

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



**ATTORNEY GENERAL**  
**KARL A. RACINE**

February 17, 2016

*Via Email and Hand Delivery*

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

Re: OAG Responses for FY 2015 -2016 Performance Oversight Hearing

Dear Chairman McDuffie:

I am advised that on February 18, 2016 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 3, 2016, 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.

General Questions

1. Please provide, as an attachment to your answers, a current organizational chart for the agency, including the number of vacant, frozen, and filled FTEs in each division or subdivision. Include the names and titles of all senior personnel. Also provide the date that the information was collected on the chart.
  - a. Please provide an explanation of the roles and responsibilities for each division and subdivision.
  - b. Please provide a narrative explanation of any changes made during the previous year.

**RESPONSE:** [See Attachment 1](#)

2. Please provide, as an attachment, a current Schedule A for the agency, which identifies all employees by title/position, current salaries, fringe benefits, and program. This Schedule A should also indicate if the positions are continuing/term/temporary/contract and whether they are vacant or frozen positions.

- a. For each vacant position, please provide the status of the agency's efforts to fill the position, as well as the position number, the title, the program number, the activity number, the grade, the salary, and the fringe associated with each position. Please also indicate whether the position must be filled to comply with Federal or local law.
- b. For each filled position, please provide the employee's length of service with the agency.

**RESPONSE:** [See Attachment 2<sup>1</sup>](#)

- 3. Please list all employees detailed to or from your agency, if any. For each employee identified, please provide the name of the agency the employee is detailed to or from, the reason for the detail, the date of the detail, and the employee's projected date of return.

**RESPONSE:** OAG does not have any employees detailed to or from the agency.

- 4. Please provide the Committee with:
  - a. A list of all employees who received or retained cellphones, personal digital assistants, or similar communications devices at agency expense in FY15 and FY16, to date;

**RESPONSE:** [See Attachment 3](#)

- b. A list of all vehicles owned, leased, or otherwise used by the agency and to whom the vehicle is assigned, as well as a description of all vehicle accidents involving the agency's vehicles in FY15 and FY16, to date;

**RESPONSE:** [See Attachment 4](#) for a list of all vehicles owned, leased, or otherwise used by OAG in FY 15 and FY 16. See below table for vehicle accidents in FY 15.

Description	Date of Incident	Vehicle Type	Justification	Employee Name/Title
<b>FY 2016 to Date</b>				
No reports to date.				
<b>FY 2015</b>				
Vehicle struck from the rear while traveling on 395 NB	7/31/15	2009 Honda Civic	Employee responsible for conducting civil and criminal investigations, process service	Sheila Jordan, Investigator

<sup>1</sup> The length of service reflected in the attachment shows length of service with the District government, per guidance from the Committee on Judiciary.

Description	Date of Incident	Vehicle Type	Justification	Employee Name/Title
Vehicle struck while stopped waiting for parking space in 1200 block of 4 <sup>th</sup> Street, SE	08/03/15	2001 Ford Taurus	Employee responsible for conducting civil and criminal investigations, process service	Darryl Colbert, Investigator

- c. A list of employee bonuses or special award pay granted in FY15 and FY16, to date;
- d. A list of travel expenses, arranged by employee for FY15 and FY16, to date, including the justification for travel; and
- e. A list of the total overtime and workers' compensation payments paid in FY15 and FY16, to date, including the number of employees who received overtime and workers' compensation payments.

**RESPONSE:** See Attachment 5 for responses to 4c, 4d, and the overtime total requested in 4e. With regards to workers' compensation, in FY 2015, five employees received worker's compensation payments. In FY 2016, to date, two employees received worker's compensation payments (Chart Below).

	FY 2015	FY 2016
	\$420.27	\$1,033.09
	\$1,204.48	\$82.11
	\$1,068.18	-----
	\$133.77	-----
	\$1,409.74	-----
<b>Total</b>	<b>\$4,236.44</b>	<b>\$1,115.20</b>

5. With regard to the use of communication devices:

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

**RESPONSE:** Smart phones and iPad devices 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 statements. When overages or unauthorized charges (411, text messages, international calls, etc.) are identified, the responsible employee and their manager are notified and required to submit payment to the D.C. Treasurer.

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 OAG Information Technology Section. These devices are used to provide mobile and remote access in support of court operations, extended absences and business travel.

b. How does your agency limit the costs associated with its mobile devices?

**RESPONSE:** Cell phones and iPad devices are issued, upon manager approval, to selected employees and investigators based upon the need to have offsite and/or after-hours communications. Minutes are pooled and shared among all users. Usage is closely monitored through statement audits on a monthly basis for overage and unauthorized charges.

c. For FY15 and FY16, to date, what was the total cost including, but not limited to, equipment and service plans for mobile communications and devices?

**RESPONSE:** [See Attachment 3](#)

6. Please provide a chart showing your agency's approved budget and actual spending, by division, for FY15 and FY16, to date. In addition, please describe any variance between fiscal year appropriations and actual expenditures.

**RESPONSE:** [See Attachment 6](#)

7. For FY15 and FY16, to date, please list all intra-District transfers to or from the agency.

**RESPONSE:** [See Attachment 7](#)

8. For FY15 and FY16, to date, please identify any special purpose revenue funds maintained by, used by, or available for use by the 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 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:** \$2,407,126.58

**Expenditures:** \$1,298,155.29

**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: \$32,998.32

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: \$200.00

Expenditures: \$0

**FY 2016**

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 2/12/16: \$536,168.06

Expenditures as of 2/12/16: \$486,948.98

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 2/12/16: \$7,528.16

Expenditures as of 2/12/16: \$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 2/12/16: \$0

Expenditures as of 2/12/16: \$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 2/12/16: \$200.00

Expenditures as of 2/12/16: \$0

Revenue Source Name and Code: Litigation Support Fund – 0616

Source of Funding: Revenue is generated by recoveries from claims and litigation brought by OAG on behalf of the District. The fund supports general litigation expenses associated with prosecuting or defending litigation cases on behalf of the District.

Description of Program Generating the Fund: Litigation actions on behalf of the District.

