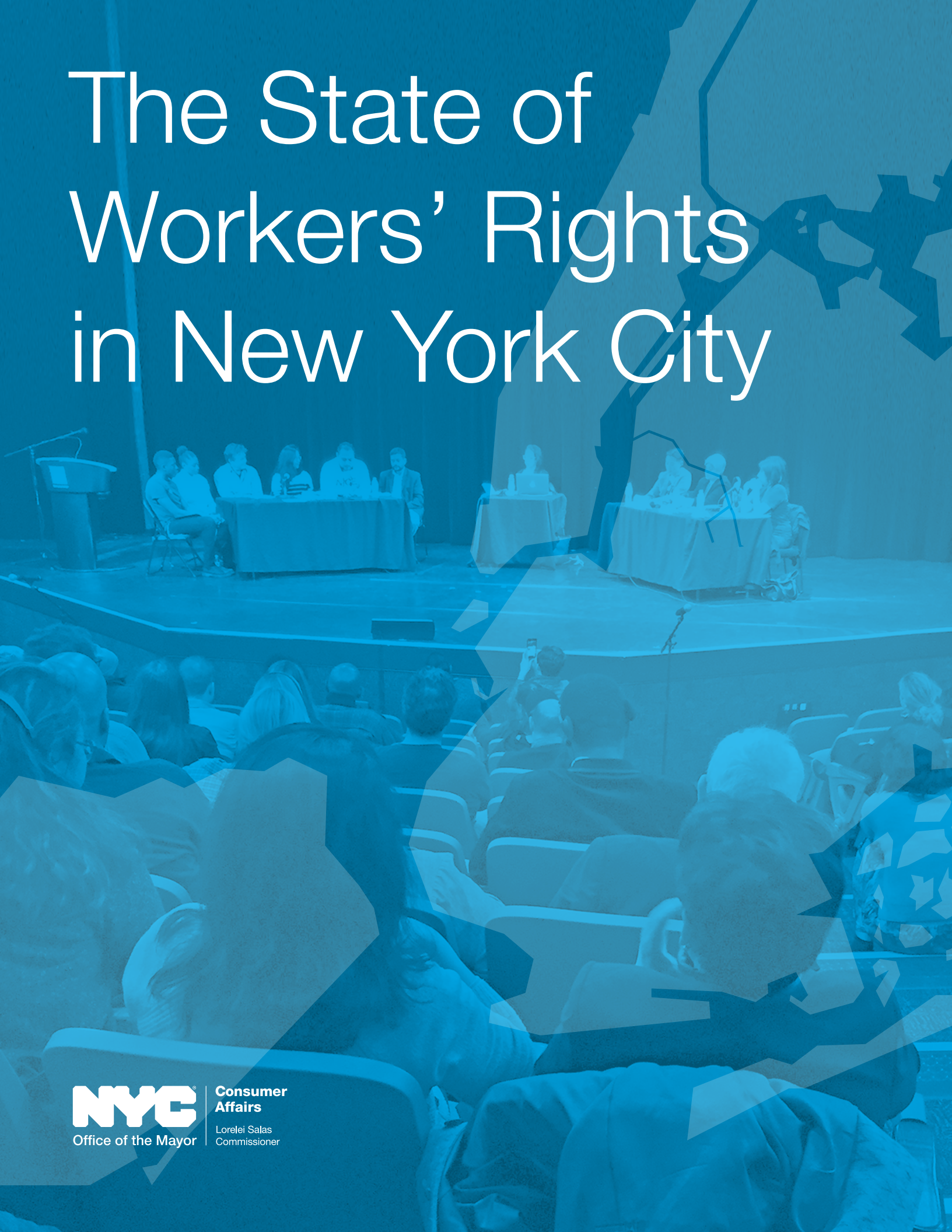
The State of Workers' Rights in New York City



NYC Office of the Mayor

Consumer Affairs

Lorelei Salas
Commissioner

The State of Workers' Rights in New York City

Bill de Blasio
Mayor

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Commissioner

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Acronyms

DCA	Department of Consumer Affairs
EEOC	Equal Employment Opportunity Commission
FPWA	Federation of Protestant Welfare Agencies
ICE	Immigration and Customs Enforcement
MOIA	Mayor's Office of Immigrant Affairs
NDWA	National Domestic Workers Alliance
NELP	National Employment Law Project
NESRI	National Economic & Social Rights Initiative
NYCOSH	New York Committee for Occupational Safety & Health
NYDOL	New York State Department of Labor
OLPS	Office of Labor Policy & Standards
OSHA	Occupational Safety and Health Administration
SEIU	Service Employees International Union
The Commission	New York City Commission on Human Rights
U.S. DOL	United States Department of Labor

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Message from Commissioner Lorelei Salas

On April 25, 2017, the Department of Consumer Affairs (DCA) Office of Labor Policy & Standards (OLPS), together with the New York City Commission on Human Rights and the Mayor's Office of Immigrant Affairs (MOIA), convened a public hearing on the state of workers' rights in New York City. At the hearing, we heard detailed testimony from workers, advocates, and policy experts about the challenges workers face in exercising their rights. The public hearing's gripping testimony from workers and advocates shines a light on the enormous challenges working people face today. New Yorkers across different industries are struggling with income instability and debt in the midst of an evolving economy. Irregular schedules, low wages, and insufficient resources to enforce labor and employment laws contribute to the worsening conditions of these workers' financial health.

As an Office charged with enforcing municipal workplace laws, we have an obligation to respond to the most urgent needs of workers and to fend off increasingly deteriorating labor standards. My professional commitment to enforcing workplace laws is intimately informed by my own personal experience as an immigrant worker employed in the retail, restaurant, and paid care industries. Admittedly, even though the pay was often low, I luckily had regular full-time schedules that allowed me to also attend and pay for school. This level of predictability made it easier for me to take control of my future and to pursue my dreams. It seems like such a fundamental right for a worker to have access to a predictable schedule and income in order to make ends meet, but instead it is now a disappearing phenomenon.

Under Mayor Bill de Blasio's leadership, New York City is moving expeditiously to establish basic protections that will make it easier for fast food and retail workers to plan their lives and for freelancers to get paid under their contracts. DCA has been enforcing the City's Paid Sick Leave Law for several years, and is now charged with implementing key new labor protections. OLPS is one of several municipal offices across the country that are stepping in to fill the gap left by state and federal agencies with diminishing budgets. OLPS's use of data and research and its broad connections with community-based organizations and workers' rights advocates result in an approach to enforcement that is targeted and strategic, as well as responsive to the most vulnerable communities.

As the Office grows, we will continue to invest heavily in outreach to workers and employers about their rights and obligations under the law. Our immediate goal is to advance a culture of compliance where law-abiding employers can thrive and workers are empowered to speak up without fear of retaliation. This is our commitment to New York City and we plan to deliver on it.

Lorelei Salas
Commissioner
Department of Consumer Affairs

Executive Summary

New York City launched the Office of Labor Policy & Standards (OLPS) in September 2016. Housed within the Department of Consumer Affairs (DCA), OLPS is charged with enforcing the City's workplace laws, developing innovative policies to raise job standards, and providing a central resource to help working New Yorkers assert their rights under local, state, and federal law. To help anchor its efforts in the concerns working New Yorkers identify as most pressing, in collaboration with the New York City Commission on Human Rights (the Commission) and the Mayor's Office of Immigrant Affairs (MOIA), OLPS convened a public hearing on the state of workers' rights in New York City on April 25, 2017 at LaGuardia Community College in Long Island City, Queens before a diverse crowd of 150. This report summarizes the rich testimony OLPS received through this hearing and describes the Office's efforts to respond to the many challenges highlighted by workers and advocates.

Through oral and written testimony, the hearing provided a forum for 110 workers and organizations reflective of the great diversity of the city's four and a half million workers to voice their concerns and share insights. The resulting public record documents a broad range of workplace violations, underscoring the extraordinary challenges New Yorkers confront in securing respect and fair pay in exchange for their labor. From writers to construction workers, adjunct professors to home health care workers, the stories shared by these workers bore striking similarities. Workers reported having their wages stolen, being forced to work in hazardous conditions, and being subjected to abusive treatment by their employers. When they overcame their fear and attempted to protect themselves, they were subjected to threats and were sometimes fired, workers said. These challenges were compounded by opaque employment relationships that left many unsure of which entity was responsible for what went on at their job, or whether they even had an employer to hold accountable.

This public record also captures a pivotal moment for working New Yorkers. Nine years since the end of the 2007-2008 recession, the city's economy is booming, with 300,000 jobs added since the start of the de Blasio administration. Amid record-low unemployment, wages are starting to rise even for relatively low-wage occupations, and the phase-in of the $15 minimum wage in New York State promises large additional gains over the next few years. And yet, violations of labor and employment laws are widespread, undermining workers' ability to benefit from the dynamic urban economy their labor helps propel. Though unreliable enforcement of state and federal labor protections is a longstanding problem, the words, policies, and actions of the Trump administration and Republican-controlled Congress have made matters worse. Workers and advocates voiced near-universal consensus that immigrant New Yorkers now work with a fear palpably stronger than anything experienced in recent years. While coverage under labor and employment laws generally does not depend on immigration status, this new level of insecurity still greatly inhibits many immigrants' ability to assert their rights at work, including reporting wage theft.

Though New York State preempts local governments from enforcing the minimum wage and overtime laws that provide the bedrock protections New Yorkers depend on, under the de Blasio administration, the City has pursued a range of creative strategies to address the challenges underscored by the hearing testimony despite this constraint. Taken as a whole, the City's recent actions constitute a strong push to create a new generation of municipal labor standards. These include a series of innovative laws granting new substantive rights to workers and also the establishment of OLPS itself, charged both with enforcing these new rights and building on them through policy development, outreach and education, research, and referral. In establishing OLPS, New York joins a small but growing list of municipalities creating local labor standards offices to help fill the gap left by state and federal failures to adequately protect workers. A recent survey conducted by OLPS and the Worker Institute at Cornell confirmed the strong public demand for these efforts: an

overwhelming majority of New Yorkers want local government to do more to protect workers and immigrants following the November 2016 presidential election.[1]

The hearing further revealed that New Yorkers are largely being failed by the current patchwork of state and federal workplace protections. This failure occurs because existing law omits essential aspects of job quality, such as scheduling or sick leave; because paid caregivers, independent contractors, and other large groups of workers are exempted from coverage under many laws; and also because weak enforcement and insufficient deterrence leave workers unable to exercise their core labor rights, such as payment at or above minimum wage, time and a half pay for overtime, and the right to form a union, even where these requirements apply unambiguously. Strikingly, these problems are not isolated to historically low-wage industries, but are evident throughout the city's economy.

Despite these challenges, the rich set of policy recommendations recorded in the hearing testimony, together with the City's recent experience pursuing new labor protections, point toward real opportunities for New Yorkers to make substantial improvements. Working New Yorkers' strong sense of fairness and high level of civic engagement, both displayed vividly in the testimony, offer the surest sign that significant progress is within reach.

