

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Office of the Attorney General**



March 2, 2015

The Honorable Kenyan McDuffie  
Chairman, Committee on the Judiciary  
1350 Pennsylvania Avenue, N.W.  
Suite 506  
Washington, D.C. 20004

**RE: OAG Responses for FY 2014 -2015 Performance Oversight Hearing – March 4, 2015**

Dear Chairman McDuffie:

I am advised that on March 4, 2015 the Committee on the Judiciary will hold a performance oversight hearing on the Office of the Attorney General (OAG). In preparation for that hearing and in answer to the questions that your office transmitted to us on February 18, 2015, we submit the attached responses. Both a hard copy and an electronic version of the responses are being provided to your office. I appreciate the opportunity to work with you and the Committee.

1. Please provide, as an attachment to your answers, a current organizational chart for the agency with the number of vacant, frozen, and filled FTEs marked on each box. Include the names of all senior personnel, if applicable. Also include the effective date on the chart.

**RESPONSE:** Please see the attached organizational chart, designated as Attachment #1 for identification purposes.

2. Please provide, as an attachment, a Schedule A for the agency, which identifies all employees by title/position, current salaries, fringe benefits, and program office, as of February 1, 2015. Please include the type of position (continuing, term, etc.) and whether it is funded by local, federal, or grant funds. This Schedule A should also indicate any vacant or frozen positions in the agency.

**RESPONSE:** Please see the attached Schedule A, designated as Attachment #2 for identification purposes.

3. (a) For fiscal year 2014, please list each employee whose salary was \$110,000 or more. Provide the name, position title, and salary. Also, state the amount of any overtime and also any bonus pay for each employee on the list.

RESPONSE: Please see Attachment #3. No employee whose salary was \$100,000 or more received overtime or bonus pay.

(b) For fiscal year 2015 (to date) please list each employee whose salary was \$110,000 or more. Provide the name, position title, and salary. Also, state the amount of any overtime and also any bonus pay for each employee on the list.

RESPONSE: Please see Attachment #4. No employee receiving \$110,000 or more received overtime or bonus pay.

4. Please list in descending order the top 25 overtime earners in your agency in fiscal year 2014, if applicable. For each, state the employee's name, position or title, salary, and aggregate overtime pay.

RESPONSE: In FY 2014, sixteen OAG employees received overtime pay most of which was the result of either employee time entry error or PeopleSoft error for a total of \$8,283.73. Please see the attached list of overtime payments, designated as Attachment #5 for identification purposes

5. For fiscal years 2013, 2014, and 2015 (to date), please provide a list of employee bonuses or special award pay granted that identifies the employee receiving the bonus or special pay, the amount received, and the reason for the bonus or special pay.

RESPONSE: Please see below.

#### **Fiscal Year 2013 Special Award Payment**

<u>Name</u>	<u>Amount</u>	<u>Reason</u>
John Grimaldi	\$500.00	FY 12 Charles Reischel Writing Award funded with donated private dollars

#### **Fiscal Year 2014 Special Award Payment**

Chad Naso	\$500.00	FY 13 Charles Reischel Writing Award funded with donated private dollars
-----------	----------	--

Attorney performance bonuses were paid in Fiscal Year 2014 in accordance with the attorney union's compensation agreement. Please see the attached list of bonus payments, designated as Attachment #6 for identification purposes.

6. For fiscal years 2014 and 2015 (to date), please list all intra-District transfers to or from the agency.

RESPONSE: Please see the attached document, designated as Attachment #7 for identification purposes.

7. For fiscal years 2014 and 2015 (to date), please identify any special purpose revenue funds maintained by, used by, or available for use by your agency. For each fund identified, provide: (1) the revenue source name and code; (2) the source of funding; (3) a description of the program that generates the funds; (4) the amount of funds generated by each source or program; and (5) expenditures of funds, including the purpose of each expenditure.

RESPONSE: Provided below is the list of Special Purpose Revenue funds that are under the authority of OAG. The description of the fund and the balances as of the dates specified above are also provided:

FY 2014

Revenue Source Name and Code: TANF - 0603

Source of Funding: Child support collections on behalf of families in the Temporary Assistance to Needy Families (TANF) program. Pursuant to Section 457 of the Social Security Act, the District transfers 50 percent of its collections to the federal government and keeps the remaining 50 percent for the child support program.

Description of Program Generating the Fund: Child support collections on behalf of families in the TANF program.

Amount of Funds Generated: \$2,471,617.52

Expenditures: \$577,297.54

Purpose of Expenditures: Personal and non-personal services support (supplies, copier lease) on behalf of child support enforcement.

Revenue Source Name and Code: Title IV-D Reimbursement & Fees - 0604

Source of Funding: Application Fee pursuant to Title IV-D of the Social Security Act Under the Act, the office is required to charge an application fee to parents who are not receiving TANF benefits.

Description of Program Generating the Fund: Child support application fee

Amount of Funds Generated: \$31,889.93

Expenditures: 0

Revenue Source Name and Code: Child Support Interest Income - 0605

Source of Funding: Interest on the District's child support bank account. The child support enforcement division collects child support payments from non-custodial parents and holds them in a bank account for distribution to custodial parents, which must take place within 48 hours of receiving the payment. The money in the account bears interest during the time between collection and distribution.

Description of Program Generating the Fund: Interest income on child support bank account

Amount of Funds Generated: \$0

Expenditures: \$0

Revenue Source Name and Code: Nuisance Abatement - 0615

Source of Funding: Revenue is generated by proceeds from drug, firearm, or prostitution related nuisance abatement actions. The fund is restricted to enforcement of nuisance matters carried out by the Attorney General.

Description of Program Generating the Fund: Nuisance abatement actions involving drugs, firearms, or prostitution

Amount of Funds Generated: \$13,375.00

Expenditures: \$0

FY 2015

Revenue Source Name and Code: TANF - 0603

Source of Funding: Child support collections on behalf of families in the Temporary Assistance to Needy Families (TANF) program. Pursuant to Section 457 of the Social Security Act, the District transfers 50 percent of its collections to the federal government and keeps the remaining 50 percent for the child support program.

Description of Program Generating the Fund: Child support collections on behalf of families in the TANF program

Amount of Funds Generated as of 2/26/15: \$903,483.42

Expenditures as of 2/26/15: \$288,758.46

Purpose of Expenditures: Personal and non-personal services support (supplies, copier lease) on behalf of child support enforcement.

Revenue Source Name and Code: Title IV-D Reimbursement & Fees - 0604

Source of Funding: Application Fee pursuant to Title IV-D of the Social Security Act Under the Act, the office is required to charge an application fee to parents who are not receiving TANF benefits.

Description of Program Generating the Fund: Child support application fee

Amount of Funds Generated as of 2/26/15: \$12,186.24

Expenditures as of 2/26/15: 0

Revenue Source Name and Code: Child Support Interest Income - 0605

Source of Funding: Interest on the District's child support bank account. The child support enforcement division collects child support payments from non-custodial parents and holds them in a bank account for distribution to custodial parents, which must take place within 48 hours of receiving the payment. The money in the account bears interest during the time between collection and distribution.

Description of Program Generating the Fund: Interest income on child support bank account

Amount of Funds Generated as of 2/26/15: \$0

Expenditures as of 2/26/15: \$0

Revenue Source Name and Code: Nuisance Abatement - 0615

Source of Funding: Revenue is generated by proceeds from drug, firearm, or prostitution related nuisance abatement actions. The fund is restricted to enforcement of nuisance matters carried out by the Attorney General.

Description of Program Generating the Fund: Nuisance abatement actions involving drugs, firearms, or prostitution.

Amount of Funds Generated as of 2/26/15: \$0

Expenditures: \$0

8. Please list all memoranda of understanding (MOU) entered into by your agency during fiscal years 2013, 2014, and 2015 (to date). For each, indicate the date entered and the termination date.

