

**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 2018 to Fiscal Year 2019**



**February 11, 2019**

**12:00pm  
Room 412  
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 the activities and accomplishments of the Office of the Attorney General for Fiscal Year 2018 (FY18) and Fiscal Year 2019 (FY19). Like you, Mr. Chairman, I have now served in my position for just over four (4) years. It is my hope that this experience, including daily interaction with the residents of the District, provides me with a keen sense of the challenges the District faces and how the OAG can help the District overcome them. OAG is more prepared than ever to promote the public interest and protect our most vulnerable residents. In addition to striving for excellence with our existing priorities, this fiscal year I challenged myself, and my OAG colleagues, to identify four (4) additional initiatives that our office should focus on in the next several months. The four (4) issues that our team identified are: (1) disrupting gun violence in the District; (2) the related issue of addressing childhood trauma; (3) aggressively combating elder abuse; and (4) zealously protecting the civil and human rights of all residents.

To better achieve these priorities, it is critical that OAG continue to engage with residents, increase collaboration with the Council and Executive, and build stronger relationships with our federal law enforcement partners. With your continuing help, we are well on our way. In the interest of time, I will focus only on a few major highlights from this oversight period. For a more comprehensive review of our activities and successes, I encourage the public to review

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, and to receive our Annual Report, which will be available in March.

### **Affirmative Initiative Highlights**

Thanks to the Council's assistance in our budget process, in the last year OAG was able to build upon the affirmative litigation work within the relatively new Public Advocacy Division (PAD). PAD brings an array of affirmative litigation cases to protect District consumers, 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).

#### *Consumer Protection*

As you know, one of my office's first priorities was to create a stand-alone Office of Consumer Protection (OCP). OCP's 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 FY18 and FY19 to date, cases that OCP resolved included those related to automobile defects, illegal short-term rentals in affordable housing, slumlords, data breaches, illegal debt collection practices, for-profit schools, and insurance coverage of mental health services. As one example, OCP joined 42 states in a settlement against

Encore Capital Group, Inc. and its subsidiaries, Midland Credit Management, Inc. and Midland Funding, LLC (Midland) for the use of illegal tactics to collect unverified debts. The settlement resolved a multistate investigation into the debt-buying company's collection and litigation practices, including claims that Midland "robo-signed" and filed affidavits containing unverified and potentially inaccurate information to support debt-collection lawsuits against consumers. The settlement included over a half million dollars (\$500,000) of debt relief to 422 District residents.

In addition, OCP expanded its efforts to protect District residents' privacy. OAG is currently leading a multistate investigation of the Equifax data breach, which affected half of the District's population. We also reached several settlements in privacy actions this Fiscal Year, returning over \$2.8 million to the District. OCP is also leading a national multistate investigation into geo-tracking deployed by certain technology platform companies, and, lastly, we recently brought suit against Facebook for alleged violations of the District's consumer protection and privacy laws.

### *Housing*

I am also pleased to report that the work of the Housing Community Justice Section (HCJ) and OCP resulted in direct benefits to District residents in FY18 and FY19 to date. Working in tandem, OCP and HCJ secured a court order requiring defendants to pay approximately \$895,000 to a court-appointed receiver for the rehabilitation of the Congress Heights property. In addition to the funds for repairs, the District is seeking restitution for rent

repayments for each eligible current and former resident that was forced to endure substandard living conditions. Additionally, attorneys and advocates from the Legal Clinic for the Homeless, Housing Counseling Services, and Arnold & Porter Kaye Scholer worked hard alongside current Congress Heights tenants 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 at 5320 8th Street NW 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 myriad other issues. In both cases, the court-appointed receiver has improved the lives of tenants by making emergency repairs. Throughout all of the aforementioned matters, investigators 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. PAD has continued to build and expand OAG's labor enforcement presence in the District. In FY18, PAD exercised OAG's enforcement authority to strategically target wage theft and worker misclassification in the District, launching over a dozen affirmative investigations this fiscal year. These actions are targeted at repeat offenders

and are designed to both maximize recovery for District workers and deter would-be offenders. These investigations resulted in three lawsuits filed in the Superior Court of the District of Columbia—two of which involve wage theft violations such as back pay and minimum wage, and one that targets systemic worker misclassification in the District’s construction industry. OAG is conducting multiple investigations of other companies similarly aimed at deterring wage theft and ensuring that companies in the construction industry are properly classifying their employees. These enforcement actions protect workers’ rights to the wages they have earned and ensure a level playing field between contractors working in the District’s active construction sector. They also expand significantly on OAG’s labor enforcement footprint in the prior fiscal year, reflecting the additional staff OAG hired to strengthen labor enforcement. PAD has also continued to partner closely with community stakeholders to identify enforcement priorities and connect with District workers. In October 2018, OAG was publicly recognized for its labor enforcement efforts, receiving a special award from DC Jobs with Justice, a local labor coalition, that took note of OAG’s labor enforcement litigation. Finally, PAD has worked to develop relationships with counterparts at other state attorneys general offices and has worked with state coalitions to tackle joint investigations and issue public comments and letters that protect workers’ rights across the nation.

