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August 6, 2020

TO: Each Supervisor

FROM: Dr. Barbara Ferrer, Ph.D., M.P.H., M.Ed.
Director of Public Health 

SUBJECT: **EXPANDING THE MONITORING OF COMPLIANCE WITH COUNTY HEALTH OFFICER ORDERS IN THE WORKPLACE TO SLOW COVID 19 TRANSMISSION (ITEM NO. 10, BOARD AGENDA OF JULY 21, 2020)**

This report is in response to your Board’s July 21, 2020 motion directing the Department of Public Health (Public Health) in consultation with County Counsel, the Chief Executive Officer (CEO) and the Director of Consumer and Business Affairs (DCBA), to consult with labor representatives, worker advocates, and business community representatives, and report back in fourteen days on opportunities for monitoring compliance with County Health Officer Orders (HOO), including the feasibility of establishing a mechanism by which employees at workplaces across sectors throughout the County can quickly notify Public Health about possible violations of County HOOs and guidelines, including budget implications of such a plan.

The plan should: 1) Ensure that employers Countywide allow the establishment of public health councils comprised of employees at their worksites, and the public health councils will expand DPH’s HOO enforcement capacity by working with third-party worker and community-based organizations certified by Public Health to monitor, document, and report any violations of the County’s HOOs and guidelines, and employees must be allowed to form public health councils without retaliation by their employer; and 2) Provide for the certification of third-party worker and community-based organizations that can serve as the intermediary between the public health councils and Public Health.

Process

To prepare this report, Public Health consulted with labor organizations, worker advocates, and business community representatives knowledgeable about issues impacting the workplace. In

collaboration with the Southern California Coalition for Occupational Safety and Health (SoCal COSH) and UCLA Labor Occupational Safety and Health Program (UCLA LOSH), Public Health convened a focus group on July 28th attended by 15 organizations representing workers to gain insights into how such an initiative could be effectively implemented. Public Health also met individually with several small and large business owners, trade organizations, a worker/owner collaborative, and a business consultant to gain their perspectives on this initiative. Finally, Public Health met with DCBA to ensure their experiences with implementation of similar programs are incorporated into planning for this initiative. Attachment A lists organizations with whom Public Health met while preparing this report.

Findings

Labor representatives supported the approach laid out in the Board Motion, and made a series of recommendations for consideration, including: 1) identifying specific Public Health liaisons within the Department to collaborate with and support certified workers' organizations and public health councils; 2) establishing workflows within Public Health, such that when violations are reported by workers' councils, investigations, enforcement and resolution occur expeditiously; 3) developing clear County mechanisms for preventing retaliation from employers and responding to it with enforcement; 4) establishing written County policy stating that employers are required to allow establishment of public health councils to implement HOOs at their worksites; 5) utilizing workers' centers and community based organizations (CBOs) as third party organizations would be effective because they have established relationships with employees and their communities.

Business community representatives expressed both support for and concerns regarding the proposed program. All business representatives recognized the need to help prevent outbreaks in the workplace and ensure that businesses are able to remain open during the pandemic. Business representatives raised concerns such as: 1) having additional mandates to implement at a time when many businesses are already struggling; 2) third party organizations not being neutral and the possibility for interference with lines of communication already in place between employers and employees; 3) how third party organizations would be trained and credentialed, whether they would have sufficient public health expertise, and the extent of their authority operating under this initiative; 4) the rationale for why this program is needed when mechanisms already exist for employees to report HOO violations; 5) ensuring that Public Health not adopt a one-size-fits-all model, when many businesses are already in compliance and have not experienced significant outbreaks.

Opportunities

Business sectors that have been operational throughout the shutdown have amassed great expertise and many are willing and able to assist DPH in developing sector specific materials and support education and outreach efforts. Business representatives highlighted the importance of effective communication with employers about this program, and the need to stress the benefits of such a model which at its core is intended to lower the COVID-19 risks to staff, customers and the community. Labor representatives stressed that the County could leverage their sector-specific expertise by allocating grant funding to conduct outreach, training, and technical

assistance to the public health councils. Through establishing partnerships with labor and businesses organizations the County could both capitalize on their expertise in these areas and cooperate to disseminate information and education into highly impacted communities.

