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Transforming Car Wash Worker Rights: An Analysis of California's Car Wash Worker Law

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TRANSFORMING CAR WASH WORKER RIGHTS

AN ANALYSIS OF CALIFORNIA'S CAR WASH WORKER LAW

BY KATHERINE SÁNCHEZ, LILY CAIN, SONITA TAN, ANAHÍ CRUZ

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MEET THE AUTHORS

ANAHÍ CRUZ is a second-year Master of Public Policy student at UCLA's Luskin School of Public Affairs. Her policy interests include immigration policy, labor policy, and education policy. Anahí is a first-generation student who also received her Bachelor's degree from the University of California, Riverside in Psychology Law and Society in 2019. After graduating from UCLA, Anahí hopes to work in politics and ultimately become a legislator to advocate for a legal path to citizenship for all undocumented immigrants.

“Todo el trabajo que he hecho en este programa, lo he hecho para mis padres. Mis padres llegaron a este país con la esperanza de un mejor futuro y no voy a dejar de trabajar hasta que lo tengan. Dedico este reporte a mis padres y a todos los carwasherxs que son padres que también esperan ese mismo mejor futuro.”

KATHERINE SÁNCHEZ is a second year Master of Public Policy candidate at UCLA's Luskin School of Public Affairs. Migration is an integral part of her life and identity which is why her policy interests lie in immigration policy, social justice policy, and local governance policy. Katherine is a first-generation student who received her Bachelor's degree from the University of California, Santa Barbara in Sociology and Spanish in 2017. Upon graduating from UCLA, Katherine hopes to work in local city government to contribute to policy making that is fair, humane, workable, and well-functioning for all.

“Les quiero dedicar todo mi trabajo y mi esfuerzo a mi querida familia. Pero especialmente, a mi mamá y a mi abuela. A las dos mujeres luchonas que se sacrificaron y vinieron a este país sin nada, para darme todo. Esta maestría es para ustedes dos.”

LILY CAIN is a second year Master of Public Policy candidate at UCLA's Luskin School of Public Affairs. She comes from a union organizing background, with experience organizing adjunct faculty, clinic workers, and Uber and Lyft drivers in the San Francisco Bay Area. She is originally from the Los Angeles area, and received her Bachelor's degree from the University of California, Santa Barbara in Political Science and Spanish in 2016. Her policy interests are around labor and immigration, and she hopes to return to worker justice organizing after graduation.

SONITA TAN is a second year Master of Public Policy student at the University of California, Los Angeles. She is interested in a variety of policy interests but is mainly focusing on Environmental Policy, Transportation Policy, and Labor Policy. She received her Bachelor's degree from California State University, Long Beach in International Studies and Economics in 2019. She worked for a nonprofit that advocates for children in the dependency system during her gap year. This experience inspired her to apply for grad school so that she can be the change she wanted to see. After graduating, Sonita hopes to work for the local or state government as a program manager in hopes of implementing programs that are equitable for underrepresented communities.

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Este reporte es para ustedes.

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DISCLAIMER

This report was prepared in partial fulfillment of the requirements for the Master in Public Policy degree in the Department of Public Policy at the University of California, Los Angeles. It was prepared at the direction of the Department of Public Policy and of the CLEAN Carwash Campaign as a policy client. The views expressed herein are those of the authors and not necessarily those of the Department, the UCLA Luskin School of Public Affairs, UCLA as a whole, or the client.

GLOSSARY

Carwasherx(s) - the gender inclusive term by which car wash workers are referred in this report.

Compañero(a) - inclusive term that is used to refer to *carwasherxs* in the industry

Diteleros - individuals who are responsible for washing the interiors and exteriors of cars

Propinas - cash tips for services

Secadores - individuals who are responsible for drying car exteriors

Toalleros - individuals who are responsible for washing and folding drying towels

Vaquidores - individuals who are responsible for vacuuming duties

Car Wash Worker Fund - This fund also comes from car wash registrations and fees, and goes toward costs incurred by the commissioner in the wage claim process.

Car Wash Worker Restitution Fund - Established by AB 1688, this fund is in place for *carwasherxs* with wage claim judgments to be able to collect their unpaid wages if they are not able to collect from their employers. Money from the fund comes from car wash registrations and fees imposed for unregistered car washes

Judgment - Decision handed down from the Superior Court based on Labor Commissioner recommendation that specifies the amount owed by an employer to a claimant

Surety bond - A surety bond is a legally binding contract entered into by three parties—the principal, the obligee, and the surety. The obligee, requires the principal, typically a business owner or contractor, to obtain a surety bond as a guarantee against future work performance.

Bet Tzedek Legal Services - Bet Tzedek provides free, expert legal advice and representation to low-income residents of Los Angeles County.

BOFE - Bureau of Field Enforcement unit within the DLSE

CLEAN - Community Labor Environmental Action Network (CLEAN)

DIR - Department of Industrial Relations

DLSE - Division of Labor Standard Enforcement (Labor Commissioner's Office)

LETf - Labor Enforcement Task Force

WCA - Wage Claim Adjudication unit within the DLSE

EXECUTIVE SUMMARY

As of today, the car wash industry in the United States has close to 17,000 establishments with 163,178 paid employees.¹ Like in many industries with predominantly immigrant workforces, car wash employers skirt minimum wage laws by paying workers through only tips, by having workers on stand-by without pay, or through per car and daily rates. In 2003, AB 1688 passed in the legislatures, and required car wash owners to register with the Labor Commissioner's Office (DLSE) and imposed a fine on car wash owners who refused to comply. However, by 2008, only 65% of the estimated 1,600 car washes were registered and in compliance with the law.²

The DIR reports that there are only 633 car washes registered in California.³ However, there are an estimated 2,025 car washes in the state.⁴ These statistics are alarming given that California has the highest number of car wash employees, with 24,851 people who work in the industry.⁵ In Los Angeles County alone, there are more than five hundred car washes which account for one quarter of all car washes in the state, with combined reported annual revenues of more than \$250 million.⁶

There are many issues that affect *carwasherxs*, including but not limited to health and safety hazards, environmental risks, sexual harassment, and lack of medical and other benefits. However, in the scope of our research, we focused on the impacts of wage theft within the car wash industry. Our team is supporting the CLEAN Car Wash Campaign's efforts by analyzing wage theft in the industry and providing recommendations to improve the efficacy of the Car Wash Worker Law. This report was compiled to answer the following policy question: How effective have AB 1688 (2003) and AB 1387 (2013) been in addressing wage theft for *carwasherxs* in California? Our research consists of a combination of quantitative data analysis of wage claim filings and qualitative analysis of in-depth interviews with *carwasherxs*, labor law attorneys, Deputy Labor Commissioners, and industry stakeholders conducted between January and March 2022.

Based on our findings we provided seven policy alternatives to optimize the existing Car Wash Worker Law and deter wage theft violations in the industry. Each policy option was evaluated based on four selected criteria through a Criteria Alternative Matrix model. Based on the evaluation of our proposed policies, we recommend CLEAN advocate for:

- (1) A budget change proposal to hire more personnel at the DLSE,
- (2) Improve data collection and transparency by the DLSE,

(3) Require car wash industry specific postings in English and Spanish to inform *carwasherxs* of their rights, and

(4) Inserting more punitive legislative language into the Car Wash Worker Law that penalizes “off-the-clock” wage theft

We recommend CLEAN consider these policy recommendations in conjunction with one another to strategically create the most robust and effective changes within the car wash industry. Our policy recommendations will expand existing structures to be able to increase levels of registration, decrease wait times for wage claims, and provide more tools for workers to use to empower themselves in their organizing and advocacy. As the work on this industry continues, we hope that this report will be useful in providing a representation of the issues *carwasherxs* are facing eight years after the last update to the Car Wash Worker Law.



INTRODUCTION

In the late 1990s and early 2000s, labor activists at car washes throughout California began noticing and documenting a trend of employers under-paying their workers. Like many industries with predominantly immigrant workforces, car wash owners would skirt minimum wage laws by paying workers through tips only, by having workers clock out but continue working, or by compensating based on per car and daily rates. In 1999, the Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA) received various complaints from car wash workers regarding wage violations, substandard working conditions, and workplace harassment.⁷ Almost simultaneously, another group of *carwasherxs* employed at SpeedWay Car Wash went directly to State Senator Tom Hayden seeking assistance for similar issues. Senator Hayden convened CHIRLA and the Koreatown Immigrant Workers Alliance (KIWA) to help organize a response to the mistreatment the workers faced at SpeedWay Car Wash.⁸ This direct call to action from car wash workers prompted Senator Hayden to draft legislation (California Senate Bill 1097) to regulate the car wash industry. In 1999, SB 1097 passed the legislature but was

later vetoed by Governor Davis due to concerns related to enforcement costs and suggestions that there was no evidence the bill was necessary.⁹

The sentiments of Governor Davis alluded to the need for more information regarding the labor violations taking place in the car wash industry. In 2001, labor expert Victor Narro, a project director with the UCLA Labor Center, together with Professors Gary Blasi and Richard Abel of the UCLA School of Law, found that there was a severe lack a data on the car wash industry, as well as no process for documenting violations at car washes by the Department of Labor Standards Enforcement (DLSE).¹⁰ This realization led to a research effort to study the working conditions of car wash workers. UCLA law students conducted the first ever survey of car wash workers, which provided information about wage and labor violations in the industry.¹¹ At the same



time, the UCLA Labor Center, in conjunction with the Legal Aid Foundation of Los Angeles and several local legal services organizations, created a coalition known as the Los Angeles Workers Advocates Coalition (LAWAC).¹² This group focused on sharing ideas and best practice strategies in cases involving low wage workers and forming legislation. LAWAC concluded that there was a profound need for legislation targeted at the car wash industry. The LAWAC-UCLA Law School report helped garner support from Assemblywoman Jackie Goldberg, who served as the catalyst for the 2003 Car Wash Worker Law (AB 1688).¹³

LAWAC drafted language for the new bill based on the original 1999 bill, with new information added from the UCLA Law report.¹⁴ In 2003, AB 1688 passed in the legislatures, and was signed by Governor Arnold Schwarzenegger, ensuring that car wash owners would comply with minimum wage laws. The new law required car wash owners to register with the Labor Commissioner's Office and imposed a fine on car wash owners who refused to comply.¹⁵ Application requirements included a registration fee of \$250, to be adjusted for inflation, plus a \$50 annual fee for each branch location. These fees were deposited into the Car Wash Worker Restitution Fund. Employers were also required to have a surety bond of at least \$15,000, which would be used to recover wages for an employee whose employer failed to pay them their owed wages or other benefits.¹⁶ The bill had a sunset clause of January 1, 2007 — three years after its enactment — meaning that if it did not get extended by that date, the law would expire.¹⁷ Although the law was enacted in early 2004, car wash owners did not begin registering their businesses until 2006 after the Division of Labor Standards Enforcement (DLSE) established and implemented their registration services.¹⁸ By 2008, only 65% of the estimated 1,600 car washes in the state were registered and in compliance with the law.¹⁹

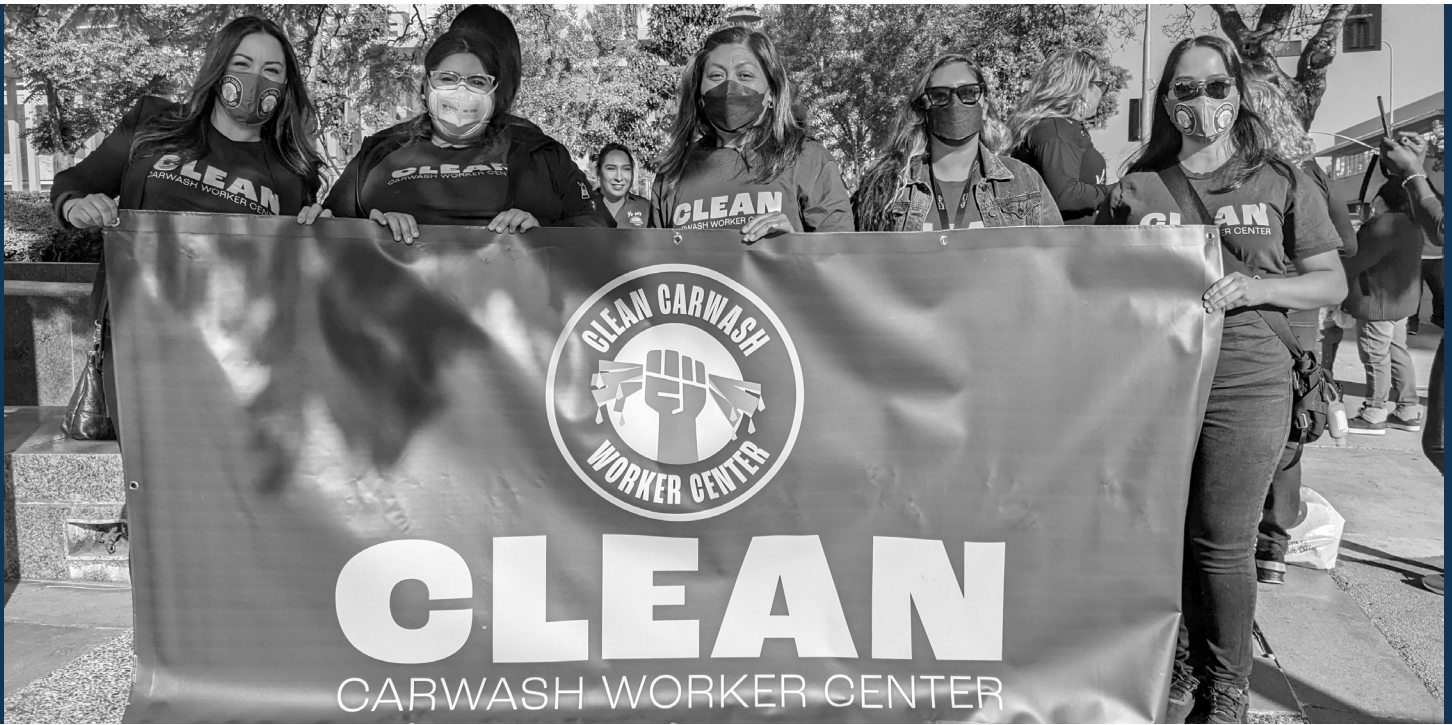
In 2008, investigators from the Los Angeles Times found that many car washes in the state — almost four in ten — weren't registered, and two-thirds of car washes were not in compliance with one or more of the state's labor laws.²⁰ DLSE investigators also estimated that at least half of all car wash owners in the state continued to violate minimum wage laws.²¹ Previous reports have stated *carwasherxs* were not being paid the minimum wage; instead, they were paid a daily rate that varied depending on the car wash. *Carwasherxs* we spoke with reported a general awareness about which car washes paid daily rates and which ones paid hourly wages.



THE STATE OF THE CARWASH INDUSTRY TODAY

As of today, according to the DIR, only 633 car washes are registered in California,²² but there are an estimated 2,025 car washes in the state.²³ California has the highest number of car washes and car wash employees in the nation, surpassing all other states in 2019. California also has the highest number of car wash employees, with 24,851 people who work in the industry.²⁴ In Los Angeles County, there are more than five hundred car washes alone, accounting for one quarter of all car washes in the state, with combined reported annual revenues of more than \$250 million.²⁵ In 2017, California car washes made \$1.6 billion in sales. Meanwhile, the average annual salary for car wash workers was \$21,199.²⁶ Moreover, out of the approximately 10,000 car wash workers in LA County, 64.7% are first generation immigrants from Latin America and at least 27.1% are undocumented.²⁷

Finally, there are many issues that affect *carwasherxs*, including but not limited to health and safety hazards, environmental risks, sexual harassment, and lack of medical and other benefits. In the scope of our research, we primarily focused on the impacts of wage theft within the car wash industry. We do address some of these issues as they came up in our interviews, but they were not fully explored and we encourage further research on these important topics.