RESPONSE: Please see the attached document, designated as Attachment #8 for identification purposes.

9. Please provide, as an attachment, a list of all budget enhancement requests (including, but not limited to capital improvement needs), for fiscal years 2014 and 2015 (to date). For each, include a description of the need and the amount of funding requested.

RESPONSE: Please see the attached documents, designated as Attachment #9 and Attachment #10 for identification purposes.

10. Please list in chronological order every reprogramming in fiscal year 2014 and fiscal year 2015 (to date) of funds into and out of the agency. Include a "bottom line" – the revised, final budget for your agency. For each reprogramming, list the date, the amount, the rationale, and the reprogramming number.

RESPONSE: There were two local budget reprogramming requests submitted in FY 2014. The local budget at the fiscal year close was \$61,535,06. To date, there has been no reprogramming for FY 2015. Listed below are the reprogrammings for FY 2014.

Reprogramming Date – 4/30/14

Reprogramming Amount – \$461,000

Funds were reprogrammed within OAG to convert library space into a moot court training facility to enhance attorney's litigation skills. Success at trial requires not only knowledge of the case facts and substantive legal issues, but also the opportunity to practice in a setting similar to that of a courtroom or administrative forum.

Reprogramming Date -06/4/14

Reprogramming Amount – \$567,626

Funds were reprogrammed within OAG to purchase equipment, furniture and information technology hardware. Some of the IT equipment was well beyond its life cycle and had to be replaced/upgraded. In addition, the photocopiers within the office had reached the

end of their useful life and were breaking down on a frequent basis. Additional equipment and furniture was required to make the moot courtroom fully functional.

11. (a) Please list each grant or sub-grant received by your agency in fiscal year 2014 and FY 2015 (to date). List the date, amount, and purpose of the grant or sub-grant received.

RESPONSE: Please see the response to 11(b).

(b) How many FTEs are dependent on grant funding? What are the terms of this funding? If it is set to expire, what plans (if any) are in place to continue funding?

RESPONSE: Please see below.

**GRANT TITLE: Child Support Enforcement**

The Child Support Enforcement grant is funded pursuant to Title IV-D of the Social Security Act. Child support establishment and enforcement is a federally required program. It is an ongoing reimbursable grant and renews each fiscal year. The grant supports approximately 144 FTEs.

Grant Purpose: Child Support Establishment and Enforcement

	Grant Award Date	Amount (in dollars)
FY 2014	10/01/2013	\$3,959,193
	01/01/2014	\$3,922,240
	04/01/2014	\$3,929,949
	07/01/2014	\$3,283,076
FY 2015	10/01/2014	\$3,865,813
	01/01/2015	\$4,192,172

**GRANT TITLE: Access & Visitation**

Grant Purpose: Support and facilitate child support non-custodial parents' access to and visitation with their children. This grant funds non-personal services costs.

	Grant Award Date	Amount (in dollars)
FY 2014	12/13/2013	\$100,000
	(Grant Period- 10/01/13 to 09/30/15)	
FY 2015	10/21/2014	\$100,000
	(Grant Period-10/01/14 to 09/30/16)	

**GRANT TITLE: D.C. Behavioral Intervention Project**

Grant Purpose: Improve early intervention approaches to encourage non-custodial parents to become more consistent payers of child support. The grant funds 3 FTEs and non-personal services costs.

	Grant Award Date	Amount (in dollars)
FY 2014	09//30/2014 (Grant Period: 09/30/14 to 09/29/19)	\$150,000

12. Please provide a detailed description for each open capital project (including, but not limited to projects within the master equipment lease and projects that are managed or overseen by another agency or entity), from fiscal year 2015 (to date), or prior. Also include the budgeted funds and the funds spent by fiscal year. Please also provide the timeline for each project.

RESPONSE: OAG has one open capital project, the District of Columbia Child Support Enforcement System (DCCSES) Enhancement Project.

In fiscal year 2003, the D.C. Council approved approximately \$6 million in capital budget dollars to fund a feasibility study (Project Phase I) and ultimately, the design and development of a replacement system for the antiquated DC Child Support Enforcement System (DCCSES) (Project Phase II). In July 2005, OAG and the Office of the Chief Technology Officer (OCTO) executed an MOU to begin the DCCSES Replacement Project, with OCTO managing the project. The Triage Group was selected in fiscal year 2008 to perform the feasibility study. The study was completed in December 2008 and submitted to the federal government for approval.

Based on the results of the feasibility study, Phase II of the project had to be modified. The feasibility study estimated the cost for the design and installation of a replacement system to be \$84.3 million dollars. The cost of the proposed system was prohibitive; therefore, OAG and OCTO explored a different course of action for Phase II.

The feasibility study was put on hold and OAG requested to use the remaining funds from the capital budget to design and develop a web-enabled and based system as an alternative. CSSD completed its planning and requirements gathering sessions and the Office of the Contracts and Procurement issued the contract on July 1, 2012. The database conversion portion of the contract was projected to last for 18 months but was subsequently extended to ensure data reliability. This task item included parallel testing of the old and new system, end-user testing, user acceptance testing, and stakeholder buy-in.

To date, the DCCSES project has expended \$2,736,750.64 of the \$6,304,000 budget. This leaves a balance of \$3,567,249.36 to develop, design, and implement the modular components described below. CSSD and OCTO anticipate beginning the development and design phase of the modular components by 4th quarter of FY 2015.

The final stages of Phase II will use a modular approach to design and develop modules of the DCCSES system. There will be a module for each component of case processing in child support enforcement including the following: Intake, Paternity Establishment, Enforcement, Locate & Investigation, Finance/Fiscal Operations, Legal Services, Policy and Outreach, and Management Reports. Using a modular approach allows the DCCSES Enhancement Project to continue despite current fiscal challenges. The remaining capital budget money will be used to develop the modules for DCCSES. Thereafter, when the initial capital budget money has been exhausted, an individual solicitation will be advertised for each module based on availability of funds. This prevents a projected completion date for the DCCSES Enhancement Project from being established but allows the enhancement project to continue.

13. Please list all capital projects completed in fiscal year 2014, including whether each project was completed on-time and within budget.

RESPONSE: OAG did not complete any capital projects in FY 2014.

14. Please list all pending lawsuits that name the agency as a party. Please identify which cases on the list are lawsuits that potentially expose the city to significant liability in terms of money and/or change in practices and their current status. For those identified, please include an explanation about the issues for each case.

RESPONSE: Please see the attached document, designated as Attachment #11 for identification purposes.

15. Please list and describe any ongoing investigations, audits, or reports of your agency or any employee of your agency, or any investigations, studies, audits, or reports on your agency or any employee of your agency that were completed during fiscal years 2014 and 2015 (to date).

RESPONSE: Please see below.

The following are formal charges which were filed by OAG employees with the Equal Employment Opportunity Commission (EEOC):

- (1) EEOC Charge 570-2014-00662 -EEOC is investigating a charge that an employee was subjected to retaliation for objecting to an anti-gay comment allegedly made by a supervisor in 2009. The matter is pending with EEOC. These issues were also internally investigated by OAG and the allegations were unsubstantiated.



- (2) EEOC Charge 846-2013-19391 – EEOC investigated an employee’s allegation of race and age discrimination. EEOC found no probable cause.
- (3) EEOC Charge 570-2013-00797 – EEOC investigated allegations of race and sex discrimination. EEOC found no probable cause.

The following are informal charges which were internally investigated by OAG’s EEO Director:

- (1) 2014 – Employee alleged that supervisor made inappropriate remarks. Investigation concluded after an appropriate management response.
- (2) 2014 -- Employee alleged being subjected to a hostile work environment for a variety of reasons including caseload size and unfair discipline. Allegations were unsubstantiated after investigation.
- (3) 2015 -- Employee alleged supervisor created a hostile work environment by failing to communicate and by making inappropriate comments. Investigation concluded with an appropriate management response.

