

**Statement of Karl A. Racine  
Attorney General for the District of Columbia**

**Before the**

**Committee on the Judiciary and Public Safety  
Charles Allen, Chairperson**

**Office of the Attorney General  
Performance Oversight Hearing  
Fiscal Year 2017 to Fiscal Year 2018**



**March 1, 2018**

**9:30am  
Room 120  
John A. Wilson Building  
1350 Pennsylvania Avenue, NW  
Washington, District of Columbia**

## **Introduction**

Good morning, Chairman Allen, Councilmembers, staff, and residents. I am Karl A. Racine, and I have the privilege of serving as Attorney General for the District of Columbia. I am honored to have this opportunity to report on many of the activities and accomplishments of the Office of the Attorney General for Fiscal Year 2017 (FY17) and Fiscal Year 2018 (FY18). Every day, my colleagues and I have worked hard to establish an independent Office of the Attorney General (OAG) that zealously represents the interests of the District and is responsive to the needs of our city's most vulnerable residents. After listening to feedback we have received from District residents, OAG has prioritized issues such as preserving affordable housing, employing evidence-based juvenile justice reforms, protecting consumers, and safeguarding public integrity.

To better achieve the priorities I mentioned, it was critical that OAG transform from a subordinate District agency to a first-rate independent law firm. With your continuing help, we are well on our way. Solidifying our independence and expanding our authority has placed OAG on equal footing with other state attorney general offices. I am happy to report that our new status is benefitting District residents. Along with my testimony, I will provide this committee a copy of OAG's forthcoming annual report, titled "In the Public Interest," for the public record. In the interest of time, I will not be able to talk about the work handled by all of our divisions, but instead I will focus my testimony on five major points: highlights in (1) affirmative initiatives; (2) public safety; (3) child support; and (4) defense of the District government; and (5) updates

on our efforts to establish a first-rate law office. For a more comprehensive review of our activities and successes, I encourage everyone to review our annual report, as well as our responses to the Committee on the Judiciary and Public Safety's inquiries for this hearing. I also encourage everyone listening to visit OAG's website ([oag.dc.gov](http://oag.dc.gov)) to learn more about our work.

### **Affirmative Initiative Highlights**

In FY17, OAG greatly strengthened the District's ability to protect residents by establishing first-class affirmative litigation capacity. As you know from our previous oversight hearings, my administration first focused on creating a new Office of Consumer Protection (OCP). Its primary functions are investigating and bringing enforcement actions against individuals and businesses that commit unlawful trade practices that harm District consumers, mediating the consumer complaints, supporting legislation that will protect District consumers, and performing consumer education and outreach so that consumers will be better able to protect themselves. In this reporting cycle, cases OCP resolved included those related to automobile defects, illegal short-term rentals in affordable housing, slumlords, off-label pharmaceutical promotions, data breaches, the sharing economy, illegal debt settlement scams, and deceptive securities ratings. As one example, OCP resolved litigation against CashCall, Inc., a predatory lending company that charged illegal interest rates that ranged from 80 to 169 percent—well in excess of the 24% maximum interest rate allowed in the District. OCP filed a lawsuit against CashCall, which resulted in the company returning more than \$1.8 million of the interest it improperly collected from District consumers, in addition to another \$1 million in remaining

debts that were forgiven. District consumers eligible for repayment under the settlement received an average of more than \$1,300 per consumer. This FY, OAG returned nearly \$1 million to residents in this matter.

OCP's work is more important than ever given the federal government's gutting of consumer protections. In fact, we authored briefs to defend the independence of the Consumer Financial Protection Bureau and joined letters and briefs to protect students from for-profit schools, stop the prevalent use of forced arbitration agreements that harm consumers, and more.

Thanks to the Council's assistance in our budget process, in the last year OAG was able to build upon OCP's affirmative work and establish the Public Advocacy Division (PAD). PAD brings an array of affirmative litigation to preserve affordable housing, protect against wage theft, protect the environment, and ensure public integrity (including prosecuting cases of false claims, Medicaid fraud, antitrust, nonprofit organization abuses, and non-resident tuition fraud).

### *Housing*

I am pleased to report that the work of these two divisions resulted in direct benefits to District residents in FY17 and FY18 to date. Working in tandem, OCP and PAD secured a settlement for \$325,000 in restitution and penalties from the owners of Terrace Manor, an apartment building that suffered from missing smoke detectors, rodent infestations, lack of heat and hot water, and other issues. That restitution includes an average of \$9,500 in rent repayments for each eligible current and former resident who lived in the complex under those conditions. Additionally, attorneys and advocates from Legal Aid Society, Bread for the City, and Arnold &

Porter Kaye Scholer worked hard alongside current Terrace Manor tenants to secure a separate commitment from the new owner to provide tenants with temporary apartments nearby and to preserve their Tenant Opportunity to Purchase Act (TOPA) rights during a complete rehabilitation of the property. Moreover, PAD obtained court orders appointing receivers to manage apartment complexes that have been plagued by mismanagement in Congress Heights and on 11th Street in Columbia Heights, providing relief to tenants who have lived with unsafe and unsanitary conditions for years. Because of the neglect, tenants have had to contend with bedbugs, rodent infestations, inadequate heating, and other issues. In both cases, the court-appointed receiver has improved the lives of tenants by making emergency repairs. The receivers have also conducted comprehensive assessments of the repair needs at each property and will fix any remaining code violations or life, health, and safety issues at the properties.