Challenges

To successfully implement this program, labor representatives stressed the importance of the need for mechanisms to address potential employer retaliation for the establishment of public health councils and actions to report HOO violations in the workplace. Concerns about retaliatory measures such as actions to reduce work hours, change schedules or positions, and firings were brought up. These concerns are particularly acute for low-paid workers and those with immigration status issues that make them vulnerable due to economic pressures and fear of law enforcement. Enlisting the assistance of these vulnerable workers to help prevent the deadly spread of coronavirus in our region by reporting on HOO violations will only be feasible with a commensurate County effort to protect these workers from the potential risks they take by participating in the councils. The Los Angeles County Minimum Wage Ordinance provides an example of how this can be effectively accomplished. It prohibits retaliation against employees that exercise their rights protected under the ordinance and establishes fines and penalties for violations. DCBA is the enforcement officer responsible for investigating violations of the ordinance. Public Health will work with DCBA and County Counsel to identify next steps for enacting a similar ordinance to prevent retaliation against employees engaging in activities related to the public health councils.

Feasibility

With limited additional resources, Public Health could use existing data to prioritize sectors experiencing the highest rates of non-compliance reports and workplace outbreaks. Public Health could then initiate the program with a few industries most heavily impacted by COVID-19 to identify best practices, engage partners, and understand the scope of the effort. Public Health could: 1) assign a public health staff person to liaise with employers, workers' centers and CBOs to share educational information and resources; 2) establish and implement Environmental Health's new compliance plan that institutes a series of escalating fines for violations; 3) establish and implement the County's new employer incentive program in which employers post an emblem publicly showcasing their compliance with Public Health directives; and 4) provide workers' centers and community-based organizations Environmental Health's direct contact information for following up on investigations. Additional Environmental Health staff may be needed to provide dedicated support for increased compliance actions generated. *With additional resources*, Public Health could also consider a more robust initiative: 1) providing grants to workers' centers and non-profit organizations to conduct outreach, education, training, and technical assistance to public health councils; 2) developing a process for certification and training of certified workers' organizations using a "train the trainer" approach that allows them to train public health councils on implementation of HOOs; and 3) establishing a dedicated team of Environmental Health Inspectors to support training and compliance actions, liaison staff to collaborate with certified worker organizations, and staff to manage the grant program.

Budget Implications

The UCLA Labor Center's July 2020 report *Workers as Health Monitors in LA County* (attached) recommends allocating no less than one million dollars in grant funds to support third party organizations in conducting outreach, education, training, and technical assistance to public health councils.

These additional activities would necessitate additional Public Health staff to:

- Develop and oversee the grant program,
- Liaise with employers, third party organizations and public health councils
- Investigate compliance with HOOs and violations, process citations and fines, and implement additional enforcement actions needed

Additional staff and programmatic costs are estimated at \$3 million.

Next Steps

If the Board directs Public Health to move forward, we will: 1) meet with County Counsel and Consumer and Business Affairs to explore County strategies for preventing retaliation against workers for reporting non-compliance with HOOs; 2) convene a joint listening session with business community representatives, in collaboration with DCBA, to understand concerns and suggestions for implementation; and 3) continue program planning, including data driven, equitable, and collaborative approaches to implementation.

If you have any questions or would like additional information, please let me know.

BF:ja

Attachments

c: Chief Executive Officer
County Counsel
Executive Officer, Board of Supervisors
Consumer and Business Affairs

Attachment A -- Organizations Consulted By Los Angeles County Department of Public Health