Amount of Funds Generated as of 2/12/16: \$306,661.05  
Expenditures as of 2/12/16: \$0

9. Please list each contract, procurement, lease, and grant awarded, entered into, extended, and option years exercised, by your agency during FY15 and FY16, to date. For each contract, please provide the following information, where applicable:
- a. The name of the contracting party;
  - b. The nature of the contract, including the end product or service;
  - c. The dollar amount of the contract, including budgeted amount and actually spent;
  - d. The term of the contract;
  - e. Whether the contract was competitively bid;
  - f. The name of the agency's contract monitor and the results of any monitoring activity; and
  - g. Funding source.

**RESPONSE:** [See Attachment 8<sup>2</sup>](#)

10. For FY15 and FY16, to date, please list any purchase card spending by the agency, the employee making each expenditure, and the general purpose for each expenditure.

**RESPONSE:** [See Attachment 9](#)

11. Please list all memoranda of understanding (MOU) entered into by your agency during FY15 and FY16, to date, as well as any memoranda of understanding currently in force. For each, indicate the date entered and the termination date.

**REPNSE:** [See Attachment 10](#) for a summary of FY15 and FY16 specific MOU information. All other information is below.

- [Washington Metropolitan Area Transit Authority Memorandum of Agreement \(Effective 10/7/2014, continues until terminated by one of the parties\)](#)
- [Office of the Chief Technology Officer Memorandum of Understanding, Licenses for Outreach Van \(Effective 10/1/2010, continues each fiscal year until terminated by one of the parties\)](#)
- [Office of the Chief Technology Officer--DC NET Memorandum of Understanding, Avaya Support \(Effective 10/1/2014, Termination Date 9/30/2015\)](#)

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<sup>2</sup> Please note that both Georgetown University Hospital and Howard University Hospital both had contracts that started Oct. 1, 2010 and ended Sept. 30, 2015. New contracts for both were issued to them to take effect Oct. 1, 2015, with 4 one year option periods (meaning they would end Sept. 30, 2021 if all option periods were exercised); however, neither hospital has yet to sign their contracts.

- Metropolitan Police Department Memorandum of Understanding (Effective 10/1/2008, continues each fiscal year until terminated by one of the parties)
  - D.C. Superior Court Cooperative Agreement, Operations Support (Effective 10/1/2008, continues each fiscal year until terminated by one of the parties)
  - D.C. Superior Court Cooperative Agreement, Access and Visitation Grant (Effective 10/1/2015, Termination Date 9/30/2016)
  - Office of Administrative Hearings Memorandum of Understanding, Operations Support (Effective 1/13/2016, continues each fiscal year until terminated by one of the parties)
  - Department of Employment Services Memorandum of Agreement, Unemployment Insurance (Effective 8/30/2006, continue until terminated by one of the parties)
  - Department of Health Cooperative Agreement, Vital Records (Effective 10/1/2013, continues each fiscal year until terminated by one of the parties)
  - Office of the State Superintendent of Education, for the purpose of facilitating exchange of educational data that is necessary to investigate and prosecute student residency fraud and enforce the payment of nonresidency tuition, (Effective FY 2015 continues until terminated by one of the parties)
  - Department of Human Services Memorandum of Understanding, Data Sharing (Effective 10/1/2013, continues each fiscal year until terminated by one of the parties)
12. Please list the ways, other than memoranda of understanding, in which the agency collaborated with analogous agencies in other jurisdictions, with federal agencies, or with non-governmental organizations in FY15 and FY16, to date.

**RESPONSE:** The ways, other than memoranda of understanding, in which the agency collaborated with analogous agencies in other jurisdictions, with federal agencies, or with non-governmental organizations are listed below.

- OAG frequently coordinates with state attorneys general through the National Association of Attorneys General (NAAG). Most notably for Office of the Solicitor General purposes, NAAG serves to coordinate attorneys general who may wish to join in multi-jurisdiction amicus briefs, often for the Supreme Court. Outside of amicus briefs, we also have informal contacts with agencies and non-governmental organizations on particular cases in which we share common interests.
- Members of OAG serve on the Citywide Human Trafficking Taskforce which is chaired by the US Attorney's Office for DC, but its membership includes several federal agencies. In FY15, the focus for OAG was on incorporating child welfare into the



reporting and investigative protocols as well as increasing communication between the criminal investigation and child welfare system in so much as the victims are also known to the child welfare system. In FY16, we have focused on joint trainings as well as increasing our outreach efforts to raise community awareness. Also, OAG is a member of the multi-disciplinary team affiliated with Safe Shores, the DC Children's Advocacy Center. The Family Services Division (FSD) and the Public Service Division (PSD) dedicates attorneys to the day to day functioning of the CAC by staffing forensic interviews and FSD and PSD both provide managerial representation to the monthly supervisors' meeting.

- OAG cooperates closely with other states on a daily basis as it pursues child support where one parent lives in the District and the other parent lives in another state. Especially important partners to D.C. are Maryland and Virginia. On October 14, 2015, CSSD convened a tri-jurisdictional meeting with 51 representatives of the child support programs of D.C., Maryland, and Virginia. The theme of the conference was cooperation, communication, and teamwork. Items discussed included the role of Central Registries, streamlining enforcement, reconciliation of interstate audits, and CSENet issues. Participants learned that with the reconciliation process, states compare arrears balances and whether each state thinks a case is opened or closed and come to agreement.
- Through its Alternative Solutions Center (ASC), CSSD has partnered with local social service agencies to provide employment services to non-custodial parents. If a non-custodial parent who is unable to pay child support expresses interest in obtaining assistance in finding work, CSSD does an assessment of the individual's barriers to employment and refers him or her to a suitable social service organization within the ASC network.
- The Fathering Court, a project of the D.C. Superior Court that is supported by the Child Support Services Division, provides non-custodial parents who are leaving prison the opportunity to get on their feet, find a job, and start paying child support. Participants have the opportunity to obtain job training and other skills that will help them be involved in their children's lives. While the non-custodial parents are participating in the program, CSSD holds back on some of its enforcement efforts to allow the non-custodial parents the chance to become employed and better positioned to support their children.
- OAG regularly coordinates its antitrust and tobacco enforcement work with that of other state attorneys general through the National Association of Attorneys General, which has standing committees on antitrust and tobacco.
- OAG has litigated antitrust cases in federal court as a co-plaintiff with the Federal Trade Commission, the United States, and various states. In February 2015, OAG joined, on the District's behalf, a Federal Trade Commission and multistate antitrust complaint filed in the U.S. District Court for the District of Columbia seeking to preliminarily enjoin the proposed merger between Sysco and US Foods, broadline food-service distributors that controlled about 80 percent of the market in the Washington/Baltimore area. The district

court issued an order in June blocking the merger, which the companies then abandoned. In December 2015, OAG joined the Federal Trade Commission and the Pennsylvania Attorney General's Office in filing another antitrust complaint in the U.S. District Court for the District of Columbia, this time seeking to preliminarily enjoin a proposed merger between Staples and Office Depot. That case is still pending.