I. In Their Own Words: Testimony from the OLPS State of Workers' Rights Hearing

At the April 25 hearing, DCA Commissioner Lorelei Salas, Commission Chair and Commissioner Carmelyn P. Malalis, and MOIA Assistant Commissioner Kavita Pawria-Sanchez heard from dozens of workers and advocates about workplace conditions, labor and employment violations, and the political climate following the election of President Donald Trump. The hearing began with three panels of workers speaking about the issues faced by immigrant workers; workers in the paid care industry, including domestic, home care, and housekeeping workers; and members of what is often called the "contingent" workforce, a category that captures the large number of workers contending with irregular and unstable employment arrangements.

During the open portion of the hearing, which followed the panel presentations, the Commissioners heard testimony from workers, worker center and union representatives, legal services and policy advocates, and staff from City government about a broad range of issues and industries.

All told, 43 people presented testimony in person, and another 67 submitted written testimony. More than 20 occupations were represented, including adjunct faculty, building service workers, car wash workers, construction workers, day laborers, domestic workers, food production and bakery workers, fast food workers, home care workers, laundry workers, models, nail salon workers, nonfiction television associate producers and producers, retail clothing store workers, retail wireless phone workers, restaurant workers, taxi and app-based drivers, window cleaners, social workers, and writers.

New York City Workers Speak Out

Workers' testimony touched on a wide range of issues, with several common threads running through the hearing. Speakers raised concerns about serious workplace violations, from hazardous workplace conditions resulting in serious injuries, to wage theft, harassment, and discrimination. Many workers talked about their employers' attempts to insulate themselves from liability for employment violations by adopting abusive subcontracting arrangements, misclassifying workers as independent contractors, or closing in the face of a judgment and reopening under a different corporate name. Speakers highlighted the great risks workers take

when they attempt to assert their rights, from intimidation to firings, and noted that employers' threats have intensified since the fall presidential election. One of the most notable aspects of the testimony was the universality of the problems presented, affecting a diverse group, including blue-collar and professional workers and American- and foreign-born workers alike. Practices that have proliferated in low-wage industries have clearly also taken root in traditionally higher-paying professional fields: day laborers, laundry workers, writers, and academics all described a culture of noncompliance with basic labor standards and a general lack of employer accountability.

Immigrant workers face exceptional challenges in asserting their rights under law

Snapshot of Immigrant Workers in New York City

Number of foreign-born workers in New York City: **2,007,978**

Percentage of the workforce: **45%**

Places of origin:

West Indies (27%)	Africa (5%)
South America (14%)	Central America (4%)
China (11%)	Philippines (2%)
India (7%)	Korea (2%)
Mexico (7%)	Other (16%)
Former USSR (6%)	

Average annual earnings: **$46,896**

Source: Authors' analysis of the 2015 American Community Survey, obtained from IPUMS-USA, University of Minnesota, www.ipums.org.

The hearing opened with a panel of immigrant workers who described how employers in a range of industries take advantage of workers' immigration status to withhold pay and commit other violations. Though most workplace laws apply regardless of a worker's legal status, workers who are insecure about their status are naturally more hesitant to make demands of their employer or reach out to the government or courts for assistance. And when they do, an employer threat to call U.S. Immigration and Customs Enforcement (ICE) can be an especially chilling form of retaliation.

Laundry worker and union member José Francisco spoke about the abusive work environment in nonunion laundries across the city, including an incident where an employer threw coffee in a worker's face, another employer's demands that employees work extra hours without pay, and how workers are not provided with necessary protective gear and are exposed to infection.[2] Car wash worker Patricio Santiago testified that his employer steals workers' tips, does not provide benefits, and attempts to humiliate his immigrant workforce.[3] Former Tom Cat bakery worker Osias Davila was part of a group of long-term employees fired by an employer who was the target of an

Immigrant Workers Experience Wage Theft at Elevated Rates

Low-wage immigrant workers in New York are more than twice as likely as other low-wage workers in the city to experience minimum wage violations: 25 percent vs. 12 percent.

Source: Annette Bernhardt, Diana Polson, & James DeFillippis, Working Without Laws: A Survey of Employment and Labor Law Violations in New York City (National Employment Law Project 2010), http://www.nelp.org/content/uploads/2015/03/WorkingWithoutLawsNYC.pdf.

ICE enforcement action, which told the employer to dismiss workers based on their immigration status.[4] And Santiago Torres, who works as a day laborer in the construction industry, described the increasingly hostile anti-immigrant climate in Staten Island, where he recently confronted an employer who failed to pay him his wages, and was told that "he couldn't pay anything because I didn't have any rights in this country."[5]

Transgender restaurant worker Nereyda Santos spoke about the multiple layers of discrimination faced by transgender immigrant workers, as well as the hope offered by the actions of City government:

> **"Creo que mi historia es la de muchos trabajadoras y trabajadores inmigrantes, que nos vemos marginados en trabajos precarios donde el robo de salarios y la discriminación es pan de cada día. Ello aumenta en el caso de que la expresión de género no corresponda con la imagen que la población en general tiene. Muchas veces la posibilidad de encontrar oportunidades laborales es escasa. … [L]a ciudad de Nueva York ha realizado muchísimo por las personas cuya expresión de género no corresponde a la socialmente asignada, más aún para los inmigrantes como yo. Sin embargo, aún queda un camino largo por recorrer para que todas las personas que habitamos esta maravillosa ciudad vivamos en igualdad de condiciones."**[6]
>
> *"I believe that my story is the story of many workers and immigrant workers, who find ourselves marginalized in precarious jobs where wage theft and discrimination are an everyday thing. This increases in the case where [the worker's] gender expression does not correspond with the image that the general public has. Many times, the possibility of finding work opportunities is scarce. …[T]he City of New York has accomplished so much for people whose gender expression does not correspond to the socially assigned [gender], even more so for immigrants like me. Nevertheless, there is still a long way to go so that all the people who inhabit this wonderful city live in equal conditions."*

Santos sought help from the Commission after being sexually assaulted by her employer. After filing a complaint at the agency, she secured a settlement in her discrimination claims (which her employer was able to negotiate down by declaring bankruptcy), she obtained a U visa certification form from the Commission, and she successfully changed her name with the help of Make the Road New York.[7]

Other speakers echoed the first panel's concerns over the heightened risks immigrant workers face following the election of President Trump. According to Tsering Lama, a domestic worker organizer at Adhikaar, the Trump administration's aggressive immigration enforcement has emboldened employers and discouraged workers from asserting their rights, raising the risk of workplace exploitation.[8] Similarly, Maia Goodell from MFY Legal Services lamented that she and her colleagues "can no longer assure clients that immigration authorities will not be waiting at the courthouse, the emergency room, that information filed with agencies will not be shared with federal authorities or that Immigration and Customs Enforcement will not respond to a call from the employer who has called them because workers asserted their workplace rights."[9]

Testimony from the National Employment Law Project (NELP) provided additional context to the experiences workers and advocates described. According to NELP's testimony, the Trump administration's expansion of the categories of undocumented immigrants prioritized for deportation and increase in the number of immigration enforcement agents have drastically increased fear in immigrant communities, posing a challenge to labor standards enforcement.[10]

Workers' rights organizations outlined several practices and policies to address the rising attack on immigrant workers:

- A Better Balance, The Legal Aid Society, National Domestic Workers Alliance (NDWA), and others proposed that City agencies adopt policies and practices that safeguard immigrant workers' ability to submit anonymous complaints and tips, while The Legal Aid Society also asked the agencies to coordinate on revising their intake practices to eliminate questions that might relate to immigration status and to develop an effective interagency referral system.[11] MFY Legal Services urged that all City agencies should adopt these practices for safeguarding immigrants' identities.[12]
- The Legal Aid Society advised that the City should coordinate and cooperate with state agencies whenever possible.[13]
- NDWA noted the need for government agencies to ensure that their investigators "understand and practice how to work with very vulnerable populations" and to develop protocols that deter ICE from entering workplaces to conduct arrests.[14]
- NELP suggested agencies conduct a full worksite audit for labor violations of businesses where ICE has conducted a workplace raid and apprehended immigrant workers.[15]

City's Privacy Policy

Workers' immigration status is irrelevant to their employment rights under City laws. City agencies are not permitted to collect or retain personally identifying information like Social Security numbers in the course of providing City services except under very limited circumstances. Executive Orders 34 and 41 act as a confidentiality policy that allows all New Yorkers, regardless of immigration status, to access important City services like enforcement of City labor laws.

Several groups testified about how workforce development programs could support immigrant workers in gaining access to high-quality employment opportunities. The Federation of Protestant Welfare Agencies (FPWA) testified that thoughtfully designed programs can ensure "immigrant workers are not only skilled but also organized and educated about their rights on the job," noting the success of two New York City Council-funded programs in which FPWA has been a partner: the Day Labor Workforce Initiative and the Worker Cooperative Business Development Initiative.[16] Testimony provided by La Colmena, a Staten Island-based worker center, also stressed the need for workforce development opportunities for the immigrant workers who "are an integral part of the Staten Island economy," as well as the need for improved public transportation.[17]

Paid Care workers provide critical services but are undervalued and vulnerable to abuse

Snapshot of Paid Care Workers in NYC

	Number of Workers	Average Annual Earnings
Home care aides	143,565	$21,190
Nannies	15,533	$18,036
House cleaners	26,002	$17,773
Total	**185,100**	**$20,456**

Source: Authors' analysis of the 2015 American Community Survey, obtained from IPUMS-USA, University of Minnesota, www.ipums.org.

