

THE
PUBLIC
DEFENDER
SERVICE

for the District of Columbia



Fiscal Year 2026

Congressional Budget Justification

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**PUBLIC DEFENDER SERVICE
FOR THE DISTRICT OF COLUMBIA
FISCAL YEAR 2026 BUDGET JUSTIFICATION**

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LEGAL AUTHORITY AND MISSION

The Public Defender Service for the District of Columbia (PDS) is a federally funded, independent organization governed by an eleven-member Board of Trustees. Originally operating as the Legal Aid Agency from 1960 to 1970, PDS was created in 1970 by a federal statute¹ enacted to comply with the constitutional mandate to provide defense counsel for people who cannot afford an attorney.² The mission of PDS is to provide innovative, exceptional, and holistic representation to eligible adults and children facing a loss of liberty in the Washington, D.C. legal system. PDS defends the rights, freedoms, and dignity of our clients through zealous and diligent advocacy. Every day, PDS works on upholding justice through community collaboration, strategic litigation, and a team-based approach.

A major portion of the work of the organization consists of representing individuals in the District of Columbia's local criminal legal system who are charged with committing serious criminal acts and who are eligible for court-appointed counsel. In the District of Columbia, public defense services are 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 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 charged 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 assists 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 injunctive relief with 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.*

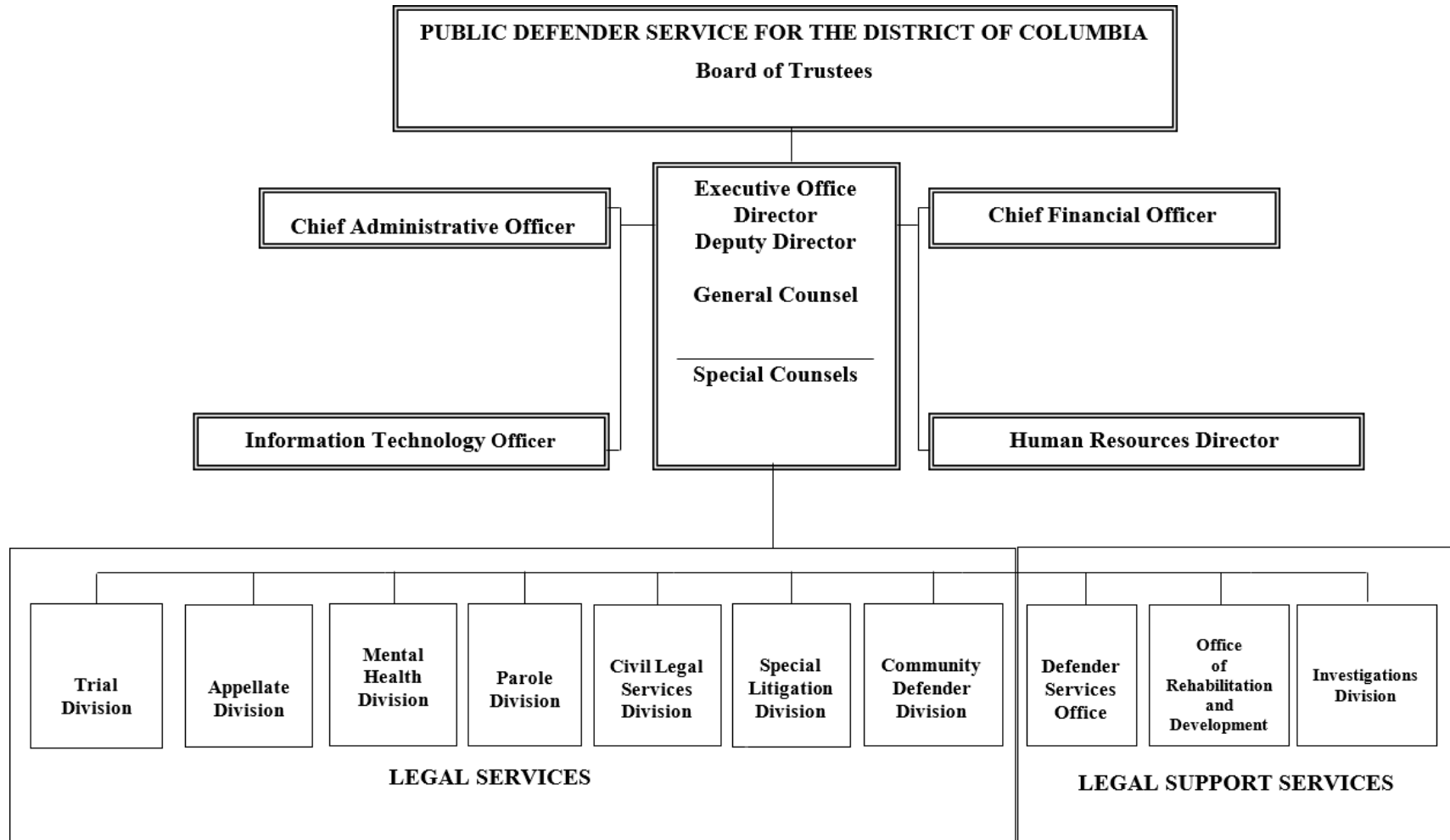
⁴ Pub. L. No. 105-33, Title XI (1997).

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.⁵ 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 in the District of Columbia criminal legal system and nationally 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.

⁵ Pub. L. No. 110-161, §825 (2007).

ORGANIZATION AND STRUCTURE⁶



⁶ For a description of PDS's program and divisions, see at pp. 9-15.

BUDGET DISPLAY

PUBLIC DEFENDER SERVICE FOR THE DISTRICT OF COLUMBIA

FY 2026 Summary of Changes

	FTE	Amount (\$ in 000s)
FY 2025 Continuing Resolution Level	225	53,629
PROGRAM CHANGES		
Travel and Training	-	-25
Printing and Reproduction	-	-10
Other Services	-	-15
Purchases from Government Accounts	-	-12
Maintenance of Equipment	-	-35
Supplies and Materials	-	-150
FY 2026 REQUEST	225	53,382

FISCAL YEAR 2026 BUDGET REQUEST

PDS requests a total of **\$53,382,000** for FY 2026. This includes all salaries and expenses required to maintain current operations.⁷

SUMMARY OF PDS'S FY 2024 ACCOMPLISHMENTS

FY 2024 truly tested PDS's resilience. Our staff navigated a complex, long-delayed office relocation. Additionally, PDS faced an unforeseen budget reduction at about the midpoint of the fiscal year that required us to undertake harsh cost reduction measures. As a result, PDS's attrition rose steeply, multiple staff vacancies went unfilled, and core services like retaining experts were substantially reduced. We even prepared to implement an agency-wide furlough. Fortunately, just days before it was to start, we were able to avert the furlough by recovering sufficient savings through a one-time rent abatement. That abatement and other cost-saving and budget-discipline measures we implemented allowed us to weather the unanticipated budgetary set-back.

