

THE
PUBLIC
DEFENDER
SERVICE

for the District of Columbia



CHAMPIONS OF LIBERTY

Fiscal Year 2025

Congressional Budget Justification

Heather N. Pinckney, Director

March 11, 2024

**PUBLIC DEFENDER SERVICE
FOR THE DISTRICT OF COLUMBIA
FISCAL YEAR 2025 BUDGET JUSTIFICATION**

TABLE OF CONTENTS

LEGAL AUTHORITY AND MISSION.....	3
ORGANIZATION AND STRUCTURE.....	5
Budget Display	4
FISCAL YEAR 2025 BUDGET REQUEST	5
SUMMARY OF PDS’S FY 2023 ACCOMPLISHMENTS	6
PDS FY 2025 RESOURCE NEEDS	10
Resource Request – Summary	10
Resource Request – Positions.....	11
Resource Request – Supplemental Cost for Intern Program	18
Resource Request –Funding Law Clerk Program.....	19
Resource Request – Expert Resource Support.....	20
Resource Request – Consulting and Software Costs	22
Resource Request – Storage Area Network Costs.....	23
PROGRAM DESCRIPTION.....	25
PDS PERFORMANCE	32
Case Performance and Data.....	32
Additional Case Performance and Data.....	34
Other Accomplishments	40
CONCLUSION	41
Budget Display	42
APPROPRIATION LANGUAGE.....	45
APPENDIX	46

LEGAL AUTHORITY AND MISSION

The Public Defender Service for the District of Columbia (PDS) is a federally funded, independent organization governed by an eleven-member Board of Trustees. Originally operating as the Legal Aid Agency from 1960 to 1970, PDS was created in 1970 by a federal statute¹ enacted to comply with the constitutional mandate to provide defense counsel for people who cannot afford an attorney.² The mission of PDS is to provide and promote quality legal representation for 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.

A major portion of the work of the organization consists of representing in the District of Columbia's local criminal legal system individuals 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 primarily provided 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 District of Columbia courts.³ Because of its better 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. The federal public defender system is modeled in most respects on this structure.

PDS also provides legal representation to people facing involuntary civil commitment in the mental health system, as well as to many of the children in the most serious delinquency cases, including those children who have special education needs due to learning disabilities. Every year, PDS attorneys represent clients in the majority of the most serious adult felony cases filed in the District of Columbia Superior Court, clients pursuing or defending against criminal appeals, nearly all individuals facing supervised release or parole revocation under the District of Columbia Code, and all individuals in Superior Court requiring representation at Drug Court hearings. In addition, PDS provides 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—e.g., pursuing impact litigation—PDS represents clients in cases related to the above matters in the District's federal courts.

In 1997, the Congress enacted the National Capital Revitalization and Self-Government Improvement Act of 1997 (the Revitalization Act),⁴ which relieved the District of Columbia of

¹ Pub. L. No. 91-358, Title III, § 301 (1970); *see also* D.C. Code §§ 2-1601 to 1608.

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

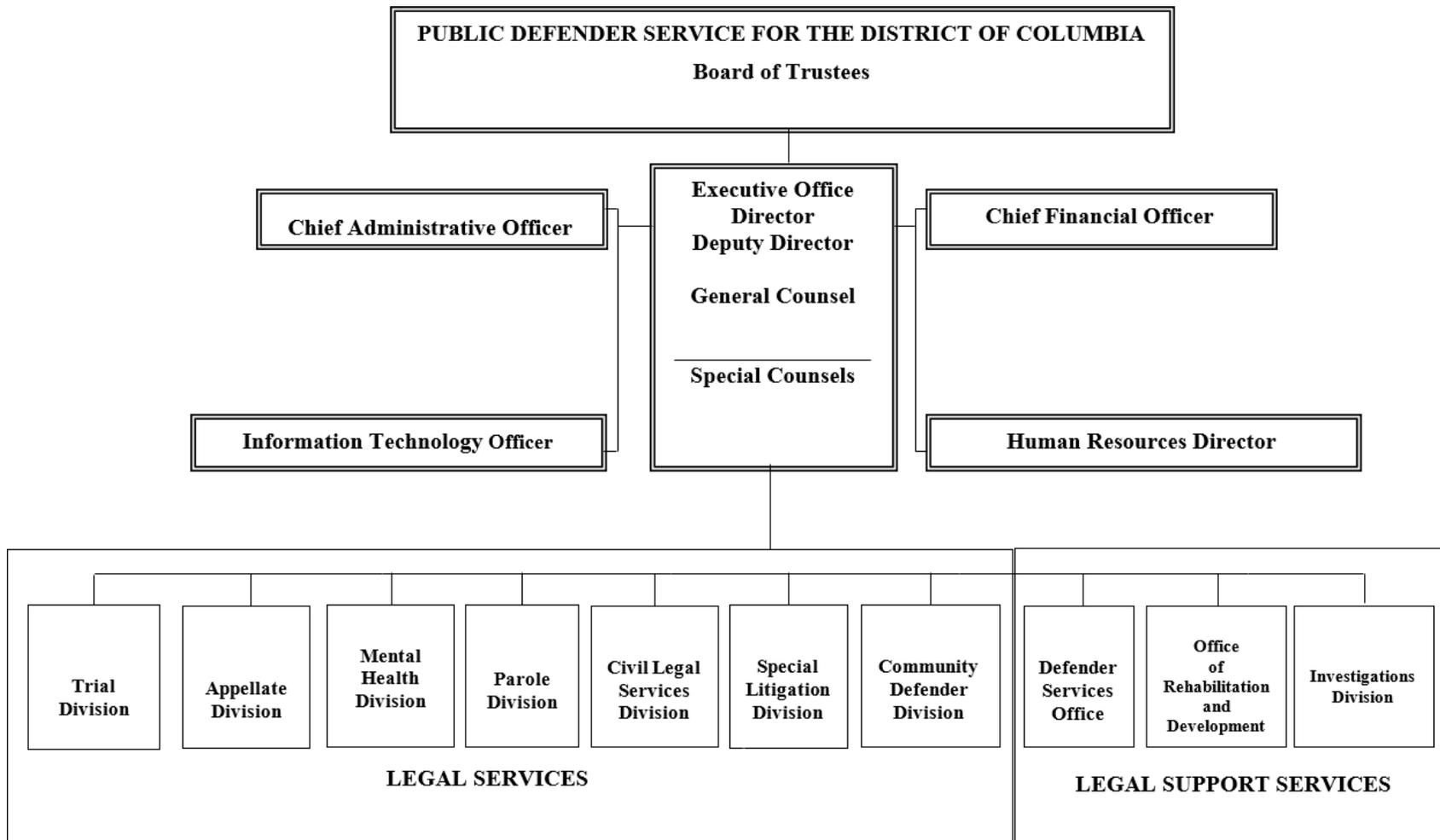
³ Plan for furnishing representation to indigents under the District of Columbia Criminal Justice Act. D.C. Code § 11-2601 *et seq.*

⁴ Pub. L. No. 105-33, Title XI (1997).

certain “state-level” financial responsibilities and restructured a number of criminal legal functions, including representation for indigent individuals. The Revitalization Act instituted a process by which PDS submitted its budget to the Congress and received its appropriation as an administrative transfer of federal funds through the Court Services and Offender Supervision Agency appropriation. With the enactment of the Fiscal Year 2007 Appropriation Act, PDS now receives a direct appropriation from the Congress. In accordance with its enabling statute and the constitutional mandate it serves, PDS remains a fully independent organization and does not fall under the administrative, program, or budget authority of any federal or local executive branch agency.

Since its creation, PDS has maintained a reputation 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 defender agencies and criminal defense bars across the nation.

ORGANIZATION AND STRUCTURE⁵



⁵ For a description of PDS’s program and divisions, see pp. 25-31.

Budget Display

PUBLIC DEFENDER SERVICE FOR THE DISTRICT OF COLUMBIA

FY 2025 Summary of Changes

	<u>FTE</u>	<u>Amount (\$ in 000s)</u>
FY 2024 Continuing Resolution Level	213	53,629
Add Net General Inflation Level Adjustments	-	2,617
Total Adjustments	-	2,617
FY 2025 Operating Budget	213	56,246
PROGRAM CHANGES		
Add Additional Demand for Legal Representation and Assistance	6	668
Add Support Personnel	1	156
Add Reclassification of Supervisor and Managerial Teams to Accommodate Staff Growth Across Divisions	-	139
Add Expansion of the Intern Investigator Program	-	100
Add Expansion of the Law Clerk Program	-	496
Add Cybersecurity Software and Personnel to Enhance PDS's Data Security	-	600
Add Acquisition of a Storage Area Network (SAN) to Maintain Storage of PDS's Electronic Data	-	400
Add Increased Resources for Expert Services	-	500
FY 2025 REQUEST	220	59,305

FISCAL YEAR 2025 BUDGET REQUEST

The Public Defender Service for the District of Columbia (PDS) requests a total budget of **\$59,305,000** for Fiscal Year (FY) 2025. These funds would allow PDS to maintain operations and absorb inflationary increases in compensation and other operating expenses and meet three areas of additional need.

First, PDS seeks a combined **\$963,000** for supplementary legal services for seven positions and funding support for thirteen reclassification of existing positions that are functionally supervisory to respond to additional case and workload demands on PDS staff.

Second, PDS seeks **\$1,096,000** in resources for additional legal support services including to supplement investigation functions through PDS's intern program, to support and expand eligibility for PDS's law clerk program and to ensure attorneys' ability to access the full range of subject matter experts and forensic laboratories in support of their clients.

Finally, PDS seeks **\$1,000,000** to move into greater alignment with the Federal Information Security Modernization Act (FISMA) standards and begin to implement Executive Order 14028 (Improving the Nation's Cybersecurity) with enhanced intrusion prevention and detection ability and increased secure data storage capacity.

Funding PDS at its request of **\$59,305,000** would allow PDS to:

- meet the increased demand in case and workloads for trial attorneys and investigative specialists due to the expansion of discovery practice;
- meet the increased demand for support in cases where clients have significant and complex mental health issues;
- support returning client representation to avoid relapse and recidivism;
- respond to the increased demand for assistance in cases in which PDS juvenile and parole clients need social services and mental health supports;
- respond to PDS's need to reclassify some current staff positions to supervisor and deputy management positions to train and support increased staff;
- supplement funding for expert services;
- enhance PDS's data security; and
- manage storage for PDS's electronic data.

