

PDS ANNUAL REPORT **FY 23**



PDS Roars Back to Life:
A Return to Normal Operations

PUBLIC
DEFENDER
SERVICE
for the District of Columbia





TABLE OF CONTENTS

DIRECTOR’S LETTER.....4

BOARD OF TRUSTEES IN FY 2023.....6

EXECUTIVE MANAGEMENT.....7

MISSION STATEMENT.....8

OVERVIEW OF PDS.....8

LEGAL SERVICES.....10

LEGAL SUPPORT SERVICES.....14

SIGNIFICANT ACCOMPLISHMENTS IN FY 2023.....18

CASEWORK AND OUTCOMES.....18

IRAA PERFORMANCE.....20

EFFECTIVE DEFENSE PRACTICE.....22

WEBSITE OF THE YEAR AWARD.....28

PDS EMPLOYEE SURVEY RESULTS.....29

TRIBUTE TO CHARLES OGLETREE.....30

FINAL ANALYSIS.....31

ENDNOTES.....32

FINANCIAL STATEMENTS.....33

DIRECTOR'S LETTER

In fiscal year 2023, PDS roared back to life! We remained committed to our mission and focused on reinforcing connections to the community that we serve. Though the COVID-19 pandemic permanently changed the world in untold ways, PDS remained devoted to holistic defense and protecting clients' interests in the criminal legal system. PDS welcomed the hustle and bustle that resulted from staff returning to the office and was able to reopen its duty day program, a walk-in service where community members can receive assistance with legal issues.

A large, elegant handwritten signature in black ink, reading "Heather Pinckney". The signature is fluid and cursive, with a large loop for the 'P' and a long, sweeping tail for the 'y'.

HEATHER PINCKNEY
Director



BOARD OF TRUSTEES IN FY 2023

CHAIR

Jonathan Stern

*Partner
Arnold & Porter*

VICE CHAIR

Joseph Caleb

*Co-founder and Member
CalebAndonian*

BOARD MEMBERS

Barry Caldwell

*Principal
Wroxton Civil Ventures*

Lisa Greenman

*Attorney
Federal Death Penalty Resource Counsel*

Rev. Wendy Hamilton*

*Ordained minister
Social Justice Advocate*

Brandi Harden

*Managing Partner
Harden & Pinckney*

Larry Moon Jr.

Author and Motivational Speaker

Bonnie Politz

Youth and Community Strategy Consultant

Michael Satin

*Member
Miller & Chevalier*

Deborah Shore**

*Executive Director and founder
Sasha Bruce Youthwork*

Leslie T. Thornton

*Utility Company Executive
Retired*

Sylvie Volel

*Senior Director
Cerner Corporation*

**Term began in FY 2023*

***Term ended in FY 2023*

EXECUTIVE MANAGEMENT

Heather N. Pinckney

Director

Rudolph Acree, Jr.

Deputy Director

Laura E. Hankins

General Counsel

Eric Hirst

*Chief Information Technology
Officer*

Roderick R. Hubbard

Chief Financial Officer

Eugene Mayo

Director of Human Resources

Janet Mitchell

*Special Counsel to the
Director (Strategic Plan-
ning)*

Calvin Shoulders

*Chief Administrative
Officer*

Calvin Shoulders, Roderick R. Hubbard, Laura E. Hankins, Heather N. Pinckney, Eric Hirst, Janet Mitchell, Eugene Mayo, and Rudolph Acree, Jr.



WHO WE ARE

MISSION STATEMENT

It is the mission of the Public Defender Service for the District of Columbia (PDS) to provide and promote quality legal representation to indigent adults and children facing a loss of liberty in the District of Columbia, thereby protecting society's interest in the fair administration of justice.

OVERVIEW OF PDS

For more than 60 years, PDS has led the nation in providing exceptional advocacy and legal representation for indigent adults and children. Judges and prosecutors, as well as public defenders and legal practitioners across the country, acknowledge and respect the outstanding work of PDS's attorneys. PDS is recognized as one of the few defender organizations in the world to meet the standards outlined in the American Bar Association's Ten Principles of a Public Defense Delivery System.¹

PDS is a federally funded, independent organization governed by an 11-member Board of Trustees. Founded as the Legal Aid Agency in 1960, PDS was established as the successor to LAA in 1970 by a federal statute² enacted to comply with the constitutional mandate to provide defense counsel for people who cannot afford an attorney.³

A major portion of the work of PDS consists of representing individuals in the District of Columbia's local criminal legal system who are charged with committing serious criminal acts and who are eligible for court-appointed counsel. In the District of Columbia, public defense services are provided primarily by PDS (the "institutional defender") and a panel of private attorneys, known as Criminal Justice Act (CJA) attorneys, who are screened for membership on the panel and paid



on a case-by-case basis by the D.C. courts.⁴ Because of its resources, well-regarded training program, and institutional practice knowledge, PDS lawyers handle the most serious criminal cases consistent with the best practices of the legal profession.

PDS also provides legal representation to people facing involuntary civil commitment in the mental health system, as well as to many children in the most serious delinquency cases, and to children who have special education needs in those cases. Every year, PDS attorneys represent clients in the majority of the most serious adult felony cases filed in D.C. Superior Court, clients pursuing or defending against criminal appeals, nearly all individuals facing supervised release or parole revocation under the D.C. Code, and all individuals in D.C. Superior Court requiring representation at Drug Court sanctions hearings. In addition, PDS provides technical assistance to the local criminal legal system, training for CJA and pro bono attorneys, and additional legal services to clients in accordance with PDS's enabling statute. On occasion and under special circumstances — for example, pursuing impact litigation — PDS represents clients in cases related to the above matters in the District's federal courts.

The National Capital Revitalization and Self-Government Improvement Act of 1997 (the Revitalization Act),⁵ enacted by Congress, relieved the District of Columbia of certain “state-level” financial responsibilities and restructured a number of criminal legal system 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 appropriation. With the passage of fiscal year 2007 appropriations, PDS began receiving a direct appropriation from Congress. That direct funding continues to this day. In accordance with its enabling statute and the Constitution, 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 nationally and in the District of Columbia criminal legal system for exceptional advocacy. The strength of PDS has always been the quality of the legal services that the organization delivers. Judges, panel attorneys, prosecutors, and especially clients acknowledge and respect the excellent advocacy of PDS's attorneys, as do public defenders and legal practitioners across the nation.



Legal Services

PDS is a model public defender program that applies a holistic approach to representation, using both general litigation skills and specialty practices to provide complete, quality representation in complex cases. PDS attorneys regularly provide advice and training to each other, and they often form teams of attorneys from across divisions to handle particularly complex cases. This section of the report describes PDS's seven legal services divisions.

TRIAL DIVISION

Attorneys in the Trial Division provide zealous legal representation to adults in criminal proceedings in D.C. Superior Court and to children in delinquency matters. Attorneys are assigned to cases based on their experience and performance. Over the course of five or six years of intensive supervision and training, attorneys generally transition from litigating juvenile delinquency matters to litigating the most serious adult offenses.

The most seasoned attorneys in the Trial Division handle the most intricate and resource-intensive adult cases. For example, senior PDS attorneys routinely handle cases involving DNA evidence, expert testimony, multiple co-defendants, and novel or complex legal issues. This group of highly trained litigators provides representation in the majority of the most serious adult felony cases filed in D.C. Superior Court each year.

Traditionally, less senior Trial Division attorneys handle difficult or resource intensive delinquency cases, such as those involving children with serious mental illnesses or learning disabilities, or children facing serious charges. They also handle some general felony cases and a limited number of misdemeanor cases.

Trial Division attorneys also provide representation in a variety of other legal matters through PDS's Duty Day (walk-in) program and the D.C. Superior Court's Drug Court program.

APPELLATE DIVISION

Attorneys in the Appellate Division handle direct appeals and other appellate litigation generated in PDS cases, provide legal advice to CJA attorneys in appellate matters, and respond to

requests from the D.C. Court of Appeals for amicus briefs in non-PDS cases involving novel or sophisticated legal issues. Another important function of the Appellate Division is to provide technical assistance and training to other PDS divisions. The knowledge and experience of the Appellate Division attorneys allow them to assist in complicated cases without having to perform long hours of original research each time difficult legal issues arise.

MENTAL HEALTH DIVISION

The Mental Health Division represents individuals in civil commitment proceedings in the D.C. Superior Court. These individuals include those who have been involuntarily hospitalized upon an allegation that they are likely to injure themselves or others as a result of mental illness, and those who have been found incompetent to stand trial because of a mental illness or intellectual disorder.

Attorneys in this division also represent individuals who have been found not guilty by reason of insanity. In addition, they regularly advise local and national advocacy groups, testify before the D.C. Council about legislative reforms, provide critical assistance to Trial Division attorneys, and deliver training for CJA attorneys appointed by the Court to handle involuntary civil commitment cases.

PAROLE DIVISION

The Parole Division provides legal representation to more than 95 percent of individuals in the District of Columbia who are facing revocation of their parole or supervised release. The attorneys represent these clients at revocation hearings before the U.S. Parole Commission pursuant to local and federal laws. The majority of the hearings are held at local detention facilities. Through the development of diversion programs, however, some take place at locations in the community. To leverage its capacity to assist clients, the Parole Division collaborates with community organizations; with local, state, and federal paroling authorities; and with experts who serve as advocates for incentive-based sanctions that are fair and designed to yield successful outcomes for individuals on parole and supervised release. In addition, the division provides training on matters related to parole and supervised release to members of the D.C. bar, members of the federal bar, attorneys in D.C. law firms that provide pro bono services, CJA attorneys, students in D.C. law school clinics, and law students from throughout



the United States who are clerking at PDS. This training educates criminal defense lawyers and law students about the collateral impact of criminal cases on clients who are on parole or supervised release, and expands the pool of attorneys available to handle those matters that PDS is not permitted to handle under the D.C. Rules of Professional Conduct to avoid conflicts of interest.

SPECIAL LITIGATION DIVISION

The Special Litigation Division represents clients eligible for sentence reduction pursuant to the District of Columbia's Incarceration Reduction Amendment Act (IRAA) of 2016. It also handles a wide variety of litigation that seeks to vindicate the constitutional and statutory rights of PDS clients and to challenge pervasive, unfair criminal legal system practices. Special Litigation attorneys practice across division lines — civil and criminal, juvenile and adult, pretrial and post-conviction.

They collaborate with their PDS colleagues and with members of the broader legal community with whom they can make common cause. They practice before local and federal trial and appellate courts in the District of Columbia and as *amicus curiae* before the U.S. Supreme Court. The achievements of the Special Litigation Division include submitting the first IRAA petition for probation that was unopposed by the prosecution, achieving the reform of civil forfeiture practice, and securing the exonerations of four men who spent a combined century in prison for convictions that were based in part on the invalid testimony of FBI hair analysts.

CIVIL LEGAL SERVICES DIVISION

The Civil Legal Services Division provides legal representation to clients in a wide range of civil matters that are collateral or ancillary to the clients' involvement in the juvenile or criminal legal system, or that involve a restraint on liberty (e.g., certain contempt proceedings). The types of collateral and ancillary civil issues these clients face are complex and almost limitless in number, including adverse immigration consequences, loss of parental rights, loss of housing, seizure of property, and loss of employment. These issues can arise even if the person has been acquitted of criminal charges or was arrested but never charged.

