

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Mayor's Office of Legal Counsel



**Public Oversight Hearing on
Fiscal Year 2021–2022 Performance**

**Testimony of Eugene A. Adams
Director**

**Before the
Committee on Housing and Executive Operations
Council of the District of Columbia
The Honorable Anita Bonds, Chairperson**

February 25, 2022
12:00 PM
Virtual Meeting Platform
The John A. Wilson Building
1350 Pennsylvania Avenue NW
Washington, DC 20004

GOOD MORNING, MADAME CHAIR, COMMITTEE MEMBERS AND STAFF—I HOPE YOU ALL ARE SAFE AND WELL! I'M EUGENE ADAMS AND I'M PLEASED TO APPEAR BEFORE YOU AGAIN ON BEHALF OF THE MAYOR'S OFFICE OF LEGAL COUNSEL (MOLC) TO SHARE THE ACCOMPLISHMENTS OF FISCAL YEAR 2021 AND 2022, TO DATE. AT THE OUTSET, I WANT YOU TO KNOW THAT, COLLECTIVELY, WE'RE WISER AND SAVVIER THAN A YEAR AGO, AND EMINENTLY MORE USEFUL TO OUR CONSTITUENCY BECAUSE OF THAT. I THINK THE PERCEPTION AND THE VALUE OF THE MOLC HAS CHANGED AS WE'VE LEARNED MORE ABOUT RESPONSIBILITIES, AND I MUST GIVE THE CREDIT FOR THIS TO THE AMAZING, HIGH-PERFORMING TEAM THAT I HAVE THE PRIVILEGE OF WORKING WITH.

WE HAVE KEPT THE PROMISES WE MADE TO YOU AND OTHERS LAST YEAR—AND EXPANDED OUR ROLES AND RESPONSIBILITIES TO BECOME THE FULL-SERVICE LAW OFFICE THAT OUR MAYOR AND THE GOVERNMENT EXPECT AND DESERVE. WE DID THIS IN LARGE PART BY APPROACHING OUR DUTIES WITH A MIXTURE OF RESPONSIVENESS, COLLEGIALLY, RESPECT FOR THE ROLES OF OTHERS AND, OF COURSE, SOUND, TIMELY LEGAL ADVICE-GIVING ON THE MATTERS WE WERE CONSULTED ON OR SAW AS OUR DUTY TO ADDRESS.

AS I MENTIONED LAST YEAR, MY OWN BACKGROUND WAS EXTREMELY HELPFUL TO ME IN MY CURRENT POSITION AS DIRECTOR BECAUSE I WAS ABLE TO ACQUIRE ACTUAL, HISTORICAL AND OPERATIONAL INSIGHTS INTO THE LEGAL MATTERS IMPACTING OUR GOVERNMENT. WITH THE EXTRAORDINARY SKILL SETS OF MY TEAMMATES—AND THEIR COMPARATIVE YOUTH—THE MOLC HAS BEEN ABLE TO VIEW ITS BROADENING RESPONSIBILITIES WITH A BLEND OF EXPERIENCE AND INNOVATION THAT ALLOWS US TO HANDLE THEM IN A WAY THAT IS NEITHER DISRUPTIVE OR UNNECESSARILY TRADITIONAL.

LIKE MANY OTHERS IN THE GOVERNMENT LAST YEAR, WE WERE CHALLENGED BY COVID AND SOME OF THE RESOURCE LIMITATIONS THAT EMANATED FROM THE PANDEMIC. THESE BECAME PARTICULARLY APPARENT TO US AS THE FOIA MORATORIUM WAS LIFTED AND AS THE OAG UNILATERALLY STEPPED AWAY FROM

SOME LEGAL MATTERS IT HAD HISTORICALLY HANDLED. I WILL SPEAK MORE ABOUT THIS ISSUE LATER IN MY REMARKS.

PERSONNEL-WISE, WE REMAIN LARGELY UNCHANGED FROM LAST YEAR. WE LOST A LAW CLERK TO THE PRIVATE SECTOR WHEN HE GRADUATED FROM LAW SCHOOL LAST SPRING, BUT WE PROMOTED OUR VERY CAPABLE SPECIAL ASSISTANT INTO THAT VACANCY, AS SHE, TOO, FINISHES LAW SCHOOL. ADDITIONALLY, MY DEPUTY DIRECTOR HAS, SINCE LAST SUMMER, BEEN SPENDING TIME AT THE DEPARTMENT OF FORENSIC SCIENCES, HELPING THE INTERIM AGENCY DIRECTOR ADDRESS SOME OF THE CHALLENGES BROUGHT TO LIGHT BY THE OIG INQUIRY AND AN “AUDIT” SPONSORED BY OAG AND THE USAO, FROM WHICH VERY LITTLE INFORMATION WAS SHARED UNTIL IT WAS PUBLICIZED LAST SPRING.

