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**Testimony of Julia Ward  
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**Before the Committee on the Judiciary and Public Safety  
Council of the District of Columbia**

**Performance Oversight Hearing Regarding the Office of the Attorney General**

**February 28, 2024**

Legal Aid DC<sup>1</sup> submits the following testimony regarding the performance of the Child Support Services Division (CSSD) of the Office of the Attorney General (OAG). CSSD is tasked with initiating child support cases, establishing and enforcing support orders, and collecting child support for families who request CSSD's assistance or who are required to engage with CSSD as a condition of their receipt of Temporary Assistance for Needy Families (TANF) funds. Legal Aid has worked closely with CSSD for several years, communicating and collaborating on individual cases as well as systemic advocacy efforts. We continue to litigate both with and against attorneys from OAG/CSSD via the Child Support Resource Center (CSRC), one of our courthouse offices where we assist otherwise unrepresented litigants. Although we frequently oppose OAG/CSSD in individual cases, we unreservedly share OAG/CSSD's goal of reducing poverty among District children.

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<sup>1</sup> Legal Aid DC was formed in 1932 to "provide legal aid and counsel to indigent persons in civil law matters and to encourage measures by which the law may better protect and serve their needs." Legal Aid is the oldest and largest general civil legal services program in the District of Columbia. Over the last 92 years, Legal Aid staff and volunteers have been making justice real – in individual and systemic ways – for tens of thousands of persons living in poverty in the District. The largest part of our work is comprised of individual representation in housing, domestic violence/family, public benefits, and consumer law. We also work on immigration law matters and help individuals with the collateral consequences of their involvement with the criminal justice system. From the experiences of our clients, we identify opportunities for court and law reform, public policy advocacy, and systemic litigation. More information about Legal Aid can be obtained from our website, [www.LegalAidDC.org](http://www.LegalAidDC.org).

Over the past several years, our relationship with OAG/CSSD has been collaborative and productive. We continue to maintain standing bi-monthly meetings with the leadership of CSSD to discuss issues arising in court, ideas for policy reform, and new ways we can jointly serve low-income residents of DC and increase access to justice. We are especially appreciative of Attorney General Schwalb for dedicating the time of his senior staff to participate in the meetings between Legal Aid and CSSD, and we note that this involvement has greatly increased the efficacy and productivity of our discussions. We fully expect that the positive and respectful collaboration between our organizations will continue, and we look forward to carrying the momentum on to other topics and areas of desired policy change.

Since 2012, we have testified before the Council annually regarding OAG/CSSD's performance, areas of concern, and ways in which we hope to collaborate with the agency in support of our goal of a better-functioning child support system in the District. In the past, our testimony has typically focused on larger issues with OAG's policy positions in parentage and support cases. We testify today to highlight areas of CSSD's current operations that require additional attention from the Attorney General and his management team to course-correct and improve. These issues may seem mundane compared to those we have raised in the past and, indeed, they are. Answering phones, calling clients sufficiently in advance of their hearings, pulling bank records to confirm income, checking whether someone is receiving Medicaid, filing consents to motions – these are the basics of the agency's operations. But when the basics are lacking, it leads to a perception of indifference from CSSD regarding the agency's mission and the residents served – most of whom are low-income families of color. We flag these recurrent issues today with the goal of encouraging OAG to pay attention and do better.

Child support orders should be fair and accurate, *and* the parents interacting with CSSD should be well-served and respected by the agency tasked with establishing and enforcing those orders. None of the issues we raise should be a surprise to OAG, as we have previously raised these concerns with the leadership team. We highlight them in this forum to ask that the Council join us in encouraging OAG to do better to make CSSD operations fair, accessible, transparent, and helpful to all DC residents.

### **CSSD Must Improve its External, Internal, and Inter-Agency Communications to Better Serve DC Families**

#### External Communication With “Customers,” Otherwise Known as Parents

CSSD provides vital services to families – those who request CSSD's assistance in initiating or enforcing court-ordered support, as well as those who had no choice but to interact and cooperate with the agency seeking support from their child's other parent as

a result of their receipt of certain public benefits. Legal Aid regularly interacts with parents from both categories with CSSD-involved child support cases. A recurring theme and source of frustration with the agency is the near-universal challenge of getting in touch with CSSD staff to obtain updates or just general information about their cases. Legal Aid also regularly hears complaints from litigants about the delays between their requests for help and CSSD's actions, including that CSSD does not provide explanations for delays. The two problems collide to cause maximum frustration.