The immigrant worker panel was followed by a panel speaking about the unique issues facing paid care workers who provide critical in-home services to children, older New Yorkers, and people with disabilities, and also house cleaners who work in the home and perform many of the same tasks as other care workers. Several panelists described the lack of respect accorded to workers employed in these occupations:

Maria Aguilar, a member of the Workers Justice Project, for example, spoke of the humiliation she felt waiting to get work as a day laborer in the domestic work industry: "On the corner, I felt that I was losing my dignity because people were looking at us, the bosses would look at us as if we were slaves and we lived a lot of discrimination."[18]

Beatriz Cardenas, a child care worker for 14 years, used similar words to describe her experience: "[S]ociety sees us as slaves…"[19]

Yet the panelists also expressed a deep sense of pride in their work and their importance to the children they helped raise and the elderly people for whom they cared, as well as their families. "To value our work is very important because we take care of their children so they can go to work," child care provider Silvia Reyes explained.[20]

Among other problems, the panelists spoke of the extreme job insecurity they experienced in their jobs. Reyes talked about how a family for whom she had worked long hours dismissed her without warning via a text message, which left her feeling "desperate."[21]

Other hearing participants outlined a range of structural problems driving low pay and violations in the home care and domestic work industries. Testimony submitted by Local 1199 of the Service Employees International Union (1199SEIU), which represents several tens of thousands of home care workers employed in New York's Medicaid home care system, made clear that even in this heavily regulated setting, employers routinely violate the state's Wage Parity Act, which requires certain publicly funded agencies to pay workers a base wage and provide a benefits package, as well as comply with state and federal wage and hour laws.[22] According to 1199SEIU, violations are widespread among the state's licensed home care services agencies (LHCSAs).[23]

Several hearing participants testified about home care employers' mistreatment of workers assigned to 24-hour shifts, commonly referred to as "live-in" shifts in the industry. It is standard industry practice for home care agencies to pay workers an hourly wage for 12 or 13 hours of the 24-hour shift, treating the remainder of the time as unpaid time, but many workers and advocates charge that this practice can violate New York State Labor Law.[24] The Chinese Staff and Workers' Association testified that mandatory 24-hour shifts create social and emotional problems for workers, "depriving these women of the fundamental right to family and civic participation by isolating them in private homes, with no time off."[25]

Proposals presented by NELP, NDWA, and Hand in Hand: The Domestic Employers Network to tackle these problems include:

- more robust education to both workers and employers (stressing that some employers want but lack the knowledge to comply with standards);
- prioritizing labor standards enforcement in the home care and domestic work industries;
- investigating claims with an eye toward identifying and holding liable all potential employers, not just the employer that hires or pays the worker;
- substantial investments in the child care and home care systems;
- promoting Occupational and Safety Health Administration (OSHA) recommendations for the home care industry;
- more sustainable scheduling practices.[26]

Violation Rates among Paid Care Workers in NYC

	Paid Less than the Minimum Wage	Not Paid Time and a Half for Overtime	Worked Off the Clock without Pay
Home care aides	8%	83%	86%
Child care workers (private household only)	50%	--	--
Maids and housekeepers	26%	--	--
Child care workers, teacher's assistants, maids and housekeepers	--	82%	72%

Source: Annette Bernhardt, Diana Polson, & James DeFillippis, Working Without Laws: A Survey of Employment and Labor Law Violations in New York City (National Employment Law Project 2010), http://www.nelp.org/content/uploads/2015/03/WorkingWithoutLawsNYC.pdf.

Contingent workers face irregular employment and unique obstacles in holding employers accountable

Snapshot of Contingent Workers in NYC

The term contingent worker is used to describe the freelancers, taxi drivers, day laborers, and others who lack a consistent employment relationship with the entity that sets their pay and working conditions. This includes independent contractors, as well as the large number of New Yorkers who are subject to on-call scheduling, part-time employment, and seasonal hiring, or who work in subcontracted or labor leasing arrangements that obscure the responsible employer. The retail and food service sectors are both large employers of contingent workers in the city.

Type of Contingent Work	Number of Workers	Percentage of Workforce
Independent contractors	293,503	6.6%
Retail workers	422,129	9.5%
Food or drink service workers	320,176	7.2%

Notes: Figures for independent contractors are limited to respondents coded as "self-employed, not incorporated" for their main job.

Source: Authors' analysis of the 2015 American Community Survey, obtained from IPUMS-USA, University of Minnesota, www.ipums.org.

The participants in the contingent economy panel spoke about unpredictable schedules and abrupt shifts in income, and the difficulties they face holding their employers accountable for unpaid wages and working conditions. Both fast food worker Pierre Metivier and retail worker Adrieanna Hughes have struggled to get the regular, full-time hours necessary to support a family. Metivier recalled how his employer required him to "wait on line on a Saturday or Sunday to find out what day I'm on the schedule for [the next week]."[27] Such practices are distressingly common. In a recent survey conducted by OLPS, in collaboration with the Worker Institute at Cornell, 13 percent of working New Yorkers reported that their work hours vary week-to-week and are outside of their control. [28]

Fluctuating income also plagues freelance workers like Carolina Salas who testified that, "As a freelancer in multiple gigs, you must constantly be looking for new work and saving for possible dry spells. Unpredictable income is challenging when dealing with monthly bills and even worse when clients don't pay on time."[29]

Uber driver Inderjeet Parmar described how the heavy business expenses he carries because he is treated by Uber as an independent contractor, combined with declining income and Uber's moves to raise its commission, left him with subminimum wages.[30] The New York City Taxi and Limousine Commission similarly testified that drivers citywide complain of decreasing income, increasing expenses, and a lack of transparency in driver recruitment and compensation.[31] Parmar urged that Uber "should follow the law and treat us as employees instead of expendable contractors with no guaranteed income."[32]

Parmar and his fellow panelists also described their challenges getting the companies for which they work to accept responsibility for them. Metivier described how his fast food chain makes billions of dollars off of its workers' labor but passes blame for conditions to its franchisees, just as the media company for which

Alastair Bates wrote denied responsibility for conditions and blamed a smaller production company: "The production companies claim they must do more with less, while networks like A&E take no responsibility for wages and working conditions in the industry and point to the production companies."[33]

Oswaldo Mendoza described an additional form of evasion for violations in the construction industry: "[E]mployers feel more empowered and they will do whatever they wish irregardless of consequences since they don't care about their minimal fee or change the company without a problem later on."[34]

Discussion of the use of contingent work structures to insulate employers from liability was not limited to the contingent work panel, but also ran throughout the hearing, summed up neatly by one worker's comment that, "[A] lot of the time we don't even know who our employer actually is."[35] This sentiment was echoed by testimony from the Model Alliance, which similarly explained that, "A consequence of the industry employment structure is that models often encounter difficulty identifying who to seek to hold liable for injuries they suffer."[36] Similar to Metivier's and Bates' complaints about leading corporations' abdication of responsibility, Bianca Cunningham from the Communications Workers of America complained that, "both Verizon and T-Mobile actually dictate the working conditions at these authorized dealers, yet they claim to have no responsibility" for wage theft that occurs in their stores.[37]

Workers' lack of clarity over who is in charge of their workplaces and answerable for violations is not an accidental result of the evolution of work, but rather, according to the testimony, a deliberate employer effort to undermine standards and enforcement. As Brittany Scott from the National Economic & Social Rights Initiative (NESRI) put it, "The aggressive practices of U.S. corporations … have been deployed to legally distance themselves from the exploitative parts of their business."[38] And these practices are spreading, testimony from Ceilidh Gao at NELP explained: "The number of industries in which companies contract out responsibility for overseeing workers is growing rapidly … The ambiguous legal status of many workers in contracted jobs is one of the central factors driving lower wages and poor working conditions in our economy today."[39]

Among the recommendations to address independent contractor and subcontracting abuses, NELP suggested:

- establishing a presumption in workplace laws that work creates an employment relationship with attendant rights and responsibilities;
- establishing provisions in workplace laws that establish joint liability for "lead companies" along with contractors in certain heavily outsourced industries;
- creating interagency task forces and studies to examine independent contractor misclassification and coordinate enforcement responses;
- enacting enforcement and coverage mechanisms for particular sectors with rampant misclassification.[40]

NESRI echoed NELP's call for greater accountability for corporations that contract out work to labor intermediaries, arguing that workplace laws should have a "vigorous employer standard" that requires corporate powerholders at the top of supply chains to provide oversight of labor intermediaries or, in some cases, an outright prohibition of outsourcing for certain hazardous jobs.[41]

To address the lack of benefits for "gig" workers, or independent contractors, NDWA advocated for the creation of portable benefits plans adhering to the following principles:

- employer contributions to the plan should be high enough to not only pay for benefits but also make up the cost to workers of self-employment, including their higher payroll tax liability and business expenses;
- inclusion of health and safety protections, such as a provision for workers' compensation insurance;
- for any publicly administered program, inclusion of worker representatives on a board of directors;
- workers participating in the plan should receive meaningful benefits without sacrificing their rights under labor and employment laws.[42]

Violation Rates among Contingent Workers

Percentage of freelancers reporting unpaid wages: **14%**

Percentage of employees reporting pay below the minimum wage:

Food or Drink Service Employees: **17.5%**
Retail Employees: **6.7%**

Notes: Minimum wage violations measured weekly; freelancer nonpayment measured annually.

Sources: William M. Rodgers III, The Threat of Nonpayment: Unpaid Wages and New York's Self-Employed (Rutgers, The State University of New Jersey 2010), available at http://www.fu-res.org/pdfs/advocacy/2010-unpaid-wages-report.pdf; David Cooper & Teresa Kroeger, Employers Steal Billions from Workers' Paychecks Each Year 10, 11 (Economic Policy Institute 2017), available at http://www.epi.org/publication/employers-steal-billions-from-workers-paychecks-each-year-survey-data-show-millions-of-workers-are-paid-less-than-the-minimum-wage-at-significant-cost-to-taxpayers-and-state-economies/.

State and Federal Labor Protections Fail a Wide Range of New Yorkers

Wage theft is pervasive and wage and hour law enforcement is inadequate

As the hearing testimony makes clear, wage theft is a pervasive problem in New York City, in part because workers and advocates often face such challenging obstacles in securing redress for violations. This means that higher wage and job standards alone do not translate automatically into better conditions for workers. As Alice Davis, a Senior Staff Attorney at Catholic Migration Services, explained, "[t]he current labor laws are, in many ways, extremely favorable to workers. However, despite these statutory protections, wage theft continues to be a very serious issue in both its pervasiveness in low-wage industries, and the barriers that claimants face in collecting those wages."[43]

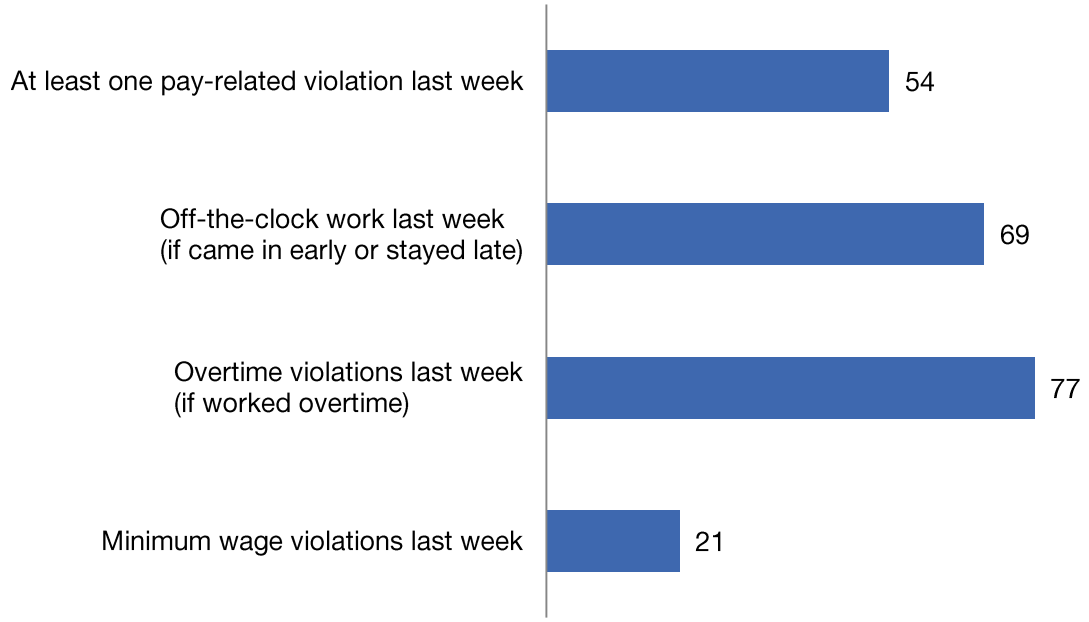
Wage Theft in New York

From 2013-2015, an estimated $965 million was stolen annually from New York State residents in the form of minimum wage violations. This amounts to 22.8 percent of the wages owed to the affected workers.