Through these challenges, our PDS team showed remarkable dedication and solidarity. Staff took on significantly increased caseloads, organized mutual assistance in anticipation of the potential 20 percent pay reduction that the furlough would have caused, and helped us meet cost cutting measures to support each other in the face of the unexpected mid-year budget reduction. Despite these significant challenges, we remained focused on the fact that our clients face even greater struggles every day.

In spite of these obstacles, all PDS divisions have worked harmoniously to protect fundamental constitutional rights for all accused -- striving for stellar representation, holistic client support, and due process for all. While budget challenges remain, we are hopeful that the coming fiscal year will bring financial stability, allowing us to fill vacancies, properly compensate our staff and continue our mission to serve the D.C. community effectively.

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 regularly confront. This understanding informs PDS's work across all divisions and continues to help us achieve success. For example, lawyers in the Special Litigation Division (SLD) have continued their defense of the constitutional rights of PDS clients through class action work seeking non-

⁷ Inflationary impact on expenses is expected to reduce organizational purchasing power. Current salaries are based on the Office of Personnel Management's 2023 General Schedule (GS) Pay Table. PDS generally aims to align with the current GS pay table, but has the discretion to deviate when necessary.

monetary injunctive and other types of relief, including:

- In 2024, PDS joined the law firm of Latham & Watkins and the American Civil Liberties Union of the District of Columbia (ACLU-D.C.) to file *Mathis v. Parole Commission*,⁸ a suit that challenges the United States Parole Commission (USPC) and Court Services and Offender Supervision Agency's (CSOSA) failure to have *any* system in place to assess the needs of people with disabilities for accommodation or to provide necessary accommodations. Because of this failure, persons with disabilities are often unable to meet supervision requirements, such as in-person reporting, which in turn results in the revocation of that supervision and a return to prison. In September 2024, the presiding judge agreed with PDS's initial filings and issued a preliminary injunction, finding PDS was likely to succeed on the merits of its suit and holding that: "absent immediate relief, the Parolees will face irreparable harm; namely obstacles to success on supervision solely because of their disabilities, which expose them to downstream harms like revocation and reincarceration."⁹
- PDS sent a Freedom of Information Act request to the District of Columbia Department of Corrections (DOC) for its use of force and segregated housing policies, and for information about use of force incidents (by staff against residents) at the D.C. Jail. SLD attorneys filed a civil suit in D.C. Superior Court,¹⁰ along with a motion for summary judgment. In late January of 2024, the Court granted PDS's motion for summary judgment and ordered the DOC to turn over all of the requested information, including its use of force policy and data regarding the use of force within the Jail.
- Following the successful conclusion of the ACLU-D.C. and PDS's lawsuit against the D.C. Jail for its failure to protect incarcerated people from COVID-19,¹¹ PDS has continued to monitor conditions at the Jail. PDS has also provided a significant source of expertise for 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*.¹²

In FY 2024, PDS's Appellate Division had a particularly active year before the en banc D.C. Court of Appeals (DCCA) and was involved in every criminal en banc case, either as the party or

⁸ 5/6/2024, *Mathis v. USPC* (class action), 24-cv-1312.

⁹ *William Mathis & Kennedy Davis v. United States Parole Commission, et al.*, No. 1:24-CV-01312, 2024 WL 4056568 (D.D.C. Sept. 5, 2024).

¹⁰ *Public Defender Service for the District of Columbia v. District of Columbia*, 2023-CAB-003609 (D.C. Super. Ct.).

¹¹ *Banks et al. v. Booth et al.*, 20-cv-849 (DDC).

¹² *V.C. v. District of Columbia*, 1:23-cv-01139.

as amicus, securing a number of victories and arguing cases that present issues of exceptional importance. PDS helped secure favorable decisions in cases involving significant legal issues including: *Velasquez-Cardozo* (the elements of kidnapping) and *Mayo* (Fourth Amendment); argued as amicus in *Moore* (attorney-client privilege); and helped secure rehearing en banc and submitted briefs in *Smith* (discrimination in jury selection).¹³

PDS also won a number of important victories interpreting aspects of the Incarceration Reduction Amendment Act (IRAA).¹⁴ In *Williams v. United States*,¹⁵ PDS persuaded the DCCA that the trial court had been wrong when that court refused to consider a second IRAA motion on the basis that the second motion had been filed too soon after the first was denied.¹⁶ This case made clear that the waiting period for filing a subsequent IRAA motion starts not after all appellate rights of the previous have been exhausted, but from the docketing in Superior Court of the denial of the previous motion. In *Long v. United States*,¹⁷ PDS, as amicus curiae, secured an important victory when the DCCA ruled that release on parole does not moot an IRAA claim.

PDS reports the following additional outcomes and performance data for FY 2024:

- PDS worked on 3,313 trial matters; 684 parole matters; 2,136 mental health matters; 180 appellate matters; 318 civil matters, including special education matters; 824 pre- and post-disposition institutional and community-based legal matters; 1,611 post-conviction (adult) matters; 1,547 Drug Court matters; 273 Special Litigation Division matters; and 5,001 adult Duty Day and 4,048 juvenile Duty Day matters.
- In FY 2024, Mental Health Division (MHD) attorneys secured the release of 99 percent of clients who requested a probable cause hearing (contested and non-contested).
- PDS won 50 percent of the Community Status Review Hearings (CSRH)¹⁸ it conducted.
- PDS won 86 percent of the IRAA hearings it conducted.¹⁹

¹³ *Velasquez-Cardoza v. United States*, 315 A.2d 658 (D.C. 2024) (en banc); *Mayo v. United States*, No. 18-CF-1132 (argued June 6, 2023); *Moore v. United States*, No. 19-CF-687 (argued Feb. 29, 2024); *Smith v. United States*, 305 A.3d 380 (D.C. 2023) (granting rehearing en banc).

¹⁴ See D.C. Code § 24-403.03.

¹⁵ 311 A.3d 308 (D.C. 2024).

¹⁶ The IRAA statute only permits a person to file three motions seeking a reduction of sentence. See D.C. Code § 24-403.03(d).

¹⁷ 312 A.3d 1247 (D.C. 2024).

¹⁸ Community status review hearings are the juvenile legal system's equivalent of parole revocation hearings.

¹⁹ With resources provided in FY 2022, PDS was able to hire three-year term employees to assist

- PDS’s Trial Division won full acquittals or favorable mixed verdicts in 74% of jury trials.

Fiscal Year²⁰	Trial Division
FY 2018	58%
FY 2019	68%
FY 2022	80%
FY 2023	87%
FY 2024	74%

- PDS’s Appellate Division secured reversals at a rate of 75%.