CLIENT: CLEAN CAR WASH CAMPAIGN

The Community-Labor-Environmental-Action-Network (CLEAN) Car Wash Campaign is a coalition of community groups and worker unions that formed in 1999 as a result of a strike organized by *carwasherxs*. CLEAN challenges the working conditions of the heavily exploitative car wash industry through community and civic engagement. CLEAN was established after advocates saw the need for long-term solutions to labor violations reported by *carwasherxs*. CLEAN is committed to improving working conditions and ensuring that car wash employers are meeting labor standards.

Today, CLEAN continues to support car wash employees by “organizing members from union and non-union car washes and investing in their leadership development.”²⁸ In 2013, CLEAN established a Carwash Worker Center in South Los Angeles, a safe space where all workers and their families can learn how to make changes that affect their lives and communities. The Car Wash Worker Center is a place where *carwasherxs* can also be referred to legal and immigration services, and training programs.

In response to the evolution of the carwash industry in recent years, CLEAN seeks to better understand how the law has impacted the lived experiences of *carwasherxs* in Los Angeles. This report documents the current status of Los Angeles car wash workers issues in an effort to identify strategies that will assist CLEAN organizers in empowering *carwasherxs* to advocate for their rights. CLEAN also hopes to improve the car wash industry as a whole and campaign for a more effective Car Wash Worker Law.



POLICY CONTEXT

WAGE THEFT IN CALIFORNIA

Wage theft is a prevalent issue in the car wash industry, as well as many other industries in California. According to a report by the Labor Commissioner's Office, in Fiscal Year 2018-2019 there were 4,449 violations and over \$77.4 million in unpaid wages across all industries.²⁹ Low-wage industries, such as the carwash industry, have the highest rates of wage theft. Unfortunately, many of the unpaid wages were never paid out to the workers. In a 2015 report by the UCLA Labor Center, researchers found that in Los Angeles, an estimated 83% of workers who receive a judgment on their claim never receive any compensation.³⁰ In fact, 60% of employers who had a judgment against them were found to have abandoned, sold or transferred their businesses in order to avoid paying their workers' wages; 50% did so before a judgment was even ruled upon.³¹

Over the past few years, there have been new laws enacted in order to combat wage theft across industries in California. In 2013, Governor Jerry Brown signed SB 588, which targets wage theft by strengthening the Labor Commissioner's Office and creating mechanisms to hold individuals, not businesses, accountable.³² In 2021, Governor Gavin Newsom signed AB 1003, a bill that would classify certain levels of wage theft as grand theft, in order to file criminal charges against individuals.³³ Despite these and other efforts, wage theft still remains rampant in California and the carwash industry.

THE EVOLUTION OF THE CAR WASH WORKER LAW

In 2009, organizers and labor activists, with support from the AFL-CIO, began a campaign to revamp the Car Wash Worker Law in order to counter the continuing wage violations, as well as to address other health and safety issues.³⁴ The campaign included individual outreach to *carwasherxs* and media coverage, which overall informed thousands of car wash workers of their rights to minimum wage, overtime, and breaks.³⁵ Along with support from UCLA graduate students and community allies, the campaign led to the successful enactment of AB 1387, signed by Governor Jerry Brown on January 1, 2014.³⁶ This new bill, along with terminating the sunset clause provisions of the previous amendments, increased the bond requirement to \$150,000, and most notably, exempted employers from bond requirements if they negotiated a Collective Bargaining Agreement (CBA) with their workers.³⁷ In order to be in compliance, the CBAs were required to include criteria on wages, hours of work, working conditions, and an expeditious process to resolve disputes concerning nonpayment of wages.³⁸ Immediately following the law, at least 51 car washes in Los Angeles negotiated CBAs with their employees.³⁹ However, by 2018, only 32 car washes with union contracts remained.⁴⁰

THE CAR WASH WORKER LAW TODAY

As established by the 2013 Car Wash Worker Law (AB 1387), car wash employers are required to pay an annual registration fee of \$250, plus an additional \$50 for each branch they operate. Of the registration fees, \$50 is deposited into the Car Wash Worker Restitution Fund, which is made available for workers who file wage claims. The remaining \$200 is used to support the enforcement capacity of the DLSE. If an employer fails to register, the Labor Commissioner's Office:

“May cite an employer and impose a civil fine if, upon inspection or investigation he or she determines that the employer has failed to register pursuant to Labor Code Section 2054. The citation may be served personally or by registered mail in accordance with subdivision (c) of Government Code Section 11505. A citation must be in writing and describe the nature of the violation, including reference to the statutory provision allegedly violated.”⁴¹

The fines are valued at \$100 per day, up to \$10,000 (maximum 100 days), of which 50 percent goes into the Car Wash Worker Restitution Fund. As stated in the Car Wash Worker Law:

“Moneys from the fund shall be disbursed, upon appropriation by the Legislature, by the commissioner only to persons determined by the commissioner to have been damaged by the failure to pay wages and penalties and other related damages by any employer, to ensure the payment of wages and penalties and other related damages.”⁴²

The restitution fund was established by the original Car Wash Worker Law, AB 1688, in 2003. In California, the only industries with restitution funds are the car wash, garment, construction, and agricultural industries. Proponents and organizers also wrote AB 1387 to establish carve outs — or exclusions — for employers who had collective bargaining agreements with their employees. Establishing union contracts and having union representation has two major advantages over non-union car washes: grievance procedures to recover unpaid wages can be quicker and more efficient than the state processes,⁴³ and union representation also improves other aspects of the job, including fixed hours and job stability. Furthermore, the union that represents the *carwasherxs* in Los Angeles, United Steelworkers (USW), has developed a social justice rapport with the community. Unfortunately, car washes, which range from five to thirty employees, are difficult and expensive to continually attend to. They require the same amount of attention as worksites with larger workforces, but the unions accrue fewer dues to pay for this upkeep.⁴⁴ In addition, many car washes with unions have closed, leading to more workers relying on the state enforcement processes for wage claims.

According to data going back to 2009, an average of 859 registrations were filed with the California Labor Commission each year. The California Labor Commissioner’s Office cited an average of 91 car washes for registration violations per year, amounting to a total \$8,679,700 in fines from car wash employers over eight years (Figure 1).⁴⁵ It is important to note that due to decreased DLSE enforcement efforts resulting from the COVID-19 pandemic in 2020 and 2021, the number of car wash registration citations dramatically declined. 9 pandemic in 2020 and 2021, the number of car wash registration citations dramatically declined.

YEAR	CAR WASH REGISTRATION	# OF REGISTRATION CITATIONS	PENALTY ASSESSMENT AMOUNT
2010	956	196	\$1,325,600.00
2011	1005	150	\$1,163,950.00
2012	1033	80	\$609,750.00
2013	1012	47	\$381,900.00
2014	814	94	\$823,400.00
2015	746	148	\$1,267,100.00
2016	847	144	\$1,115,200.00
2017	860	99	\$859,800.00
2018	868	56	\$495,600.00
2019	764	61	\$484,600.00
2020	770	5	\$38,900.00
2021	628	13	\$113,900.00

Figure 1: Car Wash Registrations and Citations, 2010-2021

The average penalty assessment for each employer during this time period amounted to \$8,089.19.⁴⁶ However, the average payment received from employers only amounted to \$3,709.48.⁴⁷ According to Senior Deputy Labor Commissioner Jocelyn Lopez, car wash owners are able to enroll in payment plans and oftentimes stop paying their fees once deputies move onto other cases or once notices for payment stop coming in.⁴⁸ As of now, there is no follow up process for the collection of payments.

CALIFORNIA’S POLITICAL AND SOCIAL CLIMATE

When AB 1387 was passed in 2013, proponents of the law considered the political landscape in California.⁴⁹ Democrats controlled approximately two-thirds of both the State Senate and the State Assembly, and Democratic Governor Jerry Brown was in charge.⁵⁰ After the original 2003 Car Wash Worker law, there were two bills in 2006 and 2009 whose main objectives were to extend the sunset provisions in order to avoid the bill lapsing. AB 236 (2009) was set to sunset that year, and so proponents decided to take the opportunity with a majority Democratic legislature to pass a new law without a sunset provision to circumvent any future opposition.⁵¹ However, in 2022,

Democrats still hold veto-proof majorities in both the Assembly and the Senate,⁵² and California continues to have a Democratic governor, Gavin Newsom. While none of these are indefinitely secure (2022 is an election year for governor and various legislative seats), there is a strong likelihood that the supermajority will persist policies favorable to workers will receive strong support in California in the coming years.

The current political and social climate creates various opportunities, but also sets up new challenges to *carwasherxs* and their supporters, such as CLEAN. California is a Democratic stronghold, and there has been growing support for unions and worker organizing over the past few years. However, the lingering effects of the Trump Administration’s anti-worker and anti-immigrant rhetoric and policies have exacerbated the vulnerabilities felt by low wage and immigrant workers. *Carwasherxs* have seen a decrease in support from both government and labor unions and have had to rely more heavily on the non-profit and philanthropic sectors. Despite these challenges, the carwasherx community in Los Angeles continues to have consistent support from the UCLA Labor Center and worker centers, like CLEAN, which have received an increase in investment and advocacy-related support from members of the labor community and funders.



COVID-19 Pandemic

As with many other low-wage industries, workers at car washes struggled during the COVID-19 pandemic. Most *carwasherxs* we spoke to reported being out of work due to car wash closures, some for upwards of six to seven months. When we spoke with organizers from CLEAN, they expressed the difficulties that many *carwasherxs* faced as a result of being laid off, even if temporarily. The COVID-19 pandemic exacerbated issues such as food insecurity, housing insecurity, and access to healthcare. According to the organizers, many workers' children relied on schools to provide breakfast and lunch, which they did not always have access to during the pandemic. CLEAN supported *carwasherxs* during this time by tapping into their donors to fundraise for grocery cards and other funding, and also connected workers with housing activists in order to speak with their landlords about their rights to not be evicted during the pandemic.⁵³ In addition, through their organizing and outreach, CLEAN was able to provide approximately \$1.5 million to 6 through the California Immigrant Resilience Fund, which provided funding to immigrants who were unable to access other government stimulus or relief programs.

None of the *carwasherxs* we interviewed reported receiving any economic support from their employers during this time. According to CLEAN, a very small number of their members received severance pay from their employers, and at least one car wash owner took the money out of their paycheck when they returned to work. However, many car washes in California and Los Angeles received loans from the Paycheck Protection Program (PPP), which was intended to help small businesses keep their workforce employed during the height of the pandemic.⁵⁴ The website [Federalpay.org](https://www.federalpay.org), which lists the companies who received loans, has approximately 500 car washes in the state who received loans, ranging from \$92,000 to almost \$2 million.⁵⁵ While we do not have data on which car washes who received PPP continued supporting their employees, we do know that many *carwasherxs* struggled economically throughout the pandemic.

POLICY QUESTION

Through this report we seek to address the following policy question: How effective have AB 1688 (2003) and AB 1387 (2013) been in addressing wage theft for *carwasherxs* in California? What policies can be implemented to further protect *carwasherxs* from wage theft?



METHODOLOGY

This section addresses both our data sources and our research methodology. To evaluate the effectiveness of the AB 1688 and AB 1387, we gathered quantitative data sources obtained from the Division of Labor Standards Enforcement (DLSE). This data consists of registered car washes, citations for unregistered car washes, as well as wage claim data. The second section details qualitative data sources and analysis, specifically the interviews we conducted that explore *carwasherxs*' experiences with wage theft and the wage claim process, the administrative procedures of the DLSE, and various stakeholders in the Los Angeles car wash industry.

QUANTITATIVE METHODS

Various quantitative metrics were provided to us by staff members at the Division of Labor Standards Enforcement (DLSE). This data includes the number of registered car washes each year reported by the License and Registration unit and car wash citations reported by the Bureau of Field Enforcement (BOFE) unit. In addition, we also received data on the number of wage claims filed by car wash workers from 2019 to 2021 from the Wage Claim Adjudication (WCA) unit. The data includes the amount requested and whether the claims were settled, with the amount received if they were. Other miscellaneous data, such as the number of registrations, were collected from the Department of Industrial Relations website. The wage claim data is used to understand the effectiveness of the Labor Commissioner's Office to protect car wash employees. The purpose of this analysis was to determine if AB 1688 and AB 1387 were effective in protecting car wash employees against wage theft using descriptive statistics.

QUALITATIVE METHODS

While quantitative data provided us with a semi-comprehensive high-level view of the wage recovery process and the law's registration system, our analysis required a holistic understanding of the law's enforcement operation and its impacts on *carwasherxs*, which numbers alone could not capture. Due to this, we conducted 42 intensive interviews with individuals across four stakeholder groups: *carwasherxs*, labor law attorneys, car wash owners, labor activists, government agencies, and enforcement staff. These groups hold varying levels of involvement and expertise in the law's wage recovery process and enforcement.

Table 1: Key Respondent Categories, Titles, & Counts

STAKEHOLDER CATEGORY	TITLE OF INDIVIDUAL OR AGENCY	INTERVIEWEE COUNT
CARWASHERXS	VARIOUS	31
IMPLEMENTATION AND ENFORCEMENT STAFF	JULIET OVALLE, JOCELYN LOPEZ, NELIDA CONTRERAS LABOR DEPUTY COMMISSIONERS (DLSE -BOFE & WCA)	3
EXPERTS - LABOR LAW ATTORNEYS	YVONNE MEDRANO, MATTHEW DECAROLIS BET TZEDEK LEGAL SERVICES	2
EXPERTS - LABOR ACTIVISM	JUSTIN MCBRIDE, JOSE TELLO LABOR ACTIVISTS	2
POLITICAL AND LABOR	EDUARDO MARTINEZ CALIFORNIA LABOR FEDERATION	1
EXPERTS - CARWASHERS ORGANIZING	FLOR RODRIGUEZ, ANDREA GONZALEZ CLEAN/LABOR ACTIVISTS	2
CAR WASH OWNER	CHRIS BUSCAGLIA WESTERN CARWASH ASSOCIATION EXECUTIVE MEMBER AND CARWASH OWNER	1
TOTAL NUMBER OF INTERVIEWS		42

Note: Quotes from interviews conducted in Spanish were translated into English by our team. Some direct quotes have been edited to ensure clarity.

INTERVIEW STRUCTURES

Interview questions and guides were drafted based on topics relevant to the intended stakeholder groups and interviewees’ area of expertise. All interviews were conducted over Zoom by members of our research team. With consent from respondents, we recorded all interviews to ensure accuracy of quotations and context.

In collaboration with the CLEAN Carwash Campaign, we identified key players in the enforcement and implementation of AB 1688 and AB 1387, including stakeholders, agencies, and organizations involved in the Los Angeles car wash industry. More information on our key respondents can be found on Table 1.

Carwasherxs

The experiences of *carwasherxs* are central to our understanding of the law’s efficacy. Their lived experiences with labor violations, health and safety hazards, and harassment and intimidation, provide a unique insight into AB 1688 and AB 1387. Respondents were recruited and interviews were scheduled by CLEAN organizers, who have developed trust with workers.

We interviewed 31 *carwasherxs* — 26 male and 5 female. The respondents range in age from 27 to 63, with a

median age of 47. All but two of our interviewees identified as an immigrant from Latin America, including Mexico (n=21), El Salvador (n=4), Guatemala (n=4), and Peru (n=1), with one respondent declining to state. Lasting between 30 minutes and 1.5 hours, the in-depth interviews were primarily conducted in Spanish via Zoom by members of our team, then transcribed verbatim. Interviews conducted in Spanish were translated into English by members of our team. All interviews with *carwasherxs* took place during January and February 2022. Winter months in the car wash industry are known for being slower months with fewer customers and less work, so some of our findings may reflect that discrepancy. In order to protect the anonymity of *carwasherxs*, many of whom are in vulnerable positions, we developed a numerical identifying system to assign non-identifiable numbers to individuals, rather than using their names.