- OAG regularly coordinates its Medicaid enforcement work with that of the states through the National Association of Medicaid Fraud Control Units, of which the District's Office of Inspector General is a member.
13. Please describe any anticipated spending pressures for FY16. Include a description of the pressure, the estimated amount, and any proposed solutions.

**RESPONSE:** OAG does not anticipate any spending pressures for FY 2016.

14. Please list all currently open capital projects, including an update on all capital projects under the agency's purview in FY15 and FY16, to date, including the amount budgeted, actual dollars spent, and any remaining balances. In addition, please provide:
- a. An update on all capital projects begun, in progress, or concluded in FY14, FY15, and FY16, to date, including the amount budgeted, actual dollars spent, and any remaining balances.
  - b. An update on all capital projects planned for FY16, FY17, FY18, FY19, FY20, and FY21.
  - c. Do the capital projects begun, in progress, or concluded in FY14, FY15, or FY16 to date have an impact on the operating budget of the agency? If so, please provide an accounting of such impact.

**RESPONSE:** In FY 16, OAG received approval for a capital project to upgrade its information technology infrastructure and local area network (LAN) environment. OAG is finalizing the capital equipment items that must be procured to upgrade and enhance its LAN. Once the list is finalized, OAG will begin the procurement process. The total amount budgeted for the project is \$368,479. No funds have been spent.

Moreover, 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 feasibility study was completed in December 2008 and 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.

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 completed and implemented in February 2015. This task item required parallel testing of the old and new systems, user acceptance testing, and stakeholder buy-in. CSSD converted from a proprietary, obsolete database (Universal) to a flexible one that is compatible with current programs that allow better manipulation of data and more in-depth analysis (SQL).

With the database conversion, CSSD was able to change many of the screens that staff use on a daily basis to Graphical Interface User (GIU) enhanced screens. These screens are more user-friendly and have more "fire power" than the previous ones and allow for clicking on pieces of data rather than entering key strokes. Case information appears in a format that is easier to understand and can be analyzed more readily, thus allowing staff to better serve customers. In addition, new staff have an easier time getting up to speed with these more intuitive GIU screens.

Another enhancement to DCCSES was adding the ability of staff to create PDF documents through the system, including interstate forms and electronic wage withholding orders. An important milestone in the project occurred October 20, 2015, when the first PDF court order was issued, which was dramatically more legible and easier to create than the handwritten, triplicate copy court order.

CSSD launched on January 1, 2016 an application in DCCSES for its Alternative Solutions Center, the program through which CSSD refers unemployed non-custodial parents to community based organizations for employment services. The application allows CSSD to assess a person's barriers to employment and refer the person to an appropriate community based organization through DCCSES. The organization can update the DCCSES system electronically on the person's participation in their program.

CSSD receives referrals of cases of applicants for Temporary Assistance for Needy Families through the Department of Human Services (DHS). DHS is developing an improved system, and CSSD is testing an improved interface with this new system so that referrals are more complete and sanctions for customers who fail to cooperate can be more effectively levied.

To date, the DCCSES project has expended \$3,233,028.34 of the \$6,304,000 capital budget. This leaves a balance of \$3,070,971.66 to develop, design, and implement the components described below.

To complete Phase II of the DCCSES Enhancement Project, CSSD is developing a module for each component of case processing including Intake, Paternity Establishment, Enforcement, Locate, Fiscal Operations, Legal Services, Policy and Outreach, and Management Reports. Using a modular approach for the remaining capital budget funds allows the DCCSES

Enhancement Project to continue despite current fiscal challenges. When the initial capital budget money has been exhausted, an individual solicitation may be made for not yet completed modules based on availability of funds. Under this step-by-step approach, a completion date for the DCCSES Enhancement Project is not set.

This capital project does not have an impact on the operating budget of the agency.

15. Please provide, as an attachment, a list of all budget enhancement requests (including, but not limited to, capital improvement needs), for FY15 and FY16, to date. For each, include a description of the need and the amount of funding requested.

**RESPONSE:** See Attachment 11

16. Please list, in chronological order, every reprogramming in FY15 and FY16, to date, that impacted the agency, including those that moved funds into the agency, out of the agency, and within the agency. Include the revised, final budget for your agency after the reprogrammings for FY15 and FY16. 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'15. The local budget at the fiscal year close was \$65,986,576. To date, there has been one reprogramming of funds into OAG for FY'16. The revised FY'16 local budget totals \$57,214,391. Listed below are the reprogrammings for FY'15 and FY'16.

### **FY 2015**

Reprogramming Date-5/19/15  
Reprogramming Amount-\$498,600

Funds were reprogrammed within OAG to fund information technology upgrades and other nonpersonal services costs, including litigation support, training, translation services, and costs associated with increased truancy responsibilities.

Reprogramming Date-9/3/15  
Reprogramming Amount-\$368,479

Funds were reprogrammed from OAG's local information technology budget to the Pay-Go Capital Fund to pay for information technology infrastructure upgrades in FY'16.

### **FY 2016**

Reprogramming Date-10/30/15  
Reprogramming Amount-\$90,157



Funds were reprogrammed into OAG from the Office of the City Administrator to support the hiring of a personnel attorney.

17. Please list each grant or sub-grant received by your agency in FY 15 and FY 16, to date. List the date, amount, and purpose of the grant or sub-grant received.

**RESPONSE:** A list each grant or sub-grant received by OAG in FY 15 and FY 16 is 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 155 FTEs.