Fiscal Year	Appellate Division
FY 2020	65%
FY 2021	30%
FY 2022	47%
FY 2023	67%
FY 2024	75%

with the backlog of cases that resulted from the passage of IRAA and from compassionate release legislation at D.C. Code § 24-403.04. The term lawyers as well as the full-time lawyers in the Special Litigation Division (SLD) continued their successful advocacy in FY 2024 on behalf of PDS’s eligible clients and managed to significantly reduce the backlog of eligible individuals.

²⁰ Because of COVID-19, jury trials were suspended in March of FY 2020 and only three trials occurred in FY 2021.

PDS aims to attract high quality employees, restore workloads to a manageable level and compensate staff fairly as they continue to do the exceedingly hard work required. Upholding this standard of excellence requires us to stay vigilant—constantly adapting to shifts in law, policy, and practice that impact the people we serve. But delivering exceptional advocacy is not just about staying informed; it is about ensuring we have the right team in place. To continue recruiting and retaining the extraordinary staff who meet these challenges head-on, we must remain responsive to changes and ensure fair compensation for the hard work they do every day. To meet these demands, PDS must continuously assess and secure the resources necessary to fulfill our mission—maintaining the representation our clients depend on and the workforce that makes it possible.

PROGRAM DESCRIPTION

Legal Services

Both PDS and CJA attorneys provide constitutionally mandated legal representation to people facing a loss of liberty in the District of Columbia who cannot afford counsel.²¹ PDS handles a majority of the most difficult, complex, time-consuming, and resource-intensive criminal cases, while 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 serious felony 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.

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.

²¹ See fn 3.

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 complex forensic 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.²² Trial Division attorneys also provide representation in a variety of other legal matters through PDS's Duty Day program.

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, often in response to requests from the District of Columbia Court of Appeals, submitting amicus briefs in non-PDS cases that involve 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 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

²² 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.

an intellectual disorder; involuntary medication issues; and in matters relating to persons found not guilty by reason of insanity in Superior Court and 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 Federal Bureau of Prison (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 achievements include the release of over 100 people from life sentences through IRAA; a preliminary injunction in a class action lawsuit that seeks declaratory and injunctive relief from the failure of the United States Parole Commission and the Court Services and Offender Supervision Agency ("CSOSA") to assess and provide accommodations for persons on supervisions who have disabilities; 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. This training educates lawyers and students on the collateral impact that criminal cases have on clients who are also on parole or supervised release, and expands 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 connected 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 (e.g., 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,²³ which mandates special accommodations in public schools for children who cannot be educated adequately in a traditional classroom setting 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 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 D.C. Superior Court, 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 related social services needs of people whose lives have been affected by their interaction with the D.C. criminal legal system. PRLS serves individuals who are in the community, or who are housed either at institutions operated by the D.C. Department of Corrections (DOC) or at those operated throughout the nation by the BOP. 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 in an effort to improve their conditions of incarceration. PRLS attorneys also represent clients in legal matters resulting from the myriad collateral consequences of their criminal cases. The attorneys advocate and litigate on behalf of people as they reintegrate into the community including, for example: seeking to seal their criminal records; advocating to terminate parole or supervised release before the Parole Commission; and working to remove legal barriers to occupational licensing, employment, education, and housing.

²³ See 20 U.S.C. § 1400 *et. seq.*

PRLS also works closely with community-based organizations to support 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 as well as youth charged as adults, in the adult 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,²⁴ 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 being subjected to improper treatment.

Legal Support Services

Legal Support Services is composed of various professional divisions within PDS whose staff 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. ORD's forensic social workers provide presentencing assistance to address mitigation issues and provide client-tailored programs as alternatives to imprisonment, as well as detailed re-entry plans for clients returning home from incarceration.²⁵ Other legal support services include a multi-lingual language specialist to 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

²⁴ See D.C. Code § 2-1515.05a.

²⁵ 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 investigation report and department of social services records fell short of prevailing professional standards).

records, body-worn camera (BWC) 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 judges with information about viable community-based alternatives to incarceration. Because they are well-versed in all of the D.C. area rehabilitative programs (e.g., drug treatment, job training, education programs, and parenting classes), ORD staff members are frequently asked to provide consultation for judges, CJA lawyers, and others in the criminal legal system. 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 services to assist them following arrest, conviction and/or incarceration. 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 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 every week Monday through Saturday, including holidays and inclement weather days. 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 coordination 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 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 Data²⁶

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. 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 advocacy provided across PDS divisions in FY 2024:

IRAA and Compassionate Release²⁷ Performance

Special Litigation Division: HF was sentenced to 51 years in prison after she was convicted of murder. At age 61, and after serving over 20 years in prison, HF became eligible for compassionate release. HF's legal team, which she called the "Dream Team," provided to the court extensive evidence of her rehabilitation and non-dangerousness. The legal team offered character references from numerous prison staff members who agreed to go on record with their praise of HF, including that she "is fully rehabilitated" and is "a great candidate for a second chance." The legal team also found other incarcerated people who explained the positive impact HF has had on them, with statements like: "She taught me by example that my life was not worthless, it was just different. And that I could choose to be better even in here." The judge granted her compassionate release and placed her on probation. Instead of spending the final years of her life in prison, HF has been reunited with her mom, her daughter, and the rest of her family.

Special Litigation Division: KJ was convicted in 2012 of non-homicide offenses. While serving his prison sentence he developed a rare medical condition that required treatment, which the BOP was not providing. His PDS team investigated the medical condition and filed a

²⁶ 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 their confidential information. *See* D.C. R. Prof. Conduct 1.6.

²⁷ *See* D.C. Code §§ 24-403.03, -403.04

compassionate release motion that unfortunately was denied. PDS litigated the appeal and won a remand for the trial court to “determine whether appellant’s asserted medical care warrants relief” as well as whether the totality of the circumstances, including evidence of rehabilitation, qualified as extraordinary and compelling circumstances for the purposes of compassionate release. The PDS team then filed three extensive pleadings to convince the trial court that KJ’s medical condition not only merited relief, but that the belated medical care the BOP provided after the remand showed that his condition was even more serious than initially believed. The trial court granted KJ compassionate release to the community where he is receiving medical treatment and has successfully reentered society.

Special Litigation Division: JM was serving a sentence of 47-years-to-life for a number of serious non-homicide offenses committed when he was 16 years old. His first IRAA motion was denied, but JM’s legal team persevered because IRAA allows individuals to file again after waiting an additional three years. Although much of the legal team had left PDS – the lead counsel had left for a Supreme Court clerkship and the social worker retired after 38 years of service – the former social worker continued to work on JM’s case pro bono and in consultation with his new PDS legal team. Through their work and investigation, the combined legal team showed that as a child JM had been failed by his family and community and had suffered devastating trauma, including being stabbed by his mother. The team also showed that, while JM initially struggled in the prison system as a teenager and young adult, he eventually matured and rehabilitated himself. Over the course of 26 years of incarceration, JM reconciled with his mother and the rest of his family. Upon his release, JM celebrated with his family and is now employed and giving back to his community.