PDS's budget request of **\$59,305,000**, which reflects PDS's actual need, is designed to equip PDS to remain a high-functioning public defender office, to increase PDS's overall effectiveness and efficiencies, to respond to increased demand for client representation and support across divisions, to align more closely with FISMA standards, and to continue to support its esteemed investigative intern and law clerk programs. In addition, to take full advantage of new employee positions and programs funded in prior budget requests, PDS needs to reclassify existing positions that are currently functioning in a supervisory capacity as well as supplement expert resources.

These requests are consistent with PDS’s policy and funding priorities—providing high quality representation to individuals who face serious charges but who cannot afford to hire an attorney, improving indigent defense representation in the District of Columbia, and improving PDS’s administrative efficiency—and support the goals of increased efficiency and effectiveness in federally funded programs.

SUMMARY OF PDS’S FY 2023 ACCOMPLISHMENTS

In FY 2023, PDS roared back to life with new leadership, a continued commitment to our core 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.”⁶ This quote is exemplified in the daily functioning 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, delinquency or mental health legal systems. 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.⁷

With resources provided in FY 2022 and FY 2023, PDS’s staff expanded significantly to meet increased demand.⁸ New lawyers in the Special Litigation Division (SLD) were able to litigate more Incarceration Reduction Amendment Act (IRAA)⁹ and compassionate release¹⁰ cases and new social workers and lawyers in the Community Defender Division (CDD) and Civil Legal Services Division (CLS) Division focused on the education, housing, employment, social services, and counseling support required by clients who are transitioning from spending decades in prison to living in a very unfamiliar world. Additional staff also focused on creating opportunities to maintain, to the extent possible, manageable workloads and creative solutions to the myriad social and mental health issues that affect the clients whom PDS serves.

⁶ This quote is attributed to prominent American Methodist minister and professor at Yale Divinity School Halford E. Luccock.

⁷ PDS clients include D.C. residents, as well as non-D.C. residents including, tourists and out of town protesters charged with an offense under the D.C. Criminal Code.

⁸ To accommodate this increase in staff, PDS is focused on facilitating the supervision needs and general division reorganization that these additional programs and staff have created. *See* Resource Request pp. 17-18.

⁹ *See* D.C. Code § 24-403.03.

¹⁰ *See* D.C. Code § 24-403.04.

SLD has also continued its work defending the constitutional rights of PDS clients through class action lawsuits,¹¹ including continuing to litigate:

- *Blades v. Garland*,¹² filed by PDS in February 2022, against the Federal Bureau of Prisons (BOP) for calculating criminal history in a way that resulted in harsher scoring for individuals sentenced in D.C. Superior Court as opposed to similarly situated individuals sentenced in federal court. The case is currently in mediation.
- *Lewis v. United States Parole Commission*,¹³ which was a class action filed by PDS in September 2022 against the U.S. Parole Commission for completely failing to fulfill its statutory duty of terminating people from parole after five years or at least holding a termination hearing. As a result of that lawsuit, in FY 2023 more than 40 people have had their parole terminated, and dozens more have parole termination hearings scheduled.

Additionally, following the successful conclusion of the ACLU-DC and PDS's lawsuit against the D.C. Jail for its failure to protect incarcerated people from COVID-19,¹⁴ PDS has continued to monitor conditions at the jail. PDS has also worked closely with the Washington Lawyers' Committee for Civil Rights and Urban Affairs in their lawsuit regarding medical care in the D.C. Department of Corrections, *V.C. v. District of Columbia*.¹⁵

PDS's Appellate Division also continued its excellent work in cases that often positively impact more people than just the involved PDS client. In FY 2023, a PDS appeal resolved longstanding confusion in the case law about the mental state required for the common law offense of assault. In *Perez Hernandez v. United States*,¹⁶ PDS secured an important victory for a client who had been convicted of assault for touching a friend on the arm after being told not to do so. In its *en banc* opinion, the Court of Appeals reexamined its case law defining "assault" and agreed with PDS that, to constitute an assault, an unwanted touching must not only be objectively offensive, but it must also be committed with the purpose or knowledge that the contact will be offensive.

Every PDS client has their own individual circumstances, and it is a tenet of PDS's representation to recognize that any effort to stem violence in communities must include services and resources to address the social and mental health issues that community members confront regularly. This understanding informs the work that PDS performs across all of its divisions and helps PDS achieve success.

¹¹ By statute, PDS cannot represent any incarcerated persons in suits for damages against D.C. or in suits in which the payment of attorney's fees or costs is sought against D.C. See D.C. Code § 2-1602(a)(2). Thus, all impact litigation is for declaratory and/or injunctive relief only.

¹² *Blades v. Garland*, 22-cv-00279 (DDC).

¹³ *Lewis v. United States Parole Commission et al.*, 22-cv-2182 (DDC).

¹⁴ *Banks et al. v. Booth et al.*, 20-cv-849 (DDC).

¹⁵ *V.C. v. District of Columbia*, 1:23-cv-01139.

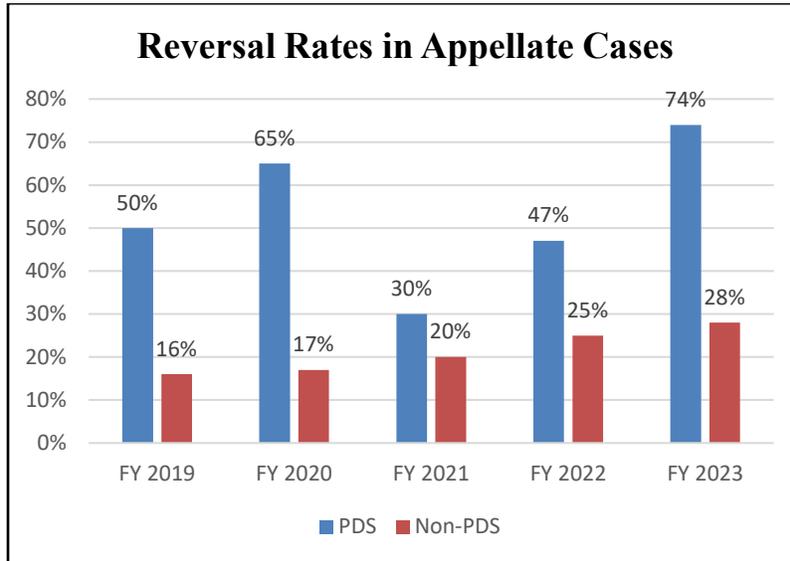
¹⁶ 286 A.3d 990 (D.C. 2022) (en banc).

PDS reports the following outcomes and performance data for FY 2023:

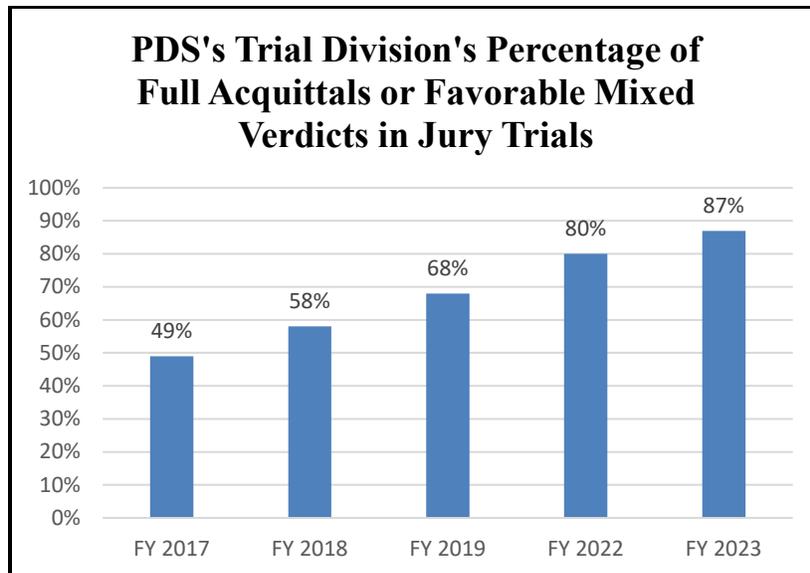
- PDS worked on 3,212 trial matters; 699 parole matters; 2,215 mental health matters; 182 appellate matters; 293 civil matters, including special education matters; 755 pre- and post-disposition institutional and community-based legal matters; 1,832 post-conviction (adult) matters; 1,335 Drug Court matters; 284 Special Litigation Division matters; and 1,983 adult Duty Day and 3,088 juvenile Duty Day matters.
- In hearings before the Commission on Mental Health and trials in Superior Court, PDS prevailed in 40 percent of its mental health cases, securing either complete dismissal or mitigation (securing outpatient commitment instead of inpatient commitment).
- In FY 2023, Mental Health Division (MHD) attorneys secured the release of 96 percent of clients who requested a probable cause hearing (contested and non-contested).
- PDS won 60 percent of the Parole Grant Hearings in which the Community Defender Division (CDD) represented clients at Federal Bureau of Prisons institutions throughout the country.
- PDS won reinstatement and release in 50 percent of the parole and supervised release revocation cases PDS defended in hearings before the U.S. Parole Commission.
- PDS won 44 percent of the Community Status Review Hearings¹⁷ PDS conducted.
- PDS won 90 percent of the IRAA hearings it conducted.
- SLD's win rate in compassionate release cases was significantly higher than that of the rest of the defense bar and pro se submissions (75 percent versus 9 percent).

¹⁷ Community status review hearings are the juvenile legal system's equivalent of parole revocation hearings. PDS also focused on reducing the number of clients who proceeded to revocation hearings by engaging in advocacy that helped clients come into compliance before revocation could be considered.

- PDS’s reversal rate before the District of Columbia Court of Appeals was more than double that of the rest of the defense bar (74 percent versus 28 percent).



- PDS’s Trial Division won full acquittals or favorable mixed verdicts in 87 percent of its jury trials.



Data from FY 2020 and FY 2021 is omitted because, due to COVID-19, D.C. Superior Court jury trials were suspended in March of FY 2020 and only three trials occurred in FY 2021.

PDS FY 2025 RESOURCE NEEDS

Resource Request – Summary

For FY 2025, PDS seeks:

1. Funding of **\$963,000** for two legal assistant positions, one forensic mental health specialist, one reentry coordinator position, two forensic social worker positions, one information technology security analyst position, and thirteen supervisor position upgrades across divisions. The positions are listed below in priority order.
 - two legal assistant positions (**\$176,000**) to support attorneys in the Trial Division with their increased case and workloads;
 - one forensic mental health specialist position (**\$143,000**) to assist in cases where clients have significant and complex mental health issues;
 - one reentry coordinator position (**\$88,000**) to meet the transition needs of returning citizens released after serving decades-long prison sentences;
 - two forensic social worker positions (**\$261,000**) to respond to the increased demand for assistance in cases in which PDS juvenile and parole clients need social services and mental health supports;
 - one information technology security analyst position (**\$156,000**) to assist in the protection of client and employee data; and
 - thirteen position upgrades (**\$139,000**) to respond to PDS’s need to reclassify some current staff positions to supervisor and deputy management positions to train and support PDS’s expanded workforce;
2. Funding of **\$1,096,000** for investigative interns costs, law clerk costs, and expert services. The costs are listed below in priority order.
 - to support and expand PDS’s intern investigator program (**\$100,000**);
 - to fund and expand PDS’s law clerk program (**\$496,000**); and
 - to supplement funding for expert services (**\$500,000**); and
3. Funding **\$1,000,000** for enhanced cybersecurity and secure data storage.
 - to purchase software and the services of a security specialist to enhance PDS’s data security (**\$600,000**);
 - to acquire a storage network to maintain storage of PDS’s electronic data (**\$400,000**).