Enforcement Staff

The enforcement staff are responsible for the day-to-day operation of the law's provisions surrounding compliance. These individuals include staff from the Labor Commissioner's Office and investigators from the Bureau of Field Enforcement (BOFE) and Wage Claim Adjudication offices. These agencies and individuals represent the stages of the law's registration system, wage recovery provisions, and enforcement efforts. Moreover, they are the rightful administrators and enforcers of AB 1688 and AB 1387.

Experts & Advocates

Experts on the AB 1688 and AB 1387 and the Los Angeles Carwash industry include labor reform advocates who hold extensive knowledge on the history of the campaign and have anecdotal evidence and strong networks/allyship with local *carwasherxs*. We also spoke with statewide labor leaders and advocates to understand the political landscape under which potential policies would be proposed and implemented.

We spoke to labor reform advocates and community partners to ensure that our work was driven by equity and inclusion. By engaging community voices and perspectives, we were able to understand their priorities and better design community-based policy recommendations.

Car Wash Owners and Associations

Members of this group include the Western Carwash Association and carwash owners/employers. We interviewed an executive member and owner of Zoom Carwash in Stockton, California about DLSE's enforcement efforts, surety bond requirements, and car wash registration compliance rates to learn more about the Association's position on the law. Through our conversation with the Western Carwash Association, we were able to gain insightful information on how the law has performed throughout the years and how it could be improved.



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LIMITATIONS

The main limitation from our qualitative data collection was that all our *carwasherx* interviews were organized with the help of CLEAN. While this collaboration granted us access to a greater number of workers, due to the organization's established relationship with *carwasherxs* in the region, we recognize that the individuals we interviewed already had prior education and training around the car wash industry practices. These interviewees were also all located in the Los Angeles area. Therefore, we acknowledge that we do not have a full understanding of the scope of experiences of *carwasherxs* in other regions throughout California.

In light of ensuring utmost protection of the vulnerable population, we did not ask interviewees their immigration or citizenship status. We acknowledge that this status is a variable that could significantly impact our data analysis and policy recommendations. We based our assumptions on this topic on past research regarding immigration and worker data, as well as information from our client on worker demographics. However, this is a universal limitation that a lot of research on immigration and undocumented workers lacks.

Our quantitative data collection limitations stem from the fact that we were only provided with wage claim data for 2019-2021. We were hoping to conduct a more expansive analysis of wage claims filed since the inception of the Car Wash Worker Law, however the Labor Commissioner's Office only provided us with data from those three years. It is important to note that this time frame encompasses the COVID-19 pandemic, during which time, enforcement efforts and wage claim processes were halted or severely slowed. This likely skews the data we received from the DLSE and does not provide us with a fully representative summary of wage claim data.



KEY FINDINGS

We identified six key findings from our analysis that speak to the challenges regarding the efficacy of the Car Wash Worker Law. Additional findings regarding other aspects of the car wash industry can be found in Appendix C. The preamble to AB 1688 begins with a declaration of the labor problems that plagued the carwash industry in the early 2000s, and then concludes:

Existing labor laws and enforcement efforts have failed to remedy these problems. Therefore, it is the intent of the Legislature, in enacting this act, to establish a system of registration, bonding requirements, and enforcement to impose prompt and effective civil sanctions for the violation of the provisions set forth in this act or any provision of law applicable to the employment of workers in the car washing and polishing industry.⁵⁶

Evaluating the extent to which the law has been successful will inform any policy recommendations to amend the law accordingly. If the Car Wash Worker Law has been effective and successful, the law should have:

- Created effective enforcement that reduces the levels of wage theft and labor violations in the industry
- Maintained a functioning registration system that ensures compliance by car wash owners
- Expanded access to the provisions that assist *carwasherxs* recover wages in a timely manner



The following findings will drive our proposed policy options, which aim to build upon the Car Wash Worker Law’s regulatory capacity in order to reduce labor law violations in the car wash industry. Through a variety of interviews and data collection, we found pervasive issues concerning unpaid wages, off-the-clock work, break period violations, and a plethora of administrative issues that have hindered the efficacy of the law.

Finding 1: *Carwasherxs* are discouraged from filing wage claims due to the Division of Labor Standards Enforcement’s (DLSE) long processing times.

Finding 2: The most common labor law violations that *carwasherxs* face when seeking their legal services is ‘off-the-clock’ work, leading to lost wages.

Finding 3: Shortages of enforcement employees are hampering the Labor Commissioner’s performance and causing stress for overworked employees.

Finding 4: *Carwasheras* (female car washers) have higher instances of discrimination, including less pay for work of equal value and harassment from employers.

Finding 5: Many employers have disappeared after judgements against them are handed down, preventing workers from collecting their due wages.

FINDING 6: Many car washes are unregistered, or avoid having the \$150,000 bond by providing proof of policy at registration and then canceling their bond agreements shortly after.

FINDING 1: *Carwasherxs* are discouraged from filing wage claims due to the Division of Labor Standards Enforcement’s (DLSE) long processing times.

“El proceso ha sido muy, muy largo y muy estresante, muy malo. Sí, y bueno, con mucho miedo, porque no sabes lo que te va a pasar a ti o a tu familia. Comenzamos el proceso de reclamo salarial y luego llegó la pandemia, y no supimos nada de la Oficina del Comisionado Laboral durante dos años. Y cuando finalmente tuvimos nuestra audiencia en la corte, bueno, las cosas no fueron iguales. Uno no puede recordar los detalles exactos después de tanto tiempo. Fue difícil contarle nuestra historia al juez. Fue duro, pero el juez sabía lo que nos había pasado. Ella sabía lo que nos habían hecho. Pero no ha sido fácil, ha sido difícil para todos y todavía no ha terminado.”

“The process has been very, very long and very stressful, very bad. Yes, and well, very afraid, because you don’t know what’s going to happen to you or your family. We started the wage claim process and then the pandemic hit, and we didn’t hear from the Labor Commissioner’s Office for two years. And when we finally had our court hearing, well things were not the same. One can’t remember exact details after so much time has passed by. It was hard to recount our story to the judge. It was hard, but the judge knew what had happened to us. She knew what they had done. But, it has not been easy, it’s been difficult for us all and it’s still not over.”

Carwasherx 2511

All workers interviewed that identified themselves as being or having been part of a wage claim stated experiencing grueling processing times that can average from four to six years. As one carwasherx explained,

“Sí, la verdad es muy difícil llevar a cabo este proceso porque la Oficina del Comisionado Laboral no tiene mucha gente para hacer este tipo de investigaciones. Ya hemos tenido conversaciones con ellos por medio de videollamadas y su excusa es que no hay suficientes personas para investigar los casos. Y por eso es que todo esto se retrasa mucho. El proceso continúa durante muchos años. Como hemos visto, pueden tardar hasta 5 o 6 años en resolver casos de robo de salario, o cualquier otro tipo de cosas en el trabajo, como discriminación, como despidos, y todo ese tipo de injusticias que se han ido dando durante mucho tiempo en la industria del lavado de autos. Entonces es por eso que no hay más remedio que esperar, ¿verdad? El departamento de trabajo dice que lleva mucho tiempo, pero siempre ha sido así, que yo sepa. Siempre se ha retrasado mucho.”

“Yes, the truth is, it is very difficult to carry out this process because the Department of Labor does not have many people to carry out this type of investigation and we have already had talks with the Department of Labor on video calls and their excuse is that there are not enough people to investigate cases. And so that is why all of this is delayed a lot. The process goes on for years. As we have seen, it can take up to 5 or 6 years for them to solve cases of wage theft, or any other type of things at work, such as discrimination, such as dismissals, and all those types of injustices that have been going on for a long time in the car wash industry. So that’s why there’s no other choice but to wait, right? The labor department says it takes a long time, but it has always been like that, as far as I know. It’s always been really delayed.”

Carwasherx 2472

The DLSE adjudicates wage claims on behalf of *carwasherxs* who file claims for nonpayment of wages, overtime, or vacation pay, as per the California Labor Code (96) and (98).⁵⁷ When a wage claim is filed, DLSE investigates the claim to determine its validity and rule if any wages or benefits are owed. In most cases, DLSE deputies hold informal conferences between carwash employers and employees to resolve the wage disputes. If the dispute cannot be resolved at the informal conference, an administrative hearing is scheduled so a hearing officer can review the evidence and make a final determination on the claim.⁵⁸ Likewise, the purpose of the DLSE’s Bureau of Field Enforcement (BOFE) unit is set forth in Labor Code section 90.5 which reads in part:

“...It is the policy of this state to vigorously enforce minimum labor standards in order to ensure employees are not required or permitted to work under substandard unlawful conditions, and to protect employers who comply with the law from those who attempt to gain competitive advantage at the expense of their workers by failing to comply with minimum labor standards.”⁵⁹

To this end, BOFE conducts on-site inspections in industries to ensure compliance, while also assisting and educating employers on how to comply with the Industrial Welfare Commission Orders (IWC Orders) and the Labor Code.⁶⁰

BOFE does not pursue individual claims for wages. That function is performed by the Wage Claim Adjudication (WCA) offices under the DLSE. When an initial report or complaint is received at BOFE, it is considered a report of alleged violations of the Labor Code and IWC Orders. The initial report is reviewed, prioritized and, if appropriate, assigned for investigation to a Deputy Commissioner. If the initial report is not assigned for immediate investigation, it may be used as a basis for a warning or letter of instruction to the employer, or it may be appended to a date when resources may be available to investigate the matter by a Senior Deputy Commissioner.⁶¹

When asked about the DLSE's case processing times, various Deputy Labor Commissioners explained the lack of capacity to process claims in a timely manner stems from staffing shortages at the WCA and BOFE offices. As detailed by Deputy Labor Commissioner, Juliet Ovalle:

“So with the capacity, we have obviously folks that are out in the field like myself, Deputy Commissioner staff. But there's also support staff that are incredibly important to the operation and the work that we do like Auditors, Office Technicians, Management Services Technicians. Ideally you'd have a full operating team that supports staff and deputies, kind of working together. It's rare to have an office fully staffed for a long term, so I think that's a big problem overall.”⁶²

This sentiment was echoed by WCA's Labor Deputy Commissioner, Nelida Contreras, who identified staffing gaps to be an everlasting issue at the DLSE. Contreras recounted how for a long period of time her office only had one assigned hearing officer due to high turnaround rates. When asked how this impacted the unit, Contreras stated:

“It hindered our office a lot. It gave us a huge backlog because one hearing officer cannot hold these hearings by themselves, you know we get especially right now we're getting about 200 claims a month. And for one hearing officer to hear the length of one hearing could take two to three hours, depending on the type of testimony. Car Wash industry claims are one of those lengthy hearings. Testimonies are very lengthy because they have witnesses and each witness is about 30 minutes per person, then the defendant has attorneys who are defending them and that includes witness testimonies as well. So you see, this could be pretty lengthy for one hearing officer to uncover. Then, in the end they have to write a full decision that could be up to 200 pages, at a time. Staffing is probably one of the main issues that has created the huge case backlog that we have now.”⁶³

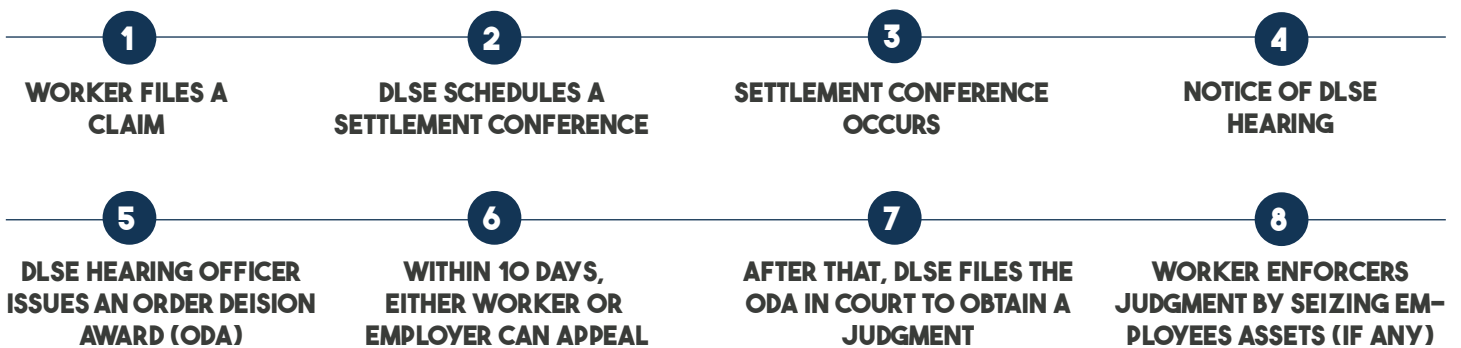
When asked how the DLSE could decrease its long processing times that often discourage *carwasherxs* from filing wage claims and reporting delinquent employers, Deputy Ovalle stated:

“A 200% staff increase, because wage theft is so prevalent. I’ve been doing this work for a long time, and I have been here at the Commissioner’s Office for almost five years, but just in regards to working with low-wage workers, it doesn’t stop. It only gets worse, it evolves and there is a real need to stop this type of pervasive theft.”⁶⁴

Agency officials also said changes in the law had given them new tools to combat wage theft, but made the investigation process take longer. The WCA unit recently asked the Legislature for a budget increase to hire more staff. Their officers generally handle appeals of both big BOFE citations and wage claims brought by individual workers — the latter of which totaled more than 32,000 in 2018.⁶⁵

According to the DLSE, by law, claims hearings are to take place 90 days from the date the Labor Commissioner determines to accept the complaint. A determination is then to be made within 30 days from filing. Accordingly, individual hearings should be held approximately 120 days from the date of the filing. However, the average wait time for individuals was 400 days in 2018, and that skyrocketed to 572 days in 2020 due to the pandemic.⁶⁶ The pandemic led the existing backlog of cases to become significantly worse. DLSE temporarily halted all in-person proceedings and investigations and struggled to conduct business remotely.⁶⁷

Figure 2: Steps to filing an individual wage claim through the WCA office⁶⁸



After the hearing has concluded, Labor Code section 98.1 requires the Labor Commissioner to issue an order, decision, or award (ODA) within 15 days. However, in 2018 the average number of days from hearing to the date of the ODA was 49. This climbed to an average of 79 days in 2019. These increases have to do with factors of case complexity, as shown by new laws that impact the DLSE’s enforcement activities, which affect how much time commissioners dedicate to certain cases.⁶⁹

Patrick Mulligan, who directs San Francisco’s Office of Labor Standards Enforcement, stated that ultimately the goal of the agency is to establish “a strong atmosphere of labor enforcement, which means timely and responsive enforcement actions.” He added: “And then on the other side, it limits the amount of hardship for workers if the matter gets resolved as expeditiously as possible.”⁷⁰

Carlos Torres, the Assistant Chief of the WCA unit, also recognized that extensive processing delays give unscrupulous employers an “increased opportunity to further evade the responsibility of unpaid wages.”⁷¹ According to Torres, these delays can also be attributed to low-wage workers being put in situations where they are forced to give up in the process because they become discouraged, need to keep their current jobs, or they sacrifice too much work time to participate in proceedings.⁷² Deputy Contreras also detailed how many workers who present wage theft claims through the DLSE live paycheck to paycheck, and live in constant fear of facing eviction. The majority of these workers face language barriers that further discourage them from moving forward and testifying against unscrupulous employers.⁷³ The imminent fear of retaliation was also identified as a huge deterrent by officers.⁷⁴ Overall, the ripple effects felt by wage theft victims are compounded in multiple ways by the long processing times caused by inadequate staffing at the DLSE.

Many *carwasherxs* who have gone through this process have been routinely failed by various systems of labor protection and institutions, leading to a lack of trust in the system and their agents. One carwasherx described how community-based organizations like CLEAN helped build back their trust and morale by granting them necessary resources, knowledge, and guidance to navigate the wage claim process. *Carwasherx 2511* details how they put their faith in CLEAN after the organization helped them expand their knowledge on labor rights:

“Pero uno no sabe. Ya hasta cuando empezamos a ver a la organización de CLEAN, nos empezamos abrir. Bueno, abrir la mente para saber más sobre nuestros derechos como empleados. Hoy ya sabemos un poco. No todo, pero sabemos.”