A major component of this division's diverse practice involves special education advocacy by attorneys with expertise in special education law. The federal Individuals with Disabilities Education Act mandates that students with disabilities receive a free and appropriate public education in the least restrictive environment, and that they receive the services and accommodations they need to meet agreed-upon educational goals. Special education advocacy is a cornerstone of the Civil Legal Services Division's practice because of the vital importance of education and the pressing special educational needs of many court-involved youth.

All of this division's legal work is done in close collaboration with other PDS divisions to identify clients' civil legal needs and to provide effective representation to address and resolve their civil legal problems.



COMMUNITY DEFENDER DIVISION

The Community Defender Division supports PDS's holistic approach to public defense by providing services through specialized programs for adult and juvenile clients. The individuals served are primarily those who are in the post adjudication stage of a criminal or juvenile delinquency case in D.C. Superior Court.

The division's Prisoner & Reentry Legal Services Program (PRLS) provides legal and social services to meet the needs of individuals incarcerated at or recently released from institutions operated by the D.C. Department of Corrections or the Federal Bureau of Prisons. Services include legal representation in administrative hearings at D.C. Department of Corrections facilities and in parole grant hearings at Federal Bureau of Prisons facilities. The program also represents individuals

who are living in the community under the supervision of the U.S. Parole Commission and are seeking termination of their parole or supervised release. PRLS attorneys also serve as liaisons between PDS and individuals convicted of D.C. Code offenses who are serving sentences in D.C. Department of Corrections or Federal Bureau of Prisons facilities. The attorneys also monitor conditions of incarceration and assist clients with parole and other release-related matters. As part of its reentry support, PRLS represents individuals who are trying to seal eligible criminal records in D.C. Superior Court and individuals who are seeking employment and housing but are adversely affected by their criminal records. PRLS also represents and advocates for individuals in matters where the collateral consequences of prior arrests, convictions, or incarceration create barriers to success in the community. In support of this work, PDS produced *The D.C. Reentry Navigator: Empowering You To Succeed With a D.C. Criminal Record*, a 900-page, 16-



chapter book that is a comprehensive compilation of expert knowledge and reentry resources for people arrested, charged, tried, or convicted under District of Columbia law. PDS created The D.C. Reentry Navigator as a resource for people working to regain their lives following arrest, conviction, or incarceration. PRLS is also an active participant in community events geared toward returning citizens and participates in a variety of formal and informal committees with other criminal legal system stakeholders to work on systemic change and policy, and to advocate for the rights of individuals who have been involved with the system.

Through its Juvenile Services Program (JSP), the Community Defender Division represents children at administrative due process hearings, provides in-person legal consultations for children at the District's youth detention centers, and works with community organizations to develop reentry programs

that address the special needs of children. In addition to staffing legal rights offices in the District's two secure juvenile facilities, JSP attorneys visit local group homes and foster care homes to offer legal assistance to youths who have been placed there by the Court.

Attorneys in the program also visit juvenile clients who have been placed in long-term residential facilities across the United States. Because these clients rarely, if ever, receive visits from their appointed attorneys, this in-person contact with PDS attorneys ensures that their legal needs are addressed and that they are not subjected to improper treatment.

JSP staff also coordinated PDS's first ever Second Chance Second Hand event, a partnership with community organizations to provide legal and social services and resources for our communities East-of-the-River.

Legal Support Services

Legal Support Services is composed of various professionals throughout PDS including the staff of the Investigations Division, the Office of Rehabilitation and Development (ORD), and the Defender Services Office (DSO); a multilingual language specialist; a law librarian; and several legal assistants and paralegals.

ADMINISTRATIVE AND TECHNICAL SERVICES

PDS has four divisions that provide technical and administrative assistance to PDS staff. Though small, these divisions support the overall effective functioning of PDS using internal expertise along with outside contractor support. These divisions include the offices of Budget and Finance, Human Resources, Information Technology, and Administrative Services. In concert with individual attorneys and the PDS executive

staff, these divisions provide services that include procurement of expert services for individual cases, financial accountability, development of strategies for enhancing PDS's human capital, recruitment, development of an electronic case management system, maintenance of PDS's IT infrastructure, facilities management, and copying and supply services.

DEFENDER SERVICES OFFICE

The Defender Services Office (DSO) supports the appointment of counsel system in two ways: by determining the eligibility for court-appointed counsel of virtually every child and adult arrested and brought to the D.C. Superior Court, and by coordinating the availability of CJA attorneys, law school clinic students, pro bono attorneys, and PDS attorneys for appointment to new cases. The DSO operates six days a week, including holidays.





EXECUTIVE OFFICE

The Executive Office provides the vision, guidance, and support required to manage the day-to-day and long-term needs of PDS's clients, its dedicated staff, and the organization. Functions include strategic planning, legal counsel, legislative guidance, policies and procedures, external committee representation, mentoring, and communications and marketing.

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, collecting and assessing digital evidence from many sources

(e.g., security camera footage, cell phone records, gunshot detection technology, and GPS records), serving subpoenas, collecting police reports, copying court and administrative files, and preparing exhibits for trials and other hearings. In addition to producing exceptional investigative work in PDS cases, the staff conducts initial and ongoing training for court-certified CJA investigators, who provide investigation services to the CJA attorneys.⁶

LEGAL ASSISTANCE

A small group of legal assistants and paralegals work on cases and projects within the various legal division. Duties include preparing affidavits and correspondence, discussing case details with attorneys and clients, and organizing different electronic files for different legal proceedings.

LEGAL RESOURCES AND RESEARCH

A law librarian manages PDS's specialized collection of legal resources and electronic access to legal research, provides legal research support and training, and assists with content development for the PDS website that provides services and resources for CJA attorneys.

MULTILINGUAL LANGUAGE SERVICES

A multilingual language manager facilitates PDS communication with its non- English-speaking clients, translates legal literature and related documents, and provides access to interpreters of all languages through a phone interpretation company, and/or in person interpretation with vetted experts.

OFFICE OF REHABILITATION AND DEVELOPMENT

The Office of Rehabilitation and Development (ORD) is composed of experienced licensed forensic social workers and professional counselors. These professionals are skilled specialists who, among other services, provide the D.C. Superior Court with information about viable community-based alternatives to incarceration.

Because ORD staff members are well-versed in all of the D.C.-area rehabilitative programs (e.g., drug treatment, job training, education programs, parenting classes), they are frequently asked to provide consultation for judges, CJA lawyers, and others in the legal system.

Although PDS is made up of a number of divisions, the work of each group and each employee is valued for the manner in which it enhances direct client representation. PDS's single-program approach allows it 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.





SIGNIFICANT ACCOMPLISHMENTS IN FY 2023

3,212 trial matters

699 parole matters

2,215 mental health matters

182 appellate matters

293 civil matters,
including special
education matters

755 pre-and post-disposition
institutional and communi-
ty-based legal matters

1,832 post-conviction (adult)
matters

1,335 Drug Court matters

284 Special Litigation
Division matters

1,983 adult Duty Day matters

3,088 juvenile Duty Day matters

Casework and Outcomes

In FY 2023, PDS roared back to life with new leadership, a continued commitment to its mission, and a focus on reinforcing connections to the community that we serve. Though the COVID-19 pandemic permanently changed the world in untold ways, PDS remained focused on holistic defense and protecting clients' interests in the criminal legal system. PDS welcomed the hustle and bustle that resulted from staff returning to the office and was able to reopen its duty day program and have lawyers available to community members on a walk-in basis to assist with legal issues.

"No one can whistle a symphony. It takes a whole orchestra to play it." This quote is exemplified in the daily function of PDS. For decades, all of PDS's divisions have worked harmoniously to ensure fundamental constitutional rights for all accused, and they continuously work in concert to protect all who find themselves in the criminal legal system. Though the world may have changed, PDS continues to push forward in the pursuit of stellar representation, holistic client support, and due process for all.

To the left, and on the following pages, are examples of the significant accomplishments PDS achieved in FY 2023:

Champions



of Liberty



Incarceration Reduction Amendment Act (IRAA) Performance

PDS won 90 percent of its clients' IRAA hearings in FY 2023. Below we describe the cases of just a few clients who were released from incarceration as the result of the efforts of PDS attorneys.

The Case of MB. MB was serving a life sentence for a murder he committed when he was 22 years old. Over 28 years of incarceration, MB developed a pristine BOP record and matured into a 50-year-old mentor, advocate for nonviolence, and novelist. A non-PDS attorney filed an IRAA motion on his behalf that lacked complete information about MB's impressive BOP record, substantial rehabilitative programming, mitigation evidence that included a life-threatening gunshot wound months before the offense, and robust reentry plan. The attorney also failed to rebut information provided by the prosecution that inaccurately portrayed MB's BOP records. As a result, the Court denied MB's IRAA motion. PDS attorneys took on MB's case and spent months investigating MB's childhood, adolescence, BOP record, and the prosecution's erroneous allegations from its initial opposition. PDS filed a motion for reconsideration that presented this information to the Court. The Court found that MB had established non-dangerousness and that the motion for reconsideration presented "new information" that had "corrected or [] seriously mitigated" the Court's previous bases for denial. The Court granted PDS's motion and effectuated MB's immediate release. As the Court wrote, "[t]he record reflects that [MB] has genuine remorse for his actions, taken meaningful steps to understand the causes of his violent behavior, and demonstrated maturity while incarcerated." Today MB works as a fitness instructor and continues to write and publish novels.

The Case of BN. BN received a prison sentence of 40 years to life for an offense he committed when he was 18 years old. PDS filed an IRAA motion on his behalf, describing his pristine disciplinary record over 23 years in the BOP; "excellent" educational and vocational programming that included obtaining his GED and earning professional certifications in drywall, carpentry, and construction; his minimum PATTERN⁸ score; and service as a mentor and leader for prison youth. This conduct earned BN universal praise from BOP staff. PDS obtained 26 letters of support from family, friends, and vocational instructors who attested to BN's trustworthiness and character. The Court granted BN's IRAA motion and BN reunited with his family. BN is now a skilled plumber and member of the local union and is pursuing his commercial driver's license.



The Case of HM. HM was sentenced to 32 years in prison for a murder he committed when he was 21 years old. PDS filed an IRAA motion on his behalf describing how during 24 years of incarceration, HM had pursued every opportunity available to earn valuable skills-based certifications and had participated in BOP programming, including earning both his HVAC license and an EPA-certified license authorizing him to work as an electrician. A PDS mitigation specialist drafted a report that described HM's childhood, which was plagued by violence and abuse.

PDS also presented interviews with BOP staff, who described HM as “trustworthy” and someone who “deserves another chance to be with his family and give back to his community.” Letters of support illustrated how HM had become a role model respected for his faith and sobriety and peacekeeping efforts in fraught prison environments. All of this, combined with his remarkable disciplinary record—which included only one infraction for possessing a cell phone over the course of 16 years—led to the IRAA motion being granted. HM is now reunited with his loving family and fiancé.

