

THE PUBLIC DEFENDER SERVICE

for the District of Columbia



CHAMPIONS OF LIBERTY

Fiscal Year 2011

Congressional
Budget Justification

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PUBLIC DEFENDER SERVICE
Fiscal Year 2011 Budget Justification

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LEGAL AUTHORITY AND MISSION

The Public Defender Service for the District of Columbia (PDS) is a federally funded, independent organization governed by an eleven-member Board of Trustees. Originally operating as the Legal Aid Agency from 1960 to 1970, PDS was created in 1970 by a federal statute¹ enacted to comply with a constitutional mandate to provide defense counsel to indigent individuals.² The mission of PDS is to provide and promote quality legal representation to indigent adults and children facing a loss of liberty in the District of Columbia justice system and thereby protect society's interest in the fair administration of justice.

A major portion of the work of the organization consists of representing individuals in the District of Columbia's local criminal justice system who are charged with committing criminal acts. Also, PDS provides legal representation to people facing involuntary civil commitment in the mental health system, as well as to many of the indigent children in the most serious delinquency cases, including those who have special education needs due to learning disabilities. PDS attorneys represent indigent clients in the majority of the most serious adult felony cases filed in the Superior Court every year, nearly all D.C. Code offenders facing parole revocation, and all D.C. defendants requiring "stand in" Drug Court representation at sanctions hearings. In addition, PDS provides technical assistance to the local criminal justice system, training for panel and pro bono attorneys, and additional legal services to indigent clients in accordance with PDS's enabling statute.

In 1997, Congress enacted the National Capital Revitalization and Self-Government Improvement Act of 1997 (the Revitalization Act),³ which relieved the District of Columbia of certain "state-level" financial responsibilities and restructured a number of criminal justice functions, including representation for indigent individuals. The Revitalization Act instituted a process by which PDS submitted its budget to Congress and received its appropriation as an administrative transfer of federal funds through the Court Services and Offender Supervision Agency (CSOSA) appropriation. With the enactment of the FY 2007 Appropriation Act, PDS now receives a direct appropriation from Congress. In accordance with its enabling act and the constitutional mandate it serves, PDS remains a fully independent organization and does not fall under the administrative, program, or budget authority of any federal or local executive branch agency.

Since its creation, PDS has maintained a reputation in the District of Columbia criminal justice system for exceptional advocacy. The strength of PDS has always been the quality of the legal services that the organization delivers. Judges and prosecutors alike acknowledge and respect the excellent advocacy of PDS's attorneys, as do public defender agencies, criminal justice bars, and law schools across the nation.

¹ Pub. L. No. 91-358, Title III, § 301 (1970); *see also* D.C. Code § 2-1601, *et seq.*, 2001 ed.

² *Gideon v. Wainwright*, 372 U.S. 335 (1963).

³ Pub. L. No. 105-33, Title X (1997).

PUBLIC DEFENDER SERVICE BUDGET REQUEST SUMMARY

FY 2011 Summary of Changes

	Permanent Positions	FTE	PDS Need Amount (\$ in 000s)
FY 2010 Operating Budget	235	232	36,816
FY 2011 Adjustments to Base:			
Pay Raises	0	0	1,933
Nonrecurring Expenses	0	0	0
General Pricing Level	0	0	441
Total, Adjustments	0	0	2,374
FY 2011 Base	235	232	39,190
Program Changes:			
	0	0	0
Nonrecurring Expense	0	0	1,500
FY 2011 Request	235	232	40,690

FISCAL YEAR 2011 REQUIREMENTS

The Public Defender Service for the District of Columbia (PDS) requests an operating budget of \$39,190,000 for Fiscal Year (FY) 2011. In addition, PDS needs \$1,500,000 for modernization of its eleven-year-old telephone system.

PDS's operating budget request reflects an increase of 6.5 percent, or \$2,374,000, from PDS's enacted FY 2010 budget of \$36,816,000. The increase will provide for inflationary increases in compensation and fixed costs.

Resource Request

Telecommunications System

Overview: In keeping with its mission and goals, PDS requests \$1,500,000 as a nonrecurring increase to base funding for costs associated with the acquisition, installation, and implementation of a state-of-the-art telephone system.

Summary and Justification: A subset of PDS goals and objectives concerns the infrastructure that supports attorneys and administrative staff in the performance of their duties. Reliable telecommunications and data management are essential in any organization and are crucial to effective representation of PDS clients and in the day-to-

day administrative management of PDS. Unfortunately, the current telephone PBX telephone system, manufactured by Nortel Networks, is eleven years old and is deteriorating because of age, environmental factors, and pest damage. PDS's IT infrastructure is antiquated and has become increasingly unreliable, necessitating a complete data and voice cabling upgrade in PDS's headquarters building. Compounding this problem is Nortel's Chapter 11 bankruptcy and the attendant reduction of local service, technical support, and the number of spare parts.

The PDS Information Technology Division conducted a comprehensive review of PDS's voice and data network infrastructure. Elements considered during this review included: (1) vendor institutional sustainability to support current systems and products; (2) industry leading indicators, including interoperability, business continuity, and disaster recovery planning; (3) provision for expansion of services and service area; (4) coordination and integration with PDS remote locations; and (5) cost containment. Telecommunications services and institutional data management have changed significantly over the past five years. The changes encompass new technologies that combine voice, data, and video as a fully integrated solution of technologies for end users. This combination technology offers many advantages to a diverse organization such as PDS, but these improvements will require a basic foundational upgrade to PDS's technology infrastructure, starting with upgrades to PDS's network cabling system.

Analysis: Comparison of industrywide best practices with the current PDS telecommunications infrastructure reveals significant risk factors in two areas: operational risk and institutional risk. Nortel Networks, a Canadian based company, filed for Chapter 11 bankruptcy in January of 2009, and is selling off assets. The overall stability of Nortel as a commercial entity has come under question in multiple news articles and raises true concerns regarding supportability, hardware availability, long-term manufacturer support, and the availability of hardware and spare parts. The operational risk of replacing failed elements of the current voice infrastructure is high, and replacement may be impossible should Nortel Networks fail to reorganize under Chapter 11. It is impossible to predict with certainty the manufacturer's ability to support its products long term. There is a real risk that key hardware elements may become obsolete and will no longer be supported by the manufacturer.

PDS currently uses a Nortel CS1000E telephone system solution that employs 359 telephone handsets, and 294 fax and voice mail service sets. These features meet current demand, but do not allow for any growth in services. PDS's work force grows more technically savvy each year and will require features unavailable from Nortel. In the future, more staff will work via remote connections or in virtual offices, creating more demand for expanded telecommunications services and infrastructure. The standard desktop telephone can be supplemented by a host of integrated mobile devices including smart phones, personal digital assistants, and virtual faxes. In addition, PDS will require a communications system that is nimble enough to support telecommuters,⁴ headquarters, and satellite workers seamlessly as they move between locations.