Grant Purpose: Child Support Establishment and Enforcement

	Grant Award Date	Amount (in dollars)
FY 2015	10/01/2014	\$3,865,813
	01/01/2015	\$4,192,172
	04/01/2015	\$3,788,068
	05/11/2015	(\$12,145)
	07/01/2015	\$3,787,560
	07/15/2015	(\$133,015)
FY 2016	10/05/2015	\$3,817,760
	01/01/2016	\$3,735,460

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 2015	10/21/2014	\$100,000
	(Grant Period- 10/01/14 to 09/30/16)	
FY 2016	12/22/2015	\$100,000
	(Grant Period-10/01/15 to 09/30/17)	



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 2015	09//23/2015	\$150,000
(Grant Period: 09/30/14 to 09/29/19/Grant Budget Period: 09/30/15 to 09/29/16)		

18. 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 the response to Question 17.

19. 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 financial liability and/or will result in a change in agency practices, and the current status of the litigation. Please provide the extent of each claim, regardless of its likelihood of success. For those identified, please include an explanation about the issues involved in each case.

**RESPONSE:** There are no cases naming OAG as a party in a lawsuit that exposes the District to liability. However, OAG is sometimes named as a nominal defendant based solely on its statutory or common law responsibilities with respect to charitable organizations and charitable trusts. The purpose of naming OAG as a defendant in these cases is to allow OAG to exercise its authority to affirmatively represent the public interest in the preservation of charitable organizations and assets. These lawsuits do not expose the city to potential liability.

20. Please provide the total number of administrative complaints or grievances that the agency received in FY15 and FY16, to date, broken down by source. Please describe the process utilized to respond to any complaints and grievances received and any changes to agency policies or procedures that have resulted from complaints or grievances received.

**RESPONSE:** In FY 2015, OAG received one grievance from the American Federation of State County and Municipal Employees, Local 2401 on behalf of an employee challenging termination. The matter is pending with the American Arbitration Association. OAG has not received any other grievance or administrative complaint for FY15 or FY16.

Process to Respond

The process OAG uses to respond to grievances is outlined in the applicable collective bargaining agreements for bargaining unit employees. Generally, a labor organization or employee files the grievance at the lowest managerial level where relief can be granted. Management has 10 to 15 working days to respond. If a grievance is not resolved at the lowest

management level, the union or the employee may proceed to the next management level until the Attorney General issues a final decision. After the Attorney General's final decision, the union or employee may request arbitration and a third-party arbitrator is selected, following the process outlined in the collective bargaining agreement. Either party may seek review of an arbitrator's award by filing an appeal with the Public Employee Relations Board (PERB). Either party may seek review of PERB's decision by filing an appeal with the District of Columbia Superior Court. Lastly, either party may seek review of Superior Court's decision by filing an appeal with the District of Columbia Court of Appeals.

Under their collective bargaining agreement, attorneys may not challenge the Attorney General's final decision on certain discipline by demanding arbitration; but, they may file a petition for review with the Office of Employee Appeals and seek an advisory opinion.

For non-bargaining unit employees, OAG follows the process outlined in the District Personnel Manual (DPM). An employee may file a grievance with the manager who has authority to grant the relief sought, usually the Attorney General. Management's decision on the grievance is final.

21. Please list and describe any ongoing investigations, audits, or reports on the agency or any employee of the agency, or any investigations, studies, audits, or reports on the agency or any employee of the agency that were completed during FY15 and FY16, to date, along with the agency's compliance or non-compliance with any recommendations.

**RESPONSE:** A list and description of any ongoing investigations, audits, or reports on the agency or any employee of the agency, or any investigations, studies, audits, or reports on the agency or any employee of the agency that were completed during FY15 and FY16 is below.

- In May 2015, the Office of Inspector General (OIG) forwarded an anonymous complaint No. 2015-0341 to OAG alleging an OAG employee: (1) failed to perform her official duties; (2) had a poor work ethic; (3) abused time and attendance rules; (4) conducted personal business while at work and (5) did not properly maintain confidential information. OAG investigated the allegations and provided OIG with a response.
- In July 2015, OAG received an anonymous complaint alleging that an OAG employee displayed a "Police Official Business" placard without authorization. OAG investigated and took appropriate responsive action.
- The Office of the Inspector General issued *Management Report: Field Investigators Lack Training, Procedures, and Precautions for Managing Threatening Individuals and Dangerous Programs*. (April 6, 2015, MAR15-I-001) A consultant was brought in to train staff on techniques to diffuse hostile situations. In addition, the Locate Investigator Policy was updated to include a section on safety precautions (June 1, 2015), and the Unusual Incident Reporting Policy and Workplace Violence Prevention Handbook was published and posted on the portal for staff to access (June 16, 2015). Trainings were offered to staff as well by CSSD staff.

- The Office of the Inspector General MAR-1-ID 2015 (October 28, 2015), investigation of misuse of notary seal by CSSD employee. The investigation was closed by the Inspector General on November 13, 2015.
- The Office of the Inspector General OIG No. 15-I-0068 (October 2015), published a *Report of Inspection* on the Child Support Services Division. The Office of the Attorney General Response was filed on December 9, 2015.
- The Child Support Grant was not audited in FY 2015 as part of the single audit for grants in excess of \$5,000,000 due to repeated outstanding audits in prior years.

22. Please provide, as an attachment, a copy of the agency's FY15 performance plan. Please explain which performance plan objectives were completed in FY15 and whether or not they were completed on time and within budget. If they were not, please provide an explanation.

**RESPONSE:** Per discussion with Committee on Judiciary, this will be provided within 10 business days of the hearing.

23. Please provide, as an attachment, a copy of your agency's FY16 performance plan as submitted to the Office of the City Administrator.

**RESPONSE:** Per discussion with Committee on Judiciary, this will be provided within 10 business days of the hearing.

24. Please provide the number of FOIA requests for FY15 and FY16, to date. Include the number granted, partially granted, denied, and pending. In addition, please provide the average response time, the estimated number of FTEs required to process requests, and the estimated number of hours spent responding to these requests.

**RESPONSE:** See Attachment 12

25. Please provide a list of all studies, research papers, reports, and analyses that the agency prepared, or contracted for, during FY15 and FY16, to date. Please state the status and purpose of each. Please submit a hard copy to the Committee.

**RESPONSE:** Other than OAG prepared legal memorandum and opinions that are privileged communications with their recipient, there no such document for this reporting period.

26. How does the agency solicit feedback from customers? Please describe.

- a. What has the agency learned from this feedback?
- b. How has the agency changed its practices as a result of such feedback?