The Case of SD. SD, now 45 years old, was born in prison to an incarcerated mother who was addicted to drugs and alcohol. When he was 21 years old, he was sentenced to 22 years to life for a murder conviction. Over approximately 24 years of incarceration, SD grew and matured, and became a peaceful and deeply religious man. He became a spiritual leader in his prison community, took drug rehabilitation and anger management courses, and excelled in educational and vocational programs. In support of his IRAA motion, PDS obtained letters of support from numerous family members and from incarcerated persons whom SD had mentored and

assisted during his incarceration. PDS also obtained a written commitment for post-release employment, and other commitments for job training and housing.

Since his release following the granting of SD's IRAA motion, SD has married and has become a loving stepfather to his wife's young child. He has been continuously employed since his release, which allows him to support his family, and he has recently obtained his commercial driver's license.

The Case of QC. At age 22, QC was convicted of voluntary manslaughter for a death that stemmed from a fight and received a 15 years to life sentence. QC, now 47, spent 24 years imprisoned in various BOP institutions. While incarcerated, and despite his significant learning disabilities, he completed thousands of hours of educational and vocational coursework, as well as drug rehabilitation and anger management courses. He maintained a good disciplinary record, and gained the trust of BOP staff and fellow incarcerated residents. He worked in the prison's Suicide Watch program, and became the unofficial sports commissioner in his institution. Despite his years of incarceration, he maintained a positive attitude toward life, mentoring and supporting younger residents. As part of its IRAA submission, SLD mitigation specialists created a reentry plan that included housing in the District as well as job training. The judge granted QC's motion in February 2023 and released him to probation. Since then, QC has complied with all the requirements of his probation and has reintegrated into his large D.C. family where he mentors his younger relatives. In addition, he has been continuously employed as a roofer, a skilled and demanding profession that allows QC to be completely financially independent as well as assist in the support of some of his family members.



Effective Defense Practice

While winning trials is one clear example of effective advocacy, pointing out the factual or legal weaknesses in its cases to the prosecution is also a critical aspect of effective defense practice. PDS makes use of this approach in successful plea negotiations, and even to achieve outright dismissal by the prosecution in a substantial number of cases. In FY 2023, advocacy of PDS trial lawyers, investigative specialists, and forensic social workers resulted in the **dismissal of 18 percent of PDS's serious cases**. The following PDS advocacy efforts led to dismissals:

- Through investigation, PDS attorneys learned that in some cases the prosecution had not disclosed essential Brady evidence to the defense, and after filing motions and having hearings, PDS was able to cause the prosecution to dismiss those cases. | |
- PDS investigative specialists tracked down witnesses who gave compelling and exculpatory statements that PDS then shared with the prosecution, resulting in those cases being dismissed.
- PDS forensic social workers presented mitigating information to the prosecution that resulted in agreements to defer prosecution and eventually to dismiss cases.

PDS advocacy across divisions has also resulted in clients being released from parole holds, parole revocations, and pretrial detention and in sentencing mitigation among other successful results.

OFFICE OF REHABILITATION AND DEVELOPMENT

Forensic social workers work across legal divisions helping PDS clients in a number of ways including by formulating reentry plans, connecting clients with mental health treatment, and supporting clients with their mental health needs as they navigate the criminal legal system. PDS clients have relied on the Office of Rehabilitation and Development (ORD) staff to help in a multitude of ways such as:

- **The Case of LC.** LC was helped by an ORD social worker to finally get Social Security benefits he was owed. After months of calls and in person meetings with the social worker at the Social Security Administration offices, the client called: "It's here, I got it! ... I'll talk to you later, I gotta go pay some bills."
- **The Case of PS.** PS, who had been living at a shelter for years,



was helped by an ORD social worker to get his own apartment through D.C. Department of Human Services because of his multiple health issues. As he told the worker “living on my own is one of my greatest achievements.”

- **The Case of FJ.** FJ, who suffered from severe alcohol abuse disorder, faced having his probation revoked because of his difficulties meeting its requirements. FJ’s social worker worked tirelessly to find a program that could help him and then called him early in the morning to wake him, took the metro with him to see his probation officer, transported him to the Addiction Prevention & Recovery Administration (APRA) offices for an interview, and then got him into treatment.
- **The Case of SK.** SK, who is 50 years old, had been in prison or on parole since his teens. When SK took a plea to possession of a firearm, his criminal history placed him in the most severe box of the D.C. Sentencing Guidelines and exposed him to 22 to 120 months of incarceration. ORD staff wrote a 30-page report about SK’s personal history, the trauma of his past incarcerations, and his extraordinary efforts during the pendency of his case to turn his life around, which convinced the judge to depart downward from the recommended sentence and to instead sentence the client to the lowest sentence permitted by law.

PAROLE DIVISION

The Parole Division historically handles more than 1,000 matters annually for clients who are facing parole or supervised release revocation. As a direct result of the Division’s systemic advocacy to reduce the number of people held during the COVID-19 pandemic, that number has dropped significantly. **In FY 2023, PDS represented 423 clients at probable cause hearings before the United States Parole Commission (USPC) and was able to win release for 212 of them.** Most of those clients were released at their probable cause hearings and never had to participate in revocation hearings, and importantly were not held pending revocation hearings. For clients who were held, the Division continued to use novel written pleadings to advocate for their release, resulting in releases after the probable cause hearing but before a final hearing. For cases that advanced to a final hearing, **PDS either won outright reinstatement or a mitigated outcome in 55% of cases.** Altogether, through various avenues, clients represented by PDS achieved being released or receiving a mitigated sentence, reduced charges, reduced incarceration, or reduced supervision in 95% of their cases.

- As an example of how the Parole division is able to save clients from unwarranted incarceration, a PDS Parole attorney represented a client facing parole revocation based on an allegation that the client had assaulted someone. At the revocation hearing, the lawyer highlighted the inadequacies of the police investigation and, through cross examining eyewitnesses on their lack opportunity to observe how the incident had actually started, was able to demonstrate that the client had acted in self-defense against the complainant who had been the first aggressor in the fight. The client successfully defended the allegation and was reinstated to supervision.
- In another case, a parole attorney represented a client whom the Parole Commission had refused to release despite the client having been erroneously placed on supervised release in his case. After unsuccessfully arguing to the Commission that they lacked jurisdiction to detain the client, the attorney filed a motion with the sentencing judge requesting the court clarify that it had not in fact sentenced the client to a period of supervised release. The judge granted the motion. Instead of facing revocation of an erroneously imposed period of supervision, the client was released.

COMMUNITY DEFENDER DIVISION

The Community Defender Division handles a variety of institutional, administrative, and reentry legal matters through its Prisoner & Reentry Legal Services (PRLS) and Juvenile Services Program (JSP).

- PRLS advocacy stopped the USPC from rescinding a grant of parole after a client was falsely accused of possessing contraband in the BOP. PRLS represented this client in two parole grant hearings, first unsuccessfully in 2020, and then successfully in 2022 when the Commission granted him parole. Although PRLS won the parole grant hearing, the client’s release date was delayed for several months to allow for release planning. While the client was preparing for release, prison investigators discovered a significant amount of contraband in the facility. More than 300 suboxone strips were recovered in a secured locker within the recreation department at the prison. The client worked in the recreation department, but did not have access to this secured locker. Nonetheless, the facility punished the client with placement in the Special Housing Unit. Notwithstanding the lack of any evidence of the client’s involvement, the Parole Commission moved to rescind the client’s parole grant. Over the course of months, PRLS tirelessly pursued evidence related to the possession of contraband charges, ultimately representing the client at an institutional hearing on the

charges. PRLS and the client prevailed at the hearing, and the client was finally released on parole.

- Sometimes, it is not immediately obvious what services a client needs and it is only with persistence and efforts to build trust that an attorney can determine how they can help. When RW came into CDD's office on duty day, she was initially reluctant to answer some of the attorney's questions. As the interview progressed, it became clear that the client was saying that she had a record of arrests for prostitution-related offenses from when she was a minor. The lawyer determined that RW was eligible for record expungement pursuant to the Trafficking Survivors Relief Amendment Act of 2018⁹. In order to obtain relief under this law, the lawyer had to show that RW was a victim of trafficking. Over several months, the lawyer earned RW's trust and learned of her horrific experience. The PRLS team gathered paperwork, tracked down evidence, and worked with RW in order to present her story to the court. The PRLS attorney even obtained a letter of support for RW from the D.C. Councilmember who championed the passage of the law. When presented with the strong case for relief that PRLS built, the prosecution did not oppose, and the court granted expungement. The PRLS team also connected RW with an attorney in another jurisdiction to expunge similar arrests there. When her D.C. and other records were finally expunged, RW expressed her gratitude for the entire PRLS team; she texted the PRLS attorney: "I felt like I had a ball and chain and I was at the bottom of the ocean with tape on my mouth. Now, I feel free, I feel free, I feel free."

- JSP represented securely detained youth in 240 institutional disciplinary hearings. In 46 percent of those cases, JSP was successful in protecting the rights of youth in detention by preventing sanctions that would limit the few privileges and opportunities offered for appropriate youth development and mitigating the trauma experienced due to incarceration. This is a laudable statistic because the hearing officers are employees of the Department of Youth Rehabilitation Services (DYRS) and multiple incident reports written by other facility staff are submitted to the hearing officers in support of each alleged incident.

- JSP represented BD in a Community Status Review Hearing (CSRH), the juvenile legal system's equivalent of parole revocation hearings, where he was being supervised in both D.C. and a neighboring jurisdiction. The two jurisdictions imposed conflicting supervision requirements, confusing BD and making it difficult for him to achieve complete compliance. When DYRS moved to revoke BD's community placement, he was detained at the Youth Services Center. The JSP investigative specialist

conducted a deep dive into social media to help challenge one allegation, while the JSP attorney and paralegal researched the Interstate Compact for Juveniles (ICJ) that governs dual-supervision across jurisdictions. The JSP attorney used this research to write multiple motions defending BD against the allegations. JSP's team advocacy was victorious and BD returned home to his family.

- JSP also represented JT, who had been shuttled between foster homes and residential treatment centers over a number of years and had allegedly absconded from her foster home. While JT was in alleged abscondence and without JT being present, DYRS held a CSRH. At that hearing, DYRS decided to revoke her foster home placement without the benefit of JT being able to provide any real defense. When JT became aware of the situation and turned herself in, JSP immediately requested another CSRH. JSP filed seven prehearing motions and requested a two-day hearing to ensure sufficient time to address all the issues. This was the first time in recent JSP history where DYRS granted a request for a multi-day hearing. After a lengthy hearing lasting late into a Friday night, JSP was successful in securing JT's return to an out-of-home placement in the community where she will now receive services she had been previously denied.

MENTAL HEALTH DIVISION

In FY 2023, MHD attorneys **secured the release of 95 percent of clients who appeared at contested and non-contested probable cause hearings**. When PDS prevails at these hearings, clients who should not be committed involuntarily retain their liberty and hospital resources are then available for persons who are most in need of them. In FY 2023, PDS also **prevailed in 33 percent of all the cases that went to a contested hearing before the Commission on Mental Health**—a panel consisting of a D.C. Superior Court magistrate judge and two doctors employed by the court—by securing either complete dismissal or mitigation (securing outpatient commitment instead of inpatient commitment). Treatment in the community is considerably less expensive than hospitalization and typically achieves much more favorable outcomes for clients.