“But one does not know. Only when we found the CLEAN organization did we begin to open up. Well, open your mind to know more about our rights as employees. Today we know a little. Not everything, but we know.”

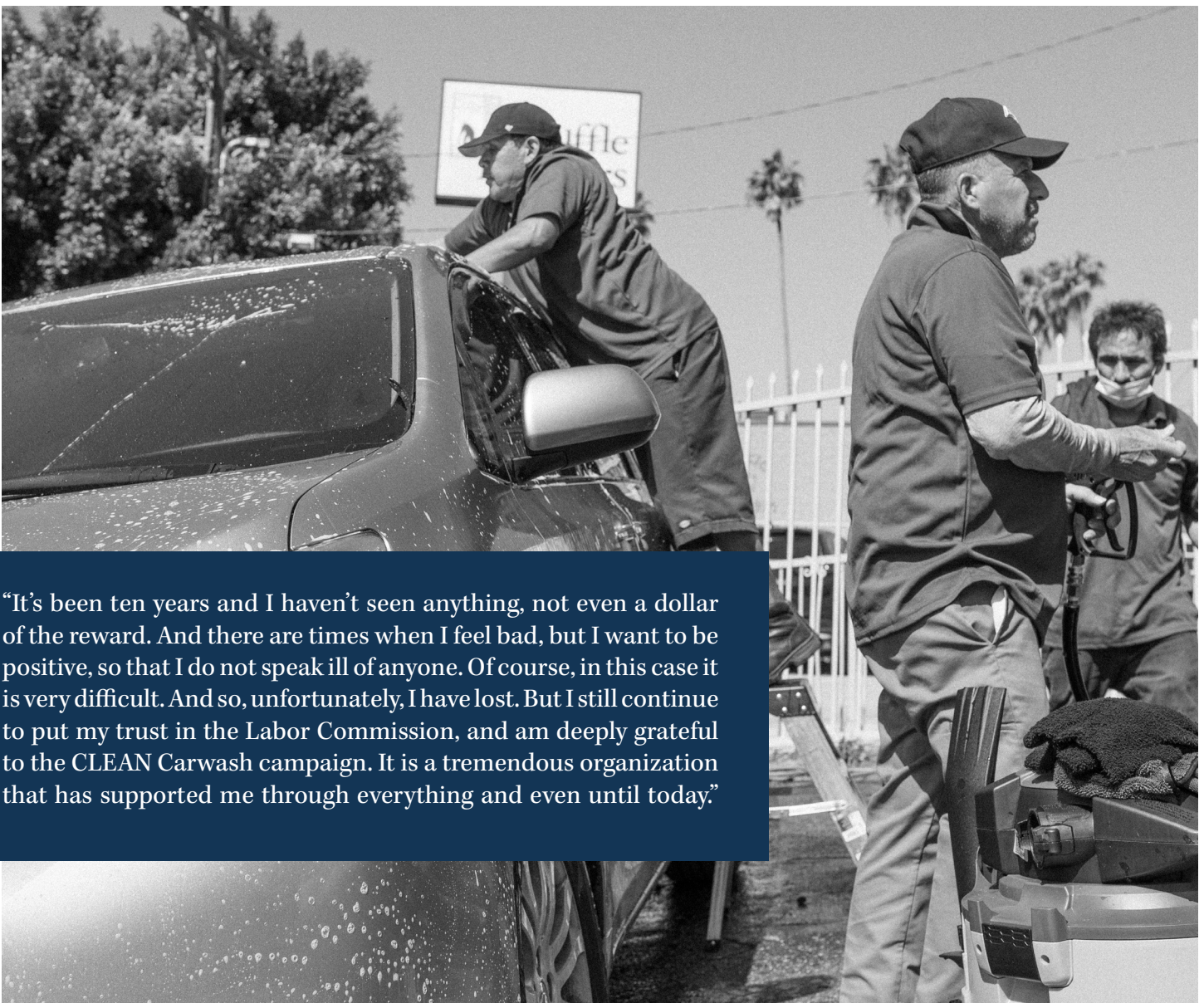
Carwasherx 2511

Another *carwasherx* expressed similar sentiments about the organization when depicting his current 10-year long wage claim lawsuit,

“Ya van diez años y no veo nada, ni un dólar, la recompensa. Y hay un momento en que me siento mal, pero quiero ser positivo para no hablar mal de nadie. Claro, en este caso es muy difícil. Y así, así sucesivamente, desafortunadamente, me ha tocado perder. Todavía sigo depositando mi confianza en en Labor Commission y estoy profundamente agradecido con la campaña de CLEAN. Es una organización tremenda, que me ha apoyado en todo y me están ayudando hasta ahora.”

“It’s been ten years and I haven’t seen anything, not even a dollar of the reward. And there are times when I feel bad, but I want to be positive, so that I do not speak ill of anyone. Of course, in this case it is very difficult. And so, unfortunately, I have lost. But I still continue to put my trust in the Labor Commission, and am deeply grateful to the CLEAN Carwash campaign. It is a tremendous organization that has supported me through everything and even until today.”

Carwasherx 2592



“It’s been ten years and I haven’t seen anything, not even a dollar of the reward. And there are times when I feel bad, but I want to be positive, so that I do not speak ill of anyone. Of course, in this case it is very difficult. And so, unfortunately, I have lost. But I still continue to put my trust in the Labor Commission, and am deeply grateful to the CLEAN Carwash campaign. It is a tremendous organization that has supported me through everything and even until today.”

FINDING 2: The most common labor law violations that *carwasherxs* face when seeking their legal services is “off-the-clock” work that leads to lost wages.

Car wash workers are among the lowest-paid and most poorly treated workers in California. According to worker advocates we spoke to, previous academic studies, and *carwasherxs* themselves, labor law violations are prevalent in the car wash industry. These violations range from not meeting minimum wage laws, not paying proper overtime wages, and violating break time period laws. According to Yvonne Medrano, an attorney at Bet Tzedek Legal Services, the most common labor law violation that *carwasherxs* face is “off-the-clock” work. A common practice in the car wash industry is that employers have *carwasherxs* report early to work, only to have them wait to clock in when they see fit. Many workers, including the ones we spoke to, experience these “wait times.” Few understand this to be a violation of labor law. Medrano echoes this by saying:

“People don’t realize that there is wage theft present. So we’ll have to state our question in a different way. For example, [not] ‘how many hours to work and how much is your salary?’, but ‘when did you get there and what time did you leave?’ This has been going on for the past 10 years. When the Car Wash Worker Law was implemented, ‘tip only’ work decreased. We got to see more punch cards, but those cards weren’t always accurate, making our work a lot harder because they’ll punch in later, but get there earlier and say they only worked for 8 hours.”⁷⁵

Hours of operation at car washes expand significantly over the summer, meaning that during warm and sunny weather, *carwasherxs* can work upwards of 40 hours a week. However, during the winter and rainy seasons, car flow significantly dwindles, leaving many *carwasherxs* facing serious reductions in their work hours. Some *carwasherxs* stated that managers justified their refusal to let them clock in based on inclement weather to increase consistent business operations. Many workers received no explanation at all (See Appendix B):

“Hoy le dicen a uno a las 9 de la mañana y a veces uno no entra. Tienen alguno hasta las 11. Dos horas de espera y no, pues es eso. Y los diez minutos nunca lo han querido dar. Los diez minutos casi les dicen que no es necesario, que uno no lo tiene que recibir. Ese es el problema. Por eso no me reclamo a veces, ok?”

“Today they tell you “At 9 in the morning” and sometimes you don’t clock in. They have some workers wait until 11. Two hours of waiting and nothing, well that’s it. And the ten minute break, they have never wanted to give it to us. They almost tell us that it is not necessary, that one does not have to receive it. That’s the problem. That’s why I don’t complain sometimes, ok?”

Carwasherx 2331

These irregularities in work hours lead employers to underreport workers' hours and thus, not pay them for their entire workday. *Carwasherxs* are currently paid California's \$15 per hour minimum wage, including workers in positions that require more training such as *diteleros*. However, *carwasherxs* did report discrepancies in tips received. Most car wash workers reported that each worker usually keeps the tips they receive and on a few occasions, managers disburse propinas amongst all workers. Many individuals reported that some positions, such as *vaquadios*, do not receive any additional tips at the end of the work day.

FINDING 3: Shortages of enforcement employees are hampering the labor commissioner's performance and causing stress for overworked employees.

"With the WCA drowning in stale wage claims awaiting hearing, all the while receiving more new claims each year, the WCA unit is in desperate need of Deputies and Hearing Officers to address burgeoning processing times and ensure cheated workers are receiving justice in a reasonable amount of time."⁷⁶

Carlos Torres, Assistant Chief of the WCA office

Shortages of enforcement employees is a common feature of troubled state-funded government agencies. This leads to delayed services to the public and an overburdening of their workforce.⁷⁷ Impacted services include those related to the protection of labor rights and the combat of wage theft, most of whom are found in lower-wage industries.⁷⁸

The Labor Commissioner's Office's ability to process wage claims in a timely manner has been crippled due to prominent understaffing issues throughout the years.⁷⁹ Shortages of employees are hindering agency performance and causing stress for overworked employees. This has affected case management and mission accomplishment by at least 50 percent, as reported by the WCA office.^{80 81}

In 2019, the DLSE underwent a hard hiring freeze after the Department of Industrial Relations former executive director, Christine Baker, was accused of nepotism.⁸²⁸³ State Auditor Elaine Howle claimed Baker used the influence of her position to bypass California's civil service employment process in hiring and promoting her daughter for a position in her own department.⁸⁴ The hiring freeze was a result of a lawsuit against Baker and the Department of Industrial Relations that was defended by Attorney General Xavier Becerra. This lawsuit led to the restructure of the internal hiring process and other California Human Resources policies.⁸⁵

This hiring freeze was followed by another period of distress for the DLSE due to the COVID-19 pandemic. The COVID-19-induced financial crisis led to a decrease in the DLSE’s proposed budget from \$117 million in FY 2019-2020 to \$93 million in FY 2020-2021.⁸⁶ This is approximately a 20% reduction in state funding. Although the state budget does not disclose how much of this money is allocated to hiring personnel, this reduction can be attributed to the decline in staffing capacity within the DLSE. Budgetary constraints are typically cited as the basis of long-term staffing reductions.⁸⁷ Moreover, various deputies that we spoke to also said that the difficulties of filling vacancies and high turnover is due to non-competitive wages and has also contributed to staffing shortages within the DLSE.^{88 89}

Although the proposed budget for FY 2022-23 has increased to \$145 million and the proposed number of FTEs is 816.9, per our conversations with various deputies, this has not been enough to strengthen the DLSE’s performance.⁹⁰ According to the state Department Finance records, the unit only has 64 hearing officer positions.⁹¹ The unit was initially established to give workers a no-cost and quick alternative to suing an employer, but it is constrained by the low number of hearing officer positions it holds. Deputy Ovalle detailed how the number of staff that focus on car wash leads are limited and these cases, which are assigned to them by Senior Deputies, are heavy in their load and complexity.⁹² Similarly, Deputy Contreras detailed how most high-volume offices across California only have one informal subject matter expert who oversees car wash wage claims.⁹³ Renee Amador, legal director at the Maintenance Cooperation Trust Fund, corroborated how deputies have way more cases than one person should be assigned. According to her, the DLSE is an office that is passionate about enforcing the law, “but if they don’t have the people that can do so, then they’re only going to be able to do so much.”⁹⁴



In 2020, the legislature approved a budget increase proposal to hire 63 positions, including 14 new hearing officers by mid-2024. However, state officials, such as Senator Dave Cortese, remain skeptical on whether this budget increase will be sufficient to decrease current processing times or increase field enforcement efforts.⁹⁵

We also found numerous *carwasherxs* who expressed their frustration with DLSE's responsiveness to wage theft and workplace harassment.

“Lo que pasa es que una vez nos dijeron que iban a ir después de que una compañera les hablo. Pero ellos (BOFE) nunca fueron. Y luego yo también una vez hablé. Y también nunca fueron. O sea, nomás nos dijeron que si se iban a investigar, pero no, nunca llegaron a nuestro trabajo.”

“Once they (BOFE) told us that they were going to go after a colleague spoke to them. But they never showed up. And then I also spoke to them once. And they also never showed up. In other words, they just told us that they were going to investigate, but no, they never came to our workplace.”⁹⁶

Carwasherx 2311

Carwasherx 2311, like many others in the industry, were subject to wage-theft, off-the-clock-work violations, and verbal harassment at the hands of their supervisor. When asked about the need for greater enforcement and the DLSE's authoritative presence, *Carwasherx 2543* stated the following:

“Pues este, pues en mi opinión, necesita que vayan los inspectores, porque hay este, bueno, en el lugar donde estoy el manager usa puras malas palabras con los empleados. Así la pasamos con él. Y yo estoy de acuerdo que los inspectores hagan un poquito más de su trabajo, porque hay muchos de eso, en la industria del carwash. No le están pagando bien a la gente, ya ni el mínimo están pagando. Pero por miedo, como uno no tiene papeles y no está estudiado, bueno yo pienso que todos por miedo no buscamos otro tipo de trabajo, o nos quejamos o no buscamos ayuda libremente.”

“Well, in my opinion, the inspectors need to go [to the worksites], because, for example, in the place where I am at now, the manager uses pure bad words with the employees. That's how we spend our time with him. And I agree that the inspectors need to do a little more of their jobs, because there are many of those [abusive employers] in the car wash industry. They are not paying people well, they are not even paying the minimum wage. But out of fear, since one isn't documented and isn't educated, well I think that all of us, out of fear, don't look for another type of job, or we complain or don't seek help freely.”

Carwasherx 2543

These initial findings shed light on the ongoing inefficiency Senator Cortese described. Cortese believes the agency has remained inefficient for far too long and, given the longevity of the problem, recommends for the

“entire culture of the operation to be addressed and revisited and restructured.”⁹⁷ This also calls for the creation of more effective ways for handling claims, as well as the need for greater resources so that the DLSE can meet their statutory obligations and accomplish their agency mission.⁹⁸



FINDING 4: Carwasheras (female car washers) have higher instances of discrimination, including less pay for work of equal value, and harassment from employers.

“Un mánager vino y me dijo ... si tú no andas conmigo, te voy a quitar horas.”

“A manager came up to me and said ... if you don’t go out with me, I’m going to cut your hours.”

Carwashera 1361

Initial findings indicate that *carwasheras* experience disparities in pay compared to male coworkers, and also abuse and harassment from both employers and coworkers. Many of the *carwasheras* we interviewed reported annual salaries that were significantly lower than most of the male *carwasherxs*. Annual salary for the *carwasheras* we interviewed hovered around \$10,000-\$11,000, whereas many male *carwasherxs* made between \$15,000 and \$25,000. This can be attributed in part to the discrepancy between the jobs that men and women are assigned

to work. Women are more often working jobs such as vacuuming and washing and folding towels, which are assigned lower pay. Meanwhile, men have the opportunity to work in drying and detailing, which in addition to being paid higher wages, are also positioned at the end of the carwash line, where workers additionally receive tips from customers.

While many *carwasheras* reported being discriminated against or threatened due to their lack of job security or citizenship status, *carwasheras* also experienced additional sex-based discrimination and intimidation. One worker said she had been threatened by her boss to go on a date with her, and if not, she would have her hours cut. Another reported that she had not had a pay raise due to being a woman, and when she confronted her employer about it, she was told that the employer believed she was able to get better tips for being a woman.