⁴ The main legislative mandate for telecommuting was established in 2000, Pub. L. No. 106-346, § 359. This law, which PDS looks to for guidance, states that "[e]ach executive agency shall establish a policy under which eligible employees of the agency may participate in telecommuting to the maximum extent possible without diminished employee performance."

Solutions: Doing nothing leaves unacceptable risks in place. The current phone system is technically obsolete and unreliable, and Nortel's future is uncertain. In May 2009, PDS suffered a widespread eight-hour phone and fax outage directly attributable to Nortel equipment failure. Primary telecommunications hardware failed, which caused an outage that affected 64 of more than 250 users of fax and conference services at PDS. Service was restored only after PDS network engineers applied an electronic patch. The cost to bring PDS's Nortel equipment up to carrier class operational levels would be exorbitant and buy only a few more years of useful life.

Without doubt, the best option for PDS is migration to a Voice over Internet Protocol (VoIP) telephone system. VoIP is technically proven, cost effective, and a good long-term value but requires initial capital investment and planning. VoIP enjoys a significant cost advantage over conventional telephone equipment, is easier and less expensive to maintain, and is very robust and scalable. VoIP offers PDS the flexibility needed to meet future telephone needs. PDS's experienced network engineers, one of whom is Project Management Institute certified, are fully capable of managing this project. VoIP technology has been adopted by a number of federal agencies (e.g., Department of Defense, Department of State, Federal Aviation Administration, U.S. Postal Service, Department of Transportation, Department of Energy, National Aeronautics and Space Administration, and the Social Security Administration).

PROGRAM DESCRIPTIONS

Legal Services

PDS and private attorneys, both appointed by the District of Columbia courts pursuant to the Criminal Justice Act (CJA),⁵ provide constitutionally mandated legal representation to indigent people facing a loss of liberty in the District of Columbia. PDS handles a majority of the most difficult, complex, time-consuming, and resource-intensive criminal cases, while private attorneys (CJA lawyers) handle the majority of the less serious felony, misdemeanor, and regulatory offenses. PDS is a model program applying a holistic approach to representation. PDS uses both general litigation skills and specialty practices to provide complete, quality representation in complex cases. While PDS is a single program, PDS divides its attorneys and professionals into specific functions to promote overall representation in individual cases. PDS staff attorneys are divided into seven practice groups: the Trial Division, the Appellate Division, the Mental Health Division, the Special Litigation Division, the Parole Division, the Civil Legal Services Division, and the Community Defender Division. The attorneys in the various divisions provide advice and training to each other, and they often form small teams to handle particularly complex cases.

Using this team approach, PDS undertook 15,430 legal matters in FY 2009. As described below, these matters encompassed a wide range of legal representation including homicide trials, special education proceedings, parole revocation hearings, disciplinary hearings for detained children and adults, a class action suit on behalf of children in the custody of the District of Columbia, involuntary civil commitment proceedings, and

⁵ D.C. Code § 11-2601, *et seq.*, (2001).

groundbreaking appellate level representation. The level of performance achieved by PDS staff in FY 2009 was a continuing demonstration of what was reflected in the results from a survey of judges conducted in 2008 pursuant to PDS's strategic plan. As was the case with the 2004 judicial survey, 100 percent of those responding agreed that PDS staff "provide and promote quality legal representation to indigent children and adults facing a loss of liberty." In a slight improvement over the 2004 survey results, 100 percent of those responding agreed that PDS staff are "skillful in both oral and written advocacy."

Trial Division

Staff attorneys in the Trial Division zealously represent adults in criminal proceedings in the District of Columbia Superior Court or provide zealous legal representation to children in delinquency matters. Attorneys are assigned to specific levels of cases based on experience and performance. As a result of intensive supervision and ongoing training, attorneys generally transition over the course of several years from litigating juvenile delinquency matters to litigating the most serious adult offenses. The most seasoned attorneys in the Trial Division handle the most complex and resource-intensive adult cases. For example, senior PDS attorneys routinely handle cases involving DNA evidence, expert testimony, multiple-count indictments, and novel or complex legal matters. This group of highly trained litigators provides representation in the majority of the most serious adult felony cases filed in the Superior Court each year.⁶

Less senior Trial Division staff attorneys handle the most difficult or resource-intensive delinquency cases – cases involving children with serious mental illnesses or learning disabilities or with serious charges – and handle some general felony cases and a limited number of misdemeanor cases. Trial Division staff attorneys also provide representation in a wide range of other legal matters through PDS's Duty Day program and the Superior Court's Drug Court program.

Appellate Division

The attorneys in the Appellate Division are primarily responsible for handling the appellate litigation generated in PDS cases, providing legal advice to CJA attorneys in appellate matters, and responding to requests from the District of Columbia Court of Appeals for briefs in non-PDS cases involving novel or complex legal issues. Another important function of the Appellate Division is to provide a wide range of technical assistance and training to other PDS divisions. The Appellate Division attorneys' knowledge and experience allow them to assist in complex cases without having to perform long hours of original research each time difficult legal issues arise. The reliance on this division by the District of Columbia Court of Appeals is demonstrated by the court's emphatic and repeated requests that PDS expand its staff of appellate specialists to assist the court in reducing its backlog without compromising on quality.

⁶ In FY 2009, PDS was assigned to 71 percent of the Felony One cases and to 51 percent of the Accelerated Felony Trial Court (AFTC) cases. Felony One cases include all homicides, and AFTC cases include all "while armed" offenses that carry potential life sentences and are to be tried within 100 days.

Mental Health Division

Attorneys in the Mental Health Division (MHD), located on the grounds of St. Elizabeths Hospital⁷ in the District of Columbia, handle the majority of the involuntary civil commitment cases that arise in the Superior Court.⁸ PDS is initially appointed when a person is detained in a mental hospital upon allegations that the person is a danger to himself or others as a result of mental illness. MHD lawyers also represent persons in post-commitment proceedings, including commitment reviews and outpatient revocation hearings; in involuntary commitment proceedings of persons found incompetent to stand trial because of mental illness or mental retardation; and in matters relating to persons found not guilty by reason of insanity in Superior Court or in United States District Court cases. The lawyers in this division also provide information to the District of Columbia Council on proposed mental health and mental retardation legislation, conduct training sessions on the rights of mentally ill persons involved in civil commitment actions, and provide legal assistance to CJA lawyers appointed by the court to handle involuntary civil commitment cases.

Special Litigation Division

The Special Litigation Division (SLD) handles a wide variety of litigation that seeks to vindicate the constitutional rights of PDS clients, to ensure equal justice to all in the D.C. courts, and to change unfair systemic criminal justice practices. An example of such litigation is the *Jerry M.* lawsuit brought on behalf of the children committed to the care of the District of Columbia following delinquency proceedings. SLD attorneys also support PDS trial lawyers in the litigation of systemic criminal justice issues, including eyewitness identification issues, forensic science issues, and issues pertaining to the suppression of exculpatory information by the government. SLD attorneys have appeared before all the major courts in the District of Columbia – the Superior Court and the Court of Appeals in the local system, and the District Court for the District of Columbia, the Court of Appeals for the D.C. Circuit, and the U.S. Supreme Court in the federal system.