### *Protecting Workers*

Where employers engage in a pattern and practice of wage theft, OAG can and will stand up for the defrauded employees. First, OAG continues to litigate cases brought to us by the Department of Employment Services. Pursuant to DOES investigations, OAG consolidated two lawsuits in 2015 on behalf of 136 home health workers, seeking unpaid wages owed to them by their employer, Dynamic Visions, and its owner and CEO. Following a three-week trial in April 2017, a judge ruled in favor of the District and awarded approximately \$315,000 in unpaid wages and damages against both defendants. This lawsuit is the largest wage theft case to be tried in the District under the District of Columbia Wage Payment Collections Law. Second, I

am pleased to report that PAD has hired dedicated staff to bring more enforcement actions against employers who deprive workers of pay and sick leave under OAG's new authority to investigate and bring cases. OAG has won judgments totaling more than \$30,000 and recently filed a lawsuit against a home health care provider for more than \$250,000 in unpaid wages and damages. Furthermore, to better hold abusive employers accountable, workers must first know that they are being exploited and then learn how to report it. OAG created a new Wage Theft Toolkit that outlines workers' rights under District law with FAQs and easy-to-understand examples. The toolkit also includes a printable Wage and Hour Log Book (in English and Spanish) to help workers document their pay and hours worked. This log book not only helps workers ensure that they are receiving the pay to which they are entitled, but it can also be used as evidence to help build a case against abusive employers. Empowering District workers with these resources about their wage rights is a vital component of OAG's comprehensive efforts to combat wage theft. These materials can be found on our website.

#### *Federal Matters Affecting District Residents*

In the past year, it has become abundantly clear that attorneys general are in a unique position to defend the United States Constitution where Congress has failed to serve as an appropriate check and balance on Executive overreach. Obeying the Constitution is not optional. That is why I joined with Maryland Attorney General Brian Frosh in filing suit against President Trump to stop him from violating two important anti-corruption provisions of the Constitution known as the Emoluments Clauses. President Trump's wide-ranging business entanglements

violate these important protections, allowing him to receive payments and benefits from foreign and domestic government entities that raise the specter of conflicts of interest and self-dealing. OAG is standing up, on behalf of District residents, to ensure that the president abides by the founding documents and follows the rule of law.

While this case may have the highest visibility of our federal matters, my office has engaged on a number of other federal matters of central importance to District residents. For example, OAG has stood up for “Dreamers” – young undocumented Americans, brought to this country when they were children – who are harmed by the President’s decision to end the DACA program. In the same vein, our office has opposed an effort by the Department of Justice to withhold critical public safety funding from so-called “sanctuary” jurisdictions. And we have fought rollbacks of environmental regulations, including opposing efforts to weaken the Clean Water Rule, the Clean Air Act, and the Clean Power Plan. We have also worked to preserve affordable healthcare, protect the rights of our LGBTQ residents, and promote smart criminal justice reform policy.

### **Public Safety Highlights**

I am pleased to report that OAG has made significant gains promoting and implementing public safety initiatives in FY17 and FY18, to date. OAG’s Public Safety Division (PSD) prosecutes all the District’s juvenile cases as well as certain misdemeanor adult cases. PSD also assists victims of crimes and has the responsibility of protecting some of the District’s most vulnerable citizens: victims of domestic violence; adults who are being abused, neglected, and

exploited; mentally ill adults who need emergency psychiatric care; and youth who have been sexually exploited or have mental health issues.

OAG doubled down this past year on strategies that reduce recidivism, increase public safety, and help our young people stay on track. To date, more than 1,800 youth who have committed low-level offenses have been diverted to the Alternatives to Court Experience (ACE) Program for rehabilitative services, and 78 percent of those youth have not been re-arrested. In addition, OAG formalized its Restorative Justice Conferencing program, now a part of the Restorative Justice and Victim Services Section in the Public Safety Division and soon to be staffed by seven full-time restorative justice facilitators. Those facilitators bring crime perpetrators and victims together to empower victims, hold offenders accountable, and repair the harm caused by crime; more than 80 percent of those who have successfully completed the program have not been re-arrested. OAG also launched new programs to fight truancy – including the “I Belong Here” program which, through class and school competitions, encourages middle school students to stay in school and invest in their education. And in January of this year, OAG partnered with the Multi-Door Dispute Resolution Division of the Superior Court to launch the Abating Truancy Through Engagement and Negotiated Dialogue (ATTEND) Mediation Program, a diversion option for parents with children ages 5 to 12 who are deemed chronically truant. ATTEND affords parents a venue to openly share their challenges and attendance issues, the ability to communicate directly with school officials, and access to appropriate community-based services. At the end of a successful mediation session, each parent

leaves with an individually tailored agreement on ways to handle future absences. Early signs from both “I Belong Here” and ATTEND are very encouraging.