Custodial parents who would like CSSD to initiate a case often state that they have reached out to CSSD and submitted the necessary information but that they then are left wondering for months – sometimes years – what is happening with their case. For many parents, the only way they can contact CSSD is through the main phone number, which takes callers to an automated phone tree. Parents tell Legal Aid that they cannot get in touch with the correct person when they call the main phone number and instead get the run-around and do not receive the personalized information or updates that they need. This is especially worrisome for litigants who are awaiting a first hearing in their case and who are not sure what to expect or what CSSD will require of them. However, even after an initial hearing, when a case is in the middle of continuing litigation, we often hear from litigants that they struggle to obtain updates from CSSD about their cases. There is not typically an assistant attorney general assigned to their specific case, they are not able to reach the courtroom attorneys directly even if there were, and anyone else they might be able to reach via the main line lacks access to what is happening in the case. When a custodial parent comes to Legal Aid confused as to why CSSD has not yet filed a case on their child's behalf, we are able to email CSSD's management directly to inquire. The answer is sometimes that CSSD has prepared the petition but is having trouble serving the non-custodial parent. In some cases, the custodial parent is able to help resolve the problem, but only because we were able to serve as a conduit for that critical update. We are concerned that not every litigant experiences the level of service we do when they are contacting CSSD without the assistance of an attorney.

Many parents report that, after months of silence from the agency, they are contacted by a CSSD employee only a few days before the hearing takes place. This short notice is disrespectful and extremely limits custodial parents' time to arrange to attend the hearing, much less seek out legal counsel or adequately prepare for the hearing. And if a parent misses the communication and is unable to return contact with CSSD before the hearing, their case may be delayed, without an accurate order, for several more months.

Legal Aid has observed how the delay in initiating cases impacts other aspects of litigation between the parties. When the same parties are involved in an ongoing custody case, one might expect it would be easy for CSSD to take advantage of the pre-existing case to intervene and move the support case forward on an expedited basis.

Distressingly, this is not what we have observed. Even when the custodial parent is an active TANF recipient and CSSD needs to be involved in the child support case, it is often difficult to obtain CSSD's assistance in the case while the parties are already appearing for custody hearings. Not only does this create delays in establishing a support order, it also needlessly prolongs the litigation process – and along with it, the acrimony between these parents. Custodial parents also experience similar, confusing delays when they are seeking assistance with enforcement of their existing child support orders – a fundamental service provided by CSSD.

### Internal Communication and Training

Beyond improving the communication between CSSD and litigants, we also urge CSSD to improve communication internally, specifically to their front-line staff who are interfacing with parties. Legal Aid has been pleased with the productive conversations we have had with CSSD leadership regarding their policies and legal positions. However, we have observed that sometimes the agency's positions as established or clarified by OAG leadership have not been disseminated to the line attorneys appearing in court or the legal support staff interfacing with litigants. For example, after Legal Aid and OAG/CSSD leadership discussed the prejudicial consequences to a custodial parent of CSSD requesting the entry of a \$0 support order when the custodial parent does not appear for their hearing, CSSD agreed to end the practice. This message, however, did not reach all of the line attorneys, at least one of whom continued to request the entry of an order that would prevent the custodial parent from re-instating their case at any time of their choosing and still seeking retroactive support. OAG needs to pay attention to how internal policy changes and best practices are communicated throughout CSSD to ensure that the staff members appearing in court as the Attorney General's representatives are up to date and consistent with the Office's positions.

In addition, Legal Aid has observed that some litigant-facing CSSD staff are not familiar with basic information that is needed by litigants who are part of a CSSD-involved child support case. For example, we have observed CSSD line attorneys state in court that they do not know the rates for court-ordered genetic testing, including that they do not know the agency's own negotiated rate for genetic testing. We have also observed CSSD line attorneys tell non-custodial parents in court for an enforcement proceeding that they do not know how a parent can work out a payment plan with CSSD to get back on track to lift an administrative enforcement action, such as a license suspension – even though both litigation and administrative enforcement are handled by CSSD and establishing a payment plan would benefit the entire family as well as CSSD.