### *Public Integrity*

The Public Integrity Section investigates and litigates cases to ensure public integrity, which includes prosecuting cases of false claims, residency fraud, Medicaid fraud, antitrust,

nonprofit organization abuses, environmental violations, and utility regulations. OAG has committed substantial resources to investigating and prosecuting residency fraud, resulting in more non-resident tuition matters being investigated and litigated, increased collections from parties from whom we obtain judgments or settlements. We have moved quickly on bringing cases when we find fraud by District employees, including tuition fraud cases against Metropolitan Police Department (MPD) and Department of Corrections (DOC) officers and District public school teachers and employees. We are actively investigating nonprofit organization issues that impact District residents in a number of areas, including our public investigation of the Archdiocese of Washington for its actions relating to clergy sexual abuse. And, our addition of dedicated environmental law attorneys has resulted in litigation with repeat violators of the District's hazardous waste and air quality statutes, initiatives with District agencies to enhance the District's prosecution of environmental violations, and ongoing work to remediate pollution of the Anacostia River and support the District's climate change program.

#### *Federal Matters Affecting District Residents*

In the past year, the attorneys general in many states have continued to defend the United States Constitution where Congress has failed to serve as an appropriate check and balance on Executive overreach. I have continued, along with Maryland Attorney General Brian Frosh, to litigate 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. OAG has achieved success in that case to date, winning motions to dismiss brought by the Defendant. Those decisions are now before the Fourth Circuit on appeal.

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, immigration. Over 100,000 of the District's residents were born outside of the United States. There can be no doubt that the District values the contribution that the immigrant community has made to the District. OAG has stood up for particularly vulnerable immigrants who have been threatened by the President's determination to end terminate their status, including "Dreamers" – young undocumented Americans, brought to this country when they were children; and beneficiaries of Temporary Protective Status (TPS). 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. 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 commented at the Federal Energy Regulatory Commission opposing proposals to subsidize coal and fossil fuel energy production to the detriment of renewable energy sources and have testified before the EPA to support the District's clean



energy plans and oppose proposed regulations that conflict with the District's climate change policies. 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 continues to make significant gains promoting and implementing public safety initiatives in FY18 and FY19, to date. OAG's Public Safety Division (PSD) prosecutes all of 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 – including the elderly; mentally ill adults who need emergency psychiatric care; and youth who have been sexually exploited or who are suffering from mental health issues.

Before I go any further, I would like to publicly express my condolences to the families and friends of those whose lives have been lost to gun violence.

In preparation for today's testimony, I asked my colleagues to provide me with the data regarding OAG's criminal prosecution of possessory gun offenses (CPWOL/UF and UA). With respect to juvenile prosecutions, a total of 102 cases were referred to OAG in FY 2018. Ninety-five percent (95%) (82) of cases were papered. Five percent (5%) (2) were not papered due to evidentiary issues. Thus far, in FY 2019, 21 cases have been referred, of which 20 have been papered.

Our Criminal Division prosecutes adult misdemeanor UF UA charges. In calendar year 2018, 62 referrals were papered, and 27 were no-papered, of which 8 cases may be papered when we receive DNA test results. We are in the process of compiling the data for 2019.

I commend you, Mr. Chairman, and your staff, for recently holding a roundtable on *Next Steps in the District's Public Health-Based Approach to Violence Prevention and Intervention*. During that January 31 roundtable, my colleague, Seema Gajwani, and I testified about the early successes of our *Cure the Streets* pilot program located in two sites, one in Ward Five and one in Ward Eight. As you know, to date there have not been any murders within those two sites. The community clearly supports *Cure the Streets*, as we are regularly requested to expand our sites.

As you have recognized, Mr. Chairman, traditional policing is obviously critical to maintaining public safety, but the police cannot do it alone. I look forward to continuing to work with the Mayor, the Council, and other stakeholders to ensure programs like *Cure the Streets* and the impressive work that Del McFadden is leading at the ONES office take a foothold in more communities in the District. I am happy to speak more about the *Cure the Streets* initiative during the Committee's questioning.

On September 2, 2018, PSD created the first Special Victims Unit (SVU) in the District of Columbia. SVU was established because there was a need for a specialized unit that will help seek justice for vulnerable victims of abuse and violent crimes and provide them with the special services they need to cope with trauma. Specialized training is necessary to investigate and pursue these cases rigorously, while also being sensitive to victims' unique needs.