Labor Organization	Acronym	Community/Sector Represented
California Healthy Nail Salon Collaborative Los Angeles, CA and statewide	Worker/owner collaborative	State advocacy collective of salon workers and owners
CLEAN Carwash Campaign	CLEAN	Carwash
Garment Worker Center	GWC	Garment
Institute of Popular Education of Southern California	IDEPSCA	Day laborers and household workers
Koreatown Immigrant Worker Alliance	KIWA	Restaurant, grocery and Koreatown residents and businesses
Los Angeles Black Worker Center	LA BWC	Building trades, public sector, west LA, Black workers
Los Angeles Alliance for a New Economy	LAANE	Retail in city of LA
Los Angeles County Federation of Labor	LA FED	Unions in Los Angeles County
Maintenance Cooperation Trust Fund	MCTF	Janitorial
Pilipino Worker Center	PWC	Long-term care, restaurant, city of LA, Pilipino workers
Restaurant Opportunities Center- Los Angeles	ROC-LA	Hospitality, food service
Service Employees International Union Local 721	SEIU 721	Fast food, higher education, and public sector
Southern California Coalition for Occupational Safety and Health	SoCal COSH	Coalition, research, policy advocacy and training
UCLA Labor Center		Research, policy advocacy and legal support
UCLA Labor Occupational Safety and Health Program	UCLA LOSH	Academic, research, policy advocacy, training & certification
Unite Here Local 11		Hospitality, hotels and large venues
United Food and Commercial Workers Local 770	UFCW 770	Grocery, meatpacking
Warehouse Worker Resource Center	WWRC	Warehouse

Business & Location	Type of business	Sector
AMS Fulfillment Valencia, CA and PA	Warehouse and logistics	Large employer, over 400 employees
Arroyo West, LLC Consulting Los Angeles, CA and statewide	Consulting	Economic and workforce development, contactor to DCBA
Basecamp & High Horse Dinette Burbank, CA	Restaurant	Small business- under 5 employees. (Before Covid had 20 employees)
Basecoat Nails and Salons Los Angeles, CA and CO	Non-toxic Nail salon and cosmetics company	Small, woman, minority owned business, approx. 40 employees
California Manufacturing Technology Consulting® (CMTC) Torrance, CA and statewide	Manufacturing	Trade organization in CA

RESEARCH BRIEF | JULY 2020

Workers as Health Monitors: An Assessment of Los Angeles County's Workplace Public Health Council Proposal

Contributors: Tia Koonse, Ken Jacobs, and Jennifer Ray

An innovative idea to combat the spread of COVID-19

The County of Los Angeles faces an extraordinary task in the coming weeks as it attempts to reduce its record COVID-19 rates while fostering a beleaguered economy. Health officials observe that workplaces throughout LA County are focal points of transmission,¹ as enforcement of public health orders has lagged in a climate of desperation and fear. Lack of access to information and inadequate reporting mechanisms for public health order violations, particularly LA County's detailed, industry-specific "Reopening Safer at Work and in the Community" (County Health Order) jeopardize public health and economic recovery.² Meanwhile, the County's Department of Public Health (DPH) lacks sufficient investigators to pose a credible threat of a compliance check at the county's 244,000 businesses.

This report examines the costs and benefits of an innovative LA County proposal to recruit frontline workers in the fight against COVID-19 transmission.³ The proposal requires businesses to permit employees to form public safety councils who meet with management to plan and troubleshoot compliance and report regularly to the DPH. Workers who participate would be free from retaliation. The DPH in turn would designate organizations to convene, train, and assist public health councils to spot and report violations.

Los Angeles County is one of the nation's COVID-19 hotspots, with the worst impact on communities of color and poor people

Recent Center for Disease Control (CDC) reports document multiple consecutive weeks of increases in COVID-19 cases in many parts of the country. Within weeks, a significant surge has resulted in total national cases of more than 3.5 million and nearly 140,000 total deaths.⁴ LA County has emerged as a hotspot, with an explosion of cases (an increase of more than 40%) and hospitalizations in recent weeks. Since entering Phase 2 of the reopening plan in June, the average daily increase in positive cases has climbed from 1,400 to 2,000 and the positivity rate from 5.8% to 9%, prompting a partial rescission of reopening on July 6.⁵ As of mid-July, COVID-19 had hospitalized well over 2,000 Angelenos, infected nearly 150,000, and killed more than 4,000.⁶

Communities of color and people living in poverty are particularly hard hit. Statewide, Latinxs comprise 39% of the state's population but 55% of COVID-19 cases and are almost three times more likely to contract the virus than their White counterparts. Latinx Angelenos comprise 46% of the county's COVID-19 deaths; African-Americans, who comprise 9% of the county overall, make up 11% of COVID-19 deaths.⁷ Similarly, poor communities report three times more cases than their wealthier counterparts. Experts and officials attribute these extraordinarily disproportionate transmission rates to the demographics of essential workers, observing that outbreaks occur in low-wage industries whose frontline workers are overwhelmingly people of color working in warehouses, manufacturing plants, mail services, distribution services, waste management, and retail.⁸ A Los Angeles Times analysis reported the biggest outbreaks in LA's most densely populated immigrant neighborhoods, including Pico-Union, Westlake, and South LA.⁹ Transmission from the workplace to the community disproportionately impacts Latinx, Black, and poor communities.