Special Litigation Division: PDS’s compassionate release motion on behalf of VG was granted resulting in his reunification with his young children, whose mother had died recently. While a previous compassionate release motion -- that had not been filed by PDS -- had been denied, the PDS team worked across divisions on both VG’s parental custody matter as well as refiling on compassionate release grounds. The renewed compassionate release motion showed, for the first time, the extent of VG’s childhood trauma which led to substance use, as well as evidence of VG’s rehabilitation. His team also prepared a detailed reentry plan to provide community-based addiction treatment.

Special Litigation Division: WN had been in prison for nearly 40 years for offenses committed when he was 18 and 19 years old. As one loved one described it, WN’s childhood read “like a horror story,” beginning with his father brutally murdering his mother in front of him when he was a baby. The PDS team was able to pull together WN’s multigenerational, multi-state story and to find incredibly compelling evidence of who he is today-- in the words of a BOP staff member -- “a leader” who was one of the few people staff trusted to mentor and train other individuals. WN also was placed in charge of a 120-person work unit of incarcerated people. His PDS team found his niece, who told them about how, when she mentioned to him that she liked a particular cartoon character, WN saved his earnings and spent a month and a half designing and crocheting a blanket for her with the cartoon character on it. The team also spoke with his childhood tutor, who cares about WN so much that they have stayed in touch for over 40 years.

The team created a detailed reentry plan and ultimately the judge granted WN's IRAA motion. WN hopes to one day create a farm collective with formerly incarcerated people so they have a place to reintegrate back into society and be employed.

Special Litigation Division: PDS won IRAA relief for DX, a truly remarkable, thoughtful, and kind 46-year-old man. DX had had a traumatic childhood that is sadly typical of persons who get involved in the criminal legal system. When DX was 19, his best friend, who had served as DX's surrogate family after DX was orphaned as a child, was murdered. A few months later, DX was arrested for a murder that was in retaliation of the murder of his best friend. DX, after processing the repeated trauma of his youth he began to mature and started acting as a mentor to younger prisoners. DX also completed some of the most intensive, rehabilitative programs within the BOP, despite enduring the loss of several loved ones during his incarceration. The courtroom for his IRAA hearing was packed with extended family and friends with whom he had reconnected during his incarceration. PDS staff prepared a compelling social history memo and reentry plan that the judge complimented multiple times in open court. DX was released and is now working, spending time with his loved ones, and giving back to his community.

Additional Case Performance and Data

While winning trials is one clear example of effective advocacy,²⁸ 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 to achieve outright dismissal by the prosecution in a substantial number of cases. Although the majority of criminal cases are eventually resolved through plea negotiations, when the client chooses to exercise their right to go to trial, PDS's advocacy on their behalf is exemplary as the following cases illustrate.

Trial Division: In FY 2024 PDS represented LT, a man in his early thirties who found himself in an unimaginable situation—forced to shoot his abusive father to save his own life. This was no cold-blooded crime but a desperate act of self-defense, one that had been years in the making. As far back as LT remembers, his father, a former boxer, subjected him to relentless abuse—belts, chains, coat hangers, and a cruel barrage of jabs and right crosses were his father's weapons of choice.

The day that would change everything began with a petty argument over five dollars. The father's rage quickly escalated from yelling to slaps, then to brutal punches that knocked LT to the ground, leaving him bloodied and dazed. Desperate to escape, LT tried to flee the apartment, but his father blocked every exit, chasing him down the narrow hallway to a tiny bathroom where there was no way out. Trapped and terrified, LT endured yet another beating until he saw his father reach for a gun. For the first time in his life, LT fought back.

²⁸ PDS's Trial Division won full acquittals or favorable mixed verdicts in 74 percent of its jury trials.

PDS knew this was a clear case of self-defense, and told the government as much. Investigative specialists had uncovered a chilling history of abuse, corroborated by numerous family members who shared their own harrowing stories. PDS also uncovered a Child and Family Services Agency report from when LT was just ten years old, detailing how his father had stormed into his elementary school and viciously beat him with a belt in the counselor's office. Despite all of this, the government refused to dismiss the case and LT was forced to go to trial.

At trial PDS presented evidence including the testimony of a cyclist, a stranger to the father, who had been a victim of the father's road rage, ambushing and beating him with a bicycle lock. PDS also presented a police officer who had once responded to a call from the father's much younger girlfriend, who had been attacked by the father after asking for help with their children. The father had first directed a pit bull to attack her, and when the dog's bites weren't enough, he resorted to his fists. Finally, LT was also able to tell the jury what happened that terrible day and why.

The jury returned a not guilty verdict after just over one hour of deliberations. During the long months leading up to the trial, PDS social workers had helped LT get the treatment he so desperately needed to overcome the addiction that had plagued him for years—a way to numb the pain of his past. Now, for the first time since he was very young, LT is sober, marking over a year of recovery.

Trial Division: CG was brutally attacked by several assailants in broad daylight. These individuals, armed and menacing, threatened her life and struck her mercilessly. With no one coming to her aid, CG was left with no choice but to defend herself. The aftermath of this vicious assault left CG not only hospitalized but also plagued by the debilitating symptoms of PTSD—panic attacks, overwhelming anxiety, and episodes of dissociation.

Despite being the victim, CG was the one who found herself in handcuffs, arrested and thrown into the D.C. Jail, while her attackers walked free, never facing a single charge. As she languished behind bars, the life she had painstakingly built crumbled around her—she lost her job, was torn away from her family and friends, and her dreams of continuing her education were shattered.

After enduring a multi-week trial, the truth finally prevailed. In just 45 minutes, the jury acquitted CG of all charges. Now, she has returned home, and is rebuilding her life, working, and reuniting with the loved ones who stood by her side through it all.

Trial Division: RW was a federal employee living in another state, where he held a lawful license to carry a firearm. One day, in the rush of his morning routine, he hurriedly grabbed his backpack, unaware that his legally purchased firearm that he had taken earlier to a gun range was still tucked inside. As he passed through a metal detector to enter his office building, an alarming realization struck—his gun was with him still in the backpack. The officer on scene who had conducted the bag search described RW as completely shocked when he realized the gun was in his backpack. At trial, the guard testified that RW was fully cooperative and had even assisted

him in showing him how the gun was stored in a special compartment made for transportation and how to remove it.

In Washington, D.C., accidental possession is a recognized defense, yet the government was undeterred. Despite RW's immediate cooperation and presenting proof of his lawful purchase and licensing of the firearm, the government refused to dismiss the case. As a result, RW was suspended from his job and forced to endure months of uncertainty as he awaited trial.

When his day in court finally arrived, justice was swift. In less than an hour, the jury delivered a verdict of acquittal on all charges. Yet, the damage had been done—RW had lost his job, his peace of mind, and months of his life, all for a mistake that the law acknowledged as a defense.