Resource Request – Positions (\$963,000)

Trial Division – Two legal assistant positions (\$176,000):

PDS requests funds for two legal assistant positions to assist trial lawyers with their increased discovery practice due to the expanded use of forensic, video, cell site, and other electronic evidence in all cases.

As reported in PDS's FY 2023 Justification,¹⁸ trial attorneys' workloads have increased due to the upsurge in the number of homicides and serious felony cases filed in the Superior Court, the greater amount of work in all cases due to the impact of the expanded use of forensic science in cases, and the influx of vast amounts of video and digital evidence. As technology evolves, the sheer number of hours involved in evaluating the information continues to increase. Now that all discovery is stored electronically, the growth in this material can be seen in the 54-fold increase in PDS's data storage, which has gone from four terabytes in CY 2014 to 257 terabytes to date, the bulk of which is Trial Division discovery data.

As PDS reported in its FY 2020 Congressional Budget Justification,¹⁹ PDS has been experiencing a marked increase in the amount of electronic evidence provided by the United States Attorney's Office (USAO) and the Office of the Attorney General for D.C. (OAG). Trial practice currently is significantly more discovery heavy than even five years ago and attorneys are spending a considerable amount of time organizing and reviewing the voluminous discovery that is now provided in every case. PDS's counterparts in adult trials, Assistant United States Attorneys (AUSAs) in the Superior Court Division of the USAO, have long had administrative support for their cases that includes both administrative assistants and paralegals. To continue to accommodate PDS's trial workloads, PDS is requesting funding for two legal assistants who could assist attorneys and investigative specialists with:

- downloading and organizing discovery;
- downloading, organizing, and helping to review large records collected in cases (e.g., thousands of pages of medical records);
- formatting motions, especially those with multiple exhibits;
- downloading and distributing by email common filings (e.g., violation reports, court reports, DNA consumption letters, protective orders);
- subpoenaing records (e.g., hospital, school, mental health, probation, Department of Motor Vehicle records) and tracking compliance;
- populating template letters to memorialize discovery that has been turned over by the prosecution;
- proofreading letters, motions, and other filings;
- setting up virtual legal visits and legal calls with clients;

¹⁸ See PDS FY 2023 Congressional Budget Justification at 18-20.

¹⁹ See PDS FY 2020 Congressional Budget Justification at 11-13.

- setting up in-person legal visits with clients charged in juvenile court;
- setting up legal calls with clients in the BOP;
- responding to and sending legal mail to clients at the BOP and DOC;
- helping to create and distribute training materials;
- making clips of electronic discovery to use at hearings and in trial;
- preparing exhibits for trial;
- ordering transcripts;
- retrieving and reviewing media coverage related to cases; and
- scanning, organizing, and labeling files for new counsel, transfers, and archives;
- and other support functions.

Pursuant to the constitutional mandate imposed by the Supreme Court in *Brady v. Maryland*,²⁰ the USAO and OAG are also now providing documentation concerning individual police officers' misconduct records, which often requires not only investigative specialists to review and analyze voluminous source documentation and interview witnesses to the alleged misconduct, but requires that attorneys do so as well. Along with witness statements and police paperwork, discovery in any one case now typically involves cell phone extractions that can be thousands of pages long, surveillance video evidence that can be hundreds of hours long, recordings of jail phone calls that can total hundreds of hours, and extensive cell site location data that can be used to incriminate or exculpate a defendant by showing their location and direction of travel during the course of a day. In addition, the prevalence of surveillance video from commercial entities and personal residences has also increased the amount of time attorneys must spend reviewing such material.

The D.C. Metropolitan Police Department's full implementation of body-worn cameras (BWC) in December of 2016 has also had a tremendous impact on the work of both attorneys and investigative specialists. Most cases now include hours of video footage from several officers at a scene. Review of BWC footage is particularly time-consuming because the footage provided by the prosecution typically shows multiple perspectives of a scene or an event. The footage includes audio as well as video and often must be synchronized across recordings in order to present a complete event to the jury. Organizing and reviewing all of this electronic evidence is immensely time consuming; having legal assistants assist with these tasks would allow attorneys more time for investigation, consulting, researching and writing motions, and hearing and trial preparation.

With the addition of two legal assistants, PDS trial attorneys will have more ability to focus on critical legal matters encompassed in their cases.

Executive Division –forensic mental health specialist position (\$143,000):

²⁰ *Brady v. Maryland*, 373 U.S. 83 (1963) (prosecutor withholding evidence that tends to negate guilt or mitigate the offense violates due process).

PDS requests funds for a forensic mental health specialist position to assist lawyers litigating cases with clients who have significant mental health issues.

Clients with mental health issues appear in both the District’s civil and criminal justice systems, and across PDS divisions. PDS’s mental health work is another way in which PDS attempts to obtain positive outcomes for clients, improve the reliability of the District’s legal systems, and collaborate with other system components to develop and support clients with mental illness.

Since 2019, PDS has noted an enormous increase in cases that involve clients who are suffering from significant mental health issues, clients with an insanity defense, and clients with general competency issues. Whereas on average over the last 10 years PDS handled between three to five insanity cases yearly, currently there are 33 PDS clients with a viable insanity defense. Similarly, the number of cases where PDS is litigating competency to stand trial or competency to take a plea has grown significantly.

In order to address this seemingly exponential increase in the number of clients with significant mental illness, PDS is requesting funding for an in-house forensic mental health specialist who can assist attorneys with assessing clients’ needs and developing litigation strategies and mitigation assistance.²¹

The forensic mental health specialist would be responsible for working with clients who have mental health challenges and for ensuring the clients receive quality representation as to the mental health aspects of their cases. The specialist would help identify issues such as:

- Competency to stand trial;
- Competency to waive constitutional rights, e.g., in order to enter a guilty plea;
- Criminal responsibility;
- Other mental state defenses, such as diminished capacity;
- False confession/competency to waive constitutional rights, e.g., *Miranda* rights during custodial interrogation;
- Mitigation and pretrial release issues;
- Witness competency; and
- Adolescent brain development related issues.

In addition to assisting attorneys in assessing their clients’ mental health issues, the forensic mental health specialist would also consult with attorneys who are planning the next steps in a mental health case. These cases can be extremely complicated and involve a number of tasks including:

- Gathering and reviewing relevant medical and psychological records;
- Determining what collateral witnesses to interview;
- Analyzing potential defense themes;

²¹ Having the ability to consult with an in-house specialist would often replace the need to hire an outside expert which, as noted in the resource request below, has become increasingly expensive. *See pp. 20-22.*

- Deciding what psychological testing is required;
- Advising on expert selection and utilization;
- Supporting litigation preparation; and
- Creating and maintaining model pleadings and subject matter files.

The forensic mental health specialist would also help lawyers foster effective client relationships, an important aspect of defense work that can be particularly challenging if the client has a diagnosis such as paranoid schizophrenia. The specialist would also work with the ORD social workers to formulate mitigation and reentry plans for clients who will need mental health support while incarcerated in the BOP or once released back to the community.

Supporting funding for an in-house forensic mental health specialist will greatly improve attorneys' abilities to assist their clients who have mental illness as well as enable PDS to use fewer resources on costly experts who are needed to evaluate clients and suggest possible testing.

Community Defender Division (CDD) –one reentry coordinator position (\$88,000):

PDS requests funds for a reentry coordinator position to assist clients across divisions who are impacted by the criminal legal system as they transition back to the community.

PDS is requesting funds to hire a reentry coordinator to be based in the Community Defender Division. The coordinator would assist with reentry for clients who have been recently released from incarceration or who have recently interacted with the criminal legal system. The reentry specialist would serve as a point person for community-based service providers and would work with clients to support their individual reentry needs.

As a result of PDS's success in gaining release for its IRAA and compassionate release clients, there are a large number of individuals who are returning to D.C. after many years of incarceration. In addition to PDS's IRAA and compassionate release clients, there are a number of former PDS clients who have finished serving their sentences and are also returning from BOP facilities all across the country. Many, if not all, of these clients need some level of assistance when they return. For example, clients may need to connect with community organizations that can supply the most basic necessities like clothing and toothpaste. Others may need lessons on how to use the internet or cellphones and how to get IDs. Clients may need help connecting with community organizations that will offer emotional and spiritual support if they can no longer turn to their families for help, or if family members have died. Further, the majority of returning citizens need help with housing and with coordinating and managing mental and physical health appointments and entry into job programs. While PDS's forensic social workers help with these issues and work on reentry plans for many returning citizens, much of this work is time intensive – repeatedly calling a housing coordinator or reaching out to mental health facilities for appointments or prescriptions – and does not require the level of education and additional areas of expertise that the forensic social workers have.

The reentry coordinator will provide guidance and support to PDS clients returning home from federal prison. This would include pre-release outreach to PDS clients, to establish a

connection and provide information about the wrap-around support, services, and referrals that are available upon release. The coordinator's duties would include:

- participating in team meetings to coordinate information on a client's release date, and outreach to them in advance to ensure they are connected with CDD and aware of the scope of reentry services being offered;
- distributing and collecting (via mail) pre-release assessment forms, to determine services and programmatic needs;
- referring clients upon release to community resources including housing, employment services, wraparound services for mental health and substance abuse treatment, and healthcare;
- assisting clients with obtaining vital documents necessary for a successful transition (i.e., birth certificates, DMV photo identifications, social security cards);
- serving as a liaison between clients, community organizations (i.e., transitional living facilities, job training programs), probation and parole officers, and family; and
- identifying and building partnerships, utilizing existing partnerships (for example the Reentry Action Network) and serving as a liaison to other organizations and employers working on reentry efforts.

Hiring a reentry coordinator will enable PDS to use its forensic social workers, lawyers, and investigative specialists more effectively and efficiently and will bring to PDS's staff an individual with specific expertise and community connections in all aspects of reentry.