Also, after extensive litigation, MHD was able to get unconditional release from further control by the Department of Behavioral Health (DBH) for three clients who had been found not guilty by reason of insanity. Clients who are found not guilty by reason of insanity are committed indefinitely and the



process of eventually being unconditionally released is slow and costly. While committed, clients must first matriculate through intensive inpatient treatment, gradually earning hospital privileges. At some later point, clients can cycle through a series of highly supervised and judicially authorized releases into the community. Once in the community full-time, unconditional release is granted only after the acquittee carries the burden of demonstrating that they will not be dangerous to themselves or others if the judicial, governmental and DBH forensic oversight is removed.

Two cases were each more twenty years old and one case was more than forty-five years old. These clients are now returned to the community and are successfully continuing with mental health treatment without costly governmental and judicial oversight.

MHD was also successful in bringing back to D.C. three individuals who had been languishing in the Federal Bureau of Prisons under federal civil commitment for, cumulatively, more than 30 years after the expiration of their sentences. These individuals were brought back to D.C. and to St. Elizabeths for inpatient mental health treatment. One of these individuals is now living in the community, receiving mental health services voluntarily for the first time in 20 years.

APPELLATE DIVISION

In FY 2023, PDS's Appellate Division continued to lead in the cause of criminal justice in the District of Columbia through its exemplary legal representation and amicus curiae assistance to the courts, frequently resulting in published opinions that establish or clarify legal standards that protect the integrity of criminal adjudications and foster public trust in the courts.

In ***United States v. Peyton***,¹⁰ PDS prevailed in a case that occurred at the intersection of the criminal legal system and the mental health involuntary civil commitment system. After finding that Mr. Peyton, who had been charged with misdemeanor unlawful entry onto private property, was not competent to stand trial and unlikely to regain competence in the foreseeable future, the criminal trial judge ordered Mr. Peyton to remain detained in a mental hospital pending the government's filing of a petition seeking civil commitment to the mental health system. PDS challenged the constitutionality of the D.C. statute that permitted the criminal court to order such civil detention without making any finding of dangerousness and without affording any hearing on the issue. The Court of Appeals agreed with PDS that a court could not order detention without making specific findings regarding dangerousness after a full evidentiary hearing, and that Mr. Peyton's detention had been unlawful.

In **T.W. v. United States**,¹¹ PDS prevailed in an important Fourth Amendment case, building on its victory in *Golden v. United States*.¹² In this case where the government conceded that the police had no lawful basis for seizing T.W., the question was whether T.W. had in fact been “seized” within the meaning of the Fourth Amendment when multiple officers surrounded him while he was alone in a secluded area; asked twice if he had a gun; and when he responded both times that he did not have a gun, asked if they could pat him down “just to make sure.” The Court agreed with PDS that, under these circumstances, T.W. had been seized as no reasonable person would feel free to refuse the request for a pat-down and walk away.

In addition to winning justice for its clients, PDS continued to assist the Court of Appeals in developing the criminal law of the District of Columbia through its written and oral advocacy as amicus curiae, often at the Court’s request. In **Gordon v. United States**,¹³ PDS helped secure an important limitation on the common-law doctrine of transferred intent. The doctrine holds that a person’s intent to kill can “transfer” when they purposely attempt to kill one person but mistakenly kill another. In this case of first impression, the Court of Appeals held, however, that transferred intent could not supply the nec-

essary mental state to support a conviction for assault with intent to kill while armed where during an attempted murder of a person, another person was frightened, but not physically injured, by a stray bullet.

In **Mayo v. United States**,¹⁴ the Court of Appeals sat *en banc* to consider whether an individual’s flight from police in a “high crime” area gives rise to a reasonable, articulable suspicion of criminal activity sufficient to justify a seizure by the police under the Fourth Amendment. PDS contends that, because the evidence of “high crime” in the area was conclusory and not particularized, and because flight by a Black man who has been targeted by a police unit that engages in community harassment does not necessarily evidence consciousness of guilt, the police lacked a sufficient basis to support the seizure.

In FY 2023, PDS also submitted briefs and presented oral arguments as amicus curiae in a pending *en banc* case that will decide legal issues of exceptional importance. In **Cardozo v. United States**,¹⁵ the Court of Appeals sat *en banc* to reex-



amine its case law defining the offense of kidnapping. Although the District's kidnapping statute was enacted in the 1930s to combat the national epidemic of highly organized kidnappings for ransom, the statute has been broadly interpreted in recent years to cover even the most fleeting and minor detentions, such as the split-second bearhug on a public street in this case. Drawing from the statute's plain text and historical background, PDS asked the en banc Court to construe the "holding or detaining" element of the kidnapping statute to require proof that the defendant maintained physical control over the victim for a lengthy period of time, in a manner that isolates the victim from aid and that goes beyond conduct which is only incidental to another offense.

CIVIL LEGAL SERVICES DIVISION

Civil represented SQ, a returning citizen, who was wrongfully placed on the Child Protection Registry (CPR) administered

by the D.C. Child and Family Services Agency (CFSA), and, as a consequence, lost her job, making her unable to pay her rent or other bills. Upon her release from a lengthy prison sentence, SQ returned to D.C. to rebuild her life. She secured gainful employment as a teacher's assistant. Subsequently however, CFSA notified SQ's employer that SQ was on the CPR and, as a result, her employer terminated her employment. CFSA had never notified SQ that they were placing her on the CPR. PDS attorneys requested a hearing on the matter, but CFSA refused based solely on SQ's criminal conviction. SQ's criminal case, however, had not involved children, and there had been no findings in the case concerning abuse and neglect. PDS appealed CFSA's refusal to grant a hearing. Almost immediately upon filing, the D.C. government agreed to a remand of the case; on remand, CFSA finally agreed to remove SQ from the CPR. During the course of SQ's representation, PDS was also able to secure her legal counsel to pursue unemployment benefits and additional financial support from the Returning Citizens Assistance Network (RCAN) to pay bills and obtain food and necessities while she was unemployed.





PUBLIC DEFENDER SERVICE
for the District of Columbia

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Champions of Liberty

Restoring Lives. Rebuilding Families. Rectifying Injustice.

Website of the Year Award

In FY 2023, PDS redesigned its website¹⁶ to facilitate access and use by the public and the legal community. After launching the improved website, PDS won Progress Sitefinity's Website of the Year Award in the category of Associations, Government, and Public Sector.

The winners were selected in two phases. First, an internal Progress Sitefinity jury evaluated each nomination against six selection criteria – visual design, content, layout, navigation, complexity, innovation, and significance – and shortlisted the three best websites in each category. After narrowing the field, voting was opened to the community at large where more than 2,000 votes were cast and PDS's website won.



PDS Employee Survey Results

As part of evaluating PDS's performance in providing service to the D.C.'s legal systems in FY 2023, PDS sent an anonymous satisfaction survey to employees at PDS. PDS believes it is important to understand how staff is experiencing work at PDS particularly after the disruption of the COVID-19 pandemic. The survey was conducted in order for PDS to focus on areas of potential improvement and to help understand where PDS is doing well.

Overall, the results serve as another indicator of the high quality of PDS's client- centered representation through the satisfaction of its staff:

While the majority of responses were favorable, PDS did note areas to target for improvement, including the fact that a majority of staff felt their workloads were too high, that they did not have enough time to attend trainings, and that they would like more intensive supervision.



100% of survey participants agreed that the mission of PDS is clear to them.

100% of survey participants agreed that PDS is accomplishing its mission.

100% of survey takers endorsed the statement, "I am proud to say that I work for PDS."

100% of survey participants agreed with the statement, "My work gives me a sense of personal accomplishment."

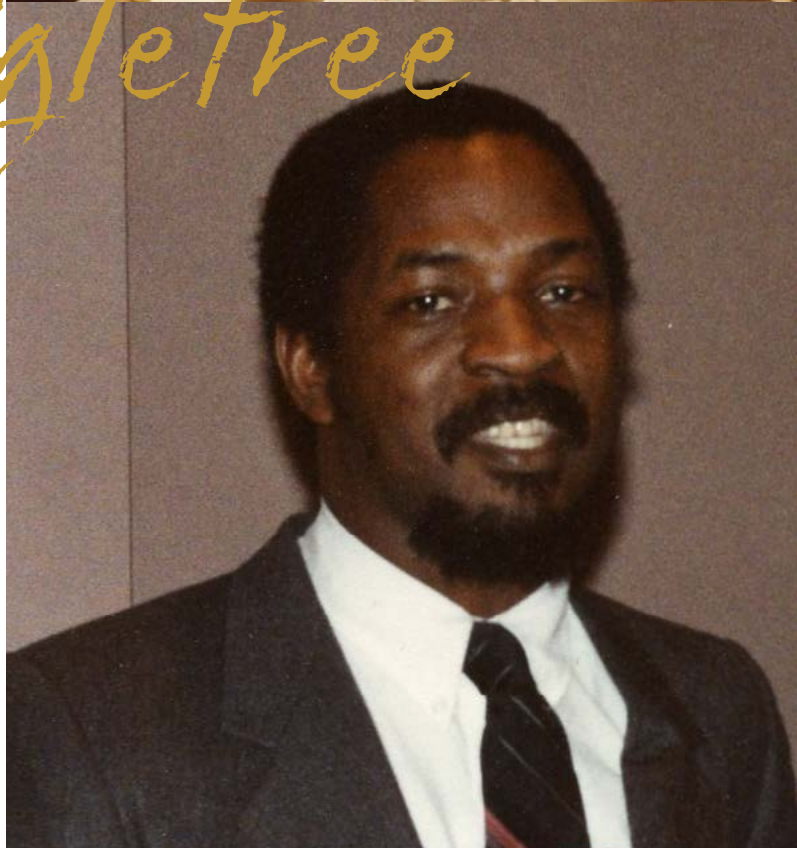


TRIBUTE TO *Charles Ogletree*

On August 4, 2023, we lost Charles J. Ogletree, Jr., a former PDS deputy director, trial chief, training director, and staff attorney. He passed away surrounded by family and close friends.

“Tree” inspired many of us to become public defenders; for many others, he was our trainer, advisor, mentor, colleague, and friend. In the years Tree was at PDS, from 1978 to 1985, he made himself unforgettable as a stellar trial attorney and an even better person. And he never forgot PDS in the years afterward, returning to help train new attorneys and encouraging law students to pursue a career at PDS. Tree’s post-PDS years were full of accomplishments in private practice, academia, literature, civil rights, and criminal defense. As an attorney, he represented such notable figures as Tupac Shakur and Anita Hill. He was even a mentor for a history-making future president and first lady. While Alzheimer’s disease compromised the last few years of Tree’s life, it never erased these accomplishments or the regard, respect, and affection the PDS community has for him.

We treasure the memories of this giant at PDS, in the realm of public defenders, and...in the world.



FINAL ANALYSIS

"I felt like I had a ball and chain and I was at the bottom of the ocean with tape on my mouth. Now, I feel free, I feel free, I feel free."

– TEXT SENT BY A CDD CLIENT TO HER DEFENSE TEAM.