Source: David Cooper & Teresa Kroeger, Employers Steal Billions from Workers' Paychecks Each Year 10, 11 (Economic Policy Institute 2017), available at http://www.epi.org/publication/employers-steal-billions-from-workers-paychecks-each-year-survey-data-show-millions-of-workers-are-paid-less-than-the-minimum-wage-at-significant-cost-to-taxpayers-and-state-economies/.

Several organizations cited statistics from a landmark 2010 study of wage theft in low-wage industries in New York City, which found that 21 percent of workers were paid less than the legally required minimum wage in the previous workweek; 77 percent of respondents who had worked more than 40 hours during the previous week were not paid the legally required overtime rate by their employers; and 69 percent of workers who worked "off-the-clock" before and/or after their regularly scheduled shifts were not paid for that time.[44] As the models, writers, adjunct professor, and other white-collar workers testified, blatant wage theft is not limited to low-wage industries, but has also clearly taken root in traditionally higher-paying jobs. An associate producer working in nonfiction television, for example, testified that his bosses forced him to work off the clock without pay and told him that he could not receive paid overtime, no matter how long he worked.[45]

Figure 1. Percent of low-wage workers who reported violations



Source: Annette Bernhardt, Diana Polson, & James DeFillippis, Working Without Laws: A Survey of Employment and Labor Law Violations in New York City (National Employment Law Project 2010), http://www.nelp.org/content/uploads/2015/03/WorkingWithoutLawsNYC.pdf.

Citing a 2011 U.S. Department of Labor (U.S. DOL) study that estimated that workers in New York State were losing $10-20 million per week exclusively to violations of the federal minimum wage, Amy Traub from the nonprofit organization Demos testified that, "When workers are cheated out of wages, the city bears a greater burden as fewer taxes are collected, impoverished workers turn to public programs to support their families, and workers have less money to spend supporting neighborhood businesses and the local economy."[46] Losses to workers have lasting effects as "strained family budgets negatively impact the next generation of New Yorkers."[47]

Seeking to remedy these violations is an uphill battle, due not only to workers' fear or lack of knowledge of their rights and remedies, but also because of limitations in the existing labor law enforcement regime. These include case processing times that make speedy resolution of claims difficult, penalty schemes that often prove insufficient to operate as an adequate deterrent to repeat violations, challenges in holding actual responsible parties accountable for violations, and difficulties collecting even in those cases where litigation has been successful. "New York State Department of Labor investigations are typically extremely lengthy … [M]any workers will wait three years or more for their case to proceed through every stage of the investigation and appeals process, only to receive a judgment that will sit for more than five years awaiting enforcement,"

said Davis from Catholic Migration Services.[48] She explained that by the time she meets with workers, they have often been waiting on New York State Department of Labor (NYDOL) claims filed years earlier. "Some of these cases are over 10 years old by the time the workers come to us. Once at this stage, we have to inform these workers that their cases may never be successfully enforced."[49]

Citing findings from a report by the Urban Justice Center and NELP, Davis said that from 2003-2013, NYDOL was unable to collect more than $101 million determined to be owed by employers.[50] To help address these shortcomings, The Flushing Workers Center, the Restaurant Opportunities Center and its Justice Will Be Served campaign, The Legal Aid Society, the Urban Justice Center–Community Development Project (UJC-CDP) all testified in support of the state *Secure Wages Earned Against Theft Bill*.[51] The SWEAT bill would increase workers' ability to recover unpaid wages by allowing both government agencies and private attorneys to place a wage lien—essentially, a hold—on employers' property and assets on the onset of a wage theft investigation to ensure there is something to collect if the employer is found to have underpaid his or her workers. Davis noted that these findings "highlight the need for greater City-level enforcement efforts for wage and hour and other basic workplace protections, especially as the budget of the federal Department of Labor faces severe cuts and potentially a shift in priorities away from enforcing core workplace rights. The much-needed increases in New York State's minimum wage that are now being phased in will only be effective to the extent that the minimum is meaningfully enforced."[52]

Violations are routine across a broad range of workplace laws

Beyond wage theft, the hearing testimony also indicates that workers routinely experience discrimination and harassment on the job. As testimony from Latino Justice explained, discrimination and harassment are commonly deployed against workers of color, pregnant women, and the formerly incarcerated, in each case compounding the other abuses workers described.[53] Data from the Equal Employment Opportunity Commission (EEOC), the main federal agency charged with employment discrimination, suggests that violation rates remain stubbornly high (see Table 1 on page 20). Locally, the Commission acted on 480 complaints alleging employment discrimination in 2016, up from 443 in 2015.

Several speakers noted workers' vulnerability to sexual harassment and abuse, often exacerbated by the nature of their work arrangement. According to Natasha Lycia Ora Bannan, Associate Counsel at Latino Justice, abuses are "even more evident in some sectors where workers are subject to harassment because of the nature of their work, which can take place in geographically more isolated areas or in private settings," such as domestic work in private homes.[54] Testimony provided by the Model Alliance described how the "young, female, and uniquely vulnerable" models often experience "inappropriate touching on the job and pressure to have sex with someone in the workplace; many also report being instructed to pose nude without advance notice or prior consent."[55]

In a recent survey, conducted by the Worker Institute at Cornell in collaboration with OLPS, 10 percent of working New Yorkers reported having been subjected to harassment or discrimination at work in the preceding year.[56]

Table 1. Charges filed with the Equal Employment Opportunity Commission in New York State

	Fiscal Year 2011	Fiscal Year 2016	Increase (decrease)
TOTAL CHARGES	3,802	3,740	(62)
Retaliation (All)	1,415	1,604	189
Retaliation (Title VII)	1,238	1,401	163
Sex	1,100	1,202	102
Race	1,162	1,084	(78)
Disability	989	1,061	72
Age	883	865	(18)
National Origin	675	601	(74)
Color	221	208	(13)
Religion	225	180	(45)
Equal Pay Act	47	57	10
Genetic Information	5	13	8

Source: See EEOC Charge Receipts for New York, U.S. Equal Employment Opportunity Commission. https://www1.eeoc.gov/eeoc/statistics/enforcement/charges_by_state.cfm#centercol (last visited Sept. 14, 2017).

Many workers also described their employers' failure to abide by health and safety rules and the resulting hazards posed to workers. Nail salon worker Glenda Sefla testified that employers in her industry routinely ignore regulations, do not provide and may even prohibit workers from using the required masks and gloves, and have workers re-use nail files.[57]

Marguerite Dunbar from the New York Committee for Occupational Safety & Health (NYCOSH) testified that, "From January 2016 to [April 25], 34 New York City workers have been killed on the job, and this doesn't begin to count the workers who suffered long-term illnesses and death due to exposure to chemicals and substances, such as asbestos, silica or a toxic mix of substances after 911…"[58]

Other testimony relating to health and safety concerns was provided by the Build Up NYC campaign, which offered statistics relating to the construction industry. According to Build Up, 48 percent of all New York City workplace fatalities in 2014 were construction-related; 75 percent of construction fatalities in New York City in 2014 occurred on job sites where workers didn't participate in state-approved training and apprenticeship programs; and 50 percent of construction fatalities involved immigrant workers or workers who spoke a language other than English.

The Trump administration's proposal to cut the budget of the U.S. DOL, which includes OSHA, as well as its policies regarding immigrant workers, threaten to undermine enforcement even further, as Dunbar from NYCOSH explained.[59]

II. New York City's Recent Efforts to Strengthen Workers' Rights

The Political and Economic Context for Local Action on Workers' Rights

The abusive conditions described at the workers' rights hearing are not just symptoms of a weak labor market. Rather, these endemic violations are occurring against the backdrop of a booming local economy. With 300,000 jobs added since the start of the de Blasio administration, the city unemployment rate dipped down to 4.0 percent in March 2017, a 40-year low.[60] New York City is finally showing signs of broad-based wage growth, helping offset the losses since the 2007-2008 recession.[61] From 2013 to 2016, the median real hourly wage increased 8.4 percent in the city, three times the median increase for the United States as a whole.[62] These gains are driven in part by low unemployment, but also by recent increases in the minimum wage pushing up standards from the bottom. With further increases up to a $15 minimum wage scheduled through 2019, the next few years promise substantial additional increases for the estimated 1.4 million New Yorkers at or near $15 per hour.[63]

This historic progress notwithstanding, New York City is still home to large numbers of low-wage and other vulnerable workers who have seen a systematic erosion of their rights. In just its first few months, the Trump administration:

- proposed a 20 percent funding cut for the U.S. DOL;[64]
- blocked Obama administration rulemaking that would have expanded federal overtime protections;[65]
- took two executive actions narrowing the effective scope of federal wage and hour law;[66]
- announced a ban on transgender people serving in the military (which, among other things, is a large and influential employer);[67]
- argued in court that workplace discrimination on the basis of sexual orientation is legal under federal law.[68]

The administration's anti-immigrant rhetoric and actions, together with well-publicized efforts both to curtail legal immigration and expand deportations, pose an acute challenge for the 45 percent of the New York City workforce that is foreign-born. See Table 2 on page 22, which shows NYC workforce demographics.

Table 2. NYC workforce demographics

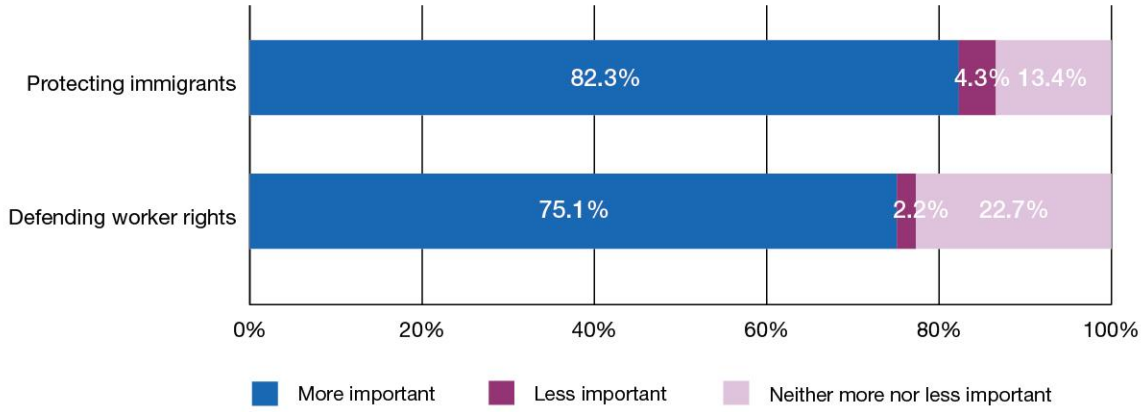
Total workforce	4,439,927
Immigrant	45%
Female	49%
Ethnicity	
White non-Hispanic	36%
Hispanic (of any race)	28%
Black non-Hispanic	22%
Asian non-Hispanic	15%
Education	
Less than high school	13%
High school graduate	22%
Some college, but no degree	16%
Associate's degree	7%
Bachelor's degree	26%
Advanced degree	17%
Earnings	
Average	$57,205
Median	$36,000
$0-24,999	36%
$25,000-49,999	25%
$50,000-99,999	23%
$100,000+	12%
Industry	
Educational, Health and Social Services	26%
Professional, Scientific, Management, Administrative, and Waste Management Services	13%
Arts, Entertainment, Recreation, Accommodations, and Food Services	11%
Retail Trade	10%
Finance, Insurance, Real Estate, and Rental and Leasing	8%
Transportation and Warehousing	6%
Other Services (Except Public Administration)	5%
Construction	5%
Other	16%

Source: Authors' analysis of the 2015 American Community Survey, obtained from IPUMS-USA, University of Minnesota, www.ipums.org.