OAG has also focused on collaborations to effectively combat violent crime. Last fiscal year, OAG entered into an agreement with the United States Attorney’s Office for the District of Columbia (USAO) and the Executive Office of the Mayor (EOM) to send Assistant Attorneys General, known as Special Assistant U.S. Attorneys (SAUSAs), to USAO on detail assignments. The purpose of this partnership is for OAG prosecutors to help build capacity for USAO for the prosecution of repeat violent offenders to further the protection of the District’s residents and neighborhoods. According to USAO, the contributions of SAUSAs from OAG have been immeasurable. Especially in a time of federal hiring constraints and tightened budgets, the assumption of misdemeanor caseloads by the OAG SAUSAs has allowed Assistant United States Attorneys (AUSAs) in USAO to rotate into units within the Felony Major Crimes Trial Section, which investigates and prosecutes offenses involving narcotics distribution, firearms, and violent crimes. OAG SAUSAs have allowed USAO to maintain more adequate staffing levels in FMCTS, thereby ensuring that AUSAs can devote the level of attention to the significant matters handled by the section. At the same time, District residents know that attorneys from its publicly elected and accountable Attorney General are taking on more responsibility for prosecuting local crimes. Based on these benefits, EOM has agreed to extend the program for another two years.

PSD has also sharpened its focus on protecting the most vulnerable District residents. Along with our Family Services Division (FSD), which works closely with the courts, social

workers, and other District agencies on behalf of abused and neglected children, PSD has continued its work to combat human trafficking. In addition to holding events at schools and in the community, PSD and FSD proudly partnered with key stakeholders in the Family Court to launch the Here Opportunities Prepare you for Excellence Court (HOPE Court). HOPE Court is a voluntary specialty court program that addresses the needs of youth who have been, or are at elevated risk of being, commercially sexually exploited and who have been charged with a delinquency or status offense. HOPE Court employs trauma-informed methods such as a youth-driven treatment plan that memorializes the youth's goals and the selected services offered by mental health and child sexual exploitation specialists. HOPE Court allows youth who successfully complete the program to have their cases dismissed or closed early depending on the procedural posture.

Finally, PSD's Domestic Violence Section continues its efforts to combat elder abuse. The Section obtained a record number of guardians and conservators for vulnerable adults who are being abused, neglected, or exploited, or who are self-neglecting, and has made beneficial use of our newly-hired elder abuse specialist. Moreover, OAG continues to be an active partner in coordinated community response teams addressing elder abuse, including the District's Collaborative Training & Response for Older Victims (DC TROV) and the Office on Aging's Elder Abuse Prevention Committee.

### **Child Support Highlights**

The Child Support Services Division (CSSD) also made strides this year to help struggling children and their parents. CSSD handles child support cases involving District children by locating absent parents, and establishing parentage, support orders, and medical support. CSSD is also tasked with enforcing court-ordered child support payments and medical support and collecting child and spousal support payments. In FY17, CSSD collected more than \$56 million in child support payments.

However, simply collecting payments to support District children does not represent the entire picture of how CSSD works to help families. CSSD works year-round to help parents become the financial backbone for their children. As District public school students returned to the classroom for the beginning of the 2017-2018 school year, CSSD introduced the Child Support Amnesty Program for parents who fell behind on their child-support payments; the program helps these parents get back on track. If non-custodial parents made good-faith efforts to pay outstanding child support debt during this period, they were eligible for certain benefits, including child support compliance letters that could help quash an arrest warrant or return a revoked driver's license related to failure to pay child support. Additionally, CSSD hired two Workforce Development Specialists to assist non-custodial parents in obtaining employment. The work of the two Specialists includes addressing barriers to employment and finding appropriate placements for job seekers. Currently, there are approximately 52 active participants working with the Specialists. Thirty-nine non-custodial parents enrolled in the program are now employed.

## **Defense of the District Government Highlights**

While our affirmative litigation, public safety, and child support initiatives are some of the ways OAG promotes the public interest, our attorneys and support staff takes immense pride in the representation we provide to our District government.