Office of Rehabilitation and Development (ORD) – two forensic social worker positions (\$261,000):

PDS requests funds for two forensic social worker positions to manage the increased demand for assistance in the Parole and Community Defender Divisions.

A large number of PDS clients suffer from mental illnesses and struggle with the myriad of issues that can affect people growing up in poverty such as insecure housing, substance abuse issues, a lack of education, and a lack of access to medical care.²² PDS forensic social workers²³ assist the legal team with clients who have a number of these issues. They identify both client needs and resources to meet those needs. With that information, they can recommend to the sentencing judge programs or placement options that are alternatives to incarceration, alternatives that not only cost less than incarceration but have a greater chance of helping the client succeed in the community long-term without reoffending. On IRAA and compassionate release cases, forensic social workers develop comprehensive release plans. These plans provide judges with essential information about a client's housing and reentry programming, and create a structure for release after decades of incarceration. For the successful IRAA and compassionate release motions, of which there

²² For an example of the work PDS forensic social workers do to assist clients, see pp. 34-35.

²³ A forensic social worker must possess a valid license to practice in the District of Columbia. The license authorizes the social worker to diagnose mental illness and prepare psycho-social reports detailing appropriate mental health supports and discharge plans.

are many, the forensic social workers implement their comprehensive release plans, assisting returning clients with all the necessary steps to community reintegration and to connecting with social services, including mental health supports as necessary.

The forensic social workers provide direct support to clients as well. Forensic social workers spend considerable time connecting people with Supplemental Security Income benefits, Supplemental Nutrition Assistance Program benefits, and D.C. Medicaid. They also assist clients with finding community resources for housing, mental health treatment, and substance use treatment. As getting these supports in place can be the reason a judge releases a client from detention or incarceration or imposes a probation sentence with conditions instead of a prison sentence, when ORD is understaffed, the attorney doing the sentencing advocacy will attempt to do the social work themselves.

The addition of two forensic social workers would allow PDS to assign them to divisions that currently do not have a dedicated social worker assisting them, namely the Juvenile Services Program (JSP) in the Community Defender Division and the Parole Division. This would increase the capacity of ORD to meet the expanding demand for their services in pre- and post-trial adult and juvenile cases and on IRAA and compassionate release cases.

JSP has offices in the District's youth detention facilities and provides legal assistance to youth who are detained in the facilities or who, after being found "involved in" (or guilty of) a delinquency offense, are committed to the custody of the Department of Youth Rehabilitation Services (DYRS). JSP has become the model program in the country particularly after the passage of the Detained Youth Access to the Juvenile Services Program Amendment Act of 2019.²⁴ Because the juvenile system focuses on rehabilitation rather than punishment, JSP would utilize a social worker throughout the entire program – starting with focusing on the needs of detained youth and addressing those needs as they plan to reintegrate into the community. For example, reentry planning is a vital part of JSP's post-disposition legal advocacy²⁵ necessary to ensuring clients and their families have meaningful access to education and medical, mental health, housing, and other services to promote success as the clients reintegrate into their communities. The Juvenile Justice Reform Act of 2018,²⁶ which amended the Juvenile Justice and Delinquency Prevention Act of 1974, specifically addressed the need for reentry plans for youth returning to the community. Jurisdictions are now required to create written reentry case plans that address

²⁴ D.C. Law 23-66 is codified at D.C. Code § 2-1515.05a and requires the Department of Youth Rehabilitation Services to permit JSP confidential access to youth in its juvenile detention facilities for the purpose of providing legal services to the youth. JSP was also mentioned directly at a hearing in front of the House Judiciary Committee as the model for youth advocacy in detention and community. <https://www.youtube.com/watch?v=a8M0NiGsFjU> (beginning at 2:14:38).

²⁵ The D.C. Court of Appeals acknowledged the importance and legal right of youth to have post-disposition attorneys in *In re N.H.M.*, 224 A.3d 581 (D.C. 2020).

²⁶ Pub. L. 115–385, 132 Stat. 5123 (Dec. 21, 2018).

housing needs, pre- and post-release plans, and any other identified individualized needs for the youth. Reentry planning starts immediately once a youth is committed to DYRS. JSP attorneys work with the youth to identify short- and long-term goals, and the attorneys work with the youth and their family to ensure that every aspect of legal advocacy during the youth's commitment to DYRS supports the youth in achieving their goals. A forensic social worker will be able to identify resources and programs that will support the youth with reentry to the community.

A forensic social worker would provide a similarly essential service to Parole Division lawyers and clients. Currently parole attorneys bear the substantial burden of supporting their clients' mental health and social services needs—arranging for psychological evaluations, identifying drug treatment programs, preparing mitigation reports, etc. Supporting the Parole Division with a dedicated social worker would allow the attorneys to focus on the legal aspects of their clients' cases while still providing the assistance to clients that can allow them to be successful on parole or supervised release. Identifying client needs and matching clients to appropriate treatment programs can offer the USPC hearing examiner or the client's community supervision officer a viable alternative to revocation and reincarceration.

With the addition of two forensic social workers, PDS will be able to address the significant mental health and other needs of its juvenile and parole clients, free up the remaining social workers in ORD to assist with all of the remaining PDS clients, and enable attorneys to primarily focus on the legal matters affecting their clients.

Office of Information Technology (IT) – one security analyst position (\$156,000):

PDS requests funds for one security analyst position to manage all of PDS's data security functions.

PDS does not currently have any personnel dedicated to IT security. This position would be the first of its kind for PDS. The analyst would be responsible for managing every aspect of PDS's data security protection structure, including all software and systems related to security, vulnerability identification and management, insider threat, file access and permissions, and documentation of all PDS security controls. The analyst would work with senior management on all systems security policies and on risk management.

PDS Multiple Divisions – thirteen supervisor and manager positions (\$139,000):

PDS requests funds to expand supervisor and managerial teams to accommodate the growth in staff across divisions.

With resources provided in FY 2022 and FY 2023, PDS's workforce has expanded to meet increased demand. PDS was able to hire 32 new attorneys, social workers, and investigative specialists, which has enabled it to maintain its work in the Trial Division, to support SLD in its IRAA and compassionate release litigation, and to support social workers and investigative specialists who work across divisions. As these divisions expanded, it has become evident that PDS requires additional resources to maintain and

improve PDS's quality representation and efficiency. While the growth has been essential to meeting our objectives, it has become clear that PDS needs to reclassify some current staff positions to supervisor and deputy management positions to support the chiefs in several divisions. To that end, PDS is requesting funding that will allow it to give a two-step pay increase to ten current staff in SLD, Trial, CDD, and Civil, as well as Investigations and ORD and create three deputy chief positions in SLD, ORD, and the Investigations Division where the majority of new staff have been employed.

Current supervisor and managerial staff are stretched thin. To maintain performance and provide the necessary support to staff, it is imperative to expand supervisory and managerial resources. Upgrading existing staff is a cost-effective means to increasing the number of supervisors which will result in more direct oversight and guidance, and will streamline workflows and ensure quality work. Additional supervisor and management positions will also allow PDS to devote more time to internal employee training, coaching, and career development, leading to a more skilled workforce. With more direct supervision, staff will be able to identify and address any potential issues more proactively, thereby ensuring that clients' interests are best served. Finally, investing in the development of new supervisors and managers will also serve as a pipeline to future leadership positions within PDS thus ensuring continued sustainability of PDS's mission.

Expanding PDS's supervisory and management teams will be a strategic investment in PDS's future success allowing PDS to meet its current demands, more effectively run its divisions, nurture employee growth, and ensure the long-term sustainability of PDS's operations.

Resource Request – Supplemental Cost for Intern Program (\$100,000)

Investigation Division – (\$100,000):

PDS requests additional funding for the Criminal Law Internship Program (CLIP).

The Criminal Law Internship Program (CLIP) is a renowned one-of-a-kind investigative internship program for undergraduate and graduate students.²⁷ PDS relies heavily on the work that the investigative interns do to support PDS's investigative specialists in every legal division. The program equips students with the fundamental investigative techniques and the relevant criminal law knowledge necessary to provide exceptional investigative support to PDS attorneys. Additionally, the program offers interns extensive field training; frequent direct interaction with PDS staff attorneys; hands-on, real-life work experience and responsibility; increased employability; and the opportunity to do rewarding work that makes a difference. Most of all, interns get a behind-the-scenes look at the criminal legal system. Investigative interns spend at least 12 weeks partnering directly with staff attorneys and investigative

²⁷ The Princeton Review ranked the program as one of the most hands-on internship programs in the nation, stating that the program is "a criminal law internship at its in-your-face best." Mark Oldman and Samer Hamadeh, *The Best 109 Internships* (9th Ed., 2003) at 263.

specialists to complete various investigative tasks and advocate for their clients.

Over the last decade, CLIP has become integral to the teams across all divisions that they support. As they have since the inception of the program, the interns take statements from complainants and witnesses, measure and diagram crime scenes to check police reports and witness accounts, and occasionally testify to present their findings. But, as noted in PDS's FY 2023 Congressional Budget Justification²⁸ and the legal assistant position request described above,²⁹ there is now an additional need for assistance in documenting and reviewing body-worn camera video, cell phone forensics, GPS data, surveillance video, and other evidence that the USAO and OAG now routinely turn over as part of discovery. In addition, as PDS's IRAA and compassionate release practice has grown, so too has the need for investigative help as each such case requires tracking down and reviewing large amounts of historical documents and data. Investigator specialists and attorneys now increasingly rely on investigative interns to help with these tasks and others, such as preparing mitigation videos.

Historically, PDS hosts between 140 and 180 interns throughout the year and assigns the interns in pairs to a legal team to support the investigation in cases.³⁰ Over the course of almost five years (pre-pandemic), from spring 2015 through fall 2019, PDS had 540 interns participate in CLIP. In 2022, a survey was sent to those interns to see what they had gone on to do after their internship; 278 of the 540 interns responded. Of those who responded, 157 attended law school after their internship experience. Overall, thirty former interns have returned to PDS to work as investigative specialists, mitigation specialists, and paralegals; four have returned as PDS attorneys.

To continue this successful program, attract diverse, high-quality candidates, and follow the Fair Labor Standards Act, PDS interns are paid the District's minimum hourly wage, which has increased over the years. To continue to use this successful model, maintain the number of interns necessary to support the work of PDS, and keep pace with the increasing minimum wage, PDS requests an increase in the CLIP budget.

Resource Request –Funding Law Clerk Program (\$496,000)

Legal Divisions – (\$496,000):

PDS requests funding for the Law Clerk Program.

²⁸ See PDS FY 2023 Congressional Budget Justification at 18-20.

²⁹ See pp. 11-12.

