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DA Forms New Unit to Protect Workers' Rights, Prosecute Employers Not Paying Wages

"Workplace Justice Unit" Will Also Target Labor Trafficking

San Diego County District Attorney Summer Stephan announced today the formation of a new Workplace Justice Unit that will be dedicated to protecting workers' rights, prosecuting criminal wage theft cases and stopping labor trafficking. The announcement is a community-based response that comes a few weeks after the DA hosted a workplace justice panel in partnership with San Diego County Supervisor Nathan Fletcher to identify ways to better-protect workers across the county, many of whom come from minority and disadvantaged communities.

"Together with California Labor Commissioner Lilia García-Brower and our law enforcement partners, we will work even harder to deliver justice for workers who are repeatedly abused by dishonest employers," DA Stephan said. "Wage theft and labor trafficking are serious problems that we are working on in partnership with the community. We're not going to allow workers to be exploited by heartless, greedy employers who break the law to line their own pockets."

Have you been victimized where you work?

All workers in San Diego County are protected by labor laws. The DA's Workplace Justice Unit works to make sure your rights are protected from crimes like wage theft, labor trafficking, employer retaliation, overtime and minimum wage violations.

Many forms of workplace injustice are civil in nature, such as sexual harassment, discrimination or retaliation. But wage theft and labor trafficking are acts that may warrant criminal prosecution. Wage theft is when employers do not pay workers according to the law. This could include not paying wages earned, paying less than minimum wage, not paying overtime, not allowing workers to take meal and rest breaks, requiring off-the-clock work, taking tips from workers, or misclassifying

employees as self-employed independent contractors. Labor trafficking is when a person is forced to provide labor or services through coercion, such as violence, threats, lies, fraud, confiscating legal documents, or to pay a debt.

The DA's new Workplace Justice Unit is comprised of a dedicated prosecutor, DA investigator and paralegal. The Unit will prosecute unfair business practices, wage and hour violations, payroll tax

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evasion, wage theft and labor trafficking cases. To that end, the DA's Insurance Fraud Division will be re-named the Insurance Fraud and Workplace Justice Division.

The District Attorney's Office has long prosecuted wage theft cases through its Insurance Fraud Division, but only if an accompanying workers compensation fraud charge is included or investigated.

- Between 2011-2012 the owners of State Street Grill were involved in a payroll scheme that violated California's minimum wage laws. The owners advertised on Craigslist for immediate placement of server and cook positions. They would offer the proposed employee the position if they accepted to work without pay for the first seven days. This was considered a "training period." If, after a week of unpaid work, the employer was satisfied with employee performance, they promised the employee they would be "put on the schedule" and paid going forward. Often, the employees were not hired or paid. Ultimately, investigators learned that this was a ploy to operate the business with little to no payroll. The prosecution of the father son duo resulted in restitution collected for 38 victims totaling \$108,000.
- In 2018 the owners of Fairhill Castle were convicted of wage theft after operating several care facilities in which they paid employees less than minimum wage. Employees were recruited from the Philippines to work 24 hours a day, often to be paid \$1,500 a month. This scheme violated state overtime laws, which require time and half for over eight hours a day and double pay for over 12 hours of work per day. With the assistance of the Labor Commissioner's Office, the District Attorney's Office secured \$220,000 in restitution for the victims.

To more effectively protect workers and seek equitable workplace justice, the DA's Office is educating the public on worker rights through a palm card in English and Spanish and has created a public web page where anyone can obtain information about workplace justice and where victims of workplace crimes can report directly to the District Attorney's Office. In addition, workers can also call the workplace justice hotline to make a report or report claims directly on the [DA's website](#).

REPORT WORKPLACE JUSTICE VIOLATIONS:

(866) 402-6044

workplacejustice@sdcca.org

www.sdcca.org/workplacejustice

and/or

San Diego Labor Commissioner

(619) 220-5451

LaborComm.WCA.SDO@dir.ca.gov



"The Workplace Justice Unit is a vital step toward San Diego County's new focus on protecting worker rights and fighting for employee fairness," said Chair Nathan Fletcher, San Diego County Board of Supervisors. "This will go a long way toward ensuring we stomp our income inequality, but we must do more. Soon we will pursue a living wage ordinance, install a worker recall and retention program and introduce a proposal for an office of Labor Standards Enforcement. This framework for worker rights will restore fairness and opportunity for all San Diegans."

Prosecuting these types of criminal workplace justice cases require special care and expertise. Cases will be referred to the DA's Office from community partners including watchdog groups such as MCTF, the Employee Rights Center, the Insurance Fraud Division Hotline, competitor businesses and employees themselves. The District Attorney's Office often receives cases from the Labor Commissioner, which has wide-ranging enforcement responsibilities, including inspecting workplaces

for wage and hour violations, adjudicating wage claims, investigating retaliation complaints, and educating the public on labor laws.

“Robbing someone of their hard-earned wages is unconscionable and must have consequences,” said Labor Commissioner Lilia García-Brower. “I applaud DA Stephan for her renewed commitment to partner with my office and provide focused resources to hold law-breaking employers accountable. We must reckon with the criminal element in California’s economy. Working collaboratively to prosecute the heinous crimes of human trafficking and wage theft is our duty to protect working people.”

Wage theft and labor trafficking offenses are often considered part of the underground economy. The rapidly growing underground economy costs California an estimated \$9 billion in uncollected tax revenue and imposes significant financial burdens on business owners that comply with labor, licensing and payroll tax laws. Employees of business that operate in the underground economy are also affected. Working conditions often may not meet legal requirements, wages may be less than what is required by law and benefits workers are entitled to may be delayed or even denied due to an employer’s failure to properly report wages. This scheme may also shift the tax burden onto the employee with the ultimate consequence being the erosion of economic stability and working conditions for all workers.

For more information on the experience of working people in San Diego who come forward with complaints of wage theft, you can download the [Confronting Wage Theft report, here](#).

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About the San Diego County District Attorney’s Office

The San Diego County DA’s Office prosecutes all felony crimes in the county and misdemeanor crimes committed outside the City of San Diego. The office files about 40,000 criminal cases a year and balances prosecution with numerous crime prevention programs. District Attorney Summer Stephan leads the office of more than 1,000 dedicated employees who pursue fair and equal justice, and support victims daily across San Diego County.