**REPSONSE:** The Child Support Services Division (CSSD) conducted a survey on in the last quarter of fiscal year 2015 of customers who came into the front office (also known as the First Response Unit) on a child support application that could be used on smart phones. The survey focused on what types of information customers would want on the app. The survey was voluntarily completed by 52 customers. An increasing number of CSSD customers access the internet primarily through their phones. Based on the results of the survey, CSSD will develop an app with a target launch of the end of calendar year 2016. One feature CSSD will explore is to allow customers to notify CSSD of a change of address by taking a photo of a utility bill or rental agreement.

In addition, CSSD staff obtained feedback from customers over the course of their daily interactions. Sometimes a customer will indicate that he or she is pleased with the services by telling the staff member, or sometimes tell upper management. The director of CSSD will pass this positive feedback to all of CSSD staff as a way to praise the staff member who provided the excellent customer service and to present desirable behavior that others should model. When customers are displeased with the service they received, they will inform the staff person and/or ask to talk to a manager. The manager will address the customer's concerns and then provide feedback to staff on how to handle the situation better next time.

CSSD has learned from this feedback that child support is an issue that is both extremely important to both the custodial and non-custodial parents because it involves one person paying another to support a child and stressful because it deals with a couple that has separated. As a result, customers have highly charged feelings about the services they expect to receive. Customers may direct their frustration at the lack of child support payments at CSSD staff when their frustration at times should be directed to the parent who is not paying. CSSD has increased one-on-one coaching to key staff.

OAG staff solicited feedback from the over 200 community meetings attended during this reporting period. In addition, OAG recently launched three social media sites (Twitter - @AGKarlRacine; Facebook - Attorney General Karl A. Racine; and Instagram – AGKarlRacine) to better understand the needs and interests of District residents, as well as to share news and updates from the office.

#### Personnel

1. Please separately list each employee whose salary was \$100,000 or more in FY15 and FY16, to date. Provide the name, position number, position title, program number, activity number, salary, and fringe. In addition, state the amount of any overtime or bonus pay received by each employee on the list.

#### **RESPONSE:** See Attachment 13

2. Please list in descending order the top 25 overtime earners in your agency in FY15 and FY16, to date. For each, state the employee's name, position number, position title,



program number, activity number, salary, fringe, and the aggregate amount of overtime pay earned.

**RESPONSE:** [See Attachment 14](#)

3. Please provide each collective bargaining agreement that is currently in effect for agency employees. Please include the bargaining unit and the duration of each agreement.

**RESPONSE:** [See Attachment 15](#)

4. Does the agency conduct annual performance evaluations of all its employees? Who conducts such evaluations? What steps are taken to ensure that all agency employees are meeting individual job requirements?

**RESPONSE:** Yes, OAG conducts annual performance evaluations of all its employees. The direct manager prepares the evaluation, with input from the employee's self-evaluation. The evaluation is reviewed and approved by the employee's management chain. To ensure that employees are meeting individual job requirements, OAG conducts interim or mid-year evaluations. Employees who are not meeting job requirements are monitored by their direct supervisor and placed on a 30 to 90-day performance improvement plan if necessary.

#### Agency Operations

1. Please list each new program implemented by the agency during FY15 and FY16, to date. For each initiative, please provide:
  - a. A description of the initiative;
  - b. The funding required to implement to the initiative; and
  - c. Any documented results of the initiative.

**RESPONSE:** While a more complete evaluation from each division will be forthcoming pursuant to the response to General Questions 22 and 23, it is important that two initiatives within CSSD are mentioned. The Office of the Inspector General was critical of CSSD during this reporting period, so it is important to note the progress and innovations of the division.

#### Behavioral Intervention

On September 30, 2014, the Office of the Attorney General was awarded \$150,000 from the federal Administration for Children and Families within the U.S. Department of Health and Human Services under the 1115 Behavioral Intervention in Child Support (BICS) program. With matching funds, first year funding totaled \$441,176, and five-year funding totaled \$1,147,057.

The program is designed to test behavioral intervention approaches to improve human service outcomes. Previous efforts have examined, for example, how a cleaner, better designed letter can



increase the likelihood that a non-custodial parent makes payments. Another example is how approaching customers when information is easiest for them to recall will result in better case information and an improved ability to locate the non-custodial parent. Behavioral intervention looks at how reducing the “hassle factor” with government forms and agencies can spur individuals to take actions that are in the interests of their families.

As part of this grant, the Child Support Services Division (CSSD) has been paired with a Technical Assistance and Evaluation (TAE) team that will design the interventions and ensure that the experimental and control group evaluation approach is implemented correctly.

In 2015, the TAE had numerous phone calls with CSSD and visited CSSD twice to diagnose and design its interventions. Early interventions may focus the process by which non-custodial parents obtain the notice directing that they appear in court for a child support hearing. As the initiative is in the development stage, there are not yet any documented results.

#### Increase Collections through Innovative Enforcement Tools

In FY 2016, the Child Support Services Division will use innovative methods and a multi-pronged approach to increase collections. In addition to launching a project to collect child support by attaching liens on insurance settlements, CSSD will enter agreements with D.C. based banks to match with their account holders so that additional child support can be collected. CSSD will work with the court to implement electronic judgments and orders which will allow the agency to decrease time needed to enter wage withholding information in CSSD’s automated system DCCSES for new and modified child support orders.

2. Please explain the impact on your agency of any legislation passed at the federal level during FY15 and FY16, to date, which significantly affected agency operations. If regulations are the shared responsibility of multiple agencies, please note.

**RESPONSE:** There has been no legislation passed at the federal level during FY15 and FY16, to date, which significantly affected agency operations. However, in response to federal legislation passed prior to FY15 and FY16, the District of Columbia passed a law to meet the most recent Uniform Interstate Family Support Act requirements.

Also, OAG has been closely monitoring a child support regulation that may be published by the federal government in mid-calendar 2016. Moreover, Publication 1075 that the Internal Revenue Service is developing that impact CSSD. OAG is monitoring this publication.

3. Please list all regulations for which the agency is responsible for oversight or implementation. Please list by chapter and subject heading, including the date of the most recent revision.

