



COUNCIL FOR COURT EXCELLENCE

**Statement  
of the Council for Court Excellence  
before the  
Committee on Public Safety and the Judiciary  
Council of the District of Columbia**

**Agency Performance Oversight Hearing  
on the  
Office of Administrative Hearings**

**March 9, 2009  
10:00 am**

Good morning, Chairman Mendelson and members of the committee. My name is Peter M. Willner. I am a Senior Policy Analyst at the Council for Court Excellence and served as the DC Council's appointee on the Commission of Selection and Tenure of ALJs from January 2004 to April 2008. My testimony today is on behalf of the Council for Court Excellence regarding the performance of the DC Office of Administrative Hearings. No judicial member of CCE participated in the formulation of this testimony.

The Council for Court Excellence is a local nonpartisan civic organization founded in 1982 to improve the administration of justice in the courts and related justice agencies in the District of Columbia. For 27 years, CCE has been a unique resource that brings together members of the civic, legal, business, and judicial communities to work in common purpose to identify and promote court reforms, improve public access to justice, and increase public understanding and support of our justice system.

CCE has worked closely with the DC Council on many issues, including the Office of Administrative Hearings Establishment Act of 2001 and subsequent amendments.

The Council for Court Excellence would like to express its support for the work of the DC Office of Administrative Hearings. We believe it important remember the serious problems



that existed before OAH's establishment, which CCE documented in its 1999 study of the DC administrative adjudicatory system. Prior to OAH, there was little certainty that litigants, including residents and businesses, would receive prompt, efficient decisions perceived by them to be fair. Also at the time, there was wide variance in the qualifications for administrative law judges; in fact, some ALJ's had not passed any state bar exam. That was the landscape then; we believe there has been considerable improvement since that time.

The first six-year term of the Chief Administrative Law Judge is set to expire in the coming months. The six-year term limit, along with increased job protections for the Chief ALJ, distinguishes the Chief ALJ position from most other agency directors. The criteria used by the Mayor to appoint or reappoint the Chief ALJ, and the criteria the DC Council uses to evaluate the Mayor's decision, is important public information.

While the Council for Court Excellence has a firm policy against commenting on the appointment or reappointment of judicial officers, CCE has previously commented on the importance of the OAH Chief ALJ position in a hearing before this committee on the OAH Establishment Act of 2001.

The CCE testimony, provided on May 23, 2001, by CCE Board members James Mercurio and Ronald Jessamy, in relevant part, reads, "permit us to briefly comment for the record on the issue of the selection of the Chief Administrative Law Judge of the proposed OAH agency. The subject will be critically important to the proper implementation and credibility of the Office, whatever its final form. Other jurisdictions have benefited from the selection of a Chief Administrative Law Judge who is well-experienced and independent. The success of the proposed OAH agency may be determined in large part by the character, competence, and



COUNCIL FOR COURT EXCELLENCE

credibility of its first Chief. This, in our view, is a polestar consideration that must be kept in mind in framing the OAH legislation.” We believe this perspective is still relevant today.

This concludes the testimony of the Council for Court Excellence. I would be happy to address any questions that you may have.