In the face of federal attacks on labor rights, a growing number of states and cities has pursued a range of innovative strategies to raise job standards and enhance protections in recent years, most notably new laws that establish markedly higher minimum wages.[69] Many of these cities also have established their own local labor standards offices to ensure that new rights can be successfully claimed in practice. While this pattern started well before the recent election, the urgency has grown. Though federal action is still sorely needed, careful evaluations have shown both that violation rates vary substantially across states and that well-chosen policy interventions can lead to meaningful improvements.[70]

Recent polling suggests that New Yorkers largely agree with this assessment, with three-quarters (75 percent) agreeing that it is "more important" for local or City government to "protect workers' rights on the job" following the election, and more than 4 out of 5 (82 percent) agreeing that it is "more important" for local or City government to "protect immigrants."[71]

Figure 2. NYC residents' views on the role of local government following the 2016 election



Source: Working in NYC: Results from the 2017 Empire State Poll. September 2017 (NYC Department of Consumer Affairs and The Worker Institute at Cornell).

As the $15 minimum wage phases in, employers' opportunities and incentive to steal from workers will expand dramatically. Though the present moment represents perhaps the best window in a generation for securing large and enduring increases in the real wages of working New Yorkers, new interventions are also clearly needed to ensure that New Yorkers can successfully seize this opportunity.

OLPS One Year In

Under Mayor de Blasio and a progressive City Council, New York City government has pursued a series of innovative initiatives intended to boost wages and protect New Yorkers' rights at work. Most importantly, policymakers in Albany heeded the Mayor's call for a $15 minimum wage, which is being phased in gradually through 2019. The increases are just beginning in 2017, but will ultimately deliver raises to 1.4 million workers in the city (1 out of every 3), with an average increase of $5,700.[72]

Other key reforms include:

- guaranteed right to paid sick leave for most workers;
- new protections for freelancers against unpaid wages;
- a pair of innovative licensing laws in industries with endemic labor violations;
- new measures to protect workers in the retail and fast food industries from on-call scheduling and involuntary part-time work.

In establishing OLPS, New York City is seeking to ensure successful implementation of these initiatives, but also to build an enduring infrastructure to help City government play a leading role in raising job standards for workers. One of the first municipal labor standards enforcement offices in the nation,[73] OLPS also has

one of the broader mandates, encompassing original research and policy development, outreach, investigations and enforcement, as well as intake and referrals for claims outside its jurisdiction.

OLPS is now a year into the process of developing its role as a central municipal labor standards office. Working in deep collaboration with New York City's workers' rights and community-based organizations, OLPS is pursuing an ambitious program to address the concerns raised in the April 25 hearing. Key initiatives include:

- a set of innovative measures to combat wage theft;
- strengthened enforcement of the Paid Sick Leave Law;
- implementation of new legislation to ensure fair scheduling practices in the retail and fast food industries;
- development of an education, outreach, and referral program;
- new efforts to raise standards in the paid care industry.

In all of its work, OLPS emphasizes that workers are covered by City laws and have access to City services regardless of immigration status, and seeks to ensure access to enforcement is meaningful even for the most vulnerable.

Innovative strategies to combat wage theft

Perhaps the most troubling theme that emerged from the workers' rights hearing testimony is the extraordinary obstacles workers face in seeking redress for stolen wages. As mentioned, New York State preempts the City from taking direct action on most types of wage and hour violations, greatly constraining OLPS's ability to act. Nonetheless, the Office is pursuing innovative strategies to combat wage theft, working around this constraint with whatever tools fall under its jurisdiction.

For instance, the Freelance Isn't Free Act, in effect since May 2017, is a first-of-its-kind law that provides wage protections to independent contractors. The law guarantees workers hired or retained as independent contractors the right to a written contract (for services valued at $800 or more) that must include key terms, including what work is to be performed, how much the worker is to be paid, and when payment is due.[74] Critically, the law gives freelance workers the right to collect double damages for contract violations, as well as attorneys' fees. The last provision, in particular, creates a strong incentive for hiring parties to abide by contracts, as attorneys' fees make it financially viable for attorneys to represent freelance workers in court, and begins to shift the power imbalance between freelance workers and the companies for whom they work.

Beyond the direct benefit the law provides to workers hired as independent contractors, it also helps mitigate employers' incentive to misclassify workers who should really be treated as employees under labor and employment laws, enabling these workers to enjoy a wider set of protections, as well.

To implement the law, OLPS:

- conducted a public education campaign, which included social media, webinars for freelance workers and hiring parties, and informational materials;
- provides intake and court navigation services to assist workers with their claims;
- is responsible for rulemaking and other guidance interpreting the law's provisions.

Through its intake, the Office is gathering information on income, work conditions, and problems faced by freelancers and creating a detailed data set on a group of workers who have been poorly studied and

understood; this research can pave the way for further policy innovations to address the slew of problems facing a workforce that is generally excluded from existing labor and employment protections.

Through its court navigation services, the Office ensures that, when workers' claims aren't resolved, workers have both a clear pathway and the knowledge they need to successfully seek recovery.

Separately, the City is using its authority to issue business licenses in order to improve compliance with labor standards in certain low-wage industries in an effort that builds on comments submitted by a number of hearing participants. Noting the difficulties workers and their attorneys face in collecting judgments from employers, several organizations argued that the City should exercise its licensing authority to help enforce labor standards and hold employers accountable for unpaid wages:

- The Urban Justice Center (UJC) recommended that DCA gather information on employers' labor law compliance from a variety of sources and "either deny licenses to and/or penalize businesses that have failed to pay a final judgment for wage theft issued by a court or enforcement agency."[75]
- UJC also urged the Agency to make information about licensees' labor law compliance publicly available.[76]

Lenore Friedlaender from the Build Up NYC campaign pointed to local licensing ordinances in New Jersey as promising models.[77]

But, as NESRI and others noted, the "worst offenders" skip licensing requirements, among other methods, to evade regulatory detection, an observation shared by the Model Alliance's statement that modeling agencies are dodging their licensing requirements under the New York General Business Law by exploiting a loophole in the law.[78] Recognizing both the potential of licensing and its limitations in addressing violations, NESRI urged that "agency-driven investigations alone are not enough and … workers are essential frontline monitors of rights at work."[79]

Cognizant of these limitations, New York City is pursuing this strategy in the industrial laundry and car wash industries, where workers have been especially active in demanding higher standards in recent years. The *City Laundry Equity and Accountability Act* (CLEAN Act), which went into effect in January 2017, requires industrial laundries and laundry delivery services operating in New York City to obtain a license from DCA.[80] Additionally, the law requires that industrial laundry applicants certify that there are no outstanding final judgments against the applicant in any civil, criminal, or administrative action involving nonpayment or underpayment of wages.[81] The CLEAN Act also authorizes DCA to deny a license application after a finding that the applicant failed to pay in full any civil penalty arising out of a CLEAN Act violation[82] or received a final determination of liability in a civil, criminal, or administrative action involving egregious or repeated nonpayment or underpayment of wages.[83]

Similarly, the *Car Wash Accountability Law* (CWAL) would provide DCA with oversight of the city's car wash industry.[84] As adopted, the CWAL would, among other things, allow DCA to suspend or revoke a car wash license for egregious or repeated nonpayment or underpayment of wages, or other illegal acts or omissions by a car wash business. The CWAL is subject to ongoing litigation but, if allowed to take effect, would require city car washes to obtain licenses from DCA.

Both the CLEAN Act and the CWAL also require employers to obtain bonds which would cover, among other things, fines for violations of the car wash licensing law and unpaid judgments in wage cases.

Strategic enforcement of the Paid Sick Leave Law

New York City's Paid Sick Leave Law was the first major expansion of workplace protections under the de Blasio administration, and its implementation in April 2014 made New York City only the seventh jurisdiction in the nation with such a law. DCA has been charged with implementing and enforcing the law since its outset, and now does so through OLPS. The law covers an estimated 3.9 million workers employed in the city, 1.4 million of whom did not have access to paid sick leave before the law's enactment.[85]

DCA conducted a massive public education campaign to inform New Yorkers about this new right, and in its first three years of enforcement secured more than $6 million in restitution and penalties for close to 18,500 workers. During this period, OLPS's enforcement was driven mostly by complaints from workers who have called, written, or come into the Office on their own initiative. While the numbers represent a huge return to aggrieved workers, experience and research suggest an opportunity to do more. In industries that have generated a high number of complaints to OLPS, including home care, the volume of complaints has not slowed over time despite OLPS's aggressive enforcement and recoveries, suggesting that home care employers continue to routinely break the law because the odds of detection are still tolerably low. In other low-wage industries that research has shown are rife with workplace violations, few or no workers have come forward with complaints, suggesting that OLPS's enforcement has not reached significant pockets of vulnerable workers.

Consistent with a growing call by advocates and policy experts to address the problem of the most vulnerable workers lacking access to effective enforcement, OLPS in its first year has recalibrated its enforcement practices to proactively target problematic workplaces, focusing investigative resources on where the Office can have the greatest impact. Economist and former U.S. DOL Wage and Hour Administrator David Weil has written extensively about the need to make the best use of limited labor standards enforcement resources to change employer behavior on an ongoing and sustained basis. "Enforcement policies that take into account both the underlying likelihood of problems and the capacity of the intervention to change employer behavior in significant and lasting ways have the potential of appreciably reducing the number of workers who do not receive the pay they are entitled," he urged in a 2010 paper directed at U.S. DOL's Wage and Hour Division.[86]

OLPS's shift to this strategic enforcement model aims to incorporate Weil's principles, as well as respond to proposals made by OLPS's community partners in the hearing testimony and in other conversations:

- First, OLPS is choosing industry and workplace targets that, based on research and information provided by community partners, are rife with workplace violations, but also where the Agency's enforcement is more likely to have lasting effects because it builds upon existing efforts to improve industry conditions, such as organizing and advocacy activities by workers' rights groups that hold the promise of larger changes. Industries that OLPS has targeted for proactive enforcement include home care, a large industry with a high number of complaints but continued compliance issues, and others that have generated almost no paid sick leave complaints but have documented high violation rates. In its enforcement work, OLPS emphasizes contact with worker organizing groups that have deep knowledge of industry structures and problematic workplaces, as well as strong relationships with workers in the relevant industries.
- Second, OLPS targets diverse groups of employers with the goal of spreading the word about investigations broadly throughout employer communities.
- Third, OLPS has, since before the shift in its enforcement model, required employers to demonstrate that they have adopted or modified their paid sick leave policies to comply with the law after they enter into a settlement agreement; in other words, enforcement is forward-looking.