Office of Rehabilitation and Development Division (ORD): Forensic social workers work across legal divisions to help PDS clients in a number of ways including by formulating reentry plans, writing sentencing and mitigation reports, connecting clients with mental health treatment, and supporting clients with their mental health needs as they navigate the criminal legal system. In FY 2024, PDS clients have relied on ORD staff to help in a multitude of ways such as:

- ORD staff assisted SL who has suffered from chronic mental illness and long-term homelessness for over a decade. Prior to PDS's representation, he had been in and out of the criminal legal system without receiving appropriate services and supportive housing. An ORD social worker advocated tirelessly to secure stable housing through the Department of Behavioral Health and he now has a stable living environment for the first time in years.
- HR was released from the Bureau of Prisons after being incarcerated for nearly 40 years. With the help of an ORD social worker, HR has positively turned his life around and is thriving. The ORD social worker supported him with transitional housing, employment opportunities, and helped him make reentry connections immediately upon his release. HR is now working at an area airport, residing in transitional housing and building his credit history so ultimately, he can obtain his own apartment. He loves spending quality time with his granddaughter, whom he got to hug and play with for the first time ever when he was released from prison. As he told his social worker, "I have never been so happy and am so proud of myself."
- TW, a 67-year-old man, was facing sentencing for a serious offense and required a reentry plan that had specific services tailored to his clinical needs. Fortunately, ORD had the capacity and expertise to do a sophisticated risk assessment that the judge heavily relied on at sentencing, resulting in a probation sentence rather than incarceration. This sentence allowed TW to receive appropriate services and support in the community.
- LD, an intellectually disabled juvenile client with an IQ of 47, was charged with multiple serious offenses. The Office of the Attorney General (OAG) was planning to go forward with the case despite the client's total inability to understand the case and the proceedings.

against him. An ORD clinician was able to identify a psychological expert to interview the client and conduct a competency evaluation. Through the use of that expert's findings, ORD was able to identify supports in the community, work with the client's aunt who undertook responsibility for LD and for his father (who also has significant cognitive challenges), and eventually was able to convince the OAG to dismiss the case. Without this outcome, the client more than likely would have been committed to the Department of Youth Rehabilitation Services (DYRS), and placed in a secure detention facility for months where he would not have received any substantive services or therapies.

Parole Division: The Parole Division historically represents clients who are facing parole or supervised release revocation. In FY 2024, PDS represented 394 clients at probable cause and revocation hearings and was able to get 112 clients fully reinstated to parole. For cases that advanced to a final hearing, PDS either won outright reinstatement or a mitigated outcome in 40 percent of those cases.

Parole Division: In FY 2024, the on-call lawyer in the Parole Division received a call from a Community Supervision Officer (CSO) asking for help to get a client terminated from supervised release. Sadly, the client had suffered a stroke and was confined to a bed in a nursing home in Maryland, unable to walk or even turn his head. In preparation for compiling an early termination request, the parole attorney had two law clerks drive out to the client's nursing home in rural Maryland to retrieve some medical records. Once there, however, the law clerks discovered much more than the client's physical condition. They determined that the client was living in a dirty and unsanitary facility, receiving questionable care from his providers, and not receiving any physical therapy. In true PDS fashion exemplifying the best of client-centered and holistic representation, PDS staff made a number of referrals to the Maryland Legal Aid Long-Term Care Assistance Project, the Maryland Office of Healthcare Quality, and the state and county ombudsmen for long-term care. Before long, the management of the nursing home called an all-hands meeting resulting in an overhaul of the client's provider team.

PDS then submitted their thoroughly-documented early termination request to the Parole Commission. Despite the request for termination initially coming from the client's own CSO, the supervisory CSO opposed the request. Due to the diligent work and advocacy of the parole attorney, the Commission eventually approved the request and the case was finally closed. Additionally, with the overhaul of his care, the client is now receiving physical therapy and has regained some mobility. Although he will continue to have many health challenges ahead, he will at least be able to move forward and focus on his recovery without the onerous stress of being on correctional supervision.

Community Defender Division (Prisoner & Reentry Legal Services (PRLS)) Duty Day:

PDS has walk-in and call-in clients who reach out to PDS daily with a variety of legal questions as well as requests for assistance for other problems that impact their lives. Many of these issues relate to sealing old arrest and conviction records that are impacting a person's ability to find employment or receive services. Other common requests involve reevaluating probation or

parole conditions that have been improperly imposed or are no longer relevant and requests for referrals to other social and legal resources. The following are examples of some of the assistance PDS provided in FY 2024:

- JD was a duty day client seeking help with sealing a conviction. Not only did JD seek to have his record sealed for professional growth, but the conviction also served as a painful reminder of an extremely difficult time for JD and his family. He sought to seal his record as a means of closing the door to that difficult time. After determining his eligibility for sealing, JD and the PRLS staff attorney worked together to provide the Court with a motion depicting all of JD's accomplishments. To name just a few, JD was one of the founding members of a cultural association, which hosts cultural events, soccer games, and youth programming. Additionally, JD is the vice president of a professional organization that convenes emerging leaders working in the public service sector. In addition to showing the Court just how involved and impressive JD is, the motion to seal made clear that the conviction was as an impediment to JD's continued life and career. After review, the government did not oppose the motion and the Court issued an order sealing his record.
- BQ was referred to PRLS from the Trial Division for help obtaining their professional license, which had been denied due to their arrest record. After PRLS succeeded in helping BQ get their professional license, PRLS began working with BQ to seal their arrest record. The first sealing victory resulted from a motion to seal an arrest resulting from conduct that was subsequently decriminalized (i.e., possession of a taser). Next, the PRLS attorney filed a Youth Rehabilitation Act motion²⁹ to set aside a conviction for misdemeanor assault that was further hindering BQ's licensing application. In FY 2024, the Court granted that motion and ordered the conviction set aside. PRLS's work continues with the goal to fully clear BQ's record by filing a motion to seal the remaining arrest, which should now be eligible for record sealing under D.C. law.
- DW contacted PRLS duty day for assistance because their criminal record was impeding their ability to obtain their unarmed Special Police Officer (SPO) license. DW had had their SPO license for approximately 20 years but recently had been notified that their license was going to be revoked because of a conviction from 2012. The PRLS attorney prepared a submission based on the licensing regulations for SPOs and provided documentation of DW's rehabilitation, training, and mitigating information regarding the conviction. As a result of the detailed preparation and depiction of DW's life and career that went well beyond their criminal history, the PRLS attorney persuaded the Licensing Board that DW was qualified to continue to serve as an SPO, and they granted DW's license in November 2023.