The Office of the Inspector General is currently conducting an investigation into OAG’s *Pro Bono* Program after a complaint that individuals had an expectancy of employment after their *pro bono* service.

The Office of the Inspector General is also currently conducting an investigation into the accuracy of two employees’ time and attendance records, and is currently conducting an investigation into the operations of the Child Support Services Division.

The Office of the Inspector General, Complaint # 2014-0188, is investigating an OAG employee’s allegation that OAG created a hostile work environment toward her.

The Office of the Inspector General, Complaint # 2014-0110, investigated alleged cronyism and other mismanagement by employees assigned to the Mental Health Section. Outcome: complaint closed after investigation with no further action.

The Office of the Inspector General, Complaint # 2014-0266, investigated alleged misconduct by a staff member(s) in the Commercial Division, Office of the Attorney General. Outcome: Investigation concluded after an appropriate management response.

Office of the Inspector General, Complaint # 2014-0440, investigated alleged misconduct and nepotism within the Child Support Services Division. Outcome: complaint closed after investigation with no further action.

Office of the Inspector General, Complaint # 2014-0229, investigated allegation that the Domestic Violence Section failed to assist a complainant. Outcome: complaint closed after investigation with no further action.

The Child Support Grant was audited in FY 2014 as part of the District-wide single audit for grants in excess of \$5,000,000. The federal child support office conducted a limited cost review of the CSSD grant. All findings were addressed, no costs were questioned.

16. Please list the following information in table format regarding the agency's use of SmartPay (credit) cards for agency purchases: individuals (by name) authorized to use the cards in fiscal years 2014 and 2015 to date; purchase limits (per person, per day, etc.); and total spent in fiscal years 2014, and 2015 to date (by person and for the agency).

RESPONSE: Please see the attached document, designated as Attachment #12 for identification purposes.

17. (a) What procedures are in place to track individuals or units assigned to possess mobile communications and mobile devices (including, but not limited to smartphones, laptops, and tablet computers)? Please include how the usage of these devices is controlled.

RESPONSE: Laptops and Surface Tablet devices are assigned to individuals on an as-needed basis. The internal document used is known as the: "Laptop and Tablet Loan Agreement". The agreement is retained on file until the item is returned to the OAG Information Technology Section. These devices are used to provide mobile and remote access in support of Court operations, extended absences and business travel.

Smart phones are issued to eligible employees (managers, attorneys and investigators) and are signed out via the "Property Issuance and Retrieval" agreement. Usage is controlled through monthly review of individual cell phone bills. When overages or unauthorized charges (411 calls, text messages, international calls, etc.) are identified, managers and employees are notified and required to submit payment to the D.C. Treasurer.

- (b) How does your agency manage and limit its mobile communications and devices costs?

RESPONSE: Laptops and Tablets are limited and controlled items based on historical usage data.

Cell phones are issued, upon manager approval, to selected managers and attorneys based upon the need to have offsite and/or after-hours communications, as well as to all investigators in the agency. Minutes are shared among all users and closely monitored on a monthly basis for overage and unauthorized charges.

(c) For fiscal years 2014 and 2015 (to date), what was the total cost (including, but not limited to equipment and service plans), for mobile communications and devices?

RESPONSE: In FY 2014, the total cost to procure laptops and tablet devices was \$18,781. The cost to date in FY 2015 to date is \$7,566.

Monthly recurring cell phone charges for FY 2014 were \$52,196 and charges for FY 2015 to date are \$12,916 (October –December, 2014).

18. Please provide the total number of vehicle accidents involving your agency’s vehicles for fiscal years 2014 and 2015 (to date). What is your plan for reducing accidents?

RESPONSE: Please see the chart below. Employees are counseled to employ defensive driving skills learned in previous training and to exercise caution as they utilize the agency vehicles.

Description	Date of Incident	Vehicle Type	Justification	Employee Title
<b>FY 2015 to Date</b>				
No reports				
<b>FY 2014</b>				
Vehicle driven by employee was stuck by private vehicle that changed lanes without signaling	9/11/14	Honda Civic (motor pool vehicle)	Assistant Attorney General attends community services meetings on behalf of the agency.	Assistant Attorney General
Vehicle driven by employee was struck by private vehicle as he was backing into parking space at One Judiciary Square	4/11/14	Dodge Caravan	Employee is responsible for delivering mail on behalf of Child Support Services Division	Motor Vehicle Operator

19. In table format, please provide the following information for fiscal years 2013, 2014, and 2015 (to date) regarding your agency’s authorization of employee travel: (1) individuals (by name and title/position) authorized to travel outside the District; (2) total expense for each trip (per person, per trip, etc.); and (3) justification for the travel (per person).

RESPONSE: Please see the attached document, designated as Attachment #13 for identification purposes.

20. Please provide, as of February 1, 2015, the current number of WAE contract and term personnel within your agency. If your agency employs WAE contract or term personnel, please provide, in table format, the name of each employee, position title, the length of

their term or contract, the date on which they first started with your agency, and the date on which their term or contract expires.

RESPONSE: Please see the attached document, designated as Attachment #14 for identification purposes.

21. Please provide your anticipated spending pressures for fiscal year 2015. Include a description of the pressure, the estimated amount, and any proposed solutions.

RESPONSE: OAG does not anticipate any spending pressures for FY 2015.

22. (a) Please provide, as an attachment, a copy of your agency's fiscal year 2014 performance plan.

RESPONSE: Please see the response to 22(c).

(b) Please include an update regarding which performance plan objectives were completed and whether or not they were completed on-time and within budget. If they were not, please provide an explanation.

RESPONSE: Please see the response to 22(c).

(c) Please provide, as an attachment, a copy of your agency's fiscal year 2015 performance plan as submitted to the Office of the City Administrator.

RESPONSE: Please see the attached document, designated as Attachment #15 for identification purposes.

23. What are your top five priorities for the agency? Please provide a detailed explanation for how the agency expects to achieve or work toward these priorities in fiscal years 2015 and 2016.

RESPONSE: Please see below.

#### Consumer Protection and Community Outreach

The Consumer Protection and Community Outreach Initiative will increase OAG's capacity to protect residents from fraud and abuse by going after and prosecuting bad actors that choose to disregard applicable District and federal law and prey on the District's most vulnerable residents. This initiative will allow the Attorney General to enforce District laws by materially expanding OAG's capacity to investigate and prosecute – helping the District emerge as a leader on multi-state legal investigations and civil actions. The community outreach unit will ensure that OAG is attentive to the needs of the community and is accountable to District residents.

According to a 2011 national survey conducted by the Federal Trade Commission (FTC), more than 25 million Americans were victims of consumer fraud. This represents more than 10 percent of the United States' adult population. With the District's population of 659,000, approximately 65,000 of our residents were likely victimized by consumer fraud. In 2014, the FTC received over 2.5 million consumer complaints with identity theft topping the list of complaints, comprising 13 percent of all complaints received. Nationally, impostor complaints more than doubled during 2014, representing 11 percent of all complaints in 2014. The top five types of fraud in the District of Columbia were: debt collection, banks/lenders, impostor scams, telephone/mobile, and auto-related. On a per capita basis, the District would rank in the top five of states for both fraud and identity theft complaints. The explosive growth of the Web and mobile economy invariably brings with it unscrupulous business practices that are solely directed at stealing the hard-earned resources of residents – and particularly those who can least afford it. The Consumer Sentinel Network identified more than 2.1 million consumer complaints in calendar year 2013. The complaints broadly fell under the umbrella of identity theft and fraud and included scams and schemes related to debt collection, banks and loans, Internet services, health-care services, telephone and mobile services and imposters among 30 distinct types of scams. These staggering statistics illustrate the dire need for consumer protection in the nation.