- Fourth, as OLPS expands its research and policy capacity, it will be able to map employers by geography, industry, and community networks, as well as to study the market and regulatory forces that drive compliance, so as to most effectively direct enforcement and policy efforts.
- Fifth, by rigorously auditing sick leave practices, OLPS is increasing the likelihood that it will encounter evidence of wage and hour violations in the course of its investigations, facilitating strong referrals to legal service providers or the U.S. and state Departments of Labor.

In July 2017, OLPS issued Notices of Investigation, the first step in OLPS's paid sick leave investigation process, to 39 home health care agencies. As made clear in the hearing testimony, the documented prevalence of violations, 1199SEIU's extensive organizing of the workforce, and the union's and other stakeholders' deep knowledge of problematic workplaces provide a strong basis for the launch of an enforcement sweep in the industry. The issuance of the Notices of Investigation came after careful preparation; in addition to research to choose appropriate targets, OLPS worked to implement a triage system to redirect resources toward proactive investigations and provided staff trainings on the industries and workforces. The proactive enforcement program is still early in its rollout; the next year should provide valuable insight into the model's potential to expand the Office's reach and move the needle on compliance in industries with a history of labor and employment law violations.

This new approach to enforcement of the Paid Sick Leave Law also is supported by the hearing testimony delivered by the Community Service Society (CSS). CSS provided statistics showing that the Paid Sick Leave Law has significantly increased low-income workers' access to paid sick leave, but that a substantial percentage of vulnerable low-income workers still cannot use this important benefit and many do not even know about the law.[87] The percentage of low-income workers in New York City without paid time off has declined significantly since the law took effect, dropping from 53 percent of eligible low-income workers surveyed by CSS in 2013, to 38 percent of eligible low-income workers in 2016.[88] And yet, many vulnerable low-income workers still lack access to this critical benefit: 43 percent of eligible low-income Latino workers, 48 percent of immigrant low-wage workers, 65 percent of low-income part-time workers, and 61 percent of low-income restaurant and retail workers report that they still do not have paid sick leave.[89] Despite progress, clearly there is still a substantial need for increased and targeted enforcement of this important right.

New legislation to ensure fair scheduling practices in retail and fast food

In 2017, OLPS is also set to implement a package of new laws that takes aim at abusive practices in the retail and fast food industries: unpredictable schedules. The goal of the City's Fair Workweek legislation, adopted in May 2017, is to ensure that fast food and retail workers have access to predictable, reliable, and adequate hours and paychecks, so they can support themselves and be able to plan for child care, school, and other needs.[90] The law will require that fast food employers give workers advance notice of their work schedules, including, at the start of their employment, an estimate of their hours and schedules, and regular accurate written schedules from then on. Workers will be entitled to premium pay when the employer changes their schedule with less than two weeks' notice.

A separate law bans the practice of scheduling workers to close a store late at night and re-open it in the morning, unless the worker agrees and receives a $100 premium to their pay.

The legislation includes a measure that requires employers to offer any new hours to their existing workforce, rather than hiring new workers, encouraging employers to provide workers with access to full-time jobs and cut down on part-time employment. Retail employers will also be greatly restricted from scheduling workers on an on-call basis with no guarantee of hours or pay, and will no longer be allowed to force workers to keep their schedules open for work with no guarantee of hours or pay. The Fair Workweek laws hold tremendous

promise to create more dependable and stable jobs in industries that had turned sharply toward part-time and unpredictable work.

Finally, an innovative measure included in the Fair Workweek package paves the way for fast food workers to have voluntary contributions deducted from their pay to support organizations of their choice, including those with whom they may wish to engage in organizing and advocacy to drive better standards in their industry. This first-of-its-kind law in the country could hold promise for helping workers have a stronger voice at work.[91]

Education, outreach, and referral to increase workers' access to enforcement

As many organizations stressed in their hearing testimony, insufficient enforcement resources at the state and federal levels have made it difficult for workers to seek timely and adequate redress for violations. But while OLPS lacks the authority directly to enforce state and federal workplace laws, it is expanding the supports it can provide to workers by developing a new intake and referral system.

With the support of a legal services coordinator, OLPS's staff now routinely assesses what violations workers are experiencing, and directs them to the other agencies or legal services providers that are best poised to help them. In addition to filling deficiencies in intake capacity at state and federal enforcement agencies, OLPS's new system also helps confront the problem, articulated by several advocates in the hearing testimony, that workers may lack knowledge of their rights on the job; armed with new training, OLPS staff can effectively screen for a range of violations even when workers may not be aware of the specific law that their employer has broken. The Office has developed an extensive listing of government agencies, legal services providers, private attorneys, and other resources to provide workers seeking help on issues not within OLPS's jurisdiction. In certain cases, OLPS will seek to jointly enforce multiple workplace laws with other agencies, such as the Commission or the New York State Office of the Attorney General, eliminating the need for workers to independently seek out help from other agencies, which can be an insurmountable roadblock for workers with limited time and resources.

OLPS is also increasing its capacity to conduct intake outside the Office at worker center or union meetings and other events. Meeting workers at their own community organizations, and in the presence of trusted worker center and union staff, can help ease the fear that prevents many workers from proactively contacting a government agency, a problem that appears to be on the rise. To support this program, OLPS staff performs constant education and outreach, providing know-your-rights trainings and engaging community partners to help spread awareness of OLPS's programs and the resources available to help workers pursue their claims.

To further these efforts, speakers at the hearing called for more labor standards enforcement funding. Molly Weston Williamson from A Better Balance called upon the City to significantly increase funding, particularly to hire more staff.[92] The Center for Law and Social Policy (CLASP), NYCOSH, and other organizations argued for increased funding specifically to support OLPS's partnerships with community-based organizations, which play a vital role in supporting vulnerable workers to come forward to file claims and providing OLPS with information on low-wage industries to inform enforcement efforts, but which often struggle to do their work due to limited funding and capacity.[93] Under the de Blasio Administration, the City has provided funding to legal services organizations that represent workers with a variety of issues, helping to redress violations of state and federal labor laws that the City otherwise does not have the power to resolve.

In addition to wage theft, OLPS's education, outreach, and referral program is helping address other workplace violations, such as health and safety violations, despite the federal government's OSHA having primary jurisdiction over this field. Studies have found that when workers are aware of their rights in the

workplace and of the legal consequences employers face for violations, they are better equipped to identify and report issues that require government attention, including health and safety violations.[94] Further, increased oversight and enforcement in adjacent areas of labor and employment law can have indirect but beneficial effects on health and safety, motivating employers to come into compliance, inhibiting low-road employers' price advantage in their markets, and bringing illegal health and safety practices to the attention of the regulators that do have jurisdiction. And, more broadly, when workers know their rights, and understand how to use them, it becomes harder for employers to cut corners.

OLPS's Division of Paid Care: a new kind of program focusing on a historically excluded workforce

On August 31, 2016, Mayor de Blasio signed legislation creating within OLPS the Paid Care Division, dedicated to improving conditions for home care and domestic workers. The new division is the result of sustained efforts by workers' and advocates' campaigns to raise standards for this workforce at the City, state, and federal levels. Care occupations, overwhelmingly populated by immigrants and women of color, historically have been excluded from the protections afforded to most other workers. The OLPS Division of Paid Care is an important correction to this legacy.

In the past decade, workers and advocates secured passage of the New York State Domestic Worker Bill of Rights (2010), a New York City law requiring employment agencies to disclose job standards and limit fees for placements in domestic work; the New York State Wage Parity Act (2010), requiring certain Medicaid-funded home care agencies to pay a higher base wage rate and provide benefits to workers; and the issuance of the U.S. DOL Home Care Rule (issued in 2013, effective 2015), extending federal wage and hour standards to home care workers, who had previously been exempted from the Fair Labor Standards Act (FLSA).[95]

Despite greatly expanding domestic and home care workers' rights under the law, legal reforms have not universally translated into higher job standards for workers, and advocates have rallied for increased, concentrated outreach and enforcement resources to ensure workers have the knowledge and support to realize their rights. With a mayoral administration and City Council already sensitive to these concerns, the bill creating a Paid Care Division within OLPS passed and went into effect in February 2017. OLPS hired a Paid Care Advocate to lead a multidisciplinary effort, consisting of outreach and education, research, and policy development.

Highlights through the first six months include:

- drafting and dissemination of educational materials on paid care workers' labor and employment rights;
- a series of worker convenings to provide leadership development and rights training;[96]
- an intake and referral process tailored to the specific issues paid care workers confront in their work;
- ongoing survey and focus group research to better understand this workforce's experiences and needs;
- proactive investigation of paid sick leave violations in the home care industry;
- the launch of an external working group charged with recommending new policies to improve job quality.

In all of these efforts, OLPS has partnered closely with the active and diverse set of worker centers, unions, and advocacy organizations engaged with this workforce. Though even in the Division's absence the issues confronting paid care workers would still fall squarely within OLPS's mission, its presence ensures that the unique challenge of securing labor rights in the home receive appropriate consideration, and are handled with the multidisciplinary, holistic approach that decades of legal and social exclusion have necessitated.

In its first six months, the Paid Care Division already has responded to some recommendations made in the hearing testimony, namely engaging in broad educational efforts and shifting to strategic enforcement. Policy recommendations proposed in several organizations' testimony have and will continue to inform the Division's policy development. The hearing testimony urged a focus, in particular, on worker cooperative development as a strategy for raising standards in this sector, reporting on positive experiences at Cooperative Home Care Associates, the largest worker-owned cooperative in the country, as well as the many new home care and domestic worker cooperatives established in recent years. The Division is in the process of learning more about these models and is beginning to work with its external partners on the Paid Care Working Group to identify appropriate policy recommendations concerning worker cooperatives and other initiatives that can strengthen standards for workers in these sectors.

Other NYC Efforts to Strengthen Working New Yorkers' Rights and Protections

OLPS works in frequent collaboration with several other City agencies whose jurisdictions relate to New Yorkers' rights on the job, the Commission and MOIA in particular. Their recent efforts to safeguard New Yorkers' rights at work are described in the following sections.

Growth and strategic restructuring drive Commission enforcement of the nation's strongest Human Rights Law

The New York City Human Rights Law (NYCHRL), which provides protections against employment-based and other forms of discrimination, is one of the most expansive in the nation. The law is meant to ensure that all those who live in, work in, or visit New York City are treated fairly and with dignity and respect, regardless of race, color, age, religion/creed, national origin, disability, gender identity and expression, sexual orientation, or any other protected class.