Parole Division

The Parole Division provides required representation to nearly all D.C. Code offenders facing revocation before the U.S. Parole Commission.⁹ In addition, this division provides legal assistance to D.C. inmates housed throughout the country in Federal Bureau of Prisons facilities who write letters requesting counseling regarding parole eligibility matters and other related issues.

⁷ Plans announced by the District of Columbia for development of portions of the St. Elizabeths campus will require PDS to relocate this division. PDS has occupied space at St. Elizabeths at no charge. PDS's main office cannot accommodate this division. As a result, PDS has plans to sign a lease for new space to house this division before the end of this fiscal year. PDS's FY 2009 enacted budget included \$700,000 for an office move and the associated initial rent payments. Congress appropriated this money in FY 2009 as "two-year" funds.

⁸ In FY 2009, PDS was appointed to 61 percent of the involuntary commitment cases filed in the District of Columbia.

⁹ In FY 2009, PDS handled over 95 percent of parole and supervised release revocations.

Civil Legal Services Division

The Civil Legal Services Division (CLS) provides wrap-around services to address issues facing children in the delinquency system that often hinder their successful reintegration into the community. CLS has a team of special education attorneys expert in advocacy under the federal Individuals with Disabilities Education Act (IDEA), which mandates special accommodations in public schools for children who cannot be adequately educated in a traditional classroom setting due to learning disabilities or other physical or intellectual challenges. In addition, CLS includes civil legal services attorneys who address other rehabilitative needs of these children and the needs of adult clients by providing representation in civil matters arising out of their criminal charges – civil matters such as those related to public benefits entitlement, housing, child support, and health care services. CLS also provides expert consultation for attorneys with clients in the criminal justice system who face immigration consequences.¹⁰

Community Defender Division

The Community Defender Division provides services through three programs: (1) the Juvenile Services Program represents children at institutional disciplinary hearings at the District's youth detention centers and works with community organizations to develop reentry programs that address the special needs of children; (2) the Institutional Services Program serves as the PDS liaison to D.C. Code offenders held in Federal Bureau of Prisons facilities, to provide information to assist D.C. Code offenders and monitor their conditions of incarceration; and (3) the Community Reentry Program responds to the legal and social services needs of newly released individuals, assisting them in making a successful transition back into the community; special consideration is given to returning D.C. Code offenders who are not served by the Court Services and Offender Supervision Agency (CSOSA).

Legal Support Services

Legal Support Services is composed of various professionals within PDS who work closely with attorneys on individual cases: the Investigations Division, the Offender Rehabilitation Division (ORD), and the Defender Services Office (DSO). Investigators ensure that each case is carefully investigated prior to a decision to accept a plea offer or proceed to trial.¹¹ Forensic social workers in ORD provide presentencing assistance to address mitigation issues and to provide program alternatives for appropriate clients.¹² Other legal support services include a multi-lingual language specialist to facilitate communication with non-English speaking clients, a librarian to manage PDS's

¹⁰ Defense attorneys have an obligation to advise their clients of the possible immigration consequences of their decisions concerning plea offers. *See Goodall v. United States*, 759 A.2d 1077, 1083 (D.C. 2000).

¹¹ *See e.g., Kimmelman v. Morrison*, 477 U.S. 365 (1986) (failure to investigate and present Fourth Amendment claim was constitutionally ineffective assistance of counsel).

¹² *See Wiggins v. Smith*, 539 U.S. 510 (2003) (decision of counsel not to expand their investigation of petitioner's life history for mitigating evidence beyond presentence investigation report and department of social services records fell short of prevailing professional standards).

specialized collection and electronic access to research, and two paralegals who work on cases and projects.¹³

Investigations Division

The Investigations Division supports all the legal divisions of PDS, in particular, the Trial Division, by providing thorough and professional investigative work, which includes locating witnesses, conducting field interviews, taking written statements, serving subpoenas, collecting police reports, copying court and administrative files, and preparing exhibits for trials and other hearings. In addition to producing exceptional investigation in PDS cases, the staff conducts initial and ongoing training to court-certified CJA investigators who provide investigation services to the panel attorneys.

Offender Rehabilitation Division

The Offender Rehabilitation Division (ORD) is composed of experienced forensic social workers who assist in recommending appropriate sentences to the Superior Court. The ORD forensic social workers are skilled “mitigation specialists” who often directly address the court at sentencing to provide information about viable alternatives to incarceration such as community-based, rehabilitative treatment. Because the ORD staff is well versed in all of the D.C. area rehabilitative programs (for example, drug treatment, job training, education programs, and parenting classes), the staff is frequently asked to provide consultation for judges, CJA lawyers, and others in the criminal justice system. In addition to their invaluable advocacy work, the staff of ORD prepares a comprehensive annual *Directory of Resources for Adults* and a biennial *Directory of Youth Resources* that list a wide range of services available to adults and children in the criminal justice system. These directories, available on the PDS website, are used by CSOSA, the Superior Court, and many other agencies and organizations working with clients in the criminal justice system.

Defender Services Office

The Defender Services Office (DSO) supports the court appointment system by determining the eligibility for court-appointed counsel of almost every child and adult arrested in the District of Columbia, and coordinating the availability of CJA attorneys, law school students, *pro bono* attorneys, and PDS attorneys for appointment to new cases on a daily basis.¹⁴ The DSO operates six days a week, including holidays. PDS attorneys work a similar schedule to be available for client representation and other needs of the court system.

¹³ As explained above, PDS operates as a single program, allowing it to shift resources between specialties as needed. Currently, PDS has thirteen forensic social workers, twenty-eight investigators, two paralegals, one translator, one forensic scientist, one contract forensic fellow, and one library technician who support the lawyers in their casework. In addition, there are fourteen administrative assistants supporting the 172 lawyers and professional staff who provide direct client services.

¹⁴ This office is currently staffed with twelve professionals who in FY 2009 conducted eligibility interviews and assisted in the appointment process for over 35,000 cases.

Administrative Support

PDS has a number of divisions that provide technical assistance to PDS staff. Though small, these divisions effectively support the overall functioning of PDS using both internal expertise and outside contracts for short-term selective expertise. These divisions include Budget and Finance, Human Resources, Information Technology, and Administrative Services.¹⁵ In concert with individual attorneys and the PDS executive staff, these divisions provide such services as: procurement of expert services for individual cases, financial accountability,¹⁶ strategies for developing PDS's human capital, development of an electronic case management system, training on technological advances for graphic presentation in court, and copying and supply services.

Though PDS is made up of a number of divisions and legal practice groups, each group and each employee's work are valued for the manner in which they enhance direct client representation. PDS's single program approach allows PDS to manage and adjust its staffing to bring the ideal mix of general skills and specialized expertise to each case according to the client's needs.