The core work of PDS is the representation of individual clients facing a loss of liberty. Every year, PDS lawyers, investigative specialists, forensic social workers, and other staff assist clients in thousands of matters. The proceedings for involuntary commitment, parole revocation, and criminal and juvenile delinquency cases are adversarial in nature, and PDS has able adversaries in the District's Office of the Attorney General and the U.S. Attorney's Office for the District of Columbia. A true justice system depends on having all components (judges, prosecution, and defense) fulfill their respective roles. PDS plays a central 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 or to an administrative hearing, PDS liti-

gates each matter to the fullest, ensuring that the proceeding constitutes a full and fair airing of reliable evidence. In FY 2023, PDS, as it has every year since its inception, fought a forceful fight and found resolutions where possible for many clients.

Whatever the outcome or type of case, PDS's goal for each client was competent, quality representation. 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, to ensure the reliability of the results, to avoid costly wrongful convictions, and to ensure due process protections are in effect before anyone loses their liberty.

Endnotes

- 1 https://www.americanbar.org/groups/legal_aid_indigent_defense/indigent_defense_systems_improvement/standards-and-policies/ten-principles-pub-def/.
- 2 Pub. L. No. 91-358, Title III, § 301 (1970); see also D.C. Code §§ 2-1601–1608.
- 3 *Gideon v. Wainwright*, 372 U.S. 335 (1963).
- 4 Plan for furnishing representation to indigents under the District of Columbia Criminal Justice Act. D.C. Code § 11-2601 et seq.
- 5 Pub. L. No. 105-33, Title XI (1997).
- 6 The CJA website can be found at <http://www.cjadc.org/>.
- 7 This quote is attributed to prominent American Methodist minister and professor at Yale Divinity School Halford E. Luccock.
- 8 As Part of the First Step Act, the Department of Justice implemented an inmate risk assessment tool called the Prisoner Assessment Tool Targeting Estimated Risk and Needs (PATTERN) “designed to predict the likelihood of general and violent recidivism.” U.S. DEPT OF JUSTICE, THE FIRST STEP ACT OF 2018: RISK AND NEEDS ASSESSMENT SYSTEM UPDATE 9–11 (Jan. 2020), <https://www.bop.gov/inmates/fsa/docs/the-first-step-act-of-2018-risk-and-needs-assessment-system-updated.pdf>.
- 9 D.C. Code § 22-1844.
- 10 No. 23-CO-0233, 2023 WL 5112775 (D.C. Aug. 10, 2023).
- 11 292 A.3d 790 (D.C. 2023).
- 12 248 A.3d 925 (D.C. 2021).
- 13 285 A.3d 199 (D.C. 2022).
- 14 No. 18-CF-1132 (argued en banc June 6, 2023).
- 15 No. 17-CF-774 (argued en banc Mar. 24, 2023).
- 16 <https://www.pdsdc.org/>.

FINANCIAL STATEMENTS:



ALLMOND & COMPANY, LLC

CERTIFIED PUBLIC ACCOUNTANTS

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Independent Auditor's Report

Chairperson, Board of Trustees
Director, Public Defender Service for the District of Columbia

Report on the Financial Statements

Opinion

Pursuant to District of Columbia Code, Section 2-1606, we have audited the accompanying financial statements of the Public Defender Service for the District of Columbia (PDS), which comprise the balance sheets as of September 30, 2023 and 2022; the related statements of net cost, changes in net position, and budgetary resources for the fiscal years then ended; and the related notes to the financial statements (hereinafter referred to as the financial statements).

In our opinion, the financial statements present fairly, in all material respects, the financial position of the Public Defender Service for the District of Columbia as of September 30, 2023 and 2022 and its net costs, changes in net position, and budgetary resources for the fiscal years then ended in accordance with accounting principles generally accepted in the United States of America.

Basis for Opinion

We conducted our audits in accordance with U.S. generally accepted auditing standards (GAAS); the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States; and Office of Management and Budget (OMB) Bulletin No. 24-01, *Audit Requirements for Federal Financial Statements*. Our responsibilities under those standards and OMB Bulletin No. 24-01 are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of the PDS and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audits. We believe that the audit evidence that we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Responsibilities of Management for the Financial Statements

Management is responsible for (1) the preparation and fair presentation of the financial statements in accordance with U.S. generally accepted accounting principles; (2) preparing, measuring, and presenting Required Supplementary Information (RSI) in accordance with U.S. generally accepted accounting principles; (3) preparing and presenting other information included in PDS's Annual Report and ensuring the consistency of that information with the audited financial statements and the RSI; and (4) designing, implementing, and maintaining effective internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibilities for the Audit of the Financial Statements

Our objectives are to (1) obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and (2) issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit of the financial statements conducted in accordance with GAAS, generally accepted government auditing standards (GAGAS), and OMB Bulletin No. 24-01 will always detect a material misstatement or material weakness when it exists.

The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements, including omissions, are considered to be material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with GAAS, GAGAS, and OMB Bulletin No. 24-01, we exercise professional judgment and maintain professional skepticism throughout the audit, identify and assess risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures that are responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. In addition, in making those risk assessments, we obtain an understanding of internal control relevant to an audit of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of PDS's internal control over financial reporting. Accordingly, we express no such opinion.

An audit also includes evaluating the appropriateness of the accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements, and performing other procedures we consider necessary in the circumstances. We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control-related matters that we identified during the financial statement audit.

Required Supplementary Information (RSI)

U.S. generally accepted accounting principles issued by the Federal Accounting Standards Advisory Board (FASAB) require that the information in the RSI be presented to supplement the financial statements. Such information is the responsibility of management and, although not a part of the financial statements, is required by FASAB, which considers it to be an essential part of financial reporting for placing the financial statements in appropriate operational, economic, or historical context.

We have applied certain limited procedures to the RSI in accordance with U.S. generally accepted government auditing standards. These procedures consisted of (1) inquiring of management about the methods used to prepare the RSI and (2) comparing the RSI for consistency with management's responses to our inquiries, the financial statements, and other knowledge we obtained during the audit of PDS's financial statements, in order to report omissions or material departures from FASAB guidelines, if any, identified by these limited procedures. We did not audit and we do not express an opinion or provide any assurance on the RSI because the limited procedures we applied do not provide sufficient evidence to express an opinion or provide any assurance.

Other Information

PDS's other information contains a wide range of information, some of which is not directly related to the financial statements. This information is presented for purposes of additional analysis and is not a required part of the financial statements or the RSI. Management is responsible for the other information included in PDS's Annual Report. The other information comprises the *Other Management Information, Initiatives, and Issues and FY 2023 Performance and Outcome Data* sections but does not include the financial statements and our auditor's report thereon. Our opinion on the financial statements does not cover the other information, and we do not express an opinion or any form of assurance thereon.

In connection with our audit of the financial statements, our responsibility is to read the other information and consider whether a material inconsistency exists between the other information and the financial statements, or the other information otherwise appears to be materially misstated. If, based on the work performed, we conclude that an uncorrected material misstatement of the other information exists, we are required to describe it in our report.

Report on Internal Control over Financial Reporting

In connection with our audits of PDS's financial statements, we considered PDS's internal control over financial reporting, consistent with our auditor's responsibilities discussed below.

Results of Our Consideration of Internal Control over Financial Reporting

Our consideration of internal control was for the limited purpose described below, and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies¹ or to express an opinion on the effectiveness of PDS's internal control over financial reporting. Given these limitations, during our 2023 audit, we identified one deficiency in internal control over financial reporting that we consider to be a material weakness. This material weakness is discussed in more detail in the accompanying *Exhibit I, Findings and Recommendations*, to this report.

We considered this material weakness in determining the nature, timing, and extent of our audit procedures on PDS's fiscal year 2023 financial statements. Although the material weakness in internal control did not affect our opinion on PDS's fiscal year 2023 financial statements, misstatements may occur in unaudited financial information reported internally and externally by PDS because of this deficiency.

In addition, during our audit, we identified a deficiency in PDS's internal control over financial reporting that we do not consider to be a material weakness or significant deficiency that, nonetheless, warrants management's attention. We have communicated this matter to PDS management and, where appropriate, will report on this matter separately.

¹ A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A material weakness is a deficiency, or combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected, on a timely basis. A significant deficiency is a deficiency, or a combination of deficiencies, in internal control over financial reporting that is less severe than a material weakness, yet important enough to merit the attention by those charged with governance.

Basis for Results of Our Consideration of Internal Control over Financial Reporting

We performed our procedures related to PDS's internal control over financial reporting in accordance with U.S. generally accepted government auditing standards and OMB audit guidance.

Responsibilities of Management for Internal Control over Financial Reporting

PDS management is responsible for designing, implementing, and maintaining effective internal control over financial reporting relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibilities for Internal Control over Financial Reporting

In planning and performing our audit of PDS's financial statements as of and for the fiscal year ended September 30, 2023, in accordance with U.S. generally accepted government auditing standards, we considered PDS's internal control relevant to the financial statement audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of PDS's internal control over financial reporting. Accordingly, we do not express an opinion on PDS's internal control over financial reporting. We are required to report all deficiencies that are considered to be significant deficiencies or material weaknesses. We did not consider all internal controls relevant to operating objectives, such as those controls relevant to preparing performance information and ensuring efficient operations.

Definition and Inherent Limitations of Internal Control over Financial Reporting

An entity's internal control over financial reporting is a process effected by those charged with governance, management, and other personnel. The objectives of internal control over financial reporting are to provide reasonable assurance that (1) transactions are properly recorded, processed, and summarized to permit the preparation of financial statements in accordance with U.S. generally accepted accounting principles, and assets are safeguarded against loss from unauthorized acquisition, use, or disposition, and (2) transactions are executed in accordance with provisions of applicable laws, including those governing the use of budget authority, regulations, contracts, and grant agreements, noncompliance with which could have a material effect on the financial statements. Because of its inherent limitations, internal control over financial reporting may not prevent, or detect and correct, misstatements due to fraud or error.

Intended Purpose of Report on Internal Control over Financial Reporting

The purpose of this report is solely to describe the scope of our consideration of PDS's internal control over financial reporting and the results of our procedures, and not to provide an opinion on the effectiveness of PDS's internal control over financial reporting. This report is an integral part of an audit performed in accordance with U.S. generally accepted government auditing standards in considering internal control over financial reporting. Accordingly, this report on internal control over financial reporting is not suitable for any other purpose.

Report on Compliance with Laws, Regulations, Contracts, and Grant Agreements

In connection with our audits of PDS's financial statements, we tested compliance with selected provisions of applicable laws, regulations, contracts, and grant agreements consistent with our auditor's responsibilities discussed below.

Results of Our Tests for Compliance with Laws, Regulations, Contracts, and Grant Agreements

Our tests for compliance with selected provisions of applicable laws, regulations, contracts, and grant agreements disclosed no instances of noncompliance for fiscal year 2023 that would be reportable under U.S. generally accepted government auditing standards. However, the objective of our tests was not to provide an opinion on compliance with laws, regulations, contracts, and grant agreements applicable to PDS. Accordingly, we do not express such an opinion.

Basis for Results of Our Tests for Compliance with Laws, Regulations, Contracts, and Grant Agreements

We performed our tests of compliance in accordance with U.S. generally accepted government auditing standards.