**RESPONSE:** As part of the *Fiscal Year 2016 Budget Support Act of 2015*, the Council approved OAG’s request for independent procurement authority beginning in Fiscal Year 2016. The Procurement Practices Reform Act was amended to grant OAG procurement authority

independent of the Mayor and the Chief Procurement Officer who oversees and manages through the Office of Contracting and Procurement (OCP). The Office of the Attorney General Personnel and Procurement Clarification Emergency Amendment Act of 2015 was enacted on January 6, 2016 giving OAG authority to promulgate rules implementing its independent personnel and procurement authority. Temporary and permanent bills are pending.

4. Please identify any statutory or regulatory impediments to your agency's operations, including any outstanding legislative requirements of the agency (e.g. implementation of rulemakings).

**RESPONSE:** The rulemaking authority discussed in question number three (above) will need to be permanent. OAG will submit language for the upcoming Budget Support Act to accomplish that goal.

5. Please identify all electronic databases maintained by your agency, including the following:
  - a. A detailed description of the information tracked within each system;
  - b. The age of the system and any discussion of substantial upgrades that have been made or are planned to the system; and
  - c. Whether the public can be granted access to all or part of each system.

**RESPONSE:** See below

#### District of Columbia Child Support Enforcement System

This is the Child Support Service Division's most important electronic database. It is used by a majority of the staff to enter the names, address, social security numbers, asset, and income of its customer. Further it is the system used to track whether an individual has been served to go to court and what happened at the hearings. After a child support order is established, the order is entered into this system so that a person's financial obligations over the course of the case can be tracked. Any payments made by the non-custodial parent are tracked in this system, too. The database was built over 20 years ago, but is being upgraded under the capital project discussed in the answer to General Question number 14. The public cannot be granted access to all or part of the system.

#### Unwed Births System

This database tracks paternities for children born out of wedlock and contains scanned court orders of paternity as well as acknowledgements of paternity. The database was built in 2010. The public cannot be granted access to all or part of the system.

### Infolinx

This database includes scanned versions of documents related to cases, including court orders. This system has obviated the need for staff to check out paper files and thus has reduced the number of lost files. The database was off the shelf software the agency began using before 2004 and that was customized and upgraded by the agency in 2011. The public cannot be granted access to all or part of the system.

### Training Information System

This database tracks what trainings have been offered and taken by Child Support Services Division Staff. The database was designed at another agency and customized and brought to CSSD in 2007. We would need to check to see if there are union or legal issues, but it may be possible for the public to be granted access to part of the system.

### Work Request System

This database tracks what systems enhancements and reports have been requested. The database was designed at another agency and customized and brought to CSSD in 2007. We would need to check to see if there are legal issues, but it may be possible for the public to be granted access to part of the system.

### EMPIR

EMPIR (Enterprise Management and Planning of Integrated Resources) is an internal database that tracks assets and supplies across the agency. The database also includes a risk management system that allows staff to report unusual incidents. This database dates from 2006. It may be possible for the public to be granted access to part of the system.

### ProLaw

This database is used to streamline the work of OAG attorneys and staff by combining case management, document assembly and docketing functionality into one application. The database is used by a majority of the divisions in the agency in order to manage cases, case-loads and calendaring. The database is an off-the-shelf application, but has been heavily customized for the agency. The application was implemented over 15 years ago. The public cannot be granted access to all or part of the system.

### Concordance

Concordance is part of OAG's Document Management System. It is the document review platform currently used by a number of the divisions within the agency as part of the in-house computerized, large-scale document processing and litigation support database system, which began operating in 2011. The database is used to store, review and produce documents during



discovery. It also serves as a repository for briefs and other pleadings. The public cannot be granted access to all or part of the system.

6. 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 FY16.

**RESPONSE:** Five of OAG's top priorities are listed below.

#### Consumer Protection and Community Outreach

The Consumer Protection and Community Outreach continuing 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.

- OAG created the new Office of Consumer Protection and is actively pursuing claims.
- OAG proposed legislative changes to increase OAG's authority to protect seniors from financial abuse. We are also modernizing our consumer protection laws.
- OAG launched new social media sites. They are valuable tools to help get OAG's message out to the public.

#### 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.

- OAG is actively pursuing slumlords and protecting tenants TOPA rights via the courts.
- OAG is working with the Council to strengthen TOPA legislation.
- OAG outreach events include outreach to tenants groups to educate them on their rights.
- OAG is working with the Office of the Tenant Advocate and the Council on new legislation aimed at recovering funds to house displaced tenants.

#### 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.

- See response to Question 16

### Protecting Taxpayers, Workers & Enforcing Honest Government

The Protecting Taxpayers, 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

- OAG introduced the “Campaign Finance Transparency and Accountability Amendment Act of 2016” is designed to 1) ensure that independent expenditures truly are independent of candidates and campaigns; 2) close a loophole allowing unlimited donations to a political action committee outside of election years; 3) strengthen disclosure requirements to increase transparency in the donations process; 4) sever any connection between contributions and significant business with the District; 5) limit a public official’s use of employees to solicit or accept contributions; and 6) require board and commission members to undergo ethics training. The bill accomplishes each of these reforms in a way that honors the protections of the First Amendment.

### Combating Human Trafficking

Human trafficking is the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

- Family Services Division partnered with the Public Safety Division to establish a *Human Trafficking Task Force*, which consists of attorneys focused on bolstering the agency’s efforts to fight trafficking. Attorneys in these Divisions are being trained on how to spot youth who may be sex-trafficked in the delinquency, truancy, and abuse and neglect systems. Additionally, our legal work will be coordinated so that each youth we identify as a trafficking victim will be referred for appropriate services and supports. The attorneys also participate in monthly case-review meetings on sex trafficking with other District government agencies that serve youth in the juvenile-justice and child-protection systems; they attend Superior Court-led Family Court Training sessions; have led a focus group with trafficking victims and survivors; and continue to consult with non-profit organizations in the District and surrounding jurisdictions to identify the best models of human-trafficking-prevention education for students and school officials and to go into school setting to present directly to youth.

7. In addition to the 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 FOIA against a District agency or a District employee.