PDS ACCOMPLISHMENTS

PDS remains a vital part of the District of Columbia justice system, maintaining the office's longstanding tradition of providing exceptional representation to clients and helping to ensure that case outcomes are not driven by an individual's ability to pay for an attorney. PDS's skills have been recognized over time by

- a report of an evaluation of PDS conducted by the National Legal Aid & Defender Association that commends PDS for the quality of the services it provides;
- requests from defender offices around the country for assistance, pleadings, and other materials developed by our specialty practice groups;
- the hundreds of applications PDS receives each year from talented individuals seeking to become PDS staff attorneys and PDS law clerks and interns;
- a request from the U.S. Supreme Court for a PDS attorney to brief and argue one of its matters;
- awards received by both PDS and its staff from various bar and defense organizations; and
- the consistently high ratings District of Columbia trial and appellate judges gave PDS when surveyed about the quality of legal representation PDS provides.

Most recently, the exceptional quality of the advocacy of PDS's staff was recognized in connection with four events: the U.S. Supreme Court granted PDS's petition for certiorari in *Robertson v. United States ex rel. Watson*, where the question presented is: "whether an action for criminal contempt in a congressionally created court may constitutionally be brought in the name and pursuant to the power of a private person, rather than in the name and pursuant to the power of the United States"; the U.S.

¹⁵ These four divisions are currently staffed with thirty professionals.

¹⁶ While a clean audit is an expectation and not an accomplishment for PDS's Budget and Finance Division, it is worthy of note that PDS continues to receive clean financial audits.

Supreme Court, both the majority and the dissent, relied on PDS's *amicus* submissions in the 5-4 decision in *Montejo v. Louisiana*, 129 S.Ct. 2079 (2009); a federal trial judge invited PDS's Special Litigation Division to serve as an *amicus* in *U.S. v. Zhenli Ye Gon*¹⁷ to address constitutional violations of the government's duty to provide exculpatory information to the defense; and the District of Columbia Bar announced that the chief of PDS's Mental Health Division has been selected to receive in the spring of 2010 the Bar's award for excellence in government service.¹⁸

Performance

The September 2009 issue of *Washington Lawyer*, a magazine published by the District of Columbia Bar, included a cover article, "Gideon: Right to Counsel," that described how poorly the right to counsel has been implemented in the United States.¹⁹ The article observed that PDS is an exception:

The Public Defender Service for the District of Columbia, the only local defender office funded by Congress, is considered the gold standard for the rest of the country. It is one of the only offices in the United States that consistently meets nationally recognized standards for indigent defense, including safeguards to protect its lawyers from judicial or political pressures, a commitment to providing investigative services, and a one-of-a-kind caseload management system that ensures lawyers never have so many clients that they cannot ethically represent each of them.²⁰

PDS continues to work to maintain – and improve upon – this reputation. These efforts are vital to protecting the integrity of the criminal justice system. Many cases handled by PDS in FY 2009 provide chilling evidence of the critical role played by PDS in ferreting out injustice, but none more so than *United States v. Gates*, F-6602-81, in which PDS secured the exoneration of a man who spent 28 years in prison for a crime he did not commit.

The case was tried in 1981 by a private attorney. The government relied on three pieces of evidence to secure a conviction: microscopic hair analysis by the FBI, testimony from a paid informant, and evidence of prior bad acts by the defendant or "other crimes evidence."

But for PDS's involvement through its Special Litigation Division starting in 2007, the full extent of the miscarriage of justice in this case would not have been uncovered. PDS's expertise in forensic evidence, its perseverance in locating documents in this decades-old case, and its litigation before the court not only uncovered biological evidence proving Mr. Gates's innocence but also identified significant flaws in the trial

¹⁷ Case No. 1:07-cr-00181. The Federal Public Defender for the District of Columbia joined PDS in filing the brief.

¹⁸ Awardees are D.C. Bar members who have demonstrated outstanding professional judgment throughout long-term government careers, worked intentionally to share their expertise as mentors to younger government lawyers, and devoted significant personal energies to public or community service.

¹⁹ Bob Kemper, *Gideon: Right to Counsel*, *Washington Lawyer*, September 2009 at 24.

²⁰ *Id.* at 26.

testimony provided by the FBI’s forensic analyst, false testimony by the cooperating witness, and systemic failures post-trial by the government when it became aware in 1998 of the shoddy work performed by the FBI analyst in 1981.

While PDS tracks other performance measures, its central mission – one that cannot be adequately quantified – is protecting against wrongful incarceration. This mission is shared collectively by every division at PDS. Mr. Gates’s case is a reminder of why PDS must investigate and prepare every case as if the person charged is innocent because, as Mr. Gates has demonstrated, he may truly be.

Performance Measures

PDS tracks certain performance measures for evaluating progress toward achieving PDS’s long-term goals and objectives. PDS’s annual measure of the percentage of clients visited within 48 hours of appointment has steadily improved since establishment of a baseline in FY 2006. PDS barely missed its FY 2009 target – the shortfall was by less than one percent. PDS’s actual performance and fiscal year targets are as follows:

Percentage of Cases in Which Attorney Consulted with Client within 48 Hours

	Target	Actual
FY 2006	Established baseline	88%
FY 2007	92%	89%
FY 2008	95%	89%
FY 2009	92%	91.2%
FY 2010	93%	N/A

Since PDS established a baseline for the measure below in FY 2004, the numbers of individuals represented by PDS who are charged with detainable offenses has increased; many of those individuals are typically held in detention pending trial due to the seriousness of the charged offense. Notwithstanding that increase, PDS achieved a reduction in some form of pretrial restraint in 64 percent of its cases. PDS’s actual performance and fiscal year targets are as follows:

Percentage of Cases in Which Reduction in Pretrial Restraint Was Obtained

	Target	Actual
FY 2004	Established baseline	70%
FY 2005	73%	63%
FY 2006	75%	72%
FY 2007	79%	71%
FY 2008	75%	66%
FY 2009	70%	64%
FY 2010	67%	

Although PDS regularly collects timely performance information from division chiefs and staff attorneys, to improve performance, PDS is evaluating its information technology to develop more reliable methods of internal data collection for tracking performance measures. Specifically, PDS is working on developing a modern case

management system that will provide a more efficient and reliable means for trends analysis and demonstration of results.

In FY 2008, PDS surveyed private attorneys appointed by the court under the Criminal Justice (CJA) Act regarding PDS's efforts to improve quality representation for all indigent defendants in the District of Columbia, one of PDS's strategic goals. The purpose of this survey was to establish benchmarks by which PDS could improve the quality of indigent legal representation in the District of Columbia so that all indigent defendants receive the highest quality of representation. The overall results of the survey were positive, and a clear benchmark was established in the area of providing greater online access to information relevant to defending clients. In FY 2009, PDS improved its own website to provide more research materials online. Additionally, PDS created an interactive tool that makes it easier for CJA attorneys to schedule their availability for receiving court-appointed cases. Finally, PDS developed a separate, interactive website, www.CJADC.org, connecting certified court-appointed investigators with private CJA attorneys.