²⁹ See D.C. Code §§ 24-901 *et seq.*

- CZ was a college student when he was charged with misdemeanor sexual abuse in the summer of 2021. In August 2022, he was acquitted after trial. CZ called PDS to discuss the possibility of sealing his criminal record. A PRLS staff attorney retrieved the transcripts from CZ's trial as well as all of the judicial rulings in the case and filed a motion to seal CZ's record on the grounds that he was actually innocent. Upon review of the motion, the Government did not oppose it, and the Court granted it. CZ told staff that he was smiling from ear to ear and indicated that he finally felt a sense of validation that he had not felt since the beginning of his ordeal.

Community Defender Division (Juvenile Services Program (JSP)): In FY 2024, JSP represented securely detained youth in 371 institutional disciplinary hearings. In 62 percent of those cases, JSP was successful in preventing sanctions that would limit the few privileges and opportunities offered for appropriate youth development and would exacerbate the trauma experienced due to incarceration. This is a laudable statistic particularly because the hearing officers are employees of the Department of Youth Rehabilitation Services (DYRS) and multiple incident reports written by other facility staff are submitted to the hearing officers in support of each alleged incident.

Community Defender Division (Juvenile Services Program (JSP)): JC was represented by an attorney in JSP at a community status review hearing (CSRH), where they challenged DYRS's attempt to revoke JC's community placement. This hearing underscored the importance of strong investigation and witness support. In advance of the CSRH, the JSP staff attorney and the CDD investigator located and interviewed a number of witnesses and gathered letters of support. The investigator traveled around D.C., locating witnesses from JC's school, internship, group home, and mentorship program. While JC conceded, he had not been in perfect compliance with all of his release conditions, the JSP attorney's representations, along with the testimony of JC and other defense witnesses, demonstrated to the satisfaction of the panel that reinstating community supervision status was best for JC and for the community. JC was released from secure detention and was able to return to their local group home in the community, go back to school, and continue at their local internship.

Mental Health Division: In FY 2024, MHD attorneys secured the release of 99 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.

Also in FY 2024, 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.³⁰ Two of these cases were each more than forty years old

³⁰ Clients who are found not guilty by reason of insanity are committed to the legal custody of the Department of Behavioral Health indefinitely. The process to eventually be unconditionally released is slow and costly. While committed, clients must first matriculate through intensive inpatient treatment, gradually earning hospital privileges. At some later point, clients can cycle

and one case was more than fifteen 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 continues to identify individuals who are federally committed outside of the District and works earnestly to bring them home. In FY 2024, MHD attorneys, with other mental health stakeholders, worked to untangle the federal commitment of a client who was finally returned to D.C. (though they remain committed under federal law). In addition, MHD lawyers are working on returning a woman, detained more than 10 years in the federal system, who had been a voluntary consumer of mental health services in D.C. before a non-injurious assault charge catapulted her into the federal system.

Appellate Division: In FY2024, PDS's Appellate Division continued to foster 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 *Velasquez-Cardozo*,³¹ PDS, as amicus curiae, helped secure an en banc opinion that re-examined the District's kidnapping jurisprudence. Although the kidnapping statute was enacted in the 1930s to combat the national epidemic of organized-crime kidnappings for ransom, it had 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 as in this case. In a unanimous opinion, the en banc court overruled that precedent, construed the statute anew, and set forth a narrower standard to govern all future cases.

In *Moore v. United States*,³² PDS argued as amicus curiae in a case presenting an issue of first impression involving the scope of the attorney-client privilege. Mr. Moore was convicted of making threats against an assistant attorney general assigned to prosecute him for criminal contempt of a civil protection order. Mr. Moore had allegedly made threatening statements in confidence to his criminal defense lawyer in the hallway outside of the courtroom, expressing anger about the government's attempt to subject him to GPS monitoring while on pretrial release. PDS argues that these statements were privileged under the prevailing test, because, as the three-judge panel that initially considered the case properly held, they were made in the context of an existing attorney-client relationship and were related to Mr. Moore's "significant purpose to obtain legal assistance" about "the government's effort to alter his conditions of release." Because no established exception to the privilege applied, PDS has urged the en banc

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 legal burden and proves that they will not be dangerous to themselves or others if the judicial, governmental and DBH forensic oversight is removed.

³¹ 315 A.2d 658 (D.C. 2024) (en banc)

³² No. 19-CF-687 (argued Feb. 29, 2024).

Court to follow the lead of the three-judge panel that had originally considered the case and hold it was error to allow the defense lawyer to testify for the government.

And in *Smith v. United States*,³³ PDS, again participating as amicus curiae, helped secure en banc review in an important case involving a challenge alleging a prosecutor's unconstitutional use of race as a basis for the exercise of preemptory strikes of jurors. In this case, where a black man was charged with assaulting a white woman, the prosecutor used her discretionary challenges during jury selection to eliminate every qualified person of color. When the defense contested the prosecutor's use of her challenges as racially motivated, the prosecutor claimed to have stricken several black jurors based on their professions, saying that they would not understand the scientific testimony in the case. This claim was suspect, because the prosecutor knew the DNA evidence was undisputed; the proffered medical evidence was simple; and the prosecutor did not strike a white juror, whose job also did not require higher education. The trial court accepted the prosecutor's explanation as "credible," rejecting the defense's challenge, and a three-judge panel of the District of Columbia Court of Appeals (DCCA) affirmed. PDS wrote a brief urging the en banc Court to follow the clear command of the Supreme Court caselaw, and hold that the trial judge, and the appellate court on review, must rigorously scrutinize the proffered race-neutral reasons in light of all the facts and circumstances of the case, scrutiny which would require reversal of Mr. Smith's conviction and retrial with a jury untainted by racially motivated strikes.

In *Evans v. United States*,³⁴ the DCCA, agreed with PDS's arguments that the jury had been incorrectly instructed on the law and reversed Mr. Evans's gun possession conviction. Mr. Evans was acquitted of murder but convicted of gun possession in a self-defense case. The jury was instructed that possession of the gun was excused during the period of self-defense. It sent a note asking how long after the shooting that defense could last. Over the defense attorney's objection, the judge instructed that the period of lawful possession ended as soon as the defendant was no longer in imminent fear of death or serious bodily injury, *i.e.*, the minute the exercise of lawful self-defense ended. The DCCA, agreeing with PDS, reversed Mr. Evan's gun conviction and held that the period must extend for a reasonable duration for the defendant to recover from the trauma and figure out how to safely dispose of the illegal weapon.

Also in FY 2024, in *Walker v. United States*,³⁵ the Court of Appeals agreed with PDS that Mr. Walker's indictment had to be dismissed under the Double Jeopardy Clause of the United States Constitution. In the case, the trial judge had declared a mistrial over defense objection when there was no manifest necessity to do so, denying Mr. Walker his right to go to verdict with his chosen jury. The Court agreed with PDS that any retrial was barred by the Double Jeopardy Clause because the mistrial was not supported by the constitutional standard of "manifest necessity." The government could not meet this high bar in circumstances where the reason for

³³ 305 A.3d 380 (D.C. 2023) (granting rehearing en banc).