“De los dieciocho años que trabajé jamás tuve el derecho de que me subieran mi sueldo por ser mujer. Porque lo primero que me decía el mánager [es] que yo soy mujer y me van a dar buena propina, eso no tenía nada que ver. Él sabía lo que uno sufría para ganarse hasta las propinas. Pasábamos sed, a veces tienes hambre, y ellos solo quieren que les saquen el trabajo, que saquen el trabajo, que saquen el trabajo.”

“In the 18 years that I’ve worked, I never had a pay raise because I’m a woman. The first thing the manager told me is that I am a woman and customers are going to give me good tips, but that has nothing to do with it. He knows how much we suffer to get those tips. We work through thirst, sometimes hunger, and our managers just want us to keep working, to keep working, to keep working.”

Carwasherx 1481

Carwasheras also reported harassment and coercion from their male coworkers. While these do not have the same impact on wage or job security as coercion from employers, they do affect their working conditions and feeling of safety on the job. One carwashera told us her experiences:

“Tengo compañeros que, por ejemplo, les gusta decir buenos días mi amor, mi vida, o así. Esas personas las tienen como más consentidas como quien dice o más preferencia. Entonces yo lo que sí me gustaría que por ejemplo que todas las personas fuéramos pareja, así como por ejemplo, hay hombres que nos han dicho por ejemplo a nosotros como mujeres. Entonces si eres mujer y no y no te gusta hacer ese carro, ¿porque? ¿Por qué vienes y trabajas aquí? Es lo que hemos nosotros recibido así como mujeres.”

“I have colleagues who, for example, like to say good morning, hello my love, love of my life, etc. Those who engage with them in these types of conversations and behaviors tend to be more highly preferred and favored in the workplace. So that end, I would like for things to be more equitable. I have experienced men telling us women, “so if you are a woman, why don’t you like working on certain types of cars? Why do you come and try to work in this line of work? Why do you even work here?” These are just some of the comments and behaviors we must endure as women.”

Carwasherx 1421

As the industry is very male dominated, the issues of pay disparity and sexual harassment are not as prominent. Organizers from CLEAN, as well as *carwasher*s we interviewed, expressed that women’s labor and their ability to perform certain tasks are often questioned by both bosses and their male coworkers. Our findings on these matters are limited due to only having responses from five *carwasher*s. However, these initial findings indicate a problem that is common across many low-wage industries, and it may be beneficial to investigate this further.

FINDING 5: Many employers have disappeared after judgments against them are handed down, preventing workers from collecting their unpaid wages.

“There’s a lack of justice because the people that owe the money are not paying it.”

Yvonne Medrano, Attorney, Bet Tzedek Legal Services

Consistent with state trends, *carwasher*s who file wage claims rarely see payouts from their employers. Of the 13 workers we interviewed who had filed wage claims, at least nine of them were still waiting for (or had not been paid fully) the amount that they were entitled to from their judgment. Of those who did receive a payout, we do not have access to the data to know whether it came from employers or from the restitution fund. However, many accounts we heard, including from *carwasher*s, advocates, and inside the Labor Commissioner’s Office, described how car wash owners evade paying the unpaid wages by closing the business and hiding their assets. Juliet Ovalle from the Labor Commissioner’s Office attributed this to changing legal entities, meaning owners change the legal name or transfer ownership to a family member, all while keeping the business going but avoiding culpability: “Legal entities change all the time. Employers go out of the business or they change to another entity to avoid being responsible for what they owe.” Employers changing legal entities is a way for them to avoid paying because they are found to be “non-active” by the California Franchise Tax Board or the California Secretary of State,⁹⁹ but are able to continue operating their car wash. This is something advocates are also very aware of:

“By the time the worker has a judgment in hand ... the employer has already claimed or filed for bankruptcy. They’ve already hid all of their assets. And it’s really hard for the employee to be able to collect if it’s not from the restitution fund.”

Andrea Gonzalez, Lead Organizer, CLEAN Carwash Campaign

In fact, it is so pervasive that some lawyers who support *carwasher*s through the process of filing a claim are

already prepared to support them in accessing the restitution fund, because they do not expect employers to pay. Medrano corroborated: “Once we get a judgment, we just know the employer is not going to pay. We don’t even wait for that. They’re never going to pay and so we go to the fund.”

FINDING 6: Many car washes are unregistered or evade the bond by providing proof of policy to register, only to cancel their bond shortly thereafter.

All car wash businesses in California must register with the Department of Industrial Relations before they begin operations. Car wash businesses are required to pay a fee of \$250 per location and gather all the required documents needed to register. DIR requires all businesses to submit a copy of their business’s name, proof of worker’s compensation coverage, and a surety bond. A surety bond of \$150,000 must be issued by a company licensed to do business in the State of California and this bond is used to pay employees when a wage claim has been filed.

The main issue is that many car wash owners will purchase a surety bond to register their business and cancel the bond soon after their business is registered. This causes major problems for those who filed wage claims and won because they can’t access the surety bond. In these cases, payouts come from the restitution fund, a tedious and long process that can take more than a year. The surety bond clause in the Car Wash Worker Law becomes useless if employees cannot access it. DLSE has no system in place to track businesses that have inactive surety bonds.¹⁰⁰

“The bond issue needs to be addressed because it is not working. If I can change or improve the Car Wash Worker Law, it would be to remove the bond because I do not believe it is effective. Maybe instead of removing it, the policy needs to strengthen it somehow because it is hard to get money from the bond.”

Yvonne Medrano, Attorney, Bet Tzedek Legal Services

Deputy Ovalle also acknowledged that surety bonds are ineffective without a system in place to ensure that business owners are not canceling them after they register their businesses. Mandating car wash owners or the bond company to report when the surety bond is canceled will help with this issue.

“The bond is purchased through an insurance company and they need to have it during the period of time that they are operating. But we found instances where employers will purchase it to register, but then

cancel it afterward. The bond is there so that if employees file wage claims against their employers, they can collect from the surety bond. But right now there's also no requirement for insurance companies to notify us if employers cancel their bond which is problematic.”¹⁰¹

Juliet Ovalle, Deputy Labor Commissioner II

Western Carwash Association Executive Director Chris Buscaglia, echoed Deputy Ovalle's sentiments about surety bonds. Buscaglia expressed concern about the efficacy of surety bonds to ensure Car Wash Worker Law compliance, especially with regards to registration. According to Buscaglia, “in my opinion, most people who need the bond don't have the bond. The people that you really want to go after are outside the net and it defeats the purpose of the bond.”¹⁰²

Moreover, after speaking to various labor activists, primarily CLEAN, it was brought to our attention that a bond verification system is of high interest for them. Car wash owners are required to show proof of an effective surety bond when they register their establishment. However, many proceed to cancel their bond shortly after registering their business with the DLSE. Currently, there is nothing explicitly written in the Car Wash Worker Law that mandates bond companies or car wash owners to notify DLSE of the termination of a surety bond. This loophole is problematic given that the surety bond is set in place to ensure *carwasherxs* can receive their settlement if a judgment on a wage claim is filed in their favor.

Various labor law attorneys stated that the majority of the time, *carwasherxs* receive their settlements from the Car Wash Restitution Fund that is administered by DLSE. Given DLSE's slow processing times, especially during the Order, Decision, or Award (ODA) process, it can take *carwasherxs* upwards of two to three years to receive their settlement money, even after a superior court judge files a legal judgment in their favor.¹⁰³ When asked about the possible implementation of a bond verification system, Deputy Ovalle stated the following:

“It would be helpful for them to provide notice to us when an employer is no longer covered by a bond, because then at the end of the day, their registration would be faulty, right? And we would know. But there's no mechanism to control that right now, or to provide that.”¹⁰⁴

Juliet Ovalle, Deputy Labor Commissioner II

The bond system is so complex that we are unable to provide an in-depth policy recommendation to implement a verification system with our current findings. We recommend for more research to be conducted on the implementation of a bond verification system for the car wash industry.



POLICY OPTIONS

POLICY QUESTIONS OPTIONS	FINDING(S) ADDRESSED
<p>POLICY OPTION 1: Insert legislative language to the Car Wash Worker Law that penalizes “off-the-clock” wage theft in car washes.</p>	<p>FINDING 2: “off-the-clock” work</p>
<p>POLICY OPTION 2: Submit a budget change proposal to the Legislature to hire more personnel at the Labor Commissioner’s Office.</p>	<p>FINDING 1: Long DLSE processing times</p> <p>FINDING 3: Labor Commissioner shortages</p>
<p>POLICY OPTION 3: Establish a lien system to ensure that <i>carwasherxs</i> receive payment.</p>	<p>FINDING 1: Long DLSE processing times</p> <p>FINDING 3: Labor Commissioner shortages</p> <p>FINDING 5: Employers disappearing post-judgment</p>
<p>POLICY OPTION 4: Creation of a unit in the Labor Commissioner’s Office that specializes in wage claims for the carwash industry.</p>	<p>FINDING 1: Long DLSE processing times</p> <p>FINDING 3: Labor Commissioner shortages</p> <p>FINDING 6: Unregistered car washes</p>

POLICY OPTION 1: Insert legislative language to the car wash worker law that penalizes “off-the-clock” wage theft in car washes.

The most prevalent form of wage theft in the car wash industry is “off-the-clock” work. Most *carwasherxs* we interviewed reported having to show up early to work, and then being forced to wait to clock-in until their employers saw fit. Bet Tzedek, the leading legal services non-profit that assists *carwasherxs* in California, reports “off-the-clock” work as the most common labor law violation that *carwasherxs* face when seeking their legal services. In one of the most high-profile wage theft cases in California, the Labor Commissioner’s Office issued more than \$2.36 million in wage theft citations to a Culver City car wash.¹⁰⁵ Workers at the Playa Vista Car Wash were required to wait at a nearby alley 30 minutes before the business opened to be chosen to work that day.¹⁰⁶

Any workers not selected to work were sent home after several hours of waiting without being compensated for their time.

In California, employers are required to compensate workers with “report time pay,” which is a form of wages that compensate employees who are required to report to work, but are not put to work. Furthermore, California’s reporting time pay law requires:

1. Each workday an employee is required to report to work, but is not put to work or is furnished with less than half of his or her usual or scheduled day’s work, he or she must be paid for half the usual or scheduled day’s work, but in no event for less than two hours nor more than four hours, at his or her regular rate of pay.
2. If an employee is required to report to work a second time in any one workday and is furnished with less than two hours of work on the second reporting, he or she must be paid for two hours at his or her regular rate of pay.¹⁰⁷

Given the prevalence of reporting time pay violations and “off-the-clock” work in the car wash industry, combating this issue will require added legislative language within the Carwash Worker Law. We recommend implementing more punitive language into the law that outlines punishments or fines employers will face when they commit wage violations. The law today has no punitive language that condemns wage theft. As the law stands, it only enforces preventive measures against wage theft. The only relevant civil fine for wage violations is housed under section 1712.4 of the law that states car wash owners who have outstanding “unpaid wages,” are unable to register or renew their registration with the Labor Commissioner’s Office. Any employer who fails to register is considered to be, “guilty of a misdemeanor punishable by a fine of not more than one hundred dollars (\$100) for each calendar day the employer conducts car washing and polishing while unregistered.”

The Car Wash Worker Law must specifically address practices of wage theft in the industry and create civil law statutes that reprimand employers for such practices. Given the proven trends of wage theft that have remained prevalent for the past 10 years, the law must tackle these trends head on and utilize strategic legislative language. Legislators should outline penalties for wage and hour violations in order to grant enforcement authority to the Labor Commission’s wage enforcement efforts. We recommend creating a standard financial penalty, such as the penalty outlined in the law for failure to register (e.g., a certain amount of dollars for every day wages go unpaid per worker).

POLICY OPTION 2: Submit a budget change proposal to the legislature to hire more personnel at the Labor Commissioner’s Office (DLSE).

After speaking to Deputies in the Labor Commissioner’s Office, it became evident that the number of qualified employees is at the heart of the large majority of the big problems that *carwasherxs* face when filing a wage claim.¹⁰⁸ The DLSE’s failure to resolve wage theft cases in a timely manner makes it hard for workers to collect what is owed to them.¹⁰⁹ Moreover, the backlog of cases has only worsened during the COVID-19 pandemic.¹¹⁰

As mentioned previously, in 2020 the state Legislature approved funding to increase the state Labor Commissioner’s WCA unit by 63 positions, including 14 new hearing officers by mid-2024.¹¹¹ However, given the gaps in staffing levels at both WCA and BOFE, it is unclear whether the WCA’s proposed budget request to hire more staff will alone result in shorter processing times.

Thus, in addition to WCA’s existing budget request to hire more personnel, the new FY 2022-2023 budget change proposal should include the following to decrease claim processing time:

Bureau of Field Enforcement (BOFE) unit request four-year phase-in and increase of 15 positions and \$2.3 million in Fiscal Year (FY) 2022-23, 31 positions and \$4.6 million in FY 2023-24, 47 positions and \$6.7 million in FY 2024-25, 63 positions and \$8.8 million in FY 2025-26, with an ongoing allocation of \$8.6 million from the Labor Enforcement and Compliance Fund to assist in decreasing current wage claim processing times due to changes in law, which have made wage claims more complex.¹¹²

This budget increase would target the hiring of the following personnel:

Clerical Staff: Additional clerical support is critical to the success of this proposal. At a 1:3 ratio of clerical to professional staff, the WCA and BOFE units must individually request an additional 16 Office Technicians and Management Services Technicians.^{113 114} An additional 16 Staff Services Analyst and Associate Governmental Program Analyst positions must also be requested by the units.

Additional Deputies for Claim Processing and Settlement Conferences: To combat long processing times from a growing number of complex claims that WCA and BOFE are experiencing, the divisions must individually request 27 additional Deputy Labor Commissioners (DLC). The WCA unit forecasts that by increasing the number of DLC positions by approximately 50 percent, total wait times for claim processing will decrease by 50 percent, or 115 days.

Hearing Officers in Highly Impacted Offices: Taking into account the information about case hearing delays that was mentioned previously in the report, it is recommended for the WCA and BOFE to request additional DLC II (Hearing Officers).¹¹⁵ The WCA alone has projected that this could cut processing times for hearings by “50%, or an average of 198 days.”¹¹⁶

Senior Deputy (DLC III) Positions: The scope of a DLC’s and Senior DLC’s job has grown exponentially in the last couple of years, to the point where it is difficult for either one to focus on the entire wage claim process.¹¹⁷ By obtaining 6 additional Senior DLC’s for large capacity offices, Hearing Officers can begin helping manage complex cases and provide on-the-job training for new hires. This has the potential to slow the current high turnover rates in both the WCA and BOFE.^{118,119}

Moreover, it is important to target the hiring of skilled personnel and likewise invest in robust new-hire training programs at the DLSE. According to Eduardo Martinez from the California Labor Federation, this strategy is imperative:

“Even if you throw a bunch of money at a Labor agency, that doesn’t mean that they can just turn around tomorrow and hire a bunch more people. So part of what I’ve heard is that part of the struggle is that it (labor law enforcement) requires a very specialized skill set, and it is hard to get folks who meet those qualifications.”

Eduardo Martinez, Legislative Director, California Labor Federation

POLICY OPTION 3: Establish a lien system to ensure that *carwasherxs* receive payment.

When *carwasherxs* file wage claims, they often experience their employers or former employers have closed their business and are no longer reachable for collecting on their judgments. When this happens, *carwasherxs*’ only form of recourse is to try to collect from the Car Wash Worker Restitution Fund, which incurs additional delays. This policy would create a lien system, where *carwasherxs* could put a hold on the land the car wash resides on in order to insure payment from the landowners themselves.

A similar type of lien already exists in California: under Civil Code §8400-8494, contractors, subcontractors,

laborers, and materials suppliers who work on the property of a homeowner, in the case they are not paid, are able to file liens on the property.¹²⁰ These are referred to as mechanics' liens, and they put the onus to pay on the property owner, even if they are not the ones responsible for the lack of payment, such as with subcontractors or suppliers. If the homeowner does not provide payment, the property can be foreclosed on, forcing the sale of the property and transferring money from the sale to the workers.¹²¹ This is often required within 90 days of filing the lien.