THE MOLC’S FOUR ASSOCIATE DIRECTORS HAVE, AS NEEDED, STEPPED IN TO PERFORM GENERAL COUNSEL DUTIES AT SEVERAL AGENCIES WHERE THAT POSITION WAS UNFILLED, IN FLUX, OR IN NEED OF ADDITIONAL SUPPORT. THEY PERFORMED THESE ADDITIONAL TASKS WHILE ALSO SUPPORTING THE AGENCY COUNSEL AT THOSE AGENCIES ASSIGNED TO THEM AND ADDRESSING THEIR ADVICE-GIVING DUTIES, ALL AT THE SAME TIME.

OUR WONDERFUL LAW CLERK SUPPORTS ALL OF THESE EFFORTS IN ADDITION TO BEING THE MOLC’S POC FOR FOIA MATTERS. FINALLY, MY EXCEPTIONAL COS HOLDS ALL OF THIS DOWN AND MAKES SURE THAT WE ARE ALWAYS ON TIME, UNDER BUDGET, SAFE FROM COVID AND ON POINT IN THOSE WAYS WE NEED TO BE. I’D BE A WEALTHY MAN IF I HAD A NICKEL FOR EVERY TIME SHE HAS ENSURED MY OWN TIMELINESS OR MY RESPONSIVENESS.

MORE SPECIFICALLY, MADAME CHAIR, I WANT TO HIGHLIGHT SOME OF THE SUBSTANTIVE, HIGHER-PROFILE WORK WE DID LAST FISCAL YEAR AND IN THE YEAR TO DATE.

ALTHOUGH I DON'T HAVE TIME TO ENUMERATE THEM ALL, I HOPE MY SNAPSHOT TODAY AND OUR RESPONSES TO YOUR OVERSIGHT QUESTIONS WILL GIVE YOU AND YOUR COMMITTEE A FULL SENSE OF THE SCOPE AND NATURE OF WHAT WE DO, WHILE ALWAYS LOOKING TO MAKE OURSELVES EVEN MORE HELPFUL TO OUR GOVERNMENT.

FOR EXAMPLE, WE'VE ADVISED ON, FORMALLY AND INFORMALLY:

- OUR CITY'S RESPONSES TO THE PANDEMIC, INCLUDING THE VACCINE MANDATE, OTHER COVID-RELATED ISSUES AND LIMITATIONS THAT IMPACTED CITY EMPLOYEES, BUSINESSES, HOUSES OF WORSHIP **AND** THE LITIGATION THAT DERIVED FROM THESE ENTITIES;
- OUR CITY'S RESPONSES TO THE BLACK LIVES MATTER (BLM) DISTURBANCES IN THE SUMMER OF 2020 AND THOSE OF JANUARY 6TH OF LAST YEAR, INCLUDING THE MAYOR'S AUTHORITY OVER THE DCNG AND THE CONGRESSIONAL INQUIRIES/INVESTIGATIONS THAT AROSE FROM THESE EVENTS;
- THE DATA BREACH AT METROPOLITIAN POLICE DEPARTMENT AND THE RELATED ATTEMPTS AT RESOLUTION AND THE PENDING LITIGATION;
- THE CITY'S COLLECTIVE EFFORTS TO RENEW THE MEDICAID MANAGED CARE ORGANIZATION'S CONTRACTS AND THE RELATED LITIGATION AT THE CONTRACT APPEALS BOARD;
- THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT'S RESPONSES TO THE ALLEGED TOLBERT STREET CONDOMINIUM CONSTRUCTION DEFICIENCIES AND THE UNDERLYING LITIGATION;
- A VOLUNTARY PRO BONO PROGRAM FOR AGENCY LAWYERS THAT DOVETAILS WITH THE COUNCIL'S OWN EFFORTS IN THIS AREA;
- HIGH-DOLLAR SETTLEMENTS OR OTHER RESOLUTIONS OF LITIGATION FOR AND AGAINST THE CITY; AND
- REPRESENTATION OF THE CITY IN LITIGATION MATTERS WHERE THE OAG HAS RECUSED ITSELF OR OTHERWISE STEPPED AWAY.