#### Affordable Housing Protection and Enforcement

OAG's Affordable Housing Protection and Enforcement Initiative will vigorously protect the rights of homeowners and tenants. This initiative will fully enforce the Tenant Opportunity to Purchase Act and the District's requirements for set-asides for affordable housing. The Affordable Housing Protection and Enforcement Unit will safeguard residents against pedantry tax lien and reverse mortgage practices. Data from the most recent United States Census show that 18.6 percent of District residents' income fell below the poverty line despite a median income of \$65,830. In 2014, the average cost to rent a two-bedroom apartment in the District was \$2,500 per month, while the average price of a home in the District was \$513,250. With low incomes and sky-high housing costs, more must be done to help low- and moderate-income residents maintain their residency in the District of Columbia.

#### Public Safety, Criminal Justice and Juvenile Rehabilitation

The Public Safety and Criminal Justice Initiative will increase OAG's capacity to litigate criminal cases on behalf of the District, protect the public, rehabilitate juvenile offenders, and provide assistance to victims of crimes. A safe environment where residents partner with law enforcement is crucial to the District's continued vitality. This initiative will focus on data-driven, evidence-based approaches to keep our community safe while at the same time providing services to youthful offenders who would otherwise recidivate.

#### Protecting Taxpayers, Workers and Enforcing Honest Government

The Protecting Taxpayers, Protection Workers and Enforcing Honest Government and Ethics Compliance Initiative will ensure that employers, contractors, and government officials discharge their duties in a professional and ethical manner, that taxpayers/residents benefit from this, and that local, small and disadvantaged businesses can fairly compete for contracts under the law, through legislative changes, an increase in critical positions, and OAG's ability to attract and retain talented attorneys. Focusing on the multiple yet distinct subject-matter areas under this initiative will generate revenue and protect the District's fiscal health, thereby relieving unnecessary financial burdens on District taxpayers. It will simultaneously increase employee, contractor and government officials' compliance with ethics standards.

#### Reaffirm the OAG's Independence

We will continue to ensure the independence of the Office of the Attorney General – especially when it comes to the provision of legal advice, the rendering of opinions, and investigations. Voters strongly endorsed that OAG must be independent of the Mayor and the Council and must have as its principal client the District of Columbia; the city's interests are this office's sole focus. Of course, OAG continues to vigorously represent the Mayor, her cabinet and individual agencies, officials and employees in litigation. We continue to discharge our legal responsibilities with the professionalism and impartiality that is expected of this office, and will continue to do so. OAG must be – and must be perceived as being – independent and non-political. To this end, consistent with the Mayor, Council, and voters' intentions for the office, OAG is finalizing legislation to clarify and enhance the independence of the office.

24. Please provide the number of FOIA requests for fiscal years 2014 and 2015 (to date). Include the number granted, partially granted, denied, pending, average response time, the estimated number of FTE's processing requests, and the estimated hours spent responding to these requests.

RESPONSE: Please see the answer to question #25.

25. In addition to FOIA requests described above, please provide a list of all cases in which OAG attorneys litigated FOIA matters on behalf of other agencies. Please include the name of the case, the outcome of the case, and the agency that received the original FOIA request. Please also list any instances in which OAG enforced or sought to enforce the FOIA against a District agency or a District employee.

RESPONSE: Please see the attached document, designated as Attachment #16 for identification purposes.

26. What are the statuses of OAG's collective bargaining agreements?

RESPONSE: The current relationship between OAG and its attorney union, AFGE Local 1403, is governed by a working-conditions CBA signed by the parties in April 2014, and

a compensation CBA approved by the Council in July 2014. Both agreements will expire on September 30, 2017.

The current relationship between OAG and its support staff union, AFSCME, Local 2401, is governed by the master working conditions CBA which is applicable to all AFSCME members Districtwide. The CBA was signed in October 2006 and still governs the parties' relationship. In July 2013, the Council approved a compensation CBA which governs the parties compensation and benefits relationship through September 30, 2017.

27. Please provide a list of incomplete rulemaking, along with the code citation, and a brief explanation of why it is incomplete.

**RESPONSE:** Below, please find a chart listing the incomplete rulemakings, including the code citation and a brief explanation of why it is incomplete. We note that while OAG, through the Legal Counsel Division, tracks the status of rulemakings, responsibility to assure that rules are issued lies with the agencies delegated the rulemaking authority or which have subject matter jurisdiction over the statute that authorizes rulemaking. Responsibility for the delegation of the Mayor's rulemaking authority lies with the Executive Office of the Mayor.

ACT	EXPLANATION
<p>"Prescription Drug Monitoring Program Act of 2013"</p> <p>D.C. Act 20-232</p> <p>61 DCR 7 (January 3, 2014)</p> <p>Sec. 11: "The [Department of Health] Director...shall issue rules to implement the provisions of this act, including the establishment of criteria for granting waivers to the reporting requirements set forth in this act."</p>	<p>Notice of Public Meeting and Listening Session to Receive Comments on Draft Rulemaking to Implement the District's Prescription Drug Monitoring Program</p> <p>61 DCR 11729 (November 7, 2014)</p>
<p>"Campaign Finance Reform and Transparency Amendment Act of 2013"</p> <p>D.C. Act 20-249</p> <p>61 DCR 153 (January 10, 2014)</p> <p>Sec. 2(f): "The Elections Board shall issue regulations governing the online submission of reports."</p>	<p>Notice of Emergency and Proposed Rulemaking</p> <p>61 DCR 634 (January 16, 2015)</p>
<p>"Focused Student Achievement Amendment Act of 2013"</p> <p>D.C. Act 20-254</p> <p>61 DCR 178 (January 10, 2014)</p> <p>Sec. 207: "The Chancellor...shall issue rules to implement the provisions of this title."</p>	<p>DCPS reviewing statute to determine if additional rulemaking needed or if statute is self-executing.</p>

<p>“Omnibus Health Regulation Amendment Act of 2014”</p> <p>D.C. Act 20-273</p> <p>61 DCR 1184 (February 14, 2014)</p> <p>Sec. 302(b): “The Mayor, pursuant to subchapter I of Chapter 5 of Title 2, shall issue rules to implement the provisions of this part.”</p>	<p>The Director of DOH requested the Board of Veterinary Examiners to propose rules; rules are still in the formulation process. DOH will seek Mayor’s Order when rules are more developed.</p>
<p>“Expedited Partner Therapy Act of 2014”</p> <p>D.C. Act 20-279</p> <p>61 DCR 1589 (February 28, 2014)</p> <p>Sec. 5: “Within 60 days of the effective date of this act, the Mayor. . .shall issue rules to implement the provisions of this act.”</p>	<p>DOH is making policy decisions on this provision and will propose rules thereafter.</p>
<p>“LGBTQ Homeless Youth Reform Amendment Act of 2014”</p> <p>D.C. Act 20-288</p> <p>61 DCR 1873 (Mar. 7, 2014)</p> <p>Sec. 2(1)(2): “Within 90 days of the effective date of the LGBTQ Homeless Youth Reform Amendment Act of 2014...the Mayor...subject to the Council review period of subsection (a) of this section, shall issue rules to implement the provisions of this act, including:  “(1) The data collection requirement of section 8(c);  “(2) The training requirements of section 12a; and  “(3) The grant-making requirements of section.”</p>	<p>DHS Homeless Services Program is currently working on a draft of proposed rules and plans to publish the rules by the end of FY2015.</p>
<p>DC Promise Establishment Act of 2014</p> <p>D.C. Act 20-306</p> <p>61 DCR 3489 (April 4, 2014)</p> <p>Sec. 8(a): “The Mayor shall...[b]y January 1, 2015, establish eligibility criteria and award levels for this program through rulemaking.”</p> <p>Sec. 9: “The Mayor...shall issue rules to implement the provisions of this act. “</p>	<p>Rules to follow Mayor’s Order delegating rulemaking authority.</p>
<p>“ Small and Certified Business Enterprise Development and Assistance Amendment Act of 2014”</p> <p>D.C. Act 20-307</p> <p>61 DCR 3892 (April 18, 2014)</p> <p>Sec. 2(11): “Within 120 days after the effective date of the Small and Certified Business Enterprise Development and Assistance Amendment Act of 2014...the Mayor</p>	<p>Rules to follow Mayor’s Order delegating rulemaking authority.</p>