Hiring Reforms

Trial Division Interview Schedule: PDS has an interest in making the hiring process for all applicants more efficient and user friendly. PDS's hiring for attorney positions in the Trial Division – the largest group of employees at PDS – occurs, with rare exceptions, once per year. The hiring season historically began in the late fall and ended in January. PDS has made two significant changes in the last few years that have benefited applicants: conducting earlier interviewing of applicants who are PDS summer law clerks and conducting earlier final round interviews. A substantial number of PDS summer law clerks who are entering their last year of law school are interested in attorney positions at PDS. The law clerks come from law schools all over the country, and for years, they went through all the regular steps of the hiring process, including the initial screening interview, after their summer work was over and they had returned to school. Approximately three years ago, PDS began conducting the screening interviews just before the end of the law clerks' summer stints. This allowed the law clerks to know much earlier in the process if they were not going to be hired. Similarly, two years ago, PDS advanced the dates of the final interview round by a month, letting all the applicants know the outcome of their applications that much earlier.

Use of "KSAs": Until recently, for non-attorneys, PDS followed the federal government practice of requiring that applicants provide extensive information addressing the knowledge, skills, and abilities (KSAs) associated with the positions. PDS recently eliminated that requirement, bringing the process in line with that for PDS attorney positions. This has reduced the amount of paper flow and made it easier for individuals to complete their applications, but has not sacrificed PDS's interest in knowing the applicants' qualifications, as those are assessed from their resumes and interviews.

Wellness

Over the course of FY 2009, PDS's four-person Human Resources Division has substantially increased PDS's efforts to promote wellness for PDS employees. In FY 2009, this division organized over 30 events ranging from health and wellness training

and education to seminars for detection and prevention of health threats specific to PDS employees and any work environment. The division also arranged for myriad health screenings, circulated monthly and quarterly wellness e-publications, and advertised blood drives. The PDS Human Resources Division has partnered with the Federal Occupational Health Center and developed relationships with Federal Employee Health Benefit Plan health carriers to provide services to their PDS members. For many of these efforts, PDS partnered with the Pretrial Services Agency and CSOSA to share these opportunities, and in turn, these agencies have offered wellness training opportunities to PDS staff.

Collaborative Work

Although widely known for zealously participating in the adversarial process of the criminal justice system, PDS also works closely with criminal justice agencies and the courts to improve the system and make it function more efficiently and fairly. In addition, PDS is always seeking to engage new partners in programs to increase services to PDS clients and improve indigent defense.

Mental Health Diversion Court

FY 2008 saw the Superior Court launch a pilot Mental Health Diversion Court (MHDC) as part of the District of Columbia Criminal Justice Coordinating Council's Substance Abuse Treatment and Mental Health Services Integration Taskforce's Strategic Plan for 2009-2015. PDS played a key role in shaping the MHDC and in overseeing its operations during the court's pilot year. At the beginning of FY 2008, PDS dedicated a senior lawyer with expertise in mental health issues and services in the District of Columbia to coordinate PDS's input on all aspects of the MHDC's conceptual design, including criteria for program eligibility, parameters of the deferred prosecution agreement, and standards for termination of program participants. The working group's efforts culminated in the promulgation of the Superior Court's administrative order²¹ establishing the MHDC.

During FY 2009, PDS continued to support the MHDC through active participation on the working group that oversees the court's operations. In July 2009, PDS hosted an evening training session for the defense bar about the MHDC's operations and its interrelationship with other mental health resources, including the Superior Court's new Urgent Care Clinic; voluntary and civil commitment; and assessment and treatment of incompetence to stand trial.

Community Partnerships to Help People with Criminal Histories with Reentry

In FY 2009, PDS held its fifth "Reentry and Expungement Summit" in the District of Columbia. For this fifth Summit, PDS provided model pleadings and informational materials targeting lay people and trained more than 75 lawyers and law clerks to staff the Summit. The goal of the Summit was twofold: (1) to provide assistance to individuals with old arrest records or minor convictions in sealing eligible records and (2) to make available reentry support services for persons not eligible for record sealing

²¹ D.C. Superior Court Administrative Order 07-23.

under the new law. Realizing that most in attendance would not be eligible for record sealing and would need additional support, PDS brought together more than 60 service providers for this year's Summit.²² Over 1,000 participants – an increase of 30 percent from the attendance at last year's Summit – received assistance with job searches, interview skills, civil legal services, parole consultations, and referrals for reentry assistance, including the Work Opportunity Tax Credit, the Federal Bonding Program, disability benefits, and public housing opportunities. PDS plans to hold the Sixth Annual Summit in June 2010 at the D.C. Convention Center.

Partnerships to Encourage Public Defense Careers

PDS, through its Human Resources Division, led a collaborative effort to develop a conference dedicated to promoting indigent defense as a career opportunity among current law students and recent graduates. Along with the New Hampshire Public Defender's Office, the Southern Public Defender Training Center, the Richmond Public Defender's Office, the Maryland Public Defender's Office, the Alexandria Public Defender's Office, the Bronx Defenders, the New York Legal Aid Society, the New Orleans Public Defender office, the Philadelphia Public Defender office, Harvard Law School, the University of Maryland Law School, and the George Washington School of Law, PDS, with pro bono assistance from the law firm of Zuckerman Spaeder LLP, created the Public Defender Advocacy, Training and Hiring (PATH) Conference. The purpose of the PATH Conference was to provide law students with relevant information about life as a public defender. The conference focused on explaining what public defenders look for in hiring (summer and permanent), what types of offices are available to public defenders, how to apply for positions, and what proficiency public defenders require in their day-to-day practice of law. Over 180 students and recent graduates attended the conference.

²² The service providers included: A-Men (Anacostia Men's Employment Network); Bricklayers and Allied Craft workers Local Union #1; Center for Employment Training; Coalition for Economic Empowerment; Coalition for the Homeless; Columbia Heights/Shaw Collaborative; CVS/CareMark; D.C. Central Kitchen Training Program; Department of Disability Services; Excel Institute; Georgia Avenue/Rock Creek East Youth Program; Good Ground-Good Life; Iron Workers Local #5; Job Corps; Living Classrooms; Mayor's Office on Latino Affairs; Miller and Long Construction; New Course Catering; Strive DC, Transitional Employment Program (D.C. Department of Employment Services); Washington Metropolitan Area Transit Authority; Welcome Home Program; District of Columbia Housing Authority; East of the River Clergy Police Community Partnership; Housing Counseling Services; Marshall Heights Community Development Corporation; North Capitol Collaborative; Oxford Houses; Samaritan Inns; So Others Might Eat (SOME) Family Services; Veterans Services Center-Access Housing; Wheeler Creek Community Development Corporation; Addiction Prevention and Recovery Administration; Arch Training Center Youth Build; Byte Back D.C. Public Library; Mayor's Office on Ex-Offender Affairs; Reentry Legal Services; Reintegrating Alternatives Personal Program; South Washington/West of the River Family Strengthening Collaborative; Toni Thomas Associates Community Empowerment Training Academy; Court Services and Offender Supervision Agency Vocational Training & Education/Employment (V.O.T.E.E.); D.C. Jail Advocacy Project; D.C. Department of Mental Health; U.S. Department of Veterans Affairs; Healthy Babies Project; Income Maintenance Administration; Regional Addiction Prevention; The Better Way; Unity Health Care; Fulton House; Hannah House; Our Place D.C.; Washington Area Women in the Trades YWCA National Capital Area; and Office of Attorney General Child Support Services Division.

