

**Testimony of Doni Crawford, Policy Analyst at the  
Performance Oversight Hearing for the  
Department of Employment Services  
Committee on Labor and Workforce Development  
March 4, 2020**

Good morning, Chairperson Silverman and members of the Committee. Thank you for the opportunity to speak today. My name is Doni Crawford, and I am a policy analyst at the DC Fiscal Policy Institute (DCFPI) and a member of the Just Pay Coalition. DCFPI is a non-profit organization that promotes budget choices to address DC's racial and economic inequities in the District of Columbia, through independent research and policy recommendations.

I would like to focus my testimony on:

- The need for the Department of Employment Services (DOES) to strategically enforce DC's labor laws; and,
- The implementation of the Universal Paid Leave Amendment Act of 2016

### **DOES and Office of Wage Hour: The Need for Strategic Enforcement of Labor Laws Persists**

Over the past few years, the DC Council enacted promising labor laws to improve the wages and benefits of workers in the District—including increases to the minimum wage, paid sick and safe leave, penalties for wage theft, and protections for workers experiencing discrimination in the workplace.

Strategic enforcement policies for these laws not only educate workers on the protections afforded to them, but they also encourage higher rates of compliance amongst employers. A complaints-based model has proven to be less effective than a strategic enforcement model.<sup>1</sup> A strategic enforcement model would include targeted investigations within industries where evidence shows the greatest labor law violations—industries where workers are most likely to be cheated out of their wages, and where they are least likely to speak up and report such violations.

Wage theft is an especially pressing issue for the roughly 27,000 tipped workers in the District—70 percent of whom are people of color.<sup>2</sup> This is a direct legacy of the US emergence of tipped work after the Civil War as a way for white employers to avoid paying formerly enslaved Black people a fair wage.<sup>3</sup> In FY 2019, the Office of Wage Hour (OWH) received 641 complaints—95 percent of which were allegations for wage payment and collection violations, and minimum wage and overtime violations.<sup>4</sup> Additionally, DOES received a record of just 22 total claims by tipped employees, a certain undercount of actual occurrences.<sup>5</sup> This is further evidence that many workers in low-wage industries likely fail to report a wage theft violation.<sup>6</sup>

There are a number of ways for DOES to release a more accurate count of violations and improve strategic enforcement of wage protections, especially for tipped workers. Every quarter DOES collects data from employers in the tipped wage industry to ensure employees are paid the DC minimum wage. This data allows the Department to see which employers self-report hourly pay below the minimum wage. DOES

should actively use this data to expand strategic investigations of wage theft. Given that DOES estimates that employers are submitting reports on only half of tipped wage employees in the District, they should improve their data collection by increasing outreach to employers to enforce compliance.<sup>7</sup> They should also ensure the timely release of these reports to the Council and public. Other solutions to achieve strategic enforcement include:

- Fully funding the worker protection provisions of the Tipped Wage Workers Fairness Amendment Act of 2018 in the FY 2021 budget, especially the provisions for a new anonymous reporting system, an expanded public awareness campaign, and the hiring of additional compliance specialists.
- Pursue full penalties for violations, including punitive damages and/or payments to the full workplace when needed.
- Implement a policy on how to respond to retaliation attempts by employers within 48 hours. This can include hiring specialists specifically focused on retaliation.
- Expand the Public Education Partnership to include at least four community and labor organizations to support DOES outreach and monitor compliance. This should include at least two worker organizations.

## The Implementation of the Universal Paid Leave Amendment Act of 2016

DC's Paid Family and Medical Leave program will make DC a better place to live, work, and raise a family by allowing workers to attend to urgent family needs without having to worry about the loss of income. Unfortunately, the final rules released by the mayoral administration will deny benefits to many Black and brown workers who disproportionately hold lower wage jobs.<sup>8</sup> For example, one rule requires that workers be employed when applying for benefits even though lower wage jobs often have higher rates of turnover and workers are likelier to face retaliation when requesting leave. Another rule would prohibit people who work multiple jobs from doing any work for pay on a day when they need to take leave.

These rules, as well as a few others, are overly exclusionary and not consistent with the spirit of the law. However, we must move forward now to provide families with the paid leave benefits they deserve. So, as DOES moves toward launching the paid family and medical leave program in July, it should ensure intra-agency collaboration is happening across the Office of Wage Hour and the Office of Paid Family Leave to comprehensively promote worker rights laws and benefits (i.e., minimum wage, paid sick days, paid family leave, misclassification laws, etc.). This will better ensure that more families know their rights, enabling them to take advantage of these benefits, when possible.

Thank you for the opportunity to testify and I am happy to answer any questions.

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<sup>1</sup> DC Just Pay Coalition, [Making Our Laws Real: Protecting Workers through Strategic Enforcement of DC's Labor Laws](#), April 9, 2018, pg. 4-5.

<sup>2</sup> David Cooper, [Why D.C. Should Implement Initiative 77](#), Economic Policy Institute, September 12, 2018, pg. 6-7.

<sup>3</sup> Doni Crawford and Kamolika Das, [Black Workers Matter: How the District's History of Exploitation & Discrimination Continues to Harm Black Workers](#), DC Fiscal Policy Institute, January 28, 2020.

<sup>4</sup> Department of Employment Services, [Responses to Fiscal Year 2019-2020 Performance Oversight Questions](#), February 7, 2020, pg. 32-33.

<sup>5</sup> Ibid, pg. 34

<sup>6</sup> DC Just Pay Coalition, pg. 4.

<sup>7</sup> Department of Employment Services, [Responses to Fiscal Year 2019-2020 Performance Oversight Questions - Attachment 1](#), February 7, 2020, pg. 80.

<sup>8</sup> Joanna Blotner, [Major #PAIDLEAVE4DC Milestone Announcement!](#), Jews United for Justice, January 24, 2020.