In 2012, SB 2517 was proposed by State Senator Mike Eng. This bill, if passed, would have authorized *carwasherxs* to be able to place liens on the personal property of the car wash owner.¹²² The bill failed in the Senate, but many advocates and activists have brought up a new lien process as a potential mechanism for *carwasherxs* to collect their wages. A lien system that puts the onus on the property owners where the car wash resides would allow *carwasherxs* to collect unpaid wages more rapidly, and might also put pressure on the car wash owners from a different direction.

“If there is a violation with the business, the property owner is responsible to a certain degree, for the monetary value. That really puts the property owner on the hook, to make sure that they are renting space to business owners that are good employers.”

Deputy Labor Commissioner Jocelyn Lopez

Lopez explained that with the more recent integration of car washes into different types of multi-use businesses, property owners have a new stake in the treatment and employment of *carwasherxs*.

“It might be the building owner ... where there's an underground parking garage where they've allowed somebody to set up a car wash that services the tenants of the building. We could argue that yes, that building is profiting to a certain degree from the hard work of that car wash worker.”

Deputy Labor Commissioner Jocelyn Lopez

A lien system for the car wash industry would not decrease the time it takes for wage claims to be processed, but, if enacted in a manner similar to the mechanics' lien, could grant *carwasherxs* the ability to collect unpaid wages within 90 days of receiving their judgments.

POLICY OPTION 4: Creation of a unit in the Labor Commissioner’s Office that specializes in wage claims for the carwash industry.

DLSE has official task forces assigned to the agriculture, automotive, construction, garment, landscaping, and restaurant industries, but not the car wash industry.¹²³ This results in many violations and wage claims being overlooked, because DLSE does not have the resources to ensure that employers are not violating the law since they also handle cases from other industries. Therefore, an independent special task unit should be created within DLSE that only handles violations and wage claims filed from the carwash industry. Juliet Ovalle, a Deputy Labor Commissioner, stated that having a task force specifically for the carwash industry would be beneficial because wage theft is still prevalent in this industry. DLSE data shows that between 2019 and 2021, the Labor Commissioner’s Office took on 217 wage claim cases. Currently, the Labor Commissioner’s Office does not have the resources to investigate all violations that are reported, so they have to decide the cases they can take on. This negatively impacts workers because Yvonne Medrano, an attorney from Bet Tzedek Legal Services stated that “if only one worker or a claim is filed anonymously, then the claim might go nowhere. DLSE doesn’t investigate every claim they receive.”¹²⁴

In 1999, the garment industry established its own task force unit when the Garment Worker Protection Act was passed. The purpose of the task force is to protect garment workers’ rights by investigating violations and helping garment workers file claims. According to Deputy Ovalle, the garment deputies would help garment workers with the filing process and testify on their behalf. Currently, there is no support like this for *carwasherxs* because there’s no special unit specifically assigned to the carwash industry. Similar to the garment industry, a new provision should be made to the Car Wash Worker Law establishing a task force specifically for the car wash industry. Having the deputies help *carwasherxs* with the filing process would be helpful since the process is rather complex and long. This could also incentivize more *carwasherxs* to speak up about the mistreatments they encounter at work.

Unlike the garment industry, the car wash industry is more spaced out across California while the garment industry is located mainly in Los Angeles. One difficulty in establishing a task unit for the car wash industry is that it would be challenging to have a special unit in every office across California. As seen in Figure 3 below, most wage claim cases filed between 2019 and 2021 were from the Greater Los Angeles area. The Greater Los Angeles area includes San Bernardino (n= 34), Los Angeles (n= 18), Long Beach (n= 6), and Van Nuys (n=7)

which totals to 65 cases. Establishing a special unit in Los Angeles will have the greatest impact in the industry since most car washes are located in Los Angeles. Afterward, special units can be established in other regions such as San Diego and Bakersfield where wage theft is significant.

Figure 3: Car wash wage claims by DLSE jurisdiction, 2019-2021

NUMBER OF WAGE CLAIM CASES	
LOS ANGELES	18
LONG BEACH	6
BAKERSFIELD	29
FRESNO	21
OAKLAND	11
SACRAMENTO	13
SALINAS	1
SAN BERNARDINO	34
SAN DIEGO	22
SAN FRANCISCO	3
SAN JOSE	19
SANTA ANA	16
SANTA BARBARA	8
SANTA ROSA	6
STOCKTON	3
VAN NUYS	7



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CRITERIA AND METHODS OF EVALUATION

WE EVALUATE OUR POLICY OPTIONS BASED ON THE FOLLOWING FOUR CRITERIA:	
CRITERIA:	WEIGHT:
1. Impact on <i>Carwasherxs</i>	3 points
2. Impact on Car Wash Owners	2 points
3. Political Feasibility	2.5 points
4. Economic Feasibility	2.5 points
Total Weight	10 points

We use these criteria to determine which policy options have the highest probability of effective implementation and will have the greatest impact on the efficacy of the Car Wash Worker Law. We give extra weight to the impact on *carwasherxs* and slightly lower weight to the impact on car wash owners because of our client’s interest in understanding the impacts the Car Wash Worker Law has had on workers specifically.

Our primary goal is to recommend policy options that will help improve the efficacy of the Car Wash Worker Law and, in turn, enhance the car wash industry holistically for *carwasherxs*. Therefore, in our evaluation, it is critical that we consider the impact that these policy options may have on workers and enforcement agencies charged with upholding the law. In our analysis of each policy option, we will take into account the perspectives



of *carwasherxs* by examining how our recommendations will change their experiences when working and filing a wage claim. We will also consider the administrative and political impacts our recommendations will have on the California Labor Commissioner’s Office, given that they are responsible for processing these claims and upholding industry standards established by the Car Wash Worker Law.

EVALUATION RATING SCALE

1. Impact on *Carwasherxs* (3 pt): Will *carwasherxs* see an improvement in the time it takes to receive full compensation for their work?

The original policy in AB 1688 was designed to decrease wage theft and create a pathway for *carwasherxs* to receive compensation for unpaid wages. The most important element to consider in a new policy is whether *carwasherxs* will see an improvement in their ability to receive full compensation. This improvement can be understood as the ability to receive full wages directly from employers, or as a quicker process to collecting wages through state agencies or other channels.

RANKING OF CRITERIA SCALE FOR <i>CARWASHERXS</i>		
Low (1)	Medium (2)	High (3)
The policy will have no discernable impact on workers’ ability to receive compensation for their work.	The policy will reduce the wage claim processing time by 25-50%.	The policy will reduce the wage claim processing time from claim filing to settlement or referral to hearing by 50% or more.

2. Impact on Carwash Owners (2 pt): Does the policy significantly impact car wash owner’s business operations? Does the policy encourage labor law compliance from car wash owners?

As noted earlier in this report, the Car Wash Worker Law was designed to decrease wage theft and create a pathway for *carwasherxs* to receive compensation for unpaid wages. In turn, car wash owners are required to abide by several procedural guidelines (e.g., business registration, purchasing surety bonds, etc.). The policy options in this report aim to amend the procedural guidelines car wash owners must follow to remain in good standing with the Labor Commissioner’s Office. Any policy recommendations made must consider the livelihood of business operations for car washes such as avoiding disrupting labor supply and minimizing additional financial burdens (especially for small businesses).

RANKING OF CRITERIA FOR CAR WASH OWNERS

Low (1)	Medium (2)	High (3)
The policy will have no discernable impact on car wash owners' business operations, maintaining the status quo.	The policy will have a minor impact on business operations but will offset wage theft in the industry.	The policy will require major adjustment from car wash owners in their business operations.

3. Political Feasibility (2.5 pt): Will key-stakeholders support reforming the car wash worker law in order to make significant changes to its functions?

Reforming the Car Wash Worker Law requires buy-in from major political proponents in the California State Legislature. Our client must obtain the support of policy makers in order to introduce the issue of the worker rights back onto the legislative docket. In our evaluation, we define political feasibility as the ability to obtain support and approval from stakeholders who can uplift the need for legislative and administrative reforms. These stakeholders include: *carwasherxs*, car wash employers/owners, labor rights activists, California Legislators, and the Labor Commissioner's Office staff.

RANKING OF CRITERIA SCALE FOR POLITICAL FEASIBILITY

Low (1)	Medium (2)	High (3)
The policy is unlikely to be formally introduced and implemented due to opposition from key stakeholders.	The policy may be introduced, but will lack widespread support from stakeholders to be formally implemented.	The policy is likely to receive widespread support from key stakeholders and will likely be formally introduced and implemented.

4. Economic Feasibility (2.5 pt): Does the policy require an increase in the DLSE's budget?

In order to have an effective policy, the Labor Commissioner's Office must have sufficient personnel to help enforcement efforts. Currently, the Labor Commissioner's Office cannot effectively investigate all reports filed or help *carwasherxs* with the filing process because they are heavily understaffed. This criterion evaluates each policy's possible financial costs. These costs include hiring additional full time staff members, increasing labor hours, and other costs associated with new infrastructure. We use the DLSE's existing operational budgets and publicly available data to estimate associated costs for each policy.

RANKING OF CRITERIA SCALE FOR ECONOMIC FEASIBILITY

Low (1)

The policy requires a significant increase in DLSE's budget to support the hiring of additional FTEs and infrastructure expenses.

Medium (2)

The policy requires some additional staff or infrastructure that would result in short-term (up to two years) start-up program costs.

High (3)

The policy does not require added Full Time Employees (FTE) and/or hours or infrastructure expenses.



POLICY EVALUATIONS

POLICY OPTION 1: INSERTING MORE PUNITIVE LEGISLATIVE LANGUAGE INTO THE CAR WASH WORKER LAW THAT PENALIZES “OFF-THE-CLOCK” WAGE THEFT IN CAR WASHES.

IMPACT ON <i>CARWASHERXS</i>	HIGH	By outlining the specific financial penalties for unpaid wait times and other common wage violations in the car wash industry, employers will be deterred from engaging in these practices due to further financial burdens. In turn, <i>Carwasherxs</i> will experience less wage theft.
IMPACT ON CAR WASH OWNERS	MEDIUM	Non-compliant car wash owners will be significantly financially impacted if they receive various citations for engaging in the forms of wage theft outlined in the law. Compliant car wash owners would not be impacted by the amendment.
POLITICAL FEASIBILITY	MEDIUM	Key stakeholders, such as labor rights advocates and CLEAN, will be in support of more punitive measures to combat wage theft in the car wash industry. However, as mentioned by Eduardo Martinez from the California Labor Federation, pro-business stakeholders may oppose this policy option due to added costs and oversight. ²¹
ECONOMIC FEASIBILITY	LOW	The Labor Commissioner’s Office and BOFE will likely require additional financial capacity in both departments. To combat all forms of wage theft to the full extent, they’ll need more funding to hire additional DLC to investigate job sites with reported wage violations.



POLICY OPTION 2: SUBMIT A BUDGET CHANGE PROPOSAL TO THE LEGISLATURE TO HIRE MORE PERSONNEL AT THE LABOR COMMISSIONER’S OFFICE (DLSE).

IMPACT ON <i>CARWASHERXS</i>	HIGH	This policy will help significantly decrease wage claim processing times by nearly 50% or 115 days. Additionally, it would allow the DLSE to abide by the Labor Code section 98.1 which requires the office to issue employees an ODA within 15 days after the hearing instead of the current 49 day average wait time.
IMPACT ON CAR WASH OWNERS	HIGH	Carwash owners would see a significant decrease in wage claim processing wait times. They would be required to mediate their case and pay any outstanding wages and or fines in a timely manner. The expansion in enforcement capacity could notably deter carwash owners from violating AB1688.
POLITICAL FEASIBILITY	HIGH	Influential stakeholders directly involved with CLEAN and advocates for workers rights would likely respond positively to this policy. A budget change proposal is already advocated by the DLSE and supported by the California Legislature.
ECONOMIC FEASIBILITY	MEDIUM	We envision this proposal to be implemented as a four-year phase-in plan. We estimate the policy will result in long-term sustained program costs by hiring additional FTE costing the state between \$40 million and \$44.8 million. Given the estimated state budget surplus of \$23 billion in 2022-2023,123 this cost is not exorbitant to California taxpayers.

POLICY OPTION 3: ESTABLISH A LIEN SYSTEM TO ENSURE THAT *CARWASHERXS* RECEIVE PAYMENT.

IMPACT ON <i>CARWASHERXS</i>	HIGH	A lien system could lead to <i>carwasherxs</i> receiving compensation within 90 days of filing, an improvement from the current waiting period.
IMPACT ON CAR WASH OWNERS	MEDIUM	Car wash owners may not be impacted directly, but property owners may require car washes to comply with state laws in order to avoid liens against them.
POLITICAL FEASIBILITY	LOW	Pro-landlord lobbies such as the California Association of Realtors have strong influence in California politics. Therefore, this would be unlikely to go through.
ECONOMIC FEASIBILITY	LOW	A new department or board would need to be established in order to implement a lien policy for other industries because as Labor Commission staff stand now, there are not enough people to take on this new task.

POLICY OPTION 4: CREATION OF TASK FORCE UNIT IN THE LABOR COMMISSION THAT SOLELY FOCUSES ON THE CAR WASH INDUSTRY

IMPACT ON <i>CARWASHERXS</i>	HIGH	This policy would benefit <i>carwasherxs</i> because the task force would be able to investigate more claims as well as guide <i>carwasherxs</i> through the wage claim process.
IMPACT ON CAR WASH OWNERS	MEDIUM	Greater oversight would result in increased investigations for non-compliant businesses but should have a minor impact on businesses operating in compliance with the Car Wash Worker law.
POLITICAL FEASIBILITY	MEDIUM	Key stakeholders may be against this recommendation because of acquired additional costs. However, given the fact that this has already been implemented for the garment industry, labor advocates will be likely to adamantly support it.
ECONOMIC FEASIBILITY	LOW	The Labor Commissioner's Office must restructure and increase its staffing capacity in order to establish a special task force for the carwash industry.



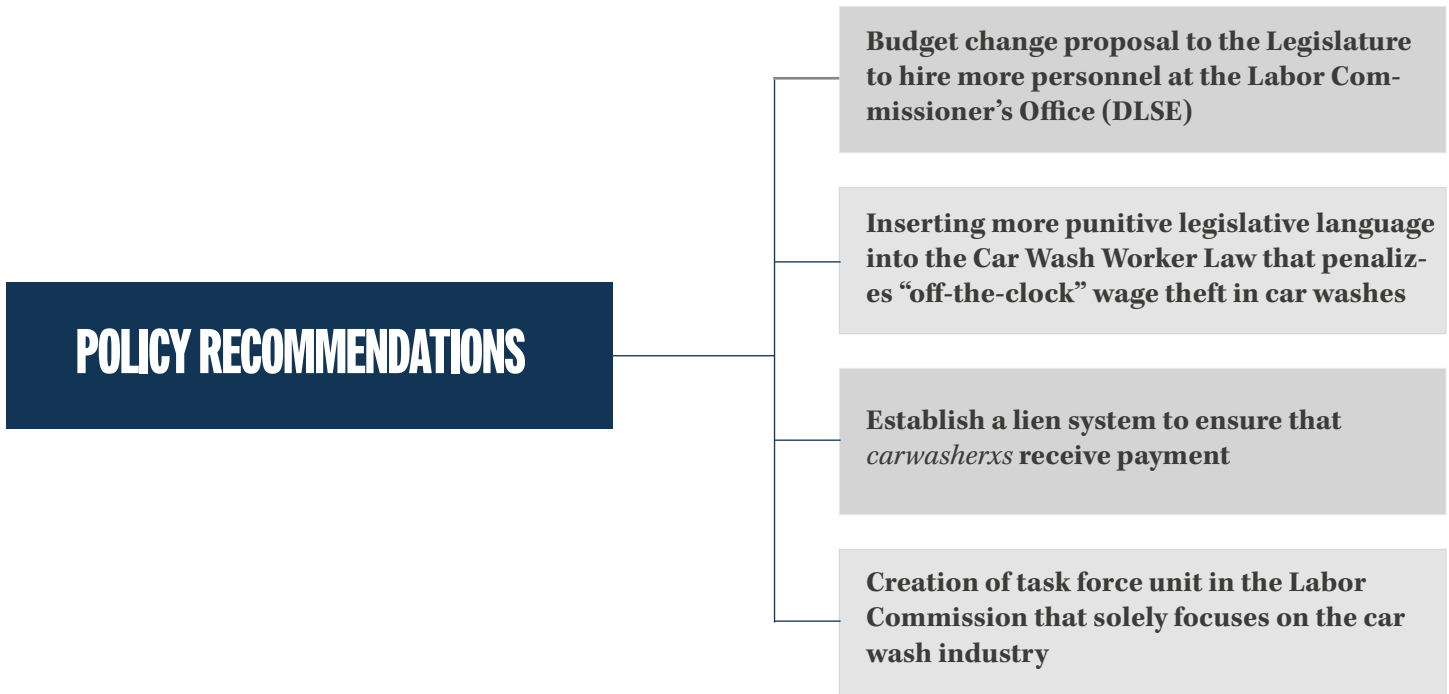
EVALUATION OF POLICY OPTIONS

CRITERIA ALTERNATIVE MATRIX

Through the Criteria Alternative Matrix (CAM) we will compare our proposed policies to each other based on the efficacy of the criteria referenced below. Additionally, policymakers and labor advocates may prioritize certain criteria over others, for example impact on *carwasherxs* over impact on car wash owners. A Criteria Alternative Matrix will allow us to provide a comprehensive analysis of each policy recommendation to our client by showcasing which alternative has the highest combined ratio.