**RESPONSE:** See Attachment 12



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

**RESPONSE:** OAG continues to work with the agencies, affected stakeholders, and the courts to resolve the remaining long-standing major class actions against the District: Evans, LaShawn, Jerry M., D.L., and Salazar. The District is continuing to make significant strides in meeting the requirements set forth in the consent decrees entered in these cases. For example, in Evans, the District developed a strategic consolidated plan to certify compliance with the five remaining exit criteria (originally there were 70) by the end of FY 2016. The affected agencies and OAG are committed to performing at an exemplary level to ensure that the District is able to fulfill its legal obligations without court supervision. We are committed to the complete return of oversight and control over basic agency functions to the District government, in furtherance of the District's long march towards full self-governance.

9. For FY15 and FY16, 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:** [See Attachment 16](#)

10. 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.

**RESPONSE:** 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.

11. For FY15 and FY16, 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:** A list of all court cases appealed by OAG's main office is below.

Civil and Administrative Appeals Section:

- D.C. v. Wrenn, D.C. Cir. No. 15-7057; MPD; appeal from preliminary injunction against the District's concealed-carry licensing scheme, which requires an applicant to show "good reason" to receive a license to carry a firearm in public. Preliminary injunction vacated.
- Naccache v. Taylor, DCCA No. 15-CV-953; DOH; appeal from order awarding post-judgment interest at a fixed rate of 4%. Dismissed as premature.
- Naccache v. Taylor, DCCA No. 16-CV-55; DOH; appeal from order awarding post-judgment interest at a fixed rate of 4%. Awaiting briefing schedule.
- D.C. v. D.C. CAB/Dynamic, DCCA No. 15-AA-125; OCP, FEMS; appeal from award of \$223,540.22, plus interest, in additional compensation for work performed in renovating Engine Company No. 25. Currently in briefing.
- D.C. OTR v. Exxon, et al., DCCA Nos. 14-AA-1401, 1403 & -1404; OTR; appeal from OAH decision applying non-mutual collateral estoppel against the District. To be argued February 9, 2016.
- D.C. DOH/SHPDA v. MBI Health Servs., DCCA No. 14-AA-1352; DOH/SHPDA; appeal from OAH decision holding that SHPDA's failure to grant a Certificate of Need for a home health care company was arbitrary, capricious, or not in accordance with law. Held in abeyance pending outcome of *Medstar Health, Inc. v. D.C. DOH*, No. 14-AA-328.
- D.C. DPW v. D.C. OHR/Dickerson, DCCA Nos. 15-CV-754, -800 & -801; DPW, OHR; appeal from award of fees against the District. Case in briefing.
- D.C. DOC v. D.C. DOES/Bryant, DCCA No. 15-AA-1224; DOC, DOES; DOC appeal from DOES's determination concerning overpayment of worker's compensation benefits. Case in briefing.
- D.C. v. Odom, DCCA No. 15-CV-992; MPD; appeal from \$9.654 million award under Unjust Imprisonment Act. Settled in principle; held in abeyance pending final paperwork.

- D.C. v. Vining, DCCA Nos. 15-CV-1182 & -1323; ANC5E; cross-appeal of award of fees and costs in FOIA action. In briefing.
- D.C. v. D.C. CAB/Civil Construction, DCCA No. 16-AA-63; DDOT; appeal from \$658,659.78 judgment, plus interest, raising certification-of-cost and pricing issues related to a previous appeal in D.C. v. D.C. CAB/Prince Construction (awaiting decision). Will likely be held in abeyance pending decision in Prince.
- D.C. DISB v. Almenara, DCCA Nos. 15-AA-946, -1023 & -1085; DISB; appeal of OAH decision finding that securities offering did not violate the Securities Act. Awaiting briefing schedule.
- D.C. DOH v. D.C.'s Finest, DCCA No. 15-AA-1367; DOH; appeal of OAH determination concerning allocation of marijuana operations. Briefing motion to dismiss appeal.
- D.C. MPD v. FOP, DCCA No. 15-CV-1197; MPD; appeal from PERB's review of an arbitration award. In briefing.
- D.C. DCHF v. Mieuji, DCCA No. 15-AA-1342; DCHF; appeal from OAH determination concerning Medicaid coverage of dental procedure. Awaiting briefing schedule.

Criminal and Juvenile Appeals Section:

- District of Columbia v. Alexander, No. 15-CT-584; no agency. DCCA remanded case after trial court changed its decision.
  - In re C.A., Sup. No. 2015-DEL-1027 (no DCCA number assigned yet); no agency. Awaiting briefing schedule.
12. For FY15 and FY16, to date, please list all amicus briefs joined by OAG on behalf of the District filed with the U.S. Supreme Court.

**RESPONSE:** A list all amicus briefs joined by OAG is below.

The amicus briefs we have joined in FY 2015 and 2016 are:

- 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
- Obergefell v. Hodges, Tanco v. Haslam, DeBoer v. Snyder, Bourke v. Beshear, Nos. 14-556, 14-562, 14-571, 14-574
- Spokeo v. Robins, No. 13-1339

- [Gobeille v. Liberty Mutual Insurance Company](#), No. 14-181
- [Fisher v. University of Texas at Austin](#), No. 14-981
- [Friedrichs v. California Teachers Association](#), No. 14-915
- [Whole Woman's Health v. Hellerstedt](#), No. 15-274
- [United States v. Texas](#), No. 15-674

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

- [Michigan v. EPA](#), [Utility Air Regulatory Group v. EPA](#), and [National Mining Association v. EPA](#), Nos. 14-46, 14-47, & 14-49
- [Corr v. MWAA](#), 13-1559
- [West Virginia v. EPA](#), No. 15-1363

Finally, please note that we are also likely to join an amicus brief to be filed on Feb. 17 in:

- [Zubik v. Burwell](#), Nos. 14-1418, 14-1453, 14-1505, 15-35, 15-105, 15-119, 15-191

13. For FY14, FY15, and FY16, 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:** See below.

FY 14: (12 cases) DYRS-1; DOC-1; MPD-2; OSSE-1, CFSA-1; FEMS-1, DPW-1; DOES-1 and DCPS-3

FY 15: (4 cases) DOH- 1 FEMS- 1 DCPS 1 DCRA- 1

FY 16: (1 case) MPD – 1

14. Have OAG attorneys reported experiencing problems obtaining documents and other information from Executive 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 2015, 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 OAG -- have a duty to cooperate with 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, 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.