Responsibilities of Management for Compliance with Laws, Regulations, Contracts, and Grant Agreements

PDS management is responsible for complying with laws, regulations, contracts, and grant agreements applicable to PDS.

Auditor's Responsibilities for Tests of Compliance with Laws, Regulations, Contracts, and Grant Agreements

Our responsibility is to test compliance with selected provisions of laws, regulations, contracts, and grant agreements applicable to PDS that have a direct effect on the determination of material amounts and disclosures in PDS's financial statements, and to perform certain other limited procedures. Accordingly, we did not test compliance with all provisions of laws, regulations, contracts, and grant agreements applicable to PDS. We caution that noncompliance may occur and not be detected by these tests.

Intended Purpose for Report on Compliance with Laws, Regulations, Contracts, and Grant Agreements

The purpose of this report is solely to describe the scope of our testing of compliance with selected provision of applicable laws, regulations, contracts, and grant agreements, and the results of that testing, and not to provide an opinion on compliance. This report is an integral part of an audit performed in accordance with U.S. generally accepted government auditing standards in considering compliance. Accordingly, this report on compliance with laws, regulations, contracts, and grant agreements is not suitable for any other purpose.

Allmond & Company, LLC

Lanham, Maryland
December 7, 2023

Public Defender Service for the District of Columbia
Balance Sheets
As of September 30, 2023 and 2022
(in dollars)

| | <u>2023</u> | <u>2022</u> |
|---|----------------------|----------------------|
| Assets | | |
| Intra-governmental | | |
| Fund Balance With Treasury (Note 2) | \$ 13,680,726 | \$ 18,589,952 |
| Total Intra-governmental | <u>13,680,726</u> | <u>18,589,952</u> |
| Other Than Intra-governmental | | |
| Accounts Receivable, Net (Note 3) | 11,577 | 850 |
| Property, Plant, and Equipment, Net (Note 4) | <u>6,129,688</u> | <u>1,105,693</u> |
| Total Other Than Intra-governmental | <u>6,141,265</u> | <u>1,106,543</u> |
| Total Assets | <u>\$ 19,821,991</u> | <u>\$ 19,696,495</u> |
| Stewardship PP&E | | |
| Liabilities: | | |
| Intra-governmental | | |
| Other Liabilities | | |
| Other Liabilities (without reciprocals) | | |
| Employer Contributions and Payroll Taxes Payable (Note 6) | \$ 39,292 | \$ 37,107 |
| Other Current Liabilities - Benefit Contributions Payable | | |
| Employer Contributions and Payroll Taxes Payable (Note 6) | 130,566 | 122,959 |
| Unfunded FECA Liability (Note 5) | <u>72,409</u> | <u>56,357</u> |
| Total Intra-governmental | <u>242,267</u> | <u>216,423</u> |
| Other Than Intra-governmental | | |
| Accounts Payable (Note 6) | 340,853 | 1,646,313 |
| Federal Employee and Veteran Benefits Payable | | |
| Employer Contributions and Payroll Taxes Payable (Note 6) | 24,009 | 22,595 |
| Unfunded Leave (Note 5) | 2,584,997 | 2,474,866 |
| Actuarial FECA Liability (Note 5) | 389,956 | 327,552 |
| Other Liabilities | | |
| Accrued Funded Payroll and Leave (Note 6) | <u>547,825</u> | <u>518,053</u> |
| Total Other Than Intra-governmental | <u>3,887,640</u> | <u>4,989,379</u> |
| Total Liabilities | <u>\$ 4,129,907</u> | <u>\$ 5,205,802</u> |
| Net Position: | | |
| Unexpended Appropriations - Funds from other than Dedicated Collections | \$ 12,477,629 | \$ 16,048,235 |
| Total Unexpended Appropriations (Consolidated) | 12,477,629 | 16,048,235 |
| Cumulative Results of Operations -Funds from other than Dedicated Collections | 3,214,455 | (1,557,542) |
| Total Cumulative Results of Operations (Consolidated) | <u>3,214,455</u> | <u>(1,557,542)</u> |
| Total Net Position | <u>15,692,084</u> | <u>14,490,693</u> |
| Total Liabilities And Net Position | <u>\$ 19,821,991</u> | <u>\$ 19,696,495</u> |

The accompanying notes are an integral part of these statements.

Public Defender Service for the District of Columbia
Statement of Net Cost
For the Years Ended September 30, 2023 and 2022
(in dollars)

| | <u>2023</u> | <u>2022</u> |
|-------------------------------|-----------------------------|-----------------------------|
| Gross costs (Note 8) | \$ 54,828,877 | \$ 50,458,998 |
| Less: Earned Revenue (Note 8) | <u>-</u> | <u>-</u> |
| Net Cost of Operations | <u>\$ 54,828,877</u> | <u>\$ 50,458,998</u> |

The accompanying notes are an integral part of these statements.

Public Defender Service for the District of Columbia
Statements of Changes in Net Position
For the Years Ended September 30, 2023 and 2022
(in dollars)

| | <u>2023</u> | <u>2022</u> |
|--|-----------------------------|-----------------------------|
| Unexpended Appropriations: | | |
| Beginning Balances | \$ 16,048,235 | \$ 12,945,438 |
| Beginning Balances, as Adjusted | 16,048,235 | 12,945,438 |
| | | |
| Appropriations Received (Note 9) | 53,629,000 | 52,598,000 |
| Appropriations Used | (56,605,143) | (48,198,188) |
| Other Adjustments | (594,463) | (1,297,015) |
| Net Change in Unexpended Appropriations | (3,570,606) | 3,102,797 |
| Total Unexpended Appropriations - Ending | <u>\$ 12,477,629</u> | <u>\$ 16,048,235</u> |
| Cumulative Results of Operations: | | |
| Beginning Balances | \$ (1,557,542) | \$ (1,317,745) |
| Adjustments | | |
| Corrections of Errors | 27,846 | - |
| Beginning Balances, as Adjusted | (1,529,696) | (1,317,745) |
| | | |
| Appropriations Used | 56,605,143 | 48,198,188 |
| Donations and Forfeitures of Cash and Cash Equivalents | 2,005 | - |
| Imputed Financing (Note 10) | 2,965,880 | 2,021,013 |
| Net Cost of Operations (Note 8) | (54,828,877) | (50,458,998) |
| Net Change in Cumulative Results of Operations | 4,744,151 | (239,797) |
| Cumulative Results of Operations - Ending | <u>3,214,455</u> | <u>(1,557,542)</u> |
| Net Position | <u>\$ 15,692,084</u> | <u>\$ 14,490,693</u> |

The accompanying notes are an integral part of these statements.

Public Defender Service for the District of Columbia
Statements of Budgetary Resources
For the Years Ended September 30, 2023 and 2022
(in dollars)

| | <u>2023</u> | <u>2022</u> |
|---|----------------------|----------------------|
| Budgetary resources: | | |
| Unobligated balance from prior year budget authority, net (discretionary and mandatory) (Note 16) | \$ 9,018,939 | \$ 3,539,136 |
| Appropriations (discretionary and mandatory) (Note 9) | 53,631,005 | 52,598,000 |
| Total budgetary resources (Note 11) | <u>\$ 62,649,944</u> | <u>\$ 56,137,136</u> |
| Status of budgetary resources: | | |
| New obligations and upward adjustments (total) (Note 11): | \$ 56,123,267 | \$ 47,994,543 |
| Unobligated balance, end of year | | |
| Apportioned, unexpired accounts | 3,037,245 | 5,118,301 |
| Exempt from apportionment, unexpired accounts | 120,553 | 194,689 |
| Unexpired unobligated balance, end of year (Note 2, Note 11) | <u>3,157,798</u> | <u>5,312,990</u> |
| Expired unobligated balance, end of year (Note 2) | <u>3,368,879</u> | <u>2,829,603</u> |
| Unobligated balance, end of year (total) | <u>6,526,677</u> | <u>8,142,593</u> |
| Total budgetary resources (Note 11) | <u>\$ 62,649,944</u> | <u>\$ 56,137,136</u> |
| Outlays, Net and Disbursements, Net | | |
| Outlays, net (total) (discretionary and mandatory) | 57,945,767 | 48,762,818 |
| Agency outlays, net (discretionary and mandatory) | <u>\$ 57,945,767</u> | <u>\$ 48,762,818</u> |

The accompanying notes are an integral part of these statements.

Public Defender Service for the District of Columbia
Notes to Principal Statements
As of September 30, 2023 and 2022

NOTE 1: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

(a) Reporting Entity

The Public Defender Service for the District of Columbia (PDS) is a federally funded, independent organization, governed by an 11-member Board of Trustees. PDS was established under District of Columbia's Code Section 2701. The PDS mission is to provide quality legal representation to indigent adults and children facing a loss of liberty in the District of Columbia, and thereby protect society's interest in the fair administration of justice.

(b) Basis of Accounting and Presentation

(1) Basis of Accounting

PDS uses the Oracle Federal Financials System for financial accounting, funds control, management accounting and financial reporting. Financial transactions are recorded in the financial system, using both an accrual and a budgetary basis of accounting. Under the accrual method, revenues are recognized when earned and expenses are recognized when a liability is incurred, without regard to the receipt or payment of cash. Budgetary accounting facilitates compliance with legal requirements and mandated controls over the use of Federal funds. It generally differs from the cash basis of accounting in that obligations are recognized when new orders are placed, contracts awarded, and services received that will require payments during the same or future periods.

(2) Basis of Presentation

These financial statements have been prepared to report the financial position, net cost, changes in net position and budgetary resources of PDS. These financial statements have been prepared from the books and records of PDS in accordance with generally accepted accounting principles (GAAP) using guidance issued by the Federal Accounting Standards Advisory Board (FASAB), the Office of Management and Budget (OMB) and PDS's accounting policies, which are summarized in this note.

(c) Revenue and Financing Sources

PDS's federal funding is received through appropriations. For accounting purposes, appropriations are recognized as financing sources (appropriations used) at the time expenditures are incurred or assets are purchased.

(d) Assets and Liabilities

Assets and liabilities presented on PDS's balance sheets are entity assets. Entity assets are assets that PDS has authority to use in its operations.

Intragovernmental assets and liabilities arise from transactions between PDS and Federal entities. All other assets and liabilities result from activity with non-Federal entities. Liabilities covered by budgetary or other resources are those liabilities of PDS for which Congress has appropriated funds, or funding is otherwise available to pay amounts due. Liabilities not covered by budgetary or other resources represent amounts owed in excess of available congressionally appropriated funds or other amounts. The liquidation of liabilities not covered by budgetary or other resources is dependent on future congressional appropriations or other funding.

(e) Fund Balance with Treasury

The United States Department of the Treasury (“Treasury”) processes cash receipts and disbursements on behalf of PDS. Fund balance with Treasury includes appropriated funds.

(f) Accounts Receivable

Accounts receivable consist of amounts owed to PDS by current and former employees.

(g) Property, Plant and Equipment

Property, plant and equipment consist of equipment, leasehold improvements, and software. All items with acquisition values equal to or greater than \$25,000 and useful lives of two years or more are capitalized. Service life of such assets range from five to twenty-five years.