CRITERION	WEIGHT	POLICY 1 “off - the clock” wage theft		POLICY 2 Budget change proposal		POLICY 3 Lien system		POLICY 4 Car wash task force	
		RATING	SCORE	RATING	SCORE	RATING	SCORE	RATING	SCORE
Impact on <i>Carwarsherxs</i>	3	3	9	3	9	3	9	3	9
Impact on Car Wash Owners	2	2	4	3	6	2	4	2	4
Political Feasibility	2.5	2	5	3	7.5	1	2.5	2	5
Economic Feasibility	2.5	1	2.5	2	5	1	2.5	1	2.5
TOTAL:	10		20.5		27.5		18		20.5

POLICY RECOMMENDATIONS



Based on the evaluation of our proposed policies, we recommend that CLEAN advocate for the policies listed below in the following order (high priority to low priority):

Additional policy options not included above (see appendix), will likely have positive impacts on the car wash industry, but do not have high enough scores in our evaluation to be considered for recommendation at this time. We recommend CLEAN consider these policy recommendations in conjunction with one another to strategically create the most robust changes within the car wash industry. Some of the policy options we considered, particularly around inserting new language into the Car Wash Worker Law, and around developing alternative forms of collection, are beneficial in theory, but many of them struggle with administrative capacity. The proposal to submit a budget to the Labor Commissioner's Office had the highest score, and will be the most useful for the successful implementation of other policies. With this policy in place, the economic and administrative feasibility of other policies, for example inserting more punitive language into the law, will dramatically increase. This policy focuses explicitly on increasing administrative capacity, which would lay the groundwork for a positive outcome from other policies, in addition to expanding the implementation of current laws.

The policies on data transparency and industry-specific workers' rights posters are small changes that will have positive impacts on the ability for workers and activists to be able to advocate for themselves in the future. Data

transparency can help grassroot organizations and labor activists fight for specific changes to improve working conditions of *carwasherxs*.



CONCLUSION

Some labor activists believe that labor laws should be updated every 10 years. Even if a law was perfect at its enactment, changes in the industry, the economy, and other factors make adjustments and amendments necessary to ensure that a law is still useful. The Car Wash Worker Law has now had two iterations — AB 1688 in 2003 and one AB 1387 2013. The goal of this report was to begin an analysis of what elements of the law were most successful, and which components were not effective, and understanding how these impacted the industry and *carwasherxs*. Much like the Law, our project focused primarily on wage theft, although we also recognized many of the other issues that *carwasherxs* confront, including health, safety, and environmental hazards, as well as lack of medical insurance and limited social safety nets. These issues cannot be fully isolated from one another when understanding the industry.

Through our 42 interviews and analysis of quantitative data on car wash registration and wage claims, we were able to pinpoint the main areas where the original laws were not able to fully regulate: car wash registration, wage claim collection, and agency enforcement. Our policy recommendations will expand existing structures to be able to increase levels of registration, decrease wait times for wage claims, and provide more tools for workers to use to empower themselves in their organizing and advocacy. As the work on this industry continues, we hope that this report will be useful in providing a representation of the issues *carwasherxs* are facing eight years after the last update to the Car Wash Worker Law.



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APPENDICES

APPENDIX A: TIMELINE OF THE CAR WASH WORKER LAW

**AB 1688
(2003)**

- Required car wash employees to register with the Labor Commissioner
- Registration requirements:
 - Surety bond of at least \$15,000
 - Registration fee: \$250, plus \$50 annual fee for each branch location
- Failure to register incurs a fine of \$100 for each calendar day, up to \$10,000
- Department of Industrial Relations (DIR) must post list of registered car washes and polishing businesses
- In effect until Jan. 1, 2007

**SB 1468
(2006)**

- Extends repeal date from Jan. 1 2007 to Jan. 1, 2010

**AB 236
(2009)**

- Extends repeal date from Jan. 1, 2010 to Jan. 1, 2014
- Redefines and adds definitions

**AB 1387
(2013)**

- Increases bond requirement to \$150,000
- Exempts employers from requirement if they have a Collective Bargaining Agreement (CBA) in place that meets specific criteria
- CBA Criteria:
 - Wages
 - Hours of work
 - Working conditions
 - Expeditious process to resolve disputes concerning nonpayment of wages
- Ends repeal date of provisions; extends provisions indefinitely

APPENDIX B: ORIGINAL CARWASHERX QUOTES IN SPANISH

Finding 1

“El proceso ha sido muy, muy largo y muy estresante, muy malo. Sí, y bueno, con mucho miedo, porque no sabes lo que te va a pasar a ti o a tu familia. Comenzamos el proceso de reclamo salarial y luego llegó la pandemia, y no supimos nada de la Oficina del Comisionado Laboral durante dos años. Y cuando finalmente tuvimos nuestra audiencia en la corte, bueno, las cosas no fueron iguales. Uno no puede recordar los detalles exactos después de tanto tiempo. Fue difícil contarle nuestra historia al juez. Fue duro, pero el juez sabía lo que nos había pasado. Ella sabía lo que nos habían hecho. Pero no ha sido fácil, ha sido difícil para todos y todavía no ha terminado.”

Carwasherx 2511

“Sí, la verdad es muy difícil llevar a cabo este proceso porque la Oficina del Comisionado Laboral no tiene mucha gente para hacer este tipo de investigaciones. Ya hemos tenido conversaciones con ellos por medio de videollamadas y su excusa es que no hay suficientes personas para investigar los casos. Y por eso es que todo esto se retrasa mucho. El proceso continúa durante muchos años. Como hemos visto, pueden tardar hasta 5 o 6 años en resolver casos de robo de salario, o cualquier otro tipo de cosas en el trabajo, como discriminación, como despidos, y todo ese tipo de injusticias que se han ido dando durante mucho tiempo en la industria del lavado de autos. Entonces es por eso que no hay más remedio que esperar, ¿verdad? El departamento de trabajo dice que lleva mucho tiempo, pero siempre ha sido así, que yo sepa. Siempre se ha retrasado mucho.”

Carwasherx 2472

“Pero uno no sabe. Ya hasta cuando empezamos a ver a la organización de CLEAN, nos empezamos abrir. Bueno, abrir la mente para saber más sobre nuestros derechos como empleados. Hoy ya sabemos un poco. No todo, pero sabemos.”

Carwasherx 2511

“Ya van diez años y no veo nada, ni un dólar, la recompensa. Y hay un momento en que me siento mal, pero quiero ser positivo para no hablar mal de nadie. Claro, en este caso es muy difícil. Y así, así sucesivamente, desafortunadamente, me ha tocado perder. Todavía sigo depositando mi confianza en en Labor Commission y estoy profundamente agradecido con la campaña de CLEAN. Es una organización tremenda, que me ha apoyado en todo y me están ayudando hasta ahora.”

Carwasherx 2592

Finding 2

“Yo ya no tengo miedo de eso. De mi parte, yo ya conozco cómo defenderme, pero hay muchos trabajadores, compañeros, que tienen mucho miedo. No quieren alzar la voz o no quieren decir que tenemos derecho o defendernos. Hay veces y yo les he hablado de eso, pero ellos me dicen que no, tal vez uno se mete en problemas y después uno pierde su trabajo.”

Carwasherx 2331

“Ahorita tenemos un reclamo. La verdad, acudimos a una buena organización donde nos ayudaron primero a reclamar nuestros derechos laborales y después meter ese reclamo de horas. La verdad al principio pues todos teníamos miedo por lo mismo de que va a pasar. Nos van a despedir? Eso es un miedo que todos los carwasherxs tenemos, porque a veces las represalias son muy duras y lo sabemos, verdad? Pero dijimos que si no hacemos nada

no vamos a estar bien, verdad?”

Carwasherx 2472

“Son muy buenos porque le dan consejos, orientación, cómo estar y cómo defenderse uno, porque yo le voy a decir una cosa, nosotros los Latinos acá en este país, pues ya ve que si tenemos un trabajito más o menos, pues queremos quedar bien con el patrón y eso no tiene que ser así.”

Carwasherx 2331

“Me he dado cuenta qué es lo que se debe hacer para cambiar la industria del car wash. Para empezar a cambiar la verdad, es la información sobre sus derechos, la información de que deben hacer y que no deben hacer. Porque también los patrones tienen derechos, ¿verdad? Entonces yo pienso que para cambiar esta industria, lo primero será informarles o llevarlos por el camino de la información y hacerles saber a los compañeros que tienen derechos. Cómo hacerlo en caso de que tengan un accidente, como hacerlo en caso de que les roben horas, de como hacerle en caso de que haya abusos, a donde acudir. Todo ese tipo de información ayuda bastante. Porque realmente te digo como yo, en mi experiencia yo no sabia que hacer. Yo no sabía a quién acudir. Yo no sabía cómo informarse porque realmente no hay una información que te digas que la vas a encontrar en Internet, verdad?”

Carwasherx 2472

“Creo que como unas dos veces fueron de Labor Commission durante el tiempo que yo estuve trabajando ahí para decirnos que era injusto lo que nos estaba pagando y si queríamos ir a hacer un reclamo o algo así. Pero cuando llegaban, a veces los dueños les decían (Comisionados de BOFE) que no tenían que estar ahí o luego nos decían a nosotros que ‘no pueden ustedes hablar con ellos’ o ‘estarles diciendo cuánto les pagan, cuantas horas ganan, cuántas horas trabajaban, nada.’ No nos dejaban hablar con los inspectores.”

Carwasherx 1541

Finding 3

“No nos dan las horas que hay y si hay trabajo, nos meten temprano y si no, nos dejan hasta las diez o diez y media esperando. Hasta que ellos decidan entrar en que entremos porque el carwash está abierto a las 8.”

“They don’t give us the hours that are available and if there is work, they put us in early and if they don’t, they leave us waiting until 10 or 10:30. We wait until they decide to go in because the car wash opens at 8.”

Carwasherx 1361

“Yo había trabajado antes en otros (car wash). Usted entra faltando 20 minutos, 10 minutos y le tienen que hacer que se espere. Y cuando a veces está trabajando, uno no le poncha en la hora que ha entrado y a veces está trabajando hasta, digamos, 30 o 40 minutos de over time. No se lo pagan a uno.”

“I have worked before in others (car washes). You come in with 20 minutes to go, 10 minutes and they make you wait. And sometimes when you are working, you don’t punch in the hour you enter and sometimes you work up to, let’s say, 30 or 40 minutes of overtime. They don’t pay you.”

Carwasherx 2451

“Él (el gerente) ha dicho oye, te quiero aquí a las 7:30 para sacar los asientos todos de los clientes, limpiar y después vengo y los meto a trabajar. Ok, está bien. Entonces, ya después de eso, ya pasa a las 10:30. Todavía estábamos sentados platicando. Llega a las 11 y el gerente no da la orden para que metan a la gente. Yo le dije al supervisor le digo oye, mira, ya va a dar las 11 y no vamos a trabajar, le digo.”

“He (the manager) has said hey, I want you here at 7:30 to remove all the seats from the client’s car, clean, and then I’ll come and put you all to work. OK, that’s fine. So, after that, it’s already 10:30 and we were still sitting, talking. Soon enough it is 11 and the manager has not given the order for people to be brought in. I told the supervisor, ‘Hey, look, it’s about 11 o’clock and we’re not going to work.’”

Carwasherx 2281

“Hoy le dicen a uno a las 9 de la mañana y a veces uno no entra. Tienen alguno hasta las 11. Dos horas de espera y no, pues es eso. Y los diez minutos nunca lo han querido dar. Los diez minutos casi les dicen que no es necesario, que uno no lo tiene que recibir. Ese es el problema. Por eso no me reclamo a veces, ok?”

“Today they tell you “At 9 in the morning” and sometimes you don’t clock in. They have some workers wait until 11. Two hours of waiting and nothing, well that’s it. And the ten minute break, they have never wanted to give it to us. They almost tell us that it is not necessary, that one does not have to receive it. That’s the problem. That’s why I don’t complain sometimes, ok?”

Carwasherx 2331

Finding 4

“Lo que pasa es que una vez nos dijeron que iban a ir después de que una compañera les hablo. Pero ellos (BOFE) nunca fueron. Y luego yo también una vez hablé. Y también nunca fueron. O sea, nomás nos dijeron que si se iban a investigar, pero no, nunca llegaron a nuestro trabajo.”

Carwasherx 2311

“Pues este, pues en mi opinión, necesita que vayan los inspectores, porque hay este, bueno, en el lugar donde estoy el manager usa puras malas palabras con los empleados. Así la pasamos con él. Y yo estoy de acuerdo que los inspectores hagan un poquito más de su trabajo, porque hay muchos de eso, en la industria del carwash. No le están pagando bien a la gente, ya ni el mínimo están pagando. Pero por miedo, como uno no tiene papeles y no está estudiado, bueno yo pienso que todos por miedo no buscamos otro tipo de trabajo, o nos quejamos o no buscamos ayuda libremente.”

Carwasherx 2543

Finding 5

“Un mánager vino y me dijo ... si tú no andas conmigo, te voy a quitar horas.”

Carwasherx 1361

“De los dieciocho años que trabajé jamás tuve el derecho de que me subieran mi sueldo por ser mujer. Porque lo primero que me decía el mánager [es] que yo soy mujer y me van a dar buena propina, eso no tenía nada que ver. Él sabía lo que uno sufría para ganarse hasta las propinas. Pasábamos sed, a veces tienes hambre, y ellos solo quieren

que les saquen el trabajo, que saquen el trabajo, que saquen el trabajo.”

Carwasherx 1481

“Tengo compañeros que, por ejemplo, les gusta decir buenos días mi amor, mi vida, o así. Esas personas las tienen como más consentidas como quien dice o más preferencia. Entonces yo lo que sí me gustaría que por ejemplo que todas las personas fuéramos pareja, así como por ejemplo, hay hombres que nos han dicho por ejemplo a nosotros como mujeres. Entonces si eres mujer y no y no te gusta hacer ese carro, ¿porque? ¿Por qué vienes y trabajas aquí? Es lo que hemos nosotros recibido así como mujeres.”