15. What is the status of OAG's implementation of personnel and procurement rules?

**RESPONSE:** As part of the Fiscal Year 2016 Budget Support Act of 2015, the Council approved OAG's request for independent procurement authority beginning in Fiscal Year 2016. The Procurement Practices Reform Act was amended to grant OAG procurement authority independent of the Mayor and the Chief Procurement Officer who oversees and manages through the Office of Contracting and Procurement (OCP). The Office of the Attorney General Personnel and Procurement Clarification Emergency Amendment Act of 2015 was enacted on January 6, 2016 giving OAG authority to promulgate rules implementing its independent procurement authority. Temporary and permanent bills are pending.

OAG has begun the process of implementing its independent procurement authority by convening a team of internal subject matter experts to draft rules that will: (1) simplify and tailor OAG procurements to better enable OAG to fulfill its legal mission; (2) promote full and open competition; and (3) ensure the fair and equitable treatment of those who seek to provide OAG goods and services. The project team is currently reviewing the existing procurement rules to identify necessary changes and will begin drafting rules after the review is complete. OAG projects issuing emergency and proposed final rules in early fall 2016.

Effective October 1, 2015, OAG was granted independent personnel authority. Effective January 6, 2016, the Council amended the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to allow the Attorney General authority to issue personnel rules. The District Personnel Manual will continue to apply unless OAG modifies them for its employees.

The receipt of independent personnel authority did not impact OAG's day-to-day human resource functions since OAG already had independent personnel authority for a number of years, by agreement with the Director of the Department of Human Resources. Thus, OAG has



been onboarding, disciplining and evaluating its own employees. Despite receipt of rulemaking authority, the Department of Human Resources will continue to support our District-wide personnel functions such managing: 1) benefits and retirement services; 2) administrative staff performance evaluations in PeopleSoft; 3) training requests through DCHR's Center for Learning and Development; 4) the Displaced Employee Program after any reductions in force.

OAG is in the process of reviewing existing personnel rules to identify potential changes and expect to issue emergency and proposed final rules in the fall 2016, after engaging OAG's two labor organizations.

16. 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:** See below.

- In December 2015, OAG's Public Safety Division (PSD) established a new unit, the Juvenile Specialty Court Unit (JSCU) composed of attorneys and professional administrative staff who will focus on the office's truancy, juvenile behavioral diversion and persons in need of supervision initiatives. The unit has been staffed and resourced to more comprehensively focus on the needs and possible solutions to the District's compelling truancy, runaway and human trafficking problems. PSD has the authority under District Law to enforce the compulsory school attendance policies of the public and charter schools in the city. The JSCU attorneys receive referrals directly from the public and charter schools when students have received a troubling number of absences from school. We then notify parents or guardians of the requirement of school attendance and OAG's ability to prosecute parents of elementary school children, and older youth themselves in District of Columbia Superior Court. In FY2015, PSD reviewed more than 2700 of these referrals and cases pursuant our legal mandate. We represented the District in court on a number of these cases and worked to gain resources for appropriate youth charged with truancy in the Family Court's Juvenile Behavioral Diversion Program.
- Because our Juvenile Section sees an inordinate number of cases referred to OAG for prosecution originate at schools in the District, fueling the school-to-prison pipeline, we have launched an innovative pilot program at Ballou Senior High School to offer mediations at school as an alternative to arresting youth. The model of mediation is called Restorative Justice Conferencing. This model engages the offender and victim of the conflict, along with their parents and teachers. OAG staff will facilitate a dialogue to address the root of the problem and come to an acceptable agreement to repair the harm. The program seeks to build empathy among students, provide support and redress for victims, and model conflict resolution skills. Our goal is to reduce the number of cases

brought to OAG for prosecution from schools for low-level offenses and to assist schools who are struggling to address disruptive behaviors in the learning environment.

- PSD has also been able to use the Restorative Justice Conferencing model in resolving a juvenile prosecution involving a “flashmob” theft and destruction of property case, where a group of teens overwhelmed a small store in the District, causing loss of property and danger to store patrons and employees. The Restorative justice Conference, led by PSD attorneys, brought together the owners of the store, the youth offenders and their parents and guardians in a mediation like setting, where all parties were able to voice concerns and feelings, and reach an agreement that restored a measure of dignity to the victims and educated the youth about the consequences of their actions. All participants felt that the RJ conference was successful and will be a substantial factor in keeping the involved youth out of the juvenile justice system.
- Because juvenile justice reform has been a top priority, the Juvenile Section has increased its rate of diversion of low-risk youth to the ACE Diversion program operated by the Department of Human Services. These diverted youth receive substantial rehabilitative care and services, including mental health treatment, family therapy, mentoring, and substance abuse treatment, all of which are recognized prevention-based services that keep youth out of trouble. OAG is actively monitoring the outcomes of the youth who have been diverted, and as of December 2015, youth referred ACE have an extremely high 87% success rate.
- This past year, OAG played a significant role in advising the D.C. Public Schools, the Mayor, and the Mayor’s Office of Legal Counsel (MOLC) about legal issues related to the Empowering Males of Color Initiative, including potential constitutional challenges. LCD also assisted the Office of the State Superintendent of Education (OSSE), the State Board of Education and the MOLC in interpreting OSSE’s scope of oversight in establishing standards for charter, public, and private schools. Moreover, OAG’s Community Outreach team met with the school’s newly hired Principal and will coordinate outreach efforts to the students.
- This past year the Juvenile Section also tackled the nationally recognized issues of courtroom shackling of youth, which data shows unnecessarily humiliates and stigmatizes them and runs counter to the rehabilitative ideals of the juvenile court. OAG worked closely with Councilmember Kenyon McDuffie, Councilmember David Grosso, and Superior Court Chief Judge Lee Satterfield to end the practice of indiscriminate shackling of youth in Superior Court delinquency courtrooms through a Superior Court Administrative Order. The Juvenile Section has tracked the implementation of the

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Administrative Order, and has found that most juvenile courtrooms now hold individualized determinations regarding a safety or flight risk and approximately 80% of youth are left unshackled in court, while approximately 20% are restrained. There has been virtually no change in the safety of the courtrooms, with no increase in instances of flight or disruption.

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

Sincerely,

A handwritten signature in black ink, appearing to be 'Karl A. Racine', written in a cursive style.

Karl A. Racine  
Attorney General for the District of Columbia

Attachments