<p>shall issue rules to implement the amended provisions of this act.”</p>	
<p>“Comprehensive Code of Conduct and BEGA Emergency Amendment Act of 2014”</p> <p>D.C. Act 20-341</p> <p>61 DCR 5688 (June 6, 2014)</p> <p>Sec. 2(c): “The Ethics Board...shall issue rules to implement the provisions of this title, including rules for the administration of preliminary investigations, formal investigations, and hearings related to violations of the Code of Conduct or other provisions of this title.”</p> <p>“Upon the effective date of legislation establishing a comprehensive Code of Conduct, the Ethics Board shall issue rules to implement the provisions of the comprehensive Code of Conduct. The proposed rules shall be submitted to the Council for a 45-day period of review....”</p>	<p>The Ethics Board will be submitting the new Code of Conduct as a stand-alone legislative package in spring. The legislation will eliminate the need for rulemaking.</p>
<p>“Breastmilk Bank and Lactation Support Act of 2014”</p> <p>D.C. Act 20-340</p> <p>61 DCR 5680 (June 6, 2014)</p> <p>Sec. 8: “Within 90 days of the effective date of this act, the Mayor...shall issue rules to:</p> <p>(1) Ensure each milk bank has adequate health, sanitization, sterilization, and safety methods, and procedures, equipment, and supplies, including establishing minimum requirements pertaining to: (A) Donor screening; (B) Methods and standards for breastmilk collection, processing, and storage; and (C) Licensing and registration of milk banks, including any associated fee schedules; and (2) Require that all donors to milk banks be tested for exposure to at least the following: (A) Human immunodeficiency virus ("HIV") or any other identified causative agent of acquired immune deficiency syndrome ("AIDS") before the collection of breastmilk; (B) Human T -lymphotropic virus I and II; (C) Hepatitis B; (D) Hepatitis C; and (E) Syphilis.”</p> <p>Sec. 11: “The Mayor...shall issue rules to implement the provisions of this act. The proposed rules shall be submitted to the Council for a 45-day period of review....”</p>	<p>DOH is gathering information to assist in making the policy decisions to prepare a proposed rulemaking.</p>

<p>"Air Quality Amendment Act of 2014"</p> <p>D.C. Act 20-365</p> <p>61 DCR 6767 (July 3, 2014)</p> <p>Sec. 101(a): "The Mayor...shall adjust this civil penalty by rulemaking to meet or exceed the civil penalty authorized for violations pertaining to the Clean Air Act...."</p>	<p>DDOE has determined there is no need to amend rules because the provisions of the Act are sufficient.</p>
<p>"Residential Real Property Equity and Transparency Amendment Act of 2014"</p> <p>D.C. Act 20-378</p> <p>61 DCR 9378 (August 1, 2014)</p> <p>Sec. 101(a)(32): "The Mayor...shall issue rules [to] carry out the purposes of this section."</p>	<p>Office of the Chief Financial Officer has matter under review and will issue rules after review.</p>
<p>"Sustainable Solid Waste Management Amendment Act of 2014"</p> <p>D.C. Act 20-423</p> <p>61 DCR 9971 (October 3, 2014)</p> <p>Sec. 114: "The Mayor...shall issue rules to implement the provisions of this subtitle within one year of its effective date."</p> <p>Section 126: "The Mayor...shall issue rules to implement the provisions of this subtitle within one year of its effective date."</p>	<p>Rules to follow Mayor's Order delegating rulemaking authority.</p>

<p>“Fiscal Year 2015 Budget Support Act of 2014”</p> <p>D.C. Act 20-424 61 DCR 9990 (October 2, 2014)</p> <p><u>Workplace Wellness Act of 2014</u> Sec. 1093: “The Mayor...shall issue rules establishing healthy food and beverage nutrition and procurement standards that are guided by the General Services Administration document "Health and Sustainability Guidelines for Federal Concessions and Vending Operations" for all District agencies no later than one year following the effective date of this act.”</p> <p><u>Police Escort Reimbursement Amendment Act of 2014</u> Sec. 3002: “The Chief of Police...shall issue rules setting forth a reimbursement fee schedule.”</p> <p><u>Healthy Tots Act of 2014</u> Sec. 4074(d): “Within 120 days of the effective date of this subtitle...the OSSE shall issue rules to implement this subtitle, which, at a minimum, shall: (1) Establish nutritional standards for meals and snacks served at child development facilities; (2) Establish physical activity standards for child development facilities, (3) Improve the environmental sustainability of child development facilities, (4) Increase the use of locally grown and unprocessed foods from growers engaged in sustainable agriculture practices, (5) Enhance nutrition and healthy eating education programming for infants, toddlers, and preschoolers at child development facilities, including farm-to-preschool programs, and (6) Ensure that child development facilities provide sufficient training to staff on improving nutrition and increasing the level of physical activity of participating infants, toddlers, and preschoolers.”</p> <p><u>District of Columbia Low-Income Housing Tax Credit</u> Sec. 7142(b): “(a) The Mayor shall issue rules to implement the provisions of this chapter; (b) The Chief Financial Officer shall issue rules to implement § 47-4805.”</p>	<p><u>Workplace Wellness Act of 2014</u> Rules to follow Mayor’s Order delegating rulemaking authority.</p> <p><u>Police Escort Reimbursement Act</u> Emergency and Proposed Rulemaking, effective November 26, 2014 61 DCR 12640 (December 14, 2014)</p> <p><u>Healthy Tots Act of 2014</u> OSSE Division of Early Learning is formulating regulations.</p> <p><u>District of Columbia Low-Income Housing Tax Credit</u> Rules to follow Mayor’s Order delegating rulemaking authority.</p>
--	--

28. Please describe the progress OAG has made regarding major class actions against the District involving judicial oversight.

RESPONSE: It is critical that we continue to work with the agencies, affected stakeholders, and the courts to resolve the remaining long-standing major class-action litigations against the District that long ago resulted in consent decrees. Though much more work remains in the remaining litigation (including the *Evans*, *LaShawn* and *Salazar* cases), these cases demonstrate the commitment by the impacted agencies and our office to ensuring that the District demonstrates it is able to fulfill its legal requirements without court supervision. The previous resolution of the *Blackman*, *Jones*, *Dixon* and *Petties* cases serve as a model for the District’s remaining major class-action consent decree cases still pending. We are committed to the return of control over basic

agency functions to the District government, in furtherance of the District's long march towards complete self-governance.

29. A number of statutes require a losing party in litigation to pay the attorneys' fees of the prevailing party. For fiscal years 2014 and 2015 (to date), please list all cases in which the District was ordered to pay or receive attorneys' fees. Please include the name of the case, the agency involved, the statute pursuant to which the court ordered attorneys' fees, and the amount of fees paid and/or received.

RESPONSE: Please see below.