Workplaces are a driver of COVID-19 spread in Los Angeles

Because of the high potential for transmission and the economic importance of the workplace, federal, state, and local governments have issued guidelines for employers to contain the virus. The CDC warns that workers in large buildings might be at an increased risk for exposure and suggest hazard assessments of common areas that could increase risk, good ventilation, increased circulation of outdoor air, and protocols that can reduce transmission.¹⁰ These strategies will be crucial in larger work spaces and where workers are clustered together, such as on assembly lines.¹¹ Published research on work-related COVID-19 transmission is limited, given the short amount of time since the pandemic began. The most detailed research comes from a study conducted in six Asian countries, identifying five occupations with particularly elevated risk for infection: healthcare workers (22% of work-related cases), drivers and transport workers (18%), services and sales workers (18%), cleaning and domestic workers (9%), and public safety workers (7%). The researchers concluded that work-related transmission played a major role in the early outbreaks, accounting for nearly half the early cases (47.7%) and one out of six total cases (14.9%).¹²

Though LA County has issued detailed protocols for reopening in many sectors, widespread noncompliance has caused public officials to express exasperation and concern about the DPH's inability to pose a credible threat of a compliance check at the county's 244,000 businesses. A DPH inspection of 2,000 restaurants over one weekend in late June found that 49% of bars and 33% of restaurants were not observing county physical distancing protocols indoors, and 54% of bars and 44% of restaurants were not enforcing face mask and shield requirements, precipitating the reinstatement in early July of bar closures and indoor dining bans.¹³

Outbreaks have occurred at workplaces across industries in LA County, including several at large, well-known

establishments. In May, more than 150 meatpackers at nine Farmer John facilities in the city of Vernon contracted the virus.¹⁴ On July 9, the DPH closed South LA's Los Angeles Apparel after more than 300 garment workers there contracted COVID-19, resulting in four deaths.¹⁵ Workers in grocery stores and distribution centers report astonishing contraction rates. Nearly two dozen workers at a single Ralph's in Hollywood have tested positive, and one group of employees at a distribution facility in Compton say 100 of 500 of their co-workers have tested positive.¹⁶ Workers at the Hollywood Ralph's staged multiple pickets to win free, voluntary testing at the flagship Ralph's; those at the distribution facility filed suit on July 2 for failing to protect them.¹⁷

These high-profile cases suggest widespread noncompliance and underreporting across industries throughout LA County. Data show that small employers are more likely than larger ones to fail to comply with labor standards. Further, workers report just a small fraction of total violations, out of fear of retaliation or ignorance of, and frustration with, arcane reporting protocols. Just 2% of businesses in Los Angeles employ more than 100 employees; if large establishments have difficulty complying with the County Health Order, it stands to reason that noncompliance is nearly universal for the remaining 98% of LA workplaces.

Research shows worker voice strengthens health protections

Workers who feel empowered to identify and address health order violations are essential to slowing transmission of COVID-19. Workers have deep knowledge of the workplace and are best positioned to identify both compliance threats and solutions.¹⁸ In hospitals, meatpacking plants, and warehouses across the country, workers have warned of COVID-19 risk, spreading infections, and the lack of action by businesses to address the problems.¹⁹ Yet workplace and public health standards are impossible to enforce when workers lack information and fear speaking out. Frontline workers are less likely to make complaints if they are scared of retaliation, confused or frustrated by reporting protocols, or otherwise discouraged from speaking up.

There is strong evidence that worker voice on the job has a positive impact on compliance. Unionized workers know more about health and safety risks and their rights under the law and are more likely to report violations because they have better protection from unfair dismissals.²⁰ A recent study of essential workers found that, after controlling for worker demographics and job characteristics, unionized workers were significantly more likely to use personal protective equipment (PPE), practice social distancing, have access to resources from employers to reduce transmission, and receive testing for COVID-19.²¹

Public safety councils as envisioned by this proposal lack the functions and power of a union, but they do provide critical functions, such as transmission prevention education, an avenue for workers to identify risks and raise them with management, and follow up on compliance, with some protection from retaliation.