OAG's Public Interest Division (PID) represents the District in challenges to the government's authority to act in the best interests of its citizens. PID prosecutes on behalf of and defends the District of Columbia, its agencies, and its officials in a variety of civil and administrative actions brought by and against the District. PID won a significant class action lawsuit in FY17, *Ivy Brown, et al. v. District of Columbia*. The lawsuit alleged that the District failed to provide appropriate transition services for nursing home residents with physical disabilities, but the Court found the District was providing transition services in accordance with the law. This victory allows the District's Medicaid program to manage its long-term care services and supports without expensive court oversight, saving District taxpayers millions of dollars. Moreover, as part of its ongoing mission to recover monies owed to the District of Columbia, in FY17, the Civil Enforcement Section (CES) recovered approximately \$4.5 million for the District. Approximately \$4 million of this sum consisted of Medicaid benefits owed to the District.

OAG's Civil Litigation Division (CLD) defends the District of Columbia, its officials, and its employees in a broad spectrum of civil lawsuits that seek monetary damages. These lawsuits include claims of employment discrimination, constitutional torts, and personal injury.

CLD continues to handle approximately 600 civil litigation matters at any given time. In FY17, CLD won 122 of the 129 cases that were decided on motion or at trial, a success rate of 95 percent. The successes of our defensive litigation are evident not only in win-loss statistics, but also in terms of dollars saved for the District. In FY17, CLD resolved hundreds of suits where the total demand against the District was approximately \$388,500,000.<sup>1</sup> Because of motions, settlements and trials, we resolved these actions for approximately \$18,200,000, resulting in claimed liability avoided of approximately \$370,000,000 in FY17.

Although justice cannot be measured in terms of dollars and cents, it should be clear from the record that OAG's defense of the District results in significant cost savings for District taxpayers.

Likewise, OAG's Commercial Division (CD) provides comprehensive legal advice and transactional support in core areas of community and economic development, real estate, property acquisition, procurement, tax and finance, bankruptcy, land use, and public works. CD facilitated the Office of Tax and Revenue's collection of over \$1,076,000 in various taxes owed to the District; worked to close 419 court cases to retain \$83.6 million against real property tax assessment challenges; and collected \$1.4 million in Public Financing Administrative Program Fees in connection with bond issuances.

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<sup>1</sup> The actual total amount demanded was approximately \$3.165 billion but the \$3.165 billion amount includes many highly inflated demands that did not, in our view, present a substantial threat of liability. When these demands were disregarded, the total amount claimed is approximately \$388,500,000.

The Office of the Solicitor General (OSG) handles all litigation for the Office of the Attorney General in the appellate courts, including the District of Columbia Court of Appeals, the United States Court of Appeals for the District of Columbia Circuit, and the Supreme Court of the United States. These cases include appeals from trial courts in a wide variety of civil and criminal matters and petitions for review from more than 50 District agencies. OSG continues its astounding win rate of around 90 percent. In one of those wins, *District of Columbia v. Wesby*, OSG secured a 9-0 victory in the U.S. Supreme Court in a case concerning whether MPD officers were entitled to qualified immunity when they arrested individuals found partying late at night in a vacant home. The Court also found, by a vote of 7-2, that the officers had probable cause to make the arrests.

### **Establishing a First-Rate Legal Office**

Before I conclude, I must note that the successes mentioned in my testimony, and the many more successes mentioned in our accompanying documents, would not be possible without: (1) The support of this Council; and (2) Our entire team continuously working to transform OAG into a first-rate public interest law firm. We have made some critical structural reforms to help elevate our ability to practice law. We created the Chief of Staff position to ensure high-level focus on the transformation of our back-office operations. After assessing other attorney general offices, it became clear that OAG was woefully behind the curve with technology upgrades and availability; we therefore conducted a broad search and hired a talented Chief Information Officer with experience transforming government agencies' use of

technology. Thanks to your continued support, we have come a long way from OAG attorneys battling high-end law firms using Post-it notes as exhibits. The work of our attorneys does not end when they leave their desk, and our professionals now have tablets and smart phones available to them to assist in their work. Simple things like this will do wonders for attraction and retention of top legal talent. We have also procured a case and document management system to replace the 17-year-old system we now labor with; the new software will enable us to interface with the Courts and our other criminal justice partners, keep clean data on our cases and caseloads, and follow best practices with respect to how we keep our legal documents. Even seemingly non-exciting initiatives like finalizing our independent procurement and personnel regulations leads us to greater success for District residents by streamlining our operations and helping us focus on practicing law.

I will end by stating that no law office is successful without a productive and appreciated staff. We strive to make OAG a workplace where all our employees feel valued and supported and our goal is to maintain and attract the best legal minds on behalf of District residents.

### **Conclusion**

Thank you for the opportunity to highlight some of the important work of the Office of the Attorney General. We are committed to providing the District with the highest quality legal services and promoting the public interest. It is an honor and privilege to serve our residents. My team and I are pleased to answer any questions that the members of the Committee may have.