Over the past two years, the Commission has expanded its ability to reach the city's underserved communities and most vulnerable residents through outreach, educational opportunities, mobile intake clinics in partnership with community-based organizations, and other forms of community engagement. The Commission continues to grow and to strategically restructure key programs to effectively address significant public demand in the current political climate, most notably:

- adding staff to its Law Enforcement Bureau (LEB) and Community Relations Bureau (CRB);
- substantially increasing Commission-initiated investigations and complaints through testing and other investigative means;
- building out key operational areas of the agency to support its expanding work;
- committing significant resources to multilingual public awareness campaigns.

The Commission receives more employment discrimination claims than claims in any other area of its jurisdiction. And, employment discrimination claims continue to increase. Claims alleging discrimination based on race, national origin, religion, and immigration status have increased significantly in the past year. Claims of discrimination based on gender identity and criminal history have also significantly increased. For the past year, the Commission has accepted requests for U visa certifications, which has allowed it to deepen its engagement with immigrant workers who face discrimination, abuse, and harassment in the workplace.

Snapshot of Complaints

Complaints Alleging Employment Discrimination

Fiscal Year	Number of Complaints
2015	443
2016	480

LEB Data – Fiscal Year 2017

Total Complaints (all areas of jurisdiction)	806
Total Recovery	$1,801,966
Total Active Caseload	1,643
Percent Increase	25%
Tests Performed	826
Entities	540
Employment	240
Housing	265
Public Accommodations	35
Protected Categories Tested	Gender identity, disability access, race, gender, pregnancy, criminal history, source of income, presence of children
Commission-initiated Complaints	25
Pre-complaint Successful Interventions	19

Snapshot of Campaigns and Media Outreach

I am Muslim: Designed to promote solidarity and protect Muslim communities in New York City.

You DO have Rights: Intended to educate some of the city's most vulnerable communities (ethnic, immigrant, and religious) on their rights under NYCHRL and how to get assistance from the Commission.

The Commission also coordinated media outreach on domestic violence protections in housing and employment; protections for people with disabilities and women; racial discrimination; fair housing; and discriminatory harassment. These efforts generated more than 170 million views across paid media platforms. Over 50 percent of press placements in the second half of Fiscal Year 2017 were in ethnic and community media outlets.

Finally, the Commission enforces the City's new "Fair Chance Act," which makes it illegal for most employers in New York City to ask about the criminal record of job applicants before making a job offer. This is a critical new protection, as several formerly incarcerated workers made clear at the hearing. Ricky Pimentel, a laborer and part of the Build Up NYC campaign, explained that:

> **"In my current job, I'm working safe and getting paid a good wage with benefits. It hasn't always been like that, especially for someone like me who was formerly incarcerated … (A) condition of my parole is to maintain employment … I really love construction work, but some of the jobs I had were hard because some of the employers often take advantage of you and your situation … (T)hey look for people like that, you know, they say, hey, we know we can pay you less, we know you're going to work hard, we know that you're afraid of going back to prison if you don't maintain employment, they'll promise you pay raises that just won't come."**[97]

In 2016, the Commission initiated 190 investigations into arrest or conviction record discrimination, and acted on dozens of complaints alleging claims of arrest record discrimination (62 claims) and conviction record discrimination (76 claims). In one case where the Commission found probable cause that an employer denied an applicant a position based on his earlier minor convictions, the employer, complainant, and Commission ultimately reached a conciliation agreement requiring the employer to pay $50,000 in damages to the complainant and a $15,000 civil penalty, and to train its more than 10,000 managerial, supervisory, and personnel staff regarding the NYCHRL generally, and the Fair Chance Act specifically.

MOIA has taken action to advance the rights of immigrant New Yorkers

Recognizing that obtaining legal status significantly improves immigrants' access to employment and economic security, New York City has invested an unprecedented amount of public dollars—$31 million in Fiscal Year 2018—to provide free immigration legal services to immigrant New Yorkers. This level of investment has allowed the City to provide a continuum of immigration legal services in immigrant communities, including information about immigrants' rights; legal screenings; legal services for different types of cases through a variety of City-funded programs, including ActionNYC and NYCitizenship.

ActionNYC, a partnership among MOIA, the Human Resources Administration (HRA), and the City University of New York (CUNY), connects immigrants to a network of community and legal service organizations for free, safe immigration legal services. Beginning in May 2017, New Yorkers have been able to receive the help of experienced attorneys and accredited Board of Immigration Appeals representatives on a range of cases, including but not limited to citizenship, green card applications and renewals, Deferred Action for Childhood Arrivals (DACA), and Temporary Protected Status.

NYCitizenship provides free, safe citizenship and financial counseling services at select libraries and HRA locations around the city. This program has enormous potential to help New York City's 650,000 lawful permanent residents gain citizenship, which can raise pay, homeownership rates, and political participation, among other benefits.

In addition to these large-scale initiatives, many City agencies, including the Commission, have worked to connect their immigrant clients to U and T visas. U nonimmigrant status (U visa) is a visa program for victims of certain crimes who have suffered mental or physical abuse, and who assist law enforcement in the investigation or prosecution of criminal activity. The T visa is for victims of human trafficking and allows them to stay in the United States to assist with the investigation or prosecution of human trafficking cases. Both visa programs are an extremely useful safeguard for immigrant crime victims, including victims of labor trafficking and wage theft.

Conclusion

The powerful record created by the state of workers' rights hearing will continue to inform OLPS's work. Above all, the hearing testimony underscores both the daunting obstacles that stand in the way of establishing a more effective regime of workplace protections in the city and the urgent need to do so. The home health aides, construction workers, restaurant workers, nannies, professors, and others who shared their struggles for fair treatment are the backbone of our economy and our society. Too often, they report being excluded entirely from the framework of labor protections set up generations ago; more commonly, they report that the laws which do apply still fall short, as employers routinely steal wages with little threat of meaningful sanction.

Under the leadership of Mayor de Blasio and a progressive City Council, New York has risen to this challenge, pursuing a number of innovative strategies to strengthen workers' rights while still navigating around the constraints imposed by state and federal preemption. OLPS was created to further these efforts, and has made significant progress in the year since its launch. OLPS looks forward to years of partnership with the many people and organizations dedicated to the cause of workers' rights in the city, and stands with all New Yorkers asserting their right to work with dignity and respect and receive honest payment in return.

Endnotes

[1] *Working in NYC: Results from the 2017 Empire State Poll*. September 2017. (NYC Department of Consumer Affairs and The Worker Institute at Cornell).
[2] *State of Workers' Rights: Public Hearing before Commissioner Lorelei Salas et al.* (April 25, 2017) (Written Testimony) at 207-208 [hereinafter *Written Testimony*]; *State of Workers' Rights: Public Hearing before Commissioner Lorelei Salas et al.* (April 25, 2017) (Hearing Transcript) at 10-12 [hereinafter *Hearing Transcript*].
[3] *Hearing Transcript*, at 15-17.
[4] *Hearing Transcript*, at 14-15. *See also* Rosa Goldensohn, *Tom Cat Bakery Workers Targeted by ICE March in Front of Trump Tower*, Crain's (April 7, 2017, 12:24 PM), http://www.crainsnewyork.com/article/20170407/POLITICS/170409906/tom-cat-bakery-workers-targeted-by-ice-to-protest-at-march-in-front-of-trump-tower.
[5] *Hearing Transcript*, at 18.
[6] *Written Testimony*, at 104.
[7] *Written Testimony*, at 103-104.
[8] *Written Testimony*, at 15-16.
[9] *Hearing Transcript*, at 113.
[10] *Written Testimony*, at 178-79.
[11] *Written Testimony*, at 12, 96, 161.
[12] *Written Testimony*, at 107.
[13] *Written Testimony*, at 97.
[14] *Written Testimony*, at 162.
[15] *Written Testimony*, at 179.
[16] *Written Testimony*, at 82.
[17] *Written Testimony*, at 90.
[18] *Hearing Transcript*, at 21.
[19] *Hearing Transcript*, at 25.
[20] *Id.* at 29.
[21] *Hearing Transcript*, at 28.
[22] *Written Testimony*, at 1-8.
[23] *Id.*
[24] *Written Testimony*, at 1-8 (statement of 1199 SEIU), at 60 (statement of Chinese Staff and Workers Association); *Hearing Transcript*, at 99-101 (statement of Rosanna Gucnam). Note that federal regulations interpreting the Fair Labor Standards Act allow employers to treat up to eight hours of a 24-hour shift as uncompensable sleep time, but only if the employee agrees to the arrangement; is provided with adequate sleeping facilities; and is usually able to get an uninterrupted night's sleep. *See* 29 C.F.R. § 785.20-23. Employers may additionally treat an additional three hours of the 24-hour shift as unpaid meal breaks if the employee is actually able to take three hour-long work-free meal breaks, meaning that a home care employer may discount up to 13 hours of pay from a 24-hour shift if the above conditions are satisfied. *See* Federal Minimum Wage and Overtime Protections for Home Care Workers (National Employment Law Project 2015), *available at* http://www.nelp.org/content/uploads/NELP-Fact-Sheet-Companionship-Rules-Reform.pdf. New York Department of Labor (NYDOL) regulations, on the other hand, provide that employers must pay an employee at least the minimum wage for each hour an employee is "required to be available for work at a place prescribed by the employer" except that a "residential employee—one who lives on the premises of the employer" need not be paid "during his or her normal sleeping hours solely because he is required to be on call" or "at any other time when he or she is free to leave the place of employment." 12 NYCRR 142–2.1. The regulations do not provide further guidance on who qualifies as a "residential employee," but for many years home care agency employers have relied on a 2010 NYDOL Opinion Letter that provides that third-party employers of 24-hour home care attendants may pay their employees for 13 hours of a 24-hour shift, provided the employee is afforded eight hours of sleep, five of which are uninterrupted, and three uninterrupted hours for meals. NYDOL Opinion Letter, RO-090169 (March 10, 2011). Recent decisions by the New York State Supreme Court have rejected the NYDOL's interpretation of the New York Labor Law, finding instead that sleep and meal periods must not be excluded from the hourly wages of a home attendant who does not "reside" in the home of his or her client. *Andryeyeva v. New York Home Attendant Agency*, 45 Misc. 3d 820 (N.Y. Sup. 2014); *Tokhtaman v. Human Care, LLC*, 149 A.D.3d 476 (N.Y. App. Div 2017). Both decisions are currently pending appeal.
[25] *Written Testimony*, at 60.
[26] *Written Testimony*, at 181-83.
[27] *Hearing Transcript*, at 34.
[28] *Working in NYC: Results from the 2017 Empire State Poll*. September 2017. (NYC Department of Consumer Affairs and The Worker Institute at Cornell).
[29] *Written Testimony*, at 235.
[30] *Hearing Transcript***,** at 51-54 (statement of Inderjeet Parmar, presented by Mohammad Tipu Sultan).
[31] *Written Testimony*, at 209.