Worker voice is particularly valuable in locations where enforcement agencies have limited capacity for workplace inspection. CalOSHA and the DPH each have jurisdiction to investigate complaints. CalOSHA can enforce the state's Aerosolized Transmissible Disease standard, which requires appropriate PPE for workers in certain industries,²² and the Injury and Illness Prevention Plans, which require all other employers to assess risk and implement preventative measures.²³ For example, workers without PPE or handwashing stations can report their employer's violation to CalOSHA. However, CalOSHA has a 20% job vacancy rate, and employs just one inspector for every 102,000 workers in the state, leaving the agency dramatically under-equipped to respond to violations related to COVID-19. By comparison, Washington State employs one inspector for every 25,000 workers.²⁴ CalOSHA's staffing ratio leaves the agency dramatically under equipped to respond to COVID-19-related violations. The County Health Order, which applies to all employers in the county, is far more robust,

including social distancing requirements, for example, as well as industry-specific guidelines for safe operation. But the DPH also lacks sufficient investigators to conduct proactive enforcement operations. Workers who can act as eyes and ears of health agencies dramatically increase the capacity of those agencies to conduct strategic enforcement and ensure compliance in their workplaces.

COVID-19 has devastated Los Angeles's economy

COVID-19 treatment is expensive, and increased prevalence increases costs. Recent research from the University of California, Berkeley, Petris Center estimates that \$617 million in COVID-19 medical costs, including testing, outpatient and emergency room, and hospitalization costs, have been incurred in LA County at a 5% prevalence rate. This cost is fully one-quarter of the state's total estimated \$2.4 billion cost. San Francisco, by contrast, has incurred \$64 million in COVID-19 treatment costs, and San Diego \$204 million.²⁵ Yet authors based their cost estimate on prevalence rates prior to June 12, which they estimated as between 2.5% and 5%. Less than one month after LA County entered Phase 2 of its reopening, permitting bars, restaurants, gyms, and other establishments to reopen with mandatory precautions, the number of cases has grown sharply, along with the cost. It is vital that businesses comply with the county's industry-specific health order to contain prevalence rates and their ensuing costs while reopening.

The COVID-19 epidemic has led to a large reduction in economic activity. Between March 15 and June 20, 1.6 million people in LA County, 31% of the workforce, applied for unemployment insurance.²⁶ Between June 11 and June 16, more than 5.5 million households in the county reported food insecurity. Nearly every industry reports dramatic reductions in year-over-year employment as of June, with six-digit losses in leisure and hospitality (more than 240,000 jobs), trade and transportation (more than 100,000 jobs), and education, health, and professional services. Restaurants reported an 85% decline in bookings, some sectors of retail reported more than a 50% decline in sales, and hotels reported 50% less occupancy.²⁷

The only true uncertainty facing LA County's economic future is just how great its losses will be, as the county has not fully projected the effects of the COVID-19 crisis on its budget. As in many other counties, sales tax revenues are often earmarked for specific programs. The county will certainly have a shortfall in the current fiscal year due to reduced sales and use tax revenues and is already planning cuts in specific programs. The county CEO released a budget for the coming fiscal year which projected a \$600 million decrease in expenditures across all funds; however, this document was largely written before the COVID-19 crisis and has not been fully revised with new revenue forecasts. The assessor traditionally releases a property tax forecast around mid-May but had not yet released it as of July 20.

The benefits of Los Angeles's proposed measure far outweigh its costs

Increased consumer confidence, increased workplace compliance, and decreased contraction promise economic gains that far outweigh the cost of implementation.

Increased compliance will decrease COVID-19 rates and boost consumer confidence.

Economic recovery requires consumer confidence that participation in economic activities will be relatively safe from risk of transmission. LA County's proposed public safety councils at workplaces offer a cost-effective strategy to combat the spread of COVID-19, increased compliance with the County Health Order, and an ensuing boost in public confidence.