³⁴ 304 A.3d 211 (D.C. 2023).

³⁵ 317 A.3d 388 (D.C. 2024).

the mistrial was the government's own elicitation of inadmissible evidence highly prejudicial to the defense, and the defense made clear it still wished to go to verdict. The Court emphasized "the virtually ironclad rule" that when prosecutorial error prejudices a defendant, the defendant retains "primary control over the course to be followed."

Civil Legal Services Division: In FY 2024, PDS represented a 56-year-old gentleman, PW, who had worked as an IT contractor with the federal government for 15 years. After successfully completing a diversion program that earned him full dismissal of his criminal case, PW mistakenly believed he was not required to disclose the case when seeking a security clearance for his work. Because of this mistake, he was in danger of losing his job. As part of this representation, PDS responded to interrogatories used to assess whether PW's nondisclosure would result in termination. The civil attorney was able to show PW's employer all that PW had overcome to successfully earn full dismissal of his criminal case and that PW did not engage in deception. Ultimately, the employer agreed that PW should keep his position.

Civil Legal Services Division: In FY 2024, the Civil Division's special education attorneys were instrumental in securing dismissal of charges against TY, a severely intellectually disabled 13-year-old, and in getting him critically needed school services. After obtaining a psychological evaluation showing that the child's cognitive limitations had actually regressed over the years due to the school's inadequate educational services, the Civil education attorney helped educate the prosecutor that, among other mitigating facts, TY client had the communication skills of a 1st grader. As a result of this advocacy, the prosecutor announced that they were dismissing all charges. But PDS's work did not end there. The special education attorney also ensured an updated IEP was put in place reflecting TY's current level of functioning, and obtained extended school year services. As the school year ended, the education attorney then facilitated TY's admission into a new school that would meet his special needs.

Civil Legal Services Division: A PDS special education attorney represented KW, a 19-year-old client with severe learning and emotional disabilities. KW had entered into a plea agreement where he faced up to 84 months of incarceration. While he was at the D.C. Jail awaiting sentencing, the PDS attorney managed to get KW enrolled at the school on site where he could continue to earn credits towards his high school diploma. Prior to his incarceration, this severely disabled young person had been erroneously told by school officials that he only needed a few credits to obtain his high school diploma. The education attorney uncovered this mistake after carefully reviewing KW's educational records and learned that KW needed 1.5 years of schooling before he could earn his diploma. The education attorney helped devise a strategy to convince the sentencing judge to push back the sentencing date to allow KW to complete his education at the jail. This was critical since no such services would be available to him once he was sentenced and placed in the BOP. Due to this advocacy, KW was able to earn all of his required credits and graduated with his high school diploma on August 2, 2024.

Civil Legal Services Division: Not all of PDS's work involves just human beings. In FY 2024, lawyers in the civil division were able to help a client in need when they found a temporary home for the client's 8-year-old cat named Maya. When the client was arrested and subsequently

detained at the D.C. Jail, poor Maya ended up with D.C.'s Animal Control. The client, being an Oregon resident without ties to D.C., was understandably worried about his cat, who was the client's late mother's pride and joy. If no one claimed Maya, she was at risk of being put up for adoption or being euthanized by the animal shelter. Civil attorneys, working with a community organization, were able to find a foster home for Maya until she can be reunited with her owner.

Other Accomplishments

Appellate Program for CJA Bar: Since its inception, the PDS-CJA Appellate Consultation and Assistance Program ("Program") has allowed PDS and the CJA Appellate Panel to easily share ideas, resources, and expertise for the purpose of strengthening appellate indigent defense in the District of Columbia Court of Appeals (DCCA). The services provided to the CJA Appellate Panel include: collaborating with CJA attorneys on individual cases by reviewing transcripts, conducting research, formulating viable appellate issues, editing briefs, and ensuring that written materials maintain compliance with court rules; facilitating moots to ensure high-quality representation at oral arguments; and training on appellate practice and procedure. In FY 2024, the Program facilitated 20 appellate moots for 15 oral arguments. Each moot involved a CJA Appellate Panel member arguing for up to two hours in front of a combination of PDS and CJA appellate attorneys acting as judges. The DCCA has thus far decided 10 of the 15 Program-assisted cases that were argued, via published and unpublished opinions. Six of the 10 cases resulted in favorable outcomes through reversals of convictions or remands to the lower court, while only four resulted in affirmances of the entire judgment. Such outcomes reflect the strength of the CJA appellate panel and the Program that supports it.

In addition to intensive oral argument preparation, the Program fields daily questions that involve varying degrees of assistance, whether it is sharing a sample appellate brief involving issues frequently tackled by PDS, revising a petition for rehearing en banc, or thoroughly scouring transcripts and legal authorities to help identify and develop appellate legal theories. Because the Panel is comprised of private solo practitioners who primarily operate remotely, the Program has proved invaluable by providing immediate access to collaboration and a wealth of other appellate resources.³⁶

³⁶ As an example of the impact the Program has had in the past fiscal year, CJA Appellate Panel members have provided the following feedback:

- *"As a solo practitioner/small business, it is an invaluable resource. The ability to consult with PDS while drafting briefs adds so much value to the defense bar as a whole and to our indigent clients. Without this resource available, a solo practitioner would not have any resources to turn to."*
- *"I have particularly benefitted from moot courts. The practice of facing in-person questions and the feedback I received made me more prepared and I used suggestions in my arguments. In sum, I am a better lawyer for my clients because the support I get from PDS."*

Social Media Internship Accomplishment: In FY 2024, American University, awarded a Fall 2023 American University School of Communication’s Dean Internship Award to PDS’s Social Media Intern. This honor recognized the intern as an exceptional student who was receiving professional recognition for her work and meaningful real-world assignments at PDS. PDS and the Special Projects Manager were recognized for providing her with an “outstanding internship experience.”

CONCLUSION

As the above stories and data show, although operating with a number of unprecedented staff vacancies, PDS still managed to provide exemplary services to our clients. PDS is determined to continue to employ high quality staff to do its constitutionally-mandated and demanding work. PDS staff’s presence is required not only in the office, but at Court, at BOP facilities throughout the country, hospitals, crime scenes and the D.C. Jail. PDS’s work demands excellence under arduous conditions: working long hours over holidays and weekends; counseling clients and their families through the most traumatic experience of their lives; and refusing to compromise on the quality of our representation despite unprecedented staffing shortfalls and climbing caseloads. Attracting and retaining exceptional staff remains a priority for PDS. The ability to offer compensation commensurate with government agencies like the Department of Justice supports vital recruitment and retention efforts, ensures the continued excellence of legal representation to constituents, and provides an extraordinary return on investment to the taxpayer.