Advancing Criminal Law

Since PDS's Appellate Division (and the Legal Aid Agency's appellate attorneys in the 1960s) has been at the forefront of appellate litigation in criminal cases. PDS's appellate cases have impacted the District's criminal justice system, as the decisions that result often establish or clarify legal standards in criminal and juvenile delinquency cases. Most good appellate cases start with the trial attorney's creation of a carefully preserved record during the trial. The Trial Division and the Appellate Division interact on a regular basis to help trial lawyers "make that record" in anticipation of an adverse trial ruling (or, in a few cases, a challenge from the prosecution).

Evidentiary Standards

The Appellate Division secured rulings that clarified important evidentiary standards. In *In re L.L.*, 2009 WL 1883718 (D.C. 2009), the District of Columbia Court of Appeals held that the trial court abused its discretion in admitting as an excited utterance the child's hearsay accusation of sexual abuse, made six months after the alleged abuse, long after an opportunity for reflection. And in *Scott v. United States*, 2009 WL 1951818 (D.C. 2009), the Court of Appeals reversed Mr. Scott's convictions for assault with a dangerous weapon and possession of a firearm during a crime of violence, holding that the trial court violated Mr. Scott's constitutional right to present a defense when it excluded documentary evidence showing that he was on the telephone at the time that the complaining witness was shot. The *Scott* decision is notable for its firm recognition of the importance and breadth of a defendant's constitutional right to present a defense.

Protecting the Integrity of the Criminal Justice System

The Appellate Division reviews every PDS Trial Division loss. Not every case results in an appeal, but this review process ensures that errors preserved below but that the court and the government failed to recognize at trial are finally rectified on appeal. In three cases, PDS secured reversals of convictions when the Court of Appeals issued published opinions concluding that the evidence presented at trial was insufficient to support the charged offenses. *In re L.L.*, *In re E.H.*, 967 A.2d 1270 (D.C. 2009), and *Jackson v. United States*, 970 A.2d 277 (D.C. 2009). And in four additional cases, the government, upon review of the briefs filed by PDS, conceded error, and each client's convictions were vacated by the trial court upon motion by the government. *Brown v. United States*, No. 08-CM-477; *Allison v. United States*, No. 06-CF-1312; *Lane v. United States*, No. 07-CF-502; *Lancaster v. United States*, No. 06-CF-965.

Case Accomplishments²³

The core work of PDS is the representation of individual clients facing a loss of liberty. The criminal justice system is adversarial in nature, and PDS has able adversaries in the District's Attorney General's Office and the United States Attorney's Office for the District of Columbia. A fair criminal justice system depends on having all components (judges, government, and defense) fulfill their respective roles. PDS plays a pivotal part in ensuring that all cases, whether they result in plea agreements or trials, involve comprehensive investigation and thorough consultation with the client. For those matters that proceed to trial, PDS litigates each matter to the fullest, ensuring that the trial constitutes a full and fair airing of reliable evidence. As it has every year since its inception, in FY 2009, PDS won many trials, fought a forceful fight in others, and found resolution prior to trial for many clients. Whatever the outcome, PDS's goal for each client was competent, quality representation. The following cases, absent identifying information where required by the ethical rules or confidentiality statutes, are a small sample of how competent, quality representation can change lives.

Trial

PDS lawyers are always vigilant in the pursuit of evidence that can demonstrate that a client is not guilty. Two recent cases demonstrate the importance of experts and thorough defense investigation in protecting the integrity of the criminal justice system.

One PDS client, falsely charged with child sex abuse, faced a criminal conviction, registration as a sex offender, and the loss of a janitorial job he had held for over 20 years at a well known media outlet. This gentleman had no prior convictions or arrests. In preparation for his case, PDS retained the services of a former Chief Polygraph Examiner for the FBI with over 20 years of experience with the military and the FBI. Based on his testing, he concluded unequivocally that the client was truthful in his denial of any sexual conduct with the child. In addition, PDS investigation uncovered evidence that a relative of the child had a history of child sex abuse and was in recent contact with the child. When presented with the results of the defense investigation and the report of the polygraph examiner, the government dismissed the criminal charges.

Another PDS client falsely charged with armed robbery was protected as a result of thorough investigation. The complaining witness claimed to have been robbed as he was leaving a check cashing store after having cashed a \$200 money order to pay his child support. After the alleged robbery was reported and while the police were standing with the complainant, the client walked into the area and was walking toward the group when the complainant claimed that the client was wearing the same clothes as the robber. The client was arrested. As a result of PDS's investigation and collection of records from the check cashing store, PDS learned that the complaining witness lied about the amount he

²³ These cases and their outcomes are far too varied and numerous to recount here, and the ethical rules that protect all clients' confidences, regardless of their economic circumstances, often preclude PDS from providing detailed examples. Thus, those cases that have not resulted in published decisions are provided without identifying information.

had cashed (\$88 instead of the claimed \$200) and lied about the time that he cashed the check (an hour before he called the police, not immediately before he called the police as he claimed). PDS investigation also revealed the complaining witness's history of failures to pay his child support. Once again, this investigation was provided to the government, and after the client was held for months in pretrial detention, the client's case was dismissed by the government.

PDS lawyers also protect the integrity of the criminal justice system by ferreting out possible misconduct that can lead to unjust verdicts. The failure of prosecutors to provide exculpatory evidence to the defense has received recent notoriety from the Duke lacrosse players' case and the case of former senator Ted Stevens. It also occurs however, with alarming frequency in cases involving poor and minority defendants. The U.S. Supreme Court has long held that the Due Process Clause is violated when the prosecution withholds favorable evidence from the accused that is material to either guilt or punishment. The leading case is *Brady v. Maryland*, 373 U.S. 83 (1963). PDS has become a recognized expert in litigation to enforce this right.

In April 2009, PDS's Trial Division, with the assistance of the Special Litigation Division, won a new trial for a client who had been convicted of murder. In *United States v. Harrington*, a Superior Court judge ruled that the prosecution had withheld the identity and former testimony of a witness that "unquestionably, without any doubt, should have been turned over to the defense well in advance of trial."²⁴ The undisclosed witness was with the government's primary witness at the time of the incident, and her grand jury testimony not only substantially impeached the primary witness's version of events, but actually implicated the primary witness in the murder.

