties.
- **Lewis Towing Inc.:** BOFE issued a citation and stop order to the employer for the failure to maintain workers' compensation insurance for approximately \$99,000.00. Lewis Towing Inc. filed a petition for writ in superior court but failed to post the required bond in support of the petition. Fresno Legal first moved to dismiss the petition for the employer's failure to post the required bond. During the litigation, Fresno Legal reviewed the employer's financial records and confirmed the employer's inability to pay the full amount of the penalty. With approval of BOFE senior leadership, the parties settled with the employer agreeing to pay a lump sum payment of \$60,000 to resolve the citation.

Other Partnerships

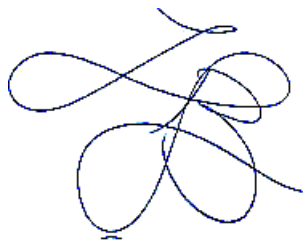
Labor Enforcement Task Force (LETF)

The LETF, under the direction of the Department of Industrial Relations, is a coalition of California state government enforcement agencies that work together and in partnership with local agencies to combat the underground economy. LETF partners include the Employment Development Department (EDD), the Division of Occupational Safety and Health (DOSH), the Contractors State License Board (CSLB), the California Department of Tax and Fee Administration (CDTFA), and the Bureau of Automotive Repair (BAR). LETF teams target noncompliant employers for inspection using referrals and data-matching techniques. Each agency on its own does not have access to the full range of data and other information that LETF teams can access through cooperation. The task force also reflects the Labor Commissioner's focus on improved targeting through better data and intelligence gathering and on assessing wages owed. LETF accomplishes its mission through targeted inspections for minimum wage and overtime violations, workers' compensation insurance coverage, child labor, illegal operations without the required licenses, and a focus on the garment, agriculture, construction, car wash, automotive repair, restaurant, and other industries in which labor law violations are prevalent. This report contains LETF statistics only for the Labor Commissioner's Office; LETF Legislative Reports showing enforcement results from other LETF partners can be found here:

https://www.dir.ca.gov/letf/LETF_Legislative_Reports.html

Transfers to the General Fund

In fiscal year 2019-2020, the Labor Commissioner's office deposited \$9,757,834.76 in fines, penalties, and wages collected to the General Fund.

A handwritten signature in blue ink, appearing to read 'Lilia García-Brower', with a stylized, looping design.

Respectfully submitted,
Lilia García-Brower
Labor Commissioner