At the heart of PDS's mission is the defense of individuals facing the loss of their freedom. Each year, PDS’s dedicated team of lawyers, investigators, forensic social workers, and support staff tackle thousands of cases involving involuntary commitment, parole revocation, and criminal and juvenile delinquency defense. These cases are often adversarial, with skilled opponents from the District's Office of the Attorney General and the U.S. Attorney’s Office for the District of Columbia. A fair justice system relies on all its parts—judges, prosecution, and defense—playing their roles effectively. PDS is crucial in ensuring that every case, whether it ends in a plea deal or goes to trial, is thoroughly investigated and discussed with the client. When cases go to trial or administrative hearings, PDS ensures they are fought vigorously, aiming for a full and fair examination of evidence.

In FY 2024, PDS continued its long-standing tradition of robust advocacy, striving for the best possible outcomes for its clients. Regardless of the case's result or type, PDS is committed to providing zealous and high-quality representation. Adequate funding for PDS is vital, not only to uphold the District’s constitutional duty to provide criminal defense but also to ensure reliable outcomes, prevent wrongful convictions, and safeguard due process before anyone’s liberty is at stake.

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- *“I greatly appreciate the intensive approach, legal smarts and experience, and feel for the DCCA that was offered by PDS.”*

BUDGET DISPLAYS

PUBLIC DEFENDER SERVICE FOR THE DISTRICT OF COLUMBIA

FY 2026 Summary of Changes

	FTE	Amount (\$ in 000s)
	<hr/>	<hr/>
FY 2025 Continuing Resolution Level	225	53,629
 PROGRAM CHANGES		
Travel and Training	-	-25
Printing and Reproduction	-	-10
Other Services	-	-15
Purchases from Government Accounts	-	-12
Maintenance of Equipment	-	-35
Supplies and Materials	-	-150
	<hr/>	<hr/>
FY 2026 REQUEST	225	53,382
	<hr/> <hr/>	<hr/> <hr/>

Grade/Object Class	FY 2024 Funding Levels		FY 2025 Continuing Resolution Level		FY 2026 Budget Request		Change FY 2025 - FY 2026	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
ES/EX	2	381	2	383	2	383	-	-
AD-15	27	5,395	24	4,539	24	4,539	-	-
AD-14	64	10,701	48	7,593	48	7,593	-	-
AD-13	31	3,831	41	5,185	41	5,185	-	-
AD-12	27	3,296	28	3,063	28	3,063	-	-
AD-11	24	2,047	33	2,840	33	2,840	-	-
AD-10	-	-	-	-	-	-	-	-
AD-09	16	1,177	20	1,738	20	1,738	-	-
AD-08	4	311	4	267	4	267	-	-
AD-07	15	919	20	1,861	20	1,861	-	-
AD-06	2	143	3	155	3	155	-	-
AD-05	1	56	2	101	2	101	-	-
Total Positions	213	28,257	225	27,725	225	27,725	-	-
EX/ES FTE		2		2		2		-
AD FTE		211		223		223		-
Average EX/ES Salary		191		192		192		-
Average AD Salary		132		123		123		-
Average AD Grade		13		12		12		-
Object Class								
Annual Funding ¹								
11.1 Full Time Permanent		28,028		27,725		27,725		-
11.5 Other Pers. Comp.		229		179		179		-
11.8 Special Pers. Services		715		625		625		-
12.0 Benefits		9,848		11,643		11,643		-
13.0 Unemployment Comp.		23		40		40		-
Personnel Costs	231	38,843		40,212		40,212		-
21.0 Travel		287		314		289		-25
22.0 Transportation of Things		11		11		11		0
23.1 Rental Payments to GSA		3,176		2,857		2,857		0
23.2 Rental Pmts.to Others, & Misc.		259		338		338		0
23.3 Comm., Utilities & Misc.		418		418		418		0
24.0 Printing and Reproduction		43		47		37		-10
25.1 Consulting Services		2,222		2,222		2,222		0
25.2 Other Services		3,704		3,704		3,654		-50
25.3 Purchases from Gov't Accts.		2,165		1,364		1,352		-12
25.4 Maintenance of Facilities		4		5		5		0
25.7 Maintenance of Equipment		1,064		1,064		1,064		0
26.0 Supplies and Materials		988		1,008		858		-150
31.0 Furniture and Equipment		445		65		65		0
Non-Personnel Costs		14,786		13,417		13,170		-247
TOTAL		53,629		53,629		53,382		-247
Grand Total		53,629		53,629		53,382		-247
Outlays		49,858		46,943		51,386		49,876

Grade/Object Class	FY 2025 Enacted		FY 2026 Budget Level Spend Plan		Change Enacted - Spend Plan	
	FTE	Amount	FTE	Amount	FTE	Amount
ES/EX	2	383	2	383		
AD-15	24	4,539	24	4,539		
AD-14	48	7,593	48	7,593		
AD-13	41	5,185	41	5,185		
AD-12	28	3,063	28	3,063		
AD-11	33	2,840	33	2,840		
AD-10	-	-	-	-		
AD-09	20	1,738	20	1,738		
AD-08	4	267	4	267		
AD-07	20	1,861	20	1,861		
AD-06	3	155	3	155		
AD-05	2	101	2	101		
Total Positions	225	27,725	225	27,725		
EX/ES FTE		2		2		
AD FTE		223		223		
Average EX/ES Salary		192		192		
Average AD Salary		123		123		
Average AD Grade		12		12		
<u>Object Class</u>						
<u>Annual Funding</u>						
11.1 Full Time Permanent		27,725		27,725		
11.5 Other Pers. Comp.		179		179		
11.8 Special Pers. Services		625		625		
12.0 Benefits		11,643		11,643		
13.0 Unemployment Comp.		40		40		
Personnel Costs		40,212		40,212		
21.0 Travel & Training		314		289		-25
22.0 Transportation of Things		11		11		
23.1 Rental Payments to GSA		2,857		2,857		
23.2 Rental Pmts. to Others, & Misc.		338		338		
23.3 Comm., Utilities & Misc.		418		418		
24.0 Printing and Reproduction		47		37		-10
25.1 Consulting Services		2,222		2,222		
25.2 Other Services		3,704		3,654		
25.3 Purchases from Gov't Accts.		1,364		1,352		-12
25.4 Maintenance of Facilities		5		5		
25.7 Maintenance of Equipment		1,064		1,064		
26.0 Supplies and Materials		1,008		858		-150
31.0 Furniture and Equipment		65		65		
Non-Personnel Costs		13,417		13,170		-247
Grand Total		53,629		53,382		-247

APPROPRIATION LANGUAGE

Public Defender Service for the District of Columbia Appropriation Language Fiscal Year 2026

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, **\$53,382,000: 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 Justification, 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 ordered 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 are 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*³⁷ issues. In addition, an attorney in the **Trial Division** consults a member of the **Mental Health Practice Group**³⁸ 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.

³⁷ 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).

³⁸ 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.