Mental Health Division Civil Legal Services Division

Special Needs Clients: Through PDS's Civil Legal Services and Mental Health Divisions (as well as through the Community Defender and Special Litigation Divisions), PDS assists adults with mental illness, children with disabilities, the homeless, and those who struggle to successfully reenter society without resorting to crime. PDS's holistic representation of the clients can reduce the costs to society associated with misused resources, undereducated youth, and homelessness.

Ms. M. was assigned a Mental Health Division attorney in 2005 to represent her in a civil commitment proceeding that was initiated after she was found incompetent to stand trial on a charge of unlawful entry. Ms. M had been admitted to the District's mental health hospital, St. Elizabeths, and she had been arrested many times previously for trespassing and other criminal charges. But for PDS's involvement through lawyers, investigators, and skilled social workers, this could have become a revolving door with the client in and then out, homeless and trespassing. Instead, in FY 2009, PDS identified services, set up support structures, and uncovered fraud by a family member involving the client's entitlement to pension benefits and an inherited home. After 15 years of homelessness and petty crime, the client is living in independent housing, seeking employment, keeping

²⁴ *United States v. Harrington*, 2007-CF1-22855, transcript of ruling (April 17, 2009).

her apartment spotless, going to all her therapy meetings and groups, and looking forward to being in a position to seek the termination of her civil commitment.

Mrs. H. arrived home one evening after the long bus ride from her downtown job cleaning offices when she heard loud banging on her apartment door and shouts of policemen telling her to open the door. When she complied, she was surrounded by police who arrested her on charges of illegal distribution of narcotics. She spent the night in a jail cell for the first time in her life. Although the charges against her were all dropped, her landlord, the District of Columbia Housing Authority, served her with an eviction notice to vacate her home of nearly 23 years based on her arrest. Facing the threat of becoming homeless, she sought and obtained help from PDS Civil Legal Services Division staff attorneys, who represent PDS clients in their efforts to overcome consequences of an arrest or conviction.

The PDS civil defense team revealed through investigation that the police found nothing in the apartment to suggest that illegal activity was occurring and had raided the wrong apartment. Indeed, the police returned to the apartment building with a search warrant for the apartment above Mrs. H.'s unit. There they found drugs and a woman known in the neighborhood as a drug dealer. Though the police refused to admit they wrongfully arrested Mrs. H., the evidence collected and presented persuaded the jury that Mrs. H. had not breached her lease, and she was able to remain in her home.

Community Defender Division

One common issue for those reentering society is inaccurate criminal records. About one third of Community Reentry Program clients find some inaccurate or incomplete information contained in their criminal background record and seek legal assistance in disputing this inaccurate information. The opportunities for criminal record errors are countless because the FBI or state agencies must rely on several criminal justice entities to report the disposition of the case or arrest. In one such instance, a client was denied a day care license because of an inaccurate FBI record. She was a day care provider for over six years without any incidents and was denied her renewal license based on her FBI background check. The FBI report the licensing agency relied upon in making the decision was inaccurate. CRP assisted her in disputing the inaccurate record with the FBI and requested reconsideration from the D.C. licensing authority. With PDS assistance, the criminal background record was corrected, and she was granted her license to continue to operate her day care and provide for her family. In FY 2009, CRP assisted more than 180 clients with correcting criminal record errors, reducing employment and housing denials.

Special Litigation Division

After 23 years of litigation, negotiation, court oversight, and monitoring, the District's Department of Youth Rehabilitation Services opened the long-awaited, new, state-of-the-art, secure facility for committed youth, New Beginnings, in May 2009. As of May 28th, 2009, the Oak Hill facility, a source of embarrassment due to its conditions of confinement, officially closed its doors.

New Beginnings houses only 60 youth – the number of beds that the Annie E. Casey Foundation’s juvenile justice experts and the District’s Blue Ribbon Commission found would adequately serve the District’s needs. The design of the facility combines best practices from successful juvenile facilities from all over the country – living units that house no more than 10 youth in each unit; individual rooms for each youth; and space that is an optimal environment for running a robust range of workforce development, educational, recreational, and culturally enriching opportunities for residents. The facility is meant to serve as a long-term residential facility modeled on programs designed by the successful program in Missouri for committed youth. The school at New Beginnings is run by The Maya Angelou Academy, which has already sent at least four youth on to college upon graduation.

Additional changes to providing services to youth in the District’s delinquency system are also underway, but the closing of the Oak Hill facility is a monumental achievement for the city and meets one of the most important goals of the litigation.

Legislation

In addition to providing expert service as *amicus curiae* in the trial and appellate courts in the District of Columbia and in the U.S. Supreme Court, PDS also makes its expertise available to the District of Columbia Council through oral and written testimony.

In the summer of 2008, the D.C. Metropolitan Police Department set up roadblocks to restrict access into the Trinidad neighborhood of the District which had seen a recent spike in crime. PDS immediately recognized that the roadblocks violated the Constitution under controlling legal precedent from the Supreme Court and local courts. In testimony before a committee of the District of Columbia Council, PDS stated that it supported the goals of reducing crime and making neighborhoods safe, but that the District’s approach was unconstitutional.

Some citizens who had been affected by the roadblock sued in United States District Court seeking to enjoin the practice and appealed when the court ruled against them. On July 10, 2009, the United States Court of Appeals for the District of Columbia Circuit issued an opinion that fully vindicated PDS’s warning that the roadblock initiative was unconstitutional. Relying on the identical authority that PDS had cited, the Court of Appeals wrote, “It is apparent that appellant’s constitutional rights are violated.” *Mills v. District of Columbia*, 571 F.3d 1304, 1312 (D.C. Cir. 2009).

As the sole provider of representation in parole revocation proceedings for D.C. Code offenders, PDS also provided expertise and practical experience to the efforts to reform the District of Columbia’s parole practices. Prior to the passage of the Equitable Street Time Credit Amendment Act of 2008, parolees received no credit for time they spent in the community in complete compliance with their conditions of parole. As a result, individuals who were otherwise successful for several years on parole and who subsequently committed a technical violation (e.g., failure to maintain contact) received no credit for the period of success. This practice was a source of enormous strain on the parole system, demoralizing parolees and increasing the costs associated with over incarceration and supervision. With other subject matter experts, PDS provided drafting assistance to the District of Columbia Council, and testimony before the Council, and

negotiated compromise language with the U.S. Department of Justice. Now D.C. parolees can, under certain circumstances, receive credit for successful performance without compromising public safety.