³⁰ PDS had 182 interns in 2016 who were paid an average hourly rate of \$13 per hour. During the COVID-19 pandemic, when CLIP shifted to a remote program, PDS limited the number of interns to the number of secure laptops that could be lent to program participants. As the program gets rebuilt coming out of the pandemic, PDS anticipates hiring at least 140 investigative interns in FY 2024. The minimum wage in D.C. rose to \$17 per hour on July 1, 2023.

Every year, PDS has approximately 62 law school students from all over the country who come to work as law clerks at PDS. Currently, because of a lack of funding, law clerks who come to PDS are not paid. While PDS attempts to hire the most qualified clerks and recruits from a diverse group of students, because the program is unpaid, the students who are able to take the opportunity to work at PDS are limited to students who attend schools that offer a stipend to do non-profit work and to students who can afford to not earn a salary in the summer months.³¹ The inability of PDS to pay a stipend necessarily limits the pool of possible candidates able to clerk at PDS. In an effort to be as inclusive as possible, PDS desires to be able to offer a meaningful payment to its law clerks so that they can afford to come to PDS.

While there are some law schools and legal organizations that offer a limited number of stipends for law students who choose to work in the non-profit field,³² the majority of the schools do not, which, by necessity, limits the opportunities for students at some of the great state schools or HBCUs who cannot afford a summer without a salary.

The ability to be hired as a law clerk at PDS offers a student a leg up in PDS's attorney hiring process as evidenced by the fact that from October 2012 through 2022, PDS hired 57 former law clerks as attorneys.³³ In addition, the opportunity to experience what it is like to do the work of a public defender has inspired hundreds of former law clerks to become public defenders in offices across the country, including in New Hampshire, Maryland, Colorado, Texas, Illinois, and California.

Resource Request – Expert Resource Support (\$500,000)

Multiple Divisions – (\$500,000):

PDS requests funding to increase resources for expert services.

Expert services have become increasingly expensive. In FY 2023, PDS budgeted approximately \$2,000,000 for expert services across all divisions. Due to increased cases and workload, PDS supplemented the expert services budget by an additional \$433,000 to accommodate all the expert services needed in FY 2023. The increasing need for expert services has multiple causes including the overall increase in clients with serious mental health issues that impact their cases, the increase in IRAA petitions that require mental health experts and prison experts; and the constantly increasing use of forensic evidence by

³¹ The average hourly rate for a law student taking a summer associate job at a law firm ranges between \$34 and \$103 an hour. <https://www.zippia.com/summer-law-associate-jobs/salary>.

³² The average stipend offered at law schools and bar associations is between \$1250 and \$5000 for a summer program.

³³ The PDS Director, General Counsel, and current Chief and Deputy Chief of the Trial Division were all summer law clerks at PDS.

the USAO that must often be reexamined in order to provide a constitutionally effective defense.

As explained above,³⁴ PDS has seen a sharp increase in the number of clients who suffer from severe mental health issues that impact their cases and their day-to-day functioning. Currently, over thirty clients have potential claims that they are not guilty by reason of insanity. Lawyers are obligated to investigate that defense, even if ultimately the decision is made not to pursue that defense at trial. Investigating an insanity defense, in nearly all instances, requires that PDS retain a psychiatrist or a psychologist to assess the client and review the medical records. Often, PDS will also need to consult with a neurologist or a toxicologist to understand the significance of a traumatic brain injury or seizure disorder or to understand the role that any drugs or alcohol may have played in the client's actions. Questions about whether a client is competent to stand trial or to take a plea will similarly require the extensive use of experts. Experts must perform psychological testing and testing of the client's intellectual functioning. Experts are also required to opine on the client's prognosis such as whether competency can be attained or restored. In order to meet the force of the prosecution's claims and to provide constitutionally required effective representation to clients, PDS must retain experts in these cases.

In IRAA cases, PDS also routinely must retain prison experts and psychologists to explain the client's record and the background for the offense. Prison experts are typically individuals who have worked for decades in the BOP and have a deep understanding of the functioning of these institutions. Prison experts are essential for providing context for disciplinary infractions, including explaining violence and gang intimidation in certain facilities. Prison experts also may explain the programmatic offerings at different BOP institutions and provide evidence for why a client may not have been able to take certain classes that could have promoted rehabilitation. Psychologists hired to perform evaluations and write reports for IRAA cases are necessary for explaining learning disabilities and mental health issues that may have gone largely unaddressed in the BOP and therefore should be addressed by PDS's reentry plan that would accompany the IRAA motion. These experts also explain family dynamics and trauma that may have played a central role in the underlying offense.

Finally, the need to have experts test or retest forensic evidence creates a costly obligation for PDS. The USAO is increasingly using forensic evidence for cases of varying severity. Fingerprint evidence, firearms comparison, and DNA testing, once reserved for homicide cases, are now routinely used in cases where clients face shorter periods of incarceration, such as in drug and weapon possession cases. The USAO also frequently uses cell site location and GPS data, and performs forensic analysis on seized cell phones and other electronics. In order to provide a constitutionally mandated effective defense, PDS must examine the forensic evidence, and in many instances, must retest the evidence and call experts to testify in order to contradict the prosecution's assessment of the forensic evidence. While PDS controls the cost of interpreting and assessing forensic data by having a forensic scientist and a forensic consultant on staff, requests for independent testing, the

³⁴ See pp. 12-14.

cost associated with retesting evidence at a certified forensic laboratory, and sometimes also of presenting testimony in court cannot be avoided.

In addition to the need to retest evidence, PDS is at the forefront nationally of litigation promoting the scientific reliability of forensic evidence. In the firearms comparison discipline, PDS attorneys, with unprecedented success, have marshalled leading scientists to assess the shaky scientific foundation of this evidence. These efforts have sharpened judicial assessments of firearms comparison evidence across the country.³⁵ In this way, PDS is proactively strengthening the reliability of science in the courtroom.³⁶ These efforts can be costly as outside scientists are required to conduct scientific literature reviews, offer alternative error rate calculations, draft declarations, and testify in court. However, the value of these experts in presenting defense evidence and avoiding wrongful convictions cannot be overstated.

All of these additional resource requests are consistent with PDS's policy and funding priorities—providing high quality representation to individuals who face serious charges but who cannot afford to hire an attorney, improving indigent defense representation in the District of Columbia, and improving PDS's administrative efficiency—and support the goals of increased efficiency and effectiveness in federally funded programs.

Resource Request – Consulting and Software Costs (\$600,000)

Information Technology Division – (\$600,000):

³⁵ PDS secured a favorable ruling in the case *United States v. Tibbs*, No. 2016 CF1 19431, 2019 WL 4359486 (D.C. Super. Ct. Sept. 5, 2019). This decision has been cited by courts across the country, legal scholars, and journalists. The following is a non-exhaustive list of the cases that have cited *Tibbs*: *People v. Ross*, 68 Misc. 3d 899, 913 (N.Y. Sup. Ct. 2020); *United States v. Shipp*, 422 F. Supp. 3d 762, 776 (E.D.N.Y. 2019), *People v. Winfield*, 15 CR 14066-01 (Cir. Ct. Cook Cnty. Feb. 8, 2023). For legal scholarship, see, *inter alia*, Katie Kronick, *Forensic Science and the Judicial Conformity Problem*, 51 SETON HALL L. REV. 589 (2021); Brandon Garrett, *Tibbs Ruling on Firearms Testimony: a “cannot exclude” limitation*, DUKE LAW FORENSICS FORUM (2019), available at <https://sites.law.duke.edu/forensicsforum/2019/09/11/tibbs-ruling-on-firearms-testimony-a-cannot-exclude-limitation/>; David Kaye, *Tibbs, Shipp, and Harris on “Meaningful” Peer Review of Studies on Firearms-toolmark Matching*, FORENSIC SCIENCE, STATISTICS, AND THE LAW (2021), available at <https://for-sci-law.blogspot.com/2021/06/tibbs-shipp-and-harris-on-meaningful.html>.

³⁶ PDS's work in this regard is not limited to challenging the reliability of firearms comparison. In another recent case, PDS successfully defended against the USAO-DC's admissibility challenge to the defense's application of TruAllele, a probabilistic genotyping software that can interpret low level and complex DNA profiles. After extensive written litigation involving detailed expert declarations, the court ruled that such evidence passed muster under FRE 702 and *Daubert* and accordingly admitted the evidence. *United States v. Mills*, No. 2020 CF1 4432, Order at p. 6 (D.C. Super. Ct. Aug. 3, 2023) (Epstein, J.).

PDS requests funds to procure consulting services and security software necessary for compliance with the Federal Information Security Management Act (FISMA).

PDS is embarking on a multi-year effort to upgrade and implement new security provisions to comply with Executive Order 14028 (Improving the Nation's Cybersecurity) and Office of Management and Budget Memorandum M-22-09 (Moving the U.S. Government Toward Zero Trust Cybersecurity Principles), to better ensure that PDS's data is kept secure and to meet the tenets of the Cybersecurity and Infrastructure Security Agency's zero trust model's five pillars.³⁷

- Use of enterprise-managed identities
- Ability to prevent, detect, and respond to incident on PDS-operated devices
- Encryption of DNS requests and HTTP traffic
- Empirical vulnerability testing of all PDS applications
- Use of cloud security services to monitor access to sensitive data; implement enterprise-wide logging and information sharing

Like many government agencies and companies around the country, PDS is regularly subject to hacking attempts. PDS's current security protocols protect PDS's sensitive data, but PDS's goal is to adopt a more robust security structure to increase PDS's capacity to resist more sophisticated system intrusion attempts. PDS intends to be guided in this effort by FISMA standards. To prepare PDS to take the next steps, PDS needs to engage a consultant to advise PDS concerning the creation and implementation of such a security program. In addition to enhancing internal IT security, PDS needs to purchase software that will allow it to control and monitor file and data access across the environment as well as implement products to stop potential breaches. The consultant will assist with implementation of software as well as provide analysis and direction for next steps. To ensure PDS makes informed, evidence-based decisions regarding data security, PDS intends to procure consulting services to guide the creation and implementation of security program enhancements, starting with FISMA compliance. In addition, PDS must procure the software that will enable monitoring of permissions and access across the environment, and a reduction in the risk of potential breaches.

Resource Request – Storage Area Network Costs (\$400,000)

Information Technology Division – (\$400,000):

PDS requests funds to procure increased electronic storage capacity.

To manage storage capacity demand that has ballooned since 2014,³⁸ PDS is requesting funding

³⁷ See M-22-09 (Jan. 26, 2022) at 4.