- a. **Case:** *Bryan Edwards v. DYRS*, OEA Matter No. 1601-0017-06-AF-10

**Ordered to pay or receive:** Pay

**Agency:** Department of Youth Rehabilitation Services

**Statute:** D.C. Official Code § 1-606.08

**Amount of fees paid:** \$38,914.00

- b. **Case:** *Paula Bonaparte v. OTR*, CRB No. 13-152

**Ordered to pay or receive:** Pay

**Agency:** Office of Risk Management

**Statute:** D.C. Code § 1-623.27

**Amount of fees:** \$8,038.00

- c. **Case:** *William Wright v. OSSE*, AHD No. PBL 13-030

**Ordered to pay or receive:** Pay

**Agency:** Office of Risk Management

**Statute:** D.C. Code § 1-623.27

**Amount of fees:** \$3,509.80

- d. **Case:** *Hurrie Finch v. DDOT*, AHD No. PBL 13-08

**Ordered to pay or receive:** Pay

**Agency:** Office of Risk Management

**Statute:** D.C. Code § 1-623.27

**Amount of fees:** \$9,600.00

- e. **Case:** *Armeta Ross v. OCP*, OEA Matter No. 2401-0133-09R11AF14

**Ordered to pay or receive:** Pay

**Agency:** Office of Contracting and Procurement

**Statute:** D.C. Code § 1-606.08

**Amount of fees:** \$53,495.25

- f. **Case:** *Michael Gamboa v. DYRS*, AHD No. PBL 07-013D

**Ordered to pay or receive:** Pay

**Agency:** Office of Risk Management

**Statute:** D.C. Code § 1-623.27

**Amount of fees:** \$2,240.40

- g. Case:** *Fraternal Order of Police, Metropolitan Police Department Labor Committee v. District of Columbia*, 2008 CA 005557

**Ordered to pay or receive:** Pay

**Agency:** MPD, OAG, EOM, OCTO, and Ofc. of City Administrator (per scope of the underlying FOIA request)

**Statute:** D.C. FOIA attorneys' fee provision, D.C. Code § 2-537(c)

**Amount of fees:** \$50,440.52

- h. Case:** *McMillan Park Committee v. D.C.*, 2010 CA 001820 B

**Ordered to pay or receive:** Pay

**Agency:** DMPED

**Statute:** D.C. FOIA attorneys' fee provision, D.C. Code § 2-537(c)

**Amount of fees:** \$58,500.00

- i. Case:** *Fraternal Order of Police/Department of Corrections Labor Committee v. District of Columbia Department of Corrections*, 2012 CA 007904 B

**Ordered to pay or receive:** Pay

**Agency:** Department of Corrections

**Statute:** Confirmation of Award provision of the Uniform Arbitration Act, D.C. Code § 16-4422

**Amount of fees:** \$35,000

The Honorable Kenyan McDuffie

March 2, 2015

Page 22

Case Name	Agency	Statute	Amount of Atty's Fees	FY 2014	FY 2015
1125 15th Street, LLC v. DC, Super Ct. 2011 CA 1467	DGS	Contract provided for the	\$250,000-Settled for \$100,000 on appeal	x	
Blackman v. DC, USDC 1997 CA 1629	DCPS	IDEA	\$341,517.89	x	
Blackman v. DC, USDC 1997 CA 1629	DCPS	IDEA	\$12,361.45	x	
Blackman-Jones, et al., v. D.C., et al., USDC 97-cv-1629	DCPS; OSSE	IDEA	\$175,000.00	x	
Brighthaupt v. DC, USDC 2013 CA 1294	DCPS	IDEA	\$67,287.24	x	
Crimmins v. D.C. ANC 58, Super Ct. 2013 CA 4225	ANC	FOIA	Court ruled Plaintiff is entitled to fees. No amount ordered yet.	x	
Davis v. DC, USDC 2012 CA 0016	DCPS	IDEA	\$75,750	x	
Duncan v. DC, USDC 2013 CA 1062	DCPS	IDEA	\$48,459.40	x	
Evans, et al., v. Bowser, et al., USDC 76-cv-293	DDS	42 U.S.C. § 1988(b)	\$400,000.00	x	
FOP v. DC, DOC, 2012 CA 7904	DOC	UAA, D.C. Code § 16-442	After finding the District liable for pay	x	
FOP v. DC, Super Ct. 2005 CA 7011	MPD	FOIA	\$53,544.14	x	
FOP v. DC, Super Ct. 2012 CA 6442	MPD	FOIA	\$5,471.88	x	
Frankel v. EOM, Super Ct. 2010 CA 0312	EOM	FOIA	\$21,110.46	x	
Hall v. DC, Sup Ct 2013 CA 8368	DCPS	IDEA	\$13,853.50	x	
Hines v. DC, USDC 2013 CA 0560	DCPS	IDEA	\$9,286.38	x	
Hines v. DC, USDC 2013 CA 0695	DCPS	IDEA	\$36,848.13	x	
Holloman v. DC, USDC 2014 CA 0003	DCPS	IDEA	\$26,711.02	x	
Johnson v. DC, USDC 2014 CA 0001	DCPS	IDEA	\$23,045.32	x	
LaShawn v. Bowser, et al., USDC 89-cv-1754	CFSA	42 U.S.C. § 1988(b)	\$100,000.00	x	
Madden v. DC, USDC 2013 CA 1051	DCPS	IDEA	\$7,195.63	x	
McAllister, et al. v. DC, USDC 11-2173	DCPS	IDEA	\$171,103.70	x	
McCrae v. DC, Sup Ct 2013 CA 4758	DCPS	IDEA	\$14,429.80	x	
McMillan Park Committee v. D.C., Super Ct. 2010 CA 18	DMPED	FOIA	Court ruled Plaintiff was entitled to fees	x	
Means v. DC, USDC 2011 CA 0382	DCPS	IDEA	\$31,117.95	x	
Miller v. DC, USDC 2013 CA 1854	DCPS	IDEA	\$28,971	x	
Morris v. DC, USDC 2014 CA 0338	DCPS	IDEA	\$65,000	x	
Robinson v. DC, USDC 2013 CA 1006	DCPS	IDEA	\$27,405.00	x	
Salazar v. District of Columbia, USDC 93- cv-452	DHCF; DHS	42 U.S.C. § 1988(b)	\$1,239,433.75	x	
Staton v. D.C., USDC 2013 CA 1853	DCPS	IDEA	\$7,500.00	x	
Staton v. D.C., USDC 2013 CA 1966	DCPS	IDEA	\$21,400.00	x	
Staton v. DC, USDC 2013 CA 0773	DCPS	IDEA	\$18,322.88	x	
Blackman-Jones, et al., v. District of Columbia, et al., USDC 2013 CA 0773	DCPS; OSSE	IDEA	\$155,000.00		x
Briggs v. D.C., USDC 2014 CA 0002	DCPS	IDEA	\$13,886.28		x
Brown v. D.C., USDC 2014 CA 1405	DCPS	IDEA	\$31,340.75		x
Clay v. DC, USDC 2009 CA 1612	DCPS	IDEA	\$121,850		x
Coates v. D.C., USDC 2014 CA 0968	DCPS	IDEA	\$21,967.58		x
Davis v. DC, USDC 2013 CA 1852	DCPS	IDEA	\$15,677		x
Douglas v. DC, USDC 2013 CA 1758	DCPS	IDEA	\$22,059.62		x
FOP v. D.C., Super Ct. 2008 CA 5557	MPD, OAG, FOIA	FOIA	\$50,440.52		x
FOP v. DC, Super Ct. 2011 CA 6029	MPD	FOIA	\$10,220.77		x
Holmes-Ramsey v. DC, USDC 2010 CA 1283	DCPS	IDEA	\$49,432.12		x
Jerry M., et al., v. District of Columbia, et al., Super Ct. 2010 CA 1283	DYRS	42 U.S.C. § 1988(b)	\$219,000.00 (Joint Motion pending)		x
LaShawn v. Bowser, et al., USDC 89-cv-1754	CFSA	42 U.S.C. § 1988(b)	\$45,000.00		x
Merrell Jay v. D.C., USDC 2013 CA 1270	DCPS	IDEA	\$20,651.80		x
Salazar v. District of Columbia, USDC 93- cv-452	DHCF; DHS	42 U.S.C. § 1988(b)	\$348,808.75		x

30. Please describe OAG's current procedures for approving settlement agreements. In your answer, please indicate who in the chain of command must approve a settlement based on the amount of the settlement request. [CLD, PID, PLED]

RESPONSE: Please see below.