Carwasherx 1421

APPENDIX C: ADDITIONAL FINDINGS

These additional findings are relevant to the issues *carwasherxs* face in the car wash industry but are not directly related to wage theft which is the focus of this report.

Additional Finding 1: *Carwasherxs* lack knowledge and understanding of their labor rights and are thus left vulnerable to wage theft and workplace retaliation.

“I am no longer afraid of that. For me, I already know how to defend myself, but there are many workers, companions, who are very afraid. They do not want to raise their voices or they do not want to say that we have rights or can defend ourselves. There are times and I’ve talked to them about it, but they tell me no, we might get into trouble and then lose our job.”

Carwasherx 2331

Throughout our interviews with *carwasherxs*, most individuals claimed they had little-to-no knowledge of their labor rights. This is unsurprising given that a significant portion of *carwasherxs* are undocumented. Research has shown undocumented workers commonly perceive themselves as having fewer rights and protections due to their exclusion from other government resources.¹²⁵ Furthermore, according to David Weil, the former administrator for the Wage and Hour Division of the Department of Labor, even if undocumented immigrants are aware of their rights, they might hesitate to exercise those rights due to fear of deportation and retaliation.¹²⁶

In California, all workers are protected by labor laws regardless of legal status.¹²⁷ Employees are entitled to rest and meal breaks, job safety, minimum wage and overtime pay, benefits if injured or unemployed, and protections from employer retaliation. The Labor Enforcement Task Force (LETF) is housed under DIR and disseminates information and resources to employees to ensure that they are experiencing law-abiding work conditions.¹²⁸ The DIR requires that all work places, “post information related to wages, hours and working conditions in an area frequented by employees where it may be easily read during the workday.”¹²⁹ In a similar sense, The City of Los Angeles Office of Wage Standards Employer requires employers to post, “the Office of Wage Standards Wage and Sick Time Notice in a conspicuous place at any workplace or job site in English and any other language(s) spoken by at least five percent (5%) of the Employees at the workplace or job site.”¹³⁰ In our interviews, individuals were asked if their employers display required workplace postings and almost all claimed never having seen such flyers.

According to Deputy Labor Commissioner Nelida Contreras, workers are also oftentimes unaware of their employers legal entity name, making filing a wage claim increasingly difficult.¹³¹ When filing a claim, *carwasherxs* are more likely to refer to their employers (ie. managers or supervisors) by a nickname, but are unaware of the name of the company that they are employed with. This knowledge gap prolongs the wage claim process because without the legal entity name of a car wash employer, a claim cannot be properly served leading the case to no avail.¹³²

Furthermore, not having access to vital legal information in Spanish was also highlighted as a major impediment by various *carwasherxs*. Most online labor-related resources are typically not easy to navigate in Spanish, which can be intimidating to many workers. In April 2021, the U.S. Department of Labor launched for the first time its Spanish-language translation of Worker.gov, a website that informs workers of their rights and federal workplace protections.¹³³ Although the California DIR does have the option to translate their resources to Spanish, the process filing claims is still very convoluted. Even when written in a language they understand, it often leaves many workers feeling vulnerable and afraid of what will happen if they engage with these departments. One carwasherx who filed a wage claim expressed feeling very anxious when navigating the process. They stated:

“Right now, we have a claim. The truth is, we went to a good organization where they helped us first to claim our labor rights and then file that claim for (unpaid) hours. The truth is, at first we were all afraid of the same thing. What is going to happen? Are they going to fire us? That is a fear that all *carwasherxs* have, because sometimes retaliation is very harsh and we know it, right? But we said that if we don’t do anything, we won’t be okay, right?”

Carwasherx 2472

Carwasherxs often rely on community organizations or non-profit groups to fully understand their labor rights. When asked how they had gained the courage to file a wage claim, all individuals attributed their confidence to CLEAN’s educational workshops and community resources. One participant detailed:

“They are very good because they give you advice, guidance, on how to defend yourself, because I am going to tell you one thing, us Latinos in this country, if we have a little job that is alright, well, we want to stay in good terms with the boss but that doesn’t have to be the case.”

Carwasherx 2331

CLEAN has launched educational campaigns to educate *carwasherxs* about their labor rights. CLEAN offers training regarding worker rights, immigrant rights, and worker-related issues, such as preventing heat illness.¹³⁴ This work is the majority of CLEAN’s campaign effort as they understand the prevalent knowledge gaps that exist amongst *carwasherxs* in the industry. *Carwasherxs* acknowledge the need for more educational resources for workers. One carwasherx mentioned to us:

“I have realized that it is what must be done to change the car wash industry. To begin to change the truth, it is the information about their rights, the information about what they should do and what they should not do. Because the bosses also have rights, right? So I think that to change this industry, the first thing will be to inform them or take them down the path of information and let their colleagues know that they have rights. How to do it in case they have an accident, how to do it in case hours are stolen,

how to do it in case there is abuse, where to go. All that kind of information helps a lot. Because I really tell you like me, in my experience, I didn't know what to do. I didn't know who to turn to. I did not know how to inform myself because there really is no information that you tell yourself that you will find on the Internet, right?"

Carwasherx 2472

The knowledge gap *carwasherxs* experience has also left them susceptible to negligence on behalf of the Labor Commissioner's enforcement efforts. When asked about BOFE's sweeps and surprise on-site inspections Carwasherx 1541 recounted the following:

"I think that they came about two times from the Labor Commissioner's Office during the time I was working there to tell us that what they (the employers) were paying us was unfair and if we wanted to go make a claim or something like that. But when they arrived, sometimes the owners would tell them (BOFE Deputy Commissioners) that they didn't have to be there or later they would tell us: 'you can't talk to them or tell them how much we pay you, how many hours you earn, or how many hours you've worked.' Nothing. They wouldn't let us talk to the inspectors."¹³⁵

Carwasherx 1541

When asked if it was a common practice for BOFE investigators to ask leading questions about their respective salaries and working conditions in-front of supervisors, more than one participating *carwasherx* responded that it was. Carwasherx 2631 depicted how the majority of his compañeros "se asustaron y no quisieron hablar" (they were scared and didn't want to talk) after BOFE investigators questioned them in front of their employer. When asked if he personally had spoken out against the injustices to BOFE officials, Carwasherx 2631 responded, "Yo no dije nada, me aparté. No, no los deje que me entrevistaran. Por miedo a represalias" (I didn't say anything, I walked away. No, I didn't let them interview me. For fear of retaliation).¹³⁶

Additional Finding 2: *Carwasherxs* are impacted by various health and safety concerns in the workplace.

"Una vez le pedí los guantes (al manager) para jabonar y como que otra persona se molestó, dice ah, 'es que hay un montón de guantes allá, pero como yo me voy a meter un guante que no es mío oiga? Yo nunca usé guantes porque ellos querían que uno utilizara los de otros compañeros. Incluso mi hijo una vez, cuando metió su mano a una cubeta había una rata muerta, dentro del jabón que tenían preparado."

"Once I asked (the manager) for soap gloves and someone else got upset about it, they said ah, 'there are a lot of gloves there,' but how am I going to put on a glove that isn't mine? I never used gloves because they wanted us to use those of other colleagues. My son once put his hand in a bucket and there was a dead rat inside the soap they had prepared for the day."

Carwasherx 1481

In addition to asking about wage theft and wage claim processes during our interviews, we also asked *carwasherxs* about their lived experiences regarding health and safety concerns such as the COVID-19 pandemic and workplace injuries. We discovered *carwasherxs* are under tremendous economic stress in their personal lives that compel them to remain in their jobs regardless of how unsafe workplace conditions are. One carwashera detailed her financial stress by describing how she continued to work despite the risks of the ongoing pandemic. She said:

“Yo la verdad, o sea, prefiero trabajar. Mis dos hijos están en la universidad, entonces pues es muy, muy difícil, muy difícil para mí. Pues sí, hay momentos en que uno como madre trabaja para ellos y vives para ellos, entonces esto no es no es fácil y yo prefiero mil veces dejar mi salud, a veces por darles todo a ellos.”

“The truth is, I prefer to work. My two children are in college, so it’s very, very difficult, very difficult for me. Yes, there are times when, as a mother, you work for them and live for them, so this is not easy and I prefer a thousand times to leave my health behind, sometimes to give everything to them.”

Carwashera 1421

Much like *Carwashera 1421*, many of those interviewed expressed bearing full financial responsibility for family members back in their home countries. Not only do *carwasherxs* have to cover their own financial responsibilities here in the U.S., but they must also divide their income to support loved ones in other countries. The financial stress *carwasherxs* face is exacerbated by the low wages and wage theft that plague the car wash industry. Due to their financial hardships, workers we interviewed stated feeling obligated to continue working, even through sickness and injury, to keep their households afloat.

A significant portion of *carwasherxs* reported having been injured on the job and receiving little to no support from their employers. Given the large population of undocumented workers, many *carwasherxs* are uninsured and ineligible for social benefits. Workers described falling from ladders, sustaining repetitive stress injuries, car related injuries, amputations, and chemical exposures. One carwasherx stated:

“En una ocasión me tocó llevar a emergencias a un compañero que se rompió en la frente, cerca del ojo. Sangraba mucho. No le apoyó el patrón. Esa persona ya no siguió trabajando ahí porque le metió demanda y ya no siguió trabajando ahí.”

“On one occasion I had to take a colleague to the emergency room who broke his forehead, near his eye. He was bleeding a lot. The boss did not support him. That person no longer continued working there because he sued him and he no longer continued working there.”

Carwasherx 2591

“Se accidentó un supervisor que perdió tres dedos de la mano derecha. Una bomba no estaba funcionando bien. Y mandaron traer a alguien para que la revisaran. Y el supervisor fue a decirle dónde estaba todo el sistema. Pues yo no sé si no apagaron el motor cuando él agarró la banda, le jaló la mano y alcanzó a quedar entre la polea y pues ahí perdió los dedos.”

“A supervisor had an accident and lost three fingers on his right hand. One pump was malfunctioning. And they sent for someone to check it out. And the supervisor went to tell him where the whole system was. Well, I don’t know if they didn’t turn off the engine when he grabbed the band, pulled his hand and managed to get between the pulley and that’s where he lost his fingers.”

Carwasherx 2561

Additional Finding 3: There is very little data transparency within the Labor Commissioner’s Office, bond record keeping.

Since 2016, DLSE required the general public to submit an official request to access their data. Before then, they allowed the public to directly download the data from their website. Currently, the process includes submitting a form online on the Department of Industrial Relations' website and then confirming the data request via email. Their website states that you will receive a response within 10 days, but in some cases they'll need additional time to gather the data. Depending on the data, it can take the Labor Commissioner's Office months to extract and send the data out.

Furthermore, the most updated report on the car wash industry was last published in 2019. Deputy Juliet Ovalle stated that there are reports on the car wash industry, but they are available by request only. Despite having reports and data on the car wash industry, CLEAN and other labor activists did not know that these reports existed and were available to them. There is no data transparency around what reports and data that are available, which makes it harder for organizations like CLEAN to determine specific problems to advocate for.

APPENDIX D: ADDITIONAL POLICY OPTIONS

Additional Policy Option 1: Require car wash industry specific postings in English and Spanish to inform *carwasherxs* of their rights, including information about prevalent forms of wage theft.

A majority of *carwasherxs* we interviewed expressed that they felt they had little-to-no knowledge of their labor rights. Car wash workers at times are not only unaware of their rights, they are also unaware that there is a law targeted for them specifically. A significant portion of *carwasherxs* are undocumented, which complicates their knowledge of their rights and exacerbates their fear of retaliation. In the state of California, all workers are protected by labor laws, regardless of legal status. The Labor Enforcement Task Force (LETF) housed under the Department of Industrial Relations (DIR) is responsible for disseminating information and resources to employees.¹³⁷ By law, employers are required to post information regarding worker rights in high traffic areas. Per our interviews, it is clear that most car wash employers have failed to adhere to this legal requirement. This has led *carwasherxs* to remain misinformed about their rights and the protections that are available to them. Furthermore, the lack of easily accessible labor rights information in Spanish has created an additional barrier for car wash workers who do take actions towards seeking redress.

We recommend the LETF, in collaboration with the Labor Commission, require employers to post notices in both English and Spanish that are specific to the car wash industry. Posting should include information regarding:

- The legal business name of the employer
- Car wash worker's rights (particularly for undocumented workers)
- Prevalent forms of wage theft such as "off-the-clock work"
- Car wash worker resources available in California that assist with wage claims and provide trainings

Moreover, the LETF must require postings to be placed in high traffic areas where employees congregate or take their breaks. This is an important caveat because in several of our interviews, *carwasherxs* stated that 1) they do not have a designated break room and 2) *carwasherxs* who have seen postings, claim that their employers have only posted them in their offices. One worker told us:

“Ellos lo tenían en la oficina de ellos. O no a la vista de los trabajadores en la oficina de ellos. Me acuerdo cuando entraba ahí con ellos había unos y otros grandes, pero como entro, solo a firmar el cheque van de inmediato. Sale uno si se quedan mirando, lo echan, dicen “fuera, fuera, fuera, le dicen a uno.”

“They had it in their office. Or not in sight of the workers in their office. I remember when I went in there with them, there were some big ones, but as I went in, they just went to sign the check immediately. If we keep looking, they throw us out, they say “out, out, out, they tell us.”

Carwasherx 2631

The LETF must also ensure these postings and the information disseminated to carwash workers is easy to understand and identify. One *carwasherx* told us they had seen some postings, but never identified that they had information about worker rights as they were placed in hard to read locations.

Additional Policy Option 2: Improve data collection and transparency by the Labor Commissioner’s Office

Data transparency is critical in making sure governments are held accountable to the public and evenly distribute power to avoid corruption. Policy experts recognize the importance of data transparency and its effectiveness in monitoring the public sector.¹³⁸ Data transparency is an important instrument used to achieve goals such as “raising general welfare and promoting efficient and effective governments.”¹³⁹ More importantly, it builds trust between the public and the government. Before 2016, the Department of Industrial Relations allowed direct download of their data, but later required people to submit a request form if they wanted to access the data. Instead of submitting a request, the Department of Industrial Relations should allow direct download of their data. This will speed up the process to receive data as it took us more than two months to acquire data on wage claims. This policy option will also keep the department accountable, ensure data transparency, and build trust with the public.

In addition to better data transparency, DLSE should also provide data, industry by industry in their annual reporting to the legislature. It would help employees and activists in the industry better advocate for specific changes and more importantly will keep DIR accountable. Executive Director of CLEAN, Flor Rodriguez, echoed the importance of data transparency:

“One way that we will benefit from data transparency is accountability to employers.

We try our best to be very strategic with our next steps and going in without knowing the process and where they are in the process makes our job harder. We can’t help workers and also it’s harder to keep workers engaged when the process is delayed.”¹⁴⁰

Additional Policy Option 3: Require car washes to report what they pay their employees with race and gender categories

In California, employers with 100 or more employees are required to report data on their employees’ pay, race, and sex, among other categories.¹⁴¹ SB 973, the California Pay Data Reporting Law, was passed in 2020 in order to track pay discrimination in California, and improve pathways to prosecuting complaints about pay inequal-

ity.¹⁴² A new bill, SB 1162, the Pay Transparency for Pay Equity Act, was recently introduced by State Senator Monica Limón (D-Santa Barbara) to expand the transparency of the data. However, due to the number of employees that car washes employ, virtually all of them will be exempt from these laws. In 2013, the average number of workers employed at car washes nationwide was 20.¹⁴³ Even with the new bill to increase reporting transparency, pay disparity for *carwasherxs* will continue to go unreported. *Carwasherxs*, and other industries with majority small workforces, should be included in data reporting policies. A policy that requires more small sized businesses to report pay and demographic information could be phased in over the course of five years. One weakness to this policy is that it relies on data that is already reported to the Employment Development Department. If *carwasherxs* are hired off the books, as many undocumented workers are, their data would be missing, and the discrimination against them would remain mostly invisible.

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