³⁸ Now that all discovery is stored electronically, PDS has seen a 54-fold increase in PDS's data storage, which has gone from four terabytes in CY2014 to 257 terabytes to date, the bulk of which is Trial Division discovery data.

for a Storage Area Network (SAN). A SAN is a storage system that is separate from the regular computers or servers in the organization. Instead of each employee's computer or the organization's server having its own storage, a SAN provides a big pool of storage that everyone can share. It operates effectively as a very large, centralized storage room for all of the organization's data. As the data PDS stores are primarily client files and digital evidence turned over by the OAG and USAO, it is important that the SAN offer high-speed connections, usually through a dedicated network, to make sure data can be accessed quickly. In addition, because SANs have redundancy built in, if part of the SAN fails, the data can still be accessed from another part, thereby reducing the risk of losing confidential client files.

While PDS works to comply with its policy of deleting business files that are older than three years, as noted the vast majority of the data consists of client files. Pursuant to the D.C. Rules of Professional Conduct,³⁹ client files are considered the property of the client. PDS is ethically obligated to maintain client's property, including their case file, for a minimum of five years after the termination of PDS's representation of the client, without regard to the disposition of the client's matter. Whether, for example, the client's case is dismissed or the client is acquitted at trial or the representation ended when the client's family retained a lawyer for the client, PDS is still obligated to maintain the file for a minimum of five years. If the client is found guilty of an offense, then PDS may maintain the file for a longer period of time. For example, if the client is convicted of a felony, PDS will maintain the file for at least ten years after the date on which the client is expected to complete their sentence, but not more than 50 years; if the client is convicted of a misdemeanor, then PDS will maintain the file for at least ten years after the date on which client is expected to complete their sentence.

Similarly, if the client had a mental health case, then PDS will maintain the client's file for 15 years for civil (involuntary commitment) cases and for 50 years for NGI (not guilty by reason of insanity) cases. While law firms can handle their ethical obligations to maintain client files by providing the file to the client at the conclusion of the representation, such resolution is almost impossible for PDS. Many PDS clients are incarcerated or hospitalized at the conclusion of PDS's representation and are not able to take possession of their file. Thus, PDS cannot discharge its responsibility to maintain their file by giving the file to the client. Regardless, PDS must keep a copy in case there is subsequent litigation in the matter such as an ineffective assistance of counsel claim.

PDS has also used client files to the client's benefit in post-conviction litigation. PDS's exoneration cases were possible because PDS still had old client files, some over 30 years old.⁴⁰ Old client files have also been invaluable to the legal teams working on IRAA and compassionate release motions for former PDS clients. While in the past client files were paper files, most client files now are largely digital. Importantly, client files are not just the pleadings that the PDS attorney might file in the case or the correspondence the attorney

³⁹ See D.C. R. Prof. Conduct 1.15, Safekeeping Property.

⁴⁰ PDS won 5 exoneration cases by showing that the microscopic hair forensic analysis on which the convictions were based was false. Four of the exonerations were reported in CBJ FY 2014 at pp. 13-15.

might send related to the case. The case file includes, for example, all of the MPD body-worn camera footage provided by the USAO or OAG in discovery and video surveillance footage, full cellphone extractions, and thousands of pages of social media data dumps.

As PDS staff expands and caseloads increase, the voluminous amount of digital data that needs to be maintained will only keep growing.⁴¹ For that reason, PDS needs to be able to acquire a substantial storage option, such as a SAN to accommodate this growth.

PROGRAM DESCRIPTION

Legal Services

PDS and private attorneys, both appointed by the District of Columbia courts pursuant to the Plan for Furnishing Representation to Indigents under the District of Columbia Criminal Justice Act (CJA),⁴² provide constitutionally mandated legal representation to indigent people facing a loss of liberty in the District of Columbia. PDS handles a majority of the most difficult, complex, time-consuming, and resource-intensive criminal cases, while private attorneys (CJA lawyers) handle the majority of the less serious felony, misdemeanor, and regulatory offenses. PDS is a model program applying a holistic approach to representation. PDS uses both general litigation skills and specialty practices to provide complete, quality representation in complicated cases.

PDS is a single program that assigns its attorneys and professionals to specific, integrated functions to promote overall representation in individual cases. PDS staff attorneys are assigned to one of seven practice divisions: Trial, Appellate, Mental Health, Special Litigation, Parole, Civil Legal Services, and Community Defender. On a day-to-day basis, the attorneys in the various divisions provide advice and training to each other and often form small teams to handle particularly challenging cases.

Using this team approach, PDS undertakes a wide array of legal representation, including homicide trials, special education proceedings, parole revocation hearings, disciplinary hearings for detained children and adults, challenges to the treatment of clients under supervision, collateral attacks on wrongful convictions, involuntary civil commitment proceedings, and groundbreaking appellate representation.

⁴¹ Currently NetApp storage is 79% full with 70 TB free space. Of the 257 TB used, 204 TB is data and 53 TB is video. The rate of growth is 5.9 TB a month. At that growth rate, PDS will be out of storage space in about 5 months or August 2024.

⁴² See D.C. Code § 11-2601 *et seq.* D.C. Code § 11-2601 mandates the creation of a plan to furnish representation to indigent defendants that includes provisions for private attorneys, PDS attorneys, and qualified law students participating in clinical programs.

Trial Division

Attorneys in the Trial Division provide zealous legal representation to adults and youth charged as adults in criminal proceedings in Superior Court and to children in delinquency matters. Attorneys are assigned to specific levels of cases based on experience and performance. As a result of intensive supervision and ongoing training, attorneys generally transition over the course of five to six years 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 Superior Court each year.

Traditionally, less senior Trial Division attorneys handle difficult or resource-intensive delinquency cases (for example, cases involving children with serious mental illness or learning disabilities, or children facing serious charges), some general felony cases, and a limited number of misdemeanor cases.⁴³ Trial Division attorneys also provide representation in a variety of other legal matters through PDS's Duty Day program. The Trial Division also includes immigration attorneys, who are an integral part of effective representation for clients who are noncitizens. PDS's immigration attorneys ensure that these clients are properly advised on how decisions made in their criminal case can affect their immigration status.⁴⁴

Appellate Division

Attorneys in the Appellate Division are primarily responsible for handling direct appeals and other appellate litigation generated in PDS cases, providing legal advice and training to CJA attorneys in appellate matters, and responding to requests from the District of Columbia 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 a wide range of advice and training to other PDS divisions. The Appellate Division attorneys' knowledge

⁴³ General felony cases include weapons offenses, felony drug offenses, and serious assaults. PDS provides representation in misdemeanor cases on a limited basis, typically in instances involving sex offenses against minors, which have significant collateral consequences; through a specific request from the court when the matter involves a novel issue or a client with a significant mental illness; or in cases involving a systemic issue that PDS is uniquely suited to address. PDS's authorizing statute permits PDS to represent "[p]ersons charged with an offense punishable by imprisonment for a term of 6 months, or more." D.C. Code § 2-1602(a)(1)(A).

Sentences for most misdemeanors in the District of Columbia are for lesser terms.

⁴⁴ See *Padilla v. Kentucky*, 559 U.S. 356, 374 (2010) (holding that the Sixth Amendment right to effective representation requires that counsel must advise a client of the deportation consequences of a criminal plea).

and experience allow them to assist other PDS lawyers in complicated cases when difficult legal issues arise.

Mental Health Division

Attorneys in the Mental Health Division (MHD) handle, on average, half of the involuntary civil commitment cases that arise in Superior Court. PDS is initially appointed when a person is detained in a psychiatric hospital upon an allegation that the person is likely to injure themselves or others as a result of mental illness. MHD lawyers also represent persons in post-commitment proceedings, including commitment reviews and outpatient revocation hearings; in involuntary commitment proceedings of persons found incompetent to stand trial because of mental illness or an intellectual disorder; involuntary medication issues; and in matters relating to persons found not guilty by reason of insanity in Superior Court or in U.S. District Court cases. The lawyers in this division also provide mental health consultation and litigation assistance to Trial Division attorneys confronted with complex pre- and post-trial mental health issues. MHD attorneys recently developed litigation strategies to bring home D.C. residents who languish indefinitely in the BOP under federal civil commitment laws, even after they have served their prison sentence. MHD lawyers also conduct training sessions on the rights of persons with mental illness involved in civil commitment actions, and provide legal assistance to CJA lawyers appointed by the court to handle involuntary civil commitment cases.

Special Litigation Division

The Special Litigation Division (SLD) handles a wide variety of litigation that seeks to vindicate the constitutional and statutory rights of PDS clients and to challenge pervasive unfair criminal system practices. SLD attorneys practice across division lines, whether civil or criminal, juvenile or adult, pretrial or post-conviction. They collaborate with their PDS colleagues and with members of the broader legal community with whom they can make common cause. SLD attorneys practice before local and federal trial and appellate courts in the District of Columbia and as *amicus* in the United States Supreme Court. SLD's recent achievements include the release of more than 30 people from life sentences through IRAA; a successful class action lawsuit that sought declaratory and injunctive relief to improve conditions at the D.C. Jail during the COVID-19 pandemic; litigation to end the illegal detention of individuals on ICE requests; and a lawsuit for equitable treatment of people incarcerated in the BOP serving D.C. Superior Court sentences.

Parole Division

The Parole Division provides legal representation to individuals who are facing revocation of their parole or supervised release. PDS represents more than 95 percent of the individuals facing revocation proceedings. Attorneys represent clients at revocation hearings before the Parole Commission pursuant to local and federal laws.

To leverage its capacity to assist clients, the Division also works in collaboration with community organizations; local, state, and federal paroling authorities; and 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, Parole attorneys provide training on parole and supervised release matters to members of the D.C. Bar, members of the Federal Bar, attorneys in D.C. law firms who provide pro bono services, CJA attorneys, students in D.C. law school clinics, and law students from throughout the United States clerking at PDS on parole and supervised release matters. This training educates the lawyers and students on the collateral impact that criminal cases have on clients who are also on parole or supervised release, and results in expanding the pool of attorneys available to handle parole and supervised release matters that PDS is not permitted to handle under the D.C. Rules of Professional Conduct as a result of conflicts of interest.

Civil Legal Services Division

The Civil Legal Services Division (CLS) provides legal representation to clients in a wide array of civil matters that are collateral or ancillary to the clients' involvement in the delinquency 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 (loss of parental rights, loss of housing, seizure of property, probate, civil tort defense, restitution proceedings, child custody, Supplemental Security Income benefits, loss of employment) and can arise even if the person is acquitted of the criminal charges or was only arrested and never charged.

An important component of CLS's diverse civil practice is special education advocacy by attorneys with expert knowledge of the federal Individuals with Disabilities Education Act,⁴⁵ which mandates special accommodations in public schools for children who cannot be educated adequately in a traditional classroom setting without supports due to learning disabilities or other physical or intellectual challenges. Special education advocacy is closely anchored to the Trial Division's representation of young people because of the vital importance of education and the pressing special educational needs of many court-involved youth.