At its core, CSSD is a customer service-based agency that serves and supports District residents. For most litigants, CSSD is involved in all aspects of their child support cases,

from initiation to enforcement. To properly serve District residents and ensure optimum customer service, CSSD must ensure its communication is as clear and accessible as possible.

### Inter-Agency Communications

Finally, we remain concerned about the limited communication between CSSD and the DC Department of Human Services (DHS) on cases that involve both agencies. CSSD and DHS are inextricably linked as DHS disseminates public benefits to District residents which then triggers CSSD's mandatory involvement in a child support case. As we have expressed in testimony over the last few years, we have worked with several litigants who have experienced the fallout of poor communication between DHS and CSSD first-hand in their child support cases. For some, the lack of communication and transparency between the two agencies resulted in TANF sanctions being inappropriately imposed on a parent due to alleged lack of cooperation in a child support case. This means a family must go with less money for basic necessities. For others, it included a child support case still being initiated by CSSD after a custodial parent and domestic violence survivor expressed to DHS that they were requesting a good cause waiver to exempt them from a child support case due to the danger the case might bring. We urge CSSD to continue to find ways to improve communication and transparency with DHS to ensure that District residents are obtaining the optimum level of service from both agencies.

### **Recommendations**

- CSSD should make themselves more directly accessible to litigants who are seeking their services and assistance.
- CSSD should reach out to litigants well in advance of their hearing date to ensure that litigants have adequate time to prepare and consult with legal services.
- CSSD should improve its internal training of litigation staff to ensure they are appropriately representing OAG's policies and legal interpretations to the court and parents.
- CSSD should ensure that their litigant-facing staff are familiar with information relevant to the agency's practices.
- CSSD must improve communication and information-sharing with DHS on cases that include overlap of services.

## **CSSD Should Make Active Use of its Agency Resources to Better Serve District Residents**

CSSD holds a substantial amount of power given its access to many government resources that inform the agency's litigation and enforcement efforts – crucial information that would otherwise be unknown to litigants or the court. CSSD can and should make better use of their substantial resources and access to make litigation more efficient for all parties, including by implementing more consistent, robust, and timely investigations as well as substantively responding to filed pleadings.

### CSSD Should Investigate Non-Custodial Parents' Income and Circumstances in Advance of Hearings

As the party initiating many of the support cases in the Parentage and Support Branch, CSSD should be preparing cases well in advance of the hearing date, so that the time in court is utilized for presentation of evidence and entry of orders by the court. When parties are not forthcoming with their income, CSSD has alternative options to gather that information from other sources, including the New Hires database, subpoenas to employers or banks, property information, business registrations and records, and credit reports. We have observed widely variable levels of investigation and service provided to litigants in ongoing cases. For some cases, it seems as though CSSD utilizes all of its investigative resources to attempt to gather relevant information, such as income information for the obligor parent. This is unfortunately more the exception than the rule, and even when CSSD takes this active role, it is typically only after a case has stagnated.

However, in many cases, CSSD seemingly takes a more passive role and does not utilize all of its government resources to investigate. We would like to see CSSD more uniformly leverage its power as a government agency to investigate and gather relevant information in parentage and support cases in order to achieve fair and just orders in cases. Ideally this investigation would happen early in the case to more efficiently move cases forward and establish orders without the need for multiple continued hearings. We particularly would like to see this investigative effort being made when cases are proceeding in default as the government could request an *ex parte* order that is based on actual income information rather than imputed income against the absent party. Perhaps most importantly, CSSD can, should, and must verify whether parents are receiving any means-tested public benefits before proceeding in a party's absence.

CSSD Should Thoughtfully Consider and Meaningfully Respond to Parents' Requests for Changes in Orders

When Legal Aid litigates cases against CSSD, we often find that CSSD is not taking actions that could improve the efficacy of the litigation process. CSSD often does not file responsive pleadings to motions filed by the obligor parent or their counsel, and if they do file a responsive pleading, it is often a form or template pleading that lacks specificity or particularity to the case itself. In their written responses to the Council's pre-hearing questions, OAG conceded that it is their practice *not* to file a consent, ever; they either oppose or take no position. OAG Responses for FY23-24 Performance Oversight Hearing, Question 34(c). This practice is lazy and does nothing to move cases forward.