THESE EXAMPLES--AS I MENTIONED EARLIER--ARE AN IMPORTANT PART OF WHAT WE DO, AS THE NEED ARISES AND WHEN OUR INPUT AFFECTS DECISIONS THAT THE CITY MAKES. WE HANDLE THESE MATTERS—AND NUMEROUS OTHERS—AGAINST THE BACKDROP OF OUR MORE MUNDANE TASKS RELATED TO SERVICING THE EOM, AGENCY COUNSEL AND THE SUBORDINATE AGENCY DIRECTORS. WE ALSO TRAIN, CONDUCT SPECIAL INQUIRIES, HANDLE AND ADVISE ON SENSITIVE PERSONNEL MATTERS AND COORDINATE THE EFFORTS AND ISSUES AMONG AND BETWEEN THESE ENTITIES. BEFORE I CLOSE, MADAME CHAIR, PLEASE ALLOW ME TO BRIEFLY REVISIT THE LAST TWO BULLET POINTS I ENUMERATED ABOVE:

THE MAYOR AND/OR THE CA OFTEN HAVE TO MAKE DECISIONS ABOUT SIGNIFICANT LITIGATION INVOLVING THE CITY, I.E., WHETHER OR NOT TO SETTLE A PARTICULAR CASE AND IF SO, FOR HOW MUCH OR UNDER WHAT CIRCUMSTANCES. THE OAG MAKES ITS RECOMMENDATIONS ON THESE DECISIONS AND LOOKS TO HEAR FROM THE EOM AS THE GOVERNMENT IS ITS CLIENT.

THE MOLC ALSO WEIGHS IN WITH ITS OWN RECOMMENDATIONS TO THE CA OR THE MAYOR USUALLY AFTER CONSULTING WITH THE AFFECTED AGENCY AND THE OAG. THIS ADVICE IS IN KEEPING WITH THE MOLC'S BROADER RESPONSIBILITY AS THE LIAISON WITH THE OAG. THE RELATIONSHIP AND DISCUSSIONS WITH THE OAG ARE ALWAYS COLLEGIAL AND PROFESSIONAL, BUT WE OCCASIONALLY DISAGREE WITH THEIR VIEWS ON A PARTICULAR MATTER.

IN THOSE INSTANCES, WE CONVEY OUR CONCERNS OR QUESTIONS TO THE OAG ON BEHALF OF THE EOM AND TRY TO FIND COMMON GROUND WHEN WE CAN.

ULTIMATELY, THE MAYOR (OR THE CA) MAKES THE DECISION AFTER CONSIDERING THE INFORMATION AND RECOMMENDATIONS PROVIDED. I MENTION THIS DYNAMIC ONLY BECAUSE THE OAG HAS, IN RECENT MONTHS, EITHER STEPPED AWAY FROM—OR RECUSED ITSELF FROM—MATTERS INVOLVING DFS, DOC AND THE OFFICE OF ZONING/BZA.

THIS HAS CREATED SOME NATURAL, UNAVOIDABLE TENSIONS AND THAT ARE OFTEN PART OF ANY ATTORNEY-CLIENT RELATIONSHIP. BUT IT HAS ALSO CREATED SOME PRACTICAL CONCERNS FOR THIS SIDE OF THE DIVIDED EXECUTIVE: THESE ISSUES REQUIRE THE EOM, LARGELY THROUGH THE EFFORTS OF THE MOLC, TO EITHER DIRECTLY HANDLE MATTERS THAT OAG NO LONGER ADDRESSES OR SECURE OUTSIDE COUNSEL AS THE APPLICABLE LAW ALLOWS.

AS YOU, NO DOUBT, UNDERSTAND, EITHER OF THESE OPTIONS ARE LESS THAN DESIRABLE FOR A HOST OF REASONS AND I RESPECTFULLY URGE THAT YOU AND YOUR COLLEAGUES CONSIDER PROCESSES AND OTHER CHANGES—AS THE MAYOR IS CURRENTLY CONSIDERING—TO MAKE THESE SITUATIONS WORK MORE EFFECTIVELY FOR THE GOOD OF OUR GOVERNMENT.

THANK YOU SO MUCH FOR YOUR PATIENCE AND KIND ATTENTION, MADAME CHAIR. I'M HAPPY TO ANSWER ANY QUESTIONS OR ADDRESS ANY CONCERNS THAT YOU HAVE.