In our efforts to sharpen our focus on protecting the most vulnerable District residents, PSD, 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, has continued its work to combat child sex trafficking, as part of SVU. 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 an elevated risk of being, commercially sexually exploited and who have been charged with a delinquency or status offense or has a neglect case. 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.

OAG continues to work on evidence-based strategies that reduce recidivism, increase public safety, and help our young people stay on track. OAG's Restorative Justice Program, housed within the Restorative Justice & Victim Services Section in the Public Safety Division has five (5) full time restorative justice facilitators (one position is grant-funded and expires in September 2019). Those facilitators bring offenders and victims together to empower victims, hold offenders accountable, and repair the harm caused by crime. Juvenile prosecutors have referred over 160 cases to the Restorative Justice Program. OAG has facilitated 83 successful

restorative justice conferences. Twenty-five (25) victims declined to participate, twenty-eight (28) referrals did not go to conference for reasons related to the respondent. Lastly, there are eleven (11) cases awaiting conference that have already been scheduled. Only five cases were returned unsuccessfully for prosecution.

OAG has also strengthened its efforts to combat elder abuse. In 2018, the Domestic Violence Section in PSD filed 61 petitions for guardians and conservators for vulnerable adults who are being abused, neglected, or exploited, or who are self-neglecting, topping the previous record number it had filed in 2017. The section's elder abuse specialist crisscrosses the city by meeting elders in their homes, hospitals, and assisted living facilities to ensure they are being listened to and receiving the services they need. PSD has worked closely with the Public Integrity Division in overlapping cases as the office implements District laws holding those who exploit seniors accountable. In FY 2019, PSD also hired a new elder abuse prosecutor and an elder abuse investigator. In the few months since their arrival, the elder abuse prosecutor and investigator have developed procedures for criminal investigations; established productive relationships with MPD, USAO, and the Montgomery County Elder Abuse Task Force; and investigated at least a dozen referrals. One investigation has already resulted in the issuance of subpoenas by the USAO. Finally, 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. I am happy to announce that OAG finalized a memorandum of

understanding with USAO to make one of our attorneys a special federal prosecutor for local elder abuse crimes. These are crimes for which OAG does not have criminal jurisdiction. This is a huge win in our fight against elder abuse.

PSD has also significantly expanded treatment options for adult offenders in the criminal system who suffer from severe and persistent mental health disorders. In April of 2018, the Criminal and Domestic Violence Sections partnered with the D.C. Superior Court and the Pretrial Services Agency to begin referring cases to the Mental Health Community Court (MHCC). Appropriate candidates were diverted to MHCC as an alternative to prosecution, where they receive intense mental health treatment and services for approximately four months. These candidates will “graduate” from the program if they are compliant with treatment and supervision, and they will either have their cases dismissed or be sentenced much more favorably. This partnership has allowed many more people entering the criminal justice system to receive treatment as an alternative to prosecution in an effort to help these individuals reintegrate into their communities and reduce recidivism.

A continuing priority for OAG is truancy reduction. PSD is constantly striving for new and innovative ways to constructively engage students and families in this effort. Last year, I reported on two programs: (1) The Abating Truancy Through Engagement and Negotiated Dialogue (ATTEND) Mediation Program; and (2) “I Belong Here.” ATTEND is a pre-charge diversion option for parents with children ages 5 to 12 who are deemed chronically truant. “I Belong Here” is a truancy reduction initiative program that is a partnership with the District of

Columbia Public Schools, Howard University and OAG and represents a collective effort to incentivize school attendance for students and their parents. I am pleased to report that both programs continue to be successful.

### **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 FY18, CSSD collected more than \$55.9 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. CSSD has had many accomplishments since March 2018. On April 27, 2018, CCSD held the Alternative Solution Center (ARC) Milestone Ceremony, which celebrated the success of some participants of our ASC program. Additionally, this ceremony helped to educate service providers on who we are, what we do, and how we do it.

August is Child Support Awareness month, and during the entire month, CSSD held numerous events to promote awareness and support children. One example is the Amnesty Program which is designed to help parents get back on track with their child-support payments. Nearly 170 parents participated by coming to our office to discuss their cases and as a result of

the program, a total of \$45,120.47 in child support was collected. CSSD offered free paternity testing to help establish paternity for fathers not listed on a child's birth certificate gave participants a \$25 gift card and distributed 100 backpacks and school supplies on a first-come, first-served basis to families with an active child support case and school-aged children. OAG also cohosted a Fatherhood Career Fair and Workforce Development Resources Day which took place on August 31, 2018. Twenty-two area vendors, comprised of employers and service providers, attended the Career Fair. Each participant was exposed to job and career advice, free health screenings, and a backpack with school supplies.