The Parentage and Support Branch is a high-volume branch of DC Superior Court, and CSSD is involved in a majority of cases heard on a typical day. If CSSD reviewed motions in advance of hearings and assessed whether the requested relief was based on facts and in line with the law, they could file consent answers in advance of the scheduled hearings, allowing the court to grant the motion without the need for a hearing. Filing consent answers in advance would reduce pervasive calendar congestion and reduce the waiting time for other litigants whose cases require a hearing and an opportunity to be heard. CSSD could also make proceedings more efficient if the agency reviewed cases prior to hearings and proactively took appropriate steps to progress the case before appearing before the Court. For example, when motions are filed that necessitate an audit to be administered prior to adjudication, CSSD should complete that audit in advance of the hearing and come prepared to the hearing with the audit results, rather than following the current practice of attending the hearing to state to the Court that a continuance is needed in order to conduct an audit. Small changes such as these in the agency's practice would have a large impact on litigants' experiences and the court's calendar.

**Recommendations**

- CSSD should continue reviewing and revising its internal policies and practices regarding the circumstances under which it will consent to motions without waiting for a hearing.
- We encourage CSSD to review litigant pleadings closer to the time of filing to identify issues on which they may consent and prepare more effectively for hearings to ensure quicker resolution.

## **CSSD Must Reaffirm its Commitment to Effectively Assisting Domestic Violence Survivors Seeking Their Services**

We are deeply concerned to recently learn through a meeting with CSSD leadership that CSSD has eliminated its special expedited process for obtaining child support orders when a custodial parent is seeking a Civil Protection Order against the non-custodial parent. We are also frustrated that there seems to be mixed messaging regarding the availability of this service, as OAG's written pre-hearing responses to the Council indicate that they are continuing with the longstanding pre-pandemic practice of providing expedited child support assistance to domestic violence survivors seeking child support – a statement belied by our own experience with our survivor clients, our practice in court, and CSSD leadership's recent statements to us. Indeed, CSSD has informed us that they simply do not have adequate staff to support the continued existence of this service, are not currently providing it, and have no plans for future re-implementation of it.

We are severely disappointed that CSSD does not view this program as an essential service for District residents who need more expedited assistance with child support while they are embroiled in or attempting to leave a domestic violence situation. In its prior iteration, CSSD offered an expedited process by which they would file a petition for support and serve a non-custodial parent who was the Respondent in a Civil Protection Order case within the time frame of that case – typically, two weeks. OAG attorneys would then litigate these expedited support matters separate from the Civil Protection Order cases but on a similarly expedited basis, ensuring a critical source of financial support for a custodial parent attempting to extricate themselves and their children from a violent relationship. CSSD's involvement also meant that agency attorneys were responsible for requesting the support rather than leaving it to the survivor – often unrepresented – thereby increasing the likelihood of a settlement in the CPO matter and shortening the contentious litigation in which the survivor was directly involved.

CSSD's current handling of requests for assistance for domestic violence survivors is grossly inadequate in that they no longer attempt to file a petition in time to serve a non-custodial parent at their CPO proceeding – a practice often critical to accomplishing timely service – and no longer litigate these cases in parallel expedited proceedings. We have been told that CSSD does not have the staff to serve Respondents in court and that they are unwilling to allow courtroom staff to execute service instead. We have also been told – erroneously – that CSSD's current practice does not prejudice survivors because they can obtain child support in their CPOs, allowing CSSD two full years to get a separate case started.

This position and the elimination of this service ignores the practical reality of domestic violence survivors seeking a Civil Protection Order. Although survivors have the option to



request child support in their CPO, most opposing parties refuse to consent to paying child support, even if they are otherwise willing to consent to the entry of the CPO itself. This forces a survivor to choose: do they forgo child support or accept a lower amount in order to avoid an adversarial trial against their abusive co-parent, or do they proceed to trial – again, typically unrepresented – to attempt to prove the crime underlying their request for a CPO so that the court can order child support within the CPO? Without the government's assistance, a survivor may not have the concrete information on their non-custodial parent's income necessary to establish an accurate child support order, and the Court is frequently reluctant to delve into the issue of child support during a time-sensitive CPO hearing. Furthermore, even if a survivor decides to face the trauma and risk of a trial and is awarded a CPO with child support, that child support order is only effective for the duration of the CPO – usually two years. This then places the burden on the survivor to take the necessary steps to initiate a separate child support case in the Parentage and Support Branch and engage in additional litigation against an abusive party to ensure that they obtain the ongoing child support to which they are entitled.

