

May 6, 2019

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Caleb Frostman, Secretary  
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TRANSMITTED ELECTRONICALLY ONLY

RE: Unemployment compensation and alleged fraud issues

Dear Attorney General Kaul & Secretary Frostman:

The following organizations are writing to express our concern about the extreme racial disparities (as well as unreasonable victimization of Wisconsin residents) in the state's prosecutions for alleged unemployment fraud.

As of November 2018, data posted by an attorney who handles such cases indicates that 75% of the criminal unemployment fraud cases in Wisconsin were against African-Americans. *See* <https://wisconsinui.wordpress.com/2018/11/27/criminalizing-unemployment-benefits/>. This is a number obviously far disproportionate to the state's African American population. Nor does it reflect the actual distribution of the number of alleged concealment cases. Instead, it is based on a decision to target claimants in Milwaukee County (though in the past year or two there have been a handful of cases outside of Milwaukee County).

This disparity is particularly egregious because for several years the Department of Workforce Development has been charging people with unemployment concealment/fraud for unintentional or accidental claim-filing mistakes (and even when no mistake has occurred at all). Based on prior examination of these cases, it is very likely that a very large proportion — perhaps as much as 80% — of these criminal cases are based on similar accidental or unintentional claim-filing mistakes. So, the state is adding criminal charges when none previously existed while targeting a racial group that already suffers from a racial bias in criminal prosecutions and enforcement in this state. Furthermore, the Department has turned these concealment charges into a lucrative source of income for a specialized "program integrity" fund that is completely outside of legislative oversight and even public accountability.

Moreover, the state has routinely brought these cases against Milwaukee defendants in Dane County. Given that almost all of these defendants are poor and forced to travel — if they can — from Milwaukee to Dane County for every stage of their cases, many defendants have taken plea deals of some kind in order to move on with their lives. Although it is our understanding that the Wisconsin Department of Justice has now put a temporary halt on these criminal cases, there remain hundreds of outstanding cases and prior plea deals affecting predominately African-American defendants. These cases must be re-examined in light of this obvious racial bias in these cases and vacated where the prosecution is based on unintentional or accidental mistakes.

In addition, this Administration should investigate why hundreds of African Americans were targeted and criminally charged under the prior administration, as well as how these concealment cases against folks for unintentional claim-filing mistakes could become so widespread, unchecked, and lucrative to a state agency originally designed to assist and support the unemployed.

We look forward to your response.

Sincerely,



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On behalf of:

African-American Roundtable  
American Civil Liberties Union of  
Wisconsin  
Black Health Coalition of Wisconsin, Inc.  
Black Lives Matter to Wisconsin Unitarian  
Universalists  
Black Leaders Organizing for Communities  
End Domestic Abuse WI – the Wisconsin  
Coalition Against Domestic Violence  
Fair Wisconsin  
Felmers O. Chaney Advocacy Board  
Leaders Igniting Transformation  
Madison-area Urban Ministry  
NAACP State Conference  
NAACP Racine Branch

National Association of Social Workers,  
Wisconsin Chapter  
National Lawyers Guild, Madison Chapter  
National Lawyers Guild, Milwaukee  
Chapter  
Progressive Baptist Church  
Schools and Communities United  
Showing Up for Racial Justice Milwaukee  
Urban Underground  
Wisconsin Faith Voices for Justice  
Wisconsin Employment Lawyers  
Association  
Wisconsin Hispanic Lawyers Association  
Wisconsin Justice Initiative Inc.  
WISDOM  
YWCA Southeastern Wisconsin

electronic copies:

Rep. Christine Sinicki  
Rep. David Crowley  
Rep. Tod Ohnstad  
Atty. Victor Forberger