The limited existing research suggests that consumer confidence is an even larger driver of the decline in economic activity during the pandemic than legal restrictions. A recent study found that legal restrictions in the United States explain only 7% of the 60% decline in consumer visits to businesses.²⁸

A Morning Consult Economic Intelligence report shows significant changes in consumer confidence across all 50 states since the COVID-19 pandemic began.²⁹ The Morning Consult Index of Consumer Sentiment report, updated twice per month, surveys more than 6,000 U.S. consumers on their views about current and future personal finance as well as national business and finance. Overall, the data show a positive relationship between the daily number of cases of COVID-19 and consumer confidence at the state level. In June, there was a small rebound in consumer confidence in many western states—Montana, Utah, Idaho, and Colorado—but not California, which was experiencing an increase in reported cases. This suggests California's increased COVID-19 rate decreased consumer confidence and, correspondingly, economic activity.

The case of Sweden supports this hypothesis. Though Sweden did not close businesses or implement stay-at-home orders, it suffered a similar economic downturn as other Scandinavian countries while experiencing high numbers of cases and deaths resulting from COVID-19.³⁰

Measures that reduce workplace transmission of COVID-19 are likely to encourage reopening and increase economic activity.

The costs are minimal compared to the benefits.

While the details of the public health council proposal are forthcoming, we predict three types of costs associated with it: (1) compensation for time workers spend performing public health council activities, (2) DPH staff, and (3) outreach and training.

We recommend that the policy require employers to permit workers to participate in public health council activities on paid time. While time spent in council work will vary from week to week and between employers, we assume they average approximately one to two hours per week for each member over the time in which the order is in effect. Assuming an average workweek of 34 hours,³¹ workers on the public health council would spend approximately 4.4% of their time dedicated to council activities. While some of this time is likely to come out of unproductive activities,³² we conservatively assume it is equal to an employer labor cost of 4.4% of the payroll for workers participating in the council.

Those costs would be minimized by placing a limit on the number of employees permitted to join the council. The county could consider, for example, a minimum of two workers and a maximum of 10% of the workforce, so that the maximum cost to an employer would be 0.44% of payroll for the duration of the order. Large firms, where participation on councils is likely to be considerably less than 10% of the workforce, will incur smaller costs. On average, labor costs make up less than one-quarter (22.1%) of firm operating costs,³³ which brings the cost of the councils to an average of 0.1% of operating costs for firms with full participation in the councils.

Costs for any given employer could be higher or lower depending on the level of violations. Employers will also have some additional costs for complying with the law. The cost to employers are *de minimis* compared to the potential savings from reduction in illness, improved productivity, and fewer days shuttered due to contagion. Costs to the county include DPH staff to coordinate the program, including selection of organizations to convene councils, conduct outreach and training, and review monthly reports from public health councils. Public health investigation managers receive a maximum monthly salary of \$8,109.³⁴ Assuming the county dedicates

one manager to implement this policy, it incurs an annual payroll cost of \$97,308. The department may choose to increase staffing levels if funding permits.

Finally, initial implementation will require extensive public outreach and training to some 244,000 businesses and 4 million workers. We anticipate the county will undertake two efforts, including (1) a public awareness campaign similar to its campaigns on COVID-19 and the 2015 minimum wage increase, and (2) issuing contracts to certified worker organizations with expertise and experience in labor compliance and training to assist implementation. The county budgeted roughly \$250,000 for its minimum wage outreach program. Because this program's scale is much larger, we recommend no less than \$1 million.

The costs to the County are likely to be more than offset by increased revenue to the County as a result of increased consumer confidence and a reduction in the number of days businesses are closed due to the spread of COVID-19.

Conclusion

We estimate the cost of the county's proposed measure to create worker public health councils trained by certified worker organizations to be \$1.1 million to the county and an average of 0.1 percent of operating costs for employers. In return, the effort promises increased compliance with the County Health Order, corresponding reduction in COVID-19 transmission rates, increased consumer confidence and economic activity, fewer days with firms not operating due to the spread of COVID-19, and increased city tax revenues.

By helping to reduce the spread of COVID-19 at the workplace and transmission from the workplace to the community, worker public health councils can save lives and help speed economic recovery in Los Angeles. Even a small effect on the speed and stability of reopening business in Los Angeles would more than offset firms' costs.

Endnotes

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