CSSD's expedited servicing of cases for domestic violence survivors was a crucial service. The shift away from meaningfully helping survivors obtain timely orders for child support places an unnecessary burden on custodial parents and may result in some returning to an abusive relationship. We are hopeful that the Attorney General – now aware of this reality – will resume CSSD's prior expedited services for survivors.

### **Recommendations**

- The Committee should inquire about OAG/CSSD's staffing priorities and resources devoted towards providing expedited parentage and support case assistance to domestic violence survivors.
- The Committee should question why OAG's written responses to their pre-hearing questions contain misinformation about CSSD's current operations.

### **CSSD Should Continue to Reevaluate Policy Positions and Assess How to Best Accomplish the Agency's Goals and Mission**

Last year, Legal Aid was proud of its contributions to the Paternity Establishment Amendment Act of 2022, requested by OAG and passed by this Council to amend the District's laws surrounding parentage, allowing families to access court-ordered genetic testing more easily. We are extremely grateful to OAG for allowing us to share our clients' experiences and for listening to our suggestions for statutory changes, and we are thrilled that this legislation is now in effect and providing actual relief to District residents. Additionally, we are pleased that CSSD has changed its stance and is no

longer seeking reimbursement from putative parents who request court-ordered genetic testing. For many District residents, such DNA testing would be prohibitively expensive without CSSD's intervention, and we are thankful that CSSD is assisting District families in this way.

We encourage CSSD to apply this same principle of reconsideration to other positions it takes in parentage and support cases and to thoughtfully consider if its current positions further the agency's goals in supporting and serving District residents, alleviating poverty, and ensuring that parties are subject to fair and just child support orders that are rooted in the law. In particular, we are concerned when we see CSSD line attorneys taking positions that we believe are directly and obviously contrary to the law. For example, we consistently see CSSD take the position that Medicaid is *not* a means-tested public benefit, thereby asserting that the Court may impute income to a litigant receiving Medicaid.<sup>2</sup> We believe that this stance is clearly contrary to the plain language of the D.C. Child Support Guidelines and results in improperly imputed income to parents with limited means, to the detriment of those parents as well as the family as a whole. Imputing income leads to unpayable orders, rapidly accrued arrears, and enforcement actions that hurt parents' employment opportunities, such as suspending a driver's license or negatively affecting one's credit score. In turn, these results lead to parent's decreased involvement in their children's lives, negative child outcomes, and negative health consequences for the indebted parents. Yet OAG continues to advise its attorneys to request imputation in the face of the law, which states, "The judicial officer shall not impute income to a parent who is physically or mentally unable to work or who is receiving means-tested public assistance benefits." D.C. Code 16-916.01 (c)(10).

We urge the Attorney General and his leadership at OAG to review and reevaluate CSSD's litigation positions to ensure CSSD attorneys are consistently requesting relief that is fair and within the bounds of the law set by this Council. If there is a need or desire for a legislative change, we remain open to discussing any proposals with OAG and the Council.

### **Recommendations**

- The Council should inquire about CSSD's positions on circumstances in which they seek imputation of income even when a Respondent is receiving means-tested public benefits, specifically Medicaid.

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<sup>2</sup> We note that OAG's written responses for Performance Oversight indicated that they are currently revisiting their position on this issue. OAG Responses for FY23-24 Performance Oversight Hearing, Question 71(b).

- We encourage OAG to continue to dedicate the time and attention of leadership staff to review and reevaluate CSSD's litigation positions, policies, and systemic priorities.

### **Conclusion**

CSSD provides a critical service to the many District children for whom support increases their standard of living and, not infrequently, boosts them above the poverty line. CSSD's operations should reflect the importance of the work they are doing and demonstrate respect for the residents they serve.

Legal Aid appreciates the opportunity to share our perspective on working with the Child Support Services Division of the Office of the Attorney General as well as the experience that our clients have had with CSSD. We are grateful for OAG's continued collaboration with our office and we hope our feedback today will lead to improvements in the agency's service for District residents.