Community Defender Division

As part of PDS's holistic approach to public defense, the Community Defender Division (CDD) provides services primarily to adults and children who are challenged by the consequences of criminal and juvenile legal system involvement. This includes people who have been arrested, people who are charged in the Superior Court of the District of Columbia, people who are currently incarcerated, as well as people who have been recently released from detention or incarceration.

For adult clients, CDD's Prisoner and Reentry Legal Services Program (PRLS) responds to the legal and social services needs of people whose lives have been affected by their interaction with the D.C. criminal legal system. PRLS serves individuals who have or had cases in D.C. Superior Court and are in the community or are housed at institutions operated throughout the nation by the BOP or who are housed at institutions operated by the D.C.

⁴⁵ See 20 U.S.C. § 1400 *et. seq.*

Department of Corrections (DOC). PRLS services include legal representation of clients in administrative hearings in DOC facilities and in parole grant hearings and other release-related matters in BOP facilities. PRLS also advises and advocates on behalf of people convicted of D.C. Code offenses who are serving sentences in the DOC or in BOP facilities to improve their conditions of incarceration.

PRLS attorneys also represent clients in legal matters resulting from the myriad collateral consequences of criminal cases. The attorneys advocate and litigate on behalf of people as they reintegrate into the community including: seeking to seal their criminal records; to terminate parole or supervised release before the Parole Commission; and to remove legal barriers to occupational licensing, employment, education, and housing. PRLS also works closely with community-based organizations to provide clients comprehensive reentry services.

For youth clients, CDD's Juvenile Services Program (JSP) serves young people who have had contact with the juvenile legal system and, for youth charged as adults, in the criminal legal system. JSP represents youth at administrative due process hearings, provides in-person legal consultations for children in the District's youth detention centers, and works with community organizations to develop reentry programs that address the unique needs of children. In addition to staffing legal rights offices inside the District's two secure juvenile facilities, JSP visits local group homes and foster care homes to offer legal assistance to youth who are committed to the D.C. Department of Youth Rehabilitation Services. JSP also visits young clients placed in long-term residential facilities all over the United States. As these clients rarely, if ever, have post-adjudication visits from the attorneys who were appointed to represent them in their underlying juvenile matters, maintaining this in-person contact with children who are placed in these facilities far from home ensures that their legal needs are addressed and that they are not subjected to improper treatment.

Legal Support Services

Legal Support Services is composed of various professional divisions within PDS who work closely with attorneys on individual cases: the Investigations Division, the Office of Rehabilitation and Development (ORD), and the Defender Services Office (DSO). Investigative specialists ensure that each case is carefully investigated prior to a client's decision to accept a plea offer or proceed to trial.⁴⁶ ORD's forensic social workers provide presentencing assistance to address mitigation issues and to provide client-tailored program alternatives.⁴⁷ Other legal support services include a multi-lingual language specialist to

⁴⁶ See e.g., *Kimmelman v. Morrison*, 477 U.S. 365 (1986) (failure to investigate and present Fourth Amendment claim was constitutionally ineffective assistance of counsel). Unlike many other jurisdictions, in the District of Columbia, the prosecution provides neither the names of its witnesses, nor their statements, before trial, thereby making the constitutionally required pretrial investigation of prosecution witnesses by defense counsel extraordinarily time consuming and complicated

⁴⁷ See *Wiggins v. Smith*, 539 U.S. 510 (2003) (decision of counsel not to further investigate petitioner's life history for mitigating evidence beyond presentence

facilitate communication with non-English speaking clients without the need to hire outside translators, a librarian to manage PDS's specialized collection and electronic access to legal materials and to oversee the legal research section of the website PDS maintains for CJA attorneys, and three paralegals who work on cases and projects.

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, conducting mitigation investigation, collecting and assessing digital evidence (e.g., security camera footage, cell phone records, body-worn camera video, "Shot Spotter" (gunshot locations) technology, and Global Positioning System 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 to defense investigators across the country and locally to court-certified CJA investigative specialists who provide investigation services to CJA attorneys.

Office of Rehabilitation and Development

The Office of Rehabilitation and Development (ORD) is composed of experienced licensed forensic social workers and professional counselors. The ORD staff are skilled mitigation specialists who, as part of the defense team, among other services, provide the 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, and parenting classes), judges, CJA lawyers, and others in the criminal legal system frequently ask them to provide consultations. ORD provided technical assistance in the development of the PDS D.C. Reentry Navigator (which has replaced the ORD Adult and Juvenile Resource Guides), a comprehensive community resource guide for persons seeking to regain their lives following arrest, conviction and/or incarceration. This guide provides information regarding a wide range of services available to individuals involved in the criminal legal system. The guide, available on PDS's website, is used by Court Services and Offender Supervision Agency (CSOSA), the BOP and its contract prisons, Superior Court, and many other agencies and organizations working with clients in the D.C. criminal legal system.

Defender Services Office

The Defender Services Office (DSO) supports the court appointment-of-counsel system by determining the eligibility for court-appointed counsel of every child and adult arrested

investigation report and department of social services records fell short of prevailing professional standards).

and brought to Superior Court. DSO coordinates the availability of PDS attorneys, CJA attorneys, law school clinic students, and pro bono attorneys for appointment to new criminal and delinquency cases. DSO operates six days a week, including holidays. PDS attorneys work the same schedule to be available for client representation and other needs of the court system.

Administrative Support

PDS has a number of divisions that provide technical assistance to PDS staff. Though small, these divisions support the overall effective functioning of PDS using both internal expertise and outside contracts for short-term selective expertise. These divisions include the Budget and Finance Office, the Human Resources Office, the Information Technology Office, and Administrative Services. In concert with individual attorneys and PDS executive staff, these divisions provide such services as procurement of expert services for individual cases, financial accountability, recruitment and retention of PDS's human capital, development of an electronic case management system, maintenance of PDS's IT infrastructure, and copying and supply services.

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

PDS PERFORMANCE

Case Performance and Data⁴⁸

“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.”⁴⁹

While the number of cases won or the number of clients released from jail or hospitalization is data that measures a certain type of success, PDS prides itself on its holistic approach to client representation and, as the above quote and the below performance descriptions illustrate, it is this comprehensive advocacy that makes a difference in clients’ lives and upholds the values enshrined in the constitutional mandate of effective assistance of counsel.

The below examples and data illustrate the excellent client service provided across PDS divisions in FY 2023:

IRAA Performance

Special Litigation Division: 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.

Special Litigation Division: 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

⁴⁸ Case descriptions are included with the clients’ permission and with their identity masked. The D.C. Rules of Professional Conduct prohibit PDS from identifying clients and revealing information about their cases outside of the public record. *See* D.C. R. Prof. Conduct 1.6.

⁴⁹ Text sent by a CDD client to her defense team. *See* p. 36.

programming that included obtaining his GED and earning professional certifications in drywall, carpentry, and construction; his minimum PATTERN⁵⁰ 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.

Special Litigation Division: 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.

Special Litigation Division: 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.

Special Litigation Division: 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

⁵⁰ 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. DEP'T 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>.

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.

Additional Case Performance and Data

While winning trials is one clear example of effective advocacy,⁵¹ 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, the advocacy of PDS trial lawyers, investigative specialists, and forensic social workers has resulted in the dismissal of 18 percent of PDS's serious cases after the case had been formally papered. Dismissals have been achieved by the following advocacy:

- Through investigation, PDS attorneys learned that in some cases the prosecution had not disclosed essential *Brady*⁵² evidence to the defense, and after filing motions and having hearings, PDS was able to convince 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.

Office of Rehabilitation and Development Division (ORD): 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 ORD staff to help in a multitude of ways such as:

⁵¹ While the majority of cases handled by PDS are resolved by pleas, in FY2023, PDS's Trial Division won full acquittals or favorable mixed verdicts in 87 percent of those cases where the client chose to exercise their constitutional right to a jury trial.

⁵² *Brady v. Maryland*, 373 U.S. 83 (1963) (prosecutor withholding evidence that tends to negate guilt or mitigate the offense violates due process).

- LC, who 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.”
- 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.”
- 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.

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 parole cases.

Parole Division: As an example of how the Parole division is able to save clients from unwarranted incarceration, in FY 2023, 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.

Parole Division: In another FY 2023 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 (Prisoner & Reentry Legal Services (PRLS)): 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.

Community Defender Division (PRLS): 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 2018.⁵³ 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."

Community Defender Division (Juvenile Services Program (JSP)): In FY 2023, 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

⁵³ D.C. Code § 22-1844.

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.

Community Defender Division (JSP): In FY 2023 JSP represented BD in a Community Status Review Hearing (CSRH)⁵⁴ 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.

Community Defender Division (JSP): 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 absence 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 96 percent of clients who appeared at contested and non-contested probable cause hearings. When PDS prevails at these hearings, clients who should not be hospitalized 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 40 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 in FY 2023, 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.⁵⁵ Two cases were each more than

⁵⁴ Community status review hearings are the juvenile legal system's equivalent of parole revocation hearings.

⁵⁵ 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

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 FY 2023 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 FY2023, 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*,⁵⁶ 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*,⁵⁷ PDS prevailed in an important Fourth Amendment case, building on its victory in *Golden v. United States*.⁵⁸ 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

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.

⁵⁶ No. 23-CO-0233, 2023 WL 5112775 (D.C. Aug. 10, 2023).

⁵⁷ 292 A.3d 790 (D.C. 2023).

⁵⁸ 248 A.3d 925 (D.C. 2021).

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*,⁵⁹ 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 necessary 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*,⁶⁰ 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*,⁶¹ the Court of Appeals sat *en banc* to reexamine 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.

⁵⁹ 285 A.3d 199 (D.C. 2022).

⁶⁰ No. 18-CF-1132 (argued *en banc* June 6, 2023).

⁶¹ No. 17-CF-774 (argued *en banc* Mar. 24, 2023).

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.

Other Accomplishments

Progress Sitefinity's Website of the Year Award:

In FY 2023, PDS redesigned its website⁶² 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:

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:

- 100 percent of survey participants agreed that the mission of PDS is clear to them;
- 100 percent of survey takers agreed that PDS is accomplishing its mission;
- 100 percent of survey takers endorsed the statement "I am proud to say that I work for PDS"; and
- 100 percent of survey participants agreed with the statement "My work gives me a sense of personal accomplishment."

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.

⁶² <https://www.pdsdc.org/>.

CONCLUSION

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 litigates 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.