Internal use software development and acquisition costs of \$25,000 or greater are capitalized as software development in progress until the development stage has been completed and the software has been successfully tested. Upon completion and testing, software development costs are capitalized and amortized using the straight-line method over the estimated useful life of five years. Purchased commercial software which does not meet the capitalization criteria is expensed.

PDS’s property, plant and equipment are stated at cost less accumulated depreciation. Depreciation is calculated on the straight-line basis over the useful life of the asset. New assets, major alterations, renovations and improvements are capitalized at cost as additions to the asset accounts. Maintenance, repairs and minor replacements that do not extend the life of the asset are charged to operations in the year incurred. Property, plant and equipment that has been received but is not planned to be placed into immediate production in the year of purchase will be accounted for in the construction in progress account (SGL 172001).

(h) Accrued Annual, Sick and Compensatory Time

Annual leave and compensatory time are accrued when earned, reduced when taken, and adjusted for changes in compensation rates. Sick leave is not accrued when earned, but rather expensed when taken.

(i) Life Insurance and Retirement Plans

Federal Employees Group Life Insurance (FEGLI) Program

PDS employees enrolled in the FEGLI Program pay two-thirds of the cost and PDS pays one-third. Additional coverage is optional, to be fully paid by the employee. The basic life coverage may be continued into retirement if certain requirements are met.

Retirement Programs

PDS employees participate in the Civil Service Retirement System (CSRS) or the Federal Employees' Retirement System (FERS). On January 1, 1987, FERS went into effect pursuant to Public Law 99-335. Most employees hired after December 31, 1983, are automatically covered by FERS and Social Security. Employees hired prior to January 1, 1984, could elect to either join FERS and Social Security or remain in CSRS.

For employees under FERS, PDS contributes an amount equal to one percent of the employee's basic pay to the tax deferred Thrift Savings Plan (TSP) and matches employee contributions up to an additional four percent of pay. FERS employees can contribute for FY23 \$22,500 of their gross earnings to the plan. CSRS employees can also contribute \$22,500 of their gross earnings to the plan, but they receive no matching PDS contribution.

PDS recognizes the full cost of providing future pension and Other Retirement Benefits (ORB) for current employees as required by SFFAS No. 5, *Accounting for Liabilities of the Federal Government*. Full costs include pension and ORB contributions paid out of PDS appropriations and costs financed by the U.S. Office of Personnel Management (OPM). The amount financed by OPM is recognized as an imputed financing source. Reporting amounts such as plan assets, accumulated plan benefits, or unfunded liabilities, if any, is the responsibility of OPM.

Liabilities for future pension payments and other future payments for retired employees who participate in the Federal Employees Health Benefits Program (FEHBP) and FEGLI are reported by OPM rather than PDS.

(j) Contingent Liabilities

Contingencies are recorded when losses are probable, and the cost is measurable. When an estimate of contingent losses includes a range of possible costs, the most likely cost is reported, but where no cost is more likely than any other, the lowest possible cost in the range is reported.

(k) Unexpended Appropriations

Unexpended appropriations represent the amount of PDS's unexpended appropriated spending authority as of the fiscal year-end that is unliquidated and has not lapsed, been rescinded or withdrawn.

(l) Income Taxes

PDS is exempt from all income taxes imposed by any governing body, whether it is a Federal, state, commonwealth, local, or foreign government.

(m) Use of Estimates

Management has made certain estimates and assumptions in reporting assets and liabilities and in the footnote disclosures. Actual results could differ from these estimates.

(n) Subsequent Events

Subsequent events and transactions occurring after September 30, 2023 through the date of the auditor's opinion have been evaluated for potential recognition or disclosure in the financial statements. The date of the auditors' opinion also represents the date that the financial statements were available to be issued.

(o) Principal Financial Statements

- Balance Sheets
- Statements of Net Cost
- Statements of Changes in Net Position
- Statements of Budgetary Resources

NOTE 2: FUND BALANCE WITH TREASURY

Treasury performs cash management activities for PDS. The net activity represents fund balance with Treasury. The fund balance with Treasury represents the right of PDS to draw down funds from Treasury for expenses and liabilities. Fund balance with Treasury as of September 30, 2023 and September 30, 2022, consists of the following:

Fund Balance with Treasury by Fund Type:

| | FY 2023 | | | FY 2022 | | |
|---------------|---------------|------------|---------------|---------------|------------|---------------|
| | Entity | Non-Entity | Total | Entity | Non-Entity | Total |
| | Assets | Assets | | Assets | Assets | |
| General Funds | \$ 13,680,726 | - | \$ 13,680,726 | \$ 18,589,952 | - | \$ 18,589,952 |

The fund balance includes unused appropriations held by Treasury. The status of the fund balance is classified as unobligated available, unobligated unavailable, or obligated and not yet disbursed. The unavailable amounts include those appropriated in prior fiscal years, which are not available to fund new obligations. The obligated balance represents amounts designated for payment of goods and services ordered but not yet received, or goods and services received, but for which payment has not yet been made.

Status of fund balance with Treasury as of September 30, 2023 and September 30, 2022, consists of the following:

Fund Balance with Treasury by Availability:

| | FY 2023 | FY 2022 |
|-------------------------------------|----------------------|----------------------|
| Unobligated Balance | | |
| Available | \$ 3,157,798 | \$ 5,312,990 |
| Unavailable | 3,368,879 | 2,829,603 |
| Obligated balance not yet disbursed | 7,154,049 | 10,447,359 |
| Totals | \$ 13,680,726 | \$ 18,589,952 |

NOTE 3: ACCOUNTS RECEIVABLE

Entity accounts receivable with the public include employee and former employee debt. Accounts receivable as of September 30, 2023 and September 30, 2022, consist of the following:

| Entity: | FY 2023 | FY 2022 |
|---------------------------|------------------|----------------|
| With the Public | | |
| Accounts Receivable | \$ 11,577 | \$ 850 |
| Total with the Public | 11,577 | 850 |
| Total Accounts Receivable | \$ 11,577 | \$ 850 |

NOTE 4: PROPERTY, PLANT & EQUIPMENT

The table below summarizes cost and accumulated depreciation of property, plant, and equipment. The increase in PPE is predominantly due to Construction-in-Progress (CIP), which increased as a result of Public Defender Service (PDS) funded work performed by the General Services Administration (GSA) under Reimbursable Work Agreements preceding PDS's relocation to a GSA-owned property.

| As of September 30, 2023 | Cost | Accumulated Depreciation | Net Asset Value |
|--------------------------------------|----------------------|---------------------------------|------------------------|
| Construction-in-Progress | \$ 5,387,231 | \$ - | \$ 5,387,231 |
| Furniture and Equipment | 2,972,029 | (2,316,200) | 655,829 |
| Software | 3,204,675 | (3,204,675) | - |
| Leasehold Improvements | 340,462 | (253,834) | 86,628 |
| Total property, plant, and equipment | \$ 11,904,397 | \$ (5,774,709) | \$ 6,129,688 |

| As of September 30, 2022 | Cost | Accumulated Depreciation | Net Asset Value |
|--------------------------------------|---------------------|---------------------------------|------------------------|
| Construction-in-Progress | \$ 91,059 | \$ - | \$ 91,059 |
| Furniture and Equipment | 2,972,029 | (2,064,122) | 907,907 |
| Software | 3,204,675 | (3,204,675) | - |
| Leasehold Improvements | 371,817 | (265,090) | 106,727 |
| Total property, plant, and equipment | \$ 6,639,580 | \$ (5,533,887) | \$ 1,105,693 |

NOTE 5: LIABILITIES NOT COVERED BY BUDGETARY RESOURCES

Liabilities not covered by budgetary resources represent amounts owed in excess of available congressionally appropriated funds or other amounts and include accrued annual leave and liability for the Federal Employees' Compensation Act (FECA). PDS obtained independent responsibility for FECA effective fiscal year 2006. Prior claims were paid through the Federal Judiciary.

The FECA provides income and medical cost protection to covered civilian employees injured on the job, employees who have incurred work-related occupational diseases, and to beneficiaries of employees whose deaths are attributable to job-related injuries or occupational diseases. The FECA program is administered by the U.S. Department of Labor (DOL), which pays valid claims and subsequently seeks reimbursement from PDS for these paid claims.

The FECA liability consists of two components. The first component is based on actual claims paid by DOL but not yet reimbursed by PDS. PDS reimburses DOL for the amount of the actual claims as funds are appropriated for this purpose. There is generally a two to three-year lag between payment by DOL and reimbursement by PDS. As a result, PDS recognizes a liability for the actual claims paid by DOL and to be reimbursed by PDS.

The second component is the estimated liability for future benefits payments as a result of past events. This liability includes death, disability, medical, and miscellaneous costs. PDS determines this component annually using a method that considers historical benefit payment patterns. PDS uses the methodology of reviewing the ages of the claimant on a case-by-case basis to evaluate the estimated FECA liability for future payments. The estimate used for life expectancy is 80 and 84 years for males and females, respectively.

The allocated PDS liability for FY 2023 and FY 2022 was \$72,409 and \$56,357, respectively. The expense recorded for future fiscal years will be the change in the liability from one fiscal year to the next. The estimated future compensation benefits liability is recorded for reporting purposes only. This liability constitutes an extended future estimate of cost which will not be obligated against budgetary resources until the fiscal year in which the cost is actually billed to PDS. The cost associated with this liability cannot be met by PDS without further appropriation action.

Liabilities not covered by budgetary resources as of September 30, 2023 and September 30, 2022, consist of the following:

| | <u>FY 2023</u> | <u>FY 2022</u> |
|--|----------------------------|----------------------------|
| Intra-governmental Liabilities: | | |
| FECA-Unfunded | \$ <u>72,409</u> | \$ <u>56,357</u> |
| Total Intra-governmental Liabilities | 72,409 | 56,357 |
| Other Than Intra-Governmental Liabilities: | | |
| Unfunded Leave | 2,584,997 | 2,474,866 |
| Estimated Future FECA | <u>389,956</u> | <u>327,552</u> |
| Total Liabilities Not Covered by Budgetary Resources | \$ <u><u>3,047,362</u></u> | \$ <u><u>2,858,775</u></u> |

NOTE 6: LIABILITIES ANALYSIS

Liabilities as of September 30, 2023 and September 30, 2022, consist of the following:

| | <u>FY 2023</u> | <u>FY 2022</u> |
|---|---------------------|---------------------|
| Covered by Budgetary Resources: | | |
| Intra-governmental Liabilities | | |
| Other Liabilities | | |
| Other Liabilities (without reciprocals) | | |
| Employer Contributions and Payroll Taxes Payable | \$ 39,292 | \$ 37,107 |
| Other Current Liabilities - Benefit Contributions Payable | | |
| Employer Contributions and Payroll Taxes Payable | 130,566 | 122,959 |
| Total Intra-governmental Liabilities | 169,858 | 160,066 |
| Other Than Intra-Governmental Liabilities | | |
| Accounts Payable | 340,853 | 1,646,313 |
| Federal Employee and Veteran Benefits Payable | | |
| Employer Contributions and Payroll Taxes Payable | 24,009 | 22,595 |
| Other Liabilities | | |
| Accrued Funded Payroll and Leave | 547,825 | 518,053 |
| Total Liabilities Covered by Budgetary Resources | 1,082,545 | 2,347,027 |
| Total Liabilities Not Covered by Budgetary Resources | 3,047,362 | 2,858,775 |
| Total Liabilities | <u>\$ 4,129,907</u> | <u>\$ 5,205,802</u> |

NOTE 7: OPERATING LEASES

PDS is obligated under certain non-cancelable leases for office space with terms ranging from three to ten years. Certain of these leases provide for increased rent payments based on increases in real estate taxes and operating costs. Future minimum rent payments under non-cancelable operating leases include only the lease information that PDS can support with the Occupancy Agreements (OA) or other cost estimates provided by GSA.

| <u>Fiscal Year</u> | <u>Total</u> |
|-----------------------------|----------------------|
| 2024 ^{1,2} | 3,192,589 |
| 2025 | 2,968,251 |
| 2026 | 2,988,873 |
| 2027 | 2,973,506 |
| 2028-2033 | 15,091,636 |
| Total future lease payments | <u>\$ 27,214,855</u> |

¹ It is anticipated that PDS may not fully occupy the 633 3rd Street location until January 2024. As a result, there would be at least three months of additional occupancy at the 633 Indiana Avenue and 601 PA Avenue locations, equal to approximately 1/4 of the FY 2024 estimated annual cost. A final move in date decision is pending with GSA.