OAG is committed to expanding its work with incarcerated parents to educate them on the tools available to best support their child support obligations. Specifically, since August 17, 2018, a CSSD staff member meets with noncustodial parents who are incarcerated at the DC Jail twice a month to educate the parents on how to modify their child support orders. Going forward, CSSD is committed to partnering with the Public Defender Service and other defense counsel, and the courts, to better inform parents of their rights prior to or at sentencing.

Lastly, CSSD participated in 38 Outreach Events to inform the public about the services, process and programs that CSSD provides. In an effort to increase visibility and improve community relations, CSSD utilized the Outreach Van to connect with various communities in the District. The Van provides a full array of paternity establishment and child support services to customers in District neighborhoods where families reside instead of requiring them to travel

to the child support office, which is located at Judiciary Square in the Northwest quadrant of the city.

### **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 also take 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. As mentioned in the highlights of our Public Safety Division, elder abuse is a major concern in the District and a high priority for OAG. In FY18, PID began prosecuting violations of the *Criminal Abuse, Neglect and Financial Exploitation of Vulnerable Adults and the Elderly Act of 2016*. To date, PID has obtained injunctive relief and civil penalties against those who exploited the elderly and other vulnerable adults. Additionally, as part of its ongoing mission to recover monies owed to the District of Columbia, in FY18, the Civil Enforcement Section (CES) recovered nearly \$5 million for District agencies.

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.



In FY 2018, CLD handled approximately 600 civil litigation matters at any given time. In FY 2018, CLD won 95 of the 98 cases that were decided on motion or at trial - a success rate of 96 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 Fiscal Year 2018, CLD resolved hundreds of suits where the adjusted total demand against the District was approximately \$306.9 million. (The actual total amount demanded was approximately \$5.775 billion, but the \$5.775 billion amount includes a number of 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 \$306.9 million.) As a result of motions, settlements, and trials, we resolved all of these actions for approximately \$19.6M, resulting in claimed liability avoided of approximately \$287.3M in Fiscal Year 2018.

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. For FY18, the Commercial Division closed 557 court cases to retain \$127,386,078 in real property taxes achieving a nearly \$44 million increase in retained tax savings from the previous fiscal

year. The Division also advised the Office of the Deputy Mayor for Planning and Economic Development in 22 bond issuances totaling \$911,081,000 that resulted in the collection of \$1,860,220 in Public Financing Administrative Program Fees.

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 impressive win rate of around 92 percent. OSG also spearheads OAG's *amicus curiae* practice, drafting briefs on issues of national importance such as sanctuary cities, gun control, and qualified immunity. In recent months, OSG has filed two *amicus* briefs in the Supreme Court and nearly a dozen others in federal appellate and district courts. I am proud to report that our Solicitor General's Office is widely viewed as amongst the very best in the United States. We continue to attract lawyers from prestigious law schools, law firms and judicial clerkships, including the United States Supreme Court.

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

OAG continues to build upon the efforts we started in 2015 to transition into becoming a nationally recognized attorney general office. I am pleased to announce that OAG has made several investments in our infrastructure to elevate our ability to practice law more effectively and more efficiently. OAG continues to improve operational efficiency through smart

investments in technology. In fiscal year 2018, we identified a need to improve the efficiency of our Human Resources department, specifically shortening and simplifying the hiring process. As a result, we are implementing Halogen, which is state-of-the-art recruiting and onboarding software. Halogen widens candidate pools by leveraging social media and selected job boards to post and publicize all OAG job openings and also shortens the hiring process by automating candidate selection, interview scheduling and evaluations, and onboarding activities such as background check consent.

A key component of improving public communications and access to OAG services is our redesigned web site, OAG.DC.GOV. The site is built using secure, modern technologies that are constantly updated and leverages cloud computing for efficiency and operational continuity. OAG.DC.GOV was recognized by the Council of Western Attorney Generals, receiving the best consumer protection content award in 2018. An important result of revamping our website is that DC residents have found it easier to interact with us: the number of calls to our main switch has markedly decreased since information is readily available online.

I am pleased to report on the progress of Abacus, a case and document management system used to automate all OAG matters and their associated documents. This system is integrated with Criminal Justice Coordinating Council's JUSTIS data hub, containing arrest and court data. The results of this integration are rapid exchanges of arrest, prosecution, and docket data between OAG, the DC Superior Court, and the MPD. The first phase of this integration has almost eliminated paper from the juvenile prosecution process. The second phase of this

integration will allow prosecutors access to real-time docket and court calendar information. This time saving feature will eliminate the need to access separate systems, track emails, or share printed calendars.

As always, 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 to work at OAG to pursue the public interest on behalf of District residents.

### **Conclusion**

In 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.