Budget Display

PUBLIC DEFENDER SERVICE FOR THE DISTRICT OF COLUMBIA

FY 2025 Summary of Changes

	FTE	Amount (\$ in 000s)
FY 2024 Continuing Resolution Level	213	53,629
Add Net General Inflation Level Adjustments	-	2,617
Total Adjustments	-	2,617
FY 2025 Operating Budget	213	56,246
 PROGRAM CHANGES		
Add Additional Demand for Legal Representation and Assistance	6	668
Add Support Personnel	1	156
Add Reclassification of Supervisor and Managerial Teams to Accommodate Staff Growth Across Divisions	-	139
Add Expansion of the Intern Investigator Program	-	100
Add Expansion of the Law Clerk Program	-	496
Add Cybersecurity Software and Personnel to Enhance PDS's Data Security	-	600
Add Acquisition of a Storage Area Network (SAN) to Maintain Storage of PDS's Electronic Data	-	400
Add Increased Resources for Expert Services	-	500
FY 2025 REQUEST	220	59,305

PUBLIC DEFENDER SERVICE FOR THE DISTRICT OF COLUMBIA

FY 2025 Summary of Changes by Grade and Object Class

Grade/Object Class	FY 2023 Actual		FY 2024 Continuing Resolution Level		FY 2025 Budget Request		Change FY 2025 - FY 2024	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
ES/EX	2	362	2	381	2	396	-	15
AD-15	27	4,926	27	5,395	27	5,581	-	186
AD-14	64	9,970	64	10,701	64	11,868	-	1,167
AD-13	32	3,947	31	3,831	31	4,530	-	700
AD-12	27	2,931	27	3,296	29	3,477	2	181
AD-11	34	2,693	24	2,047	26	3,177	2	1,130
AD-10	1	72	-	-	-	-	-	-
AD-09	18	1,260	16	1,177	16	1,423	-	245
AD-08	4	295	4	311	4	335	-	24
AD-07	19	1,131	15	919	18	1,424	3	505
AD-06	2	136	2	143	2	154	-	11
AD-05	1	53	1	56	1	57	-	1
Total Positions	231	27,776	213	28,257	220	32,422	7	4,165
EX/ES FTE		2		2		2		-
AD FTE		229		211		218		7
Average EX/ES Salary		181		191		198		7
Average AD Salary		120		132		147		15
Average AD Grade		13		13		14		1
Object Class								
Annual Funding ¹								
11.1 Full Time Permanent	213	26,260	213	28,028	220	32,149	7	4,121
11.5 Other Pers. Comp.		218		229		273		44
11.8 Special Pers. Services		719		715		1,311		596
12.0 Benefits		9,706		9,848		11,542		1,694
13.0 Unemployment Comp.		22		23		24		1
Personnel Costs	213	36,925	213	38,843	220	45,299	7	6,456

PUBLIC DEFENDER SERVICE FOR THE DISTRICT OF COLUMBIA

FY 2025 Summary of Changes by Grade and Object Class

Grade/Object Class	FY 2023 Actual		FY 2024 Continuing Resolution Level		FY 2025 Budget Request		Change FY 2025 - FY 2024	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
21.0 Travel		281		287		304		17
22.0 Transportation of Things		11		11		12		1
23.1 Rental Payments to GSA		3,656		3,176		2,968		-208
23.2 Rental Pmts.to Others, & Misc.		254		259		545		286
23.3 Comm., Utilities & Misc.		410		418		380		-38
24.0 Printing and Reproduction		42		43		42		-1
25.1 Consulting Services		1,823		2,222		2,722		500
25.2 Other Services		5,131		3,704		3,357		-347
25.3 Purchases from Gov't Accts.		2,123		2,165		1,352		-813
25.4 Maintenance of Facilities		4		4		5		1
25.7 Maintenance of Equipment		1,043		1,064		1,104		40
26.0 Supplies and Materials		936		988		754		-234
31.0 Furniture and Equipment		436		445		461		16
Non-Personnel Costs		16,150		14,786		14,006		-780
TOTAL (ANNUAL)		53,075		53,629		59,305		5,676
Multi-Year Funding ²								
11.1 Full Time Temp	18	1,290	-	-	-	-	-	-
11.5 Other Pers. Comp.		8		-		-		-
12.0 Benefits		448		-		-		-
21.0 Travel & Training		97		-		-		-
25.1 Consulting Services		497		-		-		-
25.2 Other Services		46		-		-		-
TOTAL (MULTI-YEAR)		2,386		-		-		-
Grand Total		55,461		53,629		59,305		5,676
OUTLAYS		49,846		48,266		53,375		5,108

¹ PDS intentionally lapsed \$554K of the \$53.629M FY 2023 annual budget in anticipation of realizing additional expenses in the subsequent fiscal year. In addition, PDS expects to utilize the lapsed funding to process those anticipated FY 2023 upward adjustments in FY 2024 and beyond.

² PDS plans to obligate the remaining IRAA multi-year funding carried over into FY 2024.

APPROPRIATION LANGUAGE

Public Defender Service for the District of Columbia

Appropriation Language Fiscal Year 2025

*For salaries and expenses, including the transfer and hire of motor vehicles, of the District of Columbia Public Defender Service, as authorized by the National Capital Revitalization and Self-Government Improvement Act of 1997, \$59,305,000: **Provided**, That notwithstanding any other provision of law, all amounts under this heading shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for salaries and expenses of Federal agencies.*

***Provided further**, That the District of Columbia Public Defender Service may establish for employees of the District of Columbia Public Defender Service a program substantially similar to the program set forth in subchapter II of chapter 35 of title 5, United States Code, except that the maximum amount of the payment made under the program to any individual may not exceed the amount referred to in section 3523(b)(3)(B) of title 5, United States Code.*

***Provided further**, That for the purposes of engaging with, and receiving services from, Federal Franchise Fund Programs established in accordance with section 403 of the Government Management Reform Act of 1994, as amended, the District of Columbia Public Defender Service shall be considered an agency of the United States Government.*

***Provided further**, That the District of Columbia Public Defender Service may enter into contracts for the procurement of severable services and multiyear contracts for the acquisition of property and services to the same extent and under the same conditions as an executive agency under sections 3902 and 3903 of title 41, United States Code.*

APPENDIX

As noted throughout this Budget Request, PDS is a holistic, single program with multiple divisions all focused on PDS's mission of providing quality legal representation to PDS clients. This mission is reflected in the work done every day on cases that come to PDS. As the hypothetical example below illustrates, a typical PDS case involves many, if not all, of the divisions that make up PDS.

Day One:

A client is arrested by the Metropolitan Police Department and hours later is taken to Superior Court to be presented before a judge and assigned an attorney. The **Defender Services Office** interviews the client, assesses the charges, and runs a conflicts and eligibility check to determine whether the client is entitled to a PDS attorney.

An attorney from the **Trial Division** is assigned to represent the client. The lawyer meets the client in the courthouse cellblock and represents the client in presentment court. Within 48 hours of the lawyer being assigned the case, if the client is held pending trial, that lawyer goes to the D.C. Jail to have an in-depth conversation with the client to begin work on the case.

Day Two:

An investigative specialist from the **Investigations Division** is assigned to the client and meets with the attorney and the client to begin investigating the case. The investigative specialist may involve other investigative specialists assigned to the **Investigation Technical Support Group** who can assist in the more technical aspects of investigation, such as recovering camera footage and analyzing cell phone location information.

Case Progression:

A forensic social worker from the **Office of Rehabilitation and Development** is assigned to assist the client and lawyer with potential mental health issues that may affect the client's competency to stand trial, the client's culpability due to potential serious mental health issues, or the lawyer's advice about plea negotiations and mitigation.

An attorney from the **Civil Legal Services Division** is assigned to assist the client's family, who is facing possible eviction due to the client's arrest, and to draft a custodial power of attorney to ensure the continuity of care of the client's child while the client is detained. The division may also assist the client with ensuring the suspension of Social Security Disability payments, which the client is not entitled to receive during periods of confinement and which if maintained could lead to issues of overpayment and even charges of criminal fraud.

The client alerts PDS that he is not getting the medical assistance he needs at the D.C. Jail and a lawyer from the **Community Defender Division** is assigned to address the client's issues with the jail and litigate them if necessary.

Because the court relied on an improper legal standard to order the client's detention at the jail, attorneys in the **Appellate Division** file an emergency appeal of the detention decision by the lower court and are consulted about legal motions and responses that may be filed in the case.

The trial attorney consults the **Forensic Scientist** to get assistance and advice about DNA or fingerprint evidence the prosecution may be intending to introduce and to evaluate whether re-testing is necessary or additional testing is warranted.

The **Information Technology Office** is consulted to assist with software that enables the investigative specialist and trial attorney to review audio and video evidence provided to the defense by the prosecution in discovery.

The trial attorney consults the immigration specialist in the **Trial Division** to evaluate and potentially advise the client of possible immigration consequences to a plea or trial conviction.

Through discovery and investigation, potential exculpatory evidence that the prosecutor was required to have disclosed to the defense but did not is revealed, and the trial attorney consults lawyers working in the **Special Litigation Division** for assistance with litigating the issue.

It is determined that an expert in cell phone technology may be needed to assist the trial lawyer in understanding cell site reports so the staff of the **Budget & Finance Office** is consulted to approve an expert voucher.

Serious mental health issues are uncovered, and an attorney from the **Mental Health Division** is assigned to assist with potential *Jackson*⁶³ issues. In addition, an attorney in the **Trial Division** consults a member of the **Mental Health Practice Group**⁶⁴ to assist with any legal filings necessitated by the client's mental health needs.

In preparation for trial, the trial lawyer anticipates needing to use a transcript from a prior hearing to potentially impeach a witness and asks a member of the **Administrative Staff** to facilitate acquiring the transcript.

An attorney in the **Parole Division** is consulted to determine the effect on the client's parole of the new case and to prepare the client for his eventual parole hearing after his criminal case is resolved.

The progress and resolution of the case are tracked in PDS's case management system, which was designed by the **Information Technology Office** to help with client information management, attorney supervision, team assignments, and data reporting.

⁶³ Civil commitment cases that statutorily follow a finding where an individual who is charged with a felony or misdemeanor is found incompetent to stand trial in a criminal case. *Jackson v. Indiana*, 406 U.S. 715 (1972).

⁶⁴ The MHPG is made up of a small group of attorneys from the Trial and Mental Health Divisions who specialize in mental health litigation. An MHPG member meets with a trial attorney who has asked for legal support in a criminal case where mental health issues are involved. The member works with the client, makes recommendations, serves as the point of contact for experts. The member might also attend hearings regarding mental health issues of the client, and offer advice on preparing for competency hearings and trials where an insanity defense is raised.