[32] *Hearing Transcript*, at 54 (statement of Inderjeet Parmar, presented by Mohammad Tipu Sultan).
[33] *Hearing Transcript*, at 40-44.
[34] *Hearing Transcript*, at 49-50.
[35] *Hearing Transcript*, at 105 (statement of Hernan Ayabaca).
[36] *Written Testimony*, at 116.
[37] *Written Testimony*, at 61-62.
[38] *Written Testimony*, at 189.
[39] *Written Testimony* at 179-80.
[40] *Written Testimony*, at 179-81
[41] *Written Testimony*, at 188-90, 194.
[42] *Written Testimony,* at 165-169
[43] *Written Testimony*, at 37.
[44] Annette Bernhardt, Diana Polson, & James DeFillippis, Working Without Laws: A Survey of Employment and Labor Law Violations in New York City, 2-3, 18, 20, 22, 29, 31 (National Employment Law Project 2010), http://www.nelp.org/content/uploads/2015/03/WorkingWithoutLawsNYC.pdf.
[45] *Hearing Transcript*, at 133-35.
[46] *Written Testimony*, at 67-72.
[47] *Id.*
[48] *Written Testimony*, at 37-41.
[49] *Id.*
[50] *Id.*
[51] *Written Testimony*, at 78-79, 88, 95, and 215.
[52] *Id.*
[53] *Hearing Transcript*, at 101-102 (statement of Nathalia Alejandra Varela).
[54] *Written Testimony*, at 91-93 (statement of Latino Justice).
[55] *Written Testimony*, at 110.
[56] *Working in NYC: Results from the 2017 Empire State Poll*. September 2017. (NYC Department of Consumer Affairs and The Worker Institute at Cornell).
[57] *Hearing Transcript*, at 114-15.
[58] *Hearing Transcript*, at 130.
[59] *Hearing Transcript*, at 131.
[60] Press Release, New York City Economic Development Corporation, *New York City Hits New Record Low Unemployment for Third Straight Month* (April 21, 2017), https://www.nycedc.com/press-release/new-york-city-hits-new-record-low-unemployment-third-straight-month.
[61] New York City's Recovery Finally Starts Generating Wage Gains, Fiscal Policy Institute (2015), *available at* http://fiscalpolicy.org/nyc-recovery-finally-starts-generating-wage-gains.
[62] James Parrott, *Monitoring the Minimum Wage, Setting the Context for the Minimum Wage Increase in New York State and New York City*, Brief No. 1 (The Workforce Field Building Hub 2017), *available at* https://philanthropynewyork.org/sites/default/files/resources/Monitoring-Min-Wage-Brief-July2017.pdf.
[63] David Cooper, *Raising the New York State Minimum Wage to $15 by July 2021 Would Lift Wages for 3.2 Million Workers*, EPI Briefing Paper No. 416, at 3 (Economic Policy Institute 2016) *available at* http://www.epi.org/publication/raising-new-york-state-minimum-wage-to-15/.
[64] Budget of the U.S. Government: A New Foundation for American Greatness, Fiscal Year 2018, at 42 (2017), *available at* https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/budget/fy2018/budget.pdf.
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[70] *See* Daniel Galvin, *Deterring Wage Theft: Alt-Labor, State Politics, and the Policy Determinants of Minimum Wage Compliance*, 14 Perspect. Politics, no. 2 (2016) at 324-350.
[71] *Working in NYC: Results from the 2017 Empire State Poll*. September 2017. (NYC Department of Consumer Affairs and The Worker Institute at Cornell).

[72] David Cooper, *Raising the New York State Minimum Wage to $15 by July 2021 Would Lift Wages for 3.2 Million Workers*, EPI Briefing Paper No. 416, at 3, 21 (Economic Policy Institute 2016) *available at* http://www.epi.org/publication/raising-new-york-state-minimum-wage-to-15/.
[73] San Francisco formed its Office of Labor Standards Enforcement in 2001. Janice Fine, Co-Production: Bringing Together the Unique Capabilities of Government and Society for Stronger Labor Standards Enforcement (Labor Innovations for the 21st Century (LIFT) Fund 2015), *available at* http://theliftfund.org/wp-content/uploads/2015/09/LIFTReportCoproductionOct_ExecSumm-rf_4.pdf. In the Progressive Era, before the recent wave of labor standards legislation, New York City innovated in the labor standards arena. In the wake of the Triangle Shirtwaist Factory fire in 1911, for example, the New York City Board of Alderman formed the Bureau of Fire Prevention, and passed other measures aimed at improving safety in factories. *Legislative Reform at State and Local Level, Remembering the 1911 Triangle Factory Fire*, Cornell School of Industrial & Lab. Rel., http://trianglefire.ilr.cornell.edu/legacy/legislativereform.html (last visited Aug. 25, 2017).
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[75] *Written Testimony*, at 215-16 (statement of the Urban Justice Center).
[76] *Id.*
[77] *Hearing Transcript*, at 94-95.
[78] "Modeling agencies typically claim that they are primarily management agencies (meaning that their primary role is to manage models' careers, rather than to find them jobs), and that therefore they fall under the statute's 'incidental booking exception,' which applies 'when finding employment is only incidental to [the agencies'] agreements with the models.'" *Written Testimony*, at 114-15 (statement of the Model Alliance) (*citing* Shelton v. Elite Model Mgmt., Inc., 812 N.Y.S.2d 745, 756 (NY Sup. Ct. 2005) (discussing defendant modeling agencies' argument)).
[79] *Written Testimony*, at 190.
[80] Title 20 of the Administrative Code of the City of New York, Section 20-297.1 *et seq.*
[81] Title 20 of the Administrative Code of the City of New York, Section 20-297.3(b)(5).
[82] Title 20 of the Administrative Code of the City of New York, Section 20-297.3(d)(1).
[83] Title 20 of the Administrative Code of the City of New York, Section 20-297.3(d)(3)(b).
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[88] *Written Testimony*, at 47-54.
[89] *Written Testimony*, at 47-54.
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[93] *Written Testimony*, at 43-44.
[94] *See* David Weil, *Enforcing OSHA: The Role of Labor Unions*, 30 J. Indus. Rel., no. 1 (1991) at 20-36; David Weil, *Regulating the Workplace: The Vexing Problem of Implementation*, 7 J. Advances Indus. & Lab, Rel. (1997) at 247-86.
[95] *Intro. No. 1084-2016: Establishment of a Division of Paid Care*: *Hearing before the New York City Council Committee on Civil Service and Labor jointly with the Committee on Aging and the Committee on Finance* (April 11, 2016) (statement of Sarah Leberstein, National Employment Law Project) *available at* http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=2576392&GUID=632A3331-9DC6-4348-ADB6-AD9FFF5F03A7&Options=ID|Text|&Search=Int.+No.+1084-A.
[96] *See Paid Care Workers*, NYC Department of Consumer Affairs, https://www1.nyc.gov/site/dca/workers/workersrights/paid-care-workers.page (last visited Sept. 6, 2017).
[97] *Hearing Transcript*, at 87-88.

Appendix

Timeline: NYC Efforts to Strengthen Worker Rights

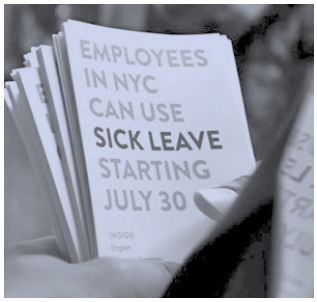
2014

February

Mayor Bill de Blasio appoints Nisha Agarwal as Commissioner of the Mayor's Office of Immigrant Affairs (MOIA).

April

Paid Sick Leave Law goes into effect after Mayor de Blasio signs his first bill into law to expand its coverage.



Photos by Rob Bennett/Mayoral Photography Office

Ed Reed/Mayoral Photography Office

June

Contract agreements reached with over 60 percent of City workforce, on path to 99.6 percent coverage by September 2017.

September

Mayor de Blasio signs Living Wage Executive Order.

November

Mayor de Blasio appoints Carmelyn P. Malalis as Chair of the NYC Commission on Human Rights (the Commission).

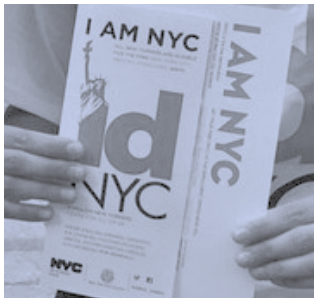
December

Laws go into effect limiting NYC's cooperation with overbroad federal immigration enforcement practices and ending presence of Immigration and Customs Enforcement (ICE) at all City facilities, including Rikers Island.

2015

January

The City of New York launches IDNYC Municipal ID Card Program.



June

- Mayor de Blasio establishes the NYC Commission on Gender Equity, co-chaired by First Lady Chirlane McCray.
- Mayor de Blasio signs Car Wash Accountability Law (CWAL) into law.

October

Fair Chance Act goes into effect.

2016

January

- Commuter Benefits Law goes into effect.
- Mayor de Blasio signs Paid Parental Leave Personnel Order for 20,000 workers employed by the City of New York.
- Mayor de Blasio announces a $15 minimum wage for all City employees and social service contractors, affecting 50,000 workers.

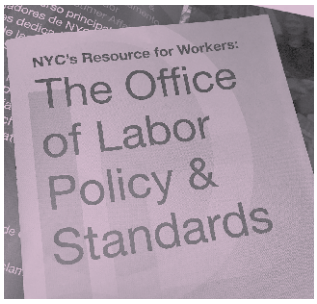
March

Mayor de Blasio signs Executive Order 16 requiring City agencies to ensure that employees and members of the public are given access to single-sex City facilities consistent with gender identity and expression, without being required to show identification, medical documentation, or any other form of proof or verification of gender.

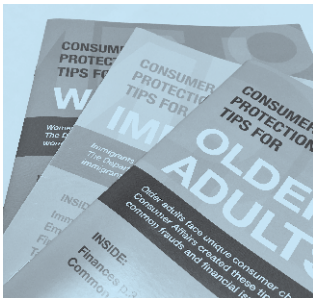
May

- Mayor de Blasio appoints Lorelei Salas as Commissioner of the Department of Consumer Affairs (DCA).

- Human Rights Law expands to protect caregivers from employment discrimination.
- Grocery Workers Retention Act goes into effect.
- Displaced Building Service Workers Protection Act goes into effect.



- Office of Labor Policy & Standards (OLPS) is placed within DCA.



August

Laws requiring DCA to provide consumer protection education for immigrants, women, and seniors go into effect.

October

Law requiring single-occupant bathrooms be usable by persons of any gender goes into effect.

2017

January

City Laundry Equity and Accountability (CLEAN) Act goes into effect.

February

Law establishing a Division of Paid Care within OLPS goes into effect.

April

DCA, MOIA, and the Commission convene the public hearing on the State of Workers' Rights in New York City.

May

Freelance Isn't Free Act goes into effect.

October

Law prohibiting employers from inquiring about a prospective employee's salary history goes into effect.

November

- Fair Workweek Laws go into effect.
- Wage Deductions Law goes into effect.

Visit **nyc.gov/dca** for more information about the laws that DCA enforces.