Training

In FY 2009, PDS continued its commitment to advancing quality defense for those who cannot afford to hire their own attorneys. As it has in the past, PDS produced a Summer Series over the course of two months for local attorneys on specialty topics; hosted its seventh Forensic Science Conference, building on PDS's expertise to promote quality science in the courtroom; and produced the 45th Annual Deborah T. Creek Criminal Practice Institute Conference. Annually, PDS provides over fifty hours of training for hundreds of attorneys representing indigent clients in the District of Columbia.²⁵

PDS took a different approach to its annual two-day training conference, the Deborah T. Creek Criminal Practice Institute, in 2009, offering training in traffic case defense for the first time. The focus of the 45th Annual Deborah T. Creek Criminal Practice Institute, "DUI, DWI, and OWI Cases After *Melendez-Diaz*" was litigating charges of driving under the influence of alcohol or drugs; the topic was chosen in light of the District of Columbia Superior Court's decision to merge the two panels of Criminal Justice Act-appointed attorneys who handle traffic (Traffic Panel) and non-traffic criminal cases (U.S. Panel). The conference was a collaborative effort between the Superior Court and the defense bar. The program included a mock trial and training seminars followed by break-out sessions that allowed participants to practice specific cross-examination techniques for challenging evidence of impaired driving. Key presenters included the Chief Judge and other Superior Court judges as well as two experienced Traffic Panel attorneys who led the training seminars. Other invited guests included CJA attorneys role-playing as witnesses and judges in the accompanying mock cross-examination sessions. In a record number of evaluations for the well-attended program, many attendees rated the conference as "excellent" and the "best CPI in years." The program also provided attorneys with eight hours of credit for those seeking to fulfill continuing legal education requirements as a condition of membership in the U.S. Panel.

The PDS Forensic Practice Group, a collection of Trial Division attorneys and two forensic fellows (one attorney and one forensic scientist) specially trained in scientific-related evidence, devoted significant time in FY 2009 to addressing the findings of the National Academy of Science's two-year review of the current state of forensic science in the legal system. *Strengthening Forensic Science in the United States: A Path Forward*, National Academy of Sciences, February 18, 2009. Since the report's release in February 2009, PDS has hosted two conferences addressing the report. The first was PDS's annual Forensic Science Conference, designed this year to educate the defense bar locally about the report and its findings. In addition, PDS partnered with the law firm of Arnold & Porter LLP, the Office of Defender Services of the Administrative Office of the U.S. Courts, and the Office of the Los Angeles County Public Defender to bring together forty

²⁵ In addition, PDS staff attorneys are routinely asked to be presenters at trainings sponsored by the District of Columbia courts, the D.C. Bar, and various defender organizations locally and nationally. Through these programs, PDS provides additional assistance to local counsel and to defender offices around the country, most recently New Orleans, LA; Birmingham, AL; Harrisburg, PA; and Philadelphia, PA.

defense lawyers and academics from across the country with expertise in forensic science. In June, the group met at the offices of Arnold & Porter and over the course of two days assessed the impact of the NAS report on criminal defense litigation and worked collectively to produce model pleadings, discovery requests, and jury instructions for the benefit of PDS and local and federal defender offices across the country. Several experienced public defenders described the fingerprint challenge pleadings as the best they had ever seen on the topic.

CONCLUSION

PDS staff are consistently effective in pursuing the organization's mission of providing high quality criminal defense representation to individuals in the District of Columbia criminal courts. PDS's excellent reputation is based on PDS's performance, the results PDS achieves, and the variety and depth of resources PDS makes available to clients and to others who have a role in the operation of the criminal justice system. Adequate financial support for PDS's services is essential to assist the District in meeting its constitutional obligation to provide criminal defense representation in the District's courts.

BUDGET DISPLAYS

PUBLIC DEFENDER SERVICE FOR THE DISTRICT OF COLUMBIA

FY 2011 Summary of Changes

	Perm. Pos.	FTE	Amount (\$ in 000s)
FY 2010 President's Budget	235	232	36,816
(excluding non-recurring expenses)			
Adjustments to Base:			
New Positions	-	-	-
Pay Raises.....	-	-	1,933
General Pricing Level Adjustments.....	-	-	441
Total, Adjustments	-	-	2,374
FY 2011 BASE	235	232	39,190
PROGRAM CHANGES:			
Non-Recurring Expenses			
New Telephone System	-	-	1,500
TOTAL, Program Changes	-	-	1,500
FY 2011 REQUEST	235	232	40,690

FY 2011 Salaries and Expenses
Summary of Requirements by Grade and Object Class (\$ in 000s)

Grades:	2009 Enacted		2010 Enacted		FY 2011 Budget Request	
	Pos	Amount	Pos	Amount	Pos	Amount
ES	3	459	3	472	3	480
AD-15	15	2,015	15	2,247	15	2,320
AD-14	71	7,915	65	7,905	68	8,132
AD-13	27	2,446	29	2,594	30	3,043
AD-12	36	2,502	38	2,602	41	3,713
AD-11	42	2,434	44	3,056	35	2,349
AD-10	2	122	2	130	2	135
AD-09	14	648	5	303	13	690
AD-08	6	280	4	221	4	232
AD-07	12	544	23	931	20	861
AD-06	3	125	3	131	2	89
AD-05	3	97	3	111	2	80
AD-04	1	33	1	34	-	-
Total Appropriated Positions	235	19,620	235	20,737	235	22,124
EX/ES FTE		3		3		3
GS FTE		229		229		229
Average EX/ES Salary		153		157		160
Average AD Salary		88		90		94
Average AD Grade		13		13		13
Object Class						
11.1 Full Time Permanent	235	19,620	235	20,737	235	22,124
11.3 Other Than FT Perm.		-		-		-
11.5 Other Pers.Comp.		360		410		315
11.8 Special Pers. Services		640		715		790
12.0 Benefits		5,507		5,791		6,332
13.0 Unemployment Comp.		160		100		125
Personnel Costs	235	26,287	235	27,753	235	29,686
21.0 Travel & Training		382		417		405
22.0 Transportation of Things		18		24		24
23.1 Rental Payments to GSA		1,604		2,701		2,843
23.2 Rental Pmnts.to Others, & Misc.		574		675		759
23.3 Comm., Utilities & Misc.		353		460		461
24.0 Printing and Reproduction		191		221		191
25.1 Consulting Services		1,134		1,155		1,223
25.2 Other Services		920		1,252		1,304
25.3 Purch.from Gov't Accts.		2,313		554		630
25.4 Maintenance of Facilities		113		131		136
25.7 Maint. of Equipment		231		313		298
26.0 Supplies and Materials		613		663		710
31.0 Furniture and Equipment		426		497		520
32.0 Buildout		-		-		-
Non-Personnel Costs		8,872		9,063		9,504
TOTAL	235	35,159	235	36,816	235	39,190
31.0 Non recurring Expense - PDS Case Management System		500		500		-
PDS New Tele phone System						1,500
Grand Total		35,659		37,316		40,690
OUILAYS		32,093		33,584		36,621

APPROPRIATION LANGUAGE

Public Defender Service for the District of Columbia

Appropriation Language Fiscal Year 2011

For salaries and expenses, including the transfer and hire of motor vehicles, of the District of Columbia Public Defender Service, as authorized by the National Capital Revitalization and Self-Government Improvement Act of 1997, \$40,690,000: Provided, That notwithstanding any other provision of law, all amounts under this heading shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for salaries and expenses of Federal agencies.

ORGANIZATION CHART