Settlements may be recommended (initiated) at different levels within OAG. Most settlements are initiated by the Assistant Attorney General (AAG) assigned to a case. The recommendation would then be reviewed by the AAG's first line supervisor, a Section Chief, and depending on the amount of the recommended settlement, by the

division Deputy, the Attorney General and/or the Mayor. Section Chiefs, in the litigation sections, have up to \$25,000 in authority. The Deputies of the Civil Litigation (CLD), Public Interest Division (PID) and Commercial Divisions have up to \$250,000 in authority. The Attorney General has up to \$500,000 in settlement authority. Settlements above \$500,000 are subject to approval by the Mayor.

In the event that settlements involve payment of a monetary sum, the sum represents back pay or attorneys' fees and is normally paid from the agency's operating budget rather than the District's settlement and judgment fund. For this reason, the particular agency head authorizes the settlement sum. Once the agency head authorizes the settlement sum, the assigned OAG attorney drafts the settlement agreement and it is then signed by both the agency head and the Attorney General or his designee.

If a settlement agreement involves an OAG employee who filed a claim against the Office/District, the Attorney General approves both the settlement sum and the settlement agreement

31. Per instruction from the Committee, this question was omitted.
32. For fiscal years 2014 and 2015 (to date), please list all court cases appealed by OAG's main office, the agency involved in the case, and the outcome of such appeals.

RESPONSE: Per the guidance received by OAG from the Committee on Judiciary, included are cases on appeal in which we actually did, or still could, go through with an appeal (and in which the notice of appeal was filed on Oct. 1, 2013 or later), not instances in which we filed a notice of appeal but then dismissed it voluntarily. And to be clear, the list does not include cases in which appellate proceedings continued in FY 2014 and 2015 but the notice of appeal was filed earlier.

#### Civil and Administrative Appeals Section:

- Expedia, Inc. v. District of Columbia, DCCA No. 14-CV-309; OTR; District cross-appealed portion of Superior Court order that did not award full amount of past-due taxes that OTR sought from online travel companies; argument held on Sept. 30, 2014, awaiting decision
- District of Columbia v. HMTR1, DCCA No. 14-CV-183; OTR; District appealed from Superior Court decision awarding damages to tax sale purchaser in connection with canceled tax sales; in briefing
- District of Columbia v. Vining, DCCA No. 14-CV-1031; ANC 5E; District appealed in FOIA case; no briefing schedule yet
- D.C. Department of Public Works v. Dickerson, DCCA No. 14-CV-231; DPW; District appealed in case concerning the monetary value of a retroactive promotion; appeal dismissed for lack of appellate jurisdiction

- D.C. FEMS v. Steinberg, DCCA No. 14-CV-657, D.C. FEMS, DCHR; District cross-appealed in case awarding plaintiff \$90,000 of back pay; case briefed and awaiting argument
- District of Columbia v. Eley, D.C. Cir. No. 13-7196; DCPS; District appealed award of attorney's fees under IDEA; argued on Feb. 13, 2015, awaiting decision
- District of Columbia v. Salazar, D.C. Cir. No. 14-7035 -7050; DHCF; District appealed award of attorney's fees; in briefing
- District of Columbia v. ExxonMobil Oil, DCCA No. 14-CV-633; no agency; District appealed case involving Retail Service Station Act, in briefing
- D.C. MPD v. PERB, DCCA No. 14-CV-846; MPD; District appealed from order reversing termination decision; in briefing
- D.C. Office of Contracting and Procurement v. Beale, DCCA No. 14-CV-1093; OCP; District cross-appealed in case concerning whether reduction-in-force violated the Comprehensive Merit Personnel Act; appeals dismissed for lack of appellate jurisdiction
- District of Columbia v. Reid, No. 14-CV-292; DHS; District appealed injunction requiring District to use private rooms rather than recreation centers to house homeless families during hypothermia days; affirmed
- United States ex rel. Davis v. District of Columbia, D.C. Cir. No. 10-7061; DCPS; District cross-appealed in case involving False Claims Act; case briefed and awaiting argument
- In re: D.C., D.C. Cir. No. 14-8001; no agency; District filed FRCP 23(f) petition for permission to appeal from class certification decision in Medicaid case; argued on Feb. 6, 2015, awaiting decision
- In re: D.C., D.C. Cir. No. 13-8009; DCPS; District filed FRCP 23(f) petition for permission to appeal from class certification decision in IDEA case; petition denied.
- District of Columbia v. Palmer, D.C. Cir. No. 14-7180; no agency; District appealed from order enjoining former gun carrying regime; in briefing

Criminal and Juvenile Appeals Section:

- District of Columbia v. Barbusin, No. 13-CT-997; no agency; District prevailed in unpublished memorandum opinion and judgment
- In re Q.B., No. 14-FS-645; no agency; argued on Nov. 18, 2014, awaiting decision

33. For fiscal years 2014 and 2015 (to date), please list all amicus briefs joined by OAG on behalf of the District filed with the U.S. Supreme Court.

The amicus briefs we have joined in FY 2014 and 2015 are:

- Harris v. Quinn, No. 11-681
- Navarette v. California, No. 12-9490
- Abramski v. United States, No. 12-1493
- Burwell v. Hobby Lobby Stores, Inc., No. 13-354



- Heien v. North Carolina, No. 13-604
- Jesinoski v. Countrywide Home Loans, Inc., No. 13-684
- Elonis v. United States, No. 13-983
- Direct Marketing Association v. Brohl, No. 13-1032
- Ohio v. Clark, No. 13-1352
- King v. Burwell, No. 14-114

Also, please note that we joined Supreme Court briefs other than amicus briefs in:

- EPA v. EME Homer City Generation and American Lung Association v. EME Homer City Generation, Nos. 12-1182 & 12-1183
- Michigan v. EPA, Utility Air Regulatory Group v. EPA, and National Mining Association v. EPA, Nos. 14-46, 14-47, & 14-49
- Corr v. MWWA, 13-1559

Finally, please note that we are also likely to join an amicus brief to be filed on Mar. 6 in:

- Obergefell v. Hodges, Nos. 14-556, 14-562, 14-571 & 14-574

34. For fiscal years 2013, 2014, and 2015 (to date), how many cases handled by OAG were dismissed pursuant to the notice requirement contained in D.C. Code § 12-309? Of these cases, please indicate how many of the dismissed cases were complaints brought under the District of Columbia Human Rights Act.

RESPONSE: Please see below.

FY 2013: 24 cases (No cases under the DCHRA)

FY 2014: 13 cases (two under the DCHRA)

FY 2015: 6 cases (none under the DCHRA)

About half of the dismissals reported above were dismissals of some of the claims in a case but not the entire case.

35. For fiscal years 2013, 2014, and 2015 (to date), how many complaints were filed against the District of Columbia or one of its agencies pursuant to the District of Columbia Whistleblower Protection Act? In your answer, please indicate which agency was involved in the litigation.

RESPONSE: Please see below.

FY 2013: 9 cases: DDOE-1; DOH-1; DHCF-1; DHCD-1; MPD-3; OSSE-2

FY 2014: 12 cases: DYRS-1; DOC-1; MPD-2; OSSE-1; CFSA-1; FEMS-1; DPW-1; DOES-1; DCPS-3

FY 2015 (to date): 1 case: DOH

36. Have OAG attorneys reported experiencing problems obtaining documents and other information from client agencies? If so, please describe the nature of these problems. If not, please describe the procedures in place that ensures that OAG attorneys receive requested information in a timely manner.

RESPONSE: In 2014, the OAG has continued to have a strong and productive relationship with our client agencies in the provision of documents and information required in discovery and other facts of legal representations. Under Mayor's Order No 2011-108 (June 13, 2011), and OAG Office Order dated June 15, 2011, all agencies and agency personnel under the Mayor's personnel authority -- and all agencies and agency personnel who are not under the Mayor who are represented by the OAG -- have a duty to cooperate with the OAG in the handling of litigation involving the District. Under these orders, agency general counsels have an obligation to provide draft discovery responses on behalf of the relevant agency and/or employees. In addition, each agency represented by OAG in a civil suit is required to designate a senior program official who will be responsible for providing declarations or affidavits attesting to or certifying under oath answers to interrogatories. These policies have been reinforced in formal and informal meetings between the Attorney General and OAG senior staff and the agency General Counsels.