² PDS anticipates an additional \$16K in estimated tax escalation cost for the 1442 PA Avenue location.

Rental expenses under operating leases for office space were \$3,656,159 and \$3,586,258 for fiscal years ended September 30, 2023 and September 30, 2022, respectively. PDS signed a ten-year lease with the

General Services Administration for office space at 633 Indiana Avenue beginning October 2010. This lease was extended for 24 months beginning October 2020. Previously, PDS paid these building costs through a reimbursable agreement with the Court Services and Offender Supervision Agency. In 2010, PDS signed a ten-year lease with the General Services Administration for office space at 601 Pennsylvania Avenue beginning October 2014. PDS has vacated 680 Rhode Island in FY 2017 and moved to 1442 Pennsylvania Avenue. A 10-year lease was signed with General Services Administration for office space at 1442 Pennsylvania Avenue beginning September 2017.

NOTE 8: INTRAGOVERNMENTAL COSTS AND EXCHANGE REVENUE

PDS purchased goods and services from Federal entities, which are classified below as intragovernmental costs. The public earned revenue results from fees for reimbursement of costs of Criminal Practice Institute training manuals.

| | <u>FY 2023</u> | <u>FY 2022</u> |
|-----------------------------|----------------------|----------------------|
| Intragovernmental Costs | \$ 16,753,804 | \$ 14,559,804 |
| Public Costs | <u>38,075,073</u> | <u>35,899,194</u> |
| Total Costs | <u>54,828,877</u> | <u>50,458,998</u> |
| Public Earned Revenue | <u>-</u> | <u>-</u> |
| Total Public Earned Revenue | <u>-</u> | <u>-</u> |
| Net Cost of Operations | \$ <u>54,828,877</u> | \$ <u>50,458,998</u> |

NOTE 9: APPROPRIATIONS RECEIVED

PDS received appropriations as follows:

| | <u>FY 2023</u> | <u>FY 2022</u> |
|-------------------------|----------------------|----------------------|
| Appropriations | \$ 53,629,000 | \$ 52,598,000 |
| Rescission – Prior Year | <u>-</u> | <u>-</u> |
| Net Appropriations | \$ <u>53,629,000</u> | \$ <u>52,598,000</u> |

NOTE 10: IMPUTED FINANCING

The Office of Personnel Management (OPM) pays pension and other future benefits on behalf of PDS employees. OPM provides rates for recording the estimated cost of pension and other future retirement benefits paid by OPM on behalf of PDS employees. Beginning in FY 2010, significant changes to the actuarial assumptions occurred with the implementation of SFAS 33, Statement of Federal Financial Accounting Standards 33, Pensions, Other Retirement Benefits, and Other Postemployment Benefits. The costs of these benefits are reflected as imputed financing in the financial statements as follows:

| | <u>FY 2023</u> | <u>FY 2022</u> |
|------------------|----------------|----------------|
| Pension Expenses | \$ 976,566 | \$ 335,148 |

| | | |
|--|--------------|--------------|
| Federal Employees Health Benefits (FEHB) | 1,988,051 | 1,684,705 |
| Federal Employees Group Life Insurance (FEGLI) | 1,263 | 1,160 |
| Total | \$ 2,965,880 | \$ 2,021,013 |

NOTE 11: STATEMENT OF BUDGETARY RESOURCES

The Statements of Budgetary Resources provide information about budgetary resources and their status at the end of the period. It is the only financial statement exclusively derived from PDS's budgetary general ledger in accordance with budgetary accounting rules that are incorporated into generally accepted accounting principles for the Federal Government. The total Budgetary Resources as of September 30, 2023 and September 30, 2022, of \$62,649,944 and \$56,137,136 respectively, includes new budget authority, unobligated balances at the beginning of the year, spending authority from offsetting collections, recoveries of prior year obligations and permanently not available rescissions and cancellations of expired authority. PDS's unobligated balances available at September 30, 2023 and September 30, 2022 were \$3,157,798 and \$5,312,990, respectively.

Apportionment Categories of New Obligations and Upward Adjustments. PDS's New Obligations and Upward Adjustments as of September 30, 2023 and September 30, 2022 by apportionment Category A are shown in the following table. Category A apportionments distribute budgetary resources by fiscal quarters.

| New Obligations and Upward Adjustments | FY 2023 | FY 2022 |
|---|---------------|---------------|
| Direct | \$ 56,123,267 | \$ 47,994,543 |

NOTE 12: EXPLANATION OF DIFFERENCES BETWEEN THE SBR AND THE BUDGET OF THE U.S. GOVERNMENT

Statement of Federal Financial Accounting Standards No. 7, Accounting for Revenue and Other Financing Sources and Concepts for Reconciling Budgetary and Financial Accounting, calls for explanations of material differences between amounts reported in the Statement of Budgetary Resources (SBR) and the actual balances published in the Budget of the United States Government (President's Budget). However, the President's Budget that will include FY23 actual budgetary execution information has not yet been published. The President's Budget is scheduled for publication in February 2024 and can be found at the OMB website: <http://www.whitehouse.gov/omb>. The 2023 Budget of the United States Government, with the actual column completed for 2022, has been reconciled to the Statement of Budgetary Resources. A \$3 million difference existed between Budgetary Resources because the President's budget did not include \$3 million unobligated balance from prior year budget authority.

NOTE 13: UNDELIVERED ORDERS

The amount of budgetary resources obligated for undelivered orders at September 30, 2023 and September 30, 2022 were \$6,071,504 and \$8,100,332, respectively.

| | FY 2023 | FY 2022 |
|--------------------------|---------------------|---------------------|
| Federal | \$ 2,053,902 | \$ 6,681,476 |
| Non-Federal | 4,017,602 | 1,418,856 |
| Total undelivered orders | <u>\$ 6,071,504</u> | <u>\$ 8,100,332</u> |

NOTE 14: RECONCILIATION OF NET COST OF OPERATIONS TO BUDGET

The reconciliation, referred to as the Budget and Accrual Reconciliation (BAR), requires a reconciliation of the new outlays on a budgetary basis and the net cost of operations during the period.

Public Defender Service
As of September 30, 2023
(In dollars)

Budget and Accrual Reconciliation
For the period ended September 30, 2023

| | Intragovernmental | With the public | FY 2023 |
|---|--------------------------|------------------------|-------------------|
| Net Operating Cost (SNC) | 16,753,804 | 38,075,073 | 54,828,877 |
| Components of Net Operating Cost Not Part of the Budgetary Outlays | | | |
| Property, plant, and equipment depreciation | - | (265,906) | (265,906) |
| Property, plant, and equipment disposal & revaluation | - | (6,271) | (6,271) |
| Increase/(decrease) in assets: | | | |
| Accounts receivable | - | 10,727 | 10,727 |
| (Increase)/decrease in liabilities: | | | |
| Accounts payable | - | 1,305,460 | 1,305,460 |
| Salaries and benefits | (9,792) | (31,186) | (40,978) |
| Other liabilities (Unfunded leave, Unfunded FECA, Actuarial FECA) | (16,053) | (172,535) | (188,588) |
| Other financing sources: | | | |
| Federal employee retirement benefit costs paid by OPM and imputed to the agency | (2,965,880) | - | (2,965,880) |
| Components of the Budget Outlays That Are Not Part of Net Operating Cost | | | |
| Acquisition of capital assets | 5,296,172 | - | 5,296,172 |
| Other Temporary Timing Differences | (27,846) | - | (27,846) |
| NET OUTLAYS (Calculated Total) | 19,030,405 | 38,915,362 | <u>57,945,767</u> |

For the period ended September 30, 2022

| | Intragovernmental | With the public | FY 2022 |
|--|--------------------------|------------------------|----------------|
|--|--------------------------|------------------------|----------------|

| | | | |
|---|-------------|------------|-------------------|
| Net Operating Cost (SNC) | 14,559,804 | 35,899,194 | 50,458,998 |
| Components of Net Operating Cost Not Part of the Budgetary Outlays | | | |
| Property, plant, and equipment depreciation | - | (274,132) | (274,132) |
| Increase/(decrease) in assets: | | | |
| Accounts receivable | - | 27 | 27 |
| (Increase)/decrease in liabilities: | | | |
| Accounts payable | - | (549,707) | (549,707) |
| Salaries and benefits | 230,171 | 796,871 | 1,027,042 |
| Other liabilities (Unfunded leave, Unfunded FECA, Actuarial FECA) | 5,031 | 25,513 | 30,544 |
| Other financing sources: | | | |
| Federal employee retirement benefit costs paid by OPM and imputed to the agency | (2,021,013) | - | (2,021,013) |
| Components of the Budget Outlays That Are Not Part of Net Operating Cost | | | |
| Acquisition of other assets | - | 91,059 | 91,059 |
| NET OUTLAYS (Calculated Total) | 12,773,993 | 35,988,825 | <u>48,762,818</u> |

NOTE 15: COVID-19 ACTIVITY

In terms of the COVID-19 budgetary resources, PDS obligated approximately \$65K or 0.1% of its FY 2023 budgetary resources as of September 30, 2023 to prevent, prepare for, and/or respond to COVID-19. As of September 30, 2022, PDS obligated approximately \$89K or 0.2% of its FY 2022 budgetary resources to prevent, prepare for, and/or respond to COVID-19.

NOTE 16: RECONCILIATION OF PRIOR YEAR ENDING UNOBLIGATED BALANCE AND CURRENT YEAR BEGINNING UNOBLIGATED BALANCE

There is a material difference of \$876,346 between the prior year ending Unobligated Balance of \$8,142,593 and the current year beginning Unobligated Balance of \$9,018,939 on the Statement of Budgetary Resources. The difference is comprised of \$1,470,810 in Recoveries and (\$594,464) from cancellation of the FY 2018 TAS.

PUBLIC DEFENDER SERVICE

for the District of Columbia



CHAMPIONS OF LIBERTY

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