Although, of course, in the run of the District's many thousands of cases, there are periodic delays or communications challenges with the agencies, OAG actively pursues frank and timely conversations with our agency clients on the occasion when this is more than a minor issue. We note that under the Mayor's firm directive, embodied in the June 13, 2011 Mayoral Order, the agencies have demonstrated a substantially improved commitment and focus on fully satisfying their obligations to actively cooperate with OAG in discovery and litigation support generally. Likewise, the OAG's obligations to regularly inform the client agency of the status of cases involving them and consult when necessary has also improved and strengthened this reciprocal relationship.

37. Please describe how OAG tracks different types of suits so that OAG can follow up with agencies in order to address reoccurring allegations of unlawful conduct.

RESPONSE: In OAG's experience, its agency clients do not engage in reoccurring unlawful conduct. However, while defending matters, if attorneys opine that the agency can take different steps in the future for risk avoidance, the assigned attorney, through his/her management chain, provides the agency General Counsel or appropriate client representatives with a memorandum describing the circumstances of a particular case and making specific recommendations supported by legal authority, in hopes of reaching a different future result.

OAG formally tracks suits by a number of different metrics, including the type of suit and the attorneys staffed on it, primarily through its ProLaw database. These are reflected in reports submitted on a regular basis to this Committee. OAG also tracks informally suits that involve substantiated allegations against client agencies and uses those suits as an opportunity to engage in meaningful, privileged client counseling so that any recurring issues can be appropriately addressed by agency leadership. Section Chiefs also review every new case before assigning the cases to trial attorneys, and do regular reviews of all caseloads with each attorney allowing the chief to recognize broader trends in the types of cases we receive. However, OAG does not engage in formal risk management as the Office of Risk Management is charged with doing so in consult with the Executive Agencies.

38. For fiscal years 2014 and 2015 (to date), please indicate how many administrative complaints were referred to OAG under the Accrued Sick and Safe Leave Act. In your answer, please indicate for each administrative complaint referred to OAG how many employees were involved and how much compensation was alleged to be at stake.

RESPONSE: One case was received which included a claim under this Act. One employee was involved in the Accrued Sick and Safe Leave Act, though there were 36 employees total in the case. The amount of the claim under the Act was \$129.45.

39. For fiscal years 2014 and 2015 (to date), please list all investigations initiated by OAG and complaints filed by OAG in Superior Court under the Accrued Sick and Safe Leave Act. In your answer, please describe the final disposition of each investigation and/or complaint, including whether a settlement was reached and the amount of any such settlement.

RESPONSE: One complaint has been prepared and is awaiting verification by DOES before it can be filed. No settlement or disposition has yet been reached. The matter is on-going.

40. For fiscal years 2014 and 2015 (to date), please indicate how many administrative complaints were referred to OAG under the Minimum Wage Revision Act. In your answer, please indicate for each administrative complaint referred to OAG how many employees were involved and how much compensation was alleged to be at stake.

RESPONSE: There were three Minimum Wage Revision Act referrals by DOES. One referral resulted in a case being brought solely under the Minimum Wage Revision Act. There was one employee involved, the case is filed and set for trial. We are requesting \$5,857.25 in that Complaint. The remaining two referrals were part of a larger Wage Payment Act case, and are discussed in response to those questions.

41. For fiscal years 2014 and 2015 (to date), please list all investigations initiated by OAG, and complaints filed by OAG in Superior Court, under the Minimum Wage Revision Act.

In your answer, please describe the final disposition of each investigation and/or complaint, including whether a settlement was reached and the amount of any such settlement.

RESPONSE: In the one matter referred to OAG solely under the Minimum Wage Revision Act the complaint was filed, there has been no disposition as of the writing of this response. See answer immediately above.

42. For fiscal years 2014 and 2015 (to date), please indicate how many administrative complaints were referred to OAG under the Wage Payment Act. In your answer, please indicate for each administrative complaint referred to OAG how many employees were involved and how much compensation was alleged to be at stake.

RESPONSE: There were 25 cases referred to OAG under the Wage Payment Act. One case has been returned to DOES for further investigation. The following is a list of the 25 referrals:

ProLaw ID #	# of Employees	\$ Requested	Disposition
404708	1	\$247.50	Dismissed
407331	1	\$1,062.00	Settled \$1,162.00
408729	1	\$3,315.85	Complaint prepared
411794	3	\$2,630.44	Settled \$2,630.44
412067	1	\$5,857.25	Pending Trial
413741	3 <sup>1</sup>	\$18,895.16	Complaint Prepared
414149	2	\$12,234.00	Judgment \$24,468.00
418450	1	\$2,200.00	Judgment \$4,485.00
418453	1	\$4,290.00	Pending Trial
418456	3	\$7,831.00	Judgment \$7,831.00
430865	2	\$576.00	Complaint prepared
430866	1	\$742.00	Investigating
430867	4	\$2,500.00	Investigating
430871	10	\$14,695.00	Investigating
430904	1	\$694.64	Complaint prepared
430906	1	\$851.23	Investigating
430907	1	\$325.00	Complaint prepared
435982	1	\$8,358.00	Settlement Discussions
436217	3	\$4,173.67	Investigating
437891	4	\$25,656.93	Complaint prepared
439690	2	\$2,066.03	Investigating

<sup>1</sup> This includes two Minimum Wage Revision Act claims.

440741	9	\$13,478.92 <sup>2</sup>	Investigating
443078	10	\$22,153.47	Attorney Assigned
444766	1	\$1,296.00	Attorney Assigned
445278	1	\$11,210.40	Attorney Assigned

43. For fiscal years 2014 and 2015 (to date), please list all investigations initiated by OAG, and complaints filed by OAG in Superior Court, under the Wage Payment Act. In your answer, please describe the final disposition of each investigation and/or complaint, including whether a settlement was reached and the amount of any such settlement.

RESPONSE: Please see the response to question 42.

44. Is OAG in full compliance with the requirements contained in D.C. Code § 2-536?

RESPONSE: OAG is updating our website to ensure that all information which must be made public is readily available to the public.

45. Please describe any policy and/or legal initiatives or projects undertaken or in development by OAG relating to juvenile justice, and in particular, to men and boys of color.

RESPONSE: This is a matter of great importance to the OAG and is listed as a priority in my initiatives. Working with Chairman McDuffie, Councilmember Grosso, the Committee on the Judiciary, the Public Defender Service and the Superior Court, I am pleased to report on the progress made in eliminating the blanket practice of shackling juveniles in the court. OAG drafted proposed rules to govern individualized determinations on juvenile shackling to usher in a more humane and fair practice for our young people. Moreover, I am pleased to work with Chancellor Kaya Henderson to ensure legally sound programs are available for our boys and young men in District of Columbia Public Schools. OAG also advocates for a position on the Commission on Fathers, Men, and Boys that Chairman McDuffie established into law. This commission will be invaluable to helping guide policy throughout the government to better address the needs of men and boys of color. In the FY 2016 budget, I will advocate for resources to create data-driven, evidence-based approaches to keep our community safe while at the same time providing services to youthful offenders who would otherwise recidivate.

---

<sup>2</sup> The Agency referred a Living Wage Act claim to OAG in this case. We are still investigating whether there is sufficient evidence or a statutory basis to go forward with this claim. However, if the claim goes forward it includes 359 employees and \$479,201.92 in wages for FY 2014.

The Honorable Kenyan McDuffie

March 2, 2015

Page 30

Should you have questions or concerns, please contact me or James Pittman, Legislative Director, at (202) 724-6517.

Sincerely,

A handwritten signature in blue ink, appearing to be 'KR', with a long horizontal stroke extending to the right.

Karl A. Racine

Attorney General for the District of Columbia

Attachments